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UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

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CITY OF SEATTLE, a first-class )  
 charter city, )  
 )  
 Plaintiff, )  
 )  
 )  
 vs. ) No. C07-1620MJP  
 )  
 )  
 THE PROFESSIONAL BASKETBALL )  
 CLUB, LLC, an Oklahoma limited )  
 liability company, )  
 )  
 Defendant. )

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Videotaped Deposition Upon Oral Examination  
of  
GREGORY JAMES NICKELS

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Taken at 600 Fourth Avenue, 7th Floor  
Seattle, Washington

DATE: April 2, 2008

REPORTED BY: Brigid M. Donovan, RPR, CCR  
CCR NO.: 2070

STARKOVICH REPORTING SERVICES  
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NICKELS

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Also Present: Erik Williams, Videographer

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1 SEATTLE, WASHINGTON; WEDNESDAY, APRIL 2, 2008  
2 12:37 p m  
3 --oOo--  
4

5 THE VIDEOGRAPHER: This is the videotaped  
6 deposition of Mayor Greg Nickels, tape one, volume one,  
7 in the case of City of Seattle versus Professional  
8 Basketball Club, case number C07-1620 MGP in the United  
9 States District Court, Western District of Washington.  
10 Today's date is April 2nd, 2008, and the time on the  
11 video monitor reads 12:37 p m. This deposition is  
12 taking place at City Hall at 600 Fourth Avenue, Seattle,  
13 Washington, and was noticed by Bradley S. Keller. The  
14 videographer is Erik Williams for Starkovich Reporting  
15 Services, PO Box 22884, Seattle, Washington 98122,  
16 telephone number (206)323-0919. The court reporter is  
17 Brigid M. Donovan, also for Starkovich Reporting  
18 Services. Would counsel please voice identify  
19 themselves and state whom they represent.

20 MR. KELLER: My name is Brad Keller. I  
21 am with Byrnes & Keller from Seattle, Washington, and I  
22 represent the Professional Basketball Club.

23 MR. TAYLOR: Paul Taylor, Byrnes &  
24 Keller, for Professional Basketball Club.

25 MR. WEBB: Jim Webb from McAfee & Taft,

NICKELS

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1 Oklahoma City also for The Professional Basketball Club.  
2 MR. NARVER: Greg Narver, Seattle City  
3 Attorney's office for the City of Seattle.  
4 MR. JOHNSON: Jeff Johnson, K&L Gates  
5 representing the City of Seattle.  
6 THE VIDEOGRAPHER: Would the court  
7 reporter please swear in the witness.  
8  
9 GREGORY JAMES NICKELS, deponent herein, having been  
10 first duly sworn on oath, was  
11 examined and testified as  
12 follows:  
13

EXAMINATION

14 BY MR. KELLER

15 Q Would you state your full name, please.

16 A Gregory James Nickels.

17 Q Mayor Nickels, how do you like to be  
18 addressed? Is it Mayor? Your Honor? Mr Nickels? Any  
19 preference?

20 A Mayor is probably fine.

21 Q Mayor Nickels, do you believe Seattle is a  
22 great city to live in?

23 A I absolutely do.

24 Q Do you believe Seattle is a world-class city?  
25

1 A I do.  
 2 Q Do you believe that one of things that makes  
 3 Seattle such a great city to live in is its physical  
 4 beauty?  
 5 A Yes.  
 6 Q The water, the mountains, the views?  
 7 A And the people, yes.  
 8 Q The water, the mountains and views?  
 9 A Yes.  
 10 Q None of that will change if the Sonics don't  
 11 play here in the city of Seattle?  
 12 A There are a lot of things that go into making  
 13 a great city. In addition to physical beauty, it's the  
 14 people, the creative nature of our population, and all  
 15 of the things that attract them here, including the  
 16 arts, professional sports, and our physical beauty.  
 17 Q The water doesn't go away if the Sonics don't  
 18 play the last two years of their lease, do they?  
 19 A I don't think so.  
 20 Q The mountains don't go away, does it?  
 21 A No.  
 22 Q The views don't go away?  
 23 A No.  
 24 Q Okay. One of the other things that makes this  
 25 such a terrific city to live in, the highly educated,

1 away if the Sonics don't play the last two years of  
 2 their lease here, does it?  
 3 A Well, again, it takes a lot of things to make  
 4 a creative city and an attractive city. And one of  
 5 those has been professional sports of which the Sonics  
 6 was the first major piece.  
 7 Q Maybe I can get a little more specific, Mayor.  
 8 A Sure.  
 9 Q Anybody in the aerospace industry tell you  
 10 they are leaving town if the Sonics don't play the last  
 11 two years of their lease?  
 12 A Nope.  
 13 Q Anybody in the computer sciences industry tell  
 14 you they are leaving town if the Sonics don't play the  
 15 last two years of their lease?  
 16 A No.  
 17 Q Anybody in the healthcare -- health industry  
 18 here in our city tell you that they are leaving town if  
 19 the Sonics don't play the last two years of their lease?  
 20 A No.  
 21 Q Anybody in the education segment of our  
 22 economy tell you that they are leaving if the Sonics  
 23 don't play the last two years of their lease?  
 24 A No.  
 25 Q Is another thing that makes Seattle a great

1 skilled nature of the employment force here?  
 2 A Yes, indeed.  
 3 Q That won't go away if the Sonics aren't here  
 4 for the last two years of their lease, will it?  
 5 A Not alone. But again, it's a lot of things  
 6 that attract those intelligent, creative people here.  
 7 Q Maybe you can focus on my question. The  
 8 skilled labor pool that comprises the city of Seattle,  
 9 highly educated people, that doesn't go away if the  
 10 Sonics don't play the last two years of their lease,  
 11 does it?  
 12 A Again, I think it's a lot of things that  
 13 attract people and part of that is professional sports.  
 14 Q Anybody tell you they are moving and leaving  
 15 Seattle if the Sonics aren't here the last two years of  
 16 their lease?  
 17 A Not yet.  
 18 Q Is one of the things that makes Seattle a  
 19 terrific place to live and a world-class city is the  
 20 diversity of our economy?  
 21 A Yes.  
 22 Q And included in that diversity is aerospace,  
 23 health, education, biotech, computer sciences?  
 24 A Yes.  
 25 Q The diversity of our economy, that doesn't go

1 place to live and a world-class city the entrepreneurial  
 2 spirit of our business community?  
 3 A Yes.  
 4 Q That won't change if the Sonics don't play the  
 5 last two years of their lease here, will it?  
 6 A Again, it takes a lot of things to create that  
 7 kind of environment and the Sonics have been part of  
 8 that environment for 41 years.  
 9 Q Anybody that you are aware of, who you  
 10 consider to be important as part of the entrepreneurial  
 11 segment of our community, that has told you they are  
 12 leaving if the Sonics aren't here the last two years?  
 13 A No.  
 14 Q Is another thing that makes Seattle a great  
 15 city to live in and a world-class city the wealth of  
 16 physical recreational opportunities here in the city and  
 17 in the surrounding areas?  
 18 A Yes.  
 19 Q Opportunities for biking?  
 20 A Yes.  
 21 Q You yourself have been quite active in  
 22 promoting the conversion of trails to biking and walking  
 23 trails here in the city, haven't you?  
 24 A Creating biking trails, not so much  
 25 conversion, but yeah.

1 Q Those opportunities for biking, hiking,  
2 skiing, they don't go away if the Sonics don't play the  
3 last two years of their lease here, do they?

4 A No.

5 Q How about -- is another thing that makes  
6 Seattle a great city to live in and a world-class city  
7 the veritable cornucopia of cultural attractions that  
8 are available for the people here?

9 A I like that, veritable cornucopia. I think  
10 that's an accurate description.

11 Q For example, this city has institutions like  
12 the Seattle Art Museum, the Boeing Museum of Flight,  
13 right?

14 A Yes.

15 Q They are not going away if the Sonics don't  
16 play their last two years here, are they?

17 A No.

18 Q We have a brand new, relatively new, beautiful  
19 opera facility in downtown Seattle that offers a wide  
20 variety of cultural events for our citizens, right?

21 A Yes.

22 Q That's not going away if the Sonics don't play  
23 the last two years, is it?

24 A Well, it actually is a little more closely  
25 related because the opera house is part of the Seattle

1 A I was there over the winter. I think there  
2 was a reception up there.

3 Q That's not going away --

4 A It's not.

5 Q -- if the Sonics don't play the last two years  
6 of their lease, is it?

7 Seattle also has an abundance of wonderful  
8 tourist attractions to be a magnet for tourists, both  
9 from the region, nationally, and internationally,  
10 doesn't it?

11 A Yes.

12 Q One of those things is the wonderful  
13 waterfront we have here in the city, right?

14 A Yes.

15 Q That's not going away if the Sonics don't play  
16 the last two years of their lease, is it?

17 A No.

18 Q Another thing we have is Pike Place Market,  
19 right?

20 A Yes.

21 Q And that's not going away if the Sonics don't  
22 play the last two years of their lease, is it?

23 A No.

24 Q Another thing we have is the beautiful  
25 historic area of Pioneer Square, right?

1 Center campus. The Key Arena is an important part of  
2 that campus. And the financial health of Key Arena does  
3 impact a bit on the opera and the ballet that call that  
4 home. But no, I don't think they are going away.

5 Q That's all helpful information. Ask you if  
6 you can answer my question. Is the Seattle Opera and  
7 the Seattle Opera House going away if the Sonics don't  
8 play the last two years of their lease?

9 MR. NARVER: Object to the form of the  
10 question.

11 MR. KELLER: Thank you, sir.

12 A No.

13 Q What about our brand new symphony hall,  
14 Benaroya Hall? That's a beautiful establishment with a  
15 wide variety of cultural activities for our citizens,  
16 right?

17 A It is.

18 Q That's not going away if the Sonics don't play  
19 the last two years of their lease, is it?

20 A No.

21 Q What about the Asian Art Museum up in -- well,  
22 it's on Capital Hill. That's a wonderful facility,  
23 isn't it?

24 A It is.

25 Q When is the last time you've been there?

1 A Yes.

2 Q And that's not going away if the Sonics don't  
3 play the last two years of this lease, is it?

4 A No.

5 Q We also have world-class healthcare available  
6 in Seattle and that's one of the things that makes it an  
7 attractive and wonderful city, don't we?

8 A Yes.

9 Q Institutions like Children's Hospital, Swedish  
10 Hospital, Providence, University of Washington Medical  
11 Center, Harborview, right?

12 A Providence has gone away, but other than that,  
13 yes.

14 Q Children's, Swedish, the UW Medical Center,  
15 Harborview, none of those are going away --

16 A No.

17 Q -- if the Sonics don't... And are you aware  
18 of any impact that the Sonics leaving would have on  
19 those healthcare institutions?

20 A I am not.

21 Q Another thing that makes us a wonderful city  
22 to live in and a world-class city is the world-class  
23 caliber of educational opportunities that exist here,  
24 right?

25 A Yes.

4 (Pages 10 to 13)

1 Q Institutions of higher learning like the UW,  
 2 Seattle University, Seattle Pacific University, right?  
 3 A Yes.  
 4 Q None of those are going away if the Sonics  
 5 don't play the last two years of their lease, are they?  
 6 A No.  
 7 Q Are you aware of any impact that the Sonics  
 8 leaving would have on those institutions?  
 9 A No.  
 10 Q When is the last time you actually purchased,  
 11 paid for yourself, a ticket to attend a Sonics game?  
 12 A Well, anytime I go, I would pay for the  
 13 tickets. There are two relatively recent. I don't know  
 14 which was the more recent: When they were in the  
 15 playoffs a couple of years ago, and when they retired  
 16 Gus William's number. And again, I don't know which is  
 17 the more recent, but those were the last two times.  
 18 Q Have you been to a Sonics game within the last  
 19 two years?  
 20 A I don't think so. I think the Gus Williams  
 21 thing was longer ago than that, but I am not absolutely  
 22 sure.  
 23 Q Do you think you've been to the Sonics game  
 24 since the team was sold in 2006, I believe?  
 25 A To the Professional Basketball Group?

1 Q Yes.  
 2 A No, I haven't.  
 3 Q When is the last time, that you are aware of,  
 4 that city monies were used to purchase a ticket for  
 5 anyone in city government to attend a Sonics game?  
 6 A By the city government? I don't know.  
 7 Q When is the last time you -- I am sorry, other  
 8 than when Gus Williams' jersey was retired, and other  
 9 than several years ago when the Sonics were in the  
 10 playoffs, prior to those times when was the next prior  
 11 time that you had been to a Sonics game?  
 12 A Oh, I, occasionally I take one of my kids to a  
 13 game. But it probably had been a couple of years prior  
 14 to the playoff experience.  
 15 Q About how many Sonics games do you believe  
 16 you've attended in the last ten years?  
 17 A A handful. Four or five.  
 18 Q A handful, less than five?  
 19 A Yeah, maybe around five.  
 20 Q When was the last time you went to a Mariner's  
 21 game?  
 22 A Day before yesterday.  
 23 Q And before that?  
 24 A Last September.  
 25 Q And before that?

1 A I am a season ticket holder for the Mariners,  
 2 so I go probably ten times a year.  
 3 Q How about the Seahawks?  
 4 A Seahawks, I may have gone to a game last year.  
 5 I think I went to a game last year. If not, I went to a  
 6 game the year before that.  
 7 Q Do you generally go to about one Seahawks game  
 8 a year?  
 9 A Not generally. But I've gone to two or three  
 10 in the last couple of years.  
 11 Q Does the city of Seattle have a group or  
 12 bureau or some people who are tasked with promoting the  
 13 city in terms of its economic development, to market the  
 14 city to companies and other institutions to come to  
 15 Seattle and establish their businesses, expand,  
 16 whatever?  
 17 A Sure.  
 18 Q What's that group called?  
 19 A Well, internal to city government, we have an  
 20 Office of Economic Development. We also have an Office  
 21 of Film and Music, and an office that deals with arts  
 22 and cultural affairs. All three of them have some role  
 23 in that. And we also contract with the Convention and  
 24 Visitors Bureau and Sports Commission and other  
 25 nonprofit entities to promote the city.

1 Q I am sorry. I was trying to write it down but  
 2 I couldn't do it quickly enough. One of them is arts  
 3 and cultural.  
 4 A We have an Office of Arts and Cultural  
 5 Affairs. And today, for instance, the Business Journal  
 6 is around the country. They're talking about Seattle  
 7 having more arts-related jobs than any other city per  
 8 capita. Film and music, we try and attract live music  
 9 talent and film work to Seattle. And then the Office of  
 10 Economic Development, which more generally works with  
 11 the business community, attracting new businesses and  
 12 growing existing businesses. Those are internal to city  
 13 government.  
 14 Q Would sports fall into the bailiwick of the  
 15 Arts and Cultural Affairs office or is it more...  
 16 A More the Office of Economic Development. And  
 17 they would contract with the Sports Commission and the  
 18 Chamber of Commerce and Convention and Visitors Bureau.  
 19 Q So there is a separate office or group devoted  
 20 to arts and cultural affairs?  
 21 A Yes, there is.  
 22 Q And how significant a group is that?  
 23 A Well, I think they do very good work. It's a  
 24 small office, maybe -- I should know the number. Maybe  
 25 six, eight professional folks in that office.

1 Q Are you able to give me a guesstimate of their  
 2 budget?  
 3 A Not offhand, no.  
 4 Q Okay. But in any event, this group of the  
 5 Arts and Cultural Affairs, which is six to eight  
 6 professionals, professional sports is not within their  
 7 bailiwick?  
 8 A No.  
 9 Q You said also there was a film and music group  
 10 here in the city?  
 11 A Yes.  
 12 Q About how many people are in it?  
 13 A That's just -- I think that's two people,  
 14 director and a clerical person. And they are within  
 15 that Office of Economic Development, but we highlight  
 16 them separately.  
 17 Q And do you have any guesstimate of what their  
 18 budget is?  
 19 A It would be very small.  
 20 Q Two full-time equivalents?  
 21 A Two full-time equivalents and probably some  
 22 money to promote the city, brochures and the like.  
 23 Q And the professional sports, that would not  
 24 fall into the bailiwick of film and music?  
 25 A No.

1 Q And then the Office of Economic Development,  
 2 is that an actual city office?  
 3 A It is, yes.  
 4 MR. JOHNSON: Can we take a break, Brad?  
 5 THE VIDEOGRAPHER: Going off the record,  
 6 the time is 12:51 p.m.  
 7 (Brief recess.)  
 8 THE VIDEOGRAPHER: We are now back on the  
 9 record. The time is 12:51 p.m.  
 10 Q The Office of Economic Development, about how  
 11 many people is that comprised of, incremental to the  
 12 approximately two people that are part of the film and  
 13 music group?  
 14 A A dozen to 15 people.  
 15 Q Do you yourself actually get active sometimes  
 16 in promoting the city to businesses or other  
 17 institutions considering relocating to Seattle or  
 18 expanding?  
 19 A Sure.  
 20 Q Similarly, do you get active, yourself  
 21 personally, in efforts to retain businesses who are  
 22 considering going elsewhere?  
 23 A Yes.  
 24 Q When is the last time that you were involved  
 25 in recruitment activities for a potential business or

1 institution to this city where you invited  
 2 representatives of that business or institution to go  
 3 with you to a Sonics game?  
 4 A I don't think I have.  
 5 Q When is the last time in connection with your  
 6 recruitment of business prospects here for the city, the  
 7 city or the Office of Economic Development provided  
 8 tickets to a Sonics game for people that they were  
 9 trying to solicit their interest?  
 10 A I haven't and I am not aware of whether the  
 11 Office of Economic Development has.  
 12 Q When is the last time that any company that  
 13 was considering relocating or expanding here actually  
 14 said to you that an important consideration to them was  
 15 whether or not there was an NBA franchise operating here  
 16 in Seattle?  
 17 A I don't remember anyone specifically making  
 18 that statement.  
 19 Q Do you remember anybody generally making that  
 20 statement?  
 21 A Generally people talk about the city and the  
 22 things it has to offer, and occasionally they will  
 23 mention professional sports as part of that.  
 24 Q Tell me the last time you can actually recall  
 25 somebody saying, well, one of the considerations of why

1 I find Seattle attractive is because it has an NBA  
 2 franchise.  
 3 A Again, I don't remember any specifics.  
 4 Q Are you able to testify here under oath that  
 5 somebody has ever actually referred to an NBA franchise  
 6 as opposed to generally professional sports?  
 7 A More generally.  
 8 Q So if the Sonics leave there is still  
 9 professional sports here in Seattle, right?  
 10 A Yes, indeed.  
 11 Q It's still a professional sports town, right?  
 12 A Yes.  
 13 Q If the Sonics leave early, two years early,  
 14 Seattle is still a world-class city, isn't it?  
 15 A I believe so.  
 16 Q It's still a first-class city and a great  
 17 place to live, right?  
 18 A Yes.  
 19 Q Were you active in the efforts to retain  
 20 Boeing when it was considering moving its corporate  
 21 headquarters from Seattle to Chicago?  
 22 A Yes.  
 23 Q Did you personally invest yourself in that  
 24 effort and really make a go of it?  
 25 A Yes. We played a supportive role. The

1 governor, Governor Locke took the lead, some of his  
 2 staff, the county executive of Snohomish County. But I  
 3 played, personally, a supportive role in that, yes.  
 4 Q Did you, in any of those discussions, mention  
 5 that you thought that Boeing should stay because Seattle  
 6 had the Seattle Supersonics?  
 7 A I don't think.  
 8 Q Anybody ever say that in your presence?  
 9 A No.  
 10 Q Do you think the presence of the Sonics was a  
 11 material consideration at all in their decision about  
 12 whether to stay or leave?  
 13 A No.  
 14 Q Have you been involved personally in the  
 15 efforts to expand the biotech industry here, especially  
 16 in the South Lake Union area?  
 17 A Yes, I have.  
 18 Q Can you identify any specific company that  
 19 located here and as part of the process told you or your  
 20 staff that one of the reasons was because Seattle has an  
 21 NBA franchise?  
 22 A Again, that's not specifically.  
 23 Q Have you been personally active in efforts to  
 24 expand our now quite diverse high-technology computer  
 25 industries?

1 A Somewhat. A lot of those aren't located right  
 2 in the city, so less so than say with biotech. But  
 3 somewhat.  
 4 Q Can you identify any specific company that was  
 5 considering locating here that told you that an  
 6 important consideration to them was that Seattle had an  
 7 NBA franchise?  
 8 A No.  
 9 Q Have you ever been to San Diego?  
 10 A I have.  
 11 Q Do you consider San Diego to be a world-class  
 12 city?  
 13 A I consider it a fine city, second to Seattle  
 14 or third, maybe fourth best on the West Coast.  
 15 Q Do you consider it to be a world-class city?  
 16 A It's a good city, world-class city.  
 17 Q Are you a fan of the Houston Rockets?  
 18 A No, not particularly.  
 19 Q Did you know that they were originally the San  
 20 Diego Rockets --  
 21 A I did.  
 22 Q -- but left San Diego in 1971 for Houston?  
 23 A Didn't know when. But I knew they had been  
 24 the San Diego Rockets.  
 25 Q Did you know that San Diego also had -- that

1 they had the Clippers before they went to Los Angeles?  
 2 A Uh-huh.  
 3 Q Do you know if San Diego has an NBA team  
 4 today?  
 5 A I don't think they do.  
 6 Q Are you aware they haven't had one since 1984?  
 7 A Wasn't aware of that.  
 8 Q Do you know of anyone who made a decision to  
 9 live or work in San Diego because it did or didn't have  
 10 an NBA franchise?  
 11 A No.  
 12 Q Are you aware of any convention group that  
 13 decided about whether to have a convention here in  
 14 Seattle or not based at all on whether it had -- whether  
 15 Seattle had an NBA franchise?  
 16 A I am not.  
 17 Q I want to go back in time to summer/fall of  
 18 2006. Were you the mayor here in Seattle at that time?  
 19 A I was.  
 20 Q And for how long had you been mayor?  
 21 A I became mayor January 1st of 2002, so I would  
 22 have been in my fifth year.  
 23 Q So does that mean you were elected in November  
 24 of '05 -- I mean, November of '01?  
 25 A Yes. And re-elected in November of '05, yes.

1 Q And then you stood for re-election in what  
 2 year, sir?  
 3 A November of 2005.  
 4 Q Prior -- at some point during 2006 did you  
 5 learn that the Sonics organization was being sold from  
 6 what I'll call the Schultz group to the Professional --  
 7 what became the Professional Basketball Club?  
 8 A You know, I don't remember the time frame.  
 9 But at that point at which they were sold, very shortly  
 10 before that I did learn of it. So if that occurred in  
 11 '06, it would have been '06.  
 12 Q Prior to learning of that sale, had you  
 13 been -- had you tried to work with the prior ownership  
 14 group, that is, the Schultz group, to address issues  
 15 that were being raised with respect to their lease in  
 16 Key Arena?  
 17 A Yes.  
 18 Q Tell me a little bit about what your  
 19 activities were.  
 20 A The previous ownership expressed concern over  
 21 the lease itself and how it was structured, and over the  
 22 facility and its long-term economic viability for their  
 23 business without significant upgrades.  
 24 Q What kind of concerns about the facility were  
 25 expressed by the Schultz group to you?

7 (Pages 22 to 25)

1 A Their concerns fundamentally were the ability  
2 of the facility to generate revenue. And those seemed  
3 to be around restaurants, clubs, and other amenities for  
4 basketball patrons to be able to enjoy and add to their  
5 revenue.

6 Q So you mentioned two things that they talked  
7 to you about. You said one was the facility and two was  
8 the ability to generate revenue. But are they really  
9 joined at the hip?

10 A Uh...

11 Q As they were being discussed at the time?

12 A Yes Well, one was the lease. And the lease  
13 was signed in the mid-1990s under a model that the  
14 facility itself should generate enough revenue to pay  
15 for the capital improvements to the facility. And that  
16 was the predecessor ownership to the Schultz group,  
17 inherited by the Schultz group. And they were concerned  
18 about that structure and how that worked for their  
19 business. And then there was the physical  
20 revenue-generating possibilities of the building. So  
21 they were somewhat separate.

22 Q Thank you. Could you be a little more  
23 specific about what concerns were expressed by the  
24 Schultz ownership group about the original model that  
25 the lease was established for and what their concerns

1 entities.

2 Q Did you put a lot of effort into it?

3 A I think so, yes.

4 Q Work hard at it?

5 A Yeah.

6 Q Feel like you did everything you could to try  
7 and make something happen that would strike a balance  
8 between what the Schultz group's ownership needs were  
9 and what you felt were legitimate considerations for the  
10 city?

11 A Yes.

12 Q Did you reach an arrangement, a deal?

13 A We did not. We were continuing to work on  
14 that through the time when the sale was announced and  
15 consummated.

16 Q In your -- from your perspective why were you  
17 unable to reach an agreement with the Schultz group?

18 A Well -- and I am not trying to quibble -- but  
19 in a sense we did come to an agreement with the Schultz  
20 group. We agreed on some improvements that should be  
21 made to the Key Arena long-term to make it continue to  
22 be a viable venue for them. And we went together to the  
23 legislature to try and find some ways to pay for those  
24 improvements, to fund those improvements. And that's  
25 where we were unsuccessful.

1 were about why it no longer worked?

2 A Well, I think fundamentally their concern was  
3 that every dollar was that going to pay for the  
4 mortgage, the debt on the building, was a dollar of  
5 revenue that they felt otherwise should have gone to  
6 them and that that, in and of itself, would have changed  
7 the economics. And then physical changes to the  
8 building potentially would have added more revenue  
9 opportunities for them.

10 Q How much time did you spend working with the  
11 Schultz ownership group trying to address the issues  
12 around the lease and the facility?

13 A You know, I don't have a good estimate of how  
14 much time I personally spent. It was over a year or a  
15 year and a half, I suspect, that we worked together,  
16 maybe even a little longer than that. It involved  
17 occasional meetings with them, meetings with our Seattle  
18 Center management, Seattle Center department.

19 And we put together a task force of people to  
20 take a look at Key Arena and give us some  
21 recommendations on what it was the Schultz group was  
22 talking about and how that facility would be used into  
23 the future with basketball or without. So the personal  
24 time, I am not sure I can give you a good estimate of  
25 that. But contacts with all of those different

1 Q So from your perspective did you feel like you  
2 had reached an agreement in principle with the Schultz  
3 group and the problem was you needed -- there was a  
4 financing component that you needed the legislature to  
5 participate in on a state level and a joint effort by  
6 you and Schultz to get that cooperation from the  
7 legislature didn't happen?

8 A I think that characterizes it pretty well.

9 Q And this -- around -- by what time did you  
10 feel you had reached an agreement with the Schultz group  
11 as to generally what the improvements were and changes  
12 that needed to be made to the lease?

13 A Again, I have a little trouble with the time  
14 horizon. We went jointly to the legislature, and I  
15 don't remember if it was the 2005 or the 2006 session.  
16 So we had met prior to whichever of those sessions, come  
17 to general agreement on a package of improvements that  
18 would need to be made, and then went jointly to the  
19 legislature to try and get the funding mechanisms. And  
20 I am sorry, I just don't remember which of those  
21 sessions it was.

22 Q Do you remember, did you ever at any time tell  
23 any representatives of the Schultz group that, in words  
24 or substance, that, yeah, we've got a deal but I don't  
25 want to go to the legislature about it until after I,

1 Greg Nickels, have stood for re-election?  
 2 A No.  
 3 Q Never said anything like that?  
 4 A No.  
 5 Q But by saying no, you are agreeing with me  
 6 You are saying you never said anything like to any  
 7 representative of the Schultz group?  
 8 A I have no recollection of saying anything like  
 9 that.  
 10 Q Do you recall participating in a meeting with  
 11 Councilman -- among others, Councilman David Della, Stan  
 12 Barer, and others, where they asked whether you were  
 13 going to tell the other members of the city council  
 14 about the agreement in principle that had been reached  
 15 and that you said you weren't going to do it at that  
 16 time and you weren't going to do it until after the  
 17 election?  
 18 A No, I don't.  
 19 Q Did anything like that ever happen?  
 20 A I don't have any recollection of that at all.  
 21 Q Do you deny that anything like that ever  
 22 happened?  
 23 MR. NARVER: Object to the form. You can  
 24 answer.  
 25 A I don't have any recollection of that.

1 Q You are saying you don't have any  
 2 recollection. Are you saying you have a recollection of  
 3 the events --  
 4 A No.  
 5 Q -- and your recollection is that it did not  
 6 happen or are you saying you don't recall one way or the  
 7 other?  
 8 MR. NARVER: Object to the form. Asked  
 9 and answered.  
 10 A I have no recollection of a specific meeting  
 11 that you are referring to. I had a number of meetings  
 12 over time with Mr. Barer, Mr. Della, perhaps both of  
 13 them together. But I have no recollection of making any  
 14 kind of statement like that.  
 15 Q Did you ever tell any representatives of the  
 16 Schultz group that because you were running for  
 17 re-election you wanted to wait until after the election  
 18 before announcing publicly that an agreement in  
 19 principle had been reached with them regarding  
 20 improvements to Key Arena?  
 21 MR. NARVER: Object to form. Asked and  
 22 Answered.  
 23 A I don't have any recollection of that at all.  
 24 Q When you had this agreement in principle with  
 25 the Schultz organization for improvements to the Key

1 Arena, can you tell me in just as much detail as you can  
 2 recall what the nature was of the improvements that you  
 3 agreed in principle would be made?  
 4 A In general, it would have expanded the  
 5 footprint of the facility, and particularly underground,  
 6 with more club space, restaurant space, concourse area  
 7 for people to be able to get to concession stands and  
 8 that sort of thing.  
 9 Q Did you generally -- first of all, around when  
 10 did you reach this agreement in principle with the  
 11 Schultz group?  
 12 A Well, again, I don't remember if it was the  
 13 2005 session or the 2006 session. So it would have been  
 14 prior to one of those legislative sessions.  
 15 Q And the 2006 legislative session was during  
 16 the early part of the year; is that right?  
 17 A Yes. They always start in January.  
 18 Q So the latest would have been around the end  
 19 of 2005, right?  
 20 A Yes, I think.  
 21 Q And you did stand for re-election in November  
 22 of '05, right?  
 23 A I did, yes.  
 24 Q Did you agree back in late '05/early '06 that  
 25 it was appropriate to make those changes to Key Arena?

1 MR. NARVER: Object to the form.  
 2 A Whenever it was that we agreed to go to the  
 3 legislature, yes.  
 4 Q Why did you feel it was appropriate for those  
 5 changes to be made to Key Arena?  
 6 A Well, Key Arena has been a venue for  
 7 professional basketball, NBA basketball since 1967. It  
 8 was renovated in 1995, very substantially. Basically  
 9 everything but the roof line was changed. There has  
 10 been some renovation since then. And over time, as the  
 11 economic model for basketball changes, it will need  
 12 periodic upgrading to both replace things that are  
 13 wearing out and continue to make it economically viable.  
 14 So I was recognizing that over time we'll need to invest  
 15 in that building for it to continue to be viable.  
 16 Q Back in late '05/early '06, when you had the  
 17 agreement in principle with the Schultz group and were  
 18 approaching the legislature, what was time horizon in  
 19 terms of when you were wanting to implement the  
 20 improvements in the Key Arena rebuild?  
 21 MR. NARVER: Object to the form.  
 22 Mischaracterizes his testimony.  
 23 A It was our hope that we would be able to get  
 24 approval from the legislature in a relatively short  
 25 period of time, maybe one session or two sessions, and

1 that once that approval took place we would be able to  
 2 move forward with a new lease agreement and physical  
 3 improvements to the building quickly.  
 4 Q So if what you had wanted to happen back in  
 5 late '05/early '06 had happened, would we be looking at  
 6 a new Key Arena today?  
 7 MR. NARVER: Object to the form.  
 8 Mischaracterizes his testimony.  
 9 A Could you rephrase that? I am not sure I  
 10 understand the question.  
 11 Q The question before had to do with timing.  
 12 A Yeah.  
 13 Q And I am saying if -- you know, you say you  
 14 had an agreement in principle with the Schultz group and  
 15 you went to the legislature in either '05 or '06, and  
 16 you were wanting to get the approval then, right? If  
 17 that had happened and everything had gone according to  
 18 plan, as you say as you wanted, would we be looking at a  
 19 completed rebuild of Key Arena sitting here today?  
 20 A We might, or we might be in construction with  
 21 it.  
 22 Q We'd be real far into it?  
 23 A I think so.  
 24 Q And if it was still under construction, we'd  
 25 be looking at a new arena for next season, the next NBA

1 Seattle Center and the team, semi-colon, but the Sonics'  
 2 current and former ownership groups never responded to  
 3 them, close quote. Do you see that?  
 4 A I do.  
 5 Q Can you tell me -- explain to me why you were  
 6 writing in April of 2007 that the former ownership group  
 7 never responded, if you have this agreement in  
 8 principle?  
 9 A Sure. Toward the end of that ownership's time  
 10 with the team, and recognizing we hadn't been successful  
 11 with the legislature, we proposed some alternatives that  
 12 would be less costly and that we would not need  
 13 legislative approval for. And those conversations had  
 14 begun, but were terminated when the sale of the team  
 15 occurred.  
 16 Q So in the letter you are referring to only the  
 17 most recent discussions, not the fact that only a year  
 18 before you had supposedly had an agreement in principle.  
 19 A Or a couple of years before, yeah.  
 20 Q With respect to your dealings with the prior  
 21 ownership group, how many times did you go to the  
 22 legislature with the prior ownership group seeking  
 23 funding?  
 24 A As I said, I think it was over two sessions.  
 25 I think it was the 2005 session and the 2006 session of

1 season?  
 2 A I don't think we got to the point of laying  
 3 out the construction schedule, but I assume we'd be well  
 4 into it.  
 5 Q And you were unsuccessful in your efforts to  
 6 get cooperation from the legislature and nothing  
 7 happened?  
 8 A Yes.  
 9 Q So let me ask you a question about what I am  
 10 going to ask our court reporter to mark as Exhibit  
 11 No. 1.  
 12 Hand that to your lawyer, please.  
 13 (Exhibit 1 marked for  
 14 identification.)  
 15 Q Tell me when you are ready, sir.  
 16 A Yes.  
 17 Q Is Exhibit 1 a copy of a letter that went out  
 18 over your signature on April 6th of 2007?  
 19 A Yes.  
 20 Q To one of your constituents?  
 21 A No. Not to one of my constituents. To a, one  
 22 person from a suburb.  
 23 Q And in this letter, in the second paragraph,  
 24 you said, quote, Specific strong offers were made to the  
 25 Sonics that I believe would have met the needs of

1 the legislature  
 2 Q You said that after you struck out at the  
 3 legislature in the '06 session, you made some more  
 4 proposals to the Schultz group?  
 5 A Yes.  
 6 Q What were they? What were the proposals?  
 7 A There were three sort of basic proposals, each  
 8 of which would have a different level of participation  
 9 by the team in terms of funding, and by the city, and a  
 10 different level of physical improvement to the Key  
 11 Arena. I believe all three also would have called for  
 12 the current lease to be changed and that underlying  
 13 funding of the debt coming out of the building revenues  
 14 changed. So it would have provided more revenue to the  
 15 team as well as some physical improvements.  
 16 Q Now, can you be more specific and tell me  
 17 about the proposals, other than there were three  
 18 different ones that had different levels of team  
 19 participation and different levels of improvements?  
 20 Could you put some numbers or contours on it?  
 21 A I can't. I just don't remember the three that  
 22 well. But A, B, C: A being fairly minimal physical  
 23 improvements, but a financial improvement because of the  
 24 change in the lease; second one that would have had more  
 25 extensive physical improvements; and a third one that

1 was relatively significant physical improvements.  
 2 Q And what was the Schultz group's response?  
 3 A I don't really know because the sale took  
 4 place and those conversations ended.  
 5 Q With respect to the efforts in the legislature  
 6 in '05 and '06, can you tell me what efforts you and  
 7 your office and city government made to try and lobby  
 8 the legislature to get the financing that was sought by  
 9 the Schultz group and yourself?  
 10 A Sure. I went to Olympia and spoke with  
 11 various folks in the leadership in both houses. And  
 12 members of my staff did as well.  
 13 Q And from your perspective, why were the  
 14 efforts unsuccessful in Olympia in '05 and '06?  
 15 MR. NARVER: Objection. Calls for  
 16 speculation.  
 17 A My interpretation is that the legislature had  
 18 a very low level of interest in funding improvements for  
 19 a professional sports venue.  
 20 Q And that was your impression as of 2005?  
 21 A And '6.  
 22 Q And how did you fare most recently in your  
 23 efforts down in Olympia?  
 24 A Again, we've asked the legislature to take a  
 25 look at giving us some tools to be able to fund

1 improvements. And again, we were unsuccessful.  
 2 Q So you've gone down there three years, '05,  
 3 '06, '08, and struck out all three times, right?  
 4 A Yes.  
 5 Q Now, the Schultz ownership group, would I be  
 6 correct in assuming that one of the rationales that they  
 7 advanced to you for wanting a significant remodeling of  
 8 Key Arena and a new lease was the team economics. They  
 9 argued that they were losing money and in order to make  
 10 it a viable venture they needed to restructure things  
 11 and have a different facility?  
 12 A Yes.  
 13 Q Would you agree that's a perfectly reasonable  
 14 concern on the part of the Schultz group?  
 15 A I think it's perfectly reasonable for any  
 16 business owner to want to have an economically viable,  
 17 profitable business.  
 18 Q And if a proprietor of a business is unable to  
 19 have a profitable venture, either because of constraints  
 20 of the facility or the structure of its economic  
 21 arrangements, there is nothing wrong with seeking to  
 22 adjust that, is there?  
 23 A No.  
 24 Q You mentioned earlier that one of the things  
 25 that you did as part of working with the Schultz

1 organization, I think you used the phrase we arranged  
 2 for a task force. And I was curious, if I got that  
 3 right, who the "we" was.  
 4 A The city of Seattle.  
 5 Q So the task force that was assigned taking a  
 6 look at the Key Arena situation in '05 and '06, was that  
 7 a task force that was put together and appointed by the  
 8 city of Seattle?  
 9 A I appointed it.  
 10 Q You wanted them to go out and do fact-finding  
 11 and come up with some recommendations for you?  
 12 A Yes.  
 13 Q And was that a budgeted item, do you know, or  
 14 was that an all-volunteer work force?  
 15 A The members of the commission were volunteers.  
 16 It was staffed by the Seattle Center staff, so that  
 17 would be a budgeted item. And they may have brought in  
 18 some consulting help and that would have very likely  
 19 been done through the Seattle Center's budget. But I  
 20 don't really remember if they did or not.  
 21 Q Let me show you what I am going to ask our  
 22 court reporter to mark as Exhibit 2. And again, I'll  
 23 hand that out to your attorney. We have an extra copy  
 24 for both your attorneys.  
 25

1 (Exhibit 2 marked for  
 2 identification.)  
 3 Q Showing you what's been marked as Exhibit 2, I  
 4 realize it's a substantial document but is this the  
 5 final report and recommendation of the task force that  
 6 you were just referring to?  
 7 A Yes, I believe it is.  
 8 Q And prior to this report being issued, were  
 9 you informally briefed by the Seattle Center staff about  
 10 the report and its basic findings and conclusions?  
 11 A Yes, I believe I was briefed by the staff and  
 12 I think I also sat down with the subcommittee and  
 13 received a direct briefing from them.  
 14 Q And about how much in advance of the issuance  
 15 of the report was there a sit-down with you to tell you  
 16 where it was headed and what it was going to look like?  
 17 A That I don't know. I don't remember how much  
 18 in advance. Somewhat in advance, but probably not a  
 19 great deal.  
 20 Q Everybody's idea of not a great deal is  
 21 different. Are we talking days? Weeks? Can you  
 22 bracket it at all?  
 23 A Couple of weeks I would guess.  
 24 Q So would it be fair to say that probably,  
 25 recognizing some uncertainty, a few weeks in advance of

1 the task force issuance of the final report you were  
2 briefed on a preliminary basis what the conclusions were  
3 likely to look like?

4 A At some point. And I am guessing it's a  
5 couple of weeks before it was issued, but again, I don't  
6 have a specific time frame.

7 Q So when I look at Exhibit 2, is this, in  
8 effect, the fact-finding and recommendations of the city  
9 of Seattle?

10 A Well, it was done on behalf of the city of  
11 Seattle at my request. And we -- I accepted those  
12 recommendations and suggestions for moving forward.

13 Q If you go to about the second page in here,  
14 these are a listing of the subcommittee members and  
15 consultant teams and the Key Arena staff team.

16 A Yeah.

17 Q And I just wanted to ask you if there was any  
18 one or two people who from your perspective you believe  
19 were the real drivers on this project and were  
20 spearheading it. And I don't mean by that to in any way  
21 diminish the contribution of the others.

22 A My impression was that Bryce Seidl, who is the  
23 director of the Pacific Science Center, was very active  
24 and engaged in it. And he was also involved on another  
25 committee that we had looking at the larger Seattle

1 entered into in the mid-1990s, where revenue generated  
2 within the building was used to pay for the physical  
3 improvements and the debt on the issue to make the  
4 physical improvements, no longer was a viable model.

5 Q So the revenue model of the original lease had  
6 become economically dysfunctional?

7 A Yes, I think that's what they were saying.

8 Q And that was the same thing that the Schultz  
9 organization had said to you during the negotiations and  
10 discussions, right?

11 A Yes.

12 Q They said this lease is economically  
13 dysfunctional. It doesn't work anymore given the  
14 economics of a professional sports franchise?

15 MR. NARVER: Object to the form.

16 Q That's what they said to you, right?

17 MR. NARVER: Object.

18 A Not in so many words, but the sense was --  
19 that was the sense of it.

20 Q That was the substance of it, right?

21 A Uh-huh.

22 Q And here was your task force and they came  
23 back and said the same thing to you: This lease is  
24 economically dysfunctional due to the economics of a  
25 professional sports franchise.

1 Center and was very active in that effort. So if I  
2 think about these folks, he probably was the one that I  
3 would attribute that kind of role to.

4 Q Turn to the third page if you would. There is  
5 some bullet points there providing some highlights of  
6 some of the findings. Do you see that?

7 A Yes, I do. I think, "The Key Arena is  
8 integral"? Starting with that bullet?

9 Q The second bullet point says that "Neither  
10 Seattle Center, Key Arena, nor Key Arena's anchor  
11 tenants can be financially successful as long as the  
12 existing construction debt remains an obligation of the  
13 building and of Seattle Center." Do you see that?

14 A I do.

15 Q And the reference to Key Arena's anchor  
16 tenants back in February of 2006, that would be  
17 referring to the Sonics organization, right?

18 A Yes, I am sure it would.

19 Q And the reference to the existing construction  
20 debt, is that referring to the bond that had been placed  
21 in connection with the earlier remodel?

22 A Yes.

23 Q What did you understand this basic finding to  
24 be saying?

25 A That the model under which the lease had been

1 MR. NARVER: Object to the form. The  
2 document speaks for itself.

3 A They were saying, as this report says, that  
4 they didn't believe that the Center, the Key Arena, or  
5 the anchor tenants could be financially successful under  
6 that model.

7 Q The lease had become economically  
8 dysfunctional, right?

9 MR. NARVER: Object to the form.

10 Q For the anchor tenants.

11 MR. NARVER: Same objection.

12 A For the Key Arena, the anchor tenants, and  
13 Seattle Center. They had concerns.

14 Q And the problem, part of the problem was  
15 that -- I don't mean to be pejorative here, but there  
16 was an overhang from the construction debt, and the cost  
17 of financing that debt was so great that it was  
18 detracting from that revenue stream being used to  
19 improve the facility.

20 MR. NARVER: Object to the form.

21 A The economics of basketball had changed, not  
22 the lease or the conditions of the facility. The  
23 economics of basketball had changed.

24 Q But part of the problem was that you had tens  
25 of millions of dollars of debt that need to be financed

1 from the prior remodel, right?  
 2 A Yes, there was a --  
 3 MR. NARVER: Object to the form. Facts  
 4 not in evidence.  
 5 Q And the city -- and for every dollar that  
 6 went, as you pointed out earlier in the deposition,  
 7 every dollar that went to the city to pay for principal  
 8 and interest on that debt was another dollar that didn't  
 9 go to the basketball operations, right?  
 10 MR. NARVER: Object to form.  
 11 A Right. It went to the pay for the facility in  
 12 which they played.  
 13 Q The third bullet point here talks about,  
 14 quote, Successful arenas hosting NBA basketball are  
 15 significantly larger than the Key Arena, roughly double  
 16 the square footage. See that?  
 17 A Yes.  
 18 Q Do you agree with that?  
 19 A I don't have a personal opinion about that. I  
 20 accept that they looked at that and that factually  
 21 that's correct.  
 22 Q These were the experts you asked to go do a  
 23 fact-finding --  
 24 A These were citizens who worked with experts,  
 25 but yes.

1 size of the facility, right?  
 2 A It involves expansion. It may be doubling it,  
 3 I am not sure.  
 4 Q Do you agree that to be suitable for a  
 5 profitable NBA franchise, Key Arena needs to be  
 6 significantly expanded?  
 7 MR. NARVER: Object to the form.  
 8 A For it to be viable long-term, yes, it needs  
 9 to be improved.  
 10 Q And that's why since 2005 you've been trying  
 11 to make it happen, right?  
 12 A Yes.  
 13 Q And you haven't succeeded, have you?  
 14 A Not yet.  
 15 Q Next bullet point says, "The economic model  
 16 for funding NBA only, paren, no NHL tenant, closed  
 17 paren, arenas includes significant public funding. For  
 18 the last six years new NBA only arenas, 80 percent of  
 19 the funding was public." See that?  
 20 A I do.  
 21 MR. NARVER: Objection. I think you  
 22 misread it. It doesn't say six years.  
 23 MR. KELLER: You are absolutely correct.  
 24 I did misread it.  
 25 Q Did you see "For the last six new NBA only

1 MR. NARVER: Object to the form of the  
 2 question.  
 3 Q So do you accept their recommendation or do  
 4 you question it?  
 5 MR. NARVER: Object to the form.  
 6 MR. KELLER: That is a good objection.  
 7 Q Do you agree with their factual observation or  
 8 do you challenge it?  
 9 A I have no reason to challenge it. I accept  
 10 that they looked at it and that it's correct.  
 11 Q Now, you knew from your discussions with the  
 12 Schultz group that the size of the arena impacts other  
 13 revenue-generating opportunities that the tenant has in  
 14 the facility, right?  
 15 MR. NARVER: Object to the form.  
 16 Mischaracterizes testimony.  
 17 A That more space would allow for more revenue  
 18 generation.  
 19 Q More restaurants, more merchandising?  
 20 A Easier access.  
 21 Q That's kind of revenue opportunity, correct?  
 22 A Yes.  
 23 Q In fact, the most recent expansion of Key  
 24 Arena that you've discussed with the Griffin and Ballmer  
 25 and Stanton group involves an almost doubling of the

1 arenas, 80 percent of the funding was public"?  
 2 A Yes, I do see it.  
 3 Q Did you ever get to the point with the Schultz  
 4 group where you had an agreement in principle regarding  
 5 what percentage of the funding was going to be public  
 6 versus what percentage was going to be contributed by  
 7 them?  
 8 A I don't believe that we did. I may be wrong,  
 9 but I don't believe that we did.  
 10 Q Did you ever make any public statements  
 11 critical of the contribution that the Schultz group was  
 12 willing to make toward the renovated arena and  
 13 mentioning numbers?  
 14 A I may have.  
 15 Q Now, if you look down at the second to last  
 16 bullet point, it talks about what the task force  
 17 observations were about areas where arenas lose their  
 18 major sports tenant to a new arena in the same  
 19 marketplace. Do you see that?  
 20 A I do.  
 21 Q And that's kind of a worst/worst case scenario  
 22 there because they say that the old arena ends up either  
 23 being demolished and put to other uses or becomes a  
 24 second-tier arena, without a track record of economic  
 25 success?

1 MR. NARVER: Object to form  
 2 A Yes.  
 3 Q From your perspective, the prospects of the  
 4 Sonics moving to another new arena outside of Seattle,  
 5 is that kind of the worst case scenario?  
 6 A Economically for Key Arena, it would be the  
 7 worst case scenario, but not for the region as a whole.  
 8 Q So in 2007 when the -- when PBC was working  
 9 with the city of Renton down in Olympia trying to get  
 10 funding to build a new facility in Renton, did you  
 11 actively lobby in support of that in Olympia?  
 12 A I did not actively lobby in support of it.  
 13 Q Did you have any of your -- does the city  
 14 government have a professional lobby, professional  
 15 lobbyists working with it?  
 16 A Yes, we do.  
 17 Q Did you arrange for any of the city's  
 18 lobbyists to try and assist Renton or the Sonics  
 19 organization in getting a new facility in Renton?  
 20 A I did not.  
 21 Q Did you yourself have any communications with  
 22 the governor about the Sonics' efforts to get a new  
 23 arena in Renton?  
 24 A I had a number of conversations with the  
 25 governor during that time frame about a lot of different

1 briefing from our lobbyists and this item would have  
 2 come up, you know, occasionally during that process when  
 3 different milestones were either met or not met.  
 4 Q Did you ever communicate with anyone in state  
 5 government your view that you would -- that you  
 6 supported a rebuilding of Key Arena and were against the  
 7 Sonics building a new arena in Renton?  
 8 A No.  
 9 Q Did you arrange for any of the city lobbyists  
 10 to lobby for that position in Olympia?  
 11 A No.  
 12 Q To your knowledge did any city lobbyists or  
 13 any city staff or anyone communicate with anyone in  
 14 state legislative government the position of, the city  
 15 of Seattle wanted to see a rebuilding of Key Arena, not  
 16 a new arena in Renton?  
 17 A No.  
 18 Q Did you have any communications with  
 19 Legislator Chopp during the 2007 legislative session  
 20 about the Sonics' efforts to get a new arena in Renton  
 21 or Bellevue?  
 22 A No, I don't believe that I did. As I told you  
 23 earlier, 2005 session, 2006 session, we certainly had  
 24 conversations. This most recent session we did. But I  
 25 don't recall any in 2007 around the Renton or Bellevue

1 issues. I am not sure if we talked specifically about  
 2 the Renton proposal or not.  
 3 Q Doesn't it seem -- strike that.  
 4 Do you have a recollection of having any  
 5 discussions with Governor Gregoire in 2006 about your  
 6 views concerning the Sonics' efforts and the city of  
 7 Renton's efforts to get funding in Olympia to build a  
 8 new arena in Renton?  
 9 MR. NARVER: Objection. Asked and  
 10 answered.  
 11 A I don't have any recollection of a specific  
 12 conversation with the governor around the Renton  
 13 proposal.  
 14 Q Did you have any discussion -- did you arrange  
 15 for the city's lobbyists to do anything in Olympia with  
 16 respect to the Sonics' efforts in 2007 to build a new  
 17 arena in Renton or Bellevue?  
 18 A No.  
 19 Q Was anything ever reported to you in the way  
 20 of activities by the city's lobbyists or anyone on your  
 21 staff, in Olympia, regarding the Sonics' efforts to  
 22 build a new arena in Renton in 2007?  
 23 A Yes. I got occasional status reports.  
 24 Q And what was reported to you?  
 25 A During legislative sessions I get a weekly

1 proposals.  
 2 Q Do you have Exhibit 2 in front of you?  
 3 A I do.  
 4 Q Do you see the last bullet point there, says  
 5 that "Even without the Sonics and the Storm, the Key  
 6 Arena will require capital improvements of at least  
 7 20 million to be a competitive non-major-league arena"?  
 8 A Yes, I do.  
 9 Q I noticed in the most recent dealings that you  
 10 had with the Griffin Ballmer Stanton group -- saw you on  
 11 TV -- you were talking about the city contributing  
 12 \$75 million to what was being identified as a  
 13 \$300 million project. Did I get that right?  
 14 A Yes, I believe so.  
 15 Q And I think -- tell me if I have this right --  
 16 but the city was taking the position that that was okay  
 17 and didn't run afoul of I-91 because the 75 million was  
 18 going to be spent on building infrastructure things that  
 19 would be useful for all kinds of events, not just  
 20 professional sports?  
 21 A The size of the investment and the nature of  
 22 the investment, I'd been advised, would be appropriate  
 23 under Initiative 91.  
 24 Q And explain to me why that is.  
 25 A I can't explain to you why that is. I don't

1 know the law that well in the case of Initiative 91.  
 2 Q Aren't you sworn to uphold the laws of the  
 3 city of Seattle?  
 4 MR. NARVER: Object to form.  
 5 A Indeed, I am.  
 6 Q Isn't I-91 a law of the city of Seattle?  
 7 A Yes, it is.  
 8 Q Isn't \$75 million a lot of money?  
 9 A It is.  
 10 MR. NARVER: Object to form.  
 11 Q And by the way, it's a lot more than  
 12 75 million, isn't it, because isn't it going to be the  
 13 principal and interest to pay off the 75 million over  
 14 time?  
 15 MR. NARVER: Object to the form.  
 16 A Possibly, yeah.  
 17 Q So can you explain to me how this expenditure  
 18 of \$75 million for Key Arena, being announced in  
 19 connection with the Ballmer Griffin group wanting to buy  
 20 the Sonics, why this doesn't run afoul of I-91?  
 21 MR. NARVER: Object to form. Calls for a  
 22 legal conclusion.  
 23 A I am not an attorney and I don't know the  
 24 mechanics of the law that well. The advice that I have  
 25 gotten is that it would not.

1 Q There is no shortage of lawyers in the room  
 2 and I am not asking you for a legal opinion. As the  
 3 mayor of the city of Seattle, sworn to uphold the laws  
 4 of that city, just explain to me in your own terms why  
 5 you don't believe it runs afoul of I-91.  
 6 MR. NARVER: Same objection.  
 7 A The nature of the improvements and the size of  
 8 the investment.  
 9 Q And what is it about the size of the  
 10 investment that impacts on the I-91 analysis in your  
 11 thinking?  
 12 MR. NARVER: Same objection.  
 13 A I think that calls for a legal opinion and I  
 14 don't pretend to have a legal background.  
 15 Q Are you able to articulate anything as a  
 16 layperson as to why you think the size of the investment  
 17 has anything to do with the I-91 issue?  
 18 MR. NARVER: 69. Objection.  
 19 A Says I-91 calls for a return on investment.  
 20 Q And was the city going to get a return on the  
 21 \$75 million equal to the 25- or 30-year Treasury coupon  
 22 rate that's specified in I-91?  
 23 MR. NARVER: Object to the form.  
 24 A The best advice that I was given is that the  
 25 proposal as we were shaping it would comply with

1 Initiative 91.  
 2 Q That's helpful information, but that's not  
 3 what I asked. See if you can answer my question. Was  
 4 the city going to get a return equal to the 25- to  
 5 30-year Treasury Bill coupon rate on the 75 million?  
 6 MR. NARVER: Object to the form.  
 7 A I think I've answered that.  
 8 Q You haven't, but I'll move on, sir.  
 9 MR. NARVER: Object. Move to strike.  
 10 Q So I am looking at your task force report and  
 11 it says \$20 million is needed for capital investment to  
 12 be a competitive non-major-league arena, even without  
 13 the Sonics and the Storm. See that?  
 14 MR. NARVER: Objection.  
 15 Mischaracterization of the document.  
 16 A I do.  
 17 Q So how did it grow from \$20 million to  
 18 \$75 million this past month when you made the public  
 19 announcement?  
 20 MR. NARVER: Object to the form.  
 21 A How did what grow to 75?  
 22 Q The amount that could be justifiable for  
 23 what's needed, separate and apart from the professional  
 24 sports facility?  
 25 MR. NARVER: Object to the form.

1 A I am sorry, I don't understand the question.  
 2 Q Well, in the task force report it talks about  
 3 how much money is needed to take care of Key Arena even  
 4 without the Sonics and the Storm, right?  
 5 A Yes.  
 6 Q Says 20 million bucks.  
 7 A Yes. Two years ago.  
 8 Q So if you wanted to know, hey, forget about  
 9 professional sports, how much money are we going to have  
 10 to put into this thing, two years ago you are being told  
 11 \$20 million?  
 12 A For a non-NBA facility, yes.  
 13 Q But the announcement last month was for an NBA  
 14 facility, right?  
 15 A Yes.  
 16 Q And you are taking the position that  
 17 \$75 million of it would still pass muster under I-91 on  
 18 the basis that it wasn't directly related to  
 19 professional sports?  
 20 MR. NARVER: Object to the form.  
 21 A That's not what I said. I said that the  
 22 advice I got was that it would conform with  
 23 Initiative 91 because of the size and type of  
 24 improvements.  
 25 Q And what is it about the type of improvements

1 that, from your lay understanding, would make it lawful  
 2 under I-91?  
 3 MR. NARVER: Object to the form. Calls  
 4 for a legal conclusion.  
 5 A Again, I don't have legal analysis as a  
 6 non-attorney. That was the advice I was given.  
 7 Q Did the city attorney's office issue a formal  
 8 legal opinion for you in this area?  
 9 A No.  
 10 Q Did you receive any written legal opinion  
 11 regarding the lawfulness of this proposed \$75 million  
 12 expenditure and I-91?  
 13 A No.  
 14 MR. NARVER: Object to the form. And  
 15 instruct the witness not to disclose the content of any  
 16 attorney/client communications related to this subject.  
 17 You can answer the question, but you are not to disclose  
 18 the contents of any such communications.  
 19 A I am not aware of a written opinion.  
 20 Q Take a look at the next page of Exhibit 2.  
 21 There is a paragraph that begins, "First and foremost."  
 22 A Okay.  
 23 Q I know what I wanted to ask you. What was  
 24 your role or your office's role with respect to I-91?  
 25 A I was not involved in it. I was not a

1 maintain its other facilities or be able to undertake  
 2 other activities in other parts of the center.  
 3 Q And this was being written more than two years  
 4 ago, right?  
 5 A Yes.  
 6 Q And is that debt still on the Seattle Center's  
 7 books.  
 8 A No.  
 9 Q Where's it been moved to?  
 10 A The city's general obligation.  
 11 Q And what is the current level of it, the debt?  
 12 A I don't know. I know that it runs through  
 13 2015, but I don't know what the principal amount is  
 14 right now.  
 15 Q You'll see in the next sentence it talks about  
 16 how, as of the time of the writing of the report,  
 17 revenues from Key Arena dedicated to retiring the bonds  
 18 are \$2.7 million short of the annual debt service. Do  
 19 you see that?  
 20 A Yes, I do.  
 21 Q Do you understand that to mean that basically  
 22 servicing the construction debt was costing the city of  
 23 Seattle \$2.7 million a year more than the revenue that  
 24 was being derived from Key Arena?  
 25 MR. NARVER: Object to the form.

1 supporter of it. My public comment on it was that I  
 2 thought it was a gimmick that was unnecessary.  
 3 Q And with respect to I-91, did you happen to  
 4 notice there is a provision in there that provides that  
 5 any citizen can sue to challenge the city if they think  
 6 it's being violated?  
 7 MR. NARVER: Objection. The law speaks  
 8 for itself.  
 9 A No.  
 10 Q You were unaware of that?  
 11 A No.  
 12 Q Take a look now at the next page of Exhibit 2,  
 13 if you would, the paragraph that begins "First and  
 14 foremost."  
 15 A Okay.  
 16 Q And your task force wrote that "For Seattle  
 17 Center and Key Arena to be financially successful, it is  
 18 essential that the existing Key Arena construction debt,  
 19 50 million in 2007, be removed as an obligation of  
 20 Seattle Center." Do you see that?  
 21 A I do.  
 22 Q What did you understand that to mean?  
 23 A That because it was carried on the Seattle  
 24 Center's books, that that debt and the debt service  
 25 reflected a drain on the Seattle Center's ability to

1 A Yes.  
 2 Q And that \$2.7 million shortfall had been  
 3 accumulating year after year after year for some time as  
 4 of early 2006, hadn't it?  
 5 MR. NARVER: Object to the form. Assumes  
 6 facts not in evidence.  
 7 A Well, as a practical matter we were paying  
 8 against the bonds. So the principal wasn't  
 9 accumulating.  
 10 Q Fair enough. But if one wanted -- do you have  
 11 any idea what the accumulated deficit was as of early  
 12 2006 when this report was written?  
 13 A No, I don't remember that.  
 14 Q The spread, as of the time of the writing of  
 15 this report, of \$2.7 million annually, has that  
 16 increased or decreased since 2006?  
 17 A I don't know.  
 18 Q So as we sit here today, do you know how much  
 19 in the hole the city of Seattle is every year between,  
 20 on the one hand, revenues derived from Key Arena, and on  
 21 the other hand, what it costs to retire the principal  
 22 and pay interest on the debt on the annual basis?  
 23 A At that point it was 2.7 million. It may have  
 24 gone up a bit; it may have gone down a bit. I'm not  
 25 sure.

1 Q That's what I am asking you. I can see at  
 2 that point it was 2.7 million. Do you have any idea  
 3 what it is, as we sit here today, on an annual basis?  
 4 A Well, since we've taken the debt off the  
 5 Seattle Center's books, I don't think it's relevant  
 6 anymore. So no, I don't know. We are paying the debt,  
 7 the bonds, year by year.  
 8 Q You don't think it's relevant that the city of  
 9 Seattle has got a negative deficit that it's incurring  
 10 every year for a facility that it operates?  
 11 MR. NARVER: Object to the form.  
 12 A That is a concern for me, yes.  
 13 Q And while you've taken it off the Seattle  
 14 Center's books, it doesn't mean the debt went away.  
 15 It's just a debt of the city of Seattle.  
 16 MR. NARVER: Object to the form.  
 17 A Yes. Absolutely.  
 18 Q And to the extent that the \$2.7 million --  
 19 let's just say hypothetically that's what it is now --  
 20 that's \$2.7 million that's got to come out of the city  
 21 of Seattle's budget to pay for Key Arena, right?  
 22 MR. NARVER: Object to the form.  
 23 A Yes.  
 24 Q Do you think that that accumulated deficit --  
 25 strike that.

1 The second to last or penultimate paragraph in  
 2 the introductory section, which I believe is on the next  
 3 page, which begins "Finally"?  
 4 A Yes.  
 5 Q You see it says they have been studying it for  
 6 five months and talks about the importance of Key Arena  
 7 and then ends by saying, "We urge all parties to this  
 8 issue to move expeditiously forward toward a  
 9 resolution." Do you see that?  
 10 A I do see that.  
 11 Q And at that time, one of the parties was the  
 12 city of Seattle, right?  
 13 A Yes.  
 14 Q Another party was the Schultz ownership group,  
 15 right?  
 16 MR. NARVER: Object to the form.  
 17 Document speaks for itself.  
 18 A Yes.  
 19 Q Who are the other interested parties?  
 20 MR. NARVER: Object to the form. Calls  
 21 for speculation.  
 22 A The public at large, probably the city  
 23 council.  
 24 Q Legislature in Olympia?  
 25 A Very possibly.

1 MR. NARVER: Object to the form.  
 2 Q Your task force urged everybody, move forward  
 3 expeditiously and resolve this thing, right?  
 4 MR. NARVER: Object to the form.  
 5 A That's what it says.  
 6 Q And you didn't get it resolved, did you?  
 7 MR. NARVER: Object to the form.  
 8 A Not yet.  
 9 Q And you didn't get it resolved in 2006, did  
 10 you?  
 11 MR. NARVER: Objection.  
 12 A No.  
 13 Q And the team was sold, right?  
 14 A Yes.  
 15 Q When did you first learn that efforts were  
 16 being made to sell the Sonics?  
 17 A Shortly before the sale was announced. I  
 18 don't know exactly how long  
 19 Q You had no awareness shortly before the sale  
 20 was announced that the Schultz group was trying to sell  
 21 the team?  
 22 MR. NARVER: Objection. Asked and  
 23 answered.  
 24 A I think what I said is, shortly before it was  
 25 sold I did learn that there were efforts to sell the

1 team.  
 2 Q Again, everybody's idea of shortly is  
 3 different. Can you give any kind of time frame?  
 4 A No. I don't remember how long it was before.  
 5 Q Did there ever come a point in time where you  
 6 knew the team -- efforts were being made to sell the  
 7 team but you didn't know it had been sold?  
 8 MR. NARVER: Objection. Vague. I don't  
 9 think I understand the question.  
 10 Q What I am trying to tease out a little --  
 11 A If he doesn't understand it, I certainly  
 12 don't.  
 13 Q What I am trying to tease out a little bit:  
 14 Did you learn the team was for sale right around the  
 15 time you learned it had been sold, or did you know that  
 16 the team was for sale before then?  
 17 A I believe it was shortly before it was sold.  
 18 But again, I don't think it was very long before the  
 19 sale was announced.  
 20 Q Did you yourself get involved in any efforts  
 21 to find local ownership groups that might be interested  
 22 in buying the team back when the Schultz group was  
 23 selling it?  
 24 A No.  
 25 Q Did anybody approach you about whether your

1 office would devote any efforts to that?  
 2 A No.  
 3 Q Were you ever informed about the extent to  
 4 which efforts were made by the Schultz group to find a  
 5 local group that would buy the team?  
 6 A No.  
 7 MR. NARVER: Counsel, I don't know if you  
 8 are moving on to a new topic. If we could have a very  
 9 short break at some point.  
 10 MR. KELLER: Sure.  
 11 THE VIDEOGRAPHER: Going off the record,  
 12 the time is 1:56 p m.  
 13 (Brief recess )  
 14 THE VIDEOGRAPHER: We are now back on the  
 15 record. The time is 2:01 p m.  
 16 Q Again, with respect to Exhibit 2, if you  
 17 wouldn't mind, turn to the page it's a few in, it's got  
 18 the number two on the bottom?  
 19 A (WITNESS COMPLIES) Top of the page,  
 20 "Reconstruction of the aging?"  
 21 Q That's it  
 22 A Okay  
 23 Q Middle of that same paragraph you were just  
 24 looking at, it's talking about the lease that exists at  
 25 Key Arena. Do you see that?

1 A Can you be more specific about the language  
 2 you are looking at?  
 3 Q Just the next few sentences. Talks about the  
 4 basic structure of the lease and the division of revenue  
 5 between the city on the one hand and the team on the  
 6 other?  
 7 A Yes, I see that.  
 8 Q And see there is a sentence that begins, "The  
 9 city's share of revenues declined each year for ten  
 10 years under the theory that prices would go up  
 11 offsetting the percentage reductions while the debt  
 12 service on the construction bonds would remain flat."  
 13 A Yes, I see that sentence.  
 14 Q Are you familiar with the aspect of the lease  
 15 that provided for the city's share of revenues for  
 16 certain of the items to decrease over time?  
 17 A Yes, to the extent that it's explained right  
 18 here.  
 19 Q All right. That basic premise that underlaid  
 20 that part of the lease, that is, the theory that, as it  
 21 says, the prices would go up offsetting the percentage  
 22 reductions while the debt service on the construction  
 23 bonds would remain flat, that basic economic premise,  
 24 was that a basic economic premise of the lease as you  
 25 understood it?

1 MR. NARVER: Object to the form.  
 2 A I don't know what the people in 1995 were  
 3 thinking as they put it together, but as the task force  
 4 concluded I assume that's a correct interpretation.  
 5 Q That premise ended up not happening over time  
 6 though, right?  
 7 MR. NARVER: Object to the form.  
 8 A My interpretation would be a little different  
 9 than that. My interpretation would be that prices  
 10 probably have gone up on concession items, perhaps on  
 11 tickets, but the team's performance has been such that  
 12 the number of people going has not gone up or has not  
 13 stayed the same and therefore the overall revenue has  
 14 not increased as had been assumed initially.  
 15 Q Are you critical of some of the ways, of the  
 16 product that the Sonics organization has put out on the  
 17 floor for the fans since the Schultz group acquired the  
 18 franchise?  
 19 A Well, as the landlord we'd love to see every  
 20 seat filled. And that happens best when the team is  
 21 winning. And in recent years the team has not generally  
 22 been a winning team.  
 23 Q Are you critical of the way in which the team  
 24 has been managed and run?  
 25 A I have not been particularly critical. I

1 would love to see the seats filled and a winning team in  
 2 our arena.  
 3 Q I don't mean to be facetious, but do you think  
 4 you know more about running a professional basketball  
 5 team --  
 6 A That's why I've not been critical. No, I  
 7 don't.  
 8 Q In 2007 I think you said you were aware from  
 9 reports you would get about updates of what was going on  
 10 in Olympia that you were aware that the Sonics were  
 11 lobbying in Olympia for passage of legislation that  
 12 would facilitate the building of a new arena in Renton?  
 13 A Yes.  
 14 Q At the time when you were receiving reports  
 15 about their activities, were any criticisms or questions  
 16 raised by either the city's lobbying folks or other  
 17 people who were providing you with these reports, any  
 18 criticisms expressed about the effort that the Sonics  
 19 organization was making to get passage in Olympia in  
 20 '07?  
 21 A Not that I'm aware of.  
 22 Q As you sit here today, do you have any  
 23 criticisms of the effort that was put forth by the city  
 24 of Renton and the Sonics organization and their  
 25 lobbyists in trying to get passage of legislation in '07

1 to facilitate the building of a new arena in Renton?  
 2 A No.  
 3 Q They met with the same lack of success that  
 4 you had on three other years, right?  
 5 A They might have met with different lack of  
 6 success, but the result was the same.  
 7 Q Now, in the same paragraph we have been  
 8 looking at in Exhibit 2, there is a reference to the  
 9 fact that the Sonics' lease agreement expires in the  
 10 fall of 2010, but that the bonds that were issued to  
 11 finance the prior renovation were 20-year bonds and they  
 12 run for another four or five years. Do you see that?  
 13 A I do.  
 14 Q That gap, that four- or five-year gap between  
 15 when the lease expires and when the construction bonds  
 16 are supposed to be fully amortized, is that something  
 17 that you've been aware of for many years?  
 18 A Yes.  
 19 Q Now, there is no secret about the fact that  
 20 this was a 15-year lease, but that the construction  
 21 bonds that were floated at the time the lease was  
 22 entered into was a 20-year amortization?  
 23 A No. No secret at all.  
 24 Q And to that extent when the city -- I realize  
 25 you weren't the mayor then, but the city was exposed for

1 five years when it signed up this deal to that five-year  
 2 gap, right?  
 3 MR. NARVER: Object to form.  
 4 A Yes.  
 5 Q So the city, if it was paying attention, would  
 6 have been fully aware of the fact that it had a team  
 7 that could leave five years before the bonds were fully  
 8 amortized?  
 9 A Yes.  
 10 Q And could have had an empty -- not empty  
 11 facility, but empty of a professional sports franchise  
 12 and still owe tens of millions of dollars?  
 13 MR. NARVER: Object to form.  
 14 A Yes.  
 15 Q Now, when I was asking you about the paragraph  
 16 at the top of the page, in particular the sentence that  
 17 talked about the city's share of the revenues declining  
 18 under the theory that the prices would go up offsetting  
 19 the percentage of reduction, blah, blah, blah, you said  
 20 your take on it was the problem was that the attendance  
 21 hadn't been what everybody had hoped for and that had  
 22 led to the shortfall?  
 23 A Yes.  
 24 Q At the bottom of that page in the second to  
 25 last paragraph --

1 A The one headed --  
 2 Q "Original funding plan no longer working"?  
 3 A Yes.  
 4 Q Do you see that?  
 5 A Uh-huh.  
 6 Q By the way, when they talk about the original  
 7 funding plan no longer working, they are talking about  
 8 Key Arena, the funding for Key Arena, and the Sonics  
 9 lease, right?  
 10 MR. NARVER: Object to the form.  
 11 A Well, the original lease and the assumption  
 12 behind it that the revenue from the building should pay  
 13 off the capital put into the building.  
 14 Q Now, your task force didn't make any comment  
 15 about attendance in the Sonics product. They are  
 16 talking about why the original funding plan was no  
 17 longer working, didn't they?  
 18 MR. NARVER: Object to the form.  
 19 A We are only looking at a small piece of it.  
 20 And I don't remember if they get into the attendance  
 21 issue elsewhere in the report.  
 22 Q Let's focus then, if we could, on the  
 23 executive summary part where I think we are now. In  
 24 talking about the original funding plan no longer  
 25 working, your task force cited a number of factors that

1 was causing the original funding plan to no longer work,  
 2 didn't they?  
 3 A Yes.  
 4 Q And one of the factors that was mentioned is  
 5 that there had been an economic recession, right?  
 6 A Yes.  
 7 Q Another factor that was mentioned for the  
 8 original funding plan for the arena no longer working  
 9 was the fact that two new sports venues, Safeco and  
 10 Qwest, had opened up, right?  
 11 A Yes.  
 12 Q Do you have any understanding as to why or how  
 13 it is that the opening of Safeco and Qwest would impact  
 14 the economics of the Key Arena lease?  
 15 A I do. In 1995, when the original upgrade to  
 16 Key Arena took place, the luxury boxes were the only  
 17 luxury boxes. The Kingdome had something called a  
 18 luxury box, but it wasn't comparable. So it was -- it  
 19 had a pretty dedicated market, if you will, from  
 20 companies wanting to host people. Since Safeco Field  
 21 and Qwest Field have come on, it now is in a much more  
 22 competitive market for that business.  
 23 Q To put it simply, back in 1995 Key Arena's  
 24 luxury suites were pretty much the only game in town and  
 25 then they -- and by 2002, 2005, when this report is

1 being written in 2006, not only isn't it the only game  
 2 in town but it's the oldest luxury boxes in town?  
 3 A Yes  
 4 Q Now, what position did the city take regarding  
 5 the construction of Safeco or Qwest?  
 6 A I was not mayor during that construction. I  
 7 would characterize the city's position as having been  
 8 supportive of those facilities. But again, that's as an  
 9 outside observer, not as mayor.  
 10 Q And who was the mayor then?  
 11 A In 200 -- up through January 1st of '97, it  
 12 would have been Mayor Norm Rice. January 1st, '97,  
 13 through the end of 2001 was Paul Schell.  
 14 Q And did you hold some position in Mr. Rice's  
 15 administration?  
 16 A I did not. I was a member of the King County  
 17 council.  
 18 Q And what about during Mayor Schell's  
 19 administration?  
 20 A I was, again, a member of the King County  
 21 council.  
 22 Q And what was the position of the council  
 23 regarding Safeco and Qwest?  
 24 A King County council?  
 25 Q Yes.

1 did become a factor. What I am asking you is: Did you  
 2 realize back then, when you were supporting Qwest and  
 3 Safeco, that if those arenas got built that they would  
 4 have potentially a negative economic impact on the Key  
 5 Arena lease revenues?  
 6 MR. NARVER: Object to the form.  
 7 A No.  
 8 Q If you look at the next page there is some  
 9 headings for each of the paragraphs. The first one  
 10 says, "Key Arena is undersized, smallest arena in the  
 11 NBA." I think we talked about that already.  
 12 A We did.  
 13 Q Let's go to the next paragraph which says,  
 14 "Key Arena has a low revenue potential in comparison to  
 15 other NBA arenas."  
 16 A Yes, I see that.  
 17 Q Do you agree with that?  
 18 A I agree that that's the contention here and I  
 19 have no reason to think it's incorrect.  
 20 Q And the statement is made here that Key Arena  
 21 ranks 17 out of 18 in terms of NBA only arenas from the  
 22 standpoint of revenue potential and actual revenue from  
 23 the premium seating. Do you have any reason to question  
 24 the accuracy of that finding by your task force?  
 25 A At that point in time, no. And I don't know

1 A We were, as a body, supportive of both.  
 2 Personally I was supportive of Safeco and not supportive  
 3 of Qwest Field.  
 4 Q And in order -- did you realize at the time  
 5 that you were supporting Safeco and Qwest that that  
 6 might have an economic impact on Key Arena and the  
 7 Sonics' lease?  
 8 MR. NARVER: Objection. Mischaracterizes  
 9 testimony.  
 10 A No. The issue that was being dealt with with  
 11 Safeco was the viability of the baseball team and  
 12 keeping that baseball team here. And really not --  
 13 professional basketball and Key Arena were not  
 14 considerations at that time.  
 15 Q This competition we talked about a few moments  
 16 ago and the impact of the newest and best luxury suites  
 17 being at different sports venues --  
 18 A Uh-huh.  
 19 Q -- did you think about -- did you give any  
 20 consideration to that back at the time when you were  
 21 supporting Qwest and Safeco?  
 22 A It wasn't a factor, no.  
 23 MR. NARVER: Object to form.  
 24 Q You say it wasn't a factor, but you've told me  
 25 now that the competition from those venues ultimately

1 if the situation has changed.  
 2 Q I may have misheard something you said  
 3 earlier. Were you supportive of Qwest or not?  
 4 A I wasn't supportive of Qwest, no.  
 5 Q Was not?  
 6 A No.  
 7 Q And why was that?  
 8 A Because I thought the Kingdome was a good  
 9 venue for professional football and I thought it could  
 10 remain so. We've got an outdoor football stadium, Husky  
 11 Stadium. We had an indoor football stadium. Seemed to  
 12 me it gave people here a range of choices for enjoying  
 13 football.  
 14 Q Is one of the reasons that you supported  
 15 Safeco because the ownership of the team was threatening  
 16 to move it if they didn't get the new facility?  
 17 A Of course, that was the same situation with  
 18 the football team. So yes, one of the reasons I  
 19 supported Safeco was I wanted the team to be viable  
 20 long-term here.  
 21 Q Back to the page we were looking at in  
 22 Exhibit 2, the paragraph that's headed "Sonics, slash,  
 23 Storm lease expires in 2010."  
 24 A Uh-huh. I see it.  
 25 Q And your task force wrote that they are

1 "seeking both a modernized, competitive facility and a  
 2 lease agreement that will enable them to be financially  
 3 successful."  
 4 A Yes.  
 5 Q Would you agree with me that there is  
 6 absolutely nothing inappropriate or wrong with a  
 7 professional sports franchise wanting to be in a  
 8 modernized, competitive facility?  
 9 A No.  
 10 Q And there is absolutely nothing wrong with a  
 11 professional sports franchise wanting to be present in a  
 12 facility where their lease agreement will enable them to  
 13 be financially successful?  
 14 A No.  
 15 Q By no, you are agreeing with me there is  
 16 nothing wrong with it?  
 17 A Correct.  
 18 Q I asked you earlier about sort of the timing  
 19 that you were envisioning, and I wanted to direct your  
 20 attention to page ten. That's the one that has the  
 21 number ten on the bottom.  
 22 A Okay.  
 23 Q Under the heading summary, the last dash  
 24 there, in terms of the recommendations, talks about  
 25 "completing the design in one year and the construction

1 what else have you been doing to try and effectuate a  
 2 sale of the team to a local ownership?  
 3 A That's the only group that I have been  
 4 directly aware of and working with in recent months.  
 5 There have been other public statements by other  
 6 potential groups or rumors of those. So have not worked  
 7 directly with any other group.  
 8 Q Did you actively try and help coalesce the  
 9 Griffin group or were they a group that came to you and  
 10 said we are interested, what can you do to help us?  
 11 A I would say that we encouraged the group.  
 12 But, no, not really an active participation in  
 13 coalescing the group.  
 14 Q And when did you start -- when did you first,  
 15 you or your offices, to your knowledge, begin first  
 16 working with the Griffin group?  
 17 A We first became aware of them probably in late  
 18 '07. But the knowledge of who was in the group and the  
 19 structure of the group came later than that, in the last  
 20 couple of months.  
 21 Q And other than the Griffin group, there have  
 22 been no other local buyer groups with which you or  
 23 your office --  
 24 A No. There have been rumors of some. And my  
 25 support for local ownership group isn't just for that

1 in two years." Do you see that?  
 2 A I do.  
 3 Q So sitting here in early '06, there would have  
 4 been, if this had been implemented, a new arena as of  
 5 the end of?  
 6 A 'Zero nine?  
 7 Q Early '09, right.  
 8 MR. NARVER: Object to the form.  
 9 Q Mayor Nickels, would you like to see a sale of  
 10 the team to a local ownership group?  
 11 A I would.  
 12 Q Have you been working to try and make that  
 13 happen?  
 14 A Yes.  
 15 Q Tell me what you have been doing.  
 16 A I recently made public statements in favor of  
 17 a group that has stepped forward and offered to buy the  
 18 team, as well as contribute to the upgrading of Key  
 19 Arena. And been working with, worked with the  
 20 legislature and the governor to try and get their  
 21 support for state authorization that would allow King  
 22 County to participate in the funding of those  
 23 improvements.  
 24 Q Other than working with the most recently  
 25 announced group -- I'll call them the Griffin group --

1 group. I found with the Mariners, and my experience  
 2 with Safeco Field and with the Seahawks, that committed  
 3 local ownership is a very positive ingredient in a team  
 4 being successful and committed to a market.  
 5 Q Do you know whether or not there was any local  
 6 ownership group that was interested in purchasing the  
 7 Sonics from the Schultz organization in 2006?  
 8 A I don't know.  
 9 Q Do you have any knowledge one way or the other  
 10 as to whether any potential buyers, other than  
 11 Mr. Bennett's group, were willing to make any kind of a  
 12 commitment to make a good faith effort to try and keep  
 13 the team here?  
 14 A I don't know.  
 15 Q When Mr. Bennett's group acquired the team at  
 16 some point, did you learn that their position was that  
 17 if a solution to a satisfactory new facility had not  
 18 been achieved by October of 2007 that they were going to  
 19 pursue relocation?  
 20 A Yes.  
 21 Q Did you generally become aware -- strike that.  
 22 I believe the transaction, the sale occurred  
 23 sometime in the -- I think it was the second half of  
 24 2006. Take it on faith. If I am wrong --  
 25 A There is a record.

1 Q -- I pay the consequences later. How shortly  
 2 after the Bennett group acquired the Sonics did you  
 3 learn that it was their position that if a solution to a  
 4 new facility couldn't be found by October of '07 that  
 5 they were going to pursue a relocation?  
 6 A I don't remember the time frame.  
 7 Q Is it fair to say that well before October of  
 8 '07 you were aware that in the eyes of the Bennett group  
 9 if no solution had been found by October '07 they were  
 10 going to pursue relocation?  
 11 MR. NARVER: Object to the form.  
 12 A Yes.  
 13 Q The '07 deadline, November -- the October of  
 14 '07 deadline, for lack of a better word, that wasn't  
 15 something that just got strung out there at the last  
 16 minute. That was something that you as a city official  
 17 were aware of for quite a bit of time?  
 18 MR. NARVER: Object to the form.  
 19 A Some period of months.  
 20 Q Going back to your interest in seeing a local  
 21 buyer acquire the team, other than working with the  
 22 Griffin group, is there anything you are doing now to  
 23 try and facilitate a sale to a local ownership group?  
 24 A In trying to demonstrate that there is a  
 25 facility plan and funding for that plan it is my hope

1 Q Did I get the group wrong?  
 2 A I don't know.  
 3 Q SRG, is that the consulting group that  
 4 we're --  
 5 Q SRG Partnership, Inc.  
 6 A Oh, they are the consultants that worked with  
 7 the team. Yes, it's the same concept.  
 8 Q In fact, you just looked now at Exhibit 2 and  
 9 saw that SRG was a part of the consulting group that was  
 10 advising your task group back in early '06, right?  
 11 A Yes.  
 12 MR. KELLER: Let's mark this as  
 13 Exhibit 3.  
 14 (Exhibit 3 marked for  
 15 identification )  
 16 Q Showing you what's been marked as Exhibit 3,  
 17 this was made available to the public in connection with  
 18 your press announcement with the Griffin group, right?  
 19 A Opening.  
 20 Q And it's the same SRG group. Do you see that?  
 21 A I do.  
 22 Q And I was actually studying this Exhibit 3  
 23 last night and I had some questions about some things on  
 24 it. Maybe you can help me. You were quite public about  
 25 the fact that this was a \$300 million deal that you were

1 that that would be attractive to a local ownership  
 2 whether it's the Griffin group or some other group, that  
 3 there is a home for the team.  
 4 Q What is the difference between the facility  
 5 plan that was announced by you and the Griffin group a  
 6 month or so ago and the facility plan or renovation that  
 7 was recommended by your task force back in early '06?  
 8 MR. NARVER: Object to the form.  
 9 A It is --  
 10 Q From the standpoint of --  
 11 A The concept is the same concept. The pictures  
 12 may look a little different.  
 13 Q And the concept being, make it bigger, add  
 14 amenities, change the footprint, make it more versatile?  
 15 MR. NARVER: Object to the form.  
 16 A Make it larger so that there are more revenue  
 17 opportunities. I don't know about the more versatile  
 18 part. That wasn't a big..  
 19 Q In fact, wasn't what was rolled out a month  
 20 ago by you and the Griffin group basically the same plan  
 21 that SRG had drawn up years earlier and in the task form  
 22 recommendation?  
 23 MR. NARVER: Object to the form. Plans  
 24 speak for themselves.  
 25 A SRG?

1 looking to Olympia to help out with 75 million of it,  
 2 right?  
 3 A Well, what we were looking for Olympia for was  
 4 permission for the King County council to invest  
 5 75 million through the taxes that are paying for Safeco  
 6 Field.  
 7 Q And when I looked at Exhibit 3 for, you know,  
 8 the new deal with the Griffin group, and I wanted to go  
 9 see what it was going to cost in the details, that's the  
 10 last two pages of the exhibit, right?  
 11 A I don't know.  
 12 MR. NARVER: Object to form.  
 13 A Okay.  
 14 Q See, if you go to the table of contents in the  
 15 beginning, says schedule and costs and it directs you to  
 16 the 3.1 to 3.9. And I've just directed you to page 3.8  
 17 and 3.9?  
 18 A Yes.  
 19 Q You know what struck me about this, Mayor  
 20 Nickels, is it's dated November of 2005.  
 21 A Uh-huh.  
 22 Q Was the proposal that you and Mr. Griffin were  
 23 announcing last month basically the same, based on the  
 24 same cost worksheet that had been done from the task  
 25 force work two years earlier?

1 MR. NARVER: Object to the form.  
 2 A Well, the concept is the same one that is in  
 3 Exhibit 2. It's the same one that we were talking to  
 4 the Schultz group about, and that is the need to expand  
 5 and provide additional revenue opportunities and kind of  
 6 renew the facility. So that hasn't changed.  
 7 Q So again, my question to you is: Is the same  
 8 thing that you rolled out last month, is that the same,  
 9 basically the same thing that the task force recommended  
 10 two years earlier?  
 11 MR. NARVER: Object to the form. The  
 12 claims speak for themselves.  
 13 A I believe that it is.  
 14 Q And they were so similar that the cost  
 15 estimates that were being thrown around were the exact  
 16 same ones that had been used two years earlier?  
 17 MR. NARVER: Object to the form.  
 18 A I assume they built onto the previous work. I  
 19 hope they did.  
 20 Q I'll have some more questions about some of  
 21 the costs a little later, but I just wanted to see if we  
 22 can both get on the same page, that what got rolled out  
 23 a month ago with Mr. Griffin was basically the same  
 24 thing.  
 25 MR. NARVER: Object to the form.

1 longer a team is here, the more likely it is we'll be  
 2 able to work out a solution long-term for Key Arena to  
 3 be a competitive facility through an additional lease  
 4 term.  
 5 Q Now see if you can answer my question. Is  
 6 trying to create the environment where a sale to local  
 7 ownership will happen if the current ownership faces  
 8 having to play out its lease --  
 9 MR. NARVER: Object to the form and move  
 10 to strike the preface.  
 11 Q -- is that part of the motive for why you are  
 12 seeking specific performance?  
 13 MR. NARVER: Object to the form.  
 14 A I believe the longer the team is here, the  
 15 more likely it is we will be able to find a long-term  
 16 answer to keep them here.  
 17 Q Is part of the reason why you are seeking  
 18 specific performance is that you know the current  
 19 ownership is losing money, and if they face losses you  
 20 believe they will be more inclined to sell to local  
 21 owners?  
 22 MR. NARVER: Object to form.  
 23 A I believe that the longer the team is here,  
 24 the more likely it is we will find an answer long-term.  
 25 I've experienced that with baseball. I've experienced

1 A It was very consistent with the proposals  
 2 we've had all along.  
 3 Q And the proposal -- strike that.  
 4 So you'd like to see the team sold to local  
 5 owners and you've been working to try and make that  
 6 happen, right?  
 7 A Yes.  
 8 Q Do you believe the prospects of the sale of  
 9 the team to local ownership is more likely if the  
 10 Bennett group faces having to play out their lease term  
 11 until 2010?  
 12 A Absolutely.  
 13 Q Is that one of the reasons, one of the reasons  
 14 why the city is wanting the Sonics to play out the last  
 15 two years because you think that that will help create  
 16 the environment where the sale of the team will happen  
 17 to local owners?  
 18 MR. NARVER: Object to form.  
 19 A Absolutely.  
 20 Q Is that one of the motives why you are trying  
 21 to specifically enforce the lease?  
 22 MR. NARVER: Object to form.  
 23 A We are seeking to enforce the lease because it  
 24 is the basis upon which the people of Seattle invested  
 25 \$74 million in upgrading Key Arena. I believe that the

1 it with football. And I think it's true of basketball  
 2 as well.  
 3 Q So depositions are a little different than a  
 4 press conference. I get to ask follow-ups and ask for  
 5 an answer to my question. So I am going to try one more  
 6 time.  
 7 A Sure.  
 8 Q Is part of the reason why the city is seeking  
 9 specific performance because it knows that the current  
 10 owners are losing money, and that faced with losing  
 11 money you believe it will create an environment where  
 12 they would be more likely to sell to a local group?  
 13 MR. NARVER: Objection. Asked and  
 14 answered and move to strike the observations of counsel.  
 15 A I believe the longer the team is here, the  
 16 better the chances are that we will find a long-term  
 17 solution, one of those parts being local ownership.  
 18 Q And is one of the reasons why you believe that  
 19 to be the case is because you know that the current  
 20 ownership is facing operating losses here, and that if  
 21 they have to have those -- incur those operating losses  
 22 for another two years, they would be more than likely to  
 23 sell?  
 24 MR. NARVER: Objection to the form.  
 25 Asked and answered.

1 A I believe that the chances get better over  
2 time.

3 Q You are not answering my questions. Is one of  
4 the reasons why you believe the chances get better over  
5 time because you know they are losing money and if they  
6 are losing a lot of money they ought to be more  
7 motivated to sell?

8 MR. NARVER: Object to the form.

9 A I would hope that the longer the team is here  
10 the better our chances are, and that's one of the  
11 reasons that I am pushing for the team to fulfill its  
12 obligations under the lease.

13 MR. KELLER: Move to strike as  
14 nonresponsive. I've asked it three times. We'll wait  
15 to ask it another time in another form.

16 MR. NARVER: Move to strike the comments.

17 Q Do you agree that the city of Seattle doesn't  
18 own the Sonics team?

19 A That's -- I think that's an interesting  
20 question, what the city's ownership is of an asset like  
21 a professional basketball team. The ownership of the  
22 companies and the financials certainly is Mr. Bennett  
23 and his group. There is a certain type of ownership, a  
24 civic ownership of the Sonics as an institution that's  
25 been part of our city for 41 years. But the ownership

1 of the asset is Mr. Bennett and his group.

2 Q When it comes to the NBA franchise right, do  
3 you think that the city of Seattle has any ownership  
4 interest?

5 MR. NARVER: Objection. Calls for a  
6 legal conclusion.

7 A I don't -- I am not qualified to talk about  
8 legally ownership, but I think that there is a  
9 relationship between a city and the teams that call that  
10 city home and use their name that goes beyond a  
11 relationship with business X, Y, or Z.

12 Q I'll try one more time. When it comes to the  
13 NBA franchise right, do you think the city of Seattle  
14 has any ownership rights?

15 MR. NARVER: Same objection.

16 A I don't know the franchise right, what you are  
17 referring to.

18 Q Do you think that the city of Seattle owns any  
19 of the good will of the Seattle Sonics franchise?

20 MR. NARVER: Same objection. Legal  
21 conclusion.

22 A The good will?

23 Q Yes.

24 A I think there is a relationship with the  
25 Sonics going back 41 years. I would think of it as an

1 ownership of that concept, not of the physical asset.

2 Q During the 1994 to 1995 season, where were  
3 you? Did you live here in Seattle?

4 A Yes, I lived here in Seattle.

5 Q Were you working?

6 A I was. I was a member of the King County  
7 council.

8 Q I believe that's the year that the Sonics  
9 played in Tacoma while the Key Arena was being  
10 renovated?

11 A I'll accept that.

12 Q If I am wrong, that's the period of time I am  
13 wanting to talk about.

14 A Okay.

15 Q Fair to say that life went on in Seattle the  
16 year the Sonics played in Tacoma?

17 MR. NARVER: Object to form.

18 A My recollection is that life did go on during  
19 that time.

20 Q Did it have any impact on your life personally  
21 to not have an NBA franchise playing here in Seattle  
22 that year?

23 A Well, the team did play in the region. So as  
24 fans we followed the team and its progress and we knew  
25 it would be back the following season. So life went on

1 and people were looking forward to the arena being  
2 reopened.

3 Q Sorry for that. It was my question that was  
4 unclear. Any impact on your life as a citizen in this  
5 city when the team played in Tacoma that year?

6 A Not particularly, no.

7 Q Are you aware of any impact it had on the city  
8 of Seattle's budget?

9 A I don't know.

10 Q Were you aware of any impact on the aggregate  
11 sales tax or other collections that the city had, from a  
12 macro standpoint?

13 A It was probably a minor impact and certainly  
14 whatever rent the team would have paid for the Seattle  
15 Center Coliseum was gone, but I don't know the specifics  
16 of that.

17 Q How many times did you drive to Tacoma to go  
18 see a game that year?

19 A None.

20 Q Are you aware of any area businesses in South  
21 Queen Anne or South Lake Union that did not survive the  
22 year that the Sonics were not playing at the Key Arena?

23 A I don't know.

24 Q Do you agree that one of the jobs of the  
25 office of the mayor is to provide leadership?

1 A I do.  
 2 Q Supposed to help make things happen in a city  
 3 that needs things to happen?  
 4 A Yes.  
 5 Q For example, we have a problem with our  
 6 Alaskan Way Viaduct, right?  
 7 A Yes.  
 8 Q And you've worked hard to try and find a  
 9 solution to that, right?  
 10 A I have.  
 11 Q Been no solution, right?  
 12 A We are still working on it.  
 13 Q Still working on it. We need a new bridge or  
 14 a major retrofit for the Magnolia Bridge, don't we?  
 15 A Yes, we eventually do.  
 16 Q You've been working hard to make something  
 17 happen there for years, correct?  
 18 A Been working on that, yes.  
 19 Q Do we have a new bridge?  
 20 A No.  
 21 Q We need a new 520 bridge in this city, right?  
 22 A Connecting the city with the east side.  
 23 Q You've been working hard to try and facilitate  
 24 something happening there, right?  
 25 A Yes.

1 Q We don't have a new 520 bridge, do we?  
 2 A Not yet.  
 3 Q You threw yourself behind a transportation  
 4 initiative. It was going to be a \$1.8 billion, 20-year  
 5 package to improve streets and bridges. Didn't you?  
 6 A I supported it.  
 7 Q That didn't happen, did it?  
 8 A Not yet.  
 9 Q Our Seattle public school system is in need of  
 10 significant capital improvements for its infrastructure  
 11 and buildings, isn't it?  
 12 A Yes.  
 13 Q And you support that?  
 14 A I do.  
 15 Q And efforts to get major funding initiatives  
 16 passed for that have not been successful?  
 17 A That's incorrect. There have been at least  
 18 three or four significant bond issues totaling a billion  
 19 dollars.  
 20 Q How did it do on the last one?  
 21 A It passed.  
 22 THE VIDEOGRAPHER: We need to stop the  
 23 tape.  
 24 MR. KELLER: We're running out of tape?  
 25 THE VIDEOGRAPHER: Yes.

1 This marks the end of videotape  
 2 number one in the deposition of Mayor Greg Nickels. The  
 3 time on the video monitor reads 2:41 p.m. We are going  
 4 off the record.  
 5 (Brief recess.)  
 6 THE VIDEOGRAPHER: This marks the  
 7 beginning of videotape number two in the deposition of  
 8 Mayor Greg Nickels. The time on the video monitor reads  
 9 2:51 p.m. We are now back on the record.  
 10 Q In '07, when you were getting these periodic  
 11 reports about goings-on down in Olympia on the  
 12 legislative --  
 13 A Yes.  
 14 Q -- who it was that was reporting to you or  
 15 your staff about whatever it is was going on in Olympia  
 16 that related to a potential arena?  
 17 A Our lobbyists.  
 18 Q And who are those people at that time?  
 19 A Two individuals, David Foster and Rose  
 20 Feliciano.  
 21 Q And are they staff or are they outside?  
 22 A Mr. Foster is a contract lobbyist. He  
 23 formerly was staff and I think he was a contract  
 24 lobbyist in the '07 session. I may be wrong on that.  
 25 But I believe he was contract and staff in previous.

1 Q Ms. Feliciano, is she staff?  
 2 A She's staff.  
 3 Q Do you know what the name of the lobbying  
 4 group is that you contracted with?  
 5 A I think he's a sole practitioner.  
 6 Q And you said you received an opinion from a  
 7 lawyer regarding I-91?  
 8 MR. NARVER: Object to the form.  
 9 A No, I don't think I said that. I think I said  
 10 the best advice I got was that the work that we were  
 11 doing around the upgrade of the facility was in  
 12 compliance with I-91. You actually asked me if I had a  
 13 written opinion and I said I didn't. The analysis I got  
 14 has been from staff, not directly from the...  
 15 Q Have you gotten any written analyses from  
 16 staff about that issue?  
 17 A Written analysis, no. Oral.  
 18 Q Just all been oral?  
 19 A Yes.  
 20 Q Any documentation of any kind created in  
 21 connection with that?  
 22 A There may be. That's not what I dealt with.  
 23 Q Who is the staff that was charged or took it  
 24 upon themselves to provide you with advice about any  
 25 I-91 issue concerning a lease financing --

25 (Pages 94 to 97)

1 A Most directly with me has been the deputy  
 2 mayor, Mr. Ceis.  
 3 Q Was anybody else present when Mr. Ceis was  
 4 giving you his views about the I-91 issues?  
 5 A I don't know. I don't remember.  
 6 Q Do you have Exhibit 3?  
 7 A I do.  
 8 Q In the recent announcements that you made with  
 9 the Griffin group, this was presented as a \$300 million  
 10 project, right?  
 11 A Yes.  
 12 Q And I was trying to understand. And were you  
 13 specifically asked about whether that \$300 million would  
 14 include retiring the \$25 million of construction debt?  
 15 A No. I don't believe so.  
 16 Q Do you have any understanding one way or the  
 17 other as to whether --  
 18 A No.  
 19 MR. KELLER: Let's mark this as?  
 20 THE COURT REPORTER: Four.  
 21 MR. KELLER: Thank you.  
 22 (Exhibit 4 marked for  
 23 identification.)  
 24 Q Showing you what's been marked as Exhibit 4,  
 25 could you identify that for me, please, sir.

1 A I can identify it.  
 2 Q What is it?  
 3 A It is a two-page potential question and answer  
 4 sheet for a news conference.  
 5 Q And is this something that was put together  
 6 for you in advance of a news conference from the recent  
 7 announcement to --  
 8 A It appears that's what it is.  
 9 Q -- to identify and put on a piece of a paper  
 10 kind of key messages -- some likely questions and key  
 11 messages and points for you to make in response?  
 12 MR. NARVER: Object to the form.  
 13 Document speaks for itself.  
 14 A It appears to be a potential question and a  
 15 answer sheet that would have been used in the news  
 16 conference. I assume it's the one that you are  
 17 referring to.  
 18 Q And in fact, is this the one that you used in  
 19 connection with the recent press conference?  
 20 A I don't remember this paper directly. I do  
 21 note that the last item on it says that the 25 million  
 22 is in the 300 million, so that's a relief.  
 23 Q And I am sorry. That's a what?  
 24 A A relief.  
 25 Q That was why I was marking it as an exhibit

1 now. So does this refresh your recollection --  
 2 A It does.  
 3 Q -- sir, that you are under the impression, and  
 4 if you had been asked, you would have said that the \$25  
 5 million of retirement of the construction debt,  
 6 remaining construction debt, was included within the  
 7 300 million?  
 8 MR. NARVER: Object to the form.  
 9 A I probably would have said I don't know.  
 10 Q All right. Do you -- why would you have said  
 11 you don't know if you were given a primer in advance of  
 12 the press conference that gave you a question and  
 13 answer?  
 14 A Just as here, I get a lot of paper in front of  
 15 me. And there are times when I can recall the specifics  
 16 and there are times that I can't. In this case I didn't  
 17 remember that specifically.  
 18 Q Well, as we sit here today, did the \$300  
 19 million include retirement of the leftover \$25 million  
 20 of construction debt from Key or not?  
 21 MR. NARVER: Object to the form.  
 22 Q If you know.  
 23 A Well, this paper indicates that it did.  
 24 Q And what, if anything, is Mayor Greg Nickels'  
 25 understanding about whether the \$300 million did or did

1 not include retirement of the \$25 million of the  
 2 construction loan?  
 3 A I don't remember.  
 4 Q I know you don't remember, but do you have any  
 5 understanding as you sit here today?  
 6 MR. NARVER: Objection. Asked and  
 7 answered.  
 8 A Having seen Exhibit 4 now, I believe that it  
 9 does.  
 10 Q Thank you. Now let's take a look at Exhibit 3  
 11 together, if we could.  
 12 A Okay.  
 13 Q Do you remember earlier we looked back at the  
 14 task force plan?  
 15 A Yes.  
 16 Q They were talking in terms of a year of design  
 17 work still remaining to be done and a two-year  
 18 construction period?  
 19 A I do.  
 20 Q In Exhibit 3, if you go to the last page,  
 21 which is from November of 2005, do you see there is a  
 22 box for an estimate of the construction costs assuming  
 23 there had been a start in 2008? Do you see that?  
 24 MR. NARVER: Objection to the form. The  
 25 document speaks for itself including dates.

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1 A At the bottom of the page you are referring  
 2 to...  
 3 Q The \$259 million figure?  
 4 A Okay. I see that.  
 5 Q Then it says if you start construction in '09,  
 6 the estimate is \$286 million, right?  
 7 MR. NARVER: Object to the form.  
 8 A 285,900, yeah.  
 9 Q I think you meant 285 million.  
 10 A I am sorry, 285,900,000.  
 11 Q So if you are sitting there going to Olympia  
 12 in March of 2008 and you've got a one-year design  
 13 period, construction is going to start in 2009 if  
 14 everything goes according to plan, right?  
 15 MR. NARVER: Object to the form.  
 16 A Again if what?  
 17 Q If everything goes according to plan?  
 18 A No, before that. If we go to Olympia.  
 19 Q If you are sitting there in March of 2008  
 20 going to Olympia for funding and you get it, you are  
 21 going to then have a one-year design period and  
 22 construction is going to begin in 2009, correct?  
 23 MR. NARVER: Object to the form.  
 24 A If all goes well.  
 25 Q If we use the same row for construction

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1 starting in 2009, the construction cost is \$286 million,  
 2 right?  
 3 MR. NARVER: Object to the form.  
 4 A That's what this chart says, yes. At ten  
 5 percent compounded inflation.  
 6 Q So how is there room for the \$25 million?  
 7 MR. NARVER: Object to the form.  
 8 A I don't know.  
 9 Q In this report, the attachment, this was being  
 10 done in connection with your task force back in 'late  
 11 '05, right? These last two pages?  
 12 MR. NARVER: Object to the form.  
 13 A That's what you've said and I don't have any  
 14 reason to doubt that.  
 15 Q There they were anticipating -- at least the  
 16 number that's put in the big bold box is two years after  
 17 the date of the task report, right?  
 18 MR. NARVER: Object to the form.  
 19 Q You are saying starting in '08, which is two  
 20 years after the task report, right?  
 21 MR. NARVER: Same objection.  
 22 A The big box?  
 23 Q Yes.  
 24 A The one I can barely see without my glasses?  
 25 Q It's the only box.

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1 A The box says 259,900,000.  
 2 Q My point is, the boxed item is two years out  
 3 from when the task report [sic] was issuing its report,  
 4 right?  
 5 MR. NARVER: Object to the form.  
 6 Q Task report is early '06. It's under the  
 7 column for start in '08, right? That's two years out.  
 8 MR. NARVER: Object to the form.  
 9 A It appears you're right.  
 10 Q Okay. Now, it's early '08. You are up there  
 11 with the Griffin group. If you went out the same two  
 12 years, you'd be in the start 2010 column with a  
 13 projected cost of \$314 million, right?  
 14 MR. NARVER: Object to form.  
 15 A That's what this matrix would suggest, yes.  
 16 Q And again, there is no room for the 25 million  
 17 there, is there?  
 18 MR. NARVER: Object to the form.  
 19 A Well, your assumption is that these numbers  
 20 have been completely validated through design process.  
 21 One can find solutions that are less expensive or more  
 22 expensive. There is a lot of work that has to be done  
 23 after a sheet like this is put together that gives you  
 24 very rough estimates.  
 25 Q This, what you are saying can go up, can go

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1 down.  
 2 A Yes  
 3 Q This is all you had when you went to Olympia  
 4 asking them to fund it.  
 5 MR. NARVER: Object to form.  
 6 A I didn't ask them to fund it. I asked them to  
 7 give permission to King County to extend the taxes and  
 8 get the revenue. That would be dependent on negotiating  
 9 a lease, negotiating a specific package of improvements  
 10 to the arena. A lot of work to be done. This is a  
 11 concept level plan.  
 12 Q Did you have any other numbers to go with the  
 13 concept when you were down in Olympia asking for them to  
 14 authorize the utilization of the tax revenues, other  
 15 than what we are looking at the last two pages of  
 16 Exhibit 3?  
 17 A Well, we had the work that was done by the Key  
 18 Arena subcommittee that we've gone through. And that,  
 19 in turn, was based on work that had been done over time  
 20 by the Seattle Center looking at the future needs of the  
 21 facility.  
 22 Q But when it comes to the construction costs  
 23 and the dollars, it would cost, depending on when  
 24 construction started, did you have anything other than  
 25 the summary, which is the last two pages of what your

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1 handout was and what was posted on your website and was  
 2 available for the public and press last month?  
 3 MR. NARVER: Object to the form.  
 4 A The working papers that went into creating  
 5 this, I didn't personally have. But I am sure that that  
 6 would have been available had someone wanted to go into  
 7 more detail, into what we were proposing.  
 8 Q Explain to me how you can present this as a  
 9 \$300 million package when if you look at the attached  
 10 schedule and you assume construction is going to start  
 11 two years out, the numbers are \$314 million.  
 12 MR. NARVER: Object to the form.  
 13 A The 314 million includes a lot of assumptions.  
 14 Each of the numbers on here includes different  
 15 assumptions and different variables. The 300 million  
 16 represented our best estimate of what it would take to  
 17 make the arena, long-term, a viable arena. A lot of  
 18 work left to be done to determine what those specific  
 19 improvements are and therefore the cost of those.  
 20 Q Tell us who provided you with an estimate,  
 21 other than what we are looking at here as the last two  
 22 pages of Exhibit 3.  
 23 A Who else?  
 24 Q Yes.  
 25 A Nobody else.

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1 Q So this is what you had in front of you when  
 2 you were talking about a \$300 million project?  
 3 MR. NARVER: Object to form.  
 4 A I actually didn't have this in front of me  
 5 when I was talking about it, but this is the basis for  
 6 it.  
 7 Q Did you have any other basis for support for  
 8 your \$300 million figure other than what we are looking  
 9 at in the last two pages of Exhibit 3?  
 10 MR. NARVER: Objection. Asked and  
 11 answered.  
 12 A The body of work that led up to this, which  
 13 includes the subcommittee and its work and the previous  
 14 work by the Seattle Center.  
 15 Q And the culmination of all that work is a  
 16 schedule that, subject to whatever assumptions are in  
 17 it, shows that if you begin construction in two years  
 18 the estimated cost is 314 million, not 300, correct?  
 19 MR. NARVER: Object to the form.  
 20 A No, I don't agree with that characterization.  
 21 Q And do you see -- can you explain to me how  
 22 the \$25 million is in there if it's not shown on the  
 23 last two pages?  
 24 MR. NARVER: Object to the form.  
 25 A No, I can't. As I indicated I didn't remember

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1 that the 25 was included in there.  
 2 Q That would be something important for the  
 3 legislature and the public to know, wouldn't it, as to  
 4 whether the \$300 million that was being proposed was or  
 5 wasn't going to retire the original construction debt?  
 6 MR. NARVER: Object to form.  
 7 A Certainly before any final action was taken,  
 8 sure.  
 9 (Exhibit 5 marked for  
 10 identification.)  
 11 Q Handing you what's been marked as Exhibit 5,  
 12 sir, is that a copy of a letter that you wrote on  
 13 April 17th to Governor Gregoire?  
 14 A It's a copy of a letter from me and from  
 15 members of the city council.  
 16 Q And was this part of your lobbying effort in  
 17 connection with trying to get Olympia to assist with the  
 18 financing of the renovation for the Schultz group?  
 19 A Yes.  
 20 Q The following year, when the Bennett group was  
 21 lobbying Olympia trying to get funding for an arena in  
 22 Renton, did you write any letters to the governor in  
 23 support of that?  
 24 A I don't think so.  
 25 Q Did you arrange for any of your staff to write

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1 any letters in support of it?  
 2 A Not that I remember, no.  
 3 Q Did you instruct any of your lobbyists to  
 4 lobby in support of it?  
 5 A No.  
 6 Q There is a third paragraph here. It says, "We  
 7 want to emphasize the principles that will guide the  
 8 reasonable efforts to retain the Sonics, slash, Storm.  
 9 These principles may reflect many of those articulated  
 10 by you with the legislature." So you see that?  
 11 A I do.  
 12 Q These are principles you thought were  
 13 fundamental to anything that was going to happen with  
 14 respect to the Sonics and Key Arena, correct?  
 15 MR. NARVER: Object to the form.  
 16 A Yes.  
 17 Q Very first bullet point of your guiding  
 18 principles was that any proposal for public funding must  
 19 be submitted to the voters of King County for their  
 20 approval. Do you see that?  
 21 A I do see that.  
 22 Q Last month, when you were trying to push  
 23 through the Griffin group and get Olympia's support for  
 24 that, was any part of that submitting to the public and  
 25 to the voters of King County for their approval whether

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1 or not they were going to approve that?  
 2 A No.  
 3 Q So this guiding principle, what happened to it  
 4 between April of 2006 and last month?  
 5 MR. NARVER: Object to the form.  
 6 A Initiative 91. The public did vote on the  
 7 issue. And again, the advice I had been getting is that  
 8 the proposal we were moving forward satisfies the  
 9 Initiative 91 and therefore the vote would be honored.  
 10 Q So you believed that the deal you were putting  
 11 forth last month had already been approved by the voters  
 12 of King County.  
 13 MR. NARVER: Object to the form.  
 14 A The plan itself, no. But the voters did have  
 15 their say on funding for the basketball arena upgrade.  
 16 Q But when you were articulating this to  
 17 Governor Gregoire, you were specific to say that the  
 18 public funding should be submitted to King County voters  
 19 for approval, right?  
 20 A That's what it says.  
 21 Q And you were talking about any proposal of a  
 22 Key Arena renovation, right?  
 23 MR. NARVER: Objection. Letter speaks  
 24 for itself.  
 25 A That's what the letter says.

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1 Q Weren't you proposing a Key Arena renovation  
 2 last month?  
 3 A Yes.  
 4 Q And you say that the voters, in effect, spoke  
 5 through I-91?  
 6 A Yes.  
 7 Q I-91 was a city of Seattle initiative, wasn't  
 8 it?  
 9 A Yes, it was.  
 10 Q I-91 is not a King County initiative, is it?  
 11 A No, it's city of Seattle.  
 12 Q Voters of King County at large never had a  
 13 chance to speak on their views of the renovation that  
 14 you proposed last month, did they?  
 15 MR. NARVER: Object to the form.  
 16 A There has not been anything for them to vote  
 17 on.  
 18 Q And you weren't planning on putting it to the  
 19 King County vote, were you?  
 20 MR. NARVER: Object to the form.  
 21 A Well, that would be my choice.  
 22 Q That would be your guiding principles two  
 23 years before, that there would be no renovation unless  
 24 there was voter approval throughout King County, right?  
 25 MR. NARVER: Object to form.

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1 A And I indicated that, for my purposes, I  
 2 thought Initiative 91 was an opportunity for the people  
 3 of Seattle to vote. They did that and I needed to  
 4 follow their, the law that they passed.  
 5 Q Mayor Nickels, in the spring of 2006 you told  
 6 the governor of our state that a guiding principle of  
 7 any Key renovation was going to be, it had to be  
 8 submitted to a King County large vote, right?  
 9 MR. NARVER: Object to the form.  
 10 A That's what the letter says.  
 11 Q You abandoned that guiding principle last  
 12 month, didn't you?  
 13 MR. NARVER: Object to the form.  
 14 A The voters of Seattle voted on Initiative 91  
 15 and to me that is a public vote and satisfied the  
 16 requirement I had for the public to be able to vote.  
 17 Q Aren't there a whole lot of voters in King  
 18 County that didn't get to have any vote on this issue?  
 19 MR. NARVER: Object to the form.  
 20 A Certainly.  
 21 Q Thank you.  
 22 Why did you tell Governor Gregoire in the  
 23 spring of 2006 that you believed that it was important  
 24 that one of the guiding principles should be that any  
 25 renovation should be submitted to a vote, to the voters

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1 of King County? Why did you believe that then?  
 2 A This letter was an opportunity for me, as  
 3 mayor, and the city council, if you will, to get on the  
 4 same page. We were lobbying that session of the  
 5 legislature to try and get some help from Olympia in  
 6 renovating Key Arena. Not all of the council was in  
 7 agreement on that. So we tried to put out a series of  
 8 things that we did agree on and could agree on in moving  
 9 forward in Olympia.  
 10 Q I think my question was: Why did you believe  
 11 it was important for the voters of King County to speak  
 12 as to whether or not they wanted public funding of a Key  
 13 Arena renovation?  
 14 MR. NARVER: Object to form.  
 15 A The voters, in addition to this being an  
 16 opportunity for the mayor and the council to get onto  
 17 the same page, the issue of pro -- professional sports  
 18 venues has been a controversial one in our region. The  
 19 Safeco Field and Qwest Field both had different  
 20 histories, how those projects happened. And the issue  
 21 of the voters getting an opportunity to speak on these  
 22 issues in some fashion was important. So it recognized  
 23 the history of those issues in our city and our region.  
 24 Q And do you believe that those issues are still  
 25 controversial today?

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1 A Qwest and Safeco? To some extent.  
 2 Q Public funding for something like Key Arena?  
 3 A Oh, certainly, yes.  
 4 Q Third bullet point in your letter, Governor  
 5 Gregoire talks about "The public funding share must come  
 6 exclusively from visitor taxes or user taxes, slash,  
 7 fees and not from local general public tax revenues --  
 8 A Uh-huh.  
 9 Q -- i.e. the general fund."  
 10 A Yes. I see that.  
 11 Q Can you tell me how that compares to what the  
 12 structure was of what you were presenting last month  
 13 with the Griffin group?  
 14 A Well, the proposal last month was, half of the  
 15 renovation would be funded by the Griffin group as  
 16 owners of the team. The other half would come from  
 17 public sources, half of which would have been that which  
 18 we were dealing with the legislature on, that is,  
 19 authorizing King County to extend restaurant, bar, car  
 20 rental taxes for 75 million, and then the other half  
 21 from the city. And we were looking at a number of  
 22 different sources around Key Arena: The lease itself,  
 23 parking revenues, admissions tax, dollars that we could  
 24 identify as coming from the businesses in that area as a  
 25 result of having NBA basketball in the neighborhood.

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1 Q With respect to the city's 75 million share of  
 2 that --  
 3 A Yes.  
 4 Q -- that's the tranche I want to ask you about.  
 5 A Okay  
 6 Q Were those revenue sources you just  
 7 identified, would those be considered visitor taxes or  
 8 user taxes, slash, fees?  
 9 A In my mind, if you can identify revenues that  
 10 occur because of that activity taking place, that  
 11 satisfies that requirement for me, yes. Visitors to  
 12 that neighborhood going to a bar or a restaurant or  
 13 visitors to that neighborhood parking as a result of  
 14 that activity being there.  
 15 Q The next bullet point in your letter in the  
 16 spring of '06 to Governor Gregoire fleshes out how you  
 17 meant to refer to visitor and user taxes in the letter a  
 18 little bit, doesn't it?  
 19 A A little bit.  
 20 Q Says the visitor and user taxes or fees must  
 21 be collected countywide in King County --  
 22 A Right.  
 23 Q -- not just in Seattle, because in your view  
 24 Key Arena was a regional asset, right?  
 25 A Yes.

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1 Q How does that jive with the 75 million, the  
 2 funding source for the \$75 million for the city's  
 3 tranche that you were just describing?  
 4 A Well, you have just excluded the 75 million  
 5 from the county that would be collected countywide in  
 6 that plan. So half of the public share would be  
 7 collected countywide in the restaurant and bar tax, and  
 8 the other half would be Seattle and more localized.  
 9 Q So I am trying to understand. So in this  
 10 letter to Governor Gregoire you were making the point  
 11 that in your view at the time a guiding principle had to  
 12 be that the visitor and use taxes had to be countywide.  
 13 A Yes.  
 14 Q But in what was proposed last month, am I  
 15 correct that \$75 million of the financing was not going  
 16 to be countywide visitor or user taxes or fees?  
 17 A Well, in fact, 225 million would have been 150  
 18 from the ownership and 75 from the city.  
 19 Q Let's keep talking about the public funding  
 20 part, okay? With respect to what you proposed last  
 21 month, am I correct that \$75 million of the public  
 22 funding component would not have been derived from  
 23 countywide visitor or user taxes as were described in  
 24 your earlier letter?  
 25 A Right. Half would have been and half would

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1 not.  
 2 Q So with respect to the \$75 million of  
 3 financing to be funded by local area city user  
 4 taxes that you were describing --  
 5 A Sure.  
 6 Q -- would that conform with or be outside of  
 7 this guiding principle that you had indicated to  
 8 Governor Gregoire in the spring of '06?  
 9 A I think it is --  
 10 MR. NARVER: Object to form.  
 11 A I think it is consistent because of that King  
 12 County share, the 75 million, and the local share being  
 13 derived from people who are using the facility, a good  
 14 chunk of those people do not live in Seattle. Many of  
 15 them live elsewhere in King County and some of them are  
 16 visiting from other places outside of King County So  
 17 again, if you derive those revenues from the activities  
 18 that the Key Arena generates, then there is -- I think  
 19 it does conform with that.  
 20 Q This is probably really reflecting my own  
 21 ignorance about municipal finance here, but I am having  
 22 a hard time understanding why, if \$75 million are not  
 23 going to be generated by a countywide visitor user tax,  
 24 you are saying that that's consistent with your  
 25 statement here that all the visitor and user taxes

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1 should be collected countywide. Can you explain that to  
 2 me?  
 3 MR. NARVER: Object to the form.  
 4 A The visitor and user taxes for the 75 million  
 5 from the county clearly are countywide.  
 6 Q Sure.  
 7 A The other 75 million that the city would come  
 8 up with would be tied to use of that facility, whether  
 9 directly through lease or parking charges or taxes that  
 10 are collected in the neighborhood over and above what  
 11 you would expect without the NBA activity in the  
 12 neighborhood.  
 13 Q The city's 75 million, they are not countywide  
 14 user taxes, right?  
 15 A Well, they are revenues generated from the  
 16 existence of the facility in our city and in that  
 17 neighborhood in particular.  
 18 Q They are not visitor or user taxes or fees  
 19 that are being collected countywide, correct?  
 20 MR. NARVER: Object to the form.  
 21 A They are specific to the facility.  
 22 Q Is that a yes?  
 23 A I am not sure of the form of the question,  
 24 sir.  
 25 Q They are not a countywide visitor --

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1 A I am agreeing with you, I guess, yes.  
 2 Q But in your letter to Governor Gregoire, am I  
 3 right, Mayor, that you said the visitor user taxes must  
 4 be collected countywide?  
 5 MR. NARVER: Object to the form.  
 6 A Yes.  
 7 Q The next bullet point of your guiding  
 8 principles from the spring of 2006 was that "Funding for  
 9 arts and heritage programs and facilities must be  
 10 included in the state legislation." Do you see that?  
 11 A I do.  
 12 Q In the proposal that you went to Olympia with  
 13 last month, was there funding for arts and heritage  
 14 programs and facilities that were included in the state  
 15 legislation?  
 16 A No.  
 17 Q The next bullet point says that basically any  
 18 new lease has got to be for the same term as what it's  
 19 going to take to retire the debt, right?  
 20 A Yes.  
 21 Q What you were saying is we don't want a  
 22 five-year gap like we ended up with under the existing  
 23 lease, right?  
 24 A Yes.  
 25 Q Turn to the next page. Says, quote, Finally,

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1 the public has made a significant investment in Key  
 2 Arena and we should not be duplicating that contribution  
 3 by investing in similar facilities elsewhere in the  
 4 region, closed quote. Do you see that?  
 5 A I do.  
 6 Q Did you know that there were efforts afoot by  
 7 the Schultz group to explore facilities in locations  
 8 other than Seattle --  
 9 MR. NARVER: Object to the form.  
 10 Q -- but here in Puget Sound?  
 11 MR. NARVER: Same objection.  
 12 A Not specifically, but they certainly referred  
 13 to looking at their options, whether it be within the  
 14 region or elsewhere.  
 15 Q And was the purpose of that paragraph to let  
 16 the governor know that it was the view of the city of  
 17 Seattle as mayor and its council --  
 18 A Sure.  
 19 Q -- that if we are going to spend money and if  
 20 Olympia is going to authorize money, that it ought to be  
 21 for Key Arena and not somewhere else in the region?  
 22 A Yes.  
 23 Q Did you take that same position in 2007, one  
 24 year later, when PBC was lobbying Olympia?  
 25 MR. NARVER: Object to form.

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1 A No.  
 2 Q Was that still your position one year later?  
 3 A I believe that the Key Arena is a public  
 4 facility, it's the premier venue that we have, and the  
 5 public shouldn't be investing in alternative venues.  
 6 But during the 2007 session we were quiet. We were  
 7 going to let the legislature and the governor wrestle  
 8 with that issue and come to their own conclusions.  
 9 Q So you also let the governor know just the  
 10 year before that it was your view that if there was  
 11 going to be public funding it ought to be for Key Arena  
 12 and not for something else in the region?  
 13 MR. NARVER: Object to form.  
 14 A Yes.  
 15 Q And you did that in writing with the full  
 16 force of the city council, each member signing, right?  
 17 MR. NARVER: Object to the form.  
 18 A Yes.  
 19 Q In fact, is Exhibit 5 the only time you put in  
 20 writing, with the full force and weight of all the  
 21 council members on a piece of paper, that you submitted  
 22 to a state government person about your views concerning  
 23 if there is going to be public funding it ought to be  
 24 for Key Arena and not elsewhere in Puget Sound?  
 25 A I think so.

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1 Q Are you aware of any other written  
 2 communications that you and the other members the city  
 3 council signed that were submitted to Olympia?  
 4 A Jointly?  
 5 Q That had anything to do with financing the  
 6 public arena other than what we are looking at in  
 7 Exhibit 5?  
 8 A I am not aware of any.  
 9 Q Now, am I correct that you are of the view  
 10 that Key Arena needs at least \$75 million worth of  
 11 general infrastructure improvements and repairs  
 12 regardless of whether the Sonics stay?  
 13 A It's in need of some level. What that  
 14 specific level would be without the Sonics I don't know.  
 15 The Key Arena committee thought it was 20 million a  
 16 couple of years ago. You inflate that, you work that a  
 17 little bit more, it could be a range.  
 18 Seventy-five million could certainly be within that  
 19 range.  
 20 Q So are you supporting a \$75 million renovation  
 21 to Key Arena regardless of whether or not the Sonics are  
 22 there or not?  
 23 A We haven't gone much beyond what that  
 24 subcommittee has put out there in terms of designing or  
 25 trying to pencil out what that would be or what it would

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1 look like. It will need, I think, substantial work to  
 2 be viable as a great venue in the future, whether it's  
 3 an NBA facility or not.  
 4 Q Have you ever had any conversations with Clay  
 5 Bennett about Key Arena?  
 6 A I've had a couple of conversations with  
 7 Mr. Bennett and Key Arena has been at least a small part  
 8 of each one of them.  
 9 Q Could you tell me about the first such  
 10 conversation, as you recall, starting with approximately  
 11 when it was.  
 12 A The first conversation I believe was a  
 13 telephone conversation shortly after he was announced as  
 14 the buyer of the team. It was a very short  
 15 conversation. One of us said we need to sit down and  
 16 talk. And I said, love to talk to you about Key Arena  
 17 and how we can make it a great home for the Sonics going  
 18 forth.  
 19 Q And who was it that called who?  
 20 A I don't remember on that.  
 21 Q Anything else you recall about that first  
 22 conversation?  
 23 A No.  
 24 Q Tell me about the next contact or  
 25 communication with Mr. Bennett that you recall.

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1 A The next one would have been lunch. We had  
 2 lunch together shortly thereafter. I know you don't  
 3 like shortly; a week, maybe two after that. I think it  
 4 was the next time he was in town. We had lunch, had a  
 5 very nice conversation. And again, I said I'd love to  
 6 take you out to Key Arena, walk you around, show you  
 7 what Seattle Center is all about, and talk to you about  
 8 how we make Key Arena long-term for your team.  
 9 Q Do you recall anything else that was discussed  
 10 at that luncheon about Key Arena?  
 11 A No.  
 12 Q Tell me what you recall saying.  
 13 A Yeah.  
 14 Q And do you recall anything he said?  
 15 A He was excited to be in Seattle, looking  
 16 forward to being successful here. We talked a little  
 17 bit about Mayor Cornett. It was sort of a  
 18 get-acquainted lunch so we talked about a number of  
 19 different subjects. Key Arena, I might have done most  
 20 of the talking about Key Arena at the lunch.  
 21 Q Anything else you recall about the lunch  
 22 discussion?  
 23 A No.  
 24 Q What was the next contact or communication you  
 25 had with him?

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1 A A telephone call. I believe he initiated it.  
 2 It was sometime later, couple of months later, maybe a  
 3 few months later. And he said he'd like to sit down and  
 4 talk and I agreed that would be a good idea. And again,  
 5 that I would like to be able to talk to him about  
 6 improvements to Key Arena that would make it a viable  
 7 long-term venue.  
 8 Q Anything else you recall about that  
 9 conversation?  
 10 A He mentioned to me that there would be a press  
 11 release going out that we had talked by telephone, right  
 12 after the call.  
 13 Q And anything else you recall being discussed  
 14 in that phone call?  
 15 A It was just a couple of minutes long. No.  
 16 Q Did you take any notes during any of your  
 17 telephone calls or meetings with Mr. Bennett?  
 18 A No.  
 19 Q That last question applied across the board  
 20 both to the discussions we've covered and the ones we  
 21 are going to cover.  
 22 A No, I did not take notes.  
 23 Q Tell me about your next contact or  
 24 communication with Mr. Bennett?  
 25 A I think that was the last contact that I've

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1 had with him.  
 2 Q And so the last contact you have had with him  
 3 was about when?  
 4 A It was reported in the press, so I could find  
 5 that. I don't remember offhand.  
 6 Q Have you had any contacts or communication  
 7 with other representatives of PBC concerning the Key  
 8 Arena situation?  
 9 A No, I have not.  
 10 Q Have you had any reports to you from your  
 11 staff or other members of city government about their  
 12 contacts or communications with the PBC organization  
 13 concerning the Key Arena?  
 14 A Since that last, my last conversation with  
 15 Mr. Bennett?  
 16 Q No. I am going back to the beginning of time.  
 17 A Sure.  
 18 Q Tell me about the first such report you had  
 19 from somebody on your staff or here in city government  
 20 about their communications and dealings with PBC about  
 21 the Key Arena lease.  
 22 A No, I don't. I don't have specific  
 23 recollections of reports or conversations. But I have  
 24 meetings on a regular basis with the director of the  
 25 Seattle Center. And so Key Arena is an important part

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1 of the center so we talked about it. I don't remember  
 2 the specifics of the conversation, those conversations.  
 3 Q Other than generally believing that from time  
 4 to time you were told by other people at Seattle Center  
 5 or on your staff that they had had some communications  
 6 or dealings with PBC about the lease, do you recall any  
 7 other specifics about what you were told?  
 8 A Well, they weren't necessarily telling me  
 9 about the lease. They were telling me about the  
 10 tenancy, how the team was doing in the arena, how we  
 11 were trying to accommodate their needs as tenants of the  
 12 facility. But we really didn't have any direct or  
 13 indirect lease negotiations with them.  
 14 Q And who was it from the Seattle Center staff  
 15 that would have been reporting to you?  
 16 A Would have been the director, Mr. Nellams.  
 17 Q Can you spell that?  
 18 A I hope so. N-E-L-L-A-M-S.  
 19 Q How about with respect to your staff here in  
 20 the mayor's office? Were you ever at any time provided  
 21 with any reports, formal or informal, about whether they  
 22 were having any dealings with representatives of PBC?  
 23 A Again, probably. Recently, I was informed by  
 24 staff and the city attorney that there was a suggestion  
 25 of settlement of the lease. That's the one specific

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1 that I recall. But over time, again, we've certainly  
 2 followed this issue, been engaged in it and making sure  
 3 that the, we lived up to our end of the lease.  
 4 Q Putting aside any discussions of a possible  
 5 settlement, any other communications that you received  
 6 from staff about any dealings they were having with PBC  
 7 regarding a potential issue concerning the Seattle Key  
 8 Arena lease?  
 9 A No, I don't think so.  
 10 Q What efforts, if any, are you aware of  
 11 regarding the Griffin group to explore obtaining a  
 12 franchise from another city?  
 13 A I don't have any direct knowledge of that. It  
 14 was speculated on in the newspapers and so I am  
 15 certainly familiar with that. And at the press  
 16 conference that we had, I think Mr. Griffin was asked  
 17 that question. And I am characterizing it. He answered  
 18 that they were most interested in the Sonics but they  
 19 were leaving the door open for other answers.  
 20 Q Did you take a look at the legislation that  
 21 was proposed to Olympia this past month?  
 22 A Did I which?  
 23 Q Take a look at the legislation that was  
 24 proposed to Olympia?  
 25 A Well, it never really got proposed. So -- so

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1 I was familiar with the contents. But one of the  
 2 challenges was to find a vehicle for it to be able to be  
 3 acted on by the legislature. So it never happened,  
 4 never became a piece of legislation.  
 5 Q Would it be fair to say that that legislation  
 6 was drafted so that it would work whether it was the  
 7 Sonics or any other NBA franchise that was here?  
 8 MR. NARVER: Object to form.  
 9 A No, I don't know.  
 10 Q You don't know one way or the other?  
 11 A No.  
 12 (Exhibit 6 marked for  
 13 identification.)  
 14 Q Do you recognize Exhibit 6 as the press  
 15 release that was issued by your office last month in  
 16 connection with the Griffin group?  
 17 A Yes, I believe that is what it is.  
 18 Q In about the third paragraph in this press  
 19 release it describes -- it says, "The local investment  
 20 group would pay for upgrades that directly benefit the  
 21 basketball team, while the public investment would cover  
 22 needed renovations to the public areas and building  
 23 systems in the city-owned arena."  
 24 A Uh-huh.  
 25 Q Do you see that?

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1 A I do.  
 2 Q Do you believe that Key Arena needs  
 3 renovations in those public areas?  
 4 A Yes. And over time it will need more.  
 5 Q Do you agree that sitting here today it needs  
 6 some renovations?  
 7 A Sitting here today I think it's a safe place  
 8 for people to be. But for it to be viable long-term  
 9 financially, it needs upgrading. So yes.  
 10 Q And there is a reference in the press release  
 11 to all the concerts, shows, and civic events that happen  
 12 there every year.  
 13 A Yes.  
 14 Q See that?  
 15 A Well, no, I don't.  
 16 Q It's in the next paragraph.  
 17 A Yes. Right.  
 18 Q Is it correct that about 25 percent of the  
 19 events that happen at Key Arena are home basketball  
 20 games, Sonics games and Storm games?  
 21 MR. NARVER: Object to form.  
 22 A I don't know the breakdown. That could be.  
 23 Q Did you ever go to any of the Thunderbirds  
 24 games when they played there?  
 25 A I've been to two, I think.

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1 Q In the whole time that the team played there  
 2 you went to two games?  
 3 A I think so.  
 4 Q If you look about the third paragraph up on  
 5 the second page of your press release, see it says,  
 6 "Basketball accounts for about a quarter of the events  
 7 in Key Arena"?  
 8 A Yes, I see that.  
 9 Q This press release was prepared by your staff,  
 10 right?  
 11 A Yes.  
 12 Q Now, attached to the press release was a draft  
 13 of legislation?  
 14 A Was it? I don't know if it was attached or  
 15 not.  
 16 Q Better be careful there. I am not sure  
 17 either. Let's just say attached to this exhibit.  
 18 A Yes, certainly attached to this exhibit there  
 19 is a draft.  
 20 Q I actually think it was, but I am just not  
 21 certain enough that I want to take it to the bank.  
 22 And this is the extent to which the enabling  
 23 legislation for Safeco Field was going to have to be  
 24 amended to facilitate the Olympia portion of the public  
 25 financing, right?

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1 MR. NARVER: Object to the form.  
 2 A I think that that appears to be what it is,  
 3 yes.  
 4 Q If you look at the second page of the  
 5 legislation, this is something that wasn't being  
 6 changed. This is old section 4A of the legislation,  
 7 what would be 5A of the proposed amended legislation.  
 8 There is a reference to what the commitment was by the  
 9 Mariners in terms of home games. Do you see that?  
 10 A Yes, I do.  
 11 Q Do you see that the commitment, what was a  
 12 condition of the legislation for the Mariners to stay at  
 13 Safeco is that they play at least 90 percent of their  
 14 home games in the stadium?  
 15 A Yes. Right. I see that.  
 16 Q Do you know why it wasn't a hundred percent?  
 17 MR. NARVER: Object to the form.  
 18 A My recollection is that there was some thought  
 19 that they might play a few games in Japan or overseas in  
 20 order to develop more interest in tourism to our area or  
 21 that they might play in places like Vancouver or  
 22 Portland to develop the market, the Northwest market a  
 23 little bit more. That's my recollection. It was a long  
 24 time ago.  
 25 Q If the Sonics were to not play their last two

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1 years, they will have played about 85 percent of their  
 2 home games under their lease at Key Arena, right?  
 3 MR. NARVER: Object to the form.  
 4 A I don't know.  
 5 Q Have you ever done the math?  
 6 A I haven't done the math.  
 7 Q What 13 out of 15 is on a percentage basis?  
 8 MR. NARVER: Object to the form of the  
 9 question.  
 10 A An hour ago I might have been able to answer  
 11 that.  
 12 Q If you turn to page -- in the upper right-hand  
 13 corner it says page four of this draft legislation.  
 14 A Okay.  
 15 Q And subpart three, take a moment to quickly  
 16 peruse that. I have a question.  
 17 MR. NARVER: Object to quickly.  
 18 A This is a new section? Must be a new section,  
 19 okay.  
 20 Q Yes.  
 21 A (WITNESS COMPLIES.) Okay.  
 22 Q Can you tell me whether this is -- this is  
 23 clearly not talking about the private investment of \$150  
 24 million, right?  
 25 A No. It appears to be talking about the public

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1 portion.  
 2 Q Which public tranche is it talking about?  
 3 MR. NARVER: Object to form.  
 4 Q The part that Olympia needs to enable or the  
 5 \$75 million that the city is going to be coming up with?  
 6 MR. NARVER: Object to the form. The  
 7 legislation speaks for itself.  
 8 A I don't know.  
 9 Q You see it talks about the amount that would  
 10 be necessary to pay principal and interest on bonds  
 11 issued, and blah, blah, blah, and aggregate principal  
 12 amounts that produces net bond proceeds of \$75 million?  
 13 MR. NARVER: Object to form.  
 14 A I think I see that, yeah.  
 15 Q Who was it that was going to be floating bonds  
 16 for \$75 million under this proposal that you were  
 17 advocating last month?  
 18 MR. NARVER: Same objection.  
 19 A I believe it would have been King County, but  
 20 I am not sure.  
 21 Q If that's right, your assumption, then would  
 22 this be the local 75 million tranche rather than the  
 23 Olympia-enabled?  
 24 MR. NARVER: Object to form.  
 25 A No. No, it would be the -- what Olympia would

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1 have done with this legislation is authorize King County  
 2 to move forward on that piece.  
 3 Q So there would have been a bond and it would  
 4 have had to have been repaid with an interest on the  
 5 bond over time, right?  
 6 MR. NARVER: Object to the form.  
 7 A Certainly. If bonds were issued, yeah.  
 8 Q So how much would the actual payment have been  
 9 over the life of the bond for this \$75 million that you  
 10 were approaching Olympia?  
 11 MR. NARVER: Object to the form.  
 12 A I don't know.  
 13 Q Do you have any idea?  
 14 A None.  
 15 Q I saw something in the news where you referred  
 16 to something called the Mercer mess?  
 17 A Yes, uh-huh.  
 18 Q What does that refer to?  
 19 A Mercer Street is a street that borders the  
 20 north side of the Seattle Center, which is where the Key  
 21 Arena is located, and from there east to Interstate 5  
 22 East of State Route 99, Aurora, it is one-way, basically  
 23 about a six-block-long freeway onramp, and has been  
 24 referred to as the Mercer mess for many years. It is  
 25 both unsightly and not really a very good transportation

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1 facility.  
 2 Q And is there a current fix that's in place for  
 3 the Mercer mess?  
 4 A Yes. There is a proposal, a plan, that has  
 5 been adopted by the city council and they now have  
 6 before them a financing proposal that I sent them.  
 7 Q Do the Sonics home games contribute to the  
 8 Mercer mess?  
 9 A Yes. Or is a victim of the Mercer mess.  
 10 Q Probably both, right?  
 11 A Both.  
 12 Q If the Sonics didn't play the last two years  
 13 under their lease you would have at least 41 days of  
 14 amelioration of the Mercer mess, wouldn't you?  
 15 MR. NARVER: Object to the form.  
 16 A Well, we would have 41 evenings that would be  
 17 less congested on the Mercer Street, yes.  
 18 Q What are the noneconomic benefits, if any,  
 19 that you believe the city of Seattle enjoys from having  
 20 the Sonics play in the Key Arena?  
 21 A There are probably people who are more poetic  
 22 about that than I am. But I can tell you exactly where  
 23 I was standing during the celebration of their 1979  
 24 championship. The Storm have now won a championship,  
 25 but it was the biggest deal, if you will, in this city

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1 in terms of sports since the first Stanley Cup was won  
 2 in 1917 by a Seattle team.  
 3 And I wasn't around for that. So there is an  
 4 emotional attachment to the team. And that now goes  
 5 back 41 years, so it's shared from generation to  
 6 generation. Something I shared with my kids in talking  
 7 to them about that. They are now bigger fans than I am  
 8 and they share that with me, their excitement when the  
 9 new season comes up or the draft is coming up.  
 10 Certainly the city is mentioned frequently  
 11 whenever there is a game, whether it's home or away.  
 12 Whenever the team does well, it reflects well on the  
 13 city. So there are, I think, a lot of intangibles.  
 14 And then the final one to me is when people  
 15 look to live here, or they are already living here, they  
 16 see many different assets: The cultural life of the  
 17 city, the physical beauty of the city that we talked  
 18 about earlier, the professional sports. All of that  
 19 comes together to make a place an exciting and vibrant  
 20 place that people want to be.  
 21 Q Anything else?  
 22 A In terms of intangibles?  
 23 Q Yes.  
 24 A As I said, I think there are people more  
 25 poetic than I am to express it better, but to me those

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1 are kind of the fundamental.

2 Q One of the things I heard you say is you felt

3 great pride and exuberance back in 1979 --

4 A Yeah.

5 Q -- when I guess you were a kid; is that right?

6 A I was much younger than I am now, but no, I

7 wasn't a kid. I worked actually about a hundred feet

8 from here.

9 Q You felt great pride and exuberance when the

10 Sonics won the NBA championship that year?

11 A Uh-huh.

12 Q How much pride and enthusiasm do you feel

13 during the -- strike that.

14 MR. KELLER: Let me mark this as the next

15 exhibit.

16 (Exhibit 7 marked for

17 identification.)

18 Q What I've handed you, Mayor Nickels, this is a

19 cover page and one-page pleading that your lawyers

20 served on my office, I think it was yesterday or the day

21 before. Something called a request for admissions. And

22 I wouldn't ask you about this normally, but since it's

23 something your lawyers were asking us about I thought

24 I'd ask you a few questions. If you look at request for

25 admission number 35. See, it says, "Admit that the

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1 Sonics have one of the worst records in the NBA this

2 year." Do you see that?

3 A I do see that.

4 Q Do you take great pride in and get exuberant

5 about the fact that the Sonics have one of the worst

6 records in the NBA this year?

7 A I would like them to have a better record.

8 Q Now could you answer my question.

9 MR. NARVER: Object to the form.

10 Q Do you take great pride and exuberance in this

11 team that you want to admit, or your lawyers do, has one

12 of the worst records in the NBA this year?

13 MR. NARVER: Object to the form.

14 A Pride and exuberance are not the emotions that

15 come to mind.

16 Q Fair enough, sir.

17 What in your mind is the pertinence of what

18 the Sonics' record is this year in terms of the lease

19 dispute that is the subject of the litigation?

20 MR. NARVER: Object to the form.

21 A The city and the team share revenues. So the

22 better that the team does financially, filling the

23 seats, the better the city does. So it helps us to

24 reduce the amount of subsidy that we have to give to the

25 lease payment.

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1 Q So the fact that they have the worst record or

2 the fact they are being asked to admit that they have

3 one of the worst records in the NBA this year, how does

4 that bear in your mind about whether the city is

5 entitled to specific performance of the lease?

6 MR. NARVER: Objection. Calls for a

7 legal conclusion.

8 A I have no idea.

9 Q If you look at the next request for admission,

10 your lawyers asked the city to admit that PBC had traded

11 Rashard Lewis and Ray Allen prior to this season. Do

12 you see that?

13 A I do see that.

14 Q Do you personally question the wisdom of that

15 trade?

16 MR. NARVER: Object to the form.

17 A We talked earlier about my ability to manage a

18 basketball team. I don't pretend to know the thinking

19 behind those trades. That's not something I am expert

20 in.

21 Q The running of a professional NBA basketball

22 organization, that's a complicated financial affair,

23 don't you think?

24 MR. NARVER: Object to the form.

25 A I suspect that it is.

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1 Q I mean, it's a pretty good size business,

2 isn't it?

3 MR. NARVER: Object to the form.

4 A Yes.

5 Q A lot of complicated NBA rules that have to do

6 with drafts and salary caps and you have to deal with

7 players contracts and free agencies and decide, you

8 know, the whole entertainment experience for the fans?

9 MR. NARVER: Same objection.

10 Q You've got all those things, right?

11 MR. NARVER: Same objection.

12 Q And more.

13 MR. NARVER: Same objection.

14 A Yes.

15 Q Those kinds of decisions of how to run a club,

16 what trades to make, what contracts to seek, what

17 salaries to pay, what product to put on the floor for

18 the fans, would you agree with me that those are all

19 decisions that the operator, the lessee, needs to be

20 making?

21 MR. NARVER: Object to the form.

22 A Yes.

23 Q Would you agree with me that if somebody was

24 going to challenge or question those, that one of the

25 last people in the world that you'd want to be deciding

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1 those kinds of things is a federal judge?  
 2 MR. NARVER: Object to the form.  
 3 A Depends on the expertise of the federal judge.  
 4 I don't know the business well enough.  
 5 Q Do you know any federal judges who know any  
 6 more about how to run a professional basketball  
 7 franchise than you?  
 8 A I think I might know one or two.  
 9 Q Did you ever describe the relationship between  
 10 the Sonics and the city as dysfunctional?  
 11 MR. NARVER: Object to the form.  
 12 A I don't recall having said that.  
 13 Q Has your deputy mayor, Mr. Ceis, described it  
 14 as such?  
 15 MR. NARVER: Object to form.  
 16 A I don't know He may have.  
 17 Q When is the last time you were employed in the  
 18 private sector?  
 19 A A while. I have very proudly been a public  
 20 servant since I was 19. So my last job would have been  
 21 with a company called Bonnie Watson, which is a funeral  
 22 home in Seattle, which would have been about 1974, maybe  
 23 1973 and '4.  
 24 Q So the last time you were employed in the  
 25 private sector was when you were 19?

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1 A No, 17, maybe 18.  
 2 Q Do you have any background or experience in  
 3 private real estate development?  
 4 A No.  
 5 Q Are you familiar with the fact that the Sonics  
 6 and the Storm foundations and the players from time to  
 7 time have gotten involved in the community affairs and  
 8 made charitable contributions?  
 9 A Yes. I was thinking about that earlier when  
 10 you said would we not have great facilities like  
 11 Harborview and Children's Hospital if they left. And it  
 12 struck me that they have contributed in many ways to  
 13 organizations, institutions like that.  
 14 Q Would you agree with me that the Sonics  
 15 organization and none of the players are under any  
 16 obligation to participate to the civil and charitable  
 17 affairs of the city?  
 18 MR. NARVER: Object to the form.  
 19 A I don't know what obligations the players have  
 20 in their contracts. The team as a business doesn't  
 21 have, as far as I know, any legal obligation to do that.  
 22 Q Would you agree with me that the players have  
 23 no obligation to the city to do so?  
 24 MR. NARVER: Object to the form.  
 25 A To the city?

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1 Q Yes.  
 2 A Yes.  
 3 Q If you had just two things that you -- that  
 4 were on your radar screen and you could only get one  
 5 done, and the two things were solving the Alaskan Way  
 6 Viaduct and renovating or building a new arena that  
 7 would house an NBA franchise, which in your mind would  
 8 be a priority?  
 9 MR. NARVER: Object to the form.  
 10 A Finding a solution to the dangerous Alaskan  
 11 Way Viaduct would be a higher priority.  
 12 Q Same question with respect to the 520 bridge.  
 13 MR. NARVER: Objection.  
 14 A As a city issue it's important. The viaduct  
 15 is completely within the city and right -- so it is not  
 16 as important an issue for the city as the viaduct is,  
 17 but compared with an arena it would be a higher priority  
 18 than an arena renovation.  
 19 Q Same question with respect to the Magnolia  
 20 bridge.  
 21 MR. NARVER: Same objection.  
 22 A Replacement of the Magnolia bridge at the  
 23 appropriate time, when we've determined that it is at  
 24 the end of its useful life, that would be a higher  
 25 priority.

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1 THE COURT REPORTER: Number 8.  
 2 (Exhibit 8 marked for  
 3 identification.)  
 4 Q Showing you what's been marked as Exhibit 8.  
 5 You see this is an email from March of this year?  
 6 A Yes, I do.  
 7 Q And if you look at the subject line for  
 8 everything below the top part?  
 9 A Yes.  
 10 Q The subject line is identified as being  
 11 "Speaking points for 3:30"?  
 12 A Yes.  
 13 Q And then the most recent email, timewise, the  
 14 subject line has been changed to "Attorney client  
 15 communication." Do you see that?  
 16 A Yes.  
 17 Q Can you tell me why on March 29 the re, the  
 18 subject identification was changed by you to  
 19 attorney/client communication for this email string?  
 20 A Yes. I was asked to look at my home email to  
 21 see if there were any emails with regard to policy  
 22 conversations around the Key Arena and Sonics issue.  
 23 And so I went through my home email to do that and found  
 24 this one and forwarded it to my counsel here at the  
 25 Mayor's office.

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1 Q And what you were forwarding was the Key Arena  
 2 proposal speaking points?  
 3 A I was forwarding this email (INDICATING) or  
 4 this email train (INDICATING).  
 5 Q And were you forwarding the speaking points  
 6 that we were looking at as the earlier exhibit ...  
 7 A Six.  
 8 Q No, not six. Six is the news release  
 9 A I don't think we've done the speaking points  
 10 Q I am trying to understand why you would  
 11 identify it as attorney/client communication when all  
 12 you were doing is forwarding the public speaking points  
 13 A It was requested of me by Ms. LaBelle in order  
 14 to, I think, respond to a request from you.  
 15 Q So just because you were sending it to a  
 16 lawyer you changed the re to attorney/client  
 17 communication even though what you were sending was your  
 18 public speaking points?  
 19 MR NARVER: Object to the form.  
 20 A Again, what I was sending was not the speaking  
 21 points. I was sending this email train (INDICATING) I  
 22 am not sure whether the speaking points were attached to  
 23 it or not.  
 24 Q Would you agree with me that there is nothing  
 25 in the email train that even remotely looks like it

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1 would be an attorney/client communication?  
 2 MR. NARVER: Object to the form.  
 3 A The request came from counsel based on  
 4 litigation that we're discussing here today. It seemed  
 5 to me it was an attorney/client issue and I was being  
 6 responsive to her request for that.  
 7 Q Now try and answer my question. Look at the  
 8 emails that are down there.  
 9 A Yes.  
 10 Q Look at what's discussed in them. Is there  
 11 anything in the those subject matters that even remotely  
 12 sounds like attorney/client communication to you?  
 13 A Again, I was responding to a request from the  
 14 Mayor's office counsel with regard to litigation. That  
 15 was the nature of the attorney/client communication.  
 16 Q Were you sending the lawyers anything you  
 17 considered to be an attorney/client communication?  
 18 MR. NARVER: Object to form.  
 19 A I was trying to be responsive to a request.  
 20 Q Mayor Nickels, do you routinely change the  
 21 designation of materials to attorney/client  
 22 communication when there is a pending lawsuit?  
 23 MR. NARVER: Object. That completely  
 24 mischaracterizes this email. Object to the form.  
 25 A This is not a situation I find myself in very

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1 often. This, in fact, may be unique in that regard.  
 2 Q You don't find yourself involved in litigation  
 3 where you are a potential witness often?  
 4 A No. Actually, no.  
 5 Q So --  
 6 A This may be the first deposition I've given  
 7 ever.  
 8 Q When you were searching your home emails, tell  
 9 me how you went about doing that.  
 10 A Well, I had the email program open, Microsoft  
 11 Outlook, I think it's called. I -- there is a feature  
 12 where you can organize them by sender or by receiver.  
 13 So I organized them by sender and receiver and I went to  
 14 those that were to or from members of my staff and took  
 15 a look to see which ones were -- might be responsive to  
 16 Ms. LaBelle's request.  
 17 Q Were you working within the inbox of your  
 18 Microsoft Outlook system?  
 19 A The inbox and the sent.  
 20 Q What about the deleted?  
 21 A There was nothing in the deleted.  
 22 Q Did you look?  
 23 A It empties itself every time you turn the  
 24 program off or on. So there were none in there.  
 25 Q Do you keep any Outlook organizer files on

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1 your desktop at home?  
 2 A You are testing the range of my... There is  
 3 something called --  
 4 Q There is an inbox file. There is a sent file.  
 5 There is a delete file. But if you want to, you can  
 6 also set up subject matter files that will be stored on  
 7 your desktop and you can drag individual emails into  
 8 that.  
 9 A Yes, right.  
 10 Q I call those Outlook organizer files. Do you  
 11 do that?  
 12 A When I responded to this request from  
 13 Ms. LaBelle, I took those emails and I moved them into  
 14 such a box so that if I were requested again I would  
 15 have those -- access to those again, ready.  
 16 Q When you were going through your emails,  
 17 what -- you tell me you organized them by sender and  
 18 recipient. But what subjects were you looking for?  
 19 A I was looking for anything that would have  
 20 clued me that it was about the Sonics, about Key Arena,  
 21 Seattle Center, or from my communications staff,  
 22 something like this. Would have been general enough  
 23 that I would have opened it up to look at it and see if  
 24 it had to do with the Sonics.  
 25 Q Your email to Ms. LaBelle that we are looking

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1 at is dated March 29th.  
 2 A Okay.  
 3 Q First of all, who is Ms. LaBelle?  
 4 A Ms. LaBelle is the counsel to the Mayor.  
 5 She's on my staff.  
 6 Q Is she a lawyer?  
 7 A Yes. I hope so.  
 8 Q The -- prior to the 29th of March, but -- is  
 9 that when you basically sat down and it started looking  
 10 for this stuff for her, around the 29th of March?  
 11 A In my home email?  
 12 Q Yes.  
 13 A Yes. I think it was a request from the end of  
 14 last week.  
 15 Q Prior to that date you said every time you  
 16 started your computer up and turned it off, it would  
 17 automatically delete the deleted files. I think they  
 18 call that taking out the trash in computer-speak. Is  
 19 that what you did?  
 20 A Well, that's what the program does.  
 21 Q And were you turning on and turning off your  
 22 computer with some frequency?  
 23 A Yes, every day.  
 24 Q So the day this lawsuit got filed, the next  
 25 day you turned your computer on and off and it would

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1 have deleted whatever was in the deleted files?  
 2 A Yes.  
 3 Q And it's done that every day since then. So  
 4 to the extent you might have had email communications  
 5 that bear on the Sonics that went into your deleted  
 6 file, they got taken out with the trash?  
 7 MR. NARVER: Object to the form.  
 8 A Yes.  
 9 Q Have you been doing that from when the lawsuit  
 10 was filed until March 29th, around March 29?  
 11 A I've done it as long as I've owned the  
 12 computer.  
 13 MR. NARVER: Object to the form.  
 14 Q You've been doing that from when the lawsuit  
 15 was filed until March 29th?  
 16 MR. NARVER: Object to the form.  
 17 A I do that every day, every time I turn the  
 18 computer off.  
 19 Q Does that include from the day the lawsuit was  
 20 filed until around March 29th?  
 21 MR. NARVER: Object to the form.  
 22 A Every day.  
 23 Q To what extent do you have -- did you have on  
 24 your computer, home computer -- strike that.  
 25 If we were to pretend that all of the stuff on

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1 your computer hadn't been deleted and was still there,  
 2 what kind of volume would be on your home computer  
 3 having to do with the Sonics?  
 4 MR. NARVER: Objection.  
 5 Q Trying to get a feel to what extent you use  
 6 your home computer for your city affairs such that they  
 7 would be -- would or wouldn't be material.  
 8 A It's a limited use. I think as I went through  
 9 I found a handful of emails that I forwarded to  
 10 Ms. LaBelle in this fashion.  
 11 Q But when you went through it, you were going  
 12 through it after you had been deleting emails just about  
 13 every other day for months.  
 14 MR. NARVER: Object to the form.  
 15 Absolutely mischaracterizes what he said.  
 16 Q Right?  
 17 A I am not sure that I understand your point.  
 18 Q To what extent -- if we were -- if it was  
 19 September, there is no lawsuit pending, just dealing  
 20 with the normal ebb and flow of your business  
 21 activities, to what extent did you use your home  
 22 computer for Sonics-related city business?  
 23 A Very little.  
 24 Q What's very little?  
 25 A There were a handful of emails. And all of

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1 the ones that I was able to find -- and I looked  
 2 carefully -- I forwarded to Ms. LaBelle.  
 3 Q I don't want to beat a dead horse here, but  
 4 you are saying all the ones I was able to find. We are  
 5 talking about what you were able to find in the end of  
 6 March after turning it on and off and having it  
 7 automatically take out the trash each time, right?  
 8 MR. NARVER: Object to the form.  
 9 A Yes.  
 10 Q Does the city of Seattle pay for computer  
 11 access for your home computer?  
 12 A No.  
 13 Q Does the city of Seattle pay for the equipment  
 14 at all?  
 15 A No.  
 16 Q When the Sonics leave Key Arena -- at the  
 17 latest 2010 that happens -- what are the plans for Key  
 18 Arena?  
 19 A There aren't plans for Key Arena. The  
 20 subcommittee took a look at what the arena could be used  
 21 for, concerts and trade shows and that sort of thing.  
 22 But plans says to me that you've done something beyond  
 23 that. So we have a concept that we would need to book  
 24 more concerts, trade shows, that kind of thing, and make  
 25 some physical improvements in order to make it an

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1 attractive place to complete for that business.  
 2 Q Other than that concept, have you done any  
 3 concrete contingency planning?  
 4 A No.  
 5 Q Did you have any participation or involvement  
 6 in the negotiation of the original lease?  
 7 A No.  
 8 Q If the Renton plan had been approved by the  
 9 legislature in '07 --  
 10 A Uh-huh.  
 11 Q -- were you prepared to let the Sonics out of  
 12 their lease early to move to Renton?  
 13 MR. NARVER: Object to the form. Calls  
 14 for speculation.  
 15 A Hadn't considered that. We actually thought  
 16 that it might require an extension of the time in order  
 17 to do the planning, the design, the purchase, the  
 18 preparation of the site and the permitting and the like.  
 19 Q Is that because you believed that in order to  
 20 do all the site preparation, planning, design and  
 21 construction, that even if they got approval in 2007,  
 22 you thought there is a good chance the facility wouldn't  
 23 be ready three years later in 2010?  
 24 A Yes.  
 25 Q Have you had any inquiries or expressions of

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1 interest from Seattle University or Seattle Pacific  
 2 University about playing basketball at Key Arena?  
 3 A Formal expressions of interest? No. I've had  
 4 lunch with Father Sundborg, the president of Seattle U,  
 5 and I said we'd love to have them as a tenant as they  
 6 return to division one play.  
 7 Q When did that happen?  
 8 A A few months ago.  
 9 Q Few to me is two to four; is that right?  
 10 A Four or five.  
 11 Q I am sorry, Father?  
 12 A Sundborg, Steven Sundborg. He's the president  
 13 of Seattle U.  
 14 Q And he expressed interest in playing at Key  
 15 Arena?  
 16 A I don't remember how he phrased it. But some  
 17 of my memories of Key Arena, when it was the Seattle  
 18 Coliseum and Seattle University was a powerhouse in  
 19 college basketball, are of that arena being filled for  
 20 those Seattle U games. I think he had the same  
 21 memories. So we sort of chuckled over that.  
 22 Q What was discussed at your lunch with Father  
 23 Sundborg about the possibility of Seattle University  
 24 playing at Key Arena?  
 25 A He mentioned that they were going to be a

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1 division one team again. He described the process that  
 2 you go through to return to division one play. And I  
 3 said, well, we'd sure love to have you as a tenant in  
 4 Key Arena in the future. And that was the extent of the  
 5 conversation as I remember it.  
 6 Q Was there any discussion about a possible time  
 7 horizon on which that might occur?  
 8 A Well, again, he told me what the process was  
 9 to return to division one. So he laid out, you spent  
 10 one season as sort of a faux division one, where you  
 11 play more division one teams than not. And so it's a  
 12 two or three or four-year process to get full status as  
 13 division one. So we talked about that. But we didn't  
 14 really talk about specifics of when they might require a  
 15 facility the size of Key Arena again.  
 16 Q Were there any discussions about what the next  
 17 steps might be to try and move down that road?  
 18 A No.  
 19 Q Have you had any discussions with anyone about  
 20 the potential for an NHL franchise playing at Key Arena  
 21 or a remodeled arena?  
 22 A No.  
 23 Q How about any operators or owners of an arena  
 24 football team?  
 25 A No.

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1 Q Have you ever been to any events up at the  
 2 Everett Center where the Silver Tips play?  
 3 A I went to lunch there I think once. It was a  
 4 civic lunch for the Chamber of Commerce or something and  
 5 I was the speaker. So I wasn't in the venue for their  
 6 hockey team.  
 7 Q Haven't been to any sporting events up there?  
 8 A No. But I've been in the facility  
 9 Q If there is no new lease that is entered into  
 10 with the Sonics for Key Arena, do you agree that,  
 11 generally speaking, the city would have little economic  
 12 incentive to put capital improvements into Key Arena  
 13 over the next two years?  
 14 MR. NARVER: Object to the form  
 15 A Over the next two years? I don't know We  
 16 haven't sat down and talked about that possibility  
 17 We've been under the assumption we would have an NBA  
 18 team there for the next two years. So we have not  
 19 looked at that.  
 20 Q Even if the Sonics are there for the next two  
 21 years, but if you know they are gone after two years  
 22 because you have been unable to negotiate a new lease,  
 23 would you agree that the city would have very little  
 24 incentive to put money into Key Arena knowing that the  
 25 team is going to leave in two years?

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1 MR. NARVER: Object to the form. Calls  
 2 for speculation.  
 3 A No, I wouldn't agree with that.  
 4 Q Would you agree that the Sonics organization,  
 5 if it was going to be leaving in two years, would have  
 6 little economic incentive to investment in the facility?  
 7 MR. NARVER: Object to the form.  
 8 A Yes.  
 9 Q I asked you earlier about some of your  
 10 discussions and dealings with the Schultz group about  
 11 the -- I am not sure I asked this. If I did I apologize  
 12 for asking it again. Approximately when -- I am looking  
 13 for a year -- did they first begin expressing concerns  
 14 to you about the continued suitability of Key Arena for  
 15 a viable professional basketball program?  
 16 A I think the first session we worked together  
 17 was the 2005 legislative session. If that's true, then  
 18 it would have been sometime in 2004. But again, I am a  
 19 little bit unsure of whether that was the first session.  
 20 I think it was.  
 21 Q Are you aware of any public polls that have  
 22 been taken regarding the views of the city of Seattle or  
 23 King County area about public financing for  
 24 sporting-oriented arenas and facilities?  
 25 A No.

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1 Q Were you familiar with the efforts of NASCAR  
 2 to develop a facility in Kitsap County in 2006?  
 3 A Generally, yeah.  
 4 Q What generally was your impression of the  
 5 public's reaction to that proposed expenditure?  
 6 A Well, the reaction in Seattle amongst the  
 7 public was not really positive. But I recognize that  
 8 Seattle may be different than the Kitsap Peninsula or  
 9 other parts of the region or state. It wasn't positive  
 10 in Seattle.  
 11 Q Anybody ever bring to your attention the  
 12 results of what was the Hart poll that was done back  
 13 then with respect to NASCAR and a potential Sonics  
 14 rebuild of Key Arena?  
 15 A No, I don't think so.  
 16 Q Did you see the announcement yesterday of some  
 17 outfit called B2 that wanted to build a \$1 million  
 18 facility down on the waterfront?  
 19 A I did.  
 20 Q Was that an April Fools joke?  
 21 A Mr. Brown and Mr. Bean visited with me last  
 22 week and I think they are very serious about it.  
 23 Q Are you supporting their efforts?  
 24 A I have said that as a long-term vision I think  
 25 it's intriguing and I wish them well in exploring that

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1 long-term vision.  
 2 Q Other than wishing them well, are you  
 3 supporting their efforts?  
 4 A No.  
 5 Q When they met with you last week, did they  
 6 provide you with any materials?  
 7 A They had some boards with some artist  
 8 renderings and I think they left a couple of those  
 9 boards with us.  
 10 Q Where was this facility being proposed to be  
 11 located?  
 12 A They talked about a couple of different  
 13 possibilities, but they primarily were talking about  
 14 Pier 46 on the waterfront.  
 15 Q What do you think of that?  
 16 A Pier 46 is very busy right now as a container  
 17 terminal, very important part of the Port of Seattle.  
 18 So it could be that ten years from now or 20 years from  
 19 now, this isn't a container port of the same magnitude  
 20 that it has been historically. And that's why I said as  
 21 a long-term vision it was intriguing.  
 22 Q Why do you believe that the efforts of the  
 23 Schultz group to get a new arena failed?  
 24 MR. NARVER: Object to the form. Calls  
 25 for speculation.

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1 A There wasn't support in the legislature.  
 2 Q Did you or any of your lobbying staff, to your  
 3 knowledge, or your regular staff communicate with  
 4 Margarita Prentice during 2007 while the Sonics were  
 5 trying to get legislation for the Renton arena?  
 6 A Communicate with her with regard to the  
 7 Sonics?  
 8 Q Yes.  
 9 A She's chair of the ways and means committee,  
 10 so we certainly had contact with her. We had contact  
 11 with her in large part on an issue having to do with  
 12 annexation of an area south of the city. To my  
 13 knowledge we did not talk to her about this issue during  
 14 the 2007 session.  
 15 Q If the Sonics had built a new arena -- strike  
 16 that.  
 17 If a new arena had been built in Renton or  
 18 Bellevue, what do you believe would have happened to Key  
 19 Arena?  
 20 MR. NARVER: Object to form  
 21 A I think that's a good question, and I don't  
 22 know what the answer to it is. Clearly, the report of  
 23 the Key Arena subcommittee indicated a pretty bleak  
 24 economic future as an arena. So we would have had to go  
 25 through a process of figuring out what we did. It has

NICKELS

CERTIFICATE

STATE OF WASHINGTON )
) SS.
COUNTY OF KING )

I, the undersigned officer of the Court, under my commission as a Notary Public in and for the State of Washington, hereby certify that the foregoing deposition upon oral examination of the witness named herein was taken stenographically before me and thereafter transcribed under my direction;

That the witness before examination was first duly sworn by me to testify truthfully, that the transcript of the deposition is a full, true and correct transcript of the testimony including questions and answers and all objections motions, and exceptions of counsel made and taken at the time of the foregoing examination;

That I am neither attorney for, nor a relative or employee of any of the parties to the action; further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested in its outcome

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 15th day of April, 2008

Brigid M. Donovan
NOTARY PUBLIC in and for
the State of Washington
residing at Federal Way
My commission expires
December 19, 2008

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1 some sentimental and historic value for our city because
2 of its connection with the 1962 World's Fair. So simply
3 demolishing it probably wouldn't be acceptable. But we
4 would have to figure out economically how we would use
5 it. And I don't know what the answer to that would have
6 been.

7 Q Thank you for your time. Have a nice
8 afternoon.

9 A Will do. Thank you.

10 THE VIDEOGRAPHER: This marks the end of
11 the videotaped deposition of Mayor Greg Nickels. The
12 time on the video monitor reads 4:30 p.m. And we are
13 going off the record.

(The deposition concluded at
4:30 p.m.)

(Signature is reserved.)

AFFIDAVIT

STATE OF WASHINGTON )
) SS
COUNTY OF KING )

I have read my within deposition, and the same
is true and correct, save and except for changes and/or
corrections, if any, as indicated by me on the
"CORRECTIONS" flyleaf page hereof.

GREGORY JAMES NICKELS

SUBSCRIBED AND SWORN to before me
this \_\_\_ day of \_\_\_\_\_, 2008.

NOTARY PUBLIC in and for
the State of Washington,
residing at \_\_\_\_\_
My commission expires
\_\_\_\_\_

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April 15, 2008

To: Gregory Narver
Seattle City Attorney
600 Fourth Avenue, 4th Floor
P O Box 94769
Seattle, Washington 98124
Re: City of Seattle v The Professional Basketball Club
Deposition of: GREGORY JAMES NICKELS
Date Taken: April 2, 2008
Cause No : C07-1620MJP

Enclosed are two forms: "Affidavit" and a "Correction Sheet." Instruct the deponent to review the deposition, record any corrections over his signature on the Correction Sheet, and sign the Affidavit before a Notary Public. If there are corrections, please furnish other counsel with copies. Return both forms to this office for their inclusion in the original transcript. The transcript will be forwarded to the appropriate party

Thank you for your assistance in obtaining signature

By: Brigid M Donovan, RPR, CCR

cc: Bradley S Keller

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