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**Citizens for Enforcement of Parkland  
Covenants vs.  
City of Palos Verdes Estates**

Transcript Testimony of  
**Harold A. Rigg**

**Date: 09/28/2018**

**Job #: 611479**

Court Reporting – Videoconferencing – Trial Presentation – Nationwide Networking

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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 COUNTY OF LOS ANGELES - CENTRAL DISTRICT  
3

4 CITIZENS FOR ENFORCEMENT OF ) Case No. BS142768  
5 PARKLAND COVENANTS, et al., )  
6 Plaintiffs, )  
7 vs. )  
8 CITY OF PALOS VERDES ESTATES, )  
9 et al., )  
10 Defendants. )  
11 )  
12 )  
13 )  
14 )

15 Deposition of Harold Allan Rigg  
16 Rolling Hills Estates, California  
17 Friday, September 28, 2018  
18  
19  
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22

23 REPORTED BY:  
24 TAMMY R. PAGEAU-HINES  
25 CSR NO. 8413  
JOB NO. 1-611479

1           The deposition of Harold Allan Rigg, taken on  
2   behalf of Plaintiffs at 609 Deep Valley Drive,  
3   Suite 200, Rolling Hills Estates, California,  
4   commencing at 10:08 A.M., Friday, September 28, 2018,  
5   before Tammy R. Pageau-Hines, C.S.R. No. 8413.

6                           \* \* \*

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ALSO PRESENT:

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Sid Croft

## 1 I N D E X

## 2 WITNESSES

3 ALL WITNESSES: PAGE:

4 HAROLD ALLAN RIGG:  
5 EXAMINATION by MR. LEWIS 5:10

## 6 EXHIBITS

7 NO.: DESCRIPTION: PAGE:

8 1 Color map page: 20:15

9 2 Two-page diagram: 21:17

11 3 Palos Verdes Homes Association  
12 letter Bates-stamped PVE PRA 379: 28:113 4 July 18, 2003, letter and  
14 additional produced by the City in  
15 response to a Public Records Act  
Request, Bates-stamped PVE PRA 144  
to 147: 29:2116 5 Memorandum dated August 11, 2003,  
17 Bates-stamped PVE PRA 141 to -143: 31:2518 6 City of Palos Verdes Estates letter  
19 dated April 14, 2009, Bates-stamped  
20 PVE PRA 31 to -36: 42:1021 7 Emails dated August 25, 2011,  
22 Bates-stamped PVE PRA 95 to -96: 46:2423 8 City of Palos Verdes Estates Final  
24 Notice dated September 19, 2011,  
25 Bates-stamped PVE PRA 148: 49:12

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## I N D E X

## EXHIBITS (continued)

NO.:	DESCRIPTION:	PAGE:
9	Email dated October 27, 2011:	50:3
10	Email dated December 30, 2011:	51:5
11	Emails dated November 2, 2011:	54:1
12	Emails dated December 30, 2011:	56:24
13	Emails dated January 3, 2012, Bates-stamped VP 2226:	57:24
14	Email string dated December 30, 2011:	59:18
15	Email dated January 17, 2012:	62:18
16	Email dated February 7, 2013:	74:5
17	Memorandum from Palos Verdes Estates Meeting Date 2/19/13:	75:5

1                   ROLLING HILLS ESTATES, CALIFORNIA

2                   FRIDAY, SEPTEMBER 28, 2018

3                   10:08 A.M.

4  
5                   HAROLD ALLAN RIGG,  
6                   having been first duly administered  
7                   an oath, was examined and testified  
8                   as follows:

9  
10                  EXAMINATION

11       BY MR. LEWIS:

12           Q     Would you please state your full name for the  
13           record.

14           A     Harold Allan Rigg.

15           Q     You learn something new every day. I didn't  
16           know that. Okay.

17           A     Little-known secret.

18           Q     You understand the oath you just took is the  
19           same oath you would take as though you were testifying  
20           in a court of law?

21           A     Yes.

22           Q     All right. Even though I'm in jeans and an  
23           informal shirt today, do you understand the solemnity  
24           of the oath you've taken today is the same as though a  
25           judge were sitting in the room, and you were testifying

1 in front of a jury?

2 A Yes.

3 Q The court reporter here is gonna take down  
4 every question I ask and every answer you give, and in  
5 between those two events, the other lawyers in this  
6 room might object. It's real important so that our  
7 court reporter can do her job that you wait for my  
8 question to be done, maybe pause a couple of beats, and  
9 then answer so that we're not talking over each other.  
10 Will you try to do that?

11 A Yes.

12 Q It's not an endurance contest today. If you  
13 want to take breaks, you can ask for as many breaks as  
14 you want, and you don't have to tell me why. I  
15 understand that your phone may go off, and if you need  
16 to go all of a sudden and go, just tell me. Okay?

17 A Yes.

18 Q All of your answers are on the record.  
19 There's no such thing as an off-the-record answer.

20 So if you say "off the record" yada, yada,  
21 that's on the record, unless all the lawyers and I  
22 agree that we're off the record.

23 So do not say anything in this room unless  
24 you're certain -- don't say anything confidential  
25 unless you're certain we're off the record.

1 Do you understand?

2 A May I ask a question?

3 Q Yes.

4 A So if there's anything that involves  
5 conversations with the attorneys for the City of Palos  
6 Verdes Estates when I was employed there in that those  
7 are protected under attorney-client privilege, do I  
8 answer the question, and you'll take it off the record,  
9 or do I simply -- or will the City Attorney's office  
10 object, and then I won't answer?

11 Q Did you steal my outline because I was gonna  
12 cover that next.

13 Here's how I want you to handle that. I don't  
14 want to hear anything you had to say to Christi Hogin  
15 or any of the lawyers that worked under Christi when  
16 you were at the City. Okay? Those are confidential  
17 attorney-client privileged communications.

18 So if a question comes up, and you cannot  
19 answer it because it involves something you learned  
20 from Christi in her office, or it's something you told  
21 Christi in her office in a confidential setting, you  
22 should look me in the eye and say, "I can't answer  
23 that. That's attorney-client privilege," and I suspect  
24 that Christi or Chris over there might also object, and  
25 that might also clue you in. Okay?

1           They might say something like "Objection.  
2   Attorney-client privilege."

3           On the other hand, if there are things that  
4   you observed with your eyes or your ears that you  
5   learned independent from your conversations with  
6   Christi, I am entitled to hear about those items.

7           So, for example, if you were you at a City  
8   Council meeting, public, not closed, open session, and  
9   you heard Christi say something at a meeting, that's an  
10   example of something you could testify about, but, on  
11   the other hand, outside of that open public session, if  
12   you're in your office and Christi is in your office,  
13   and you two are having a chat, and it's about the  
14   City's legal business, you should not tell me about  
15   that.

16           Does that answer your question?

17           A    Yes.

18           Q    All right.  When we're done here today, the  
19   court reporter is gonna prepare a booklet of all my  
20   questions, all your answers.

21           You're gonna have a chance to review that,  
22   make any changes you want.  It's real important to give  
23   me your best testimony today because if you make any  
24   material changes to your transcript, me or another  
25   lawyer could comment on those changes at trial, and

1       that could prove embarrassing to you.

2               So, for example, if I were to ask you today  
3       "Did Brant Dveirin pay you \$10 million for your  
4       testimony today," and you say "No" today, but then you  
5       change it to "Yes," that's a material change in your  
6       transcript, and that could be embarrassing if you make  
7       that kind of a big change.

8               Do you understand?

9               A     Yes.

10              Q     Can you think of any reason you can't give me  
11       your best testimony today?

12              A     No.

13              Q     At some point today, I'm gonna be asking you  
14       about things that go back to 2003.  It's a long time  
15       ago.  I don't remember what I had for breakfast  
16       yesterday.  I don't want you to guess at any point.

17              On the other hand, if you have a reasonable  
18       basis for estimating or giving me a reasonable  
19       approximate answer, I'm entitled to that.  Okay?

20              If I were to ask you how big the table here is  
21       in this room, you'd probably be able to give an  
22       estimate.  You're an engineer; right?

23              A     Yes.

24              Q     If I asked you to tell me how big the table is  
25       in my house, my dining-room table, you couldn't tell me

1     that.  That would be a total guess because you've never  
2     been to my house; right?

3             A     Right.

4             Q     Do you understand the difference between a  
5     guess and an estimate?

6             A     Yes.

7             Q     Do you promise not to guess today?

8             A     Yes.

9             Q     All right.  If at any point I ask or another  
10    lawyer asks you a question, and you don't understand  
11    it, will you stop me, and ask me to rephrase it?

12            A     Yes.

13            Q     And you're not represented by any attorney  
14    today; correct?

15            A     Correct.

16            Q     Did you do anything to prepare for today's  
17    deposition?

18            A     No.

19            Q     Did you review any documents to prepare for  
20    today's deposition?

21            A     No.

22            Q     Without telling me what was said, did you  
23    speak with Christi Hogin or anyone from her office to  
24    prepare for today's deposition?

25            A     No.

1           Q    Did you speak with Sid Croft to prepare for  
2   today's deposition?

3           A    No.

4           Q    What do you do for a living?

5           A    I am a civil engineer and work for the City of  
6   Stanton as their public works director and city  
7   engineer.

8           Q    Are you also a professional planner?

9           A    I am a certified planner as well as a  
10   registered civil engineer.

11          Q    Did you previously hold any positions with the  
12   City of Palos Verdes Estates?

13          A    Yes.

14          Q    By the way, today, if I refer to that as  
15   either "the City" or "PVE," will you understand I'm  
16   referring to the City of Palos Verdes Estates?

17          A    Yes.

18          Q    What positions have you held in the past with  
19   the City?

20          A    I was working for Charles Abbott & Associates  
21   which is a consulting firm, and my positions I held for  
22   the City of Palos Verdes Estates while employed by  
23   Charles Abbott & Associates included the planning  
24   director, public works director, and city engineer.

25          Q    For what time periods did you hold those

1 titles?

2 A February of 2000 through April of 2014.

3 Q Focusing in on your duties as planning  
4 director, did your duties include overseeing code  
5 enforcement matters for the City?

6 A Yes.

7 Q Did your duties include initiating code  
8 enforcement compliance?

9 A Yes.

10 Q Did your duties include protection of  
11 City-owned property?

12 A Yes.

13 Q Did your duties include supervision of the  
14 work done by planners?

15 A Yes.

16 Q And during that period of time, did you have  
17 planners who performed tasks for you?

18 A Yes.

19 Q And did your duties include the preparation  
20 and oversight of staff memorandum that were submitted  
21 to the City Council?

22 A I was responsible for many, but not all.

23 Q Any -- generally speaking, most staff memos  
24 that went to the City Council for a City Council  
25 hearing, would those have been prepared either by you

1 or at your direction when it concerned land use  
2 matters?

3 A Yes.

4 Q Did your duties include the review and  
5 interpretation of the City's municipal code?

6 A Yes.

7 Q Did your duties include attendance at City  
8 Council meetings?

9 A Yes.

10 Q I don't want you to guess, but over the 14  
11 years you were with the City, can you estimate for me  
12 how many land use applications you oversaw during your  
13 tenure?

14 A No.

15 Q Over a hundred?

16 A Yes.

17 Q Over 500?

18 A I'm not sure.

19 Q During the course of your work for the City,  
20 did you become familiar with the history of how the  
21 City acquired property from the Palos Verdes Homes  
22 Association?

23 A Yes.

24 Q By the way, if I refer to that as "the Homes  
25 Association," will you understand I'm referring to the

1 Palos Verdes Homes Association?

2 A Yes.

3 Q And during the course of your duties, did you  
4 become familiar with the deed restrictions that the  
5 Homes Association had placed on the property that is  
6 now owned by the City?

7 A Yes.

8 Q Now, do not guess, but do you know whether or  
9 not the Homes Association has a code enforcement  
10 officer?

11 A I do not know.

12 Q Do you know whether or not the PV Homes  
13 Association today owns any parks or parkland within the  
14 City of Palos Verdes Estates?

15 A I do not know.

16 Q And final question on this area. During your  
17 tenure, did you become familiar with the City's  
18 municipal code as it relates to open space,  
19 conservation easements, and zoning?

20 A Yes.

21 Q To your knowledge, sir, since the formation of  
22 the City in the 1920's, was there ever any parkland  
23 that was ever sold to a private individual for private  
24 use only?

25 A No.

1           Q    During your tenure, sir, did the City have a  
2   parkland committee?

3           A    yes.

4           Q    What was the role of the Parkland Committee  
5   while you were with the City?

6           A    The primary role was to process tree  
7   applications for the removal or pruning of trees.  They  
8   also reviewed applications for the landscaping of  
9   parklands in limited circumstances.

10          Q    Was that when private parties were proposing  
11   to landscape on publicly-owned parkland?

12          A    Yes.

13          Q    And in some instances, the Parkland Committee  
14   would recommend an approval of that?

15          A    Yes.

16          Q    But, ultimately, the City Council would make  
17   the final decision on any decision by the Parkland  
18   Committee; right?

19          A    Correct, the actions of the Parkland Committee  
20   were only recommendations to the City Council to take  
21   action.

22          Q    Now, when you were working with the City, did  
23   you have any understanding about the procedure of how  
24   the City notified residents about land use hearings  
25   that were coming up to be heard either by the Planning

1 Commission or the City Council?

2 A Yes.

3 Q Did the City use signs posted on the affected  
4 real property?

5 MR. PISANO: Objection. Incomplete  
6 hypothetical. Vague.

7 THE WITNESS: Could you restate the question.  
8 BY MR. LEWIS:

9 Q Yes.

10 During your tenure, when there was a land use  
11 hearing that was gonna come up before the City Council  
12 and the Planning Commission, did the City routinely use  
13 signs posted on the property to notify residents  
14 driving by that there was a meeting coming up?

15 MR. PISANO: Same objection. Lack of  
16 foundation.

17 THE WITNESS: So the fact that I don't have an  
18 attorney to tell me what to do is an interesting one.

19 BY MR. LEWIS:

20 Q Let me just say this. He's asserting  
21 objections for the record so that when we go to trial  
22 on Valentine's Day, a judge will look at the question,  
23 look at his objection and then decide whether the  
24 question is admissible at trial.

25 You are still required by law to answer every

1 question unless it pertains to a deeply private matter,  
2 like, involving you or your family or your kids, or a  
3 privileged matter involving communications with the  
4 City Attorney.

5 A Understood.

6 Q Does that help you?

7 A Yes.

8 Q Do you want the question reread?

9 A No.

10 Q Okay. What's the answer?

11 A The answer to the question would be that, yes,  
12 the City did. It's actually a policy that I  
13 implemented, which was to add the signage in front of  
14 many applications, not only land use, in order to  
15 notify the public of upcoming meetings.

16 Q When did you implement that policy?

17 A Approximately 2003.

18 Q What was the policy before you implemented  
19 that policy in terms of how the City notified residents  
20 about upcoming hearings?

21 MR. PISANO: Objection. Vague. Lack of  
22 foundation.

23 THE WITNESS: The City would post the agenda  
24 for meetings at different locations within the City as  
25 well as per the code, notify residents by mail within

1 300 feet of the property for which the upcoming  
2 application was about?

3 BY MR. LEWIS:

4 Q How about newspapers? Did the City, when you  
5 were there, ever use newspapers to notify the public  
6 about hearings coming up?

7 A Yes.

8 Q And when you talk about posting around the  
9 City, did the City post at the City Hall, the library,  
10 and the PV Golf Club?

11 MR. PISANO: Objection.

12 Hold on a second.

13 Objection to the extent it's compound and  
14 leading.

15 But go ahead.

16 THE WITNESS: That is my understanding.

17 BY MR. LEWIS:

18 Q Can you think of any other locations where the  
19 City routinely would post agendas about an upcoming  
20 meeting?

21 A No.

22 Q As of the year 2012, can you think of anyone  
23 more familiar than you regarding the City of Palos  
24 Verdes Estates parkland?

25 MR. PISANO: Calls for speculation.

1 THE WITNESS: Not that I know of.

2 BY MR. LEWIS:

3 Q As of the year 2012, can you think of anyone  
4 more familiar than you regarding the City's history and  
5 power of regulation of parkland?

6 MR. PISANO: Calls for speculation. Vague.  
7 Compound.

8 THE WITNESS: I'm unsure if there is somebody  
9 that knows more about that than I.

10 BY MR. LEWIS:

11 Q How about today in 2018, would you consider  
12 yourself an expert knowledgeable on the subject of land  
13 use matters within the City of Palos Verdes Estates?

14 MR. PISANO: Same objections.

15 THE WITNESS: I'm highly knowledgeable.

16 BY MR. LEWIS:

17 Q Today we're gonna go over some events relating  
18 to parkland located on Via Panorama in the City of  
19 Palos Verdes Estates.

20 Do you have familiarity with that real  
21 property?

22 A Yes.

23 Q If I refer to that property as the "Panorama  
24 parkland," will you understand I'm referring to the  
25 real property located on Via Panorama that at various

1 times has been owned by the City?

2 A Are you referring to the Lugliani property or  
3 the parklands adjacent to it?

4 Q The parkland adjacent to the Luglianis'  
5 property?

6 A Yes, I'm familiar with that.

7 Q Okay. And if I say "Panorama parkland,"  
8 you'll know what I'm talking about?

9 A Yes.

10 Q Also, are you familiar with properties, real  
11 properties known as Lots C and D within the City of  
12 Palos Verdes Estates?

13 A Yes.

14 Q Our first exhibit today will be Exhibit 1.  
15 (Deposition Exhibit 1 was marked for  
16 identification and is included herein.)

17 BY MR. LEWIS:

18 Q Sir, I don't see a pen in your hand, but I  
19 want to caution you. Throughout today, I'm gonna be  
20 handing documents to you. Do me a favor. Unless  
21 instructed to do so, do not write on any documents.  
22 Okay? Those are original court documents.

23 A Understood.

24 Q Do you recognize Exhibit 1 to be a portion of  
25 a map depicting a portion of Palos Verdes Estates?

1           A    Yes.

2           Q    Does Exhibit 1 fairly and accurately depict  
3 the location of the Panorama parkland on Via Panorama?

4           A    Yes.

5           Q    And you also see a red circle indicating Lots  
6 C and D?

7           A    Yes.

8           Q    Does that fairly and accurately depict the  
9 location of Lots C and D relative to the Panorama  
10 parkland?

11          A    Yes.

12          Q    Exhibit 2 to today's deposition is another  
13 diagram.

14               First of all, have you seen Exhibit 2 before  
15 today?

16          A    Yes.

17               (Deposition Exhibit 2 was marked for  
18 identification and is included herein.)

19 BY MR. LEWIS:

20          Q    Do you recognize these as closer-up depictions  
21 of the Panorama parkland?

22          A    Yes.

23          Q    And do you recognize these as to be fair and  
24 accurate depictions of the Panorama parkland as it  
25 relates to the location of the home at 900 Via

1 Panorama?

2 A Yes.

3 Q And let's take a look at the second page of  
4 this exhibit.

5 Do you see a crescent area that has kind of a  
6 shading in it?

7 A Yes.

8 Q Do you recognize that shaded area as what's  
9 been described as "Area A" in the controversy involving  
10 the City of Palos Verdes Estates over parkland?

11 A Yes.

12 Q Now, do you know who lives at the home at 900  
13 Via Panorama?

14 A Not as of today.

15 Q Back when you were with the City, did you know  
16 who lived there?

17 A Yes.

18 Q Was it the Lugliani family?

19 A Yes.

20 Q In your capacity as planning director for the  
21 City, did there ever come a time when you became aware  
22 of encroachment of the parkland adjacent to 900 Via  
23 Panorama?

24 A Yes.

25 Q And, first of all, when did you become aware

1 of these encroachments?

2 A Approximately 2003.

3 Q And what encroachments did you become aware  
4 of?

5 A I became aware of encroachments in the public  
6 right-of-way that included gates and pillars as well as  
7 on -- within the parklands there was a gazebo  
8 structure, one large wall, and then a terraced area of  
9 multiple walls and walkways as well as a driveway that  
10 was entered through the gates that were on the public  
11 right-of-way.

12 Q How about did I hear you say there was a stone  
13 pillar with lion statues on top of them?

14 A I remember the pillars. I don't remember the  
15 lions.

16 Q Okay. But those pillars were part of these  
17 encroachments?

18 A They were within the public right-of-way.

19 Q How about a retaining wall or a series of  
20 retaining walls? Do you recall that?

21 A Yes, I mentioned those before.

22 Q Was there one retaining wall that was as high  
23 as 21 feet high?

24 A Yes.

25 Q Dug into the side of a hillside?

1           A     It retained a large amount of dirt.

2           Q     And I don't want you to guess or speculate,  
3     but did it appear that that large retaining wall was  
4     for the creation of a sports field or athletic field on  
5     the parkland?

6           A     There was a large terraced area that could  
7     have been used for a sports field below it, yes.

8           Q     And did you say there was a storm drain?

9           A     No.

10          Q     Was there a storm drain encroaching either on  
11     the right-of-way or parkland?

12          A     I recall a storm drain that ran through the  
13     subject Panorama parkland area.

14          Q     How did you become aware of these  
15     encroachments?

16          A     The City Council directed staff to identify  
17     and catalog all of the encroachments in the parklands  
18     throughout the State, and we were aware of a number of  
19     encroachments on the City's boundary with Torrance, the  
20     bridle trail, and then we utilized our GIS system to  
21     identify private improvements that were within areas  
22     that were parklands from a combination of the map  
23     boundaries of the private properties and aerial  
24     photography in which we could see the private  
25     improvements.

1           Q    You've just given me a really good general  
2 description about how generally the encroachments were  
3 discovered within the City.

4                   Do you have any specific memory of how the  
5 specific encroachments here at the Panorama property  
6 were discovered beyond what you just said?

7           MR. PISANO:  Well, objection.  That last part  
8 lacked foundation.

9           THE WITNESS:  I don't recall any other way we  
10 became aware of it.

11 BY MR. LEWIS:

12           Q    And this strip of land that borders the City  
13 of Torrance and Palos Verdes Estates, the bridle trail,  
14 is that a trail where people either walk or walk their  
15 dogs or have horses?

16           A    Yes.

17           Q    All right.  And there's like wood chips there?

18           A    Yes.

19           Q    And back in 2003, was there a problem that you  
20 discovered where homeowners whose backyards abutted the  
21 bridle trail had erected fences or landscaping into the  
22 bridle trail?

23           A    Yes.

24           MR. PISANO:  Objection.  Leading.

25           THE WITNESS:  Sorry.

1 BY MR. LEWIS:

2 Q And as of 2003, before you undertook this  
3 assignment, what was the City doing, if anything, to  
4 remedy the encroachments on the bridle trail?

5 MR. PISANO: Lack of foundation. Calls for  
6 speculation.

7 THE WITNESS: There was nothing that the City  
8 was actively doing to remove those encroachments.

9 BY MR. LEWIS:

10 Q Did you ever learn who erected the  
11 encroachments on the Panorama parkland or the  
12 right-of-way?

13 A Yes.

14 Q Who erected those encroachments that were on  
15 the Via Panorama parkland or right-of-way?

16 A To clarify, I've never seen anything in  
17 writing, but what was told to me by the Luglianis was  
18 that it was the previous owner of the property,  
19 Alexander Haagen.

20 Q When did -- well, first of all, when we're  
21 talking about the Luglianis, are we talking about  
22 Dr. Lugliani or his son or his wife? Which Lugliani  
23 told you that?

24 A His son.

25 Q David Lugliani?

1           A    I believe so.

2           Q    And he told you that the prior owner Haagen  
3 had erected the large retaining wall?

4           A    He gave a general description that the  
5 improvements on the parklands were erected by the  
6 previous owner. He was not specific as to which.

7           Q    Did you ever come to learn that any of the  
8 improvements or encroachments that were either on the  
9 parkland on the right-of-way were actually erected by  
10 the Luglianis?

11          A    I don't know that.

12          Q    You don't know one way or another?

13          A    Correct.

14          Q    As part of this effort in 2003 to kind of  
15 assess the inventory of encroached parkland within the  
16 City, did you go back and look at the history for this  
17 particular property, Via Panorama?

18          A    I don't recall.

19          Q    Would it surprise you if I told you that some  
20 of these encroachments dated back to the 1970's on the  
21 Via Panorama property?

22               MR. PISANO: Objection. Lack of foundation.

23               THE WITNESS: It would not surprise me.

24               MR. LEWIS: Our next exhibit today will be  
25 Exhibit 3.

1                   (Deposition Exhibit 3 was marked for  
2                   identification and is included herein.)

3       BY MR. LEWIS:

4           Q     Sir, I'll represent to you Exhibit 3 was  
5       produced to my office many years ago in response to a  
6       Public Records Act Request directed to the City.

7                   Do you recognize this document as a letter  
8       that was contained within the City's files concerning  
9       the Via Panorama property?

10                  MR. PISANO:  Objection to the extent that  
11       lacks foundation.

12                  THE WITNESS:  I have no idea whether it was in  
13       the City file or not.

14       BY MR. LEWIS:

15           Q     Have you seen this letter before today?

16           A     I don't recall.

17           Q     In this letter it says,  
18                   "The existence of a paved driveway and parking  
19                   area within the parkland portion of Lot A,  
20                   Tract 8652, which serve the residents within  
21                   the referenced property was studied by the  
22                   Board of Directors at the meeting held  
23                   December 6th, 1972."

24                   My question for you is does seeing this  
25       document and hearing the words I just read refresh your

1 memory that the encroachments that we've been talking  
2 about today date back to the 1970's?

3 MR. DVEIRIN: Objection. Lack of foundation.

4 MR. PISANO: Join. Misstates testimony. The  
5 document speaks for itself.

6 THE WITNESS: I don't recall this letter, and  
7 it has the information that the Homes Association  
8 addressed in 1972.

9 BY MR. LEWIS:

10 Q Did there ever come a time when you, in your  
11 capacity as an official for the City of Palos Verdes  
12 Estates, initiated a code enforcement complaint against  
13 the Luglianis?

14 MR. PISANO: Just object to the extent of lack  
15 of foundation.

16 THE WITNESS: Yes.

17 BY MR. LEWIS:

18 Q When did that occur?

19 A I don't recall the exact date.

20 Q Let's take a look at Exhibit 4.

21 (Deposition Exhibit 4 was marked for  
22 identification and is included herein.)

23 MR. LEWIS: I put in front of you Exhibit 4  
24 which is a July 18, 2003, letter, and some pages that  
25 follow that were produced by the City in response to a

1 Public Records Act Request.

2 Q I'd ask you to review the first two pages, and  
3 let me know when you're done.

4 A I have reviewed the document.

5 Q All right. On page 2 it says "Code  
6 Enforcement Complaint Form," and the complainant is  
7 identified as you, the City Engineer; correct?

8 A Yes.

9 Q And the date of this form is July 17, 2003?

10 A Yes.

11 Q Does this refresh your memory that on  
12 July 17th, 2003, you initiated a code enforcement  
13 complaint regarding Via Panorama?

14 A This does not provide me any additional  
15 memories of the day.

16 Q You recognize this form as a true and correct  
17 copy of a form used back -- by the City back in 2003?

18 A Yes.

19 Q All right. And looking at the first page, was  
20 Susan Matthews a code enforcement officer for the City?

21 A Yes.

22 Q Did you direct Susan Matthews to begin  
23 enforcement of removal of the encroachments on the  
24 parklands?

25 A Per this document, I did.

1           Q    And I don't want you to guess or speculate,  
2   but pages 3 and 4 of this document, is that your  
3   handwriting that's handwritten on pages 3 and 4?

4           A    No.

5           Q    All right. Do you recognize whose handwriting  
6   that is?

7           A    No.

8           Q    I don't want you to guess, but is page 3 one  
9   of these aerial photographs where the encroachments  
10   were discovered for this particular property?

11          A    Yes.

12               Is there any way you can turn off the  
13   air-conditioning? It's cold.

14               MR. LEWIS: Let's go off the record for a  
15   second.

16               (A recess was taken.)

17               MR. LEWIS: Let's go back on, please.

18          Q    Mr. Rigg, you understand each time we take a  
19   break today, you're still under penalty of perjury  
20   under the effect of the oath you took; right?

21          A    Yes.

22          Q    Let's take a look at a new exhibit, Exhibit 5.  
23                Sir, do you recognize Exhibit 5?

24          A    Yes.

25               (Deposition Exhibit 5 was marked for

1 identification and is included herein.)

2 BY MR. LEWIS:

3 Q Is this a memo you prepared?

4 A Yes.

5 Q Why did you prepare it?

6 A I wanted to create a comprehensive document  
7 for the code enforcement case against the Lugliani for  
8 the removal of items in the Parklands as well as in the  
9 right-of-way.

10 Q I don't want you to guess, but did you do a  
11 similar memo for all of the encroachment cases that the  
12 City was looking at back in 2003?

13 A No.

14 Q Did you do it for the people on the bridle  
15 trail?

16 A No.

17 Q What was different about the Lugliani  
18 situation that warranted a memorandum?

19 MR. DVEIRIN: Objection. Assumes facts.

20 MR. PISANO: Join.

21 THE WITNESS: This was an unusual and unique  
22 case due to the size of the encroached area and the  
23 nature of the encroachments.

24 BY MR. LEWIS:

25 Q Who came up with the language that's contained

1 within this memo?

2 A I did.

3 Q Would you take a look at page 2. There's a  
4 couple photographs, and there's some text. I want to  
5 ask you about the text.

6 Well, first of all, the pictures, are those  
7 fair and accurate depictions of how the Via Panorama  
8 property looked back in 2003?

9 A They're an accurate representation of a  
10 portion of the property.

11 Q A gazebo?

12 A Yes.

13 Q And that gazebo was located on parkland?

14 A Yes.

15 Q Now, it says here "the City of Palos Verdes  
16 Estates owns 849 acres of parklands in the City that  
17 was obtained from the Homes Association."

18 Is that true as of 2003?

19 A Yes.

20 Q You go on to say,

21 "The original developers of the City placed  
22 restrictions on these properties so that they  
23 would be eternally open to all people and not  
24 used privately."

25 And then you say,

1 "These restrictions legally bind the City to  
2 keep these areas free of fences, walls, or any  
3 other private usage."

4 And my question for you is when you wrote  
5 that, were you referring to parkland?

6 A Yes.

7 Q And you go on to say later on in this  
8 memorandum that,

9 "The City has not and will not grant any  
10 permits for permanent private occupation of  
11 City parklands as we are legally bound to keep  
12 these areas open to the public."

13 And my question for you is putting aside the  
14 Via Panorama issue, during your tenure, did the City  
15 ever grant permits for permanent private occupation of  
16 City parkland?

17 MR. DVEIRIN: Objection. Lack of foundation.

18 MR. PISANO: Join. The question is vague and  
19 compound as phrased.

20 THE WITNESS: The only permits or permission  
21 that was ever given to do anything on parklands was for  
22 limited areas of landscaping.

23 BY MR. LEWIS:

24 Q And in any of those situations that you're  
25 describing, did that involve a barrier preventing the

1 public from accessing that particular parkland?

2 A No.

3 Q Did the City ever permit the erection of  
4 landscaping to exclude the public from parkland while  
5 you were there?

6 A No.

7 Q Now, the balance of this memorandum describes  
8 the legal process for how the City removes  
9 encroachments.

10 Do you see that?

11 A Yes.

12 Q All right. And does this fairly and  
13 accurately describe what the City's process was as of  
14 August of 2003 for removing encroachments?

15 A Yes.

16 Q So whenever there was a situation that the  
17 City was called to review a Planning Commission  
18 decision, the City would take action to enforce  
19 encroachment removal; correct?

20 MR. PISANO: Objection. Leading. Incomplete  
21 hypothetical. Vague.

22 MR. DVEIRIN: Lack of -- it's ambiguous as to  
23 time.

24 BY MR. LEWIS:

25 Q I'm talking about back in 2003?

1           A     In general, yes.

2                     MR. PISANO:   Same objections.

3     BY MR. LEWIS:

4           Q     And back in 2003, would you agree with me the  
5     City did not have any proactive measures at that time  
6     to initiate code enforcement to remove encroachments  
7     unless it was going before the City Planning Commission  
8     or unless the structure had fallen into disrepair or  
9     unless a structure was being modified?

10                   MR. DVEIRIN:   Objection --

11                   MR. PISANO:   Objection.   Leading.   Compound.

12                   MR. DVEIRIN:   Leading.   Compound and the  
13     document speaks for itself.

14                   MR. LEWIS:    You know what, it's a terrible  
15     question.   How about this.

16                   MR. PISANO:   Sustained.

17     BY MR. LEWIS:

18           Q     What was the policy in 2003 for the City to  
19     get rid of encroachments?

20           A     In speaking of illegal encroachments on  
21     parklands, the method is identified within this memo  
22     which is when they went to the Planning Commission, in  
23     general, and I'll clarify that in a moment, if they  
24     fell into disrepair, a significant disrepair, or if  
25     they were modified.

1           The policy of removing the illegal structures  
2 during the discretionary review by the Planning  
3 Commission, I do recall a case in which the nature of  
4 the Planning Commission approval was so small that the  
5 Planning Commission did not require the removal of the  
6 encroachment.

7           Q   Now, do you recall in 2005 the City passed a  
8 resolution to establish a new procedure to remove  
9 encroachments from parkland?

10          A   Yes.

11          Q   Did you have any role in getting that new  
12 policy passed?

13          A   No.

14          Q   Describe that role, please.

15          A   I worked with the city manager and the City  
16 Council extensively to come up with a policy which  
17 essentially and simply reiterated the existing code and  
18 policies that were on the books.

19          Q   Did ultimately this result in a resolution  
20 being passed in 2005?

21          A   Yes.

22          Q   And how did the new policy differ from the old  
23 policy, if at all?

24          A   It gave a sunset date for all encroachments to  
25 be removed.

1 Q What do you mean by "sunset date"?

2 A The policy reiterated the three typical  
3 manners in which illegal encroachments would be  
4 removed, and also gave a date by which all illegal  
5 encroachments needed to be removed.

6 Q And I don't want you to guess, but was this  
7 resolution 05-32?

8 A Yes.

9 Q So for the first time, historical  
10 encroachments in the City were given a finite time,  
11 five years, to remove their encroachments; right?

12 MR. PISANO: Objection. Leading. The  
13 resolution is the best evidence, and it speaks for  
14 itself on what it said.

15 THE WITNESS: Yes, that I know of.

16 BY MR. LEWIS:

17 Q And after the 2005 resolution was passed, do  
18 you know how many residents received notices saying,  
19 "Hey, you've got five years to get rid of the  
20 encroachments"?

21 A Approximately 40.

22 Q And of those 40 -- by the way, did that  
23 include people on the bridle trail?

24 A Yes.

25 Q And I don't want you to guess, but how many of

1       those 40 were on the bridle trail?

2             A     37.

3             Q     And of those 37, how many complied with the  
4       City's notice to remove encroachments?

5             A     On the bridle trail, ultimately everybody  
6       complied.

7             Q     Were any of the people on the bridle trail  
8       given the option of making a donation to the school  
9       district to avoid enforcement of this new  
10      recommendation?

11            A     No.

12            Q     Were any of these neighbors who abutted the  
13      bridle trail given the option of purchasing parkland to  
14      avoid enforcement?

15            A     No.

16            Q     So they all complied with removing the  
17      vegetation or fences or whatever the encroachment was;  
18      right?

19            A     Correct.

20            Q     Do you have any memory of the three  
21      encroachment issues that did not include the bridle  
22      trail?

23            A     Yes.

24            Q     What were those three?

25            A     The first was the Panorama property that we've

1 talked about already.

2 The second was approximately one acre of wall  
3 encroachments adjacent to Alexander Haagen's office on  
4 Via Elevado, and the third was a fence -- I'm sorry --  
5 a stairway and wall combination from a property owned  
6 by Admiral Rowley on Rocky Point Road.

7 Q How did the Rocky Point encroachments get  
8 resolved?

9 A The City Council made the finding that the  
10 stairway down to the beach was essential for our public  
11 safety services, especially the Fire Department, to  
12 access the beach for injuries down below.

13 The City then entered into a license agreement  
14 that the stairway be able to remain so long as it was  
15 open for the public safety and City services to  
16 utilize.

17 Q At any point, was the owner of Rocky Point  
18 offered the ability to purchase that stairway so that  
19 it could become private property?

20 MR. PISANO: Objection to the extent of  
21 calling for speculation.

22 THE WITNESS: Not that I know of.

23 BY MR. LEWIS:

24 Q How about Via Elevado? How did that situation  
25 resolve in terms of those encroachments?

1           A     They were ultimately removed.

2           Q     Was the person who owned the property at Via  
3     Elevado, was he given the option to purchase the  
4     parkland?

5           MR. DVEIRIN:   Objection.   Vague and ambiguous.

6           MR. PISANO:   Same objection or join and  
7     objection to the extent that calls for speculation.

8           THE WITNESS:   Not that I know of.

9     BY MR. LEWIS:

10          Q     On that strip of land that borders the PV  
11     Estates and Torrance, some of the encroachments we're  
12     talking about are just a few inches; right?

13          MR. PISANO:   Objection.   Leading.

14          THE WITNESS:   Not that I know of.   When we  
15     went to determine the amount -- the properties along  
16     the bridle trail that were encroaching, we measured  
17     from the City of Torrance boundary line to the  
18     encroachment, and we only went after and surveyed  
19     encroachments that were obviously over five feet into  
20     the parklands.

21     BY MR. LEWIS:

22          Q     It was only those people who were obviously  
23     over five feet to the parklands that the City took an  
24     enforcement approach in terms of removing  
25     encroachments?

1           A     Correct.

2           Q     All right.  Do you recall that following the  
3     passage of this resolution in 2005 that the Luglianis  
4     received yearly notices asking them to remove  
5     encroachments from the Panorama parkland?

6           A     Everybody that still had an encroachment on  
7     parkland of the 40 people originally identified  
8     received those notices.

9           Q     All right.  Let's take a look at Exhibit 6.  
10                (Deposition Exhibit 6 was marked for  
11                identification and is included herein.)

12     BY MR. LEWIS:

13           Q     Sir, I'll represent to you that Exhibit 6 was  
14     produced in response to a Public Records Act Request by  
15     my office.

16                Do you recognize this batch of letters as  
17     letters generated by the City of Palos Verdes Estates  
18     to the Luglianis pursuant to this new 2005 policy?

19           A     Yes.

20           Q     Is that your signature on these letters?

21           A     It is.

22           Q     And, you know, trick question.  The very last  
23     one is 2006.  That was signed by James Hendrickson.  Do  
24     you see that?

25           A     Yes.

1 Q Do you recognize this last one dated  
2 September 8, 2006, as a letter that the City sent out  
3 to the Luglianis?

4 A Yes.

5 Q And these letters set a deadline to remove the  
6 encroachments by September 8th, 2011?

7 A Yes.

8 Q Did the Luglianis comply with the September  
9 2011 deadline?

10 A No.

11 Q During this time frame, let's say, from 2005  
12 when the policy was enacted, and this deadline you set  
13 here of September 8th, 2011, did the PV Homes  
14 Association get involved at all in the removal or the  
15 demand to remove these encroachments?

16 MR. DVEIRIN: Objection. Ambiguous.

17 MR. PISANO: Join.

18 THE WITNESS: I don't recall.

19 BY MR. LEWIS:

20 Q It's fair to say, you have no memory of the  
21 Homes Association having any involvement in the efforts  
22 to remove encroachments from the Via Panorama parkland?

23 MR. DVEIRIN: Same objection.

24 MR. PISANO: Join.

25 THE WITNESS: Correct.

1 BY MR. LEWIS:

2 Q Now, do you know who Frank Zerunyan is?

3 A Yes.

4 Q Who is he?

5 A He is a businessman who has served on the City  
6 Council of Rolling Hills Estates for many years.

7 Q Sometimes he was the mayor of Rolling Hills  
8 Estates; true?

9 A I do not know.

10 Q Did there come a time when Frank Zerunyan  
11 became involved in your communications with the  
12 Luglianis about removing encroachments?

13 A Yes.

14 Q I don't want you to guess, but do you recall  
15 when Mr. Zerunyan first became involved in this Via  
16 Panorama situation?

17 A No.

18 Q Do you know how the Luglianis got in touch  
19 with Councilman Zerunyan?

20 MR. PISANO: Objection to the extent that it  
21 lacks foundation and assumes facts.

22 THE WITNESS: Yes.

23 BY MR. LEWIS:

24 Q How did he get involved?

25 A David Lugliani asked me at one point as he was

1     trying to figure out how to resolve his issue with the  
2     parklands if there happened to be any other property  
3     within the City that would be -- that the City would  
4     prefer to have as parklands as opposed to the open  
5     space and parklands that he had occupied, the Panorama  
6     parkland that we've talked of.

7             At the time, Frank Zerunyan was an advocate  
8     working for the owners of the property at 844 Via Del  
9     Monte, and he was trying to get an entitlement  
10    application for that property.

11            And as we had gone through the process at  
12    public hearings, many times people -- members of the  
13    public suggested that the City -- what the City should  
14    do, and they were rather vocal about it -- should  
15    purchase this piece of private property due to the  
16    extensive views over the top of it from the street and  
17    other homeowners as well as the people that lived down  
18    below it objected to any development on the site.

19            So the group of people had pointed to the site  
20    as being a site that would be a great piece of property  
21    for the City to own.

22            After Mr. Lugliani asked me about that, I  
23    forget how they got in contact, but I suggested to him  
24    that there was this property at 844 Via Del Monte which  
25    was the only piece of property that I was aware of that

1 was privately owned that the City could potentially  
2 utilize as parklands, and that had been vocalized by  
3 the public.

4 MR. PISANO: Move to strike as nonresponsive.

5 BY MR. LEWIS:

6 Q Did you introduce Mr. -- Councilman Zerunyan  
7 to the Luglianis?

8 A I don't recall.

9 Q Did you come up with the idea of the swap of  
10 privately-owned parkland on Via Del Monte and the  
11 Panorama property?

12 MR. DVEIRIN: Objection. Ambiguous.

13 MR. PISANO: Join and lack of foundation.

14 THE WITNESS: I provided Lugliani with the  
15 information that the 844 Via Del Monte property was a  
16 piece of property that had -- that the residents had  
17 vocalized would be something that the City should  
18 obtain.

19 MR. LEWIS: Let's take a look at our next  
20 exhibit here which is 7.

21 Are we good?

22 THE WITNESS: Can I take a break?

23 MR. LEWIS: Yeah. Let's take a break.

24 (Deposition Exhibit 7 was marked for  
25 identification and is included herein.)

1 (A recess was taken.)

2 MR. LEWIS: Let's go back on, please.

3 Q Mr. Rigg, when I was referring to Mr. Zerunyan  
4 as a councilmember, you understood that my questions  
5 were intended to reflect that he's councilmember for a  
6 different city, not the City of Palos Verdes Estates;  
7 right?

8 A Yes.

9 Q I just put Exhibit 7 before you. Do you  
10 recognize Exhibit 7 as an email exchange you had with  
11 Zerunyan in September of 2011?

12 A Yes.

13 Q I want to direct your attention to the bottom  
14 of the email August -- or the bottom of the page,  
15 August 25th, 2011, Frank says,

16 "Hi Allan, now that Judy's appointment is  
17 public" -- first of all, who is "Judy" there?

18 A Judy Smith was the finance director, and she  
19 was -- at this point, she was being made the interim  
20 city manager.

21 Q He goes on,

22 "I would like us to organize that meeting we  
23 discussed. Any time next week? Or the  
24 following?"

25 I don't want you to guess, but do you know

1       what meeting Mr. Zerunyan was referring to here?

2           A     I don't recall.

3           Q     Let's go up a little bit on the page to your  
4       response.

5                     Do you recognize in the middle of this page an  
6       email you sent to Zerunyan and cc'd to Judy Smith on  
7       September 6, 2011, 8:48 a.m.?

8           A     Yes.

9           Q     All right. And the second paragraph there  
10       says,

11                    "The idea of swapping land was a good one, but  
12                    I will be honest in that there has not been  
13                    any option that seems feasible and that the  
14                    Luglianis should immediately begin removing  
15                    the encroachments."

16                    My question for you is what land swap were you  
17       referring to here?

18           A     The idea of swapping some portion of  
19       privately-owned land in the City for the  
20       encroached-upon parklands adjacent to the Luglianis'  
21       property.

22           Q     At this point in time, September of 2011, was  
23       there discussion of Lots C and D being swapped?

24           A     No.

25           Q     I don't want you to guess, but who came up

1 with this idea referred to in this email of swapping  
2 land?

3 A Lugliani.

4 Q David?

5 A Yes.

6 Q And this is five days before the deadline the  
7 City had set for removal of the encroachments; correct,  
8 this September 6, 2011, email?

9 A Yes.

10 Q Let's take a look at the next exhibit which is  
11 number 8.

12 (Deposition Exhibit 8 was marked for  
13 identification and is included herein.)

14 BY MR. LEWIS:

15 Q Do you recognize this as a letter sent by the  
16 City of Palos Verdes Estates on September 19, 2011?

17 A Yes.

18 Q Is it fair to say that as of this date the  
19 encroachments had not been removed?

20 A Yes.

21 Q Was this letter sent at your direction?

22 A Yes.

23 Q Were you getting pressure from anyone to put  
24 pressure on the Luglianis to remove these  
25 encroachments?

1 MR. PISANO: Objection. Vague.

2 THE WITNESS: I don't recall.

3 (Deposition Exhibit 9 was marked for  
4 identification and is included herein.)

5 BY MR. LEWIS:

6 Q Sir, I put before you Exhibit 9.

7 Do you recognize this as an email exchange you  
8 had with Zerunyan on October 27, 2011?

9 A Yes.

10 Q You say,

11 "Hi, It has been two weeks since we met, and I  
12 need an update. I'm getting pressed to have  
13 the City Attorney file an injunction against  
14 the property owner."

15 Does this refresh your memory that somebody in  
16 October of 2011 was pressing you to move forward with  
17 an injunction?

18 A It does, but I do not recall who was giving me  
19 the pressure.

20 Q It says, "It's been two weeks since we met."  
21 Do you recall having a meeting in early October with  
22 Frank Zerunyan?

23 A No.

24 Q Do you have any memory sitting here today of  
25 what may have been discussed during the meeting that's

1 referred to in this email?

2 MR. PISANO: Objection. Lack of foundation.  
3 Calls for speculation.

4 THE WITNESS: I don't recall.

5 (Deposition Exhibit 10 was marked for  
6 identification and is included herein.)

7 BY MR. LEWIS:

8 Q Sir, I've put Exhibit 10 before you. Do you  
9 recognize this as an email you sent to Mr. Zerunyan and  
10 to Dan Bolton on December 30th, 2011?

11 A Yes.

12 Q The second sentence says,  
13 "If we get the application in Tuesday, I will  
14 not initiate the process."

15 What "application" were you referencing in  
16 this email?

17 A I don't recall.

18 Q Was there an "application" being discussed in  
19 December of 2011 whereby the Luglianis would be  
20 permitted to keep some of the encroachments on the  
21 parkland?

22 MR. PISANO: Objection. Leading. Vague.

23 THE WITNESS: Nothing I could be specific  
24 about that I recall, with any specifichness --  
25 specificity.

1 BY MR. LEWIS:

2 Q I don't want you to guess, but when you're  
3 talking about an application here, are we talking about  
4 an application to the City Council or to the Parklands  
5 Committee or to the Planning Commission?

6 MR. DVEIRIN: Objection. Compound.

7 THE WITNESS: I don't recall.

8 MR. PISANO: Join.

9 BY MR. LEWIS:

10 Q At this point in time, December 30th, 2011,  
11 were you -- and I'm not talking about the City, I'm  
12 talking about you, Allan Rigg -- were you a party to  
13 any conversations involving Lots C and D and the school  
14 district?

15 A I was involved in many conversations about  
16 Lots C and D, but I don't recall when those were and if  
17 it was at this time (indicating).

18 MR. LEWIS: Can I have that answer reread,  
19 please. Sorry.

20 (The record was read as follows:

21 "ANSWER: I was involved in many conversations  
22 about Lots C and D, but I don't recall when  
23 those were and if it was at this time  
24 (indicating).")

25 ///

1 BY MR. LEWIS:

2 Q Let me ask you a broader question.

3 Do you have any memory of conversations with  
4 Frank Zerunyan about Lot C and D back in the year of  
5 2011?

6 A I do not recall.

7 Q Do you remember having any conversations with  
8 Frank Zerunyan in 2011 about the concept of the  
9 Luglianis purchasing or obtaining the Panorama parkland  
10 for their private use?

11 A Yes.

12 Q And what do you recall was discussed during  
13 this conversation?

14 A I met with Frank, and he had a concept of what  
15 he would do is work with different property owners to  
16 purchase downhill portions of their lots and create a  
17 piece of parkland that would then be something that the  
18 City would want to swap for the Panorama property.

19 Q The concept being -- stop me if I got this  
20 wrong.

21 The concept being taking privately-owned  
22 property and turning that into publicly-owned parkland?

23 MR. PISANO: Objection to the extent that's  
24 leading.

25 THE WITNESS: Yes.

1                   (Deposition Exhibit 11 was marked for  
2                   identification and is included herein.)

3       BY MR. LEWIS:

4           Q     Sir, I've put Exhibit 11 before you. Do you  
5       recognize this to be an email that you sent to Frank  
6       Zerunyan and Dan Bolton on November 2nd, 2011?

7           A     Yes.

8           Q     By the way, who is Dan Bolton?

9           A     Dan Bolton is a civil engineer that does  
10      surveying and civil engineering, quite a bit of it, on  
11      the Palos Verdes Peninsula.

12          Q     Let's start with the bottom email from Frank  
13      to you and to Dan.

14                It says,

15                "Allan, I heard from Dan this morning. While  
16                I am sure he will call you about his work and  
17                the completion time, I want to assure you that  
18                demolition is starting this week."

19                Do you know what "demolition" or which "work"  
20      that Frank was referring to in this email?

21          A     Vaguely, but not specifically.

22          Q     He goes on to say,

23                "There's no need for any escalation of the  
24                status quo," and then he says,

25                "We will also file our planning application

1 promptly."

2 Do you know what "planning application" he was  
3 referring to here?

4 A No.

5 Q By the way, later on in time when the MOU and  
6 the zoning applications were finally put before the  
7 City, Frank Zerunyan's name was never mentioned in any  
8 staff report or Daily Breeze article about this  
9 transaction.

10 Did Frank Zerunyan ever ask you to keep his  
11 name out of the paperwork for the Via Panorama  
12 transaction?

13 MR. DVEIRIN: Objection. Calls for  
14 speculation. Lack of foundation.

15 MR. PISANO: Join as to both.

16 THE WITNESS: I don't recall.

17 BY MR. LEWIS:

18 Q Did anyone from the City -- excluding lawyers,  
19 did anyone from the City ever ask you to minimize or  
20 keep out Frank Zerunyan's role in the Via Panorama  
21 transactions?

22 A I don't --

23 MR. PISANO: Lack of --

24 THE WITNESS: -- know.

25 MR. PISANO: -- foundation.

1 BY MR. LEWIS:

2 Q I'm sorry?

3 A I don't recall.

4 Q How about David Lugliani? Did he ever ask you  
5 to minimize Frank Zerunyan's role or visible role on  
6 the Via Panorama transactions?

7 A I don't recall.

8 Q You know what, at the top of this email you  
9 say,

10 "Please make sure no work is done on the  
11 parklands without a permit from the City and  
12 plans showing the proposed restoration."

13 Do you know what "restoration" you were  
14 referencing here in this November 2nd, 2011, email?

15 A If any items were removed from the parklands,  
16 Parklands would need to be restored to its natural and  
17 original grade, meaning that dirt would need to be put  
18 back to where it originally was, and all the plant  
19 materials would need to be restored.

20 So we would expect to see some kind of a  
21 grading plan as well as a vegetation plan to put it  
22 back to its original condition.

23 Q Fair enough.

24 (Deposition Exhibit 12 was marked for  
25 identification and is included herein.)

1 BY MR. LEWIS:

2 Q Do you recognize Exhibit 12 to be a  
3 December 30th, 2011, email you sent to Dan Bolton and  
4 Frank Zerunyan?

5 A Yes.

6 Q You say there,  
7 "We need to have everything 100 percent by  
8 January 5th to get on the January agenda. I  
9 can wait until Friday, but I am getting into  
10 a bind on this and getting pressure to  
11 resolve."

12 Who was giving you "pressure to resolve" the  
13 Via Panorama situation?

14 A I don't recall.

15 Q The bottom email from Dan to you says,  
16 "Hi Allen, We received the comments on our  
17 application from Stacey yesterday."

18 Who is "Stacey," if you know?

19 A Stacey Kinsella was the City Planner at the  
20 time.

21 Q Do you remember what "application" is being  
22 referred to here in is this email?

23 A I don't recall.

24 (Deposition Exhibit 13 was marked for  
25 identification and is included herein.)

1 BY MR. LEWIS:

2 Q Sir, I've put Exhibit 13 before you. Do you  
3 recognize this as a January 3rd, 2012, email that you  
4 received from Frank Zerunyan?

5 A Yes.

6 Q And at the bottom of this, there's an email  
7 from you referring at the bottom to "erosion control,  
8 sandbags, and de-vegetation removals."

9 And you also say, "Let's keep working on the  
10 corrections, and we will see if we are all ready for  
11 the February agenda."

12 Are the "corrections" you're referring to in  
13 this email the same restoration that we were just  
14 talking about a few minutes ago?

15 MR. PISANO: Objection. Leading.

16 MR. DVEIRIN: Assumes facts.

17 MR. PISANO: Join.

18 THE WITNESS: This seems to reference a staff  
19 report that would be for their application to the City.

20 BY MR. LEWIS:

21 Q Let me ask you this.

22 By January of 2012, were you, in your capacity  
23 for the City, still seeking to obtain removal of the  
24 encroachments on the Via Panorama parkland?

25 A Yes.

1 MR. PISANO: Vague.

2 BY MR. LEWIS:

3 Q As of -- and let me just remind you to pause  
4 so these folks can earn their pay.

5 MR. PISANO: Well, it's not to earn my pay.  
6 It's so we have a record.

7 MR. LEWIS: So we can have a record.

8 MR. PISANO: I get what you're saying,  
9 Counsel.

10 MR. LEWIS: It's polite to pause and let him  
11 object. Okay.

12 Q Were you aware in January of 2012 of any  
13 efforts by Frank Zerunyan to negotiate with the city  
14 manager of the City a resolution whereby the  
15 encroachments would remain?

16 MR. PISANO: Objection. Leading.

17 THE WITNESS: No.

18 (Deposition Exhibit 14 was marked for  
19 identification and is included herein.)

20 BY MR. LEWIS:

21 Q Sir, I put before you Exhibit 14. Let's take  
22 a look at the second page, the very bottom of the page.  
23 Do you recognize that as a December 30, 2011, email you  
24 sent to Frank Zerunyan and Dan Bolton?

25 A Yes.

1           Q    Up above that, there's an email from Frank  
2   Zerunyan to Christi Hogin.

3                "Hi Christi, I hope all is well. Bless his  
4   heart. He cannot help himself. I think in  
5   another message he said January 5. I am not  
6   too worried as I am speaking to the enforcer  
7   of laws." And then there's a happy face.

8                "I hope you are enjoying the family over the  
9   holidays. I will speak with you next week."

10              As of December 30, 2011, did you know that  
11   Frank Zerunyan was having communications with the City  
12   not involving you about the lien removal?

13              A    No.

14              Q    Up above this, there's another email. It  
15   says,

16                "The City Manager is aware of the settlement  
17   efforts. I assume that your client is  
18   applying for the encroachment permit and will  
19   proceed expeditiously."

20              As of December 30, 2011, were you aware that  
21   the city manager was having communications about  
22   settlement efforts?

23              MR. PISANO: Objection. Vague. Lack of  
24   foundation. Assumes facts.

25              THE WITNESS: Could you restate the question,

1 please.

2 MR. LEWIS: It was a terrible question.

3 Q Were you aware as of December 30, 2011, that  
4 the city manager had been made aware of settlement  
5 efforts involving Frank Zerunyan and the Via Panorama  
6 property?

7 MR. PISANO: Same objections.

8 THE WITNESS: Not that I can recall.

9 BY MR. LEWIS:

10 Q Were you involved in communication involving  
11 the city manager and settlement of the Via Panorama  
12 encroachment issue as of December 30, 2011?

13 MR. PISANO: Lack of foundation.

14 THE WITNESS: I was involved in efforts to  
15 restore the property to its original condition, and  
16 that was the extent of my involvement that I recall.

17 BY MR. LEWIS:

18 Q All right. Do you know who Sid Croft is?

19 A Yes.

20 Q He's the long time in-house counsel for PV  
21 Homes Association; right?

22 A Correct.

23 Q As of December 2011, have you and Mr. Croft  
24 been interfacing at all in any respect concerning Via  
25 Panorama?

1 A No.

2 Q Do you know who Phil Frengs is?

3 A Yes.

4 Q President of the PV Homes Association?

5 A Yes.

6 Q Back then I think he was VP.

7 At this time, December of 2011, had you and  
8 Mr. Frengs had any interactions involving the Via  
9 Panorama property?

10 MR. DVEIRIN: Objection. Ambiguous.

11 THE WITNESS: Not that I can recall.

12 BY MR. LEWIS:

13 Q In late 2011, had you, and anyone from the PV  
14 Homes Association, had any interactions pertaining to  
15 the Via Panorama property?

16 A Not that I recall.

17 Q That was 14. This next one will be 15.

18 (Deposition Exhibit 15 was marked for  
19 Identification and is included herein.)

20 BY MR. LEWIS:

21 Q Do you recognize Exhibit 15 to be a  
22 January 17, 2012, email that you sent to Frank  
23 Zerunyan, Dan Bolton, and Stacey Kinsella?

24 A Yes.

25 Q And it says, "Judy has asked that I make sure

1           this item is before the Planning Commission in  
2           February."

3           My question for you is, is the "this item"  
4           that you're referring to the plan to restore the  
5           Panorama parkland?

6           A     I don't know.

7           Q     Seeing where it says "Judy has asked that I  
8           make sure this item is before the Planning Commission,"  
9           was it Judy, the City Manager, that was putting  
10          pressure on you to resolve the issues involving Via  
11          Panorama?

12          MR. PISANO:  Objection.  Lack of foundation.  
13          Misstates testimony, and it's leading.

14          THE WITNESS:  I don't know.

15          BY MR. LEWIS:

16          Q     Let's talk about the MOU.  You can put that  
17          email aside.  When I say "MOU," are you aware that in  
18          May of 2012 a Memorandum of Understanding was presented  
19          to the City Council for approval pertaining to  
20          resolution of the Via Panorama encroachments?

21          A     Yes.

22          Q     Did you have a hand in the negotiation of that  
23          MOU?

24          A     No.

25          Q     Did you interface at all with the folks of the

1 PV Homes Association pertaining to the MOU?

2 A No.

3 Q You recall there was a hearing set for May  
4 8th, 2012, for the City Council to review and approve  
5 the MOU?

6 A Yes.

7 Q When did you first learn -- relative to that  
8 May 8th, 2012, date, when did you first learn of the  
9 existence of the MOU?

10 A When the agenda came out.

11 Q Like Thursday or Friday before?

12 A I believe so.

13 Q Was there a staff report that accompanied the  
14 MOU?

15 A I don't recall.

16 Q Were you asked to prepare a staff report that  
17 accompanied the MOU?

18 A I don't recall.

19 Q When you first read -- have you ever read the  
20 MOU?

21 A Yes.

22 Q Did you read it back in 2012?

23 A Yes.

24 Q When you first read the MOU, did you have any  
25 concerns about the Luglianis ending up owning a portion

1 of the property on Via Panorama?

2 MR. DVEIRIN: Objection. Leading.

3 MR. PISANO: Join.

4 MR. DVEIRIN: Calls for speculation.

5 Ambiguous.

6 MR. PISANO: Join.

7 THE WITNESS: I don't recall.

8 BY MR. LEWIS:

9 Q How about today in 2018? Do you have any  
10 concerns about the Luglianis owning what used to be  
11 public parkland?

12 A Yes.

13 Q What are those concerns?

14 A As has been documented in all the newspaper  
15 articles and the like, that the sale or the transfer of  
16 the property seems to set a precedent which would  
17 jeopardize the rest of the property that is owned as  
18 parklands in the City.

19 Q Did you ever -- and let's be careful here. I  
20 don't want to hear about conversations with Christi  
21 Hogin or her staff. Okay?

22 Did you ever voice objections within the City  
23 to the MOU?

24 A No.

25 Q Did the City solicit -- anyone in the City,

1 putting aside Christi Hogin and her staff.

2 Did anyone in the City solicit your input on  
3 the MOU?

4 A No.

5 Q Did the City post any signs at the Panorama  
6 property, the Panorama parkland to let the public know  
7 about the May 8th, 2012, hearing?

8 MR. PISANO: Calls for speculation. Vague.

9 THE WITNESS: Yes.

10 BY MR. LEWIS:

11 Q They did?

12 A Yes.

13 Q Are you sure?

14 MR. PISANO: Argumentative.

15 BY MR. LEWIS:

16 Q How do you know that?

17 A I recall the sign that we put together and  
18 posted it near the property.

19 Q Let me ask --

20 MR. HARBISON: 2012?

21 MR. LEWIS: Wait. Wait. Wait. Wait. Hang  
22 on. Hang on. That's not appropriate.

23 Q Let's fast-forward a year.

24 Do you recall after an MOU was approved that  
25 in 2013 the Luglianis came forward with, like, a land

1 use application for certain zoning changes?

2 A I do.

3 And I misspoke before. The sign that we put  
4 up was for the land use application for the property  
5 and not for the original MOU.

6 Q All right. So let me just make sure we cover  
7 that.

8 Back in May of 2012, were any signs posted at  
9 the Via Panorama property to inform the public about  
10 the proposed transaction?

11 A No.

12 MR. PISANO: Lack of foundation.

13 THE WITNESS: Sorry.

14 MR. PISANO: That's okay.

15 BY MR. LEWIS:

16 Q Would you have been involved at all in the  
17 decision of whether or not signs should be posted or  
18 not for land use applications back in 2012?

19 A Yes.

20 Q Did anybody at the City come to you and say,  
21 "Hey, we should post a sign for this MOU hearing"?

22 A I don't recall.

23 Q And do you know whether or not the City mailed  
24 notices to the residents who lived nearby Via Panorama  
25 to let them know about the May 2012 hearing?

1           A    No.

2           Q    Did the City mail such notices?

3                   MR. PISANO:  Objection to the extent of  
4   calling for speculation.  Lacking in foundation.

5                   MR. DVEIRIN:  Join.

6                   THE WITNESS:  I don't believe so.

7   BY MR. LEWIS:

8           Q    How about -- I don't want you to guess, but,  
9   you know, local newspapers, PV News, Daily Breeze, did  
10   the City post an advertisement in the newspaper to let  
11   the public know about the hearing coming up in May?

12                  MR. PISANO:  Same objections.

13                  THE WITNESS:  I do not know, and I typically  
14   would not know that information on any land use  
15   application.

16   BY MR. LEWIS:

17           Q    Would it surprise you to learn that the only  
18   notice provided to the public was through a posting  
19   down at City Hall, the library, and the PV Golf Club  
20   the Friday before the May 2012 hearing?

21                  MR. DVEIRIN:  Objection.  Assumes facts.

22                  MR. PISANO:  Join.

23                  THE WITNESS:  No.

24   BY MR. LEWIS:

25           Q    Wasn't it a little out of step for how the

1 City usually notifies residents about land use  
2 decisions, at least back in 2012?

3 MR. PISANO: Same objections. Assumes facts.

4 THE WITNESS: Typically, on land use  
5 applications, as defined by the code, we would put a  
6 sign up. We would do the postings as well as we would  
7 have notifications mailed to all property owners within  
8 300 feet of the subject property.

9 BY MR. LEWIS:

10 Q Did you have any role in the decision back in  
11 2012 about whether to -- about how residents would be  
12 notified about the May 2012 hearing?

13 A No, because I only became aware of it once it  
14 was already within the staff report or the agenda.

15 MR. PISANO: Move to strike as nonresponsive  
16 everything after the word "no" and nonresponsive.

17 MR. LEWIS: Could I have that answer read  
18 back, please.

19 (The record was read as follows:

20 "ANSWER: No, because I only became aware of  
21 it once it was already within the staff report  
22 or the agenda.")

23 BY MR. LEWIS:

24 Q Would you agree with me that during your  
25 tenure when you were with the City that if you wanted

1 to post a sign, mail out notices, or put a notice in  
2 the newspaper, you'd need to know about a matter before  
3 the Friday before the May -- before the City Council  
4 meeting?

5 MR. PISANO: Objection to the extent that call  
6 for a legal conclusion.

7 THE WITNESS: Yes.

8 BY MR. LEWIS:

9 Q Did you attend the May 2012 City Council  
10 hearing when the MOU was first presented to the City  
11 Council?

12 A Yes.

13 Q Do you know -- I don't want you to remember,  
14 but do you know was it well attended by the public?

15 MR. DVEIRIN: Objection. Ambiguous.

16 MR. PISANO: Join.

17 THE WITNESS: I don't recall.

18 BY MR. LEWIS:

19 Q Do you recall at that City Council meeting  
20 that -- well, first of all, do you recall back in May  
21 of 2012 that George Bird was the mayor of the City?

22 A Yes.

23 Q Do you recall that at that May 8th, 2012,  
24 meeting he said to the public in connection with this  
25 MOU,

1 "As it's been said eloquently by my  
2 colleagues, to my left and right, this was a  
3 win-win-win. The Homes Association, the  
4 school district has asked us to sign off on  
5 this, and credit goes to one person, and  
6 that's our City Attorney who the public must  
7 know that she really spearheaded and brought  
8 together the parties after having talked to  
9 each of them and worked together to come up  
10 with a win-win-win situation."

11 Do you recall those comments being made at  
12 that meeting?

13 A Yes.

14 Q Did you spearhead the negotiation of the MOU  
15 for the City?

16 MR. PISANO: Asked and answered.

17 THE WITNESS: No.

18 BY MR. LEWIS:

19 Q Do you know -- I don't want you to guess. So  
20 please don't guess.

21 As it pertains to the Luglianis or the Homes  
22 Association or the City, which of those three parties  
23 took the leading role to negotiate that MOU?

24 MR. DVEIRIN: Objection. Vague and ambiguous.

25 MR. PISANO: Join.

1 THE WITNESS: I do not know.

2 BY MR. LEWIS:

3 Q Do you know who came up with the idea for the  
4 transactions that are memorialized in the MOU?

5 A No.

6 Q There's been some statements made at public  
7 hearings that the Via Panorama parkland is steep and  
8 inaccessible to the public as compared to Lots C and D.

9 Are you familiar with those comments that have  
10 been made?

11 A Yes.

12 Q Do you agree that the Via Panorama Parkland is  
13 steep and inaccessible when compared to Lots C and D?

14 A Portions, yes.

15 Q Would you agree that some portions are not?

16 A Yes.

17 Q There's been some comments in public hearings  
18 that the Via Panorama parkland is never used by the  
19 public and has little value to the public compared to  
20 Lots C and D.

21 Do you recall hearing those comments made by  
22 the City Council?

23 A I remember those comments. I don't remember  
24 who made them.

25 Q Do you agree with those statements that Via

1 Panorama is never used by the public?

2 MR. PISANO: Objection to the extent it calls  
3 for speculation. Lack of foundation.

4 THE WITNESS: No, I do not agree with that  
5 statement.

6 BY MR. LEWIS:

7 Q Why not?

8 A Because people do use the Parklands, and there  
9 were people I remember complaining that they -- that  
10 they hiked within those areas, and they were unable  
11 to -- they did hike in those areas, and it would be  
12 logical that they would hike through the Lugliani  
13 property if it wasn't fenced.

14 Q Did you have any role in the preparation of  
15 press releases that the City or other parties did about  
16 the MOU?

17 A I don't recall.

18 Q Do you recall anyone asking you for input on a  
19 press release concerning this MOU?

20 A No.

21 Q Do you recall that in early 2013 when the  
22 Luglianis were applying for certain land use approvals  
23 that there was intense public interest?

24 A Yes.

25 MR. LEWIS: What was out last exhibit? Are we

1 on 16?

2 THE WITNESS: I have 15.

3 MR. LEWIS: Okay. So Exhibit 16 will be the  
4 next exhibit.

5 (Deposition Exhibit 16 was marked for  
6 identification and is included herein.)

7 BY MR. LEWIS:

8 Q Sir, do you recognize Exhibit 16 as an email  
9 that you sent to Vickie Kroneberger on February 7th,  
10 2013?

11 A Yes.

12 Q And Vickie, she was the former City clerk?

13 A Yes.

14 Q You say,

15 "Hi, Can I get a copy of this report, if you  
16 have it. Many people are asking questions  
17 about the whole transfer of land, and I would  
18 like to have a copy of the staff report at the  
19 front counter for their review."

20 And the subject line is "Lots C and  
21 D/Lugliani."

22 Does this refresh your memory that in February  
23 of 2013 there was a staff report pertaining to the  
24 transfer of land?

25 A Yes.

1 Q And did you author that staff report?

2 A I don't recall.

3 Q Let's take a look at Exhibit 17, which is that  
4 staff report, which is our final exhibit for today.

5 (Deposition Exhibit 17 was marked for  
6 identification and is included herein.)

7 BY MR. LEWIS:

8 Q I put before you Exhibit 17.

9 Do you recognize this as the staff report  
10 prepared in February of 2013 pertaining to the Lugliani  
11 application for land use approvals?

12 A Yes.

13 Q And you see it says it was from Robert M.  
14 Smith. Is that an assistant city attorney who worked  
15 with Christi Hogin?

16 A Yes.

17 Q Does this refresh your memory that you didn't  
18 prepare the memo for this zone change?

19 A Yes.

20 Q Is that unusual for a lawyer, as opposed to a  
21 planning director or a planner, to prepare a memo to  
22 the Planning Commission pertaining to a land use  
23 decision?

24 MR. DVEIRIN: Objection. Lack of foundation.

25 MR. PISANO: Join and vague.

1 THE WITNESS: I don't recall --

2 MR. PISANO: Hold on. Hold on.

3 Also leading.

4 Go ahead, sir.

5 THE WITNESS: I don't recall another staff  
6 report to the Commission from the attorneys' office.

7 So, yes, it was unusual.

8 BY MR. LEWIS:

9 Q This was the first time that ever, during your  
10 tenure, that a city attorney as opposed to you or one  
11 of your staff prepared a staff report to the Planning  
12 Commission; true?

13 MR. PISANO: Leading.

14 THE WITNESS: This is the only one I recall.

15 BY MR. LEWIS:

16 Q Now, did you have any concerns about the  
17 land-use approvals that are described or sought in this  
18 memorandum?

19 MR. PISANO: Objection. Vague.

20 MR. DVEIRIN: Join.

21 THE WITNESS: I recall being concerned that  
22 for the findings within the code, it would be very  
23 difficult, if not impossible, to rezone the property as  
24 residential.

25 I also recall it was confusing that there was

1 a -- if I remember correctly, the fence -- a fence  
2 would be allowed around the perimeter of it, but there  
3 would be an open-space easement, if I remember  
4 correctly, and so I had -- I had concerns with the  
5 report, yes.

6 BY MR. LEWIS:

7 Q Let's put aside Christi Hogin and her staff.  
8 Do you recall ever communicating to someone within the  
9 City these concerns?

10 A Yes.

11 Q Who did you communicate with?

12 A Judy Smith.

13 Q What did you tell her?

14 A That I understood that there had been dialogue  
15 about rezoning this property as residential. I  
16 researched the code, and it required findings, and to  
17 make the rezone from open space to residential would be  
18 very difficult to comply with the City's code.

19 Q What did she say in response?

20 Well, first of all, was that done verbally or  
21 in writing?

22 A I believe verbally.

23 Q And what did she say in response?

24 A She said, "We need to call Christi."

25 Q Did she say anything else, putting aside the

1 need to call Christi?

2 A Not that I can recall.

3 Q Were you asked by anybody to comment or modify  
4 the contents of this staff memorandum we've been  
5 looking at?

6 A I don't recall.

7 Q Can you think of any other interactions you  
8 had within the City, putting aside Christi Hogin,  
9 pertaining to concern you may have had about this  
10 memorandum?

11 A No.

12 Q Did you attend this Planning Commission  
13 meeting that's referenced in this memorandum?

14 A Yes.

15 Q Did the Planning Commission approve the  
16 application sought here?

17 A I do not believe so.

18 Q Ultimately, this went to the City Council;  
19 correct?

20 A Yes.

21 Q Did you attend that meeting?

22 A Yes.

23 Q Did the City Council approve the zoning  
24 applications contained within this memorandum?

25 A I do not believe so.

1 Q Did you attend that meeting?

2 A Yes.

3 Q When you attended that meeting, do you recall  
4 City Councilmembers or the City Attorney saying  
5 anything to the public that caused you concern about  
6 these proposed land-use decisions?

7 MR. PISANO: Objection. Vague.

8 THE WITNESS: I do not recall.

9 BY MR. LEWIS:

10 Q Do you have any -- I don't want you to guess.  
11 Okay. Please don't guess.

12 Do you have any personal knowledge about what  
13 types of financial expenditures the City was making to  
14 maintain the Panorama parkland prior to May of 2012?

15 A Yes.

16 Q What kind of expenditures?

17 A The only expenditures would be annual brush  
18 clearance in areas that were overgrown.

19 I'm going to go back on what I said. So could  
20 you restate the question.

21 Q This question or the question before?

22 A The question that you asked about the  
23 financial expenditures.

24 Q I asked if you had any personal knowledge back  
25 in 2012 of what kind of financial expenditures the City

1 was making to maintain the Panorama parkland.

2 A None.

3 Q "None"? Why is that?

4 A Because we didn't have access to it.

5 Q Oh, okay. So would you agree with me that the  
6 Panorama parkland has some portions that were  
7 ultimately retained by the City, and some portions  
8 that, pursuant to the MOU, were conveyed away from the  
9 City?

10 Do you recall that?

11 A Yes.

12 Q The portion that was maintained by the City  
13 and was not part of the MOU, did the City expend any  
14 money to maintain those retained portions?

15 A Are you referring to the Panorama parkland,  
16 the 1.7-acre approximate portion, or are you talking  
17 about the parkland adjacent to that?

18 Q Adjacent.

19 A The only expenditures would have been for some  
20 brush clearance.

21 Q And I don't want you to guess.

22 Do you know how much that cost on an annual  
23 basis back in 2012?

24 A I believe we were spending around \$120,000 a  
25 year for all the parkland within the City.

1           Q    Now, I don't want you to guess, but do you  
2 know what the anticipated expenditures were for Lots C  
3 and D that were contemplated to become City-owned  
4 property as part of the MOU?

5           MR. PISANO:  Objection.  Vague.

6           THE WITNESS:  I do not know.

7 BY MR. LEWIS:

8           Q    Are you aware, sir, that as part of the MOU,  
9 it was contemplated that the City would obtain \$100,000  
10 in connection with the Via Panorama transaction?

11          A    Yes.

12          Q    Do you know whether or not the City ever  
13 received that \$100,000?

14          A    I do not know.

15          Q    Is it fair to say that you don't know what was  
16 done with that \$100,000 by the City; correct?

17          A    Correct.

18          Q    While you were with the City, were any  
19 improvements made to Lots C and D?

20          A    No.

21          Q    I'm wrapping up here.  This is one of my final  
22 areas of inquiry.

23                Were you aware of any changes that have been  
24 made to the City Parkland Committee's scope following  
25 the May 2012 approval of the MOU?

1           A    Not that I recall.

2           Q    By the way, don't guess, but was the MOU ever  
3 presented to the City Parkland Committee for the  
4 purpose of discussion by that body?

5           A    Not that I recall.

6           Q    Do you know why not?

7           MR. PISANO:  Calls for speculation.

8           THE WITNESS:  No.

9   BY MR. LEWIS:

10          Q    You were familiar back in 2012 with the scope  
11 of what the Parkland Committee does; right?

12          A    Yes.

13          Q    Does it seem to you that back in 2012 the  
14 Parkland Committee would have been a natural body to  
15 have commented on the MOU?

16          MR. PISANO:  Objection.  It's vague.

17          THE WITNESS:  No.

18   BY MR. LEWIS:

19          Q    Why not?

20          A    Because the -- in my estimation this was more  
21 of a land-use decision.  It would have been more  
22 appropriate to have gone to the Planning Commission.

23          Q    Is it unusual that the MOU was not presented  
24 at least to the Planning Commission before it was  
25 presented to the City Council?

1           A    There's no precedent for me to comment on  
2   that.

3           Q    Would you agree with me that the transactions  
4   contemplated by the MOU were unprecedented by the City?

5           MR. DVEIRIN:  Objection.  Ambiguous.

6           MR. PISANO:  Join.

7           MR. DVEIRIN:  Lack of foundation.

8           MR. PISANO:  And argumentative and leading.

9           THE WITNESS:  I can't answer on behalf of the  
10   City.

11   BY MR. LEWIS:

12           Q    So you're sitting here today and testifying as  
13   a private citizen, not on behalf of the City.

14                   In your view, based on your knowledge that  
15   you've acquired over the years about City transactions,  
16   are transactions contemplated by the MOU unprecedented?

17           MR. PISANO:  Same objections.

18           MR. DVEIRIN:  Same objections.

19           THE WITNESS:  They're the first of that kind  
20   that I'm aware of.

21           MR. LEWIS:  I'd like to take a 10-minute  
22   break.  I have about five minutes of questions left  
23   probably, and then I'm going to pass the baton.

24                   (A recess was taken.)

25           MR. LEWIS:  Back on the record.

1           Q    Final area of inquiry.  You understand you're  
2 still under penalty of perjury?

3           A    Yes.

4           Q    Sir, at some point in 2014, I'll represent to  
5 you that there were some edits made to the City's  
6 website about the Parklands Committee, and what its  
7 role was, and my question for you is back in 2014 when  
8 you were still with the City, did you have any role in  
9 the modification to the City's website about the scope  
10 of the Parklands Committee?

11           MR. PISANO:  Objection.  Vague.  Lack of  
12 foundation.

13           THE WITNESS:  No.

14   BY MR. LEWIS:

15           Q    Were you aware that back in 2015 the City's  
16 website changed pertaining to the Parkland Committee's  
17 role?

18           MR. PISANO:  Lack of foundation.

19           THE WITNESS:  I don't recall.

20           MR. LEWIS:  I have nothing further.

21           MR. PISANO:  I have no questions.

22           MR. LEWIS:  That means I did a very good or a  
23 very bad job.  We'll find out later.

24           MS. HOGIN:  Thank you, Allan, for taking all  
25 this time this morning.

1 THE WITNESS: You're welcome.

2 MS. HOGIN: I appreciate it.

3 MR. LEWIS: I'd propose we relieve the court  
4 reporter of her obligation to maintain custody of the  
5 transcript.

6 That instead, the transcript, when it comes to  
7 me, I'll send it to Mr. Rigg. He be given four weeks  
8 to review it, make any corrections, sign it, return it  
9 back to my office.

10 I'll notify all counsel of the signature and  
11 any changes he makes to the transcript.

12 If for any reason the original is lost or not  
13 signed, an unsigned certified copy can be used in its  
14 place in this matter.

15 I'll maintain custody of the transcript and  
16 produce it upon reasonable request for any hearing in  
17 this matter.

18 So stipulated?

19 MR. PISANO: So stipulated on my end.

20 MR. DVEIRIN: So stipulated.

21 THE DEPOSITION OFFICER: Do you need a copy?

22 MR. PISANO: Yes.

23 THE DEPOSITION OFFICER: And I've got you  
24 down.

25 MR. DVEIRIN: Thank you.

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(Whereupon the deposition proceedings  
were concluded at 11:57 A.M.)

\* \* \* \* \*

1 WITNESS' SIGNATURE PAGE UNDER PENALTY OF PERJURY

2 \* \* \* \* \*

3  
4  
5 I hereby declare under penalty of perjury under  
6 the laws of the State of California that the foregoing  
7 transcript is my deposition under oath, are the  
8 questions asked of me and my answers thereto; that I  
9 have read same and have made the necessary  
10 corrections, additions, deletions, or changes to my  
11 answers that I deem necessary; that the foregoing is a  
12 true and correct transcript of my testimony contained  
13 therein.  
14  
15

16 Executed this day of ,  
17 , at , California.  
18 (Year) (City)  
19  
20  
21

22 Harold Allan Rigg  
23  
24  
25

## 1 CERTIFICATE OF CERTIFIED SHORTHAND REPORTER

2 \* \* \* \* \*

3 I, TAMMY R. PAGEAU-HINES, CSR No. 8413 in  
4 and for the State of California, do hereby certify:

5 That the foregoing proceedings were taken  
6 before me at the time and place therein set forth, at  
7 which time the witness was put under oath by me; that  
8 the testimony of the witness and all objections made  
9 at the time of the proceedings were recorded  
10 stenographically by me and were thereafter transcribed  
11 under my direction; that the foregoing is a true  
12 record of the testimony and of all objections made at  
13 the time of the proceedings.

14 I further certify that I am neither counsel  
15 for nor related to any party to said action nor in  
16 any way interested in the outcome thereof.

17 That dismantling, unsealing, or unbinding of  
18 the original transcript will render the Reporter's  
19 Certificate null and void.

20 Dated this 11th day of October, 2018.

21  
22   
23  
24

25 TAMMY R. PAGEAU-HINES, CSR