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CAROGA TOWN BOARD MEETING

DATE: Wednesday, October 12, 2016

TIME: 7 P.M.

LOCATION: Caroga Town Hall
1840 Route 10
Caroga Lake, New York 12032

APPEARANCES: Jeremy Manning
Beth Morris
Jack Glenn
Tony Sturchio
Sal Ferlazzo, Esq., Town Attorney
Linda M. Gilbert, Town Clerk
Steven Putman
Lita Hillier, Budget Director

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MR. STURCHIO: I would like to call
the meeting to order of October 12th, 2016.

Could we have a roll call, please.

MS. GILBERT: Tony Sturchio?

MR. STURCHIO: Here.

MS. GILBERT: Jack Glenn?

MR. GLENN: Here.

MS. GILBERT: Beth Morris?

MS. MORRIS: Here.

MS. GILBERT: Jeremy Manning?

MR. MANNING: Here.

MR. STURCHIO: Let's stand for the
pledge.

(Pledge of Allegiance.)

MR. STURCHIO: Hello, everybody. We
have a big packed house here. I was asked
to suggest from the code officer that if
we ever have a meeting this large again we
are going to have to move the venue
because this room is not really equipped
to handle this many people. So I guess
the board will be done.

Anyway, I would like to waive the

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reading of the minutes for the September meetings?

MS. MORRIS: I'll second that.

MR. STURCHIO: All in favor?

MR. MANNING: Aye.

MR. GLENN: Aye.

MR. STURCHIO: We have here with us tonight Attorney Sal Ferlazzo who is going to take over the meeting for the next half hour. This is the public hearing on eminent domain having to deal with Morey Road, the snowmobile road. Mr. Ferlazzo.

MR. FERLAZZO: Sure.

Hello, everybody. My name is Sal Ferlazzo, a name plaque and everything. I'm the Town attorney, and welcome. We would like to let you know that this hearing is being recorded and a transcript is being prepared. That is what the court reporter is here to do. There will be an opportunity for public comments at the end of the presentation. So when it is that time we would like you to write your name

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and your town for the record so we can have your correct spelling and we can have a complete record.

The purpose of this hearing is to meet the legal requirements of Article 2 of the Eminent Domain Procedural Law. Notice of this hearing was published in the Leader Harold on September 29, 30, October 1, 2 and 4 according to the affidavit of James D. Cornell of the Leader Harold. He is a business manager, and he states that -- he submitted an affidavit which I have here as Exhibit 1 which contains the hearing notice. So that is Exhibit 1 to these proceedings.

Exhibit 2 is the notice of public hearing, and I'll read that. "Please take notice that in accordance with Article 2, Section 202 of New York State Eminent Domain Procedure Law, notice is hereby given of a public hearing for the project identification number eminent domain one, Morey Road project, Town of Caroga, Fulton

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2 County on October 12, 2016 at 7 p.m. at
3 the Caroga Municipal Building.

4 The purpose of this hearing is to
5 outline the project purpose, its proposed
6 location and to provide other pertinent
7 information, including maps and property
8 descriptions of the properties to be
9 acquired and adjacent parcels. This
10 project is located at Morey Road along the
11 property owned by Charles F. and Helen
12 Johnson.

13 Persons may appear in person or by
14 agent who be given the opportunity to
15 present oral or written statements and to
16 submit other documents concerning the
17 project identification number eminent
18 domain one, Morey Road project, Town of
19 Caroga, Fulton County. All property owners
20 who may subsequently wish to challenge the
21 condemnation of the property by judicial
22 review may do so only on the basis of
23 issues, facts and objections raised at the
24 hearing.

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2 If you have any questions regarding
3 this hearing, please contact Linda Gilbert,
4 Town Clerk, (518)835-4211 or by writing at
5 PO Box 328, 1840 State Highway 10, Caroga
6 Lake, New York, 12032." That would be
7 Exhibit 2.

8 Let me describe a little bit by
9 showing you exhibit, what has been marked
10 as Exhibit 4. This is for many of you who
11 are familiar with this, but Morey Road is
12 paved at a certain part and then it is
13 unpaved, and there is a section adjacent
14 to the property owned by the Johnsons
15 which then comes into the lands of the
16 State of New York.

17 You'll here today testimony and
18 documentation from the Nick Stoner Group
19 and the highway superintendent, and I
20 believe Mr. Yost, who is scheduled to
21 appear from the county, that this area has
22 been used pretty much forever as access
23 into the state park. It has been used for
24 snowmobiling, recreational purposes. It

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has been a fabric of the community for a very long time.

An area adjacent to the Johnsons' property has been marked do not trespass and it has been blocked off for use. The Town was sued by the Johnsons, and their attorney is here who may or may not want to speak tonight, claiming that his clients, the Johnsons own this land.

The Town had a survey commissioned by Ferguson and Foss, and this is the survey submitted by the surveyors, and this is Exhibit 4. It shows what the surveyor has determined to be the lands of the Johnsons and other people, and then the Town area, which the Town considers this road and this area, the access road, as town property. So let's not -- we want to be clear. This is considered Town property. However, there is a dispute with the Johnsons. I have spoken to their counsel, tried to avoid the dispute with some discussions, and that could not be

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avoided.

So now we are in the situation here where the Town, if it so chooses, after the hearing and after finding or doing more investigation work as part of this process of determining whether to take this land by eminent domain, and then obviously pay, make an offer to pay the Johnsons the fair value, if they own the property. We are going to have another title search done, and if that title search shows that it is not the Johnsons, they will not be offered any money. But to keep this process rolling and to be able to get this valuable piece of land that has been used by the Town and its citizens for so many years as access to the state park, this process, unfortunately, has to be followed. So what we are going to do, the Town obviously has used this area as a public access road for state lands for many years. The main use is in the winter by snowmobilers to access paths

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2 onto the state land. The Town wants to
3 maintain and improve this area to make it
4 accessible and used as it always has
5 always been used. So the town is not
6 trying to change the apple cart here. We
7 are trying to put back what has been in
8 place and has been shown on maps and any
9 kind of documentation both on the state,
10 county and town level as town property.
11 So you may say well, why are we paying for
12 our own property? Well, the value that
13 will be offered will reflect the final
14 title search. So if the title search
15 confirms our belief that this land belongs
16 to the Town, there will be a no offer. It
17 will just be confirmation that the Town
18 owns it. If otherwise, then there will be
19 an offer and that is part of the process.
20 So we talked about the lawsuit, and this
21 will avoid the lawsuit as well and save
22 money and expense and time for the Town.
23 Identification of the project
24 location. So the road exists, it is

LAURA A. COUCH
(518) 495-3830

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2 currently, and this is an as survey road.
3 So the intended project is to literally
4 continue using the area that has been used
5 historically without objection by any
6 properties owners, without any objection,
7 and to at this point where the objection
8 has been raised, this area here which is
9 in yellow, which people can inspect at any
10 point, that is the area that will be
11 taken. The affected precise tax map
12 location that will be impacted will be
13 SBL 67-1-13 owned by the Estate of Suzanne
14 Walsh, deeded to the Johnsons, and
15 SBL 67-1-4 owned by the Johnsons, and SBL
16 67-1-5 owned by the Johnsons.

17 We are going to have presentations
18 by several people, including our highway
19 superintendent. So with know further ado,
20 if we could have a discussion on your
21 perceptions as to the need for the Town to
22 undertake this process.

23 MR. PUTNAM: Steve Putnam, highway
24 superintendent.

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2 As Sal has told you and you well
3 know that this has been used for years and
4 years, this road, and it is referred to as
5 a road in any deeded maps that you see. I
6 have been privy to some of the deeded maps.
7 It is always referred to as a road, and we
8 have belief of history to back when that
9 Young's Clearing, which was well beyond
10 this property which accessed this road,
11 and there was logging companies back
12 there. There was actually a sawmill and a
13 little settlement back there. This road
14 was actually built probably by those
15 people back in the 1800's. So this has
16 been around for years and years.

17 Personally, as a lifelong resident,
18 we have used it as far back as I can ever
19 remember. Medleys had a farm right at the
20 end of the paved area there with horses
21 which we rode horseback back there. We
22 hunted back there. We have snowmobiled
23 back there. We hugged back there. As kids
24 we rode bikes back there.

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So this road has historically been here forever from what I can figure. Some of the elders in the Town could tell you that further back than I could even.

MR. FERLAZZO: Steve, can you identify the manner in which it would be used in the future? Would it be the same as it has in the past?

MR. PUTNAM: Definitely. Definitely, as far as we are concerned, I would do a little upgrade on it as the Town, without a doubt, but other than that, it would be a seasonal use road, seasonal highway use.

MR. FERLAZZO: But you are not going to expand the footprint of it --

MR. PUTNAM: No.

MR. FERLAZZO: -- to any wider than it is now?

MR. PUTNAM: No. It is not my intention to widen it in any shape or form other than to grade it out, make it a little bit leveler, passable. Because obviously, when this all came about with

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the Johnsons, they was logging the property, so the log trucks had gone in and out of there, which I participated in, too, by the way, and the road was tore up by the log trucks pretty good beyond this, where he has a gate area. So obviously, that would need to be graded in, which would be the intent, as far as I'm concerned on the Town's behalf.

MR. FERLAZZO: So the intent will be to follow the footprint shown on the surveyor's line --

MR. PUTNAM: Yup.

MR. FERLAZZO: -- as the occupied road.

MR. PUTNAM: As it is, yes.

MR. FERLAZZO: You are not expanding it up or down on that map?

MR. PUTNAM: Negative.

MR. FERLAZZO: Thank you.

We have a presentation, I believe from Nick Stoner. Why don't you state your name for the record. I know it is

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Mr. Ibancic.

JOHN IBANCIC: Ibancic.

MR. FERLAZZO: Ibancic.

JOHN IBANCIC: I-b-a-n-c-i-c.

MR. FERLAZZO: Okay.

CRAIG IBANCIC: I would like to
make just a comment before John goes.

MR. FERLAZZO: Yes.

CRAIG IBANCIC: My name is Craig
Ibancic, president.

For those of you that don't know
me, I'm Craig Ibancic. I'm president of
Nick Stoner Trailers. I just want to make
everybody aware that for years we have had
agreements with the County, operating
agreements to groom that portion of the
Morey Road, and we also have a stewardship
agreement with the Department of
Environmental Conservation also to do work
on the state land past the Morey Road.

MR. FERLAZZO: Would you like to
make those contracts part of the record?

CRAIG IBANCIC: I would, but I need

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to give you copies of them.

MR. FERLAZZO: Well, we can make copies for you.

CRAIG IBANCIC: And then we also have records on file of the labor, of hours that we spent maintaining that over the years. So if that is something else that is needed, we can compile that and get that to you.

MR. FERLAZZO: I don't know that we need the hours, but I would like to have, because Mr. Yost and I spoke, and he also confirmed, the county highway superintendent, and he was intending to be here tonight.

MR. PUTNAM: He is here.

MR. FERLAZZO: Okay. So we will hear what he is going to say.

So go ahead.

CRAIG IBANCIC: That's all I have to say. The rest is going to be John, but we will make copies at the end.

MR. FERLAZZO: Yes. We would like

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them as part of tonight's presentation.

JOHN IBANCIC: We will try the projector. I don't know if it is going to be bright enough. But what I'm going to do is I'm just going to show how the state trail system works and explain what the difference in the trails, and show you the importance of why this trail comes into our town.

So I'll start off here. I don't know if everybody can see this or not. But this area here is the section that Nick Stoner's Trailers groom. It is a pretty much a majority of the Town. Anything that is orange is called a corridor trail. You can think of the corridor trail kind of like your thruways or your major roads. They are designed for more traffic and they are designed to connect community to community. So if you look, coming through here, this is coming out of Oppenheim, coming out of Stratford, coming out of Piseco. Coming down, there

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2 is no way to get into our Town through the
3 corridor right now with that trail shut
4 off.

5 So what we do have is we do have
6 what we call secondary trails. The people
7 are like well, you could take the
8 secondary trails in. Yes, you can. The
9 secondary trails are not designed for as
10 much traffic, they are generally narrower,
11 more curvy. What they do is, if you
12 notice, this secondary trail ends up on a
13 lake, and this secondary trail comes down
14 and it actually has to go down to Newkirk
15 Road, and it has a lot of road, and then
16 when you get off the road, you also end up
17 back on a lake. So if we have low snow
18 situations or thin ice situations, our
19 town is blocked off from this section of
20 the state. The only way they can do it is
21 they would literally have to go all the
22 way down to Sammons ville, all the way up
23 past Peck Lake up to Bleeker.

24 So the importance of the trail also

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2 is in here we have up to seven food stops
3 and two gas stops. The closest gas stop
4 after this is Mayfield. There is one
5 possibly this year up here in Pleasant
6 Lake, maybe they will have one, but other
7 than that you almost have to go to
8 Dolgeville or go all the way up to _____
9 Center. So if your people try to come for
10 tourism to try to promote the Town, you
11 are kind of limiting people to come in
12 here. If they had to come in this way,
13 you are talking a lot of miles without
14 having a stop for gas.

15 Now Mayfield people, they can come
16 up, but they really, unless they want to
17 go up and around, they can't get into this
18 section of the state. Again, the orange
19 is your corridors. And I'll leave this
20 here if anybody wants to look at this
21 afterwards. The oranges are corridors and
22 then the purples in here, the purple
23 colors are what we call club trails. Those
24 are our trails that we don't get funded

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2 from. Those are the Nick Stoner trails.
3 And then I made these dark blue. These
4 are the secondary trails that we do get
5 funded. But again, those are kind of
6 think like if you are going down the
7 Thruway and all of a sudden you got to
8 Little Falls and we cut the Thruway off,
9 you would have to jump off the Thruway, go
10 down through 5 or through the towns and
11 have to get around. So that is what we
12 have right now. And again, low snow it is
13 very difficult for people to come into the
14 town.

15 The club has been established since
16 1974. This is the map. Again, you can
17 see here is the dotted line. This is the
18 section. This section back here is
19 actually the back side of the Morey Road,
20 which we talked about Youngs Clearing.
21 This is Youngs Clearing here, and this
22 section is controlled by Stratford. So,
23 like, again, this is coming out of the
24 north, so it would come out of Speculator,

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2 it would come out of Piseco, over here
3 come out of Powley Road, which is another
4 big seasonal road, a main snowmobile road.
5 This is a major connector to get to the
6 western and northwestern part of the
7 state. So right now this section of the
8 state we can't -- they can't go here, they
9 literally have to come down the secondary
10 through here. But again, you are going
11 across about two and a half miles of ice.
12 That is all right as long as it is froze.
13 Then when you get off here you come down
14 to the golf course and there is some road
15 riding here. Again, if you have low snow
16 situations and the roads are plowed, which
17 they are, the maintained roads, we can't
18 ride up on the banks. You are trying to
19 have people bring their snowmobiles down
20 through bare pavement. Or the other
21 option they would have to come all the way
22 down, take this secondary, which drops us
23 down by where the maple tree knoll is, and
24 then you would have to ride through the

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woods and then you have the section of road here, and then you have another section of road here, and then again you are back on lake.

MR. FERLAZZO: Could you show us where the Morey Road trail is as it relates to the intersection to the Johnsons' property and the state?

JOHN IBANCIC: Well, here is the road. I would say the state property, I think is the green here. Can you see it? It is kind of hard to see, but it is in here. It is white. This is kind of a white area here.

MR. FERLAZZO: There is an arrow there. Where is it compared to the arrow.

JOHN IBANCIC: Right about there.

MR. FERLAZZO: Below the middle part of the arrow?

MR. IBANCIC: Yes. This is all state here.

MR. FERLAZZO: Okay.

As much as you can, when you say

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this, it is hard to remember what this means.

JOHN IBANCIC: Okay.

MR. FERLAZZO: So try to be descriptive as much as you can.

JOHN IBANCIC: Okay.

The green section here is what we consider state land. The white section would be private land. And this, the dotted line here is the section that is now blocked off.

JAMIE WARD: Forgive me for the interruption. I'm Jamie Ward, Mayor of Mayfield.

The space or the span of land that we are talking about that is separating this trail from connecting the rest is how far?

JOHN IBANCIC: The span of the trail separating from here?

JAMIE WARD: The land in question this evening.

JOHN IBANCIC: I'm guessing two to

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three miles.

DAVID BRIO: It is 3.7 from the end
of Morey Road.

JAMIE WARD: The land for the
eminent domain hearing is how far?

JOHN IBANCIC: That I don't know.

MR. FERLAZZO: It is on the survey.
It is hundreds of feet. We are not
talking miles.

JAMIE WARD: I'm giving perspective
to what he is talking about on the map
here.

JOHN IBANCIC: Right.

JAMIE WARD: We are talking hundreds
of feet that is separating all of these
trails?

JOHN IBANCIC: Yes. 100 feet would
be separating about 3.7 miles.

JAMIE WARD: Thank you. I just
wanted some perspective.

JOHN IBANCIC: Other than that, that
is pretty much the overview here.

One other thing I would mention is

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if you look at this map, Caroga Lake up in the this section of the Adirondacks is really kind of the hub. If you look, if you are coming through here, again, if you are coming out of the Mayfield area, we have in this area, we have the most stops and gas and we also have a repair shop, Northeast Snowmobile is right off Morey Road, too. So we have all the amenities that we are looking for in the snowmobile system, but right now it is very difficult for people to get to these things. Okay. That would it for me. Thank you.

MR. FERLAZZO: We are going to mark them, the hard that he showed as Exhibit 5 and could you send us a copy of that presentation from the computer as part of the subsequent hearing?

JOHN IBANCIC: Yes.

(Map was marked as Exhibit 5.)

MR. FERLAZZO: I have not scaled this. This scale is one inch equals 100 feet, and it is blown up, obviously.

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It probably is 16 inches, so maybe
1600 feet. It is hundreds of feet.

As shown in Exhibit 4, it is from
the state land and it is only over a
couple of parcels. So it is not miles,
but you are talking about a critical
interference with the entire system.

Mark, could you come on up. Mark
Yost.

MARK YOST: I'm Mark Yost, the
Fulton County Highway Superintendent.

I've held this job as highway
superintendent since 2007, so I have been
here roughly ten years, and all the years
I have been there we have had a contract
with Nick Stoner Trailers and the other
clubs. We have always used Morey Road.

I looked through some old maps and
I found a 2009-10 map that I'll leave with
you.

MR. FERLAZZO: We are going to make
it Exhibit 6.

(Whereupon, Exhibit 6 was marked

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for identification.)

MARK YOST: I'm sure there are older maps around, but this is the oldest one that I just happened to find.

JAMIE WARD: What year is it, please?

MARK YOST: 2009-10. It describes, as other maps will describe Morey Road as a corridor trail, which is a primary trail. Like Mr. Ibancic said, it is like a thruway road. That is what it is. It is the highest level of trail you can have in the state. I'll leave that with you.

But like I said, we have had a contract with the Stoners and the other clubs that I personally know of, I personally signed, I personally brought to the Board of Supervisor and they passed resolutions authorizing this and endorsing this effort to stimulate the economy in the county. That is why we do it. It is great for tourism, it is great for restaurants and gas stations and hotels.

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You know, it is very, very important to Fulton County, and that is why the supervisors, it is a great program for them.

Like the trailers indicated, they spend hours upon hours in the woods. They trim brush, they groom trails. In the wintertime they buy equipment and the state reimburses them for this program.

The only other thing I would say is is that Mr. Putnam indicated that people have been using this road since before he was a kid. All I can speak to is what I know, and like I said, we have been doing this for ten years, have a great relationship, a great return on the investment, I believe. New York State Parks and Rec, they started this program in 1986, and every year since its inception the Board of Supervise has endorsed this and signed contracts with the clubs.

MR. FERLAZZO: Do we have the

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contracts from the Stoner Group.

CRAIG IBANCIC: That is what I have.

MR. FERLAZZO: You have them?

CRAIG IBANCIC: I can give you copies.

MR. FERLAZZO: Why don't we, while we are here, introduce it as part of the proceedings. We will get it back to you.

CRAIG IBANCIC: Do you want this one from DEC, too?

MR. FERLAZZO: Sure.

(Whereupon, Exhibits 7 and 8 were marked for identification.)

MR. FERLAZZO: Do these go together, these two sheets?

CRAIG IBANCIC: One is the actual contract and the letter is an extension of the contract.

MR. FERLAZZO: We will include it as one exhibit. So what is Exhibit 7, sir?

CRAIG IBANCIC: That is the operating agreement with the County.

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MR. FERLAZZO: And that is dated
4/26/16.

CRAIG IBANCIC: That is for this
year.

MR. FERLAZZO: Signed by the
Chairman of the Fulton County Board of
Supervisors, yourself?

CRAIG IBANCIC: Yes.

MR. FERLAZZO: Craig Ibancic and
Jason Brott, the county attorney, and that
relates to the very section of the road we
are talking about?

CRAIG IBANCIC: That is involved
with that agreement.

MR. FERLAZZO: Part of it?

CRAIG IBANCIC: Yes.

MR. FERLAZZO: What is Exhibit 8?
That is the agreement with the DEC?

CRAIG IBANCIC: That is the
agreement. Again, this is the ability to
do work on the DEC lands after the Morey
Road.

MR. FERLAZZO: That is past the

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area?

CRAIG IBANCIC: Right.

MR. FERLAZZO: So it is in
conjunction with Exhibit 7?

CRAIG IBANCIC: Correct.

MR. FERLAZZO: Now, the Town has
been, as part of any process, there is a
SEQR process, and this is part of the SEQR
process, to determine the environmental
impacts, if any. The Town at this point,
based upon the fact that there is no
change in use whatsoever, this is virtually
keeping the status quo as it was before
this area was blocked off, as it is in the
process of determining whether there is
any impact other than a negligible impact.
This road has been in use for many years.
This is simply formalizing the status quo.
The project does not involve the widening
of the road, thus it has minimal
environmental impact while greatly
improving the ability of New York State
residents and obviously local residents

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included to access trails within the state park. Because the road is an access point for snowmobile riders, there is no concern regarding cars in the area or other motorized vehicles, and noise pollution is not expected to increase due to this measure.

Is there insurance also in effect? Could you explain that, sir, either one of you?

CRAIG IBANCIC: We get from New York State Snowmobile Association, we are given liability insurance for that portion of trail that we work on.

MR. FERLAZZO: So that would be part of and eventually the Town will undertake a SEQR determination, based on impacts determined here there is another investigation.

Now, the project acquisition process, let me explain that because I want to get to public comments. That is really the most important thing today.

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Prior to this point the Town was engaged in negotiations and communications with the Johnsons and as affected parties attempted to resolve this without the need to start eminent domain. Due to the failure of negotiations with that party, the Town has decided that this is an option that it may pursue, assuming that the Board passes a resolution to that effect.

The eminent domain process is as follows: Following this hearing the record will be available for reviewing and copying. The Town will issue a determination of findings, and findings within 90 days. No later than January 10, 2017, although it is anticipated it will be done well before then. The intent is to do it as allowed by law. So that is just an outside date for your information. Following this the Town will offer fair market value determined at the time of the offer for the land, and the effective

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property owners will have the right to challenge the findings and the determinations of the Town as well as the sufficiency of the offer.

At this time I would like to enter into the record the exhibits that we have discussed, 1 and 2. I haven't shown Exhibit 3 yet. I'll identify what Exhibit 3 is. Exhibit 3 are certified letters. It is a group of certified letters that were sent to the property owners along this area with the Notice of a hearing. I also sent a courtesy copy to the Johnsons' counsel, Mr. Ayers, who is here today, just as courtesy. So that is Exhibit 3. So at this point I would like to introduce Exhibits 1 through 8 into the record. So accepted?

MR. STURCHIO: Yes.

MR. FERLAZZO: At this time we are going to open the floor -- oh, there are other documents. There are a couple of documents that we received prehearing and

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I want to mark those and then introduce those as well as.

We have a letter from Angela Meredith, one of the adjoining properties owners. And then the next one will be a note from a town historian. And I'll read those into the record.

(Whereupon, Exhibits 9 and 10 were marked for identification.)

MR. FERLAZZO: Number 9 is a letter from Angela J. Meredith. "To whom it may concern. Dated October 1, 2016. I'm writing this letter as I have a prior commitment on the day of the public hearing, October 12, 2016. I do hope that you are able to read my letter at the meeting as this topic is very important to me.

I live at 201 Morey Road, Caroga Lake at the base of the snowmobile trail. I absolutely love this town and my house. I was told when I moved here in 2005 and purchased my house that I was crazy. You

1
2 aren't going to live there. There are
3 snowmobiles going by all day and night and
4 they make a lot of noise. You will hate
5 it. Well, let me tell you that I reply no
6 problem they were here first, I grew up on
7 snowmobiles and it will be fine, and it
8 was. It was nice seeing people out having
9 fun, not home on the couch. They were
10 enjoying our great outdoors. Some of them
11 are even my friends who would wave as they
12 drove by. I'm not really sure why all
13 this has happened. Someone owns some
14 property, so do a lot of people. No
15 snowmobiles has ever caused me any grief.
16 They have always been respectful of my
17 property. With all due respect, I feel
18 the trails should be open to the
19 snowmobiles, people walking and snowshoeing,
20 etcetera. It is a trail/road in the
21 Adirondacks that needs to be utilized.

22 Thank you for listening. Angela J.
23 Meredith, landowner." That is Exhibit 9.

24 Exhibit 10 is a handwritten letter

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from Richard Nilsen, the town historian dated 10/12/16.

"Although I am unable to attend tonight's meeting, I would like to state the right of way for Morey Road to state land dates from the early 1800's, signed by Nicholas Stoner, among others. It has been a known and well-used road and right of way all my life and was used to access BRI treated streams for the Town as well as hiking and snowmobiling. Richard Nilsen, town historian."

If anyone wants to submit written materials afterwards, they will be accepted. So that is part of it. Your written materials are important and they will be accepted.

So now the floor is open for public comment. As a record of this hearing is being kept, please speak clearly and slowly to allow the court reporter to accurately capture your comments. Please introduce yourself and spell your name

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when you approach the front. There is no microphone here. As a reminder, public comments are generally limited to three minutes per commenter and will proceed in at orderly fashion. All public commenters must be civil and respectful, and we hope that is the case. Obviously, we have the option of removing people if they aren't respectful. This isn't a presidential campaign. Just be nice to each other.

Written comments and documents will be received at the Town Clerk's office up until the close of business on October 19. So rush in here and get those in. Any written comments or documents received will become part of the record.

So what we would like you to do in an orderly fashion, sort of like church, we will go this row and then we will go that row. Sign your name and print it so we know who you are. And who would like to go first? Anybody let's say this row. Nobody? Second row? Third row? Yes, sir,

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come on up. Write your name down, and if you can stand and speak here so everybody can hear you and our court reporter can take down all the words.

DAVE BRIO: My name is Dave Brio. I'm the past president of Nick Stoner Trailers, and I would just like to mention that being that that portion of our trail is closed, it also affects Stratford's Snowmobile Club from the west because when that trail got closed, they lost mileage coming from the other direction because they usually came the Youngs Clearing and turned around there and we went to Youngs and turned around and came back. So those, that club there also lost like three miles of funded trails, which is a fair chunk of money that is being given those people to work and do the things that they do on the trail, because there is a lot of tree cutting, there is a lot of blow-downs that have been done, bridges have been built. As a matter of fact, on that Morey Road

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trail we built a bridge the year that the
guy cut -- he shut us down. So we had
spent money to do a bridge job and stuff
like that and we never got to use it.
Thank you.

MR. FERLAZZO: Anyone else on that
side? You, sir.

JAMIE WARD: Jamie Ward. I'll put
my town because I'm not from Caroga.

My name is Jamie Ward. I'm the
Mayor of Mayfield, New York. I have been
Mayor there for five years now. One thing
I wanted to come out here as a community
leader and somebody that is very connected
to our trail clubs and our snowmobile
enthusiasts and our small business owners,
our restaurants, our gas stations, our
mechanics and everyone else that opens up
their doors every morning hoping for
somebody to come through them.

Last year, as you know, we had a
pretty horrible winter. Mayfield itself
was affected quite drastically. Lucrative

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restaurants like Lanzi's had the worst years ever in history. Both Lanzi -- all three Lanzi restaurants, two of them in Mayfield, suffered their worst year ever. A record loss of sales, record loss of revenue. How do you think that impacts the people that want to open up a little diner or a gas station or somebody that just wants to, you know, do maintenance on your snowmobile or a little gift shop.

I could tell you, you heard in testimony today, how to the west with Stratford you are kind of landlocked. Nobody can come in. I can tell you the same thing for your friends to the east. It is not just about snowmobilers. It is not just about noise. It is not just about a few hundred feet of land that is literally separating the Adirondacks from not only locals but people that come to the entire Northeast and want to ride our trails, spend their money here and thrive our economy. We don't have much to offer,

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but we do have our beautiful land, our beautiful trails, our summer life and now for hiking, backpacking and our snowshoers and snowmobilers for our winter life.

So a lot of people get a caught on an issue down to a micro level of well, it is the snowmobilers and snowmobilers, it doesn't matter. I can tell you every diner and restaurant in Mayfield, Northville and the surrounding towns around our lake community are affected when a trail isn't open or low snow conditions exist. Last year was record low snow conditions probably in the last decade. Every place in town absolutely had their worst year ever. People that were struggling, people that were thinking of closing. This has a greater impact that just a few hundred feet of land. I can tell you that, you know, first hand. I just want you to all consider that with your comments, your passion to bring forth, your neighbors, your friends, your

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family, this has a much greater impact.

This is not a small trailer where a few people recreationally pass through, you know, just when they are out with their kids or their friends or a Sunday afternoon. This is literally the thruway that connects the rest of the trail system throughout our area. As you were told by the folks from Nick Stoner, the nearest gas station is Mayfield to the east. We are all impacted. This is a greater impact than probably you folks have imagined before this. So please, I ask you all to put your support forth, think about the big picture here for what it is. It absolutely is the right choice to make and the right decision to go forward. And I commend the people of this Board and the people of Caroga Lake. Thank you.

(Applause.)

MR. FERLAZZO: Keep on going down that road. Anybody on this side want to come up?

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RON PALCOVIC: He said it all.

MR. FERLAZZO: Why don't you give your name for the record because that is part of the record.

RON PALCOVIC: Ron Palcovic,
10 Caroga Lake.

I would like to thank the Mayor of the Village of Mayfield for coming and presenting the huge economic impact that this particular case presents. And for that I thank you for your time and thank you for everybody else for showing up and supporting this mission.

GAIL FISHER: Gail Fisher. I just wanted to say that, you know, some of you may know Nate and I from the Nick Stoner Inn. That is a summer business. We never had the opportunity to host the snowmobilers, but now we are at the Pleasant Lake Inn in Stratford. This trail is very important to our business. I spent the last two days painting a 500 gallon gas tank full of 91 premium

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non-ethanol gas. I really want to see everyone come and enjoy it. I hear that we are going to have a great winter, I believe. And so yes, the Morey Road access point is very important to business and, you know, on a personal note, you know, we throw a party every day and it is a good time. So I guess that is it.

MR. FERLAZZO: Anyone else? Yes, sir. Come on up.

HOWARD DUTCHER: For those that don't know me, my name is Howard Dutcher. I live at 158 Morey Road. I have lived on that road for 40 years. I'm a past Nick Stoner president from the mid-80's to the early 90's. I actually enjoy listening to the snowmobilers come up and down that road. I kind of missed it for the last couple of years.

I rode that trail since probably '73 myself. It always has been a trail. There has never been any issues. Everybody has always respected it. There is not

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garbage and litter all over it. We used to physically walk the trails and inspect them at the end of the season. So, you know, it would be a shame to not see that reopen. That is it.

MR. FERLAZZO: Anyone else on the left side?

(No response.)

MR. FERLAZZO: Let's go to the right side then. If you change you mind you can come up later. We are just trying to make it quicker.

Anybody in the front row? Anybody at all? Anybody at all on the right side? That is the quiet side. It was the quiet side.

MARY ANN MCLOY: Until. Mary Ann McLoy.

I started riding in the mid-70s' on Morey Road with the snowmobile club, and I would have to say early 2000 it was, I happened to get back into riding and found over 500 feet on Morey Road that I then

1
2 bought and became my summer home and my
3 winter home. And it completely broke my
4 heart when Kenny Cronin then contacted my
5 husband that we had this guy that was not
6 going to allow us to use the corridor
7 trail, which like the club has said is the
8 life of -- I snowmobile here in the north
9 and I live in Duanesburg and snowmobile
10 there. We talk about it and are having a
11 normal club meeting down there tonight in
12 Duanesburg and on the board down there and
13 just understanding that this cutoff is a
14 lifeblood for even our snowmobilers down
15 in Duanesburg. They ride all the way from
16 Duanesburg, all the way up into the north
17 area here. So it is a major issue if we
18 can't go ahead and get this through. I
19 agree I have over 500 feet there that the
20 snowmobile trail goes right through. So I
21 can't see why this issue is. Like I said,
22 I have been riding that since the 70's as
23 well. We haven't had an issue.

24 MR. FERLAZZO: Thank you.

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Anybody else.

MR. AYERS: Yes. I would like to speak.

MR. FERLAZZO: Of course. Can you sign in.

MR. AYERS: My name is Kenneth Ayers. I'm an attorney. I have an office in Palatine Bridge, New York. I'm appearing here tonight on behalf of three different individuals who own property on Morey Road.

Charles J. Augusto, Jr. and his wife Mercedes who own land on Morey Road on the north site. The estate of Suzanne L. Walsh, who owns land on the south side of the roadway that is being proposed as a trail. And Charles F. and Helen Johnson.

Now, I understand that from tonight's meeting that the only thing the town is proposing to take is this area in yellow. And they mention the fact that Johnsons own two parcels. In fact Johnsons do not own this parcel. That is

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owned by Kevin Johnson, a different family all together. The Johnsons own this. The estate of Walsh owns this and Augusto all of this.

We dispute the town's claim that they own the land that forms the bed of this road all the way from where the pavement ends, all the way to the state land. So our contention in the lawsuit with the town is over who owns the bed of the road. It has been going on for two years. I found it very interesting tonight to say -- to hear that the town historian has documents, the town attorney has documents. Everybody has documents to prove the title. The county highway superintendent has title, the highway superintendent has documents. We have asked and we have been waiting for two years to receive any proof, any documentation whatsoever from the town of Caroga about their claim of title to any of this land from the end of the pavement

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2 to the state road. We have received zero
3 documents. We have not been provided with
4 a single document. What you are seeing
5 here tonight with this eminent domain
6 proceeding is an end runaround. The
7 position of the town which says they own
8 it when they know they don't.

9 Now, Charles J. Augusto, Jr. and
10 his wife Mercedes received a notice that
11 their land was going to be taken by
12 emanant domain. Their land is here, not
13 here. So obviously, the notice that was
14 sent out by the Town was not clear and was
15 confusing, and even the Town itself didn't
16 know what it was they were taking when
17 they sent out the notice. So how
18 effective can that notice be?

19 I would like you to know that the
20 Augustos have owned their property since
21 1969. They own four parcels in the Town
22 of Caroga, three of which are directly
23 affected by the Town's proposed taking 0of
24 a 15-foot wide strip of land and a fourth

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parcel which is indirectly affected by this proposed taking.

In the documents that I'm going to submit tonight there are maps and charts that show the location of each of my client's property and how it relates to the location of the land we understood was proposed by the Town to be taken by eminent domain and the land that is in dispute between the Johnsons and other landowners and the Town with regard to the ownership of the bed of what the town claims is a town public highway.

Altogether, the Augustos own approximately 152 acres of land that will be affected by a proposed taking of a portion of their private property located within this 15-foot strip.

The estate of Suzanne Walsh is the record title owner of one 40-acre parcel of land here in the Town of Caroga. Charles F. Johnson and Helen Johnson have an equitable interest in this 40-acre

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2 parcel as beneficiaries under the will of
3 the late Suzanne Walsh. Charles F. Johnson
4 and Helen Johnson are the record title
5 owners of another 45-acre parcel of land
6 which is here and comes back this way.
7 Their entire parcel is not shown on his
8 map, as is the entire parcel of Augustos
9 are not shown, nor is the entire parcel of
10 Walsh as shown. Why is that important?
11 Because one of the things that this public
12 hearing is supposed to do is to demonstrate
13 and illustrate what the affect will be on
14 the land that is proposed to be taken as
15 well as adjacent land. The Town doesn't
16 even know whether adjacent land of these
17 people who I represent is located by
18 virtue of the map that they have submitted.
19 It is an incomplete map.

20 Together the Augustos, the
21 Johnsons, not Kevin Johnson, but Helen and
22 Charles and the Estate of Walsh own 68
23 percent of the private land proposed to be
24 taken by the town under this eminent

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domain proceeding and own, as I said, approximately 240 acres of land that is going to be affected by this taking in terms of access and loss of ownership of the property.

In response to one person's question about what is the distance that is affected, we have heard a couple of hundred feet. That is completely wrong. The distance by using this map, I calculated the distance from the end of the pavement to this point as state land, it is roughly 3,000 feet. There is 5,280 feet in a mile, so that is three $\frac{3}{5}$ of a mile of private land that is proposed to be taken by the town.

I wonder if I could get a glass of water?

MR. FERLAZZO: Sure. You have to pay for it.

MR. AYERS: That will be fine. Ms. Gilbert and I have a wonderful relationship. I can send her money. I didn't expect to

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come to a sauna.

Let me just talk a little bit about the purpose of a public hearing. One purpose of the public hearing is that the Condemnor, the town in this case, needs to outline the public need to be addressed and the nature and scope of the proposed public benefit to be served by the proposed taking of private property. Among other things, the Condemnor is required to outline the public purpose to be served, the proposed location of the taking, alternative locations which were considered in order to meet the perceived public need which requires the taking of this public land, and to provide other pertinent information, including maps and property descriptions, not only of the private property to be acquired but of adjacent properties which are likely to be impacted by the proposed taking. In other words, to fully inform the public of the need, the public purpose to be served and the

1
2 nature, scope and impacts of the proposed
3 taking. The public hearing should also
4 inform the public of the information that
5 was gathered and considered by the Town
6 which supports the Condemnor's decision to
7 exercise its extraordinary power to
8 forcibly acquire and take private land
9 from private owners by the process of
10 eminent domain.

11 Now, I sat through the hearing
12 tonight. I saw all of the anecdotal
13 information that was provided by members
14 of the Stoner Club and others and the
15 Mayor of Mayfield, and all of that is very
16 interesting, but unfortunately, that
17 information provided by the Town and the
18 Stoner Snowmobile Club simply falls far
19 short of the requirements of the eminent
20 domain procedure.

21 The second purpose of this public
22 hearing is for the members of the public,
23 including the affected landowners, to
24 express their support or opposition to the

1
2 proposed taking and to provide information
3 useful to the Town in deciding whether it
4 should move forward with its plan to take
5 this private land. However, the public
6 notice placed in the paper and the
7 individual letters sent to the private
8 land owners who would be directly affected
9 by this taking did not provide the
10 information necessary for any member of
11 the public or any of the directly affected
12 landowners to know the full scope and
13 nature of the proposed taking. In fact,
14 the public notice that was provided was
15 defective, didn't comply with the eminent
16 domain procedure law, and the estate of
17 Walsh never received any written
18 notification from the town at all.
19 Scheduling the public hearing to coincide
20 with the Jewish holiday, Yom Kippur, also
21 effectively precluded some members of the
22 public from an opportunity to hear and be
23 heard at this public hearing.

24 Until attending the public hearing

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2 tonight, directly affected landowners like
3 my clients and members of the public could
4 not know the full scope of the project,
5 the proposed use or public benefit to be
6 served or the information which formed the
7 foundation and basis for the Town's
8 decision to proceed with forcibly taking
9 this private property by eminent domain.
10 Thus, my clients and the public are put in
11 a position tonight of attempting to absorb
12 for the first time during this meeting the
13 information which the Town is using as the
14 basis to support this decision to take
15 this private property and immediately on
16 the spot tonight to synthesize that
17 information in order to come forward with
18 their comments and objections or to
19 provide documentation which addresses or
20 challenges the contentions made by the
21 Town in support of its decision. Since
22 this is the only time the public will be
23 provided the opportunity to comment
24 directly, the process being followed is

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patently unfair and is not reflective of good government.

Now, on behalf of my clients we have prepared some specific written comments, observations and objections to the Town's proposed taking of their private property. Based upon what we understood prior to the public hearing to be the claimed public interest to be served by the taking and have gathered on short notice the publically available information which questions and contests the foundation and basis for the Town's extreme and far-reaching decision to exercise its power of eminent domain to acquire my client's private property.

At the conclusion of my comments I will provide to the clerk, I believe I should give to the town clerk?

MR. FERLAZZO: Well, why don't we just mark it as we have other exhibits. That would be part of the record.

MR. AYERS: We can do that at the

1
2 end of my comments, and I would like those
3 documents to be made a part of the record.
4 Our comments and submissions are
5 necessarily limited and incomplete given
6 that we could not know prior to this
7 hearing the full scope, nature and impact
8 of the proposed taking.

9 First, let me turn to the question
10 of what is the public purpose or benefit
11 to be served by this taking of private
12 property. In newspaper articles and in
13 prior Town meetings and tonight, I heard,
14 the Town claims the need to take this
15 private land to promote tourism by
16 providing snowmobile and I believe also
17 hiking access to state land. However, the
18 Town has offered no studies or data to
19 support its claim that there will be an
20 economic benefit to the Town by creating
21 this so called public access. There has
22 been no cost benefit analysis comparing
23 the revenue that may be generated by the
24 taking of this private property to create

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2 a trail versus the loss of tax revenue
3 caused by the taking itself, limiting the
4 access and negatively affecting the
5 potential development of nearly 240 acres
6 of land owned by my clients. The tax
7 revenues for 240 acres of land versus
8 economic anecdotal evidence of economic
9 impact. The Town has provided no hard
10 economic data to support or demonstrate
11 how this taking and trail project will
12 impact tourism or revenue. We have heard
13 plenty of anecdotal information but no
14 evidence. The only notion that supports
15 the Town's claimed need for this trail to
16 promote tourism is the speculation and
17 whimsical hope that, quote, "if you build
18 it, they will come." The facts are
19 contrary to what the notion would have you
20 believe. There is no study or evidence
21 that existing trails do not provide
22 sufficient access to state trails and
23 state land or that a new trail would
24 increase tourism. I listened carefully to

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2 what Nick Stoner Snowmobile Club said with
3 regard to the reasons why they need it.
4 One of the reasons was convenience to the
5 Stoner Snowmobile Club. The convenience
6 of a snowmobile club, a private entity,
7 simply cannot trump the property right of
8 landowners who have title to property and
9 have paid taxes for years, in Augustos' case
10 since 1969.

11 There are five existing designate
12 snowmobile trails in the Town of Caroga
13 and nine existing recreational hiking
14 trails located in the Town of Caroga. You
15 might be interested to know that snowmobile
16 registration is down statewide.
17 Snowmobiling is not a growing but a
18 declining recreational activity.

19 The proposed trail to be created on
20 the land taken from my clients, despite
21 what you've heard tonight and despite this
22 map that was up here earlier showing the
23 New York State trail system, which is an
24 undated map, we don't know what year that

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was taken from, I can tell you the proposed trail will not connect to any existing snowmobile trail currently on state land in this location. There is simply not a snowmobile trail on the 2016 state map showing designated snowmobiling state trails. It is just not there. So the Town is trying to create an access point to state land to connect to a snowmobile trail that doesn't exist on state land. The action of the Town in taking this private land for a public snowmobile trail is totally at odds with and contrary to the policies of the State DEC, the Adirondack Park Agency, and the New York State Office of Parks and Recreation, who after years of study determined that the power of eminent domain should never be used to acquire private land to develop snowmobile trails, citing, among other things, the many negative impacts on adjacent private lands. I would note that New York State has not

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2 condemned any private land for a public's
3 used snowmobile trail since 1989. There
4 is also no showing made here tonight that
5 the Town has considered any alternative
6 location for a proposed trail which would
7 not require the taking of private property.
8 That is a single, one of the most single
9 most important elements of a public domain
10 taking is that you have to show that you
11 considered alternatives. The Town has not
12 considered them. And what do we know? I
13 heard tonight for two years you haven't
14 been able to use this. I heard tonight
15 that you have to go over the ice to go
16 from here to there. There are other
17 alternatives on public land to get where
18 you want to get. You should not be using
19 public power to take private land.

20 The taking of the proposed trail
21 project is not designed to address an
22 existing public health, like a safety
23 issue in the Town of Caroga. The taking
24 of my clients' property for this trail is

1
2 driven by commercial interests. The
3 Town's power to take land for public
4 benefit is being subverted solely to
5 accommodate the private commercial
6 interests of nearby -- of certain nearby
7 commercial landowners and a private
8 snowmobile club. The taking of private
9 land for the benefit of promoting
10 commercial private interests is an abuse
11 of the Town's power of eminent domain.
12 I'll asking you when was the last time the
13 Town of Caroga saw fit to use its power of
14 eminent domain to forcibly take private
15 property? To my knowledge the answer is
16 never. Is the Town's willingness to
17 exercise eminent domain to promote private
18 commercial interests the kind of precedent
19 that the Town of Caroga really wants to
20 set? Where will such a precedent lead?
21 And what are the implications for private
22 land owners in the Town of Caroga when the
23 next big things comes along. We might
24 need a boat dock, we might need a marina,

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and your land might be in the way.

There also has been no scope, no clear scope of this taking. There is no clear discussion of the manner of public use or the restrictions on public and private use. Now I heard tonight the Town highway superintendent say that the proposal is to leave it as it is and use it as a seasonal, limited use road which could be used by motor vehicles off the street, your car, my car, your truck, it could be used all year long, but the town does not have the responsibility to maintain it between December 1 and April 15 or April 1st. So it is a public highway. That is what he says they are going to do. I didn't know that until tonight. So we have an issue here. Where do the people who drive down that road turn around in a 15-foot wide right of way without getting on private property. Are you not encouraging people to come down to a dead end street, because you can't drive those

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vehicles on state land, and then having to back out 3,000 feet before they can turn around. This is a serious public safety issue.

We don't know whether the Town proposed to take by this eminent domain proceeding fee title ownership of the land, an easement or some other limited interest in the land. The public does not know prior to this public hearing whether or not the public's access over the trail will be restricted, regulated or otherwise limited. Landowners like my client gain access to their respective properties over the existing private road which is proposed to be taken by eminent domain for use as a public trail. Will their land become landlocked as a result of this? Every time a person builds a house on a parcel of land that is on a seasonal limited use highway, the requirement is that the town open it to a full-fledged public road. It can no longer be a

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seasonal limited use road. Is the town prepared to open this road up to be a full-fledged 49 1/2 feet road to provide access to Johnsons when they build their home there? Are you going to provide a turnaround someplace? And how are you going to acquire that? It is not part of this plan. There is no trailhead plan. There is no turnaround plan for snowmobilers or anybody else. It is a poorly conceived plan.

How will the public use and the restrictions on the public use of the trail affect the landowners' access to the property. I learned tonight that it looks like motor vehicles are going to be able to use it and trucks are going to be able to use it. Is that going to be by all of the public or just the owners who own property on that land? As I mentioned, where are they going to park? Where are they going to turn around? So we are going to invite people to drive up, park

1
2 their car in the right of way and then go
3 and enjoy the state land. So I'm in first
4 and you come in behind me and you go
5 camping. I'm stuck. This makes no sense.
6 There is just no common sense being
7 applied to this project. How will this
8 increased use, it is a major use area I'm
9 told. It has been historically used as a
10 major thoroughfare. How will this use,
11 trespass, damage and littering on adjacent
12 private property be prevented and the
13 liability of the Town prevented? What
14 will it cost the Town to first acquire
15 this property? And second, to improve,
16 maintain and install signage and regulate
17 the use and patrol the use of this trail.
18 These are all factors that have not
19 entered into the Town's concept or thought
20 process whatsoever. These are all costs
21 that are going to be annual costs that are
22 going to continue year after year. And
23 this mixed use of the trail by motor
24 vehicles, snowmobilers, hikers, landowners,

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loggers are incompatible uses. This kind of a proposed use will create safety issues and create liability for the Town.

I'm getting close to the end.

MR. FERLAZZO: Your three minutes are up.

MR. AYERS: I understand that, but there is nobody else more interested in the outcome of this project than my clients.

MR. FERLAZZO: No one is stopping you. We are just commenting that we will accept your written documentation.

MR. AYERS: Well, can I continue for about another five minutes, that's all. It looks like I have about another page and a half?

JOE CAPARELLA: You got three minutes.

MR. AYERS: I can be done in three minutes.

Other concerns and impacts. There has been no consideration so far given to

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2 the potential environmental impacts which
3 may result from the taking, development
4 and public use of the trail. There has
5 been no coordination with the Fulton
6 County Planning and Economic Development
7 Agency, DEC, the APA or Parks and
8 Recreation in connection with signing and
9 developing these trails, No consideration
10 of potential negative impacts on adjacent
11 private land. Several camps lying south
12 of this 15-foot wide strip that are
13 proposed to be acquired by the Town have
14 rights to draw water from water wells
15 located on the north side of that strip.
16 And those water lines run under the land
17 proposed to be acquired by the Town. What
18 happens to the person on the lake who has
19 water rights north of this road when the
20 town takes title to this land? Do those
21 water rights, are they extinguished? Can
22 those camps now be left without water?
23 Another factor not taken into
24 consideration by the Town. The Town has

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failed to consider not only the direct but indirect impacts and consequential affects of the proposed trail and adjacent landowners and taxpayers generally.

Because of all these reasons my clients respectfully request that the Town abandon done this poorly thought out plan to acquire my clients' land for a trail, as the plan has no demonstrated public purpose or benefit, violates the provisions of Article II of the Eminent Domain Procedure Law and Article VIII of the Environmental Conservation Law, and lacks the substantial foundation and basis necessary to support the forcible taking of private land.

Now, I would like to submit a copy of my comments that I gave orally, a copy of some more detailed written comments, and documentation that was gathered in the last four or five days which supports virtually every comment and statement I made is factually supported by the

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documents in this packet. And this would be exhibit number what?

REPORTER: 11.

MR. FERLAZZO: 11.

(Whereupon, Exhibit 11 was marked for identification.)

MR. AYERS: Finally, I would just request that I be provided with a stenographic transcript of the hearing. My understanding under the Eminent Domain Procedure Law that is required to be provided to anyone who requests it free of charge. To the extent that we would have to pay for the documents, we would be glad to pay for the copies of the documents that are Exhibits 1 through 10. I have Exhibit 11.

MR. FERLAZZO: Thank you very much for your attention.

JOE CAPARELLA: I have a question.

MR. FERLAZZO: It is a public hearing. It is not --

JOE CAPARELLA: No, I mean --

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MR. FERLAZZO: Why don't you give your name for the record.

JOE CAPARELLA: Can I ask him a question?

MR. FERLAZZO: You can do it once you sign your name in.

JOE CAPARELLA: Sure.

I'm not a snowmobiler, I don't like eminent domain, but what is changed that they blocked off the road like that, what event?

MR. AYERS: I don't need to respond, but I will say this, that all of the historic use that has been made of my clients' land, historically, has been in the matter of an interloper or a trespasser, and trespassers gain no rights over private land, and that is where we consider the snowmobilers' use to have been historically, as interlopers and trespassers.

JOE CAPARELLA: How long did they own the land.

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MR. AYERS: My clients and their predecessors in title, none of them have given permission to the snowmobile club to use that land and they are trespassers. That's all I have to say.

AUDIENCE MEMBER: He didn't answer your question.

MR. FERLAZZO: Well, he doesn't have to.

JOE CAPARELLA: Lawyers usually don't.

MR. FERLAZZO: No, we don't like to answer questions.

Let me, before we go any further point out in Exhibit 4, the land that is subject to the initial project is the entire area from Morey Road, where it was -- where it is paved all the way through. Now, the Augustos have not prior to today made one peep of comment of any claim of ownership. So the Board, I want to represent that the Board has directed to make this as minimal as possible, have

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2 the least impact. And speaking of
3 alternatives, they didn't want to touch
4 anybody's land or bother anybody at all.
5 In fact, they don't believe they are. The
6 Board believes, the Town believes that
7 this land belongs to the Town. However to
8 the extend the Augustos now through their
9 counsel are seeking to interfere with,
10 again, the access that is involved, I'm
11 going to ask the Town Board as part of its
12 findings to include the entire area that
13 is shown on the map that is part of this
14 application. The yellow was intended to,
15 again, be the minimal amount of land that
16 was subject to the findings of the Board
17 in an attempt to take the least amount, to
18 have the least impact. So the statements
19 that are made, they have the right to make
20 the statements, they have an interest in
21 this decision and this is an informational
22 situation, the Board will make findings on
23 all these topics. So at this point the
24 highway superintendent would like to

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 speak, and I'm also going to introduce a couple of public maps which show that this site is everywhere to be seen. It always has been.

 So go ahead.

 MR. PUTNAM: Steve Putnam, again, the highway superintendent. I'm addressing you all as a crowd and the Board personally.

 Obviously, I think it is Mr. Ayers representing these people has misspoke or lied about me. It is going to be on public, it is right here in writing and witnessed that he said I have official documents when I was up here speaking before. I never said a thing about having any official documents, so let's clear that right off the bat. I'm not a liar. I don't have any.

 The other thing is, he says that these people have owned this property from back in the 60's. Why didn't they have any grief about it before and why weren't

1
2 there any no trespassing signs put up, and
3 etcetera, etcetera? Why didn't they say
4 anything a long time ago? The gate, what
5 gives them the right to put up a gate with
6 property they don't even own? And if they
7 did put up a gate if he has legal status,
8 is he is actually, officially an agent for
9 the owner as per in writing, which it
10 needs to be legally. So what gives this
11 man the right to gate that property off if
12 he is not the agent for the owner? And if
13 the Town were to have that as a highway
14 use, a seasonal use, obviously, you would
15 have signs on there attesting to the fact
16 that there is no turnaround and it is very
17 narrow and what not.

18 So I wanted to square those things
19 up for you all right there. I'm good.
20 Thank you.

21 (Applause.)

22 MR. FERLAZZO: I'm going to mark
23 these two maps. One is the I Love New
24 York Fulton Regional Chamber of Commerce

1
2 and Industry map of Route 9A, Chain of
3 Lakes. And the second one is the Fulton
4 Montgomery County Snowmobile Trails map
5 just for the record. And we will provide
6 copies for that. And the third one is I'm
7 going to make this 4A. This is the
8 initial proposed area showing the entire
9 area in yellow with the Augustos, now that
10 they have decided to join the Johnsons in
11 requiring the Town to expand the scope of
12 what it wanted to do. So that is
13 unfortunately the situation that the town
14 is forced to do, to protect its rights and
15 those of the public. So that will be 4A
16 because it is a small copy of the big one.

17 So thank you for your comments, and
18 as a reminder written comments, additional
19 written comments and any documents will be
20 received by the Town Clerk's Office up
21 until the close of business on October 19,
22 2016. Any written comments and documents
23 reviewed will become part of the record,
24 and once completed, copies of the record

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will be available for inspection or copying during normal business hours at the Town Clerk's Office and the Fulton County Clerk's Office in Johnstown.

Determination of findings will be published in the Leader Herald within 90 days or no later than January 10, 2017.

This concludes the public hearing. Thank you for coming and have a good evening.

(Whereupon, the hearing was concluded.)

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