

IN THE SUPERIOR COURT OF MUSCOGEE COUNTY  
STATE OF GEORGIA

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M. LINDA PIERCE  
MUSCOGEE COUNTY  
SUPERIOR COURT

JOHN T. DARR, in his official  
capacity as Sheriff of Muscogee County,

Plaintiff,

v.

CIVIL ACTION FILE  
NO. SU-14-CV-3437-94

COLUMBUS, GEORGIA, a City, a public  
corporation and a political subdivision of  
the State of Georgia; TERESA P.  
TOMLINSON, in her official capacity as  
Mayor of Columbus, ISAAH HUGLEY,  
in his official capacity as the City Manager  
of Columbus, PAM HODGE, in her  
official capacity as Finance Director of  
Columbus, JERRY "POPS" BARNES, in  
his official capacity as District 1  
Councilor, GLENN DAVIS, in his official  
capacity as District 2 Councilor, BRUCE  
HUFF, in his official capacity as District  
3 Councilor, EVELYN TURNER PUGH,  
in her official capacity as District 4  
Councilor, MIKE BAKER, in his official  
capacity as District 5 Councilor, GARY  
ALLEN, in his official capacity as District  
6 Councilor, EVELYN "MIMI"  
WOODSON, in her official capacity as  
District 7 Councilor, TOM BUCK, in his  
official capacity as District 8 Councilor,  
JUDY THOMAS, in her official capacity  
as District 9 at Large Councilor, and  
BERRY "SKIP" HENDERSON, in his  
official capacity as District 10 at Large  
Councilor,

Defendants.

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**DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTIONS TO  
STRIKE THE AFFIDAVITS OF PAM HODGE, LIONEL HAYNES, JR.,  
TERESA PIKE TOMLINSON AND JAMES V. BURGESS, JR.**

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**COME NOW**, Defendants in the above-styled action, and file this Response In Opposition to Plaintiff's Motions to Strike the Affidavits of Pam Hodge, Lionel Haynes, Jr., Teresa Pike Tomlinson and James V. Burgess, Jr. Defendants show as follows:

**I. PRELIMINARY STATEMENT**

The factual and legal context of this case does not give Sheriff Darr what he wants, which is more budgetary power than the law provides. As a result, he wishes to silence those with the most knowledge, experience and background regarding the budgetary process so that he might tailor an improper and absurd interpretation of one sentence in a Charter provision. In this, he seeks to garner additional powers he has never been granted. Over the course of four amended petitions, Sheriff Darr has changed course and focus altogether in his ever-evolving lawsuit against the Columbus Consolidated Government, Council members, members of the Executive Branch. In his Motion for Partial Summary Judgment, the Sheriff has challenged the way in which Charter § 8-105 was intended to be applied, and has been applied, since its inception over four decades ago.

Sheriff Darr, after going through the same budgetary routine for years - the same budgetary routine followed by all of the Sheriffs going back to the Charter implementation in 1971 - *now* complains in his latest filing that the way Charter § 8-105 has been applied by the Columbus Consolidated Government is unconstitutional. This moving of the proverbial ball by Sheriff Darr has been occurring since the inception of this action. In his Motion to Strike, Sheriff Darr attempts to keep from the Court's consideration relevant and proper evidence in the form of affidavits submitted as part of Defendants' consolidated filings on summary judgment. These affidavits are directly relevant to the issues to be decided by the Court on summary judgment. The affidavits should come as no surprise to the Sheriff and his counsel, though they chose to take only one deposition (Pamela Hodge), despite requesting and then canceling other

depositions including the Mayor, City Manager, and the Sheriff's budget analyst Lionel Haynes, on multiple occasions. Indeed, the Plaintiff now seeks to avoid discovery altogether through his pending request to stay discovery in order to prevent salient, relevant and important facts on the actual context of his allegations from coming before this Court.

As is detailed herein, the affidavits should not be stricken and are proper evidence for this Court to consider on summary judgment.<sup>1</sup> As a matter of fact, the case law, as is demonstrated *infra*, provides that it is this Court's duty to review the law and facts and confirm Charter § 8-105 in its proper context with other Georgia statutes and Charter budgetary provisions in *pari materia*, such as § 7-401. This is the only way the Court can get a clear understanding of the issues at hand and avoid the absurd and unreasonable consequences of Plaintiff's interpretation of the budgetary provisions of the Charter.

## II. ARGUMENT AND CITATION OF AUTHORITY

### A. **Pamela Hodge's Affidavit Is Consistent With Her Sworn Testimony And The Evidence She Has Put Forth In This Action And Therefore Should Not be Stricken**

#### 1) ***Pamela Hodge Has Provided Extensive Evidence Via Interrogatory Responses, Deposition And Affidavit Testimony And None Supports The Plaintiff's Contention That The Sheriff's Budget Is Entirely Derived By "Formula"***

Pamela Hodge is one of the named Defendants in the above styled action. She is a Deputy City Manager and acting Director of Finance. She has provided sworn testimony in this action in the form of Interrogatories (*see* Exhibit "A"), Deposition (*see* Hodge Depo.) and Affidavits (*see* Hodge Affidavits) in support of Defendants' Motion for Summary Judgment and in opposition to Plaintiff's Motion for Summary Judgment. In those different modes of sworn

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<sup>1</sup> The affidavits at issue here clearly show the actual budget process, its history, its implementation and its facts - all necessary to understand the Defendants are entitled to immediate judgment as a matter of law as set forth.

testimony she has consistently and clearly spoken to the months-long, comprehensive, exhaustive budget process employed to derive CCG's budget and the Sheriff's budget in particular. None of that testimony and explained process supports the Sheriff's case – it defies it. So, Plaintiff wishes for the Court not to see it and has moved to strike the testimony to that end.

Sheriff Darr has requested the Court strike paragraph 4 of her affidavit under the Prophecy rule by virtue of the claim that her affidavit testimony “contradicts” her deposition testimony. While the Plaintiff wants to ignore the facts and try to pigeon hole Pam Hodge's entire deposition by mischaracterizing one snippet of her testimony as somehow making the affirmative admission that the Mayor's Recommended Budget is based on nothing more than a simple mathematical formula, nothing can be further from the truth.

The first testimony Pam Hodge gave in this case was in the form of sworn Interrogatory Responses given on October 13, 2015. Sheriff Darr's Interrogatory #9 to Pam Hodge asked:

Identify all accounting reports or other documents utilized in the determination of the amount of the FY2014, FY2015 and FY2016 Mayor's recommended General Fund Budget for the Sheriff, including the determination of the amount of line items of object codes.

Defendant Hodge responded:

Defendant Hodge reviewed: personnel data, outside contracts (such as medical), revenue projections and historical data of income, current and historical expenditures, budgets requests, Service Line Analysis, communications from departments, notes from budget meetings and other reports generated from the Finance Department to demonstrate the trend or needs of the CCG in the overall budget process. The names of some of the reports reviewed for the Sheriff's budget, specifically, include the City's Financial System Revenue Report (A203), Expenditure Report (A614), and the Overview Report for the current fiscal year (a summary of the previously named reports). Any budget requests submitted in a timely manner to Pam Hodge, Lionel Haynes. Or any other individual in the Finance Department handling the budget process are considered in the preparation of the Mayor's Recommended Budget.

Exhibit “A” - Def. Pam Hodge’s Resp. to Pl’s First Interrogatories, # 9.<sup>2</sup>

This sworn testimony is consistent with paragraph 4 of Pam Hodge’s affidavit and is furthermore consistent with her deposition testimony. Plaintiff’s counsel attempts to select snippets of testimony they must misconstrue to argue a theory they believe is helpful to their case. Then, they argue that any correction of that misconstruction is not allowed. If this were live testimony in trial, this tactic would be subject to the rule of completeness under O.C.G.A. §§ 9-11-32(a)(5), 24-1-106 and 24-8-822. On numerous occasions, Pam Hodge has indicated that a great deal more went into the preparation of the Mayor’s Recommended Budget than the Plaintiff’s Counsel’s purported “formula”.<sup>3</sup> For instance, in the portion of the Hodge deposition that Plaintiff cites in support of this disingenuous assertion, Hodge testifies that Plaintiff’s Counsel’s so-called “formula” was at best a “starting point” to get the recommended budget. *See* Hodge Depo. pg.80 (“That was where we were starting with to get to the recommended budget, a minimal reduction to the department in order to balance the general fund.”). She further testified that there “was a lot of analysis done just to get to this point”. *Id.* at pg. 86. Later she goes on to state that,

We discussed the FY-14 budget and the reasonableness of this case with the sheriff’s office, as we do with all departments, *is there anything different, is there any new programs, is there any mandates.* I mean, *we look at that before*

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<sup>2</sup> Note, that no “formula” is mentioned in this interrogatory response. As the Court will see *infra.*, and must understand, the notion of a “formula” has been interjected into this case by Plaintiff’s Counsel. Yes, math is involved in the budget process, and to the extent that Plaintiff’s Counsel wants to take any particular consideration in a mountain of considerations and data and declare “I see math!” or “I have derived a formula in all that testimony” fine, but that is his *argument*. It is not testimony and surely is not the testimony of Pam Hodge. Plaintiff’s Counsel should not be surprised that Ms. Hodge’s testimony is contrary to his contrived theory of the case.

<sup>3</sup> Furthermore, it should be noted that multiple objections to this mischaracterization of the budget being based on a “formula” were also made during the deposition of Pam Hodge. *See* Hodge Depo. pgs. 82, 84. Plaintiff’s counsel knew that Pam Hodge had more to say on this topic but simply failed to conduct a further, more in depth inquiry, and even attempted to stifle her testimony by repeated interruptions to her answers. *See* Hodge Depo. pgs. 166-169.

we build the FY-15 base. And we felt that *during the analysis that we did* that the FY-15 base, which is based on the FY-14 adopted budget, was reasonable and adequate to provide the services.

Hodge Depo. pg. 118 (emphasis added). Her testimony throughout her deposition was that a great deal of additional analysis was done to come up with the Mayor's Recommended Budget and that the "formula" Plaintiff is fixated upon is not a "formula" of CCG, but is simply Plaintiff's mathematical depiction of one starting consideration in the budget preparation process. *See* Hodge Depo. pg. 214.

Plaintiff completely ignores Hodge's deposition testimony where she describes how the Finance Department, during a month's long process, looks at revenues, expenditures, historical data, department trends, policy decisions and other information in creating the Proposed Budget, to include the Sheriff's proposed budget. *Id.* at pgs. 84-86, 118, 122-125, 219-221. This is the same testimony provided in paragraph 4 to her affidavit and which was previously provided by her in the sworn Interrogatory responses as described *supra*. Plaintiff further ignores Pam Hodge's errata sheet executed on January 26, 2016. There she specifically noted that the Plaintiff's so called "formula" was "inaccurate and incomplete" and that it failed to reflect "a lot more analysis" as she testified to during other portions of her deposition.<sup>4</sup>

**2) *Plaintiff's Counsel's Manufactured Demonstrative Exhibit Is Not Evidence.***

Plaintiff's Counsel crafted a demonstrative exhibit to reflect what they had hoped the facts of this case would show. *See* Pam Hodge Depo. pgs. 76-77, Exhibits 5 and 6. Plaintiff's Counsel introduced to Pam Hodge two documents he created, asking her if the equation he had manufactured was a correct equation. *Id.* at 76-77, 81-83.<sup>5</sup> Throughout the deposition, Ms.

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<sup>4</sup> *See* Exhibit "B" – Hodge Depo. excerpts and errata sheet.

<sup>5</sup> Exhibits 5 and 6 are NOT CCG documents. Those exhibits were manufactured by Plaintiff's Counsel and the fact that Plaintiff's Counsel has represented here that Defendant's

Hodge testified that this Plaintiff's "formula" was not all of the information and criteria that were looked at in crafting the recommended budget for the Sheriff's Office. For example, on page 203 of the deposition she specifically testified that as part of the budget building, historical trends were reviewed and the fact that the Sheriff's budget was no longer covering portions of MCP's (Muscookee County Prison) medical costs, as it had previously, was also taken into account. Indeed, Hodge specifically testifies that the elements reflected in Plaintiff's Counsel's equation are a general **starting** point derived from the anticipated revenues and expenditures in that particular fiscal year. *Id.* at 80, 83.<sup>6</sup> It is clear from Ms. Hodge's testimony, the objections of her counsel, and the errata sheet that Ms. Hodge had more to say as to the considerations made in the budget preparation process and the Mayor's Recommended Budget for the Sheriff's Office, but Plaintiff did not want to hear it.

Now, Plaintiff's counsel wants his demonstrative exhibit, and only his exhibit, to be presented to the Court – requesting that other sworn testimony be disallowed and all other discovery stayed. Lawyers, however, are advocates not witnesses and the demonstrative exhibit crafted by Plaintiff's Counsel, and the misleading argument said Counsel derives therefrom, is not the testimony of Ms. Hodge, and it never will be, as her full testimony shows. Ms. Hodge's testimony in three different modes – interrogatory response, deposition and affidavit, all provide

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witness' testimony should be stricken because that testimony is contradictory to opposing counsel's manufactured demonstrative exhibit is astounding.

<sup>6</sup> Indeed, Defendant's Counsel objects throughout the Hodge Deposition that Darr's lawyer is not allowing Ms. Hodge to respond to his inquiries. *See* Hodge Depo. pgs. 46-47, 123, 166-169, 244-247-(“I am going to object to your rejection of what she is trying to explain to you”; “she's trying to explain the answer to you and you're not allowing her to”; “Just let her explain it please, and don't interrupt her before she's done. I promise she will explain it to you if you will just let her respond.”). Darr's lawyers were forewarned by those objections that their attempt to disingenuously excise and, then, misinterpret testimony would not be tolerated in this case. To their detriment, Darr's lawyers strategically chose to stifle further responses from a knowledgeable fact witness in a discovery deposition. There is no doctrine – the Prophecy Rule or otherwise – that allows them to stifle information from reaching the Court on Summary Judgment.

that neither CCG's budget, nor the Sheriff's Office budget, is built on the recitation of one "formula", it is built on a broad, methodical process of information, consideration, deliberation, legal directive and policy review. (See Def's SOMF, ¶¶ 5-8, 13-15 and 17-19). Does that budget process involve math? Sure. Could that math be construed by Plaintiff's Counsel into a "formula"? Sure, but what that purported "formula" means and how it applies to this case is *argument* and in no way does opposing Counsel's contrived theory of the case warrant striking sworn testimony that shows that theory and argument is ill-conceived and misleading.

The failure to request and to obtain all the testimony of Ms. Hodge regarding the work required by the Mayor's Recommended Budget lies solely with Plaintiff's counsel. The point of summary judgment is to look at the Plaintiff's claims in the light of reality – not mere allegations. Under no circumstances does one manufactured demonstrative exhibit estop a fact witness' full testimony from being reviewed by the Court. Plaintiff's use of the Prophecy rule under the circumstances here is disingenuous and reflective of the tenuous nature of the Sheriff's defective claims.

### 3) *The Prophecy Rule Does Not Apply As There Is No Contradiction*

Simply put, Pam Hodge's testimony is not contradictory and, therefore, her affidavit is not subject to being stricken under the Prophecy rule. In no event is the Prophecy rule used to supplant a witness' testimony with the crafted argument of a party's Counsel. The Prophecy rule, provides that on a Motion for Summary Judgment, if a party offers self-contradictory testimony on the dispositive issue in the case, and the more favorable portion of the testimony is the only evidence of his right to a verdict in his favor, the trial court must construe the contradictory testimony against him. Prophecy Corp. v. Rossignol, 256 Ga. 27,28 (1986). To determine if the Prophecy rule applies, the Court must determine: (1) Whether the testimony of



the parties/witness is contradictory, and (2) Whether a reasonable explanation is offered for the contradiction.

The Courts have explicitly stated that in evaluating testimony under the Prophecy rule to determine the issue of contradiction, the Court is required to examine a party's entire testimony, not just individual words or phrases alone. Price v. Thapa, 323 Ga. App. 638 (2013) (holding that a review of the entire testimony is required and that testimony more fully elaborating and expanding on prior testimony is not inconsistent); Brown v. Seaboard Constr. Co., 317 Ga. App. 667 (2012) (providing that affidavit testimony did not contradict prior testimony where it simply provided additional information); *see also* Smith v. Vencare, Inc., 238 Ga. App 621 (1999) (noting that the Prophecy rule requires a more restrictive and narrow view than the prior inconsistent statement impeachment rule and further holding that a fuller and more expansive testimony by way of affidavit is not contradictory).

Here, it is clear that the testimony is in fact not contradictory. Pam Hodge testimony is consistent throughout. It is inconsistent, however, with opposing counsel's argument of a manufactured demonstrative exhibit. Ms. Hodge certainly describes a great deal of additional information and analysis that goes into the preparation of the Mayor's Recommended Budget in her sworn interrogatory responses discussed *supra* and in various portions of her deposition. In her deposition she explained that opposing counsel's so called "formula" was a "starting point" and that before getting to that starting point there was a month's long analysis that was undertaken with all sorts of matters including historical data, trends, budget requests and other information taken into consideration.<sup>7</sup>

When looking at other testimony, such as that provided in the affidavit of Mayor Tomlinson, at paragraphs 12, 13, and 17, Pam Hodge's own Interrogatory Responses attached as

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<sup>7</sup> See Hodge Depo. pgs. 80, 84-86, 118, 122-125, 219-221; *see also* Hodge errata sheet.

Exhibit "A" and Tomlinson's Interrogatory responses attached hereto as Exhibit "C", one can see that the Hodge affidavit is utterly reflective of a methodical and deliberative budget process that defies Darr's case and argument on Summary Judgment. Darr's Motion to Strike the affidavit of Pam Hodge is a troubling attempt to mislead the Court into thinking that an extensive, months long process can be reduced to a simple mathematical "formula". Justice demands that the Court know the actual facts of this case in order to complete a thorough analysis prior to ruling.

Pam Hodge's interrogatory and deposition testimony are utterly consistent with her affidavit and accurately conveys the story of a thorough budgeting preparation process for which no action or claim on behalf of the Sheriff may lie. The Prophecy rule does not apply and Ms. Hodge's affidavit should be fully considered by this Court on deciding the pending Motions for Summary Judgment.

**B. Lionel Haynes' Affidavit Should Not Be Stricken As It Provides Relevant Information Supported By Both Plaintiff's Own Filings And The Facts.**

The Plaintiff here needs to pick an argument and stick to it. This process of choosing two options to remain agile and constantly move the goalpost is disingenuous. To be clear, on the one hand, Sheriff Darr claims that a "strict" or "unambiguous" construction of Charter § 8-105 should be made, and by this provision, he delivers his Office's budget requests to the City Manager and no one else. (*See generally* Pl's Reply Brief In Support of Cross-Motion for Summary Judgment; *see also* Pl's Motions to Strike). Sheriff Darr's own Motion for Summary Judgment even asserts that Defendants could not have reviewed his FY16 budget requests, because he did not deliver them until March 31, 2016, the very day on which the Mayor's Recommended Budget was presented to Council. (*See* Pl's Statement of Material Facts In Support of Their Motion for Summary Judgment, Feb. 3, 2016, ¶¶ 33 and 34; Pl's Brief in Support of Their Cross Motion for

Summary Judgment, pgs. 34, n.16 and 35; *see also* Plaintiff's Fourth Amended Petition, ¶ 259; and Exhibit "D" – Sheriff Darr's Letter dated March 30, 2015).<sup>8</sup>

Indeed, in FY16, Sheriff Darr did deliver budget requests to the City Manager, but not until March 31, 2016, the same day the Mayor's recommended budget was delivered to Council. (See Exhibit "D"- Sheriff Darr's Letter dated March 30, 2015 and received by the City Manager's Office on March 31, 2015). Further, Sheriff Darr goes on to actually plead on multiple occasions in this litigation that he didn't deliver budget requests until March 31, 2016 (the date the Mayor's Recommended Budget was submitted to Council). (See Pl's Statement of Material Facts In Support of Their Motion for Summary Judgment, Feb. 3, 2016, ¶¶ 33 and 34; *see also* Pl's Brief in Support of Their Cross Motion for Summary Judgment, pgs. 34, n. 16 and 35; *see also* Plaintiff's Fourth Amended Petition, ¶ 259). In fact, Sheriff Darr has stated this is an undisputed material fact. *Id.* Plaintiff is estopped from arguing other than his *in judicio* representations that the Sheriff gave his budget requests to the City Manager on March 31, 2015. Most certainly, no misrepresentation was made by Mr. Haynes in reciting such and the Plaintiff's should be estopped from asserting otherwise.

Mr. Haynes affidavit simply acknowledges Plaintiff's expressly conceded material fact - that Darr's budget requests were not delivered to the City Manager until March 31, 2015. When hearing these facts from Mr. Haynes, however, Sheriff Darr objects to his own allegations and assertions and recasts them to aver that he submitted his budget requests on March 18, 2015 to Mr. Haynes, a Budget Analyst who is not mentioned in the Charter or § 8-105, apparently

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<sup>8</sup> Specifically Pl's Statement of Material Facts state the following in paragraphs 33 and 34: "The City Manager acknowledged receipt on March 31, 2015 of Sheriff Darr's FY16 budget..." "There is no genuine issue of material fact that, in both FY15 and FY16, the Mayor's Recommended Budget for the consolidated government could not have incorporated Sheriff Darr's budget for the Office of Sheriff of Muscogee County; in FY15, Sheriff Darr was instructed not to submit a budget and, *in both years, Sheriff Darr had not submitted his budget at the time the Mayor presented her budget for his office to Council...*" (emphasis added).

abandoning Plaintiff's super strict unambiguous construction argument. Plaintiff's new assertion fails, too.

All of this kerfuffle is because Plaintiff takes exception to the assertion in Defendant's filings that Darr doesn't participate in the CCG budget process in a manner that would allow the more meaningful consideration of budget requests he claims are absent from the Mayor's Recommended Budget submitted for Council's consideration. (See Def's SOMF ¶ 29; Def's Consolidated MSJ Brief, pgs. 11-12). The truth is, all budget requests for consideration in the budget building process were due on February 6, 2015. (See Def's SOMF, ¶ 28).<sup>9</sup> When Lionel Haynes was emailed budget requests on March 18, 2015 by a representative in the Sheriff's Office, the Sheriff's requests were still some **six weeks** late. By his own actions, the Sheriff left little to no time for the Executive team to consider his requests in the administrative budget preparation process or in the executive policy suggesting process, processes which the Sheriff knew had already been months in the making. See O.C.G.A. § 36-81-4(c)(administrative budget preparation process is distinguished from the executive budgetary policy-making process of the Mayor). The Sheriff's own argument suggests he did not submit budget requests to the City Manager, as required by his own strict interpretation of § 8-105, until the date the Mayor's Recommended Budget was presented to Council –March 31, 2015.<sup>10</sup> Regardless of which date Sheriff Darr contends is favorable to him in his ever changing interpretation of the law and facts, the requests were late and not made in a good-faith collaboration to produce the best Recommended Budget as a tool for Council's deliberation and consideration. See Charter § 7-401.

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<sup>9</sup> As stated, Plaintiff has taken the position that in FY2016 he delivered those budget requests to the City Manager on March 31, 2015, *supra.*, and now believes it suits Plaintiff's needs to rely on the submission of budget requests Darr made to a budget analyst (Lionel Haynes) on March 18, 2015.

<sup>10</sup> (See Exhibit "D"- Sheriff Darr's Letter dated March 30, 2015 and received by the City Manager's Office on March 31, 2015).

Regardless of whether consideration is given to Sheriff Darr's office's submission of their budget requests via email to their budget analyst Lionel Haynes on March 18, 2015 or whether the submission was made in accordance with a strict interpretation of § 8-105, as Sheriff Darr urges, to the City Manager's office on March 31, 2015, both submissions were outside of the February 6, 2015 deadline for the administrative budget preparation and executive recommendation processes. Lionel Haynes affidavit stands for the simple proposition that Sheriff Darr's Office did not in fact submit its budget requests in a timely manner during the budget recommendation process, as Sheriff Darr has admitted he did not send them to the City Manager until March 31, 2015, the date the Recommended Budget was due to be submitted to Council. Lionel Haynes' affidavit is evidence of the type of delays and disregard of timelines the Sheriff has sought to place upon the formulation of the Mayor's Recommended Budget. Nevertheless, Defendants work to consider every piece of information or data submitted by Sheriff Darr related to his Office's budget (*see* Hodge Depo. pgs. 175-176 ), Defendants point – and a point well taken – is that the Sheriff should not be able to complain about the application of the administrative budget preparation and executive policy-making process when he does not participate in it in good faith.

By virtue of the foregoing, there are no grounds for the exclusion of Lionel Haynes affidavit, which should be fully considered by this Court on summary judgment as a demonstration of the impractical nature of the Sheriff's erroneous interpretation of the Charter.

**C. Mayor Tomlinson's Affidavit Should Not Be Stricken As It Provides A Vital Factual And Legal Context For The Budget Process And The Determination Of The Issues At Hand**

Under the Columbus Charter § 4-201, the Mayor has the power and duty to implement and execute the mandates of the Charter. She is charged as being the official spokesperson for the Columbus Consolidated Government and its chief policy advocate. She is further charged

under the Charter with making the proposed policy determinations that balance the Recommended Budget for Council's consideration, which Sheriff Darr now seeks to usurp. Her role as the Chief Executive of the Columbus Consolidated Government is of vital importance in the determination of the issues before the Court – Darr in his allegations has made it so. While Plaintiff wants this Court to look at one sentence of Charter § 8-105 in isolation, or in a vacuum, the law, and common sense, does not condone such a narrow and limited analysis. In fact, the law expressly proscribes against such a limited, narrow and short-sighted analysis.<sup>11</sup>

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<sup>11</sup> Plaintiff claims throughout his filings that Charter §8-105 is clear and unambiguous *as oddly and erroneously interpreted by Plaintiff*. The law does not work that way. First, the Court must find § 8-105 to be ambiguous and in need of interpretation, but in no event would any reasonable reading warrant the forced and illogical interpretation urged by Plaintiff. Should the Court find § 8-105 is in need of interpretation, the Appellate Courts of this State have universally held that when considering the meaning of a statutory provision (including Charter provisions), the court does not read them in isolation, but rather, the court reads the provision in the context of the other statutory provisions of which it is a part (also known as reading codified law in *pari materia*). All statutes relating to the same subject matter are to be construed together, and harmonized together. Hartley v. Agnes Scott College, 295 Ga. 458 (2014); Lue v. Eady, 297 Ga. 321 (2015) (involving the interpretation of multiple charter sections in *pari materia*) *see Ford Motor Co. v. Abercrombie*, 207 Ga. 464 (1950) (holding it is impermissible to mutilate a statute by lifting a mere segment out of its context, and construe it without consideration of all other parts of the act; further noting that the cardinal rule to guide the construction of law is, first, to ascertain the legislative intent and purpose in enacting the law, and then to give it that construction which will effectuate the legislative intent and purpose); *see also Abdel-Samed v. Dailey*, 294 Ga. 758 (2014) (declining to simply end the analysis of statutory construction with the application of dictionary definitions to statutory terms and instead deciding to look further into the context in which terms are used and the legislative intent behind the enactment of the statutory provision); Monticello, Ltd. V. City of Atlanta, 231 Ga. App. 382 (1998) (applying rules of statutory construction to harmonize various provisions between statutes and charter provisions). Of utmost importance is the rule of statutory construction that provides that the judiciary has the duty to reject statutory construction that will result in unreasonable consequences or absurd results. *See generally Haugen v. Henry County*, 277 Ga. 743 (2004). Charter § 8-105 is clear to Defendants, too, and it certainly does not mean what Darr suggests. If the Court determines it needs assistance in understanding § 8-105, then, the intent of the provision and other substantive context of the CCG Charter, in *pari materia*, will leave no doubt that § 8-105 cannot be applied as Darr suggests.

Here, Plaintiff attempts to keep this Court from considering Mayor Tomlinson's affidavit for the sole purpose of continuing to avoid the truth about the actual manner in which § 8-105 has been properly implemented and followed by CCG for years, particularly in light of the corresponding provision of § 7-401. Plaintiff is doing nothing more than requesting this Court to interpret one sentence of a Charter provision in isolation while ignoring the remainder of the same provision, other Charter provisions and Georgia statutory provisions affecting the budget process. As the case law mandates, context must be considered, sections must be read in harmony with one another and absurd results avoided. The actual way in which § 8-105 is applied in practice is important and the Mayor speaks directly to that determinative information.

Mayor Tomlinson's affidavit provides this Court with the requisite context and functional application it needs in its duty to interpret the budgetary process. How Mayor Tomlinson - the Chief Executive charged with carrying out and implementing the laws and provisions discussed herein - has, and continues to, carry out her duties as the Mayor is relevant to opposing Plaintiff's contorted allegations and legal reasoning.

An examination of the paragraphs Plaintiff seeks to strike is telling. Plaintiff complains about paragraphs 5, 9-11, 14-16, 18-22 and 26. These paragraphs are testimony from Mayor Tomlinson about what her job requirements are with respect to how she has been charged with carrying out the laws of the state, Columbus Consolidated Government and more specifically the Charter itself. Furthermore, the paragraphs at issue not only detail how she has carried out the laws of the state with respect to the budgetary process, but also they provide the context behind the executive and administrative budgetary process. These paragraphs are all based on her direct personal experience, knowledge and practice with respect to the matters addressed in this litigation. The paragraphs contain admissible information that are necessary for this Court to avoid the absurd results of interpreting § 8-105 in isolation for which Plaintiff advocates.

Mayor Tomlinson's affidavit explains what the factual process is for budget preparation and submission from her executive experience, what her role in the process is and why she carries out her duties and functions in the manner in which she performs them. For example: in paragraph 5 she explains that she is the full-time Chief Executive Officer that is responsible for being the chief advocate of policy and is required to see that the laws of the state are faithfully executed and enforced (citing to Charter § 4-201); in paragraph 9 she describes how she is the chief executive of CCG that makes the initial budgetary policy as provided for by O.C.G.A. § 36-81-4(c); in paragraphs 10 and 26 she further details her initial budgetary policy-making authority and how the budget proposed is required to be a balanced budget which is affected by various legal requirements including the "mill cap" and "tax freeze" – citing to Charter §§ 7-401 and 7-102 and O.C.G.A. § 48-8-96. These are not inadmissible opinions, but rather facts derived directly from the Mayor's experience and personal knowledge of how required legal directives are applied to the CCG's executive budget process. *See Hawks v. Hinely*, 252 Ga. App. 510 (2001) (holding that it is the duty of the court to consider the results and consequences of any proposed statutory construction and to avoid a myopic construction that would result in unreasonable or absurd consequences not contemplated by the legislature).

Plaintiff's proffered interpretation of § 8-105 would frustrate the entire executive and legislative budget process by requiring the City Manager, Finance Department and Mayor to build a recommended balanced budget for submission to Council around whatever the "elective officers" and certain "agencies" request. A situation could arise where there is virtually no money left for other departments and agencies of the local government. In essence, the Mayor's Recommended Budget process would be frustrated and be rendered meaningless.

This Court must not be shielded from any facts necessary for the proper application of the Charter provision at issue and the Court must avoid any interpretation of the same in a



vacuum. Mayor Tomlinson's affidavit provides the factual background and legal context by describing specifically: (1) the Mayor's duties and role in the carrying out of the executive policy making functions of the budgetary process (paragraphs 5-11), (2) the information, parameters and constraints that work to influence the requirements of the Mayor's Recommended Budget (ex. recommending a balance budget providing for the competing needs of 50 or so departments, offices and agencies) (paragraphs 11-19 and 25-30) and (3) Sheriff Darr's participation, or lack thereof, in the budgetary process (paragraphs 20-24). All of this information is given by way of her own direct personal knowledge and experience. In light of the foregoing, it is incumbent on this Court to fully consider Mayor Tomlinson's affidavit as it is admissible as described herein, and should not be stricken as part of some tactic to conceal the full framework and context behind the issues before the Court.

**D. The Burgess Affidavit Should Be Considered To Avoid The Myopic And Erroneous Interpretation Plaintiff Seeks To Persuade This Court To Reach**

Once again, Sheriff Darr has filed a Motion to Strike in an attempt to keep the truth from the Court about how the budget process has always worked and is intended to work. The way the budget process has always worked, and indeed the reason why it has worked as long as it has, is because it is in compliance with the intentions behind the Charter provisions and statutory codes sections that give the requisite context to the Court in the analysis that must be undertaken. Sheriff Darr's tactic in this regard is solely in an attempt to snuff out any mention of any other Charter provision or statute in hopes that this Court will do exactly what Plaintiff wants: interpret one sentence of § 8-105 in isolation without any factual background or any legal context and to give Sheriff Darr additional powers not provided by law. This approach is not in keeping with the rules behind sound statutory construction, which are not mentioned in Sheriff Darr's filings, since a full view of the CCG budgetary scheme would eliminate his narrow

interpretation of the CCG budget provisions. (See Section C. *supra*, pp. 14-15, n. 10). Those rules of statutory construction are conveniently withheld from the Court in Sheriff Darr's briefings. The rules provide that the courts must construe statutes in a way that square with common sense and sound reasoning. It is the duty of the court to consider the results and consequences of any proposed construction and not so construe a statute as will result in unreasonable or absurd consequences not contemplated by the legislature. See Palmyra Park Hosp., Inc. v. Phoebe Sumter Med. Cent., 310 Ga. App 487 (2011). Furthermore, in construing language in any one part of a statute, a court should consider the entire statutory scheme and attempt to gather the legislative intent from the statutes as a whole. *Id.* at 495.

With the foregoing in mind, the fact of the matter is that Plaintiff's Motion to Strike James Burgess's affidavit only seeks to strike paragraphs 6-9.<sup>12</sup> Those paragraphs are a more thorough and detailed description of the budgetary process as derived from the Charter provisions affecting that process and as described by Mr. Burgess, one of the architects of the Charter, in paragraph 5 of his affidavit. In all of Plaintiff's Motions and Briefs regarding the issues before the Court, Plaintiff seeks to have this Court take a short-sighted myopic review of one sentence from Charter § 8-105 and reach an interpretation without any consideration of the other provisions of the budgetary process. Plaintiff argues that such a short-sighted view should be taken because the sentence in § 8-105 over which they seek to have this Court interpret is clear and unambiguous.

The fact of the matter is that the only way that this Court can reach the true intent behind the legislature's enactment of the Charter provision at issue is through the consideration of the other provisions affecting and giving context to the budgetary process. The Burgess affidavit simply seeks to assist the Court by providing the necessary legal context and statutory scheme in

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<sup>12</sup> See PI's Motion to Strike Affidavit of James V. Burgess, Jr. – § III.

which the interpretation at issue must be made. Sheriff Darr, in contrast, wants to avoid any consideration of other Charter and code sections that give the context and background for the budgetary process. These Defendants in no way are suggesting that this Court should base its entire ruling on the Burgess affidavit. As pointed out by Defendants in their other briefings in support of summary judgment, the various Charter provisions described in paragraph 5 of the Burgess affidavit must be considered in the statutory interpretation being undertaken as they are part of the same scheme and given the requisite and necessary legal and factual context on the budgetary process that will allow this Court to avoid a potentially absurd and unreasonable result if Sheriff's Darr's myopic interpretation were to be adopted.

In light of the foregoing, this Court should consider the factual and legal context provided by James Burgess in his affidavit. A failure to consider the whole statutory scheme would result in an interpretation that is not reflective of the legislative intent behind the Charter provision at issue. Furthermore, it would be erroneous to fail to consider the entire statutory scheme behind the budgetary process and the powers and duties of those in charge of implementing that process. The factual and legal context, as supported and demonstrated by the affidavit of James Burgess, is of the utmost relevance and importance to the Court's ultimate determination.

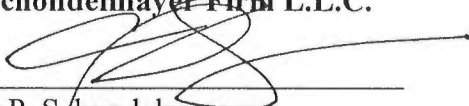
### CONCLUSION

By virtue of the foregoing argument and citation of authority, this Court should deny Plaintiff, Darr's, Motions to Strike the Affidavits of Pamela Hodge, Lionel Haynes, Jr., Teresa Pike Tomlinson and James Burgess, Jr. The affidavits are relevant evidence providing the necessary factual and legal context in which the Charter provision at issue must be interpreted in order to avoid absurd and unreasonable consequences that would result from an isolated interpretation for which Sheriff Darr so adamantly advocates.

Respectfully submitted this 12th day of April, 2016.

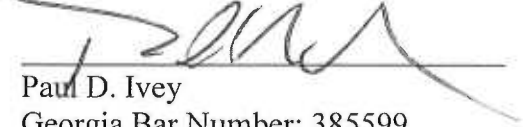
**The Schondelmayer Firm L.L.C.**

P.O. Box 5742  
Columbus, GA 31906  
P: 706-464-5298

  
\_\_\_\_\_  
Carter P. Schondelmayer  
Georgia Bar Number: 558998  
cschondelmayer@outlook.com

**Hall Booth Smith, P.C.**

233 12th Street, Suite 500  
P.O. Box 2707  
Columbus, GA 31902  
P: 706-494-3818

  
\_\_\_\_\_  
Paul D. Ivey  
Georgia Bar Number: 385599  
pivey@hallboothsmith.com  
Mark D. Maholick  
Georgia Bar Number: 591633  
mmaholick@hallboothsmith.com

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have served a copy of the above and foregoing DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTIONS TO STRIKE THE AFFIDAVITS OF PAM HODGE, LIONEL HAYNES, JR., TERESA PIKE TOMLINSON AND JAMES V. BURGESS, JR. upon all counsel via electronic mail, the agreed upon method of service, as follows:

W. Kerry Howell  
W. Kerry Howell, LLC  
230 Second Street  
Macon, GA 31201  
wkhowell\_law@bellsouth.net

Larry Walker  
Kellye C. Moore  
Walker, Hulbert, Gray & Moore, LLP  
909 Ball Street  
P. O. Box 1770  
Perry, GA 31069  
lwalker@whgmlaw.com  
kmoore@whgmlaw.com

Duke R. Groover  
James, Bates, Brannen & Groover, LLP  
P.O. Box 4283  
Macon, GA 31208  
dgroover@jamesbatesllp.com

This 12th day of April, 2016.

  
Attorney for Defendants

EX. A

IN THE SUPERIOR COURT OF MUSCOGEE COUNTY  
STATE OF GEORGIA

JOHN T. DARR, in his official capacity as Sheriff of  
Muscogee County,

Plaintiff,

v.

COLUMBUS, GEORGIA, a City, a public corporation  
and body politic and a political subdivision of the State  
of Georgia; TERESA P. TOMLINSON, in her official  
capacity as Mayor of Columbus, ISAIAH HUGLEY, in  
his official capacity as the City Manager of Columbus,  
PAM HODGE, in her official capacity as Finance  
Director of Columbus, JERRY "POPS" BARNES, in his  
official capacity as District 1 Councilor, GLENN  
DAVIS, in his official capacity as District 2 Councilor,  
BRUCE HUFF, in his official capacity as District 3  
Councilor, EVELYN TURNER PUGH, in her official  
capacity as District 4 Councilor, MIKE BAKER, in his  
official capacity as District 5 Councilor, GARY ALLEN,  
in his official capacity as District 6 Councilor, EVELYN  
"MIMI" WOODSON, in her official capacity as District  
7 Councilor, TOM BUCK, in his official capacity as  
District 8 Councilor, JUDY THOMAS, in her official  
capacity as District 9 at Large Councilor, and BERRY  
"SKIP" HENDERSON, in his official capacity as  
District 10 at Large Councilor,

Defendants.

Civil Action No.  
SU14CV3437-94

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DEFENDANT PAM HODGE'S RESPONSE TO PLAINTIFF'S FIRST INTERROGATORIES

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COMES NOW Defendant, Pam Hodge (hereinafter referred to as "Defendant" or  
"Defendant Hodge"), pursuant to O.C.G.A. §9-11-33, within the time provided by law and hereby  
responds and objects to the Plaintiff's Discovery Requests.

Defendant expressly reserves the right to supplement, amend, or correct these responses in accordance with applicable discovery rules as interpreted by the Courts. All responses are subject to the General Objections set forth below, which are incorporated into each response, as well as the objections to specific Requests where indicated.

### GENERAL OBJECTIONS

1.

Defendant's response to these Interrogatories is not deemed a waiver of her right to object to the relevance or admissibility of any information, document, or evidence based on the relevance or admissibility of any such response, which objections are expressly reserved.

2.

Defendant's response to these Interrogatories is not a waiver of any other general or specific objection.

3.

Defendant objects to the Interrogatories to the extent that they, or any specific Interrogatory addressed, is vague, uncertain, or overly broad as to the expressed information sought, and the manner in which Defendant is expected to respond. Accordingly, Defendant's responses are based upon her, and her attorneys' best understanding or interpretation of the Interrogatory as phrased. To the extent that Plaintiff should contend that Defendant's answer is unresponsive, it is the Defendant's position, and her objection, that such Interrogatory is inappropriately articulated.

4.

Defendant objects to any Interrogatory which seeks to impose burdens and obligations



beyond those required by the Georgia discovery rules.

5.

Defendant objects to Plaintiff's Interrogatories to the extent that they seek the disclosure of any information or documents protected by the attorney-client privilege, the work product doctrine, and other applicable privileges. To the extent that these requests seek Defendant's attorney(s), or any other representative(s), mental impressions, conclusions, opinions, computations, calculations, projections, reasoning, legal theories or other work product or attorney-client privilege, Defendant objects to these discovery requests for those reasons on the grounds that they exceed the scope of permissible discovery under the Georgia Rules of Civil Procedure. Subject to the foregoing objection and without waiving the same, Defendant will respond to such discovery requests as required under the Georgia Rules of Civil Procedure.

6.

Defendant objects to Plaintiff's First Interrogatories to the extent they, or any specific Interrogatory, calls for information which is neither relevant to this action nor reasonably calculated to lead to the discovery of admissible evidence.

7.

Defendant objects to any Interrogatory which seeks opinions and/or contentions of Defendant relating to any fact and/or the application of any law to fact, prior to the completion of discovery.

8.

Defendant objects to Plaintiff's First Interrogatories seeking information which is not in her possession, custody or control and which Defendant either does not have access to or has had insufficient time to conduct discovery and/or an investigation of facts to properly respond, and

therefore reserves the right to either object or to further respond if any such information may later come into Defendant's possession, custody or control.

9.

Defendant shows that the responses to these Interrogatories are true and correct to the best of her current knowledge. However, the word usage and sentence structure in these answers may be that of the attorney assisting in the preparation of the answer and does not necessarily purport to be in the precise language of the executing party.

**Standing Objection No. 1**

Defendant objects to these Interrogatories to the extent that they call upon Defendant to locate and produce information that is contained only in documents which are extremely difficult, if not impossible, to obtain or come by, and to the extent that they require Defendant to resort to incalculable work and expense to obtain information. Said requests are deemed to be unduly burdensome and/or an attempt to annoy, embarrass, oppress, or cause undue expense to the Defendant and objection is made upon that basis pursuant to the Georgia Rules of Civil Procedure.

**Standing Objection No. 2**

Defendant objects to these requests insofar as they call upon Defendant to respond by acquiring or supplying information that is irrelevant and to the extent that they are not reasonably calculated to lead to the discovery of admissible evidence and to the extent that the requests exceed the scope of permissible discovery under the Georgia Rules of Civil Procedure.

**Standing Objection No. 3**

Defendant objects to any "definitions" which precede Plaintiff's discovery requests to the extent that these "definitions" exceed and expand any legal, common, or grammatical definition of

that term beyond the permissible scope of discovery established by the Georgia Rules of Civil Procedure. Without in any way limiting the foregoing general objection, and specifically reserving the same, Defendant objects to any definitions of "Defendant(s)" which might include the Defendant's attorney(s), which would obviously infringe upon Defendant's attorney-client privilege and the work product doctrine. The Georgia Rules of Civil Procedure do not require this Defendant to identify any such privileged documents and Defendant specifically objects to any such request.

**Standing Objection No. 4**

Defendant further objects to Plaintiff's Discovery Requests to the extent each of these requests seeks information which may be responsive to one or more of Plaintiff's requests, any one answer that is given should be deemed responsive to any additional requests to which it is responsive, and should be viewed as such.

**Standing Objection No. 5**

Defendant will produce documents that are not attached hereto, or copies thereof at a mutually convenient place and time; Defendant will supplement its answers as necessary and as discovery has just begun, as information becomes available and known to Defendant.

**Standing Objection No. 6**

Defendant is engaged in a continuing investigation of the matters inquired about in these discovery requests. Defendant's responses to Plaintiff's requests are believed to be accurate as of the date made. But because her investigation into the matter inquired about is continuing, Defendant cannot exclude the possibility that she may be able to obtain more complete information or even information that indicates that the answers being supplied are inaccurate in some respect. Accordingly, Defendant reserves the right to (a) supplement any and all of her

responses to these Requests and (b) to assert additional objections should Defendant discover additional grounds for such objections.

**Standing Objection No. 7**

Defendant's responses to Plaintiffs' requests are made without in any way waiving or intending to waive, but to the contrary preserving and intending to preserve, all questions as to the competence, relevance, materiality or admissibility into evidence of any of the information call for in the requests for any purpose and in any aspect of this or any other court action, judicial or administrative proceeding or investigation.

**Standing Objection No. 8**

Defendant objects to all Interrogatories which are compound, requesting information from two or more distinctive budget years.

**Standing Objection No. 9**

Defendant objects to all requests for information regarding FY2014 and FY2015, as both are moot and no claims can lie for such budget years.

This Preliminary Statement and Standing Objections are incorporated in each of the responses set forth below.

**INTERROGATORIES**

1. Identify all individuals answering these Interrogatories, and all individuals consulted or relied upon in compiling the answers and responses to these Interrogatories, and for each such individual, state the area of information with which they assisted.

**RESPONSE:** Defendant objects to the extent that Interrogatory No. 1 calls for information protected by the work product and attorney-client privileges. Subject to said

objections, Defendant responds that Pam Hodge and Lionel Haynes provided information concerning the general budget process and the information requested in these Interrogatories.

2. Identify all persons who participated in the development, drafting or adoption of line item 6103 "Salary Savings" in the Sheriffs budget for FY2014 and FY2015 and for each such person, state what role such person made in the development, drafting or adoption of line item 6103 "Salary Savings" in the Sheriffs budget for FY2014 and FY2015.

**RESPONSE:** Defendant objects to this Interrogatory as requesting information from two distinctive budget years, both of which are moot and no claims can lie for such budget years. Subject to said objection, Defendant refers Plaintiff to the responses provided by Defendant CCG to Interrogatory No. 2. In further response, Defendant Hodge responds that she, as well as Renee Sturkie (until her departure in January 2015) and Lionel Haynes made recommendations on the line item for "Salary Savings" in FY2014 and FY2015 for the Sheriff's Office.

3. Identify all meetings, work sessions, or hearings, whether formal or informal, relating to line item 6103 "Salary Savings" in the Sheriffs budget for FY2014 and FY2015.

**RESPONSE:** Defendant objects to this Interrogatory as requesting information from two distinctive budget years, both of which are moot and no claims can lie for such budget years. Further, Defendant objects to this Interrogatory as overly broad and unduly burdensome. Subject to those objections, Defendant notes that issues related to the concept of salary savings for all CCG departments/offices may have been discussed at any meeting

where the Mayor's Recommended Budget was formulated. Defendant also refers Plaintiff to and adopts the responses made by Defendant CCG in response to Plaintiff's Interrogatory No. 3, which references meetings held for the consideration and preparation of the FY2015 Mayor's Recommended Budget.

Defendant notes several meetings specific to the budget of the Sheriff for FY2014 were scheduled. A budget review meeting with the Sheriff was scheduled for March 26, 2013. Invitees included the Mayor, City Manager, Deputy City Managers, the Finance Director, the Assistant Finance Director, the Human Resources Director, Budget Analysts, a Human Resources Analyst, and Sheriff's Office Personnel. On April 16, 2013, Lionel Haynes reminded Sheriff Darr via email that his budget would need to be reduced for FY2014. Mr. Haynes asked Sheriff Darr to submit a list of areas for reduction. No response was provided to either Mr. Haynes or the Finance Department. Ms. Hodge, as Finance Director, has historically noted that excess funding existed in the Sheriff's Office budget in the form of Salary Savings monies appropriated for unfilled positions. Because the Finance Director had received no other direction or expression of preference from the Sheriff or his representatives regarding budget reductions, she recommended that budgetary savings could be achieved by categorizing these funds as "Salary Savings" for budgeting purposes.

For FY2015, the Sheriff was again invited to several budget meetings, but he did not attend. The Sheriff did not respond to requests or otherwise identify any potential savings/reductions which could be achieved other than the identified excess budgetary funding found in salary savings. Accordingly, "Salary Savings" were used in the manner set forth *supra*.

4. Identify the legal source for the authority permitting line item 6103 "Salary Savings" in the Sheriffs budget for FY2014 and FY2015.

**RESPONSE:** Defendant objects to Interrogatory No. 4 as requesting a legal conclusion. Defendant objects to this Interrogatory as requesting information from two distinctive budget years, both of which are moot and no claims can lie for such budget years. Subject to said objections, Defendant Hodge responds that item 6103 "Salary Savings" is a budgeting tool to account for expected monetary savings resulting from position vacancies or when specific reductions are not identified by the Department/Office. Further, authority arises from the Columbus Charter and Title 36 of the Official Code of Georgia Annotated.

5. Identify the purpose of line item 6103 "Salary Savings" in the Sheriffs budget for FY2014 and FY2015.

**RESPONSE:** Defendant objects to this Interrogatory as requesting information from two distinctive budget years, both of which are moot and no claims can lie for such budget years. In the preparation of the Recommended Budget, during the initial executive budgetary policy-making process, the Finance Director identified excess appropriations for FY2014 and FY2015 and utilized line item 6103 "Salary Savings". This is a budgeting tool that is a contra account to the 6105 "Salaries" and 6120 "Sworn Salaries". Monies assigned for vacant positions are considered excess appropriations until such positions are filled. Given the CCG's need to maintain a 60-day General Fund Balance Reserve, all excess appropriations are subject to proposed reduction or reassignment. The 6103 "Salary Savings" is also utilized when savings/reductions are not identified and serves as a

placeholder until the line items are later identified by the Sheriff. It was used in FY2014 and FY2015 when the Sheriff failed to identify any line item for the reductions to his budget.

6. Identify all policies, rules, regulations, standards and procedures utilized by Columbus, Georgia regarding the payment of and the accounting for attorney fees and related expenses of outside legal counsel.

**RESPONSE:** Defendant responds that the payment of, and the accounting for, attorneys' fees and related expenses of outside legal counsel are governed by the Columbus Charter, Title 36 of the Official Code of Georgia Annotated, GAAP, GASB, the Department of Community Affairs, the Annual Budget Ordinance, the Procurement Ordinance, and periodic Council Resolutions authorizing the use and payment of specific designated attorneys or firms.

7. Identify all policies, rules, regulations, standards and procedures utilized by Columbus, Georgia regarding the charging of and accounting for motor fuel used by the Muscogee County Sheriffs Department.

**RESPONSE:** Defendant initially responds that if the Sheriff decides to use CCG-owned fuel, the inventory of fuel is managed by the Fleet Management Division, "Fleet," within the Public Works Department. The Public Works Department has required policies and procedures regarding fuel use and distribution. CCG also ascribes to inventory control measures required by generally accepted accounting and auditing practices. The charging of, and accounting for, motor fuel as an inventory good is governed by GAAP, GASB, and the Procurement Ordinance. If the Sheriff chooses to use the CCG fuel, the following



procedures are in place: Vehicle numbers are assigned by Fleet and a gas key is issued to each vehicle and employee authorized to drive CCG-owned vehicles. The gas key allows the employee to pump fuel at the CCG-owned fuel pumps. The electronic system registers how much fuel is utilized per gas key and vehicle, and the fuel utilization is charged to each department on a monthly basis based upon the information submitted to the Finance Department by Fleet. The transaction is posted to the CCG's financial system during the monthly close process. The Muscogee County Sheriff's Department has the option to fuel its vehicles using one of the two city-run gas locations or via private gas stations. If the Sheriff's Department elects to use private gas stations, payment will either be on the City Purchasing Card or reimbursed through requests made to the Finance Department. The accounting for those private purchases would be governed by the same accounting standards previously mentioned in this response.

8. Identify all accounting reports or other documents utilized in the determination of the amount the FY2014, FY2015 and FY2016 Mayor's recommended OLOST Fund Budget for the Sheriff, including the determination of the amount of line items or object codes.

**RESPONSE:** Defendant objects to this Interrogatory as requesting information from three distinctive budget years, two of which are moot and no claims can lie for such budget years. Subject to said objection, Defendant responds that Defendant Hodge uses the CCG Financial System Revenue Report (A203), the Expenditure Report (A103), the Trial Balance (A614), the Sheriff's Office Line Item Service Analysis and requests that are submitted by the Public Safety Departments/Offices. Defendant also receives from the Georgia Office of Treasury and Fiscal Services, a Statement of Accounts, on a monthly basis that sets forth

the amount of OLOST that CCG receives. Additional access to this information is provided to Defendant Hodge and the Finance Department through the Georgia Department of Revenue.

9. Identify all accounting reports or other documents utilized in the determination of the amount of the FY2014, FY2015 and FY2016 Mayor's recommended General Fund Budget for the Sheriff, including the determination of the amount of line items or object codes.

**RESPONSE:** Defendant objects to this Interrogatory as requesting information from three distinctive budget years, two of which are moot and no claims can lie for such budget years. Subject to said objection, Defendant responds that Defendant Hodge reviewed: personnel data, outside contracts (such as medical), revenue projections and historical data of income, current and historical expenditures, budget requests, Service Line Analysis, communications from departments, notes from budget meetings and other reports generated from the Finance Department to demonstrate the trend or needs of the CCG in the overall budget process. The names of some reports reviewed for the Sheriff's budget, specifically, include the City's Financial System Revenue Report (A203), Expenditure Report (A614), and the Overview Report for the current fiscal year (a summary of the previously named reports). Any budget requests submitted in a timely manner to Pam Hodge, Lionel Haynes, or any other individual in the Finance Department handling the budget process are considered in the preparation of the Mayor's Recommended Budget.

10. Identify all policies, rules, regulations, standards and procedures utilized regarding payment and processing of invoices and the charging of and accounting for

expenditures against line items or object codes in the Sheriff's budget.

**RESPONSE:** Defendant objects to this Interrogatory to the extent that it suggests that the Defendants control the Sheriff in his expenditures. The Sheriff may, when otherwise not prohibited by law, transfer funds within his budget in pursuit of his statutory duties. The charging of, and accounting for, expenditures against line items or object codes are governed by GAAP, GASB, the Department of Community Affairs standards, the Columbus Charter, Title 36 of the Office Code of Georgia Annotated, and the Procurement Ordinance. Typically, direct purchases are made by the Sheriff. The Sheriff's Office receives the invoice, and approves it. After the Sheriff's Office approves the expenditure, the Finance Department ensures payment is made. Other expenditures may be accounted for in a different manner. Personnel costs are reflected in the CCG payroll system. There are two object codes that are assigned for all budgeted positions. Those two object codes are for retirement and health insurance costs. Those costs are debited during each payroll period or at year end. In some other limited circumstances, e.g. items for expenses of CCG buildings and property, printing, fuel, cell phones, copier charges or other internal services, may have invoices sent directly to the Finance Department by the vendor or charges submitted by the responsible Department. In those instances, the Finance Department pays the service provider directly and assigns the expense to the appropriate line item of the Sheriff's budget or reimburses the responsible Department. In all of these instances, the software system allows the Sheriff's Office to see a balance of all line items and how expenditures affect each line item.

11. Identify the criteria used in setting the FY2015 and FY2016 budget for the

Sheriff, including the determination of the amount of line items or object codes.

**RESPONSE:** Defendant objects to this Interrogatory as requesting information from two distinctive budget years, both of which are moot and no claims can lie for such budget years. Defendant further objects to this Interrogatory to the extent it suggests Defendant Hodge may “set a budget” for the Sheriff. This Defendant does not “set” any budget, and any such characterization is inaccurate. The Finance Department serves to gather and analyze financial information for the CCG and its more than fifty (50) offices and departments. Defendant has assisted in ensuring financial information is made available to the Offices/Departments themselves, as well as to the executive and legislative branches of the CCG. It is the Columbus Council which “sets” or adopts the budget for the CCG and its Offices/Departments. Defendant also refers Plaintiff to the responses provided by Defendant CCG in its Interrogatories, which request the information concerning the recommended budget for the Sheriff for FY2015 and FY2016.

Subject to said objections, Defendant Pam Hodge gathered information regarding revenue projections for the CCG. She reviewed historical expenditures, duplicative services, comparative and other financial data provided by the analysts, data from past fiscal years, the executive staff's policy considerations, as well as concerns expressed at meetings of the Council. Ms. Hodge also reviewed service line analyses, compared expenditures and assessed essential and amenity expenditures as identified by each Office/Department. Ms. Hodge compiled proposals for the distribution of finite revenues to the fifty-plus departments, offices, agencies and authorities of CCG, to include the Sheriff's Office. In FY2015, Ms. Hodge notified all department heads and elected officials that there was potential for a serious financial shortfall in revenues. Each department head and

elected official was requested to identify possible reductions in expenditures. Renee Sturkie (until her departure in January 2015) and Lionel Haynes assisted Ms. Hodge in these processes, meetings, accumulation of information, the preparation of and reconciliation of the actual budget book.

City Manager Isaiah Hugley reviewed information provided by Ms. Hodge, the Councilors and the historical budget books and considered policies and areas in which to reduce the strain on the budget. Mr. Hugley also worked with the Mayor, the department heads and elected officials, and others to assist in the formulation of the budget policy, the specific budget cuts, the potentials for revenue and the formulation of the budget.

The City Manager performed all other duties prescribed by law or Charter, including submitting to the Council the recommended annual operating and capital budget and capital improvement program. The Mayor prepared a budget message containing an explanation of general fiscal policies, explanation of major changes recommended for the next fiscal year, a general summary of the budgets and other information deemed appropriate for Council's consideration. The Mayor further proposed for Council's consideration: an estimate of unencumbered fund balance; a reasonable estimate of cash revenues; proposed expenditures detailed by each department, board, commission, office, agency, and activity in accordance with an established classification of accounts; work programs and performance data; and such other information as might be considered necessary or desired by the Council. The Mayor must present a balanced recommended budget, meaning that the total proposed expenditures from any fund cannot exceed the total anticipated revenues plus the estimated un-appropriated surplus of fund balance and applicable reserves.

In FY2015, most department heads and elected officials submitted the areas in which their department/office expenses could be reduced or budgets could be cut in order to meet the necessary reductions to balance CCG's operating and capital budget. The Sheriff's Office did not submit any proposed reductions in expenditures to his budget. Because excess expenditures were identified in the funding of unfilled positions, funding reductions were warranted for the Sheriff's Office. Further, the Sheriff's Office did not propose or submit alternative available savings.

For further information, see Defendant Columbus, Georgia's Response to Plaintiff's Amended First Interrogatory No. 2.

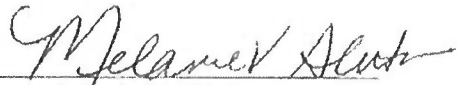
12. Identify all policies, rules, regulations, standards and procedures of Columbus as to the schedule of rates for outside counsel and/or pay structure and limitations of payments regularly made by the City Attorney's office to outside counsel for FY 2014, FY 2015 and FY 2016.

**RESPONSE:** Defendant objects to this Interrogatory as requesting information from three distinctive budget years, two of which are moot and no claims can lie for such budget years. Subject to said objection, Defendant Hodge responds that such policies, rules, regulations, standards and procedures include the authority provided by the annual Budget Ordinances, the Columbus Charter, periodic Council Resolutions authorizing the use and payment of specific designated attorneys or firms, Title 36 of the Official Code of Georgia Annotated, as well as GAAP, GASB, and other generally applicable accounting practices.

Respectfully submitted this 13<sup>th</sup> day of October, 2015.

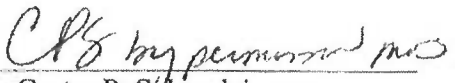
HATCHER, STUBBS, LAND,  
HOLLIS & ROTHSCHILD, LLP

P.O. Box 2707  
Columbus, GA 31902-2707  
(706) 324-0201  
[mvs@hatcherstubbs.com](mailto:mvs@hatcherstubbs.com)

By:   
Melanjie V. Slaton  
Georgia Bar No. 539960

THE SCHONDELMAYER FIRM, L.L.C.

P.O. Box 5742  
Columbus, GA 31906  
(706) 464-5298  
[cschondelmayer@outlook.com](mailto:cschondelmayer@outlook.com)

By:   
Carter P. Schondelmayer  
Georgia Bar No. 558998

Attorneys for Defendant

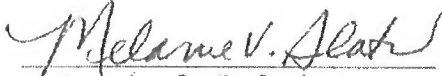
CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing DEFENDANT PAM HODGE'S RESPONSE TO PLAINTIFF'S FIRST INTERROGATORIES via electronic mail, per agreement of counsel and the Court, addressed as follows:

W. Kerry Howell  
W. Kerry Howell, LLC  
230 Second Street  
Macon, GA 31201  
wkhowell\_law@bellsouth.net

Larry Walker  
Kellye C. Moore  
Walker, Hulbert, Gray & Moore, LLP  
909 Ball Street  
P. O. Box 1770  
Perry, GA 31069  
lwalker@whgmlaw.com  
kmoore@whgmlaw.com

This 13<sup>th</sup> day of October, 2015.

  
Attorney for Defendant



IN THE SUPERIOR COURT OF MUSCOGEE COUNTY  
STATE OF GEORGIA

JOHN T. DARR, in his official capacity as Sheriff of  
Muscogee County,

Plaintiff,

v.

COLUMBUS, GEORGIA, a City, a public corporation  
and body politic and a political subdivision of the State  
of Georgia; TERESA P. TOMLINSON, in her official  
capacity as Mayor of Columbus, ISAIAH HUGLEY, in  
his official capacity as the City Manager of Columbus,  
PAM HODGE, in her official capacity as Finance  
Director of Columbus, JERRY "POPS" BARNES, in his  
official capacity as District 1 Councilor, GLENN  
DAVIS, in his official capacity as District 2 Councilor,  
BRUCE HUFF, in his official capacity as District 3  
Councilor, EVELYN TURNER PUGH, in her official  
capacity as District 4 Councilor, MIKE BAKER, in his  
official capacity as District 5 Councilor, GARY ALLEN,  
in his official capacity as District 6 Councilor, EVELYN  
"MIMI" WOODSON, in her official capacity as District  
7 Councilor, TOM BUCK, in his official capacity as  
District 8 Councilor, JUDY THOMAS, in her official  
capacity as District 9 at Large Councilor, and BERRY  
"SKIP" HENDERSON, in his official capacity as  
District 10 at Large Councilor,

Defendants.

Civil Action No.  
SU14CV3437-94

---

VERIFICATION OF DEFENDANT PAM HODGE'S RESPONSES TO  
PLAINTIFF'S FIRST INTERROGATORIES

---

Personally appeared before the undersigned officer duly authorized to administer oaths in  
and for the State and County, PAM HODGE, who having first been duly sworn, deposes and  
says that the facts and allegations contained in the foregoing Defendant Pam Hodge's Response

to Plaintiff's First Interrogatories in the above reference lawsuit are true and correct based upon information and belief presently known.

This 13<sup>th</sup> Day of October, 2015.

Pamela Hodge  
Pam Hodge

Sworn to and subscribed before me  
This 13<sup>th</sup> day of October, 2015.

Marcia L. Smith  
Notary Public  
Muscogee County, Georgia

(SEAL)

MY COMMISSION EXPIRES MARCH 21, 2016

EX. B

CERTIFICATE OF WITNESS

IN THE SUPERIOR COURT OF MUSCOGEE COUNTY  
STATE OF GEORGIA

JOHN T. DARR, in his official capacity as Sheriff of Muscogee County,	"	
PIAINTIFF	"	Civil Action No.
VS	"	SU-14-CV-3437-94
COLUMBUS, GEORGIA, ET.AL., DEFENDANTS	"	

DEPOSITION OF: PAM HODGE December 14, 2015  
 I have read the foregoing pages of my testimony

and wish to make the following correction(s):

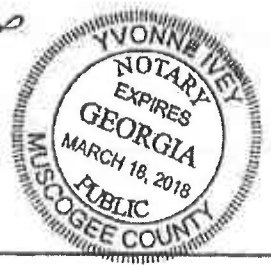
PAGE/	LINE/	CORRECTION	REASON
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___/___/	___/___/	_____	_____

( ) I have read the foregoing pages of my testimony  
and wish to make no corrections.

*Pamela Hodge*  
PAM HODGE

Sworn to and subscribed before  
me this 26<sup>th</sup> day of January, 2016, 2015.

*[Signature]*  
Notary Public



CERTIFICATE OF WITNESS

DEPOSITION OF PAMELA HODGE

Sheriff John T. Darr v. Columbus, Georgia, et.al., Superior Court of Muscogee County Civil Action File No. SU14-CV-3437-94

The following are corrections for the testimony transcribed from the deposition of Pam Hodge from December 14, 2015, sent to the parties on December 28, 2015.

Changes are being made for purposes of accuracy, unless noted otherwise.

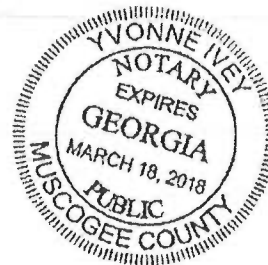
	<u>PAGE / LINE</u>	<u>CORRECTION</u>
1.	7 line 18	7964 instead of 3964
2.	18 line 6	replace PGI with CGI
3.	19 line 2	insert an "of" in charge of accounts
4.	34 line 22	financial should be "finance"
5.	37 line 19	major should be "mayor"
6.	48 line 16	number recited should be \$2,826,613.00
7.	56 line 6	should read "There's really <u>many</u> kind of things.."
8.	56 line 24	side should be "slide"
9.	57 line 1	Art Kaffer should be our CAFR
10.	59 line 14	per should be "for"
11.	62 line 3	strike first "year" as duplicative, typo
12.	63 line 12	thing should be "theme"
13.	76 line 20	description of the "formula" incomplete and inaccurate in both pages, as not complete and fails to reflect "lot more analysis" done per Hodge to get to the FY15 recommended budget calculations, see testimony pg. 86.
	77 line 18	
14.	108 line	amount listed is inaccurate, as general fund includes LOST budgeted funds, so amount insufficiently recorded.
15.	126 127	references to line item budgets should read line item "budget requests" on both pages to be more accurate in definition of terms.
16.	131 line 20	requested budget should be "budget requests" to be more accurate in definition of term.
17.	225 line	Jeff should be "Giff" Anthony

*Pamela Hodge*

PAMELA HODGE

Sworn and subscribed before me this 25 day of January, 2016.

*[Signature]*  
Notary Public



1 Q And it's goes into the --

2 A **And it goes into -- when we receive the money from**

3 **the tax commissioner's office it goes into the concentration**

4 **account.**

5 Q Okay. All right.

6 A **The local option sales tax actually goes into our**

7 **Georgia Fund One account, and then we wire funds out of the**

8 **Georgia Fund One, which is one of our investment accounts into**

9 **the concentration account when it is needed.**

10 Q So the monies that comes from OLOST, the sales tax,

11 goes first into a Georgia Fund One account?

12 A **That's correct.**

13 Q And it's held there and that's an investment account

14 that I'm sure is subject to various kinds of rules and

15 regulations?

16 A **That's correct, that particular account is managed**

17 **throughout the state.**

18 Q Right. And then when monies are needed from the

19 OLOST account, because they have been obligated because of a

20 budget, or whatever, you make a transfer?

21 A **We transfer funds from the Georgia Fund One account**

22 **into our concentration account when they are needed for cash**

23 **flow.**

24 Q Are other monies kept in the Georgia Fund One

25 account?

HAWTHORNE & WEBB

1 are important for Exhibit 1 and Exhibit 2 for the sheriff's

2 office, for his budget?

3 MS. SCHONDELMAYER: I'm going to object to your

4 rejection of her explanation of what she's trying to

5 explain to you as to why she considers them both the

6 general fund, because I think that's the distinction

7 she's trying to make on the record but your questions

8 ignore.

9 MR. HOWELL: Okay.

10 A **THE WITNESS: We budget for the OLOST separately**

11 **based on requirements from council, so there is a separate**

12 **budget for the OLOST, but it is part of the general fund for**

13 **reporting purposes. So there are budgets for the general**

14 **fund, and then this separate sub fund of the general fund**

15 **called the OLOST that we budget for separately base on**

16 **requirements from council.**

17 Q Right. And I guess what I'm -- I just want to make

18 sure that I am clear on this. We have a budget on Exhibit 2

19 that was adopted by the city council for the 0102 - LOST -

20 public safety?

21 A **That's correct.**

22 Q And then we have a budget that was adopted by city

23 council for FY-15 that's know as the 0101 - general fund; is

24 that correct?

25 A **What council adopts in the budget ordinance is the**

HAWTHORNE & WEBB

1 A **There are some deposits that directly go into the**

2 **Georgia Fund One account, and then we have other investment**

3 **accounts.**

4 Q The general fund and the OLOST fund, those are two

5 important funds that I really -- that's about all I can

6 handle, but the two important funds for the sheriff, those are

7 the ones that you have a budget for?

8 MS. SCHONDELMAYER: Object to the form of the

9 question. I think she said that the OLOST form is a

10 general fund, it's just accounted for separately, but

11 just to the extent that that implies otherwise.

12 A **THE WITNESS: And the OLOST fund is part of the**

13 **general fund, but we account for it separately based on the**

14 **requirements from council.**

15 Q The two budgets that we have for the sheriff in

16 Exhibit 1 and Exhibit 2, there's one for the general fund, a

17 budget for the general fund?

18 A **Uh-huh. (Affirmative).**

19 Q Yes?

20 A **Yes.**

21 Q And then there is a budget from the OLOST public

22 safety fund, correct?

23 A **Right. But you --**

24 Q And I'm not asking about whether they are

25 intermixed, I'm just asking about those are the two funds that

HAWTHORNE & WEBB

1 **general fund and then LOST, which is 0102 and 0109 together.**

2 **That's what is adopted in the ordinance, which includes both**

3 **the public safety 70 percent use and the infrastructure**

4 **30 percent use, so what council adopts is the OLOST fund in**

5 **total.**

6 Q Council adopts an approved budget for the sheriff

7 for the general fund?

8 A **Council adopts the budget ordinance for the general**

9 **fund, which includes the departmental budgets that are funded**

10 **out of the general fund. They also adopt in the budget**

11 **ordinance the other LOST fund, which includes the 70 percent**

12 **and the 30 percent, and which there are departmental office**

13 **budgets that make up that other LOST fund.**

14 Q And for the sheriff the amount from the OLOST, 0102,

15 that was approved by the city council, which for FY-15 was

16 \$2,826,013 -- \$2,826,613; is that correct?

17 MS. SCHONDELMAYER: \$613.

18 A **THE WITNESS: \$613.**

19 Q \$613, correct?

20 A **That's correct.**

21 Q Okay. And the amount from the general fund, not

22 OLOST, but from the general fund, the 0101, it was the

23 24,627,343 number, correct?

24 A **That's correct.**

25 Q And that's what Mr. Haynes sent to -- you've got the

HAWTHORNE & WEBB

1 Q Do you remember how the F -- I mean, do you  
 2 remember the process by which the FY-15 base for each  
 3 department was?  
 4 A **Not specifically.**  
 5 Q All right.  
 6 MR. HOWELL: I think when I hit this it's going to  
 7 start playing --  
 8 MS. SCHONDELMAYER: Dan.  
 9 MR. HOWELL: Dan?  
 10 THE VIDEOGRAPHER: Yes. Do you want to get --  
 11 MR. HOWELL: Yes.  
 12 MS. MOORE: Why don't you let me run it, Kerry, and  
 13 you sit there?  
 14 MR. HOWELL: We've got to wait for him to get ready.  
 15 MS. MOORE: Okay. Yes, sit there.  
 16 MR. HOWELL: All right.  
 17 THE VIDEOGRAPHER: Are we still on the record?  
 18 MS. SCHONDELMAYER: Yes. Was there a question that  
 19 you already had said?  
 20 MR. HOWELL: I want her to listen to how she  
 21 described the FY-15 base to city council.  
 22 MS. SCHONDELMAYER: Okay. Are you ready?  
 23 (VIDEO CLIP PLAYED)  
 24 Q **MR. HOWELL:** All right. If you want to hear  
 25 something again that we just played?

HAWTHORNE & WEBB

1 A **That's correct. I think there was a spreadsheet**  
 2 **actually that went with that presentation.**  
 3 Q That's Exhibit 6-A?  
 4 MS. SCHONDELMAYER: What?  
 5 MR. HOWELL: I think it's 6-A, A as in apple.  
 6 (WITNESS IDENTIFIED FY-15 RECOMMENDED BUDGET  
 7 SPREADSHEET AS PLAINTIFF'S EXHIBIT NO. 6-A)  
 8 A **THE WITNESS: Yes. I was explaining what this**  
 9 **represented, and I thought there was a spreadsheet that went**  
 10 **with that.**  
 11 Q This is Bate stamp 1524 produced by the Defendant's  
 12 attorneys in this case. And what you were just telling me  
 13 about is we are trying to explain to city council and now to  
 14 me how we came up with the recommended budget for the various  
 15 departments. Of course I am concerned with the sheriff, so we  
 16 are going to go down and we are going to look at what the  
 17 FY-15 base budget is, which is that column, and it was  
 18 25,205,627?  
 19 A **Yes, that's correct.**  
 20 Q Okay. Now, that, as I understood from your  
 21 statement to city council, that FY-15 base was actually  
 22 calculated by looking and taking his FY-14 approved budget,  
 23 and then making some adjustment with respect to a COLA  
 24 adjustment, and then some sort of pension reduction to that  
 25 FY-14 adopted budget?

HAWTHORNE & WEBB

1 A **Okay.**  
 2 (VIDEO CLIP PLAYED)  
 3 Q Did that -- do you recall making that statement?  
 4 A **I recall that.**  
 5 Q Okay. All right. Because I noticed -- it's been a  
 6 year and a half and there's a lot of things have gone on  
 7 between then. But you are explaining to council, as I  
 8 understand, how we came up with the FY-15 base?  
 9 A **That's correct.**  
 10 Q And you recall that in addition to the FY-15 base,  
 11 that determination, there was a -- there was then a 1.5  
 12 percent cut that would be made that year, or we would look at  
 13 how many vacancies you have?  
 14 A **We were looking at, based on the revenues, what**  
 15 **needed to be done in order to balance that particular budget**  
 16 **for the general fund, and so we did look at setting the base**  
 17 **to allow department and offices with this kind of the same**  
 18 **starting point that they had in FY-14, and then looked at**  
 19 **making reductions and allowing for vacancies to be included as**  
 20 **part of that reduction.**  
 21 Q Okay, we are going to eventually make sure I  
 22 understand this, but one thing that I understand in  
 23 determining -- determining, you are explaining how we came up  
 24 with the budgets, the recommended budgets for the departments  
 25 to the budget committee, correct?

HAWTHORNE & WEBB

1 A **It was adding in the -- the way cost of living**  
 2 **adjustments are done each year is they are budgeted not**  
 3 **within each department, but budgeted in total, and that is**  
 4 **done in case council, during the budget review sessions,**  
 5 **chooses to increase or decrease that cost of living**  
 6 **adjustment. From a process standpoint it makes it easier to**  
 7 **do that, so we go back in and what this base represented was**  
 8 **kind of adding that back into the department, and then there**  
 9 **was also changes in the annual required contribution for**  
 10 **pensions that resulted in a lower requirement in FY-15 than**  
 11 **FY-14, so those were the differences that made up the base.**  
 12 Q So am I correct that you, for the FY-15 base, this  
 13 this \$25 million figure that we talked about, you take the  
 14 FY-14 approved budget and then you make those COLA  
 15 adjustment and the pension adjustment that you just talked  
 16 about?  
 17 A **That's correct, yes.**  
 18 Q Okay.  
 19 MR. HOWELL: Can I have Exhibit 5, please?  
 20 (WITNESS IDENTIFIED FORMULA TO DETERMINE SHERIFF  
 21 FY-15 BASE AS PLAINTIFF'S EXHIBIT NO. 5)  
 22 Q **MR. HOWELL:** Take a look at Exhibit 5. Is that  
 23 equation, that logic statement correct?  
 24 A **It was correct, yes.**  
 25 Q All right. If you will just initial that and then

HAWTHORNE & WEBB

1 put it underneath 6-A?  
 2 A (Witness complying).  
 3 Q Okay?  
 4 MS. SCHONDELMAYER: Is this going to be part of 6-A,  
 5 or is this --  
 6 MR. HOWELL: Just -- I'm just -- we are going to  
 7 have to pull back and forth, that's why.  
 8 MS. SCHONDELMAYER: Okay.  
 9 MS. MOORE: No, this is a separate exhibit.  
 10 MR. HOWELL: It's Exhibit 5.  
 11 MS. SCHONDELMAYER: Exhibit 5, I'm sorry. I just  
 12 didn't want to --  
 13 MS. MOORE: You might want to put a sticker --  
 14 MS. SCHONDELMAYER: No, it's fine. I'm just going  
 15 to write on it and I just want to make sure I have the  
 16 right exhibits all lined up.  
 17 MR. HOWELL: Okay.  
 18 (WITNESS IDENTIFIED FORMULA TO DETERMINE SHERIFF  
 19 FY-15 RECOMMENDED AS PLAINTIFF'S EXHIBIT NO. 6)  
 20 Q MR. HOWELL: All right, Exhibit 6.  
 21 MS. SCHONDELMAYER: You are going backwards?  
 22 MR. HOWELL: I do.  
 23 MS. SCHONDELMAYER: Do you want to make this an  
 24 exhibit?  
 25 MR. HOWELL: No.

HAWTHORNE &amp; WEBB

1 MS. SCHONDELMAYER: This GFOA?  
 2 Q MR. HOWELL: Before we get there I want to make sure  
 3 I understand it. I think I understand it, but I want to make  
 4 sure I understand. We now know how our base was calculated  
 5 and we know what the base number was, okay. And we can play a  
 6 video clip again if you need to, but after you have your FY-15  
 7 base for each department, and I'm worried about the sheriff,  
 8 there was a calculation or a comparison that was done, do I  
 9 understand that correctly? I mean, they just didn't get their  
 10 FY-15 base, correct, each department?  
 11 MS. SCHONDELMAYER: Object to the form of the  
 12 question.  
 13 A THE WITNESS: Can you rephrase that?  
 14 Q Okay. How about we do it like this, okay, look at  
 15 Exhibit 6-A?  
 16 A Uh-huh. (Affirmative).  
 17 Q Under the sheriff there is a column for FY-15 base  
 18 budget, there's a number?  
 19 A Yes.  
 20 Q The next column to the right is called vacancies or  
 21 1.5 percent?  
 22 A That's correct.  
 23 Q And then the next column is public safety vacancy  
 24 reserve, and then you come with the FY-15 recommended number?  
 25 A That's correct.

HAWTHORNE &amp; WEBB

1 Q Now, the FY-15 recommended budget number, according  
 2 to 6-A, is the 24,827,343, correct?  
 3 A That is correct.  
 4 Q And that's the same number that we have looked at on  
 5 Exhibit 1, the recommended number for the general fund and  
 6 exhibit to the adopted number for the general fund budget for  
 7 the sheriff, correct?  
 8 A That's correct.  
 9 Q All right. Now, okay, so we are getting somewhere.  
 10 There is -- under the vacancies or 1.5 percent there is a  
 11 number, 378,284, in parenthesis?  
 12 A That's correct.  
 13 Q And in the accounting world where you have a  
 14 parenthesis that means a negative, a take, correct?  
 15 A That's correct.  
 16 Q So I presume what we did was we took the 25,205,627  
 17 and subtracted 378,284 to come up with the recommended FY-15  
 18 number?  
 19 A That's correct.  
 20 Q Okay. All right. Now, Ms. Hodge, I want to talk to  
 21 you about where it says vacancies or 1.5 percent.  
 22 A Right.  
 23 Q Now, as I understand it from listening to what you  
 24 talked about on your video, a decision was -- an examination  
 25 was made on whether or not they had -- each department had

HAWTHORNE &amp; WEBB

1 enough vacancies that would be more than a 1.5 percent cut to  
 2 the FY-15 base, and if they did they could elect to use those  
 3 vacancies to stand in the place of a 1.5 percent cut?  
 4 A That is correct. They could utilize a vacancy to  
 5 meet their 1.5 percent cut if they wanted to leave that  
 6 position vacant, or in some cases part of the year, or to make  
 7 that -- make up to that amount.  
 8 Q Or alternatively a department head could just take a  
 9 1.5 percent cut of his FY-15 base?  
 10 A Or a department could itemize and determine if it  
 11 wasn't from a vacancy they could choose to make other  
 12 operational changes within their department to come up to this  
 13 1.5 percent.  
 14 Q But a 1.5 percent cut at least had to be made to the  
 15 FY-15 base number for each department?  
 16 A That was where we were starting with to get to the  
 17 recommended budget, a minimal reduction to the department in  
 18 order to balance the general fund.  
 19 Q And for the sheriff's, the 378,284, that is a 1.5  
 20 percent cut of the 25,205,627; is that right?  
 21 A I believe so. Some of these were -- their vacancies  
 22 were higher, but I believe his was the 1.5 percent.  
 23 Q Okay.  
 24 A It was to be approximately that, so I would -- yes.  
 25 Q So for the sheriff to determine the FY-15

HAWTHORNE &amp; WEBB



1 recommended number -- I will hand you Plaintiff's Exhibit 6.  
 2 Do you agree that to determine that you would take .985 times  
 3 the FY-15 base that's shown on Exhibit 6-A?  
 4 A I would have to calculate it out, but that's the  
 5 general basis for this particular spreadsheet, yes.  
 6 Q Okay. If you will initial that for me, that would  
 7 be great.  
 8 A (Witness complying).  
 9 Q And I have a few more questions about those, so  
 10 don't --  
 11 A Uh-huh. (Affirmative).  
 12 Q Maybe I shouldn't lose them, but don't you lose  
 13 them. The mayor had made it clear in her presentation -- I  
 14 presume you read her fiscal year 2015 recommended budget  
 15 presentation?  
 16 A Yes.  
 17 Q And I saw it on the video.  
 18 A Yes.  
 19 Q And one of the things that she had made clear on  
 20 Darr, which is part of Exhibit 4 for the record, Darr  
 21 000139 --  
 22 A Uh-huh. (Affirmative).  
 23 Q -- it's like towards the very end --  
 24 A Um --  
 25 Q -- maybe the third page?

HAWTHORNE & WEBB

1 Q MR. HOWELL: I mean, we are doing this  
 2 calculation -- maybe we should go to the other one. Let's  
 3 start with the other one. Okay? Let's start on 5?  
 4 A Okay.  
 5 Q If we look at Exhibit 5, we are trying to determine  
 6 with this formula that we -- the sheriff FY-15 base, right?  
 7 A This is how we set kind of our starting point --  
 8 Q Right.  
 9 A -- for FY-15, not for the sheriff, but for everyone  
 10 in order to balance the general fund.  
 11 Q I am not saying it was just done for the sheriff --  
 12 A Okay.  
 13 Q -- but I represent the sheriff for this; I mean,  
 14 these questions are -- but this is also how the sheriff's  
 15 FY-15 base was done?  
 16 A That's correct.  
 17 Q And so the important numbers, the variables that we  
 18 had to know to determine that was what his '14 adopted budget  
 19 was, correct?  
 20 A That's correct.  
 21 Q And that's a known number to us?  
 22 A Yes.  
 23 Q We had to know that COLA adjustment, correct?  
 24 A That's correct.  
 25 Q And that's a known number to us, although I don't

HAWTHORNE & WEBB

1 A Mine is --  
 2 MS. SCHONDELMAYER: 139?  
 3 Q MR. HOWELL: 139.  
 4 A Oh, it's on the bottom here.  
 5 MS. SCHONDELMAYER: It's at the very back.  
 6 THE WITNESS: Well, the stamps were on the side, now  
 7 they're at the bottom.  
 8 MS. SCHONDELMAYER: Right.  
 9 THE WITNESS: Okay, go ahead.  
 10 Q MR. HOWELL: One of the things that the mayor in  
 11 her recommended budget presumed and it was built on was and  
 12 across all departments, general government, public safety,  
 13 and elected officials' offices, 1.5 percent budget cut,  
 14 correct?  
 15 A That is correct.  
 16 Q And you were aware of that and you built the budget  
 17 around that, correct?  
 18 A That's correct.  
 19 Q Look at Exhibits 5 and 6 with me.  
 20 A Okay.  
 21 Q In the formula that we are looking at for  
 22 determining the FY-15 recommended budget there is the -- the  
 23 result we are looking for is the sheriff FY-15 recommended,  
 24 correct?  
 25 MS. SCHONDELMAYER: Object to the form.

HAWTHORNE & WEBB

1 have any idea how to figure it out; I mean, I guess we could,  
 2 but that's a number that's available to the accountants in the  
 3 finance department?  
 4 A Right. We would determine that amount, yes.  
 5 Q And the retirement reduction factor that we talked  
 6 about, that's also a known number?  
 7 A Yes.  
 8 Q Okay. So --  
 9 A That's a calculated number that we produce, that is  
 10 correct.  
 11 Q Right, okay. And then those three variables, when  
 12 you sum them together, they give you the FY-15 base that we  
 13 talked about, the 25,205,627, correct?  
 14 A Yes.  
 15 Q Then once we have that the only other variable that  
 16 we need to calculate what the sheriff FY-15 recommended is we  
 17 had to know the 1.5 percent cut --  
 18 MS. SCHONDELMAYER: Object to the form.  
 19 Q MR. HOWELL: -- right? That's what we have to know,  
 20 are we going to cut it by 1.5 percent, 10 percent, 0 percent,  
 21 that's what we had to know?  
 22 MS. SCHONDELMAYER: Object to the form still.  
 23 A THE WITNESS: What we had to determine was what the  
 24 general fund balanced budget needed to be. And what we looked  
 25 at was what minimal impacts could we make to the departments

HAWTHORNE & WEBB

1 and offices in order to balance the general fund, and in this  
2 case it was about a 1.5 percent difference between what the  
3 revenues projected and what we determined to be the base if we  
4 allowed and provided funding to all departments and agencies  
5 at the same level that they had in FY-14 with these  
6 adjustments.

7 Q And that was my next question, so how did we  
8 determine to make the 1.5 percent, and you just explained that  
9 to me, correct?

10 A That's correct. We had to make the general fund  
11 balance, and after making some policy decisions and how we  
12 were going to proceed forward with the general fund and we got  
13 to this point, we were still out of balance in the general  
14 fund and it ended up at about a 1.5 percent difference between  
15 revenues and expenditures.

16 Q And to do all that you've got to know what the  
17 revenues are?

18 A That's correct.

19 Q And what -- like we talked about, and you have got  
20 to know what you are driving at. And then there are other  
21 things, like one of them was, we talked about, we want to  
22 maintain a 60-day general fund reserve, correct?

23 A That's correct.

24 Q And so we're balancing all of those things to  
25 determine, okay, we came up short in keeping a 60-day reserve

HAWTHORNE & WEBB

1 compared to the FY-14 adopted budget.

2 Q Right. Because the FY-14 adopted budget, I have it,  
3 it was like \$24.6 million -- I tell you what, it's on  
4 Exhibit 2; let's take a look at that.

5 A Yeah. I believe the FY-15 is more than the FY-14  
6 ended up for the sheriff.

7 Q Page 4, the FY-14 adopted was \$24 million 613  
8 dollars -- \$24,613,191, correct?

9 A That's correct.

10 Q I'm going to start letting you read those numbers  
11 for me, okay. And so just mathematically and logically that  
12 FY-14 adopted number, that's the most influential number in  
13 what went into the FY-15 base, correct?

14 A That's correct.

15 Q The COLA adjustment as a plus and the retirement  
16 reduction as a negative didn't move that number a whole lot,  
17 correct; it looks like it might have moved it 5 or \$600,000?

18 A It moved it up about 200,000.

19 Q Okay.

20 A Before the -- well, about 200,000 to get to the 24,  
21 so it would have went up 200 plus 378,

22 Q Well, it really would have gone up to the 25,205?

23 A That's correct.

24 Q From the 24,6?

25 A Right, which is the 200 plus the 378, the same --

HAWTHORNE & WEBB

1 and giving all of the departments what they had last year, so  
2 how are we going to make it balance; is that correct, do I  
3 understand that correctly?

4 A In a sentence that's correct over a long period of  
5 time.

6 Q Sure.

7 A I mean, there was a lot of analysis done just to get  
8 to this point.

9 Q And the way that it was decided to be done was, and  
10 it could be done was with a 1.5 percent cut to all of the  
11 departments?

12 A That's correct, it was one of the things that we  
13 looked at after making select changes in the agency  
14 appropriations and some of the non-categorical transfers; then  
15 we were down to very -- and in the big scheme of things a  
16 \$3 million difference, which is a minimal change to a  
17 department's operations.

18 Q And if we are looking at how the base was  
19 determined, the FY-15 base, the most influential factor in  
20 that calculation is the FY-14 adopted budget; I mean, that's  
21 the big number, correct?

22 MS. SCHONDELMAYER: Object to the form of the  
23 question.

24 A THE WITNESS: That makes up the majority.  
25 Obviously, the COLA and the retirement reduction are smaller

HAWTHORNE & WEBB

1 Q So it's about \$500,000, about \$600,000?

2 A That's correct.

3 Q Okay. All right.

4 MS. SCHONDELMAYER: Can I make a housekeeping note?  
5 I do eat lunch, so I know that you don't, but it's  
6 already 12:30. Will you just tell us when you get to a  
7 good breaking point for that?

8 MR. HOWELL: Okay.

9 MS. SCHONDELMAYER: It doesn't have to be now, but I  
10 just wanted to throw the white flag out there, but at  
11 some point.

12 (OFF THE RECORD - Lunch 12:30 - 1:20)

13 THE VIDEOGRAPHER: On the record.

14 Q MR. HOWELL: All right, we are back after lunch.  
15 Ms. Hodge, if you would just real quickly, before we move to  
16 Exhibit 7, if you will find the mayor's presentation, fiscal  
17 year 15, it's Exhibit 4?

18 A Okay.

19 Q And then if you will turn to that page that me and  
20 you talked about earlier, it's Darr 128?

21 A Okay.

22 (WITNESS IDENTIFIED 7/1/14 MAYOR'S BUDGET  
23 PRESENTATION AS PLAINTIFF'S EXHIBIT NO. 4-A)

24 Q This is the one where I was asking you about the  
25 calculations. I don't have but one copy of this. I am going

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1 Q Yes, ma'am. But if it's not --  
 2 A I wouldn't recommend something that's not --  
 3 Q Okay.  
 4 A -- that I didn't feel was reasonable and adequate.  
 5 Q But if it's not reasonable and adequate for the  
 6 sheriff to operate his office within the amount of the money  
 7 that is recommended for his office for a fiscal year, you  
 8 would agree that the sheriff just can't cut necessary and  
 9 essential services just to meet a budget number, can you?

10 MS. SCHONDELMAYER: Object to the form of that  
 11 question, it started out as one and it's ended up as  
 12 another.

13 MR. HOWELL: I think it started out as the same one.  
 14 I think she understands what I'm saying.

15 A THE WITNESS: Repeat that again.

16 Q Sure. If you give him a -- if a recommended budget,  
 17 an adopted budget is inadequate for him to do the reasonable  
 18 and necessary operations of his office, you agree that he is  
 19 not supposed to cut the necessary functions of his office in  
 20 order to meet an unreasonable and inadequate budget amount?

21 MS. SCHONDELMAYER: Object to the form, but you can  
 22 answer it.

23 A THE WITNESS: Well, I don't feel that his budget  
 24 that was recommended was unreasonable or inadequate. And I  
 25 would not expect him to make changes, operational changes to

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1 question. You can answer it.  
 2 A THE WITNESS: I think we -- without any operational  
 3 changes, we had to be conservative and make sure that we have  
 4 a fund balance projection that is not overestimated.

5 Q Yes, ma'am. But my question was, you still used the  
 6 adopted FY-14 budget number for the sheriff as the most  
 7 influential part of what his FY-15 recommended budget number  
 8 would be, even though at the same time you were expecting,  
 9 based on what you were seeing on historical numbers and what  
 10 was coming in the door, a \$2 million shortfall; you still felt  
 11 like using the FY-14 adopted budget number was proper?

12 A I do.

13 Q Did you set aside any money in the FY-16 budget  
 14 season evaluation based on any shortfalls that you were seeing  
 15 in the sheriff's office for FY-15?

16 A I do not recall anything specific for the sheriff's  
 17 office in the FY-16. I don't recall anything specific for  
 18 that.

19 Q So you don't recall doing an FY-16 with setting  
 20 aside additional monies to cover what was actually coming in  
 21 the door in expenditures as you had done back in the FY-15  
 22 budget preparation process?

23 A This same process that we did in FY-15 to project  
 24 fund balance at the end of the fiscal year, that process  
 25 happens every year. I don't recall anything specific related

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1 his office that would not meet his mission and his  
 2 constitutional duties, but I know there are things that are  
 3 not part of his mission and constitutional duties that are  
 4 expended out of his budget.

5 Q Okay. When the mayor and the city manager and you  
 6 decided to use the FY adopted budget as the most influential  
 7 factor in how the FY-15 recommended budget for the sheriff  
 8 was set, did any of you bring up, hey, we are seeing a  
 9 \$2 million shortfall that we are planning for with respect to  
 10 our general fund days? Did any of y'all bring that up to  
 11 discuss whether that was a reasonable number to use for his  
 12 FY-15 recommended?

13 A We discussed the FY-14 budget and the reasonableness  
 14 of this case with the sheriff's office, as we do with all  
 15 departments, is there anything different, is there any new  
 16 programs, is there any new mandates. I mean, we look at that  
 17 before we build the FY-15 base. And we felt that during the  
 18 analysis that we did that the FY-15 base, which is based on  
 19 the FY-14 adopted budget, was reasonable and adequate to  
 20 provide the services.

21 Q Even though at the time you were looking at numbers  
 22 that were showing you that we need to set aside \$2 million  
 23 extra for him to get through all of the expenditures for  
 24 FY-14?

25 MS. SCHONDELMAYER: Object to the form of the  
 HAWTHORNE & WEBB

1 to the sheriff in that calculation.

2 Q The -- do you recall telling city council at the May  
 3 27th, '14, budget committee meeting, the add/delete day --

4 A Uh-huh. (Affirmative).

5 Q -- do you recall talking to them about holding a  
 6 million dollars in abeyance for the sheriff's office?

7 A That was a request from Councilor Thomas, I believe,  
 8 when that discussion was -- when that discussion was happening  
 9 I believe it was Councilor Thomas that asked how we could set  
 10 aside, discuss later, the million dollars. I don't remember  
 11 the specific conversation, but I believe that was Councilor  
 12 Thomas that --

13 MS. SCHONDELMAYER: I'm sorry. I don't think I  
 14 heard the whole of the question. Did you ask her about  
 15 5/27/14 or 5/27/15?

16 MR. HOWELL: It would have been 5/27/14.

17 MS. SCHONDELMAYER: 14, okay. I thought you said  
 18 FY-16, so that's where I got 15.

19 Q MR. HOWELL: Do you remember the mayor proposing  
 20 that the million dollars -- that a million dollars be held in  
 21 abeyance until mid year?

22 A I remember the mayor making a recommendation to  
 23 council during that period of time.

24 Q And council did that?

25 A What council -- what I recall council did was they  
 HAWTHORNE & WEBB

1 asked us to put in the budget ordinance specific that the  
2 sheriff's budget allocation would be discussed again at mid  
3 year. And I believe that was a request from Councilor Thomas.

4 Q And then you said we can put that in the budget  
5 ordinance?

6 A That's correct. And we included it in the budget  
7 ordinance, because Councilor Thomas, I believe, said she  
8 didn't want it to get lost and she wanted to make sure that it  
9 was included and requested that we put that in the budget  
10 ordinance.

11 Q Right. So it was put in the budget ordinance that a  
12 million dollars would be held in abeyance? How -- what was  
13 the take on that?

14 A I would have to look at the budget ordinance --

15 Q Sure.

16 A -- specific. I don't know that we were that  
17 specific in the budget ordinance, other than to say in FY mid  
18 year the sheriff -- I would have to look at the ordinance  
19 specific.

20 Q The sheriff's FY-15 recommended budget was  
21 recommended in an amount that allowed a 60-day reserve to be  
22 maintained in the general fund?

23 A That's correct.

24 Q And if the city council had added anything to the  
25 sheriff's FY-15 budget, they had two choices, either take it

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1 and 6-A with the FY-15 base and so forth, what the particular  
2 line items were, the finance department was not concerned with  
3 the accuracy of those numbers?

4 MS. SCHONDELMAYER: Object to the form.

5 A THE WITNESS: I don't think that's a true statement.

6 Q Okay. The finance department was only concerned  
7 with making sure that the line items added up to the bottom  
8 line number?

9 A That's months' worth of process to get to that  
10 point.

11 Q Yes, ma'am. But the finance department was not  
12 concerned with putting in the correct amount that it would  
13 actually take to do one of those line item objects for the  
14 entire year, finance was just concerned with making sure that  
15 those line items totaled the \$24.8 million?

16 MS. SCHONDELMAYER: Object to the form, and it's  
17 been asked and answered.

18 A THE WITNESS: No, I think the finance department  
19 does look at the accuracy of particular object codes. I mean,  
20 that would be -- and we realized -- well, I guess I'll wait  
21 until he's done.

22 MR. HOWELL: Okay, Dan --

23 MS. SCHONDELMAYER: If you need to explain that  
24 answer then explain it, but don't let what he's doing  
25 distract you from explaining your answer.

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1 from someone else's budget or go into the general fund reserve  
2 with respect to the general fund budget?

3 A In order to maintain the 60-day they would have to  
4 do one of those two items.

5 Q Well, there is only so much from the general fund  
6 that they could have taken, because it was what, 60.66 days,  
7 or something like that?

8 A It was very close to the 60-day requirement.

9 Q The mayor's FY-15 recommended budget for the  
10 sheriff was concerned only with the bottom line number of  
11 \$24,827,343?

12 MS. SCHONDELMAYER: Object to the form.

13 A THE WITNESS: Can you repeat that?

14 Q Sure. The mayor's FY-15 recommended budget for the  
15 sheriff was concerned with the bottom line number, the  
16 \$24,827,343?

17 MS. SCHONDELMAYER: Object to the form, that's not  
18 the entirety of the budget.

19 A THE WITNESS: Well, every department has a total  
20 budget, and for the sheriff it was that number out of the  
21 general fund plus the other LOST, but --

22 Q We're not talking about the other LOST right now,  
23 we're just talking about the general fund. The -- and as the  
24 finance department, once that final number was determined  
25 according to the discussion we had earlier about Exhibit 5, 6,

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1 (VIDEO CLIP PLAYED)

2 Q MR. HOWELL: When you are talking with Ms. Pugh  
3 there, and you are talking about the bottom line that was --  
4 you're talking about the 24,827,343, that's the bottom line  
5 you're talking about with her, correct?

6 MS. SCHONDELMAYER: Object to the form.

7 A THE WITNESS: I think there is more prior to that in  
8 that whole discussion than just that little clip. I think  
9 what she was asking about, because there had been discussions  
10 prior to that about specific line items and she was asking  
11 about one specific line item, and I think there were some  
12 explanations before that clip where I had talked about how  
13 those line items were calculated, and specific ones, and then  
14 I think she asked about the one specific to bailiffs. And I  
15 was trying to explain to her where the FY-14 was used as the  
16 base and carried forward into FY-15. And the sheriff had come  
17 up, I believe in May, I don't know if it was this meeting or  
18 the prior meeting, with his line item budget, which was  
19 different than what was the FY-14, and that was either the  
20 first or the second time. I don't recall if that was the  
21 first meeting or the second meeting where that information  
22 that he provided to council was not something that we had seen  
23 before.

24 Q In talking with Ms. Pugh again, the bottom line  
25 number that we're concerned with, that's the 24,827,343 number

HAWTHORNE & WEBB

1 that you are concerned with as finance, correct?  
 2 MS. SCHONDELMAYER: Object to the form of the  
 3 question.  
 4 A **THE WITNESS:** Not the only concern, but in producing  
 5 the FY-15 budget those were the department totals that we were  
 6 working towards, that's correct.  
 7 Q And when you were talking to Ms. Pugh about the  
 8 bottom line number that we were concerned about, you are  
 9 talking about the bottom line number for the FY-15 recommended  
 10 budget for the sheriff's office --  
 11 MS. SCHONDELMAYER: Object to the form of --  
 12 Q **MR. HOWELL:** -- correct?  
 13 MS. SCHONDELMAYER: -- the question, it's asked and  
 14 answered.  
 15 A **THE WITNESS:** That's the total that -- for the  
 16 sheriff's office budget that we were -- as the mayor's  
 17 recommended FY-15 number that we were working towards.  
 18 Q I understand that. I know that the FY-15  
 19 recommended budget was the 24,827,343 number. But my question  
 20 is, when you are telling Councilor Pugh that the bottom line  
 21 number that we were concerned with you are talking about the  
 22 bottom line number of the 24,827,343?  
 23 MS. SCHONDELMAYER: Object to the form.  
 24 A **THE WITNESS:** I think I have answered that,  
 25 and that's --

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1 FY-14, so we were working off of a base and --  
 2 Q You mean FY-15?  
 3 A I don't believe he submitted a line item detail for  
 4 FY-14, but I could go back and look at that. But I think  
 5 that's what I said, was he didn't submit an FY-14 line item  
 6 budget, and so we were working off of the FY-14 budget as the  
 7 base for FY-15.  
 8 Q Did you believe as finance director for the city  
 9 that the sheriff could perform the security, the bailiffs, the  
 10 building security he's required to perform in FY-15 for  
 11 \$311,300?  
 12 MS. SCHONDELMAYER: Object to the form.  
 13 A **THE WITNESS:** I think there is operational changes  
 14 and staffing changes that the sheriff could make to stay  
 15 within 311,000.  
 16 Q And still provide bailiffs for all the courtrooms in  
 17 all the courts?  
 18 A With operational changes, I do believe that.  
 19 Q Okay. Now, you were aware at the time that you  
 20 proposed \$311,300 for bailiffs in the FY-15 recommended budget  
 21 that it was trending at somewhere around \$540,000 for that  
 22 year, correct?  
 23 A Yes, it was trending at 540.  
 24 Q In your historical data in the last two or three  
 25 years, budget years prior to FY-15, had there ever been a year

HAWTHORNE & WEBB

1 Q And the answer was yes?  
 2 A -- the total for the sheriff's office.  
 3 Q The answer is yes?  
 4 A The -- yes, I answered that --  
 5 Q Okay. All right.  
 6 A -- like four times.  
 7 Q All right. And as you told Councilor Pugh, finance  
 8 did not do a line item by line item analysis of the sheriff's  
 9 125 line item codes, correct?  
 10 MS. SCHONDELMAYER: Object to the form.  
 11 A **THE WITNESS:** I don't think that's what I told  
 12 Councilor Pugh.  
 13 Q Well, when you told her that we didn't look at line  
 14 item by line item what were you talking about?  
 15 MS. SCHONDELMAYER: I'm going to object to the form.  
 16 That's not what she said on the clip that I just watched.  
 17 I don't know what clip you were watching, but that's not  
 18 exactly what she said.  
 19 Q **MR. HOWELL:** Well, I'm not saying that I quoted it.  
 20 But that's what you were telling her, we didn't actually do a  
 21 line item analysis for the sheriff's budget, we were focusing  
 22 on the bottom line, and that --  
 23 A Our focus is on the bottom line, and I think the  
 24 other part of what I told her was that we looked at FY-14 as  
 25 the base. The sheriff didn't submit a line item budget for

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1 where bailiffs and the courtroom security had been able to be  
 2 done for \$311,000?  
 3 A I can't answer that.  
 4 Q Well, look at Exhibit 2.  
 5 A And this is only two years worth of history on it.  
 6 Q The two years of history that you have were actual  
 7 719,430 for 12, actual 13 of 681, and you were aware, as you  
 8 said, that it was trending in 14 and it was going to be  
 9 somewhere in the 540 range, correct?  
 10 A That's correct.  
 11 Q And you also knew at this time when you were  
 12 proposing this that house bill 60 had been passed?  
 13 A That's correct.  
 14 Q And you are familiar with what House Bill 60 is?  
 15 A Yes.  
 16 Q Where there had to be added security checkpoint at  
 17 government buildings, or the public could bring in a gun, for  
 18 example, to a governmental building, correct?  
 19 A That's correct.  
 20 Q And that was an additional burden on the city as  
 21 well as the sheriff's department, because this had to be  
 22 reserve deputies that at least manned the initial security  
 23 checkpoint, correct?  
 24 MS. SCHONDELMAYER: Object to the form, calls for a  
 25 legal conclusion. I am not sure this witness is

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1 recommended budget for the whole consolidated government by  
2 the city manager?

3 A This budget, the sheriff's budget is part of the  
4 FY-15 budget.

5 Q Sorry. The sheriff -- Derr, the budget he came up  
6 with for his office in FY-15, the sheriff's proposed budget  
7 for FY-15 for his office, was not incorporated and submitted  
8 to city council by the city manager and by the mayor?

9 MS. SCHONDELMAYER: Object to the form.

10 A THE WITNESS: He didn't submit any budget requests,  
11 which is what the charter states, that he will submit budget  
12 requests to be incorporated. He did not submit any budget  
13 requests, but his budget was incorporated in with the rest of  
14 the city's budget.

15 Q The mayor's recommended budget for the sheriff's  
16 office was incorporated into the FY-15 overall budget  
17 submitted to the council?

18 MS. SCHONDELMAYER: Object to the form.

19 A THE WITNESS: The mayor's recommended budget  
20 included a budget submission for the sheriff.

21 Q And the sheriff's budget submission that was  
22 included was what?

23 A Was the mayor's recommended budget for the sheriff.

24 Q Because the sheriff didn't -- he was told you are  
25 not required to submit requested budgets for your office for

HAWTHORNE & WEBB

1 Q MR. HOWELL: -- we have been through that?

2 MS. SCHONDELMAYER: I think she is trying to answer  
3 it, but you are continuing to talk, and she is too polite  
4 to interrupt you. Did you have something else to say?

5 MR. HOWELL: No, She --

6 A THE WITNESS: We instructed all departments, and the  
7 sheriff as an elected official has always followed the  
8 instructions that we list for all departments, but this in no  
9 way implied, and we've said this at many meetings and we --  
10 the budget analysts have told the departments and the offices  
11 that they deal with, if there is anything specific that needs  
12 to be considered, then obviously we want any of that kind of  
13 input. And we had numerous submissions from different  
14 departments and offices and elected officials.

15 Q Yes, ma'am. But you didn't require a requested  
16 budget from the sheriff in FY-15?

17 A We didn't require a requested budget from any  
18 department or office for FY-15.

19 Q Including the sheriff?

20 A Including the sheriff.

21 Q So a requested budget from the sheriff was not  
22 incorporated into the mayor's recommended budget that was  
23 submitted to the council?

24 MS. SCHONDELMAYER: I am going to object to the  
25 form, I'm going to object as asked and answered

HAWTHORNE & WEBB

1 FY-15, correct?

2 MS. SCHONDELMAYER: Object to the form.

3 A THE WITNESS: He was instructed, along with everyone  
4 else, that they were not required to submit, but that in no  
5 means says we don't want any information from you, we don't  
6 want to hear from you or any concerns, that's not what the  
7 purpose was of that requirement.

8 Q Yes, ma'am. But I just want to make sure that we  
9 are talking the same language here. The sheriff was told you  
10 are not required to submit requested budget to finance  
11 department for FY-15?

12 MS. SCHONDELMAYER: Object to the form.

13 Q MR. HOWELL: We went through all of that.

14 MS. SCHONDELMAYER: Lord, we have been through that.

15 A THE WITNESS: Yeah. The sheriff was instructed,  
16 like all other agencies and departments, that it was not  
17 necessary for them to submit all of the budget documentation  
18 for FY-15, and that it would based on FY-14.

19 Q Then he was told you are not required to submit a  
20 requested budget; isn't that what he was told?

21 A That's correct.

22 Q Okay.

23 A But we --

24 Q And --

25 MS. SCHONDELMAYER: Object to the form.

HAWTHORNE & WEBB

1 repeatedly. I think your --

2 A THE WITNESS: What's stated --

3 MS. SCHONDELMAYER: -- question was exactly the same  
4 as it was before.

5 A THE WITNESS: What's stated in the charter is that  
6 his budget request, which is different than our requested  
7 budget, would be incorporated, and the sheriff's budget is  
8 incorporated in with the city's budget as part of the city's  
9 budget.

10 Q How could the sheriff's requested budget be  
11 incorporated into the mayor's recommended budget when the  
12 sheriff didn't submit a requested budget?

13 A The charter doesn't require him to submit a  
14 requested budget. The charter requires him to submit budget  
15 requests, and we --

16 Q Yes, ma'am. I am not asking for --

17 MS. SCHONDELMAYER: Let her finish the question.

18 MR. HOWELL: But it's totally non-responsive.

19 MS. SCHONDELMAYER: Well, let her finish --

20 Q MR. HOWELL: I'm not asking for your interpretation  
21 of the charter.

22 MS. SCHONDELMAYER: All right, I'm going to object  
23 to this. If you're not going to let her answer we're  
24 going to stop this. This is ridiculous the way you keep  
25 cutting her off.

HAWTHORNE & WEBB

1 Q **MR. HOWELL:** I'm asking you --  
 2 MS. SCHONDELMAYER: Stop.  
 3 MR. HOWELL: I can object to the responsiveness of  
 4 the answer.  
 5 MS. SCHONDELMAYER: Not before she's finished.  
 6 MR. HOWELL: That is just a rote response, Carter.  
 7 MS. SCHONDELMAYER: Not, it's not. It's not -- she  
 8 hasn't even finished her answer.  
 9 MR. HOWELL: -- Carter, and I need her to answer the  
 10 question on this, and --  
 11 MS. SCHONDELMAYER: She is trying to explain the  
 12 answer to you, and you're not allowing her.  
 13 MR. HOWELL: She can answer the question, and then  
 14 if she needs to explain it differently then she can, but  
 15 the question on the table is --  
 16 MS. SCHONDELMAYER: She can't answer your question  
 17 if you're interrupting her while she's talking.  
 18 MR. HOWELL: She wasn't answering the question,  
 19 Carter.  
 20 MS. SCHONDELMAYER: I didn't interrupt your client  
 21 while he was answering the question. I let him finish  
 22 and say objection to the responsiveness of the answer.  
 23 MR. HOWELL: Okay.  
 24 MS. SCHONDELMAYER: But I am not going to let you  
 25 sit here and bully her into some response you want --  
 HAWTHORNE & WEBB

1 A No, he did he not submit anything for FY-15, except  
 2 the service line analysis, which was the budget documentation  
 3 and analysis that we requested for FY-15, so that was  
 4 submitted.  
 5 Q So other than the service line resources allocation  
 6 form, which he did submit --  
 7 A Yes, he did.  
 8 Q -- he did not submit what he had normally submitted  
 9 in the past, and that would be a proposed budget which set out  
 10 line items for his various departments in his department for  
 11 the upcoming fiscal year --  
 12 MS. SCHONDELMAYER: Object --  
 13 Q **MR. HOWELL:** -- he did not submit his proposed  
 14 budget.  
 15 MS. SCHONDELMAYER: Object to the form.  
 16 A **THE WITNESS:** He typically doesn't submit a  
 17 proposed budget, he typically submits budget requests, which  
 18 would make requests for specific line items. A proposed  
 19 budget would be all inclusive, and he typically does not  
 20 submit the all inclusive, he submits budget requests for  
 21 specific line items, capital request, and other than personnel  
 22 requests.  
 23 **THE VIDEOGRAPHER:** We have to go off the record.  
 24 (OFF THE RECORD).  
 25 VIDEOGRAPHER: At your convenience.  
 HAWTHORNE & WEBB

1 MR. HOWELL: That's not how I've been --  
 2 MS. SCHONDELMAYER: -- as opposed to --  
 3 MR. HOWELL: That's not how --  
 4 MS. SCHONDELMAYER: -- allowing her to answer --  
 5 MR. HOWELL: That's not happening, that's not  
 6 happening. I am trying to move on, Carter, and you know  
 7 that's how it's happening.  
 8 MS. SCHONDELMAYER: I wish you would move on; you've  
 9 asked the same question eight times.  
 10 MR. HOWELL: Because she won't answer it --  
 11 MS. SCHONDELMAYER: She has answered you.  
 12 MR. HOWELL: -- and when she answers it I will be  
 13 more than happy to move on.  
 14 MS. SCHONDELMAYER: She has answered the question  
 15 for you.  
 16 MR. HOWELL: It doesn't matter to me if she says yes  
 17 or no, I just need one way or the other.  
 18 MS. SCHONDELMAYER: Well, you keep interrupting her  
 19 and she is not going to be here much longer.  
 20 MR. HOWELL: Okay.  
 21 MS. SCHONDELMAYER: Allow her to finish, please,  
 22 that's politeness, not only to mention proper deposition  
 23 procedure.  
 24 Q **MR. HOWELL:** The sheriff did not submit a requested  
 25 budget to finance for FY-15?  
 HAWTHORNE & WEBB

1 Q **MR. HOWELL:** It seems like we are having some  
 2 problems communicating here. You want to keep using terms  
 3 like budget requests. It doesn't matter to me what you call  
 4 it, okay. Now, I do know that you called it -- when you  
 5 presented the budget and when you sent out the Exhibit 7 you  
 6 did call what the sheriff and the other departments did, but  
 7 this Exhibit 7 was specific to the sheriff, you called it we  
 8 are not going to ask the departments to submit a requested  
 9 budget --  
 10 MS. SCHONDELMAYER: Object to the form, she didn't  
 11 write --  
 12 Q **MR. HOWELL:** -- and that requested budget was in  
 13 quotes, correct?  
 14 MS. SCHONDELMAYER: She didn't write that, so she  
 15 didn't call it --  
 16 MR. HOWELL: Carter, please.  
 17 Q **MR. HOWELL:** Okay. Isn't that what was sent with  
 18 you copied by your assistant city finance director to --  
 19 A Right. And nor were we asked departments to submit  
 20 a requested budget, in quotes.  
 21 Q And that's the same in quotes as shown as Exhibit --  
 22 Plaintiff's Exhibit 10 on Page 2 of that, departments will not  
 23 be required to submit a requested budget, and requested budget  
 24 is in quotes?  
 25 A That's right.  
 HAWTHORNE & WEBB

1 Q Okay. All right now, look, I don't want to get hung  
 2 up on whether it's a budget request, or a requested budget,  
 3 okay. Now, what I want to talk about is the sheriff did not  
 4 submit a proposed budget request, or a proposed requested  
 5 budget for FY-15 to finance?

6 A No, he did not.

7 Q Okay.

8 A Other than the service line analysis.

9 Q Other than that information about FTEs and those  
 10 kinds of things, correct?

11 A Correct. But the basis for FY-15 was FY-14, and so  
 12 we were considering those requests from FY-14 as the basis for  
 13 the proposed recommended budget for FY-15.

14 Q I understand that, because we have gone through that  
 15 earlier. And I know how the FY-15 base was determined, it was  
 16 determined by making some changes to the FY-14 adopted, I  
 17 mean, I understand that.

18 A Reviewing the request and the analysis was done to  
 19 come up with the FY-15 base.

20 Q I understand that. Now, if the sheriff did not  
 21 submit a proposed budget, or a proposed budget request,  
 22 however you want to put it, okay, to finance in FY-15, then  
 23 there was no way that the sheriff's FY-15 proposed budget, or  
 24 proposed budget request, could have been incorporated into the  
 25 mayor's recommended budget?

HAWTHORNE & WEBB

1 A We were basing that on FY-14, so to say the  
 2 sheriff's budget was not incorporated would mean that it was  
 3 left out, and it was not left out, it was included as part of  
 4 the FY-15 recommended budget. And the FY-14 budget requests  
 5 were considered and continued to be considered in FY-15,  
 6 because we weren't able to honor any -- almost any of the  
 7 requests for 14. So I believe his requests were included in  
 8 FY-15 in the mayor's recommended budget, because there is a  
 9 budget for the sheriff in there.

10 Q But it was based on his FY-14 budget?

11 A The basis of FY-15 was from FY-14.

12 Q And it could not have been -- had anything to do  
 13 with what the sheriff's proposed budget request for the  
 14 office would be for FY-15, because he didn't send you one of  
 15 those?

16 A He didn't send us documentation specific, but there  
 17 were a lot of conversations between the budget analyst and the  
 18 sheriff's office during the FY-15 process that if there were  
 19 any specific needs, as we did with all departments, those were  
 20 addressed and reviewed.

21 Q Okay. Now, for FY-16, let's go with year -- let's  
 22 jump a year ahead, okay, we are talking about the FY-16 --

23 MS. SCHONDELMAYER: Are we going to move on to  
 24 FY-16?

25 MR. HOWELL: No.

HAWTHORNE & WEBB

1 Q MR. HOWELL: The FY-16 budget process --

2 A Uh-huh. (Affirmative).

3 Q -- and the sheriff did submit a proposed FY-16  
 4 budget for his office to finance?

5 A He submitted documentation with budget request  
 6 information in it for FY-16.

7 Q And it would have been a line item breakdown for the  
 8 things that he needed for the various parts of his -- to run  
 9 his office, correct, what he submitted --

10 A I would have to look at specifically what he  
 11 submitted, documentation for FY-16.

12 Q Okay. Now, the FY-16 sheriff's proposed budget that  
 13 was submitted to finance, that was not incorporated and then  
 14 sent on to the city council?

15 A The sheriff's budget was included in the FY-16  
 16 budget and his requests were considered, evaluated, analyzed  
 17 with all other requests, and incorporated into the FY-16  
 18 budget. It never has been incorporated in total from as many  
 19 years back as I can recall from most departments or elected  
 20 officials, so to say it's not incorporated would mean it's  
 21 left out, and it's included, his requests were considered and  
 22 included in the FY-16 recommended budget.

23 Q But it was not submitted to council for its  
 24 consideration as it was submitted to the mayor?

25 MS. SCHONDELMAYER: Object to the form of that  
 HAWTHORNE & WEBB

1 question.

2 Q MR. HOWELL: And what I mean, the sheriff's  
 3 proposed FY-16 budget was not included in the same form as it  
 4 had been when it was submitted to the mayor, to the finance  
 5 department?

6 A I believe we submitted a thumb drive to council in  
 7 FY-16 of all submissions.

8 Q But it was not included as part of the mayor's  
 9 recommended budget in the form that it was submitted to  
 10 finance --

11 MS. SCHONDELMAYER: Object, it's asked and answered  
 12 and --

13 Q MR. HOWELL: -- for FY-16?

14 A Are you asking me --

15 Q Yes, ma'am.

16 A -- if the total amount of what the sheriff requested  
 17 was included in the recommended budget?

18 Q Yes, ma'am. And how he broke down the various line  
 19 items, was that included?

20 A It was not included in total, nor has it ever been  
 21 included in total for any office.

22 Q Now, you and the mayor and the city manager have  
 23 stated on several occasions through the FY-14, and 15, and 16  
 24 that the sheriff can move money around in his general fund  
 25 budget as he sees fit?

HAWTHORNE & WEBB



1 MS. SCHONDELMAYER: Object to the form of the  
 2 question; and that's also been asked and answered.  
 3 A **THE WITNESS:** This is based on --  
 4 Q Yes or no?  
 5 A **It's based on current personnel without any**  
 6 **operational changes.**  
 7 Q So the answer is yes, those are the numbers that  
 8 finance put into the sheriff's FY-15 recommended budget under  
 9 administration for personnel?  
 10 A **Those are the personnel that were approved at the**  
 11 **time that was provided by finance.**  
 12 Q Okay. And the same thing for the personnel under  
 13 uniform, finance -- those are finance numbers?  
 14 MS. SCHONDELMAYER: Object to the form of the  
 15 question.  
 16 A **THE WITNESS:** Without any operation changes  
 17 **submitted by the sheriff.**  
 18 Q Recorder's Court?  
 19 MS. SCHONDELMAYER: Is there a question?  
 20 Q **MR. HOWELL:** Yes. Recorder's Court, the same  
 21 question for the personnel there in Recorder's Court?  
 22 A **Yes, that's the existing current personnel at the**  
 23 **time.**  
 24 Q And the same numbers were filled in for the  
 25 personnel under the jail for FY-15 recommended budget by  
 HAWTHORNE & WEBB

1 **the service line analysis.**  
 2 Q Finance department stands behind all of the numbers  
 3 that are included on FY-15?  
 4 MS. SCHONDELMAYER: Object to the form of the  
 5 question.  
 6 Q **MR. HOWELL:** You stand behind -- you stood behind  
 7 them in FY-15; you stand behind them now?  
 8 A **I stand behind the FY-15 recommended budget.**  
 9 Q And each one of those numbers?  
 10 A **Each one of the numbers, which allows the sheriff to**  
 11 **move money around if he sees fit, so the 24.8 million and the**  
 12 **2.8 million is the sheriff's adopted budget.**  
 13 Q Now, let's see about Exhibit 15.  
 14 (OFF THE RECORD)  
 15 (WITNESS IDENTIFIED FY-16 MAYOR'S RECOMMENDED  
 16 BUDGET AS PLAINTIFF'S EXHIBIT NO. 15)  
 17 Q **MR. HOWELL:** I handed you Exhibit 15. This is a  
 18 copy of the mayor's recommended budget for FY-16 for the  
 19 sheriff's office.  
 20 A **This isn't all of it. I am sorry, yes, there is the**  
 21 **other LOST page I need for that. This is the operating fund**  
 22 **portion.**  
 23 Q So do we agree that this is the mayor's FY-16  
 24 recommended budget for the sheriff's office for FY-16?  
 25 A **For the operating funds.**  
 HAWTHORNE & WEBB

1 finance --  
 2 MS. SCHONDELMAYER: Object to the form of the  
 3 question.  
 4 Q **MR. HOWELL:** -- that's highlighted in blue?  
 5 A **Those are the personnel, existing personnel and**  
 6 **positions.**  
 7 Q And those are the numbers put in by finance?  
 8 MS. SCHONDELMAYER: Object to the form of the  
 9 question again; it's been asked and answered.  
 10 A **THE WITNESS:** Those are the numbers that were input  
 11 **by finance.**  
 12 Q And it's fair to say that each one of the numbers,  
 13 each one of the 125 numbers were put in by finance for FY-15  
 14 recommended for the sheriff?  
 15 MS. SCHONDELMAYER: Object to the form of the  
 16 question.  
 17 A **THE WITNESS:** All the numbers are put in by  
 18 **finance --**  
 19 Q Okay. And --  
 20 A **-- for every department based on analysis and input**  
 21 **from the departments.**  
 22 Q So with respect to FY-15 the input that you had from  
 23 the sheriff was the FY-14 adopted?  
 24 A **FY-14 adopted and additional analysis that we did,**  
 25 **and communication between Lionel and the sheriff's office, and**  
 HAWTHORNE & WEBB

1 Q And that's the general fund and the OLOST?  
 2 A **That's correct, but there are other funds that are**  
 3 **allocated to the sheriff as well.**  
 4 Q I understand. But I am looking at the recommended  
 5 budget for the general fund and the OLOST.  
 6 A **That's these two pages.**  
 7 Q We have got the right stuff?  
 8 A **Yes.**  
 9 Q Okay. If we look for FY-16 under the operations  
 10 division --  
 11 A **The uniform division?**  
 12 Q I'm sorry, yes, the uniform division -- line item  
 13 6145, \$311,300, is that what was recommended by finance and by  
 14 the mayor and city council?  
 15 A **That's correct.**  
 16 Q And that's the same number that was recommended for  
 17 FY-15?  
 18 A **That's correct.**  
 19 Q Now, do you recall when we played the video when Ms.  
 20 Pugh was asking you about how you came up with the \$311,300  
 21 for the FY-15 budget for bailiffs? Do you recall that video  
 22 clip we played earlier today?  
 23 A **Right.**  
 24 Q Is it the same response if I were to ask you, well,  
 25 how did you come up with \$311,300 for the bailiffs for the  
 HAWTHORNE & WEBB

1 sheriff in FY-16, Ms. Hodge, how did y'all do that?

2 **A** The FY-16 numbers, those are based on 15 as well as  
3 14. We tried to provide the same operational expenses to  
4 departments moving forward. We are in the same situation in  
5 16 that we were in 15, actually in a worse situation in 16  
6 than we were in 15, so just trying to at least allocate the  
7 same amount of funding level that we had in the prior two  
8 fiscal years.

9 **Q** Was it kind of the same approach where we took -- we  
10 determined the FY-16 base?

11 **A** Uh --

12 **Q** You know how we talked about the FY-15 base?

13 **A** Right.

14 **Q** Did we do the same thing in 16?

15 **A** Not to the same type of calculation, but basically  
16 with flat revenues. And we are still in a position where we  
17 can't fund additional programs, so the goal was to provide  
18 departments and offices with somewhere at least close to the  
19 operational expenses budget that they had in prior fiscal  
20 years.

21 **Q** So for the sheriff, for example, we know that it was  
22 24.8 million in '15, and then, what, like 2.8 for LOST, and so  
23 we were -- for the adjusted general fund we want to keep the  
24 sheriff close to those numbers and keep all the departments  
25 close to those numbers?

HAWTHORNE & WEBB

1 **A** It was a general feeling to try to balance the  
2 general fund within the same parameters that we've had in the  
3 past, and that has been, you know, an ongoing financial issue  
4 that we've had for the last several years, just trying to, you  
5 know, provide the services and balance the general fund and  
6 stay within our 60-day requirement, and, you know, all of  
7 those things.

8 **Q** I don't want to go back to Page 1 of the deposition  
9 and start over and ask the same questions that we did for  
10 FY-15, I don't think I have it in me. But I do kind of want  
11 to understand, like I do for 15, how it was done in 16, so I  
12 just want to tell you that, I want to understand that.

13 **A** Uh-huh. (Affirmative).

14 **Q** So I gather from what you just told me that we've  
15 looked at our expected revenues -- and let's focus on the  
16 general fund, the 0101 fund right now, okay. And so we looked  
17 at our revenues that we expected to be coming in, and we saw  
18 that it was a flat situation expected for '16?

19 **A** Relatively flat.

20 MS. SCHONDELMAYER: Object to the form of that  
21 question.

22 MR. HOWELL: Okay.

23 **Q** MR. HOWELL: And when you say relatively --

24 MS. SCHONDELMAYER: You say we, we, we, we, that's  
25 what I don't -- it's not going to -- that's why I'm

HAWTHORNE & WEBB

1 objecting, just since you rolled your eyes at me. I  
2 wanted to explain.

3 **Q** MR. HOWELL: The use of the term flat, I take it to  
4 mean it was about the same as last year; is that correct?

5 **A** That's correct.

6 **Q** Then you looked at -- well, we don't have any more  
7 money to go around, so how are we going to set the budgets for  
8 the individual departments with no additional monies; is  
9 that -- and keep a 60-day reserve; is that kind of what  
10 happened?

11 **A** In a much longer process than two sentences, but in  
12 general, after we've evaluated revenues we look at, you know,  
13 what the benefit calculations are going to be to see if we  
14 have any savings from retirement, or health care, or any of  
15 those, which typically in the past several years that has not  
16 been the case, although we did have in FY-15, because we had a  
17 good investment year, so it changed the actuarial  
18 requirements. But we have had this same situation for many  
19 years, and we have been living off of general fund reserves to  
20 make up that difference and try to wait for revenues to  
21 increase to try not to have to make drastic reductions and  
22 changes to the overall city budget, and so that is kind of  
23 where we start, and look at the revenues and the expenditures  
24 and try the best way that we can to get those in balance, and  
25 most of the time that ends up with most departments and

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1 offices having to do more with less, or do more with the same  
2 amount of operating funds. So that is typically our basis,  
3 and then we look at individual requests and evaluate those  
4 requests to determine if there is something specific that  
5 needs to be addressed within a department.

6 **Q** Is it true, like you told Ms. Pugh when she was  
7 asking you about how y'all came up with the \$311,000, and you  
8 said, well, we looked at the FY-14 and we were focusing,  
9 though, on the bottom dollar, the bottom number; is that also  
10 true, you were focusing on the 24,126,643?

11 **A** And that is true with most departments, we consider  
12 their budget in total and try to allocate within their  
13 department based on the funding that's available.

14 **Q** Because if you look at the bailiffs at 6145, the  
15 documents show the 681, then the 558,225 for actual in '13 and  
16 '14, but yet it stayed the same in '16 as it had been in '15.  
17 Was that because you had done an analysis of the provision of  
18 bailiffs in the sheriff's department, or was it we are going  
19 to keep that line item the same because we are basically  
20 keeping all the line items the same?

21 MS. SCHONDELMAYER: Object to the form of the  
22 question.

23 **Q** MR. HOWELL: Do you understand what I am saying, Ms.  
24 Hodge?

25 **A** We do look at their trends, but we also look at the

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1 operations, and to make, I wouldn't say a detailed analysis,  
2 but we do review what we -- the information that we have  
3 that's provided to us by the sheriff's office.

4 Q Did you look and see how he was tracking for  
5 bailiffs in FY-15?

6 A Yes, we do look at that. But this isn't  
7 necessarily -- how a department is tracking doesn't  
8 necessarily mean that that's what's required to do their  
9 operations.

10 MS. SCHONDELMAYER: When you get to a point can we  
11 take a break? You're welcome to keep going for a couple  
12 of more minutes, but I'm going to need a break in a  
13 minute. Sorry.

14 Q MR. HOWELL: The actual numbers for FY-15 turned out  
15 to be \$634,725; I mean, just presume that I have got that  
16 correct?

17 A I don't have that. I would have to look at a report  
18 to validate that information?

19 Q Presume that I looked at -- and I can provide it, we  
20 will talk about it in a little while, but presume that number  
21 is correct.

22 A Okay.

23 Q I want you to presume that I'm telling you the  
24 correct number --

25 A Okay.

HAWTHORNE & WEBB

1 courtroom security?

2 A Well, and I guess my response to that is, I believe  
3 that's an adequate amount for bailiffs. There were 26  
4 positions added to the sheriff's office, and if there's a need  
5 for additional personnel, then I also believe that there's  
6 room for him to make management decisions on how that  
7 personnel. So to pull out the bailiff line specific, that's  
8 part of his personnel management and allocation, and I believe  
9 that he has funding to provide the services that he is  
10 required to do.

11 MR. HOWELL: Yes, we can; now will be fine.

12 (OFF THE RECORD)

13 VIDEOGRAPHER: At your convenience.

14 (WITNESS IDENTIFIED FY-15 MAYOR'S RECOMMENDED  
15 BUDGET AS PLAINTIFF'S EXHIBIT NO. 16)

16 Q MR. HOWELL: We are back on the budget and we are  
17 looking at Exhibit 16 -- no, 15, which is the recommended  
18 budget FY-15 by the mayor for the sheriff. And I am just  
19 going to show you this, I don't know if I have any questions  
20 about that, that's what we have as the approved budget by  
21 council, and --

22 MS. SCHONDELMAYER: Did I send you that by council?

23 MR. HOWELL: No, approved by city council --

24 MS. SCHONDELMAYER: City council, sorry.

25 MR. HOWELL: -- for the sheriff.

HAWTHORNE & WEBB

1 Q -- 634,725 for bailiffs actual for '15. Does that  
2 change your opinion on whether the \$311,300 was an adequate  
3 amount for the sheriff to provide bailiffs wherever he has to  
4 provide bailiffs for fiscal year '16 for the city?

5 A I think that what we budgeted for the sheriff's  
6 office is adequate for him to provide the services that he  
7 provides, and if he chooses to use more in bailiffs than in  
8 another area, that's up to him.

9 Q Yes, ma'am. But I want to be sure that I am being  
10 specific on this, okay? You believe that even with knowing  
11 that the actual in '15 was 634,000 the actual in '14 was  
12 558,000, this is dollars, 681 in 2013, you still believe that  
13 the amount that was recommended of \$311,300 is adequate for  
14 the sheriff to provide bailiffs in FY-16?

15 MS. SCHONDELMAYER: Object to the form, but you can  
16 answer it.

17 A THE WITNESS: And you are asking me to make an  
18 operational judgment on the sheriff --

19 Q I'm asking you if you believe that's an adequate  
20 amount of money. I'm not asking --

21 A But I believe --

22 Q -- you whether he should transfer monies from one  
23 place to another, I am asking you if you believe that  
24 \$311,000 -- \$311,300 is sufficient for the sheriff to provide  
25 bailiffs in FY-16 in all the places he provides bailiffs in

HAWTHORNE & WEBB

1 Q MR. HOWELL: I had a hard time finding it, but these  
2 were produced by, I think -- yeah, these were produced by your  
3 attorneys. Now, I was going to ask you, what is this thing  
4 that I have found here?

5 A This is what we classify as an A-103 report; it's a  
6 budget to actual report.

7 Q Okay.

8 A And it was ran, if you look in the top left-hand  
9 corner, on July 13th, so this was after expenditures have been  
10 incurred. Typically we run this report once the budget is  
11 loaded into the system so it's clean before expenditures  
12 start, but this is, obviously, after a payroll has been  
13 processed and there has been some expenditures paid.

14 Q Well, is it accurate as the adopted budget under the  
15 current budget column, which is, I guess, almost all the way  
16 to the right, is that what was adopted by city council for the  
17 general fund for the OLOST fund for the sheriff in '16?

18 A I would assume so, I mean, because it's the current  
19 budget, but I would have to compare that to the budget  
20 document just to validate that.

21 Q With that caveat understood, okay, we are going to  
22 act as if it is, and it turns out if there was some change  
23 made, then it was just made and I was incorrect, okay? With  
24 that caveat is that okay?

25 A Yeah, that's fine, I think.

HAWTHORNE & WEBB

1 starting.

2 Q Are you still the contact person for the city with  
3 respect to CHC?

4 A As far as the -- from the contract's perspective,  
5 but not from the daily operation perspective. If they had to  
6 send a notice, I believe my name is listed as the contact  
7 person.

8 Q If the \$48,000 for -- that was shown on Exhibit 19,  
9 if that's for FY-16, that would already exhaust the outside  
10 medical services that's shown in the \$40,000 for the sheriff's  
11 adopted budget under that line item?

12 A And, again, I think I -- it wasn't part of the  
13 recommended, so I would have to go back and determine where  
14 the 40,000 came from and how that was determined.

15 Q Yes, ma'am, I understand that. But if it was  
16 \$40,000, presuming the \$48,000 bill comes out of FY-16, that  
17 would exhaust the entire year of \$40,000?

18 A And you're saying if this invoice is processed --  
19 was processed --

20 Q Yes, ma'am.

21 A -- it would exhaust the entire 40,000?

22 Q And if the amount of money that was actually  
23 adopted by city council was the recommended amount of 0, it  
24 would still exhaust -- the \$48,000 would exhaust 0, wouldn't  
25 it?

HAWTHORNE & WEBB

1 before, the medical supplies is the line item where that  
2 medical supplies, outside medical supplies, or services was  
3 budgeted, the 125 was for both of those items. And I think it  
4 is where they are actually paid, I think that needs to be  
5 realigned.

6 Q Do you know why it was put down in medical supplies?

7 A I don't know specifically, I would have to review  
8 that with the analyst on how those object codes are  
9 allocated.

(WITNESS IDENTIFIED 6/30/15 A-103  
REPORT AS PLAINTIFF'S EXHIBIT NO. 20)

12 Q All right. Do you believe that the sheriff's office  
13 is going -- strike that. Let's look at 20. Now, Exhibit 20,  
14 I think we see the Bate stamp number on that, this is an A-103  
15 report, I see that up there now; is that correct?

16 A Yes, this is A-103 through June -- I am going to  
17 assume June 30th, it was ran November the 23rd, 2015.

18 Q So this would be the final ending A-103 report for  
19 the sheriff's office for FY-15?

20 A Yes, this is the final after the final budget  
21 amendment; after the audit is completed.

22 Q Okay. And so if we want to look at some of these  
23 columns -- again, all of the line items like they are shown in  
24 Exhibits 1 and 2 and so forth, they're also shown on A-103?

25 A Yes, that's the chart of accounts.

HAWTHORNE & WEBB

1 A Well, and then if there was 0 in a line and 54,000  
2 was processed, obviously there's not funding --

3 Q Yeah.

4 A -- but there's other -- but I -- and I really would  
5 have to go back and check, because I believe there was  
6 discussion during council meeting about the \$40,000 for the  
7 add/delete list, and I believe that that number was requested  
8 by the sheriff, but I am not sure. I would have to go back  
9 and look.

10 Q On the FY-16, on outside medical that was  
11 recommended, a 0, what efforts were made --

12 MS. SCHONDELMAYER: Now, what, where are you,  
13 which exhibit?

14 MR. HOWELL: I'm at Exhibit 15 --

15 MS. SCHONDELMAYER: Okay.

16 MR. HOWELL: -- the recommended FY-16 budget.

17 Q MR. HOWELL: The 0 that was recommended in that line  
18 item for outside medical, what efforts did the finance  
19 department take when it recommended the 0 to see if 0 would be  
20 an adequate and reasonable amount for the actual expenditures  
21 incurred for outside medical services for inmates?

22 MS. SCHONDELMAYER: Object to the form of the  
23 question. I think she has already explained that, but  
24 you are welcome to --

25 A THE WITNESS: And I think, when we talked about this

HAWTHORNE & WEBB

1 Q And that's the chart of accounts, okay. The -- if  
2 we look at the total expenditures from the general fund, the  
3 0101 fund, for the sheriff, what number is that?

4 A 25,990,031.48.

5 Q And that would be the amount of expenditures that  
6 went through the chart of accounts for the general fund during  
7 fiscal year '15?

8 MS. SCHONDELMAYER: Object to the form of the  
9 question.

10 A THE WITNESS: Yes, that would be the expenditures  
11 for the general fund.

12 Q And if you added up all of the, what did we say,  
13 there were 125 line items that are listed on this A-103, we  
14 would have expenditures of that 25,990,031.48, right?

15 A That's correct.

16 Q And the adopted budget for FY-15 is, again, the  
17 \$24,827,343, correct?

18 A That's correct.

19 Q So if you wanted to calculate 10 -- if we wanted to  
20 calculate how much more the sheriff spent in his general fund  
21 budget, 0101, you would take the expenditures at 25.99 and  
22 subtract them from the recommended adopted budget at 24.8277

23 A Not necessarily. There were adjustments made to the  
24 budget for particular line items in the final budget  
25 amendment. Um --

HAWTHORNE & WEBB

1 Q And we are going to talk about that in just a  
 2 minute, ma'am, but I'm just asking --  
 3 MS. SCHONDELMAYER: Let her finish her question,  
 4 she -- her response. She will explain those to you.  
 5 Just let her explain it, please, and don't interrupt her  
 6 before she's done. I promise she will explain it to you  
 7 if you just let her respond.

8 MR. HOWELL: I wish that -- and typically witnesses,  
 9 Carter, will answer the question, and then if they want  
 10 to add to their response they do. Ms. Hodge answers a  
 11 question different than what is asked, and so I would  
 12 like to know the answer, if you wanted to know --

13 MS. SCHONDELMAYER: She said not necessarily, and  
 14 then she is explaining it.

15 MR. HOWELL: If you wanted to know the difference  
 16 between what was spent through the general fund versus  
 17 what was originally adopted, you would do the calculation  
 18 that I talked about. We are going to talk about the  
 19 budget amendments later, but --

20 MS. SCHONDELMAYER: Okay.

21 Q MR. HOWELL: So can I ask the question again?

22 A Sure.

23 Q Let me start over, okay. To determine the amount  
 24 that the sheriff spent through his general fund budget we look  
 25 at the expenditures that are shown on the YTD obligations of

HAWTHORNE & WEBB

1 explanation.

2 Q And would the calculation be performed --

3 MS. SCHONDELMAYER: I hate to do this. I promise  
 4 you --

5 MR. HOWELL: How --

6 MS. SCHONDELMAYER: -- she has got an answer that's  
 7 not being tricky or anything, but can explain to you how  
 8 she obtains that number. You won't let her answer that  
 9 question. If you just want to ask her how she comes to  
 10 what he overspends, just -- if you hear the answer then  
 11 you could ask her a question, but y'all are going round  
 12 and round. I just want to shorten the process by telling  
 13 you this is not a trick, this is a failure to listen to  
 14 her response.

15 MR. HOWELL: Objection.

16 MS. SCHONDELMAYER: Okay.

17 Q MR. HOWELL: So how would you perform that  
 18 calculation?

19 A **The difference between those numbers is the  
 20 difference between what he actually spent and his original  
 21 adopted budget, but that doesn't provide the necessary  
 22 explanation that I would provide if someone asked that  
 23 question.**

24 Q If we look at the last page of Exhibit 20, that is  
 25 the 0102 LOST budget actual for FY-15?

HAWTHORNE & WEBB

1 25,990,031.48, okay, and then the adopted budget, FY-15 budget  
 2 for the sheriff was \$24,827,343, and so if we wanted to know  
 3 how much more did the sheriff spend through this general fund  
 4 budget than he was originally provided by city council, we  
 5 would subtract those two numbers?

6 A **You could subtract those two numbers. I don't know  
 7 that that is a fair calculation of anything other than the  
 8 difference between those two numbers.**

9 Q Well, if someone wanted to say, well, how much was  
 10 the sheriff originally provided by city council for FY-15,  
 11 what would you tell them?

12 A **If they asked what his original adopted budget was,  
 13 I would tell them the 24 million, plus the 2.8.**

14 Q We are just talking about the 0101 fund, okay? And  
 15 so then if we said, well, how much more over his originally  
 16 adopted budget did the sheriff in his 0101 fund for FY-15,  
 17 what would you do?

18 A **Well, I think I would provide the total amount  
 19 expended with an explanation, because there is an explanation  
 20 for some of the difference between the adopted budget and the  
 21 actual expenditures.**

22 Q Yes, ma'am. But if someone was to say, what was the  
 23 amount that the sheriff spent over his original adopted budget  
 24 for FY-15, how would you perform that calculation?

25 A **I would perform the calculation with an**

HAWTHORNE & WEBB

1 A **That's -- are you asking for budget or actual --**

2 Q I guess the A-103 report, it shows what the amount  
 3 spent for year to date for the 0105 -- I mean the 0102 LOST  
 4 budget?

5 A **The amount spent is --**

6 Q Yes, ma'am.

7 A **-- on -- yes, on this A-103?**

8 Q What is that?

9 A **2,703,313.46.**

10 Q Okay. And the amount adopted by city council for  
 11 FY-15 for the OLOST was how much?

12 A **2.8.**

13 Q And if someone were to say, well, how much did the  
 14 sheriff overspend or underspend between the amount adopted  
 15 for his OLOST budget by city council, and the amount that he  
 16 spent during FY-15 actual, how would you perform the  
 17 calculation?

18 A **It wouldn't be a typical question that someone would  
 19 ask, but I think we've covered the difference between the  
 20 adopted budget and the actual spent, but I think it's more  
 21 appropriate to compare the final budget to the final  
 22 expenditures than the adopted budget to the final  
 23 expenditures.**

24 Q Okay. We are going there now.

25 A Okay.

HAWTHORNE & WEBB

EX. C

IN THE SUPERIOR COURT OF MUSCOGEE COUNTY  
STATE OF GEORGIA

JOHN T. DARR, in his official capacity as Sheriff of  
Muscogee County,

Plaintiff,

v.

COLUMBUS, GEORGIA, a City, a public corporation  
and body politic and a political subdivision of the State  
of Georgia; TERESA P. TOMLINSON, in her official  
capacity as Mayor of Columbus, ISAIAH HUGLEY, in  
his official capacity as the City Manager of Columbus,  
PAM HODGE, in her official capacity as Finance  
Director of Columbus, JERRY "POPS" BARNES, in his  
official capacity as District 1 Councilor, GLENN  
DAVIS, in his official capacity as District 2 Councilor,  
BRUCE HUFF, in his official capacity as District 3  
Councilor, EVELYN TURNER PUGH, in her official  
capacity as District 4 Councilor, MIKE BAKER, in his  
official capacity as District 5 Councilor, GARY ALLEN,  
in his official capacity as District 6 Councilor, EVELYN  
"MIMI" WOODSON, in her official capacity as District  
7 Councilor, TOM BUCK, in his official capacity as  
District 8 Councilor, JUDY THOMAS, in her official  
capacity as District 9 at Large Councilor, and BERRY  
"SKIP" HENDERSON, in his official capacity as  
District 10 at Large Councilor,

Defendants.

Civil Action No.  
SU14CV3437-94

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DEFENDANT TERESA P. TOMLINSON'S RESPONSES  
TO PLAINTIFF'S FIRST INTERROGATORIES

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COMES NOW Defendant, Teresa P. Tomlinson (hereinafter referred to as "Defendant" or "Mayor Tomlinson"), pursuant to O.C.G.A. §9-11-33, within the time provided by law and hereby responds and objects to the Plaintiff's Discovery Requests.

Defendant expressly reserves the right to supplement, amend, or correct these responses in accordance with applicable discovery rules as interpreted by the Courts. All responses are subject to the General Objections set forth below, which are incorporated into each response, as well as the objections to specific Requests where indicated.

#### GENERAL OBJECTIONS

1.

Defendant's response to these Interrogatories is not deemed a waiver of her right to object to the relevance or admissibility of any information, document, or evidence based on the relevance or admissibility of any such response, which objections are expressly reserved.

2.

Defendant's response to these Interrogatories is not a waiver of any other general or specific objection.

3.

Defendant objects to the Interrogatories to the extent that they, or any specific Interrogatory addressed, is vague, uncertain, or overly broad as to the expressed information



sought, and the manner in which Defendant is expected to respond. Accordingly, Defendant's responses are based upon her, and her attorneys' best understanding or interpretation of the Interrogatory as phrased. To the extent that Plaintiff should contend that Defendant's answer is unresponsive, it is the Defendant's position, and her objection, that such Interrogatory is inappropriately articulated.

4.

Defendant objects to any Interrogatory which seeks to impose burdens and obligations beyond those required by the Georgia discovery rules.

5.

Defendant objects to Plaintiff's Interrogatories to the extent that they seek the disclosure of any information or documents protected by the attorney-client privilege, the work product doctrine, and other applicable privileges. To the extent that these requests seek Defendant's attorney(s), or any other representative(s), mental impressions, conclusions, opinions, computations, calculations, projections, reasoning, legal theories or other work product or attorney-client privilege, Defendant objects to these discovery requests for those reasons on the grounds that they exceed the scope of permissible discovery under the Georgia Rules of Civil Procedure. Subject to the foregoing objection and without waiving the same, Defendant will respond to such discovery requests as required under the Georgia Rules of Civil Procedure.

6.

Defendant objects to Plaintiff's First Interrogatories to the extent they, or any specific

Interrogatory, calls for information which is neither relevant to this action nor reasonably calculated to lead to the discovery of admissible evidence.

7.

Defendant objects to any Interrogatory which seeks opinions and/or contentions of Defendant relating to any fact and/or the application of any law to fact, prior to the completion of discovery.

8.

Defendant objects to Plaintiff's First Interrogatories seeking information which is not in her possession, custody or control and which Defendant either does not have access to or has had insufficient time to conduct discovery and/or an investigation of facts to properly respond, and therefore reserves the right to either object or to further respond if any such information may later come into Defendant's possession, custody or control.

9.

Defendant shows that the responses to these Interrogatories are true and correct to the best of her current knowledge. However, the word usage and sentence structure in these answers may be that of the attorney assisting in the preparation of the answer and does not necessarily purport to be in the precise language of the executing party.

**Standing Objection No. 1**

Defendant objects to these Interrogatories to the extent that they call upon Defendant to locate and produce information that is contained only in documents which are extremely difficult,

if not impossible, to obtain or come by, and to the extent that they require Defendant to resort to incalculable work and expense to obtain information. Said requests are deemed to be unduly burdensome and/or an attempt to annoy, embarrass, oppress, or cause undue expense to the Defendant and objection is made upon that basis pursuant to the Georgia Rules of Civil Procedure.

**Standing Objection No. 2**

Defendant objects to these requests insofar as they call upon Defendant to respond by acquiring or supplying information that is irrelevant and to the extent that they are not reasonably calculated to lead to the discovery of admissible evidence and to the extent that the requests exceed the scope of permissible discovery under the Georgia Rules of Civil Procedure.

**Standing Objection No. 3**

Defendant objects to any "definitions" which precede Plaintiff's discovery requests to the extent that these "definitions" exceed and expand any legal, common, or grammatical definition of that term beyond the permissible scope of discovery established by the Georgia Rules of Civil Procedure. Without in any way limiting the foregoing general objection, and specifically reserving the same, Defendant objects to any definitions of "Defendant(s)" which might include the Defendant's attorney(s), which would obviously infringe upon Defendant's attorney-client privilege and the work product doctrine. The Georgia Rules of Civil Procedure do not require this Defendant to identify any such privileged documents and Defendant specifically objects to any such request.

Standing Objection No. 4

Defendant further objects to Plaintiff's Discovery Requests to the extent each of these requests seeks information which may be responsive to one or more of Plaintiff's requests, any one answer that is given should be deemed responsive to any additional requests to which it is responsive, and should be viewed as such.

Standing Objection No. 5

Defendant will produce documents that are not attached hereto, or copies thereof at a mutually convenient place and time; Defendant will supplement her answers as necessary and as discovery has just begun, as information becomes available and known to Defendant.

Standing Objection No. 6

Defendant is engaged in a continuing investigation of the matters inquired about in these discovery requests. Defendant's responses to Plaintiff's requests are believed to be accurate as of the date made. But because her investigation into the matter inquired about is continuing, Defendant cannot exclude the possibility that she may be able to obtain more complete information or even information that indicates that the answers being supplied are inaccurate in some respect. Accordingly, Defendant reserves the right to (a) supplement any and all of her responses to these Requests and (b) to assert additional objections should Defendant discover additional grounds for such objections.

Standing Objection No. 7

Defendant's responses to Plaintiff's requests are made without in any way waiving or

intending to waive, but to the contrary preserving and intending to preserve, all questions as to the competence, relevance, materiality or admissibility into evidence of any of the information call for in the requests for any purpose and in any aspect of this or any other court action, judicial or administrative proceeding or investigation.

**Standing Objection No. 8**

Defendant objects to all Interrogatories which are compound, requesting information from two or more distinctive budget years.

**Standing Objection No. 9**

Defendant objects to all requests for information regarding FY2014 and FY2015, as both are moot and no claims can lie for such budget years.

This Preliminary Statement and Standing Objections are incorporated in each of the responses set forth below.

**INTERROGATORIES**

1. Identify all individuals answering these Interrogatories, and all individuals consulted or relied upon in compiling the answers and responses to these Interrogatories, and for each such individual, state the area of information with which they assisted.

**RESPONSE:**

- Mayor Teresa Tomlinson: provided information regarding her role in the

budget process and the executive and administrative functions of the Columbus Consolidated Government (hereinafter, "CCG").

- **Isaiah Hugley:** provided information regarding the budget process and the administrative functions and capacities of CCG.
- **Pam Hodge:** provided information regarding the budget process and the financial operations of CCG.

2. Identify all persons who participated in the recommendation and decision regarding the unfunding of personnel positions in the Sheriff's General Fund Budget for FY2015 and FY2016 and for each such person state what role such person made in the recommendation or decision regarding the unfunding of personnel positions in the Sheriff's General Fund budget for FY2015 and FY2016.

**RESPONSE:** Mayor Tomlinson objects to this Interrogatory as requesting information from two distinctive budget years, one of which is moot and no claims can lie for such budget year. Mayor Tomlinson objects to the characterization of "unfunding of personnel positions" as the Mayor's Recommended Budget speaks to budget policy and funding levels. The Mayor's Recommended Budget sets proposed funding levels and supports those funding levels through information and analysis such as: identified duplicative or redundant services and personnel; identified expenditures beyond the

statutory duties or scope of the department or office; identified priorities and needs; identified state mandates or other requirements; available resources and the like.

Subject to said objections, Mayor Tomlinson states that on several occasions, Council has expressed concern related to potential excess funding among the public safety offices. In response, there has been a deliberative analysis of excess expenses, which include the assessment of funding related to personnel. The most recent analysis focused upon the duplicative services among the various law enforcement agencies operating within Muscogee County, which arose in FY2016 from a specific Council referral. The FY2016 Mayor's Recommended Budget for the Sheriff's Office did not seek to eliminate any particular positions within that Office, but instead identified and quantified duplicative resources and recommended the monetary value of those duplicative resources be reassigned within the overall CCG budget to achieve a higher level of efficiency and to achieve articulated legislative and executive policy.

Persons who participated in the review and analysis of these policies and the resulting policy decisions and recommendations that led to the budget proposals include:

- Council Members – The Mayor, Council and administrative staff engage in policy discussions throughout the year during Council meetings, work sessions and Budget Review Committee Meetings. Items requested by Councilors for Executive branch analysis, review and recommendation are known as “referrals.” Councilors make referrals throughout the year, including referrals related to budget issues. Individual Councilors,

particularly the Budget Chair Skip Henderson and the Mayor Pro Tem Evelyn Pugh, communicate periodically with the Mayor and other executive staff to be briefed and provide input on budget policy issues.

- **Executive Budget Staff** – Each budget year, the Mayor convenes the City Manager, the Finance Director, and other executive staff members during the executive budget policy-making process to consult regarding revenue and expense issues, policy issues and other budgetary considerations. Periodically, individual Councilors and other persons with relevant information are invited to discuss broad issues of city and budget policy pertaining to specific executive recommendations that may be proposed via the Mayor's Recommended Budget to accomplish those proposed policy objectives.

- **Executive Committee** – The Mayor convenes a weekly meeting of the executive management of the local governing authority to include the City Manager, City Attorney, Finance Director, Human Resource Director, and Internal Auditor. The Mayor is informed through these meetings of issues presenting an impact to the city to include budgetary threats related to operating and reserve funds, bond ratings and debt serving, employee or benefits costs/obligations, alleged waste, fraud or abuse issues, or other potential threats to the functioning of the local government and the well-being of the citizens. These discussions can form the basis of policies proposed in the Mayor's Recommended Budget.



- Department Heads/Office Holders – Once a month, the City Manager hosts an all Department/Office/Affiliate Head meeting where service delivery and budgetary issues are discussed. Further, Department Heads and Office Holders are provided an opportunity for one-on-one meetings with the Mayor, City Manager and Finance Director to discuss particular resourcing needs and funding options.

- Public Safety Personnel – The Mayor, in her role as Public Safety Director, confers with the heads of all public safety units quarterly and with individual heads of public safety units at least monthly. These units include the Columbus Police Department, Columbus Fire/EMS Department, Homeland Security Director, Sheriff's Office, Marshal's Office, and Muscogee County Prison. However, the representatives from the Sheriff's Office have largely declined participation in these meetings for the past 18-24 months.

- Mayor's Extreme Event Summit – Twice annually, the Mayor, in her role as Public Safety Director, convenes through the jurisdiction's Emergency Management Office and Homeland Security Division a summit of public and private sector response teams to discuss community needs and resources in the face of a broad scale natural or man-made disaster.

- Citizens and Stakeholders – The Mayor engages in many public forums throughout the community regularly to include, but not limited to, quarterly "Let's Talk with the Mayor" sessions. Additionally, the Mayor receives dozens of emails or social media

comments and inquiries each week regarding citizen and stakeholder requests and priorities for local government services.

- **Civic Leaders** – The Mayor confers periodically with other leaders in the community - from retired elected officials to private sector leaders to school district representatives to state and federal officials, for instance - in assessing the resources and needs of the community and the impact on budgetary issues.

To varying levels of engagement, the above referenced individuals influence the decisions involved in the executive budgetary policy-making process and result in the proposals contained in the Mayor's Recommended Budget, to include the budget recommended for the Sheriff's Office.

3. Identify all meetings, work sessions, or hearings, whether formal or informal, relating to the unfunding of personnel positions in the Sheriff's General Fund budget for FY2015 and FY2016.

**RESPONSE:** Mayor Tomlinson objects to this Interrogatory as requesting information from two distinctive budget years, one of which is moot and no claims can lie for such budget year. Incorporating the objections and answers to Interrogatory No. 2 above, Mayor Tomlinson states that the public business meetings of the Columbus Council are held at least twice monthly, work sessions are held at minimum four times a year and Budget Review Committee meetings are held over a period of six to eight weeks prior to the

adoption of each fiscal year's budget. In addition, Department/Office/Affiliate Head meetings are held regularly wherein resourcing and budget issues are discussed. Likewise, other meetings as set forth more fully in response to Interrogatory No. 2 discuss information upon which the Mayor forms her executive budgetary policy-making decisions and recommends a budget to the Columbus Council, to include the budget recommended for the Sheriff's Office.

4. Identify all persons who participated in the recommendation and decision regarding the reduction in the number of personnel positions in the Sheriff's OLOST Fund budget for FY2015 and FY2016 and for each such person, state what role such person made in the recommendation or decision regarding the reduction in the number of personnel positions in the Sheriff's OLOST Fund Budget or FY2015 and FY2016.

**RESPONSE:** Mayor Tomlinson objects to this Interrogatory as requesting information from two distinctive budget years, one of which is moot and no claims can lie for such budget year. Subject to said objection, see Objections and Answers to Interrogatories Nos. 2 and 3. In further response, Mayor Tomlinson notes that the only OLOST Funding potentially impacted in her FY2016 Recommended Budget related to the supplements for the Sherriff's Office personnel positions recommended for reassignment.

5. Identify all meetings, work sessions, or hearings, whether formal or informal, relating to the reduction in the number of personnel positions in the Sheriff's OLOST fund budget for FY2015 and FY2016.

**RESPONSE:** Mayor Tomlinson objects to this Interrogatory as requesting information from two distinctive budget years, one of which is moot and no claims can lie for such budget year. Subject to said objection, see Response to Interrogatory No. 3.

6. Identify all persons who participated in the decision to create a Public Safety Vacancy Reserve for FY2015 and FY2016 and for each such person, describe such person's role in the decision to create a Public Safety Vacancy Reserve for FY2015 and FY2016.

**RESPONSE:** Mayor Tomlinson objects to this Interrogatory as requesting information from two distinctive budget years, one of which is moot and no claims can lie for such budget year. Subject to said objection, Defendant identifies Finance Director Pam Hodge, City Manager Isaiah Hugley, Mayor Teresa Tomlinson and Councilors, and states that prior to the creation of the Public Safety Vacancy Reserve, millions of dollars in funds were assigned to particular departments or offices for unfilled positions. The funds remained in those department or office budgets until the positions were filled, which in some instances were never filled. The unused, but assigned funds typically reverted back to the General Fund Reserve at the conclusion of the year. Given the excessive level of unspent or redirected funds for unfilled positions in the public safety departments, the Finance

Director recommended to the Mayor and City Manager to propose in the FY2015 Mayor's Recommended Budget a separate, assigned reserve outside the budgets of the various public safety offices for the purpose of providing additional funding for the currently vacant public safety positions after they had been filled. The Finance Director examined the role of the reserve as a measure to assist the CCG with maintaining its 60 days of General Fund Balance Reserve and to align with the prudent accounting practices. The Mayor and the City Manager reviewed the recommendation. The particularized FY2015 Reserve was recommended to Council, was discussed and deliberated upon by Council and was adopted by Council. No particularized reserve was specifically funded for FY2016.

7. Identify all persons who participated in the determination of the amount of the FY2014, FY2015, and FY2016 Mayor's recommended OLOST Fund Budget for the Sheriff, including the determination of the amount of line items or object codes, and for each such person, describe such person's role in the determination of the amount of the FY2014, FY2015, and FY2016 Mayor's recommended OLOST Fund Budget for the Sheriff.

**RESPONSE:** Mayor Tomlinson objects to this Interrogatory as requesting information from three distinctive budget years, two of which are moot and no claims can lie for such budget years. See also Objections and Answers to Nos. 2 and 4 above. Subject to said objections, Mayor Tomlinson identifies the following individuals: the Sheriff or his designated representative, Lionel Haynes, the Budget Analyst assigned to the Sheriff's

Office, the Finance Director, the Assistant Finance Director Renee Sturkie (until January 2015), the City Manager and the Mayor. Further Mayor Tomlinson states that after consultation with the Sheriff or his designee, and after review of any Budget Requests, which may or may not have been submitted by the Sheriff's Office, the Budget Analyst and Finance Director confer to determine a recommended capital funding plan for all Public Safety Departments and Offices, to include the Sheriff's Office. The Budget Analyst and Finance Director also consider previously obligated OLOST funds for the particular fiscal year. As with all available revenue sources, the Finance Director makes a recommendation to the City Manager and Mayor during the executive budgetary policy-making process. After conference and consideration of competing interests, a recommended amount is determined and included in the Mayor's Recommended Budget (to include the annual budget recommended for the Sheriff's Office) for Council's review and consideration. The Sheriff has a right to appear before Council regarding Council's consideration of the same pursuant to Columbus Charter § 8-105.

8. Identify all persons who participated in the determination of the amount of the FY2014, FY2015, and FY2016 Mayor's recommended General Fund Budget for the Sheriff and for each such person, describe such persons' role in the determination of the amount of the FY2014, FY2015, and FY2016 Mayor's recommended General Fund Budget for the Sheriff.

RESPONSE: Mayor Tomlinson objects to this Interrogatory as requesting information from three distinctive budget years, two of which are moot and no claims can lie for such budget years. See also Objections and Answers to Nos. 2 and 3 above. Subject to said objections, Mayor Tomlinson identifies the following individuals: the Sheriff or his designated representative, Lionel Haynes, the Budget Analyst assigned to the Sheriff's Office, the Finance Director, the Assistant Finance Director the City Manager and the Mayor. After consultation with the Sheriff or his designee and after review of Budget Requests, which may or may not have been submitted by the Sheriff's Office, the Budget Analyst and Finance Director confer to determine a recommended annual budget for the Sheriff's Office, which include both General Fund and OLOST Fund resources. Based upon policy guidance received throughout the year from the Mayor and Council, the Finance Director makes a recommendation to the City Manager and Mayor during the executive budget policy-making process. After conference and consideration of competing interests, a recommended amount is determined and included in the Mayor's Recommended Budget for Council's review and consideration. The Sheriff has a right to appear before Council regarding Council's consideration of the same pursuant to Columbus Charter § 8-105.

9. Identify all policies, rules, regulations, standards and procedures of Columbus as to "the pay structure and limitations of payments regularly made by the City Attorney's Office" as

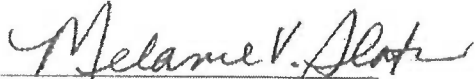
reference in the August 19, 2014 letter to counsel for Sheriff Darr from Ms. Melanie V. Slaton and Ms. Carter P. Schondelmayer as counsel for and on behalf of the Columbus Consolidated Government.

**RESPONSE:** Generally, outside counsel who represent the CCG are recommended by the City Attorney, and approved pursuant to Council resolution as designated and authorized legal counsel. Litigation expenses for authorized counsel representing the CCG are typically paid upon the approval of the City Attorney, via funds budgeted to his Department 120, under Unit 2100. In situations where the CCG is required by law to pay the fees and expenses of outside counsel for claimants bringing cases against CCG, other methods of payment must be used. For further information, see Defendant **Isaiah Hugley's** Response to Plaintiff's Interrogatory No. 2.

Respectfully submitted this 13th day of October, 2015.

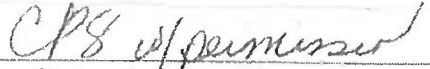
HATCHER, STUBBS, LAND,  
HOLLIS & ROTHSCHILD, LLP

P.O. Box 2707  
Columbus, GA 31902-2707  
(706) 324-0201  
[mvs@hatcherstubbs.com](mailto:mvs@hatcherstubbs.com)

By:   
Melanie V. Slaton  
Georgia Bar No. 539960

THE SCHONDELMAYER FIRM, L.L.C.

P.O. Box 5742  
Columbus, GA 31906

By:   
Carter P. Schondelmayer



(706) 464-5298  
[cschondelmayer@outlook.com](mailto:cschondelmayer@outlook.com)

Georgia Bar No. 558998  
Attorneys for Defendant

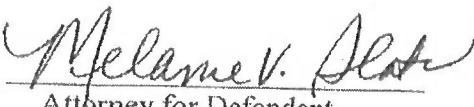
CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing DEFENDANT TERESA P. TOMLINSON'S RESPONSE TO PLAINTIFF'S FIRST INTERROGATORIES via electronic mail, per agreement of counsel and the Court, addressed as follows:

W. Kerry Howell  
W. Kerry Howell, LLC  
230 Second Street  
Macon, GA 31201  
wkhowell\_law@bellsouth.net

Larry Walker  
Kellye C. Moore  
Walker, Hulbert, Gray & Moore, LLP  
909 Ball Street  
P. O. Box 1770  
Perry, GA 31069  
lwalker@whgmlaw.com  
kmoore@whgmlaw.com

This 13<sup>th</sup> day of October, 2015.

  
\_\_\_\_\_  
Attorney for Defendant

IN THE SUPERIOR COURT OF MUSCOGEE COUNTY  
STATE OF GEORGIA

JOHN T. DARR, in his official capacity as Sheriff of  
Muscogee County,

Plaintiff,

v.

COLUMBUS, GEORGIA, a City, a public corporation  
and body politic and a political subdivision of the State  
of Georgia; TERESA P. TOMLINSON, in her official  
capacity as Mayor of Columbus, ISAAH HUGLEY, in  
his official capacity as the City Manager of Columbus,  
PAM HODGE, in her official capacity as Finance  
Director of Columbus, JERRY "POPS" BARNES, in his  
official capacity as District 1 Councilor, GLENN  
DAVIS, in his official capacity as District 2 Councilor,  
BRUCE HUFF, in his official capacity as District 3  
Councilor, EVELYN TURNER PUGH, in her official  
capacity as District 4 Councilor, MIKE BAKER, in his  
official capacity as District 5 Councilor, GARY ALLEN,  
in his official capacity as District 6 Councilor, EVELYN  
"MIMI" WOODSON, in her official capacity as District  
7 Councilor, TOM BUCK, in his official capacity as  
District 8 Councilor, JUDY THOMAS, in her official  
capacity as District 9 at Large Councilor, and BERRY  
"SKIP" HENDERSON, in his official capacity as  
District 10 at Large Councilor,

Defendants.

Civil Action No.  
SU14CV3437-94

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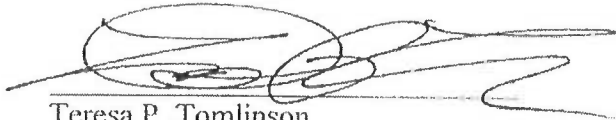
VERIFICATION OF DEFENDANT TERESA P. TOMLINSON'S RESPONSES TO  
PLAINTIFF'S FIRST INTERROGATORIES

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Personally appeared before the undersigned officer duly authorized to administer oaths in  
and for the State and County, TERESA P. TOMLINSON, who having first been duly sworn,  
deposes and says that the facts and allegations contained in the foregoing Defendant Teresa P.


Tomlinson's Response to Plaintiff's First Interrogatories in the above reference lawsuit are true and correct based upon information and belief presently known.

This 13<sup>th</sup> Day of October, 2015.



Teresa P. Tomlinson

Sworn to and subscribed before me  
This 13<sup>th</sup> day of October, 2015.



Marcia L. Smith  
Notary Public  
Muscogee County, Georgia

(SEAL)

MY COMMISSION EXPIRES MARCH 21, 2016

EX. D



POST OFFICE BOX 1338  
COLUMBUS, GA 31902-1338  
www.columbusga.org/sheriff

# OFFICE OF THE SHERIFF

MUSCOGEE COUNTY  
JOHN T. DARR, SHERIFF



PHONE (706) 653-4225  
FAX (706) 653-4234  
JAIL (706) 653-4258  
FAX (706) 653-4262

*Ram Hodge  
Mayor  
City Attorney*

*Isaiah 3/31/15*

March 30<sup>th</sup>, 2015

City Manager Isaiah Hugley,

In compliance with Section 8-105 of the Charter for the Columbus Consolidated Government, I hereby submit the Office of the Sheriff's annual operating and capital budget request for Fiscal Year 2016. As required by Section 8-105, please incorporate this proposed Sheriff's FY 2016 budget into the overall Consolidated Government's FY 2016 budget that the Mayor submits to the Council.

Thank you,

John T. Darr, Sheriff  
Muscookee County

