

1 PLANNING BOARD COUNTY OF ALBANY
2 TOWN OF COLONIE

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4 MATHESON GAS
5 APPLICATION FOR FINAL SITE PLAN APPROVAL
6 15 GREEN MOUNTAIN DRIVE

7 *****

8 THE STENOGRAPHIC MINUTES of the above entitled
9 public hearing BY NANCY STRANG-VANDEBOGART, a
10 Shorthand Reporter, commencing on
11 November 11, 2011 at 9:20 p.m. at the Public
12 Operations Center 347 Old Niskayuna Road,
13 Latham, New York 12110

14 BOARD MEMBERS:

- 15 PETER STUTO, Chairman
- 16 LOUIS MION
- 17 KATHLEEN DALTON
- 18 TIM LANE
- 19 PAUL ROSANO
- 20 BRIAN AUSTIN
- 21 MICHAEL SULLIVAN
- 22 ELENA VAIDA, Esq., Attorney for the Planning Board

23 Also present:

- 24 Joseph LaCivita, Director, Planning and Economic
25 Development
- Rebekah Kennedy, Esq., Town Attorney's Office
- Chuck Voss, PE, Barton and Loguidice
- Tom Andres, PE, ABD Engineers and Surveyors
- Randy John, Project Engineering Manager, Matheson
Gas
- Mike Muller, Northeast Operations, Matheson Gas
- Pete Lattanzio, Chief, Fire Safety Services
- C.J. O'Rourke
- Suzanne Perry-Potts

1 CHAIRMAN STUTO: Next we have Matheson
2 Gas, application for final site plan approval,
3 15 Green Mountain Drive, change in tenant and
4 two new outdoor gas storage buildings totaling
5 3,342 square feet.

6 Joe, why don't you give us an
7 introduction about what we have done so far?

8 MR. LACIVITA: You summarized it right to
9 this point here, Peter. We have had the
10 project before us a couple of times and they
11 are back before us tonight to determine where
12 we are with SEQRA. There was enough
13 information that was provided from the last
14 time that we had met. Unfortunately, I have
15 forgotten that date.

16 CHAIRMAN STUTO: We were here on
17 September 13th. That's the minutes before us.

18 MR. LACIVITA: So, we're bringing it back
19 tonight to kind of follow up and hopefully
20 seek final approval for the project.

21 CHAIRMAN STUTO: And you posted a notice
22 on the site?

23 MR. LACIVITA: Yes, we did.

24 CHAIRMAN STUTO: Entitled notice of
25 hearing for today's date?

1 MR. LACIVITA: Correct.

2 CHAIRMAN STUTO: I'm not sure where we
3 should start.

4 Elena, do you want to help us?

5 I'll let the applicant start.

6 MR. ANDRES: I'm Tom Andres with ABD
7 Engineers and Surveyors representing Matheson
8 Gas.

9 Last meeting we had three representatives
10 from Matheson Gas here. The one from Texas
11 didn't come this time, but Randy John and Mike
12 Muller are both here and can answer any
13 additional questions you might have.

14 As was stated, we were back here in
15 September 13th and went through the project at
16 that time, I think, fairly thoroughly. There
17 were a lot of discussions about a number of
18 different things including the gas storage.
19 There were a number of questions about that.

20 We were at the point where we were trying
21 to work towards SEQRA and I think that there
22 was a little information missing. The Planning
23 Department felt that there was a little more
24 information that was needed before they could
25 make a recommendation for SEQRA.

1 Prior to flying back to their respective
2 homes, the Matheson Gas people actually did go
3 to the Building Department and Fire Safety
4 office and did obtain a letter from the Chief
5 who is here tonight also so that we could get
6 that back to the Town. That was sent the next
7 day so that hopefully we would be able to vote
8 in the SEQRA process. Since that time, we've
9 been working with Planning and with the TDE's
10 office just cleaning up a lot of the other
11 issues - just minor issues - in relationship
12 to comments from the Pure Waters Department
13 and specifically how some of the sewer issues
14 would work from the stormwater department. We
15 answered their questions and any questions
16 that the TDE had.

17 I think that the letter that was sent out
18 the other day on November 8th was really the
19 final comments from Barton and Loguidice's
20 office. We were able to correspond back and
21 forth in reference to that and provided them
22 information on one of the items that they were
23 a little concerned about. That was the
24 stormwater design and the use of the Town of
25 Colonie rain flow numbers as opposed to the

1 standard Albany County numbers. Actually, in
2 fact, our last report did utilize those. We
3 sent those over to Barton and Loguidice and
4 they were able to look at that and verify the
5 fact that our current plans did utilize those
6 numbers.

7 There were a number of other minor
8 issues. I'm not really concerned about them.

9 CHAIRMAN STUTO: Were they addressed in
10 the Barton and Loguidice letter?

11 MR. ANDRES: Yes, they are. They're all
12 very minimal items. Other than that, I think
13 that we have provided the information to the
14 Board to be able to take a neg dec and afford
15 us the final approval.

16 CHAIRMAN STUTO: Chuck, can you go
17 through your letter?

18 MR. VOSS: Certainly. The Board should
19 have a copy of our November 8th letter which
20 addressed final technical comments relating to
21 the engineering and the overall site design of
22 the project.

23 As Mr. Andres said, our primary concern
24 in looking at the last revision to the site
25 plan was really the stormwater calculations

1 and the stormwater management report. We had
2 an earlier copy of the stormwater management
3 report that had some inconsistencies in it.
4 The applicant has since given us a revised
5 report which we looked at which did utilize
6 the appropriate calculations and the
7 appropriate data that we were looking for. In
8 terms of the stormwater management of the
9 overall site, we were satisfied that the site
10 was in conformance with the required
11 regulations. They did utilize the new
12 stormwater management guidelines for DEC on
13 this project which brought it up to date.

14 There were a few other issues, as Tom
15 Andres mentioned. They were relatively minor.
16 They were comments that you would see at any
17 final site plan approval.

18 We looked for additional information on
19 the sewer connections which they provided out
20 to Green Mountain Drive. There is an existing
21 force main there. Water connections to serve
22 the site were adequate. Test pit locations
23 were identified for certain stormwater
24 management issues. Insulation of the lateral
25 to the buildings were adequate and an

1 appropriate cleanout. I believe that was the
2 extent of our comments. They're all relatively
3 minor.

4 CHAIRMAN STUTO: Thank you.

5 I know that there has been some
6 correspondence going back and forth and I
7 think that it's been shared with all the Board
8 Members with respect to closing the loop on
9 SEQRA and questions that were asked and
10 answered.

11 Elena, if you're prepared to do so, can
12 you help us with those?

13 MS. VAIDA: I don't have the answers to
14 the questions. I think that they remain
15 unanswered.

16 One of the questions for the TDE is
17 whether there is a concern about the facility
18 evaluation that was done in May of 2011 and
19 the 2007 Fire and Building Code. I don't know
20 if there is any real difference between those.

21 MR. VOSS: Typically, the Uniform
22 Building Fire and Prevention Code is not an
23 area that the TDEs look at. That basically
24 falls within the jurisdiction of Fire Services
25 or the Town Building Department.

1 MS. VAIDA: Then I can ask Mr. Lattanzio.
2 Did you review the facility evaluation
3 that was done in May of 2011?

4 MR. LATTANZIO: I reviewed a set of plans
5 that were submitted to the Building Department
6 for application - if that's the report that
7 you're referring to.

8 MR. ANDRES: I can maybe answer that.
9 That was an independent study that was done by
10 Matheson Gas to do an analysis of the general
11 site. I have spoken with the architect of
12 record, Mr. Matusik, and all the plans were
13 done with the current Code were brought to the
14 Building Department with the current Codes.

15 MS. VAIDA: My concern is that this
16 analysis which was done by -- I assume the
17 engineer was hired by Matheson Gas, correct?

18 MR. ANDRES: Yes. This was what they were
19 looking at to make a determination of the
20 site.

21 MS. VAIDA: Did they look at what is
22 going to be stored there and then try to
23 determine a layout, what laws apply and what
24 the laws require?

25 MR. ANDRES: Matheson Gas did a study.

1 Since then, that's superseded by the actual
2 plans that were put together. There were
3 building plans that were put together that
4 were then reviewed for the current Code. Those
5 were brought to the Building Department and my
6 understanding is that we have a final approval
7 from the Building Department. The only thing
8 outstanding is the action of this Board and
9 then the actual permits from sewer and water
10 prior to the building permit being issued. So
11 the plans have been fully reviewed.

12 MS. VAIDA: So, this study, then, is
13 basically of no value? Is that what you're
14 saying?

15 MR. ANDRES: It has a great value. It had
16 a value for Matheson Gas to be able to make a
17 determination that this site was going to meet
18 their criteria. That's what they did that
19 study for. Since the, of course, you have been
20 provided two additional studies that were very
21 specific for this. They were the emergency
22 response and the hazardous reduction.

23 MS. VAIDA: Those aren't studies. Those
24 are plans that I thought were based upon the
25 study.

1 MR. ANDRES: No, they're based upon the
2 Code. That study was a study that was done. We
3 provided that to you because there was some
4 information in it that was good information.
5 That was a study that Matheson did. The plans
6 have been developed to the new Codes. It's
7 simple as that. The plans have to meet with
8 the new Codes. Whatever the Codes are at the
9 time that the plan is brought in, that's what
10 the Town of Colonie reviews it to. That's what
11 Fire Safety reviewed it to.

12 MS. VAIDA: In the study that was done,
13 it suggested that the main building should be
14 analyzed to verify that it has the proper
15 amount of ventilation to satisfy the Code. So,
16 who would have done that?

17 MR. ANDRES: All of that would have been
18 provided in the plans that were presented to
19 the Building Department. Again, this Board is
20 charged with the site plan approval process.
21 There is a second process in the Town that I'm
22 sure everyone is aware of. That's the Building
23 Department. The Building Department does the
24 specific review. This Board isn't expected to
25 be able to know if ventilation works correctly

1 or if this product can be stored next to this
2 project, because you're not expected to know
3 that. You're not reviewing it at that level.
4 The people who do review it at that level are
5 the Building Department. This is probably the
6 most sophisticated Building Department in all
7 of the Capital District, for sure. For that
8 matter, I'm sure that probably in the whole
9 northern section of New York. They have a
10 very, very specific review and takes a long
11 time and they're very thorough. That's what
12 they do.

13 MS. VAIDA: Maybe we needed to get
14 something a little more in depth from the
15 Building Department because there were some
16 issues raised in this report. For instance,
17 the one that I just mentioned and also there
18 was a discussion about gas cabinets and
19 whether or not they're necessary as additional
20 safety equipment in the event that there is a
21 leak in a cylinder. There are different things
22 that I think that are considered that should
23 decide that. The bottom line is that it says:

24 "The local authority, having jurisdiction
25 to be consulted before final decision is

1 made."

2 So, I'm just wondering what analysis was
3 done regarding the need for the gas cabinets
4 for leaking cylinders?

5 MR. ANDRES: The local authorities would
6 be the Building Department and Fire Safety.
7 They have reviewed those. There was an
8 analysis at the last meeting by someone from
9 Matheson. I'm not the one that could do it,
10 but the analysis of how the whole venting
11 system and everything works - it's all been
12 set up; all those are points that are done.
13 The Building Department traditionally doesn't
14 provide them. The Planning Department through
15 technical review - they do their review and I
16 think that the Planning Department did the
17 opposite. Traditionally, they rely on the
18 Building Department and it was stated in one
19 of the last presentations here to do the
20 review of the building itself.

21 MS. VAIDA: The Planning Board, though,
22 is charged with reviewing the safety and
23 factors that would affect the welfare and
24 safety of the citizens of the community.

25 MR. ANDRES: No question. That's why the

1 Building Department does their job to make
2 sure that they feel that all of the
3 regulations that are required for any
4 industry, whatever it is, are met.

5 Now, we have these gentlemen here to
6 answer specifically any of the questions. I
7 know that there were some questions from the
8 Board in reference to how well they were
9 trained, and does Matheson Gas need to train
10 some of the first responders and things like
11 that. We have had some conversations with
12 Matheson Gas and with the Chief. The Town of
13 Colonie isn't as fully aware of what they're
14 charged with.

15 MS. VAIDA: The section that's cited in
16 here is actually a Fire Code Section.

17 Maybe Chief Lattanzio could answer the
18 question regarding the decision as to whether
19 or not these gas cabinets should be provided
20 or not for leaking cylinders.

21 MR. LATTANZIO: Again, I have not had the
22 opportunity to review that report. I'm not
23 sure what that individual is talking about. If
24 there were gas cabinets put in, they may need
25 to compartmentalize because of the nature of

1 this occupancy. Very often you have to
2 separate out materials. Cabinets are a way to
3 compartmentalize that and separate out
4 materials. Now whether that's what that report
5 is referring to, or it's specifically for a
6 leaking cylinder, I'm not sure of the
7 methodology that he's speaking of. I've not
8 seen the report.

9 MS. VAIDA: I think that's actually a
10 problem that the Fire Chief did not get the
11 engineering firm's report that talks about the
12 different Fire Safety issues and decisions
13 that need to be made. I don't understand why
14 that wouldn't have been provided.

15 MR. ANDRES: I'm just speaking with
16 Matheson Gas. The Building Department was
17 provided with a Code study. That was the same
18 Code study - they were provided with that Code
19 study.

20 MR. LATTANZIO: It could be that it's
21 possible that was there. Off the top of my
22 head, I don't remember seeing that document.

23 MS. VAIDA: Do you want to take a look at
24 it?

25 MR. LATTANZIO: Again, I can take a look

1 at it if you like. I don't have a Code book in
2 front of me to verify things, but I would be
3 glad to look at it for you.

4 Just to clear something up also. I don't
5 know when the study was started.

6 MS. VAIDA: Since May of 2011.

7 MR. LATTANZIO: That's when it was
8 submitted, correct?

9 MS. VAIDA: Yes.

10 MR. LATTANZIO: Depending on when it was
11 started, we were still under the 2007 Building
12 Code up until December of 2010. When we
13 started January of this year, we went to the
14 2010 version of the Code. That's the only
15 rationale that I could see to that. It's
16 possible that the person who did this study
17 was using the Code that was in effect at the
18 time. We have switched over to the 2010 as of
19 January of this year.

20 MR. ANDRES: Chief, I guess the question
21 would be: Did the Building Department review
22 the plans that were submitted in 2011 to them
23 using the current Codes?

24 MR. LATTANZIO: Yes. Anything that would
25 have been submitted after January 1st of this

1 year would have been reviewed to the current
2 Code which is the 2010 International Building
3 and Fire Code.

4 MR. ANDRES: So if the Building
5 Department decides to issue a permit for
6 construction of this, the plans would be in
7 conformance with the Code, based up on your
8 review.

9 MR. LATTANZIO: That would be correct.
10 Mr. Matusik was the architect and he would
11 have submitted plans compliant with the new
12 version of the Code of 2010. That's what we
13 would have done our plan review and comments
14 on.

15 MS. VAIDA: I understand what you're
16 saying, but we're speaking about two different
17 things. I'm talking about the Fire Safety
18 issues at this point and not the Building
19 Department.

20 MR. ANDRES: That's what the Building
21 Department is charged with is looking at the
22 Fire Safety issues.

23 MS. VAIDA: That's not correct.

24 Why don't I let the Chief take a look at
25 this and maybe somebody else has questions.

1 MR. AUSTIN: Joe, what exactly is this
2 Board charged with this evening?

3 MR. LACIVITA: Tonight we're trying to
4 get to the bottom of SEQRA and adopt the SEQRA
5 if everything has been satisfied. At that
6 point we would go toward final approval
7 because that's the next action that we're
8 looking for. The Planning Board, as you know,
9 looks at the site and how the site is
10 developed. Then there are other components
11 that come to that site which goes to other
12 departments such as the building components.
13 They then get done by the Building Department,
14 but we are specifically designed with site
15 specific design and layout.

16 MS. VAIDA: I think that Rebekah has also
17 been working on SEQRA part of this. First of
18 all, did the Board Members get the SEQRA
19 assessment in their packet?

20 While they are looking for that, maybe I
21 could just ask another question that came to
22 mind about safety issues. I noticed in the
23 Chief's e-mail today that he talked about
24 safety being provided by a sprinkler system
25 and that would be all that would be necessary.

1 MR. ANDRES: I'm not aware of any e-mail.

2 MS. VAIDA: Isn't that what you said
3 today?

4 MR. ANDRES: I'm not aware of any e-mail
5 sent today.

6 MR. ROSANO: Peter, for the sake of
7 sanity here, can we take a 15 minute break and
8 you two guys go and meet somewhere and figure
9 out what you're going to do next? We're
10 supposed to be deciding SEQRA tonight. Isn't
11 that what we're supposed to be doing first?

12 MS. VAIDA: Do you have the SEQRA form to
13 review?

14 MR. ROSANO: Once again, I don't have a
15 form again. I didn't have Lattanzio's letter
16 the last time. You two guys are carrying on a
17 conversation and I think that you should be
18 having that maybe in another room and decide
19 what your game plan is going to be and not
20 hold up everybody in this room tonight. I just
21 don't like the way that this is going on right
22 now. This isn't very professional.

23 MS. VAIDA: I'm sorry you feel that way.

24 MR. ROSANO: I think that many people on
25 this Board feel the same way.

1 MS. DALTON: We did review SEQRA the last
2 time that we were here. The only thing that we
3 were waiting for is Chief Lattanzio's letter
4 which we received and it has been reiterated a
5 few times. In fact, the new package that we
6 got this time, Pete Lattanzio had no problem
7 and he had reviewed everything. So, we were
8 waiting for one piece of paper and we got that
9 piece of paper.

10 We clearly vetted most of the questions
11 that came out this evening except for
12 approving SEQRA, which is why we're back. So,
13 to ask us now if we have copies of documents
14 that we have read and reread five times for
15 our last set of meetings, that wasn't what my
16 understanding of this evening is about, or I
17 would have prepared for that.

18 From my preparation - I went to the TDE
19 letter that we received and I can give you the
20 top reasons that we were ready to approve
21 this.

22 First of all we checked to make sure that
23 all the environmental conservation
24 requirements were met. We checked to make sure
25 all the Building Codes were met. The applicant

1 last time responded to everyone's questions.
2 There wasn't a single public speaker that came
3 during our hearing that was against this
4 project. They have five competitors in the
5 area that have similar gasses and similar
6 chemicals that are already in our Town. There
7 are other locations that customers transport
8 that have these chemicals and they are not
9 similarly regulated. We have economic
10 development value with having a resident such
11 as Matheson Gas. Matheson Gas has offered to
12 train all of our hazmat responders at their
13 own expense. Finally, the TDE closed their
14 letter with saying:

15 "Nothing that is left should impede the
16 Planning Board from granting final site plan
17 approval at the Board's pleasure."

18 So, those are the reasons why I came here
19 to approve this as long as Chief Lattanzio's
20 response was here. So, unless there is some
21 other point of SEQRA that we missed -

22 MR. O'ROURKE: I think that there is.

23 MS. DALTON: I didn't ask you.

24 MR. O'ROURKE: I'll get to speak, though.

25 MS. VAIDA: That's your position, Kathy

1 and you're on the Board and that carries a lot
2 of weight. I just wanted to make sure that the
3 Board had everything that they needed and that
4 the information was complete because it didn't
5 seem that we did have everything. You said to
6 me earlier that you didn't recall ever
7 reviewing that study that I brought with me
8 tonight, which had a lot of important
9 information in it.

10 MR. ROSANO: Did we have jurisdiction? It
11 seems to me like the Building Department, from
12 the questions that you asked, were covered
13 through the Building Department with the
14 Chief. At least, that's my understanding.

15 Tom, do you have anything to add to that?

16 MR. ANDRES: No. That's our understanding
17 also. That study was provided from day one. We
18 actually provided that study at the DCC
19 meeting.

20 MS. VAIDA: I'm not blaming you or
21 anyone, but I don't think that the Board
22 Members had the study and it does have a lot
23 of useful information.

24 MR. ANDRES: If it was provided for the
25 DCC meeting, it was provided to the Planning

1 Department. So, it may not have gone into one
2 of the packages, but it was certainly
3 available later.

4 The study is a very specific study and
5 it's actually beyond my comprehension for some
6 of the items in there. Someone has to actually
7 understand what the Codes are. That was
8 provided as a help to Matheson that they would
9 be able to come here. What they were looking
10 to do would be in conformance with the Code,
11 which apparently was the Code at the time. The
12 plans were then put together by another
13 licensed professional and submitted to the
14 Building Department for their review and the
15 Building Department reviewed it along with the
16 Fire Department utilizing the current Codes.

17 I understand that there is a difference
18 between Fire Safety and the Planning Board and
19 what they are charged with and what they are
20 looking to review, but it seems to me and it
21 seems to Matheson Gas from our last meeting
22 that line is being blurred a lot more here
23 than I've ever seen it blurred before. The
24 Planning Board may be taking on some of the
25 responsibility to make a decision that would

1 normally be made by the Building Department.

2 MS. VAIDA: While we can rely on and seek
3 the advise of experts like the Building
4 Department and the TDE, the ultimate decision
5 is really with the Planning Board. They need
6 to use their own common sense when making
7 these decisions.

8 MR. ANDRES: I agree 100 percent. They
9 need to use common sense. They rely on those
10 consultant's studies, but they have to use
11 their own common sense. I'm just a little
12 concerned that going through and trying to
13 take a specific thing like what a storage
14 cabinet is - maybe something wasn't done
15 correctly in response to the storage cabinet.
16 That's not something that I'm sure this Board
17 has the ability to make a decision, should
18 there not have been a storage cabinet.

19 MS. VAIDA: No, I was asking if someone
20 reviewed that and addressed that issue and
21 made a determination.

22 MR. ANDRES: The review of if you need a
23 storage cabinet or you don't need a storage
24 cabinet -

25 MS. VAIDA: A containment cabinet.

1 MR. ANDRES: - is done by the Building
2 Department as part of their Code review along
3 with the Fire Department. It's not
4 traditionally done by the Planning Department.

5 MS. VAIDA: I would think that it might
6 ease some Planning Board Members' minds to
7 know that if a cylinder is leaking that there
8 is a special containment system where they
9 could put the cylinder when it's leaking.

10 MR. ANDRES: There was a whole review
11 provided to this Board. In fact, of all the
12 methodology of what happens during all the
13 different types of situations at the last
14 meeting. Quite frankly, I can't remember it
15 all, but it was all provided to this Board
16 including all the methodology for the
17 scrubbers and anything that would be leaking
18 in the storage containment areas.

19 MS. VAIDA: What wasn't discussed and I
20 actually thought that there was going to be
21 some additional information provided was if
22 there was a leak or a problem when the
23 canister is being loaded or off-loaded -

24 MR. ANDRES: That was fully discussed at
25 the last meeting.

1 MR. ROSANO: Yes, we discussed that for
2 15 minutes.

3 MS. VAIDA: I didn't see that in the
4 record where there was anything about how
5 far -- I didn't think that could be answered.

6 MR. SULLIVAN: I had requested an
7 emergency response plan for catastrophic
8 release and it was put to a vote and it wasn't
9 passed. I still think that's something that
10 would be a warranted procedure.

11 MR. ANDRES: Our response was - the
12 Planning Board as a whole made a determination
13 that wasn't needed. Our response to the Board
14 prior to making that determination is that the
15 EPA does not require that. It's not a study
16 that is required, based upon what is being
17 stored.

18 MS. DALTON: I would also add to that the
19 question that needed to be answered by Chief
20 Lattanzio with regard to why those types of
21 studies are not always useful. Trying to
22 predict weather and -- that's what you said,
23 right?

24 MR. LATTANZIO: Right. May I speak on
25 that?

1 MS. DALTON: Yes.

2 MR. LATTANZIO: We do have the ability in
3 an emergency response situation to do a plume
4 study, but it's very much contingent on the
5 current conditions. When we do a plum study on
6 a hazmat scene, we need to know the current
7 weather. We need to know the temperature and
8 the wind direction and the humidity. If there
9 is a temperature inversion, the size of the
10 container, the type of leak, if it's a leaking
11 valve, a punctured tank, a ruptured tanker;
12 whatever the source may be. Also, the position
13 of the tanker, or the position of the leaking
14 vessel. It's very much specific and it's
15 driven by the actual circumstances that are
16 going on at the time of the incident. For
17 somebody to try and do a plume study for you
18 just generically, it would be virtually
19 useless and it would do nothing but confuse
20 the Board because there are so many variables
21 that are put in there. There are actually
22 incidents where we have done these types of
23 studies while an incident was going on because
24 the weather condition has changed. A front has
25 come in or a temperature aversion has occurred

1 when this incident is going on. We now have to
2 go back and run that data again to see what
3 changes are going to occur to that product and
4 how it's going to be handled. So, the
5 information is there, but it's so varied that
6 it's nearly impossible to give you an accurate
7 plan or show you exactly what would happen at
8 any given time of the incident.

9 MS. VAIDA: Maybe this isn't the same
10 kind of study, but I did find a little
11 synopsis from Matheson Gas regarding the
12 facility in Colorado where they only have a
13 chemical hydrogen fluoride which is one of the
14 chemicals that are being stored in this
15 facility. It's not even one of the more
16 dangerous ones, but it's one of them on the
17 list.

18 In the Colorado matter, it didn't seem to
19 be that it was a big deal there to do any
20 potential worse case analysis and there it was
21 required. Maybe it was because of the amount
22 that was going to be stored. I don't know. But
23 apparently the worse case analysis takes into
24 account the release of the largest container
25 of the regulated substance over a 10-minute

1 period that results in the greatest distance
2 to the end point. It says:

3 "Hydrogen fluoride could potentially be
4 released by an accidental cylinder leak or
5 ruptured during loading and unloading of the
6 cylinder from a delivery truck. It could also
7 be released by the scrubber stack in the event
8 that the scrubber solution pump failed during
9 a process leak event from within the facility.
10 In either case, the hydrogen fluoride gas
11 could affect the surrounding population."

12 Then it talks about how they have a gas
13 system to minimize any potential problems like
14 that. They also talk about hydrogen fluoride
15 gas resulting in a plume that could affect the
16 surrounding population. The plume could extend
17 for a distance for up to 1.8 miles and affect
18 as many as 60,000 persons.

19 Here there are schools, residents,
20 recreation areas and commercial and industrial
21 areas within the potential zone.

22 It just doesn't seem like it was that big
23 of a deal to do a study or give the Board some
24 information on potential risks and then give
25 that to the Board to be able to analyze what

1 was being done to mitigate that and that's all
2 we were looking for. The attorneys thought
3 that it would be helpful in doing SEQRA
4 findings.

5 MR. LATTANZIO: I just don't know what
6 factors they looked at in the Colorado
7 setting. I just know that maybe they have a
8 different program. The program that we have
9 access to requires a tremendous amount of
10 information because there is so many variables
11 for us to be able to accurately give you the
12 information you're looking for.

13 MR. ANDRES: Our question would be at the
14 last meeting, I thought that there was a vote
15 that made the determination that this study
16 didn't need to go forward and now you're
17 saying that the legal department is now
18 saying, well, we want the study so we can do
19 SEQRA. That's sort of going against what the
20 Planning Board has suggested. Is that the
21 case?

22 CHAIRMAN STUTO: I think that the vote
23 was to require you to pay for a study. In the
24 meantime, they were trying to get it done
25 in-house. That's my understanding.

1 MR. ANDRES: Obviously not against any
2 expertise, but certainly the legal department
3 in the Town of Colonie, I don't think, has the
4 expertise in the analysis of hazardous gas
5 study.

6 CHAIRMAN STUTO: They have expertise in
7 SEQRA and they have the knowledge in knowing
8 what to ask for from our in-house
9 professionals. That's what they have knowledge
10 of. I think that's what happened between the
11 last meeting and today.

12 MR. ANDRES: I understand that we didn't
13 see the e-mails, but there were e-mails -

14 CHAIRMAN STUTO: We understand that there
15 was a lot of communication from you to our
16 other departments that didn't go through
17 planning and there were e-mails in the last
18 day - in-house e-mails. We're entitled to
19 communicate -

20 MR. ANDRES: I'm not disputing that at
21 all. It's my understanding from the e-mails
22 that I saw is that the response from the Fire
23 Department was the same response which was
24 stated here at the meeting.

25 MS. VAIDA: For some reason maybe I heard

1 incorrectly, but I thought that there was
2 going to be some sort of modified study - like
3 a plume study or something done just to
4 indicate in-house information such as this. If
5 one of the gasses should leak, how far can it
6 go? Does it really pose a danger to anyone in
7 the area or not?

8 MR. ANDRES: That would be done by
9 somebody in house and not by Matheson Gas?

10 MS. VAIDA: That's what I thought.

11 MR. ANDRES: I'm not aware of that.

12 I guess we're a little confused. At the
13 last meeting we were asked to provide
14 additional information in the form of a letter
15 for SEQRA. We provided that the next day. We
16 have a response from the Planning Department
17 saying thank you very much for providing that
18 letter. This will allow us to go forward with
19 SEQRA. It's actually two months and two days
20 later and it doesn't sound like anything was
21 done in relationship to a review.

22 MS. VAIDA: What letter was that?

23 MR. ANDRES: We were asked at the last
24 Planning Board meeting to provide a letter
25 from the Fire Department. We provided that

1 letter the next day. We were here on the 13th
2 and we provided the letter on the 14th. We got
3 a response from the Planning Department: Thank
4 you very much for that letter. This will allow
5 us to continue forward with SEQRA.

6 MS. VAIDA: And the Town Attorney's
7 office did continue forward with the SEQRA
8 review and has been asking for information
9 continually for the last month, anyway.

10 MR. ANDRES: Not from Matheson Gas.
11 That's internal, right?

12 MS. VAIDA: Correct - trying to get the
13 information. As of today, they were still
14 gathering information that Rebekah, who is
15 here from the Town Attorney's office -

16 MR. ANDRES: I can appreciate that. I
17 guess the question would be -- we hope that
18 the rest of the Board is still prepared
19 tonight to take the action. We assume that it
20 was two months from the last meeting that the
21 information would be available for this
22 meeting. We were hoping that an action would
23 be taken.

24 MS. VAIDA: I don't have any other
25 questions, but I think that if anybody in the

1 public wanted to -- or if Pete Lattanzio had a
2 comment -

3 MR. LATTANZIO: In just looking at
4 this - this doesn't call for a containment
5 cabinet in the event of a leak, but there is
6 also an exception here that the design of the
7 building is capable of doing the same feature
8 and I believe that the structure of what they
9 are building is - it's going to take the place
10 of these cabinets. So, it's very specific that
11 it gives the exception -

12 MS. VAIDA: Right. It lists factors. I'm
13 not saying that it doesn't, I just wanted to
14 know if someone considered that consideration
15 and that would be brought to the attention of
16 the Board that this is an issue to look at. I
17 just wanted to know that somebody with some
18 expertise did look at it and reached a
19 conclusion.

20 MR. LATTANZIO: It does give an exception
21 and I believe from what they have that their
22 construction will meet the exemption that
23 would waive the requirement for the storage
24 cabinet.

25 MS. VAIDA: I don't know. Do we maybe

1 want to take a quick break?

2 CHAIRMAN STUTO: That's fine with me.

3 We're going to take five?

4 MS. VAIDA: Yes.

5 CHAIRMAN STUTO: Okay, we'll take a five
6 minute break.

7 ***(There was a brief break.)***

8 CHAIRMAN STUTO: After the break having
9 been had and is now over, we're referring this
10 back to counsel.

11 Are there any questions that you want to
12 ask that may not have been answered, either
13 Rebekah Kennedy or Elena Vaida, that would be
14 helpful if answered to fulfill our SEQRA
15 obligation?

16 MS. KENNEDY: I do just want to say that
17 there has been ongoing SEQRA information since
18 the last meeting. About three or three and a
19 half weeks ago, when the Town first became
20 aware about Fire Safety and the plume
21 study - given that the Board had voted against
22 it, but also wanting that information for
23 SEQRA purposes if possible, we requested that
24 study with some assumed particulars, as you
25 said, is not going to be completely accurate

1 but we wanted an idea. The information was to
2 be recorded last week when we were at the
3 meeting last week and expecting the final
4 results. We were then told that it could not
5 be done and we were left to go from there.
6 That's when I took over the SEQRA Thursday
7 afternoon for the long weekend. I apologize
8 for that.

9 We asked Fire Services last week, based
10 on our conversation after the plume study was
11 not available, for an updated statement from
12 them, given that the prior memo was one
13 sentence long. That memo was given to me
14 yesterday morning. Based on that memo, it
15 created more questions which we sent to Fire
16 Services yesterday and we received responses
17 on this afternoon. That's why it's been back
18 and forth and there has been some confusion up
19 here.

20 The problem is when filling out the SEQRA
21 forms I have to go into detail on the Part III
22 of the impact on public health and safety. I
23 know that you did go in depth on the questions
24 and you do have the plan, but there are some
25 specific questions that I did not see answers

1 to in there even though you may have discussed
2 in general about them. There were no
3 particular answers to these questions so if I
4 could just get the answers to these, that
5 would finish the SEQRA issue.

6 Obviously your plan lies heavily on the
7 gas detection and ventilator scrubbing system
8 to keep the gasses from leaving the building.
9 What precautions are there in place if there
10 is a structural problem to the building or an
11 issue that would cause the system to go down
12 such as a fire or other major similar event?

13 MR. JOHN: There are two buildings and
14 each building has four compartments. They are
15 fully sprinklered. Each building has gas
16 detection and in the buildings there are
17 exhausts to the scrubbers, as well. The
18 scrubbers are specifically designed for the
19 gasses that are stored within the HPM
20 buildings. Structurally, it's steel
21 construction. There are two hour fire rated
22 walls in the buildings.

23 MS. KENNEDY: What precautions are there,
24 if any, for whatever reason those two systems
25 did go down?

1 MR. JOHN: Which systems?

2 MS. KENNEDY: The gas detection and
3 ventilation scrubber systems.

4 MR. JOHN: We do have emergency power
5 back up as a result of the comments that came
6 out at the last Board meeting. We have now
7 changed our fuel storage to a four-day supply
8 of diesel fuel on-site so that the generator
9 will run four days. We could get fuel on-site
10 there within four days. So, we do have back up
11 power to all of the life safety systems.

12 MS. KENNEDY: And if something happened
13 that was not energy related that caused them
14 to go down, is there any back up in place or
15 is that something where the Fire Department
16 would need to get in there?

17 MR. JOHN: A back-up to the gas
18 detections?

19 MS. KENNEDY: If there is an explosion or
20 if a tree falls on it and splits it in
21 half -- I understand that's unlikely, but if
22 there is something that is not energy
23 related - it's not the power going out,
24 something happens to the building itself, the
25 structure of it -

1 MR. JOHN: We do monitor these systems
2 off-site so if there was any interruption of
3 the signals for the gas detection system or
4 fire detection system, we would know it and
5 get an off-site alarm and then respond
6 accordingly.

7 MS. KENNEDY: Okay.

8 MS. VAIDA: I think she was saying if
9 there was a hurricane or tornado and all the
10 sudden two of the walls are gone and the
11 canisters get thrown around and stuff starts
12 leaking, what happens then?

13 MR. JOHN: There were reviews by the New
14 York State Building Department. We had to get
15 a special review done by the manufacturer and
16 that's already been done.

17 MS. VAIDA: They would withstand a
18 hurricane or tornado; is that what you're
19 saying?

20 MR. JOHN: I don't know what wind force
21 it is but yes, it's been reviewed and
22 approved.

23 MR. ANDRES: I do believe - and we'd have
24 to go through the minutes - but the
25 representative from Texas at the last meeting

1 said that one of the systems did go through a
2 hurricane. There was a discussion in regards
3 to the cylinders going through a hurricane
4 without damage.

5 MR. JOHN: There is a code requirement
6 regarding between the building and the fence
7 and the fence and the trees.

8 MS. VAIDA: That's good to know. That
9 wasn't in the record. We'll make sure that
10 there are no trees in the area.

11 MR. ANDRES: There is actually Code
12 requiring that the fence has to be cleared of
13 trees, so no one can climb the trees and get
14 over the fence.

15 MS. KENNEDY: The last time your
16 representatives were here, they talked at
17 length about the things that are in place to
18 prevent a leak from happening while it's being
19 loaded and unloaded outside. What are the
20 potential dangers and what are the precautions
21 taken if there is an outside leak - if for,
22 whatever reason, when it falls -- I understand
23 that you said it's rated and you can kick it
24 and whatnot. For whatever reason if it did
25 break outside, are there precautions in place?

1 MR. MULLER: The first point is that the
2 cylinders are very highly designed by DOT
3 standards with safety caps and valves to take
4 a lot of abuse. They have to be that way
5 because they travel that way all over the
6 world. If something were to happen, the first
7 thing that happens is that we notify the Fire
8 Department and secure the area - all of our
9 neighbors - and do a rough evaluation of the
10 way that the wind is going, seeing what's
11 going on -

12 MS. VAIDA: Who does that?

13 MR. MULLER: We, on-site, do.

14 MS. VAIDA: So, you have somebody there?

15 MR. MULLER: The managers and the
16 supervisors are all trained. That's part of
17 our training. It's part of what we do. We have
18 people trained in our Gloucester plant. In our
19 industry it's called a coffin for cylinders.
20 It's basically a big cylinder that closes and
21 houses the cylinder if there is an issue and
22 it contains it all. We're going to have one of
23 those on-site.

24 MS. VAIDA: That's going to be on-site?

25 MR. MULLER: Yes. We have one in

1 Gloucester and SRS is the local response
2 company for this area.

3 MS. VAIDA: Is that the containment
4 cabinet? Is that different?

5 MR. MULLER: This is different. It's a
6 more extreme apparatus. It's basically a large
7 cylinder. It's the length of this room and it
8 opens up and you put a cylinder in.

9 MS. VAIDA: That's good to know.

10 MR. AUSTIN: Am I to understand that
11 people on-site as well are trained to use this
12 coffin, or are you leaving that up to the
13 hazmat response team?

14 MR. MULLER: It depends on the amount of
15 people that are on-site. You have to have five
16 or six people trained to do a certain type of
17 response. In Gloucester we have that many. In
18 This site we'll only have four or five to
19 begin with. As it grows, we look to do that.
20 We would rely on the hazardous response people
21 to do that.

22 MR. AUSTIN: Are they hazmat trained?

23 MR. MULLER: All of our employees that
24 handle any of our gasses have to have training
25 on a regular basis.

1 MR. AUSTIN: So, they will be able to do
2 the procedures before the hazmat team arrives?

3 MR. MULLER: Yes.

4 MR. LACIVITA: I think that one of the
5 things that Matheson suggested was I think
6 that Mr. Barnet mentioned that he would even
7 train our local responders here as well as to
8 the procedures moving forward that were needed
9 in the event that they weren't here on a
10 timely basis, or so on. Or that when they
11 entered onto the scene, they'd be fully aware
12 of what needed to be done.

13 MS. DALTON: We also have in the record
14 that you mentioned a place called ChemTrack.
15 So, if there is a release outside the building
16 that the scrubbers wouldn't get to - like in a
17 transportation incident - that you have this
18 other company, ChemTrack.

19 MR. MULLER: ChemTrack is a national
20 firm. In our industry you have to have
21 somebody available 24 hours in case you need
22 to call somebody to start a chain of events.
23 ChemTrack is used in our industry along with
24 other chemical industries in that the first
25 person to call is the DS's and a lot of the

1 contact names, depending on where you are to
2 try to get things going. We, in addition to
3 that, also have a list of the local people
4 like the Fire Department and the Police
5 Department or whoever it may be that we would
6 also go to at the same time. A lot of the
7 companies don't go to that second level. They
8 just rely on ChemTrack.

9 MS. VAIDA: And you keep this
10 information, I assume, posted someplace so
11 that depending on whose there, it's easily
12 found?

13 MS. DALTON: On page 8 we also asked them
14 about that. He says if, in fact, we know that
15 they would be communicating with the first
16 responders at the point that they were coming
17 in. We asked if they were going to continue so
18 that as there was turn over, there would be
19 continuous training. They would always be in
20 connection with our first responders and what
21 was there, and what the plans were and how the
22 plans were evolving. Mr. Barnet pointed out
23 that this is exactly what this emergency
24 response plan does.

25 MR. MULLER: It's built into our system

1 as a yearly renewal of the whole Fire
2 Department.

3 There is also another Chief that's in
4 this area that we would contact.

5 MS. DALTON: That's the West Albany
6 Chief, right? He's the hazmat Chief.

7 MR. LATTANZIO: Let me explain something.
8 The whole Town of Colonie has volunteer Fire
9 Departments. This facility is going to fall
10 into the Boght Fire District. They would be
11 the host department. Anytime there is a
12 hazardous materials incident within the Town,
13 the Town has a predetermined protocol that the
14 host department would be sent. You may get an
15 extra company during the day for mutual aid.
16 You also get West Albany and the hazmat team.
17 You would get a representative from my office
18 to respond. So, that is the Town's internal
19 hazmat team.

20 If an incident gets large enough and gets
21 elevated, we have the next step that we can
22 go. We would reach out to the county hazmat
23 team, which West Albany is a part of. That
24 would bring in the City of Albany Fire
25 Department, the Watervliet Arsenal, Elsmere

1 Fire Department and a variety of EMS agencies.
2 So, there is another level that kicks up.
3 Beyond that, if we need additional help, we
4 also have an agreement with what used to be
5 the old GE Waterford. They have a complete
6 hazmat team and they train at our training
7 facility on a regular basis. Their expertise
8 would be available to be brought in to assist
9 the Town if there was an incident.

10 One of the requirements that we have in
11 the Town is any facility that has chemicals,
12 under the Right to Know Act, the employees
13 need to be able to see the MSD. Very often
14 those sheets are kept back in the area where
15 the employees work. We always request a second
16 set of those material safety data sheets,
17 preferably in the front office area, away from
18 the hazard so that if there is an incident in
19 that facility, we don't have to put any of our
20 people in the contaminated area to retrieve
21 that information. So, they will also be a book
22 of all the chemicals that they retain there in
23 a safe area for the Fire Department to have
24 access to. We find that it works out much
25 better than giving them to the individual Fire

1 Departments, which we can also do.

2 In the event, as I said, Boght is the
3 host department for this event. If they have
4 to be out on another call, Latham may come in
5 or Maplewood may come in. We're not sure what
6 department may end up there. It could be
7 somebody from Saratoga County. They would not
8 have that information available to them.
9 That's why we like to keep that on-site in a
10 safe area so that our first responders have
11 that.

12 MR. AUSTIN: All the departments in the
13 Town do need to have, by OSHA standards,
14 hazmat training at some point.

15 MR. LATTANZIO: Yes, all of our fire
16 fighters have to be trained at least to an
17 awareness level. Most of our folks are to an
18 operations level. There is a yearly
19 recertification that they have to go through.
20 Obviously, West Albany being part of that
21 county hazmat team has to send their
22 folks - as does everybody from my office - and
23 we continually train throughout the year to
24 keep that certification.

25 MS. KENNEDY: You mentioned that SRS

1 would be the one who would be the first
2 responder in an outdoor type incident until
3 you have a number of people on-site needed.
4 How far away are they located - transit time
5 wise? If there is a leak and it's releasing
6 whatever gas, how long would it take to get
7 there, if you happen to know?

8 MR. MULLER: Either both facilities, as
9 described and/or SRS -- I believe that SRS has
10 a facility in Albany.

11 MS. KENNEDY: The local facilities - are
12 they trained in the coffin containment?

13 MR. MULLER: Yes.

14 MR. AUSTIN: Sir, could you give me what
15 SRS stands for?

16 MR. MULLER: I think it's specialty
17 response - something. I'm sorry.

18 MR. AUSTIN: I think that Chief Lattanzio
19 alluded to the fact that I'm aware that the
20 Boght Fire Department is the host department,
21 but their response time might sometimes be
22 limited especially during the day, but I'm
23 also aware that the Latham Fire Department has
24 a big staff.

25 MR. LATTANZIO: Actually, there are two

1 paid people that respond. You are correct.
2 Depending on the time of day, the response
3 time could be slightly delayed.

4 MR. LACIVITA: I just found it here in
5 the minutes on page 27 line 12 and 13. SRS is
6 Specialized Response Solutions.

7 MS. DALTON: I know I asked you about
8 terror attacks and if somebody might try to
9 break into the facility. I can't find it now.
10 Can you reiterate about the security and the
11 outside buildings?

12 MR. MULLER: Everything that we're
13 building the site to is to Homeland Security;
14 the height of fencing, the monitors and
15 cameras and things along those lines. In
16 addition to that, part of our hiring process
17 of employees involves background checks. HR is
18 specifically requested to have those materials
19 to do background checks.

20 We also keep things out of site. They're
21 all in buildings so that people can't see
22 what's going on there.

23 In our industry we found that terrorists
24 tend to want to go get simple things that blow
25 up. We haven't had any of that focus on what

1 we do because it's just so contained. It's not
2 like going to a gas station where they have a
3 rack of propane and that might be more
4 inviting. Out of sight and out of mind is a
5 good thing.

6 MR. AUSTIN: Sir, I wasn't on the Board
7 in the previous meeting. Could you tell us how
8 many facilities that Matheson Gas has in the
9 US?

10 MR. MULLER: I think it's 240 or 250 in
11 the United States and it's also globally. I
12 don't know how many globally.

13 MR. AUSTIN: Are you aware of any
14 instances that have happened in any of those
15 facilities?

16 MR. MULLER: Randy, you can explain how
17 it was suppressed or dealt with?

18 MR. JOHN: Just last week in our Boston
19 Massachusetts facility, we got in a bunch of
20 SF6 cylinders. Once the cylinders were brought
21 in, we check them for leaks. We take the cap
22 off and the tape around it to check it for
23 leaks. One of those cylinders actually had a
24 leak when it came in. The way that you can
25 tell is it creates a little bit of a crystal

1 on the top. So, we took that right away and
2 called who we needed to call and said okay,
3 we're going to use the coffin. We see those
4 from time to time. They are very tiny bubbles
5 and that's what we typically see. They're
6 pretty rare, but we do see them.

7 MR. AUSTIN: Was there any reason to call
8 any off-site -

9 MR. JOHN: No, in that case it was all
10 self-contained.

11 CHAIRMAN STUTO: Any other questions?

12 MR. SULLIVAN: You mentioned that you
13 have four employees, or you're projecting to
14 have four employees. Are all four employees
15 involved with the transfer of materials when
16 you get a shipment in say from Tennessee or
17 Massachusetts? Do all four people go out in
18 the same area and unload that product and put
19 it in the containment facilities? Or is there
20 two out of the four are there and then maybe
21 an office clerk and a manager? I just want to
22 know what the procedure is and if there is
23 someone monitoring the transport from the
24 truck to the containment facility.

25 MR. MULLER: That's a real specific

1 question and a good one. We don't typically
2 have all hands on deck in order to do
3 something. You just get in each other's way.
4 Typically we have a warehouse person and they
5 handle some pallets taking care of the
6 cylinders and getting ready for orders.
7 Sometimes there will be two, if it's busy.
8 This facility would have a warehouse person, a
9 driver who is off making deliveries; an office
10 manager and maybe a fourth person who would be
11 a utility person. So, that off-loader would go
12 off and handle the shipping that comes in. A
13 close circuit camera has been set up so that
14 the people in the office are watching and
15 keeping an eye on what's going on, in case
16 something goes wrong.

17 MR. SULLIVAN: My concern is that if
18 something were to happen, there would be no
19 notification and all four could be
20 overwhelmed.

21 MR. MULLER: You're exactly right.

22 CHAIRMAN STUTO: Any other questions from
23 the Board Members or counsel?

24 MR. LACIVITA: If I could just make one
25 comment Peter? As I was looking through the

1 minutes, Mr. John was speaking on
2 September 13th on page 13. It specifically says
3 starting at line 8:

4 "The facility design meets the 2010
5 Building Code of New York, the 2010 Fire Code
6 of New York and meets the standards that are
7 adopted by the Town of Colonie."

8 So, that has been reviewed under those
9 Codes.

10 MS. VAIDA: I appreciate the additional
11 information. It was very helpful. It answers
12 the questions that we had.

13 CHAIRMAN STUTO: I have one name on here;
14 C.J. O'Rourke.

15 MR. O'ROURKE: Thank you, Mr. Chairman.

16 I would just like to get on the record
17 that I am a little bit upset that the agenda
18 was posted at 2:00 pm yesterday, a full six
19 days later than required. I was wondering if
20 that may have some affect as to why there
21 aren't some residents here in the meeting. I
22 think that's a big problem that the agenda is
23 posted for the taxpayers of this Town one day
24 before.

25 MS. VAIDA: Just so you know, C.J., there

1 was a public notice posted nine days ago?

2 MR. LACIVITA: Yes.

3 MS. VAIDA: Nine days ago of the hearing
4 and we did check.

5 MR. O'ROURKE: I'm aware of that.

6 MR. LACIVITA: I'm not sure where the
7 regulations say that has to be posted so many
8 days.

9 MS. VAIDA: The law just requires that
10 the Planning Board meetings be noticed, but
11 the actual agenda isn't required to be
12 noticed. We do it usually. Obviously, we try
13 to do it sooner but it's not required.

14 MR. O'ROURKE: I'm aware of that.

15 I would like to thank Ms. Dalton - nobody
16 has told me that they haven't cared what I
17 said since Peter Platt was on that Board.

18 MS. DALTON: I didn't say that I didn't
19 care. I said I didn't ask a question to you.

20 MR. O'ROURKE: Anyway, I'd like to go to
21 the minutes of February 15, 2011 just briefly.
22 These are quotes.

23 "We have some highly concentrated highly
24 toxic -"

25 "We couldn't have another tenant in the

1 building due to the nature of the operation.”

2 I think that maybe in my opinion this
3 becomes a zoning issue.

4 Hopefully people on the Board have
5 Googled Matheson Gas. I actually had sent an
6 e-mail to the Chairman and certain members on
7 the Board about some investigation that I had
8 done when I was on the Board as well. Nobody
9 asked for any of the information that I had. I
10 did a lot of research on Matheson Gas and
11 their locations. I think that it would be
12 important for the Board before they were to
13 make a decision to understand that Matheson
14 Gas, as a distributor of these products can
15 store any of the products that they distribute
16 in this facility if it were to be approved.
17 So, I disagree highly with the Fire Services
18 Chief that a plume isn't required as a part of
19 SEQRA. I think that health and safety, in
20 regard to SEQRA, are paramount and is the
21 ultimate responsibility of the Planning Board.
22 Although it is a zoning issue, in terms of
23 industrial, there is no buffer between that
24 industrial and the office residential zone and
25 the residential zone. So, I'd like to ask

1 anybody on the Board if they have a home in
2 that area.

3 ***(There was no response.)***

4 MR. O'ROURKE: And would that affect how
5 you would feel about the value of your home
6 going down as a taxpayer of the Town? Whether
7 or not your kids riding bicycles -- these are
8 highly noxious gasses and if you talk about
9 Gloucester Massachusetts -- is anybody
10 familiar with Gloucester? It's an old
11 shipyard. Look at their locations across the
12 country. They're in industrial zones
13 specifically for this reason because these are
14 highly noxious gasses.

15 Secondly, we as a Town have actually in
16 the past moved a company off of Wade
17 Road - Mr. Lattanzio will attest to that - a
18 gas company and if anybody is familiar with
19 Wade Road, there is no housing. It's the back
20 of the airport. Yet, because of the nature of
21 their business, we have a responsibility to
22 the residents of the Town of Colonie to ensure
23 first and foremost their safety.

24 I wholeheartedly agree with counsel that
25 SEQRA and this being a Type I action that the

1 safety of the residents in that area has to be
2 looked at and has to be looked at
3 appropriately in terms of a response plan. We
4 don't know what's going to happen. We don't
5 know which gas. I forgot the number of
6 products that are in the highest tier in the
7 federal government of dangerous products.

8 Is this the business that we want in this
9 location? Is it fair to the residents that
10 live there where their kids are playing in the
11 neighborhood?

12 We've had discussions when I was on the
13 Board in regard to the difficult zoning issues
14 that happened in the prior administration.
15 Should we then subject the residents, because
16 of the zoning issue, to this company? I think
17 that everybody must ask themselves that.

18 I'd also like to ask has anybody Googled
19 their safety record?

20 **(Mr. Lane raised his hand.)**

21 MR. O'ROURKE: I'm glad you did Tim. I
22 knew you would.

23 Has anybody really looked at the safety
24 issue of Matheson Gas? Is that on the record?

25 MS. VAIDA: At the last meeting we asked

1 about their history of accidents.

2 MR. ROSANO: C.J., excuse me for one
3 second. When you were Chairman up here, you
4 would never allow the audience to talk to the
5 Board. You made them direct the questions to
6 the developer or counsel or to the TDE. Now,
7 you're polling the Board asking questions.

8 MR. O'ROURKE: I'm not polling the Board,
9 Paul.

10 MR. ROSANO: Does anybody live near this
11 place? You keep on asking us questions that
12 you would never allow as Chairman.

13 Am I going off base here?

14 You would never allow anybody from the
15 audience to poll the Board.

16 MR. O'ROURKE: That's not true.

17 MR. ROSANO: I just want to go on record
18 that I have answers, but I'm not going to
19 answer your questions. Don't ask anybody on
20 the Board -

21 MR. O'ROURKE: It was rhetorical. You
22 didn't have to answer me.

23 MR. ROSANO: You were asking on the
24 record: Does anybody on the Board live in this
25 area?

1 MR. O'ROURKE: It was a rhetorical
2 question.

3 MR. ROSANO: Then, no more rhetorical
4 questions. Direct them to Peter or to
5 counsel -

6 MR. O'ROURKE: I pay my taxes. I have the
7 right to sit here and ask, Paul. I'm very
8 sorry.

9 Ms. Dalton's comments about becoming a
10 target for terrorism, I believe to be right on
11 point. Colonie then becomes on Homeland
12 Security's map, which don't kid yourself, that
13 becomes a big deal.

14 MR. MULLER: We're already on Homeland
15 Security's map.

16 MR. O'ROURKE: I believe that the SWPPP
17 have not been properly looked at in terms of
18 the SEQRA as well. Although it's a change in
19 tenancy and less than one acre disturbance, I
20 believe that the septic issues have not been
21 addressed properly and with the direct access
22 to the Mohawk River and that waterway, I think
23 that more work in terms of SEQRA certainly
24 needs to be done as a Type I action. I'm not
25 privy to the EAF, but I'm sure that counsel

1 is. I would request that be looked at as well.

2 Again, this project, if approved, will
3 have a negative effect on the neighborhoods
4 and certainly will negatively affect home
5 values.

6 I'd also like to take odds with
7 Mr. Andres in regard to the Colonie Building
8 Department. There is nobody that has the
9 expertise to ensure that these buildings are
10 built to those Codes.

11 Mr. Lattanzio, do you know what gasses
12 that Matheson Gas distributes?

13 MR. LATTANZIO: I do. They have furnished
14 a list through their emergency response plan.

15 MR. O'ROURKE: Just from this site?

16 MR. LATTANZIO: I only know what they are
17 proposing to have.

18 CHAIRMAN STUTO: C.J., I'm going to have
19 to ask you to address the Board.

20 MR. O'ROURKE: Peter, if this site were
21 to be developed, is it or is it not true that
22 Matheson would then store whatever product
23 they distribute or manufacture in that site?
24 They are not bound by anything.

25 CHAIRMAN STUTO: I'll ask the TDE. I

1 think that the approval is restricted.

2 MR. VOSS: They provided a specific list
3 of materials. I would think that the Board can
4 condition any approval on a specific list. The
5 list that they provide or an abbreviated list.

6 MS. VAIDA: That's what I was actually
7 going to suggest is that when we vote on the
8 approval, that it's for the storing of only
9 the gasses and the gasses that are listed in
10 the amounts that have been represented.

11 MR. LACIVITA: Would Matheson object to
12 having us review that on a periodic
13 basis - your storage inventory or anything
14 like that?

15 MR. MULLER: No, not at all. We have the
16 EPA and other agencies reviewing our inventory
17 and we do that on an annual basis.

18 MS. VAIDA: So, you file a yearly report?

19 MR. MULLER: Yes.

20 MS. VAIDA: I don't know if it would be
21 helpful at all if the Town would want a copy
22 of that filed with the Town.

23 MR. MULLER: We also review it with the
24 Fire Departments.

25 CHAIRMAN STUTO: Do you have more, C.J.?

1 MR. O'ROURKE: No, I don't. Thank you,
2 Peter.

3 MR. LATTANZIO: Mr. Chairman, can I make
4 one point? I would like to clarify the point
5 that Mr. O'Rourke brought up. I didn't say
6 that the plume study was not needed for SEQRA.
7 I said that the plume study that we could do
8 through our program is very limited and I
9 didn't want to confuse the Board because of
10 the way that our program is set up.

11 MR. O'ROURKE: All the more reason to do
12 it.

13 MS. VAIDA: I'm confused now, too. I
14 thought that you raised your opinion that you
15 were satisfied with the plans because you
16 didn't feel that any further study or
17 information was needed.

18 MR. LATTANZIO: I'm comfortable with
19 these plans that were submitted to us for
20 review, and the material that was supplied by
21 Matheson. Again, the plume study that -- the
22 program that we have in an emergency response
23 is not designed to do a study like this.

24 MR. ROSANO: Chief, just to clarify
25 something -- if you were to do a plume study

1 five straight days, and the wind was blowing
2 at five different directions - what would we
3 have accomplished in the plume study?

4 MR. LATTANZIO: Absolutely nothing.
5 That's my point, because for some variables to
6 take place in our area, if the wind direction
7 changes and the temperature changes or a
8 variety of changes -- the program that we have
9 is site specific for that specific incident.
10 It's not really designed for a plume study in
11 this fashion.

12 MR. ROSANO: Thank you.

13 MS. VAIDA: I think that also I'm not an
14 expert, but it might be fair to say that
15 assuming the worse case scenario, we have a
16 study showing the worse case scenario that the
17 methods that are in place would be the same.
18 There really isn't much more - I don't think,
19 that Matheson Gas could do to ensure the
20 safety of the community. I don't know if
21 that's true or not, but maybe the containment
22 cabinets -- but you have the other system
23 there which sounds like it's a pretty good
24 alternative. So, even if the plume study was
25 done, it would show that the

1 neighbors -- because I think that it would be
2 if there was a leak, it probably would effect
3 people and residents in the neighborhood. I
4 think that you've also taken steps to make
5 sure that those kinds of accidents don't
6 happen and what safety measures would be done
7 if it does happen. It's really up to the Board
8 based upon that.

9 MR. LACIVITA: Chief, was any of our
10 services put into action when we had the
11 propane tank that went on 787 the other day?

12 MR. LATTANZIO: We had a 2,000 gallon
13 propane tanker westbound on Alternate Route 7
14 and luckily the only incident that happened
15 was a vehicle fire. The cab caught fire and
16 the Fire Department responded and contained
17 the fire to the cab. That had a potential for
18 a very catastrophic effect, had things been a
19 little bit different. Our Fire Departments are
20 trained to respond to different kinds of
21 emergencies. We routinely run to these types
22 of things throughout the Town on a regular
23 basis. We had an [SIC] ampo changer - that's a
24 high explosive that was made by the military.
25 That's what they took down the building in

1 Oklahoma City with. We had one of those
2 dangers right at Exit 2, adjacent to a
3 residential neighborhood several years ago.
4 Again, luckily there was no major incident and
5 our Fire Departments responded.

6 MR. AUSTIN: Correct me if I'm wrong, but
7 I believe that the propane tanker had enough
8 safety measures in the tank itself to prevent
9 any fire and creating any explosion.

10 MR. LATTANZIO: Right, the way that
11 vehicle is designed is that it's to DOT
12 standards. It's designed for over the road.
13 Had that truck rolled over and it was bleeding
14 out, it could have been a different scenario.

15 CHAIRMAN STUTO: Any more questions from
16 the Board?

17 ***(There was no response.)***

18 CHAIRMAN STUTO: Counsel, any other
19 questions or information that we need?

20 MS. VAIDA: I think that there is enough
21 information to move forward with SEQRA. I
22 think that the actual written document will
23 have to be done, post meeting.

24 MR. LANE: We've never done that before,
25 though.

1 MS. KENNEDY: Not to my knowledge.
2 However, the placement of it on the record and
3 the decision by you tonight is the actual
4 determination.

5 MR. LANE: Usually we have the
6 opportunity to review the documents.

7 MS. KENNEDY: And if you'd like the
8 opportunity, we can do that.

9 CHAIRMAN STUTO: We've had the EAF
10 before, correct? Do you have a copy of it with
11 you now?

12 MR. LACIVITA: Just the draft here.

13 MS. VAIDA: Did the Board Members ever
14 get the EAF?

15 MS. KENNEDY: Just the Part I. I have the
16 Part II and Part III because we were waiting
17 for those answers.

18 CHAIRMAN STUTO: Have you completed it by
19 hand, or no?

20 MS. KENNEDY: Yes.

21 CHAIRMAN STUTO: We can make copies.

22 MR. O'ROURKE: How can you vote on SEQRA
23 if the Board hasn't seen the full EAF?

24 CHAIRMAN STUTO: We'll take five minutes
25 and you can go up and take copies.

1 ***(There was a brief break.)***

2 CHAIRMAN STUTO: Okay, we'll bring the
3 meeting back to order. Counsel is reviewing
4 the SEQRA as to form and substance and I think
5 that we had another resident request to speak.
6 Suzanne Perry-Potts.

7 MS. PERRY-POTTS: Hi. My name is Suzanne
8 Perry-Potts and as a resident of the Town I
9 have a few questions.

10 First of all, how close is the closest
11 residence to this property?

12 MR. VOSS: Early on we took a quick look
13 and I think that we did a quick kind of Google
14 analysis and it was roughly 1,500 to 2,000
15 feet in any one particular direction away.
16 That would be the closest identifiable
17 residence.

18 MS. PERRY-POTTS: What kind of density is
19 residential in that area?

20 MR. VOSS: On that, I can't answer.

21 MR. ROSANO: Suzanne, on Fonda Road the
22 closest house is a little over a quarter of a
23 mile away. On one side of Fonda Road there is
24 a house and then maybe 20 to 30 or 50 feet
25 there is another house. You don't get to the

1 apartments where the real density is until you
2 get down the road about a mile.

3 MR. LANE: They are very large lots.

4 MR. ROSANO: On Fonda Road itself, there
5 isn't really a lot of homes. There are some
6 developments, but they're further down Fonda
7 Road.

8 MS. PERRY-POTTS: When Mike Roshe was
9 here with the Building Department, he told me
10 that there were times that people came before
11 the Zoning Board of Appeals and if he felt
12 that there was a safety issue or whatever, he
13 would sometimes go well beyond the 200 feet.
14 Did anybody reach out to the community or
15 residential community to let them know that
16 this business was trying to establish itself
17 there?

18 CHAIRMAN STUTO: Joe, do you want to talk
19 about notice?

20 MR. LACIVITA: We notice based on the
21 Land Use Law, Peter; as we typically would.
22 It's 200 feet. We notify the neighborhood
23 associations in that area.

24 CHAIRMAN STUTO: You did notify the
25 neighborhood associations?

1 MR. LACIVITA: Any neighborhood
2 associations got notified on a publication
3 that we print out whenever an agenda goes out.

4 MR. O'ROURKE: There isn't one there.

5 MR. LACIVITA: Absent what Mr. O'Rourke
6 said, it goes to the president of the
7 neighborhood coalition; he then has a number
8 of neighborhood associations under him. If
9 there is not one, so be it. He notifies
10 everyone from that point as well.

11 CHAIRMAN STUTO: I don't know if that
12 answers your question.

13 MS. PERRY-POTTS: What was the prior
14 zoning of this property before 2007?

15 MR. LACIVITA: It was industrial and it
16 remains industrial. That's always been
17 industrial up in that area right up by the
18 landfill.

19 MS. PERRY-POTTS: No, it hasn't always
20 been industrial. The landfill itself was
21 planned conservation before 2007.

22 MR. LACIVITA: In 2006 that area was
23 industrial zoned.

24 MS. PERRY-POTTS: That specific site was?

25 MR. LACIVITA: The area -

1 MS. PERRY-POTTS: I know it was expanded
2 on Green Mountain Road. I don't know if it
3 went onto that property or not, but I know
4 that on Green Mountain Road they expanded to
5 industrial and there was no notification given
6 to anyone at all. Well, maybe not anyone at
7 all because there were a few select
8 individuals in the entire Town. The industrial
9 increased and I think that the residents of
10 the neighborhood never got any notice of that.

11 Also, the Town never did any SEQRA for
12 the Land Use Law. They never mitigated any
13 increase in the industrial and furthermore,
14 they didn't comply with the GML 239. How is
15 that fair to the residents in that area? I
16 know if I lived there and found out a year
17 later down the road, I would not be happy at
18 all.

19 I think that more should be done to reach
20 out to these individuals - these residential
21 neighborhoods.

22 I know that Mike Rosch, if it came before
23 the ZBA, probably would have. He told me that
24 he's gone beyond 1,000 feet and more.

25 MR. LACIVITA: This was approved by

1 zoning prior to Mr. Rosch retiring. He retired
2 on the 23rd of December. We have a commercial
3 zoning verification November of 2010. So, if
4 Mr. Rosch was still in that seat, I'm assuming
5 that what you're saying, if correct, would
6 have happened at this time.

7 MR. AUSTIN: Ma'am I was on the ZBA for
8 the last two years and this never came before
9 it.

10 MS. PERRY-POTTS: That's what I'm saying.
11 He told me that if a project came before the
12 ZBA, he would go beyond the 200 feet. I don't
13 think that the residential people within the
14 mile or whatever and the people that are
15 across the river - I don't think have any idea
16 of this type of a facility, which obviously
17 from their standpoint has a lot of safety
18 issues. I think that maybe they should be
19 notified. Maybe you should go beyond that 200
20 feet. You should be responsible to your
21 residents - the people who live here and not
22 just to the businesses. I know right now that
23 I'm in an area that was a former industrial
24 area and has been for 50 years and it has
25 allowed residents to situate their property

1 there if they want. I would not be happy to
2 have this kind of facility near me either. I
3 just feel that you guys should go beyond the
4 200 feet and you should notify the residents
5 in that area. There was no SEQRA done for that
6 zoning change. I think that we should really
7 look at a map and see if that property was
8 industrial back in 2006. I know that Green
9 Mountain - there was some property changed.
10 They were not industrial.

11 MR. AUSTIN: Ma'am, if you want an aerial
12 map of the property, you can definitely see
13 that it's high density industrial.

14 MS. PERRY-POTTS: It's hard to look a
15 building from the sky.

16 MR. LACIVITA: Hasn't it been approved
17 under the zoning?

18 CHAIRMAN STUTO: The zoning verification,
19 yes.

20 MS. PERRY-POTTS: That just verifies
21 right now that it's industrial.

22 MR. LACIVITA: That's what we're here to
23 settle.

24 MS. PERRY-POTTS: I'm just saying that I
25 think that there should be more public

1 outreach to the residents in that
2 neighborhood. Obviously, if there is a gas
3 leak, it's going to go beyond the 200 feet.
4 You should consider going beyond that to let
5 these neighborhoods know.

6 CHAIRMAN STUTO: I get your point.

7 Can the attorney's go through the SEQRA?

8 MS. KENNEDY: You have received the Part
9 II. There is a SEQRA recommendation on top.
10 There is a negative declaration underneath
11 that, and then the Part II underneath that.
12 The Part III addresses anything that was
13 marked off on the Part II.

14 On the Part II I indicated that it would
15 result in a physical change to the project
16 site and then there will be some physical
17 change to the site, but there will be no
18 significant impact on land resources that we
19 expect. Most of the site has been previously
20 developed.

21 There won't be any unique or unusual
22 landforms on the site. The proposed action has
23 no impact on water issues. Everything has been
24 addressed at this point.

25 The proposed action won't affect air

1 quality, or plants, or animals or agricultural
2 land resources. There will also be no effect
3 on aesthetic resources for historical and
4 archeological resources, or open space, or
5 recreation or environmental areas.

6 There will be a minor impact on
7 transportation. The proposed project will
8 generate a small number of vehicle trips just
9 due to the fact that there will be four or
10 five people working there. Also, there will be
11 some delivery. Because of the low intensity of
12 the use and the direct access onto a local
13 road, there is not significant impact
14 expected.

15 There is no impact on energy or noise or
16 odor.

17 With regard to the impact on the public
18 health and safety, due to the nature of the
19 project, there is obviously a risk of
20 explosion or release of hazardous substances.
21 This possibly appears to be mitigated by the
22 prevention and reaction measures which have
23 been provided by the applicant which include
24 fully sprinklering the buildings, gas
25 detection systems and scrubber ventilation

1 systems; both of which would neutralize any
2 potential leaks.

3 The structure itself - the walls are two
4 hour fire rated. It's a steel construction and
5 rated to withstand hurricane force winds.
6 There is emergency power back up for four
7 days. System monitoring off-site will help to
8 protect in case of an event.

9 In case of an event in off hours, the
10 applicant has indicated that they will be
11 removing any trees that could potentially fall
12 on the building causing structural problems.
13 Containment cylinders are to be located
14 on-site to contain a gas cylinder leak that
15 occurs outside of the building. Local
16 responders are also trained in the use of
17 those cylinders.

18 The applicant has also retained
19 Specialized Response Solutions and ChemTrack
20 in case of an emergency situation. All the
21 employees will be trained in the hazardous
22 materials response. In the event of an
23 emergency situation, the local area first
24 responders have been prepared to respond and
25 have been notified of the possibilities

1 involved and what gasses are stored at the
2 facility. Accordingly, it appears that the
3 project will not have a significant impact on
4 the environment related to public health and
5 safety.

6 With regard to the growth and character
7 of the community, there will be a slight
8 change in the density of the land use.
9 However, because of the low intensity of that
10 use, no significant impact is expected. The
11 project will create a demand for emergency
12 services as referenced previously. However,
13 this will be mitigated by both the outside
14 contractors that the applicant has retained to
15 respond to an emergency situation and the fact
16 that the applicant will be training local
17 first responders to deal with the situation.

18 Based on that, it appears that the
19 project will not have a significant impact on
20 the environment, character of the community or
21 neighborhood.

22 Based on that, the Town Attorney's office
23 is recommending that the Board determine that
24 the action will not have a significant effect
25 on the environment.

1 CHAIRMAN STUTO: Any discussion?

2 ***(There was no response.)***

3 CHAIRMAN STUTO: I'd like to say
4 something. We made a motion at the last
5 meeting for an OCA, or plume study or
6 dispersion study and that was voted down and I
7 respect the votes of the other Board Members.
8 I voted in favor of it. I wish that we had
9 gotten that. I think that it would make our
10 SEQRA consideration more complete. That's my
11 comment.

12 Somebody looking to make a motion on the
13 negative declaration?

14 MR. MION: I'll make a motion.

15 MS. DALTON: I'll second it.

16 CHAIRMAN STUTO: All those in favor?

17 MR. MION: Aye.

18 MS. DALTON: Aye.

19 MR. LANE: Aye.

20 MR. ROSANO: Aye.

21 MR. AUSTIN: Aye.

22 CHAIRMAN STUTO: All those opposed?

23 CHAIRMAN STUTO: Nay.

24 MR. SULLIVAN: Nay.

25 CHAIRMAN STUTO: On the main motion which

1 is: With respect to 15 Green Mountain Drive, a
2 change in tenant and two new outdoor storage
3 buildings totaling 3,342 square feet, as
4 presented - any conditions that we wanted to
5 talk about?

6 Elena, do you want to help me on that?

7 One was to restrict the chemicals.

8 MS. VAIDA: I think that first of all
9 whatever outstanding issues there may be with
10 the TDE and the different departments -

11 CHAIRMAN STUTO: So, compliance with all
12 the TDE comments and the departmental
13 comments.

14 MS. VAIDA: Building, Fire - all the
15 different departments; whatever is required.
16 Obviously, they have to comply with that.

17 As far as the application is concerned,
18 what is being approved is the storage only of
19 the chemicals listed. Where are the chemicals,
20 actually listed?

21 MR. LACIVITA: It's the hazardous plan
22 most recently updated in May to reduce the
23 Arsene.

24 MS. VAIDA: May or August?

25 MR. LACIVITA: The most recent one was

1 August.

2 MS. VAIDA: So, the chemicals listed in
3 the emergency response plan from August of
4 2011. I guess the yearly updates will be
5 provided to the Fire Department and I guess
6 the Board Members would be satisfied with just
7 that notification. I believe that would be it.

8 CHAIRMAN STUTO: Any discussion? Any
9 other conditions?

10 ***(There was no response.)***

11 CHAIRMAN STUTO: Somebody want to make a
12 motion on that?

13 MR. ROSANO: I'll make a motion.

14 MR. AUSTIN: Second.

15 CHAIRMAN STUTO: All those in favor?

16 MR. MION: Aye.

17 MS. DALTON: Aye.

18 MR. AUSTIN: Aye.

19 MR. ROSANO: Aye.

20 CHAIRMAN STUTO: All those opposed?

21 MR. SULLIVAN: Nay.

22 CHAIRMAN STUTO: Nay.

23 MR. LANE: Nay.

24 CHAIRMAN STUTO: Any further business
25 before this Board?

1 **(There was no response.)**

2 CHAIRMAN STUTO: There being no further
3 business, do we have a motion to adjourn?

4 MR. MION: Motion.

5 MS. DALTON: Second.

6 CHAIRMAN STUTO: All those in favor?

7 **(Ayes were recited.)**

8 CHAIRMAN STUTO: All those opposed?

9 **(There were none opposed.)**

10 MR. O'ROURKE: Are all those documents
11 FOILable?

12 MS. KENNEDY: I couldn't tell you
13 off-hand. You'll have to contact Susan
14 Pellegrini in our office.

15 CHAIRMAN STUTO: Which documents are you
16 referring to?

17 MR. O'ROURKE: Anything that is available
18 to the Planning Board.

19 MS. KENNEDY: There are certain things
20 with attorney/client privilege, so I can't
21 tell you off-hand exactly what will be
22 available; but probably many of them will be.
23 If you contact Susan, she'll be able to help
24 you with that.

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*(Whereas the proceeding concerning the above
entitled matter was adjourned at
11:40 p.m.)*

CERTIFICATION

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4 ***I, NANCY STRANG-VANDEBOGART, Shorthand***
5 ***Reporter, New York State Approved Transcriber***
6 ***and Notary Public in and for the State of New***
7 ***York, hereby CERTIFY that the record taken by***
8 ***me at the time and place noted in the heading***
9 ***hereof is a true and accurate transcript of***
10 ***same, to the best of my ability and belief.***
11
12
13

14 -----
15 ***NANCY STRANG-VANDEBOGART***
16
17

18 ***Dated December 7, 2011***
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