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VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF  
CHARLOTTESVILLE

JASON KESSLER,

Plaintiff,

v.

CITY OF CHARLOTTESVILLE,

Defendant.

DEPOSITION OF  
MAURICE JONES

Taken on  
June 15, 2018

1 APPEARANCES:

2 James E. Kolenich, Esq.  
3 9435 Waterstone Blvd.  
4 Suite 140  
5 Cincinnati, OH 45249  
6 Attorney for Plaintiff

John Longstreth, Esq.  
1601 K Street, NW  
Washington, DC 20006  
Attorney for Defense

5

6 The following deposition of MAURICE JONES was so  
7 duly taken before me, Brittany Herring, Notary Public in  
8 and for the State of Virginia at Large, at City Hall, 606 E.  
9 Market Street, Charlottesville, VA 22902, beginning at 1:00  
10 p.m.

11

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2 Copy of complaint 102

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June 15, 2018

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**MAURICE JONES**, having been so duly sworn, testified as follows:

EXAMINATION

By: Mr. Kolenich

Q Sir, my name is Jim Kolenich, I'm an attorney representing Jason Kessler in this lawsuit. Would you state your name, please?

A Maurice Jones.

Q Mr. Jones, have you been deposed before?

A I have.

Q All right, so you know the drill? We need the answers in the English language. No uh-huh, huh-uh and stuff like that. If you need to take a break that is fine. If a question is pending you have to answer it first, whether to go to the bathroom or talk to your attorney or whatever, unless I release you from answering that question. Other than that, I'm sure we'll get through this fine. How are you employed, sir?

A I'm the City Manager for the City of Charlottesville.

Q How long have you worked for the City of Charlottesville?

1 A A little over sixteen (16) years, almost seven-  
2 teen (17) years altogether.

3 Q What positions have you held for Char-  
4 lottesville?

5 A Director of Communications, Assistant City Man-  
6 ager, Acting City Manager and City Manager.

7 Q Okay, and you are presently the City Manager?

8 A That's correct.

9 Q What does the City Manager do for Char-  
10 lottesville?

11 A Oversees the operations of the City and serves  
12 as the Chief Administrative Officer.

13 Q You are the Chief Administrative Officer of the  
14 City of Charlottesville?

15 A That's right.

16 Q So you're responsible for hiring and firing  
17 personnel?

18 A More specifically the department heads, yes.

19 Q Okay. So you fire the department heads and  
20 they fire the lower ranking employees?

21 A That's right, yes, sir.

22 Q All right. What---what involvement or  
23 knowledge do you have about the permitting process for po-  
24 litical rallies in Charlottesville?

25 MR. LONGSTRETH: Objection, compound and vague.

1 Q Do you know anything about the permitting pro-  
2 cess in Charlottesville?

3 A I do, yes.

4 Q Okay. Did you, in fact, sign the denial of Mr.  
5 Kessler's most recent petition---or request to hold a rally  
6 in Charlottesville?

7 A I did.

8 Q Did you hold the same position last year in Au-  
9 gust of 2017?

10 A Yes.

11 Q Were you physically present in Charlottesville  
12 during what was called the Unite the Right rally?

13 A I was.

14 Q Where were you on that day?

15 A I was in the command center of the Wells Fargo  
16 building.

17 Q What is the command center?

18 A That's the place where the police and other  
19 personnel oversaw operations for that day.

20 Q All right. Did you actively take part in the  
21 overseeing operations that day?

22 A That was mainly the commander on scene, the  
23 Chief of Police, and then Victor Mitchell were overseeing  
24 the operations that day.

25 Q Who's Victor Mitchell?

1           A He's the captain of the Charlottesville Police  
2 Department.

3           Q Why were you present in the command center that  
4 day?

5           A To provide any support that the police and oth-  
6 ers needed.

7           Q Do you have a superior within Charlottesville  
8 City government?

9           A I have five superiors within the City of Char-  
10 lottesville city government, those are the five city coun-  
11 cilors.

12          Q Okay. Do they---did they order you to be there  
13 that day?

14          A No.

15          Q That was your own decision?

16          A Yes.

17          Q Or did anyone request for you to be there that  
18 day?

19          A No one made a request for me to be there that  
20 day.

21          Q You consider that part of your job function?

22          A Absolutely.

23          Q But you did not issue any orders or instruc-  
24 tions to any Charlottesville personnel that day?

25

1           A Aside from working with the Director of Commu-  
2 nications in terms of providing information, I did not or-  
3 der the police to take certain actions on that---on that  
4 day.

5           Q Or any other personnel?

6           A Aside from the Director of Communications.

7           Q Okay. Do you ordinarily make decision regard-  
8 ing permit requests or permit petitions?

9           A I have.

10          Q All right. So you're familiar with Char-  
11 lottesville's regulations regarding this permitting pro-  
12 cess?

13          MR. LONGSTRETH: Objection, vague.

14          Q Can you answer?

15          A There are elements of it that I am very famil-  
16 iar with, yes.

17          Q What parts of it would you say you're not very  
18 familiar with?

19          A You'd have to point---you'd have to---I'd have  
20 to see something specific, so---

21          Q Okay. It's a large document, isn't it?

22          A There's a lot of information there, yes, sir.

23          Q Okay. Do you have any assistants or underlings  
24 that help you with these decisions?

25

1           A We do, yeah, we have folks who are part of a  
2 committee that reviews the documents when they come in,  
3 when the applications. We also have assistant city manag-  
4 ers who assist, can assist in the process if needed. And  
5 then, of course, our legal team will look over permits on  
6 occasions.

7           Q So in Mr. Kessler's most recent application,  
8 how many people reviewed it before it got to you, or in  
9 conjunction with you?

10          A I came to me pretty quickly, actually. So I  
11 saw it pretty---pretty soon after we received it, and knew  
12 that it was being filed on that day, as Mr. Kessler was  
13 filling it out.

14          Q All right. So Mr. Kessler came into City Hall?

15          A I think he went to go see Michelle Christian?

16          Q Who's Michelle Christian?

17          A Parks and Recreation.

18          Q Okay. Is that a different building?

19          A It is a different building.

20          Q Is it near here, I think I walked past it?

21          A Yes, it's in the garage.

22          Q Okay. So, but you don't work in Parks and Rec-  
23 reation?

24          A No, I'm over---I'm over here, over in City Hall.

25



1 Q You say you knew he was---I'm sorry, you were  
2 here in City Hall?

3 A That's correct.

4 Q You said you knew he was filling out the appli-  
5 cation as he did it?

6 A Yes, Ms. Christian sent me an email saying that  
7 Mr. Kessler is here and he wants to fill out an application.  
8 And I said give him the application.

9 Q Does Ms. Christian make a habit of emailing you  
10 when people come into fill out these types of applications?

11 A On something as sensitive as this, yes.

12 Q So you had instructed her to do that?

13 A No.

14 Q She knew to do it on her own?

15 A You'd have to ask Ms. Christian why she felt it  
16 was necessary to send me an email.

17 Q Okay. But you said that this was a sensitive  
18 matter, something as sensitive as this?

19 A Yes.

20 Q What did you mean by that?

21 A A concern over another application from Mr.  
22 Kessler, based on the experience that we had on August 12<sup>th</sup>  
23 of last year.

24 Q Can you flesh out the phrase experience that we  
25 had on August 12<sup>th</sup> of last year?

1           A Mr. Kessler's Unite the Right and the ramifica-  
2 tions from that.

3           Q What happened on that day that would cause you  
4 to be leery of Mr. Kessler having another rally?

5           A A lot of violence that occurred in our communi-  
6 ty on that day.

7           Q It was what?

8           A A lot of violence that occurred in our communi-  
9 ty on that day.

10          MR. LONGSTRETH: Yeah, one comment, I don't want  
11 to step into your deposition, but Maurice, if you could  
12 wait for him to finish his question before you jump in.

13          A Sure.

14          MR. LONGSTRETH: It just makes for a cleaner rec-  
15 ord. And, you know, you may think you know where he's go-  
16 ing, but wait till he actually gets there, please.

17          A I'm sorry, I thought he was done with his ques-  
18 tion, I apologize.

19          Q I might have been.

20          MR. LONGSTRETH: Yeah, you were talking over at  
21 the end, I'm sorry.

22          Q Your cutoff points are probably better than  
23 mine, anyway. Last year, August, Unite the Right rally,  
24 there was much violence in Charlottesville, and for that

25

1 reason---well, let me not put words in your mouth, why did  
2 you deny Mr. Kessler the petition?

3 A Oh, I denied Mr. Kessler's petition because of  
4 concerns over public safety for that day.

5 Q So it is the City's position that Mr. Kessler  
6 is at fault for the violence last year?

7 A No, I think he created a situation that con-  
8 tributed to that violence, and especially in the fact that  
9 he did not cooperate with us in terms of security plans for  
10 that day.

11 Q What security plans did the City wish to deploy  
12 to that Mr. Kessler impeded?

13 A There were discussions, repeated discussions  
14 between our officers and representatives who were working  
15 with Mr. Kessler on security where they had an agreement  
16 about how speakers were going to come into the park that  
17 day. And they were prepared to address that, and then  
18 plans changed without our notice.

19 Q Okay. What was the City's understanding of how  
20 the speakers were supposed to come into the park?

21 A If memory serves, they were supposed to come in  
22 towards the back end of the park, and not along Market  
23 Street.

24 Q Had the City issued instructions to Mr. Kessler  
25 stating that?

1           A There had been discussions between our officers,  
2 and I think Mr. Jack Pierce, who was representing himself  
3 as security expert for Mr. Kessler.

4           Q The City never communicated that directly to Mr.  
5 Kessler?

6           A I'm not sure.

7           Q Other than Jack Pierce, did the City communi-  
8 cate that to anybody else?

9           A I'm not sure.

10          Q Do you know what City police officers or other  
11 employees communicated that to Mr. Pierce?

12          A I think it was Tony Newberry, one of our ser-  
13 geants.

14          Q He's a police officer?

15          A He is.

16          Q Now what happened as a result of---well, all  
17 right. You communicated that to Mr. Kessler, or to Mr.  
18 Pierce. So your police were prepared to---

19          A I didn't communicate that.

20          Q The City communicated, Officer Newberry commu-  
21 nicated?

22          A Sure.

23          Q The City was prepared to secure that area for  
24 people to enter the park?

25

1 MR. LONGSTRETH: I'll object to the form of the  
2 question, to the extent that you think it accurately re-  
3 flects exactly his testimony, but go ahead.

4 Q You can answer.

5 A You'd have to talk to Sergeant Newberry about  
6 that.

7 Q Well, you testified that---I'm sorry, go ahead.

8 A Yeah, I'm unaware of the exact plans, those  
9 were---those were, what was communicated to me.

10 Q Okay. You testified that the problem with what  
11 Jason Kessler did last August was---

12 A One of the problems.

13 Q ---one of the problems. It's kind of important  
14 in this case that we get into all of the problems, at least  
15 as many as you can discuss.

16 MR. LONGSTRETH: I'll object to---is that a ques-  
17 tion or---

18 Q No, that's prefatory to my question.

19 MR. LONGSTRETH: Okay.

20 Q How many problems were there?

21 A Well, as we found out after the event, Mr.  
22 Kessler on one side would say publicly that this was going  
23 to be a peaceful event. But then in private forums was ad-  
24 vocating for folks to be prepared for violence that day.

25

1 Q All right, why---why is the City of the opinion  
2 that he was preparing for violence?

3 A Because of things that he said in these forums.

4 Q Can you specify any things that he said?

5 A I believe that information is in a---is in the  
6 Georgetown Law Center lawsuit that we filed, so all that  
7 information is detailed there.

8 Q All right, so you're going to rely on the  
9 pleadings in the Georgetown lawsuit?

10 A Yeah, I believe your attorney, Mr. Kessler's  
11 attorneys has that, they would have that.

12 Q You would be referring to the federal lawsuit  
13 Sines v. Kessler?

14 A No, this was actually a---actually it's a cir-  
15 cuit.

16 Q Okay, the state lawsuit, very well. That's  
17 called City of Charlottesville v. Pennsylvania Lightfoot  
18 Militia?

19 A I believe so.

20 Q Okay. So, it's those pleadings that you're  
21 saying Mr. Kessler prepared for violence?

22 A Absolutely.

23 Q I don't want to, obviously, put words in your  
24 mouth, you're using the phrase prepared for violence, Mr.  
25 Kessler was preparing for violence?

1           A Mr. Kessler indicated in those, on those forums  
2 that he was enticing others to be prepared for violence  
3 that day.

4           Q All right, what do we mean by prepare for vio-  
5 lence, or what do you mean by prepare for violence?

6           A Prepared to engage in violent acts against oth-  
7 ers.

8           Q Without any precondition, just come to Char-  
9 lottesville and engage in violent acts?

10          A I'm sure there were some preconditions that  
11 were part of that Mr. Kessler expressed, but he had some  
12 very specific language that he used to invite others to  
13 participate in violence.

14          Q Again, do you know the specific language, or  
15 you're relying on those pleadings?

16          A I don't---I don't have that off top my head.

17          Q It's okay. But it's in those pleadings?

18          A It's in these pleadings, yeah.

19          Q The state (unintelligible)? Is it the City's  
20 position that any preparation for violence is necessarily  
21 criminal?

22          A Not necessarily, no.

23          MR. LONGSTRETH: By the way, I'm sorry, I didn't  
24 get that in, to the---I'll object to the extent that calls

25

1 for a legal conclusion. Obviously, you have his answer,  
2 but---little slow. It's not a race, Maurice.

3 Q The City has a police department, does it not?

4 A It does have a police department.

5 Q It's a City police department, City of Char-  
6 lottesville Police Department?

7 A That's correct.

8 Q You're not dependent on the state or the county  
9 for police protection or any----

10 A No, but we---no, we don't.

11 Q How large is your police department?

12 A About a hundred and twenty-seven (127) sworn  
13 officers.

14 Q How large is your population?

15 A Depending on the estimates that are out there,  
16 about forty seven, forty eight thousand (47-48,000) people.

17 Q A hundred and twenty seven (127) officers for  
18 forty eight thousand (48,000) people?

19 A Uh-huh (indicating yes).

20 Q Is Charlottesville an especially violent place?

21 A No.

22 Q How many murders here last year?

23 A One.

24 Q One. How many rapes?

25 A I don't know off the top of my head.



1 Q Felonious assaults?

2 A Once again, that's a statistic I don't have off  
3 the top of my head.

4 Q There's public records on this stuff?

5 A Absolutely.

6 Q Okay.

7 A Provide crime data every year.

8 Q Do these police officers carry guns when  
9 they're on duty?

10 A Yes, they do.

11 Q Do they train?

12 A Yes, they do.

13 Q Are they trained to use the guns?

14 A If they need to, yes.

15 Q If they need to?

16 A Yeah, they're required to.

17 Q They're required?

18 A Yes, sir.

19 Q That's part of their job as policemen, right?

20 A Yes, sir.

21 Q If they have some sort of objection to carrying  
22 guns or shooting people, would you hire them as police of-  
23 ficers?

24 A That would be up to the Chief of Police, but I  
25 would imagine he or she would say no.

1 Q That would be fairly unusual, wouldn't it?

2 A Yeah. Once again, I think it's a requirement  
3 of the job.

4 Q You have a fire department?

5 A We do.

6 Q Do they have fire equipment?

7 A They do.

8 Q Do they train to suppress fires?

9 A They do.

10 Q Do they train to rescue people who are trapped  
11 in a fire?

12 A They do.

13 Q Are they responsible when a fire breaks out?

14 A They are responsible for attempting to put the  
15 fire out, that is their job.

16 Q Do they get arrested when a fire happens,  
17 charged with a crime, say arson?

18 A Not that I know of, I don't believe so.

19 Q Do police officers arrest people, do you subse-  
20 quently arrest them and charge them with kidnapping, felo-  
21 nious assault?

22 A No.

23 Q Because they're legally authorized to arrest  
24 people, right?

25 A Yes.

1 MR. LONGSTRETH: Again, I'll object to the extent  
2 that it's calling for a legal conclusion. And I know you  
3 have a wide latitude for relevancy in your questions, Mr.  
4 Kolenich, but we've got a lot of people of here, of course,  
5 that need time on this.

6 Q I didn't get that, you're doing what now?

7 MR. LONGSTRETH: I'm sorry?

8 Q I didn't hear the last word you said.

9 MR. LONGSTRETH: I said we have a lot of people  
10 here who are spending time on this, so I know you have a  
11 wide latitude as to relevance, but I just ask that you take  
12 into account the fact that you're imposing on people's time  
13 here.

14 Q Thank you. If your police are not responsible  
15 when someone commits a crime, and the fire department is  
16 not responsible when someone commits an arson, why is Mr.  
17 Kessler responsible when people come to Charlottesville and  
18 commit violence?

19 MR. LONGSTRETH: I'll object to the question to  
20 the extent that it calls for a legal conclusion. He can  
21 have his answer.

22 Q He signs and filed a petition.

23 MR. LONGSTRETH: I understand. And I have made  
24 my objection, and he can answer the question subject to my  
25 objection.

1 Q Thank you.

2 A Mr. Kessler, as I said before, had encouraged  
3 violence to occur in our community, despite his public pro-  
4 test otherwise. And he had not cooperated with our police  
5 department on the security plan.

6 Q Wasn't his first permit for the first Unite the  
7 Right also denied?

8 A Ultimately.

9 Q Didn't he have to go to court and get a federal  
10 judge to order the City to allow him to have this Unite the  
11 Right rally?

12 A He did go to court to have it in downtown Char-  
13 lottesville. We'd granted him a permit to have the rally  
14 in McIntire Park.

15 Q How close is McIntire Park to---what are you  
16 calling that park now?

17 A Emancipation Park.

18 Q How close is McIntire Park to Emancipation  
19 Park?

20 A Less than five or six minutes away.

21 Q By car?

22 A By car.

23 Q Mr. Kessler's stated reason for his permit was  
24 to defend the Robert Lee statute, isn't that right?

25 A That's correct.

1 Q Well, why did you deny him a permit for Robert-  
2 --for what used to be Lee Park?

3 A We had serious concerns about safety in that  
4 park.

5 Q But no violence had occurred at that time?

6 A No, but we were concerned based on the intelli-  
7 gence that we were gathering that, one, the numbers were  
8 going to be a lot larger than Mr. Kessler had applied for  
9 and even attested to in the days leading up to August 11<sup>th</sup>,  
10 and we were concerned about the level of violence that was  
11 going to take place there. So that's why we attempted to  
12 have it moved to McIntire Park.

13 Q Now we just had a little bit of a discussion,  
14 so long, in fact, that's it's concerning your lawyer about  
15 Mr. Kessler's, the violence that occurred at Unite the  
16 Right.

17 A Uh-huh (indicating yes).

18 Q Now you're saying before any violence occurred,  
19 you're still denying Mr. Kessler because of intelligence  
20 and potential violence?

21 MR. LONGSTRETH: I'll object to the form of the  
22 question to the extent it attempts to characterize his tes-  
23 timony.

24 Q You denied Mr. Kessler's first permit. Did you  
25 sign that one, as well?

1 A Yes.

2 Q Because of intelligence gathering?

3 A That's correct.

4 Q And anticipated violence?

5 A That's correct.

6 Q What did the City do in anticipation of this  
7 violence, if anything?

8 A We prepared for the day, and we attempted to  
9 move the protest to McIntire Park. And we prepared with  
10 the Virginia State Police and other regional partners to  
11 provide security that day.

12 Q You have one hundred and twenty-seven (127)  
13 sworn officers?

14 A We do.

15 Q You needed the Virginia State Police and other  
16 regional partners?

17 A Absolutely.

18 Q Why?

19 A Because we anticipated a large crowd there that  
20 day, based on the intelligence that we were gathering.

21 Q Would you agree that it's possible to split the  
22 attendees of the first Unite the Right into protestors and  
23 counter protestors?

24

25

1 MR. LONGSTRETH: I'll object to the form of the  
2 question. It's vague, but if he understands it he can an-  
3 swer.

4 A Could you explain more specially what---

5 Q Not all---yes, I can. Not all of the people  
6 who came to the Unite the Right rally were there to support  
7 Jason Kessler, were they?

8 A No.

9 Q How many would you say were there to oppose Ja-  
10 son Kessler?

11 A I don't have an exact amount, but probably a  
12 thousand plus, as well.

13 Q A thousand plus people. How many of these peo-  
14 ple, to your knowledge, were from Charlottesville?

15 A I have no idea how to estimate how many of  
16 these folks were from Charlottesville.

17 Q How many---well what does your intelligence say  
18 about that day, did they expect people from outside of  
19 Charlottesville?

20 A Yes.

21 Q The people they expected, were they in support  
22 of or contrary to the political positions of Mr. Kessler?

23 A I think both.

24 Q Now you said that you were anticipating larger  
25 numbers based on this intelligence, is that right?

1           A Yeah, the numbers that we were concerned about,  
2 especially, were the number of protestors were well beyond  
3 what Mr. Kessler had anticipated on his side.

4           Q Why would that be a problem?

5           A Because you---you put a larger number of people  
6 in that park than we'd anticipated it could be a signifi-  
7 cant problem.

8           Q Why?

9           A Because there could be an increase in the pos-  
10 sibility of violence there on that day, because of that  
11 language that was being used, the things that were being  
12 said, and just the large number of people you increase the  
13 opportunity for violence that day.

14          Q The language being used?

15          A To incite violence.

16          Q What language did the City anticipate being  
17 used that would incite violence?

18          A It's the same language that was being used on  
19 these chat forums where people were talking about cracking  
20 skulls and things like that.

21          Q So you're not worried about the political mes-  
22 sage of Mr. Kessler, just the violent language?

23          A No.

24

25



1 MR. LONGSTRETH: I---I'm sorry, I didn't the ob-  
2 ject---the objection in. I don't think it's clear what his  
3 answer is, because the question---

4 Q He said no.

5 MR. LONGSTRETH: Because the question was not  
6 framed to admit a yes/no. So maybe if we can start over  
7 again, I just want to make sure our record is clear.

8 Q Mr. Kessler and his political supporters have a  
9 particular political message that they wish to bring to  
10 Charlottesville, is that correct?

11 A Yes.

12 Q There is a small community in Charlottesville  
13 that detests this message, is that also correct?

14 A I couldn't attest to the size of the community,  
15 but there are people who oppose his message, that's correct.

16 Q And your intelligence led you to believe that  
17 persons from outside Charlottesville, who also oppose his  
18 message, would be coming to Charlottesville to personally  
19 oppose his message, is that correct?

20 A We anticipated that there were going to be  
21 folks from outside of Charlottesville coming here, as well,  
22 that's correct.

23 Q Those people were coming here just because  
24 there was violent retrodict on the internet?

25

1 A No, those people were coming, as far I could  
2 tell, they were coming because they were concerned about  
3 the, Mr. Kessler's message. They did not like his message.

4 Q But the City, of course, could care less what  
5 his message is, right?

6 A That's correct. His message concerning his,  
7 what he said he wanted to come and protest about.

8 Q And the City certainly would not cooperate in  
9 suppressing a political message, would it?

10 A Be more specific.

11 Q You wouldn't encourage counter protestors to  
12 suppress a political message that perhaps the city counci-  
13 lors don't like?

14 A I did not, no.

15 Q Did the police department?

16 A Did the police department do what, exactly, I'm  
17 sorry?

18 Q Did the police department beat Mr. Kessler's  
19 protesters with their billy clubs?

20 A They did not.

21 Q Did they arrest any of them because they said  
22 mean things?

23 A Not that I know of, not because they said mean  
24 things.

25

1 Q Did you order them to arrest anyone because  
2 they said certain things?

3 A No.

4 Q Did you hear the police chief do so?

5 A No.

6 Q Who was in charge of the Virginia State Police  
7 that day?

8 A You'd have to ask the Virginia State Police.  
9 Colonel Flagherty was on scene, but I'm not sure---

10 Q Fair, if you don't know, you don't know. Were  
11 you present when the unlawful assembly was declared?

12 A I was.

13 Q Who made that decision?

14 A Chief Thomas would.

15 Q That would be the chief of the Charlottesville  
16 Police Department?

17 A Yes, at that time.

18 Q At that time?

19 A Yeah.

20 Q Do you know why he made that decision?

21 A You'd have to ask Chief Thomas, but I would im-  
22 agine that the reason that he made that decision is because  
23 things had gotten out of hand.

24 Q What do you mean by things had gotten out of  
25 hand?

1 A That there was a high level of violence.

2 Q What was happening?

3 A There was a lot of fighting that was occurring  
4 within the---within, especially on Market Street.

5 Q Did you see who was fighting?

6 A I---I mean, only on video, because I wasn't, I  
7 couldn't see it directly. But from what we were seeing on  
8 video there were a lot of different folks who were fighting.

9 Q And you---did the City subsequently determine  
10 who was fighting, who was responsible for fighting?

11 A Yes, there were a lot of different folks who  
12 were responsible for fighting that day.

13 Q Were a lot of different folks arrested?

14 A There were different folks who were arrested.

15 Q How many arrests?

16 A I don't know off the top of my head.

17 Q Can you ballpark it, fifty (50), one---

18 A No, I wouldn't want to venture a guess.

19 Q Do you know who started the fighting?

20 A I don't know specifically who started the fight,  
21 who threw the first punch, is that what you're asking?

22 Q Sure.

23 A No, I don't.

24 Q Are you aware that at the trial of Commonwealth  
25 v. Alex Ramos a Charlottesville police officer testified

1 that the counter protestors were the ones starting the vio-  
2 lence?

3 MR. LONGSTRETH: I'll object. I'll object on  
4 foundation.

5 Q Assume what I'm telling you is true. A Char-  
6 lottesville police officer took the stand at Commonwealth v.  
7 Ramos, and even when given an opportunity to change his  
8 testimony by the Commonwealth's Attorney, he said that it  
9 was the counter protestors who initiated violence, threw  
10 rocks, bottles and various other things. But before that  
11 it had been no violence, a lot of shouting, if you count  
12 that, but are you aware of that?

13 A I was not aware of that testimony.

14 Q If what I've told you is true, does that alter  
15 your opinion about who was responsible for violence that  
16 day?

17 A No.

18 Q Why not?

19 A Because, as I've said before, we had evidence  
20 before us that Mr. Kessler had incited violence on that day,  
21 had broken from the security, that is what informed---  
22 broken from the security plan that he and his supporters  
23 had, that's what informed my decision.

24 Q Did none of your intelligence advise you that  
25 counter protestors were known to commit violent acts at po-

1 litical protests and could be expected to do so in Char-  
2 lottesville?

3 A Yes.

4 Q But you're blaming---

5 A We're aware of that.

6 MR. LONGSTRETH: Yeah, okay, I'm sorry. And I'm  
7 sorry, I don't want to get in. I'm going to object to the  
8 form. You ask your questions sometimes and they're sort of  
9 double negative, so it's hard to tell. When you say did  
10 none of, it's kind of hard to tell what the yes is. I  
11 think we're okay on the record here, but I'm just---

12 A I'm all right for the record.

13 Q So your intelligence told you that the counter  
14 protestors were known to be violent?

15 A There were some that were known to be violent.

16 Q What did your intelligence tell you about the  
17 protesting side, Mr. Kessler's side?

18 A That there were folks in there who were also  
19 known to be violent.

20 Q You don't know specifically who?

21 A I couldn't tell you off the top of my head.

22 Q But you're relying again on the pleadings in  
23 that state court lawsuit?

24 A Yes.

25

1 Q Did the City review prior political protests  
2 before Unite the Right to see what they could expect?

3 A Yes.

4 Q Which ones were reviewed?

5 A I believe there were conversations with folks  
6 in Portland, and then also there was a review of Berkley, I  
7 believe.

8 Q What did the City glean from their review of  
9 Portland and Berkley?

10 A I think there was a discussion about how to  
11 set up the---how to set up the barriers that day, that type  
12 of thing. You would have to talk to the police about the  
13 specifics of those conversations, I wasn't privy to that.

14 Q There weren't any discussions about who was  
15 responsible for violence in Portland and Berkley?

16 A You would have to talk to the police about  
17 that. They didn't communicate that to me.

18 Q So isn't it true, Mr. Jones, that the City  
19 wants to blame Mr. Kessler because he caused these people  
20 to congregate in Charlottesville?

21 A I'm not blaming anybody.

22 Q You're not blaming anybody? You're denying  
23 Kessler a permit.

24 A I am.

25 Q Because of the violence?

1 A Partly.

2 Q Partly?

3 A There are other reasons, as well.

4 Q Okay, then forgive me, I'm forgetful. We do  
5 need to get the comprehensive list of what those reasons  
6 were.

7 A It's---it was in the letter that I sent to  
8 Mr.---

9 Q That's it---that letter?

10 A Yes.

11 Q Pardon me one second, Mr. Jones. While we're  
12 waiting, the counter protestors in Portland, why were they  
13 there?

14 A You'd have to ask the counter protestors in  
15 Portland that question.

16 Q Do you know what they engaged in while they  
17 were there?

18 A I do not.

19 Q Can I go off the record for a second?

20

21 (OFF THE RECORD)

22

23 Q Mr. Jones, I'm handing you a document that was  
24 just handed to me by your attorney. Can you identify that  
25 document?



1 A Yes, I can.

2 Q What is it?

3 A It is a denial of Mr. Kessler's request to  
4 have a two day rally.

5 MR. LONGSTRETH: Just as a question, do you want  
6 to mark that as an exhibit or---

7 Q Yeah, I'm trying to find the other copy. How  
8 do you want me to mark my exhibit?

9 COURT REPORTER: However you want to.

10 Q All right, we'll make it Plaintiff's #1 then,  
11 if I ever find it.

12  
13 (Plaintiff's Exhibit #1 was so duly marked at  
14 this time)

15  
16 MR. LONGSTRETH: I apologize, I'm going to apolo-  
17 gize, these were in better order---still off the record.

18  
19 (OFF THE RECORD)

20  
21 Q All right, Mr. Jones, you are looking at the  
22 permit denial that you signed denying Mr. Kessler's request  
23 for this summer's Unite the Right rally, is that correct?

24 A I did---I don't know what rally is, but you  
25 ask specifically about it, but denied his permit request.

1 Q All right, you denied a permit request, and  
2 your denial is dated December 11<sup>th</sup>, 2017?

3 A That's correct.

4 Q And you have testified that the comprehensive  
5 list of reasons why you are denying Mr. Kessler is con-  
6 tained in this document, is that right?

7 A Yes.

8 Q Let's examine the document then?

9 A Sure.

10 Q Number one, the proposed demonstration or spe-  
11 cial event will present the danger to public safety and  
12 cannot be accommodated within the area applied for or with-  
13 in a reasonable allocation of city funds and/or police re-  
14 sources. The application proposes a demonstration or spe-  
15 cial event to take place on the anniversary of the violence  
16 on August 11<sup>th</sup> and August 12<sup>th</sup>, 2017, this application, or  
17 the application likely underestimates the number of partic-  
18 ipants. Let's stop there. Do you have intelligence about  
19 this year indicating enhanced participants?

20 A Do we have it now?

21 Q Yes.

22 A No, because there's not a permit. We don't  
23 have any indication of how many people would be there right  
24 now. This was based on the previous, the previous applica-  
25 tion where Mr. Kessler had said that only four hundred

1 (400) people would be in attendance, and there were over a  
2 thousand (1,000) people in attendance.

3 Q All right, so the phrase, the application  
4 likely underestimates, is based on last year's numbers?

5 A That's correct.

6 Q Moving on. The applicant request the police  
7 keep opposing sides "separate", and that police "leave a  
8 clear path into the event without threat of violence". But  
9 the City does not have the ability to determine or sort in-  
10 dividuals according to what "side" they are on, and no rea-  
11 sonable allocation of City funds or resources can guarantee  
12 that event participants will be free of any "threat of vio-  
13 lence". Does the City deny that it has a responsibility to  
14 police these events?

15 A I think the police, their job is to help pro-  
16 vide public safety.

17 Q Would you consider it, or would the City con-  
18 sider it reasonable police behavior to just not send any  
19 cops to a political rally?

20 A Our---what we would do is try to provide the  
21 number of officers that we felt we needed to provide, to  
22 protect public safety.

23 Q Do you have some sort of policy that guides  
24 you in the number of officers?

25

1           A No, it's mainly, I don't believe that there's  
2 a policy that says how many officers you're going to send  
3 at any one time to any one event. It's determined by the  
4 Chief of Police and his or her command staff.

5           Q So it's the source of the assertion that the  
6 police can't protect this rally to the level requested by  
7 the applicant, the police department?

8           MR. LONGSTRETH: I'll object to the form of the  
9 question to the extent that it purports to characterize  
10 what's stated here, because it does not accurately charac-  
11 terize what's stated here. You can answer the question.

12          A I believe that we were concerned that we would  
13 not be able to protect the number of individuals that we  
14 anticipated could be part of this, based on previous expe-  
15 rience.

16          Q Is the Commonwealth of Virginia unwilling to  
17 participate at this time?

18          A They are not. You mean at this point?

19          Q Right.

20          A We are working with the Commonwealth of Vir-  
21 ginia to prepare for anything that may happen this summer.

22          Q Earlier you mentioned regional, other regional  
23 governments, who else was there besides the Commonwealth  
24 and Charlottesville, as far as government actors?

25          A Last year?

1 Q Last year.

2 A Meaning August 12<sup>th</sup>?

3 Q Yes.

4 A There were representatives from Albemarle  
5 County who were here. There were representatives from the  
6 University of Virginia who were here, from a law enforce-  
7 ment standpoint. There were folks who were here from the  
8 National Guard, if they were needed.

9 Q Were they needed?

10 A They were not. They were not called upon.  
11 The National Guard was not called upon.

12 Q You've testified there was significant vio-  
13 lence that day?

14 A There was.

15 Q Significant enough that the Commonwealth or  
16 somebody with authority shut it down and called it an un-  
17 lawful assembly?

18 A That's correct.

19 Q Why was the National Guard not needed?

20 A You would have to talk to the folks on the  
21 ground and why they made decisions to use or not use the  
22 National Guard.

23 Q You testified a minute ago that they weren't  
24 needed.

25

1           A   That's correct, based on whatever decision,  
2 based on whatever calculation the Chief of Police was uti-  
3 lizing, he felt that he didn't need the National Guard in  
4 that moment. And you'd have to talk to the Chief of Police  
5 as to why.

6           Q   Do you recall who was in charge of the Nation-  
7 al Guard that day?

8           A   I do not.

9           Q   They had some officer present, or do you actu-  
10 ally know that?

11          A   I---I'm not sure. I assume that they did, but  
12 I never met anyone from the National Guard that day.

13          Q   How did they end up being present anyway?

14          A   I would imagine there was a conversation be-  
15 tween the police department, state police, and then also  
16 with the Governor's office.

17          Q   The National Guard answers to the office of  
18 the Governor, is that correct?

19          A   As far as I know, yes.

20          Q   I mean Charlottesville cannot deploy the Na-  
21 tional Guard?

22          A   We cannot.

23          Q   Can the Chief of Police request them?

24          A   He can certainly request them.

25          Q   But he cannot order them?

1 A That's correct.

2 Q Is there a National Guard detachment located  
3 near Charlottesville?

4 A I believe so, yes.

5 Q Would those be the soldiers who were present  
6 that day?

7 A I couldn't tell you off the top of my head.

8 Q Okay. So that I understand. Number one means  
9 that because there were a lot of people last year, the city  
10 is assuming there will be a lot of people here this year?

11 A There's a legitimate concern, yes.

12 Q And also that the government doesn't have the  
13 funds to pay for what's requested?

14 MR. LONGSTRETH: I'll object to the form of the  
15 question.

16 A I think the concern was whether or not we had  
17 the personnel and the ability to provide an event that was  
18 free of the threat of violence, as Mr. Kessler phrased it.

19 Q So the objection is that since nobody can  
20 guarantee an event free of violence, the City shouldn't---

21 A Based on previous experiences.

22 Q I see. So the City can make decisions based  
23 on an inability to control whatever people do?

24 MR. LONGSTRETH: I'll object to the form of the  
25 question.

1 Q Is that right, you just testified the City  
2 doesn't want to, is denying him because you cannot control  
3 what every single person is going to do?

4 MR. LONGSTRETH: I'll object to the form of the  
5 question. It's your deposition, but there's got to be a  
6 limit to your ability to try to recharacterize his state-  
7 ments in a way that is inaccurate. I'm sorry, there just  
8 is.

9 A I provided an answer.

10 Q I'm confused by your answer. That was not a  
11 question, it was a statement. I'm going to follow with my  
12 question. Number one means that the City does not have the  
13 ability to guarantee a violence free event?

14 A In this situation that Mr. Kessler is request-  
15 ing.

16 Q But the City is denying Mr. Kessler's permit  
17 because he can't guarantee a violence free event?

18 A The City is denying that because of previous  
19 experience with Mr. Kessler, and previous comments that he  
20 had made about enticing violence here in Charlottesville.

21 Q Has he made any such comments predicate to  
22 this requested permit?

23 MR. LONGSTRETH: I'll object to the form of the  
24 question, it's vague, and I'm not sure what predicate means.

25



1 Q Before, since the last Unite to Right, prior  
2 to this Unite to Right, the second Unite to Right, has he  
3 made any violence inducing statements, to your knowledge?

4 A Not to my knowledge, that I've seen.

5 Q Well then why is he being denied for that rea-  
6 son?

7 A Because of previous experiences in which he  
8 had.

9 Q I see, so if he made mistakes at last year's  
10 rally he cannot have any more rallies in Charlottesville?

11 A No, he has asked for a rally in which four  
12 hundred (400) people would come here. He had said before  
13 that only four hundred (400) people would come here, it was  
14 over a thousand (1,000) people who came here. As I ex-  
15 pressed before, he had indicated that he publically would  
16 say that he wasn't going to---that this was going to be a  
17 peaceful rally, a peaceful protest, when behind the scenes  
18 and on these forums he was saying that folks---we're en-  
19 couraging folks to engage in violence.

20 Q Okay. We agree more than four hundred (400)  
21 people showed up last year, right?

22 A That's correct.

23 Q And there were certain comments on the inter-  
24 net that are mentioned in the state court litigation ongo-  
25 ing right now from last year?

1 A That's correct.

2 Q But is it true that there is no intelligence  
3 indicating more than four hundred (400) people are showing  
4 up this year?

5 MR. LONGSTRETH: Objection, foundation.

6 Q His own testimony.

7 MR. LONGSTRETH: No, no, no.

8 A That's not what I said.

9 Q What intelligence do you have indicating more  
10 than four hundred (400) people are coming to the---

11 A You would have to talk to the police depart-  
12 ment about that.

13 Q Let's go off the record for a second.

14

15 (OFF THE RECORD)

16

17 Q What intelligence do you have that there's  
18 been inducements to violence by Mr. Kessler or anybody else  
19 associated with his coming second Unite the Right rally on  
20 the internet?

21 A I have not seen anything specific to that.

22 Q So this number one in your denial we're exam-  
23 ining is based entirely on last year's events?

24 A Largely.

25 Q Largely?

1 A Based on previous experience with Mr. Kessler.

2 Q What isn't covered by previous experience of  
3 Mr. Kessler?

4 A I think that there's certainly been other ex-  
5 periences that we've had of Mr. Kessler in which he's tried  
6 to incite violence.

7 Q Such as what?

8 A There have been interactions with Mr. Kessler  
9 and others in our community in which there has been at-  
10 tempts to incite violence.

11 Q Can you be more specific?

12 A There have been opportunities within our city  
13 council meetings. There have been back and forth screaming  
14 matches with Mr. Kessler and his supporters with others in  
15 our community.

16 Q Well let's go one at a time. You mention city  
17 council meetings.

18 A That's correct.

19 Q Mr. Kessler has threatened violence at city  
20 council meetings?

21 A No, I didn't say threaten violence at city  
22 council meetings. He's helped to incite violence at city  
23 council meetings.

24 Q He's incited violence at city council meet-  
25 ings?

1 A Right.

2 Q How did he do that?

3 A By things that he said to other people.

4 Q What violence occurred after he said whatever  
5 he said?

6 A Well in those situations, thankfully, they did  
7 not, because the police were able to control that situation.

8 Q So Mr. Kessler was not violent. Others in  
9 your community were violent, or would have been violent,  
10 but for the presence of the police?

11 A No, I think it could have gone either way, to  
12 be honest with you, in those situations.

13 Q Mr. Kessler was threatening violence and the  
14 police presence stopped him?

15 A No, they stopped---I said, once again, from  
16 inciting violence in those situations.

17 Q How does he incite violence in those situa-  
18 tions?

19 A Well by things that he has said to people in  
20 those situations.

21 Q What things?

22 A Couldn't recall off the top of my head.

23 Q Could you generally describe them, you don't  
24 have to be, you know, quote him or anything?

25 A No, I couldn't.

1 Q All right. Something inflammatory?

2 A Sure, that's what the language usually is.

3 Q Racially inflammatory? Do you have an answer  
4 to racially inflammatory or no?

5 A No, I couldn't give you an exact answer to  
6 that. I just, I don't recall off the top of my head.

7 Q All right. But generally, can we agree that  
8 certain segments of the Charlottesville community are of-  
9 fended by Mr. Kessler's opposition to---well, Mr. Kessler's  
10 political opinions regarding diversity, in other words,  
11 race?

12 A Yes, there are people in the community who  
13 have objections to his opinions.

14 Q People within the City government share that  
15 opinion?

16 A I would imagine that there are people in the  
17 City government who do.

18 Q How about the City council?

19 A You'd have to talk to them, but I would imag-  
20 ine that some of them do oppose his opinions.

21 Q Has the council given you any guidance as to  
22 how to handle Mr. Kessler's occasional request for politi-  
23 cal permits?

24 A No, not since last year.

25

1 Q They gave you guidance before the first Unite  
2 the Right rally?

3 A They did.

4 Q But since then, nothing?

5 A Aside from wanting to know where I stood on  
6 the issue, and at what point we were going to provide a re-  
7 sponse to Mr. Kessler, no.

8 Q Okay. Move onto number two.

9 MR. LONGSTRETH: Actually, I'm just going to say  
10 we've going, I think, almost an hour here. I just want to,  
11 I'm just wondering if this is a good time for a break. I  
12 don't know if there (unintelligible) time, can we do that?

13 Q Sure.

14 MR. LONGSTRETH: What do you want to say, ten  
15 minutes?

16 Q Yeah.

17

18 (OFF THE RECORD)

19

20 Q Okay. Mr. Jones

21 A Yes, sir.

22 Q Looking at the permit denial, item two. The  
23 application proposes activities contrary to the limitations,  
24 conditions specified within these regulations. To wit:  
25 The City regulations do not allow use of Emancipation Park

1 before 1:00 p.m. on any Sunday. When---when an applicant  
2 makes a mistake like that, does the City always deny the  
3 permit, or don't you give them a chance to fix it?

4 A There have been occasions in which they---  
5 we've---we've done that, I believe, but you'd have to talk  
6 to Ms. Christian about that.

7 Q Okay. Wouldn't it be reasonable to just al-  
8 low---I mean---let's---let's pretend that number two is the  
9 only objection right now? If it was the only objection,  
10 wouldn't it be reasonable to, I guess, amend his---his per-  
11 mit and say you can't be there before 1:00 p.m. on Sunday?

12 A He---he could have done that. He certainly  
13 could have amended the---the application. I don't believe  
14 he did, though.

15 Q Okay. But, I mean, the City doesn't call and  
16 say we're going to give you the permit, but you can't be  
17 there before 1:00?

18 A There---there certainly can be dis---some dis-  
19 cussions that take place there.

20 Q All right. So number two really isn't espe-  
21 cially substantial, in your mind?

22 A But it was one of the reasons it was denied.

23 Q You would admit this is a technical reason,  
24 though?

25 A Yes, it is a technical reason.

1 Q All right. So, I mean, it's easy enough to  
2 amend the petition, or to just say grant the permit, but  
3 not before one o'clock?

4 A Sure.

5 Q Okay. Moving on.

6 MR. KESSLER: Jim, I sent him an email saying  
7 that I would like to resubmit the application.

8 Q But he said you didn't actually resubmit.

9 MR. KESSLER: Yeah, what he said.

10 Q Three, there is no---there is no person or en-  
11 tity authorized to sign the application on behalf of a  
12 group applying for a permit, and there is no person or le-  
13 gal entity willing to accept responsibility for the group's  
14 adherence to the limitations set forth within the City's  
15 special events regulations. To wit: The application is  
16 filed and executed by a single individual, but the individ-  
17 ual who signed the application has included no information  
18 documenting how he will exercise responsibility for behav-  
19 ior of the participants, so forth and so on.

20 A Uh-huh.

21 Q Is that drawing from City regulations?

22 A Yes.

23 Q Why does---the City actually has a regulation  
24 that requires an individual to state how he will supervise  
25 the attendees of the event?



1           A   That's not what we're saying here.  It was  
2 taking responsibility for that, and---and having protection  
3 from that.

4           Q   How would he go about taking responsibility  
5 and having protection?

6           A   Well, one way he would do that, from a finan-  
7 cial standpoint, is to have insurance that would cover him.

8           Q   Okay.  So why doesn't the City just write, you  
9 didn't provide a copy of your event insurance policy?

10          A   Because there are a couple of different rea-  
11 sons, I would imagine, not just the insurance that---

12          Q   What else?

13          A   ---that played a role in that.  Once again, I  
14 think having, you know, the ability to---to---to be able to  
15 hold folks accountable for the actions of the folks that  
16 are invited to be a part of that.

17          Q   How would an applicant do that?

18          A   I---well, I think one way, once again, is to  
19 help and make sure there's insurance to help cover you.

20          Q   Okay.  So you don't expect him to police his  
21 own event, you just want him to be able to deal with the  
22 aftermath?

23          MR. LONGSTRETH:  Objection to the point.

24          Q   Any answer?

25

1           A Can you be more specific, when you say deal  
2 with the aftermath?

3           Q Your primary concern in number three is having  
4 an insurance policy---

5           A That's right.

6           Q ---to compensate the City for damage?

7           A That---

8           Q Not any other reason?

9           A I think there needs to be---there needs to be  
10 on behalf of the person who is---who has signed the---the  
11 application, for them to take a certain level of responsi-  
12 bility for the people who are---who are coming there that  
13 day.

14          Q And what do you mean by that?

15          A Once again, to not be in a position which they  
16 are---as Mr. Kessler did before, to incite violence, as he  
17 did in advance of the August 12<sup>th</sup> events.

18          Q All right. But if he is not, in fact, doing  
19 that for the second petition, then---

20          A We---we didn't know that necessarily at the  
21 time.

22          Q I'm not asking you to concede the point?

23          A Right.

24          Q Hypothetically, if he's not doing it, then  
25 you're only remaining concern with number two is---

1 A All I can do is based on previous experience.

2 Q Right. If we satisfied the City that's he not  
3 doing this this time, then that concern---

4 A That's a hypothetical.

5 Q It's hypothetical.

6 A Right, I'd rather not engage in a hy---  
7 hypothetical discussion. That---that---what we were basing  
8 our decisions on concerning public safety from previous ex-  
9 periences with Mr. Kessler.

10 Q Do you bar all people who've had previous mis-  
11 conduct in the City from having permits?

12 A I---I, you know, I couldn't tell you, because  
13 I don't---I---I don't approve every permit that's come  
14 across our desk.

15 Q I see. What information do you have that Mr.  
16 Kessler's fellow protesters numbered larger than four hun-  
17 dred (400)?

18 A Based on the---the response from our officers  
19 and other others who have some experience with, kind of,  
20 estimating crowds.

21 Q Oh, but the crowd wasn't just Mr. Kessler's  
22 protesters, there was a significant amount of counter pro-  
23 testers?

24 A There were, absolutely.

25

1 Q And you're tasking him with their presence, as  
2 well?

3 A No.

4 Q All right. So, you're referring me again to  
5 the police department for the number who were Mr. Kessler's  
6 protesters?

7 A Based on what we saw on that day, and based on  
8 what our intelligence said were---the folks who were going  
9 to be here that day.

10 Q All right. But who were going to be here, and  
11 who actually showed up are distinct concepts?

12 A They---they---they can be, yeah, absolutely.

13 Q Okay. So, as far as who actually showed up,  
14 the people who've been sued in that state court lawsuit?

15 A Those organizations.

16 Q Those organizations, right, you're saying that  
17 they were---your police, to the best of your knowledge, es-  
18 timated that as more than four hundred (400) on Kessler's  
19 side?

20 A Yes.

21 Q Which police officer told you that?

22 A I don't recall off the top of my head.

23 Q Some---

24 A It's an estimate---estimate that the police  
25 department came up with.

1 Q High ranking police officer, not just a random  
2 cop?

3 A I---I don't know off the top of my head.

4 Q Okay. All right. How long have you been City  
5 Manager?

6 A Roughly eight years.

7 Q All right. So---

8 A I became Acting City Manager in April of 2010,  
9 and City Manager in December of 2010.

10 Q Okay. You're familiar with Festival of Cul-  
11 tures event?

12 A Yes.

13 Q Are you aware that the Festival of Cultures  
14 was granted a permit in Emancipation Park for three thou-  
15 sand (3,000) people in 2017?

16 A That is---that---yes, I do believe that is  
17 true.

18 Q You familiar with the Charlottesville Pride  
19 event?

20 A Yes.

21 Q You aware that in 2016 the City granted a per-  
22 mit to Charlottesville Pride estimating four thousand  
23 (4,000) attendees at Emancipation Park, then called Lee  
24 Park?

25

1           A I know we granted a permit, I don't know what  
2 the numbers were.

3           Q So, if Charlottesville Pride can have four  
4 thousand (4,000) people, and what was the other one---  
5 Festival of Cultures can have three thousand (3,000) people,  
6 how many does this Tom Tom Festival draw?

7           A I couldn't tell you off the top of my head.

8           Q More than four hundred (400)?

9           A Probably, yeah.

10          Q Then why is four hundred (400) a problem for  
11 Mr. Kessler?

12          A I do not believe what either the Pride Festi-  
13 val, the Festival of the Cultures, or the Tom Tom Festival  
14 that there was any specific threats of violence associated  
15 with those, and we did not have any police intelligence  
16 that would have indicated that they would be problems.

17          Q In these documents, are there copies of the  
18 police intelligence you're referring to?

19          A I---I don't believe so.

20          Q Can we go off the record for a second?

21

22                   (OFF THE RECORD)

23

24          Q How did you receive this intelligence?

25          A In discussions with our police department.

1 Q Verbal discussion?

2 A Verbal discussions.

3 Q Not on email?

4 A Not that I recall.

5 Q Is there any record, whatsoever, of this in-  
6 telligence being communicated to the City?

7 A There's information that's in the---the report  
8 of---in the lawsuit---the Georgetown Law Center lawsuit  
9 that provides some information related to intelligence that  
10 had been gathered.

11 Q Again, heading into this rally, you had no  
12 such intelligence?

13 A I---I don't have any specific intelligence  
14 about this rally---

15 Q Okay.

16 A ---that has not been permitted.

17 Q Last year it wasn't permitted until very close  
18 to the date of the rally, is that correct?

19 MR. LONGSTRETH: Objection, contrary to fact.

20 Q All right. When was it permitted?

21 A The---the---the final permit came in on the---  
22 the week of August 7<sup>th</sup>.

23 Q Surely you had intelligence before August 7<sup>th</sup>?

24 A Yes, we did.

25 Q When was the initial permit granted last year?

1 A I couldn't tell you off the top of my head.

2 Q When did you start gathering intelligence last  
3 year?

4 A They were---the police were gathering intelli-  
5 gence in, I would imagine, I think it was the April/May, in  
6 that---that time frame, through the rally.

7 Q Isn't it true that in 2017 there were several,  
8 what you might call alt-right political rallies in Char-  
9 lottesville?

10 A There were different rallies in Char-  
11 lottesville that summer, that's correct.

12 Q Wasn't there an actual Ku Klux Klan rally in  
13 Charlottesville?

14 A There was.

15 Q Was it permitted?

16 A It was.

17 Q You gave the Ku Klux Klan a permit?

18 A We did.

19 Q Do they not engage in violent rhetoric?

20 A We did not anticipate that there was going to  
21 be violence on that day, in the way that we saw on August  
22 12<sup>th</sup>.

23 Q Well the Klan---

24 A The number---

25 Q ---was---



1 A The numbers weren't there.

2 Q The numbers weren't there? How many Ku Klux  
3 Klan members appeared for their rally?

4 A I think it was in the neighborhood of forty  
5 (40) to fifty (50).

6 Q Forty (40) to fifty (50)?

7 A That's correct.

8 Q And that's not a problem, but four hundred  
9 (400) is?

10 A A thousand (1,000) is, especially.

11 Q All right. Okay. Why was there no violence  
12 at the Ku Klux Klan rally?

13 A I didn't say it was completely free of vio-  
14 lence.

15 Q What happened at that rally?

16 A There were---there were some incidents that  
17 occurred, primarily after the rally, there was a little bit  
18 of pushing and fighting among some folks beforehand, noth-  
19 ing like we saw on August 12<sup>th</sup>.

20 Q Were there arrests?

21 A There were arrests that day.

22 Q Who was arrested?

23 A There were a handful of folks who were arrest-  
24 ed that day, I couldn't tell you specifically who they were.

25 Q Were they counter protesters?

1           A I would imagine a majority of them were, but I  
2 can't say for sure.

3           Q Isn't it true, in fact, that all arrestees on  
4 that day were counter protesters and no Klansmen were ar-  
5 rested?

6           A There were no Klansmen arrested.

7           Q Was there a---a second rally before---between  
8 the Ku Klux Klan rally and Unite the Right that was also  
9 alt-right event---an alt-right event?

10          A Second rally between the Ku Klux Klan---no.

11          Q Perhaps my timeline is wrong---May 13<sup>th</sup>, 2017?

12          A There was an event that occurred in our city  
13 on that date.

14          Q Was that also an alt-right type event?

15          A If that's how you'd like to characterize it.

16          Q How would you characterize it?

17          A There was---there were a group of folks who  
18 were espousing white nationalism in our park.

19          Q What is white nationalism?

20          A You'd have to ask them, that---that's---that's  
21 what they used, that was the term they used.

22          Q Do you have an understanding of what that  
23 means?

24          A I think it means different things to different  
25 people.

1 Q Does the City have an official policy as to  
2 the phrase white nationalism?

3 A We do not.

4 Q Does the City know what white supremacism  
5 means?

6 A I think we---we have some understanding of  
7 white supremacism means.

8 Q What does that mean?

9 A I think it means that folks---once again, I  
10 think you'd have to ask people individually what they--  
11 what they believe, but that they believe that white folks  
12 in our community---in our country are superior to others.

13 Q In that phrase, what does superior mean?

14 A You'd have to talk to them about what their  
15 individual thoughts are on that.

16 Q I thought you said that you had an understand-  
17 ing of what it meant, or the City did?

18 A I think we have a general understanding.

19 Q So your general understanding remains general,  
20 but there are some people who think that white people are  
21 superior to other non-white people?

22 A And they espouse white---what they believe is  
23 white supremacy.

24 Q And that's distinct from white nationalism?

25 A In the minds of some, yes.

1 Q How about in the minds of the City?

2 A I couldn't speak on behalf of the City. We  
3 don't have a policy that pertains to white nationalism or  
4 white supremacy.

5 Q Do you think it's fair to characterize the  
6 alt-right as Nazis?

7 A I can't attest to whether that's fair or not.  
8 It's not---it's not a term I've used.

9 Q And the City doesn't class the protesters as  
10 Nazis?

11 A Not that---in any sort of official form. Once  
12 again, I can't speak for individuals.

13 Q What does the City think that Nazis are?

14 MR. LONGSTRETH: Objection, foundation, particu-  
15 larly given his prior answer.

16 Q A City councilor publicly stated that we  
17 don't tolerate Nazis in Charlottesville, what does that  
18 councilor mean?

19 A You'd have to ask that councilor.

20 Q What should citizens understand the councilor  
21 to mean?

22 A You'd have to ask those citizens and what they  
23 were listening to, and what---what their position is on  
24 that.

25

1 Q Does the City have a policy regarding hate  
2 speech?

3 A Not that I know of.

4 Q So as far as the City of Charlottesville's  
5 concerned, there is no such thing as hate speech?

6 A As far as City---City government goes, we do  
7 not have a policy that addresses hate speech.

8 Q If a City employee used a racially inflammato-  
9 ry term toward a member of the Charlottesville community,  
10 would he be disciplined?

11 A Probably.

12 Q Why?

13 A Because it's inappropriate.

14 Q Not because it's hate speech?

15 A Because it's inappropriate.

16 Q Why is it inappropriate?

17 A Because it would be deemed as inappropriate.

18 Q That's the only reason it's officially deemed  
19 inappropriate?

20 A Yeah, we're held to a higher standard than---  
21 than other folks, in terms of the language that we use, and  
22 how we interact with people.

23 Q So essentially because it's impolite?

24 A Yeah.

25 Q No, it's more than that.

1 MR. LONGSTRETH: No, I can't answer the question  
2 for you.

3 Q No, I'm not asking to---

4 MR. LONGSTRETH: But---

5 Q I mean you made a motion, so---

6 MR. LONGSTRETH: I was about to object---

7 Q Right.

8 MR. LONGSTRETH: I was about to object that it  
9 was argumentative, but you're---you know, you can handle  
10 yourself.

11 A I'm sorry, what was your question again?

12 Q Is it something more than impolite?

13 A I---I think it could be deemed as---as such,  
14 yes.

15 MR. LONGSTRETH: Your questions was a City em-  
16 ployee to a citizen of the City, right?

17 Q Right.

18 A Yeah.

19 MR. LONGSTRETH: Somebody who he's supposed to  
20 work for?

21 Q That's right.

22 A Yeah.

23 MR. LONGSTRETH: Yeah.

24 Q All right. If this---let's say it's a police  
25 officer. A police officer is interacting with a citizen,

1 and the officer yelled shut up, does he get disciplined for  
2 that?

3 A It depends on what the situation is.

4 Q Is there any situation where the officer could  
5 yell shut up and he's be okay, but if he yelled something--  
6 --an insulting racial term, he would not be okay?

7 MR. LONGSTRETH: I'll---I'll object to the ques-  
8 tion as vague. I---I'm not sure on what standard you mean  
9 okay, would it be legal, or employment---

10 Q Not be disciplined by the City of Char-  
11 lottesville?

12 A Yeah, I couldn't say. I---I take those things  
13 on a case by case basis.

14 Q So it is possible to racially insult citizens,  
15 potentially, and not be disciplined by Charlottesville?

16 A I have not run into that situation, but I  
17 would imagine that there would---would be discipline asso-  
18 ciated with that.

19 Q Is there any formal instruction to your offic-  
20 ers that lets them know how far they can go in that regard?

21 MR. LONGSTRETH: Objection, form.

22 A Yeah, I---I don't know about any specific dis-  
23 cussions that have taken place.

24 Q All right. That's not the Commonwealth (sic)-  
25 --.

1 A Concerning---concerning what you just said.

2 Q There's no actual case where it's ever come up  
3 during your tenure as a boss?

4 A Not that---not that has risen to my level.

5 Q You have knowledge of cases arising that  
6 didn't come to your level?

7 A No.

8 Q Okay. So earlier you testified that the Pride  
9 Festival, there was no intelligence suggesting violence?

10 A That's correct, that I knew of.

11 Q So four thousand (4,000) people not a problem?

12 A In that situation, no. The---it was not  
13 deemed a concern by our police department.

14 Q So we know that the numbers themselves are not  
15 necessarily a problem then, do we agree?

16 A In that situation, that's correct.

17 Q But in Mr. Kessler's situation, numbers can be  
18 a problem?

19 A Because of past experiences and concerns over  
20 violence, yes.

21 Q So had he had only---had Mr. Kessler only had  
22 fifty (50) people at his rally, the police department could  
23 have handled it?

24 A If he had fifty (50) people who showed up for  
25 his rally?



1 Q Right.

2 A I believe so.

3 Q What would the police department do different-  
4 ly with fifty (50) as opposed to a thousand (1,000)?

5 A You---I---I'm not sure what you're asking,  
6 what do you mean what would they do differently?

7 Q Why is the enhanced number of people a problem  
8 in a city with a hundred and twenty seven (127) sworn of-  
9 ficers?

10 A Because of many more people who could be in-  
11 volved with---with interactions and violence when you have  
12 a thousand (1,000) plus versus fifty (50), seems to be com-  
13 mon sense.

14 Q Okay. So if---did any of your intelligence  
15 indicate that counter protesters intended to shut down the  
16 Unite the Right rally in 2017?

17 A There were folks---yes. There were folks who  
18 had---had expressed an interest in trying to shut down the  
19 rally, that's correct.

20 Q Were they going to shut it down by means of  
21 violent acts?

22 A That I don't recall. It could have been vio-  
23 lent acts, could have been just shouting down the---the  
24 protesters, as well.

25

1 Q Do you have any information that should there  
2 be a rally this year, the counter protesters intend to use  
3 violent acts to shut it down?

4 A I---I don't know about violent acts.

5 Q Are you familiar with the Virginia Fusion Cen-  
6 ter?

7 A Yes.

8 Q Is that one of the sources of intelligence  
9 we've been discussing?

10 A That's correct.

11 Q Did not the Virginia Fusion Center provide you  
12 intelligence that leftist counter protesters were coming to  
13 Charlottesville on August 2017, and specifically planned to  
14 use violence?

15 A Yes, but you just asked for this year.

16 Q Okay. How about this year?

17 A No, not that I know of.

18 Q How about the---the Department of Homeland Se-  
19 curity, are they also a source of your intelligence?

20 A I---I believe so, but I have not seen that in-  
21 formation directly.

22 Q All right. So, you don't have knowledge that  
23 this---that intelligence was sent to the Charlotte---  
24 Charlottesville Police Department prior to the first Unite  
25 the Right rally?

1 A I---I didn't say that, you asked---

2 Q Prior to the second---

3 A I'm sorry, you keep jumping around from today  
4 versus last year versus, you know, so---

5 Q Perfectly legitimate---

6 A If you could be more---if you could be more  
7 precise it would be helpful.

8 Q I will work to be more specific.

9 A Thank you.

10 Q As to this year---

11 A Yes.

12 Q ---after the Unite the Right, as to this  
13 year's rally, do you have any information that Department  
14 of Homeland Security has sent to the Charlottesville Police  
15 Department intelligence regarding plans for leftist vio-  
16 lence in Charlottesville?

17 A I haven't seen that information.

18 Q By leftist, I mean non-Kessler counter pro-  
19 testers?

20 A I have not seen that information from the De-  
21 partment of Homeland Security.

22 Q So you're not aware that Mr. Kessler himself  
23 copied the Charlottesville Police Department on that intel-  
24 ligence---

25 A He---he may have.

1 Q ---which was (inaudible)?

2 A He may have, I have not seen that.

3 Q Earlier you testified regarding---

4 MR. LONGSTRETH: You have a date on that, by the  
5 way?

6 Q We'll get the date for you.

7 MR. KESSLER: It's been ongoing.

8 A And plus that---that's right now, is that cor-  
9 rect? I just want to make sure---

10 Q Yes.

11 A ---I want to---I want to have an understanding.

12 Q Yes.

13 A Okay, great. I just want to have---that's all,  
14 thank you.

15 MR. KESSLER: Between May 19<sup>th</sup> and June 13<sup>th</sup>.

16 Q Emails sent between May 19<sup>th</sup>, well on May 19<sup>th</sup>,  
17 and after---through June 13<sup>th</sup> of this year.

18 MR. LONGSTRETH: Again, I'm sorry (inaudible).

19 Q No, that's all right.

20 MR. LONGSTRETH: We're going to do a deposition  
21 for you that focus---

22 Q It's all right. We're gathering information.

23 MR. LONGSTRETH: That's what I'm saying---we're  
24 interested----we're interested in whatever information you  
25 have.

1 Q So, the Virginia Fusion Center sent the City  
2 information regarding counter protester plans for violence  
3 before the 2017 rally?

4 A That's correct.

5 Q But you want to use violence at the 2017 rally  
6 to deny Kessler a permit for the 2018 rally?

7 A Is that a question, I'm sorry?

8 Q Yes.

9 A Okay. Yes.

10 Q Why?

11 A Based on previous experience with Mr. Kessler,  
12 and his attempt to---to hold the rally, and his comments  
13 that he made online about inciting violence.

14 Q You're stating that the comments in the Char-  
15 lottesville lawsuit---the state court lawsuit, are Mr.  
16 Kessler making comments inciting violence?

17 A That informed---yes, that informed our deci-  
18 sion.

19 Q Did not Mr. Kessler characterize his comments,  
20 at the time, before 2017, as self-defensive preparations?

21 A On occasion.

22 Q On occasion?

23 A But not every time.

24 Q And again, we're---I want to make sure I get  
25 you right, you're limiting yourself---

1           A I'm sorry, is this---is this appropriate re-  
2 sponse by Mr. Kessler in a deposition?

3           MR. LONGSTRETH: No, it's not, but there's a lim-  
4 it to what we can do.

5           A Okay. I just wanted to---

6           MR. LONGSTRETH: When people don't---there's a  
7 limit to what we can do when people don't know how to be-  
8 have. We can ask them to behave, I've already asked him  
9 before if he had a problem, and he gave me that little look,  
10 but, you know, just try to ignore him.

11           Q Okay. Here at deposition, you're limiting  
12 your---you're limiting yourself to that state court lawsuit,  
13 because that's pretty extensive, all those attachments and  
14 pleadings in that state court lawsuit?

15           MR. LONGSTRETH: I'll object to the form of the  
16 question.

17           Q So do you have anything else besides what's in  
18 that lawsuit that you're referring to when you say that he  
19 occasionally referred to it as self-defense?

20           A Oh, there is---there is information that our  
21 police department had gathered,, as well in advance of Au-  
22 gust 12<sup>th</sup>.

23           Q Okay. And is this---this was put in a written  
24 form, or no?

25

1           A Not that I---not that I have. I---it's proba-  
2 bly included in the lawsuit.

3           Q All right. All right. Did you meet with Mr.  
4 Kessler prior, or on August 7<sup>th</sup>, 2017 to discuss his Unite  
5 the Right rally?

6           A Yes.

7           Q At that meeting, did he express concern about  
8 the police standing down as happened in Berkley, Califor-  
9 nia?

10          A I believe he mentioned something about that,  
11 yes.

12          Q Did Mr. Kessler request that demonstrators and  
13 counter demonstrators be separated by the police depart-  
14 ment?

15          A I believe he did, yes.

16          Q Did Mr. Kessler express concern about armed,  
17 as in with firearms, counter protestors?

18          A I---I don't---I don't recall that.

19          Q I'm sorry, not firearms, merely armed with  
20 whatever type of weapon?

21          A Maybe, I---I just---I don't remember exactly  
22 the words he used, but---

23          Q Okay.

24          A ---there was concern about that.

25          Q There was a meeting?

1 A Yes.

2 Q And those things were mentioned? Okay. Did  
3 Mr. Kessler express concern about the streets surrounding  
4 Emancipation Park?

5 A He did.

6 Q Being blocked off by counter protesters?

7 A He did.

8 Q Okay. And what was the City's response to  
9 these concerns?

10 A What do you mean?

11 Q Did you tell him, tough, that's your problem?

12 A No, I just took notes, I didn't respond to him  
13 in that meeting.

14 Q What did you do with those notes?

15 A I kept those notes.

16 Q Did you contact the police department and pass  
17 that information along?

18 A No, Captain Lewis was already there.

19 Q Captain Lewis was at the meeting?

20 A She was.

21 Q All right. So she---the police were already  
22 knowing---knew about these concerns?

23 A Yes.

24 Q Because Captain Lewis was there?

25 A Uh-huh (indicating yes).



1 Q All right. Did the police, or the City, prom-  
2 ise to have two hundred (200) police at the back of the  
3 park?

4 A I don't know that.

5 Q Did the City---did you advise Mr. Kessler you  
6 would station officers at the front of the park on August  
7 12<sup>th</sup>, 2017?

8 A Did I personally say that to him?

9 Q Well, the City?

10 A I---

11 Q Captain Lewis and you?

12 MR. LONGSTRETH: I'll object to form, you're say-  
13 ing the park. Do we know which park we're talking about?

14 Q The park with the Robert E. Lee statue in it.

15 MR. LONGSTRETH: Okay. Because this was the  
16 meeting when they're talking about moving it to McIntire  
17 Park, as you know, so.

18 Q We're specifically stating that if it wasn't  
19 moved, we're talking about Emancipation Park?

20 A Right.

21 Q And---I got---

22 A I---I don't---I don't remember the numbers.  
23 You're asking specific numbers, two hundred (200) versus a  
24 hundred (100) or---I---I don't recall.

25

1 Q There was talk of police officers being sta-  
2 tioned at Emancipation Park?

3 A There was.

4 Q Okay. How about at the front of the park,  
5 specifically?

6 A I don't recall the specifics over that.

7 Q All right. Was Mr. Kessler told that there  
8 would be squadrons of police officers to keep the peace  
9 that day?

10 A I believe so.

11 Q Okay. Was Mr. Kessler told that he would re-  
12 ceive a police escort?

13 A That day in that meeting, I---I---I don't re-  
14 call that.

15 Q Was he told on August 11<sup>th</sup>, I guess, at a sub-  
16 sequent meeting?

17 A Oh, well you---you were asking about that  
18 meeting?

19 Q I was.

20 A I don't know, I wasn't at that meeting.

21 Q You weren't at the August 11<sup>th</sup> meeting?

22 A I was not.

23 Q All right So, you don't know if he was or  
24 wasn't?

25 A I do not know.

1 Q To your knowledge, were any of the speakers  
2 promised a police escort to get in and out of the park?

3 A There was discussion over providing escorts  
4 into---into and out of the park.

5 Q All right. Were escorts, in fact, provided  
6 that day?

7 A There were officers that were prepared to pro-  
8 vide escort in---into and out of the park.

9 Q Why did they not do that?

10 A Because they---the discussion that occurred  
11 between Mr.---Sergeant Newberry and Mr. Pierce, there was a  
12 change in the plan in terms of getting people in and out of  
13 the park. Some of the speakers decided they were going to  
14 march in with others.

15 Q Did Charlottesville, in fact, station police  
16 officers at the front and back of the park?

17 A We had officers that were prepared to provide  
18 support and escort in and out of the park. I could---once  
19 again, as I said a few moments ago, I---I couldn't tell you  
20 how many folks were assigned to do that.

21 Q But they didn't actually deploy to those are-  
22 as?

23 A I don't know.

24 Q If the officers did not, in fact, deploy, why  
25 didn't they---

1 A I didn't say they didn't deploy.

2 Q All right. You don't know if they did or they  
3 didn't make it?

4 A I---we had officers who were prepared to pro-  
5 vide that escort.

6 Q Okay. But you're blaming Mr. Pierce for dis-  
7 senting from the plan to be escorted?

8 A Whether it was Mr. Pierce or someone else who  
9 made that decision, I don't know.

10 Q Which police officers were talking to the pro-  
11 testors on August 12<sup>th</sup>, or were supposed to talk to them on  
12 August 12<sup>th</sup>?

13 MR. LONGSTRETH: I---I object to the form. Are--  
14 -are you on a new---we've been talking about---

15 Q Yes---

16 MR. LONGSTRETH: ---August 11<sup>th</sup>, are we're on a  
17 new?

18 Q I'm moving to August 12<sup>th</sup>. The date of the ac-  
19 tual---

20 MR. LONGSTRETH: Okay.

21 Q Well. Withdrawn. How large is this park---am  
22 I---am I saying it right, it's Emancipation Park?

23 A Emancipation Park.

24 Q It used to be Lee Park, then the name changed?

25 A Right.

1 Q And it was Lee Park because there's a statue  
2 of Robert E. Lee in the middle of the park?

3 A That's right.

4 Q How long has it been called Lee Park?

5 A Since 1920's.

6 Q 1920's? What was it before that?

7 A Well it---I don't think it had a park name be-  
8 fore then, but I don't know that.

9 Q Oh, sure. So, but it was after the Unite the  
10 Right the City changed it to Emancipation Park?

11 A The City did, yes.

12 Q Okay. So how large is---when we say Emancipa-  
13 tion and Lee Park, it's the same physical park?

14 A Yes.

15 Q Right? Okay.

16 A Yeah.

17 Q Is the statue still there?

18 A It is.

19 Q All right. Why is it still there, is that a  
20 state law?

21 A We're in court over removing the statue.

22 Q You're trying to remove it, but---

23 A We are trying to remove it---

24 Q ---the judge hasn't signed off on that yet?

25 A That's correct.

1 Q Okay. How large is Emancipation Park?

2 A Gosh, I couldn't give you an exact amount.

3 Q Is it---it's nearby this building?

4 A It's nearby, it's downtown, yeah, a couple  
5 acres, I think.

6 Q Okay. All right. So I mean it could---I mean,  
7 obviously, it could handle the Pride Festival with four  
8 thousand (4,000) people?

9 A It did.

10 Q They're not standing on top of each other?

11 A Right, people coming in and out throughout the  
12 day.

13 Q Okay. And the streets around the park, are  
14 they---are they, sort of, thin, I mean---

15 A On the---

16 Q ---are there a lot of buildings?

17 A ---on the sides they---they are---

18 Q Okay.

19 A ---on the sides.

20 Q All right.

21 A The side streets are.

22 Q All right. So, if counter protesters---  
23 withdrawn. On August 12<sup>th</sup>, 2017, were any streets blocked  
24 off for purposes of this rally?

25

1           A Yes. All of the streets around---around Eman-  
2           cipation Park were blocked off.

3           Q Okay. And how far out from Emancipation Park  
4           were streets blocked?

5           A All the way down to Preston/ McIntire on Mar-  
6           ket Street, and then up to 4<sup>th</sup> Street on---on McIntire.

7           Q Okay. So---

8           A And then down to Jefferson---Jefferson was  
9           blocked off, and I think that was primarily it around the  
10          park, and then a little bit further out.

11          Q Okay. Is that several city blocks---

12          A Yes.

13          Q ---out from the park?

14          A Yes.

15          Q Okay.

16          A Several city blocks.

17          Q So attendees at this rally had to park outside  
18          that blocked off area?

19          A They did.

20          Q And walk into the---to Emancipation Park?

21          A They did.

22          Q Now what was the City's plan for getting at-  
23          tendees into and out of the demonstration area?

24          A Was to allow people to---to walk into those---  
25          into their designated areas.

1 Q Let's go back to what I was discussing before.  
2 There was a plan, at one point, at least, to escort certain  
3 people into and out of the attendance---or the area---

4 A That's right.

5 Q ---the Emancipation Park area?

6 A Yeah.

7 Q Who was going to be escorted?

8 A Primarily the speakers were going to be es-  
9 corted. That---that was the discussion that we'd had with  
10 the---with the organizers.

11 Q Okay. Now why would the speakers need an es-  
12 cort from the police?

13 A You'd have to ask the organizers who asked us  
14 for---for support and escorting people in and out.

15 Q All right. So this was because the organizers  
16 asked for the escort?

17 A They did ask, yes.

18 Q The City didn't actually expect the alt-right  
19 protestors to attack their own speakers, did they?

20 A I don't know. There---there's certainly peo-  
21 ple who, within---within those organizations who did not  
22 like each other.

23 Q Probably true of any organization?

24 A That's probably true, yes, sir.

25



1 Q Wouldn't it be more reasonable, though, to  
2 suspect that the alt-right was concerned about the counter  
3 protesters attacking them, and that's why they asked for  
4 police protection?

5 A You'd---you'd have to ask them what their con-  
6 cerns were, but, I mean, our con---our officers were con-  
7 cerned about both.

8 Q All right. They're concerned about both?

9 A Uh-huh (indicating yes).

10 Q Troublemakers on both sides?

11 A True.

12 Q Did Mr. Kessler ever say he did not want the  
13 police escort?

14 A I don't recall if Mr. Kessler said that or not.

15 Q Did Mr. Kessler, himself, take any actions to  
16 break from the City's security plan?

17 A I'm not sure.

18 Q All right. But, in fact, no speakers, or any-  
19 body else, were escorted by Charlottesville Police into or  
20 out of the park, is that correct?

21 A I don't know---I can't speak for every speaker.  
22 But I'm---I'm pretty sure that there was a deviation from  
23 the security plan.

24 Q Did anyone actually speak at this event?

25 A Not officially, no.

1 Q All right. So let me---excuse me. The---the  
2 unlawful assembly was called before anyone---

3 A That's correct.

4 Q ---took to a microphone and began speaking?

5 A That's correct.

6 Q In fact, it was called before the official  
7 start time of the rally, wasn't it?

8 A I'm just trying to get the timing down. The  
9 reservation for the park, I believe, was at ten o'clock. I  
10 think the speakers were scheduled to---to speak at noon, I  
11 believe.

12 Q Well---

13 A I might be wrong about that.

14 Q ---we understand you're off the top of your  
15 head.

16 A Right. Exactly.

17 Q Close enough.

18 A So, yeah---so if that's---it that is the case,  
19 then yes, it occurred at eleven o'clock.

20 Q Okay.

21 A Around eleven o'clock.

22 Q All right. So maybe after the official start  
23 of the rally, but before the speakers were scheduled---

24 A Yes.

25

1 Q ---is what your testimony is? Okay. Whether  
2 that's 10:00 or 12:00, or some other time.

3 A Somewhere in there.

4 Q We're not---we're not stuck with that. All  
5 right. All right. And you were in the command center when  
6 the unlawful assembly was called?

7 A Yes.

8 Q But you don't know any more about specifically  
9 who or why it was called?

10 A No, I think I---I said that Chief Thomas had--  
11 -had called--

12 Q Okay.

13 A ---unlawful assembly.

14 Q All right. And the why was the melee at the  
15 end?

16 A Yes, exactly.

17 MR. LONGSTRETH: We're going over things again.  
18 We've gone over before, I---I---I understand you've said  
19 you're not going to take all day, but a lot of this is  
20 asked and answered.

21 Q All right. There were---where was the general  
22 entrance to this event supposed to be?

23 A Near the front of the park.

24 Q Would that be Market Street?

25 A Yes.

1 Q And was Mr. Kessler supposed to enter on Mar-  
2 ket Street?

3 A I don't recall that, I don't believe so.

4 Q Is it your position that speakers coming from  
5 some area other than Market Street, specifically the back  
6 of the park, was responsible for the violence beginning?

7 A I don't believe I said that.

8 Q What---city personnel, do they have official  
9 phones they use for official business?

10 A Yes.

11 Q Were official phones used on---to plan the Au-  
12 gust 12<sup>th</sup> city response?

13 A Yes.

14 Q Do you still have those same official phones  
15 now?

16 A I would imagine so, I don't know off the top  
17 of my head.

18 Q You familiar with the phone number area code  
19 434-343-2674?

20 A 2674, no.

21 Q Is 343 a city number?

22 A I'm sorry, what was it?

23 Q It's area code 434, I'm assuming it---

24 A Well 434---4 is an area code for Char-  
25 lottesville.

1 Q Charlottesville, that's right. Now is 343  
2 city offices or not?

3 A 343, our offices are 970.

4 Q Okay. What about the cell phones?

5 A I---there may not be specific to Char-  
6 lottesville, but we may have some that are 243, yes.

7 Q All right. So you're not familiar with that  
8 particular number?

9 A Not off the top of my head, no.

10 Q After the federal court rules, specially Judge  
11 Conrad on August 11<sup>th</sup>, granting Unite the Right permission  
12 to hold their rally at the Emancipation Park, did you make  
13 a phone call at 8:32 p.m.?

14 A That evening?

15 Q Yes?

16 A I may have.

17 Q You don't recall?

18 A I don't recall. I'm sorry, I make a lot of  
19 phone calls.

20 Q Are there any specific policies in place re-  
21 garding Mr. Kessler?

22 A Any specific policies in place regarding Mr.  
23 Kessler?

24 Q Well---

25 A It's pretty vague.

1 Q You stated that Ms. Christian, is it?

2 A Yes.

3 Q Emailed you when he came in to fill out a per-  
4 mit application?

5 A She did.

6 Q And that wasn't pursuant to an even informal  
7 policy?

8 A No.

9 Q Has your contract recently been not renewed by  
10 the City?

11 A Yes.

12 Q Why was that?

13 A You'd have to talk to the City council about  
14 that.

15 Q Was it after discussions regarding the first  
16 Unite the Right?

17 A No. We've had numerous discussion since---  
18 after---

19 Q I'm sure there's much City business?

20 A Right.

21 Q Did any member of Charlottesville City Council  
22 suggest that the City had to "stop the Nazis from coming  
23 back"?

24 A That's possible, yes.

25 Q You've heard things similar to that?

1 A Sure.

2 Q What did you understand by that, it's a admon-  
3 ition?

4 A No, it was a personal opinion.

5 Q All right. That wasn't some sort of instruc-  
6 tion---

7 A No.

8 Q ---or attempted instruction?

9 A No.

10 Q What kind of authority does council have here  
11 in Charlottesville?

12 A City council, as a majority, has authority  
13 over policy issues. That's generally what they do.

14 Q Other than not renewing your contract, or ter-  
15 minating your services, can they order you to do this or  
16 that thing?

17 A No.

18 Q You have discretion?

19 A If you're talking about in this situation, I  
20 have discretion to make the decision over the permit.

21 Q Okay. You're the---you're where the buck  
22 stops?

23 A That's correct.

24

25

1 Q All right. Has any city councilor stated that  
2 Mr. Kessler's politics and his political message constitute  
3 "hate speech"?

4 A I would imagine so.

5 Q But that also is merely an expression of opin-  
6 ion?

7 A It is.

8 Q What methods of communication did you use to  
9 plan for the original Unite the Right in 2017, email, phone  
10 calls?

11 MR. LONGSTRETH: I'm going to just object here---  
12 I---again, I---I don't think my job is to make your record,  
13 but there were two Unite the Rights, so by original, do you  
14 mean May or do you mean August?

15 Q Sorry, I didn't know---

16 MR. LONGSTRETH: Because it's---because it's a  
17 little confused, because August was actually Unite the  
18 Right 2.0, and so, you know---

19 Q It's all right. I'm referring---

20 MR. LONGSTRETH: Yeah.

21 Q In all times when I've said Unite the Right  
22 here today---

23 MR. LONGSTRETH: Yeah, August---

24 Q If I didn't specify 2018, then I meant August  
25 2017.



1 MR. LONGSTRETH: Okay. I'll---I'll just say, I--  
2 -I---I mean, I understand that was your intent, to the ex-  
3 tent that that's not clear on the record. We're not neces-  
4 sarily going to stipulate the way he understood it.

5 Q Definitely not.

6 MR. LONGSTRETH: But again, I'm trying to make  
7 sure that we've got---

8 Q Excellent clarification.

9 MR. LONGSTRETH: ---a clear record here, yeah.

10 MR. KESSLER: So, for clarification, my event Au-  
11 gust 12<sup>th</sup> was the only Unite the Right. This new applica-  
12 tion is for the second, these other events were not Unite  
13 the Right.

14 Q They're talking about it in the City's offi-  
15 cial records, and so---

16 MR. LONGSTRETH: Well, I'm just---we're doing it,  
17 I mean, it's---

18 Q Right. It's all right.

19 MR. LONGSTRETH: I---I think I had seen 2.0, and  
20 I'm sorry, I think I'd seen 2.0 referred to some times as  
21 the 2017 rally at sometimes, but anyway, I just---let's---  
22 let's put it this way, let's just step aside. Let's just  
23 make sure we're talking about the rally, since there were  
24 two he was involved in in 2017, we just make clear what

25

1 they were talking about, whatever the nomenclature is, make  
2 clear whether we're talking about May or August.

3 Q Very well.

4 MR. LONGSTRETH: Okay.

5 Q What technology did you use to plan for the  
6 August 2017 rally?

7 A A lot of discussion with our folks. There's  
8 email, and then there was, obviously, use of phones.

9 Q Okay. Have you included the emails with the  
10 documents brought today?

11 A The emails for August 12<sup>th</sup>---

12 Q Your preparation for August 2017 rally?

13 A I don't believe we have all of those, that's--  
14 -that---that wasn't requested, was it, for all of the  
15 emails---

16 Q All right. They may or may not have been.

17 A I mean---I mean, was that---

18 MR. LONGSTRETH: Yeah, I mean, the---so we read  
19 it, it said testify to any and all matters regarding the  
20 denial of a permit application for August 2018. And I'll  
21 just say for the record, we did not read that as any docu-  
22 ment relevant to 2017.

23 Q We're off the record?

24

25 (OFF THE RECORD)

1

2

3

Q Did the city councilors express any concerns with your performance regarding August 2017?

4

5

6

7

A They have concerns about the performance of the City government. They asked for us to have a discussion in closed session about that to discuss personnel issues.

8

9

Q Were there concerns centered around permitting that sort of a rally to occur in Charlottesville again?

10

A No.

11

Q What were their concerns?

12

13

14

15

A That's a personnel issue, so I---it's---it's public record some of the things that they raised, but I'm going to reveal discussions that we had in personnel closed session.

16

17

18

Q All right. So the things you discussed in closed session were placed on the record, the general subject matter?

19

A Some of those things were.

20

Q Some of them, some of them were not?

21

A Yes.

22

Q Okay.

23

24

MR. LONGSTRETH: Can we just go off the record for a second, so I can (unintelligible).

25

1 (OFF THE RECORD)

2

3 MR. LONGSTRETH: Can we go back on the record?

4 Q Sure.

5 MR. LONGSTRETH: And I---I---I understand that  
6 Mr.---Mr. Jones does not want to disclose confidential per-  
7 sonnel information, which is the kind of stuff that's usu-  
8 ally done in closed session. I also understand that here  
9 in federal court, we don't have a privilege that prevents  
10 you from asking him those questions. So, you can ask about  
11 it. What I'm going to say is---and this is something else  
12 to talk about, we've got a confidentially order that we'd  
13 like to draft. What we would like to do is, if he is going  
14 to testify, or be asked about confidential matters, that  
15 those be designated as confidential on the record so that  
16 they're not publicly available, to the extent that, you  
17 know, the judge will agree with that.

18 Q To that limited extent, we would agree with a  
19 confidentially order.

20 MR. LONGSTRETH: Okay.

21 Q Not to cover the entire deposition, however.

22 MR. LONGSTRETH: No, I---

23 Q Let's see if we can---

24 MR. LONGSTRETH: Yeah.

25 Q ---split the difference here.

1 MR. LONGSTRETH: Yeah.

2 Q Can you just tell us the subject matter in-  
3 stead of the substance of the---

4 A Sure.

5 Q ---discussion?

6 A There were---there were discussions that we  
7 had over communications for that event. There were ques-  
8 tions about protection for specific neighborhoods that---  
9 that occurred or did not occur, in the minds of some.  
10 There was discussion over planning and collaboration with  
11 the police department and with the Virginia---excuse me,  
12 the Virginia State Police. So there was---those---those  
13 were the general themes of the discussion.

14 Q Okay. All right. I don't think I'll ask him  
15 anything further.

16 MR. LONGSTRETH: Okay. Thank you. And again,  
17 just off the record again.

18

19 (OFF THE RECORD)

20

21 Q All right. Did anyone in the command center  
22 on August 12<sup>th</sup>, 2017 express the opinion that violence  
23 should be permitted so as to shut down the rally?

24 A Not that I heard.

25 Q Have you heard that allegation before?

1 A I have.

2 Q But you do not believe it to be true?

3 A I did not hear it.

4 Q Were you aware that a citizen named Don Gath-  
5 ers committed violence against Unite the Right demonstra-  
6 tors on August 12<sup>th</sup>, 2017?

7 A I---I---I do not know if Mr. Gathers committed  
8 violence on that day.

9 Q If he committed violence that day, would it  
10 have any impact on the decision to have him on the civilian  
11 review board?

12 A That's a decision made by the Charlottesville  
13 City Council, not by the City Manager.

14 Q Okay. So you don't decide---

15 A Who is appointed to boards, that's exclusively  
16 them, authority of the city council.

17 Q All right. Just---and we're going to wind  
18 this up shortly.

19 MR. LONGSTRETH: That's actually one thing I  
20 wanted you to do, because again we've---well, maybe not an  
21 hour, but you know, if we're going to be another hour, may-  
22 be we could think about a break if we're going to be done.

23 Q You want a---confer with him and just make  
24 sure, I don't think it's going to go past 3:30. I can't see  
25 how.

1 MR. LONGSTRETH: Okay.

2 Q If you want to take a couple minutes.

3 MR. LONGSTRETH: Yeah, maybe this is a good time  
4 for another break.

5 Q That's fine.

6 MR. LONGSTRETH: ---and then we can just do one  
7 last try---

8 Q Yeah, yeah.

9 MR. LONGSTRETH: ---and get out of here.

10 Q Yeah.

11 MR. LONGTREATH: Thanks.

12

13 (OFF THE RECORD)

14

15 Q Okay, Mr. Jones, are you familiar with an or-  
16 ganization referred to as the Clergy Collective?

17 A I am.

18 Q Who are members of the Clergy Collective?

19 A I---I couldn't tell you today, but there---I  
20 mean, it's a group of clergy from our---in our community, I  
21 couldn't tell you specifically who all those folks are  
22 within the Clergy Collective.

23 Q Do you know, roughly, who---well members of  
24 the clergy---withdrawn. Members of the Clergy Collective  
25 were present on August 12<sup>th</sup>, 2017?

1 A I believe so.

2 Q At Emancipation Park?

3 A I believe so.

4 Q Do you know which members of the Collective  
5 were there that day?

6 A I couldn't tell you off hand.

7 Q Do you know which religious organizations are--  
8 --are represented in the Clergy Collective?

9 A It's a---it's various groups, Protestant, I  
10 believe, I---you know, I don't know if the Synagogue is---  
11 is---is a member of the Clergy Collective. I know we  
12 talked to a lot of people in advance of the meetings, and a  
13 lot of members of clergy, but I---I couldn't tell you if  
14 they're members or not, but, primarily Protestant.

15 Q Is former Councilman Bellamy a member of the  
16 Clergy Collective?

17 A I couldn't tell you that, I don't know.

18 Q Is he clergy?

19 A He is not clergy, as far as I know.

20 Q Did the Charlottesville police provide an es-  
21 cort to the Clergy Collective members on August 12<sup>th</sup>, 2017?

22 A An escort where?

23 Q To Emancipation Park?

24 A I think there were---there may have been of-  
25 ficers who were assigned, because there was a march that



1 they may have been associated with. So I think there may  
2 have been officers who were---who joined them at some point  
3 during that march to help ensure public safety.

4 Q Did you attend any Clergy Collective meetings  
5 regarding the July 8<sup>th</sup>, 2017 and/or August 12<sup>th</sup>, 2017 ral-  
6 lies?

7 A I attended one for July 8<sup>th</sup>, yes.

8 Q What was discussed at that meeting?

9 A The discussion was about how to---how to---  
10 from our perspective, how to keep things safe for that day.

11 Q For July 8<sup>th</sup>?

12 A For July 8<sup>th</sup>.

13 Q Which rally was July 8<sup>th</sup>?

14 A That was the KKK rally.

15 Q And how did the City go about keeping things  
16 safe at the July 8<sup>th</sup> Ku Klux Klan---

17 A One of the things that we---one of the---

18 MR. LONGSTRETH: Again, I'm sorry, you need to  
19 let him finish his question---

20 A Oh, I'm sorry.

21 MR. LONGSTRETH: Bad time---bad time---

22 Q I said July (inaudible).

23 A I had anticipated the 8<sup>th</sup>.

24

25

1 MR. LONGSTRETH: That time I know I'm right.  
2 That time I know you were in early, just wait for him to  
3 finish, take a beat.

4 A That's fine. The---the discussions that we  
5 had, not just with the Clergy Collective, but our citizens  
6 generally in advance of July 8<sup>th</sup>, was to---to look for other  
7 opportunities to express themselves on that day. We tried  
8 to encourage folks to do that. And so, we---there were  
9 various activities, events that---that occurred where peo-  
10 ple could go and express themselves and talk about some of  
11 these really important issues.

12 Q All right. So, essentially, go somewhere  
13 else?

14 A That was one of the---one of the things that  
15 we tried to encourage people to consider doing.

16 Q Did it work, did people do it?

17 A Some people did. A lot of others did not.

18 Q To your knowledge, were these local residents  
19 who physically went to the July 8<sup>th</sup> Ku Klux Klan rally?

20 A It was a mix, yeah, I mean, with that, I was  
21 out---I saw a lot of folks who were from Charlottesville  
22 who were there on July 8<sup>th</sup>.

23 Q I'm sorry, I forget, what's the population  
24 status of Charlottesville?

25

1           A   Forty seven (47) to forty eight thousand  
2 (48,000) people.

3           Q   And how many people went to this Ku Klux Klan  
4 rally from Charlottesville?

5           A   I couldn't tell you from Charlottesville.  
6 You're asking me were there people from Charlottesville  
7 there, yes.

8           Q   Well how many people from Charl---I mean, you-  
9 --

10          A   I don't---

11          Q   Fifty (50)?

12          A   I don't know, I have no idea.

13          Q   What were the total number of counter protest-  
14 ers that show up?

15          A   The estimate was somewhere between twelve (12)  
16 and fifteen hundred (1,500), I believe.

17          Q   Twelve (12) and fifteen hundred (1,500)?

18          A   Yeah.

19          Q   All right. So even if half of them were from  
20 Charlottesville that's still a decent chunk of people?

21          A   I have---once again, I have no idea---

22          Q   Okay.

23          A   ---how many of those folks were from Char-  
24 lottesville.

25          Q   That's fine.

1 MR. LONGSTRETH: We'll stipulate your math. But  
2 not your characterization of what's a decent chunk.

3 Q Stipulating to my math is generally a bad idea.  
4 Did you hear anyone at a church or synagogue talk about ob-  
5 structing the Unite the Right rally in August 2017?

6 A Did I hear anyone in a church or synagogue---  
7 meaning I was in a church or synagogue when they said that?

8 Q Yes.

9 A No.

10 Q Did---were you told that anyone affiliated  
11 with a church or synagogue said that?

12 A I don't believe so.

13 Q Okay. Were you aware, or are you aware that  
14 members of the Clergy Collective, specifically a local rev-  
15 erend named Wispelwey, and some others, physically blocked  
16 protesters from entering Emancipation Park on August 12<sup>th</sup>---

17 A Yes.

18 Q ---2017?

19 A Yes.

20 Q All right. And what, if anything, did the  
21 City do about that?

22 A I---I don't recall what discussions took place,  
23 if the police were involved with that or not.

24 Q Okay. Were you aware that one of the allega-  
25 tions in the state court complaint is that members of the

1 alt-right physically moved these clergy members out of  
2 their way so they could enter Emancipation Park?

3 A I believe so, I believe I've read that, yes.

4 Q All right. So is that some of the violence  
5 you were referring to earlier that is justifying the denial  
6 of this year's permit?

7 A That was not---that did not inform my decision.  
8 That specific act did not inform my decision.

9 Q Okay. Were you aware that counter protesters  
10 used the First United Methodist parking lot near Emancipa-  
11 tion Park as a staging area?

12 A I heard about that after the fact.

13 Q Okay. Do you know what the police response to  
14 that was, if any?

15 A I don't recall.

16 Q But they also staged in Jackson and McGuffey  
17 Parks, were you aware of that?

18 A I was.

19 Q Are you aware of any police response to that?

20 A Not that I recall.

21 Q Okay. Can we go off the record for a second?

22

23 (OFF THE RECORD)

24

25

1 (Plaintiff's Exhibit #2 was marked off the rec-  
2 ord)

3  
4 Q Okay, Mr. Jones, have you had a chance to look  
5 at Plaintiff's Exhibit 2?

6 A I have.

7 Q And what have you come up with?

8 A Well, there were some very specific issues and  
9 concerns that we had about some of the actions that were  
10 taken on that day that are in the---the complaint that we  
11 filed with the Georgetown Law Center. So there were---  
12 there were a couple of incidents that brought us some con-  
13 cerns. So, on page 73, as part of Count II, the fact that  
14 Mr. Kessler was involved with teaching and demonstrating to  
15 others use of firearms or other techniques, including the  
16 use of shields, flag poles and batons as offensive weapons  
17 capable of causing injury, that was certainly was a concern  
18 of mine. And then, also on page 77, there are concerns  
19 about---see where was that---oh, actually begins on 76. At  
20 the Unite the Right rally on August 12<sup>th</sup> defendants Kessler  
21 and others engaged in paramilitary activity independent of  
22 any civil authority in public streets, public parks, and  
23 other public areas substan---substantially interfering with  
24 public health, safety, peace and comfort of general welfare.  
25 So these certainly informed my---helped to inform my deci-

1 sion, along with some of the information that was found in  
2 the---the Heaphy report, as well.

3 Q Okay. Would you like to specify anything from  
4 the Heaphy report?

5 A Sure. Page 124 from the Heaphy report, and  
6 this gets back to the security issues. So, on page 124,  
7 just after 9:00 a.m. Sergeant Tony Newberry, the detective  
8 who had been in touch with the Unite the Right security or-  
9 ganizer Jack Pierce about getting speakers and VIPs into  
10 the park, was driving around the park downtown with his  
11 partner. Pierce had refused to share where the speakers  
12 would be gathering that day to assembly for the convoy.  
13 But Newberry knew by now that they were at McIntire Park.  
14 As the morning went on, and groups began to gather, Newber-  
15 ry was anxious to get the speakers and VIPs into the park.  
16 Newberry called Pierce's cell phone and told him there's  
17 never going to be a better time than now. Pierce said he  
18 understood, and responded that he would get everyone to-  
19 gether and call Newberry back. A few minutes later, Pierce  
20 called back and told Newberry that the speakers had changed  
21 their minds about coming in separately, because they wanted  
22 to walk in with their audiences. There would be no police  
23 escort from McIntire Park. Newberry told us that he had a  
24 hunch that Pierce had been tricked into working with him  
25 and that the rally organizers had never planned to be

1 brought through the back of the park. After the call ended,  
2 Newberry turned to his partner in the van and told him they  
3 do not plan on this going well.

4 Q Okay. Did we get the page number on this?

5 A 124.

6 Q 124, all right. Thank you.

7 MR. LONGSTRETH: And---and I---I don't think we  
8 need to mark this. Everyone knows what page (unintelligi-  
9 ble).

10 Q No, yeah---

11 MR. LONGSTRETH: Then we won't have to pay for---

12 Q Right.

13 MR. LONGSTRETH: ---them to put all that in. And  
14 then what is this?

15 A Oh, and then there's also the---the shields  
16 and shield tactics primer, as well. That provided some  
17 background on how to engage in violent behavior on that day.

18 Q Okay. Is Mr. Kessler mentioned in that pri-  
19 mer?

20 A I do not believe he is specifically mentioned  
21 in this part.

22 Q How is Mr. Kessler linked to that primer?

23 A I believe it was on the discourse server, 2.0  
24 discourse.

25



1 Q Mr. Kessler discussed it with the discourse  
2 server?

3 A Yes.

4 Q Okay. All right. Mr. Jones, are you aware  
5 that many of the defendants in that state lawsuit have  
6 reached settlements with the City?

7 A Yes.

8 Q And that those settlement essentially preclude  
9 them from returning to Charlottesville as a unit?

10 A As a unit, that's correct.

11 Q Are you further aware that most of them have  
12 public stated they're never going to set foot in Virginia  
13 again?

14 A I'm not aware of that.

15 Q Okay. Are you aware that the speaker list for  
16 the proposed August 2018 rally is almost entirely different  
17 from the August 2017 rally?

18 A I haven't seen that speakers list.

19 Q Would it allay any of the City's concerns to  
20 learn that next to none of the people who came last year,  
21 in August 2017, will be appearing in August 2018?

22 A I'd have to see what the speakers list looks  
23 like.

24 Q Or even the attendees in general, those groups  
25 are not coming---

1 A August---

2 Q ---in August 2018?

3 A As groups that's what they've said, that's  
4 correct.

5 Q It's what they've agreed to.

6 A That's right.

7 Q Legally?

8 A Yeah, fair enough.

9 Q You're aware that an author named Michael Edi-  
10 son Haden published on May 10, 2018 an article in Newsweek  
11 detailing which white nationalist leaders have stated they  
12 will not come back to Charlottesville?

13 A I've heard about that article, yes.

14 Q But you still are concerned that the same sort  
15 of individuals will be appearing in August 2018?

16 A It could be similar folks, but I don't know  
17 who those folks are just yet. Like I said, I haven't seen  
18 the speakers list yet.

19 Q So the concern isn't so much with the people  
20 as it is with what they intend to say?

21 A So, we---I'm sorry---

22 Q In August 2018?

23 A Right. But we, you know, we're---this is a  
24 discussion about the permit that was denied---

25 Q Yes, sir.

1 A ---on December 11<sup>th</sup>, 2017.

2 Q Yes, sir.

3 A Based on the information that we had on hand  
4 at the time.

5 Q Yes, sir.

6 A And not a hypothetical information that we  
7 have today.

8 Q That is correct.

9 A Okay.

10 Q So what would your answer be?

11 A I---I don't know what my answer would be at  
12 this point, because I don't have the information before me  
13 that I had before me before.

14 Q I see, my---

15 A When I had to make a decision---

16 Q Let me withdraw the prior question.

17 A Okay.

18 Q All---all the things you just said are correct.  
19 We're talking about the denial in 2017. If you later  
20 learned that those reasons were inaccurate, would the City  
21 be willing to grant Mr. Kessler a permit?

22 A You're asking for a hypothetical. I have to  
23 make those decisions based on the information I have at the  
24 time.

25

1 Q Okay. So, at the time you were concerned that  
2 these same actual individual groups were going to appear in  
3 Charlottesville again?

4 A Maybe some of those groups, or maybe others.

5 Q Other groups that hadn't been here in August  
6 2017?

7 A Certainly a possibility.

8 Q But their message would be the same?

9 A Their message wasn't what concerned me, it was  
10 the violence that concerned me, and the public safety is-  
11 sues associated with that violence.

12 Q Are you not concerned at all about the counter  
13 protester violence?

14 A I would be concerned about any violence in our  
15 community.

16 Q Would you agree that Mr. Kessler and his po-  
17 litical message tend to attract counter protester violence?

18 A I wouldn't say violence, but certainly counter  
19 protesters.

20 Q Are you aware of a rally by one of the groups,  
21 National Socialist Movement, who was here in Char-  
22 lottesville in August 2017, that recently appeared in  
23 Newnan, Georgia?

24 A I've heard of it, yeah. I don't know details  
25 about it.

1 Q Were you aware that the police officers were  
2 assault by counter protesters in Newnan, Georgia?

3 A I was not aware of that.

4 Q That the police publicly stated---were you  
5 aware that the police publicly stated that only counter  
6 protestors were violent in Newnan, Georgia?

7 A I---I---no, I was not aware of that.

8 Q Were you aware that the authorities in Newnan,  
9 Georgia placed fences and picket lines with police officers  
10 between counter protestors and the National Socialist Move-  
11 ment attendees?

12 A I was not aware of the specifics of what they  
13 did that day, no.

14 Q And are you not further aware that the video  
15 of that incident looks very much like Charlottesville, ex-  
16 cept that it's police officers being pulled to the ground  
17 by counter protestors?

18 A I am not aware of that.

19 MR. LONGSTRETH: Objection, foundation. And at  
20 this point, you're just being argumentative. I mean, he's-  
21 --you need to get his testimony, he says he doesn't know.  
22 You can't testify.

23 Q I'm never allowed to testify.  
24  
25

1 MR. LONGSTRETH: In other words, objection. In  
2 other words, objection. In other words, objection, argu-  
3 mentative.

4 Q I've got to get myself (inaudible)---

5 MR. LONGSTRETH: And foundation.

6 Q ---at some point so I can (inaudible). Okay,  
7 withdrawn---

8 MR. LONGSTRETH: Yeah.

9 Q ---that last question is withdrawn.

10 MR. LONGSTRETH: Yeah, I mean, you're free to put  
11 in whatever evidence you want with your PI.

12 Q Does the expected hostility to Mr. Kessler's  
13 message play any part in your decision to grant or deny Mr.  
14 Kessler a permit?

15 A No.

16 Q During the August 2017 rally, did the City  
17 have any knowledge that counter demonstrators were pointing  
18 guns at vehicles?

19 A That's the first I've heard of pointing guns  
20 at vehicles. But, I know that there---there was violence  
21 on that day, but I had not heard specifically that there's  
22 guns---that there were guns pointed at vehicles, can you be  
23 more specific?

24 Q There's a professor named Dixon from outside  
25 of Charlottesville, I'm not sure what college he's from.

1 He publicly stated he pointed an AR-15 rifle at James  
2 Fields' car prior to the accident that killed Heather Heyer,  
3 had you heard that before?

4 A I have not heard that before.

5 Q Thank you. Is the City aware that counter  
6 protestors, other than the aforementioned Mr. Dixon, at-  
7 tacked demonstrator vehicles as they were trying to leave  
8 Charlottesville?

9 A I'm not---no, I do not know that. Did those  
10 folks file complaints with the City?

11 Q I'm not allowed to testify.

12 A I'm unaware of those complaints being filed in  
13 the City.

14 Q You would know better than I would.

15 A How about that?

16 MR. LONGSTRETH: Yeah.

17 Q Did the City take any measures to keep counter  
18 demonstrators from harassing demonstrators during the de-  
19 clared state of emergency?

20 A I'm sorry---

21 Q On August 12<sup>th</sup>---

22 A Yeah---be---

23 Q ---2017?

24 A ---be more specific about---

25

1 Q At some point that day a state of emergency  
2 was declared?

3 A That's correct.

4 Q During the state of emergency, what, if any-  
5 thing, different did Charlottesville Police officers do to  
6 control demonstrators?

7 A The police---the police officers were attempt-  
8 ing to provide public safety for everybody that day, and  
9 throughout Charlottesville, and especially in downtown.

10 Q Can you think of anything specific they did  
11 differently than they were before the declaration of the  
12 state of emergency?

13 A Not that I can think of off the top of my head.

14 Q Other than declaring it an unlawful assembly--  
15 -

16 A Yeah.

17 Q ---and take everyone out?

18 A Well, and---I guess---I guess I need more spe-  
19 cifics, in terms of what you're asking.

20 Q When the unlawful assembly was declared---

21 A Right.

22 Q ---did the police direct where pedestrians  
23 were to go to exit Emancipation Park?

24 A No, they just said to---that they needed to  
25 exit the park.



1 Q All right. And then some recalcitrant people  
2 were arrested---

3 A As they were moving folks out of the park.

4 Q Okay.

5 A That's right.

6 Q But after the police moved them out of the  
7 park, they didn't care what happened to them after that?

8 A I don't think there was any direction to them  
9 as to where they needed to go.

10 Q As long as they left Emancipation Park that  
11 was the extent of the order?

12 A And to---and to---I think to leave the down-  
13 town area where the---where the unlawful assembly had---had  
14 been declared.

15 Q The streets---

16 A The streets in the front, as well.

17 Q The streets you previously---

18 A Yeah.

19 Q ---discussed?

20 A Yeah. Yeah.

21 Q All right. Were you aware of any advice that  
22 the City received from its own police department, or from  
23 other law enforcement agencies regarding the August 2017  
24 incident, as to how---or protest as to how Kessler's event  
25 was to be handled?

1 A I don't know---I'm sorry.

2 Q The intelligence that was gathered---

3 A Yes.

4 Q ---did any of it come from Charlottesville Po-  
5 lice itself?

6 A Yes. Yes.

7 Q And any other area police departments?

8 A Not that I know of, but there could have been.  
9 I'm just not sure.

10 Q All right. Did the City reject any of the ad-  
11 vice it got from its own police department?

12 A You mean the City government rejected advice  
13 from the police, you have to be more specific.

14 Q I'm sorry, City council. Did City councilors  
15 reject any advice they got from the Charlottesville Police  
16 Department regarding the August 2017 planning?

17 A That's pretty vague.

18 Q Did the police advise the City to allow the  
19 August 2017 rally to occur in Emancipation Park rather than  
20 a different location?

21 A Yeah, I---I wouldn't say that they advised  
22 against it. The Chief of Police and I expressed concerns  
23 about changing the venue that late in the process, because  
24 we had focused exclusively on downtown. But, the City  
25

1 council didn't make that decision to move to McIntire Park,  
2 I made that decision.

3 Q Why is moving to McIntire Park helpful?

4 A So, one, with downtown, it's a much more con-  
5 fined area than McIntire Park would have been. We had two  
6 softball fields that we were going to utilize with the---  
7 with kind of a natural barrier in between. You had fencing,  
8 plus an area in between where we could have put police of-  
9 ficers. They had worked out parking to try to segregate  
10 people in a way that we couldn't in terms of downtown with  
11 parking garages. People were going to be able to park in a  
12 garage or park on the street. And this was an easier way  
13 to try to segregate people.

14 Q How far is McIntire Park from Emancipation  
15 Park?

16 A (Unintelligible).

17 MR. LONGSTRETH: Objection, asked and answered.

18 Q (Unintelligible) you answered earlier?

19 A I did.

20 Q All right.

21 MR. LONGSTRETH: I mean---I'm sorry, he can an-  
22 swer.

23 Q (Inaudible).

24 MR. LONGSTRETH: I'm not directing him not to an-  
25 swer---

1 A Five to six---five to seven minutes.

2 MR. LONGSTRETH: Yeah.

3 A By car.

4 Q But it---it's a much---it's not surrounded by  
5 downtown buildings?

6 A No.

7 Q It's not hemmed in, it's a---

8 A No.

9 Q Okay. And how much physically larger is it?

10 A Oh, it's a lot larger. I---I couldn't tell you  
11 off the top of my head, but we can certainly get that in-  
12 formation to you. It's in---actually, I think it's in the  
13 Heaphy report, the specifics about that, and the size of  
14 the---of Emancipation Park.

15 MR. LONGSTRETH: Yeah, and actually just for the  
16 record, I mean, it's---there's a lot of this detail on how  
17 big the parks are, a lot of that is in the report, which  
18 we've given you another copy of. I mean, so you get a lot  
19 of that background from that.

20 Q Okay. Got it, thank you. Did---

21 MR. LONGSTRETH: That's not to say we agree with  
22 everything in there---

23 Q ---right.

24 MR. LONGSTRETH: ---but there are some factual  
25 information in there.

1 Q Okay. Did any City officials express the op-  
2 tion that counter demonstrators should not be charged with  
3 crimes after the August 12<sup>th</sup>, 2017?

4 A Any City official, you mean any City govern-  
5 ment official or do you mean an elected official?

6 Q Either.

7 A Not that I know of in terms of City government.  
8 We certainly didn't say that. And, you know, I don't read  
9 everyone's Twitter account and that type of thing, so, I---  
10 I couldn't tell you if someone---someone did or did not say  
11 that.

12 Q Okay. We're almost done. Mr. Jones, has the  
13 City consulted with any non-government organizations re-  
14 garding how to publicly counter Mr. Kessler's political  
15 message as he expressed it on August 12<sup>th</sup>, 2017?

16 A Not that I know of. And when you say City of-  
17 ficial, once again, I mean, I'm talking---

18 Q You're not talking about an elected official?

19 A That's right, yeah.

20 Q Has the City hired a PR firm, public relations  
21 firm, to assist it in countering Mr. Kessler's political  
22 message?

23 A No.

24

25

1 Q All right. Mr. Jones, handing you a bracelet,  
2 this is a blue bracelet, it states race still matters. You  
3 agree that's what it says?

4 A I do agree that's what it says.

5 Q Is this something handed out in City Hall  
6 here?

7 A It's not handed out, there's a---in the City  
8 Manager's office area there's a basket that has those there.

9 Q That's so people can take them or leave them?

10 A That's correct.

11 Q You don't force your employees to wear these,  
12 I mean?

13 A We do not.

14 Q All right. Can I have this one?

15 A That's all yours.

16 Q Thank you. Is this race still matters brace-  
17 let, or whatever it is, is that meant to counter Mr. Kess-  
18 ler's political message?

19 A It is not, we've had those out there well be-  
20 fore Mr. Kessler came on the scene.

21 Q What does the message mean, race still mat-  
22 ters?

23 A I think it's---it has been the position of the  
24 City that issues of race relations still matter in our com-  
25 munity and we need to have discussions, and take affirma-

1 tive steps, and be a part of the process of---of improving  
2 race relations in our community.

3 Q Just to be clear, no particular race is ex-  
4 cluded from exercising their civil rights in Char-  
5 lottesville, are they?

6 A No, sir.

7 Q They are openly encouraged to do so, in fact,  
8 are they not?

9 A We encourage First Amendment activities within  
10 our community, absolutely.

11 Q Are persons permitted to defend themselves in  
12 said City of Charlottesville?

13 A I guess in terms of the---in terms of the law,  
14 yes, they are.

15 MR. LONGSTRETH: I---yeah---I guess I'll object  
16 to the question, it's calling for a legal conclusion.

17 A Right.

18 MR. LONGSTRETH: But, you know, I think that's  
19 inherent in his answer.

20 Q There's no laws in Charlottesville restricting  
21 whatever Virginia's rules are regarding self-defense, are  
22 there?

23 MR. LONGSTRETH: Objection, to the extent it  
24 calls for a legal conclusion.

25 A Yeah. I'm not an attorney.

1 Q Okay. To your knowledge, the City has not ev-  
2 er attempted to preclude somebody from defending themselves  
3 within the legal rules of the Commonwealth of Virginia?

4 MR. LONGSTRETH: Objection, foundation.

5 Q Can he answer?

6 A Not---not to my knowledge.

7 Q The City certainly is not attempting to do  
8 that through its litigation in state court against Mr.  
9 Kessler and others, is it?

10 A No.

11 Q Or through its permit denial to Mr. Kessler?

12 A No.

13 Q Did any City councilors request that you deny  
14 Mr. Kessler a permit prior to the August 2017 rally?

15 A I'm trying--just trying to remember, I don't,  
16 I mean, to use that specific language to deny the permit.  
17 I think there were---there were councilors who were con-  
18 cerned about it. And we had discussions over the---the---  
19 the content, and they were concerned about that. But my  
20 response was we protect the First Amendment, and I've spo-  
21 ken to council about that both privately and publicly on  
22 numerous occasions.

23 Q Would your answer be the same as to the re-  
24 quest for a permit for August 2018?

25



1           A I did not have any specific discussions with  
2 the council about the---in which they said you have to deny  
3 the permit.

4           Q So there's been no political pressure, whatso-  
5 ever, regarding Mr. Kessler and his permit?

6           A Oh, that's not---that---yeah, that's not the  
7 same thing. You're asking---there's been ton of political  
8 pressure in our community concerning these---these permits.  
9 There were certainly in advance of last year, and there's  
10 certainly after Mr. Kessler submitted the---the permit ap-  
11 plication as well. But that had no bearing on me approving  
12 the permits last year, and denying the permit this year,  
13 it's all based on public safety and what we thought we  
14 could handle.

15           Q All right. I think this will be the last  
16 question. Why did you not suggest to Mr. Kessler that he  
17 hold his rally at McIntire Park this year?

18           A He didn't ask to hold it at McIntire Park this  
19 year.

20           MR. KESSLER: I didn't ask last year.

21           Q All right. Mr. Jones, thanks for coming.

22           A Thank you, sir.

23           MR. LONGSTRETH: Appreciate it. Safe travels  
24 home.

25           Q Thank you.

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And further this deponent saith not.

---

Maurice Jones

1 STATE OF VIRGINIA AT LARGE:

2 I, Brittany L. Herring, Notary Public in and for  
3 the State of Virginia at Large, having been so duly commis-  
4 sioned and qualified, do certify that the foregoing deposi-  
5 tion was so duly taken at the time and place specified in  
6 the caption hereof.

7 I do further certify that said deposition was  
8 correctly taken by mechanical methods and that the same was  
9 accurately written out in full and transcribed into the  
10 English language by Ginger Fitzgerald and that said  
11 transcript is a true, accurate and correct record of the  
12 testimony by said witness.

13 I further certify that I am neither attorney nor  
14 counsel for or related to or employed by any of the parties  
15 to the action in which this deposition was taken and, fur-  
16 ther, that I am not a relative or employee of any attorney  
17 or counsel employed by the parties hereto or financially  
18 interested in this action.

19 My commission expires November 30, 2019.

20 Given under my hand and seal this 21<sup>st</sup> day of  
21 June, 2018.

22

23

24

25