

IN THE IOWA DISTRICT COURT IN AND FOR SCOTT COUNTY

CRAIG MALIN,)	
)	NO. LACV _____
Plaintiff,)	
)	
vs.)	
)	PETITION AT LAW AND
THE QUAD-CITY TIMES,)	JURY DEMAND
LEE ENTERPRISES, INC.,)	
BARB ICKES and BRIAN WELLNER,)	
)	
Defendants.)	
)	

COMES NOW the Plaintiff, Craig Malin, and for his Petition against the Defendants, The Quad-City Times, Lee Enterprises, Inc., Barb Ickes and Brian Wellner, states the following:

I. PARTIES

1. Plaintiff Craig Malin maintains a residence in Monterey County, California and also maintains a Davenport residence.
2. Craig Malin served as City Administrator for Davenport, Iowa from August 28, 2001 to June 26, 2015.
3. Defendant Lee Enterprises, Inc. the parent company of Quad-City Times, is a corporation organized and existing under the laws of the State of Iowa.
4. The Quad-City Times, located at 500 East Third Street, Davenport, Iowa 52801, is owned and operated by Lee Enterprises, Inc., which is located at 201 North Harrison Street, Davenport, Iowa 52801.

5. Defendant Barb Ickes is a resident of Rock Island County, Illinois and is a reporter for The Quad-City Times.

6. Defendant Brian Wellner worked at The Quad-City Times as a reporter and lives in Illinois.

II. COMMON FACTUAL ISSUES

7. Plaintiff repleads paragraphs 1 through 6 as though set forth fully herein.

8. At various times between June 18, 2015 and June 29, 2015, the Quad-City Times, as a subsidiary of Lee Enterprises, Inc., Barb Ickes as a reporter, Brian Wellner as a reporter, and the four of them collectively, and/or individually, caused to be printed for public review and consumption one or more of the following untrue statements about the Plaintiff, Craig Malin, individually, and/or in Mr. Malin's capacity as the City Administrator of the City of Davenport, Iowa:

a. On June 18, 2015, an article directed at Craig Malin by The Quad-City Times employee, Brian Wellner, stated:

"...An amended development agreement states the City is obligated to pay for 'grading and utility work and extensions relating to the real estate.'"

b. On June 18, 2015, an article directed at Craig Malin by The Quad-City Times employee, Brian Wellner, stated:

"Malin told the Times earlier in the week and again Thursday that Warner 'signed off' on the casino agreement last summer and referenced a series of emails among city staff in which Malin asked them for any concerns about the contract."

- c. On June 18, 2015, an article directed at Craig Malin by The Quad-City Times employee, Brian Wellner, stated:

“Malin insists he did not agree to the city paying to upgrade the casino site.”

- d. On June 18, 2015, an article directed at Craig Malin by The Quad-City Times employee, Brian Wellner, stated:

“When I’m voting on something, I want to know all the information,” [Alderwoman] Tompkins said. “I want to have the attorney present so I can ask questions and feel all my questions are answered. I want to ensure all the information is provided.” [Alderman] Barnhill agreed.

“We want to hear it from them, not from Craig,” Barnhill said. “We want to hear it from the financial and legal experts to make sure we’re accountable to the taxpayers and get the best answer for the use of their money.”

- e. On June 18, 2015, an article directed at Craig Malin by The Quad-City Times employee, Brian Wellner, stated:

“Elmore was supposed to cost \$7 million, according to projections from a year ago.”

- f. On June 18, 2015, an article directed at Craig Malin by The Quad-City Times employee, Brian Wellner, stated:

“Malin said Warner and Wright both signed off on the contract before Malin put it before the council for a vote.”

- g. On June 18, 2015, an article directed at Craig Malin by The Quad-City Times employee, Brian Wellner, stated:

“From the site, he links to City documents, employee salaries and many of his own work emails.”

- h. On June 19, 2015, an article directed at Craig Malin by The Quad-City Times employee, Barb Ickes, stated:

“...Warner said he asked Malin last year why he was obligating the City to pay for the casino’s preparation and not just the Elmore extension, and Malin’s response was it ‘wasn’t up for debate.’”

- i. On June 19, 2015, an article directed at Craig Malin by The Quad-City Times employee, Barb Ickes, stated:

“It wasn’t generous enough of Davenport taxpayers to shell out \$7.8 million for the road to the new casino.”

- j. On June 19, 2015, an article directed at Craig Malin by The Quad-City Times employee, Barb Ickes, stated:

“City Administrator Craig Malin evidently figured taxpayers are so crazy about this private profit center, they’d like to chip in a few million more.”

- k. On June 19, 2015, an article directed at Craig Malin by The Quad-City Times employee, Barb Ickes, stated:

“And he still can’t give a straight answer on exactly how much more the people are on the hook to pay.”

- l. On June 19, 2015, an article directed at Craig Malin by The Quad-City Times employee, Barb Ickes, stated:

“On a mildly brighter note, it is a relief to see that Malin uses the same write-in-circles approach when responding to concerns of aldermen that he uses when avoiding questions by reporters.”

- m. On June 19, 2015, an article directed at Craig Malin by The Quad-City Times employee, Barb Ickes, stated:

“A week after the column, which pointed out the ways the City lost out on millions in State grants for the casino road, Alderman Kerri Tompkins, 8th Ward, sent an email to Malin. She wanted to know whether Finance Director Brandon Wright or City Attorney Tom Warner had expressed any concerns about the contract Malin negotiated with casino owner Dan Kehl.”

"Malin responded by blathering on about the five email attachments he was sending, then waving his pompoms in the air (again) about the extended Elmore producing a new \$250 million tax base. (Mall of America is evidently relocating here.)"

- n. On June 19, 2015, an article directed at Craig Malin by The Quad-City Times employee, Barb Ickes, stated:

""Tompkins smartly saw through the rhetoric: 'I appreciate your quick response...However, please answer the question, did Tom (Warner) or Brandon (Wright) ever express any concerns to you about the agreement?'"

"Malin replied that there had been two concerns: the timing of the sale of bonds to pay off the road and the need to keep the City out of the process of picking a contractor for Elmore."

"He said nothing of the concerns we've since learned were expressed when the contract was still a draft."

- o. On June 19, 2015, an article directed at Craig Malin by The Quad-City Times employee, Barb Ickes, stated:

"Malin replied to the call for his resignation by casting Warner directly into the path of a CitiBus, saying 'I have no intention to resign to account for a faulty legal opinion.'"

"But wait. Malin never can make one simple declarative statement without twisting it into a pretzel."

"In his role as columnist for the City's non-news online news site, Malin wrote of Warner, 'He's a good and honest man and doesn't deserve to be collateral damage for a misunderstanding.'"

"So, stab him in the back with one hand and pat him with the other?"

- p. On June 19, 2015, an article directed at Craig Malin by The Quad-City Times employee, Barb Ickes, stated:

"We know the road's costing just shy of \$8 million. The Council approved the \$13 million Elmore expenditure in the last capital improvement budget."

"We still don't know what the other \$5 million is for."

"Anybody want to bet the new casino will be sitting on it?"

- q. On June 19, 2015, an article directed at Craig Malin by The Quad-City Times employee, Barb Ickes, stated:

"He assured those with concerns that it was a done deal."

- r. On June 24, 2015, an article directed at Craig Malin by The Quad-City Times Editorial Board stated:

"Wellner had been working on a story trying to straighten this out for two weeks when Gluba called for Malin's resignation."

- s. On June 24, 2015, an article directed at Craig Malin by The Quad-City Times Editorial Board stated:

"Some Davenport aldermen boycotted a meeting called Friday by two aldermen."

- t. On June 24, 2015, an article directed at Craig Malin by The Quad-City Times Editorial Board stated:

"Malin turned to the City-owned Davenport Today site to fan the flames. In a series of hastily written, posted, ten deleted columns, Malin rambled on incoherently about our reporters, the Mayor's misperception, Father's Day and other topics. Read all three posted on qctimes.com with this editorial."

- u. On June 24, 2015, an article directed at Craig Malin by The Quad-City Times Editorial Board stated:

"On Tuesday, Mayor Bill Gluba acknowledged again he never reads the Malin website."

- v. On June 29, 2015, an article directed at Craig Malin by The Quad-City Times employee, Barb Ickes, stated:

"It wasn't the first time. In 2013, Malin worked out a deal with AT&T to place a cell phone tower at Emeis Park."

- w. On June 29, 2015, an article directed at Craig Malin by The Quad-City Times Editorial Board stated:

"When I asked Malin last August how the cell tower was able to bypass all the normal permitting and other requirements, he referred me to the City Attorney, saying, 'Legal signed off on this.'

Not this time."

- x. On June 29, 2015, an article directed at Craig Malin by The Quad-City Times Editorial Board stated:

"Davenport aldermen have yet to offer taxpayers a hint of the performance issues that compelled them to pay ex-City Administrator Craig Malin \$310,000 to leave."

- y. On June 29, 2015, an article directed at Craig Malin by The Quad-City Times Editorial Board stated:

"On Friday, one of Malin's last acts at taxpayer expense was sending the Times Editorial Board a copy of a June 24 letter in which ALL council members laud his performance.

'At no time during the discussion, was it the intention of any elected official below to question your credibility, work ethic, or desire to make Davenport a better place. You consistently demonstrate a high level of initiative, and strive to improve performance.'"

"This is the sole public statement these 10 elected officials have offered the public about Malin's performance. They've issued statements on his quickly concocted separation agreement. But not

a word of concern about his performance has been shared in Council chambers.”

9. One or more of the foregoing statements was false and/or omitted to state certain material facts resulting in inaccurate and/or misleading information that resulted in an untrue representation of the truth.

10. The aforementioned statements were not privileged.

11. The aforementioned statements or omissions failed to include material facts specifically in reference to the Plaintiff, Craig Malin.

12. The aforementioned statements or omissions included material statements that were harmful to the Plaintiff, Craig Malin.

13. The aforementioned statements or omissions were prepared and published by the Defendants, The Quad-City Times, Lee Enterprises, Inc., Ickes and Wellner and each of them, with actual malice or through a reckless disregard, or through negligence that constituted a form of defamation.

14. The aforementioned statements and/or omissions were defamatory.

III. DEFAMATION (LIBEL)

15. Plaintiff repleads paragraphs 1 through 14 as though set forth fully herein.

16. Craig Malin was not a public figure.

17. The Defendants and each of them defamed the Plaintiff by publishing in one or more articles statements about the Plaintiff set in paragraph eight.

18. On June 18, 2015, Defendants began their actual malice attacks on Plaintiff when they published an article authored by Defendant's agent Brian Wellner which included: *““We're not grading the casino,” Malin said in an interview with the Quad City Times earlier this week. The contract Malin negotiated last summer says otherwise. An amended development agreement states the city is obligated to pay for “grading and utility work and extensions relating to the real estate.”“*

19. Said writing was objectively false. The words “Real Estate” are capitalized in the agreement (See Exhibit 1 attached hereto) and defined.

20. The words are knowingly false since Plaintiff supplied Wellner with multiple copies of the agreement days in advance of the publication, and specifically drew Wellner's attention to the capitalization of “Real Estate” related to the road extension and the separately capitalized “Casino Real Estate” in the agreement on at least three occasions; twice in writing via e-mail on June 12, 2015 (see attached Exhibit 2), and at least once in a follow-up meeting on June 15, 2015 during which he physically demonstrated the best practice of engineering grading on a site to balance cut and fill, such that “cut” from real estate related to the road extension and its detention basin could be placed as “fill” on nearby development sites to reduce the cost of the road construction. In doing so, Plaintiff not only drew Wellner's attention to the difference between the capitalized words “Real Estate” related to the road extension and “Casino

Real Estate" in the agreement, he physically demonstrated the underlying rationale for the capitalization of the words "Real Estate" as distinct from "Casino Real Estate."

21. Altering the clear written record and utilizing quotation marks to indicate the words "real estate" are a verbatim excerpt from the agreement, after declaring "*The contract Malin negotiated last summer says otherwise.*", is clearly, objectively and knowingly false.

22. Publishing the sentence "*The contract Malin negotiated last summer says otherwise.*" after the sentence "*We're not grading the casino,*" Malin said in an interview with the Quad City Times earlier this week." is itself objectively and knowingly false. Speaking for the City, City Administrator Malin's assertion that the City was not grading the casino site was absolutely and unquestionably correct. The City neither completed the grading work in question utilizing its own personnel, nor contracted for the grading work to be completed. The grading was completed by a private company and contracted for by another private company, following engineering by a private company.

23. Wellner not only knowingly falsified the contract language in the third sentence of the passage to lay the foundation for the Quad City Times' attacks on Mr. Malin, he utilized an out of context quote in the first sentence of the passage to imply that Plaintiff was untruthful when he said "*We're not grading the casino.*"

24. Wellner's declarative statement; "*The contract Malin negotiated last summer says otherwise.*" is thus doubly false with respect to both its preceding and following sentences. It is also clearly, objectively and knowingly false with regard to both its preceding and following sentences. Malin was accurate in stating the City was not grading the casino site in the first sentence and Wellner clearly, objectively and knowingly falsified the contract language in the third sentence to make his second sentence appear true and thus lay the foundation for the Quad City Times' attacks on Mr. Malin.

25. Beyond the June 12, 2015 e-mails (referenced in paragraph 5 and attached as Exhibit 2) and June 15, 2015 meeting in which Malin specifically drew Wellner's attention to the difference between the capitalized "Real Estate" and "Casino Real Estate" language of the agreement, there is further evidence that Wellner's falsification of the agreement was not a typographical error.

26. The Quad City Times has refused on four occasions to correct the clearly false publication that "real estate" was not capitalized in the agreement Wellner cited. The Plaintiff sent retraction demands dated December 10, 2015, April 29, 2016, November 7, 2016 and May 2, 2017 to the Quad City Times to correct Wellner's clear and objectively false publication.

27. The Times steadfastly refuses to correct its objectively false publication and, in doing so, continues to demonstrate that Wellner's contract excerpt was and

remains knowingly false as a foundation for the Times' June, 2015 malicious attacks on Mr. Malin.

28. On June 19, 2015, Defendant published an article authored by Defendant's agent Barb Ickes which includes:

"Warner said he asked Malin last year why he was obligating the city to pay for the casino's site preparation and not just the Elmore extension, and Malin's response was that it "wasn't up for debate.""

29. Said writing is objectively false in that Plaintiff never said the words in quotation marks to Warner (Tom Warner, Davenport Corporation Counsel).

30. Said writing is also objectively and knowingly false in that Plaintiff actively engaged Davenport City staff in review of multiple drafts of the agreement. In an e-mail copied to Warner on June 16, 2014 (attached as Exhibit 3) Plaintiff personally and specifically redrafted the agreement to remove any obligation of the City to grade the casino site. This e-mail was first provided to Defendant's agent Wellner on June 15, 2015 and twice on June 18, 2015; once as an attachment to Malin's written response to Mayor Gluba's resignation request (then marked as Exhibit A) and, secondly, included in a compilation of documents supplied to the Quad City Times via e-mail (the full e-mail compilation is attached as Exhibit 4).

31. Said writing is recklessly false in that Ickes never once asked a question of City Administrator Malin on the grading topic at issue. She did not ask any question, by e-mail, phone or visit to City Hall. She did not ask whether Warner's statement was

true or whether Mr. Malin had a different recollection. Though Mr. Malin was at the office every day from June 15 - 18, and never once refused or delayed in answering a question put to him by Quad City Times staff by phone, e-mail or personal visit to his office, Ms. Ickes didn't ask a single question.

32. Said writing is objectively and knowingly false in that Warner's full quote in the June 18, 2015 article authored by Wellner was; *"I don't remember his exact words, but it wasn't up for debate."*

33. Said writing is knowingly false in deleting Warner's preface that he did not remember what Plaintiff said. By placing quotation marks around "wasn't up for debate" after the words "and Malin's response was that it", Defendant Ickes materially altered Warner's quote to make it appear Plaintiff said something which Warner specifically stated he did not remember Plaintiff saying. This material alteration of a quote to eliminate Warner's uncertainty and turn it into what appears to be a direct quote of the Plaintiff is not only knowingly publishing false information, it is hand-crafting it to support the Times' storyline.

34. Said writing is further knowingly false in that, contrary to the Defendant's statements, Plaintiff both initiated debate regarding the grading in question and pressed the debate until such time as Warner, acting in his independent capacity as Corporation Counsel reporting to the Mayor and City Council, signed off on a revised draft of the agreement noting he had no concerns (see Exhibit 5 attached hereto).

35. Exhibit 5 was referenced by Plaintiff in the first contact by Defendant (see Exhibit 2) when Plaintiff replied by e-mail to Wellner's first questions on June 12, 2015, while Plaintiff was attending an out of state conference. Plaintiff provided Defendant a copy of Exhibit 5 on June 15, 2015 and again, twice, (Exhibit A and within Exhibit 4) on June 18, 2015.

36. Rather than publishing the clear and unambiguous sign off of Corporation Counsel Warner dated June 17, 2014 on what became the final draft of the agreement or publishing the Plaintiff's redraft of the agreement dated June 16, 2014 (Exhibit 3) which removed City responsibility for grading the casino site and was copied to Corporation Counsel Warner, both of which Plaintiff supplied to Defendant multiple times in advance of Ickes' article, Defendant purposefully avoided the truth by publishing e-mail excerpts from June 10, 2014 to bolster Defendant's false and malicious storyline.

37. In doing so, Defendant purposefully failed to report the truth that Plaintiff shared staff concerns contained within the June 10, 2014 e-mails, and he personally followed up on those shared concerns in writing, only moving forward with placing a final draft of the contract on the City Council agenda after receiving a written, clear and unambiguous legal sign off from Corporation Counsel Warner, who reported independently to the Mayor and City Council.

38. Prior to Ickes' reporting on June 19, 2015, the Quad City Times had a clear written record in their possession on the matter of City Administrator Malin personally

revising the agreement to remove any obligation of the City to pay for grading the casino site. The Quad City Times also had a clear written record in their possession on the matter of City Administrator Malin double-checking with Corporation Counsel Warner whether he had "any concerns" on what became the final draft of the agreement with his sign-off. In both cases, the Times purposefully chose to avoid the truth of the written record in their possession to knowingly fabricate a false and malicious storyline.

39. The defamatory information Defendant published was conveyed to readers in its print newspapers on June 18 and 19, 2015, and remains to date on its website archives. The defamatory information of falsifying a contract and fabricating a quote, both objectively clear and convincing instances of knowingly publishing false information evidencing actual malice, is but a subset of numerous objective falsehoods, misleading statements, actual malice and defamation by implication published by Defendant, along with opinion and rhetorical hyperbole which includes describing the Plaintiff as a "decomposed rat" across eight articles, commentaries and editorials published between June 18 and June 29, 2015.

40. The actual falsehoods, misleading statements and defamation by implication were intended to remove Plaintiff from service to the City of Davenport, due to his leadership in expanding access to public information, which the Quad City Times openly opposed.

41. The Defendants bluntly, persistently and nonsensically opposed an open government initiative in the form of a City website known as "davenporttoday.com" that was established under City Administrator Malin's leadership in 2014. The davenporttoday.com website was labeled as "business" and was described as "competition" by the Quad City Times in their first editorial on the topic.

42. Failing to convince the Davenport City Council to budgetarily defund the open government website in 2014, by information and belief the Quad City Times set out to malign City Administrator Malin, run him out of town, and pursue their efforts to shut down the website with his successor.

IV. LIBEL BY IMPLICATION OR FALSE LIGHT

43. Plaintiff repleads paragraphs 1 through 42 as though set forth fully herein.

44. One or more of the following statements as set forth in paragraph eight above are libel by implication or false light.

45. In addition to the publications of Wellner falsifying a contract on June 18, 2015 and Ickes fabricating a quote on June 19, 2015, Defendant also published numerous objective falsehoods, knowingly and recklessly false statements that contain defamation by implication or portraying the Plaintiff in a false light including:

46. On June 18, 2015, Defendant published an article authored by Defendant's agent Brian Wellner which included: "*Malin told the Times earlier in the week and again*

Thursday that Warner "signed off" on the casino agreement last summer and referenced a series of emails among city staff in which Malin asked them for any concerns about the contract."

47. Malin did not just "tell" the Times Warner signed off on the casino agreement and "reference" a series of e-mails, Malin supplied copies of the actual e-mails (including Exhibit 5) as written documentation of Warner's legal sign off on the final draft of the agreement days in advance of Wellner's June 18 article.

48. Utilizing a quote about a purported conversation from a year prior that begins with "I don't remember..." to purposefully avoid printing the truth of the actual written record from the year prior which was in their possession is both knowingly false and demonstrative of the Defendants' malice. Warner literally said "I don't remember ...". Malin did remember, and gave the actual written record to the Times. The Times crafted a storyline, with actual malice, to support the "I don't remember ..." side.

49. On June 18, 2015, Defendant published an article authored by Defendant's agent Brian Wellner which included: *"Malin insists he did not agree to the city paying to grade the casino site."*

50. This is defamation by implication and knowingly false. Plaintiff did not merely "insist" he did not agree. Instead, Plaintiff provided written documentation to Wellner to prove he did not agree, including the revised contract (Exhibit 3) in which Mr. Malin himself removed any language related to grading the casino site.

51. The revised contract was copied to Corporation Counsel Warner by e-mail on June 16, 2014, the day prior to Warner's sign off (Exhibit 5). The June 16, 2014 e-mail (Exhibit 3), combined with Warner's e-mail sign off (Exhibit 5) on June 17, 2014 from his iPhone 13 minutes after Malin asked if he had "any concerns" with what became the final draft clearly establishes that Wellner's quote of Warner was contrary to the written record Defendant possessed. If there was any "wasn't up for debate" conversation on June 16 or 17 of 2014, Warner's June 17, 2014 e-mail would have been substantially different.

52. On June 18, 2015, Defendant published an article authored by Defendant's agent Brian Wellner which included: *"When I'm voting on something, I want to know all the information," [Alderwoman] Tompkins said. "I want to have the attorney present so I can ask questions and feel all my questions are answered. I want to ensure all the information is provided." [Alderman] Barnhill agreed.*

"We want to hear it from them, not from Craig," Barnhill said. "We want to hear it from the financial and legal experts to make sure we're accountable to the taxpayers and get the best answer for the use of their money."

53. The foregoing is either knowingly or recklessly false and the exact opposite of the plainly visible truth. Mr. Wellner's quotes of Alderwoman Tompkins and Alderman Barnhill describe a scenario where Corporation Counsel Warner was not present at the June 25, 2014 City Council meeting when the City Council voted on the agreement and City Administrator Malin was present. That is the opposite of what

occurred. See Exhibit 6 attached which contains two screenshots of the June 25, 2015 City Council Meeting.

54. The screenshots clearly depict Corporation Counsel Warner was at the meeting and City Administrator Malin was not. Sitting in for City Administrator Malin is Finance Director Brandon Wright. This is public record information, readily available on the City's website, either in the form of minutes or watching the video of the meeting. The "financial and legal experts" referenced as not being present in Wellner's quotes of City Council members Barnhill and Tompkins are clearly present.

55. On June 18, 2015, Defendant published an article authored by Defendant's agent Brian Wellner which included: *"Elmore was supposed to cost \$7 million, according to projections from a year ago."*

56. This is objectively and recklessly false. As the presentation materials from the June 2, 2014 City Council meeting (included in Exhibit 4) document, the original project estimate was a range that went to \$10 million. It was never presented as a not to exceed \$7 million project. The Quad City Times was present at the 2014 public meeting at which the seven to ten million range was discussed, but they chose to ignore the first estimate was a range that went as high as \$10 million (without accounting for land acquisition costs, which were then unknown).

57. On June 18, 2015, Defendant published an article authored by Defendant's agent Brian Wellner which included: *"Malin said Warner and Wright both signed off on the contract before Malin put it before the council for a vote."*

58. This is defamation by implication and knowingly false. Mr. Malin didn't just "say" Warner signed off. After referencing Warner's sign off in his June 12, 2014 e-mails to Wellner, Mr. Malin first provided the clear and unambiguous written "sign off" of Warner (Exhibit 5) to Mr. Wellner on June 15, 2015.

59. On June 18, 2015, Defendant published an article authored by Defendant's agent Brian Wellner which included: *"From the [davenporttoday.com] site, he links to city documents, employee salaries and many of his own work emails."*

60. This is knowingly false. The Plaintiff's nation-leading practice of posting his incoming and outgoing e-mails to the davenporttoday.com website included not "many" of his work emails, it included automatically posting every outgoing e-mail and all but a few incoming e-mails which dealt with health status information of others. The Quad City Times, and reporter Wellner specifically, knew incoming and outgoing emails automatically posted to the davenporttoday.com website, because he monitored the emails posting to the website, and reported an instance when a technical glitch delayed the automatic posting on one occasion.

61. On June 19, 2015, Defendant published an article authored by Defendant's agent Barb Ickes which included: *"It wasn't generous enough of Davenport taxpayers to shell out \$7.8 million for the road to the new casino."*

62. This is defamation by implication and objectively false. The City protected itself and every property taxpayer outside the area served by the Elmore extension with a TIF district, so only businesses served by the road would ultimately pay for the road. Ms. Icke's "Davenport taxpayers" reference implies property taxpayers outside the TIF district would pay for the road, which is not the case, as was clearly conveyed to Ms. Ickes when she first asked about the topic on July 2, 2014 (Exhibit 7) and again to Defendant on January 30, 2015 (Exhibit 8). Notably, this reference to "taxpayers ... shelling out ... \$7.8 million" ties directly back to Ms. Ickes' animus toward Mr. Malin for posting her e-mails on a TIF article referring to Elmore Avenue published by the Times on January 27, 2015. In a January 29, 2015 article Ickes took another jab at Mr. Malin and concluded her article with "Now then. Anybody want to fight about the road to the casino?"

63. On June 19, 2015, the The Quad-City Times published an article authored by Defendant, Barb Ickes, which included: *"City Administrator Craig Malin evidently figured taxpayers are so crazy about this private profit center, they'd like to chip in a few million more."*

64. The statements show the actual malice of the reporter Ickes towards the Plaintiff. Mr. Malin's record in Davenport was abundantly clear on the topic of pursuing the public interest on gaming matters, to the extent he dedicated years of effort to securing the opportunity for the City to acquire and transfer the casino to community, non-profit ownership, similar to Dubuque and Polk County. The Quad City Times itself published dozens of articles related to City Administrator Malin working toward non-profit ownership of the casino in 2012 and 2013. Ms. Ickes' statement is a complete misrepresentation of Mr. Malin's many years of public effort to serve the public interest on gaming matters.

65. On June 19, 2015, Defendant published an article authored by Defendant's agent Barb Ickes which included: "*And he [Malin] still can't give a straight answer on exactly how much more the people are on the hook to pay.*"

66. This statement shows the actual malice of the reporter towards the Plaintiff. Neither Ms. Ickes nor any editor asked a single question of Mr. Malin on this topic in advance of publishing this statement. In fact, Mr. Malin told the only person from the Times who asked him a question on this matter (reporter Wellner) that the City did not have to grade the casino site at all, and supplied supporting documentation for his statement, which the Times suppressed and/or falsified to suit their purposes.

67. On June 19, 2015, Defendant published an article authored by Defendant's agent Barb Ickes which included: "*On a mildly brighter note, it is a relief to see that Malin*

uses the same write-in-circles approach when responding to concerns of aldermen that he uses when avoiding questions by reporters."

68. There is no basis for the claim that Mr. Malin ever avoided a single question posed to him by Ms. Ickes or by any Quad City Times reporter. Mr. Malin promptly responded to Quad City Times reporters' question during his nearly 14-year tenure in Davenport and at all hours of the day and night. Thousands of e-mails between Mr. Malin and Quad City Times reporters exist to prove Mr. Malin was unfailingly responsive. Attached Exhibit 9 includes an illustrative sampling of City Administrator Malin responding to Ms. Ickes promptly, repeatedly, and after normal office hours.

69. Tory Brecht, the longest-serving Davenport City Hall beat writer for the Quad City Times during City Administrator Malin's tenure, will directly contravene Ms. Ickes' statement that City Administrator Malin avoided answering questions of reporters.

70. On June 19, 2015, Defendant published an article authored by Defendant's agent Barb Ickes which included: *"A week after the column, which pointed out the ways the city lost out on millions in state grants for the casino road, Alderman Kerri Tompkins, 8th Ward, sent an email to Malin. She wanted to know whether Finance Director Brandon Wright or City Attorney Tom Warner had expressed any concerns about the contract Malin negotiated with casino owner Dan Kehl.*

Malin responded by blathering on about the five email attachments he was sending, then waving his pompoms in the air (again) about the extended Elmore producing a new \$250 million tax base. (Mall of America is evidently relocating here.)"

71. This passage is defamation by implication and recklessly or knowingly false in multiple ways.

72. First, the City did not "lose out" on a grant for the road, the City was ineligible to apply for the grant. Ms. Ickes was provided that answer well in advance of this June 19, 2015 publication (Exhibit 10). The City received a grant for a related segment of the road.

73. Second, the \$250 million tax base figure came from official and conservative City estimates, as did a \$6.1 billion projected economic impact and 970 new jobs, verified through independent review and State affirmation. Exhibit 11 is the Economic Impact section summary of the City's 2015 Reinvestment District Application to the Iowa Economic Development Authority.

74. Exhibit 11 summarizes thirty-one pages of independent economic analysis which was submitted with the grant application. The summation of the analysis is the projects would generate \$6.1 billion of economic impact.

75. On the same day Defendant's agent Ickes was defaming Malin with the language set forth in paragraph 68 Mr. Malin was representing Davenport at the Iowa Economic Development Authority Board Meeting in Des Moines. The IEDA Board

approved a \$10.75 million allocation for the City's "River80" Reinvestment District, served by the extension of Elmore Avenue.

76. Exhibit 11 can be easily found on the City's website and the Quad City Times had previously reported on the City's Reinvestment District application and how the City was, in their own reporter's words on January 22, 2015, "not really" paying for the road. Ickes disregarded the truth.

77. On June 19, 2015, Defendant published an article authored by Defendant's agent Barb Ickes which included: *"Tompkins smartly saw through the rhetoric: "I appreciate your quick response ... However, please answer the question, did Tom (Warner) or Brandon (Wright) ever express any concerns to you about the agreement?"*

Malin replied that there had been two concerns: the timing of the sale of bonds to pay off the road and the need to keep the city out of the process of picking a contractor for Elmore.

He said nothing of the concerns we've since learned were expressed when the contract was still a draft."

78. This is defamation by implication and knowingly false. Ms. Ickes made the reply of Mr. Malin to Alderwoman Tompkins on the final draft of the agreement appear as if it pertained to the first draft of the agreement, while ignoring that Malin supplied all drafts of the agreement to the Times (Exhibit 4), in which Mr. Malin acted upon staff concerns, which he shared, by removing any obligation to grade the casino site in a draft he personally revised (Exhibit 3, and also contained within Exhibit 4).

79. On June 19, 2015, Defendant published an article authored by Defendant's agent Barb Ickes which included: *"Malin replied to the call for his resignation by casting Warner directly into the path of a CitiBus, saying, "I have no intention to resign to account for a faulty legal opinion."*

But wait. Malin never can make one simple declarative statement without twisting it into a pretzel.

In his role as columnist for the city's non-news online news site, Malin wrote of Warner, "He's a good and honest man and doesn't deserve to be collateral damage for a misunderstanding."

So, stab him in the back with one hand and pat him with the other?"

80. This passage demonstrates Ms. Ickes' animosity for Mr. Malin's leadership in promoting open government on the davenporttoday.com website which clearly comes through her writing. Mr. Malin did, in fact, write that Mr. Warner should not be fired. He did so to exhibit leadership for a matter that was beyond his supervisory responsibility, and beyond having a negative impact on the community in any holistic sense (see Exhibit 11). That is the clear message of Mr. Malin's June 19, 2015, davenporttoday.com posting (Exhibit 12) on the matter.

81. On June 19, 2015, Defendant published an article authored by Defendant's agent Barb Ickes which included: *"He assured those with concerns that it was a done deal."* Paragraphs 82 through 85 demonstrate the Defendants' malice toward the Plaintiff.

82. First, reporter Wellner falsified language in a contract on June 18, 2015 and, rather than report the written record in his possession on City Administrator Malin's redraft of the agreement (Exhibit 3) or double-checking with Corporation Counsel Warner (Exhibit 5), he utilized a quote from Warner that starts with "I don't remember...".

83. Next on June 19, 2015, Barb Ickes materially altered the Warner quote by removing "I don't remember his exact words, but..." to suit her purposes.

84. Ms. Ickes then made a declarative statement of fact, without any attribution whatsoever that Mr. Malin "assured those with concerns that it was a done deal." This is a completely fabricated unattributed statement.

85. Having crafted her "facts" to portray Mr. Malin in a false light, she opines at length and with great fanfare that Mr. Malin was "misleading".

86. Finally she concludes: *"We know the road's costing just shy of \$8 million. The council approved the \$13 million Elmore expenditure in the last capital improvement budget.*

We still don't know what the other \$5 million is for.

Anybody want to bet the new casino will be sitting on it?"

87. The road related project elements were budgeted to cost more than \$8 million. There is no conceivable outcome to support the contention that the City of Davenport or anyone else would ever pay \$5 million to grade the casino site.

88. In addition to national award-winning layout and graphics, davenporttoday.com featured nationally path-breaking government transparency with searchable City expenditures, all public record requests and automatically posting incoming and outgoing e-mails from City Administrator Malin's e-mail account. It contained posts authored by two former Quad City Times reporters, which added to the consternation of the Quad City Times (Exhibit 23).

89. On June 29, 2015, Defendant published an article authored by Defendant's agent Barb Ickes which included: *"It wasn't the first time. In 2013, Malin worked out a deal with AT&T to place a cellphone tower at Emeis Park."*

90. This is defamation by implication, defamation and knowingly false. There is no evidence that Mr. Malin "worked out a deal with AT&T" in 2013. Mr. Malin did not participate in any single discussion with any AT&T representative in preparation of a lease agreement resulting in construction of a public safety / cell phone tower in Emeis Park.

91. Ms. Ickes knows this statement was false, because she was supplied with all City documents related to the matter. E-mails from City Administrator Malin to Ms. Ickes on August 25 and October 23, 2014 (Exhibit 14) are illustrative of Ms. Ickes refusing to correct her false statements on the Emeis Park tower.

92. On June 29, 2015, Defendant published an article authored by Defendant Barb Ickes which included: *"When I asked Malin last August how the cell tower was able to*

bypass all the normal permitting and other requirements, he referred me to the city attorney, saying, "Legal signed off on this."

Not this time."

93. Stating that Mr. Malin did not have Legal Department sign off of the contract regarding the casino's construction of the road is the exact opposite of the truth. Mr. Malin supplied multiple copies of Corporation Counsel Warner's e-mail sign off (Exhibit 5 and also contained within Exhibit 4) to the Quad City Times weeks in advance of Ms. Ickes' June 29 publication.

94. E-mail records from Ms. Ickes' Emeis Park tower questions establish that Ms. Ickes asked Mr. Malin numerous questions about the tower and he answered every one of them. Exhibit 9 includes multiple e-mails evidencing Mr. Malin's unfailingly responsive approach to Ms. Ickes' questions and apologies for Corporate Counsel Warner not responding to her.

95. On June 29, 2015, Defendant published an editorial authored by its Editorial Board which included: *"On Friday, one of Malin's last acts at taxpayer expense was sending the Times Editorial Board a copy of a June 24 letter in which ALL council members laud his performance.*

"At no time during the discussion, was it the intention of any elected official below to question your credibility, work ethic, or desire to make Davenport a better place. You consistently demonstrate a high level of initiative, and strive to improve performance."

This is the sole public statement these 10 elected officials have offered the public about Malin's performance. They've issued statements on his quickly concocted separation agreement. But not a word of concern about his performance has been shared in council chambers."

96. The Quad City Times knew exactly why aldermen did not utter a word of concern about Mr. Malin's performance. His performance evaluations (which The Quad-City Times possessed) were consistently excellent, he never once called in sick, and his positive impact in the position of City Administrator was such that he established the record for chief administrative officer tenure in any Iowa city with a population over 100,000.

97. In making the defamatory statements, Defendant intended to convey the impression the Plaintiff obligated the City of Davenport to expenditures beyond his authority as Davenport City Administrator. Defendant Wellner specifically used the word "obligated" in his objectively and knowingly false contract language falsification while Defendant Ickes specifically used the word "obligating" in her objectively and knowingly false statement wherein she materially altered Warner's original quote. Persons who read the Defendant's defamatory information understood the words to mean Plaintiff obligated the City of Davenport to expenditures.

98. Stating that Plaintiff could obligate the City of Davenport to any expenditure beyond the \$50,000 City Administrator spending limit in Davenport policy is, itself, objectively and knowingly false. Through extensive prior coverage of budget

matters and direct e-mails between Plaintiff and Defendant's agents, Defendant knew and understood Davenport City Administrator budget authority was limited to \$50,000. See Exhibit 17.

99. Ignoring this well-established fact, Defendant Ickes concluded her "decomposed rat" article on June 19, 2015, which included the materially altered quote at issue, by inferring Plaintiff somehow obligated the "taxpayers" of Davenport to one hundred times his budget authority, thusly:

"We know the road's costing just shy of \$8 million. The council approved the \$13 million Elmore expenditure in the last capital improvement budget.

We still don't know what the other \$5 million is for.

Anybody want to bet the new casino will be sitting on it?"

100. At the time of the Defendant's defamatory publications, Defendant was engaged in an on-going and openly hostile attack on Plaintiff for his support of the davenporttoday.com open government website which would go on to win a national award for innovation and excellence. The Defendant positioned Davenport's open government website as "overpriced" "competition" to its business in editorials Defendant pre-emptively published in an attempt to stop the website from operating. See Exhibit 18.

101. In response to the July 21, 2014 editorial, City Administrator Malin replied with multiple e-mails (Exhibit 21) and a letter to the editor (Exhibit 22) making the open

government and community engagement intentions of the website then in development abundantly clear, and putting the Quad City Times at ease that the City was not getting into the news business.

102. The Quad City Times hammered back at Malin, with another editorial the very next day (Exhibit 23). The editorial sharpened the Times' attack on Mr. Malin, personally naming or referencing him seventeen times. The editorial ended with a "call on aldermen to resolve this nonsense quickly by defunding this sketchy effort" (the open government website was approved unanimously by the City Council as part of the operating budget which began on July 1 of 2014).

103. The Quad City Times never reported on the City of Davenport winning first place in this national competition for local government websites.

104. Further crystalizing that the Quad City Times' attacks on Mr. Malin were personal and principally related to furthering their business interests, the July 24, 2014 editorial twice labeled Mr. Malin as a "news executive" and as a competitor.

105. An apparent motive for the Defendants attacking the Plaintiff and attempting to remove him from his position with the City of Davenport was that the Defendants wrongfully believed that davenporttoday.com was causing a loss of readership for The Quad-City Times.

106. City Administrator Malin's path-breaking practice of posting both his incoming and outgoing e-mails to the davenporttoday.com website was a particular

concern for the Times, in that any member of the public could read what questions the Times asked him, and how he answered.

107. Defendant was so concerned Plaintiff's leadership in promoting government transparency via the Davenport Today website would further disrupt its pre-Internet business model of arbiter of what was or was not local news that Defendant's agents asked Plaintiff not to post public documents or commentary on the open government website, until Defendant could publish articles of its own on topics of the Defendant's choosing. This extraordinary request by a newspaper for a local government to limit access to public information came during a February 25, 2015 Editorial Board meeting at which the senior management team of Defendant was in full attendance. The request was memorialized in an e-mail copied to Times senior management that same day (attached as Exhibit 26).

108. As this Editorial Board February 25, 2015, meeting was ending, a senior management member informed Plaintiff that Barb Ickes was upset with Plaintiff for a davenporttoday.com posting titled "Thar She Blows". This posting, dated January 28, 2015 (Exhibit 27) lauded journalism as a profession but documented inconsistencies in the Defendant's reporting. It likened Ms. Ickes' on-going attacks on Plaintiff to Captain Ahab's obsessive quest for Moby Dick, hence the posting's title. The post contained full and unedited e-mail exchanges between Ms. Ickes and Plaintiff. These full and

unedited e-mails revealed gaps between Ms. Ickes' reporting and objective facts, thus exposing and upsetting Ms. Ickes.

109. Defendant's Editorial of June 24, 2015, titled "Who's The Boss?" continued their misrepresentation of the davenporttoday.com open government website as a "city-operated news site" and threatened each and every City Council member in the upcoming November election if they supported Mr. Malin. The editorial (Exhibit 28) stated City Council members will "be quizzed plenty about this through the campaign leading to the Nov. 3 election". The editorial further declared, "If full, public discussion does not occur today, all 10 aldermen deserve voters' wrath." The editorial, intended to threaten the Davenport City Council into releasing City Administrator Malin from service, ended with the taunt, "Tonight we'll find out if the bosses are ready -- or even able -- to contain their hired help."

110. The Quad City Times' goal of leveraging their torrent of knowingly false and defamation by implication publications over the preceding six days into City Administrator Malin's departure from Davenport is definitively made clear by their actual malice and purposeful refusal to publish Corporation Counsel Warner's clear and unambiguous legal sign off of the final draft of the agreement (Exhibit 5) provided, in writing, to the Defendant nine days prior to the June 24, 2015 editorial, or the redraft of the agreement in progress by City Administrator Malin, the day prior to Corporation Counsel Warner's sign off. That redraft, (Exhibit 3) which clearly proves City

Administrator Malin did not agree with additional grading costs for the casino site, was provided to Defendant by e-mail six days prior to the June 24, 2015 editorial.

111. In the June 24, 2015 editorial, the Quad City Times went beyond its prior insistence the Davenport Today website was a "city-operated news site" and prior labeling of City Administrator Malin as a "news executive". The Quad City Times Editorial Board, on behalf of the business they operated and under the direct view of their parent company Lee Enterprises, focused all of their animosity for the City of Davenport creating a nation-leading open government website which they viewed as business competition toward one person; Mr. Malin. They labeled davenporttoday.com "the Malin website", which is itself knowingly false, and then threatened each member of the Davenport City Council with "plenty" of "wrath" in the upcoming election if they supported Mr. Malin.

112. The defamatory material was calculated to cause, and did cause, great injury to Plaintiff's reputation, in that readers are unaware of the Defendant's numerous objective errors, publication of knowingly false information and purposeful avoidance of the truth to support a storyline intended to make Plaintiff's continued employment in Davenport untenable, thus furthering Defendant's goal of shutting down the open government website initiated under Plaintiff's leadership. With Plaintiff's separation from Davenport secured, Defendant continued their opposition to the open government website, which was shut down within months of his departure.

113. At the time of the defamatory publications, Defendant knew that statements cited herein were false, and in making the defamatory publications, Defendant acted with reckless disregard for the truth and with clear and convincing malice. The Defendant's publications falsified and materially altered the written record in its possession prior to publication, and e-mail records exist to prove such knowingly false publication, clearly and convincingly. The falsified contract and fabricated quote were hand-crafted to deviate from the written record the Quad City Times possessed.

114. Prior to the Defendants' relentless series of defamatory articles, defamation, Plaintiff had enjoyed an excellent reputation for professional competence and openness. With numerous noteworthy achievements in Davenport, City Administrator Malin established the record for city manager tenure of any Iowa city over 100,000 and was recognized on multiple occasions at the national level for transparency and competence in his professional field. This long-established and well-known local reputation for fighting on behalf of the public good with regard to casino operations could only and was only tarnished through Defendant's willful, wanton and (continuous) campaign of defamation both per quod and by implication.

115. The defamatory statements communicated by the Defendants, express and implied, were and remain deeply destructive and damaging to Mr. Malin's professional reputation, financial circumstances, personal health and well-being. The Quad City Times' publications remain on their website and were cited in universally negative

terms, up to and including suggestions that Mr. Malin was corrupt, by other media, blogs and private citizens on multiple occasions in other cities which Mr. Malin subsequently applied to.

116. The Quad City Times' falsehoods follow Mr. Malin around as substantial truth, when the actual substantial truth is the Defendants committed multiple acts of publishing false information with actual malice, pursued a mercenary and personal vendetta against Plaintiff, and have steadfastly refused to correct information which is clearly and objectively false.

117. The Quad City Times' cascade of actual malice necessitated Mr. Malin restart his career, and pension, in another state. Separated by two thousand miles from his wife, family and all he ever knew, he lives alone with multiple attendant challenges and effects of social isolation, as he rebuilds his professional reputation.

118. On May 5, 2017, via certified mail, Plaintiff delivered a final retraction demand, in writing, of the defamatory statements (Exhibit 29). Following receipt of Plaintiff's demand for a retraction and despite indisputable evidence that Defendant's publications were and remain false, Defendant failed and refused, and still fails and refuses, to comply with the demand.

V. DAMAGES

119. Plaintiff repleads paragraphs 1 through 118 as though set forth fully herein.

120. As a result of the Defendant's publications, Plaintiff sustained damages, including but not limited to, the damages set forth in paragraphs 121 to 129 herein.

121. The Plaintiff has suffered from a loss of reputation. Before these series of statements and articles enumerated above, the Plaintiff had a spotless reputation. After the articles appeared, the Plaintiff was forced from his job in Davenport. The articles in the newspaper followed him and tarnished his reputation when he applied for other positions with City Governments – even as far away as California.

122. The Plaintiff has suffered from a reduction in salary from his position in Davenport to his current position in Seaside, California (exacerbated by the cost of living) and he will continue to suffer from loss of wages into the foreseeable future.

123. The Plaintiff has lost retirement benefits from having to leave his position in Davenport and his subsequent employment in the City Government in Seaside, California, including loss of benefits and potential benefits.

124. The Plaintiff has suffered emotional distress from having to be separated from his family and his inability to spend time with his wife and family.

125. The Plaintiff has incurred cost of moving plus the cost of maintaining two residences.

WHEREFORE, the Plaintiff prays for damages in an amount greater than the jurisdictional minimum of this Court against the Defendants in an amount necessary to

compensate him for his loss and for such other and further relief as the Court deems just and equitable, including costs of this action and interest as provided by law.

V. PUNITIVE DAMAGES

126. Plaintiff repleads paragraphs 1 through 125 as though set forth fully herein.

127. The Defendants acted with willful and wanton disregard for the Plaintiff's rights. *See* Iowa Code §668(A)(1).

128. The Plaintiff has written to the Defendants on numerous occasions to get the Defendants to retract their language and articles. *See* Iowa Code §659.2.

129. The Plaintiff was damaged by the actions of the Defendants directed at the Plaintiff and said damages are set forth in paragraphs 119 through 124 above.

WHEREFORE, the Plaintiff prays for punitive damages against the Defendants in an amount necessary to deter this type of conduct and for such other and further relief as the Court deems just and equitable, including interest as provided by law and the costs of this action.

VII. INTENTIONAL INTERFERENCE WITH CONTRACT

130. Plaintiff repleads paragraphs 1 through 129 as though set forth fully herein.

131. The Plaintiff had a contract with the City of Davenport, Iowa to act as its City Manager.

132. The Defendants knew of the contract.

133. The Defendants intentionally and improperly interfered with the contract by publishing a series of articles that contained false information or implications about the Plaintiff as set forth in paragraphs eight through 109 above.

134. The interference by the Defendants caused the Mayor to ask for the resignation of the Plaintiff as City Manager and caused the City Manager to lose the previous level of confidence and trust of the Mayor and others in City Government.

135. The Plaintiff has suffered damages from the actions of the Defendants as set forth in paragraphs 119 through 129 above.

WHEREFORE, the Plaintiff prays for damages against the Defendants in an amount necessary to compensate him for his losses to date and for his continuing losses for salary, retirement and other benefits pursuant to the contract, interest as provided by law, costs of this action and further relief as the Court deems just and equitable.

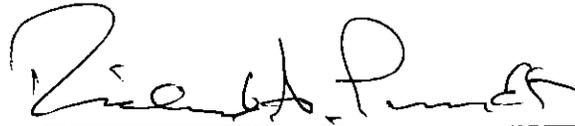
JURY DEMAND

COMES NOW the Plaintiff, and demands that all issues herein be tried to a jury.

Respectfully submitted,



Larry J. Thorson #AT0007976
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Attorneys for Plaintiff

THIS AMENDMENT TO JOINT DEVELOPMENT AGREEMENT is entered into by and between the City of Davenport (the "City"), Rhythm City Casino, LLC ("RCC" and as assignee of Scott County Casino, LLC) and the Riverboat Development Authority ("RDA") as of this 25 day of June, 2014.

WHEREAS, the parties previously entered into a Joint Development Agreement dated December 2, 2013 (the "Development Agreement");

WHEREAS, RCC has a purchase agreement to acquire approximately forty (40) acres of real estate at the southwest corner of Interstates 74 and 80, upon which RCC intends to develop the Casino Complex (the "~~Casino Real Estate~~" and together with the real estate related to the Road Extension, the "Real Estate"); and,

WHEREAS, the parties desire to amend the Development Agreement to provide for the construction of the extension of Elmore Avenue from its current end point, past the Casino Real Estate and continuing it to Jersey Ridge Road and related improvements, including but not limited to sewers and other storm water management, utilities, signaling and signage (the "Road Extension").

NOW, THEREFORE, in consideration of the obligations expressed herein which the parties acknowledge are adequate, the parties agree as follows:

1. The Parties agree that the following new section be added to the Development Agreement:

"5.5. Extension of Elmore Avenue.

(a) Acquisition, Design and Construction of Elmore Extension. Subject to the conditions set forth in this Agreement, RCC agrees to design and construct the Road Extension. The Road Extension shall be designed and constructed in substantial compliance with the City's engineering standards. Subject to force majeure, RCC will commence construction of the Road Extension no later than October 31, 2014.

(b) City's Acquisition Obligations. Upon substantial completion of the Road Extension, RCC shall deliver to the City a certified statement detailing the costs incurred by RCC in the design, development and construction of the Road Extension and the grading and utility work related to the Real Estate (the "Development Costs"). The City agrees, that within 90 days of its receipt of the certified Development Costs from RCC, but not earlier than July 1, 2015, it will acquire the Road Extension from RCC for the amount of the certified Development Costs. The certified Development Costs shall include, but not be limited to, costs relating to the following:

- (i) Design and engineering fees.
- (ii) Costs incurred in obtaining the Road Extension ROW and any other necessary property rights.
- (iii) Grading and utility work and extensions relating to the Real Estate.
- (iv) Construction of the Road Extension.
- (v) Interest expense incurred by RCC for funds borrowed to pay Development Costs through the date of payment by the City.

From: Malin, Craig
Sent time: 06/12/2015 03:36:42 PM
To: Brian Wellner <BWellner@qctimes.com>
Cc: Malin, Craig; Nahra, Jennifer
Subject: Re: Casino agreement

Brian

Your weekend story is about a greensheet from 2014 that did not specifically mention the grading and utilities related to a road / real estate were part of the road / real estate costs?

If that's your question, my two immediate answers are grading and utility costs are implicit in new road construction, and the costs are specified on the page the greensheet is attached to.

"Casino Real Estate" and "Real Estate" are separately defined in the agreement.

Jennifer - please forward to the Mayor and Council as a media contact

Thanks,

Craig

Sent from my iPhone

> On Jun 12, 2015, at 2:12 PM, "Brian Wellner" <BWellner@qctimes.com> wrote:

>

> Thanks, Craig, for the response. However, at least one question remains: Why didn't you include details of the grading and utility work in the green sheet? I've now spoken with four aldermen (Dunn, Tompkins, Edmond, Matson) who say they weren't informed that that was part of the deal.

>

> —Original Message—

> From: Malin, Craig [mailto:ctm@ci.davenport.ia.us]

> Sent: Friday, June 12, 2015 2:35 PM

> To: Brian Wellner

> Cc: Malin, Craig; Nahra, Jennifer

> Subject: Re: Casino agreement

>

> Brian

>

> Thanks for the email. As I noted previously, I'm out of the office until Monday. I suggest you do some fact checking before authoring a story based on nearly year old memories. At the time, the City was involved in the Dock redevelopment, the SAU stadium proposal, and a flood. This item was passed 10 - 0 on the consent agenda.

>

> Regarding Corp Counsel Warner's memory, when I'm back at the office, I can supply a copy of an e-mail where he signed off on the agreement.

>

> There may be some confusion about the agreement. There is a clear difference between "Casino Real Estate" defined in the agreement and "Real Estate" related to the road extension, which has the provision regarding reimbursement of costs for grading and utilities. The coordinated grading and utility work at the time made a great deal of sense, saved everyone money, and has resulted in significant development progress.

>

> You might also want to discuss whether the City is "subsidizing" the casino with Mr. Kehl or his representatives. There is an extraordinary amount of progress now taking place at or near the casino, and the casino is the entity paying for it.

>

> Thanks again for the email. I'll get you Corp Counsel Warner's sign off email when I'm back in the office next week.

>

> Jennifer - please forward this on to the Mayor and Council as a media contact.

>

> Craig

>

> Sent from my iPhone

>

>> On Jun 12, 2015, at 11:16 AM, "Brian Wellner" <BWellner@qctimes.com> wrote:

>>

>> Hi Craig,

>>

>> I'm working on the story for this weekend and need to talk to you today.

>>

>> Tom Warner told me the city is paying for the road extension, grading and utility work on 40-acre casino property. Could you please comment?

>>

>> Multiple aldermen (Dunn, Tompkins, Edmond and Matson) told me they were led to believe by you that they were only voting to extend the road. Could you please comment?

>>

>> All four said there was never discussion at any meeting regarding grading and utility work. Could you please comment?

>>

>> Warner and Brandon Wright told me they raised concerns with you at the time deal was made that city is "subsidizing" casino, and Warner said you more or less said it was a done deal and that he didn't feel his concern was addressed. Could you please comment?

>>

>> The green sheet dated June 25, 2014 doesn't mention grading or utility work. Why were those details not included?

>>

>> The cost of the project ballooned from \$7 million to \$13 million. The Elmore Ave bid summary has the winning bid at \$7.8 million. But that's just the street. What is the city obligated to pay for the grading and utility work on the 40-acre casino property?

>>

>> Could you please explain how the deal with Kehl and Rhythm City was made? Was it your idea or theirs to have the city pay grading and utility on the casino property? In your experience, has the city ever done this kind of work on private property?

>>

>> Finally, how are you hoping to address aldermen concerns moving forward about how this project?

>>

>> Thank you,

>>

>> Brian Wellner

>> Staff Writer

>> Quad-City Times

>> Office 563-383-2314

>> Mobile 563-343-1322

>> Twitter @brianwellner

>> qctimes.com

>>

>>

>>

>>

>>

>>

>> —Original Message—

>> From: Malin, Craig [mailto:ctm@ci.davenport.ia.us]

>> Sent: Thursday, June 11, 2015 2:42 PM

>> To: Brian Wellner

>> Cc: Spiegel, Corri; Nahra, Jennifer

>> Subject: Re: Casino agreement

>>

>> Brian

>>

>> I'm out of the office today and tomorrow. I'll ask Corri to forward the agreement.

>>

>> Regarding your legal review question, I'll forward you emails from last year when I'm back in the office next week.

>>

>> Jennifer - please forward this on as a media contact to the Mayor and Council

>>

>> Sent from my iPhone

>>

>> On Jun 11, 2015, at 12:51 PM, "Brian Wellner" <BWellner@qctimes.com<mailto:BWellner@qctimes.com>> wrote:

>>

>> Hi Craig,

>>

>> Ive got some questions regarding the citys joint development agreement with Rhythm City Casino.

>>

>> Aldermen Dunn and Edmond told me they believed they were voting just to extend Elmore and utilities to the casino property and not the grading and utility work on the 40-acre casino property itself.

>>

>> Could you please help me understand what the amended joint development agreement says. Is the city also paying for grading and utility work on the 40-acre casino property?

>>

>> Also, the figure ballooned from \$7 million last year to \$13 million this year. You had told Barb that the \$7 million was a conceptual estimate. My question is what is the city paying for with the \$13 million? Does the estimate include grading and utility work on the 40-acre casino property? Or is that just the estimate to build the road?

>>

>> To help me understand, Id like a copy of the joint development agreement and any amendments. Id also like to see what written legal advice, if any, you were given before signing the contract and amendment.

>>

>> Thank you.

>>

>>

>> Brian Wellner

>> Staff Writer

>> Quad-City Times

>> Office 563-383-2314

>> Mobile 563-343-1322

>> Twitter @brianwellner

>> qctimes.com<<http://www.qctimes.com/>>

>>

>>

Malin, Craig

From: Malin, Craig
Sent: Monday, June 16, 2014 7:50 AM
To: Warner, Tom; Wright, Brandon; Berger, Bruce
Cc: Malin, Craig
Attachments: Amendment to Joint Dev Agmt CMedit.docx

fyi

From: Malin, Craig
Sent: Monday, June 16, 2014 7:49 AM
To: 'Beason, Curtis'; Dan Kehl
Cc: RODNEY BLACKWELL; Malin, Craig
Subject: Road Extension Agreement

Attached is a revised road extension agreement that does away with the exhibits, and provides for reimbursement based on documented costs.

I expect to add this to the agenda tomorrow, for Wednesday's Finance Committee meeting. I'm in interviews most of the day today, and will call Curt either late today or tomorrow to review.

I'll also call Rodney later today, as we need a simple agreement related to the attached.

AMENDMENT TO
JOINT DEVELOPMENT AGREEMENT

THIS AMENDMENT TO JOINT DEVELOPMENT AGREEMENT is entered into by and between the City of Davenport (the "City"), Rhythm City Casino, LLC ("RCC" and as assignee of Scott County Casino, LLC) and the Riverboat Development Authority ("RDA") as of this _____ day of _____, 2014.

WHEREAS, the parties previously entered into a Joint Development Agreement dated December 2, 2013 (the "Development Agreement");

WHEREAS, RCC has a purchase agreement to acquire approximately forty (40) acres of real estate at the southwest corner of Interstates 74 and 80, upon which RCC intends to develop the Casino Complex; and,

WHEREAS, the parties desire to amend the Development Agreement to provide for the construction of the extension of Elmore Avenue from its current end point, past the Casino Real Estate and continuing it to Jersey Ridge Road and related improvements, (the "Road Extension").

NOW, THEREFORE, in consideration of the obligations expressed herein which the parties acknowledge are adequate, the parties agree as follows:

1. The Parties agree that the following new section be added to the Development Agreement:

5.5. Extension of Elmore Avenue.

(a) RCC agrees that it, or its affiliate, will cause the Road Extension to be constructed. The Road Extension will be constructed according to City engineering standards. RCC will commence installation work on the Road Extension on or before October 31, 2014 and will diligently pursue the same.

(b) Upon substantial completion of the Road Extension and the City's acceptance of the same, which shall not be unreasonably withheld, RCC, or its affiliate, the Road Extension shall be conveyed to the City, in return for an amount equal to the documented and certified costs incurred in: i) acquiring the rights of way, ii) designing and constructing the Road Extension and other reasonably related items, including: iii) grading, iv) stormwater facilities, v) utilities, vi) interest expenses and vii) contract management expenses not to exceed 5%. The City's payment for conveyance of the road shall not occur sooner than July 1, 2015.

(c) The City will provide the necessary rights of way and other property rights necessary for the Road Extension, including any temporary construction easements. In the event the City is obligated to acquire the necessary rights of way, RCC will advance such cost, subject to reimbursement as provided under (b) above.

From: Malin, Craig
Sent time: 06/18/2015 07:06:07 PM
To: bwellner@qctimes.com
Subject: FW: Resignation
Attachments: Elmore Agreement Progression - June 2014.pdf

Brian:

I thought copying my answer to Steve's question might be helpful to you.

Craig

With rare exception per Iowa Code, e-mails to and from this address are public documents. You should expect e-mails to or from this address to be posted to Davenporttoday.com within seven days.

From: Malin, Craig
Sent: Thursday, June 18, 2015 6:58 PM
To: 'selliot@qconline.com'
Subject: RE: Resignation

Steve:

I've attached a collection of documents and e-mails from last June. Through the five drafts of the agreement, there is specific language on "differential development costs" and grading the casino site in two of the three drafts submitted by the casino's attorney. There is one draft that strikes this language.

Of the two redrafts submitted by me, neither includes "differential development cost" language or language that includes grading or utility work on the casino site. The final draft separately defines "Casino Real Estate" from "Real Estate" "related to the road extension". This final draft was submitted to the casino's attorney and he didn't (to the best of my knowledge) object, and was submitted to Corporation Counsel Warner for review. Corp Counsel Warner signed off that he had no issues with the final draft and it was placed on the agenda.

In the worst case, it appears there was an internal communication breakdown on the final draft, which still led to a tremendous economic development project for the community. The short answer is the Mayor and Council weren't told we would be paying for grading on the casino site because I understood Corp Counsel Warner's e-mail sign off to be that his earlier concerns were addressed in the final draft.

The only grading that I agreed to in practice or in writing was utilizing "cut" from the road extension for "fill" on the casino site. This coordinated engineering and construction was in the mutual interest of the City and casino operator, as it reduced costs for both.

Thanks for asking,

Craig Malin
City Administrator
(563)326-6139

With rare exception per Iowa Code, e-mails to and from this address are public documents. You should expect e-mails to or from this address to be posted to Davenporttoday.com within seven days.

From: selliot@qconline.com [mailto:selliot@qconline.com]
Sent: Thursday, June 18, 2015 6:37 PM
To: Malin, Craig
Subject: Resignation

Craig,

Steve Elliott from the Dispatch/Argus.

I am working on the story where the mayor is asking you and Mr. Warner to resign.

Do you have any comments on this, specifically whether or not the city was aware of some grading work to be done with the new casino being built at I-74 and I-80. The mayor said the council was not aware that the city would pay for this work.

Thanks for any comment.

Steve - 309-757-4995

Slides from June 2, 2014 City Council Worksession. The first of five meetings in June, 2014 at which the Elmore extension is on the Council agenda.

After reviewing six other policy options, the City Council favors an approach where Scott County Casino will build the road, and advance revenue provided by the casino forward seven years to help pay the cost of the road.

This approach reduces construction risk to Davenport taxpayers to zero and starts a process leading to a road expected to support \$250 million in private investment, 2,000 jobs and \$7.4 billion in economic activity.

6/16/2015

DAVENPORT IOWA
GREAT PEOPLE • GREAT PLACES

Elmore Drive Extension

June 2, 2014

Elmore Drive Then & Now

1986	2012
	
Base Assessed Value: \$39.2 M Annual Tax Revenue: \$934 K (\$375 K City)	Base Assessed Value \$422.6 M Annual Tax Revenue: \$12.6 M (\$5.1 M City)

6/16/2015

Expense & Revenue

- **Full Extension \$7 - \$10 Million**
Connecting current road past Vets Pkwy, to Jersey Ridge
Final design & construction strategy determines final cost
- **\$7 M / 15 Year Bonds = \$640K yr.**
- **New Casino & City Sales Tax Revenue**
 - + \$400K Casino Increment yr.
 - + \$260K Casino "0.4%" Increment yrs. 4 – 12 After Opening
 - + \$290K City Sales Tax Increment yr. (225K sq.ft. retail)

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Unrealistic / Suboptimal Options

- **Incremental Extension By Multiple Developers**
 - Significantly increases timeline, jeopardizes opportunity for Davenport to have #1 casino in marketplace.
- **RDA Pays**
- **Increase the Debt Service Levy**
 - \$0.20 Increase to the levy
 - \$12-13 yr. median homeowner, \$45 yr. \$250K small business
- **Cut / Delay Other City Capital Projects**
- **Casino Could Locate Elsewhere**
- **Traditional TIF Only**
 - Reduces revenue to other government entities

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6/16/2015

Goals (Council Agree?)

- #1 Road paid for by adjacent development
 - No property tax increase
 - No other City projects eliminated or delayed
 - Optimize fiscal impact to schools
- #1a Maximize Opportunity - #1 Casino In Market
- #? Build Road Promptly – Built By Private Sector

DAVENPORT IOWA
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Casino Pays For Road

- **Casino Moves "0.4% Casino District" Payments Forward, Builds Road This Year**
 - Road Built To City Standards, City Issues Bonds, Buys Road Next Year
- **Bond Repayment**
 - Years 1-7
 - Incremental (new) Casino Revenue (estimated at \$400K)
 - 0.4% Casino District (estimated at \$260K)
 - TIF As "Backstop"
 - Years 8-15
 - Incremental (new) Casino Revenue (estimated at \$400K)
 - Incremental Sales Tax Revenue (estimated up to \$290K)
 - TIF As "Backstop"

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6/16/2015

What About ?

Reinvestment District?

Revised application submitted next round, with casino location settled.
Riverfront MOU remains with retail, hotel, entertainment developer.

Zoning Review?

I-80 / I-74 is within casino overlay boundaries.
Final zoning & site plan review per City ordinance.

Construction Start & Opening

Casino & road start late summer, early fall.
Road & casino open mid summer next year.

DAVENPORT IOWA
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If Consensus ?

Resolution Outlining Development Agreement Parameters Added to June 4 Finance Committee Agenda?

Casino Moves 0.4% "Casino District" Funds Forward
City Agrees To Eliminate "Year 12" Payment (approx \$260K)
Casino Builds Road To City Standards
All Costs Certified
City Issues Bonds When Road Complete
Bonds Repaid With Incremental Casino & New City Sales Tax
TIF As Backstop

Resolution Approving Development Agreement On June 18 Finance Committee Agenda?

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6/16/2015

DAVENPORT INDIANA
GREAT *City* • GREAT *Life*

Casino pays for road
Casino paga por carretera
Casino trả tiền cho đường
Casino zahlt für Straßen
Kasyno płaci za drogi
賭場支付道路

Motion directing City Administrator to negotiate development agreements for City Council review to extend Elmore within parameters discussed at June 2, 2014 City Council Worksession.

The motion is reviewed at the June 4 Finance Committee Meeting and voted on 10 – 0 at the June 11 City Council Meeting.

City of Davenport

Committee: Finance
Department: Finance
Contact Info: Craig Malin – 326-6139
Ward: All

Action / Date
FC 06/04/14

Subject:

MOTION authorizing the City Administrator to negotiate development agreements for City Council review with applicable parties to extend Elmore Avenue.

Recommendation:

Adopt the motion.

Background:

At a June 2 Council Worksession, options for extending Elmore Avenue were reviewed. An option to enter into a development agreement with Scott County Casino to build the road was favored.

The general parameters of the agreements include:

Scott County Casino is responsible for extending Elmore Avenue from its northern terminus to Jersey Ridge Road by November 1, 2015.

The extension will be financed and built by Scott County Casino. It will meet design and construction standards approved by the City.

Upon completion and final inspection, the City will purchase the road, pursuant to certified costs including administration and overhead fees not to exceed 5% of certified costs, through issuance of bonds.

Scott County Casino will amend its current development agreement with the City to move the 0.4% "casino improvement district" funds forward to commence in the first year of land-based casino operation and run for seven years thereafter.

The City will create a tax increment finance district in the I-80/I-74 urban renewal area to ensure the urban renewal area pays the full cost of the Elmore extension.

Developers of retail properties within the I-80/I-74 urban renewal area will provide aggregate information regarding sales tax revenue for all new projects within the I-80/I-74 urban renewal district until bonds issued for purchase of the road are retired.

E-mails related to first draft of development agreement amendment prepared by Scott County Casino attorney.

The first draft includes (Section 1b) an unspecified amount to represent differential development costs for two different casino sites.

Malin, Craig

From: Judge, Joe <JJudge@L-WLAW.com>
Sent: Monday, June 09, 2014 2:21 PM
To: Malin, Craig; Beason, Curtis
Cc: Dan Kehl; Berger, Bruce; Wright, Brandon; Warner, Tom
Attachments: Amendment to Joint Dev Agmt.docx

Craig, attached is a draft of the Amendment to the Joint Development Agreement.

Joe

From: Malin, Craig [mailto:ctm@ci.davenport.ia.us]
Sent: Monday, June 09, 2014 12:42 PM
To: Beason, Curtis
Cc: Dan Kehl; RODNEY BLACKWELL; Berger, Bruce; Wright, Brandon; Warner, Tom; Judge, Joe; Malin, Craig
Subject: RE: Development Agreement(s)

Curt:

Did I miss an e-mail, or is the draft forthcoming?

Craig

From: Beason, Curtis [mailto:CBeason@L-WLAW.com]
Sent: Wednesday, June 04, 2014 10:12 AM
To: Malin, Craig
Cc: Dan Kehl; RODNEY BLACKWELL; Berger, Bruce; Wright, Brandon; Warner, Tom; Judge, Joe
Subject: Re: Development Agreement(s)

That works. We will have draft to you tomorrow

Sent from my iPhone

On Jun 4, 2014, at 10:09 AM, "Malin, Craig" <ctm@ci.davenport.ia.us> wrote:

Curt:

I've attached the motion the Finance Committee will consider tonight. With the expectation this motion will be moved on to the City Council agenda next week and approved next Wednesday, now is a good time to start on the development agreement(s) to follow from this motion.

If we have the agreement(s) done by next Thursday, it will be placed on the June 18th / 25th City Council cycle.

Whether there are two agreements (one with Dan and one with Rodney) or one, three-way agreement is a question best considered by you, Dan and Rodney. Either approach can work from the City's perspective.

If Dan and Rodney would like to get the agreement on the 18th / 25th Council cycle, it needs to be complete by next Thursday. A draft for City review on Monday would help achieve that timetable.

Feel free to call City staff copied on this e-mail with questions.

AMENDMENT TO
JOINT DEVELOPMENT AGREEMENT

THIS AMENDMENT TO JOINT DEVELOPMENT AGREEMENT is entered into by and between the City of Davenport (the "City"), Rhythm City Casino, LLC ("RCC" and as assignee of Scott County Casino, LLC) and the Riverboat Development Authority ("RDA") as of this ____ day of _____, 2014.

WHEREAS, the parties previously entered into a Joint Development Agreement dated December 2, 2013 (the "Development Agreement");

WHEREAS, RCC has a purchase agreement to acquire approximately forty (40) acres of real estate at the southwest corner of Interstates 74 and 80, in Davenport, Iowa, as further depicted on attached Exhibit ____ (the "Casino Real Estate"), upon which RCC intends to develop the Casino Complex; and,

WHEREAS, the parties desire to amend the Development Agreement to provide for the construction of the extension of Elmore Avenue from its current end point, past the Casino Real Estate and continuing it to Jersey Ridge Road and related improvements, as further depicted on attached Exhibit ____ (the "Road Extension").

NOW, THEREFORE, in consideration of the obligations expressed herein which the parties acknowledge are adequate, the parties agree as follows:

1. The Parties agree that the following new section be added to the Development Agreement:

5.5. Extension of Elmore Avenue.

(a) RCC agrees that it, or its affiliate, will cause the Road Extension to be constructed. The Road Extension will be constructed according to City standards, as detailed in the attached Exhibit ____, and plans and specifications mutually agreed upon by the City and RCC. RCC will commence installation work on the Road Extension on or before _____ and will diligently pursue the same.

(b) Upon substantial completion of the Road Extension and the City's acceptance of the same, which shall not be unreasonably withheld, RCC, or its affiliate, the Road Extension shall be conveyed to the City, in return for an amount equal to the documented and certified costs incurred (i) in acquiring the rights of way, designing and constructing the Road Extension and other reasonably related items; and (ii) \$_____, which amount represents the differential in development costs for the Casino Complex between the Casino Real Estate and the alternative Casino Complex site near the intersection of Interstate 80 and Brady Street in Davenport.

(c) The City will provide the necessary rights of way and other property rights necessary for the Road Extension, including any temporary construction easements. In the

event the City is obligated to acquire the necessary rights of way, RCC will advance such cost, subject to reimbursement as provided under (b) above.

2. The parties agree that Section 4(iii) of the Development Agreement is amended to provide that the four tenths percent (.4%) of Adjusted Net Gaming Win will be payable from RCC to the City commencing upon the opening of the Casino Complex and will be payable for a period of seven years thereafter.

3 Except as expressly set forth above, the text of the Development Agreement shall remain unchanged and in full force and effect and the Parties hereby ratify and confirm their obligations thereunder.

SIGNATURE PAGES TO FOLLOW

**E-mails from City staff to City Administrator,
outlining concerns with first draft of
development agreement.**

Malin, Craig

From: Warner, Tom
Sent: Wednesday, June 11, 2014 8:35 AM
To: Wright, Brandon; Berger, Bruce; Malin, Craig
Subject: RE: Development Agreement(s)

We should have an interest rate in mind (0% would be great, but no more than what we bond at) as they may ask for interest if they have to float the money for an extended period of time after the road is complete and open to travel.

From: Wright, Brandon
Sent: Wednesday, June 11, 2014 8:28 AM
To: Warner, Tom; Berger, Bruce; Malin, Craig
Subject: RE: Development Agreement(s)

I have a small change for 5.5 (b). We need to add in that the amount we will be paying them will come prior to March 15, 2016. Based on a bond sale at the beginning of the calendar year (2016), we would receive cash sometime in the beginning March. Since this will potentially be a sizable amount, we need to avoid running into cash flow issues if they finish the project earlier than that and come looking for \$5-10 million.

Brandon Wright
Finance Director
City of Davenport
Phone: (563) 326-7750
Fax: (563) 888-2079
Email: bwright@ci.davenport.ia.us

From: Warner, Tom
Sent: Tuesday, June 10, 2014 5:25 PM
To: Berger, Bruce
Cc: Malin, Craig; Wright, Brandon
Subject: Re: Development Agreement(s)

I had the same questions. Why would they ask us to pay them money to go to their preferred location? And isn't that underwriting/subsidizing the casino itself, as opposed to a road that benefits the entire district and city, with TIF \$?

Otherwise it's a simple agreement.

Sent from my iPhone

On Jun 10, 2014, at 5:15 PM, "Berger, Bruce" <beb@ci.davenport.ia.us> wrote:

Craig:

I'm not sure about the language about \$X for a differential development cost between I-80/Brady and the I-74/I-80 site...I think that will raise questions. Perhaps we could word it differently?

And how much is expected to go in that blank? Is that part of the development costs that we should build into the TIF? Or some other source?

Bruce

First redraft of agreement by City Administrator, copied to Scott County Casino representatives and City's Corporation Counsel and Finance Director.

The City Administrator's redraft addresses staff concerns and strips out all language related to differential development costs or paying for anything on casino site.

Malin, Craig

From: Malin, Craig
Sent: Monday, June 16, 2014 7:50 AM
To: Warner, Tom; Wright, Brandon; Berger, Bruce
Cc: Malin, Craig
Attachments: Amendment to Joint Dev Agmt CMedit.docx

fyi

From: Malin, Craig
Sent: Monday, June 16, 2014 7:49 AM
To: 'Beason, Curtis'; Dan Kehl
Cc: RODNEY BLACKWELL; Malin, Craig
Subject: Road Extension Agreement

Attached is a revised road extension agreement that does away with the exhibits, and provides for reimbursement based on documented costs.

I expect to add this to the agenda tomorrow, for Wednesday's Finance Committee meeting. I'm in interviews most of the day today, and will call Curt either late today or tomorrow to review.

I'll also call Rodney later today, as we need a simple agreement related to the attached.

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(c) The City will provide the necessary rights of way and other property rights necessary for the Road Extension, including any temporary construction easements. In the event the City is obligated to acquire the necessary rights of way, RCC will advance such cost, subject to reimbursement as provided under (b) above.

Redraft #2 by Scott County Casino attorney,
adding differential development costs language
back in.

Malin, Craig

From: Judge, Joe <JJudge@L-WLAW.com>
Sent: Monday, June 16, 2014 1:56 PM
To: Malin, Craig
Cc: Warner, Tom; Beason, Curtis
Attachments: Amendment to Joint Dev Agmt 061614.docx

Craig and Tom, attached is a revised draft of the Development Agreement Amendment. Our client has not yet reviewed so it remains subject to their comments.

Best
Joe

From: Beason, Curtis
Sent: Monday, June 16, 2014 8:04 AM
To: Judge, Joe
Cc: Tom Warner
Subject: Fwd: Road Extension Agreement

Sent from my iPhone

Begin forwarded message:

From: "Malin, Craig" <ctm@ci.davenport.ia.us>
Date: June 16, 2014 at 7:49:13 AM CDT
To: "Beason, Curtis" <CBeason@L-WLAW.com>, Dan Kehl
<dan.kehl@riversidecasinoandresort.com>
Cc: RODNEY BLACKWELL <RODBLACKWELL@YAHOO.COM>, "Malin, Craig"
<ctm@ci.davenport.ia.us>
Subject: Road Extension Agreement

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I expect to add this to the agenda tomorrow, for Wednesday's Finance Committee meeting. I'm in interviews most of the day today, and will call Curt either late today or tomorrow to review.

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WHEREAS, the parties desire to amend the Development Agreement to provide for the construction of the extension of Elmore Avenue from its current end point, past the Casino Real Estate and continuing it to Jersey Ridge Road and related improvements, including but not limited to sewers and other storm water management, utilities, signaling and signage (the "Road Extension").

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1. The Parties agree that the following new section be added to the Development Agreement:

"5.5. Extension of Elmore Avenue.

(a) Acquisition, Design and Construction of Elmore Extension. Subject to the conditions set forth in this Agreement, RCC agrees to design and construct the Road Extension at a cost estimated to be approximately \$_____, on the Road ROW.

(1) RCC shall retain an engineering firm reasonably acceptable to the City (McClure Engineering shall be considered reasonably acceptable) (the "Project Engineer").

(2) RCC shall hold regular meetings with the City and the Project Engineer during the design and construction phases of the Road Extension.

(3) The Road Extension shall be designed and constructed in substantial compliance with the City's reasonably required design and construction standards for roads and related improvements for streets of similar use as the Road Extension. RCC and the Project Engineer shall develop plans and specifications for the Road Extension, including but not limited to routing, sewer, drainage, lighting, signaling, signage and other applicable elements and amenities, and provide the same to the City for its review and approval, which shall not be unreasonably withheld (the "Plans and Specifications").

Upon approval by the City the Plan and Specifications shall be considered final and may not be materially modified with the prior approval of the City. Subject to the City's timely approval of the Plans and Specifications and customary force majeure, RCC will commence construction of the Road Extension no later than October 31, 2014.

(4) Upon approval by the City of the Plans and Specifications, RCC agrees to cause the Road Extension to be constructed in substantial accordance with the Plans and Specifications.

(b). City's Acquisition Obligations. Upon the Road Extension being approved by the City as being constructed in substantial conformance with the approved Plans and Specification, which approval shall not be unreasonably withheld or delayed, the Road Extension will be considered substantially complete. Upon substantial completion of the Road Extension, RCC shall deliver to the City a certified statement detailing the costs incurred by RCC in the design, development and construction of the Road Extension. The City agrees, that within ____ days of its receipt of the certified costs from RCC, but not earlier than July 1, 2015, it will acquire the Road Extension from RCC for the amount of the certified costs. The Certified costs shall include, but not be limited to, costs relating to the following:

- (i) Design and engineering fees.
- (ii) Costs incurred in obtaining the Road Extension ROW and any other necessary property rights.
- (iii) Construction of the Road Extension.
- (iv) Interest expense incurred by RCC for funds borrowed to design, develop and construct the Road Extension through the date of payment by the City.
- (v) A management fee for the work of 5% of the overall cost of the Road Extension.
- (vi) RCC's documented cost differential between the site work for the development of the Casino Complex on the Casino Property and the site work for the Casino Complex at RCC's alternative site near the intersection of Interstate 80 and U.S. Highway 61.

Concurrent with payment by the City, RCC agrees to provide to the City such transfer or conveyance documents as the City reasonably requests in order to convey all of RCC's interests and rights in the Road Extension, along with any assignable warranties from contractors utilized by RCC in the design, development and construction of the Road Extension. The City agrees that it does and will accept the Road Extension "as-is" and "with all faults," agrees that RCC does not represent, warranty or guaranty any aspect of the design, development or construction of the Roadway Extension and that any such warranty, express or implied, is waived by the City in its entirety.

(c) Road Extension ROW. The City will obtain and provide to RCC, in a timely manner, the necessary rights of way and other property rights necessary for the Road Extension,

Redraft #3 by Scott County Casino attorney, taking differential development cost language out. The draft is supplied with a note regarding including grading and utility work on the casino site, while the attached redraft takes this language out of the agreement, and separately defines "Casino Real Estate" from real estate related to the Road Extension, the "Real Estate".

Malin, Craig

From: Judge, Joe <JJudge@L-WLAW.com>
Sent: Monday, June 16, 2014 6:00 PM
To: Malin, Craig; Warner, Tom
Cc: Beason, Curtis; KEN BONNET (Ken.Bonnet@RiversideCasinoAndResort.com); Dan Kehl (dan.kehl@riversidecasinoandresort.com)
Attachments: Amendment to Joint Dev Agmt 061614 v2 COMPARE.docx; Amendment to Joint Dev Agmt 061614 v2.docx

Craig and Tom,

Attached is a revised Development Agreement reflecting our conversation from earlier today (clean and redline). I wanted to be clear that the necessary grading and utility work on the casino site is to be included in the Development Costs that are to be reimbursed upon transfer of the road.

Our clients have not reviewed this so it remains subject to their comments.

Thanks,
Joe

JOSEPH C. JUDGE
Tel: 563.333.6660
Fax: 563.324.1616
Email: jjudge@L-WLaw.com

LANE & WATERMAN LLP
Established 1854

220 North Main Street, Suite 600
Davenport, Iowa 52801-1987
Tel: 563.324.3246
www.L-WLaw.com

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WHEREAS, the parties desire to amend the Development Agreement to provide for the construction of the extension of Elmore Avenue from its current end point, past the Casino Real Estate and continuing it to Jersey Ridge Road and related improvements, including but not limited to sewers and other storm water management, utilities, signaling and signage (the "Road Extension").

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(2) ~~RCC shall hold regular meetings with the City and the Project Engineer during the design and construction phases of the Road Extension.~~

(3) ~~The Road Extension shall be designed and constructed in substantial compliance with the City's reasonably required design and construction standards for roads and related improvements for streets of similar use as the Road Extension. RCC and the Project Engineer shall develop plans and specifications for the Road Extension, including but not limited to routing, sewer, drainage, lighting, signaling, signage and other applicable elements and amenities, and provide the same to the City for its review and approval which shall not be~~

Formatted: Indent: Left: 0"

~~unreasonably withheld (the "Plans and Specifications"). Upon approval by the City the Plan and Specifications shall be considered final and may not be materially modified with the prior approval of the City. Subject to the City's timely approval of the Plans and Specifications and customary, The Road Extension shall be designed and constructed in substantial compliance with the City's engineering standards. Subject to force majeure, RCC will commence construction of the Road Extension no later than October 31, 2014.~~

~~(4) Upon approval by the City of the Plans and Specifications, RCC agrees to cause the Road Extension to be constructed in substantial accordance with the Plans and Specifications.~~

~~(b) City's Acquisition Obligations. Upon the Road Extension being approved by the City as being constructed in substantial conformance with the approved Plans and Specifications, which approval shall not be unreasonably withheld or delayed, the Road Extension will be considered substantially complete. (b) City's Acquisition Obligations. Upon substantial completion of the Road Extension, RCC shall deliver to the City a certified statement detailing the costs incurred by RCC in the design, development and construction of the Road Extension and the grading and utility work related to the Real Estate (the "Development Costs"). The City agrees, that within _____ days of its receipt of the certified costs/Development Costs from RCC, but not earlier than July 1, 2015, it will acquire the Road Extension from RCC for the amount of the certified costs/Development Costs. The Certified costs/certified Development Costs shall include, but not be limited to, costs relating to the following:~~

- ~~(i) Design and engineering fees.~~
- ~~(ii) Costs incurred in obtaining the Road Extension ROW and any other necessary property rights.~~
- ~~(iii) Grading and utility work and extensions relating to the Real Estate.~~
- ~~(iv) Construction of the Road Extension.~~
- ~~(v) Interest expense incurred by RCC for funds borrowed to design, develop and construct the Road Extension pay Development Costs through the date of payment by the City.~~
- ~~(vi) A management fee for managing the work of design, development and construction of the Road Extension of up to 5% of the overall cost of the Road Extension/Development Costs.~~
- ~~(vii) RCC's documented cost differential between the site work for the development of the Casino Complex on the Casino Property and the site work for the Casino Complex at RCC's alternative site near the intersection of Interstate 80 and U.S. Highway 61.~~

Concurrent with payment by the City, RCC agrees to provide to the City such transfer or conveyance documents as the City reasonably requests in order to convey all of RCC's interests and rights in the Road Extension, along with any assignable warranties from contractors utilized

by RCC in the design, development and construction of the Road Extension. The City agrees that it does and will accept the Road Extension "as-is" and "with all faults," agrees that RCC does not represent, ~~warranty~~warrant or guaranty any aspect of the design, development or construction of the Roadway Extension and that any such warranty, express or implied, is waived by the City in its entirety.

(c) Road Extension ROW. The City will obtain and provide to RCC, in a timely manner, the necessary rights of way and other property rights necessary for the Road Extension, including any temporary construction easements. In the event the City is obligated to acquire the necessary rights of way, RCC will advance such cost, subject to reimbursement as provided under (b) above.

2. The parties agree that Section 4(iii) of the Development Agreement is amended to provide that the four tenths percent (.4%) of Adjusted Net Gaming Win will be payable from RCC to the City commencing upon the opening of the Casino Complex and will be payable for a period of seven years thereafter.

3 Except as expressly set forth above, the text of the Development Agreement shall remain unchanged and in full force and effect and the Parties hereby ratify and confirm their obligations thereunder.

IN WITNESS WHEREOF, this Addendum is entered into on the date first set forth above.

William Gluba date
Mayor, City of Davenport

Jackie Holocek date
Deputy City Clerk, City of Davenport

Dan Kehl date
Scott County Casino/Rhythm City Casino, LLC

AMENDMENT TO
JOINT DEVELOPMENT AGREEMENT

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WHEREAS, the parties previously entered into a Joint Development Agreement dated December 2, 2013 (the "Development Agreement");

WHEREAS, RCC has a purchase agreement to acquire approximately forty (40) acres of real estate at the southwest corner of Interstates 74 and 80, upon which RCC intends to develop the Casino Complex (the "Casino Real Estate" and together with the real estate related to the Road Extension, the "Real Estate"); and,

WHEREAS, the parties desire to amend the Development Agreement to provide for the construction of the extension of Elmore Avenue from its current end point, past the Casino Real Estate and continuing it to Jersey Ridge Road and related improvements, including but not limited to sewers and other storm water management, utilities, signaling and signage (the "Road Extension").

NOW, THEREFORE, in consideration of the obligations expressed herein which the parties acknowledge are adequate, the parties agree as follows:

1. The Parties agree that the following new section be added to the Development Agreement:

"5.5. Extension of Elmore Avenue.

(a) Acquisition, Design and Construction of Elmore Extension. Subject to the conditions set forth in this Agreement, RCC agrees to design and construct the Road Extension. The Road Extension shall be designed and constructed in substantial compliance with the City's engineering standards. Subject to force majeure, RCC will commence construction of the Road Extension no later than October 31, 2014.

(b). City's Acquisition Obligations. Upon substantial completion of the Road Extension, RCC shall deliver to the City a certified statement detailing the costs incurred by RCC in the design, development and construction of the Road Extension and the grading and utility work related to the Real Estate (the "Development Costs"). The City agrees, that within ____ days of its receipt of the certified Development Costs from RCC, but not earlier than July 1, 2015, it will acquire the Road Extension from RCC for the amount of the certified Development Costs. The certified Development Costs shall include, but not be limited to, costs relating to the following:

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Redraft #4 by City Administrator with two minor edits. The removal of the development cost differential language and separate definition of "Casino Real Estate" and "Real Estate" related to the road extension remains from Redraft #3.

Malin, Craig

From: Malin, Craig
Sent: Tuesday, June 17, 2014 7:45 AM
To: 'Judge, Joe'; Warner, Tom
Cc: Beason, Curtis; KEN BONNET (Ken.Bonnet@RiversideCasinoAndResort.com); Dan Kehl (dan.kehl@riversidecasinoandresort.com)
Attachments: Amendment to Joint Dev Agmt 061614 v2.1.docx

Thanks Joe

Two minor edits are attached.

#1 - The blank for notice in advance of payment is filled in at 90 days. As a practical matter, we expect to include the amount in our bond sale early next year and will ask for an estimate of final costs late this year / early next year for our bond sale.

#2 - I swapped "Scott County Casino" for "Rhythm City Casino" in the signature block.

I'll be adding this to tomorrow's Finance Committee agenda.

Craig

From: Judge, Joe [mailto:JJudge@L-WLAW.com]
Sent: Monday, June 16, 2014 6:00 PM
To: Malin, Craig; Warner, Tom
Cc: Beason, Curtis; KEN BONNET (Ken.Bonnet@RiversideCasinoAndResort.com); Dan Kehl (dan.kehl@riversidecasinoandresort.com)
Subject: Development Agreement

Craig and Tom,

Attached is a revised Development Agreement reflecting our conversation from earlier today (clean and redline). I wanted to be clear that the necessary grading and utility work on the casino site is to be included in the Development Costs that are to be reimbursed upon transfer of the road.

Our clients have not reviewed this so it remains subject to their comments.

Thanks,
Joe

JOSEPH C. JUDGE
Tel: 563.333.6660
Fax: 563.324.1616
Email: jjudge@L-WLaw.com

LANE & WATERMAN LLP
Established 1854

220 North Main Street, Suite 600
Davenport, Iowa 52801-1987
Tel: 563.324.3246
www.L-WLaw.com

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E-mail from City Administrator to Finance Director and Corporation Counsel requesting review and advising of any concerns on Redraft #4.

Finance Director replies "no issues here" and Corporation Counsel replies "same".

Malin, Craig

From: Warner, Tom
Sent: Tuesday, June 17, 2014 1:03 PM
To: Wright, Brandon
Cc: Malin, Craig
Subject: Re: Elmore Extension Greensheet and Agreement

Same.

Sent from my iPhone

On Jun 17, 2014, at 1:00 PM, "Wright, Brandon" <bwright@ci.davenport.ia.us> wrote:

No issues here.

Brandon Wright
Finance Director
City of Davenport
Phone: (563) 326-7750
Fax: (563) 888-2079
Email: bwright@ci.davenport.ia.us

From: Malin, Craig
Sent: Tuesday, June 17, 2014 12:50 PM
To: Warner, Tom; Wright, Brandon
Cc: Malin, Craig
Subject: Elmore Extension Greensheet and Agreement

Tom and Brandon:

Please advise if you have any concerns regarding this version, before it goes on the agenda.

Thanks,

Craig

Motion authorizing Mayor to sign amendment to joint development agreement (Redraft #4) to extend Elmore.

The motion is reviewed at the June 18 Finance Committee Meeting and voted on 10 – 0 at the June 25 City Council Meeting.

Consistent with the final draft submitted for review, the agreement has no language regarding payment for any differential development costs, and “Casino Real Estate” and “Real Estate” related to the Road Extension are separately defined.

City of Davenport

Committee: Finance
Department: Finance
Contact Info: Craig Malin – 326-6139
Ward: All

Action / Date
FC 06/18/14

Subject:

MOTION authorizing the Mayor to sign amendment to joint development agreement with Scott County Casino, LLC to establish Scott County Casino, LLC is responsible for construction of the extension of Elmore Avenue.

Recommendation:

Adopt the motion.

Background:

At a June 2 Council Worksession, options for extending Elmore Avenue were reviewed. An option to enter into a development agreement with Scott County Casino to build the road was favored, and the City Council approved a motion to negotiate a development agreement to extend Elmore Avenue on June 11.

The attached amendment to the joint development agreement with Scott County Casino establishes responsibility for extending the road to Scott County Casino.

The road extension will be financed and built by Scott County Casino. It will meet design and construction standards approved by the City. Upon completion and final inspection, the City will purchase the road, pursuant to certified costs including administration and overhead fees not to exceed 5% of certified costs, through issuance of bonds.

Scott County Casino agrees to move the 0.4% "casino improvement district" funds referenced in the joint development agreement forward to commence in the first year of land-based casino operation and run for seven years thereafter.

The City will create a tax increment finance district in the I-80/I-74 urban renewal area to ensure the urban renewal area pays the full cost of the Elmore extension. Developers of retail properties within the I-80/I-74 urban renewal area will provide aggregate information regarding sales tax revenue for all new projects within the I-80/I-74 urban renewal district until bonds issued for purchase of the road are retired.

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Consistent with the June 2, 2014 policy parameters, Scott County Casino is currently constructing a road to support 2,000 jobs, \$250 million in private investment and \$7.4 billion in economic impact.

Scott County Casino has undertaken all construction risk, and has not yet billed the City for a dollar of construction costs.

Malin, Craig

From: Warner, Tom
Sent: Tuesday, June 17, 2014 1:03 PM
To: Wright, Brandon
Cc: Malin, Craig
Subject: Re: Elmore Extension Greensheet and Agreement
Same.

Sent from my iPhone

On Jun 17, 2014, at 1:00 PM, "Wright, Brandon" <bwright@ci.davenport.ia.us> wrote:

No issues here

Brandon Wright
Finance Director
City of Davenport
Phone: (563) 326-7750
Fax: (563) 888-2079
Email: bwright@ci.davenport.ia.us

From: Malin, Craig
Sent: Tuesday, June 17, 2014 12:50 PM
To: Warner, Tom; Wright, Brandon
Cc: Malin, Craig
Subject: Elmore Extension Greensheet and Agreement

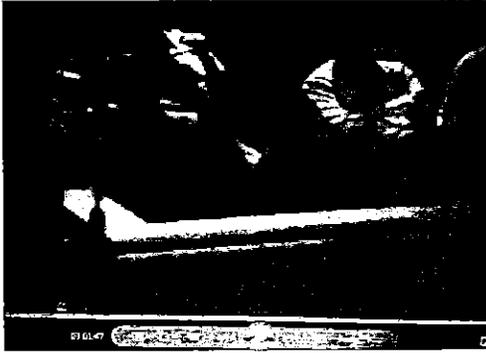
Tom and Brandon:

Please advise if you have any concerns regarding this version, before it goes on the agenda.

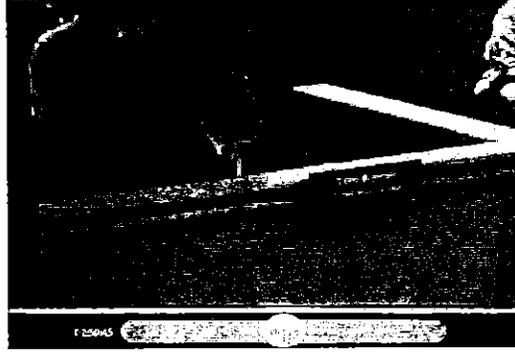
Thanks,

Craig

June 25, 2014 Davenport City Council Meeting Screenshots



Finance Director Brandon Wright



Corporation Counsel Tom Warner

From: Malin, Craig
Sent time: 07/02/2014 03:07:48 PM
To: Barb Ickes <Blickes@gctimes.com>
Subject: Re: River 80

Out of City Hall at the moment. There should be a "greensheet" for the agenda item on our website.

Two quick notes

It's an extension of the existing URA in the 53rd / Elmore / 74 area. One requirement of the State's Reinvestment District program is the area must be in an Urban Renewal Area.

The only reason we have for establishing the TIF is to establish a backstop for commercial property taxes from that area to pay for the extension of Elmore Drive, in the event casino revenue and new City sales tax revenue from that area are insufficient in any year. That is a highly unlikely scenario, but setting up a TIF at that location essentially guarantees no property tax payers anywhere else in Davenport could be on the hook for the cost to extend Elmore.

Sent from my iPhone

On Jul 2, 2014, at 2:49 PM, "Barb Ickes" <Blickes@gctimes.com> wrote:

Hi, Craig.

I see a move toward establishing a TIF at 74/53rd. Is there something more specific available for tonight's meeting?

Thank you!

Barb

Barb Ickes
Newsroom
Quad-City Times
563-383-2316
gctimes.com

<image001.png> <image002.png>

From: Malin, Craig
Sent time: 01/30/2015 02:16:46 PM
To: bwellner@qctimes.com
Cc: Wright, Brandon
Subject: Elmore Then & Now
Attachments: image001.png Elmore Then & Now.pptx

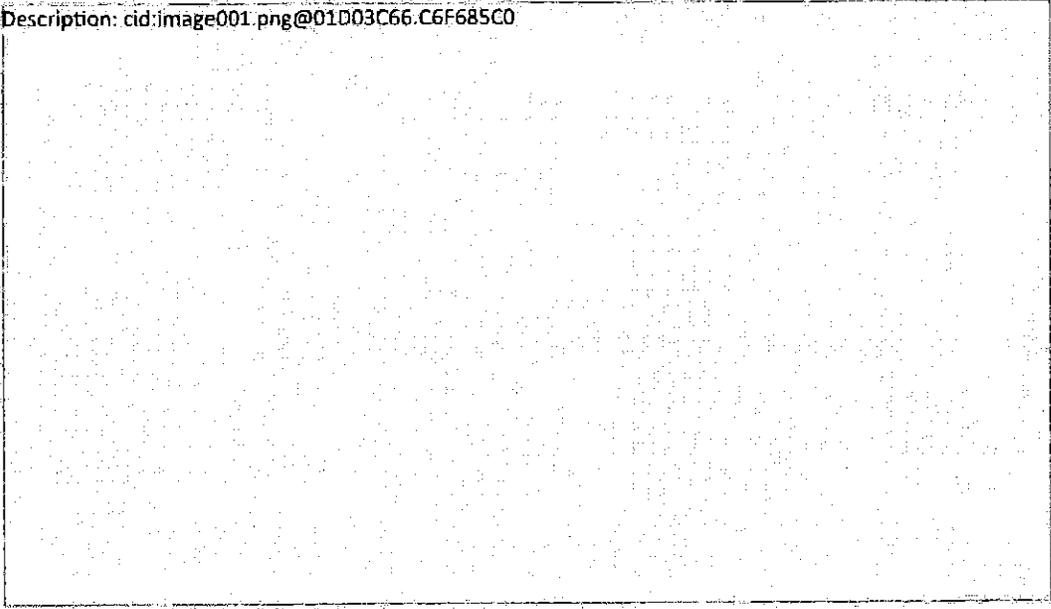
Brian:

Attached is a ppt slide that summarizes how paying for a \$13 million road over 15 years (\$1.25 million a year in rough math) is an exercise in building taxbase, jobs and local government revenue that can be applied to expenses incurred elsewhere in the city. The attached slide summarizes a geography that does not include I-80 and I-74 frontage, nor includes the optimally sited casino in the regional marketplace. In sum, it's a conservative example.

Below, Finance Director Wright's conservative modeling of revenue to retire bonds issued to pay for the Elmore extension includes only the casino, 200,000 square feet of retail space and one additional hotel. You can see that there is ample revenue to retire bonds issued for the extension of Elmore Drive in this scenario (\$2.9M left over). This conservative scenario presumes only 75 of the 250 acres served by the road is developed.

As I described, the TIF was created as a backstop in case incremental City revenue was somehow insufficient to cover an annual bond payment and to be certain taxpayers in the TIF district served by the road are the ones who pay for the road.

Description: cid:image001.png@01D03C66.C6F685C0



Craig Malin
City Administrator
(563)326-6139

With rare exception per Iowa Code, e-mails to and from this address are public documents. You should expect e-mails to or from this address to be posted to Davenporttoday.com within seven days.

image001.png

Elmore Extension Financial Feasibility		
Road Extension Debt	13,000,000	
Annual Cost		
Debt Service Payment (5%/GO)	1,250,000	
Annual Revenues		
Revenue Sources (Annual)		
0.4% Casino District (7 years)	240,000	
New Sales Tax	230,800	200,000 square feet of retail
New Hotel/Motel Tax	255,500	200 room hotel
Casino Dev Fee (Additional)	500,000	
Tax Increment (\$1.7M casino)	3,000,000	Casino, Hotel, Shopping
	<u>4,226,300</u>	
Remaining/(Shortfall)	<u>2,976,300</u>	

From: Malin, Craig
Sent time: 09/16/2014 11:39:43 AM
To: Barb Ickes <Bickes@qclimes.com>
Subject: Call

Barb

Feel free to email me if you have a question or if I can help in any way.

Craig

Sent from my iPhone

From: Malin, Craig
Sent time: 08/27/2014 01:27:57 PM
To: Barb Ickes <Blickes@qctimes.com>
Subject: RE: Any luck

Barb:

I see Mike has replied by e-mail.

I got your voicemail but don't have a whole lot / anything to share on the two topics.

Craig

-----Original Message-----

From: Barb Ickes [mailto:Blickes@qctimes.com]
Sent: Wednesday, August 27, 2014 10:45 AM
To: Malin, Craig
Subject: Any luck

Finding someone who can speak to this? Thanks.

-----Original Message-----

From: Malin, Craig [mailto:clm@cl.davenport.ia.us]
Sent: Tuesday, August 26, 2014 6:12 PM
To: Barb Ickes
Subject: Re: Do you happen to know whether

I'll see if we can get you an answer tomorrow.

Sent from my iPhone

On Aug 26, 2014, at 5:41 PM, "Barb Ickes" <Blickes@qctimes.com<mailto:Blickes@qctimes.com>> wrote:

Maybe theres someone else who can help? Im glad to hear hes busy and not ill, I was beginning to worry.

Im interested in talking to someone about the apparent sewer problems near the bandshell at LeClaire Park. Id heard about a possible concrete obstruction that may have occurred when the cement was being poured for the Ferris wheel base. But last I heard, PW hadnt been able to get a good look underground. I went down during the rain this morning, and the water really came up. We have quite a photo of Lake LeClaire.

Someone in sewers, maybe?

Thanks again.

From: Malin, Craig [mailto:ctm@ci.davenport,ia.us]

Sent: Tuesday, August 26, 2014 5:38 PM

To: Barb Ickes

Subject: RE: Do you happen to know whether

Barb:

I hadnt heard of that.

I know hes been quite busy.

Craig

From: Barb Ickes [mailto:BIckes@qctimes.com]

Sent: Tuesday, August 26, 2014 5:23 PM

To: Malin, Craig

Subject: Do you happen to know whether

Mike Clarke is on the growing list of Davenport officials who are ignoring my calls and emails? Its not like him.

Barb Ickes

Newsroom

Quad-City Times

563-383-2316

From: Malin, Craig
Sent time: 08/11/2014 06:05:22 PM
To: Barb Ickes <Blickes@qclimes.com>
Cc: Berger, Bruce; Dan Bowerman <DBowerman@qclimes.com>
Subject: Re: "Belvedere"

Barb

There are conceptual images of the park improvements embedded within the Hargreaves ppt from the final presentation on the City's website (home page, left hand side). These conceptual images include the belvedere.

There is no specific design yet, and no preliminary design yet for the belvedere. We're just not at that stage of plan development at this time.

When asked at a presentation of the concept plans as to the cost of the belvedere, Mary Margaret Jones of Hargreaves said succinctly "it's dirt". The point being, it can be quite inexpensive to build. It can get more expensive, pending final design and materials, but it will undoubtedly be one of the least expensive features of the new park.

My estimate when asked at the Council meeting was the belvedere will cost somewhere between \$200K and certainly not more than \$1 million.

The conceptual estimates for the 9.5 acres of new park range up to \$35 million, so that puts the belvedere component in some context.

I did some rough city manager math in my head at the meeting, and assured everyone in the room that the 25% remaining property taxes from the Dock project (if constructed) would absolutely pay for the belvedere. I can give you exact figures at worst case cost estimates tomorrow when I'm back in the office if you like.

Hope the above helps.

Craig

Sent from my iPad

On Aug 11, 2014, at 5:42 PM, "Barb Ickes" <Blickes@qclimes.com> wrote:

Hi, Craig.

I've been asking since Thursday for a rendering of the "belvedere" for the Dock redevelopment, along with the platform's dimensions. I haven't received a reply, except for Steve Ahrens telling me he had forwarded to Bruce Berger.

Can you help?

Given your statement that the city would build the belvedere and assurances it will cost less than \$1 million, you must surely know the dimensions. What are they, please?

Thank you.

Barb

Barb Ickes
Newsroom
Quad-City Times
563-383-2316
qclimes.com

<image001.jpg> <image002.png>
<image003.jpg>

From: Malin, Craig
Sent time: 06/10/2015 03:06:22 PM
To: Barb Ickes <BIckes@qctimes.com>
Cc: Hock, Scott
Subject: RE: Spray park probs

Barb - I don't know.

Scott = Please reply as you are able, and copy me.

Thanks,

Craig

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From: Barb Ickes [mailto:BIckes@qctimes.com]
Sent: Wednesday, June 10, 2015 2:56 PM
To: Malin, Craig
Subject: Spray park probs

I see the main part of the spray park isn't putting out any water. Do you know what the problem is? Mike referred me to Parks, but I didn't have any luck getting through to Scott.

Thanks.

BI

Barb Ickes
Newsroom
Quad-City Times
563-383-2316
qctimes.com



From: Malin, Craig
Sent time: 01/28/2015 08:00:10 AM
To: Barb Ickes (Bickes@qctimes.com) <Bickes@qctimes.com>
Subject: FW: Hi, Craig

Barb:

Please disregard my prior e-mail. I found the original text from August.

Take care,

Craig

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From: Malin, Craig
Sent: Wednesday, January 28, 2015 7:50 AM
To: 'Barb Ickes'
Subject: RE: Hi, Craig

Barb:

Do you have notes on the sentence I said before and / or after the "If the Dock is built..." statement?

Craig

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From: Barb Ickes [mailto:Bickes@qctimes.com]
Sent: Friday, January 23, 2015 11:46 AM
To: Malin, Craig
Subject: RE: Hi, Craig

Yes. Very exciting project. And, with the new Y children's center on the other side of us, things are looking up. I hear they're considering an implosion as demo method for the old hotel. I'm happy to save you a seat.

From: Malin, Craig [mailto:ctm@ci.davenport.ia.us]
Sent: Friday, January 23, 2015 11:42 AM
To: Barb Ickes
Subject: RE: Hi, Craig

Setting the public hearing for the RiverWatch place project is on the current Council agenda, so that's timely.

A 60% TIF for 15 years, for a \$25 million project. Big news (and right across the street from the Times) ...

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From: Barb Ickes [mailto:BIckes@gctimes.com]
Sent: Friday, January 23, 2015 11:39 AM
To: Malin, Craig
Subject: RE: Hi, Craig

Thanks for offering, but I don't have a few days. I figured you might be able to conjure another item or two off the top. Thanks, anyway.
BI

From: Malin, Craig [mailto:ctm@ci.davenport.ia.us]
Sent: Friday, January 23, 2015 11:36 AM
To: Barb Ickes
Subject: RE: Hi, Craig

Barb:

If you give me a few days, I can have Finance and CPED develop a list. Will that work?

Craig Malin
City Administrator
(563)326-6139

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From: Barb Ickes [mailto:BIckes@gctimes.com]
Sent: Friday, January 23, 2015 11:10 AM
To: Malin, Craig
Subject: Hi, Craig

I'm looking at recent public/private initiatives that have enjoyed taxpayer support. First to mind are the Ferris wheel and other improvements at MWP. I believe the city is paying back \$1 million in loans on that?
Then there's the Elmore expansion in today's paper. And there's the obligation to build a "belvedere" at the riverfront. Is that to be paid for with TIF proceeds related to the Dock?
Any other big taxpayer investments you can think of?
Thanks!
Barb

Barb Ickes
Newsroom
Quad-City Times
563-383-2316
gctimes.com



From: Malin, Craig
Sent time: 08/19/2014 12:39:05 PM
To: Barb Ickes <BIckes@qctimes.com>
Subject: RE: Belvedere Etc.
Attachments: image001.jpg image002.gif image003.jpg

Barb:

If the redevelopment of the Dock pays \$1.2 million or more in City property taxes and a public park feature costs less than that, we are money ahead. That's math. Math is true. You could add the \$100,000 a year in Dock lease revenue to the equation and the math gets even better, but I'd prefer to under-promise and over-deliver.

The larger issue, lost in the mischaracterization of the belvedere as a floodwall, is how private-public partnerships in public spaces can help cities. Check out pages 6 – 14 of http://www.cityofdavenportiowa.com/eqov/documents/1406305648_52206.pdf

Craig:

From: Barb Ickes [mailto:BIckes@qctimes.com]
Sent: Tuesday, August 19, 2014 12:24 PM
To: Malin, Craig
Subject: RE: Belvedere Etc.

"If the Dock is built, the city will not pay a penny for the belvedere." Your words. "...the city will not pay a penny."
To help you track: If the money for the belvedere is not the city's, whose is it?

This is not a discussion about the usefulness of TIFs. It's about clarifying your representation of city money as somehow not coming from the city.

You said no city money was spent on the Ferris wheel. You said "...the city will not pay a penny for the belvedere." It would seem that neither statement is true.

Barb:

I may not be tracking your line of questioning. You asked how public money is no longer public when spent on two things ... both of which are public. Public money, spent on public facilities or services, is public.

When asked how the belvedere would be paid for, I noted the redevelopment of the Dock would provide City property taxes more than sufficient to provide this public park feature. That is basic math, with the "more than sufficient" statement highlighting other property taxpayers in Davenport won't be picking up the tab for the belvedere. The Ferris Wheel is slightly more complicated in that its funding is tied to a lease rather than property taxes, but the same principle of a business paying for a public amenity applies.

Where public resources are created and directed is a topic of fair debate which elected bodies resolve. As I recall, both the Quad City Times building and Mississippi Plaza which houses Lee Enterprises benefited from TIF funding. I'd suggest the same principle of those businesses paying "more than sufficient" property taxes such that other taxpayers in Davenport are not harmed by their existence applies.

The difference between expanding and improving LeClaire Park or our ballpark as public places versus creating private buildings is obvious, but the principle of not putting residential taxpayers on the hook for a redevelopment is the same.

Craig:

From: Barb Ickes [mailto:BIckes@qctimes.com]
Sent: Tuesday, August 19, 2014 11:18 AM
To: Malin, Craig
Subject: Belvedere Etc.

Hi, Craig.

I read your response to our edit on Doing It In Davenport.

I noticed you insist the belvedere uses no taxes. You said, "If the Dock is built, the city will not pay a penny for the belvedere."

You then explain the redevelopment pays \$1.2 million, which is "more than sufficient."

Craig, isn't that \$1.2 million city money? Isn't it a property tax? You seem to be selling the idea that tax money that is earmarked is somehow no longer tax money.

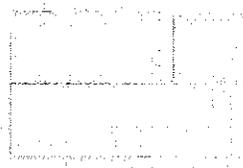
You did the same thing, regarding the Ferris wheel. You portrayed the lease money from MWP as somehow not being public

money. Given the park is publicly owned, the lease money is, in fact, public money.
Would you please explain how the use of this public tax and lease money is no longer public when you spend it on belvederes
and Ferris wheels?

Thank you.

Barb

Barb Ickes
Newsroom
Quad-City Times
563-383-2316
qctimes.com



From: Malin, Craig
Sent time: 12/15/2014 04:44:30 PM
To: Barb Ickes <BIckes@qctimes.com>
Cc: Todd Raufeisen (todd@trilanddevelopment.com) <todd@trilanddevelopment.com>
Subject: RE: Dock question

Conceptually, prior to signing the resolution on the amendment.

Which could be, technically, after Council action.

From: Barb Ickes [mailto:BIckes@qctimes.com]
Sent: Monday, December 15, 2014 4:34 PM
To: Malin, Craig
Cc: Todd Raufeisen (todd@trilanddevelopment.com)
Subject: RE: Dock question

Thank you.

To be clear: The letter of credit would come from Todd as an assurance, prior to Council action?

From: Malin, Craig [mailto:ctm@ci.davenport.ia.us]
Sent: Monday, December 15, 2014 4:30 PM
To: Barb Ickes
Cc: Todd Raufeisen (todd@trilanddevelopment.com)
Subject: RE: Dock question

Barb:

The Economic Development Agreement includes the provision "Reasonable adjustments shall be made to these dates as required due to later than anticipated commencement of this agreement, at the request of the Company" so, no, there will be no penalties.

Davenport's an investment friendly place.

I anticipate providing a 60 day notice to remedy the delayed demolition, with the Council considering an agreement amendment in January. I've already discussed with Mr. Raufeisen that I'll be recommending a letter of credit to guarantee the demolition of the current building with any extension agreement, and he is conceptually fine with that.

Craig Malin
City Administrator
(563)326-6139

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From: Barb Ickes [mailto:BIckes@qctimes.com]
Sent: Monday, December 15, 2014 4:22 PM
To: Malin, Craig
Subject: Dock question

Hi, Craig.

I'm following your story about the Dock demo deadline. Is there any penalty for Mr. Raufeisen for missing the deadline as outlined in the agreement?

Thanks.

From: Malin, Craig
Sent time: 12/18/2014 05:05:34 PM
To: Barb Ickes <BIckes@qctimes.com>
Cc: Schaeffer, Donald
Subject: RE: Chief question

Barb:

I don't know that there is a "charge" anyone is leading.

Chief Schaeffer's appointment letter specifically references that his employment as a sworn police officer and Police Chief will end not later than July 31, 2015.

The letter carries my signature, and Don's.

Craig

From: Barb Ickes [mailto:BIckes@qctimes.com]
Sent: Thursday, December 18, 2014 12:50 PM
To: Malin, Craig
Subject: Chief question

Craig,

I understand an effort is underway to keep Chief Schaeffer on past his 65th birthday. He explained about state law and mandatory retirement, but I understand someone(s) is/are looking into possible code exemptions. Do you know who is leading the charge?

Thanks.

Barb

Barb Ickes
Newsroom
Quad-City Times
563-383-2316
qctimes.com



From: Malin, Craig
Sent time: 08/22/2014 03:48:33 PM
To: Barb Ickes <BIckes@qctimes.com>
Subject: RE: Quick question (I think)
Attachments: image001.jpg image002.gif image003.jpg

Perish the thought of leaving our grand old building.

Plus, whatever goes on that block should be substantially taller.

From: Barb Ickes [mailto:BIckes@qctimes.com]
Sent: Friday, August 22, 2014 3:47 PM
To: Malin, Craig
Subject: RE: Quick question (I think)

Thanks.

I'd never been on the second floor of that building until today. New City Hall, maybe? If I was you, I'd start calling dibs on Doucetté's office.

From: Malin, Craig [mailto:ctm@ci.davenport.ia.us]
Sent: Friday, August 22, 2014 3:44 PM
To: Barb Ickes
Subject: RE: Quick question (I think)

Citibus will still use the Transit Center as a transit hub. We'll have Citibus admin and fleet maintenance at PW, but the buses will still be operating at the Transit Center.

That is a mighty fine block for redevelopment, though, at some appropriate point in the future.

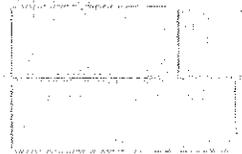
From: Barb Ickes [mailto:BIckes@qctimes.com]
Sent: Friday, August 22, 2014 3:06 PM
To: Malin, Craig
Subject: Quick question (I think)

I'm writing more about the EICC/RSL plans for City Square and the Kahl. I'm writing about the Transit Center's future. When the city moves its Citibus fleet to PW, will it still have a use for the Transit Center? In other words, will the first floor of that building also become available in the near future?

Thanks!

Barb

Barb Ickes
Newsroom
Quad-City Times
563-383-2316
qctimes.com



From: Malin, Craig
Sent time: 09/22/2014 03:33:44 PM
To: Nahra, Jennifer; Allemeier, Kurt
Subject: FW: Concealed carry
Attachments: image001.jpg image002.gif image003.jpg

fyi

From: Malin, Craig
Sent: Monday, September 22, 2014 3:32 PM
To: 'Barb Ickes'
Subject: RE: Concealed carry

Barb:

Department Heads discussed whether employees or vendors should carry concealed weapons. The consensus was we should not.

Does the Quad City Times allow weapons carrying journalists? How about the ad sales staff? What is the practice of other local businesses, or local governments? (Just asking, as I'm not quite sure why the Times is focusing solely on one employee group).

Craig

PS - Mr. Warner does not work under my supervision.

From: Barb Ickes [mailto:BIckes@qctimes.com]
Sent: Monday, September 22, 2014 3:01 PM
To: Malin, Craig
Subject: RE: Concealed carry

Thanks for the reply.

It often is helpful to restate a question when seeking clarification.

I do understand your authority is less than the Constitution and state law and, as you stated last week, "A City policy can't take away a legal right." That is why I am asking: Why are employees and vendors still banned?

Unfortunately, Mr. Warner has not returned a phone call in several weeks.

From: Malin, Craig [mailto:ctm@ci.davenport,ia.us]
Sent: Monday, September 22, 2014 1:24 PM
To: Barb Ickes
Cc: Jan Touney; Mark Ridolfi; Warner, Tom; Nahra, Jennifer; Malin, Craig
Subject: RE: Concealed carry

Barb:

Did you miss the point of my e-mail wherein I summarized how a city administrator's authority is less than that of the U.S. Constitution, Iowa Code and the Mayor and City Council? If that still confuses folks at the Times or runs counter to some narrative the Times seeks to editorially promote, that seems beyond my ability to correct.

You asked me questions by e-mail that I responded to. When you tried to restate what I wrote, I noted your restatement was not what I wrote. Regarding timing, you asked me questions on a Tuesday afternoon. Though I was out of the office, I promptly and politely replied. On Thursday morning, the issue you raised regarding whether elected officials are covered by the policy was vetted at our Department Head meeting. Consistent with Corporation Counsel Tom Warner's opinion, the policy was revised to pertain to employees or contractors / vendors hired by the City, as that is within the appropriate scope of my position's authority on this topic.

As I noted in my e-mail this morning, this leaves ample room for the City Council to act at the policy level, if they so choose.

If you have further legal questions, I'll suggest you discuss them with Corporation Counsel Warner.

Craig

From: Barb Ickes [mailto:BIckes@qctimes.com]
Sent: Monday, September 22, 2014 12:11 PM
To: Malin, Craig
Subject: Concealed carry

Thank you for belatedly answering my question, regarding city policy on the concealed-carry law and your ability and/or willingness to enforce it. It is unfortunate for our shared customers (readers/citizens) that you could not/would not simply disclose nearly a week ago that the policy is being amended.
My questions now become:

The new policy removes city officials from those not permitted to bring weapons into city-owned buildings. It retains the ban for city workers and any outside contractors doing business with the city. Even so, you wrote, "It retains all the rights our citizens enjoy." Are employees and contractors not regarded "citizens?"

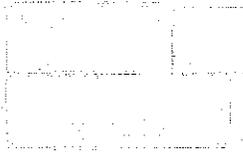
Also, the concealed-carry law was passed in 2010 and became effective Jan. 1, 2011. Why did you wait almost four years to amend the policy? I understand an alderman from the past council also carried a weapon to city hall. Did you ever enforce the policy?

Why the amendment now?

Thank you.

Barb

Barb Ickes
Newsroom
Quad-City Times
563-383-2316
qctimes.com



From: Malin, Craig
Sent time: 05/08/2015 02:01:49 PM
To: Barb Ickes <BIckes@qctimes.com>; Wright, Brandon; Clarke, Michael
Cc: Tony Baxter (tbaxter@baxterconstructionco.com) <tbaxter@baxterconstructionco.com>; 'Beason, Curtis' (CBeason@L-WLAW.com) <CBeason@L-WLAW.com>; Dan Bowerman <DBowerman@qctimes.com>
Subject: RE: Needing clarification, please
Attachments: Elmore Ave Bid Summary.pdf Elmore Extension 6-2-2014 c.pdf

Barb:

The bid tab PW staff submitted to IDOT on April 2 is attached.

Regarding your follow up questions, you are incorrect in a number of ways. \$5 million is a speculative number, particularly when not a single dollar is guaranteed. Regarding low, high or in between bids, my earlier reply addressed that.

I've attached a presentation from June 2, 2014. You'll note multiple funding possibilities were addressed in both practical and policy terms. The Council decided to go with the approach that the casino would build the road, and with good reason. You'll note from QC Times articles in the same timeframe that Mr. Kehl and his CFO Mr. Bonnet were stating that ground would be broken on the casino in September of 2014, with an opening this year. That timeline would have required a private construction process. As importantly (from the City's perspective) the Council had no interest in constructing a road in hope - but with no guarantee - that a casino would follow. From a practical perspective, the City removed any barriers to expedited construction and removed any potential for building a multi-million dollar road that had no development at the end of it.

Keep in mind that, RISE grant or no, the City would have had to front the money in a conventional approach, and there was no guarantee a casino would follow. The approach the Council took - to require Scott County Casino to initiate construction of the road - was and remains significantly less risky.

Now that construction is about to get underway on the casino itself, and Scott County Casino is on the hook for the first phase of the road, the level of risk is greatly reduced and we'll be applying for a RISE grant for the north phase of the road. We haven't yet spent anything of significance to open up \$250 million of new tax base, we have multiple commercial developers lining up to invest in the area and we are poised to get a RISE grant and Reinvestment District designation. While it would have been nice if Scott County Casino's 2014 timetable occurred, all the rest seem like wins for the community.

Craig

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From: Barb Ickes [mailto:BIckes@qctimes.com]
Sent: Friday, May 08, 2015 12:07 PM
To: Malin, Craig; Wright, Brandon; Clarke, Michael
Cc: Dan Bowerman; Tony Baxter (tbaxter@baxterconstructionco.com); 'Beason, Curtis' (CBeason@L-WLAW.com)
Subject: RE: Needing clarification, please

Thank you.

We have a slightly different understanding of the eligibility issue. DOT's Sam Shea indicated to us that RISE funds go only to projects in which the lowest qualified bidder was selected. The public v private issue also is problematic.

My followup questions then become:

Wasn't it you, Craig, who advised the council to permit the project to be handled privately in order to expedite it? Were you unaware at that time that such a move would disqualify the city from millions in grants?

It appears the city lost out on about \$5 million (pending a second round grant app) because of the mayor's intervention in the bidding process and because you advised the project be done privately. If this is incorrect, please explain.

And I look forward to receiving the bid tabulation. Thank you.

Barb

From: Malin, Craig [mailto:ctm@ci.davenport.ia.us]
Sent: Friday, May 08, 2015 11:52 AM
To: Barb Ickes; Wright, Brandon; Clarke, Michael
Cc: Dan Bowerman; Tony Baxter (tbaxter@baxterconstructionco.com); 'Beason, Curtis' (CBeason@L-WLAW.com)
Subject: RE: Needing clarification, please

Barb:

My understanding is City PW staff submitted a bid tabulation (not the bids, a bid tabulation) to IDOT. We can provide that document, but I believe you would have to request the bids from Mr. Baxter. They are not our documents.

My further understanding is IDOT's feedback on the prior RISE grant application was focused on the bids not being let by the City, rather than any high, low or in between issues.

The City will be adjusting to that feedback by separating the project and undertaking the bidding of the phase north of Veterans Memorial Parkway ourselves.

Hope that helps.

Craig

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From: Barb Ickes [mailto:BIckes@gctimes.com]
Sent: Friday, May 08, 2015 10:16 AM
To: Wright, Brandon; Clarke, Michael; Malin, Craig
Cc: Dan Bowerman
Subject: Needing clarification, please

On the matter of the Elmore Ave extension and RISE funding:

I'm told the general contractor, Baxter, did not accept the low bid for the road build. I also was told Mayor Gluba urged Baxter and Dan Kehl to accept a bid from a union contractor; not a non-union contractor. This, I'm told, is the reason the low bid was not accepted. I was interested in seeing the bids.

But Brandon told me this week the city does not have the bids. He said he does not believe the city ever was privy to them. He further suggested I contact Mike Clarke. I did so, but I got no response.

In a conversation with a Davenport alderman, I was told the city submitted an application to RISE and was notified "within an hour and 15 minutes" that the application did not qualify, because the low bid was not accepted. If DOT/RISE officials were aware the low bid was not accepted, it would follow they learned as much from the city's application. Did the application contain the bids?

I would appreciate a clarification on this.

Thank you.

Barb

Barb Ickes
Newsroom
Quad-City Times
563-383-2316
gctimes.com



Elmore Avenue Bid Summary

Phase 1

Scope	Contractor	Phase 1	Respread Top Soil	Erosion Control	Density Testing	Staking	Native Backfill	Savings Offered	Addendum 3	Sub Base	Sub Drain	Revised Total	Notes
Paving	Streb	\$2,122,000			included	included			-\$246,000	-\$236,448	-\$134,180	\$1,505,372	Withdrawn Bid
	Hawkeye Valley	\$2,374,948			included	included		-\$44,000	-\$299,234	-\$503,834	< included	\$1,327,880	
	Valley	\$2,545,000			included	included			-\$611,375	-\$289,665	-\$104,660	\$1,539,300	Unable to meet schedule
	McCarthy	\$2,621,385			included	included		-\$32,636	-\$846,085	included	included	\$1,742,664	
Site Utilities	Maxwell Valley	\$893,145			\$3,000	included			-\$4,492		\$116,508	\$1,008,161	
	McCarthy	\$1,113,500			included	included		-\$40,000	-\$128,760		\$104,660	\$1,049,400	Unable to meet schedule
Grading	CJ Moyna Valley	\$2,489,755	-\$256,000	\$92,324	\$3,500	included		-\$96,501	-\$42,226	\$225,041		\$2,415,893	Unable to meet schedule
	Valley	\$2,802,000	-\$452,400	included	included	included			-\$47,365	\$283,665		\$2,585,900	
	McCarthy	\$4,704,408	-\$506,508	included	included	included		-\$102,543	included	included		\$4,095,357	
	McAninch	\$2,998,965										\$2,998,965	

Phase 2

Scope	Contractor	Phase 2	Respread Top Soil	Erosion Control	Density Testing	Staking	Native Backfill	Savings Offered	Addendum 3	Sub Base	Sub Drain	Revised Total	Notes
Paving	Streb	\$1,313,000			included	included						\$1,313,000	Withdrawn Bid
	Hawkeye Valley	\$1,346,223			included	included						\$1,346,223	
	Valley	\$1,468,600			included	included						\$1,468,600	Unable to meet schedule
	McCarthy	\$1,542,150			included	included		-\$37,586				\$1,504,564	
Site Utilities	Maxwell	\$1,227,600			included	included	-\$65,000				included	\$1,162,600	
	CJ Moyna Valley	\$1,227,600			included	included	-\$67,789				included	\$1,159,811	
	Valley	\$1,218,200			included	included	-\$107,100				included	\$1,111,100	Unable to meet schedule
	McCleary	\$1,525,500			included	included					included	\$1,525,500	
Grading	McCarthy	\$1,543,300						-\$55,388				\$1,487,912	
	CJ Moyna Valley	\$409,000		included	included			-\$14,000		included		\$395,000	Unable to meet schedule
	McCarthy	\$564,200		included	included					included		\$564,200	
	McCleary	\$793,779		included	included			-\$70,825		included		\$722,954	
Grading	McCleary	\$484,000		included	included					included		\$484,000	



Elmore Drive Extension

June 2, 2014

Elmore Drive Then & Now

1986



Base Assessed Value: \$39.2 M
Annual Tax Revenue: \$934 K
(\$375 K City)

2012



Base Assessed Value \$422.6 M
Annual Tax Revenue: \$12.6 M
(\$5.1 M City)

Expense & Revenue

- **Full Extension \$7 - \$10 Million**
Connecting current road past Vets Pkwy, to Jersey Ridge
Final design & construction strategy determines final cost
- **\$7 M / 15 Year Bonds = \$640K yr.**
- **New Casino & City Sales Tax Revenue**
 - + \$400K Casino Increment yr.
 - + \$260K Casino "0.4%" Increment yrs. 4 – 12 After Opening
 - + \$290K City Sales Tax Increment yr. (225K sq.ft. retail)



Unrealistic / Suboptimal Options

- **Incremental Extension By Multiple Developers**
 - Significantly increases timeline, jeopardizes opportunity for Davenport to have #1 casino in marketplace.
- **RDA Pays**
- **Increase the Debt Service Levy**
 - \$0.20 increase to the levy
 - \$12-13 yr. median homeowner, \$45 yr. \$250K small business
- **Cut / Delay Other City Capital Projects**
- **Casino Could Locate Elsewhere**
- **Traditional TIF Only**
 - Reduces revenue to other government entities



Goals (Council Agree?)

- #1 Road paid for by adjacent development**
 - No property tax increase**
 - No other City projects eliminated or delayed**
 - Optimize fiscal impact to schools**
- #1a Maximize Opportunity - #1 Casino In Market**
- #? Build Road Promptly – Built By Private Sector**



Casino Pays For Road

- **Casino Moves "0.4% Casino District" Payments Forward, Builds Road This Year**

Road Built To City Standards, City Issues Bonds, Buys Road Next Year

- **Bond Repayment**

Years 1-7

- **Incremental (new) Casino Revenue (estimated at \$400K)**
- **0.4% Casino District (estimated at \$260K)**
- **TIF As "Backstop"**

Years 8-15

- **Incremental (new) Casino Revenue (estimated at \$400K)**
- **Incremental Sales Tax Revenue (estimated up to \$290K)**
- **TIF As "Backstop"**



What About ?

Reinvestment District?

**Revised application submitted next round, with casino location settled.
Riverfront MOU remains with retail, hotel, entertainment developer.**

Zoning Review?

**I-80 / I-74 is within casino overlay boundaries.
Final zoning & site plan review per City ordinance.**

Construction Start & Opening

**Casino & road start late summer, early fall.
Road & casino open mid summer next year.**

DANVERPORT
GREAT City ♦ GREAT Life

If Consensus ?

Resolution Outlining Development Agreement Parameters Added to June 4 Finance Committee Agenda?

Casino Moves 0.4% "Casino District" Funds Forward

City Agrees To Eliminate "Year 12" Payment (approx \$260K)

Casino Builds Road To City Standards

All Costs Certified

City Issues Bonds When Road Complete

Bonds Repaid With Incremental Casino & New City Sales Tax

TIF As Backstop

Resolution Approving Development Agreement On June 18 Finance Committee Agenda?



DAVENPORT
GREAT City ♦ GREAT Life

Casino pays for road
Casino paga por carretera
Casino trả tiền cho đường
Casino zahlt für Straßen
Kasyno płaci za drogi

賭場支付道路

SECTION C | Economic Impact

RIVER 80 REINVESTMENT DISTRICT

Davenport's River 80 Reinvestment District includes the construction of thirteen components. If approved, all of the projects will be completed by the end of 2020, with most of the work completed by 2018. The economic impact from the \$73.8 million project is estimated at \$2.5 billion over 20 years according to C.H. Johnson Consulting, Inc. Below is a summary of state and local taxes as well as an overall financial summary of the significant economic impact of this proposed District. Though not part of the program, it is also anticipated that this transformative District will serve as the catalyst for the surrounding area as well. As such, a summary of the increase in taxes and other revenues from the surrounding area is included separately.

RIVER 80 DISTRICT	YEAR 1	20 YEAR PROJECTION
Reinvestment District Taxes Generated by Development		\$58.6 million
Total State and Local Sales and Hotel Taxes/Property Taxes	\$1.9 million	\$107 million
Property Taxes	\$1.8 million	\$39.6 million
Jobs (FTEs) Created	520	970
Projected Sales Revenues	\$28.1 million	\$1.4 billion
Total Economic Impact	\$50.0 million	\$2.5 billion

CONSTRUCTION COST	INVESTMENT
River 80 District	\$73.8 million

TOTAL ECONOMIC IMPACT (INCLUDES CONSTRUCTION)	ECONOMIC IMPACT
River 80 District	\$2.5 billion
Remaining 225 Acres	\$3.6 billion
TOTAL	\$6.1 billion



"The Dirt"

June 19, 2015

(Note: Originally Posted to davenporttoday.com)

If only we had some dirt around here. Kathy Wine was describing how the First Bridge project is to land in River Heritage Park as the Council was considering a resolution of support Wednesday night. There was the sticking point of not knowing the exact cost of the ADA accessibility component of the project. The bridge is expected to land on a mound of not yet compiled dirt that will serve as an observation point on our beautiful bend of the river. There will be a spiraling path up the mound to the bridge, so folks in wheelchairs can enjoy the new addition to Davenport.

In the "penalty box" of the Council Chambers I sat next to Corporation Counsel Tom Warner, as I have most Wednesday nights for years. I'm inclined to offer a hopefully wry observation from time to time at a volume level insufficient for others to hear, but adequate to make Tom smile or, even better, laugh. "If only we had some dirt around here" did the trick. In the midst of a drama that was spiraling to some uncertainty, I made Tom laugh.

Let's get this clear now. Fire me if there needs to be blood, but Tom Warner doesn't deserve termination. I have little doubt he believed his sign off of the fifth draft of the Elmore development agreement was furthering a policy purpose shared by the Council. He's a good and honest man, and doesn't deserve to be collateral damage for a misunderstanding. That's what city managers are for.

For my part, I believed his e-mail sign off indicated we were good to go on a draft of the agreement that removed language putting the City on the hook for grading a casino site. Moving dirt from where the road was going to where the casino would be sitting made

good sense for both the City and casino, but after pushing back against paying for "differential development costs" with redrafts of the agreement, I thought his e-mail indicated we were in the clear on this aspect of the deal.

It's a pretty good deal, and the Council was wise to undertake it at the time. Elmore Avenue is poised to deliver \$250 million in private investment, 2,000 jobs and \$7.4 billion in economic impact. Those are the numbers, and they don't change much regardless of the path of the earth moving equipment. We may literally fill potholes with asphalt, but we pragmatically fill them with taxbase, so unleashing the power of the farm field at I-80 and I-74 is an important undertaking. That the casino is undertaking all of the construction risk of the road means other projects don't have to be cut to move this one forward.

Enough of that. I used to describe my job to my dad by saying I'm responsible for everything that goes wrong. Once you get used to it, there's a certain beauty, focus and calm to it. The calm can be momentarily broken by the din of others, but it comes back, and in the calm you can play back the tape and see where it might have gone wrong, and where you might have done something different. I could have double-checked with Tom that we were on the same page. In the spin of a day with floods natural and man-made, I relied on four e-mailed words instead. I'm responsible for everything that goes wrong, and there it is.

But so much more has gone right that I'm quite comfortable with whatever happens next. Thank you - all - for your spirit, commitment and love for this special place. I'm off to Des Moines to try to make our beautiful bend of the river a little more beautiful.

Open. Agile. Purposeful.

Note: The preceding post was authored before 5:00 AM, on June 19, 2014. City Administrator Malin had driven partially to Des Moines the night before, and posted this to davenporttoday.com prior to driving the rest of the way in the morning.

As City Administrator Malin was cleaning out his office prior to leaving Dvaenport, he found the original e-mail sign off from Corporation Counsel Warner, printed on June 18, 2014. The reverse of the original sign-off carried a hand-written note "TW Sep Defs Ok" with a hand-written "6/18" indicating City Administrator Malin both double-checked (with the e-mail) and triple-checked with the Legal Department (with a follow-up conversation) on whether the separate definitions of Casino Real Estate and Real Estate related to the road extension addressed the concern about limiting grading work to what was in the City's interests.

From: Malin, Craig
Sent time: 08/25/2014 11:05:09 AM
To: Gluba, Bill (Mayor City of Davenport); Dunn, Rick; Edmond, Bill; Boom, Bill; Ambrose, Ray; Barnhill, Barney; Justin, Jeff; Matson, Mike; Tompkins, Kerri; Meeker, Gene; Gordon, Jason
Cc: Malin, Craig; Hatfield, Kim; Thompson, Tiffany; Nahra, Jennifer
Subject: FW: Some Helpful Facts
Attachments: Cell Tower Agreements - Analysis and Recommendation (2).pdf FC_RES_Comm-Tower Notice and Approval (2).doc QC Editorial 8.25.14 v2.doc

Media contact:

Also attached is a note we'll be posting on our website.

From: Malin, Craig
Sent: Monday, August 25, 2014 10:59 AM
To: 'Mark Ridolfi'
Cc: 'Barb Ickes'; Jan Touney
Subject: Some Helpful Facts

A few notes:

I apologize for the Legal Department not returning your calls. As I've noted on prior occasions, the Legal Department is not under my supervision.

That the City is "waiving" \$151,200 does not come close to accurately representing the essence of finances related to the tower. AT&T is building a tower which the City will own. "Waiving" the first seven years of lease payments approximates the cost of the tower, which AT&T is building for the City. On August 15, I e-mailed the attached memo which projects the value of the tower to Davenport.

Regarding public policy issues related to expanding communications on any such future towers, the City Council addressed the matter in June with the attached resolution, also previously supplied.

The "doingitindavenport" blog does not represent the City's website enhancements that are currently in development, and continue to be mischaracterized as a "\$180,000, taxpayer-supported news site". The "doingitindavenport" blog has been in operation since February of 2013.

Feel free to call or write with any questions.

Craig



City of Davenport
 Finance/Administration
 Phone: 326-7792
 Fax: 888-2079

MEMORANDUM

DATE: August 4, 2014

TO: Craig Malin, City Administrator
 Brandon Wright, Finance Director

FROM: Mallory Merritt, Budget Management Analyst

RE: Cell Tower Agreements – Comparable Cities' Analysis and Recommendation for Future Negotiations

OVERALL SUMMARY

Many cities across Iowa engage in agreements and contracts with privately-owned cell phone providers to locate communications equipment on city-owned properties as a means of generating revenues. Most recently, the City of Davenport negotiated and entered into a contract with AT&T to build a 180' monopole tower on property located at Emeis Park. The total value of this contract over 25 years is estimated at \$505,700 in additional revenue to the City of Davenport. This estimate does not include revenue gained from leasing two additional vacant platforms on the tower, which could produce an extra \$1.2M over the life of the agreement. During a 25-year period, the total contract value of a fully occupied tower is estimated to be \$1.7M. The purpose of this memorandum is to provide an analysis of comparable cities' agreements as well as to provide recommendations based on best practices for future cell tower contract negotiations.

EMEIS PARK CELL TOWER SUMMARY

Below is a summary of the most recent agreement for cell tower construction at Emeis Park entered into between AT&T and the City of Davenport and represents the current leasing model utilized by the City.

- AT&T will pay for the initial cell tower construction, and ownership of the tower will be assigned to the city 30 days after construction is completed.
- Monthly rent will be \$1,800 following a seven year abatement period (rental payment to commence in 2021) and shall increase by 3% annually. Over the rent paying period of 18 years, the City will receive \$505,752 in payments from the anchor tenant.
- Length of terms will be five years with four five-year automatic extensions (a total of 25 years).
- City will have rights to lease additional carriers on the tower and will have access to tower for its own uses and purposes (up to \$1.2M for a fully occupied tower).
- Vendors will pay their own utilities, including electricity and networking costs, as well as their portions of annual property taxes.

ANALYSIS OF COMPARABLE CITIES AGREEMENTS

Type of Lease

There are several different formats and strategies that cities can take advantage of when creating and producing leases and agreements with cell phone providers to utilize portions of city-owned properties. Some of the options that cities have elected to utilize include: leasing the ground space for a private company to erect a temporary tower, leasing water storage tanks for private companies to attach antennas and communications equipment, and leasing space on a city-owned communications tower that has already been constructed. Research findings illustrate that most cities have elected to utilize water storage tanks and ground space that would allow for private companies to erect their own poles or towers. The City of Sioux City and the City of Davenport were the only two cities that built city-owned communications towers for this purpose.

Term Length and Renewal Terms

Cities have the authority to set term lengths, as well as the number of renewal terms available to providers. In all cases except for one, the initial term length and proceeding term lengths are five years. The renewal terms range from two five-year terms to five five-year terms. However, most cities seem to take advantage of four or five five-year renewals. This allows for the city and the provider to be in a business relationship for 25-30 years including the initial term.

Monthly Rent Amount

In addition to setting the term lengths and renewal terms, cities also have the ability to set monthly rent amounts based on market demand. The examined contracts all began in different years and have different rent adjustments as mentioned below. For the cities and contracts examined for this analysis, the present rent value has a wide range:

- Low: \$800 (Waterloo, Iowa)
- High: \$1,800 (Ames, Iowa)
- Average: \$1,400

Current City of Davenport lease agreements have an average monthly rent payment of \$1,552, situating the city slightly above the average of the other cities that were examined.

Rent Amount Adjustments

Rent amount adjustments occur mostly in two distinct ways. First, cities can propose annual increases to the monthly rental fee. In this case, the rent typically increases 3-4% annually throughout the length of the lease. Secondly, cities can increase rent by term lengths. In this case, the rent amount increases by 15% on the five-year anniversary of the commencement date and remains the same throughout the five-year term. In the majority of the contracts entered into by the City of Davenport except for the recent AT&T lease, the rent increases 15% at the renewal of each term. However, it should be noted that Iowa City, Council Bluffs, and Ames are all moving towards the 3% annual increase model in recent and future negotiations.

Commencement Fees

Many cities require a commencement fee from the provider to be issued to the city on the commencement date. This is generally a lump-sum, non-refundable payment to be utilized by the city for improvements around the piece of city-owned property that is leased to the tenant or for projects determined by the city. For example, the City of Ames requires commencement fees that have ranged from \$4,800 to \$40,000. They have used this payment for park maintenance when the tower is located on park properties and to pave a golf course parking lot. When speaking with the City of Ames, the Management Analyst noted that future leasing agreements would require commencement fees of at

least \$10,000 due upon signing the agreement and would be used for capital projects rather than maintenance of the area.

RECOMMENDATIONS FOR FUTURE NEGOTIATIONS

The below recommendation is a product of studying the past and current lease agreements that have been entered into by various cities as well as the examination of the City of Davenport's current agreements:

- **Type of Lease:** Although no cities that were examined required an anchor tenant to construct the tower on behalf of the city, this proposed lease structure is innovative and could preserve city resources during the initial construction phase.
- **Terms of Lease:** Because monthly rent will be abated for seven years and would not commence until calendar year 2021, it is recommended that the city enter into a five-year initial term with an additional five automatic renewal terms rather than the recently negotiated model of four renewal terms. This will provide an additional \$200,000 in revenue and allow for 23 years of payments instead of 18.
- **Monthly Rental Amount:** With leases that follow the most recent structure, the City should examine the monthly rental amounts that will be paid by other tenants with the City as well as the monthly rent amounts paid by tenants to other cities before setting an amount. For example, the newest contract with AT&T states that rent should be set at \$1,800 per month to commence in calendar year 2021 which follows a seven year abatement period. Three current lease agreements entered into between the City of Davenport and other tenants would have a rental payment of \$2,130 during 2021. The monthly rental amount should be consistent with the market rate of the year in which rental payments should commence rather than the year the contract commences.
- **Rent Amount Adjustments:** Cities oscillate between adjusting rent by 3% annually or increasing monthly rent by 15% at the beginning of each five-year term. This analysis recommends a 3% annual increase because the city's revenue will be increased by \$15,910 over a 30-year time period.
- **Commencement Fees:** If the city is going to proceed with the model of requiring anchor tenants to construct the towers, it may be a barrier in requiring commencement fees since the company will be investing its own dollars into a city-owned property and is expected to maintain the area around the tower. We should, however, expect a commencement fee from new companies who would like to occupy the tower. Additionally, if the city should ever move to a different lease structure or model, it should require a commencement fee of at least \$10,000. This funding could be used for capital projects or other general expenses.
- **Leasing Vacant Tower Space:** Although this analysis did not include any cities that have structured lease agreements in the way that the City of Davenport has, monthly rental rates are fairly consistent and do not discriminate based on the location of equipment. For example, cities that allow tenants to attach antenna and equipment to existing city structures such as water towers or buildings generally require the same monthly rental payments as those who have constructed towers themselves. The recommendation would be to charge the same monthly rent amount to all tenants leasing space on the tower regardless of their involvement in the initial construction phase.

From: Malin, Craig
Sent time: 10/23/2014 08:36:41 AM
To: Barb Ickes (Blickes@qctimes.com) <Blickes@qctimes.com>
Cc: Jan Touney (jtouney@qctimes.com) <jtouney@qctimes.com>
Subject: FW: Emeis cell tower
Attachments: City Comm Towers.pdf

Barb:

I request a correction regarding the Emeis tower story.

As I e-mailed last night and made clear in our first conversation on the subject, the City did not "bypass" City ordinance in approving the Emeis communications tower. I've attached and highlighted for your convenience the pertinent section of City code.

If the sentence regarding "bypassing city ordinance" is wrong (and it is), the first sentence of the story is both factually and thematically incorrect. If the City is made aware of an ordinance violation and does nothing, that would be the common definition of "ignoring". In the case of the barb wire, we were made aware of a violation and took action to correct the violation. That is the opposite of ignoring something.

I would appreciate a correction, and can report the barb wire has been taken down.

Thanks,

Craig

From: Malin, Craig
Sent: Wednesday, October 22, 2014 8:32 PM
To: Barb Ickes
Cc: Malin, Craig
Subject: Re: Emeis cell tower

Barb:

Your continued assertion that the Emeis tower was constructed by bypassing City Ordinance is factually incorrect.

City ordinance specifically allows towers for emergency communications on City owned property.

It's unfortunate that Corp Counsel Warner won't return your call (he doesn't report to me) but the section of the code that governs is simple, clear and doesn't require an attorney's help to read.

You might want to correct the article before it makes it to print.

Craig

Sent from my iPhone

On Oct 22, 2014, at 2:50 PM, "Barb Ickes" <Blickes@qctimes.com> wrote:

10-4
Thanks again.

From: Malin, Craig [mailto:ctm@ci.davenport.ia.us]
Sent: Wednesday, October 22, 2014 2:50 PM
To: Barb Ickes
Subject: RE: Emeis cell tower

Either last Tuesday or Wednesday

From: Barb Ickes [mailto:BIckes@gctimes.com]
Sent: Wednesday, October 22, 2014 2:49 PM
To: Malin, Craig
Subject: RE: Emeis cell tower

Do you recall when Ald. Dunn asked you about it?
And thank you.

From: Malin, Craig [mailto:cm@ci.davenport.ia.us]
Sent: Wednesday, October 22, 2014 2:47 PM
To: Barb Ickes
Subject: RE: Emeis cell tower

Who built the fence, AT&T? – AT&T's contractor.

When did you become aware of it? – when Ald. Dunn asked me about it.

How did you become aware of it? – Ald. Dunn.

How long will it take to remove? – not more than 7 days.

From: Barb Ickes [mailto:BIckes@gctimes.com]
Sent: Wednesday, October 22, 2014 2:45 PM
To: Malin, Craig
Subject: Emeis cell tower

Hi, Craig.
I have a story for tomorrow about the barbed-wire fence that's been placed around the cell tower at Emeis – in violation of city code.
Alderman Dunn tells me it's been ordered removed, but he wasn't sure about a couple of details, which I imagine you can supply:
Who built the fence, AT&T?
When did you become aware of it?
How did you become aware of it?
How long will it take to remove?
That ought to do it.
Thank you.
Barb

Barb Ickes
Newsroom
Quad-City Times
563-383-2316
gctimes.com

<image001.jpg> <image002.png>
<image003.jpg>

17.49.030 Applicability.

A. New towers and antennas. All wireless communications towers or antennas in the city of Davenport shall be subject to these regulations, except as noted in subsections C, D and E of this section.

B. Pre-existing towers or antennas. Pre-existing wireless communications towers and pre-existing antennas shall not be required to meet the requirements of this chapter, other than the requirements of Section 17.49.040.

C. Amateur radio station operators. This chapter shall not govern any tower, or the installation of any antenna on a tower, which is under seventy-five feet in height and is owned and operated by a federally-licensed amateur radio station operator, except that the setback restrictions of Chapter 17 shall apply.

Towers and antennas of an amateur radio station operator may exceed seventy-five feet in height if the operator applies for a special use permit and said permit is granted. An application shall meet the requirements of Chapter 17.48 and shall not be regulated by the terms of this chapter.

D. Receive-only antennas. This chapter shall not govern the installation of any antenna, if on a tower which is under fifty feet in height and used exclusively as a receive-only antenna.

E. Wireless communications towers and antennas located on city property for the purpose of providing emergency communications services. This provision shall not prohibit co-location by wireless communication providers upon such tower. Co-locations on towers located on city property shall follow all procedures listed in Section 17.49.050C, entitled "Co-location on existing towers." (Ord. 2003-277 §§ 3, 4; Ord. 99-260 § 2 (part)).

From: Malin, Craig
Sent time: 10/23/2014 03:39:11 PM
To: Barb Ickes <BIckes@qctimes.com>
Cc: Jan Touney <jtourney@qctimes.com>
Subject: RE: Emeis cell tower
Attachments: image001.jpg image002.png image003.jpg

Barb:

Thank you for your consideration.

When the City installs communication equipment on the tower, we'll invite you to witness it.

Craig

From: Barb Ickes [mailto:BIckes@qctimes.com]
Sent: Thursday, October 23, 2014 3:35 PM
To: Malin, Craig
Cc: Jan Touney
Subject: Emeis cell tower

Hi, Craig.

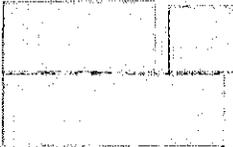
In response to your request for a correction on today's story about the barbed wire at Emeis: The city has not demonstrated the cell tower at Emeis was built for the purpose of providing emergency communications services. On the contrary, city documents demonstrate that AT&T chose the location and built the tower, citing the company's need for expanded service in the area. When relocation was proposed, AT&T's counsel balked and reminded the city of its obligation to the company. No correction is warranted.

As always, you are invited to write a letter to the editor to express your position on this matter or any other.

Thank you.

Barb

Barb Ickes
Newsroom
Quad-City Times
563-383-2316
qctimes.com



From: Malin, Craig
Sent time: 02/05/2015 01:18:26 PM
To: Gluba, Bill (Mayor City of Davenport); Dunn, Rick; Edmond, Bill; Boom, Bill; Ambrose, Ray; Barnhill, Barney; Justin, Jeff; Matson, Mike; Tompkins, Kerri; Gordon, Jason; Meeker, Gene
Cc: Malin, Craig; Hatfield, Kim; Thompson, Tiffany; Nahra, Jennifer
Subject: FW: \$50K threshold

Media contact

PS – the trial is over

From: Malin, Craig
Sent: Thursday, February 05, 2015 1:16 PM
To: 'Brian Wellner'
Cc: Wright, Brandon; Warner, Tom
Subject: RE: \$50K threshold

Brian:

I only recall testifying that I understood the final bill would be for more than \$50,000, not whether the Council had to specifically approve the Deloitte contract in advance. Had I testified on whether the Council had to specifically approve the Deloitte contract in advance, my testimony would have been consistent with Corp Counsel Warner's. In fact, if you look through the Davenport City Code, you will not find a prohibition on my position signing contracts at any amount. You will find the first specified function of my position is "implementing all policy directives promulgated ... by the council" (Section 2.30.020A).

The Oct 24, 2012 motion on the term sheet was clearly a policy directive that included moving forward with due diligence. The theater by Attorney Meloy about the term sheet not being signed is just that – as I pointed out, there was no signature blank on the term sheet, and the Mayor only signs resolutions and ordinances, not motions.

The \$50,000 threshold is a billing threshold (section 2.12.070.5) which requires the City Council approve all bills over \$50,000 – which they did in this case.

As a practical matter, I don't sign contracts for \$50,001, \$501 or \$5.01 without consideration of whether doing so is consistent with Council policy.

I'd caution against accepting theater as fact.

Brandon – please reply on the date of the updated purchasing provisions.

Thanks,

Craig

With rare exception per Iowa Code, e-mails to and from this address are public documents. You should expect e-mails to or from this address to be posted to Davenporttoday.com within seven days.

From: Brian Wellner [mailto:BWellner@qctimes.com]
Sent: Thursday, February 05, 2015 12:53 PM
To: Malin, Craig
Cc: Wright, Brandon
Subject: \$50K threshold

Hi Craig,

You, Tom Warner and others have testified the threshold for council approval on contract (i.e. Deloitte contract) was \$50K. In fact, I believe the threshold at that time was only \$10K. It was very recently amended. Is that correct?

Please let me know,

Brian Wellner
Staff Writer
Quad-City Times
Office 563-383-2314
Mobile 563-343-1322
Twitter @brianwellner
qctimes.com

Malin leads city into another business

- Times Editorial Board

- Jul. 21, 2014

After attempts to run the Davenport School Board, then buy a private casino, Davenport City Administrator Craig Malin appears to have had better luck leading taxpayers into another business.

He won aldermen's backing to spend \$178,000 a year to create a government-run news bureau. That's some moxie in a community with two daily newspapers, at least four strong weeklies, three network-affiliated TV news operations, two public radio stations, a public television station, and good ol' WOC-AM.

Clearly, Davenport doesn't have any expectation to compete with our 150-year-old news business by hiring two-part-timers, buying weather reports from Terry Swails and contracting with a couple more freelancers. The proposal outlined in a PowerPoint presentation prepared at Malin's direction describes a public relations plan intended in the city's words to: "Create positive buzz," and "manage message on potential controversies" and "change the culture!"

That culture-changing exclamation point is Malin's, too, reflecting his long-held disdain for public criticism. He's yearned for public discourse free of criticism, naysaying and doubt. Of course, he'll find none of this here, or in any vibrant community worth living in.

Davenporters love their city, especially when it fills their potholes, shovels their streets, maintains their parks and responds to their emergency calls. Beyond that, consensus can be hard to come by.

So he's ginning up an overpriced news bureau that essentially will ramp up the press release and web outreach for which the city already pays communications chief Jennifer Nahra \$83,079 and Chief Information Officer Rob Henry \$129,966 annually.

"As far as we can tell, no U.S. city has embarked on this effort," said Tory Brecht, one of the part-timers hired for the city's news bureau.

Um, there's a reason for that.

Malin rankled Davenport school district leaders and staff when he led aldermen to pursue a \$25 million federal education grant without school board leadership. He was chief cheerleader with Mayor Bill Gluba to leverage taxpayer money to buy a casino.

Now he's got a news business.

We know the news business. This \$185,000 plan doesn't come anywhere close. All aldermen approved is a hyper-PR campaign, which a private agency would have done much better at less cost.

How will aldermen know if their \$185,000 a year PR effort is working? This money came with zero criteria, no specific outcomes and without much discussion of the process.

We don't sweat the competition. We're just sorry to see the city squander the equivalent of three police officer salaries on an overpriced public relations scheme.

From: Malin, Craig
Sent time: 07/21/2014 01:17:58 PM
To: Mark Ridolfi <MRidolfi@qctimes.com>
Subject: FW: City News organization
Attachments: FY 2015 CA Recommended Budget FINAL.pptx

fyi

From: Malin, Craig
Sent: Monday, July 21, 2014 12:46 PM
To: 'selliot@qconline.com'; Matson, Mike; Tompkins, Kerri; Gordon, Jason; Meeker, Gene; Dunn, Rick; Edmond, Bill; Boom, Bill; Ambrose, Ray; Barnhill, Barney; Justin, Jeff; Nagra, Jennifer; bgl@ci.davenport.ia.us
Cc: Malin, Craig; Wright, Brandon; Gluba, Bill (Mayor City of Davenport); Hatfield, Kim; Thompson, Tiffany
Subject: RE: City News organization

Steve

Thanks for the questions.

I was on vacation last week. Apparently, two reporters were unsuccessful in contacting city communications employees last week to try and get some basic information and comments on a city-run news bureau.

The City is not creating a "city-run news bureau". We are improving our website to include an "Open Davenport" or "Davenport Today" (final name to be determined) portal that will be a contemporary platform for enhanced two way communication and citizen involvement.

One, when was this approved? When and how much is the news bureau budgeted for annually?

The initiative was reviewed in detail with the City Council at our Saturday, January 18 budget worksession, and was approved as part of the unanimously approved FY15 budget on February 26. The total budget for the initiative is \$185,000.

What type of information will this news bureau entail and why is this a good move for the city?

Again, it is not a "news bureau". The portal will provide information about City operations, plans and policy discussions. It will, by its nature, feature more information about Davenport than traditional media outlets. We expect the portal will be utilized by the media and be of significant value to the media as well as our citizens as a timely source of information.

Is there any concern on using taxpayer money for this project?

There is concern with every public expenditure and budget decision. Davenport staff and the City Council worked together for months, through numerous open public meetings, to develop a FY15 budget that enhanced services but did not increase taxes. Note the attached powerpoint from Feb 19 specifically references the communications initiative (slide 3), while keeping operating expenses to less than 1% growth (slide 4). Specifically in Administration (where Communications is housed) the overall Admin budget dropped from \$1,070,879 in FY14 to \$1,027,578 in FY15 (a 4.04% reduction).

The city will be facing some fiscal challenges in the coming years, i.e., water and sewer infrastructure, police, fire and city pensions, and reductions in business property taxes with new state law 295.

We are well aware of the challenges we face, and understand communicating those challenges and opening opportunities for dialogue on how best to thrive in the face of those challenges is central to our future.

There are at least 16 city employees with an estimated total pension payout of over \$3 million, some over \$4 million.

Please supply the source of this information. If it is the same source as provided the information a year or so ago, I'll make the same offer to sell my "estimated" pension to the information provider for a fraction of the cost of their estimate.

Will any of these elements factor into future decisions on this website?

Davenport is the recipient of the "Sunny" Award and is a Top 10 Digital City. Open, efficient government that welcomes citizen engagement has been central to our success. Enhancing citizen (and media) access to information would seem to be something the media would support.

Again, thanks for the questions.

Craig

From: selliott@qconline.com [mailto:selliott@qconline.com]
Sent: Monday, July 21, 2014 11:24 AM
To: Matson, Mike; Tompkins, Keri; Gordon, Jason; Meeker, Gene; Dunn, Rick; Edmond, Bill; Boom, Bill; Ambrose, Ray; Barnhill, Barney; Justin, Jeff; Nahra, Jennifer; bgl@ci.davenport.ia.us; Malin, Craig
Subject: City News organization

Ladies and gentleman,

Steve Elliott with the Dispatch/Argus Newspapers.

I have some questions.

One, when was this approved? When and how much is the news bureau budgeted for annually?

What type of information will this news bureau entail and why is this a good move for the city?

Is there any concern on using taxpayer money for this project?

The city will be facing some fiscal challenges in the coming years, i.e., water and sewer infrastructure, police, fire and city pensions, and reductions in business property taxes with new state law 295.

There are at least 16 city employees with an estimated total pension payout of over \$3 million, some over \$4 million.

Will any of these elements factor into future decisions on this website?

Thanks,

Steve Elliott - Dispatch/Argus Newspapers

From: Malin, Craig
Sent time: 07/21/2014 04:40:30 PM
To: Mark Ridolfi <MRidolfi@qctimes.com>
Subject: RE: QC TIMES

Mark:

Thanks.

An observation: We have three current employees who are journalists, two of which were employed by the Times. That they use journalism terms (newsroom, stories etc.) is its own issue. We've discussed that using forms of the word "news" doesn't capture what we're doing.

We're improving our website to include a portal that will be more engaging on contemporary community topics and facilitate two way communication. Our current website is a vast repository of information, but it can be unwieldy for timeliness and two way communication. We're realigning some expenditures to (at a reduced overall budget) add a few part time staff to keep the website and the portal fresh. That's it - more timely communications and enhanced community dialogue.

These are traditionally goals supported by the media - as is the City and School District working together.

Craig

From: Mark Ridolfi [mailto:MRidolfi@qctimes.com]
Sent: Monday, July 21, 2014 2:50 PM
To: Malin, Craig
Subject: QC TIMES

Thanks very much for your timely response.

I've shared it with our edit board and will alert you ASAP how we'll proceed.

Thanks,

Mark.

Mark Ridolfi
Editorial Page Editor
Quad-City Times
563-383-2320
qctimes.com

From: Malin, Craig [mailto:ctm@ci.davenport.ia.us]
Sent: Monday, July 21, 2014 1:17 PM
To: Mark Ridolfi
Subject: Letter

Mark:

Please find attached a letter for your consideration.

If you find it necessary to edit it, I'd appreciate a heads up so we can post it on our website.

Thanks,

Craig

PS - I'll forward some answers to questions posed by Steve Elliot of the Argus that may be helpful.

Davenport leads open communication

- Craig Malin Jul 23, 2014

Who would have thought a newspaper would criticize a city for being more open, and leading with new technology for citizen engagement? The Times' July 21 editorial ignores facts and misses the point from its opening headline about the city running a "business."

City staff were clear in meeting with Q-C Times reporters that the City would not be selling ads or running a business. That was unclear in their July 16 story, so we clarified this point with an e-mail to Editorial Page Editor Mark Ridolfi.

We are not selling ads. We are not running a business. In the same e-mail, we made it absolutely clear our Information Technology department head Rob Henry was not part of the enhanced communications and citizen engagement effort.

I understand opinion can be separated from fact, but ignoring facts and fabricating opinions divorced from facts is hardly the standard one would expect from award winning journalists.

With regard to the memory lapses of the Times editorially supporting both the i3 grant and the City's potential purchase of the Rhythm City casino, I direct your attention to the Oct. 24, 2012 editorial where the Times said the City should "Go for it" on the casino purchase, and the May 12, 2010 editorial where the Times said they were "All on board for Davenport students."

Respecting the variety of opinions on the casino effort, the fact is the Isle of Capri monopoly in Scott County would still exist if not for the city's efforts to advance a solution.

Regarding the i3 grant effort, I'm not about to apologize for working with Davenport Schools and the University of Iowa to seek \$25 million in federal funds to give Davenport kids a better shot at a brighter future. That initiative was supported by the Davenport City Council, the Times, and the Davenport School Board.

While we came up short on that grand slam, we have since hit it out of the park with Davenport School's "District of Distinction" effort, with exciting education offerings not available elsewhere in the region.

So no, we're not creating a business, or "ginning up an overpriced news bureau." We're adding leading-edge citizen engagement tools to our award winning technology and nationally recognized open government practices.

We're building a contemporary platform for two-way communication and citizen involvement. If we're out ahead of other cities on openness and involvement, we'd expect praise rather than criticism from the Times. But we'll live with criticism, and let the praise follow in due time.

Seeing as though hardly a day goes by without the city providing information to the Times and other local media, we thought it was self-apparent they would be beneficiaries of enhanced communications.

Finally, a note regarding the comment about "yearning" for "public discourse free of criticism, naysaying and doubt". That's quite wide of the mark. The truth is the diversity of opinion in Davenport is one of our strengths. Diversity of opinion and critique contribute to far better solutions, just as open dialogue and visioning contribute to a community positively shaping its future.

The truth is I had breakfast with Mr. Ridolfi some months ago. We discussed some trials and tribulations, and I gave him a wallet card that read on one side "imagine a stronger community". On the other side, it read "imagine an editorial page without name calling".

We're not about just imagining a stronger community in Davenport. We're about making that stronger community a reality. Leading edge tools to inform and engage our citizens in our future will help do just that.

City news agency concept ill-advised

- Jul. 24, 2014

Craig Malin showed in Wednesday's editions why he's a savvy municipal bureaucrat, but not so hot as a fledgling news executive.

Malin's column noted correctly that we urged the city to launch negotiations to purchase the Isle of Capri. His column defending the city's new news bureau cited our Oct. 24, 2012, editorial that called for negotiations to wake up the Isle of Capri. Then Malin purposely ignored at least four subsequent editorials in 2013 clearly opposing the city purchase.

"Let Davenport voters decide casino purchase," we wrote on this page Jan. 6, 2013.

"Take a longer view on casino plan," we wrote Feb. 3, 2013, urging restraint.

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"Davenport will vote on casino one way or another," we wrote Feb. 20, 2013, emphasizing voters should dump aldermen who commit to the purchase.

In case there was any confusion on our position, our March 3, 2013, editorial was headlined: "Drop casino plan, now."

Malin the new news executive chose to ignore info that Malin the city administrator knew for certain. That's what happens when sources manage the news.

Malin was adamant in Wednesday's column: He's not launching a news bureau. Malin the bureaucrat might buy this. But his chief news staffer, Tory Brecht, specifically called

it a "news" site including weather and perhaps, he said, obituaries. "What we want to do is drive traffic, drive people to our site," Brecht said on the record.

News. Weather. Obits. An emphasis on increasing site traffic. This effort quacks exactly like a news bureau, whether Malin chooses to acknowledge it or not. Note that he didn't hire staff with PR experience. He hired two former Times staffers and paid them generous part-time salaries.

Malin may choose any description he likes. His news site manager apparently had other ideas.

While they sort it out, we call on aldermen to resolve this nonsense quickly by defunding this sketchy effort. Focus city resources on sharing Davenport's message with our own 150-year-old Davenport news business and the rest of the private news businesses already competing for customers in our rare and wonderful, two-daily newspaper, three-TV station community.

Malin and his overpriced part-time staff lack sufficient training and experience to subject taxpayers to the perils of our challenging and rapidly evolving news business.

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From: Malin, Craig
Sent time: 02/25/2015 01:17:48 PM
To: Jan Touney (jtouney@qctimes.com) <jtouney@qctimes.com>; Mark Ridolfi (MRidolfi@qctimes.com) <MRidolfi@qctimes.com>
Cc: Wright, Brandon
Subject: FW: Ed Board Follow Up
Attachments: Ed Board Notes 2.25.15.docx

Jan / Mark / Brian:

Thanks for meeting with Mayor Gluba and me this morning.

My e-mail to Jennifer on follow-up items is below (no waiting seven days for it to post).

Thanks again,

Craig Malin
City Administrator
(563)326-6139

With rare exception per Iowa Code, e-mails to and from this address are public documents. You should expect e-mails to or from this address to be posted to Davenporttoday.com within seven days.

From: Malin, Craig
Sent: Wednesday, February 25, 2015 12:36 PM
To: Nahra, Jennifer
Subject: Ed Board Follow Up

Jennifer:

Back from the editorial board meeting. I used the attached notes during the meeting, to mixed effect. A few follow-ups:

- 1) Can you provide website use and cost comparables for the cityofdavenport.com and davenporttoday.com sites that I can forward on?
- 2) Please describe our corrections policy / practice (other than not making errors to start with).
- 3) Jan noted she would prefer e-mails on emergency matters, as those get near immediate attention. To the extent we can provide e-mails in addition to davenporttoday postings, that would be appreciated.
- 4) It would also be appreciated if davenporttoday gave sufficient space in time for a QCT reporter to post a story after asking questions. You might want to talk to Jan more on this, but my understanding is they would prefer to report on topics they ask questions about before we post something. Given that days can pass on topics between first question and QCT article, we should be explicit about expectations in discussions with reporters, honoring their reasonable requests.
- 5) An idea that was discussed is providing media (and community) access to our photos / videos. Perhaps we can create a "dropbox" with thumbnails, that interested parties (including the media) can access?
- 6) Please reinforce an approach with your staff that respects traditional media, augmented with our path-breaking leadership on open access.

Thanks for your help with the above, and your positive spirit to lead on this effort to enhance access to open, inclusive government.

Craig

With rare exception per Iowa Code, e-mails to and from this address are public documents. You should expect e-mails to or from this address to be posted to Davenporttoday.com within seven days.

Ed Board Notes 2.25.15

CA = advocate for/ supporter of positive change, work for the Mayor / Council, and citizens

(Corporation Counsel, legal opinions & legal strategies NOT under my authority)

"Open, agile, purposeful"

First Dav decision – stop city council packet subscription plan - \$300+/- annual cost to media

Goals – Open, inclusive, transparent, engaged, innovative, positive ...

City finances (fund balance, bond rating financial mgmt.) & investment interest never stronger

Crime cut in half, accredited front line depts., great DCSD relations, floodfighting, sustainability, tech ...

Dav Today = 1) open data portals + 2) media release repository + 3) community blog / social media integration

Not a news business – don't have printing press, distribution network, sell ads, etc.

Post good & bad (only limiting factors are staff time and not adding liability to City)

Dozens of community partners – schools, non-profits, etc.

1) Open records, open checkbook, open e-mail – no other regional govt has these

2) Fast, accurate, resource rich (reports, charts, pictures, video, etc.) available 24/7

3) "Spice" to the 1 / 2 meal – not creating site for only govt nerds

A. Response to tech change in society – 2/3+ Americans have smart phones, expect instant info

b. Newsprint consumption & Lee Enterprises staffing reductions*

* Three City Hall conversations with Times reporters since Kurt Allemeier left Times

E-mails & phone calls predominant method of reporting = errors **

** rezoning, 3 person Cmte, \$2M street maint, 7' floodwall, Deloitte not reported ...

4,000+/- e-mail FOIA to parse a months old sentence ...

Errors lead to skewed editorials - (Ebner snowplow example – 2014 letter writer of year)

B. Successful start – 78K page views, bandwidth increase

FY16 budget reduction from FY15

2 Part-Time Employees (\$75K +/- net personnel impact, \$25K - \$35K other)

2,500 net hours in 2M+ total staff hours (.00049 of total City budget)

ALL media (including Times) using site, other cities (not QC) asking about it ...

City wants Times & Lee Enterprises to succeed

Open, inclusive government should be a common goal

How can Dav Today add value ?

Media release posting (from JN)? / Links to QCTimes site? / Partnered Picture Access ? /

Weekly (monthly?) Column or Editorial Page Contributions ? / Other ?



Thar She Blows

January 28, 2015

(Note: This was originally a Davenporttoday posting, with links to City e-mails)

Tom Saul had it right. Back when newspapers had beat reporters that would spend their day plying the city for THE story, it would be customary for him to spend fifteen minutes or so in my office several times a week on his rotation through City Hall. He'd talk to sources face to face, piece together stories and report the news without fear or favor. He was well respected, and taught me more than a few things about journalism, and life. One of the things he taught me was the definition of news.

Tom said news was the difference between yesterday and today, or today and tomorrow. While I didn't appreciate everything he wrote, he was fair and diligent. He was old school, telling me he was inspired to join the journalism trade by classic reporting; Watergate, the Pentagon Papers, etc.. I reminded him a few times I wasn't Richard Nixon.

Reporters sift through BS, wear out shoe leather, page through e-mails and dispense FOIAs like candy at Halloween. They're not paid enough and I don't begrudge their at times heroic journeys through the dark alleys of life to shine the light of truth on what needs to be seen. But Moby Dick is not just a long story about fishing. Hoisting a public official on his own petard is classic journalism, but sharpening a spear for months on end can be a pointless voyage.

I wake up this morning and see three quarters of the Times front page is about Illinois so I turn the page and look for Wundram's column. It's a repeat from December 2012 (a good one, Bill). Turn a few pages and I get to revisit an e-mail exchange from August 19. Barb's parsing a sentence and I'm the target.

Here's the thing. The first lie I tell in my job is the end of my career. It is that simple. So I avoid telling lies like kids avoid broccoli. I'll feed it to the dog. I'll wipe my mouth and deftly spit it out into my napkin. I'll stuff it in my pants pocket when mom's not looking. No broccoli. No

lies. If you'd like to read the original exchanges from August, here's the original sentence and the e-mail exchange Barb is frustrated with. Here's a more recent e-mail seemingly related to the topic that ended better.

It's near the end of January, 2015. The Times today is recycling a column from 2012 and publishing a column that had its origins on August 19, 2014. That would stretch Tom's definition of news. But what I'm most confused about this morning is something else. Last Friday's QCT headline was "Davenport to Finance Elmore Avenue extension". Set aside for the moment that the front page headline on January 23, 2015 describes the outcome of a City Council vote from June 25, 2014. The first sentence of the Times' story from last Friday, in reference to the extension of Elmore Drive, reads "The city is paying for it, but not really".

I didn't write that sentence about how the city is "not really" paying for a public improvement spurred by private investment. Times reporter Brian Wellner authored that sentence. The Times reports something as first sentence, front page, headline truth and six days later chastises me for "semantics" ... regarding a story they first got wrong in August of last year.

I get the public paycheck comes with a target. I'm not perfect by far, but I am ok with living a life on the record. More a fan of Twain than Melville, I like his approach; "If you tell the truth, you don't have to remember anything".

November 7, 2016

Deb Anselm
Publisher, Quad City Times
500 East Third Street
Davenport, IA. 52801

Dear Ms. Anselm:

On April 28, you e-mailed in response to a retraction demand and advised you would look into the matter and be back in touch. You have yet to be back in touch.

I write to provide one final opportunity for the Quad City Times to retract false and libelous statements published in 2015. In compliance with Iowa Code 659.2, I hereby demand the following statements (1 – 22) be retracted and withdrawn, in their entirety:

-
1. On June 18, 2015, Brian Wellner wrote:

"We're not grading the casino," Malin said in an interview with the Quad City Times earlier this week.

The contract Malin negotiated last summer says otherwise. An amended development agreement states the city is obligated to pay for "grading and utility work and extensions relating to the real estate."

The second and third sentences are objectively and knowingly false. The words "Real Estate" are capitalized in the agreement, thus making the third and second sentence both false. The words "Casino Real Estate" are separately capitalized, on the same page, in the same document.

2. On June 18, 2015, Brian Wellner wrote:

Malin told the Times earlier in the week and again Thursday that Warner "signed off" on the casino agreement last summer and referenced a series of emails among city staff in which Malin asked them for any concerns about the contract.

This is defamation by implication. I did not just "tell" the Times that Warner signed off on the casino agreement and "reference" a series of e-mails, I supplied the e-mails as written documentation of Warner's legal sign off on the final draft of the agreement.

3. On June 18, 2015, Brian Wellner wrote:

Malin insists he did not agree to the city paying to grade the casino site.

This is defamation by implication. I did not merely "insist" I did not agree. I provided written documentation to reporter Wellner to prove I did not agree.

4. On June 18, 2015, Brian Wellner wrote:

"When I'm voting on something, I want to know all the information," Tompkins said. "I want to have the attorney present so I can ask questions and feel all my questions are answered. I want to ensure all the information is provided."

Barnhill agreed.

"We want to hear it from them, not from Craig," Barnhill said. "We want to hear it from the financial and legal experts to make sure we're accountable to the taxpayers and get the best answer for the use of their money."

This is not only defamation by implication, it is the exact opposite of the truth. Mr. Wellner's quotes of Alderwoman Tompkins and Alderman Barnhill describe a scenario where Corporation

Counsel Warner was not present at the June 25, 2014 City Council meeting when the City Council voted on the agreement and I was present. That is exactly the opposite of what occurred.

5. On June 18, 2015, Brian Wellner wrote:

Elmore was supposed to cost \$7 million, according to projections from a year ago.

This is objectively false. The original project estimate at the first public meeting in 2014 was a range that went to \$10 million, without land costs, which were unknown at the time. It was never presented as a not to exceed \$7 million project.

6. On June 18, 2015, Brian Wellner wrote:

Malin said Warner and Wright both signed off on the contract before Malin put it before the council for a vote.

This is defamation by implication. I didn't just "say" Warner signed off on the contract. I provided the clear and unambiguous written "sign off" of Mr. Warner, in writing, multiple times to Mr. Wellner.

7. On June 19, 2015 Barb Ickes wrote:

It wasn't generous enough of Davenport taxpayers to shell out \$7.8 million for the road to the new casino.

This is defamation by implication and objectively false. The City protected itself and every property tax payer outside the area served by the Elmore extension with a TIF district, so only businesses served by the road would ultimately pay for the road. Ms. Ickes' "Davenport taxpayers" reference implies property tax payers outside the TIF district would pay for the road,

which is not the case. Nor did "Davenport taxpayers ... shell out \$7.8 million for the road" at the time or at any time in the future. At the time, contractors working for Scott County Casino were "shelling out" millions for the road construction, thereby protecting every Davenport taxpayer from construction risk. At the time, these contractors were coordinating cut and fill across the entire construction site to reduce costs. Later, when the City ultimately acquired the road, they did so by acquiring not just the road, but related land and improvements.

Notably, this reference to "Davenport taxpayers ... shelling out ... \$7.8 million" for the road ties directly back to Ms. Ickes' animus toward me for posting her e-mails exposing gaps between her hyperbole and objective facts related to a TIF column earlier in the year. Notably, Ms. Ickes never authored such a libelous article about Lee Enterprises benefitting from City economic development incentives for its headquarters building, or the building she worked in.

8. On June 19, 2015 Barb Ickes wrote:

City Administrator Craig Malin evidently figured taxpayers are so crazy about this private profit center, they'd like to chip in a few million more.

This is defamation by implication, and completely misleading. My record in Davenport was abundantly clear on the topic of pursuing the public interest on gaming matters, to the extent I dedicated years of effort to securing the opportunity for the City to acquire and transfer the casino to community, non-profit ownership, similar to Dubuque and Polk County. Ms. Ickes' statement is a complete misrepresentation of my many years of well-known effort to serve the public interest on gaming matters.

9. On June 19, 2015 Barb Ickes wrote:

And he still can't give a straight answer on exactly how much more the people are on the hook to pay.

This is, again, completely misleading and defamation by implication. Neither Ms. Ickes nor any editor asked a single question of me on this topic in advance of publishing this, or any other statement. In fact, I told the only person from the Times who asked me a question on this matter (reporter Wellner) that the City did not have to grade the casino site at all, and provided supporting documentation, which the Times either ignored or falsified when they published excerpts of it.

10. On June 19, 2015 Barb Ickes wrote:

On a mildly brighter note, it is a relief to see that Malin uses the same write-in-circles approach when responding to concerns of aldermen that he uses when avoiding questions by reporters.

This is again defamation by implication and, again, the exact opposite of the truth. There is no basis for the claim that I ever avoided a single question posed to me by any Quad City Times reporter. In fact, I never once failed to respond to a Quad City Times reporter's question during my tenure in Davenport. At all hours of the day and night, I never once failed to respond to a question. A litany of e-mails exist to prove I was unfailingly responsive, and the person Ms. Ickes relied on when others – principally the City Attorney – would not respond to her phone calls.

11. On June 19, 2015 Barb Ickes wrote:

A week after the column, which pointed out the ways the city lost out on millions in state grants for the casino road, Alderman Kerri Tompkins, 8th Ward, sent an email to Malin. She wanted to know whether Finance Director Brandon Wright or City Attorney Tom Warner had expressed any concerns about the contract Malin negotiated with casino owner Dan Kehl.

Malin responded by blathering on about the five email attachments he was sending, then waving his pompoms in the air (again) about the extended Elmore producing a new \$250 million tax base. (Mall of America is evidently relocating here.)

This is defamation by implication, and misleading, in multiple ways. First, the City did not "lose out" on a grant for the road, the City was ineligible to apply for the grant. Ms. Ickes was provided that answer well in advance of this June 19, 2015 publication. In fact, the City received a grant for a related segment of the road, and that grant would not have been possible without the Elmore extension. Secondly, the \$250 million tax base figure came from official and conservative City estimates, as did a \$2.3 billion projected economic impact and 970 new jobs, verified through independent review and accepted by the Iowa Economic Development Authority. Though readily available on the City's website, these facts were ignored by Ms. Ickes so she could work in a typically caustic and misleading comment.

12. On June 19, 2015 Barb Ickes wrote:

Tompkins smartly saw through the rhetoric: "I appreciate your quick response ... However, please answer the question, did Tom (Warner) or Brandon (Wright) ever express any concerns to you about the agreement?"

Malin replied that there had been two concerns: the timing of the sale of bonds to pay off the road and the need to keep the city out of the process of picking a contractor for Elmore.

He said nothing of the concerns we've since learned were expressed when the contract was still a draft.

This is defamation by implication. Ms. Ickes is framing my reply to Alderwoman Tompkins on the final draft of the agreement as pertaining to the first draft of the agreement, while ignoring that I had supplied all drafts of the agreement to the Times, documenting that I acted upon staff concerns (which I shared) by removing any obligation to grade the casino site in a draft I personally revised.

13. On June 19, 2015, Barb Ickes wrote:

Warner said he asked Malin last year why he was obligating the city to pay for the casino's site preparation and not just the Elmore extension, and Malin's response was that it "wasn't up for debate."

This is objectively and knowingly false; a material alteration of a quote from Corporation Counsel Warner from the prior day's Quad City Times. The fabricated quote is hand-crafted by Ickes to: 1) remove all reference to Warner's lack of clarity from the day (and year) prior, as the quote the day prior began with "I don't recall his exact words ...", 2) put exact words in my mouth that I never said, and, 3) be contrary to the written record of me not agreeing to pay any added cost to grade the casino site (which the Times possessed prior to June 19, 2015).

14. On June 19, 2015, Barb Ickes wrote:

Malin replied to the call for his resignation by casting Warner directly into the path of a CitiBus, saying, "I have no intention to resign to account for a faulty legal opinion."

But wait. Malin never can make one simple declarative statement without twisting it into a pretzel.

In his role as columnist for the city's non-news online news site, Malin wrote of Warner, "He's a good and honest man and doesn't deserve to be collateral damage for a misunderstanding."

So, stab him in the back with one hand and pat him with the other?

This is defamation by implication on many fronts, as Ms. Ickes' animosity for my leadership in promoting open government via the davenporttoday.com website seethes through her writing. I did, in fact, write that Mr. Warner should not be fired. I did so to take leadership responsibility for a matter that was beyond my supervisory authority, and even beyond having a negative

impact on the community in any practical sense. That is the clear message of my davenporttoday.com posting on the matter.

Ms. Ickes also factually misstates my quote of "I have no intention to resign to account for a faulty legal opinion" as something I said. I did not say that, I wrote that, in response to Mayor Gluba's verbal request for my (and Corporation Counsel Warner's) resignation. Ms. Ickes misstates that I said something, and then weaves that misstatement together with an out of context excerpt from a davenporttoday.com posting, for the Times' own punitive purposes.

15. On June 19, 2015, Barb Ickes wrote:

We know the road's costing just shy of \$8 million. The council approved the \$13 million Elmore expenditure in the last capital improvement budget.

We still don't know what the other \$5 million is for.

Anybody want to bet the new casino will be sitting on it?

This is defamation by implication, factually incorrect, and wildly, recklessly misleading. The road, and necessary related project elements, was budgeted to cost more than \$8 million. There was no conceivable outcome, in fact or fantasy, that the City of Davenport (or anyone) could or would ever pay \$5 million to grade the casino site. It is a ridiculous, reckless declaration, posed as a question in hopes of avoiding responsibility for publishing a fantastical lie.

16. On June 20, 2015, Brian Wellner wrote:

"I'm on the verge of an ethical dilemma like I've never experienced before," Malin said, adding he's unsure of all the reasons behind the mayor's actions but believes they have something to do with his handling of the Rhythm City Casino development.

This is defamation by implication, with a quote reported wholly out of context. The ethical dilemma quote was a joke about potentially having free tickets to the Davenport Employee Appreciation Game at Modern Woodmen Park that evening, but being fired before the game started. I purchased the tickets, as I always did, to avoid any questions about my ethics. Wellner is recasting a self-deprecating joke into something sinister, and doing so purposefully to recast my statement and a davenporttoday.com post of June 19, 2015 on the same topic to fit the Times' malevolent intent.

17. On June 20, the Quad City Times Editorial Board wrote:

He's out of control.

This is defamation by implication, in suggesting a career government official is "out of control". It was demonstrably false and belied by the fact that, during the height of the malicious attacks perpetrated by the Quad City Times, I continued to show up for work, answer every single question the Times posed to me, and do my job each day. In fact, I even traveled to the state capitol to represent Davenport on June 19, as the City received a \$10.75 million allocation of state funds for a \$2.3 billion economic development project related to the Elmore extension. This project, which I worked on for over a year, was projected to add 970 new jobs to the community. I was anything but out of control. I was professional, focused and cheerful, which only added to the Times' consternation.

18. On June 29, 2015, Barb Ickes wrote:

It wasn't the first time.

In 2013, Malin worked out a deal with AT&T to place a cellphone tower at Emeis Park.

This is defamation by implication and, again, the exact opposite of the truth. There isn't a single shred of evidence that I "worked out a deal with AT&T" in 2013. I did not participate in any single

discussion with any AT&T representative in preparation of a lease agreement resulting in construction of a public safety / cell phone tower in Emeis Park. Ms. Ickes knows this, because she was supplied all City documents related to the matter.

19. On June 29, 2015, Barb Ickes wrote:

The 180-foot tower was supposed to be subject to a hearing by the Zoning Board of Adjustments, which requires a special-use permit for the towers. That didn't happen.

This is defamation by implication. The ZBA hearing which Ms. Ickes references did not happen because Corporation Counsel Tom Warner issued a legal opinion which established that a City-owned tower built on City-owned land that would be used for public safety purposes neither required approval of the Zoning Board of Adjustments, nor the City Council. I polled Council members - twice - on whether they wanted the item placed on a City Council meeting agenda to vote on, or whether I should approve it at the staff level. Not one City Council member, after being asked on two separate occasions, asked that the matter be placed on a City Council agenda. Rather, every City Council member advised me to approve the tower at my level. Ms. Ickes was made aware of the Legal Department's sign off and review by Davenport aldermen in response to e-mails and phone calls at the time of her inquiry, and was reminded in a follow-up story as well. To support the Times' spiteful mission, she chose to recast the truth into defamation by implication, and not a single editor, nor the Publisher at the Times, stopped her.

20. On June 29, 2015, Barb Ickes wrote:

When I asked Malin last August how the cell tower was able to bypass all the normal permitting and other requirements, he referred me to the city attorney, saying, "Legal signed off on this."

Not this time.

This is defamation by implication and knowingly, objectively false. Stating that I did not have Legal Department sign off of the contract regarding the casino's construction of the road is not just completely false. It is, again, the exact opposite of the truth. I supplied multiple copies of Corporation Counsel Warner's e-mail sign off to the Quad City Times weeks in advance of Ms. Ickes' June 29 publication.

Stating "Not this time." after "Legal signed off on this" in reference to the cell / public safety tower clearly implies I did not have Corporation Counsel Warner's "sign off" of the final draft of the casino agreement, which is clearly untrue. The written record which the Times possessed well in advance of June 29, 2015 is unambiguously clear that I did not move forward with placing the casino agreement on the City Council agenda until after Corporation Counsel Warner approved the final draft, after I asked him if he had "any concerns". His clear and unambiguous written approval was provided multiple times to the Quad City Times. The reporters, editors and Publisher employed by the Times in June of 2015 purposefully and steadfastly ignored and/or recast the truth to support their malicious screed.

Moreover, e-mail records from Ms. Ickes' Emeis Park tower questions establish that Ms. Ickes asked me numerous questions about the tower and I answered every one of them. When Ms. Ickes asked technical legal questions in a follow-up phone call, I referred her to Corporation Counsel Tom Warner. Mr. Warner made a practice of not returning Ms. Ickes' phone calls, for his own reasons. There is a well-established record in e-mails that not only did I answer every question Ms. Ickes ever asked of me, I repeatedly apologized for Mr. Warner not returning Ms. Ickes' calls, noting the Corporation Counsel did not report to me.

21. On June 29, 2015, the Editorial Board wrote:

"Davenport aldermen have yet to offer taxpayers a hint of the performance issues that compelled them to pay ex-City Administrator Craig Malin \$310,000 to leave."

This is factually incorrect. Davenport aldermen weren't "compelled" to pay me anything, and certainly not \$310,000. The City Council and I came to a voluntary and amicable separation and transition agreement, which never came close to \$310,000 in expenditures.

22. On June 29, 2015, the Editorial Board wrote:

On Friday, one of Malin's last acts at taxpayer expense was sending the Times Editorial Board a copy of a June 24 letter in which ALL council members laud his performance.

"At no time during the discussion, was it the intention of any elected official below to question your credibility, work ethic, or desire to make Davenport a better place. You consistently demonstrate a high level of initiative, and strive to improve performance."

This is the sole public statement these 10 elected officials have offered the public about Malin's performance. They've issued statements on his quickly concocted separation agreement. But not a word of concern about his performance has been shared in council chambers.

This is defamation by implication. I had, for years, posted my performance evaluation summaries on the City's website as a public accountability and open government initiative. The Quad City Times was well aware of this practice, and my e-mail of June 26, 2015 included copies of the evaluation summaries with the City Council's June 24 letter to address the Times' June 25 editorial questioning why *"Not a single alderman in a public council session has uttered a word of concern about Malin's performance."*

The Quad City Times knew exactly why aldermen did not utter a word of concern about my performance. My performance evaluations were consistently excellent and my positive impact in the position of City Administrator was such that I established the record for chief administrative officer tenure in any Iowa city over 100,000.

The Times reporters, editors and Publisher knew of my exceptional performance as Davenport City Administrator, as did senior leadership of Lee Enterprises. They knew it well. But they needed me to leave Davenport to put an end to the open government website I championed, because they obsessed about it threatening their faltering business.

So they threatened me in private, and lied in public.

Ms. Anselm, the reporters, columnists, editors and Publisher of the Quad City Times in 2015 lied and lied and lied; at times publishing the exact opposite of actual events and the written record they possessed, at times defaming me by implication and at times going to such lengths as to falsify a contract and fabricate a quote, both hand-crafted by Times staff to support the Times' attack. I dared to support open government and empowerment of the Davenport community. The Quad City Times, perversely and obsessively, ran me out of town for doing so.

I hereby demand a full and complete retraction of the preceding lies, numbered 1 – 22, not later than November 23, 2016.

Best Regards,



Craig Malin

via e-mail and Certified Letter

May 2, 2017

Deb Anselm
Publisher, Quad City Times
500 East Third Street
Davenport, IA. 52801

Dear Ms. Anselm:

This letter will supplement prior letters regarding retraction of false and libelous statements the Quad City Times published in June of 2015. In compliance with Iowa Code 659.2, I hereby demand the following statements (1 – 28) be retracted and withdrawn:

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1. On June 18, 2015, the Quad City Times published the following in an article by Brian Wellner:

An amended development agreement states the city is obligated to pay for "grading and utility work and extensions relating to the real estate."

The publication is false and libelous.

2. On June 19, 2015, the Quad City Times published the following in an article by Barb Ickes:

Warner said he asked Malin last year why he was obligating the city to pay for the casino's site preparation and not just the Elmore extension, and Malin's response was that it "wasn't up for debate."

The publication is false and libelous.

3. On June 18, 2015, the Quad City Times published the following in an article by Brian Wellner:

Malin told the Times earlier in the week and again Thursday that Warner "signed off" on the casino agreement last summer and referenced a series of emails among city staff in which Malin asked them for any concerns about the contract.

The publication is false and libelous.

4. On June 18, 2015, the Quad City Times published the following in an article by Brian Wellner:

Malin insists he did not agree to the city paying to grade the casino site.

The publication is false and libelous.

5. On June 18, 2015, the Quad City Times published the following in an article by Brian Wellner:

When I'm voting on something, I want to know all the information," [Alderwoman] Tompkins said. "I want to have the attorney present so I can ask questions and feel all my questions are answered. I want to ensure all the information is provided." [Alderman] Barnhill agreed.

"We want to hear it from them, not from Craig," Barnhill said. "We want to hear it from the financial and legal experts to make sure we're accountable to the taxpayers and get the best answer for the use of their money."

The publication is false and libelous.

6. On June 18, 2015, the Quad City Times published the following in an article by Brian Wellner:

Elmore was supposed to cost \$7 million, according to projections from a year ago.

The publication is false and libelous.

7. On June 18, 2015, the Quad City Times published the following in an article by Brian Wellner:

Malin said Warner and Wright both signed off on the contract before Malin put it before the council for a vote.

The publication is false and libelous.

8. On June 19, 2015, the Quad City Times published the following in an article by Barb Ickes:

It wasn't generous enough of Davenport taxpayers to shell out \$7.8 million for the road to the new casino.

The publication is false and libelous.

9. On June 19, 2015, the Quad City Times published the following in an article by Barb Ickes:

City Administrator Craig Malin evidently figured taxpayers are so crazy about this private profit center, they'd like to chip in a few million more.

The publication is false and libelous.

10. On June 19, 2015, the Quad City Times published the following in an article by Barb Ickes:

And he still can't give a straight answer on exactly how much more the people are on the hook to pay.

The publication is false and libelous.

11. On June 19, 2015, the Quad City Times published the following in an article by Barb Ickes:

On a mildly brighter note, it is a relief to see that Malin uses the same write-in-circles approach when responding to concerns of aldermen that he uses when avoiding questions by reporters.

The publication is false and libelous.

12. On June 19, 2015, the Quad City Times published the following in an article by Barb Ickes:

A week after the column, which pointed out the ways the city lost out on millions in state grants for the casino road, Alderman Kerri Tompkins, 8th Ward, sent an email to Malin. She wanted to know whether Finance Director Brandon Wright or City Attorney Tom Warner had expressed any concerns about the contract Malin negotiated with casino owner Dan Kehl.

Malin responded by blathering on about the five email attachments he was sending, then waving his pompoms in the air (again) about the extended Elmore producing a new \$250 million tax base. (Mall of America is evidently relocating here.)

The publication is false and libelous.

13. On June 19, 2015, the Quad City Times published the following in an article by Barb Ickes:

Tompkins smartly saw through the rhetoric: "I appreciate your quick response ... However, please answer the question, did Tom (Warner) or Brandon (Wright) ever express any concerns to you about the agreement?"

Malin replied that there had been two concerns: the timing of the sale of bonds to pay off the road and the need to keep the city out of the process of picking a contractor for Elmore.

He said nothing of the concerns we've since learned were expressed when the contract was still a draft.

The publication is false and libelous.

14. On June 19, 2015, the Quad City Times published the following in an article by Barb Ickes:

Malin replied to the call for his resignation by casting Warner directly into the path of a CitiBus, saying, "I have no intention to resign to account for a faulty legal opinion."

But wait. Malin never can make one simple declarative statement without twisting it into a pretzel.

In his role as columnist for the city's non-news online news site, Malin wrote of Warner, "He's a good and honest man and doesn't deserve to be collateral damage for a misunderstanding."

So, stab him in the back with one hand and pat him with the other?

The publication is false and libelous.

15. On June 19, 2015, the Quad City Times published the following in an article by Barb Ickes:

We know the road's costing just shy of \$8 million. The council approved the \$13 million Elmore expenditure in the last capital improvement budget.

We still don't know what the other \$5 million is for.

Anybody want to bet the new casino will be sitting on it?"

The publication is false and libelous.

16. On June 20, 2015, the Quad City Times published the following in an article by Brian Wellner:

"I'm on the verge of an ethical dilemma like I've never experienced before," Malin said, adding he's unsure of all the reasons behind the mayor's actions but believes they have something to do with his handling of the Rhythm City Casino development.

The publication is false and libelous.

17. On June 24, 2015, the Quad City Times published the following in an editorial by the Editorial Board:

He's out of control.

The publication is false and libelous.

18. On June 29, 2015, the Quad City Times published the following in an article by Barb Ickes:

It wasn't the first time. In 2013, Malin worked out a deal with AT&T to place a cellphone tower at Emeis Park.

The publication is false and libelous.

19. On June 29, 2015, the Quad City Times published the following in an article by Barb Ickes:

The 180-foot tower was supposed to be subject to a hearing by the Zoning Board of Adjustments, which requires a special-use permit for the towers. That didn't happen.

The publication is false and libelous.

20. On June 29, 2015, the Quad City Times published the following in an article by Barb Ickes:

When I asked Malin last August how the cell tower was able to bypass all the normal permitting and other requirements, he referred me to the city attorney, saying, "Legal signed off on this."

Not this time.

The publication is false and libelous.

21. On June 29, 2015, the Quad City Times published the following in an editorial by the Editorial Board:

Davenport aldermen have yet to offer taxpayers a hint of the performance issues that compelled them to pay ex-City Administrator Craig Malin \$310,000 to leave.

The publication is false and libelous.

22. On June 29, 2015, the Quad City Times published the following in an editorial by the Editorial Board:

On Friday, one of Malin's last acts at taxpayer expense was sending the Times Editorial Board a copy of a June 24 letter in which ALL council members laud his performance.

"At no time during the discussion, was it the intention of any elected official below to question your credibility, work ethic, or desire to make Davenport a better place. You consistently demonstrate a high level of initiative, and strive to improve performance."

This is the sole public statement these 10 elected officials have offered the public about Malin's performance. They've issued statements on his quickly concocted separation agreement. But not a word of concern about his performance has been shared in council chambers.

The publication is false and libelous.

23. On June 24, 2015, the Quad City Times published the following in an editorial by the Editorial Board:

Wellner had been working on a story trying to straighten this out for two weeks when Gluba called for Malin's resignation.

The publication is false and libelous.

24. On June 24, 2015, the Quad City Times published the following in an editorial by the Editorial Board:

Some Davenport aldermen boycotted a meeting called Friday by two aldermen.

The publication is false and libelous.

25. On June 24, 2015, the Quad City Times published the following in an editorial by the Editorial Board:

Malin turned to the city-owned Davenport Today site Friday to fan the flames. In a series of hastily written, posted, then deleted columns, Malin rambled on incoherently about our reporters, the mayor's misperceptions, Father's Day and other topics. Read all three posted on gctimes.com with this editorial.

The publication is false and libelous.

26. On June 24, 2015, the Quad City Times published the following in an editorial by the Editorial Board:

On Tuesday, Mayor Bill Gluba acknowledged again he never reads the Malin website.

The publication is false and libelous.

27. On June 18, 2015, the Quad City Times published the following in an article by Brian Wellner:

From the site, he links to city documents, employee salaries and many of his own work emails.

The publication is false and libelous.

28. On June 19, 2015, the Quad City Times published the following in an article by Barb Ickes:

He assured those with concerns that it was a done deal.

The publication is false and libelous.

Leaving aside the numerous other objective falsehoods, opinions, rhetorical hyperbole, name-calling and underlying duplicity of the Times' publications of the era with regard to my service as Davenport City Administrator, each of the preceding statements is either, or in combination, knowingly false, recklessly false, purposeful avoidance of the truth or defamation by implication.

I hereby demand a full and complete retraction of the preceding false and libelous publications, numbered 1 – 28, not later than May 22, 2017, and respectfully suggest you obtain legal review from a firm that has no pecuniary interest in the matter.

Best Regards,



Craig Malin

via e-mail and Certified Letter

cc: Attorney April Price, Lane & Waterman