

0001

1 ILLINOIS POLLUTION CONTROL BOARD
2
3
4 WASTE MANAGEMENT OF)
ILLINOIS, INC.,)
5)
6 Petitioner,)
7)
8 -vs-) PCB 04-186
9)
10) (Pollution Control
COUNTY BOARD OF) Facility Siting
KANKAKEE COUNTY,) Appeal)
11)
12 Respondent.)
13)
14)

15 TRANSCRIPT OF PROCEEDINGS held in the
16 above-entitled cause before the Hearing Officer
17 Bradley P. Halloran, called by the Illinois
18 Pollution Control Board, pursuant to notice, taken
19 before Julia A. Bauer, CSR, RPR, a Notary Public
20 within and for the County of Will and State of
21 Illinois, at County Administration Building, 189
22 East Court Street, fourth floor, Kankakee, Illinois,
23 commencing at the hour of 9:00, on the 7th day of
24 April, A.D., 2005.

0002

1 A P P E A R A N C E S :
2
3 PEDERSEN & HOUP
4 161 North Clark Street
Suite 3100
Chicago, Illinois 60601-3224
(312) 261 - 2149
5 BY: MR. DONALD J. MORAN
MS. NANCY RICHARDSON
6
7 Appeared on behalf of the Petitioner;
8
9 HINSHAW & CULBERTSON,
10 100 Park Avenue
P.O. Box 1389
Rockford, Illinois 61105-1389
(815) 963 - 8488
11 BY: MR. RICHARD S. PORTER
MR. CHARLES F. HELSTEN
12 MS. BRENDA L. GORSKI
13 Appeared on behalf of the Respondent.
14

15
16
17
18
19
20
21
22
23
24
0003

I N D E X

1					
2					
3	WITNESS	DX	CX	RDX	RCX
4	LEONARD MARTIN				
5	By Mr. Moran	5			
6	By Mr. Porter		35		
7	By Mr. Moran			42	
8	WITNESS	DX	CX	RDX	RCX
9	RALPH MARCOTTE				
10	By Mr. Moran	44			
11	By Mr. Porter		53		
12	By Mr. Moran			55	
13	By Mr. Porter				56
14	WITNESS	DX	CX	RDX	RCX
15	JIM STAUFFENBERG				
16	By Mr. Moran	58			
17	By Mr. Helsten		74		
18	WITNESS	DX	CX	RDX	RCX
19	MICHAEL LaGESSE				
20	By Mr. Moran	76			
21	By Mr. Porter		99		
22	By Mr. Moran			105	
23	WITNESS	DX	CX	RDX	RCX
24	LINDA FABER				
25	By Mr. Moran	116			
26	By Mr. Helsten		130		
27	By Mr. Moran			140	

0004

(Continued) I N D E X

1					
2					
3	WITNESS	DX	CX	RDX	RCX
4	STANLEY JAMES				
5	By Mr. Moran	145			
6	By Mr. Porter		174		
7	By Mr. Moran			177	

6	By Mr. Porter				180
	By Mr. Moran			180	
7	By Mr. Porter				181
8					
	WITNESS	DX	CX	RDX	RCX
9					
	CULVER VICKERY				
10					
	By Mr. Moran	182			
11	By Mr. Porter		193		
12					
	WITNESS	DX	CX	RDX	RCX
13					
	JOHN SKIMERHORN, JR.				
14					
	By Mr. Moran	197			
15					
	WITNESS	DX	CX	RDX	RCX
16	RUTH BARBER				
17					
	By Mr. Moran	204			
18	By Mr. Porter		223		
19					
	WITNESS	DX	CX	RDX	RCX
20	KELLEY McLAREN				
21					
	By Mr. Moran	226			
22	By Mr. Helsten		244		
	By Mr. Moran			250	
23	By Mr. Helsten				250
24					

0005

(Continued) I N D E X

1					
2					
	WITNESS	DX	CX	RDX	RCX
3					
	FRANCES JACKSON				
4					
	By Mr. Moran	255			
5	By Mr. Helsten		283		
6					
	WITNESS	DX	CX	RDX	RCX
7					
	GEORGE WASHINGTON, JR.				
8					
	By Mr. Moran	295			
9	By Mr. Porter		306		
10					
	PUBLIC COMMENT/STATEMENT INVITATION				
11					
	BY: Ruth Romer, Page 108				
12	Keith Runyon, Page 110				
	Ralph Paarlberg, Page 252				
13					
14					
15					
16					
17					
18					
19					

20
21
22
23
24
0006

1 HEARING OFFICER: Good morning
2 everybody. My name is Bradley Halloran. The
3 same as it was yesterday. I'm a hearing
4 officer at the Illinois Pollution Control
5 Board. I'm also assigned in this matter as
6 entitled Waste Management of Illinois, Inc.
7 versus County Board of Kankakee County,
8 Illinois. Case number PCB 04-186.

9 This hearing commenced yesterday,
10 April 6th 2005, and it will continue today
11 April 7th, 2005. Waste Management and
12 Mr. Moran is still in its case and chief, and
13 I presume it will be calling its 11th
14 witness. Before I start, though, I'd like to
15 have Mr. Moran introduce himself.

16 MR. MORAN: Yes, my name is Donald
17 Moran, and I represent the petitioner Waste
18 Management of Illinois, Inc.

19 HEARING OFFICER: Mr. Porter.

20 MR. MORAN: Good morning. Rick Porter
21 on behalf the County Board along with Brenda
22 Gorski and Chuck Helsten.

23 HEARING OFFICER: Thank you.
24 Mr. Moran.

0007

1 MR. MORAN: We would call Mr. Martin
2 at this time.

3 HEARING OFFICER: Mr. Martin.

4 THE WITNESS: Where do you want me to
5 sit?

6 HEARING OFFICER: Up here
7 (indicating). I'm sorry. Mr. Martin. If
8 you raise your right hand, Julie will swear
9 you in.

10 (Witness sworn.)

11 WHEREUPON:

12 LEONARD MARTIN
13 called as a witness herein, having been first duly
14 sworn, depose and saith as follows:

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

16 BY MR. MORAN:

17 Q. Good morning, Mr. Martin.

18 A. Good morning.

19 Q. Could you tell us your name and spell
20 your last name for the court reporter?

21 A. My name is Leonard Martin. My last
22 name is -- you spell it, M-A-R-T-I-N.

23 Q. And what is your address?

24 A. 411 Hilltop, Bradley, Illinois.

0008

1 Q. How long have you lived there?

2 A. Twenty years.
3 Q. Are you a member of the county board?
4 A. Yes, I am.
5 Q. And for how long have you served on
6 the county board?
7 A. About 32 years.
8 Q. Are you aware that an application to
9 expand the existing waste management landfill was
10 filed on August 16th of 2002?
11 A. Yes, I am.
12 Q. And I'll be referring to that
13 application as the 2002 application or the first
14 application.
15 A. Okay.
16 Q. Did the public hearings on that
17 application occur in November and December of 2002?
18 A. I believe they did.
19 Q. And did you attend those hearings?
20 A. Yes.
21 Q. Was there a decision made on that 2002
22 application by the county board on January 31st,
23 2004 -- I'm sorry -- 2003?
24 A. You throw the dates at me, and of
0009
1 course, having two -- two applications, one right
2 after another, these dates may not be clear in my
3 mind, but I believe you're correct.
4 Q. Prior to the vote on January 31st,
5 2003, did you receive any phone calls from any
6 person regarding the proposed expansion?
7 A. I believe that I possibly did.
8 Q. Now, when you say you possibly did,
9 are you just speculating that you may have and you
10 don't recall that in fact you did receive any prior
11 to the first application?
12 A. The thing is, I get phone calls on all
13 kinds of issues that come up before the county
14 board, and which ones of those were on the waste
15 management deal -- we had several things on the fire
16 at that time, but I would say possibly that some of
17 them were from the -- on the waste management thing.
18 Q. And prior to that January 31st, 2003
19 date, did you receive any letters or written
20 materials from persons relating to the proposed
21 expansion?
22 A. A few, yes.
23 Q. Did you open any of these letters or
24 read any of these materials?
0010
1 A. I open all my mail irregardless of
2 what it is, but I ignored what was said in there. I
3 read them, but then I knew that I was not supposed
4 to make my decision on outside influences, so as a
5 result, I just threw them away.
6 Q. Did you vote on January 31st, 2003?
7 A. I believe so.
8 Q. How did you vote on the application?

9 A. I voted nay.
10 Q. Did you consider each of the criteria?
11 A. Yes.
12 Q. Do you recall which criteria you voted
13 against?
14 A. I can't tell you exactly because they
15 had the two different votes on two different waste
16 management proposals, and -- but I believe on the
17 first one -- I really can't tell you, because they
18 get confused in my mind because that's two years and
19 three years ago now.
20 Q. Were your votes on any of the criteria
21 different between the first and the second
22 application?
23 A. I believe they were.
24 Q. And when you say that they were
0011
1 different, did you vote against more criteria on the
2 second application than you did the first?
3 A. I believe I did.
4 Q. Did the county board as a whole
5 approve the 2002 application when it voted on
6 January 31st, 2003?
7 A. I believe they did.
8 Q. Are you aware that a second
9 application was filed on September 26th, 2003?
10 A. Yes.
11 Q. And that's what I'll refer as the 2003
12 application or the second application.
13 A. Okay.
14 Q. Were the hearings on the second
15 application conducted in January of 2004?
16 A. I believe they were.
17 Q. Did you attend those hearings?
18 A. All of them except maybe one or two.
19 Q. Did the county board vote on the
20 second application, the 2003 application, on March
21 17th, 2004?
22 A. Yes.
23 Q. And you voted on the application on
24 that day?
0012
1 A. I did.
2 Q. And you voted to deny the application?
3 A. I did.
4 Q. Prior to March 17th of 2004, did you
5 receive any phone calls regarding the proposed
6 expansion?
7 A. I believe I received a few.
8 Q. Did you receive these at your home?
9 A. It's the only place I have a phone,
10 yes.
11 Q. And these were individuals who were
12 calling you at home?
13 A. Yes.
14 Q. What were the names of any of the
15 people who called you?

16 A. I don't know. I don't remember
17 because I didn't -- I paid very little attention to
18 the phone calls.

19 Q. What did the people say to you in
20 these phone calls?

21 A. If I remember right, a few were for
22 the application, majority by far were against.

23 Q. And with respect to those people who
24 said they were for the application, did they in any

0013
1 way explain or describe the reasons why they
2 supported the application?

3 A. I don't remember.

4 Q. The people who opposed the
5 application, did they explain or describe any of the
6 reasons or facts supporting their opposition to the
7 expansion?

8 A. I don't remember.

9 Q. How long did any of these phone calls
10 last?

11 A. A couple minutes at the most.

12 Q. Did any of the callers tell you that
13 they approved your stand opposing the expansion?

14 A. I don't remember. I just -- I think
15 the majority of the ones were -- I would say the
16 majority approved of my stand of the ones that I
17 remember, and -- but I don't remember how they --
18 how they broke down.

19 Q. And my question was that these people
20 who called you in these phone calls, did they tell
21 you that they approved your stand opposing the
22 expansion?

23 A. I believe so.

24 Q. Prior to March 17th of 2004, did you

0014
1 receive any letters or written materials regarding
2 the proposed expansion?

3 A. Yes.

4 Q. How many such letters did you receive?

5 A. I don't remember, quite a few.

6 Q. More than 20?

7 A. More than one.

8 Q. More than 20?

9 A. No.

10 Q. And you read all these letters?

11 A. Yes, I read my mail.

12 Q. Were all these letters opposed to the
13 proposed expansion?

14 A. Most of them were.

15 Q. Well, were any in support?

16 A. Maybe a couple.

17 Q. Who sent those?

18 A. I don't remember.

19 Q. Did any of the letters describe any
20 reasons why the authors were opposed to the proposed
21 expansion?

22 A. I can't remember.

23 Q. What did you do with the letters?

24 A. I threw them away.

0015

1 Q. You didn't send any to the County
2 Clerk?

3 A. No.

4 Q. You didn't tell anybody at the County
5 that you had received the letters?

6 A. All but one. I did tell the County
7 about one.

8 Q. Which one did you tell the County
9 about?

10 A. That was on the one from the Mommence
11 Transfer Station. I got a letter from them stating
12 that we didn't have to worry about a place for our
13 garbage, they could take care of it, and I talked to
14 other county board members about that.

15 Q. So in this letter from the Mommence
16 Transfer Station, which you received sometime prior
17 to March 17th, the letter indicated that the County
18 wouldn't need the landfill because Mommence Transfer
19 Station was available to handle any waste that might
20 be generated in the area?

21 A. Yes.

22 Q. And you provided this information to
23 certain other county board members?

24 A. I believe I may have read it on the

0016

1 county board floor, but I'm not sure; but I know
2 others -- the thing about it is, I thought maybe
3 this was a mass mailing to all the county board
4 members when I read. I think that was the deal.

5 Q. That's what you thought it was?

6 A. I thought it was.

7 Q. Do you recall if that letter was
8 addressd directly to you?

9 A. Yes, it was addressed directly to me.

10 Q. Which other county board members did
11 you communicate with about this letter regarding the
12 Mommence Transfer Facility?

13 A. I don't remember at this time.

14 Q. Would those communications have been
15 prior to March 17th, 2004?

16 A. Yes.

17 Q. But with the exception of that letter
18 none of the other letters that you received you told
19 anybody at the County about?

20 A. No, we had been advised to throw
21 those -- not talk about those, and so I just threw
22 them away.

23 Q. Did you say that you were advised to
24 throw the letter away?

0017

1 A. Yes. No, no, we were advised not to
2 communication with other people, and that was the
3 reason I didn't -- I didn't talk to other people
4 about it.

5 Q. Did you appear at the county board
6 building on March 17th to vote?
7 A. To vote?
8 Q. Yes, on the proposed expansion.
9 A. On the second proposal?
10 Q. Yes.
11 A. Yes.
12 Q. Did you observe any picketers outside
13 the building?
14 A. You couldn't miss them.
15 Q. How many did you see?
16 A. I didn't count them. I would say
17 somewhere between five and ten.
18 Q. Were they carrying signs?
19 A. Yes, they were.
20 Q. What did the signs say?
21 A. No Chicago garbage.
22 Q. Were these the same signs that had
23 been placed around various locations in the
24 community prior to that date?

0018

1 A. Yes, they were.
2 Q. And I believe the sign said no dump,
3 no Chicago garbage?
4 A. No Chicago garbage is the part that I
5 remember most, yes, they were -- they were put
6 around town.
7 Q. And what did you understand that sign
8 to mean?
9 MR. PORTER: Objection, irrelevant.
10 HEARING OFFICER: We went through this
11 yesterday. You know, I'll allow it.
12 BY THE WITNESS:
13 A. What did I understand that to mean?
14 BY MR. MORAN:
15 Q. Yeah.
16 A. That there were a number of people in
17 town that were opposed to the landfill.
18 Q. And they were opposed to it because
19 they didn't want out of county garbage?
20 MR. PORTER: That's completely
21 conjectural.
22 HEARING OFFICER: I'm sorry. Could
23 you read the question back?
24

0019

1 (Whereupon, the record
2 was read as requested.)
3 MR. PORTER: The objection is that's
4 complete conjecture. Not only -- he's gone
5 beyond now asking what Mr. Leonard --
6 HEARING OFFICER: Yeah, sustained. I
7 think Mr. Leonard answered the question -- or
8 excuse me. Mr. Martin answered the question.
9 It's Mr. Martin, sorry.
10 THE WITNESS: It's okay.
11 HEARING OFFICER: Sustained.

12 BY MR. MORAN:

13 Q. Mr. Martin, did you understand the
14 sign to mean anything else other than the people
15 were opposed to the landfill?

16 A. No.

17 Q. So the term no Chicago garbage didn't
18 have any other meaning to you?

19 A. Not to my -- and it had very little
20 influence on me too.

21 MR. MORAN: I'm going to move to
22 strike that response.

23 HEARING OFFICER: Motion granted.

24

0020

1 BY MR. MORAN:

2 Q. Mr. Martin, did you have any
3 discussions with an individual by the name of Bruce
4 Harrison?

5 A. Not on this issue.

6 Q. When did you first become aware of
7 Mr. Bruce Harrison?

8 A. I was an officer of -- and still am an
9 officer of the Democrat Central Committee.

10 Mr. Harrison was a person that worked for us in
11 election. We were -- just before -- just before
12 this, we were having a primary election, and he
13 worked with us, and -- to help -- try to help elect
14 democrat candidates. That's where I knew him from
15 was from political connections.

16 Q. And when was that, do you remember
17 what year that was?

18 A. It seemed to me that was in February
19 before the waste management, which would have been
20 February of '43, I believe. I believe. I can't
21 tell you exactly, because I don't -- these things
22 are all kind of mushed up in my mind.

23 Q. You mean February of 2004?

24 A. No, 2000 -- I can't tell you.

0021

1 Q. In relation to the second application
2 vote in March of 2004, can you place Mr. Harrison's
3 participation in this primary campaign in relation
4 to that date?

5 A. This is 2005. That would have been
6 two years ago. It would have been -- we had a
7 primary election this year. I believe it was.

8 Q. It was 2003?

9 A. No, I believe it was --

10 Q. Or 2004?

11 A. -- 2003.

12 Q. So February of 2003 is when you first
13 may have met Mr. Harrison?

14 A. Yes.

15 Q. And he may have begun working on these
16 primary campaigns?

17 A. Primary election, yes.

18 Q. And when you say primary election, for

19 what office?

20 A. All county offices.

21 Q. Including county board members?

22 A. All county offices, all state offices,
23 all national offices.

24 Q. Was this a paid position for

0022

1 Mr. Harrison, or was it purely volunteer?

2 A. Purely volunteer.

3 Q. And Mr. Harrison would work for
4 certain democratic candidates?

5 A. All democratic candidates.

6 Q. And it was in that context that you
7 had discussions with Mr. Harrison?

8 A. Yes, about the various campaigns.

9 Q. And specifically what would he do in
10 connection with these campaigns, would he have signs
11 prepared for the candidates, would he poll for the
12 candidates?

13 MR. PORTER: Objection, irrelevant.

14 MR. MORAN: The objection is
15 relevance?

16 HEARING OFFICER: Right.

17 MR. MORAN: Based upon the statements
18 that we're attempting to establish for
19 Mr. Harrison and how he came about his
20 involvement in these proceedings, it would
21 appear that Mr. Martin's dealings with him on
22 matters relating to the democratic party in
23 the support of those candidates, which have
24 included Mr. Watson, among others, would seem

0023

1 to me that certainly this kind of discussion,
2 these kinds of facts in terms of how
3 Mr. Harrison worked and supported these
4 candidates is relevant to his involvement
5 here opposing this landfill and targeting
6 county board members for his campaign of
7 denial and to attempt to defeat the
8 application.

9 HEARING OFFICER: Anything further,
10 Mr. Porter?

11 MR. PORTER: I guess, briefly,
12 Mr. Harrison has an absolute right to
13 campaign against certain county board
14 members. The only question is whether or not
15 there were ex parte communications concerning
16 the application, and whether or not those
17 ex parte communications, if any existed,
18 prejudiced the board members' decisions.
19 That has absolutely nothing to do with what
20 Mr. Harrison was doing as a democratic.

21 HEARING OFFICER: I'll overrule it
22 this time. I'll give you a little latitude.
23 I don't know if internally the groundwork is,
24 as you say, but you may proceed.

0024

1 BY MR. MORAN:
2 Q. Do you remember the question,
3 Mr. Martin?
4 A. I would like to have you repeat it,
5 please.
6 MR. MORAN: Could you repeat it,
7 please?
8 (Whereupon, the record
9 was read as requested.)
10 BY THE WITNESS:
11 A. What do you mean poll?
12 BY MR. MORAN:
13 Q. In other words, conduct polls for
14 citizens to determine support for particular
15 candidates so that strategies could be developed
16 for --
17 A. I don't remember exactly what he did.
18 As far as having signs prepared, I'm quite sure that
19 he didn't do that because the central committee had
20 these signs made and put together. Whether he put
21 some of them out, I don't know, because we had a
22 good number of people putting signs out for the
23 election. As far as polling people, I don't know if
24 he did that or not. As far as I know, officially
0025 from the party, he did not.
2 Q. So would it be fair to say that you
3 really don't what he did?
4 A. That's pretty much the truth.
5 Q. So that when you attended the hearings
6 on the second siting application in January of 2004,
7 and you saw Mr. Harrison, you knew who he was?
8 A. He was here quite often.
9 Q. I mean, not here in this building, not
10 in this room, but at the public hearings on the
11 second application at the Quality Inn?
12 A. Yes, he was. I don't know if all of
13 them, but he was at several.
14 Q. But when you saw him there, and you
15 may remember he was asked to give his address, and
16 he repeatedly refused to give an address to where he
17 lived, but you knew who he was?
18 A. I knew who he was, but as far as his
19 address, I had no idea, and I had no idea why he
20 wouldn't give it.
21 Q. And did your communications with
22 Mr. Harrison continue through those hearings and up
23 to the primary election that March?
24 MR. PORTER: I'll object to the extent
0026 that the question again assumes that aren't
2 in evidence. The record as it exists with
3 that question might suggest there was some
4 communication concerning the landfill. There
5 hasn't been, and there's absolutely no
6 evidence that there has been. So it's a
7 misleading question.

8 HEARING OFFICER: All right. If he
9 can answer, he may do so. Your objection is
10 noted in the record, however, it is
11 overruled.

12 BY THE WITNESS:

13 A. I don't remember.

14 BY MR. MORAN:

15 Q. When was the last time you had any
16 conversation or communication with Mr. Harrison?

17 A. I think before the general election,
18 which was in November.

19 Q. Of 2004?

20 A. Yes.

21 Q. And is it your understanding that
22 Mr. Harrison was working for Mr. Watson who was
23 running for the county board?

24 A. Well, I knew he was working for

0027

1 several democratic candidates Mr. Watson might have
2 been one of them, but I know he was working for the
3 democrat -- the candidates of the democrat party.

4 Q. And are you aware that Mike Watson ran
5 for county board as a democrat for the November
6 2004 --

7 A. Yes, I was.

8 Q. And so it's your assumption that
9 Mr. Harrison was working for Mr. Watson?

10 A. Among others, yes.

11 Q. And I think you've indicated that in
12 so none of your conversations with Mr. Harrison did
13 the question of the proposed expansion ever come up?

14 A. That's right.

15 Q. And you've had how many discussions
16 with Mr. Harrison officer the last two years, maybe
17 30 or 40?

18 A. I don't remember. I really don't
19 remember how many discussions. Practically all the
20 discussions we had were on political campaign, and
21 whenever I was around Mr. Harrison, when we talked
22 to him, we were talking about candidates and the
23 critical campaign.

24 Q. Did you have any information to

0028

1 conclude that Mr. Harrison was aware of your
2 position on the proposed expansion; in other words,
3 did he know where you stood on the proposed
4 explanation?

5 A. I don't know.

6 MR. PORTER: Objection, calls for
7 conjecture.

8 BY THE WITNESS:

9 A. Yeah, I don't know if he knew where I
10 stood.

11 HEARING OFFICER: Sustained.

12 BY MR. MORAN:

13 Q. Mr. Martin, is Mr. Harrison still
14 performing any functions for the democratic party

15 here in Kankakee County?
16 A. As far as I know, no.
17 Q. Do you know where he is today?
18 A. I haven't seen or heard from him since
19 the election. I don't know. I have no idea where
20 he is.
21 Q. Have you heard anything about why
22 Mr. Harrison appears no longer to be in the area?
23 A. Have no idea.
24 Q. Now, in your role as a democratic
0029
1 party member, you have provided certain statements
2 and comments about various democratic party
3 candidates running for office; is that correct?
4 A. Probably, yes.
5 Q. And was Ann Bernard one of those
6 people?
7 A. Yes.
8 Q. She was running for state
9 representative in the primary election?
10 A. In the primary election, yes, she was.
11 Q. In March of 2004?
12 A. Yes.
13 Q. And as -- or during that period, which
14 was the period I think in February and March of
15 2004, had you written a letter to the Daily Journal
16 in which you talked about Ms. Bernard?
17 MR. PORTER: Objection. This, again,
18 falls right in the realm of motion in limine.
19 Mr. Moran is talking about a letter of
20 endorsement of a judicial candidate to state
21 in May concerning her election.
22 HEARING OFFICER: Mr. Moran?
23 MR. MORAN: He's absolutely right.
24 This is what I'm asking.
0030
1 HEARING OFFICER: I sustain the
2 objection. I think the motion in limine
3 covers that. However, I did rule that you
4 can ask in the offer of proof.
5 MR. MORAN: And that is what I would
6 ask to do.
7 HEARING OFFICER: Thank you, sir.
8 Mr. Martin, you may answer, if you are able.
9 BY THE WITNESS:
10 A. Did I know the -- repeat the question,
11 please.
12 HEARING OFFICER: Could you repeat it?
13 (Whereupon, the record
14 was read as requested.)
15 BY THE WITNESS:
16 A. I probably did.
17 BY MR. MORAN:
18 Q. And was that article published by the
19 Daily Journal or that letter published by the Daily
20 Journal on March 10th of 2004?
21 A. I don't remember the date. I don't

22 remember exactly if it was published, but I think it
23 probably was.

24 MR. MORAN: Mr. Hearing officer, if I
0031

1 could approach the witness?

2 HEARING OFFICER: Sure. This line of
3 questioning is still in the offer of proof.

4 BY MR. MORAN:

5 Q. Mr. Martin, let me show what we've
6 marked as WLII Exhibit No. 5.

7 A. Okay.

8 Q. If you could just take a look at that
9 for a moment.

10 MR. PORTER: What's our exhibit
11 number?

12 MR. PORTER: WLII Exhibit 7. I'm
13 sorry, 5. It is 5.

14 BY THE WITNESS:

15 A. Okay.

16 BY MR. MORAN:

17 Q. Do you recognize Exhibit 5,
18 Mr. Martin?

19 A. Yes, I do.

20 Q. What is it?

21 A. It's an endorsement of Ann Bernard.

22 A. When did you prepare this letter.

23 A. I can't tell you exactly.

24 Q. Well, was it sometime prior to March

0032

1 10th of 2004?

2 A. It had to be, yes.

3 Q. Directing your attention to the fourth
4 paragraph of your letter. Could you read that for
5 us?

6 A. Ann is an unflinching opponent of the
7 two giant landfills, which if sited, would turn our
8 County into a dumping ground for Chicago garbage.

9 Q. When you said she was an unflinching
10 opponent --

11 A. Right.

12 Q. -- of the two landfills --

13 A. Right.

14 Q. -- what did you mean?

15 A. I meant that she has had opposed it at
16 every turn.

17 Q. And she was opposing the two giant
18 landfills. By the two giant landfills, did you mean
19 the proposed expansion of the waste management
20 landfill?

21 A. I meant that there had been another
22 proposal come before this before the county board on
23 a Kankakee City landfill, and there were -- there
24 was also the waste management landfill. What I

0033

1 meant was that she had opposed both.

2 Q. So your statement including --

3 included her unflinching opposition to the proposed

4 expansion of the waste management landfill, correct?
5 A. Right.
6 Q. And her unflinching opposition to the
7 proposed Town and Country landfill?
8 A. Right.
9 Q. That's what you were referring to?
10 A. Yes.
11 Q. And what facts or information did you
12 have when you concluded that she was an unflinching
13 opponent of the proposed expansion?
14 A. I believe she talked about them on the
15 county board floor, but I can't tell you -- I really
16 can't remember what my thinking was at that time
17 because that's -- that's a year ago now.
18 Q. Would it be fair to say that you don't
19 recall specifically all the facts or information you
20 may have had in making the statement that she was an
21 unflinching opponent of the proposed expansion?
22 A. I believe she talked about it on the
23 county board floor.
24 Q. And when did she talk about it on the
0034 county board floor?
1 A. I can't tell you. I don't remember
2 the meetings.
3 Q. Over what period of time did she tell
4 make these statements at the county board floor, was
5 it a number of months prior to March of 2004, was it
6 a year, a couple years prior?
7 A. I don't remember, but that's the
8 impression that I got.
9 Q. And was this the impression that you
10 got over a number of statements she made at
11 different county board meetings?
12 A. I don't remember.
13 Q. Now, you mentioned a few moments ago
14 that Ms. Bernard opposed the proposed expansion at
15 every turn; is that correct?
16 A. As far as I know.
17 Q. And when you say she opposed it at
18 every turn, would that include the period of time
19 during which there had been an application on file
20 which proposed the expansion of that landfill?
21 A. I don't remember.
22 Q. Is it your conclusion that Ms. Bernard
23 is still an unflinching opponent of the proposed
24 expansion of the existing landfill?
0035 1 A. I believe she is.
2 Q. Do you have any facts or information
3 to indicate that any other county board member is an
4 unflinching opponent to the proposed expansion --
5 HEARING OFFICER: Are we still in the
6 offer -- I'm sorry, Mr. Moran.
7 MR. MORAN: Yes.
8 HEARING OFFICER: Are we still on the
9 offer of proof?
10

11 MR. MORAN: Yes.
12 HEARING OFFICER: I'm sorry for
13 interrupting.
14 BY THE WITNESS:
15 A. I don't know. I know how they voted,
16 but I don't know about the unflinching or anything
17 like that. I know how they -- how the majority
18 voted. That's all I know.
19 BY MR. MORAN:
20 Q. Ann Bernard is the only county board
21 member who you have determined has been an
22 unflinching opponent of both proposals over the
23 period of time that any application has been
24 pending, is that correct?
0036
1 A. I don't know how the rest of them
2 were.
3 Q. I'm just saying with regard to her.
4 A. Yeah, I believe that's true.
5 MR. MORAN: That concludes my offer of
6 proof.
7 HEARING OFFICER: Thank you,
8 Mr. Moran.
9 BY MR. MORAN:
10 Q. Mr. Martin, do you know a Mike Watson?
11 A. Absolutely.
12 Q. And who is Mr. Watson?
13 A. Mr. Watson is the head of the company
14 that collects our garbage at Bradley.
15 Q. That's United Disposal?
16 A. Yes, it is.
17 Q. Mr. Watson also appeared at the
18 hearings on the first and second siting application?
19 A. He had representation there.
20 Q. And in his representation, he opposed
21 those applications; is that correct?
22 A. Yes.
23 Q. Have you had any discussions with
24 Mr. Watson relating to any matter involving the
0037
1 proposed expansion of the waste management landfill?
2 A. No.
3 Q. Have you had any discussions with
4 Mr. Watson concerning a proposed Town and Country
5 landfill?
6 A. No.
7 Q. Have you had any discussions with
8 Mr. Watson about landfills?
9 A. About what?
10 Q. About landfills or solid waste
11 management here in Kankakee County?
12 A. No.
13 Q. Thank you, Mr. Martin. I have nothing
14 further.
15 HEARING OFFICER: Thank you. We have
16 12 minutes before your call, so...
17 MR. PORTER: That should be fine.

18 HEARING OFFICER: All right, thank
19 you. Mr. Porter.
20 C R O S S - E X A M I N A T I O N
21 BY MR. PORTER:
22 Q. Mr. Moran mentioned something about
23 people knowing your stand concerning the landfill.
24 Were you referencing the fact that you voted against
0038 it the first time?
2 A. Yes.
3 Q. Did you ever tell anybody while an
4 application was pending how you were going to vote?
5 A. No.
6 Q. You mentioned in regard to some
7 questioning Mr. Moran posed concerning the first
8 application that you disregarded some letters that
9 you received. Why did you do that?
10 A. Because I was --
11 MR. MORAN: Objection. We made a
12 motion to strike that part of his testimony
13 that talked about what he considered. Now
14 we're asking him why did you not consider
15 them.
16 HEARING OFFICER: Mr. Porter?
17 MR. PORTER: The problem is that
18 Mr. Moran opened the door to this one
19 question because we had the testimony
20 concerning the fact that he disregarded the
21 letters. I just want to know why.
22 HEARING OFFICER: And I think the
23 answer was, yeah, he disregarded them, and it
24 didn't influence his decision, and I think
0039
1 Mr. Moran moved to strike, and I granted the
2 motion.
3 MR. PORTER: Oh, all right. I
4 withdraw the question. I apologize.
5 BY MR. PORTER:
6 Q. Isn't it true that -- strike that.
7 How were you instructed concerning
8 the receipt of letters received outside of the
9 hearing process?
10 A. To ignore all outside communication.
11 Q. Why didn't you talk to Mr. Harrison
12 about the landfill?
13 A. Because at the time we were interested
14 in electing candidates, not the waste management
15 thing. We had a full slate of candidates from the
16 county board to account for county clerk and several
17 other offices, and we had the state and national
18 elections at the time, so we were interested at that
19 time in electing democrats for offices.
20 Q. There were some references to some
21 letters you received concerning the second
22 application. Isn't it true those letters were
23 addressed to, "Kankakee County Board Members to whom
24 it may concern?"

0040

1 A. They were -- you mean the letter --
2 they were addressed to me.
3 Q. The envelope had your name on it?
4 A. My name on it.
5 Q. But when you opened up the envelope,
6 the letter inside was addressed to, "Kankakee County
7 Board Members to whom it may concern;" correct?
8 A. Most of them.
9 Q. And were they photocopies, could you
10 tell?
11 A. I couldn't tell.
12 Q. Was anything in the letters you
13 received different than the public comment that you
14 heard at the hearings?
15 MR. MORAN: Objection, no foundation
16 for this question. We could compare what he
17 received in the letters from what was
18 presented at the public hearing.
19 MR. PORTER: Sounds like
20 cross-examination.
21 HEARING OFFICER: No, I'll allow it,
22 give Mr. Porter some latitude. Mr. Martin?
23 BY THE WITNESS:
24 A. Repeat, please.

0041

1 (Whereupon, the record
2 was read as requested.)
3 BY THE WITNESS:
4 A. No.
5 MR. PORTER: Now, again, within the
6 offer of proof, I would like to ask a few
7 questions about beginning lead from
8 Mr. Howard?
9 HEARING OFFICER: You may do so, and I
10 assume over the objection of Mr. Moran.
11 MR. PORTER: May I approach the
12 witness?
13 HEARING OFFICER: Yes, you may.
14 BY MR. PORTER:
15 Q. Mr. Moran gave you Waste Management
16 Exhibit No. 5, and there was some discussion within
17 this exhibit about a statement you made about
18 Ms. Bernard being an unflinching opponent.
19 In your experience, has
20 Ms. Bernard's statements at the county board been
21 well received by other county board members?
22 A. I don't know.
23 Q. Do you consider her to be an extremely
24 persuasive board member?

0042

1 A. Not really.
2 MR. MORAN: Objection. It's the
3 relevance. His view on whether she is or
4 isn't persuasive has nothing to do with this
5 proceeding.
6 HEARING OFFICER: I'll allow it.

7 BY MR. PORTER:
8 Q. Do you believe that her, assuming that
9 she had any, opposition to landfilling or at least
10 the landfills in this case over the aquifers in any
11 way tainted or influenced the other board members?
12 MR. MORAN: Objection.
13 HEARING OFFICER: Yeah, I agree with
14 that. That's sustained. You can state your
15 objection.
16 MR. PORTER: I don't understand the
17 objection. I'm sorry.
18 HEARING OFFICER: Okay.
19 MR. MORAN: Again, we're exploring
20 mental processes, as we've defined in this
21 hearing. We're asking now what's affective
22 county -- county board members, what they
23 considered, what they haven't considered,
24 who's influenced who?

0043

1 HEARING OFFICER: You can state your
2 objection for the record, Mr. Porter -- or
3 response to the objection.
4 MR. PORTER: All I -- what -- my
5 question isn't going toward how any board
6 member came to their conclusions. I'm merely
7 asking whether or not Ms. Bernard in any way
8 tainted or affected the other board members.
9 If the point here is that Ms. Bernard
10 prejudged the application, assuming that any
11 of this comes in, I think we need to be --
12 have a good record to the fact that that
13 didn't affect anybody else.
14 HEARING OFFICER: I think you're
15 stepping right into the metal processes that
16 I already ruled on, and I also ruled that
17 there would be no offer of proof on that, so
18 objection sustained.
19 MR. PORTER: I have nothing further.
20 HEARING OFFICER: Thank you.
21 Mr. Moran?
22 MR. MORAN: Yes.
23
24

0044

1 R E D I R E C T E X A M I N A T I O N
2 BY MR. MORAN:
3 Q. Mr. Martin, did you review the public
4 record and the evidence submitted in the public
5 record in attempt to determine whether the letters
6 you received and the information in those letters
7 was contained in some evidence presented in the
8 public record?
9 A. On which case?
10 Q. On the second siting application, 2003
11 application?
12 MR. PORTER: I'm sorry. I had a hard
13 time following the question. Can I have it

14 read back?
15 HEARING OFFICER: Julie, can you read
16 that back?

17 (Whereupon, the record
18 was read as requested.)

19 BY THE WITNESS:

20 A. No.

21 MR. MORAN: Nothing more.

22 MR. PORTER: No follow-up.

23 HEARING OFFICER: Thank you,

24 Mr. Martin, I appreciate your testimony.

0045

1 THE WITNESS: Thank you.

2 HEARING OFFICER: We're going to go
3 off the record for approximately 10 minutes.
4 Mr. Moran has a telephonic status call with
5 the Pollution Control Board. Thank you.

6 (Whereupon, a break was taken,
7 after which the following
8 proceedings were had.)

9 HEARING OFFICER: Okay. We're back on
10 the record after a short break, and I do
11 notice some members of the public sitting in
12 the back. Other than Mr. Runyon, whom I've
13 already spoken with, and he wants to come up
14 here and give a statement or comment, anybody
15 else want to do that -- and I hope to do that
16 within the next witness or two, sometime
17 prior to lunch, and he stated that that was
18 okay. Any other people that want to -- that
19 have some place to go that want to give a
20 public comment or statement at this time? I
21 see no hands. So Mr. Runyon, is that okay to
22 get to you --

23 MR. RUNYON: (Indicating.)

24 HEARING OFFICER: Okay. Thank you

0046

1 very much. Mr. Moran your twelfth witness.

2 MR. MORAN: Thank you.

3 HEARING OFFICER: Could you raise your
4 right hand?

5 (Witness sworn.)

6 HEARING OFFICER: Thank you. You may
7 have a seat. Thanks.

8 WHEREUPON:

9 RALPH MARCOTTE
10 called as a witness herein, having been first duly
11 sworn, deposeth and saith as follows:

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

13 BY MR. MORAN:

14 Q. Could you tell us your name and spell
15 your last name for the court reporter?

16 A. Ralph Marcotte, M-A-R-C-O-T-T-E.

17 Q. Mr. Marcotte, what is your address?

18 A. 448 Christina drive in Bourbonnais.

19 Q. How long have you been there?

20 A. Seven years.

21 Q. What is your business or occupation?
22 A. I was a meat cutter, had a whole sale
23 retail meat business in Kankakee.
24 Q. Do you currently serve on the Kankakee

0047

1 County Board?
2 A. Yes, I am.
3 Q. For how long have you served?
4 A. I'm on my second term, I believe,
5 seven years.
6 Q. Are you aware that Waste Management of
7 Illinois filed an application to expand the existing
8 waste management landfill on August 16th of 2002?
9 A. Yes, sir.
10 Q. I'll be referring to that as the 2002
11 application or the first application.
12 Were the hearings on the 2002
13 application conducted in November and December of
14 2002?

15 A. I believe you're right.
16 Q. Did you attend any of those hearings?
17 A. Yes, I did.
18 Q. Was there a vote on the 2002
19 application by the county board on January 31st of
20 2003?

21 A. I believe you're right.
22 Q. And did you attend that county board
23 meeting?
24 A. Yes, I did.

0048

1 Q. And did you vote on the 2002
2 application at that time?
3 A. Yes, I did.
4 Q. Prior to that vote on January 31,
5 2003, did you receive any phone calls regarding the
6 proposed expansion?
7 A. No, sir.
8 Q. Prior too that January 31st date, did
9 you receive any letters or written materials
10 regarding the proposed expansion?
11 A. On the first hearing?
12 Q. Yes.
13 A. No, sir, I did not.
14 Q. And on that date, January 31st, were
15 there any picketers outside the building?
16 A. I don't believe so on the first one.
17 Q. And how did you vote?
18 A. For the first time around, I voted for
19 it.
20 Q. And you addressed each of the criteria
21 and voted in favor of all nine criteria at that
22 time?

23 A. I believe you're right.
24 Q. Now, are you aware that there was a

0049

1 second application filed on September 26th, 2003?
2 A. Yes, sir.

3 Q. And the public hearings on that
4 application were conducted in January 2004, is that
5 correct?
6 A. I believe so.
7 Q. Did you attend those hearings?
8 A. Yes, sir, I did.
9 Q. Did the Kankakee County Regional
10 Planning Commission conduct those hearings?
11 A. I believe you're right.
12 Q. And did the Regional Planned
13 Commission come up with a recommendation as to
14 whether the application should be approved or
15 denied?
16 A. I don't recall.
17 Q. Was the second application essentially
18 the same as the first application?
19 MR. PORTER: Same objections that I
20 made on the same question as previously.
21 HEARING OFFICER: Overruled. He may
22 answer if he's able.
23 THE WITNESS: Would you repeat the
24 question, please?

0050

1 (Whereupon, the record
2 was read as requested.)
3 BY THE WITNESS:
4 A. I believe it was.
5 BY MR. MORAN:
6 Q. And did the vote on the second
7 application occur on March 17th of 2004?
8 A. I believe you're right.
9 Q. And that was here in this room?
10 A. Yes, in this room.
11 Q. And did you attend that meeting?
12 A. Yes, I did.
13 Q. Were there picketers --
14 A. At that time, yes, there was several
15 picketers outside.
16 Q. Were the picketers carrying signs?
17 A. Yes, they were.
18 Q. What did the signs say?
19 A. No Chicago dump.
20 Q. Do you remember any of the other signs
21 that were out there?
22 A. I think just no dump.
23 Q. Did you talk to any of the people?
24 A. No, I did not.

0051

1 Q. How did you vote on the second
2 application?
3 A. I voted against it on the second
4 application. I believe I voted three against.
5 Q. So you found that three of the
6 criteria were not met?
7 A. Yes.
8 Q. And were those three criteria,
9 criteria one on need, criteria three real estate

10 values and criteria six traffic?

11 A. I believe you're right.

12 MR. MORAN: Mr. Halloran, at this time
13 I would just simply indicate that I would ask
14 the same questions of Mr. Marcotte that I did
15 of Ms. Hertzberger with the exception that
16 the questions would be directed to these
17 three criteria, one, three and six.

18 HEARING OFFICER: The record so notes
19 that was agreed to or stipulated to yesterday
20 so the record will reflect that. Thank you.

21 MR. PORTER: Mr. Halloran, I guess
22 there's only one issue that I haven't really
23 addressed. One of those questions that
24 Mr. Moran asked I had no objection to, and he

0052

1 has not been repeating it, so I continue to
2 have no objection to one of those questions
3 that he asked.

4 HEARING OFFICER: I think that
5 question was -- geez, I can't even remember
6 the question now, but it was --

7 MR. PORTER: It was essentially
8 whether or not they based their decision on
9 anything received outside the record.

10 HEARING OFFICER: Outside the record,
11 correct. Right. There was no objection to
12 that, but...

13 MR. MORAN: Well, I don't understand
14 the statement because I haven't asked the
15 question yet, so it isn't --

16 HEARING OFFICER: It was in the litany
17 of questions that you asked of
18 Ms. Hertzberger, and Mr. Porter was making
19 record objecting to each around every one,
20 and I think it might have been the second or
21 third question that you asked that Mr. Porter
22 did not have an objection to.

23 MR. MORAN: Right, and that question
24 is not among the list of questions I'm asking

0053

1 each of these witnesses. It's only the
2 questions that applied with respect to the
3 ruling on the motion to compel and the motion
4 in limine. I'm not asking to re-ask a
5 question of this witness that he did not
6 object to.

7 MR. PORTER: Great.

8 MR. MORAN: I'm only making a record
9 here.

10 HEARING OFFICER: Right.

11 MR. PORTER: That just helped my
12 record.

13 HEARING OFFICER: All right. Okay.

14 MR. MORAN: That's all. And it may be
15 that when we get the transcript, I'll
16 identify what questions those are.

17 HEARING OFFICER: Okay.
18 MR. MORAN: There's no question as to
19 what I'm continuing to ask these questions to
20 make my record.

21 HEARING OFFICER: Thank you,
22 Mr. Moran.

23 BY MR. MORAN:

24 Q. Mr. Marcotte, prior to the vote on

0054

1 March 17th, 2004, did you receive any phone calls
2 regarding the proposed expansion?

3 A. No, sir.

4 Q. Prior to that date, did you receive
5 any letters or any written materials regarding the
6 proposed expansion?

7 A. Yes, sir, I did.

8 Q. And you received and read about 55
9 letters?

10 A. That's correct.

11 Q. And the letters were opposed to the
12 proposed expansion?

13 A. Yes, they were.

14 Q. And you took those letters and just
15 threw them away, is that correct?

16 A. Yes, I did.

17 Q. In your time serving on the county
18 board, had you ever received as many letters
19 regarding an issue as you did for this second
20 application?

21 A. No, sir.

22 Q. And I believe you indicated that you
23 read every one of those letters that you received?

24 A. Yes, sir, I did.

0055

1 MR. MORAN: I have no further
2 questions of this wintenss.

3 HEARING OFFICER: Thank you,
4 Mr. Moran. Mr. Porter?

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

6 BY MR. PORTER:

7 Q. Are you aware that those letters have
8 been filed in the public record?

9 A. Yes, I have.

10 Q. Those letters that you received, once
11 you got into the envelope, were addressed "Kankakee
12 County Board Members to whom it may concern;" is
13 that right?

14 A. No, these I received at home.

15 Q. Right. They were mailed to you at
16 home, but when you opened it up, am I not correct --
17 strike that.

18 When you opened it up, were they
19 addressed, "Kankakee County Board Members to whom it
20 may concern?"

21 A. Yes, it was.

22 Q. Did you feel threatened or intimidated
23 by any of those letters?

24 MR. MORAN: Objection.

0056

1 HEARING OFFICER: I'm going to
2 overrule that. As I ruled yesterday, it's a
3 state of mind. I don't think -- at the time
4 he read the statement, I don't think it
5 effects or goes into his decision-making
6 process at the time. I think it's just a
7 state of mind at the time he read it, and
8 I'll allow it.

9 MR. MORAN: Well, my objection just so
10 that the record is clear is that it's really
11 requesting this individual to disclose
12 whether he considered the letters, because
13 there's no basis at all, as far as I can
14 tell, to suggest that somehow someone was
15 threatened or intimidated by a letter at
16 least the physical or personal safety threat,
17 which I think is at the core of asking
18 somebody if they're intimidated or threatened
19 by a letter.

20 HEARING OFFICER: Your objection is so
21 noted in the record, however, it's overruled.

22 BY MR. PORTER:

23 Q. Mr. Moran brought up that you saw some
24 picketers at the second vote. Did you feel

0057

1 threatened or intimidated by the picketers?

2 A. No, sir.

3 Q. You mentioned that you believe the
4 applications were the same. Did you ever do a
5 line-by-line, page-by-page analysis of those two
6 applications?

7 A. No, sir.

8 MR. PORTER: Nothing further.

9 HEARING OFFICER: Thank you.

10 Mr. Moran?

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

12 BY MR. MORAN:

13 Q. Mr. Marcotte, you said that all 55 of
14 these letters contained material that was presented
15 in the public record?

16 A. I believe so.

17 Q. Did I hear that properly?

18 A. I believe so.

19 Q. Did you review what was presented in
20 the public record and compare whether the letters
21 you received were contained in that record?

22 A. I don't recall.

23 Q. Did you make any attempt to determine
24 whether the letters themselves that you received and

0058

1 threw away were made part of the public record?

2 A. No, not to my knowledge.

3 MR. MORAN: (Indicating.)

4 HEARING OFFICER: Mr. Porter?

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

6 BY MR. PORTER:
7 Q. In general the letters you received
8 stated opinions in opposition of landfill, is that
9 right?
10 A. Correct.
11 Q. And you heard the same type of opinion
12 in opposition at the hearings, is that correct?
13 A. That's correct.
14 MR. PORTER: Nothing further.
15 HEARING OFFICER: Mr. Moran?
16 MR. MORAN: I have no further
17 questions.
18 HEARING OFFICER: Thank you, sir. You
19 may step down.
20 THE WITNESS: Thank you.
21 MR. PORTER: Mr. Halloran, you've got
22 a member of the public raising her hand.
23 HEARING OFFICER: Yes, ma'am?
24 THE WITNESS: I have a public comment.
0059
1 HEARING OFFICER: Okay. Do you need
2 to give it now or can we -- do you have some
3 place to go?
4 THE WITNESS: I need to leave by noon.
5 HEARING OFFICER: Oh, okay. Well, we
6 can -- by 11:30 we'll stop and take public
7 comments. Thank you so much.
8 Mr. Moran, you can call your next
9 witness as soon as they find out who it is.
10 MR. PORTER: Mr. Stauffenberg.
11 HEARING OFFICER: Just raise your
12 right hand.
13 (Witness sworn.)
14 HEARING OFFICER: You can have a seat.
15 Thanks.
16 MR. MORAN: Has the witness been
17 sworn?
18 HEARING OFFICER: Yes.
19
20
21
22
23
24
0060
1 WHEREUPON:
2 JIM STAUFFENBERG
3 called as a witness herein, having been first duly
4 sworn, deposeeth and saith as follows:
5 D I R E C T E X A M I N A T I O N
6 BY MR. MORAN:
7 Q. Please state your name and spell your
8 last name?
9 A. Jim Stauffenberg,
10 S-T-A-U-F-F-E-N-B-E-R-G.
11 Q. Mr. Stauffenberg, what is your
12 address?

13 A. 10454 North 0500 East Road, Mantino,
14 Illinois.
15 Q. How long have you lived there?
16 A. All my life.
17 Q. What is your business or occupation?
18 A. I manage the Home Star Banks insurance
19 division.
20 Q. Are you serving on the county board
21 currently?
22 A. Yes, I am.
23 Q. And how long have you been a county
24 board member?

0061

1 A. Since 1992-and-a-half, '93.
2 Q. Were you elected or appointed?
3 A. Appointed.
4 Q. And did you subsequently then run for
5 election?
6 A. Yes, I have.
7 Q. And that was when?
8 A. Just recently in November.
9 Q. November of 2004?
10 A. (Indicating.)
11 Q. You need to say yes for the court
12 reporter.
13 A. Yes.
14 Q. Are you aware that an application to
15 expand the existing waste management landfill was
16 filed on August 16th of 2002?
17 A. Yes, I am.
18 Q. I will refer to that application as
19 the first application or the 2002 application.
20 Are you aware that the hearings of
21 the 2002 application occurred in November and
22 December of 2002?
23 A. Yes, I am.
24 Q. Did you attend those hearings?

0062

1 A. A few.
2 Q. Are you were you a county board member
3 at the time?
4 A. Yes, I am -- yes, I was.
5 Q. Did the county board vote on the 2002
6 application on January 31st of 2003?
7 A. Yes, they did.
8 Q. And did you vote on the application at
9 that time?
10 A. No, I did not.
11 Q. And what was the reason why you didn't
12 vote on January 31, 2004 --
13 A. I was on vacation.
14 Q. -- 2003? Sorry.
15 A. I was on vacation.
16 Q. So you were out of town?
17 A. I was out of town.
18 Q. Prior to January 31 of 2003, did you
19 receive any phone calls regarding the proposed

20 expansion?

21 A. No, I did not.

22 Q. Prior to January 31 of 2003, did you
23 receive any letters or written materials regarding
24 proposed expansion?

0063

1 A. No, I did not.

2 Q. Did the county board vote to approve
3 the 2002 application?

4 A. I heard they did, yes.

5 Q. Was there a second application filed
6 in September -- on September 26th of 2003?

7 A. Yes, there was.

8 Q. And I'll refer to that as 2003 or the
9 second application.

10 Were the hearings in the second
11 application conducted in January of 2004?

12 A. Yes, they were.

13 Q. And those hearings were conducted by
14 the Regional Planning Commission?

15 A. Yes, they were.

16 Q. Were you a member of the Regional
17 Planning Commission?

18 A. No, I was not.

19 Q. Did you attend those hearings?

20 A. A few. My job wouldn't let me attend
21 them all.

22 Q. Are you aware of whether the Regional
23 Planning Commission prepared a report regarding the
24 second application?

0064

1 A. Yes.

2 Q. And they had done it for the first
3 application as well?

4 A. Yes.

5 Q. And was that Planning Commission
6 report made available for you?

7 A. Yes.

8 Q. Was there a vote on the second
9 application -- on the 2003 application on March
10 17th, 2004?

11 A. Yes.

12 Q. And did you vote on the 2003
13 application on that date?

14 A. Yes, I did.

15 Q. And how did you vote?

16 A. I voted no on criteria one. Should
17 have voted no on criteria two, did not. Voted no on
18 two other criterias I believe. I can't recall their
19 numbers. Six might have been one of them.

20 Q. Which is the traffic criteria?

21 A. Yeah.

22 Q. And you voted no on criteria three?

23 A. I think that's correct.

24 Q. You said you should have voted no on

0065

1 criteria two?

2 A. I think I should have, yes.
3 MR. HELSTEN: I'm going to object to
4 that. It's getting into his deliberative
5 process. Even though he volunteered, I'd
6 move to strike that consistent with your
7 rulings on these matters, Mr. Hearing
8 officer.
9 HEARING OFFICER: Mr. Moran?
10 MR. MORAN: Well, again, now we have
11 an individual indicating how he voted and
12 that he should have voted a different way. I
13 think from the standpoint of looking at the
14 validity and the appropriateness of the
15 decision, we need to explore the basis on
16 which this individual now wishes to in effect
17 change the vote.
18 HEARING OFFICER: I disagree. Again,
19 it goes back to my ruling on motion to
20 compel. It just steps right into the mental
21 processes of the decision making. I will
22 sustain the County's objection.
23 MR. HELSTEN: And in all fairness to
24 Mr. Moran, we should probably strike that

0066

1 statement that I should have voted in a
2 different way to be consistent all the way
3 around. I'll even stipulate to that.
4 HEARING OFFICER: Any response,
5 Mr. Moran?
6 MR. MORAN: Well, I think that would
7 certainly be appropriate given the statements
8 that have been volunteered from time to time
9 from county board members, certainly that may
10 make this record a little clearer.
11 HEARING OFFICER: Motion to strike is
12 granted regarding Mr. Stauffenberg's
13 reference to he should have voted no on
14 criteria two. The record so reflects. Thank
15 you.

16 BY MR. MORAN:

17 Q. Now, Mr. Stauffenberg, prior to the
18 March 17th, 2004 vote, did you receive any phone
19 calls regarding the proposed expansion?

20 A. No, I did not.

21 Q. Prior to that date, did you receive
22 any letters or any written materials regarding the
23 proposed expansion?

24 A. Yes, I did.

0067

1 Q. And how many such letters did you
2 receive?

3 A. Seven or eight.

4 Q. Did you receive them at your home?

5 A. Yes, I did.

6 Q. They were addressed to you?

7 A. Yes, they were.

8 Q. Were they letters opposing the

9 proposed expansion?
10 A. I did not read them.
11 Q. What did you do with them?
12 A. I threw them away per instructions
13 from the board.
14 Q. How did you know if you didn't open
15 them that they were letters relating to the
16 proposed expansion?
17 A. Almost all of them had return
18 addresses that were in the area of the landfill, so
19 I assumed they were.
20 Q. Did you assume they were letters
21 opposing the expansion?
22 A. I don't know that I assumed that at
23 all. I did not read them. I did not open any of
24 them.
0068
1 Q. You didn't turn them into the county
2 clerk?
3 A. I didn't know we were supposed to, so,
4 no.
5 Q. You just threw them away?
6 A. Yes, I did.
7 Q. Now, you said you didn't receive any
8 phone calls regarding the proposed expansion prior
9 to March 17th of 2004?
10 A. That's correct.
11 Q. Did you receive any phone calls from
12 Mr. Bruce Harrison?
13 A. No, I did not.
14 Q. Did you have any communications or
15 discussions with Mr. Harrison prior to March 17th,
16 2004?
17 A. Yes, I did.
18 Q. And who is Mr. Harrison?
19 A. Mr. Bruce Harrison.
20 Q. Had you known him prior to the time
21 you first met him?
22 A. No, I did not.
23 Q. How did you meet him?
24 A. He pulled in my parking lot one
0069
1 afternoon about 4:00 as I was pulling out, asked if
2 he could talk to me. I was in a hurry. We were
3 talking through our windows. I didn't even get out.
4 He didn't get out. I said what about? He said
5 county business. I said yeah, and we set up an
6 appointment for some time later for a lunch at
7 Bakers Square. I was actually coming down here for
8 another meeting. When I left -- I was in a hurry.
9 That's all I asked. That's all that was said. When
10 I came down here, I asked somebody upstairs, I
11 believe it was Pam Lee, who Bruce Harrison was, and
12 she told me that I shouldn't be talking to him about
13 the landfill. So I canceled that appointment.
14 Q. How did you cancel it?
15 A. With much trouble. He doesn't seem to

16 be listed in the phone book. I could not find his
17 number. I had to ask many places, and I still don't
18 even remember where I got his phone number, but I
19 left a voice message on his answering machine.

20 Q. And what did you say?

21 A. That I could not meet with him per our
22 scheduled appointment, didn't say why, because I
23 didn't know exactly what he wanted. He didn't call
24 me back. Over and done with. I'm a very busy

0070

1 person, have a lot of appointment, didn't follow-up
2 on it, and didn't see him again until here one day.

3 Q. When you say here, you mean in this
4 room?

5 A. I believe he was here as one of the
6 public commentaries.

7 Q. Now, you said when Mr. Harrison
8 approached you it was in a parking lot?

9 A. My parking lot at work.

10 Q. Was he waiting there for you or had he
11 pulled up --

12 A. He just pulled in as I was pulling
13 out. We talked in passing through our windows.

14 Q. And how long did that phone -- how
15 long did that conversation last?

16 A. Seconds. I was late. I was in a
17 hurry to be here.

18 Q. Have you had any other discussions or
19 communications with Mr. Harrison?

20 A. No, I have not.

21 Q. Have you had any discussions with
22 Regional Planning Commission member Ralph Paarlberg
23 regarding the proposed expansion?

24 A. I did after the vote.

0071

1 Q. This was after the March 17th, 2004
2 vote?

3 A. That was at a planning committee
4 meeting at Olivet.

5 Q. Was it prior to the vote on the motion
6 to renew consideration for the County's decision?

7 A. I'm not sure about that. If you can
8 tell me the dates, I can tell you.

9 Q. If I were to indicate that the
10 County's vote on the motion to renew consideration
11 was April 13th, 2004, does that appear to be an
12 accurate date to you?

13 MR. HELSTEN: I'm going to object. I
14 let Mr. Moran ask some questions, but at this
15 point it's apparent that he's going to ask
16 question about the sum and substance of
17 conversations with members of the Regional
18 Planning Commission after the vote, and
19 that's not -- after the vote on March 17th,
20 and that's not relevant. An issue is what
21 happened on or before March 17th, and the
22 vote on the motion to renew consideration on

23 April 13th is not relevant. The decision as
24 the Pollution Control Board essentially said

0072

1 in its opinion became final on March 17th.

2 HEARING OFFICER: I'm not sure
3 Mr. Moran is quite there yet, pretty close,
4 as I stated yesterday, stand ready for an
5 objection. Thank you.

6 MR. HELSTEN: Okay.

7 BY MR. MORAN:

8 Q. Do you remember the question?

9 A. No, I don't.

10 MR. MORAN: Can you repeat it?

11 (Whereupon, the record
12 was read as requested.)

13 BY THE WITNESS:

14 A. Yes.

15 BY MR. MORAN:

16 Q. And was your communication with
17 Mr. Paarlberg after March 17th and prior to April
18 13th?

19 A. I'm not sure.

20 Q. Could it have been any time after
21 March 17th?

22 A. It's whenever that planning meeting
23 was at Olivet, and I don't know what that date is.

24 Q. You said this conversation did relate

0073

1 to the proposed expansion?

2 MR. HELSTEN: Same objection as
3 previously posed. Now this calls for total
4 speculation because Mr. Stauffenberg quite
5 legitimately can't remember specifically when
6 that meeting, as most of us wouldn't remember
7 a specific date of a meeting a year ago.

8 HEARING OFFICER: Mr. Moran?

9 MR. MORAN: Well, he's being asked
10 about what was discussed, not the date.
11 We've clearly established he doesn't remember
12 the date, but now I'm asking if he remembers
13 what the subject of discussion was, and I
14 thought I started this by saying, did you
15 have any discussions Paarlberg relating to
16 the proposed expansion, and if he doesn't
17 remember that, he can tell us. I don't think
18 it's speculation to ask him if that was the
19 subject of his discussion with Mr. Paarlberg.

20 MR. HELSTEN: I'll still renew my
21 original objection, Mr. Hearing officer. The
22 only thing we know for sure is that the
23 conversation took place after March 17th,
24 2004, therefore, it is as a matter of law not

0074

1 germane irrelevant.

2 HEARING OFFICER: I agree. Sustained.

3 MR. MORAN: Request -- can I make an
4 offer of proof on this point?

5 HEARING OFFICER: Well, I guess for
6 now, we'll see where this goes, because I
7 don't want it to step on my ruling of motion
8 to compel as far as waiving privilege.
9 Mr. Helsten?

10 MR. HELSTEN: Well, I'm going to
11 object to this offer of proof because this
12 obviously isn't on political issues. This
13 falls squarely within your prohibition of
14 probing even in an offer of proof his
15 deliberative process. It's obvious where
16 Mr. Moran is going. He wants to delve into
17 what Mr. Stauffenberg and what Mr. Paarlberg
18 talked about and what his deliberative
19 process was.

20 HEARING OFFICER: I somewhat agree
21 with you, but I still haven't heard, I guess,
22 the key words or key question to trigger at
23 least in my mind your objection, but it is
24 sustained to the point that Mr. Moran at this

0075

1 point can ask questions in an offer of proof.

2 MR. MORAN: And that's what I
3 requested.

4 HEARING OFFICER: Okay.

5 MR. MORAN: Could you read back my
6 last question.

7 (Whereupon, the record
8 was read as requested.)

9 BY THE WITNESS:

10 A. It was more of a comment than a
11 conversation. He made a comment to me as I walked
12 by. So is that a yes? You'd have to know what his
13 comment was to see if that was a yes or not.

14 BY MR. MORAN:

15 Q. Well, the question was, did his
16 comment relate to the proposed expansion, that was
17 the question?

18 A. Yes.

19 MR. HELSTEN: Same objection just for
20 the record.

21 BY MR. MORAN:

22 Q. What was his comment?

23 MR. HELSTEN: Same objection -- no,
24 I'll let him answer that because that doesn't

0076

1 go his deliberative process.

2 BY THE WITNESS:

3 A. You guys finally did something right.

4 HEARING OFFICER: But we're still in
5 the offer of proof.

6 MR. HELSTEN: Right.

7 MR. MORAN: Thank you. That concludes
8 my offer of proof, and I have no further
9 questions of Mr. Stauffenberg.

10 HEARING OFFICER: Thank you,

11 Mr. Moran. Whose witness is it?

12 Mr. Helsten?
13 MR. HELSTEN: First of all, as far as
14 general questioning outside the offer of
15 proof.

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

17 BY MR. HELSTEN:

18 Q. Mr. Stauffenberg, you were instructed
19 to not have conversations or any outside
20 communications with anyone, weren't you?

21 A. Yes, we were.

22 Q. And you didn't, did you?

23 A. No, I did not.

24 Q. You told Mr. Harrison you couldn't

0077

1 discuss anything with him concerning the landfill
2 expansion, correct?

3 A. Correct.

4 Q. Likewise, you were instructd by
5 Mr. Smith and I not to read any letters, correct?

6 A. Correct.

7 Q. And you didn't read those letters?

8 A. No, I did not.

9 Q. You didn't even open them?

10 A. No.

11 Q. You threw them away without opening
12 them?

13 A. Correct.

14 MR. HELSTEN: That's all.

15 HEARING OFFICER: Thank you.

16 Mr. Moran?

17 MR. MORAN: Nothing further.

18 HEARING OFFICER: Thank you, sir. You
19 may step down. Whenever you're ready, you
20 can call your next witness.

21 MR. PORTER: We're going to call Mr.
22 LaGessee right now.

23 HEARING OFFICER: I guess technically
24 isn't Waste Management calling them?

0078

1 MR. PORTER: Yes.

2 HEARING OFFICER: Raise your right
3 hand.

4 (Witness sworn.)

5 HEARING OFFICER: You may proceed,

6 Mr. Moran.

7 MR. MORAN: Thank you.

8 WHEREUPON:

9 MICHAEL LaGESSE
10 called as a witness herein, having been first duly
11 sworn, deposeth and saith as follows:

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

13 BY MR. MORAN:

14 Q. Could you state your full name for us
15 and spell your last name?

16 A. Michael J. LaGessee, it's L-A, capital,
17 G-E-S-S-E.

18 Q. What is your address?

19 A. 383 North Prairie in Bradley,
20 Illinois.
21 Q. How long have you lived there?
22 A. Most of my life.
23 Q. What is your business or occupation?
24 A. I'm the financial secretary and
0079 building manager of the Knights of Columbus in
1 Kankakee.
2
3 Q. Do you currently serve on the Kankakee
4 County Board?
5 A. Yes, I do.
6 Q. And how long have you served?
7 A. Since September of 1990.
8 Q. Are you familiar with the application
9 filed by Waste Management of Illinois, Inc. to
10 expand the existing Kankakee landfill?
11 A. Yes.
12 Q. The application which was filed on
13 August 16th, 2002, I will refer to as the 2002
14 application or the first application.
15 Were the hearings on that first
16 application conducted in November and December of
17 2002?
18 A. I believe so.
19 Q. Did you attend any of those hearings?
20 A. Yes.
21 Q. Did you attend all of them?
22 A. No.
23 Q. Did the Regional Planning Commission
24 conduct those hearings?
0080
1 A. Yes.
2 Q. You weren't a member of the Regional
3 Planning Commission?
4 A. No.
5 Q. Was there a vote on the first
6 application by the full county board on
7 January 31st, 2003?
8 A. Yes.
9 Q. Did you attend meeting?
10 A. Yes.
11 Q. Did you vote on the first application?
12 A. Yes.
13 Q. How did you vote?
14 A. In favor of.
15 Q. And did you address each of the
16 criteria and vote in favor of each of the nine
17 statutory criteria?
18 A. I believe so.
19 Q. Were there any picketers outside or
20 inside the county board building on that day?
21 A. No.
22 Q. Prior to that day, did you receive any
23 phone calls regarding the proposed expansion?
24 A. No.

0081

1 Q. Did you receive any written materials
2 or letters regarding the proposed expansion?
3 A. No.
4 Q. Was there a second application filed
5 on September 26th, 2003?
6 A. Yes.
7 Q. I'll refer to that as the 2003
8 application or the second application.
9 A. Okay.
10 Q. Were the hearings on that application
11 conducted in January of 2004?
12 A. I believe so.
13 Q. Was it your understanding that the
14 2003 application was essentially the same as the
15 2002 application?
16 A. Yes.
17 Q. Did you attend any of the hearings in
18 January of 2004?
19 A. No.
20 Q. Was there a vote on the second
21 application on March 17th, 2004?
22 A. Yes.
23 Q. Did you attend the meeting in which
24 the second application was voted on by the county
0082 board?
1 A. Yes.
2 Q. Were there picketers inside or outside
3 the building on that day?
4 A. Yes.
5 Q. How many picketers did you see
6 approximately?
7 A. More than one, less than 20.
8 Q. Were they carrying signs?
9 A. Yes.
10 Q. What did the signs say?
11 A. I didn't look at the signs. You know,
12 I didn't pay that much attention to them, but I can
13 tell you -- I've heard no dump and all that, but I
14 didn't actually see that.
15 Q. Prior to that date, had you seen any
16 signs on the lawns or other properties that related
17 to the proposed expansion?
18 A. Yes.
19 Q. What signs did you see?
20 A. No dump, no Chicago garbage.
21 Q. How many different locations did you
22 see those signs?
23 A. Probably about three or four.
0083
1 Q. Did you see any other signs?
2 A. No, not that I recall.
3 Q. Did you talk to any of the picketers
4 March 17th?
5 A. No.
6 Q. How did you vote on the second
7 application?

8 A. I voted no.
9 Q. Did you consider, again, each of the
10 statutory criteria?
11 A. Yes.
12 Q. And did you vote to deny certain of
13 those criteria and approve others?
14 A. Yes.
15 Q. Do you recall which criteria you voted
16 against?
17 A. I believe criteria three and six.
18 Q. And that was a change from how you
19 voted in the first application?
20 A. Yes.
21 Q. The first application you voted to
22 approve criteria three and six?
23 A. I believe so.
24 Q. Prior to March 17th, 2004, did you
0084
1 receive any phone calls regarding the proposed
2 expansion?
3 A. Yes.
4 Q. How many phone calls did you receive?
5 A. One.
6 Q. Who did you receive that call from?
7 A. Mr. Harrison.
8 Q. Is that Mr. Bruce Harrison?
9 A. Yes.
10 Q. Where did you receive the call?
11 A. At my place of employment.
12 Q. Did he call you during the week -- was
13 it a weekday, or was it weekend?
14 A. No, I believe it was a weekday.
15 Q. Morning or afternoon?
16 A. Morning, I believe.
17 Q. What did Mr. Harrison say to you?
18 A. As I recall he basically stated that
19 he would like to meet with me, and he also stated I
20 believe that he had contact, and I don't recall if
21 it was direct contact or a phone contact or whatever
22 it was, but he had contact with State's Attorney, Ed
23 Smith, who he -- Mr. Harrison related to me that it
24 was okay with Mr. Smith if he met with county board
0085
1 members, he being Mr. Harrison.
2 Q. Did Mr. Harrison during this
3 conversation indicate in any way to you what his
4 position was on the proposed expansion?
5 A. No.
6 Q. Did you know at this time whether he
7 was opposed or in support of the proposed expansion?
8 A. No.
9 Q. Did you have any assumption about what
10 his position was?
11 A. My assumption was that he would
12 probably be against it.
13 Q. And what was the basis for your
14 assumption?

15 A. Just, in general, I believe, that I
16 didn't know him personally, but I just I got the
17 assumption by the way he talked that he was against
18 it.

19 Q. What did you say in response to his
20 statement that he had talked to Ed Smith, and Ed
21 Smith said in a communication or meeting with
22 Mr. Harrison it would be okay?

23 A. I usually take people if they tell me
24 something as the truth, until I find otherwise. So
0086

1 I believed that he was telling me the truth.

2 Q. Did he say why he wanted to meet with
3 you?

4 A. He wanted to discuss the landfill.

5 Q. So what did you tell him?

6 A. Well, I told him that I would meet
7 with him because I felt that if he was telling me
8 the truth, which I did, that it was okay with
9 Mr. Smith, then it was okay with me.

10 Q. Did you schedule a meeting with him
11 during this conversation?

12 A. Later that afternoon.

13 Q. You called him back later that
14 afternoon?

15 A. No.

16 Q. He called you back?

17 A. No, at that -- in that conversation,
18 we made -- he was going to come back later that
19 afternoon.

20 Q. I see. So he was going to meet you
21 some place?

22 A. Yes.

23 Q. Where was he going to meet you?

24 A. At my place of employment.

0087
1 Q. So he agreed to come to your place of
2 employment?

3 A. Yes.

4 Q. And did he appear that day?

5 A. No.

6 Q. What did you do after you concluded
7 your phone conversation with Mr. Harrison?

8 A. Nothing.

9 Q. Did you communicate with any county
10 board members or anyone else about your discussion
11 with Mr. Harrison?

12 A. Yes.

13 Q. What did you do?

14 A. I received a phone call from a county
15 board member.

16 Q. Which county member?

17 A. Ms. Waskowsky.

18 Q. When did you receive that phone call?

19 A. It wasn't very long after I'd talked
20 to Mr. Harrison.

21 Q. And what did Ms. Waskowsky say to you?

22 A. I believe she wanted to know if I had
23 been contacted by Mr. Harrison.

24 Q. And what did you say?

0088

1 A. I said yes.

2 Q. What else did you say?

3 A. I believe that's all.

4 Q. Did she say anything further to you?

5 A. She asked me about the conversation,
6 and she also stated I believe that -- well, I think
7 I did tell her that I had a meeting -- that I was
8 going to meet with him, and she said that we weren't
9 supposed to meet with outside -- and I said that,
10 you know, he had stated it was all right, and then
11 she said she didn't think that meeting ever took
12 place -- or that conversation ever took place with
13 Ed Smith.

14 Q. And did you say anything further to
15 her?

16 A. I don't recall.

17 Q. Did she say anything more to you?

18 A. She gave me a phone number that I
19 could call to contact Mr. Harrison.

20 Q. Do you know if that was a cell phone
21 number?

22 A. I believe it was a residence.

23 Q. Did she say how she got Mr. Harrison's
24 number?

0089

1 A. No.

2 Q. You didn't ask her?

3 A. No.

4 Q. You took the number down?

5 A. Yes.

6 Q. Anything further said in this
7 discussion with you and Ms. Waskowsky?

8 A. Not that I recall.

9 Q. How long did that conversation last?

10 A. Probably a few minutes.

11 Q. Did you call Ed Smith or anyone at the
12 State's Attorney's office?

13 A. Yes.

14 Q. Did you reach any anyone at the
15 State's Attorney's Office?

16 A. No, I believe that it was a holiday.
17 It must have been a county holiday that day because
18 I believe the offices were closed because I reached
19 Ed Smith at home. I believe I reached him at home.

20 Q. And you were able to talk to him about
21 Mr. Harrison's statements?

22 A. Yes.

23 Q. And was he able to confirm for you
24 what Mr. Harrison told you?

0090

1 A. He was able to confirm that there was
2 no meeting and no conversation with him about
3 meeting with other county board members.

4 Q. So did you then take the number that
5 Ms. Waskowsky had given you and called Mr. Harrison?
6 A. Yes.
7 Q. What did you say to him?
8 A. I told him that I had talked to the
9 State's Attorney, and that I believe that I was lied
10 to, and I was not going to meet with him that
11 afternoon.
12 Q. When you called that number, did
13 Mr. Harrison answer the phone, or did someone else
14 answer?
15 A. Someone else answered.
16 Q. A man or woman?
17 A. Man.
18 Q. And you asked for Mr. Harrison?
19 A. Yes.
20 Q. And you were given Mr. Harrison?
21 A. Yes.
22 Q. Do you still have that number?
23 A. No.
24 Q. What did Mr. Harrison say in response

0091

1 to what you said to him?
2 A. I believe that he tried to support his
3 argument that it was okay to meet with us.
4 Q. What else did he say?
5 A. I don't recall.
6 Q. What did you say in response to his
7 arguing with you about the appropriateness of being
8 able to meet him?
9 A. I just flat out stated that I was not
10 going to meet with him, and I didn't.
11 Q. Anything further said in that
12 conversation?
13 A. No.
14 Q. Have you had any other communication
15 with Mr. Harrison since that time?
16 A. I believe at a later date he came to
17 my office again.
18 Q. And did he come unannounced?
19 A. Yes.
20 Q. Uninvited?
21 A. Yes.
22 Q. Wanted to see you?
23 A. Yes.
24 Q. Did he see you?

0092

1 A. Yes.
2 Q. And this occurred inside your office
3 or outside the building?
4 A. No, I have a door in my office, a
5 window, and I can talk to people or collect money or
6 whatever I have to do, and he was on one side, and I
7 was inside the office.
8 Q. What did he say to you?
9 A. I believe it was basically that he was
10 in Bradley passing a petition.

11 Q. A petition for what?
12 A. You know, I was so upset that he was
13 there, that he handed it to me, I was trying to be
14 polite, and I took it, didn't really look at it,
15 gave it back, and said I have things to do, and I
16 just abruptly ended the conversation.

17 Q. Was this a petition containing
18 signatures opposed --

19 A. There was signatures, but I have no
20 idea what the petition was about.

21 Q. He didn't tell you what it was about?

22 A. No, I didn't give him a chance.

23 Q. Did he ask you to sign the petition?

24 A. No.

0093

1 Q. Why was he giving you the petition?

2 A. I have no idea.

3 MR. PORTER: Objection calls for
4 conjection. It's already answered.

5 Withdrawn.

6 HEARING OFFICER: Thank you.

7 BY MR. MORAN:

8 Q. How many documents were in this
9 petition?

10 A. I have no idea.

11 Q. Half an inch thick, quarter inch, or
12 was it just a few pages, do you remember?

13 A. No.

14 Q. What else did he say to you?

15 A. Nothing that I recall because I ended
16 the conversation abruptly.

17 Q. Did he then leave the premises?

18 A. Yes.

19 Q. And did that meeting occur sometime
20 prior to March 17th of 2004?

21 A. I want to think it was after March
22 17th, but I can't be sure.

23 Q. It could have been before or after,
24 you don't remember; is that correct?

0094

1 A. That would be a fair statement.

2 Q. Did you have any other communications
3 with Mr. Harrison other than what you've told us
4 about?

5 A. No.

6 Q. Did you get any phone calls from any
7 other persons regarding the proposed expansion?

8 A. No.

9 Q. Did you receive any letters or written
10 materials regarding proposed expansion prior to
11 March 17th, 2004?

12 A. Yes.

13 Q. How many such letters did you get
14 approximately?

15 A. Ten, 20.

16 Q. Did you read them?

17 A. I read them all, but one -- I mean, I

18 read one, that was it. Excuse me.
19 Q. Was that letter opposed to the
20 expansion?
21 A. Yes.
22 Q. What did you do with these letters?
23 A. I threw them away unopened.
24 Q. Did you receive a letter from Karen
0095
1 Mallaney?
2 A. Yes.
3 Q. Who is Karen Mallaney?
4 A. She's a -- I guess, a relative, a
5 distant cousin.
6 Q. Of yours?
7 A. I don't know how she'd be
8 characterized. She's married to a second cousin of
9 mine.
10 Q. And she wrote you a letter opposing
11 the proposed expansion?
12 A. Yes.
13 Q. And is that the letter you opened?
14 A. Yes.
15 Q. And read?
16 A. Yes.
17 Q. And then threw away?
18 A. Yes.
19 Q. Do you know an individual named Doug
20 Flageole?
21 A. Yes.
22 Q. Who is he?
23 A. He's a member of the organization that
24 I represent.
0096
1 Q. Was he opposed to the proposed
2 expansion?
3 A. I believe so.
4 Q. And Mr. Flageole lives near the site
5 of the exposed expansion?
6 A. Yes.
7 Q. Did you ever go out and visit that
8 site?
9 MR. PORTER: I'm going to object,
10 unless we have some reference to time or
11 relevance or something that has something to
12 do with the landfill application.
13 HEARING OFFICER: Mr. Moran, could you
14 rephrase that, please, as far as the
15 reference to the time as Mr. Porter objected
16 to?
17 BY MR. MORAN:
18 Q. Mr. LaGessee, did you at any time prior
19 to March 17th go out and look at the site at which
20 this proposed expansion was to be located?
21 MR. PORTER: Now, I'm going to object
22 because that again gets into the deliberative
23 process and the underlying evidence of the
24 case. I hope that every board member knew

0097

1 where this site was located and has driven by
2 it on some occasion or other, but how that's
3 relevant to ex parte communications, I'm
4 unclear.

5 HEARING OFFICER: It seems to be a
6 little insinuated for mental process.
7 Mr. Moran? As far as just going out --

8 MR. MORAN: Well, certainly with
9 respect to Mr. Flageole, someone that
10 Mr. LaGessee knows is close to the landfill,
11 had gone out apparently at some point and
12 visited the site, which, well, I suppose in
13 some respects may indicate mental
14 impressions, but on the other hand, as
15 someone who was supposed to judicate this
16 application to go out separately and seek
17 what is in essence evidence outside the
18 record in what may have been some kind of an
19 ex parte communication or situation is
20 entirely appropriate for -- and relevant for
21 this appeal.

22 MR. PORTER: So far that assumes a
23 whole bunch of facts and foundation that
24 hasn't been laid and is simply untrue. Right

0098

1 now it's irrelevant.

2 HEARING OFFICER: Yeah, I don't
3 think -- it's approaching, but not in the
4 mental processes yet. However, I will give
5 Mr. Moran a little latitude. I'm not sure
6 where he's going right now with this, but you
7 may proceed. Objection overruled as far as
8 relevancy.

9 MR. MORAN: Could you read back the
10 last question, please?

11 (Whereupon, the record
12 was read as requested.)

13 BY THE WITNESS:

14 A. Yes.

15 BY MR. MORAN:

16 Q. And the reason you went out there was
17 because Mr. Flageole lived close by?

18 A. Basically, I wanted to see where he
19 lived in conjunction with the landfill.

20 Q. And how did you become aware that
21 Mr. Flageole was opposed to this proposed expansion?

22 A. We had some Lenten fish fries, and he
23 was a worker at those fish fries, and we had a
24 one-sided conversation about his opposition.

0099

1 Q. And did that one-sided conversation
2 about his opposition occur prior to March 17th,
3 2004?

4 A. I believe so.

5 Q. Where did it take place?

6 A. At the Knights of Columbus.

7 Q. When did it take place?
8 A. At one of those -- it had to be on a
9 Friday, probably, because it was a Lenten fish
10 fries.
11 Q. Was Friday in January or February of
12 2004?
13 A. Well, it'd been after Lent, after Ash
14 Wednesday, which of that year I believe -- of '04, I
15 believe Easter was towards the end of April, so it
16 would have been probably sometime at the end of
17 February maybe the first of March.
18 Q. What did Mr. Flageole say to you?
19 A. I can't tell you verbatim.
20 Q. Well, just generally what did he say
21 to you?
22 A. Well, that he didn't want -- he was
23 opposed to the expansion.
24 Q. Did he describe or indicate any
0100 reasons or facts why he was opposed?
2 A. He mentioned his drinking water as
3 well.
4 Q. I'm sorry. You said he mentioned his
5 drinking water?
6 A. He mentioned his drinking water or his
7 well.
8 Q. It could be contaminated or was
9 contaminated or?
10 A. He stated to me that they didn't drink
11 the well. They didn't drink water from the well.
12 They bought bottled -- they used bottled water.
13 Q. And he suggested that that was because
14 of the landfill?
15 A. Well, his -- apparently his well was
16 contaminated.
17 Q. That's what he indicated to you?
18 A. Yes.
19 Q. Prior to January 31st of 2003, that is
20 the vote on the first application, did anyone come
21 to your office to talk about the proposed expansion?
22 A. On the first application?
23 Q. Yes.
24 A. No.
0101 Q. And did anyone prior to January 31st
2 of 2003 talk to you about the fact that it was okay
3 for you to talk to that person about the proposed
4 expansion?
5 MR. PORTER: I'm sorry. Can I have
6 that read back?
7 HEARING OFFICER: Julie?
8 (Whereupon, the record
9 was read as requested.)
10 BY THE WITNESS:
11 A. Are you singling any one person out or
12 people in general?
13 BY MR. MORAN:

14 Q. Just anybody prior to January 31st of
15 2003.

16 A. I don't recall.

17 MR. MORAN: No further questions.

18 HEARING OFFICER: Thank you,

19 Mr. Moran. Mr. Porter?

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

21 BY MR. PORTER:

22 Q. Mr. Moran brought up the picketers
23 that were present at the second application hearing
24 and not at the first. Were you threatened or

0102
1 intimidated by those picketers?

2 A. No.

3 MR. MORAN: Objection.

4 HEARING OFFICER: Overruled.

5 BY THE WITNESS:

6 A. No.

7 BY MR. PORTER:

8 Q. There was also some reference to some
9 letters that may have been received. Were you
10 threatened or intimidated by any of the content of
11 those letters?

12 A. No.

13 MR. MORAN: Objection.

14 HEARING OFFICER: Overruled based on
15 my prior holdings.

16 BY MR. PORTER:

17 Q. As a matter of fact, you mentioned you
18 only read one of them; is that right?

19 A. That's correct.

20 Q. That was a letter from Karen Mallaney?

21 A. That's correct.

22 MR. PORTER: May I approach the with,

23 Mr. Hearing Officer?

24 HEARING OFFICER: You may.

0103

1 BY MR. PORTER:

2 Q. Let me direct your attention to a
3 letter that's in the record on various places, but
4 one spot is C3408. Can you take a look at that, and
5 tell me if that's a copy of the letter that you
6 reviewed from Ms. Mallaney?

7 A. Yes.

8 Q. Is it a copy of the letter?

9 A. I believe it is.

10 Q. Now, you'll notice that it's addressed
11 to Kankakee County Board; is that right?

12 A. Yes.

13 Q. So Ms. Mallaney wasn't writing to you
14 as a distant relative of hers, was she?

15 A. No.

16 Q. But the only reason you happened to
17 look at that one is because you recognized her name,
18 is that right?

19 A. That's correct.

20 Q. Now, you had been instructed to

21 disregard any information that you acquired outside
22 of the hearing process; correct?

23 A. That's correct.

24 Q. And did you follow that instruction?

0104

1 A. Yes.

2 MR. MORAN: Objection.

3 HEARING OFFICER: Sustained.

4 BY MR. PORTER:

5 Q. There was some reference to the fact
6 that you didn't attend the hearings. Transcripts of
7 those hearings were made available to you, correct?

8 A. Yes.

9 Q. And the application was made available
10 to you, correct?

11 A. Yes.

12 Q. All the public comment was made
13 available to you, correct?

14 A. Yes.

15 Q. As a matter of fact, the entire record
16 was made available to you; correct?

17 A. Yes.

18 Q. Did you ever solicit a communication
19 from Mr. Harrison?

20 A. No.

21 Q. At any time before the second
22 application was decided, did you ever meet with
23 Mr. Harrison and discuss the content of the
24 application or his objections to it?

0105

1 A. No.

2 Q. Do you know that Ms. Waskowsky got
3 Mr. Harrison's number from her caller ID when he
4 attempted to call or contact her?

5 A. I don't know how she actually got the
6 number.

7 Q. You don't have any information that
8 Ms. Waskowsky was somehow a friend of Mr. Harrison,
9 do you?

10 A. No, quite the opposite.

11 Q. Were you at all intimidated or
12 threatened by Mr. Harrison attempt to speak with
13 you?

14 MR. MORAN: Objection.

15 HEARING OFFICER: Overruled.

16 BY THE WITNESS:

17 A. Absolutely not.

18 BY MR. PORTER:

19 Q. Were you at all intimidated or
20 threatened -- strike that.

21 Did you receive any telephone
22 calls before the March 17th hearing other than
23 Mr. Harrison?

24 A. No.

0106

1 Q. Were you at all threatened or
2 intimidated by the contact with Mr. Flageole?

3 A. No.
4 Q. Now, you said you went out to the
5 landfill site; did you ever find Mr. Flageole's
6 house?
7 A. No.
8 Q. So all you saw was the landfill site,
9 is that right?
10 A. That's it.
11 Q. And as a matter of fact, you just
12 drove around it, you didn't go into it, did you?
13 A. No.
14 Q. Was my statement correct, you just
15 drove around it?
16 A. Right. Correct.
17 Q. And you had driven around that site
18 before that day, hadn't you?
19 A. Yes.
20 Q. And you've driven around that site
21 since that day, is that right?
22 A. Yes.
23 Q. You mentioned it was a one-sided
24 conversation with Flageole. What did you mean by
0107

1 that?
2 A. Well, I didn't solicit any comments
3 from him. He knew that I was on the county board,
4 and he just started expounding, and we were in a
5 limited space, so there was no way that I was
6 getting away from him.
7 MR. PORTER: I have nothing further.
8 HEARING OFFICER: Thank you.

9 Mr. Moran?
10 R E D I R E C T E X A M I N A T I O N
11 BY MR. MORAN:

12 Q. Mr. LaGessee, you said in response to a
13 question from Mr. Porter that rather than
14 Mr. Harrison and Ms. Waskowsky being friends, the
15 situation was quite the opposite. What did you mean
16 by that?
17 A. Well, in our conversations I never got
18 the impression that they were friends or friendly,
19 and you know, that's what I based that comment on.
20 Q. Do you have any information or facts
21 to indicate other than your assumption that they
22 were not friendly?
23 A. No.
24 Q. Do you have any information or facts
0108

1 to indicate that the number you called to reach
2 Mr. Harrison was Robert Keller's phone number?
3 A. I'm sorry. Restate that.
4 Q. Do you have any facts or information
5 to indicate that the number you were given to call
6 and reach Mr. Harrison was actually Robert Keller's
7 phone number?
8 A. Did I know the number was Robert
9 Keller's number?

10 Q. Or did you have any information -- did
11 you hear from anybody that that might have been
12 Robert Keller's number?

13 A. Yes.

14 Q. And what information did you have?

15 A. I believe, if I recall correctly, that
16 when Ms. Waskowsky gave me that phone number, she
17 did state at that time that it was Robert Keller's
18 phone number.

19 Q. So that's what Ms. Waskowsky told you,
20 that it was Robert Keller's number?

21 A. I believe so.

22 Q. And that was the number you called to
23 reach Mr. Harrison?

24 A. Yes.

0109

1 Q. And as you indicated, Mr. Harrison was
2 there --

3 A. Yes.

4 Q. -- correct?

5 A. Yes.

6 Q. Do you know if the person who answered
7 the phone was Mr. Keller?

8 A. I don't -- I don't know that he said
9 hello, Keller residence. I don't recall that. I
10 just recall talking to Harrison.

11 MR. MORAN: Thank you. Nothing
12 further.

13 HEARING OFFICER: Thank you.
14 Mr. Porter?

15 MR. PORTER: No follow-ups.

16 HEARING OFFICER: What I want to do
17 now before it gets too late, I have
18 Mr. Runyon and another lady in the back that
19 would wish to give public comment or
20 statement. So Mr. Runyon, do you mind if the
21 lady gives her --

22 MR. RUNYONN: That's fine.

23 HEARING OFFICER: Thank you. You may
24 step up here, ma'am.

0110

1 MS. ROMER: Up there?

2 HEARING OFFICER: Yes. Now, I don't
3 know if you were here yesterday. There was
4 public comment or public statement. Public
5 comment you stand up here and say your peace
6 without being sworn and not subject to
7 cross-examination, or you can get sworn in
8 and it's considered a public statement.
9 However, you are subject to cross-examination
10 by the attorneys, and the board will weigh it
11 accordingly.

12 MS. ROMER: I just would like to make
13 a comment.

14 HEARING OFFICER: Okay. You can just
15 sit up here and speak into the mike, and just
16 state your name and spell it for court

17 reporter, please.
18 MS. ROMER: My name is Ruth Romer,
19 R-O-M-E-R. I've lived in Kankakee since
20 1976. I've gotten involved in the landfill
21 issue because I'm concerned with the
22 reputation of Waste Management. I've seen in
23 other areas where they have litigation
24 against them, and I don't feel like we can

0111

1 trust them in our area because of that.
2 I was at the county board meeting
3 when the landfill was voted down. I was not
4 outside picketing. I came in. I came in
5 about 8:00. The room was already full, and I
6 inched my way into the room; and when I got
7 in, I found Lee Addleman was talking to Waste
8 Management employees. I know they were
9 employees because they were wearing badges,
10 and they had filled the room, and they stated
11 that they were there to keep the citizens
12 out. That was the day they voted the
13 landfill down.

14 I listened to Lee Addleman talk to
15 the employees. I may have only been the only
16 one in there that was not an employee, and he
17 was telling them that the citizens didn't
18 want Waste Management because they had not
19 been properly educated, and that this was
20 Waste Management's fault. I raised my hand
21 to ask a question, and I asked Mr. Addleman
22 if he had litigation against him in any other
23 state, and he said he could not make a
24 comment on that. I said I couldn't trust

0112

1 Waste Management in this area because they
2 have proven they can't be trusted.

3 I think citizens have been
4 intimidated here, and I think they've been
5 left out of the process, and I intend to stay
6 involved and do what I can to see that the
7 citizens are represented here. Thank you.

8 HEARING OFFICER: Thank you.
9 Mr. Runyon, now, do you wish to be sworn in
10 and subject to cross, sir?

11 MR. RUNYON: I don't think so at this
12 time.

13 HEARING OFFICER: Okay. Have a seat.

14 MR. RUNYON: I was a little bit more
15 organized than I will be at this point
16 because want to, first of all, second what
17 Ms. Romer had to say. I too witnessed
18 exactly what she saw, the room. The galley
19 was totally flooded with Waste Management
20 employees with very large badges, probably
21 eight inches by six inches, very predominant.

22 In addition to that, the sheriff
23 stood outside the door and would not allow

24 people in, and if anybody had any sign or

0113

1 placard that was in opposition to the
2 landfill, he certainly would not let them in.

3 So as a result, most of the people
4 that were here to hear what the county was
5 going to say and do on this particular issue
6 had to stay out in the hallway, and that goes
7 to part of the fundamental fairness argument,
8 but there's more to that fundamental fairness
9 argument.

10 We've heard a lot about signs as
11 if they're a mean thing to have, and yet, I
12 also testified yesterday -- or Daryl Bruck
13 did, that Waste Management had picketers
14 outside with signs. Now, just why is it that
15 that's good for them and bad for the people?
16 I don't understand this.

17 More importantly, we've heard a
18 lot about ex parte communication. Well, it
19 seems to me that the only documentable ex
20 parte communication is a letter dated March
21 11th, 2004, from Mr. Moran to
22 Mr. Carl Kruse of the county board. Clearly,
23 20 days after the public commentary period
24 was closed. This represents ex parte

0114

1 communication, and I would submit that this
2 is fundamentally unfair.

3 But more importantly, the
4 unfairness of this whole process dates back
5 many years. I testified yesterday that Waste
6 Management had been meeting secretly with a,
7 "Special group of board members or an
8 informal group of board members," for
9 three years prior to the announcement of the
10 amendment of the solid waste plan. This was
11 corroborated two people, county board member
12 Mike Quigly, who said when they introduced
13 the host fee agreement that members of the
14 board had been meeting with Waste Management
15 for up to three years prior to this, and the
16 host fee agreement was simply the culmination
17 of those meetings.

18 In addition to that, when the city
19 of Kankakee deposed the county board members
20 regarding Waste Management one, then
21 vice-chairman Pam Lee, corroborated what
22 Mr. Quigly had to say in her deposition when
23 she said, an informal group of county board
24 members has been meeting with Waste

0115

1 Management over a period of years. The
2 county solid waste plan specifically says
3 that the citizens must be involved in the
4 process from the very beginning, including
5 site selection, whether that's to be a new

6 landfill or an expansion. By having secret
7 meetings, the public was by defacto excluded
8 from any participation on this process. So
9 there was clear deliberate collaboration and
10 complicity between a select group of the
11 county board members and Waste Management,
12 and that was fundamentally unfair, and so far
13 as I'm concerned makes this whole process
14 totally unfair.

15 One last thing, yesterday
16 Mr. Moran asked me a question. I don't
17 remember exactly the substance of it, but it
18 was -- I said, well, that's not writhe the
19 issue. At that time, I was directed not to
20 the question that Mr. Moran asked, and that I
21 could make that statement today. Well, I'm
22 going to make that statement today.

23 The real issue is that both the
24 city landfill site and the county landfill

0116
1 site are in situations adjudged to be not
2 good for landfills by the Illinois geological
3 survey. The learned counsel from Waste
4 Management has totally mischaracterized
5 silurian dolomite. Just because something
6 has the same name does not mean that it's the
7 same. For instance, we're all homo sapiens,
8 but we're all different; likewise, with that
9 dolomite. And what the Illinois Geological
10 survey says is if you're going to have
11 landfills, they should be in the south
12 western part of the county. The reason being
13 is the substrata is much different, the clay
14 is much thicker, permeability is
15 greater -- or lower, and they are far better
16 sites. They're away from the main aquifer,
17 as the solid waste plan calls for or says
18 should not be built over, that is the major
19 source of the metropolitan water supply and
20 the private wells. Thank you very much.

21 HEARING OFFICER: Thank you,
22 Mr. Runyon. I do want to note for the record
23 that the Pollution Control Board on August
24 19th, 2004 denied Mr. Runyon's motion to

0117
1 intervene; however, it had allowed Mr. Runyon
2 to file amicus curiae brief, if he so
3 chooses, and that briefing schedule will be
4 discussed at the end of the hearing, and so
5 noted, my hearing report.

6 With that said, it's 11:25. If
7 nobody has any objections, could we get
8 started, and then maybe the next witness will
9 be finished in 30 minutes, and we can take a
10 lunch? Is that fine with everybody?

11 MR. MORAN: (Indicating.)

12 MR. PORTER: (Indicating.)

13 HEARING OFFICER: Raise your right,
14 and she'll swear you in.
15 (Witness sworn.)
16 HEARING OFFICER: You may have a seat.
17 Thank you. I do want to note that if any
18 members of the public are interested, and I
19 will set a public comment period that you can
20 send into the board your written public
21 comment, but I'll address that at the end of
22 the hearing as well. Mr. Moran, I think the
23 15th witness is up, and she has been sworn
24 in.

0118

1 WHEREUPON:
2 LINDA FABER
3 called as a witness herein, having been first duly
4 sworn, deposeeth and saith as follows:
5 D I R E C T E X A M I N A T I O N
6 BY MR. MORAN:
7 Q. Could you state your full name and
8 spell it for court reporter, your last name for the
9 court reporter?
10 A. Linda Lee Faber, F-A-B-E-R.
11 Q. And what is your address, Ms. Faber?
12 A. 2259 Fox Run, Kankakee, Illinois.
13 Q. How long have you lived there?
14 A. Four weeks.
15 Q. What is your occupation?
16 A. I'm a speech language pathologist.
17 Q. Are you currently employed?
18 A. Yes, I am.
19 Q. By whom?
20 A. The State of Illinois.
21 Q. Are you a Kankakee county board
22 member?
23 A. No longer.
24 Q. Were you at some point?

0119

1 A. Yes, I was.
2 Q. During what period?
3 A. I believe I was elected in 2000, and I
4 moved, so I couldn't run for re-election.
5 Q. And when did your term expire?
6 A. In November or December.
7 Q. Of 2004?
8 A. Yes.
9 Q. Were you aware that an application to
10 expand the existing waste management landfill was
11 filed on August 16th of 2004?
12 A. Yes.
13 Q. And I'll refer to that as the 2002
14 application or the first application.
15 Were there hearings conducted on
16 the 2002 application in November and December of
17 2002?
18 A. Yes.
19 Q. Did you attend those hearings?

20 A. Some.
21 Q. Was there a vote that occurred on the
22 2002 application on January 31st of 2004?
23 A. Yes.
24 Q. Did you vote on the 2002 application?
0120
1 A. Yes, I did.
2 Q. Did you appear in this room to vote on
3 that application on that date?
4 A. Yes, I did.
5 Q. Were there any picketers outside or
6 inside the building on that date?
7 A. No.
8 Q. Prior to January 31, 2004, had you
9 received any phone calls regarding the proposed
10 expansion?
11 A. No.
12 Q. Prior to January 31, 2004, had you
13 received any letters or written materials regarding
14 proposed expansion?
15 A. No.
16 Q. How did you vote on the 2002
17 application?
18 A. I voted in favor.
19 Q. Did you consider each of the nine
20 statutory criteria?
21 A. Yes.
22 Q. And you voted in favor of each of
23 those?
24 A. Yes, I did.
0121
1 Q. Are you aware that a second
2 application was filed by Waste Management of
3 Illinois on September 26th, 2003?
4 A. Yes.
5 Q. And I'll be referring to that as the
6 2003 application or the second application.
7 Were the hearings on the second
8 application conducted in January of 2004?
9 A. Yes.
10 Q. And were those hearings conducted by
11 the Regional Planning Commission?
12 A. Yes.
13 Q. And, in fact, the hearings on the
14 first application were also conducted by the
15 Regional Planning Commission?
16 A. Yes.
17 Q. Did you attend the hearings --
18 A. No.
19 Q. -- on the second application?
20 A. No.
21 Q. Did the Regional Planning Commission
22 prepare a report on the second siting application?
23 A. Yes, they did.
24 Q. Was that report made available for
0122
1 your review?

2 A. Yes.
3 Q. Similarly for the first application,
4 the Regional Planning Commission had prepared a
5 report, which was made available for your review?
6 A. Yes.
7 Q. And that report for the second
8 application recommended approval with various
9 conditions?
10 A. Yes.
11 Q. How did you vote on the second
12 application?
13 A. I voted no on several criteria.
14 Q. Did it this vote occur on March 17th
15 of 2004?
16 A. Yes.
17 Q. That occurred in this room?
18 A. Yes.
19 Q. Were there picketers inside or outside
20 the building on that day?
21 A. Outside.
22 Q. There were?
23 A. (Indicating.)
24 Q. You need to say yes.

0123
1 A. Yes.
2 Q. How many picketers did you observe?
3 A. Maybe between 10 and 12. I don't
4 know.
5 Q. Were they carrying signs?
6 A. Yes.
7 Q. What did the signs say?
8 A. I think no dump, but I didn't read
9 them all. I was just in a hurry to get in.
10 Q. Did you to talk to any of the
11 picketers?
12 A. No.
13 Q. For the second application, did you
14 vote on each of the statutory criteria?
15 A. Yes.
16 Q. And I think you said that you voted to
17 deny certain of the criteria?
18 A. Yes.
19 Q. And you voted to approve certain other
20 criteria?
21 A. Yes.
22 Q. Did you vote to deny criteria one,
23 three, five, six and eight; does that ring a bell?
24 A. Yes, it does.

0124
1 Q. And, in fact, the roll-call will
2 reflect what your vote was on each of those
3 criteria?
4 A. Yes.
5 MR. MORAN: Mr. Halloran, with respect
6 to my list of questions posed to
7 Ms. Hertzberger, I would ask those questions
8 again of Ms. Faber and relate them to

9 criteria one, three, five, six and eight?
10 MR. PORTER: Understood. Obviously,
11 we have the same objections to those.
12 HEARING OFFICER: Okay. Terrific. As
13 stipulated; and again, Mr. Moran, you
14 subjected earlier that you may set out in
15 your post hearing brief these questions --
16 MR. MORAN: What the questions were.
17 They were all questions that were objected
18 to, and those objections were sustained by
19 you and relate to the rulings on the motion
20 to compel and the motion in limine.
21 HEARING OFFICER: During
22 Ms. Hertzberger's direct.
23 MR. MORAN: Correct.
24 HEARING OFFICER: Okay. Thank you.

0125

1 BY MR. MORAN:
2 Q. Ms. Faber, were you aware that there
3 was a motion to renew consideration of the county
4 board's March 17th vote presented?
5 A. Yes.
6 Q. And was that motion voted on by the
7 board on April 13th, 2004?
8 MR. HELSTEN: Now, I think we're
9 getting close to the relevancy issue, and how
10 this is germane to the March 17th vote. I
11 pose the same objection for purposes of
12 expediency that I did with respect to -- I
13 can't remember which witness I cross-examined
14 before, but again, the gist being what
15 happened after March 17th is not germane or
16 relevant to the issues involved in this case
17 as a matter of law. What happened after that
18 isn't relevant.
19 HEARING OFFICER: Mr. Moran?
20 MR. MORAN: We have argued that
21 before. Our position is that that March 17th
22 decision was not a final decision until there
23 were a definitive ruling on the motion for
24 reconsideration, and that any of these

0126

1 matters relating to the motion are relevant.
2 HEARING OFFICER: It was Waste
3 Management's motion to reconsider?
4 MR. MORAN: To renew consideration.
5 HEARING OFFICER: To renew
6 consideration. Yeah, I think we've been over
7 this before, and I think I will sustain
8 Mr. Helston's objection. However, I don't
9 know how expedient his objection was.
10 MR. HELSTEN: I'm sorry. Sometimes I
11 explain how expedient it is, and it makes it
12 longer than the original objection.
13 HEARING OFFICER: So your objection is
14 sustained. Mr. Moran?
15 BY MR. MORAN:

16 Q. Ms. Faber, prior to March 17th of
17 2004, did you receive any phone calls regarding the
18 proposed expansion?

19 A. Yes.

20 Q. How many phone calls did you receive?

21 A. One.

22 Q. From whom did you receive it?

23 A. I believe it was from Mr. Bennoitt.

24 Q. Did you receive this call at home?

0127

1 A. Yes.

2 Q. And did Mr. Benyote call you or did
3 you call him?

4 A. He called us.

5 Q. And you talked to him on that
6 occasion?

7 A. Yes, I did.

8 Q. And what did Mr. Bennoitt say?

9 A. He is a family friend of my husband's.
10 He asked me about my husband at the beginning, and
11 when he mentioned the landfill, I told him I
12 couldn't talk about it and ended the conversation.

13 Q. But before you said that to him, he
14 made certain statements to you --

15 A. Yes, he did.

16 Q. -- about the proposed expansion; true?

17 A. True. Yes.

18 Q. What did he say?

19 A. He said he lived near the expansion,
20 and it would affect the quality of his life.

21 Q. And didn't he also state to you that
22 the expansion would affect not just his life but his
23 dreams?

24 A. Yes, that's true.

0128

1 Q. What else did he say to you about the
2 expansion?

3 A. That was it.

4 Q. How long did the phone conversation
5 last?

6 A. Maybe five minutes.

7 Q. Did you have any subsequent
8 communications with Mr. Bennoitt?

9 A. No.

10 Q. And this was the only phone call that
11 you received prior to March 17th regarding the
12 proposed expansion?

13 A. Yes, it was.

14 Q. Did you receive any letters or written
15 materials regarding the proposed expansion?

16 A. Yes, I did.

17 Q. How many such letters did you get?

18 A. I would say between 15 and 20.

19 Q. Did you receive these letters at home?

20 A. Yes, I did.

21 Q. Were these letters opposed to the
22 proposed expansion?

23 A. I only opened the first one or two and
24 got the impression they were opposed to it, but I

0129

1 didn't read the rest of them as per instructed.

2 Q. And did you then take the letters and
3 throw them away?

4 A. Yes, I did.

5 Q. And the basis for your conclusion that
6 the letters related to the proposed expansion was
7 what?

8 A. I noticed the return addresses. If it
9 wasn't someone that I knew personally, I assumed
10 that it was, and I didn't open them.

11 Q. So you didn't send these to the county
12 clerk?

13 A. No, I didn't.

14 Q. You didn't tell anybody at the county
15 that you received the letters?

16 A. Yes, I did. I believe I told Chris
17 upstairs, and she said that they were similar to
18 many other people's letters that were being placed
19 on file already.

20 Q. For any other matter pending before
21 the county board during your tenure as a county
22 board member, have you ever received this number of
23 letters regarding such an issue?

24 A. Similar, yes.

0130

1 Q. What --

2 A. Yes, I received a similar number. I
3 believe it was regarding the proposed quarry in
4 Mantino. I received a lot of letters regarding
5 that.

6 Q. When did that occur?

7 A. You're testing my memory. Maybe
8 spring last year. I'm not real sure, though.

9 Q. Spring of 2004?

10 A. Maybe 2003. I don't know.

11 Q. Ms. Faber, did you see any signs in
12 and around town that related to the proposed
13 expansion?

14 A. Yes.

15 Q. Where did you see these signs?

16 A. I saw the one on the corner of Kennedy
17 numerous times, and I've seen about four of them.
18 There's one right by my new house, in fact, still.

19 Q. Do they all say the same thing?

20 A. No dump, no Chicago garbage.

21 Q. Did you have any understanding as to
22 what those statement on those signs meant?

23 A. Yes.

24 MR. HELSTEN: Now, we're -- I'd

0131

1 objection, and ask that my objection precede
2 her answer because I didn't have time to
3 interpose --

4 MS. FABER: Sorry.

5 MR. HELSTEN: -- the objection. Now,
6 we're getting into deliberative process, when
7 we get into do you have an impression or an
8 idea as to what those signs meant.

9 HEARING OFFICER: See, I mean, I don't
10 know. I've ruled on this before, and I
11 allowed it. I don't see it that way,
12 Mr. HELSTEN. I just -- it's fairly obvious
13 what the sign means, and I'll keep a close
14 eye or ear out, but as of right now I don't
15 see where it could delve into the mental
16 processes.

17 MR. HELSTEN: Okay. I just want to
18 make sure we don't go in the back door, so...

19 HEARING OFFICER: I agree.

20 BY THE WITNESS:

21 A. Yeah, I think it's a pretty clear cut
22 statement. I just read it for what it said.

23 BY MR. MORAN:

24 Q. And what was that?

0132

1 A. That people put up signs that said
2 that. I mean, I didn't --

3 Q. What did the statement mean to you?

4 A. That it said no dump, no Chicago
5 garbage, that the people that put up the signs that
6 was their impression or what they wanted known.

7 Q. That they didn't want waste coming
8 from Chicago?

9 A. (Indicating.)

10 Q. You need to say yes.

11 A. Yes.

12 Q. Thank you.

13 MR. MORAN: No further questions.

14 HEARING OFFICER: Mr. Helsten?

15 MR. HELSTEN: Thank you, Mr. Hearing
16 Officer.

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

18 BY MR. HELSTEN:

19 Q. Ms. Faber, so as I understand it, you
20 weren't running for reelection in 2004; correct?

21 A. Yes, I wasn't running.

22 Q. You were not running then?

23 A. Yes.

24 Q. Did you read the transcripts of the

0133

1 second hearing?

2 A. Yes.

3 Q. Now, as I understand it, you told
4 Mr. Moran you didn't pay any attention to the signs
5 the picketers had; correct?

6 A. Right. Yes.

7 Q. Concerning your telephone call with
8 Mr. Bennoitt, you said that the Bennoitt family were
9 friends of your husband; correct?

10 A. Correct.

11 Q. Did you terminate that conversation as

12 soon as you thought it was polite and courteous to
13 do so?
14 A. Yes.
15 Q. And you told Mr. Bennoitt you couldn't
16 talk to him about the landfill application or the
17 expansion?
18 A. Yes, I did.
19 Q. Now, as soon as -- as far as the
20 letters that you received, as soon as you -- you
21 opened a couple, right?
22 A. Yes.
23 Q. As soon as you determined what the
24 subject matter was, did you throw them away and not
0134
1 read any further?
2 A. Yes, I did.
3 Q. Mr. Moran asked you if you took any of
4 these letters to the clerk, and you said no?
5 A. No.
6 Q. Why didn't you take them to the clerk?
7 A. Because I was told they were already
8 on file.
9 Q. By whom?
10 A. By Mr. Kruse, he was doing it.
11 Q. So you did bring those letters,
12 though; you brought those letters to the county
13 building and attempted to have them filed?
14 A. Right.
15 Q. Now, Ms. Faber, on several occasions
16 Mr. Smith and I instructed you not to discuss the
17 substance of the application with any people outside
18 the hearing process; correct?
19 A. Yes.
20 Q. And also to ignore any outside
21 communication, right?
22 A. Yes.
23 Q. And did you do that?
24 A. Yes, I did.

0135

1 MR. MORAN: Objection. We're getting
2 into consideration here. What did they
3 consider? What didn't they consider?
4 HEARING OFFICER: Could you read the
5 question back, Julie? Thanks.
6 (Whereupon, the record
7 was read as requested.)
8 HEARING OFFICER: Mr. HELSTEN your
9 response -- oh, I'm sorry. Mr. Moran, you
10 were elaborating on your --
11 MR. MORAN: Well, I was just
12 indicating that the whole process has become
13 extremely problematic only because anything
14 could be viewed as implicating or impinging
15 upon some kind of a thought whatever they
16 have in his or her mind as opposed to a
17 thought process. It's been determined that
18 we can't inquire as to any of that; however,

19 if a board member inadvertently or
20 advertently explains what they considered or
21 didn't, that's coming out. If they're asked
22 questions about it, and they respond in a way
23 that reveals in some way what they may have
24 been thinking, that may be okay; but we can't

0136

1 probe any further. I mean, we've reached a
2 point where I don't know that consistently we
3 can apply a rule that talks about what these
4 people thought and what they considered. The
5 problem is a lot of these questions ask them
6 what did they consider.

7 HEARING OFFICER: But at the same
8 time, Mr. Moran, you've elicited questions or
9 you've asked questions regarding signs and
10 what did you mean by that, what was your
11 understanding, you know, that stuff is
12 outside the record as well, and I've been
13 allowing it in.

14 MR. MORAN: That's precisely the
15 point, though, because those kinds of
16 communications made to the board members
17 irrespective of how they process it, consider
18 it or construe it is still an inappropriate
19 communication by virtue of what it was as a
20 communication.

21 HEARING OFFICER: Mm-hmm.

22 MR. MORAN: The problem, and I don't
23 really know how to address because your
24 ruling is that we can't get into any of that,

0137

1 but some of these matters asking people were
2 you instructed to do this, did you not
3 consider that, did you follow our
4 instructions, necessarily implicates what
5 they considered, and that's exactly what you
6 said we can't get into; and it's that
7 slipperly slope, which I don't know at this
8 point how we address it, but I can see when
9 people were asked were you intimidated or
10 threatened by this, that necessarily
11 implicates what they considered and what they
12 thought.

13 HEARING OFFICER: I don't think so,
14 and my ruling stands.

15 MR. MORAN: I understand, and I
16 respect that, but all I'm saying is we've
17 reached a point where consideration by these
18 board members really should be excluded, but
19 we haven't developed any way to really
20 consistently apply it; and my objection here
21 is the question of did you follow my
22 instruction and not consider any of this
23 clearly implicates how they want about making
24 this decision; and I'm delighted to go into

0138

1 that, but you said I can't, and I respect
2 that. It is what it is, but we keep playing,
3 you know, this very, very difficult dance in
4 determining what's appropriate and what
5 isn't. You know, I keep objecting when I
6 really don't want to object. I want to get
7 into this, but I can't. They can to certain
8 stuff. I can maybe in some ways, but not
9 where it makes a difference. So that's my
10 objection, and I guess I continue to make it.

11 HEARING OFFICER: Mr. Helsten?

12 MR. HELSTEN: Mr. Moran is very deafly
13 spinning an innocent, innocuous question that
14 I asked that has nothing to do with mental
15 processes on the decision. It goes only to
16 the procedure that was put in place. My sole
17 question was, were you instructed to ignore
18 these things, and did you. That's all I'm
19 going into. I don't think we're having any
20 blurring of the lines. I think we have a
21 bright line. I think we've had consistent
22 application by you of your rulings.

23 The consistent application is if
24 it gets into the thought processes concerning

0139

1 the actual application, what they considered,
2 and what they base your decision on, you say
3 no, and that's the way it should be
4 consistent with the law. There isn't a
5 blurring of a distinction when I ask about
6 were you given instructions as to ex parte
7 conversations, and did you follow those
8 instructions. That's totally different.
9 That's no slippery slope. That's on the
10 other side of the bright line. That has
11 nothing do with consideration of the criteria
12 and what was relied upon. Those are
13 black-and-white. Those are totally
14 different. So there isn't any slippery
15 slope, as Mr. Moran says, or any blurring at
16 the distinction. He's attempting to morph
17 one into this area and plead he's in a
18 dilemma, I'm in a dilemma, I'm in a dilemma.
19 Well, no, it's a self perceived dilemma.

20 HEARING OFFICER: Well, I mean, you
21 know, with the help of the case law, but --
22 you know, and the other problem is all along
23 for the last day-and-a-half questions from
24 both sides have been asked and elicited

0140

1 regarding receiving mailings, and what did
2 you do, well, I was instructed to throw it
3 away. I mean, there's been no objection
4 there, and that hinges on what Mr. HELSTEN
5 has just said as far as giving directions and
6 did you follow them. So, you know, I
7 understand your dilemma, Mr. Moran, but I

8 will overrule your objection. Your objection
9 is noted for the record. Mr. HELSTEN can ask
10 the question, and the witness may answer if
11 she can.

12 MR. HELSTEN: I thought she answer
13 after he objected, and I'd let the answer
14 stand if in fact she did, but I'll ask --
15 I'll do it -- for the sake of expediency.
16 This time really for expediency.

17 BY MR. HELSTEN:

18 Q. You were instructed on several
19 occasions by Mr. Smith and I to ignore these type of
20 outside communications, correct?

21 A. Yes.

22 Q. We did that in several occasions in
23 this board meeting and at lengthy presentations
24 power point, right?

0141

1 A. Yes.

2 Q. And did you follow those instructions?

3 A. Yes, I did.

4 Q. Ms. Faber, did you feel threatened or
5 intimidated by the telephone call you received by
6 Mr. Bennoitt?

7 A. No.

8 MR. MORAN: Objection.

9 HEARING OFFICER: Overruled based on
10 prior rulings on that matter.

11 BY MR. HELSTEN:

12 Q. Now, you didn't look at the letters
13 once you determined what they were about; correct?

14 A. Right.

15 Q. Now, the yard signs, did you feel
16 threatened or intimidated by those yard signs?

17 MR. MORAN: Objection.

18 HEARING OFFICER: Overruled based on
19 my prior decision.

20 BY THE WITNESS:

21 A. No.

22 BY MR. HELSTEN:

23 Q. And I believe you said you weren't
24 paying any attention -- in response to one of

0142

1 Mr. Moran's questions, you weren't paying any
2 attention to the picketers and the signs that they
3 had; correct?

4 MR. MORAN: Objection.

5 HEARING OFFICER: Overruled.

6 BY THE WITNESS:

7 A. No, I was not.

8 BY MR. HELSTEN:

9 Q. So did you feel threatened or
10 intimidated in any way by those picketers?

11 MR. MORAN: Objection.

12 HEARING OFFICER: Overruled.

13 BY THE WITNESS:

14 A. No.

15 MR. HELSTEN: That's all I have.

16 HEARING OFFICER: Thank you.

17 Mr. Moran?

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

19 BY MR. MORAN:

20 Q. Ms. Faber, you indicated that you
21 brought all these upopened letters to the clerk's
22 office; is that what you said?

23 A. I brought them with me to the county
24 board meeting. I had them in my purse, and I was

0143

1 going to place them on file, then was told that they
2 had already been filed.

3 Q. Did anybody open those letters to look
4 at them to determine whether they had already been
5 filed?

6 A. No.

7 Q. Well, how in the world could somebody
8 know that a document had been filed without even
9 looking at it?

10 MR. HELSTEN: I'm going to object
11 because that calls for her to speculate as to
12 the mind set of someone else in the county --

13 HEARING OFFICER: She can answer if
14 she's able. Objection overruled.

15 BY THE WITNESS:

16 A. I have never experienced it before. I
17 just did as I was told.

18 BY MR. MORAN:

19 Q. So you have no facts or information to
20 indicate how the person at the county building who
21 told you that these unopened letters had somehow
22 been filed in the record, how the person could have
23 determined that; you have no facts or information to
24 indicate how the person was able to do that, do you?

0144

1 A. No.

2 Q. What did you physically do with those
3 letters that you were carrying around with you?

4 A. I threw them away.

5 Q. Did you throw them away here at the
6 county building or somewhere else?

7 A. I don't remember.

8 Q. So you may have actually just
9 continued to carry them around with you for some
10 period after the person here told you you didn't
11 need to file them?

12 A. I probably threw them away in my
13 office garbage when I got back to work.

14 Q. Now, Mr. HELSTEN asked you if you read
15 the transcripts from this second siting application;
16 is that correct?

17 A. Yes, I did.

18 Q. And you read all the transcripts?

19 A. A good deal of it, yes.

20 Q. You didn't read them all, would that
21 be fair?

22 A. Yeah, I didn't read them all.
23 Q. Thank you,
24 MR. MORAN: Nothing further.
0145
1 MR. HELSTEN: Nothing further.
2 THE WITNESS: Thank you.
3 HEARING OFFICER: You may step down.
4 Before we go off record and talk about lunch,
5 any members of the public like to speak
6 before lunch? It looks like right now we'll
7 come back around 1:00. Mr. Runyon? Would
8 you step up here so court reporter could hear
9 you, please?
10 MR. PORTER: Mr. Halloran, Mr. James
11 is here, and we do not have a 1:00, and he
12 has to leave at 1:30. I'm wondering if we
13 should do his and then break at 1:30.
14 MR. MORAN: Fine with me.
15 HEARING OFFICER: Okay. Oh, I thought
16 you just had a question.
17 MR. RUNYON: No, it's just --
18 HEARING OFFICER: Wait a minute, sir.
19 MR. RUNYON: Just a quick statement.
20 HEARING OFFICER: Is this going to
21 be -- I mean, we can't just keep be popping
22 up here.
23 MR. RUNYON: Oh, no, no, it's just
24 quickie.

0146
1 HEARING OFFICER: Thank you.
2 Mr. Runyon is going to give public comment
3 without being sworn in. Thank you,
4 Mr. Runyon, you may proceed.
5 MR. RUNYON: Just a simple request
6 that you give equal weight to written
7 testimony that may be presented by people in
8 attendance today, like Mr. Watson, as you
9 would give to the oral testimony in the
10 hearing. That's all.
11 HEARING OFFICER: All right. The
12 board will so note that in the transcript.
13 MR. RUNYON: Thank you.
14 HEARING OFFICER: Thank you. Have a
15 great lunch everybody. I'm sorry.
16 Mr. Porter?
17 MR. PORTER: I've just been informed
18 Mr. James cannot come back. He was scheduled
19 at 11:30, but we slipped one in. Can we do
20 him now?
21 HEARING OFFICER: Sure. I'm sorry.
22 (Whereupon, a discussion
23 was had off the record.)
24 HEARING OFFICER: We're back on the
0147
1 record. Julie, would you please swear the
2 witness in?
3 (Witness sworn.)

4 HEARING OFFICER: Thank you.
5 Mr. Moran?
6 WHEREUPON:
7 STANLEY JAMES
8 called as a witness herein, having been first duly
9 sworn, depose and saith as follows:
10 D I R E C T E X A M I N A T I O N
11 BY MR. MORAN:
12 Q. Thank you. What is your name?
13 A. Stanley James.
14 Q. What is your address, Mr. James?
15 A. 5981 Muriel Lane, Saint Anne.
16 Q. How long lived there?
17 A. About three years now. Two years.
18 Excuse me.
19 Q. What is your occupation?
20 A. I'm a realtor and land developer.
21 Q. Do you serve on the Kankakee County
22 Board?
23 A. Yes.
24 Q. For how long have you served?
0148
1 A. Since 2000.
2 Q. Were you elected or appointed?
3 A. I was elected.
4 Q. Are you familiar with an application
5 filed to expand an existing waste management
6 landfill on August 16th of 2002?
7 A. Yes.
8 Q. I'll refer to that as the first
9 application or the 2002 application.
10 A. Correct.
11 Q. Were the hearings on that application
12 conducted in November and December of 2002?
13 A. To my knowledge, yes.
14 Q. Did you attend those hearings?
15 A. The first set of hearings, I believe I
16 might have went to one.
17 Q. Was there a vote on the 2002
18 application on January 31 of 2003?
19 A. I don't recall if it was that date or
20 not.
21 Q. Does it sound about the right date?
22 A. Could be, yes.
23 Q. Did you vote on the first application?
24 A. Yes.
0149
1 Q. And you voted on that application here
2 in this room?
3 A. Yes.
4 Q. Prior to the date of the vote in the
5 first application, did you receive any phone calls
6 regarding the proposed application?
7 A. I don't recall on that. That's --
8 Q. Did you receive any letters or written
9 materials regarding the proposed expansion before
10 you voted on that first application?

11 A. I don't recall getting any of those.
12 I won't say, no, but I don't recall it.

13 Q. How did you vote on the first
14 application?

15 A. On all the criterias, I don't recall
16 exactly which ones I voted no on.

17 Q. Your recollection is that you voted no
18 on certain criteria for the first application?

19 A. Yes.

20 Q. Was there a second application that
21 was filed on September 26th of 2003?

22 A. Yes.

23 Q. I'll refer to that as the 2003
24 application or the second application?

0150

1 A. Correct.

2 Q. Were there hearings conducted on the
3 second application in January 2004?

4 A. Yes.

5 Q. Did you attend any of those hearings?

6 A. Yes, I did.

7 Q. All of them?

8 A. I believe I attended three, possibly
9 four.

10 Q. Did the county board vote on the
11 second application on March 17th, 2004?

12 A. That could be the date, yes.

13 Q. Did the Kankakee County Regional
14 Planning Commission conduct the hearings on the
15 first and second siting applications?

16 A. To my knowledge they did, yes.

17 Q. Did the Kankakee Planning Commission
18 prepare a written report on both siting
19 applications?

20 MR. PORTER: Objection. I've let it
21 go before, but the record is the record, and
22 indeed, the Planning Commission did file such
23 a report, but testing these witness's
24 knowledge of the underlying record is delving

0151

1 into deliberative process.

2 HEARING OFFICER: Mr. Moran? I mean,
3 you know, I can hear both sides. I've been
4 hearing it all along now for a
5 day-and-a-half, I think Mr. Helsten just got
6 done asking eight minutes ago, did you review
7 the record. Mr. Moran has been stating, did
8 you review each and every one of the nine
9 criteria. There's been no objection. So I'm
10 going to overrule it, and if the witness can
11 answer, he may do so.

12 BY THE WITNESS:

13 A. May we repeat the question, please?

14 BY MR. MORAN:

15 Q. Did the Regional Planning Commission
16 prepare reports on both siting applications?

17 A. I'm going to say, yes.

18 Q. Were those reports made available for
19 you to review?
20 A. Yes, to my knowledge.
21 Q. Did both reports recommend approval of
22 the siting applications with conditions?
23 A. I don't recall.
24 Q. Did you appear in this building to
0152
1 vote on the 2003 siting application?
2 A. Yes.
3 Q. Were there picketers inside or outside
4 the building on that date?
5 A. Yeah, they were all over the place.
6 Q. How many did you see that day?
7 A. I have no idea.
8 Q. Were there more than 20?
9 A. I didn't count heads. To be honest
10 with you, I don't know.
11 Q. Were three carrying signs?
12 A. There were -- some were carrying
13 signs. I'm going to assume that was probably the
14 ones with the signs.
15 Q. Did you read any of the signs?
16 A. Sure.
17 Q. What did they say?
18 A. No Chicago garbage, no dump, same
19 signs we've seen all over town.
20 Q. And when you say same signs we've seen
21 all over town, these are signs that are located on
22 lawns and private properties?
23 A. Correct.
24 Q. And the sign says no dump, no Chicago
0153
1 garbage?
2 A. I believe that's correct, yes.
3 Q. And you've seen those signs all over
4 the area?
5 A. Yes.
6 Q. And you saw them prior to March 17th,
7 2004, the date you voted on the second application?
8 A. I don't recall exactly when the first
9 time I saw them, no, I don't.
10 Q. But you saw them some period of time
11 prior to March 17th --
12 A. Sure.
13 Q. -- 2004, correct?
14 A. Yes.
15 Q. How did you vote on the second
16 application?
17 A. I think the record shows that I voted
18 probably on a no vote that was seven or eight
19 criterias, I believe.
20 Q. Prior to March 17th of 2004, did you
21 receive any phone calls from any persons regarding
22 the proposed expansion?
23 A. Yes.
24 Q. How many calls did you receive?

0154

1 A. I don't recall, probably three, four.

2 Q. Well, didn't you get about half a

3 dozen?

4 MR. PORTER: Objection, asked and
5 answered.

6 THE WITNESS: Beg your pardon?

7 HEARING OFFICER: Julie, could you
8 please read that?

9 (Whereupon, the record
10 was read as requested.)

11 MR. PORTER: He just said he got three
12 or four.

13 HEARING OFFICER: Overruled. It's
14 been asked and answered for the last
15 day-and-a-half, and Mr. Moran has been
16 proceeding with that objection, not to make
17 it right, but the witnesses have been a bit
18 sometimes evasive, but in any event, I'll let
19 the question stand. If you can answer, fine.

20 BY THE WITNESS:

21 A. Did I receive over half a dozen, no.

22 BY MR. MORAN:

23 Q. Well, would it refresh your
24 recollection if I pointed out that during your

0155

1 deposition you indicated that you received about
2 half a dozen phone calls?

3 A. That's possible.

4 Q. And these people called you?

5 A. Yes.

6 Q. At home?

7 A. Yes.

8 Q. Did any of them identify themselves?

9 A. They all did, I believe.

10 Q. Were they all opposed to the
11 application?

12 A. No.

13 Q. Of these people, who supported the
14 application?

15 A. I had two phone calls that supported
16 it, Connor and Weisman.

17 Q. And they called you prior to March
18 17th of 2004, prior to your vote on the second
19 application or after?

20 A. I'm going to say before, yes. It was
21 the same time I got the phone calls going the other
22 direction.

23 Q. You mentioned Connor was one of the
24 ones who called you. What did Connor say to you in

0156

1 the phone call placed to your home?

2 A. Basically that I should consider all
3 the facts.

4 Q. What else?

5 A. That she basically supported. She had
6 no objection to it, and that was it.

7 Q. Did you say anything in response?
8 A. No, just --
9 Q. How long did that conversation last?
10 A. Probably about three minutes, at best.
11 I don't know for sure. I don't recall.
12 Q. You didn't say anything to her
13 indicating whether you agreed or disagreed with what
14 she was saying?
15 A. No, no, the only thing I ever said to
16 anyone was I've heard you. That's it. You know,
17 what are you going to say, I didn't hear you, ask
18 the question again? No, I heard you, and that's it.
19 Q. You said you also got a call from
20 Weisman?
21 A. Yes.
22 Q. What did Weisman say to you?
23 A. Weisman favored the expansion, the --
24 approving it.
0157
1 Q. What else did he say to you?
2 A. That was it.
3 Q. Did he give you any reasons why he
4 supported it?
5 A. He just felt that it was something I
6 should support.
7 Q. Did you respond to what he said?
8 A. No, same answer.
9 Q. Now, those were the only two who
10 called to support the application; correct?
11 A. That's who recall, yes.
12 Q. And the other people who called
13 opposed it, correct?
14 A. Correct.
15 Q. Who were the other people?
16 A. I don't even remember the names.
17 Q. Is it fair to say that you only
18 remember the names of the people who called to
19 support it, and not the people who called to oppose
20 it; correct?
21 A. Yes.
22 Q. The people who called to oppose it,
23 what did they say to you?
24 A. Basically, they were against it. That
0158
1 was it.
2 Q. Did they explain or give you any
3 reasons --
4 A. No.
5 Q. -- why they were opposed?
6 A. No, just emotional calls.
7 Q. When you say emotional calls, what do
8 you mean?
9 A. People that call up and say I'm not
10 for it, and I don't think you should be for it.
11 Q. Do they say anything about what they
12 would do or might do if you didn't oppose it?
13 A. No.

14 Q. And you simply told them that you
15 heard them, and you'll take into consideration what
16 they've said?

17 A. That's all, yeah.

18 Q. Prior to March 17th of 2004, did you
19 receive any letters or written materials regarding
20 the proposed expansion?

21 A. Yes.

22 Q. How many such letters did you get?

23 A. I don't recall now.

24 Q. Approximately?

0159

1 A. This is before?

2 Q. Before March 17th.

3 A. Before the vote?

4 Q. Yes.

5 A. I couldn't tell you. I don't know.

6 Q. More than 10?

7 A. That's a possibility. I don't know.

8 You got to remember, I open about 15 or 20 letters a
9 day. So it's difficult for me to recall exactly
10 what everything is all about all the time.

11 Q. Did you read these letters that were
12 sent to you regarding the proposed expansion?

13 A. I read everything that's sent to me.

14 Q. Were all the letters that you received
15 opposed to the proposed expansion?

16 A. I'm going to say, to my recollection,
17 probably, yes.

18 Q. Do you recall whether any of the
19 letters provided reasons why the writer was opposed
20 to the proposed expansion; in other words, it would
21 effect their water, their health, their life?

22 A. Yeah, they were basically that type of
23 letter, yes. They were emotional responses and
24 concerns about things that would establish value to

0160

1 their property or the well pollution or things like
2 that.

3 Q. Any statements that commented upon the
4 reputation or integrity of Waste Management as a
5 company?

6 A. No.

7 Q. What did you do with these letters?

8 A. I think I threw those away.

9 Q. You threw away all the letters that
10 you got regarding proposed expansion?

11 A. Well, there was letters afterwards,
12 thank you letters and things like that I turned in,
13 that I'd gotten afterwards.

14 Q. This was after March 17th of 2004?

15 A. Yeah, after.

16 Q. And those were thank you letters?

17 A. Basically, yeah, saying I appreciate
18 the way you voted, and things of that nature.

19 Q. And those letters you turned into to
20 whom?

21 A. I turned them into Mr. Porter.
22 Q. But those letters you received prior
23 to March 17th you didn't turn to anybody?
24 A. I turned in some of them to Bruce, and

0161

1 I believe I threw the rest away because they were
2 basically preprinted letters with signatures on
3 them, and I think everybody got the same letter. I
4 don't know, but I'm going to assume from what I
5 heard.

6 Q. Do you know an individual by the name
7 of Ron Tompson?

8 A. Yes, I do.

9 Q. And who is Mr. Tompson?

10 A. Mr. Tompson is the township
11 supervisor.

12 Q. Do you have any communications with
13 Mr. Tompson about the proposed expansion?

14 A. Once.

15 Q. When did that occur?

16 A. At the hearings.

17 Q. Was it a break, or was it before the
18 hearings actually began?

19 A. It was a break, just having coffee.

20 Q. Mr. Tompson told you about his
21 opposition to the expansion during this
22 communication?

23 A. No, he wasn't in favor of it, passing
24 conversation-type, coffee break thing.

0162

1 Q. Did he ask you to vote against the
2 application?

3 A. No.

4 Q. Did you have any other communications
5 with Mr. Tompson regarding the proposed expansion?

6 A. Not that I'm aware of, no. I told him
7 I couldn't talk about it. He understood, and that
8 was that.

9 Q. Have people asked you -- or did people
10 ask you prior to March 17th, 2004 to vote against
11 the second application?

12 A. Directly, no, not that I recall.

13 Q. Do you remember appearing for your
14 deposition in this matter back on June 28th of 2004?

15 A. I recall, yes.

16 Q. And at that time you took an oath,
17 correct?

18 A. Yes.

19 Q. And that oath was to tell the truth?

20 A. Correct.

21 Q. At that deposition, were you asked the
22 following questions, and did you give the following
23 answers?

24 MR. PORTER: Page, Counsel?

0163

1 MR. MORAN: 216.

2 BY MR. MORAN:

3 Q. "QUESTION: Has anybody asked you
4 to vote against the application?
5 ANSWER: I can't remember names?
6 QUESTION: Well, you may be able
7 to remember that somebody asked you to vote against
8 it without remembering their name?
9 ANSWER: Yes?
10 QUESTION: They did?
11 ANSWER: People have asked me to
12 vote against it, yes?"
13 Did you give those answers to
14 those questions?
15 MR. PORTER: I'm going to object to
16 the relevance.
17 BY THE WITNESS:
18 A. I did, yes.
19 HEARING OFFICER: Excuse me,
20 Mr. James.
21 MR. PORTER: There's no discussion in
22 either questions or the impeachment as to
23 whether or not made inside or outside of the
24 hearing. If these are statements made in the
0164
1 hearing, it's completely irrelevant.
2 HEARING OFFICER: If statements made
3 in the hearing?
4 MR. PORTER: Correct.
5 HEARING OFFICER: Mr. Moran?
6 MR. MORAN: Well, I don't think there
7 was any statement made at any hearing I
8 attended where someone was asked to vote
9 against the application by individuals who
10 were speaking with Mr. James. I suppose if
11 that's a question he wants to follow-up on
12 with the witness, he's entitled to do it.
13 HEARING OFFICER: I agree. I'm going
14 to overrule Mr. Porter's objection.
15 BY MR. MORAN:
16 Q. Now, these people who asked you to
17 vote against the application were residents of the
18 county; correct?
19 A. Yes.
20 Q. And they were your constituents,
21 correct?
22 A. Yes.
23 THE WITNESS: May I ask a question?
24 HEARING OFFICER: No.
0165
1 BY MR. MORAN:
2 Q. And these individuals told you this
3 prior to March 17th, 2004; is that correct?
4 A. Yes.
5 Q. And they told you in person,
6 face-to-face, didn't they?
7 A. I want to say if I said yes, then
8 probably, yes. I'm trying to recall the -- I don't
9 have the book. You've got the book.

10 MR. PORTER: Can we have the question
11 read back? I'm sorry.

12 (Whereupon, the record
13 was read as requested.)

14 MR. PORTER: Okay. He didn't ask you
15 about a book.

16 THE WITNESS: Okay.

17 BY THE WITNESS:

18 A. Yes.

19 MR. MORAN: He was referring to the
20 transcript.

21 MR. PORTER: I know.

22 BY MR. MORAN:

23 Q. Mr. James, do you know an individual
24 by the name of Bruce Harrison?

0166

1 A. Yes.

2 Q. How did you first come to meet
3 Mr. Harrison?

4 A. To my knowledge, I met Bruce Harrison
5 probably 10 years ago, and I believe he was involved
6 in environmental in burnings for wildlife habitat.

7 Q. And did Mr. Harrison have any
8 communications with you regarding the proposed
9 expansion?

10 A. Yes, he approached me.

11 Q. When did he approach you?

12 A. He came in my office and wanted to
13 talk about it. I told him there was nothing I could
14 talk about.

15 Q. When did he come to your office?

16 A. I don't know. Sometime during the
17 hearings.

18 Q. During the public hearings?

19 A. Yes.

20 Q. And he came unannounced to your
21 office?

22 A. Unannounced, yes.

23 Q. You didn't invite him to your office?

24 A. No, just saw my car there and stopped

0167

1 to come in.

2 Q. And did he tell you he wanted to talk
3 about the proposed expansion?

4 A. Yes, he wanted to know what my
5 position was.

6 Q. Did you have any understanding at that
7 time whether Mr. Harrison was supportive or opposed
8 to the expansion?

9 A. He opposed it. He already told me
10 that. He's one of the people that told me that he
11 opposed it.

12 Q. And when did he tell you that?

13 A. I don't recall when it was.

14 Q. It was sometime prior to the date --

15 A. Yes.

16 Q. -- he came to your office?

17 A. Yes.
18 Q. And where did he tell you that he was
19 opposed?
20 A. I want to say it was at one of the
21 hearings or up here at one of the places.
22 Q. How long did this meeting at your
23 office with Mr. Harrison last?
24 A. It couldn't have exceeded five minutes

0168

1 because it was long enough to walk through the door,
2 ask the question and be told he couldn't talk about
3 it, and he was out.

4 Q. Did he tell you at this time any of
5 the reasons he was opposed to the proposed
6 expansion?

7 A. No, we didn't get into discussion at
8 all.

9 Q. Did Mr. Harrison want to talk in any
10 way about the Town and Country landfill?

11 A. I don't know. Like I say, he never
12 got a chance to get into discussion with me.

13 Q. Would it be accurate to say that his
14 reference to opposing a landfill only related to the
15 proposed expansion of the waste manage landfill?

16 A. I've got no idea. There was no
17 discussion.

18 Q. But when he mentioned he was opposed
19 to the landfill, he was talking about the proposed
20 expansion?

21 A. To my knowledge, it --
22 MR. PORTER: Objection, it calls for
23 conjecture. The witness already described
24 what the conversation entailed.

0169

1 HEARING OFFICER: It seems like we've
2 been beating around this bush awhile, but
3 I'll overrule your objection. If Mr. James
4 can answer, he may do so.

5 BY MR. MORAN:

6 Q. Did you understand him to be talking
7 about his opposition to the expansion of the waste
8 management landfill?

9 A. I'm going to have to say yes on that.
10 I don't know what else he would be talking about.

11 Q. Did Mr. Harrison have any book or
12 document with him when he saw you?

13 A. Yeah, he had a little book. He was
14 asking what my position was. I told him we couldn't
15 talk about it. There was nothing to discuss. He
16 wrote down in his little book and said no
17 discussion, Stan James is a good guy or something
18 like that, and he showed me what he wrote down, and
19 he walked out, and that was it.

20 Q. What color was his book?

21 A. I don't recall.

22 Q. Was it a large three ring binder?

23 A. No, small little type you could fit

24 inside of your pocket.

0170

1 Q. You said he showed you the entry he
2 made?

3 A. Well, he was writing it down, and I
4 looked, and so he showed it to me, because I
5 didn't -- want to make sure he said anything I
6 didn't say.

7 Q. Did you see any other writings on that
8 page?

9 A. Not that I recall, no, just mine.

10 Q. Did Mr. Harrison indicate whether he
11 was talking to other county board members about the
12 proposed expansion?

13 A. No.

14 Q. Do you know Mr. Keith Runyon?

15 A. Yes.

16 Q. How long have you known Mr. Runyon?

17 A. There again, probably 10, 15 years.

18 Q. Do you have any discussions with
19 Mr. Runyon that related in any way to the proposed
20 expansion?

21 A. Okay. Now, I'm having trouble with
22 that question. I don't know whether you want to
23 know whether I participated in open discussion with
24 him, or if I listened to his discussions?

0171

1 Q. When I ask about any communication, I
2 mean any situation in which either you had a
3 discussion with him, you said something to him and
4 maybe he didn't respond, or he said something to you
5 and you didn't respond?

6 A. Okay. The answer is --

7 MR. PORTER: The question was whether
8 or not he had any discussions. The witness
9 now asked you define the term discussion.
10 You defined communication. The record is a
11 mess. We need a new question asked.

12 HEARING OFFICER: Yeah, you know,
13 let's -- I don't think Mr. Porter made an
14 objection, but Mr. Moran could you ask the
15 question again, please?

16 BY MR. MORAN:

17 Q. Did you have any communications with
18 Mr. Runyon --

19 A. Yes.

20 Q. -- that related to the proposed
21 expansion?

22 A. Yes.

23 Q. How many such communications did you
24 have?

0172

1 A. I have no idea. I don't recall.

2 Q. Were these communications prior to
3 March 17th, 2004?

4 A. Yes.

5 Q. Where did these communications take

6 place?
7 A. I don't recall that right now either.
8 Q. What did Mr. Runyon say to you in
9 these communications?
10 A. Mr. Runyon expressed that he was
11 against the landfill proposal.
12 Q. Did he say anything more about his
13 opposition to the proposed expansion?
14 A. No, he just opposed it.
15 Q. Did he say anything about closed loop
16 gasfication?
17 A. Oh, gosh. I don't recall.
18 Q. Did you make any response to any of
19 the statements Mr. Runyon made to you expressing his
20 opposition to the proposed expansion?
21 A. No.
22 Q. Would it be accurate to say that you
23 just simply listened to him and had no response to
24 what he said to you?
0173
1 A. Correct. Yes.
2 Q. Do you have any facts or information
3 to indicate whether Mr. Runyon communicated with any
4 other county board member regarding the proposed
5 expansion?
6 A. No.
7 Q. Was it your understanding that the
8 first and second siting applications were
9 essentially the same?
10 MR. PORTER: I object.
11 HEARING OFFICER: Overruled.
12 BY THE WITNESS:
13 A. That they were essentially the same,
14 do I -- no.
15 BY MR. MORAN:
16 Q. You didn't have any understanding --
17 A. Well, excuse me. I understood that
18 they were reapplication. I thought you were
19 referring to what went on in the hearings. I
20 believe there was new evidence brought up in the
21 second hearing.
22 Q. Let me ask the question again.
23 A. Okay.
24 Q. Was it your understanding that the
0174
1 first and second applications were essentially the
2 same?
3 A. No.
4 Q. Again, let me go back to your
5 deposition.
6 A. Okay.
7 Q. And I will ask you if you were asked
8 the following question and you gave this answer?
9 A. Okay.
10 Q. "QUESTION: Now, as you sit here
11 today --
12 MR. PORTER: You got a page?

13 MR. MORAN: Yes, 46.
14 BY MR. MORAN:
15 Q. "QUESTION: Now, as you sit here
16 today, is it your understanding that the first
17 siting application was the same as the second siting
18 application?
19 ANSWER: Mm-hmm. Yes.
20 Did you give that answer to that
21 question?
22 A. I probably did, yes. I don't recall
23 it that way now, but that's okay.
24 Q. Going back now for a moment to the
0175
1 first application. At any time before the vote on
2 the first application, did any person come to your
3 office to talk to you about the application?
4 A. On the first application?
5 Q. (Indicating.)
6 A. I don't recall.
7 Q. And is it accurate to say -- and I may
8 have asked this before, but did you say that there
9 were not any picketers outside the county building
10 during the vote on the first application?
11 A. I don't recall there being any.
12 Q. Thank you,
13 MR. MORAN: I have no further
14 questions.
15 HEARING OFFICER: Thank you. Before
16 Mr. Porter does his cross, I do want to say,
17 you know, when I say that some witnesses were
18 evasive, I stated that about 20 minutes ago,
19 I don't mean to question their credibility.
20 Only that I think counsels had to ask the
21 same question in numerous ways to try to get
22 an answer from them, and I can attribute that
23 to some of these applications go back two or
24 three years and to remember the details. I
0176
1 just want to make the record clear that
2 evasive is not a bad thing. It's just these
3 details are two to three years old. With
4 that said, Mr. Porter, you may proceed.
5 C R O S S - E X A M I N A T I O N
6 BY MR. PORTER:
7 Q. There was some discussion about the
8 letters that you received before March 17th of 2004.
9 Isn't it true that you were instructed by
10 Mr. HELSTEN and Mr. Smith to disregard any
11 communications you received outside the hearing
12 process?
13 A. Correct. Yes.
14 Q. Did you do that considering those
15 letters?
16 A. Yes, I did.
17 MR. PORTER: Objection.
18 HEARING OFFICER: Overruled.
19 BY MR. PORTER:

20 Q. There was also some discussion
21 about some -- well, there was some statement about
22 your constituency. Is your district in the district
23 where the landfill is located?

24 A. No.

0177

1 Q. Do you have a clear recollection of
2 anybody telling you outside of the hearing process
3 to vote against the landfill?

4 A. Outside of the hearing process, no.

5 Q. So when Mr. Moran was asking you about
6 individuals that told you to vote against the
7 landfill, was that during the hearing that you heard
8 that?

9 A. Yes.

10 Q. There were some discussion about
11 Mr. Harrison. Did you ever feel threatened or
12 intimidated by Mr. Harrison?

13 A. Absolutely not.

14 Q. Now, when someone would come and try
15 to talk to you about the landfill, what would you
16 tell them?

17 A. I just tell them there's nothing I
18 could discuss about it. They would give me their
19 opinion anyway. They wouldn't leave until they did
20 it. It's as simple as that.

21 Q. Would you tell them you're not
22 supposed to talk about it, end of story?

23 A. Yes.

24 Q. And isn't it true that you did not

0178

1 allow Mr. Harrison to get far enough to explain his
2 reasons for opposing the landfill?

3 A. Correct.

4 Q. Now, regarding the statements of
5 Mr. Runyon, isn't it true that he made those
6 statements to you concerning waste management's
7 first application?

8 A. Could be, yes.

9 Q. Again --

10 A. You got to know Mr. Runyon.

11 Q. If any of those statements were made
12 outside of the hearing process, did you follow
13 Counsel's instruction to disregard them?

14 MR. MORAN: Objection.

15 HEARING OFFICER: Overruled.

16 BY THE WITNESS:

17 A. Yes.

18 BY MR. PORTER:

19 Q. Did you ever do a page-by-page
20 analysis of the first application to the second
21 application to determine if they were the same?

22 A. I read both transcripts, if that's
23 what you mean.

24 Q. When Mr. Moran asked you if you

0179

1 thought the applications were the same, at one point

2 you said no, and then he brought out deposition
3 testimony. You agreed that you must have said that
4 at the dep, and then you said that's not my opinion.
5 Now, what did you mean by that?

6 A. Well, my opinion was that there was a
7 difference in the application because there was some
8 new evidence and things brought in on the second
9 one. Now, as far as the application as I want to
10 sign up for something, those were probably the same,
11 but after the total picture, they weren't the same.

12 Q. You're saying the hearing themselves
13 over the applications were different, is that right?

14 A. Correct.

15 Q. What about -- there was some reference
16 to the pickets, did the pickets -- or picketers in
17 any way threaten other intimidate you?

18 A. No.

19 MR. PORTER: Nothing further.

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

21 BY MR. MORAN:

22 Q. Mr. James, how many of the hearings on
23 the second application did you attend?

24 A. I'm going to say three for sure, and I

0180

1 believe I went to a fourth one, but didn't sign in.
2 I don't recall. I was there like a half hour is
3 all.

4 Q. So are you saying when you went to
5 three of the meetings, are you talking about three
6 sessions or three different days --

7 A. Three sessions.

8 Q. -- or one day, three sessions?

9 MR. PORTER: Answer again. You guys
10 were talking over each other.

11 BY THE WITNESS:

12 A. Answer, excuse me. I misunderstood
13 this. I'm missing this.

14 HEARING OFFICER: I'm sorry.

15 Mr. Moran, could you do me a favor and ask
16 the question again, or do you want me Julie
17 to read it back?

18 MR. MORAN: Yes.

19 BY MR. MORAN:

20 Q. How many sessions of the public
21 hearing on the second application did you attend?

22 A. I'm going to say three sessions. I'm
23 going to say I was there about three days. Now, I'm
24 not sure. I know I was there one full day. I went

0181

1 a couple other times. You're talking about the ones
2 at the Quality Inn at Bradley, correct?

3 Q. (Indicating.)

4 During the hearings you attended,
5 were witnesses testifying during those hearings?

6 A. Yes.

7 Q. Were any members of the public
8 testifying during the hearings you attended?

9 A. Yes.
10 Q. But you can't tell us as you're
11 sitting here which sessions you attended?
12 A. No, I can't.
13 Q. And it's your recollection that some
14 of the people who told you to vote no, were people
15 who told you to vote no at the public hearing?
16 A. I don't think I said that, did I?
17 Q. That's what I thought I heard you say.
18 My question is, do you want to clarify that? Did
19 the people who told you to vote no, tell you to vote
20 no at the public hearing?
21 A. No, they told me what their position
22 was, but they didn't tell me how to vote.
23 MR. MORAN: That's all I have.
24

0182

1 R E C R O S S - E X A M I N A T I O N
2 BY MR. PORTER:
3 Q. Did anybody ever tell you how to vote?
4 A. No.
5 HEARING OFFICER: Was that a no?
6 THE WITNESS: I'm going to say no.
7 MR. PORTER: Nothing further.
8 THE WITNESS: They could try.
9 R E D I R E C T E X A M I N A T I O N
10 BY MR. MORAN:
11 Q. Mr. James, you just indicated that
12 nobody told you how to vote, but do you agree that
13 there were persons who told you to vote against this
14 application, the second application, and that they
15 told you that prior to March 17th, 2004?
16 A. (Indicating.)
17 HEARING OFFICER: Was that a yes?
18 BY THE WITNESS:
19 A. I would say yes.
20 BY MR. MORAN:
21 Q. And those persons told you to vote
22 that way in person, in other words, they didn't tell
23 you over the phone, they told you in person?
24 A. I'm going to say, yes.

0183

1 Q. Thank you.
2 R E C R O S S - E X A M I N A T I O N
3 BY MR. PORTER:
4 Q. I'm sorry, Mr. James, but you keep
5 saying I'm going to say yes. Do you have a clear
6 recollection of that happening?
7 A. No, I don't because there's been so
8 many conversations and so many --
9 MR. PORTER: I have nothing further.
10 BY THE WITNESS:
11 A. -- we're talking about hundreds of
12 people.
13 MR. MORAN: I have nothing further.
14 HEARING OFFICER: You may step down,
15 Mr. James. Thank you very much.

16 Before I forget, I do have an
17 appearance that was handed to me. The
18 appearance is for Brenda Gorski and Richard
19 Porter, and I'll take it in and file it with
20 the Board, and Mr. HELSTEN already has his
21 appearance on file. I think we're going to
22 take a break now until about 20 to 2:00 for
23 lunch. Thank you very much.
24

0184

1 (Whereupon, a break was taken,
2 after which the following
3 proceedings were had.)
4 HEARING OFFICER: We're back on the
5 record. Good afternoon. It's approximately,
6 I don't know, 1:50, 1:48. We just got back
7 from lunch. I think when Mr. Moran is ready,
8 he can proceed with his I believe 17th
9 witness.

10 MR. MORAN: Thank you.

11 HEARING OFFICER: Thank you. Sir,
12 raise your right hand, and Julie will swear
13 you in.

14 (Witness sworn.)

15 HEARING OFFICER: Thank you. You can
16 have a seat.

17 WHEREUPON:

18 CULVER VICKERY
19 called as a witness herein, having been first duly
20 sworn, deposeth and saith as follows:

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

22 BY MR. MORAN:

23 Q. Good afternoon.

24 A. Good afternoon.

0185

1 Q. What is your name?

2 A. My name is Vickery, Culver James
3 Vickery.

4 Q. And could you spell your last name?

5 A. V-I-C-K-E-R-Y.

6 Q. What is your address?

7 A. 324 North Locust Street in Momence,
8 Illinois.

9 Q. How long have you lived there?

10 A. Thirty-five years.

11 Q. What is your occupation?

12 A. Sales.

13 Q. Are you employed?

14 A. Yes.

15 Q. By whom?

16 A. River Front Ford Mercury in Momence.

17 Q. Are you a member of the Kankakee
18 County Board?

19 A. Yes.

20 Q. For how long have you been a member?

21 A. About two-and-a-half years. I was
22 elected in of 2002.

23 Q. Are you familiar with the application
24 to expand the existing Kankakee landfill, which was
0186

1 filed by Waste Management of Illinois on August 16th
2 of 2002?

3 A. Yes.

4 Q. I'm going to refer to that application
5 as the 2002 application or the first application.

6 Were the hearings on that
7 application conducted by the Regional Planning
8 Commission in November and December of 2002?

9 A. Yes, they were.

10 Q. Did you attend any of those hearings?

11 A. Yes.

12 Q. How many of the hearings did you
13 attend?

14 A. Several.

15 Q. And this was before you actually took
16 office?

17 A. No, this was after I took office. I
18 took office about the -- I was elected the first
19 week in November, and because of the situation, I
20 was immediately appointed. My predecessor had died
21 while he was in office. So I came on board sooner
22 than the rest of the elected officials.

23 Q. Did the county board vote on the 2002
24 application on January 31st of 2003?

0187

1 A. I believe that's the date, yes.

2 Q. Did you attend that county board
3 meeting?

4 A. Yes.

5 Q. And that was here in this building?

6 A. Yes.

7 Q. In this room?

8 A. Yes.

9 Q. Were there any picketers inside or
10 outside the building on that day?

11 A. I don't recall any at all.

12 Q. Prior to January 31st of 2003, had you
13 received any phone calls relating to the proposed
14 expansion?

15 A. No.

16 Q. Prior to January 31st of 2003, did you
17 receive any letters or written materials relating to
18 the proposed expansion?

19 A. None that I recall.

20 Q. How did you vote on the first
21 application?

22 A. I voted to approve.

23 Q. And you considered each of the nine
24 statutory criteria?

0188

1 A. Yes.

2 Q. And voted on each of them?

3 A. Yes.

4 Q. Was there a second application filed

5 on September 26th of 2003?
6 A. I'm sure of the date, but I know there
7 was a second application filed in that time frame.
8 Q. And I'll refer to that application as
9 the 2003 application or the second application.
10 Did you have any understanding as
11 to whether the first application was essentially the
12 same as the second application?
13 A. I understand it was basically the
14 same.
15 Q. Were hearings conducted by the
16 Regional Planning Commission on the second
17 application in January of 2004?
18 A. Yes.
19 Q. Did you attend any of those hearings?
20 A. Several.
21 Q. Did the Regional Planning Commission
22 prepare a written report regarding the second
23 application?
24 A. Yes, it did.
0189
1 Q. Was that report made available for
2 your review?
3 A. Yes.
4 Q. Did that report recommend approval of
5 the second application with certain conditions?
6 A. I believe it did. It had many
7 stipulations.
8 Q. And was that similar to the report it
9 had prepared for the first application?
10 A. My recollection is that it was --
11 there were more stipulations.
12 Q. In the second report?
13 A. In the second.
14 Q. But the recommendations of both
15 reports were the same?
16 A. The recommendation was to -- yes.
17 Q. Did the county board vote on the
18 second application on March 17th of 2004?
19 A. Yes, it did.
20 Q. Did you attend that meeting at the
21 county board?
22 A. Yes, I did.
23 Q. That was here in this building?
24 A. Yes.
0190
1 Q. In this room?
2 A. Yes.
3 Q. Were there picketers inside or outside
4 the building on that day?
5 A. Yes, there were.
6 Q. You saw those picketers?
7 A. Yes.
8 Q. How many did you see?
9 A. As I drove up, it seemed the sidewalk
10 was full of them. I didn't count.
11 Q. Were any of them carrying signs?

12 A. Yes.
13 Q. What did the signs say?
14 A. No Chicago garbage, no dump, things to
15 that effect.
16 Q. Were these similar to signs that have
17 been posted throughout the area prior to that date?
18 A. Yes.
19 Q. And had you seen those signs that were
20 posted in various locations throughout the area
21 prior to that date?
22 A. Yes, I was aware of those signs.
23 Q. And those signs said no dump, no
24 Chicago garbage?

0191

1 A. That's correct.
2 Q. How did you vote on the second
3 application?
4 A. I voted no on criteria one and voted
5 yes on the other eight criteria.
6 Q. So your vote of no on criteria one was
7 different from your vote on criteria one for the
8 first application?
9 A. That's correct.
10 MR. MORAN: Mr. Hearing Officer, for
11 the purpose of this witness, I would ask all
12 those questions I asked of Ms. Hertzberger as
13 the questions phrased, but only for criteria
14 one, just so that the record.
15 HEARING OFFICER: The record will
16 reflect that. Thank you, Mr. Moran.
17 BY MR. MORAN:
18 Q. Prior to your vote on March 17th,
19 2004, did you receive any phone calls regarding the
20 proposed expansion?
21 A. I did not receive any phone calls
22 directly to me.
23 Q. And by that, you mean that there were
24 phone calls placed, but they were not placed

0192

1 directly to you?
2 A. I believe in my deposition I stated
3 that my wife had passed along a message that Bruce
4 had called. I assumed it was Bruce Clark, but after
5 checking the number, it wasn't Bruce Clark's number.
6 I did not return the call.
7 Q. Do you recall the number?
8 A. No.
9 Q. Did you ever determine who the Bruce
10 was that was trying to contact you?
11 A. No.
12 Q. Do you know or have you heard of an
13 individual named Bruce Harrison?
14 A. Yes.
15 Q. And who is Mr. Harrison?
16 A. He was an opponent of the landfill.
17 Q. And is it your belief that it was
18 Bruce Harrison who tried to call you that day?

19 A. I don't know if belief is the word,
20 but I assume it was.

21 Q. And what you've said is that you never
22 returned his call?

23 A. I did not return the call.

24 Q. Did you have any communications with

0193

1 Mr. Harrison at any time prior to March 17th, 2004?

2 A. The only communication I would have
3 had would have been right here in this room as a,
4 hello, I'm Bruce Harrison.

5 Q. And did that happen on March 17th,
6 2004?

7 A. I can't recall the exact date.

8 Q. And that was the only phone call that
9 you received prior to March 17th, 2004?

10 A. That's correct.

11 Q. Did you receive any letters or any
12 written materials --

13 A. Yes, I did, numerous letters.

14 Q. And were they sent to you at your
15 home?

16 A. Yes.

17 Q. Can you estimate for us about how many
18 letters you received?

19 A. Twenty-five.

20 Q. Did you open the letters?

21 A. I opened one.

22 Q. Did you read it?

23 A. Perhaps two. I would say no more than
24 two.

0194

1 Q. Did you read the letters that you
2 opened?

3 A. Well, the opening line indicated that
4 we're against the landfill. So I kept a file of
5 those letters unopened from that point on in my desk
6 drawer, and upon conclusion of this matter, I turned
7 them over to county clerk Bruce Clark.

8 Q. Do you recall when you turned those
9 over to Bruce Clark?

10 A. Near the end of this -- near the end
11 of the vote, I would assume. I remember bringing
12 the whole folder in several times in my briefcase,
13 and then I ultimately gave them to Bruce, unopened.

14 Q. Would that have been on or shortly
15 before the March 17th vote?

16 A. Somewhere after -- I would imagine
17 after the vote, yes.

18 Q. Sometime after the vote on March 17th?

19 A. Yes, I believe that was the date or
20 the time frame.

21 Q. In your service on the county board,
22 had you ever had an occasion where you received as
23 many letters regarding an issue as you did for this
24 proposed expansion?

0195

1 A. No.
2 Q. At any point prior to March 17th of
3 2004, did any other person attempt to communicate or
4 contact you with respect to the proposed expansion?

5 A. I recall, no. No contact with anyone
6 at all.

7 MR. MORAN: I have no further
8 questions.

9 HEARING OFFICER: Thank you,
10 Mr. Moran. Mr. Porter?

11 MR. PORTER: Some quick follow-ups.

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

13 BY MR. PORTER:

14 Q. Why didn't you return Mr. Harrison --
15 strike that.

16 Why didn't you return the phone
17 call from Bruce?

18 A. Well, I was -- I did not want to get
19 involved in any conversation outside of the hearing
20 process.

21 Q. Is that because you've been instructed
22 not to?

23 A. That's correct.

24 Q. And why didn't you read the letters?

0196

1 A. That was part of my task was not to
2 take into account anything outside the hearing
3 process.

4 Q. Why did you give the letters to the
5 county clerk?

6 A. I thought as a matter of record that
7 somewhere down the line they would be made part of
8 the record.

9 Q. You had also been counseled that if
10 you got letters, give them up to the clerk; is that
11 right?

12 A. That's right.

13 Q. Now, if the record shows that the
14 letters that went to you are in the record opened,
15 did you do that?

16 A. Yes, if there -- I returned two, at
17 most, opened letters. The rest were unopened.

18 Q. If there for some reason in the record
19 all of them opened, did somebody else opened them?

20 A. Someone else opened them.

21 Q. Someone in the clerk's office or
22 somewhere else?

23 A. In the clerk's office. I passed them
24 to the clerk unopened.

0197

1 Q. You mentioned that the second
2 application had more stipulations. Did you mean
3 more conditions?

4 A. More conditions. I have not reviewed
5 those recently, but that was my feeling at the time
6 that there were more stipulations.

7 Q. Mr. Moran brought up the picketers.

8 Did the picketers in any way intimidate or threaten
9 you?

10 MR. MORAN: Objection.

11 HEARING OFFICER: Overruled.

12 BY THE WITNESS:

13 A. I was more surprised than intimidated
14 when I drove up. You know, I didn't expect it. It
15 was not an intimidation. It was a surprise.

16 BY MR. PORTER:

17 Q. And the one phone call that your wife
18 took, did that in any way intimidate or threaten
19 you?

20 MR. MORAN: Objection.

21 HEARING OFFICER: Overruled.

22 BY THE WITNESS:

23 A. No.

24

0198

1 BY MR. PORTER:

2 Q. And the mere fact that you were sent
3 letters, even though you didn't read them, did that
4 in any way threaten or intimidate you?

5 MR. MORAN: Objection. He's asking,
6 again, what he considered.

7 HEARING OFFICER: Well, again, I think
8 threaten, my ruling has been it's a state of
9 mind at that moment, not at the time the
10 decision maker made the decision on the
11 application, and I think it's been consistent
12 through there. And not only that, you know,
13 Waste Management has been opening the door
14 many times on whether there were picketers
15 out there, letters in opposition, but in any
16 event, my ruling is consistent, and it
17 stands, and the objection is overruled.

18 BY MR. PORTER:

19 Q. Do you remember the question?

20 A. No.

21 Q. I'll just re-ask, rather than have her
22 read it back.

23 The letters that were sent to you,
24 even though you didn't read them, was the fact that

0199

1 they were sent to you threatening or intimidating to
2 you?

3 A. No,

4 MR. PORTER: I have nothing further.

5 HEARING OFFICER: Mr. Moran?

6 MR. MORAN: No questions.

7 HEARING OFFICER: You may step down,
8 Mr. Vickery. Thank you.

9 Raise your right hand, sir.

10 (Witness sworn.)

11 HEARING OFFICER: You may have a seat.

12 Thank you.

13 WHEREUPON:

14 JOHN SKIMERHORN, JR.

15 called as a witness herein, having been first duly
16 sworn, depose and saith as follows:

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

18 BY MR. MORAN:

19 Q. Good afternoon. Could you state your
20 name and spell your last name for the court
21 reporter?

22 A. John V, as in Victor, Skimerhorn,
23 S-K-I-M-E-R-H-O-R-N, Jr.

24 Q. Mr. Skimerhorn, what is your business

0200

1 or occupation?

2 A. I'm a licensed private investigator in
3 the state of Illinois.

4 Q. What is your office address?

5 A. 444 North Jackson Avenue, Bradley,
6 Illinois 60915.

7 Q. And for how long have you been a
8 private licensed -- what did you say?

9 A. Investigator.

10 Q. Investigator.

11 A. I was licensed in 1991.

12 Q. Were you retained in this matter to
13 serve subpoenas both for deposition and appearance
14 at hearing?

15 A. That's correct.

16 Q. And you were retained by Waste
17 Management of Illinois to do that?

18 A. That's correct.

19 Q. Were you given a subpoena to serve
20 upon a Mr. Bruce Harrison to appear for a deposition
21 in this matter?

22 A. That's correct.

23 Q. And when were you retained and given a
24 subpoena for purposes of service upon Mr. Harrison

0201

1 approximately?

2 A. For the deposition I believe it was
3 September 2004.

4 Q. Can you describe for us the steps you
5 took in attempting to serve that subpoena upon
6 Mr. Harrison?

7 A. I was given a list of locations of
8 places he lived at, friends he knew, places he may
9 or may not have worked, and one place that he hung
10 out at for drinking purposes, and I was also given
11 the description of one of his vehicles. Later on,
12 through one of his relatives, I found out a
13 description of another vehicle, and I proceeded to
14 go to those various places to see if he was there to
15 serve the subpoena.

16 Q. Could you describe for us the results
17 of your efforts?

18 A. Every place I went I was told --
19 either I was told he wasn't there, or I saw neither
20 of his two vehicles. One person told me she
21 believed he moved out of the state or possibly

22 downstate. One of the two. She wasn't sure. One
23 person told me that they didn't know Bruce Harrison.
24 Q. Did you have occasion to meet a

0202

1 Ms. Deborah Bates?

2 A. I did.

3 Q. Where did you meet her?

4 A. At her home. I'm not sure of the
5 street she's on, but it intersects with Wall Street
6 over in West Bradley.

7 Q. And how many times did you meet with
8 Ms. Bates at that address?

9 A. I want to say two, possibly three
10 times altogether.

11 Q. And the first occasion that you went
12 to this address and attemptd to serve Mr. Harrison
13 and met Ms. Bates, what did you say to Ms. Bates?

14 A. Well, I asked to speak to Bruce
15 Harrison, and I was told he wasn't there.

16 Q. Did Ms. Bates indicate anything else
17 to you with respect to Mr. Harrison or his
18 whereabouts?

19 A. Well, I asked her if she knew how I
20 could get in touch with him or if she knew anybody
21 else that might know how, and she is the person that
22 told me about relatives living downstate in a place
23 called Goreville that he may or may not be there,
24 that he had a sister somewhere on the west coast in

0203

1 California. She didn't have an address, and that he
2 wasn't around right now. She didn't know where he
3 was at. She hadn't spoken to him in a couple weeks.

4 Q. And she indicated she had no
5 information regarding his whereabouts?

6 A. She claimed she did not know where he
7 was at.

8 Q. Did you have any subsequent meetings
9 or discussions with Ms. Bates about your attempts to
10 serve Mr. Harrison?

11 A. Yes, I did. I went back a second time
12 probably a week, maybe two weeks later just to ask
13 if she had heard from him, if she learned anything
14 else, because I asked her to get in touch with me if
15 she did, and she had never done so, and then
16 recently in March I spoke to her, and she claimed
17 she still didn't know where he was at.

18 Q. Did she in any way indicate to you
19 whether he was taking steps to avoid your service of
20 the subpoena upon him?

21 A. Yes, she did on the very first
22 meeting.

23 Q. What did she say?

24 A. She had told me that the person prior

0204

1 to me that tried to serve the subpoenas, that he was
2 playing games with them -- this was her words, he
3 was playing games with them. He enjoyed doing so.

4 He was having a good time out of it. He would stay
5 at her house and park his car in other locations so
6 that nobody could see the vehicle there. Other
7 times he would park the car in front of her house,
8 and then have a friend come and pick him up and go
9 some place else, so she could say he wasn't there
10 still.

11 Q. So was it her indication that
12 Mr. Harrison was, in fact, aware of the fact that
13 attempts were being made to serve him with the
14 subpoena?

15 A. Oh, definitely. She said this was all
16 a game to him, her words.

17 Q. Did Ms. Bates at any point indicate
18 that Mr. Harrison wanted to communicate with you,
19 that she should perhaps set up a meeting in order to
20 allow for questions to be asked of Mr. Harrison
21 regarding this matter?

22 A. At the end of our last conversation, I
23 believe -- correction. I take that back. At the
24 end of our conversation on that first meeting, she

0205
1 did state that he had said that one time.

2 Q. And what specifically did she say he
3 said?

4 A. Paraphrasing from what she said, he
5 had indicated that she should tell those guys,
6 meaning Waste Management, that for \$100 you could
7 set up a meeting between them and him, and he would
8 then talk to him, and she apparently never did.

9 Q. So that suggestion was never followed
10 up on?

11 A. Not to my knowledge.

12 Q. Did Ms. Bates ever provide you with a
13 phone number or other information where Mr. Harrison
14 may be reached?

15 A. I never received a phone number on any
16 indication where he might be.

17 Q. And to this day you've been unable to
18 locate or find Mr. -- find the whereabouts of
19 Mr. Harrison?

20 A. As of last Saturday -- correction --
21 last Sunday I have not been able to find the
22 whereabouts of him. That was the last attempt I
23 made.

24 Q. Thank you, Mr. Skimerhorn.

0206
1 MR. MORAN: Nothing further at this
2 point.

3 MR. HELSTEN: No questions.

4 HEARING OFFICER: Thank you. You may
5 step down. Thank you, sir.

6 Raise your right hand, and Julie
7 will swear you in.

8 (Witness sworn.)

9 HEARING OFFICER: You could have a
10 seat. Thank you.

11 MR. MORAN: May I proceed?
12 HEARING OFFICER: Go ahead.
13 WHEREUPON:
14 RUTH BARBER
15 called as a witness herein, having been first duly
16 sworn, depose and saith as follows:
17 D I R E C T E X A M I N A T I O N
18 BY MR. MORAN:
19 Q. Could you tell us your name and spell
20 your last name for the court reporter?
21 A. Ruth Ann Barber, B-A-R-B-E-R.
22 Q. What is your address, Ms. Barber?
23 A. 142 South Locust Street, Mantino,
24 Illinois.
0207
1 Q. How long have you lived there?
2 A. Four years.
3 Q. What is your occupation?
4 A. I'm a property manager.
5 Q. Are you employed?
6 A. Self-employed.
7 Q. Are you a county board member?
8 A. Yes.
9 Q. How long have you served on the
10 Kankakee County Board?
11 A. Three years.
12 Q. Were you elected or appointed?
13 A. Elected.
14 Q. That would have been in November of
15 2002?
16 A. Correct.
17 Q. Are you aware of an application filed
18 by Waste Management of Illinois to expand the
19 existing landfill?
20 A. Yes.
21 Q. Are you aware of that application,
22 which was filed August 16th of 2002, which I will
23 refer to as the 2002 application or the first
24 application?
0208
1 A. No.
2 Q. You aren't aware that it was filed
3 that day?
4 A. Correct.
5 Q. Do you have any reason to indicate
6 that there was not an application filed by waste
7 management on August 16th, 2002?
8 A. No.
9 Q. Are you aware of whether there were
10 hearings conducted on a siting application in
11 November and December of 2002?
12 A. Yes.
13 Q. Did you attend any of those hearings?
14 A. I don't recall.
15 Q. Do you know whether the Kankakee
16 County Board voted on the first application, 2002
17 application, on January 31st of 2003?

18 A. Correct.
19 Q. Did you attend the meeting in which
20 that vote took place?
21 A. Yes.
22 Q. Did you vote on the 2002 application
23 on that day?
24 A. Yes.
0209
1 Q. Were there picketers in or around the
2 building on that date?
3 A. I don't recall.
4 Q. Prior to January 31st of 2004 (sic),
5 did you receive any phone calls regarding the
6 proposed expansion?
7 A. That date again?
8 Q. January 31, 2003.
9 A. No.
10 Q. Did you receive any letters or written
11 materials prior to January 31, 2003 regarding the
12 proposed expansion?
13 A. I don't recall. If I can say, dates I
14 don't recall.
15 Q. How did you vote on the 2002
16 application?
17 A. I don't recall.
18 Q. Would it refresh your recollection if
19 I were to tell you the roll-call vote for that day
20 indicated that you voted in favor of the first
21 application?
22 A. Correct.
23 Q. Did you become aware that a second
24 application to expand the landfill was filed on
0210
1 September 26th of 2003?
2 A. I became aware that it was filed.
3 Dates -- I -- if you can't put a time line in front
4 of me, I'm so new to this board, I can't sit here
5 and honestly say I remember verbatim this date. I
6 can't.
7 Q. Do you know that a second siting
8 application was filed --
9 A. Correct.
10 Q. -- sometime in 2003?
11 A. Correct.
12 Q. Were the hearings on that 2003
13 application held in January of 2004?
14 A. I don't recall.
15 Q. Did you attend any of the hearings on
16 the second application?
17 A. I don't recall.
18 Q. Are you aware of whether the Regional
19 Planning Commission conducted the hearings on the
20 first and the second siting applications?
21 A. No.
22 Q. Are you aware of whether the Regional
23 Planning Commission prepared a report recommending
24 approval for --

0211

1 MR. PORTER: Same objection.

2 BY MR. MORAN:

3 Q. -- the first and second siting
4 applications?

5 MR. PORTER: We're now asking whether
6 she's aware of specific items of the record.

7 HEARING OFFICER: Overruled. She may
8 answer, if she's able.

9 BY THE WITNESS:

10 A. I don't recall.

11 BY MR. MORAN:

12 Q. Did you vote on the second siting
13 application?

14 A. Yes.

15 Q. Did that vote occur on March 17th,
16 2004?

17 A. Yes.

18 Q. Did you appear at the county building
19 to vote on that day on the second application?

20 A. I was present.

21 Q. Did you see any picketers either
22 inside or outside the building that day?

23 A. I don't recall.

24 Q. How did you vote on the second

0212

1 application?

2 A. I don't recall.

3 Q. Does it refresh your recollection if I
4 were to tell you that the roll-call vote for March
5 17th, 2004 indicates that you voted against the
6 criteria one, three and six of that application?

7 A. Correct.

8 Q. So now you remember that you did vote
9 against those three criteria?

10 A. (Indicating.)

11 Q. You need to yes or no?

12 A. Yes.

13 MR. MORAN: Mr. Halloran, at this
14 point I would ask this witness those
15 questions I asked Ms. Hertzberger and
16 specifically relate them to criteria one,
17 three and six?

18 HEARING OFFICER: And the record will
19 so reflect. Thank you, Mr. Moran.

20 BY MR. MORAN:

21 Q. Now, Ms. Barber, prior to March 17th,
22 2004, did you receive any phone calls regarding the
23 proposed expansion?

24 A. I received a voice mail message.

0213

1 Q. And did you receive that at your home
2 or your business?

3 A. Home.

4 Q. Who was the message left by?

5 A. I don't know. My husband cleared the
6 messages that night, just listened to it long enough

7 to know it was about the landfill and erased it, but
8 did at the me.

9 Q. So your husband listened to the
10 message, correct?

11 A. My husband listened to it enough to
12 know it wasn't pertaining to our family or business
13 and erased it.

14 Q. But it was your husband, not you that
15 listened to the message?

16 A. Correct.

17 Q. And he told you about the message?

18 A. Right, because it was addressed to me.

19 Q. What did he tell you about what the
20 message said?

21 A. That it was about the landfill.

22 Q. Did he say whether it was about the
23 proposed expansion, and it was from someone who said
24 they opposed the expansion?

0214

1 A. No, just it was about the landfill, I
2 erased it.

3 Q. Was a number left on the message?

4 A. I don't know. I mean --

5 Q. If there were one, your husband didn't
6 write it down?

7 A. No, no, he didn't listen to the whole
8 thing. He just said he listened to it long enough,
9 he heard landfill and erased it.

10 Q. That was the only phone call you
11 received before March 17th, 2004 regarding the
12 proposed expansion?

13 A. Correct.

14 Q. Did you receive any letters or written
15 materials --

16 A. Yes.

17 Q. -- regarding the proposed expansion
18 prior to March 17th, 2004?

19 A. Yes.

20 Q. How many?

21 A. I'll say 30, 40.

22 Q. Did you open any of these letters?

23 A. The first couple letters I opened.

24 Q. And did you read them?

0215

1 A. I read the first couple lines of each
2 letter.

3 Q. And is what you read -- did it contain
4 statements opposing the proposed expansion?

5 A. No, I -- what I read was basically who
6 they were, and why they were writing, but then I
7 didn't -- I didn't read the rest of it. I just, at
8 that point, threw it in the recycle bin.

9 Q. Did you conclude that these letters
10 were from individuals opposed to the proposed
11 expansion?

12 A. I just knew that -- from the training
13 provided, when I was sworn in in December, that if

14 we received any information, we were to not read it,
15 as well as the newspaper, so I just -- I didn't read
16 it. I didn't read it thoroughly. I just threw it
17 in the recycle.

18 Q. The letters you didn't open, what was
19 your reason for concluding that they were relating
20 to the proposed expansion?

21 A. The addresses were primarily all
22 Chebanse. I have had no reason to be in Chebanse in
23 the last 40 years. I just tossed them in the
24 recycle bin.

0216

1 Q. During your service as a county board
2 member, had you ever received this volume of mail on
3 any issue being considered by the county board?

4 A. Yes.

5 Q. For what issue?

6 A. The asphalt plant.

7 Q. And that was in April of last year?

8 A. It was last year.

9 Q. Was that the only time you received a
10 comparable amount of mail?

11 A. Correct.

12 Q. What did you do with all this mail you
13 received?

14 A. I put it in a recycle bin, and from
15 there, it goes to the big bin, and then A & J
16 Disposal takes it.

17 Q. You didn't return any of these letters
18 or send any of these letters to the county clerk or
19 anyone at the county?

20 A. No, no.

21 Q. You didn't return any of the letters
22 to the sender?

23 A. No.

24 Q. Did you have any other communications

0217

1 with any persons about the proposed expansion prior
2 to March 17th, 2004?

3 MR. PORTER: I'll object. That
4 question mischaracterizes the record.
5 Mr. Moran just said did she receive any other
6 communications with any persons about the
7 landfill application. She hasn't testified
8 she received any such communications.

9 MR. MORAN: I just heard she received
10 a whole nother letter regarding the proposed
11 expansion.

12 HEARING OFFICER: I mean, that's what
13 I heard as well. Overruled. She may answer,
14 if she's able.

15 THE WITNESS: The question again.

16 HEARING OFFICER: Could you repeat it?
17 (Whereupon, the record
18 was read as requested.)

19 BY THE WITNESS:

20 A. No.

21 BY MR. MORAN:
22 Q. Do you know an individual by the name
23 of Bruce Harrison?
24 A. Personally, no.

0218

1 Q. Have you ever heard of a person named
2 Bruce Harrison?

3 A. Yes.

4 Q. And what have you heard about Bruce
5 Harrison?

6 MR. PORTER: Objection, relevance.

7 HEARING OFFICER: Mr. Moran?

8 MR. MORAN: Foundational, what she
9 knows about Bruce Harrison. She says she's
10 heard of him. We're now exploring what has
11 she heard. Obviously, Mr. Harrison is one
12 who has contacted numerous county board
13 members.

14 HEARING OFFICER: I'll allow this one
15 question. Ms. Barber, if you can answer.

16 BY THE WITNESS:

17 A. Well, to clarify, I haven't heard
18 anything about Mr. Harrison. Mr. Harrison
19 approached my office. I can't give you the date,
20 but he approached my office prior to March 17th, and
21 that's when I learned who Mr. Harrison is, was,
22 what.

23 BY MR. MORAN:

24 Q. So at some point prior to March 17th

0219

1 2004, Mr. Harrison came to your office; correct?

2 A. Correct.

3 Q. Did he come unannounced?

4 A. Correct.

5 Q. He came uninvited?

6 A. Correct.

7 Q. He attempted to talk to you?

8 A. Correct.

9 Q. Did he come into your office?

10 A. Correct.

11 Q. And speak with you?

12 A. Yes.

13 Q. Do you remember what month this
14 occurred?

15 A. (Indicating.)

16 Q. Was it sometime after Christmas of
17 2003 and March 17th of 2004?

18 A. Yes.

19 Q. Was it during the week or on a
20 weekend?

21 A. During the week.

22 Q. Morning or afternoon?

23 A. Afternoon.

24 Q. Had you ever seen Mr. Harrison before

0220

1 he showed up at your office?

2 A. No.

3 Q. So you didn't know who he was when he
4 came to your office?
5 A. No, I didn't.
6 Q. What did he say to you?
7 A. Do you remember me?
8 Q. And what did you say?
9 A. I just looked at him. I said no.
10 Q. Did he say anything in response?
11 A. County board.
12 Q. He said county board?
13 A. (Indicating). And then it kind of
14 jogged my memory, but -- and then he went on to say
15 that he used to work at a place where I was the
16 human resource person, and I still didn't remember
17 him at that place. That was all that was discussed.
18 Q. Did he say anything about the proposed
19 expansion?
20 A. He started rambling on. I pushed him
21 out of my office. He just rambled and rambled, and
22 I kind of started walking towards him to his
23 vehicle, and that was about it.
24 Q. And was he rambling on about the

0221

1 proposed expansion?
2 A. Yes.
3 Q. And was he rambling on about his
4 opposition to the expansion?
5 A. I don't recall because I just -- my
6 mind set was just to get him out of here. I just
7 kind of kept walking towards him, walking to his
8 vehicle. My office is on a very busy highway. So,
9 I mean, it's not like we're in a residential area
10 where he can just kind of linger. So, no, he just
11 rambled. I can't recall what he said.
12 Q. What did he say in response to your
13 efforts to remove him or have him leave?
14 A. He said something that he wasn't going
15 back to work until this was resolved or something
16 like that.
17 Q. And when he said he wasn't going back
18 until this was resolved, was he referring to the
19 proposed expansion?
20 A. I don't -- I don't -- I don't recall.
21 I just remembered that because I thought, boy,
22 that's pretty powerful, and I just walked away,
23 walked back to my office.
24 Q. What did Mr. Harrison do?

0222

1 A. He left.
2 Q. Did you have any conversations,
3 communications of any kind with Mr. Harrison after
4 that date?
5 A. Yes.
6 Q. When was the next occasion?
7 A. It was June or July. It was at a
8 fundraiser.
9 Q. Any other conversations,

10 communications or discussions with Mr. Harrison?

11 A. No.

12 Q. How long was Mr. Harrison at your
13 office?

14 A. Ten minutes.

15 Q. Is that about how long it took you to
16 escort him off the property?

17 A. Well, I let him ramble, and I just
18 slowly walked towards him, and he -- you know, he
19 just kept rambling. I don't know 10 minutes,
20 five minutes. I don't -- I don't recall exactly.
21 I'll say ten.

22 Q. Well, when you say you let him ramble,
23 you just let him talk about --

24 A. When you're a human resource manager,
0223

1 you just let people ramble. You just let them
2 ramble. It doesn't mean you're listening to them.
3 You just let them ramble.

4 Q. At some point you determined that the
5 rambling had to come to an end?

6 A. Right, because I had work to do. So I
7 just started pushing him towards his vehicle, and...

8 Q. When you say you pushed him towards
9 his vehicle --

10 A. I just kept walking towards him so he
11 would understand.

12 Q. You didn't physically push him towards
13 his vehicle?

14 A. No, no, I didn't physically push him.

15 Q. Do you know an individual by the name
16 of Paul Gray?

17 A. Yes.

18 Q. And who is Mr. Gray?

19 A. Former employee.

20 Q. Does Mr. Gray live near or around the
21 existing landfill?

22 A. I -- I don't know. I -- I don't know.

23 Q. Did you have any communications or
24 discussions with Mr. Gray regarding the proposed
0224

1 expansion?

2 A. He sent a letter.

3 Q. To you?

4 A. Correct.

5 Q. And this was a letter in which he
6 opposed the proposed expansion?

7 A. I didn't read it.

8 Q. And Karen Mallaney, do you know her?

9 A. No.

10 Q. Did you receive a letter from Karen
11 Mallaney?

12 A. I don't recall. I mean, I don't
13 recall specifically.

14 Q. Did you see any signs that were posted
15 in or around the area saying no dump, no Chicago
16 garbage?

17 A. Yes.
18 Q. And did you see those signs prior to
19 March 17th, 2004?

20 A. I don't recall.

21 Q. Can you estimate for us how many of
22 these signs you saw?

23 A. Well, I know I saw signs on Kennedy
24 Drive, and that's a daily pattern.

0225

1 Q. Were there any signs posted in or
2 around your office?

3 A. No.

4 Q. Any signs posted in or around your
5 home?

6 A. No.

7 Q. Prior to the vote on the first
8 application, that is the vote on January 31st, 2003,
9 did any person come to your office to talk to you
10 about the proposed expansion?

11 A. No.

12 Q. Thank you.

13 MR. MORAN: No further questions.

14 HEARING OFFICER: Thank you,

15 Mr. Moran. Mr. Porter?

16 MR. PORTER: Thank you.

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

18 BY MR. PORTER:

19 Q. You did not speak with anyone outside
20 of the hearings about the application before March
21 17th, 2004, did you?

22 A. Correct. No, I did not.

23 Q. Why not?

24 A. I had no need to.

0226

1 Q. Were you instructed not to?

2 A. No.

3 Q. Well, you mentioned you knew from
4 training you were not to read any information
5 received outside the hearing?

6 A. Correct.

7 Q. Isn't it true in that training you're
8 also told not to accept any communications from
9 outside the hearing?

10 A. Correct.

11 Q. There were some mention that you
12 received some letters, but once you saw what they
13 were about, you did not read them; did I hear that
14 correctly?

15 A. Correct.

16 Q. And I believe you opened possibly two,
17 was that what I heard?

18 A. Correct.

19 Q. Well, Mr. Moran asked you or intimated
20 a question that you had received communications
21 about the landfill application. Since you didn't
22 read the letters, would you agree that you did not
23 receive any such communication?

24 A. No, I didn't receive any
0227
1 communications.
2 HEARING OFFICER: Mr. Moran?
3 MR. MORAN: Well, I had an objection,
4 but she's answered it. I'll keep the
5 objection that the question isn't proper, but
6 we hear it. So I guess it stands.
7 HEARING OFFICER: Mr. Porter, you may
8 proceed.
9 BY MR. PORTER:
10 Q. There was also a discussion that one
11 of the letters was from a Paul Ray. Did that letter
12 in any way -- strike that.
13 Did the fact that you received any
14 of these letters in any way intimidate or threaten
15 you?
16 MR. MORAN: Objection.
17 HEARING OFFICER: Overruled, based on
18 my prior rulings.
19 BY THE WITNESS:
20 A. No.
21 MR. PORTER: I have nothing further.
22 HEARING OFFICER: Thank you.
23 Mr. Moran?
24 MR. MORAN: No further questions.
0228
1 HEARING OFFICER: Thank you,
2 Mr. Moran. Ms. Barber, you may step down.
3 Thank you. We can go off the record for a
4 second.
5 (Whereupon, a discussion
6 was had off the record.)
7 HEARING OFFICER: All right. We're
8 back on the record. It's approximately 2:47.
9 Sir, if you're ready, raise your
10 right, please.
11 (Witness sworn.)
12 HEARING OFFICER: Thank you.
13 Mr. Moran?
14 MR. MORAN: Thank you.
15 WHEREUPON:
16 KELLEY McLAREN
17 called as a witness herein, having been first duly
18 sworn, depose and saith as follows:
19 D I R E C T E X A M I N A T I O N
20 BY MR. MORAN:
21 Q. Could you tell us your full name and
22 spell your last name?
23 A. Kelley Joseph McLaren, M-C, capital,
24 L-A-R-E-N.
0229
1 Q. What is your address Mr. McLaren?
2 A. Address is 685 East Broadway, Bradley,
3 Illinois 60915.
4 Q. And how long have you lived there?
5 A. Approximately 10 years.

6 Q. What is your business or occupation?
7 A. All I am right now is a county board
8 member. I just recently sold my business.
9 Q. And your business was?
10 A. Tavern and grill business, restaurant
11 and bar.
12 Q. How long have you served on the county
13 board?
14 A. November of 2000.
15 Q. Were you aware that Waste Management
16 of Illinois had filed an application to expand the
17 existing Kankakee landfill on August 16th of 2002?
18 A. Yes, I'm familiar with that.
19 Q. And I'll refer to that as the 2002
20 application or the first application.
21 A. Okay.
22 Q. Were the hearings on the first
23 application held in November and December of 2002?
24 A. I believe so, yes.
0230
1 Q. Did you attend those hearings?
2 A. Yes, I did, some of those.
3 Q. Did the county board vote on the first
4 application on January 31st, 2003?
5 A. Yes.
6 Q. Did you vote on the first application
7 on January 31, 2003?
8 A. No, I did not.
9 Q. And why didn't you vote on it?
10 A. I was vacationing out of the country.
11 Q. Prior to January 31st, 2003, had you
12 received any phone calls regarding the proposed
13 expansion?
14 A. Before -- restate the dates, please.
15 Q. Before January 31st of 2003, did you
16 receive any phone calls regarding the proposed
17 expansion?
18 A. I'm not -- I don't know that one
19 exactly. I know -- I don't know before that date.
20 Q. Prior to January 31st, 2003, did you
21 receive any letters or written materials regarding
22 the proposed expansion?
23 A. I don't know before that date. I know
24 I did receive some, but I don't know if it was prior
0231
1 to December of '03.
2 Q. And, again, we're talking about the
3 first application?
4 A. Right. That I'm not sure.
5 Q. Prior to the vote in the first
6 application on January 31st, 2003, did any persons
7 come to your place of business to talk to you about
8 the proposed expansion?
9 A. I don't believe so, no.
10 Q. Are you aware that a second
11 application was filed on September 26th, 2003 for
12 the proposed expansion?

13 A. Yes, I was aware. I'm not exactly
14 sure the date.
15 Q. And I'll refer to that application as
16 the second application or the 2003 application.
17 A. Correct.
18 Q. Were the hearings on the second
19 application held in January 2004?
20 A. I believe so, as I did not attend
21 those.
22 Q. Did the Kankakee County Regional
23 Planning Commission conduct those hearings?
24 A. I believe so.

0232

1 Q. Did the Regional Planning Commission
2 prepare a written report regarding the second
3 application?
4 A. I believe so.
5 Q. Was that report made available to you?
6 A. Yes.
7 Q. Was the vote on the second application
8 by the Kankakee County Board, did that take place on
9 March 17th, 2004?
10 A. Correct.
11 Q. And that occurred in this building?
12 A. Yes.
13 Q. In this room?
14 A. Yes.
15 Q. And you attended that vote?
16 A. Yes.
17 Q. Were there picketers outside or inside
18 the building on that day?
19 A. When I arrived, no.
20 Q. Did you see any picketers in or
21 outside the building on that day?
22 A. I think there might have been some in
23 the hall. I was thinking outside when I said no the
24 first time, because I was a little bit late for that

0233

1 meeting. So there might have been some in the
2 hallway as I came in.
3 Q. Were any of them carrying signs,
4 holding signs?
5 A. I think so, yes.
6 Q. What did the signs say?
7 A. I don't know. I know they were some
8 sort of signs. Like I said, I was in a hurry
9 because I was late that day.
10 Q. Prior to that date, had you seen any
11 signs in the city or in the area that related to the
12 proposed expansion?
13 A. Yes.
14 Q. And did those signs say no dump, no
15 Chicago garbage?
16 A. Yes.
17 Q. And did you see those signs in various
18 areas throughout the area?
19 A. Yes.

20 Q. How did you vote on the second
21 application?

22 A. The only no vote I had was, I believe,
23 criteria six, which was traffic.

24 Q. Prior to March 17th, 2004, did you

0234

1 receive any phone calls regarding the proposed
2 expansion?

3 A. No.

4 Q. Prior to March 17th of 2004, did you
5 receive any letters or written materials regarding
6 the proposed expansion?

7 A. Yes.

8 Q. How many letters did you receive?

9 A. I'm not sure how many there were. I
10 never really counted. Anywhere from 15, 20, 25
11 maybe.

12 Q. Did you open any of these letters?

13 A. My daughter opened one.

14 Q. And did she tell you what was in the
15 one letter?

16 A. She saw the word landfill, and that
17 was where it was cut off.

18 Q. And did she determine whether the
19 letter was opposed or in support of the proposed
20 expansion?

21 A. No, the only thing that was mentioned
22 was she saw the word landfill.

23 Q. So did she then give you those
24 letters?

0235

1 A. Yes.

2 Q. What did you do with them?

3 A. I brought them in downstairs on the
4 first floor.

5 Q. Do you know an individual by the name
6 of Bruce Harrison?

7 A. I do now, yes.

8 Q. Who is Mr. Harrison?

9 A. I don't know who he is. I knew he was
10 an objector from the time he introduced himself to
11 me.

12 Q. And when you say objector, you mean an
13 objector to the proposed expansion?

14 A. Correct.

15 Q. With regard to the second application?

16 A. Yes.

17 Q. You didn't have any involvement or any
18 knowledge about Mr. Harrison being involved with
19 respect to the first application, did you?

20 A. No.

21 Q. He came onto the scene on the second
22 application, correct?

23 A. Yes.

24 Q. Now, what were the circumstances of

0236

1 your first meeting with Mr. Harrison?

2 A. I was working at my establishment by
3 myself bartending. He come in. He proceeded to
4 speak about his objections.
5 Q. Was this prior to March 17th, 2004?
6 A. Yes.
7 Q. Was this on a weekday?
8 A. I believe it was, yes.
9 Q. Morning or afternoon?
10 A. Midafternoon, after -- right after my
11 lunch hour, which is after 2:00 p.m.
12 Q. Were you and Mr. Harrison the only
13 people in your establishment at that time?
14 A. No.
15 Q. Who else was there?
16 A. A couple of various customers.
17 Q. What did Mr. Harrison say to you on
18 this occasion?
19 A. Exact conversation, exact words, I
20 don't know, but he was basically letting me know his
21 objections to the landfill.
22 Q. And how did he describe those
23 objections to you?
24 A. Did not really go into great detail on
0237
1 any description that I recall.
2 Q. Well, did he indicate he was opposed
3 to the expansion because of concerns about
4 contaminating the water or the safety of the
5 landfill, those kinds of issues?
6 A. He spoke in general environmentally, I
7 believe.
8 Q. Saying that the proposed expansion
9 presented certain environmental risks?
10 A. Probably in so many words.
11 Q. What else did he say to you in
12 addition to explaining his opposition to the
13 proposed expansion?
14 A. The only other thing that I remember
15 from that conversation was he had made a comment to
16 the fact about my re-election status where he could
17 work it to where I would not have an opponent.
18 Q. So he told you that if you voted
19 against the proposed expansion, he could arrange it
20 so that you did not have an opponent upon your term
21 expiring in your running for re-election?
22 A. I don't even know that he said it in
23 those words, but it was very well assumed what he
24 meant by his statement. I understood what he meant.
0238
1 Q. It was very clear to you what he
2 meant?
3 A. Yes.
4 Q. And did you understand that comment to
5 be a threat to you?
6 A. In a sense, yes.
7 Q. Did you view it as in a sense a
8 proposal for a form of bribery to you?

9 A. Yes.
10 Q. How long did this conversation with
11 Mr. Harrison last?
12 A. From the time he walked in?
13 Q. Yes.
14 A. To the time he left?
15 Q. (Indicating.)
16 A. He might have been in the
17 establishment 15 minutes, not that we were in
18 conversation at that time, as I was working
19 throughout that 15 minutes with my other customers,
20 so it was spotted.
21 Q. How did you conclude this meeting with
22 Mr. Harrison, or how was the meeting concluded?
23 A. I was quite upset, and I told him the
24 discussions were all done.
0239
1 Q. Did you tell him to leave?
2 A. Yes, I did.
3 Q. And did he leave when you told him to
4 leave?
5 A. Yes, on his way out, I think he maybe
6 apologized a little bit. He saw that I was very
7 upset, and I was upset about his remarks.
8 Q. Did he say anything further to you
9 before he left?
10 A. Not that I recall at this time.
11 Q. Did you have occasion to have any
12 other communication with Mr. Harrison prior to March
13 17th?
14 A. He come into my establishment again
15 before March 17th, yes.
16 Q. How long after that first meeting did
17 he return to your establishment?
18 A. Approximately a month or so.
19 Q. Did he again appear unannounced?
20 A. Yes.
21 Q. Uninvited?
22 A. Yes.
23 Q. While you were tending bar?
24 A. Again, yes.
0240
1 Q. Was anyone else present during this --
2 A. I believe I had a couple customers
3 again.
4 Q. Just customers?
5 A. Yes, I was the only employee.
6 Q. What did Mr. Harrison say to you on
7 this occasion?
8 A. I believe at that time, at that
9 meeting, he brought in some petitions from some
10 folks that were in my district opposing the
11 landfill.
12 Q. These are petitions containing
13 signatures of people who were opposed to the
14 proposed expansion?
15 A. Yes.

16 Q. And can you tell us approximately how
17 many pages or how thick the petition was --

18 A. I don't really recall, maybe three,
19 maybe four pages.

20 Q. Did he ask you to sign the petition?

21 A. No.

22 Q. What was his purpose in giving it to
23 you?

24 A. I think he probably wanted me to see
0241

1 how my district felt.

2 Q. Is that what he said?

3 A. I don't recall.

4 Q. Did he say anything as he showed you
5 or handed you the petition?

6 A. I believe he said something to the
7 effect that I thought you might like to see these.

8 Q. And did you look at the pages he
9 handed you?

10 A. Briefly.

11 Q. What did you say to him in response to
12 his statement?

13 A. I really had no response.

14 Q. What else did he say during this
15 meeting?

16 A. I think he made a comment to the
17 effect that he hoped to see me on the 17th.

18 Q. And by that, he was referring to March
19 17th --

20 A. Correct.

21 Q. -- the date of the county board vote?

22 A. Correct.

23 Q. And did he say that to you in a
24 serious tone or a sarcastic tone, or couldn't you

0242
1 tell?

2 A. I can't determine that.

3 Q. What did you say to him?

4 A. I think I said I will try to be there.
5 I think I wasn't sure at that time, because
6 obviously I have an Irish pub and grill, and that's
7 my busiest day of the year. That's why I was late
8 for that meeting.

9 Q. Did you say anything else to him
10 during this meeting?

11 A. I don't recall. Maybe good-bye on his
12 way out.

13 Q. Did he say anything further to you?

14 A. Not that I recall, no.

15 Q. Did you see him again after this date?

16 A. Yes.

17 Q. He came back to your bar?

18 A. After the vote -- the next time was
19 after the vote on March 17th, mid to late afternoon,
20 right after the newspaper come out, walked back in
21 the kitchen unannounced, showed the headlines, and I
22 was extremely busy, and I turned around and walked

23 back to my duties.

24 Q. He didn't say anything?

0243

1 A. I think he said something to the
2 effect I thought you'd want to see this. Something
3 of that nature. Like I said, it was very busy.

4 Q. Did you say anything to him?

5 A. Other than I had to get back to work,
6 no, I don't believe so.

7 Q. Did Mr. Harrison ever talk to you
8 about the landfill that was proposed by Town and
9 Country Utilities in the city of Kankakee?

10 A. No, not that I recall.

11 Q. His entire focus was on the proposed
12 expansion of the waste management landfill, is that
13 correct?

14 A. It appeared to be, yes.

15 Q. Had Mr. Harrison indicated to you
16 whether he had contacted any other county board
17 members regarding the proposed expansion?

18 A. I believe he made a comment of some
19 nature, yes.

20 Q. Did he indicate which county board
21 members he had attempted to contact?

22 A. No, not that I recall.

23 Q. Did he provide the names of any other
24 county board members?

0244

1 A. I don't believe so, no.

2 Q. Do you know a Michael Watson?

3 A. Yes.

4 Q. Who is Mr. Watson?

5 A. I believe he's the owner of United
6 Disposal in Bradley.

7 Q. And United Disposal is a waste hauling
8 company?

9 A. Yes, I guess. I mean -- yes.

10 Q. Do you have any relationship or did
11 you have any relationship with United Disposal and
12 Mr. Watson?

13 A. They were -- they hauled my waste at
14 my business, yes.

15 Q. The business that you indicated you
16 sold?

17 A. Correct.

18 Q. Do you have any current business
19 relationship with Mr. Watson and United Disposal?

20 A. Not that I'm aware of, unless he picks
21 up my local garbage at my residence through the
22 city. That I don't know. They pick up very early
23 in the morning.

24 Q. Have you had any communications of any

0245

1 kind with Mr. Watson regarding the proposed
2 expansion?

3 A. Since when? Since now?

4 Q. Well, I guess I'm saying, first, any

5 time, and then if you had any, we'll ask when those
6 occurred.

7 A. You know what, it was well after
8 everything was over, I believe, and then I think one
9 of his workmates stopped in the place.

10 Q. I'm sorry. You said one of his
11 workmen?

12 A. I think it was somebody that worked
13 with him, a secretary or something. I'm not sure.
14 They stopped in for a sandwich, but this was well
15 after the applications and the votes and all that
16 kind of stuff.

17 Q. Do you know if Mr. Harrison worked for
18 United Disposal?

19 A. No, I did not, other than you
20 mentioning it at the deposition.

21 MR. MORAN: I have no further
22 questions.

23 HEARING OFFICER: Thank you.
24 Mr. Helsten?

0246

1 MR. HELSTEN: Yes. Thank you,
2 Mr. Hearing Officer.

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

4 BY MR. HELSTEN:

5 Q. Good afternoon, Mr. McLaren.

6 A. Good afternoon.

7 Q. Mr. McLaren, I'd first like to go back
8 to the first time Mr. Harrison came into your place
9 of business.

10 Now, you set it upset you when he
11 approached you; correct?

12 A. Very much so, yes.

13 Q. It offended you?

14 A. Very much so.

15 Q. Why did it offend you? What was it
16 that offended you?

17 A. I did not like the way he was
18 assuming -- or taking my character, I guess. It was
19 just -- I took it as he was trying to influence me
20 or bribe me in ways and means that I'm not very
21 happy with.

22 Q. And did it, in fact, threaten you or
23 intimidate you?

24 MR. MORAN: Objection. We're now

0247

1 asking him about what he evaluated and
2 processed for purposes of determining this
3 second siting application.

4 HEARING OFFICER: Well, I think the
5 question was when you posed it -- I'm not
6 sure if you posed it, did you feel
7 threatened, I don't know if you posed that
8 question, but the witness said, yes, he felt
9 threatened, and based on my prior rulings,
10 and there was no objection, basically that's
11 fine at that moment of time.

12 Now, Mr. Helsten, your question
13 was -- can you, Julie, read his back, please?
14 (Whereupon, the record
15 was read as requested.)

16 HEARING OFFICER: Yeah, I don't see
17 where that leap is going to. Mr. Helsten?

18 MR. HELSTEN: Mr. Moran asked him if
19 he viewed it as a threat. Now, he might have
20 viewed it as a threat. I'm asking him
21 whether that threatened or intimidated him.
22 It's two different things.

23 HEARING OFFICER: Okay. Based on my
24 prior rulings, your objection is overruled.

0248

1 BY MR. HELSTEN:

2 Q. Now, Mr. McLaren, you told Mr. Moran
3 that you viewed Mr. Harrison's comments to you as a
4 threat?

5 A. Yes.

6 Q. Did it, in fact, though, threaten you
7 or intimidate you?

8 A. By no means. It infuriated me.

9 Q. It infuriated you?

10 A. Yes.

11 Q. Now, you told Mr. Moran that before
12 the vote on the second application, you got a number
13 of letters; correct?

14 A. Correct.

15 Q. And your daughter opened one, correct?

16 A. Correct.

17 Q. And she said the word landfill, and
18 that was the end of the conversation. You didn't
19 look at the letter, and you took that and all the
20 other letters and took them to the clerk's office?

21 A. Correct.

22 Q. Why did you do that?

23 A. That's what we were told to do and
24 were advised to do.

0249

1 Q. You were in a training conducted by
2 Mr. Smith and I, correct?

3 A. Correct.

4 Q. It was about an hour-and-a-half,
5 wasn't it?

6 A. If I recall correctly.

7 Q. And we had a Power Point presentation,
8 didn't we?

9 A. Yes.

10 Q. And we went through all the things you
11 were to avoid, didn't we?

12 A. Yes.

13 Q. And most of the -- if not all, the
14 county board members were at that session?

15 A. I believe so, yes.

16 Q. You were also told not to engage in
17 conversations with anybody outside the hearing
18 process, correct?

19 A. Yes.
20 Q. Did you engage in any conversation
21 with Mr. Harrison when he first came in into your
22 business?
23 A. As far as engaging, no. I listened.
24 Q. Did you tell him you couldn't talk
0250 about it?
1 A. As he was leaving, yes.
2 Q. Did you speak with -- strike that.
3 Was the hearing transcript made
4 available to you, Mr. McLaren, for the second
5 hearing?
6 A. Yes.
7 Q. Let's go now to the second time that
8 Mr. Harrison came in. He brought in the petition?
9 A. Yes.
10 Q. Did you discuss the petition with him?
11 A. No.
12 Q. Did you discuss the merits or the
13 substance of the landfill hearing with him?
14 A. No.
15 Q. Did you throw away the petition?
16 A. No, I never took them. I looked at
17 one of the addresses just to verify it was my
18 district.
19 Q. And you refused to look at them then
20 and refused to take them?
21 A. Correct.
22 Q. Did you tell him then that the
23 conversation was over?
24
0251
1 A. Not really. I was busy, and it was
2 just over.
3 Q. It was just over?
4 A. Yes.
5 Q. Now, on March 17th, 2005, you said you
6 were extremely busy?
7 A. 2004?
8 Q. I mean 2004.
9 A. Yes.
10 Q. You were extremely busy?
11 A. Correct.
12 Q. So basically did you just ignore
13 Mr. Harrison and he left?
14 A. Yes.
15 Q. Mr. McLaren did any of Mr. Harrison
16 contacts with you or attempts to talk to you
17 threaten or intimidate you?
18 A. No.
19 MR. MORAN: Objection.
20 HEARING OFFICER: Overruled.
21 BY MR. HELSTEN:
22 Q. Did any of the picketers that you saw
23 up front threaten you or intimidate you?
24 A. No.
0252

1 MR. HELSTEN: That's all.
 2 HEARING OFFICER: Thank you.
 3 Mr. Moran?
 4 R E D I R E C T E X A M I N A T I O N
 5 BY MR. MORAN:
 6 Q. Mr. McLaren, when you looked at the
 7 petition that Mr. Harrison handed to you, you said
 8 you looked at it just to verify that some of the
 9 constituents on that list were in your district; is
 10 that correct?
 11 A. I believe I just looked at one
 12 address, yes.
 13 Q. And you confirmed that that was a
 14 constituent of yours?
 15 A. I confirmed the address was in my
 16 district.
 17 Q. Thank you.
 18 MR. MORAN: No further questions.
 19 MR. HELSTEN: One more question.
 20 R E C R O S S - E X A M I N A T I O N
 21 BY MR. HELSTEN:
 22 Q. Mr. McLaren, did that petition -- the
 23 fact that he handed you that petition threaten you
 24 or intimidate you in any way?
 0253
 1 MR. MORAN: Objection.
 2 HEARING OFFICER: Overruled. I assume
 3 it's the same objection?
 4 MR. MORAN: Yes.
 5 HEARING OFFICER: Okay. Thank you.
 6 Overruled.
 7 BY THE WITNESS:
 8 A. No.
 9 MR. HELSTEN: That's all.
 10 HEARING OFFICER: Anything further?
 11 MR. MORAN: I have no further
 12 questions.
 13 HEARING OFFICER: You may step down,
 14 Mr. McLaren. Thank you.
 15 You know, I have to apologize to
 16 the public I never did get your name, if
 17 you'd like to come up and give a public
 18 comment. Is there anybody else in the room
 19 that would like to step up at this time and
 20 give a public comment or statement? I see
 21 Mr. Runyon's back in the audience. Now, do
 22 you want to get sworn in and be subject to
 23 cross?
 24 MR. PAARLBERG: I just want to give a
 0254
 1 comment.
 2 HEARING OFFICER: Okay. Have a seat
 3 and make yourself comfortable. State your
 4 name and spell it.
 5 MR. PAARLBERG: My name is Ralph
 6 Paarlberg, spelled, P-A-A-R-L-B-E-R-G. I
 7 live at 6159 East 11,000 North Road, Grant

8 Park, Illinois 60940. I was born and raised
9 on the far south side of Chicago in the area
10 of South Holland, Lansing. I lived there for
11 over 40 years. I have lived here at this
12 address for over 30 years now. I farmed for
13 45 years over the period of time. I've been
14 a member of and served on a lot of different
15 boards. I have been on the RPC now I believe
16 for about six years, and I have not been at
17 much of this hearing now the last couple
18 days, but what I understand, what I hear,
19 Waste Management is trying to prove that some
20 of these people were influenced to change
21 their votes from one hearing to another
22 over -- from what they voted the first
23 hearing to what they voted the second
24 hearing. I attended one of the sessions at

0255

1 the Quality Inn for the first petition Waste
2 Management filed. We were there about
3 20 minutes, and apparently, somebody had
4 goofed and -- not all the residents were
5 informed of the coming hearings, so we were
6 dismissed, and about a year later, we were
7 back for, I believe, it was twenty-some
8 sessions. I attended all but one or two.
9 The longer I sat there and listened to
10 testimony, the more I was convinced that the
11 county was being sold a bill of goods. I
12 know that, from years back in southern Cook
13 County, Waste Management did not have a great
14 reputation. I could put it more plain. I
15 won't. But the testimony of the people that
16 Waste Management had brought in was very
17 flawed in my thinking. Both of the landfill
18 proposals seemed to me to be in a very bad
19 spot as far as under water aquifers go, and
20 it seems to me that both of those will be
21 draining toward the Iroquois River,
22 eventually toward the Kankakee River,
23 eventually toward the Kankakee water supply.

24 I have -- I live on the far north

0256

1 end of the county. I don't drink the water
2 very much. I have a family, children,
3 grandchildren who live in Bradley. They
4 drink the water, and I'm concerned about the
5 future of my only -- my concern really is the
6 future of the county. I want what's best for
7 the county, and I'm concerned that either one
8 of these proposals, we're only talking about
9 waste management today I know, but I'm afraid
10 that it would not be in the best interest of
11 the county to allow them in there to place
12 their landfill in that spot. I think it's a
13 very bad location. I think they should go
14 somewhere where they're wanted, where they

15 won't likely spoil the ground water. Thank
16 you.
17 HEARING OFFICER: Thank you, sir.
18 Anybody else wish to give a public comment?
19 I do want to note for the record that for the
20 last day-and-a-half, two days, there's been
21 no more than probably five or six people
22 sitting in the back row, some observing, some
23 giving public comment. Since the Board can't
24 be here, I think they'd like to know that.

0257

1 But in any event, I think we're at
2 Mr. Moran's 21st witness. Are you ready to
3 proceed?

4 MR. MORAN: Yes.

5 HEARING OFFICER: Thank you. Raise
6 your right.

7 (Witness sworn.)

8 HEARING OFFICER: You may proceed,
9 Mr. Moran, when ready.

10 MR. MORAN: Thank you.

11 WHEREUPON:

12 FRANCES JACKSON
13 called as a witness herein, having been first duly
14 sworn, depose and saith as follows:

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

16 BY MR. MORAN:

17 Q. Could you tell us your name and spell
18 your last name for our court reporter?

19 A. Frances P. Jackson, J-A-C-K-S-O-N.

20 Q. What is your address?

21 A. 1221 East Chestnut, Kankakee,
22 Illinois.

23 Q. How long have you lived there?

24 A. Thirty-some years.

0258

1 Q. What is your occupation?

2 A. County board member.

3 Q. How long have you been a county board
4 member?

5 A. I believe since '97, '96, '97,
6 somewhere in there.

7 Q. Were you elected or appointed?

8 A. I was appointed.

9 Q. Are you aware of the siting
10 application that was filed by Waste Management of
11 Illinois to expand the existing landfill that was
12 filed on August 16th of 2002?

13 A. Yes.

14 Q. I'll refer to that as the 2002
15 application or the first application.

16 Are you aware that there was a
17 second application filed on September 26th of 2003?

18 A. I'm sure I was.

19 Q. I'll refer to that as the 2003
20 application or the second application?

21 A. For the second landfill, right.

22 Q. The second application for the
23 proposed expansion.

24 A. Okay. Yes.

0259

1 Q. Were there public hearings that were
2 conducted by the Regional Planning Commission on the
3 first application in November and December of 2002?

4 A. I have a question. Are you referring
5 to the meetings up at the Quality Inn?

6 Q. (Indicating.)

7 A. Yes.

8 Q. Did you attend any of those hearings?

9 A. Four or five of them, yes.

10 Q. And it was the Regional Planning
11 Commission who conducted those hearings, correct?

12 A. Yes, I guess.

13 Q. Did the Regional Planning Commission
14 prepare a written report on the first application?

15 A. Would they have had to?

16 Q. (Indicating.)

17 A. Okay. Then I'd say, yes.

18 Q. Was that report made available for
19 your review?

20 A. I did not get all of the reports. I
21 got some because I was not on the committee. I was
22 just, like, in and out, but there was -- I remember
23 a big binder. Now, I can't say that was, but I did
24 get that.

0260

1 Q. Was there a vote by the county board
2 on the first application which occurred on
3 January 31st of 2003?

4 A. I guess they voted on it.

5 Q. Did you vote on the first application
6 on January 31st of 2003?

7 A. There was some votes that was taken
8 that I wasn't really sure that I agreed with, and
9 then when I began to get more and more information,
10 I went down to try to find the vote on this stuff,
11 and it was never available. Some things I thought
12 was at Bruce Clark's office, and I could not find
13 it, because I needed to be sure of how I had voted
14 because I've been told that I voted one way, and I
15 just can't see me doing it. So that's why I
16 questioned those votes.

17 Q. Did you vote on the first application
18 on January 31st of 2003?

19 A. I was told I did.

20 Q. And who told you?

21 A. But I questioned how they said I
22 voted.

23 Q. Who told you that you voted on that
24 date?

0261

1 A. I had some paperwork that was passed
2 around later that I voted for it, and that was the
3 part that I questioned.

4 Q. But as you sit here today, you don't
5 recall having voted in favor of the first
6 application?

7 A. No, I don't. That's why I questioned
8 it. Not for it -- not voted for it.

9 Q. Is it your belief that you voted
10 against the first application?

11 A. Yes, I do believe I voted against all
12 of it, every vote that come before me, but they had
13 paperwork that said it, and I can't say that I
14 didn't, but if I did, I was confused with it. Not
15 saying I was against it or for it, but at that time
16 I had a lot of questions in my mind about a
17 landfill.

18 Q. So your recollection is that as of
19 January 31st, 2003, the vote on the first
20 application, you don't recall having been for it or
21 against it; would that be accurate?

22 A. Truthfully, I would have been against
23 it, unless I was confused on something. That's
24 possible.

0262

1 Q. Are you saying if you were confused by
2 something, than you may have voted for it?

3 MR. PORTER: Mr. Halloran, at some
4 point we get into badgering here.

5 HEARING OFFICER: Well, I don't think
6 we're there yet because I'm having a hard
7 time following, I guess, until we get
8 somewhat of a clear answer, but I do note
9 your concern. Mr. Moran, just be advised
10 that -- I know you're not badgering the
11 witness now, but I guess -- I'll let you
12 proceed at this point.

13 MR. MORAN: I'm sorry. Could you give
14 us the last question and answer?

15 (Whereupon, the record
16 was read as requested.)

17 BY MR. MORAN:

18 Q. You can answer that question.

19 A. That could have been possible, that if
20 I -- but I just don't see me voting for the
21 landfill, not a yes vote.

22 Q. Are you familiar with the proposal
23 that was made to the city of Kankakee to develop a
24 brand new landfill within the city by Town and

0263

1 Country Utilities?

2 A. Yes, I remember some discussions on
3 that.

4 Q. And now, is it accurate to say that
5 we're not talking about any part of the proposal
6 relating to the development of the new landfill by
7 Town and Country Utilities in the city of Kankakee?

8 MR. PORTER: Well, the objection is
9 that is exactly what Mr. Moran is talking
10 about, we shouldn't be, it's irrelevant. The

11 question is unanswerable. He's just asked
12 the witness to deny what we're talking about
13 what he's asking about.

14 HEARING OFFICER: I agree could you
15 rephrase that, Mr. Moran?

16 MR. MORAN: Yes.

17 BY MR. MORAN:

18 Q. Ms. Jackson, is any part of your
19 confusion related to the proposal for another new
20 landfill in another site within Kankakee County?

21 A. I'm not sure I understand the
22 question.

23 Q. Are you aware that a proposal has been
24 made to build a new landfill in the city of Kankakee

0264

1 by Town and Country Utilities?

2 A. Yes, I am.

3 MR. HELSTEN: She answered very
4 quickly, but I'd move to strike her answer.
5 Ask that I be able to interpose my objection,
6 which is really relevancy. What does the
7 Town and Country landfill application have to
8 do with this one? I can't see the light. I
9 can't see the hook.

10 HEARING OFFICER: Well, Ms. Jackson
11 seems a bit confused at times, so I'll let
12 Mr. Moran try to tie things up here. Thank
13 you. Overruled.

14 BY MR. MORAN:

15 Q. Ms. Jackson, is it possible that part
16 of your confusion about voting against a landfill
17 may be that you're thinking about this other
18 proposal to build a new landfill in the city of
19 Kankakee?

20 A. I don't think I'm confused about it.
21 I think the fact is that it's just something that --
22 to be honest, I had some questions about both
23 landfills, both on the city and the county.

24 Q. Prior to January 31st of 2003, which

0265

1 is the date of the county board vote on the first
2 application, did you receive any phone calls from
3 any persons relating to the proposed expansion?

4 A. I refused -- received a few phone
5 calls. People were saying that they didn't -- they
6 wasn't comfortable with it or they just didn't want
7 it, some of they own ideas, but that didn't
8 influence me one way or the other way.

9 MR. MORAN: I move to strike that part
10 of answer that talked about what influenced
11 her.

12 HEARING OFFICER: I agree. It was
13 unresponsive. Motion granted. Mr. Moran,
14 could you please ask the witness, is she
15 talking about the 2002 application or the
16 2003 application? I think the --

17 MR. MORAN: I thought I said the first

18 application.
19 HEARING OFFICER: I just want to make
20 sure. I know that's what he you said.
21 BY MR. MORAN:
22 Q. Was it your understanding,
23 Ms. Jackson, that when I asked you about any of the
24 letters you had received, that we were talking about
0266
1 the 2002 application for the first application filed
2 regarding the proposed expansion and not the second
3 one?
4 A. The fact that I received -- so you
5 want -- well, I'll just say, yes, because I received
6 letters and phone calls on both. So I guess it's
7 left to how you want to take that one.
8 Q. Prior to January 31st of 2003, did you
9 receive any letters or written materials relating to
10 the first application, the 2002 application?
11 A. Yes.
12 Q. And how many such letters did you
13 receive?
14 A. In all I believe it was like 45, 50.
15 Q. And you received these at your home?
16 A. Yes.
17 Q. And did you read all those letters?
18 A. Yes, I did.
19 Q. And were all these letters opposed to
20 the proposed expansion?
21 A. Yes.
22 Q. And this was with regard to the first
23 application, not the second application?
24 A. Well, I think I would be fair if I
0267
1 just say it was both. It was really -- I can't say
2 how many I got on the first versus how many I got on
3 the second, but the whole thing come in about 50
4 letters because I saved them.
5 Q. Now, let's move on to the second
6 application, the one that was filed in September of
7 2003.
8 Were the hearings on the second
9 application held in January of 2004?
10 A. I'm confused with the dates. I can't
11 say.
12 Q. Did you attend any of the hearings on
13 the second application?
14 A. At the Quality Inn?
15 Q. Yes.
16 A. Yes.
17 Q. Did the Regional Planning Commission
18 prepare a report regarding the second application?
19 A. I can't say I got a report because I
20 was never involved in the extra committees. It was
21 just, like, just come and go, or maybe a few
22 times -- I think maybe twice I went to that.
23 Q. Was there a vote on the second
24 application which occurred on March 17th of 2004?

0268

1 A. I don't know.

2 Q. Did you vote on the second

3 application?

4 A. I can't say yes, and I can't say no.

5 Q. Did you at any time come to the county

6 board building here and see any picketers who had

7 signs relating to the proposed expansion?

8 A. Yes.

9 Q. When was that?

10 A. I can't give you exact date, but I

11 think we were having a regular board meeting, so...

12 Q. How many picketers did you see?

13 A. I didn't count them.

14 Q. Were they carrying signs?

15 A. Some was.

16 Q. Did you read any of the signs?

17 A. I guess it's hard to say. You walk by

18 that many signs, and you don't read them or don't

19 look at them, and then a lot of them was out at the

20 front, and I come in through the back, so. I knew

21 what it was.

22 Q. Well, what was it?

23 A. It was people who had problems with

24 having a city dump, county dump, city, county, both.

0269

1 Q. Did the signs say no dump, no Chicago

2 garbage?

3 A. Yes, some of them.

4 Q. Were similar signs posted on lawns of

5 properties throughout the area prior to that date?

6 A. Yes.

7 Q. And you saw those signs at different

8 locations throughout the area prior on that date?

9 A. Yes. Yes.

10 Q. And those were the signs that said no

11 dump, no Chicago garbage?

12 A. Yes.

13 Q. Prior to the vote by the county board

14 on the second application, did you receive any phone

15 calls regarding the proposed expansion?

16 A. Yes.

17 Q. And I believe you indicated you

18 received about four to five telephone calls?

19 A. Well, I think that would be fair.

20 Q. And these calls came from people who

21 were opposed to the proposed expansion?

22 A. That's what they told me.

23 Q. Did any of these persons identify

24 themselves?

0270

1 A. No, they did not.

2 Q. Did they indicate that they were your

3 constituents?

4 A. A couple of people would say they were

5 watching -- they would be watching the election, but

6 they do that all the time anyway.

7 Q. And when they said they would be the
8 watching the election, do you know what they meant
9 by that?

10 A. Well, see how people voted.

11 Q. And would that be how people voted on
12 the second application?

13 A. For the landfill, yes.

14 Q. And when they said they would be
15 watching that vote, did they indicate why they would
16 be watching the vote?

17 A. I took it they meant they would be
18 watching how county board members -- how we, you
19 know, voted, but they do that all the time anyway.

20 Q. And did any of them indicate that if
21 the vote of a board member was not to oppose, that
22 they would take some steps in response to that vote?

23 A. Well, yeah, they would say that, but
24 first you got to register to vote, most people that
0271 make those phone calls don't even register.

2 Q. And did any of those people who stated
3 that indicate what they would do if a board member
4 voted in favor of the landfill?

5 A. I took it they meant they was going to
6 get them out of office.

7 Q. Did these calls that you received
8 prior to the vote on the second application include
9 any statements about any danger to the public health
10 as a result of the proposed expansion?

11 A. No.

12 Q. Did any of these people who called you
13 state that there were concerns about property values
14 as a result of the proposed expansion?

15 A. No, I don't think so.

16 Q. Did anyone in these phone calls
17 mention their opposition to accepting out of town
18 garbage at the proposed expansion?

19 A. That was a lot of the signs. That was
20 mostly on the signs because there was a lot of them
21 around our area. They specified cities -- city of
22 Chicago garbage.

23 Q. Ms. Jackson, do you remember having
24 appeared for your deposition in this matter?
0272

1 A. (Indicating.)

2 Q. You need to say yes or no.

3 A. Yes.

4 Q. And you appeared for your deposition
5 on June 29th of 2004?

6 A. Yes.

7 Q. And at that time did you take an oath?

8 A. I'm sure I did.

9 Q. And the oath was to tell the truth?

10 A. (Indicating.)

11 Q. You need to say yes.

12 A. Yes.

13 Q. And you did that on that occasion,

14 isn't that true?

15 A. Yes.

16 Q. And during that deposition --

17 MR. MORAN: Page 35.

18 BY MR. MORAN:

19 Q. -- were you asked the following

20 questions, and did you give the following answers?

21 "QUESTION: Do you remember any of
22 the people who gave you their names in these phone
23 calls?

24 ANSWER: No.

0273

1 QUESTION: What did these people
2 say to you when you talked to them?

3 ANSWER: It was like they was
4 serious about it and didn't feel safe with that
5 going in, and I listened.

6 QUESTION: Did they say anything
7 else to you about the proposed expansion?

8 ANSWER: They thought it was a
9 danger to their health. They were concerned about
10 their property value going down and stuff like that,
11 the kids' health.

12 QUESTION: Did they explain to
13 you in any way why they believed it was a danger?

14 ANSWER: The water problems was
15 one thing. I remember that. Bringing in out of
16 town garbage. Not -- I didn't think it was unusual
17 the things they were concerned about. I had some of
18 the same problems."

19 Did you give those answers to
20 those questions?

21 A. That was mostly, in my opinion now,
22 the conversations or the -- that took place at the
23 Quality Inn.

24 Q. Did you give these answers to these

0274

1 questions?

2 A. Yes, but I don't remember them being,
3 like, phone conversations. I remember that as being
4 from -- because they had the children there. That's
5 what I was referring to the statements that was made
6 at the Quality Inn, and I did listen.

7 Q. Did you listen to these statements
8 made by these phone callers in these phone calls to
9 you?

10 A. The phone calls was not that in depth
11 to danger and all of that. This was -- to me the
12 phone calls was altogether different from what
13 people testified that I heard at that meeting.

14 Q. Did you agree with the concerns
15 expressed by these individuals in these phone calls
16 with you?

17 MR. PORTER: Well, she doesn't recall
18 these phone calls. All he did was impeach
19 her. He's assuming facts that are not in
20 evidence.

21 BY THE WITNESS:

22 A. The phone calls --

23 HEARING OFFICER: Wait a minute,
24 Ms. Jackson. I mean, I'm having a little

0275

1 trouble following this. I don't -- sometimes
2 it seems like she remembers the phone calls
3 and other times she doesn't. I think they're
4 just confusing. I don't think she's doing
5 anything on purpose. You know, I want to
6 hear about it. So I'm going to overrule your
7 objection. I think it will be cleared up,
8 hopefully like it was last time. You may
9 proceed. Do you know the question that was
10 asked, Ms. Jackson?

11 THE WITNESS: I think I do, but maybe
12 he could repeat.

13 HEARING OFFICER: Julie, could you
14 repeat it?

15 (Whereupon, the record
16 was read as requested.)

17 BY THE WITNESS:

18 A. The phone calls and the meeting was
19 two different things, in my opinion. The phone
20 calls was more like somebody who didn't have
21 anything else to do but call me up to say this is
22 the way I want it. This is the way it should be,
23 but the meetings that we had at the Quality Inn I
24 think was more educational to me, and I think I got

0276

1 more out of that. I had more concern with that than
2 I did with the phone calls. The phone call didn't
3 even say who they were.

4 BY MR. MORAN:

5 Q. Did you agree with the concerns
6 expressed by these phone callers?

7 A. No.

8 Q. Again, going back to your deposition
9 on June 29th, 2004, were you asked the following
10 questions and did you give the these answers?

11 MR. HELSTEN: What page?

12 MR. MORAN: Thirty-five.

13 MR. HELSTEN: Thank you.

14 BY MR. MORAN:

15 Q. Okay.

16 "QUESTION: Do you remember any of
17 the people who gave you their names in these phone
18 calls?

19 ANSWER: No.

20 QUESTION: What did these people
21 say to you when you talked to them?

22 ANSWER: It was like they was
23 serious about it and didn't feel safe with that
24 going in, and I listened.

0277

1 QUESTION: Did they say anything
2 else to you about the proposed expansion?

3 ANSWER: They thought it was a
4 danger to their health. They were concerned about
5 their property value going down and stuff like that,
6 the kids' health.

7 QUESTION: Did they explain to
8 you in any way why they believed it was a danger?

9 ANSWER: The water problems was
10 one thing. I remember that. Bringing in out of
11 town garbage. Not -- I didn't think it was unusual
12 the things they were concerned about. I had some of
13 the same problems.

14 QUESTION: Do you agree with
15 their concerns.

16 ANSWER: Uh-huh.

17 QUESTION: You need to say yes or
18 no.

19 ANSWER: Yes."

20 Did you give those answers to
21 those questions?

22 A. I won't deny it.

23 HEARING OFFICER: You know,
24 Ms. Jackson, before we go to the -- we've
0278
1 been down this road before just moments ago.
2 I think it -- and if may, it involves a yes
3 or no question, and perhaps the County can
4 rehabilitate their witness or you when they
5 get their opportunity to do it. This is
6 going nowhere. So a yes or no question,
7 please.

8 BY THE WITNESS:

9 A. Yes.

10 HEARING OFFICER: Thank you,
11 Ms. Jackson.

12 BY MR. MORAN:

13 Q. Prior to the vote on the second
14 application, did you receive any letters or written
15 materials?

16 A. Yes.

17 Q. And you received these letters or
18 written materials at home?

19 A. Yes.

20 Q. And you received a lot of letters and
21 written materials, is that correct?

22 A. Yes.

23 Q. And you read all the letters and
24 written materials that you received at home,
0279
1 correct?

2 A. I won't say I read them all the in
3 detail, but I did -- letters -- like, open them to
4 know where they come from or who signed them, stuff
5 like that, yes.

6 Q. So you did read the materials that
7 came to your house?

8 A. Yes.

9 Q. Did all of the letters that were sent

10 to your house oppose the proposed expansion?
11 A. Yes.
12 Q. What did you do with all the letters
13 or written materials that were sent to your home
14 regarding the proposed expansion, and this is for
15 the second application?
16 A. I still got them.
17 Q. You still have them at your home?
18 A. Yes.
19 Q. You didn't tell anyone from the county
20 that you had received the letters?
21 A. Some of us might have talked about
22 that, yes.
23 Q. When you say some of us may have
24 talked about it, are you just referring to other
0280
1 county board members?
2 A. Yes.
3 Q. Are you just speculating that you
4 might have talked about receipt of those letters
5 with other county board members?
6 A. I talked to some of the county board
7 members. We talk all the time.
8 Q. And you talked with some of them about
9 the letters you had received?
10 A. Yes.
11 Q. And who did you talk to?
12 A. Shakey Martin, George Washington. The
13 two of them, I would know that I would talk to.
14 Q. Ms. Jackson, do you know an individual
15 by the name of Bruce Harrison?
16 A. No, I don't.
17 Q. And you've never talked to any
18 individual named Bruce Harrison, is that correct?
19 A. If he be at the county board meetings,
20 I probably talked to him because a lot of people
21 meet you back there, and they talk to you, but I
22 can't say that I know him because I don't.
23 Q. Prior to the vote on the second
24 application, did you have any communication
0281
1 face-to-face, over the phone or otherwise with any
2 person about the proposed expansion other than what
3 we've talked about?
4 A. Not that I can recall names.
5 Q. Do you recall that there were persons
6 you had those communications with, but you're simply
7 unable to remember their names?
8 A. Yes.
9 Q. And did these communications with
10 these persons occur prior to the vote on the second
11 application?
12 A. Yes, because I talked to some people
13 here, but I don't know who they were, that met me
14 outside.
15 Q. When you say here, you're talking
16 about the --

17 A. The county board.
18 Q. And this occurred prior to the county
19 board's vote on the second application?
20 A. Yes.
21 Q. How long before the county board vote,
22 a couple of days, a couple of weeks?
23 A. No, just like when we were coming in
24 and out of here to take care of county business, and
0282
1 they would with be out in the hallway, but I can't
2 say who they are because I don't know.
3 Q. What did these people say to you about
4 the proposed expansion?
5 A. Some would ask me how I planned to
6 vote, or what was my plan, how did I feel about it,
7 do you plan to vote for it, and that is something
8 that I don't discuss back there. I do that on the
9 floor.
10 Q. And those are the only other
11 communications you had with anyone prior to the vote
12 on the second application regarding the proposed
13 expansion?
14 A. I had one alderman to talk to me about
15 that at a meeting.
16 Q. At a county board meeting?
17 A. No, we was at another community
18 meeting.
19 Q. Was it a meeting before the City of
20 Kankakee?
21 A. No, we wasn't even -- it was in the
22 city of Kankakee, but it was not at the city.
23 Q. And who was the alderman?
24 A. Jessie Gavin.
0283
1 Q. And what did Mr. Gavin say to you
2 regarding the proposed expansion on that occasion?
3 A. That the mayor wanted him to ask me to
4 support his landfill.
5 Q. And when he referred to his landfill,
6 what was he referring to?
7 A. The city, referring to the city.
8 Q. Was that the Town and Country proposal
9 that we were referring to earlier?
10 A. Was that what the city was doing,
11 then, yes.
12 Q. So your discussion with the alderman
13 related to the Town and Country landfill, not this
14 proposed expansion?
15 A. No, it was the one the city was
16 involved with.
17 Q. And he asked for your support?
18 A. Yes.
19 Q. What did you say to him?
20 A. Well, I don't want --
21 MR. PORTER: Objection. What's it
22 matter?
23 HEARING OFFICER: I agree.

24 MR. PORTER: It's irrelevant.

0284

1 HEARING OFFICER: Sustained.

2 BY MR. MORAN:

3 Q. So Ms. Jackson, the communication you
4 had with the alderman had nothing to do with the
5 proposed expansion of the existing waste management
6 landfill?

7 A. No.

8 Q. But only referred to the city
9 landfill?

10 A. Yes.

11 Q. Have you now told us about all of the
12 communications that you had with any persons
13 regarding the second application for the proposed
14 expansion prior to the County's vote on that second
15 application?

16 A. I believe that's pretty close to the
17 extent of my --

18 Q. Thank you.

19 MR. MORAN: I have no further
20 questions.

21 HEARING OFFICER: Thank you,
22 Mr. Moran. Mr. Helsten?

23

24

0285

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

2 BY MR. HELSTEN:

3 Q. Ms. Jackson, I'd like to also refer
4 you back to deposition Mr. Moran took of you. Okay?

5 A. Yes.

6 Q. You remember he asked you some
7 questions, correct?

8 A. Yes.

9 Q. And you remember your deposition took
10 place back in June of last year, correct?

11 A. Yes.

12 Q. And you were under oath to tell the
13 truth, correct?

14 A. Yes.

15 Q. Okay. And I want to ask you about
16 some of the questions that were asked and the
17 answers you gave.

18 MR. HELSTEN: Mr. Moran, page 26, line
19 20.

20 BY MR. HELSTEN:

21 Q. Do you recall this question being
22 asked you by Mr. Moran, "Have you had any
23 communications or discussions with residents or
24 citizens of Kankakee County regarding the second

0286

1 application at the hearings? Yes."

2 Do you recall that question
3 being --

4 HEARING OFFICER: Excuse me.

5 MR. MORAN: Objection. Unless

6 Mr. Helsten is impeaching this witness or
7 seeking some other appropriate way of
8 questioning the witness, it's altogether
9 inappropriate to follow through and ask
10 questions that were tendered at a deposition
11 by me and simply ask her if she either
12 remembers them or made the statements.
13 Either ask her the questions independently
14 and follow-up, but to go through and ask if
15 you were asked this question, did you give
16 this answer is the improper in the context of
17 this cross-examination.

18 MR. HELSTEN: I don't think it's
19 improper. I'm not trying to impeach her.
20 I'm trying to refresh her recollection and
21 put Mr. Moran's sorted statements that he
22 took here and there into a proper context.
23 I'm going to read several pages to put them
24 into a proper context so that we see the

0287

1 overall context.

2 HEARING OFFICER: You know, this may
3 be a little outside the norm, but I'm going
4 to make my Paul Harvey ruling. I want to
5 know the rest of the story, and I want to get
6 this show on the road. So overruled.

7 MR. HELSTEN: Thank you.

8 BY MR. HELSTEN:

9 Q. So do you recall that question being
10 posed to you and that answer?

11 A. Yes.

12 Q. Okay. I'm going to go further. Then
13 Mr. Moran asked you a question at the bottom of page
14 26. "So at the hearing you had discussions with the
15 citizens or residents of the county? Uh-huh. Yes."

16 Do you recall that question being
17 posed to you and that answer?

18 A. Yes.

19 Q. And I'm going to continue, question by
20 Mr. Moran, top of page 27, "And who did you talk
21 to?" Answer by you, "To be honest with you I don't
22 have a lot of -- I don't have names, but people was
23 there, and they had a lot of concern as to why they
24 didn't like the idea, and when it come down to

0288

1 listening to what the constituents say, I always
2 have an ear."

3 Do you remember those questions
4 being posed to you and those answers being given?

5 A. Yes.

6 Q. I'd like to continue. Question then
7 by Mr. Moran, "And these were your constituents?"
8 Answer by you, "They were people who live around out
9 in the area where this was going to be, and I mean,
10 it wasn't like a conversation to me this was an
11 overall conversation of everybody that was there."

12 Do you remember that question

13 being posed to you and that answer?
14 A. Yes, I do.
15 Q. By saying, Ms. Jackson, this was an
16 overall conversation of everybody that was there, do
17 you mean this was in the hearing process?
18 MR. MORAN: Objection. He's leading
19 the witness now.
20 HEARING OFFICER: Sustained. I think
21 you can rephrase your question, Mr. Helsten.
22 BY MR. HELSTEN:
23 Q. What did you mean when you used the
24 term this was an overall hearing process of

0289

1 everybody there?
2 A. That was the conversation. This is
3 what they were concerned about. This was the things
4 that they were talking about.
5 Q. Were they talking to everyone?
6 A. Yes.
7 Q. Is that what you meant by overall
8 conversation?
9 A. Yes.
10 Q. They didn't have you off to the side
11 talking to you off the record?
12 A. No, at no point.
13 Q. And were they talking about such
14 things as the health of their kids?
15 A. Yes.
16 Q. Were they talking about such things as
17 the water quality?
18 A. Yes.
19 Q. Were they talking about such things as
20 impact on property values?
21 A. Yes.
22 Q. Were they talking about other
23 environmental concerns?
24 A. Yes.

0290

1 Q. And you were there as a board member
2 at the hearing listening to those comments, correct?
3 A. Yes, I was.
4 Q. And some of those people had their
5 kids there with them, correct?
6 A. Yes.
7 Q. And they were getting up and giving
8 public comments, correct?
9 A. Right. Yes.
10 Q. And you were just listening to those
11 public comments, correct?
12 A. Yes.
13 Q. And now referring down to page 28,
14 line 8. I'm going to ask you another question. Do
15 you recall Mr. Moran asking you this question, "Did
16 you have a communication or conversation with any of
17 those people outside whatever comments they made to
18 the hearing body?" Your answer, "No."
19 Do you recall that question being

20 asked and answer being given?

21 BY THE WITNESS:

22 A. Yes, I do.

23 MR. MORAN: Mr. Hearing Officer, I'm
24 going object again to the means of offering

0291

1 different questions and answers in this
2 deposition transcript. I offered before this
3 hearing began to have all these discovery
4 deposition transcripts just simply
5 substituted and presented into this record to
6 constitute the record without the need of
7 calling any of these witnesses. The County's
8 insisted that I call these witnesses, and
9 I've done so. Now we're going through the
10 transcripts, which I offered to present, and
11 we're now going through them and repeating
12 sections of this question and answer through
13 this kind of examination. In addition to the
14 reasons I indicated before as to why it's
15 improper, I'm objecting again as it being
16 improper for those reasons and also because
17 we could have avoided all of this by simply
18 submitting these transcripts as we previously
19 proposed.

20 MR. HELSTEN: Mr. Halloran, I'm simply
21 responding to the same tact that Mr. Moran
22 used in using selective portions of that
23 deposition. If using selected portions of
24 that deposition either to impeach or to

0292

1 refresh recollection, I'm surprised that he
2 engaged in it to begin with. This is the
3 last one. It's to put her prior responses to
4 Mr. Moran's question into the proper context.

5 HEARING OFFICER: As far as these
6 discovery deps, Mr. Moran, this I think has
7 been the only one at issue regarding the
8 witness. So, you know, out of 15, 18, 20
9 discovery deps this is -- I mean --
10 Mr. Helsten --

11 MR. HELSTEN: That's the last one I
12 have.

13 HEARING OFFICER: This is the last
14 question you have?

15 MR. HELSTEN: Yeah, and then I'm just
16 going to go to my questions. I'm not going
17 to refer to the transcript anymore. I wanted
18 to tell you that.

19 HEARING OFFICER: Okay. Mr. Moran's
20 objection is overruled.

21 MR. HELSTEN: Okay. Thank you.

22 BY MR. HELSTEN:

23 Q. Ms. Jackson, these telephone calls
24 that you received, did they threaten you or

0293

1 intimidate you in any way?

2 MR. MORAN: Objection.
3 HEARING OFFICER: Overruled. You may
4 answer, Ms. Jackson.
5 BY THE WITNESS:
6 A. Did they like --
7 BY MR. HELSTEN:
8 Q. You personally.
9 A. No, no.
10 Q. Do people generally tell you what to
11 do?
12 A. No.
13 MR. MORAN: Objection.
14 HEARING OFFICER: Do people generally
15 tell you what to do?
16 MR. HELSTEN: Do people generally tell
17 you what to do?
18 HEARING OFFICER: I sustain the
19 objection. I'll strike the answer. Could
20 you rephrase the question?
21 MR. HELSTEN: Okay. I'll just go on
22 to the other ones.
23 HEARING OFFICER: Thank you.
24

0294

1 BY MR. HELSTEN:
2 Q. Did the presence of the picketers
3 outside the county building threaten or intimidate
4 you in any way?
5 MR. MORAN: Objection.
6 HEARING OFFICER: Overruled.
7 BY THE WITNESS:
8 A. No.
9 BY MR. MORAN:
10 Q. Did the letters you received threaten
11 or intimidate you in any way?
12 MR. MORAN: Objection.
13 HEARING OFFICER: Overruled.
14 BY THE WITNESS:
15 A. No.
16 BY MR. MORAN:
17 Q. And as to the Town and Country
18 landfill or what's referred to as the city landfill,
19 you understood that you weren't voting on that
20 landfill; correct?
21 A. Yes.
22 Q. You understood the landfill that you
23 were voting on was the waste management landfill
24 that was located in the county, remember?

0295

1 A. Yes.
2 Q. Now, Mr. Moran asked you about what
3 documents you received from the RPC after the first
4 hearing, and what documents you received from the
5 RPC after the second hearing; correct?
6 A. Yes.
7 Q. You really can't remember as you sit
8 here today what documents you received from the RPC

9 as to the first hearing, can you?
10 A. No.
11 Q. You may have received them you may not
12 have received them, correct?
13 A. Yes.
14 Q. And likewise, you really can't
15 remember what documents you received from the RPC
16 with respect to the second siting hearing, can you,
17 as you sit here today?
18 A. No.
19 Q. You may have received some, you may
20 not have; correct?
21 A. Yes.
22 MR. HELSTEN: That's all I have.
23 HEARING OFFICER: Thank you,
24 Mr. Helsten. Mr. Moran?
0296
1 MR. MORAN: I have no further
2 questions.
3 HEARING OFFICER: Thank you.
4 MR. HELSTEN: Nothing further.
5 HEARING OFFICER: Ms. Jackson, you may
6 step down. Does anybody need a five-minute
7 break, or do you want to proceed to the next
8 witness?
9 MR. PORTER: Mr. Washington is not in
10 the room, so...
11 HEARING OFFICER: Break time.
12 (Whereupon, a break was taken,
13 after which the following
14 proceedings were had.)
15 HEARING OFFICER: We're back on the
16 record. It's approximately 4:15.
17 Mr. Washington?
18 THE WITNESS: Yes.
19 HEARING OFFICER: Could you please
20 raise your right hand, and Julie will swear
21 you in?
22 (Witness sworn.)
23 HEARING OFFICER: Thank you.
24 Mr. Moran your witness.
0297
1 MR. MORAN: Thank you, Mr. Halloran.
2 WHEREUPON:
3 GEORGE WASHINGTON, JR.
4 called as a witness herein, having been first duly
5 sworn, deposeth and saith as follows:
6 D I R E C T E X A M I N A T I O N
7 BY MR. MORAN:
8 Q. Good afternoon, Mr. Washington.
9 A. Good afternoon.
10 Q. Good to see you again. Could you
11 state your fill name and spell your last name for
12 the court reporter?
13 A. George Washington, Jr.,
14 W-A-S-H-I-N-G-T-O-N.
15 Q. What is your address?

16 A. 535 North St. Joseph, Kankakee,
17 Illinois 60901.
18 A. How long have you lived there.
19 A. Wow, 28 years.
20 Q. What is your occupation?
21 A. Sales.
22 Q. Are you employed?
23 A. By Sears.
24 Q. Are you a county board member?
0298
1 A. Yes, I am.
2 Q. How long have you served in the county
3 board?
4 A. Altogether 18 years.
5 Q. Are you aware that an application to
6 expand the existing waste management landfill was
7 filed on August 16th of 2002?
8 A. Yes.
9 Q. I'll refer to that as the 2002 or the
10 first application.
11 Were hearings on the first
12 application held in November and December of 2002?
13 A. Are you referring to the first of the
14 of the first or the second of the first? Because
15 the first of the first there was no hearings.
16 Q. Right. I'm referring to the second of
17 the first.
18 A. Okay. Yes.
19 Q. And did you attend those hearings?
20 A. Yes, I did.
21 Q. Are you a member of the Kankakee
22 County Regional Planning Commission?
23 A. I'm the Chairman of the Regional
24 Planning Commission.
0299
1 Q. It was the Regional Planning
2 Commission that conducted those hearings?
3 A. That's correct.
4 Q. Did the Regional Planning Commission
5 prepare a report, a written report, on the first
6 application?
7 A. Yes, we did.
8 Q. And that contained findings and
9 recommendations with respect to the first
10 application?
11 A. Yes, it did.
12 Q. And were the findings and
13 recommendations that the application be approved
14 with various conditions?
15 A. Yes.
16 Q. Was there a vote by the county board
17 on the first application on January 31st of 2003?
18 A. Yes, it was.
19 Q. And did you appear at the county board
20 meeting to vote on the first application on that
21 day?
22 A. Yes, I did.

23 Q. Were there any picketers in or around
24 the county board building on that day?

0300

1 A. Not that I can recall.

2 Q. Prior to January 31st of 2003, did you
3 receive any phone calls from any persons regarding
4 the first application?

5 A. I might have received some, but I
6 never accepted them. All phone calls that I saw on
7 my caller ID that I couldn't identify and they were
8 local calls, I didn't accept them.

9 Q. Again, we're talking about the first
10 application not the second?

11 A. I didn't accept any from the beginning
12 on.

13 Q. Prior to January 31st of 2003, did you
14 receive any letters or any written materials
15 concerning the first application?

16 A. Yes, and the ones that I received I
17 turned into the county clerk.

18 Q. How did the county board vote on the
19 first application?

20 A. I think it was 22 to 4, something like
21 that.

22 Q. And that was in approval?

23 A. (Indicating.)

24 Q. You need to say yes or no.

0301

1 A. Yes.

2 Q. And how did you vote on the first
3 application?

4 A. To approve.

5 Q. Was there a second application -- what
6 I would refer to as the second application filed
7 September 26th, 2003?

8 A. Yes.

9 Q. And I'll refer to that as the 2003
10 application or the second application.

11 A. Okay.

12 Q. Did the Regional Planning Commission
13 conduct hearings on the second application in
14 January of 2004?

15 A. Yes, we did.

16 Q. And did the Regional Planning
17 Commission prepare a report regarding the second
18 application?

19 A. Yes, we did.

20 Q. And did that written report contain
21 findings and recommendations that the second
22 application be approved with various conditions?

23 A. Yes.

24 Q. Did the county board vote on the

0302

1 second application on March 17th, 2004?

2 A. Yes, it did.

3 Q. Did you attend the county board
4 meeting on that day?

5 A. Yes, I did.
6 Q. Were there picketers in or around the
7 county board building on that occasion?
8 A. Yes, there were.
9 Q. Did you see the picketers?
10 A. Yes.
11 Q. How many of them were there?
12 A. I estimated about 20.
13 Q. Were they carrying signs?
14 A. Some of them had signs, yes.
15 Q. Did you read any of the signs?
16 A. No, I didn't may much attention to
17 them.
18 Q. Prior it that date, had you seen any
19 signs posted on properties throughout the area which
20 indicated or which stated no dump, no Chicago
21 garbage?
22 A. Three.
23 Q. And where did you see these signs?
24 A. One was on Kennedy Drive, and the
0303
1 other two were in the Kankakee area, general area as
2 I travel.
3 Q. Prior to March 17th of 2004, did you
4 receive any phone calls regarding the second
5 application?
6 A. Like I said, if I did, I didn't answer
7 them. I didn't get any phone calls where I held any
8 conversations with anybody.
9 Q. Is it possible that all the phone
10 calls that you received regarding the proposed
11 expansion came about as a result of the second
12 application and not the first?
13 A. I don't know because without me --
14 without answering them, I don't know what the
15 reason -- why the calls were made.
16 Q. Prior to March 17th of 2004, did you
17 receive any letters or written materials regarding
18 the proposed expansion or relating to the second
19 application?
20 A. Again, the letters that I received
21 were not opened, and I turned them into the clerk.
22 Q. How many letters did you receive
23 approximately on the second application?
24 A. I can't remember really, six.
0304
1 Q. And for the first application?
2 A. Three.
3 Q. How did you vote on the second
4 application?
5 A. The same as the first, in the
6 affirmative.
7 Q. How did the county board vote as a
8 whole vote on the second application?
9 A. Against.
10 Q. So there was a reversal from the first
11 application where there had been an approval?

12 A. Correct.
13 Q. Had you ever seen anything like this
14 in the county board before?

15 A. No.
16 Q. And you have no idea why this
17 occurred?

18 MR. PORTER: Objection. That clearly
19 calls for a mental impression of a county
20 board member.

21 HEARING OFFICER: Mr. Moran?

22 MR. MORAN: Well, it calls for this
23 witness to identify whether he has any facts
24 or information that may indicate or suggest

0305

1 why there was this reversal from an approval
2 to a denial.

3 HEARING OFFICER: I'm not going to
4 accept that, Mr. Moran. I sustain
5 Mr. Porter's objection.

6 BY MR. MORAN:

7 Q. Prior to March 17th of 2004, did you
8 have any communications with any persons regarding
9 the second application?

10 A. I think I talked with Red Marcotte,
11 and one other board member, just talked in general
12 about it explaining --

13 MR. PORTER: I believe the witness has
14 already responded to the question. I'm
15 interrupting because he was about to discuss
16 what he spoke to the county board member.

17 THE WITNESS: No, no, just explaining
18 what the question -- to them what the
19 questions that they asked. I answered them.

20 MR. PORTER: Withdrawn.

21 BY MR. MORAN:

22 Q. Mr. Washington, did you finish your
23 answer to the question?

24 A. Yes, I'm fine.

0306

1 Q. Mr. Washington, did you have any
2 communication or contact with Mr. Bruce Harrison
3 prior to March 17th of 2004?

4 A. I'm not certain when I had the contact
5 with him, but I did have contact with him. He
6 walked out the door of the county building with me
7 to this corner (indicating).

8 Q. When did he do that?

9 A. I'm not certain of the date.

10 Q. Was Mr. Harrison a local objector to
11 this proposed expansion?

12 A. Yes.

13 Q. And had you been aware that
14 Mr. Harrison had attempted to contact other county
15 board members regarding the proposed expansion?

16 A. No, I just know that he had had --
17 when we walked out the door, he talked with me about
18 trucks and things, and then tried to get into the

19 discussion about the landfill.
20 Q. Did he try to tell you his reasons for
21 opposing the proposed expansion?

22 A. It's hard to say what he was trying to
23 tell me because he talked around in circles, and I
24 couldn't quite understand it, but I just rejected

0307

1 what he was saying because I wasn't going to get
2 into a conversation with him about it.

3 Q. And how long did this communication
4 with Mr. Harrison last?

5 A. A couple minutes.

6 Q. Was there ever a point in which
7 Mr. Harrison talked to you about what efforts he may
8 take against any board member who supported the
9 proposed expansion?

10 A. What I got from Mr. Harrison was that
11 there would be active participation in the election
12 to try and influence whomever voted in support of
13 the landfill.

14 Q. And he stated that to you?

15 A. (Indicating.)

16 Q. You need to say yes.

17 A. Yes.

18 Q. When did state that to you, was it
19 sometime prior to the vote on the second
20 application?

21 A. Again, timewise I don't know. I know
22 he stated that to me in the walk that we had.

23 Q. So would it be fair to say that stated
24 to you that for any county board members who voted

0308

1 to support the proposed expansion that he would work
2 to oppose those county board members when they came
3 up for re-election?

4 A. It was him, and he implied that it
5 would be other people as well.

6 Q. Did you have any response to that
7 statement?

8 A. No, I had nothing to say because I
9 have no concern or fear about anyone working against
10 me in a political election.

11 Q. Did you have any other communications
12 with Mr. Harrison regarding the proposed expansion?

13 A. No.

14 Q. Thank you, Mr. Washington.

15 MR. MORAN: I have nothing further.

16 HEARING OFFICER: Thank you,

17 Mr. Moran. Mr. Porter?

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

19 BY MR. PORTER:

20 Q. Mr. Harrison's statements to you did
21 not intimidate or threaten you, correct?

22 A. Of course not.

23 Q. Is Kennedy Drive by the landfill?

24 A. No, Kennedy Drive is west of here, and

0309

1 it ends on the bridge, and it runs northwest right
2 by southwest -- southeast rather.

3 Q. So those signs were posted a
4 substantial distance from the landfill, is that
5 right?

6 A. Yes.

7 MR. PORTER: I have nothing further.

8 MR. MORAN: I have no other questions.

9 HEARING OFFICER: Thank you,
10 Mr. Washington. You may step down.

11 Before I forget, I want to make a
12 credibility determination based on my legal
13 observations, knowledge, judgment, all 22
14 witnesses that testified here yesterday and
15 today, I find no issues of credibility with
16 any of them, and before we go off the record,
17 to discuss briefly, I do want to thank all
18 counsels for civility and professionalism
19 over the last two days. Thank you. We'll go
20 back on the record in a minute.

21 (Whereupon, a discussion
22 was had off the record.)

23 HEARING OFFICER: We're back on the
24 record. We were just discussing briefing

0310

1 schedules, and we've agreed that the
2 transcript will be at the Board April 20th.
3 Waste Management's opening brief will be due
4 April 29th. The County's opening brief will
5 be due May 9th, and Waste Management's reply
6 will be due May 16th, and to all three of
7 those briefing schedules the mailbox rule
8 will not apply. So the parties and the Board
9 has to have service of them on those dates.

10 We've established that May 2nd the
11 board has previously given leave to Mr. Keith
12 Runyon, Mr. Watson and Mr. Carloc (phonetic)
13 to file an amicus. That will be due May 2nd.
14 Public comment will also be due May 2nd, and
15 the mailbox rule will apply there. So you
16 just have to stick it in the mailbox by May
17 2nd.

18 And I do want to note that the
19 parties still intend to take evidence
20 depositions I believe of two board members,
21 and that will happen sometime next week, and
22 they will file those with the Board prior to
23 the close of the record on May 16th or
24 sooner. Any other issues? All right. Thank

0311

1 you so much and have a safe trip home. Thank
2 you.

3 (Whereupon, there were no
4 further proceedings had on
5 today's date.)
6
7

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
0312

1 STATE OF ILLINOIS)
) SS
2 COUNTY OF WILL)
3
4

5 JULIA A. BAUER, being first duly
6 sworn on oath says that she is a court reporter
7 doing business in the City of Chicago; that she
8 reported in shorthand the proceedings given at the
9 taking of said hearing and that the foregoing is a
10 true and correct transcript of her shorthand notes
11 so taken as aforesaid and contains all the
12 proceedings given at said hearing.
13
14
15

16 JULIA A. BAUER, CSR
29 South LaSalle Street, Suite 850
Chicago, Illinois 60603
17 License No.: 084-004543
18

19 SUBSCRIBED AND SWORN TO
before me this 14th day
20 of April, A.D., 2005.
21

22 Notary Public
23
24