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Who knew that,
under its oh-so-placid
surface, Spokane was
a simmering hotbed
of scandal and
feuds? O. Yale Lewis
found out the hard way



Trouble in River City

By Tim Connor

Illustration by Stan Shaw

After working late on an April evening five years ago, O. Yale Lewis left his office in Seattle's Wells Fargo building and headed north and east. A difficult decision about the future of his law practice had finally been made, and he walked toward home on Capitol Hill feeling more content than he'd felt for some time.

The morning after Lewis' enjoyable walk, Steve Eugster was hurtling westward. As he drove, the 56-year-old lawyer and new Spokane city councilman dialed Lewis' number on his cell phone. Thirty years earlier, Lewis and Eugster had been young associates at one of Seattle's largest law firms. Now, out of the blue, Eugster was asking Lewis to take on just the sort of assignment he'd finally resolved, the night before, to put behind him.

Before Lewis had even really begun to grasp what he'd gotten himself into, he was standing before a Spokane judge as the unlikely point man in what amounted to a civil war between a rebellious city council and the city's most powerful family.

"At some point, I obviously asked myself, 'What have I done?'" Lewis reflects. "But I don't remember when that was."

To the extent that Lewis thought about Spokane before Eugster's call, it was with a passing curiosity. From his visits, he wondered why a city so outwardly attractive seemed lacking in economic vitality. In Seattle he had come to know good lawyers who'd grown up in Spokane. He heard their

affection for the city's charms but was intrigued by the dismay they expressed that a wealthy family controlled the city's civic possibilities. But that's all it was—a curiosity. The family's name didn't even register with him.

It does now. In the months following his recruitment as Spokane's special counsel, what Lewis came to know about the city and its first family got him hooked and agitated and exasperated in ways he could not have imagined. Five years ago, O. Yale Lewis shook Spokane. In various ways, Spokane has been shaking him back ever since.

FAMILY AFFAIR

The fiasco Lewis found himself in the middle of is known, in Spokane and beyond, as River Park Square. In a city fond of pageantry, River Park Square (RPS) was aggressively promoted in the mid-1990s as the centerpiece of a downtown renaissance. The architect for this ambitious public-private partnership was Betsy Cowles, a young, strong-willed media executive whose family has dominated Spokane's civic and political life for a century. Cowles presides over the family real estate companies that own RPS. She also presides over KHQ Inc., the Cowles-owned broadcast company that holds the city's NBC affiliate. Her brother Stacey is publisher of the *Spokesman-Review*, the city's only daily newspaper.

In national circles, River Park Square has achieved notoriety primarily as an unusual municipal bond default. In dollar terms, the tens of millions of dollars lost in the debacle,

while a serious wound to the financially strapped city, make it seem inconsequential compared to disastrous frauds such as Enron or Worldcom. But, as Lewis would discover, there are other dimensions to the scandal that stand out. Communities usually benefit from locally owned newspapers. But here was a family-owned media conglomerate working hand in hand with a local government to suppress information about the public risks involved in a complex public-private partnership.

"In eight years of arguing over River Park Square, a controversy built upon the confusion of missing facts, *Spokesman-Review* editors have not once suggested full disclosure as a remedy," wrote historian and Eastern Washington University journalism professor Bill Stimson in a recent critique. "Worse than that, the editors at the *Review* did their share to prevent full disclosure. They reined in reporters who wanted to tell too much. They shouted down citizens who raised legitimate questions. They stood by silently while River Park Square lawyers filed lawsuits aimed at suppressing discussion."

Because of the lack of probing reporting, voters in Spokane simply couldn't know about all the hidden risks buried in the ill-conceived partnership between the city and Cowles real estate companies. Nevertheless, the city's citizens were clearly disturbed by the hardball tactics used against the project's critics. In 1998, for example, the city's new mayor, John Talbott, was twice accused of "civic terrorism" simply for raising what turned out to be rea-



sonable and prescient questions about the city's risks. For two years, Talbott and Cherie Rodgers, the other RPS critic, who served on the city council, were outvoted by a pro-RPS majority. The stunning 1999 city elections in Spokane changed that. Two reformers—Eugster and Steve Corker—won council seats by knocking off pro-RPS candidates. The rebels arrived with a one-vote majority on the council. “City changes overnight” read the post-

election headline in the *Spokesman-Review*.

LEWIS TO THE RESCUE

The RPS deal was far shakier than even the critics imagined. The first part to collapse was the vastly overvalued RPS parking garage. After consenting to use controversial appraisal methods that inflated building and land values far above “market value”—an approach favored by RPS—city officials agreed to pay

Cowles companies \$26 million up front, plus another \$18 million through a long-term land lease. Saddled with the resulting debt load, the small agency operating the new “public” garage began sinking almost immediately. Its only recourse was to seek massive loans that prior (pro-RPS) city councils had “contingently” pledged to back the scheme.

The imploding garage deal suddenly became the white-hot political issue. The new

O. Yale Lewis isn't afraid to take on high-profile cases. Before tackling the Spokane mess, he fought to save Pike Place Market.

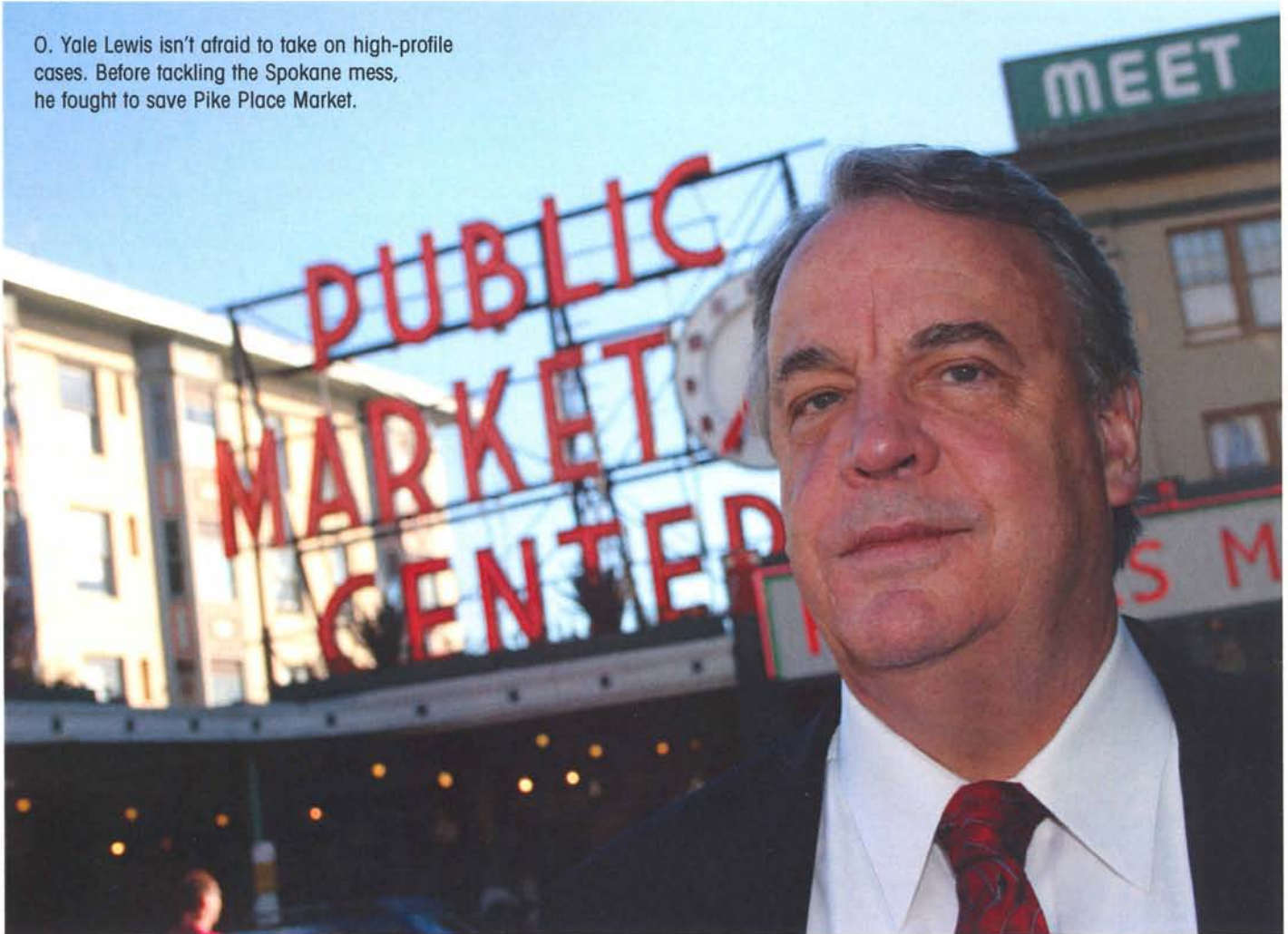


PHOTO BY MICHAEL J. HIPPLE

majority voted down the loan requests, then decided it needed sophisticated legal help.

"If there was anyone in the state who could look at this from a fresh perspective," Eugster recalls thinking, "it was Yale Lewis."

The soft-spoken man Eugster remembered was an eager-to-help attorney who'd been involved in a number of high-profile public causes in Seattle, among them the resurrection of the Pike Place Public Market. Saving the market required a new kind of public financing entity, and Lewis took the lead in drafting the enabling legislation.

At one time, Lewis' work with public development authorities and other public entity clients was the backbone of his practice. But since he and his wife, Katherine Hendricks, started their own firm in 1986, Lewis has increasingly specialized in intellectual property law. The night before Eugster's phone call, he'd finally decided to stop soliciting public-law clients.

The Spokane assignment got in the door because Lewis just couldn't say no.

On the flight back from his first briefing in Spokane, Lewis began thumbing through a small pile of documents he'd requested. One of

the records was a 1998 memo—part of the disclosure package for the \$31 million in tax-exempt bonds used to finance the garage transaction—that included a rather clumsy effort to disguise the hidden subsidy to Cowles firms.

Lewis speaks in the gentle Alabama accent of his youth and eschews profanity. So there is something of an awkward pause in the interview before he recounts his reaction to the memo.

"What I said was, 'Holy shit!'" Lewis recalls. "Thirty one thousand dollars a [parking] space—that doesn't make sense."

At the time, Spokane's new city manager, Hank Miggins, was also alarmed by what he was learning about how RPS was put together. Among his immediate concerns was the role played by Jim Sloane, the city's veteran city attorney, who'd worked closely with Cowles lawyers and was an unabashed defender of the project.

"It was kind of a touchy situation there," Miggins recalls, "with the legal department and its boss being a part of this whole thing, in my opinion, and having reasons to obfuscate what was going on."

"Miggins' position," Lewis says, "was basically, 'There's a real problem here, and we

need to understand it.'"

Lewis' narrow assignment quickly broadened into a tense investigation. His duties included working with Cowles lawyers for a settlement. But after 10 weeks on the job, Lewis saw the negotiations were at an impasse. He thought it was crucial that the city take the initiative. On July 18, 2000, he filed suit in state court, alleging, among other things, a conspiracy among the city's parking consultant, Cowles agents and "possibly" unnamed city officials "to divert public funds for private use."

Spokane had never seen anything quite like it. The Lewis lawsuit instantly became *the* issue in the rapidly approaching 2000 city election, an election in which Spokane would be choosing, for the first time, a "strong" mayor rather than a city manager who reported to the city council. The stakes were enormous: The new mayor would control the River Park Square litigation.

Into this highly charged atmosphere came John Powers, a charismatic Spokane bankruptcy attorney. Powers assailed Talbott for his aggressive approach to litigating RPS. But he also played to the voters who had elected

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Corker and Eugster by demanding “full disclosure” from Cowles and her attorneys.

As the election approached, Miggins asked Lewis to complete a report on his investigation into the RPS transaction. The 15-page document described in great detail how the garage deal was structured to give maximum benefit to the Cowleses and proceeded even without a “sound basis” for believing the garage could pay for itself. Days later, however, Powers won the mayor’s race and openly celebrated with RPS boosters.

Lewis says he gave the new strong mayor the benefit of the doubt.

“Powers presented himself to me as a kind of realist who was totally committed to disclosure but who thought that Eugster and Talbott had been too abrasive and that he [Powers] was perfectly positioned to get it [the RPS impasse] resolved in an honorable, fully disclosed way,” Lewis says. “That sounded fine to me.”

But, says Lewis, once Powers took office, it became clear there was a conflict about the future of the city’s litigation. Miggins was dismissed as city manager and, for legal advice, Powers relied increasingly on Laurel Siddoway, another Spokane attorney, whose husband had recruited Powers to run for mayor and been one of his biggest campaign contributors.

Shortly after Powers had been sworn in, Lewis says he sat down with Powers and Siddoway, whom the new mayor retained as a second special counsel for River Park Square, to go over his draft of an amended complaint to the city’s RPS lawsuit. Powers, Lewis says, quickly made clear he wasn’t interested in pursuing it: “My views as a litigator were in sharp conflict with the political realities of what John and Laurel intended to do.”

Powers and Siddoway wanted to withdraw the conspiracy charges.

THE PLOT THICKENS

There were other differences. For example, one of the emerging culprits in Lewis’ investigation was the Spokane Downtown Foundation. The SDF was the nonprofit entity hastily chartered in late 1996 to buy the RPS garage from Cowles “on behalf of” the city. With the city’s backing, it issued the bonds to pay for the garage. Cowles agents selected the three SDF board members, and one of them was RPS supporter David Broom, a law part-

ner of Powers’. The SDF’s lead attorney was Mike Ormsby, with the firm of Preston Gates & Ellis. Ormsby was treasurer of the John Powers for Mayor campaign.

Lewis knew about Ormsby’s role in getting Powers elected. What he didn’t know was that Ormsby had also worked on the garage transaction for Cowles companies. (On two occasions in 1996, Ormsby sent letters to Sloane disclosing the conflicts. Both documents were conspicuously missing from files turned over to Lewis.)

Lewis says he took the view that the case against the SDF and its lawyers “should be more sharply presented” in the proposed

lent scheme” to enrich Cowles companies.

The IRS was no less blunt. After a three-year investigation, it issued a 27-page report in June 2004. A key ingredient in the “extremely flawed” scheme that violated federal tax rules, the IRS noted, was public deception.

“The casino was rigged,” the IRS wrote. And even when clear signals emerged that the massive subsidies for Cowles companies could not be mortgaged with revenues from the supposedly “public” garage, “all parties involved seemed to be struck by ostrich fever, a collective burying of heads in the sand. This is clearly what the developer [Cowles companies] needed.”



Steve Eugster may not have done O. Yale Lewis any favors by inviting him to Spokane.



Former city councilwoman Cherie Rodgers blasted the agreement with the Cowles family but was outvoted.

After being replaced by spring 2001 by Siddoway, whose title is special counsel for River Park Square litigation, Lewis tried to keep track of what was happening in Spokane. While Cowles journalists all but ignored the evidence that was coming out in depositions and document discovery, much of the material was making its way into the city’s few alternative publications and Websites. Lewis would often end his days on the phone in his office trying to find out what was happening.

“It was the same attraction that Watergate had for me,” Lewis says.

He was “fascinated” by the emerging details, “but it also seemed as though a miscarriage of justice was unfolding. What I couldn’t let go of was, How can this still be unfolding? Why hasn’t it stopped?”

Lewis thought the emerging evidence confirmed his theory about the city’s complicity. He also thought it offered an opportunity to go to the Washington Supreme Court and have the entire garage transaction declared unconstitutional and thus null and void.

The last person who might have been able to resurrect Lewis’ argument for the city was Tom Grant. Although Grant, as a TV journalist, had won prestigious national awards for his reporting on RPS for KXLY-TV, he left the station shortly after Powers took office, complaining that KXLY was curtailing the RPS investigation and other in-depth assignments.

There is no question that KXLY felt pressure because of Grant’s reporting. Betsy Cowles complained to KXLY management personally, and, according to station manager Steve Herling, River Park Square canceled its advertising buys as a result of the RPS stories. Herling denies that the pressure affected the station’s news decisions.

amendment to the lawsuit. He says the position of Powers and Siddoway was “that it should be given no attention.”

A comparison of the draft amended complaint that Lewis prepared and the one that was ultimately filed shows Lewis would have included a breach of fiduciary duty claim against the SDF. The claim is absent from the amendment the city actually filed.

Powers didn’t return phone requests for an interview. For her part, Siddoway disputes Lewis’ account and says she doesn’t recall any differences with him over how to approach the issue.

As Powers later acknowledged, the dropping of the conspiracy charges against Cowles companies was part of his plan to try to reach a settlement with Betsy Cowles. But negotiations with Cowles would remain gridlocked for years.

A RIGGED ‘CASINO’

In the meantime, garage bondholders and the Internal Revenue Service picked up on Lewis’ charges. The bondholders filed suit in federal court in April 2001, naming the city and Cowles companies as alleged participants in a “fraudu-



Real estate magnate Betsy Cowles drove a hard bargain in the parking-garage settlement between Spokane and her powerful family.

HARLEY SOLTES/THE SEATTLE TIMES

But Grant wasn't through. In the spring of 2003, he announced he would challenge Powers in the fall 2003 city elections.

Grant sought advice from Lewis on an alternative legal strategy and presented it as the centerpiece of his campaign. He scoffed at Powers' efforts to reach a "business solution" with Cowles.

"After you get mugged," Grant said, "you don't turn around and ask the guy to split your hospital bill. I say Spokane needs to pull out a can of whup-ass."

Grant beat Powers in the mayoral primary. But he narrowly lost to state Sen. Jim West in the November 2003 general election.

SETTLE OR ELSE

The legal strategy Spokane adopted as it sent Lewis packing in early 2001 turned out to be a bitter failure for the city and its taxpayers. Under Powers, Spokane steadfastly denied any wrongdoing on the part of its elected officials. Instead, it pursued a game of chicken with garage bondholders while urging Betsy Cowles to share the liability for the garage fiasco.

In December 2003 Gary Ceriani, the lead attorney for bondholders, laid out his case in a massive pretrial brief. After covering the discovery evidence and chastising the city for its "scorched earth" tactics, Ceriani made pointed reference to Lewis' October 2000 report, which he described as being "rife with truthful admissions regarding virtually every aspect of the fraudulent scheme."

On taking office in January 2004, Mayor West retained Siddoway and did nothing to change the city's rapidly deteriorating legal strategy. But with a scheduled trial only three weeks away, the city blinked. Spokane agreed to pay \$30 million to buy the rights to the bondholders' case—a case that was first laid out by Lewis four years earlier. Now the plan was to use that case against Cowles companies and the remaining defendants.

But Betsy Cowles still held some powerful cards. Alongside the infamous garage transaction, she'd also borrowed \$22.65 million from the city to redevelop the RPS mall. The loan was made possible via a federal Housing and Urban Development program allowing cities such as Spokane to borrow from HUD using future fed-

eral grants as collateral. HUD guidelines recommend that the loans be secured by an unqualified letter of credit from the private developer—in this case Cowles companies. Yet in private negotiations with the city, Cowles adamantly refused to fully secure the loan. Consequently, the city's loan was badly undercollateralized, exposing Spokane's poorest neighborhoods to the real prospect of having HUD pull millions of dollars in federal antipoverty grant funds.

Cowles' hard bargaining on the loan security, and the city's capitulation to her demands, was one of the most carefully guarded secrets of the transaction, the details buried in documents the city repeatedly (and illegally) withheld from public disclosure.

At a special city council meeting in December 2004—again on the verge of trial in federal court—Mayor West and his allies made their pitch for settling with Cowles. (Shortly after the eventual settlement, West became the focus of a new Spokane scandal.)

To settle the claims against her companies, Cowles was willing to take the \$8.3 million owed her companies and divert \$6.3 million of it to repay the city's loan. The city could then apply

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the remaining \$2 million to offset its massive garage losses. This last detail was ridiculed by former city councilwoman Rodgers, who pointed out that, in order to get the agreement, the city took responsibility for nearly \$1.5 million in unpaid taxes on the garage.

Cowles also agreed to put up (finally) a letter of credit to secure the remaining payments on the HUD-backed loan. There was one other part to Cowles' offer: If the city didn't accept it, her negotiators made clear, she would seriously consider filing bankruptcy for the real estate subsidiaries that owned RPS.

The despair and anger in the council chamber was palpable.

Not even councilman Al French, a former Powers supporter who served on the city's negotiating team, would defend the proposal.

"Quite frankly," French said to residents at an emotionally charged council meeting, "I think I've failed you. This is not a fair deal. This is not an equitable deal. But it's probably the best deal we're going to get."

Before he voted with four others to accept the offer, French said, "I feel like I have a gun to my head."

THAT SINKING FEELING

After the 11th-hour settlement with Betsy Cowles, the city's case against the remaining parties to the garage deal continued to collapse. By the time the case finally got to a jury in April 2005, all that remained was a malpractice claim against the city's former bond counsel, Roy Koegen, and Perkins Coie, the firm Koegen was working for at the time the garage deal had been put together.

Although Siddoway said publicly she hoped to make Koegen's firm pay heavily for the tens of millions of dollars the misguided garage deal had cost Spokane, the trial was barely underway before the city council was summoned to another special meeting. On April 27, after several council members openly expressed concerns about the number of former city officials prepared to testify on Koegen's behalf, the council voted to drop the claim in exchange for a \$4.25 million pay-

ment from Perkins Coie. The city remains on the hook for at least \$22 million, not including its legal expenses.

As Siddoway's legal strategy was unraveling in state and federal court over the past two years, Lewis struggled to come to grips with his sinking realization that Spokane lacked either the will or the civic capacity to hold Cowles and her allies accountable. In an interview in his office last fall, he said his intense interest was more than the Watergate factor. He said he'd come to care deeply about the city's struggles with poverty and civic corruption. But what he expected to happen, didn't.

Even with the dearth of mainstream reporting on the scandal, he says, he still held to the notion that "people would get it" if enough of the city's leaders were presented with the facts.

"Eventually, I concluded that, in fact, they all did know what was going on, that they just didn't want to acknowledge it," he says. "And, more importantly, they didn't want outsiders to know about it. And to a certain extent, that satisfied part of my interest. I became less interested in a sense, because I thought I understood, finally, the explanation for what had been driving me crazy for so long."

On the Tuesday after the council's December 11, 2004, vote at its special meeting, I call Lewis back to ask what he thinks and, also, to see how he is doing.

He groans and sighs and gropes for the right words.



COURTESY CITY OF SPOKANE

As mayor, John Powers tried to reach a settlement over the garage, to no avail.

"Appalled," he finally says. "Deeply saddened."

His voice perks up a bit as he works into the briarpatch of the whole thing—the numbers, the logic, the trade-offs, the evidence. Then, in the thorns and brambles of this thing that had intrigued, amazed, and so disheartened him, he seizes on one thing that really bugged him. It was the city's decision, in settling with Betsy Cowles, that she would get the garage back and Spokane would get the bill for the back property taxes.

"That," he says, "seemed perverse." **L&P**



Tom Grant dug up the dirt on the parking-garage debacle, but was edged out of the mayor's race by Jim West.

HARLEY SOLTES/THE SEATTLE TIMES