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Transcript of Public Hearing 4462

Date: August 7, 2018

Case: Kane County Zoning Board of Appeals

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Transcript of Public Hearing 4462
Conducted on August 7, 2018

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<p>1 BEFORE THE KANE COUNTY ZONING BOARD OF APPEALS 2 -----x 3 In Re: : 4 MAXXAM PARTNERS, LLC, : 5 GLENWOOD ACADEMY, : 6 Special Use request in the : 7 F-Farming District for a : 8 private-pay alcoholism and : Petition No. 4462 9 substance abuse treatment : 10 facility, 41W400 Silver Glen : 11 Road, Section 19, Campton : 12 Township (08-19-400-004) and : 13 Section 34, Plato Township : 14 (05-34-300-032 & 05-34-400-025) 15 -----x 16 17 PUBLIC HEARING - VOLUME II 18 St. Charles, Illinois 19 Tuesday, August 7, 2018 20 7:43 p.m. 21 22 Job No.: 198561 23 Pages: 130 - 254 24 Reported by: Paula M. Quetsch, CSR, RPR</p>	<p>1 PRESENT: 2 WENDY MELGIN, Chairwoman 3 TRACY ARIS, Member 4 MARC FALK, Member 5 MARY LAKE, Member 6 MARGUERITE MILLEN, Member 7 8 ON BEHALF OF THE APPLICANT MAXXAM PARTNERS, LLC: 9 CAESAR A. TABET, ESQUIRE 10 CHRISTOPHER D. LIGUORI, ESQUIRE 11 JORDAN WILKOW, ESQUIRE 12 TABET DIVITO & ROTHSTEIN LLC 13 209 South LaSalle Street 14 7th Floor 15 Chicago, Illinois 60604 16 (312) 762-9458 17 18 ON BEHALF OF THE APPLICANT MAXXAM PARTNERS, LLC: 19 ANDREW E. KOLB, ESQUIRE 20 VANEK, LARSON & KOLB, LLC 21 200 West Main Street 22 St. Charles, Illinois 60174 23 (630) 513-9800 24</p>
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<p>1 PUBLIC HEARING, held at the location of: 2 3 KANE COUNTY CIRCUIT COURT CLERK - 4 BRANCH COURT 5 530 South Randall Road 6 St. Charles, Illinois 60174 7 (630) 232-3495 8 9 10 11 Before Paula M. Quetsch, a Certified Shorthand 12 Reporter, Registered Professional Reporter, and a 13 Notary Public in and for the State of Illinois. 14 15 16 17 18 19 20 21 22 23 24</p>	<p>1 ON BEHALF OF KANE COUNTY: 2 JOSEPH F. LULVES, ESQUIRE 3 KANE COUNTY STATE'S ATTORNEY JOSEPH MC MAHON 4 100 South Third Street 5 Fourth Floor 6 Geneva, Illinois 60134 7 (630) 208-5320 8 9 ON BEHALF OF THE KANE COUNTY BOARD: 10 YORDANA J. WYSOCKI, ESQUIRE 11 HERVAS, CONDON & BERSANI, PC 12 333 Pierce Road 13 Suite 195 14 Itasca, Illinois 60134 15 (630) 773-4774 16 17 ON BEHALF OF OBJECTOR JOLINE ANDRZEJEWSKI: 18 KEVIN M. CARRARA, ESQUIRE 19 RATHJE WOODWARD, LLC 20 300 East Roosevelt Road 21 Suite 300 22 Wheaton, Illinois 60187 23 (630) 668-8500 24</p>

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1 ON BEHALF OF FOX RIVER & COUNTRYSIDE
2 FIRE RESCUE DISTRICT:
3 KENNETH SHEPRO, ESQUIRE
4 KENNETH SHEPRO, COUNSELOR AT LAW
5 33W542 Army Trail Road
6 Wayne, Illinois 60184
7 (630) 377-7372
8
9
10 ALSO PRESENT:
11 MARK VANKERKHOFF, Zoning Enforcing Officer
12 KEITH BERKHOUT, Secretary
13
14
15
16
17
18
19
20
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1 P R O C E E D I N G S
2 CHAIRWOMAN MELGIN: Hello. I want to have
3 your attention, please. We're missing one Board
4 member who is still at the National Night Out. He
5 was leading something in South Elgin, and he said
6 he's going to be about 20 minutes late. So we're
7 going to wait for him because we need to have a
8 quorum. So hopefully he will be showing up soon.
9 (A recess was taken from 7:29 p.m. to
10 7:43 p.m.)
11 CHAIRWOMAN MELGIN: Thank you. I'd like
12 to call the meeting to order.
13 Keith, would you do roll call.
14 MR. BERKHOUT: Aris.
15 MEMBER ARIS: Here.
16 MR. BERKHOUT: Falk.
17 MEMBER FALK: Present.
18 MR. BERKHOUT: Lake.
19 MEMBER LAKE: Here.
20 MR. BERKHOUT: Melgin.
21 CHAIRWOMAN MELGIN: Here.
22 MR. BERKHOUT: Millen.
23 MEMBER MILLEN: Here.
24 MR. BERKHOUT: Barbosa.

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1 (No response.)
2 CHAIRWOMAN MELGIN: Okay. We'll do the
3 Pledge of Allegiance.
4 (The Pledge of Allegiance was recited.)
5 CHAIRWOMAN MELGIN: Welcome back and --
6 welcome back to the people who were here last
7 week, and welcome to the people who are attending
8 the first time tonight.
9 This is a continuation of the hearing on
10 the Petition 4262 [sic] for special use in the
11 F-Farming District for private-pay alcoholism and
12 substance abuse treatment center. The hearing,
13 like I said, was last week on August 1st. We were
14 unable to complete the hearing, so we continued it
15 to tonight. The continuation also hopefully gave
16 everyone time to review some of the exhibits that
17 were put on the County's website, and those were
18 the exhibits to the proposed consent decree, and
19 we marked them as Exhibit 1 by this Board on the 1st.
20 The ZBA Hearing Exhibit 1 consists of a
21 proposed consent decree and Exhibits 1 through 7 of
22 that consent decree, a copy of all the exhibits
23 marked by this Board, including the Zoning Board
24 Hearing Exhibit 1 was made available on the County

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<p style="text-align: right;">138</p> <p>1 ZBA petition website under Petition 4464 on 2 August 2nd. So right after the hearing on the 3 1st they put the exhibits on the website. 4 So on August 1st a motion was made to 5 enter Maxxam's April 27th, 2017, agreement with 6 the Fox River & Countryside Fire Rescue District 7 as an exhibit. The motion failed due to a lack of 8 a second. Since then the agreement was circulated 9 and given to us Board members for consideration. 10 At this time do I have a motion to enter 11 the April 27, 2017, agreement between Maxxam and 12 the fire rescue district as an exhibit? 13 (No response.) 14 CHAIRWOMAN MELGIN: Hearing none, this 15 agreement will not be entered as an exhibit. 16 So tonight we're going to continue where 17 we left off on public comment. As a reminder, we 18 ask people to sign the sign-up sheet. I'll call 19 it in order. It just makes it a lot easier for 20 everyone to know when they're going to be called 21 up, and we know who is speaking. 22 Again, I want to remind you that we 23 reviewed the previous record in Petition 4362. 24 All of us were here last week on the 1st; we heard</p>	<p style="text-align: right;">140</p> <p>1 6N715 Longacre Drive. 2 MR. SHEPRO: Is the microphone on? 3 MR. SIERCKS: Kenneth Siercks. I live at 4 6N715 Longacre Drive. I did speak last week, and 5 I just wanted -- the similar comment is that I'm 6 opposed to this. 7 I took the time to review all the things. 8 I'm a little bit newer to the neighborhood; I've 9 only been here a year. And looking at all the 10 pros and cons of everything that's involved in 11 this whole thing, I got a little concerned about, 12 you know, it almost seems like our mind has 13 already been made up, and the vote that we may 14 take tonight may or may not even be considered for 15 the vote that's going to take place next week in 16 determining the payout, and this is going to go 17 move forward, and it's going to happen no matter 18 what we do or say tonight. 19 I saw an interesting suggestion, which was 20 to help eliminate the pressure for the fire 21 department and the police department is that if 22 they had their own on-site ambulance so that they 23 could just basically get in the bus and go to the 24 hospital kind of thing. So that might help</p>
<p style="text-align: right;">139</p> <p>1 the evidence, argument, public comment, so we 2 appreciate not repeating previously made evidence 3 or comments. 4 So to ensure that everyone who wishes to 5 speak has an opportunity to do so, we hope that 6 each speaker will again limit your comments to 7 between three and five minutes. The court reporter 8 again is on a different side tonight. She's 9 present taking down everything everyone says. 10 That will be part of the transcript, and that 11 transcript will be available to the County Board 12 with this Board's recommendation. 13 MEMBER LAKE: We're on Petition 4462. 14 CHAIRWOMAN MELGIN: 4462 and previous 15 record on Petition 4364. Correction made. 16 So I think we are ready to start public 17 comment. 18 The first speaker, Kenneth Siercks. 19 Didn't you speak last week. 20 MR. SIERCKS: I did. 21 CHAIRWOMAN MELGIN: Are we going to hear 22 the same testimony that you provided? 23 MR. SIERCKS: You're not. 24 So I'm Kenneth Siercks. I live at</p>	<p style="text-align: right;">141</p> <p>1 alleviate it, and their own security to support 2 that kind of thing. And that was one of the 3 reasons that one of the other Board members had 4 voted it down. 5 You know, and I went there today and 6 actually made the left-hand turn myself and 7 calculated the limited sight distance of 200 feet, 8 and the speed, and the time, reaction time that if 9 someone is coming from the other direction to 10 realize that -- you know, you only have a few 11 seconds when you're doing that. It's pretty 12 concerning. 13 I wasn't here in 1989 when they originally 14 set all this up. So looking at everything and 15 considering everything, I'm still opposed to it. 16 So that's all I've got. 17 CHAIRWOMAN MELGIN: Thank you. 18 Next speaker, John Bover. 19 AUDIENCE MEMBER: I'm sorry. I signed the 20 wrong document. I was not prepared to speak 21 tonight. I thought it was just an attendance 22 sheet. 23 CHAIRWOMAN MELGIN: That's fine. 24 Jennifer and Ty Walikonis. Was I at least</p>

<p style="text-align: right;">142</p> <p>1 close? 2 MS. WALIKONIS: Sort of. It's Walikonis. 3 I am a physician and I live at 8N466 Crawford 4 Road, so not too far, and my concern is about the 5 ground runoff. 6 It's going -- if it's going to be such a 7 full facility of 120 patients plus, I can pretty 8 much guess that all those patients are going to be 9 on medication, which they need, but the ground 10 runoff -- do you guys realize that a lot of the 11 psychotropic medications, the benzodiazapines, the 12 antipsychotic medications, all those get excreted 13 in the urine and the feces, and that's going to 14 get in the groundwater? 15 My big concern is then us neighbors -- am 16 I going to be drinking somebody else's Prozac? 17 Because I have a well, also. 18 So please take that in your consideration. 19 Thank you. 20 CHAIRWOMAN MELGIN: Thank you: 21 Maureen Zwier. 22 MS. ZWIER: I'm Maureen Zwier, 23 41N660 Fox Bend Drive. I did speak last week, but 24 I have some more information.</p>	<p style="text-align: right;">144</p> <p>1 meprobamate, an antianxiety medication, and 2 Risperdal, an antipsychotic. All three drugs may 3 be prescribed for detox and rehab patients. 4 The results of the study showed that 5 meprobamate, the antianxiety medication, was found 6 in 16 source water samples. The drug was still 7 present in 14 of the 16 finished drinking water 8 samples and 11 of the 16 tap water samples. 9 Three source water samples contained Prozac. Two 10 of the three finished drinking water samples still 11 contained Prozac, and one of the three tap water 12 samples still contained Prozac. Risperdal, the 13 antipsychotic, was found in one tap water sample. 14 We already know the septic process does 15 not remove pharmaceuticals from human waste. Now, 16 imagine what the concentration of these drugs will 17 be from septic waste that will be sprayed at this 18 detox rehab facility. Imagine the spray that will 19 contain these drugs contaminating the water system 20 Mr. Tyrrell mentioned last week. Imagine the 21 outrage the residents of this county will have if 22 you approve this facility knowing these results. 23 Combine the presence of EDCs in water, the 24 potential harm the EDCs can cause, the presence of</p>
<p style="text-align: right;">143</p> <p>1 Thank you for letting me speak again 2 tonight. After doing some more research, I found 3 many more studies proving that pharmaceuticals end 4 up in drinking water. 5 One such study is Pharmaceuticals and 6 Endocrine Disrupting Compounds in U.S. Drinking 7 Water. The study was performed by Applied 8 Research and Development Center, Southern Nevada 9 Water Authority. The study was published in the 10 Journal of Environmental Sciences 2009, Volume 43, 11 pages 597 to 603. 12 The National Institute of Environmental 13 Health Sciences defines EDCs, or endocrine 14 disrupting compounds as, quote, "chemicals that 15 may interfere with the body's endocrine system and 16 produce adverse developmental reproductive, 17 neurological, and immune affects in both humans 18 and wildlife." 19 "Source water, finished drinking water, 20 and distribution system water" a/k/a tap water 21 "from 19 U.S. water utilities was analyzed for 22 51 compounds between 2006 and 2007." The 51 drugs 23 tested include fluoxetine, a widely prescribed 24 anti-depressant known more commonly as Prozac,</p>	<p style="text-align: right;">145</p> <p>1 them in drinking water, the extremely hazardous 2 road conditions, and the extremely limited 3 emergency response capabilities. Any one of these 4 factors is enough to deny the zoning request. I 5 hope that all of these factors compel the ZBA to 6 reject Maxxam's request. Thank you very much. 7 CHAIRWOMAN MELGIN: Thank you. 8 (Applause.) 9 CHAIRWOMAN MELGIN: Next speaker is 10 Edward Fiala. 11 MR. FIALA: Thank you. My name is Ed Fiala. 12 I'm a 20-year resident of the Fox Mill subdivision 13 in Campton Hills. 14 Quick question for the Board. How many of 15 you live in an area with a functioning fire 16 department? Do you take for granted that when you 17 call 911 an ambulance or a fire truck will show up 18 in a timely manner? I, too, used to take for 19 granted that emergency services were a given 20 anywhere in Kane County. I was wrong. 21 My area of Kane County is served by the 22 Fox River & Countryside Fire Rescue District. We 23 used to be served by the award winning and 24 outstanding St. Charles Fire District, a fire</p>

<p style="text-align: right;">146</p> <p>1 department with the best possible rating. Our fire 2 district under the direction of the enormously 3 inept James Gaffney severed the contract my 4 district had with St. Charles and decided to 5 create a physical district of their own. We now 6 have a fire district with an insurance rating 7 slightly above that of a bucket brigade. 8 My Fox River & Countryside Fire District 9 is both broke and broken. Did this Board know 10 that the finances in my fire district are so dire 11 that the department cannot afford to adequately 12 staff or equip to serve my community? Last month 13 alone the firehouse near my home was closed for 14 several days due lack of staff and money. You 15 heard me right, the fire department was closed. 16 If your home was burning or your loved one 17 had a heart attack on those inconvenient closed 18 days, the response to your emergency came from a 19 distant station, adding greatly to the response, 20 or should we call it lack of response time. The 21 district finances are so dire that they are 22 considering closing stations on a rolling basis 23 regularly to reduce costs. 24 Let's talk about response times for a</p>	<p style="text-align: right;">148</p> <p>1 recommended response time is four minutes. 2 The department itself has admitted they 3 don't have the personnel or equipment to come 4 close to that recommended standard. And as you 5 can see, we have a broke and broken fire department. 6 And now Mr. Marco wants to put Maxxam with all of 7 its hundreds of customers all with increased need 8 of medical attention and increased need for 9 emergency medical services within my broken fire 10 district. To put it bluntly, Mr. Marco's business, 11 if approved, will kill people. 12 Our fire district admits it cannot handle 13 today's demands and certainly cannot handle the 14 increased burden of servicing in any manner 15 Mr. Marco's proposed facility. Every additional 16 EMS run to Maxxam will mean some resident within 17 my fire district will have to wait longer for 18 assistance. When seconds count, the Maxxam 19 facility will guarantee that you will have to wait 20 for many more minutes for help to come. If your 21 loved one is choking on a hot dog, experiencing 22 anaphylactic shock due to a food allergy, or 23 having a heart attack, they will die because of 24 the increased response time. This is not</p>
<p style="text-align: right;">147</p> <p>1 moment. The American Heart Association's 2 scientific position is that brain death begins 3 somewhere between four and six minutes after 4 someone experiences a cardiac arrest. Cardiac 5 arrest can be reversed if treated within a few 6 minutes with an electric shock. Studies have 7 shown that a victim's chance of survival is 8 reduced by 10 percent with every passing minute. 9 The average response time for my fire 10 district is nearly eight minutes. This is 11 obtainable from the fire district's own website. 12 And that is if you are lucky enough to have had 13 your heart attack on a day when the fire station 14 is open. 15 The department's own website states that 16 the recommended standard requires that staffing 17 for advanced life support emergency medical 18 response must include a minimum of two members 19 trained as paramedics. Additionally the standard 20 requires an additional two trained providers being 21 EMTs. Therefore, four personnel, according to the 22 district's own website, should respond to these 23 incidents. Responding personnel must arrive 24 within the recommended response time. That</p>	<p style="text-align: right;">149</p> <p>1 hyperbole; this is a fact. Maxxam should be 2 located where EMS, emergency medical services, are 3 taken for granted, not where competent EMS is a 4 distant memory as where I live now. 5 I have read many comments online that talk 6 about other communities with similar facilities to 7 the Maxxam proposal and how those facilities 8 integrate well with those towns. The difference 9 is those facilities work well because they are 10 located where there is a functioning fire 11 department. 12 The people in my fire district do not have 13 such a luxury. Perhaps Mr. Marco doesn't care 14 about his customers and that they won't have 15 emergency medical services if located in the Fox 16 River district, but I can tell you that I care 17 about my family and my community's well-being, and 18 the safety of my family and my community are at 19 odds with Mr. Marco's business plan. 20 Your decision on this matter has many 21 different considerations. I understand. But it 22 truly comes down to one thing and one thing only. 23 This is simply a public safety issue. Your Board 24 has been given a very noble mission, and that</p>

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<p style="text-align: right;">150</p> <p>1 mission is to protect first and foremost the 2 public safety. 3 There is nothing noble whatsoever about 4 putting hundreds of Maxxam customers in a fire 5 district that cannot possibly protect them when 6 they may need it most. There is certainly nothing 7 noble about Mr. Marco and his investors putting my 8 family and community at risk in order to make a 9 few bucks. 10 This is the time we need our elected 11 officials to stand up and do what is clearly the 12 right thing. Please defend the safety and 13 well-being of my family and my community and say 14 no Maxxam. 15 Thank you for giving me this time to speak 16 today, and thank you all for your service to my 17 county. 18 CHAIRWOMAN MELGIN: Thank you. 19 (Applause.) 20 MR. SHEPRO: Madam Chairman, may I 21 cross-examine this witness? 22 MR. LULVES: It's up to you. 23 CHAIRWOMAN MELGIN: Sure. 24 Do I need to swear him in?</p>	<p style="text-align: right;">152</p> <p>1 So I realize you're an attorney, and 2 attorneys tend to have reputations for being a 3 little gruff, but you don't have to do that to 4 anyone here. We have our homes and our families 5 at stake. 6 (Applause.) 7 MS. O'BRIEN: Thank you for the opportunity 8 to speak. I have been in this neighborhood for 9 25 years and -- you know, so I've seen a lot of 10 change. I also want to say that I became disabled 11 2 1/2 years ago and am on some very, very nasty 12 medications and understand withdrawals. Because 13 some of the medicine I'm on, if I'm even two hours 14 late, it's sheer hell. And, therefore, I have 15 thought long and hard about people who are 16 addicted to drugs and why they fall back and 17 return. Because the withdrawals are just awful. 18 So I do have a very deep sympathy for the 19 people who would be in this facility. But that 20 said, one of the things that concerns me greatly 21 is that, you know, there's been a couple of votes 22 on this, and I don't know that I really want an 23 answer, but I want you to think about this. I 24 don't understand why we come and vote and then our</p>
<p style="text-align: right;">151</p> <p>1 AUDIENCE MEMBER: You don't cross-examine 2 in a public hearing. 3 MEMBER LAKE: But we're being lenient. 4 MEMBER ARIS: Let's ask, would you be able 5 to answer additional questions? 6 MR. FIALA: I'm not certain who the 7 gentleman is or who he represents. 8 MR. SHEPRO: If you had been here before, 9 you would know my name is Ken Shepro, attorney for 10 the Fox River & Countryside Fire District. 11 That's all right. I'll make my argument 12 at a later time. There's no reason to encumber 13 Mr. Fiala. 14 MR. FIALA: Thank you. 15 CHAIRWOMAN MELGIN: Okay. Sharon O'Brien. 16 MS. O'BRIEN: I just have to say -- I'm 17 Sharon O'Brien from 6N464 Crestwood Drive in 18 Campton Hills. 19 And I just want to -- I'm just kind of 20 taken back. I really didn't think that that kind 21 of incensing comment was appropriate. We're here 22 in good faith, and people who sit back there can't 23 see faces, and it's very difficult to remember all 24 the faces that have come to this meeting.</p>	<p style="text-align: right;">153</p> <p>1 votes are just tossed aside. 2 I mean, I thought that when we come to 3 vote that, you know, the votes counted, and I just 4 don't understand why we're here today. Nor do I 5 understand why people use -- and abuse, I should 6 say, the Americans with Disabilities Act. I 7 believe that, you know, this is something that 8 happens in business a lot, and I just think it's 9 really unfair, and it goes to character when 10 people do this. 11 And I really strongly believe that the 12 case here, if it were presented in court, you 13 know, with the septic system, the wells, the fire 14 district, and what we're experiencing today -- I 15 have had to use ambulance service a few times, and 16 my neighbors, I have a couple of neighbors who 17 have some illness, as well, that requires 18 ambulance service, and the response time is not 19 what it should be. So there is already a real 20 medical issue here that has nothing to do with not 21 wanting these people here; it has to do with the 22 realities of what we're facing. 23 And by the way, we live in a state where 24 we are the highest taxed, and I know we can't take</p>

<p style="text-align: right;">154</p> <p>1 any more. We just can't take any more taxes. 2 We're talking about as -- just to restate, the 3 cost of just the whole septic system in general 4 and the police and fire department, but the other 5 thing is the cost of this road construction that's 6 going to have to take place. 7 And I'm wondering, you know, if by some 8 chance the Court would rule that we have, you 9 know, committed some offense against the Americans 10 with Disability Act, which I would hope a judge 11 would actually see is not the case, but if we did 12 lose, okay, has anyone looked at the numbers on 13 what we would have to pay these people versus the 14 cost of, you know, what we're going to have to do 15 to address the police and the well issues, you 16 know, the fire district issues, the road development 17 that would have to take place? 18 I know that developers have had to actually 19 pay some of the cost in order to get approval to 20 build, you know, some of these housing developments, 21 and I wonder if anything has been really presented 22 in terms of, you know, have they brought forth 23 what they would be willing to do to help the 24 community to address all of those costs, or are we</p>	<p style="text-align: right;">156</p> <p>1 expected that people are going to die in our 2 community? 3 So those are just some of my thoughts and 4 questions that I'm looking to get answered. I 5 don't know that they can be answered here, but I 6 just -- I just really don't think that there is 7 any malice here. It's true concern and I hope 8 that you all take that into consideration. 9 It's a great facility. I used to volunteer 10 there, and it is really -- it's a very interesting 11 place for you to consider; it's just that there's a 12 lot missing, and you're not doing your patients any 13 good because we are already having problems here. 14 But I want you to know that some people in 15 the community who are opposed really do understand 16 what you're trying to accomplish and wish you 17 well. Thank you. 18 CHAIRWOMAN MELGIN: Thank you. 19 (Applause.) 20 CHAIRWOMAN MELGIN: Mark Holstein. 21 MR. HOLSTEIN: Mark Holstein, I live at 22 6N865 Palomino. And, again, thank you guys for 23 going through this whole process for the second 24 time. Just wondering if there might be a</p>
<p style="text-align: right;">155</p> <p>1 just going to let them say that we're abusing ADA 2 and start suing people. 3 I just have to say there is no 4 discrimination here. There's real impact to health 5 and welfare of the neighborhood. There's real 6 impact to the people who you would be putting in 7 this facility. These people are coming there, 8 they're people who need medical attention, there 9 are emergencies in these facilities, and what are 10 you going to do, knowingly build this place with 11 the full awareness that they may die before an 12 ambulance can come? 13 And the other thing is -- and the final 14 point I have is, okay, so when I end up -- let's 15 say the facility is built, and I end up not 16 getting the ambulance to my house and end up even 17 further damaged from a health perspective. What 18 is my recourse going to be? What is my recourse 19 going to be when my home cannot provide for me then 20 move to a smaller house that can better -- that I 21 can, you know, be better housed with my disability 22 and the deterioration of my medical -- you know, 23 am I going to be able to sue and recoup what has 24 knowingly been put in that, you know, we fully</p>	<p style="text-align: right;">157</p> <p>1 third time. 2 About three weeks ago I ran into a Marine. 3 I was at the Salvation Army actually on 7th giving 4 out food and he came in, and after conversation I 5 found out he had \$7 until the end of the month, and 6 he had to walk five miles to his house. I took 7 him home; on the way I found out that he was an 8 alcoholic, and the only person in his family to 9 talk to him was his one sister. 10 So I took him over to the place and got 11 him some work for a couple of days. The third day 12 he disappeared. Went over to his house and 13 actually went into his place and found his door 14 open, his dog was outside. He was gone. And he 15 disappeared then for two days. 16 So I started calling all these people he 17 gave me. He gave me the Veteran's Administration 18 person that he's being taken care of; he gave me 19 his Marine counselor; he gave me his sister. And 20 yet the bottom line is the poor guy has been in 21 two overnight 7- to 30-day rehab places and has 22 not been successful in kicking his habits, which 23 is a sad thing because he's a smart kid, 38 years 24 old, the experiences that he had in Afghanistan</p>

<p style="text-align: right;">158</p> <p>1 would just -- it's almost a shame to say I'm 2 American that they put nine guys in a situation 3 like that. I mean, it was absolutely horrible. 4 But the bottom line was I also then -- I 5 said, okay, we're going to get this guy some help; 6 we're going to get him into another unit. So I 7 called one, two, three, four, five, six, seven, 8 eight, nine places that the VA gave me for drug 9 and alcohol abuse problems in-home, they take him 10 in, and they all had a waiting list. You can't 11 get into any of them. They all are jammed. 12 And what came out of this whole thing is 13 that for minor drug abusers and for people that 14 have addictions, you know, everybody is trying to 15 be compassionate and I completely agree, and they 16 put a sign at these homes -- wouldn't you guys 17 agree with that, isn't that correct? -- to try to 18 help them kick the habit. So I've got to know 19 that this place is a good place probably, and it's 20 going to be filled up immediately. 21 A couple of things that he told me that I 22 think are the biggest concern for me and my 23 grandkids is that Jimmy says, "One of the reasons 24 I don't get cured is because there's alcohol in</p>	<p style="text-align: right;">160</p> <p>1 they also get into the alcohol -- that come to 2 this facility because there's like hundreds of 3 addicts and hundreds of drunks in one place. You 4 don't have to stand on a curb and wait for a car 5 to go buy to sell your package; you've got them 6 all there. 7 He said a lot of times what happens is 8 some of the people that were there end up being 9 the people doing the selling because now they've 10 got people they know on the inside, and they go 11 back and they make a few dollars. 12 So my concern, although I was heartbroken -- 13 this kid, I talked to his sister, you know, I mean, 14 he was put in barbed wire on a road to somebody -- 15 outside a car every two miles, and the only thing 16 they had was wire. That's all they had. And they 17 were supposed to stop the Afghans from going down 18 this road and putting in IODs, and the only 19 protection they had was this barbed wire fencing. 20 I mean, he served our country. I think he had 21 some PTSD or whatever they call it. He was a guy 22 in charge of eight guys. I mean, I was all about 23 doing everything I could to help this guy. 24 But then they tell me, you know, the</p>
<p style="text-align: right;">159</p> <p>1 the facilities available; there's drugs in the 2 facility available." And I said, "How can that 3 be? This is like where you're supposed to get 4 well." And he said to me, "Are there drugs in 5 prison?" He says, "Is there alcohol in prison? 6 Don't you think that's a little more secure than 7 these places that I go?" So it happens. 8 So his explanation, one of the reasons 9 that guys -- and women, I guess -- don't get cured 10 is that it's not a perfect environment, that they 11 still get what they need to stay, you know, 12 unhealthy and be sick. 13 So anyway -- and then he said, "Where do 14 you think that stuff comes from?" I'm like, "I 15 don't know." He says, "Well, it comes in all over 16 the place," and he named a few instances where 17 people are working there, low-paid people can pick 18 up a couple grand a week. What do you think is 19 going to happen? They may have a little bag they 20 give to somebody while they're in their room. He 21 went through a number of scenarios. 22 And we kept talking and probably the 23 biggest problem is that all of a sudden there's a 24 lot of drug dealers -- mostly drug dealers but</p>	<p style="text-align: right;">161</p> <p>1 difference between enabling somebody like this and 2 helping is very, very close. And then my wife 3 wouldn't let me bring him anymore because she 4 heard he had such problems. So when he comes back 5 to me with a certification he's been through one of 6 these programs, we're going to sit down and talk, 7 and hopefully I can help him. 8 So my concern is all of what everybody says. 9 Plus, I think it could be a real serious issue for 10 crime and for kids in the neighborhood, you know, 11 stuff like that. 12 You seem to be agreeing with everything 13 I say. 14 MR. TABET: I appreciate your sincerity 15 and I do have a response when it's our time. But 16 thank you very much. 17 MR. HOLSTEIN: That's it. Thank you 18 very much. 19 CHAIRWOMAN MELGIN: Thank you. 20 (Applause.) 21 CHAIRWOMAN MELGIN: Ed and Patty 22 Schreiber. 23 MR. SCHREIBER: Good evening and thank you 24 for the opportunity to address the Board.</p>

<p style="text-align: right;">162</p> <p>1 As evidenced by our first speaker this 2 evening, there does appear to be some confusion 3 among the general public as to just what this 4 proposed consent decree represents, and I just 5 want to point out for the benefit of this gentleman 6 and other individuals who might have such confusion 7 that it is not a finding by the Federal Court or 8 an expression of the Court's opinion nor is the 9 Court encouraging you to vote one way or the other. 10 Rather, the consent decree is a settlement proposal 11 constructed by our State's Attorney Joe McMahon 12 and his staff and the plaintiffs in this case. If 13 accepted by you and the County Board, the Court 14 merely agrees to maintain supervision over the 15 implementation of the agreement. The Court 16 expresses no opinion as to how your vote -- or how 17 you should vote or as to the merits of the case. 18 I would now ask your indulgence if I just 19 go over the three-minute mark just a little bit. 20 I think what I'm about to say is important and 21 relevant to your decision. 22 As to the substance of the proposed decree, 23 based on the known evidence as well as the 24 statements and admissions made by Mr. McMahon</p>	<p style="text-align: right;">164</p> <p>1 beyond the routine exchange of documents required 2 by the Court. Not a single deposition has been 3 taken. Nor has Mr. McMahon vigorously pursued a 4 motion to dismiss this meritless lawsuit. As every 5 litigator knows, the very best settlements come to 6 those who are thoroughly prepared for trial. 7 This past May I heard rumors that not only 8 was this lawsuit alive and well but close to 9 settlement, so I placed a phone call to Mr. McMahon 10 who not only denied that he was close to 11 settlement but agreed that the 20 public hearings 12 had shown Maxxam Partners to be untrustworthy. He 13 also agreed that they had failed to demonstrate 14 competence to operate a Class 4 drug treatment 15 facility. Despite his own strongly negative view 16 of the Maxxam operation, Mr. McMahon admitted that 17 no depositions had been taken, none. Not even of 18 Mr. Marco, the principal of Maxxam. 19 I was stunned. So I discussed this with a 20 number of people, including Van Richards, a 21 retired Kane County attorney who testified before 22 you last week. Between us Van and I have close to 23 100 years of litigation experience, and we both 24 concluded that this needed a closer look. So</p>
<p style="text-align: right;">163</p> <p>1 himself, this is a very bad deal for Kane County. 2 It's even worse than the two prior proposals that 3 were previously rejected by the County. 4 This is, in my opinion, less a settlement 5 than a complete capitulation, and though it truly 6 saddens me to say this, there are sound reasons 7 you should be skeptical of information provided by 8 Mr. McMahon, and I'll address a few of those. 9 Until very recently the citizens of Kane 10 County had been largely kept in the dark as to the 11 status of this lawsuit filed against them. When 12 Mr. McMahon does discuss this with the County 13 Board, he typically calls the Board into executive 14 session which means out of the prying members of 15 the public and members of the press and admonishes 16 Board members that they must keep his statements 17 confidential. As a retired Kane County judge and 18 career litigator, I agree that would make sense if 19 he was discussing trial strategy or a litigation 20 plan. However, it does not appear that a trial or 21 a defense was ever a consideration. 22 It's been a year since this lawsuit was 23 filed, and I've seen no evidence of the serious 24 pursuit of discovery or preparation for trial</p>	<p style="text-align: right;">165</p> <p>1 thereafter we personally met with Mr. McMahon at 2 his office where he again denied this suit was 3 near settlement. I believe his exact words were, 4 "We are a long way from settlement." 5 He also reconfirmed that Maxxam had failed to 6 demonstrate competence or qualification to operate a 7 Class 4 drug treatment facility. In fact, he told 8 us he would love to personally depose Mr. Marco, 9 whom he found to be of questionable character and 10 untruthful. However, he acknowledged that no such 11 deposition had been taken. 12 When we asked if we could see a copy of 13 the billing statement of Mr. Bersani, the Itasca 14 attorney who was hired to defend us, we asked to 15 see that so we could get an idea of what Mr. Bersani 16 was doing to generate a \$400,000 legal bill, but 17 it did not appear that any defense was being 18 mounted. As we now expected, Mr. McMahon declined 19 to allow us to review that statement and declined 20 to divulge much of anything regarding our defense. 21 Despite Mr. McMahon's assurances to the 22 contrary, Mr. Richards and I continued to hear 23 settlement buzz, so Mr. Richards filed a Freedom 24 of Information Act request asking the State's</p>

<p style="text-align: right;">166</p> <p>1 Attorney's office for the billing statement, and 2 another interested citizen obtained a partial copy 3 of the court docket on this case. 4 The State's Attorney's office responded by 5 submitting a substantially blacked-out copy of the 6 billing statement, but from those two documents 7 which we can show you we determined that contrary 8 to what Mr. McMahon told us, settlement discussions 9 had long been underway, and shortly thereafter 10 Mr. McMahon and County Board Member John Hoscheit 11 began preparing the Board in executive session for 12 the settlement proposal. 13 CHAIRWOMAN MELGIN: Mr. Schreiber, do you 14 have much more to get to? 15 MR. SCHREIBER: No, I don't. 16 CHAIRWOMAN MELGIN: I just want to make a 17 point that we're not here today to discuss the 18 pending litigation or potential settlement. We're 19 here to take comment on the petition. 20 MR. SCHREIBER: I understand your position 21 but I think it is important, and I think that we 22 as a community have been left in the dark, and I 23 assume that you, the panel, is just as much in the 24 dark as we are. So I promise you I won't be more</p>	<p style="text-align: right;">168</p> <p>1 whose district would be most severely impacted by 2 the statement. 3 So when Mr. McMahon told Mr. Richards and 4 myself that a settlement was not brewing, that was 5 clearly not true. Now Mr. McMahon wants you to go 6 along and accept this capitulation because he 7 fears a large verdict if you don't. This should 8 be a defensible case, but according to the 9 Daily Herald, Mr. McMahon suggested if you don't 10 accept his settlement, it would ensure Travelers 11 might walk. 12 Well, Travelers bears some responsibility 13 here. They have done a very poor job of overseeing 14 this litigation. As our insurer they have a 15 fiduciary duty to provide a reasonable defense. 16 As litigants, we are entitled to a zealous 17 defense, but it seems as we have been provided 18 with no defense. 19 I submit that the real danger here is not 20 Travelers who will walk but that the settlement 21 of this case will set a dangerous precedent and 22 expose this county to future liability not just 23 from future developers or residents whose fire and 24 rescue district will be compromised but from</p>
<p style="text-align: right;">167</p> <p>1 than about two more minutes. 2 CHAIRWOMAN MELGIN: But I want to encourage 3 you, those are comments to the County Board, not 4 to the Zoning Board that is here to hear comments 5 on the petition. The County Board is the body 6 that will -- you know, would be for the settlement 7 and the litigation. 8 MR. SCHREIBER: Here's the problem with 9 that. I've reviewed some of the decree, and the 10 Zoning Board has to sign off on it, so you are, in 11 fact, involved in the decision-making process. 12 So I'm telling you -- I don't mean to be 13 impolite. I'm trying to be informational. So I 14 think it's important for you, I think it's 15 important to the community, and because you would 16 have to sign off on this decree, I would just ask 17 if I could have approximately two to three more 18 minutes. 19 CHAIRWOMAN MELGIN: Okay. Go ahead. 20 (Applause.) 21 MR. SCHREIBER: It's interesting that 22 Mr. McMahon chose Mr. Hoscheit, who appears to 23 favor Maxxam, to accompany him to the settlement 24 discussions and not County Board Barb Wojnicki</p>	<p style="text-align: right;">169</p> <p>1 patrons of an institution our own State's Attorney 2 found to be deceptive and likely incompetent, 3 patients who would be going through detox and being 4 administered methadone 9 miles and 20 minutes or 5 more from the closest hospital assuming an 6 ambulance is even available. 7 Finally -- and I promise I'm almost done. 8 Finally, I'd like to briefly touch on the 9 allegations of discrimination which go to the 10 heart of plaintiff's case. To say that this 11 county or the community adjacent to the property 12 in question discriminates against the disabled is 13 untrue, unfair, and insulting especially coming 14 from the Plaintiff Glenwood who for many years was 15 the beneficiary of this county's generosity and 16 community support. The same county they now 17 vilify provided very favorable bonds which allowed 18 them to operate and has been the home of a school 19 for boys for more than 20 years with little or no 20 opposition. 21 As plaintiffs admit in the first couple 22 pages of their complaint, Glenwood was a residential 23 school for at-risk young men who came from families 24 in distress in gang-plagued neighborhoods. This</p>

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<p style="text-align: right;">170</p> <p>1 community in which it is located is a community of 2 demonstrated tolerance for people going through 3 difficult times. The discrimination counts are 4 without merit and should be the subject of a motion 5 to dismiss. As to the claim for loss of business, 6 that is pure speculation. Maxxam has absolutely 7 no experience in drug treatment, they have no 8 patients, no business model, and no ability to 9 show their capacity to operate, much less operate 10 at a profit. 11 Other than the fear factor presented by 12 our State's Attorney, absolutely nothing has been 13 presented after more than 20 hearings that would 14 warrant a change of your denial. Thank you. 15 (Applause.) 16 CHAIRWOMAN MELGIN: Okay. Thank you. 17 Mike Tyrrell. 18 MR. TYRRELL: I'll pass. 19 CHAIRWOMAN MELGIN: You spoke last week. 20 Thank you. 21 Dean Perle. Dean P-e-r-l-e, Empire Road. 22 (No response.) 23 CHAIRWOMAN MELGIN: Okay. Is there anyone 24 else here that didn't sign in but would like to</p>	<p style="text-align: right;">172</p> <p>1 or special interests cloud your thinking. 2 We are here to give you our reasons why 3 you should vote no to Maxxam Partners' request for 4 a special use permit for the Glenwood School 5 property. 6 The Kane County zoning ordinance states 7 that each of the six requirements must be met in 8 order to issue a special use permit. The special 9 use for Glenwood School which is an open campus 10 would be detrimental to the public health, safety, 11 morals, comfort, and general welfare both to the 12 neighboring area and to the planned patients, 13 as well. 14 Addiction treatment centers should be an 15 all-inclusive building for the safety and 16 well-being of the recovering patients, not an open 17 campus of many separate buildings in a four-season 18 climate. 19 There are environmental concerns, as well. 20 Glenwood School has well and septic for water 21 treatment. It's located in an area that has many 22 springs, ponds, and wetlands. With drugs coming 23 in for treatment and drugs eliminated after 24 treatment, there's concern about water quality and</p>
<p style="text-align: right;">171</p> <p>1 make a comment? 2 Okay. 3 MS. HARTMANN: I signed in. 4 MR. VANKERKHOFF: Okay. Come on up. 5 CHAIRWOMAN MELGIN: What's your name? I'm 6 not sure I have it on the list. 7 MS. HARTMANN: Pat Hartmann. 8 CHAIRWOMAN MELGIN: Oh, you did sign it 9 and I checked you off. I'm sorry. 10 MS. HARTMANN: Good evening. I'm 11 Pat Hartmann. I live at 8N316 Dittman Road, Elgin. 12 My husband Ron and I have lived on our 13 family-owned farm for 56 years in south Plato 14 Township. We've both been around the neighborhood 15 over 70 years. We are central to Kane County. We 16 are an area of homes in a semirural countryside, 17 rural farms and farmland, forest preserves. We 18 are Campton and Plato Townships and the municipality 19 of Campton Hills. 20 It takes courage, honesty, and integrity 21 on your part to make tough decisions the right 22 way. Your upcoming decision regarding a special 23 use permit for a special use here will be 24 difficult, but please do not let politics, money,</p>	<p style="text-align: right;">173</p> <p>1 its effect on the area. This is a headwater area 2 for Stony Creek which starts at our farm, which 3 leads to Otter Creek, on to Ferson Creek. 4 The special use would be injurious to the 5 use and enjoyment of other property owners in the 6 immediate area. Forest preserves are meant for 7 conservation, study, citizen enjoyment, not for 8 buffers for private for-profit businesses. A 9 special use of this type, which is detox and 10 substance abuse rehab, is not suitable in the 11 midst of an area of existing homes and farms. 12 Rehabilitation and detox facilities with patients 13 who are disabled should be located on or near a 14 medical campus where they can receive appropriate 15 medical health if needed and where there is 16 adequate community services such as fire, and 17 emergency, and paramedic services, and police 18 departments. 19 Property values would likely be diminished 20 and impaired within the area. A study was 21 presented at previous hearings that showed an 8 to 22 17 percent drop in values for the properties 23 located in close proximity to such facilities. 24 Normal and orderly development of</p>

<p style="text-align: right;">174</p> <p>1 surrounding property would be impeded. The 2 proposed use of the Glenwood property does not fit 3 the vision of the local community to maintain its 4 semirural character environment and preserve its 5 character. 6 Access roads from main highways are rural, 7 curvy, and a long distance from hospitals and 8 community services such as police and emergency 9 services which are limited in this well. 10 Community services for the local citizens would 11 also be compromised if a facility of this proposed 12 size was allowed in the area. 13 Do remember Kane County has six requirements 14 that must be met for special use. These aren't 15 suggestions; they aren't guidelines; they are 16 requirements. The requirements have not been met. 17 Kane County's 2040 plan and zoning ordinance 18 also marks this parcel as an F-1 Farming zone and 19 states it should be used for educational, cultural, 20 or scientific purposes. This request does not 21 meet those definitions of use, either. 22 We all understand that facilities of this 23 type are needed, but they should be sited 24 appropriate for their needs. A semirural/rural</p>	<p style="text-align: right;">176</p> <p>1 ambulance pulled into my driveway. Had this been 2 a severe life-threatening situation, the outcome 3 would have been a lot different. 4 It's nothing against the fire department. 5 They did the best they could, but because one of 6 their ambulances -- the only ambulance in that 7 area at the time was servicing another call, they 8 explained to us that they were delayed because of 9 that. So this is happening now, and it's not 10 going to get any better when Maxxam, if Maxxam 11 goes ahead and implements their facility. 12 Also, I had one other question. The 13 gentleman that talked about the veteran that had 14 the problem, I think he was trying to illustrate 15 that a facility like that can provide an inroad to 16 increased crime in the form of drug selling and 17 unsavory people in the area, and I think I agree 18 with him, and that's one of our concerns, also, too. 19 Thank you very much for your time. 20 CHAIRWOMAN MELGIN: Thank you. 21 (Applause.) 22 CHAIRWOMAN MELGIN: Is there anyone else 23 in the public that wishes to speak? 24 Mr. Carrara.</p>
<p style="text-align: right;">175</p> <p>1 location in an established community without 2 suitable community services, many rural roads, and 3 a location far from a hospital and medical 4 facilities is not an appropriate location for a 5 facility of this type. Please honor and follow 6 your zoning ordinance, your 2040 plan, and your 7 six requirements that this -- that must be met for 8 special use. 9 We the farmers, the neighbors, the 10 residents of central Kane County ask you to vote 11 no to the special use request for Maxxam Partners. 12 Thank you. 13 (Applause.) 14 MR. HANUS: Hi. My name is Mike Hanus. 15 My wife Susan and I have lived at 6N487 Crestwood 16 Drive for 29 years. I don't have any prepared 17 remarks, but I want to relate an incident that 18 occurred on June 29th that illustrates the issue 19 with the Fox River & Countryside fire department. 20 On that date my wife suffered a severe 21 back injury that required me to call 911, and it 22 was approximately -- we live 2 1/2 miles from that 23 station, Station No. 2 I think they call it. It 24 was approximately 20 minutes before a truck or an</p>	<p style="text-align: right;">177</p> <p>1 MR. CARRARA: Yes. Thank you, Madam Chair. 2 I had a number of questions on the 3 exhibits that were added after the public hearing 4 yesterday for the petitioner. So is the 5 petitioner here to answer the questions on the 6 exhibits. 7 MR. LIGUORI: Yes. 8 MR. CARRARA: Can you please swear in the 9 witness? 10 (Whereupon, Attorneys Tabet and Liguori 11 were duly sworn.) 12 MR. CARRARA: Thank you. 13 MR. TABET: And we should correct the 14 record, the exhibits weren't added yesterday. 15 They were added June 16th and August 1st or 2nd. 16 MR. CARRARA: I apologize. It was after 17 the beginning of our first hearing. 18 MR. SHEPRO: Could we have the name of the 19 witness for the record? 20 MR. TABET: Caesar Tabet and Chris Liguori. 21 MR. CARRARA: Thank you. Whichever one of 22 you would like to answer, I appreciate it. 23 CAESAR TABET, 24 having been duly sworn, testified as follows:</p>

<p style="text-align: right;">178</p> <p>1 EXAMINATION BY COUNSEL FOR THE OBJECTOR 2 BY MR. CARRARA: 3 Q As part of the consent decree there was -- 4 one of the exhibits was the proposed ordinance 5 which bears a date on the County's website of 6 July 12th, 2018. While it appears this ordinance 7 is preordained, I'd just like to ask you a few 8 questions about it. 9 On page 3 of the ordinance, paragraph 4 10 states that, "A special use permit to operate the 11 private-pay alcoholism and substance abuse 12 treatment facility on the property is hereby 13 granted to Maxxam." 14 Is that a condition that the petitioner is 15 agreeing to, that it will be a private-pay 16 facility? 17 A The conditions are set forth in the 18 consent decree, and the conditions are contained 19 at pages 5 through -- 20 AUDIENCE MEMBER: Can't hear. 21 MR. TABEL: Can everyone hear me? 22 AUDIENCE MEMBER: Yes. 23 MR. TABEL: Sorry about that. 24 AUDIENCE MEMBER: No problem.</p>	<p style="text-align: right;">180</p> <p>1 consent decree do not specifically say it's a 2 private-pay facility only. To do that would be 3 illegal and discriminatory and barred by Federal law. 4 So to answer your question, the conditions 5 do not contain an express requirement that it is 6 only a private-pay facility and if somebody comes 7 there who can't pay will be turned away or rejected. 8 Q So, again, I'm not trying to argue with 9 you. So it's your legal opinion that it will also 10 be public pay? 11 A No. It's not my legal opinion that it 12 will also be public pay. 13 Q Okay. In one of the conditions, Condition 14 No. 13 there's reference to a number of 15 requirements as to the sizing and population 16 ability of the facility. Then one of the exhibits 17 to the agreement and consent decree and the 18 ordinance is the site plan for Maxxam Partners. 19 The site plan identifies eight patient 20 lodges; is that correct? 21 A I think it's nine patient lodges, but it 22 identifies what it identifies, either eight or 23 nine residence halls. 24 Q Yeah, I'm sorry; I'm just reading off your</p>
<p style="text-align: right;">179</p> <p>1 A (Continuing.) The conditions are set 2 forth in the written consent decree at pages 8 -- 3 I'm sorry -- pages 5 through 8, and they're 4 numbered 1 through 17. 5 Q Do those listed conditions -- which are 6 also in exhibits to the ordinance which is attached 7 to the consent decree -- do those conditions you 8 feel not include the provision of paragraph 4 which 9 says a special use to operate a private-pay 10 alcoholism and substance abuse treatment facility 11 is not enforceable? So it can be a nonprivate-pay 12 facility. 13 A Well, I think you're asking two different 14 questions. It's a little bit confusing. 15 Q Let me do a better job to ask it. First, 16 on our agenda tonight it says the request is for a 17 private-pay facility. On the public notice it 18 says it's for a private-pay facility. The zoning 19 ordinance says it's going to be a private-pay 20 facility. But your conditions do not limit it to 21 a private-pay facility. So what will the facility 22 be, private-pay or both private-pay and public-pay? 23 A Well, the application and petition is for 24 a private-pay facility. The conditions in the</p>	<p style="text-align: right;">181</p> <p>1 legend. 2 So using the criteria in Condition No. 13, 3 how many patients can get into the patient lodges 4 on your site plan? 5 A The number of patients that can get into 6 the existing patient lodges on the site plan will 7 be determined by the applicable State licensing 8 requirements and occupancy requirements that are 9 set forth in different sections of the consent 10 decree, including the section that you cite, 11 Section 13, the specific reference to the 12 Department of Illinois Human Services Code Section 13 71 Ill. App 2060. And the section is 100 pages 14 long, but it contains detailed Illinois licensing 15 occupies requirements that must be complied with 16 before a permit is even issued and before the 17 facility is even off the ground and other 18 conditions in the consent decree, including, for 19 example, as I said in my opening statement, 20 Condition 1 at page 5 that says, quote, "Maxxam 21 and the facility shall obtain all necessary 22 licenses from the State of Illinois prior to the 23 start of operation." That includes licenses 24 regarding qualifications. If we're not qualified,</p>

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1 **we're not going to get a license.**
2 MR. CARRARA: Ms. Chairwoman, I asked him
3 a simple question, what is the number. I
4 understand they have to comply with them.
5 Q Paragraph 13 says, "Maxxam shall comply with
6 the code spacing requirements including, A, a
7 minimum of 80 square feet is provided in a single
8 bedroom; B, 60 feet is provided in a bedroom in a
9 multiple-bedroom with no more than four beds per
10 room; and C, no bunk beds will be used for any
11 detox patient."
12 Have you done the calculation of how many
13 patients will fit under that code section?
14 **A We have not done that calculation because**
15 **that calculation is something that will be done by**
16 **an expert authorized by Illinois law by the**
17 **Department of Human Services under the code that**
18 **is cited at Condition 13.**
19 CHAIRWOMAN MELGIN: So the answer is no,
20 so if you want to move on.
21 Q So as part of the pro forma that the
22 petitioner prepared, it didn't determine how many
23 patients it could fit in the facility to run its
24 financial numbers?

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1 **A I think that there --**
2 Q And if you don't know, sir, please don't
3 speak if you don't know.
4 **A Well, let me answer your question this**
5 **way. I don't know about the pro forma that it's**
6 **run, but I can tell you this, that the consent**
7 **decree -- if your question is, what is the number**
8 **of people that can occupy the facility, the answer**
9 **is that it would be illegal and probably**
10 **unenforceable to put a maximum cap now as a matter**
11 **of the zoning law.**
12 Q I didn't ask for a maximum cap, sir. I
13 just want to know the number.
14 **A Let me answer your question -- okay? --**
15 **in fairness; okay?**
16 **The consent decree contains specific**
17 **provisions that directly apply to the number of**
18 **people who can occupy the facility. Those**
19 **restrictions and limitations are at Condition 13 at**
20 **page 7 that specifically cite to the applicable**
21 **code regulations of the Department of Human**
22 **Services and Condition 1 at page 5 regarding all**
23 **required licenses before the start of operations**
24 **under Federal, Illinois, and local laws and**

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1 **regulations, and Condition 3, the special use applies**
2 **to the existing buildings, and Condition 4, with**
3 **respect to any potential new buildings, the consent**
4 **decree says, quote, "The parties shall comply with**
5 **all applicable review and approval procedures in**
6 **the Kane County zoning ordinance," end quote.**
7 **So to summarize, I cannot sit here today**
8 **because I'm not an authorized expert under Illinois**
9 **law that is specifically tasked with the**
10 **responsibility of enforcing the Illinois Department**
11 **of Human Services regulations regarding occupancy**
12 **of this type of facility.**
13 **So it's impossible to say whether the number**
14 **will be 25, or 75, or 120, or 140, whatever is**
15 **permitted under occupancy.**
16 I can also say this. The Department of
17 Human Resources regulations provide in mandatory
18 language that there will be routine inspections,
19 routine inspections by the experts who are
20 authorized to regulate these facilities. It's not
21 a Zoning Board issue, it's an expert in mental
22 healthcare on a routine basis. They are the
23 experts who will be determining occupancy.
24 Q In your initial application it was an

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1 application for a 120-bed facility. Would you
2 agree with that?
3 **A No, it was an application that described a**
4 **facility that would be 120 beds. It did not contain**
5 **a maximum limit of 120 beds.**
6 Q The expert reports that you submitted
7 again into evidence, were they based upon that
8 120 number, or were they based on the Federal --
9 excuse me -- the State statute that you're reading
10 in paragraph 13?
11 **A They were based on a concern, an overall**
12 **concern for the public health, welfare, and safety**
13 **of the patients and the community.**
14 Q So none of the experts used the 120 when
15 they testified here as to the number that they
16 were using when they did their reports?
17 **A The truth is I think that they used 120 in**
18 **some instances in their reports as a proxy for an**
19 **approximation of the number of patients that would**
20 **be there. It's not a maximum limit under all**
21 **circumstances.**
22 I cannot sit here and say with all certainty
23 to what extent the facility will have occupancy in
24 3 years, 5 years, 10 years. What I can say is the

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1 consent decree specifically says that it will be
2 operated consistent with all requirements of
3 public health, safety, and welfare that's the
4 condition -- it's a threshold Condition No. 1, and
5 if at any time -- if at any time under any
6 circumstance there is a concern, or a threat, or a
7 risk to public health, welfare, or safety, there's
8 a specific remedy, enforcement remedy in the
9 consent decree.
10 And as I did in my opening statement --
11 and there's no dispute about this now, none
12 whatsoever -- Section 3C, page 5, "The conditions
13 of approval are intended to ensure that the
14 operation of the approved special use is
15 beneficial to and does not negatively impact the
16 health, safety, and general welfare of Kane
17 County's residents," end quote, period, hard stop.
18 That is a specific statement in the
19 conditions of approval in the Federal Court
20 consent decree. If at any time during the history
21 of this facility there is any concern about public
22 health, welfare, or safety, the consent decree
23 provides a mandatory specific mechanism to raise
24 that issue, as I said in my opening statement at

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1 Section 5B at page 9 and to have that issue
2 resolved among the parties, and if they fail, the
3 Federal Court.
4 CHAIRWOMAN MELGIN: Okay. Thank you.
5 You'll have closing comments, also.
6 Q Could you do me a favor? Could you read
7 the next sentence on that provision you just tried
8 to quote?
9 CHAIRWOMAN MELGIN: Starting with "The
10 extent"
11 MR. CARRARA: Yes.
12 A Yes. I mean, anyone can read it. I can
13 paraphrase it.
14 Q I'd rather you read it for the audience so
15 they can hear it.
16 A Sure. This is the next sentence after
17 public health --
18 Q "To the extent."
19 A "To the extent any of the conditions
20 conflict with or are in contravention of any
21 Kane County ordinance in existence as of the date
22 of this decree or any State of Illinois law, State
23 of Illinois license and operation requirements of
24 Department of Human Services, Division of

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1 Alcoholism and Substance Abuse Treatment and
2 Intervention licenses, found at 77 Ill. Adm. Code,
3 Subchapter D, Part 2060, the code or Federal law,
4 the condition is invalid and shall not be
5 enforced."
6 That sentence --
7 Q I understand what you read, sir. I just
8 wanted you to read it. I'll ask you the question.
9 Thank you.
10 So is it fair to say, then, that if after
11 a special use is approved by the County Board
12 pursuant to this consent decree and the settlement
13 agreement -- by the way, the settlement agreement
14 is not attached as an exhibit, is it?
15 A I'm sorry; I lost the question.
16 Q I apologize. I was just thinking that --
17 I saw a note I had earlier when you were reading
18 something. All the exhibits aren't attached to
19 the website, are they? The settlement agreement
20 between you and the County which is an exhibit
21 referenced in the consent decree, is that an
22 exhibit that's been provided to everyone?
23 A I believe that all the exhibits have been
24 attached. If the settlement agreement is not,

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1 it's something between Kane County -- the
2 defendant and their lawyers.
3 MR. LULVES: Counsel, if I could break in,
4 the settlement agreement is not attached. The
5 County Board has not approved the settlement
6 agreement at this point. Therefore, there is not
7 an attached settlement agreement because the
8 County Board hasn't deliberated on that yet.
9 MR. CARRARA: Okay. The only reason I say
10 that is that it says the proposed ordinance is
11 subject to the terms and conditions of the
12 settlement agreement and the consent decree. So I
13 just wanted to make sure there's no other conditions
14 in the settlement agreement that could impact this
15 use that the ZBA has not been made aware of, but
16 thank you for answering that.
17 Q So is it fair to say, then, if after a
18 special use is -- again, assuming for a
19 hypothetical it's approved by the County Board --
20 who -- could the fire protection district be one
21 to seek relief that there's diminution in the
22 health, safety? Could a private citizen do that?
23 Who has to be the one to petition the Court that
24 there's been a breach of this consent decree?

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1 **A Well, you know as a lawyer licensed to**
2 **practice law in Illinois as well as I do that**
3 **anyone can seek to intervene in a case or petition**
4 **the Court for relief under a Federal Court consent**
5 **decree.**
6 Q Thank you.
7 **A You've done that in your career, and I've**
8 **done it in mine.**
9 MR. CARRARA: I just wanted everybody to
10 be aware that. Thank you. I have no other
11 questions.
12 MR. TABET: Could I actually answer the
13 question that you didn't let me answer before?
14 CHAIRWOMAN MELGIN: Go ahead.
15 MR. TABET: The first paragraph in
16 Section 3C, I know the Zoning Board has reviewed
17 this carefully, and I hope that the community
18 members have read that carefully, because it
19 specifically details all of the concerns and
20 potential future risks that you've articulated, in
21 fairness. And it says as a threshold matter first
22 principles, Point No. 1, "The purpose of the
23 consent decree is to ensure public health, safety,
24 and general welfare," period, hard stop. That's

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1 the purpose.
2 If in the future there's any potential
3 problem, a pollution problem, an occupancy problem,
4 any issue that's been raised, the consent decree
5 provides that the purpose is to ensure public
6 health, safety, and general welfare. Anyone can
7 petition, number one.
8 Number two, the consent decree lists
9 17 specific conditions and limitations, and to the
10 extent that any of those conditions or limitations
11 are inconsistent with or conflict with any Kane
12 County ordinance, or rule, or regulation, or State
13 law or regulation, or Federal law, the condition
14 is invalid. And the law in Kane County, a Kane
15 County ordinance, a State requirement, licensing
16 requirement, or Federal law controls, all designed
17 to ensure public health, safety, and welfare.
18 CHAIRWOMAN MELGIN: Okay. Thank you.
19 MR. CARRARA: One follow-up to that, just
20 to his answer.
21 Q Sir, is it both Glenwood and Maxxam's
22 position that the approval of a special use after
23 hearing the most recent testimony from the fire
24 protection district will not have a negative

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1 impact on the health, safety, and welfare?
2 **A Yes. That is a position of Maxxam, and if**
3 **in the future -- we're speculating now about what**
4 **might happen down the road at some future time.**
5 **And if there's a problem down the road which we**
6 **don't know about -- we're speculating. We're**
7 **saying, please let it get off the ground so that**
8 **we can operate it consistent with public health,**
9 **safety, and welfare.**
10 **If in the future there's a potential problem,**
11 **there's a specific remedy for it specifically set**
12 **forth in the consent decree.**
13 **I'd also say Glenwood's lawyer is here and**
14 **should identify herself for the record, if that's**
15 **appropriate, and can respond on behalf of Glenwood.**
16 MR. CARRARA: I have one additional question.
17 I didn't realize Glenwood had counsel here. I had
18 asked a question of the State's Attorney earlier
19 today, and I didn't get a response.
20 The question was, is there a written
21 contract between Maxxam and Glenwood for the sale
22 or purchase of the property currently in place?
23 MR. LIGUORI: The answer to that is yes,
24 there is.

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1 MR. CARRARA: Thank you.
2 MR. SHEPRO: Madam Chair, I have a few
3 questions if I might.
4 CHAIRWOMAN MELGIN: How many questions do
5 you have?
6 MR. SHEPRO: I don't know. Not hundreds,
7 not dozens.
8 MEMBER ARIS: Is there a time limit for
9 questions?
10 MR. SHEPRO: Are you asking me?
11 MEMBER ARIS: You know, usually it's
12 three to five minutes. So are you planning on
13 going over more than five minutes?
14 MR. SHEPRO: I don't think so.
15 MEMBER ARIS: Because it's 9:00.
16 MR. SHEPRO: I don't think so but I'm sure
17 you'll cut me off if you think I've gone too long.
18 EXAMINATION BY COUNSEL FOR THE FOX RIVER &
19 COUNTRYSIDE FIRE PROTECTION DISTRICT
20 BY MR. SHEPRO:
21 Q My first question is, with regard to that
22 second sentence of C, conditions of approval,
23 would you agree that that is a statement of the
24 law and would be applicable even if that sentence

<p>194</p> <p>1 were not in the decree? 2 A No. 3 Q You would not? 4 A No. 5 Q Okay. With respect to the -- you were 6 asked some questions by Mr. Carrara about the 7 original application, and if I understood your 8 testimony, it was that there was a number but that 9 that was not intended to be a maximum number, the 10 125 [sic] beds. Was that your testimony? 11 A I think generally that was the testimony. 12 Generally. I mean, it was more expansive than 13 that but yes. 14 Q So my question, did -- can you point to 15 any testimony by any of the experts that testified 16 on behalf of Maxxam at either of the two previous 17 application hearings that stated that their opinions 18 applied to occupancy in excess of 125 beds? 19 A Yes, I think that all of the experts, 20 based on my review, and all the other evidence was 21 all designed to make one central point, which is 22 it is the intent of the facility to be run 23 specifically consistent with the public health, 24 welfare, and safety at all times, and the patient</p>	<p>196</p> <p>1 Section 2 on page 3, it details what the development 2 request is, 2.0. 3 And what it says is, "Applicant requests 4 the following development approval," and A says, 5 "Applicant requests a special use to operate the 6 subject property as an alcoholism and substance 7 abuse treatment facility in accordance with the 8 ordinances and analysis outlined in Section 2.1 of 9 this rider of the materials incorporated in 10 Section 3 hereof." 11 So there is no bed limit in the actual 12 development request. 13 Q Is it your testimony then that the 125 beds 14 was never advanced by the applicants as something 15 that was the intention for the site? I'm looking 16 particularly at the prior rider to the application 17 for the special use which says, "Applicant's 18 proposed use, Section 1.4: Applicant proposes to 19 use the existing buildings and infrastructure on 20 the subject property for a 120-bed exclusively 21 private-pay alcohol and substance abuse treatment 22 facility." 23 MR. LIGUORI: Yeah. So -- 24 MR. CARRARA: He was answering the</p>
<p>195</p> <p>1 health, safety, and welfare at all times. 2 And there's a notion -- some people have a 3 notion that that means that for all time the 4 number of people have to be frozen at 60, or the 5 number has to be frozen at 90, or the number has 6 to be frozen at 125. And really good lawyers for 7 Kane County as I understand it said there's a 8 question about whether that's illegal as a zoning 9 matter and unenforceable as a zoning matter. 10 There were really good lawyers who said you cannot 11 not enforce a provision like that because it's 12 discriminatory, and it's not a zoning of expertise, 13 it's a matter of medical health professionals' 14 expertise. 15 MR. SHEPRO: I'm going to move to strike 16 the answer as not responsive to my question. This 17 is his closing argument. 18 CHAIRWOMAN MELGIN: You're going to have 19 the chance for closing argument. He asked you the 20 same question before, is 120 beds -- was that the 21 previous maximum occupancy? 22 MR. LIGUORI: I can add a little bit of 23 light on that. That was not the maximum occupancy. 24 In fact, if you look at the application, specifically</p>	<p>197</p> <p>1 questions, sir. 2 MR. SHEPRO: Yeah. Can we just have one 3 person at a time answer the question? 4 A I would like to answer the question, and 5 the answer is -- apparently you're reading from 6 some section where Maxxam stated that its plan at 7 a particular period of time was to have 120 beds 8 or 125 beds. And I think that if you're reading 9 correctly, I'm not going to dispute that. 10 I'm answering a different question which 11 is are we freezing now as a condition for all 12 time, in perpetuity that the facility will be 13 limited to 120 beds? What I'm saying is no, the 14 consent decree does not do that. The consent 15 decree has other protections and limitations on 16 occupancy that are consistent with Federal and 17 State law. 18 MR. SHEPRO: But, again, you're answering 19 a question that I didn't ask. 20 CHAIRWOMAN MELGIN: That's true. 21 MR. TABET: Okay. 22 MEMBER FALK: So you just want to know if 23 there's 120 beds maximum or what is that number? 24 MR. SHEPRO: Our point is that this</p>

<p style="text-align: right;">198</p> <p>1 application was submitted, and testimony submitted 2 to this Board, that I don't think there's a single 3 person in this room that did not believe that that 4 was their request was for 120 beds. 5 Now, I happen to agree with counsel that I 6 don't think that the County Board could have 7 imposed a limit, but nevertheless, the testimony 8 that was presented was all predicated on the 9 120 beds, and they have not added any new 10 testimony. And, frankly, to say -- again, now I'm 11 getting into argument, but the suggestion that 12 there are protections because they have agreed 13 that conditions which are in here, they're saying, 14 well, if any of these conditions turn out to be 15 illegal, then they're not enforceable. But he 16 doesn't want to tell us what he thinks -- 17 BY MR. SHEPRO: 18 Q I'll ask you, Counsel, are there any 19 conditions that are in this proposed consent 20 decree that your client believes are unenforceable 21 and invalid? 22 A The answer is no. We believe that all the 23 conditions are specifically valid and enforceable. 24 MR. SHEPRO: That's all I have.</p>	<p style="text-align: right;">200</p> <p>1 identify herself for the record, please. 2 CHAIRWOMAN MELGIN: Yes. I forgot. 3 Thank you. 4 MS. ROSENBLUTH: Adrienne Rosenbluth. 5 CHAIRWOMAN MELGIN: Could you spell it? 6 MS. ROSENBLUTH: A-d-r-i-a-n-n-e and then 7 R-o-s-e-n-b-l-u-t-h. 8 CHAIRWOMAN MELGIN: Thank you. 9 Are there any local government bodies who 10 want to make a closing statement? 11 MR. SHEPRO: Good evening. Again, 12 Kenneth Shepro for the Fox River & Countryside 13 Fire District. 14 I suppose I would begin by stating my 15 continued disappointment that with all the 16 testimony and so forth that you've heard, you put 17 in the record and that you put in the record from 18 prior hearings you still don't seem to be able to 19 bring yourself to admit the agreement we've 20 reached with the applicant after the close of the 21 last hearing and which in their complaint filed in 22 Federal Court they have utterly repudiated. I 23 must confess that I do not understand why that is 24 not deemed to be worth the trouble of adding to</p>
<p style="text-align: right;">199</p> <p>1 CHAIRWOMAN MELGIN: Okay. Thank you. 2 I think at this time we're going take a 3 recess of 10 minutes. So back at 9:15. 4 (Recess taken, 9:06 p.m. to 9:20 p.m.) 5 CHAIRWOMAN MELGIN: All right. I think 6 we're going to get started again. I think we're 7 going to get started, if you could please take 8 your seats. 9 All right. Thank you. Are there any 10 other members of the public who wish to speak who 11 haven't had the opportunity to do so? 12 (No response.) 13 CHAIRWOMAN MELGIN: Seeing none, I'm going 14 to close the public comment part of this hearing. 15 At this time we're going to have closing 16 statements. Given the time at 9:20 and the amount 17 of what we still have to go through, I'm going to 18 ask each closer to try to remain within five 19 minutes for closing statements. 20 I'm going to start with the local units of 21 government if any unit of local government wants 22 to make a statement. 23 MR. VANKERKHOFF: Madam Chair, if staff 24 could request that the attorney for Glenwood</p>	<p style="text-align: right;">201</p> <p>1 the record in this case. 2 Well, I think what you've heard over these 3 two nights of hearings is less important than what 4 you didn't hear. You did not hear any new evidence 5 from the petitioners even though -- and I think it 6 was clarified at the very end of the evening by 7 some of the questions that got asked. 8 Their application references a 120-bed 9 facility. Now, it may be that that was never a 10 valid restriction. Nevertheless, all of the 11 testimony that was produced at the prior hearings 12 was predicated on the 120. You read the record; 13 you know what they say. There was not a single 14 witness that said on behalf of the applicant, by 15 the way, there could be more than 120 beds. 16 I think that's a fatal defect right there, 17 and even if legally they were correct in now 18 saying, "Well, really we weren't bound by that," I 19 think it is an appalling fraud on this Board and 20 on the public to have proceeded with those 21 hearings on that assumption and now say, "Oh, well 22 it was never a valid, enforceable condition." 23 Similarly, the condition that they read to 24 you about this is for the good of the public, you</p>

<p style="text-align: right;">202</p> <p>1 know, I guess we who practice in the area would 2 say that's a lot of self-serving rhetoric, but as 3 they say in their second sentence, none of this 4 matters because if any condition is later determined 5 to be no good it's not enforceable. Again, you 6 don't need to put that in a decree; that's the 7 statement of the law. A condition is unenforceable 8 is unenforceable whether you agree that it is or not. 9 So we've heard a lot about the consent 10 decree, and while the lawsuit itself is not the 11 subject of this hearing, I think the consent decree 12 is quite clearly part of it. And, again, there's 13 been no due process afforded to the residents or 14 the units of government because this is a new 15 application. They didn't have to do it that way, 16 but they chose to do so. 17 So they have brought a new application with 18 new conditions, and it is demonstrably and by their 19 own admission different than the application that 20 they submitted previously. And yet they don't seem 21 to believe that they have any obligation to present 22 any evidence with respect to the new provisions 23 and new conditions, and I do not see how they can 24 legally comply with the requirements of the Kane</p>	<p style="text-align: right;">204</p> <p>1 couldn't help but think that somehow they had the 2 idea that that was somehow connected with the fire 3 district which, of course, it is not. And frankly, 4 compared to what they had promised us under the 5 agreement, even if we got all of the \$15,000 a 6 year, that wouldn't even begin to allow us to hire 7 back any of the personnel for more than about a 8 day or two. 9 Again, we now learn for the first time 10 that they believe that there is no limit on the 11 number of people that they can have. Although, I 12 think you could calculate it out a maximum based 13 on simple occupancy rules, but they have declined 14 to do that. 15 What else could we talk about? Again, the 16 ordinance which is purportedly an exhibit to the 17 settlement agreement we are told hasn't been 18 submitted even though that is supposedly an 19 integral part of the application because it either 20 doesn't exist or it hasn't been passed by the 21 County Board. 22 Well, then why are we here? We don't know 23 what that ordinance is going to say. 24 I guess I could go on and on, but it seems</p>
<p style="text-align: right;">203</p> <p>1 County zoning ordinance when they do not present 2 any such testimony. 3 All right. So now we've got some of the 4 specific provisions in the decree that I just want 5 to briefly comment on. 6 All right. Well, jumping around a little 7 bit, Section 6 was apparently rung from Maxxam only 8 after tough negotiations, and that's the one that 9 says Maxxam agrees that they will install a 10 security system that is acceptable to Maxxam's 11 consultant. Wow, that must have been really tough 12 to get them to agree to that. 13 Then we have -- 14 MR. TABET: Your Honor, may I object. 15 CHAIRWOMAN MELGIN: Let him finish his 16 closing statement. And audience, please keep your 17 comments. 18 MR. SHEPRO: That's all right. 19 Then we have the Community Foundation of 20 the Fox Valley. You'll recall during the entire 21 hearing the only questions that Maxxam asked 22 anybody were to ask my fire chief if he didn't 23 expect to get a whole bunch of money from the 24 Community Foundation of the Fox Valley, and I</p>	<p style="text-align: right;">205</p> <p>1 to me that we never had adequate disclosures under 2 the County zoning ordinance as to who the parties 3 in interest are. I think that is a fatal defect. 4 And if this is intended to be a zoning hearing as 5 opposed to just a settlement agreement hearing, 6 then they have failed to meet any of the minimum 7 requirements to prove a case. 8 That's no different than the first two 9 applications, but this time we're talking about 10 the settlement of a lawsuit and, although we 11 haven't heard about it in this room because it's 12 not part of the land use, the payment of 13 substantial sums of money. And I still can't help 14 but recall the testimony of Mr. Marco when he 15 finally showed up at the last hearing, and his 16 response to every question that was asked was, "I 17 respectfully decline to answer, and I refer you to 18 the record." 19 So tonight, ladies and gentlemen, I would 20 ask that you refer to the record, and you will 21 find it sorely lacking. 22 Thank you. 23 CHAIRWOMAN MELGIN: Thank you, Mr. Shepro. 24 (Applause.)</p>

<p style="text-align: right;">206</p> <p>1 CHAIRWOMAN MELGIN: Are there any other 2 units of government who wish to make a statement? 3 (No response.) 4 CHAIRWOMAN MELGIN: Adjacent property 5 owners, land owners who received notice? 6 MR. CARRARA: Thank you, Madam Chairwoman. 7 You heard a number of references today 8 that you are here and you are charged under the 9 ordinance to determine whether the petitioner by 10 clear evidence has proven the six special-use 11 factors. You are not here, as your retired Judge 12 Schreiber discussed, to discuss the facts or the 13 allegations in the lawsuit. That's not before 14 you. What you are here to see is whether they 15 have proven those factors. 16 Twice previously it was determined that 17 they had not. Yet they filed an application, and 18 the only new testimony that they elicited was zero. 19 They didn't provide you any new testimony under 20 oath. You heard an opening statement which was 21 nothing but an opening statement, not under oath, 22 cannot be considered by you as evidence by the 23 petitioner. 24 The new evidence you heard was from the</p>	<p style="text-align: right;">208</p> <p>1 location said this location was not appropriate 2 for a medically intensive use. Yet when 3 Mr. MaRous came back for the petitioner, the same 4 report except for that one provision of his 5 paragraph was removed from his current report. 6 Under questioning when I asked him why that was, I 7 think you heard his comment was, "I don't recall." 8 They have failed to show you how this 9 facility will not have a negative impact on the 10 health, welfare, and safety. There are six more 11 factors. In the past we used to have them up on 12 the board so everybody could see them but we don't 13 have them, but there's a number of other factors 14 that they don't have -- sorry? 15 MEMBER FALK: We can put them up. 16 MR. CARRARA: Thank you. 17 There's a number of other special use 18 factors that have also been failed to show by 19 clear evidence that they satisfy. 20 Their own traffic expert said he was never 21 asked to do a full traffic evaluation on the 22 facility. He was given a hypothetical staffing 23 level and asked to do trip generation counts on 24 the staffing level. We don't know what that</p>
<p style="text-align: right;">207</p> <p>1 fire protection district. Unfortunately, the 2 condition of the fire protection district has gone 3 down considerably since the last time this Board 4 denied their application. And with all due 5 respect to the petitioner's attorney, I'm not sure 6 how someone can stand here with a straight face 7 and say the operation or the opening of a 120-bed 8 or even more, up to potentially 260 under our 9 rough math of how many people could fit in those 10 living conditions under the State code how that 11 won't have an impact on the health and safety of 12 the residents. 13 Their own expert in the underlying case said 14 23 out of 24 Level 4 detox facilities are 15 collocated next to a hospital. Why is that? 16 Because these patients need difficult medical 17 treatment. They need to be to it quickly in case 18 there's an emergency. So they should be concerned 19 about their own patients and the level of concern 20 they should have for them and their safety if one 21 of their patients needs help. 22 Additionally, you may recall their real 23 estate expert under my cross-examination Mr. MaRous 24 initially when he did his report for the Kiva</p>	<p style="text-align: right;">209</p> <p>1 hypothetical staffing level was on. I guess one 2 could assume it may have been on a 120-patient 3 facility as they requested in their application or 4 it couldn't have been, but I suspect it wasn't 5 more than the 120. 6 By the way, I'd also agree with the 7 petitioner that in theory maybe there is a Federal 8 judge out there at some point that would say after 9 a trial that putting in a cap for zoning would be 10 potentially discriminatory. However, there's 11 nothing that would prevent the petitioner from 12 agreeing to that condition. They could agree to 13 cap their patient load should they care about the 14 health, safety, and welfare of the citizenry. 15 They could agree to that but they've chosen not 16 to. In fact, it sounds like the petitioner this 17 evening has even gone one farther to something 18 unknown. 19 And, again, with all due respect, if 20 you're sitting here today, and you're going to 21 believe that Maxxam never did a determination of 22 how many people it could fit into a facility it 23 was going to pay \$10 million to purchase, they 24 were just going to guess at some point in the</p>

<p style="text-align: right;">210</p> <p>1 future, that's ridiculous. They know how many 2 people. They just don't want to tell you, the ZBA 3 how many people can fit in there because you know 4 it's going to be more than you want to here, and 5 it's going to have a bigger impact on the health 6 and safety of the citizenry. 7 Lastly, I will refer you again to the prior 8 failures of this application, no new testimony by 9 them. The only new thing is exhibits -- excuse 10 me, a consent decree, which by the way we believe 11 is flawed procedurally because no exhibits were 12 attached prior to the opening of the public 13 hearing, so nobody knew what it was. So we consider 14 that to be a procedural defect, but I'll let your 15 State's Attorney deal that. 16 So again, I ask each of you today to 17 follow the special use factors, not the threats of 18 Federal litigation and deny this application. 19 Thank you. 20 (Applause.) 21 CHAIRWOMAN MELGIN: Thank you. Okay. 22 Petitioner's closing statement, five minutes. 23 MR. TABET: Yes. Thank you. With your 24 permission I'd like to split the closing between</p>	<p style="text-align: right;">212</p> <p>1 All of those potentials are future potential 2 risks, and second, the consent decree has specific 3 provisions to detail exactly what happens if they 4 materialize. But the question for you is, well, 5 what happens if they don't materialize. 6 Right now you're speculating on a potential 7 future, and if we all did that every time we came 8 before you, we would never accomplish anything. 9 Any of us, if you think about it carefully, what 10 would happen if all of us thought that we can't do 11 something in the future because there's a potential 12 future possible risk? 13 What you do then is you anticipate the 14 possibility, and you agree to a mechanism to 15 resolve it if, in fact, it happens in the future. 16 But if it doesn't, you have a vacant facility that 17 will generate massive tax revenue, income tax, 18 employment tax, real estate tax -- and by the way, 19 the real estate taxes aren't frozen; there's no 20 special agreement. It's over \$300,000 a year 21 based on 2014 tax valuation, and if there's a 22 reassessment, and it's fair and appropriate, and 23 the real estate taxes go up, it will be paid. 24 All the taxes will be paid. 80 to 120 new</p>
<p style="text-align: right;">211</p> <p>1 myself and Chris Liguori. 2 May it please the Kane County Zoning Board 3 of Appeals and all of its members, we have 4 carefully listened to all of the concerns of the 5 community and the lawyers. We've carefully 6 considered and listened to all of those concerns. 7 The concerns are serious; we respect them; we take 8 them seriously. 9 At the beginning of the proceeding, we 10 said that all of the concerns are addressed by the 11 consent decree. All of the concerns are carefully 12 addressed by a careful and complete reading of the 13 consent decree, and what we said is true. What we 14 said is truthful; the consent decree does 15 carefully consider and address all of those 16 concerns. 17 The concerns fall into three broad 18 categories. The first category is potential 19 future problems sometime down the road, like, for 20 example, a potential future resource drain on the 21 fire district, or a potential future problem with 22 traffic, or a potential pollution issue down the 23 road -- that's a potential that Mr. Liguori will 24 address. There are many potential future risks.</p>	<p style="text-align: right;">213</p> <p>1 jobs, no dispute, that's undisputed in the record. 2 Over \$250,000 to the schools in Kane County, 3 undisputed in the record, and that's based on 4 2014 taxes. They're not frozen in the future. 5 Counsel talks about a potential drain on 6 fire district resources. Well, wait a minute. 7 We're not responsible for the economic problem now 8 facing the fire district. We didn't cause that 9 problem. Hopefully the referendum in November will 10 be passed, but we didn't cause that problem. And, 11 by the way, in the consent decree there's a 12 specific provision, Condition 17 that specifically 13 says we will pay all of the fees and charges based 14 on the then existing fee structure from the forest 15 district. We will pay them for all those transfer 16 charges. It's Condition 17. I'm paraphrasing. 17 That's the first category, potential future 18 risks. The second category -- and I believe this 19 was the president of Campton Hills so powerfully 20 and eloquently said that we haven't talked with 21 him, and if that's true, I apologize, we should 22 talk with him. But the consent decree, please 23 read it carefully. It contains an important 24 provision that nobody commented on that before we</p>

<p style="text-align: right;">214</p> <p>1 begin operations we have to file a written 2 certificate of compliance with all the conditions. 3 It's at page 5, Section 3C, second paragraph. In 4 the form of compliance, like a Sarbanes-Oxley or 5 something similar, it's attached as Exhibit 4, and 6 we have to do that every year on the anniversary 7 on the facility. And it's public; everybody in 8 the community has a right to see it. It will be 9 posted. There is mandatory communication that's 10 spelled out in the consent decree. 11 And then, finally, there's an issue about 12 the environmental concerns. Again, my partner 13 Chris Liguori will address that. 14 Finally, one final point. Ask yourself, 15 if we start the facility and there are no potential 16 future problems, we operate it the way we intend 17 to operate it consistent with public health, 18 safety, and welfare, what happens? 80 to 120 jobs, 19 real estate taxes well in excess of \$300,000 in 20 the first year alone, income taxes, all other 21 taxes and revenue, a state-of-the-art, top-shelf 22 facility in the community. 23 What happens if we start the facility and 24 in the future there is a potential problem,</p>	<p style="text-align: right;">216</p> <p>1 isn't a good understanding of how this wastewater 2 system works. I know it's part of the factors of 3 public safety, and so we thought it would behoove 4 us if we took a minute to address it very briefly. 5 Glenwood's wastewater system is called a 6 land treatment system. There are various types of 7 systems. This is called a land treatment system. 8 It's constructed by Sheaffer & Roland. It is 9 considered to be the industry standard for this 10 type of system. 11 How does the system work? It pretreats 12 wastewater in deep aerated treatment cells for a 13 minimum of 30 days. I say a minimum of 30 days 14 because, as we know, at some point in time some of 15 that wastewater is used for irrigation purposes. 16 In the wintertime you can't irrigate, so over the 17 winter months that water is treated for even a 18 longer period of time. 19 The advantage of a land treatment system, 20 which the IEPA refers to as a zero discharge system, 21 is that there is no direct discharge; there is no 22 direct discharge of any wastewater to any surface 23 or groundwater. That's really important here. 24 So when we talk about risk, in our view</p>
<p style="text-align: right;">215</p> <p>1 traffic, resources, something else? There's a 2 specific mechanism to address it if that happens 3 in the future. What happens if we don't start the 4 facility? It's vacant, no taxes, potential risks 5 or problems, no employment, and all the other 6 problems. 7 All we're saying is let us start. We will 8 comply with the licensing requirements before we 9 open. We will be a good corporate citizen, pay 10 all our taxes, and when we come back and file our 11 regular reporting, I think everybody's potential 12 concerns about future risks will not exist, and if 13 they do, they can raise them carefully and 14 efficiently. Thank you. 15 MR. LIGUORI: Chris Liguori. I just 16 wanted to address one safety issue that we've heard 17 a lot about through the course of the two nights 18 that we've been here, and that concerns the 19 environmental issue and the treatment of the 20 wastewater. 21 I think it's an important issue. I think 22 that the residents are rightly concerned about it, 23 but I think a lot of their views are based on 24 facts that maybe are misunderstood, or maybe there</p>	<p style="text-align: right;">217</p> <p>1 and in our expert's view who has submitted at 2 least two reports in these proceedings, the risk 3 is nonexistent or it's minimal because there is 4 nothing being discharged directly into the 5 groundwater or the water supply. The irrigation 6 system that this uses is designed for the roots, 7 the roots that are being irrigated to absorb the 8 nutrients in the wastewater. 9 MR. CARRARA: I have to object. This is 10 all new evidence. They refused to bring their 11 expert and have him testify under cross-examination. 12 CHAIRWOMAN MELGIN: Actually, we had a 13 whole description of the wastewater treatment back 14 in the last petition. 15 MR. CARRARA: Well, we got a five-page 16 synopsis. We did not get any of the details of 17 facts he's trying to elicit. 18 CHAIRWOMAN MELGIN: It's pretty much 19 the same. 20 MR. LIGUORI: I believe it's right in the 21 report. 22 MR. SHEPRO: Which was not subject to 23 cross-examination. 24 MR. LIGUORI: So what we would say --</p>

<p style="text-align: right;">218</p> <p>1 Mr. Tabet talked about potential problems and 2 speculation. There is no evidence that we are 3 aware of that says that anything that's irrigated 4 makes it past the root system, there's nothing. 5 Now, what is the advantage of that? Well, 6 that's superior. It's superior to other systems 7 that directly discharge wastewater into potable 8 water, like, for example, the advanced sewage 9 treatment plant in St. Charles. That water is 10 treated for eight hours -- not 30 days -- 11 eight hours, and then it's put into the Fox River, 12 which is a water supply for this community. These 13 wells are monitored quarterly in accordance with 14 the environmental safety regulations. Those are 15 at 415 ILCS 50/1, and in particular 50/9 talks 16 about the monitoring requirement. 17 That section of the code is incorporated 18 directly into Condition 12 of the consent decree. 19 So once again, the parties through the consent 20 decree have deferred to the experts who are 21 responsible for ensuring a safe environment to 22 comply with their standards. 23 Of course, the IEPA can tell us what to 24 monitor for. So if, for example, I think one</p>	<p style="text-align: right;">220</p> <p>1 CHAIRWOMAN MELGIN: So moved the hearing 2 is closed. Take a vote. All in favor. 3 (Ayes heard.) 4 CHAIRWOMAN MELGIN: Moved -- I'm still 5 thinking about the wastewater treatment system. 6 So at this time the Board will deliberate 7 on the factor. Is there a motion concerning the 8 petition? 9 MEMBER ARIS: I move that we approve 10 Petition 4462. 11 AUDIENCE MEMBER: Can't hear. 12 MEMBER ARIS: Sorry. I make the motion to 13 approve Petition 4426 as modified by the conditions 14 outlined in the proposed consent decree. 15 CHAIRWOMAN MELGIN: A second? 16 MEMBER MILLEN: Second. 17 CHAIRWOMAN MELGIN: All in favor? 18 MEMBER ARIS: We need discussion. 19 CHAIRWOMAN MELGIN: That's why I told 20 people to be patient because I am not an attorney 21 but filling in for a very competent attorney and a 22 very competent judge who is usually in this seat. 23 So, Mark, you put the slides up for the 24 zoning six factors?</p>
<p style="text-align: right;">219</p> <p>1 witness -- or one resident testified about what 2 people monitor for. The IEPA certainly has the 3 authority if it wants to require us to monitor for 4 pharmaceutical waste within human waste, and we're 5 required to do that by law, and we're also required 6 to do it by the consent decree in Condition 12. 7 In addition, we are required to provide 8 the quarterly reports to the County within 30 days 9 of their being received, and they also can be 10 FOIA'd and sent to the EPA by the community. 11 So there's nothing that's being hidden 12 here; there's nothing that we're not trying to 13 accommodate. To the contrary, just like the other 14 conditions, this consent decree is designed to 15 ensure a safe operation of this facility, and for 16 those reasons in addition, we think we satisfied 17 the six factors required by the ordinance. 18 Thank you. 19 CHAIRWOMAN MELGIN: Okay. Thank you. 20 At this time I'm going to close the 21 hearing. Do I have a motion? 22 MEMBER ARIS: I move we close the public 23 hearing. 24 MEMBER MILLEN: I'll second it.</p>	<p style="text-align: right;">221</p> <p>1 MR. VANKERKHOFF: Thank you, Blair. The 2 factors are up on the screen for your reference. 3 We'll start with A and B for you to have a 4 discussion on and cycle through the slides as you 5 move onto other ones. 6 CHAIRWOMAN MELGIN: Okay. I'm opening it 7 up for discussion. 8 MEMBER LAKE: So we read the factors for 9 the matter of record? 10 CHAIRWOMAN MELGIN: The first factor is 11 that "The establishment, maintenance, or operations 12 of the special use will not be unreasonably 13 detrimental to or endanger the public health, 14 safety, morals, comfort, or general welfare." 15 Does somebody want to start the 16 discussion? 17 (No response.) 18 CHAIRWOMAN MELGIN: Well, I would like to 19 first start on -- there are several things that 20 have really caught my attention after reading the 21 petition again, the rider that was provided, and 22 the conditions in the consent decree. 23 And one of the issues that has come up is 24 the number of beds, the number of occupancy.</p>

<p style="text-align: right;">222</p> <p>1 Because the amount of patients or people who are 2 going to live at that facility, that has an impact 3 on some of these other things that have come up. 4 It's how many potential ambulance calls could 5 there be; it would have an impact on the sewage 6 treatment system; it would have an impact on 7 traffic. 8 So there's a couple things -- to me that's 9 kind of important on how large this facility is 10 going to be and how many people are going to be 11 there. And when you read the petition, there's 12 all these adjectives calling this an upscale, 13 luxury facility. So I would think that if it was 14 going to be that, it wouldn't be packed with 15 people. On the other hand, we don't know. 16 Another issue there is there's a medical 17 director, and in the petition it says that the 18 medical director -- that it has to be a physician 19 and has to meet with each patient on a daily 20 basis. So to me is how many people is one 21 director going to be able to meet with. 22 In the petition it was a full-time medical 23 director. Now it's 30 hours a week. So there's 24 a -- I have a concern about just how the number of</p>	<p style="text-align: right;">224</p> <p>1 So going through this petition again, and 2 looking at the rider, and looking at the conditions 3 in the consent decree, I just have some concerns 4 with some of the issues that I've seen. 5 Would somebody else like to -- 6 MEMBER FALK: I think I'd like to speak. 7 It began where the petitioner said that 8 for the record everything stands, and they are 9 going to go with the record. 10 When you talk about Point A, which is one 11 of the zoning requirements, unreasonably detrimental 12 or a danger to public health, safety, morals, 13 comfort, and general welfare, the person that we 14 were able to question for a brief moment never 15 really answered any of our questions, and I have 16 issues with that because they weren't very 17 difficult questions, and I think that he should 18 have come forth. 19 So I don't know his competency because we 20 never got our arms around it. We could never 21 understand where he was coming from at any given 22 point. There were a lot of "No comment." 23 Another point that I wrote down was the 24 calls. I couldn't get my arms around whether it</p>
<p style="text-align: right;">223</p> <p>1 people in this facility could impact all these 2 other factors. 3 And when you're talking about wastewater 4 treatment systems, that wastewater treatment 5 system in St. Charles has a permit that has limits 6 that they discharge. This type of system is 7 irrigation, and water does make it past the root. 8 That's why there's nitrate solution; that's why 9 there's other types of contaminants in the 10 groundwater because they make it past the root 11 system. These are well-drained soils; there's not 12 a drainage issue, so there is a potential for 13 contaminants to reach groundwater. Whether it 14 impacts people's wells, that's another issue. 15 The other thing that you mentioned was 16 this potential for future risk. You know, I agree 17 a lot of this in any development is speculative at 18 some point. Any project that I look at that's 19 going to be new, whether it be a mine, or a 20 development, or a hospital, they're looking at the 21 potential impacts of that project. But you also 22 have a lot of data to look at and a lot of 23 information on that to try to assess how much risk 24 that there will be.</p>	<p style="text-align: right;">225</p> <p>1 was going to be 10 calls for the year, or 110, or 2 1,000. We never could determine that. And I just 3 couldn't get my arms around the comfort of this 4 facility with the leadership and person that was -- 5 we were questioning. 6 So I'm having a hard time rationalizing 7 around that and getting my arms around that, and 8 that's a big point because, you know, obviously, 9 you've heard a lot of people. It's not that 10 they're against the facility; it's more that 11 they're trying to understand what's really in 12 front of them. 13 Because the questions and the complexity 14 of this issue, we really don't have all the 15 questions answered. So it's hard for me 16 personally to talk about that and, you know, I 17 think that, you know, the travel patterns, I think 18 we could never understand that. The Fox River 19 deal that was cut apparently, I don't understand 20 that. I mean, there's just a lot of questions 21 that I still have. 22 So to say that it's not going to affect 23 public health or safety I have huge issues with. 24 CHAIRWOMAN MELGIN: The other thing on the</p>

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1 speculation of potential future risks, now
2 according to the consent decree this runs with the
3 land. So that's a little bit more speculative
4 where the special use will go if Maxxam doesn't
5 develop it. This will run with the land, so that
6 is a fairly large uncertainty.
7 MEMBER MILLEN: Okay. I'll have a few
8 things to say.
9 CHAIRWOMAN MELGIN: Could you turn your
10 microphone on?
11 MEMBER MILLEN: Okay. As concerning the
12 six items to prove that they will meet all these
13 requirements, I think the only way you can prove
14 it is by doing it, seeing what happens in the
15 future. There was a school here for almost 20 years
16 that operated very successfully. And I know
17 you're all afraid and worried, we hear a lot of
18 that, but until it happens, should we be afraid?
19 No, I don't think so.
20 As far as drugs in the groundwater, there's
21 maybe what, 200 people. We have 8,000 people in
22 Campton Hills, and probably a good share of them
23 are taking antidepressants or anxiety pills. So
24 that's another issue I didn't see as --

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1 CHAIRWOMAN MELGIN: Please respect the
2 person speaking here.
3 MEMBER MILLEN: It's not going to --
4 apparently not going to interfere with development
5 in the area because someone said there's a
6 450-unit development going in just across the
7 street. It's not easy to find. It would be a
8 nice calming atmosphere that rehab facilities
9 should have. So for those points I'll probably
10 vote for it.
11 CHAIRWOMAN MELGIN: Okay. Thank you,
12 Molly.
13 MEMBER ARIS: I have a few comments just
14 on the first point.
15 MR. VANKERKHOFF: Tracy, microphone.
16 MEMBER ARIS: Sorry.
17 I have a few points just on the first
18 item. I realize that the goal posts for this
19 issue have moved in five years. Luckily I've only
20 been exposed to it for a year. However, I know
21 that the business case changes, I understand that
22 treatment options are changing, what's getting
23 recommended. I know that the opioid epidemic is
24 not getting any better.

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1 So I recognize that fact. I'm not saying
2 whether it's good or bad; I'm just recognizing the
3 fact that this is a fluid and changing situation,
4 and how that impacts land use is why we're here.
5 I'm not here to discuss the legal
6 implications of the consent decree because I did
7 not go to law school. And I understand that's a
8 concern for folks, but this is not the forum nor
9 would I feel confident to address that.
10 The things that I do feel confident that I
11 am still very concerned about are the
12 environmental issues, and I think most people who
13 have spoken have brought that issue up. And we
14 can talk about, you know, land treatment systems
15 and all of those things. I didn't hear any data
16 that said X number of clinics use this form of a
17 treatment system in a rural setting, and I am a
18 big believer in data. Having worked in a large
19 manufacturing company for many years and having
20 been submitted to going to black belt training for
21 Six Sigma, I believe that data is something that
22 builds public confidence.
23 And in our last session last year we put
24 on a condition and the staff recommended it to us

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1 that the petitioner provide water test results for
2 monitoring wells and spray irrigation discharges
3 both testing for pharmaceuticals on an annual
4 basis. And I understand, you are doing what the
5 State of Illinois has asked you to do, but I also
6 know that the State may not be exactly up to date
7 on those things and also that the State probably
8 doesn't have the resources to come and check every
9 single facility. And as a potentially future new
10 member of the community from a business and also
11 from a good neighborly perspective, I think that
12 that is something that's just a no-brainer. You do
13 that, you get the data, we talk about the data, and
14 it either says yep, it's working, or no, it isn't.
15 I realize I can't change the consent
16 decree, but if I got my vote, that would be the
17 one thing I would add to the consent decree
18 because it's just the right thing to do and it
19 builds confidence. You know, I'd want it if you
20 were putting the treatment facility on the east
21 side of the river over in St. Charles; I would
22 still ask for that.
23 I have a strong -- I have a strong moral
24 feeling about groundwater, and we are blessed to

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230	<p>1 live on the Fox River, and we are blessed that we 2 have water resources for our businesses and for 3 our farmers, and we all have a responsibility to 4 keep it clean, and I think we need to do more than 5 the minimum that the law asks. 6 The only other issue, I understand that -- 7 this has been very difficult because the consent 8 decree is different than our normal petitions, and 9 we have had to factor in other things that we don't 10 normally deal with or that I even knew anything 11 about until about four weeks ago. 12 I do think that there's something better 13 we can do in regards to fire and police. And I 14 don't know what that is, but I know that Chief Nixon 15 was very eloquent in talking about the issues that 16 are being faced. 17 And I know the City of Elgin just approved 18 a 450-unit subdivision 4.7 miles from the existing 19 facility, and they're just going to, you know, 20 have other people help them if they don't have 21 resources. So that kind of -- that goes to your 22 point of, you know, we just want to be treated 23 like everybody else. 24 But, you know, we're getting density in a</p>	232	<p>1 the things I'm honing in on. I know I can't make 2 a motion to say I'd like you to do X, but I'd 3 really like you to go back and think about it 4 again. I know you spent a lot of time in 5 discussions, I know none of us were a part of 6 that, but I have a chance to say my piece and I'm 7 saying it now. Thank you. 8 MEMBER LAKE: I do think that it's 9 unfortunate that we're coming back under these 10 conditions, but I do have to say for reading 11 through everything that we left behind us in 12 February of 2017, and looking at what has been 13 brought to us as what's now called 4462, the other 14 consent decree, that we left our meetings regarding 15 Maxxam concerned about ambiguities and lack of 16 clarity on how some things would be replied to. 17 One thing that I am coming to realize is that by 18 way of the consent decree we actually have some 19 answers that we didn't have in February of 2017. 20 I went on the record as a no vote. At 21 this particular moment yet I'm not decided whether 22 I'm yes or no. I have to actually -- I still sit 23 here and deliberate everything because of the 24 concerns that I personally was facing that I put</p>
231	<p>1 place that we never had density, and you're asking 2 us to give you a permanent special use that went 3 with an academy educational facility for at-risk 4 youth. And this is still a special use that does 5 apply in that area -- I mean, I believe that the 6 use you're asking for fits within that issue, but 7 I think we need to come up with something unique 8 that kind of helps make that a reality versus 9 waiting, hoping something doesn't happen or seeing 10 how bad the issue gets and then going back through 11 the court system or, you know, we start having 12 lawsuits happen again. 13 And I realize with consent decrees it's a 14 Federal enforcement, but I think that we're all 15 smart enough to know that if we come up with 16 something that doesn't make everybody completely 17 unhappy, but we can try it and get some data on 18 it, that goes a long way to actually making a 19 business viable and allowing the people who run it 20 to focus on those patients and not on, "I have to 21 go meet with this person to talk about ambulances" 22 or "I've got the newspaper breathing down my neck 23 because, you know, we've had X number of issues." 24 So for that first point those are kind of</p>	233	<p>1 out there in front of us on February 21st of 2017. 2 One, a concern of the conditions of the 3 road, which is one that is here, as well. But 4 then I ask myself -- that's been reviewed by KDOT. 5 KDOT has put a report on file that there is no 6 change to that road that needs to happen in order 7 to accommodate this facility. 8 It's still unfortunate that it's two lanes, 9 and it's a rural setting, and there's emergency 10 vehicles that may be involved. But there's 11 emergency vehicles that are involved now in just 12 the Campton Hills service that go down those same 13 roadways. So I'm perplexed about which way to 14 measure that because the studies are anywhere from 15 500 to 300 and unknown beds. So there's a new 16 ambiguity in there because we thought we were 17 talking about 120 beds. So that kind of throws a 18 little bit of a wrench in the works when you're 19 talking about traffic patterns and formulas. That 20 became unclear to me. 21 The other concern that I had was that we 22 weren't -- actually, I believe the concern is that 23 we weren't knowledgeable enough to know how to 24 trust the standards of 2060, but we're really not</p>

<p style="text-align: right;">234</p> <p>1 here to be the authorities on 2060. I think what 2 I came to tell myself on that one is I have to be 3 able to trust that there are things in place for 4 the measurement of performance and the allowance 5 of business procedures based on that performance. 6 I work in an environment where we are measured 7 against certain performances, and you have to 8 abide by the certain performances, or you simply 9 cannot go any further. So there is a bit of trust 10 and a reduction of speculation. 11 So other than saying all of this, I really 12 don't have a final conclusion. I'd like to 13 continue to deliberate as a group through all of 14 A through F and kind of see what pans out. 15 CHAIRWOMAN MELGIN: Does anybody have 16 anything to say? 17 (No response.) 18 CHAIRWOMAN MELGIN: There were a couple of 19 things that I noticed, and it has to do with sort 20 of the safety. 21 In some of the expert reports in the 22 petition the expert talked about state-of-the-art 23 security system, that there would be video cameras, 24 that there'd be thermal imaging cameras, that</p>	<p style="text-align: right;">236</p> <p>1 a big one. You know, it's a very high bar, and I 2 had the same issue the last time. 3 MEMBER LAKE: We as a group did. 4 CHAIRWOMAN MELGIN: Yes. So the second 5 factor is that "The special use will not be 6 injurious to the use and enjoyment of other 7 property in the immediate vicinity and for the 8 purposes already permitted not substantially 9 diminish and impair property values within the 10 neighborhood." 11 So we had a lot of expert testimony that 12 we read on this topic. Does anybody have anything 13 to add on this? 14 MEMBER LAKE: In regards to B, I kind of 15 go where I believe we were in our last hearing, 16 and that is that there really wasn't anything to 17 further put out there on the table in regards to 18 this particular one. 19 It is a facility that is -- I'm going to 20 call it barriers rather than buffers. Somebody 21 has used the term buffer, and I've also read that 22 it is not intended to be consider as buffered. So 23 it is in the middle of -- other than the water 24 tower, we don't really see this facility from any</p>
<p style="text-align: right;">235</p> <p>1 there'd be 24-hour security, and now the consent 2 decree is Maxxam's experts will determine what 3 level of security is needed. So -- and then there 4 will be a fence, sort of a perimeter fence that 5 kind of just marks the outline of the property. 6 And the other part on the public health, 7 the safety, the comfort, general welfare, again, 8 I'm going to the number of people that will be 9 present at this facility and how much that would 10 impact the surrounding area. I don't know it but 11 I think it would cause -- if it's not causing the 12 fire district's problems right now, it certainly 13 could distribute those problems with emergency 14 response at the facility. 15 And traffic. I drive Silver Glen -- I 16 mean, I live in Campton. I drive Silver Glen a 17 lot. I'm not sure the infrastructure of that 18 road, delivery trucks and vehicles that are more 19 than the normal rural traffic, you know, there 20 might need to be some infrastructure. There was 21 talk about a left-turn lane, no left-turn lane, 22 that sort of thing. 23 So I think we can just keep going through 24 these unless somebody has -- that first factor is</p>	<p style="text-align: right;">237</p> <p>1 of the surrounding area. I believe there was one 2 homeowner that said they could see it from their 3 second-story window. That may have been the last 4 series of discussions from the community, not this 5 one. But that's the only time that I heard it 6 referenced that we could see anything other than 7 the water tower. 8 CHAIRWOMAN MELGIN: Anybody else? 9 MEMBER FALK: I just think it's speculative. 10 I don't think that you can really say whether it's 11 going to impair values or not until it actually 12 occurs, so I don't think that there's -- 13 AUDIENCE MEMBER: Could you use the 14 microphone, please? 15 MEMBER FALK: Sorry. 16 I don't know that you can really determine 17 whether it's going to impair or not impair until 18 it actually occurs. I think that there's certain 19 parts in just my personal view that yes, I probably 20 wouldn't want to live close to a facility if it 21 was butting up to my property line. But, you 22 know, again, you buy and you understand where 23 you're buying, and I just don't know how you can 24 determine whether it's going to impair or not</p>

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<p style="text-align: right;">238</p> <p>1 impair. I think based on what I believe, I think 2 it would be a bigger downturn in value than not 3 but that's just me. 4 CHAIRWOMAN MELGIN: Anybody else? 5 MEMBER MILLEN: I have to agree with Marc. 6 I don't think there's any way to find out what the 7 property values will be up or down because of this. 8 but I personally wouldn't mind living right next 9 to the facility. Better than living next to 10 120 school boys. 11 And bringing up 120, nobody ever brought 12 up the point it could be less than 120. It could 13 be 80. 14 CHAIRWOMAN MELGIN: Well, we did have 96 at 15 one point, too. That really dictates the amount 16 of activity that would occur, the amount of care 17 that those people would need, what the capacity of 18 the wastewater treatment system is, the roads. 19 That is to me sort of a big issue is how many 20 people will be there and what the impact would be 21 on the environment, on the -- 22 MEMBER ARIS: It's the biggest unknown. 23 CHAIRWOMAN MELGIN: We know it isn't a 24 prison. We don't think people should be walled</p>	<p style="text-align: right;">240</p> <p>1 discussing a special use, but as the property has 2 had a special use, you know, that sort of changes 3 how you look at that. Because if it was pristine 4 farmland and we wanted to build a big facility on 5 it, that's a different question than the question 6 we're facing right now. 7 CHAIRWOMAN MELGIN: Factor D, that "Adequate 8 utility, access roads, drainage and/or other 9 necessary facilities have been or are being 10 provided." 11 MEMBER LAKE: Madam Chair, I go back on 12 that one. The only thing that I really have in 13 record is the KDOT review which says it has done 14 the traffic study and that it is adequate for 15 this use. 16 CHAIRWOMAN MELGIN: Can you put the next 17 factor up there for a second? Okay. You can go 18 back. I just wanted to make sure. 19 So I guess the other necessary facilities 20 would also include a wastewater treatment system. 21 And, again, the capacity of those systems depends 22 on the number of people that are going to be 23 using them. 24 Okay. E is that "Adequate measures have</p>
<p style="text-align: right;">239</p> <p>1 in, this is not what we're saying, but a level of 2 security I think for the people inside, too, would 3 be good to have a little bit more clarification. 4 Is that it for this factor? 5 (No response.) 6 CHAIRWOMAN MELGIN: Okay. The next factor 7 is C, that "The establishment of the special use 8 will not impede the normal and orderly development 9 and improvement of surrounding property for uses 10 permitted in the district." 11 MEMBER MILLEN: I don't think there was 12 much to be said with all the development that's 13 going on there now -- 14 CHAIRWOMAN MELGIN: Your mic, Molly. 15 MEMBER MILLEN: I think that one we don't 16 have to spend much time on. With all the 17 development that's going on there it's apparently 18 not hurting the surrounding area. 19 CHAIRWOMAN MELGIN: The one on McDonald 20 and Corron Road at the City of Elgin. So I think 21 the zoning for the Village of Campton Hills and 22 Elgin kind of take care of this factor. 23 MEMBER ARIS: I think it would also be 24 different if this was the first time we were</p>	<p style="text-align: right;">241</p> <p>1 been or will be taken to provide ingress and 2 egress so designed as to minimize traffic 3 congestion in the public streets and roads." 4 I think we've had some comment here about 5 the infrastructure and the ability of the roads to 6 handle large vehicles or more vehicles than is 7 normal for a rural road like Silver Glen and the 8 possibility of a left-turn lane or some other 9 modification to the road that would have better 10 ingress or egress. 11 MEMBER LAKE: The one thing that I can't 12 get past is one of my best childhood memories of 13 living on a rural road was the times that I would 14 ride my bicycle sometimes with my parents, 15 sometimes without, sometimes using my hands, 16 sometimes without. It's just part of growing up 17 in a rural area. 18 But the road as it is with or without 19 Maxxam use is just not a family friendly road. 20 CHAIRWOMAN MELGIN: Yeah, there's not much 21 of a shoulder. 22 Any other comment? 23 (No response.) 24 CHAIRWOMAN MELGIN: That "The special use</p>

<p style="text-align: right;">242</p> <p>1 shall in all other respects conform to the 2 applicable regulations of the district in which it 3 is located, except as such regulations may in each 4 instance be modified by the Kane County Board 5 pursuant to recommendations of the Kane County 6 Zoning Board of Appeals." 7 MEMBER MILLEN: I was just wondering about 8 one thing. There was an item that said all signs 9 are going to be on your property. But isn't there 10 a minimum number of signs or -- in the farm district 11 it's only one 20-square-foot sign. Does your site 12 plan show more signs than that? It's not a big 13 deal. I don't think you're going to put up a 14 billboard or anything. 15 MR. TABET: I think we will comply with 16 all ordinances regarding signs. There is a 17 Condition 16 regarding signs. 18 MEMBER MILLEN: Not putting it on the 19 water tower, yeah. 20 MR. TABET: In addition, we will comply 21 with all ordinances regarding signs or any other 22 ordinance. 23 MEMBER MILLEN: Okay. No. E, I don't -- 24 I'm sorry -- I don't remember. There was quite a</p>	<p style="text-align: right;">244</p> <p>1 MEMBER ARIS: Yes. 2 MR. TABET: So I think that's correct. I 3 want to make sure there's no ambiguity, there's 4 100 percent clarity. 5 So in Condition 4 it deals with -- or let 6 me start with Condition 3. It deals with existing 7 buildings, and the special use applies to those 8 existing buildings, number one, period, no 9 question, hard stop. 10 Next, Condition 4 deals with a circumstance 11 potentially in the future if we desire to add new 12 buildings, and it provides, quote, "The parties 13 shall comply with all applicable review and 14 approval procedures in the Kane County zoning 15 ordinance, as well as all applicable Kane County 16 ordinances," and then it goes on. 17 MEMBER ARIS: Right. 18 MR. TABET: So if there -- and, again, I 19 don't want to speculate but, you know, for 20 example, if I want to move a kitchen cabinet or -- 21 MEMBER ARIS: Oh, no, no. I'm just -- 22 what I'm trying to get is I'll call it an 23 affirmation that if there is a change, you decide 24 you want to put another road going north off the</p>
<p style="text-align: right;">243</p> <p>1 bit of discussion about ingress and egress. Did 2 you end up with one or two? 3 CHAIRWOMAN MELGIN: Just one. 4 MR. LIGUORI: I believe it's one access 5 point. 6 MEMBER MILLEN: That's what I thought and 7 that didn't change. 8 Okay. Thank you. 9 CHAIRWOMAN MELGIN: Any other questions 10 from the Board? 11 MEMBER ARIS: I heard you say but I guess 12 I'd like you to reiterate it for me that should 13 this special use be approved, and if for some 14 reason either Maxxam or a successor company wants 15 to change something in the facility or do anything 16 different that is not discussed, that clearly the 17 successor company or Maxxam would come back to the 18 Zoning Board to discuss that change, that you're 19 not going to go off to the Federal Court and say, 20 "In the consent decree it allows us to put up 21 another building up on the site, and we don't have 22 to go back to the Zoning Board." 23 Is that correct? 24 MEMBER LAKE: Inclusive of the signs?</p>	<p style="text-align: right;">245</p> <p>1 property, or you want to start looking at doing 2 outpatient and increasing your numbers that way 3 versus doing the inpatient which is what is talked 4 about in this existing special use request, if 5 there are what I call changes in business operations 6 as a broad term that you or the successor company 7 will be coming pack to the Zoning Board to say, 8 "Yes, you've granted us this special use for this 9 pristine beautiful piece of property" because you 10 want to have your business in a rural setting, and 11 if there is a change that impacts land use that 12 you will come before this Board and file a request 13 just like everybody else who has a special use in 14 Kane County and come to us and say, "We're planning 15 on doing something different, and we are asking 16 for an update to our special use." 17 MR. TABET: So the answer is yes, I 18 provide that affirmation. If the change is 19 something that would require anybody else who has 20 a special use to come before you, that's all we 21 ask, let us be treated the same as everybody else. 22 MR. LIGUORI: And I can add to that. I 23 believe the zoning ordinance has a section on 24 modifications.</p>

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<p style="text-align: right;">246</p> <p>1 MEMBER MILLEN: It does. And your site plan 2 that submitted is what you're going to get, and if 3 you want to make any changes, you're coming back. 4 MR. LIGUORI: The ordinance requires that 5 we come back, and I believe the consent decree 6 requires that we comply with all ordinances. 7 So the answer would be if the ordinance 8 requires it, we would be required to come back. 9 MEMBER ARIS: Because some of the language 10 in the consent decree isn't as specific as we get 11 on a normal petition so that we know exactly what 12 the plan is, how many buildings, how they're being 13 used, you know, how many doors -- you know, the 14 whole thing, what your security system looks like. 15 Because that helps us determine which -- either 16 which zoning group to put a property in or to 17 understand if we're spot zoning or whatever. 18 Because the consent decree is not specific 19 in certain areas what we're asking you is that 20 once you make a decision and it looks like it's a 21 change to all the things that we've talked about 22 in two prior petitions, you know, if all of a 23 sudden it's going to be 300 people, and 150 of 24 them are going to be outpatient -- I'm just saying</p>	<p style="text-align: right;">248</p> <p>1 provide. Just like if you're being discharged 2 from a hospital, you get to come back and make 3 sure that the surgery on your appendix is fine. 4 That's a State licensing requirement. 5 So the consent decree, as we've said 6 repeatedly, models itself after in part the 7 regulations that govern these types of facilities, 8 and that is a particular regulation that we're 9 trying to comply with. 10 CHAIRWOMAN MELGIN: All right. Thank you. 11 MEMBER LAKE: I'd like a staff opinion, 12 Mark, if I could, and that is in relation to what 13 was at one time a signed agreement between the 14 fire department and Maxxam. 15 One of those conditions was that they 16 would actually be paving the access to the water 17 supply. Is that a change that would actually fall 18 within "We're doing something different on our 19 grounds," or is that something nonpermitted 20 outside of radar? 21 MR. VANKERKHOFF: If I understand -- and I 22 want to clarify your question. If they had to 23 pave an area on the facility at the request of the 24 fire district, would that be a change coming back</p>
<p style="text-align: right;">247</p> <p>1 businesses can change. All I'm saying is I would 2 sure like you to come back to the Zoning 3 Commission because that way not only do we hear 4 it, our meetings are open to the public, and 5 they're communicated, and if people want to weigh 6 in on that, that's why we're here. So that 7 transparency that some people have a concern with, 8 there's an avenue for transparency. 9 CHAIRWOMAN MELGIN: You know, I had a 10 question. She made me think of that when she said 11 outpatient. 12 On No. 5 it says that "Facility shall not 13 provide outpatient treatment of methadone patients 14 or any other outpatient program or service unless 15 it's related to a patient's inpatient continuum 16 of care." 17 So when would an inpatient need outpatient 18 services? 19 MR. LIGUORI: So as I understand it, that's 20 a State licensing issue. As part of your license 21 you are required in certain instances to have a 22 continuing recovery plan, and as part of the 23 discharge criteria there are customary and clinical 24 standards that you have to agree to continue to</p>	<p style="text-align: right;">249</p> <p>1 to the Zoning Board? Is that your question? 2 MEMBER LAKE: That is my question. 3 Thank you. 4 MR. VANKERKHOFF: That would be subject to 5 the County storm water ordinance they're adding 6 additional impervious area for that type of work, 7 and construction of the storm water facility is 8 already there, so that would not necessarily 9 create a request for a variation from their 10 site plan. 11 MEMBER LAKE: But there would be a County 12 review in regards to -- 13 MR. VANKERKHOFF: Correct. Other County 14 permitting requirements apply. 15 MEMBER LAKE: Okay, thank you. 16 CHAIRWOMAN MELGIN: Any other comments? 17 (No response.) 18 CHAIRWOMAN MELGIN: I found one thing that 19 you said interesting when you said the consent 20 decree requires mandatory communication because I 21 think communication is what has been lacking with 22 these petitions and the amount of outreach to the 23 community. 24 I mean, the first factor in building --</p>

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<p>1 assuring that the safety, the welfare, the morals 2 of the community, outreach to the community would 3 have been a really great idea. 4 This facility seems like a good use for 5 something like this, but I don't think that the 6 information and the amount of information to the 7 community, especially the Village of Campton Hills, 8 interaction with the fire department, law 9 enforcement on how -- what the impact to the 10 community would be, how you would mitigate certain 11 impacts, how -- you have an open house and had the 12 community come in and understand how things are 13 run, that would have been -- that would have taken 14 you a long way I think with a lot of these people 15 to explain exactly what Maxxam plans on doing and 16 how they're going to do it. 17 It shouldn't be mandatory communication. 18 You should have been able to want to communicate 19 what was going to happen. 20 MEMBER MILLEN: Can I comment on that, too? 21 I was thinking it was just a real shame that from 22 the very beginning all parties couldn't have sat 23 down and got together on this. There was too much 24 anger, animosity, snobbishness maybe, overconfidence.</p>	<p>1 MR. BERKHOUT: Lake. 2 MEMBER LAKE: No. 3 MR. BERKHOUT: Melgin. 4 CHAIRWOMAN MELGIN: No. 5 (Applause.) 6 AUDIENCE MEMBER: You did the right thing. 7 AUDIENCE MEMBER: Thank you. 8 MR. VANKERKHOFF: Madam Chairman and for 9 members of the public here, thank you for coming 10 and for your participation. 11 Consideration by the County Board of the 12 zoning petition which is the subject of this 13 public hearing is currently set for 9:45 a.m. 14 Tuesday, August 14th, 2018, in the County Board 15 meeting room, Building A, second floor of the 16 Kane County Government Center located at 17 719 South Batavia Avenue, Geneva, Illinois. 18 Persons in favor of or in opposition to 19 this petition who wish to speak before the County 20 Board must file their intention to do so with the 21 zoning officer of Kane County or the County Board 22 no later than Friday preceding the County Board 23 meeting at which the petition is to be considered. 24 Thank you.</p>
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<p>1 Nobody got along and it's a shame because this 2 facility needs to be in existence, and the 3 community needs to be protected, and it's just sad 4 that it came to what it did. It cost a lot of 5 money and a lot of time, and they're never going 6 to be happy neighbors probably, get along because 7 of this bad start. And that's too bad. 8 So thank you. 9 CHAIRWOMAN MELGIN: Are we ready to take 10 a vote? 11 MEMBER LAKE: I personally still can't 12 answer A. I'll do my best. 13 MR. BERKHOUT: To confirm, this is a motion 14 to approve the petition made in the affirmative? 15 That's correct? 16 MEMBER MILLEN: Someone made a motion. 17 MEMBER ARIS: I did and you seconded it. 18 MEMBER MILLEN: Oh, yeah. 19 MR. BERKHOUT: Aris. 20 MEMBER ARIS: Yes. 21 MR. BERKHOUT: Millen. 22 MEMBER MILLEN: Yes. 23 MR. BERKHOUT: Falk. 24 MEMBER FALK: No.</p>	<p>1 CHAIRWOMAN MELGIN: Do I have a motion to 2 adjourn? 3 MEMBER ARIS: I move we adjourn. 4 MEMBER MILLEN: Second. 5 CHAIRWOMAN MELGIN: All in favor. 6 (Ayes heard.) 7 CHAIRWOMAN MELGIN: Meeting adjourned. 8 (Off the record at 10:35 p.m.) 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>


1 CERTIFICATE OF SHORTHAND REPORTER

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I, Paula M. Quetsch, Certified Shorthand Reporter No. 084-003733, CSR, RPR, and a Notary Public in and for the County of Kane, State of Illinois, the officer before whom the foregoing proceedings were taken, do certify that the foregoing transcript is a true and correct record of the proceedings, that said proceedings were taken by me stenographically and thereafter reduced to typewriting under my supervision, and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 9th day of August, 2018.

My commission expires: October 16, 2021



Notary Public in and for the State of Illinois

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