

Transcript of the Testimony of **Chris Cotton**

Date: November 6, 2013

Volume: I

Case: In Re: Joplin Critical Investigation

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IN RE: JOPLIN CRITICAL INVESTIGATION

SWORN STATEMENT OF

CHRIS COTTEN

Taken on Wednesday, November 6, 2013, from 4:34 p.m. to 4:53 p.m., at the law offices of Juddson H. McPherson, LLC, 626 S. Byers, in the City of Joplin, County of Jasper, State of Missouri, before

SHARON K. ROGERS, C.C.R.650,
a Certified Court Reporter and a Notary Public within and
for the County of Jasper, and State of Missouri.

APPEARANCES

MR. THOMAS E. LORAINÉ

Lorraine & Associates, LLC

4075 Osage Beach Pkwy., Suite 300

Osage Beach, MO 65065

tellaw@loraineandassociates.com

S T I P U L A T I O N

IT IS HEREBY STIPULATED that this Sworn Statement may be taken by steno-mask type recording by SHARON K. ROGERS, a Certified Court Reporter, and afterwards reduced into typewriting.

It is further stipulated the signature of the witness is hereby waived, and that said Sworn Statement of said witness shall be of the same force and effect as though said witness had read and signed Sworn Statement.

I N D E X

Page/Line

DIRECT EXAMINATION BY MR. LORAINÉ . . . 5-4

E X H I B I T S

Exhibit #A. 5-6

Advice of Rights

Note: Exhibits in separate binder

(sic) - typed as spoken

(ph.) - phonetic

1 CHRIS COTTEN

2 Having been first duly sworn and examined,
3 testified as follows:

4 DIRECT EXAMINATION BY MR. LORAIN:

5 Q. Sir, I'm handing you what's been previously
6 marked as Exhibit #A, Advice of Rights. Have
7 you read this document?

8 A. Uh-huh.

9 Q. And you understood it?

10 A. Uh-huh. Yes.

11 Q. You understand that what it basically says is
12 that you need to tell me the truth?

13 A. Yes.

14 Q. And you need to answer? You can't refuse to
15 answer?

16 A. Yes.

17 Q. And that if you don't or if you answer and
18 it's the wrong answer you can get charges
19 brought against you. It's not a good thing.

20 A. I understand.

21 Q. Okay. But it can't be used criminally
22 against you.

23 A. Okay.

24 Q. This is an investigation method for the City
25 to find out what its employees know. There's

1 no other way for a City to know what it
2 knows, to know what its employees knows. So
3 I'm asking you today, I have one area that I
4 want to talk to you about. I want to talk to
5 you about what is your division that you
6 manage?

7 A. Parks and Recreations and cemeteries.

8 Q. Who is your immediate supervisor?

9 A. Mark Rohr.

10 Q. Okay. We're going to talk about Mr. Rohr.

11 A. Okay.

12 Q. I'd like to know how is it to work for Mr.
13 Rohr in your position? What have you
14 experienced?

15 A. Mark is - Mark has very high expectations.
16 If he asks you to do something he expects it
17 to get done in a timely manner, expects you
18 to put your best foot forward and give a
19 hundred percent. As long as you do what you
20 need to do there's no issues.

21 Q. Do you experience for lack of a better word
22 hostile experiences with Mark at times?

23 A. I have had occasion where the meetings may
24 not have gone like I'd like for them to have
25 gone, but I'm not going to say they're

1 hostile.

2 Q. Has he raised his voice in a yelling method
3 with you?

4 A. By nature Mark is pretty loud so what one
5 person might consider yelling another person
6 may not. His voice has been raised, but I
7 wouldn't say he was yelling at me.

8 Q. Has anybody witnessed that?

9 A. No.

10 Q. Does Mark let you express yourself in your
11 job without inference?

12 A. Well, that's kind of a difficult question
13 only because when I came to Joplin as the
14 Parks Director Joplin in my opinion has been
15 way behind the times for Parks and Rec so I
16 expressed a lot of ideas to Mark. Mark works
17 I guess to keep me reined in. There was so
18 much that we needed to get done to get caught
19 up that I'm focused on the big picture, not
20 necessarily the smaller day-to-day items. So
21 Mark does let me express myself and he does
22 listen to me, however if he thinks I'm
23 getting too far ahead of myself he shuts me
24 down, which is his job.

25 Q. Okay. Any comments concerning whether he's

1 vindictive if you don't do what he says?

2 A. Mark has not necessarily been vindictive
3 towards me. I've had one issue that I wasn't
4 particularly fond of the outcome, but we
5 discussed it and I let him know I didn't
6 appreciate it.

7 (Short break with Mr. Loraine takes a phone call)

8 Q. (By Mr. Loraine) Okay. You were saying you
9 were not fond of an outcome. Tell me about
10 that circumstance.

11 A. There are three main things that I was hired
12 to do when I came to Joplin and one was to
13 find a new tenant for Joe Becker Stadium when
14 the school moved out, two was to try to bring
15 Memorial Hall more in line with cost
16 recovery, it was hemorrhaging money every
17 year, and three was to get the new athletic
18 complex generating revenue. Last year I met
19 with Charlie Mier who is in charge of
20 expansion of the American Association of
21 Independent Baseball. That meeting ended up
22 making the front page of the paper and I
23 ended up getting reprimanded for meeting with
24 Charlie about the American Association coming
25 to town because it was felt that would be I

1 guess in conflict with the ongoing
2 discussions with Wallace-Bajjali, their take
3 on trying to bring baseball to town.

4 Q. So Mark was wanting to direct the business,
5 if you will, to Wallace-Bajjali rather than
6 let you develop it?

7 A. Wallace-Bajjali would have been hired as the
8 City's master developer and my efforts to
9 bring pro baseball to Joe Becker Stadium
10 would put a hitch in that.

11 Q. In what way?

12 A. Wallace-Bajjali was wanting to build a 30
13 million dollar baseball stadium and I could
14 get the same thing done at Joe Becker Stadium
15 for a fraction of that.

16 Q. Well, what are talking about? What's the
17 difference?

18 A. 5 million dollars.

19 Q. Don't you think it's your job to save 5
20 million dollars?

21 A. No, I would have saved 25 million dollars.

22 Q. Don't you think that's even more so? Don't
23 you think it's your job as a public employee
24 to save 25 million dollars?

25 A. I think that it's my job to advance the best

1 theory for doing Joe Becker Stadium, which is
2 what I was hired to do. That was what I was
3 upset about. I was hired to find a new
4 tenant for the stadium.

5 Q. And you did so?

6 A. Not at that point. I just had a league
7 talking to me. So I felt that was not right
8 and I voiced that to Mr. Rohr that I wasn't
9 pleased with that outcome.

10 Q. What did Mr. Rohr say or do?

11 A. He just made a little note of it, I guess.
12 He didn't want to say anything.

13 Q. I mean it appears to me that - I mean I
14 question that thinking from a public
15 viewpoint. Do you, also?

16 A. I would just simply say that when you are
17 hired to do a job, when it was made clear to
18 me the three things that I was initially
19 brought on to do, remember I'm trying to do
20 all this around rebuilding from the tornado.

21 Q. I understand.

22 A. I don't think that was correct. And as a
23 public official, if that's what I am, I work
24 for the citizens. It's my job to recover as
25 much of our operations as possible while at

1 the same time providing activities, quality
2 of life for the citizens of Joplin.

3 Q. Are you aware that Wallace-Bajjali gets 5.75
4 percent personal fee on anything they
5 generate?

6 A. I am.

7 Q. You are aware of that?

8 A. Yeah, I am very aware of that.

9 Q. Did you express that issue to the City
10 Manager?

11 A. I have let Mark know that I'm not necessarily
12 a fan of Wallace-Bajjali.

13 Q. Have you suffered any vindictiveness from
14 Mark as a result of this issue?

15 A. No, outside of the reprimand that was it.

16 Q. Is that for your record?

17 A. No.

18 Q. It was an oral reprimand?

19 A. It was an oral reprimand given to me by the
20 Assistant City Manager.

21 Q. I mean that's at least on your file?

22 A. I believe so.

23 Q. Did you ask Mark to remove that from your
24 file?

25 A. No.

1 Q. So if I were to review you and want you at a
2 job I've had a reprimand from you?

3 A. From my understanding the Assistant City
4 Manager has that reprimand and I never asked
5 for a copy of it. I signed it, left it at
6 that. Did I agree with it? As I said, no.
7 I felt that I was doing what I was hired to
8 do. Again, though, Mark was my boss so I was
9 --

10 Q. Well, I understand that and that puts you in
11 a difficult position. Did you report that to
12 the City Attorney or anybody?

13 A. No.

14 Q. Substantial money involved in that decision,
15 or at least there could be?

16 A. You mean as far as the stadium goes?

17 Q. Yes.

18 A. That will be on the work session next Monday
19 night so we'll see if I continue to work on
20 it. We're going to go to Council Monday to
21 ask. I've got a team that's ready to come to
22 town without Wallace-Bajjali.

23 Q. Does Mark know that?

24 A. He's aware of it, yes.

25 Q. Is he in favor of now going to this?

1 A. He is in favor now, yes.

2 Q. Well, obviously you have convinced him to
3 some extent. Or did you go around him?

4 A. No, I've kept Mark informed of every step
5 that I've been doing. It's just as I
6 mentioned earlier Mark has to keep me on task
7 sometimes. I don't know if he thought I was
8 getting out too far ahead. I don't know.

9 Q. Well, as part of that process did you ask for
10 the reprimand be removed?

11 A. I haven't really thought about it.

12 Q. It would seem to me you should get a reward
13 as opposed to a reprimand out of that. Don't
14 you agree with that?

15 A. You know, when you work for a city government
16 you get a paycheck and that's pretty much all
17 you can expect. Joplin is not a wealthy
18 town. I knew that when I came here to work
19 for the City.

20 Q. Did you report the fact that you had
21 developed this matter to anyone? How did it
22 get before the Council?

23 A. The Wallace --

24 Q. Your --

25 A. Mark advanced it.

1 Q. After he gave you a reprimand?

2 A. No, that was last year so this development
3 has all been rather recent.

4 Q. Well, you still worked on it, didn't you?

5 A. I'm still working on it, sir.

6 Q. Now it's with Mark's knowledge?

7 A. Mark has met with my team, the owners of the
8 team that I brought to town. Mark has met
9 with them on two or three occasions now. He
10 has advanced the idea to the Mayor and the
11 Mayor has moved it to the work session that
12 we're going to have on Monday.

13 Q. Has the City Attorney been involved in those
14 negotiations?

15 A. No, but again it's a work session on whether
16 we're going to proceed and do negotiations.

17 Q. I understand, but I mean there's been no
18 input from the City Attorney on this project
19 yet?

20 A. All that I'm aware of is just some things I
21 might have said to Brian in passing about,
22 hey, we're working on this.

23 Q. So he does know about it?

24 A. I think Brian - I mean he should know about
25 it, yes.

1 Q. He should know about it, I agree. I just
2 question whether he does. I mean I guess
3 that's the issue. Are you at liberty to tell
4 what ball team it is?

5 A. Yes, the El Paso Diablo in the American
6 Association.

7 Q. What is that?

8 A. It is one of the higher tiered independent
9 baseball leagues in the country.

10 Q. So it's not a farm club?

11 A. No, they routinely sell the contracts of the
12 players to major league baseball. We had an
13 exhibition game here in May, one of the
14 players on the Kansas City roster I believe
15 actually had a World Series ring, so they are
16 players that still want to play the game or
17 are trying to make it to the majors.

18 Q. So this would not be in competition with
19 Springfield, I mean it would be in addition?

20 A. Well, Springfield is about 75 miles from here
21 and the Kansas City Royals farm team in
22 Arkansas is about 75 or 80 miles from here,
23 so not in direct competition with them.
24 However, there are season ticket holders in
25 Joplin to both of those teams so the intent

1 would be to try to capture those dollars and
2 keep those people in Joplin. So not
3 necessarily in competition, but yes, in
4 competition, if that makes sense.

5 Q. Okay. I appreciate you coming over here
6 today. To the extent that your answers to my
7 questions, they must be kept here at this
8 table. That you not discuss what we have
9 talked about under penalty of whatever
10 happens, so I would appreciate it if you will
11 honor that. Any other comments concerning
12 the questions, the area that I introduced to
13 you today as far as bullying or any of that
14 nature that you want to make, or are we done
15 with the discussion?

16 A. No, I mean other than the fact that I enjoy
17 my job here. I've worked for several, I've
18 had several different bosses in my career,
19 Mark has highest expectations, you know, and
20 that's about it. I mean I don't have a
21 personal issue with Mark. He hired me, he
22 gave me a job, gave me a chance to come to
23 Joplin, so that's kind of where it's at.

24 Q. Okay. Thank you.

25 A. All right. Is that it?

1 Q. Yes. Thank you.

2

3 (SWORN STATEMENT CONCLUDED)

4

5

6

REPORTER'S CERTIFICATE

STATE OF MISSOURI

SS.

COUNTY OF JASPER

I, SHARON K. ROGERS, Certified Court Reporter in the State of Missouri, do certify that pursuant to the foregoing Stipulation the witness came before me on the 6th day of November, 2013, was duly sworn by me, and was examined. That examination was then taken by me by steno-mask recording and afterwards transcribed; said Sworn Statement is subscribed by the witness as hereinbefore set out on the day in that behalf aforesaid and is herewith returned.

I further certify that I am not counsel, attorney, or relative of either party, or clerk, or stenographer of either party or of the attorney of either party, or otherwise interested in the event of this suit.

SHARON K. ROGERS, CCR-650