

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

FOX MORAINE, LLC	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB No. 07-146
	)	(Pollution Control Facility Siting
	)	Appeal)
UNITED CITY OF YORKVILLE, CITY	)	
COUNCIL	)	
	)	
Respondent.	)	

**NOTICE OF FILING**

To: See Attached Service List

PLEASE TAKE NOTICE that on May 7, 2009, Leo P. Dombrowski, one of the attorneys for Respondent, United City of Yorkville, filed via electronic filing the attached **Yorkville's Response to Fox Moraine's Amended Motion For A Finding that Valerie Burd Was Not A Credible Witness**, with the Clerk of the Illinois Pollution Control Board, a copy of which is herewith served upon you.

Respectfully submitted,

UNITED CITY OF YORKVILLE

By:     /s/ Leo P. Dombrowski      
One of their Attorneys

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**CERTIFICATE OF SERVICE**

I, Susan Hardt, a non-attorney, certify that I caused a copy of the foregoing **Notice of Filing and Yorkville's Response to Fox Moraine's Amended Motion For A Finding that Valerie Burd Was Not A Credible Witness**, to be served upon the Hearing Officer and all Counsel of Record listed on the attached Service list by sending it via Electronic Mail on May 7, 2009.

/s/ Susan Hardt

[x] Under penalties as provided by law pursuant to ILL. REV. STAT. CHAP. 110 – SEC 1-109, I certify that the statements set forth herein are true and correct.

**SERVICE LIST**

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Illinois Pollution Control Board  
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**BEFORE THE  
ILLINOIS POLLUTION CONTROL BOARD**

FOX MORaine, LLC	)	
	)	
Petitioner,	)	
	)	PCB No. 07-146
v.	)	(Pollution Control Facility Siting
	)	Appeal)
UNITED CITY OF YORKVILLE, CITY	)	
COUNCIL	)	
	)	
Respondent.	)	

**YORKVILLE'S RESPONSE TO FOX MORaine'S AMENDED MOTION FOR A  
FINDING THAT VALERIE BURD WAS NOT A CREDIBLE WITNESS**

Respondent, United City of Yorkville, City Council ("Yorkville"), by its undersigned counsel, responds to Fox Moraine's motion as follows:

**I. MAYOR BURD TESTIFIED CONSISTENTLY AND CREDIBLY.**

Unable to show, because it did not happen, that then-Alderman Valerie Burd campaigned for mayor on an anti-landfill campaign or prejudged Fox Moraine's landfill application, Fox Moraine now feebly attempts to attack her credibility by isolating a few statements made by two members of the public out of the thousands and thousands of statements made by numerous people at approximately 200 hours of Yorkville meetings and hearings on proposed annexations and the proposed landfill in 2006 and 2007. Fox Moraine alleges that Burd knew that these two people, who also worked on her campaign, were "landfill opponents," yet Burd did not so testify.

It is clear from the transcripts cited by Fox Moraine (*see, e.g.*, Motion ¶ 5, p. 3) that residents of Yorkville were concerned that their elected officials were withholding information from them and that these officials were also attempting to rush the annexation of several parcels through the City Council without appropriate deliberation:

How this deal was put together behind closed doors without the normal fair debate and a normal hearing process time tables should have all of you asking

questions of why this vote is being called on such short notice. . . . [P]referential treatment has been given to these three property owners here tonight. . . . This is supposed to be a democracy with rules and procedures for us all, and all have been broken in this case. From the date of the public notice to this vote tonight has only been 19 days.

(See also G. Gilson Public Comment at p. 2: “FOGY’s concern was that the annexation process was being undertaken in a fundamentally unfair manner to the citizens of Yorkville. . . .”

(attached as Exh. A.)) It should have been no surprise to Fox Moraine that the annexation process and the proposed landfill siting were contentious and controversial issues. Even Don Hamman, Fox Moraine’s sole managing member, agreed at the hearing that proposing to site a landfill in a community can be a divisive issue. (Tr. 5/23/09 Hearing at 5:8-13, 14:13-15:4, attached as Exh. B.) It should also have been no surprise to Fox Moraine that several members of the public (who were derisively referred to by Devin Moose, Fox Moraine’s landfill design engineer, as “ignorant people who took over the town,” Tr. 5/22/09 Hearing at 146:2-147:17, attached as Exh. C) chose to exercise their 1<sup>st</sup> Amendment rights and express their views, sometimes very emotionally, regarding the annexation process and the proposed landfill.

Despite the controversial nature of the proposed landfill and the Yorkville electorate’s demanding to know the candidates’ positions on that issue, then-Alderman Burd, as she consistently testified at her deposition and the hearing, would not discuss the proposed landfill at meetings of her campaign committee,<sup>1</sup> nor would she allow anyone at these meetings to discuss it. Mayor Burd also testified that she refused to discuss the proposed landfill when she was campaigning door-to-door or anywhere else during the campaign. (Tr. 6/18/08 Burd Dep. at 13:22-14:23, 17:22-18:8, 24:11-17, 97:3-18, 101:6-12, attached as Exh. D; Tr. 5/21/09 Hearing

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<sup>1</sup> Her “campaign committee” was an informal group of people who met at her house to discuss fundraising, signs, and other campaign-related matters. There was no formal list of people assigned to certain tasks. Whoever wanted to support her was welcome to work on her campaign. (Tr. 5/21/09 Hearing at 181:17-182:1, attached as part of Exh. E.)

at 182:6-17, 183:2-23, 223:11-18, 247:23-248:11, attached as Exh. E.) That she did not hear a few comments during emotional, protracted hearings where numerous people spoke on several issues is no reason to question her credibility.<sup>2</sup> Essentially, Fox Moraine is arguing that every person at every hearing should have heard and remembered every statement, out of thousands and thousands of statements, made by everyone who spoke at those hearings.

Fox Moraine also takes issue with Burd's testimony that she did not recall receiving campaign contributions from members of Friends of Greater Yorkville ("FOGY"). Fox Moraine claims that Ron Parish was an officer of FOGY who made a contribution to her campaign. (Motion ¶ 7.) As Parish testified at his deposition and the hearing, he did not authorize anyone to make him an officer of FOGY, he was involuntarily made a FOGY officer, and when he heard he had been made a FOGY officer, he informed FOGY he did not want to be a part of the organization. He submitted a formal letter of resignation only because FOGY asked him to submit one. (Tr. 1/15/09 Parish Dep. at 12:21-14:14, 33:5-19, 41:2-9, 43:11-44:13, attached as Exh. F; Tr. 5/21/09 Hearing at 161:3-21, attached as part of Exh. E.) That Burd did not know Parish had been a FOGY "officer" for a few days or weeks (assuming that his involuntary appointment actually made him an officer) is not surprising.

The weakness of Fox Moraine's arguments becomes especially apparent when Fox Moraine attempts to conflate the annexation and landfill siting matters into one, single issue. The annexation hearings involved several parcels, which included not only the proposed landfill parcel, but also numerous other parcels. The annexation hearings took place several months before the landfill siting hearings began. Yet Fox Moraine wishes to portray Burd's votes against the proposed annexations as evidence that she was a "landfill opponent." (Motion ¶¶ 10-

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<sup>2</sup> In fact, Todd Milliron, one of the two "landfill opponents" noted by Fox Moraine, spoke of a need for a landfill and was in favor of having one sited in Kendall County. (Motion ¶ 5, pp. 3-5.)

11.) The proposed annexations and the proposed landfill were two separate issues, as was often pointed out by the City Council. (*See, e.g.*, Tr. Council Meeting 09/26/06 at 65:6-16; Tr. Council Meeting 10/10/06 at 13:9-14:9; Tr. Council Meeting 10/24/06 at 84:14-16, 85:5-9, all attached as Exh. G (comments of Aldermen Besco, Bock, and Wolfer); Tr. 5/21/09 Hearing at 178:20-179:1, attached as part of Exh. E (comments of then-Alderman Burd).) Fox Moraine's annexation attorney also stated that, "We see a variety of future uses for the land, but right now we don't have a particular use and so we want to continue the operation that Mr. Hamman has operated on this land for a number of years." (Tr. Council Meeting 09/26/06 at 157:10-14, attached as Exh. H.)

Fox Moraine also contends that Burd "withheld the fact" that Ed Sleezer was a member of her campaign committee. In support of its claim, Fox Moraine offers the testimony of Alderman Plocher. (Motion ¶ 8.) But Plocher was simply mistaken, as Sleezer was not part of Burd's campaign committee. Fox Moraine further claims that Alderman Werderich identified Joe Plocher as a FOGY member. (Motion ¶ 9.) That is untrue, as Werderich never so testified. (*See also* Exh. A at p. 1, where FOGY's President clarified that Fox Moraine's witnesses had testified incorrectly because Joe Plocher has never been a member of FOGY.)

**II. ONE "LANDFILL OPPONENT" IDENTIFIED BY FOX MORAINE DID NOT EVEN ATTEND THE LANDFILL SITING HEARINGS.**

Fox Moraine is correct that Ron Parish was a vocal critic of the annexation process. (Motion ¶ 6.) Parish, like many Yorkville residents, was concerned that the Yorkville Mayor and Aldermen were rushing the annexation of several parcels through the City Council without adequate public discussion. As a property owner living near the proposed annexation parcels, Parish was concerned that a housing development, water tower, retention pond, or landfill might be built near his property. (Tr. 5/21/09 Hearing at 159:22-160:13, attached as part of Exh. E.)

Fox Moraine is incorrect that Parish was a vocal critic “throughout the . . . siting hearing process” (Motion ¶ 6), because Parish did not even attend any of the siting hearings. Devin Moose, Fox Moraine’s landfill expert, twice threatened Parish with physical harm if Parish continued to speak out against the annexation and the proposed landfill. (Tr. 5/21/09 Hearing at 161:22-162:20, 166:6-18, 167:18-168:9, attached as part of Exh. E.) After Moose threatened Parish for the second time, which happened at the November 30, 2006 Special City Council Meeting (one day before Fox Moraine filed its landfill application), Parish became so appalled and disgusted by Moose’s attempted bullying tactics that Parish stopped attending public meetings. (Tr. 5/21/09 Hearing at 170:15-18, attached as part of Exh. E.)<sup>3</sup> If Fox Moraine intended to silence a vocal member of the public, it certainly succeeded.<sup>4</sup>

### **III. CONCLUSION**

Fox Moraine’s Motion is baseless. The Hearing Officer should deny it.

Dated: May 7, 2009

Respectfully submitted,

**UNITED CITY OF YORKVILLE,  
CITY COUNCIL**

/s/ Leo P. Dombrowski

By One of Its Attorneys

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Leo P. Dombrowski  
WILDMAN, HARROLD, ALLEN & DIXON LLP  
225 West Wacker Drive  
Chicago, Illinois 60606  
(312) 201-2000

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<sup>3</sup> Moose confirmed that Parish attended none of the landfill hearings. (Tr. 5/22/09 Hearing at 147:18-148:2, attached as part of Exh. C.)

<sup>4</sup> It is ironic that Fox Moraine complains of a “hostile atmosphere” at some of the public hearings when it was Fox Moraine itself that attempted to create such an atmosphere by threatening the public.



**EXHIBIT A**

Fox Moraine Appeal PCB Written Public Comment Submittal to the Illinois  
Pollution Control Board on 4/27/09

RECEIVED  
CLERK'S OFFICE

APR 28 2009

Reference PCB 2007-146, Fox Moraine LLC v. United City of Yorkville

STATE OF ILLINOIS  
Pollution Control Board

PC# 1

Hello, my name is George Gilson and I am currently and have always been the President of Friends of Greater Yorkville (FOGY). I wanted to point out a few interesting things for the record in public comment to be considered before these proceedings come to a close and the Pollution Control Board renders their judgment on whether the decision of the City of Yorkville to deny this landfill should be upheld or denied.

First, throughout these proceedings Fox Moraine's witnesses and their attorneys continually are making an attempt to attack the efforts of Friends of Greater Yorkville which is a non-for-profit corporation established and chartered for the betterment of Yorkville and the surrounding community. Along with Fox Moraine's continual attempt to discredit the efforts put forth by Friends of Greater Yorkville in opposition to this landfill, they also are trying try to paint a negative portrait of the individual members of the corporation without any clue of who the members actually are.

Friends of Greater Yorkville, or commonly referred to as the "opposition group" by Fox Moraine, only consists of 5 members of which most if not all of the accusations in this appeal do not apply to. Contrary to sworn testimony under oath by Fox Moraine's witnesses, the officers or members of FOGY are not and have never been Todd Milliron or Joe Plocher. Ron Parish himself, was only an officer of FOGY for a week or two and had no involvement or knowledge of the officers of FOGY either before or after his own involvement.

Not only do Fox Moraine and their attorneys not know who FOGY is, but they continually take what was a community opposition consisting of many people of the community stepping forward and opposing this landfill application and

everything that led up to it, and are trying to convince the PCB to believe that anything said in opposition to the landfill before and during the application, was all coming from the 5 individuals that make up the Friends of Greater Yorkville. This cannot be farther from the truth.

FOGY's concern was that the annexation process was being undertaken in a fundamentally unfair manner to the citizens of Yorkville, and would have ultimately resulted in a fait accompli approval of the landfill prior to the siting hearing. It is ironic that Fox Moraine alleges ex parte communications by the citizens of Yorkville, while admitting that their representatives did the same. FOGY, as well as other citizens of Yorkville, therefore elected to exercise their first amendment and statutory rights to vigorous participation in the annexation process and the siting hearing. There is nothing in state statute, the PCB Rules, or the case law that could be interpreted to interfere with citizen rights during the annexation process, and the PCB certainly would not want to attempt to create a rule of finding which would abridge or stifle the rights of the citizens to participate in public hearings and to petition their elected officials. These are core and fundamental legal rights.

I also find it alarming that Fox Moraine's attorneys want the PCB to believe that the 39.2 process supersedes the Constitution of the United States and our 1st amendment rights of freedom of speech. There were no threats of physical harm made by anyone in FOGY and everything said in opposition to this landfill application was our right under the Constitution of the United States for freedom of speech. I find it equally concerning that stones are being cast at what they inaccurately believe as the members of FOGY, but yet the real and current long standing members of FOGY have never been deposed, subpoenaed, and put on the stand to testify to all of the inaccuracies testified to by the applicant and their witnesses. Fox Moraine only wants the audience and the PCB to hear one side of the story, and that is the skewed after the fact version of why they were not granted approval of their application. This version is a lot like sour grapes, and cannot be trusted. An example of these sworn inaccuracies is Charlie Murphy's testimony that I threw him out of a FOGY informational meeting. I had a

microphone on for that meeting he was referring to in front of a large crowd of residents. The truth is that I invited Charlie Murphy to come up and speak at this meeting, and Charlie refused and left on his own accord. This can be testified to by any one of a large number of attendees at this public meeting.

I can go on and on about the inaccuracies and false testimony in this appeal hearing, but it is not the burden of FOGY or the citizens to prove that this self serving testimony by Fox Moraine's witnesses are false. The fact remains, that it is up to Fox Moraine to prove that their testimony is true beyond a shadow of a doubt. This proof has not been accomplished with solid evidence to back up their statements.

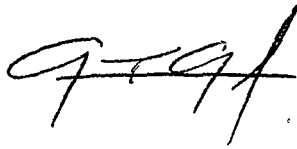
Fox Moraine does not like that the community opposed the landfill application and stepped forward to publicly express their opposition in every way and at every opportunity. Fox Moraine does not like that the community and members of FOGY petitioned their government as to their stance and beliefs about the annexation process and this landfill, but frankly, that is too bad. There is nothing illegal about freedom of speech. FOGY did not under any circumstance talk to the city council during the application about anything substantive in the application. The current city council made their decision to deny this landfill based on the 39.2 process and the lack of Fox Moraine to meet the criteria set forth in the process.

The PCB needs to only be concerned with one thing. Fox Moraine had ample time, witnesses, and opportunity to prove that they could meet all the criteria set forth in the siting process, and unfortunately for them, could not get that task accomplished. Fortunately for the community, this landfill was denied based on failure to meet the criteria in the 39.2 process, and that fact alone. Therefore, the City of Yorkville's decision to deny this landfill should be upheld.

Thanks for your time and careful consideration of these thoughts and comments. I respectfully urge the Pollution Control Board to strongly consider the facts, and to look at what Fox Moraine has truly proven with evidence over accusation in this appeal. Please consider the rights of our first amendment of freedom of speech and look at the siting hearings as to whether the denial was based on failure to

meet the criteria in the process. After careful review, I know the record points toward a fair, non-biased hearing in which the City of Yorkville looked at the criteria and based their decision. I respectfully urge the PCB to protect the rights of the Constitution and to avoid being sidetracked by anything other than the record and the facts. Please uphold the decision by the City of Yorkville to deny the siting of the Fox Moraine landfill. I know that the appellate court will uphold the decision to support the denial of this landfill siting in the future.

Respectfully,

A handwritten signature in black ink, appearing to read "G. Gilson Jr.", written in a cursive style.

George Gilson Jr.

498 Sunflower Ct.

Yorkville, IL 60560

**EXHIBIT B**

ORIGINAL

ILLINOIS POLLUTION CONTROL BOARD

FOX MORaine, L.L.C., )  
 )  
 Petitioner, )  
 )  
 -vs- )  
 )  
 UNITED CITY OF YORKVILLE, )  
 CITY COUNCIL, )  
 )  
 Respondent, )  
 )  
 KENDALL COUNTY, )  
 )  
 Intervenor. )

PCB 07-146

**RECEIVED**  
CLERK'S OFFICE

APR 27 2009

STATE OF ILLINOIS  
Pollution Control Board

REPORT OF PROCEEDINGS taken before Tamara  
 Manganiello, Registered Professional Reporter and  
 Notary Public, at 902 Game Farm Road, Yorkville,  
 Illinois, commencing at the 9:00 a.m., on the 23rd  
 day of April, A.D., 2009.

1           there's an amicus brief coming in and also a  
2           time to file your public comment if you so  
3           choose.

4                                 With that said, I guess we can get  
5           started, Mr. Dombrowski, Mr. Hopp.

6                                 MR. DOMBROWSKI: Thank you,  
7           Mr. Hearing Officer. We would like to call  
8           Mr. Donald Hamman.

9                                 HEARING OFFICER HALLORAN: Good  
10          morning, Mr. Hamman.

11                                 (Witness sworn.)

12          WHEREUPON:

13                                 DONALD J. HAMMAN  
14          called as a witness herein, having been first duly  
15          sworn, was examined and testified as follows:

16                                 DIRECT EXAMINATION

17          BY MR. DOMBROWSKI:

18                                 Q.         Would you state your full name,  
19          please, sir?

20                                 A.         Donald J. Hamman.

21                                 Q.         And. Mr. Hamman, you are a resident  
22          of Plano, Illinois, correct?

23                                 A.         Unincorporated Plano. We live in a  
24          rural area.



1 Q. And how long have you lived there?

2 A. Ten years.

3 Q. How far is Plano from Yorkville?

4 A. Approximately five miles.

5 Q. Are you a lifelong resident of the  
6 Plano/Yorkville area?

7 A. I'm approximately a 37-year resident.

8 Q. What is your relationship to Fox  
9 Moraine, L.L.C.?

10 A. I'm the manager of Fox Moraine, L.L.C.

11 Q. And you are the sole managing member;  
12 is that correct?

13 A. Yes.

14 Q. And you have an ownership interest in  
15 Fox Moraine?

16 A. Yes.

17 Q. What is that ownership interest?

18 A. We have approximately a 51 percent  
19 interest.

20 Q. That is yours, 51 percent?

21 A. And my family.

22 Q. And who owns the other 49 percent?

23 A. Grote Industries.

24 Q. And Grote is a waste hauler, correct?

1 that question, correct?

2 A. Yes.

3 Q. And you said, not that I know,  
4 correct?

5 A. That's correct.

6 Q. And you took an oath on that day to  
7 tell the truth, correct?

8 A. I did.

9 Q. And nothing would have prevented you  
10 from filing the application later than December 1st,  
11 2006, correct?

12 A. Not that I know of.

13 Q. Yet you still chose to file it on  
14 December 1st, 2006, about four-and-a-half months  
15 before the elections, right?

16 A. Yes.

17 Q. And when you filed the application you  
18 knew that the possible siting of a landfill in the  
19 City of Yorkville could become a big, contentious,  
20 controversial issue during the election campaigns,  
21 correct?

22 A. Some cities welcome a landfill and  
23 others don't, so...

24 Q. But you knew possibly that it --

1 A. Yes.

2 Q. -- could be a controversial issue,  
3 right?

4 A. Correct.

5 Q. Mr. Hamman, you have a subscription to  
6 the Beacon News, do you not?

7 A. Yes.

8 Q. And you've had that subscription for  
9 some time?

10 A. A number of years.

11 Q. You get the paper delivered daily?

12 A. We do.

13 Q. And you had that subscription both in  
14 2006 and 2007, correct?

15 A. Yes.

16 Q. And do you remember an article two  
17 days before the before April 17th elections that  
18 came out on April 15th, which was a Sunday?

19 A. Yes.

20 Q. And various candidates were quoted  
21 regarding their positions on the proposed landfill,  
22 correct?

23 A. That's correct.

24 Q. And you recall reading that article on

**EXHIBIT C**

ORIGINAL

ILLINOIS POLLUTION CONTROL BOARD

FOX MORaine, L.L.C., )  
Petitioner, )  
vs. ) PCB 07-146  
UNITED CITY OF YORKVILLE, CITY )  
COUNCIL, )  
Respondent, )  
KENDALL COUNTY, )  
Intervenor. )

**RECEIVED**  
CLERK'S OFFICE

MAY 04 2009

STATE OF ILLINOIS  
Pollution Control Board

TRANSCRIPT OF PROCEEDINGS had in the  
above-entitled cause on 22nd day of April, A.D., at  
9:00 a.m.

BEFORE: BRADLEY P. HALLORAN,  
Hearing Officer  
Illinois Pollution Control Board  
James R. Thompson Center, Suite 11-500  
100 West Randolph Street  
Chicago, Illinois 60601  
312-814-8917

1 I don't know who owned it.

2 Q. Do you remember Mr. Parrish speaking  
3 at this meeting?

4 A. I remember him interrupting at the  
5 meeting, yes.

6 Q. Do you remember Mr. Miliron speaking  
7 at the meeting?

8 A. Vaguely.

9 Q. And, Mr. Miliron, Mr. Parrish, you've  
10 referred to these two gentlemen as part of the small  
11 number of ignorant people who took over the town.  
12 Is that correct?

13 A. Can you show me that transcript that  
14 you just read from?

15 Q. Sure.

16 Let me show you, Mr. Moose,  
17 discovery deposition. I will refer you to the  
18 bottom of -- well, the bottom of Page 16 and onto  
19 Page 17.

20 A. I don't -- I think you're  
21 misinterpreting my testimony.

22 Q. Well, I'm not misinterpreting, I'm  
23 asking you a question.

24 A. Okay. Then reask the question.

1 Q. You see at the top of Page 17 where  
2 you refer to a small number of ignorant people who  
3 took over the town. Do you see that?

4 A. Yes.

5 Q. That was your testimony; correct?

6 A. Yes, I do.

7 Q. Who was included in your opinion in  
8 that small number of ignorant people?

9 A. It's shown on the bottom of Page 16,  
10 the paragraph above that, where I'm referring to.  
11 Your question above that, preceding my answer, was,  
12 "Other than Miliron and Mr. Parrish, who you felt  
13 were ill behaved." Then I answered. There were  
14 yelling, applause. And then I go on to answer. So,  
15 clearly, by the first sentence of the answer -- and  
16 your question, it excludes them. It's talking about  
17 the people that were disruptive at public hearings.

18 Q. So you would not include, then,  
19 Mr. Parrish in the small number of ignorant people  
20 who took over the town?

21 A. I would say that Mr. Parrish didn't  
22 even -- I don't even remember if Mr. Parrish  
23 attended any public hearings. From my recollection,  
24 I don't think he did. I don't remember him

1 attending any public hearings on the landfill  
2 itself.

3 Q. Is that a yes to the question or no --  
4 or a no?

5 A. Well, it certainly doesn't -- you  
6 know, are we talking about the meetings before or  
7 the meetings -- or the hearings?

8 MR. PORTER: I'm going to object to  
9 the relevancy. What does it matter if this  
10 witness thinks Mr. Parrish is ignorant or  
11 isn't ignorant?

12 THE HEARING OFFICER: You know, I'll  
13 allow it, but I would ask Mr. Moose to answer  
14 the question. If he wants --

15 BY THE WITNESS:

16 A. Can you reask the question?

17 BY MR. DOMBROWSKI:

18 Q. Sure. I will ask it again.

19 Do you include Mr. Parrish in your  
20 small number of ignorant people who took over the  
21 town?

22 A. No.

23 Q. Do you include Mr. Miliron?

24 A. I think Mr. Miliron was excluded in my



**EXHIBIT D**

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BEFORE THE ILLINOIS  
POLLUTION CONTROL BOARD

FOX MORaine, LLC,	)	
	)	
Petitioner,	)	
vs.	)	PCB No. 07-146
	)	
UNITED CITY OF YORKVILLE,	)	
CITY COUNCIL,	)	
	)	
Respondent.	)	

Discovery deposition of VALERIE BURD, called as a witness herein, pursuant to the applicable provisions of the Code of Civil Procedure of the State of Illinois and the rules of the Supreme Court thereof, before Belinda A. Harr, CSR No. 84-003215, taken on June 18, 2008, at 1:30 p.m. at 800 Game Farm Road, Yorkville, Illinois.

1 was Wally Werderich. He was my campaign manager.  
2 There was Ron and Becky Parrish. There was Dan  
3 Nicholson. There was Tom and Stephanie Todd and  
4 occasionally Arden Joe Plocher.

5 Q. Were you aware that Todd Milliron  
6 was a vocal anti-landfill spokesperson?

7 A. I'm not sure that I was aware of  
8 that when he joined my committee.

9 Q. Do you remember when he joined your  
10 committee?

11 A. He was -- as soon as I announced he  
12 was one of the earliest ones to show up.

13 Q. As I recall, in September of 2006  
14 the City conducted a number of meetings at larger  
15 venues, I want to say one of the grade schools or  
16 junior high schools right near here, to -- they  
17 were in the nature of a public hearing on the  
18 issue of annexation.

19 A. Right.

20 Q. Do you recall that?

21 A. Yes, I do.

22 Q. And I believe at that point  
23 Mr. Milliron was a very obvious and vocal

1           spokesperson against anything that might lead to a  
2           landfill. Is that a fair characterization?

3                   A.       He spoke vehemently against the  
4           annexation.

5                   Q.       And was it your understanding that  
6           his opposition to annexation was specifically  
7           related to the likelihood that that annexation  
8           would lead to the filing of a landfill  
9           application?

10                   A.       I can't recall his exact statement  
11           at that meeting.

12                   Q.       Ron Parrish was also a vocal  
13           spokesperson against annexation, correct?

14                   A.       Yes, he was.

15                   Q.       Did you understand at that time that  
16           Mr. Parrish and Mr. Milliron were opposed to a  
17           landfill siting by the City of Yorkville?

18                   A.       I had not at that time had  
19           discussions with them about it.

20                   Q.       Did you ever gain that understanding  
21           with regard to either of their positions?

22                   A.       I really didn't discuss the landfill  
23           with them privately, no.

1 Q. Did Mr. Parrish ever leave your  
2 campaign committee?

3 A. Did he leave it?

4 Q. Well, stop attending.

5 A. Near the end he did. He and his  
6 wife did.

7 Q. How close to the end?

8 A. A month before.

9 Q. Did Mr. Milliron ever stop attending  
10 your campaign committee meetings?

11 A. No, he didn't.

12 Q. Did Mr. Werderich ever stop  
13 attending your campaign committee meetings?

14 A. No, he did not.

15 Q. Isn't it true he resigned from FOGY  
16 when he announced his own candidacy for an  
17 aldermanic position?

18 A. I don't know if that was the case.  
19 I do know that he told me personally that to stay  
20 on my committee he couldn't be on both so he  
21 resigned. That's what he told me.

22 Q. Did you ever tell him that he had to  
23 make a choice between remaining a member of FOGY

1 candidate.

2 Q. So you don't even know what his  
3 position with regard to the siting of a landfill  
4 was; is that correct?

5 A. That's correct. He lived out on the  
6 east side of Yorkville.

7 Q. Who's Peter Newton?

8 A. Mr. Newton -- he's an attorney who  
9 lives in Grand Reserve, and I met him while I was  
10 walking around knocking on doors.

11 Q. Did he ever express a position to  
12 you with regard to a siting of the landfill?

13 A. No, he did not. He was one of those  
14 people -- when I was walking around, he started to  
15 say something. I held up -- we were given note  
16 cards. I said I can't discuss this with you, and  
17 so we never had a discussion.

18 Q. So you don't know what his position  
19 was with regard to the landfill?

20 A. I never discussed it with him.

21 Q. And the same would be true with  
22 Mr. Matesak? You don't know what his position  
23 was?

1           conversations with either one of them?

2                   A.       No.

3                   Q.       And I'm correct that you never  
4           discussed the landfill application with any  
5           members of your campaign committee; is that right?

6                   A.       Landfill application? I can't  
7           recall. We might have discussed the siting  
8           ordinance. I can't recall.

9                   Q.       The siting ordinance you said?

10                  A.       Yes.

11                  Q.       Other than the siting ordinance did  
12           you ever discuss with your campaign committee the  
13           landfill siting application or the evidence at the  
14           public hearing?

15                  A.       No, absolutely not.

16                  Q.       That's with no member of your  
17           committee?

18                  A.       No.

19                  Q.       Did you ever discuss that with any  
20           member of the public?

21                  A.       Not that I can recall.

22                  Q.       You were recently quoted -- and I'm  
23           sorry, I don't have the article -- as talking

1 e-mail address and any e-mails that I got at all  
2 that said anything in the landfill I didn't read  
3 them. So I just e-mailed people back I'm sorry I  
4 can't talk about this. So one way or the other I  
5 just didn't pay attention to them.

6 Q. Approximately how many anti-landfill  
7 e-mails would you have received in that period  
8 from September 1, '06, to May 31st of '07?

9 A. I wouldn't know because I didn't  
10 read them. I just told people if you -- whatever  
11 your feelings are on this, either way, I can't  
12 discuss it, I'm sorry.

13 Q. Well, approximately how many  
14 responses in the nature of I'm sorry I can't read  
15 this and discuss it would you have sent out to  
16 people?

17 A. I don't recall. I -- everything  
18 that I did I packaged up and gave it to the  
19 attorneys so I --

20 Q. Did you print out all of the e-mails  
21 that you had received --

22 A. Yes.

23 Q. -- and gave them or had you deleted



**EXHIBIT E**

ORIGINAL

ILLINOIS POLLUTION CONTROL BOARD

April 21, 2009

FOX MORaine, L.L.C., )  
 )  
 Petitioner, )  
 )  
 vs )  
 )  
 UNITED CITY OF YORKVILLE, )  
 CITY COUNCIL, )  
 )  
 Respondent, )  
 )  
 KENDALL COUNTY, )  
 )  
 Intervenor. )

**RECEIVED**  
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MAY 01 2009

STATE OF ILLINOIS  
Pollution Control Board

PCB 07-146

(Pollution  
Control Facility  
Siting Appeal)

REPORT OF PROCEEDINGS at the hearing of the  
 above-entitled cause before Bradley P. Halloran,  
 Hearing Officer, taken before Rebecca A. Graziano,  
 Certified Shorthand Reporter within and for the  
 County of Cook and State of Illinois, at the United  
 City of Yorkville Public Library, Yorkville,  
 Illinois, commencing at the hour of 9:00 a.m. on the  
 21st day of April, A.D., 2009.

1 landfill -- no landfill signs?

2 A. No, I did not. I do not travel any of  
3 those roads. I travel 71. 71 is county. My wife's  
4 business is in the county. We drive straight down  
5 71, and I've seen many landfill signs. There is no  
6 political signs.

7 Q. You donated close to a couple thousand  
8 dollars to the Burd campaign. Is that right?

9 A. If you count the plane tickets and  
10 everything, yes.

11 Q. Are you aware that your donations to  
12 the Burd campaign are not reflected in any public  
13 disclosure?

14 MR. DOMBROWSKI: Objection.  
15 Foundation. How would he know?

16 MR. PORTER: I asked if he was aware.

17 MR. HALLORAN: If he can answer, he  
18 may. Overruled.

19 BY MR. PORTER:

20 Q. You can answer if you know.

21 A. It doesn't -- I don't know.

22 Q. You do know that FOGY was formed to  
23 oppose the landfill. Is that correct?

24 A. FOGY was -- one of the first meetings

1 I was at, it was set up to oppose the annexation and  
2 several other things that was happening. I know you  
3 keep bringing this back to the landfill, but I was  
4 against the water tower, I was against the  
5 commercial property that was going to be on 71, I  
6 was against the houses that were going to be built  
7 in the corridor, and I was also against the pond  
8 that was going to be built next to my house because  
9 I have a grandson.

10 Now, you can narrate that down to  
11 landfill, but it's not just landfill, because  
12 landfill was the last of it. We were talking about  
13 the others a long time before.

14 Q. Well, isn't it true that you  
15 ultimately resigned from FOGY because of some of the  
16 radical tactics that were being employed?

17 A. It wasn't radical tactics. It was --  
18 the people had disagreements, and I just don't like  
19 going into the agreements. It wasn't radical  
20 tactics.

21 MR. PORTER: Okay. I have nothing  
22 further.

23 MR. HALLORAN: Thank you, Mr. Porter.  
24 Mr. Dombrowski?

1 C R O S S - E X A M I N A T I O N

2 BY MR. DOMBROWSKI:

3 Q. Mr. Parish, how long were you an  
4 officer of FOGY?

5 A. A couple weeks, I guess. Maybe three  
6 weeks.

7 Q. Did you volunteer to be an officer of  
8 FOGY?

9 A. I had no objections to it. I was  
10 called -- they called my wife at home, and asked if  
11 I would, and I think my wife said yes, and I went  
12 over there, yes.

13 Q. And all you attended was one meeting  
14 of FOGY, correct?

15 A. I attended two meetings with FOGY.  
16 Now, when you say -- two of their official meetings  
17 is what I attended, yes.

18 Q. Okay.

19 A. I don't know whether they were even  
20 official meetings, because I don't know when they  
21 became FOGY.

22 Q. Did you attend any informational  
23 meetings put on by Fox Moraine?

24 A. Yes, I did.

1 Q. How many did you attend?

2 A. Three. Well, you know, I don't know  
3 who put them on, so I don't want to make a bad  
4 statement. Two of them they put on, I know, at the  
5 Beacher Center, and then the one that was held at  
6 the high school, I don't know who put it on.

7 Q. The two that were held at the Beacher  
8 Center, when were those?

9 A. I do not recollect the dates. I'm  
10 sure you all have them. They were somewhere -- I  
11 really don't know the dates. I'm 66 years old. I  
12 don't know what I had for breakfast two days ago.

13 Q. And what happened at those meetings?

14 A. Actually, the first meeting we started  
15 to talk about what was good or bad and what they  
16 were saying, and then the second meeting I was told  
17 that I should shut up or I could get hurt. And when  
18 somebody tells me that, I pretty much -- that's it  
19 for me. I left. I don't know what happened after  
20 that.

21 Q. All right. Let's back up a little.  
22 The purpose of these meetings -- well, first off,  
23 who appeared on behalf of Fox Moraine at these two  
24 informational meetings?

1 MR. DOMBROWSKI: He was one of the  
2 main landfill engineers for Fox Moraine.

3 MR. HALLORAN: Objection overruled.  
4 You can continue, but --

5 BY MR. DOMBROWSKI:

6 Q. What did Mr. Moose say to you, sir?

7 A. Well, it was just the second meeting.  
8 First of all -- and I want to say this because  
9 Charlie was very nice to me in the meeting -- but  
10 Mr. Moose, in the second meeting we went into, he  
11 came over and told me -- when I first walked in, he  
12 said, "You're not going to say anything." He said,  
13 "You can get hurt if you say anything. Just listen  
14 to what I'm telling you," and I went down to the  
15 front, and something was said. I stood up to make a  
16 statement, and he said he was not going to let me  
17 talk, and I got mad, and I left, and I don't know  
18 what was said after that.

19 Q. Now, where was Mr. Moose when he made  
20 this statement?

21 A. Standing at the front door of the  
22 building.

23 Q. Were other people around?

24 A. At that time, no, just myself and

1 Mr. Moose and the young gentlemen may have been  
2 there.

3 MR. PORTER: Again, I move that the  
4 entire testimony be stricken and then removed from  
5 the record. It did not do at all what counsel said.  
6 It was a private conversation between these two and  
7 nobody else was around.

8 MR. DOMBROWSKI: Well, it's a  
9 statement by someone acting on behalf of Fox  
10 Moraine, attempting to influence the process and  
11 attempting to silence people who are speaking out  
12 against the landfill. It's certainly relevant and a  
13 proper avenue of questioning.

14 MR. HALLORAN: Well, it's relevant to  
15 a point if you can wrap it up, Mr. Dombrowski.  
16 Objection overruled.

17 BY MR. DOMBROWSKI:

18 Q. So he threatened -- he essentially  
19 threatened you with harm if you continued to speak?

20 A. Yes.

21 Q. And the other meeting that you  
22 mentioned at the high school, you attended that as  
23 well?

24 A. Yes, I did.



1 Q. Did Mr. Moose speak to you at all at  
2 that meeting?

3 A. He spoke to me when I was leaving. He  
4 spoke to me in front of Dave Runtle (phonetic), who  
5 is a member of the Harvest Church, and he had come  
6 over to me and said I was a radical and wouldn't  
7 live very long with my comments, and then he  
8 screamed radical right when I was walking out. You  
9 can have 100 people that can qualify for that.

10 Q. Let me ask you one other thing,  
11 Mr. Parish.

12 A. You know, and I should have -- and I  
13 got to go back. It was kind of childish on the  
14 whole thing. Really, a person should listen to a  
15 person. And I don't know -- Devin Moose is the only  
16 person that conducted himself that way.

17 Q. Let me ask you one other thing about  
18 Mr. Moose. In this appeal, he has accused you of  
19 calling him a child molester. Have you ever called  
20 Mr. Moose a child molester?

21 A. No, I have not called him a child  
22 molester.

23 Q. Anything that you said in one of these  
24 meetings that Mr. Moose may have construed in that

1 church had come to my house, and it embarrassed me  
2 that he would think I was going to be attacked  
3 because of what I had said. I wrote a letter to the  
4 paper and said that because I wanted Yorkville to  
5 get along, I wanted to see that every phase of  
6 Yorkville was in an order to help the town grow, not  
7 to cause arguments or discontent, and that I was not  
8 going to have anything else to do with it, and that  
9 was it, and that was what was in the letter. I  
10 showed the letter to Mr. Don Hammond and I showed it  
11 to Charlie Murphy in a restaurant the day before I  
12 turned it into a newspaper.

13 Q. Did the newspaper publish that?

14 A. Yes, they did.

15 Q. So after this last meeting where  
16 Mr. Moose threatened you with physical harm, did you  
17 attend anymore meetings?

18 A. I never attended another meeting.

19 Q. Thank you, Mr. Parish.

20 MR. DOMBROWSKI: I have nothing  
21 further.

22 MR. PORTER: I have one followup.

23 R E D I R E C T E X A M I N A T I O N

24 BY MR. PORTER:

1 MR. HALLORAN: But it's not, I guess,  
2 the ultimate issue. So I'm going to allow the  
3 question. The mayor may answer if she's able.  
4 Objection overruled.

5 THE WITNESS: Could you restate it,  
6 please?

7 BY MR. MUELLER:

8 Q. Did you know at the time that you  
9 voted on the annexation, the host agreement, and the  
10 annexation agreement -- you voted no on all of  
11 them -- that those matters were necessary in order  
12 for Fox Moraine to be able to file a siting  
13 application?

14 A. They were necessary in order for them  
15 to file a siting application, no.

16 Q. In order for them to get a landfill.  
17 How's that?

18 A. In order for them to get a landfill  
19 they were necessary. No, I did not know that.

20 Q. You didn't know there was any  
21 connection between the annexation and the landfill?

22 A. Actually, we were told over and over  
23 that the two had nothing to do with each other, and  
24 we should just look at it as an annexation based on

1 the law. So that's the way I looked at it.

2 Q. Well, you, in fact, met with  
3 Mr. Murphy before the September 26th meeting where  
4 he told you that Fox Moraine intended to annex his  
5 property into the city of Yorkville so they could  
6 file a landfill siting application with the city,  
7 didn't you?

8 A. I don't recall that. I recall meeting  
9 with him. I don't recall his specific words to me.

10 Q. And you remember on January 23rd,  
11 2007, at the reannexation hearing and meeting,  
12 passing out information that you had gathered to  
13 other council members as to why Fox Moraine had  
14 breached the annexation agreement?

15 A. No, I don't remember that.

16 Q. Let me show you the transcript of that  
17 meeting and perhaps it will refresh your  
18 recollection.

19 MR. HOPP: Which exhibit is it,  
20 George?

21 MR. MUELLER: It's January 23rd, which  
22 I believe is number nine.

23 BY MR. MUELLER:

24 Q. If I may, if I can direct your

1 but those were probably the core people that came  
2 over every week.

3 Q. Were you aware that Todd Milliron was  
4 a landfill opponent?

5 A. Was I aware of it, no.

6 Q. Were you aware that Ronald Parish, who  
7 just testified, was a landfill opponent?

8 A. No.

9 Q. He was described, in fact, by  
10 Mr. Dombrowski not ten minutes ago as speaking out  
11 against the landfill at the meeting at the high  
12 school, which was a city sponsored meeting. That  
13 didn't cause you to become aware that he was a  
14 landfill opponent?

15 A. I don't recall when he said what. So  
16 no, we didn't -- like I said, we never discussed it  
17 personally.

18 Q. You never listened to what he had to  
19 say at meetings?

20 A. I did listen to him, you know, during  
21 the meetings when he spoke out against annexation,  
22 but I -- I did not discuss it with him personally.

23 Q. You never heard him speak out against  
24 the landfill?

1 A. I don't recall.

2 Q. And you also never heard Todd Milliron  
3 speak out against the landfill at any city council  
4 meetings?

5 A. I don't recall who said what when.

6 Q. Well, at any meeting did you ever hear  
7 Todd Milliron speak out against the landfill?

8 A. I heard him speak out very  
9 passionately about issues, but if it was about the  
10 annexation, if it was about Sleepy Hollow Road, at  
11 this time I can't tell you exactly what he said.

12 Q. My question is: Did you ever hear  
13 Todd Milliron, at any city council meeting, speak  
14 out against the landfill?

15 A. I don't recall.

16 MR. HOPP: Objection. Asked and  
17 answered.

18 MR. MUELLER: She's answered.

19 MR. HALLORAN: Overruled.

20 BY MR. MUELLER:

21 Q. And you never became aware that he was  
22 against the landfill?

23 A. We never discussed it.

24 Q. I'm asking you if you ever became

1 Heather Gillers on May 19th, 2007, with the  
2 headline, "Yorkville Ex Mayor Flips on Landfill?"

3 A. I remember that headline, yes.

4 Q. You were quoted in the article a  
5 number of times, so I just wonder if you'd read it.  
6 People tend to usually read stuff that they're  
7 quoted in, right?

8 A. There's so many articles, though. I  
9 remember the headline, though, so I probably read  
10 it.

11 Q. Ms. Gillers, in one paragraph, refers  
12 to you as, "Burd, who has long criticized the  
13 landfill plan." Is that an accurate  
14 characterization by her?

15 A. No, and I've been concerned about that  
16 kind of -- as Alderman Spears said, the newspapers  
17 tend to lump things -- they're looking for a quick  
18 description instead of really going into the issue.

19 Q. Did you call Ms. Gillers and ask her  
20 for a retraction of that characterization?

21 A. That specific one, probably not.

22 Q. Now, on May 23rd, the city council met  
23 to deliberate on the landfill application, correct?

24 A. I believe so, yes.

1 said Fox Moraine has not paid some invoices. Do you  
2 remember that testimony?

3 A. Yes.

4 Q. Is it accurate that Fox Moraine hasn't  
5 paid any invoices for any work on the siting  
6 application after the day you were elected?

7 A. Yes, that's correct.

8 Q. And that's what you're currently suing  
9 for?

10 A. Yes.

11 Q. All right. Now, you did campaign for  
12 mayor in 2007. Is that right?

13 A. Yes.

14 Q. And during the siting application and  
15 during your campaign, were you actually given a card  
16 by Dirk Price, similar to or identical to the one  
17 that Rose Spears read into the record?

18 A. I was given a card, yes.

19 Q. Was it the same card?

20 A. Yes.

21 Q. Containing the same statements?

22 A. Yes.

23 Q. Did you run on an anti-landfill  
24 campaign platform?



1 A. No, I did not.

2 Q. Did you ever put your yard signs next  
3 to any anti-landfill signs?

4 A. No.

5 Q. Did you discuss the landfill at all  
6 during the campaign in any of your campaign  
7 appearances?

8 A. No, I did not. In fact, if somebody  
9 tried to broach that subject, I always said, "I  
10 can't discuss that, I'm sorry," and some of them got  
11 angry.

12 Q. Fair enough. Let's talk about -- a  
13 little bit about Rose Spears and the issue of  
14 research. Are you aware of Rose Spears ever doing  
15 any research outside the record as it was presented  
16 at the landfill siting hearings?

17 A. No, I'm not.

18 Q. Mr. Mueller used the term disruptive a  
19 couple of times to talk about some of the landfill  
20 hearings. Do you remember that?

21 A. Yes.

22 Q. Do you -- let's back up a little.  
23 You've been mayor now for two years?

24 A. Mm-hmm.

**EXHIBIT F**

1  
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BEFORE THE  
ILLINOIS POLLUTION CONTROL BOARD

FOX MORaine, LLC, )  
 )  
Petitioner, )  
 )  
vs. )  
 )  
UNITED CITY OF YORKVILLE, )  
 )  
CITY COUNCIL, )  
 )  
Respondent. )

**COPY**

No. PCB 07-146

DISCOVERY DEPOSITION OF  
RONALD PARRISH

January 15, 2009  
2:07 P.M.

Called as a witness by the Petitioner  
herein, pursuant to the provisions of the Code of  
Civil Procedure of the State of Illinois and the  
Rules of the Supreme Court thereof pertaining to the  
taking of depositions for the purpose of discovery,  
before CHRISTINA M. CULOTTA, C.S.R., License  
#084-003299, qualified and commissioned for the  
State of Illinois, taken at 200 Hillcrest Avenue,  
Yorkville, Illinois.

1 two, three baths; two-car garage homes; brick homes.

2 Q Okay.

3 A They're rentals.

4 Q And then there was one other that you  
5 mentioned?

6 A That's a guest house to my house.

7 Q And all of these properties, are they in  
8 Illinois or are they nationwide?

9 A No. They are in Texas and Illinois.

10 Q Okay. Other than what you have just  
11 discussed over the past decade, have you had any  
12 other means of income or employ?

13 A No. Not really.

14 Q Now, my understanding is at some point you  
15 were on the Board of Directors of an organization  
16 called FOGY or FOGGY? Is that information correct?

17 A Yes.

18 Q And --

19 A I mean, that's the only way I can answer  
20 that.

21 Q And FOGY is spelled F-O-G-Y and I  
22 understand it to be an acronym for something.

23 What is it an acronym for?

24 A You know, let me go back before we start

1 this. I have no idea what it's an acronym for; but  
2 the reason I have no idea what it's an acronym for,  
3 I was put on the Board for FOGY one day. In  
4 traveling back, I went down to the basement and they  
5 were having a meeting. I can't remember whether it  
6 was the first night or the second night. So if I  
7 lie, I am lying, but I think it was the second night  
8 I went there I was informed I was the treasurer and  
9 what they were going to do and this and that and I  
10 walked out and resigned. So --

11 MR. MURPHY: It's your checkbook. You were the  
12 treasurer.

13 THE WITNESS: So, so that was, I mean, you  
14 know, that's the reason you ask me was I, I guess I  
15 was. Because that's what they said and they told me  
16 I had to give them a written resignation that I was  
17 resigning and I said it's tough to understand why I  
18 have to do this, but I can do it. So I wrote a  
19 resignation.

20 BY MR. PORTER:

21 Q Okay. A lot of information in that little  
22 soliloquy there that I am going to parse through.

23 You mentioned it may have been the  
24 first or second meeting?

1 A Uh-huh.

2 Q I assume you mean the first or second  
3 meeting of the organization FOGY; is that right?

4 A It wasn't an organization. It was just  
5 several people to start with when I first went  
6 there --

7 Q Okay.

8 A -- and I didn't know any of them.

9 Q And approximately when was it that you  
10 first went there?

11 A Do not have a clue. It had -- when, when  
12 was the first time the land -- oh, it wasn't the  
13 landfill. It was the annexation. Because the  
14 annexation was what I was upset over.

15 Q I am aware that there was a hearing  
16 concerning potential annexation on September 25 of  
17 2006.

18 A I was there.

19 Q If that helps your recollection as --

20 A I was there. Yes.

21 Q -- as to when your first involvement with  
22 that organization of FOGY may have occurred.

23 Does that help you at all?

24 A The dates I don't have any idea of. I am

1 whatever that was. It was a Council meeting, or  
2 whatever. This gentleman was talking and then the  
3 other lawyer was talking. I don't know whether you  
4 talked or not.

5 Q Okay. At the time of that meeting, you  
6 were involved with and a member of this organization  
7 that came to be known as F-O-G-Y; is that right?

8 A I wasn't involved with them, but I talked  
9 with them.

10 Q Okay. And do you know if that  
11 organization had been established via the State of  
12 Illinois at that time?

13 A I do not know.

14 Q And at some point, you indicate that you  
15 resigned from that group.

16 When did that occur?

17 A That occurred the second time that I was  
18 with them. I walked out, I walked out of the  
19 meeting.

20 Q Okay. Now, September 25 and September 26  
21 there were meetings about annexation.

22 A Uh-huh.

23 Q The September 25th meeting took awhile and  
24 there were quite a few comments from yourself --

1 out, up the stairs and, and left.

2 Q At that second meeting, I mean, something  
3 occurred that made you resign at that meeting?

4 A Yeah. I guess so.

5 Q And what was it?

6 A It was a character assassination, and I  
7 didn't know either one of the individuals that well,  
8 but I just don't, I don't practice that. I am a  
9 Christian and that's not, not my, my style.

10 Q Okay. What was said?

11 A Oh, one of the individuals said that --  
12 you know, it's, it really doesn't have anything to  
13 do with this. It has nothing to do with FOGY. It  
14 was a, a character assassination about a person and  
15 there is no, there is no sense of me getting into  
16 that because it's not --

17 Q I guess I am going to push the issue  
18 because these are the relevant witnesses to a rather  
19 important matter as far as my client is concerned;  
20 and hopefully you are correct that it was a mere  
21 character assassination, but I don't know. I would  
22 like to hear what accusations were made against some  
23 of the primary individuals that were objectors at  
24 this --



1 Q Okay. And Gilmore took issue with how  
2 Milliron keeps his property up?

3 A How Milliron keeps his property and that,  
4 and how he talked, and several other things. I  
5 mean, it was just, you know, I didn't record the  
6 conversation, but it was just down the line talking  
7 about what he didn't like about Todd Milliron.

8 Q Okay. And that in and of itself was what  
9 you didn't like about Mr. Gilmore?

10 A Right.

11 Q Now, did you inform them on that date that  
12 you were resigning?

13 A Yes. I did.

14 Q You mentioned that there would have to be  
15 something that you would sign to formally resign  
16 from the Directors?

17 A Carol, Tom's wife, called me on the phone  
18 and said I would have to -- I don't want to recall  
19 the wrong name. It could have been Carol, Tom's  
20 wife; or it could have been Gilson's mother, because  
21 I think she come on the Board after that and took  
22 that position. She was quoting all kinds of law  
23 terms, which as far as I was concerned was wrong,  
24 but she said that they had to have a letter of

1 resignation. I said, hey, you need a letter of  
2 resignation, it's no problem with me. I will get  
3 you one. So I signed one.

4 Q Did you ever sign anything saying that you  
5 were, you were a Board of Director?

6 A No.

7 Q Okay. And do you have a copy of this  
8 letter of resignation?

9 A No. I don't. She wrote it and I signed  
10 it.

11 Q All right. But that did not occur at the  
12 second meeting? That was sometime later?

13 A Probably two or three weeks later.

14 Q All right. In those two meetings that you  
15 attended at FOGY, they were both at Mr. Gilmore's  
16 house?

17 A Uh-huh.

18 Q Okay. What strategies did FOGY discuss  
19 that it intended to employ to oppose a landfill  
20 application?

21 A There was never any strategies discussed.  
22 It was inner fighting.

23 Q Was there discussion about contacting City  
24 Council members?

**EXHIBIT G**

CITY COUNCIL MEETING  
UNITED CITY OF YORKVILLE, ILLINOIS

REPORT OF PROCEEDINGS had at the meeting  
of the above-entitled matter taken before  
CHRISTINE M. VITOSH, C.S.R., on September 26,  
2006, at the hour of 7:00 p.m., at 800 Game Farm  
Road in the City of Yorkville, Illinois.

D-805106



1 particular piece of property?

2 (No Response)

3 MAYOR PROCHASKA: Is there anything  
4 Council would like to say anything on this  
5 particular parcel of property?

6 MR. BESCO: I would just like to  
7 reiterate that we are dealing with an annexation  
8 and zoning of property, and that is what's facing  
9 us.

10 This is what we are voting on.  
11 We're not voting on a landfill. That -- If  
12 something does come -- somebody files a petition  
13 to put a landfill in, then we will address that  
14 topic, but until then, we are dealing with the  
15 annexation and zoning of these properties, and  
16 that's what we're judging it on.

17 MR. MUNNS: I would like your  
18 address, ma'am. I would like to stand in your  
19 driveway and take a look. You offered.

20 MS. WHITE: Right.

21 MR. MUNNS: I wrote it down, I want  
22 to make sure it's right. Was it 8714?

23 MS. WHITE: 8417 West.

24 MR. MUNNS: 8417. Thank you.

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SPECIAL CITY COUNCIL MEETING  
UNITED CITY OF YORKVILLE, ILLINOIS

REPORT OF PROCEEDINGS had at the  
meeting of the above-entitled matter on October 10,  
2006 at the hour of 7:00 p.m. at 800 Game Farm road  
in the City of Yorkville, Illinois.

TRANSCRIBED BY: Christina M. Culotta, CSR

1 stated over and over again it had nothing to do with  
2 the landfill, but in the annexation agreement  
3 between the City of Yorkville, as well as Northstar  
4 Properties, it's stated that the owner contemplates  
5 the establishment of a landfill on the subject  
6 property and, therefore, the City agrees to adopt  
7 and keep in effect a host city agreement for the  
8 subject property.

9 I just don't understand how you guys  
10 can say that it's not about the landfill when the  
11 annexation was passed and in the annexation  
12 agreement it talks about the landfill. I would just  
13 like to hear your comments on that.

14 MAYOR PROCHASKA: Well, is there anybody else  
15 in the Council?

16 ALDERMAN BOCK: Well, I, I would like to  
17 address it. It addresses it with the possibility  
18 that it would happen. It doesn't say there is one  
19 going to happen. So, you know, in, with, in the  
20 spirit of prudence, you put it in there in  
21 anticipation, anticipating whatever could happen to  
22 that.

23 We are not here trying to snow you  
24 that it's not going to be a landfill. We don't know

1 yet, but that's why it's in there. Okay. There is  
2 a, when the, if and when a landfill is ever proposed  
3 for that site, there is going to be months of time  
4 for anyone interested to talk, write, cross-examine,  
5 whatever. So you will have ample time to express  
6 your concerns and none of us up here have decided  
7 one, one way or another how that is going to work  
8 out. So feel free to come again and express your  
9 concerns. We will be glad to hear them again.

10 MR. MEZGER: One thing I would just like to say  
11 too. Sundial Homes does have almost \$2 million  
12 invested in property right by the landfill. I would  
13 just like to state my objection again and just  
14 please, you know, I think it gives you guys a chance  
15 to right a wrong tonight by not voting the, the  
16 vacation of Sleepy Hollow Road.

17 Thank you.

18 MAYOR PROCHASKA: Thank you. Anyone else?  
19 Yes, sir.

20 MR. MATHRE: My name is Bradley Mathre, 13889  
21 Hughes Road, Newark, and I am, I appreciate the  
22 opportunity to talk to you folks. I am the Highway  
23 Commissioner for Fox Township Road District. Sleepy  
24 Hollow Road is, was in the Fox Township Road



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SPECIAL CITY COUNCIL MEETING

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UNITED CITY OF YORKVILLE, ILLINOIS

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REPORT OF PROCEEDINGS had at the

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meeting of the above-entitled matter on October 24,

8

2006 at the hour of 7:00 p.m. at 800 Game Farm Road

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in the City of Yorkville, Illinois.

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TRANSCRIBED BY: Christina M. Culotta, CSR

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Christina M. Culotta, CSR  
(815) 258-3909

1 is going to be a new deck.

2 ALDERMAN WOLFER: That's fine.

3 MAYOR PROCHASKA: That's your option.

4 ALDERMAN WOLFER: I would like to answer.

5 MAYOR PROCHASKA: Yes.

6 ALDERMAN WOLFER: Would you like to hear my  
7 comments or not?

8 MR. PARRISH: I would like to hear them.

9 ALDERMAN WOLFER: Apparently not.

10 MR. PARRISH: I will listen for him.

11 MR. KALIZINSKI: I can hear them fine just as  
12 well as up there.

13 MR. PARRISH: I will listen for him.

14 ALDERMAN WOLFER: Number one, nobody has voted  
15 for a landfill or against one yet. So exactly what  
16 Paul had said, we did this to take control.

17 ALDERMAN SPEARS: Excuse me. Can you speak up?  
18 I can't hear you.

19 ALDERMAN WOLFER: How loud do you want it to  
20 be?

21 AUDIENCE MEMBER: We can't hear any of you.

22 ALDERMAN MUNNS: Is your mike on? Is that  
23 green light on?

24 ALDERMAN WOLFER: Yeah, the mike's on. Can you

1 hear me?

2 ALDERMAN MUNNS: Now it's good.

3 ALDERMAN WOLFER: Want me to swallow it?

4 ALDERMAN MUNNS: You have to get closer.

5 ALDERMAN WOLFER: I voted to take control so I  
6 could be part of the process. Now, as far as the  
7 host agreement, we do have a chance coming up to put  
8 controls on if and when it is applied for. There is  
9 a process for that.

10 I have gone out to look at landfills.  
11 As a matter of fact, I have an appointment to look  
12 at one right now that didn't work and I am meeting  
13 with the aldermen from that city to find out why so  
14 that when we put requirements on this, I will know,  
15 or at least have an idea of what to expect and what  
16 to put the conditions on.

17 At this point, we haven't had that  
18 chance yet. We can do nothing until we can take  
19 control of it. Otherwise, it's out in the County  
20 and it may or may not be there if they apply through  
21 the County. At that point, the County would have  
22 control on it and we would have no say.

23 MAYOR PROCHASKA: Okay. Thank you. Is that  
24 it?

**EXHIBIT H**

CITY COUNCIL MEETING  
UNITED CITY OF YORKVILLE, ILLINOIS

REPORT OF PROCEEDINGS had at the meeting  
of the above-entitled matter taken before  
CHRISTINE M. VITOSH, C.S.R., on September 26,  
2006, at the hour of 7:00 p.m., at 800 Game Farm  
Road in the City of Yorkville, Illinois.

D-805106



1 MS. MILSCHEWSKI: Spears.

2 MS. SPEARS: Aye.

3 MS. MILSCHEWSKI: Burd.

4 MS. BURD: Aye.

5 MS. MILSCHEWSKI: Munns.

6 MR. MUNNS: Aye.

7 MAYOR PROCHASKA: Motion is carried.

8 We are now in public hearing. Mr. Philipchuck?

9 MR. PHILIPCHUCK: For the record, my  
10 name is John Philipchuck. I am an attorney with  
11 offices at 123 Water Street, Naperville,  
12 Illinois, here this evening representing North  
13 Star Trust Company, Trust Number 06-9993.

14 As was pointed out in the  
15 reading by the Mayor, the property consists of  
16 approximately 760 acres. It lies immediately to  
17 the west of the Schanze property that -- the  
18 prior property that you just had a hearing on.  
19 It has a frontage of approximately two miles  
20 along Route 71, and the property runs from  
21 Route 71 on the north to Walker Road on the  
22 south.

23 The applicant is requesting  
24 that you enter into an annexation agreement for

1 the property, that it be left in the A-1 Ag  
2 District upon annexation with the City.

3 It currently has A-1 zoning in  
4 the County, and we would be annexing it with A-1  
5 in the City.

6 This particular parcel is  
7 slated at the Prairie Parkway interchange and  
8 interchange on Route 71, would encompass this  
9 property.

10 We see a variety of future uses  
11 for the land, but right now we don't have a  
12 potential use and so we want to continue the  
13 operation that Mr. Hamann has operated on this  
14 land for a number of years.

15 It is not a compost site. It  
16 is a lawn waste recycling where leaves, grass,  
17 sticks, and sometimes plastic, because people  
18 can't follow rules and it ends up in the brown  
19 bags and ends up on the land, and they have crews  
20 out there that have to pick it up.

21 It's not the fault of  
22 Mr. Hamann; it's the fault of us as citizens  
23 because we seem to have some in our midst that  
24 can't follow the rules. But be that as it may,