

Deposition of Charles Barrett, taken November 1, 2010

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

| | | |
|---------------------------|---|------------------------|
| HIDDEN VILLAGE, |) | |
| |) | |
| Plaintiff, |) | |
| vs. |) | Case No. 1:10-CV 00887 |
| |) | Judge James Gwin |
| CITY OF LAKEWOOD, et al., |) | |
| |) | |
| Defendants. |) | |

- - - - -

THE DEPOSITION OF CHARLES BARRETT
MONDAY, NOVEMBER 1, 2010

- - - - -

The deposition of CHARLES BARRETT, called by the Plaintiff for examination pursuant to the Federal Rules of Civil Procedure, taken before me, the undersigned, Tracy Morse, RPR and Notary Public within and for the State of Ohio, taken at Lakewood City Hall, 12650 Detroit Avenue, Lakewood, Ohio, commencing at 1:35 p.m., the day and date above set forth.

APPEARANCES:

On behalf of the Plaintiff:

Richard Haber, Esq.
Haber Polk Kabat, LLP
737 Bolivar Road
Suite 4400
Cleveland, Ohio 44115
216.241.0700
rhaber@haberpolk.com

On behalf of the Defendants:

James Climer, Esq.
Mazanec, Raskin, Ryder & Keller
34305 Solon Road
Suite 100
Solon, Ohio 44139
440.248.7906
jclimer@mrrklaw.com

Nora L. Hurley, Esq.
City of Lakewood Law Department
12650 Detroit Road
Lakewood, Ohio 44107
216.529.2600
nora.hurley@lakewood.oh.net

Thomas D. Corrigan, Esq.
55 Public Square
Suite 1500
Cleveland, Ohio 44113
216.696.0606
keligeng@gmail.com

ALSO PRESENT:

Mr. Michael Priore

CHARLES BARRETT DEPOSITION INDEX

E X H I B I T S

| No. | Page |
|---------------------------------|------|
| Plaintiff's Exhibit No. 14..... | 18 |
| Plaintiff's Exhibit No. 15..... | 20 |
| Plaintiff's Exhibit No. 16..... | 36 |
| Plaintiff's Exhibit No. 17..... | 46 |
| Plaintiff's Exhibit No. 18..... | 54 |
| Plaintiff's Exhibit No. 19..... | 66 |
| Plaintiff's Exhibit No. 20..... | 69 |
| Plaintiff's Exhibit No. 21..... | 71 |
| Plaintiff's Exhibit No. 22..... | 72 |
| Plaintiff's Exhibit No. 23..... | 76 |
| Plaintiff's Exhibit No. 24..... | 78 |
| Plaintiff's Exhibit No. 25..... | 78 |
| Plaintiff's Exhibit No. 26..... | 87 |
| Plaintiff's Exhibit No. 27..... | 88 |
| Plaintiff's Exhibit No. 28..... | 89 |

1 CHARLES BARRETT
2 of lawful age, called by the Plaintiff for
3 examination pursuant to the Federal Rules of Civil
4 Procedure, having been first duly sworn, as
5 hereinafter certified, was examined and testified
6 as follows:

7 EXAMINATION OF CHARLES BARRETT

8 BY MR. HABER:

9 Q Would you state your full name for the record.

10 A Charles I. Barrett.

11 Q Mr. Barrett, you and I met moments ago. My
12 name is Rich Haber. I'm an attorney
13 representing Hidden Village in a lawsuit that's
14 been filed against the City of Lakewood and
15 other current and former employees of the City
16 of Lakewood with respect to the Hidden Village
17 property over on Clifton Avenue. Have you had
18 a chance to review the complaint in this case?

19 A Well, yes, I've seen it. You know, as I
20 remember, we talked about it with counsel.

21 (Indicating.)

22 Q And I don't want to know about any of your
23 discussions with counsel --

24 A I know that.

25 Q -- but have you had an opportunity to review

1 the actual physical document, the complaint
2 itself?

3 A Oh, yes.

4 Q Have you ever been deposed before?

5 A Yeah.

6 Q How many times?

7 A I don't know. I don't remember.

8 Q Do you have an estimate?

9 A Let me think a minute. Deposed.

10 Q What we're doing right now.

11 A Yeah, I know.

12 No, I don't think I have been. I don't
13 remember it, but, you know, it's over thirty
14 years.

15 Q Are you currently employed?

16 A No.

17 Q When were you last employed?

18 A My retirement date for the City of Lakewood was
19 April 4, 2007.

20 Q How long were you an employee of the City of
21 Lakewood?

22 A Approximately thirty years and six months.

23 Q What was the position you held at the time just
24 prior to your retirement?

25 A Building commissioner.

1 Q How long were you the building commissioner?

2 A Approximately seven years.

3 Q All right. Let me explain a few ground rules
4 for you since you've never been deposed before.

5 I'm sure that the attorneys representing you

6 have explained the process of a deposition,

7 but, as you can see, while I'm speaking the

8 court reporter is taking everything I say down

9 and in turn she records all of the answers that

10 you give to my questions, so you need to give a

11 verbal response to all of my questions. Is

12 that understood?

13 A Yes.

14 Q Now, as I talk, sometimes I will trail off

15 before I finish my thought. You need to let me

16 finish my question before you give your answer.

17 I will try and let you finish your answer

18 before I ask the next question. Is that fair?

19 A Okay.

20 Q This is not an endurance test. If you need a

21 break at any time -- to use the restroom, get a

22 cup of coffee -- let me know and I'll be happy

23 to take a break. Okay?

24 A Okay.

25 Q If you need to speak to your counsel regarding

1 something, I'll be happy to do so, although
2 depending on the circumstances, I may ask you
3 to answer the question that is pending before
4 we take that break, unless you tell me you
5 can't answer the question without first
6 conferring with your counsel. Okay?

7 A Okay.

8 Q As you already know, I don't want you to give
9 me any answer during the course of this
10 deposition that in any way reveals
11 communications you've had with counsel
12 representing your interests. Okay?

13 A Right.

14 Q And who are you represented by here at this
15 deposition?

16 A I don't remember names that well.

17 Q Mr. Climer?

18 MR. CLIMER: All three of us.

19 MR. HABER: All three of you.

20 Q So as it relates to Mr. Climer or anybody in
21 his firm, as it relates to Mr. Corrigan, as it
22 relates to Ms. Hurley, I don't want to know any
23 conversations you had with them. Okay?

24 A All right.

25 Q When is your current home address?

1 A 15717 Mina Avenue.

2 Q M-i-n-a?

3 A Yes.

4 Q And where is that located?

5 A Cleveland, 44135.

6 Q Prior to being the building commissioner, what
7 was your position with the City of Lakewood?

8 A Assistant building commissioner.

9 Q How long did you hold that position?

10 A Approximately 21 years.

11 Q Summarize for me what the responsibilities of
12 the assistant building commissioner are.

13 A I had anywhere from four to sometimes six or
14 seven or eight people working under me that I
15 would assign daily assignments and various
16 programs throughout the city, assign building
17 permits, reviewed drawings, kind of keep
18 everything moving along. If the building
19 commissioner was on vacation or out of the
20 office or all that, I was looked to to make the
21 decisions for him.

22 Q What were you reviewing drawings for, for what
23 purpose?

24 A Are you talking over the 20-year period?

25 Q Yes. I mean --

1 A It would be for permit work, for new buildings,
2 for changing classifications of buildings, for
3 certificates of occupancy and the time of
4 occupancy that went in, things like that.

5 Q Generally surrounding the zoning codes of the
6 City of Lakewood?

7 A The zoning, the building codes and anything
8 else that came into play. Health codes
9 sometimes.

10 Q As the building commissioner as compared to the
11 assistant building commissioner, how did your
12 responsibilities change?

13 A I ended up doing the finances for the
14 department and jurisdiction over the housing
15 division of the building department also. That
16 changed from time to time because there were
17 different people that came into the department
18 that were above the building commissioner and
19 depending on what administration I was involved
20 with.

21 Q In the last seven years, was there anybody
22 above you in the department?

23 A Yes. Edward Fitzgerald.

24 Q And what was his title?

25 A I don't know what they titled him. I don't

1 remember.

2 Q So you would have, as the building
3 commissioner, reported directly to Edward
4 Fitzgerald?

5 A Yes.

6 Q And that's not the mayor?

7 A That's not the mayor.

8 Q I think we're all clear on that.

9 A Yeah, that's not the mayor.

10 Q Okay. Can you summarize your educational
11 background for me?

12 A Grade school was at Essencia on 140th and
13 Puritas, four years at St. Ed's, four years at
14 Max Hayes through an apprenticeship program
15 with the plumbers.

16 Q Did you ultimately work as a plumber?

17 A I worked as a plumber through Local 55 for
18 approximately 17 years.

19 Q At that point then did you start working for
20 the City of Lakewood after that?

21 A Yes. Well, let me rephrase. I worked for a
22 short time for Ford Motor Company and then came
23 to the city.

24 Q What did you do at Ford Motor Company?

25 A Skilled trades, kept the machines going.

1 Q When you joined the city, did you join as the
2 assistant building commissioner?

3 A No, no. When I joined the city, I joined as a
4 building inspector.

5 Q How long were you a building inspector?

6 A Let's see, from '76 to approximately 1980,
7 January of '80.

8 Q Then what position did you assume?

9 A That was assistant building commissioner.

10 Q During your employment with the City of
11 Lakewood, which sounds like it lasted
12 approximately 21 years, '76 to --

13 A '76 to 2007.

14 Q So 31 years?

15 A Well, 30 years and 6 months.

16 Q Okay. Did you ever receive any training with
17 respect to fair housing laws?

18 A There was a seminar one time that Cleveland
19 State ran on something, but I don't remember if
20 it was fair housing or not. They came into run
21 some kind of seminar. I don't even remember
22 what it was.

23 Q During your employment with the City of
24 Lakewood, did you have any understanding as to
25 what the city's obligations were with respect

1 to promoting fair housing to people on the
2 basis of race?

3 A Repeat the question, please.

4 Q Sure. During your employment with the City of
5 Lakewood, did you have any understanding as to
6 the City of Lakewood's obligation to promote
7 fair housing on the basis of race?

8 A I had an understanding of what it was about,
9 but my job, as I understood it, didn't
10 involve -- I think you said the promoting of
11 it.

12 Q Um-hum.

13 A -- it didn't involve the promoting of it, as I
14 understood it.

15 Q What did you understand your job to entail with
16 respect to race and how --

17 A To treat everyone equally.

18 Q On the basis of race?

19 A On the basis of anything.

20 Q How long have you known Michael Priore?

21 A When you say "know him," I know of him from the
22 records, the letters that would go out and see
23 his name, but to know him, if I had met him
24 somewhere on the street, I would not have known
25 who he was. All I knew was his name from

1 records that were sent out. If I met him at
2 sometime, I don't remember it.

3 Q As we sit here today, you don't remember having
4 met Michael Priore?

5 A I don't remember when I met him, but I think we
6 met, but I'm not sure.

7 Q Without regard to when, do you remember the
8 circumstances of when you first met Michael
9 Priore?

10 A It would, to the best of my memory, have been
11 when all this came up about Hidden Village.

12 Q Even though you hadn't met Michael Priore, did
13 you have a perception as to what type of
14 landlord he was in the City of Lakewood,
15 whether he was a good one or a bad one?

16 A I had no real perception of him, no, either
17 way. No. I had --

18 Q When an apartment complex, such as Hidden
19 Village is renovated, does the building
20 department get involved in inspecting the final
21 product?

22 A Depending on the work that's done. If it's
23 work that needs permits, yes. If it's merely
24 painting and new drapes and new tile on the
25 floor, things like that, we normally would not

1 get involved.

2 Q Let's assume for purposes of my questions that
3 the work that was done required permits. When
4 the project is done, what is the process that
5 the building department goes through to inspect
6 the project?

7 A We would first ask for some kind of a proposal
8 as to exactly what is going on. We would then
9 ask for blueprints if we needed them. If not,
10 a written proposal of what he was going to do
11 might be enough. We would inspect at various
12 points before things are covered up to make
13 sure that it complies and then we would go and
14 do a final inspection when they tell us they're
15 done.

16 Q When you do a final inspection when things are
17 done, what are you then inspecting for assuming
18 it was renovation of, for example, efficiency
19 apartments?

20 A You would look for the electrical, if they did
21 any work on that, to see that plugs are
22 operating, to see what -- it depends on what
23 they did. If they put a new plug in, you would
24 look to see where that was, that the cover was
25 on that. If they did plumbing, you would

1 inspect for that. If you changed any of the
2 heating, you would look for that.

3 Q At the time that you inspected following a
4 renovation, assuming that permits were pulled,
5 is there any inspection done of individual
6 units for fire safety issues; smoke alarms, for
7 example?

8 A If it's written in the ordinance about smoke
9 alarms and detectors and it's written that we
10 enforce it, the building department, then we
11 would look for those things, yes.

12 Q Well, does Lakewood have an ordinance that
13 indicates that the building department enforces
14 fire safety?

15 A There is a part in the ordinances that dictates
16 what the building commissioner inspects and
17 that would not necessarily be me. It would be
18 someone I would delegate.

19 Q When the inspection is done, is there a
20 document that's created that indicates that the
21 inspection has, one, been completed and that
22 the project satisfied the inspector?

23 A There would be a certificate of occupancy
24 issued, yes.

25 Q Do you know who would have issued the

1 certificate of occupancy to Hidden Village
2 after the renovations to buildings C and D?

3 A No. Which individual inspector would have
4 issued it?

5 Q Is it issued by the individual inspector?

6 A Yeah. What happens is the individual inspector
7 okays it. It comes through on a day sheet to
8 me and then I okay it for it to go, but the
9 certificate of occupancy will not have my
10 initials on it. It will be -- if the inspector
11 was Joe Blow, it would have "JB" in the corner.

12 Q Handwritten?

13 A No, no. Typed. They're all typed. What came
14 to me would be handwritten. What went to the
15 owner of the building or the tenant or whomever
16 it went to would be typed.

17 Q So somebody in your office would then type it?

18 A Yes.

19 Q Now, you've got to let me try and finish my
20 question. So somebody in your office would
21 type it after the inspection was completed by
22 one of your designees and he would fill out by
23 hand the results and then they would
24 memorialize that in a typewritten document?

25 A He would do it, it would come to me to be

1 okayed and then it would go to the secretary to
2 be typed.

3 Q After that is done, under what circumstances
4 would the building department then conduct
5 inspections of property?

6 A Well, we would go back there on a complaint
7 basis. That was one way. We would go back
8 there on an annual program. There was a
9 program with the building department where we
10 would inspect all the buildings, all the
11 multifamily buildings in the city on a rotating
12 basis.

13 Q When you say "on a rotating basis," was every
14 building inspected once a year?

15 A No.

16 Q How frequently would a building get inspected?

17 A It would depend on staff of what we had and it
18 would depend on how busy we were with other
19 projects, such as new construction. It was
20 annual. It was always there to be done when
21 the other work was less. That's the best way I
22 can put it.

23 Q So other than complaints about a piece of
24 property, are there any other bases under which
25 a piece of property would become a priority for

1 inspection as opposed to just the sporadic
2 annual inspection?

3 A Building department-wise from what I've -- when
4 I was dealing with that, that was about it.

5 Q Do you have an understanding as the building
6 commissioner what the racial demographic of the
7 city of Lakewood is?

8 A Haven't a clue. I have no idea.

9 Q First of all, do you know when the issue of the
10 Lutheran Ministries Youth program came to your
11 attention?

12 A I cannot recall exact dates and all that. It
13 was -- I don't know -- early 2007 is the best I
14 could guess. No. It was before that. I don't
15 know when it came to my attention date wise. I
16 don't even remember the date of the letter I
17 sent.

18 Q Do you know how it came to your attention?

19 A I don't remember.

20 Q Do you know who brought it to your attention?

21 A I don't remember who brought it to my
22 attention.

23 - - - - -

24 (Plaintiff's Exhibit No. 14 was marked.)

25 - - - - -

1 MR. HABER: It's page 179 in the
2 packet. Those are all in numerical order
3 although they skip ahead.

4 MR. CLIMER: Yeah, I understand.

5 BY MR. HABER:

6 Q If you look at 179, down at the bottom there is
7 an email from Mark Brauer to Mary Louise. Do
8 you know who Mary Louise is?

9 A I don't remember who Mary Louise is.

10 Q All right. Apparently, though, Dotty Buckins
11 forwarded this youth reentry program
12 description to a number of people and then
13 tried to schedule a meeting regarding the youth
14 reentry program. Do you see that?

15 A Yes.

16 Q And you were one of the people that was a
17 recipient of the email, correct?

18 A Correct.

19 Q This is in January of 2006. I will represent
20 to you that this is before the youth reentry
21 program moved into the city of Lakewood. Does
22 that help refresh your recollection as to how
23 this came to your attention?

24 A No.

25 Q If you look all the way in the back of that

1 document, we'll mark it as Exhibit 15, it's
2 page 2464 through 2467. It's all the way at
3 the back, 2464 to 2467. Do you have it?

4 - - - - -

5 (Plaintiff's Exhibit No. 15 was marked.)

6 - - - - -

7 A Okay. 2464.

8 Q That email that I showed you previously
9 references a youth reentry program document.

10 A Uh-huh.

11 Q I will represent to you that based upon the
12 appearance of this document that it was
13 produced by the City of Lakewood to the
14 Department of Justice apparently from your
15 emails. Do you see up at the top where it says
16 "Charlie Barrett"?

17 A Okay.

18 Q Have you ever read this document? Have you
19 ever seen this document?

20 A I believe I have, yes.

21 Q Is this a document that you would have reviewed
22 back in January of 2006 with respect to the
23 youth reentry program?

24 A I remember reviewing documents. Now, whether
25 it was this specific document, I don't

1 remember.

2 Q When you say you "remember reviewing
3 documents," do you remember reviewing a
4 description of the youth reentry program?

5 A I looked online for some of it and that's what
6 I reviewed and there was some other document
7 that I don't remember what it was.

8 Q Did you ultimately have a meeting with Dotty
9 Buckins, Ed Favre, Ed Fitzgerald, Thomas
10 George, Barbara McDonald and somebody by the
11 name of Madigan regarding the youth reentry
12 program in early 2006?

13 A There was a meeting and I remember it was in
14 this room, in the mayor's conference room. I
15 don't remember if those were exactly the people
16 that were at the meeting, but I believe that's
17 the meeting you're talking about, which is
18 probably referred to in my letter that I sent
19 out.

20 Q And you're referring to the letter that you
21 sent out to Michael Priore?

22 A Yes.

23 Q I'll show you that letter in a second.

24 A Okay.

25 Q That's in May.

1 A Okay.

2 Q Now, the meeting you just referred to in your
3 testimony, was that a meeting with the youth
4 reentry program representatives?

5 A I remember a meeting with them. Now, the
6 meeting you're talking about, I don't remember
7 if that was the same meeting.

8 Q That's what I'm trying to understand. Do you
9 remember having a meeting without Michael
10 Priore and the Lutheran Ministry
11 representatives where you and other employees
12 of the City of Lakewood met to discuss what to
13 do about the youth reentry program?

14 A I don't remember.

15 Q Tell me, before authoring the letter -- and
16 I'll show you the letter in a second --

17 A Right.

18 Q -- we've all seen it a million times. You've
19 seen it, I'm sure. Before authoring the letter
20 where you indicated to Mr. Priore that you felt
21 the youth reentry program violated the zoning
22 ordinances of the City of Lakewood, before
23 doing that, tell me what it was that was
24 expressed to you that was of concern to the
25 City of Lakewood about the youth reentry

1 program.

2 A I really don't remember what was expressed to
3 me. I know there was a concern about it, about
4 what type of people would be in there but, you
5 know, I don't remember all of that stuff.

6 Q What is Dotty Buckins?

7 A She's in the health department.

8 MR. CLIMER: Let him finish his
9 questions.

10 THE WITNESS: Oh, okay.

11 MR. CLIMER: That's okay.

12 Q You got it right.

13 MR. CLIMER: It's natural to want
14 to help people along, but sometimes you end up
15 answering a question that hasn't been asked.

16 Q Was she the director of the health department
17 at that time?

18 A I don't know what her title was.

19 Q You said there was some concern expressed as to
20 the type of people that were in the youth
21 reentry program. What do you mean by that,
22 "the type of people"?

23 A There was concern, as I remember, about that
24 they were -- I'm trying to remember -- like a
25 halfway house for juvenile offenders, something

1 like that.

2 Q I assume that that was communicated to you by
3 somebody else, that concern?

4 A Yes.

5 Q Do you know who it was that expressed that
6 concern?

7 A No. I don't remember.

8 Q Would it have been one of the people who would
9 have attended the meeting such as Ed Favre, Ed
10 Fitzgerald, Thomas George, Barbara McDonald,
11 Madigan? Would it be one of those people?

12 A I really don't remember.

13 Q What was your understanding of Ed Favre's role
14 with the city at this time?

15 A He was a special assistant in the mayor's
16 office. Something of that accord, as I
17 understood it.

18 Q Did he have any responsibilities for the
19 building department?

20 A No.

21 Q Did he have any responsibilities for the health
22 department?

23 A I don't know.

24 Q How about the fire department?

25 A I don't know.

1 Q When he was a special assistant in the mayor's
2 office, was he actually an active police
3 officer at that time?

4 A I believe he was.

5 Q Can you take a minute -- and we can go off the
6 record while you do it. Would you read the
7 youth reentry program document that's in front
8 of you, Exhibit 15.

9 A You're talking page 2464, 65, 66 and 67?

10 Q Correct.

11 A Okay.

12 Q It's really about three full pages. There's
13 only three lines on the fourth page. I would
14 like you to read that document with the
15 following question in mind. Okay?

16 A Um-hum.

17 Q As you read --

18 MR. HABER: You guys okay over
19 there?

20 MR. CLIMER: No. I was just
21 telling Tom that I can identify these on my
22 computer so he can read that one.

23 MR. HABER: I don't know why
24 you're missing a page in that document.

25 Q I want you to read this document with the

1 following question in mind, Mr. Barrett. The
2 question is: What in that document as you read
3 it causes you concern regarding the youth
4 reentry program's compliance with the zoning in
5 the area where Hidden Village is located?

6 Okay?

7 A Okay.

8 Q If you're able to at this juncture. Take your
9 time. No rush.

10 (Off the record.)

11 Q You all set?

12 A Okay.

13 Q Okay. Having had the opportunity to review
14 that document, tell me what concerned you with
15 respect to the existing zoning at this time.

16 A Going down and looking at the thing, the first
17 one was 24-hour supervision at all cluster site
18 buildings with a monitoring visit including
19 walk through the apartments, checks and at
20 least two staff persons are always available on
21 the shift to provide adequate supervision. Key
22 word to me was "staff."

23 Q Okay.

24 A The next one talks about housing two or three
25 roommates. Low --

1 Q I'm sorry. There was nothing in there?

2 A Nothing in there that -- that I saw anything.

3 That was not contrary to zoning.

4 Low staff to client ratio, again, we're
5 into a staff. We're offering a service. We're
6 doing a business of some sort here. A
7 curriculum, again, by staff every evening
8 provided by the staff. I had no problem with
9 the weekly recreation or the individual
10 counseling. The substance abuse staff, again.
11 Job development, I didn't see any problem with
12 that. Food vouchers, nothing. Transportation,
13 nothing. Paid work community service, mandated
14 to complete community service. Again, it seems
15 to me that's part of the program of a staff.
16 Again, we got referral to adult mental health.
17 There, again, we talk about staff. It talks
18 about staff all the way through. Then we go
19 down to population served. Let's see, again,
20 to me that was a program run by a staff, the
21 Ohio Department of Youth Services. Again, it
22 was a program run by a staff.

23 Q Was it your understanding of the zoning laws in
24 effect for Hidden Village at that time that no
25 use of that property was permitted where staff

1 was required?

2 A My viewpoint of looking at it was that the
3 Lutheran Metropolitan Ministry was taking over
4 a building and running it as a program. One of
5 the rooms was an office. Another one was a
6 conference room. The building was not being
7 run in the residential manner dictated by the
8 zoning code.

9 Q So in your estimation, if they had not had an
10 office and conference room, would that have
11 satisfied your concern?

12 A I don't think so because we would still have
13 staff.

14 Q Do you have a recollection as to whether the
15 zoning in that area permitted group homes?

16 A There were under certain conditions, which I
17 don't remember what those conditions are.

18 Q Regardless of those certain conditions, would
19 group homes have required staff?

20 A Again, I don't remember exactly how the group
21 homes -- the requirements are listed. I don't
22 remember.

23 Q Okay. Did you have an understanding as to
24 whether group homes would be a program, if you
25 will, where they were accomplishing a certain

1 goal or task with their group home?

2 A I would have to read back what group homes
3 were. I don't remember any of that.

4 Q Did you make a determination individually that
5 the use proposed by YRP violated zoning or did
6 somebody else make the decision?

7 A It was my opinion that it violated the zoning
8 code, but I ran it through the law department
9 to see if they agreed with my determination and
10 they did.

11 Q Who did you run it by in the law department?

12 A I believe it was Tom Corrigan.

13 Q Who is sitting at the end of the table right
14 now?

15 A Yes.

16 MR. HABER: Jim, are we going to
17 have a waiver of attorney-client communications
18 with respect to the zoning issue? Do you want
19 to talk about it?

20 MR. CLIMER: As between Tom and
21 Charlie?

22 MR. HABER: Yes. I mean, I
23 envision an issue here where you've got this
24 joint determination between legal and building
25 and you've got counsel who represents witnesses

1 in this case and I want to get into the
2 discussions regarding the zoning issue because
3 Mr. Corrigan ultimately testified at the
4 hearing in front of zoning that it was a joint
5 decision and I think there's a limited waiver
6 with respect to the zoning code issues and I
7 want to know whether you're going to instruct
8 this witness not to answer when I get into
9 those discussions.

10 MR. CLIMER: I don't know that I
11 can do that as we sit here today because we
12 don't have the owners of the privilege here.

13 MR. HABER: What do you mean?

14 MR. CLIMER: The City would own
15 the privilege.

16 MR. HABER: Right, who is
17 represented by the law director.

18 MR. CLIMER: So I'm not sure that
19 we have the person here that's authorized to
20 waive that privilege today.

21 MR. HABER: Who would that be?

22 MR. CLIMER: I'm assuming the
23 mayor at this point.

24 MR. HABER: Actually, I just saw
25 the mayor. Do you want to talk about it for

1 two seconds? Can you talk about it now? You
2 may not be able to answer now, but can you at
3 least confer and see whether you can?

4 MR. CLIMER: Yeah, we can confer
5 on that.

6 MR. HABER: The reason I say
7 that, if you want, I can show you the documents
8 but in the planning meeting, Tom got up and
9 said "This was a joint decision. We reviewed
10 it" and I think there's a limited waiver with
11 respect to that issue. I'm not going to say
12 that it's a blanket waiver, but --

13 MR. CLIMER: Where else are you
14 looking to seek to waive that privilege,
15 though?

16 MR. HABER: I want to know about
17 Tom's conversations with Mr. Barrett about the
18 zoning issue and how we got to the point where
19 he wrote a letter, so I don't want to -- I
20 don't want to get -- I want you guys to talk
21 about whether you're going to waive the
22 privilege and you may want to talk with Tom,
23 you may want to talk with the witness, but
24 while it's the City of Lakewood's privilege, it
25 ultimately is what generated the letter to my

1 client.

2 MR. CLIMER: Yeah, we're talking
3 about two different issues.

4 MR. HABER: You're talking
5 privilege, but the question is if you're going
6 to rely upon an assessment of the legal
7 department, then you're essentially asserting
8 an advice of counsel defense to the zoning
9 issue and --

10 MR. CLIMER: I understand what
11 you're saying, but the fact --

12 MR. HABER: I'm kind of
13 explaining for Nora because she's looking at me
14 perplexed. You can't assert advice of counsel
15 defense or even imply it without waiving the
16 privilege.

17 MR. CLIMER: Why don't you give
18 us a few minutes.

19 MR. HABER: Take your time. I'm
20 not trying to be a problem, but I got
21 Mr. Barrett here today.

22 MR. CLIMER: No. I understand.
23 (Recess taken.)

24 MR. CLIMER: Rich, we will waive
25 the privilege as to this one conversation and

1 this one conversation on this one subject only.

2 MS. HURLEY: There's one
3 conversation that we're talking about.

4 MR. CLIMER: I believe there is.

5 MR. HABER: Okay.

6 MR. CLIMER: And with the
7 understanding or the stipulation that the
8 waiver not be used or cited as a means to
9 broaden the waiver as some kind of practice or
10 something like that.

11 MR. HABER: No. That's fine.
12 What I will represent to you is that if I think
13 there's a waiver for separate reasons, then
14 we'll advocate that.

15 MR. CLIMER: I will say that in
16 reading over the passage that you're talking
17 about in the planning commission meetings, I
18 think refers to the fact that there had been a
19 consultation or a decision, but I don't think
20 he reveals the contents of the communication
21 that went back and forth. But that said, we
22 will waive it for this one conversation, this
23 one conversation only, again with the
24 understanding that it not be used to set up
25 some kind of argument that there has been a

1 practice or a precedence set for waiving the
2 privilege on other issues.

3 MR. HABER: No problem. I
4 understand.

5 BY MR. HABER:

6 Q To give you some background as to what I'm
7 going to ask: You at some point in time made a
8 determination that the YRP violated the zoning
9 for that facility and having reached that
10 conclusion, you then consulted with
11 Mr. Corrigan and the legal department. Is that
12 correct?

13 A Yes.

14 Q Did you consult with him verbally in person,
15 on --

16 A Verbally in person ran it past him what I
17 thought it was and I thought it was a
18 violation. He agreed with me. I wrote the
19 letter.

20 Q Did he review the letter before it went out?

21 A I believe he did.

22 Q Did anybody ask you to write the letter?

23 A The letter would have to come from me because I
24 am the one by zoning code that made the
25 determination.

1 Q But I believe -- certainly based upon the
2 email, there was an attempt to schedule a
3 meeting and you indicated that you believed
4 there may have been a meeting with City of
5 Lakewood representatives before issuing this
6 letter. Do you recall that?

7 A I don't know if I understand your question.

8 Q Let me restate it. Do recall meeting with
9 Mayor George at any point in time prior to
10 authoring your letter to Mr. Priore regarding
11 the zoning issue?

12 A I don't remember.

13 Q Do you remember meeting with Mr. Favre?

14 A Yes.

15 Q Tell me about your meeting with Mr. Favre.

16 A I remember meeting with him, a discussion about
17 it. I don't remember what we discussed. There
18 was some discussion about it, but as to the
19 specifics of it, I really don't remember.

20 Q Okay. Let me stop you. The meeting you had
21 with Mr. Favre, you remember discussing, as you
22 put it, your talking about YRP's presence in
23 the city, correct?

24 A Yes.

25 Q Was he the only one present when you met with

1 Mr. Favre or were there others present?

2 A I don't remember.

3 Q Do you remember where the meeting took place?

4 A Well, I think -- you know, well, I don't
5 remember, no. It could have been in my office
6 I don't know. I don't remember.

7 Q Do you remember who called for the meeting?

8 A No, I don't.

9 MR. HABER: Off the record.

10 - - - - -

11 (Plaintiff's Exhibit No. 16 was marked.)

12 - - - - -

13 MR. CLIMER: We marked 2221 --

14 MR. HABER: Exhibit 14 is
15 page 179. Exhibit 15 is pages 2464 through
16 2467.

17 MR. CLIMER: Okay.

18 MR. HABER: Exhibit 16 is page
19 2221 --

20 Q -- which is a letter dated May 18, 2006 to
21 Michael Priore from Mr. Barrett, correct?

22 A Yes.

23 Q Is that the letter we've been referring to
24 throughout this deposition that you sent
25 regarding the zoning issue?

1 A Yes.

2 Q This is the letter that you had Mr. Corrigan
3 review?

4 A Yes.

5 Q In this letter, you reference a meeting on
6 February 14, 2006 with Mr. Priore and the youth
7 reentry program, correct?

8 A Yes.

9 Q Tell me what you remember about that meeting.

10 A It was held in the mayor's conference room.

11 Q Which is where we are right now?

12 A Which is where we are right now. There was --
13 I don't know -- seven, eight, nine people at
14 the meeting. What I remember about it is all
15 the discussion was about the ministry and it
16 went all the way around the table and the last
17 one to talk was myself and I said at that time
18 that I didn't think it complied with the zoning
19 code.

20 Q Do you know why this meeting was held?

21 A No. I know there was a meeting, but I don't
22 know, no.

23 Q Do you know who called the meeting?

24 A No. I don't remember who called it.

25 Q Prior to the meeting of February 14, 2006, had

1 you discussed with anybody your concerns that
2 this program did not comply with the zoning?

3 A Yes.

4 Q Who did you speak with?

5 A Tom Corrigan, Ed Fitzgerald. I think Ed Favre.
6 I don't remember if there was anyone other than
7 that.

8 Q How about Mayor George?

9 A No.

10 Q Did you have any discussions about YRP with
11 Mayor George prior to February 14, 2006?

12 A No. None at all.

13 Q Between February 14, 2006 and your letter of
14 May 18, 2006, did you have any conversations
15 with Mayor George?

16 A None that I remember.

17 Q Did you have any conversations with Ed Favre?

18 A I may have, but I don't remember.

19 Q How did you learn that the YRP actually moved
20 into the city of Lakewood after your
21 February 14, 2006 meeting?

22 A Somebody told me.

23 Q Do you know who?

24 A No. I don't remember who told me.

25 Q Was it verbal that you were told?

1 A Verbal, yes.

2 Q You've indicated that prior to February 14,
3 2006, you believe you spoke with Mr. Corrigan,
4 Mr. Fitzgerald and Mr. Favre and you can't
5 remember anyone else, correct?

6 A Correct.

7 Q Was it one of those three people that expressed
8 concern to you about the type of person who was
9 going to be living in the YRP facility?

10 A Yes.

11 Q Do you believe as you sit here today that it
12 was Mr. Favre who expressed that concern?

13 A I believe it was.

14 Q What did Mr. Favre tell you about the nature of
15 this program prior to February 14, 2006?

16 A Exact conversations I don't remember. It was
17 that they were some juvenile offenders trying
18 to be rehabilitated, that there were a lot of
19 blacks in the program. Other than -- I don't
20 remember other than that.

21 Q Okay. So he expressed two concerns to you
22 generally speaking. One concern was that there
23 were people with criminal backgrounds or
24 criminal records?

25 A Yes.

1 Q And the other one was there were a large number
2 of blacks?

3 A No.

4 Q He did not say "a large number of blacks"?

5 A He said, "There are some blacks in the program"
6 and he said that without any emotion either
7 about it.

8 Q Do you think that had any relevancy to the
9 zoning issue?

10 A I think it was just general conversation.

11 Q What relevancy would that have in any
12 conversation relating to YRP, as you understood
13 it?

14 A None.

15 Q Did you tell him that you thought that that
16 shouldn't matter?

17 A No.

18 Q Did you interpret, notwithstanding his lack of
19 emotion, that he was communicating to you that
20 he thought the fact that there were juvenile
21 offenders in the program was a negative aspect
22 of the program?

23 A I thought he was just stating what the program
24 was.

25 Q Well, but he was also expressing concern about

1 the program, right?

2 A Yes, he expressed concern, yes.

3 Q And isn't it fair to say that during this
4 conversation when he was expressing concern you
5 drew a conclusion from that conversation that
6 Mr. Favre did not think it would be good for
7 the city of Lakewood to have YRP in the city of
8 Lakewood?

9 A I believe he concurred with what I said, that
10 it was not a residential use.

11 Q But he didn't tell you that -- let me back up.
12 Did you ask him, Mr. Favre, his opinion with
13 respect to zoning use --

14 A No.

15 Q -- of this property?

16 A No.

17 Q In fact, he has no expertise in zoning issues,
18 correct?

19 A Correct.

20 Q He at the time was a lieutenant on the police
21 department, right?

22 A Correct. Something in the police department.

23 Q Who was serving as a special assistant?

24 A Assistant in the mayor's office.

25 Q Okay. And he expressed to you two facts,

1 whether they were concerns of his or not. He
2 expressed to you that there were juvenile
3 offenders in the program and that there were
4 blacks in the program, correct?

5 A He made those two statements to me.

6 Q Did he make any other statement to you that
7 would support your opinion that he was
8 concerned about the youth reentry program
9 coming to the city of Lakewood?

10 A I don't remember him stating anything else, no.

11 Q So is it fair to say that if you interpreted
12 him to be expressing concern about the youth
13 reentry program, that the reason he had concern
14 was, one, there were juvenile offenders and,
15 two, there were black people?

16 A I don't know what his reason for making the
17 statements were.

18 Q Did you advise Mr. Corrigan when you were
19 speaking with Mr. Corrigan about this issue
20 that Mr. Favre had told you there were juvenile
21 offenders and black people in this program?

22 MR. CLIMER: You're talking about
23 the conversation we previously discussed --

24 MR. HABER: Let's start with
25 that.

1 MR. CLIMER: -- from which there
2 was a waiver?

3 MR. HABER: Let's start with
4 that, but he said he also spoke with him and I
5 don't know that he was also seeking legal
6 advice, but he spoke with him prior to the
7 February 14 meeting. You want to have a
8 conversation about that conversation?

9 Let me back up so you understand what I'm
10 saying. He's testified he spoke to three
11 people prior to the February 14, 2006 meeting.
12 Those three people were Mr. Corrigan, Mr. Favre
13 and Mr. Fitzgerald and he doesn't remember if
14 he spoke to anyone else. Now --

15 MR. CLIMER: Right.

16 MR. HABER: -- that conversation
17 with Mr. Corrigan prior to February 14, 2006 is
18 not the meeting where he asked whether he
19 agreed with his zoning. I don't know what that
20 conversation was yet --

21 MR. CLIMER: Got you.

22 MR. HABER: -- I am going to ask
23 him about it. If you want to step out and ask
24 him about it and decide whether that's
25 privileged --

1 MR. CLIMER: Yeah.

2 MR. HABER: -- please feel free
3 to do so.

4 MR. CLIMER: Right.

5 (Recess taken.)

6 MR. CLIMER: All right. We will
7 waive the privilege as to the second of the two
8 conversations that we're talking about on the
9 same conditions as the first waiver.

10 MR. HABER: Okay.

11 BY MR. HABER:

12 Q Okay. So let's go back to that conversation
13 then as well. Mr. Barrett, apparently what
14 we're talking about was prior to February 14.
15 You had a conversation with Mr. Corrigan. Tell
16 me what you recall about that conversation.

17 A When you say "prior to February 14," I don't
18 quite understand the significance of
19 February 14.

20 Q Because that was the day of the meeting with
21 the youth reentry program.

22 A Okay. I had a conversation with him before
23 that, yes.

24 Q With Mr. Corrigan?

25 A Yes.

1 Q What was the conversation that you had with
2 Mr. Corrigan?

3 A I have no idea. I don't remember.

4 Q Do you know why you would have had a
5 conversation with Mr. Corrigan about the youth
6 reentry program prior to meeting with
7 representatives of Lutheran Ministries?

8 A The conversation would be in regard to writing
9 the letter of May 18, 2006.

10 Q But you wrote that May 18, 2006.

11 A Yeah.

12 Q You would have only written that letter once
13 they moved into the city, right?

14 A Yes.

15 Q They didn't move into the city until April.
16 There was a meeting February 14, 2006 that was
17 attended by yourself, representatives of
18 Lutheran Ministries referenced in the first
19 paragraph of your letter of May 18, 2006,
20 correct?

21 A Yes.

22 Q Now, what I'm trying to understand is, Before
23 the YRP ever moved into the city of Lakewood,
24 before you ever even met with them to discuss
25 them moving into the city of Lakewood, you've

1 indicated you had a conversation with at least
2 three people, Mr. Favre, Mr. Fitzgerald and
3 Mr. Corrigan, regarding the YRP. Do you
4 remember that first discussion with
5 Mr. Corrigan what the issue was that you
6 discussed?

7 A My concern -- my issue was that it didn't
8 comply with the zoning code.

9 Q And what information did you have at that time
10 that suggested to you that it did not comply
11 with the zoning code when you spoke with
12 Mr. Corrigan? Was it that description of the
13 youth reentry program that we marked as
14 Exhibit 15?

15 A Yes.

16 Q And if I show you in this stack of documents
17 page 2208, which I will mark as Exhibit 17 --

18 - - - - -

19 (Plaintiff's Exhibit No. 17 was marked.)

20 - - - - -

21 Q -- it appears to be an email that scheduled the
22 February 14 meeting and forwarded to you
23 Exhibit 15 that we've already discussed.

24 A Yes, that's what it appears to be.

25 Q Okay. So is it fair to say that you didn't

1 speak with Mr. Corrigan regarding whether this
2 program was in compliance or not in compliance
3 with zoning until after February 10, 2006 when
4 you received this document?

5 A I don't remember. I don't remember when we
6 talked about it and what dates we talked about
7 it. I don't remember any of that.

8 Q I'm not asking you at this point to tell me the
9 date. I'm asking you whether in time it would
10 have followed receipt of Exhibit 15, the
11 description of the youth reentry program.

12 A I would have read it. I would have made the
13 decision and then I believe I went to
14 Mr. Corrigan.

15 Q Would you have gone down to his office to talk
16 to him?

17 A No. I didn't usually go to his office. He
18 came to mine.

19 Q Did you have this meeting with him in person or
20 did you forward him an email about this issue?

21 A No. I don't remember doing any email on this.

22 Q Now, you remember receiving emails. Did you
23 ever send any emails about this --

24 A Not that I remember.

25 Q -- other than confirming your availability for

1 a meeting?

2 A Not that I remember.

3 Q Okay. Now, if you look at Exhibit 16, which
4 was your letter to Michael Priore. I'll just
5 give you that.

6 A Oh, okay.

7 Q All right. Exhibit 16 we were talking about
8 before.

9 A Right.

10 Q There is a list of people in the paragraph -- a
11 list of departments that were represented at
12 that meeting --

13 A Um-hum.

14 Q -- do you see that in the first paragraph?

15 A Right.

16 Q Tell me who you recall being present at this
17 meeting based upon the departments that were
18 represented.

19 A Building department was myself. I believe I
20 was the only one here. I don't remember who
21 was here from law.

22 Q Was it Mr. Corrigan?

23 A It may have been, but I don't remember
24 specifically. The human service department, I
25 believe that was Dotty Buckins. The

1 administration I believe -- well, I don't
2 remember exactly. I thought it was the mayor
3 that was at that meeting, but I'm not sure on
4 that.

5 Q Okay. Anyone else?

6 A Mr. Priore and I believe there was somebody
7 else with Mr. Priore.

8 Q How about people from Lutheran Ministry?

9 A Yeah, they were there, yeah.

10 Q How many people?

11 A Two or three.

12 Q Were there any representatives of the police
13 department present?

14 A I don't remember any.

15 Q How about the fire department?

16 A I don't remember any.

17 Q Now, in this you cite to the section of the
18 zoning code that applies to the Hidden Village
19 property, correct?

20 A Um-hum.

21 Q Yes?

22 A Yes.

23 Q In that you say that "In the MH district" --
24 and MH is the actual zoning --

25 A Designation.

1 Q -- designation for that property, correct?

2 A Yes.

3 Q -- "no building or premises shall be introduced
4 or established which is designed, arranged or
5 intended for other than a medium-density,
6 multiple-family residential building." What is
7 a medium-density, multiple-family residential
8 building mean?

9 A Without the zoning code in front of me, I
10 couldn't answer the question.

11 Q But that's a defined term in the code, correct?

12 A I believe it is.

13 Q "And a low-density, multiple-family residential
14 building, a single or two family dwelling, an
15 adult family home, an adult group home or
16 cluster house development." Is it your
17 understanding then that that property permitted
18 adult family homes, adult group homes and
19 cluster house developments?

20 A I would have to go back to the code to
21 specifically identify the stuff.

22 Q But do you have any reason to believe that you
23 didn't correctly quote the code when you wrote
24 the letter?

25 A No. What's written in there, which starts with

1 "The MH district" and goes on to end with
2 "cluster homes development" is directly out of
3 the code.

4 Q Okay. Thank you. Now, going back to the
5 February 14, 2006 meeting that you had. How
6 did it conclude as it relates to whether the
7 youth reentry program would come to the city of
8 Lakewood? How do you remember that meeting
9 concluding?

10 A I don't remember the meeting concluding or how
11 it concluded, the February 16 meeting.

12 Q February 14.

13 A February 14 meeting.

14 Q That's the one where you indicated that you
15 were the last one to speak and said, "I don't
16 think this complies with" --

17 A Ask your question again. I'm looking at the
18 May 18 letter that I wrote.

19 Q Right. That references that meeting.

20 A About the February 14 meeting.

21 Q Right.

22 A Okay. Ask me again.

23 Q Let me ask you this: Did you take notes at
24 this meeting?

25 A No.

1 Q Did anyone take notes at the meeting?

2 A I don't know. Let me rephrase. There were
3 people sitting around. Whether they took notes
4 or not, I don't remember. I did not take
5 notes.

6 Q That's fine.

7 A Okay.

8 Q Where were you sitting?

9 A Approximately where I am right now. I would
10 describe this as the northeast corner of the
11 conference table, right here. (Indicating.)

12 Q Do you remember how many employees of the City
13 of Lakewood were present at the meeting?

14 A If I remember right, there was eight or nine
15 people here. Maybe four. I don't remember. I
16 didn't count them.

17 Q Well, we know there was a representative for
18 the law department.

19 A Um-hum.

20 Q Yes?

21 A Yes.

22 Q That's one. There was you. That's two.

23 A Yes.

24 Q Dotty Buckins is three.

25 A Yes.

1 Q Was Mary Louise Madigan here?

2 A I don't remember.

3 Q Was Dotty Buckins?

4 A She was here, yeah.

5 Q I'm sorry. Was Ed Favre here?

6 A I don't remember Ed Favre being at the meeting.

7 Q But you think the mayor was here?

8 A I think the mayor was here, yeah.

9 Q And had you ever in the seven years that you
10 were the building director --

11 A Commissioner.

12 Q -- commissioner -- sorry -- had you ever
13 participated in a meeting like that before
14 where an entity was contemplating moving in to
15 the city of Lakewood and all of those
16 representatives of various departments attended
17 a meeting to discuss whether they would be
18 allowed to?

19 A Yes.

20 Q On how many occasions?

21 A I couldn't tell you. I don't remember. We had
22 meetings all the time on various things.

23 Q And when you say, "You had meeting all the time
24 on various things," I'm actually asking
25 specifically about something like the youth

1 reentry program, some type of organization that
2 wanted to move a large group of people here to
3 the city of Lakewood. Do you remember that
4 ever happening?

5 A I don't remember having any large meeting
6 regarding a similar or a like use to the
7 reentry program. I don't remember that ever
8 coming.

9 Q Does the health department play any role in
10 enforcement of the zoning codes?

11 A No.

12 Q At least the building zoning codes, right, they
13 don't play any role?

14 A The health department plays no role that I can
15 remember in the determination in the zoning
16 code.

17 Q Would you go to page 825, which I'm going to
18 mark as Exhibit 18.

19 - - - - -

20 (Plaintiff's Exhibit No. 18 was marked.)

21 - - - - -

22 A Okay.

23 Q This is an email dated March 14, 2006 from Mark
24 Brauer to Mary Louise Madigan, correct?

25 A From Mark Brauer to Madigan9@hotmail.com, yes.

1 Q Do you know who Mary Louise Madigan is?

2 A I believe at the time she was a council person.

3 Q Did you get a copy of this letter? You're not
4 listed as a recipient, but Dotty Buckins is.

5 Did you ever see this email?

6 A I don't remember getting a copy of this, no.

7 Q In this he indicates that the February 14
8 meeting took a little different direction than
9 some of us, including Mrs. Buckins, had
10 anticipated. Early on Charles Barrett cited
11 the Lakewood zoning code for the neighborhood
12 where the Hidden Village Apartments are
13 located. Did you come into this meeting
14 intending to advise YRP that their proposed use
15 violated the City of Lakewood zoning?

16 A Yes.

17 Q Did you discuss that intent with Mayor George
18 before having this meeting?

19 A No.

20 Q Other than the three people you've told that
21 you discussed it with, can you remember
22 discussing it with anybody else?

23 A No.

24 Q Did Mayor George ever tell you that he didn't
25 want the youth reentry program in the city of

1 Lakewood?

2 A I don't remember him saying that.

3 Q Did he ever tell you he didn't want them at
4 Hidden Village?

5 A Now, let me ask you a question. Are you
6 talking prior to this meeting?

7 Q At any point in time, did Mayor George tell you
8 he did not want the youth reentry program at
9 Hidden Village?

10 A He did not think it was the correct location
11 zoning wise and he offered to look into it to
12 put them in another location in a zoning area
13 that would accomplish it.

14 Q Do you know where that area was?

15 A The mention to me in the conversation I believe
16 was Detroit Avenue, I believe because that was
17 the most liberal zone.

18 Q What does that mean, "the most liberal zone"?

19 A There's more uses that you can put on Detroit
20 Avenue than you could in the MH district.

21 Q When did he have that discussion with you in
22 relationship to either the February 14 meeting
23 with Lutheran Ministry or your letter of
24 May 18? Was it in between?

25 A No.

1 Q Was it after?

2 A It was after the May 18, 2006 letter.

3 Q Was it before the planning commission hearing
4 regarding the zoning?

5 A Yes.

6 Q After they appealed?

7 A No. It was before the planning commission.

8 Exact dates I don't remember, but it was
9 offered to the youth reentry program to help
10 them look into a different location.

11 Q In this email, he indicates there was -- after
12 you discussed the Lakewood zoning -- and I'm in
13 the second paragraph -- the Lakewood zoning
14 codes and your interpretation, there was some
15 discussion and a clarification of your
16 understanding of the code along with some
17 information from representatives of the police
18 department on the neighborhood characteristics.
19 Does that refresh your recollection as to
20 whether there was a representative of the
21 police department present at that meeting?

22 A No, it does not.

23 Q And it indicates that there was discussion of
24 possible Lakewood venues like the commercial
25 districts along Detroit and Madison. Does that

1 refresh your recollection as to the timing of
2 your discussions with Mayor George?

3 A No.

4 Q Well, who was it that first suggested moving
5 them to Detroit Avenue as opposed to Clifton?
6 Was it Mayor George?

7 A I don't remember who mentioned it first.

8 Q Did you ever come up with the idea before Mayor
9 George mentioned it to you?

10 A No, I did not.

11 Q So somebody else came up with that idea?

12 A Somebody else came up with the idea, yes.

13 Q So somebody else came up with that idea even
14 before February 14, 2006 since it was discussed
15 at this meeting?

16 A State the question again, please.

17 Q Well, to give you some context, this email is
18 dated March 14, 2006.

19 A Okay.

20 Q It talks about the February 14 meeting that
21 occurred only a month earlier.

22 A Um-hum.

23 Q It describes what transpired at that meeting in
24 that paragraph. Do you see that?

25 A Yes.

1 Q It says that "There were discussions regarding
2 the neighborhood characteristics as well as
3 talk of other possible Lakewood venues like the
4 commercial districts along Detroit and
5 Madison." Do you see that?

6 A Yes.

7 Q Does that refresh your recollection as to
8 whether that topic came up during the
9 discussion with the Lutheran Ministry
10 representatives on February 14?

11 A It may have come up. I was not involved in it.

12 Q But you were present when it came up?

13 A I was present. I remember some talk about it.

14 Q So somebody else raised it during that meeting?

15 A Yes. I did not.

16 Q But you don't know who did?

17 A I do not know.

18 Q But at the time that it was discussed at this
19 meeting, even though you didn't raise it, had
20 it ever been raised with you before?

21 A I don't remember if it had been or not. I
22 don't believe it had.

23 Q Well, had Mr. Corrigan raised that issue with
24 you before, before the February 14 meeting?

25 A I don't remember.

1 Q Had Mr. Favre raised that before February 14?

2 A I don't remember.

3 Q Had Mr. Fitzgerald raised it before
4 February 14?

5 A I don't remember.

6 Q But at some point in time you do recall having
7 a conversation with Mayor George where he
8 suggested that there were more appropriate
9 locations in Lakewood for this youth reentry
10 program?

11 A At some point in time, yes.

12 Q And other than Mayor George, you don't remember
13 speaking with anyone else about that topic,
14 i.e., a different location in the City of
15 Lakewood?

16 A I believe it was expressed in front of more
17 than just to me. It wasn't to me. It was more
18 to the group.

19 Q I'm not suggesting it wasn't.

20 A Okay. But I don't know who else was in the
21 conversation.

22 Q My only question is: Was that the only person
23 you recall discussing it with you, whether in a
24 group or not in a group, was Mayor George?

25 A It wasn't really discussed with me. I was

1 standing there and heard it said.

2 Q Sure. By Mayor George?

3 A I believe it was, but I'm not positive on that
4 one either.

5 Q And you don't remember who it was told to. You
6 just happen to be present when it was said?

7 A Yes.

8 Q Now, he says in this email that Craig Miller
9 from Ulmer Berne examined the code, looked at
10 what the youth reentry program was and then had
11 a conversation with Charles Barrett, Ed
12 Fitzgerald and Tom Corrigan. Do you remember
13 having a conversation with an attorney for the
14 Lutheran Ministry?

15 A Yes.

16 Q Tell me what you recall about that
17 conversation.

18 A He did not think I was correct. He expressed
19 it in very firm terms. I told him he was
20 incorrect and after that -- after that I didn't
21 have a lot of conversation with him at all. I
22 believe the conversations after that were with
23 the law department.

24 Q Other than him telling you that your
25 interpretation was incorrect and you telling

1 him that he's wrong, that was the sum and
2 substance of the discussion?

3 A Yes, as I remember it was, yeah.

4 Q Now, did Mayor George ever advise you in any
5 way at any point in time that he didn't --
6 other than suggesting that they could relocate
7 the facility to a different location, did he
8 ever say anything to you that suggested that he
9 did not want the youth reentry program at
10 Hidden Village no matter what?

11 A Not that I remember.

12 Q Did you have an understanding that the letter
13 you sent in May was sent at the direction of
14 Mayor George? I mean, in other words, did you
15 have an understanding that Mayor George wanted
16 you to send a letter to Michael Priore advising
17 them they were in violation of the zoning code?

18 A My conversation was with Tom Corrigan. I never
19 had conversation whether to send the letter or
20 not send the letter with the mayor.

21 Q So that conversation is the one where you said,
22 "I believe it's a violation of the zoning
23 code." He said, "I agree" and you wrote a
24 letter and he approved the letter?

25 A Right. "He" being Tom Corrigan.

1 Q Did you ever go to Hidden Village -- let me
2 back up. You said you were told by somebody
3 that Hidden Village moved into the community.

4 A Yes.

5 Q And you don't remember who told you?

6 A I don't remember.

7 Q After you were told, did you ever go out to
8 Hidden Village?

9 A I was there for one visit to Hidden Village.

10 Q Why did you go?

11 A I went with -- let's see, there was Ed Favre,
12 myself, I believe Ed Fitzgerald and the fire
13 marshall.

14 Q Why did you go there?

15 A I was asked to go along. I don't know
16 specifically. I don't remember what the
17 circumstances were.

18 Q Do you remember how close in time to learning
19 that YRP had moved into Hidden Village that you
20 went out there?

21 A When I went out there, they were there, but
22 when the date was I went out there, I don't
23 know.

24 Q How did you know they were there?

25 A I knew they were there from that time of seeing

1 them there.

2 Q What do you mean, "seeing them there"? How
3 could you tell it was YRP when you saw them
4 there?

5 A Let's see, went to the door, knocked on the
6 door. I believe Favre knocked on the door. We
7 asked for admittance and we went in.

8 Q You're talking about the offices?

9 A Yeah.

10 Q Okay.

11 A And the woman -- I can't remember the woman's
12 name.

13 Q Candy, Michelle, Wanda?

14 A Who knows. I have no -- I have absolutely no
15 idea.

16 Q Okay.

17 A And we went in and we looked at it.

18 Q Looked at what?

19 A The desk. There was a conference room set up.
20 There was a brief conversation with the woman
21 and then she asked us to leave.

22 Q What was the conversation with the woman about?

23 A I had no conversation. Mr. Favre did. I
24 really didn't pay attention to it.

25 Q Did somebody take pictures while you were

1 there?

2 A Not that I know of, no.

3 Q Did you see any of the residents?

4 A There were residents outside, yes, as we came
5 in.

6 Q How did you know they were residents from YRP?

7 A They were just people there. I don't know if
8 they were residents of YRP or not.

9 Q Were they black?

10 A Some.

11 Q Did you see any white residents of YRP?

12 A I don't know who was a resident of YRP.

13 Q Did you see white people with the black people?

14 A I don't remember.

15 Q Did you discuss the fact that they moved in
16 without telling anybody when you were out
17 there?

18 A I had no conversation when I was out there.

19 Q Did Ed Fitzgerald express frustration that they
20 had moved in?

21 A I don't remember.

22 Q Did Ed Favre express frustration that they had
23 moved in without telling anyone?

24 A I don't remember.

25 Q Go to page 2183 --

1 A Yes.

2 Q Okay. "We asked her if we could go to the
3 office and she led us to suite D142. Once
4 inside, we identified ourselves and presented
5 our business cards. Jacobs subsequently
6 presented me with hers." Do you remember that?

7 A Yes.

8 Q "We advised Jacobs why we were there and she
9 confirmed that the youth reentry program had in
10 fact moved onto the address." Can you tell me
11 what you recall Mr. Favre explaining to Wanda
12 Jacobs as to the purpose of the visit?

13 A No. I don't remember what he explained to her
14 at all.

15 Q Do you remember that she then showed you a
16 chart and told you they had taken all of
17 building C, which is the southern end of the
18 property parallel to the railroad tracks, and
19 the northern portion of building D?

20 A I don't remember seeing a chart at all.

21 Q When you left there, did you have an
22 understanding that they had occupied the two
23 rear buildings at Hidden Village?

24 A My understanding when I left was that they had
25 occupied one building.

1 Q Do you remember which one it was?

2 A The one in, it would be the southwest corner.

3 Q Is that the one that they describe in this
4 email as building C?

5 A I believe it was. I believe it was the one
6 with 16 units.

7 Q Do you remember her asking if you had a search
8 warrant?

9 A Yeah. I believe she did ask that.

10 Q Were you surprised by that question?

11 A No.

12 Q Why?

13 A I did not look on us as welcome visitors.

14 Q What's that?

15 A I say, I did not look on it that we were
16 welcome visitors.

17 Q Was there something that she did, other than
18 ask for the search warrant, that suggested that
19 you were not welcome visitors?

20 A No.

21 Q Did you expect when you arrived that you would
22 not be welcome visitors?

23 A Yes.

24 Q Did you expect that this was going to be an
25 antagonistic relationship between the city and

1 YRP now that they've moved in?

2 A No, not necessarily. I just didn't think we
3 would be welcome.

4 Q Did you remember Mr. Favre telling her that she
5 had to basically understand the position that
6 the organization had put the city in?

7 A No, I don't remember that.

8 Q Who is Tom Jordan?

9 A Tom Jordan was the planning director.

10 Q Did you ever have any conversations with Tom
11 Jordan about the YRP issue?

12 A I don't remember any.

13 Q Turn to page 2180, which I will have marked as
14 Exhibit 20.

15 - - - - -

16 (Plaintiff's Exhibit No. 20 was marked.)

17 - - - - -

18 Q Do you have that?

19 A Yes. 2180.

20 Q Did you receive this email from Thomas George?

21 A I'm named on it. I don't remember receiving
22 it, but I'm named. I must have gotten it.

23 Q This is five days before you visited the youth
24 reentry program --

25 A Um-hum.

1 Q -- because you had visited on May 18, 2006.

2 A Um-hum.

3 Q Did you visit the youth reentry program because
4 of Thomas George's email?

5 A I don't remember what the reason was I went
6 there. I was just told to go there with
7 Mr. Fitzgerald and the other parties and I
8 went.

9 Q Who is Brian Corrigan?

10 A He was the law director at the time.

11 Q Did Mr. Corrigan report to him or vice versa?

12 A Report to who?

13 Q Did Tom Corrigan report to Brian Corrigan?

14 A Tom Corrigan reported to Brian Corrigan.

15 Q Who is Aldrich Bennett?

16 A I don't remember who that is.

17 Q Who is Michael Flynn?

18 A Aldrich Bennett was I believe Tom Jordan's
19 assistant in the planning department.

20 Q Okay.

21 A What was the next one?

22 Q Michael Flynn.

23 A He worked out of the law department.

24 Q So he was a lawyer?

25 A No. He handled building department cases in

1 the law department. When we had noncompliance
2 and things like that and people wouldn't do it,
3 we would send a letter to the people. He would
4 try and get them in the office here or talk to
5 them on the phone and try to get a date to get
6 building violations and corrections done.

7 Q Who is Mary Hall?

8 A From the -- I believe she was a youth officer.

9 Q What did you understand, if you received this
10 email, did you have an understanding as to what
11 Mayor George was telling you to do?

12 A I don't know what anybody was telling me to do.
13 Zoning laws in the city will be strictly and
14 uniformly enforced. I always did that, so I
15 didn't know -- looking at this now, I don't
16 remember getting it; but reading it now, I
17 don't know why it would be sent to me. I don't
18 take it as it telling me to do anything or not
19 do anything.

20 Q Go to 2181, which I'll mark as Exhibit 21.

21 - - - - -

22 (Plaintiff's Exhibit No. 21 was marked.)

23 - - - - -

24 Q Exhibit 21 is an email from Ed Favre to Tom
25 Corrigan and you were copied on it also on

1 April 13 indicating that "Ed Fitzgerald will
2 check it out and determine what and how they
3 are there. Can we get together Tuesday morning
4 and discuss how we will proceed with any
5 violations?" So you got this email. What did
6 you understand it to mean?

7 A That we were going to get together and discuss
8 it, I guess.

9 Q Well, apparently a decision had already been
10 made that you got to get together and talk
11 about violations, right?

12 A It says "...how we will proceed with any
13 violations." The violation was the zoning
14 code.

15 Q Okay. Go to page 499, which I'll mark as
16 Exhibit 22.

17 - - - - -

18 (Plaintiff's Exhibit No. 22 was marked.)

19 - - - - -

20 Q By the way, Tim Malley is the police chief?

21 A Yes.

22 Q Or was or still is. I don't know.

23 A He was at that time.

24 Q Doug Sabala, who is he?

25 A He was a captain at the time, I believe.

1 Q Do you know why it is that the police chief and
2 a captain in the police department were
3 receiving emails from Ed Favre regarding
4 potential zoning issues?

5 A No.

6 Q Would the police department have had any role
7 in enforcing zoning issues?

8 A No.

9 Q Do you typically involve the police department
10 in the enforcement of zoning issues?

11 A Not typically, no.

12 Q So it would be unusual if the police department
13 was involved in enforcement of a zoning issue?

14 A I don't know.

15 Q Did you typically involve Ed Favre in a zoning
16 issue?

17 A No.

18 Q Exhibit 22 is an email from Mark Brauer. You
19 were a recipient of it. Do you remember
20 getting this?

21 A You're talking what date, 4/27/2006 --

22 Q Yes.

23 A -- 3:07.37, youth reentry?

24 Q Yes.

25 A Do I recall getting it. Let's see, I don't

1 specifically recall it, no. Again, I'm sure I
2 got it, but --

3 Q Did you ever speak with Mary Louise Madigan
4 about this issue?

5 A I think I had a conversation with her about it,
6 yes.

7 Q Tell me what you recall.

8 A Nothing. I don't remember anything of it. I
9 think I talked to her once. It was a
10 conversation and I couldn't tell you what was
11 discussed in the conversation. I don't know.
12 I don't remember.

13 Q Was she an advocate for YRP?

14 A I don't remember which way she looked at it.

15 Q At any point in time did anybody communicate to
16 you a concern that they thought the City of
17 Lakewood's attitude towards the youth reentry
18 program were discriminatory?

19 A Not to me, no. I don't remember anybody saying
20 that.

21 Q Do you remember anybody saying anything in your
22 presence?

23 A No.

24 Q From your perspective, your role is to -- in
25 this regard, it was to enforce the zoning code

1 with respect to Hidden Village, correct?

2 A Yes.

3 Q And in that role, you send a letter indicating
4 your belief that a zoning violation has
5 occurred, right?

6 A Yes.

7 Q The land owner has the right to appeal that?

8 A Yes.

9 Q And in fact did in this case and went to the
10 planning commission, correct?

11 A Yes.

12 Q Once the planning commission sustains that
13 appeal and determines that your interpretation
14 of the zoning code was incorrect, do you have
15 any further involvement with respect to that
16 issue at this property?

17 A No.

18 Q Is there any reason why you would have further
19 involvement on that issue?

20 A On the issue of zoning?

21 Q Yes.

22 A No.

23 Q As it relates to YRP specifically, you
24 understood that at some point the planning
25 commission sustained the appeal and concluded

1 that you were incorrect in your interpretation,
2 correct?

3 A I was there. Yeah. They said -- they ruled
4 that -- they overruled my determination, yes.

5 Q At that point in time, whether you agree or
6 disagree with their decision, is your role then
7 done as it relates to the youth reentry
8 program?

9 A Yes, zoning wise, yes.

10 Q Did anybody ever come back to you and try and
11 come up with another way to get the youth
12 reentry program out of Hidden Village?

13 A No, not that I remember.

14 Q Page 167, which I'll mark as Exhibit 23.

15 - - - - -

16 (Plaintiff's Exhibit No. 23 was marked.)

17 - - - - -

18 Q Do you remember getting this email from
19 Mr. Favre?

20 A Again, I'm named on it. I probably got it, but
21 I don't specifically remember getting it.

22 Q It appears he forwarded to you a reply that he
23 sent to Mark Brauer indicating he was "very
24 disappointed that they chose to disregard the
25 Lakewood zoning codes as discussed at our

1 meeting of..." Do you have an understanding as
2 to why Mr. Favre is replying to Mark Brauer on
3 behalf of the City of Lakewood?

4 A No.

5 Q Do you have an understanding as to what role,
6 if any, he plays in the enforcement of zoning
7 codes?

8 A "He" being?

9 Q Ed Favre.

10 A To my recollection, he plays no role in zoning.

11 Q Do you know why it took a month before the
12 letter went out to the youth reentry program
13 about the zoning issue?

14 A A month from when?

15 Q From you learning they moved into the city.

16 A I don't remember the timetable, no.

17 Q Well, you got an email from Mayor George on
18 April 13, 2006 saying "I've learned that they
19 moved in."

20 A Um-hum.

21 Q On April 18, you went and visited the
22 facility --

23 A Um-hum.

24 Q -- we talked about that. And on May 18, you
25 wrote a letter --

1 A Um-hum.

2 Q -- which by my estimation is a month.

3 A Okay.

4 Q Do you know why it took you a month to write
5 that letter?

6 A I do not remember, no.

7 Q Go to page 138 and attached to it is page 139,
8 which we will mark as Exhibit 24.

9 - - - - -

10 (Plaintiff's Exhibit No. 24 was marked.)

11 - - - - -

12 Q That's an email you would have received from
13 Barbara Kelly with the agenda for the planning
14 commission meeting of July 5. Do you see that?

15 A Um-hum, yes.

16 Q On the agenda at this time is the appeal for
17 Hidden Village, correct?

18 A Yes.

19 Q You participated at that meeting. And if you
20 go to page 483 through 490, which we will mark
21 as Exhibit 25 --

22 - - - - -

23 (Plaintiff's Exhibit No. 25 was marked.)

24 - - - - -

25 Q -- those are, for lack of a better word,

1 minutes of the meeting that took place on
2 the 5th of July. Had you had an opportunity to
3 review those minutes before today's deposition?

4 A I reviewed the minutes at the time. I believe
5 I reviewed the minutes.

6 Q Are they accurate, at least at the time?

7 A To the best of my memory, yes.

8 Q Okay. It indicates here that -- essentially
9 you referenced your letter of May 18, 2006, if
10 you look at the bottom paragraph of the first
11 page.

12 A Yes.

13 Q Going on to the next page, you quoted the
14 zoning code that was contained in the letter,
15 correct?

16 A That's what it looks like, yes.

17 Q Did you provide any other information other
18 than your quote from the zoning code that
19 supported your conclusion that the youth
20 reentry program violated the City of Lakewood
21 zoning?

22 A Well, it says in here -- in the next two
23 paragraphs, it says what I stated.

24 Q Well, it says that "Upon completion of the
25 reading of this subsection, it was noted to all

1 present that the intended use, that of the
2 youth reentry program, was not a permitted
3 principle use of the property," so you quoted
4 the statute that was in your letter --

5 A Right.

6 Q -- and then said it's not an appropriate use.

7 A Um-hum, yes.

8 Q Then in the next paragraph, you indicated that
9 you were disappointed to learn that they went
10 in there, right?

11 A Yes.

12 Q Basically all those four paragraphs, the bottom
13 of page 483 and on to the top of page 484,
14 simply regurgitates the letter of May 18,
15 correct?

16 A Right, and informs the planning commission,
17 yes.

18 Q Then Mr. Corrigan interjects apparently that
19 there was a flyer that was distributed to
20 abutting neighbors.

21 A Yes.

22 Q This is the flyer, correct, Exhibit A from
23 Ms. Watts' deposition? (Indicating.)

24 A I don't know if that was the flyer. I never
25 saw the flyer prior to walking in this

1 office -- in this conference room.

2 Q Before walking into this deposition?

3 A I had never seen it before.

4 Q So it was news to you when Mr. Corrigan said
5 that there was a flyer that was distributed to
6 abutting neighbors?

7 A Yes.

8 Q However, assuming that Exhibit A is the
9 flyer -- let's assume for purposes of my
10 questions that it is.

11 A Okay.

12 Q There is a reference in here to the fact that
13 there are people with felony records that are
14 going to be living at Hidden Village, correct?

15 A "Are you aware? Convicted felons are living in
16 your backyard," that's what it says.

17 Q And that's similar to what Favre had told you
18 early on in your discussion with him, that the
19 youth reentry program was going to have people
20 with criminal backgrounds, correct?

21 A I don't remember him -- I don't remember what
22 he said exactly. It was something about
23 juvenile delinquents or something like that.

24 Q Well, when you heard what he said, did you
25 interpret at that time that he meant people

1 with prior criminal history?

2 A Yes.

3 Q In fact, you had a number of conversations with
4 Mr. Favre in the months preceding this hearing
5 in July of 2006, didn't you?

6 A I think so. I don't remember them all.

7 Q And he was a special assistant to the mayor.

8 A Yes.

9 Q He, Mr. Favre, was pretty vocal in his
10 opposition of the youth reentry program, wasn't
11 he?

12 A I believe he was on the same page I was. Well,
13 I don't know. I was on the page that it was a
14 zoning violation and it shouldn't be there. He
15 was coming from the other way about, as I
16 remember, juvenile delinquents, something like
17 that.

18 Q He was worried about crime, wasn't he?

19 A I don't know what he was worried about.

20 Q He was worried about issues beyond just the
21 zoning, wasn't he?

22 A He was interested in issues other than building
23 department. His job description is entirely
24 different than building department or zoning.

25 Q Do you even know what his job description is?

1 A No.

2 Q Do you know if he had one?

3 A I have no idea what his job description was, if
4 he has one or not. All I know is he was not
5 working in the building department.

6 Q Would you agree that he was one of the most
7 vocal opponents to the youth reentry program?

8 A I don't know. I didn't hear all of the
9 opponents to it.

10 Q Of those that you did hear, was he the most
11 vocal?

12 A I don't know. There were others that were
13 vocal.

14 Q Tell me who else was vocal.

15 A Fire marshall.

16 Q And who is that?

17 A Scott.

18 Q Anderson?

19 A What is it?

20 Q Is it Anderson?

21 A No. I don't remember Scott's last name. Fire
22 marshall.

23 Q What did he say that --

24 A Well, his viewpoint on it was that there should
25 be more requirements there, that there should

1 be sprinklers. Because it was an institutional
2 use now, there should be sprinklers, there
3 should be different types of detectors there
4 and stuff like that. Fire-issue items.

5 Q When did he express those concerns to you?

6 A Sometime in this whole process. I don't
7 remember when. I believe it was after the
8 planning commission set aside my decision.

9 Q So at some point in time after the planning
10 commission set aside your decision, you had
11 discussions with Scott regarding Hidden Village
12 and his concerns of its institutional use?

13 A Right, sometime in there.

14 Q Did you have conversations with anybody else
15 regarding ways to approach the Hidden Village
16 zoning issue after the planning commission --

17 A There was discussion. I don't remember who.
18 Somebody had said there was -- somebody had
19 brought up about suing the planning commission,
20 something like that.

21 Q You don't know who said that?

22 A I have no idea who said that.

23 Q I mean, that's a pretty unusual course of
24 conduct in the city of Lakewood, isn't it?

25 A Somebody said it and somebody else said, "No,

1 we're not doing that." That was basically --
2 but who said it and in what context, I have no
3 idea.

4 Q But in some context within your capacity here
5 at the city in a meeting you participated in
6 somebody suggested that that would be an
7 approach?

8 A Somebody said it to me.

9 Q And at the same time somebody responded, "No,
10 that's not what we're going to do"?

11 A Something, yeah. It was a one-sentence line in
12 and a one-sentence line out and it never came
13 up again.

14 Q Tell me what conversations you had with Ed
15 Favre about the planning commission issuing
16 their decision.

17 A He disagreed with them. He asked me why. I
18 believe that's the way I remember it. He asked
19 me why and I said, "I have no idea why they
20 turned it down." To this day, I have no idea
21 why they turned -- why they changed my
22 interpretation or saw that it wasn't correct.

23 Q Was he upset that they had gone in a different
24 direction and sustained the appeal?

25 A I don't know if "upset" would be the word.

1 Mystified, confused as to why, yeah.

2 Q Was there ever a meeting that was held with you
3 present to discuss other ways to get around the
4 planning commission decision with respect to
5 Hidden Village?

6 A None that I remember, no.

7 Q But you certainly understood that the fire
8 marshall was going to pursue investigating
9 whether this was an institutional use requiring
10 further fire suppression issues, right?

11 A Yes.

12 Q And that came up after the planning commission
13 meeting issued their determination?

14 A I don't remember when it came up, but it came
15 up at some point in time; that he viewed it
16 that it should have sprinklers or other fire
17 fighting things.

18 Q Now, whenever he expressed that to you, did you
19 interpret him expressing that to you as being a
20 sincere concern that maybe the institutional
21 use of this property was not in compliance with
22 fire code?

23 A His interpretation was it was institutional.
24 My interpretation it was not institutional. I
25 told him, "If you can cite it out of the fire

1 code, cite it, but it's not a building code
2 violation."

3 Q Because it's not an institutional use?

4 A Correct, it's not an institution by the
5 building codes.

6 Q Got you. Do you know whether he ever pursued
7 that issue to try and --

8 A I don't know if he researched it. I'm sure he
9 did. He's very good on research. If there
10 would have been something that could have
11 provided for better safety of occupants there,
12 he would have pursued it.

13 Q Go to page 2459, which will be marked as
14 Exhibit 26.

15 - - - - -

16 (Plaintiff's Exhibit No. 26 was marked.)

17 - - - - -

18 Q This is the letter sustaining the appeal from
19 Tom Jordan's secretary of the planning
20 commission, correct?

21 A Yes.

22 Q After receipt of this letter, was there a
23 formal meeting with Mayor George to discuss
24 options for dealing with this decision?

25 A I don't remember a meeting.

1 Q Do you ever remember a meeting with Tom George
2 after this decision to discuss Hidden Village?

3 A With Tom Jordan?

4 Q Tom George?

5 A Tom George, no. I don't remember any meeting.

6 Q If you go to the first page of that stack,
7 page 110.

8 - - - - -

9 (Plaintiff's Exhibit No. 27 was marked.)

10 - - - - -

11 Q Now, there's an email from Tom George dated
12 January 6, 2007 to Ed Favre. "I can meet on
13 Wednesday, January 17 at 9, 10, 11 or Thursday
14 January 18 at 1, 2 or 3. We should include
15 Charlie Barrett, Scott Gillman" --

16 A Gillman.

17 Q Scott Gillman is the fire marshall, correct?

18 A Right.

19 Q -- "and Tom and/or Brian Corrigan, Chief
20 Malley, Tom Jordan and anyone else you would
21 consider. TJG." Did you have a meeting in
22 January of 2007?

23 A I couldn't tell you. I don't remember.

24 Q This is about three months before you retired,
25 right?

1 A Yeah. I don't remember.

2 Q If you look at the next page in that stack,
3 page 111, which I am marking as Exhibit 28 --

4 - - - - -

5 (Plaintiff's Exhibit No. 28 was marked.)

6 - - - - -

7 Q -- it is an email that came 20 minutes later
8 from Ed Favre indicating that there would be a
9 meeting regarding Hidden Valley, but it should
10 be Hidden Village at 2 p.m. on Thursday,
11 January 18 at the mayor's conference room. The
12 mayor will be joining us. Do you now remember
13 having this meeting?

14 A No, I don't remember it.

15 Q Now, are you currently under any medication
16 that affects your memory?

17 A No.

18 Q Has anything happened that would affect your
19 memory?

20 A No.

21 Q But nevertheless, as we sit here today, you
22 have no recollection of any meeting only three
23 months before your retirement with Mayor George
24 to address the issue of Hidden Village?

25 A No. When I left the building department, I

1 left the city. I left it all.

2 Q I don't blame you. Is it possible that the
3 meeting that you can't recall is when
4 Mr. Gillman brought up the issue of the fire
5 code and possibly pursuing this as an
6 institutional use?

7 A I don't know about that meeting, but I know he
8 had brought that up in my office a couple of
9 times about the sprinklers and stuff like that.
10 He just walked in. As we talked over various
11 items, we would talk about that.

12 Q As we sit here today following the planning
13 commission's decision in July 2006, between
14 that period of time and your retirement, do you
15 recall any conversations in which you
16 participated -- either conversations or emails
17 which you were a recipient of where the
18 discussion involved getting the youth reentry
19 program out of Hidden Village?

20 A I don't recall any conversation about getting
21 them out of there. The main conversation I had
22 was with Scott Gillman about the fire
23 protection and he didn't say anything about
24 changing their location or getting them out of
25 there. He wanted to talk about sprinklers and

1 things like that.

2 Q How long did you work under Mayor George?

3 A Since he was inaugurated, whenever that was. I
4 don't remember the dates.

5 Q Do you remember how many years it was,
6 approximately? Were you the assistant building
7 commissioner or were you the building
8 commissioner?

9 A I think I was under him like, let's see, three
10 years, something like that.

11 Q Did you ever hear him make a comment that you
12 would consider racially derogatory?

13 A Never.

14 Q Did you ever hear him tell a racially
15 derogatory joke?

16 A No.

17 Q Did you ever hear him tell an off-colored joke?

18 A No.

19 Q How about Ed Favre? Did he ever make a comment
20 to you that you considered racially
21 insensitive?

22 A No.

23 Q How about an off-color racially insensitive
24 joke?

25 A None that I remember.

1 Q Did he ever use any derogatory terms in
2 reference to African-Americans?

3 A None that I remember.

4 Q Did you ever hear anybody in the administration
5 make an off-color joke?

6 A No.

7 Q Did you ever hear anybody in the administration
8 make a racially insensitive comment?

9 A No.

10 Q Did it surprise you that Ed Favre told you that
11 there were blacks in the youth reentry program?

12 A No.

13 Q Did you ask him how he knew there were blacks
14 in the youth reentry program?

15 A No, no, I didn't.

16 Q Did you have an opinion before you went out to
17 the youth reentry program that there were
18 likely African-Americans in that program?

19 A I had no opinion. I had -- I didn't know what
20 we were going to find out there. I had
21 absolutely no idea.

22 MR. HABER: Give me a second with
23 my client.

24 MR. CLIMER: Sure.

25 (Recess taken.)

1 MR. HABER: I don't have any
2 further questions.

3 MR. CLIMER: We'll read.

4 MR. HABER: And I'll take it.

5 (Thereupon, the deposition
6 was adjourned at 4:01 p.m.)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

THE STATE OF OHIO,)
COUNTY OF CUYAHOGA.)

SS:

I, Tracy Morse, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that CHARLES BARRETT, was first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by him was by me reduced to stenotypy in the presence of said witness, afterwards transcribed on a computer/printer, and that the foregoing is a true and correct transcript of the testimony so given by him as aforesaid.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified. I do further certify that I am not a relative, counsel or attorney of either party, or otherwise interested in the event of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Cleveland, Ohio, on this 5th day of November 2010.

Tracy Morse, Notary Public
within and for the State of Ohio

My Commission expires 1/26/2013.

THE STATE OF)
) SS:
COUNTY OF)

Before me, a Notary Public in and for said state and county, personally appeared the above-named CHARLES BARRETT, who acknowledged that he did sign the foregoing transcript and that the same is a true and correct transcript of the testimony so given.

IN TESTIMONY WHEREOF, I have hereunto affixed my name and official seal at
this day of
, 2010.

CHARLES BARRETT

Notary Public

My Commission expires:

tm