

The following is a summary of the minutes of the Town of Riverhead Board meeting held by the Town Board of the Town of Riverhead at Town Hall, Howell Avenue, Riverhead, New York on Thursday, January 14, 2016 at 10:00 a.m.

PRESENT

Sean Walter	Supervisor
James Wooten	Councilman
Jodi Giglio	Councilwoman
Timothy Hubbard	Councilman

ABSENT:

John Dunleavy	Councilman
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ALSO PRESENT:

Diane Wilhelm	Town Clerk
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The Supervisor opened the meeting with the pledge of allegiance

The Town Board broke for a brief, time sensitive, work session item presented by Dick Ehlers which authorizes the Supervisor to Execute Subordination Agreement for Atlantis Holding Company, LLC Restore NY Grant Recapture. The resolution will be offered at todays' Town Board meeting.

The following three public hearings scheduled for today are contained verbatim on the following pages.

The first public hearing scheduled for 10:05am: The continuation of a public hearing originally commenced on December 4th, 2015 to hear all interested persons regarding an alleged unsafe building at 307 Griffing Avenue, Riverhead, SCTM #0600-128-3-19.

The second public hearing scheduled for 10:00am: To hear all interested persons regarding an alleged unsafe and abandoned structure at 120 Overlook Drive, Aquebogue, NY, SCTM #0600-113-1-1.4, pursuant to Chapter 54 of the Riverhead Town Code

The third public hearing scheduled for 10:00am: To hear all interested persons regarding an alleged unsafe and abandoned structure at 168 Creek Road, Wading River, NY, SCTM #0600-29-1-30.1

TOWN OF RIVERHEAD
COUNTY OF SUFFOLK: STATE OF NEW YORK

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TOWN OF RIVERHEAD
ALLEGED UNSAFE BUILDINGS
PUBLIC HEARINGS

307 GRIFFING AVENUE, RIVERHEAD
120 OVERLOOK DRIVE, AQUEBOGUE
168 CREEK ROAD, WADING RIVER

----- X

200 Howell Avenue
Riverhead, New York

January 14, 2016

B E F O R E:

SEAN M. WALTER, Supervisor

JAMES WOOTEN, Councilman

JODI GIGLIO, Councilwoman

TIMOTHY HUBBARD, Councilman

JOHN DUNLEAVY, Councilman (Excused)

DANIEL McCORMICK, Deputy Town Attorney

DIANE WILHELM, Town Clerk



ORIGINAL

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A P P E A R A N C E S :

DANIEL McCormick, ESQ.
Deputy Town Attorney
Town of Riverhead
200 Howell Avenue
Riverhead, New York 11901

307 Griffing Avenue, Riverhead
Lyle Pike, Owner

120 Overlook Drive, Aquebogue
Faro Vitale, Vitale Construction Management for
Andrew Insardi, Owner

168 Creek Road
Quan Zeng, Customer Relations Representative

1 307 GRIFFING AVENUE, RIVERHEAD

2 (Prior to start of the hearing,
3 Town's Exhibit #16 through Town's
4 Exhibit #20 for identification
5 purposes, as of today's date.)

6 SUPERVISOR WALTER: We have
7 three public hearings to hear today.
8 The first was scheduled at 10:05. It
9 is now 10:20. I open up the
10 continuation of a public hearing that
11 was originally commenced on
12 November 4, 2015 to hear all interested
13 persons regarding an alleged unsafe
14 building at 307 Griffing Avenue,
15 Riverhead. Suffolk County Tax Map
16 #600-128-3-19 pursuant to Chapter 54 of
17 Riverhead Town Code. As I said, we are
18 continuing the original public hearing.

19 Where is Dan McCormick?

20 MR. ZITEK: He will be right back.

21 SUPERVISOR WALTER: Dan, we opened
22 the Courthouse Restaurant Hearing
23 first, as it is a continuation.

24 MR. McCORMICK: Okay.

25 SUPERVISOR WALTER: So the floor is

1 yours.

2 MR. McCORMICK: As a continuation,
3 I will recall Chief Fire Marshal Craig
4 Zitek back up to the podium please.

5 C R A I G Z I T E K, having first
6 been duly sworn by a Notary Public of
7 the State of New York, was examined and
8 testified as follows:

9 BY THE REPORTER:

10 Q. Please state your name for the record.

11 A. Craig Zitek.

12 BY MR. McCORMICK:

13 Q. Good morning, Marshal Zitek. How are you
14 doing today?

15 A. Good. How are you, sir?

16 Q. Very good. Thank you.

17 This is, for the record, a continuation of
18 the hearing that was commenced on November 4th
19 regarding testimony concerning the Courthouse
20 Restaurant, also known as 307 Griffing Avenue?

21 A. Yes.

22 Q. Sir, with respect to this particular matter,
23 subsequent to November 4, 2015, did you have
24 occasion to go to that site again?

25 A. Yes, I did.

1 Q. And what was the reason for revisiting that
2 site?

3 A. I had received a complaint on
4 December 28th, from a local businessman concerning
5 the second floor dormer on the west-end. He felt
6 that it appeared that that dormer was continuing
7 to collapse into the building.

8 Q. And what, if anything, did you do with
9 respect to that information at that time?

10 A. I went there and took a look and did
11 appear to me, that it was in fact continuing to
12 collapse. I contacted the Town Engineer, Ken
13 Testa, who at the time was on vacation. However,
14 we went there together on January 4th, his first
15 day back and we looked at the building together.
16 And I believe he submitted an amended report
17 concerning that.

18 Q. And just for the record, when you say
19 January 4th, you mean 2016?

20 A. 2016, correct.

21 Q. And did you and Mr. Testa have occasion to
22 visit the site together?

23 A. Yes, we did, on January 4th, which was a
24 Monday, I believe, 2016.

25 Q. Okay. And with respect to that particular

1 visit, what, if anything, did you see at that
2 particular time?

3 A. It appeared to me that the second floor
4 dormer had sunk more into the building continuing
5 to collapse. More so than what it had been when
6 we had done our administrator search warrant.
7 Back in June, I believe it was.

8 Q. And that's based on visual observation at
9 that time?

10 A. That's correct. The exterior of the
11 building.

12 Q. And between that date and today's date,
13 had you had any contact with the property
14 owner?

15 A. Other than to send him a notice of today's
16 hearing, no.

17 Q. And with respect to that notice concerning
18 notification of today's hearing, January 14, 2016,
19 did you receive any response from the property
20 owner?

21 A. I did -- we sent a letter registered mail.
22 I have not received a response. No.

23 MR. McCORMICK: And for the record,
24 is Mr. Pike in the room at this time?
25 Okay. Thank you. Just for the record,

1 if the record could note that Mr. Pike
2 is here.

3 Mr. Pike, can I ask, what time did
4 you arrive, sir? I didn't see you come
5 in.

6 MR. PIKE: 10:00 o'clock.

7 MR. McCORMICK: Thank you.

8 So you have been here for the
9 entire hearing? At least the
10 continuation at this point?

11 MR. PIKE: Yes.

12 MR. McCORMICK: Great. Thank you
13 very much.

14 Q. Marshal Zitek, up until today's date
15 inclusive of the original hearing date and all the
16 other date's until this point in time, have you had
17 occasion to determine if a Demolition Permit
18 regarding this property had been filed with the
19 Town Building Department?

20 A. As of this morning, no application for a
21 Demolition Permit has been filed.

22 Q. Up to today's date, has a Building Permit
23 Application been filed with the Town Building
24 Department?

25 A. Again, as of this morning, no application

1 has been filed with the property.

2 Q. And up till today's date, have you had
3 occasion to check with our Planning Department to
4 determine if a site plan application has been
5 filed?

6 A. Again, as of this morning, there has been
7 no application filed with the Planning Department
8 for the site.

9 Q. And for the record, up to today's date,
10 have you received an Engineering Report from the
11 property owner regarding this particular
12 location?

13 A. No, sir, I have not.

14 MR. McCORMICK: Thank you very
15 much. By way of additional
16 housekeeping matters, for the Town
17 Board, I have an additional exhibit,
18 Exhibit #16, which is the publication
19 affidavit with the News Review
20 indicating that the continuation of the
21 hearing was formally presented to the
22 News Review and published as a date
23 with respect to the News Review as of
24 December 24, 2015. For the record,
25 that's Exhibit 16. I ask that that be

1 admitted at this time.

2 SUPERVISOR WALTER: So admitted.
3 If you can give a copy to Mr. Pike of
4 all exhibits?

5 MR. McCORMICK: I will. I will
6 have all copies made for him. Yes.

7 (Whereupon, Town's Exhibit #16,
8 affidavit with the News Review, was
9 entered into evidence, as of today's
10 date.)

11 MR. McCORMICK: Also, with regard
12 to what has been previously marked for
13 identification as Exhibit #17, this is
14 a one-page e-mail that was sent by
15 myself to Mr. Pike indicating today's
16 hearing date of January 14th, with his
17 acknowledgment. But since Mr. Pike is
18 here, obviously he has notice of date.
19 But just for the record, that's
20 Exhibit #17, being asked to be formerly
21 admitted at this time.

22 SUPERVISOR WALTER: So admitted
23 with that you just provide him copies.

24 MR. McCORMICK: Yes. He will
25 receive copies of all those copies.

1 (Whereupon, Town's Exhibit #17, a
2 e-mail correspondence, was entered into
3 evidence, as of today's date.)

4 MR. McCORMICK: Exhibit #18 for
5 identification is the actual Town Board
6 Public Hearing notice, indicating
7 today's hearing date of January 14th.
8 I ask that Exhibit #18 be admitted
9 likewise at this time.

10 I will give copies to Mr. Pike.

11 SUPERVISOR WALTER: Duly admitted.

12 (Whereupon, Town's Exhibit #18,
13 Town Board Public Hearing Notice, was
14 entered into evidence, as of today's
15 date.)

16 MR. McCORMICK: At this time, I
17 have no further questions of
18 Mr. Zitek.

19 Since this is the continuation of
20 the hearing, at this particular point,
21 if Mr. Pike has any questions of --

22 SUPERVISOR WALTER: I would prefer
23 that we continue with your case and
24 then we will turn it over to
25 Mr. Pike.

1 MR. McCORMICK: Very well. So at
2 this time, I have no further questions
3 of Marshal Zitek.

4 I will continue with Town Engineer
5 Ken Testa at this time.

6 SUPERVISOR WALTER: Are you
7 admitting this as an addendum to an
8 exhibit?

9 MR. McCORMICK: Yes.

10 MR. TESTA: Here are additional
11 copies.

12 K E N N E T H T E S T A, having
13 first been duly sworn by a Notary
14 Public of the State of New York, was
15 examined and testified as follows:

16 BY THE REPORTER:

17 Q. Please state your name for the record.

18 A. Kenneth Testa.

19 BY MR. McCORMICK:

20 Q. Mr. Testa, you're being handed what has
21 been previously marked for identification as
22 Exhibit #19. Do you recognize that document?

23 A. Yes.

24 Q. What do you recognize that to be?

25 A. It's an addendum to my original structural

1 report, which I wrote on January 5th.

2 Q. Is that in regards to the Courthouse
3 Restaurant also known as 307 Griffing Avenue,
4 Riverhead?

5 A. Yes.

6 Q. And was that particular document drafted by
7 yourself and yourself solely?

8 A. Yes.

9 Q. And is it within the normal course of
10 business for you as the Town Engineer to draft such
11 a document?

12 A. Yes.

13 Q. And did you in fact draft this pursuant to
14 your duties as Town Engineer within the normal
15 course of your business duties?

16 A. Yes.

17 MR. McCORMICK: At this time, I
18 would ask that this document be
19 formerly admitted as Town's Exhibit #19
20 regarding a structural inspection
21 report.

22 Q. And that's dated with regard to this matter,
23 as of January 5, 2015; correct?

24 A. Yes.

25 SUPERVISOR WALTER: And do you have

1 a copy to Mr. Pike?

2 MR. McCORMICK: Yes.

3 SUPERVISOR WALTER: Duly admitted.

4 MR. McCORMICK: Thank you.

5 (Whereupon, Town's Exhibit #19, An
6 Addendum to Mr. Testa's Structural
7 Report, was entered into evidence, as
8 of today's date.)

9 Q. Mr. Testa, with respect to the Courthouse
10 Restaurant subsequent to our last hearing date of
11 November 4th, did you, yourself, have occasion to
12 go out to reinspect this particular site?

13 A. Yes.

14 Q. And was that with respect to information
15 received from Fire Marshal Zitek?

16 A. Yes.

17 Q. And there came a time when you both went
18 to that location to reinspect the site;
19 correct?

20 A. That's correct.

21 Q. And with respect to your observations and
22 inspections at that time, was the information that
23 you believed memorialized in the report, which is
24 now Exhibit #19?

25 A. Yes.

1 Q. Did you also have occasion at that time to
2 take a series of photographs regarding that
3 particular site?

4 A. Yes.

5 Q. And likewise, are those photos accompanied
6 in your report, which is now Exhibit #19?

7 A. Yes.

8 Q. And each of those photos, sir, do they
9 fairly and accurately represent the scenes as
10 depicted at the Courthouse Restaurant on the date
11 that you went out there to reinspect with Marshal
12 Zitek?

13 A. Yes.

14 Q. Thank you. Now with respect to your
15 inspection, sir, what -- for the record, what was
16 the date that you went out with Mr. Zitek?

17 A. January 4th.

18 Q. And with respect to that visit, can you tell
19 the Town Board, what, if anything, you observed on
20 that date?

21 A. Yes, sure. It appeared that the second
22 story west area of the building was beginning to
23 sink further into the first floor area. I have
24 pictures that I can go through to show you
25 that?

1 Q. Yes, please. If you can do that at this
2 time.

3 A. So what I have projected on the screen is
4 of the inspection that I did on January 4th after
5 receiving a phone call from the fire marshal and
6 a call saying that he had gotten a call from the
7 neighboring property owner with a concern that
8 the second story western portion of the
9 building, which is directly adjacent to the
10 complaints property seemed to be seeking into
11 the first floor of the building. I will go
12 through some pictures and show you that. This is
13 a view of the west elevation from the property to
14 the west of the Courthouse Restaurant. This being
15 the property. This being the adjacent property,
16 which is currently occupied by the Caboose Pub.
17 And if you look at that second story piece, it
18 seems to be sinking on the left-hand side, which
19 would be the northern side.

20 Q. So Mr. Testa, at this point, just for
21 clarification of the Town Board and public at
22 large, using your cursor, can you perform a
23 circular outline of the exact piece that you
24 are exact referencing in this particular
25 point?

1 A. Sure. It's this second story piece
2 right here. And it's a little difficult to see.
3 It's more pronounced in person but you can see
4 that the section of the building on the left.
5 This section seems to be sinking down and I have
6 some pictures that show that a little better. I
7 will go through those really quick.

8 SUPERVISOR WALTER: Can you just
9 stay on those pictures because I am
10 going to use my little laser pointer
11 and ask you questions, if this works.
12 Can you go back? This right here,
13 looks like it's sinking right here.
14 And I will say that it is noticeable
15 just to the lay person driving by. Do
16 you see how the height of the ridge
17 right here compared --

18 MR. TESTA: Yes.

19 SUPERVISOR WALTER: It looks --
20 it's obviously sinking because if you
21 look at the ridge line -- in the back
22 of the building it's straight and if
23 you look at the ridge line here, it is
24 sinking. And did you notice that as
25 well?

1 MR. TESTA: Yes. As we go through
2 the pictures, I think I have some views
3 of that might show it to be more
4 pronounced, but yes, there seems like
5 several areas of the roof that are
6 starting to sink in. Probably due to
7 water intrusion. But this particular
8 area right here on the west. It is
9 somewhat imminent because it does seem
10 like it moved a bit since my last
11 inspection. I will go through the
12 pictures. This is just another view of
13 the -- again from the property to the
14 west occupied by the Caboose. The
15 Caboose's property is near this block
16 wall. It's only about two feet away
17 from this structure. The fear is that
18 if there is a collapse of the upper
19 structure into the lower portion of the
20 building, it could be a blowout that
21 could affect the neighboring property
22 owner. I will show you as I go
23 through. In this picture, in the area
24 -- just to show you this area that is
25 sinking right here on the western

1 section of the building -- if you look
2 at the front of the building. Excuse
3 me, I take that back. If you look at
4 the side of the building, that is the
5 northern exposure of the building. The
6 elevation facing Railroad Avenue, the
7 piece in concern is this small piece
8 right here. That is sitting on the
9 second story there. This is a view
10 from the roof of the courthouse next
11 door. Again, the piece in question
12 is this piece right here that is
13 beginning to settle down. Just to give
14 you some indication of what the roof
15 looks like, it looks like material had
16 fallen off. This is just plywood.
17 And any rain that is falling on this
18 space around it is getting into the
19 building. Causing the structural
20 members to become weaken and causing
21 this section to sink down.

22 SUPERVISOR WALTER: Can you go back
23 to that? The other picture.

24 MR. TESTA: This one?

25 SUPERVISOR WALTER: No, the next

1 one. Now, this ridge line going across
2 here. That's tough to see for the
3 audience. It's sinking right here.
4 When you drive by and this is a change
5 that I notice. When you drive down
6 Railroad Avenue, this particular
7 section of the building looks like it's
8 collapsing. Did you notice that as
9 well?

10 MR. TESTA: Yes. There seems to be
11 quite a bit of movement on the roof
12 structure. My primary area concern was
13 the piece that sort of looked like it
14 was in imminent danger of collapsing.
15 As we said in our original testimony,
16 the whole structure it's definitely
17 weakening due to the water. Like if
18 you go back again, this is the roof of
19 the first floor area. This is the
20 second piece. As I go through, you
21 will see more soffits that are sinking
22 as well. Now the piece that we're
23 concerned about -- this piece right
24 here. The inside of it looks like
25 that. There is no roof over it. The

1 roof is completely gone. Any rain
2 water coming in is falling straight
3 through the floor. It's traveling
4 through downstairs. The area below it,
5 which is the kitchen. I have a picture
6 of that. And the reason for the
7 settlement is beams are getting wet and
8 beginning to rot. They're losing their
9 pencil strength and starting to yield,
10 as wood will when it gets wet. This is
11 a shot of the floor of that second
12 story area. Showing th debris. That
13 is the debris from the roof itself that
14 fell in. I think this picture was also
15 in the original report. I am trying to
16 time it together so you can get an idea
17 of exactly where we're in the building.
18 Now this is below that second story
19 piece, the kitchen. And you can see
20 that these joists have some signs of
21 rot right there, mold. Water damage.
22 That is what's causing that second
23 floor piece to move. Just another shot
24 of that. These pictures were taken on
25 January 13th when Craig and I had gone

1 back in and took another look at the
2 building again. That would be
3 yesterday. And what we were trying to
4 indicate in these pictures is how close
5 that piece is to the neighboring
6 property. This is the neighboring
7 property. The gentleman who is
8 concerned. He owns this building and
9 he owns this wall running down. You
10 can see how close this is to this
11 piece. If that does come down there is
12 some likely hood it could encroach upon
13 his property and damage anything else
14 that may get in the way of a collapse.
15 There are some areas in the back of
16 this building, some chairs and things
17 where people can go outside and talk
18 and smoke. So obviously there is a
19 concern if it came down whens somebody
20 was there, it wouldn't be a good
21 situation.

22 Q. Mr. Testa, can you go back to that
23 photo?

24 A. Sure.

25 Q. For the record, what do you estimate to be

1 the distance between the Courthouse
2 restaurant's western wall and that neighboring
3 properties wall?

4 A. It's about two feet.

5 Q. Thank you.

6 A. This is just another shot. This is a
7 view from the southern exposure now. This is
8 tipping to the north. You can see what is
9 happening on the roof here, that is tipping down.
10 This is the soffit of the first floor. That is
11 all exposed wood. That is obviously rotted out.
12 Certainly doesn't have it's original structural
13 strength. Now this is the second story piece
14 again, and you can see that this is the wall that
15 we believe is settling in to this section of the
16 building and you can see above where that piece
17 was connected to the building. So we believe
18 that it has started it's journey into the
19 second floor. This again, just another shot
20 showing the proximity to the neighboring
21 property to the structure in question. This is
22 the building in question. This is the wall of
23 the adjacent property. Here is another shot of
24 the adjacent property. So those are all the
25 pictures that we have and we're very concerned

1 about that second floor piece.

2 Q. Mr. Testa, with regards to your second
3 inspection on the subject property as detailed
4 in your photos and your report, is it your
5 opinion and recommendation at this time that
6 this property now poses imminent danger of
7 collapse?

8 A. I believe so.

9 Q. Do you see this as an emergency situation
10 pursuant to your duties, such that the Town
11 Board should act immediately to address this with
12 regards to demolition?

13 A. Yes, I do. My fear is that with winter
14 weather, if we should get a snow storm and that
15 started to move on its own, if we get two, three,
16 four or five or six inches of snow on the roof, it
17 could be the straw that broke the camels back. So
18 yes, I do believe that we should do something with
19 it immediately.

20 Q. And do you recommend to the Town Board at
21 this time that the Board direct the Engineering
22 Department to facilitate third-party intervention
23 with respect to expertise in the areas of
24 demolition concerning this particular property on
25 an emergency basis for demolition as quickly as

1 possible?

2 A. Yes. If the Board passed a resolution I
3 would be able to get three contractor quotes
4 within a week or so, and hopefully immobilize
5 within a week of that date.

6 MR. McCORMICK: Okay. Thank you.

7 I have no further questions of
8 Mr. Testa.

9 SUPERVISOR WALTER: Does the Board
10 have any questions of Mr. Testa?

11 COUNCILMAN WOOTEN: No.

12 COUNCILWOMAN GIGLIO: No.

13 SUPERVISOR WALTER: Do you have any
14 other witnesses?

15 MR. McCORMICK: I do not. At the
16 time, the Town will rest.

17 SUPERVISOR WALTER: All right. We
18 will rest, subject to redirect.

19 Mr. Pike, do you have any
20 questions?

21 MR. PIKE: Yes.

22 SUPERVISOR WALTER: Come on up.
23 You can sit at the table.

24 MR. McCORMICK: Mr. Pike, these are
25 all the exhibits during your

1 examination that you may use as
2 exhibits today.

3 SUPERVISOR WALTER: Are you acting
4 as a witness or as your attorney --

5 MR. PIKE: Attorney.

6 SUPERVISOR WALTER: Okay.

7 MR. PIKE: Thank you. Should I
8 start now?

9 SUPERVISOR WALTER: Yes. You can
10 ask Mr. Testa questions or Fire Marshal
11 Zitek.

12 MR. PIKE: I will start with
13 Mr. Testa first.

14 BY MR. PIKE:

15 Q. Do you have pictures of the same side
16 elevation of the building from January 13th?

17 A. That may be in the original report but I
18 don't have it.

19 Q. You don't have it with you. The west side
20 of the building, do you have a picture of each of
21 them so you can compare --

22 A. I don't believe we do.

23 Q. Why not?

24 A. I don't believe it was a concern at the
25 time. Didn't seem like there was any

1 settlement.

2 Q. It wasn't a concern at the time.

3 The pictures of the roof, do you have any
4 that you took from the Courthouse roof, did you see
5 any beams cracking?

6 A. I did not take that picture. The fire
7 marshal did, but it was pretty evident that the
8 roof was gone and water was sleeping --

9 Q. Can you just back up one picture,
10 please?

11 A. This one was taken from the Courthouse
12 Restaurant next door. Is that the one you're
13 referring to?

14 Q. You see, if it was settling, you would see
15 beams cracking or it would be beaming. Is there
16 any of that?

17 A. It's difficult to tell from the exterior of
18 the building. We were going by the levelness of
19 the soffit and the levelness of the siding. It
20 appears to be sloping.

21 Q. And when did you guys get the call from the
22 neighbor?

23 MR. ZITEK: I received that.

24 SUPERVISOR WALTER: He does not

25 know the answer. So you can ask

1 Mr. Zitek. I assume you don't know the
2 answer. You didn't answer?

3 MR. TESTA: No. I was off that
4 week when the original complaint came
5 in.

6 Q. And then you said the neighbor had outdoor
7 drinking, dining and smoking. Does he have a CO
8 for that?

9 SUPERVISOR WALTER: I don't recall
10 him saying that he has outdoor
11 drinking?

12 MR. PIKE: Smoking. Gathering. He
13 has a bar. You drink also.

14 A. It's not a real gathering area. It's one
15 or two chairs. There's a picnic table there.

16 Q. So is there a CO for that?

17 A. I don't know.

18 SUPERVISOR WALTER: Mr. Pike, can
19 we stick with --

20 MR. PIKE: I am sticking with
21 whatever I like. Thank you.

22 SUPERVISOR WALTER: No, it's not
23 whatever you like.

24 MR. PIKE: I am just wondering if
25 you investigated into the neighbor,

1 that he's having outdoor drinking and
2 smoking.

3 SUPERVISOR WALTER: Mr. Pike,
4 Mr. Testa did not testify as
5 to --

6 MR. PIKE: He just did. He just
7 said they were outdoor gathering.
8 Outdoor gathering at a bar, you
9 would have outdoor drinking and
10 smoking.

11 SUPERVISOR WALTER: Okay.
12 Continue.

13 MR. PIKE: Thank you.

14 Q. Then if we go back to the original. I
15 think you were in the building, June 13th. You
16 showed pictures -- how do you tell if the building
17 -- if the beams are sagging?

18 A. Just a visual observation. If they look
19 like they're sagging on the bottom --

20 Q. -- if you go more in depth into it, is there
21 a proper way to tell if they're sagging?

22 A. Yes. Visual observation --

23 Q. So can you show me --

24 MR. McCORMICK: Mr. Pike, I am
25 sorry -- please, I don't mean to

1 interject but we have a reporter. She
2 can only record one person.

3 MR. PIKE: I'm sorry.

4 MR. McCORMICK: If you can complete
5 your question and Mr. Testa, you wait
6 for him to complete the question and
7 you can respond accordingly. We're not
8 going to have a valid record at this
9 point.

10 MR. PIKE: Thank you.

11 MR. McCORMICK: You're very
12 welcome, sir.

13 A. The other thing that we did, the beams were
14 obviously water damaged and beginning to rot. We
15 used an Awl to push into the beams and see if they
16 were firm, which is typically done. And sunk very
17 easily into the wood.

18 Q. Do you have a picture of that?

19 A. I have a picture of the beams, but I don't
20 have a picture of me sticking the Awl into it,
21 no.

22 Q. Why not? That would be part of the
23 Engineer's Report?

24 A. Well, my results are part of the
25 Engineer's Report. I don't think it's necessary

1 to take a picture of me sticking it into the
2 wood.

3 Q. And then if you, an Engineer, would run
4 a string down the beam to see exactly how much the
5 beam had sunk. So you would have a clearer report
6 of what's going on.

7 A. That really wasn't feasible because the
8 basement was full with so much debris and garage
9 and water. There was no room to do that.

10 Q. So from the ceiling there was no where to
11 run a string --

12 A. No. Too much in the debris in the basement
13 to do that.

14 Q. But you could walk around --

15 A. Yes.

16 Q. There was pictures -- you said the concrete
17 was failing from the water damage?

18 A. We saw -- you're referring back now to -- I
19 believe your --

20 Q. Yes.

21 A. Yes. We saw some areas that was apparent
22 that water had entered into brick and water
23 around the brick and brick popping. There were
24 sections of brick completely missing. Structural
25 members.

1 Q. And you're saying that the water is making
2 the concrete weak?

3 A. What the water is doing is getting
4 absorbed by the concrete block in the brick and
5 then when it freezes, it's pops. It's a common
6 thing on water saturated concrete and brick.

7 Q. What is saturated concrete?

8 A. It gets into it and then it freezes.

9 Q. What is the best way to cure concrete?

10 A. Let it sit. Seven days --

11 Q. Are you an engineer?

12 A. Yes, I am.

13 Q. The best way to cure concrete --

14 A. It has nothing to do with the concrete.

15 Q. I am just --

16 A. It has nothing to do --

17 MR. McCORMICK: Sir, if you could

18 just -- one at a time.

19 A. You're asking me about how the original
20 concrete cured. It's not relevant. What's
21 relevant --

22 Q. The best way to cure concrete is with
23 water.

24 A. Yes. Not freezing water.

25 SUPERVISOR WALTER: All right.

1 Everybody stop. Everybody stop.

2 Mr. Pike, stick to the testimony.

3 MR. PIKE: I am sticking to the
4 whole testimony.

5 SUPERVISOR WALTER: Stick to the
6 testimony.

7 MR. PIKE: So I am not allowed to
8 go back --

9 SUPERVISOR WALTER: Stick to the
10 testimony --

11 MR. PIKE: That is what I am doing.
12 What's the problem?

13 SUPERVISOR WALTER: Stick to the
14 testimony.

15 MR. PIKE: I am. He's saying that
16 concrete -- water makes concrete
17 weaker. So like the Hoover Dam --

18 SUPERVISOR WALTER: Are you
19 testifying or are you acting as an
20 attorney?

21 MR. PIKE: I am acting as an
22 attorney and I am asking legitimate
23 questions.

24 SUPERVISOR WALTER: So stick to
25 the --

1 MR. PIKE: Is that okay with you?

2 SUPERVISOR WALTER: I want you to
3 stick to the testimony --

4 MR. PIKE: I am.

5 SUPERVISOR WALTER: That he is
6 giving.

7 MR. PIKE: He gave testimony --

8 SUPERVISOR WALTER: Mr. Pike, if
9 you have a witness that can testify
10 as to the best way to cure concrete
11 we would love to hear them;
12 however --

13 MR. PIKE: I do have a witness.

14 MR. TESTA: Can I clarify?

15 MR. PIKE: I am an expert in that
16 field.

17 SUPERVISOR WALTER: Okay. Hold
18 on. We will now need to swear Mr. Pike
19 because he's claiming that he's an
20 expert. Would you raise your right
21 hand, please?

22 L Y L E P I K E, having first been
23 duly sworn by a Notary Public of the
24 State of New York, was examined and
25 testified as follows:

1 BY THE REPORTER:

2 Q. Please state your name for the record.

3 A. Lyle Pike.

4 SUPERVISOR WALTER: So you can
5 testify as to the best way to cure
6 concrete. Mr. Testa did not testify
7 about curing of new concrete.

8 MR. PIKE: New concrete, old
9 concrete.

10 SUPERVISOR WALTER: Please stick to
11 Mr. Testa's testimony.

12 A. The difference is, is when concrete is
13 curing with water, it cannot be subjected to
14 freezing temperatures. It must be kept warm and
15 prevented from freezing. What I am talking
16 about is concrete that whether it be curing or
17 whether it has been in place for many, many
18 years. It gets water. That water freezes.
19 That water expands and when we all know water
20 freezes and when it does, it will crack that
21 concrete.

22 Q. Is there a freezing temperature six foot
23 below grade?

24 A. It was the interior of the building in the
25 basement that was subjected to the exterior

1 temperatures. Yes, absolutely.

2 Q. Do you have the pictures of it freezing,
3 please?

4 A. No, of course not. We --

5 Q. That was it.

6 A. It was --

7 Q. That was it.

8 And then your testimony on November 4th
9 there was a picture of a beam which appeared
10 to be about 12 inches thick, about 2 to 3 inches
11 wide --

12 MR. McCORMICK: For the record, I
13 am going to object to the form of the
14 question. For the record, Mr. Pike
15 knows he was provided copies of every
16 single photo at that November 4th
17 hearing. I'm fairness to Mr. Testa, if
18 he wants to show him a photo, he can
19 address it.

20 MR. PIKE: I am just trying to get
21 through this photo.

22 MR. McCORMICK: I haven't finished
23 talking, Mr. Pike. We're talking about
24 a hearing that took place a couple of
25 months ago. If you have a photo,

1 Mr. Testa will be happy to take a
2 look at that and answer your
3 question.

4 SUPERVISOR WALTER: So this is
5 not a court case, sustained. But
6 please provide Mr. Testa a photo that
7 you're asking --

8 MR. PIKE: I am going to look for
9 it.

10 MR. McCORMICK: For the record,
11 this is Town's Exhibit 14, admitted on
12 November 4th. Mr. Testa's report. It
13 has a number of photos. It's a photo
14 of the building in front. If
15 Mr. Pike would like to take a look at
16 that and address questions,
17 accordingly. I know he's not an
18 attorney but I want to give him as
19 much latitude as possible. So here is
20 the report, sir. And this is every
21 exhibit from November 4th. You have a
22 right to take a look and question
23 accordingly.

24 MR. PIKE: Can he look at the
25 report?

1 SUPERVISOR WALTER: Yes, please.

2 Show Mr. Testa the report. And is
3 there a specific photograph that you
4 want him to refer to?

5 MR. PIKE: I am going to go over
6 it.

7 SUPERVISOR WALTER: Okay.

8 Q. So Photo #5, I guess we will go over each
9 one. Photo #1 is outside. Photo #2, #3, and #4
10 can you show me what structural damages are in
11 those pictures?

12 A. 2, 3 and 5 were more --

13 Q. 2, 3 and 4.

14 A. 2, 3 and 4 were more to illustrate that
15 water is getting into the building. You can
16 see an area of the roof in both 3 and 4 that's
17 open and exposed to the exterior waters getting
18 in. Water is the root of the problem for the
19 deterioration of the interior members.

20 Q. Okay. Picture #5, structural damage?

21 A. Yes. What about it?

22 Q. High beams? Something that is falling
23 down? I guess this is the section on the west side
24 that you say is imminent from collapse?

25 A. Yes. Actually that pictures happens to be

1 the one up on the screen.

2 Q. Okay.

3 A. Okay. So you can see from that there is
4 no roof. That is daylight coming from above.

5 Q. I am looking for the structural --

6 A. Structural problem is the water falling
7 from that roof to the floor and those beams from
8 the floor could be seen from the kitchen. They're
9 sagging and corroded and rotted.

10 Q. In this picture where is the structural
11 damage?

12 A. The intent of this picture was to show
13 that the building is interior is entirely
14 exposed --

15 Q. You're saying that it's structurally
16 un-sound. Can you point out in this picture which
17 piece of structure is unsound?

18 A. What this picture illustrates --

19 Q. Yes or no question.

20 A. Read the narrative on the positive. Total
21 failure of the section -- second floor roof. What
22 this picture was meant to illustrate is just what
23 it says.

24 Q. The roof is in disrepair. Where is the
25 structural damage?

1 SUPERVISOR WALTER: Okay. I am
2 going to stop this line of questioning
3 right now. Mr. Pike, if Mr. Testa --
4 this is part of the record. Any lay
5 person would look at this picture and
6 see that there are significant
7 structural problems with this --

8 MR. PIKE: Could you point them
9 out for me, please?

10 SUPERVISOR WALTER: I am not going
11 to because --

12 MR. PIKE: It's in disrepair --

13 SUPERVISOR WALTER: Mr. Pike,
14 finish up the line of questioning on
15 this picture.

16 MR. PIKE: Okay.

17 SUPERVISOR WALTER: Thank you.

18 Q. Can we go to the next page. Photo #6,
19 you're saying collapse on the floor --

20 A. Photo #6. I think I also have a view
21 of Photo #6 on the screen, and that area of
22 concern is, if you look at this picture and you
23 see the black and the white on that beam, that is
24 water coming through on the previous picture.
25 Water is coming through that roof, which is going

1 through that floor. Down to the kitchen area,
2 which is this area. And you can see in those
3 beams, if I stick a screwdriver in those beams
4 in this color, it stinks right in. It's soft.
5 It's water damage.

6 Q. Where is the picture of the screwdriver?

7 A. I didn't take the picture --

8 Q. And which beams are failing?

9 A. The ones that are discolored. These pieces
10 obviously --

11 Q. That is just the ceiling boards?

12 A. No, the floor joists right there are the
13 structural members holding up the floor above.

14 Q. They're water damage --

15 SUPERVISOR WALTER: Okay. I am
16 going to clear this up. Mr. Testa, did
17 you stick a screwdriver at all in those
18 particular beams?

19 MR. TESTA: Yes.

20 SUPERVISOR WALTER: And are they
21 soft?

22 MR. TESTA: Yes.

23 SUPERVISOR WALTER: In your expert
24 opinion, are they failing structurally?

25 MR. TESTA: They no longer contain

1 their original structural strength.

2 SUPERVISOR WALTER: Okay. Next
3 picture, Mr. Pike.

4 Q. Photo #11.

5 A. Okay.

6 Q. Again, so that looks about 12x14?

7 A. I didn't measure it but that looks about
8 right.

9 Q. And about how much structural pier would you
10 need to have the beam sitting on for it to be
11 sound?

12 A. That doesn't look to safe to me. I can put
13 this back up on the screen.

14 MR. McCORMICK: Yes, please. So
15 for the Town Board and the public at
16 large, I would ask that photo be
17 recalled indifference to Mr. Pike's
18 question. So we can have a full image
19 of what Mr. Pike says. Mr. Pike, for
20 the record, is the photo displayed on
21 the overhead projector the one that
22 you're referring to?

23 MR. PIKE: Yes.

24 MR. McCORMICK: Thank you.

25 A. I believe your question was, where is the

1 structural concern in that picture?

2 Q. No, I said. How much of a beam is
3 sitting on the pier. Then my concern is, how
4 much structural bearing would you need for that
5 support?

6 A. That support is obviously really damaged.

7 Q. So there is still ten inches of support
8 behind it. Again, how much bearing would you need
9 on the pier. Would the answer be 4 inches?

10 A. No.

11 Q. I am just letting you know.

12 A. Well, I am saying that beam obviously
13 failed. It could be further internally
14 failing that we can not see. That whole pier
15 could very easily fail.

16 Q. Did you test the concrete?

17 A. Visual observation.

18 Q. Did you do a test for PSI --

19 A. Wasn't necessary. Wasn't necessary. I
20 wouldn't hit that with a hammer for anything in
21 the world.

22 Q. And can you show -- did you stick a
23 screwdriver in that beam?

24 A. Not in that beam, no. My concern here was
25 the failure of the brick support.

1 Q. And you didn't look at the beam to see if
2 it was sagging or anything?

3 A. Not this particular one.

4 Q. Okay. Was it the beam carrying the main
5 structure?

6 A. This is a main beam that the floor joists
7 is sitting on.

8 Q. You didn't stick a screwdriver in it. It
9 wasn't sagging. So it was fine?

10 A. I didn't see any serious concern of that
11 but it's of no use --

12 Q. So basically you're talking about the 200
13 square foot that is sagging on the west side of
14 the building.

15 MR. McCORMICK: Is that a question?

16 A. It's our primary concern.

17 MR. PIKE: Thank you. Now Fire
18 Marshal Zitek.

19 SUPERVISOR WALTER: Thank you.

20 MR. McCORMICK: You're done with
21 Mr. Testa.

22 MR. PIKE: Yes.

23 SUPERVISOR WALTER: Do you have any
24 redirect for Mr. Testa before we
25 dismiss him?

1 MR. McCORMICK: No.

2 SUPERVISOR WALTER: Thank you,
3 Mr. Testa. Mr. Zitek?

4 BY MR. PIKE:

5 Q. Hi, Mr. Zitek. At the last hearing you
6 testified that you were qualified as an expert
7 witness. How is that?

8 A. I had 20 years in construction.

9 Q. Doing what?

10 A. Building houses. I was a carpenter but
11 I also did framing, steel work. We did layout.
12 We did concrete. We do many things.

13 Q. Last time, was it your testimony that you
14 built mansions out east?

15 A. I did.

16 Q. So what mansion did you build for a
17 homeowner?

18 A. I worked for a subcontractor throughout
19 East Hampton.

20 Q. Which contractor?

21 A. Ben Kropinsky.

22 Q. So you were a subcontractor. So you didn't
23 run any jobs?

24 A. I did run a couple of small jobs for him,
25 yes.

1 Q. Which jobs?

2 A. I don't recall the names of the job at this
3 time.

4 Q. What were there addresses?

5 A. It was twenty years ago.

6 SUPERVISOR WALTER: I am going to
7 stop this line of questioning
8 because --

9 MR. PIKE: I challenge him as an
10 expert witness because I worked on the
11 same job as --

12 MR. ZITEK: You worked on some of
13 the same jobs. Not all of them.

14 MR. PIKE: I worked on some of
15 the same jobs he did. He didn't run
16 the jobs. He didn't do anything. He
17 was basically a helper. Period. He's
18 not an expert witness.

19 SUPERVISOR WALTER: He's here as a
20 fire marshal, and the last time out,
21 you had the opportunity to question
22 him --

23 MR. PIKE: No, I didn't. I
24 actually met with you in the hall and
25 I stopped the meeting and we were

1 going to come back. So I didn't have
2 the time to meet with him. I'm very
3 sorry --

4 SUPERVISOR WALTER: I am giving
5 you a lot of latitude here. He's a
6 fire marshal. He's here as somebody
7 who has built significant structures
8 before --

9 MR. PIKE: He hasn't. I am
10 asking him what significant strictures.
11 You said he's an expert witness and
12 I am challenging that. Why can't I do
13 that? Is that just this is one side of
14 a big hearing?

15 SUPERVISOR WALTER: I am going
16 to give you the opportunity. Go
17 ahead.

18 A. In addition to having 20 years in
19 construction and building mansions, as you said
20 in East Hampton. I am also a New York State
21 Code Enforcement Officer and have had training in
22 that with respect to buildings and what qualifies
23 as a safe structure in the New York State building
24 and Fire Code.

25 Q. But when you were taken as an expert

1 witness it was because of what you built? I am
2 asking you what you built?

3 SUPERVISOR WALTER: That is not
4 accurate. Mr. Zitek --

5 MR. PIKE: Can we see the minutes
6 then?

7 SUPERVISOR WALTER: They're
8 available. You would have to order
9 them. Mr. Zitek is a Fire Marshal of
10 the New York State --

11 MR. PIKE: I would like to postpone
12 the hearing so I could order the
13 minutes?

14 SUPERVISOR WALTER: No.

15 MR. McCORMICK: For the record,
16 here are the minutes.

17 SUPERVISOR WALTER: There you go.

18 MR. McCORMICK: Let the record
19 reflect that I have given Mr. Pike a
20 complete copy of the minutes for his
21 review at this particular time.

22 Q. So what mansions did you build?

23 A. Again, Mr. Pike it was -- I don't recall
24 the names of the addresses. There were a number
25 of them over the years. If you want a list, I

1 could sit down and probably come up with them.
2 But I don't recall at this time. I wasn't
3 expecting --

4 Q. Can you --

5 SUPERVISOR WALTER: Mr. Pike?

6 Mr. Pike?

7 MR. PIKE: Yes.

8 SUPERVISOR WALTER: We really want
9 to limit the scope. He's a New York
10 State Fire Marshal Code Enforcement
11 Official who has structural experience
12 through that training. That was the
13 testimony. That is what he had
14 testified to last time but he also did
15 say he had real world experience
16 building houses. But his primary
17 focus or his primary training for the
18 purpose of this hearing is as a code
19 enforcement fire marshal.

20 MR. PIKE: Okay.

21 Q. So can we put the picture of No. 11 back up,
22 please?

23 MR. McCORMICK: For the record you
24 want Photo #11 from Mr. Testa's report?

25 MR. PIKE: Yes, please.

1 MR. McCORMICK: Do you agree, sir,
2 that is Photo #11 for the record?

3 MR. PIKE: Yes.

4 MR. McCORMICK: Thank you.

5 MR. PIKE: Says Photo #11 right on
6 the bottom.

7 Q. So how big is that pier?

8 A. About -- probably about 8 inches across by
9 approximately --

10 Q. Eight inches?

11 A. I'm not certain. It's hard to say.

12 Q. How long is a brick?

13 A. A brick is approximately 8 inches.

14 Q. Isn't there a lot more than one brick
15 there?

16 A. Depends on which way you're looking.
17 That's why I said approximately 8 inches.

18 Q. On the right, you can definitely see one
19 full brick. You can look at this picture.

20 MR. McCORMICK: For the record, are
21 we talking about the portion that is
22 missing?

23 MR. PIKE: No, I am not talking
24 about the full portion.

25 MR. McCORMICK: Okay. So you need

1 to clarify that for the witness.

2 MR. PIKE: I am sure he understood
3 what I was talking about.

4 A. My concern was that portion of above the
5 brick was falling away and is missing. Makes
6 the rest of it perhaps unsafe. No longer the way
7 that it was designed originally to support the
8 weight it was originally designed. The load that
9 it's supporting is no longer supported because
10 the bricks underneath have deteriorated and
11 fallen away. Falls into question, the low
12 bearing ability of the pier that remains. And
13 the portion that remains on the brick.

14 Q. You claim to work on mansions, how big are
15 the low bearing beams there?

16 MR. McCORMICK: Objection.
17 Relevance?

18 SUPERVISOR WALTER: Mr. Pike?
19 Mr. Pike?

20 MR. PIKE: Yes?

21 SUPERVISOR WALTER: Objection
22 sustained. Please stick to this
23 particular building and his
24 training.

25 MR. PIKE: Just so you are aware,

1 as a professional witness and a
2 professional witness in this field, all
3 you would need is four inches of
4 bearing. Okay. So you have at
5 least 12 inches by 14 inches
6 here.

7 COUNCILWOMAN GIGLIO: Do you have
8 an Engineer's Report attesting to what
9 you're saying?

10 MR. PIKE: No. Mr. Zitek testified
11 that he's a professional witness.

12 SUPERVISOR WALTER: Well, we would
13 have to ask you questions and --

14 MR. PIKE: I am right --

15 SUPERVISOR WALTER: When you're
16 done with the questioning of the last
17 witness, then we will ask you questions
18 as to your professional background.

19 MR. PIKE: Thank you.

20 A. Mr. Pike, there may be 4 inches of bearing
21 left there; however, the brick underneath is
22 failing. It's broken and fallen away, which calls
23 into question the structural stability of the
24 brick that remains on that pier.

25 Q. Did you do any engineering testing on

1 that?

2 A. I am not an engineer, Mr. Pike. With my
3 observations, I would not touch that because of
4 the shape of the brick and I would not do a
5 hammer test on it because I would not want the
6 building coming down on me. And I do not wish to
7 do damage to your building, further than what has
8 already been done.

9 Q. So if there was a problem with this pier,
10 what is a quick and easy --

11 MR. McCORMICK: Objection.

12 Hypothetical question.

13 SUPERVISOR WALTER: Mr. Pike?

14 MR. PIKE: Yes?

15 SUPERVISOR WALTER: Objection

16 sustained. Limit your questions to his
17 expertise. He is not coming in here
18 and suggesting that he's an expert in
19 rehabilitating and shoring up
20 buildings. He's an expert as a fire
21 marshal. He's an expert as a New York
22 State Certified Code Enforcement
23 Official. Ask him questions along
24 those lines.

25 MR. PIKE: So when he stated that

1 he was an expert and he built mansions,
2 we should just cross that off the
3 whole --

4 SUPERVISOR WALTER: Mr. Pike, ask a
5 question.

6 MR. PIKE: Is that a yes or a no?

7 SUPERVISOR WALTER: Mr. Pike, ask a
8 question relating to his expertise.

9 MR. PIKE: He said he was an expert
10 in building mansions. So that would
11 cover almost anything.

12 SUPERVISOR WALTER: We're almost
13 done here, Mr. Pike.

14 MR. PIKE: That's fine.

15 SUPERVISOR WALTER: Ask him a
16 question along his testimony.

17 Q. So you said you noticed beams sagging?

18 A. Yes. In some areas we saw beams that were
19 sagging.

20 Q. How much were they sagging?

21 A. Again, most of those areas were not an
22 area that I wanted to go into. The floor was
23 unstable or the ceiling in the roof was
24 coming down and I was not prepared to go in
25 there and get injured to try and measure

1 something that we could show in a photo or
2 testimony.

3 Q. How did you get in the building? The front
4 door?

5 A. Came in the door off of Griffing Avenue,
6 correct.

7 Q. Okay. And so then you walked through the
8 whole building?

9 A. As much as we possibly could. There were
10 areas that we couldn't get into.

11 Q. Did you go to the basement?

12 A. We climbed over a pile of debris and
13 down a pile of debris and remained of what was
14 missing basement stairs. And so that we could get
15 into the basement.

16 Q. And how many people were in the building?

17 A. There were three of us. Not counting the
18 two police officers that opened the door and
19 stepped in initially.

20 Q. So the three of you walked -- east to
21 west throughout the whole building and then went
22 into, I guess, the kitchen, the south side --

23 A. We did not go into the kitchen. We just
24 stepped into the doorway because the kitchen
25 floor was caving into the basement along with the

1 floor in the dining room. Just to the north. It
2 was also caving into the basement. We do not
3 walk into those areas. Again, because the floors
4 were caving in and I did not want to become a
5 statistic.

6 Q. Can you show me a picture of it caving
7 in?

8 MR. McCORMICK: Objection.

9 SUPERVISOR WALTER: Sustained. He
10 has testified --

11 MR. PIKE: I would just like to
12 see --

13 SUPERVISOR WALTER: Mr. Pike, one
14 person speaks at a time. He's
15 testifying to the fact that it was
16 unsafe. That he could not go in there
17 because it was unsafe.

18 MR. PIKE: Well it seems that they
19 have pictures of the whole entire
20 building. So he said it was unsafe.
21 So that's what --

22 SUPERVISOR WALTER: He just
23 testified, Mr. Pike, as to the
24 sections that were unsafe and he could
25 not get in to access to for fear of

1 physical safety.

2 MR. PIKE: I don't see any
3 structural beams that are falling
4 down?

5 SUPERVISOR WALTER: Really?

6 MR. PIKE: Really.

7 SUPERVISOR WALTER: I see plenty.
8 But continue on, Mr. Pike.

9 MR. PIKE: Well, that is what I am
10 trying to ask. If he could show me the
11 structural beams that are falling
12 down. Like Picture #11, just to help
13 you out, the main beam is structural.
14 It's going sideways. Plywood on top,
15 it's not structural.

16 MR. McCORMICK: For the record,
17 Mr. Zitek's testimony on November 4th
18 speaks for itself. At this juncture
19 of the hearing, we're at cross
20 examination of this witness by
21 Mr. Pike acting as an attorney. It
22 is incumbent upon him, as role as an
23 attorney to direct specific questions
24 to the witness, and/or exhibits for his
25 response. It's not Mr. Zitek's

1 obligation to start searching a record
2 for any particular document at this
3 particular time. And I am going to
4 ask that Mr. Pike direct the questions
5 within that particular vain. In
6 fairness to Mr. Zitek at this
7 particular point.

8 A. Mr. Pike, Photo #7 in response to
9 your question, I apologize for the poor quality
10 of the photo, however, there is a large hole right
11 here in the floor that you can see that is large
12 enough for a person to fall right through. And
13 this is by the entrance on the north side of the
14 building. Right as you come through the
15 entryway, which would take you right down into the
16 basement. Again, we did not go close enough
17 because either Mr. Testa nor myself wanted to go
18 through the floor either.

19 Q. Okay. So in my picture, I can't really
20 tell --

21 A. If you turnaround, I will point it out to
22 you. This large area right here.

23 Q. I'm aware of that. How -- I see one
24 structural beam. So that's the plywood ripped off
25 on top of it.

1 SUPERVISOR WALTER: Is that hole
2 large enough for a person to fall
3 through?

4 MR. ZITEK: Absolutely.

5 SUPERVISOR WALTER: There you go.

6 MR. PIKE: Okay.

7 Q. Is the building secure? Has the building
8 been boarded up and secured?

9 MR. McCORMICK: Other than you
10 have a key and full access to the
11 building?

12 MR. PIKE: I am not talking to
13 you. I asked Mr. Zitek.

14 SUPERVISOR WALTER: Mr. McCormick,
15 let him ask the question.

16 A. The building was secured. There was a
17 section of plywood that had been opened up and
18 people had been gaining entrance through there.
19 I don't know if that has since been secured or
20 not because I have not been back inside the
21 building.

22 Q. Do you know who boarded up the building and
23 secured it?

24 A. I do not.

25 Q. It was the Town of Riverhead and they

1 charged me for that.

2 A. I was unaware of that.

3 Q. Since you -- is that the only picture of a
4 hole in the floor?

5 A. No, there are other areas of other
6 pictures.

7 Q. Okay. Can you show me them please?

8 A. They are not --

9 SUPERVISOR WALTER: Mr. Pike?

10 MR. PIKE: He actually brought it
11 up and I would like to see it. It's
12 simple.

13 SUPERVISOR WALTER: Mr. Pike, if
14 you have -- I am not going to have him
15 search through the records. He
16 testified last time, he showed you this
17 picture this time. Do you have a
18 specific --

19 MR. PIKE: I am asking for specific
20 pictures --

21 SUPERVISOR WALTER: Ask him for a
22 specific picture and we will draw his
23 attention to it. I am not going to
24 have the witness go through the entire
25 record. That is what you should have

1 done in preparation for this hearing.

2 So if you have --

3 MR. PIKE: So he can't bring up

4 one --

5 SUPERVISOR WALTER: Mr. Pike, if

6 you have a specific --

7 MR. PIKE: If --

8 SUPERVISOR WALTER: If you have a

9 specific picture that you would like to

10 ask a question on, he would be happy

11 to answer it. We're not having him

12 go through the entire record to have

13 him look for pictures that amuse you or

14 not. So please continue on.

15 Q. The Engineer Report. Can we start at

16 Picture #1?

17 A. Picture #1.

18 Q. Does that show any structural damage?

19 A. That is showing the front door of the

20 building.

21 Q. Picture #2?

22 A. Picture #2.

23 Q. Structural damage?

24 A. That is showing the --

25 Q. Is there any structural damage, yes or

1 no? No. #3, is there any structural damage?

2 A. #3 is showing the --

3 Q. The question is very simple, does that
4 picture show structural damage. Yes or no?

5 A. No.

6 Q. Okay. #4, yes or no?

7 A. Possible. It's hard to say.

8 Q. Yes or no? Yes or no, or I don't know?

9 SUPERVISOR WALTER: Mr. Pike, that
10 is what he said. He answered your
11 question. Let's move on.

12 Q. #5?

13 SUPERVISOR WALTER: Are you going
14 to ask a question?

15 MR. PIKE: Every question is the
16 same.

17 Q. Structural damage, yes or no?

18 COUNCILWOMAN GIGLIO: Is he going
19 to answer this as a code enforcement
20 officer and fire marshal if there is
21 any structural damage?

22 SUPERVISOR WALTER: He is not the
23 engineering expert. He is the fire
24 marshal.

25 MR. PIKE: You said, he was an

1 expert. So I am just going through
2 this. Thank you. You guys don't need
3 to have a conversation.

4 SUPERVISOR WALTER: Mr. Testa,
5 please sit down. Thank you.

6 Mr. Zitek, is there structural damage
7 in this picture?

8 A. It shows the roof --

9 Q. Yes or no?

10 SUPERVISOR WALTER: He is answering
11 the question.

12 MR. PIKE: No, the question is yes
13 or no.

14 SUPERVISOR WALTER: He is answering
15 the question.

16 MR. PIKE: So now we're going to
17 give latitude? I am just asking simply
18 if there is structural damage here, yes
19 or no? It's simple.

20 SUPERVISOR WALTER: Nothing is so
21 simple, it appears with you.

22 MR. PIKE: Okay. Thank you.

23 SUPERVISOR WALTER: Are you done
24 with the witness?

25 MR. PIKE: No, I asked him if there

1 was structural damage in that picture,
2 yes or no?

3 A. It shows that the roof is missing and
4 that the beams in the floor below and the area
5 below that, are open to the weather. And
6 rain --

7 Q. It was yes or no. So I will take that as a
8 no. Move on to the next picture.

9 SUPERVISOR WALTER: Mr. Pike --

10 MR. PIKE: You can cross examine
11 him when I am done.

12 SUPERVISOR WALTER: Mr. Pike, who
13 is testifying here? You or
14 Mr. Zitek?

15 MR. PIKE: It's a simple question,
16 yes or no.

17 SUPERVISOR WALTER: He just
18 described a lot of --

19 MR. PIKE: I didn't ask him to
20 describe the picture.

21 SUPERVISOR WALTER: Mr. Pike --

22 MR. PIKE: So this is basically a
23 closed hearing of whatever you want
24 heard?

25 SUPERVISOR WALTER: Mr. Pike, he

1 just described structural damage just
2 from looking at the picture. And I
3 am --

4 MR. PIKE: There is no roof. But
5 the 2x4's of the structural members, I
6 don't see any of them missing.

7 SUPERVISOR WALTER: Really?

8 MR. PIKE: Really.

9 Q. Can we go to the #6?

10 A. Photo #6.

11 Q. Structural damage?

12 A. You have --

13 Q. Yes or no --

14 A. The structure above caving in.

15 Q. Can you point out what is caving in?

16 A. You have this area coming down on top of
17 the shelves all right here. Over here --

18 Q. Maybe this picture here is a lot better.
19 Would you like to look at it? All the
20 structural members are intact.

21 SUPERVISOR WALTER: Again,
22 Mr. Pike, he is testifying to the
23 damage. You are not testifying. Is
24 there is a question in there?

25 MR. PIKE: I am just trying to

1 say that the structural members are all
2 sitting here.

3 SUPERVISOR WALTER: So he just
4 testified --

5 MR. PIKE: Okay.

6 Q. Picture #7 we went over. Picture #8?

7 A. Mr. Testa has testified to and I have
8 before, we have water intrusion and these
9 beams --

10 Q. I just asked if there was structural damage,
11 yes or no?

12 A. Yes.

13 SUPERVISOR WALTER: He answered the
14 question. Please move on.

15 Q. No. 9, looks like a mess but I don't see
16 structural damage.

17 A. That was the roof and the interior walls
18 and contents of that room prior to the roof
19 falling in. And laying on the floor allowing the
20 rain, wind, heat, snow, sleet and as well as
21 vermin to get into the building.

22 Q. No. 11?

23 A. You don't want to take a look at No. 10
24 where the stairs are missing?

25 Q. No, I am good. I am the one asking the

1 questions?

2 A. I am just asking. I thought you perhaps
3 wanted --

4 SUPERVISOR WALTER: Mr. Zitek,
5 please?

6 Q. No. 11, please?

7 A. We have testified to this already. There
8 is structural damage.

9 Q. So you're saying --

10 SUPERVISOR WALTER: He said, yes,
11 structural damage.

12 Q. No. 12?

13 A. Yes, there is structural damage.

14 SUPERVISOR WALTER: Next picture.

15 Mr. Pike, do you another picture?

16 Q. Where is the structural damage?

17 A. You have a brick that is failing over
18 here, which is holding this beam. You have this
19 failing on the other side. You can the mortar is
20 missing over here. Missing here. The brick is
21 starting to deflect upwards by the weight.
22 Press down on them, they're failing. That wall is
23 failing.

24 Q. Which wall is failing?

25 A. This side over here. This area as well as

1 this area over here.

2 Q. Where does that beam go?

3 A. This beam is supporting the floor beams.

4 That goes to the floor above --

5 Q. Doesn't that beam go to another pier on

6 the back side? Isn't this wall just a wall

7 between the doorway?

8 A. No.

9 Q. How come that beam is not dropped down on

10 top of that brick? Why is there a space there?

11 A. It's sitting on top of the brick.

12 Q. If you look right there, there --

13 SUPERVISOR WALTER: Mr. Pike, he

14 answered the question.

15 Q. No. 13?

16 A. No. 13, yes, there is structural damage.

17 Q. Where?

18 A. The beam in the back, it's hard to see, is

19 cracked and falling down. It's actually a

20 girder that is cracked and carrying floor joists

21 and sagging down.

22 Q. They're sagging down? It looks straight to

23 me?

24 A. If you're prepared to crawl in there, you

25 would see so, sir. I did not care to go any

1 further.

2 Q. No. 14?

3 A. No. 14, we have wet moldy beams.

4 Q. And is that concrete failing also?

5 A. I don't know. I didn't crawl in there to
6 check it.

7 Q. How does it look to you?

8 A. Other than some vertical cracks in the
9 block, it did not appear to be too poor shape.

10 MR. PIKE: Thank you. No more
11 questions.

12 SUPERVISOR WALTER: Thank you,
13 Mr. Zitek. You're dismissed unless
14 there is more redirect?

15 MR. McCORMICK: No.

16 SUPERVISOR WALTER: Mr. Pike, would
17 you like to present any new --

18 MR. PIKE: I would like to call
19 Mr. McCormick.

20 SUPERVISOR WALTER: You can't call
21 Mr. McCormick. He is the Deputy Town
22 Attorney.

23 MR. PIKE: I have had
24 correspondence with him --

25 SUPERVISOR WALTER: Do you have any

1 witnesses, sir?

2 MR. PIKE: Then I would like to
3 put these e-mails into evidence,
4 please?

5 SUPERVISOR WALTER: Okay.
6 Mr. McCormick, can you take a look at
7 them?

8 MR. PIKE: They are the whole
9 e-mail. Mr. McCormick only put one
10 page in.

11 SUPERVISOR WALTER: That's fine.

12 MR. McCORMICK: These e-mails, I
13 have no objection. They could all go
14 in. Would you like these to be marked,
15 sir, as an exhibit?

16 MR. PIKE: Yes, please.

17 SUPERVISOR WALTER: What number are
18 you up to?

19 MR. McCORMICK: This is going to be
20 Mr. Pike. This will be Defendant's A.

21 SUPERVISOR WALTER: No objection?

22 MR. McCORMICK: No objection.

23 SUPERVISOR WALTER: So entered.

24 (Whereupon, Defendant's Exhibit A,
25 E-mail Correspondence, was entered into

1 evidence, as of today's date.)

2 SUPERVISOR WALTER: Mr. Pike, do
3 you have any other witnesses?

4 MR. PIKE: No.

5 COUNCILMAN WOOTEN: I have a couple
6 of questions.

7 Mr. Pike, two months ago. Over two
8 months ago, you were here.

9 MR. PIKE: Yes.

10 COUNCILMAN WOOTEN: You wanted time
11 to evaluate this building and we gave
12 you 30 days to do that. It's been 65
13 days since that. Have you been there
14 independent of yourself? Have you
15 been inside this building?

16 MR. PIKE: I was there. What I
17 was doing, I had been in contact with
18 Mr. McCormick and Mr. Walters had asked
19 that I reach out to the Isaac's and see
20 about buying --

21 COUNCILMAN WOOTEN: I understand
22 that.

23 MR. PIKE: I did an inspection and
24 there was no reason at that time to go
25 any further. The Isaac's want to buy

1 the building. There is a contract out.

2 As Mr. McCormick knows --

3 COUNCILMAN WOOTEN: All I wanted to
4 know is if you physically went to
5 there. I think the whole idea for
6 this continuation and those 30 days,
7 which turned into 60 days, was for you
8 to do your own independent study with
9 your own engineer and controvert all of
10 the evidence that was presented to us.
11 You have nothing to controvert to what
12 was given to us, other than questioning
13 the voracity.

14 MR. PIKE: As I have stated, it --
15 the new owner wants to tear the
16 building down.

17 As these e-mails show, I have had a
18 lot of interaction with Mr. McCormick
19 and there has never been a problem.
20 Just to let them know. I was
21 dumbfounded when I found out that there
22 was a hearing today. I was
23 dumbfounded when I was told that the
24 building had shifted and didn't hear
25 that till two days ago. I got the

1 pictures and if there was a problem and
2 I had talked to Mr. McCormick 15
3 times since the last hearing, I would
4 have thought he would have reached out
5 to me and I would have taken care of
6 anything.

7 COUNCILMAN WOOTEN: My second
8 question. Is it your intention that
9 this building is safe? I mean, if you
10 think it is, I don't want you building
11 anything for me, but --

12 MR. PIKE: Safe as in what?

13 COUNCILMAN WOOTEN: To have a dance
14 party --

15 MR. PIKE: Is it going to fall down
16 tomorrow, no. Is it in disrepair?

17 SUPERVISOR WALTER: Would you feel
18 comfortable being in that building if
19 there were two foot of snow on what is
20 left of the roof?

21 MR. PIKE: If I needed shelter, I
22 would have no problem being in there.

23 COUNCILMAN WOOTEN: Those were
24 two questions that I had. The other
25 one was, what kind of defense do you

1 have for allowing this abandoned
2 building. It's been abandoned for
3 quite a few years. I got married
4 there years ago. So I know the
5 building. The public has been watching
6 this building disintegrate and fall
7 down and get worse and worse and
8 worse. What -- it's totally absurd to
9 have allowed it to look like that. If
10 I ever owned it, it would never look
11 like that. I would go in there and
12 protect it. What is the ultimate goal
13 you have with this building.

14 MR. PIKE: The goal was -- I was
15 fixing the roof years ago and the Town
16 of Riverhead stopped me. Actually the
17 building was sold six years ago. That
18 was when you guys were going the
19 seventy-five million dollar theater.
20 Riverhead always has these good ideas.
21 So the building was never sold and it
22 just sat there. Every time I try and
23 do something, I am met with resistance.
24 So it doesn't really matter. You guys
25 don't care, why would I?

1 COUNCILMAN WOOTEN: We do care. We
2 do care.

3 MR. PIKE: You might care today.

4 COUNCILMAN WOOTEN: It's absurd --

5 MR. PIKE: The seventy-five
6 million --

7 COUNCILMAN WOOTEN: As a resident,
8 it's absurd that it was allowed to get
9 to that condition. Shame on you for
10 letting it get that way.

11 SUPERVISOR WALTER: Okay.

12 COUNCILWOMAN GIGLIO: I have one
13 question. So we had a hearing two
14 months ago.

15 MR. PIKE: Yes.

16 COUNCILWOMAN GIGLIO: You had 30
17 days to either come in and get a
18 building permit or a demolition or to
19 shore-up the building to make sure that
20 the building was structurally sound and
21 you haven't done either one of those
22 things. You came here today, I would
23 expect that you would come with an
24 Engineer's Report saying that the
25 building is structural and it does have

1 integrity. And that it's not going to
2 fall down and you haven't provided that
3 to us?

4 MR. PIKE: No, I haven't.

5 COUNCILWOMAN GIGLIO: So without a
6 letter from an engineer from you
7 countering what our engineer is saying
8 that the building is not structurally
9 sound, why wouldn't you bring that
10 today? Why wouldn't you bring a letter
11 or something --

12 MR. PIKE: Maybe you should read
13 the e-mails. Mr. Walter's said to
14 reach out to the Isaac's, I did. Why
15 would I incur more expenses if the
16 Town Board is going to get exactly what
17 they wanted. The Town Board has met
18 with the Isaac's about their
19 purchase.

20 COUNCILWOMAN GIGLIO: I have not
21 met with them.

22 COUNCILMAN WOOTEN: Neither have I.

23 COUNCILWOMAN GIGLIO: So that
24 statement is false. So I have not had
25 any conversations with the Israel's

1 about your property.

2 MR. PIKE: Okay. I said Isaac's
3 and you said Israel's. So you know
4 their name and I don't.

5 COUNCILWOMAN GIGLIO: Well, because
6 they're well known in the Town and they
7 build a lot of things in the Town.

8 MR. PIKE: That's fine.

9 COUNCILWOMAN GIGLIO: One thing
10 concerns me because I hear you
11 questioning our engineer and
12 questioning our fire marshal about the
13 integrity of the building when all you
14 had to do was bring in an engineer's
15 report saying that the building is
16 structurally sound.

17 MR. PIKE: I guess I will have to
18 go get an engineers report, okay?

19 COUNCILWOMAN GIGLIO: I don't see
20 any good at this point.

21 SUPERVISOR WALTER: Any more
22 questions?

23 MR. McCORMICK: Mr. Town
24 Supervisor, for clarification at this
25 point, Mr. Pike has raised issues

1 concerning my involvement in this
2 matter. Since Mr. Pike has now raised
3 the issue of impending contract
4 negotiation with the Israel's, I am
5 not free to address that. The reason
6 why that has not come up to this point
7 is, I was asked to keep that matter
8 confidential by the Israel's --

9 SUPERVISOR WALTER: I don't
10 think that is relevant to the
11 structural integrity of the building
12 and the facts and testimony that we
13 have heard. So if there is nothing
14 else, I am not inclined to put
15 anything else on the record from the
16 Town's perspective. I think the Town,
17 Councilwoman Giglio, Councilman Wooten
18 are correct. We did put this over
19 for an engineer's report for 30 days,
20 which turned out to be 65 days. We
21 have not seen this. I am now hereby
22 closing the public hearing. I invite
23 you to stay. Based on the testimony
24 the Town is going to have a
25 conversation very shortly as to make a

1 decision about whether we're going to
2 issue an immediate order to tear the
3 building down. So at this point,
4 the public hearing is closed and we
5 will take a 5 minute recess to allow
6 the Town get prepared for the next
7 public hearing. Thank you,
8 Mr. Pike.

9 MR. PIKE: Thank you.

10
11 (Whereupon, the hearing concluded
12 at 11:35 a.m.)
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1 120 OVERLOOK DRIVE, AQUEBOGUE

2 (Prior to the start of the hearing,
3 Town's Exhibit #1 through #9, were
4 marked for identification, as of
5 today's date.)

6 SUPERVISOR WALTER: We have our
7 second public hearing. It was
8 scheduled for 10:00 a.m. It is now
9 11:43. I open up the public hearing to
10 consider all interested persons
11 regarding the alleged unsafe and
12 abandon structure at 120 Overlook
13 Drive, Aquebogue, New York. Suffolk
14 County Tax Map 0600-113-1-1.4 pursuant
15 to Chapter 54 of the Riverhead Town
16 Code. We open that hearing.

17 And Mr. McCormick, do we have
18 anybody from the owners?

19 MR. McCORMICK: Yes, the owner and
20 his representatives.

21 SUPERVISOR WALTER: From the
22 owners, if you could come up to the
23 table as well. Are you the owners?

24 MR. VITALE: He is the owner. I am
25 the construction manager. Faro Vitale

1 SUPERVISOR WALTER: Okay. If
2 you're going to testify and ask
3 questions, we're going to have you come
4 up to the table. And we will swear
5 everybody in. Sir, you name, the
6 owner?

7 MR. INSARDI: Andrew R. Insardi.

8 SUPERVISOR WALTER: Are you going
9 to testifying?

10 MR. INSARDI: No. My project
11 manager. My construction manager.

12 SUPERVISOR WALTER: Okay. So let's
13 swear the construction manager in.

14 F A R O V I T A L E, having first
15 been duly sworn by a Notary Public of
16 the State of New York, was examined and
17 testified as follows:

18 BY THE REPORTER:

19 Q. Please state your name for the record?

20 A. Faro Vitale.

21 SUPERVISOR WALTER: If you could
22 swear him in as well.

23 R I C H A R D D O W N S, having
24 first been duly sworn by a Notary
25 Public of the State of New York, was

1 examined and testified as follows: If
2 you could swear him in as well.

3 BY THE REPORTER:

4 Q. Please state your name for the record?

5 A. Richard Downs.

6 MR. McCORMICK: Our first witness
7 is going to be Richard Downs.

8 SUPERVISOR WALTER: So the way that
9 we work this, the Town will put its
10 case on and then we will allow you to
11 put your case on, unless you're going
12 to come to us and tell us you're doing
13 something that is going to result in
14 tearing this building down and moving
15 forward expeditiously?

16 MR. VITALE: We are. That is why I
17 am here today. That is what we're
18 doing.

19 MR. INSARDI: That is what we're
20 doing.

21 MR. McCORMICK: I am going to
22 address that right now, Mr. Supervisor.

23 SUPERVISOR WALTER: Let's hear it.

24 MR. McCORMICK: Thank you very
25 much. As of yesterday, I received an

1 e-mail indicating from the Building
2 Department that Mr. Insardi had filed a
3 Demolition Application with the
4 Building Department. I have noted that
5 as Exhibit 1 as today's proceeding and
6 confirmed with the Building Department
7 that we have on file no an application
8 for a demolition permit subject to
9 other municipal approvals including New
10 York State Department of Environmental
11 Conservation requirements as well as
12 our own CAC requirements. So we do
13 have it on file as of yesterday it has
14 been filed. I just wanted to note
15 that for the record at this particular
16 time. I would also note for the
17 record, it's my recommendation that we
18 proceed with the hearing today due to
19 nature and condition of the property as
20 you will hear in the testimony and
21 exhibits today. At that point, I may
22 have an additional recommendation at
23 that time and coupled with anything
24 that you folks have to say at the
25 end. I do recommend that we go

1 forward with the hearing today and
2 proceed accordingly.

3 SUPERVISOR WALTER: And the reason
4 that we will do that is because some
5 property owners have plans and the best
6 laid plans don't always come to
7 fruition. And because this building
8 arguably is in worse condition than the
9 last public hearing that we heard, but
10 not too much worse, we want to be able
11 to move forward expeditiously if the
12 Town Board chooses to issue an order to
13 have the building taken down.

14 COUNCILWOMAN GIGLIO: Can we
15 proceed with the hearing and then enter
16 into a stipulation with the owner, that
17 he will do certain things within
18 certain time parameters?

19 SUPERVISOR WALTER: Yes.

20 COUNCILWOMAN GIGLIO: Such as CAC
21 and New York DEC applications?

22 SUPERVISOR WALTER: Kind of what we
23 did with the last one that didn't do
24 anything?

25 COUNCILWOMAN GIGLIO: Right.

1 SUPERVISOR WALTER: Yes.

2 COUNCILWOMAN GIGLIO: Good.

3 SUPERVISOR WALTER: So you
4 understand what we will be doing?

5 MR. INSARDI: Yes.

6 MR. McCORMICK: And
7 Mr. Supervisor, Exhibit #1, would be
8 the Demolition Application Permit.

9 SUPERVISOR WALTER: Have you gave
10 them a copy?

11 MR. VITALE: We have our own copy.

12 MR. McCORMICK: Okay.

13 SUPERVISOR WALTER: Duly admitted.

14 (Whereupon, Town's Exhibit #1,
15 Demolition Permit, was entered into
16 evidence, as of today's date.)

17 MR. McCORMICK: And now directing
18 accordingly to Mr. Downs.

19 BY MR. McCORMICK:

20 Q. Good morning, Mr. Downs.

21 A. Good morning.

22 Q. How are you doing today?

23 A. Very well, thank you.

24 Q. For the record, what is your title?

25 A. I am a Town Investigator with the Town of

1 Riverhead.

2 Q. And how long have you been so employed as
3 a Town Investigator with the Town of Riverhead?

4 A. Since 2000.

5 Q. And are you also designated as a New York
6 State Code Enforcement Official?

7 A. I am.

8 Q. And how long have you been designated as
9 such?

10 A. Since 2000.

11 Q. And can you explain your duties both as a
12 Town Investigator and as a Code Enforcement
13 Official with the Town of Riverhead?

14 A. Well, I inspect residential structures
15 within the Town of Riverhead for code compliance.
16 Both State Code and Town Code.

17 Q. And are authorized and certified to inspect
18 structures including homes and structure
19 buildings?

20 A. Yes, I am.

21 Q. And specifically regarding the structure
22 and the integrity of those structures; is that
23 correct?

24 A. Yes.

25 Q. And are you familiar with the physical

1 location known as 120 Overlook Drive in the
2 Hamlet of Aquebogue, Town of Riverhead, Suffolk
3 County, New York?

4 A. Yes, I am.

5 Q. And how are you familiar with that
6 particular location?

7 A. We received a complaint regarding that
8 location and structural problems with the
9 structure there.

10 Q. And did you have occasion to conduct a site
11 inspection?

12 A. Yes, I did.

13 Q. And when was that?

14 A. My first site inspection there was
15 August 31, 2015.

16 Q. Okay. And at that time, what, if anything,
17 did you observe?

18 A. I observed one residential structure, two
19 accessory buildings on the premises. Both were in
20 deplorable condition, unsound. The residential
21 structure was my main concern. The roof had
22 collapsed. The exterior walls that were
23 underneath that roof were completely gone. In
24 this photo here, you will see the front of the
25 structure. They say the old adverb, a picture

1 speaks a thousand words, and you can see looking
2 at here, a building that has been severely
3 compromised. Structurally.

4 Q. Okay. So let's just take care of some
5 housekeeping. Mr. Downs, you're being shown
6 what has been marked previously as Exhibit #7, can
7 you identify that document?

8 A. This is my field report for that date,
9 August 31, 2015.

10 Q. And did you complete that report?

11 A. Yes, I did.

12 Q. And did you complete it pursuant to your
13 duties as a New York State Code Enforcement
14 Official as a Town of Riverhead investigator?

15 A. Yes, I did.

16 Q. And Investigator Downs, is it within the
17 normal course of your duties and in the normal
18 course of your business transactions to complete
19 such a document?

20 A. Yes, it is.

21 Q. And did you complete this document pursuant
22 to as a Town of Riverhead Town Investigator as well
23 as a Code Enforcement Official?

24 A. Yes, I did.

25 Q. Did you also have occasion to take

1 photographs known as the site, 120 Overlook Drive
2 in Aquebogue?

3 A. Yes, I did.

4 Q. And did you have occasion to attach those
5 photos to this same report that you're referring to
6 right now?

7 A. Yes, I did.

8 Q. And do those photos accurately and fairly
9 represent the scenes as depicted with respect to
10 your site inspection of the date you previously
11 indicated?

12 A. Yes, these photos were taken on that date.

13 MR. McCORMICK: Okay. Thank you.

14 For the record, Mr. Supervisor, I
15 would ask that Exhibit #7 be formally
16 admitted. It's the same document as
17 each Town board member is currently
18 looked at right now.

19 SUPERVISOR WALTER: Did you give a
20 copy to the homeowner?

21 MR. McCORMICK: We will do so right
22 now.

23 Let the record reflect that I am
24 giving a copy to the homeowner,
25 Mr. Insardi at the present time.

1 SUPERVISOR WALTER: Okay. Duly
2 admitted.

3 (Whereupon, Town's Exhibit #7,
4 Field Report, was entered into
5 evidence, as of today's date.)

6 Q. And for the record, Investigator Downs, did
7 you have occasion to determine the tax map number
8 for that location?

9 A. Yes, I did.

10 Q. And for the record, what is it?

11 A. 0600-113-1-1.4.

12 Q. And how did you determine that's the actual
13 tax map number for the property in question?

14 A. In addition to being familiar with the
15 area, I cross-reference it with the Suffolk County
16 tax book.

17 Q. Okay. Now, with respect to your report,
18 sir, you indicated that you conducted a site
19 inspection; is that correct?

20 A. Yes.

21 Q. Okay. In general terms, please inform the
22 Board as to what you observed at that time
23 utilizing your report as a narrative?

24 A. Well, the residential structure as I
25 indicated earlier, you know, the roof has been

1 severely compromised. You can see the ridge is
2 sagging. The walls underneath the roof have
3 fallen in. The contents in the building are
4 actually spilling out to the ground. Personal
5 belongings, furniture. Things of that nature.
6 So that is what we're looking at in a nutshell
7 there. There are also two accessory buildings on
8 the property. One has a small shed attached to it
9 that is kind of collapsed. I think this building
10 was subject to Hurricane Sandy and actually took a
11 big hit.

12 Q. And did you have occasion to speak with Town
13 Engineer Ken Testa regarding this matter?

14 A. Yes, I did.

15 Q. And he's also involved in the investigation
16 of the site as well; is that correct?

17 A. That is correct.

18 MR. McCORMICK: Now, just for the
19 Board's edification. I have a series
20 of exhibits for housekeeping matters.
21 I am just going to introduce those
22 right now, if that's okay?

23 SUPERVISOR WALTER: With copies to
24 the owner.

25 MR. McCORMICK: I will actually

1 give them the exhibits so they can look
2 at them accordingly.

3 Q. Investigator Downs, you're being shown what
4 has previously been marked for identification,
5 Exhibit #2, can you identify that document?

6 A. Yes.

7 Q. And what do you know that to be?

8 A. It's the first notice that was sent to
9 Mr. Insardi. August 31, 2015, is the date of the
10 notice.

11 Q. And that specifically is a Notice of
12 Violation pursuant to Town Code Chapter 54; is that
13 correct?

14 A. Yes.

15 Q. And for the record, did you receive a
16 response, Investigator Downs?

17 A. No, I did not personally receive a
18 response.

19 Q. Do you have the attach green card from the
20 postal service?

21 A. Yes, I do.

22 Q. And is there any indication of
23 acknowledgment or receipt of that document?

24 A. Yes, there is.

25 Q. And for the record, can you make out who

1 that is?

2 A. I can't really recognize the signature.
3 It's C -- looks like Bale.

4 MR. McCORMICK: That's fine. We
5 can ask Mr. Insardi that at the end.

6 For the record, I ask that this
7 document be admitted into evidence.

8 SUPERVISOR WALTER: With copies to
9 the owner. Duly admitted.

10 (Whereupon, Town's Exhibit #2,
11 Notice of Violation, was entered into
12 evidence, as of today's date.)

13 MR. McCORMICK: Thank you. Let the
14 record reflect I am providing a copy of
15 the document, Exhibit #2.

16 Q. Mr. Downs, you're being shown what has been
17 previously marked for identification as Exhibit #3,
18 can you identify that document?

19 A. This is a notice of hearing.

20 Q. Specifically regarding the property in
21 question; correct?

22 A. That's correct.

23 Q. And it's a notice of hearing dated
24 January 14, 2016 at approximately 10:00 a.m.;
25 correct?

1 A. Yes.

2 Q. And did you have occasion to serve that
3 notice?

4 A. Yes, I did.

5 Q. And did you do so by mailing?

6 A. Yes. By mailing and posting at the
7 property.

8 Q. Okay. What you're looking at now is the
9 actual mailing; correct?

10 A. Yes.

11 Q. And did you receive a response regarding
12 receipt of that document by the party addressed?

13 A. Yes, I did.

14 Q. And who is that?

15 A. Same as before, C. Basil or Bale.

16 MR. McCORMICK: Okay. I would ask
17 that this be admitted into evidence.

18 SUPERVISOR WALTER: With copies to
19 the owner. Duly admitted.

20 MR. McCORMICK: Yes.

21 (Whereupon, Town's Exhibit #3,
22 Notice of Hearing, was entered into
23 evidence, as of today's date.)

24 MR. McCORMICK: Thank you. Let the
25 record reflect that I am handing the

1 actual exhibit to the property owner in
2 question.

3 Q. Investigator Downs, you're being shown what
4 has been previously marked for identification as
5 Exhibit #5. Can you identify that document?

6 A. Yes.

7 Q. What do you know that to be?

8 A. Field Report.

9 Q. And it's the field report that we addressed
10 earlier; correct?

11 A. Yes.

12 Q. And does it also include photos of the
13 posting of the notice of violation and the hearing
14 regarding this matter?

15 A. I think we have the wrong document here.

16 Q. Well, you have the photos of the posting on
17 the tree?

18 SUPERVISOR WALTER: Careful,
19 Mr. McCormick. You're almost
20 testifying for the witness.

21 A. There is a posting, yes.

22 Q. And what is the posting of?

23 A. It's the actual notice.

24 Q. That's fine. And did you in fact post that
25 yourself?

1 A. Yes.

2 Q. And is that for the 120 Overlook Drive?

3 A. Yes.

4 Q. And what date did you do that?

5 A. August 31, 2015.

6 MR. McCORMICK: Thank you. At this
7 time, I would ask that document be
8 admitted.

9 SUPERVISOR WALTER: With a copy to
10 the owner. Duly admitted.

11 (Whereupon, Town's Exhibit #5,
12 Field Report, was entered into
13 evidence, as of today's date.)

14 MR. McCORMICK: Let the record
15 reflect that I am showing Exhibit #5 to
16 Mr. Insardi.

17 Q. Investigator Downs, you have been handed
18 what has been previously marked for identification
19 as Exhibit #8, can you identify that document?

20 A. This is a field report.

21 Q. And are there attached photos to that?

22 A. Yes.

23 Q. And what is that?

24 A. This is the field report relating to the
25 posting of the hearing notice.

1 Q. Regarding the January 14, 2016 hearing date
2 of today?

3 A. That's correct.

4 Q. And did you in fact post that hearing notice
5 at that same location known as 120 Overlook Drive
6 in Aquebogue?

7 A. Yes, I did.

8 Q. And when did you do that?

9 A. December 4, 2015.

10 MR. McCORMICK: I would ask that
11 this be admitted into evidence. I will
12 provide copies to the property owner
13 from receipt of Mr. Downs.

14 SUPERVISOR WALTER: So admitted
15 with a copy to the owner.

16 (Whereupon, Town's Exhibit #8,
17 Field Report, was entered into
18 evidence, as of today's date.)

19 MR. McCORMICK: Let the record
20 reflect I am handing a copy of
21 Exhibit #8 to Mr. Insardi.

22 Q. Mr. Downs, what exhibit is that?

23 A. Is it a G? 6?

24 Q. 6. Can you identify that document?

25 A. This is a certified deed from the

1 Suffolk County Clerks Office.

2 Q. And did you in fact obtain that deed?

3 A. Yes, I did.

4 Q. And is it a deed of the property in question
5 known as 120 Overlook Drive in Aquebogue?

6 A. Yes, it is.

7 Q. And when did you obtain that deed?

8 A. This deed was obtained December 15, 2015.

9 Q. And that's an official certified deed from
10 the Suffolk County Clerk; is that correct?

11 A. Yes.

12 Q. For the record, who is the deeded property
13 owner regarding 120 Overlook Drive in Aquebogue?

14 A. That would be Andrew R. Insardi.

15 MR. McCORMICK: Thank you.

16 Mr. Supervisor and Town Board members,
17 I would ask that this be formerly
18 admitted as Exhibit #6, certified deed
19 as an official business record from the
20 Suffolk County Clerks Office.

21 I am handing a copy to the
22 applicant to the property owner.

23 SUPERVISOR WALTER: So admitted
24 with a copy to the property owner.

25 (Whereupon, Town's Exhibit #6,

1 Certified Deed, was entered into
2 evidence, as of today's date.)

3 MR. McCORMICK: Thank you.

4 Regarding Exhibit #4, this is the
5 official affidavit from the News Review
6 indicating that the hearing date of
7 January 14, 2016 was formerly published
8 in the News Review regarding it's
9 edition of December 24, 2015. I would
10 ask that this be admitted as an
11 official certified affidavit. I am
12 handing the actual exhibit over to the
13 property owner.

14 SUPERVISOR WALTER: With a copy of
15 the property owner. So admitted.

16 (Whereupon, Town's Exhibit #4,
17 affidavit with the News Review, was
18 entered into evidence, as of today's
19 date.)

20 MR. McCORMICK: Those are all the
21 exhibits for this particular time,
22 subject to further exhibits from
23 Mr. Testa.

24 Q. Now Mr. Downs, prior to todays date, when
25 was the last time you observed this particular

1 property?

2 A. That would be the December 4th date, 2015.

3 Q. From your initial investigation through that
4 date of December 4th, has the property condition
5 remained the same?

6 A. For the most part. It's hard to say. It
7 appears that it might have suffered a little more
8 damage. When I was out there in August there was
9 a lot of vegetation and now there is not.

10 Q. Specifically regarding the main residential
11 structure, has there been any change to that
12 particular structure?

13 A. No.

14 MR. McCORMICK: Thank you. I have
15 no further questions of Investigator
16 Downs at this time, subject to
17 redirect.

18 SUPERVISOR WALTER: That's fine.
19 Call your next witness?

20 MR. McCORMICK: At this time, I
21 call Town Engineer Kenneth Testa.

22 SUPERVISOR WALTER: Unless you guys
23 want to question --

24 MR. INSARDI: No. No.

25 K E N N E T H T E S T A, having

1 first been duly sworn by a Notary
2 Public of the State of New York, was
3 examined and testified as follows:

4 BY THE REPORTER:

5 Q. Please state your name for the record.

6 A. Kenneth Testa.

7 BY MR. McCORMICK:

8 Q. Mr. Testa, I am showing you what has been
9 previously marked for identification as Exhibit #9.

10 Can you identify that document?

11 A. Yes.

12 Q. What do you know that to be?

13 A. It's a Structural Condition Report that I
14 prepared on January 7th that resulted from an
15 inspection that I made personally on January 4th.

16 Q. Is this in regards to the structure at 120
17 Overlook Drive in Aquebogue?

18 A. Yes.

19 Q. And specifically the main residential
20 structure; is that correct? At that site?

21 A. Yes.

22 Q. And did draft and memorialize this report
23 pursuant to your duties as Town Engineer and Code
24 Enforcement Official?

25 A. Yes.

1 Q. And for the record, this is a second
2 hearing. So can you advise us as to your
3 qualifications and title regarding your duties?

4 A. Yes. I have Bachelors and Masters Degrees
5 in engineering. I am a New York State certified
6 building code official. I am a licensed
7 professional engineer and I have been the
8 Town Engineer for the Town of Riverhead since
9 1990. And I have done about 50 structural
10 inspections.

11 Q. Thank you. And did you complete this report
12 pursuant to your normal duties as a Town Engineer
13 and Code Enforcement Official?

14 A. Yes.

15 Q. And is it within the duties of your role as
16 Town Engineer and as Code Enforcement Official to
17 draft such document?

18 A. Yes.

19 Q. Now, there are a series of photographs
20 attached to this particular exhibit, are you
21 familiar with those photos?

22 A. Yes.

23 Q. Did you take those photos?

24 A. Yes.

25 Q. And did those photos fairly and accurately

1 represent the scenes as depicted when you took
2 those photos?

3 A. Yes.

4 Q. For the record, when were those photos
5 taken?

6 A. January 4th.

7 MR. McCORMICK: Okay. Thank you.

8 SUPERVISOR WALTER: Mr. McCormick,
9 just for the record, we will
10 acknowledge the Town Engineer with both
11 the Masters and a Bachelors's Degree
12 and 16 years as a Town Engineer as an
13 expert in his field.

14 MR. McCORMICK: Thank you. I also
15 ask that Exhibit #9 be formerly
16 admitted at this time.

17 SUPERVISOR WALTER: So admitted
18 with a copy to the owner.

19 (Whereupon, Town's Exhibit #9,
20 Structural Condition Report, was
21 entered into evidence, as of today's
22 date.)

23 MR. McCORMICK: For the record, the
24 homeowner has been provided a copy of
25 that document.

1 Q. Mr. Testa, regarding Exhibit #9, can
2 you tell the Town Board with your training and
3 expertise, what you observed when you visited that
4 site?

5 A. I have highlighted and summarized my
6 findings in the report and depicted in bold print.
7 So I will read right from the report. That the
8 structure is an obvious state of collapse and in
9 danger of completely collapsing at any time. And
10 I am very concerned about the possibility of wind
11 uplifting the balance of the structure. Here are
12 some pictures of it. The concern with wind and
13 hurricane and a northeast storm getting up under
14 the roof area and lifting the structure and
15 spraying the debris around the neighboring area.

16 I will just go through some pictures.
17 Obviously they're pretty self explanatory.
18 They are all open to the exterior. This is the
19 interior of the building? Furniture here.
20 This is another angle.

21 SUPERVISOR WALTER: Mr. Testa, did
22 the whole front of the house collapse?
23 Just sort of snuff off?

24 MR. TESTA: It appears, yeah. The
25 whole front of the building is down on

1 the ground. This is all debris.

2 SUPERVISOR WALTER: You almost look
3 into it as if it's a dollhouse?

4 MR. TESTA: Pretty much. There is
5 actually a lamp still standing on one
6 of the tables in the second floor. We
7 keep watching that.

8 A. So my recommendation based on my findings
9 is that the structure be immediately demolished
10 for fear that should the debris become airborne it
11 could spread debris around the neighborhood or
12 adjacent and East Creek. There is some asbestos
13 shingles on the building. So that kind of
14 concerns me of that material being spread
15 around as well. If there should be a total
16 collapse in a windstorm.

17 Q. Okay. And for the record, you indicated
18 that there has been a partial collapse of the
19 structure; correct?

20 A. Yes.

21 Q. And is it your opinion and testimony that
22 this building is in danger and imminent danger of
23 actual total collapse at this time?

24 A. Yes, I believe so.

25 Q. And does it pose any danger to the public

1 safety and welfare?

2 A. I believe so. In the event that the debris
3 does become airborne it could drop wherever.

4 MR. McCORMICK: Thank you. I have
5 no further questions of Mr. Testa at
6 this point.

7 SUPERVISOR WALTER: Okay.
8 Mr. Insardi, did you want to ask any
9 questions or have your witness ask any
10 questions?

11 MR. INSARDI: No.

12 SUPERVISOR WALTER: Okay.
13 Mr. Testa. Do you want to put on any
14 case or give us information or respond?

15 MR. VITALE: Well, we're basically
16 here --

17 SUPERVISOR WALTER: I'm sorry, I
18 didn't write your name down.

19 MR. VITALE: Faro Vitale. We are
20 the construction managers hired by
21 Mr. Insardi to help assist in moving
22 forward. That is the goal. To
23 actually demolish the home. And
24 rebuild the structure.

25 SUPERVISOR WALTER: What is the

1 timeframe to begin that, because as
2 Mr. Testa testified, it's almost beyond
3 obvious when you look at the building
4 that if we get a Nor'Easter or
5 something, that roof could just lift
6 off?

7 MR. VITALE: With that, you could
8 see that my client has basically taken
9 initiative to safe it, the house, by
10 putting a chain link fence around to
11 prevent people from walking around the
12 property. There are homes around there
13 but they're a distance. So it's not
14 something that could collapse on
15 another home. But we are here
16 basically to make this as safe as
17 possible, as soon as possible.
18 We're working with the municipalities
19 to get the proper permits and
20 approvals.

21 SUPERVISOR WALTER: So you got a
22 demolition permit and are awaiting
23 that. Do you need any DEC permits?

24 MR. VITALE: Yes. We have to
25 present application to New York State

1 DEC and once we do get their
2 recommendations and permit, we will
3 then go to the Town of Riverhead CAC,
4 which I actually went there and did
5 speak to the member. I explained to
6 them our situation and we're looking
7 forward to going after this. It's not
8 like we can go there tomorrow and knock
9 it down.

10 SUPERVISOR WALTER: I know, but I
11 don't want to wait six months for the
12 DEC. I am speaking for myself because
13 the Board has not spoken about this,
14 but would you object to us issuing at
15 the next Town Board meeting an order an
16 Demolition order, ordering to tear down
17 the building because we want to move
18 this forward. I am really worried
19 about the roof lifting off and be in a
20 situation where we're being held
21 hostage by the DEC. Because that
22 probability if it falls down in place,
23 that's probably not a probability. If
24 we do get a Nor'Easter, that roof could
25 probably go some distance, I would

1 imagine.

2 COUNCILWOMAN GIGLIO: It will
3 help you with the DEC application once
4 they see that the Town has ordered it,
5 to be taken down.

6 MR. VITALE: What I would like to
7 propose is that we do apply to the DEC
8 because there is a slight chance that
9 they may suggest non-jurisdiction,
10 which would help move a little bit
11 further with the CAC. What I may
12 propose to safe the area off, if there
13 is a forecast of a Nor'Easter or a
14 major hurricane, that we do have guys
15 go there and cover the opening. So
16 that there isn't any wind gust holding
17 up the roof. So we will try and help
18 it and make this thing more safer.

19 SUPERVISOR WALTER: I am not an
20 engineer, but that doesn't sound much
21 safer solution to this.

22 MR. VITALE: It will stop any
23 uplifting. A thick tarp will stop it.
24 We just have been brought into this.
25 So we are taking the steps to move

1 forward with the Town. We're not here
2 to play games. There are items that
3 Mr. Testa suggested about the asbestos
4 and we're looking to get that removed.
5 So none of that goes flying. So we're
6 willing to move forward. We just need
7 a little bit of time.

8 MR. McCORMICK: If I could just
9 suggest, I did speak with Brad Hammond
10 from Building this morning regarding
11 the issue of DEC approval. Now
12 Mr. Vitale is correct, it is possible
13 that the DEC will issue a letter of
14 non-jurisdiction. However, one of the
15 factors is, apparently there is a
16 bulkhead on the property?

17 MR. VITALE: Yes.

18 MR. McCORMICK: And apparently the
19 bulkhead is that it's in a dilapidated
20 state; is that correct?

21 MR. VITALE: Yes. And if I may
22 interject? This is a home that was
23 damaged by Sandy. And my client, if I
24 may, just went through a slight
25 financial issue and that's why it's

1 taking a little bit longer to handle
2 this. Now, he has had the ability to
3 financially handle it and that's when
4 we were brought into the picture. So
5 it's not that he was deadbeat and did
6 not care about it, he was just going
7 through some times in which he wasn't
8 able to.

9 SUPERVISOR WALTER: Did he live in
10 the home during Hurricane Sandy?

11 MR. INSARDI: No. I went through a
12 7 1/2 year divorce. I wasn't allowed
13 to go near the property.

14 SUPERVISOR WALTER: Okay. So my
15 suggestion is going to be, you have no
16 case or I should say no defense against
17 this that it has to be torn down--

18 MR. INSARDI: I am embarrassed by
19 this.

20 MR. VITALE: We want to tear it
21 down.

22 SUPERVISOR WALTER: So what I think
23 would be appropriate is that you work
24 with the Town Attorney and us to draft
25 a Town Board resolution for the next

1 meeting, which gives you a timeframe
2 and milestone to move the asbestos.
3 You can start the asbestos more quickly
4 than the tear down.

5 MR. VITALE: Yes.

6 COUNCILWOMAN GIGLIO: They have to
7 get an asbestos certification and they
8 have to get proper protocol in order to
9 remove the asbestos.

10 MR. VITALE: We already took care
11 of that.

12 COUNCILWOMAN GIGLIO: So you gave
13 the asbestos certification with the
14 demolition permit?

15 MR. VITALE: Yes. And now we're
16 working towards removal and then once
17 that has been cleaned, we will provide
18 that to the Building Department and
19 move forward. So I am in agreement
20 with you, if we can do milestones, we
21 will work with the Town and we will get
22 to the end result, which is clean the
23 property.

24 MR. McCORMICK: Regarding my point
25 with the dilapidated bulkhead, it is a

1 factor in whether or not the DEC will
2 issue a letter of non-jurisdiction. It
3 is very likely they will not issue a
4 letter and require that you obtain fill
5 wetlands permit.

6 MR. VITALE: It may take some time.

7 MR. McCORMICK: Absolutely. So the
8 Board is aware of that.

9 SUPERVISOR WALTER: You know what,
10 I will invoke the Town Board's powers
11 to order a tear down and not worry
12 about the DEC because the DEC can not
13 put peoples lives at risk. And the
14 risk of flying debris is a real risk.
15 So my opinion is that we issue a -- we
16 will work with you to issuer a timeline
17 that you have to adhere to it, but if
18 you don't adhere to it, the Town would
19 come in and do the tear down. I am not
20 necessarily -- the Town is not going to
21 do anything illegal; but the Town is
22 not going to serve to the DEC in
23 regards to the public health and
24 safety. Nor do we have to be and it's
25 my humble opinion. Does that sound

1 reasonable to the Town Board?

2 COUNCILMAN WOOTEN: Yes.

3 COUNCILWOMAN GIGLIO: Yes.

4 COUNCILMAN HUBBARD: Yes.

5 SUPERVISOR WALTER: So what we will
6 do -- does anybody from the public wish
7 to be heard on this?

8 (No Response.)

9 SUPERVISOR WALTER: So I am going
10 to close the public comment portion and
11 we will leave it open for written
12 comment until to the 22nd. And I would
13 like to try and do is have a Board
14 resolution in February, which is
15 February 2nd. That will outline a
16 timeline to tear the building down and
17 move forward with the project. And we
18 will assist you in any way we can with
19 the DEC. I am sure if we call them and
20 say, people are at risk, it may be
21 helpful.

22 MR. McCORMICK: Actually, I am
23 going to recommend that Brad and I make
24 ourselves available to the DEC
25 consultation with the property owner

1 and the DEC, telephone conference. To
2 bring them up to status with what
3 happened with the Town Board today.
4 We're going to formally request that
5 they expedite this application as soon
6 as possible. And report back to the
7 Board after that conversation.

8 SUPERVISOR WALTER: Just out of
9 morbid curiosity, when was the last
10 time somebody lived in this house?

11 MR. INSARDI: About seven years
12 ago. The divorce was very difficult
13 and had a lot of intricate aspects to
14 it and I wasn't allowed to go near it.

15 SUPERVISOR WALTER: I was going to
16 say that it couldn't have been in good
17 shape seven years ago either.

18 MR. INSARDI: It wasn't that bad at
19 all. But it needed a roof. Anything I
20 did I was going to have to pay her --

21 SUPERVISOR WALTER: Got it. You
22 don't have to say more.

23 MR. INSARDI: I am embarrassed by
24 this but it will be taken care of. I'm
25 sorry.

1 COUNCILMAN WOOTEN: It's a
2 beautiful location by the way.

3 SUPERVISOR WALTER: We will move
4 forward as discussed and we will have a
5 Board resolution drafted where our
6 intentions --

7 MR. VITALE: I just have a quick
8 question. So we will move forward and
9 apply to the DEC but if we have any
10 kind of friction, the Town Board will
11 assist up with some sort of letter that
12 will force the hand a little bit of the
13 DEC to allow us to move forward. We
14 want to move forward in a timely manner
15 as well --

16 SUPERVISOR WALTER: You are going
17 to have a resolution as of February 2nd
18 giving you the timeline to move
19 forward. The CAC shouldn't be an
20 issue. They are a Board to us. We
21 don't really have any problems with
22 them.

23 COUNCILWOMAN GIGLIO: You should
24 make an application to the CAC as soon
25 as possible because -

1 MR. VITALE: I visited with Jamie
2 from CAC --

3 COUNCILWOMAN GIGLIO: No, you can
4 make applications with them
5 simultaneously.

6 MR. VITALE: Okay.

7 MR. McCORMICK: Can I say as a
8 side, both Mr. Vitale and Mr. Insardi
9 have followed through on averting that
10 they have told me that they were going
11 to do. I just wanted to make the Board
12 aware of that.

13 SUPERVISOR WALTER: Good. Thank
14 you. We will close the public hearing
15 and leave it open to the 22nd. Thank
16 you very much.

17
18 (Whereupon, the hearing of 120
19 Overlook Drive concluded at 12:23 p.m.)
20
21
22
23
24
25

1 168 CREEK ROAD

2 (Prior to the start of the hearing,
3 Town's Exhibit #1 through #8 were
4 marked for identification, as of
5 today's date.)

6 SUPERVISOR WALTER: We are here for
7 our third public hearing. The public
8 hearing was scheduled for 10:00 a.m. It
9 is now 12:33. We're going to open the
10 public hearing to hear all interested
11 persons regarding an unsafe and
12 abandoned structure located at 168
13 Creek Road, Wading River, New York.
14 Suffolk County Tax Map #600-029-1-30.1.
15 Pursuant to Chapter 54 of the Riverhead
16 Town Code. That public hearing is now
17 open.

18 Dan McCormick, are the owners here
19 present?

20 MR. McCORMICK: An owner's
21 representative, Mr. Supervisor.

22 SUPERVISOR WALTER: Would the
23 owner's representative like to come up?
24 How are you doing, sir? You are?

25 MR. ZENG: Quan Zeng.

1 SUPERVISOR WALTER: Spell that,
2 please?

3 MR. ZENG: Q-U-A-N Z-E-N-G. I
4 am the contractor representing the
5 owner.

6 SUPERVISOR WALTER: You can have a
7 seat. Are yu going to give testimony?

8 MR. ZENG: No. I am just going to
9 try and resolve the issues.

10 SUPERVISOR WALTER: Well, we're
11 going to open the public hearing. You
12 saw, you have been here for a couple of
13 hours. So you see how it works. We
14 will put on our case. If there is a
15 resolution where the owners are willing
16 to do certain things that we may ask of
17 the owner, then we may resolve in a way
18 that we resolved the last case with a
19 resolution for the next Board meeting.
20 That gives you a detailed, mandatory
21 timeframe for you to undertake certain
22 things. And if you're going to speak,
23 you have to be sworn in. If you're
24 going testify you're going to have to
25 be sworn in. It's a little different

1 because I don't know if you're going to
2 testify or ask questions?

3 MR. ZENG: Well, I am just trying
4 to resolve this with the Town.

5 SUPERVISOR WALTER: Okay. So I
6 guess we will reserve judgement. I
7 think you will have to be sworn in.

8 MR. McCORMICK: And Mr. Supervisor,
9 we do have another party here who is a
10 neighboring property owner. That
11 gentleman is still here.

12 SUPERVISOR WALTER: Okay. Let him
13 speak at the end when we closed our
14 case, and we will go from there. Why
15 don't we just swear you any way.

16 Q U A N Z E N G, having first been
17 duly sworn by a Notary Public of the
18 State of New York, was examined and
19 testified as follows:

20 BY THE REPORTER:

21 Q. Please state your name for the record.

22 A. Quan Zeng.

23 SUPERVISOR WALTER: And Mr. Downs.

24 R I C H A R D D O W N S, having
25 first been duly sworn by a Notary

1 Public of the State of New York, was
2 examined and testified as follows:

3 BY THE REPORTER:

4 Q. Please state your name for the record.

5 A. Richard Downs.

6 MR. McCORMICK: May I proceed,
7 Mr. Supervisor?

8 SUPERVISOR WALTER: Please.

9 MR. McCORMICK: The Town calls
10 Investigator Downs during this matter.

11 BY MR. McCORMICK:

12 Q. Investigator Downs, I am directing your
13 attention to a property known as 168 Creek Road in
14 the hamlet of Wading River, Town of Riverhead,
15 Suffolk County, New York. Are you familiar with
16 that property?

17 A. Yes, I am.

18 Q. As a preliminary matter and for the record,
19 I know we have done this a number of times today
20 but this is a separate proceeding. For the record,
21 what is your title?

22 A. Town Investigator, Town Attorneys' Office.

23 Q. And are you also a New York State Code
24 Enforcement Official?

25 A. Yes, I am.

1 Q. How long have you been a Town of Riverhead
2 Investigator?

3 A. For approximately 15 years.

4 Q. And how long have you been a certified New
5 York State Code Enforcement Official?

6 A. The same amount of time.

7 Q. And what are your duties for the record?

8 A. I inspect residential structures and
9 commercial buildings with regard to New York State
10 property maintenance code, New York State
11 maintenance codes, Fire Code and Town Code.

12 Q. The Town Code regarding specifically Chapter
13 54; is that correct?

14 A. That's correct.

15 Q. And pursuant to your certifications by New
16 York State duties as a Town Investigator, are you
17 familiar with physical integrity of structures
18 including --

19 A. Yes.

20 Q. Now, with respect to your duties,
21 approximately how many times have you investigated
22 residential properties regarding their physical
23 conditions?

24 A. I have been doing it routinely through the
25 course of my employment of 15 years.

1 Q. Now directing your attention to the location
2 known as 168 Creek Road --

3 SUPERVISOR WALTER: Mr. McCormick,
4 we will acknowledge Mr. Downs'
5 credentials as an expert witness in his
6 field of Code Enforcement and related
7 as a New York State Code Enforcement
8 Official.

9 MR. McCORMICK: Thank you.

10 Q. Did there come a time when you initiated a
11 investigation at the property known as 168 Creek
12 Road, Wading River?

13 A. Yes.

14 Q. And what was the basis for that
15 investigation?

16 A. We had a complaint that was filed in our
17 department regarding the abandoned state and
18 unsafe state of a structure.

19 Q. And with respect to the investigation, did
20 you have occasion to determine the Suffolk County
21 Tax Map assigned to that particular property at
22 168 Creek Road?

23 A. Yes.

24 Q. And what do you know that to be?

25 A. 0600-29-1-30.1.

1 Q. And how did you determine that to be the
2 applicable tax map number?

3 A. I am familiar with the area, I also
4 cross referenced it with the Suffolk County Tax
5 Law.

6 Q. Did there come a time when you conducted a
7 site inspection at that location?

8 A. Yes.

9 Q. And when was that?

10 A. That was on September 20, 2015.

11 Q. And what, if anything, did you observe at
12 that particular time?

13 A. I observed a dilapidated building that had
14 open doorways on the south and west sides. There
15 were additionally some open windows on the second
16 story. The premises had overgrown grass weeds,
17 some loose rotted wood surfaces, including wood
18 shingles, wood trim, decking, stairs, missing
19 railings. Missing treads on the decks.

20 Q. And at that time of the site inspection,
21 did you have occasion to take a series of
22 photographs of the observations you were making at
23 that time?

24 A. Yes.

25 Q. And did there come a time when you drafted

1 and memorialized an Inspection Report
2 regarding this particular matter in the form of a
3 Field Report?

4 A. Yes.

5 Q. And regarding the photos that you just
6 eluded to, did there come a time when you attached
7 those photos to the Field Report?

8 A. Yes, I did.

9 Q. And the photos of the subject property, do
10 those fairly and accurately represent the scenes as
11 depicted when you conducted your site inspection
12 that you just eluded to?

13 A. Yes, on that date.

14 Q. Okay. Investigator Downs, you are being
15 shown what has been previously marked for
16 identification as Exhibit #1, can you identify that
17 document?

18 A. This is a Field Report dated
19 September 20, 2015.

20 Q. And is that a Field Report that you
21 completed?

22 A. Yes.

23 Q. And are there photos attached to that
24 particular exhibit?

25 A. Yes.

1 Q. Are those the photos that you took and you
2 eluded to earlier?

3 A. Yes.

4 Q. And those fairly and accurate represent the
5 scene in question; is that correct?

6 A. That is correct.

7 Q. And it's within your duties as a Town
8 Investigator and New York State Code Enforcement
9 Official to maintain such field reports and records
10 pursuant to your duties?

11 A. Yes.

12 Q. And was this report in fact pursuant to
13 your normal duties as a Code Enforcement Official
14 as well as a Town of Riverhead Investigator?

15 A. Yes, it was.

16 MR. McCORMICK: At this time,
17 Mr. Supervisor, I would ask that this
18 be formerly admitted as Exhibit #1.

19 I have provided a copy of this to
20 the land owner's representative.

21 SUPERVISOR WALTER: Duly admitted.

22 MR. McCORMICK: Thank you.

23 (Whereupon, Town's Exhibit #1,
24 Field Report, was entered into
25 evidence, as of today's date.)

1 Q. With respect to the report you provided
2 us with a narrative, the photos at this time, we
3 can show on the screen; is that correct?

4 A. Yes.

5 Q. Would you kindly walk the Town Board through
6 this particular property for the site inspection
7 and the photos that you took that are now being
8 admitted into evidence?

9 A. This particular photograph is looking at
10 the front building. Looking north. As you can
11 see, it's a oddly shaped house. It has a
12 foundation level, which is at grade but the
13 topography is sloping in that area.

14 Q. And just for the record, that scene
15 depicts the eastern side of the premises; is that
16 correct?

17 A. Southerly.

18 Q. Southerly side?

19 A. Yes.

20 Q. Okay.

21 A. So you have two levels above that
22 foundation area. If we can move onto the next
23 picture. The stairway leads to the left to the
24 entranceway, which I believe is the main entrance
25 into the structure.

1 Q. And that would be the western side?

2 A. That would be the western side, correct.

3 Q. And for the record, where the stairwell ends
4 on the left side of this photo that would be
5 considered really the first floor?

6 A. I would say that would be the first
7 habitable level. Keep in mind, I did not go
8 inside the structure. So I don't know the exact
9 layout within. The stairway kind of wraps around
10 to the rear of the structure. That is the front
11 of the structure. That is the decking that is
12 situated on the easterly side of the house. That
13 decking is approximately 6 to 8 feet above grade.
14 There are no railings on that decking. This is a
15 picture of the decking itself. As you can see,
16 it's loose. Deteriorated. Fasteners are
17 missing. Now this is a picture looking south.
18 That would be the northerly side of the
19 property.

20 Q. Or the beach side?

21 A. Or the beach side. You can see that
22 the -- there is a window open on the top and you
23 can see that the railings are just missing. The
24 balusters are missing. The railings are not safe.
25 I believe that is some sort of a rooftop deck.

1 This is another picture of the house. Missing
2 railing. You can see where the existing railing
3 was and you can see where it doesn't continue.
4 There is also a stairway that is leading up to
5 that rooftop area, which is a concern. This
6 here would be the easterly side of the property.
7 The shingles are all deteriorated. That is the
8 decking that I referred to in the first picture.
9 As you can see that is looking south. That is the
10 north -- from north to south. Yes, that is the
11 eastern side. But you can see there is no
12 railing. The decking is just rotted in a lot of
13 locations.

14 Q. Does the New York State property code
15 require railings on stairwells?

16 A. Absolutely. Certain heights, yes.

17 Q. And that height, would that require --

18 A. Definitely. That is the height in the
19 front. The height is about 6 to 8 feet.

20 Q. Please proceed.

21 A. This is a posting that was done. I think
22 if you want to get into that, Mr. McCormick?

23 Q. We will skip that for now. I will formerly
24 admit that shortly.

25 A. This is the foundation level. Like I said

1 in the front of the property it's at grade. This
2 portion and like I said, I did not go in the
3 building. So I don't know what's on the other
4 side. If you look at that doorway, it's open.

5 Q. So it was open to the interior of that grade
6 level area?

7 A. Correct. That is the deck that I was
8 referring to you. You can see the height without
9 the railing. You can see an electrical riser.
10 That was on a 2x4 plank. It looks like it fell
11 down. There is that deck again. That is
12 looking in that doorway on the foundation level.
13 That is a posting that was done on that date.
14 That's it.

15 Q. What is your recommendation concerning this
16 particular structure, Investigator Downs?

17 A. I would first recommend that you secure the
18 southerly door at grade level. Secure the
19 westerly door at the second level. Secure all
20 windows and doors throughout. Do a thorough
21 board-up procedure in accordance with the
22 guidelines.

23 Q. As promulgated by New York State?

24 A. Yes. Like to make sure that that gets
25 done. I would suggest that these stairways and

1 decks that are unsafe be demolished. Be removed.

2 I don't think that they're repairable at this
3 point. I would suggest that the stairways leading
4 to the rooftop deck, stairways, railings,
5 etcetera, that are unsafe be removed because
6 they're a potential tracker of nuisance for
7 individuals entering onto the property.

8 Q. And of course regarding access, these photos
9 were taken during the daytime?

10 A. Yes.

11 Q. What would be your impression concerning
12 nighttime for any third-party trespassers that
13 utilize this premises?

14 A. The entire building should be properly
15 secured and boarded up pursuant to the guidelines
16 that I mentioned. These stairways are not safe to
17 walk on.

18 Q. And how did you come to that conclusion?

19 A. Just by doing some physical inspections.
20 Looking at how they were being anchored. It
21 looked like one of the stairways in the rear of
22 the property, which I don't have a picture of,
23 was -- looked like some construction work was
24 being done and there was some temporary bracing
25 that was done at one point. It's just rotted

1 through. The stairways are not properly
2 anchored.

3 Q. And what is your opinion of the physical
4 strength of the decking at this point based on your
5 observations?

6 A. I wouldn't walk on it. It's not safe.
7 It's not safe at all.

8 Q. Now, anything else regarding your narrative
9 at this time, Investigator Downs?

10 A. No, that's about it.

11 Q. At this time, you're being shown Exhibit #2,
12 for identification. Can you identify that
13 document?

14 A. It's a Notice of Unsafe or Unsecured
15 Structure.

16 Q. And did you have occasion to send that to
17 the property owner?

18 A. Yes, I did.

19 Q. And for the record, what address did you
20 send that to?

21 A. 42-20 Kissena Boulevard, Apartment A-11,
22 Flushing, New York 11355.

23 Q. Okay. And why did you send it to that
24 address?

25 A. That was the record that we had on the

1 Assessment roll.

2 Q. And when did you send that notice?

3 A. This notice was dated September 20, 2015.

4 It was mailed September 21, 2015.

5 Q. And did you in fact mail that notice?

6 A. Yes, I did.

7 Q. And did you mail it by certified mail,
8 return receipt requested?

9 A. Yes, I did.

10 Q. And did you receive an acknowledgement
11 regarding that receipt of that document?

12 A. Yes, I did.

13 Q. And for the record, who indicated that they
14 received it?

15 A. Jeannette Chi as indicated on the green
16 card.

17 Q. And as signed off for by?

18 A. Yes.

19 Q. Okay. Thank you. And did you formally send
20 it to the post office and deliver it to that
21 location?

22 A. Yes.

23 MR. McCORMICK: At this time, I ask
24 that Exhibit #2 be formally admitted.

25 I will provide copies to the

1 representative.

2 SUPERVISOR WALTER: With copies to
3 the representative. Duly admitted.

4 (Whereupon, Town's Exhibit #2,
5 Notice of Unsafe Structure, was entered
6 into evidence, as of today's date.)

7 Q. Investigator Downs, you are being shown
8 Exhibit #3 for identification, do you recognize
9 that document?

10 A. Yes.

11 Q. What do you know that to be?

12 A. This is a notice of comply date.

13 Q. Now, this is a second notice of violation;
14 is that correct?

15 A. Yes. As reviewing the initial notice that
16 was sent out, I noticed that the comply date was
17 missing from the original notice. So I sent out
18 this notice to inform Rong Fang Huang of the
19 comply date.

20 Q. Okay. So the only additional information on
21 this was an actual stated comply date; is that
22 correct?

23 A. Correct.

24 Q. And when you say comply date that you wanted
25 for the unsafe conditions to be remedied on the

1 property and by comply, you gave a date for those
2 activities to take place?

3 A. Yes.

4 Q. And did you in fact send this notice out to
5 the property owner?

6 A. Yes, I did.

7 Q. And what address did you send it to?

8 A. 42-20 Kissena Boulevard, Apartment A-11,
9 Flushing, New York 11355.

10 Q. Okay. And did you receive a response
11 regarding that document?

12 A. I received a green card back.

13 Q. And that is the New York Postal Service
14 return receipt requested part; is that correct?

15 A. Yes.

16 Q. And likewise, was that document signed for?

17 A. Yes.

18 Q. And who signed for it?

19 A. Chan M. Kong.

20 Q. And when was that signed off by?

21 A. Shows that it was received
22 October 19, 2015.

23 MR. McCORMICK: If this could be
24 admitted as an official document.

25 SUPERVISOR WALTER: With copies to

1 the owners representative. So
2 admitted.

3 (Whereupon, Town's Exhibit #3,
4 Notice of Comply Date, was entered into
5 evidence, as of today's date.)

6 Q. Investigator Downs, you're being shown
7 Exhibit #4 for identification, do you recognize
8 that document?

9 A. Yes.

10 Q. What do you recognize it to be?

11 A. It's a Notice of Hearing.

12 Q. Is that specifically regarding today's date
13 of the January 14, 2016?

14 A. Yes.

15 Q. Did you likewise send that to the property
16 owner?

17 A. Yes.

18 Q. When was that sent to the property owner?

19 A. Date of letter was December 4, 2015.

20 Mailed to the property owner, December 8, 2015.

21 Q. And likewise, did you receive a response
22 from U.S. Postal Service regarding today's date of
23 the hearing?

24 A. No, I did not.

25 Q. You have a date stamp from the U.S. Postal

1 Service as to the date you mailed that; correct?

2 A. Yes.

3 Q. You personally mailed that document to the
4 property owner; is that correct?

5 A. Yes, I did.

6 Q. And for the record, what is the US Postal
7 Service date as indicating the delivery date?

8 A. The delivery date is December 8, 2015.

9 MR. McCORMICK: Okay.

10 I ask that that be formerly
11 admitted into evidence.

12 SUPERVISOR WALTER: With copies to
13 the owners representative. Duly
14 admitted.

15 (Whereupon, Town's Exhibit #4,
16 Notice of Hearing, was entered into
17 evidence, as of today's date.)

18 Q. Mr. Downs, you're being shown Exhibit #5 for
19 identification. Do you recognize that document?

20 A. Yes.

21 Q. What do you recognize it to be?

22 A. Field Report.

23 Q. And is there a photo attached to that
24 document?

25 A. Yes.

1 Q. And what is the nature of that photo?

2 A. The photo is a posting of a notice of
3 hearing at the premises.

4 Q. And did you do that pursuant to the Town
5 Code Chapter 54 regarding the posting at the
6 property?

7 A. Yes, I did.

8 Q. And did you in fact post that document
9 regarding the hearing date at that location?

10 A. Yes, I did.

11 Q. And for the record, when was that done?

12 A. December 4, 2015.

13 Q. And did you memorialize that by taking a
14 photo that is now attached to your field report
15 evidencing the same issues?

16 A. Yes, I did.

17 MR. McCORMICK: Thank you. I ask
18 that it be admitted to evidence as
19 Exhibit #5.

20 SUPERVISOR WALTER: So admitted
21 with copies to the owner's
22 representative.

23 (Whereupon, Town's Exhibit #5,
24 Field Report, was entered into
25 evidence, as of today's date.)

1 Q. Investigator Downs, you're being shown
2 what has been previously marked for
3 identification as Exhibit #7, do you recognize that
4 document?

5 A. Yes.

6 Q. What do you recognize that to be?

7 A. A deed, certified with the County Clerks
8 Office.

9 Q. And did you obtain that deed personally?

10 A. Yes, I did.

11 Q. And what is that document a deed of?

12 A. It's a deed of 168 Creek Road, Wading
13 River, New York.

14 Q. And with a corresponding Tax Map No.
15 600-29-1-30.1?

16 A. That is correct.

17 Q. And is that certified by the Suffolk County
18 Clerks Office?

19 A. Yes, it is.

20 Q. And you have obtained certification of same;
21 correct?

22 A. Yes.

23 Q. And does that deed actually indicate the
24 certified deeded property owner of that location?

25 A. Yes, it does.

1 Q. And for the record, can you yell us the
2 deeded property owner?

3 A. It's Rong Fang Huang.

4 Q. And for the record, I am going to kindly ask
5 that you spell out each of those three names that
6 you eluded to.

7 A. Rong, R-O-N-G. Fang, F-A-N-G. Huang,
8 H-U-A-N-G.

9 Q. Thank you. And what is the certification
10 date of that deed?

11 A. December 15, 2015.

12 Q. And you personally obtained that?

13 A. Yes.

14 MR. McCORMICK: Thank you. I ask
15 that Exhibit #7 as an official
16 certified document with the Suffolk
17 County Clerks Office.

18 SUPERVISOR WALTER: So admitted
19 with copies to the owners
20 representative.

21 (Whereupon, Town's Exhibit #7,
22 Certified Deed, was entered into
23 evidence, as of today's date.)

24 MR. McCORMICK: Mr. Supervisor,
25 Town Board members, I have also

1 pre-marked Exhibit #6 for
2 identification. This is the affidavit
3 of Karen Kline from the News Review
4 indicating that the Town of Riverhead
5 facilitated publication of today's
6 notice hearing date of January 14, 2016
7 and by affidavit, we have proof that it
8 was published in the News Review on the
9 December 24, 2015 News Review.

10 I ask that it be formerly admitted
11 into evidence at this time.

12 SUPERVISOR WALTER: With copies to
13 the owners representative. So
14 admitted.

15 (Whereupon, Town's Exhibit #6,
16 affidavit with the News Review, was
17 entered into evidence, as of today's
18 date.)

19 MR. McCORMICK: For the record, all
20 exhibits at this moment in time have
21 been all served on the owner's
22 representative; is that correct, sir?

23 MR. ZENG: Yes.

24 MR. McCORMICK: Thank you very
25 much.

1 I have no further questions of
2 Investigator Downs at this time.

3 SUPERVISOR WALTER: Mr. Zeng, do
4 you have any questions of Officer
5 Downs?

6 MR. ZENG: No.

7 SUPERVISOR WALTER: Do you have a
8 further witness for the Town?

9 MR. McCORMICK: Yes.

10 It's Kenneth Testa.

11 May I proceed?

12 SUPERVISOR WALTER: Absolutely.
13 Swear in the witness, please.

14 K E N N E T H T E S T A, having
15 first been duly sworn by a Notary
16 Public of the State of New York, was
17 examined and testified as follows:

18 BY THE REPORTER:

19 Q. Please state your name for the record?

20 A. Kenneth Testa.

21 BY MR. McCORMICK:

22 Q. I know this is the third hearing today, but
23 can you kindly state your title?

24 A. I am Town Engineer for the Town of
25 Riverhead.

1 Q. And are you also a New York State certified
2 code enforcement official?

3 A. I am.

4 Q. And what are your duties regarding each of
5 those positions?

6 A. As Town Engineer, I am responsible for the
7 planning, design and construction of all town
8 facilities. And as code enforcement official, I
9 provide structural inspection incident reports
10 throughout the Town.

11 Q. And are you so certified by New York State
12 regarding that particular job?

13 A. Yes.

14 Q. And how long have you been involved in that
15 particular role for the Town?

16 A. 26 years, since 1990.

17 Q. Including your code certifications?

18 A. My code certifications goes back to
19 1995.

20 MR. McCORMICK: Thank you. At this
21 time, I ask that he be recognized --

22 SUPERVISOR WALTER: We will
23 acknowledge Mr. Testa as an expert in
24 the field of engineering for emphasis
25 on this particular case of structural

1 engineering.

2 MR. McCORMICK: Thank you.

3 Q. Mr. Testa, did you have occasion to become
4 involved in an investigation regarding the physical
5 condition of the property at 168 Creek Road in the
6 Hamlet of Wading River, Riverhead, Suffolk County,
7 New York?

8 A. Yes.

9 Q. When did you become involved in that
10 investigation?

11 A. January 4th.

12 Q. And was that pursuant to the request of
13 Investigator Richard Downs?

14 A. That's correct.

15 Q. And did you have occasion to go to that
16 location?

17 A. Yes.

18 Q. And when was that?

19 A. January 4th.

20 Q. And at that time, did you conduct a site
21 inspection of that location?

22 A. I did.

23 Q. And did you also have occasion to take a
24 series of photographs regarding observations?

25 A. I did.

1 Q. And subsequent to that site inspection, did
2 you compile a report and memorialize same regarding
3 your observations?

4 A. Yes.

5 Q. Likewise, regarding the series of
6 photographs, did you attach those photos to the
7 report regarding your inspection of the property?

8 A. Yes.

9 Q. And for the record, when did you prepare
10 that report?

11 A. January 5th.

12 Q. You have been previously provided for
13 identification, Exhibit #8, do you have that in
14 your presence?

15 A. I do.

16 Q. Is that the same report that you just eluded
17 to regarding the drafting of your site inspection
18 notes and details?

19 A. Yes, it is.

20 Q. Is it within the normal course of your
21 responsibilities and duties to prepare such report
22 regarding investigations here in the Town of
23 Riverhead?

24 A. Yes.

25 Q. And did you in fact complete that report in

1 the course of your responsibilities and duties for
2 the Town of Riverhead?

3 A. Yes, I did.

4 Q. Now regarding the photos that are attached
5 to that document, do those fairly and accurately
6 represent the photos or the scenes as depicted when
7 you took those photos?

8 A. They do.

9 Q. You took every one of those photos; is that
10 correct?

11 A. That's correct.

12 MR. McCORMICK: At this time, I ask
13 that this document be admitted into
14 evidence as Exhibit #8.

15 SUPERVISOR WALTER: So admitted
16 with copies to the owners
17 representatives.

18 (Whereupon, Town's Exhibit #8,
19 Report, was entered into evidence, as
20 of today's date.)

21 MR. McCORMICK: For the record, I
22 have provided a copy of that exhibit to
23 the owners representative; is that
24 correct, sir?

25 MR. ZENG: Yes.

1 Q. Mr. Testa, regarding your investigation
2 on January 4, 2016, can you tell the Board in
3 narrative form what you observed that day at that
4 particular time?

5 A. Yes. I did an exterior inspection of the
6 structural members of the decking around the home
7 as well as the stairs leading up to the upper
8 levels of the house. I can walk you through it by
9 going through the pictures.

10 SUPERVISOR WALTER: All of these
11 pictures were taken from either the
12 street perspective where you're walking
13 up to the front of the house from a
14 neighbors yard and the beach, I
15 presume?

16 MR. TESTA: Yes. There were a few
17 taken from the deck.

18 SUPERVISOR WALTER: From the deck
19 as you would approach the house to
20 knock on the front door?

21 MR. TESTA: Yes.

22 A. Okay. My primary findings as you will see
23 in the pictures involve similar to Investigator
24 Downs' findings. We're missing safety railings
25 on deck areas that are higher than 18 inches.

1 As high as 8 foot. We have stairs missing stair
2 treads, also missing railings. We have missing
3 deck boards. Missing fasteners. So my primary
4 concern would be the unsafe condition of the
5 decks that surround the structure and the
6 stairs that lead up to the upper decks. I have
7 similar photos as to Investigator Downs. I try
8 to concentrate a little bit more of the structural
9 aspects of the decking. This is the upper deck
10 area on the east side of the structure. That is
11 about an 8 foot drop to grade. There is some
12 temporary timbers that look to be installed.
13 Temporary bracing to hold up the deck during the
14 construction of the deck. They still remain.
15 This is just another view of the same area. These
16 appear to be temporary construction braces while
17 the deck was under construction and they haven't
18 been removed.

19 SUPERVISOR WALTER: Mr. Testa, is
20 that all that is supporting that deck
21 of temporary braces?

22 MR. TESTA: There are other
23 supports. Very little supports that
24 are in place. These seem to be
25 temporary bracing that allow those to

1 be put in.

2 A. This picture depicts the height. It's a
3 significant drop to grade. This handrail is not
4 in very good condition and it's missing its
5 spots. I think we show a little better coming
6 here. Here. You can see there is a section
7 missing here and here. It's a pretty
8 significant drop. If a child got up here and fell
9 off, it would be a bad injury. This is showing
10 part of his missing stairway. Some screens that
11 have drawn out of the building. This is showing
12 some misplaced boards on the deck. This is
13 looking down on the deck. Missing deck boards
14 that are not in very good condition. This is a
15 railing from what appears to be a roof top deck,
16 which is obviously state of disrepair. And this
17 is a stairway leading up to that upper rood deck.
18 That stairway was in pretty bad condition as
19 well. You could see the hand rail is really not a
20 code complaint handrail. It doesn't prevent a
21 small child from falling through as required by
22 the code for its spacing. This is on the back of
23 the beach side of the house and there is
24 platform. This appears to be a piece of decking
25 and this appears to be a piece of scaffolding to

1 accommodate working on the house. I am not
2 really sure. It's above grade. Anybody who
3 happens to venture onto this deck at night is
4 going to quickly fall victim to falling between
5 some of the slats. And it is an elevated area.
6 This is another view of that. These are stairs
7 leading to the deck and you could see displaced
8 boards. Wide gaps in some of the boards. Poor
9 conditions of the boards. This gives a little
10 better perspective that there is a grade change
11 there. You can walk out onto this thing and fall
12 through.

13 Q. For the record, what is that approximate
14 height from the decking to the ground?

15 A. This is about three feet. Three or four
16 feet I would say. Showing the boarded up windows.
17 And again, that area where I am concerned with
18 somebody falling through. Another view of missing
19 rail. All of this is in bad condition.

20 Q. On this photo, from the upper area of the
21 deck where the missing railing is, what is the
22 distance in feet from that point down to ground
23 level? Approximately?

24 A. From here down, it's probably about a 8 or
25 9 foot drop to the deck below and even more to the

1 grade.

2 Q. And that portion, that upper right portion
3 from that photo, is that accessible from the street
4 level?

5 A. No.

6 Q. Not at all?

7 A. No.

8 Q. Is there any way to get up to that point
9 otherwise?

10 A. It appears from the exterior of the home,
11 you would go into the home and go out through this
12 deck and the stairs to get to the upper deck. You
13 can see the poor condition of the deck. Missing
14 and displaced boards. And my closing page,
15 similar to my recommendations of Investigator
16 Downs, that the structure be boarded-up, all
17 windows and openings to prevent anybody from
18 getting inside the building and into any of those
19 unprotected areas. And I believe the decking
20 that wraps around the entire house, should be
21 removed. So my recommendation would be that we
22 take it down.

23 Q. As well as that doorway area that we saw
24 earlier?

25 A. Yes. All of the openings that we saw

1 earlier and including the windows from
2 preventing anybody from getting inside to those
3 roof areas.

4 MR. McCORMICK: Thank you. I have
5 no more questions of Mr. Testa.

6 SUPERVISOR WALTER: Do we have any
7 more witnesses?

8 MR. McCORMICK: No.

9 SUPERVISOR WALTER: Mr. Zeng, what
10 we're going to do is that some of the
11 residents would like to speak. So I
12 am going to have them speak as well,
13 and probably what we will do is have
14 them speak from the podium. Mr. Downs
15 and Mr. Testa will sit up here. I
16 think they have questions of the
17 investigators.

18 Sir, can we have your name? Are
19 you an attorney?

20 MR. MAGNAN: No, I am a CPA and
21 certified in forensics as well.

22 SUPERVISOR WALTER: We're going to
23 swear you in.

24 L O U I S M A G N A N, having
25 first been duly sworn by a Notary

1 Public of the State of New York, was
2 examined and testified as follows:

3 BY THE REPORTER:

4 Q. Please state your name for the record.

5 A. Louis D. Magnan, I reside at 625 California
6 Road, Bronxville, New York. We also own a home
7 adjoining to the 168 Creek Road property, which is
8 the subject of this hearing.

9 SUPERVISOR WALTER: Do you want to
10 ask questions?

11 MR. MAGNAN: I have a speech that I
12 wrote this morning. A lot of cryptic
13 notes as I didn't read the first draft.
14 I apologize if I fumble a little bit.
15 I will try and articulate what it is
16 like living next to this property.
17 Okay. So good afternoon, Town
18 Supervisor.

19 SUPERVISOR WALTER: Good afternoon.

20 MR. MAGNAN: Councilmen and Town
21 Clerk. My wife and I, Sylvie Magnan
22 bought this property 172 Creek, in
23 2002. The property sits on the east
24 side of the creek and was shown as a
25 blue structure immediately to the east

1 of the photos of Mr. Downs and the
2 building representative of the Town. I
3 understand that this property was
4 purchased on or about 2000 by Mr. Lee.
5 There may have been a subsequent sale
6 but it has been very difficult to
7 communicate to the present owner
8 because not only has the Town
9 attempted, but the police has attempted
10 to report the condition of the
11 property. The doors, the fact there
12 was squatters there -- it has been my
13 understanding that there has been no
14 interior inspection of the building at
15 all.

16 SUPERVISOR WALTER: That's correct.
17 We would need an administrative search
18 warrant.

19 MR. MAGNAN: So I am going to go
20 into a little discussion about that
21 topic. All right. So during my
22 tenured at the property, it's my
23 understanding that this property was
24 rented for about 10% of the time. I
25 would suggest that in the last 12 years

1 there has been nobody attending to the
2 property. Physically attending to any
3 updating maintenance or residing
4 therein. Other than an occasional
5 squatter. I may want to point to the
6 previous photos that were put up, but I
7 think we have some pictures that
8 should be shown to the Town and it's
9 representatives and it kind of depicts
10 the scene there. So let's go back to
11 Sandy. Sandy had a major effect on the
12 Creek Road owners. I had three feet of
13 water in the property that adjoins
14 168 Creek. It was a mentally crippling
15 event. It's my understanding that
16 there was no remediation at that point.
17 I have significant experience in
18 remediation, all throughout the world.
19 MetLife had a building downtown,
20 off Broadway and it was permeated by
21 12 feet of water. The walls needed to
22 be remediated and possibly sheetrock
23 removed. So to my understanding there
24 has been no inspection by the Town
25 with respect to is there a mold

1 condition? There have been officers
2 that have visited the premises and I
3 have not entered the premises. Who
4 talked about feces being in the
5 property. So this condition of the
6 property is not changing. It has not
7 changed in probably 12 years. So Sandy
8 went in there and we have a
9 contaminated property. I have some
10 shingles. These shingles were residing
11 on our property. As I attempted to
12 avoid these structure next door. I
13 would suggest probably that these
14 shingles are full of mold. There could
15 be mold on the exterior. That would
16 require other forensics people to come
17 in. So the Town would have to hire a
18 hygienist and/or an expert to test the
19 viability of the paint, if it's lead
20 and contaminate. And lead paint, as
21 ordered by New York State to be removed
22 on the premises. It has been the
23 subject of many litigations around the
24 company. Many of the homes initially
25 performed temporary repairs to the

1 property. There was probably three or
2 four feet of water on Creek Road. Most
3 of the damage occurred from entering
4 the south side of the creek. That
5 being the water rushed into the
6 creek and it overflowed down the street
7 into the homes. I would suggest that
8 the grading for 168 is not much
9 different then my property. I had a
10 destroyed boiler, fishing equipment, a
11 floating boat that was in a garage on a
12 trailer, etcetera. Etcetera. I
13 submitted property damage probably
14 exceeding \$35,000.00. There was no
15 sheetrock in my garage other than
16 ceiling. So if three feet of water
17 entered 168 Creek, there would be mold
18 entering thought that property because
19 it was not remediated. I don't have
20 the ability to perform an air quality
21 inspection or site inspection or mold
22 inspection but there are very dangerous
23 molds that are out there. In the
24 interior as well as exterior. And then
25 you can match that up with the police

1 reports who have made various reports
2 about the contents and quality of the
3 condition inside the property. That is
4 a matter of public record. It is most
5 likely that the property is infested by
6 mold and vermin. This property has
7 been occupied squatters as evidenced by
8 the exterior writing of my slides. So
9 perhaps we can go to the videotape of
10 the slides.

11 MR. McCORMICK: Do you have hard
12 copies of the exhibits?

13 MR. MAGNAN: Yes.

14 MR. McCORMICK: Perhaps we will
15 mark them.

16 SUPERVISOR WALTER: I am just going
17 to have the Town Attorney ask you some
18 questions about these pictures.

19 MR. MAGNAN: Absolutely.

20 SUPERVISOR WALTER: So Dan, why
21 don't you lay some foundation as to
22 what these pictures are?

23 MR. McCORMICK: Yes.

24 BY MR. McCORMICK:

25 Q. So sir it looks like we have approximately

1 ten photos in each of these packets?

2 A. I think there is more than that.

3 Q. Do you know the amount?

4 A. I think it's more like 16-17.

5 Q. Okay. And did you in fact take each of
6 those photos?

7 A. Yes, I did.

8 Q. When did you take those photos?

9 A. Last week. Last Saturday.

10 Q. And these are photos of 168 Creek Road?

11 A. Yes, photographs that were taken outside
12 the property from either my property or the south
13 or northerly exposures.

14 Q. For the record, is it fair to say that
15 these photos fairly and accurately represent the
16 scene as depicted when you took them on the date
17 that you just eluded to?

18 A. Yes. Correct. I could not take
19 photographs of the interior.

20 Q. No, only what is depicted in the photos?

21 A. Correct.

22 Q. And you would like the Town Board to
23 consider these as an Exhibit?

24 A. Yes.

25 (Whereupon, Magnan Exhibit A,

1 Photographs, was entered into evidence,
2 as of today's date.)

3 Q. It has been marked as Magnan Exhibit A, is
4 that acceptable by you?

5 A. Sure.

6 Q. And your asking the Board to admit these as
7 an exhibit?

8 A. Yes. I would also like to admit the
9 shingles that were residing on my property.

10 MR. McCORMICK: I got to be honest
11 with you, I don't want to touch the
12 shingles. I am assuming the Board
13 doesn't want to shingles.

14 SUPERVISOR WALTER: We will stick
15 to the pictures.

16 MR. McCORMICK: You made
17 allegations about the shingles that
18 quite frankly nobody is going to want
19 to handle at this point.

20 SUPERVISOR WALTER: We will admit
21 these counselor. Provide a copy to
22 Mr. Zeng.

23 MR. MAGNAN: I would guess that the
24 Town would also admit that there are --
25 did not conduct mold inspections of

1 the property?

2 MR. McCORMICK: Okay. Ar you
3 asking me that question, as the
4 supervisor indicated before, the Town
5 of Riverhead has no authority aspect of
6 the --

7 MR. MAGNAN: No, I said the
8 exterior.

9 MR. McCORMICK: Okay. You said
10 testing --

11 SUPERVISOR WALTER: We would have
12 to get an administrative search
13 warrant. We have not done that.

14 MR. MAGNAN: There is a very
15 persuasive smell in the summer that is
16 entering my property. I am not sure if
17 it's a leaking septic tank. I am not
18 sure if it's the accumulating feces
19 from the building. I am not sure if
20 it's the urine that relates to
21 squatters in the building. Take a
22 guess. I am not there everyday. But
23 my neighbors speak up. There is some
24 here in attendance. It is a despicable
25 piece of property. You can see the

1 comparison in this photo up here. My
2 family is in construction. I have over
3 \$10 billion dollars in claims from
4 9/11. So I know all about property
5 damage. And I certainly know all about
6 mold. How much they test for it, what
7 kind of inspections that they do,
8 etcetera. Etcetera. I was also there
9 in Katrina, and we will talk about that
10 shortly. Is there anything else? I am
11 going to continue my speech?

12 SUPERVISOR WALTER: Keep going.

13 MR. MAGNAN: Ladies and gentleman,
14 I have seen raccoons and other animals
15 infiltrating the premises. It is in
16 disarray. I frequently hear raccoons
17 climbing the tree that adjoins the hot
18 tub. I thought that it was a
19 reenactment of a honeymoon show going
20 back to raccoon lodge. There are
21 animals running through the property at
22 will. The doors are open for days,
23 weeks at a time. This property is not
24 safe. The town needs to fix the
25 problem. Simply boarding up the

1 property, in my opinion, does not solve
2 the problem. In closing, in 2007 there
3 was a property that was inhabited in
4 New Orleans. There were eight children
5 that were killed in the property. By
6 starting a bonfire in the damaged
7 building that wasn't fixed by Katrina.
8 There are thousands of buildings that
9 were destroyed post. This one houses
10 eight children before the fire and the
11 children were killed. There is no
12 meaningful reason to allow this
13 property to just get boarded up and
14 continue to deteriorate. The owners
15 have shown no dedication or intention
16 of ever fixing the property. We can't
17 deal with a band-aid when we're talking
18 about a major safety hazard. Safety
19 hazard potentially to the environment
20 because of potential mold and feces.
21 That may be leading into the water.
22 Maybe my drinking water is
23 contaminated. So here we are and we
24 sit here and say, well, I think we need
25 to fix the decks and the stairway wells

1 are probably not viable to walk on.
2 Let's go to a picture -- if we can keep
3 clicking. My property is on that
4 property that you have seen before.
5 Keep going. Go back. That's the
6 singles that resided. And I would like
7 you to look at the originals because
8 they're more convincing. These are the
9 same shingles that are sitting here.
10 There is no probability that these
11 shingles will not continue to fly off
12 this building. There is no probability
13 that the Town in its current
14 discussions are going to allow safety
15 to be implemented into this property
16 other than tear the railings down.
17 Tear the decks down. Somehow people
18 are getting into the property. Thank
19 you. Next. So it's hard to see but
20 guess what, I have a deck. My wife and
21 I have a deck. I walk down the deck
22 and it was 25-30 degrees last Saturday.
23 And I took this beautiful picture of
24 the deck that abuts my building. So
25 you see flying railings. You see

1 debris. You see shingles falling off
2 the building. This place -- if you
3 look at statistics, you can refer this
4 as an anomaly in statistics. This
5 building should not be present and
6 should not be blessed for continued
7 existence. The property should be
8 removed off its foundation. It serves
9 no purpose to the public or the
10 taxpayers that are paying the taxes,
11 my neighbors, my family members. How
12 do you look outside your dining room
13 and see that building? Would everybody
14 here in the court like to be put into
15 that position? Next picture please.
16 Next. Okay. That photo is -- you see
17 the prior references to the decking and
18 -- almost looks like skids than
19 anything more than that. We have seen
20 kids walk in here. We see raccoons
21 walk in here. We see deer. The
22 raccoons are flying off the trees
23 abutting the north side of this. This
24 little hot tub. The hot tub looks like
25 an explosion. Anybody can walk on this

1 property from the beach and just jump
2 into the hot tub.

3 SUPERVISOR WALTER: Sorry, I don't
4 think anybody is going to jump in the
5 hot tub.

6 MR. MAGNAN: There is no safety.
7 No fence.

8 SUPERVISOR WALTER: This is how
9 these public hearings work. We can do
10 what we can do. The public hearing
11 gives us a lot of information. We can
12 do what we can do from a visual
13 inspection unless we can see like the
14 Courthouse Restaurant and that other
15 house was falling down. I have been to
16 this house. I live in this
17 neighborhood. Down the road. Not too
18 far. From the outside the house is not
19 falling down. The shingles are coming
20 off. The windows are open. I get it.
21 But the information that you're giving
22 us may allow us to do some other
23 things. The obnoxious odors emanating
24 from within the premises and other
25 things. So what we do here today may

1 not be the final say because at the
2 very least, we can order the hot tub
3 removed and the place boarded up. That
4 solves part of the problem. The other
5 part of the problem will involve
6 conversations with you and the Town
7 Attorney and neighbors. Just if we do
8 something now with a board-up and a
9 tear down, we may do other things. As
10 I said, in order to get into the house
11 you need an administrative warrant. In
12 order to get an administrative warrant,
13 someone has to swear out a complaint.
14 You understand where I am going with
15 this?

16 MR. MAGNAN: Yes.

17 SUPERVISOR WALTER: So that may be
18 other conversations with you and your
19 neighbors.

20 MR. MAGNAN: Can we go to the
21 picture of the southerly exposure --
22 yes. I am not sure if you can
23 physically see this but in the --

24 SUPERVISOR WALTER: "Be Free."

25 MR. MAGNAN: Yes, "Be Free."

1 SUPERVISOR WALTER: Of what?

2 MR. MAGNAN: Well, if you were a
3 squatter, you probably wrote this. So
4 "Be Free" on the inside of the window
5 and say, hey, there is no --

6 SUPERVISOR WALTER: Stand at the
7 podium.

8 COUNCILWOMAN GIGLIO: Four more
9 pictures down is a better one.

10 MR. MAGNAN: So just the sequence
11 of the photos. Took a picture of that.
12 I don't think you guys saw that; right?
13 It's there now.

14 SUPERVISOR WALTER: We didn't enter
15 the building.

16 MR. MAGNAN: I didn't enter the
17 building either. This is from --

18 SUPERVISOR WALTER: The Town didn't
19 get a picture of this --

20 MR. MAGNAN: What I am suggesting
21 is that from the time the Town made to
22 this picture, there were squatters in
23 the building. So the issue is not only
24 the safety of the exterior part of the
25 premises, it's the fact that access is

1 given all the time to the interior. So
2 basically it was sent back and said,
3 okay, Mr. Squatter, please enter my
4 premises. There is no rent obligated.

5 SUPERVISOR WALTER: That part we
6 will take care of.

7 MR. MAGNAN: Let me continue.
8 What is the Town going to do locking
9 the door because whoever has locked the
10 door from the Town before, with all do
11 respect, it's not getting by.

12 SUPERVISOR WALTER: It's a board-up
13 pursuant to -- you might have heard it
14 at the other hearings. Officer Downs,
15 what did you call that the New York
16 State Code --

17 MR. DOWNS: New York Fire Academy
18 regulations regarding board-ups and how
19 they are done.

20 SUPERVISOR WALTER: Yes. You are
21 not getting back easily. Nobody will.
22 Not even the owner.

23 MR. MAGNAN: All right. I am just
24 going to close this out. Thank you
25 everybody for listening to my

1 observations. I hope you take them to
2 heart. It is my professional opinion
3 as a CPA and certified forensics having
4 dealt with \$10 billion dollars worth of
5 claims by my firm from 9/11 and
6 zillions from Sandy. My building was
7 permeated with six feet of water in my
8 lobby downtown Wall Street, many of
9 those buildings, the Ritz Carlton, the
10 Met Life building had major mold
11 problems. They required a hygienist to
12 come in. We need to think outside the
13 box. We need to eliminate the
14 possibility of a wrongful death action.
15 At some point in time exercised against
16 the Town in case somebody died at the
17 premises. Thank you very much.

18 MR. McCORMICK: Mr. Magnan on
19 behalf of the Town Board, I thank you,
20 as a resident for coming down and
21 taking the time to address your
22 concerns with us. Regarding the
23 squatting situation, have you had
24 occasion to call the police
25 department --

1 MR. MAGNAN: It's reported and has
2 been reported to the police
3 department.

4 SUPERVISOR WALTER: Here in
5 Riverhead?

6 MR. MAGNAN: Yes. Officer Davis.
7 I think the complaint that Officer
8 Downs related to previously about the
9 door from being open came from me. I
10 went to the Town Police and I think
11 they called you, Mr. Down's;
12 correct?

13 MR. DOWNS: Yes.

14 MR. MAGNAN: Listen, we have been
15 really silent about this topic. At
16 this point in time it's beyond
17 silence.

18 SUPERVISOR WALTER: I don't know
19 how you lived next door to this as long
20 as you did, Mr. Magnan.

21 MR. MAGNAN: You know, I went to
22 the Town. The Town came. They cut the
23 trees. They cleaned up the grass.
24 Boom-a-da-boom-de-boom. They fixed the
25 hot tub. They put the side back. You

1 know, the raccoons continued.

2 SUPERVISOR WALTER: Got it.

3 MR. MAGNAN: Jackie Gleason and the
4 Raccoon Lodge is still next door.

5 SUPERVISOR WALTER: Thank you, sir.
6 Does anybody else wish to be heard on
7 this matter? Yes. Come around. How
8 are you doing, ma'am? Can you raise
9 your right hand.

10 V I R G I N I A G R E C O, having
11 first been duly sworn by a Notary
12 Public of the State of New York, was
13 examined and testified as follows:

14 BY THE REPORTER:

15 Q. Please state your name for the record?

16 A. Virginia Greco.

17 MS. GRECO: And I live at Oak
18 Street, which is on the block of Creek,
19 and I have to say that -- I just stand
20 behind Mr. Magnan's speech that he just
21 given and I totally believe that
22 boarding it up is not going to solve
23 the problem with the squatters. There
24 is a lot of old folks on the block that
25 couldn't sit in this meeting and would

1 have loved to come here. I am here to
2 speak for them. They're my neighbors
3 and they're my friends and their houses
4 have been broken into from squatters
5 that were at 168 Creek Road. And for
6 that reason, we're worried. They
7 could have been home. These drug
8 addicts these days are just walking up
9 and down Creek just looking for
10 houses to break into or to squat in. I
11 am there all the time. So I see it. I
12 don't know what else to say. I think
13 that building should come down or be
14 eliminated or fixed up. You know, make
15 the neighborhood a pleasant site.
16 Thank you.

17 SUPERVISOR WALTER: Thank you very
18 much. Does anybody else wish to be
19 heard?

20 (No Response.)

21 SUPERVISOR WALTER: Okay.
22 Mr. Zeng --

23 MR. ZENG: Yes?

24 SUPERVISOR WALTER: You got a real
25 crud on your hands. How are you

1 related to the owner? Are you a
2 contractor?

3 MR. ZENG: I was the contractor
4 that was retained by the owners. Three
5 weeks ago we already -- we already had
6 someone go inside and clean everything.
7 We bolted all the doors. We submitted
8 applications to the Building
9 Department. That was for the exterior.
10 The inspector came over and saw inside
11 and requested more interior application
12 so we can obtain both permits.

13 SUPERVISOR WALTER: Did anybody
14 from the Town go into that premises?

15 MR. ZENG: The Town, no. The
16 Building Department -- one of the guys
17 came over.

18 SUPERVISOR WALTER: Did he go
19 inside?

20 MR. ZENG: Slightly.

21 SUPERVISOR WALTER: And why didn't
22 he go inside?

23 MR. ZENG: It wasn't cleaned up.

24 SUPERVISOR WALTER: What is inside?

25 Go ahead.

1 MR. ZENG: It was seagull feces.
2 Insulation that was -- got wet. All
3 over the floor. Sheetrock
4 everywhere.

5 SUPERVISOR WALTER: The feces is
6 what concerns us.

7 MR. ZENG: Yes.

8 SUPERVISOR WALTER: Especially if
9 it's bird feces.

10 MR. ZENG: Yes. So we already
11 hired someone -- bagged up and removed
12 the debris inside.

13 SUPERVISOR WALTER: That has been
14 done?

15 MR. ZENG: Yes. The door has been
16 locked. Bolted.

17 SUPERVISOR WALTER: Is anyone from
18 Creek Road here?

19 MR. ZENG: The windows are all
20 closed up. It's just we haven't
21 boarded up the house because we are
22 still waiting for the permit from the
23 Building Department. We still are
24 waiting for the drawings to be
25 finished. We already spoke to the

1 Building Department since November.

2 SUPERVISOR WALTER: Does your
3 client have the financial resources to
4 rehabilitate this house?

5 MR. ZENG: Yes.

6 SUPERVISOR WALTER: So here is what
7 I am proposing. One of two things.
8 Either we get an administrative search
9 warrant, which we may have the ability
10 to do now. I am not sure. And we ar
11 going to come in, if it's potentiality
12 full of feces in hazmat suits and do a
13 search of the premises to find out what
14 exactly is going on there. I happen to
15 live in the area and went over to the
16 premises when Mr. Magnan called and I
17 could smell stuff coming out of the
18 premises. But I am not -- so we are
19 either going to get the
20 administrative warrant and go down the
21 road of figuring out how we are legally
22 going to do this for you and charge
23 this on your tax bill and whether that
24 results in a tear down of the house or
25 something like that. I don't know

1 because we have not been there. The
2 easier way for all parties, if your
3 client has the financial resources to
4 do this, would be to -- and I don't
5 want my town employees full of feces,
6 would be to do what we're going to do
7 on the Overlook Drive is set forth a
8 timeline for you guys to address all of
9 this. Including cleaning up the
10 inside. Either boarding it or making
11 it a habitable structure. This is not
12 acceptable. On the record, you're
13 saying that it is full of feces?

14 MR. ZENG: Yes.

15 SUPERVISOR WALTER: What is your
16 expertise?

17 MR. ZENG: It was disgusting. The
18 windows were left open. I know there
19 was squatters going in. That is why we
20 closed all the windows. We haven't
21 boarded up. The owners had a family
22 issue. So she flew back to her own
23 country for -- she will be returning --

24 SUPERVISOR WALTER: Where is she
25 from?

1 MR. ZENG: Taiwan, I believe. I
2 deal with her lawyer. So we're in --
3 nailed down all the doors. So they're
4 not able to open. All the windows are
5 closed. Cleaned up the second floor
6 and first floor. The basement has
7 no feces. It's just junks. Like --
8 floor boards and stuff like that.
9 Everything else is we are waiting for
10 building permit.

11 SUPERVISOR WALTER: What is their
12 intention for this house?

13 MR. ZENG: They are trying to
14 refurbish it.

15 COUNCILMAN WOOTEN: Have you
16 applied for a building permit?

17 MR. ZENG: We are in the process.
18 It was supposed to be exterior that we
19 wanted to fix the decking first. And
20 then went we over, we told them
21 inside has to be fixed. We recommended
22 what --

23 SUPERVISOR WALTER: What is your
24 expertise?

25 MR. ZENG: Structurally it's fine.

1 SUPERVISOR WALTER: No. No. What
2 is your expertise? Are you a
3 construction manager? Are you an
4 engineer?

5 MR. ZENG: Customer relations.

6 SUPERVISOR WALTER: Okay.

7 COUNCILMAN WOOTEN: The inside
8 certainly has to be cleaned. The
9 outside for safety purposes. Kids
10 could be climbing all over the place.
11 I would rather rip those decks down and
12 board everything up.

13 COUNCILWOMAN GIGLIO: Even our
14 emergency service workers, God forbid
15 that the shutters should start a fire
16 in there and they try and access the
17 building and put the fire out, we're
18 putting them at risk, also.

19 MR. ZENG: I agree.

20 COUNCILWOMAN GIGLIO: So when you
21 say that the owner went back to her
22 country, what is her name?

23 MR. ZENG: I don't know. I deal
24 with the lawyer. She has a lawyer that
25 deals with me.

1 SUPERVISOR WALTER: Is it John
2 Farrell?

3 MR. ZENG: No. That was somebody
4 that I consulted to come with me.

5 SUPERVISOR WALTER: He going to be
6 retained?

7 MR. ZENG: No. She has her own
8 real estate lawyer.

9 COUNCILWOMAN GIGLIO: Because it
10 says that the owners name is Rong Fang
11 Huang.

12 MR. ZENG: I believe that is the
13 husband that passed away.

14 MR. McCORMICK: But he's the deeded
15 owner?

16 MR. ZENG: Yes.

17 MR. McCORMICK: Has the deed been
18 probated?

19 MR. ZENG: Not sure.

20 MR. McCORMICK: And this is the
21 wife of Mr. Huang?

22 MR. ZENG: Yes.

23 SUPERVISOR WALTER: So what I am
24 thinking is -- we have to do now or two
25 things. Either we're going to work

1 with you and try and obtain a consent
2 and have everything cleaned up or we're
3 going to move towards an administrative
4 warrant. And you're not an attorney,
5 so I don't know if you are the person
6 to deal with.

7 MR. ZENG: Well, the attorney asked
8 me to show up to propose what we're
9 going to do. All I need is probably
10 two weeks and I will board everything
11 up and clean everything up. Until the
12 building permit comes out. We will do
13 everything.

14 SUPERVISOR WALTER: So what I am
15 thinking, Dan, is that we hold this
16 hearing open, we work out either a
17 stipulation of settlement of this issue
18 or all issues resolved and the house
19 gets cleaned up. Hopefully not boarded
20 up, just cleaned up and put in a
21 position where it's habitable or we
22 reopen the hearing and we continue with
23 the eye to see whether we can obtain an
24 administrative warrant to go in on the
25 public health issue. Not now

1 Mr. Magnan.

2 COUNCILWOMAN GIGLIO: I think
3 it's horrible that somebody has to live
4 next door to this structure. And I
5 think that having my windows open on a
6 summer day trying to catch a breeze off
7 the water and catching a breeze off the
8 neighbors house is disgusting.

9 MR. ZENG: I agree.

10 COUNCILWOMAN GIGLIO: And I think
11 that something needs to be done for
12 both the outside of the building and
13 the inside of the building. So that it
14 becomes a habitable structure.

15 SUPERVISOR WALTER: So we will do a
16 two week short leash on this. In other
17 words, we're going to potentially --
18 not renotece this -- we might because
19 he's not an attorney.

20 MR. McCORMICK: We have produced
21 evidence that the property owner was
22 aware of this and there is no mistakes.
23 So we don't have process issue. And
24 he's here. So the Board doesn't have
25 anything else to do on that issue. My

1 suggestion at this point, what the
2 Board considers at this point is do
3 keep it on a tight schedule and
4 requiring in two weeks a detailed
5 construction remediation plan, subject
6 to compliance with the New York
7 State property code and regulations as
8 it's going to be monitored with
9 Investigator Downs.

10 SUPERVISOR WALTER: That's
11 exactly what my game plan is. And if
12 that doesn't happen, we re-open the
13 hearing and move towards an
14 administrative search warrant for the
15 rest of the hiuse. So I would like you
16 to take that back to your owner.

17 MR. ZENG: Yes.

18 SUPERVISOR WALTER: And I would
19 like whatever attorney you're dealing
20 with to give them the name of Mr.
21 McCormick so that they can deal lawyer
22 to lawyer. They speak the same
23 language. And if that's okay, what we
24 will do is -- I am going to leave the
25 hearing open until -- keep it open for

1 two weeks.

2 MR. McCORMICK: Sir, you agree that
3 the property owner was given proper
4 notice of the hearing date?

5 MR. ZENG: Yes.

6 MR. McCORMICK: And they're waiving
7 any objections to that; correct?

8 MR. ZENG: Yes.

9 SUPERVISOR WALTER: So two weeks,
10 basically the 28th. The next Board
11 meeting is February 2nd. So we will
12 give you till February 2nd to work this
13 out or we're going to reopen the
14 hearing.

15 MR. ZENG: Okay. Thank you.

16 SUPERVISOR WALTER: So the hearing
17 stands adjourned to February 2nd.

18
19 (Whereupon, the hearing of 168 Creek
20 Road was adjourned to February 2, 2016.)
21
22
23
24
25

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C E R T I F I C A T I O N

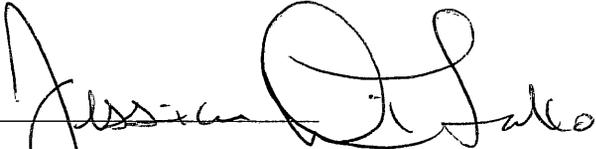
I, Jessica DiLallo, a Notary Public for
and within the State of New York, do
hereby certify:

THAT, the witness(es) whose testimony is
herein before set forth, was duly sworn by
me, and

THAT, the within transcript is a true
record of the testimony given by said
witness(es).

I further certify that I am not related
either by blood or marriage to any of the
parties to this action; and that I am in
no way interested in the outcome of this
matter.

IN WITNESS WHEREOF, I have hereunto set
my hand this day, January 29, 2016.



(Jessica DiLallo)

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RESOLUTIONS

Resolution #32

Councilman Wooten: "Safety Inspections Budget Adjustment, so moved

Councilwoman Giglio: "and seconded"

Supervisor Walter: "Moved and seconded. Vote please."

The Vote: "Hubbard, yes; Giglio, yes; Wooten, yes; Walter, yes. Resolution adopted."

Resolution #33

Councilwoman Giglio: "Authorizes Town Clerk to Publish and Post the Attached Notice to Bidders for Street Lighting and Traffic Signal Maintenance Repair Parts, so moved"

Councilman Hubbard: "seconded"

Supervisor Walter: "Moved and seconded. Vote please."

The Vote: "Hubbard, yes; Giglio, yes; Wooten, yes; Walter, yes. Resolution adopted."

Resolution #34

Councilman Hubbard: "Ratifies the Appointment of a Temporary Substitute Food Service Worker to the Seniors Program, so moved"

Councilman Wooten: "and seconded"

Supervisor Walter: "Moved and seconded. Vote please."

The Vote: "Hubbard, yes; Giglio, yes; Wooten, yes; Walter, yes. Resolution adopted."

Resolution #35

Councilman Wooten: "Authorization to Publish Advertisement for 20 Passenger Handicap Accessible Bus to be Utilized by the Senior Center, so moved"

Councilwoman Giglio: "and seconded"

Supervisor Walter: "Moved and seconded. Vote please."

The Vote: "Hubbard, yes; Giglio, yes; Wooten, yes; Walter, yes. Resolution adopted."

Resolution #36

Councilwoman Giglio: “Ratifies a Call-In Clerk to the Riverhead Recreation Department, so moved”

Councilman Hubbard: “and seconded”

Supervisor Walter: “Moved and seconded. Vote please.”

The Vote: “Hubbard, yes; Giglio, yes; Wooten, yes; Walter, yes. Resolution adopted.”

Resolution #37

Councilman Hubbard: “Ratifies a Call-In Clerk to the Riverhead Recreation Department, so moved”

Councilman Wooten: “and seconded”

Supervisor Walter: “Moved and seconded. Vote please.”

The Vote: “Hubbard, yes; Giglio, yes; Wooten, yes; Walter, yes. Resolution adopted.”

Resolution #38

Councilman Wooten: “Authorizes Attendance at the 2016 Training School and Annual Meeting Held by the Association of Towns (February 14 -17, 2016), so moved”

Councilwoman Giglio: “and seconded”

Supervisor Walter: “Moved and seconded. Vote please.”

The Vote: “Hubbard, yes; Giglio, yes; Wooten, yes; Walter, yes. Resolution adopted.”

Resolution #39

Councilwoman Giglio: “Amends Terms and Conditions of Part-Time Secretary on Temporary Basis, so moved”

Councilman Hubbard: “and seconded”

Supervisor Walter: “Moved and seconded. Vote please.”

The Vote: “Hubbard, yes; Giglio, yes; Wooten, yes; Walter, yes. Resolution adopted.”

Supervisor Walter: “I’d like to make a motion to take three resolutions off the floor. Does anybody want to speak on the resolutions? Not seeing anybody, no. Resolution #40

is a Riverhead Sewer District Budget Adjustment. Resolution #41 authorizes the Supervisor to Execute Subordination Agreement for Atlantis Holding Company, LLC Restore NY Grant Recapture and #42 is the Determination and Emergency Declaration that the Structure Located at 307 Griffing Avenue, Riverhead, New York, also Known as Suffolk County Tax Map No. 600-128-3-19 is Unsafe, has Partially Collapsed, is in Imminent Danger of Further Collapse, Poses a Hazard and Danger to the Public and Orders the Town Engineering Department to Facilitate the Demolition of Said Structure and to Assess Demolition and Removal Costs Against the Subject Property. Can I get a motion to take all three of those off the floor?

Councilman Wooten: “so moved”

Councilwoman Giglio: “and seconded”

Supervisor Walter: “moved and seconded as to taking all three resolutions off the floor”

The Vote: “Hubbard, yes; Giglio, yes; Wooten, yes; Walter, yes.

Town Clerk Wilhelm: “Resolutions #40, #41, #42 are taken off the floor.”

Resolution #40

Councilwoman Giglio: “Riverhead Sewer District Budget Adjustment, so moved”

Councilman Wooten: “seconded”

Supervisor Walter: “Moved and seconded. Vote please.”

The Vote: “Hubbard, yes; Giglio, yes; Wooten, yes; Walter, yes. Resolution adopted.”

Resolution #41

Councilman Hubbard: “Authorizes Supervisor to Execute Subordination Agreement for Atlantis Holding Company, LLC, Restore NY Grant Recapture, so moved”

Councilwoman Giglio: “seconded”

Supervisor Walter: “Moved and seconded. Vote please.”

The Vote: “Hubbard, yes; Giglio, yes; Wooten, yes; Walter, yes. Resolution adopted.”

Resolution #42

Councilman Wooten: “Determination and Emergency Declaration that the Structure Located at 307 Griffing Avenue, Riverhead, New York, also Known as Suffolk County Tax Map No. 600-128-3-19 is Unsafe, has Partially Collapsed, is in Imminent Danger of Further

Collapse, Poses a Hazard and Danger to the Public and Orders the Town Engineering Department to Facilitate the Demolition of Said Structure and to Assess Demolition and Removal Costs Against the Subject Property, so moved”

Councilwoman Giglio: “I’ll second”

Supervisor Walter: “Moved and seconded. Vote please.”

The Vote: “Hubbard, as much as I would love to yes on this, I have to abstain because the first part of this hearing was conducted prior to myself being a sworn board member. I was present in the audience for most of that hearing but not all of it. So I abstain”.

The Vote continued: “Giglio, yes; Wooten, I can tell you without hesitation, every opportunity was afforded him, almost to our detriment but gave him the opportunity to come back here and controvert the evidence that was placed before him two months ago and during that 65 days, 70 days, absolutely nothing was done on the parties behalf to try to defend himself or his actions and the building certainly is a danger not only to, an eye sore, but a physical danger for people around it. So, unequivocally I vote yes on this; Walter, yes. Resolution adopted.”

Supervisor Walter: “Nice job. Are there any public comments? Yes Angela”

Angela DeVito offered comments on the 3 Chapter 54 hearings of this meeting, urging the Town Board to be more proactive than reactive to these type of situations. Also adding that there may be many more properties of interest throughout the community in need of town intervention and not just wait for formal complaints.

The Supervisor indicated that there is going to be a Code Committee that Councilwoman Jodi Giglio will chair that could deal with this issue.

Angela DeVito asked to be considered to part of this committee.

Angela DeVito posed questions to the Town Board regarding the proposed FOLD Festival Chapter 90 application as to completion of a Traffic Impact Study and when the matter will be brought up to the Town Board again.

Elaine McDuffy expressed concerns over traffic safety issues with regard to the proposed FOLD Festival Chapter 90 application

Bishop Emil Wcela proved the benediction

Meeting Adjourned
2:10 P.M.