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Administrative Investigation
Report of Findings

IN THE MATTER OF

City Manager Recruitment Investigation
City of San Bernardino

INVESTIGATED BY:

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SUBJECT: ADMINISTRATIVE INVESTIGATION
City Manager Recruitment Investigation

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WITNESS W

Witness W was considered credible in expressing his beliefs, encompassing opinions about investigators, public government, and closed session meetings. As the [position, agency], he acknowledged that an inside source provided the information used to publish three different articles about applicant Witness A. However, he did not disclose the identity of the source. While Witness W's credibility in expressing his beliefs was acknowledged, the reliability of the information he received from the undisclosed source remains unverified.

WITNESS X

Witness X was established as a credible witness during the investigation. In the brief interview, [agency][position] Witness X was questioned about an email that his city councilmembers received from "Witness V" (alias) in San Bernardino. His credibility in providing information related to this aspect of the inquiry was recognized.

WITNESS Z

Witness Z was found not to be a credible witness during the investigation. His lack of credibility was attributed to instances of misleading information, feigned forgetfulness, and the omission of critical details during the interview. Moreover, he stated that most of his objections to specific City Manager candidates were based on internet research on their backgrounds, further contributing to concerns about the reliability of his statements and perspectives.

SUMMARY OF INTERVIEWS

Summary of Interview with Witness A

On Friday, October 27, 2023, this investigator, in collaboration with JL Group Investigator Jeff Brouwer, conducted a Zoom interview with complainant Witness A. The purpose of the interview was to delve into the allegations presented by Witness A in a document submitted to the City of San Bernardino through his attorney.

At the commencement of the interview, Witness A was informed that the investigation was focused on scrutinizing his allegations. He was then asked to narrate his version of events related to the City Manager hiring process and his subsequent termination from the City of [agency].

Witness A recounted that [agency, position] Witness B contacted him in July, mentioning an opportunity in San Bernardino and encouraging him to consider applying. Given their past professional relationship—Witness B had been the [role] for Witness A's position in [agency]—Witness A decided to pursue the opportunity, submitting his resume and references to Witness B.

Advancing through the process, Witness A had his initial Zoom interview with the San Bernardino City Council on August 3rd, where he interacted with seven Councilmembers, the Mayor, and [position] Witness E. Following a successful performance, he was invited for an in-person interview on August 18th, attended by all Councilmembers except for Councilmember Alexander, who joined via Zoom.

After this interview, [position] Witness B informed Witness A that he was in a "dead heat" with another candidate, and the council was requesting a list of Witness A's demands regarding pay and benefits. Witness A submitted the list the next day. Later the following week, Witness B conveyed that the council wished to proceed with him as the next city manager.

[position] Witness E subsequently contacted Witness A via email, introducing himself and presenting the council's offer. Witness A accepted the terms on August 22, 2023, considering it a generous offer. Witness E mentioned that the council would review the contract in a closed session meeting on August 28th, with formal approval scheduled for a public meeting at a later date. However, due to the cancellation of the September 20th meeting, the next available Council meeting wouldn't be held until October 4th.

Despite the delay, Witness B informed Witness A that [position] Witness B wanted to ensure all necessary steps, including a background check, were taken. This process was expected to take most of September.

Then, unexpectedly, an article naming Witness A as the next City Manager appeared in the [publication] on August 25, 2023.

BROUWER: Okay. So... So then, this is... You get told that they're going to do, go into closed session on 28th to do the final consideration of that contract. Prior to the 28th meeting, an article comes out in [publication] that specifically discusses San Bernardino hiring you as the city manager. Is that correct?

WITNESS A: That is correct. It, it named me.

BROUWER: And so obviously, somebody had a discussion with the [publication]. Did [publication] ever reach out to you to ask you for any comment on that?

WITNESS A: No. If you notice - the, the answer is "no" to that. But if you notice in any of these articles that are on the internet, I'm not quoted at all because no one ever called me to ask me for a comment or a quote or anything.

Witness A reiterated that no press reached out to him, but he remembered a call to his [agency], which was intercepted by his [staff]. He instructed her not to provide comments, acknowledging that he knew nothing about the call, but speculated it might have come from the [publication].

Upon discovering the article, Witness A contacted Witness B to inquire about the press leak. Witness B claimed ignorance, stating that all councilmembers were instructed not to breach confidentiality.

The next development was an email sent to Witness A's [agency][position]], later forwarded to his investigator by [agency][position] Witness X.

Witness A, not receiving the email, learned about it later. He suspected [position] Witness X had advised the [agency][position] not to comment.

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The email, sent by "Witness V" (alias) on August 26, 2023, questioned Witness A's character and performance.

Simultaneously, Witness A received several forwarded Facebook posting indicating a 5-3 council vote in favor of hiring him, with dissent from three African-American councilmembers.

Despite these breaches, Witness A chose to proceed with the process.

On August 28, 2023, during the San Bernardino Closed Session Council Meeting/Public Comment, a group of community members voiced opposition to Witness A's hiring. Subsequently, the Council entered closed session for further deliberations on his contract.

WITNESS A: But, but the night of the 28th... So, they go into the meeting. This large group of African Americans go to the podium under public comment and say, you know, that I'm not, not qualified. Later that evening, they went in-, the council went into close session. Well, Witness B was there.

BROUWER: Okay.

WITNESS A: And he called me up. And he - there's a direct quote and it's in my narrative. And it says, "The council wants you, but it's a five-three vote. Do you still want the job?" And I said, "Yes."

BROUWER: Hm-hmm. [affirmative]

WITNESS A: Tell me when you're finished." And he did. And he said three of the - it was a five-three vote and three of the council members wanted the other candidate.

BROUWER: Okay.

WITNESS A: And I said... I pressed him. And I said, you got to tell me what is going on here? And he said, "Witness A, it's about race."

At the San Bernardino City Council meeting on September 6th, Witness A observed what he perceived as a coordinated effort by a group of African-American community members to criticize him as a City Manager candidate. This orchestrated critique left Witness A feeling extremely uneasy, given his inability to defend his character publicly, and the restrictions preventing others on the dais from discussing the closed session process.

Despite the exposure of his name and the evident racial tensions within the City Council, Witness A chose to monitor the situation and let it unfold in San Bernardino. He expressed his commitment to moving forward despite the imperfect timing, considering similar challenges he was facing in [agency] concurrently.

WITNESS A: Yes. I felt that - and there was just the irony that it happened that my evaluation was on the 26th that it just, it just fell that way. And there was no gamesmanship or

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any, any trying to have it on that. It just - that's the day it was scheduled. And that was scheduled three or four or five months before. So, it lands on that day and the [position] says, yeah, we're postponing our evaluations to see what happens on October 4th with San Bernardino. Now, here's my theory. And again, it's just my theory.

BROUWER: Right.

WITNESS A: My name gets out there. And these five [position] that are in charge... They're all Hispanic. They're in charge. I truly believe that they smiled and said, he's going to go. He - it's - his name's out there. He's going to go to San Bernardino. Good for Witness A. We - Witness A can go. We get to pick our own [position]. And [agency] is 80 percent Hispanic. I, I'm fairly confident saying the majority of that five, if not all five, were saying, we want Witness A to be, be, be successful, be happy, go to San Bernardino. And we get to pick our own, our own [position].

BROUWER: Right.

WITNESS A: So, a couple days later, after the 26th, on the morning of the 28th, I remember it vividly. It was a Thursday morning around 7:30. I texted Witness B and said, "Take my name out. I'm staying here."

BROUWER: Hm-hmm. [affirmative]

WITNESS A: I'm staying here. So, my feeling is, is that the five of them went, well, trap. You know?

BROUWER: [Chuckles]

WITNESS A: We went around, we went around and told everybody this is great. We want him to go. And we're, we're planning on hiring our own [position]. And now he's staying.

BROUWER: Right.

WITNESS A: Now he's staying. And I don't - I know they know that I had [time frame] left on my contract. I believe they sat down and said, we don't want to wait [time frame] to, to pick a new [position]. We want to pick one now.

BROUWER: Right.

WITNESS A: We, we can let him go without cause, or quote-unquote, for no reason. Pay him one year as part of his contract. It's one year severance. We're going to make the cut now. If he doesn't want to be here, we don't want him here.

BROUWER: Okay.

WITNESS A: And I just, I know these folks. I could see that. It probably started out, hey, good for Witness A, good for Witness A. But when I said I'm staying, it went sou-, I

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truly believe it went sour. And they said, you know what?
If he doesn't want to be here, let's cut him loose now.
And that's -

Witness A then went through the sequence of events with his termination from [agency]. He reiterated that he sent a text message to Witness B on September 28th to back out of the San Bernardino process, and was notified by the [agency][agency, positions] that he was being terminated on October 2, 2023.

After his termination, Witness A said he received calls on October 4th from San Bernardino Mayor Pro-Tem Fred Shorett and [position] Witness C. He said that both made comments about "San Bernardino having a role" in his dismissal and both were apologetic.

WITNESS A: Both of them were very much just simil-, very similar. It was, we are so sorry. We, we - you know, we, we had a role in this. We cost you your job. Would you reconsider being the San Bernardino city manager?

BROUWER: Hm-hmm. [affirmative]

WITNESS A: And they were both apologetic. I think they're both good people.

In the end, both Shorett and Witness C asked if he would still take the San Bernardino job. He said he would consider it if he had the Council backing.

WITNESS A: ...in court, they did go in closed session. And, and on the fifth... And this is where it gets real interesting. There's another twist. It's Witness C did call me back. Witness C, the [position], called me back. And she said, Witness A, there was a lot of talk about you last night in closed session. And there was a lot of talk about how we cost you your job.

BROUWER: Hm-hmm. [affirmative]

WITNESS A: Would you re-, would you reconsider? They would like you to be the next city manager. And this was on a Thursday because she was very business-like at the end of the call and she said, you know, I, I need, I need you to let me know by the end of the close of business on Friday. Now, I had talked to Witness C, I'll say, probably four or five times. The [position] is typically the [identifying information]. So, it wasn't -

BROUWER: Hm-hmm. [affirmative]

WITNESS A: ...uncommon for me to talk to her just about things like paperwork and how are things going.

BROUWER: Right.

WITNESS A: You know, just regular business stuff. But, but at the end of that call, it was very business-like. And when I hung

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up the phone, my, where my head was going was, I think that they really - it was a legitimate request. Do you - would you like to be our, our city manager? But I also thought, I thought that they were doing this just to cover themselves legally.

Even though he was offered the job again, he didn't accept it and ended up contacting his attorney.

WITNESS A: I did - I never called her back after... I spoke to her with her on Thursday, the 5th. And she said, 'Can you please call me back by close of business on the 6th?' I did not do that. I called [name], my attorney, and just said, what's my next move? You know? And so, I never responded to her. And he reached - at that point, [name] reached out to, they're the, the San Berar-, San Bernardino Witness F.

When Witness A was questioned about the comments from San Bernardino officials pertaining to "costing him his job," he was unable to provide any further detail as he did not probe either Witness C or Fred Shorett. He said he was stunned when he heard the comment and said to himself, "did they really just say that to me?"

WITNESS A: But I really believe that Fred Shorett and, and Witness C are good people. And I just got the feeling that they were frustrated with the three that had caused this. And I'm not - I say three, it could have been one, two, or all three. But the fingers were all getting pointed at those three.

Witness A thinks the termination from [agency] also impacted his future employment as he received a call from another recruiter [agency] in early October. The recruiter asked him if he would be interested in an Interim City Manager position in [agency]. Witness A said he would be interested and heard back from the recruiter the following week. This time the recruiter told him that the Council told him that they knew Witness A, but felt it was "just too political to hire him right now."

He mentioned that Witness A's termination was held in closed session, and he was unable to provide any additional comments about that portion of the case, and would advise the [agency] the same, if they were contacted by this investigator.

A public records request was sent to Witness X requesting the Witness V (alias) email. He promptly replied and forwarded the email to this investigator.

Summary of Interview with Witness B

On October 31, 2023, this investigator, along with JL Group principal Jeffrey Love Esq., interviewed [agency, position] Witness B via zoom.

Witness B was asked to provide an overview of his recruitment for the San Bernardino City Manager position.

He explained that the City had put out a request for proposals (RFP) in the beginning of the year, with [agency], responding to it. He was subsequently invited to attend a San Bernardino Closed Session Council Meeting to conduct a presentation. At the conclusion, he was notified by [position] Witness C that the City wished to move forward with his [agency].

Witness B said his first step in the process was to meet with the councilmembers individually to gather their priorities and desires in the next city manager. He said that all the councilmembers spoke with him except for Councilmember Kim Calvin.

On July 6th, Witness B sent Witness C his first "client report" which contained ten names of candidates that he had screened and pre-interviewed. He recommended moving forward with the top six names on that list.

The Council decided to interview the top five candidates, but on the day of the first interview, one of the candidates backed out for a family emergency. This left candidates Witness D from the [agency], Witness A from the [agency], Aretha Ferrell-Benavides from Virgina, and Charles Montoya, formerly from the City of Avondale, Arizona.

Witness B said that candidate Witness D was particularly sensitive about "getting his name out." He said that he has worked with Witness D on other recruitments, and he is usually very sensitive about this issue. Witness B did his best to assuage his concerns.

Witness B also said he and Witness E reminded the San Bernardino City Council about candidate confidentiality.

Witness B: ...I will share with you that those three people did. Witness D in particular was very concerned that word would get out, back to his organization, I guess you know the name. He was very concerned that word would get out to—basically he worked for the [agency]—and he did not want anybody there to know that he was applying for the position. I had a good relationship with Witness D; we stay in touch.

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Actually, to this day, he's part of another process I'm in. I told him that we would be very discreet. I let the city council know, often, that to allow the names to be let outside of a closed session, might be a detriment to the candidates. Not that it may cost anybody's job but it costs relationships. Shortly thereafter, Witness D contacted me and told me that he had gotten a call from somebody in the [department] asking if he was applying for the position; if he was leaving. He called me up and said he was going to withdraw. He needed to, you know, basically take care of business there and do some damage control. So, he pulled out. Witness A and Carlos Montoya continued in the process...

After Witness D backed out of the process, Witness B was contacted by Witness A and told that his [agency] [position] received an email from a San Bernardino resident "Witness V" (alias) who was asking questions about Witness A's application. Witness B asked if he could share this with Witness C and was given permission.

Eventually Witness A was dismissed from [agency] and decided not to proceed with San Bernardino. Witness B said that Witness C contacted him afterwards and asked if she could reach out to Charles Montoya to see if he was still interested.

KRAVETZ: Was there a certain point when it was coming down to Witness D or Witness A, that you felt or there were, some insinuations in the room that was coming down to a race issue?

Witness B: See, a lot of this is going to be conjecture or personal opinion. I can tell you in open session, I will share with you. I'm not completely comfortable talking about a closed session. I don't have my attorney. But if—in open session, when there was a discussion before that final round of interviews—and, again, I don't know how these names got public because it was closed session. The names should not have gotten out, but somehow members of the community showed up at open session, before we went into closed session. And I remember it was not at the library, but it was at the back building that they have there at city hall—eight, ten, twelve people showed up and they were telling Council that they were disappointed with one of the candidates. I know they were referring to Witness A; that he was just, like, the last candidate; they're going to hire another Rob Field. I know Rob Field very well.

Note: The comment about hiring another Rob Field was made by Witness S. She made the comment that Witness A "looked like Rob Field." It isn't known if she was referring to character or ethnicity.

Witness B reiterated how concerned Witness D was about having his name out there. Witness D even called Witness B on the day of the in-person interviews to ask who was in the parking lot, building and lobby.

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When Witness D backed out, Witness B called him to inquire and heard that someone from the San Bernardino [department] had called a member of the [agency][department] to ask questions about Witness D. This [position] then went to Witness D and asked him about it.

This is what caused Witness D to immediately withdraw as he told Witness B that he was already on unstable ground with his [position].

As Witness A now became the focal candidate, Witness B then explained how he became caught in the middle of a second leak of information.

Witness A's name had been leaked to the [publication] and now Witness A was calling to ask how they found out about him. Witness A asked if this was San Bernardino's way "of putting out a statement."

The next thing that happened was an email message sent to Witness B by Witness A on September 28th at 7:59 AM. In this message, Witness A said:

"Good morning, Witness B. I want to put my comments in writing so that you can share them with the San Bernardino Mayor and City Council if you choose. I am formally requesting my name be removed from consideration to be the next City Manager at San Bernardino. I want to thank you, Witness B, and Witness C, for your professionalism throughout this entire process. Both of you are first-class people, & credit to your profession.

I'm removing my name from consideration for the following reasons: three of the councilmembers have made it clear that they do not want me to be the next city manager. I am very disappointed that they did not publicly support the decision of the majority of the city council and give me an opportunity to prove myself before casting a decision on me. I'm not going to turn them around once I get out there.

None of the city councilmembers felt to stop the negativity around my candidacy, and if my intuition is correct, at least one of them invited residents to a council meeting to publicly disparage me without even meeting me or getting a chance to get to know me.

The City has gone through many City Managers in the past few years. I asked, in both interviews, what are you doing to support me, and in both cases, they did not answer my question. I've been a [position] for over 10 years, and I have thick skin but to start a new job with a 5-3 city council makes no sense. San Bernardino just does not feel like the right place for me and for at least three of them so please remove my name from consideration."

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As the interview process began, Alexander said that it was conveyed to the council that if Witness D's name were to "get out" he would "retract his offer to the city." With that in mind, at the conclusion of the interviews, there was a consensus of at least five councilmembers that wanted to move forward with Witness D.

ALEXANDER: And since I—Yeah. He conveyed that to us. And so, and he not only told us once. He told us twice, not once, but twice. So, okay. That's good, Witness D. Thank you for sharing that. And then, during, during another closed session meeting, Witness D, someone told, from our [department] talked to his [department], and then, this [department] talked to Witness D. And when that happened, Witness D did exactly what he said. He retracted his, his, well, it's not his, it's not an offer. We didn't get him the offer yet. He retracted his application status.

He said that after Witness B told them that Witness D was removing his name from consideration after his name was leaked, he decided to contact him that evening.

Alexander said that he was "begging Witness D to come back" and had Councilmember Calvin on the phone also asking him to stay. Alexander even told him, "Hey dude, what about we offer you everything?" In the end, Witness D said he was out of the process.

This investigator then asked if Witness D relived the story about the "[position] to [position] contact" and Alexander said that he did. Witness D did not provide any names of [position] from his organization or San Bernardino's. He only said it was someone of [status] and Alexander assumed that meant [position] or above.

When the deal with Witness D fell apart, they then moved forward with Witness A even though he was not a selection of Alexander, Reynoso or Calvin. They offered Witness A less money than Witness D, and he accepted.

Prior to the council going into closed session to discuss the deal with Witness A, they opened the floor to public comments. Alexander said a group of people came forward and started disparaging Witness A. Alexander said that he told the other councilmembers that they should put something out to counter this potentially inaccurate information, but he said his request fell on "deaf ears."

The conversation then moved into the area of privileged information being given to Witness S. It should be mentioned that Witness S is currently [identifying information].

BROUWER: And she posts, like, e-mails and information that—

ALEXANDER: She shouldn't have.

KRAVETZ: We've seen the e-mail that McNeely sent out to you on his, his parting gift on that weekend. It was posted on Facebook, like, within two days. And as far as I've seen

on that e-mail, it was to you and to the city council members, unless you know otherwise.

ALEXANDER: No, no.

KRAVETZ: Did it go to others that you know?

ALEXANDER: No. That's it.

KRAVETZ: Yeah. So, so, I'm laying a foundation for you. How do you think she's getting information?

ALEXANDER: One of the council members.

KRAVETZ: And who specifically would, should I look at?

ALEXANDER: I don't know which council member.

BROUWER: I'm sure you have a suspicion though. You're a cop. Like, we've been cops, and you have that sense.

ALEXANDER: I don't want to, I don't, I don't want to—

BROUWER: I know that it's—

ALEXANDER: I don't want to, I, I work with these, these council members.

KRAVETZ: We understand.

ALEXANDER: I work with these council members, and, and just put it like this. Especially in the very beginning that [social media page] was putting out information that was only done in closed session. It was only done in closed session. (Note: [social media page] is the Facebook group moderated by Witness S who is a close associate of Kim Calvin.)

At this juncture, Alexander was looking at both investigators and smirking about “who” possibly leaked the information. After the recording concluded, he said “you know who to look at.” He said we were already on the “right trail.”

Alexander gave an example of a closed session vote on the former mayor that was immediately posted on Witness S' Facebook group before anything had been announced or made public.

Going back to the process of selecting Witness A, Alexander said that the three dissenting opinions of Calvin, Reynoso and himself wanted to start another recruitment and not go with Witness A or Montoya. The rest of the council felt otherwise.

As the interview moved into the area of Alexander's penchant for copious note taking, he responded, “I'm sure someone told you that I left my book?”

He explained that he brought it with him to a community Fatherhood event. He had brought the book with him so he could study while the event was taking place. When he left, the book was on the table where he had been seated next to Mr. Berryman (?).

Someone eventually called the Mayor's office a couple days later and returned the book.

Outside of having all the candidate information, Alexander said he had been taking lots of notes on the various pages.

He was upset that Mayor Pro-Tem Shorett was pointing fingers at him for leaving the book and causing the leak, but Alexander seems to think that the book was left after the Witness B deal fell apart and Witness A had already been offered the position.

Note:

On January 30, 2024, this investigator ran into Councilmember Alexander while leaving a meeting at City Hall. Councilmember Alexander talked about a recent council forum that he participated in for the Ward 7 election. [identifying information]

Alexander was concerned because Witness S mentioned something during the forum which should have been privileged information from closed session.

This investigator watched the forum and noted that thirty-seven minutes into the discussion, Witness S makes a statement about Alexander voting "yes" in closed session to release the previous investigative report concerning Councilmember Kim Calvin.

Alexander then tells Witness S that he cannot discuss closed session items and Witness S is only presenting one side of the issue.

This appears to be yet another example of information from closed session meetings being released to Councilmember Calvin's associate, Witness S.

Summary of Interview with Witness C

[Position] Witness C sat with attorney Jeff Love and Investigator Jason Kravetz on November 8, 2022.

Witness C discussed the process of issuing the RFP to solicit a firm to conduct the recruiting process for the new San Bernardino City Manager. She said that everything was proceeding as anticipated and she felt she would be there to help facilitate the process as Witness B was tasked with conducting the recruitment after gathering information from the councilmembers.

After [agency] was selected by the Council for the recruitment, Witness B reached out to the members in order to obtain their professional "wants and desires" with the next City Manager.