

EDISON TOWNSHIP COUNCIL
2019 COMMITTEE OF THE WHOLE

HELD ON THURSDAY, JULY 8, 2019

6:30 P.M.

BEFORE:

ALVARO GOMEZ, Council President

ROBERT C. DIEHL, Councilmember

AJAY PATIL, Councilmember

SAM JOSHI, Councilmember

MICHAEL LOMBARDI, Councilmember

LEONARD D. SENDELSKY, Councilmember

CHERYL RUSSOMANNO, Municipal Clerk

MARLENA McCRAY, Deputy Clerk

BOARD ATTORNEYS:

CHRISTOPHER MALIKSCHMITT, ESQ.

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6 E X H I B I T S R E F E R E N C E D

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9 Exhibit D

10 Exhibit E

11 Exhibit A

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13 (Exhibits attached.)

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1 COUNCIL PRESIDENT GOMEZ: Today is Monday
2 July 8, 2019. I'm going to go ahead and turn it over to
3 Councilman Diehl.

4 Everybody, please stand for the flag.

5 (Pledge of Allegiance.)

6 COUNCIL PRESIDENT GOMEZ: Role call, please.

7 MS. RUSSOMANO: Councilmember Coyle.

8 (No response.)

9 MS. RUSSOMANO: Councilmember Diehl.

10 COUNCILMAN DIEHL: Here.

11 MS. RUSSOMANO: Councilmember Gomez.

12 COUNCIL PRESIDENT GOMEZ: Here.

13 MS. RUSSOMANO: Councilmember Joshi.

14 COUNCILMEMBER JOSHI: Present.

15 MS. RUSSOMANO: Councilmember Lombardi.

16 COUNCILMEMBER LOMBARDI: Here.

17 MS. RUSSOMANO: Councilmember Patil.

18 COUNCILMEMBER PATIL: Here.

19 MS. RUSSOMANO: Councilmember Sendelsky.

20 COUNCILMEMBER SENDELSKY: Here.

21 COUNCIL PRESIDENT GOMEZ: We will now turn the
22 meeting over to Councilman Diehl and Councilman Lombardi
23 who will continue with the instructions.

24 COUNCILMAN DIEHL: Thank you, Council
25 President.

1 Good evening, ladies and gentlemen. Thank you
2 for coming out. This is our third Committee of the Whole
3 meeting. The first two, just to summarize, has yielded
4 lots of information and given us a bit more direction.
5 What we would like to do now is I want to turn this over
6 to Councilman Lombardi and we do need to go into a short
7 Executive Session for just a little bit after that.

8 So Councilman Lombardi, I know you wanted to go
9 through the kind of the rules and routines and the
10 regulations.

11 COUNCILMEMBER LOMBARDI: Thank you, Councilman
12 Diehl. As Councilman Diehl indicated tonight we're
13 holding the third Committee of the Whole proceeding.
14 There were individuals that were subpoenaed to come in
15 and provide testimony as to what, if any, knowledge they
16 possess regarding the racial flyer that was distributed
17 in November of 2017.

18 I know that we have one witness here to testify
19 and I'm going to go over some instructions about this
20 process. This will be a question-and-answer session.
21 There's a court reporter present and the court reporter
22 will swear in the witness. So although you're in Council
23 Chambers your answers are still considered sworn
24 testimony and have the same effect as if you were
25 testifying in court. So it's important that you approach

1 this proceeding with the same degree of seriousness as
2 you would as if you were testifying today in front of a
3 judge and a jury.

4 There are certain rules that should be
5 followed. First, listen to the question. If you don't
6 hear or understand the question by any of the Committee
7 Members, let them know and I'm sure that Committee Member
8 will repeat or rephrase the question. We don't want you
9 to start to answer if you're not sure what the question
10 was.

11 We want to know what you know as well as what
12 you do not know. This is not an exam or a test. We know
13 that these are -- this is a flyer that was sent out
14 November of 2017, just under two years ago. So if you do
15 not know the answer to a question, it's perfectly
16 acceptable to say I don't remember or I don't know.
17 There's a difference, however, between -- we just ask
18 that you don't guess, but there's a difference between a
19 guess on the one hand and a reasonable estimate or an
20 approximation. So if you're able to answer the question
21 with a reasonable estimate or an approximation, we would
22 ask that you do so, just identify your answer as an
23 approximation or an estimate so you're not held to an
24 exact answer.

25 If at any time you feel you were cut off, just

1 let us know and we'll allow you to complete the answer to
2 the question. If at any time you feel that you need a
3 break, although we don't anticipate this taking very
4 long, if at any time you feel that you need a break, just
5 ask us and we'll take a break, we just ask that you
6 finish the answer to the question if one is pending
7 before we go on break.

8 Since the court reporter is here we have to --
9 all our answers have to be oral, so if your answer's yes,
10 say yes, if it's no, say no, as opposed to a shrug of the
11 shoulders, movement of the head, uh-huh, uh-uh, things of
12 that nature. And if you didn't understand any of the
13 questions or the instructions, please let me know and
14 I'll repeat or rephrase the instructions for you. Thank
15 you.

16 COUNCIL PRESIDENT GOMEZ: Thank you. Clerk
17 Russomano.

18 MS. RUSSOMANO: Whereas, Article VI of the Open
19 Public Meetings Act provides that a public body may hold
20 a closed session; and.

21 Whereas, the Township Council will during this
22 meeting enter into discussion of the following matters:
23 Purpose of the contract.

24 Whereas, the matters to be discussed in closed
25 session are to remain in the strictest of confidence by

1 all Council Members in furtherance of their fiduciary
2 duties to the Township of Edison;

3 Now, therefore, be it resolved, matters
4 discussed at this meeting will be released to the public
5 when the reasons for discussing and acting upon them in
6 closed session no longer exists.

7 COUNCIL PRESIDENT GOMEZ: Role call, please.

8 MS. RUSSOMANO: Councilman Diehl.

9 COUNCILMAN DIEHL: Yes.

10 MS. RUSSOMANO: Councilmember Gomez.

11 COUNCIL PRESIDENT GOMEZ: Yes.

12 MS. RUSSOMANO: Councilmember Joshi.

13 COUNCILMEMBER JOSHI: Yes.

14 MS. RUSSOMANO: Councilmember Lombardi.

15 COUNCILMEMBER LOMBARDI: Yes.

16 MS. RUSSOMANO: Councilmember Patil.

17 COUNCILMEMBER PATIL: Yes.

18 MS. RUSSOMANO: Councilmember Sendelsky.

19 COUNCILMEMBER SENDELSKY: Yes.

20 (Whereupon, a recess was taken.)

21 COUNCIL PRESIDENT GOMEZ: Motion to reconvene.

22 COUNCILMAN DIEHL: So moved.

23 COUNCIL PRESIDENT GOMEZ: Proceed.

24 COUNCILMAN DIEHL: Council President, thank
25 you, ladies and gentlemen, for you patience with this.

1 We have Mr. Bhagia here who is here tonight to share
2 information with us but, before that can we kind of look
3 at where we are with who was invited tonight and where we
4 are with that? Can everybody hear me all right?

5 Can we get a rundown because I know we asked
6 four people to come tonight and we have one. Can we get
7 a rundown from where we are.

8 MR. MALIKSCHMITT: That's correct, Councilman.
9 Jerry Shi, Mahesh Bhagia, Cesar Suarez, as well as Shariq
10 Ahmad were subpoenaed to be here tonight. We received a
11 response from Jerry's attorney on July 3rd stating that
12 he was not going to be in attendance due to a vacation
13 apparently planned as far back as March and that he would
14 be unable to attend and he'd be traveling abroad tonight.
15 And we learned this afternoon that Shariq Ahmad would not
16 be in attendances due to his attorney having a
17 rescheduled flight, though it wasn't entirely clear where
18 the attorney was actually on today's date, despite being
19 specifically asked.

20 COUNCILMAN DIEHL: And Cesar Suarez?

21 MR. MALIKSCHMITT: We were informed this
22 afternoon as well that he was not going to be in
23 attendance by him directly because he was in the process
24 of retaining an attorney.

25 COUNCILMAN DIEHL: Okay. I said this at the

1 second meeting. One of the things that we did not
2 anticipate when we started this and with these Committees
3 of the Whole, they're very rare, you really don't know a
4 lot of times exactly how it's going to go. One of the
5 things that has happened is we have had a little bit of
6 trouble or it hasn't really been easy getting people in
7 to testify. Our first meeting we were able to have three
8 or four or five people testify, that went pretty well. I
9 don't know if any of them had lawyers. But since that
10 initial meeting, with the exception of the Postal
11 Inspector who came and provided us a lot of information,
12 we are having difficulty getting the folks here. Now,
13 again, this Committee, this group has not accused anybody
14 of anything. This is information gathering. So I'm
15 curious as to what our next step may be to compel these
16 folks to come here. I know they're saying, well, I'm
17 traveling, I'm doing this, I'm here, I'm that, I look out
18 in the audience and I see the folks all here, I have seen
19 them all before. You know there's a meeting, you come to
20 the meeting. So the fact that, you know, it seems like
21 we're pulling teeth to get people just to share
22 information with us, my question becomes what's our next
23 step, how do we get folks here, how do we do that? I
24 know we subpoenaed the people and I appreciate Mr. Bhagia
25 being here tonight, but the other folks aren't. You

1 know, how many times do they give us excuses or some type
2 of reason why they can't be here? That's -- to me I
3 don't really understand that, that's curious to me. So
4 maybe I'll pose that question to the lawyers and say
5 what's our next step to get some of the folks. I mean,
6 we've been asking Jerry Shi to come here since the thing
7 started, you know, a couple of months ago, we haven't
8 been able to have him come here. Shariq Ahmad knew about
9 this meeting months ago, he's not here tonight. Cesar
10 Suarez, that person that we just kind of don't know
11 really, nobody really seems to know, but we don't know,
12 is not here tonight. Counsel, what's our recourse here,
13 how do we get the folks to come and share information?
14 Being, again, that no one's been accused of anything,
15 we're just information gathering, but it seems to me that
16 everybody, a lot of people are getting lawyers and not
17 coming when we're trying to do our best just to get folks
18 here.

19 MR. MALIKSCHMITT: Councilman, the Subpoena is
20 essentially issued on behalf of the Court and the next
21 step would be to take that matter to a court to enforce
22 the Subpoena to hold someone effectively in contempt of
23 court should they not continue to adhere to the
24 directives of the Subpoena. There does appear to be some
25 gamesmanship in the response to our Subpoenas given the

1 timeliness or lack of timeliness thereof given those
2 responses and I do think that additional negotiations
3 locking people to a date certain for which there is a
4 backstop of legal judicial process to see that those
5 Subpoenas are enforced would be a proven approach.

6 COUNCILMAN DIEHL: And, Counselor, I want to
7 make sure that on our end we're being fair to all the
8 guests, all the people we're inviting, that we provide
9 the adequate communication necessary so we're not
10 springing anything on anybody, that they are given
11 advance notice of the meetings, that we reach out to
12 them. Today I received two 11th hour refusals or denials
13 or we're not coming, today. Today, you know, this was
14 received. We know that we moved this meeting back from
15 the 27th to July 8th so that we could put some things in
16 place. This was no secret. So thank you for saying
17 that.

18 I would like to make a motion that if these
19 folks are not going to comply with the Subpoenas that we
20 take the next step and if that's court-ordered or
21 whatever it is, that we get them here to testify.

22 COUNCILMEMBER SENDELSKY: I'll second that
23 motion, Councilman Diehl.

24 COUNCIL PRESIDENT GOMEZ: All in favor?

25 (All Councilmembers respond in the

1 affirmative.)

2 COUNCILMAN DIEHL: Thank you.

3 Again, I want to thank Mr. Bhagia for being
4 here today. I guess at this time can we have Mr. Bhagia
5 sworn in?

6 MAHESH BHAGIA, was duly sworn to tell the truth
7 and testified as follows:

8 THE WITNESS: Can you hear me?

9 COUNCILMAN DIEHL: Yes. Mahesh, thank you for
10 coming. Mahesh, I recognize the gentleman next to you.
11 I know he's been in these Council Chambers before. Can
12 you identify the person here with you.

13 MR. FUSCO: I got that, Councilman. My name is
14 Frank Fusco. I'm an attorney and I'm here on behalf of
15 Mr. Bhagia who would like to start the proceedings by
16 reading a statement.

17 COUNCILMAN DIEHL: Sure.

18 MR. FUSCO: Thank you.

19 THE WITNESS: Thank you, Mr. Fusco. Good
20 evening to all members of the Committee, Counselor, and
21 everyone else attending today's meeting.

22 My name is Mahesh Bhagia and I currently serve
23 as the Special Assistant to Edison Mayor Thomas Lankey.
24 This is a position that I've held since July of 2017.
25 It's my pleasure to be here this evening before the

1 Committee. I believe you are here tackling an important
2 issue, the 2017 election flyer. As a resident, tax payer
3 and a father it's been important to me that Edison
4 remains a thriving community, one that is a welcoming to
5 all.

6 By way of background, I moved to Edison in
7 2001. For the past 18 years I have had pleasure of
8 calling Edison my home. I raised my family here,
9 including my two daughters, both of whom attend Edison's
10 public schools, and have a family-owned business in
11 Edison.

12 It's extremely disheartening for me to see my
13 name, my home, my family being called repeatedly and
14 purposefully mentioned by the Committee in what appears
15 to be a political purpose. Moving forward it's my
16 sincere hope that this Committee is more responsible when
17 it comes to unnecessary dragging any individual family
18 into this discussion.

19 I believe that by working together as one
20 community united in the purpose we can all move Edison
21 forward. Ultimately the responsibility of doing that
22 rests with all of us, 100,000-plus residents. Whether we
23 are elected or not it falls on each of us to contribute
24 back to our township. This is why I've committed so much
25 time to the community causes and why I'm honored to serve

1 the Lankey administration. Unfortunately since 2013 I
2 witnessed the degradation of the political atmosphere in
3 Edison. There have been several prominent examples of
4 this over the years. I recall when the political signs
5 of Mayor candidate, Dr. Sudanshu Prasad, the first Indian
6 American candidate for that office were vandalized in
7 2013. In 2017 a Committee woman, Debra Andrews, who at
8 that time was the only African American woman on the
9 Edison Democratic Organization alleged that her name was
10 left off the ballot due to her race. Certainly we all
11 remember Make Edison Great Again flyer in late 2017.
12 More recently the flyers from Edison Democrats 2019 were
13 subject of Federal Complaint by the South Asian Bar
14 Association and were roundly criticized by the ACLU of
15 New Jersey as well as the Edison Chapter of the NAACP.
16 And police detective was portrayed as a clown and another
17 officer was attacked for his service in the military.

18 These are all unacceptable and while there has
19 not been any official investigation by the body as it
20 relates to all this incident, I think we can all agree
21 that they are nonetheless deplorable.

22 I understand that this Committee is looking
23 into 2017 Make Edison Great flyer and I can say with
24 clear conscious that I have no role with production or
25 printing of this flyer. I can also say that I did not

1 produce or print any mailers for People for Progress and
2 that I do not know Andrew Morales or Cesar Suarez.

3 In 2017 when I served as a volunteer for
4 campaign of Mayor Lankey, Councilman Diehl, Councilman
5 Joshi, Councilman Gomez, along with the Board of
6 Education team endorsed by Mayor Lankey, I did not
7 believe that I would ever imagine that two years later we
8 would still be talking about that election, but here we
9 are and this is what we are doing, principally due to the
10 corrosive tone of that election, a tone continued by
11 Edison Democrats 2019. Edison deserves a high level of
12 recourse. All of us should raise a level of debate,
13 discuss ideas, propose solutions, and while we may not
14 agree, strive towards a strong public policy. That has
15 always been my goal since -- including in 2017 when my
16 role was largely limited to that of a campaign supporter.
17 I remember knocking on the door after door and having
18 conversations, meaningful conversations with Edison
19 residents. I often took back the issues that these
20 residents identified to the campaign. These issues
21 ranged from ever increasing property taxes to the
22 struggles of the small business, to overcrowding of the
23 schools, to neighborhood security problems, flooding of
24 back yards, and pot holes in the streets. In short, I
25 mainly served as a conduit between the residents and the

1 campaign.

2 I also sometimes assisted with engaging other
3 residents who are passionate about the issues as I am.
4 We would debate policies, research good practices that
5 worked in other townships, meet with the policymakers
6 from other townships, and try and come up with ideas that
7 could serve as a platform for the campaign.

8 There were an assortment of individuals from
9 the campaigns that would hear me out. Sometimes the
10 candidates themselves listened to the issues by residents
11 which I in turn advocated for. Some of the members at
12 the dais today were involved in those discussions as
13 well. The Mayor met periodically, as did candidates for
14 Board of Education, including Mr. Distefano, Mr. Shi,
15 Mrs. Moroney, and Ms. Patel. Other times I would raise
16 these issues to the campaign's core team, such as Ms.
17 Bateas or Mr. Russomano, who in turn I understand
18 discussed these issues with the field staff or
19 communications team. Other times these issues were
20 discussed during events, including backyard barbecues or
21 neighborhood meet-and-greets which I help organize.

22 While I do not have specific recollection of
23 every interaction, every meeting, or every discussion I
24 generally recall that my interactions with the candidates
25 has been professional, good-natured and about the

1 positive message that they wanted to relay to the
2 electorate. My role within the campaign was limited and
3 I'm hazard to speculate if any of the individuals who I
4 supported were in any way connected to the 2017 flyer.

5 Finally, given that we are entering from Fourth
6 of July celebrations this weekend, I'm reminded that as
7 history teaches us anything is that our country's ability
8 to be understanding and tolerant of each other.

9 It is an important lesson, particularly for
10 town as diverse as ours. My family and I have been
11 blessed to call Edison as our home and I can only urge
12 all the residents to look into their hearts, where I
13 believe they'll find their own compassion and
14 understanding.

15 With that, I request all of us to work together
16 in peace and unity, with love for our neighbors and move
17 our town forward in the right direction. Thank you.

18 COUNCILMAN DIEHL: Thank you, Mr. Bhagia. I
19 have a couple of questions about your statement.

20 You started out maybe in paragraph two or three
21 stating that you thought this investigation or this
22 Committee of the Whole had a political purpose. I want
23 to tell you that that was not the origin or genesis of
24 this. I agreed with you in that there have been several
25 infractions over the years. You know, I've been here 18

1 years, I've served with a lot of different Council
2 people, I've witnessed a lot lapse in decorum in these
3 Council Chambers with different things that were said,
4 some of whom were insulting and they could fall into
5 racist or ethnic slurs, but I want to say that we did
6 tolerate some of that, yes, we did, as a community we
7 tolerated it and as a Council and as an administration,
8 some of that was tolerated to a degree. But I think what
9 happened was this particular flyer that made national or
10 international news put us at the breaking point where we
11 said enough is enough, this does not represent the town,
12 this is not who we are, and we are going to find out, if
13 we can, who is responsible. That's what happened. There
14 was no political purpose when this happened. When it
15 came out there was an uproar from this community that
16 something needed to be done because enough was enough.
17 So with that I think and I had a concern too because now
18 we're going back a couple years. My concern was that
19 newspapers yellow, the things that are important today
20 aren't as important six months or a year from now and it
21 seems to me that perhaps that is the sentiment with some
22 folks today in that, oh, why are we really doing this
23 anymore, why are we doing this. Mr. Bhagia, with all due
24 respect, you heard me at almost every single Council
25 meeting for the last two years saying that I am not going

1 to let this go, I am not going to let newspapers yellow,
2 I'm going to remember this, I am going to follow this
3 until -- in the hope that we can find out who is
4 responsible because if we find out who is responsible our
5 chances of this happening again are less. The people
6 will know, no, no, you can't do that here, they're going
7 to find you, they'll follow you, they'll get you, so you
8 can't do this here. Plus it gives us a little bit of
9 relief in that it provides that we are not a racist town,
10 that this is not part of who we are. We are a diverse
11 community, a wonderfully diverse community. So my
12 question to you, Mr. Bhagia, my first question tonight
13 is, do you think we should continue with the Committee of
14 the Whole?

15 THE WITNESS: Yes, you should.

16 COUNCILMAN DIEHL: Thank you. All right.

17 Mahesh, I know you stated before that you
18 didn't have anything to do with the distribution, the
19 creation, the putting together, you weren't the architect
20 behind it, basically that's what you're saying?

21 THE WITNESS: Yes, that's correct.

22 COUNCILMAN DIEHL: But with your testimony
23 there you sited a lot with your statement, you sited a
24 lot of your involvement. So I guess my first question is
25 when did you first hear about the flyer?

1 THE WITNESS: I mean, this is two years ago. I
2 guess Officer Dave Dingles [phn] sent it to me.

3 COUNCILMAN DIEHL: I'm sorry?

4 THE WITNESS: Officer Dave Dingles, I think he
5 it texted me or if I remember or Rich Bressure.

6 COUNCILMAN DIEHL: Rich Bressure?

7 THE WITNESS: Yeah.

8 COUNCILMAN DIEHL: Texted you?

9 THE WITNESS: This was two years.

10 COUNCILMAN DIEHL: Do you remember what he said
11 in the text or the conversation?

12 THE WITNESS: No. Or he called me, I don't
13 remember, but somehow, you know.

14 COUNCILMAN DIEHL: So he calls you or he texts
15 you and what does he say, there's a flyer, what does he
16 say?

17 THE WITNESS: I don't recall. I mean, that's
18 two years ago.

19 COUNCILMAN DIEHL: You recall that it was Rich
20 Bressure?

21 THE WITNESS: Yeah.

22 COUNCILMAN DIEHL: You remember that?

23 THE WITNESS: Yeah, Rich Bressure or Dave
24 Dingles.

25 COUNCILMAN DIEHL: One of the two?

1 THE WITNESS: Yeah.

2 COUNCILMAN DIEHL: And they contacted you and
3 they said there was a flyer. Did they describe the flyer
4 at all?

5 THE WITNESS: Like I said, I don't recall.
6 It's two years ago.

7 COUNCILMAN DIEHL: I know. The problem I'm
8 having is that you remember quite clearly the two people
9 or one of two people or both people contact you, but then
10 you can't tell me what they said when they contacted you.

11 THE WITNESS: No.

12 COUNCILMAN DIEHL: So do you recall on
13 October 7 or around October 7 there was an election
14 strategy meeting at your home?

15 THE WITNESS: I don't recall. There were many
16 meetings.

17 COUNCILMAN DIEHL: At your home?

18 THE WITNESS: No, all election there were many
19 meetings.

20 COUNCILMAN DIEHL: Were any of the meetings at
21 your home where you live?

22 THE WITNESS: I don't recall. There was, yes,
23 if other people are saying, yes, there would be meeting,
24 yes.

25 COUNCILMAN DIEHL: Well, other people aren't

1 testifying tonight. Were there meetings at your home --

2 MR. FUSCO: He's already testified he's trying
3 to recall but doesn't recall. He's already answered.
4 He's answered the question.

5 COUNCILMAN DIEHL: And what was the answer?

6 THE WITNESS: I don't recall.

7 COUNCILMAN DIEHL: You don't recall if there
8 were meetings at your home, strategy meetings?

9 THE WITNESS: No.

10 COUNCILMAN DIEHL: Okay. Both Shannon Pang and
11 Paul Distefano, and I hope I pronounced his name
12 correctly, previously testified that there were election
13 meetings at your house.

14 THE WITNESS: Yeah.

15 MR. FUSCO: There's no question being asked.

16 COUNCILMAN DIEHL: I'm sorry, sir?

17 MR. FUSCO: You didn't ask a question so he
18 doesn't have to speak. When you ask a question he'll
19 answer.

20 COUNCILMAN DIEHL: Then I'll now pose it as a
21 question. What do you have to say about the fact that
22 Shannon Pang and Paul Distefano previously testified to
23 an election meeting at your house on that date?

24 MR. FUSCO: Their testimony speaks for itself.
25 You have a copy of it and you want to ask him about what

1 was said, we'll take a look at it.

2 COUNCILMAN DIEHL: I appreciate that answer,
3 Counselor, but you just told me that he couldn't answer
4 because I didn't put it in the form of a question --

5 MR. FUSCO: And now you did --

6 COUNCILMAN DIEHL: I just put it in the form of
7 a question.

8 MR. FUSCO: And if you're responding to
9 specific testimony, my client would have a right to
10 review that before commenting on it. That's my position.
11 Same with documents.

12 COUNCILMEMBER LOMBARDI: Are you instructing
13 your client not to answer the question?

14 MR. FUSCO: I'm requesting a copy of the
15 testimony because other than that we don't know exactly
16 what was said. It could be paraphrased.

17 COUNCILMEMBER LOMBARDI: Probably is
18 paraphrased, but I don't think there's anything wrong
19 with Councilman Diehl asking about testimony of other
20 people, whether it refreshes the recollection of your
21 client.

22 THE WITNESS: No, I don't recall.

23 MR. FUSCO: There you go.

24 COUNCILMAN DIEHL: So, for the record, for the
25 record, you don't recall any meeting at your house

1 involving an election meeting about the Board of Ed
2 election?

3 MR. FUSCO: It's a mischaracterization of what
4 he previously stated. He stated he remembers there being
5 some meeting all over the place, including his home, he
6 did say that.

7 THE WITNESS: Yeah.

8 MR. FUSCO: That's already on the record.

9 COUNCILMEMBER LOMBARDI: If you both could just
10 speak into the mic, we would appreciate that. Thank you.

11 MR. FUSCO: Sure.

12 MR. MALIKSCHMITT: Mr. Bhagia, just so the
13 record's clear, are you testifying you do not
14 specifically recall an October 2017 meeting taking place
15 at your home for the purposes of political strategy?

16 THE WITNESS: That is correct.

17 MR. MALIKSCHMITT: Thank you.

18 COUNCILMAN DIEHL: But you do not deny, I want
19 to make sure I phrase this in the form of a question, do
20 you deny that meetings did take place at your home for
21 the purpose of political strategy?

22 THE WITNESS: What is the question? I don't
23 understand.

24 COUNCILMAN DIEHL: Did you have meetings at the
25 house?

1 THE WITNESS: Yeah, we had meetings all over,
2 all over the town.

3 COUNCILMAN DIEHL: Where were some of the other
4 places that you had meetings?

5 THE WITNESS: I'm sorry?

6 COUNCILMAN DIEHL: Where were some of the other
7 places that you had meetings?

8 THE WITNESS: Maybe we had it in Dunkin Donuts
9 or we would go and meet-and-greet, we were talking at the
10 meet-and-greets, so everywhere we go we just talk
11 about -- discuss the issues.

12 MR. MALIKSCHMITT: If we were to tell you,
13 Mr. Bhagia, that previous witnesses testified that there
14 was a political strategy meeting at your home in
15 October 2017, would you have any reason to dispute that
16 testimony?

17 THE WITNESS: No, I wouldn't.

18 COUNCILMAN DIEHL: Mr. Bhagia, at these
19 meetings that were held all over the place, who could you
20 identify as persons at those meetings?

21 THE WITNESS: Board of Education members, Mayor
22 Lankey, that's pretty much it. Sometimes Anthony
23 Russomano.

24 COUNCILMAN DIEHL: So you have Anthony
25 Russomano, Mayor Lankey, and Board of Education members.

1 Can you state specifically what Board of Education
2 members might have been at those meetings?

3 THE WITNESS: This has been, I guess, all the
4 members. I don't recall, but I guess all the members who
5 are on the --

6 COUNCILMAN DIEHL: Well, there's nine members,
7 so all nine of them?

8 A No, no, the candidates.

9 Q. And can you tell me the discussions that
10 revolved around mailings in particular at these meetings
11 that were held in these different places that you were
12 part of?

13 A I was not involved with any mailings.

14 COUNCILMAN DIEHL: Were there discussions at
15 the meetings that you were at that were held in different
16 places with several candidates and different people, can
17 you recall about discussions regarding mailings?

18 THE WITNESS: No.

19 COUNCILMAN DIEHL: Okay. So there's no
20 recollection that you have of any discussion about any of
21 the mailings?

22 THE WITNESS: Yes, I don't recall any of the
23 mailings being discussed.

24 COUNCILMAN DIEHL: What did they discuss at the
25 meetings?

1 THE WITNESS: This is about what the issues
2 residents are talking about, you know, somebody's talking
3 about security, somebody's talking about golf outing,
4 somebody's talking about property taxes, all of those
5 issues, whatever they're talking about, you know, what
6 residents are talking about I thought it's important for
7 all the candidates to come up with a solution, just not
8 talk about the problems.

9 COUNCILMAN DIEHL: There's meetings -- it seems
10 if you're holding a meeting in a Dunkin Donuts it can be
11 a rather informal meeting. Was there a standard group of
12 individuals, a core group of individuals who would meet,
13 not only at Dunkin Donuts, but at your house or wherever
14 else they met, could you identify a core group?

15 THE WITNESS: I mean, this was all Board of
16 Education candidates, you know. So every meeting is not,
17 like, I mean, I don't have recollection, but it's just
18 very, very informal. We trying to do the right things,
19 you know, if some resident is raising an issue, it's
20 important for that to be addressed. So we were meeting
21 here and there, you know, or we were campaigning so you
22 stop by somebody or you're walking in the district and
23 you meet somebody, you know.

24 COUNCILMAN DIEHL: Okay, sir. I'll hold off
25 for now, I want to take some notes.

1 COUNCILMEMBER JOSHI: Sure. I'll continue.

2 Mr. Bhagia, Shannon Pang -- if we can pull up Exhibit D.

3 MR. MALIKSCHMITT: I'll ask the court reporter
4 to pass to the witness what's been premarked at Exhibit
5 D, please.

6 COUNCILMEMBER JOSHI: Board of Education member
7 Shannon Pang seemed to recall that at the meeting, one of
8 the meetings at your house, yourself, herself and Mr.
9 Distefano were discussing a piechart and a cartoon within
10 Exhibit D. Do you remember this exhibit at all?

11 MR. MALIKSCHMITT: Take you time to review
12 what's been marked as Exhibit D, Mr. Bhagia.

13 Mr. Bhagia, while you're reviewing, I'll note
14 and I'll ask you to confirm what's been placed on the
15 screen behind me and on the monitors in the room here are
16 excerpts lifted from the Exhibit D that's been placed in
17 front of you. I believe they say a multiple page
18 document that does not lend itself well to the multimedia
19 presentation.

20 THE WITNESS: Yeah, I remember some of the
21 informational chart, but other things I don't know.

22 MR. MALIKSCHMITT: Do you recognize --

23 THE WITNESS: The school budget, some of the
24 charts because it's informational so those are the things
25 that we talked about.

1 MR. MALIKSCHMITT: So you do recall talking
2 about specific items contained within that document
3 that's been placed in front of you?

4 THE WITNESS: That's correct, it's all the
5 school budget, how much is the budget. People were
6 asking what's the budget.

7 MR. MALIKSCHMITT: But not just the concept,
8 you recognize the actual pictures contained within that
9 document?

10 THE WITNESS: No, I do not recall.

11 MR. MALIKSCHMITT: So you don't believe you've
12 ever seen this document being placed in front of you
13 tonight?

14 THE WITNESS: Counselor, I don't recall.

15 MR. MALIKSCHMITT: So you have no recollection
16 of seeing this document prior to tonight?

17 THE WITNESS: That's correct.

18 COUNCILMAN DIEHL: If I could.

19 Mr. Bhagia, when the meetings -- for the
20 meetings that were at your house, since they were at
21 different places, was any type of -- were any type of
22 visual aides used, a screen, anything like that, anything
23 like what we have now, would that be projected in your
24 home where something like this would show up?

25 THE WITNESS: No, sir.

1 COUNCILMAN DIEHL: Computers, though, people
2 were working on computers?

3 THE WITNESS: Like I said, I don't recall.
4 It's two years ago and I don't recall if it was paper,
5 computer, I have no idea.

6 COUNCILMAN DIEHL: Okay. And, sir, you said
7 that because, you know, we're certainly interested to
8 find out who was at these meetings, you're saying -- you
9 mentioned Mayor Lankey, Anthony Russomano and the Council
10 candidates, but not all the Council candidates,
11 correct -- I'm sorry, Board candidates, Board of
12 Education candidates?

13 THE WITNESS: That's correct.

14 COUNCILMAN DIEHL: Is there anybody here
15 tonight that was also in those meetings?

16 THE WITNESS: No, this was the --

17 MR. FUSCO: When you say here, Councilman,
18 you're referring to the audience?

19 COUNCILMAN DIEHL: I'm talking anybody in the
20 dais, anybody in the room, was anybody else, besides
21 Anthony Russomano, Mayor Lankey and Council candidates,
22 which you stated, was anybody else here tonight in that
23 meeting also?

24 THE WITNESS: This was Board of Education
25 members.

1 COUNCILMAN DIEHL: Just Board of Education
2 members. So nobody that is here tonight was at any of
3 those meetings that you were in?

4 THE WITNESS: No, but not in this one, but
5 other meetings, yeah, we were talking about the issues,
6 right?

7 COUNCILMAN DIEHL: Well, who?

8 THE WITNESS: Huh?

9 COUNCILMAN DIEHL: Who here tonight?

10 THE WITNESS: Yeah, Ajay Patil was in one of
11 the meet-and-greets; Sam Joshi at one of the
12 meet-and-greets.

13 COUNCILMAN DIEHL: But they were never at your
14 house?

15 THE WITNESS: I don't recall. It's been two
16 years.

17 COUNCILMAN DIEHL: Sam Joshi, Ajay Patil were
18 never at your house?

19 THE WITNESS: Again, I mean, there's no
20 point -- I mean, I understand you want to repeat again
21 and again, but I already said I don't recall.

22 COUNCILMAN DIEHL: Well, we have testimony from
23 other people that say that people in this room, were at
24 your house, and you're saying you don't recall them being
25 at your house?

1 THE WITNESS: That's correct.

2 COUNCILMAN DIEHL: Okay. Thank you.

3 COUNCILMEMBER JOSHI: Do you know who Andreas
4 Morales is?

5 THE WITNESS: No, I already mentioned in my
6 statement.

7 COUNCILMEMBER JOSHI: And could you pull up
8 Exhibit E.

9 MR. MALIKSCHMITT: I will note that the
10 reporter has placed what's been premarked at Exhibit E in
11 front of the witness.

12 Mr. Bhagia, if you could take a moment to
13 please review.

14 THE WITNESS: No, I don't recall.

15 COUNCILMEMBER JOSHI: So this was sent by
16 People for Progress and it's obviously very similar to
17 the one -- the previous email. Do you know anything
18 about People for Progress or Andres Morales that you'd be
19 able to share with us?

20 THE WITNESS: I already said, it's in my
21 statements, I was not involved in any mailing, production
22 of any mailers.

23 COUNCILMEMBER JOSHI: Okay.

24 THE WITNESS: And I do not know Andres Morales
25 or Cesar Suarez. I already mentioned in the statement.

1 COUNCILMEMBER JOSHI: So some of the questions
2 may seem redundant but we've done this for everyone
3 because we want to have it on record that we asked the
4 question.

5 THE WITNESS: Okay. Thank you.

6 MR. MALIKSCHMITT: When you say you don't know
7 them, what does that mean exactly?

8 THE WITNESS: I mean, I never met them, I don't
9 know who they are, where they live, I don't know
10 anything.

11 MR. MALIKSCHMITT: When was the first time you
12 heard the name Andres or Andrew Morales?

13 THE WITNESS: During the election time.

14 MR. MALIKSCHMITT: The election of 2017?

15 THE WITNESS: Recently also I heard and also
16 during that time somebody was talking about it.

17 MR. MALIKSCHMITT: Do you recall how you
18 learned of that name during the election of 2017?

19 THE WITNESS: No.

20 MR. MALIKSCHMITT: Do you remember in any
21 general context of how you learned of that name?

22 THE WITNESS: I don't recall. Like I said, if
23 I don't know, I don't know. Right? I mean, why we are
24 playing games here. I just said I don't know the person,
25 I don't recall.

1 MR. MALIKSCHMITT: I just -- I'm just trying to
2 get a little more clarity out of your answer. You said
3 that you heard his name in or around the time of the 2017
4 election. I wasn't sure if you could recall that maybe
5 you saw it somewhere or someone said it to you or if
6 there was some context, if you reflecting on it a bit
7 further could somehow recall a little more regularity on
8 that point.

9 THE WITNESS: No, I don't recall.

10 MR. MALIKSCHMITT: Did you ever wonder who
11 Cesar -- excuse me, Andres or Andrew Morales was?

12 THE WITNESS: No.

13 MR. MALIKSCHMITT: Having heard his name you
14 didn't wonder how he was associated with the election of
15 2017?

16 THE WITNESS: No, I don't. That was not my
17 thing. I was walking the doors, canvassing, that's it.

18 MR. MALIKSCHMITT: Has anyone ever spoken to
19 you about Andres or Andrew Morales?

20 THE WITNESS: No.

21 MR. MALIKSCHMITT: And with regard to Cesar
22 Suarez how did you first learn of his identity -- excuse
23 me, let me rephrase.

24 When did you first hear the name Cesar Suarez?

25 THE WITNESS: I think I heard the name in the

1 last meeting.

2 MR. MALIKSCHMITT: Has anyone talked to you
3 about Cesar Suarez?

4 THE WITNESS: No.

5 MR. MALIKSCHMITT: Thank you.

6 Having an opportunity to review what's been
7 placed in front of you as Exhibit E, have you ever seen
8 that document prior to this evening?

9 THE WITNESS: No, I don't recall.

10 MR. MALIKSCHMITT: So you don't recall having
11 seen this document prior to tonight?

12 THE WITNESS: That's correct.

13 MR. MALIKSCHMITT: Having reviewed it does this
14 document -- do you recognize any of the images within
15 this document? You could just take a second to review.
16 There are three, at least three images, some of them are
17 presented here in the screen in front of us, it's marked
18 as Exhibit E. Again, I believe it's a three-page
19 document which does not lend itself well to being
20 presented here on the screen. Do you recognize any of
21 those specific images, if not the entire document itself?

22 THE WITNESS: No, I don't recall, but, I mean,
23 the budget thing it looks familiar, but I don't recall.

24 MR. MALIKSCHMITT: The email address on there,
25 ppl4progress@gmail.com, does that email address -- is

1 that familiar?

2 THE WITNESS: No, I don't recall.

3 MR. MALIKSCHMITT: Do you know if you ever
4 received an email from that email address?

5 THE WITNESS: No, I don't recall.

6 MR. MALIKSCHMITT: Are you familiar with -- on
7 the last page on the bottom of that document it does say
8 that that was sent by People For Progress; is that
9 correct? If you can take a second to review.

10 MR. FUSCO: If I could -- Counsel, if I could
11 interject, it does have a paid for byline, but on the
12 last page I don't necessarily see where it was sent by.
13 I simply don't see it.

14 MR. MALIKSCHMITT: It says it was paid for by
15 People For Progress; is that correct?

16 THE WITNESS: Yeah.

17 MR. FUSCO: Yeah, it says that, yes.

18 MR. MALIKSCHMITT: People for Progress, is that
19 something you're familiar with?

20 THE WITNESS: I mean, like in terms of what?

21 MR. MALIKSCHMITT: Have you heard the name
22 People for Progress prior to tonight?

23 THE WITNESS: Yes, and I said already I had
24 nothing to do with printing or whatever mailers were sent
25 by People for Progress.

1 MR. MALIKSCHMITT: Are you aware of any
2 individuals that direct or control People for Progress?

3 THE WITNESS: No, I don't recall.

4 MR. MALIKSCHMITT: When did you first learn of
5 People for Progress?

6 THE WITNESS: I don't recall. It's been there.
7 I don't know.

8 MR. MALIKSCHMITT: Would it be fair to say
9 you've known of People for Progress for approximately two
10 years?

11 THE WITNESS: Like I said, I don't recall.

12 MR. MALIKSCHMITT: Would it be fair to say that
13 you knew the name People for Progress in October 2017, at
14 the time of these -- in or about the time of the 2017
15 elections?

16 THE WITNESS: I don't recall what time I heard
17 because it's just like so many things, so many people
18 talking, right, because we go -- and I don't know what
19 part of time, but I don't have a recollection here.

20 MR. MALIKSCHMITT: Can you give us an order of
21 magnitude, have you known for People for Progress a week,
22 a month, a year, 10 years?

23 THE WITNESS: I've known it's at least a year.

24 MR. MALIKSCHMITT: How would you say you first
25 became aware of People for Progress?

1 THE WITNESS: I'm sorry, I don't have specific
2 recollection.

3 MR. MALIKSCHMITT: Do you know any individuals
4 who are associated with People for Progress?

5 MR. FUSCO: Can you define associated because
6 he's already stated that he doesn't know anybody with
7 People for Progress, now you're asking about associated
8 with People for Progress. So could you -- he's seems a
9 little confused so could you maybe elaborate on that
10 question a little bit, please?

11 MR. MALIKSCHMITT: Do you know anyone who's
12 done any work on behalf of People for Progress?

13 THE WITNESS: No. I've seen Mr. Russomano
14 place it on Facebook recently that he knows something
15 about it, but other than that I don't know.

16 MR. MALIKSCHMITT: Do you know anybody who
17 has -- are -- you yourself have you done any work on
18 behalf of People for Progress?

19 THE WITNESS: No, sir.

20 MR. MALIKSCHMITT: Have you -- do you know
21 anybody who has represented themself as associated with
22 People for Progress?

23 THE WITNESS: No, sir.

24 MR. MALIKSCHMITT: Have you ever had a
25 conversation with somebody about People for Progress?

1 THE WITNESS: I don't quite understand. If you
2 want to rephrase your question.

3 MR. MALIKSCHMITT: I think it's a clear
4 question. Have you ever discussed with somebody People
5 for Progress other than your attorney?

6 THE WITNESS: People have been talking about it
7 all over the town.

8 MR. MALIKSCHMITT: Have you yourself had a
9 conversation with another person in which you discussed
10 People for Progress, other than your attorney?

11 MR. FUSCO: Discussed how?

12 MR. MALIKSCHMITT: In any context, used the
13 words.

14 THE WITNESS: Yes.

15 MR. MALIKSCHMITT: And what was the most recent
16 conversation, other than that of your attorney, in which
17 you talked about People for Progress in any context?

18 THE WITNESS: I don't have recollection. It's
19 ongoing thing, I mean, you know.

20 MR. MALIKSCHMITT: Can you remember any
21 conversation in the past year in which you discussed
22 People for Progress with any person other than your
23 attorney?

24 THE WITNESS: Like I said, I don't recall.
25 It's ongoing thing, people talk, I'm a township employee,

1 people talk, like over the years I'm involved with so
2 many things, people talk about it and I don't have
3 specific recollection of when, what, and how it was spoke
4 about.

5 MR. MALIKSCHMITT: I didn't ask if you had
6 specific recollection, I asked if you had had any
7 conversation in the past year with any person about
8 People for Progress.

9 THE WITNESS: I don't recall.

10 MR. MALIKSCHMITT: You can't recall that you've
11 had -- that you've used the words People for Progress in
12 the past year in a conversation?

13 THE WITNESS: Yes, I don't recall.

14 MR. MALIKSCHMITT: You mentioned that you had
15 no role in producing or printing the flyer. Did you have
16 any role with regard to the flyer we've been discussing,
17 what's been marked as Exhibit A, I can put it in front of
18 although it's up on the screen, I think you're aware of
19 what we're talking about. Did you have any role in the
20 dissemination of this flyer, printing, stamping, sending,
21 designing it, discussing, strategizing, otherwise?

22 THE WITNESS: No, sir.

23 MR. MALIKSCHMITT: Did you know about this
24 flyer before it was put into the U.S. mail?

25 THE WITNESS: No, sir.

1 MR. MALIKSCHMITT: So the first thing that you
2 learned about this flyer in any context was after it had
3 been effectively deposited with the U.S. Postal Service?

4 THE WITNESS: That, I can answer I don't know.
5 I mean, I don't have recollection of when I saw it and
6 how it got...

7 MR. MALIKSCHMITT: So you're saying it's
8 possible that you saw it before it went to the United
9 States Postal Service?

10 THE WITNESS: I have no idea about this flyer
11 so I can't answer that question.

12 MR. MALIKSCHMITT: I'm sorry, I didn't
13 understand your answer. You don't know what about the
14 flyer specifically?

15 THE WITNESS: I don't know anything about the
16 flyer so.

17 MR. MALIKSCHMITT: But I asked -- you were made
18 aware of this flyer, I think you testified previously, at
19 some point you became aware of the flyer; is that
20 correct?

21 THE WITNESS: That's correct.

22 MR. MALIKSCHMITT: And I'm asking, you were
23 made aware of the flyer after it had been submitted
24 basically for mailing with the United States Postal
25 Service; is that correct?

1 MR. FUSCO: How would he know that? How would
2 he know whether or not it was submitted for mailing or
3 not, if he saw one randomly somewhere whether it had been
4 mailed or not mailed.

5 MR. MALIKSCHMITT: Have you ever seen a copy of
6 this flyer, have you ever seen a physical actual copy of
7 this flyer in the real word?

8 THE WITNESS: No, I don't recall. It's been
9 two years. Somebody might have showed it to me.

10 MR. MALIKSCHMITT: Is it possible you've seen a
11 physical copy of this flyer?

12 THE WITNESS: It's been two years. I don't
13 recall. People might have showed it to me.

14 MR. MALIKSCHMITT: So your testifying, yes, it
15 is possible?

16 MR. FUSCO: That is his testimony. It speaks
17 for itself.

18 THE WITNESS: Yes.

19 MR. MALIKSCHMITT: Do you recall the date on
20 which you were made aware of the flyer?

21 THE WITNESS: No, I don't recall.

22 MR. MALIKSCHMITT: But is it fair to say that
23 your testimony, in pertinent part, is that you were made
24 aware of this flyer's existence by an officer of the
25 Edison Police Department?

1 MR. FUSCO: That was not his testimony.

2 MR. MALIKSCHMITT: I thought it -- if you could
3 just -- perhaps I'm confused on this point.

4 I thought you were made aware of the flyer by
5 one of either two officers either calling or texting you
6 about its existence. Am I misunderstanding?

7 THE WITNESS: But not in official capacity, as
8 my friend.

9 MR. MALIKSCHMITT: Okay. Maybe not in an
10 official capacity, but police -- people who have jobs as
11 police officers they were the ones who made you aware for
12 the very first time about the existence of this flyer?

13 THE WITNESS: Like I said, I don't recall who,
14 between someone, between both of them, I guess, or
15 somebody, both of them might have informed, yes.

16 MR. MALIKSCHMITT: You can't say whether it was
17 one of those two people who first informed you?

18 THE WITNESS: No, I think they were the ones.

19 MR. MALIKSCHMITT: So one of those two people
20 were the very first instance you heard about that flyer?

21 THE WITNESS: Yes, very possible, yes.

22 MR. MALIKSCHMITT: It's very -- when you say
23 very possible are you saying can you testify
24 unequivocally whether it was those two people or not?

25 THE WITNESS: No.

1 MR. MALIKSCHMITT: So it's possible?

2 THE WITNESS: This is my best -- like I said,
3 you know, I'm trying to answer, I'm trying to help this
4 Committee find who might have done it, right, so I'm
5 trying to help you guys.

6 MR. MALIKSCHMITT: I understand, but you're
7 essentially -- is it true that you're essentially
8 testifying that you don't know when you first learned
9 about the flyer?

10 THE WITNESS: That's correct.

11 MR. MALIKSCHMITT: And do you recall when the
12 flyer -- have you ever seen the flyer discussed in the
13 news?

14 THE WITNESS: Yes.

15 MR. MALIKSCHMITT: Have you ever seen the flyer
16 discussed on social media?

17 THE WITNESS: Yes.

18 MR. MALIKSCHMITT: Do you recall how long of a
19 gap it was prior to being informed about the flyer and
20 seeing it in the news or social media?

21 THE WITNESS: No, I don't recall.

22 MR. MALIKSCHMITT: Can you estimate?

23 THE WITNESS: No, I can't.

24 MR. MALIKSCHMITT: Can you give me an
25 estimation on the order of days, weeks, months?

1 THE WITNESS: No, I can't. I have no
2 recollection.

3 MR. MALIKSCHMITT: What's the first thing you
4 did when you learned about the flyer?

5 THE WITNESS: I was quite upset and I thought
6 whoever did this is a very disgraceful job for this
7 township because, like I said, in all the years, you
8 know, the signs have been vandalized, the things have
9 been done, this is just taking it to another level, you
10 know. It's bad for all the communities because it
11 creates more divisive environment within Edison when we
12 are trying to unite everybody and, you know, what's the
13 common goal.

14 MR. MALIKSCHMITT: It seems like you were
15 pretty upset it. Do you recall what you did, if
16 anything?

17 THE WITNESS: This is two years ago so, like I
18 said...

19 MR. MALIKSCHMITT: Did you talk to anybody
20 about it?

21 THE WITNESS: I have no recollection at this
22 point of time, but all I can say is I found it very
23 disgraceful.

24 MR. MALIKSCHMITT: So you're saying it is
25 possible you never talked to anybody about the flyer?

1 THE WITNESS: I might have, but it's been two
2 years. I might have discussed this is such a bad thing,
3 whoever did it is just trying to divide the community.

4 MR. MALIKSCHMITT: So it's possible that you
5 never spoke to a single person about this flyer, other
6 than your attorney?

7 THE WITNESS: No, I think you're
8 mischaracterizing my words. I said, you know, I might
9 have said.

10 MR. MALIKSCHMITT: Might is the same as
11 possible. I'm asking you is it possible you've never
12 spoken to someone about this flyer before your attorney
13 or tonight?

14 THE WITNESS: No, I did discuss in terms of how
15 disgraceful this thing is, yes.

16 MR. MALIKSCHMITT: And do you recall when you
17 had those discussions?

18 MR. FUSCO: It's been asked and answered. I'll
19 let him answer it one more time.

20 MR. MALIKSCHMITT: Well, he said he couldn't
21 recall any discussions, now he's recalling discussions.

22 MR. FUSCO: Well, I disagree and I object to
23 that because at first he said he did see it at some point
24 in time.

25 MR. MALIKSCHMITT: I'm talking about the

1 discussion, he didn't recall having a discussion, and now
2 he is recalling them.

3 MR. FUSCO: No, he originally testified that
4 people were talking about it and he had general
5 discussions about it. He can't just -- he can't -- he
6 has been unable to specifically meet your timeframe or
7 whatever spin you're putting on his response.

8 MR. MALIKSCHMITT: I'm just asking if you can
9 remember speaking to any single individual about it.

10 THE WITNESS: No, I don't recall, but I
11 heard -- you know, this has been ongoing, this is the
12 talk of the town, so if you're asking me, yes, yeah, some
13 point of time, yes, I had this, you know, discussions
14 about this, yes.

15 MR. MALIKSCHMITT: Do you know if anyone -- do
16 you know of anyone who -- do you personally know of
17 anyone who would have information about this flyer?

18 THE WITNESS: No, sir.

19 MR. MALIKSCHMITT: Do you have any -- do you
20 personally know of anyone we should -- of any physical
21 evidence that would pertain to this flyer?

22 THE WITNESS: No, sir.

23 MR. MALIKSCHMITT: Do you know where these
24 flyers were printed?

25 THE WITNESS: No, sir.

1 MR. MALIKSCHMITT: Thank you.

2 COUNCILMEMBER LOMBARDI: Mr. Bhagia, I know
3 you've given us a statement at the beginning of your
4 testimony and it was quite lengthy so if I ask you
5 something and you feel that you already stated in your
6 statement, just bear with me and just answer the
7 question. Okay?

8 You went over a little bit about your role in
9 the 2017 Board of Education election. Can you just take
10 me through what your role was in that election.

11 THE WITNESS: So I was a campaign supporter of
12 Mayor Lankey, Edison Council candidates, and Board of
13 Education.

14 COUNCILMEMBER LOMBARDI: And in terms of Board
15 of Education that was the BOE Unity Team?

16 THE WITNESS: That's correct, it was the Mayor
17 Lankey team.

18 COUNCILMEMBER LOMBARDI: And you also indicated
19 that you would knock on doors for this group?

20 THE WITNESS: Yes, for all the, yeah,
21 Democratic party ticket, yes, and Board of Education.

22 COUNCILMEMBER LOMBARDI: And would you solicit
23 campaign contributions to the BOE Unity Team?

24 THE WITNESS: No, sir.

25 COUNCILMEMBER LOMBARDI: Did you personally

1 contribute to the BOE Unity Team campaign?

2 THE WITNESS: No, sir. Not to Mayor Lankey
3 team as well.

4 COUNCILMEMBER LOMBARDI: And would it be fair
5 to say that you were a part of the majority of the
6 meetings when discussing strategy and planning?

7 THE WITNESS: Like I said, we were talking
8 about the issues, we would knock on the door, we would
9 hear some issues, we would talk to Mayor, I would talk to
10 Mayor, I would talk to Board of Education see if there's
11 something which both of the teams can resolve together,
12 for example, overcrowding, it needs to be resolved by
13 Council and it needs to be resolved by school members
14 together.

15 COUNCILMEMBER LOMBARDI: I appreciate your
16 testimony, but my question was would it be fair to say
17 that you were a part of the majority of the planning and
18 strategic meetings for the BOE planning team?

19 THE WITNESS: No, sir, I don't recall.

20 COUNCILMEMBER LOMBARDI: Is it no or is it you
21 don't recall?

22 THE WITNESS: I don't recall being in part of
23 the strategy meetings.

24 COUNCILMEMBER LOMBARDI: Now, we discussed
25 before that there may have been a meeting held at your

1 house and I believe you testified that some meetings
2 were, in fact, held at your home, correct?

3 THE WITNESS: That's correct.

4 COUNCILMEMBER LOMBARDI: What would those
5 meetings be about if not strategy and planning?

6 THE WITNESS: We were talking about
7 door-to-door issues when people talk, what were the
8 issues, everybody wanted to know what's the school
9 budget, we don't know what is the overcrowding, and what
10 could be done about the overcrowding, for example.

11 COUNCILMEMBER LOMBARDI: When you say we, who
12 else do you remember as being part of those discussions?

13 MR. FUSCO: Answer one more time. Go ahead.

14 THE WITNESS: The Board of Education members,
15 sometimes Mayor, sometimes, you know, Ajay Patil,
16 sometimes Mr. Russomano. It's different people, we're
17 meeting with different people.

18 COUNCILMEMBER LOMBARDI: When you say Board of
19 Education members, was Mr. Shi a part of those meetings?

20 THE WITNESS: Yes, that's correct.

21 COUNCILMEMBER LOMBARDI: Was Miss Falguni Patel
22 a part of those meetings?

23 THE WITNESS: Sometimes.

24 COUNCILMEMBER LOMBARDI: Was Beth Moroney, a
25 part of those meetings?

1 THE WITNESS: No.

2 COUNCILMEMBER LOMBARDI: Was Paul Distefano a
3 part of those meetings?

4 THE WITNESS: Yes, but we met Beth Moroney in
5 different places. I don't recall, but we had discussions
6 with Beth Moroney as well on the bus stops, so many
7 things, so many different things, yes.

8 COUNCILMEMBER LOMBARDI: Were there Board of
9 Education members not part of the Unity Team that were
10 part of those meetings?

11 THE WITNESS: Yes, I think Shannon Pang was not
12 running.

13 COUNCILMEMBER LOMBARDI: Now, prior to coming
14 here tonight did you either watch the prior meetings or
15 read the transcripts?

16 THE WITNESS: The one --

17 MR. FUSCO: Prior meetings or transcripts of
18 what, Counsel?

19 COUNCILMEMBER LOMBARDI: Of the prior Committee
20 of the Whole meetings.

21 THE WITNESS: No, I was -- again, I apologize I
22 was not able to make the May 14 meeting, I was away. So
23 I was called to the May 14, but I was informed like three
24 days earlier so I couldn't make it to May 14 so I just
25 reviewed the last meeting on and off, it wasn't

1 completely.

2 COUNCILMEMBER LOMBARDI: So you did watch a
3 portion of the meeting?

4 THE WITNESS: Yes, the first meeting, yes,
5 because I couldn't attend.

6 COUNCILMEMBER LOMBARDI: All right. What about
7 the second meeting where Miss Pang testified?

8 THE WITNESS: On and off, but not completely.

9 COUNCILMEMBER LOMBARDI: Okay. Do you recall
10 testimony from Miss Pang that she was, in fact, at your
11 house on October 7 when the exhibit that was shown
12 before, or a version of that exhibit, was created?

13 MR. FUSCO: Answer the question.

14 THE WITNESS: I mean, she says yes she was. I
15 mean, I don't recall, but she's saying, yes, she would be
16 right.

17 MR. FUSCO: Maybe not.

18 COUNCILMEMBER LOMBARDI: Besides -- strike
19 that.

20 If this Council thinks it's prudent to have
21 some of the flyers tested for fingerprints, would you be
22 willing to voluntarily give a fingerprint?

23 MR. FUSCO: He doesn't have to answer that
24 question right now. We'll take it under advisement and
25 Counsel will get back to you.

1 COUNCILMEMBER LOMBARDI: Just for my own
2 information, Mr. Fusco, should we ask Mr. Collelo or have
3 you taken over the representation of Mr. Bhagia?

4 MR. FUSCO: I represent Mr. Bhagia.

5 COUNCILMEMBER LOMBARDI: Okay. So Mr. Collelo
6 is no longer --

7 MR. FUSCO: I don't know who Mr. Collelo is.

8 COUNCILMEMBER LOMBARDI: Well, prior to you
9 coming here tonight Mr. Collelo has written letters of
10 representation on behalf of Mr. Bhagia.

11 MR. FUSCO: To be honest with you I'm unaware
12 of that. If you need a specific letter of representation
13 from me, I will certainly have one forwarded to the
14 Council, but I will be representing Mr. Bhagia from this
15 point forward.

16 COUNCILMEMBER LOMBARDI: Thank you.

17 MR. FUSCO: You're welcome.

18 COUNCILMEMBER LOMBARDI: Last question,
19 Mr. Bhagia, and this may be the same answer. Would you
20 be willing to submit to a lie detector and polygraph?

21 MR. FUSCO: We'll take that under advisement
22 and get back to you on that if a specific request is ever
23 made.

24 COUNCILMEMBER JOSHI: After this flyer was sent
25 out -- let me rephrase first, or backtrack.

1 Did you -- who are you closer to, Miss Patel or
2 Mr. Shi, throughout the campaign who did you more
3 frequently speak to?

4 THE WITNESS: Both.

5 COUNCILMEMBER JOSHI: Okay. And after this
6 flyer went out did you speak to either of them about the
7 flyer?

8 THE WITNESS: Like I said, I don't recall any
9 specific things. This is two years ago.

10 COUNCILMEMBER JOSHI: So you -- keep in mind a
11 lot of the questions that we're asking, the things that
12 you may feel are not important may be very important when
13 we piece all the puzzles together. So sometimes we may
14 not know what you don't know, which is what Mike said,
15 Councilman Lombardi said, but it may be very relevant
16 information.

17 So afterwards, after this went out did you have
18 any conversation with Mr. Shi or Miss Patel considering
19 that you were working closely with the whole Unity Team
20 campaign in general?

21 THE WITNESS: I don't recall, but if there's
22 something I'll go back and if there's something I'll be
23 happy to provide.

24 COUNCILMEMBER JOSHI: Okay. Do you recall any
25 reaction from either of them?

1 THE WITNESS: Everybody was very upset, that's
2 what I know, everybody said this is unbelievable.

3 COUNCILMEMBER JOSHI: Specifically for Miss
4 Patel, for example, do you remember any reaction, any
5 conversation that you may have had?

6 THE WITNESS: I don't recall, but as I said, if
7 I do something and this is the first time I'm hearing,
8 but if it's something I recall, I'll be happy to share it
9 with the Committee.

10 COUNCILMEMBER JOSHI: And Mr. Shi, is there any
11 reaction or conversation that you've had related to this
12 flyer since then?

13 THE WITNESS: Again, it's, as I said, it's long
14 time and I don't recall, but if there's something, yes,
15 I'll be happy to share.

16 COUNCILMEMBER JOSHI: Okay.

17 COUNCILMEMBER LOMBARDI: Mr. Bhagia, just
18 looking through my notes I have just a couple other
19 questions. I know we discussed a Cesar Suarez and your
20 testimony is you do not know who Mr. Suarez is; is that
21 correct?

22 THE WITNESS: That's correct.

23 COUNCILMEMBER LOMBARDI: Did you know that
24 Mr. Suarez was a tenant of Councilman Patil?

25 THE WITNESS: No, sir.

1 COUNCILMEMBER LOMBARDI: So the first time that
2 you learned of that was at the last Committee of the
3 Whole meeting?

4 THE WITNESS: Yeah, I learned it like when
5 everybody learned.

6 COUNCILMEMBER LOMBARDI: That's all I have.

7 COUNCILMAN DIEHL: Council President.

8 Mr. Bhagia, in the first Committee of the Whole
9 meeting Paul Distefano testified that you were in charge
10 with the BOE Unity Team's mailing lists and addresses; is
11 that true?

12 THE WITNESS: No, sir, that's incorrect.

13 COUNCILMAN DIEHL: Did you provide any mailing
14 lists or address lists to anybody during that campaign?

15 THE WITNESS: No, sir.

16 COUNCILMAN DIEHL: Okay. Have you been -- in
17 your capacity of being active in elections, have you put
18 together mailing lists?

19 THE WITNESS: Recently. I mean, I don't recall
20 in that election, but just walking lists, yes.

21 COUNCILMAN DIEHL: Just walking lists?

22 THE WITNESS: That's correct.

23 COUNCILMAN DIEHL: Okay. The -- what we can
24 determine from the samples that we have of the flyer that
25 it was somewhat of a specific targeting of these

1 mailings. Do you have any idea who may have put together
2 an address list targeting these specific residents?

3 THE WITNESS: No, sir, I don't have any
4 recollection of that.

5 COUNCILMAN DIEHL: But you have been in the
6 past involved in different elections putting together
7 addresses and mailing lists, correct?

8 MR. FUSCO: When you say in the past, are you
9 referring to from today, like the 2018? Seriously, are
10 you talking about the 2017 election? When you say in the
11 past he might have done it in '18, that is the past.

12 COUNCILMAN DIEHL: Well, why don't we start
13 with 2016 and move forward. Let's say in the last three
14 years have you put together any mailing lists for any
15 campaign with addresses?

16 THE WITNESS: No, sir, I don't recall.

17 COUNCILMAN DIEHL: None?

18 MS. RUSSOMANO: That's three years, the
19 question was in three years.

20 THE WITNESS: No.

21 COUNCILMAN DIEHL: Well, we could expand that
22 question to longer. You do put together mailing lists
23 and addresses, correct?

24 THE WITNESS: No, sir.

25 COUNCILMAN DIEHL: For elections?

1 THE WITNESS: No, sir.

2 COUNCILMAN DIEHL: You never have?

3 THE WITNESS: No, sir.

4 COUNCILMAN DIEHL: Ever?

5 THE WITNESS: Yeah, not specifically, not
6 specifically like this elections.

7 COUNCILMAN DIEHL: And what would you put an
8 address or mailing list for?

9 THE WITNESS: No, I mean the walkings list,
10 yes, everybody has a list, right, the walking list.

11 COUNCILMAN DIEHL: Mr. Bhagia, you started your
12 statement tonight, with I felt it was critical in that it
13 was saying that this Committee was for a political
14 purpose and in the last hour you've said that upon
15 learning about the flyer you found it disgraceful, you
16 said the people were very upset, these are your own
17 words, that it was unbelievable, that it was ongoing, it
18 was the ongoing talk of the town. You said these things.

19 THE WITNESS: Yes, that's correct.

20 COUNCILMAN DIEHL: So my question is -- and
21 you've also stated that you believe the Committee of the
22 Whole should move forward. So if it's disgraceful and
23 people are upset and it's unbelievable and it's the
24 ongoing talk of the town, then where does -- and you
25 believe it should move forward, where does the political

1 part fit in to you?

2 MR. FUSCO: I believe he stated it was the talk
3 of the town. I'm not so sure that he refers to it being
4 currently today.

5 COUNCILMAN DIEHL: We got a lot of people here
6 tonight.

7 MR. FUSCO: Well, be that as it may, I'm not
8 referring to who's here tonight, I'm referring to his
9 specific testimony.

10 THE WITNESS: And let me --

11 MR. FUSCO: For a town of a hundred thousand,
12 everybody -- or the talk of the town it was, there are a
13 significant amount of people here tonight but, you know.

14 COUNCILMAN DIEHL: Those are his words
15 Counselor, he said it was the talk of the town --

16 MR. FUSCO: Was -- I'm sorry, I didn't mean to
17 interrupt you Councilman. Was, not is. He didn't -- his
18 testimony, as you stated it, was, was the talk of the
19 town.

20 COUNCILMAN DIEHL: And by stating that are you
21 saying that it's no longer relevant, it's no longer an
22 issue, it's something that we shouldn't pursue?

23 THE WITNESS: Counselor, I may want to read the
24 paragraph again for you. I think there might be
25 miscommunication of what I was trying to say.

1 COUNCILMAN DIEHL: Sure. Thank you.

2 THE WITNESS: "It's extremely disheartening to
3 see my name, my home, my family being repeatedly and
4 purposefully discussed by the Committee in what appears
5 to be a political purpose." I'm not saying this cause,
6 whatever the Committee is doing, yes, I agree what you
7 guys are doing is good, it's happening, right, but again
8 when you say my name, my home name, you know. Any
9 witness say they make this flyer in my home?

10 COUNCILMAN DIEHL: Well, first of all --

11 THE WITNESS: Did they say anybody? I'm sorry
12 I know I don't have right to ask questions, but --

13 COUNCILMAN DIEHL: Thank you, Mr. Bhagia. You
14 actually -- you can ask questions, but my point is this,
15 and that is, and I made it earlier tonight, no one on
16 this panel has accused anybody of anything. We haven't
17 accused anybody of anything. We said from the beginning
18 that we were bringing -- we are putting this together to
19 get information, that's what we did. It wasn't anyone
20 here necessarily who brought up your name on several
21 occasions, that was from the testimony of other witnesses
22 who said there were meetings in your house, that you were
23 involved, that there was a core group and you were one of
24 the three or four people that was that core group. It
25 wasn't us, so when you say it's disheartening that

1 there's a political purpose, we didn't bring your name
2 into this, your name has been brought into this by the
3 testimony of people you associate with. That's where we
4 are right now.

5 My question to you, sir, is, if you believe
6 that it is a disgraceful thing, and I do believe you
7 believe that, and people are upset by if, or whether it
8 was was or today, it's the talk of the town, who would
9 you, if you were on this Committee right now, who would
10 you call to testify?

11 THE WITNESS: Everybody, whoever were the
12 candidates, including yourself, Mr -- councilman Joshi,
13 Mr. Gomez, because all of, you know, Mayor Lankey --
14 whoever was a candidate.

15 AUDIENCE MEMBER: Microphone.

16 MR. FUSCO: Make sure you speak into the
17 microphone.

18 THE WITNESS: Sorry. All the candidates.

19 COUNCILMAN DIEHL: Okay. So you understand
20 that, and I've already stated, I stated it at the last
21 meeting that I have no problem testifying at all, I'd be
22 happy to do it.

23 THE WITNESS: Yes, but you ask me a question,
24 I'm just saying --

25 COUNCILMAN DIEHL: My point is this. You

1 brought my name into it, your name was brought into it in
2 the first or second meeting and that's why you're here
3 tonight. There's no political purpose other than we want
4 to find out who did this flyer.

5 THE WITNESS: You asked me, I'm just saying
6 because the candidates are the one who usually benefit by
7 most of this, you know.

8 COUNCILMAN DIEHL: Well, keep in mind I think
9 there should be a distinction too. I know because
10 there's a lot of conflating here including the Council
11 campaign and BOE campaign together, quite frankly being
12 part of that campaign, the Council campaign, we never met
13 with BOE, never. Okay. I'll raise my hand and swear to
14 it, never met with any Board of Education member to
15 discuss anything about a Board of Education strategy on
16 the Board of Education campaign and my colleagues can
17 state it for themselves how they went. So this idea that
18 it was one in the same, it was not one in the same.
19 Mayor Lankey, as I understand it, we can bring him to
20 testify, he already agreed to do that, that he already
21 said that it was Jerry Shi who constantly asked him
22 constantly to get involved, get involved, and he did
23 resist for a long period of time and it wasn't until the
24 end of the campaign did I even hear Tom Lankey mention
25 the BOE Unity Team or Jerry Shi and BOE Unity Team, so

1 let's not put the two together because that's not the
2 fact. Okay? I'd be happy to testify, okay, about what I
3 know about the racist flyer. What I know about the
4 racist flyer is that I was -- that somebody brought it to
5 my attention that it was on national news and when I saw
6 it it was disgraceful and two days later at a Council
7 meeting I brought it up and I've been bringing it up ever
8 since. There's no political thing here and those two
9 campaigns should not be put together to conflate and
10 confuse anybody. Thank you.

11 COUNCILMEMBER JOSHI: I don't have further
12 questions for Mr. Bhagia.

13 COUNCIL PRESIDENT GOMEZ: Any other further
14 questions from other Council members?

15 COUNCILMEMBER SENDELSKY: Yes, sir. One quick
16 set of questions. I just want to make sure I have this
17 correct. Councilman Diehl asked earlier about mailing
18 lists and addresses and whether you provide them to the
19 Unity Team in 2017. I just want to make sure I have your
20 testimony correctly is that you do not recall whether you
21 did so or your sure that you did not do so in 2017.

22 A I do not recall. It's been long.

23 Q. So it is possible that you did do so?

24 A I don't recall.

25 Q. So that makes it possible.

1 MR. FUSCO: Again, with the spinning of the
2 questions. His testimony is what it is. You guys can
3 attached whatever spin you want to it.

4 COUNCILMEMBER SENDELSKY: I'm not spinning it,
5 I'm just trying to clarify it. Is it that he does not
6 recall or he recalls that he did not do so?

7 MR. FUSCO: His testimony speaks for itself.
8 This question's been asked and answered 10 times tonight.

9 COUNCILMEMBER SENDELSKY: So just answer it one
10 last time. Is it that you do not recall or that you are
11 positive --

12 MR. FUSCO: Don't answer the question again.
13 It's been asked and answered 10 times already.

14 AUDIENCE MEMBER: We want to know who's
15 intimidating the chinese in this community. You guys are
16 doing a good job and I'm sick of it.

17 COUNCIL PRESIDENT GOMEZ: Sir, please maintain
18 order.

19 COUNCILMAN DIEHL: Council President, just to
20 be clear.

21 AUDIENCE MEMBER: An Indian doesn't want to
22 know who's intimidating --

23 COUNCIL PRESIDENT GOMEZ: Sir, sir, sir.

24 AUDIENCE MEMBER: I'm sorry.

25 COUNCILMAN DIEHL: It was stated by the

1 attorney tonight that there's a possibility that you
2 would provide fingerprints and possibly.

3 MR. FUSCO: I said we would discuss it and get
4 back to you, maybe, maybe not, that's -- my statement
5 stands for itself.

6 COUNCILMAN DIEHL: Thank you, but that was in
7 regards to the fingerprints and the polygraph?

8 MR. FUSCO: Correct.

9 COUNCILMAN DIEHL: Okay. So when can we
10 anticipate an answer.

11 MR. FUSCO: When a formal request is made we
12 will discuss it, take it under advisement, and respond
13 accordingly.

14 COUNCILMAN DIEHL: Okay. And what time of
15 timeline would you think that might be if we put out a
16 formal request tomorrow, you know, how long do you think
17 we're going to wait for an answer whether you would take
18 a polygraph or provide fingerprints.

19 MR. FUSCO: Don't know.

20 COUNCILMAN DIEHL: You don't know?

21 MR. FUSCO: No, I don't know how long it will
22 take, a day, or week, two weeks, 10 days.

23 COUNCILMAN DIEHL: That's what we were
24 thinking.

25 COUNCIL PRESIDENT GOMEZ: Anybody else?

1 COUNCILMEMBER JOSHI: No. Just a couple points
2 I want to mention. The first, Councilman Diehl, I agree
3 with you, as someone who was running for office during
4 the 2017 election I promise you, swear to you that there
5 was from, or at least I can only speak for myself, there
6 was no overlap, I've never met with a member of the Unity
7 Team to strategize with them. I was not a part of that
8 campaign, wanted nothing to do with that campaign at all
9 whatsoever, nor did I ever meet with any individual
10 related to that campaign about my campaign. So there is
11 no overlap.

12 The other thing is Councilman Diehl and I have
13 been asking for this Committee since I took office, which
14 was January of 2018. Took months to get to this point
15 where we are and I understand that some people may
16 question why was their name brought up in the first
17 place, just like he said, everyone can be a witness. The
18 interesting thing about this Committee is that everything
19 happens publicly. So when we get testimony we have to
20 use the testimony that's given to us and that's -- so
21 it's almost a live feed -- it is a live feed of everyone
22 gets everything that we get at the same time. Now, I can
23 proudly say, or I will say that I'm proud of this
24 Committee because we've gotten farther with Mr. Combers
25 testimony alone and his evidence has brought us further

1 than the Attorney General's office, you know, the County
2 Prosecutor's Office or the FBI or any other law
3 enforcement agency. So are there parts where it seems a
4 little unusual, that's up to the people to decide. But
5 in terms of the sheer facts and information we have
6 gotten further than any law enforcement agency in the
7 state. That is why I do want to continue pursuing this
8 and I am proud of this. So that's the only thing that I
9 had to say.

10 COUNCILMAN DIEHL: Thank you, Mr. Bhagia.

11 COUNCILMEMBER LOMBARDI: Thank you, Mr. Bhagia.

12 I would like to discuss how to proceed
13 procedurally. I know there was a motion before by
14 Councilman Diehl and I have to agree I'm growing very
15 tired of this cat and mouse game in terms of when they
16 can testify. My suggestion would be that we contact
17 Mr. Shi's attorney, Mr. Calello and Mr. Ahmad's attorney,
18 Mr. Shaw, and get an idea from them, both the attorney --
19 attorneys and Mr. Shi and Mr. Ahmad whether they have any
20 future travel plans in the next 30 to 45 days. Assuming
21 there is no future travel plans by either them or their
22 attorneys and barring any Board of Education meeting this
23 Council should pick a date within the next 30 to 45 days
24 and, again, like the motion by Mr. Diehl, if they fail to
25 appear for whatever reason, our attorney should go in on

1 an Order to Show Cause and verify the complaint and seek
2 the appropriate --

3 AUDIENCE MEMBER: Do it now. Do it now.

4 COUNCIL PRESIDENT GOMEZ: Sir.

5 COUNCILMEMBER LOMBARDI: And I know there's
6 some cause to do it now, but I don't know that a Court or
7 a Judge, an attorney did give notice, albeit untimely
8 notice that that person was away or the attorney couldn't
9 make it, I don't know that a Court would, you know, order
10 them to appear. He might order them to appear at the
11 next hearing, but because they did give an indication
12 prior to the meeting itself, I feel that we should give
13 them one last opportunity and get dates -- not get dates
14 from them, but confirm that there's no other vacations in
15 the near future.

16 COUNCILMAN DIEHL: Councilman, I couldn't agree
17 with you more. I know there's calls tonight to do it
18 right away. I think a couple things are important here
19 and that is because, as Councilman Joshi pointed out, we
20 are in new territory here, this is like a live thing, it
21 kind of feeds itself, we find information and we pursue
22 more information, but I think it's important from our end
23 that we continue to be fair to the people and not put
24 them in a position where they can't show up. At the same
25 time I am just as frustrated with the cat and mouse game,

1 as you stated, and our Counsel called it a little bit of
2 gamesmanship, to me it seems that way. These are people
3 that usually make meetings, but suddenly they can't make
4 this meeting when there's all kinds of notices. So I
5 would suggest that we give them one last opportunity,
6 that we find out if they have travel plans, that we offer
7 a couple dates that maybe suitable for them to appear and
8 at that point that's it, at that point if they're not
9 coming then we pursue what we said we would do.

10 COUNCILMEMBER JOSHI: To our Counsel, I know
11 you said we can take them to court, possibly get to a
12 points where they're in contempt of court. Can you
13 specify or clarify what ruling a judge could possibly
14 have just for the public's knowledge?

15 MR. MALIKSCHMITT: The nature of the relief
16 would be largely up to the judicial discretion, but it
17 could potentially involve finding someone in contempt of
18 court and there could be financial penalties as well as
19 additional penalties set, designed to compel their
20 attendance.

21 COUNCILMEMBER JOSHI: Got it. Thanks. Which
22 court would they have to go to?

23 MR. MALIKSCHMITT: Superior Court of Middlesex
24 County.

25 COUNCILMEMBER JOSHI: Okay.

1 COUNCILMEMBER LOMBARDI: That's all I have.

2 COUNCILMAN DIEHL: I have nothing further.

3 COUNCIL PRESIDENT GOMEZ: We will continue to
4 keep this meeting open. We are not formally closing it.
5 So until we reconvene again, we will publish the dates
6 once we get confirmation and we will reconvene at that
7 time. Thank you .

8 COUNCILMAN DIEHL: Motion to adjourn.

9 COUNCILMEMBER LOMBARDI: Seconds.

10 COUNCIL PRESIDENT GOMEZ: All in favor?

11 (All Council respond in the
12 affirmative.)

13 COUNCIL PRESIDENT GOMEZ: Meeting is a
14 adjourned.

15 (Hearing adjourned at approximately
16 8:07 p.m.)

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C E R T I F I C A T E

I, MARIA F. PIOTROWSKI, a Registered Professional Reporter and Notary Public of the State of New Jersey, certify that the foregoing is a true and accurate transcript of the testimony of The Committee of the Whole, the aforesaid witness first duly sworn to by and before me.

I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties to the action in which this deposition was taken; and further, that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.

Maria F. Piotrowski, RPR

Registered Professional Reporter

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