

SUPERIOR COURT OF CALIFORNIA

COUNTY OF HUMBOLDT

NO. DR 050841

. . .

Steven Wolff and Sharon Wolff,
as individual taxpayers residing
in the City of Rio Dell and the
Concerned Taxpayers of Rio Dell,
an unincorporated association of
individual taxpayers residing
in the City of Rio Dell, all ex rel.
the City of Rio Dell,
Plaintiffs and Petitioners,

vs.

City of Rio Dell, the City Council of
Rio Dell and its individual members
and Jay Parrish, individually
and in his capacity as Acting City
Manager,
Defendants and Respondents.

D E P O S I T I O N

O F

RICHARD "BUD" LEONARD

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WEDNESDAY, FEBRUARY 22, 2006

. . .

10:00 A.M.

VALERIE WALKER, CSR #7209

1 A P P E A R A N C E S

2

3 FOR THE PLAINTIFFS:

4 HARLAND LAW FIRM LLP
5 BY: RICHARD SMITH, ESQ.
6 622 H Street
7 Eureka, CA 95501
8 (707) 444-9281

7

8

9 FOR THE DEFENDANTS:

10 DUN & MARTINEK
11 BY: DAVID E. MARTINEK, ESQ.
12 2313 I Street
13 Eureka, CA 95501
14 (707) 442-3791

13

ALSO PRESENT:

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Steven Wolff

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I N D E X

EXAMINATION

PAGE

By Mr. Smith

5

EXHIBITS

DESCRIPTION

PAGE

1 Notice of Deposition

2 Letter dated 8/15/05

3 Minutes of Meeting dated 8/9/05

4 Minutes of Meeting dated 8/16/05

5 Agreement dated 8/22/05

6 Ordinance No. 242-2002

7 Minutes of Meeting dated 7/19/05

8 Minutes of Meeting dated 8/9/05

9 Minutes of Meeting dated 8/16/05

10 Times-Standard Newspaper Article

11 Beacon Newspaper Article

22

23

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1 SUPERIOR COURT OF CALIFORNIA

2 COUNTY OF HUMBOLDT

3 CASE NO. DR 050841

4 . . .

5 Steven Wolff and Sharon Wolff,
6 as individual taxpayers residing
7 in the City of Rio Dell and the
8 Concerned Taxpayers of Rio Dell,
9 an unincorporated association of
10 individual taxpayers residing
11 in the City of Rio Dell, all ex rel.
12 the City of Rio Dell,
13 Plaintiffs and Petitioners,

14 vs.

15 City of Rio Dell, the City Council of
16 Rio Dell and its individual members
17 and Jay Parrish, individually
18 and in his capacity as Acting City
19 Manager,
20 Defendants and Respondents.

21 _____ /

22 Be it remembered that pursuant to notice, and on
23 Wednesday, February 22, 2006, commencing at the hour of
24 10:00 a.m. thereof, at the offices of Harland Law Firm,
25 622 H Street, Eureka, California, before me, Valerie
26 Walker, Certified Shorthand Reporter Number 7209 for the
27 State of California, personally appeared

28 RICHARD "BUD" LEONARD,

22 a witness in the above-entitled action, called by the
23 Plaintiffs, who, after having been duly sworn to testify
24 to the truth, the whole truth and nothing but the truth,
25 was interrogated and examined in said cause.

1 EUREKA, CALIFORNIA; WEDNESDAY, FEBRUARY 22, 2006

2 10:00 A.M.

3 . . .

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5 RICHARD "BUD" LEONARD,

6 having been duly sworn, testified as follows:

7

8 EXAMINATION

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10 (Deposition Exhibit 1 was

11 marked for identification.)

12 BY MR. SMITH:

13 Q. I'll show you Exhibit 1 to this deposition,

14 Mr. Leonard. Do you recognize that exhibit?

15 MR. MARTINEK: Have you seen it before?

16 THE WITNESS: No, I haven't.

17 BY MR. SMITH:

18 Q. Mr. Leonard, that's your Notice of Deposition

19 for today's deposition. Are you saying you have not

20 seen this before?

21 A. You probably sent it down there.

22 Q. Well, Mr. Leonard, first of all, you've got to
23 talk in this direction so the court reporter can hear
24 you; and, secondly, the question is whether or not
25 you've seen it before.

1 A. I really can't say, to tell you the truth. I
2 got -- there's been so much paperwork on this thing.

3 Q. Let's look at page 2 of that exhibit. This
4 document requires you to produce certain documents
5 today. Have you brought documents with you?

6 A. Yes.

7 Q. Start out with category one.

8 First one is: "All documents that relate to
9 the application of All Documents that relate to the City
10 of Rio Dell's seeking a new City Manager and related to
11 the hiring of Jay Parrish as an employee of the City of
12 Rio Dell, including and without limitation the
13 following ..."

14 Then there's a series of documents that follow
15 that.

16 What have you brought in response to that
17 category?

18 MR. MARTINEK: We brought the letter of
19 resignation. We have the agreement, the employment
20 agreement with Mr. Parrish. We have the minutes of
21 August 16th and the minutes of August 9. And there's

22 one other document that I have not been able to produce
23 because I have no power in my law office this morning,
24 and that's the City Manager Ordinance. Technically,
25 that probably falls under one of these categories.

1 One more caveat: The resignation letter was
2 in Mr. Leonard's possession. It was in mine, and he saw
3 it for the first time this morning; but in the interest
4 of full disclosure, we're bringing it.

5 MR. SMITH: You're his attorney?

6 MR. MARTINEK: I'm his attorney, but the
7 subpoena goes to the documents in his possession.

8 (A recess was taken.)

9 MR. SMITH: I'm going to mark a document dated
10 August 15, 2005, as Deposition Exhibit Number 2.

11 I'm going to mark as Deposition Exhibit 3
12 minutes from a meeting of August 9, 2005.

13 I'm going to mark as Exhibit 4 minutes from a
14 meeting of August 16th.

15 I'll have marked as Exhibit 5 an Agreement
16 dated August 22nd, 2005.

17 And last I'm going to have marked as Exhibit 6
18 a copy of Ordinance 242-2002.

19 (Deposition Exhibits 2 through 6
20 were marked for identification.)

21 BY MR. SMITH:

22 Q. Please show Exhibit 6 to the witness.

23 Mr. Leonard, I've asked that you be shown a

24 copy of Exhibit Number 6. Is that before you?

25 A. Yes.

1 Q. Are you familiar with this exhibit?

2 A. I read it.

3 Q. And what is it?

4 A. What is it?

5 Q. What is it?

6 A. Ordinance 242-2002, "An ordinance of the City
7 of Rio Dell setting forth the office of City Manager and
8 repealing ordinance 215A."

9 Q. What is your understanding of what this
10 ordinance does?

11 A. Like it says.

12 Q. I'm asking you to state your understanding of
13 what this ordinance does, if you have an understanding?

14 A. It covers the office of City Manager.

15 Q. Now within that ordinance, if you could turn
16 to page 2 and look down at the bottom of page 2. Do you
17 see a section numbered 4.04?

18 A. Yes.

19 Q. Are you familiar with that section?

20 A. Well, I'm familiar with what I've read in the
21 document here, yes.

22 Q. Prior to today had you ever -- did you have
23 any familiarity with this section?

24 A. Not really.

25 Q. Have you discussed this section in connection

1 with the employment of Mr. Parrish as City Manager with
2 anyone at any time?

3 A. No.

4 Q. This topic never came up?

5 A. No.

6 Q. It was never discussed during the course of
7 any City Council meeting, opened or closed?

8 A. No.

9 Q. It was never discussed with Mr. Parrish?

10 MR. MARTINEK: I need to talk to my client.

11 MR. SMITH: Excuse me. There was a question
12 pending.

13 Q. Was this ever discussed with Mr. Parrish?

14 A. No. I never did, anyway.

15 MR. SMITH: Okay. Off the record.

16 (A recess was taken.)

17 MR. MARTINEK: I refreshed Mr. Leonard's
18 recollection, and he does have a supplemental response
19 to those questions.

20 BY MR. SMITH:

21 Q. Mr. Leonard, do you have anything to add to

22 your previous answers after your discussion with

23 Counsel?

24 A. I'm sorry. I don't understand what you're

25 saying.

1 Q. Is it that you can't hear me --

2 A. No. I just didn't understand what you said.

3 Q. Do you have anything to add to your previous
4 testimony after your discussion with Counsel during the
5 break?

6 A. Oh, yes.

7 Q. What is that, Sir?

8 A. Well, having gone through different ordinances
9 and everything, I do remember this. But one of the
10 things we looked at on the --

11 MR. MARTINEK: Just answer the question. He
12 can follow up.

13 BY MR. SMITH:

14 Q. The question is, does he have anything to add
15 to his previous testimony?

16 MR. MARTINEK: And the previous testimony
17 is -- the addition is that he is familiar with this
18 section.

19 Is that correct?

20 THE WITNESS: Yes.

21 BY MR. SMITH:

22 Q. Have you discussed this section with anybody

23 in connection with the hiring of Mr. Parrish as City

24 Manager?

25 A. Had a discussion with the city attorney.

1 Q. And when did that occur?

2 A. That would have occurred on August the 9th,
3 the night that we interviewed the applicants.

4 Q. And was this in a meeting?

5 A. Closed session.

6 Q. Other than your discussions with your
7 attorney, have you participated in any discussions with
8 anybody at any time that concerned the application of
9 ordinance 4.04 to the hiring of Mr. Parrish as City
10 Manager?

11 A. I don't know if I can answer that or not.

12 Q. The answer is you don't recall?

13 A. I would have to say that because it was a long
14 time ago. There was a lot of people involved on that.

15 Q. Was that a matter that was ever discussed
16 amongst the City Council, either in open or closed
17 session, other than the time that you were talking to
18 your attorney about the application of this section to
19 the hiring of Mr. Parrish?

20 A. No. No.

21 MR. MARTINEK: I need to talk to my client.

22 Bud.

23 MR. SMITH: Off the record.

24 (There was a discussion off the record.)

25 MR. MARTINEK: Mr. Leonard has a supplemental

1 response to the question of whether it was discussed at
2 any other time.

3 Mr. Leonard.

4 THE WITNESS: Yeah.

5 BY MR. SMITH:

6 Q. What is your further response, Mr. Leonard?

7 A. We discussed it with council people and the
8 city attorney, and this is when we decided to --

9 Q. Are you done with your answer?

10 A. No, I'm not. I'm trying to think what to say.

11 MR. MARTINEK: Do you recall how many other
12 times it was discussed by the council members and me
13 subsequent to August 9th?

14 THE WITNESS: No, I don't.

15 BY MR. SMITH:

16 Q. Let me make sure that you understand the
17 question. The question is, I'm asking about discussions
18 of this ordinance section in relation to hiring
19 Mr. Parrish at times other than when your attorney was
20 present and giving you advice on this topic.

21 A. In closed session we discussed about changing

22 the ordinance, and both the times the attorney was there

23 when we discussed it.

24 Q. And why was it you discussed amending this

25 ordinance in closed session?

1 A. Well, it was part of the -- I don't know if I
2 can answer that. I don't know.

3 Q. You don't know why you discussed it?

4 MR. MARTINEK: If you don't know or you don't
5 remember, then just say so.

6 BY MR. SMITH:

7 Q. Did it appear to you that there was anything
8 contrary to the Brown Act in discussing the amendment of
9 this ordinance in closed session?

10 A. No.

11 Q. You did not think it was?

12 A. No.

13 Q. Why did you think that?

14 MR. MARTINEK: I'm going to object to the form
15 of the question. It calls for a legal conclusion.

16 MR. SMITH: I'm asking -- let me clarify the
17 question.

18 I'm asking him to tell me what his objective
19 thoughts were on that topic.

20 MR. MARTINEK: Well, I'm not going to allow
21 him to answer what his objective thoughts were in closed

22 session; but to the extent that you're asking him what
23 his interpretation of the Brown Act is, I'm going to
24 object to the form of that question.

25 MR. SMITH: Let me make sure that I

1 understand. You're saying that he is not going to
2 testify to anything that occurred in closed session?

3 MR. MARTINEK: That's correct.

4 MR. SMITH: And your authority for that is
5 what?

6 MR. MARTINEK: The fact that this is a
7 personnel decision which is allowed to occur in closed
8 session under the Brown Act, and on top of that it's in
9 the presence of counsel. It's attorney-client
10 privilege.

11 MR. SMITH: Are you saying, then, that the
12 discussions on amending this ordinance that occurred in
13 closed session were discussions with counsel?

14 MR. MARTINEK: Yes, I am. And I am also
15 saying, if I might add, that the discussions were not of
16 amending the ordinance. I believe the witness misspoke,
17 but he said what he did.

18 BY MR. SMITH:

19 Q. Was there a decision made as to whether or not
20 you'd attempt to amend ordinance 4.04 in connection with
21 hiring Mr. Parrish as City Manager?

- 22 A. No.
- 23 Q. There was no decision made?
- 24 A. No.
- 25 Q. Why was that?

1 A. I can't answer that. I don't know.

2 Q. At any point have you had any discussions with
3 Mr. Parrish after July of 2005 about ordinance 4.04?

4 A. You said July?

5 Q. Since July of last year have you had any
6 discussions with Mr. Parrish about this ordinance?

7 A. No, I haven't.

8 Q. Were you a member of the City Council in 2002
9 when this ordinance, which is Exhibit 6, was passed?

10 A. Yes.

11 Q. Now, in the decision to hire Mr. Parrish, did
12 you believe that section 4.04 posed any particular
13 problems in doing that?

14 A. No, because --

15 Q. Why is that?

16 A. He was hired as interim manager.

17 Q. When was it first discussed that he would be
18 hired as interim manager?

19 A. I can't say. I don't know.

20 Q. And was that in connection with discussions of
21 hiring him in the effect of section 4.04?

22 A. I can't answer that. I don't know. It's kind

23 of confusing.

24 Q. Mr. Leonard, do you have any impairments,

25 either physical or otherwise, that affect your memory or

1 reasoning capacity?

2 A. Are you saying I'm crazy? No.

3 Q. I'm asking if you have anything that affects

4 your reasoning and memory capacity? I probably should

5 have started out asking these questions.

6 A. I don't believe so.

7 Q. Do you take any drugs or medications?

8 A. Yes.

9 Q. What drugs or medications do you take?

10 A. I'm sorry, but I'm not going to answer that.

11 I don't think it's any of your business.

12 Q. Well, I think that it is my business because I

13 need to determine whether or not you're in a position to

14 give your best testimony today.

15 MR. MARTINEK: You can ask him if he feels

16 he's impaired by any of these drugs.

17 MR. SMITH: Well, it's kind of hard to make

18 the conclusion whether he's impaired or not without

19 knowing what the drugs are.

20 MR. MARTINEK: If he says yes, he is impaired,

21 then you can follow up.

22 MR. SMITH: But that's something that may
23 objectively be different.

24 MR. MARTINEK: Well, I have a witness that
25 feels it's an invasion of his privacy to ask about his

1 medication. I understand the discovery rules. I don't
2 think that this question is technically proper. I would
3 have allowed it if the witness had allowed it; but we're
4 sitting here in the deposition, and I think the only way
5 that we can really go about it is to ask if he feels
6 he's impaired.

7 MR. SMITH: Are you instructing him not to
8 answer the question?

9 MR. MARTINEK: No, I'm not.

10 BY MR. SMITH:

11 Q. Mr. Leonard, are you refusing to answer the
12 question?

13 A. Yes.

14 Q. Do you take any drugs or medications that
15 affect your memory or reasoning abilities?

16 A. No.

17 MR. MARTINEK: Mr. Leonard, how old are you?

18 THE WITNESS: Eighty-three.

19 MR. MARTINEK: Do you have any hearing
20 impairment?

21 THE WITNESS: No.

22 BY MR. SMITH:

23 Q. Were you in the council when ordinance

24 242-2002 was adopted?

25 A. I previously answered that.

1 Q. And the answer's "yes"?

2 A. Yes.

3 Q. Do you have any recollection as to why section

4 4.04 was added?

5 A. It wasn't added; it was in the previous one.

6 Q. Do you have any understanding as to why it was

7 continued into this ordinance?

8 A. No, I don't.

9 Q. When you voted -- did you vote to adopt this

10 ordinance?

11 A. Yes.

12 Q. And at the time that you did that, did you

13 believe it was a proper ordinance for the City to have

14 in place?

15 A. I see no reason why it couldn't have been.

16 Q. Were you aware of section 4.04 when you voted

17 to adopt this ordinance?

18 A. I had read the document, yes. It was part of

19 it.

20 Q. Did you have any feeling or opinion as to why

21 it included section 4.04 prohibiting the mayor and

22 members of the council from becoming city manager until
23 one year after their terms have ceased?
24 A. It was a copy of the League of Cities
25 document.

1 Q. Did you have any feeling one way or the other
2 as to why this was an appropriate restriction?

3 A. No.

4 Q. Did you think about it at all at the time?

5 A. No.

6 Q. Subsequent to the adoption of this ordinance,
7 have you developed any opinion as to whether or not
8 section 4.04 is an appropriate restriction?

9 A. Yes.

10 Q. You have thought about it?

11 A. Yeah, actually.

12 Q. And what is your opinion?

13 A. I think it depends upon the circumstance.

14 Q. Under what circumstances would it not be
15 appropriate?

16 A. The one that we had, the reason that we
17 appointed Mr. Parrish.

18 Q. Why is that -- why would it be inappropriate
19 in that circumstance?

20 A. I think you have to look at the problems with
21 the City.

22 Q. What problems are you referring to?
23 A. I don't know if I want to get into that at
24 this point. I think it's -- most of it's in a public
25 domain now as far as what's going on with the City.

1 Q. Well, I'm going to ask you to describe for me,
2 in any event, what you're referring to.

3 MR. MARTINEK: I think it's allowable, Bud,
4 the things that were going on in the City at the time.

5 MR. SMITH: I'm asking him to identify further
6 what he's referring to in his response.

7 MR. MARTINEK: I know. I'm trying to help you
8 out here.

9 And the things that were going on in the City
10 at the time that led you to think that the current mayor
11 was a good city manager.

12 THE WITNESS: Well, we had some problems
13 caused by the previous City Manager that needed
14 attention. We had a \$5 million water project going --
15 actually, \$8 million between the water projects. And
16 the other problems, as far as some lawsuits and things
17 like this, that we felt that this was the proper man to
18 do the job. He knew the City. He'd been the mayor, and
19 he had been helping out the previous manager. He was
20 the natural one for the job.

21 MR. MARTINEK: When you mention the water

22 projects, are you including the issues with the
23 wastewater treatment?

24 THE WITNESS: No, I'm not. We have it under a
25 cease and desist order, and we're in the process of

1 trying to figure out a way to get rid of 350,000 gallons
2 of fluid a day; and it was just some things that we felt
3 that this gentleman could handle rather than anyone
4 else, due to his knowledge.

5 BY MR. SMITH:

6 Q. Now, why is it, then, that you didn't take
7 action to repeal section 4.04?

8 A. Well, that's a hard one to answer because if
9 we had, you'd be here asking me why we did it.

10 Q. Well, when you had those --

11 A. From my standpoint, he's an interim city
12 manager. He's given a year's contract. At the end of
13 the year we can either renew the contract or he can go
14 down the road. And we've had interim city managers off
15 and on, I don't know how many.

16 MR. MARTINEK: Well, the contract is
17 terminable at will. We'll get to that. Also, I might
18 add, too, that we're not ruling out amending the
19 ordinance.

20 BY MR. SMITH:

21 Q. Is that your testimony?

22 A. Yes.

23 Q. That you're not ruling out amending the

24 ordinance?

25 A. That's correct.

1 Q. On how many occasions did you have discussions
2 on section 4.04 as related to the hiring of Mr. Parrish?
3 You said that you had one discussion in closed session
4 with your lawyer present. Is that the only time that
5 you've ever discussed that topic?

6 MR. MARTINEK: No. He supplemented that,
7 remember? When we came back and he said there were
8 further discussions with me present. I think the
9 question is how many times this was discussed?

10 BY MR. SMITH:

11 Q. How many times was it discussed?

12 A. I don't know.

13 Q. Is it more than once?

14 A. Yes, but I don't know.

15 Q. Did you ever discuss it with any member of the
16 City Council?

17 A. Yes.

18 Q. Who did you discuss it with?

19 A. I don't recall.

20 Q. How many members of the City Council do you
21 think you discussed it with?

22 A. That, I can't say.

23 Q. Do you know when those discussions would have

24 occurred?

25 A. No, I don't.

1 Q. Would there have been discussions other than
2 during meetings?

3 A. I don't recall.

4 Q. Maybe?

5 A. Pardon?

6 Q. Are you saying it might have happened?

7 A. No. I said I just don't recall.

8 Q. Were you present when any members of the City
9 Council discussed that topic between or among themselves
10 where you weren't involved in the discussion?

11 A. No.

12 Q. Can you tell me when the decision was made
13 that section 4.04 did not inhibit the City from hiring
14 Mr. Parrish as city manager? When was that decision
15 made?

16 MR. MARTINEK: If you recall.

17 THE WITNESS: Yeah. Well, it would have been
18 the night of the interview.

19 BY MR. SMITH:

20 Q. What night was that?

21 A. August the 9th.

22 Q. When was the first time that you discussed

23 hiring Mr. Parrish as city manager with anybody?

24 A. I can't say. I don't know.

25 Q. Do you know when the former City Manager left?

1 A. Sometime in July.

2 Q. Did you have any discussions with Mr. Parrish
3 about him becoming city manager in the month of July?

4 A. No.

5 Q. Did you have any discussions with any members
6 of the City Council on that topic?

7 A. No.

8 Q. And you're saying the first time that topic
9 came up was when, hiring Mr. Parrish?

10 A. I don't recall. Oh, he put his application in
11 so that would have -- we would have known at that time
12 he was interested.

13 Q. When did he put his application in?

14 A. The following day of the time limit of the
15 applications.

16 Q. Was it a written application?

17 A. Yes.

18 Q. Do you know when that was?

19 A. The closing date.

20 Q. Do you know when the closing date was?

21 A. I don't remember.

22 Q. Do you know what month it was in?

23 A. In August.

24 Q. In August?

25 A. Yes.

1 Q. And was it before the -- must have been before
2 the meeting on August 9th?

3 A. That's correct.

4 Q. So sometime between August 1st and August 9th?

5 A. Yes.

6 (Deposition Exhibit 7 was
7 marked for identification.)

8 BY MR. SMITH:

9 Q. Show you what's marked as Exhibit 7 for the
10 deposition. Do you know what this document is?

11 A. It's minutes of the meeting of July the 19th.

12 Q. Now, was Mr. Parrish being hired as city
13 manager discussed during this meeting?

14 A. No.

15 Q. Were you present for this meeting?

16 A. Yes, as far as I know, I was.

17 Q. Was there a closed session associated with
18 this meeting?

19 MR. MARTINEK: Take a look at the closed
20 session minutes. Read that before you answer.

21 Does that refresh your memory about when he

22 first approached the City?

23 THE WITNESS: I don't remember him approaching

24 the City. He excused himself, but I don't know the

25 reason why. I assume that he was thinking about it.

1 BY MR. SMITH:

2 Q. Well, in that closed session was the hiring of
3 a city manager discussed?

4 A. No.

5 Q. Do you know why he excused himself?

6 A. No, I don't.

7 Q. Did he return after the closed session?

8 A. I don't remember.

9 Q. Look at the second page. Do you recall who
10 adjourned the meeting?

11 A. No, I don't.

12 Q. And it's your testimony that you do not
13 believe that Mr. Parrish serving as city manager was
14 discussed at the July 19th meeting?

15 A. No, it was not.

16 Q. And it's also your testimony that prior to
17 July 19th, you had had no discussions with Mr. Parrish
18 about him serving as city manager?

19 A. I didn't.

20 Q. Had anybody?

21 A. I don't know.

22 Q. To your knowledge did anybody?

23 A. I don't know.

24 Q. So you're not aware of anybody that did talk

25 to him about that topic?

1 A. I can't say. I don't know.

2 Q. Sir, what I'm asking you is --

3 A. I don't know.

4 Q. You're not aware of anyone?

5 A. I have no way of knowing.

6 Q. Let me --

7 A. I don't --

8 Q. Mr. Leonard, stop for a minute. I'm going to

9 ask the question again. I'm going to ask you to respond

10 to it.

11 A. I thought I did.

12 Q. I don't believe you did, so we'll try it one

13 more time.

14 A. I think I did.

15 Q. We'll try it one more time anyway, sir.

16 Are you aware, do you have any knowledge of

17 anybody talking to Mr. Parrish about becoming city

18 manager prior to or on July 19th, 2005? That's a yes or

19 no answer.

20 A. I don't know.

21 Q. You don't know if you have any knowledge?

22 A. I don't know if anybody did or not. I have no
23 way of knowing.

24 Q. As you sit here today, you don't recall

25 anybody – having knowledge of anybody talking to him;

1 true?

2 A. I don't know if they -- there's fifteen
3 employees in the City of Rio Dell. Any one of them
4 could have talked to him.

5 Q. But you're not aware of anyone having done
6 that?

7 A. No.

8 Q. But you didn't talk to him?

9 A. I didn't, no.

10 Q. And you're not aware of any member of the City
11 Council that talked to him?

12 A. No, I'm not.

13 Q. Now, getting back to the application that
14 Mr. Parrish submitted, I believe you said that was in
15 writing?

16 A. That's correct, along with the other people
17 that submitted their application.

18 Q. And is that document still available?

19 MR. MARTINEK: I could not find it yesterday
20 when I went to City Hall. We could not find any of the
21 applications.

22 BY MR. SMITH:

23 Q. Are you aware of any action or discussion on
24 the council about destroying the written applications
25 for the city manager position?

1 A. No.

2 Q. Now, there was a meeting on August 2nd; true?

3 If you look at Exhibit Number 7 at the last page, the

4 meeting was adjourned to the August 2nd regular board

5 meeting.

6 A. Okay.

7 Q. Was there a meeting on that date?

8 A. If it's the first Tuesday of the month, yes.

9 Q. And was the issue of employing the city

10 manager discussed at that meeting?

11 A. Not to my knowledge.

12 Q. Were you present throughout the meeting?

13 A. As far as I know.

14 Q. Was there a closed session in conjunction with

15 that meeting?

16 A. I don't have the agenda so I don't know.

17 Q. Now --

18 A. We generally do have one because we have a

19 favorite subject we always talk about.

20 Q. What's that?

21 A. You.

22 Q. Me?

23 A. And Mr. Roberts.

24 Q. What have you talked about in relationship to

25 me at these meetings?

1 MR. MARTINEK: I'm not going to let him answer
2 your questions about discussions in closed session.

3 MR. SMITH: And the authority for that, again,
4 is?

5 MR. MARTINEK: It was a closed session
6 litigation matter, and when I'm present it's also
7 subject to the attorney-client privilege.

8 MR. SMITH: Aside from the attorney-client
9 privilege, are you saying that there was an
10 attorney-client privilege discussion about me in the
11 closed session?

12 MR. MARTINEK: Not while I was present.

13 THE WITNESS: Not about you, but --

14 MR. SMITH: And you're asserting the privilege
15 is to the closed session beyond attorney-client?

16 MR. MARTINEK: Litigation under the Brown Act.
17 This is, as I recall, we're talking about the driveway
18 and modifications to the driveway.

19 MR. SMITH: You're saying the Brown Act public
20 meeting exemption is a discovery bar?

21 MR. MARTINEK: I believe there's also a

22 suggestive body privilege that prohibits discovery into
23 the deliberations of a legislative body as well.

24 MR. SMITH: Let's mark this Exhibit 8.

25 MR. MARTINEK: It's already marked.

1 MR. SMITH: Let's mark it again.

2 (Deposition Exhibit 8 was
3 marked for identification.)

4 MR. SMITH: Please show it to the witness.

5 Q. You have before you Exhibit Number 8. These
6 are minutes from an August 9th meeting; true?

7 A. Correct.

8 Q. It starts off by saying a continued meeting
9 was called to order. When was this meeting continued
10 from?

11 A. I don't recall.

12 Q. Now, there was a closed session during this
13 meeting; true?

14 A. Correct.

15 Q. And during that closed session, was the topic
16 of hiring the city manager discussed?

17 A. We interviewed applicants at that point.

18 Q. And was the City's attorney present during
19 that process?

20 A. Yes. Not -- he was there. He did not
21 participate while we were interviewing the applicants.

22 Q. So he was not giving you legal advice during
23 this meeting?

24 A. No.

25 MR. MARTINEK: Well, I was there to provide

1 legal advice if needed. I don't recall whether any
2 legal advice was actually needed or not.

3 THE WITNESS: No.

4 BY MR. SMITH:

5 Q. Now, how many people --

6 MR. MARTINEK: I'm talking about just the
7 interviewing of the applicants, not those closed
8 sessions afterwards to discuss the finalists.

9 MR. SMITH: I'm sorry?

10 MR. MARTINEK: The applicants, the finalists
11 were interviewed; and then after the last interview, the
12 council discussed the interviews in my presence.

13 BY MR. SMITH:

14 Q. So were the interviews of the candidates for
15 city manager discussed -- were those interviews in
16 opened or closed session?

17 A. Closed session.

18 Q. How many people were interviewed?

19 A. Three.

20 Q. And who were those three?

21 MR. MARTINEK: Do you remember?

22 THE WITNESS: Yeah, I know who they are.

23 MR. MARTINEK: You can go ahead and answer.

24 THE WITNESS: Gentleman by the name, I

25 believe, of Rod Sanderson, and then a lady by the name

1 of Coral -- her last name was Coral, C-O-R-A-L, and then
2 Jay Parrish.

3 BY MR. SMITH:

4 Q. Now, from your earlier testimony, Mr. Parrish
5 had submitted a written application for this position
6 prior -- just prior to this meeting; true?

7 A. That's correct, and so had all the other ones.

8 Q. And at the time that Mr. Parrish submitted his
9 application, he was the mayor of the City of Rio Dell?

10 A. That's correct.

11 Q. And the mayor's position, is that separately
12 elected on a public vote, or is that appointed by the
13 council?

14 A. Appointed by the council.

15 Q. And on August 9th was Mr. Parrish the mayor of
16 the City of Rio Dell?

17 A. Yes.

18 Q. From what you've said it's my understanding
19 that the three candidates were interviewed?

20 A. Yes.

21 Q. Was Mr. Parrish present during that entire

22 process?

23 A. No.

24 Q. What part was he present for?

25 A. He was only present for his interview.

1 Q. And after his interview there was then a
2 discussion?

3 A. Yes.

4 Q. And how long did that discussion last?

5 A. Oh, probably an hour or something like that.

6 Q. What was said -- give me a summary of what was
7 said during those discussions, the topics that were
8 discussed.

9 MR. MARTINEK: He can give you the topics, but
10 I'm not going to let him testify about the substance of
11 the discussion.

12 MR. SMITH: Let me make my record, and we'll
13 do our motion and find out where it all goes.

14 Q. What were the topics that were discussed?

15 A. With the applicants or afterwards?

16 Q. Afterwards.

17 A. Afterwards. Well, we discussed the pros and
18 cons of each person.

19 Q. Was there a vote taken?

20 A. Yes.

21 Q. And how many votes were taken?

22 A. One vote.

23 Q. And what was the outcome of that vote?

24 A. The vote was three to one to offer the

25 position to Mr. Parrish.

1 Q. Who was the individual that voted no?

2 A. I don't know if I can tell you that or not.

3 Q. Well, is it because you don't remember?

4 A. Well, I just don't think I should.

5 MR. MARTINEK: I think we can disclose it.

6 THE WITNESS: Mike Dunker.

7 BY MR. SMITH:

8 Q. What was his objection?

9 A. Well, Rod Sanderson happens to be his boss at
10 the church.

11 MR. MARTINEK: I want to interpose a belated
12 objection. We're not going to answer any questions
13 about the deliberations or the substance of
14 deliberations.

15 MR. SMITH: So if I were to ask questions
16 about what was said during that meeting, including
17 questions about Mr. Parrish and the propriety of hiring
18 him, you would instruct the witness not to answer any of
19 those?

20 MR. MARTINEK: Yes.

21 MR. SMITH: And it's based upon?

22 MR. MARTINEK: The legislative body privilege,
23 the Brown Act, closed session privilege and the
24 attorney-client privilege.

25 MR. SMITH: You're saying you participated and

1 provided advice during that deliberation?

2 MR. MARTINEK: Oh, yes.

3 MR. SMITH: On the topic of who they should

4 hire?

5 MR. MARTINEK: The whole gamut of potential

6 topics. I was there and I advised the council. As the

7 witness said, I was there during the interviews as well,

8 but I did not actually ask any questions in the

9 interviews.

10 BY MR. SMITH:

11 Q. Now, during the course of this discussion or

12 at any time prior to it, was there any discussion that

13 you recall about the propriety of hiring or agreeing to

14 hire somebody who was currently an elected official of

15 the city?

16 MR. MARTINEK: Sorry. I lost track of the

17 question. Can you read it back?

18 MR. SMITH: I'll rephrase it.

19 Q. During the course of this meeting or before,

20 had anybody on the City Council, under your presence,

21 discussed whether you could legally hire Mr. Parrish as

22 city manager?

23 MR. MARTINEK: I'm going to object to the form

24 of the question. I think you said "during the course of

25 this meeting or before."

1 MR. SMITH: Yes.

2 MR. MARTINEK: I think that's a vague and
3 ambiguous question.

4 BY MR. SMITH:

5 Q. Okay. At any time prior to August 9th, did
6 you or any member of the council, to your knowledge,
7 discuss the application of Government Code 1090 to
8 hiring Mr. Parrish?

9 A. No. I don't know what 1090 is.

10 Q. Are you aware that there is a statute that
11 prohibits the City entering into contracts with its
12 board members, City Council members?

13 A. No, I'm not.

14 Q. You're not?

15 A. No.

16 Q. So it's your belief that if you -- leave it at
17 that.

18 A. Well, I --

19 MR. MARTINEK: There's no question pending.

20 THE WITNESS: Okay.

21 BY MR. SMITH:

22 Q. Now, at some point following the three to one
23 vote to hire Mr. Parrish, was he informed of the outcome
24 of the vote?

25 A. Yeah. The attorney informed him.

1 Q. When was that done?

2 A. Same evening.

3 MR. MARTINEK: I called him on his cell phone

4 and had him come back.

5 BY MR. SMITH:

6 Q. Do you know why the attorney was the one that

7 made that call?

8 A. Well, he was on the clock.

9 Q. Did anybody ask him to make that call?

10 A. Yes.

11 Q. Who asked him?

12 A. The council.

13 Q. And did Mr. Parrish come back?

14 A. Yes.

15 Q. Did he come back while the council was still

16 in closed session?

17 A. Yes.

18 Q. And what occurred once he came back?

19 A. We basically offered him the position.

20 Q. Who was the one that offered him the position?

21 Who spoke on the topic?

22 A. I did.

23 Q. Do you recall what the offer consisted of?

24 A. We just -- we offered him the position of

25 interim city manager.

1 Q. Now, did he then or at any time previously
2 ever ask you what you meant by "interim city manager"?

3 A. Would you say it again, please.

4 Q. Had there been any discussions with
5 Mr. Parrish either at this time or previously that you
6 were involved in or overheard where it was discussed as
7 to what the job of interim city manager consisted of?

8 A. That's a tough one to answer. I don't know if
9 I can answer that or not. I just --

10 Q. Did you advertise in any way for candidates?

11 A. Yes.

12 Q. How did you advertise?

13 A. The local paper, and I think in Santa Rosa;
14 and I don't know if there were jobs available or not.

15 Q. And when you advertised, did you advertise for
16 city manager or interim city manager?

17 A. I believe it was city manager.

18 Q. When was the first time that you were aware of
19 any discussions that perhaps you'd hire an interim city
20 manager as opposed to a city manager?

21 A. Must have been that night.

22 Q. And by "that night," you mean August 9th?

23 A. Yes.

24 Q. Who first brought that term up?

25 A. I don't know.

1 Q. Was it one of the members of the City Council?

2 A. Yes.

3 Q. Was it brought up before or after the

4 interviews?

5 A. I can't say.

6 Q. When Mr. Parrish was interviewed, was he

7 informed that he would be hired as interim city manager

8 and not a city manager?

9 A. When we interviewed him?

10 Q. Yes.

11 A. No.

12 Q. And so the first time he ever heard the

13 concept of being hired as interim city manager was when

14 he came back and the job was offered to him?

15 A. Yes.

16 Q. And at that point did he ask you what the job

17 of being interim city manager consisted of?

18 A. No, because he would have been aware of

19 previous interim city managers.

20 Q. What interim city managers had existed

21 previously?

- 22 A. About seven or eight of them.
- 23 Q. Can you name one?
- 24 A. Yes. Jim Stretch.
- 25 Q. When did he serve?

1 A. He served in 2001 and 2002.

2 Q. How did his duties as interim city manager
3 differ from the duties of a regular city manager?

4 A. Same difference.

5 Q. There's no difference?

6 A. No difference.

7 Q. So it's just a different title; true?

8 A. On a temporary basis.

9 Q. Don't all city managers serve at the pleasure
10 of the council unless they have contracted otherwise?

11 A. Yes.

12 Q. Now, since August 9th of 2005, has the City
13 advertised further for city managers?

14 A. No.

15 Q. Does the City -- has the City discussed
16 advertising further for city managers?

17 A. No.

18 Q. When was the contract of employment with
19 Mr. Parrish first presented to him?

20 A. I can't answer that. I don't know.

21 Q. Do you know who presented it to him?

- 22 A. Our attorney.
- 23 Q. And when did you sign it?
- 24 A. I don't know what the date was.
- 25 Q. Well, the document is dated -- this is Exhibit

1 5 and it's dated August 22nd. I don't believe the
2 signature page is dated.

3 A. It's been modified two or three times, hasn't
4 it?

5 Q. My question is, do you recall when you signed
6 this?

7 A. No, I don't.

8 Q. Would it have been on or about the date that
9 appears on it, August 22nd?

10 A. No. It would be later on.

11 Q. And you say this document went through
12 modifications?

13 A. Yes.

14 Q. What modifications did it go through?

15 A. You'll have to ask the attorney. I don't
16 know.

17 Q. Did you have drafts of the document?

18 A. No.

19 Q. You never saw a draft of the document?

20 A. No.

21 Q. Do you know who worked on reviewing the

22 various drafts?

23 A. Our city attorney.

24 Q. Who did he work with?

25 A. Who did he work with?

1 Q. Yes.

2 A. Himself and using previous agreements.

3 Q. So when you say various drafts, that doesn't
4 imply that somebody prepared a document and somebody
5 else looked at it and then it had to go back for
6 changes?

7 A. I can't answer that. I don't know.

8 You know more than I do.

9 MR. MARTINEK: Well, you reviewed it. You had
10 some drafts. Remember there was a change in the life
11 insurance or something?

12 THE WITNESS: Yeah, that was modifying the
13 other agreements.

14 MR. MARTINEK: That's what he's talking about.
15 He's talking about whether you saw any of the drafts and
16 had any input on those.

17 THE WITNESS: Yeah, I guess I would have. I
18 really don't remember, but I believe there was some
19 discussion on the insurance because it was copied from
20 another one.

21 MR. MARTINEK: There were other drafts, too,

22 but that's just one that I used to refresh your memory.

23 MR. SMITH: You're gonna end up testifying in

24 the deposition yourself here.

25 MR. MARTINEK: I actually thought I was being

1 helpful. I'll do what I can to let you have a confused
2 record.

3 MR. SMITH: I appreciate the thought, but
4 don't feel compelled.

5 Q. Now, Mr. Parrish's resignation is dated August
6 15th, looking at Exhibit Number 2. Are you familiar
7 with that?

8 A. No. First time I saw that was today, and I
9 normally would not have been involved in something like
10 that.

11 Q. It's your understanding that that is the day
12 that he resigned?

13 A. Yes.

14 Q. When you had the meeting on the 9th and called
15 him and had him come back and told him that he had been
16 offered -- that he was going to be hired as interim city
17 manager, what did he say?

18 THE WITNESS: You did the talking.

19 MR. MARTINEK: Well, then, if you remember,
20 you remember. If you don't, you don't.

21 THE WITNESS: I don't remember.

22 BY MR. SMITH:

23 Q. Let me make sure I understand the question.

24 When Mr. Martinek said he was hired, what did Mr.

25 Parrish say?

1 MR. MARTINEK: I'm going to have to testify to
2 clarify that.

3 MR. SMITH: If the witness doesn't know, the
4 witness can state that. I mean, he was present. If he
5 doesn't remember, he doesn't remember.

6 MR. MARTINEK: I put the council and
7 Mr. Parrish in separate rooms, but -- so that's why the
8 witness doesn't remember what was said.

9 BY MR. SMITH:

10 Q. Let me ask that question, then.

11 At any time during the evening of August 9th
12 after Mr. Parrish's interview and after he departed, did
13 you have any meetings with him after that, you
14 personally, you present at any meetings with him after
15 that?

16 MR. MARTINEK: That evening or the rest of his
17 life?

18 BY MR. SMITH:

19 Q. That evening.

20 A. No.

21 Q. So you were not present when the job was

22 offered to him?

23 A. Yes, I was present, yes; but I had no meetings

24 after.

25 Q. You were present, then, when somebody said to

1 Mr. Parrish, "We would like to hire you as interim city
2 manager"?

3 A. Yes.

4 Q. Were you the one that said those words?

5 A. I believe so.

6 Q. And was that statement made on the evening of
7 August 9th?

8 A. Yes.

9 Q. And who was present when you made that
10 statement?

11 A. The City Council and the city attorney.

12 Q. Did Mr. Parrish respond to that?

13 A. No, he didn't.

14 Q. He just turned around and left the room?

15 A. No. No. He said he would have to check with
16 his wife, and then he left.

17 MR. MARTINEK: Well, no. I put you in
18 separate rooms and we talked a bit.

19 THE WITNESS: Yeah.

20 MR. MARTINEK: So you need to be a little more
21 complete if you can. If you don't remember, you don't

22 remember.

23 THE WITNESS: Well, it's been a long time ago.

24 BY MR. SMITH:

25 Q. Mr. Leonard, your deposition may, in fact, be

1 used during the course of the trial at this matter. And
2 if, in fact, your memory or lack of memory turns out to
3 be something that -- well, talk to your attorney about
4 that. Strike that.

5 Let me go back and make sure, then, that I
6 have a clear understanding.

7 You spoke with Mr. Parrish and offered him the
8 job of interim city manager?

9 A. Correct.

10 Q. And were you the one that did that?

11 A. Yes.

12 Q. When that was done, you were present?

13 A. Yes.

14 Q. Mr. Parrish was present?

15 A. Yes.

16 Q. The three other members of the City Council
17 were present?

18 A. Yes.

19 Q. And was Mr. Martinek present?

20 A. Yes.

21 Q. After you offered him the job, what happened

22 next?

23 A. I don't remember, to tell you the truth.

24 Q. Was there an occasion where Mr. Martinek took

25 Mr. Parrish into a separate room?

1 A. Yes.

2 Q. Did that occur after you offered Mr. Parrish
3 the interim city manager job?

4 A. Yes.

5 Q. And after you offered him the interim city
6 manager job and before he went into a separate room with
7 the city attorney, did he say anything in response to
8 your offer?

9 A. No.

10 Q. Who's suggestion was it, then, to adjourn into
11 separate rooms?

12 A. I don't know who made the suggestion.

13 Q. What was the purpose of the separate meeting
14 out of the presence of the council?

15 MR. MARTINEK: Assumes a fact not in evidence.
16 Assumes there was a meeting outside of the presence of
17 the council.

18 BY MR. SMITH:

19 Q. You offered the job to Mr. Parrish, and then
20 there was at that point -- following that point there
21 was -- he and Mr. Martinek left the room; true?

- 22 A. Yes.
- 23 Q. How long were they out of the room?
- 24 A. I don't know.
- 25 Q. Can you give me your best estimate?

1 A. Half hour. 20 minutes, a half hour. I don't
2 know.

3 Q. Was there any explanation given as to why
4 Mr. Martinek and Mr. Parrish were leaving the room?

5 A. Mr. Martinek was a go-between as far as
6 negotiations were concerned.

7 Q. This was negotiations of the details of the
8 employment?

9 A. Yes, as far as the salary and this sort of
10 thing.

11 Q. So who suggested that format?

12 A. I don't know.

13 Q. When you offered Mr. Parrish the job, did you
14 know that that was going to be the format?

15 A. No.

16 Q. So it was suggested after you made your offer?

17 A. Yes.

18 Q. And so Mr. Martinek and Mr. Parrish left the
19 room?

20 A. Yeah.

21 Q. And they were gone, you said, about a half

22 hour?

23 A. Yeah. Well, Mr. Martinek was back and forth.

24 Q. Why was he coming back and forth?

25 A. To convey different information.

1 Q. And he was giving information as to what he
2 and Mr. Parrish had been discussing?

3 A. Yes, and told Mr. Parrish what we were
4 offering.

5 Q. But during that back and forth, Mr. Martinek
6 was not providing you with any legal advice, was he?

7 A. No.

8 MR. MARTINEK: Well, object to the form of the
9 question. The witness doesn't have a very good
10 recollection to begin with.

11 MR. SMITH: He seems to have had enough of
12 recollection to answer the question.

13 MR. MARTINEK: I understand that. And rather
14 than follow up with -- I guess we'll follow up with
15 lengthy amendments to the deposition testimony.

16 MR. SMITH: Just so that you know, the reason
17 that I need to have him testify is I can't really use
18 his deposition at trial if you're the one that's saying
19 everything.

20 MR. MARTINEK: I understand that, but this is
21 going to be a trial based upon documents anyway, as I

22 recall, so -- but in any event, I'm just trying to

23 clarify the record here.

24 MR. SMITH: I understand that, and as long as

25 you understand what the problem I have with it and I

1 need the witness to testify.

2 Q. So at some point after Mr. Parrish and
3 Mr. Martinek left the room, did Mr. Parrish ever come
4 back?

5 A. I don't know. I don't recollect that, what he
6 did or not.

7 Q. Eventually, you and the rest of the City
8 Council left?

9 A. Yes.

10 Q. And, in fact, you adjourned at 7:13 p.m.,
11 according to the minutes; true?

12 A. Yes.

13 Q. Do you recall where these negotiations stood
14 when everybody left at 7:13 p.m.?

15 A. It's my belief that Mr. Parrish had accepted
16 the interim city manager job.

17 Q. And he'd done that by speaking words when you
18 were present?

19 MR. MARTINEK: Let me talk to my client.

20 (A recess was taken.)

21 BY MR. SMITH:

22 Q. So you had a conference with your attorney.

23 Do you have any aspect of your testimony that you would

24 like to comment further on?

25 MR. MARTINEK: Did Mr. Parrish accept the job

1 on August 9th?

2 THE WITNESS: Not really. Well --

3 BY MR. SMITH:

4 Q. What did Mr. Parrish say or do to indicate
5 "not really"?

6 A. He was going to go home and talk with his
7 wife.

8 Q. Is that something that he said to you?

9 A. I don't remember. It was either said to us or
10 said to the attorney.

11 MR. MARTINEK: He had -- did you have any
12 information that he also had to talk to his employer?

13 THE WITNESS: Yes.

14 MR. MARTINEK: Okay.

15 BY MR. SMITH:

16 Q. Who was his employer?

17 A. Palco.

18 Q. At the time that you adjourned on August 9th,
19 by that time had an offer been made to Mr. Parrish as to
20 a rate of pay he would be receiving?

21 A. Yes.

22 Q. Had an offer been made to him as to other
23 terms and conditions of employment?

24 A. Yes.

25 Q. And ultimately, was the rate of pay and terms

1 and conditions of employment ultimately accepted?

2 A. Yes.

3 Q. And had he, to your knowledge, accepted those
4 terms before talking to his wife that night?

5 A. No.

6 Q. Do you know if there were any further
7 discussions after August 9th on the rate of pay or terms
8 and conditions of his employment?

9 A. No.

10 Q. There were none?

11 A. Not to my knowledge.

12 MR. MARTINEK: We talked about some. The
13 insurance coverage, and there were some other issues.

14 BY MR. SMITH:

15 Q. Does that cause you to recall anything new?

16 A. Only that reviewing the draft is what came up.

17 Is that correct?

18 Q. Now, Mr. Parrish resigned, according to this
19 document, which is Exhibit 2, on August 15th; true?

20 A. Yes.

21 Q. Prior to that date, had he accepted the offer?

- 22 A. Yes.
- 23 Q. And how did he do that?
- 24 A. He verbally accepted our offer.
- 25 Q. When did he do that?

1 A. I don't know.

2 MR. MARTINEK: I need to talk to my client.

3 MR. SMITH: Well, before you -- let me finish

4 this line --

5 MR. MARTINEK: No. There was a question and

6 there was an answer, so I need to talk to my client.

7 (A recess was taken.)

8 MR. MARTINEK: When the meeting adjourned on

9 August 9th, how was Mr. Parrish to accept the offer, if

10 he was going to accept it?

11 THE WITNESS: Sorry?

12 MR. MARTINEK: After the meeting adjourned on

13 August 9th, how was Mr. Parrish going to accept the

14 offer if he did accept it?

15 THE WITNESS: How was he going to accept it?

16 MR. MARTINEK: Who was he going to tell?

17 THE WITNESS: He was going to tell the city

18 attorney.

19 MR. MARTINEK: So you did not receive his

20 offer -- his acceptance of the offer?

21 THE WITNESS: No.

22 BY MR. SMITH:

23 Q. Sometime prior to August 15th, did the city
24 attorney tell you that Mr. Parrish had accepted the
25 offer?

1 A. Yes.

2 Q. What did the city --

3 MR. MARTINEK: But I need to talk to him.

4 (A recess was taken.)

5 BY MR. SMITH:

6 Q. What did the City attorney tell you

7 specifically about his having accepted the offer?

8 MR. MARTINEK: Go ahead and answer the

9 question, if you have an answer.

10 THE WITNESS: I don't have a answer.

11 BY MR. SMITH:

12 Q. You don't know, sir?

13 A. No. I don't have an answer.

14 (A recess was taken.)

15 BY MR. SMITH:

16 Q. I believe the last question was whether you

17 recall what you were told, and you said you do not

18 recall. Now that you've talked to your counsel, do you

19 have a recollection as to what you were told?

20 MR. MARTINEK: Let me go back to the question

21 before that.

22 The question was, at any time prior to August
23 15th, did I tell you, Mr. Leonard, that Mr. Parrish had
24 accepted the job?

25 THE WITNESS: No.

1 BY MR. SMITH:

2 Q. What did your attorney tell you out in the
3 hallway was the date that he did tell you that?

4 MR. MARTINEK: Didn't give him a date.

5 BY MR. SMITH:

6 Q. When did he tell you that it had been
7 accepted?

8 A. I don't know. I don't remember.

9 Q. Was it before or after Mr. Parrish's
10 resignation?

11 A. Probably at the same time.

12 MR. MARTINEK: If you remember, then you can
13 say so. If you don't, I don't want you to speculate.

14 THE WITNESS: Because he gave the resignation
15 to you.

16 MR. MARTINEK: So don't speculate or guess.
17 It's whatever you know.

18 BY MR. SMITH:

19 Q. Then there was a meeting on -- let's mark this
20 next in order.

21 (Deposition Exhibit 9 was

22 marked for identification.)

23 BY MR. SMITH:

24 Q. There was a meeting on August 16th; true?

25 A. Yes.

1 Q. And --

2 MR. MARTINEK: Well, let's take a moment to
3 read the document before we answer any questions. Make
4 sure you take a look at the document. When you're done
5 looking at it, let us know.

6 BY MR. SMITH:

7 Q. Okay. This meeting began with you announcing
8 that Mr. Parrish had resigned; true?

9 A. Yes.

10 Q. And did the City Council take further action
11 that night about employing him as city manager?

12 A. Not to my knowledge.

13 Q. When did he commence working as city manager?

14 A. August the 22nd.

15 Q. He wasn't in doing anything before then?

16 A. No. He took a week off.

17 Q. When was the August 22nd contract approved by
18 the City Council?

19 A. I can't say. You had the contract before and
20 it's been amended two or three times. I don't know
21 exactly when we signed it.

22 Q. Was there any action taken reflected in any
23 meetings of any minutes where the council voted to sign
24 that contract?

25 A. I don't recall.

1 Q. Now, Mr. Parrish is serving as acting city
2 manager; true?

3 A. Interim city manager.

4 Q. Interim city manager. And the distinction,
5 again, between an interim city manager and a city
6 manager in your mind is what?

7 A. That's a good question. I don't know if I can
8 answer that or not.

9 Q. Is Mr. Parrish doing everything that a city
10 manager would be doing right now?

11 A. Yes.

12 Q. I'm going to show you Exhibit 10 --

13 (Deposition Exhibit 10 was

14 marked for identification.)

15 BY MR. SMITH:

16 Q. Exhibit 10 is a copy of an article appearing
17 in the Times-Standard that was furnished to me by your
18 attorney. Are you familiar with this article?

19 A. Yes. I read it.

20 Q. This article refers to a press release. Do
21 you see that?

- 22 A. Yes.
- 23 Q. Who drafted the press release?
- 24 A. I don't know. I didn't see the press release.
- 25 Q. So you not only did not see it, you don't know

1 who drafted it?

2 A. That's correct.

3 Q. When was the first time you learned there was

4 a press release?

5 A. Quite a -- I really can't say.

6 Q. Who typically would prepare a press release on

7 a topic like this within the City?

8 MR. MARTINEK: Object to the form of the

9 question. Answer if you have an answer.

10 BY MR. SMITH:

11 Q. If you know.

12 A. I don't have an answer.

13 Q. This report says the former city manager

14 stepped down on June 22nd; is that true?

15 A. Yeah, if that's what it says there.

16 Q. The article reports the press release to say:

17 "After an open application period and

18 personal interviews of final lists on

19 August 9th, 2005, the Rio Dell City Council

20 has decided to offer the position of city

21 manager to Jay Parrish, who has tendered his

22 resignation as mayor.
23 "The City Council will be accepting
24 applications for City Council member to fill
25 the remainder of former Mayor Jay Parrish's

1 elected term. Applications should be
2 submitted to the City Hall before 5 p.m.
3 August 31st."

4 Anything in the statements that I've just read
5 that you think is factually untrue?

6 MR. MARTINEK: Could you tell me where you
7 started to read on this document?

8 MR. SMITH: See quote marks in the middle of
9 the second paragraph. It follows after, "... in a brief
10 press release, colon."

11 MR. MARTINEK: So within the quote marks, is
12 there anything the witness believes is factually untrue?

13 THE WITNESS: No.

14 MR. SMITH: I'll show you Exhibit 11.

15 (Deposition Exhibit 11 was
16 marked for identification.)

17 BY MR. SMITH:

18 Q. First of all, do you know a G.C. Guerden?

19 A. No, I don't.

20 Q. Are you familiar with this article that is
21 Exhibit 11?

- 22 A. I read the article, yes.
- 23 Q. Had you seen it when it first came out?
- 24 A. I don't remember. I don't recall.
- 25 Q. Have you seen it before today?

1 A. Yes.

2 Q. Now, this article quotes you in the second
3 paragraph. Do you see that?

4 A. Yes.

5 Q. Do you recall making those statements to
6 anybody?

7 A. Yes.

8 Q. Who did you make them to?

9 A. I was interviewed by Mr. Mike Morrow of the
10 Times-Standard.

11 Q. Anybody else?

12 A. No, not -- this gentleman never interviewed
13 me.

14 Q. So when --

15 MR. MARTINEK: How do you know it's a
16 gentleman?

17 THE WITNESS: Well, I know he -- I've seen him
18 at the Board of Supervisors meetings and things like
19 that.

20 BY MR. SMITH:

21 Q. So when you said, 'If everything works out,

22 we'll make it a permanent situation,' you said that to

23 Mike Morrow?

24 A. I may have. I don't know.

25 Q. But you did make that statement to someone;

1 true?

2 A. I don't recall whether I did or not.

3 Q. Now, this article also quotes from the Rio

4 Dell City Ordinance, 242-2002; true?

5 A. Yes.

6 Q. Does that help refresh your recollection as to

7 whether or not you've ever seen this article before?

8 MR. MARTINEK: He already testified he did see

9 it before.

10 BY MR. SMITH:

11 Q. Does it refresh your recollection as to when

12 you first saw it?

13 A. No.

14 Q. And you have no recollection as to when you

15 first saw it prior to today?

16 A. No, I don't.

17 Q. Do you have any recollection as to whether or

18 not you first saw it in the newspaper?

19 A. Yeah. I saw it in the newspaper.

20 Q. Did you see it in the newspaper the day it

21 came out?

22 A. No.

23 Q. How much later do you think you saw it?

24 A. I really can't say. Sometimes -- I don't get

25 the Beacon, so --

1 Q. Somebody showed it to you?

2 A. I think that they copied it to City Hall.

3 Q. Now, when you did see the article, it says at
4 the bottom of the first column, "The City's choice of
5 city manager, however, might violate its own laws."

6 Do you see that?

7 A. Yeah.

8 Q. When you first read that, do you recall being
9 concerned that that might be true?

10 A. No.

11 Q. Have you ever spoken to John Lane about this
12 issue?

13 A. No.

14 MR. SMITH: I have nothing further.

15 MR. MARTINEK: I don't have any questions.

16 (The deposition was concluded at 11:40 a.m.)

17

18

19 I hereby certify under penalty of perjury that the
20 foregoing is true and correct.

21 Executed this day of , 2006,

22 at .

23

24

25 RICHARD "BUD" LEONARD

1 STATE OF CALIFORNIA)
) ss.
2 COUNTY OF HUMBOLDT)

3 I, Valerie Walker, CSR No. 7209, a Certified
4 Shorthand Reporter of the State of California, hereby
5 certify that the witness in the foregoing deposition was
6 by me duly sworn to testify to the truth, the whole
7 truth and nothing but the truth in the within-entitled
8 cause; that said deposition was taken at the time and
9 place therein stated; that the testimony of the said
10 witness was reported by me and was thereafter
11 transcribed under my direction into typewriting; that
12 the foregoing is a full, complete and true record of
13 said testimony; and that the witness was given an
14 opportunity to read and correct said deposition and to
15 subscribe the same. Should the signature of the witness
16 not be affixed to the deposition, the witness shall not
17 have availed himself of the opportunity to sign or the
18 signature has been waived.

19 I further certify that I am not of counsel or
20 attorney for either or any of the parties in the
21 foregoing deposition and caption named, or in any way

22 interested in the outcome of the cause named in said
23 caption.

24

25 _____
Certified Shorthand Reporter

