
NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

WAKE COUNTY

SUPERIOR COURT DIVISION

BRIAN CECCARELLI,)
individually and as class)
representative,)
)
Plaintiffs,)
)
v.) No. 10-CvS-019930
)
TOWN OF CARY,)
)
Defendant.)

DEPOSITION OF TIM BAILEY, P.E.

FRIDAY, JUNE 24, 2011

Room 10030

Cary Town Hall

316 North Academy Street

Cary, North Carolina

9:00 a.m.

Volume 1 of 1

Pages 1 through 13

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T A B L E O F C O N T E N T S

WITNESS

DIRECT

TIM BAILEY, P.E.

By Ms. Nickel

4-11

EXHIBITS

NUMBER

DESCRIPTION

MARKED

Plaintiffs

14

Traffic Signal Upgrade, Electrical
and Programming Detail, SR 1497
(Western Boulevard Ext.) and
Convention Drive - Principal Lane,
5/31/91, 6/6/91

8

1 PROCEEDINGS 2:54 p.m.

2 (This deposition was taken pursuant to the North
3 Carolina Rules of Civil Procedure.)

4 (Whereupon,

5 **TIM BAILEY, P.E.**

6 was called as a witness, duly sworn, and testified as
7 follows:)

8 DIRECT EXAMINATION 2:54 p.m.

9 By Ms. Nickel:

10 Q Will you please state your name for the record and
11 your position with the Town?

12 A Tim Bailey, Director of Engineering.

13 Q How long have you been with the Town?

14 A 22 years.

15 Q Okay. Can you describe the progression of your duties
16 and responsibilities starting in 2004 to the present, mainly
17 with regard to traffic, the traffic engineering aspect?

18 A I've been the director of engineering that entire
19 time. I oversee the entire department, which is about 60
20 people, with functions of stormwater, transportation, traffic
21 engineering, utilities, real estate, some field services,
22 those types of things, so traffic engineering is one piece of
23 what I'm involved in.

24 Q And in this time period what is your involvement with
25 actually drafting the plans and the technical logistics as

1 far as traffic signal plans?

2 A I don't do any of that.

3 Q Okay. With regard to the decision to institute the
4 red light camera enforcement program, were you involved in
5 that decision with the town council?

6 A The engineering department prepared the staff report
7 to initially move forward with the program.

8 Q And then as far as you specifically, what was your
9 level of participation or research?

10 Ms. Martineau: In the staff report?

11 Q Leading up to the staff report.

12 A Very little. There was a staff engineer that was here
13 at the time that did most of those. His name is Dale
14 Privett.

15 Q And where is Dale Privett?

16 A I don't know. He does not work for Cary anymore. I
17 think he works for (inaudible), but I do not know.

18 The Reporter: Works where?

19 The Witness: Wilbur Smith. It's a consulting
20 firm.

21 Q So he was here in 2004. Do you recall when he left
22 the Town?

23 A I do not recall the exact date. It's been several
24 years.

25 Q All right. So with the staff report, did the

1 engineering department institute any--or recommend any
2 procedural safeguards to prevent violations that were
3 unlawfully issued with regard to timing or the adherence of
4 the plan?

5 A Did the engineering department? No.

6 Q And then--I've gone over this before, but if you could
7 briefly explain to me the Town's relationship with the NCDOT
8 with regard to the signal timing at the red light camera
9 intersections.

10 Ms. Martineau: Objection to the form of the
11 question. Go ahead and answer if you can.

12 A All traffic signals in the state essentially follow
13 the NCDOT requirements.

14 Q And then NCDOT's requirements for yellow light
15 duration follows a formula; correct?

16 A I don't have direct knowledge about that.

17 Q Okay. So with regard to citations issued by RedFlex,
18 do you have any involvement, or does the engineering
19 department analyze the number of citations? Are you given a
20 report as to that or---

21 Ms. Martineau: (interposing) Objection to the form
22 of the question as to citations issued by RedFlex. Go ahead
23 and answer if you can.

24 A Engineering does not get involved in the--review of
25 citations is what I heard. We do not get involved in that.

1 Q Are you given updates on the number of citations?

2 A A person from the police gives us a report, copies
3 some members of the engineering department on a report that
4 they produce I believe monthly.

5 Q And then that report that's produced monthly, does the
6 engineering department analyze that data, or---

7 A (interposing) No.

8 Q ---use it in determining--no. And then going back to
9 the actual signal timing, does the engineering department
10 ever actually physically go and time--with a stopwatch--time
11 the signals to make sure they're in compliance with the plan?
12 Is that a policy?

13 Ms. Martineau: Objection to the form of the
14 question.

15 A There's not a policy to do that. I'm certain we have
16 done that at times.

17 Q And then would a record be kept?

18 Ms. Martineau: Of what?

19 Q Of those--if there's actual field timing done, would a
20 record be kept by the engineering department?

21 A There could be records in some cases. It's not the
22 type of thing that we--that ends up in a public record that
23 we keep or request. It's more transient type of information.

24 Q So would it be a situation if there were lots of
25 complaints about a signal being off or the timing too short

1 you would investigate? Is there a reaction policy?

2 Ms. Martineau: Objection to the form of the
3 question. Go ahead and answer if you know.

4 A The Town has a policy that we investigate any
5 complaint pretty much at some level, so yes, we would.
6 There's really no--there's no direct policy related to
7 traffic signals.

8 Ms. Nickel: I'd like to introduce into evidence
9 Plaintiffs Deposition Exhibit Number 14. This is a Western
10 Boulevard Extension and Convention Drive signal upgrade dated
11 5/31/91.

12 (Plaintiffs Exhibit 14 was
13 marked for identification.)

14 By Ms. Nickel:

15 Q Can you identify this document?

16 A That's what the title block indicates.

17 Q And then for the speed limit on Western Boulevard
18 Extension, it says it's 35 miles per hour; correct?

19 (Witness peruses document.)

20 Ms. Martineau: She's just asking you. Is that what
21 you see?

22 A Right there (indicating)?

23 Q Yes.

24 A I was looking for it. Yes.

25 Q I guess this is now known as Cary Towne Boulevard?

1 Ms. Martineau: What is now known?

2 Ms. Nickel: I'm sorry.

3 Q Western Boulevard Extension is now Cary Towne
4 Boulevard. Do you recall the speed limit being 45 miles per
5 hour?

6 Ms. Martineau: When?

7 Q As long as you've been with the Town.

8 A Yes.

9 Mr. Stam: Since we didn't have this before, is
10 this a business record of the Town of Cary? I think you're
11 going to respond to that.

12 Ms. Martineau: Right. If you would ask us that in
13 an interrogatory we can respond to that.

14 Mr. Stam: All right.

15 Ms. Nickel: Can I confer with counsel?

16 Ms. Martineau: Oh, sure, absolutely.

17 Ms. Nickel: Thank you.

18 The Reporter: Off the record. 3:00 p.m.

19 (A brief recess was taken.)

20 The Reporter: On the record. 3:06 p.m.

21 By Ms. Nickel:

22 Q Back to the appeals board for the red light camera
23 enforcement, does the appeals board actually come to the
24 engineering department and report complaints or if there's a
25 certain number of complaints?

1 Ms. Martineau: Does the appeals board?

2 Ms. Nickel: Uh-huh.

3 A They can.

4 Q Have they in the past?

5 A There have been engineering members on the board that
6 probably have done research related to questions that would
7 be engineering in nature.

8 Q And is it a number of complaints that leads to an
9 investigation or the strength of the argument, just kind of
10 what your parameters are, or does every complaint get
11 investigated?

12 A I don't think I understand the question. Could you
13 repeat that?

14 Q For these complaints from the appeals board, is there
15 a standard that you follow for investigation?

16 A Well, maybe to clarify, I don't think it's a question
17 of complaints from the appeal board. It's more for informa-
18 tion. The appeals board may ask for information to under-
19 stand how things work to help them in processing things.

20 Q Okay. So with regard to complaints that you receive,
21 the timing is off and that sort of thing, do you have a
22 policy where you investigate every complaint?

23 Ms. Martineau: Are you talking about from the
24 appeals or from a citizen or whoever?

25 Ms. Nickel: From a citizen and/or appeals.

1 A If a citizen or anyone asks us to investigate an issue
2 like that, we would do some basic research and respond.

3 Q Okay. And then looking back to the plaintiff, Brian
4 Ceccarelli, do you recall when he complained that there was
5 no investigation into the safety of Cary Towne and
6 Convention?

7 Ms. Martineau: Objection to the form. Go ahead and
8 answer.

9 A To the safety or to the timing, which is what you
10 mentioned earlier.

11 Q The timing, I'm sorry; the timing.

12 A There was--the complaint I think originated to Mr.
13 Spencer in our office and he did do some follow-up related to
14 the timing.

15 Q Have there been other complaints regarding the timing
16 of that intersection?

17 A Not to my knowledge.

18 Ms. Nickel: Okay.

19 Ms. Martineau: Thank you.

20 Ms. Nickel: Thank you.

21 (The deposition was closed at 3:08 p.m.)

STATE OF NORTH CAROLINA

COUNTY OF WAKE

C E R T I F I C A T E

I, Alexandra Hatcher, Notary Public-Reporter, do hereby certify that **Tim Bailey, P.E.** was duly sworn or affirmed by me prior to the taking of the foregoing deposition, that said deposition was taken by me and transcribed by me, and that the foregoing pages 4 through 11 constitute a true and correct transcript of the testimony of the witness to the best of my ability, and that the witness reserved the right to review his testimony.

I do further certify that I am not counsel for or in the employment of either of the parties to this action, nor am I interested in the results of this action.

In witness whereof, I have hereunto set my hand, this 15th day of July, 2011.

Alexandra Hatcher, CVR
Notary No. 19931480077

S I G N A T U R E

I have read the foregoing pages 4 through 11, which contain a correct transcript of the answers made by me to the questions herein recorded. My signature is subject to corrections on the attached errata sheet, if any.

(Signature of Tim Bailey, P.E.)

State of _____
County of _____

I certify that the following person personally appeared before me this day and I have personal knowledge of the identity of the principal or have seen satisfactory evidence of the principal's identity in the form of a _____ or a credible witness has sworn to the identity of the principal, acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated herein and in the capacity indicated: _____.
(Name of Principal)

Date _____
(Official signature of Notary)

(Official Seal) _____, Notary Public
(Notary's printed or typed name)

My commission expires _____.

I, Alexandra Hatcher, the officer before whom the foregoing deposition was taken on June 24, 2011, certify that the foregoing transcript was delivered to the witness either directly or through the witness' attorney or through the attorney retaining the witness on _____ and that as of this date I have not received the executed signature page.

Therefore, more than 30 days having elapsed since receipt of the transcript by the witness, the sealed original transcript was filed with attorney for Plaintiffs on _____ by means of US Priority Mail, in accordance with Rule 30(e) of the North Carolina Rules of Civil Procedure.

Date

Alexandra Hatcher, CVR
Court Reporter