

SHH INVESTMENTS vs.  
Noyes, Sidney on 11/19/2020

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT  
IN AND FOR WALTON COUNTY, FLORIDA  
CIVIL DIVISION

SHH INVESTMENTS, LLC, as successor  
trustee on behalf of BEACH LIFE LAND TRUST,  
SANTA CLARA LAND TRUST, COASTAL RESOURCES  
LAND TRUST NO. 1 and COASTAL RESOURCES  
LAND TRUST NO. 5,

Plaintiffs,

vs.

Case No. 2019-CA-217

WALTON COUNTY, FLORIDA,

Defendant.

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DEPOSITION OF

SIDNEY N. NOYES

Taken on Behalf of the Plaintiffs

DATE TAKEN: November 19, 2020

TIME: 10:38 a.m. - 1:05 p.m. Central

PLACE: South Walton Courthouse Annex  
31 Coastal Centre Boulevard, Suite 500  
Santa Rosa Beach, Florida 32549

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EXAMINATION OF THE WITNESS TAKEN BEFORE:

REBECCA DANIELS, RPR  
Daniels & Upton Reporting  
1817 Lewis Turner Boulevard, Suite F  
Fort Walton Beach, Florida 32547  
850.864.3376 scheduling@getdepos.com getdepos.com

**APPEARANCES**

On behalf of the Plaintiffs:

**A. BENJAMIN GORDON**  
Attorney at Law  
AnchorsGordon, P.A.  
2113 Lewis Turner Boulevard  
Suite 100  
Fort Walton Beach, Florida 32547  
bgordon@anchorsgordon.com

On behalf of the Defendant:

**WILLIAM G. WARNER**  
Attorney at Law  
Warner Law Firm, P.A.  
Post Office Box 1820  
Panama City, Florida 32402  
billwarner@warnerlaw.us

**SIDNEY N. NOYES**  
Attorney at Law  
Office of the County Attorney  
161 E. Sloss Avenue  
DeFuniak Springs, Florida 32433  
noysidney@co.walton.fl.us

Also present:

Peter Howard

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1 WHEREUPON,

2 SIDNEY N. NOYES,

3 after having been first duly sworn, was deposed and

4 testified as follows:

5 THE WITNESS: I do.

6 DIRECT EXAMINATION

7 BY MR. GORDON:

8 Q. Ms. Noyes, if you would, please state your full  
9 name for the record.

10 A. Sidney Noyes.

11 Q. And what is your position with Walton County?

12 A. I'm the county attorney.

13 Q. And how long have you been in that position?

14 A. Since August of 2017.

15 Q. And what was your position prior to becoming the  
16 county attorney?

17 A. I was the assistant county attorney.

18 Q. And how long were you in that position?

19 A. I started that position in March of 2014.

20 Q. Okay. And what did you do before being the  
21 assistant county attorney?

22 A. I worked for Andrews & Davis, which was Mark  
23 Davis' law firm in DeFuniak Springs. I guess that was  
24 probably like July 2012 until he came to the County. And  
25 then prior to that, I was an assistant public defender for

1 several years in Leon County, Gadsden County, and Liberty  
2 County.

3 Q. Okay. Where did you graduate from law school?

4 A. FSU.

5 Q. When did you graduate?

6 A. 2010, May 2010.

7 Q. And how do you know Mark Davis?

8 A. He is -- so my mother and Mark are first cousins,  
9 and he is my godfather, and then also from working together.

10 Q. Okay. Who have you spoken to about this case,  
11 outside of the County and its attorneys?

12 A. Not many people. I think that I have had some  
13 discussions, not many, with the people from the neighborhood  
14 plan, not many though. And I don't -- I know that maybe I  
15 had one or two conversations with Bill Bond and Megan Fry  
16 from Clark Partington. But other than that, I don't recall  
17 any other conversations with somebody outside of the County.

18 Q. Okay. What did you discuss with the people about  
19 the neighborhood plan?

20 A. So I recall that individuals from the  
21 neighborhood, mainly Dana Harman-Obstbaum and her husband  
22 Mario -- and I'm trying to go back. Whenever I was  
23 preparing for this deposition, I tried to go back and look  
24 at my calendar as best I could to piece it together. So  
25 there was a replat of a subdivision that was adjacent to the

1 south end of Montigo, south of 30A. I believe that replat  
2 occurred in 2017. And the development actually didn't occur  
3 until, like, the clearing of the lots. Preparing for  
4 development didn't occur until 2018, maybe 2019. It was  
5 around the same time that this lawsuit was filed, as I  
6 remember it. And those neighbors contacted the planning  
7 department and also contacted my office with concerns about  
8 the replat and had questions about that. And I don't  
9 remember if they already knew about the lawsuit; or I had  
10 confusion and maybe I told them about the lawsuit, not  
11 intentionally, thinking that that was what they were calling  
12 about.

13 Q. Okay. And what did you talk about with the  
14 lawsuit with them?

15 A. I know I probably emailed them a copy of the  
16 original complaint that was filed because they would have  
17 asked for it, whenever they found out about the lawsuit.  
18 But I've always made it very clear to them that I couldn't  
19 discuss specifics with them. I couldn't give them legal  
20 advice. It was more just about the fact that a lawsuit was  
21 filed.

22 Q. Okay. Other than that discussion, have you had  
23 any other discussions with anyone in the neighborhood about  
24 the litigation?

25 A. The litigation, I don't recall. I do remember

1 Kristen mentioned in her deposition a meeting with the  
2 neighborhood during the neighborhood planning process. I  
3 had forgotten about that, but I was present at a meeting  
4 with Kristen. I don't know if Mac was there or not and some  
5 of the representatives from the neighborhood plan, but I  
6 don't believe we discussed the lawsuit at that meeting. I  
7 remember it more as specifics related to the neighborhood  
8 planning process. Again, they were very concerned about  
9 that replat adjacent to Montigo. And there were some  
10 discussions about how we could possibly address their  
11 concerns without going through the neighborhood planning  
12 process, maybe by flagging permits for Gulf Shore Manor. So  
13 they were mostly concerned about encroachments and, you  
14 know, the Bathing Beach and Gulf Shore Beach and making sure  
15 that the planning department didn't allow any encroachments  
16 in those areas; I remember that. I don't remember specifics  
17 about the litigation being discussed at that meeting.

18 Q. Was there something wrong about that replat?

19 A. That, I don't -- I don't know that there was  
20 anything wrong. I don't know -- the neighbors' concern was  
21 that a portion of the single-family homes that would be  
22 constructed in that subdivision were going to encroach in  
23 either the Gulf Shore Beach section or the Bathing Beach  
24 section or both. I can't remember.

25 Q. Did you look into that encroachment at all,

1 alleged encroachment?

2 A. Kristen and Mac looked into it more.

3 Q. Do you know what their determination was?

4 A. No.

5 Q. Okay. Any other discussions you've had with the  
6 neighborhood group about this lawsuit that you recall?

7 A. I'm trying to remember. I know before a hearing  
8 that we had on one of the motions to dismiss that Dana and  
9 Mario contacted my office asking about the hearing and  
10 whether or not they could attend. And I told them to call  
11 Ms. Thorn, Judge Green's assistant; but other than that, I'm  
12 not really remembering any specific conversations.

13 Q. All right. How many discussions have you had  
14 with Bill Bond about this lawsuit?

15 A. Only one, that I recall.

16 Q. When was that?

17 A. So Mr. Bond -- we had a matter pending. It's  
18 still pending. It's a litigation between Inlet Beach Water  
19 System, Walton County, and Regional Utilities. And Mr. Bond  
20 had come to the county administration office to meet with me  
21 and Larry Jones regarding that litigation, and I want to say  
22 it was the summer of 2018.

23 Q. Was it the week of July 8, 2019?

24 A. It may be. I don't -- I don't know.

25 Q. Okay.



1 A. I'm trying to piece it back together.

2 Q. Would you have a calendar that would reflect that  
3 meeting?

4 A. Perhaps.

5 Q. Okay.

6 A. Maybe, maybe not. But I do remember he came to  
7 discuss that litigation, and I knew through some of my own  
8 research that Mr. Bond was involved in the litigation in  
9 Gulf Shore Manor in the '80s and '90s with the replats of --  
10 I don't know if he was involved with the one with Jasmine  
11 Dunes, but I know Sea Walk subdivision. And I just  
12 generally asked him about the litigation from the '80s and  
13 '90s. I don't really remember the specifics about it.

14 Q. And what did he tell you?

15 A. Let's see. I know that he told me that there was  
16 a settlement agreement specific to the Sea Walk subdivision  
17 litigation. I remember discussing that Al Green was his  
18 client, but he did tell me that there was a settlement  
19 agreement. It was mostly about the settlement agreement.  
20 And I believe that there was some discussion that an amount  
21 of money was ultimately given over to the TDC for the  
22 construction of some improvements I think at Santa Clara  
23 regional beach access as part of that settlement agreement.

24 Q. When was that?

25 A. When was the money given over to the County?

1 Q. Yes.

2 A. I don't know, but that was part of the settlement  
3 of that litigation, which I think was in the mid-'90s, early  
4 to mid-'90s.

5 Q. Who gave the money over?

6 A. I believe it was the plaintiff that had sued the  
7 beachfront property owners in Sea Walk subdivision.

8 Q. Do you know who the plaintiffs were?

9 A. I don't remember. I know they were -- generally,  
10 they were lot owners in Gulf Shore Manor subdivision, north  
11 of 30A.

12 Q. And that meeting with Mr. Bond was in the summer  
13 of 2019?

14 A. I thought it was '18, but it may have been '19.  
15 I don't remember.

16 Q. Okay. All right. Was this lawsuit already filed  
17 at the time?

18 A. This lawsuit? I'm sorry. I don't remember.

19 Q. Okay. Well, if this lawsuit hadn't been filed,  
20 why did you ask him what he knew about that litigation in  
21 Gulf Shore Manor?

22 A. Well, you know, Frank Watson had approached  
23 several people in the County well before the lawsuit was  
24 filed. So I knew about the issues generally because of  
25 that, even before the lawsuit was filed.

1 Q. And that's a good point. So the discussion with  
2 Mr. Bond -- whether it was in 2018 or 2019 -- was that  
3 precipitated because of my clients' claims to ownership that  
4 are now manifested in this lawsuit, even if it was before  
5 the lawsuit was filed?

6 A. If you mean by your client, you mean Frank, Frank  
7 Watson?

8 Q. Yes.

9 A. Yes.

10 Q. Okay.

11 A. Because I never had any discussions with  
12 Mr. Howard. Any of my discussions were Frank, which I don't  
13 think I had very many with him; but I know he had talked to  
14 other individuals in the County prior to the lawsuit being  
15 filed.

16 Q. In your discussion with Mr. Bond did he explain  
17 to you how the title for Gulf Shore Manor had been all  
18 messed up?

19 MR. WARNER: Object to form.

20 THE WITNESS: I don't remember that.

21 BY MR. GORDON:

22 Q. Okay. Did he explain to you anything about the  
23 County having some problems there with not having title to  
24 the property?

25 A. I don't remember that.

1 Q. Did he explain anything to you about some  
2 questionable deeds and platting by Chris Cadenhead related  
3 to a subdivision down there?

4 A. Well, that was Sea Walk subdivision. So we  
5 discussed the Sea Walk subdivision, but I don't remember if  
6 there were specifics about problems that he mentioned. I  
7 don't -- I don't remember that specifically. It may have  
8 been, but I don't remember.

9 Q. Other than that discussion with Bill Bond, have  
10 you had any other discussions with Bill Bond about Gulf  
11 Shore Manor or this lawsuit?

12 A. Not with Bill Bond, that I remember. I did after  
13 I spoke with Mr. Bond, at some point I had maybe a couple of  
14 conversations with Megan Fry at Clark Partington.

15 Q. When did you first have a discussion with Megan  
16 Fry?

17 A. The timelines -- I want to say the summer of  
18 2019.

19 Q. Okay. What did you discuss with her in the  
20 summer of 2019?

21 A. And I cannot -- I don't remember if this lawsuit  
22 had been filed yet or not. She reached out to me, I am  
23 assuming, because Mr. Bond made her aware of either the  
24 lawsuit or, you know, any kind of dispute that might be  
25 arising before the lawsuit was filed. And she indicated

1 that she was representing beachfront property owners, I  
2 think, in Sea Walk subdivision and maybe some of the other  
3 subdivisions south of 30A; that she had been retained, I  
4 think, by the title insurance companies; and that she was  
5 planning on filing, I guess, slander of title lawsuits  
6 against Frank Watson and Mr. Howard.

7 Q. And you think that was in the summer of 2019 she  
8 told you that?

9 A. I believe so, but I can't remember exactly. I'm  
10 sorry.

11 Q. And what else did you discuss in that  
12 conversation?

13 A. That was it.

14 Q. Okay. Did you ask any questions?

15 A. I asked her to send me a copy of the lawsuit  
16 whenever it was filed.

17 Q. Why did you ask for a copy of the lawsuit?

18 A. Because it may have impacted our litigation.  
19 And, again, I can't remember if the lawsuit we had was filed  
20 yet or was about to be filed; but I remember it kind of  
21 being close together. And I do know it was right before --  
22 I received a copy of the complaint right before the  
23 mediation we had scheduled, which I guess that was late  
24 summer, maybe early fall, of 2019; but I can't remember  
25 specifically.

1 Q. When you had your discussion with Bill Bond, did  
2 he express to you his surprise that the title companies  
3 didn't resolve these issues in Gulf Shore Manor back in the  
4 '90s?

5 A. I don't remember that. He may have, but I just  
6 don't remember.

7 Q. Did he express to you his surprise that this was  
8 a well-known issue that nobody seemed to be fixing at the  
9 time?

10 A. I don't remember that. No.

11 Q. Okay. You said you had a couple of discussions  
12 with Megan Fry; when was the next one?

13 A. Well, so she contacted me before the lawsuit was  
14 filed and let me know that it was, you know, coming, her  
15 lawsuit that she was filing. And then I believe she just  
16 emailed me whenever a copy of the complaint -- whenever the  
17 complaint was filed. And then I did have another discussion  
18 with her. Adam Cobb and I had a discussion with her either  
19 earlier this week or the end of last week, and we asked her  
20 about the draft easement that she had sent. It was a short  
21 conversation, maybe like five or ten minutes.

22 Q. And what did you discuss in that discussion?

23 A. She said that she -- after she settled the  
24 litigation with Frank Watson and Mr. Howard, the slander of  
25 title lawsuits, that there had been some vague discussions

1 about executing an access easement for the -- for the  
2 neighbors, the neighborhood association. She said after  
3 that lawsuit was settled, she was retained, I guess, by the  
4 neighborhood association. And she had had some vague  
5 conversations with Frank Watson about executing an easement,  
6 but that I guess it had not gone anywhere.

7 Q. And what did you or Adam Cobb say to her in that  
8 call?

9 A. We were -- I was just -- Adam had had other  
10 conversations with her, I think maybe a couple, after we got  
11 the letter from Megan Fry, the letter that I believe she  
12 sent to you and me and Adam. And I wasn't a part of those  
13 conversations. So it was really for my benefit just to --

14 Q. Did Adam Cobb say anything in that phone call?

15 A. Nothing of substance, that I remember. It was  
16 more just, you know, how did this come about, this draft  
17 easement, you know. When did you talk to Frank about it and  
18 was he willing, you know, to execute it?

19 Q. Did anybody discourage her from proceeding  
20 with --

21 A. No.

22 Q. -- the idea of an easement?

23 A. No. No. The impression from Megan was that the  
24 matter was kind of dropped, that Frank wasn't interested  
25 anymore in it or -- or that he, you know, had stopped

1 corresponding with her about it.

2 Q. Okay. Anything else said in that call?

3 A. I'm trying to think. No, not that I remember.  
4 It was mostly just about that easement and the letter that  
5 was sent to us.

6 Q. You mentioned that she sent you a copy of a  
7 complaint that she had sent. Did she send you a draft of  
8 the complaint before she sent you the actual one that was  
9 filed?

10 A. I don't believe so. I think it was the one that  
11 was filed.

12 Q. You don't believe you saw a draft previously?

13 A. I don't think so. I could be wrong, but I don't  
14 remember that.

15 Q. Do you have any other communications with Megan  
16 Fry?

17 A. No. I don't believe so.

18 Q. Have you had any discussions with Mark Davis  
19 about this lawsuit?

20 A. Vague discussions, more along the lines of when  
21 the lawsuit was filed. You know, Mark always is watching  
22 the filings in the clerk's office. And I think he saw when  
23 it was filed and reached out to me, or I might have reached  
24 out to him. I don't remember. But it was just like, hey,  
25 look at this lawsuit. It's really interesting, and that was



1 about it. I mean, we didn't talk about the specifics, that  
2 I remember.

3 Q. Did you talk about why it was interesting?

4 A. Well, it is interesting. I mean, it's a -- I  
5 mean, Kristen said it was complicated. It is kind of  
6 complicated, and it has to do with beach accesses that the  
7 County has had in effect for decades. So, I mean, it is  
8 interesting.

9 Q. I agree. It's a fascinating case. But I'm just  
10 curious what you and Mark Davis discussed about why you  
11 thought it was interesting. I mean, I agree it's  
12 interesting.

13 A. I mean, that's pretty much it. That it -- you  
14 know, that it had to do with the beach accesses and the fact  
15 that those beach accesses had been there for a very long  
16 time and --

17 Q. Did you talk about how long the beach accesses  
18 had been there?

19 A. Well, Mark and I, you know, both are aware of the  
20 existence of those beach accesses and, you know, at least  
21 generally the timelines of how long they've been there.

22 Q. And how long do you believe each beach access has  
23 been there?

24 A. Oh, about twelve -- I'm having to go back through  
25 the interrogatories and kind of tie stuff together. So that

1 work has not been completed yet. But it depends on which  
2 access. So -- and to be honest with you, I wasn't prepared  
3 for these discussions. I was more prepared for questions  
4 about conversations I had with Frank. So that's what I  
5 prepared for for today. So don't hold me to specifics. But  
6 generally speaking, I think that the first access that was  
7 constructed by the TDC was Pelayo, and I believe that was in  
8 the late '80s. I don't have -- I don't remember the  
9 specific date off the top of my head. And then San Juan, as  
10 best I can tell, if I remember correctly, was constructed in  
11 the -- right before Hurricane Opal, which was in October of  
12 1995. So it was within a couple of years before Hurricane  
13 Opal, if I'm remembering that correctly. And the Dothan --  
14 so Dothan Avenue is part of the Sea Highland subdivision;  
15 but a portion of the boardwalk that is constructed there  
16 encroaches in the Barcelona easement in Gulf Shore Manor;  
17 and I believe it was constructed around the same time that  
18 the San Juan access was, sometime in the mid-'90s. That one  
19 I don't remember if it was before or after Hurricane Opal  
20 but I believe that it was. And then the Santa Clara  
21 regional beach access, I believe, was finished sometime in  
22 2000 or 2001. And it's just been a process of going back  
23 through construction documents to --

24 Q. What about the -- I'm sorry.

25 A. -- determine around the time that those were

1 built.

2 Q. And those are construction documents the County  
3 has already produced to me?

4 A. Yes.

5 Q. There's no new construction documents you're  
6 looking at that I haven't already seen, correct?

7 A. No. I'm going back through what has already been  
8 produced and trying to tie each access to a time frame.

9 Q. What about what I heard referred to as the  
10 Montigo access?

11 A. As best I can tell, that has never been  
12 maintained by the County; but it was a pathway to the beach  
13 that neighbors on the north side of 30A used.

14 Q. Do you know when that pathway was created?

15 A. No.

16 Q. Okay.

17 A. No. Yeah.

18 Q. Any other discussions with Mark Davis about this  
19 lawsuit?

20 A. No. I mean, just other than generally it being  
21 interesting. I don't think that anything major has really  
22 gone on in the filings so I don't remember us having other  
23 discussions. He may have sent me an email or two with,  
24 like, some case law, just like, hey, check this out; but I  
25 don't remember anything other than that.

1 Q. Have you produced that -- those emails of case  
2 law to me?

3 A. I'm pretty sure that that's going to be in a  
4 response to one of your requests for production. I think in  
5 the fifth request for production you asked for written  
6 communication between anyone at the County and the attorneys  
7 at Clark Partington so it will be in that.

8 Q. But it's not been produced yet?

9 A. No. Because that was part of the fifth request  
10 for production. I think that's due maybe the first week of  
11 December.

12 Q. Okay. When did he send you that?

13 A. I don't remember, but it will be in the email.

14 Q. Okay. I'm just trying to get -- did you  
15 determine that it wasn't covered by prior requests or did  
16 you not get it until the most recent request?

17 A. I don't think it was part of a prior request, but  
18 I could be wrong.

19 Q. You made the determination -- you were aware of  
20 it and made the determination that it was nonresponsive to  
21 the prior request?

22 A. No. No. I'm sorry. So my office is busy  
23 gathering all the documents for the fourth and fifth request  
24 for production and then going back through stuff for the  
25 third interrogatories to amend our answers. We're going

1 through that, like, right now and have been for the last  
2 couple of weeks. So I saw that email. My assistants  
3 gathered the documents, specifically the emails, and then  
4 have me look at them to determine whether or not something  
5 is privileged. So I saw that email maybe, like, last  
6 week --

7 Q. Okay.

8 A. -- as part of what they were gathering for the  
9 response to the request for production. And, obviously,  
10 it's not privileged and it will be turned over.

11 Q. So don't -- you're not aware of whether that --  
12 we'll determine it when you produce it.

13 No other discussions with Mark Davis, then?

14 A. Not about this lawsuit, that I remember.

15 Q. When we had our prior mediation set in 2019 and  
16 the County canceled that mediation, did you have any  
17 discussions with the Clark Partington lawyers?

18 A. Only when Megan emailed me a copy of the  
19 complaint that had been filed, and I believe it was filed.  
20 I don't think it was a draft, but I could be wrong.

21 Q. But did you have any discussions with her about  
22 that, or did she just send you an email?

23 A. Well, I had a discussion with her before. I  
24 think I indicated, you know, she called me on the phone and  
25 said, hey, I'm about to file this slander of title lawsuit.

1 And I said, you know, please just send me a copy of the  
2 complaint whenever it gets filed --

3 Q. Okay.

4 A. -- and she did that.

5 Q. When she sent it to you, though, did you have a  
6 discussion contemporaneous with her sending you the  
7 document?

8 A. I don't remember that. I may have, but I don't  
9 remember that we did.

10 Q. Between the time she sent it to you and the  
11 County canceling the mediation, did you have any discussions  
12 with anyone at Clark Partington about this lawsuit?

13 A. I don't remember having any discussions, other  
14 than that email that she sent me.

15 Q. Have you had discussions with John Roberts about  
16 my clients' claims in this lawsuit?

17 A. Yes.

18 Q. How many of those discussions have you had?

19 A. So in preparation for today I tried to go back  
20 through my calendar and correspondence just to try to string  
21 it together. The dates and timelines are still a little  
22 vague; but the best I could tell, we probably had, like,  
23 two, maybe three -- two, maybe three meetings in person and  
24 then one telephone call where it was me, John Roberts, and  
25 Frank Watson.

1 Q. Okay. What did you discuss in your discussions  
2 with John Roberts?

3 A. Well, in going back to prepare for today, so at  
4 the time -- and generally the time, you know, the spring of  
5 2018 through I guess early 2019, is when this kind of came  
6 on my radar. And during that time I had other matters  
7 pending with John. So there was an issue -- he represented  
8 an entity, I think, that was called Cotomolo (phonetic), and  
9 there was a dispute between Cotomolo and Old Florida Fish  
10 House about a sign. He also filed --

11 Q. I really just want to know about discussions  
12 about this claim.

13 A. No. I'm sorry. I don't remember the specifics.  
14 And the reason for that is the specific dates, I guess, that  
15 I had conversations with John. And the reason for that is  
16 because we had all these other matters pending. And so he  
17 would contact me and say, hey, I need to talk to you. And  
18 early on I just assumed it was about these other matters.  
19 And he would -- he would discuss those other things. And  
20 then at the end of the conversation it was kind of like,  
21 hey, there's this other thing I want to talk to you about.

22 Q. Did you have any discussions with John Roberts  
23 about the law governing what constituted legal right-of-ways  
24 in Gulf Shore Manor?

25 A. I don't remember that.

1 Q. Did you have any discussions with John Roberts in  
2 which he provided you with legal authority about why the  
3 County could not claim certain right-of-ways in Gulf Shore  
4 Manor?

5 A. I can't remember if John gave this to me or if it  
6 was someone else, but there was some sort of legal memo that  
7 was drafted. I don't know if it was drafted by John or by  
8 Frank Watson. And that was given to me at some point by one  
9 or the other of them, I think.

10 Q. Did you agree with John Roberts that the County  
11 did not have a legal basis to assert right-of-ways in Gulf  
12 Shore Manor?

13 A. I don't remember saying that. No.

14 Q. Did you not say that, or you just don't remember?

15 A. I don't remember saying that, and I seriously  
16 doubt I would have said that.

17 Q. And specifically I'm talking about right-of-ways  
18 that have not yet been developed in Gulf Shore Manor.

19 A. I don't remember saying that. No.

20 Q. Okay. So if John Roberts is going to testify  
21 that you did say that, are you going to deny that you said  
22 that or are you just going to say you don't remember?

23 A. I don't remember.

24 Q. Okay. All right. Can you tell me the same  
25 question about Frank Watson? You've had discussions with



1 Frank Watson as well, correct?

2 A. Only one. It was a phone call with John Roberts,  
3 Frank, and I.

4 Q. Okay. Well, you had a meeting with me and Frank  
5 Watson at one point?

6 A. That's true. I can't remember if that was before  
7 or after the lawsuit was filed, though.

8 Q. Right. Right. I think -- I think it was after.

9 A. Okay.

10 Q. I think your attorney was there.

11 A. Yeah.

12 Q. In your discussions with Frank Watson on the  
13 telephone, what did you two discuss?

14 A. At that point it was about, I guess, a proposal  
15 that the County purchase property from -- you know, at that  
16 time I didn't know what these entities were or who they  
17 were. I assumed it was to purchase it from Frank, but it  
18 was about purchasing property -- the County purchasing  
19 property from the entities that have asserted claims of  
20 ownership.

21 Q. And what did you say in that conversation?

22 A. It was mostly Frank doing the talking, as I  
23 remember it. I don't remember the specifics. But, you  
24 know, I don't make decisions about who purchases property --  
25 you know, about the County purchasing property; that's not

1 my decision to make; that's the board of county  
2 commissioners. I feel fairly confident that I would have  
3 said that in the meeting that -- or the phone call that, you  
4 know, these aren't my decisions to make. These are for the  
5 commissioners to make.

6 Q. Do you recall anything specifically you said in  
7 that phone call?

8 A. I remember being shocked at the sum that they  
9 mentioned.

10 Q. What was that sum?

11 A. Oh, gosh. It was something along the lines of --  
12 and this was -- if I'm remembering it correctly, it was  
13 something along the lines of that we would purchase, you  
14 know, all of what these remnant parcels, as they were  
15 mentioned in the complaint, but also the dry sand areas of  
16 the beach for, like, Sea Walk subdivision, Jasmine Dunes,  
17 and those other areas. And I want to say that they -- that  
18 Frank said that they had an appraisal for everything, so the  
19 beach and these, you know, so-called remnant parcels. That  
20 it was appraised at around thirty million dollars, but they  
21 would sell it to the County at a ten percent discount. So I  
22 guess, what, like twenty-five million dollars and finance it  
23 over a number of years.

24 Q. And what was your response to that?

25 A. I probably -- I don't remember specifically; but

1 I'm sure I was shocked by the sum and probably said that's a  
2 lot of money; but other than that, I don't remember  
3 specifics.

4 Q. Did you ask them any questions?

5 A. Not that I remember, no.

6 Q. And that was John Roberts and Frank Watson that  
7 were on that call?

8 A. Yes, I believe so.

9 Q. Any other discussions with Frank Watson?

10 A. Well, so after the lawsuit was filed, we had a  
11 meeting at admin. There may have -- and I can't remember if  
12 this was before or after the lawsuit, but there may have  
13 been another meeting with Frank, Larry Jones, and I and  
14 Commissioner Anderson -- not Commissioner Anderson,  
15 Commissioner Nick.

16 Q. Okay.

17 A. But I may be remembering that wrong. And, again,  
18 I can't remember. I would assume that was before the  
19 lawsuit because I don't remember you being there.

20 Q. Right. And our discussion is what resulted in  
21 scheduling the mediation in September, correct --

22 A. Right.

23 Q. -- of '19?

24 A. Right.

25 Q. I'm going to show you what I'm going to mark as

1 Exhibit 1 to your deposition. Have you ever seen this  
2 before?

3 A. If I have, I don't remember it. I'm sorry.

4 (Plaintiffs' Exhibit 1 was marked  
5 for identification.)

6 Q. This is an -- Exhibit 1 is an Agreement for  
7 Purchase with Walton County, not executed. It's just a  
8 draft agreement. Essentially, my understanding from the  
9 testimony is it was an offer --

10 A. Okay.

11 Q. -- for twelve million dollars to purchase all of  
12 my clients' interest in this property. Do you recall how  
13 this came about?

14 A. So I remember the phone call with John and Frank.  
15 It was -- and I could have had it wrong but it was like  
16 something around twenty-five million. And then it seems  
17 like pretty soon thereafter, maybe John was no longer  
18 involved at that point because I don't remember having any  
19 other discussions with John about any of this. And then  
20 Frank -- it must have been before the lawsuit was filed.  
21 Frank continued to have discussions, I don't think with me  
22 but maybe other people in the County, and mentioned, you  
23 know, selling the property, these remnant parcels on the  
24 beach, for twelve million dollars.

25 Q. Do you know -- have any recollection as to where

1 the twelve million dollar figure came from?

2 A. No.

3 Q. Did you float the twelve million dollar figure?

4 A. No. I don't remember that. I can't imagine that  
5 I would have, but I don't -- I don't remember.

6 Q. You don't remember if you said twelve million  
7 dollars might be doable?

8 A. I don't remember saying that. I seriously doubt  
9 I would have said that, but I don't remember.

10 Q. Do you recall being at a meeting at which Frank  
11 Watson provided you with this, what we've marked as  
12 Exhibit 1?

13 A. Was it the meeting -- I don't know. It could  
14 have been the meeting where -- it could have been the  
15 meeting we had at admin, I don't know, or the meeting with  
16 Commissioner Nick. I'm sorry I don't remember.

17 Q. So you don't recall Frank Watson handing you this  
18 draft agreement for twelve million dollars?

19 A. I do not, no.

20 Q. Okay. Then I guess you don't recall telling him  
21 to keep it back so it wouldn't become a public record?

22 A. I might have said that. I don't know. I don't  
23 remember.

24 Q. So if he provided it to the County, it would not  
25 surprise you if you handed it back and said, don't let us

1 keep this because we don't want it to be a public record?

2 MR. WARNER: Object to form.

3 THE WITNESS: I don't know that I would have said  
4 it like that but --

5 BY MR. GORDON:

6 Q. How would you have said it, or how did you say  
7 it?

8 A. I don't remember. I'm sorry.

9 Q. Okay. At any point did you have a discussion  
10 about the County purchasing my clients' interests with  
11 anyone in the County?

12 A. With anyone in the County?

13 Q. Yes.

14 A. So I would have had discussions with Larry Jones,  
15 the county administrator, and the commissioners; but I'm not  
16 going to talk about my discussions with them.

17 Q. Okay. I hadn't asked you that.

18 A. Yeah.

19 Q. So you discussed it with the commissioners, each  
20 of the commissioners?

21 A. I'm sorry. What?

22 Q. You discussed the concept of purchasing my  
23 clients' interests with each of the county commissioners at  
24 the time?

25 A. No. And I'm sorry. I must have misunderstood

1 the question. So I discussed -- I discussed this issue, you  
2 know, the -- I guess the fact that I was approached by,  
3 like, John Roberts and Frank Watson. I informed the  
4 commissioners and Mr. Jones about that. But I didn't -- you  
5 know, I didn't -- well, I'm not going to get into my  
6 conversations with the commissioners or Mr. Jones.

7 Q. Did you ever tell Larry Jones or the  
8 commissioners about the twelve million dollar offer?

9 A. I don't want to get into the specifics of our  
10 conversations; but I would have talked to my clients about  
11 all of the things that -- you know, I would have informed  
12 them of any discussions.

13 Q. Of any offers that were made?

14 A. Yes. Yeah. I mean, if there were any.

15 Q. Did you ever have any discussions with Frank  
16 Watson or John Roberts in which you told them what the  
17 county commissioners had told you about this issue?

18 A. I don't remember that, and I doubt I would have  
19 told them what the commissioners told me.

20 Q. Do you recall, on or about September 25, I think  
21 it was 2018, participating in a public works public meeting  
22 about working to open up the lots south of Montigo for a  
23 subdivision?

24 A. I don't recall that. No. I very well could  
25 have. I have regular meetings with many departments, public

1 works and the planning department among them, and various  
2 issues come up.

3 Q. Did John Roberts ever request from you a lot of  
4 record for any property for one of his clients in Gulf Shore  
5 Manor?

6 A. So going back in my discussions with John, I'm  
7 not the person who makes the decisions about whether or not  
8 something is a lot of record.

9 Q. That wasn't my question. My question is: Did he  
10 ask you about a lot of record?

11 A. Not specifically like that, no.

12 Q. How did he mention lot of record to you?

13 A. It was more that his clients wanted the south  
14 portion of Montigo to be declared a lot of record through a  
15 director's determination -- a planning director's  
16 determination. And it was my understanding that Frank  
17 Watson had had conversations with Mac Carpenter, who is the  
18 planning director, about that.

19 Q. When was this?

20 A. When did Frank and Mac?

21 Q. Yes. You're talking about these conversations;  
22 when did they occur?

23 A. I don't know when the conversations between Frank  
24 and Mac occurred. It was -- would have been before John  
25 Roberts spoke with me. But it's my understanding that



1 whoever the clients were, they wanted a director's  
2 determination that the south portion of Montigo, south of  
3 30A, was a lot of record. And that Frank had had  
4 conversations with Mac Carpenter about that, but they had  
5 never applied for a director's determination. It was almost  
6 as though Frank and John were asking for, like, an opinion  
7 of how that director's determination would come out, without  
8 having to formally go through that process.

9 Q. What did you do? What did you say in response?

10 A. To John Roberts?

11 Q. Yes.

12 A. I don't know that I specifically told him one  
13 thing or another. Again, you know, I don't make those  
14 determinations about lot of record status. I'm sure I would  
15 have said that. That's a decision that Mac makes.  
16 Certainly Mac would probably consult me on that, but it's  
17 his decision to make.

18 Q. Did Mac Carpenter ever consult you on any lot of  
19 record issues in Gulf Shore Manor?

20 A. Consult me, no. So -- and, again, it's -- so  
21 it's very strange. I mean, Frank was going to different  
22 people. He was going to Mac. He was going to Jay Tusa.  
23 And then at some point, you know, John Roberts started  
24 contacting me. There were these discussions that were  
25 happening that I wasn't a part of but, you know, I was told

1 about later. I probably went to Mac after John Roberts  
2 approached me and said, hey, Mac, like, do you know anything  
3 about this? Like, what's going on with this? And Mac said,  
4 yeah. Frank has been talking to me about that. That was --  
5 I mean . . .

6 Q. Did you have lunch with John Roberts on  
7 October 3, 2018?

8 A. I don't remember that date, but I probably did.  
9 If he said I did, I'm sure I did.

10 Q. Did you agree to review his research regarding a  
11 lot of record and the lack of county right-of-ways over the  
12 land that's at issue in this lawsuit now?

13 A. I probably did, yes.

14 Q. Why would you agree to review that at the time?

15 A. I'm sorry. I don't understand.

16 Q. Well, if the lot of record, if he needed to go  
17 talk to Mac Carpenter, why didn't you just tell him to go  
18 talk to Mac Carpenter? Why did you offer to review his  
19 research?

20 MR. WARNER: Object to form.

21 THE WITNESS: Why wouldn't I look at it? He was  
22 offering to show me research about something that could  
23 come -- you know, be a contentious issue for the  
24 County. Why would I turn down an offer to look at  
25 that? But it was never with any condition that I would

1 be approving a lot of record status.

2 BY MR. GORDON:

3 Q. Did Mac Carpenter ever tell you that he met with  
4 John Roberts in October of 2018 regarding a lot of record  
5 request?

6 A. Mac Carpenter?

7 Q. Yes.

8 A. I don't remember Mac mentioning that but he --  
9 you know, he may have. A lot of people approach Mac about a  
10 lot of different things.

11 Q. Did you have a meeting with John Roberts on or  
12 about December 5, 2018?

13 A. I may have. I don't remember.

14 Q. Would you have a calendar that would reflect?

15 A. Possibly, it may or may not. I mean, all of my  
16 meetings aren't necessarily on -- make it to the calendar.  
17 And John -- you know, so like I said, we had all those  
18 issues pending. John is kind of classic for just, you know,  
19 calling me or saying, hey, I'm in the south end. Can you  
20 meet for lunch or can -- you know, do you have a few minutes  
21 here or there to talk about some issue. And like I said, at  
22 the time we had several issues pending. And this one would  
23 always come up at the end as, like, an afterthought. It  
24 would be that he wanted to meet about, you know, litigation  
25 we had totally unrelated to this or other matters dealing

1 with planning issues. And then this would get brought up at  
2 the end. So it probably never made it onto my calendar  
3 because he was very casual about it. It's not like he  
4 called my assistant and said, hey, I need to meet with  
5 Sidney about this specific matter. Does that make sense?

6 Q. On December 5, 2018, did you represent to John  
7 Roberts that you would issue a letter from the county  
8 attorney's office confirming that the County did not have  
9 right-of-ways over undeveloped streets in Gulf Shore Manor?

10 A. I'm sorry. Can you repeat that question?

11 Q. On or about December 5, 2018, did you represent  
12 to John Roberts that you would issue a letter from the  
13 county attorney's office confirming that there was no county  
14 right-of-way over the lot south of -- on Montigo, south of  
15 30A?

16 A. I don't remember saying that, and I would be  
17 surprised if I had said something like that.

18 Q. So are you denying you said it, or are you saying  
19 you just don't remember?

20 A. I don't remember, but I -- that does not sound  
21 like something that I would have said.

22 Q. Okay. On December 5, 2018, did you represent to  
23 John Roberts that you would issue a letter from the county  
24 attorney's office confirming a lot of record for the  
25 beachfront lot on Montigo, south of 30A?

1           A.     I'm sorry. Was that the same question that you  
2 just asked me or was that different?

3           Q.     The first one was the lack of right-of-way. This  
4 is about lot of record.

5           A.     Can you repeat the question? I'm sorry.

6           MR. GORDON: Can you read back the question?

7           (WHEREUPON, THE LAST QUESTION WAS READ BACK.)

8           THE WITNESS: I don't remember that conversation  
9 specifically, but I seriously doubt I would have said  
10 something like that because I'm not the one that makes  
11 those lot of record determinations. It's Mac Carpenter  
12 who makes those determinations.

13 BY MR. GORDON:

14          Q.     Are you aware of any discussion in December 2018  
15 from Mac Carpenter in which he represented that the county  
16 attorney would have to instruct him to issue the lack of  
17 right-of-way letter and lot of record status for that lot  
18 south of 30A in Gulf Shore Manor?

19          A.     A conversation between Mac and someone else about  
20 that?

21          Q.     Yes.

22          A.     No. I'm not aware of that.

23          Q.     Did you participate in an in-person meeting on or  
24 about January 16, 2019, with Frank Watson and John Roberts?

25          A.     I don't remember meeting in person with Frank,

1 other than, you know, with you at admin and possibly with  
2 Commissioner Nick at admin. I only remember the phone  
3 conversation that we had where it was John, Frank, and I. I  
4 don't remember the in-person meeting. I'm not saying it  
5 didn't happen, but I just don't remember that.

6 Q. You don't recall a meeting on January 16, 2019?

7 A. No.

8 Q. Did you -- do you recall representing to Frank  
9 Watson and John Roberts that the County would not -- would  
10 now not grant a lot of record letter for the Montigo lot  
11 because it is a, quote, political issue, closed quote?

12 A. No. I don't remember saying that. I would be  
13 surprised if I did say something like that. I never  
14 indicated to either Frank or John that they would be  
15 receiving a lot of record status for the south end of  
16 Montigo; I never indicated that.

17 Q. Did you represent to Frank Roberts -- or Frank  
18 Watson and John Roberts that the county commissioners would  
19 prefer to buy that lot of Montigo and any other clean land,  
20 meaning not claimed by private property owners, from my  
21 clients?

22 A. I don't remember saying that, and I would be  
23 surprised that I did. I mean, Frank and John were coming to  
24 me, you know, talking to me. And I try my best to always  
25 make it clear, like, I am not the person who makes these

1 decisions. It's the commissioners that would make decisions  
2 about purchasing property in an open, public meeting. The  
3 decisions about lot of record status would be made by Mac  
4 after -- possibly he would consult with me, about that; but  
5 those are not decisions that I make.

6 Q. So I just want to be clear: On or about  
7 January 16, 2019, did you represent to Frank Watson and John  
8 Roberts that the County would prefer to buy my clients'  
9 interests in the land that's the subject of this lawsuit?

10 A. I don't remember saying that, and I would be  
11 surprised if I did say something like that.

12 Q. At that -- on or about January 16, 2019, do you  
13 recall any conversation with John Roberts or Frank Watson at  
14 which it was agreed that Frank Watson would obtain an  
15 appraisal and make a written offer to the County through  
16 you?

17 A. I'm sorry. What do you mean by "agreed"?

18 Q. That you and they agreed or discussed -- let me  
19 just say that.

20 On or about January 16, 2019, did you, Frank  
21 Watson, and John Roberts discuss Frank Watson completing an  
22 appraisal on the property and then making a written offer to  
23 the County, which would be submitted to the County through  
24 you?

25 A. I remember them stating that they would be

1 obtaining an appraisal on the property and that they, I  
2 guess, would be making some sort of offer; but there was  
3 no -- I never asked them to obtain an appraisal. There's  
4 certainly no agreement between us about the need for an  
5 appraisal. And I am certain that I would have tried my best  
6 to make it clear to them that I'm not the person who makes  
7 decisions about property purchases. It's the commissioners  
8 that make those decisions in open, public meetings.

9 Q. But, again, you don't recall any meeting you had  
10 with them on or about January 16, 2019, do you?

11 A. I don't remember that meeting. I only remember  
12 the phone call with Frank and John.

13 Q. On or about January 25 of 2019, did you have a  
14 telephone call with Frank Watson in which he was reassuring  
15 you that he was waiting on an appraisal from Walt Humphrey?

16 A. I don't remember that. No.

17 Q. Okay. Do you know Walt Humphrey?

18 A. He is an appraiser.

19 Q. Has the County used Walt Humphrey for appraisals  
20 before?

21 A. Yes.

22 Q. Does the County trust Walt Humphrey's appraisal  
23 work?

24 MR. WARNER: Object to form.

25 THE WITNESS: I don't know. I can't answer that



1 question.

2 BY MR. GORDON:

3 Q. Have you retained Walt Humphrey for appraisals?

4 A. No -- personally? No.

5 Q. Walton County?

6 A. Walton County?

7 Q. As county attorney, have you retained him for  
8 appraisals?

9 A. Well, so, for appraisals for property purchases,  
10 those are ordered by the department heads that are seeking  
11 those purchases. So it's the TDC, if it's for TDC property;  
12 admin -- you know, I only order appraisals for litigation  
13 purposes.

14 Q. So have you ordered one from Walt Humphrey for  
15 the County?

16 A. I don't think I have for litigation. No. I  
17 usually use Randy Bracewell.

18 Q. Has anyone from the County relied on Walt  
19 Humphrey appraisals before in litigation?

20 A. In litigation since I've been there in 2014?

21 Q. To the best of your knowledge?

22 A. I don't know.

23 Q. Okay. But you are aware that Walton County has  
24 relied on Walt Humphrey's appraisal work before, correct?

25 A. Before we purchase property, depending on the

1 value, we're required to get a certain number of appraisals.  
2 Frankly, there's only so many appraisers that will do that  
3 work and Mr. Humphrey is one of them.

4 Q. So yes to my question?

5 A. Yes.

6 Q. Has the County obtained any appraisals on the  
7 property that's at issue in this case?

8 A. I'm sorry. What was the question?

9 Q. Has the County obtained any appraisals on the  
10 value of the property that is the subject of this lawsuit?

11 A. Well, if we -- if we did -- I'm trying to  
12 remember. I know I've had discussions with an appraiser  
13 about this litigation. I don't remember if it's been  
14 formalized in a report or not. I just can't remember. And  
15 if we ordered any, it would be work product to prepare for  
16 this litigation.

17 Q. I'm still entitled to know whether you've done  
18 it. I didn't ask what it said.

19 A. Okay.

20 Q. I'm asking: Have you ordered an appraisal on the  
21 property that's the subject of this lawsuit?

22 A. I do not know. I cannot remember if we've  
23 ordered an appraisal. I have had discussions with Randy  
24 Bracewell about this lawsuit, but I cannot remember if he  
25 formalized it in an appraisal.

1 Q. I don't want to know what he said, but did you  
2 discuss the value of the property?

3 A. Yes.

4 Q. Okay. Before the County purchases this property,  
5 how many appraisals do you have to have?

6 A. It depends on the value and how you break it out;  
7 but, generally, you need two appraisals prior to purchasing  
8 property. And if the property -- the contract price is  
9 greater than the average of those appraisals, it requires a  
10 supermajority of the board to purchase the property.

11 Q. Okay. Have you obtained -- has the County  
12 obtained two appraisals for the property that's the subject  
13 of this lawsuit?

14 A. No. I can't remember if Randy has actually given  
15 me an appraisal. I just don't remember, and the only  
16 conversations I've had have been with him.

17 Q. Okay. So just to make it clear: Has the County  
18 obtained two appraisals for the property that's the subject  
19 of this lawsuit?

20 A. No.

21 Q. Did you have a telephone call on or about  
22 February 11, 2019, with John Roberts and Frank Watson?

23 A. I think that's the phone call that I remember  
24 whenever they mentioned the thirty million dollars and the  
25 ten percent discount. I do remember that conversation, and

1 it was a phone call.

2 Q. And was twenty-one million dollars mentioned?

3 A. I thought it was twenty-five, but I could be  
4 wrong.

5 Q. Okay. Did you say in that phone call that you  
6 thought the price was going to be fifty million but  
7 twenty-one million is more reasonable?

8 A. I seriously doubt I said that because the  
9 whole -- those sums that they mentioned on the phone seemed  
10 unreasonable.

11 Q. Did you represent that you would present that  
12 twenty-one million to the commission?

13 A. No. I don't remember that. I tried to make it  
14 clear in all of my conversations if they wanted the County  
15 to consider purchasing this property, they needed to go to  
16 the commissioners in a public meeting so get on an agenda.

17 Q. I want to be very clear. Your answer -- you  
18 first said no and then you said you don't recall.

19 A. Did I say that?

20 Q. Yeah. I asked you: "Did you represent that you  
21 would present that twenty-one million to the "commission?"  
22 Answer: "No." Then you said, "I don't remember that."  
23 That's according to the transcript that I just read back to  
24 you.

25 A. Right. Okay.

1 Q. So which one is it?

2 A. I don't remember saying that. I seriously doubt  
3 I would have said that. And I always tried to make it clear  
4 to John Roberts and to Frank Watson that if they wanted the  
5 County to purchase property, they needed to get on a  
6 commission agenda and ask the board in a public meeting to  
7 do so.

8 Q. Did you have an in-person meeting with John  
9 Roberts on or about February 19, 2019?

10 A. I may have. I don't remember.

11 Q. Did you have a discussion about an offer of  
12 twenty-one million with four million dollars down with owner  
13 financing?

14 A. I don't remember that. I remember that as part  
15 of the phone call with Frank Watson.

16 Q. During a meeting with John Roberts on about  
17 February 19, 2019, did you represent to him that you had  
18 spoken to the county commissioners and they had rejected the  
19 twenty-one million dollars down with four million -- four  
20 million down and then owner financing?

21 A. I do not remember that conversation. I seriously  
22 doubt I would have said something like that because I would  
23 have not had conversations like that with the commissioners.  
24 I would have made it clear that any discussions about  
25 purchasing property would have had to occur in a public

1 meeting.

2 Q. Okay. But you don't recall any of these meetings  
3 that I'm asking you about with John Roberts or Frank Watson,  
4 do you?

5 A. Those -- those questions you're asking me, those  
6 seem so far-fetched from anything I would say. I don't  
7 recall it, but I would -- I just would be surprised if I  
8 said anything like that.

9 Q. But you don't recall even meeting with John  
10 Roberts on or about February 19, 2019, do you?

11 A. No.

12 Q. Okay. Did you represent to John Roberts on or  
13 about February 19, 2019, that the County only had eight  
14 million to twelve million dollars cash available for this  
15 purchase and preferred to close in an all cash deal on the  
16 land?

17 A. I don't remember saying that, and I would be  
18 surprised if I said something like that.

19 Q. Do you recall any discussions with John Roberts  
20 about a twelve million dollar purchase price number?

21 A. I don't remember the twelve million dollars, and  
22 you showed me this document, but I don't remember it. No.  
23 And this document is Exhibit 1.

24 Q. Right.

25 THE WITNESS: About how much longer so I can

1 decide if I need a break now or later?

2 MR. GORDON: I tell you what, can I go through  
3 about -- I've got more but can I have about ten more  
4 minutes.

5 THE WITNESS: What time is it?

6 MR. GORDON: It's thirty-five after.

7 THE WITNESS: Okay. Ten more minutes will be  
8 fine.

9 MR. GORDON: Okay. And I'll try and stop a  
10 little bit sooner.

11 THE WITNESS: Okay.

12 BY MR. GORDON:

13 Q. Do you recall attending a meeting on or about  
14 February 27, 2019, with Jay Tusa, Larry Jones, and John  
15 Roberts?

16 A. I don't remember that. No. I'm sorry.

17 Q. So you don't recall a meeting on or about  
18 February 27, 2019, at which you were presented with a Walt  
19 Humphrey letter with an appraisal summary and the twelve  
20 million dollar offer that I've marked as Exhibit 1?

21 A. You said with John Roberts or did you mean Frank  
22 Watson?

23 Q. I said with John Roberts, but do you remember one  
24 with Frank Watson on or about that time?

25 A. No, I don't.

1 Q. Okay.

2 A. I'm sorry.

3 Q. Do you recall attending any meeting at which you  
4 were presented with an appraisal summary from Walt Humphrey  
5 and Exhibit 1, an offer to purchase the property for twelve  
6 million dollars?

7 A. No. I'm sorry. I don't remember.

8 Q. Did you ever present those to the county  
9 commission?

10 A. No. I don't think -- I'm sorry. At a commission  
11 meeting? No. No. This was never brought to a commission  
12 meeting.

13 Q. Would you have ever told the county commissioners  
14 about it?

15 A. Individually?

16 Q. Yes.

17 A. Yes. I mean, I try to keep my clients, the  
18 county commissioners, apprised of all matters that come  
19 before me. So, I mean, I would do my best to let them know  
20 what was, you know, going on.

21 Q. So you don't recall that meeting on or about  
22 February 27, 2019, at which you refused to keep hard copies  
23 of the Walt Humphrey appraisal or the twelve million dollar  
24 offer; but did you promise to run that offer by all the  
25 members of the county commission; do you recall that?



1           A.     No. I don't recall that. I don't recall making  
2 any promises like that either.

3           Q.     On or about March 4, 2019, did you have a  
4 telephone conference with John Roberts?

5           A.     I may have. I don't remember.

6           Q.     In that telephone call do you recall telling John  
7 Roberts that the county commissioners had rejected the  
8 twelve million dollar offer?

9           A.     I don't remember that. I would be surprised if I  
10 said something like that, again, because the commissioners  
11 can only, you know, take official action on stuff like this  
12 in a public meeting.

13          Q.     Did you have a meeting with Frank Roberts -- or  
14 Frank Watson on or about March 5, 2019, a telephone call?  
15 Let me start over.

16                   Did you have a telephone call with Frank Watson  
17 on or about March 5, 2019?

18          A.     I really don't remember having any phone calls,  
19 just Frank and I. I just remember the phone call that it  
20 was Frank, John, and I. I may have, but I don't remember  
21 that.

22          Q.     In that phone call, do you recall telling Frank  
23 Watson that the commissioners had rejected the twelve  
24 million dollar offer?

25          A.     I don't recall that. And, again, I would be

1 surprised if I said something like that.

2 Q. Did you represent to Frank Watson that after  
3 consulting with each of the county commissioners, it was a,  
4 and I quote, political hot issue, closed quote?

5 A. I seriously doubt I would have said something  
6 like that, but I don't remember it specifically.

7 Q. So you don't recall if you said that or not?

8 A. No. But I would be surprised if I said something  
9 like that.

10 MR. GORDON: I'll tell you what, now is probably  
11 a good time for a break.

12 THE WITNESS: Okay.

13 (WHEREUPON, A BREAK WAS TAKEN FROM 11:40 A.M. TO 12:08 P.M.)

14 BY MR. GORDON:

15 Q. I'm going to show you what I'm going to mark as  
16 Exhibit 2 to your deposition, which is Exhibit B-1 to the  
17 operative complaint in this case.

18 A. Okay.

19 Q. Are you familiar with this survey?

20 A. I don't remember it specifically; but if it's  
21 part of the complaint, I've seen it.

22 (Plaintiffs' Exhibit 2 was marked  
23 for identification.)

24 Q. I believe that this is relating to the -- I think  
25 it's the parcel south of Montigo.

1 A. Or the portion of Montigo that's south of 30A?

2 Q. Yeah. The portion of what would be Montigo  
3 that's south of 30A that we've been talking about?

4 A. Right.

5 Q. Does that look right to you?

6 A. Yes.

7 Q. Okay. Do you recall any discussions with John  
8 Roberts in 2018 in which he told you that my clients had a  
9 contract in place to sell this property contingent upon a  
10 letter from the Walton County attorney confirming lot of  
11 record?

12 A. I remember him mentioning that his clients had a  
13 contract; but I thought it was contingent on a director's  
14 determination regarding the lot of record status; that's how  
15 I remember it.

16 Q. And what's a director's determination?

17 A. Planning director's determination. So --

18 Q. Mac Carpenter?

19 A. Yes. There's provisions in the Land Development  
20 Code where, in a process that's been set up for an  
21 administrative decision made by the planning director,  
22 that's appealable to the county board of adjustment.

23 Q. And are you -- as I recall your prior testimony,  
24 you're unaware of Mac Carpenter, in return, telling my  
25 clients that this was a legal issue that had to be answered

1 by the county attorney?

2 A. I don't know about any conversations Mac had with  
3 Frank Watson or John Roberts.

4 Q. Did Mac Carpenter ever tell you that this  
5 was a -- that he had told my clients that this was a legal  
6 issue that had to be determined by the county attorney?

7 A. Did Mac ever tell me that? I don't remember him  
8 saying that. No.

9 Q. I'm going to show you what's Exhibit 3 to your  
10 deposition. Are you familiar with this document?

11 A. Yes.

12 (Plaintiffs' Exhibit 3 was marked  
13 for identification.)

14 Q. When did you first see Exhibit 3, which I believe  
15 is the 1925 depiction for Gulf Shore Manor?

16 A. I don't remember whenever I first saw it. I  
17 could have seen it before all of this stuff came up. But  
18 certainly, you know, as part of this litigation I've seen  
19 it.

20 Q. And can you tell when this was recorded? The  
21 copy is not great; and the original is not great; but I  
22 think it was July 17, 1925; is that consistent with your  
23 understanding?

24 A. There is a note at the bottom of Exhibit 3. So  
25 it says it's a certification from the clerk's office that it

1 was recorded on July 17, 1925; that's what I see; and it has  
2 the clerk's signature and the book and page.

3 Q. And would that have been the clerk in place in  
4 1925 or was this a subsequent notation?

5 A. I don't know. That would -- that would -- I  
6 don't even know if anybody could answer that question. But  
7 I believe that that's the clerk of the circuit court's  
8 signature at the time, but I don't know that for sure.

9 Q. Okay. Do you have any reason to dispute that on  
10 July 17, 1925, the property reflected in this depiction was  
11 owned by Mildred Feldman or was titled in the name of  
12 Mildred Feldman?

13 THE WITNESS: I'm sorry. Could you read back the  
14 question?

15 (WHEREUPON, THE LAST QUESTION WAS READ BACK.)

16 THE WITNESS: So you're -- so you're -- no, I  
17 don't. I mean, you're talking about the entire  
18 property --

19 BY MR. GORDON:

20 Q. Yes.

21 A. -- depicted in the plat? No. I don't have any  
22 reason to dispute that.

23 Q. Okay. Do you agree with me that Mildred  
24 Feldman's name is not reflected anywhere on Exhibit 3?

25 A. Yes, I agree.

1 Q. Do you know why it's not reflected anywhere on  
2 Exhibit 3?

3 A. No.

4 Q. Do you believe that's odd?

5 MR. WARNER: Object to form.

6 THE WITNESS: No. I don't have an opinion about  
7 it one way or another.

8 BY MR. GORDON:

9 Q. Do you often have official plats recorded in  
10 Walton County that are not signed by the property owner?

11 A. Currently, no. For old plats, we see all kinds  
12 of different things.

13 Q. Okay. Can you identify for me another plat in  
14 Walton County that's not signed by the property owner?

15 A. Well, so these old plats -- and I don't remember  
16 them specifically.

17 Q. Can you identify another plat in Walton County  
18 not signed by the property owner?

19 A. Not a specific one, no.

20 Q. Okay.

21 A. But for most of these older plats, there usually  
22 wouldn't be signatures.

23 Q. Okay. Well, then identify one for me.

24 A. Without, you know --

25 Q. You're just speculating?

1 MR. WARNER: Object to form.

2 THE WITNESS: No. I've seen it before. I just  
3 can't remember --

4 BY MR. GORDON:

5 Q. Okay. When was the last time you saw a plat that  
6 was not signed by the property owner?

7 A. I mean, the Old Town of Santa Rosa Plantation  
8 comes up a lot; I'm pretty sure that doesn't have the  
9 signatures.

10 Q. When was that recorded?

11 A. I think it was 1890, but I'm not a hundred  
12 percent sure.

13 Q. It was before the 1925 plat law?

14 A. Yes. Yes.

15 Q. Okay. Any after the 1925 plat statute was  
16 enacted?

17 A. None that I specifically remember, but there may  
18 be some.

19 Q. Okay. But you're unaware of one you could tell  
20 me about today?

21 A. After 1925?

22 Q. Yes, ma'am.

23 A. Right. I can't think of one off the top of my  
24 head. No.

25 Q. Is Gulf Shore Manor an approved subdivision in

1 Walton County?

2 A. I'm sorry. What do you mean by "approved  
3 subdivision"?

4 Q. Well, does Walton County maintain a list of  
5 approved subdivisions?

6 A. The planning department or . . .

7 Q. The Walton County Property Appraiser?

8 A. Oh, I don't know. That would be a question for  
9 the property appraiser.

10 Q. Okay. So you're unaware of the Walton County  
11 Property Appraiser maintaining a list of approved  
12 subdivisions in Walton County?

13 A. I know that on the property appraiser's website  
14 you can search by subdivision.

15 Q. Okay.

16 A. But I don't know how they maintain that list or  
17 how something qualifies for it.

18 Q. Are you aware of whether Gulf Shore Manor is one  
19 of the subdivisions you can search by?

20 A. I don't know.

21 Q. With respect to Exhibit 3, is this the document  
22 on which the County relies in this case for its position  
23 that Mildred Feldman intended to dedicate the roads and  
24 right-of-ways to the County?

25 A. Yes. Yeah. It's one of the documents, I'm sure.



1 Q. What other documents are there?

2 A. This is the only one I know of right now.

3 Q. Exhibit 3 is the only document on which the  
4 County relies as evidence that Mildred Feldman intended to  
5 dedicate the roads and right-of-ways to Walton County in  
6 Gulf Shore Manor; is that correct?

7 MR. WARNER: Object to form.

8 THE WITNESS: No. I'm not -- I'm sorry. So this  
9 is one of the documents that the County relies on.

10 Yes. I think other documents that we would rely on are  
11 the deeds that were conveyed out by Mildred Feldman.

12 BY MR. GORDON:

13 Q. Do those deeds reference the book and page on  
14 this plat?

15 A. I don't know that, off the top of my head.

16 Q. Then why do you rely on those deeds?

17 A. It's my understanding that they reference the  
18 plat; but I don't remember, off the top of my head. I'm  
19 sorry.

20 Q. Have you ever seen the deeds?

21 A. Yeah.

22 Q. Okay. Do they reference the plat?

23 A. I don't remember. I'm sorry.

24 Q. Would it surprise you if the deeds do not have  
25 a -- only reference the block and lot but not the plat

1     itself?

2           A.     What do you mean by "the block and lot but not  
3     the plat itself"?

4           Q.     For example, I hereby give you Lot 12 and  
5     Block B?

6           A.     But they make no reference to Gulf Shore Manor?

7           Q.     Or this plat?

8           A.     Okay. So I don't remember specifically.  
9     Obviously, we can search them pretty easily; but it's my  
10    understanding the deeds would say, you know, Lot 5,  
11    Block 18, of the Gulf Shore Manor; but I could be wrong. I  
12    don't remember specifically. I didn't look at that.

13          Q.     If it says that, why do you rely on that deed as  
14    evidence that Mildred Feldman intended to dedicate the road  
15    and right-of-ways to the County?

16          A.     Because it says what? I'm sorry.

17          Q.     What you just said.

18          A.     If it -- if it mentions the Gulf Shore Manor plat  
19    in the deeds?

20          Q.     Well, that's not what you just said. You said  
21    Gulf Shore Manor.

22          A.     I'm sorry. I'm confused.

23          Q.     Okay. I'm going to go off what I understood your  
24    testimony to be. If the deed states Mildred Feldman hereby  
25    conveys block blank, lot blank, in Gulf Shore Manor to

1 somebody else, it's my understanding that those words alone,  
2 you believe that's evidence that Mildred Feldman intended to  
3 also convey to Walton County the roads and right-of-ways  
4 reflected on the plat on the depiction that's Exhibit 3; is  
5 that correct?

6 A. Yes. So, you know, generally speaking, if a  
7 developer, you know, conveys the lots with reference to a  
8 plat or a depiction and they convey all of those lots,  
9 they're giving away their interest in those common areas.

10 Q. What are the common areas reflected on Exhibit 3?

11 A. The roads.

12 Q. How do you know those are common areas?

13 A. Well, because they're not lots.

14 Q. Could they just be private roads owned --  
15 continued to be owned by the developer?

16 A. No, not if the developer conveys out all the  
17 lots, subject to -- or referencing the plat for a depiction.

18 Q. So then who owns the roads?

19 A. Well, ownership would go to the adjoining lot  
20 owners to the centerline of the road; but there could be  
21 other easements for the public or for the lot owners in the  
22 subdivision.

23 Q. Who do you think owns these roads and  
24 right-of-ways reflected on this depiction?

25 A. Own, as in fee simple title?

1 Q. Yes.

2 A. No. I don't know. I mean, obviously, that's  
3 something that Judge Green is going to have to decide.  
4 There's a lot of issues surrounding this.

5 Q. Are you aware of the plat law that went into  
6 effect on June 11, 1925?

7 A. Yes. Yeah. I don't remember the specifics of  
8 it. No.

9 Q. Have you read it?

10 A. Yes, I have, because of what's come up with this  
11 litigation.

12 Q. Do you believe that Exhibit 3 complies with that  
13 plat law?

14 A. I don't know that I can answer that off the top  
15 of my head without having the statute in front of me.

16 Q. I'm going to show you what I've marked as  
17 Exhibit 4 to your deposition. I'll represent to you that  
18 Exhibit 4 is what I understood to be the statute that was  
19 approved by the Florida legislature on June 11, 1925.

20 A. Okay.

21 (Plaintiffs' Exhibit 4 was marked  
22 for identification.)

23 Q. I'm going to give you a moment to review it. But  
24 my question is: Do you believe that Exhibit 3 to your  
25 deposition, the 1925 depiction, complies with this statute

1 that is Exhibit 4? And I'll even narrow it down more:  
2 Specifically, does it comply with section six of the  
3 statute?

4 A. Yeah. So there's no signature on Exhibit 3, and  
5 section six does require a signature.

6 Q. So does Exhibit 3, the 1925 depiction, comply  
7 with the 1925 Act that's Exhibit 4?

8 A. I think that's ultimately a decision, you know,  
9 for a court to decide; but section six does require a  
10 signature for the dedication; and there's no signature on  
11 Exhibit 3.

12 Q. Okay. And does Exhibit 3 have any witnesses'  
13 signatures?

14 A. Not that I see, no.

15 Q. And section six of the statute requires witness  
16 signatures too, correct?

17 A. Yes. I believe so, in the same manner as -- as  
18 deeds conveying land are required.

19 Q. I'm going to show you what I've marked as  
20 Exhibit 5, which is a December 8, 1925, it appears to be --  
21 maybe you can tell me. Is this a resolution or meeting  
22 minutes of the board of county commissioners?

23 A. I don't know for sure because it's obviously just  
24 one page of the document, but I think it's meeting minutes.

25 (Plaintiffs' Exhibit 5 was marked

1 for identification.)

2 Q. Okay. This was produced as document one by the  
3 County. Why did the County produce this document?

4 A. For which request for production?

5 Q. I think it's the last paragraph. Look at the  
6 last paragraph.

7 A. Okay. Oh, because it looks as though that's  
8 where the board of county commissioners accepted the plat  
9 for Gulf Shore Manor. I think it was December 1925. Yeah,  
10 December 8, 1925.

11 Q. I see that it says that it is "hereby authorized  
12 to accept and file the same as required by law." Would that  
13 law include Exhibit 4, the 1925 statute governing legal  
14 plats?

15 A. Oh, I don't know what the board meant in 1925  
16 whenever that was put in the minutes.

17 Q. It then says, "upon presenting the original duly  
18 executed as required by law." Was an original duly executed  
19 provided by law ever filed in the public records of Walton  
20 County?

21 A. I don't know. I'm sorry.

22 Q. Is the County in possession of the original Gulf  
23 Shore Manor plat referenced here that was executed as  
24 required by the laws at the time?

25 A. Not Walton County. I mean, the clerk of court

1 would be in possession of the plat.

2 Q. Have you searched the clerk of court records for  
3 that original plat executed as required by law?

4 A. You mean gone to physically look at it or --

5 Q. I'm just trying to find out: Does Walton County  
6 have the original plat executed by law or not?

7 A. It's my understanding the clerks have what is  
8 Exhibit 3 filed in the official records. I mean, I'm sure  
9 it's all here --

10 Q. And Exhibit 3 is what you're relying on for the  
11 dedication, correct?

12 A. One of the things, yes.

13 Q. And you agree with me that Exhibit 3 does not  
14 comply with Exhibit 4 on the execution of a dedication,  
15 correct?

16 A. I agree with you that there's no signature or  
17 witnesses on Exhibit 3 as required by section four of  
18 Exhibit 4.

19 Q. Section six of Exhibit 4?

20 A. Section six. I'm sorry.

21 Q. To your knowledge, over the last thirty years has  
22 Walton County filed anything in the muniments of title for  
23 Gulf Shore Manor property showing that the County claims  
24 right-of-ways over any parcels at issue in this case?

25 THE WITNESS: I'm sorry. Can you read it back?

1 I want to make sure I get it right. I apologize.

2 (WHEREUPON, THE LAST QUESTION WAS READ BACK.)

3 THE WITNESS: I don't know.

4 BY MR. GORDON:

5 Q. Okay. Look back at Exhibit 3, which is the 1925  
6 depiction. You see that there are certain avenues and  
7 Bathing Beach and -- I don't know what the other one is  
8 called --

9 A. Gulf Shore Beach.

10 Q. -- Gulf Shore Beach. It's my understanding that  
11 the County is asserting that it accepted a dedication of the  
12 right-of-ways where the avenues and streets are located; is  
13 that correct?

14 A. Yes.

15 Q. Okay. What steps has Walton County taken to  
16 prevent encroachments into the undeveloped right-of-way  
17 areas?

18 A. I don't know.

19 Q. Has Walton County taken any actions to file an  
20 ejectment action against any property owner that has  
21 installed pavers, for example, in the right-of-way that the  
22 County is now claiming?

23 A. I'm not aware of any.

24 Q. Has Walton County filed any ejectment action  
25 against any property owner that's installed a fence in the



1 right-of-ways that Walton County is now asserting to possess  
2 in this property?

3 A. I'm not aware of any.

4 Q. Has Walton County sent notice to any property  
5 owners that have encroached in any way in these undeveloped  
6 right-of-ways of Walton County?

7 A. I don't know.

8 Q. You're the county attorney for Walton County. So  
9 if anyone had filed since 2014 to today anything to address  
10 any encroachments, you would know that, correct?

11 MR. WARNER: Object to form.

12 THE WITNESS: Since 2014 if Walton County filed  
13 anything, yes.

14 BY MR. GORDON:

15 Q. And my -- well, let's just start from 2014 to  
16 present, to your knowledge has Walton County taken any  
17 action against any private property owner that has  
18 encroached on the right-of-way -- undeveloped right-of-ways  
19 that Walton County is claiming in this lawsuit?

20 A. So, like, a civil action? So I --

21 Q. Yeah. Let's start there. Have you filed any  
22 civil action for ejectment?

23 A. No, not since 2014.

24 Q. Have you pursued any other administrative  
25 proceeding of any type against any property owner that has

1 encroached on these undeveloped right-of-ways?

2 A. That, I don't know. I mean, other departments  
3 may have taken steps or sent notices, I just don't know.

4 Q. The Walton County attorney's office has not,  
5 since 2014, though, correct?

6 A. I don't believe so, but I don't know.

7 Q. Are you aware of anything prior to 2014 -- I know  
8 you weren't here but are you aware of it as the current  
9 county attorney -- where Walton County has taken any steps  
10 to prevent any encroachment in the undeveloped  
11 right-of-ways?

12 A. I'm not aware of anything.

13 Q. I'm going to show you what I've marked as  
14 Exhibit 6 to your deposition. This is a 1974 resolution.  
15 As I understand it, it vacates a portion of Gulf Shore  
16 Manor. And I'm going to ask you: Is that your  
17 understanding of this resolution from the board of county  
18 commissioners?

19 A. Yes.

20 (Plaintiffs' Exhibit 6 was marked  
21 for identification.)

22 Q. I'm going to show you what I've marked as  
23 Exhibit 7 to your deposition. This is a resolution from  
24 1978. Are you familiar with this resolution?

25 A. Yes.

1 (Plaintiffs' Exhibit 7 was marked  
2 for identification.)

3 Q. And what do you understand to be the effect of  
4 this resolution that's Exhibit 8 -- or 7?

5 A. That the board of county commissioners disclaimed  
6 any interest they had in the plat for Gulf Shore Beach and  
7 Bathing Beach --

8 Q. Okay.

9 A. -- or any interest they had pursuant to the plat.

10 Q. I'll show you what I'm marking as Exhibit 8 to  
11 your deposition. These are, as I understand, regular  
12 meeting minutes from December 11, 2018. Are you familiar  
13 with these documents, these minutes?

14 A. I haven't reviewed them recently.

15 (Plaintiffs' Exhibit 8 was marked  
16 for identification.)

17 Q. I see on the first page it says you were present  
18 as the county attorney?

19 A. Yes.

20 Q. Do you have any reason to dispute that?

21 A. No.

22 Q. If you go to page seven, I've highlighted the  
23 last paragraph which states, and I quote, Commissioner  
24 Glidewell asked about the ownership of the Montigo access.  
25 Attorney Noyes stated there are still questions surrounding

1 the ownership of the Montigo access and that each  
2 commissioner will be briefed. Commissioner Glidewell  
3 requested the proper ownership information be verified for  
4 all of the beach accesses. Are you familiar with that?

5 A. Yes.

6 Q. What prompted Commissioner Glidewell to ask about  
7 the ownership of the Montigo access?

8 A. If I'm remembering correctly, the TDC had brought  
9 forward proposals regarding construction of beach accesses  
10 in certain locations. I don't believe that the TDC was  
11 proposing that there be the construction of anything on  
12 Montigo but that it came up at the meeting for some reason  
13 because I think that there had been discussions in the past  
14 before Mark and I came to the County about constructing  
15 an -- a County maintained access at Montigo.

16 Q. So why did you state that "there are still  
17 questions surrounding the ownership of the Montigo access"?

18 A. Because at this point, I knew about the issues  
19 that were being raised by John Roberts and Frank Watson.

20 Q. Are those the issues that you're referring to  
21 here?

22 A. Right. I mean, they had, you know, provided me  
23 with all kinds of memos and other things where it seemed as  
24 though they would be, you know, claiming an ownership  
25 interest in that. I was not agreeing with that. Basically,

1 just, you know, indicating that there were questions. It's  
2 obviously why we have this litigation.

3 Q. In your mind, were there questions about  
4 ownership?

5 MR. WARNER: Object to form.

6 THE WITNESS: I don't remember at this time. I  
7 just knew this was an issue that was percolating so --

8 BY MR. GORDON:

9 Q. I mean, did you advise the commissioners at this  
10 meeting that as the county attorney, you believed that the  
11 County had a dedicated right-of-way to Montigo but that  
12 somebody else had raised a question or did you just say  
13 there are questions about ownership?

14 A. I don't remember what I exactly said. I mean,  
15 obviously the meeting minutes are just a summary of what I  
16 said at the meeting.

17 Q. That's what I'm trying to see. Did you say  
18 anything, other than what's reflected in these meeting  
19 minutes?

20 A. I may have. I don't remember. There's probably  
21 a video of it, but I -- I would have not said very much  
22 because I knew that this issue was out there and that a  
23 lawsuit would probably be filed against the County at some  
24 point.

25 Q. And did you brief each commissioner?

1           A.     Yes.  Yeah.  I mean, I -- like I said earlier, I  
2 mean, I speak to the commissioners regularly about issues  
3 that are going on, just to keep them informed of what's  
4 occurring.

5           Q.     Well, the last sentence says that "Commissioner  
6 Glidewell requested that proper ownership information be  
7 verified for all of the beach accesses;" do you see that?

8           A.     Yes.

9           Q.     What steps were taken to comply with this  
10 request?

11          A.     I don't know what Commissioner Glidewell -- I  
12 don't know what's intended by that.  I'm not sure if that's  
13 exactly what Commissioner Glidewell said.  I really can't --

14          Q.     Well, given that you've just told me how often  
15 you communicate with your clients and you're always making  
16 sure you understand and they understand, did you have a  
17 discussion with Commissioner Glidewell on exactly what he  
18 was requesting here after this meeting?

19          A.     I may have.  I just don't remember.  I'm sorry.

20          Q.     As the county attorney, did you take any action  
21 after this request from Commissioner Glidewell to confirm  
22 the proper ownership for all of the beach accesses?

23          A.     And I may be remembering it wrong but -- because  
24 we were talking about construction of specific accesses.  
25 Headland Avenue I know was one of them, and the other was I

1 think Walton Dunes. So he may have been referring to those  
2 where we were going to actually go forward with  
3 construction. I don't think he meant, like, all of the  
4 County beach accesses. That's quite a -- quite a project.  
5 I don't know, though.

6 Q. Okay. That wasn't my question.

7 A. Okay. I'm sorry.

8 Q. My question is: As the Walton County attorney,  
9 what steps, if any, did you take to verify proper ownership  
10 for all the beach accesses after this request?

11 MR. WARNER: Object to form.

12 THE WITNESS: I don't think that's what he was  
13 asking. I have not undertaken an investigation into  
14 the ownership of every single beach access that the  
15 County has.

16 BY MR. GORDON:

17 Q. After this request, did you take any steps as the  
18 county attorney to verify proper ownership information for  
19 any of the beach accesses in Walton County, after this  
20 request?

21 A. I don't remember.

22 Q. Well, if a commissioner asks you to do something,  
23 don't you do what they ask?

24 A. Yes.

25 Q. And you don't recall if --

1           A.     Well, I mean, yes, as long as it's legal, of  
2     course.

3           Q.     Was this a legal request?

4           A.     Sure.  Yeah.

5           Q.     Did you comply with this request?

6           A.     I don't remember the specifics, and I don't know  
7     that this accurately reflects what Commissioner Glidewell  
8     was intending.

9           Q.     Were these meeting minutes approved at the  
10    subsequent county commission meeting?

11          A.     Yes.

12          Q.     So all the commissioners agreed this is accurate,  
13    correct?

14          A.     I don't know that that's accurate or not.

15          Q.     Well, isn't that the whole reason they approve  
16    the minutes?  If it's inaccurate, they can modify the  
17    minutes at the next meeting, correct?

18          A.     Sure.  Yes.

19          Q.     And they approved these meeting minutes as  
20    accurate, correct?

21          A.     I assume so, yes.

22          Q.     And so are you saying that your bosses, your  
23    clients, were wrong in confirming these minutes as accurate?

24                   MR. WARNER:  Object to form.

25                   THE WITNESS:  No.  That's not what I'm saying.



1 BY MR. GORDON:

2 Q. But you don't recall any steps you took to comply  
3 with their request?

4 A. I don't recall, no.

5 Q. It's my understanding that a County, if it wants  
6 to obtain a road right-of-way, can obtain that right-of-way  
7 in different ways. For example, the County could purchase a  
8 road right-of-way, correct?

9 A. Yes.

10 Q. Did the County purchase the right-of-ways that  
11 it's asserting in Gulf Shore Manor?

12 A. I don't believe so.

13 Q. Okay. I understand that a County can obtain road  
14 right-of-ways, say, from a written easement provided by a  
15 property owner; is that correct?

16 A. Right. Yes.

17 Q. With respect to any of the right-of-ways in Gulf  
18 Shore Manor, did Walton County obtain a written easement for  
19 those right-of-ways?

20 A. I don't believe so, no; but I don't know for  
21 sure.

22 Q. You're the county attorney, right?

23 A. Yes.

24 Q. You're responsible for overseeing this  
25 litigation, right?

1           A.     Well, I'm one of the attorneys of record in this  
2 litigation.  Yes.

3           Q.     There's a statutory dedication under  
4 Section 95.361, correct?

5           A.     Yes.

6           Q.     Does Walton County have a right-of-way pursuant  
7 to that statute over the right-of-ways at issue in this  
8 litigation?

9           A.     I'm sorry?

10          Q.     The statutory dedication?

11          A.     Are you asking if we have filed anything in the  
12 official records pursuant to that section or . . .

13          Q.     That you know the property that's at issue in  
14 this case, the undeveloped right-of-ways?

15          A.     Right.

16          Q.     Does the County assert a statutory dedication to  
17 any of those undeveloped right-of-ways?

18          A.     To the undeveloped right-of-ways?  No.

19          Q.     Okay.

20          A.     Not pursuant to the Florida statutes that you've  
21 quoted.

22          Q.     Is there some other Florida statute pursuant to  
23 which you assert dedication to the undeveloped  
24 right-of-ways?

25          A.     Not a statute.  I mean, we're alleging in the

1 lawsuit that there was a common law dedication of those  
2 common areas and that the County, through various actions  
3 over many years, accepted that dedication.

4 Q. If the County has an easement for a road  
5 right-of-way, can the County build a city park on that  
6 right-of-way?

7 A. I don't know that I can answer that question. It  
8 would depend on the facts of, you know, the -- what was  
9 contained in the easement, you know, what the plat says.  
10 There's any number of factors that could go into that.

11 Q. If there is an easement that says property owner  
12 hereby grants a sixty-six-foot easement for a road to Walton  
13 County, can Walton County build a city park in that  
14 easement?

15 MR. WARNER: Object to form.

16 THE WITNESS: Again, I mean, I don't think it can  
17 be simplified that narrowly because there are a lot of  
18 factors that could go into those decisions but --

19 BY MR. GORDON:

20 Q. What other factors would impact that?

21 A. I don't know of many easements we have that are  
22 that explicit; but, you know, I don't know. I would have to  
23 look at whatever the easement was in the neighborhood and  
24 the surrounding facts to make that determination. But  
25 generally speaking, you know, you're limited to the use

1 that's granted for the easement but there are a number of  
2 factors that would go into making a decision about what  
3 would be allowed or not allowed.

4 Q. Does attorney David Theriaque represent Walton  
5 County?

6 A. Yes.

7 Q. Are you familiar with his stated position that,  
8 by law, the purposes of a right-of-way are limited to public  
9 road or public utilities?

10 A. I think you're taking it out of context what he  
11 said.

12 Q. Are you aware of him taking that position in any  
13 context?

14 MR. WARNER: Object to form.

15 THE WITNESS: Yes.

16 BY MR. GORDON:

17 Q. Okay. What is the context in which he made that  
18 statement?

19 A. He recently -- I think you're referring to a  
20 recent hearing we had on an abandonment. But that had to do  
21 with a patent easement in an area that wasn't even close to  
22 the beach, and he was not representing Walton County in that  
23 matter.

24 Q. But he does represent Walton County today,  
25 correct?

1           A.     In one -- yeah, in the customary use litigation,  
2 not anything having to do with easements.

3           Q.     I mean, you respect his opinion on real estate  
4 issues, correct?

5           A.     Yes.

6           Q.     That's why you paid him over a million dollars,  
7 correct?

8           A.     I don't think we've paid him a million dollars.

9           Q.     How much have you paid him?

10          A.     I don't know, off the top of my head. We can  
11 find out, though.

12          Q.     What is your understanding of what land qualifies  
13 as a lot of record under Walton County's land use code?

14          A.     So those are questions for Mac but -- and we'd  
15 have to look at the definition of Land Development Code.  
16 But generally speaking, a lot that was in existence prior to  
17 I think it's November 1997 is a lot of record.

18          Q.     If it was existing when?

19          A.     November 1997, I believe is the date, but I could  
20 be wrong. It could be '96, one or the other.

21          Q.     And what is one to do if Mac Carpenter  
22 says there's a legal -- I can't answer that because there's  
23 an underlying legal issue that has to be answered by the  
24 Walton County attorney?

25          A.     Well, if someone wanted a determination about

1 whether or not something was a lot of record, they would  
2 file an application for a lot of record or planning  
3 director's determination about whether or not something was  
4 a lot of record. Mac would look at it. If he had questions  
5 about legal issues, he would consult with me; but we would  
6 gather all of those facts and, you know, come to a  
7 conclusion; or I would assist him in coming to a conclusion  
8 if there were legal issues related to that matter. But  
9 someone would have to make an application, and we'd have to  
10 look at all those facts.

11 Q. I assume you're aware that in this action, Walton  
12 County has taken the position that there's a defect in the  
13 underlying probate action by which my clients assert title  
14 to the subject property; are you aware of that?

15 A. Yes. I'm aware of that. The specifics, though,  
16 I mean --

17 Q. Do you know any facts as to what those defects  
18 are?

19 A. I believe it has to do with the probate claims;  
20 that there was only one heir, Mr. Singh, I believe; but  
21 we've been able to determine that there were more heirs of  
22 Mildred Feldman -- or George Manus. The specifics, I'm  
23 sorry, I'm not --

24 Q. Do you know who those other heirs are?

25 A. No. I'm sorry.

1 Q. Do you know whether any of those other heirs  
2 subsequently gave my clients quitclaim deeds?

3 A. I think that there were some quitclaim deeds  
4 given, but I don't know the specifics.

5 Q. Are you aware of any heir that was not included  
6 in the probate that did not ultimately give my clients a  
7 quitclaim deed?

8 A. I don't know.

9 Q. So you're unaware of anyone?

10 A. I'm just -- the specifics of who the heirs were  
11 and whether or not all the deeds have been given, I don't  
12 know.

13 Q. I'm only asking: Are you aware that, yep, there  
14 is this heir and he never gave a quitclaim deed?

15 A. I'm not aware of that. No.

16 Q. Okay. That's all I'm asking.

17 Are you aware of any other defects in the probate  
18 proceeding?

19 A. No, not that I know of.

20 Q. Do you agree with me that in 2015, the Walton  
21 County attorney was on notice that title to the subject  
22 property was held by Mildred Feldman or her heirs, if  
23 deceased, subject to a probate proceeding?

24 A. So in 2015 Mark Davis was the county attorney.  
25 Those would be questions for him. I do know that Mark

1 ordered a title search, which I think Frank got a copy of or  
2 Mr. Howard did; but, I mean, those are questions for Mark.

3 Q. And are you -- well, you were his assistant  
4 county attorney, correct?

5 A. Right.

6 Q. Have you seen that title search?

7 A. I didn't see it until I think it was given to me  
8 as part of this litigation or maybe by Frank and some of the  
9 documents that he had compiled.

10 Q. And ultimately, Walton County has produced that  
11 to us in this case, correct?

12 A. I believe so because you guys asked for all of  
13 our files related to Montigo Avenue.

14 Q. Are you aware that that title search identifies  
15 title as being held in the name of Mildred Feldman, or if  
16 deceased, her heirs?

17 A. Yes.

18 Q. In 2015 did Walton County take any action  
19 whatsoever to open a probate or to contact any of the heirs  
20 of Mildred Feldman?

21 A. No, not that I know of.

22 Q. Why not?

23 A. Those are questions for Mark.

24 Q. Well, did Mark Davis instruct you to take any  
25 action in that regard?



1 A. No.

2 Q. When did you become county attorney?

3 A. August of 2017.

4 Q. Okay. After August of 2017, did Walton County  
5 take any actions to open a probate for Mildred Feldman's  
6 estate or to communicate to any of her heirs to clear up  
7 this title issue?

8 A. No.

9 Q. But you agree with me the Walton County  
10 attorney's office was on notice of this title being held by  
11 Mildred Feldman or her heirs, correct?

12 MR. WARNER: Object to form.

13 THE WITNESS: Through the title search that Mark  
14 ordered, yes.

15 MR. GORDON: I'll tell you what, just give us a  
16 couple of minutes and I'm almost done.

17 THE WITNESS: Sure.

18 (WHEREUPON, A BREAK WAS TAKEN FROM 12:49 P.M. TO 12:55 P.M.)

19 BY MR. GORDON:

20 Q. I understand you've had commission -- or  
21 discussions with Megan Fry related to her different clients;  
22 is that correct?

23 A. Yes.

24 Q. Do you think any conflict exists in the different  
25 parties she's representing versus the County's position?

1           A.     I don't think it would be appropriate for me to  
2 comment on that.

3           Q.     I didn't ask you -- do you think there's a  
4 conflict or not?

5           MR. WARNER: Object to form.

6           THE WITNESS: I don't think so; but, I mean, that  
7 would be for her to decide.

8 BY MR. GORDON:

9           Q.     Well, you understand -- in the County's  
10 discussions with my clients, do you agree that there were  
11 discussions about my client's deeding to the County any  
12 interest my clients had in all of the beach south of Gulf  
13 Shore Manor?

14          A.     Yes. That was part of the discussion early on  
15 before the lawsuits were filed by Clark Partington.

16          Q.     And you understand Clark Partington represented  
17 some of these individual property owners, correct?

18          A.     Yes. That's my understanding.

19          Q.     And you understand my clients have now deeded  
20 certain portions of those properties to those private  
21 property owners?

22          A.     That's my understanding.

23          Q.     Okay. And isn't it true that you asked my  
24 clients to not do that, correct?

25          A.     That was part of what I believe to be

1 confidential settlement discussions but . . .

2 Q. It may not be admissible, but you can tell me.

3 A. Yeah. I think I did say that in a meeting that  
4 you were at and Mr. Warner.

5 Q. And now, as I understand it, Clark Partington is  
6 representing property owners that want to keep all of the  
7 beach public; is that correct?

8 A. I don't -- I don't know. That was Ms. Shell's  
9 understanding. So it's the same group that's going through  
10 the neighborhood planning process. I have not had  
11 conversations with them about if they wanted to remain  
12 public or not, but I think Ms. Shell indicated that she  
13 thought that they did.

14 Q. Are you aware that some of those property owners  
15 may be beachfront property owners that are actually adverse  
16 to the County in the customary use litigation?

17 A. Which -- so there may be beachfront property  
18 owners that are part of that neighborhood association. I  
19 don't know.

20 Q. So is it your understanding that the Clark  
21 Partington firm is representing this neighborhood  
22 association, whatever it is, that includes some people that  
23 are suing the County for customary -- against -- in the  
24 customary use litigation, or adverse County matter, correct?

25 A. There are beachfront property owners in what was

1 Gulf Shore Manor that are part of the customary use  
2 litigation. I don't know if those same people are a part of  
3 the neighborhood association or not.

4 Q. Have you taken any action to evaluate that?

5 A. No.

6 Q. Now, as I understand Walton County's position in  
7 this case, and I want you to confirm, Walton County takes  
8 the position that it has not abandoned any of the  
9 undeveloped right-of-ways reflected on Exhibit 3 to your  
10 deposition, the 1925 depiction, correct?

11 A. I'm sorry. I know that there are some --

12 THE COURT: Objection.

13 THE WITNESS: -- rights-of-ways that were  
14 abandoned by the County.

15 BY MR. GORDON:

16 Q. That's the 1974 vacating resolution and the 1978  
17 vacating resolution?

18 A. There may be others. I don't know. But I know  
19 that there were portions of right-of-ways that were  
20 abandoned by the County over time. I don't know how those  
21 relate to the remnant parcels that are at issue in this  
22 litigation.

23 Q. All right. And I've asked you to identify those.  
24 Are you in the process of identifying those right-of-ways  
25 that were vacated?

1           A.     Yes.  And we would have given that to you.  I  
2     can't remember if it was part of a request for production or  
3     one of the interrogatories but all of the board of county  
4     commissioners' minutes, including abandonments, would have  
5     been included in --

6           Q.     Well, you understand that's part of the order to  
7     compel that the court has entered against Walton County,  
8     correct?

9           A.     Right.  Yes.  For --

10          Q.     So now you're going through and you're  
11     identifying those specific instances, correct?

12          A.     Yes.  Yes.

13          Q.     Okay.  And you'll get back to me at whatever date  
14     we agreed to?

15          A.     I think it's due on the thirtieth.

16          Q.     Okay.  With respect to the right-of-ways that are  
17     at subject in this lawsuit, the ones that my client is  
18     asserting ownership of, you agree with me it's the County's  
19     position that the County has not abandoned any of those  
20     right-of-way areas, correct?

21          A.     That's my understanding.  But, you know, to be  
22     honest with you, I focused primarily on the beach access  
23     points.  The stuff north of 30A I'm just not as familiar  
24     with.

25          Q.     Like Montigo, the section of Montigo south of

1 30A?

2 A. Right.

3 Q. The County claims a right -- dedicated  
4 right-of-way over that parcel, correct?

5 A. Right.

6 Q. The entire fifty feet, correct?

7 A. Right.

8 Q. Okay. And you still do today?

9 A. As part of the litigation, yes.

10 Q. Okay. Is it fair to say that the County could  
11 not grant my clients lot of record status over a piece of  
12 property over which the County maintains a right-of-way?

13 A. Correct.

14 Q. And so whether there's been an abandonment of the  
15 right-of-way or not, that is a legal issue, correct?

16 A. Right. Yeah.

17 Q. And that is not an issue that Mac Carpenter can  
18 answer, is it?

19 A. Whether there's been an abandonment?

20 Q. Correct.

21 A. Right. I mean, that abandonment -- there's a  
22 process that the commissioners can go through for an  
23 abandonment; and I know that they have done that for some of  
24 the rights-of-way.

25 Q. But with respect to whether the right-of-way

1 claimed by the County on the -- south of 30A at Montigo, Mac  
2 Carpenter can't make the decision because the County asserts  
3 that is a current right-of-way of the County, correct?

4 You've answered that yes?

5 A. Right.

6 Q. And Mac Carpenter doesn't have the authority to  
7 say, no, I'm going to deem the County abandon that, correct?

8 A. Correct. I mean, unless there is like an  
9 abandonment resolution somewhere.

10 Q. Right. And -- which there's not for the Montigo  
11 area, correct?

12 A. I didn't think so, no.

13 Q. Okay. And, therefore, when faced with a lot of  
14 record request, he couldn't grant the lot of record because  
15 of that unknown -- that legal position that it is a  
16 right-of-way asserted by the County, correct?

17 MR. WARNER: Object to form.

18 THE WITNESS: I'm sorry. Can you repeat the  
19 question?

20 MR. GORDON: I'll rephrase it.

21 BY MR. GORDON:

22 Q. If Mac Carpenter granted my clients lot of record  
23 south of 30A at Montigo, would that conflict with the  
24 County's asserted claim to a right-of-way over that same  
25 parcel?

1 MR. WARNER: Object to form.

2 THE WITNESS: Possibly, yes. But I think the  
3 bigger issue is Mac couldn't approve a lot of record on  
4 something that's not a lot; that's a depiction of a  
5 road, whether that's private, public, whatever. It  
6 wouldn't qualify for a lot of record.

7 BY MR. GORDON:

8 Q. Why not?

9 A. Because it's not a lot. I mean, it's a road.

10 Q. But if it can be identified on all four sides by  
11 its boundaries, under the lot of record law isn't that how  
12 you establish a lot for purposes of lot of record?

13 A. Those are questions for Mac and, I mean, it's --

14 Q. You answered it like you knew exactly. So I'm  
15 pressing back on the specific legal issues of how you  
16 determine a lot. If you don't know, let me know, but I just  
17 want to make sure. Because you were very definitive on what  
18 could and could not be a lot of record three minutes ago.

19 A. Okay. So it's my understanding that it couldn't  
20 be granted for something that is a road and not a lot but  
21 that's ultimately Mac's decision. I mean, each  
22 determination about whether something is or isn't a lot of  
23 record is fact-intensive.

24 Q. And if it is a road in this case, that is a legal  
25 issue, correct, whether it is a right-of-way dedicated to



1 the County, correct?

2 A. Yes.

3 MR. GORDON: Okay. Thank you. I don't have any  
4 other questions.

5 MR. WARNER: No questions. She'll read.

6 (WHEREUPON, THE DEPOSITION WAS CONCLUDED.)

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UNOFFICIAL  
DOCUMENT

CERTIFICATE OF OATH

STATE OF FLORIDA)

COUNTY OF OKALOOSA)

I, the undersigned authority, certify that Sidney N. Noyes appeared before me on the 19th day of November 2020, and was duly sworn.

WITNESS my hand and official seal this 1st day of December 2020.



*Rebecca S. Daniels*  
REBECCA S. DANIELS  
Notary Public - State of Florida  
My Commission No. GG 079297  
Expires: June 29, 2021

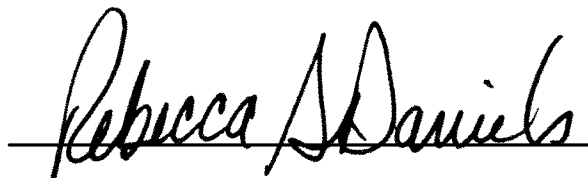
1  
2 CERTIFICATE OF REPORTER

3  
4 STATE OF FLORIDA)

5  
6 COUNTY OF OKALOOSA)

7  
8 I, Rebecca S. Daniels, Registered Professional  
9 Reporter, certify that I was authorized to and did  
10 stenographically report the deposition of Sidney N. Noyes;  
11 that a review of the transcript was requested; and that that  
12 transcript is a true and complete record of my stenographic  
13 notes.  
14

15 I further certify that I am not a relative, employee,  
16 attorney, or counsel of any of the parties, nor am I a  
17 relative or employee of any of the parties' attorneys or  
18 counsel connected with the action, nor am I financially  
19 interested in this action.  
20

21  
22 

23 REBECCA S. DANIELS  
24 REGISTERED PROFESSIONAL REPORTER  
25

**CHANGE/REVISION SHEET**

**IN RE: SHH INVESTMENTS, LLC**

**DATE TAKEN: 11/19/20**

**vs.**

**Case No. 2019-CA-217**

**WALTON COUNTY, FLORIDA**

**\* \* \***

**PAGE**

**LINE**

**CHANGE/REVISION**

PAGE	LINE	CHANGE/REVISION

**Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.**

**DATE**

**SIDNEY N. NOYSE**

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