

IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS
CIVIL DIVISION

CONWAY LAKESIDE, LLC and
EAGLECREST RECOVERY, LLC

PLAINTIFFS

v.

CASE NO. 72CV23-1033

WASHINGTON COUNTY, ARKANSAS,
WASHINGTON COUNTY QUORUM COURT
and PATRICK DEAKINS, IN HIS OFFICIAL
CAPACITY AS WASHINGTON COUNTY JUDGE

DEFENDANTS

CHARLES MCKINNEY and
MARY MCKINNEY, siblings

INTERVENORS

DEPOSITION OF PATRICK DEAKINS

Taken Wednesday, October 2, 2024

commencing at 9:10 a.m.

280 North College Avenue, 5th Floor

Fayetteville, Arkansas

REPORTED BY: SHEILA ALEXANDER, CCR
Certified Court Reporter

Patrick Deakins

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<p>1 APPEARANCES</p> <p>2</p> <p>3 ON BEHALF OF THE PLAINTIFFS:</p> <p>4 MR. TIM HUTCHINSON</p> <p>5 RMP LLP</p> <p>6 5519 Hackett Road, Suite 300</p> <p>7 Springdale, Arkansas 72762</p> <p>8 (479) 443-2705</p> <p>9 thutchinson@rmp.law</p> <p>10 ON BEHALF OF THE DEFENDANTS:</p> <p>11 MR. BRIAN R. LESTER</p> <p>12 MS. CATHERINE BAKER</p> <p>13 Washington County Attorney</p> <p>14 280 North College, Suite 500</p> <p>15 Fayetteville, Arkansas 72701</p> <p>16 (479) 973-8415</p> <p>17 blester@washingtoncountyar.gov</p> <p>18 ON BEHALF OF THE INTERVENORS:</p> <p>19 MR. STEVEN S. ZEGA</p> <p>20 Crouch, Harwell, Fryar & Ferner, PLLC</p> <p>21 111 Holcomb Street</p> <p>22 P.O. Box 1400</p> <p>23 Springdale, Arkansas 72765-1400</p> <p>24 (479) 751-5222</p> <p>25 szega@nwa.law</p> <p>Also Present:</p> <p>Ms. Mary McKinney</p>	<p>1 FAYETTEVILLE, ARKANSAS</p> <p>2 WEDNESDAY, OCTOBER 2, 2024, 9:10 a.m.</p> <p>3 -oOo-</p> <p>4</p> <p>5 PATRICK DEAKINS,</p> <p>6 having been first duly cautioned and sworn or affirmed by</p> <p>7 me to testify to the truth, the whole truth, and nothing</p> <p>8 but the truth, testified as follows:</p> <p>9 EXAMINATION</p> <p>10 BY MR. ZEGA:</p> <p>11 Q. Good morning, Judge Deakins.</p> <p>12 A. Good morning.</p> <p>13 Q. State your name for the record, please?</p> <p>14 A. I'm Patrick Deakins.</p> <p>15 Q. Judge Deakins, have you given deposition testimony</p> <p>16 before?</p> <p>17 A. I have.</p> <p>18 Q. Okay. So you're familiar with the process. I'm</p> <p>19 just going to ask you a few preliminary questions.</p> <p>20 If you would let me finish my question before you</p> <p>21 start your answer, and I'll try to let you finish your</p> <p>22 answer before I start another question. Will you do that</p> <p>23 for me?</p> <p>24 A. Sure.</p> <p>25 Q. Give verbal responses. You're doing good with that.</p>
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<p style="text-align: right;">Page 6</p> <p>1 County?</p> <p>2 A. I serve as the Washington County Judge.</p> <p>3 Q. Would you describe for me briefly what you think the</p> <p>4 statutory and constitutional duties of that office are?</p> <p>5 A. Sure. The county judge is the chief executive of</p> <p>6 the county. And so I maintain all the county property.</p> <p>7 Technically, legally, I own it. We preside over the</p> <p>8 Quorum Court meetings, and I oversee 18 various</p> <p>9 departments around the county. Some of those are shared</p> <p>10 services with the other elected individuals that serve</p> <p>11 Washington County.</p> <p>12 Q. Okay. When were you elected for this position?</p> <p>13 A. November of 2022.</p> <p>14 Q. And when did you take the oath of office?</p> <p>15 A. January the 2nd, 2023.</p> <p>16 Q. Is that a full-time job?</p> <p>17 A. Absolutely.</p> <p>18 Q. Do you have any other employment now besides being</p> <p>19 the county judge?</p> <p>20 A. No.</p> <p>21 Q. Before you were county judge, did you hold an</p> <p>22 elected position in Washington County?</p> <p>23 A. I did.</p> <p>24 Q. What was that position?</p> <p>25 A. I served as the Quorum Court representative for</p>	<p style="text-align: right;">Page 8</p> <p>1 essentially. I describe them anecdotally as the city</p> <p>2 council, if you will, of the unincorporated parts. So</p> <p>3 they hold the power of the purse for the budgetary reasons</p> <p>4 of the county, and they also implement county policy and</p> <p>5 law.</p> <p>6 Q. Okay.</p> <p>7 Is being a JP a full-time job?</p> <p>8 A. No.</p> <p>9 Q. Did you hold -- have another job while you were a</p> <p>10 JP?</p> <p>11 A. Yes.</p> <p>12 Q. What was that job?</p> <p>13 A. I was a certified public accountant.</p> <p>14 Q. Were you a solo, or did you work for a firm?</p> <p>15 A. I worked for a firm.</p> <p>16 Q. What was the firm name?</p> <p>17 A. The firm was called Peritum, LLLP.</p> <p>18 Q. Two Ls and a P?</p> <p>19 A. I think it's three.</p> <p>20 Q. Okay.</p> <p>21 Did that firm or did you have a habitual</p> <p>22 relationship with a law firm?</p> <p>23 A. Yes.</p> <p>24 Q. What law firm?</p> <p>25 A. RMP.</p>
<p style="text-align: right;">Page 7</p> <p>1 District 5.</p> <p>2 Q. And can you describe District 5 geographically for</p> <p>3 me?</p> <p>4 A. Yeah. It's essentially the northeast part of the</p> <p>5 county, so it's anything from right outside the Springdale</p> <p>6 city limits, some inside the Springdale city limits on the</p> <p>7 west side, extends all the way to the county border on the</p> <p>8 east side, the northern county border on the north side,</p> <p>9 and then a little past 412 on the southern side. That</p> <p>10 district's changed since I represented it.</p> <p>11 Q. I was about to ask you that question. Has it been</p> <p>12 redrawn as a result of -- I know every ten years you do a</p> <p>13 census and you re- -- you kind of reallocate the seat, the</p> <p>14 number of people in each district.</p> <p>15 A. Yes. And I know that it has been redrawn. Of</p> <p>16 course, when I was leaving the court, running for county</p> <p>17 judge, I didn't pay attention to the particular details of</p> <p>18 how that geographically changed.</p> <p>19 Q. Okay. Did that prop -- did your district, to your</p> <p>20 knowledge, at the time include the property located at</p> <p>21 19965 Lakeview Road in Springdale?</p> <p>22 A. Yes.</p> <p>23 Q. Would you describe briefly the statutory and</p> <p>24 constitutional duties of a JP?</p> <p>25 A. Yes. They are the legislative body of the county,</p>	<p style="text-align: right;">Page 9</p> <p>1 Q. Is that Mr. Hutchinson's law firm?</p> <p>2 A. That is.</p> <p>3 Q. Would you describe the relationship, please?</p> <p>4 A. We were there to support some of the relationships</p> <p>5 that the law firm had established through an accounting</p> <p>6 practice. RMP did a lot of estate planning work, trust</p> <p>7 work, that kind of thing. And so we sprouted up next to</p> <p>8 them essentially to supplement and help that work.</p> <p>9 Q. How long did you work as an accountant in that firm?</p> <p>10 A. I think I started there in January of 2017.</p> <p>11 Q. How long have you been a CPA?</p> <p>12 A. Since 2010.</p> <p>13 (Wherein, Deposition Exhibit 1 was marked.)</p> <p>14 Q. (Mr. Zega continued.) Judge, I'm going to show you</p> <p>15 what I've caused to be marked as Deposition Exhibit 1.</p> <p>16 A. Uh-huh.</p> <p>17 Q. Ask you if you recognize that document.</p> <p>18 A. I do.</p> <p>19 Q. What is that?</p> <p>20 A. That's the signed ordinance with the county clerk</p> <p>21 file copy. This is the ordinance that denied the</p> <p>22 EagleCrest Recovery permit, CUP.</p> <p>23 Q. And I'm going to refer to that, if it's okay with</p> <p>24 you and so we have a common understanding of the document</p> <p>25 I'm talking about, as Ordinance 2023-26. Is that correct?</p>

<p style="text-align: right;">Page 10</p> <p>1 A. Okay. Yeah.</p> <p>2 Q. Did you sign that ordinance?</p> <p>3 A. I did.</p> <p>4 Q. Before you signed the ordinance, did you have</p> <p>5 communication with anyone representing EagleCrest</p> <p>6 Recovery, LLC, or Conway Lakeside Development --</p> <p>7 A. No.</p> <p>8 Q. -- about the subject matter of this ordinance?</p> <p>9 A. No.</p> <p>10 Q. Okay. What about any communication with them about</p> <p>11 their conditional use permit application?</p> <p>12 A. Not to my knowledge. You're talking about directly</p> <p>13 with the applicant?</p> <p>14 Q. Well, anybody representing them. So anybody --</p> <p>15 because they're both LLCs; right?</p> <p>16 A. Uh-huh.</p> <p>17 Q. I would assume that they would have a corporate</p> <p>18 representative if somebody was going to speak to you, and</p> <p>19 that's what the basis of my question is.</p> <p>20 A. No, I don't recall ever having conversations with</p> <p>21 them.</p> <p>22 Q. Any written communication from them that you're</p> <p>23 aware of?</p> <p>24 A. Not to my knowledge.</p> <p>25 Q. After they filed their lawsuit, did anyone</p>	<p style="text-align: right;">Page 12</p> <p>1 that --</p> <p>2 A. No, sir.</p> <p>3 Q. -- lawsuit?</p> <p>4 Were you aware of any of the back-and-forth motions</p> <p>5 or discovery that were filed in that lawsuit?</p> <p>6 A. No, sir, not in detail.</p> <p>7 Q. Did you read any of the discovery that either I</p> <p>8 submitted on behalf of my client, Ms. McKinney and her</p> <p>9 brother, Charles, or any of the discovery that Conway</p> <p>10 Lakeside and EagleCrest Recovery submitted?</p> <p>11 A. No, sir.</p> <p>12 Q. Without getting into what Mr. Lester or someone in</p> <p>13 his office said to you, did you get any kind of regular</p> <p>14 updates on it?</p> <p>15 A. Absolutely.</p> <p>16 Q. Okay. Did you ask for -- was there a certain time</p> <p>17 that you did that, or did you just ask it passing in the</p> <p>18 hallway?</p> <p>19 A. We have a formal legal meeting every week that we</p> <p>20 set up to where we have briefings of whatever the current</p> <p>21 events are.</p> <p>22 Q. Okay. You do that once a week?</p> <p>23 A. We do that once a week, schedules permitting.</p> <p>24 Q. I understand. Okay.</p> <p>25 While the lawsuit was pending, did you, on the</p>
<p style="text-align: right;">Page 11</p> <p>1 representing EagleCrest Recovery, LLC, or Conway Lakeside</p> <p>2 Development, LLC, communicate with you about the</p> <p>3 ordinance?</p> <p>4 A. Not to my knowledge.</p> <p>5 Q. Are you familiar with the lawsuit that EagleCrest</p> <p>6 Recovery and Conway Lakeside Development filed against the</p> <p>7 county to try and overturn this ordinance?</p> <p>8 A. Only in generalities.</p> <p>9 Q. Okay. Tell me -- well, let me ask you this</p> <p>10 question: Are you aware that the lawsuit named you in</p> <p>11 your capacity as county judge?</p> <p>12 A. As does every lawsuit that faces the county.</p> <p>13 Q. I think statutorily that's true, but it's not</p> <p>14 necessarily -- I don't know that Patrick Deakins -- like</p> <p>15 your name appears in the caption of that lawsuit; correct?</p> <p>16 A. I'm not -- no, I'm not familiar with that.</p> <p>17 Q. Okay. Well, that gets into an entirely -- another</p> <p>18 topic I want to -- by the way, I'm going to introduce that</p> <p>19 as Deposition Exhibit 1, but we're probably going to come</p> <p>20 back to it a lot.</p> <p>21 Describe for me, please, generally your familiarity</p> <p>22 with the proceedings in that lawsuit.</p> <p>23 A. That the applicant had sued, trying to overturn this</p> <p>24 particular ordinance that we had gotten passed.</p> <p>25 Q. Okay. Were you aware of any of the court dates in</p>	<p style="text-align: right;">Page 13</p> <p>1 county's behalf, ask for an injunction to stop the</p> <p>2 plaintiffs from operating in violation of Deposition</p> <p>3 Exhibit 1?</p> <p>4 A. I don't recall doing that.</p> <p>5 Q. Why didn't you do that?</p> <p>6 A. I was not advised to do that.</p> <p>7 Q. Okay.</p> <p>8 Did you take any other enforcement action at all --</p> <p>9 A. Not --</p> <p>10 Q. Let me finish my question, Judge.</p> <p>11 -- on this ordinance?</p> <p>12 A. Not to my knowledge.</p> <p>13 Q. Why not?</p> <p>14 A. Because I was never advised to.</p> <p>15 Q. Judge, do you agree with me or do you disagree with</p> <p>16 me that Amendment 55 that defines constitutionally the</p> <p>17 office of the county judge and the statutes that implement</p> <p>18 Amendment 55 say that the county judge is responsible for</p> <p>19 the administration of county ordinances?</p> <p>20 A. Absolutely.</p> <p>21 Q. What does that mean to you?</p> <p>22 A. That means that we have to carry out and enforce</p> <p>23 them like any other executive branch would.</p> <p>24 Q. Okay.</p> <p>25 And you've already told me that you didn't do that</p>

<p style="text-align: right;">Page 14</p> <p>1 with this ordinance; is that correct?</p> <p>2 A. That's correct.</p> <p>3 Q. So why would it take legal advice for you to do what</p> <p>4 you know your constitutional and statutory duty is?</p> <p>5 A. Because I have two salaried professionals working</p> <p>6 here at the county, and I rely on their expert advisement,</p> <p>7 especially in legal matters.</p> <p>8 Q. Okay. Did it occur to you to ask the question, "Can</p> <p>9 we enforce this ordinance"?</p> <p>10 A. I don't believe I implored anymore.</p> <p>11 Q. I'm sorry. Say that again.</p> <p>12 A. I didn't question the advice I was given, no.</p> <p>13 Q. Well, again, I really don't want to know what</p> <p>14 Mr. Lester or Ms. Baker -- and I don't know when in this</p> <p>15 litigation she came on board as a county -- deputy county</p> <p>16 attorney. But without getting into what they told you,</p> <p>17 are you -- is it your position that the reason you never</p> <p>18 took any action to enforce this ordinance was that the</p> <p>19 county attorney never told you to?</p> <p>20 A. No.</p> <p>21 Q. Okay. Then what is your position?</p> <p>22 A. My position is that it's my job to analyze the facts</p> <p>23 of any given situation, rely on my advisers here at the</p> <p>24 county, and do what's best in the county interest.</p> <p>25 Q. Okay. Did you analyze the facts and the situation</p>	<p style="text-align: right;">Page 16</p> <p>1 I read the actual filings? No.</p> <p>2 Q. So --</p> <p>3 A. And that's just a -- that's just an efficiency of</p> <p>4 the office.</p> <p>5 Q. Okay. The entire source of information you had</p> <p>6 about this ordinance post-lawsuit came from the county</p> <p>7 attorney's office. Is that what you're telling me?</p> <p>8 A. Yes, outside of what was already -- what we had seen</p> <p>9 in meetings.</p> <p>10 Q. And everything else would have been of record in a</p> <p>11 public Quorum Court or committee meeting --</p> <p>12 A. To my knowledge, yes.</p> <p>13 Q. -- or planning commission. I don't want to box you</p> <p>14 into a corner that's not fair.</p> <p>15 A. Sure. Absolutely.</p> <p>16 Q. Okay.</p> <p>17 In general, what is your role, do you think, in</p> <p>18 enforcing county ordinances?</p> <p>19 A. It's very complicated because --</p> <p>20 Q. Explain it to me as best you can.</p> <p>21 A. What we've run into is that the county lacks very</p> <p>22 much enforcement, especially when these matters go into</p> <p>23 the legal courtrooms. The mechanism to enforce.</p> <p>24 Q. What would be the way you would enforce it if you</p> <p>25 could?</p>
<p style="text-align: right;">Page 15</p> <p>1 regarding this ordinance?</p> <p>2 A. Globally.</p> <p>3 Q. And what was that analysis?</p> <p>4 A. Just that the county had been involved in this legal</p> <p>5 litigation and that I got briefed on it regularly.</p> <p>6 Q. And that's the entire reason you took no action to</p> <p>7 enforce the ordinance.</p> <p>8 A. After looking at the facts and being advised by</p> <p>9 legal counsel, yeah, that's why I made my decision.</p> <p>10 Q. Okay. All right. What facts did you look at?</p> <p>11 A. What they were advised me of the legal facts.</p> <p>12 Q. Well -- so that seemed to me there -- to have been</p> <p>13 two components to the answer you just gave me.</p> <p>14 A. Uh-huh.</p> <p>15 Q. You looked at the facts, and you got legal advice.</p> <p>16 A. Uh-huh.</p> <p>17 Q. You probably know I can't -- I don't want to know</p> <p>18 what legal advice you got. Correct?</p> <p>19 A. Sure.</p> <p>20 Q. I'm trying to figure out what specific facts you</p> <p>21 knew that went into your analysis of not enforcing this</p> <p>22 ordinance.</p> <p>23 A. They would all be documented. I'm talking about --</p> <p>24 the facts that I had were from the meetings and from what</p> <p>25 I heard of the case and filings going on after that. Did</p>	<p style="text-align: right;">Page 17</p> <p>1 A. We have something set out to where we can fine</p> <p>2 individuals for operating, but we've never really -- we've</p> <p>3 never seen success like that. And, of course, that</p> <p>4 enforcement is very difficult, because we, as the county,</p> <p>5 don't have the staff to do that. We would have to rely</p> <p>6 upon the sheriff's office.</p> <p>7 Q. Okay.</p> <p>8 Before you became county judge, did you live in</p> <p>9 rural unincorporated areas of the county? Did you live in</p> <p>10 cities? Both?</p> <p>11 A. I've lived in both. Since my service, I've lived in</p> <p>12 the same residence.</p> <p>13 Q. Okay. Is that in the unincorporated part of the</p> <p>14 county or in a city?</p> <p>15 A. It's in an unincorporated part of the county.</p> <p>16 Q. What cities have you lived in?</p> <p>17 A. Way prior to -- I've lived at my current address for</p> <p>18 13 years. Prior to that, I lived in an apartment complex</p> <p>19 in Rogers when I was newly married.</p> <p>20 Q. Okay.</p> <p>21 Are you familiar with the way cities enforce zoning</p> <p>22 ordinances?</p> <p>23 A. No, sir.</p> <p>24 Q. Have you ever heard of code enforcement?</p> <p>25 A. I have, but I'm not familiar with any kind of the</p>

<p style="text-align: right;">Page 18</p> <p>1 details.</p> <p>2 Q. Okay. Have you ever -- so you haven't seen a code</p> <p>3 enforcement officer write a ticket, for example.</p> <p>4 A. No, sir. I've never personally experienced it.</p> <p>5 Q. Okay.</p> <p>6 Judge, I'm trying to understand this part of your</p> <p>7 testimony. I'm talking about county ordinances in general</p> <p>8 now. You're telling me that enforcement's complicated.</p> <p>9 Is that correct?</p> <p>10 A. By my opinion.</p> <p>11 Q. Does that mean that no county ordinances get</p> <p>12 enforced?</p> <p>13 A. No.</p> <p>14 Q. Okay. What does it mean?</p> <p>15 A. It means that we do the best we can to apply the law</p> <p>16 that we're given by the Quorum Court.</p> <p>17 Q. And how do you do that? What are the details of</p> <p>18 applying the law?</p> <p>19 A. We look at the ordinance. We see how enforceable it</p> <p>20 is. I rely on legal counsel to help me understand the</p> <p>21 intricacies of that enforcement.</p> <p>22 Q. Okay. So if Mr. Lester's office does not give you</p> <p>23 advice specifically on enforcing an ordinance, does it get</p> <p>24 enforced?</p> <p>25 A. I rely on my legal department.</p>	<p style="text-align: right;">Page 20</p> <p>1 Steve, because I'm going to do you the same way</p> <p>2 you do me in these depositions, as you have with</p> <p>3 Ms. Coger. Stop badgering the witness. Ask the</p> <p>4 question. Listen to the answer. If you can't,</p> <p>5 we'll stop. Do you understand me?</p> <p>6 MR. ZEGA: Now --</p> <p>7 MR. LESTER: Do you understand me?</p> <p>8 MR. ZEGA: Yes, Brian, I understand you.</p> <p>9 MR. LESTER: Thank you. Thanks, Steve. We</p> <p>10 can move on.</p> <p>11 Q. (Mr. Zega continued.) In the time you've been</p> <p>12 county judge, have you ever sought the enforcement of an</p> <p>13 ordinance, in general?</p> <p>14 A. You're talking about like a positive act?</p> <p>15 Q. Yes.</p> <p>16 A. Not to my knowledge.</p> <p>17 Q. Have you sought the enforcement of an ordinance</p> <p>18 while you were a JP?</p> <p>19 A. No.</p> <p>20 Q. What did -- besides overturning this ordinance, what</p> <p>21 did EagleCrest Recovery, in your mind, and Conway Lakeside</p> <p>22 try to get out of this lawsuit that they filed?</p> <p>23 A. I don't understand the question.</p> <p>24 Q. Okay. Besides overturning this ordinance that I</p> <p>25 have shown you as Exhibit 1 --</p>
<p style="text-align: right;">Page 19</p> <p>1 Q. Listen to my question, and answer my question. If</p> <p>2 Mr. Lester's office does not give you advice on the</p> <p>3 enforcement of an ordinance, does it get enforced?</p> <p>4 A. Listen to my answer.</p> <p>5 Q. I did.</p> <p>6 A. I always bring in legal counsel on these matters,</p> <p>7 because I think that's the right way to handle the matter.</p> <p>8 Q. So the answer to my question is?</p> <p>9 A. I always bring in legal counsel when it comes to the</p> <p>10 enforcement of ordinances.</p> <p>11 Q. Judge, I don't think you're answering my question.</p> <p>12 A. I don't think you're listening to the answer.</p> <p>13 Q. I listened to the answer.</p> <p>14 I asked you: If Mr. Lester doesn't give you advice</p> <p>15 to enforce an ordinance, right -- "Judge, enforce this</p> <p>16 ordinance --" because I don't think he has the power to</p> <p>17 tell you what to do; I think he has the power to advise</p> <p>18 you what to do. "Judge, I advise you to enforce this</p> <p>19 ordinance." If you don't get that advice from Mr. Lester,</p> <p>20 does the ordinance go unenforced?</p> <p>21 A. I always seek the advice of legal when it comes to</p> <p>22 the enforcement of ordinances.</p> <p>23 MR. ZEGA: I'm going to certify that</p> <p>24 question to the Judge.</p> <p>25 MR. LESTER: I'm going to stop for a sec,</p>	<p style="text-align: right;">Page 21</p> <p>1 A. Right.</p> <p>2 Q. -- what was Conway Lakeside, LLC, and EagleCrest</p> <p>3 Recovery, LLC, trying to get out of the lawsuit they</p> <p>4 filed?</p> <p>5 A. My understanding was they were trying to get the</p> <p>6 ordinance overturned.</p> <p>7 Q. And nothing more, as far as you know.</p> <p>8 A. Not that I -- not to my knowledge.</p> <p>9 Q. All right.</p> <p>10 What was your reaction to that lawsuit?</p> <p>11 A. I don't know that I had a particular reaction one</p> <p>12 way or the other.</p> <p>13 Q. Okay.</p> <p>14 What was your goal for the county in the litigation?</p> <p>15 A. The goal for the county?</p> <p>16 Q. Uh-huh.</p> <p>17 A. To enforce the law while also understanding and</p> <p>18 minimizing risk mitigation to the county.</p> <p>19 Q. What did you perceive the risk to the county to be</p> <p>20 in that lawsuit?</p> <p>21 A. No different than any lawsuit is that the county</p> <p>22 could -- could not prevail.</p> <p>23 Q. Okay.</p> <p>24 In the context of this lawsuit, what did you</p> <p>25 understand "not prevailing" meant?</p>

<p style="text-align: right;">Page 22</p> <p>1 A. That the will of the Quorum Court would be 2 overturned. 3 Q. Okay. 4 During your time as county judge, has the county 5 been sued by prisoners at the jail? 6 A. I don't have specific knowledge of those. 7 Q. Okay. 8 During your time as county judge, has the county 9 been sued in a civil rights lawsuit? 10 A. Yeah. 11 Q. Okay. 12 Would you agree or disagree with me that this 13 lawsuit in particular wasn't seeking any money from the 14 county? 15 A. I wouldn't be comfortable stating that one way or 16 the other. 17 Q. Okay. 18 Would you agree or disagree with the idea that civil 19 rights lawsuits often do seek money from the county? 20 A. I don't know. I don't -- I'm not an attorney, 21 Mr. Zega. 22 Q. Judge, do you think Washington County needs zoning? 23 A. I think we need to do something different from what 24 we're doing now. 25 Q. Well, you're getting to my next question. In</p>	<p style="text-align: right;">Page 24</p> <p>1 A. Ordinances. Excuse me for the clarification. 2 Q. That's -- right. And so this is the -- again, 3 you're getting -- anticipating my question a little bit. 4 Zoning -- what do you think zoning is? 5 A. To me, zoning is designated certain parcels of 6 property for potential uses. 7 Q. Okay. 8 And what do you think county planning is? 9 A. County planning -- you're talking about the county 10 planning department? 11 Q. Well, yeah, but I mean -- I know this, but I need to 12 get it on the record. Are all county planning and zoning 13 administrative decisions handled in the same place in the 14 county, the same office? 15 A. Yes. 16 Q. Mr. Ata -- Dr. Ata's office. 17 A. Uh-huh. Yes, sir. 18 Q. Okay. All right. 19 Are zoning and planning the same thing? Maybe 20 that's a better way to ask this question. 21 A. No, not in my mind. 22 Q. All right. You've told me already you don't think 23 the county needs zoning and the right policy would be to 24 eliminate zoning for the county; correct? 25 A. That's my personal opinion.</p>
<p style="text-align: right;">Page 23</p> <p>1 general, does the county need zoning? 2 A. No. 3 Q. Okay. And so to your mind, the right policy for the 4 county would be for the unincorporated areas to have no 5 zoning. 6 A. Yes. 7 Q. Okay. And I think you were on the record recently 8 with the current county zoning ordinance -- and you 9 anticipated my question on this, but let me just ask. 10 What do you think of the current county zoning ordinance? 11 A. My personal opinion is it's an unmitigated disaster. 12 Q. Okay. Does that mean that you would not do anything 13 to enforce that ordinance? 14 A. No. As county judge, I have to regularly keep my 15 personal opinions separate from my duties of office. 16 Q. Very good. 17 Has somebody sued, to your knowledge, to invalidate 18 the entire Washington County zoning and planning 19 ordinances that exist today? 20 A. Not to my knowledge. 21 Q. And by the way, is it county zoning, county 22 planning, or both that you think needs to be completely 23 redone? 24 A. It's the current ordinance that we operate under. 25 Q. Okay. And I --</p>	<p style="text-align: right;">Page 25</p> <p>1 Q. Right. Okay. 2 Planning is different. Do you think the county 3 needs planning? 4 A. I think there's a role for planning, yes. 5 Q. Okay. All right. 6 And so kind of circling back to the question where I 7 said, "What do you think of the current county zoning 8 ordinance?" you said, "It's an unmitigated disaster." I'm 9 paraphrasing you, but I think it's a fair paraphrase. 10 A. I'll go with it. 11 Q. Okay. You said the ordinances -- I'm trying to 12 figure out if you mean just zoning or zoning and planning 13 together is a disaster. Does that make sense? 14 A. It does. But I think we could -- we could spend all 15 afternoon talking about what our definitions of planning 16 versus zoning are. 17 Q. And I'm trying to focus just on as it exists in the 18 county today. 19 A. Yes. 20 Q. Zoning and planning, do you want to scrap it -- all 21 of it and start over again? 22 A. Yes. 23 Q. Okay. 24 Has someone threatened to sue the county to 25 invalidate the entire zoning and planning system?</p>

<p style="text-align: right;">Page 26</p> <p>1 A. Not to my knowledge.</p> <p>2 Q. Okay.</p> <p>3 Judge, I'm going to show you what I'll cause to be</p> <p>4 marked as Deposition Exhibit 2.</p> <p>5 (Wherein, Deposition Exhibit 2 was marked.)</p> <p>6 Q. (Mr. Zega continued.) Do you recognize that</p> <p>7 document?</p> <p>8 A. I'm not familiar with this document. If I was at</p> <p>9 one point, I don't recall it.</p> <p>10 Q. All right.</p> <p>11 A. Is it something you need me to review?</p> <p>12 Q. Yes, please.</p> <p>13 A. Okay. I can remove this Post-it note?</p> <p>14 Q. Yeah.</p> <p>15 MR. HUTCHINSON: Steve, can you identify</p> <p>16 which document?</p> <p>17 MR. ZEGA: Yeah. It's the document -- it's</p> <p>18 the letter Anna wrote to Judge Deakins on</p> <p>19 March 19th.</p> <p>20 MR. HUTCHINSON: Thank you.</p> <p>21 A. Okay.</p> <p>22 Q. (Mr. Zega continued.) Having had a chance to look</p> <p>23 at that document, Judge, have you seen it before today?</p> <p>24 A. It doesn't -- I don't recall it.</p> <p>25 Q. Judge, it -- would you agree with me that it says</p>	<p style="text-align: right;">Page 28</p> <p>1 Lakeside or EagleCrest Recovery directly contact you or a</p> <p>2 member of your staff about the pending litigation?</p> <p>3 A. Not to my knowledge.</p> <p>4 Q. When did you become aware of the general nature of</p> <p>5 this letter?</p> <p>6 A. I would say it would have been somewhere close to</p> <p>7 the date of this letter.</p> <p>8 Q. Within a day or two?</p> <p>9 A. No. Couple weeks would be my most -- my biggest</p> <p>10 comfort level there.</p> <p>11 Q. Did you understand the intent of the letter to be</p> <p>12 that Conway Lakeside and EagleCrest were going to file a</p> <p>13 complaint with the Federal Housing and Urban Development</p> <p>14 Authority if you didn't give them a -- give them what they</p> <p>15 call a reasonable accommodation?</p> <p>16 A. That was their communicated intention.</p> <p>17 Q. Well -- and I want to be clear about this part. You</p> <p>18 told me you understood in general what this letter was</p> <p>19 about.</p> <p>20 A. Sure.</p> <p>21 Q. Okay. Within two weeks, I think.</p> <p>22 A. A couple weeks.</p> <p>23 Q. Ish.</p> <p>24 A. Ish.</p> <p>25 Q. Okay.</p>
<p style="text-align: right;">Page 27</p> <p>1 that it's to Washington County, Arkansas, care of Patrick</p> <p>2 Deakins, county judge?</p> <p>3 A. I would agree.</p> <p>4 Q. And so you don't know that you've ever seen this</p> <p>5 document before today.</p> <p>6 A. I don't recall it --</p> <p>7 Q. Okay.</p> <p>8 A. -- specifically.</p> <p>9 Q. Do you recall it generally?</p> <p>10 A. I mean I recall the arguments of it generally, but</p> <p>11 that's where the confusion sets in. I might have been</p> <p>12 briefed on it.</p> <p>13 Q. Well, do you know who in county government read this</p> <p>14 document?</p> <p>15 A. Legal.</p> <p>16 Q. So either Mr. Lester or Ms. Baker.</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Do you know what they did with it?</p> <p>19 A. No.</p> <p>20 Q. Do you know when they received it, actually?</p> <p>21 A. No, sir.</p> <p>22 Q. Do you know when you got your briefing about it?</p> <p>23 A. No, sir.</p> <p>24 Q. Other than this letter that is addressed to the</p> <p>25 county in your care, did anybody on behalf of Conway</p>	<p style="text-align: right;">Page 29</p> <p>1 I want to know if that was your understanding as of</p> <p>2 the time you understood what this letter was about. In</p> <p>3 other words, within a couple weeks, did you understand</p> <p>4 that it was Conway Lakeside and EagleCrest Recovery's</p> <p>5 intent to file a complaint against the county with federal</p> <p>6 authorities?</p> <p>7 A. Yes.</p> <p>8 Q. Okay.</p> <p>9 Did you understand Mr. Lester's comments at the</p> <p>10 April 18th, 2024, Quorum Court meeting where he said you</p> <p>11 were not likely to prevail if they did that?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. So what?</p> <p>14 A. What do you mean?</p> <p>15 Q. So what? What if you weren't likely to prevail?</p> <p>16 A. Well, the county would lose the lawsuit.</p> <p>17 Q. Okay. Weren't you already being sued about this</p> <p>18 ordinance in an attempt to get it overturned when they</p> <p>19 wrote this letter?</p> <p>20 A. Yeah.</p> <p>21 Q. Okay.</p> <p>22 A. Yes.</p> <p>23 Q. So how is "not likely to prevail" in -- as a result</p> <p>24 of this letter any worse for the county than "not likely</p> <p>25 to prevail" in the state litigation that was already going</p>

1 on"?

2 A. Well, I think that's an assumption of two different

3 risk assessments.

4 Q. Tell me how they're different.

5 A. Because you're talking about a locally passed and

6 somewhat enforceable ordinance, and now we're talking

7 about federal law. Those are two different avenues, in my

8 mind, very much so.

9 Q. Okay. Did you understand the lawsuit that Conway

10 Lakeside and EagleCrest Recovery filed to raise federal

11 law claims in the state court?

12 A. Did I -- was I aware that they were going to raise

13 federal law claims?

14 Q. That they did. Not that they were going to. That

15 they did.

16 A. Not specifically.

17 Q. Okay.

18 A. I would assume they'll raise any questions they

19 could.

20 Q. Okay.

21 Did you discuss the contents of this letter with

22 anybody but Mr. Lester and Ms. Baker?

23 A. Not to my knowledge.

24 Q. Did you discuss it with any member of the Quorum

25 Court between March 19th, 2024, and April 18th, 2024?

1 A. I don't recall that.

2 Q. Does that mean you don't think you did or you just

3 don't remember whether you did or not?

4 A. It means I don't remember whether I did or not.

5 Q. Do you think that this is business that involves and

6 concerns the Washington County Quorum Court?

7 A. Absolutely. That's why we had to pass the follow

8 ordinance -- follow-up.

9 Q. To this date, do you know if this letter has been

10 shown to any member of the Washington County Quorum Court?

11 A. Not to my knowledge.

12 Q. Why not?

13 A. It's not to my knowledge that it hasn't been.

14 Q. You don't know one way or the other.

15 A. No, sir.

16 Q. Okay.

17 A. The Quorum Court is an independent branch of

18 government.

19 Q. I agree with that, Judge. Not that it matters that

20 I agree with you, but I agree with you.

21 A. Right.

22 Q. Okay.

23 If you got information that concerned business of

24 the Quorum Court, not as a matter of constitutional or

25 statutory duty, but just as a matter of keeping them fully

1 informed, wouldn't you think it would be nice for them to

2 know something about this?

3 A. And I think my previous answer was I can't remember

4 what specifically they were shown and what they weren't.

5 Q. Okay.

6 A. So once again, I think we're jumping to a conclusion

7 there.

8 Q. Well, Judge, I'm trying not to conclude. I'm trying

9 to figure out what happened. And so in figuring out what

10 happened, what I think you've told me is you don't

11 remember whether you discussed the contents of this letter

12 with any member of the Quorum Court at all.

13 A. (Witness shakes head.)

14 Q. Am I -- is that your testimony?

15 A. That is my testimony.

16 Q. Okay.

17 And my follow-up question to that is: Knowing that

18 this is business that you already told me concerns the

19 Quorum Court --

20 A. Uh-huh.

21 Q. -- correct, why didn't you discuss it with them?

22 Why don't you have a positive memory of going out and

23 saying: "Hey, we've been threatened. You need to know

24 about it."

25 A. Well, you know, I don't want to disappoint you, but

1 we get a lot of letters, and we have a lot of business in

2 this office. And the fact that I can't specifically

3 remember a certain instance or a conversation might be

4 surprising to you. It's not to me.

5 Q. Okay.

6 A. I will also say that I don't normally conduct myself

7 to have private conversations with JPs. So anything in

8 this case should be well-documented in open public

9 meetings.

10 Q. So -- very good. I'm going to come back to that.

11 Was there a Quorum Court email blast about this

12 document?

13 A. Not to my knowledge. I don't remember.

14 Q. Who's the JP for the district that includes this

15 property now?

16 A. Kyle Lyons. Justice Kyle Lyons.

17 Q. Okay.

18 Do you know whether he knew about what was going on

19 with this letter before the April 18th letter?

20 A. I certainly can't speak for another individual.

21 Q. Well, if you or somebody in your office talked to

22 him, you'd be able to say whether he knew about it.

23 Right?

24 A. I don't remember having conversations with specific

25 individuals.

<p style="text-align: right;">Page 34</p> <p>1 Q. Do you think that the contents of this letter would</p> <p>2 have been of interest to JP Lyons?</p> <p>3 A. Sure. It would have been of public interest.</p> <p>4 Q. Judge, I'm going to show you what I'll mark as</p> <p>5 Exhibit 3 to your deposition.</p> <p>6 MR. ZEGA: And, Counsel, for your</p> <p>7 reference -- Brian is going to see it. Tim,</p> <p>8 this is the Washington County calendars for</p> <p>9 March of 2024 and April 2024, as published on</p> <p>10 the website.</p> <p>11 A. Okay.</p> <p>12 (Wherein, Deposition Exhibit 3 was marked.)</p> <p>13 Q. (Mr. Zega continued.) Judge, if you'd review those</p> <p>14 for me, I'd appreciate it.</p> <p>15 A. Okay. Okay.</p> <p>16 Q. I'll represent to you, Judge, although you don't</p> <p>17 have to take my word for it, that I printed those</p> <p>18 yesterday.</p> <p>19 A. Okay.</p> <p>20 Q. Okay?</p> <p>21 Do you believe them to be accurate in terms of the</p> <p>22 meetings that they show?</p> <p>23 A. I have no knowledge of them not being accurate.</p> <p>24 Q. Okay. Well, let's do it this way, then. Is there a</p> <p>25 standard meeting time for the Washington County Quorum</p>	<p style="text-align: right;">Page 36</p> <p>1 A. Uh-huh.</p> <p>2 Q. The second page should have April on it.</p> <p>3 A. Okay.</p> <p>4 Q. If you would refer to that -- refer to that for me,</p> <p>5 I'd appreciate it.</p> <p>6 A. Yeah, it's the third page -- or I guess -- yeah.</p> <p>7 Q. Was there a county services committee meeting on</p> <p>8 April 1st --</p> <p>9 A. Yes, sir.</p> <p>10 Q. -- according to the calendar?</p> <p>11 Did you attend that meeting?</p> <p>12 A. Yes.</p> <p>13 Q. Similar to the question I asked you about your power</p> <p>14 to add things to the Quorum Court agenda, do you have</p> <p>15 power to add things to the committee agendas?</p> <p>16 A. Yeah.</p> <p>17 Q. Did you add the contents of this letter to the</p> <p>18 April 1st meeting?</p> <p>19 A. No.</p> <p>20 Q. Why not?</p> <p>21 A. I don't recall.</p> <p>22 Q. If you look back at that document again, please --</p> <p>23 A. Uh-huh.</p> <p>24 Q. -- was there a finance committee meeting on</p> <p>25 April 9th?</p>
<p style="text-align: right;">Page 35</p> <p>1 Court for its monthly regular meeting?</p> <p>2 A. Yes.</p> <p>3 Q. And what is that time?</p> <p>4 A. Third Thursday at 6 o'clock.</p> <p>5 Q. And what was the third Thursday of March of 2024,</p> <p>6 according to that calendar?</p> <p>7 A. The 21st.</p> <p>8 Q. Did the Quorum Court meet that night?</p> <p>9 A. Yes.</p> <p>10 Q. All right.</p> <p>11 Did the contents of this letter get discussed at</p> <p>12 that Quorum Court meeting?</p> <p>13 A. Not to my knowledge.</p> <p>14 Q. Do you, as county judge and presiding officer over</p> <p>15 the Quorum Court, have power to add things to the agenda</p> <p>16 for the Quorum Court meeting?</p> <p>17 A. Yes.</p> <p>18 Q. Did you add this letter to the agenda for the Quorum</p> <p>19 Court meeting on the 21st?</p> <p>20 A. Not to my knowledge.</p> <p>21 Q. Why not?</p> <p>22 A. I don't -- I don't recall why we didn't add it.</p> <p>23 Q. Okay.</p> <p>24 The first page of that calendar is the March</p> <p>25 schedule.</p>	<p style="text-align: right;">Page 37</p> <p>1 A. Yes, sir.</p> <p>2 Q. Okay.</p> <p>3 Was this letter or its contents on the agenda for</p> <p>4 the April 9th finance committee meeting?</p> <p>5 A. No, sir.</p> <p>6 Q. Why not?</p> <p>7 A. I don't recall.</p> <p>8 MR. ZEGA: By the way, two and three,</p> <p>9 please add as deposition exhibits.</p> <p>10 (Wherein, Deposition Exhibit 4 was marked.)</p> <p>11 Q. (Mr. Zega continued.) Judge, I'm going to show you</p> <p>12 what I'll cause to be marked as Exhibit 4 to your</p> <p>13 deposition.</p> <p>14 A. Uh-huh.</p> <p>15 MR. ZEGA: Tim, this is 2024-36.</p> <p>16 MR. HUTCHINSON: Okay.</p> <p>17 Q. (Mr. Zega continued.) The top of that ordinance</p> <p>18 says that it was requested by Judge Patrick Deakins; is</p> <p>19 that accurate?</p> <p>20 A. That's correct, yes, sir.</p> <p>21 Q. What caused you to ask for it?</p> <p>22 A. Legal advice.</p> <p>23 Q. When did you ask for it?</p> <p>24 A. We asked for it the week of this meeting. It would</p> <p>25 have been the -- the agenda would have been published the</p>

<p style="text-align: right;">Page 38</p> <p>1 Friday before.</p> <p>2 Q. Okay. Before you asked for this ordinance to be</p> <p>3 added to the agenda, did you consult with any member of</p> <p>4 the Quorum Court?</p> <p>5 A. No, sir.</p> <p>6 Q. Why not?</p> <p>7 A. It's not my normal practice. The com --</p> <p>8 Q. Okay. Do you think that they should have some time</p> <p>9 to know -- think about and consider the ordinance,</p> <p>10 especially since it was about to undo one they had already</p> <p>11 passed?</p> <p>12 A. Absolutely.</p> <p>13 Q. Did they have time to know, consider, and think</p> <p>14 about the ordinance?</p> <p>15 A. I assume they did.</p> <p>16 Q. Well, when did this ordinance in draft form get to</p> <p>17 the Quorum Court?</p> <p>18 A. It would have been the Friday the agenda was posted,</p> <p>19 so -- look here.</p> <p>20 Q. I've got the agenda, Judge. I'll come to that.</p> <p>21 A. The 15th. I'm sorry. Or -- the 12th. April the</p> <p>22 12th --</p> <p>23 Q. Okay.</p> <p>24 A. -- would be my best guess.</p> <p>25 (Wherein, Deposition Exhibit 5 was marked.)</p>	<p style="text-align: right;">Page 40</p> <p>1 told me in testimony about five minutes ago was the Quorum</p> <p>2 Court knew about this ordinance because the agenda is</p> <p>3 published on the Friday before.</p> <p>4 A. Yeah. No. You're right. I'm saying they usually</p> <p>5 know about agenda items because they're on the agenda. I</p> <p>6 was commenting more on the general process.</p> <p>7 Q. This item was not on this agenda; is that true?</p> <p>8 A. That's -- that's true, and I didn't recall that.</p> <p>9 Q. Okay.</p> <p>10 Now, having recalled that it was not on the agenda</p> <p>11 that was published the Friday before the Thursday Quorum</p> <p>12 Court meeting --</p> <p>13 A. Sure.</p> <p>14 Q. -- do you know, as we sit here today, when the draft</p> <p>15 of this ordinance was first published to Quorum Court</p> <p>16 members?</p> <p>17 A. No, sir, I don't recall that.</p> <p>18 Q. Before you asked for this ordinance, did you think</p> <p>19 to let JP Lyons know that it was coming?</p> <p>20 A. No, sir, not to my recollection.</p> <p>21 Q. Judge, did you know that this particular issue was a</p> <p>22 matter of some public light and concern?</p> <p>23 A. Sure.</p> <p>24 Q. Okay. Would you say or agree with the following</p> <p>25 statement? About 90-95 percent of the Quorum Court's</p>
<p style="text-align: right;">Page 39</p> <p>1 Q. (Mr. Zega continued.) Judge, I'm going to hand you</p> <p>2 what I've caused to be marked just now as Deposition</p> <p>3 Exhibit 5.</p> <p>4 A. Sure.</p> <p>5 Q. What does that appear to you to be?</p> <p>6 A. This looks like the agenda packet for the April 18th</p> <p>7 Quorum Court meeting.</p> <p>8 Q. Okay. Would you point to me, sir, where the agenda</p> <p>9 item that I've represented to you to be Exhibit 4 appears</p> <p>10 on that agenda?</p> <p>11 A. I don't see it.</p> <p>12 Q. Okay. Do you wish to revisit your testimony now</p> <p>13 that the Quorum Court members knew about it on the Friday</p> <p>14 before the Thursday night that it got published?</p> <p>15 A. I was commenting on the general recollection of it.</p> <p>16 I don't specifically know.</p> <p>17 Q. Okay. Are you relying on the agenda as the</p> <p>18 vehicle -- and the items attached to the agenda as the</p> <p>19 vehicle by which the Quorum Court would have known? In</p> <p>20 other words, they got the agenda on Friday before the</p> <p>21 Quorum Court meeting on the following Thursday, six days</p> <p>22 in advance.</p> <p>23 A. Yes. In normal circumstances, yes.</p> <p>24 Q. Okay. And I think what you told me in testimony --</p> <p>25 if I misunderstood it, I want you to correct me. What you</p>	<p style="text-align: right;">Page 41</p> <p>1 business does not generate a lot of public light.</p> <p>2 A. No.</p> <p>3 Q. Okay. Do you get public input on, say, grant</p> <p>4 ordinances a lot?</p> <p>5 A. No, not particularly.</p> <p>6 Q. On what I would consider to be ordinary salary-sweep</p> <p>7 ordinances or budget-sweep ordinances where you</p> <p>8 de-appropriate money for salaries that have been quit, you</p> <p>9 don't pay the money, and then you put it back in the right</p> <p>10 line items -- you know what I'm talking about? --</p> <p>11 A. Sure.</p> <p>12 Q. -- do those kind of things get controversial most of</p> <p>13 the time?</p> <p>14 A. Not most of the time.</p> <p>15 Q. Okay. This particular item was controversial;</p> <p>16 right?</p> <p>17 A. We got a lot of public input from it.</p> <p>18 Q. Okay. You got a lot of public opposition to this</p> <p>19 project, did you not?</p> <p>20 A. Yes.</p> <p>21 Q. All right.</p> <p>22 Do you think that JP Lyons should have known about</p> <p>23 this ordinance, given the amount of concern it caused his</p> <p>24 constituents -- I'm talking about Ordinance 2024-36 -- with</p> <p>25 enough time to discuss it with his constituents?</p>

<p style="text-align: right;">Page 42</p> <p>1 A. That's a matter of opinion.</p> <p>2 Q. I'm asking -- and I'm asking for your opinion.</p> <p>3 A. My opinion is I try to present information to the</p> <p>4 Quorum Court in an equal manner in terms of they are all</p> <p>5 informed at the same time.</p> <p>6 Q. Okay. If it turns out that the facts of the</p> <p>7 presentation of this ordinance are that it was sent in</p> <p>8 draft form by Mr. Lester or someone else in your office</p> <p>9 about two hours before the Quorum Court meeting on</p> <p>10 Thursday, April 18th, is that enough time, in your mind,</p> <p>11 for the JPs to consider, discuss with their constituents,</p> <p>12 and give a thoughtful vote on this particular ordinance?</p> <p>13 A. I cannot speak for those JPs and their deliberative</p> <p>14 process.</p> <p>15 Q. Well, you used to be a JP; correct?</p> <p>16 A. Uh-huh.</p> <p>17 Q. If this ordinance had hit your desk two hours ahead</p> <p>18 of the Quorum Court meeting, would that have been enough</p> <p>19 time for you?</p> <p>20 A. I would have to address those on a case-by-case</p> <p>21 basis.</p> <p>22 Q. And I'm asking you to do that with this particular</p> <p>23 ordinance.</p> <p>24 A. I'm not going to answer that question, because that</p> <p>25 involves a lot of context of where you were at in that</p>	<p style="text-align: right;">Page 44</p> <p>1 A. I'm not sure. I can't speak for the public.</p> <p>2 Q. Let's go back to Exhibit 4 for a moment. The title</p> <p>3 of the -- the caption, rather, of the ordinance says that</p> <p>4 it's an emergency ordinance; is that correct?</p> <p>5 A. That's what it says.</p> <p>6 Q. What exactly was the emergency?</p> <p>7 A. Are you talking about from my point of view?</p> <p>8 Q. Yes.</p> <p>9 A. The emergency was that we wanted to get this through</p> <p>10 the -- in front of the Quorum Court as quickly as we</p> <p>11 could --</p> <p>12 Q. Why?</p> <p>13 A. -- to resolve the issue.</p> <p>14 Q. Why?</p> <p>15 A. Because we were advised by legal that that was the</p> <p>16 process to take.</p> <p>17 Q. What facts other than legal advice constituted the</p> <p>18 emergency that made this necessary to pass in one sitting?</p> <p>19 A. I guess I can't delineate between the two. The</p> <p>20 facts and the legal advice are all one.</p> <p>21 Q. Okay. When did the facts behind the emergency in</p> <p>22 this ordinance become an emergency? When did you become</p> <p>23 aware this is an emergency, we got to do it right now?</p> <p>24 A. I don't recall the exact date.</p> <p>25 Q. Were there Quorum Court committee meetings that</p>
<p style="text-align: right;">Page 43</p> <p>1 particular point, what position you served.</p> <p>2 Q. Okay.</p> <p>3 When do you think the public learned that this</p> <p>4 Ordinance 2024-36 was going to be discussed at the</p> <p>5 April 18th --</p> <p>6 A. I certainly can't speak for the public.</p> <p>7 Q. Okay. Well, it wasn't on the published agenda, was</p> <p>8 it?</p> <p>9 A. Not to my -- not to what we've just looked at.</p> <p>10 Q. Okay. What other means or method would the public</p> <p>11 have known that this particular ordinance was going to be</p> <p>12 discussed at the Quorum Court meeting?</p> <p>13 A. All of our meetings are open to the public.</p> <p>14 Q. All right. I'm aware of that.</p> <p>15 A. Uh-huh. Good.</p> <p>16 Q. And you -- all your Quorum Court meetings are.</p> <p>17 I'm asking what a member of the public would be able</p> <p>18 to find out about what was going on at the Quorum Court</p> <p>19 meeting short of this agenda. In other words, if this</p> <p>20 ordinance did not appear on this agenda -- and it didn't,</p> <p>21 right?</p> <p>22 A. Yeah.</p> <p>23 Q. -- how would a member of the public have known that</p> <p>24 this ordinance was going to be voted on on April the 18th,</p> <p>25 2024?</p>	<p style="text-align: right;">Page 45</p> <p>1 passed between your determination that this was an</p> <p>2 emergency and your presentation of this ordinance to the</p> <p>3 Quorum Court?</p> <p>4 A. Yes, absolutely.</p> <p>5 Q. Okay. If it was an emergency and you determined</p> <p>6 that it was an emergency, why didn't it get discussed at</p> <p>7 the committee meetings?</p> <p>8 A. My recollection is that we weren't versed on the</p> <p>9 facts of the case yet. I wasn't versed on the facts of</p> <p>10 this letter yet.</p> <p>11 Q. Judge, if this was an emergency, why didn't you call</p> <p>12 a special meeting to deal with it?</p> <p>13 A. Because we had a meeting on the calendar and that</p> <p>14 I'm cognizant that every special meeting in Washington</p> <p>15 County costs the taxpayer.</p> <p>16 Q. Well, if this is enough of an emergency -- do you</p> <p>17 have the power, as county judge, to call a special Quorum</p> <p>18 Court meeting?</p> <p>19 A. I do.</p> <p>20 Q. Have you called any special Quorum Court meetings</p> <p>21 during your period as judge?</p> <p>22 A. I have not.</p> <p>23 Q. Okay. So this, to your mind, was an emergency, but</p> <p>24 not an emergency that justified a special Quorum Court</p> <p>25 meeting.</p>

<p style="text-align: right;">Page 46</p> <p>1 A. Yes, sir.</p> <p>2 Q. In other words, I'm correct in what I just stated.</p> <p>3 MR. LESTER: Object to the form of the</p> <p>4 question.</p> <p>5 Q. (Mr. Zega continued.) Let me rephrase it.</p> <p>6 Is it accurate to say that you viewed this situation</p> <p>7 as an emergency, but not one that justified calling a</p> <p>8 special Quorum Court meeting?</p> <p>9 A. Yes.</p> <p>10 Q. Okay.</p> <p>11 Look at the clause, the third section, Article 3.</p> <p>12 A. Okay.</p> <p>13 Q. Would you read that for me?</p> <p>14 A. "It is hereby determined that it is in the best</p> <p>15 interest for this ordinance to be effective immediately;</p> <p>16 and the general health, safety, and welfare of the</p> <p>17 citizens are affected, that it is vital that the above</p> <p>18 committees be legally created by ordinance for the</p> <p>19 effective performance of the Quorum Court percent to</p> <p>20 A.C.A. 14-14-904; therefore, an emergency is declared to</p> <p>21 exist and this ordinance shall be and is effective from</p> <p>22 the date of its passage."</p> <p>23 Q. Tell me what that emergency clause has to do with</p> <p>24 zoning.</p> <p>25 A. I'm not sure I could make that connection. I'm not</p>	<p style="text-align: right;">Page 48</p> <p>1 E-c-k-e. Sorry. Justice Ecke expressed, I think, three</p> <p>2 main concerns: The septic system, firefighting capacity,</p> <p>3 and that they had started before they had a conditional</p> <p>4 use permit from the county.</p> <p>5 Does that -- does my representation to you of her</p> <p>6 three concerns jog with your memory?</p> <p>7 A. No.</p> <p>8 MR. HUTCHINSON: Object to the form.</p> <p>9 Q. (Mr. Zega continued.) Okay. What about what I</p> <p>10 stated does not comply with your memory?</p> <p>11 A. I don't have a detailed memory enough to know who</p> <p>12 specifically said what. And so I certainly am not going</p> <p>13 to speak for one of the Quorum Court members.</p> <p>14 Q. Okay. Do you remember Justice Pond expressing</p> <p>15 concerns about firefighting capacity?</p> <p>16 A. Not specifically.</p> <p>17 Q. Do you remember septic, firefighting, or any</p> <p>18 particular issue being expressed by a JP -- concern being</p> <p>19 expressed by a JP in March of 2023?</p> <p>20 A. Yes.</p> <p>21 Q. Was septic one of those issues?</p> <p>22 A. Yes.</p> <p>23 Q. Was firefighting one of those issues?</p> <p>24 A. Yes.</p> <p>25 Q. Are you aware of any change in the facts on the</p>
<p style="text-align: right;">Page 47</p> <p>1 sure what the -- can you maybe rephrase the question? I'm</p> <p>2 not sure --</p> <p>3 Q. Yeah. Actually, I don't know a way to rephrase that</p> <p>4 question. Does that -- yeah, there is one way to rephrase</p> <p>5 it.</p> <p>6 Does that clause that you just read to me have</p> <p>7 anything to do at all with county zoning?</p> <p>8 A. Not to my knowledge.</p> <p>9 Q. Okay. Does it have anything in particular to do</p> <p>10 with the Conway Lakeside or the EagleCrest Recovery</p> <p>11 project?</p> <p>12 A. Other than this is the ordinance that we wanted</p> <p>13 drafted for this situation.</p> <p>14 Q. I understand that.</p> <p>15 I'm talking about the specific words in Article 3.</p> <p>16 Did those bear any relation at all to the Conway</p> <p>17 Lakeside/EagleCrest Recovery project?</p> <p>18 A. No, not particularly.</p> <p>19 Q. Okay.</p> <p>20 Judge, are you aware of the concerns that justices</p> <p>21 of the peace raised about this project when it was</p> <p>22 considered by them for the first time in March of 2023?</p> <p>23 A. Vaguely.</p> <p>24 Q. Okay. Tell me if you agree or disagree with what</p> <p>25 I'm about to represent to you. Justice Ecke, E-k --</p>	<p style="text-align: right;">Page 49</p> <p>1 ground that would alleviate those concerns today?</p> <p>2 A. I don't have any knowledge of any.</p> <p>3 Q. Have you seen any indication that Conway Lakeside or</p> <p>4 EagleCrest Recovery has had a designated representative</p> <p>5 come out and inspect their sewer system and provide a</p> <p>6 written report?</p> <p>7 A. I don't have any knowledge of that one way or the</p> <p>8 other.</p> <p>9 Q. Do you know where this property is in relation to</p> <p>10 Beaver Lake?</p> <p>11 A. I do.</p> <p>12 Q. Where is it?</p> <p>13 A. It's on the -- it's on the shore of Beaver Lake.</p> <p>14 Q. Okay. This is going to sound like a really obvious</p> <p>15 question, but I need it for the record. It's uphill from</p> <p>16 the lake property, isn't it?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Are you at all concerned with the possibility</p> <p>19 of a septic breach on the property that directly adjoins</p> <p>20 and is uphill from the lake?</p> <p>21 A. I find that a matter of opinion. I'm not versed in</p> <p>22 septic tanks.</p> <p>23 Q. Is the answer to my question, therefore, no, you're</p> <p>24 not concerned?</p> <p>25 A. I don't have any knowledge one way or the other.</p>

<p style="text-align: right;">Page 50</p> <p>1 Q. With the passage of Ordinance 2024-36, has the 2 county engaged, to your knowledge, your office, on a 3 formal or informal basis with any other government agency 4 to ensure that the septic system out there is proper and 5 has capacity for the job that it's trying to do? 6 A. I don't have knowledge of it one way or the other. 7 Q. Would you agree with the following: You, as county 8 judge, have a great deal of control over the county roads; 9 correct? 10 A. Yes. 11 Q. Okay. Would you describe for me -- have you been on 12 this road where this project is -- 13 A. It's been a long time ago. 14 Q. Okay. What is the character of that road? 15 A. I remember it being pretty narrow. 16 Q. Well -- okay. You got to my next question. But I 17 think that county roads come in basically three flavors. 18 Right? When I'm talking about the character of the road, 19 I'm talking about the roadbed. They're gravel, good 20 old-fashioned country dirt roads; they're chip and seal, 21 which is kind of between a dirt road; and then fully, no 22 kidding, paved. Right? Am I missing a type of road that 23 you probably have in Washington County? 24 A. I think it's much more complicated than that, but I 25 would generally agree with you.</p>	<p style="text-align: right;">Page 52</p> <p>1 you're asking me about. 2 Q. I'm very aware of that, Judge, and I promise you 3 that I'm coming to some sort of place where I can land 4 this plane. 5 A. Okay. 6 Q. So do you have a plan, as we sit here today, to 7 improve or widen the road that serves my client's 8 property, the Conway Lakeside/EagleCrest Recovery 9 property? 10 A. Not at this time. 11 Q. Judge, I'm going to show you what I'll cause to be 12 marked as Plaintiff's Exhibit 6 -- or Deposition 13 Exhibit 6, rather. Sorry. 14 A. Okay. 15 (Wherein, Deposition Exhibit 6 was marked.) 16 A. Okay. 17 Q. (Mr. Zega continued.) All right. What do those 18 appear to be to you? 19 A. Those are the minutes. They look -- they appear to 20 be the minutes. 21 Q. And I don't want to -- I really don't want to put 22 something in your hand that misrepresents what it is, so 23 please ensure that I'm giving you the right thing. 24 A. Okay. 25 Q. All right.</p>
<p style="text-align: right;">Page 51</p> <p>1 Q. Okay. All right. What kind of road of those types 2 that I described -- or if there's another type, tell me 3 what it is -- is this road? 4 A. I don't recall the specifics of it. 5 Q. Okay. You did tell me that you believed it was 6 narrow; correct? 7 A. (Witness nods head.) 8 Q. Is that a yes, sir? 9 A. That's my -- to my knowledge, yeah. 10 Q. All right. 11 Are you aware of fire -- residential fires that have 12 happened at the end of that road? 13 A. No. 14 Q. Are you aware of concerns that firefighters have 15 expressed with firefighting capacity on that road? 16 A. Only generally of what was stated in the meetings. 17 Q. Okay. Generally speaking, what concerns did they 18 express to you or in the meeting? 19 A. I don't feel versed enough to talk on it. I think 20 that I would rather let those experts speak. 21 Q. Okay. 22 A. I would also stop and say there's a lot of this that 23 doesn't matter what I feel about it. We're the executive 24 branch, and we enforce the laws and follow the policy of 25 the Quorum Court. This is their deliberative process</p>	<p style="text-align: right;">Page 53</p> <p>1 Are those the minutes from the April 18th, 2024, 2 Quorum Court meeting? 3 A. Yes. 4 Q. Okay. Does it reflect the way that Ordinance 5 2024-36 got discussed and passed? 6 A. Are you asking me to reflect what the minutes say? 7 Q. I don't want you to read it. I'm just asking you, 8 Does it say how that -- how this ordinance became law -- 9 law? Sorry. 10 A. Yes. It was read by title only, discussed. JP Pond 11 made a motion to pass, seconded by JP Dennis. 12 Q. Okay. Let's talk about -- we've already established 13 that it did not appear on the agenda; correct? 14 A. Yes, sir. 15 Q. Okay. So how would it have gotten on the Quorum 16 Court's -- for consideration before the Quorum Court that 17 night? 18 A. When the Quorum Court adopted its agenda. 19 Q. Okay. Did you ask them to add this as an item that 20 night? 21 A. I believe I did. 22 Q. Okay. Do they have to vote to override the agenda 23 as published, or can they just add it by simple majority 24 vote? 25 A. The process is to suspend the rules, and they have</p>

<p style="text-align: right;">Page 54</p> <p>1 to have a minimum of ten votes to add it to the agenda. 2 Q. Okay. Did you get ten votes to add it to the 3 agenda? 4 A. I don't specifically recall. My assumption is yes. 5 Q. Okay. Safe assumption since you considered it and 6 passed it that night; correct? 7 A. Right. 8 Q. Okay. 9 Where in that evening's business did this ordinance 10 get considered? 11 A. I don't recall specifically. 12 Q. All right. 13 A. If we're looking at the minutes, it would have 14 been -- it looks like the first item of new business -- or 15 of business. 16 Q. Okay. What is -- do you have a typical order of 17 business that you conduct at Quorum Court meetings? 18 A. Yes. 19 Q. Okay. Does the April 18th agenda that I've put in 20 as Deposition Exhibit 5 reflect that regular order of 21 business? 22 Let me -- let me do it this way, because I'm going 23 to read. 24 Do you always call the meeting to order first? 25 A. Yes.</p>	<p style="text-align: right;">Page 56</p> <p>1 A. Yes. 2 Q. Okay. This ordinance did not follow that usual 3 procedure, did it? 4 A. No, sir. 5 Q. Okay. Where did it come on the order of business 6 that you did on April 18th? 7 A. By looking at the minutes, it came as what I'm 8 calling our first item of business after the normal 9 monthly reports. 10 Q. After your county judge's report; correct? 11 A. Right. 12 Q. Okay. 13 A. And that would have been subject to the Quorum 14 Court's discretion of where we added it to the agenda. 15 Q. Well, did you ask them to put it as the first thing 16 after your county judge's report? 17 A. I don't recall, but to make a suggestion within the 18 agenda of where things occur would not be outside of the 19 norm of something that I would do. 20 Q. All right. If, in fact, you did that, why did you 21 want it considered as the very first item of legislative 22 business? 23 A. I wouldn't recall specifically why I wanted it done. 24 Q. Judge, does Washington County have set procedures 25 that ordinances are supposed to go through before they get</p>
<p style="text-align: right;">Page 55</p> <p>1 Q. Do you have prayer and pledge immediately after 2 that? 3 A. Yes. 4 Q. Do you have an adoption of agenda immediately after 5 that? 6 A. Yes. 7 Q. Preliminary motions after that? 8 A. Yes. 9 Q. Public comment? 10 A. Public comments, yes. 11 Q. Approval of minutes? 12 A. Approval of minutes, yes. 13 Q. And then your county judge's report. 14 A. Right. 15 Q. Okay. And then after that, you start on what I 16 would call old business, but this says "Unfinished 17 business." 18 A. (Witness nods head.) 19 Q. Is that correct? 20 A. If you were following that -- 21 Q. That agenda. 22 A. -- agenda, yes, sir. 23 Q. Again, I'm not trying to trick you. Okay? 24 Is that the way you usually do business at Quorum 25 Court meetings?</p>	<p style="text-align: right;">Page 57</p> <p>1 into a Quorum Court meeting? 2 A. Yes. 3 Q. What are those procedures? 4 A. Through internal policy, if there's an ordinance to 5 be drafted, we like to try to have that Wednesday by noon. 6 That would be the week before the meeting. And then we 7 try to publish the agenda on the Friday preceding the 8 Quorum Court meeting. But that's all essentially just 9 policies of convenience. It's within the Quorum Court's 10 discretion to -- they own the agenda. 11 Q. Okay. 12 (Wherein, Deposition Exhibit 7 was marked.) 13 Q. (Mr. Zega continued.) Judge, I'm going to show you 14 what I've caused to be marked as Exhibit 7 for your 15 deposition. 16 A. Great. 17 Q. Ask you to review that. 18 A. Okay. 19 Q. In particular, I want you to look at Washington 20 County Code Sections 200.3 and 200.6. 21 A. Correct. 22 Okay. 23 Q. All right. Would you agree with me that those two 24 sets of ordinances combined talk about a procedure by 25 which an ordinance is supposed to go through a committee</p>

<p style="text-align: right;">Page 58</p> <p>1 and be published to the Quorum Court in advance of the</p> <p>2 Quorum Court meeting?</p> <p>3 A. Sure.</p> <p>4 Q. Okay. Did this ordinance go through the procedures</p> <p>5 stipulated by ordinances -- Section 200.3 and 200.6?</p> <p>6 A. No, sir.</p> <p>7 Q. Were those procedures, to your mind, in place on</p> <p>8 April 18th of 2024?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Why didn't this ordinance go through those</p> <p>11 procedures?</p> <p>12 A. Because we didn't have the ordinance in time to go</p> <p>13 through those procedures.</p> <p>14 Q. So do those ordinances that I just showed you — and</p> <p>15 I know we're talking about a lot of ordinances. I'm now</p> <p>16 talking about Washington County Code 200.3 and 200.6 —</p> <p>17 make some exception for "We didn't have the ordinance</p> <p>18 written in time"?</p> <p>19 A. The Quorum Court's the exception.</p> <p>20 Q. My question to you, Judge, was: Those sections of</p> <p>21 the code, do they make an exception for "We don't have the</p> <p>22 ordinance written in time"?</p> <p>23 A. No.</p> <p>24 Q. Okay. Do you believe the procedure that is laid out</p> <p>25 in Washington County Code 200.3 and 200.6 to be optional?</p>	<p style="text-align: right;">Page 60</p> <p>1 Q. Okay.</p> <p>2 Given the way that Ordinance 2024-36 was introduced</p> <p>3 in the past, tell me what opportunity you think the public</p> <p>4 had to give input on it before it went to the Quorum Court</p> <p>5 for consideration.</p> <p>6 A. They would have had the opportunity at the open</p> <p>7 meeting, the Quorum Court meeting.</p> <p>8 Q. I'm talking about before the meeting. Before it</p> <p>9 went to the Quorum Court for consideration, what</p> <p>10 opportunity would they have had to have input on it?</p> <p>11 A. I can't speak for the public, sir.</p> <p>12 MR. ZEGA: Can I have a minute, please?</p> <p>13 MR. LESTER: Yeah.</p> <p>14 (Whereupon, a break was taken from 10:17 a.m. to 10:31</p> <p>15 a.m.)</p> <p>16 MR. ZEGA: Back on the record.</p> <p>17 Pass the witness.</p> <p>18 EXAMINATION</p> <p>19 BY MR. LESTER:</p> <p>20 Q. All right. Judge, I got a few just kind of</p> <p>21 follow-up questions based on some of the questions that</p> <p>22 Mr. Zega asked.</p> <p>23 He focused in on whether you provided information</p> <p>24 regarding this letter to the Quorum Court.</p> <p>25 Do you -- do you regularly -- are you regularly the</p>
<p style="text-align: right;">Page 59</p> <p>1 A. No, unless the Quorum Court suspends its own rules</p> <p>2 and adds something to the agenda, which was well within</p> <p>3 their power to do, I am told -- advised.</p> <p>4 Q. Are you aware, Judge, of requirements for a zoning</p> <p>5 ordinance to go through before it can be considered by</p> <p>6 Quorum Court separate and apart from your own internal</p> <p>7 ordinances?</p> <p>8 A. I wouldn't consider myself expert on them.</p> <p>9 Q. Okay.</p> <p>10 Does Washington County have a planning commission?</p> <p>11 A. It does have a planning commission.</p> <p>12 Q. Did it have a planning commission in March and April</p> <p>13 of 2024?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Did Ordinance 2024-36 get a public hearing before</p> <p>16 the planning commission?</p> <p>17 A. I don't know. Not to my knowledge.</p> <p>18 Q. Why not?</p> <p>19 A. I have no opinion on why that didn't happen. Once</p> <p>20 again, I think it was a timing issue.</p> <p>21 Q. Do you think that facilities like Conway Lakeside's</p> <p>22 and ECR's — EagleCrest Recovery sobering facilities is</p> <p>23 what they call them, and I think that's fair — are exempt</p> <p>24 in general from county zoning?</p> <p>25 A. That's what I'm being advised of.</p>	<p style="text-align: right;">Page 61</p> <p>1 sole person that provides information to the Quorum Court</p> <p>2 regarding issues?</p> <p>3 A. No, sir.</p> <p>4 Q. Okay. Do you have various staff members that do</p> <p>5 that?</p> <p>6 A. Absolutely.</p> <p>7 Q. And are you always included on any of that</p> <p>8 communication?</p> <p>9 A. Not always.</p> <p>10 Q. Who sets the agenda for the Quorum Court? Who has</p> <p>11 the power to initially set those agendas?</p> <p>12 A. I consider that part of our job duties.</p> <p>13 Q. You, as the county judge?</p> <p>14 A. The judge's office, yes, sir.</p> <p>15 Q. Ultimately, though -- and I think you've said this,</p> <p>16 but to make it very clear, ultimately, the Quorum Court</p> <p>17 has to approve and adopt its own agenda; is that correct?</p> <p>18 A. Absolutely.</p> <p>19 Q. Okay.</p> <p>20 A. I consider our office doing it as a matter of</p> <p>21 convenience for them.</p> <p>22 Q. Mr. Zega asked you about the emergency of this</p> <p>23 ordinance.</p> <p>24 Do you consider a violation -- an ongoing current</p> <p>25 violation of federal or state law and the attempt to</p>

<p style="text-align: right;">Page 62</p> <p>1 correct that to be an emergency -- emergency issue for the</p> <p>2 county?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Do you know of any instance where the county has</p> <p>5 known that it is violating state or federal law that it</p> <p>6 has not treated it as an emergency?</p> <p>7 A. Not to my knowledge.</p> <p>8 Q. Do you believe it to be prudent of the Quorum Court</p> <p>9 to get legal advice from the public?</p> <p>10 A. No, sir.</p> <p>11 Q. Do we have an ord- -- is there an ordinance that</p> <p>12 establishes who provides them legal advice?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And the county -- actually, one of the few counties</p> <p>15 in Arkansas, Washington County has full-time legal</p> <p>16 counsel, of which Mr. Zega formerly sat in that role --</p> <p>17 A. Yes, sir.</p> <p>18 Q. -- correct?</p> <p>19 As far as the emergency is concerned of an</p> <p>20 ordinance, who ultimately makes the decision whether or</p> <p>21 not an emergency exists?</p> <p>22 A. The Quorum Court.</p> <p>23 Q. And they are the sole interpreter of those</p> <p>24 emergencies; is that correct?</p> <p>25 A. Yes, sir.</p>	<p style="text-align: right;">Page 64</p> <p>1 A. That's correct.</p> <p>2 Q. So it was his decision and motion to add this to the</p> <p>3 agenda; is that correct?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Okay. Does the county provide inspections of sewer</p> <p>6 or septic systems? Do you know if the county does that?</p> <p>7 A. No, sir.</p> <p>8 Q. Do you know who does that?</p> <p>9 A. The state health department does that.</p> <p>10 Q. And as it relates to ordinance procedures, I want</p> <p>11 you to look at -- I think it is Exhibit Item Number 7.</p> <p>12 A. Okay.</p> <p>13 Q. Specifically, if you look at Section 200.03,</p> <p>14 paragraph 5, there is a procedure that has been adopted by</p> <p>15 the Quorum Court that allows the Quorum Court to add items</p> <p>16 without it going to committee; is that correct?</p> <p>17 A. That's correct.</p> <p>18 Q. And what does that require?</p> <p>19 A. Suspension of the rules and a two-thirds vote.</p> <p>20 Q. And I believe your testimony was that happened here.</p> <p>21 A. Yes, sir.</p> <p>22 Q. So there was no violation of any ordinance or any</p> <p>23 procedural rule that you're aware of --</p> <p>24 MR. ZEGA: Object to the form.</p> <p>25 Q. (Mr. Lester continued.) -- for the adding --</p>
<p style="text-align: right;">Page 63</p> <p>1 Q. With regard to this ordinance that was passed, the</p> <p>2 Quorum Court had the ability to stop and to delay the</p> <p>3 ordinance passage to provide more time for -- to gather</p> <p>4 information if they felt they needed that; is that</p> <p>5 correct?</p> <p>6 A. Yes, sir.</p> <p>7 Q. If you look back at the minutes --</p> <p>8 MR. ZEGA: Exhibit 7. The last thing,</p> <p>9 Judge.</p> <p>10 THE WITNESS: Okay. I'm sorry. I thought</p> <p>11 that said seven.</p> <p>12 MR. ZEGA: Or it might be six.</p> <p>13 THE WITNESS: We'll agree here in a minute.</p> <p>14 Six. Okay.</p> <p>15 Q. (Mr. Lester continued.) Who was it -- who -- what</p> <p>16 JP -- which JP moved to add this to the agenda, this</p> <p>17 particular ordinance, the ordinance that -- the emergency</p> <p>18 ordinance, do you recall?</p> <p>19 A. I don't. I'd have to review the -- I was looking --</p> <p>20 referencing the number of the ordinance that was passed.</p> <p>21 Q. 24-36 would have been the emergency ordinance. It</p> <p>22 would have been Item 24-0-42.</p> <p>23 A. I'm sorry. I was reading the minutes wrong.</p> <p>24 Justice Lyons added that item.</p> <p>25 Q. And he's the JP where this property is located.</p>	<p style="text-align: right;">Page 65</p> <p>1 MR. ZEGA: Sorry.</p> <p>2 Q. (Mr. Lester continued.) -- for the addition of this</p> <p>3 ordinance to that agenda.</p> <p>4 MR. ZEGA: Object to the form.</p> <p>5 A. No, sir.</p> <p>6 MR. LESTER: I think that's all I have.</p> <p>7 Pass the witness.</p> <p>8 MR. ZEGA: You want to come up here, Tim?</p> <p>9 MR. HUTCHINSON: No. As long as y'all can</p> <p>10 hear me, I'm fine.</p> <p>11 EXAMINATION</p> <p>12 BY MR. HUTCHINSON:</p> <p>13 Q. Were you made aware that EagleCrest intended to file</p> <p>14 a federal lawsuit if the county did not make a reasonable</p> <p>15 accommodation in a quick fashion?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Are you aware that in the lawsuit -- the state</p> <p>18 lawsuit that challenged the validity of 2023 ordinance --</p> <p>19 2023-6 ordinance, that in that lawsuit, there would be no</p> <p>20 award of attorneys' fees regardless of --</p> <p>21 A. I was not aware of that detail.</p> <p>22 Q. If EagleCrest had been successful in 20 -- in its</p> <p>23 lawsuit challenging the 2023 ordinance, do you know if</p> <p>24 that would have only impacted or applied to EagleCrest or</p> <p>25 would have had a large impact across the county?</p>

1 MR. ZEGA: Object to the form of that
2 question.
3 A. I didn't take that under consideration.
4 Q. (Mr. Hutchinson continued.) If EagleCrest filed a
5 lawsuit under the ADA, do you know if attorneys' fees and
6 damages could have been awarded?
7 A. I'm not specifically knowledgeable about that, no,
8 sir.
9 Q. Are you -- do you have any opinion as to whether or
10 not a favorable decision in a lawsuit brought under the
11 Americans with Disabilities Act or the Fair Housing Act
12 could have impacted other properties in Washington County?
13 MR. ZEGA: Object to the form of the
14 question.
15 A. I -- yes, sir.
16 Q. (Mr. Hutchinson continued.) Do you recall Steve
17 Zega being present at the Quorum Court meeting and
18 speaking in opposition to Ordinance 2024-36?
19 A. I do.
20 Q. If federal law says that EagleCrest group home must
21 be treated as a single-family residence, would EagleCrest
22 need a conditional use permit issued by Washington County?
23 MR. ZEGA: Object to form.
24 A. No, sir.
25 Q. (Mr. Hutchinson continued.) If EagleCrest group

1 home is, under federal law, to be treated as a
2 single-family residence, would the planning department be
3 involved if no conditional use permit was required?
4 MR. ZEGA: Object to --
5 A. No, sir.
6 MR. ZEGA: Sorry. Object to form.
7 Finish your answer, Judge. I'm sorry.
8 A. I said "No." Just to clarify, I said "No, sir."
9 Q. (Mr. Hutchinson continued.) If no CUP was required,
10 could the county place any conditions on EagleCrest, such
11 as certain sewer requirements or other conditions?
12 A. No, sir.
13 MR. ZEGA: Interpose an objection to form.
14 The answer can stand.
15 MR. HUTCHINSON: That's all I got.
16 MR. ZEGA: Okay. I do have some follow-up.
17 CONTINUED EXAMINATION
18 BY MR. ZEGA:
19 Q. Based on Mr. Lester's questions, Judge, you said
20 that you have staff members who provide information to
21 JPs.
22 A. Correct.
23 Q. Okay. Did you have any staff members who provided
24 information to JPs about either Ms. Broadway's March 19th
25 letter or Ordinance 2024-36?

1 A. I have no knowledge specifically outside of what I
2 was knowledgeable about. I don't know how else to answer
3 the question.
4 Q. And have you told me everything that you're
5 knowledgeable about in your previous testimony?
6 A. Everything I can recall.
7 Q. Okay.
8 Mr. Lester asked you if you take legal advice from
9 members of the public, and you said no. And I commend you
10 for that, not that it matters.
11 Does the public have a right to have input into the
12 legislative decisions of their county government?
13 A. Absolutely.
14 Q. How was that right exercised in this case?
15 A. In the open meeting.
16 Q. Which comes to Mr. Hutchinson's question about who
17 spoke.
18 A. Uh-huh.
19 Q. Okay. Who spoke at that meeting in opposition?
20 A. I mean I don't remember specific details. I
21 remember certain details.
22 Q. Well, Mr. Hutchinson asked you if I appeared at the
23 meeting and spoke against the ordinance.
24 A. Uh-huh.
25 Q. Do you remember that?

1 A. It was memorable, yeah.
2 Q. Okay. Did any other member of the public speak at
3 the ordinance -- at the meeting in opposition to the
4 ordinance?
5 A. I'm sure they did. I don't recall specifically.
6 Q. Take a look at the meeting minutes, Judge, please.
7 A. Yeah.
8 You know, I also want to point out, I don't --
9 there's lines missing on this printout. This doesn't look
10 like your formatting is right, so I don't -- are we
11 comfortable with this moving forward?
12 Q. Well, Judge, not that I can testify, but I pulled
13 that off the county's website yesterday.
14 A. What I'm saying is I'm afraid there might have been
15 a printing issue.
16 Q. Okay.
17 Do you remember anybody else speaking in opposition
18 to the ordinance?
19 A. I do, in general.
20 Q. Who was it?
21 A. I don't know their names.
22 Q. Okay.
23 A. That's what I mean by "in general." I don't -- I
24 remember generally the public speaking against it.
25 Q. Do you think I have a First Amendment right to speak

<p style="text-align: right;">Page 70</p> <p>1 out against county legislation I don't like?</p> <p>2 A. Absolutely.</p> <p>3 Q. How do you think I found out this was on the agenda?</p> <p>4 A. You know --</p> <p>5 MR. HUTCHINSON: Object to the form.</p> <p>6 A. -- I've learned not to guess in life.</p> <p>7 Q. (Mr. Zega continued.) Okay. Well, you realize I</p> <p>8 have a client on the Quorum Court; correct?</p> <p>9 A. (Witness nods head.)</p> <p>10 Q. Is that a yes?</p> <p>11 A. That's a yes.</p> <p>12 Q. Okay. And that client is JP Beth Coger; correct?</p> <p>13 A. Okay. Correct.</p> <p>14 Q. Do you believe she told me that this was up for</p> <p>15 consideration?</p> <p>16 MR. HUTCHINSON: Objection to form.</p> <p>17 A. I have -- I would not venture a guess. That would</p> <p>18 be pure speculation to me.</p> <p>19 Q. (Mr. Zega continued.) Okay.</p> <p>20 Are you disclaiming any responsibility for septic</p> <p>21 regulations and enforcement in the county as we sit here</p> <p>22 today?</p> <p>23 A. What I'm saying is that we rely on the state health</p> <p>24 department to give us that answer.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 72</p> <p>1 A. Yes.</p> <p>2 Q. When were you made aware of that?</p> <p>3 A. In the days leading up to the April 18th meeting.</p> <p>4 Q. Well, I want you to be as precise as you can with</p> <p>5 me, Judge.</p> <p>6 A. I am being.</p> <p>7 Q. When?</p> <p>8 A. I am being. Unfortunately, I didn't make note of</p> <p>9 the specific date or time.</p> <p>10 Q. How did you become aware of their intent to file a</p> <p>11 federal lawsuit?</p> <p>12 A. Through legal advisement.</p> <p>13 Q. In other words, a conversation with either</p> <p>14 Mr. Lester or Ms. Baker.</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Do you remember when? A week, ten days, two</p> <p>17 weeks?</p> <p>18 MR. LESTER: Objection. Asked and</p> <p>19 answered. I mean you've asked this a hundred</p> <p>20 different times. I think that the answer has</p> <p>21 been that he does not recall a specific date or</p> <p>22 time.</p> <p>23 Q. (Mr. Zega continued.) Well, let me ask a more</p> <p>24 specific question.</p> <p>25 MR. LESTER: Go ahead.</p>
<p style="text-align: right;">Page 71</p> <p>1 See if you agree with the following statement -- and</p> <p>2 if I have it wrong, I want you to tell me. Routinely, as</p> <p>3 a part of CUP applications, conditional use permit</p> <p>4 applications, the county makes sure that the proposed use</p> <p>5 passes state septic standards before they grant a CUP.</p> <p>6 A. As a process of the CUP process, yes.</p> <p>7 Q. Yes. Okay.</p> <p>8 A. Uh-huh.</p> <p>9 Q. All right. So if you are taking Mr. Hutchinson's</p> <p>10 clients completely outside of the process now -- I'm</p> <p>11 talking about the CUP process --</p> <p>12 A. Okay.</p> <p>13 Q. -- as he got you to say that's what you understand</p> <p>14 it to be; right? --</p> <p>15 A. Sure.</p> <p>16 Q. -- the only entity that will ensure that the toilets</p> <p>17 that flush at that facility don't run into Beaver Lake is</p> <p>18 the state; correct?</p> <p>19 A. Yes.</p> <p>20 Q. Mr. Hutchinson asked you if you were made aware of</p> <p>21 EagleCrest's intent to file a federal lawsuit if you</p> <p>22 didn't grant them what he termed a reasonable</p> <p>23 accommodation. Do you remember that question?</p> <p>24 A. Yes.</p> <p>25 Q. And you said yes. Did I have that right?</p>	<p style="text-align: right;">Page 73</p> <p>1 MR. ZEGA: All right? Thank you.</p> <p>2 Q. (Mr. Zega continued.) I think you testified to me</p> <p>3 earlier that sometime a couple weeks after the date on</p> <p>4 this March 19, 2024, letter --</p> <p>5 A. Yes.</p> <p>6 Q. -- you became aware of its contents.</p> <p>7 A. Right.</p> <p>8 Q. Okay. Did you have a separate conversation about a</p> <p>9 federal lawsuit that was not wrapped up in the</p> <p>10 conversation about this letter?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Was it before or after you had a conversation</p> <p>13 about the letter?</p> <p>14 A. I think they were the same.</p> <p>15 Q. Thank you.</p> <p>16 MR. ZEGA: Pass the witness.</p> <p>17 MR. LESTER: I have nothing further.</p> <p>18 MR. HUTCHINSON: Nothing.</p> <p>19 (Whereupon, at 10:46 a.m., the deposition was concluded.)</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

1 CERTIFICATE
2 STATE OF ARKANSAS)
3)
4 COUNTY OF BENTON)

5 I, SHEILA ALEXANDER, Certified Court Reporter, a
6 notary public in and for the aforesaid county and state,
7 do hereby certify to the following:

8 1) The foregoing deposition was taken before me
9 at the time and place stated in the foregoing styled cause
10 with the appearances as noted;

11 2) Being a Court Reporter, I then reported the
12 deposition in Stenotype to the best of my skill and
13 ability, and the foregoing pages contain a full, true, and
14 correct transcript of my said Stenotype notes then and
15 there taken;

16 3) I am not in the employ of and am not related
17 to any of the parties or their counsel, and I have no
18 interest in the matter involved;

19 4) Signature of the witness is waived.

20 IN WITNESS WHEREOF, I have hereunto set my hand
21 and affixed my seal of office this 11th day of October,
22 2024.

23
24
25

Sheila B. Alexander

SHEILA ALEXANDER, CCR
Certificate No. 586
NOTARY PUBLIC

In and for the County of Benton
State of Arkansas

Commission Expires November 14, 2028

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