

WITNESS STATEMENT

DATE: August 31, 2021

TIME: 11:05 a.m.

INTERVIEW OF: Kelley Morris-Salvatore
Town Solicitor, Town of Cumberland, Rhode Island

INTERVIEW BY: Detective Lieutenant Matthew Salisbury
And
Investigator Gerard Ratigan
Rhode Island State Police Financial Crimes Unit

LOCATION: Cumberland Town Hall
45 Broad Street
Cumberland, Rhode Island 02864

SUBJECT: 21RIX1-1408-OF

DETECTIVE LIEUTENANT SALISBURY: Today's date is August--, Tuesday, August 31st, 2021. The time is 11:05 a.m. This is an interview of Ms. Kelley, K-E-L-L-E-Y Morris, M-O-R-R-I-S, Salvatore, S-A-L-V-A-T-O-R-E. And she is the current full time Cumberland Town Solicitor.

INVESTIGATOR RATIGAN:

1. **Q.** How long have you been the town solicitor for, Ms. Morris?
A. January of 2018. So, Jeff Mutter appointed me when he took office.
2. **Q.** Okay. And prior to that, what was your role in town government?
A. Well, pri--, prior to that I was actually counsel for the Town Council.
3. **Q.** Yup.
A. Which was separate from the town solicitor. The council hired me. I did that for

approximately two years. But I had my own firm for about three years--

4. Q. Okay.

A. -- before that. So, that was like an independent contractor position.

5. Q. Okay. Okay. Was there a period of time when you were the town planner?

A. Yes.

6. Q. What period of time was that?

A. Oh gosh. I'm going to have to do a little bit of guessing. I remember it was August. I

would say approximately —ugh—2000 ...I, I just need to look at a calendar if you don't mind.

Um. Ugh. 2013 to 2016?

7. Q. If you recall, during that time, did you ever become notified of an applications to alter wetlands on Canning Street?

A. Not while I was the planner.

8. Q. You did not.

A. I don't remember that. No.

9. Q. That's fine.

A. Mm.

10. Q. But if—if—if . . . if an application had been filed, you would have been notified.

A. Likely. Yup.

11. Q. All right.

A. I think those—those go to the town clerk and potentially the planning department, yes.

12. Q. Okay. The most recent applications to—to wetlands on 45 Canning Street, . . . whose property was owned—the property was owned by Joan Mooney. One was in September of 2019, and

June of '21. Do you have any knowledge of those applications?

A. Yes.

13. Q. Okay. What can you tell us in general about those applications.

A. Well, I became aware of the original application when – I think it was Jonathan Stevens who asked for a meeting to discuss his concerns about the application due to the flooding in the area. You know, this was a while ago, so th--, and this is the first application. The result of that meeting was that Jonathan was designated as the person to write a letter objecting to the application—to the DEM.

14. Q. Okay. Did he have a discussion with you about what his concerns were?

A. Yeah. The flooding in the area, --

15. Q. Yeah.

A. I mean, it was 93 percent wet.

16. Q. Yup.

A. I think we knew that the adjacent property was owned by a different third per--, party; --

17. Q. Yup.

A. -- that that's a concern.

18. Q. Yup. In fact, I'm going to show you a, a, Town of Cumberland GIS report, and this lot right here is the lot in question.

A. Yup.

19. Q. And this adjacent lot in the lot behind it are owned by the same person.

A. M--, Michelle Burgoyne.

20. Q. That's correct.

A. Yup.

21. Q. Okay. And so the fact that this lot was considerable wetlands, and how would that have impacted the neighbor's property—if you know?

A. I think that we knew. And again, this is going back a while, but I think we—we knew—I don't know if somebody spoke to Michelle at the time, but we knew that it was draining onto her property. But—but the application would have made it drain even more. And then dry this out, obviously.

22. Q. Right.

A. So, I mean, it had--, the water had to go somewhere, so that's where it was going.

23. Q. Okay. So you had your conversation with the current town planner. And w—was a, a back—was it a back and forth?

A. I think we--, I'm sure there was a back and forth about it over probably of a couple of days, a few days. We also had a meeting—I'm sure we had a meeting with the mayor and Bob Anderson, because that's what we do, you know, heh.

24. Q. Right.

A. So.

25. Q. And you were in agreement with the decision for the town planner to write the letter objection—objecting to the alteration?

A. Well, I don't know if it's my role to agree with an objection, because its technical. But I probably told them the process and advised them that this would be appropriate. So...

26. Q. Okay.

A. That's really their decision: the mayor, the planner, the engineer.

27. Q. Okay. What other involvement did you have regarding this—or knowledge did you have

regarding this application to alter wetlands on this property?

A. Well the more recent application I've talked to Michelle Burgoyne. The first application I did talk to Tony Silva about it. He called me.

28. Q. He did.

A. Yes.

29. Q. Can you tell us about that conversation?

A. If I--, Can I refer to my um, texts?

30. Q. Of course. Of course.

A. (pause) So around early March of 2020, um, . . . I would say early March, probably around March 6th, he asked me to call him. And, you know, I don't remember when I talked to him or how --how many times I talked to him, but I probably talked to him a couple of times. So, he was asking me for guidance on, on anything relating to 45 Canning Street. And I—it, it looks with my texts that ar--, right after the 6th, we had a conversation, and he was concerned about an objection being filed to the original application.

31. Q. Mm hmm.

A. And he was telling me that, you know, it's—it's the town's—the town created this drainage issue. I mean, I could read the texts to you if that's what--

32. Q. Certainly.

A. -- you want me to do.

33. Q. Sure.

A. This is from him on March 10th: 'Hi Kelley. As an FYI for you, J. Stevens is not aware that the town created the drainage issue on [sic]—at the lot on Canning Street with

grading pitch of the road surface over the years. Also, neighbor across the street discharges storm water across the street with every storm. Although I have already invested money, I will pull out silently. But Mooneys will certainly use the legal system to pursue their rights. I've [sic] -- They've already told me that. I am willing to discuss install of catch basins, replacement of existing drainage pipe, et cetera, to re--, to mitigate and vastly improve existing situation. I appreciate your help. But I am on a hard stop on a Thursday to notify DEM. Thanks again.' I do remember when we spoke, he—he kind of said, you know: Oh, the Mooneys are gonna sue the town. And I said: Well, they don't have a claim against the town because there used to be a statute that said the town could essentially void a DEM application--

34. Q. Mm.

A. -- just by objecting to it; that would go through the town council. But that statute was changed. So I told Tony we're an objector just like any other objector. And DEM's the one that has to approve the permit; not the town. So that was another—, You're asking me what my conversations were with him.

35. Q. Yup.

A. That was part of it. And I remember it from reading this text. Then I think he got an extension at some point. March 12th: 'Heard anything on Canning Street? I would like to move forward.' On the 13th: 'I just got an extension to March 26th, through DEM to submit my application for hearing.' Now that's when he told me that he was going to have to pay \$2,000 to proceed. And I'm not--, I am not an expert with DEM process.

36. Q. Mm hmm.

A. At that point, I thought that he was going to have to pay for a hearing. But I now

understand that that was a denial of that application, and the \$2,000 would have been an appeal.

37. Q. Mm.

A. That's my understanding.

38. Q. Okay.

A. Then it says: 'Don't bother mayor anymore, we can talk early next week. Thank you for your assistance with this. Be safe with this virus.'

39. Q. You indicated that you're a quote / unquote 'townie,' you've been--

A. Yup.

40. Q. -- here --

A. Yeah.

41. Q. -- you grew up [Indiscernible]

A. Yeah.

42. Q. Born in Valley Falls?

A. Well, not born. No, six, I was six-years-old when I moved here.

43. Q. Okay. So you've been here for--

A. Yeah, I don't know if I'm allowed to say 'townie' then, am I.

44. Q. --more than 20 years.

A. I take it back. (chuckles)

45. Q. (chuckles) And how do you know Tony?

A. I know Tony through--, I mean, he--, So, when I was on the council in 2006, that was when Dan McKee was re-elected after he lost to Da--, Dave Iwuc.

46. Q. Yup.

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A. So, --

47. Q. Was he elected as mayor?

A. Mayor. Right. So, I was on the c--, I came on the council when Dan McKee did his s--, started his second stint as mayor. And, and actually I only know this because I read the paper the other day, that's when Dan McKee appointed Tony Silva as EMA Director.

48. Q. Mm hmm.

A. So, that's probably around the time that I met Tony.

49. Q. O--

A. I might have met him during the campaign though too. Like, I don't--

50. Q. So, you—you—you met him and knew him or--

A. Yeah.

51. Q. -- like, --

A. Yeah.

52. Q. -- through your position as the Town Manager and he as an employee.

A. Yup. As Town Solicitor. Yeah. I mean, council. Council. Sorry.

53. Q. Okay. And, and you indicated one his texts, 'Don't bother the mayor.' Is it—is it safe to presume that Tony was running questions through you that he was asking to be forwarded to the mayor? I'm not sure-

A. Mm.

54. Q. -- what that meant.

A. Um. I don't know. I mean, I have a lot of people who call me rather than bothering the mayor that I will run things by the mayor or s--, other staff. Sometimes—Because I've been around so long I think, people might call me and say: Hey, how do I do this? Or, you know:

What do you think of this? And sometimes I say: I'm not going to give you any opinion, you got to talk to so-and-so, and sometimes I say: Well, let me see what they think, you know, depend--, depending on the situation. So it's not—I, I can't tell you what Tony was thinking, he knows Jeff Mutter. I don't—I don't know why, you know.

55. Q. As far as your—As far as the reason that Tony was reaching out for you initially, reading between the lines, it's because you have some degree of experience with DEM wetlands?

A. No. I think it's because he knows me. I don't know. I, I—You'd have to ask Tony that really.

56. Q. Okay.

A. I don't think--, No. I mean, I think that my—So, my concentration for the 20-something years I've been practicing, is land use. So yeah, sometimes people will call me when they really should be calling the Planning Department. But on this, I don't—I don't think it was because he thought I knew about DEM. No.

57. Q. Okay.

A. I think he was trying to--, Some p--, times people, as you know, people try to get attorneys on board because they think that somehow we're going to influence our clients, right? I mean, that's what—that's what people do.

58. Q. Sure.

A. So, if, you ... the, the long text about, you know, this was an issue created by the town, he probably, I don't know, assumed I was gonna go say: 'Oh Jonathan, this was something that was created by the town. What are you thinking?'

59. Q. Mm.

A. But I did not do that (chuckles).

60. Q. And d--, do you have any knowledge either to agree or disagree with the statement that that was created by the town?

A. I am told by Bob Anderson that—and, and Bob will tell you that he was given this information from a longtime employee who's in the sewer department, that the town did move water across the street and through this property with an old drainpipe that might be damaged. So, that's my knowledge.

61. Q. Subsequent to those texts that you—you read out to us, had--, did you--, have you had any other conversations with Tony Silva ...?

A. I don't think so.

62. Q. No.

A. Nope. And I don't have any texts. Because I looked. I don't remember any--, I don't remember anything—I think he gave up on me—on the second application.

63. Q. Okay, you don't think you had any conversations with him.

A. I don't think so.

64. Q. Okay.

A. I mean, we followed it a little bit, and we were—I remember we were very surprised when DEM issued the permit. But I—And, you know, I may have, but I don't remember having any conversations with Tony about that.

65. Q. Okay.

DETECTIVE LIEUTENANT SALISBURY:

66. Q. Was there any e-mail communication?

A. I looked for those too. The only e-mail I've—Actually, I don't even think I found it, I think the mayor might have found it, was an e-mail in about September 2020 where his attorney

at the time, Scott Partington—I think you guys all know all this stuff, that's why... He want--, He—Scott must have called me and asked—asked me to set up a meeting with the mayor and Tony.

67. Q. We had heard that.

A. Yes.

68. Q. What number did—did that text come from, what phone number?

A. I think it's his personal if that's what you're asking. But let me—let me um, --

Because I've had this number for a long time. ■■■-■■■-■■■.

69. Q. But you're not sure if it's personal.

A. I'm not s--, Well, I'm not sure. But I've known Tony for a long time, and I think I've had his phone number for a long time, like, prior to him being – Well, I can tell you. Let me look at messages again. Because you know, I mean, Dan McKee hired me, so—and Tony Silva raised money for him; so I've been invited to fundraisers. I have texts going back on this number to November 3rd, 2016. Actually, it's to him starting. Okay.

(papers shuffling)

DETECTIVE LIEUTENANT SALISBURY: [Indiscernible] okay.

INVESTIGATOR RATIGAN:

70. Q. Do you have any other numbers for [Indiscernible] ...?

A. No, that's the only number I have.

71. Q. Thank you.

DETECTIVE LIEUTENANT SALISBURY:

72. Q. Just in terms of the timeline—timeline here that we try to put together—I do anyway, but

we do. So, it looks like the original letter from Mr. Stevens or the t--, It's probably fair that could be chac--, characterized as the town's objection--

A. Mm hmm.

73. **Q. -- to the wetlands permit, was November of 2019. Does that sound--?**

A. That sounds about right.

74. **Q. Okay. Were you involved in that process leading up to it?**

A. Yeah. I mean I think—Like I said, I—we—when Jonathan's going to send something like that, he's definitely going to ask me about it. I remember we definitely had a meeting. I don't--, I can't tell you when.

75. **Q. Okay.**

A. I—My—Our process is when something like that's going to go out, I'm sure I proofread it--

76. **Q. Okay.**

A. -- or, or, you know, maybe made a couple of edits. I might have e-mails to that effect, I don't know.

77. **Q. Okay.**

A. But yeah, I definitely would have seen that letter before it went out.

78. **Q. Okay. And I probably asked a lawyerly question of Mr. Stevens, but it looks like there's quoted language from like the DEM Rules and Regulations. Is that something that you have been involved in in--**

A. Maybe, --

79. **Q. -- getting--**

A. -- yes.

80. Q. -- it through a letter?

A. Yes, probably.

81. Q. Um, --

A. Although he has v--, very good staff that can dig into that stuff too.

82. Q. Okay. I think the main—my main question though is then: So when you were telling us about the contact from Mr. Silva and you were reading the—us the text, that was March of 2020.

A. Right.

83. Q. Okay. So, that was post--

A. That was--

84. Q. -- [Indiscernible]?

A. It was—Oh yeah, because—Because that's what happened was there was a lot of objections that were deemed substantive by DEM. And again, my understanding is—Because he said to me, 'I'm going to have to pay \$2,000 to move forward on this.' And at the time, I didn't know what that meant. I, I thought it meant for the public hearing. But it sounded like--, Now that—Now that I understand the process a little bit better, it sounds like they were going to deny it, and then he was going to have to appeal it. So, I--, And maybe he didn't understand the process. But there was—I remember him talking about \$2,000, and I – Like, I don't know what to tell you, you know (chuckles).

85. Q. But to you as the town solicitor that DEM deemed it a substantive objection from the town, that was significant--

A. Of course.

86. Q. -- right?

A. Yeah.

87. Q. Okay. So then, what--? Like, what's your understanding, and this is probably a question best directed to DEM at some point, what was the result of that first application?

A. It went away.

88. Q. Okay (chuckles).

A. So, I—if you look at the DEM website, I don't see an actual denial. And again, I--it's not like I dug through DEM to see if they--, And we hired—I'm sure you guys know Marisa Desautel.

89. Q. We saw that he hired her.

A. Yeah. So, she's --

90. Q. Okay.

A. Well yeah, she's um, -- I don't know if you know her, but she's a former DEM employee. She does a lot of environmental litigation, and so that's why the town hired her. So she's explaining a lot of this stuff to me. But there was never--, I don't see a denial in the portal. But based on my discussions with Tony about the \$2,000, and then the new application, it sounds like it was denied, and then he tweaked the application and re-submitted it. That's what appears to have happened based on what, you know, what I've looked at and what Marisa has told me.

91. Q. Okay. After Tony's text, did you talk to the mayor about—about the texts, about Tony's [Indiscernible]?

A. I always talk to the mayor when --

92. Q. Okay.

A. -- people contact me.

93. Q. What was—What was that discussion like?

A. We--, I mean, I, I hate to be like—, We follow the rules here. I mean, we--, If, if we have an objection, it's--, You know, it's funny because I might have talked to Tony one more time, because I remember him saying: 'We tweaked it Kelley. You shouldn't object this time.' And I'm like: 'Why would you say that? We objected the first time for drainage going onto somebody else's property. Why would we change that?' You know. Because that was the whole thing like: they added--, I don't even know what they added. The pipe? The swale? But it was still doing everything it was going to do anyway. I don't (chuckles).

94. Q. But just going back to the text just--

A. Yeah.

95. Q. -- to be thorough. So, do you think you would have communicated to avoid two things that you were reading: that the Mooneys—he's saying that the Mooneys are going to sue the town, you think he told the mayor that?

A. He may have. I don't know.

96. Q. No, do you think you told the, the mayor?

A. Oh, I--, I'm sure I told him. And I also told him that I really didn't care because that's not a good--

97. Q. It sounds--

A. It--

98. Q. -- frivolous, right?

A. It's a frivolous lawsuit.

99. Q. And then the other thing that jumped out at me was it's the town's fault whatever the drainage issues are; it's—it's something the town did. Do you think you communicated that to the mayor?

A. Oh yeah.

100. Q. Okay.

A. Oh yeah, definitely.

101. Q. Okay.

A. But again, and then the follow up is, but they're draining more. It's--

102. Q. Right.

A. They're drying--, I--, it--, I, I don't think you have to be an engineer to understand what's going (chuckles)—what's happening on the plan, right.

103. Q. I don't think so. I'm just trying to make sure we cover all--

A. That's what I always say to these guys at, you know, when we have meetings. I'm like: I don't think you have to be an engineer to see what's happening here, you--, It's pretty clear.

104. Q. Do you think you expressed to the mayor, you know, Tony's trying to get us to withdraw the objection?

A. Oh yeah.

105. Q. Okay.

A. Yeah. Oh, definitely. And his answer was: 'I am not putting the town in that position,' because we—Again, 'there's no significant change.' He definitely said that.

INVESTIGATOR RATIGAN:

106. Q. As far as the hiring of Marisa De-sault (phonetic)--

A. Desautel. Yup.

107. Q. Desautel, excuse me, she has experience, prior experience as a DEM lawyer, and the purpose of her hiring was—has been to advocate for the town against this, --

A. Her—The purpose--

108. Q. -- the application?

A. Yeah. The purpose of her hiring was the administration felt that we should have gotten a public hearing. So I consulted with Marisa and asked her if she'd be willing to help us with that. And then the town council hired her to do that.

109. Q. Do you know if Marisa expressed to you an opinion on whether the town was entitled to a public hearing or not?

A. Yes.

110. Q. And what was that?

A. Yes.

111. Q. She thought it should have been ...?

A. Absolutely.

DETECTIVE LIEUTENANT SALISBURY:

112. Q. Just going back to the timeline a little bit again. So, according to the DEM website, jump to when documents are filed, so the second application gets filed in November of 2020.

A. Mm hmm.

113. Q. So you told us about the text from October of 2020. So then the second application gets filed; you must get notified--

A. Yes.

114. Q. -- if there's like, a new application, right.

A. Yeah. I mean, that—that's kind of vague to me. But yeah, I'm sure we were no--, we were notified. I think Jonathan was really following up on that.

115. Q. Okay.

A. **Yup.**

116. Q. Any--? I think you mentioned that there was another communication from Tony about tweaking the application?

A. **Yeah. Like, we met—I think he met with Bob Anderson, and a--, Again, I don't--, This is a vague memory, but I do remember having a conversation with him where he's saying, you know, why is the town objecting again, because we fixed everything type of thing.**

117. Q. Okay. And --

A. **It--**

118. Q. -- that would be after being notified of the second application--

A. **Yes.**

119. Q. -- [Indiscernible].

A. **Yes.**

120. Q. Um, --

A. **Or the intent to file the second application maybe.**

121. Q. Okay. Do you--? Do, do you remember any meetings that you were present at [Indiscernible]...?

A. **I don't remember the technical meetings, being at technical meetings. I--**

122. Q. Do you think it was Mr. Silva?

A. **Uh, ... (pause) I don't remember being at a meet--, a in-person with Tony.**

123. Q. Okay. And then there's this March 31st of 2021, conversation we were told about between the mayor and Tony.

A. **Mm hmm.**

124. Q. Did the mayor talk to you about that?

A. Yes.

125. Q. What did he tell you?

A. So first I'm going to say on the record that he has waived his privilege, because otherwise I would not be telling you about our conversations.

126. Q. We appreciate you addressing that.

A. Well, I—I had him put it in writing because I've never had a client waive a privilege (chuckles), but. I don't think he told me right away. But within a couple of weeks he told me that he was—he was very upset that Tony called him early one weekday morning to meet him at f--, Phantom Farms. And he thought it would be some kind of government business: whether it was Cumberland business or State business, and when he got there, it was about 45 Canning Street. So he was very upset about that.

127. Q. What did he tell you that Tony said?

A. Oh my gosh. Well, he—he told--, Well, the biggest thing he told me is: If Jonathan Stevens worked for me, then I—he'd be fired. And that's—that's the thing that really stands out. He said something about, you know: If I have to come out of—get out of this, I'll just give the land to Ross, his son.

128. Q. Okay.

A. So those were the two main things that happened there. I don't know how long the meeting was, but.

129. Q. What was your reaction to--

A. I th--

130. Q. -- what the mayor had told you?

A. It's like . . . I—I—I—I don't—I don't even know what to say. I mean, I, I don't think I

need to say... I—I've—I've been in that position where people don't like what I've done and people try to interfere with my livelihood, and it's disgusting. So.

131. Q. Anything you—else you remember about that--

A. Nn nn.

132. Q. -- the, the mayor's conversation?

A. Not right now.

133. Q. Okay.

A. If, if something pops into my head, I'll let you know.

134. Q. Okay. Appreciate it. The only other thing I had was any communications you had with DEM dur—through this--

A. N--

135. Q. -- process?

A. N—None. I was copied on e-mails with Marty Wencek.

136. Q. Okay.

A. I think only Marty Wencek. But that—those were always Jonathan I think.

137. Q. Okay. Does the name Eric Beck [Indiscernible]...?

A. I know Eric Beck. Just because I have done some DEM work--

138. Q. Okay.

A. -- I know their names and I've probably met with them once or twice. But.

139. Q. About this?

A. No. Just in my practice.

140. Q. Your professional life?

A. Mm. Mm hmm.

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141. Q. The--, From the text that Tony had sent you back in 2020--

A. Mm hmm.

142. Q. -- I think it was—March—March of 2020, did you ever hear anything to support what you're saying from DEM about the town kind of created this problem or?

A. No. Well, no, I just heard--, again, not my direct communication--but I heard that someone from DEM—I think it was Eric Beck—told . . . Jonathan maybe? that the town created the problem and that that was part of the reason they were approving it or something like that.

143. Q. Okay.

A. And the mayor was not happy about that becau--, You know. I mean, it's not—it wasn't just about what was going on then, what--, it—the, the—93 percent wet (chuckles). So.

144. Q. What—what was Eric Beck's role—role?

A. I have no idea?

145. Q. S--

A. A--, All I know is someone told the mayor that Eric Beck said, ... Jonathan didn't tell you this? Because I think --

146. Q. Nn nn.

A. -- it came from Jonathan.

147. Q. We probably didn't ask him.

A. Yeah. Um. I, I, I think it was Jonathan. You t--, You already met with the mayor; you didn't ask the mayor about this?

148. Q. The mayor mentioned s--, I'm just trying to [Indiscernible / voices overlapping] ...

A. Yeah, something about Eric Beck said something that he was—he was very upset about. And it was something about the town creating the problem or...

149. Q. Do you know of any past history between the mayor and Mr. Beck?

A. **No. I don't think he knows him. I—I, I shouldn't say I—Yeah, I don't think he knows him, but, you know.**

150. Q. How about um, we just spoke to Jonathan about his role with Senator Chafee.

A. **Yup.**

151. Q. And do you know of any . . . how do I say it,— negative interactions between Senator Chafee's administration and . . .

A. **Yeah, I--, I, I—This is what--**

152. Q. [Indiscernible]

A. **-- think about Senator—or Governor Chafee, I don't know which he was last, but he's like, retired.**

153. Q. Right.

A. **Yeah, ...**

154. Q. I mean, going back when Jonathan was in his administration, do you know of anything negative that occurred between the, the Chafee administration and Tony Silva or Tony Silva's political ties?

A. **No.**

155. Q. Okay.

INVESTIGATOR RATIGAN:

156. Q. Any reason Jonathan would make a decision that would impact Tony because of ...?

A. **Just because. Yeah.**

157. Q. Just because he used to work for--

A. **No.**

158. Q. -- Governor Chafee?

A. No, I don't think so. I'm not even sure ... So, let me be clear on this, and again, maybe you have to follow up with Jonathan, but when we get that application, it's of Joan Mooney, it's not of Tony Silva...

159. Q. Right.

A. So, I don't know when we first learned that it was in fact Tony Silva, but I think the objection was just because--, I, I mean, you—I—you, you saw the TV reports, right. It's a swamp. And it's--

160. Q. Wh--

A. -- like, this much land. So it's—I, it doesn't matter who it was.

DETECTIVE LIEUTENANT SALISBURY:

161. Q. I was going to ask you: Are you familiar with the property?

A. I—I drove by it. Of course I'm curious, right?

162. Q. But at the time, like, when the application was coming in.

A. I don't--, I don't really--, I try to just be legal. Although it--, I always say sometimes I put on my planning hat, which I shouldn't do. But, you know, everybody gets curious. So, yeah, I drove by.

INVESTIGATOR RATIGAN:

163. Q. Did you ever have any contact with Joan Mooney? Joan--

A. No. I'm always wondering if it's—she's a woman that um, I think I might have gone to school with some of her children. But I don't know. It's just her last name.

164. Q. But she's never --

A. Never.

165. Q. -- contacted you, and--

A. Oh, never.

166. Q. -- she's never had an attorney, or anyone contact--

A. No.

167. Q. -- you.

A. No.

168. Q. All right.

DETECTIVE LIEUTENANT SALISBURY:

169. Q. We're getting towards the end here. When the permit is granted, it's looks like on June 3rd of this year, are you involved in, or do you get involved in, like, contacting DEM, like, how could this happen; like, what's going on here? or anything like that?

A. No, that was mostly Jonathan—Jonathan and the mayor I think. I mean, I was—I'm—I know I was told about it. I think we first thought—we first thought there was really nothing we could do. Um. But the more we thought about it, and the more we looked into it, and then I talked to Marisa, and she's like: Ooh, Kelley, there should have been a public hearing.

170. Q. So the mayor and Jonathan, it sounds like they consulted with you.

A. Yeah. And then I—I said, well, let me call someone that knows more than I do. And I did. And, and that's when um, that's when we brought here into the town council to hire—hire her.

171. Q. What do you make of like there's this first application; there's your substantive objection to it, and then there's like, the new one? I don't know, do you have any kind of view of...?

A. Well they did tweak it. I—Like I said, I think they either added a swale or they added

the reconstruction of the drainpipe. So there—there was tweaking is my understanding. But it was doing the same thing: it was--, So, in my—Again, my understanding is the same objections were filed by all the neighbor--, And it's not just the town, there were 10 objections. So, ...

172. Q. Written objections.

A. That's my understanding. I didn't see all the other objections, but—And again, Marisa can dig into the DEM files better than we do. But she said there were--, I thought she said there were nine, and then I read in the paper there were 10. But 10 objections, and there were 10 before. So how do they magically become not substantive?

173. Q. Hmm.

A. Like, I—I don't--

174. Q. That's what I was just going to ask you: what report did they use that the ...that the objections from the neighbors do not constitute an objection of the substantive nature.

A. So when you read the DEM regulations, that's what it says:

175. Q. Right.

A. If there are substantive objections, it requires a public hearing.

176. Q. Mm hmm.

A. And that's all the town was asking for. That's all the town was asking for was a public hearing. And you know how those go sometimes.

177. Q. To your knowledge, was there ever a public hearing?

A. Never. Right. The—He says it right in the letter, they weren't substantive.

178. Q. [Indiscernible] And then we, I don't think we touched on this, but there was the second letter written by Mr. Stevens with the town's remaining objection to the permit, right, that was April

22nd, 2021?

A. Yeah. So that was the second—that was the second what I would call a (chuckles)

substantive objection.

179. **Q.** Okay.

A. Yeah. Which was very similar to the original one.

180. **Q.** Sure. Yeah, we have it.

A. Yeah.

181. **Q.** So, you were consulted before that.

A. Yeah. I mean I probably read that one less because it was very, very si--, similar to the—to the first one.

182. **Q.** Okay.

A. But.

183. **Q.** I don't want to be repetitive, but maybe I—maybe I missed this. After the second objection, did you or anybody in the office, in the administration here, contact Marty Wencek?

A. I don't know. I don't know if Jonathan would have done that. I don't know.

184. **Q.** You said you've had--, I think it was e-mail communication with him?

A. No, I was copied on.

185. **Q.** Oh, you were copied on it. Okay.

A. On—So, those were between—generally between Marty and Jonathan with copy--, copying I—probably the mayor and me and probably Bob Anderson. Like, why was--? Most of those were: Why wasn't there a public hearing?

186. **Q.** Right.

A. And that was after the fact.

187. Q. And to your knowledge, there was never a, a response from DEM as to why there wasn't a public hearing.

A. No, there was a response. It was that the objections were not substantive.

188. Q. [Indiscernible] Yup.

A. Yup.

189. Q. Which kind of leaves it open. Were there town council meetings, like uh, I don't know what the proper term is, but.

A. Executive Session?

190. Q. Yeah, where—where neighbors came in?

A. Oh, those are not an Executive—Executive Session would be closed to the public.

191. Q. Okay.

A. Um, --

192. Q. What are the details about the Executive Session?

A. I, I don't feel comfortable talking about --

193. Q. Okay.

A. -- Executive Session. Because those are priv--, privileged communications with them, --

194. Q. Okay.

A. -- so I don't want to breach that privilege.

195. Q. Okay. I think one thing that we saw was that coming out of Executive Session the decision to hire Ms. Desautel.

A. Correct.

196. Q. Right.

A. Right. I can tell you that because that was a report made out of Executive Session.

There was a meeting—I think it was the same meeting. Because at that point the residents didn't know. Like, before that meeting, the residents didn't know that we were moving forward with a—with a—with an action. So they—they ac--, some of them came on, it was Zoom, and um, spoke to the council about their concerns.

197. Q. Okay. Prior to that, was there any input from neighbors, residents?

A. Oh yeah.

198. Q. Okay.

A. We got letters, e-mails.

199. Q. Okay. Were those submitted to DEM?

A. I don't know.

200. Q. Okay.

A. I—I think that the same neighbors that submitted objections—and this is kind of a guess, --

201. Q. Yeah.

A. -- also submitted letters and e-mails to; when I say 'us,' it could have been Jonathan. I mean, I definitely got um, firsthand communications from Michelle Burgoyne, and I spoke to her on the phone.

202. Q. Okay.

INVESTIGATOR RATIGAN:

203. Q. Do you happen to have her contact information?

A. Do I have Michelle's?

204. Q. Yeah.

A. I don't—You mean on my c--, my personal cell?

205. Q. Yeah.

A. I don't think so.

206. Q. [Indiscernible]

A. I don't think so. Unless I added it when she called me. No, I do not.

207. Q. [Indiscernible]

DETECTIVE LIEUTENANT SALISBURY:

208. Q. Would you be willing to share the—the text messages with us from Tony Silva?

A. Yeah. I can, like—What do you want me to do, screen-shot--

209. Q. Can you screen-shot them?

A. -- em? Yeah. Yup.

210. Q. Would you like my number?

A. Yeah. Who called me for this meeting?

211. Q. Me.

A. Okay.

212. Q. That might have been my office phone.

A. It was a text.

213. Q. Oh. That's right (chuckles). Okay, it was me.

A. But I don't think I... Hold on.

214. Q. [REDACTED].

A. Oh there you are. Okay. See now, I'm going to--, I am putting him in, so I know who

I'm replying to.

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215. Q. [Indiscernible]

A. Right. Shoot, I don't even...

216. Q. Hmm? [Indiscernible]

DETECTIVE LIEUTENANT SALISBURY: The time now is 11:45 a.m.

STATEMENT TAKEN BY:

WITNESSED BY:
