

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS
STATE OF MISSOURI

ADAM PAUL,)	
)	
Plaintiff,)	
)	
vs.)	Case 13SL-CC00699
)	Div. 33
)	
THE CITY OF ELLISVILLE,)	
MISSOURI, et al.,)	
)	
Defendants.)	

VOLUME III

THE DEPOSITION OF PAUL MARTIN

Taken on behalf of Plaintiff

March 27, 2013

Jo Ann Sturm, RPR, CSR, CCR
REGISTERED PROFESSIONAL REPORTER
ILLINOIS CSR NUMBER: 084-002267
MISSOURI CCR NUMBER: 716

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St. Louis, Missouri 63117
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3 DEPONENT PAUL MARTIN

4 Direct Examination By Mr. Pleban233

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1 APPEARANCES

2

3 The Plaintiff, ADAM PAUL, was

4 represented by Mr. C. John Pleban of the law firm of

5 Pleban & Petruska, LLC, 2010 South Big Bend Boulevard,

6 St. Louis, Missouri 63117.

7 The Defendant, THE CITY OF ELLISVILLE,

8 MISSOURI, et al., were represented by Mr. J. Patrick

9 Chassaing of the law firm of Curtis, Heinz, Garrett &

10 O'Keefe, P.C., 130 South Bemiston, Suite 200, Clayton,

11 Missouri 63105.

12 The Defendants, COUNCIL MEMBERS, were

13 represented by Mr. John Maupin of the law firm of

14 Eckenrode-Maupin, 8000 Maryland, Suite 1300, St.

15 Louis, Missouri 63105.

16

17 Also Present: Mr. Kevin Bookout

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1 IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS

2 STATE OF MISSOURI

3

4 ADAM PAUL,)

5 Plaintiff,)

6 vs.) Case 13SL-CC00699

7) Div. 33

8 THE CITY OF ELLISVILLE,)

9 MISSOURI, et al.,)

10 Defendants.)

11

12

13 THE DEPOSITION OF DEPONENT

14 produced, sworn, and examined on behalf of the

15 Plaintiff, on March 27, 2013, between the hours of

16 10:46 a.m. and 11:35 a.m. on that day, at the law

17 offices of Ellisville City Hall, 1 Weis Avenue,

18 Ellisville, MO 63011, before JO ANN STURM, a

19 Registered Professional Reporter, an Illinois

20 Certified Shorthand Reporter and a Certified Court

21 Reporter within and for the County of St. Louis, State

22 of Missouri.

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1 IT IS HEREBY STIPULATED AND AGREED by and

2 between counsel for the Plaintiff and counsel for the

3 Defendants that the deposition of PAUL MARTIN may be

4 taken in shorthand by Jo Ann Sturm, a Certified Court

5 Reporter, and afterwards transcribed into typewriting,

6 and the signature of the witness is waived by

7 agreement of counsel and the witness.

8 * * * * *

9 PAUL MARTIN,

10 of lawful age, being produced, sworn, and examined on

11 the part of the Plaintiff, and after responding "I do"

12 to the oath administered by the court reporter,

13 deposes and says:

14 * * *

15 DIRECT EXAMINATION

16 BY MR. PLEBAN

17 Q Tell us your name again for the record,

18 please, sir.

19 A Paul Martin.

20 Q And you are the same Paul Martin who gave

21 testimony in this matter previously; is that correct?

22 A Yes.

23 Q Why don't you let us know when you're ready.

24 A I'm ready.

25 Q You've had occasion to review Exhibit 17; is

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1 that correct, sir?
 2 A Yes.
 3 Q And, in fact, you drafted Exhibit 17; is
 4 that right?
 5 A That is correct.
 6 Q I want to go back to item 1A, 1A(2), I
 7 believe it is, and that's the allegation that deals
 8 with the disclosure of confidential legal opinion
 9 regarding the Wal-Mart TIF ordinance. Do you see
 10 that?
 11 A Yes.
 12 Q To whom do you claim he disclosed that
 13 opinion?
 14 A I do not know.
 15 Q Item A -- 1A(3) says that there's another
 16 October 30th, 2012. He disclosed the contents of a
 17 closed-session discussion, and to whom do you claim
 18 that he disclosed that?
 19 A Ed O'Reilly.
 20 Q Anyone else?
 21 A No. Other than Ed O'Reilly, I do not know.
 22 Q Item four of charge A, it says: On a date
 23 unknown but prior to December 15th that the mayor
 24 disclosed the contents of issues regarding Tri-Star
 25 Mercedes dealership property.

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1 To whom do you claim that he disclosed that
 2 information?
 3 A Unknown.
 4 Q If you go to charge B, yeah, there you go,
 5 at the bottom of the page there. Bottom of Page 3, 2.
 6 A B2.
 7 Q Bottom of Page 2. No, I'm on B and on Page
 8 2 of Exhibit 17.
 9 A Yes.
 10 Q You claim under item B that the mayor
 11 attempted to affect the replacement of the city
 12 attorney. Now, would that be you?
 13 A Yes, sir.
 14 Q Then you drafted this allegation as well; is
 15 that correct?
 16 A I did.
 17 Q And what is your evidence that he attempted
 18 to effectuate your replacement?
 19 A The mayor's emails and a subsequent
 20 closed-session discussion of the city council.
 21 Q Now, were you ever removed from your
 22 position as city attorney?
 23 A No.
 24 Q Were you ever in any respect suspended from
 25 that position?

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1 A No.
 2 Q So from April the 18th until the present,
 3 you have served continuously as the city attorney for
 4 the City of Ellisville; is that correct?
 5 A Yes.
 6 Q Item C that you wrote there, B -- I guess
 7 it's 3C. It says: No person seeks appointment,
 8 promotion or retention with respect to any seat,
 9 position or appointed seat or office shall directly
 10 give, render or pay any money, service or other
 11 valuable thing. Do you see that?
 12 A No, I do not.
 13 Q Maybe that was taken out.
 14 You have a contract currently with the City
 15 of Ellisville?
 16 A Yes.
 17 Q How long have you had that contract with the
 18 City of Ellisville?
 19 A The last one, I believe, was entered into
 20 perhaps five years ago.
 21 Q You were appointed as the city attorney in
 22 2004, according to the allegation, I think, according
 23 to your former testimony; is that correct?
 24 A I think that's correct.
 25 Q How many contracts have you had with the

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1 City of Ellisville from 2004 to the present?
 2 A I believe only two.
 3 Q The first contract that you had, did you
 4 prepare that contract?
 5 A I'm sure I did.
 6 Q And the second contract that you had, when
 7 was the first -- the first one was amended, I'm
 8 assuming, some place along the line?
 9 A Yes.
 10 Q Do you remember what year that was?
 11 A No.
 12 Q What were the changes from the first to the
 13 second, do you recall?
 14 A The only change that I recall is an increase
 15 in the hourly fees.
 16 Q From what to what?
 17 A I do not recall what it used to be, but it
 18 was from whatever it was to \$175 an hour.
 19 Q And that would have been for services --
 20 that would have been for retainer services or
 21 nonretainer or consistent with what we talked about
 22 the last time?
 23 A Yes, there was a -- there was also a
 24 retainer service component that incorporated the
 25 prosecutorial work. I don't exactly remember when

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1 that came in place, but that might have been a part of
 2 the 2005 amendment, five years ago amendment.
 3 **Q And item B, subparagraph five, indicates**
 4 **that Mayor Paul informed the city clerk that your**
 5 **contract was about to expire. And do you see the**
 6 **allegations in that particular paragraph? Take just a**
 7 **minute to read it.**
 8 A Yes.
 9 **Q Great. What evidence do you have that that**
 10 **occurred?**
 11 A Again, his email, I believe, for the city
 12 clerk probably dated August 10th.
 13 **Q That email you're talking about?**
 14 A Yes.
 15 **Q Any other information beyond the email?**
 16 A No.
 17 MR. PLEBAN: Can I get a copy of this so I
 18 can have him --
 19 THE WITNESS: I've got a copy if you want to
 20 wait for a second.
 21 (Discussion off the record.)
 22 BY MR. PLEBAN
 23 **Q Item B6 of Exhibit 17, what is -- what**
 24 **evidence do you have of -- to support item B6?**
 25 A I believe that's another email.

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1 **Q Again, an email from Mayor Paul?**
 2 A From Mayor Paul to the city clerk.
 3 **Q Anything else beyond that?**
 4 A There was this discussion that occurred at a
 5 closed session. I don't know the date, but it was
 6 shortly after those emails.
 7 **Q A discussion with whom?**
 8 A City council.
 9 **Q Anyone else?**
 10 A No.
 11 **Q Now, below item B6, you say: Mayor Paul's**
 12 **attempt to remove the city attorney which were unknown**
 13 **to the city council prior to the communications with**
 14 **the city clerk.**
 15 **What evidence do you have to support that?**
 16 A The conversation at the closed session after
 17 the emails were shared indicated clearly that council
 18 had no idea what he was doing.
 19 **Q Conversations with whom?**
 20 A The council members.
 21 **Q Was it during the actual closed session?**
 22 A Yes.
 23 **Q And you say that his willing participation**
 24 **with the would-be city attorney applicants allegedly**
 25 **violated certain charter provisions here. What**

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1 **applicants are you talking about?**
 2 A He refused -- he disclosed one, David
 3 Ferman. He might have disclosed someone else. I do
 4 not remember the person's name. He didn't disclose
 5 any other applicant.
 6 **Q What did he say about David Ferman?**
 7 A Just that he was one of the people that he
 8 contacted and talked to about the job.
 9 **Q About becoming the city attorney?**
 10 A About the possibility, yes.
 11 **Q And prior to the time that you drafted these**
 12 **allegations, Exhibit 17, did you talk to David Ferman?**
 13 A No, I did not.
 14 **Q Why not?**
 15 A I didn't see the need to.
 16 **Q Item C on Page 3 says: Mayor Paul attempted**
 17 **to circumvent the relocation policy adopted by the**
 18 **city council with regard to the Wal-Mart development.**
 19 **Do you see that?**
 20 A Yes.
 21 **Q What relocation policy are you talking about**
 22 **there?**
 23 A It was a relocation policy adopted by the
 24 council pursuant to the Wal-Mart development project.
 25 **Q Relocation of what?**

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1 A Residents within the redevelopment area.
 2 **Q Would that be some 250 residents who live in**
 3 **the apartment complex?**
 4 A No.
 5 **Q Who would that be?**
 6 A It would be 130, whatever the number really
 7 is, of the residents who lived in the apartment
 8 complex.
 9 **Q 130 people --**
 10 A I don't remember the number. I just know
 11 everybody was saying 250 and that number's not
 12 correct.
 13 **Q Well, correct it then. How many people are**
 14 **we talking about?**
 15 A I don't remember the number.
 16 **Q But you know it's not 250?**
 17 A Right. We checked the city's occupancy
 18 rules. There was a number given to me. I do not
 19 recall what it was, but it was a lot closer to half of
 20 what they were claiming.
 21 **Q And what were the terms as you recollect of**
 22 **this relocation policy that was adopted by the City?**
 23 A I can't tell you that I --
 24 **Q Just generally speaking.**
 25 A I don't have a clear recollection of the

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1 terms. If you were a resident, you were entitled to a
 2 cash payment of a thousand dollars or actual expenses
 3 if you were required to relocate as a result of
 4 project.
 5 **Q Now, in item C, parens, four, on Page 4 of**
 6 **9 of Exhibit 17, all my questions are going to be**
 7 **related to Exhibit 17. Do you understand that?**
 8 A Yes.
 9 **Q It says: Public meeting on May 16th, Mayor**
 10 **Paul based on his misunderstanding of the**
 11 **City-approved and state-required Wal-Mart relocation**
 12 **policy unsuccessfully urged the council to expand on**
 13 **the benefits to be made available to the Clarkchester**
 14 **Apartment residents. Do you see that?**
 15 A Yes.
 16 **Q What was he, Mayor Paul, in your judgment**
 17 **attempting to do here?**
 18 A Best of my understanding, he was saying that
 19 residents in the apartments were cut off as of
 20 January 1.
 21 **Q Cut off from what?**
 22 A From relocation benefits and that people
 23 coming in after January 1 wouldn't be entitled to
 24 benefits, and he wanted that changed.
 25 **Q Okay. And you say that was a**

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1 **misunderstanding?**
 2 A Yes, I believe it was.
 3 **Q And was that misunderstanding clarified at**
 4 **any point?**
 5 A At -- no, I don't think so.
 6 **Q Well, you say that he -- that he brought**
 7 **this up. He, Mayor Paul, brought this up at a public**
 8 **meeting on May 16th. The council meeting you're**
 9 **talking about?**
 10 A Yes. I think he made a motion to expand the
 11 benefits in some ways, a nonspecific way.
 12 **Q And at the time that he made the motion, did**
 13 **you understand that it was a misunderstanding on his**
 14 **part that the benefits would not be cut off as he was**
 15 **saying?**
 16 A At that time, I'm not sure that I had that
 17 understanding.
 18 **Q Later, did you have that understanding? At**
 19 **some point in time, you, at least according to the**
 20 **charges that you drafted here, you indicated that he**
 21 **had a misunderstanding. When did you learn that?**
 22 A I'm not sure.
 23 **Q Now, item five on Page 4, says: He**
 24 **persisted acknowledging the risk of forfeiting his**
 25 **office because of a possible charter violation if he**

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1 **contacted -- I can't begin to know how to pronounce**
 2 **that, K-A-N-I-E-C-K-I. Do you see that?**
 3 A Yes.
 4 **Q And what evidence do you have to support**
 5 **that allegation?**
 6 A That's through an email.
 7 **Q Email from him to whom?**
 8 A I believe that was an email from Mr. Paul to
 9 Mr. Bookout.
 10 **Q And item six on Page 4, it says that he**
 11 **contacted Miss Kaniecki. What evidence do you have to**
 12 **support that?**
 13 A Emails, begin, I think both from Mayor Paul
 14 and from Miss Kaniecki.
 15 **Q Did you ever contact Miss Kaniecki?**
 16 A No, I did not.
 17 **Q Why not?**
 18 A I did not see the need to do so.
 19 **Q On Page 5 of Exhibit 17, you allege that on**
 20 **June 13th, he directed the city clerk to prepare an**
 21 **ordinance calling for the scheduling of recall**
 22 **elections for council members. Do you see that?**
 23 A Yes.
 24 **Q What evidence do you have that supports**
 25 **that?**

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1 A Emails from the mayor.
 2 **Q Anything else?**
 3 A Well, only to the extent that the emails
 4 were forwarded to me, I believe, from Kate. So emails
 5 from Kate and the mayor.
 6 **Q All email communications you're talking**
 7 **about?**
 8 A Email communications.
 9 **Q Nothing beyond written email communications?**
 10 A No.
 11 **Q And, again, it says: Even though the recall**
 12 **petitions had not yet been circulated. How do you**
 13 **know that?**
 14 A To the best of my knowledge, the recall
 15 petitions hadn't even been issued by Kate, but if they
 16 had been, they were done probably immediately before
 17 that June 13th email.
 18 **Q What's -- what are you talking, what kind of**
 19 **petitions are we talking about?**
 20 A The petitions that the applicants have to
 21 take to the residents saying we would like to recall
 22 council member blank and here are the signatures of
 23 the people who want this recall to happen.
 24 **Q Is that a petition that has to be generated**
 25 **by the city clerk?**

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1 A I believe the -- I believe the charter
 2 requires that, yes. I would have to take a look at
 3 the charter, but I think, to the best of my
 4 recollection, that's true.
 5 **Q Had you -- on June the 13th of 2012, had you**
 6 **already done your research with respect to the issue**
 7 **of recall petitions and recall elections?**
 8 A I do not recall. It's possible.
 9 **Q At the meeting of June 20, that would be a**
 10 **public meeting on June 20th, he was calling for the**
 11 **scheduling of the elections?**
 12 A Yes.
 13 **Q Did you during the meeting of June 20th**
 14 **share your opinion publicly that recalls were**
 15 **unconstitutional?**
 16 A There were two --
 17 MR. CHASSAING: Unconstitutional?
 18 BY MR. PLEBAN
 19 **Q Well, the charter provisions were**
 20 **unconstitutionally vague and, therefore, you couldn't**
 21 **recall. That was your opinion, wasn't it?**
 22 A Essentially. I don't recall exactly the
 23 dates, but there were two recall issues. One was a
 24 timing issue.
 25 **Q And that would have been for Anglin and**

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1 **Pieper, correct?**
 2 A I believe so. The other one would have been
 3 the question of cost. To the best of my recollection
 4 as to the timing issue, I believe I emailed Mayor Paul
 5 and explained that the October 2nd election date that
 6 the ordinance called for was an impossibility and that
 7 he should not pursue the ordinance. That, obviously,
 8 would have occurred prior to June 20th, somewhere
 9 around June 13th. The question of cause and whether
 10 the Ellisville charter was unconstitutional was
 11 another issue, and I do not recall exactly when that
 12 came up, but you are correct. That was my opinion.
 13 **Q And at the meeting of June the 20th when**
 14 **that ordinance -- I assume the ordinance was**
 15 **ultimately discussed at the June 20 meeting?**
 16 A I don't recall what happened to the
 17 ordinance. I do not think it was discussed. I do not
 18 think it made it on the agenda.
 19 **Q Do you know why?**
 20 A I truly don't.
 21 **Q On August -- you say in paragraph four there**
 22 **on Page 5: On August 14th, Mayor Paul instructed the**
 23 **city clerk to advise him of the scope of the charter**
 24 **authority to appoint members of the Planning and**
 25 **Zoning Commission. Do you see that?**

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1 A Uh-huh.
 2 **Q What evidence do you have that supports that**
 3 **allegation?**
 4 A Emails from the mayor to the clerk.
 5 **Q Anything beyond emails?**
 6 A That particular issue might have come up at
 7 public meetings. I don't recall.
 8 **Q Item five on Page 5 alleges that August 14th**
 9 **and the 15th of August, that he directed the city**
 10 **clerk to remove an item from the agenda. What's the**
 11 **authority for that?**
 12 A Again, emails directed to the city clerk
 13 from the mayor.
 14 **Q And item six is revision of the draft**
 15 **minutes of the November 7 meeting. What is the**
 16 **evidence of that?**
 17 A Emails from the mayor to the city clerk.
 18 **Q And item seven, what is the authority for**
 19 **that?**
 20 A Email exchange between the mayor and the
 21 city clerk.
 22 **Q Nothing beyond that, for either six or**
 23 **seven?**
 24 A No personal knowledge on my part. I can't
 25 recall anything else.

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1 **Q Item eight says on November 12th, he**
 2 **directed city clerk to post an email from council**
 3 **member Pirrello on the City's website. What is the**
 4 **evidence that supports that claim?**
 5 A The email communications between the three
 6 of them, between Mayor Paul, the city clerk and
 7 Mr. Pirrello.
 8 **Q And any other information beyond that?**
 9 A No, I don't think so.
 10 **Q And then it says, the second paragraph on**
 11 **Page 6: As a result of the mayor's actions, city**
 12 **clerk had been required to unsuccessfully seek the --**
 13 **unnecessarily, sorry, seek the advice of city**
 14 **attorney.**
 15 A Uh-huh. I'm sorry, yes.
 16 **Q Did you bill for that?**
 17 A I don't have any independent recollection of
 18 billing for it. I think I probably would have
 19 accounted for that time either as part of retainer or
 20 as a separate billing.
 21 **Q Your bills -- if you billed for it, the bill**
 22 **would reflect that?**
 23 A Yes.
 24 **Q The billing statements of the City would**
 25 **reflect that?**

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1 A Yes.

2 **Q If it was a retainer item, would that be**
 3 **included in the billing statement?**

4 A The entry would be included in the retainer
 5 statement, yes.

6 **Q But the retainer, as I understand it, is an**
 7 **amount of money that you get that's fixed --**
 8 A Correct.

9 **Q -- to perform certain services?**
 10 A Correct.

11 **Q And you decide -- do you decide or somebody**
 12 **else decide what's retainer and what's not retainer?**

13 A That pretty much is my decision as I record
 14 time.

15 **Q I think I'm skipping down to item E4, and I**
 16 **think we talked about this a little bit. It says: On**
 17 **May 2nd, after public meeting at the Ellisville**
 18 **auditorium, Mayor Paul ordered Lieutenant Kelly Murray**
 19 **to remove Miss Kate James. What's the evidence that**
 20 **supports that?**

21 A Katie James' conversations.

22 **Q With you?**

23 A I don't have an independent recollection,
 24 but I'm sure I talked to her about it. Kate Demeter
 25 was a witness, Dawn Anglin was a witness, Kelly Murray

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1 was a witness. I believe I talked to all of them.

2 **Q But you didn't talk to Mayor Paul?**

3 A No.

4 **Q And I perhaps misheard it. Did you say --**
 5 **you said Kelly Murray was a witness?**

6 A Yes.

7 **Q Not council member Murray?**

8 A Correct, the police officer.

9 **Q And when did you talk to him?**

10 A It probably would have been somewhere near
 11 the time of the incident.

12 **Q So that would have been sometime, according**
 13 **to the allegation here, it was May the 2nd, it would**
 14 **have been sometime in May, I'm guessing?**

15 A Yes. I would say definitely within the
 16 month of May.

17 **Q And why did you speak with him?**

18 A I wanted to get his perspective of the
 19 situation.

20 **Q For what reason?**

21 A Just so I had an understanding of what
 22 happened.

23 **Q What did you intend to do with that?**

24 A I don't know that I intended to do anything
 25 with it. I just wanted to understand what happened.

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1 **Q Item five says: On May 7 and 8 that he**
 2 **contacted the chief and Sergeant Walker requesting a**
 3 **gun and a badge. Do you see that?**

4 A Yes.

5 **Q What is the evidence that supports that**
 6 **allegation?**

7 A I believe that came from the mayor's emails.

8 **Q Were you copied on those emails, or -- by**
 9 **the mayor, or how did you acquire the emails, or look**
 10 **at them, or whatever you do with them?**

11 A I don't really recall. I think that they
 12 were forwarded to me by -- I'm guessing, by Kevin.

13 **Q And do you know for what purpose?**

14 MR. CHASSAING: You mean what purpose they
 15 were forwarded, is that what you're asking?

16 MR. PLEBAN: Yes.

17 THE WITNESS: I couldn't speculate as to
 18 what Kevin was thinking.

19 BY MR. PLEBAN

20 **Q What did you ask Kevin?**

21 A I don't know that I asked him anything. I
 22 think it was more of a look at this type of thing,
 23 more of a discussion item than anything else.

24 **Q And item 5B on Page 6 says that the mayor --**
 25 **City's message board used to advertise private event.**

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1 **What private event are we talking about there?**

2 A It was some kind of an event at the bowling
 3 alley. I do not remember the exact event.

4 **Q Is that a Backstoppers event?**

5 A I don't know if it was Backstoppers or if it
 6 was something else.

7 **Q Where did you get that information?**

8 A Again, emails. I might have had a
 9 conversation with Kevin about that, too.

10 **Q And, again, that would have been an email**
 11 **that was forwarded to you by city manager?**

12 A Yes, I think so.

13 **Q And, again, do you know why you received**
 14 **that email from the city manager?**

15 A Just to keep me informed as to what was
 16 going on, I presume. I really don't know what the
 17 city manager was thinking.

18 **Q You never asked him?**

19 A I did not ask him.

20 **Q Item six says that Mayor Paul emailed the**
 21 **city manager suggesting the use of the City's message**
 22 **board to advertise certain private events. Do you see**
 23 **that?**

24 A Yes.

25 **Q How is that different from 5B in the**

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1 preceding paragraph?
 2 A A different date.
 3 **Q Okay. Are we talking about the same event**
 4 **or do you know?**
 5 MR. CHASSAING: Are you referring again to
 6 the bowling alley event?
 7 MR. PLEBAN: I don't know. That's what I'm
 8 asking.
 9 THE WITNESS: Let me go back a little bit.
 10 Item five, the contact was to Chief Felgate, Sergeant
 11 Walker. Item six, the contact was to the city manager
 12 so that's the primary difference and it was a
 13 different date.
 14 BY MR. PLEBAN
 15 **Q But what I'm asking you is whether or not it**
 16 **was the same event?**
 17 A To the best of my knowledge, yes, but I
 18 don't have any clear recollection.
 19 **Q And item 7 on Page 7 says that on June 12th,**
 20 **mayor contacted Ellisville Administrative Assistant**
 21 **Donna Bragden and directed her to provide him with**
 22 **personalized City of Ellisville letterhead. Do you**
 23 **see that?**
 24 A Yes.
 25 **Q What is the evidence that supports that?**

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1 A I believe that information came from
 2 Mr. Bookout.
 3 **Q In what form?**
 4 A I don't recall. Possibly an email.
 5 Possibly a telephone conversation.
 6 **Q Did you speak to Donna Bragden?**
 7 A No.
 8 **Q And item eight says that Mayor Paul**
 9 **reprimanded the city manager. Do you see that?**
 10 A Yes.
 11 **Q What evidence do you have that supports**
 12 **that?**
 13 A That was an email from Mayor Paul to the
 14 city manager that the city manager shared with me.
 15 **Q Any other evidence to support that**
 16 **allegation?**
 17 A No.
 18 **Q And on item nine on Page 7, it says that on**
 19 **June 13th, he reprimanded the city manager. What**
 20 **evidence do you have that supports that?**
 21 A I believe that would -- again, was emails
 22 from the mayor to the city manager that city manager
 23 shared with me.
 24 **Q Once again, as with the paragraph before**
 25 **that, city manager has been required to seek the**

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1 **advice of the city attorney leading to additional**
 2 **legal bills. Do you see that?**
 3 A I do.
 4 **Q And do you know whether or not you billed**
 5 **for those discussions with anybody?**
 6 A I do not recall doing so.
 7 **Q Item F3 on Page 7 says that the council's**
 8 **rules provide for time limits for public speakers. Do**
 9 **you see that?**
 10 A Yes.
 11 **Q Item four says that Mayor Paul repeatedly**
 12 **failed to enforce those time limits. Do you see that?**
 13 A Yes.
 14 **Q What evidence do you have that supports**
 15 **that?**
 16 A Being present at the meeting myself and the
 17 recordings of the meetings.
 18 **Q Whose time limits did he fail to enforce.**
 19 **Who was speaking at the time?**
 20 A I think to answer that question, I would
 21 have to go through each of the meetings and review
 22 them.
 23 **Q What do you recall offhand?**
 24 MR. CHASSAING: Are you checking for the
 25 identity of the speaker.

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1 MR. PLEBAN: Name, right. Uh-huh.
 2 THE WITNESS: My general recollection is
 3 that anyone who wanted to speak against the Wal-Mart
 4 got to speak as long as they wanted to.
 5 BY MR. PLEBAN
 6 **Q For, what, hours at a time?**
 7 A No.
 8 **Q So he did cut them off at some point?**
 9 A No. I think they just finished and were --
 10 they did their however long they wanted to take and
 11 they took that time and then it was over.
 12 **Q And can you give me some names?**
 13 A I really can't.
 14 **Q How about proponents of TIF and Wal-Mart,**
 15 **how long were they allowed to speak?**
 16 A I don't think any of the pro Wal-Mart people
 17 spoke more than a minute or so. I don't recall them
 18 ever going over, approaching the three-minute limit.
 19 **Q Did they speak a minute because they**
 20 **voluntarily concluded their remarks, or the mayor cut**
 21 **them off?**
 22 A Probably because they voluntarily concluded
 23 their remarks.
 24 **Q Do you recall an occasion when the mayor cut**
 25 **them off?**

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1 A I don't have any independent recollection of
 2 the mayor cutting off anybody who's speaking in favor
 3 of Wal-Mart.
 4 **Q On Page 8, item G, is the Katie James**
 5 **complaint. Do you see that, item G on Page 8?**
 6 A Yes, G1.
 7 **Q Yes. And you say that in connection with**
 8 **that complaint, that Mayor Paul filed a false answer?**
 9 A Yes, with regard to the Srote issue, yes.
 10 **Q And what evidence do you have that supports**
 11 **that?**
 12 A The mayor's response itself that talks about
 13 his suspicion that Mr. Srote had a weapon.
 14 **Q What was it about that that you believe to**
 15 **be false?**
 16 A During the meeting, he did not make any
 17 indication whatsoever that there was a weapon
 18 involved. I was sitting at the dias right next to the
 19 mayor. I did not see any indication that there was a
 20 weapon involved. After the meeting, he wrote an
 21 email, I believe, to Kevin explaining that under
 22 Roberts Rules, he had the right to remove Mr. Srote.
 23 He didn't mention anything about a weapon. He never
 24 made any kind of a report or a complaint to Chief
 25 Felgate at the meeting or after the meeting about the

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1 possibility of the weapon. He never asked for any
 2 kind of special protection from Mr. Srote after the
 3 meeting or filed any kind of complaint with the
 4 police. Seeking some kind of prosecution.
 5 **Q Do you know whether that would have been at**
 6 **the February 6th meeting; is that correct?**
 7 A That's correct.
 8 **Q Do you know whether or not at the**
 9 **February 6th meeting the council members, including**
 10 **the mayor, were accompanied to their vehicles by**
 11 **police officers?**
 12 A I do not know.
 13 **Q Page 8, again, item G, paren, three.**
 14 **Attempt to gather evidence to defend himself at the**
 15 **February 18th, 2013 meeting Charter Enforcement**
 16 **Commission. Would that have been in connection with**
 17 **the Katie James' complaint?**
 18 A Yes.
 19 **Q He recorded telephone conversations to the**
 20 **chief of police and the city clerk. Do you see that?**
 21 A Yes.
 22 **Q And what evidence do you have that supports**
 23 **that?**
 24 A Conversations with the city and with
 25 Demeter.

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1 **Q Did you ever hear any of those recordings?**
 2 A I did not.
 3 **Q Did you ever ask to hear any of the**
 4 **recordings?**
 5 A No, I did not.
 6 **Q On Page 9, it indicates that the mayor's**
 7 **hereby immediately suspended from duty for a period of**
 8 **45 days. Do you see that?**
 9 A Yes.
 10 **Q Whose idea was that?**
 11 A Well, I wrote it, and I wrote it in
 12 compliance with the city charter.
 13 **Q Have you spoken to anybody prior to the time**
 14 **that you inserted that provision?**
 15 A Spoken with anybody about --
 16 **Q On the council about putting that provision**
 17 **in?**
 18 A It was part of the document that people
 19 reviewed. I did not talk to people specifically about
 20 that.
 21 **Q The document that people reviewed was the**
 22 **rough draft of the preliminary resolution of**
 23 **impeachment, correct?**
 24 A Yes.
 25 **Q All right. And that -- the initial document**

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1 **regarding the preliminary resolution of impeachment,**
 2 **which is item 18 here, I mean, Exhibit 18, originally**
 3 **when you drafted Exhibit 18, you added the paragraph**
 4 **dealing with the suspension for 45 days, correct?**
 5 A Let's see. It is in 18, yes.
 6 **Q All right. And my question to you is: Is**
 7 **that your idea or is that someone else's idea to**
 8 **put -- to include that language about suspending this**
 9 **mayor for 45 days?**
 10 MR. CHASSAING: It's been asked and
 11 answered.
 12 THE WITNESS: I can clarify. That was --
 13 that was my idea. I believe that that was consistent
 14 with the charter.
 15 BY MR. PLEBAN
 16 **Q Okay. And my question then to you is: Had**
 17 **you spoken to anybody prior to the time that you**
 18 **included it in the original resolution of impeachment?**
 19 A About that particular clause?
 20 **Q Yes, sir.**
 21 A No.
 22 MR. PLEBAN: I don't have any other
 23 questions at this point.
 24 THE WITNESS: I'm sure it's fine. I'll
 25 waive.

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1 MR. PLEBAN: So we are clear. I'm not sure
 2 we covered this, the last two depositions you waived
 3 your signature as well?
 4 THE WITNESS: I did not. I'd like to take a
 5 look at the first one.
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1 CERTIFICATE OF REPORTER
 AND STATEMENT OF DEPOSITION COSTS
 2
 3 IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS
 4 STATE OF MISSOURI
 5
 6 ADAM PAUL,)
 Plaintiff,)
 7)
 8 vs.) Case 13SL-CC00699
) Div. 33
 9)
 10 THE CITY OF ELLISVILLE, MO, ET)
 AL.,)
 11 Defendants.)
 12)
 13)
 14 I, Jo Ann Sturm, hereby certify that the
 original deposition of PAUL MARTIN, taken on March 27,
 15 2013, is in the custody of Pleban & Petruska, LLC,
 2010 South Big Bend Boulevard, St. Louis, Missouri
 16 63117.
 17
 18
 19 TAXED IN FAVOR OF PLAINTIFF
 20
 Total: \$210.00
 FOR: Pleban & Petruska, LLC, 2010 South Big Bend
 Boulevard, St. Louis, Missouri 63117
 21
 22 TAXED IN FAVOR OF DEFENDANT
 23 Total: \$106.20
 FOR: Curtis, Heinz, Garrett & O'Keefe, P.C., 130
 South Bemiston, Suite 200, Clayton, Missouri 63105
 24
 25

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1 REPORTER CERTIFICATE
 2
 3 I, JO ANN STURM, RPR, CSR, CCR, do hereby
 certify that there came before me at Ellisville City
 Hall, 1 Weis Avenue, Ellisville, MO 63011
 4
 5 PAUL MARTIN
 6
 7 who was by me first duly sworn to testify to the truth
 and nothing but the truth of all knowledge touching
 and concerning the matters in controversy in this
 8 cause; that the witness was thereupon carefully
 examined under oath and said examination was reduced
 to writing by me; and that this deposition is a true
 and correct record of the testimony given by the
 9 witness.
 10 I further certify that I am neither attorney
 nor counsel for nor related nor employed by any of the
 11 parties to the action in which this deposition is
 taken; further, that I am not a relative or employee
 of any attorney or counsel employed by the parties
 hereto or financially interested in this action.
 12
 13 Dated March 27, 2013.
 14
 15
 16
 17
 18 JO ANN STURM, RPR, CSR, CCR
 REGISTERED PROFESSIONAL REPORTER
 ILLINOIS CSR NUMBER: 084-002267
 MISSOURI CCR NUMBER: 716
 19
 20
 21
 22
 23
 24
 25

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1 Total: \$106.20
 2 FOR: Eckenrode-Maupin, 8000 Maryland, Suite
 1300, St. Louis, Missouri 63105
 3
 4 Upon delivery of transcript, the above charges had not
 5 been paid. It is anticipated that all charges will be
 6 paid in the normal course of business.
 7
 8
 9 I have hereunto set my signature on
 10 March 27, 2013.
 11
 12
 13 JO ANN STURM, RPR, CSR, CCR
 14
 15
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 17
 18
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 22
 23
 24
 25