

1 PLANNING BOARD COUNTY OF ALBANY  
2 TOWN OF COLONIE

3  
4 \*\*\*\*\*  
5 A PUBLIC HEARING REGARDING THE PROPOSED STABLEGATE  
6 RESIDENTIAL SUBDIVISION LOCATED AT  
7 69 AND 71 MORRIS ROAD  
8 \*\*\*\*\*

9 THE TAPED AND TRANSCRIBED MINUTES of the above  
10 entitled proceeding BY NANCY STRANG-VANDEBOGART  
11 commencing on April 6, 2010 at 7:00 p.m. at the  
12 Public Operations Center 347 Old Niskayuna Road,  
13 Latham, New York 12110

14 BOARD MEMBERS:

- 15 CHARLES J. O'ROURKE, Chairman
- 16 ELENA VAIDA
- 17 PETER GANNON
- 18 PAUL ROSANO
- 19 TIMOTHY LANE
- 20 TOM NARDACCI
- 21 MICHAEL SULLIVAN
- 22 PETER STUTO, Jr. Esq., Attorney for the  
23 Planning Board

24 Also present:

- 25 Joseph LaCivita, Director, Planning and Economic  
Development
- Joe Grasso, Clough Harbour & Associates LLP
- Tom Arico, Boswell Engineering
- Marion Geleta
- Eliza Walker
- James Smith
- Loren Lillis
- Mathew Rafalik
- Stan Miske
- Art Paolelle
- Gail Jess
- Neil Gifford
- Mary Stankus

1                   CHAIRMAN O'ROURKE: We do have a busy  
2 agenda tonight. For those of you in the  
3 audience, I'm going to explain a little bit of  
4 some of the changes that we've done here so  
5 that you're aware and you're not feeling like  
6 we're going to leave you out.

7                   The way that the Planning Board has been  
8 operating is that when a project gets called  
9 we'll get a brief update from the Planning and  
10 Economic Development Department, Joe LaCivita,  
11 who will bring up to speed on where we're at.

12                  The applicant then will take the floor  
13 and explain to the Planning Board the project  
14 in its entirety and any issues that they have  
15 with the project and whether its concept or  
16 depending on the stage.

17                  At that point, if there is a town  
18 designated engineer that's assigned to the  
19 project, the town designated engineer will  
20 then inform the board on comments and issues  
21 within the project. If there isn't, then it  
22 will go directly to board members for  
23 questions. If the TDE does have some comments  
24 or issues, after the TDE is done, the board  
25 members will go.

1           At that point, once everybody on the  
2 board has had an opportunity to weigh in on  
3 the project, then it will be opened up to the  
4 public. We've asked that anybody that does  
5 plan on speaking, please could sign in. All  
6 the information is printed in a transcript,  
7 just so that we have correctness of names and  
8 things of that nature for the record.

9           With all that being said, I'd like to  
10 move to the first project.

11           There are no minutes, correct?

12           MR. LACIVITA: Correct.

13           CHAIRMAN O'ROURKE: The first item on  
14 tonight is a public hearing for Stablegate.  
15 It's a 22 lot residential subdivision, 69 and  
16 71 Morris Road. They are here for a review and  
17 action on a final plan.

18           Pete, if you would?

19           MR. STUTO: Notice is hereby given that  
20 pursuant to Section 276 of the Town Law, the  
21 Town Planning Board of the Town of Colonie,  
22 Albany County, New York will meet and conduct  
23 a public hearing at the Public Operations  
24 Center, 247 Old Niskayuna Road, Latham, in  
25 said Town of Colonie, County of Albany, New

1 York, on the 6<sup>th</sup> day of April, 2010, at  
2 7:05 p.m. for the purpose of hearing all  
3 persons upon the approval, modification or  
4 disapproval of a certain residential  
5 subdivision plat in the Town of Colonie,  
6 County of Albany, known as Stablegate  
7 subdivision consisting of approximately  
8 19.7 acres of land, located at  
9 69-71 Morris Road to be divided into 22 lots.  
10 Dated March 31, 2010, Latham, New York, Town  
11 of Colonie Planning Board, C.J. O'Rourke,  
12 Chairman.

13 CHAIRMAN O'ROURKE: Thanks, Pete.

14 Joe, you want to bring us up to date?

15 MR. LACIVITA: Sure. Based on the summary  
16 that you just stated C.J., the concept  
17 approval was granted on October 28, 2001.  
18 There is a revised concept acceptance granted  
19 January 14, 2003 on the project and the  
20 subdivision is grandfathered pursuant to the  
21 provisions of Local Law 1 of 2007.

22 It's been a 22-lot subdivision from the  
23 onset and it's been with the Planning  
24 Department, again, since 2001. I believe that  
25 Mr. Rosetti is here to speak to the project.

1                   CHAIRMAN O'ROURKE:   What about SEQRA?

2                   MR. LACIVITA:   There was no further SEQRA  
3 review done during the course of the concept  
4 process and it's here for final action  
5 tonight.

6                   CHAIRMAN O'ROURKE:   Thank you.

7                   Who do we have for the applicant?

8                   MR. ARICO:   I'm Dom Arico from Boswell  
9 Engineering. Mr. Rosetti is also with me. He  
10 has agreed to develop the property that makes  
11 up this subdivision.

12                   As Joe said, we're here for our final  
13 hearing for final approval on the subdivision.  
14 The project has not changed since for many  
15 years now. What we've been doing for many of  
16 these years is updating the plan per the town  
17 comments. We updated stormwater management for  
18 the new regs that came out in '03. We've  
19 updated some of the utilities, modified some  
20 of the layout grading, we have worked through  
21 wetland issues and setback issues.

22                   This is St. Thomas here (Indicating).  
23 We're at the end of the road. It's existing  
24 pavement now. We're extending that and  
25 St. Francis with cul-de-sacs and single family

1 residential lots along the perimeter of the  
2 extended road. Again, they all drain to this  
3 area (Indicating). They both drain out into  
4 the existing Lisha Kill. There is an  
5 additional lot over here which we refer to as  
6 lot 69, which accesses out over an existing  
7 bridge crossing and onto Morris Road.

8 MR. LANE: Where is the bridge crossing,  
9 if you don't mind?

10 MR. ARICO: It's right here (Indicating)  
11 in this spot. It's just about where it narrows  
12 in that corner.

13 FROM THE FLOOR: Can you show north on  
14 this map?

15 MR. ARICO: North is right here  
16 (Indicating).

17 I don't know how detailed you want me to  
18 get with the review. We're here for the final.  
19 We've made all the comments. We have sign-offs  
20 from all of the department heads, as far as  
21 the review. We have addressed all the comments  
22 and I believe that's what got us here. We're  
23 glad to answer any other questions you might  
24 have so that we can continue on with the  
25 permitting process.

1 CHAIRMAN O'ROURKE: Thank you.

2 I'm not so sure that all of our comments  
3 may be minor. I guess it depends on one's  
4 perspective.

5 MR. ARICO: I'd be happy to answer  
6 anything that you have right now.

7 CHAIRMAN O'ROURKE: We'll give you that  
8 opportunity.

9 Tom, do you want to go first?

10 MR. NARDACCI: I'll hold off for right  
11 now.

12 CHAIRMAN O'ROURKE: Paul?

13 MR. ROSANO: None right now.

14 CHAIRMAN O'ROURKE: Tim?

15 MR. LANE: I see that there is a letter  
16 and we have a checklist that was signed by  
17 Kevin DeLaughter in January 20<sup>th</sup>. I know that  
18 there were four items on it. There is also a  
19 letter from Mr. Arico with quite a number of  
20 items. I just wanted to know if all of these  
21 comments had been addressed from January 20<sup>th</sup>.

22 MR. ARICO: Yes, they have.

23 MR. LANE: According to Kevin's notes on  
24 January 20<sup>th</sup>, there is a requirement for an  
25 abandonment of a previously filed undeveloped

1 subdivision that had been previously filed for  
2 the site. Is that just a legal matter that  
3 needs to be resolved?

4 CHAIRMAN O'ROURKE: The plat has been  
5 filed as of what date sir?

6 MR. ARICO: Why don't you go to the next  
7 question while I'm looking?

8 MR. LANE: There is a water course permit  
9 by Planning and Economic Development for the  
10 proposed utility installation within the  
11 protected area. There is a fairly high water  
12 table on this, is that correct?

13 MR. ARICO: Within the development in  
14 here (Indicating)?

15 MR. LANE: Yes.

16 MR. ARICO: I'm not aware of a high water  
17 table, no. There is a significant drop from  
18 the edge of the property. The protected  
19 watercourse is -- the red line is our  
20 property. There is actually a dashed line. You  
21 can see that's a highlighted area and that's a  
22 watercourse setback.

23 MR. LANE: Help me to understand that  
24 comment, then. Is it just a setback issue from  
25 the watercourse?



1 MR. ARICO: What number are we on?

2 MR. LANE: This is on our checklist. The  
3 protected watercourse permit by Planning and  
4 Economic Development Department for proposed  
5 utility installation within the protected  
6 area.

7 MR. ARICO: As far as I know, there are  
8 no utilities at all in the protected area  
9 except for the discharge of the detention  
10 basins which have to go through that in order  
11 to get to the stream. That might be what the  
12 utility is. We do have easements and there are  
13 easements around each utility that goes  
14 through that.

15 MR. STUTO: This note suggests that you  
16 need a watercourse permit from the town, as  
17 well.

18 MR. ARICO: We've applied for no physical  
19 permitting until after this process. I think  
20 that it's the understanding that we have to  
21 apply for that.

22 MR. LANE: Then there's the issue  
23 regarding Stanford Heights. I guess maybe the  
24 bridge isn't sufficient to handle the weight  
25 of emergency vehicles.

1 MR. ARICO: There has been a lot of  
2 debate. I was involved with this at the  
3 beginning when I first came to work with  
4 Boswell. It wouldn't take emergency vehicles,  
5 but it would take a pedestrian vehicle.

6 MR. LANE: The streets are basically just  
7 being extended from the current road that come  
8 off of - is it Albany Street that it comes  
9 from?

10 MR. ARICO: I believe so, yes.

11 MR. LANE: Is that served by Stanford  
12 Heights? Who serves that district up there?

13 MR. ARICO: I think it is.

14 MR. LANE: So they won't have a problem  
15 with access then. I don't know what the issue  
16 with the bridge is.

17 CHAIRMAN O'ROURKE: There is a big issue.

18 MR. LANE: But if they can come down the  
19 main road -- I'm not understanding.

20 CHAIRMAN O'ROURKE: And access it how?

21 MR. ARICO: Are we talking for the  
22 emergency vehicles?

23 MR. LANE: Yes.

24 MR. ARICO: As far as emergency vehicles,  
25 there is Morris Road right here (Indicating).

1           They just can't bring their vehicles across  
2           this bridge. I believe they'd be able to get  
3           their hose here, but there is also a  
4           discussion as far as the home would be  
5           sprinklered. That would be a concern of the  
6           Fire Department, too. It would allow a  
7           different kind of access.

8                     MR. LANE:   What's the distance from  
9           Morris Road across the bridge to the nearest  
10          home?

11                    MR. ARICO:  I would say that it's less  
12          than 400 feet. I would have to scale it off. I  
13          don't see a dimension on it.

14                    It might even be less than 300 feet.

15                    MR. LANE:  Is there a hydrant in that  
16          area?

17                    MR. ARICO:  There is hydrant access on  
18          St. Francis. If in fact they had to pull extra  
19          hose, they have an easement in through this  
20          property here (Indicating) for water service.  
21          It can't be built on or developed on as far as  
22          trees and landscaping and things like that.  
23          They could pull from here (Indicating) or they  
24          could pull from Morris Road. I'm not exactly  
25          sure where there is a hydrant. This was more

1 presentation tonight as far as the board.

2 As far as emergency services, they can't  
3 cross the bridge. Can they get physical access  
4 to the building? Yes. An ambulance could cross  
5 the bridge. We're talking about a fire truck  
6 or a heavily loaded truck.

7 MR. LANE: So the bridge can't handle the  
8 weight load of the larger vehicles?

9 MR. ARICO: My interpretation with the  
10 town - the town has not determined or agreed  
11 with the analysis that was done that it could  
12 handle it. We looked at it as engineers and  
13 said, well, it's substantially sound.

14 CHAIRMAN O'ROURKE: What was the date of  
15 that engineering that you're referring to?

16 MR. ARICO: There are a couple of  
17 different ones.

18 CHAIRMAN O'ROURKE: The most recent.

19 MR. ARICO: I'm not sure if anybody did  
20 anything in our office. There has been people  
21 in and out. People come and go, but in '06 I  
22 believe that was the last time that I know of  
23 that something was done outside of the town.  
24 We looked at the height of the bridge and made  
25 sure that the water flow underneath was going

1 to be adequate. There was a question about the  
2 pipe. All that got the okay. We left it that  
3 the structure of the bridge was not adequate  
4 for heavy loads to allow to cross that, but a  
5 regular pedestrian vehicle - you know, a  
6 normal car, truck or van would have no issue.

7 CHAIRMAN O'ROURKE: What was the bridge  
8 rated for on the most recent inspection?

9 MR. ARICO: What we determined it to be  
10 rated for?

11 CHAIRMAN O'ROURKE: Yes.

12 MR. ARICO: I don't think that we could  
13 ever make a determination.

14 CHAIRMAN O'ROURKE: That's difficult to  
15 say that an ambulance could go over it, if you  
16 don't know.

17 MR. ARICO: I'm not talking about a fire  
18 emergency. I'm talking like a Mohawk  
19 Ambulance.

20 CHAIRMAN O'ROURKE: So what does one of  
21 those vehicles weigh?

22 MR. ARICO: I believe that they're about  
23 six or seven thousand pounds. An EMS or fire  
24 vehicle is probably closer to 10. An EMS  
25 vehicle may not be able to -- they probably

1           could, but it hasn't been deemed that vehicle  
2           should go over; definitely not a fire truck. I  
3           personally don't think that they would have an  
4           issue driving over it. There are so many  
5           evaluations that have to be done on the bridge  
6           to make that determination with digging it up  
7           and putting in the footing, it would ruin the  
8           structural integrity of the bridge now by  
9           disturbing the soils around it trying to dig  
10          up the footings.

11                   CHAIRMAN O'ROURKE:   So if the perspective  
12          homeowner were to order some new appliances,  
13          they'd have to be walked in over the bridge?

14                   MR. ARICO:   I would say, yes, unless it's  
15          a panel van. We're only talking less than  
16          300 feet. It's not, in our opinion, a large  
17          distance at all.

18                   CHAIRMAN O'ROURKE:   You just hope that  
19          it's not snowing. I'm not trying to be  
20          facetious, I'm trying to get to how you want  
21          this board to okay a lot that doesn't have  
22          access.

23                   MR. ARICO:   We have many projects where  
24          the buildings are 200 or 300 hundred feet off  
25          the road. They may have regular driveways, but

1 a fire truck would not pull into any one of  
2 these areas. Even if it was accessible, a fire  
3 truck would not pull up into the driveway.

4 CHAIRMAN O'ROURKE: Sir, with the  
5 setbacks in the Town of Colonie, you don't  
6 have to pull in the driveway. They could pull  
7 in the road. With a 35 foot setback, they drop  
8 their hoses and extinguish an issue. When  
9 you're talking about 300 feet, that's  
10 problematic, in my opinion.

11 MR. ARICO: They should be able to pull  
12 easily 500 or 600 feet from the truck or the  
13 hydrant. We could have easily placed the  
14 building back. We wanted to place it a little  
15 further, but with the setback issues we  
16 couldn't really place it much closer. It's  
17 understood that this is going to be a  
18 difficult lot to sell. Again, it is a lot and  
19 there is nothing else to do with this lot. I  
20 don't know if Mr. Rosetti has any other  
21 concerns about building it. Whatever we need  
22 to do in order to get emergency  
23 access -- leaving a path or building the  
24 driveway up a little bit more so that they can  
25 at least get to the bridge. We're glad to do

1           whatever we need to do to address that issue.

2                   CHAIRMAN O'ROURKE:   Tim?

3                   MR. SULLIVAN:   I also had concerns over  
4           the access to lot 69. My question is: Would it  
5           be possible to have emergency access and  
6           utility easement? You have a 15-foot wide  
7           utility easement between lots 20 and 18. I  
8           believe that we've had other projects where  
9           there is a crusher run base underneath grass  
10          such that it could handle the loads of the  
11          emergency vehicle and you'd be able to have  
12          access to that lot, if needed in an emergency.  
13          I'm not at all comfortable with relying on  
14          bringing in hoses from the road 300 or  
15          400 feet, even if it's sprinklered. I don't  
16          like that idea. I also think that you could do  
17          a load rating on that structure and see  
18          exactly what it could handle safely. It seems  
19          like a bad idea to build a house that you may  
20          not be able to get access to even with an  
21          ambulance. So I have serious concerns about  
22          that.

23                   MR. ARICO:   I understand the concerns and  
24          the access. I guess in our opinion, the fire  
25          services and emergency access people won't



1           have any issues about getting here and not  
2           being able -- they will know that they can't  
3           cross this bridge. They shouldn't have any  
4           issues with this. If they do, then I guess  
5           we'll have to work out making sure that  
6           they're happy with getting to that site. I'm  
7           not sure what the discussions have been. I was  
8           not involved with that with emergency  
9           services. I know that we've had them and  
10          they've looked at this issue and that was the  
11          only concerns that they won't cross the  
12          bridge.

13                 MR. SULLIVAN: I'm not comfortable with  
14                 should. I'd like to know for certain that it  
15                 could or could not cross and also if it's  
16                 possible to have emergency access through that  
17                 utility easement - that 15 foot wide corridor.

18                 MR. ARICO: I would say no because it's  
19                 going to be right on top of the home. There is  
20                 just not enough space to put it between the  
21                 lots there.

22                 MR. SULLIVAN: But you have a 15 foot  
23                 wide path there.

24                 MR. ARICO: The utility easement is  
25                 underground. It's not going to be seen.

1           MR. SULLIVAN: Right. My point is to put  
2 a base course of crusher run that's compacted  
3 such that it is like a roadway base but then  
4 have top soil over it so that it looks like a  
5 lawn, but if needed, it could support the  
6 heavier vehicle and it could then get right up  
7 to that lot so that they don't have to have  
8 hoses drawn out over 400 feet.

9           MR. ARICO: I guess that we could look  
10 into it. I've never done that before, but I  
11 guess we could look at it.

12           MR. SULLIVAN: I don't remember what  
13 project it is, but we had a similar situation  
14 where we have provided an emergency road, if  
15 you will, but it doesn't look like crusher run  
16 since it has topsoil over it and it would have  
17 grass over it. It would look like a regular  
18 lawn but it could carry regular traffic.

19           MR. ARICO: If that would be a  
20 contingency in order to get this approved,  
21 then that's what we would do.

22           MR. SULLIVAN: I would also like to see  
23 the load rating on that bridge to know for  
24 certain that an ambulance could get in there.

25           MR. ARICO: That's been the problem.

1           There hasn't been a load rating that anybody  
2           could agree to. That was my understanding. We  
3           could agree that it could carry normal loads,  
4           but to get into the specifics, there's not  
5           anybody that would give a true specific to it  
6           because of the -

7                   CHAIRMAN O'ROURKE: The liability.

8                   MR. ARICO: Right, the liability to it. I  
9           can say that we know it's going to carry  
10          pedestrians. You know, a 2,000 or 3,000 pound  
11          car or a larger vehicle. Maybe it would be  
12          4,000 or 5,000 pounds.

13                   CHAIRMAN O'ROURKE: But you're not sure.

14                   MR. ARICO: I know that it will carry  
15          that. Emergency vehicles are different. There  
16          are all different kinds. To say that it's  
17          going to carry an 8,000 pound vehicle - to put  
18          it into numbers, it would be tough to do. It's  
19          just the way that the bridge was constructed.  
20          A lot of it is buried and when you get a  
21          structure that's been sitting there for so  
22          long and you try to disturb it, I'm sure your  
23          engineers could probably agree that you're  
24          disrupting it enough that you'll never get the  
25          structural stability back to it again.

1           MR. LANE: I can say that I would be  
2           uncertain about the substructure, but the  
3           superstructure - you should be able to load  
4           rate that. I'd like to see that. I'm not  
5           comfortable with should be okay or it might be  
6           okay. I'd like to know that at least an  
7           ambulance can get to that.

8           MR. ARICO: My objective tonight is to  
9           get this through so that we don't have to come  
10          back to the Planning Board. I know that I've  
11          done it in the town in previous years. If we  
12          omitted this lot, we would have to come back  
13          when we wanted to build on here to develop  
14          this. Maybe there are other things out there  
15          that where we could analyze this and we could  
16          make the board agree with what we could and  
17          couldn't do here. Then, all we're doing is  
18          coming back for this one lot and we can deal  
19          with the engineering at that point. We could  
20          take this building right off of here and just  
21          say that this will be a lot for future  
22          evaluation and come back to the Planning Board  
23          for approval. I know that I've done it before.  
24          I don't know if it's something that we could  
25          do.

1                   CHAIRMAN O'ROURKE: Things have changed a  
2 little.

3                   MR. ARICO: It would at least allow us to  
4 continue. We have been in front of the town -

5                   CHAIRMAN O'ROURKE: But sir, this project  
6 has been in the Planning and Economic  
7 Development Department for roughly 2,500 days.  
8 Is it your contention that this evening  
9 because of engineering difficulties with that  
10 bridge - now you're willing to take that lot  
11 off?

12                  MR. ARICO: No.

13                  CHAIRMAN O'ROURKE: I'm a little confused  
14 because a project like this that has spent so  
15 much time -- the bridge issue isn't new to you  
16 this evening?

17                  MR. ARICO: As far as we were concerned,  
18 the bridge issue was solved. It's being  
19 brought up tonight. We have not addressed the  
20 bridge issue in three years, probably. The  
21 bridge issue was the fact that it would not  
22 take emergency vehicles and that was  
23 acceptable. We have made other issues about  
24 not crossing and we've brought utilities in  
25 different directions -

1                   CHAIRMAN O'ROURKE: And I agree that  
2                   there were some statements by department heads  
3                   that I find borderline offensive that they  
4                   would say that it's okay to put a resident in  
5                   harms way, in my opinion. In terms of the  
6                   engineering, as Mike said - and Mike is an  
7                   engineer - I have a little background with  
8                   some things and when I went out and looked at  
9                   that bridge, you can absolutely tell what load  
10                  it will carry - the superstructure. So, all  
11                  I'm trying to get to is that this isn't a new  
12                  problem. This should have been addressed way  
13                  before you get to final. That's just one item.  
14                  I know that there are more people on the board  
15                  that would like to speak, but in fairness to  
16                  everyone involved, I've seen axel ratings of  
17                  24,000. That goes back as far as '01. There  
18                  are other things in there from our Fire  
19                  Inspector that said that there is no way that  
20                  I'm going to let one of my vehicles go across  
21                  that bridge. I find it hard to believe that  
22                  it's just getting addressed tonight in front  
23                  of a final Planning Board meeting. So, I would  
24                  be of the opinion and certainly as one person  
25                  to not allow this to be taken out. We're going

1 to move forward on this project as it is  
2 tonight, in my opinion. We did the public  
3 notification to everyone and based on the  
4 merits of this project in its entirety, we're  
5 going to work on this tonight.

6 MR. ARICO: I have no desire to want to  
7 take this out. I was just suggesting to try to  
8 keep the project going. If this is the only  
9 issue that we have standing on this  
10 project -- my understanding is that it's been  
11 agreed that emergency vehicles would not cross  
12 over that and we would have to have the  
13 homeowner or whoever understand that, but  
14 there is adequate access to get to this  
15 building. You just wouldn't drive a vehicle up  
16 the driveway and over the bridge. The  
17 distances are there. It's not any different  
18 that this house has the fire hydrant  
19 500 feet away from this house (Indicating). A  
20 truck is not going to pull up to this house.  
21 It's going to pump up to here with a hose. I  
22 believe that emergency services did say yes,  
23 I'm not going to go over the bridge. They  
24 didn't say that they wouldn't fight the fire  
25 and they wouldn't access it with an emergency

1 vehicle and walk over through the driveway.

2 CHAIRMAN O'ROURKE: I didn't say that.

3 MR. ARICO: I guess that we were looking  
4 at it that nobody has any issues even though  
5 this won't take an emergency vehicle and there  
6 is still not a big issue about access. They  
7 will get there. If it's of the board's opinion  
8 that they want a number for this thing, I know  
9 that we went back and forth over that for a  
10 good year and it was agreed that as long as we  
11 agreed that we couldn't get an emergency  
12 vehicle over it, we could go forward with it.

13 MR. SULLIVAN: That's all I had.

14 CHAIRMAN O'ROURKE: Peter?

15 MR. GANNON: The notes that I have and  
16 the maps that you've provided indicate  
17 conveyance of some land to the Pine Bush  
18 Preserve Commission.

19 Joe, has the Pine Bush Commission or Save  
20 the Pine Bush weighed in at all on their  
21 opinion on the project?

22 MR. LACIVITA: Actually, I think that  
23 there is a gentleman here from the Pine Bush  
24 that probably will have an opportunity to  
25 speak.



1 MR. GANNON: That leads to my follow-up.  
2 Have they indicated that they want the land  
3 that you plan on giving them? I know that a  
4 lot of times that the town has people offer to  
5 give us all kinds of land, but I don't think  
6 it's anything that anybody would really want.

7 MR. ARICO: I don't think that we have an  
8 agreement on that yet. I'm not really sure  
9 where it is. It's this parcel of land  
10 (Indicating). Everything along here, and we're  
11 also preserving a lot of wetland areas that  
12 are up here also.

13 MR. NARDACCI: Neil, could you address  
14 that directly?

15 MR. GIFFORD: I planned on it when I  
16 addressed my comments, or I can do it now.

17 MR. NARDACCI: Okay, that's fine we can  
18 wait.

19 CHAIRMAN O'ROURKE: We'll let you speak  
20 first, sir.

21 MR. GANNON: That's all I have right now.

22 CHAIRMAN O'ROURKE: Elena, I'm going to  
23 come back to you. Did you want to wait? I have  
24 a whole list.

25 MS. VAIDA: Maybe I could just get out a

1 couple of concerns. Maybe they were addressed.  
2 I apologize that I was late for your  
3 presentation. I'm not sure if you addressed  
4 these or not.

5 The packages that we received for  
6 tonight's meeting referred to the package that  
7 was -- I was really confused about this. It  
8 was submitted in February. Actually right  
9 before I came tonight, I dug through my pile  
10 of prior packages and did find the submission  
11 from February and I don't have any notes on  
12 it. My first question was: What happened in  
13 February? Did we ever go over all the  
14 material?

15 MR. LACIVITA: The project was tabled at  
16 that time when we brought it in before the  
17 board and we're bringing it now so that was  
18 just some information that was given to the  
19 board, but we did not discuss anything in that  
20 packet.

21 CHAIRMAN O'ROURKE: Because we had never  
22 seen it. It was so old.

23 MS. VAIDA: I guess that's one of my  
24 first concerns. These concerns were raised  
25 back in February that a lot of this

1 information in this packet is from 2001, I  
2 believe. What we were given tonight as a  
3 supplement - at least what I got was just this  
4 document here (Indicating). I got some revised  
5 plans and I don't see really any in-depth  
6 analysis or answers to many of the questions  
7 that were raised years ago. That's a concern.

8 Another big concern is the SEQRA issue. I  
9 understand that there was a SEQRA finding back  
10 in '01 and it's nine years later and we have a  
11 change in the Land Use Law in '07 that has  
12 occurred. I'm not sure what other  
13 environmental changes if any have occurred on  
14 or near this site that might effect the  
15 answers to the environmental assessment form,  
16 but I'm not at all comfortable with relying on  
17 a nine year-old document which is the only  
18 document that we have regarding the impact on  
19 the environment. I find it hard to believe  
20 that this project doesn't have any impact on  
21 the environment when it's right near the Pine  
22 Bush and that there are watercourse areas  
23 running throughout.

24 CHAIRMAN O'ROURKE: Protected.

25 MS. VAIDA: There was environmental

1 issues on the property. I don't even know if  
2 those have been resolved.

3 MR. ARICO: Are you asking me?

4 MS. VAIDA: Yes, that's a question.

5 MR. ARICO: As far as responses, as far  
6 as I know we have responded to every comment  
7 that the town had and is required to be  
8 responded to. That's why every letter and  
9 every response that we had - if you don't have  
10 a copy of it then I'm sure that there is a  
11 copy in the file somewhere. Maybe you just  
12 haven't received a copy.

13 As far as SEQRA and the changes, I  
14 believe that because of the age and the change  
15 in the land use policy, as Joe mentioned, we  
16 have been grandfathered and it's the same land  
17 use that it has always had.

18 MS. VAIDA: No, I think what was  
19 grandfathered was the concept.

20 MR. ARICO: As far as SEQRA, I don't know  
21 what would change in the SEQRA document unless  
22 there had been a number of lots or sizes.  
23 Different site features might have changed but  
24 the intent and the number of lots, I believe,  
25 haven't changed since that SEQRA form was

1 filled out. Environmentally, I don't know of  
2 any other protected water courses. Any other  
3 protected areas have been avoided so there is  
4 not environmental impact in any of those  
5 areas.

6 CHAIRMAN O'ROURKE: But there wasn't even  
7 a full EAF done; an environmental assessment  
8 form. You're aware of that?

9 MR. ARICO: If there was one done?

10 CHAIRMAN O'ROURKE: No, there wasn't one  
11 done; the short form.

12 MR. ARICO: I don't know what your  
13 requirement was.

14 CHAIRMAN O'ROURKE: Who made that the  
15 requirement?

16 MR. ARICO: The town, I guess. I don't  
17 know if it was engineering and planning back  
18 then and what it was called. I was not  
19 involved in that process. I was not with the  
20 company at that time, but if that's what was  
21 required, I'm sure that's what we did.

22 MR. NARDACCI: The biggest thing here is  
23 that this isn't the first project that we've  
24 seen come back that has been kicking around  
25 for a long time. Sometimes the town delayed

1 things and sometimes the developer chose to  
2 delay things. The fact is that whatever  
3 answers there needs to be, you really need to  
4 provide them. I think to come and say, well, I  
5 don't know. That was 2001 and that was 2003.  
6 That's not sufficient.

7 MR. ARICO: I just can't address a  
8 specific question. If you can show me a piece  
9 of paper, I'm sure that I can show you a  
10 response to that.

11 Also, yes, there has been a lot of delay  
12 as far as doing things. We have waited  
13 16 months to get one comment letter back from  
14 some agencies. Certain things happen and we do  
15 live in a winter environment. It requires a  
16 site investigation. Well, it's in the middle  
17 of December and we may not be able to do that  
18 until May. So, there have been gaps of  
19 two years just because of information that was  
20 asked for and waiting for review times and  
21 things. We had to deal with the corridor and  
22 Corp of Engineers. Dealing with the federal  
23 government takes awhile. I didn't get involved  
24 in this process until about '06. I can provide  
25 the answers if there is a direct question. I'm

1           sure that I can find that. But to say that we  
2           didn't do something in '01 and you want to  
3           revisit now - I'm happy to but I don't know  
4           what the answer from '01 is my response. I'm  
5           not saying that I don't want to respond or  
6           that I don't know. I'd want to clarify the  
7           answer of the concerns that the board has.

8           MR. NARDACCI: And I don't think that you  
9           should be surprised that this board has new  
10          questions and hasn't reviewed every document  
11          that is in the file from that. This happens.  
12          In the past, I think that there was an  
13          expectation that when the final plan is  
14          presented, it was just going to go through. A  
15          lot of work had been done and the fact is that  
16          this is a new board and the longest serving  
17          tenure is two years. We have made a lot of  
18          changes. Things have changed and we're  
19          revising projects more thoroughly than has  
20          been done in the past.

21          It's unfortunate that we haven't seen  
22          you. This is the first chance that we've had  
23          to see the project. I'm just speaking in  
24          generalities because I want you to understand  
25          and I don't want you to be surprised at some

1 of the questions.

2 CHAIRMAN O'ROURKE: Just so the audience  
3 understands, as well - or anybody associated  
4 with this project, a town designated engineer  
5 was available to review this project and every  
6 question that this board has tonight would  
7 have been able to be answered by that town  
8 designated engineer that the applicant chose  
9 not to use. Is that correct?

10 MR. ARICO: Are you saying that we had an  
11 option to use a TDE in the town?

12 CHAIRMAN O'ROURKE: Yes. Just like every  
13 applicant.

14 MR. ARICO: Not that I'm aware of. I'm  
15 not aware that we had an option.

16 CHAIRMAN O'ROURKE: Mr. Grasso is one of  
17 the town designated engineers for Clough  
18 Harbour.

19 Can you explain the town designated  
20 engineer process as we developed it within the  
21 town?

22 MR. GRASSO: It's my understanding that  
23 all the previously occurring applications for  
24 major submissions like major site plan  
25 applications were given the option to bring a



1 TDE on board. There are two TDEs, engineering  
2 consultants, that the town uses to support  
3 their review of projects. They tried to work  
4 with the departments on their own to address  
5 the issues. That's my understanding.

6 Joe, you might have more to add regarding  
7 the process.

8 MR. LACIVITA: No, that's exactly  
9 correct.

10 CHAIRMAN O'ROURKE: I just want to make  
11 sure that was on the record.

12 MR. ARICO: Are you saying that's a  
13 problem because we didn't use a TDE?

14 CHAIRMAN O'ROURKE: Not at all, sir. I'm  
15 just saying that if there was a town  
16 designated engineer that had gotten involved  
17 in this and one of the board members asked  
18 what the load weight or bearing weight of that  
19 bridge would be, that engineer would have that  
20 answer. We've seen it on many projects in  
21 terms of SEQRA documents and changes. Again,  
22 now that we've moved SEQRA further into the  
23 process, it certainly doesn't happen anymore,  
24 but some of the older projects that the town  
25 designated engineers have been involved with,

1           there has been some SEQRA issues that we've  
2           been able to work though to help the  
3           applicants get to an approval process. You've  
4           stated yourself, sir, that you went back and  
5           forth - can the bridge carry 12,000? Can it  
6           carry 20,000?

7                     MR. ARICO: We went back and forth with  
8           the professional staff of the town. We just  
9           came to the conclusion without going back and  
10          forth further with the analysis -

11                    CHAIRMAN O'ROURKE: And because of some  
12          of those issues, to be quite frank, is why the  
13          town went out and got a town designated  
14          engineer.

15                    MR. ARICO: I'm all for your town  
16          designated engineer. I have no problem with  
17          that.

18                    CHAIRMAN O'ROURKE: It's like people  
19          putting money in their 401K and not seeing  
20          anything come to fruition for 11 years. No  
21          developer wants that. We, as a town and as a  
22          Planning Board have to ensure the safety and  
23          the vitalization of this town.

24                    MR. ARICO: Understood. I wouldn't design  
25          something that's unsafe for the residents that

1 live there either. I guess I'm not sure where  
2 we're going.

3 CHAIRMAN O'ROURKE: I just wanted to  
4 clarify for the record that a board member  
5 brought up that you're not able to answer some  
6 of the questions that the board has at a final  
7 and we're having some difficulty with it.

8 MR. ARICO: They are the same answers  
9 that I gave in response back to the town. I've  
10 been told that they were acceptable responses.  
11 You're asking for additional information and I  
12 don't have that.

13 As far as the bridge goes, we provided  
14 the information to the town. We have given  
15 that information and they deemed it  
16 acceptable.

17 CHAIRMAN O'ROURKE: That's just one  
18 portion of this.

19 MS. VAIDA: Just to be clear, when you  
20 got concept approval back in '01 - is that  
21 when you got it?

22 MR. ARICO: I believe so.

23 MS. VAIDA: The proposal then was for a  
24 certain subdivision plan which had changed?

25 MR ARICO: I don't believe that it's

1 changed. There have been lot lines modified,  
2 but the amount of lots are still the same.

3 MR. STUTO: They're talking about an  
4 ancient subdivision that needs to be  
5 abandoned. I don't know if that's the comment  
6 that you're referring to.

7 MS. VAIDA: Okay, that was it.

8 MR. STUTO: That was from 1910.

9 MS. VAIDA: The grandfathering  
10 clause - my understanding is that there is  
11 still, in my mind, some issue over that. What  
12 is protected is the concept approval that was  
13 given to you and by getting concept approval  
14 even under today's rules doesn't find the  
15 board in any way to then give final approval  
16 to a project. So, I just want to make sure  
17 that you understand that.

18 I'm very uncomfortable with the SEQRA  
19 form. I personally think that in order to  
20 approve this project, the SEQRA would have to  
21 be redone.

22 MR. ARICO: If that's what we need to do,  
23 I'm not objecting to do that. I'm just saying  
24 that we did the SEQRA according to the forms  
25 and applications that we were told to fill out

1 over the past 10 years. That's what we've  
2 done.

3 CHAIRMAN O'ROURKE: I'm sure that you  
4 did.

5 MR. ARICO: The short form is not used  
6 much at all anymore. It's usually the long  
7 form for everything. It's still a valid SEQRA.

8 CHAIRMAN O'ROURKE: I don't dispute that  
9 but when you get into the SEQRA -- I've poured  
10 through these documents so I'm very familiar  
11 with this project. I probably could answer a  
12 lot of questions that you've been unable to.

13 Can you point out on the map the  
14 protected watercourse and the delineated  
15 wetlands?

16 MR. ARICO: The protected  
17 watercourse - there is a hatch in that area  
18 here (Indicating). It's this right here, if  
19 you can see it. It runs through the property  
20 here. That's as defined on the map of the Town  
21 of Colonie.

22 What was the other one?

23 CHAIRMAN O'ROURKE: The delineated  
24 wetlands.

25 MR. ARICO: The wetlands that are on our

1 property - there are some up in here  
2 (Indicating) and there is a couple that I  
3 refer to as fingers that run through the  
4 property here. They don't drain or discharge.  
5 If anyone is familiar with the site, there is  
6 an oval track around here. There is basically  
7 two sides of the track. This is the inside  
8 track here and there is a little strip on the  
9 outside where I think they built a building  
10 and created a low spot. Those are the wetland  
11 areas that are on the property. These are the  
12 only ones that are being disturbed, which  
13 we're in agreement with the Corp of Engineers  
14 to do that.

15 CHAIRMAN O'ROURKE: What was the total  
16 disturbance?

17 MR. ARICO: It is .54 acres. That's  
18 everything that's here (Indicating).

19 CHAIRMAN O'ROURKE: For the record, I  
20 just want to make sure that the wetlands and  
21 the mitigation thereof is not part of the  
22 SEQRA and was not even mentioned in the SEQRA.

23 The zoning - can you go over the zoning  
24 in this particular area?

25 MR. ARICO: As far as what the zoning is?

1 CHAIRMAN O'ROURKE: Yes.

2 MR. ARICO: I'm not sure where the line  
3 is that's on this map.

4 I'm assuming that there is a different  
5 zone that runs parallel to this. I'm not sure  
6 if it's on this map.

7 CHAIRMAN O'ROURKE: Do you know what the  
8 two zones are?

9 MR. ARICO: Yeah, single family  
10 residential, I believe, is in that entire  
11 zone. Just to the south of us is commercial  
12 office zoning.

13 CHAIRMAN O'ROURKE: In regard to the  
14 SEQRA and I'm going to have to ask our  
15 attorney - there was never a motion made and  
16 it was never voted on.

17 MR. STUTO: Okay, I didn't know that. I  
18 would say then that SEQRA is not complete.

19 CHAIRMAN O'ROURKE: That would be my  
20 contention, as well.

21 MR. NARDACCI: Was there a SEQRA form  
22 signed?

23 CHAIRMAN O'ROURKE: Yes.

24 MR. NARDACCI: Who signed the form?

25 CHAIRMAN O'ROURKE: Peter Platt.

1           Can you take a few minutes and again with  
2 a lot of the wetlands that are here, I know  
3 that there were some issues. I have actually  
4 walked this property. There are some issues  
5 about springs on this property.

6           Just for the record, Boswell Engineering,  
7 October 28, 2009 - the presence of springs on  
8 the site must be investigated. The response  
9 from Boswell is:

10           Representatives from Boswell Engineering  
11 visited the site in April 2005 for the purpose  
12 of investigating the presence of springs.  
13 Boswell engineering did not observe the  
14 presence of springs.

15           Can you explain that? Did you do any test  
16 pits to see if they filled up with water?

17           MR. ARICO: I wouldn't consider that a  
18 spring. We were looking at surface water that  
19 was coming through and that would be a spring.  
20 Ground water would not be considered a spring.  
21 So, no, we did not do any test pits. I  
22 personally did not do the inspection that we  
23 have in our environmental -

24           CHAIRMAN O'ROURKE: Those fingers in that  
25 field that you pointed out, those wetlands -



1           MR. ARICO: Originally they were deemed  
2 isolated wetlands. We've been back and forth  
3 with the Corp. We finally came to the  
4 agreement that we would say that they were  
5 wetlands, but they would allow us to preserve  
6 them as long as we didn't disturb any other  
7 wetlands on the site.

8           CHAIRMAN O'ROURKE: What would you say in  
9 that area, again, because it's near your  
10 cul-de-sac - what would you say that the water  
11 table level is?

12          MR. ARICO: I would have to look at our  
13 soil boards, which we have right here. I can  
14 tell you what it is.

15           I can tell you that we did three major  
16 borings. One went three feet deep and there  
17 was no presence of water. The second went 15  
18 feet with no presence of water and the last  
19 one went 16.5 feet and there was no water. We  
20 did three borings and there was no water  
21 present. They were done deeper because of the  
22 detention basins to make sure that there  
23 wasn't ground water near the detention basin.

24          CHAIRMAN O'ROURKE: On your site, where  
25 were the location of those borings done?

1 MR. ARICO: I'd have to look here. This  
2 is what our grading and stormwater plan was.  
3 There was one here (Indicating), I believe  
4 that there was one here (Indicating), and  
5 here, and here.

6 CHAIRMAN O'ROURKE: And if you could take  
7 a few minutes and explain your stormwater  
8 management system, your design, to include the  
9 storm drain issues that the town engineers had  
10 difficulties with.

11 MR. ARICO: Basically I don't think that  
12 we're collecting much of St. Francis. Here and  
13 in here also (Indicating) there is a high  
14 spot. All this is draining back this way  
15 (Indicating). There are really two different  
16 drainage systems that it's divided up into.  
17 One of the things that was found later on in  
18 the process is that there was an area that  
19 drains up in through here (Indicating) and  
20 there's a driveway that goes back into that  
21 access into the property now. There is a  
22 culvert crossing and a little swale that came  
23 down and just kind of drained down into this  
24 wetland. It seeps down into the site here  
25 (Indicating). We were collecting it at that

1 point, piping it, picking up the pipe and  
2 actually piping it into the system, bringing  
3 it into the detention pond and storing and  
4 treating it at that point. So there is no more  
5 of this water that has to come down into this  
6 site. It's actually picked up right at the  
7 property line here (Indicating). I think it  
8 ponded back there and it won't do that  
9 anymore.

10 As far as any other site coming through  
11 the property, I don't know of any other waters  
12 that drain through the property. Except for  
13 what I've discussed, there is no other  
14 discharge. All the water is being collected  
15 from rooftops. The grass area is sheet  
16 drained, but back in here we actually have a  
17 collected system in here (Indicating) because  
18 some of the roofs drain to the rear. So we put  
19 a collection system here, which also gets  
20 picked up. All the impervious areas, according  
21 to the state standards, present-day, have been  
22 met with this. We did update the ponds and the  
23 bays and things that were not in the original  
24 design.

25 CHAIRMAN O'ROURKE: Can you explain - the

1 detention ponds that you're talking about,  
2 where do the outlets go?

3 MR. ARICO: They're not detention ponds  
4 anymore. They retain the water for a period of  
5 time. There is no more water storage. There  
6 used to be the very small pockets of water.  
7 They're not that large. During only the large  
8 storms the water is being detained in there  
9 for a period of time while it's being  
10 released.

11 CHAIRMAN O'ROURKE: And then where is it  
12 released?

13 MR. ARICO: It's released into the Lisha  
14 Kill here and in here (Indicating). They do  
15 have separate outlet points, which is  
16 primarily where they go now. They just sheet  
17 drain across the field now. The way that the  
18 system is designed, it equalizes whatever the  
19 flow was before. We have equaled it or  
20 lessened that flow, which is shown in the  
21 report calculations.

22 CHAIRMAN O'ROURKE: And that  
23 infrastructure is going to be turned over to  
24 the town?

25 MR. ARICO: Yes, as I believe that all of

1           them are. I'm not sure.

2           CHAIRMAN O'ROURKE: No, not all.

3           MR. ARICO: This is in the process of  
4 being done that way. It was mentioned that  
5 there were 22 lots. There really are 25  
6 because this has its own lot and so does this  
7 one up here (Indicating). The open area or the  
8 remaining area is also a lot. In the  
9 subdivision plan, it will be filed as a 25 lot  
10 subdivision.

11           CHAIRMAN O'ROURKE: The volumes out of  
12 the different pipes - has that been addressed?

13           MR. ARICO: The amount being released?

14           CHAIRMAN O'ROURKE: Yes, because as I  
15 looked at your stormwater report - again, Brad  
16 is the one that I learned from so you can  
17 blame him, but all your volumes were the same  
18 out of all different size pipes. Has that been  
19 addressed?

20           MR. ARICO: I know that there was a  
21 question about the flow of the pipe.

22           CHAIRMAN O'ROURKE: Correct; the flow and  
23 the volume.

24           MR. ARICO: There is a restrictor that  
25 holds the volume and the flow to a certain

1 range, at least on the flow coming in and the  
2 flow going out and how much head is on that  
3 restrictor. I've gone over this with Kevin  
4 many years that I could have a 50-inch pipe  
5 come out of here and the volume of the pipe is  
6 irrelevant because it's being restricted by  
7 the pipe that is holding the water back. So,  
8 my flow out of the pipe is that, but that's  
9 why the outlet pipes have the same value  
10 because it's whatever the maximum flow -- I  
11 believe that they're 15-inch pipe or 18-inch  
12 pipe.

13 CHAIRMAN O'ROURKE: There are 12, 15, 18  
14 and 30.

15 MR. ARICO: That are coming out? There  
16 should only be one pipe coming out.

17 CHAIRMAN O'ROURKE: No, within your  
18 system or within your design.

19 MR. ARICO: The maximum flow of pipe is  
20 the same as a 30-inch. They're all the same  
21 slope. They're going to be the same maximum  
22 flow of the pipe. Going into it - the punitive  
23 flow is going to be different, but the peak  
24 capacity is going to be the same for those. A  
25 12-inch pipe is a 12-inch pipe. Unless it has

1 a water head on it, it's going to carry the  
2 same line. That's where you see the same  
3 volume number, probably.

4 CHAIRMAN O'ROURKE: Right, but it's not  
5 your contention that a 12-inch pipe can carry  
6 the same as an 18-inch pipe.

7 MR. ARICO: I wouldn't design an 18 into  
8 a 12.

9 CHAIRMAN O'ROURKE: No, but I'm just  
10 saying that within your system.

11 MR. ARICO: No, I don't think that we  
12 have something like that. By hydraulic level,  
13 it could. I can get a six-inch pipe to carry  
14 the same as an 18-inch if I really wanted to.  
15 I thought that you were talking about the  
16 outlet here. That was a requirement or number  
17 of what the flow that each pipe could take. A  
18 12-inch pipe at one half percent is going to  
19 be the same no matter if it's 20 feet of it or  
20 50 feet of it; it's going to take the same  
21 flow and volume. I don't know if that's the  
22 number that you're referring to.

23 CHAIRMAN O'ROURKE: It was just in the  
24 stormwater report that Kevin had brought up  
25 and I found a little problematic as well.

1           That's why everyone here on this board has  
2           full-time jobs so we rely on the engineers to  
3           give us the information so that intelligent  
4           decisions can be made.

5                     Again, there was a question in regard to  
6           the stormwater and the volumes of certain  
7           pipes.

8                     MR. ARICO: I know that Kevin - this  
9           outlet pipe from the detention basin -- I  
10          never liked giving him a maximum flow of that  
11          because it wasn't true that it could carry  
12          that because we're never going to get there.  
13          If that's the question, that's why this is  
14          going to be the same flow because it's being  
15          restricted. You don't design the outlet pipe  
16          for what it could take. It's more for what the  
17          restriction is. I wouldn't drain any less than  
18          a 12-inch pipe for the purposes of clogging.

19                    CHAIRMAN O'ROURKE: Again, we have gone  
20          over the bridge. I find it problematic that  
21          our town department - again, even though they  
22          said that they wouldn't allow fire apparatus  
23          to go over it, I would have real difficulty  
24          turning on the news and finding one of our  
25          ambulances in the creek. Without the proper



1 engineering being done on that structure, I  
2 find it difficult to believe that those  
3 charged with the health and safety of those  
4 taxpaying residents in the Town of Colonie  
5 would have ideas that lot would be okay.

6 I think that as I listen to everybody on  
7 this board, I don't think that anybody was  
8 okay with that lot. Again, being that it sat  
9 in Planning and Economic Development for close  
10 for 2,500 days, I would think that would have  
11 been rectified long before it came to a final  
12 determination on the project itself.

13 Anybody else on the board have anything?  
14 If not, I'm going to open it to the public.

15 ***(There was no response from the board.)***

16 CHAIRMAN O'ROURKE: Neil, would you like  
17 to lead us off, please?

18 MR. GIFFORD: Certainly, Mr. Chairman.  
19 I'd be happy to.

20 For the record, my name is Neil Gifford.  
21 I'm the Conservation Director with the Albany  
22 Pine Bush Preserve Commission. I have seen the  
23 applicant's map and I'd like to give a context  
24 in relationship to the Pine Bush.

25 The Albany Pine Bush Preserve Commission,

1 as you know, was created by the Legislature in  
2 1988 and it was charged through the  
3 Environmental Conservation Law to agree to  
4 manage viable preserve. We do that in a couple  
5 of different ways.

6 One is to work with willing landowners to  
7 protect land and add it to the preserve so  
8 that we can build the land base that's  
9 required to maintain the best remaining global  
10 example of preserve to protect the Karner Blue  
11 Butterfly, and protect more than 45 other  
12 wildlife species that are in the greatest  
13 conservation need.

14 The second thing that the commission does  
15 is work with each of the municipal commission  
16 members of which the Town of Colonie is one,  
17 City of Albany, Town of Guilderland, and  
18 Albany County to review development proposals  
19 that are put forward within the Albany Pine  
20 Bush stay area, which is highlighted on our  
21 vision map by this gold line.

22 For reference, you've got on the  
23 northeast, Central Avenue; on the south and  
24 southwest, Route 20 or Western Avenue; and  
25 Fuller Road on the East; and Cordell on the

1 west.

2 This project is located within an area  
3 that was recommended in the 2002 management  
4 plan for partial protection. It's area 59,  
5 which I'll point to here (Indicating) and I  
6 want to note for context that the project is  
7 between two existing preserve parcels; one  
8 upstream or west of the project site and one  
9 downstream or east of the project site. Both  
10 are within a couple of hundred yards or meters  
11 from the applicant's site.

12 Partial protection, for those of you that  
13 may not be as familiar with our map - the  
14 commission in 2002 when they adopted this plan  
15 recommended certain areas for full protection  
16 in that we would try to work with willing  
17 property owners to acquire that property, if  
18 possible, and add it to the preserve in its  
19 entirety.

20 Partial protection has a different  
21 meaning. It assumes that some development on  
22 the site may be appropriate, but there are  
23 some important environmental features that  
24 should also try and be protected. Ideally the  
25 commission working with municipal planning

1 agencies and the applicants would try and  
2 develop a plan to strike that balance where  
3 economic development could occur while at the  
4 same time, protecting important environmental  
5 resources.

6 This particular project site is valued  
7 obviously for the Lisha Kill for the stream  
8 corridor that runs through it - to protect the  
9 stream corridor, based on the town's  
10 regulations, as well as the wetland values. To  
11 the best of our knowledge, it does not  
12 currently contain other species that we would  
13 try to protect. That said, I think the  
14 commission would welcome the opportunity to  
15 fully evaluate the project, consistent with  
16 the current SEQRA regulations.

17 It's important to note that the  
18 commission commented previously on this  
19 project. The applicant, due to the urging of  
20 the town, additionally approached the  
21 commission in 2001. Our executive Chris  
22 Hauver, submitted a letter in 2001 commenting  
23 on the project. Initially the commission was  
24 presented with a 28-lot subdivision. We  
25 thought that would potential infringe upon any

1 environmental resources there. In particular,  
2 the stream and the wetlands that we would like  
3 to see protected - if not just directly from  
4 the physical impact, also from pollution  
5 impacts given that we have property just  
6 downstream.

7 Following that, the applicant provided an  
8 amended concept plan for 22 lots. At that time  
9 the commission reviewed those plans and  
10 commented again with a second letter from  
11 myself in 2003.

12 In general, we don't believe that the  
13 existing proposal is necessarily inconsistent  
14 with our vision for creating a manageable and  
15 viable preserve.

16 Again, I want to point out that the  
17 commission's purview is specifically looking  
18 at creating and managing a viable preserve,  
19 and not necessarily an environmental  
20 organization to the degree of DEC; the  
21 Department of Environmental Conservation. When  
22 it comes to pollution and those kinds of  
23 things, the commission being purely advisory  
24 and non-regulatory, relies on DEC and the Army  
25 Corp of Engineers when it comes to those kinds

1 of issues.

2 That said, we think that the applicant's  
3 proposal strikes a reasonable balance. We  
4 would have preferred to see a footprint  
5 slightly reduced.

6 To get to Mr. Gannon's question earlier  
7 about whether or not the commission would  
8 accept the proposed set aside, there are some  
9 issues revolving around that. Ultimately the  
10 agreement would be with the DEC and it would  
11 be up to DEC to decide if they wanted to  
12 accept the set aside or not.

13 One of the outstanding issues, at least  
14 back nine years ago in 2001 was the trash and  
15 debris and stuff that's in the stream  
16 currently. Not to mention the potential for  
17 additional discharge included in the stream.

18 Thank you.

19 CHAIRMAN O'ROURKE: Thanks, Neil.

20 MR. ROSANO: I have a question. Would you  
21 explain to me what the downstream issues are?  
22 What it is or where does it lead to?

23 MR. GIFFORD: From the commission's  
24 perspective the issues would be flooding and  
25 water quality issues. In particular, the Lisha

1 Kill provides an important corridor for a  
2 number of wildlife species; amphibians and  
3 reptiles in particular. One of the  
4 commission's additional comments in this  
5 project was that water quality and the  
6 integrity of that corridor be maintained so  
7 that species could freely move from preserve  
8 properties and the open space that's upstream  
9 to the open space that's protected downstream.

10 MR. ROSANO: So any development that is  
11 going to go on in that area - you're concerned  
12 with the water quality for just the species  
13 that are living there, correct?

14 MR. GIFFORD: Correct; and the ability  
15 for the species to freely move up and down  
16 that corridor.

17 CHAIRMAN O'ROURKE: Anyone else in the  
18 audience?

19 MS. GELETA: I'm Marion Geleta and I live  
20 directly behind the dam. It's not a bridge,  
21 it's a dam.

22 In looking at the cul-de-sacs and areas  
23 here and him saying that the water would be  
24 instituted here, I live there and it floods.  
25 It goes over the dam. I know that I won't have

1 a house because it does go over the dam. It  
2 has gone over the dam. With this quality of  
3 wherever it's going to come out over there,  
4 you will not see any fish and you won't see  
5 any ducks. The water capacity that is going to  
6 come out over there is going to be  
7 overwhelming. It will be overwhelming. If I  
8 had known this, I would have taken videos.  
9 It's a dam. It was built in the 1800's and I  
10 don't know who put the slab over the top. I  
11 don't know if it was Mr. Leto or if it was  
12 there. I don't know. It was constructed as a  
13 dam. They used to dam it so that they could  
14 break the ice in the winter and they could  
15 feed the Town of Colonie people ice. Basically  
16 it's a dam and not a bridge.

17 This impact is going to kill anything  
18 living there. If it was shot out this way  
19 (Indicating) off into Albany Street and down  
20 that other swale, you would alleviate the  
21 wetlands, but you won't have ducks and you  
22 won't have fish.

23 As a matter of fact, I had DEC at my  
24 house going after a fisherman on Saturday. So,  
25 there are fish in the creek.



1           My property borders wetlands. If you do  
2           reconsider, I would specifically ask DEC to do  
3           a thorough investigation on the run-off  
4           between the snow and the ice and salt and  
5           whatever else comes down he streams and also  
6           the run-off.

7           CHAIRMAN O'ROURKE: Thank you.

8           Yes, ma'am.

9           MS. WALKER: My name is Eliza Walker and  
10          I own the property at 99 Kallen Avenue, which  
11          I believe is the end of the street down here  
12          (Indicating). I have lived there for 10 years.  
13          I have a 380 feet of frontage of this  
14          waterway.

15          The change that I've seen in 10 years has  
16          been disastrous. Some of the other  
17          newer - probably 20 or 25 year old  
18          subdivisions from farther up this way  
19          (Indicating), run-off from all of that comes  
20          through the back of my property.

21          When I first moved there, it would dry  
22          out in the summer. It no longer does. The  
23          floor of the creek has raised probably more  
24          than two feet because of silt, the nature  
25          debris, fallen trees and things like that

1 blocking things up.

2 Additionally, 119 Morris Road which is an  
3 architectural facility, there was at one time  
4 a six foot culvert which has since I've lived  
5 there collapsed. The water has diverged and  
6 has created a massive swamp.

7 I'm also speaking on behalf of my  
8 neighbor who owns the property at the other  
9 end of Kallen Avenue. So it's about 600 or  
10 700 feet. I've been very involved with that  
11 land over 10 years and the changes are  
12 enormous.

13 When there is not even necessarily a  
14 torrential rain, it's now a pond. It's coming  
15 about 10 feet from my house. My house is an  
16 old 70 year old house. The back of it comes  
17 this way (Indicating), which is all pretty  
18 much wetlands. For anyone to say that there is  
19 not a water table issue is absurd. That's  
20 completely absurd. I have it on the higher  
21 part of my land now. When the snow and  
22 everything went away and it started raining up  
23 there, there are little tiny patches of water  
24 that don't go away. I think that the sun has  
25 to be out for a couple of days. It's terrible.

1           There is garbage. There are not nearly as many  
2           wild species and the ducks don't show up  
3           anymore. There aren't very many fish anymore.  
4           It's changed a lot.

5                     This whole project really concerns me  
6           because I don't want my property destroyed and  
7           I don't want to lose my house. My house is  
8           situated in such a way that if the flooding  
9           gets any worse, it will reach my house. It's  
10          an old house and I can see it sliding off down  
11          the way.

12                    Another issue is the 119 Morris road  
13          property that has a similar situation. They  
14          have access way over here as well  
15          (Indicating). They are constantly having  
16          18 wheelers and very heavy trucks filled with  
17          thousands and thousands of pounds and there is  
18          a pond on the other side. The pond floods and  
19          covers the entire bridge and the bridge has  
20          collapsed twice now, I think.

21                    The impact on me is obvious. I don't even  
22          need to know the engineering details. I just  
23          know from living there and from having  
24          examined all of this property. I used to walk  
25          when I moved to this area 10 years ago. I used

1 to go down there and visit the horses and it's  
2 terribly wet over there. I think this is a bad  
3 idea. I think that it's a plan based on greed  
4 and ignorance. It's a foolish endeavor.

5 CHAIRMAN O'ROURKE: Thank you.

6 Yes, sir.

7 MR. SMITH: My name is James Smith and I  
8 live at 98 Kallen Road. When they were talking  
9 about the water table, I dig down 18 inches  
10 and I get water. My backyard now is sinking.  
11 There is a natural spring that actually runs  
12 right through here (Indicating) and I've been  
13 there 16 years and I know it's there. It's  
14 just getting worse and worse. My back yard is  
15 a swamp. Every time they backfill, it gets  
16 worse. It used to be two or two and a half  
17 feet and now it's up to 18 inches and they're  
18 not even done back filling.

19 CHAIRMAN O'ROURKE: Backfill what?

20 MR. SMITH: Their lots. I've watched  
21 trucks come in and dump loads and loads of  
22 dirt. They dump early in the morning and we  
23 hear them coming in and dumping dump dirt, we  
24 see them dump and push dirt. They're tearing  
25 down buildings. You walk in the back of my

1 back yard and it's the wetlands - they abut my  
2 property. They backfill coming into there to  
3 build up all the property. That's why when  
4 they drill 10 feet, they're not going to hit  
5 anything because it's all backfill. All that  
6 water is coming over onto our properties and  
7 causing us a lot of trouble.

8 Like Eliza was saying, our property would  
9 be wet after it rained. A couple of days it  
10 would dry. We haven't had any significant rain  
11 in awhile. I can't even walk out in my back  
12 yard because I sink. It's only going to get  
13 worse with all the water that's coming down  
14 because it's running off this way and it hits  
15 all this wetland. So anymore dirt that they  
16 put here will increase this (Indicating),  
17 which will increase my property water levels.  
18 I'm having sink holes form in my property now  
19 because of it.

20 CHAIRMAN O'ROURKE: Those are serious  
21 allegations that have been leveled.

22 MR. SMITH: I talked to people when they  
23 first came there and they said, no, we're not  
24 going to back fill and they are backfilling. I  
25 know that. I've seen it. Like I said, the

1 water in the past couple of years - I know of  
2 six to ten inches - it has come up.

3 MS. WALKER: I never once received public  
4 notice about this project.

5 MR. SMITH: This was the first time that  
6 we received one. The last letter that you sent  
7 out to us - the first meeting that we were  
8 involved with when they weren't actually  
9 building these here because St. Francis and  
10 St. Thomas didn't want that - everything was  
11 coming over the bridge, but that was shot down  
12 by the board because of the weight load issue.  
13 Now all the sudden they're coming straight  
14 through St. Francis and St. Thomas and  
15 bypassing the bridge. To me it seems like  
16 they're basically ignoring what the people  
17 have said that are living in this area who  
18 have seen the damage that they are doing to  
19 other properties.

20 CHAIRMAN O'ROURKE: Are you aware that  
21 someone is dumping fill on your property?

22 MR. ARICO: I'm not aware of any activity  
23 going on with the property. That's not my  
24 property. I'm just the engineer. If there was  
25 dumping, I would tell you. As far as I know,

1           there is nothing going on there.

2                   CHAIRMAN O'ROURKE:   That's why I'm making  
3           you aware of this.  Somebody is dumping on your  
4           property.

5                   MR. ARICO:   I will let the DeVito's know.

6                   MR. SMITH:   That was happening since the  
7           first meeting that we were at.  They actually  
8           had trucks going in and dumping off and  
9           filling it.  They've been doing it since I've  
10          lived there and increasing their property  
11          because I think that Mr. Leto wanted to do  
12          this at the very beginning and that's what he  
13          has been doing.

14                   Every year the water table is increasing  
15          and increasing.  Pretty soon anybody that lives  
16          down in this wetland isn't going to be able to  
17          use their backyards.

18                   You said that you did water studies, but  
19          I can show you where it's been backfilled and  
20          you can walk up on my property and you'll see  
21          a 10-foot wall of dirt.  If you go down  
22          10 feet, you're not going to hit anything  
23          because it's all backfill.  You go down past  
24          here (Indicating) and I guarantee that when  
25          you dig down two feet it's going to be instant

1 water. It's constantly wet and this property  
2 here is going to increase this immensely to  
3 where I might as well instead of having  
4 300 feet of property, I'll have 50 feet.  
5 That's all it's going to be used for.

6 CHAIRMAN O'ROURKE: Sir, are you aware of  
7 a consent order that was executed by DEC, Case  
8 number R4-0823-0901M in regard to this  
9 property?

10 MR. ARICO: In regards to what?

11 CHAIRMAN O'ROURKE: It looks like he had  
12 to remove fill from an adjacent area of  
13 wetlands. It looks like it was in 2001.

14 MR. ARICO: It might have been before  
15 Boswell became involved. I'm not really sure.  
16 I'm not aware of it.

17 CHAIRMAN O'ROURKE: I'm sure that after  
18 Mr. Leto -- it says that he did complete this  
19 from DEC. I'm sure that he wouldn't have  
20 knowledge of anyone dumping on his property  
21 after DEC told him not to.

22 MR. ARICO: It's my understanding that  
23 he's talking about dumping in recent months.

24 CHAIRMAN O'ROURKE: We're going to have  
25 someone go take a look. This is a consent



1 order from Inspector James McDermott from DEC  
2 that was actually sent to the town in May of  
3 2005. It looks like the violation was  
4 September and October of '01.

5 MR. ARICO: If there was a consent order  
6 for the owner, as the engineer, we may not be  
7 involved in that obligation.

8 CHAIRMAN O'ROURKE: Because it's wetland  
9 S9. Are you familiar with S9?

10 MR. ARICO: The wetland?

11 CHAIRMAN O'ROURKE: Yes.

12 MR. ARICO: There are no DEC wetlands on  
13 our property. The wetland is on the other side  
14 of the creek. I don't believe it's anything  
15 relevant to our property. It's probably in  
16 that buffer area.

17 CHAIRMAN O'ROURKE: Yes, sir.

18 MR. LILLIS: My name is Loren Lillis and  
19 I live at 60 Kallen Avenue. I was born in  
20 Ellis Hospital in 1948 and I'm living in the  
21 house that they brought me home to. I've been  
22 around for awhile. I inherited the property in  
23 1982. Here is where I lie is back here  
24 (Indicating).

25 I don't remember the date, but standing

1 in my back yard I remember watching a  
2 bulldozer fill in along here (Indicating). It  
3 was obviously illegal, but naively I took the  
4 attitude of why rat on my neighbors and live  
5 and let live. If I had known then what I know  
6 now, I would have called.

7 My main concern here is that the reason  
8 for this bank being so steep is Mr. Leto piled  
9 a bunch of used tires up here and this whole  
10 bank is bedded with used tires. Maybe not the  
11 whole bank, but at least part of the bank.  
12 It's pretty well covered with leaves now but  
13 my concern is that when you take and build  
14 this detention pond and start cutting a drain  
15 through that, you're going to disturb this big  
16 pile of used tires. Mr. William Reynolds lives  
17 at the corner of Albany Street and Morris Road  
18 and he gets those tires. At previous board  
19 meetings we was complaining about having to  
20 pull used tires off of his property. The  
21 board's attitude was well, the town dump will  
22 take them for one dollar a piece. So, I want  
23 to know what your plan is to restore the slope  
24 here when you go start punching drain holes  
25 through it.

1 CHAIRMAN O'ROURKE: Thank you.

2 Yes, sir.

3 MR. RAFALIK: My name is Matt Rafalik and  
4 I'm at 46 Morris Road. We're just about right  
5 across the street from where that bridge is.  
6 It's not a bridge. It is a dam. If you  
7 actually look underneath at one side of it,  
8 it's a lot like a loch. One side of it is  
9 actually set higher with a passageway through.  
10 When the water fills up high enough it then  
11 flows over the one side and it becomes  
12 basically the waterfall on one side.

13 Earlier in the year when all the snow  
14 melted and we had all of that rain, that  
15 stream would maybe be 10 feet wide. It was  
16 about 10 feet higher in level and probably  
17 80 feet wide. It was nearly at the top of that  
18 bank.

19 Bill Reynolds down on the corner - his  
20 yard becomes a giant pond. If you look in his  
21 yard, he has sump pumps set up all year round  
22 to keep his yard drained.

23 As far as the backfill, there was quite a  
24 bit done last year. If Mr. Leto wasn't aware  
25 of it, then somebody is borrowing his dump

1 trucks because they are the one driving in.  
2 It's not entirely dirt. A lot of it is paving  
3 waste. It's a lot of broken up blacktop, stone  
4 and rock and whatever waste they have from  
5 jobs.

6 Then with the water table not being  
7 high - I have to agree with everyone else that  
8 lives there - it is high. I think the Lisha  
9 Kill flows through my basement sometimes. My  
10 sump pump is non-stop. Any low spots in my  
11 backyard - if I don't backfill them with dirt,  
12 water settles and then comes the mosquitoes  
13 and everything else from that stagnant water.  
14 There are parts of my yard that have big green  
15 pools because the water table is so high. You  
16 could dig a well with a shovel. There is no  
17 question about that.

18 He says that there is no known drainage  
19 that runs under that - as soon as you go  
20 across that bridge, there are drainage pipes  
21 that come out from under that trap that drain  
22 into the pits and that then drain into the  
23 Lisha Kill. How is that drainage going to be  
24 rerouted? There are several pipes that come  
25 through and drain there.

1           MR. ARICO: During the times of heavy  
2           rainfall we will use the detention ponds to  
3           keep that water from overflowing the Lisha  
4           Kill.

5           MR. RAFALIK: How long is that going to  
6           take to drain? That water is probably higher  
7           than my basement floor. Is my basement floor  
8           part of your drainage? With heavy rainfall, I  
9           can go down in my basement and I can watch a  
10          water bubble right through the concrete. The  
11          water table is higher than the basement floor.  
12          It's all sand. Such is the reason that corner  
13          used to be Rudd's Beach. It wasn't called a  
14          beach for fun.

15          There's another house adjacent to that  
16          property that's been vacant for years. They  
17          were going to rebuild the roof or something.  
18          At that time the town had decided that by  
19          removing the roof that structure was now being  
20          changed and they were too low of a grade  
21          because they were too close to the Lisha Kill  
22          to be rebuilt. That house is collapsing in. If  
23          you go look at the roof on that house it's  
24          falling in more and more every year.

25          That bridge - you can only fit one car

1 across that. That's one car wide.

2 How are you going to deal with additional  
3 traffic or people going in and out of their  
4 houses? Are you going to have a stop light?  
5 Have any traffic studies been done about the  
6 additional traffic that we're going to have on  
7 the road? There have been issues with traffic  
8 there already and there were town meetings  
9 last year that said that they were going to do  
10 some traffic studies. There was some problems  
11 with TNT Paving and all the additional work  
12 that they were doing with all the additional  
13 dump trucks. I know that there were some  
14 lawsuits with Bill Reynolds and against TNT  
15 with all that traffic and they were doing  
16 things illegally without a proper permit. How  
17 is all that traffic going to be handled?

18 There is a lot of waste dumped in there.  
19 There are tires and refrigerators. There are  
20 all kinds of things that get dumped over that  
21 thing. It's been there for years.

22 CHAIRMAN O'ROURKE: Thank you.

23 Yes, sir?

24 MR. MISKE: Hi, my name is Stan Miske and  
25 I'm from 14 St. Thomas. You mentioned earlier

1           that none of you have been on the board for  
2           very long. That's probably a good thing  
3           because when they put in St. Francis, they  
4           build these houses with very shallow back  
5           yards. They're pressed right up against yards.  
6           We don't have the depth of the yards on the  
7           west side of St. Thomas.

8                     The street actually ends right now right  
9           now just about at the edge of my property. Is  
10          there any way that some type of forever wild  
11          buffer could be put in to give us a buffer  
12          against this new street? I think that it would  
13          be an advantage to us because we are giving up  
14          what we bought - a dead end street with very  
15          low traffic. At least we would still have the  
16          back of our houses protected from neighbors,  
17          which is the problem that they ran into when  
18          they put in St. Francis. It would also be  
19          beneficial to the people that would be selling  
20          the lots because anybody buying the lot today  
21          doesn't want to be looking over the fence at  
22          their neighbor's yard either.

23                    Eventually, we know that something of  
24          this project is going to go through, but I  
25          hope that some control for some of the people

1           that live there who bought onto these streets  
2           because they were dead end streets with no  
3           traffic where their kids could ride bikes. We  
4           paid a premium for these homes because they  
5           were at a dead end street and now all of that  
6           has been taken away from us. I hope the board  
7           does take those into consideration and the  
8           feelings of those that are already there. This  
9           is really the first time that we've had a  
10          chance to see this.

11                   CHAIRMAN O'ROURKE: I think that this  
12          board does take into account those that have  
13          certainly been taxpaying citizens in the town.  
14          That being said, if this project were to go  
15          forward, you still would be on a cul-de-sac.

16                   MR. MISKE: Yes, but it's not the same  
17          cul-de-sac.

18                   CHAIRMAN O'ROURKE: I don't dispute that.

19                   MR. MISKE: Progress does take place and  
20          people do have a right to develop their land  
21          and make a profit or whatever drives them to  
22          do it. We have had the luxury of having those  
23          woods behind us for years and years. We know  
24          that it can't all stay, but a wrong could be  
25          righted here by at least saving it for the



1 rest of the houses on that side of the street.

2 CHAIRMAN O'ROURKE: Some of that is  
3 reasonable.

4 MR. MISKE: Thank you, very much.

5 CHAIRMAN O'ROURKE: Thank you.

6 Yes, sir.

7 MS. STANKUS: I'm Mary Stankus,  
8 16 St. Thomas Lane. I wanted to address the  
9 water issue. I've lived there for 32 years and  
10 when St. Francis was put in, the only time  
11 that I could not get into my street was when  
12 the first house on the street was on fire.  
13 Since St. Francis has been put in, all of  
14 these streets have been closed because it has  
15 flooded. They have closed it off and we have  
16 to go around and we have to come up Lansing  
17 from the west. Obviously putting in just  
18 St. Francis has definitely effected the water  
19 situation.

20 The dumping is definitely going on. It's  
21 a black truck and I cannot see what it is but  
22 it's a black dump truck that goes through. The  
23 other gentleman said that it was Leto's and  
24 that's probably true.

25 The other issue that I have is as Stan

1 was saying behind my house there is probably  
2 40 feet of woods. Then it just drops right  
3 off. My concern is: What are they going to do  
4 when they build behind me? They would have to  
5 fill that and that's a lot of stuff. So, if  
6 we're going to put all that fill in, how are  
7 they going to address the issue of bringing  
8 that level up from that drop off?

9 CHAIRMAN O'ROURKE: Thank you.

10 Yes, sir.

11 MR. PAOLELLA: My name is Art Paolella,  
12 15 St. Thomas Lane. I have lived on  
13 St. Thomas Lane for four years. If you were  
14 today to try to develop on St. Thomas Lane,  
15 you couldn't because it's all swamp. There are  
16 no two ways about it.

17 I hunted that land before my house was  
18 built. There are artesian wells. There was a  
19 lot of water through there. That was a beach.  
20 I've seen profound changes here in water,  
21 especially on the other side of  
22 St. Thomas Lane where they filled in a natural  
23 swale that used to bring water across  
24 Albany Street. That has all disappeared. You  
25 have a lot of water in that area. There is a

1 high water table. No house on St. Thomas Lane  
2 past the first or second house has a cellar.  
3 There's a reason for that. The contractor  
4 started building and started seeing water  
5 very, very quickly. There are sink holes near  
6 some of the houses on St. Thomas. If you add  
7 more pressure here, it's definitely going to  
8 make a difference and bring a lot more water  
9 to the water table and the area. It's going to  
10 add pressure around the area.

11 I have another concern. With what these  
12 people have said tonight, do you know about  
13 this?

14 MR. ARICO: No.

15 MR. PAOLELLA: I'm not comfortable. We're  
16 putting essentially 22 homes in there and I  
17 don't know or I believe so or I can find  
18 out - we're in the finalization of a project.  
19 It seems a little unusual. Obviously more work  
20 has to be done.

21 I think that overall, that's my  
22 suggestion that we would want to look at this  
23 more as a community, Mr. Chairman, before we  
24 take the next step with this project.

25 CHAIRMAN O'ROURKE: Thank you.

1 MS. STANKUS: At some point there was an  
2 issue brought up about how contaminated the  
3 soil was. I'm wondering how that has been  
4 addressed.

5 CHAIRMAN O'ROURKE: We don't know.

6 MS. STANKUS: There should be an issue  
7 because if you're putting homes there and you  
8 have children there and it's going to be  
9 contaminated, is the town liable or are our  
10 taxes going to go up if anyone gets sick? Who  
11 is going to end up paying for that?

12 CHAIRMAN O'ROURKE: The taxpayers always  
13 pay. Was that rhetorical?

14 MS. JESS: May I say something?

15 CHAIRMAN O'ROURKE: You may, ma'am.

16 MS. JESS: I'm Gail Jess and I live at 23  
17 Morris Road. We also have a wetland near our  
18 property. I thought that the wetlands could  
19 not be touched. We had an incident a few years  
20 ago when we wanted to put a shed in our  
21 backyard. The state and county said that we  
22 couldn't even have even have two feet of the  
23 wetlands - we couldn't build this because of  
24 the wetlands and you're talking about  
25 constructing on the wetlands? That's a double

1 standard in my eyes. What's bad for us should  
2 be the same for everybody else that's trying  
3 to build -

4 CHAIRMAN O'ROURKE: Just so that you  
5 understand the way that the wetlands  
6 work - once they are delineated, there is a  
7 buffer area - depending on the type of  
8 wetland - that you can't encroach upon. So  
9 unfortunately there must be wetland in your  
10 property and DEC hovered down like an eagle to  
11 stop your shed. There is also the ability to  
12 mitigate wetlands within a development in a  
13 couple of different ways.

14 Brad, could you take this with some  
15 expertise?

16 MR. GRANT: From what I was hearing,  
17 there was about four acres of wetland impacts.  
18 I didn't quite understand what mitigation  
19 there was. There usually is. Sometimes it's a  
20 creation of similar types of wetlands or other  
21 environmental beneficial paths for the  
22 wetlands.

23 MS. JESS: It's getting worse because I  
24 don't know if there's anyone else here that  
25 lives in our area, but if you get a whiff in

1 the morning you get a musty, moldy smell. It's  
2 gotten worse in the last couple of years and  
3 with more water - this isn't going to just go  
4 away.

5 Unfortunately, my husband got very ill  
6 from the bacteria that has been in that area,  
7 according to what our doctor said. I would  
8 recommend that the Town of Colonie would  
9 really take a serious look at this situation  
10 for our environment. This is a serious matter  
11 and I think that we should stop and put the  
12 brakes on and take a look at this situation  
13 that we're all living in. We pay good taxes.  
14 We have to pay taxes on land that we can't  
15 even use. So I think that there should be some  
16 looking around to see what they can do to  
17 improve our environment also. I don't think  
18 that they should be looking at new  
19 development. I think that they should be  
20 looking at a better environment in that area.

21 CHAIRMAN O'ROURKE: Thank you.

22 Yes, sir?

23 MR. HACKER: My name is Rob Hacker and I  
24 live at 20 St. Thomas Lane.

25 I've been there for ten years and within

1 the last two I've seen these trucks come and  
2 they're coming with asphalt. Toward the end of  
3 the year they're coming in with dirt. They  
4 cover. They come in with material and they  
5 cover it. There are layers of asphalt back  
6 there. They'll come early in the morning. I've  
7 seen them. I get up and I watch. There have  
8 been a lot of dump trucks back there. That's  
9 going to encourage more ticks, also. There's a  
10 lot of water back there.

11 CHAIRMAN O'ROURKE: I know that there is  
12 a lot of water back there. I'm not an  
13 engineer, but I know that there's water.

14 Anyone else in the audience?

15 MR. GANNON: C.J., are we at a point  
16 where the board can give the applicant the  
17 option to bring this to a town designated  
18 engineer at this point?

19 CHAIRMAN O'ROURKE: Let me make a couple  
20 of statements. Again, I have tried to no avail  
21 for six months to have a town designated  
22 engineer look at this project. It certainly is  
23 the applicant's druthers not to have that  
24 done.

25 After hearing some of the comments

1           tonight, I'm more worried than I was when I  
2           went through the reams of paperwork. What I  
3           would like to do is first, we can certainly  
4           vote on this evening. I would certainly hate  
5           to have the applicant's engineering and again,  
6           not knowing how the vote would go, but  
7           certainly there has been considerable time and  
8           energy put into this project. Even if we were  
9           able to vote and it were to pass, I'm going to  
10          institute the town designated engineer, paid  
11          for by the town. I have to review any  
12          infrastructure that is to be turned to us to  
13          protect the taxpayers. So I will have Barton  
14          and Loguidice as a town designated  
15          engineer - anything that is of infrastructure;  
16          roads, stormwater, sewer lines, waterlines or  
17          anything that the taxpayers will ultimately be  
18          responsible for will be reviewed by a town  
19          designated engineer. That, I don't need your  
20          approval because we're going to pay. I would  
21          like to afford you, in the open forum, to take  
22          on the town designated engineer or we can  
23          place this to a vote. I really have some  
24          issues though, putting it to a vote, because  
25          of the SEQRA issues -



1 MR. NARDACCI: C.J., I think that based  
2 on what you mentioned, and based upon what  
3 Peter said, that SEQRA is not valid. We need  
4 to review SEQRA and we need to make a SEQRA  
5 determination before we do anything else.

6 CHAIRMAN O'ROURKE: Again, I have to be  
7 careful because I don't want to open this  
8 board or the town to liability in terms of  
9 Article 78. So, in terms of that, I think that  
10 it's best to review some of the things.  
11 Somebody might look at the SEQRA and say that  
12 it was voted. Some people might say it wasn't.

13 MR. STUTO: I would suggest that given  
14 the age of the SEQRA being nine years old,  
15 given the environmental issues that were  
16 raised tonight, given doubts of the validity  
17 of the passage of the SEQRA, that it is  
18 entirely within the board's prerogative to  
19 look over SEQRA and have SEQRA reviewed - the  
20 long form EAF and see where that takes us in  
21 terms of any environmentally significant  
22 impacts.

23 CHAIRMAN O'ROURKE: Here's my difficulty.  
24 We have town departments that have signed-off  
25 on all of this. If I take everybody in the

1 audience as not being honest, for the sake of  
2 argument, then this project is okay. If from  
3 what we've heard - and I tend to believe that  
4 there is reasonable people in the  
5 audience - that some of this is true, or a  
6 portion of it, I have difficulty with the town  
7 departments that have made the determination  
8 to bring to this board a project of this  
9 nature in its final stage. So, relying on the  
10 applicant to work with the town departments is  
11 troublesome to me.

12 Legally, I can't make you get a TDE, but  
13 any of your infrastructure is going to be  
14 reviewed by a TDE starting tomorrow and we're  
15 going to hold off on anything on this project  
16 until our attorney has looked at SEQRA and  
17 until we have sent out a crew that I will go  
18 with and I want to see some borings. I want to  
19 see if there are tires. I want the names of  
20 individuals that have seen trucks dump and  
21 we're going to get to the bottom of this for  
22 the taxpayers of this town.

23 Yes, sir.

24 MR. ARICO: I don't know if you want me  
25 to address any of those issues.

1 First, are we closing the public hearing?

2 CHAIRMAN O'ROURKE: I am closing the  
3 public hearing. My difficulty with you  
4 representing Boswell is that is it a bridge or  
5 is it a dam? You're a PE, right?

6 MR. ARICO: Is the crossing?

7 CHAIRMAN O'ROURKE: Yes, and you're a PE  
8 and it's not a dam?

9 MR. ARICO: No, it's not a dam. As far as  
10 the rules of New York State and what they  
11 consider a dam for design purposes it has to  
12 be over 10 feet high - the water elevation.  
13 When we do detention facilities, if we have an  
14 embankment of more than - usually it's 10 feet  
15 of actual embankment and there is more than  
16 six feet of water in the pond, we do an  
17 analysis to make sure that we do the testing  
18 and we do it according to the New York State.  
19 I don't do those. We have a geotechnical  
20 engineer that does that.

21 I remember before when you asked me about  
22 the bridge - I apologize. I wasn't involved  
23 with that. I was looking back at the file and  
24 I did find a report that had loads that were  
25 done by the engineer. I don't know if everyone

1 has seen all the documents. The engine weighs  
2 about 32,000 pounds on the rear axel weight  
3 and Michael Huntspiller, PE, did an analysis  
4 based on HS20/44 loading. According to Ashco  
5 which is a highway official, he deemed that  
6 each side could carry at least 16,000 pounds.  
7 He was saying that the bridge was designed for  
8 traffic safety and that he didn't have any  
9 issues with traveling.

10 CHAIRMAN O'ROURKE: Per axel.

11 MR. ARICO: Right and it would take  
12 16,000 per side. So, you're looking for a  
13 number and there was a number put to the  
14 bridge.

15 The Fire Marshall at that time was  
16 Lawrence Isabella. I don't know if that's  
17 still who is in charge.

18 CHAIRMAN O'ROURKE: No, it is not.

19 MR. ARICO: They stated that they did not  
20 have a problem with it, but they would  
21 probably not cross a fire vehicle across the  
22 bridge, but there was a report and it was  
23 confirmed. That's probably why it was never  
24 brought up again. It was the answer that was  
25 responded to.

1           If something else additionally needs to  
2           be done, I would never say that we wouldn't  
3           provide you information, but I don't want  
4           anyone to think that we just passed it by. It  
5           was asked and responded to.

6           You want to close the public hearing  
7           first?

8           CHAIRMAN O'ROURKE: No, go ahead, you can  
9           answer.

10          MR. ARICO: Another thing was with the  
11          wetland issue that was brought up - we do have  
12          application in front of the Army Corp of  
13          Engineers for the mitigation of these  
14          wetlands. The mitigation - it was mentioned  
15          about the debris that was along the site and  
16          clean up and there are a lot of other things  
17          and we are going to clean up the shoreline  
18          along the length of our property and maintain  
19          any existing wetlands adjacent to the  
20          property. That is our mitigation to these  
21          fingers that was originally determined  
22          isolated. We agreed that we would mitigate  
23          because we were going back and forth. There is  
24          a new person in the Army Corp and she sees  
25          things a little differently. We haven't got a

1 formal letter from her and haven't heard from  
2 them at this time. It takes months before we  
3 get something out of them. So, there is  
4 mitigation to the wetlands. We don't know  
5 exactly what it's going to be because it  
6 hasn't been determined yet. There is a bunch  
7 of things yet to do. There are no DEC wetlands  
8 on this property, there is this stream which  
9 is DEC controlled, but there are not wetlands.  
10 On adjacent property is has tons of wetlands  
11 back there. There are a lot of wetlands up  
12 through here (Indicating) and on the adjacent  
13 properties.

14 The drainage issue that's going on down  
15 here. I don't live here, but I've been on the  
16 property. People down here on Thomas Road - I  
17 hear a lot of people talking about drainage.  
18 Most of people are talking about what happens  
19 down here on Thomas Road and what happens in  
20 here. In general, this property is higher than  
21 most of the other properties around on this  
22 side here. There is no drainage water going  
23 this way. None of this water drains through  
24 the site. So, the drainage that comes through  
25 this property is very, very minimal from

1 adjacent properties. I believe, the problem is  
2 the drainage there that's going on right now.  
3 It's not this property creating the flooding.  
4 I know that it's hard to believe and hopefully  
5 your TDE will agree - if there were issues  
6 with water coming through here, we are now  
7 going to control this water.

8 CHAIRMAN O'ROURKE: That's what the SWPPP  
9 is.

10 MR. ARICO: I don't want to say that  
11 we're ever going to better the situation and  
12 it probably won't get any better, but it's not  
13 going to get any worse.

14 MR. ROSANO: Excuse me, but you keep  
15 saying that your property is higher than the  
16 existing property around it. Everyone here has  
17 pretty much told us why your property is  
18 higher.

19 MR. ARICO: No, it's higher than down  
20 here.

21 MR. ROSANO: No, if you go down a little  
22 bit more -- is that where they're dumping?  
23 Maybe that's why your property is higher.

24 MR. ARICO: These reports and holes are  
25 years and years old so this dumping is going

1 on now is irrelevant to what our design -

2 CHAIRMAN O'ROURKE: Not if it's inside  
3 the wetlands.

4 MR. ARICO: If they dumped in here last  
5 month, out topography is not relevant to the  
6 difference in the grades of the land now.  
7 We're going to grade it out to what the land  
8 was like before the dumping occurred. So, if  
9 they put a really big pile of dirt here,  
10 that's not going to stay.

11 FROM THE FLOOR: But you're filling in a  
12 huge basin, come on.

13 MR. ARICO: I'm not going to debate with  
14 you.

15 CHAIRMAN O'ROURKE: Yes, please address  
16 the board.

17 MR. ARICO: I'll answer any questions but  
18 I'm not going to debate with anyone.

19 What I'm saying is that the survey with  
20 the topography was done years ago. Our grading  
21 plan is based on that topography and not what  
22 happened between 2001 and now. If he brought  
23 in five feet of fill over the entire thing,  
24 it's going to be taken away because that's  
25 what we're grading to.



1                   CHAIRMAN O'ROURKE: Right.

2                   MR. ARICO: So if there is dumping going  
3 on, I'm unaware of it and I don't know if the  
4 client knows whose doing it.

5                   CHAIRMAN O'ROURKE: My only concern is if  
6 there is stuff being dumped in delineated  
7 wetlands, that's certainly a different issue.

8                   MR. ARICO: Without our approval being  
9 first and filling this without an approval,  
10 yes, it would be an issue that we'd definitely  
11 want to know about.

12                   CHAIRMAN O'ROURKE: Yes, sir.

13                   MR. LILLIS: Concerning that structure:  
14 DEC does have it on record that Mr. Frank Rudd  
15 in the 1930's - I don't know the exact date  
16 applied to build a dam there. So that is the  
17 dam from that time. We can argue with it as to  
18 whether it's a dam but DEC says that it is a  
19 dam.

20                   MR. ARICO: I personally did this  
21 analysis of this bridge or whatever it was  
22 down here because it was asked what would  
23 happen if that bridge got removed. There were  
24 questions about how bad the flooding is down  
25 on Albany Street and the flooding is bad on

1 Morris. It would be three times that because  
2 this does act like a dam, but it's not a dam.  
3 It does have a small pipe in it that the Lisha  
4 Kill will carry but it's not with the purpose  
5 of being a dam. It just slows the flow down.  
6 That was done years and years ago.

7 MR. LACIVITA: C.J., may I clarify from  
8 my notes here what actions we're looking to do  
9 this evening?

10 CHAIRMAN O'ROURKE: Sure.

11 MR. LACIVITA: There seems like there has  
12 been some question based on what we're hearing  
13 tonight from the residents. It certainly seems  
14 like you're looking for further information.

15 CHAIRMAN O'ROURKE: Yes.

16 MR. LACIVITA: There is not going to be  
17 any action on the project tonight. It sounds  
18 like you'll close the public hearing. It  
19 appears that the project is being tabled until  
20 further information is provided to the board.

21 CHAIRMAN O'ROURKE: We can't even vote  
22 until we're comfortable that SEQRA was done  
23 properly and that it was properly motioned and  
24 put into the record.

25 MR. NARDACCI: Just also for a point of

1 record, the board has been consistent with  
2 regard to SEQRA that new projects that come  
3 forward - we're not looking at SEQRA until  
4 final because things like this have come up in  
5 the past where SEQRA was granted initially,  
6 acted on, and that eight or ten years went by  
7 and projects change and impacts changed. So,  
8 we thought that it was better and we've done  
9 this consistently with new projects to do  
10 SEQRA at final. While the board knows, I just  
11 want to make it a point of clarification for  
12 the applicant.

13 Based on our attorney's opinion that as a  
14 lead agency, we have the right to review SEQRA  
15 and particularly in this instance where the  
16 Chairman did a review and there is no action  
17 listed in the minutes from 2001. I think that  
18 is very troubling.

19 MR. STUTO: It's unclear.

20 CHAIRMAN O'ROURKE: It's unclear because  
21 normally you see a separate vote.

22 MR. NARDACCI: Right, SEQRA is a separate  
23 vote. I just want to make a clarification so  
24 that everyone understood that we're consistent  
25 in this matter.

1 MS. VAIDA: I don't know how the other  
2 board members feel, but I'd actually like to  
3 request that a long form environmental  
4 assessment form be completed. The public has  
5 raised many issues that are very concerning  
6 and I think that the public comment is  
7 important to the board and they have raised  
8 issues about the impact of this project on the  
9 environment.

10 In looking at some of these documents  
11 about the wetlands and impacts to the streams  
12 and impact to the community - these are all  
13 issues that need to be addressed and I'd be  
14 more comfortable if we had a long form filled  
15 out so that we could review that and see if  
16 any further studies need to be done at that  
17 point.

18 CHAIRMAN O'ROURKE: So, Joe, put that  
19 down. We'll be looking for a long form to be  
20 completed.

21 MR. ARICO: I know that we did a short  
22 form. We're not accepting the short form at  
23 this time? You're going to ask us to do the  
24 long form?

25 CHAIRMAN O'ROURKE: For clarification,

1 yes. The board is asking that a long form be  
2 completed in regard to the project, due to  
3 some of the issues that were brought to the  
4 board's attention tonight and some of the  
5 things in the past that I came across. Filling  
6 out a long form EAF, certainly within any  
7 protected water course, is the rule.

8 MR. ARICO: And you'll go through part  
9 two after we fill that out?

10 CHAIRMAN O'ROURKE: Yes.

11 In the meantime, Joe, the TDE's are to  
12 review any infrastructure that's going to be  
13 owed at some point by the town and that's  
14 going to be Barton and Loguidice. I certainly  
15 want to fast track this.

16 How long, sir, will it take you to  
17 complete the necessary documents for EAF?

18 MR. ARICO: I can get that done in a  
19 week. We have all the information, it's just a  
20 matter of checking boxes. We wouldn't do part  
21 two yet. You want us to go through part two  
22 also at this time?

23 CHAIRMAN O'ROURKE: Yes.

24 MR. SULLIVAN: C.J., load ratings on the  
25 bridge - can we request those? It's going to

1 be a private road, but I'd like to know for  
2 the sake of a heavier ambulance -

3 CHAIRMAN O'ROURKE: Yes, I think that's  
4 reasonable. I think that's reasonable if we're  
5 going to allow you to sell the lot, we want to  
6 be able to know what load that will take.

7 MR. ARICO: Okay, well, what we're saying  
8 is that it's going to be able to take up to  
9 32,000.

10 CHAIRMAN O'ROURKE: No, sir, that was  
11 done in 2001. That's not applicable.

12 MR. ARICO: Okay, I don't know why it  
13 wouldn't be but we'll look at it again.

14 MR. SULLIVAN: Can we get that in an  
15 equivalent H-20 loading? I think that it was  
16 done for HS-20, which is a three-axel vehicle.  
17 I think that it would be more representative  
18 of a fire engine or a heavy ambulance.

19 MR. ARICO: In light of this, let's say  
20 for instance the bridge surface can't carry a  
21 fire truck, which is what we're saying. What  
22 would happen to the lot?

23 CHAIRMAN O'ROURKE: I believe that this  
24 board was going to require some sort of deed  
25 restriction.

1           MR. ARICO: Which we have already done.  
2 We already have a deed restriction on that  
3 lot.

4           CHAIRMAN O'ROURKE: Right, but I'm not  
5 sure that I like the wording on it. It just  
6 says that a fire truck won't come across the  
7 bridge.

8           MR. ARICO: Right. We're not going to try  
9 to get it to work out so that a fire truck  
10 comes in.

11          CHAIRMAN O'ROURKE: I understand that.

12          MR. ARICO: If that's all we have to  
13 evaluate on the bridge - if we can come to  
14 terms of what -

15          CHAIRMAN O'ROURKE: But the load rating,  
16 sir, is very important because people that buy  
17 homes in the Town of Colonie - they order  
18 appliances -- will the UPS truck be able to go  
19 over it?

20          MR. ARICO: Probably, yeah.

21          CHAIRMAN O'ROURKE: See, I can't take  
22 probably.

23          MR. ARICO: I can't tell you how much the  
24 UPS truck is going to weigh going over the  
25 bridge -

1                   CHAIRMAN O'ROURKE: That's why it's going  
2 to be part of the deed - what that weight  
3 limit is as of 2010. If you want to sell the  
4 lot, you're going to have to do the  
5 engineering, in my estimation.

6                   Again, Joe, I want town employees out to  
7 look and make sure that there are no  
8 delineated wetlands that have been filled in  
9 the meantime, as well as the dumps  
10 investigated.

11                   In terms of time frame, he thinks a  
12 couple of weeks. I know that we're pretty  
13 jammed.

14                   MR. LACIVITA: That's also going to be on  
15 the review of the town designated engineer,  
16 C.J.

17                   CHAIRMAN O'ROURKE: Brad, what are you  
18 looking at?

19                   MR. GRANT: There are a number of sheets  
20 of plans.

21                   MR. ARICO: There are 13 sheets. There is  
22 a site plan; a grading plan and then the rest  
23 are profiles. I'd be happy to sit down and go  
24 through them with you and explain what we've  
25 done.



1                   CHAIRMAN O'ROURKE: Six weeks?

2                   MR. ARICO: I'd be happy to do that with  
3 you as soon as you could.

4                   CHAIRMAN O'ROURKE: My attorney has  
5 actually brought something up that the town  
6 attorney had told me that we had to pay, as a  
7 town. This is Colonie Land Use Law adopted  
8 1.4.07 Local Law number 1 of 2007, G:

9                   Any board or department charged with  
10 rendering opinions, permit decisions, or  
11 approvals, may engage the services of  
12 professional consultants. Should the  
13 department or board deem it necessary to hire  
14 consultants for technical review, the  
15 applicant shall be required to bear the  
16 expense. The total cost of such reviews shall  
17 not exceed the total cost to the town. In  
18 addition, if deemed necessary by the reviewing  
19 department or board, the applicant shall be  
20 required to bear the cost of on-site  
21 inspection by technical consultants employed  
22 by the town.

23                   So, we saved some tax money tonight, on  
24 top of it.

25                   Brad, same fee structure that the town

1 pays.

2 MR. ARICO: We just want to request  
3 costs.

4 CHAIRMAN O'ROURKE: Absolutely. That's  
5 reasonable.

6 So, six weeks, you think Brad, roughly?

7 MR. GRANT: Yes.

8 CHAIRMAN O'ROURKE: Joe, if you could  
9 just pencil it in. I know how busy we are but  
10 I want to make sure that the first available  
11 date to get this project back before this  
12 board -

13 MR. LACIVITA: Possibly June 8<sup>th</sup>.

14 CHAIRMAN O'ROURKE: Okay, we're going to  
15 pencil it in on June 8<sup>th</sup> right now.

16 Anybody that's in the audience that's  
17 interested, please pay attention to the town  
18 website and it will be posted as we get  
19 closer. Certainly it's going to depend upon  
20 the town designated engineer and the  
21 applicant's engineer to work through this  
22 expeditiously.

23 MR. ARICO: I have one more just to  
24 clarify.

25 When we redo the EAF, are we going to

1 need to do a public hearing for the acceptance  
2 of SEQRA again? Are we done with the public  
3 hearings?

4 MR. STUTO: I don't think that it  
5 requires a new public hearing.

6 CHAIRMAN O'ROURKE: We should be able to  
7 adopt the new SEQRA and vote on the project  
8 upon the completion of the items that I read  
9 into the record.

10 MR. ARICO: So our final public hearing  
11 would be over with.

12 MR. NARDACCI: The public will have a  
13 chance to make comment.

14 MR. ARICO: But it's not a public  
15 hearing.

16 CHAIRMAN O'ROURKE: For the final there  
17 will be a public hearing.

18 MR. ARICO: Then we will have one more to  
19 address.

20 CHAIRMAN O'ROURKE: Right, for the final.  
21 We're just tabling it right now. We're closing  
22 down this portion of the public hearing and we  
23 will reopen it, tentatively schedule it for  
24 June 8<sup>th</sup>.

25 MR. STUTO: Assuming that we don't run

1 into any significant issues.

2 MR. ARICO: Thank you

3 CHAIRMAN O'ROURKE: Thank you, gentlemen.

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*(Whereas the proceeding concerning the above*

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*entitled matter was adjourned at*

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*9:13 p.m.)*

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**CERTIFICATION**

*I, NANCY STRANG-VANDEBOGART, Notary  
Public in and for the State of New York,  
hereby CERTIFY that the record taped and  
transcribed by me at the time and place noted  
in the heading hereof is a true and accurate  
transcript of same, to the best of my ability  
and belief.*

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**NANCY STRANG-VANDEBOGART**

***Dated May 10, 2010***