

1 IN THE IOWA DISTRICT COURT FOR CLAYTON COUNTY

2 ----- X

3 HARLAN DETTMAN, :  
GREGORY KOETHER, :  
4 RONALD KLEINOW, and :  
TIMOTHY MASON, :

5 :  
Plaintiffs, :  
6 : No. EQCV 6737

-vs- :  
7 : DEPOSITION OF  
CLAYTON COUNTY BOARD : NEIL MEYER  
8 OF SUPERVISORS, :

9 Defendant. :

10 ----- X

11  
12 Deposition of NEIL MEYER, taken at the  
offices of the Clayton County Board of  
13 Supervisors, 200 East Bridge Street, Elkader,  
Iowa, commencing at 11:34 a.m., March 12, 2004,  
14 before Christal A. Hansen, Certified Shorthand  
Reporter.

15  
16 APPEARANCES  
17 WALLACE L. TAYLOR, ESQ.,  
Suite 326, 118 Third Avenue SE,  
18 Cedar Rapids, Iowa 52401-1408,  
(319) 366-2428, appeared on behalf of the  
19 Plaintiffs.

20  
DENNIS W. JOHNSON, ESQ.,  
21 Dorsey & Whitney, LLP, Suite 3900,  
801 Grand Avenue, Des Moines, Iowa 50309,  
22 (515) 283-1000, appeared on behalf of the  
Defendant.

23  
24 Also Present: Robert Walke  
25 Larry Gibbs

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1                   NEIL MEYER  
2 called as a witness, after having been first  
3 duly sworn, was examined and testified as  
4 follows:  
5                   DIRECT EXAMINATION  
6 BY MR. TAYLOR:  
7     Q. State your name for the record, please.  
8     A. Neil Meyer.  
9     Q. Mr. Meyer, I understand you're on the  
10 Clayton County Board of Supervisors?  
11     A. Yes, I am.  
12     Q. How long have you been on the Board?  
13     A. This is going on my tenth year. I was  
14 elected January 1st; I started January 1st of  
15 1995.  
16     Q. Are you employed any other way?  
17     A. No.  
18     Q. Retired?

19 A. I guess you could say that.  
20 Q. What did you do for an occupation?  
21 A. I farmed for 42 years.  
22 Q. What kind of farming do they do up  
23 here?  
24 A. General, livestock, grain.  
25 Q. You were present during Mr. Walke's

4

1 deposition; is that correct?  
2 A. Yes, I have.  
3 Q. You heard all the questions and the  
4 answers?  
5 A. I believe I did, sir.  
6 Q. What's your first recollection of how  
7 the River Bluff project came to the supervisors'  
8 attention?  
9 A. I think it was because McGregor applied  
10 for a Vision Iowa grant to situate this on land  
11 close to McGregor and then annex it.  
12 Q. And what was your understanding as to  
13 what the City of McGregor wanted the County to  
14 do?  
15 A. I don't know what time period you're  
16 really talking about. Before that or after  
17 that?  
18 Q. When the City first came to the County  
19 about getting involved in the project.  
20 A. Well, was when the City of McGregor  
21 could not acquire any property to put this  
22 project on.  
23 Q. Did the City or its representatives  
24 come to the Board or just one member of the  
25 Board?

5

1 A. I guess there wasn't any specific  
2 meeting of the Board or of the City. It was  
3 just maybe the city administrator said something  
4 about it's now going to have to go out into the  
5 county because they couldn't, you know, if they  
6 moved it out into the county, it would not be --  
7 the City would not be able to annex it.  
8 Q. Did they have a site outside the city  
9 already identified when it came to the Board?  
10 A. I believe they did.

11 Q. At the outset when the City of McGregor  
12 first came to the Board of Supervisors and you  
13 were considering getting involved in the River  
14 Bluff project, what did you understand would be  
15 the County's financial arrangements and  
16 financial obligations?

17 A. Well, then the County would apply for  
18 the Vision grant. And I think at that time it  
19 was a \$5 to \$6 million grant that was going to  
20 be \$3.5 for the county and then the rest for the  
21 other cities involved.

22 Q. And did you understand that the County  
23 would have some financial obligation in addition  
24 to the Vision Iowa money?

25 A. Yeah. If the County got the Vision

6

1 money and we were going to build a golf course,  
2 yes, then there would be some other obligations.

3 Q. And what did you understand those to  
4 be?

5 A. Enough bonding money to build the golf  
6 course in addition to the \$3.5 million.

7 Q. And weren't there actually two bonding  
8 mechanisms the County was going to get involved  
9 in, one for the golf course and one for the rest  
10 of the project?

11 A. No. I think there was just the bonding  
12 for the rest of the golf course.

13 Q. What was your understanding as to how  
14 these bonds would work?

15 A. Well, the County would actually sell a  
16 bond to get enough money to pay for the rest of  
17 the golf course, and then as the golf course  
18 produced revenue, to pay these bonds off.

19 Q. And initially the County would have the  
20 obligation on the bonds, correct?

21 A. If we received the revenue from the  
22 Vision Board when we sold the bond, yes. Can I  
23 ask a question?

24 Q. Yes.

25 A. Why is all this preliminary to the

7

1 current development agreement so pertinent to  
2 this situation?

3 Q. Well, --  
4 A. I mean, that's all water over the dam.  
5 Q. I guess I'm asking the questions in  
6 this proceeding.  
7 A. All right. Okay. But it just --  
8 Q. And as time went along, as I  
9 understand, the Vision Iowa Board initially  
10 agreed to approve the grant and then had some  
11 questions; is that a fair statement?  
12 A. Probably many times.  
13 Q. And I discussed with Mr. Walke the due  
14 diligence report that the Vision Iowa Board had  
15 requested regarding the developers. Did you  
16 review that report?  
17 A. Very briefly.  
18 Q. Were you not interested in it or what?  
19 A. I think this was a request of the  
20 Vision Board, that they were trying to look for  
21 a reason to turn the County's grant down, and I  
22 really didn't think -- take much stock in what  
23 it said.  
24 Q. Well, let me ask you this. If the  
25 Vision Iowa Board wanted to turn the County

8

1 down, why did they keep giving you over two  
2 years to make this thing fly?  
3 A. I would like to have you answer that  
4 question.  
5 Q. Did you ever ask the Vision Iowa Board  
6 that very question?  
7 A. Yes, we did. Yes, we did.  
8 Q. My point is, if the Vision Iowa Board  
9 wanted to dump the project, wouldn't they have  
10 done it early on and not try to make this thing  
11 go?  
12 A. I would like to have that answered  
13 myself. I can't figure out why they, why they  
14 keep leading us on. Every time we went down to  
15 meet with them, they would give us another thing  
16 to bring to them. We would come back and we'd  
17 bring that to them and the -- to the next  
18 meeting, and then they would say, well, that's  
19 good, but now you have to do this. And I don't  
20 know how many times they did that to us, but  
21 nearly at every meeting, right up to the last

22 one, that's the way it went.  
23 Q. Did it occur to you that maybe the  
24 Vision Iowa Board was concerned about the  
25 financial viability of the project and they were

9

1 trying to get some arrangements in place that  
2 would make the project financially viable?

3 A. That was what they were saying, yes,  
4 but I think in the back of their minds they  
5 really didn't have too much intention to give it  
6 to us along the way.

7 Q. Did you have any concerns about the  
8 financial viability of the project?

9 A. Not the project itself, no. You asked  
10 about due diligence -- not due diligence. I  
11 can't think of the terminology. The feasibility  
12 study of the golf course and the project. And  
13 the ones that I saw -- I think we saw more than  
14 one really. I can't tell you who they were from  
15 or who they were with. But most of those, I  
16 want to say most of them, because I don't know  
17 exactly how many there was, but there were some,  
18 and they all looked favorable. And I thought  
19 the project was a great thing to enhance  
20 Clayton County.

21 Q. So your recollection was that there  
22 were several financial or feasibility studies  
23 concerning the project?

24 A. Well, I don't know if I could say  
25 "several," but there was more than one, I'm

10

1 quite sure.

2 Q. And would you have those on file --

3 A. No, I would not.

4 Q. -- in your office or the auditor's  
5 office?

6 A. No, I would not.

7 Q. If you saw them, how did you acquire  
8 them?

9 A. Well, I don't know if it was actually  
10 so much a written report as it was a verbal  
11 consensus of the different people we talked to,  
12 Mr. Hozza from Minneapolis, Mr. -- I can't think  
13 of the bonding agent -- Phil Cosson. There was

14 another one, but I just can't think of his name.  
15 Probably Mr. White out of Cedar Rapids. Just as  
16 a verbal consensus of the project.

17 Q. And Mr. White, you mean Tim White, the  
18 attorney?

19 A. Yes.

20 Q. When did he become involved?

21 A. I think he was at the Sioux City  
22 meeting with us.

23 Q. And what information or financial data  
24 did he give you?

25 A. He just spoke, he spoke to the Vision

11

1 Board and talked about the viability of the  
2 project.

3 Q. Well, did he have any analysis or any  
4 numbers specifically or any financial figures?

5 A. Well, if he did, I don't remember them,  
6 what they were per se.

7 Q. And Mr. Cosson, was he the financial  
8 advisor that was employed by the developers to  
9 MSA?

10 A. No. I think he was just a bonding  
11 agent out of Milwaukee.

12 Q. How did he become involved then?

13 A. I can't really answer that. I don't  
14 know who notified him. I can't remember.

15 Q. Is it possible MSA contacted him?

16 A. I don't really believe so. I just,  
17 again, can't remember. I don't know.

18 Q. Did the Board ever retain your own  
19 financial advisors or people who could give you  
20 some feasibility studies?

21 A. Personally or for the Board?

22 Q. For the Board. Did the Board of  
23 Supervisors ever retain any financial or  
24 feasibility consultants of your own?

25 A. Not that I recall.

12

1 Q. Now, the first urban renewal plan,  
2 Mr. Walke indicated, I think, that there was the  
3 area of the River Bluffs development, some other  
4 additional properties adjacent to that and then  
5 the strip of land into Marquette. Is that your

6 recollection?

7 A. Uh-huh. (Affirmative response)

8 Q. And concerning that plan, am I correct  
9 that the planning and zoning commission twice  
10 voted against approving that plan?

11 A. I guess I can't recall that per se, but  
12 I assume they probably did, yes.

13 Q. And what was your personal response to  
14 their --

15 A. Well, when that plan was first set up,  
16 there was probably seven to 10 property owners  
17 along that corridor that were going to be  
18 involved in this. And it was, as Mr. Walke  
19 stated, probably 300 to 400 acres. Those  
20 property owners thought they were going to get  
21 the tax revenue from that, but then as the plan  
22 developed, it sounded like Mr. Daughtry may get  
23 that tax revenue if they built on that property  
24 because it was his plan so to speak.

25 Then there was a couple people in that

13

1 corridor of the seven to 10 that didn't want to  
2 sign up for this. Most of them did, but a  
3 couple that didn't. And then as the Vision  
4 Board, we lost that money, then we just changed,  
5 we just dropped them completely and then just  
6 urban renewal plan on the property of the River  
7 Bluffs Resort alone.

8 Q. I guess my question was, when the  
9 planning and zoning commission twice rejected  
10 the urban renewal plan, the original plan, what  
11 was your response to their rejection, personal  
12 response?

13 A. I felt they didn't adhere to the  
14 County's need for more tourism, economic  
15 development.

16 Q. Was it your understanding that the  
17 planning and zoning commission's rejection was  
18 based on the position that the urban renewal  
19 plan did not comply with the comprehensive plan?

20 A. I personally guess I didn't see that.  
21 They may have thought it didn't.

22 Q. But that's your understanding, that  
23 that was their position?

24 A. Yes.

25 Q. And it's my understanding that the

14

1 comprehensive plan that was amended in November  
2 of 2002 was amended because of the River Bluffs  
3 project; is that correct?

4 A. It was amended because of the Vision  
5 Board's request.

6 Q. But that was based on the River Bluffs  
7 project?

8 A. That was based on if we were going to  
9 receive Vision money I think was their reason  
10 for it.

11 Q. But the Vision Iowa application and  
12 their statements to you about need for a  
13 comprehensive plan was based on the fact that  
14 the whole application was for the River Bluffs  
15 property; is that correct?

16 MR. JOHNSON: I want to object to  
17 the lack of foundation. You're asking this  
18 witness to tell you what the basis for the  
19 Vision of Iowa Board's request was, and I'm not  
20 sure he's in a position to know.

21 A. No. They just asked for it because  
22 that was one of the first things they asked for  
23 when we met with them.

24 Q. My question was -- I guess maybe I  
25 wasn't clear. What did you understand from what

15

1 the Vision Iowa people were telling you as to  
2 why the comprehensive plan update was needed?

3 A. Just because in general the County's  
4 last Vision plan -- not Vision -- comprehensive  
5 plan was in 1970, and I think they thought the  
6 county needed a new comprehensive plan for any  
7 future development, not necessarily the  
8 River Bluffs Resort, just for any future  
9 development or progress.

10 Q. Is it fair to say that but for the  
11 River Bluffs development, the County would not  
12 have amended the comprehensive plan at least in  
13 the foreseeable future?

14 A. Well, there again, it goes back to the  
15 Vision Board's request. If they had not  
16 requested it, we probably would not have amended

17 it at that time.  
18 Q. As you were considering the original  
19 urban renewal plan, what did you personally see  
20 as any employment need that this project would  
21 address?  
22 A. Well, you're talking strictly  
23 employment now or benefit of the county?  
24 Q. Employment.  
25 A. Well, there could be development along

16

1 this corridor again, plus the, plus the River  
2 Bluffs Resort. If there was more developed  
3 along the corridor, there could be more  
4 employment than there just would have been at  
5 the River Bluffs if they would have all signed  
6 up for the first agreement.  
7 There could have been manufacturing,  
8 there could have been filling stations, Kwik  
9 Trips or whatever else along that corridor  
10 besides what was in there and that could have  
11 created more employment.  
12 Q. What information or data did you have  
13 to support that assumption?  
14 A. Because of -- I can't just say rumor.  
15 Because of people that we were in correspondence  
16 with that were interested in building along that  
17 corridor that might have created more jobs.  
18 Q. Do you recall who you were in  
19 correspondence with regarding that?  
20 A. Not really.  
21 Q. And would you agree with me that based  
22 on the golf course feasibility study, that all  
23 but two or three management positions would have  
24 been \$6 to \$6.50 an hour jobs?  
25 A. Well, I think they probably would have

17

1 been a little more than that. I think, to  
2 allude to what Mr. Walke said, they have to meet  
3 competition. And I think there would have been  
4 more managerial positions, golf course  
5 greenskeepers, many, many jobs. Building it,  
6 that would have paid a lot more than \$6.50 on  
7 the construction end of it. And then again a  
8 lot of those jobs would have been second jobs.

9 There was supposed to have been some health  
10 insurance for some of those jobs.  
11 And the second member of the family,  
12 to get a job in this area for the general  
13 economy of the county, is low. It's very  
14 important to have that second job, whether it be  
15 \$6.50 or \$8.  
16 Q. None of that was in the golf course  
17 feasibility study, was it?  
18 A. Well, I'm not so sure about that.  
19 Q. And you had no similar feasibility  
20 study on the hotel/waterpark, did you?  
21 A. I don't believe, no.  
22 Q. What sort of un-met housing needs, if  
23 any, did you feel would be addressed by this  
24 urban renewal plan?  
25 A. Well, you're talking the first one or

18

1 the last one?  
2 Q. Let's go the first one.  
3 A. That would have included the golf  
4 course and the corridor. If there'd have been  
5 some more construction in the corridor, we would  
6 have had the people come in to operate those  
7 things that may have looked for housing.  
8 Anytime you have more businesses, you need more  
9 people to operate them, and then with more  
10 people to operate them you need more housing to  
11 put them in.  
12 Q. But at the time you were considering  
13 the original plan did you have any information  
14 or data that there was a housing shortage in  
15 Clayton County?  
16 A. Well, I've been on several boards where  
17 they talked about housing shortage and jobs.  
18 You tell me which ones come first, the job or  
19 the housing. I think it's a chicken and an egg  
20 thing. Yeah, I've been at meetings where we  
21 talked about housing, need for housing before  
22 this project was ever thought of.  
23 Q. I'm sorry?  
24 A. Before this project was ever thought  
25 of.

19

1 Q. When you got the due diligence report  
2 that we've talked about, I think you said you  
3 just kind of skimmed it. Did you give it no  
4 consideration at all, or how would you  
5 characterize your review of that report?

6 A. I naturally had some consideration for  
7 it. I think more of my concerns or more of my  
8 individual feelings on this was what I received  
9 from the people mainly. Mr. Daughtry and what  
10 he told me and what, I guess, I heard of his  
11 conversations and his past dealings had more  
12 bearing on me than the due diligence report.

13 Q. I see. How much personal contact did  
14 you have with Mr. Daughtry? I ask because  
15 Mr. Walke indicated he seemed to have most of  
16 the conversations. Did you have --

17 A. I was with him several times by myself.

18 Q. During what period of time  
19 approximately?

20 A. Well, like this -- pretty well from the  
21 onset.

22 Q. What was your understanding of  
23 Mr. Daughtry's and Mr. Seymour's involvement in  
24 the project and if that ever changed and to what  
25 extent?

20

1 A. Well, in the beginning they were both  
2 going in the same direction then until I  
3 guess -- I suppose it was the project up in  
4 La Crosse where there got to be some  
5 misunderstanding as to who was who and what was  
6 what; they kind of seemed to dissolve their  
7 partnership and it became strictly Mr. Daughtry.  
8 I think that's the general chain of events.

9 Q. Is Mr. Seymour involved again, or do  
10 you know?

11 A. Now you mean?

12 Q. Yes.

13 A. No, I'm pretty sure he isn't.

14 Q. During your conversations with  
15 Mr. Daughtry what was he telling you about the  
16 project and the possible success of the project?

17 A. Oh, we mostly talked about the  
18 viability of it, I'll say the chances of it  
19 succeeding, which are the same thing, and about

20 some of the other projects he had done. He was  
21 quite a successful businessman, I think, I'm  
22 pretty sure.

23 Q. Why did you think he was a "successful  
24 businessman"?

25 A. Some of the endeavors he had been in

21

1 probably.

2 Q. What did you know about those  
3 specifically?

4 A. Nothing other than really what he told  
5 me about.

6 Q. What's your understanding as to what  
7 involvement the Isle of Capri Casino had in the  
8 River Bluffs project?

9 A. The only involvement that they had, as  
10 far as I'm concerned, is -- I can't think of the  
11 name of the board that hands out money, that  
12 awarded the County \$25,000 for studies and  
13 planning for this. And that was -- they had  
14 passed out many different awards to various,  
15 various places in the county, and a lot of them  
16 were larger than the \$25,000 we got. I can't  
17 think of the name of that board.

18 Q. We talked about the comprehensive plan  
19 being revised. Would you agree that the  
20 comprehensive plan emphasizes Clayton County's  
21 natural and historic beauty and its natural  
22 resources?

23 A. It does, but not entirely.

24 Q. Did you review the natural resource  
25 management plan for River Bluffs Resort?

22

1 A. Oh, I think I did, yes.

2 Q. Is it fair to say that that management  
3 plan described the area where the River Bluffs  
4 Resort was going to be as an important natural  
5 area and had some natural features that were  
6 important?

7 A. Oh, I think it did, but I think all of  
8 Clayton County does.

9 Q. Do you know why the City of McGregor  
10 couldn't annex the property they wanted to  
11 annex?

12 A. I don't know whether it would have been  
13 a voluntary or involuntary annexation. I don't  
14 know if they ever pursued it. I just know that  
15 the place they had chosen, the people that owned  
16 it turned down the sale and it just -- McGregor  
17 then didn't have anyplace to go.

18 Q. As the Vision Iowa process went along,  
19 were you at the January 2003 meeting with the  
20 Vision Iowa Board?

21 A. I missed one. I was at all the rest,  
22 but I can't tell you if it was the January one  
23 or not. That I don't really know offhand.

24 Q. I'm trying to refresh your memory.  
25 It's the one where the Vision Iowa Board said

23

1 they wanted additional information in February  
2 and at the March meeting they'd make a final  
3 decision.

4 A. I think I was at that one.

5 Q. And at that point what was your  
6 understanding as to what the Vision Iowa Board  
7 was looking for?

8 A. I was at several -- as I said, I was at  
9 all of those except the first one, I think, but  
10 each one of them had a different request. And I  
11 can't tell you what the January one was  
12 without -- I just don't know.

13 Q. And at the March meeting Mr. Walke has  
14 indicated that there was a meeting right before  
15 the total Vision Iowa Board meeting of the  
16 negotiating committee and the county  
17 representatives, the developer. Did you attend  
18 that?

19 A. Yes, I did.

20 Q. What was your recollection of what took  
21 place at that committee meeting?

22 A. Well, again, as Mr. Walke stated, and I  
23 can't say -- part of the Vision Board and some  
24 other officials, I think Mr. Hozza was in there,  
25 and I can't think of who all else, but we went

24

1 in individually. Mr. Walke went in first; I  
2 went in second. They asked me some questions.

3 I can't tell you exactly what they

4 asked me, but they wanted my opinion on what I  
5 felt about the project, and I told them I  
6 thought it was a viable project for Clayton  
7 County, it's going to increase our tax base,  
8 which we dearly need here because of our  
9 declining population and our needed -- continued  
10 raising costs of operating the county. We need  
11 some tax revenue; this was a likely place to get  
12 it.

13 Q. At that point in March of 2003 were you  
14 aware that prior projects Mr. Daughtry and/or  
15 Mr. Seymour had been involved in were in  
16 financial trouble?

17 A. Well, no, I don't know these complete  
18 financial problems they were in. I had heard  
19 about them. Some of them, I think, were, in my  
20 mind -- I won't say false accusations, but were  
21 hearsay. I didn't see any complete documents as  
22 to who sued who and who won or anything like  
23 that. I can't answer that.

24 Q. Did you make any effort to try to get  
25 more information on that?

25

1 A. Not really. I thought that -- never  
2 mind.

3 Q. In April of 2003 is it correct the  
4 Vision Iowa Board finally decided not to fund  
5 the project? Is that correct?

6 A. Yes.

7 Q. So tell me what you recall happening  
8 after that April Vision Iowa meeting.

9 A. I was there at that meeting. And after  
10 that nothing was -- it was fairly quiet for a  
11 week or two. We didn't hear much. Mr. Daughtry  
12 may have come in the office here. I don't  
13 recall for sure. We probably discussed it a  
14 little.

15 We didn't have any plan. But I think  
16 he said, as he was going out the door, he says,  
17 "I'll do it on my own." I recall him saying  
18 that. Then what transpired in the week or two  
19 or three I'm not real sure about. Then I  
20 suppose maybe it was some negotiating that  
21 Mr. Walke alluded to which led to where we ended  
22 up.

23 Q. So after that April 7th Vision Iowa  
24 meeting did Mr. Daughtry come to your office  
25 upstairs here and have a meeting with the Board?

26

1 A. I think he was in here, yes, but I  
2 don't think he was on the agenda per se. He  
3 just showed up and we discussed a little bit.  
4 There wasn't any decisions made. We talked  
5 about the Vision Board not funding us, and I  
6 think he then made the statement, "I will then  
7 do it on my own," as he was going out the door.

8 Q. And did you have any understanding as  
9 to what he meant by that?

10 A. Well, I assumed that he would go ahead  
11 without any County financing.

12 Q. So it was at that point when  
13 Mr. Daughtry walked out the door, your personal  
14 view was that the County was totally out of the  
15 project?

16 A. Well, as far as the financing is  
17 concerned at that point, I suppose, yes.

18 Q. So what happened after that then?

19 A. Well, I just said a minute ago, I think  
20 he probably talked to Mr. Walke or to somebody  
21 or called that meeting that Bob alluded to down  
22 at the bank. I'm not sure.

23 Q. You weren't involved in any of that?

24 A. No.

25 Q. What's the next thing you personally

27

1 knew that was happening with regard to the  
2 project?

3 A. Oh, I suppose when they got discussing  
4 the urban renewal plan for just the golf course  
5 alone, probably some discussion on issuing  
6 Mr. Daughtry some TIF bonds or TIF paper,  
7 whatever you want to call them. I remember the  
8 first time I heard the \$20 million I asked the  
9 same question in my own mind, why 20 million.  
10 But I think it's very irrelevant because he's  
11 never going to get that because the 8 percent  
12 interest on it will eat that up before it ever  
13 becomes a reality. It's just not going to get  
14 there, so the \$20 million doesn't make any

15 difference.

16 Q. So as far as you knew, Mr. Daughtry and  
17 Mr. Walke had some conversations and then --

18 A. Yeah. I think I knew they had some  
19 correspondence. Let's not put it conversations.

20 Q. How did the matter come to your  
21 attention then after they'd had their initial  
22 discussions?

23 A. Oh, we maybe discussed it here in the  
24 boardroom.

25 Q. And what was your understanding as to

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1 why Mr. Daughtry needed the \$20 million bonding  
2 from the County?

3 A. I don't think he ever made -- I don't  
4 know where that \$20 million came from.

5 Q. Or any money, let's put it that way.

6 A. Well, so he had some reassurance that  
7 he could recoup his money. I'm sure that was  
8 the reason. If he's going to borrow or get some  
9 developer to spend all this money, somebody is  
10 going to have to get some return other than the  
11 people that glean the profits from this. If he  
12 can get the whole project, to build this  
13 \$120 million thing out there, he's in line to  
14 make a pretty good chunk of revenue. And this  
15 is, I'm sure, what his goal is.

16 Q. And so the TIF bonds from the County  
17 would sort of be collateral for him to --

18 A. For him to go out and borrow money from  
19 the investors to build this. The term "bonds,"  
20 to me, I don't think they're bonds. They're  
21 just a piece of paper saying that the TIF  
22 revenue from these taxable properties will -- he  
23 will receive and -- for the next 20 years if he  
24 adheres to all the agreements in there. And  
25 that's if he builds the hotel/waterpark.

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1 Q. Well, doesn't the June 25, 2003  
2 development agreement say that tax increment  
3 financing will be used to provide the source of  
4 payment for a \$20 million tax exempt urban  
5 renewal revenue bond issued to the developer?  
6 So it is a bond, is it not?

7 A. Okay. If it's a bond, it's a bond.  
8 Yeah, it probably is.  
9 Q. And isn't the bond dependent on the  
10 County's financial obligation for that bond?  
11 A. Yes, it is.  
12 MR. JOHNSON: I want to object to  
13 the lack of foundation. That calls for legal  
14 conclusions. You can answer to the best of your  
15 ability.  
16 A. As far as I'm concerned, he will get  
17 the revenue after they pay the taxes. That's  
18 the only way he will collect any revenue off of  
19 the building of the properties, whether it's  
20 housing, motel, waterpark, golf course, anything  
21 that pays taxes, he will get that revenue for  
22 the first 20 years. If he doesn't build  
23 anything, he won't get anything.  
24 Q. The urban renewal plan was modified,  
25 was it not?

30

1 A. Yes.  
2 Q. Do you know if that was before or after  
3 this development agreement was signed?  
4 A. I'm not sure, but I think after.  
5 Q. And why was it modified?  
6 A. To take the corridor that we talked  
7 about here before out of it.  
8 Q. Perhaps I misunderstood. Maybe you can  
9 clarify it for me. The 300 to 400 acres --  
10 A. I think it was 690-some that the  
11 corridor was in. And I think that we took that  
12 out, and it's back down to a little over 300.  
13 Q. And those private properties that  
14 people thought they would be part of the tax  
15 increment financing, were those right around the  
16 River Bluffs property, or were they along the  
17 corridor?  
18 A. Along the corridor.  
19 Q. I wanted to make that clear, because I  
20 wasn't quite sure.  
21 A. Mainly on the north side of the  
22 highway, if that has any bearing on it or not.  
23 Q. So they were actually part of this  
24 strip of land into Marquette?  
25 A. Yes.

1 Q. Am I correct that originally the  
2 primary purpose for that strip of land into  
3 Marquette was for access to utilities?

4 A. Correct.

5 Q. And now without that there, there's no  
6 access to utilities, correct?

7 A. Correct.

8 Q. And would you agree that the  
9 comprehensive plan says development should be  
10 built so as to be accessible to utilities?

11 A. Well, whether it be private or public,  
12 I'm sure they will -- whether they're private or  
13 public, they will need to have utilities,  
14 facilities, utilities will. If you consider a  
15 sewer plant utilities, then I think that's what  
16 you're alluding to.

17 Q. Sewer, water, electricity?

18 A. Yep.

19 Q. Were you aware that Mr. Walke's  
20 discussions with Mr. Daughtry got to a point  
21 that discussions broke off in about June of  
22 2003?

23 A. The first time, as I think he alluded  
24 to, was here in the office, he decided to walk  
25 out. I think Bob alluded to that. Yes, I knew

1 that it was not being fruitful for a while.

2 Q. So after discussions broke down in June  
3 of 2003, what happened then as far as you know?

4 A. Nothing for a while.

5 Q. And then what?

6 A. Then, again, I think Mr. Daughtry got  
7 ahold of Mr. Walke.

8 Q. And did Mr. Daughtry then come to a  
9 full Board meeting after that?

10 A. No, I don't think so, not until it got  
11 to a little further along.

12 Q. Well, when did the terms of the  
13 June 25, 2003 development agreement come to be  
14 proposed? What led to those specific --

15 A. Well, I would imagine the conversation  
16 between Mr. Bob Josten from Dorsey & Whitney in  
17 Des Moines and probably Mr. Hatala, Daughtry's

18 attorney, and maybe some conversation with Bob  
19 and maybe Mr. Clefisch, and critiquing the  
20 agreement and getting it to the point where  
21 everybody agreed.

22 Q. And were you involved in that?

23 A. Probably somewhat. Discussion, I'm  
24 sure.

25 Q. And are you aware that after the

33

1 June 25, 2003 development agreement was signed,  
2 that there was another meeting of the planning  
3 and zoning commission to consider the new urban  
4 renewal plan?

5 A. Uh-huh, yes.

6 Q. Did you attend that meeting?

7 A. Yes, I did.

8 Q. The planning and zoning meeting?

9 A. Yes, I did.

10 Q. Are you aware of any pressure that was  
11 put on any of the planning and zoning commission  
12 members, not at that meeting, but privately?

13 A. That's a little hard for me to answer.  
14 I guess absolutely, no, I couldn't say that. I  
15 think -- well, better not say that. I think at  
16 those meetings there was discussion and comments  
17 made that were very suggestive to the Board, how  
18 they should feel about this.

19 Q. But that was at the public meeting; is  
20 that correct?

21 A. Yes.

22 Q. When Mr. Daughtry eventually agreed to  
23 your terms I guess would be the right way to say  
24 it apparently, did he give you any more  
25 information or any further data or anything

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1 about the viability of the project or the  
2 financial --

3 A. Not really.

4 Q. Now, you've indicated that it's your  
5 understanding that the new development agreement  
6 has a different bonding arrangement than the  
7 original agreement; is that a fair statement?

8 A. Yes.

9 Q. To your knowledge, how did the new

10 arrangement come about? Whose idea was it to do  
11 it that way rather than the original way?

12 A. Pretty hard to say. I guess I can say  
13 I really don't know who suggested what.

14 Q. You weren't involved in any of that  
15 apparently?

16 A. Not personally, no. I was involved in  
17 it to the point that when it would get to a  
18 point, we would discuss it. And then I don't  
19 know whether we got to a formal agreement, but  
20 we talked about it. I guess Mr. Josten and --  
21 well, that's enough.

22 Q. Do you know whether or not the bank  
23 here in Elkader is involved in financing any of  
24 the project now?

25 A. If I was to answer that, it would

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1 strictly be rumor. I have no evidence to say  
2 that they are. I was not told by either party  
3 that they were.

4 MR. TAYLOR: That's all the  
5 questions I have. Thanks.

6 (Deposition was concluded at  
7 12:25 p.m.)

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1 CERTIFICATE

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I, the undersigned, a Certified Shorthand  
3 Reporter of the State of Iowa, do hereby certify  
that there came before me at the time, date, and  
4 place hereinbefore indicated, the witness named  
on the caption sheet hereof, who was by me duly  
5 sworn to testify to the truth of said witness'  
knowledge touching and concerning the matters in  
6 controversy in this cause; that the witness was  
thereupon examined under oath, the examination  
7 taken down by me in shorthand, and later reduced  
to Computer-Aided Transcription under my  
8 supervision and direction, and that the  
deposition is a true record of the testimony  
9 given and of all objections interposed.  
10 I further certify that I am neither attorney or  
counsel for, nor related to or employed by any  
11 of the parties to the action in which this  
deposition is taken, and further, that I am not  
12 a relative or employee of any attorney or  
counsel employed by the parties hereto or  
13 financially interested in the action.

14 Dated at Dubuque, Iowa, this 9th day of April,  
2004.

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18 CERTIFIED SHORTHAND REPORTER.

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