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1 STATE OF NEW MEXICO
2 COUNTY OF SANTA FE
3 FIRST JUDICIAL DISTRICT COURT

3 UNION PROTECTIVA DE)
4 SANTA FE,) Case No. :
5)
6 Plaintiff,) D-101-CV-2021-01373
7)
8 v.)
9)
10 MAYOR ALAN WEBBER, in)
11 his official capacity,)
12 and the CITY OF SANTA)
13 FE,)
14)
15 Defendants.)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)

**CERTIFIED
TRANSCRIPT**

11 DEPOSITION OF
12 THE HONORABLE ALAN MICHAEL WEBBER

14 WEDNESDAY, FEBRUARY 7, 2024

15 9:08 A.M.

16 PURSUANT TO THE NEW MEXICO RULES OF CIVIL
17 PROCEDURE, this deposition was:

18 FOR THE PLAINTIFF:

19 STALTER LAW, L.L.C.

20 BY: KENNETH H. STALTER, ESQ.

21 REPORTED BY:

22 David M. Lee, RMR, CRR
23 Certificate Number 50391
24 New Mexico CCR Number 537
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UNION PROTECTIVA DE SANTA FE vs MAYOR ALAN WEBBER
 THE HONORABLE ALAN WEBBER 02/07/2024

Page 2

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 15 ERIN McSHERRY
 16 SANTA FE CITY ATTORNEY
 17
 18
 19
 20
 21
 22
 23
 24
 25

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1 (City of Santa Fe 001836 -
 City of Santa Fe 001838) (3
 2 Pages)
 3 Exhibit 5 Document Depicting E-mail 58
 Sent Wednesday, 17 June,
 4 2020, at 20:13:16, from 3
 Sisters Collective to Alan
 5 M. Webber, "Subject: Three
 Sisters Collective Event -
 Thursday, June 18" (City of
 6 Santa Fe 002090) (1 Page)
 7
 8 Exhibit 6 Document Depicting E-mail 94
 Thread Dated Sunday, October
 11, 2020, at 3:08:47 p.m.,
 9 from Alan M. Webber to
 Carrie Wood, "Subject: Re:
 10 123_l.jpeg" (City of Santa
 Fe 000384 - City of Santa
 Fe 000385) (2 Pages)
 11 Exhibit 7 Document Bearing Title, 107
 "City of Santa Fe, New
 12 Mexico," Depicting Undated
 Letter to Jeff Pappas, Ph.D.,
 13 From Alan M. Webber (Union
 Protectiva 004932) (1 Page)
 14
 15 Exhibit 8 Document Bearing Title, 108
 "Department of Cultural
 16 Affairs," Depicting Letter
 Dated 26 August, 2021, to
 17 Alan M. Webber from Jeff
 Pappas, Ph.D. (City of Santa
 18 Fe 004812 - City of Santa Fe
 004814) (3 Pages)
 19
 20
 21
 22
 23
 24
 25

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1 I N D E X
 2 EXAMINATION PAGE
 3 Examination By Mr. Stalter 6
 4
 5
 6 E X H I B I T S
 7 DESCRIPTION PAGE
 8 Exhibit 1 Document Bearing Title, 12
 "City of Santa Fe,
 9 Proclamation of Emergency -
 Civil Unrest from
 10 Institutional Racism,"
 Dated June 18, 2020 (5 Pages)
 11
 12 Exhibit 2 Document Depicting E-mail 50
 Archived Friday, September
 9, 2022, at 12:10:28 p.m.,
 13 from Alan M. Webber to Jarel
 LaPan Hill, Eli Lee, and
 14 Sandra Wechsler, "Subject:
 Fwd: Plan to Protect Plaza
 15 Obelisk; Transform into Art
 Instead" (City of Santa Fe
 16 001908 - City of Santa Fe
 001909) (2 Pages)
 17
 18 Exhibit 3 Document Depicting E-mail 53
 Thread Received Wednesday,
 17 June, 2020, at 04:36:38,
 19 from John P. Munoz to Mary
 T. McCoy, "Subject: FW:
 20 Obelisk" (City of Santa Fe
 001851 - City of Santa Fe
 21 001861) (11 Pages)
 22 Exhibit 4 Document Depicting E-mail 55
 Thread Sent Wednesday, 17
 23 June, 2020, at 19:56:31,
 from Mary M. Freitas to Alan
 24 M. Webber, "Subject: FW:
 Letter and Meeting with
 25 Three Sisters Collective"

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1 WITNESS INSTRUCTED NOT TO ANSWER
 2 Page Line
 3 8 21
 4 16 14
 5 39 13
 6 64 16
 7 65 15
 8 66 9
 9 68 24
 10
 11 INFORMATION REQUESTED BY COUNSEL
 12 Page Line
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25



Page 6

1 Santa Fe, New Mexico
2 February 7, 2024
3 9:08 a.m.
4
5 THE HONORABLE ALAN MICHAEL WEBBER,
6 after having been first duly sworn,
7 was examined and testified as follows:
8
9 EXAMINATION
10 BY MR. STALTER:
11 Q. Good morning, Mr. Mayor. My name is
12 Ken Stalter and I represent the Union
13 Protectiva in the lawsuit against you and the
14 City of Santa Fe.
15 We're here for your deposition
16 this morning. We're going to go through some
17 basics first, which you've probably already
18 gone over or are familiar with, but it's good
19 to get them on the record.
20 Before we do that, would you state
21 your full name for the record.
22 A. Alan Michael Webber.
23 Q. And your date of birth?
24 A. 9/18/48.
25 Q. Have you ever given a deposition

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1 before?
2 A. Yes.
3 Q. On how many occasions?
4 A. Three or four.
5 Q. Is that in connection with your role
6 as Mayor, or something else?
7 A. Just with my role as Mayor.
8 Q. The ground rules will probably be
9 similar.
10 You were administered an oath. Is
11 there any reason you can't fulfill that oath?
12 A. No.
13 Q. When I ask a question, if you would
14 please always give a verbal of "Yes" or "No,"
15 as the case may be, or a full answer. The
16 transcript can't pick up things like "Uh-huh,"
17 head shakes, or "It's this wide (indicating),"
18 because it's a written transcript only.
19 If you do not hear a question, say
20 so, and I can repeat it. If you do not
21 understand a question, say so, and we'll find
22 a way to address that.
23 If you want to stop for a break at
24 any time, that's allowed. However, you do
25 need to answer the question that is pending

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1 at that time, and then we can go on a break.
2 If you don't remember the answer
3 to a question, let us know that; it's better
4 than guessing or speculating. If you do
5 answer, I will assume that you heard the
6 question, you understood it, and answered to
7 the best of your ability. Is that fair?
8 A. Yes, that is fair.
9 Q. Are you under any impairments or under
10 the influence of any medication that would
11 interfere with your ability to answer
12 questions this morning?
13 A. No, I am not.
14 Q. Okay.
15 Did you review any documents to
16 prepare for the deposition today?
17 A. Yes.
18 Q. What documents did you review?
19 MR. HARRIS: Objection. I'll just make
20 a standing objection to the extent that any...
21 Well, I'll just lodge my standing
22 objection, and then I'll object as necessary
23 to the extent that any question goes to issues
24 of attorney-client privilege discussions, or
25 communications between the Mayor and myself.

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1 I will object on the basis of it being
2 attorney-client privileged information.
3 With regard to the question that's
4 on the table, I'll allow it to be answered,
5 the question being "What documents did you
6 review," but I will object to any questions
7 regarding conversations that he may have had
8 with counsel regarding any such documents.
9 THE WITNESS: I looked at a lot of
10 background material, historical material, the
11 Complaint and the response to the Complaint,
12 newspaper stories, and things designed to try
13 to refresh my memory of events that happened
14 sometime ago.
15 Q. BY MR. STALTER: You said "newspaper
16 stories." Which papers ran the stories you
17 looked at?
18 A. The ones I looked at were in the Santa
19 Fe New Mexican.
20 Q. Did you look at stories from any papers
21 other than the Santa Fe New Mexican?
22 A. No.
23 Q. You mentioned "background materials"
24 and "historical materials." Can you tell what
25 you mean by those?



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1 A. Well, there is a lot of historical
2 records involved with Santa Fe and with the
3 Obelisk, and with the Soldiers' Monument.
4 There is a lot of documentation around the
5 events in the City and in the State at the
6 time that these other events took place. I
7 tried to refresh my memory on those things to
8 the best of my ability.
9 I looked at the Complaint that's
10 been filed and got a little bit more current
11 with the language in that.
12 That was pretty much the set of
13 documents that I looked at.
14 Q. Do you remember the titles of any of
15 the historical documents you looked at?
16 A. I do not.
17 Q. Other than attorneys did you speak with
18 anyone to prepare for your deposition?
19 A. No.
20 Q. You are currently the Mayor of Santa
21 Fe; correct?
22 A. Yes.
23 Q. When were you first elected to that
24 position?
25 A. About 6 years ago.

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1 Q. Okay. Have you held any other elected
2 positions?
3 A. No.
4 Q. Have you ever held any other
5 governmental positions?
6 A. I'm not sure; what would qualify? I'm
7 not sure what you mean by that.
8 Q. Other than being Mayor have you ever
9 been employed by a governmental entity?
10 A. Yes, I have.
11 Q. What was that employment?
12 A. I worked for the City of Portland,
13 Oregon.
14 I worked for the federal government
15 in the Department of Transportation.
16 I did contract work for the
17 Governor of Massachusetts and the Governor of
18 Michigan.
19 I also worked for Senator Gary
20 Hart.
21 I think that's a pretty full list.
22 Q. Did any of those positions involve work
23 on historical preservation?
24 A. No.
25 MR. STALTER: Let's mark this as

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1 Exhibit 1.
2 (Deposition Exhibit 1 was marked
3 for identification.)
4 Q. BY MR. STALTER: Mr. Mayor, do you
5 recognize Exhibit 1?
6 A. Yes.
7 Q. What is it?
8 A. This is a copy of a Proclamation that
9 declared a State of Emergency in Santa Fe.
10 MR. HARRIS: I'll just make a quick
11 objection, or quick statement that I will
12 reserve objections, if any, to any of the
13 documents that you present as exhibits in
14 this case. There may be objections that we
15 might raise as this case continues to be
16 litigated.
17 Q. BY MR. STALTER: Is that your
18 signature on page 5 of the exhibit?
19 A. Yes.
20 Q. Did you issue this Proclamation?
21 A. Yes.
22 Q. You did so in your official capacity
23 as the Mayor of the City of Santa Fe.
24 A. Yes.
25 Q. Pages 2 and 3 of this document identify

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1 3 monuments; correct?
2 A. Correct.
3 Q. That's the Soldiers' Monument, also
4 known as the Santa Fe Obelisk; correct?
5 A. Yes.
6 MR. HARRIS: Just another quick
7 statement:
8 Mr. Mayor, look at all the
9 documents. If you need additional time to
10 review any document, take the time that you
11 need to review it prior to answering any
12 questions.
13 THE WITNESS: Thank you.
14 MR. HARRIS: Thank you.
15 Q. BY MR. STALTER: This Proclamation
16 also identifies the statue of Don Diego De
17 Vargas located in Cathedral Park.
18 A. Yes.
19 Q. And the Obelisk dedicated to Kit
20 Carson located at the Federal Courthouse;
21 correct?
22 A. Yes.
23 Q. Does the City maintain a database of
24 memorials, monuments, or markers?
25 A. Not to my knowledge.



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1 Q. Does the City maintain an inventory of
2 memorials, monuments, and markers?
3 A. I believe that prior to my taking
4 office or becoming Mayor there was a list
5 produced by the prior administration of an
6 inventory of what were then considered to be
7 the monuments or statues that were in the
8 possession of the City.
9 Q. Do you know when that list was created?
10 A. I don't know when that list was
11 created.
12 Q. Do you know whether that list is
13 updated currently?
14 A. I don't.
15 Q. Okay. Do you know when the last time
16 that list was updated?
17 A. I don't.
18 Q. Do you know which City Department is
19 responsible for that list?
20 A. My understanding is that is under the
21 purview of the Arts and Culture Department.
22 Q. Did you review that list before issuing
23 the June 18, 2020, Proclamation?
24 A. No.
25 Q. One of the monuments identified in the

Page 15

1 Proclamation is called the Soldiers' Monument.
2 Do you know if the City of Santa Fe refers to
3 that monument by any other names?
4 A. It's commonly called "The Obelisk."
5 Q. Other than the Soldiers' Monument or
6 the Obelisk, do you know if the City refers
7 to that monument by any other names?
8 A. Not that I'm aware of.
9 Q. On June 18, 2020, did you have a belief
10 about who owned the Soldiers' Monument?
11 A. I believe it was owned by the City of
12 Santa Fe.
13 Q. What led you to that belief?
14 A. I think it was an assumption based on
15 common knowledge or common understanding.
16 Q. Before you issued the June 18, 2020,
17 Proclamation had anyone told you that the City
18 owned the Soldiers' Monument?
19 A. No.
20 Q. Okay.
21 Before issuing the Proclamation did
22 you do anything to investigate the ownership
23 of the Soldiers' Monument?
24 A. No.
25 Q. Did you ask anyone to investigate the

Page 16

1 ownership of the Soldiers' Monument?
2 A. No.
3 Q. After issuing the June 18, 2020,
4 Proclamation did you do anything to
5 investigate the ownership of that monument?
6 A. Not personally.
7 Q. Okay. After issuing the Proclamation
8 did you ask anyone to investigate the
9 ownership of the monument?
10 A. Yes.
11 Q. Who did you ask?
12 A. I asked our City Attorney and the City
13 Attorney's Office to look into it.
14 MR. HARRIS: I will have an objection
15 to any questions regarding conversations
16 between the Mayor and the City Attorney as
17 being attorney-client privileged.
18 Q. BY MR. STALTER: Mr. Mayor, do you
19 currently have a belief about the ownership
20 of the Soldiers' Monument?
21 A. Yeah.
22 Q. What is that belief?
23 A. I believe that the City has ownership
24 of the Soldiers' Monument.
25 Q. What facts lead you to believe that the

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1 City owns the Soldiers' Monument?
2 A. I think there is a long record of the
3 way in which the monument was produced and
4 turned over to the City that supports that
5 position.
6 Q. When you say "long record," what do
7 you mean?
8 A. I mean a long record of documents and
9 historical transactions.
10 Q. Do you recall which documents?
11 A. I'd be hard pressed, without pulling up
12 notebooks and papers, and producing a whole
13 set of materials, but I think the issue has
14 been pretty thoroughly reviewed by our City
15 Attorney's office.
16 I have a great deal of confidence
17 in the City Attorney's Office and their care
18 and thoroughness, and so I believe that record
19 is substantial.
20 Q. Do you know when the Soldiers' Monument
21 was placed on the Santa Fe Plaza?
22 A. I actually haven't committed that date
23 to memory, but the records I think will
24 support that it was shortly after the Civil
25 War.



Page 18

1 Q. On June 18, 2020, did you know when the
2 Soldiers' Monument was placed on The Plaza?
3 A. No.
4 Q. On June 18, 2020, did you know when the
5 Don Diego De Vargas statute was placed in the
6 Park?
7 A. No.
8 Q. Today do you know when that statute
9 was placed in Cathedral Park?
10 A. I reviewed the documents and the dates
11 in the documents, but again I haven't
12 committed it to memory.
13 Q. As for the Kit Carson Obelisk, on June
14 18, 2020, did you know when that was put into
15 place?
16 A. No.
17 Q. Today do you know when that monument
18 was placed?
19 A. Similar to the other monuments, again,
20 in looking over the material for our session
21 today I looked at the dates, but didn't
22 memorize them.
23 Q. March of 2018 is when you came into
24 office as Mayor.
25 A. Yes.

Page 19

1 Q. Okay. Did a State of Emergency exist
2 in the City of Santa Fe at that time?
3 A. No.
4 Q. As of June 18, 2020, you determined
5 that a State of Emergency existed in the City;
6 correct?
7 A. Correct.
8 Q. What changed between those two dates?
9 A. Well, a great deal.
10 Between 2018 and 2020 the country
11 as a whole went through a great deal of
12 turmoil in our cities. There were issues of
13 violence and civil unrest in cities across the
14 country. Some of it had to do with race and
15 racial unrest and violence towards people of
16 color.
17 There were a number of issues that
18 evolved around historical statues and
19 monuments in other cities around the country.
20 Some of it had to do with the Civil War in
21 particular, but others, more generically,
22 involved historical racism and historical
23 trauma.
24 The country as a whole was going
25 through, and still is going through a

Page 20

1 reckoning about our past and how we treated
2 people across America, not just African-
3 American people, Native American people,
4 people of color, or people who have had their
5 rights taken away from them. There was great
6 concern over the impact of discrimination in a
7 broad number of categories of individuals in
8 America, and so that was the context at that
9 time.
10 I think it is something that we,
11 for the most part, don't talk about as
12 pointedly as we did when it was happening,
13 but it's still very much in the conversation
14 about our country right now.
15 More directly we had demonstrations
16 out in our part of the country, or in the
17 west, such as in Colorado and down in
18 Albuquerque, that revolved around statues,
19 monuments, historical events, and there were
20 serious, series issues of danger and even
21 violence and physical injury around those
22 events or around those demonstrations.
23 In Santa Fe there was the threat of
24 a very similar kind of demonstration, leading
25 potentially to violence from some of the same

Page 21

1 people who had been active in Albuquerque,
2 where there was a shooting that took place in
3 the course of a demonstration around a statue
4 or monument in Albuquerque. There were
5 credible threats that had been made by some
6 of the same people who were involved in the
7 event in Albuquerque, and they were going to
8 be coming to Santa Fe with a very similar
9 agenda.
10 All of that, taken as a very broad
11 and very narrow contextual situation, led me
12 to believe that the public health and safety
13 was at risk, and my number one responsibility,
14 as the Mayor, is to safeguard public safety.
15 Therefore, issuing this Proclamation was very
16 much appropriate and warranted.
17 Q. You stated that there had been
18 "credible threats." Can you describe for us
19 what you mean?
20 A. Sure.
21 Some of the people who were
22 involved in the demonstrations in Albuquerque
23 that led to the shooting were people who
24 brandished weapons. There was a group that
25 was broadly described as a militia group.



Page 22

1 There was another group that has
2 since gotten even more notoriety, "Cowboys for
3 Trump," who were publicly saying they were
4 going to come to Santa Fe in the course of a
5 demonstration and be present on The Plaza,
6 and potentially bring weapons and be armed in
7 their appearance in Santa Fe.
8 Q. How did you learn of these threats?
9 A. I can't specifically tell you how they
10 came to my attention but I vividly remember
11 that they were prominently advertised.
12 Q. Did somebody else tell you about these
13 threats?
14 A. I really don't remember the details.
15 Q. Do you recall when you learned about
16 these threats?
17 A. It was in the run-up between the
18 demonstrations in the west and in Albuquerque,
19 and the planned activity on our Plaza.
20 Q. What was the planned activity on The
21 Plaza?
22 A. There was going to be a demonstration
23 on our Plaza.
24 Q. Do you know which group planned that
25 demonstration?

Page 23

1 A. No, I don't. I can't give you a list
2 of the groups that were involved in planning
3 that.
4 Q. When did you first learn about the
5 planned demonstration?
6 A. I can't tell you a specific date but it
7 was shortly before the date of the
8 demonstration.
9 Q. What was the intended date of that
10 demonstration?
11 A. It was right around the time I issued
12 this Proclamation.
13 Q. Okay. You mentioned a shooting in
14 Albuquerque; do you recall when that occurred?
15 A. I only recall that it was in proximity
16 to our time in Santa Fe for a demonstration.
17 Again, I don't have a chronological date in
18 mind.
19 Q. What do you remember about the
20 circumstances of that shooting?
21 A. Well what I remember was that there
22 was/is a statue of Oñate. There is a statue
23 of similar historical relevance to this period
24 of New Mexico history. Some people wanted it
25 removed from public display in Albuquerque,

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1 and others felt strongly that it should not be
2 removed because it was a piece of history they
3 felt they were connected to or were proud of,
4 and the two sides clashed, initially not
5 physically, but ultimately with a violent
6 interaction that led to a gun being fired and
7 an individual being shot.
8 Q. You mentioned that you received
9 information about a militia group and Cowboys
10 for Trump going to The Plaza. Was that
11 information suggesting that those groups were
12 going to show up to the other demonstration
13 you mentioned?
14 A. The one in Santa Fe.
15 Q. Yes.
16 A. That was the context. It was that some
17 of the same individuals, or even the same
18 named organizations that had been involved in
19 the confrontation in Albuquerque were going to
20 be present in Santa Fe. They had brought
21 weapons in the past to demonstrations legally,
22 but that posed a real threat to public safety
23 were there to be another confrontation like
24 the one in Albuquerque.
25 Q. Just to clarify the context, am I

Page 25

1 understanding you correctly that there was a
2 planned demonstration on The Plaza, and these
3 groups/militia, and Cowboys for Trump, would
4 be a counterdemonstration to that?
5 A. I think that's a fair way to
6 characterize it.
7 Q. Now do you recall which groups were
8 organizing the demonstration?
9 A. As I said before I don't actually have
10 a list of the people or the organizations that
11 were involved.
12 Q. Under City rules is that something they
13 would have needed City permission for?
14 A. That's a very good question.
15 I think we have generally
16 established rules for use of The Plaza and the
17 permits that are involved in that, and so most
18 of the time we require those.
19 I can tell you from experience over
20 the last 6 years that there have been times
21 when the situation and the issue of free
22 speech and other considerations have
23 occasionally, in some instances, led some
24 people to use The Plaza without full issuance
25 of permits.



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1 Q. Do you know what criteria make a permit
2 required for a demonstration?
3 A. No, I don't; it's not something I'm
4 familiar with.
5 Q. Do you recall what, even in general
6 terms, position the demonstrators were taking
7 on the issues that you have identified?
8 A. Yes, in general terms.
9 I think it's safe and accurate to
10 say that the people who were making their
11 voices heard were in opposition to racism, to
12 what they considered to be the genocide of the
13 Native American people in North America, and
14 broadly defined as the history of native lands
15 being taken by settlers or others.
16 I think specifically they very much
17 objected to the historical interaction in
18 Northern New Mexico of tribes and first the
19 Spanish, and then the Anglo people coming to
20 this part of the country and displacing
21 native people.
22 Then more specifically to the
23 representations of those historical injustices
24 in their eyes that are represented by
25 monuments and statues that commemorate those

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1 historical times.
2 Q. In case my prior question didn't make
3 it clear, was that your understanding at the
4 time, or an understanding you have developed
5 since?
6 A. Both.
7 Q. Okay. At the time did you have an
8 understanding of the general terms of the
9 position of the counterprotesters?
10 A. It's harder for me, or I think for most
11 people to identify in specific detail the
12 logical points of what the counterprotesters
13 were arguing other than they didn't agree with
14 the people who were making the case that I
15 just described.
16 I think their arguments then and
17 now are still a little more complicated to
18 understand, and maybe spring from other
19 emotional bases that are harder to identify
20 or for me to give an adequate description of.
21 Q. Now was it something about the mix of
22 these two groups that led you to conclude
23 there was civil unrest in the City of Santa
24 Fe?
25 A. I think the threat of violence when

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1 these groups would come together, having seen
2 it happen previously and in other parts of
3 the country with different but similar
4 combustible elements, that was the basis for
5 my judgment.
6 Q. Up to June 18, 2020, had there been any
7 incidents of violence due to interactions
8 between these two groups?
9 A. No, not in Santa Fe, but elsewhere.
10 Q. You mentioned Albuquerque and other
11 cities in the west.
12 A. Yes, correct.
13 Q. Other than what I believe you described
14 as the "combustible mix" of these two
15 positions, was there anything else that
16 contributed to your view that there was a
17 State of Emergency?
18 A. Well, it's a little bit of the
19 recitation of the factors I described to you
20 before.
21 I think the country was in turmoil
22 generally. I think the newspapers and the
23 media were filled with descriptions of
24 demonstrations and marches, and things going
25 wrong around the country.

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1 You may recall that before I became
2 Mayor, at fiestas there was a serious
3 confrontation not with the exact same groups,
4 but around many of the same issues where there
5 were snipers on the roof of buildings around
6 The Plaza. There was a command center that
7 involved police and the then President of the
8 Caballeros, and the Mayor keeping an eye on
9 the demonstration at The Plaza. There was
10 the creation of something called a "Free
11 Speech Zone," to try to keep the groups from
12 interacting.
13 When you asked previously whether
14 there were other occurrences where these
15 elements interacted, and I guess the answer
16 is yes, even in Santa Fe there had been.
17 There were voices on all sides back then
18 saying, "Please, let's not do this again.
19 Let's try not to provoke even the potential
20 for violent interaction."
21 I think there is history in Santa
22 Fe and around the country. I think there was
23 a contextual situation in America at the time
24 that involved all of these issues. We are not
25 unique as regards any of the historical



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1 traumatic experience.
2 There were some of the same
3 arguments being made about who was at fault
4 or who was more at fault. I think the
5 components of all of those things were such
6 that it was incumbent upon me to try to step
7 in and prevent violence from happening before
8 it took place.
9 Q. The incident or event you have just
10 described, which you said was prior to your
11 time as Mayor, when did that occur?
12 A. That would have been in 2017.
13 Q. Do you remember the month in 2017?
14 A. Well, fiestas, so, you know, it was
15 part of the celebration, only it was really
16 fraught and very dangerous at that time.
17 Q. If you will look at page 2 of the
18 Proclamation, the third paragraph from the
19 bottom beginning: "Whereas, certain
20 monuments..."
21 A. Yes.
22 Q. It says:
23 "Whereas, certain monuments are
24 displayed in the City of Santa Fe
25 that depict historic figures and

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1 events that involve or depict
2 events causing historic trauma,
3 and have led to present-day civil
4 unrest;"
5 Did I read that correctly?
6 A. Yes, sir.
7 Q. Can you tell us what you meant by that
8 paragraph?
9 A. Well, as I said previously, I think
10 Santa Fe is not unique in having historic
11 monuments from the past that perhaps, at the
12 time, were deemed appropriate or acceptable
13 or quite usual, but that in more recent times
14 have been considered by some of the people who
15 are the victims of the events at that time to
16 be traumatic and to warrant opposition or
17 demonstration, and suggested that they would
18 be better either removed and put in a museum,
19 or put somewhere else such that they are not
20 on display as part of the City or any public
21 celebration of the events depicted by those
22 monuments and statues. I think that's what it
23 refers to.
24 Q. How did you determine which of the
25 monuments in the City would be subject to the

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1 June 18, 2020, Proclamation?
2 A. Well, several of them were identified
3 previously. For example, a previous City
4 Council tried to remove the Soldiers' Monument
5 by vote of the governing body, so it's not new
6 as an item of controversy.
7 The statue of Don Diego de Vargas
8 has been damaged previously, and is known for
9 having individuals who would like to harm that
10 statue because of the reputation of De Vargas.
11 The same is true for Kit Carson.
12 He is historically a controversial figure in
13 the eyes of, not all, but many Native
14 Americans who participated in some of the
15 events most directly related to the decimation
16 of Tribal people.
17 Q. Did you consider any other monuments
18 for inclusion in this order?
19 A. No.
20 Q. Okay.
21 How did you determine that the
22 Soldiers' Monument in particular was
23 contributing "to present-day civil unrest"?
24 A. I think there is language on one of the
25 plaques that specifically refers to "savage

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1 Indians," and has long been an object of
2 concern for people in our community such that
3 even at one point, an individual took it upon
4 himself to scratch that word out, but the
5 plaque remains. It is a flash point for not
6 only Native Americans, but people who feel
7 like that's a really inappropriate and
8 offensive and racist term.
9 Q. How did you determine that the Don
10 Diego De Vargas statute in particular was
11 contributing "to present-day civil unrest"?
12 A. The historic figure of Don Diego is
13 controversial in our community, and the statue
14 had already been damaged once and had to be
15 repaired. It was in a vulnerable place. It
16 could be easily vandalized because of its
17 exposure.
18 The historical record of Don Diego,
19 while it's complicated, does involve actions
20 and behaviors that people in the native
21 community, and people who agree with them,
22 find really troubling.
23 Q. The Kit Carson Obelisk, how did you
24 determine that it was contributing "to
25 present-day civil unrest"?



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1 A. I think the same factors are involved
2 there. You've got a historic figure, local in
3 part of his career, who is controversial and
4 is, in some parts of our community, regarded
5 as a contributor to genocidal activities
6 particularly toward the Navajo in other parts
7 of his career as well. Celebrating him
8 provokes those angry responses and becomes a
9 flash point for people taking the law into
10 their own hands.

11 Q. In your opinion when did the issue
12 surrounding these monuments move from debate
13 or critique to civil unrest?

14 MR. HARRIS: I'll just make a quick
15 objection; he can certainly answer the
16 question.

17 When you say "in your opinion," of
18 course you're not asking for speculation or
19 for his opinion as an expert in some regard I
20 assume.

21 You can answer the question if you
22 can.

23 THE WITNESS: Sure.

24 I'm sorry; could you repeat the
25 question again?

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1 Q. BY MR. STALTER: Sure.

2 In your lay determination as the
3 person who issued this Proclamation, when did
4 the issue surrounding these statues rise to
5 the level of "civil unrest"?

6 A. Or potential "civil unrest" I assume.

7 Q. Yes.

8 A. Yes.

9 I think from where I sit in the
10 Mayor's office these issues don't happen in a
11 vacuum, and they don't happen all at one time.
12 There is not a moment when somehow or other
13 there is a flash and you go, "Wow, this is
14 really a dangerous situation."

15 I had been monitoring and looking
16 at the issues around the country, and
17 following what was going on in other cities,
18 and studying the record of other Mayors to
19 see how they handled it. It is a very
20 complicated and challenging set of dynamics in
21 balancing a lot of different factors; free
22 speech, freedom to assemble, but also public
23 safety and public well-being. This is not
24 something where there is a moment in time
25 where you go, "Oh, my goodness, there is a

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1 threat to public safety." I think the events
2 of the previous year or previous 2 years were
3 part of the background.

4 I think, as I said earlier, the
5 actual violence that was flaring up in
6 Colorado and in Albuquerque, and that had
7 been threatened in Santa Fe a few years
8 previously, led me to believe that there was
9 a real danger that events could go very badly
10 wrong.

11 I will tell you, though this isn't
12 what you asked, there is not a Mayor in
13 America who wants to look at a situation after
14 there is violence and say, "What could I have
15 done differently to have prevented it?" I
16 think we're seeing that even today.

17 Q. In June of 2020 did the City have any
18 COVID restrictions in place that would limit
19 the ability of demonstrators to gather in The
20 Plaza?

21 A. That's a really good question.

22 If I replay my memory of that
23 period of time, COVID effectively struck in
24 March, and the Governor, to her credit, and
25 the City, were taking steps to try to do our

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1 best to respond to a not-very-well-understood
2 pandemic. We were asking people to wear
3 masks.

4 I don't believe, although I haven't
5 researched this, that we had limitations on
6 gatherings and/or the numbers of people in
7 public outdoor spaces, but I really haven't
8 researched that and I would have to refresh
9 my memory to give you a more detailed
10 response.

11 Q. Okay. If you join me on page 1 of
12 Exhibit 1.

13 A. (Witness complies.)

14 Q. The very first paragraph states that
15 you, as the Mayor, may:

16 "[P]roclaim that a State of
17 Emergency exists in the City after
18 consultation with the Emergency
19 Manager, Chief of Police, and/or
20 Fire Chief."

21 Is that correct?

22 A. Yes, it says that.

23 Q. Did you consult with any of these
24 officials before issuing this proclamation?

25 A. Yes.



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1 Q. Which ones did you consult with?
2 A. I can specifically tell you that the
3 Chief of Police, the Emergency Manager, more
4 the City Manager, and I, as well as the City
5 Attorney, among others, were involved in
6 discussions about all of these issues, and
7 about the overall situation and the threat
8 that was being posed as events developed
9 around The Plaza.
10 Q. Who was the Chief of Police at that
11 time?
12 A. "Who was the Chief of Police at that
13 time."
14 At the moment the name has flown
15 out of my mind.
16 Padilla. Chief Padilla.
17 Q. Who was the City Manager at that time?
18 A. At that time it would have been Jarel
19 LaPan Hill.
20 Q. Did the Chief of Police provide you
21 any facts that contributed to your
22 determination that there was a State of
23 Emergency?
24 A. I can't give you a specific answer to
25 that.

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1 Q. Did the City Manager provide you any
2 facts that contributed to your determination
3 that there was a State of Emergency within the
4 City?
5 A. I'm sorry; I can't remember the
6 details.
7 Q. Other than the Chief of Police and the
8 City Manager, did you consult with anyone else
9 specifically about the issuance of this
10 Proclamation?
11 A. Well, I acted with the consultation
12 and participation of our City Attorney.
13 MR. HARRIS: I'll have the same
14 objection with regard to any actual
15 communications between the Mayor and City
16 Attorney as being protected by the attorney-
17 client privilege.
18 THE WITNESS: I think that may have
19 been the close limits. There may have been
20 conversations on the side, but I can't
21 specifically recall who would have been
22 involved in those.
23 Q. BY MR. STALTER: Did you consult with
24 anyone outside of City Government prior to
25 issuing the Proclamation?

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1 A. Not that I remember.
2 Q. Did you, prior to this Proclamation,
3 discuss the State of Emergency with any State
4 officials?
5 A. I discussed the status of the Soldiers'
6 Monument with the Governor's office.
7 As I think about your prior
8 question, if I could expand on it a little
9 bit, I discussed the status of the Soldiers'
10 Monument with then City Councilor Abeyta,
11 then City Councilor Michael Garcia.
12 When you say "prior to issuing
13 this," there was a lot of time prior. There
14 was a lot of time prior to it.
15 Q. I understand.
16 I will ask, in connection with the
17 issuance of this Proclamation, did you consult
18 with any State officials?
19 A. Yeah, fair question.
20 I consulted -- the specific answer
21 is no. In the process of developing a greater
22 degree of background information about the
23 Soldiers' Monument in particular, I did speak
24 with the aforementioned individuals.
25 Q. Who, from the Governor's office, did

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1 you discuss the Soldiers' Monument with?
2 A. I discussed it with the Governor; I'm
3 going to stop there.
4 Q. Given that Santa Fe is the Capital City
5 are you under any obligation to interact with
6 the State when there is a State of Emergency
7 in the City?
8 A. Not to my knowledge.
9 Q. On how many occasions did you discuss
10 the Soldiers' Monument with the Governor?
11 A. Several.
12 Q. When did those occur?
13 A. That's a good question.
14 In the course of following the
15 broad set of controversies that led up to the
16 events in this Proclamation I spoke with the
17 Governor to get her input about how she saw
18 things, how she regarded the Soldiers'
19 Monument, how she looked at the City of Santa
20 Fe, having grown up here for part of her life
21 and having family here for a long time, and
22 sought her advice on how to handle what was a
23 very difficult situation for everybody.
24 Q. Do you recall what advice she gave you?
25 A. I do.



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1 She advised me not to try to solve
2 the problem. She said it was unsolvable, and
3 that I shouldn't presume that I could take it
4 upon myself to rectify hundreds of years of
5 history that were hard to untangle.
6 She said that she and her family
7 had, themselves, wrestled with it. She was
8 giving me I thought not necessarily legal
9 advice, but personal advice.
10 Q. That was with respect to the monument,
11 the Soldiers' Monument; correct?
12 A. Well, it was in regard to virtually all
13 parts of this complicated situation. The
14 monument is obviously, for our purposes today,
15 at the heart of the matter, but more broadly
16 it involves community relations and historic
17 interrelations among groups of people.
18 She broadly described what she had
19 experienced and what she thought was a wise
20 way to proceed, and not to assume too much
21 personal responsibility for events beyond my
22 control.
23 Q. Before issuing this Proclamation had
24 you made any promises to anyone that you would
25 remove the Soldiers' Monument, the statue of

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1 Don Diego De Vargas, or the Kit Carson
2 Obelisk?
3 A. Well, that's a really textured
4 question because of your use of the word
5 "promise."
6 Politicians, and I guess I'm one
7 now, often say things that are regarded as
8 "promises" when they are not issued as
9 "promises." I had stated a personal opinion
10 that I thought the Soldiers' Monument ought
11 to be taken off The Plaza and moved. My own
12 personal opinion, then, was that it would be
13 situated in a historical museum, and that the
14 same would apply to the other 2 monuments.
15 Q. If I were to summarize the distinction
16 I think you're drawing, it is between
17 expressing a position and committing to a
18 course of action.
19 A. I think my own language is I think it's
20 fine and fair and appropriate for elected
21 officials to call for things to happen; it
22 happens all the time in speeches and in press
23 releases and other communications. There is
24 a difference between calling for something to
25 happen and having either the power or the

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1 capability of actually making it happen.
2 I think in my instance I was
3 articulating my own value system and how I see
4 a situation where I thought, as an elected
5 official and Mayor of the City, I was being
6 put in a position where my own personal value
7 system was being tested. It was an issue that
8 involved moral questions and matters of
9 personal character, and that to call for a
10 course of action was the appropriate way to
11 express my views as the Mayor.
12 Q. Do you recall when you first called for
13 the removal of these 3 monuments?
14 A. I don't have the date in my head, no.
15 Q. Okay. Do you recall how far ahead of
16 this Proclamation it was?
17 A. I can't answer that for you. I could
18 research it, but no, I don't have it on the
19 top of my mind.
20 Q. Okay. Before issuing that Proclamation
21 on the 18th of June, 2020, did you meet with
22 representatives of an organization called The
23 Red Nation?
24 A. I don't recall The Red Nation.
25 Q. Okay. Before issuing the Proclamation

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1 did you meet with representatives of an
2 organization called The Three Sisters
3 Collective?
4 A. I believe I spoke on the phone with
5 some Three Sisters representatives, and
6 participated in a Zoom meeting at one point.
7 I don't know if there were other Native
8 American groups on that call, but I do
9 remember the Three Sisters being the most
10 prominent spokesgroup for the Native Americans
11 who were protesting the presence of these
12 monuments.
13 Q. Did your discussions with The Three
14 Sisters Collective contribute to the
15 determinations you made in this Proclamation?
16 A. Could you ask that a different way
17 perhaps?
18 Q. Sure, I'll break it down:
19 Did The Three Sisters Collective
20 provide you with any facts that contributed to
21 your determination that a State of Emergency
22 existed in the City of Santa Fe?
23 A. No, they did not provide facts that
24 would lead me to that conclusion. They
25 provided me their point of view and how



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1 strongly they felt about these issues.
2 The determination about there being
3 a potential for violence didn't express their
4 point of view about the historical monuments,
5 rather there was going to be a demonstration.
6 In light of the other factors that I found,
7 there could be a potential for violence, but
8 they were not the cause of that.
9 Q. What was the viewpoint expressed by
10 The Three Sisters Collective on these issues?
11 A. Well again, I'm pulling out from the
12 banks of memory, but broadly speaking their
13 argument, or they were articulating the
14 argument that I tried to describe earlier
15 about the historic trauma of the Native
16 Americans in Northern New Mexico. They felt
17 that these monuments perpetuated that
18 narrative and they opposed them being in
19 public.
20 Q. Did The Three Sisters Collective ask
21 you to remove the 3 monuments listed in the
22 Proclamation?
23 A. Yes, they did.
24 Q. What was your response to that request?
25 A. Well at the time that they made their

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1 argument I advised I was listening to them and
2 listening to others, and I would reach my own
3 conclusion.
4 Q. Before issuing the Proclamation of June
5 18, 2020, had you received any correspondence
6 discussing these monuments?
7 A. Wow, "any correspondence."
8 Q. Let me narrow that down; any
9 correspondence that contributed to your
10 determination that those monuments were
11 contributing to "civil unrest."
12 A. To answer your question I had begun the
13 process, when I became Mayor, of a great deal
14 of historical research about Northern New
15 Mexico and about Santa Fe, and about the past
16 in this part of America. That included the
17 monuments and included having read the 2
18 volumes of Don Diego's diaries, or his, you
19 know, written record of his return to New
20 Mexico.
21 It included a history of The Pueblo
22 Uprising, and I read as deeply and as far as
23 I could to get a better understanding about
24 Northern New Mexico history and the people,
25 and these historical events that were

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1 involved.
2 I did research the history of the
3 City Council having voted, under previous
4 administrations, to remove the Soldiers'
5 Monument and the arguments that were brought
6 forward at that time, which resulted in a
7 unanimous vote to remove it, and shortly
8 thereafter a vote to reverse that opinion.
9 In the context of the monuments
10 involved, the characters involved, and the
11 history in this part of America, I felt or
12 thought that I did a pretty good job of
13 educating myself around the facts of these
14 historical events.
15 More narrowly, the answer I tried
16 to give to you previously about what was going
17 on in the country and in Albuquerque, and in
18 other parts around these issues of monuments,
19 statues, and figures celebrating historic
20 events or people was something I was working
21 on all the time; reading what other cities
22 had done, what other Mayors had done and what
23 they said, and how they attacked the challenge
24 of trying to keep the peace.
25 Q. Before issuing this Proclamation in

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1 Exhibit 1 did you consult with anyone at the
2 State Historic Preservation Office about the
3 Proclamation?
4 A. No.
5 Q. Did you direct anyone on your staff to
6 do so?
7 A. No.
8 Q. Did you, in any way, notify the State
9 Historic Preservation Office of the actions
10 you were ordering in the Proclamation?
11 A. I did not.
12 Q. Okay. After issuing the June 18, 2020,
13 Proclamation did you notify the State Historic
14 Preservation Office that you had done so?
15 A. I did not.
16 Q. Before issuing the Proclamation did you
17 consult with any Historic Preservation
18 officials within City Government?
19 A. I did not.
20 Q. Before issuing the Proclamation did you
21 consider the City's rules regarding Historic
22 Preservation?
23 A. I did not take that into account.
24 Q. Before issuing the Proclamation did you
25 consider the City's status as a Certified



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1 Local Government?
2 A. No.
3 Q. Do you know what I mean when I say
4 "Certified Local Government"?
5 A. Yes.
6 Q. Before issuing the Proclamation did you
7 consider State law governing Historic
8 Preservation?
9 A. No.
10 Q. Okay.
11 MR. HARRIS: It's been an hour and 15
12 minutes; do you want to take a break?
13 THE WITNESS: No, I'm good. Thank you.
14 When I'm in the mood I'll let you
15 know; at the moment we should just plunge
16 forward.
17 MR. STALTER: Okay. We'll call this
18 Exhibit 2.
19 (Deposition Exhibit 2 was marked
20 for identification.)
21 Q. BY MR. STALTER: Mr. Mayor, do you
22 recognize Exhibit 2?
23 MR. HARRIS: And if you need time to
24 review it, please take the time.
25 Q. BY MR. STALTER: Take as much time as

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1 you need.
2 A. I can identify what it refers to; I
3 don't actually recognize it.
4 Q. What do you mean when you say "[You]
5 can identify what it refers to"?
6 A. Well, both the image and the language
7 on page 2 are very much a part of what was
8 going on at that time, and so I recognize
9 what it refers to. But as far as my having
10 an indelible image of this as part of my
11 memory, no, I don't have that.
12 Q. If I understand you correctly you're
13 saying you don't recall seeing this around the
14 time of the Proclamation.
15 A. I don't actually recall this particular
16 image, but I'm very much familiar with what
17 the point was that they were making.
18 Q. Okay. What is your understanding of
19 the "point ... that they were making"?
20 A. Well again it reiterates what I was
21 saying previously, which was that in this case
22 The Three Sisters Collective, although there
23 is also a logo for Black Lives Matter on this
24 document, were calling for the removal of the
25 Soldiers' Monument very much because of the

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1 language I referred to earlier as quoted in
2 this flyer, or whatever it was, talking about
3 "savage Indians" on the plaque. They were
4 calling for the removal of the Soldiers'
5 Monument on that basis.
6 Q. Do you recall whether -- let me
7 scratch that and back up:
8 Do you see on page 2 of this
9 exhibit that part of the text says:
10 "Join us on the Santa Fe Plaza
11 Thursday"?
12 A. I see that.
13 Q. Do you recall whether that is the
14 demonstration that you testified about
15 earlier?
16 A. No.
17 Q. Okay.
18 A. But I don't actually know, just for
19 the record, or don't recall this specific
20 e-mail or who the individual is whose name is
21 on it.
22 Q. Now at the top you see that it looks
23 like you forwarded this e-mail to some others;
24 correct?
25 A. Correct.

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1 Q. But you don't remember.
2 A. Honestly, as I'm reading this now, it
3 is an interesting e-mail about the Obelisk
4 that says it doesn't necessarily need to be
5 torn down, it can be transformed into
6 something else, but I don't recall that
7 language or this e-mail specifically.
8 MR. STALTER: Okay. This will be
9 Exhibit 3.
10 (Deposition Exhibit 3 was marked
11 for identification.)
12 Q. BY MR. STALTER: Mr. Mayor, there are
13 several pages to this exhibit, if you want to
14 take your time and look and let me know when
15 you're ready to talk about it.
16 A. (Witness complies.)
17 Q. Do you recall this e-mail exchange in
18 Exhibit 3?
19 A. No.
20 Q. Okay. On the second page of this
21 exhibit, Bates 001852, it appears to be an
22 e-mail from John Muñoz to several people,
23 including you; correct?
24 A. Yes.
25 Q. At that time who was Kristine



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1 Mihelcic?
2 A. Kristine was our City Clerk.
3 Q. Okay. Who was Pauline Kamiyama?
4 A. She was our Director of Arts and
5 Culture.
6 Q. Okay. And who was John Muñoz?
7 A. John was our Parks Director.
8 Q. Okay. This e-mail was sent June 16,
9 2020.
10 MR. HARRIS: Objection.
11 If you're asking him, he said he
12 doesn't remember this e-mail communication.
13 Q. BY MR. STALTER: Mr. Mayor, if I
14 understood you correctly your testimony is
15 that you don't remember anything about this
16 exchange.
17 A. That's correct.
18 Q. Apart from this e-mail exchange do you
19 have any memory of Mr. Muñoz going down to The
20 Plaza around that time?
21 A. I do not.
22 THE CERTIFIED REPORTER: When you get
23 to a good breaking point, I could use a break.
24 MR. STALTER: Okay. We will go on
25 break.

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1 Is 10 minutes sufficient?
2 THE WITNESS: Yes.
3 (The deposition recessed from 10:23
4 a.m. to 10:37 a.m.)
5 MR. STALTER: We will go back on the
6 record.
7 Q. Mr. Mayor, having had a break is there
8 anything from your prior testimony that you
9 need to change or correct?
10 A. No.
11 Q. Okay. Are you ready to proceed?
12 A. Yes, sir.
13 MR. STALTER: Let's call this Exhibit
14 4.
15 (Deposition Exhibit 4 was marked
16 for identification.)
17 MR. HARRIS: Again, Mr. Mayor, just
18 take your time to review it as much as you
19 need.
20 Q. BY MR. STALTER: Let us know when
21 you're ready.
22 A. Yes, sir.
23 Q. Do you recognize this document?
24 A. When I read it, I understand it; I
25 don't recall actually receiving it.

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1 Q. Your testimony as we sit here today is
2 you do not remember receiving this e-mail.
3 A. Specifically no.
4 When I read the e-mail and then the
5 attachment, which I guess was attached to the
6 bottom of the e-mail, page 3, the letter, I
7 have a recollection of these events. I don't
8 actually have a specific recollection of
9 getting this e-mail or reading it at that
10 time.
11 Q. When you say you "don't actually have
12 a specific recollection" of these events,
13 what do you mean?
14 A. Well as I said in our prior
15 conversation I had been approached by The
16 Three Sisters to talk about their concerns.
17 I had been in conversation with a variety of
18 folks around the circumstances that were
19 involved with demonstrations around the
20 country and in New Mexico. If you said to
21 me, "Did you have a meeting with The Three
22 Sisters at 2:00 p.m. on June 17," I would say
23 I have no ability to recall that.
24 Q. Okay.
25 If I recall correctly you did

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1 testify earlier that you remember having
2 discussions with them over Zoom.
3 A. I recall that over the course of the
4 run-up to the Proclamation and the events
5 since then I've spoken with The Three Sisters,
6 or representatives of that Collective.
7 Q. To be clear you don't recall whether
8 you received or read this letter around the
9 time you issued the Proclamation.
10 A. I do not recall the specifics of
11 getting this letter on June 17.
12 Q. Okay.
13 You don't recall whether you met
14 with representatives of The Three Sisters
15 Collective on this particular date at the
16 particular time they list.
17 MR. HARRIS: Quick objection; asked
18 and answered.
19 You can answer if you know.
20 THE WITNESS: As I said before I know
21 that I was in dialogue with this group. I
22 can't tell you, if you wanted me to pull it up
23 from memory, a specific conversation on a
24 specific day, and the contents of that
25 conversation. I'd be hard pressed to do that.



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1 Q. BY MR. STALTER: Okay.
2 Do you maintain a calendar of your
3 events and obligations as Mayor?
4 A. Yes, sir.
5 Q. Did you in June of 2020?
6 A. Yes.
7 Q. In what form does that calendar exist?
8 A. It is an electronic calendar on my
9 computer.
10 Q. Okay. Do you know whether your
11 electronic calendar still has events from June
12 of 2020?
13 A. I can only assume that all of that
14 material is historically available, or IPRA-
15 able and all the rest.
16 MR. STALTER: Okay. We'll call this
17 Exhibit 5.
18 (Deposition Exhibit 5 was marked
19 for identification.)
20 Q. BY MR. STALTER: Again sir, just look
21 this over and let us know when you're ready
22 to answer questions.
23 A. (Witness complies.)
24 Yes, I'm as ready as I'm going to
25 be.

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1 Q. Do you recall the e-mail in Exhibit 5?
2 A. I do not recall the specifics of this
3 e-mail.
4 Q. Okay. Fair to say you don't remember
5 whether you received or read it at that time.
6 A. I don't remember.
7 Q. Did you attend an event on The Plaza on
8 Thursday, June 18, 2020?
9 MR. HARRIS: Objection; asked and
10 answered?
11 You can answer.
12 THE WITNESS: This document suggests I
13 did.
14 Q. BY MR. STALTER: Apart from this
15 document I'm asking whether you remember
16 attending an event on The Plaza on that date.
17 A. No.
18 Q. If you will go back to Exhibit 1,
19 please.
20 A. (Witness complies.)
21 Yes, sir.
22 Q. If you will go to page 3, please, of
23 that exhibit.
24 A. (Witness complies.)
25 Q. Around the middle of that page it

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1 says: "I Order the following:"
2 Do you see that?
3 A. Yes.
4 Q. The first thing that you ordered is:
5 "The City shall immediately
6 remove the statute of Don Diego De
7 Vargas in Cathedral Park and place
8 it in a safe location"; correct?
9 A. Yes, sir.
10 Q. Was that done?
11 A. Yes, sir.
12 Q. Do you know when it was done?
13 A. Hang on one second.
14 I believe that it was done upon my
15 issuance of this Proclamation.
16 Q. When you say "upon," do you mean
17 immediately or --
18 A. Shortly thereafter; the next morning.
19 Q. Do you know how the statue was removed?
20 A. I really don't know the physical way it
21 was removed, but I know that you showed me an
22 e-mail previously from John Muñoz, who was
23 running our Parks Department at the time.
24 John indicated, as I remember, that he would
25 be able to oversee the safekeeping of the

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1 statue to a location where it would not be
2 damaged.
3 Q. Do you know who physically removed the
4 statue?
5 A. I don't.
6 Q. Do you know if any public funds were
7 expended in the removal?
8 A. Well, inasmuch as it was done through
9 John I would assume the answer is yes.
10 Q. Is John Muñoz still with the City?
11 A. No, sir.
12 Q. What was your purpose in ordering the
13 removal of the statute of Don Diego De Vargas?
14 A. Well, as it says here, the goal was to
15 place it "in a safe location."
16 I had every reason to believe that
17 the statute would be vandalized or potentially
18 destroyed in the course of the potential civil
19 unrest that was being threatened around the
20 time of the issuance of this Proclamation.
21 Q. In your time as Mayor have you learned
22 of other memorials, markers, or monuments
23 being vandalized?
24 A. Yes.
25 Q. Do you recall which ones?



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1 A. That's a very good question.
2 The Cross of the Martyrs was
3 vandalized before I was Mayor and since. In
4 fact there was a series of 3 or more years in
5 a row where it was vandalized. In the course
6 of doing, as I said earlier, more research on
7 the history of Santa Fe, I came across the
8 newspaper articles that commemorated that.
9 Obviously we have had both the
10 Soldiers' Monument and the Kit Carson
11 monument vandalized more than once.
12 There was paint or some form of
13 vandalism done to the statue of Bishop Lamy
14 at one point.
15 It is an ongoing issue in every
16 City. We're not immune to people taking out
17 their political frustrations on public art,
18 on open walls, with graffiti and other forms
19 of protest.
20 Q. You mentioned that the Cross of the
21 Martyrs had been vandalized on occasion prior
22 to your issuance of this Proclamation.
23 A. Right.
24 Q. You mentioned the statue of Bishop
25 Lamy had been vandalized. Do you remember

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1 when the statute of the Bishop --
2 A. That was subsequent to this. That
3 happened in the years since this, and was
4 immediately corrected.
5 I think it's very difficult to
6 anticipate ahead of time how to prevent things
7 like that in all cases.
8 Q. Did you consider the Cross of the
9 Martyrs for inclusion in this Order?
10 A. No.
11 Q. Why not?
12 A. I'm not sure I could come up with a
13 memory of an action, or why, to explain why I
14 didn't take it, other than I would say in
15 retrospect that it didn't rise to the level of
16 concern that these others did as matters of
17 direct cause for social unrest.
18 Q. Moving on in Exhibit 1, under
19 Subparagraph B on page 3, it says:
20 "The City Attorney and City
21 Manager shall work with City staff
22 to begin the legal processes for
23 removal of the Santa Fe Obelisk
24 from the City's Plaza Park;"
25 Did I read that correctly?

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1 A. Yes, sir.
2 Q. Who was the City Attorney at that time?
3 A. Erin McSherry.
4 Q. And who does the City Attorney report
5 to?
6 A. The Mayor.
7 Q. Who does the City Manager report to?
8 A. The Mayor.
9 Q. Did you previously testify that the
10 City Manager at that time was Jarel LaPan
11 Hill?
12 A. Yes.
13 Q. What did you mean by "begin the legal
14 processes for removal"?
15 A. The --
16 MR. HARRIS: Again, I'll object real
17 quick to make sure there is no conversation
18 or discussion or testimony regarding your
19 conversations with the City Attorney as being
20 attorney-client privileged.
21 THE WITNESS: I think the paragraph
22 refers to the recognition that the steps
23 required to actually remove the Soldiers'
24 Monument from The Plaza is more than just a
25 simple matter of the Mayor making a

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1 Declaration, and I think we covered this
2 earlier. There are things that I can call
3 for, but that doesn't immediately lead to
4 their execution or for understanding of what
5 it would take to have them be undertaken.
6 The item in the paragraph you're
7 referring to, Paragraph B in this Order,
8 directs people with authority to undertake the
9 legal analysis that would have to take place
10 before anything could legally happen to remove
11 the Soldiers' Monument.
12 Q. BY MR. STALTER: Do you know whether
13 the officials you identified in this paragraph
14 did act on this directive?
15 MR. HARRIS: Same objection with regard
16 to any testimony that might be implicated in
17 a conversation that you may have had with the
18 City Attorney.
19 THE WITNESS: There was work done to
20 review the legal steps and legal processes
21 that would be required before anything could
22 happen with the Soldiers' Monument to actually
23 affect its removal to another location.
24 Q. BY MR. STALTER: Without getting into
25 what anyone said, or any advice you were



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1 given, what do you mean when you say "there
2 was work done"?

3 A. Research was done to explore issues of
4 the kinds of things that would have to happen
5 before any action could take place.

6 Q. What was your purpose in ordering these
7 officials to begin the legal process for
8 removal of the Soldiers' Monument?

9 MR. HARRIS: Same objection with regard
10 to attorney-client communications.

11 THE WITNESS: My purpose was to see to
12 it that whatever we did was in accordance with
13 the law and followed the required statutes,
14 and met the test of anybody who was looking at
15 these issues, to see that we had gone about it
16 in a very methodical, legal way such that we
17 weren't acting without doing that homework.

18 Q. BY MR. STALTER: Do you know whether,
19 from June 18 up to, but not including the
20 events of October 2020, whether anyone
21 attempted to remove the Soldiers' Monument?

22 A. I don't know that.

23 Q. Do you know whether any City employee
24 went to The Plaza in that time period to
25 attempt to remove the Soldiers' Monument?

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1 A. I can state that to the best of my
2 knowledge that never took place, and no one
3 was certainly directed to do that.

4 Q. Do you know whether anyone, acting on
5 behalf of State government, attempted to
6 remove or alter the Soldiers' Monument from
7 the time of this Proclamation, but before
8 October of that year?

9 A. I don't want to attribute things to...
10 I think you're referring to the
11 dispatch of a crane to The Plaza to check the
12 Obelisk or the monument and it's strength and
13 structural integrity, and yes, that did
14 happen.

15 Q. The dispatch of that crew, when did
16 that happen?

17 A. I don't have a date.

18 Q. Do you know whether that was done by
19 State government?

20 A. It was done by State government.

21 Q. Do you know which agency was
22 responsible?

23 A. I don't know which agency was
24 responsible by department; I have no idea.

25 Q. When did you learn that, let's call it

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1 an examination, had been done?

2 A. I learned about it after the fact when
3 we got a report that there had been a crane on
4 The Plaza. They had checked it, or the
5 workers had checked the top of the Obelisk,
6 the point of the Obelisk, and they found it
7 was very fragile. In fact I think a piece of
8 it was removed from the Obelisk.

9 Q. How did you learn about that event?

10 A. I don't recall specifically how I
11 learned about that.

12 Q. Okay. Finally, back to page 3 on
13 Exhibit 1, Subparagraph C, it states:
14 "The City Attorney and City
15 Manager shall contact the proper
16 officials with jurisdiction over
17 the Obelisk dedicated to Kit Carson
18 to determine a course of action for
19 removal of that monument."
20 Did I read that correctly?

21 A. Yes, sir.

22 Q. Do you know whether the officials
23 identified did carry out that directive?

24 MR. HARRIS: I'll object again with
25 regard to any communications that the Mayor

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1 may have had with the City Attorney; those
2 are attorney-client privileged communications.

3 THE WITNESS: I can tell you that in
4 the course of following up on this there was
5 communication and research done with federal
6 officials to look into what and how the
7 Obelisk was maintained, owned, and whether
8 there was a process for its removal to a
9 different location.

10 Q. BY MR. STALTER: Do you know when those
11 contacts took place?

12 A. I would not be able to tell you that
13 answer.

14 Q. What was your purpose in ordering this
15 action with regard to the Kit Carson Obelisk?

16 A. The purpose is stated in Paragraph C,
17 which is in order to proceed with any kind of
18 legal undertaking to move that monument we
19 would first have to go through the proper
20 channels to determine what the legal
21 requirements would be and what the steps would
22 be.

23 Again, it goes to the question you
24 asked previously about what is the Mayor
25 authorized to call for versus the actual steps



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1 that have to be taken to make it take effect.
2 Q. Do you believe that this Proclamation
3 had the effect of reducing "civil unrest"?
4 MR. HARRIS: Objection to the extent
5 it's asking for speculation.
6 You can certainly answer if you
7 know.
8 THE WITNESS: I can speculate that it
9 served its purpose, which were multiple, one
10 of which was to, I think, establish, on my
11 account, a statement of purpose and identify
12 for the community at large that there was a
13 risk that we were all collectively facing,
14 and calling upon people, as it says on page
15 4, to cooperate and collaborate "to maintain
16 the peace in our City, to reject expressions
17 of anger that involve violence or hatred,"
18 and instead "engage in respectful dialogue"
19 and conversation about the City's history and
20 our future. I thought it struck a good and
21 constructive tone, and was designed to reduce
22 the levels of animosity and anger, and the
23 potential for violence in Santa Fe. To the
24 extent it established that record and put me
25 on record as standing for that, I felt it

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1 served its purpose.
2 Q. Was this Proclamation of Emergency
3 ever extended?
4 A. No.
5 Q. Did you ever make a determination that
6 the State of Emergency identified in the
7 Proclamation had ended?
8 A. No.
9 Q. As we sit here today do you have a
10 belief about when that State of Emergency had
11 passed?
12 MR. HARRIS: Objection to the extent
13 that it asks for speculation.
14 You can answer if you know.
15 THE WITNESS: That's a really
16 interesting way to ask the question. In
17 fact, I think there is some litigation going
18 on right now in New Mexico over those kinds
19 of issues.
20 I think the purpose of this
21 Proclamation was to establish a public call
22 for peace and tranquility, and to go on record
23 as saying that is what was important, and to
24 try to reduce the threat to public safety. I
25 think it served that purpose and it

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1 established that record. It also identified
2 the source of the problem for further
3 conversation/discussion, and hopefully, over
4 time, resolution.
5 When an emergency begins and when
6 an emergency ends is a little bit like your
7 question about when do you suddenly come to
8 the conclusion that there is an emergency.
9 It doesn't happen overnight, and it doesn't go
10 away at a specified hour when the clock hits
11 midnight.
12 I think the context of the
13 Proclamation suggested that if we had passed
14 through this 3-day period and there wasn't a
15 violent interaction on The Plaza among people
16 who didn't agree, we had done a good deed for
17 the City of Santa Fe.
18 Q. Do you know whether the planned
19 demonstration was actually held?
20 A. I assume it was.
21 Q. Okay.
22 Were there any acts of violence
23 that you attribute to, let's say, the clash of
24 elements that you discussed earlier within
25 that 3-day period?

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1 A. To the best of my recollection, no,
2 there were not. The demonstration and the
3 interaction did not turn violent. There were
4 counterdemonstrators, there were voices and
5 disagreements, but no, we were not confronted
6 with the same kind of incidents that occurred
7 elsewhere previously where guns and other
8 weapons were present, and people either lost
9 their lives or were significantly injured
10 because of those kinds of clashes.
11 I suppose if you wanted to say the
12 Proclamation served a constructive purpose,
13 that might be good evidence, too.
14 Q. Do you know whether, after the 3-day
15 period of this Proclamation, anyone from the
16 City Government continued to work on the
17 process for removal of the Soldiers' Monument?
18 A. In the last 4 years, yes, people from
19 different parts of City Government, including
20 other elected officials, have explored options
21 for resolving the conflict around the
22 Soldiers' Monument, and to date nothing has
23 been resolved by anybody.
24 Q. At any point after this Proclamation
25 did you direct any of your staff to stop



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1 acting on the Orders you put into this
2 Proclamation?
3 A. No.
4 Q. Do you know whether at any point your
5 staff did stop working on what you had ordered
6 in that Proclamation?
7 A. Well, that's a fairly complicated
8 question, although it sounds pretty simple:
9 People who were asked to do work
10 on this Proclamation have big jobs that cover
11 many, many different issues, and this is only
12 one of the things that's on any anybody's
13 agenda at any moment in time. It would be
14 difficult to say they stopped, they started,
15 they continued, or they substituted other
16 things.
17 The City Attorney and City Manager
18 are overworked anyway. At some point in time
19 did they stop working on it? Absolutely. At
20 another point in time did the subject rise
21 because of activities in City Government or
22 in the community? Quite likely.
23 Have people asked the City Manager
24 or the City Attorney staff for opinions on how
25 best to resolve the ongoing unresolved future

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1 of the Soldiers' Monument? Yes.
2 I don't believe there is a kind of
3 work program that identifies hours per project
4 that either of these individuals or their
5 offices keep track of.
6 Q. Did you, at any point after this
7 Proclamation, tell any of your staff, "What is
8 ordered in the Proclamation is no longer the
9 Mayor's Orders"?
10 A. No.
11 Q. I'm sensitive to the distinction you
12 drew between calling for something and making
13 a "promise" to do something. With that in
14 mind, after this Proclamation, did you ever
15 promise or commit to the removal of the
16 Soldiers' Monument?
17 A. Again, you were very sensitive to the
18 distinction that I made, and I appreciate that
19 because I have consistently maintained my
20 personal view, but I have not obviously had
21 the ability, the authority, or the legal
22 process in place to make it happen. I haven't
23 changed my opinion, but I also haven't
24 affected the outcome that you're asking about.
25 Q. To maybe put a finer point on it, did

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1 you, after the Proclamation, communicate
2 anything you intended for others to understand
3 as a "promise" to achieve the result of
4 removing the monument?
5 MR. HARRIS: Objection; asked and
6 answered.
7 You may answer again.
8 THE WITNESS: Not as a "promise."
9 Q. BY MR. STALTER: Okay. After the
10 Proclamation did you continue to call for the
11 removal of the Soldiers' Monument?
12 A. Well, I appreciate the question, I
13 really do. It is a complicated proposition
14 because there have been many different
15 activities that have gone on in the last 4
16 years around not just the Soldiers' Monument,
17 but the underlying issues that are at the base
18 of the conflict here.
19 As Mayor, and as a resident, I've
20 spoken about these issues frequently whenever
21 asked, and in every different venue or forum.
22 In City Council meetings, governing body
23 meetings, public events, community events,
24 when I'm asked, I try to answer the question
25 to the best of my ability about how I feel

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1 about how we can resolve this issue.
2 I think this is a really painful
3 issue for the whole community, as it is for
4 the country. Part of my job is to both
5 honestly reflect my own values, and at the
6 same time look for a path forward that would
7 lead to better healing and the community
8 coming together and feeling like everybody has
9 been respected in the process.
10 Q. You testified a little earlier about
11 an electronic calendar that you have. Does
12 that calendar include events that you attend
13 in your capacity as Mayor?
14 A. Yes.
15 Q. If those records still exist you would
16 expect them to show whether you attended an
17 event on The Plaza around this time.
18 A. Yes.
19 Q. Okay. Do you know whether the City of
20 Santa Fe received a Historic Preservation
21 Grant related to Santa Fe Plaza from the U.S.
22 Department of Housing and Urban Development?
23 A. I don't know that.
24 Q. You testified earlier that you are
25 familiar with the term "Certified Local



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1 Government."
2 A. Broadly.
3 Q. What is your understanding of the
4 Certified Local Government Program?
5 A. It covers the process of historical
6 preservation and recognition.
7 Q. Do you know whether the City of Santa
8 Fe is a Certified Local Government?
9 A. I believe so.
10 Q. Okay. Do you know when the City became
11 a Certified Local Government?
12 A. I do not.
13 Q. Do you know any of the terms or
14 conditions that attach to the City due to its
15 status as a Certified Local Government?
16 A. I do not.
17 Q. Okay. Do you know whether the City of
18 Santa Fe ever entered a Memorandum of
19 Understanding with the State of New Mexico
20 regarding Santa Fe Plaza?
21 A. I do not.
22 Q. Are you familiar with the City of
23 Santa Fe's Historic Districts Review Board?
24 A. Yes, broadly.
25 Q. Are you broadly familiar with the

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1 processes related to that Board?
2 A. In general, yes.
3 Q. Okay. What is your understanding of
4 that Board's responsibilities?
5 A. There is an ordinance that lays out
6 their responsibility to oversee the Historic
7 District and the activities that go on with
8 regard to permitting, construction, and
9 renovation within the Historic Districts.
10 Q. Sorry, let me jump back for a moment
11 to Certified Local Government:
12 Do you recall when you learned that
13 the City of Santa Fe was a Certified Local
14 Government?
15 A. No.
16 Q. Do you know whether actions by the City
17 itself are subject to review by the Historic
18 Districts Review Board?
19 A. No.
20 Q. Do you know whether the Historic
21 Districts Review Board has ever declared any
22 status for the Soldiers' Monument?
23 A. No, I don't.
24 Q. Do you know whether Santa Fe Plaza is
25 listed on the State Register of Cultural

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1 Properties?
2 A. I assume it is, but if you ask me how
3 I came to that assumption, I can't cite the
4 specific document that I've reviewed that
5 tells me that.
6 Q. Do you know whether the Santa Fe Plaza
7 is listed on the National Register of Historic
8 Places?
9 A. Yes.
10 Q. Did you know that on June 18, 2020?
11 A. I can't honestly answer that question.
12 Q. Have you ever seen the documents used
13 to nominate the Santa Fe Plaza to the National
14 Register?
15 A. I believe so.
16 Q. There were demonstrations on the Santa
17 Fe Plaza in October of 2020; correct?
18 A. Yes.
19 Q. When did you first -- well, let's back
20 up:
21 Do you recall the dates of those
22 demonstrations?
23 A. No, because there were quite a few
24 different demonstrations at different times
25 over different matters. No, I can't summon up

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1 dates for you.
2 Q. Do you recall that there were some
3 demonstrations that culminated in the pulling
4 down of the Soldiers' Monument?
5 A. Yes, sir.
6 Q. Before those demonstrations took place
7 did you ever learn that there would be
8 demonstrations on The Plaza on Indigenous
9 People's Day or Columbus Day, depending on
10 how one observes it?
11 A. Yes.
12 Q. Okay. When did you learn that there
13 would be demonstrations connected with that
14 holiday?
15 A. I can't cite a date when it became
16 clear to me that there would be
17 demonstrations.
18 I remember in the lead-up to
19 Indigenous People's Day there were generally
20 the kind of public pronouncements that you
21 showed me before. There were conversations
22 around what to expect or not to expect, or
23 where Indigenous People's Day would even be
24 held that year.
25 In broad terms I was aware that



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1 there were demonstrations, as well as other
2 activities/celebrations going on in the City
3 around Indigenous People's Day in the lead-up
4 to the actual event.
5 Q. You said there were discussions about
6 where Indigenous People's Day would even be
7 held that year. What do you mean by that?
8 A. Well, I remember, because of the
9 backdrop that we have described already in
10 our conversation about different voices in
11 the community circulating and offering advice
12 or opinions about what the City should or
13 should not do, that at one point I reached
14 out to some members of the tribal community,
15 and I can't tell you whether it was
16 specifically, once again, The Three Sisters,
17 or it was the leadership from the Indigenous
18 Center, and I'm hard pressed to tell you a
19 name.
20 What I was told in, I believe, a
21 phone call -- so there is no documented record
22 of it -- was that the actual celebration of
23 Indigenous People's Day was going to be held
24 at the Downs that year. At least the folks I
25 talked to in the tribal community were not

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1 particularly interested in anything on The
2 Plaza as far as that celebration was
3 concerned. They would be congregating or
4 bringing their people to the Downs.
5 I don't think there is a document
6 that could be produced that shows that, but
7 that conversation did take place at some
8 point.
9 Q. Okay. Did that turn out to be the
10 case; that the celebration, at least with the
11 groups that you contacted, was held at the
12 Downs?
13 A. Yes.
14 Q. Okay. Did you ever receive information
15 ahead of the holiday that there would be other
16 groups of protesters or demonstrators at The
17 Plaza?
18 A. Well, yes. Yes.
19 Q. How?
20 A. In many ways.
21 As you remember, or as we discussed
22 previously, there was a period of time when a
23 group of protesters occupied the Soldiers'
24 Monument in the days prior to Indigenous
25 People's Day. They attached themselves to

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1 the monument and had camping equipment. What
2 unfolded over an evening and a day prior to
3 Indigenous People's Day was an attempt to
4 resolve that conflict and that occupation.
5 The next day there was the Indigenous People's
6 Day protest that led to the toppling of the
7 Soldiers' Monument.
8 Q. Before we continue with that I want to
9 ask whether you know if there is any date or
10 holiday of significance to the indigenous
11 people of New Mexico around June 18/June 19
12 when that first Proclamation was issued.
13 A. I'm not aware of that.
14 Q. Okay.
15 A. I know there are other holidays, but
16 not particular to those dates.
17 Q. Jumping back to October, and leading up
18 to Indigenous People's Day, did you conduct
19 any sort of assessment of the potential for
20 "civil unrest"?
21 A. There was a great -- yes, the answer
22 is yes.
23 I was struggling with the way you
24 framed the question about conducting an
25 assessment, because that's not entirely the

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1 way the world works in my experience. I have
2 been, and people in my administration had a
3 heightened sense of the goings on,
4 particularly because of the occupation of the
5 Soldiers' Monument. It was hard to miss that.
6 Q. I don't mean to imply or limit my
7 question to some sort of formal risk
8 assessment, so let me put it this way:
9 Did you consider the potential for
10 "civil unrest"?
11 A. I considered the potential for a
12 circumstance that required, particularly with
13 regard to the occupation by individuals at the
14 monument, police and/or fire activities, to
15 try to do what would be necessary to resolve
16 that protest.
17 Q. Ahead of the demonstrations around
18 Indigenous People's Day you did not declare a
19 State of Emergency; correct?
20 A. Correct.
21 Q. What was, in your mind, different
22 between the potential issues in June and
23 those in October?
24 A. One of the big differences was the lack
25 of counterprotesters saying they were going to



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1 be there to confront the demonstrators and
2 potentially provoke the kind of armed conflict
3 that we had seen before.
4 The other was in the wake of the
5 occupation of the monument, which was
6 peacefully resolved, where the demonstrators
7 left and took all their stuff with them, and
8 we ended up, thanks to the police Conflict
9 Negotiator, safely having those individuals
10 leave.
11 Then there was the conversation I
12 cited earlier with at least some members of
13 the native community indicating to me that
14 they were going to be out at the Downs. It
15 seemed that we had a reduced level of conflict
16 over the Indigenous People's Day celebration.
17 Q. You just testified that there was a
18 successful negotiation to get some protesters
19 to essentially pack up and leave the monument.
20 When did that occur?
21 A. Again, I'm trying to reconstruct this
22 from memory:
23 The occupation of the monument took
24 place and lasted into the evening. The next
25 day, if I remember correctly, as we approached

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1 the issue of what would happen when the park
2 reached its point where police had to vacate
3 it legally, the police negotiator and the
4 protesters mutually agreed that they would
5 leave, and they were not arrested and not
6 subject to penalty. They packed up their
7 camping equipment and they departed at that
8 point.
9 Can we take a break?
10 MR. STALTER: Yes.
11 THE WITNESS: Very quickly.
12 MR. STALTER: Yes.
13 (The deposition recessed from 11:28
14 a.m. to 11:32 a.m.)
15 MR. STALTER: We will go back on the
16 record.
17 Q. Before we get back to questioning,
18 Mr. Mayor, did you have a hard deadline that
19 you have to end by today?
20 A. There's an event at the Roundhouse at
21 noon that is not required, but we'll see how
22 it goes. I don't think we're going to make
23 it.
24 Q. Yeah, we'll plow through.
25 MR. HARRIS: Let's see how far we get,

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1 and we'll figure out what you have to do after
2 that.
3 MR. STALTER: Yeah, we'll just do that.
4 Q. Is there anything you need to change
5 or clarify from your prior testimony?
6 A. We're good. Thank you.
7 Q. Did I understand your testimony from
8 earlier correctly that the police negotiators
9 were successful in getting protesters to
10 vacate the monument on one day, and then was
11 it the following day when the monument was
12 pulled down?
13 A. Yes, sir.
14 Q. Okay. At any time in that -- well,
15 scratch that.
16 The date of Indigenous People's
17 Day was a Monday; correct?
18 A. Correct.
19 Q. And that was October 12.
20 A. It was a Monday.
21 Q. Okay. At any point during that
22 Saturday, Sunday, or Monday, did you
23 personally visit the Santa Fe Plaza?
24 A. Yes.
25 Q. When did you go to The Plaza?

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1 A. Reconstructing this as best I can, the
2 actual occupation of the monument was, at
3 least to me, a surprise. At some point I got
4 notified of it, and at some point in the
5 afternoon I went down to see what was going
6 on. I wanted to be present and intervene if
7 possible, to try to reduce the likelihood of
8 something going wrong.
9 I went down, and it was in the late
10 afternoon if I remember correctly. It is a
11 little bit sketchy, but I spoke with a variety
12 of people, including our officers on the scene
13 who were the Command Team, asking them for
14 their assessment on interacting with some of
15 the demonstrators. Not the ones who were
16 physically on the monument because they didn't
17 want to come down, but with others who were
18 walking in the area, as well as some people
19 who were there who were watching and expressed
20 their lack of support for the protesters.
21 I offered the people who were not
22 occupying The Plaza, or occupying the
23 monument but were on The Plaza, that if the
24 protesters would come down and unhook
25 themselves, I would be willing to meet them



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1 later that week, or whenever, in the Mayor's
2 office and hear their concerns. They weren't
3 interested in that offer, but I made it in
4 good faith.

5 At a certain point in time the
6 police went about the business of deciding
7 what they would do to address the situation.
8 They concluded that in light of the --

9 MR. HARRIS: Not to cut you off, but I
10 will --

11 THE WITNESS: Am I over-answering?

12 MR. HARRIS: I'm not sure he is going
13 to ask the question, but the question he
14 asked was at any time were you on The Plaza.

15 THE WITNESS: Yeah, I went there, and
16 this has actually triggered some real
17 memories.

18 As far as things I said, I really
19 don't remember, and I was going to try to be
20 more expansive, but I'll stop.

21 Q. BY MR. STALTER: How many times did you
22 go to The Plaza that weekend and Monday?

23 A. I only vividly remember what I was just
24 recounting to you. I was there the next day,
25 too, when they came down, but I wasn't there

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1 on Monday.

2 Q. Did you, throughout the course of that
3 weekend and Monday, provide any directions or
4 instructions to the police force?

5 A. No; I don't have authority over the
6 Police Department.

7 Q. Who has authority over the Police
8 Department?

9 A. The police at that time directly
10 reported to the City Manager.

11 Q. Does the City Manager report to you?

12 A. Yes.

13 Q. Did you have indirect authority over
14 the Police Department?

15 A. It doesn't work that way.

16 Q. How does it work?

17 A. Particularly in situations of serious
18 civil concern the police have their policies
19 and their practices, and command staff
20 executes those policies. The City Manager has
21 oversight over the Police Chief, but does not
22 literally tell the Police Chief what to do
23 because of the respect for the professionalism
24 of our Police Department and authority of the
25 Police Chief over the police force.

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1 Historically, and continuing now,
2 we inform, ask, discuss options, but the
3 Mayor, and to my knowledge the City Manager,
4 have never directed the Police Department to
5 take a particular course of action.

6 Q. Now is that relationship a matter of
7 policy or a matter of practice?

8 A. To some extent it's both. I mean we
9 are dealing with a -- there are only 2
10 organizations of City Government, other than
11 elected officials, who take a sworn oath,
12 which is the Police Department and the Fire
13 Department. They are those two organizations.
14 That puts them, in my mind both as a matter of
15 practice and a matter of policy, in a
16 different category than people who are highly
17 trained subject matter experts, but are not
18 sworn to protect and defend the Constitution,
19 and uphold the laws of the City of Santa Fe.

20 As a consequence, the Police
21 Department, while not self-managed or
22 independent of City requirements, has a
23 different kind of a reporting relationship and
24 set of policies that guide their practices.

25 I know you didn't ask this

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1 question, but I remember that at the time
2 George Floyd was murdered, I and other Mayors
3 around the country went into a deep process
4 of reviewing the policies that guide our
5 Police Department.

6 President Obama at the time put out
7 a set of criteria wherein he asked City Police
8 Departments to see whether they met or didn't
9 meet those. I was very proud that our Police
10 Department, in every instance, checked every
11 box of best practice and policy.

12 There is a very clear line of
13 authority, and a very clear set of policies
14 that guide our Police Department when it comes
15 to the execution of laws and other ordinances
16 of the City of Santa Fe.

17 Q. You've testified that during those
18 demonstrations you did not give directives or
19 instructions to the police. Did you make any
20 suggestions?

21 A. No. I asked them to tell me what they
22 were planning to do in particular with regard
23 to the occupation of the monument and how
24 they would potentially resolve it. I didn't
25 tell them how to resolve it because I don't



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1 have that expertise.
2 Q. What did they tell you about how they
3 planned to resolve it?
4 A. Well, their first approach was the one
5 that worked, which was through a trained
6 negotiator speaking with the demonstrators and
7 laying out the consequences of their actions
8 if they continued, and the options that were
9 available to them. That proved to be the
10 outcome that worked.
11 Had that not worked, the police and
12 the Fire Department were collaborating to look
13 at other options for the removal of the
14 protesters, potentially using fire equipment
15 or ladders.
16 Their highest priority, as they
17 told me, was they were eager not to have
18 injuries to either the protesters or the sworn
19 officers.
20 MR. STALTER: Let's mark this as
21 Exhibit 6.
22 (Deposition Exhibit 6 was marked
23 for identification.)
24 MR. HARRIS: Again Mayor, take your
25 time in reviewing.

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1 Q. BY MR. STALTER: Just let us know when
2 you're ready.
3 A. This is pretty small print and many
4 pages, so give me a minute if you don't mind.
5 Okay. I think I'm ready. I may
6 have to go back and reread sections if you
7 have specific areas you want to go into.
8 Q. Well, first of all do you recognize
9 this document?
10 A. Again, as was the case with the other
11 e-mails you've shown me this morning I am not
12 specifically able to summon up this e-mail
13 transaction. But when I read it, it's
14 authentic and I know it took place.
15 Q. Then is it fair to say you recall
16 communicating with someone named Carrie Wood
17 around the time of the protests in October of
18 2020?
19 MR. HARRIS: Objection; asked and
20 answered.
21 You can answer if you know.
22 THE WITNESS: I think what this
23 refreshes my memory over is, as I read
24 through this exchange, for example, I cite
25 the Downs in this e-mail, which confirms what

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1 I told you earlier, which was to the best of
2 my knowledge at the time, the people who were
3 organizing the Indigenous People's Day
4 celebration were letting me know that they
5 were going to be at the Downs.
6 I do know who Carrie Wood is, yes.
7 The rest of it, as I read it, I can say to you
8 I can reconstruct that there was a dialogue
9 with her, as she is one of the Three Sister
10 leaders, and that this exchange, as I read
11 it, confirms what I tried to tell you before.
12 I'm particularly proud of the part
13 where I say I don't have the authority to
14 remove the Obelisk, the City Attorney has to
15 review it, and we have to follow the law. I
16 think that also was what I was trying to say
17 earlier about the language in the
18 Proclamation.
19 Q. When did you meet Carrie Wood?
20 A. I don't know specifically, but I know
21 she was one of the leaders of The Three
22 Sisters at the time the prior exchange took
23 place. I can only assume she was one of the
24 people who reached out to me saying they
25 wanted to have a dialogue about the concerns

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1 we spoke about earlier.
2 Q. Have you had any dialogue or discussion
3 with the Three Sisters Collective other than
4 on the issues we've been talking about today?
5 A. Great question; not specifically.
6 Carrie, in particular, is in the
7 community. She has come to City Council
8 meetings to testify on other issues, and I've
9 seen her at other public events, but not in
10 the forum that you're describing as a dialogue
11 around the resolution of these issues, no.
12 Q. Okay. Were you present at The Plaza
13 when the Soldiers' Monument was pulled down?
14 A. No.
15 Q. Do you remember where you were?
16 A. Home.
17 Q. When did you learn that the monument
18 had been pulled down?
19 A. I have only a hazy recollection of the
20 events, but I believe I got a phone call from
21 the police to say that there was a
22 demonstration that was taking place, and that
23 ultimately the protesters had taken the
24 Obelisk down.
25 Q. When was the next time you visited The



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1 Plaza after you learned that?
2 A. I can't answer that question; I
3 couldn't really tell you.
4 Q. Do you know if anyone was charged
5 criminally for pulling down the Soldiers'
6 Monument?
7 A. I believe that police did ultimately
8 charge some individuals for their
9 participation in the demonstration. I think
10 some of it revolved around interactions with
11 the police rather than the destruction of the
12 Obelisk itself due to the way that's covered
13 by law.
14 Q. Do you know what the outcome of any of
15 those charges were?
16 A. First of all, the City doesn't oversee
17 the District Attorney's Office, and so the
18 outcome of the charges is really not in the
19 purview of City Government.
20 As I read about it in the
21 newspaper, I believe that the District
22 Attorney engaged in a Restorative Justice
23 process with some of the individuals that
24 required them to go meet with organizations
25 and individuals who were adversely affected by

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1 their conduct and engage in a Restorative
2 Justice process, but I didn't personally
3 follow it.
4 Q. Did you personally communicate with
5 anyone from the District Attorney's office
6 regarding their handling of the charges?
7 A. Not that I remember, no.
8 Q. Do you know whether anyone on your
9 staff communicated with the District
10 Attorney's Office regarding the charges?
11 A. I can't specifically answer that, no.
12 Q. Did you participate in any respect with
13 the Restorative Justice Program you mentioned?
14 A. No.
15 Q. Do you know whether anyone from the
16 District Attorney's office sought input from
17 City Government on the charges?
18 A. I don't know.
19 Q. Did you at some point learn that the
20 statue of Don Diego De Vargas was not where
21 you thought it was?
22 A. I did.
23 Q. When did that occur?
24 A. I guess the first I knew about it was
25 when I read about it; I had not been informed

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1 previously.
2 MR. HARRIS: I will just interject, and
3 it is not really an objection, but I just
4 wanted to reconfirm that any information about
5 the current whereabouts, we are discussing a
6 Form of Order to make sure that getting you
7 that information is protected. The same with
8 regard to asking these types of questions.
9 THE WITNESS: But to answer your prior
10 question, yeah, I learned that it was not
11 where I had been told it was being stored much
12 to my disappointment.
13 Q. BY MR. STALTER: Without getting into
14 where it is, has it since been moved?
15 A. From where it wasn't supposed to be.
16 Q. Yes.
17 A. Yes.
18 Q. Is there any current plan within the
19 City for the disposition of the statue of Don
20 Diego De Vargas?
21 A. At the moment there is no plan.
22 Q. Okay. With respect to the Soldiers'
23 Monument, some portion of it still remains on
24 The Plaza; correct?
25 A. Correct.

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1 Q. For the record can you just describe
2 what portion is still on The Plaza?
3 A. Well, the protesters toppled the top
4 part. There is a piece that is the, for lack
5 of a more respectful word, the stump of that,
6 and then the bulk that is the base on which it
7 stood. All of that is still there.
8 Q. Okay. Mindful of what your Counsel
9 just said to us, are there portions that were
10 taken down within City custody in some manner?
11 A. Yes. Yes.
12 Q. Currently is there a box around the
13 portions of the Soldiers' Monument that
14 remains on The Plaza?
15 A. There is a box that encloses the
16 remaining part of the monument.
17 Q. Have you personally seen that box?
18 A. Yes.
19 Q. Can you describe it for us?
20 A. It's a box.
21 Q. Do you know what it is constructed of?
22 A. I don't.
23 Q. Do you know when it was placed there?
24 A. Well, to answer the question you didn't
25 ask, the initial effort was to build a box to



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1 prevent it from being toppled. That obviously
2 did not succeed.
3 The completion of the box occurred
4 after it was toppled, to prevent more
5 destruction being done by any other protesters
6 who could access the remains of the monument
7 and do more damage to it.
8 We did not succeed in getting the
9 box constructed in time to prevent the first
10 attack, but we wanted to make sure there would
11 not be a second attack.
12 Q. With respect to what you mentioned, an
13 attempt to place a box so it wouldn't be
14 toppled, when was that done?
15 A. That was attempted the morning of the
16 demonstration when they did topple it.
17 Q. So the morning of Indigenous People's
18 Day.
19 A. Correct.
20 Q. Okay. Do you know why that attempt was
21 unsuccessful?
22 A. I mean I have my own opinions, but no,
23 I can't give you a detailed answer as to why
24 the work didn't get done to prevent the
25 attack.

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1 Q. Now with respect to the current box,
2 the second attempt that did get a box placed,
3 do you know when that was put into place?
4 A. Shortly after the events that occurred
5 on Indigenous People's Day, but I can't give
6 you a certain date.
7 Q. Were you involved in the decision to
8 place that box?
9 A. I assume so.
10 Q. Okay. When you answer like that, it
11 makes me think you do not have a specific
12 memory of being involved.
13 A. You are correct; I don't catalog that
14 kind of decision.
15 In my role as Mayor, my supposition
16 is that people would say, "We didn't get the
17 box built in time; we're going to complete
18 it," and I would say, "Good. Do that."
19 Q. Okay. Do you know whether it was City
20 Government employees who constructed that box?
21 A. No, I don't.
22 Q. Okay. Do you know whether it was
23 someone acting on behalf of City Government?
24 A. I would assume it was.
25 Q. Potentially a contractor.

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1 A. I can't tell you for sure who would
2 have done it.
3 Q. Do you know if any public funds were
4 expended to construct that box?
5 A. Again, my expectation would be that
6 whether it was City workers or contract
7 workers, we paid for it.
8 Q. Do you know whether the Historic
9 Districts Review Board reviewed the placement
10 of that box?
11 A. I don't know.
12 Q. Do you know whether the City notified
13 the State Historic Preservation Office about
14 the placement of the box?
15 A. I do not know.
16 Q. It's now February 7, 2024. Do you know
17 whether the box has been in place continuously
18 since it's placement until today?
19 A. I believe so.
20 Q. Okay. Do you know whether any signage
21 has been placed on or near that box?
22 A. There was a sign that was put up that
23 described the effort to try to move toward a
24 better outcome and the process that it
25 involves that still stands there.

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1 Q. When was that signed placed; do you
2 know?
3 A. I don't know the answer to that.
4 Q. Okay. Were you involved in the
5 decision to place that sign?
6 A. I assume so.
7 Q. So similar situation where you don't
8 have a specific memory.
9 A. Correct.
10 I mean I appreciate your questions,
11 but there is a point in which I just don't
12 have a catalog of these decisions on a step-
13 by-step basis that has taken place over the
14 period of years that we're talking about.
15 Q. I understand that, which is why I tend
16 to ask, "Do you remember X?"
17 A. Yeah, I can give you broad brush, but
18 if you said, "On what day was the decision
19 made to put up a sign or a box," I'm really
20 hard pressed to come up with that for you.
21 MR. HARRIS: I do note that it's noon.
22 MR. STALTER: Okay.
23 MS. McSHERRY: How are we doing?
24 MR. STALTER: Frankly, I would like to
25 take a short break just to consult with my



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1 client, to see if they think I've missed
2 anything that I should ask.
3 But as far as my questions go, I
4 can probably have you out of here in like 10
5 minutes.
6 THE WITNESS: Why don't you do what
7 you just said and I'll step out.
8 MR. STALTER: Let's take a 5-minute
9 break and finish up.
10 THE WITNESS: Would that be okay?
11 MR. STALTER: That's fine by me.
12 THE WITNESS: Thank you.
13 (The deposition recessed from 12:00
14 p.m. to 12:06 p.m.)
15 MR. STALTER: We will go back on the
16 record.
17 Q. Like I always ask after the break is
18 there anything from your prior testimony that
19 you need to clarify or correct or change?
20 A. No, but thank you.
21 Q. We were discussing a sign that has been
22 placed near the remains of the Soldiers'
23 Monument. Do you know whether City Government
24 was responsible for placing that sign?
25 A. I believe so.

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1 Q. Do you know whether the Historic
2 Districts Review Board reviewed the placement
3 of that sign?
4 A. I don't.
5 Q. Do you know whether the City notified
6 the State Historic Preservation Office about
7 that sign?
8 A. I don't.
9 MR. STALTER: This will be Exhibit 7.
10 (Deposition Exhibit 7 was marked
11 for identification.)
12 Q. BY MR. STALTER: Just let us know when
13 you're ready to talk about this one.
14 A. (Witness complies.)
15 Yes, sir.
16 Q. Do you recognize Exhibit 7?
17 A. No, sir, I do not.
18 Q. Okay.
19 A. I'm sure it happened. I can tell you
20 I probably didn't draft it and it doesn't
21 have a signature, but I can say it looks
22 authentic. I don't recall having submitted
23 this to the State Historic Preservation
24 Office.
25 For one thing I would never split

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1 an infinitive.
2 Q. So clearly drafted by someone else.
3 A. I'm going to guess a lawyer.
4 Q. Very well.
5 Do you recall any other occasions,
6 other than this letter, on which you
7 communicated with Jeff Pappas at the State
8 Historic Preservation Office?
9 A. I don't.
10 Q. Do you recall whether you've ever met
11 Mr. Pappas?
12 A. I don't.
13 Q. Do you recall receiving any
14 communications from Mr. Pappas?
15 A. I don't.
16 MR. STALTER: Let's call this Exhibit
17 8.
18 (Deposition Exhibit 8 was marked
19 for identification.)
20 THE WITNESS: Thank you.
21 Long letter, but okay. I'll try.
22 Q. BY MR. STALTER: Do you recognize
23 Exhibit 8?
24 A. I do not.
25 Q. Okay. Fair to say you do not remember

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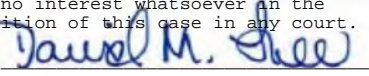
1 whether or not you received this.
2 A. I don't remember seeing this before.
3 MR. STALTER: Okay. Then I will pass
4 the witness.
5 THE WITNESS: Okay.
6 MR. HARRIS: I have no questions.
7 THE WITNESS: Okay.
8 THE CERTIFIED REPORTER: Are you going
9 to read and sign, counsel?
10 MR. HARRIS: Yes.
11 THE WITNESS: Thank you.
12 MR. STALTER: Thank you. I really
13 appreciate it.
14 THE CERTIFIED REPORTER: Thank you,
15 ladies and gentlemen. I am going off the
16 record at this time.
17 (The deposition concluded at 12:14
18 p.m.)
19
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1 UNION PROTECTIVA DE SANTA FE V. MAYOR ALAN
 WEBBER, IN HIS OFFICIAL CAPACITY, AND THE CITY
 2 OF SANTA FE; DOCKET NUMBER: D-101-CV-2021-
 01373.
 3
 4
 5 WITNESS SIGNATURE/CORRECTION PAGE
 6 If there are any typographical errors to your
 deposition, please indicate them below:
 7
 8 PAGE LINE
 9 _____ Change to _____
 10 _____ Change to _____
 11 _____ Change to _____
 12 _____ Change to _____
 13 Any other changes to your deposition are
 to be listed below with a statement as to the
 14 reason for such change.
 15 PAGE LINE CORRECTION REASON FOR CHANGE
 16 _____
 17 _____
 18 _____
 19 _____
 20 _____
 21 I, HON. ALAN MICHAEL WEBBER, do hereby
 certify that I have read the foregoing pages
 of my testimony as transcribed, and that the
 22 same is a true and correct transcript of the
 testimony given by me in the deposition on
 23 February 7, 2024, except for the changes made.
 24
 25 DATE SIGNED HON. ALAN MICHAEL WEBBER

Page 112

1 I FURTHER CERTIFY that copies of this
 certificate have been mailed or delivered to
 2 all Counsel, and parties to the proceedings
 not represented by Counsel appearing at the
 3 taking of the deposition.
 4 I FURTHER CERTIFY that examination of
 this transcript and signature of the witness
 5 was requested by the witness and all parties
 present.
 6
 7 On _____ a letter was mailed
 or delivered to STANLEY N. HARRIS, ESQ.,
 regarding obtaining signature of the witness,
 8 and corrections, if any, were appended to the
 original and each copy of the deposition.
 9
 10 I FURTHER CERTIFY that the recoverable
 cost of the original and one copy of the
 deposition, including exhibits, to KENNETH H.
 11 STALTER, ESQ., is \$_____.
 12
 13 I FURTHER CERTIFY that I did administer
 the oath to the witness herein prior to the
 taking of this deposition, that I did
 14 thereafter Report in stenographic shorthand
 the questions and answers set forth herein,
 15 and the foregoing is a true and correct
 transcript of the proceeding had upon the
 16 taking of this deposition to the best of my
 ability.
 17
 18 I FURTHER CERTIFY that I am neither
 employed by nor related to and not contracted
 with (unless excepted by the rules) any of
 the parties or attorneys in this case, and
 that I have no interest whatsoever in the
 19 final disposition of this case in any court.
 20
 21 
 22
 23 DAVID M. LEE, RMR, CCR
 Arizona Certificate Number 50391
 New Mexico Certificate Number 537
 License Expires: 12/31/2024
 24
 25

Page 111

1 STATE OF NEW MEXICO
 COUNTY OF SANTA FE
 2 FIRST JUDICIAL DISTRICT COURT
 3 UNION PROTECTIVA DE)
 SANTA FE,) Case No.:
 4)
 Plaintiff,) D-101-CV-2021-01373
 5)
 v.)
 6)
 MAYOR ALAN WEBBER, in)
 7 his official capacity,)
 and the CITY OF SANTA)
 8 FE,)
)
 9 Defendants.)
)
 10
 11
 12 DEPOSITION OF
 13 THE HONORABLE ALAN MICHAEL WEBBER
 14
 15 WEDNESDAY, FEBRUARY 7, 2024
 16 9:08 A.M.
 17 REPORTER'S CERTIFICATE
 18 I, DAVID M. LEE, New Mexico CCR #537,
 Arizona Certificate Number 50391, RMR, do
 19 hereby certify that on February 7, 2024, the
 Deposition of HON. ALAN MICHAEL WEBBER was
 20 taken before me at the request of, and sealed
 original thereof retained by:
 21
 22 FOR THE PLAINTIFF:
 23 STALTER LAW, L.L.C.
 BY: KENNETH H. STALTER, ESQ.
 4801 All Saints Road Northwest
 24 Albuquerque, New Mexico 87120
 (505) 315-8730
 25 ken@stalterlaw.com

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