

TOWN BOARD

COUNTY OF ALBANY

TOWN OF COLONIE

PUBLIC COMMENT

THE STENOGRAPHIC MINUTES of the above entitled matter by NANCY L. STRANG, a Shorthand Reporter, on June 13, 2019 7:29 p.m. at Memorial Town Hall 534 Loudon Road, Newtonville, New York 12128

BOARD MEMBERS:

- PAULA A. MAHAN, SUPERVISOR
- LINDA MURPHY, DEPUTY SUPERVISOR
- PAUL ROSANO
- CHRISTOPHER CAREY
- MELISSA JEFFERS-VONDOLLEN
- JENNIFER WHALEN
- DAVID GREEN

ALSO PRESENT:

- Michael C. Magguilli, Esq. Town Attorney
- Julie Gansle, Town Clerk
- Gloria Knorr
- Lisa Drake
- John Cunningham, Commissioner, Department of Public Works
- Lonnie Clar
- Mary Cox
- Gene Cokenburg
- Jason Drake
- Chris McCauslin

EXHIBITS

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Clar 1	Written Statement	Pg. 25

1 SUPERVISOR MAHAN: Anyone have public comment?

2 Gloria?

3 MS. KNORR: Paula, the memorial at the Crossings
4 is just so healing for me. I cannot go to parades,
5 yellow ribbons don't help me but the memorial ceremony
6 is so respectful in remembering our veterans.

7 On Sunday I go to Albany Rural Cemetery and I look
8 for a memorial. The name is Hamilton. That is the
9 picture my friend took and then gave it to me on Sunday
10 where the American Legion, our post, puts flags up.
11 Students from Albany High School would go to each grave
12 and they put the flags up. This is what this says. It
13 says: I have fought a good fight. I have finished my
14 course. I have kept the faith. Timothy. I gave it my all
15 and perhaps I wasn't as patient at the last public
16 hearing as my son and as my grandmother - my two idols
17 besides Martin Luther King Jr. fighting for social
18 justice. The fact is that if you want to know Timothy
19 Norman McFarland - if you ever see Dr. James and Rose
20 Jackson - they are Tim's godparents. You will see the
21 smile in their eyes. You will see the respect.
22 Unfortunately, Christian is a doctor in a VA hospital in
23 California and he is upset that - - we were pretty good
24 friends, but Tim kept it close. He felt it was a
25 weakness and did not want us - - he liked the way that

1 we looked up to him. So, that's why we have to get the
2 depression out of the darkness.

3 The programs and services that safeguard the health
4 and well-being of the residents of the Town of Colonie
5 is what we have now and is what we need to continue as
6 our goal. I was talking about the Colonie Town ambulance
7 while I was in the Albany Medical Emergency Room with a
8 possible pulmonary embolism and I went to emergent care
9 to Albany Medical Center at Hannaford. If I refused or
10 could not have paid for the ambulance, the doctor wrote
11 that my health would deteriorate or possible death. So,
12 I can be thrifty. I am saying when you have a possible
13 death, life becomes precious. And seeing my daughter so
14 upset in my little grandson playing under the curtains
15 because I was admitted there for two days - - the first
16 public hearing - when I came, I was so happy because
17 that a Town resident said he remembered when we worked
18 together to keep the nursing home open. I remember when
19 it was a drain financially and it was said that they
20 didn't want to be in the nursing home business but I
21 know there is a need because many of us can't pay the
22 difference of the Edy which is \$3,000 or \$4,000 more a
23 month. So, I was so happy he told me that it's
24 beautiful. We all would like to stay in our own home as
25 long as possible.

1 Colonie helps residents do that which is why I
2 presented my daughter's paper on how Colonie helped me
3 as caregiver to my mother. My daughter is very
4 embarrassed. She said she's going to move away. Why did
5 I show the paper? It had grammatical errors. She was a
6 student. I said honey, it is the essence of living in
7 the Town of Colonie and how it helps. Being that one
8 third of our population is seniors -- then, I supplied
9 my mother's copy -- in the 50's we had seven elementary
10 schools. It shows how far out Town has grown.

11 MR. MAGGUILLI: Gloria, I hate to do this but
12 you've got about 30 seconds. At the end of the reading,
13 you can speak as long as you like. We will continue the
14 public comment after the meeting is over. I'm sorry,
15 Gloria.

16 MS. KNORR: I am. So, I'm so glad the man is
17 coming. We fight for what we believe in.

18 Also, my question at the debate - if I'm not there
19 at the debate, my question always is: What incentives
20 can we give developers to build affordable housing?
21 That's it.

22 SUPERVISOR MAHAN: Thank you, Gloria.

23 MR. MAGGUILLI: Thank you, Gloria.

24 SUPERVISOR MAHAN: Anyone else?

25 MS. DRAKE: Good evening. My name is Lisa Drake

1 and I live on Catalina Drive.

2 Tonight I would like to update the Board on the
3 Summit at Forts Ferry since the last meeting three weeks
4 ago.

5 This past Friday at 10:00 a.m. my husband John
6 received a telephone call from the Supervisor's office
7 informing him of an on-site meeting that would take
8 place at 12:45 p.m. Fortunately, John and I were able to
9 rearrange our schedules to attend the site walk-through,
10 given the short notice.

11 Once we walked back onto the site and we were
12 standing beside the dirt pile nearest to the buffer, Mr.
13 LaCivita asked why we were here and what questions do we
14 have. Really? My husband read a section of the final
15 minutes of the October 16, 2018 Planning Board meeting
16 where the Summit of Forts Ferry was granted final
17 approval. Both the summit team and the TDE clearly
18 stated that the spruce trees would be planted outside
19 the 100-foot buffer. Today no plan for trees has been
20 developed, much less started or considered.

21 The short answer is that the developer will have to
22 wait until the garages are built to determine the plan.
23 However, the trees will most likely need to be planted
24 in the scrappy little piece of land known as the
25 100-foot buffer. Much conversation was exchange between

1 all parties present all while active construction
2 machinery was just a few feet away.

3 Ms. Slevin, representing the developer, committed
4 to the Town that they would take a look at developing
5 and creating a planting plan. She did not commit to a
6 timeframe for this task to be completed. Why did this
7 meeting need to take place on-site during active
8 construction? In my opinion, this meeting could have and
9 should have happened in a conference room. More
10 importantly, when will the planting plan be completed?
11 There was however, a benefit of being on-site. John, my
12 husband, and I were able to see that there was a hose
13 laying in the buffer that had been used for the past few
14 weeks to pump water out of the area being worked on to
15 hook up the water main on to Catalina Drive. This
16 clarified to us why our neighbors on Omega Terrace had
17 been experiencing flooding in their backyard the past
18 few weeks.

19 On Wednesday morning, yesterday, I was awakened at
20 6:00 a.m. with the sound of something running on the
21 construction site, which I am getting used to. It starts
22 at 7:00. I took a walk over to Catalina Drive nearest
23 the water hook-up and discovered the whole new area that
24 has been worked on had a layer of water sitting on the
25 top of the dirt. Since construction was not supposed to

1 start until 7:00, I thought that perhaps an emergency
2 alarm had started some piece of equipment. Given the
3 time that I checked on the computer, the only Town
4 office opened was in fact the Police Department. I
5 called to voice my concern. At 6:50 a.m. The Town Police
6 Officer rang my doorbell. He informed me that he had
7 stopped at the construction trailer and learned that
8 they had been running water sump pumps and that they
9 were indeed sorry. I discussed my concern with the
10 Police Officer regarding water runoff and he informed me
11 that I should call the Town. *Again, more research - who
12 to call.

13 At 8:30 a.m. I'd call the Supervisor's office. I
14 was unsure which Town department to call to report the
15 stream of water that I was seeing running down the dirt
16 pile and into the buffer. I was told that a call would
17 be made to the proper department.

18 My husband and I are tired. We are frustrated. We
19 are frustrated of attending, checking and asking for
20 updates continuously with regard to the Summit at Forts
21 Ferry. I ask you: When is enough, enough? I also ask
22 you: When will this Board in front of me take some
23 action? Thank you.

24 MS. WHALEN: Mike, is there any way that we could
25 appoint a representative from the Town and charge the

1 developer - to be like a comanager of this project? In
2 addition, this buffer has gone from 200 feet to 100
3 little feet and that little bitty buffer that these
4 folks walked away with at the end of the day should not
5 be tainted with anything. The developer should be
6 developing outside of the buffer. They should not be
7 planting trees there. They should not be running hoses
8 through there unless it is absolutely necessary for
9 construction within the requisite amount of hours. That
10 buffer should be sacrosanct. There should be nothing in
11 it. It is so puny to begin with. I was there and I saw
12 it.

13 It was an unfortunate mistake, allegedly committed
14 by another administration. I get all of that. At the end
15 of the day, these residents are suffering and it's just
16 not even right. I guess it was the right legal decision,
17 right? At the end of the day, this buffer should be
18 pristine with nothing in it.

19 SUPERVISOR MAHAN: Jennifer, we did take it to
20 court and tried to base it on the contention because
21 there wasn't any legal paperwork done. The Supreme
22 Court said -

23 MS. WHALEN: I understand all of that. What is the
24 law with respect to buffers? Are developers allowed to
25 plant trees in the buffers, or isn't the meaning of a

1 buffer -

2 MR. ROSANO: Yes, they are.

3 MS. WHALEN: They are?

4 MR. ROSANO: Yes, absolutely.

5 SUPERVISOR MAHAN: The law says that they are.

6 MR. MAGGUILLI: Jennifer, there is a provision in
7 the Town Code, Chapter 190-20(b) that provides for just
8 that. You can plant vegetation and you can disturb
9 existing vegetation within the designated buffer area
10 for new vegetation that is intended to enhance the
11 quality of the buffer. So, yes, that can be done.

12 MS. WHALEN: What if that is negotiated away by a
13 statement by developer and a Planning Board meeting
14 that he will not plant anything in the buffer? Then, it
15 becomes - the law is the law, but he has agreed to
16 something else, correct?

17 Is that right, Mrs. Drake? Is that what you read?
18 Wasn't there a statement by somebody - the developer or
19 somebody saying that they wouldn't plant anything in the
20 buffer and they said that presumably to get the approval
21 of the Planning Board and to appease the neighbors?

22 MS. DRAKE: In the final minutes of the October 16
23 Planning Board meeting on page 11 where Joe Grasso, our
24 TDE was talking. It says "Obviously, they are
25 protecting everything in the buffer. The planting plan

1 was something that the Planning Board wanted a lot of
2 detail on. So, the current plan proposed is additional
3 vegetation between the garages and the buffer and it
4 includes 31 -" They are talking about the number of
5 trees and that these trees are all spaced at 15 feet on
6 center. So, that is our own Joe Grasso, the TDE
7 speaking.

8 There is another question and there's a spot where
9 Mr. Tucker is understanding and they are going back and
10 forth. They are in the minutes. So, that is my question.

11 If we take minutes and we approve a final plan - I
12 think you're asking, Jennifer, what I am asking. How do
13 we hold people accountable for this?

14 MS. WHALEN: I mean, if they are making
15 representations and getting approvals in view of them,
16 then they should be held to stand by them and not to
17 fall back on the law that they gave a little bit away
18 from - - the law may be the law, but if they agreed
19 that if they got the approvals that they would plant
20 outside of the buffer and they said it in the minutes,
21 they got the approval and it's pretty clear to me that
22 nothing should be in the buffer.

23 MR. MAGGUILLI: It is my understanding that what
24 Mr. and Mrs. Drake are objecting to - - and please
25 correct me if I am wrong - that they do not believe

1 there is sufficient space between the back of the
2 garage in the boundary line of the buffer to plant
3 these additional spruce trees so that they would live.
4 There is enough room to plant them, but I think their
5 concern - - I might be mistaken. It is my understanding
6 that you and your husband's concern is that there's not
7 enough space for these spruce trees to grow and live.
8 Please correct me if I am wrong on that.

9 MS. DRAKE: That is my husband and my opinion.
10 However, it is an opinion that has been backed seven
11 weeks ago at a meeting here in the Supervisor's
12 conference room with the engineer from VBH, I believe
13 where he stated that once the garages were in place -
14 the foundation - there would be one foot of land
15 available to plant the trees.

16 MR. MAGGUILLI: In your objection, is that they
17 should not be allowed to plant within the boundary of
18 the buffer if that is determined to be the best way for
19 these trees to survive because that was not expressly
20 stated in the approval. Am I correct?

21 MS. DRAKE: Yes and no.

22 MS. WHALEN: The garages should be moved forward,
23 right?

24 MS. DRAKE: I'm fine with moving the garages, or
25 don't put the garages on that corner. Put them where

1 you said you were going to put them which was outside
2 of the buffer.

3 MR. MAGGUILLI: If you can gain the same thing by
4 moving the tree a couple feet within the buffer, which
5 is allowed by law, what is the objection?

6 MS. DRAKE: Mr. Magguilli, respectfully, the
7 objection is -

8 MR. MAGGUILLI: I am not saying that they're going
9 to do that -

10 MS. DRAKE: That when you give an inch, it appears
11 the developer is taking a mile continuously over and
12 over and over again. That's the objection. I asked the
13 question when is enough, enough? And when will this
14 Town Board under the direction of the Supervisor -

15 MR. MAGGUILLI: This is something that I have
16 tried to explain in the past. The Town Supervisor and
17 this Town Board are not Appellate Judges. They are not
18 an appellate body. They really have no control over the
19 independent Planning Board. They have been trying to do
20 whatever they can to assist you with your concerns, but
21 legally - - I'm a lawyer, so I have to go by what is
22 legal and what is mandated by the law - they truly
23 don't have any authority to order the Planning Board to
24 do anything. What the law provides in your remedy is
25 very specific. If you're unhappy with the what the

1 Planning Board did or what the developer did, or if
2 you're unhappy and you don't believe they're following
3 what dictates their approval, the law spells out what
4 you are required to do. You can bring an Article 78
5 proceeding. You can bring a Mandamus proceeding. This
6 Board is trying to assist you and not have you go
7 through all of that by trying to work with both
8 parties.

9 When we met at the site, you seem to object to that
10 for some reason.

11 MS. WHALEN: I have a question. What about the
12 fact that they are starting construction earlier? She's
13 gotta go get a lawyer -

14 MS. DRAKE: I don't even want to go there. I
15 believe it was known early in the week last week that
16 this on-site meeting was going to occur. We, my husband
17 and I, were notified three hours in advance.

18 MR. MAGGUILLI: That was my fault. I have to tell
19 you that we finally agreed on a time that Monday - late
20 Monday afternoon. I had totally forgot to notify all
21 the parties until very late. When I was going through
22 preparing for the meeting that morning, I realized for
23 the first time that you and your husband were not on
24 the email chain list and so I sent you an email as soon
25 as possible. It was totally my fault.

1 MS. DRAKE: That is fair. However, why would Mr.
2 LaCivita on-site on top of a dirt pile ask my husband
3 and I why are we here? I find that very hard to believe
4 and understand why we would have to get on top of a
5 dirt pile in an active construction site to have a
6 conversation as to why we are here. He seemed like he
7 was clueless as to why we're here.

8 MR. MAGGUILLI: It was always my understanding
9 that you and your husband wanted to meet on-site. I
10 didn't understand why we were there, either. I don't
11 know what we could've accomplished -

12 MS. DRAKE: It makes no sense. We have been asking
13 about a planting plan.

14 MS. WHALEN: Excuse me. I can watch you two go
15 back and forth all night. I want to just get a sense of
16 who within the Town is supervising the developer on the
17 development?

18 MR. MAGGUILLI: The Building Department.

19 MS. WHALEN: Oh, the Building Department. Was the
20 Building Department at your meeting? Do you know if any
21 representatives from the Building Department were
22 there?

23 MS. DRAKE: Mr. LaCivita - is he Building?

24 MS. WHALEN: He is not even the Building
25 Department. He's in the Planning Department.

1 SUPERVISOR MAHAN: They don't go there and stay
2 there. There are inspectors when things are done and
3 the engineers and inspectors -

4 MS. WHALEN: So, there is no process by which
5 anyone in the development office is checking in with
6 the Town -

7 SUPERVISOR MAHAN: Yes, there are steps as you go
8 through the process. You get to the point where
9 something has to be inspected. There is a whole
10 process.

11 MS. DRAKE: I, as a taxpayer, in trying to
12 understand the system within two which to work and how
13 to resolve this. When I go to the front page of the
14 Town of Colonie Planning and Economic Development
15 Department - the intent and purpose of the Planning and
16 Economic Department is to provide accurate and timely
17 land-use information, assist the general public in
18 matters of Planning and land use regulations and serve
19 as ombudsman for coordination of site related issues
20 and topics. Our department represents all citizens of
21 the Town of Colonie in Planning for generations for the
22 future to live, work and enjoy the natural and built
23 environment of the Town.

24 That's what it says that group does.

25 MR. MAGGUILLI: Can I make a suggestion? While

1 this is public comment, we have a whole roomful of
2 people who are waiting for their business to be
3 conducted. Again, we going to do what we normally do.
4 If we would like to discuss this, we will wait to the
5 meeting is over and as we normally do during public
6 comment, if it goes beyond three minutes, have a
7 discussion after the meeting is over.

8 Ms. Drake, if you could wait, we would be happy to
9 sit and listen to you.

10 SUPERVISOR MAHAN: This is a Planning issue.

11 MS. DRAKE: What you are saying is that you will
12 be happy to sit and listen to me, but none of you want
13 to actively participate.

14 SUPERVISOR MAHAN: Wait a second. If I could just
15 clarify one thing.

16 I know the emails that were going back and forth
17 between your husband and Mike's office and Mike's office
18 and the developer's attorney and back and forth and the
19 request was to have the site visit. That's what took
20 place. I think that's why that visit was set up because
21 we were getting frustrated, obviously. We wanted to have
22 it set up and we were getting held back because of the
23 weather and so finally Mike did get the appointment. I
24 may be incorrect - as Melissa fell through the mud - it
25 kind of got a little mixed up, but I thought that your

1 husband John - I thought we left there with Mr. Tucker
2 agreeing to come up with a plan in a few weeks which
3 would be a week from tomorrow, a landscape plan with
4 some trees going into the buffer, although that wasn't
5 your husband's first preference we thought that would at
6 least get to the point so that we could see what that
7 would look like. I was under the understanding that's
8 what we're waiting for is that plan. When we left there
9 - that we were going in that direction.

10 MS. DRAKE: Well, if you have that understanding,
11 my understanding was that it was Ms. Slevin that was
12 representing -

13 MR. MAGGILLI: Can we address this at the end of
14 the meeting?

15 SUPERVISOR MAHAN: Yes, we will have to. The
16 Planning - we can't resolve that at this minute.

17 MS. WHALEN: I think that it is going beyond the
18 Planning issue. I think she is here because she wants
19 to shed some sunlight on the fact that the residents
20 are almost policing the developers themselves. So,
21 that's why she's here. There are people in the audience
22 that don't know anything about this and they know that
23 there's something wrong. They are making faces.

24 SUPERVISOR MAHAN: Jack, did you want to say
25 something?

1 MR. CUNNINGHAM: There was a pumping issue
2 yesterday. Ms. Drake contacted my office yesterday and
3 we were out there within an hour and we corrected the
4 issue. There are inspectors and engineers on-site that
5 report to us. They keep an eye on the project as it is
6 progressing and making sure that it is being developed
7 as it was approved. So, there is ongoing on-site.

8 MS. WHALEN: Every day they check.

9 MR. CUNNINGHAM: Whenever there is construction
10 going on, that's when they're over there, yes. Our
11 stormwater men are going over there regularly as well.

12 MS. WHALEN: So, what about the fact that the
13 developers are starting earlier than 7:00 a.m.?

14 MR. CUNNINGHAM: this is the first time I have
15 heard about that.

16 MS. WHALEN: So, what happens next? Do you write
17 it up? Do you send a letter?

18 MR. CUNNINGHAM: There are ordinances in place
19 that the developer cannot start before then. If you
20 have any problems with that, they can call my office.

21 MS. WHALEN: So, Jack, you oversee the building
22 department and the Planning department.

23 MR. CUNNINGHAM: I do not oversee Planning.

24 MS. WHALEN: The Building Department is under you.

25 MR. CUNNINGHAM: Yes.

1 MS. WHALEN: And Jack is also in charge of the
2 roads, the highways, right?

3 SUPERVISOR MAHAN: One thing that you have to
4 understand is the Building Department is one of the
5 many departments that they give out the COs and things
6 like that. When he's talking about his inspectors being
7 there, it is for each part of the whole process. You've
8 got the Water Department, you've got the Sewer
9 Department, you've got the sewer and Water Department,
10 you've got roads and highways. There is everything that
11 goes into the project. So, it is a coordinated effort
12 between all of the departments as their piece is being
13 done or whatever, it has to be inspected. It is
14 inspected by our people and it is inspected by their
15 engineers.

16 MR. CUNNINGHAM: The Planning Department also gets
17 involved in making sure the project is being built to
18 the plan as well.

19 MS. WHALEN: So, this is a pretty large project
20 that's going on right now in Colonie. So, do you send
21 someone over there from building once a day-

22 MR. CUNNINGHAM: As needed. No one in the Building
23 Department will be over there until the buildings start
24 coming out of the ground.

25 SUPERVISOR MAHAN: The Building Department will

1 not be there every day.

2 MS. WHALEN: No one is just swinging by to make
3 sure that everyone is complying.

4 MR. CUNNINGHAM: We have the stormwater department
5 who checks on the stormwater process. We have the
6 inspecting engineer which is an outside engineering
7 company it's paid for by the developer to watch the
8 process as they install the infrastructure in the
9 report back to us. They assure us that the
10 infrastructure that is being installed is being
11 installed to plan. I don't send an inspecting engineer
12 over there if no work is going on. That cost money.

13 MS. WHALEN: So, they go over as needed, but not
14 every day. Not even once a week?

15 MR. CUNNINGHAM: When needed. They could be needed
16 every day. They could be needed every other week - when
17 needed.

18 MS. WHALEN: So, when needed could be every other
19 month?

20 MR. GREEN: Do you know what when needed means?
21 Quit trying to pin him into a box. When needed is when
22 needed. Get a brain.

23 MS. WHALEN: What did you say? Jesus Christ, get a
24 brain? Is that what you just said to me?

25 I want that on the record that he just said that to

1 me.

2 SUPERVISOR MAHAN: We will continue this later.
3 There is no reason for any of this.

4 Does anyone else have any comment - public comment?

5 MR. CLAR: My name is Lonnie Clar. I'm the
6 president of Colonie Coalition of Neighborhoods
7 Association. I'm here to talk about some of the matters
8 that have come up during our meetings over the last
9 couple of months regarding the Comprehensive Plan.

10 I'm going to give you this so you can rest.

11 Obviously the Comprehensive Plan is going to
12 involve a great deal of time and effort to implement.
13 However, much will depend on communication - both
14 internal communication between the Town officials, Town
15 departments and between the Town and its residents.

16 First, whatever is implemented must use the 21st
17 century capabilities to the fullest extent possible.
18 This could include Internet and online services, or
19 things as simple as updated sound and projection at
20 public meetings.

21 All available information on new projects should be
22 put online as soon as possible and archived so that it
23 remains available throughout the project time. This
24 would include most TOC staff communications, TDE and
25 other agency comments and it shouldn't require a foil

1 effort. If it is online, anybody should be able to look
2 at this. These are public works. They are publicly
3 performed. They are to be publicly and easily available.
4 Other Towns do this. We should be able to.

5 The applications receive site should be kept up to
6 date.

7 At several of our coalition meetings we have heard
8 that on occasion the site has been found to be months
9 behind. Much information should appear on the Planning
10 and Economic Development website, including a list of
11 projects for which applications have been received and
12 milestone dates. If developers know this information,
13 why shouldn't the residents? This information should be
14 posted online as soon as known so the residents will
15 have greater advance notice of Planning Board meetings,
16 rather than the few days notice currently provided.
17 Quite often we find out about Planning Board meetings
18 very close to when they are going to happen. We don't have
19 time to look into the different issues and then we have
20 to appear. And even posted plans disappear after the
21 Planning Board meeting date. I am told that other
22 municipalities maintain complete online files which are
23 readily available to the public. We should be able to do
24 the same.

25 Sketch plan review meetings should be open for

1 public comment. Almost of us are not architects or
2 engineers, we live in the neighborhoods that will be
3 affected. We know the strengths and problems of every
4 community where we live and we can provide valuable
5 information to developers early in the Planning process.
6 This information can be of great help to the Planning
7 Board, which cannot know every unique characteristic of
8 every neighborhood. Early input provides a meaningful
9 chance to avoid problems and conflicts before developer
10 becomes heavily committed.

11 We really need more modern displaying communication
12 equipment. The Town should have the ability to project
13 plans, drawings and other forms on a large screen, in
14 plain view of all of the participants at public
15 meetings. Currently, although improved somewhat over the
16 previous years, it's often difficult or impossible to
17 clearly see what a speaker is talking about.

18 The Town needs to invest in better sound equipment.
19 Microphones should be available for every Town
20 representative, and for every member of the public
21 community speaking. This is nice.

22 This is not very complex equipment and should be a
23 permanent part of the facilities at each Town site with
24 the meetings attended by the public. If local schools
25 can do this, the Town should also.

1 Developers must be strongly encouraged to reach out
2 to residents in the surrounding neighborhoods as early
3 as possible. Such communication can ease concerns and
4 create a cooperative relationship which may help ease
5 approval processes.

6 For instance - an example of this is the Foegtle
7 Farms or Kimberly Plaza. We had early communication. It
8 was beautifully done. We have general support now if
9 both those projects and there is very little difficulty
10 in putting them together.

11 Notices should be posted within at least 500 feet
12 of any proposed substantial development, as well as
13 online, in neighborhood public places such as malls,
14 grocery stores, bulletin Boards and at the library. It
15 is common for neighbors of property being developed to
16 be leery of change. Still, neighbors may have
17 specialized knowledge of community characteristics where
18 particular local issues which may be of help to
19 developer. Early involvement may calm neighbors'
20 concerns and allow a cooperative relationship to
21 develop, which would be beneficial to all. Ultimately,
22 we all - Town leaders, administrators, residents and
23 developers benefit from a welcoming open and progressive
24 community.

25 I want to thank the Town for giving me this

1 opportunity to speak. Thank you.

2 MR. MAGGUILLI: Nancy, can we mark that as Clar 1,
3 please?

4 THE STENOGRAPHER: Yes, sir.

5 (Clar Exhibit 1 was marked for identification.)

6 SUPERVISOR MAHAN: Thank you, Lonnie. I can tell
7 you that a lot of things that you did bring up are
8 things that we have been working on. A lot of them have
9 been incorporated into the Comp Plan. Some of those
10 things are in the works.

11 There are new mics for the Planning Board and
12 projector. Our technology person is working on that. So,
13 there are a lot of things that are going on.

14 They are also at a point where we just have posted
15 and interviews will start for a new additional staff
16 member in Planning, which I think is going to help them,
17 as well. They had a retirement and that retirement was
18 replaced and now this is an additional one along with
19 that. I think a lot of those things are going to help
20 but we certainly will keep track of that because we are
21 on the same page with a lot of those issues. Thank you.

22 Anyone else?

23 MS. COX: Mary Cox, 31 Omega Terrace. I do not
24 want to debate anyone about anything. I want you all to
25 think of something.

1 We need to back this up a step. We all sat at
2 public hearings - many of them and we all heard the
3 commitment of the developer for this planting outside of
4 the buffer. We all heard it. It is in writing. The
5 developer said that were going to do it. The Planning
6 Board told us this is why we are approving it. What
7 happened between that moment and the moment the Planning
8 Department stamped that final site plan, I don't know.
9 That's the big problem because somehow something got
10 stamped off on and Mary Beth Slevin says it all the time
11 - we are building according to the approved plan - -
12 that is where we got locked out. No, we can be involved.
13 You guys can't be involved in that. There is somebody
14 that is involved in that. They did not do their job.
15 Now, we are all trying to make this plan that was
16 approved a little better.

17 You guys should not have to be climbing in the
18 site. That is ridiculous. There should be someone back
19 at the beginning - and even now we should look back and
20 say wait a minute, this is what we approved verbally.
21 Just because it didn't make it to paper, does not mean
22 that it shouldn't be what end up with. It is ridiculous
23 that I have to look to my neighbors to be my Town
24 representatives and the ones policing it.

25 It is ridiculous that my yard was flooding worse

1 than it has in 15 years and I didn't know why until they
2 told me. Guess what? They are pumping water out right
3 into the buffer. I looked back into the buffer in it's
4 moving water. The guys even came down to try to bail out
5 some of the water sitting in my backyard now for three
6 weeks. I have an entire section that I'm going to have
7 to redo. They're telling me that you better regrade
8 that. I didn't have to regrade it for 15 years, but now
9 I do.

10 So, somehow again we let this development start
11 knowing we pleaded with you guys - we said the water
12 issue is bad. We still approved it and we let them
13 start, clear-cut, start in the worst possible time of
14 the year when we have water issues anyway. They don't
15 even have an infrastructure in place yet to deal with
16 the water. So, they are pumping it into my yard.

17 You're not the ones that should be helping us, we
18 know that. There is somebody in the Town that should.
19 You manage them. So, we are asking for your help. Help
20 us find them. Us fix whatever cause this and maybe it
21 won't happen again. Maybe we will actually be proactive
22 and do something good for the process. Thank you.

23 SUPERVISOR MAHAN: Thank you.

24 MR. COKENBURG: Gene Cokenburg, Sand Creek Road,
25 Colonie. You people are the ones who are supposed to be

1 taking care of all this. It is in somebody else, it's
2 you people. You're all very good except for one or two
3 of you pass the buck and not saying what you need to
4 do. I've only been to two of these and your disaster
5 all the way around. I don't have time to come to these
6 all of the time. I'm going to make more time and until
7 you straighten out, I'm going to keep telling you that
8 your disaster. There's only one or two of you who are
9 straight and you need to stop calling people names.

10 MR. DRAKE: Hi, my name is Jason Drake. My parents
11 are John and and Lisa Drake. I don't have - - I have
12 heard a lot about this, so I'm not going to talk about
13 the development. I just want to say that the Board
14 Members are made up of residents and my parents are
15 residents and I would just like to remind everyone that
16 the point of the Town is to provide a community and all
17 work together.

18 I know this is probably been a lot of stress for
19 all of you. It's been a lot of stress for my parents and
20 other people in my neighborhood. I just want to remind
21 everybody that when you think about this - I know there
22 is the law that we hear a lot about. There are
23 technicalities. There are different stories. When you go
24 back and think about this, I just ask that you think
25 what is your purpose and think about everyone who is a

1 resident together and what is your mission. Just start
2 from that place when you make some of these decisions
3 because it really impacts a lot of people. Thank you.

4 MR. MAGGUILLI: If I could just say something very
5 briefly. The only thing that has changed is that the
6 time from those approvals were granted to today is that
7 Mr. and Mrs. Drake have expressed a concern that there
8 is a possibility that where these spruce trees are
9 planted as shown on the map - they may not live. It's
10 not that there is no room for them. It is that there is
11 a possibility that there is not enough room for these
12 trees to grow and thrive, which is everyone's intent.

13 Now, when you say that we all have to work
14 together, that's exactly what we have been doing. We
15 have heard Mr. Drake's concerns and we have been trying
16 to work with him and the developer to address those
17 concerns in a way that would satisfy all parties
18 involved. The Supervisor has had meeting after meeting.
19 The Town Board Members have had meeting after meeting.
20 We are trying to address this issue raised by Mr. Drake.
21 Do we have a solid Resolution as we sit here today? No,
22 but we are still working on it. What else are we
23 supposed to do? It's not as if we are ignoring Mr. Drake
24 and telling him that his concern is much too
25 speculative. It could be a very valid concern. We really

1 don't have the authority to tell this person to do
2 anything at this point. We want to work so everyone is
3 satisfied. What else we can do? I don't know. We're
4 going to continue working with the developer. We're
5 going to continue working with the neighbors. We're
6 going to try to reach a solution that satisfies
7 everyone. If it comes to it and there has to be a
8 change, that will happen. It just hasn't happened yet.
9 We are not at that point yet.

10 MS. WHALEN: I have an idea. Why don't we shut it
11 down until they submit an appropriate landscaping
12 proposal that comports with the site plan approval that
13 was agreed to? How about that? It sounds like they have
14 site plan approval and they are not complying with what
15 they promised on the record.

16 MR. MAGGUILLI: How are they not complying,
17 Jennifer?

18 MS. WHALEN: They haven't submitted an
19 appropriate -

20 MR. MAGGUILLI: Tell me right now how they are not
21 complying. Are they not complying because it's a
22 possibility that the spruce trees might die five years
23 from now? Is that the way they are not complying?

24 MS. WHALEN: There's no landscaping plan. They
25 said Mrs. Slevin has to submit -

1 MR. MAGGUILLI: There is a landscaping plan. It is
2 on file.

3 MR. DRAKE: If you plant a 10 foot in diameter
4 tree three feet from the garage, they will not live.

5 MR. MAGGUILLI: You may very well be correct.

6 MS. WHALEN: So, we will have to move the garages
7 forward.

8 SUPERVISOR MAHAN: I think the agreement at the
9 site was that they will put together -- they said a
10 landscaping plan over the next few weeks. A few weeks
11 would be next Friday. That's what we're waiting for at
12 this point.

13 MS. WHALEN: Who's going to pay to regrade this
14 lady's property that has had water running into it?

15 MR. CAREY: Why can't one of the stormwater guys
16 be assigned to go up there and stop up there on a daily
17 basis to make sure that whatever they're doing as far
18 as pumping water off the site -- the doing properly and
19 it's not infringing on any of the homeowners
20 properties? Why is that so difficult not to have
21 somebody from John Dzialo's office assigned there? It
22 doesn't have to be a long-term thing. Maybe it's a few
23 weeks until things get straightened out. At least that
24 part of the problem will be resolved.

25 MR. MAGGUILLI: Jack, is that something that is

1 happening now? Does John go out there and do a
2 stormwater check?

3 MR. CAREY: I'm not talking about yesterday. I'm
4 talking about why can't somebody stop up there every
5 day or every other day and pay attention - - let me
6 finish - pay attention to what's going on up there, so
7 that these residents don't end up with additional water
8 in their yard and an additional problem on top of what
9 else is already gone on there. I don't understand -

10 MR. CUNNINGHAM: The stormwater group is usually
11 up there. They usually check these developments as
12 they're going along. Each developer is required to hire
13 their own stormwater management person to be on site
14 watching what's going on and reporting back to us.

15 MR. CAREY: I don't like - - they have their guy
16 there. We need our guy there. We need somebody from the
17 Town paying attention. I don't care if their guy is
18 there. What is their guy doing for the residents? He is
19 paying attention to the developer. He's not paying
20 attention to anything else, in my opinion.

21 If our guy is there and then he reports back to
22 you, then we are confident that things are being done
23 properly.

24 MR. CUNNINGHAM: Our guys are there.

25 MR. CAREY: Every day?

1 MR. CUNNINGHAM: Not every day but -

2 MS. WHALEN: Wait -

3 MR. CUNNINGHAM: Jennifer, may I finish speaking
4 please?

5 I'll make sure they drive by there. I'll have them
6 go by on a regular basis to check this place.

7 I just want to go back to the Omega Terrace issue,
8 again with the pumping.

9 When my office was notified, we did go up and we
10 did stop the pumping. We talked to the developer. Is my
11 understanding and I will follow this up tomorrow - my
12 understanding is that it's the developer that is
13 responsible for fixing this lawn. Any damage that was
14 done to the lawn will be paid for by the developer.

15 MR. CAREY: Do you understand that?

16 MR. COX: Someone walked through my yard and I
17 said can you help me -

18 MR. CUNNINGHAM: If the developers having a
19 problem with it, I will speak with the developer and
20 make sure this gets taken care of.

21 MS. WHALEN: Jack, I think as needed should be
22 like every day.

23 MR. CUNNINGHAM: Thank you.

24 MS. WHALEN: That's what the definition of as
25 needed should be.

1 MR. CAREY: One other thing. Before we leave
2 tonight at the end of the Resolutions, can we just try
3 to pick apart some of the issues unless come up with
4 some sort of a game plan moving forward, please.

5 MR. MAGGUILLI: These people have been waiting
6 here very patiently.

7 (Whereas the above entitled proceeding was
8 adjourned to address the remainder of the Board meeting
9 and recommenced immediately after)

10 MR. CAREY: So, are we going to go back to the
11 Forts Ferry issue?

12 SUPERVISOR MAHAN: We can. All I can tell you at
13 this point is after having the visit, at that point the
14 next step was for the developer to come up with a
15 landscape plan which would go into the buffer. John
16 Drake had said that - I don't know word for word and
17 I'm not going to try to quote him, but basically if we
18 could at least take a look at that as an alternative to
19 just planting trees in an area where they may not have
20 enough space to grow. So, that is what we are waiting
21 for at this point.

22 We were at the site in mud and we didn't have
23 anything written, but that was a verbally what was
24 stated.

25 As far as the development itself, any development

1 goes through the process as Commissioner Cunningham has
2 stated. There are various points where you can go
3 further unless it is inspected and not just by the
4 developers by our staff - our inspectors. There are
5 inspectors, as you know, in the Water Department; Pure
6 Waters; Stormwater and all of that. So, there are steps
7 in the process that they follow. That's where we are at
8 this point.

9 Typically what happens is if someone starts early
10 and we get a complaint on it, then we refer the
11 complaint and then they notify the person that is
12 starting too early or whatever - the developer who is
13 starting too early has to remedy the situation. If they
14 don't remedy the situation, then it goes to the next
15 step. Typically when they are notified, typically it
16 remedies the situation. I can't say that they will or
17 they won't. That is the process.

18 So, at this point, a couple of things that we are
19 waiting for - one is the landscape plan to be able to
20 see that.

21 Mike, if you would, Julie - maybe you can make a
22 note - I think tomorrow will be one week and we can give
23 a call to their attorney to see where they are in that
24 process.

25 Next Friday would be a few weeks. That's typically

1 how we do it.

2 I am glad to hear that the Commissioner did have a
3 conversation about repairing the damage. Typically if
4 damage is done, that's typically what happens. That is
5 currently where I believe we are at.

6 MR. CAREY: Can I just ask one other question?
7 Originally, when we looked at the minutes of the
8 Planning Board meeting it's very specific as to where
9 the trees were supposed to be planted. Is that out of
10 the question now because of the placement of the
11 garages?

12 MR. MAGGUILLI: I don't think that's true, Chris.

13 MR. CAREY: I'm asking the question.

14 MR. MAGGUILLI: I don't think that's true.

15 MR. CAREY: What part isn't true?

16 MR. MAGGUILLI: That it was specific as to which
17 tree was planted. I don't think it was any more
18 specific than outside the buffer area. Again, I would
19 have to check.

20 I know this: When you look at the plans and it
21 shows a symbol for tree, there are no metes and bounds
22 as far as how many feet from this or how many inches
23 from that. I do not believe that is the case. I will
24 have to double check that.

25 MR. CAREY: Can we look at the minutes of the

1 meeting and maybe have a conversation with Joe Grasso
2 who reviewed this project and get an opinion from him
3 and see if that's what was supposed to have been done?

4 My other question is: If that was what was
5 supposed to have been done, is that out of the question
6 now because of the placement of the garages?

7 MR. MAGGUILLI: I'm not sure.

8 MR. CAREY: Is there any flexibility?

9 SUPERVISOR MAHAN: The garages are not there yet.

10 MR. CAREY: Where are we coming up with this one
11 foot of space? If the garages aren't in place -

12 MR. MAGGUILLI: It was a concern raised by Mr.
13 Drake.

14 SUPERVISOR MAHAN: Again, I asked Mary Beth Slevin
15 at the site - wouldn't it be better to have the garages
16 on the other side because the building is a nice
17 looking building and things like that. I guess it was
18 over on that side and then according to her, it got
19 changed to the other side because the plans - they no
20 longer were going to do the original plan for whatever
21 reason.

22 Then, the other part of the plan was the offices in
23 the back. For some reasons, the garages change to the
24 other side. That's what she told me. I think the
25 conversation came up about going into the buffer because

1 ultimately, as we were talking, our goal is to have the
2 view from where the residents are to be as buffered as
3 possible which means the more trees there, the better it
4 is for everybody. It is like a second plan because the
5 first was to put it outside of the buffer.

6 MR. GREEN: Is that the legal requirement, though,
7 based on the Planning Board approval? Does it have to
8 be outside the buffer? Technically, we are getting into
9 a gray area now. I think the concern is that if we let
10 this gray happen, the developers are kind of doing what
11 they want.

12 SUPERVISOR MAHAN: I don't know the answer to that
13 except that Mike had told us that the law says that if
14 you're going to enhance it, you can.

15 MR. GREEN: But is it a requirement of the
16 Planning Board?

17 Mike, do you know if that was a requirement of the
18 approval that plantings would all not be in the buffer?
19 Is that a legal requirement with the Planning Board
20 approval?

21 MR. MAGGUILLI: It may well be.

22 MR. CAREY: So, we can research that? We need to
23 know the answer to that.

24 MS. WHALEN: A scene in a couple of times happen
25 live -

1 MR. MAGGUILLI: Off the top of my head I can't
2 tell you differently one way or the other right now.

3 MS. WHALEN: I have been at the Planning Board
4 meetings where the developers make these promises -
5 these generally grand sweeping promises that will
6 placate the residents and then the Planning Board does
7 make that as part of their consideration when they are
8 voting on whether to advance it or not. It's like
9 they're promising a rose garden and then they're not
10 delivering.

11 MR. MAGGUILLI: The Town always controls -

12 MS. WHALEN: Our Trump card is, what? It's telling
13 the residents to go get lawyers and sue? That's not a
14 Trump card. That's not right.

15 MR. MAGGUILLI: Of course it isn't, Jennifer. Give
16 it a break, will you?

17 What we have is something called a certificate of
18 occupancy. If they do not follow what dictates in the
19 plan, it's quite simple - they don't get a CO. They
20 don't fill up their building. It sits there vacant.

21 We are in good legal grounds to protect the Town.
22 Now, it's very nice to sit here and say and get your
23 applause well, let's shut it down. Will it help the
24 other 80,000 residents that we're supposed to represent
25 that would have to pay any delay damages in the lawsuit?

1 Do we have to consider them as well?

2 MS. WHALEN: Right, well, have you considered
3 doing that? What are we supposed to do, just let them
4 keep building it? What is that expression? Like, just
5 do it and apologize later.

6 SUPERVISOR MAHAN: The garages are not built yet.
7 I think if we can wait - give it this week to see if we
8 actually get a landscaping plan. If we don't get a
9 landscaping plan, that's a bigger issue. I think we
10 went to the site at the request of the residents to try
11 to see and understand the issue and to see if we can
12 come up with some type of resolution. When we talked to
13 the developer and the attorney there for the
14 developers, I don't know if is the developer or
15 engineer or whatever - I don't know what Mr. Tucker's
16 title is. Our goal was to come to some type of
17 consensus as to how do we move forward with the end
18 result being the best that can be provided for the
19 residents at this point in time. That is when we talked
20 about the landscape plan and moving into the buffer
21 area. I thought that Mr. Drake was okay with that and
22 wanted to wait a couple weeks until we got that.

23 Is it in stone as far as what they said? You read
24 what they said. You have it there in the minutes. Is it
25 and start on the plans? We would have to check into that

1 to see what the story is. We talked about following up
2 and finding out from the TDE what his perspective is.

3 One of the things - - this is not an excuse or
4 defense or anything, but we are in the middle or at the
5 last stage of the Comprehensive Plan. What that
6 Comprehensive Plan update does for us is a gives us the
7 vehicle to then move to the next step in the process.
8 That plan directs our review of the Land Use Law that
9 was put into place with new zoning and 2007. That's what
10 we were handed and that's what we work with. The process
11 is to follow that after the Comprehensive Plan. So, we
12 will have that opportunity to make some constructive
13 changes so that some of these things will have more
14 teeth so that when the Planning Board is doing these
15 things, they have more teeth with the TDEs and the
16 residents and the people that are developing on both
17 sides has a clear process.

18 A lot of the part of the problem is the way the
19 zoning was written and the changes with a lot of the
20 things that they did.

21 I know when they did Target and the split zone and
22 everything changed, that made a very difficult because
23 that's what you have to work with. We will be looking at
24 that at the next step. There are a lot of things in
25 play, but the initial thing right now is to find out

1 where were going to put the trees. I think if we give
2 them next week to see if they follow through on the
3 landscape plan, we will have a better idea. If they
4 don't follow through, then that's a problem.

5 I don't know that we can jump to the next step and
6 just say let's do this when we just talked about what we
7 were going to do at the sites.

8 MR. CAREY: We need to get a clarification on that
9 language.

10 SUPERVISOR MAHAN: I don't know who I was talking
11 to - whether was John or someone else, but that was
12 something that one of the other parts that we wanted to
13 do so that they could refresh our memory because it is
14 the Planning Board - it is a Planning issue. If we can
15 understand it a little bit better, we can take a look
16 at that.

17 MR. CAREY: Paula, as far as the stormwater person
18 that is on-site for the developer, obviously the person
19 is not paying attention. This woman's backyard would
20 not have been flooded. Apparently, I don't have the
21 authority, but I know you do. Why can't we have one of
22 our storm management guys go up there every couple of
23 days, make sure things are being done properly, report
24 back to Jack and not rely on their storm management
25 person who represents the developer and not the people.

1 SUPERVISOR MAHAN: Our guys can swing in there.
2 When you're talking about stormwater, those regulations
3 are so strict and what happens is the reason that there
4 comes a point where the developer can't - - Mike talked
5 about the CO or this, or that - - there is a point
6 where they have to make an appointment - the final
7 appointment with our stormwater people because they
8 can't go further - they can't get anywhere without
9 that.

10 We can have them swing by, but on each side whether
11 it's the developer or the Town, they have to follow
12 those stormwater regulations. There are consequences.
13 They are very, very strict. We are part of the Albany
14 County Coalition. It's a very structured strict
15 department. I think that we can do that. We can give a
16 call and then whenever there's two of them that are
17 around that area, they can stop in. The Code is very,
18 very strict.

19 It's part of the process and we will follow up as
20 well to with Jack Cunningham on the repairing of your
21 property. There are a lot of things that we can follow
22 up on and we will do that.

23 MS. MURPHY: I think Mr. Cunningham will be right
24 on top of that, now that we have all heard what's going
25 on on the property. I'm sure that he will be there

1 watching much closer and he'll make sure.

2 Please come back and let us know if they don't
3 repair your property. If no one tells us, we can't do
4 anything about it.

5 I appreciate hearing what people are going through
6 and I think we always try very hard to do the very best
7 we can to make people satisfied with what is being built
8 and created in the Town. It is a very difficult process
9 to keep everybody satisfied, but I think Jack Cunningham
10 would be very good that he is on top of it now.

11 MS. WHALEN: I heard Jack Cunningham say as needed
12 would be more frequently than every other - - as
13 needed, I think is going to be more often.

14 MS. MURPHY: Jennifer, once he heard everyone
15 complaining, I think Jack will handle it just fine. I
16 do not think we have to put a name to what were going
17 to call it when they go there. I'm sure it will be
18 taken care of.

19 MR. DRAKE: Is your expectation that they would
20 not be putting the garages up before that landscaping
21 plan would be? We have had a few instances where when
22 something gets talked about, they take action
23 immediately such as the water easement that they've
24 given. They came up and did it the next day. It would
25 be too bad if the garages had a foundation before

1 Friday.

2 SUPERVISOR MAHAN: When Mr. Magguilli follows up
3 on the landscaping plan, we can talk about that, as
4 well. To my knowledge, nothing was built - at the
5 easements and things like that, those are the things
6 that they start with, regarding that infrastructure
7 first. That's probably why they were doing that.

8 MR. MCCAUSLIN: Mark McCauslin. I just wanted to
9 thank you all - thank the Town Board and Supervisor
10 Mahan for passing the Resolution recognizing June as
11 LGBT Pride Month.

12 Also, thank you to the Town Attorney's office for
13 the work on that as well. You passed this Resolution
14 unanimously and on a bipartisan basis this sends a
15 unified and powerful message to our community that
16 Colonie is a welcoming Town that works together and
17 values its diversity.

18 As our elected leaders, your words, actions and
19 votes impact our lives and also set the tone in our
20 community. Your votes in support of Pride Month
21 communicate to the residents, schools and businesses
22 that our LGBT citizens are valued and accepted here.
23 This means a lot to us in the LGBT community.

24 Pride Month came to be in order to celebrate,
25 empower and honor LGBT people and our contributions to

1 society. This month all across the world LGBT people
2 will be gathering at events, parades and marches to show
3 that we are proud to be who we are and they will
4 continue to fight for equality and acceptance and I'm
5 very happy that Colonie is joining and showing
6 solidarity with its LGBT citizens through this
7 Resolution.

8 Tonight, now that it is officially LGBT Pride Month
9 in Colonie, I just want to say that I am proud to be a
10 gay man and I'm also proud to call Colonie my home.
11 Thank you again to our elected leaders and supporters
12 that showed up today. Happy Pride Month.

13 SUPERVISOR MAHAN: Thank you, Mark.

14 Chris, did you have any other questions?

15 MR. CAREY: No, I think I'm okay.

16 SUPERVISOR MAHAN: We have our plan in place and
17 we will be in touch. Thank you.

18 (Whereas the above entitled proceeding was
19 concluded at 7:21 p.m.)
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CERTIFICATION

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

NANCY L. STRANG

Dated _____