

**COLTS NECK TOWNSHIP
TOWNSHIP COMMITTEE SPECIAL MEETING MINUTES
APRIL 1, 2025, 5:00 P.M.
TOWN HALL**

1. Mayor Buss called the meeting to order at 5:00 p.m.
2. Mayor Buss asked everyone to join her in the salute to the flag.
3. Administrator Capristo read the following Sunshine Statement: "The notice requirements of the New Jersey Public Meetings Law have been satisfied by noticing the Asbury Park Press and the Two River Times on March 14, 2025, stating that a special meeting of the Township Committee would be held on April 1, 2025, at 5:00 p.m., 1 Veterans Way, Colts Neck, NJ 07722, Town Hall. A copy is on file in the office of the Township Clerk."
4. Roll call by Municipal Clerk Lindsey indicated the following:

Present: Mayor Tara Torchia Buss, Deputy Mayor Michael Viola,
Committeeman Dan Buzzetta, Committeewoman Sue Fitzpatrick,
Committeeman Frank Rizzuto

Also Present: Kathleen Capristo, Township Administrator, Trina Lindsey,
Municipal Clerk, and Meghan Bennett, Township Counsel, Steven
Secare, Esq., Hearing Officer, Andrea Wyatt, Special Counsel

Absent: None

5. Public Comment

Mayor Buss called for a motion to open public comment. On a motion by Committeeman Buzzetta, seconded by Committeewoman Fitzpatrick and a unanimous voice vote, public comment was opened.

PUBLIC:

Kevin O'Brien, resident commented about the course of action being taken to remove a Planning Board member from his duties on the Planning Board, stating that these are two grown men acting like little boys. Mr. O'Brien spoke about an incident that took place where he stated that a committee member had to be restrained from an altercation with a resident. Mr. O'Brien spoke about Deputy Mayor Viola and Committeeman Rizzuto violating his rights at a meeting held by the Township Committee for affordable housing. Mr. O'Brien quoted Mayor Buss in regard to her statement of wanting members of the public to get involved. Mr. O'Brien stated that when members of the public get involved they are talked down to and discouraged. Mr. O'Brien stated that the situation that occurred between Mr. Lukowitz and Deputy Mayor Viola took

place outside of work as private citizens and the hearing seems to be a form of retaliation. Mr. O'Brien stated that the township has spent over \$10,000 in legal fees.

Elaine Mann, resident, asked if the Township Committee has ever taken action against any member of the township committee or any other board. Ms. Mann stated that she was almost physically attacked by a committee member after an affordable housing meeting at the Colts Neck High School. Ms. Mann stated that Committeeman Rizzuto came to her aid that night, and no action was taken against that committee member. Ms. Mann also spoke about an instance where her husband was almost attacked by a committee member in the town hall parking lot. Ms. Mann asked why the township committee did not take action in those instances.

As there were no other members of the public who wished to speak, Mayor Buss called for a comment to close public comment. On a motion by Committeeman Rizzuto, seconded by Committeewoman Fitzpatrick and a unanimous voice vote, public comment was closed.

6. Public Hearing pursuant to N.J.S.A. 40:55D-23(b)

Please see the attached transcript.

7. Adjournment

As there was no further business, Mayor Buss called for a motion to adjourn. On a motion by Committeeman Buzzetta seconded by Committeewoman Fitzpatrick and a unanimous voice vote, the meeting adjourned at 7:50 p.m.



Trina Lindsey, RMC
Municipal Clerk

APPROVED: 04/30/25

1 STATE OF NEW JERSEY
 2 -----
 3 IN THE MATTER OF: KRIS LUKOWITZ
 4 -----
 5 Monday, April 1, 2025
 6 5:07 p.m.
 7 Colts Neck Twp. Municipal Building
 8 1 Veterans Way
 9 Colts Neck, New Jersey 07722
 10 B E F O R E:
 11 STEVEN SECARE, Hearing Officer
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23 -----
 24 LINDA SULLIVAN-HILL & ASSOCIATES
 25 CERTIFIED COURT REPORTERS
 46 SOUTH LAKEVIEW DRIVE
 JACKSON, NEW JERSEY 08527
 (732) 833-0001

1
 2 A P P E A R A N C E S :
 3 ROTHSTEIN, MANDELL, STROHM,
 4 HALM & CIPRIANI, ESQS.
 5 98 East Water Street
 6 Toms River, New Jersey 08753
 7 (732) 363-0777
 8 BY: ANDREA E. WYATT, ESQ.
 9 awyatt@rmshc.law
 10 Special Counsel for Township of Colts Neck
 11
 12
 13
 14 BLANEY, DONOHUE & WEINBERG, ESQS.
 15 2123 Dune Drive, #11
 16 Avalon, New Jersey 08202
 17 (609) 435-5368
 18 BY: WILLIAM J. BLANEY, ESQ.
 19 bill@blaneydonohue.com
 20 Counsel for Kris Lukowitz
 21
 22
 23
 24
 25

ALSO PRESENT:

KRIS LUKOWITZ

I N D E X		
NAME OF WITNESS		PAGE
KATHLEEN CAPRISTO		12
MICHAEL VIOLA		47
TARA BUSS		80
JOSEPH P. BARTOLOMEO		104
SUE FITZPATRICK		135

E X H I B I T S		
NUMBER	DESCRIPTION	ID EV
T-1	Notice of Action and Charges	13 16
T-2	volunteer handbook	14 16
T-3	receipt for volunteer handbook	17 19
T-4	Colts Neck Township personnel policies and procedures manual	19 19
T-5	Investigative report	24 53

1 MS. WYATT: Mr. Secare, my name is
 2 Andrea Wyatt. I'm here on behalf of the township.
 3 MR. SECARE: Want to put your
 4 appearance.
 5 (Off the record.)
 6 MR. BLANEY: William J. Blaney, law
 7 firm of Blaney, Donohue, Weinberg, here on behalf of
 8 Mr. Lukowitz.
 9 MR. SECARE: My name is Steven
 10 Secare. I'm an independent Hearing Officer and I'm
 11 neutral. I know very little about this case. I do
 12 know the two attorneys. I've had hearings with them
 13 before. I've known Mr. Blaney for probably what, 25
 14 years maybe. Long time. He's an excellent
 15 attorney. I'm sure you're going to have an
 16 excellent presentation tonight. With that, we'll
 17 begin.
 18 So, Mr. Lukowitz, this is a due
 19 process hearing, which means that --
 20 VOICE: I can't hear you.
 21 (Off the record.)
 22 MR. SECARE: Mr. Lukowitz, you're
 23 entitled to a due process hearing. So you have
 24 notice of the hearing charges, an opportunity to be
 25 heard, which is now. And the burden of proof is on

1 the municipality, they have to prove the case
2 against you by a preponderance of the evidence. The
3 way that works, I'm sure your attorney's told you
4 this, I just want to make a record about it. The
5 way that works is the borough presents its
6 witnesses. Mr. Blaney will have an opportunity to
7 cross-examine those witnesses. If, at the end of
8 the borough's case, you can testify, you don't have
9 to. If you don't testify, I will not hold that
10 against you. I will just go on the basis of what
11 the borough has been -- is it a township or borough?

12 VOICE: Township.

13 MR. SECARE: So, the township has to
14 prove its case by a preponderance of the evidence.
15 All right. At the end of the case, from what I
16 understand from talking with the attorneys in a
17 brief conference before, there will be written
18 submissions by way of briefs after the transcript is
19 received. After that, I have a decision to make. I
20 will write a recommendation on my decision to the
21 governing body. Do you understand all that?

22 MR. LUKOWITZ: Yes, sir.

23 MR. SECARE: Do you have any
24 questions you want to ask me or the attorneys before
25 we start?

1 four witnesses, the township administrator, Deputy
2 Mayor Viola, Mayor Tara Buss and former council
3 member JP Bartolomeo, the township will demonstrate
4 that Mr. Lukowitz aggressively advanced towards
5 Deputy Mayor Viola, threatened to, and excuse my
6 language, fucking destroy him, grabbed his lapels
7 and shook him before Mayor Buss and former committee
8 member Bartolomeo stepped in to prevent any further
9 physical altercation in the middle of the event held
10 by one of the township professionals.

11 Mr. Lukowitz was then led to the
12 other side of the room by Mayor Buss in her attempts
13 to calm him down. Deputy Mayor Viola was also led
14 away. After the altercation, Deputy Mayor Viola
15 left the event.

16 The removal action is premised on
17 Mr. Lukowitz' actions that alone constitute cause
18 for removal. However, these actions also
19 unequivocally constitute a violation of the
20 township's workplace violence policy applicable to
21 him through the township's volunteer handbook.
22 Mr. Lukowitz currently serves on the planning board,
23 alongside eight other members, including Deputy
24 Mayor Viola, two alternate members and various
25 professionals. Mr. Lukowitz' actions are a clear

1 MR. LUKOWITZ: I do not.

2 MR. SECARE: Thank you very much.

3 MS. WYATT, do you have a witness?

4 MS. WYATT: I do have an opening
5 statement.

6 MR. SECARE: Oh, yes, remember that.
7 Go ahead, you're up.

8 MS. WYATT: Thank you. Good evening.
9 I am Andrea Wyatt. I'm here from Rothstein,
10 Mandell, Strohm, Halm & Cipriani. And, as
11 previously noted, I represent Colts Neck Township in
12 this evening's public hearing concerning the removal
13 of Mr. Kris Lukowitz from his appointment as -- from
14 his appointment on the township planning board.

15 On November 20, 2024, while at an
16 event at the League of Municipalities, Mr. Kris
17 Lukowitz verbally threatened then Township Committee
18 member, now Deputy Mayor Viola, while grabbing him
19 by the lapels of his jacket and shaking him. The
20 evidence will show that multiple witnesses
21 conclusively established that Mr. Lukowitz
22 inappropriately and aggressively put his hands on
23 Deputy Mayor Viola during an argument and threatened
24 him.

25 Through the testimony of three --

1 violation of the township's workplace violence
2 policy. Further, they independently establish cause
3 for this removal.

4 The following day, former committee
5 member Bartolomeo informally advised the township
6 administrator of the incident. Additionally, that
7 afternoon, the chairman of the planning board
8 reported the incident to the administrator,
9 indicating that it was in her purview as the
10 administrator to handle these situations. After the
11 report by the chairman, pursuant to the township's
12 personnel policies and volunteer handbook, the
13 township administrator was required to initiate an
14 investigation into this alleged incident.

15 Pursuant to N.J.S.A. 40:55D-23(b), a
16 member of the planning board may be removed by the
17 governing body for cause after a public hearing, if
18 one is requested. Mr. Kris Lukowitz requested such
19 hearing and this is the matter that brings us here
20 this evening.

21 Now, this is a unique matter in that
22 Mr. Lukowitz physically shoved and threatened a
23 sitting governing body member, Mr. Michael Viola,
24 which was witnessed by other governing body members.
25 Based upon the foregoing, the governing body

1 appointed you, Mr. Secare, to sit as a neutral
2 Hearing Officer and make a recommendation as to
3 Mr. Kris Lukowitz' removal, based upon the evidence
4 that will be presented tonight. And as you will
5 see, the evidence presented tonight will clearly
6 establish Mr. Lukowitz' actions were not only
7 severely inappropriate, they violated the township's
8 workplace violence policy. And at the conclusion of
9 this case, cause for removal will be established and
10 the recommendation for removal of Mr. Kris Lukowitz
11 should be set forth.

12 MR. SECARE: Mr. Blaney, do you
13 choose to open?

14 MR. BLANEY: Sure. I'm going to do a
15 brief opening.

16 I think what you have to understand
17 about this case is it's not about an altercation
18 that happened at the League of Municipalities. It's
19 about an altercation that happened before then. So,
20 Mr. Lukowitz is on the planning board, and the
21 township has an affordable housing obligation. And
22 the affordable housing obligation has been very
23 contentious in this town.

24 Mr. Lukowitz happens to not agree
25 with the position of the majority of members of

1 township council as to how that obligation should be
2 fulfilled. The main person who he has disagreed
3 with regarding that is Mr. Viola. That leads to the
4 contention between the two. They are then attending
5 the League of Municipalities meeting on November 20.
6 It's an event put on by the township engineer, a
7 little party that he has. There's a live band.
8 There's things going on. People are drinking and
9 eating. It is actually Mr. Viola who initiates the
10 problem. Mr. Viola comes in, he starts staring down
11 Mr. Lukowitz. Mr. Lukowitz tells him not to do
12 that. And Mr. Viola rushes him, gets within nose to
13 nose with him and starts an argument with him. That
14 eventually leads to them having to be separated.
15 And it's just as much, if not all, Mr. Viola's fault
16 that this occurred.

17 It is -- Mr. Lukowitz is there not as
18 a planning board member, he's there as a person who
19 does construction work who's meeting with other
20 people at a party put on by the engineer. He's not
21 there in his township official capacity. He's not
22 doing anything township related. He's the one that
23 is assaulted initially. And then what happens is,
24 this has been spun, because of the political
25 underlying issues. So, you'll see, as you hear the

11

12

1 testimony, that this is really all about affordable
2 housing. The argument that night was about
3 affordable housing and it is to take him off the
4 planning board where he's opposing the agenda for
5 affordable housing.

6 So, this is lawfare. All right. You
7 hear it on the national level, well it's now reached
8 the local level. We don't like what somebody on the
9 planning board thinks or says, we're going to take
10 them off because we have an agenda with affordable
11 housing. And that's all this is about. And he
12 shouldn't be removed. And it's an attempt to
13 silence somebody that politically doesn't get along
14 with Mr. Viola's position on how affordable housing
15 should be handled. And he doesn't want to -- you'll
16 hear there was a meeting, right, before he filed a
17 criminal complaint, there was a meeting where Mr.
18 Lukowitz got up and specifically laid out what his
19 issue is with regard to this. That's immediately
20 followed by a complaint in municipal court in
21 Atlantic City. Months after the incident. So, this
22 is lawfare, we'll prove that it's lawfare. At the
23 end of the day, you shouldn't remove him from the
24 board.

25 MR. SECARE: Thank you. Are there

1 any exhibits that I should look at as the hearing
2 goes on, because I don't have a copy of the township
3 workforce policy.

4 MS. WYATT: Yes, so, with our first
5 witness we'll get them in.

6 MR. SECARE: That's fine. Want to
7 call your first witness.

8 MS. WYATT: Sure. We call the
9 township administrator.

10 Mr. Secare, just procedurally, a lot
11 of her testimony is just about documents.

12 KATHLEEN CAPRISTO, sworn.

13 MR. SECARE: Give us your full name
14 and spell your last name.

15 THE WITNESS: Kathleen Capristo,
16 C-A-P-R-I-S-T-O.

17 EXAMINATION BY MS. WYATT:

18 Q Thank you, Ms. Capristo.

19 Ms. Capristo, where are you employed?

20 A Colts Neck Township.

21 Q In what capacity are you employed?

22 A Township administrator.

23 Q How long have you been the township
24 administrator?

25 A Approximately nine and a half years.

1 Q And prior to being the administrator,
 2 you served in what capacity?
 3 A I was not employed by Colts Neck
 4 Township.
 5 Q Oh. Understood. So, prior, did you
 6 have previous employment?
 7 A I did.
 8 Q Where was that?
 9 A Spring Lake Borough.
 10 Q So, ultimately, you've been employed
 11 with the Township of Colts Neck for nine years?
 12 A Correct.
 13 Q Okay. Thank you. I'm going to show
 14 you what's been marked as T-1 for identification. I
 15 have a copy of for everybody. Just give me one
 16 second.
 17 MR. SECARE: Are we marking it?
 18 MS. WYATT: Yes, I'm marking it T-1.
 19 (The Notice of Action and Charges was
 20 marked as T-1 for identification.)
 21 MR. SECARE: Want to tell us for the
 22 record what it is before you show it to the witness.
 23 MS. WYATT: T-1 is the notice of
 24 action and charges.
 25 MR. SECARE: Thank you.

1 A It appears to be, without reading
 2 every page.
 3 Q I'm going to direct your attention to
 4 page two.
 5 MR. SECARE: Before you do that. Mr.
 6 Blaney, are you going to object to this going into
 7 evidence?
 8 MR. BLANEY: I think this is what --
 9 well, he's not charged under this, but, you know,
 10 for what it's worth, sure.
 11 MR. SECARE: Okay. So --
 12 MS. WYATT: It's the first page,
 13 because the cover page.
 14 MR. SECARE: There's going to be a
 15 lot of testimony. I'd rather it be in evidence.
 16 Now it's in evidence.
 17 MS. WYATT: Mr. Secare, do you want
 18 me to move it into evidence? I was just going to
 19 hold them and move them when I was finished. Would
 20 you like me to do it individually?
 21 MR. SECARE: There's not a lot. I
 22 think it's better that we put it in evidence, if
 23 there's no objection. Hasn't been any objection,
 24 so.
 25 MR. BLANEY: T-1 the same thing,

1 Q Ms. Capristo, do you recognize this?
 2 A I do.
 3 Q What do you recognize this to be?
 4 A This is a letter from yourself to
 5 Mr. Lukowitz, advising him that a resolution is
 6 being considered by the governing body in connection
 7 with his removal from the planning board. It goes
 8 on to indicate that he has five days to consider
 9 whether he wants a public hearing.
 10 Q Is this a fair and accurate copy of
 11 the notice that was sent to Mr. Lukowitz?
 12 A It is.
 13 Q I'm going to show you what's been
 14 marked as T-2. It's the volunteer handbook. All
 15 right. Can you tell me what this is?
 16 A Yes. This is the volunteer handbook
 17 that has been issued to all volunteers that
 18 volunteer for the township.
 19 (The volunteer handbook was marked as
 20 T-2 for identification.)
 21 Q And is this document kept in the
 22 normal course of business?
 23 A It is, yes.
 24 Q And is this a fair and accurate copy
 25 of the Township of Colts Neck's volunteer handbook?

1 that's the charge.
 2 MS. WYATT: Okay. Perfect. Thank
 3 you.
 4 MR. SECARE: T1 and 2 are now in
 5 evidence.
 6 (T-1 and T-2 in evidence.)
 7 Q If you could turn to the first page,
 8 go to the second page. Can you please read the last
 9 paragraph?
 10 A First page, the disclaimer, on the
 11 disclaimer page?
 12 Q Yes, on the disclaimer page, the last
 13 paragraph.
 14 A Please be aware that this handbook
 15 contains a summary of several laws, rules,
 16 regulations, and policies that are applicable to
 17 volunteers. However, this handbook is not intended
 18 to be a comprehensive description of every policy
 19 that applies to volunteers. The township's
 20 personnel policies and procedures manual, a more
 21 comprehensive document, that is applicable to
 22 volunteers, is also available for review.
 23 Q Can you please explain that provision
 24 for the Hearing Officer?
 25 A It simply means we have two

1 documents, one is a larger, broader, more
2 comprehensive document that we refer to as our
3 personnel policies and procedures manual. This is a
4 truncated, for lack of better term, version of that,
5 that is shared with both employees and volunteers
6 and gives them the opportunity to review the more
7 comprehensive document in the normal course of
8 business.

9 Q All right. Thank you. I'm going to
10 direct your attention to the next page. Can you
11 please read the second paragraph?

12 A This handbook shall apply to all
13 volunteers of Colts Neck Township, including but not
14 limited to volunteer firefighters, first aid squad
15 members and members of the township's boards,
16 commissions and committees.

17 Q Can you please explain this provision
18 for the Hearing Officer?

19 A Again, it indicates that the
20 recipient of this, the volunteer, and that the
21 handbook applies to those various volunteer
22 categories.

23 (The receipt for volunteer handbook
24 was marked as T-3 for identification.)

25 Q Thank you very much. I'm going to

1 show you what's been marked as T3 for
2 identification. I apologize. My handwriting's
3 really bad.

4 MR. SECARE: What's this one?

5 MS. WYATT: This is a receipt for the
6 volunteer handbook.

7 Q Do you recognize this?

8 A I do.

9 Q What do you recognize this to be?

10 A This is the receipt that Mr. Lukowitz
11 submitted, acknowledging receipt of the volunteer
12 handbook back on November 14 of 2023.

13 Q Is this document kept in the normal
14 course of business?

15 A It is, yes.

16 Q What does this document indicate?

17 A It indicates that the individual who
18 was submitting the receipt has received the
19 document, that they've read it, they understand it,
20 they'll seek clarification if needed. And that they
21 are held in compliance with those policies and
22 procedures.

23 Q Can you just identify for the record
24 the date?

25 A Sure. November 14, 2023.

1 Q All right. Thank you very much. I
2 am now going to show you what is going to be marked
3 as T-4. And T-4 is the Colts Neck Township
4 personnel policies and procedures manual.

5 (The Colts Neck Township personnel
6 policies and procedures manual was marked as T-4 for
7 identification.)

8 MR. SECARE: Are you going to move
9 that now?

10 MS. WYATT: Yes, can I please move
11 the receipt for -- T-3, the receipt for volunteer
12 handbook?

13 MR. SECARE: Mr. Blaney, do you have
14 any objection to that?

15 MR. BLANEY: I may in the future but
16 not to it being admitted into evidence.

17 MR. SECARE: Okay, T-4, personnel
18 policies and procedures manual, is now in evidence.
19 (T-3 and T-4 in evidence.)

20 Q Can you tell me what this is, Ms.
21 Capristo?

22 A Yes. As referenced earlier, this is
23 a more comprehensive document, that is a complement
24 to the handbook. It's called the personnel policies
25 and procedures manual.

1 Q Is this document kept in the normal
2 course of business?

3 A It is.

4 Q When was last time this document was
5 updated?

6 A October 25 of 2023.

7 Q Okay. I'm going to direct your
8 attention to page 15. And it's the 15 on the
9 bottom. Can you please advise the Hearing Officer
10 what policy appears on this page?

11 A Sure. This is the workplace violence
12 policy. It basically summarizes the zero tolerance
13 policy by the township in connection with threats or
14 acts of violence as defined. It indicates that it
15 covers employees and volunteers, whether they're in
16 the workplace or out of the workplace. And then it
17 also details some specific examples of what a threat
18 or workplace violence might be.

19 Q And under the specific examples of
20 prohibited conduct, can you just read the first line
21 or the first bullet point?

22 A Hitting, fighting, pushing or shoving
23 an individual or throwing objects.

24 Q Okay. I'm going to direct your
25 attention to page 16. Can you read the paragraph

1 under application of prohibition?

2 A Application of prohibition, Colts
3 Neck Township prohibition against threats and acts
4 of violence applies to all persons involved in the
5 township's operation, including but not limited to,
6 township personnel, volunteers, appointed, contract
7 and temporary workers, and anyone else on township
8 property. Violation of this policy by any
9 individual on township property, by any individual
10 acting as a representative of the township while not
11 on the township property, or any individual acting
12 off of the township's property when his or her
13 actions affect the public interest or the township's
14 business interests will be followed by legal action,
15 as appropriate. Violation by an employee of any
16 provision of this policy may lead to disciplinary
17 action up to and including termination.

18 Q Thank you. And let's go, let's turn
19 over to page 17. Can you please explain to the
20 Hearing Officer the township's obligation once a
21 workplace violence report is received?

22 A Sure. When a report is received,
23 obviously, if it's an emergent situation, the
24 reportee, if you will, is instructed to contact the
25 police or 911. In a non-emergent situation, they

1 asked if I had heard about an altercation between
2 Mr. Lukowitz and Mr. Viola. I advised that I had
3 not. He shared with me what he witnessed. I asked
4 if he knew if Mr. Viola was going to press charges
5 or make a claim to the township. At that time,
6 Mr. Bartolomeo advised that he did not know. And
7 then later on that day, few hours later, I received
8 a call from Mr. John Tobia, indicating that he too
9 had heard of an altercation between the two
10 individuals. And he advised that it was his opinion
11 that the township administrator would be responsible
12 for proceeding with any investigation, as opposed to
13 himself as the chairman of the planning board.

14 Q Thank you very much.

15 MR. SECARE: Excuse me. What was the
16 name of the second?

17 A Tobia, T-O-B-I-A, John.

18 MR. SECARE: Tobia. First was
19 Bartolomeo?

20 THE WITNESS: Correct.

21 MR. SECARE: All right. Thank you.

22 THE WITNESS: Don't ask me to spell
23 it.

24 MR. SECARE: That one I know how to
25 spell.

1 would be instructed to contact their department head
2 or the township administrator.

3 Q Thank you, Ms. Capristo. Are you
4 familiar with Michael Viola?

5 A I am.

6 Q How?

7 A He is the deputy mayor.

8 Q And are you familiar with Mr. Kris
9 Lukowitz?

10 A By name only. I don't believe I've
11 ever met Kris, but I am familiar with him.

12 Q Is Mr. Lukowitz associated with the
13 Township of Colts Neck?

14 A He is.

15 Q How?

16 A He sits on the planning board.

17 Q And I'm going to direct your
18 attention to on or about November 21, 2024. Can you
19 please advise the Hearing Officer what occurred that
20 day?

21 A Sure. I was in my office, I received
22 a phone call from then Committeemen Bartolomeo. He,
23 I believe, my recollection is he was in his car
24 driving back from Atlantic City after attending the
25 annual League of Municipalities conference. He

1 Q So, thereafter, it was determined,
2 pursuant to your workplace violence policy, that the
3 township should conduct an investigation into this
4 matter, correct?

5 A Correct.

6 Q And please don't tell me what was
7 said, but after that was determined, you contacted
8 labor counsel?

9 A That's correct.

10 Q An investigation was, in fact,
11 conducted; is that correct?

12 A That is correct.

13 Q Don't tell me what it said but after
14 the investigation, you received a report from labor
15 counsel; is that correct?

16 A That is correct.

17 Q I'm going to show you what's been
18 marked as T-5. It's the redacted report, the
19 redacted legal conclusion.

20 MR. SECARE: That's the report?

21 MS. WYATT: Yep.

22 (The investigative report was marked
23 as T-5 for identification.)

24 Q Do you recognize this?

25 A I do.

1 Q What do you recognize this to be?
 2 A This is an investigative report that
 3 was submitted at the conclusion of the investigation
 4 conducted by Mr. Giacobbe's office.
 5 Q Is there anything unique about this
 6 report right now?
 7 A I can see that it is a redacted
 8 version of it.
 9 Q Okay. And was this report provided
 10 to you by labor counsel?
 11 A It was.
 12 MS. WYATT: Thank you. I have
 13 nothing further.
 14 MR. SECARE: Cross-examine?
 15 MR. BLANEY: Sure.
 16 EXAMINATION BY MR. BLANEY:
 17 Q Good evening, ma'am.
 18 A Good evening.
 19 Q You're currently employed as the
 20 administrator?
 21 A That's correct.
 22 Q And how are you appointed?
 23 A I'm actually hired, so I participated
 24 in an interview, in the normal of course of their
 25 fulfilling of the position.

1 Q And was that by phone?
 2 A It was.
 3 Q Was he asking for an investigation
 4 when he told you or was he just letting you know
 5 that it occurred?
 6 A He was just letting me know that it
 7 occurred.
 8 Q And then you got a second call by the
 9 president of the planning board?
 10 A Chairman of the planning board, that
 11 is correct.
 12 Q Chairman. And he's the one who
 13 actually asked for the investigation?
 14 A He didn't ask for the investigation.
 15 He informed me that it was brought to his attention.
 16 And that it was his opinion and belief that the
 17 jurisdiction or authority to pursue an investigation
 18 did not lie with the chairman of the planning board,
 19 but rather the township administrator.
 20 Q Okay. And you then initiated that
 21 investigation?
 22 A That's correct.
 23 Q Through labor counsel?
 24 A That's correct.
 25 Q Did you have any discussions with

1 Q Who makes the decision who the
 2 administrator is?
 3 A The governing body.
 4 Q The entire governing body, correct?
 5 A Yes.
 6 Q And when you get that position, you
 7 serve on that position until the governing body
 8 decides you don't serve on that position, correct?
 9 A Or until I decide, but yes.
 10 Q Fair enough. And you don't have any
 11 tenure, correct?
 12 A I do not.
 13 Q Under the statute, you serve at their
 14 pleasure?
 15 A That is correct.
 16 Q Until they decide, either you don't
 17 want to be there or they don't want you there?
 18 A That is correct.
 19 Q You need a super majority of the
 20 governing body in order to be removed, correct?
 21 A Right.
 22 Q You indicated that you were initially
 23 told about this incident at the League of
 24 Municipalities by one of the council members, right?
 25 A That's correct.

1 anyone else prior to deciding to retain labor
 2 counsel to do this investigation?
 3 A Our township attorney.
 4 Q Anyone on your township council?
 5 A No.
 6 Q And that's the report you eventually
 7 get that's marked T-5?
 8 A That's correct.
 9 Q And then, at some point, charges are
 10 issued as a result of that, correct?
 11 A I'm not sure. I don't know what you
 12 mean by charges.
 13 Q We're not here -- we're here because
 14 of those charges, correct?
 15 A Correct.
 16 Q I mean, I think we have it marked.
 17 A The letter.
 18 Q T-1, it says notice of action and
 19 charges?
 20 A That is correct.
 21 Q And this one page document, this is
 22 everything, right, this is the notice of action and
 23 the charges, correct?
 24 A To the best of my knowledge, yes.
 25 Q How does this come about?

1 MR. SECARE: Don't tell us anything
2 about your conversations with the township attorney,
3 okay?
4 THE WITNESS: Then I can't answer the
5 question.
6 MR. SECARE: You can say it as a
7 result of something, but we don't to -- we're not
8 allowed to hear what the conversation was, that's
9 attorney-client privilege. Do you understand what
10 I'm saying?
11 THE WITNESS: I believe.
12 MR. SECARE: Okay.
13 Q I'm trying to get an understanding,
14 I'll stand up. I have the same microphone problem
15 you have. But I'm trying to understand who
16 developed the charges, who decided Mr. Lukowitz was
17 going to get charged?
18 A The governing body.
19 Q Okay. When did they do that?
20 A In the executive session.
21 Q Okay. And --
22 A I can't remember the date.
23 Q So, they did it in executive session
24 and decided they were going to charge him?
25 A Well, there was -- this is where I'm

1 Q Well, this is dated the 20th of
2 February, so it couldn't have happened on the 26th.
3 A No. Then I'd have to consult my
4 notes. I don't recall.
5 Q Well, do you know who decided on what
6 the charges were?
7 A I don't think I can speak to that.
8 Who decided what the charges were?
9 Q Yeah, you decide to charge somebody,
10 who's making that decision? Is it you? Is it
11 somebody else?
12 MR. BLANEY: Does counsel have to
13 stand up while I'm doing my questions?
14 MR. SECARE: Well, if she's going to
15 object, that's fair.
16 MR. BLANEY: Well, it's the whole
17 time.
18 MS. WYATT: I'm waiting to see where
19 it goes, because I feel we're treading closely to
20 attorney-client privilege.
21 MR. SECARE: If it's going to be
22 attorney-client privilege, I will not allow it in.
23 MR. BLANEY: I have a right to know
24 who charged him.
25 MR. SECARE: Yeah. That's a fair

1 getting -- I don't think I can't speak to what
2 happens in executive session.
3 MR. SECARE: Have the minutes been
4 released yet?
5 MS. WYATT: No, the minutes have not
6 been released. Again, just my objection for the
7 record is that anything that was said in executive
8 session would be attorney-client privilege as
9 attorneys --
10 MR. SECARE: Well --
11 MR. BLANEY: I'm just trying to
12 figure out who charged him.
13 MR. SECARE: Well, I think the
14 witness has stated that the governing body decided
15 to charge him, and it was as a result of an
16 executive session meeting. But we're not going to
17 get into what happened in the executive session.
18 MR. BLANEY: I understand that.
19 Q But when did this executive session
20 occur?
21 MR. SECARE: That's a fair question.
22 Can you answer that one?
23 A I believe it was the 26th of
24 February. Is that right? But I don't know for
25 sure.

1 question.
2 Was it the decision of the township
3 labor counsel to charge it or was it the decision of
4 the governing body?
5 A From where I sit, the investigation
6 ensued was done by Matthew Giacobbe's office. In
7 their investigative report, they found sufficient
8 evidence that would give the governing body, the
9 township, enough to pursue a charge if they so chose
10 to.
11 MR. SECARE: All right. Good answer.
12 Q Who was present for the closed
13 session?
14 A Again, I can't recall the date nor
15 who was there. I would assume at least a quorum.
16 Exactly who was in the room, I can't --
17 Q Did Mr. Viola decide to charge him?
18 Was he part of that decision?
19 MR. SECARE: I'm not going to let you
20 answer that one.
21 MR. BLANEY: I think he's got a
22 conflict, so I have the right to know if there's
23 people who are witnesses who had conflicts, making
24 that decision. I mean, if they told me the township
25 administrator made the decision, that's fair.

1 MS. WYATT: Mr. Secare, I can
2 represent that Mr. Viola was excused every time the
3 township governing body discussed this in executive
4 session.

5 MR. SECARE: Do you accept that
6 representation?

7 MR. BLANEY: It's a representation by
8 counsel. I mean, is that from personal knowledge?

9 MS. WYATT: From --

10 A I can speak to that as personal
11 knowledge, that any time this matter was ever
12 discussed behind closed doors, Mr. Viola went to the
13 kitchen.

14 MR. SECARE: He recused himself to
15 get a cup of coffee?

16 A Correct.

17 MR. BLANEY: My concern is, I was
18 told at one point that there was a closed session.
19 I was not told that there would be a decision to
20 charge him. In fact, I was told that there would be
21 no action taken at closed session.

22 A And I think I misspoke. I don't
23 think there was --

24 MR. SECARE: There's no question
25 pending.

1 MR. BLANEY: So, I'm trying to figure
2 out who charged him. Because what was represented
3 to me is that it wouldn't be -- there would be no
4 action taken. Charging somebody's, action.

5 MR. SECARE: I would think, yeah.

6 MR. BLANEY: I mean, deciding that
7 we're going to hire a Hearing Officer or we're going
8 to have a hearing, what date, that's not taking
9 action against somebody. But deciding to charge
10 them is taking action.

11 MR. SECARE: Want to respond to that?

12 MS. WYATT: I do want to respond
13 that. That is not taking action. The governing
14 body's consensus as to whether or not the township
15 is going to issue the charge is not actually taking
16 action. That's not something that needs to be done
17 in an open public hearing. And what was represented
18 to Mr. Blaney was that there was going to be no
19 action for a vote of removal at the hearing in which
20 he was RICE noticed. That was what was represented.

21 MR. BLANEY: It was all done in
22 writing and I'd ask you to keep the record open so
23 I can look at the e-mails sent and I and submit --

24 MR. SECARE: I'll let you explore a
25 little bit longer, but I think you got your answer.

1 BY MR. BLANEY:

2 Q So, it was council that decided they
3 were going to charge him?

4 A I don't know a charge has been
5 officially filed.

6 Q And that's what I'm asking you. I
7 mean, I got a thing that says, notice of action and
8 charges. As you heard in the beginning, everybody
9 has a right to know what they're charged with?

10 A Sure.

11 Q And I'm looking at a letter and I'm
12 assuming what he's charged with is verbally
13 threatening Township Committee member Michael Viola
14 and grabbing him by his lapels of his jacket. Is
15 that your understanding of what the charge is that
16 we're here for today?

17 A That's my understanding.

18 Q All right. And it says it's a
19 violation of the township's workplace violence
20 policy applicable to you for your position of the
21 volunteer handbook?

22 A Correct.

23 Q And we kind of went over that earlier
24 in your testimony, right, what the volunteer
25 handbook is and how that links to the policies and

1 procedures?

2 (Off the record.)

3 A I'm not sure there was a question.
4 Yes, we went over it.

5 Q So, that handbook, do you know
6 whether Mr. Lukowitz actually received the policy
7 and procedures manual, personnel policy and
8 procedures manual?

9 A The personnel policy and procedures
10 manual or the handbook?

11 Q Well, we have a note for the
12 volunteer handbook, right, you have a signature page
13 for that?

14 A Correct.

15 Q But I didn't see one of those put in
16 for the personnel policies and procedures manual?

17 A That is correct. That is not
18 distributed.

19 Q Okay.

20 A It is referenced in the handbook to
21 allow employees and/or volunteers the opportunity to
22 request a copy, come view a copy, if they so desire.

23 Q The volunteer handbook applies to the
24 planning board?

25 A Correct.

1 Q Does it apply to township council?
 2 A It does.
 3 Q And the personnel policies and
 4 procedures manual, I think you've testified, applies
 5 to planning board members as volunteers, right?
 6 A That is correct.
 7 Q And does it also apply to township
 8 council?
 9 A That is correct.
 10 Q Now, do you have the personnel
 11 policies and procedures manual in front of you?
 12 A I do.
 13 Q Do you know -- I think we've talked
 14 about the workplace violence section. You testified
 15 a little bit about that, right?
 16 A Correct.
 17 Q Do you know what Mr. Lukowitz is
 18 charged with violating in that portion of the
 19 manual? I think it starts on page 15 of 133.
 20 A I'm sorry. Could you repeat the
 21 question?
 22 Q Sure. Do you know what he's
 23 specifically charged with? What's he charged with
 24 violating in that policy?
 25 A The policy prohibits threats or acts

1 parties involved in the incident. Did I read that
 2 accurately?
 3 A You did.
 4 Q All right. Is he charged with that?
 5 A I can't -- not specifically that I'm
 6 aware.
 7 Q Well, there was nothing that happened
 8 on township property that he was charged with --
 9 A That's correct.
 10 Q -- correct?
 11 A That's fair.
 12 Q Then the second one reads, all
 13 threats or act of violence not occurring on township
 14 property, but involving someone who is acting in the
 15 capacity of a representative of the township. Is he
 16 charged with that one?
 17 A Certainly off township property,
 18 would apply. And whether he was acting in a
 19 capacity as a representative of the township, I
 20 can't speak to that. I wasn't there.
 21 Q Okay. So, you don't know that?
 22 A I don't know that.
 23 Q Did anyone -- you've seen the report?
 24 Did you see anything in the report that labor
 25 counsel put out, that indicated he was acting in an

1 of violence, specifically under the example section,
 2 pushing and shoving. And that would be as noted in
 3 the letter dated February 20 to Mr. Lukowitz.
 4 Q But, before that section, which is
 5 specific examples of prohibited conduct, they give
 6 examples of workplace violence, correct?
 7 A Correct.
 8 Q Right above it?
 9 A Uh-hum. Correct.
 10 Q And that says --
 11 (off the record.)
 12 Q Because it's a workplace violence
 13 policy, right, not a party violence policy, right?
 14 A It does cover employees and/or
 15 volunteers who are outside of work, as well as at
 16 work.
 17 Q All right. But it has --
 18 A Or in the carrying out their duties.
 19 Q It has specific examples, though,
 20 because it has to touch on one, correct?
 21 A Correct.
 22 Q All right. And if I look at the
 23 examples, the first one is all threats or act of
 24 violence occurring on township property, regardless
 25 of the relationship between the township and the

1 official capacity when he was there, Mr. Lukowitz?
 2 A I can't speak to that.
 3 Q That's the problem about not knowing
 4 who did the charges, right, because somebody can't
 5 answer to me what he's actually charged with,
 6 correct?
 7 A I can't speak to that.
 8 Q Now, all threats -- the next one
 9 reads, all threats or acts of violence not occurring
 10 on township property involving an employee of the
 11 township if the threats or act of violence affect
 12 the legitimate interest of Colts Neck Township. Did
 13 I read that accurately?
 14 A You did.
 15 Q All right. And is that something
 16 that he's charged with?
 17 A Could be. I can't speak to that.
 18 Again, I think you could argue it applies.
 19 Q Well, what would be the --
 20 A A planning board member and a sitting
 21 member of the governing body are in an altercation
 22 at a conference, I think that might affect the
 23 legitimate interests of Colts Neck Township.
 24 Q That would require two people to be
 25 charged, right? Because there's a confrontation

1 between two people. That's what the report says,
 2 right? You read the report?
 3 MR. SECARE: Well, you're asking her
 4 questions about the policies and procedure manual,
 5 then you switched over to the report. Could you
 6 narrow your question a little bit?
 7 Q Sure. But the report actually
 8 indicates that there were two people involved in
 9 this altercation, correct?
 10 A We're talking about the report now?
 11 Q Yes.
 12 A Yes.
 13 Q You can feel free, the report's in
 14 front of you. I think it's T-5?
 15 MR. SECARE: T-5, report from Cleary,
 16 Giacobbe, G-I-A-C-O-B-B-E. I assume it's by Matt
 17 Giacobbe.
 18 Q Some of the witnesses even indicate
 19 that Mr. Viola escalated the altercation, correct?
 20 MR. SECARE: He's asking you if
 21 that's in the report.
 22 A That is in the report.
 23 Q It is in the report?
 24 A I believe so. I have not read the
 25 report recently, but I believe so.

1 Q Okay. Do you know under the specific
 2 examples which one would apply in this specific
 3 instance?
 4 A I do not.
 5 Q Okay. On page 16 there's warning
 6 signs, symptoms and risk factors. Do you see that?
 7 A I do.
 8 Q All right. And if you go down the
 9 fourth bullet point underneath that, do you see
 10 that?
 11 A I do.
 12 Q And one of the risk factors is a
 13 menacing stare?
 14 A Okay.
 15 Q Have you, in the report that we've
 16 seen that's marked as T-5, was someone alleged to
 17 have been staring at somebody else?
 18 A I believe so.
 19 Q And who was the person doing the
 20 staring?
 21 A I believe it was Mr. Lukowitz
 22 suggesting that Mr. Viola was staring.
 23 Q And the, further down, the next
 24 bullet point talks about acting out either verbally
 25 or physically, correct?

1 Q Do you know why Mr. Viola hasn't been
 2 charged with violating the workplace violence?
 3 A I do not.
 4 Q Do you know if that was ever
 5 discussed?
 6 A I do not.
 7 Q And then the last one deals with any
 8 threats or acts resulting in a conviction, correct?
 9 A We're back onto the --
 10 Q We're back onto page 15 --
 11 A I'm with you.
 12 Q -- of 133 of the policies and
 13 procedures.
 14 A I'm with you.
 15 Q Do you agree with me that there's no
 16 conviction at this juncture?
 17 A I would agree.
 18 Q All right. So, you went down the
 19 specific examples. I think you mentioned pushing or
 20 shoving, is that what you feel --
 21 A Of the examples that are listed on
 22 page 15, hitting, fighting, pushing, shoving an
 23 individual and throwing objects. I don't recollect
 24 any specific hitting, fighting or throwing of
 25 objects.

1 A Correct.
 2 Q All right. And in the report that
 3 we've marked as T-5 done by the township's labor
 4 counsel, isn't it alleged that Mr. Viola actually
 5 got nose to nose with Mr. Lukowitz and pushed past
 6 the others to get there?
 7 A I don't remember specifically. I do
 8 believe there was reference to both individuals
 9 exchanging verbal comments.
 10 Q If you turn to the next page, there's
 11 some more bullet points there, and I'm going to ask
 12 you to go to the fourth one down.
 13 A Page 17?
 14 Q Yeah, 17.
 15 A Okay.
 16 Q Intense anger, lack of empathy?
 17 A Okay.
 18 Q Was there allegations of Mr. Viola
 19 having intense anger during the altercation?
 20 A That I don't recall.
 21 Q Okay. I'm going to ask you to turn
 22 to the report, which is five, T-5. Just going to
 23 try to refresh your recollection here. Do you see
 24 witness Sue Fitzpatrick?
 25 A Page six.

1 Q And then going onto page seven? And
 2 do you see where he says Viola -- she says, as
 3 written in the report, Viola also became angry and
 4 told Lukowitz he better not mess with affordable
 5 housing issues. Did I read that accurately?
 6 A Top?
 7 Q Yeah, top, very top.
 8 A Top of page seven?
 9 Q Top of page seven, about midway
 10 through the sentence there's an and, and Viola also
 11 became angry and told Lukowitz that he better not
 12 mess with affordable housing issues. And better not
 13 mess with affordable housing issues is in quotes.
 14 Did I read that accurately?
 15 A You did.
 16 Q All right. So, the report does
 17 indicate that Mr. Viola was angry, correct?
 18 A Yes.
 19 MR. BLANEY: Okay. I don't have
 20 anything further of this witness.
 21 MR. SECARE: Any redirect?
 22 MS. WYATT: Yes, just a couple.
 23 FURTHER EXAMINATION BY MS. WYATT:
 24 Q Ms. Capristo, you were questioned
 25 extensively about page 15 of the policies and

1 Q And in that statement, do you recall
 2 as to whether Mr. Lukowitz -- Ms. Fitzpatrick
 3 advised township council that Mr. Lukowitz --
 4 MR. BLANEY: Objection. Leading.
 5 MR. SECARE: Let me ask you this, are
 6 you going to call any of these witness or we're just
 7 going to --
 8 MS. WYATT: Yes, yes, most of them.
 9 MR. SECARE: Well, do you really need
 10 this? I mean, I can read.
 11 MS. WYATT: Okay. Never mind. I
 12 have nothing further. Thank you, Mr. Secare.
 13 MR. SECARE: Any recross?
 14 MR. BLANEY: No.
 15 MR. SECARE: Thank you very much.
 16 MR. BLANEY: Thank you, ma'am.
 17 MR. SECARE: Next witness.
 18 MS. WYATT: The township calls Deputy
 19 Mayor Viola. Deputy Mayor Viola is going to stay in
 20 his location if that is acceptable to the Hearing
 21 Officer.
 22 MR. SECARE: Swear you in.
 23 MICHAEL VIOLA, Sworn
 24 MR. SECARE: Would you give us your
 25 full name and spell your last name.

1 procedures; is that correct?
 2 A Correct.
 3 Q And when you go to page 15, you were
 4 extensively questioned about the, potentially, four
 5 items that are under the heading examples of
 6 workplace violence; is that correct?
 7 A Correct.
 8 Q Is that an exhaustive list of what
 9 workplace violence charges could come from?
 10 A It is not.
 11 Q And can you just read the first
 12 sentence, the heading in the first sentence there?
 13 MR. SECARE: What page are you on?
 14 MS. WYATT: Page 15.
 15 A Examples of workplace violence,
 16 general examples of prohibitive workplace violence
 17 include but are not limited to the following.
 18 Q Thank you very much. And you were
 19 also extensively questioned about the report and
 20 whether or not Deputy Mayor Viola was angry during
 21 this confrontation. And you were specifically
 22 referred to in the report, Sue Fitzpatrick's
 23 summary, the summary of Sue Fitzpatrick's statement;
 24 is that correct?
 25 A That is correct.

1 THE WITNESS: Michael Viola,
 2 V-I-O-L-A.
 3 MR. SECARE: You are the deputy
 4 mayor?
 5 THE WITNESS: Yes.
 6 MR. SECARE: Congratulations. Ms.
 7 Wyatt, you're up.
 8 MS. WYATT: Thank you, Mr. Secare.
 9 EXAMINATION BY MS. WYATT:
 10 Q Deputy Mayor Viola, where are you
 11 employed?
 12 A I'm not employed.
 13 Q And are you retired?
 14 A I am retired.
 15 Q For how long have you been retired?
 16 A Since 2008.
 17 Q 2008. Prior to your retirement, what
 18 did you do?
 19 A I worked for 3M Company as a national
 20 sales manager.
 21 Q Thank you. What's your position with
 22 the Township of Colts Neck?
 23 A I've been serving on the governing
 24 body. This is my eighth year. This year I served
 25 as deputy mayor.

1 Q Prior to deputy mayor, you served in
2 what capacity?
3 A Township Committee. I was mayor in
4 2021 and deputy mayor in 2020.
5 Q Okay. Are you familiar with Mr. Kris
6 Lukowitz?
7 A Yes.
8 Q How?
9 A See him at events, political events,
10 business events in town. And I joined the planning
11 board in January of this year, so we're on the
12 planning board.
13 Q Okay. And so, that assumes
14 Mr. Lukowitz is associated with the Township of
15 Colts Neck?
16 A Yes.
17 Q And how is that again?
18 A He's an appointed representative on
19 the planning board.
20 Q Okay. And Deputy Mayor Viola, I'm
21 going to direct your attention to November 20, 2024.
22 Can you please advise the Hearing Officer as to what
23 occurred that day? And you can skip the day and
24 just start with the evening.
25 A Approximately ten p.m., between ten

1 aggressively. And I think I said, nothing much.
2 And then it just escalated.
3 Q Okay. And you indicated that two
4 individuals intervened, who was that again?
5 A Ms. Buss and Mr. Bartolomeo.
6 Q And then what happened after they
7 intervened?
8 A I moved away to the side.
9 Mr. Lukowitz was moved away too. I didn't actually
10 see what had happened after there. I collected
11 myself. I was jolted. Lot of adrenaline and
12 trauma. I was -- my back issues were exacerbated.
13 So I just tried to cool down for a little while. I
14 was at that point thinking of contacting the
15 Atlantic City police, I decided against it because I
16 didn't want to create a bigger stir for our host.
17 And about ten or 15 minutes later, I left the event,
18 returned to the hotel for evening.
19 Q Are you aware of any other
20 individuals, witnesses to the event?
21 A I'm sorry?
22 Q I'm sorry. Are you aware if any
23 other individuals witnessed this event?
24 A I believe Ms. Buss, Ms. Fitzpatrick,
25 Mr. Bartolomeo. And there was a packed room. There

1 and 11 p.m., I attended the Desserts After Dark
2 reception hosted by T&M Associates, the township's
3 engineer, at the Hard Rock Cafe -- Hard Rock Casino.
4 I'm sorry. And saw Mr. Lukowitz. There was an
5 exchange of words. It escalated back and forth.
6 And it resulted in Mr. Lukowitz violently grabbing
7 my, both sides of my lapel, pushing me backwards on
8 my heels. Calling me a piece of shit. Excuse me.
9 And saying, I'll fucking destroy you, I'll fucking
10 destroy you. And at that point in time, I did put
11 my hands around his to push to myself, to try to
12 brace myself. I have spinal issues and I tried to
13 keep it as minimal as possible. And then Ms. Buss
14 and Mr. Bartolomeo came in and pushed us aside.
15 Q Okay. And Deputy Mayor Viola, are
16 you sure about the time of ten or 11?
17 A It was between ten and 11. The music
18 had already started, so the event had already begun,
19 so it was probably a little bit past ten.
20 Q Okay. Deputy Mayor Viola, at the
21 party, did you approach Mr. Lukowitz or did
22 Mr. Lukowitz approach you or how did that happen?
23 A I don't really recall specifically.
24 But I know that there was eye contact. And I
25 believe he said, what are you looking at,

1 were several hundred people, so I'm sure others have
2 witnessed it.
3 Q And you were previously interviewed
4 about this issue, correct?
5 A Correct.
6 Q And who interviewed you?
7 A Anthony LoBrace from Mr. Giacobbe's
8 office.
9 Q When did that interview occur?
10 A December 6.
11 (Off the record.)
12 Q December 6. And I'm going to show
13 you what's been marked as T-5 for identification and
14 actually moved into evidence. I believe I moved
15 that into evidence.
16 MR. BLANEY: I don't think that's
17 been moved into evidence yet.
18 MS. WYATT: Can I move it into
19 evidence T-5?
20 MR. BLANEY: My only objection is
21 it's heavily redacted. I have no problem with the
22 document. I've never been given the full document.
23 It's heavily redacted. And I don't understand why
24 it's redacted, if they're going to rely on it as an
25 investigation.

1 MR. SECARE: Are you objecting to it
 2 going into evidence?
 3 MR. BLANEY: I'm objecting to it
 4 going into evidence as a redacted version. I think
 5 we should have a full version.
 6 MR. SECARE: All right. Let's do
 7 this. If there is an unredacted -- let's move this
 8 into evidence, T-5. If there is an unredacted
 9 version, I would ask you to send it to Mr. Blaney
 10 after the hearing, okay?
 11 (T-5 in evidence.)
 12 MS. WYATT: Well, there is an
 13 unredacted version. The only thing that has been --
 14 which Mr. Blaney has been advised of -- the only
 15 thing that has been redacted from this is
 16 attorney-client privileged information. We are not
 17 relying on the township labor counsel's conclusions
 18 at this hearing. We are solely indicating that
 19 there was an investigation that occurred. These are
 20 summaries of this investigation, and the
 21 attorney-client privilege information, which is the
 22 legal analysis, from the summary has been -- is what
 23 has been redacted.
 24 MR. SECARE: I can understand that.
 25 But the entire document is attorney-client

1 privilege.
 2 MS. WYATT: Yes. However, when you
 3 come to workplace investigations, the courts have
 4 ruled that the summary of the factual informations
 5 are discoverable, therefore, that is why the
 6 township in its -- in an effort to be fully
 7 transparent provided the summary of the interviews.
 8 And that is all that we provided is the summary of
 9 the interviews.
 10 MR. SECARE: I want you to give it to
 11 him, okay.
 12 MS. WYATT: Can we do that under a
 13 protective order so it doesn't go anywhere else?
 14 MR. SECARE: Of course.
 15 MS. WYATT: Okay.
 16 MR. SECARE: You prepare the
 17 protective order.
 18 MS. WYATT: I will.
 19 MR. BLANEY: The other thing I would
 20 like is if there were recordings of this, I would
 21 like copies of those. So, I mean, I've never seen
 22 an investigation where you don't record the people.
 23 So, I get the labor counsel's summary of what they
 24 said.
 25 MS. WYATT: Mr. Blaney had plenty of

1 time to request all of this --
 2 MR. BLANEY: I did request it.
 3 MS. WYATT: -- discovery and did not
 4 request all of this discovery long before this
 5 hearing.
 6 MR. BLANEY: I was told this is what
 7 I could have.
 8 MR. SECARE: Let's all play nice in
 9 the sandbox. If there are any recordings, give them
 10 to him, you know.
 11 MS. WYATT: I personally don't have
 12 any recordings. I didn't do the investigation.
 13 MR. SECARE: Fair enough.
 14 MS. WYATT: And the township is not
 15 relying on --
 16 MR. BLANEY: She doesn't have them.
 17 Giacobbe's firm may have them.
 18 MR. SECARE: I don't know if they did
 19 recordings or not.
 20 MR. BLANEY: And you're going to find
 21 out that they had a conflict in even doing the
 22 investigation as we go through this.
 23 MR. SECARE: We're beyond that.
 24 MS. WYATT: Okay. Back to the matter
 25 at hand.

1 BY MS. WYATT:
 2 Q Do you recognize page two and three
 3 of this report, specifically the summary of your
 4 statement?
 5 A Yes.
 6 Q And --
 7 A This is the first I've seen this
 8 document. I saw the copy of my report only.
 9 Q Of the summary of your report?
 10 A Correct.
 11 Q Yes. Have you previously reviewed
 12 the summary of your statement, not the entire
 13 document, not the entire document that's in front of
 14 you, but simply the summary of your statement?
 15 A Yes.
 16 Q And does the summary of your
 17 statement accurately reflect the conversation you
 18 had with the township labor counsel about this
 19 issue?
 20 A Yes.
 21 MS. WYATT: Thank you. I have
 22 nothing further.
 23 MR. SECARE: Any cross-examination?
 24 MR. BLANEY: Oh, yeah.
 25 MR. SECARE: I assume you would. But

1 I still have to ask.
 2 EXAMINATION BY MR. BLANEY:
 3 Q All right, sir, let's talk about how
 4 you know Mr. Lukowitz. When did you first meet
 5 Mr. Lukowitz?
 6 A A number of years ago at an event.
 7 Q And he was on the zoning board here
 8 at the municipality, correct?
 9 A Previous to planning board, yes.
 10 Q He was on the planning board?
 11 A Pardon me?
 12 Q He was on the planning board as well,
 13 correct?
 14 A Yes, he's on the planning board.
 15 Q You know him through that, correct?
 16 A Yes.
 17 Q And have you served on either of
 18 those boards?
 19 A Not on the zoning board. I was on
 20 the planning board in 2020 and 2021 and now in 2025.
 21 Q Okay. And were the two of you ever
 22 on that board together?
 23 A No.
 24 Q Now, do you have some role here in
 25 the township with regard to affordable housing?

1 A Yes.
 2 Q That's been a contentious issue in
 3 the municipality, correct?
 4 A Yes.
 5 Q And you're the one that's
 6 spearheading that from the standpoint of the
 7 township, you're making -- you're at least
 8 participating in making a decision setting policy
 9 with regard to that, correct?
 10 A I am the lead, however, we all have
 11 equal votes. We all share power equally and votes
 12 equally.
 13 Q And in your role, have you attempted
 14 to have the planning board have open public meetings
 15 with regard to affordable housing?
 16 A Yes.
 17 Q And have you received pushback from
 18 the planning board?
 19 A From the planning board chair.
 20 Q And Mr. Lukowitz, correct, who's the
 21 vice chair? At least he was last year, correct?
 22 A My engagement has been with
 23 Mr. Tobia.
 24 Q I know you've engaged with him, but
 25 you understood that there was pushback also from

1 A Yes, I am -- all five of us do, yes.
 2 Q Do you have any special role that the
 3 other five don't have?
 4 A Me and Mr. Buzzetta share the
 5 responsibilities as the lead on affordable housing.
 6 Q How long have you done that?
 7 A Since 2020.
 8 Q And what does that entail?
 9 A It entailed navigating through round
 10 three, which has just been completed, and now
 11 navigating round four.
 12 Q Can you tell us just briefly, so that
 13 everybody in the audience understands, what's
 14 affordable housing?
 15 A Affordable housing is the Mount
 16 Laurel doctrine in the State of New Jersey, it
 17 mandates a number of affordable housing units need
 18 to be built in each township based on an obligation
 19 presented by last in and round three with the court
 20 and then round four is DCA.
 21 Q And affordable housing is based upon
 22 income?
 23 A Income, family size.
 24 Q So, low income is what you're talking
 25 about, correct?

1 him, correct?
 2 A I would assume that. I didn't -- it
 3 wasn't overt, but I would assume it.
 4 Q So, you weren't really sure if he was
 5 opposing that?
 6 A He had made statements in public
 7 meetings that pretty much expressed his
 8 consternation with affordable housing in general.
 9 Q And what the township was doing,
 10 correct?
 11 A More so recently than in the past.
 12 Q When we say recently, before this
 13 incident in Atlantic City, correct?
 14 A Not necessarily. It mostly began in
 15 January at the planning board meeting where
 16 Mr. Lukowitz made a claim, preceded by asking texts
 17 sent to telephones across the township about
 18 affordable housing at a planning board meeting on
 19 January 14. We did have a public input session
 20 hosted by the township planning board and our
 21 affordable housing planner to seek input from the
 22 public on their preference for round four housing
 23 opportunities as we develop our round four plan.
 24 Q So, you two didn't have a rift over
 25 affordable housing before Atlantic City?

1 MR. SECARE: Either publicly or
2 privately, doesn't matter.
3 A Not privately. There hasn't been any
4 discussion. I'm sure publicly when questions were
5 asked and how they were answered back and forth, it
6 appeared as if there was a disconnect.
7 Q But that was the rub between you two
8 even that night, correct? That's the problem
9 between the two of you, is your stances on
10 affordable housing?
11 A No, I would not agree with that.
12 Q That was what the fight was about
13 that, wasn't it?
14 A No, the fight was -- the assault,
15 being assaulted, was a result of me saying to him, I
16 hear you're saying things about me around town, and
17 if you have anything to say to me, say it to my
18 face. And then he snapped and went ballistic, was
19 completely out of control, screaming, screaming I'll
20 fucking destroy you, I'll fucking destroy you, while
21 he's violently shaking me.
22 Q All right, sir, you have T-5 in front
23 of you?
24 A Yes.
25 Q If you turn to page six, that was

1 not mess with affordable housing issues, you're
2 alleged to have said that angrily?
3 A Yes.
4 Q Did you say that that night?
5 A Yes.
6 Q So, that's what you were arguing
7 about, right, the affordable housing issues?
8 A It just escalated.
9 Q That's a yes or no question, sir. Is
10 that what you were arguing about?
11 MR. SECARE: How about, was it one of
12 the things you were arguing about?
13 A That's fair.
14 Q So, it was an issue before that night
15 between the two of you? You knew his stance, he
16 knew your stance?
17 A I don't know if he knew my stance.
18 Q You're the architect of it, aren't
19 you?
20 A I am not the architect of it.
21 Q All right.
22 A I inherited it in 2020.
23 Q Well, as far as the township trying
24 to comply with it, you're the architect, aren't you?
25 A As are my four colleagues.

1 Ms. Fitzpatrick's statement to the investigator?
2 MS. WYATT: Objection. He hasn't
3 actually reviewed Ms. Fitzpatrick's statement.
4 MR. SECARE: He can look at it now.
5 MR. BLANEY: He can look at it now.
6 Q If you go there, do you see that?
7 A Page six, yes.
8 Q Are you with me? Page seven, it's a
9 continuation of her statement. And I read this
10 before, but I'm going to read it again to you.
11 Viola also became angry and told Lukowitz that he,
12 quote, better not mess with the affordable housing
13 issues, end quote.
14 A Well, what's very interesting was
15 that was Wednesday, November 20, we were awaiting a
16 final decision from the court on round three.
17 Q Sir, answer my question. I don't
18 think there's anything pending. You're just
19 talking. So, did you read that, is that accurate?
20 A Yes.
21 Q And is that something you said that
22 night?
23 A Would you repeat specifically what
24 I --
25 Q Sure. It's what's in quotes, better

1 Q And you're one of the two charged
2 with it, correct?
3 A We take the lead.
4 Q Now, let's talk about how this
5 altercation started. You come into the party,
6 Mr. Lukowitz is already there, right?
7 A Yes.
8 Q Who were you with?
9 A I'm with Mr. Bartolomeo, Ms. Buss and
10 Ms. Fitzpatrick.
11 Q And this is a party?
12 A It's a reception, yes.
13 Q And it's at a bar?
14 A No, it's in a large room. It's a
15 large ballroom.
16 Q What's the name of the ballroom?
17 A I don't recall.
18 Q Where was it at?
19 A Hard Rock Hotel.
20 Q Was there alcohol being served?
21 A Yes.
22 Q Was there food being served?
23 A There were desserts being served.
24 Q Was there a band playing?
25 A There was a band playing.

1 Q Did you have any of the alcohol?
 2 A No.
 3 Q Did you have any of the food?
 4 A No.
 5 Q Did you listen to the band?
 6 A It was very loud.
 7 Q And did you approach Mr. Lukowitz or
 8 did he approach you?
 9 A I believe I approached Mr. Lukowitz.
 10 Q All right. With the rest of the
 11 group, correct?
 12 A Yeah, we were all together.
 13 Q All right. And he tells you not to
 14 look at him like that, correct?
 15 A What are you looking at?
 16 Q That's the first interaction you have
 17 with him, what are you looking at? And were you
 18 looking at him?
 19 A I was looking at him.
 20 Q All right. And then what happened?
 21 A I responded nothing much. And then
 22 FU started. And then I did say, you're messing with
 23 our affordable housing, and I hear you're saying
 24 things about me around town, if you have something
 25 to say to me, say it to my face.

1 you, correct?
 2 A Yes.
 3 Q And you put hands on him and shoved
 4 him, didn't you?
 5 A No.
 6 Q You admitted to that in your
 7 statement that you just told me was true. You
 8 didn't -- you didn't shove him?
 9 MS. WYATT: I object.
 10 MR. SECARE: Don't testify. Please
 11 ask him a question.
 12 Q Did you not admit to that in your
 13 statement that you gave?
 14 MR. SECARE: Show it to him if you
 15 can find it, Mr. Blaney.
 16 MR. BLANEY: Sure.
 17 Q You said that you were defending
 18 yourself trying to push back on Lukowitz in order to
 19 get away from him.
 20 A That's when he assaulted me when he
 21 was grabbing my --
 22 Q You pushed him, right? You pushed
 23 him?
 24 A No, I put my hands around to protect
 25 myself.

1 Q That's what you said to him?
 2 A That's when he snapped.
 3 Q That's when?
 4 A He snapped.
 5 Q Well, you actually pushed past the
 6 other people you were with to get nose to nose with
 7 him, correct?
 8 A I don't recall that.
 9 Q You don't recall or it didn't happen?
 10 A I don't recall.
 11 Q All right. Well, if the other people
 12 there said that that happened, is that -- do you
 13 have any reason to doubt that it happened, that you
 14 pushed past them and got nose to nose with him?
 15 A If that's others' testimony, then
 16 that's what they believe, then that's what they
 17 believe.
 18 Q How far away from him were you?
 19 A Two feet.
 20 Q That's not nose to nose in my book.
 21 Do you think it was two feet or do you think it was
 22 closer?
 23 A Foot and a half.
 24 Q Foot and a half. Close enough that
 25 you could both put hands on each other, according to

1 Q All right. Do you think the
 2 investigator got it wrong?
 3 A I don't know.
 4 Q Below that you say, put his hands on
 5 Lukowitz' shoulder to push him?
 6 A That is --
 7 Q To push back on him?
 8 A That is correct.
 9 Q So, you touched him?
 10 A After he assaulted me.
 11 Q How did he assault you?
 12 A He grabbed my sport coat and
 13 screamed, I'm going to fucking destroy you, I'm
 14 going to fucking destroy you, while he was pushing
 15 me and shaking me.
 16 Q Sir, how many people were in this
 17 room?
 18 A Several hundred.
 19 Q How many witnesses, other than the
 20 people that you were with, has been investigated by
 21 the town and questioned, if you know?
 22 A I have no idea.
 23 Q Are you aware of any witness here
 24 tonight that isn't related to the town?
 25 A No.

1 MR. SECARE: Do you know who's going
2 to testify here tonight before you answer that
3 question?
4 THE WITNESS: Not that I'm aware.
5 MR. SECARE: Okay.
6 Q Now, you indicated earlier that you
7 worked for the 3M Company and that you were a
8 salesman for them, correct?
9 A Yes.
10 Q And did you have, as part of your
11 career prior to retirement, did you have any
12 responsibility for affordable housing?
13 A No.
14 Q Did you have any responsibility for
15 construction?
16 A No.
17 Q Do you know what Mr. Lukowitz does
18 for a living?
19 A I understand he's in contracting, but
20 I don't know specifically what that is.
21 Q What was your experience in
22 affordable housing before you started doing it for
23 the township, if any?
24 A Just what I read in the papers, just
25 what I read in the news.

1 Q And have you yourself taken the brunt
2 of this affordable housing being pushed into the
3 town?
4 A Well, like I said, we all share
5 equally, but I have the lead in working with the
6 professionals.
7 Q And people are upset about it, right?
8 A I believe so.
9 Q They're upset with you about it,
10 correct?
11 A Yes.
12 Q There's a significant number of units
13 that have been coming into the township, correct?
14 A Yes.
15 Q Before you were on committee, what
16 was there, one development that had affordable
17 housing here?
18 A I believe that's the Grand, that was
19 the main development.
20 Q Since then, there's been multiple
21 additions, correct?
22 A There's been two.
23 MS. WYATT: I'm going to object.
24 This is not really relevant to the actual issue that
25 occurred.

1 MR. SECARE: I think we can all agree
2 that the affordable housing issue is indeed a
3 contentious one, especially with the latest round
4 suggestion, a lot of towns are opposing it. I don't
5 think we're here, Mr. Blaney, respectfully, to try
6 an affordable housing case. You've established very
7 effectively that the protagonists, I'll call it, for
8 want of a better word, have had some issues with
9 affordable housing. And that's understandable. So
10 do you want to move on from there, unless you got
11 another question that specifically deals with their
12 confrontation, not generically about affordable
13 housing.
14 MR. BLANEY: Sure. It may touch on
15 affordable housing but I'll step away from the nitty
16 gritty of how many units that they placed in and
17 things like that.
18 Q So, after the altercation, you said
19 you thought about calling the police. The police
20 didn't come, right, in this room of hundreds of
21 people where there's allegedly this attack against
22 you?
23 A Correct.
24 Q Security from the casino didn't come
25 rushing in to break you up, correct?

1 A No, they did not.
2 Q Who broke you up?
3 A Ms. Buss and Mr. Bartolomeo.
4 Q So, Ms. Buss was able to separate the
5 two of you?
6 A Arms came in from each side and
7 pushed us apart.
8 Q So, this violent attack, she stepped
9 in the middle and stopped it?
10 A It was mostly Mr. Bartolomeo, but
11 they came in from both sides and pushed us apart.
12 Q Who was pushing you apart?
13 A I don't know what arm it was, because
14 I was focused on Mr. Lukowitz.
15 Q Wasn't it Ms. Buss that actually took
16 Mr. Lukowitz to another part of the room?
17 A I believe it was.
18 Q So, Mr. Bartolomeo, who was the main
19 person breaking this up, was concentrated on you?
20 A I don't know that specifically, but I
21 would assume that that's correct.
22 Q Now, after this altercation, you
23 mentioned there was some meeting in January?
24 A Planning board meeting,
25 reorganization and public meeting on January 14.

1 Q Okay. And at that point, no criminal
2 charges had been filed, nothing had been filed with
3 the police department, nothing had been filed with
4 the City of Atlantic City, correct?
5 A Correct.
6 Q Nothing was filed with the Atlantic
7 City prosecutor's office?
8 A Correct.
9 Q And then when did that get filed?
10 A I filed it originally on the 21st of
11 January, and then amended it on the 24th.
12 Q And when was the planning board
13 meeting?
14 A The 14th.
15 Q So, you did it after this planning
16 board meeting?
17 A Correct.
18 Q What happened at that planning board
19 meeting?
20 A False claims were made of a
21 conspiracy. And my concern was, I didn't hear
22 anything from Mr. Lukowitz from November 20 to that
23 point. And what I'm hearing at this meeting is some
24 fantasy of collusion between the attorneys, the land
25 use attorney at Cleary, Giacobbe, Alfieri and

1 object of this hearing, which is the altercation
2 that occurred at the League of Municipalities and
3 what transpired there. Whatever transpired in
4 January is not relevant.
5 MR. SECARE: Well, I think what
6 Mr. Blaney is trying to establish is that the
7 hostility and ongoing hostility between the two were
8 protagonist against. I'll let him explore it a
9 little bit further, but not too much further.
10 MS. WYATT: Thank you.
11 Q So, no criminal charges before that,
12 no charges that we're here for today before that,
13 correct? That didn't happen until after that,
14 right? You saw the charges on the sheet were
15 February 20, that would have been after that
16 meeting, correct?
17 A I didn't see that. I've never seen
18 that document.
19 Q Well, were you at these closed
20 sessions?
21 A No, I was sequestered.
22 Q They took you out of the closed
23 session?
24 A Yes.
25 Q Do you remember when that closed

1 Jacobs, between the land use attorney and the labor
2 attorney, that there was some collusion, that this
3 was all about affordable housing and my objecting to
4 Mr. Lukowitz and then trying to get him removed. I
5 made the decision shortly after that that I would
6 then -- I was considering it the entire time and in
7 my discussions with --
8 Q We were talking about what happened
9 at the meeting, not what happened after the meeting.
10 So, at the meeting, there was issues related to?
11 A There was accusations.
12 Q Okay. Affordable housing
13 accusations?
14 A Correct.
15 Q Made by Mr. Lukowitz?
16 A Yes.
17 Q Against you?
18 A Yes.
19 Q Similar to the accusations that he
20 was making before your altercation in Atlantic City,
21 correct?
22 A No.
23 MS. WYATT: Again, Mr. Secare, I'm
24 going to object to this line of questioning. This
25 has nothing to do with the altercation, which is the

1 session occurred?
2 A Maybe the first meeting in February.
3 Q Do you know -- do you know who made
4 the decision to bring charges?
5 A I don't.
6 Q Do you know who decided to issue the
7 charges?
8 A I don't.
9 Q Well, that makes two of us.
10 MR. SECARE: Three right now.
11 Q So, you wind up bringing your
12 charges, going forth, and there's charges against
13 you as well, right?
14 A Yes.
15 Q And they were filed by Mr. Lukowitz
16 after you filed charges against him, correct?
17 A Yes.
18 MR. SECARE: Let's make it clear,
19 you're talking about the criminal charges?
20 MR. BLANEY: Municipal court charge.
21 MR. SECARE: Municipal court charge.
22 Q Now, during the investigation that
23 was conducted by Cleary, Giacobbe and Alfieri, I
24 think I'm saying that right?
25 MR. SECARE: Alfieri.

1 Q Alfieri and Jacobs, I guess. Did you
2 tell them you wanted Mr. Lukowitz to resign from the
3 planning board?
4 A I did.
5 Q And that it would all go away if he
6 resigned from the planning board?
7 A I did.
8 Q All right. And who was Cleary,
9 Giacobbe, Alfieri and Jacobs, were they your labor
10 counsel?
11 A They're our labor counsel.
12 Q Were they your labor counsel for the
13 full year?
14 A Yes.
15 Q Were they regularly appearing before
16 your planning board that whole year as well?
17 A Labor counsel?
18 Q I'm sorry. Were they appearing
19 before your planning board as --
20 A I don't know, I wasn't a member, I
21 didn't attend meetings.
22 Q You are now?
23 A I am now as of January.
24 Q In January did they appear?
25 A No.

1 Q They weren't involved in any type of
2 housing projects or anything else like that that you
3 were aware of?
4 A Not that I'm aware of now. They were
5 the previous, the previous year they were involved
6 in the Mumford application.
7 Q When did the Mumford application go
8 through?
9 A I believe December or January.
10 Q So, this year, this year the Mumford
11 application went through?
12 A It was approved in December and
13 memorialized in February.
14 Q And there was an issue with the
15 Mumford application that my client brought, correct,
16 about the cutting down of too many trees?
17 A I wasn't at the planning board, I
18 can't answer that.
19 MS. WYATT: Objection.
20 MR. SECARE: I'll sustain that
21 objection.
22 I missed it. Who did you say you
23 told that the charges would go away if something
24 happened?
25 A Mr. LoBrace from Giacobbe's office.

1 MR. SECARE: Oh, okay. All right.
2 Did you expect him to give that
3 information to Mr. Lukowitz, is that why you did
4 that?
5 THE WITNESS: I assume, as a part of
6 the investigation, it would be extended.
7 MR. SECARE: All right.
8 BY MR. BLANEY:
9 Q Did you have your township solicitor
10 actually call Mr. Lukowitz and tell him that?
11 A I didn't, I didn't do anything.
12 Q Do you know who did?
13 A I don't.
14 MR. BLANEY: It's not this counsel.
15 I don't want to make aspirations against this
16 counsel.
17 I don't have anything further of this
18 witness.
19 MR. SECARE: Any redirect?
20 MS. WYATT: No.
21 MR. SECARE: Okay. Now, I think what
22 we're going to do now to give the court reporter a
23 break is take a break for ten, 15 minutes. It's
24 6:21. Let's get back in at 6:35, okay?
25 (Recess was taken.)

1 MR. SECARE: It's 6:35. We're going
2 to go back in session.
3 You know the routine. You're in the
4 hot seat now.
5 TARA BUSS, sworn.
6 MR. SECARE: Give us your full name
7 and spell your last name, please.
8 THE WITNESS: It's Tara, the last
9 name is Buss, B, as in boy, U-S-S.
10 EXAMINATION BY MS. WYATT:
11 Q Good evening, Mayor Buss. Just some
12 background questions. Where are you employed?
13 A My full-time employment is with the
14 Township of Holmdel.
15 Q In what capacity are you employed?
16 A I'm the director of personnel and
17 strategic operations.
18 Q How long have you been there?
19 A A little over three years.
20 Q And what is your position with the
21 Township of Colts Neck?
22 A I currently serve as the mayor of
23 Colts Neck.
24 Q How long have you been the mayor?
25 A Since January of 2025.

1 Q Prior to being the mayor, how were
 2 you associated with the township?
 3 A I was deputy mayor for the year prior
 4 in 2024 and served on committee for the three years
 5 prior.
 6 Q Three years prior. So, in total, how
 7 long have you been associated with the township?
 8 A Five years.
 9 Q Okay. Are you familiar with Michael
 10 Viola?
 11 A I am.
 12 Q How?
 13 A I met Mr. Viola when I joined the
 14 Township Committee. I did know him previously
 15 through my work on boards and commissions. I served
 16 on the board of health here and the historic
 17 preservation committee. So, I had met him through
 18 that for about three years prior to that.
 19 Q Are you familiar with Mr. Kris
 20 Lukowitz?
 21 A I am.
 22 Q How?
 23 A I know Mr. Lukowitz from town. We
 24 have kids that go to the same school.
 25 Q And is Mr. Lukowitz associated with

1 the Township of Colts Neck?
 2 A He is. He currently serves on the
 3 planning board.
 4 Q Thank you. I'm going to direct your
 5 attention to November 20, 2024. Can you please
 6 advise the Hearing Officer what occurred that day?
 7 A On November 20, we were at the League
 8 of Municipalities, representing the township. At
 9 the time I was deputy mayor. We had a series of
 10 workshops we attended throughout the day. And in
 11 the evening we attended a few of these professional
 12 receptions. This one in particular that we're
 13 talking about here tonight is the one that was
 14 hosted by T&M, who happens to be our township
 15 engineer.
 16 Q And where was that event held?
 17 A It was in the -- I believe it was the
 18 Hollywood ballroom at the Hard Rock Hotel and
 19 Casino.
 20 Q And what happened when you arrived at
 21 this event?
 22 A We arrived at the event. The event
 23 was from nine to 11. I think we arrived at like
 24 9:30, ten. Walked into the event. Walked towards
 25 the back, towards the bar to get a drink. And upon

1 my walk, I saw Kris Lukowitz standing ahead and
 2 walked up to say hello.
 3 Q And then what happened?
 4 A We exchanged -- I gave Kris a hug,
 5 probably a kiss on the cheek. I'm Italian, we hug.
 6 And said, hey, how are you doing? Stepped away.
 7 And he introduced me to somebody who was standing
 8 next to him. I complimented them on their
 9 spectacular dress. And then Kris got a look on his
 10 face that changed, one of friendly nature to anger.
 11 And I, basically, heard him say, what the fuck are
 12 you looking at? Excuse me. I apologize. And he
 13 said, what the fuck are you looking at, don't
 14 fucking look at me.
 15 Q Do you know who he was speaking to?
 16 A At the time I wasn't quite clear, so
 17 I kind of looked in the direction of where he was
 18 yelling. And it was Mike Viola standing there.
 19 Q And then what happened?
 20 A I turned back to Kris Lukowitz to
 21 actually assess if he was -- quite honestly, it took
 22 me a moment to realize he was being serious. I
 23 thought maybe everyone was joking. I believe I
 24 heard Mike Viola say nothing. He basically --
 25 sorry, I'm a visual person, so I think in terms of

1 how it happened, basically, Kris was standing here
 2 in front of me, Mike was here behind me. Kris got
 3 angry, says, what the fuck are you looking at? And
 4 then Mike stepped in and yelled back in a way that I
 5 never heard Mike yell. And at that point, I'm like,
 6 wait, I think they're actually truly yelling. So,
 7 Mike stepped back. And Kris just started to go off.
 8 A lot of F bombs were dropped. And at that point I
 9 was a little worried, things were escalating. I
 10 basically asked, what are you guys doing? We're in
 11 the middle of a professional event. I think I
 12 yelled, my fucking boss is standing over there. And
 13 basically kind of put my hand up towards Kris to be
 14 like stop, what are you doing? Put my hand up
 15 towards Mike and said stop, what are you doing, like
 16 stop.
 17 And at that point, Kris reached around this
 18 other side of me. And I turned and saw that he had
 19 grabbed Mike's collar, jacket, area like that, had
 20 it in his hand. And quite honestly, I was a little
 21 concerned for Mike's safety, being that I know he
 22 has a serious back injury. And I basically put my
 23 hands on Kris Lukowitz and pushed him away and said,
 24 stop this, we're at a professional event. What are
 25 you doing? And kind of pushed him further away and

1 walked him across to the other side of the ballroom
 2 to ask him what the hell was going on.
 3 Q And do you know at all, as you sit
 4 here today, what they were speaking about, what they
 5 were yelling about?
 6 A I believe I heard Mike say something
 7 along the lines of, if you screw up our affordable
 8 housing plan. Kris yelled, you know, basically he
 9 said, you have no idea who you're messing with, I
 10 will fucking destroy you.
 11 Q And so, after you stepped in and you
 12 moved Mr. Lukowitz away from the confrontation, did
 13 anything happen after that?
 14 A I moved him away, we talked for a
 15 minute. And then he left, seemed like he had calmed
 16 down and went off to the side. And I went up to the
 17 front of the room to get away from the area.
 18 Q And how long did you stay?
 19 A I think I was there for about another
 20 half an hour, 45 minutes after talking with some of
 21 our engineer professionals.
 22 Q And did anybody in the initial group
 23 that you arrived with stay with you?
 24 A No.
 25 Q Are you aware if any other

1 MR. SECARE: Okay.
 2 Q Okay. And just going off of that --
 3 A Not the rest of the document.
 4 Q -- you've seen your witness
 5 statement in that -- what did the document look like
 6 when you saw it?
 7 A It was redacted minus my statement.
 8 Q So, the entire document was redacted
 9 other than what your summary or your statement was?
 10 A Yes. I did also notice my middle
 11 name is spelled incorrectly, just for the record.
 12 Q I didn't write the document, for the
 13 record.
 14 Have you previously reviewed this summary of
 15 your statement?
 16 A I did.
 17 Q And does it, to the best of your
 18 recollection, accurately reflect the conversation
 19 you had with the township labor counsel?
 20 A I believe it does.
 21 MS. WYATT: That's all I have.
 22 MR. SECARE: Any cross-examination?
 23 MR. BLANEY: Yes.
 24 EXAMINATION BY MR. BLANEY:
 25 Q Good morning or afternoon.

1 individuals witnessed this event?
 2 A Several of the engineering
 3 professionals basically said, I'm glad that you
 4 stopped that because we were calling the security.
 5 Q And you were previously interviewed
 6 about this issue, correct?
 7 A Yes, labor counsel.
 8 (Off the record.)
 9 Q Who interviewed you? I'm sorry.
 10 A Anthony LoBrace. I apologize, I
 11 don't know how to pronounce his name.
 12 Q I'm going to show you what's been
 13 marked as Exhibit T-5 for identification. Do you
 14 recognize pages two and three?
 15 A Recognize? I see that it is Mike
 16 Viola's testimony.
 17 Q Oh, I'm sorry, not two and three.
 18 Where your testimony is. I think I gave you my --
 19 MR. BLANEY: Eight and nine.
 20 Q Page eight and nine. I apologize.
 21 MR. BLANEY: Eight, nine, ten.
 22 MR. SECARE: Have you seen this
 23 document before?
 24 THE WITNESS: I have seen my witness
 25 statement, yes.

1 A Good evening.
 2 Q Evening.
 3 MR. SECARE: We haven't been here
 4 that long.
 5 THE WITNESS: It feels like it.
 6 MR. BLANEY: So, we normally don't do
 7 these at night. I think this is the first time I've
 8 seen you after four o'clock.
 9 Q You were there that evening, right?
 10 A Yes.
 11 Q Were you aware of any prior dispute
 12 between Mr. Viola and my client?
 13 A I was not.
 14 Q You saw Mr. Viola, I think you said
 15 you went up and hugged him?
 16 A Mr. Lukowitz?
 17 Q I'm sorry, Mr. Lukowitz. I
 18 apologize.
 19 A Yes, I did.
 20 Q I guess the first interaction between
 21 the two gentlemen was you hearing, what the fuck are
 22 you looking at, don't look at me, Mr. Lukowitz
 23 saying it, right?
 24 A Yes.
 25 Q Where was Mr. Viola when that

1 statement was made?
 2 A He was standing over here to my
 3 right.
 4 Q How far behind you?
 5 A I would say half a foot behind me.
 6 Q Where was Mr. Lukowitz?
 7 A Mr. Lukowitz was about a foot in
 8 front of me to the left.
 9 Q And when you spoke to the
 10 investigator, you told him that Mr. Viola came
 11 around you, towards Mr. Lukowitz, correct?
 12 A He came up from the, probably about
 13 half a foot to a foot behind me and came around and
 14 came forward towards Mr. Lukowitz.
 15 Q There's only a foot between you and
 16 Mr. Lukowitz?
 17 A Probably about two feet.
 18 Q Were they -- how far were they apart
 19 at this juncture?
 20 A They were probably about two feet
 21 away. He kind of came out from the side like that
 22 and --
 23 MR. SECARE: Who's he? You said he.
 24 A I'm sorry. Mr. Viola came up from
 25 the right side.

1 Q He's the one who approached
 2 Mr. Lukowitz, it wasn't Mr. Lukowitz going at him,
 3 correct?
 4 A Mr. Lukowitz yelled at him first,
 5 stepped in, yelled at him again, stepped back, then
 6 Mr. Viola stepped forward and then stepped back.
 7 Q Okay. So, Mr. Viola stepped forward
 8 more than once towards him, when he stepped back?
 9 A No.
 10 Q How did it happen?
 11 A How did which part happen?
 12 Q I'm a little confused of the
 13 testimony. So I just want make to sure I got it
 14 straight. So, he walks around. Does Mr. Lukowitz
 15 then take a step back?
 16 A So Mr. Lukowitz yelled, what the fuck
 17 are you looking at?
 18 Q Right.
 19 A Stepped in, don't fucking look at me,
 20 Mike -- then stepped back. Michael Viola stepped
 21 forward, because it was very loud, and yelled
 22 something at him. I thought I heard something along
 23 the lines of, don't fuck with our planning board
 24 affordable housing settlement, something along those
 25 lines. And then stepped back where I didn't see him

1 at that point.
 2 Q He actually steps around you, though,
 3 correct? Because you're in between the two of them.
 4 A Uh-hum.
 5 Q That's at least what I get from your
 6 statement; is that accurate?
 7 A Yeah. Honestly, when I'm sitting
 8 there, my peripheral view, I didn't see him at
 9 first. So, I'm assuming he kind of stepped around.
 10 Q And you told the investigator that
 11 you thought Mr. Viola got too close to Mr. Lukowitz?
 12 A He did, in fact, lean into
 13 Mr. Lukowitz, yes.
 14 Q When you say lean in, what does that
 15 mean?
 16 A He stepped in towards him.
 17 Q And you said, I believe in your
 18 statement, that you were taken back by Mr. Viola's
 19 tone, correct?
 20 A Yes.
 21 Q So, he was angry?
 22 A Yes.
 23 Q Just as angry as Mr. Lukowitz?
 24 A I don't know because, quite honestly,
 25 I was not looking at Mr. Viola's face.

1 Q At some point you get in to separate
 2 the two of them, right?
 3 A Well, I didn't get in. I was
 4 standing there.
 5 Q So, you're already standing there?
 6 A Yeah.
 7 Q Did you get in between them at some
 8 point?
 9 A Honestly, I don't know where Mike
 10 stepped back to. So, I can't really speak to that.
 11 I was right in front of Mr. Lukowitz at that point.
 12 So, I mean, I guess I would intimate he was back
 13 there, so I guess I was in between them.
 14 Q Other than the comment about
 15 affordable housing and one looking at the other, do
 16 you remember anything else about the conversation?
 17 A No.
 18 Q All right. At some point did you see
 19 one of them touch the other?
 20 A The only person I saw touch was Kris
 21 Lukowitz' hand on grabbing Mike's collar.
 22 Q Okay. Explain that to me. Did he
 23 have him by both collars? Did he have him by one
 24 collar?
 25 A I only saw one collar. I looked

1 behind me and I saw a hand on Mike Viola's -- I
 2 didn't see his whole self. At some point in time,
 3 Mike must have shifted from here to over there
 4 (phonetic). I looked back and his hand was on his
 5 shirt and jacket.
 6 Q Where were you in relation to the two
 7 of them? Were you in between them still?
 8 A Yes.
 9 Q So, you see a hand around the side of
 10 you?
 11 A Yep.
 12 Q And did you see the push that we had
 13 testimony earlier today about? Did you see the
 14 push?
 15 A I did not witness any push.
 16 Q So, you weren't watching everything
 17 closely, correct?
 18 A I was watching Kris Lukowitz' face.
 19 Q So, you were more facing Kris?
 20 A Yes.
 21 Q But you managed to catch from the
 22 back?
 23 A That's right.
 24 Q And grabbing the lapel?
 25 A Yep.

1 Q Okay. So, you didn't charge my
 2 client?
 3 A No.
 4 Q I'm not saying that you did. I'm
 5 just asking because I don't know who charged my
 6 client. So, you don't know how that came about?
 7 A It was my understanding that we're
 8 here tonight to provide Mr. Lukowitz the public
 9 hearing that he so had requested and has every right
 10 to hear, have heard in public. And that's why we're
 11 here tonight, to discuss and have a Hearing Officer
 12 to listen and provide a determination on when and if
 13 any charges would be filed. So, I am not aware of
 14 any charges that have been filed.
 15 Q Okay. And I think in your testimony
 16 to the investigator, you indicated that you only had
 17 one little vantage point, and there were things that
 18 were said and done that you didn't see, correct?
 19 A Yes.
 20 Q You mentioned that you had some
 21 discussions with professionals from the engineering
 22 firm?
 23 A Yes.
 24 Q Who may have seen this?
 25 A Yes.

1 Q Did you see him violently shake --
 2 A I did not.
 3 Q -- Mr. Viola? No?
 4 A (Witness shakes head.)
 5 Q How many people were in the reception
 6 hall?
 7 A I would estimate there was about 500
 8 people there.
 9 Q Okay. Are you aware of any other
 10 witnesses being interviewed by the township's
 11 investigator?
 12 A I do not know who was interviewed.
 13 Q And you never seen the report, other
 14 than your own statement?
 15 A No.
 16 Q You never seen the recommendations of
 17 counsel?
 18 A What recommendations?
 19 Q The recommendations that are
 20 allegedly redacted from this?
 21 A No, I did not.
 22 Q Do you know who charged my client?
 23 A It is my understanding that your
 24 client has not been charged. So, honestly, I find
 25 that to be a little surprising.

1 Q Who are they?
 2 A I'm not at liberty to say.
 3 MR. BLANEY: Mr. Hearing Officer, I
 4 think we're entitled to know if there's other
 5 witnesses that we haven't been told about.
 6 MR. SECARE: I can understand what
 7 the witness is saying. Why do you need to know what
 8 the engineers said? Give me an offer of proof.
 9 MR. BLANEY: Because they witnessed
 10 it. They may have seen something different. They
 11 haven't been interviewed. I don't have a statement
 12 from them. I don't know who they are.
 13 MS. WYATT: May I respond,
 14 Mr. Hearing Officer?
 15 MR. SECARE: Of course.
 16 MS. WYATT: Mr. Blaney had plenty of
 17 time to conduct his own investigation and could have
 18 reached out to any of the witnesses. The township
 19 is not presenting any of those witnesses, nor have
 20 we given any discovery to him because we're not
 21 using them in our case in chief.
 22 MR. BLANEY: I'm entitled to notice
 23 and meaningful opportunity to respond. I don't even
 24 have notice because I don't have charges, right,
 25 other than this piece of paper. And additionally,

1 all of the witnesses that they told me are her
2 clients. How am I going to speak to them? I would
3 violate my ethical obligation not to speak to a
4 represented party. This is my opportunity.

5 MS. WYATT: Respectfully, he had an
6 opportunity to speak to his client and find out what
7 witnesses he wanted to call here. And he also had a
8 summary of, which is more than what you normally get
9 in this type of hearing.

10 MR. BLANEY: Summary that doesn't
11 even mention that there's other witnesses.

12 MR. SECARE: They could have been
13 people in the band or something that saw this.

14 MR. BLANEY: Well, I can go out and
15 talk to them if that's the case.

16 MR. SECARE: It's kind of late for
17 that. I'm reluctant to compel the witness to tell
18 who it was from the engineering company. You said
19 it was T&M. Spent a lot of money on this, didn't
20 they?

21 THE WITNESS: They sure did.

22 MR. SECARE: I really don't want the
23 witness to have to say who it was. Honestly, that's
24 not fair to her.

25 MR. BLANEY: What if they saw

1 something different? What if they saw Mr. Viola
2 being attacked?

3 MS. WYATT: Respectfully, it's not
4 relevant, it's not part of the township's case.
5 This is my case to put on.

6 MR. SECARE: Hold on. Hold on. I
7 have an answer. Even if there was somebody from T&M
8 who was a witness or somebody in the band who saw
9 something, we're in the middle of a hearing and
10 we're going to conclude the hearing hopefully
11 tonight. Then I move to reopen the hearing if you
12 interview these people?

13 MR. BLANEY: If that's what it takes.

14 MR. SECARE: Boy, I don't know.
15 We're way past that, Mr. Blaney.

16 MR. BLANEY: I have due process
17 rights here.

18 MR. SECARE: I know you have due
19 process rights. That's why we're here in a hearing.

20 MR. BLANEY: I mean, if a prosecutor
21 had withheld the fact that there was other witnesses
22 in a criminal matter --

23 MS. WYATT: We're not in a criminal
24 matter.

25 MR. SECARE: Let him finish.

1 MS. WYATT: I apologize. I
2 apologize. May I respond? We are not in a criminal
3 matter. We are in an administrative matter. This
4 doesn't even rise to the level of a disciplinary
5 action. Mr. Lukowitz is not an employee. This is a
6 for cause hearing that was requested by Mr. Lukowitz
7 pursuant to statute. This is not even a
8 disciplinary hearing. The township had no
9 obligation to go out and interview all of the
10 witnesses that have existed at this 500 person
11 party, and nor do I have an obligation to put them
12 on. I get to put on my case as I see fit, and he
13 has an opportunity to respond and put on his case.

14 If he wanted to interview the 500 people that were
15 at the party, he could have gone out and done that.

16 THE WITNESS: I would also just
17 like to --

18 MR. SECARE: There's no question
19 pending.

20 MR. BLANEY: So, if I can respond to
21 this.

22 They had an obligation to let me know
23 if there's a witness. There's no witness included
24 in this here. The mayor is going to be one of the
25 people voting on this. She has knowledge of

1 information outside of this hearing that is going to
2 taint, potentially, her understanding of what
3 occurred that night, if she's spoken to other
4 witnesses outside this hearing.

5 MR. SECARE: No, you didn't ask her
6 that. You asked her who was present. You didn't
7 ask her if she spoke to anybody.

8 THE WITNESS: I'd be happy to answer
9 that, Mr. Blaney.

10 MR. BLANEY: She testified on direct
11 that she spoke to other witnesses.

12 MR. SECARE: We don't know who they
13 are.

14 MR. BLANEY: I didn't open the door,
15 she opened the door.

16 MR. SECARE: I'm in an awkward
17 position. If this was a jury trial, I'd send the
18 jury out and get an offer of proof from the witness.
19 We're not in that kind of a situation, so I can't do
20 that. And I don't want to compromise the witness
21 because she's obviously reluctant to talk about
22 people that were there. So, I don't know. I mean,
23 it's -- you knew there was a party, you knew there
24 were a lot of people there. I don't think I'm going
25 to allow it. In fairness to you, I understand where

1 you're going. But because of her reluctance, I
 2 don't think I can allow that. I don't want to put
 3 her in a bad spot.
 4 MR. BLANEY: So, if we have
 5 exculpatory witnesses, they don't have to tell me
 6 who the exculpatory witnesses are?
 7 MS. WYATT: Mr. Secare, this is not a
 8 criminal case. This is a for cause due process
 9 hearing to which Mr. Blaney has a client who was
 10 also present at this party, who could have given
 11 him. We're in a civil matter. We are not in a
 12 criminal matter here.
 13 MR. SECARE: I know that but
 14 you're --
 15 MS. WYATT: It's not exculpatory
 16 evidence.
 17 MR. BLANEY: You're not allowed to
 18 hold evidence --
 19 MS. WYATT: There is no evidence
 20 that's being withheld.
 21 MR. SECARE: Don't argue with each
 22 other. Argue with me if you want, but don't argue
 23 with each other.
 24 You're not going to compel him to
 25 have his own client testify by saying, this is what

1 you had those conversations?
 2 A No.
 3 Q Okay. So, when the attorney from
 4 Cleary, Giacobbe came, you didn't mention this to
 5 them?
 6 A No, I don't believe so. Because that
 7 was after I had left Mr. Lukowitz and went to the
 8 front of the room.
 9 Q This is the first time anyone has
 10 heard about this, is sitting here today?
 11 A Yeah, I believe so.
 12 Q Okay.
 13 A Andrea had, our attorney had --
 14 Q I don't want to know about your
 15 conversations with Andrea.
 16 MR. SECARE: You can't tell us that.
 17 That's attorney-client privilege.
 18 MR. BLANEY: Okay, ma'am, I don't
 19 have anything further. Thank you.
 20 MR. SECARE: Earning my money
 21 tonight.
 22 (Off the record.)
 23 MR. SECARE: You're excused, Mayor.
 24 MS. WYATT: I have nothing further.
 25 MR. SECARE: Oh, did you have any

1 happened with T&M. And I don't know if those
 2 witnesses have any relevant information. Again, I
 3 can't question the witness outside the presence of
 4 the jury. So, I'm not going to allow it at this
 5 point.
 6 MR. BLANEY: Can I ask what the
 7 witnesses told her?
 8 MR. SECARE: Sure.
 9 MR. BLANEY: So we can hearsay what
 10 somebody would know, who we don't even know who they
 11 are.
 12 MR. SECARE: Let's do that fairly.
 13 Without identifying the people, answer Mr. Blaney's
 14 next question, could you, please.
 15 A Mr. Blaney, just to explain, I did
 16 not have conversations with people about
 17 specifically what happened and what they saw, which
 18 is why I would not have considered them witnesses.
 19 I did not interview anybody. I had several people
 20 say to me, I cannot believe what just happened. We
 21 almost called security. I'm glad you separated
 22 them. That I made an assumption that people saw
 23 something. We're in a room of over 500 people. We
 24 were surrounded by people, so.
 25 Q Did you tell the investigator that

1 more questions?
 2 MS. WYATT: I don't. I have nothing
 3 further. Thank you, Mr. Secare.
 4 THE WITNESS: Would you like your T-5
 5 back?
 6 MS. WYATT: You can just leave it up
 7 there because I'm going to show it to the next
 8 witness. Thank you.
 9 MR. SECARE: Do you have another
 10 witness?
 11 MS. WYATT: I do. The township calls
 12 JP Bartolomeo.
 13 MR. SECARE: First name?
 14 MS. WYATT: JP.
 15 JOSEPH PETER BARTOLOMEO, sworn
 16 MR. SECARE: Give us your first name.
 17 THE WITNESS: Joseph Peter
 18 Bartolomeo. I live at Nine Old Stable Way.
 19 MR. SECARE: Thank you,
 20 Mr. Bartolomeo.
 21 MS. WYATT: May I proceed?
 22 MR. SECARE: Yes.
 23 EXAMINATION BY MS. WYATT:
 24 Q Mr. Bartolomeo, where are you
 25 employed?

1 A I am currently employed with Eagle
2 Rock Wealth Management. I do that part-time as a
3 financial planner. I've been semiretired for the
4 last three years.
5 Q And how long have you been with Eagle
6 Rock Management?
7 A About nine months.
8 Q And what did you do before that?
9 A I've been in finance for 30 years. I
10 worked at multiple firms, I'm an entrepreneur, land
11 owner, business owner, former township committee,
12 former mayor.
13 Q We're getting there. In 2024, what
14 was your position with the Township of Colts Neck?
15 A Committeeman.
16 Q And how long have you been associated
17 with the Township of Colts Neck?
18 A 2013 or 2014 or 2015, they all blend.
19 I was on planning first and then I went on to
20 governing body.
21 Q So --
22 A I did a year on planning. I don't
23 know what year it was.
24 Q Okay. So, you did one year on the
25 planning board and then --

1 Q He was one --
2 A Then he moved -- then I suggested he
3 move over to planning, so he was appointed by me.
4 Q By you. I'm going to direct your
5 attention to November 20, 2024. Can you please
6 advise the Hearing Officer what occurred that
7 evening?
8 A League of Municipalities, myself,
9 Mr. Viola, Ms. Buss and Ms. Fitzpatrick were heading
10 into the T&M party, we were in single file.
11 Q And where did you walk when you
12 walked into the event?
13 A Into the center of the room, closer
14 to the right side, right near the dessert table.
15 Q And thereafter, what happened?
16 A I saw Kris, gave him a bro handshake,
17 hug, what's up brother. Next person up I think was
18 Sue. She said hello and offered pleasantries. Next
19 person up, I believe, was Tara. I don't know who
20 went first or second, but after hearing Tara's
21 testimony she must have been second. At which
22 point, we were all just saying hello, that's Kris,
23 Sue, Tara. And I'm trying to -- I'm here
24 (indicating).
25 MR. SECARE: Now, because we're

1 A I believe so. The year before I was
2 sworn in as committeeman.
3 Q Okay. Perfect. Are you familiar
4 with Michael Viola?
5 A Yes.
6 Q How are you familiar with him?
7 A We sat on the governing body together
8 for seven years, I've known him since my first
9 entree on to the governing body. We are personal
10 friends. We socialize together. But we mostly
11 worked on the governing body for seven years, you
12 know, working on stuff around town.
13 Q Thank you. And are you familiar with
14 Mr. Kris Lukowitz?
15 A Mr. Kris Lukowitz, standing right in
16 front of me, also very dear friend of mine. Known
17 him since, I think, '13 or '14. Socialized,
18 dinners, families are friends, children are friends,
19 been to my house, I've been to his house, also my
20 friend.
21 Q Thank you. And is Mr. Lukowitz
22 associated with the Township of Colts Neck?
23 A I believe he's still on planning. In
24 fact, I put him on the zoning, he was one of my
25 appointments.

1 talking into a record, I will describe what you just
2 did.
3 THE WITNESS: Please do.
4 MR. SECARE: The witness put two
5 water bottles in front of him on a desk and one
6 right behind each other, more or less.
7 THE WITNESS: This is me, the full
8 one. I was off to the side right here (indicating).
9 MR. SECARE: He's pointing to the
10 bottle behind and says that was him.
11 THE WITNESS: Want to take a picture
12 of this?
13 MR. SECARE: No, the court
14 reporter -- if you look at the record, you'll say
15 this one here, that one. Nobody would know what
16 happened, so.
17 A I witnessed the exact same thing.
18 Kris looked past, I believe, Tara, if she was next
19 in line, who was next to me, which is the bottle
20 right next to me. And did say, what the fuck are
21 you looking at? Kind of caught my attention. I
22 believe he said it again. At this point, Mike Viola
23 walked towards him and either said, I don't know
24 what I see, I don't know what I'm looking at, I
25 don't know what I'm hearing. Mike definitely leaned

1 in to hear what he was saying. At this point, words
2 were exchanged.

3 I stayed to Kris's right -- no. Yeah, I
4 stayed to Kris's right. As I watched and witnessed
5 the words get exchanged, I felt it could escalate.
6 You ask me why? Because I was a bouncer for five
7 years, and I see these things. And I just had a
8 feeling that I better stay close. However, it
9 wasn't my argument, because I've been in enough
10 situations where it wasn't my discussion. So, I
11 stayed close, at which point I saw Kris grab Viola
12 by both lapels and grab him pretty aggressively. At
13 which point I immediately stepped in, pushed Kris
14 away. And said, what the fuck are you doing? At
15 that point, Tara immediately pulled Kris away.

16 I turned to Mike and Sue, Sue was there and
17 Mike was visibly shaken, kind of, like, what just
18 happened, almost like he dropped a plate or
19 something, like, what just happened, I was just
20 attacked, I was just assaulted. He took a deep
21 breath.

22 The band was playing, it was loud. During
23 this, because it will probably be asked by this
24 gentleman, there were a lot of eyes on us. It's
25 just like seeing an accident or seeing something out

1 on the street, people were paying attention, to the
2 point that I felt the eyes on me, which is another
3 reason why I stayed in there, expecting or hoping
4 something didn't happen. I really did.

5 Kris was pushed away. Mike and Sue and I
6 decided to walk out, we walked back out the front
7 door. I looked at Mike, I said, are you okay? He's
8 like, I don't know, my back's bothering me, I'm
9 tired, we've been on our feet, I'm going home, I
10 don't even know how to process this. Sue, are you
11 going to be okay? I almost think they were staying
12 maybe at the same hotel, not together, but maybe at
13 the same hotel. I don't even remember. I walked
14 back in and the night ensued thereafter.

15 Q Do you have any idea what they were
16 talking about?

17 A Oh, there was a comment about
18 affordable housing. There was a comment about
19 affordable housing. Again, it wasn't my fight. I
20 felt that I was just like, there's two guys arguing.

21 Q And when you previously testified
22 that words were exchanged, is it fair to say that
23 they were aggressive?

24 A Yeah.

25 Q Was -- withdrawn.

1 So, you were also previously interviewed
2 about this issue, correct?

3 A Yes.

4 Q And who interviewed you?

5 A Anthony LoJudas, LoJace (sic) from
6 Giacobbe's office.

7 Q You have in front of you what's been
8 marked for identification as T-5.

9 A Is that this?

10 Q Yes. And I would like you to review
11 pages, just quickly glance at pages four, five and
12 six. Do you recognize this?

13 A Hold on. Yeah.

14 Q What do you recognize this to be?

15 A What I told the gentleman that asked
16 me the questions.

17 Q And did you previously review this
18 summary of your statement?

19 A Yes, I did. However, I don't believe
20 it was given recently. For some reason, I wasn't
21 allowed to see it after I gave it. So, this is a
22 month and a half, two months old. I don't know -- I
23 never understood why.

24 Q Well, there are legal reasons for
25 that. However, but you did review the summary of

1 your statement before you're testifying here
2 tonight; is that correct?

3 A Yes.

4 Q And does it accurately reflect the
5 conversation that you had with your town's labor
6 counsel?

7 A To the best of my knowledge, yeah.

8 Q Okay. And just quickly going back to
9 the night in question, what did you do after the
10 altercation? Did you go back into the event or did
11 you leave?

12 A Oh, I went back into the event.

13 Q How long did you stay approximately?

14 A Probably till the end. I know the
15 owner of the company, so I kind of mingled with
16 other people.

17 MS. WYATT: I have nothing further.

18 MR. SECARE: Cross-examine?

19 MR. BLANEY: Sure.

20 EXAMINATION BY MR. BLANEY:

21 Q Good evening, sir.

22 A Hi.

23 Q You indicated that you're friends
24 with my client?

25 A For the last 12 years, I think.

1 Maybe longer. Good friends.
 2 Q Still friends with him?
 3 A Haven't talked to him since this all
 4 happened.
 5 Q Were you good friends up until that
 6 night?
 7 A Sure, yeah.
 8 Q Do you still consider him your good
 9 friend?
 10 A I do.
 11 Q All right. You've testified that
 12 you've been involved with the township for multiple
 13 years?
 14 A Quite some time.
 15 Q Various different capacities, right?
 16 A Yes.
 17 Q I think you've indicated that you
 18 were the one that put my client on the zoning board?
 19 A Yes.
 20 Q What was your position when you did
 21 that?
 22 A If I put him on, I was mayor. So,
 23 that must have been my mayoral year before Covid.
 24 Q And then you said you recommended him
 25 for the planning board?

1 misunderstood has a problem with affordable housing.
 2 Q That's misunderstood, what do you
 3 mean by that?
 4 A People don't understand it.
 5 Q Do you think it's a good thing?
 6 MS. WYATT: Objection.
 7 A I don't know if I want to go down the
 8 road of affordable housing, but if you'd like me to
 9 I will.
 10 MR. SECARE: We're not going to do
 11 that. Ask another question, please.
 12 Q Can you answer that question?
 13 A Which one?
 14 Q Do you think it's a good thing?
 15 MS. WYATT: I objected.
 16 MR. SECARE: I said he can answer
 17 that question and that's it, no more about
 18 affordable --
 19 A Do I think what's a good thing?
 20 Q Affordable housing.
 21 A To what capacity?
 22 Q Just, it's a yes or no question.
 23 A I will not answer that question. You
 24 ask me in what capacity and I'll have a good
 25 conversation with you, but don't ask me what I think

1 A Yes.
 2 Q Why did you do that?
 3 A I thought it was a better seat.
 4 Q And did he have any particular skills
 5 or experience that you thought would be a good fit
 6 for the planning board?
 7 A Yeah, I know he's in construction and
 8 he understands things.
 9 Q And at the time that he went on the
 10 planning board, were there issues with affordable
 11 housing in the municipality?
 12 A Yeah.
 13 Q And was that one of the reasons you
 14 put him on there, because he had some understanding
 15 of that?
 16 A No. No. Just, you know, vast
 17 knowledge, knew his stuff.
 18 Q Were they contentious issues, the
 19 issues about affordable housing?
 20 A No.
 21 Q There weren't people in the town who
 22 thought there was problems with affordable housing?
 23 A There are people all over the State
 24 of New Jersey that have a problem with affordable
 25 housing. So everyone in this town that's

1 about --
 2 MS. WYATT: Objection.
 3 Q I'm not allowed to ask you a
 4 follow-up question, sir. You're allowed to answer
 5 the question that I asked.
 6 A I will not answer that question.
 7 MS. WYATT: Objection, it's not
 8 relevant.
 9 MR. SECARE: He's not going to
 10 answer, that's fine, that's his prerogative.
 11 MR. BLANEY: I didn't know that's a
 12 prerogative at a hearing, but if that's a new
 13 prerogative.
 14 MR. SECARE: I'm not going to compel
 15 him to answer.
 16 MR. BLANEY: All right.
 17 Q Sir --
 18 MR. SECARE: You made your point.
 19 Q -- did you have any business
 20 relationships with my client?
 21 A I did at one time.
 22 Q What type of business relationships
 23 did you have?
 24 A I did some financial adviser work for
 25 him at one time.

1 Q You came and asked him for money,
 2 right?
 3 A No, he offered it.
 4 MS. WYATT: Objection.
 5 A No, he asked me for my help.
 6 MS. WYATT: Objection.
 7 MR. SECARE: Well, unless it's going
 8 to --
 9 A What does that have to do with this?
 10 MR. SECARE: Hold on. I'm the boss
 11 here for a while. If it goes to a bias, it's
 12 admissible. If that's the point that it's going to
 13 go to bias, then I'll allow it.
 14 MR. BLANEY: Bias.
 15 MR. SECARE: Okay.
 16 Q So, you did some financial advising
 17 work for him?
 18 A For him and his wife.
 19 Q And did you tell him that you were
 20 having problems and you needed him to give you money
 21 with regard to that?
 22 MS. WYATT: Objection.
 23 A I'll answer that. No, I don't have
 24 any money problems, sir. So I hope you never ask
 25 that question again.

1 on?
 2 A I don't remember. I don't know the
 3 years, to be quite honest with you.
 4 Q Okay. And when you said you had
 5 something to do with him going on the planning
 6 board, what did you have to do with that?
 7 A I suggested him to the governing
 8 body, but it was my mayoral appointment, and I said
 9 I think this would be a great seat for you with your
 10 knowledge.
 11 Q So, you were the person who actually
 12 made the appointment?
 13 A Yeah.
 14 Q Now, did you and Mr. Lukowitz belong
 15 to a friend group, more than just the two of you?
 16 A Oh, yeah.
 17 Q Who else was a member of that friend
 18 group?
 19 MS. WYATT: Objection. Is this
 20 relevant?
 21 MR. SECARE: Where are you going with
 22 this? Give me an offer of proof.
 23 MR. BLANEY: It goes to bias.
 24 MR. SECARE: How?
 25 MS. WYATT: How?

1 Q I didn't ask you about money
 2 problems.
 3 A What did you ask me?
 4 Q I asked if you needed him -- I'm
 5 going to have the court reporter read it back.
 6 A I'd like you to do that.
 7 MR. SECARE: Well, either that or you
 8 can rephrase the question. But you can't ask him
 9 questions. You've got to answer his questions.
 10 That's the way this works. So, you want to repeat
 11 the question?
 12 MR. BLANEY: I'll have her read it
 13 back.
 14 MR. SECARE: Okay.
 15 (Question read back.)
 16 A Those words never, ever, ever came
 17 out of my mouth, that I was having any issues or
 18 needed his money.
 19 Q What was his position with the
 20 township when you had this financial exchange with
 21 him?
 22 A I don't believe -- I don't know. I'd
 23 have to look back.
 24 Q Was he on one of the boards that you
 25 were appointing him to or recommending that he go

1 MR. BLANEY: Because he's been
 2 separated from the friend group.
 3 A I was never separated from him. Him
 4 and I have been friends forever. In fact, we've
 5 always remained friends, although I don't like the
 6 friend group anymore.
 7 MR. SECARE: Please don't answer a
 8 question that's not asked, okay?
 9 MR. BLANEY: It was asked, you just
 10 hadn't ruled on it.
 11 A Next question.
 12 Q So, you admit that you're no longer a
 13 member of that friend group, correct?
 14 MS. WYATT: I'm going to renew my
 15 objection.
 16 MR. SECARE: I'll sustain that. I
 17 think you're way out in left field.
 18 Q Did Mr. Lukowitz stay a member of
 19 that friend group after you were no longer there?
 20 MR. SECARE: Same objection. Same
 21 ruling.
 22 MS. WYATT: Yes.
 23 MR. SECARE: Don't answer that. She
 24 did stand up, by the way.
 25 Q All right. Let's talk about the

1 night in question.
 2 A Please.
 3 Q So, you're there on the night in
 4 question. Who did you arrive with?
 5 A I told you, Michael Viola, Sue
 6 Fitzpatrick and Tara Buss, didn't change.
 7 Q And when you arrived, you said you
 8 were coming up in single file?
 9 A Yeah, just walking through a crowd.
 10 Q Was there anyone in front of you,
 11 between you and Mr. Lukowitz?
 12 A Nope.
 13 Q So, where was the mayor when you all
 14 approached?
 15 A I did say this already, but I'll try
 16 my best to repeat it. She was either next behind me
 17 or behind that.
 18 Q Okay.
 19 A I don't remember.
 20 Q And where was Ms. Fitzpatrick?
 21 A You want to do this again? They were
 22 either like this or like that (indicating). I
 23 thought I did that already.
 24 Q Behind you?
 25 A Behind me.

1 front of him or are you to the side?
 2 A Maybe just a little off to the side a
 3 little bit.
 4 Q Do you turn to see who he's talking
 5 to?
 6 A I don't remember.
 7 Q At some point, do you figure out that
 8 it's Mr. Viola?
 9 A Oh, yeah, by all means, yeah.
 10 Q And when did you figure that out?
 11 A I guess when Mike started to, you
 12 know, step towards him to say, what are you saying,
 13 who are you talking to, are you talking to me, I
 14 don't know what I'm looking at. I don't -- I never
 15 heard the next statement, but I did see Mike kind of
 16 engage to say, what are saying?
 17 Q You see Mike -- you've been sitting
 18 here, right, today? You've heard the testimony?
 19 A I've been here the whole time.
 20 Q Did you see Mr. Viola come around the
 21 mayor?
 22 A No, just walked towards Kris, like
 23 right next to everybody. We were in a single file.
 24 So, like maybe one or two steps.
 25 Q He just takes one or two steps calmly

1 MR. SECARE: You described it once
 2 before, but this is cross-examination so you have to
 3 describe it again.
 4 THE WITNESS: Oh, okay.
 5 MR. SECARE: Just when you put the
 6 bottles up --
 7 A So, either Sue was behind me and then
 8 Tara was behind her or Tara was behind me and Sue
 9 was behind her.
 10 Q Okay. And at some point, do you move
 11 to the side?
 12 A Right next to Kris.
 13 Q And at some point, there's at least a
 14 verbal altercation that occurs, correct?
 15 A Yeah.
 16 Q And that was initiated, according to
 17 your testimony, by Mr. Lukowitz, correct?
 18 A Yes.
 19 Q And what do you recall him saying?
 20 A What the fuck are you looking at?
 21 Q And was it clear who he was saying
 22 that to when he said it?
 23 A Not necessarily. He was yelling kind
 24 of past me.
 25 Q So, at this point, you're still in

1 forward?
 2 A Yeah, for the most part.
 3 Q Is he angry?
 4 A He's inquisitive, curious, like
 5 what's going on.
 6 Q Do you recall him saying, nothing
 7 much, to that, in response to that?
 8 A I didn't hear much. That's the
 9 problem. It was loud and I didn't hear much. If it
 10 says something different in my testimony, I'll read
 11 it again, but I don't really remember. I did hear
 12 words --
 13 MR. SECARE: That's a fair answer.
 14 You don't remember is a fair answer.
 15 Q So, your testimony to the township's
 16 labor attorney is that you veered away when the
 17 argument started?
 18 A Veering. If I said that, all I did
 19 was stay engaged off to the side, after I saw the
 20 words being exchanged. I was in -- I was in arm's
 21 length of the both of them the whole time.
 22 Q That's what you meant by veered away,
 23 I was in arm's length the entire time?
 24 A Yeah, synonymous.
 25 Q All right. Now, you testified here

1 tonight that you saw Mr. Lukowitz grab Mr. Viola by
 2 both lapels?
 3 A Yeah.
 4 Q And shake him?
 5 A Yeah.
 6 Q All right. Do you recall talking to
 7 the investigator about what you saw?
 8 A I do.
 9 Q And what did you tell the
 10 investigator?
 11 A I think I said the exact same thing.
 12 Q Or did you say lapel, similar to what
 13 the mayor has testified to?
 14 A Can I give a description and the
 15 court reporter --
 16 Q I'm asking you a question. You can
 17 answer.
 18 A I don't know. What's this
 19 (indicating)? You tell me. What would you call
 20 these things?
 21 Q I'm asking if it was a lapel like the
 22 mayor said --
 23 A No, I saw both hands.
 24 Q -- and like the investigator --
 25 (Talking over each other.)

1 Q And if other witnesses just didn't
 2 see any contact, that they would be wrong?
 3 A I don't know who would be wrong. I'm
 4 telling you what I saw.
 5 Q But you saw contact?
 6 A Yeah, the only reason I engaged is
 7 because I saw contact. They're my friends.
 8 Q And what other contact, other than
 9 grabbing the lapels, did you see?
 10 A A jostle.
 11 Q What do you mean by a jostle?
 12 A I don't know. I don't really know
 13 how to define that word, but I did see someone,
 14 Kris, grab Mike by both lapels and jostle him.
 15 Q Did you tell the investigator you saw
 16 him shove him?
 17 A I think it was all in one fell swoop.
 18 Q So, was he shaking him or shoving him
 19 or grabbing him?
 20 A I didn't allow it to go that far. I
 21 jumped in because it was escalating.
 22 Q What did you do when you jumped in?
 23 A I separated them.
 24 Q How did you do that?
 25 A I pushed Kris back. I don't know if

1 MR. SECARE: You guys, you're
 2 talking --
 3 THE WITNESS: I'm sorry.
 4 MR. SECARE: You don't have to
 5 apologize. The court reporter is diligently
 6 working, and has a right to have a clear record.
 7 So, that means no one talks over each other,
 8 including me.
 9 So, the question is, did you see him
 10 grab -- did you see Mr. Viola grabbed by the lapels?
 11 I think that's the question.
 12 A The lapels up here (indicating).
 13 Q Meaning two?
 14 A Two, that's what I saw, yeah.
 15 Q Did the investigator get it wrong
 16 when the investigator wrote lapel in your statement?
 17 A I guess so.
 18 Q All right. And then --
 19 A Should have been plural lapels.
 20 Did that go off? What happened? There we
 21 go.
 22 Lapels plural.
 23 Q So, it wasn't the way you heard the
 24 mayor describe it?
 25 A No.

1 pushed Mike back. And I said, what the fuck are you
 2 doing? There's a lot of eyes on you, and it's a bad
 3 look.
 4 Q Who did you say that to?
 5 A Him.
 6 Q So, you were facing him?
 7 A Yeah. And then Tara immediately
 8 pulled him away. It happened probably in the span
 9 of like ten seconds.
 10 Q Okay. And were you watching --
 11 because you were veering away, were you watching
 12 this whole interaction the whole time or were you
 13 facing a different direction at some point?
 14 A It was out of my peripheral on
 15 purpose. I didn't want to put more eyes on it
 16 because I didn't want to bring more attention to
 17 this argument in the middle of someone else's party.
 18 Q So, you weren't directly watching
 19 what was happening --
 20 A No, I was watching the whole thing
 21 out of the right side of my eye.
 22 Q Let me finish my question.
 23 You saw this out of your peripheral vision,
 24 correct?
 25 A Yeah.

1 Q That's what you told the
2 investigator?
3 A Yes.
4 Q Okay. Did you hear Lukowitz say he
5 was going to fucking destroy Viola?
6 A I don't remember.
7 Q How many people were in the room?
8 A I don't know. A lot. It could have
9 been a thousand, could be 500. It's packed.
10 Q Let's talk about the investigation.
11 How did you become involved in the investigation?
12 A I was engaged by Giacobbe.
13 Q Did you have a discussion with anyone
14 before Giacobbe about the incident?
15 A I did.
16 Q Who did you have a discussion with?
17 A Business administrator.
18 Q When did you do that?
19 A Why or when?
20 Q When?
21 A Thursday morning on my way back from
22 the League.
23 Q And what was the purpose of that
24 discussion?
25 A Honestly, it was kind of gossip at

1 Q Then you talked to labor counsel?
2 A Yeah.
3 Q And did they tape you when they
4 interviewed you?
5 A I don't know. I hope they did.
6 Q You don't recall them taping you?
7 A No.
8 Q And you tell them what you thought
9 happened that night?
10 A I told them what I know happened that
11 night.
12 Q And was your memory better at that
13 time than it is today?
14 A Probably.
15 Q Okay. Now, after that, were you
16 involved in the charging process with regard to
17 Mr. Lukowitz?
18 A Nope.
19 Q Your term ended, I assume. Were you
20 at any of the closed sessions where he was
21 discussed?
22 A I don't think so.
23 Q Were you in any discussions with
24 other people on the township council or governing
25 body related to asking him to step down from the

1 that point. I was just calling to say, you're not
2 going to believe what I saw last night. Kind of off
3 the record. I said, I don't know, Mike's pretty
4 shaken up, I don't know where it's going to go.
5 That was it. She's like holy crap.
6 Q What was your role at the township at
7 that time?
8 A Committeeman.
9 Q You're no longer a committeeman?
10 A Nope.
11 Q So, you call her, kind of just
12 gossiping about it?
13 A That's it.
14 Q You don't want to initiate a
15 complaint or anything along those lines?
16 A Nope.
17 Q What's the next contact you have with
18 anyone about this?
19 A I don't recall. But I know that Mike
20 didn't want to talk about it. I didn't speak with
21 him for a few days. And I think the next thing I
22 know, he said, I think, I don't know if it's him or
23 I don't know if it's Kathleen, I just know that we
24 as a governing body or our administrator was now
25 going to engage counsel, labor counsel.

1 planning board?
2 A I don't remember. But I assume
3 that's the direction we were going after he accosted
4 somebody, which is best if you just step down, walk
5 away. I don't remember.
6 Q You don't remember having any
7 conversations with anybody?
8 A I know I had conversations after the
9 testimony stuff, but I don't remember about them.
10 Mike was pretty shaken up and really didn't want to
11 talk about it. So it wasn't like there was a lot of
12 dialogue between him and anybody else.
13 Q When you say the testimony stuff, you
14 mean the investigation --
15 A Yeah.
16 Q -- when you gave your statement?
17 A Yeah.
18 Q All right. And do you remember when
19 that occurred?
20 A No.
21 Q The report indicates that you were
22 interviewed on December 11, 2024. Does that sound
23 accurate?
24 A Sure. I'm not going to argue with
25 that. Sure. A lot's happened since that. I really

1 don't remember.
 2 Q How many council meetings did you sit
 3 in after that?
 4 A Two.
 5 Q Do you recall any conversations about
 6 him resigning from the planning board prior to you
 7 being interviewed?
 8 A I don't recall.
 9 Q Do you know who charged him in this
 10 matter, if he's, in fact, charged? Because that was
 11 a question, whether he's been charged.
 12 A No, but I agree with what the mayor
 13 said, I don't think he's been charged. He asked for
 14 a hearing, so that's why we're here, right?
 15 Q Well, you charge somebody before you
 16 get a hearing, that's generally how it works.
 17 A I don't know about that.
 18 (Off the record.)
 19 MS. WYATT: objection, argumentative.
 20 MR. SECARE: Just for the benefit of
 21 the witness he has been charged with a violation and
 22 they seek to remove him from the planning board.
 23 A Oh, then I don't know. I wasn't on
 24 the governing body anymore.
 25 Q That wasn't you that sought, while

1 affordable housing?
 2 A Not when he didn't under -- no, not
 3 when we were discussing it. I spent a lot more time
 4 with Kris a few years back. I just haven't seen him
 5 that much lately. Even before this incident, just
 6 didn't see him that much.
 7 Q What's your understanding of his
 8 background? What does he do for a living?
 9 A He owns a construction company or
 10 like a builder's representative, an owner's
 11 representative.
 12 Q Is he involved in affordable housing
 13 projects through work, as far as you know?
 14 A I don't think so, no.
 15 Q You're not aware of him being
 16 involved?
 17 A Not affordable housing, no. I know
 18 the Fort, I know the Rumson Golf Course, Audible up
 19 in Newark. I don't think affordable housing, but he
 20 may be.
 21 MR. BLANEY: I don't have anything
 22 further of this witness.
 23 MR. SECARE: Anything else?
 24 MS. WYATT: I have nothing. Thank
 25 you.

1 you were on the governing body, to charge him?
 2 A No.
 3 Q Were you aware of any issues with
 4 Mr. Lukowitz and his position on affordable housing?
 5 Had you discussed that with anybody else on township
 6 council?
 7 A No, I don't think he was ever overly
 8 happy with affordable housing, but he asked me a lot
 9 of questions, too, regarding affordable housing in
 10 other towns. I tried to give him the best
 11 explanations I could. But many times he understood
 12 it, many times. It wasn't -- he was asking
 13 questions. He had reasons to ask me questions, for
 14 his own reasons, about other towns' affordable
 15 housing issues. And I explained to him what we did
 16 here.
 17 Q Any other council members express to
 18 you they had problems with his position on
 19 affordable housing?
 20 A No.
 21 Q Did he ever express to you his
 22 position on affordable housing?
 23 A I think he was against it. But I
 24 don't think he understood it when he was.
 25 Q You don't think he understood

1 MR. SECARE: Do you have another
 2 witness?
 3 MS. WYATT: I do. Councilwoman
 4 Sue -- or Committeewoman, I apologize, Sue
 5 Fitzpatrick.
 6 SUE FITZPATRICK, sworn
 7 MR. SECARE: Give us your name and
 8 spell your last name.
 9 THE WITNESS: Sue Fitzpatrick.
 10 F-I-T-Z-P-A-T-R-I-C-K.
 11 MR. SECARE: Is it Ruth?
 12 THE WITNESS: S-U-E.
 13 MR. SECARE: Sue. Thank you.
 14 Ms. Wyatt.
 15 MS. WYATT: Thank you, Mr. Secare.
 16 EXAMINATION BY MS. WYATT:
 17 Q Committeewoman Fitzpatrick, where are
 18 you employed?
 19 A I have my own company. I am a
 20 printing broker.
 21 Q And how long have you been
 22 self-employed?
 23 A About 20 years, 20 plus years.
 24 Q What is your position with the
 25 Township of Colts Neck?

1 A I'm a committeewoman.
 2 Q How long were you associated with the
 3 Township of Colts Neck?
 4 A Right now, it's been five years,
 5 three months.
 6 Q And have you held any other position
 7 other than committeewoman with the township?
 8 A I was deputy mayor, was also a mayor.
 9 Q Do you know what years that you were
 10 the deputy mayor or mayor?
 11 A 2022 deputy mayor, 2023 mayor.
 12 Q Thank you. Are you familiar with
 13 Michael Viola?
 14 A Yes.
 15 Q How?
 16 A Prior to us being on the council
 17 together, we were members of the Colts Neck Business
 18 Association. That's first how I came to know Mike.
 19 Q And approximately what year was that,
 20 do you know?
 21 A You're asking a lot.
 22 Q If you don't know, it's okay.
 23 A I can't even remember. Let's see.
 24 Maybe 2017, 2018, something like that.
 25 Q Thank you. Are you familiar with

1 may have, he said, because you know I'm on the
 2 planning board, which I do know.
 3 At that time, I saw Mike coming up to us.
 4 And I heard Kris say, what are you looking at, Mike?
 5 And then Mike said something. It was very loud.
 6 And I couldn't really hear everything that was said,
 7 but Mike said something to the effect of, don't mess
 8 around with our affordable housing. And then it
 9 just seemed to escalate. And I was very
 10 uncomfortable and I just stepped away, because I was
 11 concerned. I didn't, you know, want to get punched.
 12 I didn't want to get whatever. So, I walked away
 13 from there, because I could see that it was not
 14 going to be pretty.
 15 Q So, when the argument escalated, you
 16 stepped away, how far do you think, approximately?
 17 A Well, far enough away that I could
 18 not hear. And I guess I must have turned, walked
 19 away, because I didn't see anything that was going
 20 on with that, so.
 21 Q So, you didn't have a good vantage
 22 point of the altercation?
 23 A No.
 24 MR. SECARE: The answer's no?
 25 THE WITNESS: No.

1 Mr. Kris Lukowitz?
 2 A Yes.
 3 Q How?
 4 A Well, I'm not that well acquainted
 5 with him. We've seen on political things we've been
 6 to, events we've been to. He does belong to the
 7 business association. Not so much at those
 8 meetings. And I was on the planning board, and so
 9 he was on the planning board when I was on that as
 10 deputy mayor and mayor.
 11 Q Thank you. I'm going to direct your
 12 attention to November 20, 2024. Can you please
 13 advise the Hearing Officer what occurred that
 14 evening?
 15 A Well, as everyone has stated, we went
 16 to an event hosted by T&M. And we all went into the
 17 big ballroom. I'll answer that question, 500 people
 18 plus were probably there. And so, I came in. And
 19 I'm really kind of checking out the desserts first,
 20 because that's what it was all about, but I went
 21 over and I saw Mayor Buss. And she was at the bar
 22 area there. And I came up to them. We were just
 23 talking. At that time, Kris came over to us and was
 24 talking. And so, he had mentioned, he said, you
 25 know, we had this case, I think he said Mumford, he

1 Q Okay. And did you see the aftermath
 2 of the altercation once they were separated?
 3 A I kind of saw like Tara separating
 4 Kris, but I didn't really understand what had, you
 5 know, happened. And frankly, you know, it was kind
 6 of a little upsetting. And I don't even think I
 7 stayed there that much longer. It was just, it was
 8 a long week anyway, I was ready to go back to my
 9 room.
 10 Q Okay. So, are you -- do you know
 11 how, approximately, how long you stayed afterwards
 12 or no?
 13 A Maybe 30 minutes.
 14 Q Okay.
 15 A Something like that.
 16 Q And you were also previously
 17 interviewed about this issue, correct?
 18 A Yes.
 19 Q And who interviewed you?
 20 A The same people, Anthony --
 21 Q LoBrace?
 22 A Thank you.
 23 Q And in front of you, I believe, that
 24 there should be a document that's been marked as
 25 T-5. I'm going to direct your attention to page

1 six, seven and eight. Do you recognize pages six,
 2 seven and eight?
 3 A Yes.
 4 Q And have you previously reviewed the
 5 summary of your statement?
 6 A I did.
 7 Q For the most part, does it accurately
 8 reflect your ---
 9 A Truthfully, I had thought there were
 10 some comments in there I don't even remember making,
 11 because I hadn't seen it in several months. So, you
 12 know, it's a little hazy for me.
 13 Q So, understood. It is a summary,
 14 right, it's not a verbatim?
 15 A Right.
 16 Q It's not a verbatim question and
 17 answer of your statement; is that correct?
 18 A Yes.
 19 MS. WYATT: And that's all I have.
 20 MR. SECARE: Cross-examine?
 21
 22 EXAMINATION BY MR. BLANEY:
 23 Q Good evening, Ms. Fitzpatrick.
 24 A Good evening.
 25 Q You were attending the party that

1 microphone would have been Kris. So, Mike came into
 2 the group from my right.
 3 Q And did you hear an interaction
 4 between him and my client, meaning Mr. Viola and my
 5 client, Mr. Lukowitz?
 6 A Well, as I stated, I heard Kris say,
 7 what are you looking at, Mike? And then I heard,
 8 not what kind of happened after that, but I did hear
 9 Mike say, don't mess with our affordable housing,
 10 something to that effect.
 11 Q And that was Mike saying that to
 12 Mr. Lukowitz?
 13 A Correct.
 14 Q Did you know what that was about?
 15 A Well, I think everybody knows about
 16 affordable housing, so, and since both of them were
 17 on the planning board. Do I know what that is in
 18 respect when he said it at the time? No.
 19 Q Were they both on the planning board
 20 in 2024?
 21 A Yes.
 22 Q And --
 23 A No. I'm sorry. No. I'm sorry.
 24 Because Mike didn't come on till he was deputy
 25 mayor, which was January. So, prior to that, no.

1 evening with who?
 2 A With Michael Viola, Tara Buss,
 3 JP Bartolomeo. It was, you know, the four of us
 4 were there.
 5 Q And at some point, you meet
 6 Mr. Lukowitz, correct?
 7 A Correct.
 8 Q Can you tell me where you were
 9 standing when you first approached Mr. Lukowitz in
 10 relation to the other people you were with?
 11 A Well, actually, he approached me.
 12 So, Tara and I were standing next to each other.
 13 And then he came up kind of in the middle of the two
 14 of us.
 15 Q And where was Mr. Bartolomeo?
 16 A Tell you the truth, I don't really
 17 remember in the back of my mind.
 18 Q And do you know where Mr. Viola was?
 19 A So, Mr. Viola was somewhere else in
 20 the room. And then he saw, I guess, Tara and I, he
 21 came up to join our group at that time.
 22 Q Okay. And did he come up from behind
 23 you?
 24 A Let's say this is like Tara
 25 (indicating) and that over on to the left of the

1 Q Were you aware that there were issues
 2 between these two gentlemen about affordable
 3 housing, positions on affordable housing?
 4 A Was I? No.
 5 Q So, before that night, you weren't
 6 aware of any?
 7 A Un-un.
 8 MR. SECARE: No?
 9 A No. Sorry.
 10 Q Did that comment strike you as odd?
 11 Is that why you remember that comment, is because it
 12 was about affordable housing?
 13 A I guess.
 14 Q Normally, people don't go to a party
 15 and fight about affordable housing, right?
 16 A Talk about affordable housing, I
 17 know, right.
 18 Q All right. So, when you gave your
 19 statement to the investigator, you told the
 20 investigator you didn't see any physical contact
 21 between the two of them?
 22 A Correct.
 23 Q Where were you in relation to them
 24 when this incident occurred?
 25 A As I stated, I turned around to walk

1 away from them, because I saw that it was starting
 2 to escalate, so I removed myself. I don't know how
 3 far I went, you know.
 4 Q So, in your statement to the
 5 investigator, you indicate the two gentlemen came
 6 nose to nose, that's the quote that
 7 the investigator --
 8 A I don't know if I said nose to nose
 9 but they came close together. Did I say nose to
 10 nose? I don't know.
 11 Q Okay. But that's what you told the
 12 investigator?
 13 A I can't say that that's what I said
 14 to him. I said close. I don't know if I said nose
 15 to nose. I don't remember.
 16 Q So, if you go to page seven of the
 17 investigation report --
 18 A I know where it is. Yeah, I know.
 19 Q You see the quote nose to nose
 20 attributed to you?
 21 A Yeah, I know. I saw that.
 22 Q Do you think the investigator got
 23 that wrong?
 24 A I don't know.
 25 Q Okay. Did the investigator tape you?

1 Q Right from the start?
 2 A Yeah.
 3 Q And who approached who, as far as
 4 Viola and Lukowitz? Did Lukowitz go up to Viola or
 5 did Viola go up to Lukowitz?
 6 A Well, as I said, Kris was standing to
 7 my left and then Mike was to my right. So, Mike was
 8 approaching our circle and was standing there. Can
 9 I say who came in? No, I can't say who came in
 10 closer or who came in first. I can't say, because
 11 we were all just standing there.
 12 Q You mentioned in your statement to
 13 the investigator they were physically close to each
 14 other?
 15 A Uh-hum. We were all very close
 16 together because it was so loud, you couldn't hear
 17 anybody talking anyway. So, we were all close
 18 together.
 19 Q And did you view it as a back and
 20 forth between the two?
 21 A I didn't stay long, around long
 22 enough for that.
 23 Q Do you recall telling the
 24 investigator that it was, quote, definitely a back
 25 and forth, end quote?

1 A He recorded, I believe he did. He
 2 said he was recording our conversation.
 3 Q Okay. So, there is a recording?
 4 A Yes.
 5 Q Now, you also said to the
 6 investigator that Mr. Lukowitz was, quote, very
 7 angry, right?
 8 A Uh-hum.
 9 Q Is that --
 10 A Yes.
 11 Q -- the initial comment that he was
 12 very angry?
 13 A I'm sorry?
 14 Q The initial comment that he made to,
 15 to Mr. Viola, is that when he was very angry or did
 16 that happen some point further?
 17 A It seemed like that's when it started
 18 to escalate, as soon as Mike came into the circle,
 19 for some reason.
 20 Q And you also said to the investigator
 21 that Mr. Viola became angry?
 22 A When Mr. Lukowitz said, what are you
 23 looking at, Mike?
 24 Q Right.
 25 A Yes.

1 A No.
 2 Q If the investigator wrote that as
 3 part of his statement of you, would you have any
 4 reason to doubt that?
 5 A No.
 6 Q Now, at some point later, did you
 7 find out why affordable housing was part of this
 8 altercation?
 9 A No.
 10 Q Other than what you witnessed there
 11 that night, what other involvement did you have with
 12 regard to this issue?
 13 A Not, not a whole lot.
 14 Q Did you make the decision to charge
 15 Mr. Lukowitz?
 16 A I did not.
 17 Q Do you know who did?
 18 A I don't even know that we had a
 19 charge. Frankly, I thought we were just having a
 20 hearing to hear both sides of the story, that's what
 21 I thought I was here for.
 22 Q Do you understand that now, that this
 23 is a hearing in order to try to throw this gentleman
 24 off the planning board?
 25 A If that's what you say it is. That's

1 not my understanding of it.
 2 Q What's your understanding of it?
 3 A As I just said, I thought --
 4 MS. WYATT: Objection.
 5 A -- we were here for a hearing.
 6 MS. WYATT: Argumentative.
 7 MR. SECARE: Well, it's not
 8 argumentative. You don't have to answer that.
 9 We're getting --
 10 A In the weeds.
 11 MR. SECARE: Well, throw off the
 12 planning board is kind of a -- remove him is a
 13 better word.
 14 Q Was there discussions about removing
 15 him from the planing planning board before the
 16 investigation began?
 17 A Removing him? No.
 18 Q Was there discussions about asking
 19 him to step down from the planning board before the
 20 investigation even began?
 21 A There was a situation, there was a
 22 question about, because if you are on any one of our
 23 boards or commissions, you're supposed to live in
 24 that town, that is a prerequisite. There was some
 25 question maybe, but I don't have all the details or

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1 asking him to step down from that role. Did I read
 2 that accurately?
 3 A Yes, you read it accurately.
 4 Q Do you recall telling the
 5 investigator that?
 6 A In that word, I don't mean that we
 7 were sitting around having a discussion about that.
 8 Q Okay. What did you mean?
 9 A I meant that there has been talk of
 10 that situation.
 11 Q And did that have to do with
 12 affordable housing and his position on affordable
 13 housing?
 14 A No. I didn't even know that he was
 15 against affordable housing at that time. So, I
 16 can't even say that. You know, frankly, I don't
 17 really like talking about the affordable housing,
 18 because we are involved in litigations and I don't
 19 think it's proper to be talking about that at this
 20 time, because it has nothing to do with this
 21 situation.
 22 Q Seems to have everything to do with
 23 the situation.
 24 MS. WYATT: Objection.
 25 MR. SECARE: Don't make statements.

1 know anything about that.
 2 Q Well, when you spoke to the
 3 investigator, did you tell them about the fact that
 4 there was discussions about asking him to step down
 5 from the planning board?
 6 A Well, I don't mean that we were
 7 sitting around discussing it. I don't mean that. I
 8 mean, I know that he was, you know, he was going to
 9 be running for the Township Committee, there were
 10 questions about that, about residency.
 11 Q So, you gave your statement to the
 12 investigator on December 11, 2024, according to the
 13 investigator, is that accurate?
 14 A I guess, yes. I don't know.
 15 Q So, if you turn to page seven going
 16 on to page eight --
 17 A Uh-hum.
 18 Q -- of the investigator's report. The
 19 investigator writes at the very last line of that
 20 page on seven, Fitzpatrick stated that there was,
 21 quote, a lot going on with Lukowitz personally, end
 22 quote. And that there had been questions among the
 23 Township Committee members about whether he should
 24 still be on the planning board and that it was
 25 possible that there may have been a discussion of

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1 Ask your question.
 2 Q So, do you normally sit around with
 3 other committee members, deciding whether planning
 4 board members should be asked to step down?
 5 A No. We don't sit around and make
 6 those decisions. Only if we're in an executive
 7 session do we make decisions.
 8 Q So, you go on to say Fitzpatrick --
 9 well, the investigator goes on to say, Fitzpatrick
 10 stated that she was not sure whether these issues
 11 contributed to what happened, but that it was,
 12 quote, in the back of everyone's mind, end quote.
 13 Did I read that accurately?
 14 A Not about affordable housing, that's
 15 not what the issue was.
 16 Q What was in the back of everyone's
 17 mind.
 18 A Residency, as I mentioned.
 19 Q Residency?
 20 A Uh-hum.
 21 MR. BLANEY: I don't have anything
 22 further, ma'am.
 23 MR. SECARE: Thank you. Anything
 24 else?
 25 MS. WYATT: I just have one question.

1 FURTHER EXAMINATION BY MS. WYATT:
 2 Q When you say residency --
 3 MR. BLANEY: Objection. He is not
 4 charged with residency. At least -- well, I don't
 5 know, he's not charged at all. So I don't know --
 6 MS. WYATT: He opened the door. He
 7 asked the question. I'm just asking what she meant
 8 by residency.
 9 MR. BLANEY: I didn't ask --
 10 MR. SECARE: What that meant was
 11 whether or not Mr. Lukowitz lived in town, that's
 12 all.
 13 MR. BLANEY: Which is not a charge.
 14 THE WITNESS: I didn't say it was.
 15 MR. SECARE: It's not important. Not
 16 important. At least, to me, it's not important.
 17 Okay. That's --
 18 THE WITNESS: Am I excused?
 19 MR. SECARE: You are excused, yes.
 20 Anybody else?
 21 MS. WYATT: No, Township rests.
 22 MR. SECARE: The township rests. I
 23 think all exhibits have been marked in evidence, am
 24 I right?
 25 MS. WYATT: That is correct.

1 pending municipal court matter, so he can't testify.
 2 MR. SECARE: That's understandable
 3 and wisely stated. So, this is the end of the
 4 hearing, then, if you rest.
 5 MR. BLANEY: Yes.
 6 MR. SECARE: Mr. Blaney rests. I
 7 want to thank everybody, thank the two attorneys for
 8 their very fine presentation. And, as I said, we'll
 9 have a conference call after I receive this or it
 10 can be e-mails to set up our schedule.
 11 Two weeks enough after we receive the
 12 transcript to give me submissions?
 13 MR. BLANEY: I'm not ready, that's
 14 for sure.
 15 MR. SECARE: So, two weeks after the
 16 receipt of the transcript, we'll have simultaneous
 17 submissions, no rebuttals and I'll issue a decision
 18 and recommendation. Thanks, everybody.
 19 (Matter adjourned at 7:50 p.m.)
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 25

1 MR. SECARE: Mr. Blaney?
 2 MR. BLANEY: Well, it's correct with
 3 the exception that the full report --
 4 MR. SECARE: Yeah, I understand.
 5 MR. BLANEY: -- will, I guess, be
 6 substituted or be added as an additional exhibit.
 7 But you're going to, I guess you want to have
 8 that --
 9 MS. WYATT: We're going to have a
 10 protective order for that. Because it is -- it's
 11 all -- everything that was redacted from Mr. Blaney
 12 is all legal analysis and attorney-client privilege.
 13 MR. SECARE: Well, I'll tell you what
 14 we ought to do. Do you have a copy of the
 15 unredacted report that you can send to me?
 16 MS. WYATT: Yes, that I can do.
 17 MR. SECARE: Send that to me. And
 18 then sometime in the next couple of days, depending
 19 on your respective schedules, we'll have a
 20 conference call about it, how about that?
 21 MR. BLANEY: That's fine.
 22 MS. WYATT: Understood.
 23 MR. SECARE: Okay. Do you have any
 24 witnesses?
 25 MR. BLANEY: My client still has a

1
 2 C E R T I F I C A T E
 3
 4 I, LINDA SULLIVAN-HILL, a Notary
 5 Public and Certified Court Reporter of the State of
 6 New Jersey, do hereby certify that the foregoing is
 7 a true and accurate transcript of the proceedings as
 8 taken stenographically by and before me at the time,
 9 place and on the date hereinbefore set forth.
 10
 11
 12
 13 /s/ Linda Sullivan-Hill
 14 -----
 15 Notary Public of the State of New Jersey
 16 My Commission expires January 26, 2026
 17
 18 Dated: April 14, 2025
 19
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