

In The Matter Of:
ELIZABETH BECKLEY vs.
CITY OF ATLANTA, GEORGIA

MICHELLE WYNN
February 1, 2017
30(b)(6) DEPOSITION



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<p>UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF GEORGIA</p> <hr/> <p>ELIZABETH BECKLEY, Plaintiff,</p> <p>CIVIL ACTION FILE NO. 1:16-CV-01435-MHC</p> <p>vs.</p> <p>CITY OF ATLANTA, GEORGIA, Defendant.</p> <hr/> <p>30(b)(6) DEPOSITION OF CITY OF ATLANTA MICHELLE WYNN</p> <p>10:05 a.m. Wednesday, February 1, 2017</p> <p>Atlanta City Hall 55 Trinity Avenue Atlanta, Georgia</p> <p>Anthony D. Lorenz, Certified Court Reporter</p>	<p>I N D E X</p> <p>WITNESS: MICHELLE WYNN</p> <p>EXAMINATION: PAGE</p> <p>BY MR. RADFORD 4</p> <p>EXHIBITS:</p> <p>WYNN DESCRIPTION PAGE</p> <p>Exhibit-4 Notice of 30(b)(6) deposition. 5</p> <p>Exhibit-5 2010 State of the City's 7 Transportation Infrastructure & Fleet Inventory Report.</p> <p>Exhibit-6 List of completed sidewalk projects 37 from the Quality of Life Bond.</p> <p>(Original exhibits attached to original deposition.)</p>
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<p>APPEARANCES OF COUNSEL</p> <p>On Behalf of the Plaintiff:</p> <p>JAMES RADFORD, ESQ. RADFORD & KEEBAUGH 315 W. Ponce de Leon Avenue, Suite 1080 Decatur, Georgia 30030 678.271.0302 E-mail: james@decaturlegal.com</p> <p>On Behalf of the Defendant:</p> <p>ANISSA D. FLOYD, ESQ. CITY OF ATLANTA DEPARTMENT OF LAW City Hall, Suite 5000 55 Trinity Avenue Atlanta, Georgia 30303-3520 404.546.4100 E-mail: adfloyd@atlantaga.gov</p>	<p>Deposition of MICHELLE WYNN Wednesday, February 1, 2017</p> <p>THEREUPON --</p> <p>MICHELLE WYNN, having been first duly sworn, was examined and testified as follows:</p> <p>MR. RADFORD: This is going to be a deposition taken pursuant to Federal Rule of Civil Procedure 30(b)(6). This is pursuant to a notice served on City of Atlanta on January 23rd, 2017.</p> <p>My name is James Radford. I'm the lawyer representing a plaintiff in the case called Elizabeth Beckley versus City of Atlanta, Georgia, currently pending in the U.S. District Court for the Northern District of Georgia. This is an ADA case regarding a sidewalk in downtown Atlanta.</p> <p>EXAMINATION</p> <p>BY MR. RADFORD:</p> <p>Q. Ma'am, for the record, can you tell us your full name.</p> <p>A. Michelle Wynn.</p> <p>Q. All right. And, Ms. Wynn, are you an employee of the City of Atlanta?</p>

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[1] A. Yes.

[2] Q. And are you here today to give

[3] testimony in response to something called a 30(b)(6)

[4] notice? Are you familiar with that idea?

[5] A. I'm a little bit familiar.

[6] Q. Okay. I'm not going to --

[7] MR. RADFORD: Well, actually, let's go

[8] ahead and mark this.

[9] (Exhibit 4 was marked for

[10] identification.)

[11] Q. (By Mr. Radford) I'm going to show you

[12] what I'm marking as Plaintiff's Exhibit 4. If you

[13] wouldn't mind taking a look at it and tell me if you

[14] recognize it.

[15] A. Yes. I've seen this.

[16] Q. Okay. And your attorney may have

[17] explained this to you, but essentially, we've asked

[18] the City to designate someone to speak on certain

[19] topics. And we've listed that -- there's four topics

[20] we've listed that you can see here on Page 2 of the

[21] notice. And presumably, the city has brought you

[22] here today because you are being designated by the

[23] City to speak on one or more of these topics.

[24] As you look at the topics listed on

[25] Page 2, could you tell me which topics you are

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[1] planning to speak on today?

[2] A. Primarily Topic 3.

[3] MS. FLOYD: Actually, she's 1, 2, and

[4] then 4 --

[5] MR. RADFORD: All right.

[6] MS. FLOYD: -- just to be clear.

[7] MR. RADFORD: All right.

[8] Q. (By Mr. Radford) So 1, 2 and 4. I'll

[9] ask you about each of those.

[10] So Topic No. 1, we've asked about "The

[11] number of and the details of all requests for

[12] installation of sidewalk curb ramps as contemplated

[13] by the 2009 settlement agreement between the City and

[14] the Department of Justice."

[15] Are you able to speak on that topic?

[16] A. Yes.

[17] Q. Okay. No. 2, we've asked "The

[18] identification of all installation of new sidewalk

[19] ramps in order to comply with the 2009 settlement."

[20] Are you prepared to speak on that

[21] topic?

[22] A. Yes.

[23] Q. Okay. And then No. 4, we've asked "The

[24] extent to which the City has repaired or otherwise

[25] brought into ADA compliance, the inventory of non-ADA

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[1] compliant sidewalks, as described in Section 2.3 of

[2] the city's 2010 State of the City's Transportation,

[3] Infrastructure and Fleet Inventory Report."

[4] We further stated, "Plaintiff seeks as

[5] precise a number as possible regarding exactly how

[6] much sidewalk has been brought into compliance and

[7] how much remains out of compliance."

[8] Are you prepared to speak on that

[9] topic?

[10] A. Yes.

[11] Q. Okay. I want to focus on Topic No. 4,

[12] first. And to do that, I'm going to mark an exhibit

[13] as Plaintiff's Exhibit 5.

[14] (Exhibit 5 was marked for

[15] identification.)

[16] Q. (By Mr. Radford) And these are -- this

[17] is the cover page and then the excerpts of a document

[18] we've located called the "2010 State of the City's

[19] Transportation, Infrastructure and Fleet Inventory

[20] Report."

[21] So we basically have the cover page

[22] here, and then we have extracted Pages 9 through 13

[23] of the report, which deals with sidewalk, and

[24] curbing, and ADA ramps.

[25] Are you familiar with this document?

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[1] A. Yes.

[2] Q. Okay. And I should have asked you this

[3] question at the very beginning: What is your

[4] position with the City?

[5] A. I'm the program management officer for

[6] the Renew Atlanta Bond program.

[7] Q. And how long have you been with the

[8] City of Atlanta?

[9] A. I've been with the City of Atlanta

[10] since 2003.

[11] Q. Okay. And I guess in the -- I assume

[12] you've held other positions other than the position

[13] that you currently hold; is that right?

[14] A. Yes.

[15] Q. And can you tell me a little bit about

[16] the other positions you've held, sort of throughout

[17] your history with the City of Atlanta?

[18] A. When I first started with the City, I

[19] was a program manager for resurfacing. After that, I

[20] moved to being a senior program manager for federal

[21] projects; and then I've since just moved up the

[22] ladder, more or less, from program manager to --

[23] right now I'm a program manager. So from project

[24] manager to program manager.

[25] Q. And are you housed within the

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[1] Department of Public Works?
[2] **A.** Currently, I'm not.
[3] **Q.** You're not, okay. And that's with the
[4] new position? -- the bond position you have?
[5] **A.** Correct.
[6] **Q.** Okay. Your career prior to the
[7] position you currently hold, has that been in public
[8] works?
[9] **A.** Yes.
[10] **Q.** And in that position, have you gained
[11] some knowledge of the City's activities with respect
[12] to sidewalks, and resurfacing?
[13] **A.** Yes.
[14] **Q.** Okay. And is it that experience that
[15] you bring today to testify as to the topics that
[16] we've designated?
[17] **A.** Yes.
[18] **Q.** So looking at Plaintiff's [Exhibit 5](#),
[19] does this appear to be a true and accurate copy of
[20] the 2010 State of the City's Transportation,
[21] Infrastructure and Fleet Inventory Report, or at
[22] least a true and correct copy of Pages 9 through 13
[23] of that report?
[24] **A.** It appears to be.
[25] **Q.** Okay. And tell me how -- I imagine

[1] **Q.** Okay. Do you know how they came to
[2] that estimate?
[3] **A.** They did -- basically, there was
[4] another report. There was a report prior to this
[5] that had an estimate, and they used that as the
[6] basis --
[7] **Q.** Okay.
[8] **A.** -- for the update.
[9] **Q.** So it looks like the -- so if you look
[10] at the second sort of heading here, it says,
[11] "Estimated Sidewalk and Curbing Inventory." And it
[12] states, "Based on the 2008 State of the City's
[13] Infrastructure Report, it is estimated that the City
[14] has 2,158 miles of sidewalk and curbing," correct?
[15] **A.** Correct.
[16] **Q.** Okay. So that number is based on what
[17] was contained in the 2008 report, in addition to new
[18] sidewalks that had been constructed since the 2008
[19] report; is that right?
[20] **A.** Approximately, yes.
[21] **Q.** Okay. And there's a -- the third
[22] heading here says, "State of the Inventory," and the
[23] language is, "The 2008 infrastructure report
[24] estimated that about 18 percent of our sidewalk
[25] network can be categorized as deteriorated. Ten

Page 10

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[1] this is not the first time you've seen this document,
[2] so how did you come to know about this document?
[3] **A.** I was somewhat involved when we were
[4] preparing this document.
[5] **Q.** Okay. How were you involved?
[6] **A.** I was part of the review team working
[7] on the format, as well as the verbiage, and helping
[8] to supervise the people that were pulling together
[9] the numbers and -- and that fashion.
[10] **Q.** So some of the things I want to ask you
[11] about today specifically is, for example, Page 9 and
[12] 10 refers to the state of sidewalks in Atlanta, at
[13] least as of, you know, the date that this report was
[14] created. And it looks like, on the front cover, it
[15] says January 2011.
[16] Is that accurate, as to when this
[17] report was generated?
[18] **A.** That's accurate as to when it was
[19] printed.
[20] **Q.** Okay. So to your knowledge, how did
[21] the people who created this report determine how many
[22] miles of sidewalk and curbing were in the City of
[23] Atlanta?
[24] **A.** That was an estimate, because we don't
[25] have a complete inventory of curb and sidewalk.

[1] percent of curbing is estimated in the report to be
[2] deteriorated."
[3] And then, "While small amounts of
[4] infrastructure replacement have occurred over the
[5] past two years, the Department of Public Works
[6] estimates that these replacements have been offset by
[7] further deterioration of the remaining
[8] infrastructure. Therefore, the estimated backlog
[9] rates remain the same as in the 2008 report.
[10] However, replacement costs per mile of construction
[11] have been revised upward from the 2008 report."
[12] Do you -- at least as of the date of
[13] this report, did you know that to be true, or do you
[14] have any reason to state that that is not accurate?
[15] **A.** I think that's an accurate statement.
[16] **Q.** And then to go back up to the very top
[17] of the report -- or this page into the section
[18] "Overview," the statement, "Although new sidewalks
[19] have been installed under the Quality of Life Bond
[20] program, and minor trip hazards have been addressed
[21] since the 2008 infrastructure report, there is no
[22] substantive change to the estimate of existing
[23] deteriorated sidewalks and curbing in the City of
[24] Atlanta. The inner city's sidewalk network of
[25] hexagonal concrete and brick pavers are beyond the

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[1] expected life of 50 years. These sidewalks have
[2] deteriorated, and do not meet the requirements of the
[3] Americans with Disabilities Act (ADA) of 1990."

[4] And do you -- at least as of the date
[5] of this report, was that an accurate statement?

[6] **A.** That's an accurate statement, yes.

[7] **Q.** So getting specifically to Topic 3 --
[8] I'm sorry, Topic 4, which is -- you know, I'm
[9] inquiring as to the extent to which, as of today,
[10] these inventory of noncompliant sidewalks have been
[11] brought into compliance. Can you tell us what
[12] percentage of the noncompliant sidewalks identified
[13] in the 2010 report are today in compliance?

[14] **A.** I cannot tell you a percentage.

[15] **Q.** Okay. Well, what can you tell us?

[16] **A.** I can tell you that there have been
[17] funding, and there have been programs that have been
[18] repairing ADA and sidewalks. So the Quality of Life
[19] Bond had specific projects allocated for repairing
[20] ADA ramps, and installing new sidewalks, as well as
[21] the -- we had an agreement with MARTA in which there
[22] were several million dollars allocated specifically
[23] to ADA ramps and sidewalks around MARTA bus stops.

[24] **Q.** Okay. Now, the Quality of Life Bond,
[25] when was that bond taken out?

[1] you know, there's "X" amount of sidewalks that are
[2] not in AD compliance?

[3] Have you done any kind of preparation
[4] to give me figures as to how much of that has been
[5] brought into compliance?

[6] **MS. FLOYD:** James, if I may, the City
[7] has produced a voluminous number of records
[8] regarding all of that.

[9] **MR. RADFORD:** Right.

[10] **MS. FLOYD:** And she did not have access
[11] to all of the documents that we provided to
[12] you-all. But to the extent the records show
[13] what has been done, the records will speak for
[14] themselves about the number of sidewalks that
[15] have been replaced and repaired and have been
[16] brought up to compliance with the ADA.

[17] **MR. RADFORD:** Yes. And I understand we
[18] have a lot of documents and numbers. But one
[19] purpose of this witness is to help us distill
[20] that, and take data and put it into something
[21] that I can understand, or a layperson can
[22] understand.

[23] **MS. FLOYD:** Unfortunately, we don't
[24] have any -- other than what's in the
[25] documents, we do not have somebody who can sit

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[1] **A.** That bond -- I believe the vote was
[2] 2000, and then the funding ran from about 2002 till
[3] about 2012.

[4] **Q.** Okay. And can you give me an estimate
[5] as to how much sidewalk and curbing was either
[6] installed or repaired as part of that Quality of Life
[7] Bond?

[8] **A.** I cannot give you an exact number, no.

[9] **Q.** Can you give me an estimate?

[10] **A.** No.

[11] **Q.** So you knew that those were the kind of
[12] questions I'd be asking today, correct?

[13] **A.** Yes.

[14] **Q.** Okay. So what, if any, preparation
[15] have you done to try to give me a figure regarding
[16] the amount of sidewalk replacement that's been done
[17] since this report?

[18] **A.** Well, I did not specifically look for a
[19] sidewalk number. I didn't so much focus on sidewalk,
[20] as just looking at different programs that we had had
[21] addressing the ADA ramps. I was more focused on the
[22] ramps than the sidewalks.

[23] **Q.** All right. Well, have you done any
[24] preparation to give me an estimate of how -- you
[25] know, to the extent that this 2010 report identifies,

[1] here and just go through the number, per se,
[2] with you.

[3] **MR. RADFORD:** Okay.

[4] **MS. FLOYD:** Because of the number of
[5] years, and the extensive amount of sidewalks
[6] throughout the City. So to have one person
[7] sit here and do that, we do not have that.

[8] **MR. RADFORD:** Okay.

[9] **Q.** (By Mr. Radford) So you identified the
[10] Quality of Life Bond. Out of that, do you know how
[11] much was dedicated to sidewalk repair, or
[12] installation?

[13] **A.** I apologize. I don't recall. I do
[14] have that number, but I don't recall what it is.

[15] **Q.** Okay. Is that something you could --
[16] is there some document you could look at to refresh
[17] your memory as to that figure?

[18] **A.** Yes.

[19] **Q.** How easy would it be for you to get
[20] that? Is it something you could go to your office
[21] and say, "Hey, give me the documents that show" --

[22] **A.** It's something that I could find. I
[23] couldn't -- I don't know exactly where it is, so I
[24] couldn't run down and just get it. I could --

[25] **Q.** But just to be clear, so we're talking

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[1] about a Quality of Life Bond -- a specific bond that
[2] was taken out in 2000; is that right?
[3] A. Uh-huh.
[4] Q. And was that like a -- something the
[5] voters approved?
[6] A. Yes. It was a referendum.
[7] Q. Okay. And do you know what the total
[8] figure for that bond was?
[9] A. 150.
[10] Q. 150 million?
[11] A. Yeah.
[12] Q. And your testimony is that some amount
[13] of that was put towards sidewalks.
[14] A. Yes.
[15] Q. But you don't know --
[16] A. I don't recall what it is.
[17] Q. Can you say one way or another
[18] whether -- I mean, can you give me any kind of rough
[19] estimate of what percentage of the deteriorated
[20] sidewalks identified in the 2010 report have been
[21] brought into compliance?
[22] A. No.
[23] Q. Do you know for a fact that any
[24] percentage of it has been brought into compliance?
[25] A. Yes.

[1] below that recommendation, there's a table, and the
[2] estimate given here for -- to repair the total
[3] backlog of noncompliant sidewalks, as of 2010, was
[4] \$152 million.
[5] MS. FLOYD: I object to the form,
[6] because it doesn't say "noncompliance." That
[7] was sidewalks in general.
[8] Q. (By Mr. Radford) Well, to fix, I guess,
[9] deteriorated sidewalks, right? -- was \$152 million.
[10] Has that -- has that amount been spent to repair
[11] deteriorated sidewalks?
[12] A. No.
[13] Q. And has there been -- has the City
[14] allocated 15 million annually for sidewalk
[15] maintenance?
[16] A. No.
[17] Q. Do you know when -- so you identified
[18] the Quality of Life Bond. Do you know if any part --
[19] well, as money was being spent on sidewalk repair and
[20] construction, as part of the Quality of Life Bond, do
[21] you know if there was any process in place to
[22] prioritize specifically bringing sidewalks into
[23] compliance with the ADA?
[24] A. There was a portion of the funds that
[25] were specific to ADA ramps.

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[1] Q. Okay. Do you know for a fact whether
[2] it's, you know, more than 10 percent?
[3] A. I would say the challenge with that
[4] type of statement is that while you're bringing one
[5] part in compliance, there's something else that is
[6] deteriorating, worse.
[7] Q. Right.
[8] A. So it's -- I'm not comfortable giving a
[9] number.
[10] Q. Okay. If you look at Page 10, there is
[11] a section that says "Recommendations." And it
[12] states, "The City should first eliminate the current
[13] sidewalk repair inventory backlog. If the backlog is
[14] not eliminated every year, the deterioration in the
[15] sidewalk infrastructure will continue. Once the
[16] backlog has been addressed, the City should then make
[17] a commitment to specifically fund approximately
[18] \$50 million annually for a sidewalk maintenance
[19] program."
[20] Now, does that -- do you agree with
[21] that recommendation, or at least based on the way
[22] things were in 2010?
[23] A. I -- yes. I think that's a reasonable
[24] recommendation.
[25] Q. Okay. And if you look at the -- right

[1] Q. To ADA ramps.
[2] A. Yes.
[3] Q. As part of that Quality of Life Bond.
[4] A. Yes.
[5] Q. And do you know what the specific
[6] figure for ADA ramps was?
[7] A. No. That would be part of the previous
[8] number that I said I could not recall.
[9] Q. Okay. Well, let's talk about the -- so
[10] you identified the Quality of Life Bond as a source
[11] of funds that has come since 2010 for sidewalk
[12] repair, and you mentioned an agreement with MARTA
[13] that was targeted towards the sidewalks surrounding
[14] bus stops; is that right?
[15] A. Correct.
[16] Q. Other than those two sources of funds,
[17] is there any other --
[18] A. The Renew Atlanta Bond -- the current
[19] bond program, also has approximately 5 million that
[20] is specific to ADA and sidewalks.
[21] And then there are other projects that
[22] are -- overlap, and are also repairing sidewalks and
[23] install- -- repairing sidewalks or installing new
[24] sidewalks and ADA ramps.
[25] Q. So when was the Renew Atlanta Bond

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Page 23

[1] passed?

[2] **A.** 2015. March of 2015.

[3] **Q.** And has that funding been -- I guess,

[4] has the bond been issued, at this point?

[5] **A.** Yes. We're actively implementing the

[6] bond.

[7] **Q.** I mean, is the money being spent

[8] actively?

[9] **A.** Yes.

[10] **Q.** And you said the Renew Atlanta Bond,

[11] there's 5 million --

[12] **A.** Specific to ADA and sidewalks.

[13] **Q.** Before we get out today, if you're able

[14] to go back and look at the Quality of Life Bond

[15] documentation, I'd like to know what the figure was

[16] for how much of that was dedicated towards ADA and

[17] sidewalks as well. So we'll go back to that.

[18] Would you agree that \$5 million is far

[19] short, at least, of what was recommended in the 2010

[20] report?

[21] **MS. FLOYD:** Well -- I'm sorry, James.

[22] What number are you referring to in the 2010

[23] report?

[24] **MR. RADFORD:** On Page 10, there's a

[25] recommendation of a 15 million-dollar annual

[1] you'll focus on --

[2] **A.** We're focusing on the streets that

[3] we're resurfacing, so that we are compliant to the

[4] Justice agreement. But we're also doing other

[5] projects that are recommended through council, or

[6] that we get through the public from council.

[7] **Q.** So that 5 million will -- I guess

[8] whenever you're actively resurfacing a road from this

[9] point going forward, that 5 million is allocated

[10] towards ensuring the sidewalks along new resurfacing

[11] is completed.

[12] **A.** Correct.

[13] **Q.** And then I would imagine there's a

[14] backlog, though, of sidewalks that are noncompliant.

[15] How are you funding the backlog, as

[16] opposed to the stock of sidewalks as part of new

[17] resurfacing projects?

[18] **A.** That is being more handled in DPW, but

[19] they do have -- they have had some increases in their

[20] operational budget, to address.

[21] **Q.** So any backlog would be handled through

[22] the Department of Public Works budget. Fair?

[23] **A.** It's a combination. I mean, there are

[24] the Renew -- there are specific projects that we are

[25] working with council members on that they are using

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[1] sidewalk maintenance program, and then

[2] 152 million to fix the current backlog.

[3] **MS. FLOYD:** Okay. But that 15 million,

[4] as I'm reading it, is for the entire sidewalk

[5] maintenance program. It doesn't say that it's

[6] specific to ADA.

[7] **MR. RADFORD:** Okay. I understand what

[8] you're saying.

[9] **Q.** (By Mr. Radford) Of the 5 million in

[10] the Renew Atlanta Bond, is that just for ADA

[11] compliance, or is that for sidewalks as a whole?

[12] **A.** We're using it for ADA compliance,

[13] meaning we're doing ramps, and we are doing a

[14] sidewalk that we consider to be impassable within

[15] the -- within the stretch of sidewalk.

[16] **Q.** Okay. And do you know, is 5 million

[17] enough to repair any certain percentage of the ADA

[18] noncompliant sidewalks?

[19] **A.** We are actually -- the bond also has

[20] resurfacing in it, so we're really using the

[21] five percent to address specifically those streets

[22] that we resurface, and then other streets that are

[23] requested, either through a council member or through

[24] the public.

[25] **Q.** So you're saying the 5 million --

[1] funding that's not specifically ADA funding, but it's

[2] still Renew funding, that is addressing sidewalk and

[3] ADA issues as well.

[4] **Q.** Okay. I guess there's a lot of

[5] sidewalk, so it's kind of hard to say exactly what

[6] money's going to what.

[7] **A.** Right. That's a true statement.

[8] And there are a lot of different

[9] projects. A lot of your federal projects that we do

[10] in conjunction with GDOT and some of our other

[11] partners also, even though there -- it may be an

[12] intersection improvement, but we will also fix ADA

[13] and sidewalk when we do those projects. So you have

[14] a lot of other projects that are also addressing ADA

[15] and sidewalk.

[16] **Q.** Okay. But for -- organizationally

[17] speaking, is it fair to say that the backlog of

[18] noncompliant sidewalks, if it's not part of a new

[19] resurfacing project, the repair of it would be

[20] handled through the Department of Public Works?

[21] **A.** It could also be part of a project in

[22] the bond. It could be part of a different project in

[23] the bond. We have some -- council members have a

[24] certain pot of money. Some of them have specifically

[25] identified sidewalk projects that they want us to do

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[1] with that money. So there are other projects within
[2] the bond that are also doing sidewalk.

[3] **Q.** So there's additional funds that could
[4] go to a sidewalk repair, if it was -- if it was being
[5] repaired in conjunction with some other project that
[6] a council member had requested.

[7] **A.** Right. Or just a bigger -- we have
[8] about 20 complete street projects in there. A lot of
[9] them will be addressing sidewalk and ADA, for
[10] whatever limits are set on that particular project,
[11] as we go through and do the rest of the project.

[12] **Q.** Okay. So fair statement to say,
[13] 5 million allocated specifically towards ADA and
[14] sidewalk compliance; and then if there's another
[15] project outside of that 5 million, in which to do the
[16] project, you would need to fix the sidewalks, but
[17] there could be some sidewalk repair as part of those
[18] larger projects.

[19] **A.** I would say there's a good bit of
[20] sidewalk repair in some of those other projects.

[21] **Q.** Understood. All right.

[22] ADA ramps. I think you alluded earlier
[23] that you were most prepared to speak on the issue of
[24] ADA ramps. So I guess let me just ask you, in a
[25] general sense, what can you tell me about what the

[1] referring to 2010. "This year's ADA ramp assessment
[2] found the following at 18,884 intersection nodes with
[3] ADA ramp requirements: 3,080 intersection nodes were
[4] compliant; 8,705 intersection nodes had ADA ramps
[5] that are currently noncompliant with today's
[6] standards; and 7,099 intersection nodes have no ADA
[7] ramps where needed."

[8] Was that an accurate statement, at
[9] least as of 2010?

[10] **A.** Yes. Based on the methodology or the
[11] assumptions that they made, that was a
[12] reasonable . . .

[13] **Q.** And so of the 8,705 intersection nodes
[14] with noncompliant ADA ramps, and the 7,099
[15] intersection nodes with no ADA ramps, how many --
[16] among those, can you tell me, either in number or a
[17] percentage, those that have been brought into
[18] compliance?

[19] **A.** Could you ask that again?

[20] **Q.** Yes. Of the noncompliant -- the 8,705
[21] noncompliant ramps, and the 7,099 intersections with
[22] no ramps, that's roughly -- let's see. Let me do the
[23] math. That would be 15,804 noncompliant
[24] intersections. Can you tell me a number, or a
[25] percentage of those, that have been brought into

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[1] City's doing to address any noncompliant ADA -- or
[2] any intersections that are noncompliant because of
[3] the lack of ADA ramps?

[4] **A.** Well, like I said, specifically in the
[5] bond -- the current bond, as we resurface streets --
[6] actually before we resurface streets. Once we
[7] identify the streets as needing to be resurfaced, or
[8] are on our resurfacing list, we also go out and do an
[9] assessment specifically of the ADA ramps. And we
[10] also are looking at sidewalks along the street.

[11] And then we are assigning -- typically
[12] through a separate contract, but sometime in the same
[13] contract as the resurfacing, we're assigning that
[14] work to have that completed, ideally, before the
[15] resurfacing, but if not before, then shortly after
[16] the resurfacing has occurred.

[17] And similarly, DPW is doing that with
[18] the LMIG program: local maintenance improvement
[19] grant.

[20] **Q.** All right. So looking at the 2010
[21] report, if you look at Page 11, which is where the
[22] discussion of ADA ramps begins, if you'll look down
[23] towards the bottom half of that page, there's a
[24] section called "State of the Inventory."

[25] And it states there that "This year" --

[1] compliance since then?

[2] **A.** What was that total number you had
[3] again?

[4] **Q.** 15,804.

[5] **MS. FLOYD:** James, too, when you're
[6] talking about those 8,705 intersection nodes
[7] that had ADA ramps that are currently
[8] noncompliant with today's standards, that
[9] would include, you know, places that -- you
[10] know, streets that were existing before the
[11] passage of the ADA.

[12] **MR. RADFORD:** Well, so let's clarify
[13] that.

[14] **MS. FLOYD:** Yes.

[15] **MR. RADFORD:** So if you look at the
[16] sentence right after that, it says, "The
[17] condition of ramps along streets that have not
[18] been resurfaced since 2010 has not been
[19] inventoried."

[20] **MS. FLOYD:** Okay. Since 1992 --
[21] okay -- has not been inventoried.

[22] **MR. RADFORD:** So this is based on
[23] inventory of streets that had been resurfaced
[24] since 1992.

[25] **MS. FLOYD:** Okay.

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[1] Q. (By Mr. Radford) And if you'll -- let's
[2] go back and clarify that.
[3] If you look up the page, do you see the
[4] section that says, "ADA Ramp Inventory"? And it
[5] says, "During this calendar year, in-house staff of
[6] the Department of Public Works has extensively
[7] revisited nonstate route locations within the City
[8] which have been resurfaced since 1992."
[9] So the inventory we see here is based
[10] on streets that had been resurfaced since 1992,
[11] correct?
[12] A. Say that whole thing again? I'm sorry.
[13] Q. So you can see from that sentence that
[14] I read, the inventory that we see here in this report
[15] of intersections, and intersection ramps, is based on
[16] streets that had been resurfaced since 1992, correct?
[17] A. Correct.
[18] Q. Okay. And of those, there were this
[19] 15,804 number of intersections that were not
[20] compliant -- whose ramps were not compliant with ADA.
[21] So I guess I'm asking you, do you know
[22] how much of that has been brought into compliance
[23] since this report?
[24] A. Since this report.
[25] Q. Yes.

[1] have a ramp that was installed, but it does not meet
[2] the current standards, so a lot of the ramps that
[3] have been installed are simply not up to current ADA
[4] standard.
[5] Q. Okay.
[6] A. They don't have the -- the technical
[7] warning, or the slope is not correct.
[8] Q. Let me ask you this question, as
[9] someone who's been involved in public works. And if
[10] you don't know, you don't know. That's fine.
[11] But for any given road that has a --
[12] you know, a moderate level of traffic -- you know, a
[13] road that's used fairly well, in order to keep that
[14] road into being able to be, you know, reasonably
[15] used, about how often does it need to be repaved?
[16] A. Are you talking about an arterial, or a
[17] collector, or . . .
[18] Q. Well, I don't know what those are. So
[19] tell me about -- if there's different types and a
[20] distinction -- you know, the answer is different for
[21] different types, explain that to me.
[22] A. So a really -- a big street -- an
[23] arterial -- your Piedmont or something that's well
[24] traveled -- Peachtree Road in Buckhead, ideally,
[25] you'd want to address that maybe every 10 to 12

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[1] A. I don't have an exact number. I can
[2] give an estimate, but that would be an estimate.
[3] Q. Well, give me your best estimate. And
[4] you know, it's on the record that it's just an
[5] estimate, so, you know, that's fine. But can you
[6] give me an estimate?
[7] A. I would estimate maybe about
[8] five percent.
[9] Q. Have been brought into compliance?
[10] A. Yes.
[11] Q. And why is that number so low?
[12] A. Well, I think because the ask is so
[13] high. I mean, the expectation is so high.
[14] Q. Just -- it's expensive, basically.
[15] Right?
[16] A. Yes.
[17] Q. Is that right?
[18] A. Yes.
[19] Q. Do you know why?
[20] So these are streets that were paved
[21] since 1992. Do you know why the -- you know, the
[22] ramps weren't brought into compliance along with the
[23] paving -- the repaving project?
[24] A. I think you also have the factor in the
[25] fact that the standards have changed. So you could

[1] years.
[2] Q. Just normal wear and tear on the
[3] surface?
[4] A. (Witness nods head.)
[5] Q. Okay. And is that about what the City
[6] of Atlanta does?
[7] A. A lot of our really large streets are
[8] state routes, and they're responsible for the
[9] resurfacing of them.
[10] On something smaller -- a collector,
[11] you might shoot for 15 to 20 years.
[12] Q. Okay.
[13] A. Your local streets try to go 30, if you
[14] can.
[15] Q. And what would be an example of a
[16] collector?
[17] A. An example of a collector -- like
[18] Trinity, right outside of here. That would more like
[19] a -- again, but that one does happen to be a state
[20] route, but Trinity would be like a collector. It's a
[21] feeder street to a larger street.
[22] Q. So arterial would be the most traffic
[23] streets; collectors would be in the middle.
[24] A. Uh-huh.
[25] Q. Medium traffic streets, for lack of a

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[1] better term, and then --

[2] **A.** Just local neighborhood streets.

[3] **Q.** Okay. So for an arterial -- the most

[4] traffic streets, ideally you replace those every 10

[5] to 12 years; for a collector, the medium traffic,

[6] every 15 to 20 years?

[7] **A.** (Witness nods head.)

[8] **Q.** Is that a "yes"? I'm sorry. The court

[9] reporter can't --

[10] **A.** Yes. I'm sorry.

[11] **Q.** And in general, has the City of Atlanta

[12] maintained that kind of maintenance schedule for its

[13] roads?

[14] **A.** I've only been here since 2003, so I've

[15] not necessarily seen a full cycle. I've been here

[16] slightly over 10. But again, most of our arterials

[17] are done through GDOT.

[18] I do know that some streets do -- have

[19] hit that frequency. I can't say that it's done

[20] universally for all streets.

[21] **Q.** Okay.

[22] **MR. RADFORD:** I need to take a quick

[23] break. I keep getting calls.

[24] **MS. FLOYD:** All right.

[25]

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[1] (A short recess was taken, after which

[2] the following proceedings were had:)

[3] **Q.** (By Mr. Radford) So we've talked about

[4] Topic 4 on the 30(b)(6) notice.

[5] Going back to Topics 1 and 2, we asked

[6] that -- "the number of and details of all requests

[7] for installation of sidewalk curb ramps as

[8] contemplated by the 2009 settlement agreement"; and,

[9] 2, "the identification of all installation of new

[10] sidewalk ramps in order to comply with the 2009

[11] settlement."

[12] Are you prepared to tell us the number

[13] of requests for installation of sidewalk curb ramps,

[14] and the installation of those, in order to comply

[15] with the 2009 settlement?

[16] **MS. FLOYD:** Excuse me, Jim. We did

[17] provide documents, too, in response to that,

[18] that you have already received with all the

[19] requests.

[20] **MR. RADFORD:** Right. I understand. I

[21] mean, I'm asking the witness if she can -- I

[22] mean, I know we have the documents, but I'm

[23] asking the witness if she can speak on that.

[24] **THE WITNESS:** I can speak on it. I

[25] can't memorize the exact number, but I know

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[1] that we provided that information.

[2] **Q.** (By Mr. Radford) Okay. I mean, have

[3] you reviewed -- did you review that information to

[4] prepare you for the deposition?

[5] **A.** I mean, I looked at it. I actually

[6] went out and found some of it, but I didn't sit down

[7] and memorize it.

[8] **Q.** Well, do you know a number, or a rough

[9] number of how many sidewalk curb ramps have been

[10] installed, you know, to come into compliance with the

[11] 2009 settlement agreement?

[12] **A.** I believe we provided a list of the

[13] things that had been completed by the MARTA project,

[14] as well as the ones that we had indicated in -- 2010,

[15] I think? -- that were -- had been completed as of

[16] that date?

[17] **Q.** But I mean, sitting here today, you

[18] can't tell me the number?

[19] **A.** No, I can't.

[20] **Q.** All right. Can we take a break and go

[21] back and get -- try and get the number of the level

[22] of funding from the 2000- -- which was the previous

[23] Quality --

[24] **A.** The Quality of Life?

[25] **Q.** Yes. What was the previous Quality of

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[1] Life Bond? -- the date of it?

[2] **A.** 2000.

[3] **Q.** The 2000 Quality of Life Bond? Can we

[4] get the number as to how much funding was allocated

[5] towards the sidewalk repair from that?

[6] **A.** I can get that.

[7] (A short recess was taken, after which

[8] the following proceedings were had:)

[9] **MR. RADFORD:** Back on the record.

[10] **Q.** (By Mr. Radford) So we had taken a

[11] break. I'd asked you if you could give us a number

[12] as to how much money was spent on sidewalk

[13] improvements as part of the series of bonds that we

[14] call the "2000 Quality of Life Bond." And were you

[15] able to locate that number?

[16] **A.** That number, I totaled it. It is above

[17] 50 million, is what -- and it's -- I pretty much did

[18] a total when I was at my computer. I don't know that

[19] it printed the total.

[20] But combining the -- there were three

[21] different issues of the bond. So if you total up the

[22] amount for each of the three columns, there's a first

[23] issuance, a second issuance and a third issuance.

[24] And each sidewalk is not funded in each issuance.

[25] Some of them are completely in one; some are in one

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[1] and two, or two and three, or -- it could be all
[2] three or it could be one. But it totals about 50- to
[3] 60 million.

[4] Q. Fifty- to 60 million?

[5] A. Yeah. I think it came out to about
[6] just under 60.

[7] Q. And these were funds that were spent
[8] during what period of time?

[9] A. This would have been spent between
[10] 2004, and about 2011, 2012-ish.

[11] Q. And that's for general sidewalk
[12] improvements, which -- I would assume that's a pretty
[13] broad category.

[14] A. Correct.

[15] Q. Okay. Would that include construction
[16] on new sidewalks?

[17] A. Yes. And these are not just
[18] construction funds. It would include design as well.
[19] So, I mean -- because the entire project is not
[20] just -- I can't construct it unless I design it.

[21] Q. Okay. Gotcha.

[22] MR. RADFORD: And why don't we mark
[23] this document as Plaintiff's [Exhibit 6](#).
[24] ([Exhibit 6](#) was marked for
[25] identification.)

[1] Topics 1, 2 and 4 of the 30(b)(6). And when we
[2] started, you had stated that you also were able to
[3] speak on Topic No. 3, which is the City's position
[4] regarding why sidewalk ramps have not to date been
[5] installed at the intersection of Martin Luther King
[6] Boulevard and Centennial Olympic Park Drive.

[7] Do you have any knowledge as to that
[8] topic?

[9] A. I know that that particular
[10] intersection is a bridge, and that that bridge has
[11] not been replaced; though it is on our list for
[12] bridge replacement.

[13] Q. Okay. So the bridge hasn't been
[14] replaced, but what about repaving? Has the road
[15] along that bridge been repaved since 1992?

[16] A. We typically do not mill and repave
[17] bridges. That's just -- it's not the best way to do
[18] that, because you can damage the actual substructure
[19] of the bridge.

[20] So no, I've not seen any record that we
[21] have resurfaced that street since -- that bridge.

[22] Q. How would you -- I guess maintain the
[23] surface of a bridge like that?

[24] A. Typically -- you really don't resurface
[25] it. You might do something called micro-surfacing,

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[1] Q. (By Mr. Radford) Could you identify
[2] what Plaintiffs [Exhibit 6](#) is on the record?

[3] A. This is a list of completed sidewalk
[4] projects from the Quality of Life Bond.

[5] Q. And that's the 2000 bond, correct?

[6] A. Right. So this would be from 2003 --
[7] 2004 to about 2011, when this work would have been
[8] completed.

[9] Q. And do you know -- if we can go back to
[10] Plaintiff's [Exhibit 5](#), we were looking at -- on
[11] Page 10, on the "Recommendations" section, there was
[12] a -- I think there was a statement in there that -- a
[13] total backlog -- or the funding required to address
[14] the total backlog of sidewalk repair as of this
[15] report, was \$152 million.

[16] Do you know whether any of the funds
[17] that are represented in Plaintiff's [Exhibit 6](#) from
[18] the Quality of Life Bond -- do you know whether any
[19] of those funds match up to -- or went towards what's
[20] identified here as the backlog?

[21] A. There would be some overlap. I
[22] couldn't tell you specifically what percentage was
[23] addressed with those funds.

[24] Q. Okay. Fair enough.

[25] So I believe you're designated as to

[1] where you just put a really thin layer of asphalt on
[2] it.

[3] Q. Micro-surfacing?

[4] A. Yes.

[5] Q. And would you expect that -- so you
[6] said it hasn't been milled and repaved?

[7] A. That's the way we typically resurface
[8] streets. You want to take up the bad asphalt and put
[9] down new.

[10] Q. So for a bridge, you wouldn't file off,
[11] or dig up --

[12] A. You really don't want to do that. You
[13] wouldn't want to do that. So you really would hope
[14] that that surface can maintain itself throughout the
[15] life of the bridge, and then it would get redone when
[16] the bridge is redone.

[17] Q. But there is something called
[18] micro-surfacing that can be done on a bridge?

[19] A. But that's such a smaller layer of
[20] asphalt topping. And we typically have only just
[21] started doing that at the City, and we only do it on
[22] really small local streets.

[23] So we would not have done that -- we
[24] definitely would not have done that before -- I think
[25] we've only been doing it for about maybe three years.

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[1] So we wouldn't have done it any time before, for
[2] this, you know.
[3] **Q.** Do you know for a fact? I mean, can
[4] you state for a fact whether that -- the surface of
[5] that bridge has been repaved or not?
[6] **A.** I can say that I've seen no records
[7] that it has been resurfaced.
[8] **Q.** What about the roads leading to the
[9] bridge?
[10] **A.** Well, actually, that whole -- that
[11] bridge it pretty long. The bridge on COP goes all
[12] the way back to CNN Center, pretty much back to
[13] Marietta, almost. And then the bridge on MLK
[14] actually comes all the way back to where the old
[15] Rich's was.
[16] **Q.** Okay. So is that -- as far as you
[17] know, is that the City's position as to why that
[18] sidewalk has not been brought into compliance?
[19] **A.** Right. Because those ADA ramps will be
[20] addressed when the bridge is replaced.
[21] **Q.** And is there a plan to bring that -- or
[22] to replace that bridge?
[23] **A.** We just actually received an RFP. The
[24] proposals just came in last week on that project, so
[25] we're reviewing that RFP now for design.

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[1] **Q.** Do you know whether any work has been
[2] done on the sidewalks leading to the bridge, or --
[3] **A.** There's been no work on the ADA ramps,
[4] or the sidewalk on the bridge structure. Because
[5] again, that's -- you don't want to disturb that,
[6] because it's part of the substructure of the bridge.
[7] **Q.** All right.
[8] **MR. RADFORD:** I don't think I have
[9] anything further.
[10] **MS. FLOYD:** And we will read and sign,
[11] and I'll take a printed copy and electronic
[12] copy.
[13] **THE REPORTER:** All right.
[14] (Pursuant to Rule 30(e) of the Federal
[15] Rules of Civil Procedure and/or O.C.G.A.
[16] 9-11-30(e), signature of the witness has been
[17] reserved.)
[18]
[19] (Thereupon, the deposition was
[20] concluded at 11:35 a.m.)
[21]
[22]
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C E R T I F I C A T E

[1]
[2] STATE OF GEORGIA:
[3] FULTON COUNTY:
[4] I hereby certify that the
[5] foregoing deposition was reported, as
[6] stated in the caption, and the questions
[7] and answers thereto were reduced to the
[8] written page under my direction, that the
[9] preceding pages represent a true and
[10] correct transcript of the evidence given
[11] by said witness.
[12] I further certify that I am not of
[13] kin or counsel to the parties in the
[14] case, am not in the regular employ of
[15] counsel for any of said parties, nor am I
[16] in any way financially interested in the
[17] result of said case.
[18] Dated this 13th day of February, 2017.
[19]
[20] ANTHONY D. LORENZ, CCR-B-2022
[21] RDR-CRR
[22]
[23]
[24]
[25]

Page 44

DISCLOSURE OF NO CONTRACT

[1]
[2]
[3] I, Anthony D. Lorenz, do hereby
[4] disclose pursuant to Article 10.B of the Rules
[5] and Regulations of the Board of Court
[6] Reporting of the Judicial Council of Georgia
[7] that Elizabeth Gallo Court Reporting, LLC was
[8] contacted by the party taking the deposition
[9] to provide court reporting services for this
[10] deposition, and there is no contract which is
[11] prohibited by O.C.G.A. 15-41-37(a) and (b) or
[12] Article 7.C of the Rules and Regulations of
[13] the Board for the taking of this deposition.
[14]
[15] There is no contract to provide court
[16] reporting services between Elizabeth Gallo
[17] Court Reporting, LLC or any person with whom
[18] Elizabeth Gallo Court Reporting, LLC has a
[19] principal and agency relationship nor any
[20] attorney at law in this action, party to this
[21] action, party having a financial interest in
[22] this action, or agent for an attorney at law
[23] in this action, party to this action, or party
[24] having a financial interest in this action.
[25] Any and all financial arrangements beyond our
usual and customary rates have been disclosed
and offered to all parties.
Dated this 13th day of February, 2017.
Anthony D. Lorenz, CCR-B-2022
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45

1 E R R A T A S H E E T

2 DEPOSITION OF: MICHELLE WYNN

3 I do hereby certify that I have read all questions
4 propounded to me and all answers given by me on the
5 1st day of February 2017, taken before Anthony D.
6 Lorenz, and that:

6 ____ 1) There are no changes noted.

7 ____ 2) The following changes are noted:

8 Pursuant to Rule 30(e) of the Federal Rules of Civil
9 Procedure and/or O.C.G.A. 9-11-30(e), both of which
10 read in part: Any changes in form or substance which
11 you desire to make...shall be entered upon the
12 deposition...with a statement of the reasons
13 given...for making them.

14 To assist you in making any such corrections, please
15 use the form below. If supplemental or additional
16 pages are necessary, please furnish same in
17 typewriting annexed to this deposition.

14 Page ____ Line ____ should read: _____

15 _____

16 Page ____ Line ____ should read: _____

17 _____

18 Page ____ Line ____ should read: _____

19 _____

20 Page ____ Line ____ should read: _____

21 _____

22 Page ____ Line ____ should read: _____

23 _____

24 Page ____ Line ____ should read: _____

25 _____

46

1 DEPOSITION OF: MICHELLE WYNN

2 Page ____ Line ____ should read: _____

3 _____

4 Page ____ Line ____ should read: _____

5 _____

6 Page ____ Line ____ should read: _____

7 _____

8 Page ____ Line ____ should read: _____

9 _____

10 Page ____ Line ____ should read: _____

11 _____

12 Page ____ Line ____ should read: _____

13 _____

14 Page ____ Line ____ should read: _____

15 _____

16 _____

17 _____ MICHELLE WYNN

18 Sworn to and subscribed before me,

19 _____, Notary Public.

20 This _____ day of _____ 2016.

21 My Commission Expires: _____

22 _____

23 Please forward corrections to:
24 JPA Reporting, LLC
25 1776 Peachtree Street, NW, Suite 230-S
Atlanta, Georgia 30309
(404)853-1811

	18:17;20:19	bus (2) 13:23;20:14	construct (1) 37:20
\$	around (1) 13:23	C	constructed (1) 11:18
\$152 (3) 19:4,9;38:15	arterial (4) 31:16,23;32:22; 33:3	calendar (1) 29:5	construction (4) 12:10;19:20; 37:15,18
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