1	PUBLIC HEARING
2	INDIAN LAKE BOROUGH
3	Re: Comprehensive Amendments )
4	to Zoning Ordinance No. 144 )
5	and repeal of all previous )
6	zoning ordinances, and the )
7	comprehensive enactment and )
8	recodification of proposed )
9	Zoning Ordinance No. 155 )
10	PUBLIC HEARING, in the above-entitled matter,
11	pursuant to the Municipalities Planning Code of the
12	Commonwealth of Pennsylvania, before Theodore E.
13	Wawrzyniak, Registered Merit Reporter-Notary Public, at
14	the Unity United Church of Christ, 2074 Huckleberry
15	Highway, Berlin, PA 15530, on December 19, 2009, at
16	10:15 a.m.
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19	
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21	
22	WAWRZYNIAK REPORTING & VIDEO SERVICE
23	P. O. Box 368
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**APPEARANCES**: ON BEHALF OF INDIAN LAKE BOROUGH COUNCIL: MICHAEL D. MISCOE, President P. SCOTT MOORE, Member ROBERT VOGEL, Member RICHARD STERN, Member CHARLES McCAULEY, Member PATRICIA DEWAR, Member BARRY S. LICHTY, Mayor DANIEL W. RULLO, Solicitor -----

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1	INDEX OF SPEAKERS	
2		
3	MR. MISCOE - PAGE 4	
4		
5	MR. RULLO - PAGE 8	
6		
7	KURT MORGESE - PAGE 23	
8		
9	BOB HANSON - PAGE 30	
10		
11	MICKEY MOSES - PAGE 31	
12		
13	JIM LYONS - PAGE 37	
14		
15	BOB BUSTAMANTE - PAGE 47	
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
L		]

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4 MR. MISCOE: This is a public hearing for you 1 to discuss -- provide the council with any comments or 2 concerns relative to the proposed Zoning Ordinance 155. 3 I won't go through the history, but the 4 5 council appointed a zoning committee of five individuals. 6 They were myself, Mr. Scott Moore from Borough 7 Council, and then public members were Karl Chapman, Ron 8 Petrina, and our current zoning officer, Dean Snyder. 9 10 We worked in public hearings for approximately nine months. We met twice a month. 11 There was a lot of work by members of the 12 committee in between. 13 We completed our work, I believe in October, 14 submitted it to council. 15 Planning has been given the opportunity to 16 review the ordinance as we posted our changes. 17 We went two sections at a time, sometimes one 18 section. 19 As we completed that work it was posted to the 20 Borough website. 21 We certainly encouraged everybody to read that 22 as we went and submit any comments. 23 24There are a number of communications that will 25 be added to the record.

5 We got an e-mail communication from Brad 1 2 Zerfoss in response to a question that I had sent him at 3 the request of council. The Somerset County Planning Commission did 4 their review and simply published a letter that they had 5 6 no comments. Brad had indicated that he would perform a 7 comprehensive review. 8 And there was a question as to whether he did 9 that, and whether he had any comments. 10 11 I sent him an e-mail on December 11th at the request of council. 12 13 He responded and provided some additional comments which will go to the Planning Commission for 14 15 review. 16 Brad is a professional planner, and he simply stated I wanted to get back to you about the review of 17 the proposed Indian Lake zoning ordinance this week, 18 although I didn't reflect it in my comment letter, I did 19 review the ordinance in depth, and I had just a few 20 21 minor comments and suggestions that I formed. 22 The author or authors of the draft ordinance 23 are to be commended for an excellent job and for having a good grasp of the Pennsylvania Municipalities Planning 24 25 Code.

I also read Mr. Moore's comments as well. 1 2 After speaking with Attorney Rullo today I will type up my notes and put them in a follow-up letter 3 that I will fax to you and Attorney Rullo on Monday. 4 I know that you have a hearing scheduled for 5 December 19th, so I'll expedite getting it to you in 6 case you need to discuss my thoughts with Attorney 7 Rullo. 8 I'll need your fax number or somebody can pick 9 10 it up. If I can be of any help in the future, let me 11know and so forth and so on. His comments were 12 13 published. They have been forwarded to members of council 14 and the Planning Commission, and essentially he had 15 16 comments relative to minerals extraction, forestry activities, heavy industrial uses, the zoning map and 17 18 supplemental regulations relative to service mining, telecommunication facilities and towers, steep slopes 19 and adult uses. 20 21 So those will be part of the record. We also received a letter from Mr. Ed Smith of 22 Northland's Golf Course and Lake Properties, Inc. 23 24 objecting on the basis that in summary to the parking. 25 I won't read his whole letter, but to the

parking provisions and to his perception that they're 1 2 losing the ability to develop multi-family dwellings despite having no plans to do so. 3 I drafted a letter back to him indicating that 4 his comments would be forwarded to planning. 5 6 The Planning Commission completed its review 7 and they published their comments in a mark up to the ordinance which I have printed, and I submitted back to 8 them a section by section analysis of what the rationale 9 was for those changes. 10 It's obviously too lengthy to read. That will 11 also be made part of the record. 12 I will turn it over to Mr. Rullo right now who 13 will go through the legal aspects of the process that 1415 we're in, the publications that we've done and where we are going forward. 16 Before I do that, though, I realize that the 17 weather is a little bit inclement. 18 While it's not required by the Municipalities 19 Planning Code or provision that was a holdover from 20 21 Ordinance 99, I suggest a follow-up planning review after the public hearing for 30 days. 22 23 We will send an e-mail out to those who are not able to attend to submit their comments in writing 24 25 and we will forward those to the Planning Commission so

they have an opportunity to be heard. 1 So as it turns out, that 30-day provision, 2 because of the weather, may be fortuitous so that folks 3 can get their comments in. Dan. 4 5 (Pause) б 7 \_ \_ \_ \_ \_ MR. RULLO: I think it's important just to set 8 some context for this. 9 We have had under appellate review Ordinance 10 144 which it had been enacted, and there had been 11 12 appeals to the Zoning Hearing Board. The Zoning Hearing Board had taken testimony 13 and rendered a decision and appeal that 144 had been 14 taken, and it was under advisement for the better part 15 of a year or longer, and the decision was rendered by 16 17 Judge Klementik affirming 144 as a valid ordinance. So 144 is the ordinance that we have been 18 utilizing since its implementation and has now been 19 affirmed by the Court of Common Pleas. 20 This ordinance is proposed to be a new number 21 Ordinance 155, and it is a comprehensive revision of 22 144. 23 We are it treating as an amendment, although 24 25 it will be recodified as 155 under the Borough Code.

The sections that are important, I think to you for you to understand relative to the process is that first this is governed by the Municipalities Planning Code.

5 And Section 609 of the Municipalities Planning 6 Code is the governing section, although I'm going to 7 read 608 just into the record so you're aware of the 8 process of the public hearing.

9 It says before voting on the enactment of a 10 zoning ordinance the governing body, which would be the 11 Borough Council, shall hold a public hearing thereon 12 pursuant to the public notice.

The vote on the enactment of the governing
body shall be within 90 days after the last public
hearing.

Within 30 days after enactment a copy of the zoning ordinance shall be forwarded to the county planning agency, or in counties where there is no planning agency existing, the governing body of the county in which the municipality is located.

21 When we had 144 there had been multiple public 22 hearings and under that no action can be taken -- let me 23 just say it this way.

We have 90 days from today's date, if there are no other public hearings, to take enactment. If we

1 don't, we have to start the process again.

Now, under section -- the process being the
advertisement process and the public notice process.

Under 609, because there is provisions under this comprehensive change that also constitute a map change where there is actually going to be territories that either were unzoned or are being revised, there is additional process that has to be followed.

9

And under 609 it states this:

First of all for the purpose of identifying which of the sections we're following, 609 states that for the preparation of amendments to the zoning ordinance the procedure set forth in Section 607 for the preparation of proposed ordinance shall be option.

Section 607 is the portion of the Municipalities Planning Code where planning agency initiates the changes as opposed to the governing body. So we are following 609.

Before voting on the enactment of an amendment, the governing body shall hold a public hearing thereon, which is the section I just referenced before.

Pursuant to public notice, in addition if the proposed amendment involves a zoning map change, notice of the public hearing shall be conspicuously posted by

1 the municipality at points deemed sufficient by the 2 municipality along the tract to notify potentially 3 interested citizens.

The affected tract or area shall be posted at least one week prior to the date of the hearing.

6 In addition to the requirement that notice be posted under clause 1, where the proposed amendment 7 involves a zoning map change, notice of the public 8 hearing shall be mailed by the municipality at least 30 9 days prior to the date of the hearing by first class 10 mail to the addressees to which the real estate tax 11 bills are sent for all real property located within the 12 area being rezoned as evidenced by the tax records 13 within the possession of the municipality. 14

The notice shall include the location, date and time of the public hearing, a good faith effort and substantial compliance shall satisfy the requirements of the subsection.

19And then it states that this clause shall not20apply when rezoning constitutes a comprehensive21rezoning.

Council has taken the position that even though this is in our view a comprehensive rezoning it is intended to revoke all previous zoning ordinances, it is better to err on the side of caution by giving more

1 notice than less notice.

2 So from the standpoint of whether this is 3 treated completely legally as a comprehensive rezoning, 4 we're treating it as an amendment with map changes that 5 has the higher level of notice requirements than 6 otherwise would be needed.

So consequently, because you'll see there are areas, in particular the lake itself, which was not zoned previously, it is now a municipal lake.

10 The notice only needs to go to the owners of 11 the property that is being rezoned.

Frankly the lake bed is owned by the Borough.
So to be cautious we elected to give notice to everyone
who even has -- is adjacent to the lake.

And as I understand it everybody, even the back lots, received the postcard that was mailed as if they would be affected by the map changes.

18

MR. MISCOE: Yes.

MR. RULLO: The advertisements under the Municipalities Planning Code we did, instead of publishing the full text of the ordinance which is over a hundred pages, we published it in accordance with Section 610 of the Municipalities Planning Code which permits the solicitor to prepare a summary. That summary is still pretty voluminous. It had been posted.

13 There was an affidavit of posting that it was 1 2 posted at the county law library on Monday, November 16, 3 2009. It had been advertised in the newspaper of 4 general circulation, being the Somerset Daily American, 5 б on two occasions. MR. MISCOE: November 20th and 27th. 7 MR. RULLO: November 20th and the 27th. 8 9 MR. MISCOE: That's correct. MR. RULLO: And the proofs of publication are 10 in the offices of the Borough manager. 11 Under the code we are also required to provide 12 a copy of the full text and summary of the ordinance to 13 the Somerset County Planning Commission. 14 And by my letter to Brad Zerfoss, director of 15 the Somerset County Planning Commission on November 16, 16 2009, delivered by hand. 17 We can make a copy of that record available 18 for anyone who wishes to see it. It's in the public 19 records of the Borough. It's probably quicker for me to 20 21 just read it. I am delivering to you this date a 22 comprehensive change to the Indian Lake Zoning 23 Ordinance. 2425 The version shall -- being provided to you has

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1 a date of November 11, 2009.
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The Borough Council has scheduled a public 2 hearing on the comprehensive amendments to Ordinance 3 4 144, which is proposed to be Ordinance 155, if enacted. 5 Pursuant to the Municipalities Planning Code I'm providing this notification to you as agent of the 6 7 Somerset County Planning Commission more than 30 days prior to the public hearing so that the planning agency 8 will have the opportunity to submit comments and/or 9 recommendations. 10 I'm also providing you with a copy of the 11

12 notice of the public hearing and the summary of the 13 modifications.

14 It is the intent of this proposed ordinance 15 amendment to repeal all previous zoning ordinances and 16 the comprehensive rezoning of the entire borough by 17 reenactment previous provisions as well as amending the 18 language from previous ordinances.

19A recodification of this is being done so it20would be recodified as proposed Zoning Ordinance Number21155.

If you have any questions about the foregoing, please don't hesitate to contact me, and I carbon copied this to council and to the Borough manager.

25

We received a response back from Mr. Zerfoss

dated November 25th, 2009, addressed to me regarding the
 proposed Indian Lake Borough zoning ordinance
 amendments.

Dear Attorney Rullo: I have reviewed -- I'm sorry. I have received and reviewed the proposed comprehensive changes to the Indian Lake Borough zoning ordinance that you submitted to the Somerset County Planning Commission for review pursuant to the Pennsylvania Municipalities Planning Code.

It is my understanding the proposed ordinance amendment will appeal all previous zoning ordinances, and the comprehensive rezoning of the entire borough by reenacting previous provisions as well as amending the language from previous ordinances.

15 The Somerset County Planning Commission has 16 completed the review of the information and has no 17 comments to offer at this time.

18 Please feel free to contact me if I can be of 19 further assistance.

As Mr. Miscoe indicated, we did contact them and ask them if they could provide any additional assistance, and I understand that's the letter you referenced.

24 MR. MISCOE: Yes.

25

MR. RULLO: The last piece of business from

1 the standpoint of the notices is the notice that was 2 given pursuant to the Municipalities Planning Code to 3 our own Planning Commission, and that was delivered by 4 the Borough manager by hand to the Planning Commission 5 on November 16th also.

And it indicated under delivering this day a
comprehensive change to the Indian Lake Zoning
Ordinance, the version being provided to you has a date
of November 11th, 2009.

The Borough Council has scheduled a public
hearing on the comprehensive amendment to Ordinance 144
which was proposed to be Ordinance 155 as enacted.

Pursuant to the Municipalities Planning Code I am providing this notification to you as agent of the Indian Lake Borough Planning Commission more than 30 days prior to the public hearing so that the planning agency will have the opportunity to submit comments and/or recommendations.

19 I am also providing you with a copy of the 20 notice of the public hearing and the summary of the 21 modifications.

It is the intent of this proposed ordinance amendment to repeal all previous zoning ordinances and the comprehensive rezoning of the entire borough by reenacting previous provisions as well as amending the

17 language from previous ordinances. 1 A recodification of this also is being done so 2 that it will be recodified as proposed Ordinance No. 3 155. 4 And that was signed by Theresa Weyant, Borough 5 6 Manager. Those are the provisions. Today is the time 7 for any public comment about that. 8 9 The scriveners of those documents, most of 10 them are here to answer any questions that you may have. I will try to answer any legal questions that 11 may come up relative to the procedure. 12 13 MR. MISCOE: Thank you, Dan. I would also point out that after this 14meeting, as I pointed out earlier, the transcript of 15 this hearing will go to the Planning Commission. 16 They will have 30 days -- a 30-day period 17 subsequent to this meeting to review that. 18 We will also solicit comments from people who 19 could not come in. 20 We have encouraged folks to submit those 21 comments beforehand, and we have in fact received a few, 22 23 but we will take advantage of this additional 30-day 24 period. 25 The Planning Commission will then make its

1 recommendations to Borough Council.

The next council after the first of the year, when they reorganize, will then make the decision whether to move forward or not.

I would point out that because there are substantial amendments, Dan, please tell me if you disagree, we do have a requirement under Section 610 to advertise ten days prior to actually taking a vote.

9 And I, even though that -- it's an expensive
10 ad because the summary was over five pages in length, I
11 believe that we should probably do that as well.

12 So it will -- there is some additional time 13 once planning comes forward with their recommendations, 14 council decides whether they want to proceed to a vote 15 or not, I believe there is one extra publication that we 16 would have to do.

MR. RULLO: Yes. Section 610, which is the section I referenced about the summary of the ordinance about publishing in a newspaper in general circulation in accordance with the MPC, as well as posting it in the county law library.

It does provide in the event substantial amendments are made in the proposed ordinance or amendments before voting upon an act the governing body shall at least ten days prior to the enactment

19 readvertise in one newspaper of general circulation in 1 2 the municipality a brief summary setting forth all of the previous provisions in reasonable detail together 3 with the summary of the amendments. 4 So depending upon what adjustments are made, 5 the question that would come in as to whether there are 6 7 substantial amendments or not, but if they are --8 \_ \_ \_ \_ \_ 9 (Discussion off the record) 10 \_ \_ \_ \_ \_ 11 MR. MISCOE: Dan would like to note another interesting point. 12 There are -- I think the Planning Commission 13 did an excellent job. 14 They identified a number of things that I 15 16 think we should probably add to clarify provisions. I don't believe that they constitute 17 substantial changes, but based upon public comment 18 relative to some of the provisions that I know that 19 there is some question about should a substantial 20 revision need to be made, we would have to readvertise, 21 have another public hearing and go through this process 22 23 again. 24So we are, I would say, at the beginning 25 phases of the enactment process.

20 We're certainly not going to take any action 1 2 at this meeting for all the reasons that Dan just reviewed, and this is your opportunity to let members of 3 council know what your concerns are, what you have 4 5 questions about. As I said, some of you may have gotten the б December -- my December newsletter by e-mail. 7 I would not like to see this develop into a 8 shouting match or a debate. 9 10 Present your concerns. Respect other people that are here. 11 If you can identify the specific section that 12 you have concerns about, and what those concerns are. 13 Those types of comments are very helpful to council. 14 15 Specifically if you think that we have overlooked a possibility or an impact that that change 16 might have. 17 Those comments will be then -- they're being 18 transcribed. 19 20 They will be submitted to planning. Planning 21 will review them. They will make recommendations to council. 22 23 Council is here. They will make their own 24 judgments and the process will go forward or stop at 25 that point.

21 1 MR. RULLO: One other thing I want to mention. Dean Snyder is not here, right? 2 3 MR. MISCOE: No. 4 MR. RULLO: I have been informed that Dean has 5 posted the notices conspicuously at various locations across the Borough, and the exact locations, I think he 6 7 can make available. MR. MISCOE: He did leave exemplars here of 8 9 what he posted, but for each district he made these notices and publicly posted them around the boundaries 10 of the property. 11 12 There is one for the CR to CRG which was posted around both golf courses, and it's apparent that 13 14 at least the public golf course was aware of it because they sent us a letter. 15 They were posted around the lake and 16 17 apparently those were noticeable because someone called me and asked me what are these orange signs around the 18 19 lake. 20 And then the -- we posted the wildlife 21 preserve area because we had a provision for it on the 22 zoning map, but it wasn't defined in our zoning ordinance as a zoning district. 23 So those were the notices that were posted out 2425 there, and I even exercising caution asked Dean to take

pictures of them in the event that someone were to pull 1 them down or allege that they weren't there. 2 So, and of course, this postcard, I believe 3 everybody should have gotten one of these, but every 4 5 property owner according to the tax rolls got this 6 notice. Even though we're only required to notify 7 8 people that actually own the property being rezoned, we felt it prudent to notify everybody that might be 9 10 affected. So that's -- I think we have -- learning from 11 some of the issues that came up in 144, we have tried to 12 make this process as transparent as possible throughout. 13 I've even been accused of providing too much 14 information, but better too much than not enough. 15 So now it's your turn. Please indicate your 16 name for the record and go ahead and state your concern. 17 18 MR. MISCOE: Anyone? 19 \_ \_ \_ \_ \_ (Discussion off the record) 20 21 \_ \_ \_ \_ \_ 22 MR. MISCOE: Go ahead. 23 ----24 (Pause) 25 \_ \_ \_ \_ \_

23 MR. MORGESE: My name is Kurt Morgese, 1 M-O-R-G-E-S-E. 2 And I own one of the little A frames where the 3 little cute A frame cottages are. 4 5 My concern, I have two. One. I'm not exactly sure anymore what we are 6 zoned. I believe it's a recreational commercial. 7 8 And so in that I think I have a \$750 building permit if I want to build, and I think everybody else is 9 50. 10 So I'm not real crazy about that. I'm hoping 11 we can do something. 12 The second thing is, I'm concerned that if 13 we're on a kind of need to -- when I read the ordinance, 14if we want something done it's on an ask and maybe 15 you'll receive. 16 So that seems a little bit vague and I don't 17 know. That's not comfortable to me. So those are my 18 concerns. 19 We're kind of our little own community of 20 21 eight, and we kind of don't really have a rule, and the 22 one that we do have costs a lot of money for a 500 square foot A frame. 23 So those are just two concerns that I wanted 24 to voice. 25

1 MR. MISCOE: I can certainly understand your 2 concern.

And for those that aren't familiar, and I appreciate the comment because it's one of those problems that we have wrestled with.

The A frames are made of a for share a common septic system, and the lot sizes do not meet any of the lot sizes for single-family residential districts that exist throughout the rest of the Borough.

Ever since Ordinance 50 -- well, I don't know that they've ever had their own zone, but I can go back as far as Ordinance 50, and you have been part of -- in Ordinance 50 you were part of the CRH district.

14 In Ordinance 99 your area was rezoned CR.15 In Ordinance 144 you remained in CR.

16And in Ordinance 144 returning back to CRH17which is what it was in Ordinance 50.

18 The problem is is that single-family 19 residential dwellings are not expressly permitted uses 20 within either the CRH in 50 or the CR in 144 or in the 21 CRH zone in proposed 155.

And as a non-conforming use within a district there are under the current ordinance. I agree you don't have a \$750 building permit.

25

The building permit is still \$50, but it will

1 get denied because you're not permitted to alter a prior 2 non-conforming use.

It's a rule that you can keep what you have, but you don't -- you're not allowed to change it unless you can make it conforming, and unfortunately there is no way to do that.

Now, the options are to carve out a district and define limits that allow you to exist as conforming uses in which case then if you want to put dormers somebody put on and do those types of modifications, then as a conforming use you would submit a normal permit and be permitted to do that.

The problem that that creates is that we introduce a high density zone into the Borough, and currently we don't have any.

We sort of inherited the chalets as part of the original development plan because they weren't meant to be homes. They were meant to be rental properties for skiers.

They became homes. They got sold off, and they don't have lot sizes that have substantial setbacks and whatnot that you would find in a normal R-1 district.

24 So the density of that zone and intensity of 25 use is such that if we were to carve out a zone and make

1 that conforming, we open the door for someone to say, 2 well, hey, you have high density in the Borough. We 3 want high density over here, and that makes me a bit 4 nervous.

5 Now, input in the alternative, we very 6 carefully considered what constitutes an alteration to 7 ease some of the burden on existing prior non-conforming 8 uses to permit you to do, you know, fix your roof or do 9 things of that nature that would classify or constitute 10 minor alterations.

So that that work can be done without gettingclearance from the Zoning Hearing Board.

But the \$750 comes into play when you want to make structural alterations, reconstruct, things of that nature such as a dormer.

16 To the extent and, Scott, help me out here,17 whether that would constitute a structural alteration.

18 MR. MOORE: With the A frames, yes, because19 unfortunately the entire wall is a structural system.

20 MR. MISCOE: Right. So, and unfortunately 21 there is -- the only mechanism that exists for allowing 22 the alteration of a prior non-conforming structure is a 23 special exception process or a variance from the Zoning 24 Hearing Board. That's all the MPC allows.

25

And unfortunately there's a fee for that, and

that stinks, but balancing the concern of the \$750 for 1 2 you or the potential introduction of high density 3 development elsewhere in the Borough in areas that are 4 capable of that development, we opted for changing the definition of what constitutes an alteration to allow 5 you to do some of the minor things without having to pay 6 that money, and, B, create special exception authority, 7 which is a lower threshold of analysis for the Zoning 8 9 Hearing Board than a variance which technically if you 10 read Section 105 of the ordinance, the location and the density with which your properties were built is deemed 11 already understandable and it wouldn't qualify you for a 12 variance. 13

So that's I think the best that we can do, short of opening the door to high density development in the Borough.

And I know that that stinks for you, but we would like to roll back the clock 30 years and change a lot of things about what was done in the Borough, but we're stuck with it.

21 So that's the trade off and that's a judgment 22 call that council will have to make as to whether they 23 want to create that zone or not.

MR. MORGESE: Well, then could you clarify one other thing.

If it's zoned recreational commercial, and 1 2 just, for instance, I decided to become a renter of golf clubs, is that my right? 3 MR. MISCOE: You're in a district. 4 So to the extent that you were going to 5 convert your structure to a commercial structure, now 6 7 you have some setback issues that I don't think you have enough property to meet but, you know, there's home 8 occupations which are permitted elsewhere in the 9 district. 10 But what would stop you from turning your A 11 frame into a commercial building would be probably some 12 labor and industry stuff, but setbacks. 13 MR. MOORE: A building of that size, labor and 14industry -- well, it's not involved anymore. 15 It's the building code official, number one, 16 and it's small enough that the requirements for life 17 safety issues would be met because it's very small. 18 It would be very feasible for you to ask for 19 20 exception of easements or setbacks for the zoning variance and be granted a commercial use. 21 22 MR. MISCOE: Yes. I mean it's possible, but again you would have to go through the same process 23 because there is going to be some requirement in that 24 zone that you're not going to meet. 25

29 MR. MORGESE: So basically what you're telling 1 me is I bought an A frame that I basically have no right 2 3 to do anything I want to do without approval from 4 someone else? MR. MISCOE: Well, I wouldn't say no right. 5 6 You have the right. I mean there is a process by which you can get 7 8 approval, and I think we have drilled some pretty big holes in that process recognizing that there are 9 alterations that you may need to make, and I believe 10 that the special exception requirements by lowering the 11 threshold. 12 There is nothing I can do to change the MPC in 13 terms of how that process works, but there is now, I 14 think an easier mechanism for you to get that dormer put 15 on, and in fact somebody went through that process and 16 got an approval. 17 MR. MORGESE: I understand better. 18 MR. MISCOE: So it's doable. It just cost 19 more and unfortunately that's just by virtue of the 20 nature of how that area was laid out. 21 We're stuck with it and the only way to fix it 22 is either to open up the door to high density in the 23 24Borough or leave it the way it is. 25 It's just going to cost you a little more, and

30 I apologize for that. 1 MR. MORGESE: Thank you. 2 MR. MISCOE: Anybody else? 3 4 ----5 (Pause) бı \_ \_ \_ \_ \_ \_ MR. HANSON: My name is Bob Hanson, 7 H-A-N-S-O-N. I'm chairman of the Planning Commission. 8 The Planning Commission has wrestled with this 9 10 comment. It's one of the only comments. I shouldn't 11 say one of the only, but it's one of the comments that 12 13 we are unanimous on that we need to address. We are not unanimous on how to address it. 14 So we have not yet made a recommendation to 15 council as how it would be addressed. 16 17 As Mike said, there are a number of options, and we're looking at them. 18 Hopefully in January Brad Zerfoss from 19 Somerset County, and a gentleman from Pittsburgh, the 20 21 DCED, which is the Department of Community and Economic 22 Development. That department has been sponsored by the 23 24 government to provide assistance in planning and zoning 25 to municipalities, and they have also agreed to come to

31 a meeting in January. 1 2 So Brad and this gentleman from DCED are going to come and hopefully explain to us what some of the 3 options are to try to address that situation, but I 4 quess that's it. 5 6 MR. MISCOE: Thank you, Bob. Doctor Moses. 7 \_ \_ \_ \_ \_ 8 (Pause) 9 \_ \_ \_ \_ \_ DR. MOSES: Yes. I'm Mickey Moses. 10 I'm at 121 North Peninsula, which is a lake 11 front. 12 I want to congratulate you. This looks like 13 the Senate health care bill. 14 MR. MOSES: My printer ran out of ink. 15 16 I want again to try to go over the clarification of one of the issues that was of 17 18 significant concern to most of us when we began this process way back in '99, and then with 144 and now with 19 20 the new printing that I have here, and that is with 21 respect to the definition and the length of docks. 22 As I look at 144, and then I compare that to this present, there seems to be some differences. 23 24 There seem to be three different 25 classifications. I am a lake front owner.

32 So I am allowed to have 30 feet of dock, no 1 wider than eight feet, I believe. 2 There's a CR stipulation now with I think 3 somewhere near 50 feet of dock, depending upon the shore 4 line, topography, and then another one which I didn't 5 see in 144 for commercial which goes back to 100 feet 6 7 extending into the lake. Is that -- am I correct on that and I need 8 some clarification? 9 10 MR. MISCOE: Marine. DR. MOSES: I think those were -- those were 11 12 some significant issues of contention as to the length of dock extending into the lake and safety factors 13 involved with it. 14 15 Again, my concern personally early on, a 16 hundred feet into the lake is at least in my -- in my estimation a significant danger from the standpoint of 17 encroachment into the lake and adequate boat 18 utilization, skiing, tubing, et cetera. 19 20 I would like some clarification as to why that was changed, and what we may consider in the -- before 21 this is ratified. 22 MR. MISCOE: Okay. As a point of 23 clarification, what used to be Section 1307 of Ordinance 24144 was foiled because we zoned --25

1 UNIDENTIFIED SPEAKER: Did you memorize these 2 things?

3 MR. MISCOE: I have been doing this a long time. That's scary enough. 4 5 UNIDENTIFIED SPEAKER: Holy mackerel. 6 MR. MISCOE: Trust me, never in my -- had I ever expected or even desired to want to know anything 7 about zoning, but Section 1307 was the provision in 8 Ordinance 144 that pertained to docking in the various 9 districts. 10 We, due to comments that arose during the 11 hearing process during the challenge of 144, it became 12 apparent to me that zoning is about how you regulate --13 what regulations the Borough places on your use of your 14 property. 15 And the problem came in is that the lake isn't 16 owned by -- you live on the lake. Your property line 17 ends pretty much at the water line. There's pins and so 18 when we start talking about regulating the use of the 19 20 land beyond your property line, we're in effect not placing a restriction on you. 21 We are granting a use to you on property owned 22 by the Borough. 23 And it was brought out, and the judge even 24 25 made a comment about it, that that area was not zoned.

It was mentioned that all the land within the
 Borough has to be or should be zoned.

There was a question as to whether the Borough is responsible to zone its own property, and we elected to go ahead and take that area that is the lake, zone it municipal lake and create permissive uses for the adjoining property owners.

8 So we took 1307 and all the boat docking and 9 boat ramp and boat house provisions relative to what you 10 do on the other side of your property that you don't own 11 and made those explicit permissive uses, and 12 unfortunately we changed the ordinance.

13 Instead of going district by district we did
14 use by use, and then put the district requirements
15 underneath.

Both in Ordinance 144 and proposed 155, the CR district had that 50 lot size of 70 because there's a recession in the lake front there. So that hasn't changed.

20 The 100 foot provision applies to the CM21 district only, and that is the marina.

And I wish I could say that at the time more analysis -- when we put that into 144 more analysis went into it, but I went out to the marina and took a laser distance measuring gizmo and shot a line out to the end

1	of their docks and got 97 feet.
2	And I would point out that under Ordinance 99
3	docks were not a permissive use for the marina which is
4	kind of ludicrous because they sort of need them.
5	And so we looked at what they had and had
6	traditionally installed.
7	I think Jim Brant was responsible for most of
8	the floating dock expansion out at the marina, but
9	that's where the 100 feet came from.
10	Of course, you know we originally proposed a
11	similar requirement for the lodge.
12	Based upon public concern it got scaled back
13	to 70 and then it got scaled back to 50.
14	We had that issue studied, and while some
15	challenged the depth of analysis that went into that
16	docker's study of the safety issue for the docks at the
17	lodge it was concluded that they did not present a
18	safety hazard.
19	So to the extent that there is a 100 foot
20	provision, and it applied to the CM area of the lake
21	adjoining the CM district, they have 40 feet from the
22	island which is granted by easement.
23	Many years ago there was a recorded easement
24	that they can go 40 feet out from the island, but the 30
25	or the 100 feet applies in that cove area next to the

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public ramp, and in reality they can't go much further
 than that or they start to block off access to the lake
 from the public ramp.

There's the other area over on the other side towards the spillway that they -- I didn't measure that, but I know it doesn't go out further than a hundred feet.

8 So the comments that I have received from 9 people, there's apparently no concern about safety back 10 there because they're back deep enough they're out of 11 the main traffic ways anyway.

And that didn't seem to be a problem or -- and up to this point I had not heard a concern expressed about safety of docks going a hundred feet out from the shore line in that area. The R1 remains at 30.

We certainly have a number of places
throughout the lake prior non-conforming uses where the
docks go out substantially further.

19 So to the extent that they continue those uses 20 we will have -- we have some docks that are longer than 21 30 feet, but I think 30 feet is a reasonable restriction 22 being that pontoon boats can be 30 feet long.

And that I believe is where the 30 foot restriction originally came from, and I hope that answers your question.

37 1 \_ \_ \_ \_ \_ 2 (Pause) 3 \_ \_ \_ \_ \_ MR. MISCOE: Jim. 4 5 \_ \_ \_ \_ \_ \_ 6 (Pause) 7 \_ \_ \_ \_ \_ \_ MR. LYONS: My name is Jim Lyons. I live in 8 Mohawk. I have a house there. I don't live there. 9 10 I guess my one question is that the zoning committee, it was appointed which I think, is it four 11 people? 12 13 MR. MISCOE: Five. 14 MR. LYONS: Five people. Did they take a vote when this was done? 15 From what I understand, I've asked three or 16 four of them and they all said no. 17 18 I guess the conclusion was that you said that you were going to get this done by the end of the year, 19 so you were done with it. 20 I just want to make sure that the committee, 21 even at the Borough Council meeting made a conclusion 22 23 that they weren't done. They said it needs some more work. 24 25 I understand you've put a lot of time on it,

hundreds of hours I think is the words I meant, but this 1 affects a lot of people, a lot of lives, a lot of 2 investment. I know there is a lot of problems. 3 4 I probably am the leader of a lot of the problems, but I think that this committee -- I know it's 5 6 going back to planning. Planning has some questions. 7 I guess my request is, do you think the first committee was done with it yet? 8 9 Are you forcing it through the system to get done what you want to get done? 10 11 The CEHR district has a lot of questions. We 12 had one here already. This gentleman has a small townhouse that 13 somebody could do something right across the 50 foot 14 district, 50 foot lot. I mean it's so open for anybody 15 16 to do anything there. And I guess zoning was actually created so 17 that no people next door or around or whatever will be 18 hurt from anything, and it's a control factor. 19 20 This is one of my -- two of my questions. One. Is the zoning committee done with it? 21 And I know that they weren't. 22 Are we forcing this through, and have we given 23 24a lot of thought for the safety investment of the people 25 of Indian Lake?

I don't want anymore issues brought up later. 1 2 I just to make sure that this costly thing is only one cost thing, not a several cost thing. 3 Obviously the 144 brought up a lot of 4 5 problems, which I agree a lot of them were corrected. Some of them were changed. Maybe some of them are worse 6 now. Some of them are better. 7 8 I just think that a little more time, a little more thought needs to be put in the whole ordinance, 9 even though it has good changes. 10 Nobody wants to absorb anymore expenses, and 11 nobody wants to lose anymore values of their properties 12 13 or any lives taken because of some changes in some 14 areas, for example, the docks. There is no control with the docks. 15 So that's my comment. It's not a detailed 16 17 comment. It's not a particular zone. 18 I just feel that it was rushed through in conclusion, and some areas were really hammered and some 19 20 people have some very tight ordinances to follow and 21 some have none. 22 So I just thought we should have a little more thought. 23 24MR. MISCOE: Do you have any specific -- I'm not sure I understand what's tight, what's loose. 25

40 UNIDENTIFIED SPEAKER: Do you have the 1 sections? 2 MR. LYONS: No, I don't have any section. 3 What I'm saying is that it literally has no 4 control whatsoever, the CRH district zoning around the 5 lodge, around the ski slopes, anything. 6 7 There's no control whatsoever, and there is 8 some very nice homes on either side of that and 9 everything can be put in there. Anything can be put in there, if you have that 10 list, if you read the list. 11 12 MR. MISCOE: Thank you. As far as the committee vote, we did take a 13 vote as we were breaking up. 14 15 The only other member of the committee that was at that meeting was Ron Petrina. 16 Do you remember -- and I'll put it to him, if 17 he recalls me asking if the committee approved 18 submitting it to council. 19 20 MR. PETRINA: As far as I was aware, we were through with the ordinances. We were ready to present 21 the ordinance to council. 22 MR. MISCOE: And Scott had recorded a no vote 23 for you. You weren't there. 24 25 MR. PETRINA: That's correct. I was not there

41 or approved what was submitted. 1 2 MR. MISCOE: Right. 3 MR. PETRINA: But with that I submitted a 4 letter dated 11-11 to council noting my concerns. 5 MR. MISCOE: Yes. And that letter -- do you recall I forwarded that to Brad? 6 MR. PETRINA: Yes. 7 MR. MISCOE: Along with that so he would have 8 the benefit of your concerns when he conducted his 9 review. 10 Above here where it says Petrina, it should be 11 12 someone else. MR. PETRINA: Mike, one other question. 13 14 I am Ron Petrina. What we didn't tell the public is the public 15 was invited to all of our meetings, every meeting we had 16 biweekly. 17 If you had any doubt of what we were 18 reviewing, revising, you were invited to come. It was 19 open to the public. 20 Very few faces did we see there. Hopefully we 21 22 could have seen you all there, but we didn't. But these ordinances, we've spent a lot of 23 time, did a lot of work on them. We put our heart into 24 25 them, and I don't have anything else to say.

MR. MISCOE: Thank you, Ron. I would point out that they were publicly advertised meetings. They -- we had originally anticipated being done by June. We took almost twice that much time. I will be the first to admit that that was not wasted time. We wrestled with a number of provisions, and I empathize with the Planning Commission having 30 days to

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try and wrestle through the same stuff which is why we 10 tried to keep everybody up to speed section by section 11 as we went through so that it wouldn't be this giant go 12 through 115 pages of ordinance to try to internalize 13 14 what is -- not only what is in there, but all the potential impacts that occur in each zone. 15

The -- with -- you had mentioned the CRH zone. 16 That area was reclassified to CRH simply to address the 17 concerns that were raised with respect to 144 that we 18 19 would end up with 9,000 townhomes or multi-family dwellings on a golf course should they be -- that was 20 never perceived -- that was never the intent of that 21 22 provision, adding that to that district in 144. It wasn't perceived to be practically possible. 23

24 However, to the extent that it might happen, 25 theoretically, that -- and it wasn't consistent with

1 what I perceived council's intent was at the time, we 2 reclassified that district accordingly.

We did increase the restrictions in that district relative to setbacks, parking provisions, grading, filling that apply throughout the Borough equally.

We've added to the -- we standardized the commercial setback requirements for all the commercial y zones, and we have a section for all the commercial zones relative to special permitting requirements that did not exist before, but they apply to all the commercial zones equally.

We're trying to achieve -- we're not trying to single anybody out and we're not trying to treat anybody specially.

So to the extent that those requirements make 16 sense for commercial activity, they were written to 17 apply equally throughout the ordinance, and if you can 18 provide some more specific issues that you have, Jim, 19 relative to things, I'm sure the Planning Commission 20 will look at that and council will look at that as they 21 go through it, but let's face it, a lot of the things 22 are going to be judgment calls as to whether -- how do 23 24 you balance this person's use against that person's 25 right to enjoyment.

And zoning as I see is it not about
 eliminating every possible annoyance from your neighbor.
 It's substantial impacts.

If you were to eliminate every possible annoyance, lot sizes would have to be 20 acres so you couldn't see your neighbor or hear them or be bothered by them at all.

8 We have a community. We have one acre lots. 9 You've got neighbors and that's the juggling act, and 10 for anybody that has sat through the meetings, Dick was 11 kind enough to show up and lend us some input as well.

We had a pretty diverse group in the zoning committee with Karl who has been around the Borough for years and years and years and was especially helpful because of his ability to say okay, here on this guy's lot over here in this particular area this is how that's going to play out, and this is the issue over here.

And Ron, as the zoning officer in dealing with zoning issues and what people want to do with their lots, had a lot of input specific to individual areas of the lake and that's understanding how a provision is going to impact people is the hardest thing to do because you can't possibly anticipate every person's use. We did the best we could.

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I will tell you it's never going to be

1 perfect. It's never going to anticipate every use, but 2 by refining our definition, refining our provision we 3 hope to have an ordinance that our zoning officer can 4 actually apply objectively with a minimum amount of 5 subjectivity.

6 And to the extent that somebody is not 7 permitted to do what they want to do, provide an easier 8 process for getting minimal changes that account for 9 weird stuff that happens in the Borough because frankly 10 I agree with Scott there wasn't a whole lot of 11 comprehensive planning done when the Borough was laid 12 out 30, 40 years ago.

They didn't think of all these things, and if they had we would probably have an easier job, but they didn't, and so there is some judgment issues in here as to what's the best way to do something, and that will be for the next council to figure out.

18 Did I want to get this done, to answer Jim's19 question? I really did.

We have been -- because for the things that are wrong with 144, sections that we didn't address, we didn't do the comprehensive. We did a pretty comprehensive job.

24There was a lot of stuff that was left25untouched from '99. The members of the committee, we

all agree Ordinance 99 was a very, very bad ordinance. 1 2 Ordinance was a little better. 3 We think 155 is substantially better. Is it perfect? No, but you'll never find a perfect ordinance. 4 5 The issue is it boils down to how much thought went into it, how much diversity of opinion was involved 6 7 in coming up with the provisions. And I would have to say that it was pretty 8 diverse through many of the provisions. 9 10 We, you know -- frustrated over it for a substantial period of time. 11 So there's always going to be something to 12 tweak here and there, but at the end of the day I think 13 we're down to judgment call issues about what is the 14 best way to do something, and that's going to ultimately 15 be a decision for the next council to make. 16 17 If they think we need to take more time and revise and go through the process again, that will be 18 their decision to make. 19 20 But I appreciate the comment from both Jim and Ron. 21 Anyone else? 22 23 ----24 (Pause) 25 - - - - -

MR. MISCOE: Yes. 1 2 MR. BUSTAMANTE: Bob Bustamante, 3 B-U-S-T-A-M-A-N-T-E. I'm a fairly new resident of Indian Lake. I 4 haven't even been here for about a half year now. 5 And I think it's fantastic and I really am 6 7 looking forward to many, many years of enjoyment here. 8 And I understand there's a lot of things that you've done, a municipal lake creating and actually 9 10 zoning for the municipal lake and setting a site or refining the terms for docks and things like that, but 11 there's -- in reading the ordinance, and I went through 12 -- I guess I looked at not word for word, but I went 13 through it pretty well. 14 I'm just kind of wondering what was the 15 objective? 16 There's a lot of reasons why you did different 17 18 things in there, but not knowing the history of Indian 19 Lake and everything that's happened around here, what was the objective in changing the commercial, the 20 21 recreational and all that zoning to the way you're doing

22 it now?

Was there something that is going to make it
-- is it going to make it more definitive or is it
something that's going to -- was the objective to keep

something from happening or was the objective to allow 1 2 something to happen in those areas? 3 I didn't really understand that part. MR. MISCOE: Well, historically we had -- this 4 is our -- thank you. 5 We had Ordinance 22, Ordinance 50, Ordinance 6 7 99, 144, and now we're looking at 155. 8 Prior to Ordinance 99, the lodge area was its 9 own little district. It was CRH, and it allowed for a mixture of commercial, recreational and residential 10 11 uses. 12 In Ordinance 99 they abandoned the CRH district and combined the golf courses and the lodge 13 14 into one district called CR, and took away the ability for residential uses which is where they created your 15 non-conforming situation to a degree. 16 17 You had other non-conforms as relative to setbacks in Ordinance 50, but you were at least a 18 19 permitted residential structure back then. So the -- Mr. St. Clair presented council a 20 development proposal in 2000 -- Terry, help he out, 4, 21 22 6? MR. ST. CLAIR: No. It was about '05. 23 24 MR. MISCOE: 2005. And this wasn't the first 25 time, I would point out, that the owner of the lodge

1 property has had development.

2 The Smiths before Terry subdivided and created 3 Cheyenne, and I forget what the other subdivision was, but they did that in R-1. 4 5 Back in the 80s there was someone that did -came to council and wanted to build multi-family 6 7 structures on the ski slope since it was no longer being used as a ski slope and they ran out of money. 8 9 Because the dam remediation effort is going to 10 be so costly it is a means of trying to mitigate the tax burden. 11 Me personally, I was very much in favor of 12 doing what we could to promote development, and there is 13 the Pine Cove subdivision that Bob Hampton and Jim Brant 14 15 are doing. That is a development project that I think, I 16 hope goes forward and is successful. 17 There was the one at the lodge, and the golf 18 19 course is looking at a development effort. So from a financial perspective, I think we 20 need to seriously consider allowing for development. 21 22 That was the motivation, at least in my mind, 23 for restoring the multi-family development possibility in the CR, what became the CR district. 24 25 Well, when that ordinance was challenged it

was brought up that now we can build multi-family
 dwellings on the golf courses, plural. We have two
 private and public.

So the concern was that the golf course would be bulldozed, and from a density perspective, and setbacks that there would be just an insane number. I think it was 909,000. I don't know what it was.

8 But certainly that was neither our intent or 9 our belief that that could actually occur.

For one reason there is no sewage. There is just no way. They don't have the sewage capacity to build all that stuff.

But recognizing that things change over time, and as Scott is a good mentor relative to things in zoning ordinances exist, because they might happen or you take away things because they might happen, it was decided that we needed to correct that problem because we do not want the golf courses tuning into high density multi-family developments.

20 So we restored the CRH designation to that 21 area of the lodge as it traditionally existed and 22 restored the uses consistent with what that area was 23 designed for in the original Indian Lake plan.

We have a lodge there. There's a hotel there.25 There are existing townhomes there.

And the proposal to build 21 dwelling units,
 that number being limited by the capacity of our sewage
 plan, that's how the plan came about.

So this change from CR to CRH for that zone was to address the concern that someone would bulldoze the golf courses and build a gazillion multi-family dwellings, which I don't believe anybody thinks would be a really good idea, especially the golfers. That was supposed to be a joke.

So I don't want to see high density
development in the Borough. I think some development is
good. It's productive. It brings new people in here
and increases our tax base.

But I don't believe anybody wants to do high density development because I think that would destroy the character of what Indian Lake is.

17 It's a nice quiet little community and 18 everybody has their space, and if you want to get 19 together socially you can, but you're not forced to, by 20 virtue of living on top of your neighbor. So that was 21 the reason for that redesignation.

You'll note that the provisions relative to
the lodge have not changed much.

The CRG, which is the golf area, was a redesignation as well, and their provisions were

52 restored back to those that were traditionally there for 1 2 the golf courses, and that's why it was done. 3 \_ \_ \_ \_ \_ (Pause) 4 5 \_ \_ \_ \_ \_ 6 MR. MISCOE: Are there any other comments, 7 questions, members of council? Scott? 8 MR. MOORE: Yes. This is really in respect to the small A frames, essentially a cluster of elements, 9 and I believe in what I suggested to the planning 10 concerns to the Borough, and also to the commission is 11 that that should be designated its own area. 12 I do disagree with Michael as to does it allow 13 dense -- a more dense condition? Yes, but it can be 14 limited in how it's proposed. 15 The amount of units that be clustered to the 16 amount of land that is required, and I believe that the 17 A frame should be its own designated area. 18 19 I also believe that most of the residential that's being done in the CRH district should be done 20 under residential areas. They are residential. They 21 22 are not commercial. And that would also eliminate the potential of 23 24 people coming in and reorganizing the residential to a 25 commercial use.

53 Have some of the neighbors, even though they 1 2 can in relationship to going to a zoning variance. It would eliminate that problem. 3 I have recommended that we reevaluate all of 4 the residential areas for single-family, multi or 5 duplex, two units, look at multi-family and how many 6 7 units can be put together. 8 And also how we dwell with the mobile home situation that we are required by planning. 9 10 So those elements need to really be addressed in further direction. 11 12 And I hope the Planning Commission and the new Borough Council will adopt a different resolution as to 13 what we have now. 1415 MR. MISCOE: This is one of those issues where Scott and I have had a difference of opinion. 16 17 And I'm not sure that we'll ever resolve it, but I would suggest possibly that planning, as you're 18 permitted to seek the input of our borough solicitor and 19 20 have him evaluate the impact of creating a high density zone within the Borough and what potential impact that 21 22 could have to a developer of another area where maybe high density isn't expressly permitted, but in my 23 analysis of just zoning issues in general, I tripped 24 25 across a case that scared the heck out of me.

1 So probably it's not appropriate for me to 2 give planning that particular advice, but I would 3 suggest that you get that analysis from our solicitor 4 because I am concerned that as soon as we create a 5 district, and in the area of the A frames we don't have 6 -- they don't have the land capacity to say that you 7 need this density.

8 Their density is very, very high just because 9 they have such small lots, and that unfortunately we 10 can't change that now.

11 So when you create a density factor of 60 or 70 -- I don't know what it would be, with their 12 driveways or whatever they have, but it's going to be a 13 whole heck of a lot higher than what we have in our one 14 currently, and I'm just concerned about the impact that 15 16 that may create in our ability to stop high density development somewhere else within the Borough with a 17 developer that has the money. Push that into the board. 18

MR. MOORE: Again, it can be done by the amount of units that you can use within a cluster system and the land available.

There are ways to resolve that issue and do what's best for the owners of the A frames.

24 MR. MISCOE: Well, I understand that, but we 25 have, when you talk about making that a conforming use,

there are eight units currently and they're in a defined 1 2 area. And my point is, is that now that you've 3 created that as a permissible use within the Borough. 4 5 Imagine say UAI up at the airport replicating that one after the other in the some 20 acres that they 6 have there, and then you would have a city of A frames. 7 MR. MOORE: Again, you can do that by 8 9 maximizing or minimizing the amount of units that you 10 can do. MR. MISCOE: But you're already going to 11 12 permit what we have. That's my point. And now you're going to say that something 13 different should apply somewhere else. 14 And my concern is our ability to justify that 15 as to why we permit it here and not here becomes 16 17 compromised. And I think you should have some, if you 18 really believe that that's the way to go, get a legal 19 opinion as to the potential impact that that would 20 create in the future should a developer come in and try 21 22 to replicate what we have in the A frames somewhere else in the Borough. 23 MR. MOORE: I do agree with you. 24 25 We do need the legal review of it, but we also

1 need a better planning review from some people that have 2 worked with high density developments and the 3 organization of those. 4 And I think Bob Hanson has already alluded 5 that he is in the process of doing that, which I think 6 is excellent.

7 MR. MISCOE: We have, but at the end of the 8 day it's a judgment call for the members of council as 9 to whether they want to permit that or they don't want 10 to permit that.

11 It's not an issue of whether it's a good idea 12 or a bad idea or you're required to have high density or 13 you're not required to have high density.

14 It's just -- it's more of a, is that something 15 that we want within the Borough or not?

16 It's going to be up to the judgment of council 17 to decide that, and I think we should probably close off 18 there or we're going to continue to do this.

19MR. MOORE: I can give you more comment.20MR. MISCOE: Please.

21 MR. MOORE: Based on that is that we look at 22 the little A frames, and they're probably the most 23 expensive per square feet element that we have, building 24 that we have within our district.

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Our main concern is, yes, we want more

1 development with respect to a larger tax base as with 2 that type of a cluster system is that you could proceed 3 and generate more tax base than anything in the 4 residential area if it is done correctly.

5 So, therefore, we're saying what we don't want 6 to hear, but we want to hear it.

So there has to be even out not only for the
people who own essentially the A frame clusters, but
potential with developing it in another location to the
betterment of the community.

MR. MISCOE: I totally get what you're saying, and that's a little bit contrary to what you were saying about densities in R-2s and whatnot.

MR. MOORE: It's density factors -- we have no density factors.

Well, we have density factors, but the way that we have organized, there are ones which essentially don't have densities because one unit per lot is that we have an R -- CRH which is the only area that you can do multi-family.

21 MR. MISCOE: Right. And we have R-2 as well, 22 but we did add density factors to those to prohibit 23 development beyond what we have in R-1.

24 MR. MOORE: That can be done with the cluster 25 system.

58 MR. MISCOE: All right. We won't --1 MR. MOORE: This with what we have been 2 wrestling with. 3 MR. HANSON: This is resolvable. 4 5 I mentioned before Planning Commission is going to resolve this. The chalets are four chalets per 6 7 three-quarter acres. There's eight of them in a half-acre parcel which is almost identical to four 8 townhomes. 9 MR. MISCOE: Say that again. Eight-and-a-half 10 acres? 11 MR. HANSON: There are eight on one-and-a-half 12 13 acres. MR. MISCOE: Okay. 14 MR. HANSON: It's exactly one-and-a-half 15 acres. 16 It's four on three-guarters acre, if you ratio 17 18 it which is identical to four townhomes on a three-quarter acre lot. 19 MR. MISCOE: Right. The difference being 20 we're looking at the densities, structural density like 21 22 how big of a structure you can have to the extent we can somehow carve a density factor. 23 MR. HANSON: Four townhomes on a three-quarter 24 25 acre lot each with -- what's the footprint of your

townhomes? 11 2 MR. ST. CLAIR: I'm not sure. MR. HANSON: It's going to be at least --3 there are going to at least a thousand square feet for 4 5 each one. So the density of the townhomes is going to be 6 greater than the chalets. 7 That's why -- my only point is I don't want to 8 debate the issue just to state that it's -- I think it's 9 resolvable and we need to look at it. 10 MR. MISCOE: I agree. 11 MR. HANSON: As Scott said in terms of just 12 the densities, density of dwellings per acre and density 13 in terms of coverage per acre. 14 MR. MISCOE: Well, and just understand that 15 the densities that we're looking at is structural 16 density, not dwelling density. So that's the 17 18 difference. MR. MOORE: Density is density. 19 20 And I totally agree with Bob. It can be resolved very easily. 21 22 MR. HANSON: Yes. We just need to look at the numbers. 23 I think we need to come up with standards, and 24 25 I don't want to resolve it here.

I just wanted to point out that I think it is 2 resolvable.

3 MR. MISCOE: And I agree to the extent that 4 that may be something that council wants to do.

5 I would only point out that there is a whole 6 lot in this ordinance that we really need before we go 7 into a building season, and there is nothing that stops 8 the council from taking that issue specifically and 9 maybe hire a professional planner to do that piece of it 10 after 155 is either enacted or not enacted.

But it's up to the council to decide whether
they want to do that or not do that.

The question is, do you want to hold up the beneficial provision and the corrections that are put in 15 because of a perception that it's not perfect?

So that will be the issue for council.
Are there any questions, concerns, comments?
Yes, Doctor Moses.

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(Pause)

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DR. MOSES: If I understand correctly, this ordinance, and it's certainly an area that I think we need to address, this ordinance gives the Borough and/or the enforcement officer the right to make determinations

as to unsafe structures, unsightly structures, 1 unmaintained structures, and gives the Borough a 2 mechanism by which this can be dealt with notification 3 and/or removal of. 4 5 Are there guidelines by which the enforcement -- the enforcement officer is deemed? 6 7 MR. MISCOE: Dean Snyder. DR. MOSES: Okay. Are there guidelines by 8 9 which these determinations will be made that we can rely on on a conforming basis? 10 And if so, will that -- I mean is the Borough 11 legally within its means to be able to do this? 12 And I mean I agree that this is an issue that 13 we need to deal with. 14 And does this issue deal with also off lake 15 structures, not just structures that are on the lake, 16 17 but any structure within the Borough? 18 MR. MISCOE: Correct. DR. MOSES: Okay. 19 20 MR. MISCOE: I will let Dan answer. 21 DR. MOSES: I just want to make sure that we have a mechanism in place by which this can be enforced 22 and maintained. 23 24 MS. DEWAR: We just handled one situation. 25 MR. MISCOE: The genesis --

1 DR. MOSES: I can imagine which situation it 2 is.

3 MR. MISCOE: The genesis of those provisions 4 was a problem that was on the lake with the boat house 5 that we spent years and years and years trying to get 6 resolved, and we found out that we really didn't have 7 the teeth in our zoning ordinance to do anything about 8 it.

9 We had a nuisance ordinance, and we tried to 10 argue that some pieces of the structure fell into the 11 lake and creating a safety oriented nuisance and that 12 has been in litigation, I won't say active litigation, 13 but it has been back and forth between our solicitor and 14 their lawyer for five years.

15 And we put a provision in 144 to address that 16 situation.

And then, of course, the eventual legal
counter argument comes up and we tightened the screws
down on that.

And I will be -- I go to every Zoning Hearing Board meeting just to listen to how lawyers argue or interpret our ordinance.

And then after every single one of those we came back to the zoning committee and we have to tighten this up, we have to -- you know, words like device, and

I had made a comment to Bob where they asked to reinsert
 that word. No, no, no.

We are not going to reinsert that word, but I will let Dan speak to what the zoning enforcement officer's authority is with respect to declaring a structure under the MPC non -- I guess -- what would the word be, decretive or active or whatever.

8 MR. RULLO: We have a separate nuisance 9 ordinance, and in addition to the enforcement provisions 10 the zoning enforcement officer has the ability to issue 11 a notice of cease and desist.

And if that notice is issued, people have the ability to appeal his determination to the Zoning Hearing Board.

15 So there is a mechanism in place, but the 16 enforcement officer has to first make a determination as 17 to whether there is a danger to the health, safety and 18 welfare of the community by the condition of the 19 premises like the boat house we talked about.

It was in a dilapidated state, but it wasn't until we saw debris in the water that suggested that that could create a hazard to the health, safety and welfare of the boating public we had the ability to do something under the nuisance ordinance, because the zoning ordinance didn't really address it at that point.

Now, our zoning enforcement officer would have
 the ability to issue the termination.

If that person believed that that was not a correct determination, they have the ability to pay the money to have a hearing before the Zoning Hearing Board.

6 The Zoning Hearing Board would then have a 7 fact finding hearing to determine if in fact there 8 should be a reversal of the decision made by the zoning 9 enforcement officer, and then that could be appealed to 10 the Court too.

The section that Mike just showed me is the substandard dwelling section that's under our ordinance, Section 404.

MR. MISCOE: And you'll note that that extends to any structure, and it is not limited to boat houses. In fact, I will read it to you.

Any structure, including those that are incidental to the primary dwelling such as accessory buildings, boat docks, boat houses -- I'm sorry, I'll read that -- I have to read it slowly.

21 MR. McCAULEY: My concern is I would like to 22 eliminate as much as possible the haggling of lawyers.

23 MR. MISCOE: That's inevitable.

24 MR. McCAULEY: And being able to somehow that 25 we're clear on our definitions and our regulations so

1 that this can be upheld and maintained.

MR. MISCOE: The point that I was getting to, 2 and I have to read this for the record because I read it 3 4 too fast, including those that are incidental to the 5 primary dwelling such as accessory buildings, boat docks, boat houses, garages, storage sheds or the like 6 that is in need of such major structural repairs such 7 that it is unsafe as determined by the Borough building 8 code official. That's Somerset County Building 9 Inspector. 10 So if Dean believes that a problem exists, we 11 12 call Somerset County Building Inspectors who is the BCO. They come in and make a determination as to whether the 13 structure is safe or not. 14 15 And if their determination under the UCC that the structure is unsafe, I think we're pretty solid. 16 17 Now, are they going to challenge? Probably. 18 And can you avoid the eventual legal haggling that goes on? No. 19 I mean if the person that's on the other side 20 of that has enough money to pay a lawyer to fight, we're 21 22 going to have a fight. It's inevitable. 23 The last two years have taught me that unfortunately common sense sometimes doesn't prevail. 24 25 Lawyers are like nuclear missiles, and I say

1 that being one.

Everybody has them. That's great, but as soon 2 as you push the button on one, things get real messy. 3 4 And that's unfortunate, but that is the process by which these types of things get resolved, and 5 I hope that answers your question. 6 MR. RULLO: I object to the definition of the 7 words nuclear missile. 8 9 ----10 (Discussion off the record) 11 ----12 MR. MISCOE: All right. Are there any other questions? 13 14 \_\_\_\_ (No response) 15 16 ----17 MR. MISCOE: I appreciate those of you that braved the wintry conditions to come here and provide 18 your input. 19 I think this was a very good hearing. There 20 were some great questions, and I appreciate the 21 22 respectful manner in which you addressed the council. I will send an e-mail out through the Borough 23 website asking people who were not able to attend to 24 25 please feel free to submit comments both to council and

1 planning, and I will provide the e-mail addresses for 2 that and our informal notification system through Gay 3 Reed. She has a very broad e-mail database, but -- and 4 I use it only because we just want to make sure that 5 everybody has an opportunity to comment.

The next Planning Commission meeting where they will address this issue is January the 11th, and that will be at the Borough building for those who are interested in attending.

10 The Borough council's next meeting will be 11 January the 4th. It will be our reorganization meeting. 12 It is also advertised for business where the new members 13 of council will be seated and the council will 14 reorganize.

15 I thank you for attending and at this point --MR. VOGEL: Before you close, how long is the 17 record going to remain open for people that were not 18 able to be here today to make comment?

MR. MISCOE: We have -- you'll recall at the last council meeting under the provision of our ordinance that allows for a zoning or, I'm sorry, a Planning Commission final review, you have 30 days from the close of the public hearing to review public comments.

25

Then as I pointed out, the Planning Commission

will submit its comment to council. I don't know what
 meeting that will be.

Council will decide whether to proceed or not, and if it's decided to proceed, there is an additional advertisement and 10-day period. So I would imagine that we're 30 plus 10 plus a couple days.

7 There's probably a minimum of 45 days before 8 council to even -- thank you. A minimum of 45 days 9 before council could actually vote on this issue.

So I haven't done the math and the days 10 because we don't know when council is going to establish 11 their meeting dates, but under the presumption that they 12 do the second and fourth Wednesday of the month as we 13 traditionally have, I would think that that would occur 14 sometime in February, but I'm going to ask people to get 15 their comments to planning within that 30-day period 16 because it's planning's responsibility to review the 17 comments and make a recommendation to council. 18

Members of the public can always provide inputto members of council.

MR. LYONS: Jim Lyons.

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Is this limited to just people who haven't been here? That's how you're --MR. MISCOE: No.

MR. LYONS: Okay. That's how you're labeling

69 it. 1 MR. MISCOE: Forgive me. 2 Anybody can submit -- if you think of 3 something you didn't think of before, certainly, 4 5 continue to feed comments to planning. MR. LYONS: And the people that submit these 6 can read them on the e-mail? 7 8 I mean can they retrieve them back? Like if Bob puts one in, can they retrieve 9 10 them and --MR. MISCOE: I don't understand what you're 11 saying. 12 MR. LYONS: I guess what you're trying to say 13 is, is everybody going to be able to read everybody's 14 comments? 15 That's how I guess I should say it. 16 MR. MISCOE: Well --17 MR. LYONS: Is it just going to be submitted 18 to Gay Reed or to --19 MR. MISCOE: No. It would be submitted to the 20 Planning Commission and the Planning Commission -- I 21 mean all of this stuff becomes part of a giant pile of 22 records. 23 MR. LYONS: There is a lot of people I know 24 25 that couldn't come here today.

70 Some of them are in Baltimore, Maryland, some 1 called me and said can they get it postponed? And I 2 said I'm not in charge of it. 3 4 That's why I'm saying, to make sure that everybody knows what -- so it's not repetitive or 5 everybody has an idea they want to put into it, it's all 6 passed around. 7 MR. MISCOE: Well, I think at the end of the 8 9 day, I don't want to get into a situation where I'm 10 telling people don't submit comments that other people have submitted. 11 12 If they have comments, submit them. It's planning's job to sort out --13 MR. LYONS: I understand. 14 MR. MISCOE: -- if they get 221 comments, if 15 you forgot a period at the end of the sentence -- that's 16 17 why they get paid the big bucks. MR. HANSON: Each and every comment can be 18 posted to the Borough website for anyone to see. 19 MR. MISCOE: Okay. But I don't want to 20 21 restrict people that that's the only mechanism --22 MR. HANSON: You can post just as easily as anyone else can. 23 MR. LYONS: I'm not a computer guru. 24 25 MR. HANSON: If you send it to me I will post

1 it for you.

2 MR. MISCOE: And whether planning wants to 3 submit all the comments on their website, that's up to 4 them. It's not necessarily required.

I think that would be a useful idea, just so people can see what folks are complaining about or what their comments are, even to the extent that they're positive, but that is not required.

9 My point is that there is a mechanism to get 10 comments to planning via mail or e-mail.

MR. LYONS: And if there is substantial changes we have to have a hearing again, am I correct? MR. MISCOE: If there are substantive changes that council agrees to make, planning makes recommendations.

It will be once the recommendations go to 16 17 council, if council -- let's say there is a substitute change, we're going to create new zoning districts and 18 19 we're going to do all these different things, if council agrees to that, then that would be a substitute change 20 in which case those changes would have to be adopted, 21 22 they would have to be published, you have to readvertise. 23

24 MR. LYONS: I understand the process, but what 25 do you classify as a substantial change besides a map

72 change? 1 2 MR. MISCOE: That will be up to the --MR. RULLO: Depending upon what's -- we'll 3 have to look at the time. If it's --4 5 MR. LYONS: So you don't have an example? MR. RULLO: We received a red line version 6 7 from planning already. Many of them are grammatical 8 issues. MR. LYONS: Planning, Somerset Planning? 9 MR. RULLO: Indian Lake Borough. 10 MR. LYONS: Oh, I'm sorry. Okay. 11 I guess I recognize also Somerset planning is 12 13 just reviewing the zoning ordinance, I guess, which 14 hasn't been cleared up here, I guess. Correct me if I'm wrong. Somerset Planning 15 16 just reviews it, there's no conflict with Somerset County Zoning is really what he's reviewing? 17 18 MR. MISCOE: No. MS. DEWAR: I don't understand. 19 MR. RULLO: I'm not sure. 20 MR. MISCOE: Somerset County doesn't have a 21 22 zoning ordinance, number 1. 23 MR. LYONS: Correct. MR. MISCOE: The Somerset County Planning 24 25 Commission who does administer the Somerset County's

1 subdivision land development ordinance, okay.

2 MR. LYONS: Okay. MR. MISCOE: Now, subdivision land development 3 is a whole different section of the MPC from zoning. 4 5 But the MPC does require us to submit our zoning ordinance to the county planning agency for б review and comment, and their review and comment like. 7 For example, in Ordinance 99 there were a 8 number of things that they made comment on that they 9 felt were deficient. 10 Ordinance 144 they had not make comment. 11 12 Ordinance 155 they didn't make comment. We managed to dig a few extra things out of 13 them with some further prodding, but it will be up to 14 planning to decide whether we really want to put 15 conditional uses for adult uses and windmills and 16 whether we need provisions for surface mining. So those 17 18 are the substance of their comments. They are going to be -- those subsequent 19 comments will be made part of the record. 20 They've already been forwarded to all the 21 members of council as well as the Planning Commission. 22 23 If you'd like to see a copy, send me an e-mail. I have it on PDF. 24And, Bob, I think you can post that up on the 25

1 website as well.

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2 MR. VOGEL: Yes. I was going to ask if 3 council has no objection, I can post everything that I 4 have or have gotten or that we come up with on the 5 website.

All I need is permission.

7 MR. MISCOE: I don't think we can take a vote,
8 but I see no reason why --

9 MR. RULLO: In addition to the regular 10 postings and advertisements we have also been posting 11 the ordinance on the website which is not required.

So there is already, if you have the link to it, you can go on and see the ordinance.

14 If you have additional documentation you can 15 submit that. That would just make sense to me in the 16 scheme of trying to keep this as transparent as we 17 possibly can, provide all the comments you wish, and 18 because all the recommendations either from the Planning 19 Commission in the county or the Planning Commission of 20 Indian Lake Borough are advisory only.

It's going to be planning and city councilthat make the final decision on this.

But you want an example of what would be a substantial change, the comments we heard about the townhouses and changing that zone, that would be a

substantial change and that would require then a public 1 hearing, another advertisement. 2 3 If we're talking about grammatical changes or rewording certain things, that is probably not -- it's 4 5 going to depend on what we're looking at at the time. 6 MR. MISCOE: Some of the changes you asked 7 about the height, the maximum height, the minimum 8 height, you know, and to the extent that those things 9 need to be clarified consistent with what's already there, I think those are non-substantive changes. 10 11 The majority of the things that you suggested were not substantive. 12 13 When you talk about -- I think there was a thing you want to remove whole sections, I would think 14 15 that would be substantive. Are there any other comments or questions or 16 concerns from members of council? 17 18 \_ \_ \_ \_ \_ 19 (No response) 20 \_ \_ \_ \_ \_ \_ 21 MR. MISCOE: Hearing none, I'll go ahead and move that we close the public hearing. 22 23 I thank you for your attendance, and I appreciate your interest because I agree with Jim, dare 24 25 I say it, that this does have a big impact on the

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-	property value and that and that's why we go through		
2	this process.		
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1	Commonwealth of Pennsylvania)
2	County of Westmoreland )
3	I, Theodore E. Wawrzyniak, Registered Merit
4	Reporter-Notary Public, in and for the Commonwealth of
5	Pennsylvania, do hereby certify that the speakers,
6	were recorded stenographically at that the time and
7	place indicated herein, and that said comments were then
8	reduced to typewriting under my direction, and
9	constitutes a true record of the comments given by said
10	speakers.
11	IN WITNESS WHEREOF, I have hereunto set my
12	hand and affixed my seal of office thisday
13	of, 2010.
14	Theodore E. Wawrzyniak, Notary Public-Registered
15	Professional and Merit Reporter.
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1	PUBLIC HEARING
2	INDIAN LAKE BOROUGH
3	Re: Comprehensive Amendments )
4	to Zoning Ordinance No. 144 )
5	and repeal of all previous )
6	zoning ordinances, and the )
7	comprehensive enactment and )
8	recodification of proposed )
9	Zoning Ordinance No. 155 )
10	PUBLIC HEARING, in the above-entitled matter,
11	pursuant to the Municipalities Planning Code of the
12	Commonwealth of Pennsylvania, before Theodore E.
13	Wawrzyniak, Registered Merit Reporter-Notary Public, at
14	the Unity United Church of Christ, 2074 Huckleberry
15	Highway, Berlin, PA 15530, on December 19, 2009, at
16	10:15 a.m.
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18	
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22	WAWRZYNIAK REPORTING & VIDEO SERVICE
23	P. O. Box 368
24	Irwin, PA 15642
25	(724) 864-6993

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1	INDEX OF SPEAKERS
2	
3	MR. MISCOE - PAGE 4
4	
5	MR. RULLO - PAGE 8
6	
7	KURT MORGESE - PAGE 23
8	
9	BOB HANSON - PAGE 30
10	
11	MICKEY MOSES - PAGE 31
12	
13	JIM LYONS - PAGE 37
14	
15	BOB BUSTAMANTE - PAGE 47
16	
17	
18	
19	
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23	
24	
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	1. APPEARANCES:
	2 3 ON BEHALF OF INDIAN LAKE BOROUGH COUNCIL:
	4
!	5 MICHAEL D. MISCOE, President
	5 P. SCOTT MOORE, Member
	7 ROBERT VOGEL, Member
	RICHARD STERN, Member
1	CHARLES McCAULEY, Member PATRICIA DEWAR, Member
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1	4 MR. MISCOE: This is a public hearing for you
2	to discuss provide the council with any comments or
3	concerns relative to the proposed Zoning Ordinance 155.
4	
	I won't go through the history, but the
5	I won't go through the history, but the council appointed a zoning committee of five
5 6	council appointed a zoning committee of five individuals.
6 7	council appointed a zoning committee of five individuals. They were myself, Mr. Scott Moore from Borough
6 7 8	council appointed a zoning committee of five individuals. They were myself, Mr. Scott Moore from Borough Council, and then public members were Karl Chapman, Ron
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6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	<pre>council appointed a zoning committee of five individuals.     They were myself, Mr. Scott Moore from Borough Council, and then public members were Karl Chapman, Ron Petrina, and our current zoning officer, Dean Snyder.     We worked in public hearings for approximately nine months. We met twice a month.     There was a lot of work by members of the committee in between.     We completed our work, I believe in October, submitted it to council.     Planning has been given the opportunity to review the ordinance as we posted our changes.     We went two sections at a time, sometimes one section.     As we completed that work it was posted to the Borough website.     We certainly encouraged everybody to read that as we went and submit any comments.</pre>

We got an e-mail communication from Brad Zerfoss in response to a question that I had sent him at the request of council.

The Somerset County Planning Commission did their review and simply published a letter that they had no comments

Brad had indicated that he would perform a comprehensive review.

And there was a question as to whether he did that, and whether he had any comments.

I sent him an e-mail on December 11th at the request of council.

He responded and provided some additional 13 comments which will go to the Planning Commission for review.

Brad is a professional planner, and he simply stated I wanted to get back to you about the review of the proposed Indian Lake zoning ordinance this week, 18 although I didn't reflect it in my comment letter, I did 19 review the ordinance in depth, and I had just a few 20 minor comments and suggestions that I formed. 2

22 The author or authors of the draft ordinance are to be commended for an excellent job and for having 23 a good grasp of the Pennsylvania Municipalities Planning 24 20 Code.

24 parking provisions and to his perception that they're losing the ability to develop multi-family dwellings despite having no plans to do so. I drafted a letter back to him indicating that his comments would be forwarded to planning. The Planning Commission completed its review and they published their comments in a mark up to the ordinance which I have printed, and I submitted back to them a section by section analysis of what the rationale 10 It's obviously too lengthy to read. That will 11 also be made part of the record. 12 I will turn it over to Mr. Rullo right now who 13 will go through the legal aspects of the process that 14 we're in, the publications that we've done and where we 15 16 Before I do that, though, I realize that the

17 18 weather is a little bit inclement. 19 While it's not required by the Municipalities

was for those changes.

are going forward.

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20 Planning Code or provision that was a holdover from 21 Ordinance 99, I suggest a follow-up planning review 22 after the public hearing for 30 days.

We will send an e-mail out to those who are 23 24 not able to attend to submit their comments in writing 25 and we will forward those to the Planning Commission so

I also read Mr. Moore's comments as well. After speaking with Attorney Rullo today I will type up my notes and put them in a follow-up letter that I will fax to you and Attorney Rullo on Monday. I know that you have a hearing scheduled for December 19th, so I'll expedite getting it to you in case you need to discuss my thoughts with Attorney Rullo. I'll need your fax number or somebody can pick 10 it up. 11 If I can be of any help in the future, let me 12 know and so forth and so on. His comments were published. 14 They have been forwarded to members of council 15 and the Planning Commission, and essentially he had comments relative to minerals extraction, forestry activities, heavy industrial uses, the zoning map and 1 supplemental regulations relative to service mining, 18 telecommunication facilities and towers, steep slopes 19 and adult uses. 20 21 So those will be part of the record. 22 We also received a letter from Mr. Ed Smith of 23 Northland's Golf Course and Lake Properties, Inc. objecting on the basis that in summary to the parking. I won't read his whole letter, but to the

they have an opportunity to be heard. So as it turns out, that 30-day provision, because of the weather, may be fortuitous so that folks can get their comments in. Dan. ----(Pause) -----MR. RULLO: I think it's important just to set some context for this. We have had under appellate review Ordinance 144 which it had been enacted, and there had been appeals to the Zoning Hearing Board. The Zoning Hearing Board had taken testimony and rendered a decision and appeal that 144 had been taken, and it was under advisement for the better part of a year or longer, and the decision was rendered by 17 Judge Klementik affirming 144 as a valid ordinance. 18 So 144 is the ordinance that we have been 19 utilizing since its implementation and has now been 20 affirmed by the Court of Common Pleas. 21 This ordinance is proposed to be a new number 22 Ordinance 155, and it is a comprehensive revision of 23 144. 24 We are it treating as an amendment, although 25 it will be recodified as 155 under the Borough Code.

The sections that are important, I think to you for you to understand relative to the process is that first this is governed by the Municipalities Planning Code.

And Section 609 of the Municipalities Planning Code is the governing section, although I'm going to read 608 just into the record so you're aware of the process of the public hearing.

It says before voting on the enactment of a zoning ordinance the governing body, which would be the Borough Council, shall hold a public hearing thereon pursuant to the public notice.

The vote on the enactment of the governing body shall be within 90 days after the last public hearing.

Within 30 days after enactment a copy of the zoning ordinance shall be forwarded to the county planning agency, or in counties where there is no planning agency existing, the governing body of the county in which the municipality is located.

When we had 144 there had been multiple public 2 hearings and under that no action can be taken -- let me 22 23 just say it this way.

We have 90 days from today's date, if there 24 are no other public hearings, to take enactment. If we 25

the municipality at points deemed sufficient by the municipality along the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing. In addition to the requirement that notice be posted under clause 1, where the proposed amendment involves a zoning map change, notice of the public hearing shall be mailed by the municipality at least 30 days prior to the date of the hearing by first class 10 11 mail to the addressees to which the real estate tax 12 bills are sent for all real property located within the 13 area being rezoned as evidenced by the tax records within the possession of the municipality. 14 15 The notice shall include the location, date 16 and time of the public hearing, a good faith effort and 17 substantial compliance shall satisfy the requirements of 18 the subsection. And then it states that this clause shall not 19 20 apply when rezoning constitutes a comprehensive rezoning. 21 Council has taken the position that even 22 though this is in our view a comprehensive rezoning it 27 is intended to revoke all previous zoning ordinances, it 24 is better to err on the side of caution by giving more 25

don't, we have to start the process again. Now, under section -- the process being the advertisement process and the public notice process. Under 609, because there is provisions under this comprehensive change that also constitute a map change where there is actually going to be territories that either were unzoned or are being revised, there is additional process that has to be followed. And under 609 it states this: First of all for the purpose of identifying 10 which of the sections we're following, 609 states that for the preparation of amendments to the zoning 12 ordinance the procedure set forth in Section 607 for the preparation of proposed ordinance shall be option. Section 607 is the portion of the Municipalities Planning Code where planning agency initiates the changes as opposed to the governing body. 11 So we are following 609. Before voting on the enactment of an 10 amendment, the governing body shall hold a public 20 21 hearing thereon, which is the section I just referenced 22 before. 23 Pursuant to public notice, in addition if the 24 proposed amendment involves a zoning map change, notice of the public hearing shall be conspicuously posted by 25

12 notice than less notice. So from the standpoint of whether this is treated completely legally as a comprehensive rezoning, we're treating it as an amendment with map changes that has the higher level of notice requirements than otherwise would be needed. So consequently, because you'll see there are areas, in particular the lake itself, which was not zoned previously, it is now a municipal lake. The notice only needs to go to the owners of 10 11 the property that is being rezoned. 12 Frankly the lake bed is owned by the Borough. 13 So to be cautious we elected to give notice to everyone who even has -- is adjacent to the lake. 14 And as I understand it everybody, even the 15 back lots, received the postcard that was mailed as if 16 17 they would be affected by the map changes. 18 MR. MISCOE: Yes. 19 MR. RULLO: The advertisements under the 20 Municipalities Planning Code we did, instead of 21 publishing the full text of the ordinance which is over 22 a hundred pages, we published it in accordance with Section 610 of the Municipalities Planning Code which 23 24 permits the solicitor to prepare a summary. That 25 summary is still pretty voluminous. It had been posted.

13 There was an affidavit of posting that it was a date of November 11, 2009. posted at the county law library on Monday, November 16, The Borough Council has scheduled a public hearing on the comprehensive amendments to Ordinance It had been advertised in the newspaper of 144, which is proposed to be Ordinance 155, if enacted. general circulation, being the Somerset Daily American, Pursuant to the Municipalities Planning Code on two occasions. I'm providing this notification to you as agent of the Somerset County Planning Commission more than 30 days MR. MISCOE: November 20th and 27th. MR. RULLO: November 20th and the 27th. prior to the public hearing so that the planning agency MR. MISCOE: That's correct. will have the opportunity to submit comments and/or MR. RULLO: And the proofs of publication are recommendations. in the offices of the Borough manager. I'm also providing you with a copy of the 11 Under the code we are also required to provide 12 notice of the public hearing and the summary of the a copy of the full text and summary of the ordinance to modifications. the Somerset County Planning Commission. It is the intent of this proposed ordinance And by my letter to Brad Zerfoss, director of amendment to repeal all previous zoning ordinances and the Somerset County Planning Commission on November 16, the comprehensive rezoning of the entire borough by 2009, delivered by hand. reenactment previous provisions as well as amending the 1 We can make a copy of that record available for anyone who wishes to see it. It's in the public 19 records of the Borough. It's probably quicker for me to 21 155. I am delivering to you this date a 2: comprehensive change to the Indian Lake Zoning 23 24 The version shall -- being provided to you has 2

15 dated November 25th, 2009, addressed to me regarding the proposed Indian Lake Borough zoning ordinance amendments.

Dear Attorney Rullo: I have reviewed -- I'm sorry. I have received and reviewed the proposed comprehensive changes to the Indian Lake Borough zoning ordinance that you submitted to the Somerset County Planning Commission for review pursuant to the Pennsylvania Municipalities Planning Code.

10 It is my understanding the proposed ordinance 11 amendment will appeal all previous zoning ordinances, and the comprehensive rezoning of the entire borough by 12 13 reenacting previous provisions as well as amending the 14 language from previous ordinances.

15 The Somerset County Planning Commission has 16 completed the review of the information and has no 17 comments to offer at this time.

Please feel free to contact me if I can be of 18 further assistance. 19

20 As Mr. Miscoe indicated, we did contact them 21 and ask them if they could provide any additional 22 assistance, and I understand that's the letter you referenced. 23

MR. MISCOE: Yes.

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2009.

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just read it.

Ordinance.

MR. RULLO: The last piece of business from

language from previous ordinances. A recodification of this is being done so it 20 would be recodified as proposed Zoning Ordinance Number If you have any questions about the foregoing, please don't hesitate to contact me, and I carbon copied this to council and to the Borough manager. We received a response back from Mr. Zerfoss the standpoint of the notices is the notice that was given pursuant to the Municipalities Planning Code to our own Planning Commission, and that was delivered by

the Borough manager by hand to the Planning Commission on November 16th also.

And it indicated under delivering this day a comprehensive change to the Indian Lake Zoning Ordinance, the version being provided to you has a date

of November 11th, 2009. 10 The Borough Council has scheduled a public

11 hearing on the comprehensive amendment to Ordinance 144 which was proposed to be Ordinance 155 as enacted. 12

13 Pursuant to the Municipalities Planning Code I am providing this notification to you as agent of the 14 15 Indian Lake Borough Planning Commission more than 30 16 days prior to the public hearing so that the planning 17 agency will have the opportunity to submit comments and/or recommendations. 18

19 I am also providing you with a copy of the 20 notice of the public hearing and the summary of the 21 modifications.

22 It is the intent of this proposed ordinance 23 amendment to repeal all previous zoning ordinances and 24 the comprehensive rezoning of the entire borough by 25 reenacting previous provisions as well as amending the

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1	language from previous ordinances.
2	A recodification of this also is being done so
3	that it will be recodified as proposed Ordinance No.
4	155.
5	And that was signed by Theresa Weyant, Borough
6	Manager.
7	Those are the provisions. Today is the time
8	for any public comment about that.
9	The scriveners of those documents, most of
10	them are here to answer any questions that you may have.
11	I will try to answer any legal questions that
12	may come up relative to the procedure.
13	MR. MISCOE: Thank you, Dan.
14	I would also point out that after this
15	meeting, as I pointed out earlier, the transcript of
16	this hearing will go to the Planning Commission.
17	They will have 30 days a 30-day period
18	subsequent to this meeting to review that.
19	We will also solicit comments from people who
20	could not come in.
21	We have encouraged folks to submit those
22	comments beforehand, and we have in fact received a few,
23	but we will take advantage of this additional 30-day
24	period.
25	The Planning Commission will then make its

readvertise in one newspaper of general circulation in the municipality a brief summary setting forth all of

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	5 I would point out that because there are
	6 substantial amendments, Dan, please tell me if you
	7 disagree, we do have a requirement under Section 610 to
	advertise ten days prior to actually taking a vote.
1	9 And I, even though that it's an expensive
1	ad because the summary was over five pages in length, I
1	believe that we should probably do that as well.
12	2 So it will there is some additional time
13	once planning comes forward with their recommendations,
14	council decides whether they want to proceed to a vote
19	or not, I believe there is one extra publication that we
16	would have to do.
17	MR. RULLO: Yes. Section 610, which is the
18	section I referenced about the summary of the ordinance
19	about publishing in a newspaper in general circulation
20	) in accordance with the MPC, as well as posting it in the
21	county law library.
22	It does provide in the event substantial
23	amendments are made in the proposed ordinance or
24	amendments before voting upon an act the governing body
25	shall at least ten days prior to the enactment
	20
1	We're certainly not going to take any action
2	We're certainly not going to take any action at this meeting for all the reasons that Dan just
2 3	We're certainly not going to take any action at this meeting for all the reasons that Dan just reviewed, and this is your opportunity to let members of
2 3 4	We're certainly not going to take any action at this meeting for all the reasons that Dan just reviewed, and this is your opportunity to let members of council know what your concerns are, what you have
2 3 4 5	We're certainly not going to take any action at this meeting for all the reasons that Dan just reviewed, and this is your opportunity to let members of council know what your concerns are, what you have questions about.
2 3 4 5 6	We're certainly not going to take any action at this meeting for all the reasons that Dan just reviewed, and this is your opportunity to let members of council know what your concerns are, what you have questions about. As I said, some of you may have gotten the
2 3 4 5 6 7	We're certainly not going to take any action at this meeting for all the reasons that Dan just reviewed, and this is your opportunity to let members of council know what your concerns are, what you have questions about. As I said, some of you may have gotten the December my December newsletter by e-mail.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	We're certainly not going to take any action at this meeting for all the reasons that Dan just reviewed, and this is your opportunity to let members of council know what your concerns are, what you have questions about. As I said, some of you may have gotten the December my December newsletter by e-mail. I would not like to see this develop into a shouting match or a debate. Present your concerns. Respect other people that are here. If you can identify the specific section that you have concerns about, and what those concerns are. Those types of comments are very helpful to council. Specifically if you think that we have overlooked a possibility or an impact that that change might have. Those comments will be then they're being transcribed. They will be submitted to planning. Planning will review them. They will make recommendations to

recommendations to Borough Council.

whether to move forward or not.

The next council after the first of the year,

when they reorganize, will then make the decision

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the previous provisions in reasonable detail together with the summary of the amendments. So depending upon what adjustments are made, the question that would come in as to whether there are substantial amendments or not, but if they are -------(Discussion off the record) -----MR. MISCOE: Dan would like to note another interesting point. There are -- I think the Planning Commission did an excellent job. They identified a number of things that I think we should probably add to clarify provisions. I don't believe that they constitute substantial changes, but based upon public comment 19 relative to some of the provisions that I know that there is some question about should a substantial revision need to be made, we would have to readvertise,

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that point.

have another public hearing and go through this process 22 again. 23 24 So we are, I would say, at the beginning

25 phases of the enactment process.

21 MR. RULLO: One other thing I want to mention. Dean Snyder is not here, right? MR. MISCOE: No. MR. RULLO: I have been informed that Dean has posted the notices conspicuously at various locations across the Borough, and the exact locations, I think he can make available. MR. MISCOE: He did leave exemplars here of what he posted, but for each district he made these notices and publicly posted them around the boundaries of the property. There is one for the CR to CRG which was posted around both golf courses, and it's apparent that at least the public golf course was aware of it because they sent us a letter. They were posted around the lake and apparently those were noticeable because someone called me and asked me what are these orange signs around the lake. And then the -- we posted the wildlife preserve area because we had a provision for it on the zoning map, but it wasn't defined in our zoning ordinance as a zoning district. So those were the notices that were posted out there, and I even exercising caution asked Dean to take

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1	MR. MORGESE: My name is Kurt Morgese,	1	MR. MISCOE: I can certainly understand your
2	M-O-R-G-E-S-E.	2	concern.
3	And I own one of the little A frames where the	3	And for those that aren't familiar, and I
4	little cute A frame cottages are.	4	appreciate the comment because it's one of those
5	My concern, I have two.	5	problems that we have wrestled with.
6	One. I'm not exactly sure anymore what we are	6	The A frames are made of a for share a common
7	zoned. I believe it's a recreational commercial.	7	septic system, and the lot sizes do not meet any of the
8	And so in that I think I have a \$750 building	8	lot sizes for single-family residential districts that
9	permit if I want to build, and I think everybody else is	9	exist throughout the rest of the Borough.
10	50.	10	Ever since Ordinance 50 well, I don't know
11	So I'm not real crazy about that. I'm hoping	11	that they've ever had their own zone, but I can go back
12	we can do something.	12	as far as Ordinance 50, and you have been part of in
13	The second thing is, I'm concerned that if	13	Ordinance 50 you were part of the CRH district.
14	we're on a kind of need to when I read the ordinance,	14	In Ordinance 99 your area was rezoned CR.
15	if we want something done it's on an ask and maybe	15	In Ordinance 144 you remained in CR.
16	you'll receive.	16	And in Ordinance 144 returning back to CRH
17	So that seems a little bit vague and I don't	17	which is what it was in Ordinance 50.
18	know. That's not comfortable to me. So those are my	18	The problem is is that single-family
19	concerns,	19	residential dwellings are not expressly permitted uses
20	We're kind of our little own community of	20	within either the CRH in 50 or the CR in 144 or in the
21	eight, and we kind of don't really have a rule, and the	21	CRH zone in proposed 155.
22	one that we do have costs a lot of money for a 500	22	And as a non-conforming use within a district
23	square foot A frame.	23	there are under the current ordinance. I agree you
24	So those are just two concerns that I wanted	24	don't have a \$750 building permit.
25	to voice.	25	The building permit is still \$50, but it will
- 1		1	

22 pictures of them in the event that someone were to pull them down or allege that they weren't there. So, and of course, this postcard, I believe everybody should have gotten one of these, but every property owner according to the tax rolls got this notice. Even though we're only required to notify people that actually own the property being rezoned, we felt it prudent to notify everybody that might be affected. 10 11 So that's -- I think we have -- learning from some of the issues that came up in 144, we have tried to 12 13 make this process as transparent as possible throughout. I've even been accused of providing too much 14 information, but better too much than not enough. 15 So now it's your turn. Please indicate your 16 name for the record and go ahead and state your concern. 17 18 MR. MISCOE: Anyone? ----19 20 (Discussion off the record) 21 ----22 MR. MISCOE: Go ahead. 23 -----(Pause) 24 25 ----

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get denied because you're not permitted to alter a prior non-conforming use.

It's a rule that you can keep what you have, but you don't -- you're not allowed to change it unless you can make it conforming, and unfortunately there is no way to do that.

Now, the options are to carve out a district
and define limits that allow you to exist as conforming
uses in which case then if you want to put dormers
somebody put on and do those types of modifications,
then as a conforming use you would submit a normal
permit and be permitted to do that.

The problem that that creates is that we introduce a high density zone into the Borough, and currently we don't have any.

We sort of inherited the chalets as part of the original development plan because they weren't meant to be homes. They were meant to be rental properties for skiers.

20 They became homes. They got sold off, and 21 they don't have lot sizes that have substantial setbacks

and whatnot that you would find in a normal R-1

23 district.

24 So the density of that zone and intensity of 25 use is such that if we were to carve out a zone and make

that stinks, but balancing the concern of the \$750 for you or the potential introduction of high density development elsewhere in the Borough in areas that are capable of that development, we opted for changing the definition of what constitutes an alteration to allow you to do some of the minor things without having to pay that money, and, B, create special exception authority, which is a lower threshold of analysis for the Zoning Hearing Board than a variance which technically if you 10 read Section 105 of the ordinance, the location and the density with which your properties were built is deemed 11 12 already understandable and it wouldn't qualify you for a 13 variance. 14 So that's I think the best that we can do.

15 short of opening the door to high density development in
16 the Borough.
17 And I know that that stinks for you, but we

would like to roll back the clock 30 years and change a
lot of things about what was done in the Borough, but
we're stuck with it.

So that's the trade off and that's a judgment
call that council will have to make as to whether they
want to create that zone or not.

24 MR. MORGESE: Well, then could you clarify one 25 other thing. that conforming, we open the door for someone to say, well, hey, you have high density in the Borough. We want high density over here, and that makes me a bit nervous.

5 Now, input in the alternative, we very 6 carefully considered what constitutes an alteration to 7 ease some of the burden on existing prior non-conforming 8 uses to permit you to do, you know, fix your roof or do 9 things of that nature that would classify or constitute 0 minor alterations.

So that that work can be done without getting
 clearance from the Zoning Hearing Board.

But the \$750 comes into play when you want to
make structural alterations, reconstruct, things of that
nature such as a dormer.

To the extent and, Scott, help me out here,
whether that would constitute a structural alteration.
MR. MOORE: With the A frames, yes, because

unfortunately the entire wall is a structural system.
 MR. MISCOE: Right. So, and unfortunately

20 MR. MISCOE: Right. So, and unfortunately 21 there is -- the only mechanism that exists for allowing

22 the alteration of a prior non-conforming structure is a

23 special exception process or a variance from the Zoning

Hearing Board. That's all the MPC allows.

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25 And unfortunately there's a fee for that, and

28 If it's zoned recreational commercial, and just, for instance, I decided to become a renter of golf clubs, is that my right? MR. MISCOE: You're in a district. So to the extent that you were going to convert your structure to a commercial structure, now you have some setback issues that I don't think you have enough property to meet but, you know, there's home occupations which are permitted elsewhere in the 10 district. 11 But what would stop you from turning your A frame into a commercial building would be probably some 12 13 labor and industry stuff, but setbacks. MR. MOORE: A building of that size, labor and 14 15 industry -- well, it's not involved anymore. 16 It's the building code official, number one, and it's small enough that the requirements for life 17 safety issues would be met because it's very small. 18 19 It would be very feasible for you to ask for 20 exception of easements or setbacks for the zoning 21 variance and be granted a commercial use. MR. MISCOE: Yes. I mean it's possible, but 22 23 again you would have to go through the same process 24 because there is going to be some requirement in that 25 zone that you're not going to meet.

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1	MR. MORGESE: So basically what you're telling				
2	me is I bought an A frame that I basically have no right				
3	to do anything I want to do without approval from				
4	someone else?				
5	MR. MISCOE: Well, I wouldn't say no right.				
6	You have the right.				
7	I mean there is a process by which you can get				
8	approval, and I think we have drilled some pretty big				
9	holes in that process recognizing that there are				
10	alterations that you may need to make, and I believe				
11	that the special exception requirements by lowering the				
12	threshold.				
13	There is nothing I can do to change the MPC in				
14	terms of how that process works, but there is now, I				
15	think an easier mechanism for you to get that dormer put				
16	on, and in fact somebody went through that process and				
17	got an approval.				
18	MR. MORGESE: I understand better.				
19	MR. MISCOE: So it's doable. It just cost				
20	more and unfortunately that's just by virtue of the				
21	nature of how that area was laid out.				
22	We're stuck with it and the only way to fix it				
23	is either to open up the door to high density in the				
24	Borough or leave it the way it is.				
25	It's just going to cost you a little more, and				
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1	a meeting in January.	1	So I am allowed to have 30 feet
2	So Brad and this gentleman from DCED are going	2	wider than eight feet, I believe.
3	to come and hopefully explain to us what some of the	3	There's a CR stipulation now wi
4	options are to try to address that situation, but I	4	somewhere near 50 feet of dock, depending
5	guess that's it.	5	line, topography, and then another one wh
б	MR. MISCOE: Thank you, Bob. Doctor Moses.	6	see in 144 for commercial which goes back
7		7	extending into the lake.
8	(Pause)	8	Is that am I correct on that
9		9	some clarification?
10	DR. MOSES: Yes. I'm Mickey Moses.	10	MR. MISCOE: Marine.
11	I'm at 121 North Peninsula, which is a lake	11	DR. MOSES: I think those were
12	front.	12	some significant issues of contention as
13	I want to congratulate you. This looks like	13	of dock extending into the lake and safet
14	the Senate health care bill.	14	involved with it.
15	MR. MOSES: My printer ran out of ink.	15	Again, my concern personally ea
16	I want again to try to go over the	16	hundred feet into the lake is at least in
17	clarification of one of the issues that was of	17	estimation a significant danger from the a
18	significant concern to most of us when we began this	18	encroachment into the lake and adequate by
19	process way back in '99, and then with 144 and now with	19	utilization, skiing, tubing, et cetera.
20	the new printing that I have here, and that is with	20	I would like some clarification
21	respect to the definition and the length of docks.	21	was changed, and what we may consider in t
22	As I look at 144, and then I compare that to	22	this is ratified.
23	this present, there seems to be some differences.	23	MR. MISCOE: Okay. As a point of
24	There seem to be three different	24	clarification, what used to be Section 130
25	classifications. I am a lake front owner.	25	144 was foiled because we zoned
		1	

DCED, which is the Department of Community and Economic 21 22 Development. That department has been sponsored by the 23 government to provide assistance in planning and zoning 24 to municipalities, and they have also agreed to come to 25 32 of dock, no ith I think upon the shore hich I didn't to 100 feet and I need -- those were to the length ty factors arly on, a my -- in my standpoint of oat as to why that the -- before of 07 of Ordinance

I apologize for that.

MR. MORGESE: Thank you, MR. MISCOE: Anybody else?

----(Pause) ----MR. HANSON: My name is Bob Hanson, H-A-N-S-O-N. I'm chairman of the Planning Commission.

The Planning Commission has wrestled with this

It's one of the only comments. I shouldn't

So we have not yet made a recommendation to

As Mike said, there are a number of options,

Hopefully in January Brad Zerfoss from

20 Somerset County, and a gentleman from Pittsburgh, the

12 say one of the only, but it's one of the comments that 13] we are unanimous on that we need to address. We are not

unanimous on how to address it.

and we're looking at them.

council as how it would be addressed.

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18 19 comment.

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UNIDENTIFIED SPEAKER: Did you memorize these	1	It was mentioned that all the land within the
things?	2	Borough has to be or should be zoned.
MR. MISCOE: I have been doing this a long	3	There was a question as to whether the Borough
time. That's scary enough.	4	is responsible to zone its own property, and we elected
UNIDENTIFIED SPEAKER: Holy mackerel.	5	to go ahead and take that area that is the lake, zone it
MR. MISCOE: Trust me, never in my had I	6	municipal lake and create permissive uses for the
ever expected or even desired to want to know anything	7	adjoining property owners.
about zoning, but Section 1307 was the provision in	8	So we took 1307 and all the boat docking and
Ordinance 144 that pertained to docking in the various	9	boat ramp and boat house provisions relative to what you
districts.	10	do on the other side of your property that you don't own
We, due to comments that arose during the	11	and made those explicit permissive uses, and
hearing process during the challenge of 144, it became	12	unfortunately we changed the ordinance.
apparent to me that zoning is about how you regulate	13	Instead of going district by district we did
what regulations the Borough places on your use of your	14	use by use, and then put the district requirements
property.	15	underneath.
And the problem came in is that the lake isn't	16	Both in Ordinance 144 and proposed 155, the CR
owned by you live on the lake. Your property line	17	district had that 50 lot size of 70 because there's a
ends pretty much at the water line. There's pins and so	18	recession in the lake front there. So that hasn't
when we start talking about regulating the use of the	19	changed.
land beyond your property line, we're in effect not	20	The 100 foot provision applies to the CM
placing a restriction on you.	21	district only, and that is the marina.
We are granting a use to you on property owned	22	And I wish I could say that at the time more
by the Borough.	23	analysis when we put that into 144 more analysis went
And it was brought out, and the judge even	24	into it, but I went out to the marina and took a laser
made a comment about it, that that area was not zoned.	25	distance measuring gizmo and shot a line out to the end
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safety hazard.

of their docks and got 97 feet.

traditionally installed.

35 And I would point out that under Ordinance 99 docks were not a permissive use for the marina which is from the public ramp. kind of ludicrous because they sort of need them. And so we looked at what they had and had I think Jim Brant was responsible for most of feet. the floating dock expansion out at the marina, but that's where the 100 feet came from. Of course, you know we originally proposed a 10 similar requirement for the lodge. Based upon public concern it got scaled back 12 to 70 and then it got scaled back to 50. 13 We had that issue studied, and while some 14 challenged the depth of analysis that went into that 15 docker's study of the safety issue for the docks at the 16 lodge it was concluded that they did not present a 18 So to the extent that there is a 100 foot 19 provision, and it applied to the CM area of the lake adjoining the CM district, they have 40 feet from the 21 island which is granted by easement. 22 Many years ago there was a recorded easement 23 that they can go 40 feet out from the island, but the 30 24 -- or the 100 feet applies in that cove area next to the 25 answers your question.

public ramp, and in reality they can't go much further than that or they start to block off access to the lake There's the other area over on the other side towards the spillway that they -- I didn't measure that, but I know it doesn't go out further than a hundred So the comments that I have received from people, there's apparently no concern about safety back there because they're back deep enough they're out of 11 the main traffic ways anyway. And that didn't seem to be a problem or -- and up to this point I had not heard a concern expressed about safety of docks going a hundred feet out from the shore line in that area. The R1 remains at 30. We certainly have a number of places 17 throughout the lake prior non-conforming uses where the docks go out substantially further. So to the extent that they continue those uses 20 we will have -- we have some docks that are longer than 30 feet, but I think 30 feet is a reasonable restriction being that pontoon boats can be 30 feet long. And that I believe is where the 30 foot restriction originally came from, and I hope that

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2	(Pause)
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4	MR. MISCOE: Jim.
5	
6	(Pause)
7	
8	MR. LYONS: My name is Jim Lyons. I live in
9	Mohawk. I have a house there. I don't live there.
10	I guess my one question is that the zoning
11	committee, it was appointed which I think, is it four
12	people?
13	MR. MISCOE: Five.
14	MR. LYONS: Five people.
15	Did they take a vote when this was done?
16	From what I understand, I've asked three or
17	four of them and they all said no.
18	I guess the conclusion was that you said that
19	you were going to get this done by the end of the year,
20	so you were done with it.
21	I just want to make sure that the committee,
22	even at the Borough Council meeting made a conclusion
23	that they weren't done. They said it needs some more
24	work.
25	I understand you've put a lot of time on it,

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1	hundreds of hours I think is the words I meant, but this
2	affects a lot of people, a lot of lives, a lot of
3	investment. I know there is a lot of problems.
4	I probably am the leader of a lot of the
5	problems, but I think that this committee I know it'
6	going back to planning. Planning has some questions.
7	I guess my request is, do you think the first
8	committee was done with it yet?
9	Are you forcing it through the system to get
10	done what you want to get done?
11	The CEHR district has a lot of questions. We
12	had one here already.
13	This gentleman has a small townhouse that
14	somebody could do something right across the 50 foot
15	district, 50 foot lot. I mean it's so open for anybody
16	to do anything there.
17	And I guess zoning was actually created so
18	that no people next door or around or whatever will be
19	hurt from anything, and it's a control factor.
20	This is one of my two of my questions.
21	One. Is the zoning committee done with it?
22	And I know that they weren't.
23	Are we forcing this through, and have we given
24	a lot of thought for the safety investment of the people
25	of Indian Lake?

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1	I don't want anymore issues brought up later.	1	
2	I just to make sure that this costly thing is	2	sec
3	only one cost thing, not a several cost thing.	3	
4	Obviously the 144 brought up a lot of	4	
5	problems, which I agree a lot of them were corrected.	5	con
6	Some of them were changed. Maybe some of them are worse	6	lod
7	now. Some of them are better.	7	
8	I just think that a little more time, a little	8	som
9	more thought needs to be put in the whole ordinance,	9	eve
10	even though it has good changes.	10	
11	Nobody wants to absorb anymore expenses, and	11	lis
12	nobody wants to lose anymore values of their properties	12	i
13	or any lives taken because of some changes in some	13	
14	areas, for example, the docks. There is no control with	14	vote
15	the docks.	15	
16	So that's my comment. It's not a detailed	16	was
17	comment. It's not a particular zone.	17	
18	I just feel that it was rushed through in	18	he 1
19	conclusion, and some areas were really hammered and some	19	subr
20	people have some very tight ordinances to follow and	20	
21	some have none.	21	thro
22	So I just thought we should have a little more	22	the
23	thought.	23	
24	MR. MISCOE: Do you have any specific I'm	24	for
25	not sure I understand what's tight, what's loose.	25	

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1	UNIDENTIFIED SPEAKER: Do you have the
2	sections?
3	MR. LYONS: No, I don't have any section.
4	What I'm saying is that it literally has no
5	control whatsoever, the CRH district zoning around the
6	lodge, around the ski slopes, anything.
7	There's no control whatsoever, and there is
8	some very nice homes on either side of that and
9	everything can be put in there.
10	Anything can be put in there, if you have that
11	list, if you read the list.
12	MR. MISCOE: Thank you.
13	As far as the committee vote, we did take a
14	vote as we were breaking up.
15	The only other member of the committee that
16	was at that meeting was Ron Petrina.
17	Do you remember and I'll put it to him, if
18	he recalls me asking if the committee approved
19	submitting it to council.
20	MR. PETRINA: As far as I was aware, we were
21	through with the ordinances. We were ready to present
22	the ordinance to council.
23	MR. MISCOE: And Scott had recorded a no vote
24	for you. You weren't there.
25	MR. PETRINA: That's correct. I was not there

41 or approved what was submitted. MR. MISCOE: Right. MR. PETRINA: But with that I submitted a letter dated 11-11 to council noting my concerns. MR. MISCOE: Yes. And that letter -- do you recall I forwarded that to Brad? MR. PETRINA: Yes. MR. MISCOE: Along with that so he would have the benefit of your concerns when he conducted his review. Above here where it says Petrina, it should be someone else. MR. PETRINA: Mike, one other question. 13 I am Ron Petrina. What we didn't tell the public is the public 15 16 was invited to all of our meetings, every meeting we had biweekly. 17 If you had any doubt of what we were reviewing, revising, you were invited to come. It was open to the public. Very few faces did we see there. Hopefully we 21 could have seen you all there, but we didn't. But these ordinances, we've spent a lot of 23 time, did a lot of work on them. We put our heart into them, and I don't have anything else to say.

43 what I perceived council's intent was at the time, we reclassified that district accordingly.

We did increase the restrictions in that district relative to setbacks, parking provisions, grading, filling that apply throughout the Borough equally.

We've added to the -- we standardized the
commercial setback requirements for all the commercial
zones, and we have a section for all the commercial
zones relative to special permitting requirements that
did not exist before, but they apply to all the
commercial zones equally.

We're trying to achieve -- we're not trying to
single anybody out and we're not trying to treat anybody
specially.

So to the extent that those requirements make 16 sense for commercial activity, they were written to 17 apply equally throughout the ordinance, and if you can 18 19 provide some more specific issues that you have, Jim, 20 relative to things, I'm sure the Planning Commission 21 will look at that and council will look at that as they 22 go through it, but let's face it, a lot of the things are going to be judgment calls as to whether -- how do 23 24 you balance this person's use against that person's 25 right to enjoyment.

42 MR. MISCOE: Thank you, Ron. I would point out that they were publicly advertised meetings. They -- we had originally anticipated being done by June. We took almost twice that much time. I will be the first to admit that that was not wasted time. We wrestled with a number of provisions, and I empathize with the Planning Commission having 30 days to try and wrestle through the same stuff which is why we 10 tried to keep everybody up to speed section by section 11 12 as we went through so that it wouldn't be this giant go through 115 pages of ordinance to try to internalize 13 what is -- not only what is in there, but all the 14 15 potential impacts that occur in each zone. 16 The -- with -- you had mentioned the CRH zone. 17 That area was reclassified to CRH simply to address the concerns that were raised with respect to 144 that we would end up with 9,000 townhomes or multi-family dwellings on a golf course should they be -- that was 20 never perceived -- that was never the intent of that 21 provision, adding that to that district in 144. It 22 wasn't perceived to be practically possible. 23 24 However, to the extent that it might happen, 25 theoretically, that -- and it wasn't consistent with

And zoning as I see is it not about eliminating every possible annoyance from your neighbor. It's substantial impacts. If you were to eliminate every possible annoyance, lot sizes would have to be 20 acres so you couldn't see your neighbor or hear them or be bothered by them at all. We have a community. We have one acre lots. You've got neighbors and that's the juggling act, and for anybody that has sat through the meetings, Dick was 10 11 kind enough to show up and lend us some input as well. 12 We had a pretty diverse group in the zoning 13 committee with Karl who has been around the Borough for years and years and years and was especially helpful 14 because of his ability to say okay, here on this guy's 15 lot over here in this particular area this is how that's 16 going to play out, and this is the issue over here. 17 And Ron, as the zoning officer in dealing with 18 19 zoning issues and what people want to do with their 20 lots, had a lot of input specific to individual areas of the lake and that's understanding how a provision is 21 22 going to impact people is the hardest thing to do 23 because you can't possibly anticipate every person's use. We did the best we could. 24 25 I will tell you it's never going to be

perfect. It's never going to anticipate every use, but by refining our definition, refining our provision we hope to have an ordinance that our zoning officer can actually apply objectively with a minimum amount of subjectivity.

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And to the extent that somebody is not permitted to do what they want to do, provide an easier process for getting minimal changes that account for weird stuff that happens in the Borough because frankly I agree with Scott there wasn't a whole lot of comprehensive planning done when the Borough was laid

12 out 30, 40 years ago. They didn't think of all these things, and if 13 14 they had we would probably have an easier job, but they 15 didn't, and so there is some judgment issues in here as 16 to what's the best way to do something, and that will be for the next council to figure out.

Did I want to get this done, to answer Jim's question? I really did. 19

We have been -- because for the things that 20 21 are wrong with 144, sections that we didn't address, we 22 didn't do the comprehensive. We did a pretty 23 comprehensive job.

There was a lot of stuff that was left 24 untouched from '99. The members of the committee, we 25

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1	MR. MISCOE: Yes.	1	somet
2	MR. BUSTAMANIE: Bob Bustamante,	2	somet
3	B-U-S-T-A-M-A-N-T-E.	3	
4	I'm a fairly new resident of Indian Lake. I	4	
5	haven't even been here for about a half year now.	5	is ou
6	And I think it's fantastic and I really am	6	
7	looking forward to many, many years of enjoyment here.	7	99, 1
8	And I understand there's a lot of things that	8	
9	you've done, a municipal lake creating and actually	9	own l
10	zoning for the municipal lake and setting a site or	10	mixtu
11	refining the terms for docks and things like that, but	11	uses.
12	there's in reading the ordinance, and I went through	12	
13	I guess I looked at not word for word, but I went	13	distr
14	through it pretty well.	14	into
15	I'm just kind of wondering what was the	15	for r
16	objective?	16	non-c
17	There's a lot of reasons why you did different	17	
18	things in there, but not knowing the history of Indian	18	setba
19	Lake and everything that's happened around here, what	19	permit
20	was the objective in changing the commercial, the	20	
21	recreational and all that zoning to the way you're doing	21	develo
22	it now?	22	6?
23	Was there something that is going to make it	23	
24	is it going to make it more definitive or is it	24	
25	something that's going to was the objective to keep	25	time,

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1	all agree Ordinance 99 was a very, very bad ordinance.
2	Ordinance was a little better.
3	We think 155 is substantially better. Is it
4	perfect? No, but you'll never find a perfect ordinance.
5	The issue is it boils down to how much thought
6	went into it, how much diversity of opinion was involved
7	in coming up with the provisions.
8	And I would have to say that it was pretty
9	diverse through many of the provisions.
10	We, you know frustrated over it for a
11	substantial period of time.
12	So there's always going to be something to
13	tweak here and there, but at the end of the day I think
14	we're down to judgment call issues about what is the
15	best way to do something, and that's going to ultimately
16	be a decision for the next council to make.
17	If they think we need to take more time and
18	revise and go through the process again, that will be
19	their decision to make.
20	But I appreciate the comment from both Jim and
21	Ron.
22	Anyone else?
23	
24	(Pause)
25	

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something from happening or was the objective to allow
2 something to happen in those areas?
I didn't really understand that part.
MR. MISCOE: Well, historically we had this
is our thank you.
We had Ordinance 22, Ordinance 50, Ordinance
99, 144, and now we're looking at 155.
Prior to Ordinance 99, the lodge area was its
own little district. It was CRH, and it allowed for a
mixture of commercial, recreational and residential
uses.
In Ordinance 99 they abandoned the CRH
district and combined the golf courses and the lodge
into one district called CR, and took away the ability
for residential uses which is where they created your
non-conforming situation to a degree.
You had other non-conforms as relative to
setbacks in Ordinance 50, but you were at least a
permitted residential structure back then.
So the Mr. St. Clair presented council a
development proposal in 2000 Terry, help he out, 4,
6?
MR. ST, CLAIR: No. It was about '05.
MR. MISCOE: 2005. And this wasn't the first
time, I would point out, that the owner of the lodge

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property has had development.
The Smiths before Terry subdivided and created
Cheyenne, and I forget what the other subdivision was,
but they did that in R-1.
Back in the 80s there was someone that did
came to council and wanted to build multi-family
structures on the ski slope since it was no longer being
used as a ski slope and they ran out of money.
Because the dam remediation effort is going to
be so costly it is a means of trying to mitigate the tax
burden.
Me personally, I was very much in favor of
doing what we could to promote development, and there is
the Pine Cove subdivision that Bob Hampton and Jim Brant
are doing.
That is a development project that I think, I
hope goes forward and is successful.
There was the one at the lodge, and the golf
course is looking at a development effort.
So from a financial perspective, I think we
need to seriously consider allowing for development.
That was the motivation, at least in my mind,
for restoring the multi-family development possibility

24 in the CR, what became the CR district.

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Well, when that ordinance was challenged it

was brought up that now we can build multi-family dwellings on the golf courses, plural. We have two private and public. So the concern was that the golf course would be bulldozed, and from a density perspective, and setbacks that there would be just an insane number. I think it was 909,000. I don't know what it was. But certainly that was neither our intent or our belief that that could actually occur. For one reason there is no sewage. There is 10 just no way. They don't have the sewage capacity to build all that stuff. 12 13 But recognizing that things change over time, and as Scott is a good mentor relative to things in 14 zoning ordinances exist, because they might happen or you take away things because they might happen, it was decided that we needed to correct that problem because 17 we do not want the golf courses tuning into high density 18 19 multi-family developments. So we restored the CRH designation to that 20 21 area of the lodge as it traditionally existed and 22 restored the uses consistent with what that area was

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23 designed for in the original Indian Lake plan.24 We have a lodge there. There's a hotel there.

25 There are existing townhomes there.

52 restored back to those that were traditionally there for the golf courses, and that's why it was done. \_\_\_\_ (Pause) \_\_\_\_ MR. MISCOE: Are there any other comments, questions, members of council? Scott? MR. MOORE: Yes. This is really in respect to the small A frames, essentially a cluster of elements, 10 and I believe in what I suggested to the planning 11 concerns to the Borough, and also to the commission is that that should be designated its own area. 12 13 I do disagree with Michael as to does it allow 14 dense --- a more dense condition? Yes, but it can be 15 limited in how it's proposed. 16 The amount of units that be clustered to the 17 amount of land that is required, and I believe that the 18 A frame should be its own designated area. 19 I also believe that most of the residential 20 that's being done in the CRH district should be done 21 under residential areas. They are residential. They 22 are not commercial. 23 And that would also eliminate the potential of people coming in and reorganizing the residential to a 24 25 commercial use.

51 And the proposal to build 21 dwelling units, 2 that number being limited by the capacity of our sewage 3 plan, that's how the plan came about. 4 So this change from CR to CRH for that zone

5 was to address the concern that someone would bulldoze 6 the golf courses and build a gazillion multi-family 7 dwellings, which I don't believe anybody thinks would be 8 a really good idea, especially the golfers. That was 9 supposed to be a joke.

So I don't want to see high density
development in the Borough. I think some development is
good. It's productive. It brings new people in here
and increases our tax base.

14But I don't believe anybody wants to do high15density development because I think that would destroy16the character of what Indian Lake is.

17 It's a nice quiet little community and
18 everybody has their space, and if you want to get
19 together socially you can, but you're not forced to, by
20 virtue of living on top of your neighbor. So that was
21 the reason for that redesignation.

You'll note that the provisions relative tothe lodge have not changed much.

24 The CRG, which is the golf area, was a 25 redesignation as well, and their provisions were

Have some of the neighbors, even though they can in relationship to going to a zoning variance. It would eliminate that problem.

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I have recommended that we reevaluate all of the residential areas for single-family, multi or duplex, two units, look at multi-family and how many units can be put together.

And also how we dwell with the mobile home situation that we are required by planning.

So those elements need to really be addressed in further direction.

And I hope the Planning Commission and the new Borough Council will adopt a different resolution as to what we have now.

MR. MISCOE: This is one of those issues where Scott and I have had a difference of opinion.

And I'm not sure that we'll ever resolve it, but I would suggest possibly that planning, as you're permitted to seek the input of our borough solicitor and have him evaluate the impact of creating a high density 20 2 zone within the Borough and what potential impact that 2 could have to a developer of another area where maybe 23 high density isn't expressly permitted, but in my analysis of just zoning issues in general, I tripped 24

1 there are eight units currently and they're in a defined

area.

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across a case that scared the heck out of me.

And my point is, is that now that you've created that as a permissible use within the Borough. Imagine say UAI up at the airport replicating that one after the other in the some 20 acres that they have there, and then you would have a city of A frames. MR. MOORE: Again, you can do that by maximizing or minimizing the amount of units that you can do. MR. MISCOE: But you're already going to permit what we have. That's my point. And now you're going to say that something different should apply somewhere else, And my concern is our ability to justify that 16 as to why we permit it here and not here becomes compromised. And I think you should have some, if you really believe that that's the way to go, get a legal opinion as to the potential impact that that would create in the future should a developer come in and try to replicate what we have in the A frames somewhere else in the Borough. MR. MOORE: I do agree with you. We do need the legal review of it, but we also

So probably it's not appropriate for me to give planning that particular advice, but I would suggest that you get that analysis from our solicitor because I am concerned that as soon as we create a district, and in the area of the A frames we don't have -- they don't have the land capacity to say that you need this density. Their density is very, very high just because they have such small lots, and that unfortunately we can't change that now. 10 So when you create a density factor of 60 or 11 12 70 -- I don't know what it would be, with their driveways or whatever they have, but it's going to be a 13 whole heck of a lot higher than what we have in our one 14 currently, and I'm just concerned about the impact that 15 that may create in our ability to stop high density 16 development somewhere else within the Borough with a 17 developer that has the money. Push that into the board. 18 MR. MOORE: Again, it can be done by the 19 amount of units that you can use within a cluster system 20 21 and the land available. 22 There are ways to resolve that issue and do what's best for the owners of the A frames. 27 MR. MISCOE: Well, I understand that, but we 24 have, when you talk about making that a conforming use, 2

56 need a better planning review from some people that have worked with high density developments and the organization of those. And I think Bob Hanson has already alluded that he is in the process of doing that, which I think is excellent. MR. MISCOE: We have, but at the end of the day it's a judgment call for the members of council as to whether they want to permit that or they don't want to permit that. 10 It's not an issue of whether it's a good idea 11 12 or a bad idea or you're required to have high density or 13 you're not required to have high density. 14 It's just -- it's more of a, is that something 15 that we want within the Borough or not? 16 It's going to be up to the judgment of council 17 to decide that, and I think we should probably close off 18 there or we're going to continue to do this. 19 MR. MOORE: I can give you more comment. MR. MISCOE: Please. 20 21 MR. MOORE: Based on that is that we look at 22 the little A frames, and they're probably the most 23 expensive per square feet element that we have, building 24 that we have within our district. 25 Our main concern is, yes, we want more

57 development with respect to a larger tax base as with that type of a cluster system is that you could proceed and generate more tax base than anything in the residential area if it is done correctly. So, therefore, we're saying what we don't want to hear, but we want to hear it. So there has to be even out not only for the people who own essentially the A frame clusters, but potential with developing it in another location to the 10 betterment of the community. MR. MISCOE: I totally get what you're saying, 11 and that's a little bit contrary to what you were saying 12 about densities in R-2s and whatnot. MR. MOORE: It's density factors -- we have no 14 15 density factors. Well, we have density factors, but the way 16 that we have organized, there are ones which essentially don't have densities because one unit per lot is that we have an R -- CRH which is the only area that you can do 1 multi-family. 2 MR. MISCOE: Right. And we have R-2 as well, 21 22 but we did add density factors to those to prohibit development beyond what we have in R-1. 23 MR. MOORE: That can be done with the cluster 24 system. 2

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1	townhomes?	1	I just wanted to point out that I think it is
2	MR. ST. CLAIR: I'm not sure.	2	resolvable.
3	MR. HANSON: It's going to be at least	3	MR. MISCOE: And I agree to the extent that
4	there are going to at least a thousand square feet for	4	that may be something that council wants to do.
5	each one.	5	I would only point out that there is a whole
б	So the density of the townhomes is going to be	6	lot in this ordinance that we really need before we go
7	greater than the chalets.	7	into a building season, and there is nothing that stops
8	That's why my only point is I don't want to	8	the council from taking that issue specifically and
9	debate the issue just to state that it's I think it's	9	maybe hire a professional planner to do that piece of it
0	resolvable and we need to look at it.	10	after 155 is either enacted or not enacted.
.1	MR. MISCOE: I agree.	11	But it's up to the council to decide whether
.2	MR. HANSON: As Scott said in terms of just	12	they want to do that or not do that.
.3	the densities, density of dwellings per acre and density	13	The question is, do you want to hold up the
4	in terms of coverage per acre.	14	beneficial provision and the corrections that are put in
.5	MR. MISCOE: Well, and just understand that	15	155 because of a perception that it's not perfect?
.6	the densities that we're looking at is structural	16	So that will be the issue for council.
7	density, not dwelling density. So that's the	17	Are there any questions, concerns, comments?
8	difference.	18	Yes, Doctor Moses.
9	MR. MOORE: Density is density.	19	
0	And I totally agree with Bob. It can be	20	(Pause)
1	resolved very easily.	21	
2	MR. HANSON: Yes. We just need to look at the	22	DR. MOSES: If I understand correctly, this
3	numbers.	23	ordinance, and it's certainly an area that I think we
4	I think we need to come up with standards, and	24	need to address, this ordinance gives the Borough and/or
5	I don't want to resolve it here.	25	the enforcement officer the right to make determinations

58 MR. MISCOE: All right. We won't --MR. MOORE: This with what we have been wrestling with. MR. HANSON: This is resolvable. I mentioned before Planning Commission is going to resolve this. The chalets are four chalets per three-quarter acres. There's eight of them in a half-acre parcel which is almost identical to four townhomes. MR. MISCOE: Say that again. Eight-and-a-half 10 11 acres? 12 MR. HANSON: There are eight on one-and-a-half 13 acres. MR. MISCOE: Okay. 14 15 MR. HANSON: It's exactly one-and-a-half 16 acres. 17 It's four on three-quarters acre, if you ratio 18 it which is identical to four townhomes on a 19 three-quarter acre lot. 20 MR. MISCOE: Right. The difference being 21 we're looking at the densities, structural density like 22 how big of a structure you can have to the extent we can somehow carve a density factor. 23 24 MR. HANSON: Four townhomes on a three-quarter 2! acre lot each with -- what's the footprint of your

61 as to unsafe structures, unsightly structures, unmaintained structures, and gives the Borough a mechanism by which this can be dealt with notification and/or removal of. Are there quidelines by which the enforcement -- the enforcement officer is deemed? MR. MISCOE: Dean Snyder. DR. MOSES: Okay. Are there guidelines by which these determinations will be made that we can rely on on a conforming basis? And if so, will that -- I mean is the Borough legally within its means to be able to do this? And I mean I agree that this is an issue that we need to deal with. And does this issue deal with also off lake structures, not just structures that are on the lake, but any structure within the Borough? MR. MISCOE: Correct. DR. MOSES: Okay. MR. MISCOE: I will let Dan answer. DR. MOSES: I just want to make sure that we have a mechanism in place by which this can be enforced 22 and maintained. 23 MS. DEWAR: We just handled one situation. MR. MISCOE: The genesis --

that word. No, no, no.

a notice of cease and desist.

Hearing Board.

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word be, decretive or active or whatever.

63 I had made a comment to Bob where they asked to reinsert Now, our zoning enforcement officer would have the ability to issue the termination. We are not going to reinsert that word, but I If that person believed that that was not a will let Dan speak to what the zoning enforcement correct determination, they have the ability to pay the officer's authority is with respect to declaring a money to have a hearing before the Zoning Hearing Board. structure under the MPC non -- I guess -- what would the The Zoning Hearing Board would then have a fact finding hearing to determine if in fact there MR. RULLO: We have a separate nuisance should be a reversal of the decision made by the zoning ordinance, and in addition to the enforcement provisions enforcement officer, and then that could be appealed to the zoning enforcement officer has the ability to issue the Court too. 10 The section that Mike just showed me is the 11 substandard dwelling section that's under our ordinance, And if that notice is issued, people have the 12 Section 404. ability to appeal his determination to the Zoning 13 14 MR. MISCOE: And you'll note that that extends So there is a mechanism in place, but the 15 to any structure, and it is not limited to boat houses. In fact, I will read it to you. enforcement officer has to first make a determination as 16 to whether there is a danger to the health, safety and Any structure, including those that are 17 welfare of the community by the condition of the 18 incidental to the primary dwelling such as accessory premises like the boat house we talked about. 19 buildings, boat docks, boat houses -- I'm sorry, I'll It was in a dilapidated state, but it wasn't 20 read that -- I have to read it slowly. until we saw debris in the water that suggested that 21 MR. McCAULEY: My concern is I would like to 22 that could create a hazard to the health, safety and 22 eliminate as much as possible the haggling of lawyers. 23 welfare of the boating public we had the ability to do 23 MR. MISCOE: That's inevitable. something under the nuisance ordinance, because the MR. McCAULEY: And being able to somehow that 24 zoning ordinance didn't really address it at that point. 25 we're clear on our definitions and our regulations so

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situation.

down on that.

interpret our ordinance.

DR. MOSES: I can imagine which situation it

MR. MISCOE: The genesis of those provisions

We had a nuisance ordinance, and we tried to

And we put a provision in 144 to address that

And I will be -- I go to every Zoning Hearing

And then after every single one of those we

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And then, of course, the eventual legal

counter argument comes up and we tightened the screws

Board meeting just to listen to how lawyers argue or

came back to the zoning committee and we have to tighten this up, we have to -- you know, words like device, and

was a problem that was on the lake with the boat house

that we spent years and years and years trying to get

resolved, and we found out that we really didn't have

the teeth in our zoning ordinance to do anything about

argue that some pieces of the structure fell into the

lake and creating a safety oriented nuisance and that

has been in litigation, I won't say active litigation, but it has been back and forth between our solicitor and

their lawyer for five years.

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1	that this can be upheld and maintained.
2	MR. MISCOE: The point that I was getting to,
3	and I have to read this for the record because I read it
4	too fast, including those that are incidental to the
5	primary dwelling such as accessory buildings, boat
6	docks, boat houses, garages, storage sheds or the like
7	that is in need of such major structural repairs such
8	that it is unsafe as determined by the Borough building
9	code official. That's Somerset County Building
10	Inspector.
11	So if Dean believes that a problem exists, we
L2	call Somerset County Building Inspectors who is the BCO.
13	They come in and make a determination as to whether the
4	structure is safe or not.
.5	And if their determination under the UCC that
6	the structure is unsafe, I think we're pretty solid.
.7	Now, are they going to challenge? Probably.
.8	And can you avoid the eventual legal haggling
9	that goes on? No.
0	I mean if the person that's on the other side
1	of that has enough money to pay a lawyer to fight, we're
2	going to have a fight. It's inevitable.
3	The last two years have taught me that
4	unfortunately common sense sometimes doesn't prevail.
5	Lawyers are like nuclear missiles, and I say

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1	that being one.
2	Everybody has them. That's great, but as soon
3	as you push the button on one, things get real messy.
4	And that's unfortunate, but that is the
5	process by which these types of things get resolved, and
6	I hope that answers your question.
7	MR. RULLO: I object to the definition of the
8	words nuclear missile.
9	20 50 50 50 50 50
10	(Discussion off the record)
11	
12	MR. MISCOE: All right. Are there any other
13	questions?
14	
15	(No response)
16	
17	MR. MISCOE: I appreciate those of you that
18	braved the wintry conditions to come here and provide
19	your input.
20	I think this was a very good hearing. There
21	were some great questions, and I appreciate the
22	respectful manner in which you addressed the council.
23	I will send an e-mail out through the Borough
24	website asking people who were not able to attend to
25	please feel free to submit comments both to council and

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1	planning, and I will provide the e-mail addresses for	1	will submit its comment to council. I don't know what
2	that and our informal notification system through Gay	2	meeting that will be.
3	Reed. She has a very broad e-mail database, but and	3	Council will decide whether to proceed or not,
4	I use it only because we just want to make sure that	4	and if it's decided to proceed, there is an additional
5	everybody has an opportunity to comment.	5	advertisement and 10-day period. So I would imagine
6	The next Planning Commission meeting where	6	that we're 30 plus 10 plus a couple days.
7	they will address this issue is January the 11th, and	7	There's probably a minimum of 45 days before
8	that will be at the Borough building for those who are	8	council to even thank you. A minimum of 45 days
9	interested in attending.	9	before council could actually vote on this issue.
10	The Borough council's next meeting will be	10	So I haven't done the math and the days
11	January the 4th. It will be our reorganization meeting.	11	because we don't know when council is going to establish
12	It is also advertised for business where the new members	12	their meeting dates, but under the presumption that they
13	of council will be seated and the council will	13	do the second and fourth Wednesday of the month as we
14	reorganize.	14	traditionally have, I would think that that would occur
15	I thank you for attending and at this point	15	sometime in February, but I'm going to ask people to get
16	MR. VOGEL: Before you close, how long is the	16	their comments to planning within that 30-day period
17	record going to remain open for people that were not	17	because it's planning's responsibility to review the
18	able to be here today to make comment?	18	comments and make a recommendation to council.
19	MR. MISCOE: We have you'll recall at the	19	Members of the public can always provide input
20	last council meeting under the provision of our	20	to members of council.
21	ordinance that allows for a zoning or, I'm sorry, a	21	MR. LYONS: Jim Lyons.
22	Planning Commission final review, you have 30 days from	22	Is this limited to just people who haven't
23	the close of the public hearing to review public	23	been here? That's how you're
24	comments.	24	MR. MISCOE: No.
25	Then as I pointed out, the Planning Commission	25	MR. LYONS: Okay. That's how you're labeling
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1	it.	1	Some of them are in Baltimore, Maryland, some
2	MR. MISCOE: Forgive me.	2	called me and said can they get it postponed? And I
3	Anybody can submit if you think of	3	said I'm not in charge of it.
. 4	something you didn't think of before, certainly,	4	That's why I'm saying, to make sure that
5	continue to feed comments to planning.	5	everybody knows what so it's not repetitive or
6	MR. LYONS: And the people that submit these	6	everybody has an idea they want to put into it, it's all
7	can read them on the e-mail?	7	passed around.
8	I mean can they retrieve them back?	8	MR. MISCOE: Well, I think at the end of the
9	Like if Bob puts one in, can they retrieve	9	day, I don't want to get into a situation where I'm
10	them and	10	telling people don't submit comments that other people
11	MR. MISCOE: I don't understand what you're	11	have submitted.
12	saying.	12	If they have comments, submit them. It's
13	MR. LYONS: I guess what you're trying to say	13	planning's job to sort out
14	is, is everybody going to be able to read everybody's	14	MR. LYONS: I understand.
15	comments?	15	MR. MISCOE: if they get 221 comments, if
16	That's how I guess I should say it.	16	you forgot a period at the end of the sentence that's
17	MR. MISCOE: Well	17	why they get paid the big bucks.
18	MR. LYONS: Is it just going to be submitted	18	MR. HANSON: Each and every comment can be
19	to Gay Reed or to	19	posted to the Borough website for anyone to see.
20	MR. MISCOE: No. It would be submitted to the	20	MR. MISCOE: Okay. But I don't want to
21	Planning Commission and the Planning Commission I	21	restrict people that that's the only mechanism
22	mean all of this stuff becomes part of a giant pile of	22	MR. HANSON: You can post just as easily as
23	records.	23	anyone else can.
24	MR. LYONS: There is a lot of people I know	24	MR. LYONS: I'm not a computer guru.
25	that couldn't come here today.	25	MR. HANSON: If you send it to me I will post

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1	it for you.	1	change?
2	MR. MISCOE: And whether planning wants to	2	MR. MISCOE: That will be up to the
3	submit all the comments on their website, that's up to	3	MR. RULLO: Depending upon what's we'll
4	them. It's not necessarily required.	4	have to look at the time. If it's
5	I think that would be a useful idea, just so	5	MR. LYONS: So you don't have an example?
6	people can see what folks are complaining about or what	6	MR. RULLO: We received a red line version
7	their comments are, even to the extent that they're	7	from planning already. Many of them are grammatical
8	positive, but that is not required.	8	issues.
9	My point is that there is a mechanism to get	9	MR. LYONS: Planning, Somerset Planning?
10	comments to planning via mail or e-mail.	10	MR. RULLO: Indian Lake Borough.
11	MR. LYONS: And if there is substantial	11	MR. LYONS: Oh, I'm sorry. Okay.
12	changes we have to have a hearing again, am I correct?	12	I guess I recognize also Somerset planning is
13	MR. MISCOE: If there are substantive changes	13	just reviewing the zoning ordinance, I guess, which
14	that council agrees to make, planning makes	14	hasn't been cleared up here, I guess.
15	recommendations.	15	Correct me if I'm wrong. Somerset Planning
16	It will be once the recommendations go to	16	just reviews it, there's no conflict with Somerset
17	council, if council let's say there is a substitute	17	County Zoning is really what he's reviewing?
18	change, we're going to create new zoning districts and	18	MR. MISCOE: No.
19	we're going to do all these different things, if council	19	MS. DEWAR: I don't understand.
20	agrees to that, then that would be a substitute change	20	MR. RULLO: I'm not sure.
21	in which case those changes would have to be adopted,	21	MR. MISCOE: Somerset County doesn't have a
22	they would have to be published, you have to	22	zoning ordinance, number 1.
23	readvertise.	23	MR. LYONS: Correct.
24	MR. LYONS: I understand the process, but what	24	MR. MISCOE: The Somerset County Planning
25	do you classify as a substantial change besides a map	25	Commission who does administer the Somerset County's

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1	subdivision land development ordinance, okay.
2	MR. LYONS: Okay.
3	MR. MISCOE: Now, subdivision land development
4	is a whole different section of the MPC from zoning.
5	But the MPC does require us to submit our
6	zoning ordinance to the county planning agency for
7	review and comment, and their review and comment like.
8	For example, in Ordinance 99 there were a
9	number of things that they made comment on that they
10	felt were deficient.
11	Ordinance 144 they had not make comment.
12	Ordinance 155 they didn't make comment.
13	We managed to dig a few extra things out of
14	them with some further prodding, but it will be up to
15	planning to decide whether we really want to put
16	conditional uses for adult uses and windmills and
17	whether we need provisions for surface mining. So those
18	are the substance of their comments.
19	They are going to be those subsequent
20	comments will be made part of the record.
21	They've already been forwarded to all the
22	members of council as well as the Planning Commission.
23	If you'd like to see a copy, send me an
4	e-mail. I have it on PDF.
5	And, Bob, I think you can post that up on the

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1	substantial change and that would require then a public	1	property value and that and that's why we go through
2	hearing, another advertisement.	2	this process.
3	If we're talking about grammatical changes or	3	
4	rewording certain things, that is probably not it's	4	(Public hearing concluded at 11:50 a.m.)
5	going to depend on what we're looking at at the time.	5	
6	MR. MISCOE: Some of the changes you asked	6	
7	about the height, the maximum height, the minimum	7	
8	height, you know, and to the extent that those things	8	
9	need to be clarified consistent with what's already	9	
10	there, I think those are non-substantive changes.	10	
11	The majority of the things that you suggested	11	
12	were not substantive.	12	
13	When you talk about I think there was a	13	
14	thing you want to remove whole sections, I would think	14	
15	that would be substantive.	15	
16	Are there any other comments or questions or	16	
17	concerns from members of council?	17	
18		18	
19	(No response)	19	
20		20	
21	MR. MISCOE: Hearing none, I'll go ahead and	21	
22	move that we close the public hearing.	22	
23	I thank you for your attendance, and I	23	
24	appreciate your interest because I agree with Jim, dare	24	
25	I say it, that this does have a big impact on the	25	

74 website as well. MR. VOGEL: Yes. I was going to ask if council has no objection, I can post everything that I have or have gotten or that we come up with on the website. All I need is permission. MR. MISCOE: I don't think we can take a vote, but I see no reason why --MR. RULLO: In addition to the regular postings and advertisements we have also been posting 10 the ordinance on the website which is not required. 11 So there is already, if you have the link to 12 13 it, you can go on and see the ordinance. If you have additional documentation you can 14 submit that. That would just make sense to me in the 15 scheme of trying to keep this as transparent as we 16 17 possibly can, provide all the comments you wish, and 18 because all the recommendations either from the Planning 19 Commission in the county or the Planning Commission of 20 Indian Lake Borough are advisory only. It's going to be planning and city council 21 that make the final decision on this. 22 But you want an example of what would be a 23 24 substantial change, the comments we heard about the 25 townhouses and changing that zone, that would be a

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1	Commonwealth of Pennsylvania)
2	County of Westmoreland )
3	I, Theodore E. Wawrzyniak, Registered Merit
4	Reporter-Notary Public, in and for the Commonwealth of
5	Pennsylvania, do hereby certify that the witness,
6	, was first duly sworn by me to testify
7	to the truth, the whole truth, and nothing but the
8	truth, and that the foregoing deposition was taken at
9	the time and place stated herein; and that said
10	deposition was recorded stenographically by me and then
11	reduced to typewriting under my direction, and
12	constitutes a true record of the testimony given by said
13	witness.
14	IN WITNESS WHEREOF, I have hereunto set my
15	hand and affixed my seal of office thisday
16	of, 2010
17	Theodore E. Wawrzyniak, Notary Public-Registered
18	Professional and Merit Reporter.
19	
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# Page 1

1	24:21; 34:16;		<b>able</b> 7:24;
		5	61:12; 64:24;
•	46:3; 48:7;	5	
	60:10,15;		66:24; 67:18;
<b>'05</b> 48:23	73:12	50 23:10;	69:14
<b>'99</b> 31:19;	<b>15530</b> 1:15	24:10,12,13,	Above 41:11
		17,20,25;	above-entitled
45:25	15642 1:24		1
	<b>16</b> 13:2,16	32:4; 34:17;	1:10
_	<b>16th</b> 16:5	35:13; 38:14,	absorb 39:11
	<b>19</b> 1:15	15; 48:6,18	access 36:2
0 14	<b>19th</b> 6:6	500 23:22	accessory
2:14;	19th 6:0	500 25.22	64:18; 65:5
3:17; 8:5,7;			
19:8,10;	2	6	accordance
22:19,21,23,			12:22; 18:20
	20 44:5; 55:6	6 48:22	according 22:5
25; 30:4,6;	-	60 54:11	accordingly
31:7,9; 37:1,	2000 48:21		
3,5,7; 46:23,	2005 48:24	607 10:13,15	43:2
25; 52:3,5;	2009 1:15;	608 9:7	account 45:8
60:19,21;	13:3,17;	<b>609</b> 9:5; 10:4,	accused 22:14
	14:1; 15:1;	9,11,18	achieve 43:13
66:9,11,14,	· · ·		acre 44:8;
16; 75:18,20;	16:9	<b>610</b> 12:23;	
76:3,5	<b>2010</b> 77:16	18:7,17	58:17,19,25;
	2074 1:14		59:13,14
1	<b>20th</b> 13:7,8	7	acres 44:5;
			55:6; 58:7,
	<b>21</b> 51:1		11,13,16
<b>1</b> 11:7; 72:22	<b>22</b> 48:6	70 34:17;	
10 68:6	<b>221</b> 70:15	35:13; 54:12	across 21:6;
<b>10-day</b> 68:5	<b>23</b> 3:7	<b>724</b> 1:25	38:14; 53:25
100 32:6;	25th 15:1	750 23:8;	act 18:24;
		24:24; 26:13;	44:9
34:20; 35:9,	<b>27th</b> 13:7,8	- · · · · · · · · · · · · · · · · · · ·	1
19,25		27:1	action 9:22;
105 27:10	3		20:1
10:15 1:16		8	<b>active</b> 62:12;
11 14.1	30 3.9. 7.22.		
11 14:1	<b>30</b> 3:9; 7:22;		63:7
11-11 41:4	9:16; 11:9;	<b>8</b> 3:5	63:7 activities
	9:16; 11:9; 14:7; 16:15;	8 3:5 80s 49:5	63:7 <b>activities</b> 6:17
<b>11-11</b> 41:4 <b>115</b> 42:13	9:16; 11:9;	<b>8</b> 3:5	63:7 activities 6:17 activity 43:17
11-11 41:4 115 42:13 11:50 76:4	9:16; 11:9; 14:7; 16:15; 17:17; 27:18;	8 3:5 80s 49:5	63:7 <b>activities</b> 6:17
11-11 41:4 115 42:13 11:50 76:4 11th 5:11;	9:16; 11:9; 14:7; 16:15; 17:17; 27:18; 32:1; 35:24;	8 3:5 80s 49:5 864-6993 1:25	63:7 activities 6:17 activity 43:17
<b>11-11</b> 41:4 <b>115</b> 42:13 <b>11:50</b> 76:4 <b>11th</b> 5:11; 16:9; 67:7	9:16; 11:9; 14:7; 16:15; 17:17; 27:18; 32:1; 35:24; 36:15,21,22,	8 3:5 80s 49:5 864-6993 1:25	63:7 activities 6:17 activity 43:17 actually 10:6; 18:8; 22:8;
11-11 41:4 115 42:13 11:50 76:4 11th 5:11; 16:9; 67:7 121 31:11	9:16; 11:9; 14:7; 16:15; 17:17; 27:18; 32:1; 35:24; 36:15,21,22, 23; 42:9;	8 3:5 80s 49:5 864-6993 1:25 	63:7 activities 6:17 activity 43:17 actually 10:6; 18:8; 22:8; 38:17; 45:4;
<b>11-11</b> 41:4 <b>115</b> 42:13 <b>11:50</b> 76:4 <b>11th</b> 5:11; 16:9; 67:7	9:16; 11:9; 14:7; 16:15; 17:17; 27:18; 32:1; 35:24; 36:15,21,22, 23; 42:9; 45:12; 67:22;	8 3:5 80s 49:5 864-6993 1:25  9 9,000 42:19	63:7 activities 6:17 activity 43:17 actually 10:6; 18:8; 22:8; 38:17; 45:4; 47:9; 50:9;
11-11 41:4 115 42:13 11:50 76:4 11th 5:11; 16:9; 67:7 121 31:11	9:16; 11:9; 14:7; 16:15; 17:17; 27:18; 32:1; 35:24; 36:15,21,22, 23; 42:9;	8 3:5 80s 49:5 864-6993 1:25  9 9,000 42:19 90 9:14,24	63:7 activities 6:17 activity 43:17 actually 10:6; 18:8; 22:8; 38:17; 45:4; 47:9; 50:9; 68:9
11-11 41:4 115 42:13 11:50 76:4 11th 5:11; 16:9; 67:7 121 31:11 1307 32:24; 33:8; 34:8	9:16; 11:9; 14:7; 16:15; 17:17; 27:18; 32:1; 35:24; 36:15,21,22, 23; 42:9; 45:12; 67:22; 68:6	8 3:5 80s 49:5 864-6993 1:25  9 9,000 42:19	63:7 activities 6:17 activity 43:17 actually 10:6; 18:8; 22:8; 38:17; 45:4; 47:9; 50:9; 68:9 ad 18:10
<pre>11-11 41:4 115 42:13 11:50 76:4 11th 5:11; 16:9; 67:7 121 31:11 1307 32:24; 33:8; 34:8 144 1:4; 8:11,</pre>	9:16; 11:9; 14:7; 16:15; 17:17; 27:18; 32:1; 35:24; 36:15,21,22, 23; 42:9; 45:12; 67:22; 68:6 <b>30-day</b> 8:2;	8 3:5 80s 49:5 864-6993 1:25  9,000 42:19 90 9:14,24 909,000 50:7	63:7 activities 6:17 activity 43:17 actually 10:6; 18:8; 22:8; 38:17; 45:4; 47:9; 50:9; 68:9
<pre>11-11 41:4 115 42:13 11:50 76:4 11th 5:11; 16:9; 67:7 121 31:11 1307 32:24; 33:8; 34:8 144 1:4; 8:11, 14,17,18,23;</pre>	9:16; 11:9; 14:7; 16:15; 17:17; 27:18; 32:1; 35:24; 36:15,21,22, 23; 42:9; 45:12; 67:22; 68:6 <b>30-day</b> 8:2; 17:17,23;	8 3:5 80s 49:5 864-6993 1:25  9,000 42:19 90 9:14,24 909,000 50:7 97 35:1	63:7 activities 6:17 activity 43:17 actually 10:6; 18:8; 22:8; 38:17; 45:4; 47:9; 50:9; 68:9 ad 18:10 add 19:16;
<pre>11-11 41:4 115 42:13 11:50 76:4 11th 5:11; 16:9; 67:7 121 31:11 1307 32:24; 33:8; 34:8 144 1:4; 8:11, 14,17,18,23; 9:21; 14:4;</pre>	9:16; 11:9; 14:7; 16:15; 17:17; 27:18; 32:1; 35:24; 36:15,21,22, 23; 42:9; 45:12; 67:22; 68:6 <b>30-day</b> 8:2; 17:17,23; 68:16	8 3:5 80s 49:5 864-6993 1:25  9,000 42:19 90 9:14,24 909,000 50:7 97 35:1 99 7:21;	63:7 activities 6:17 activity 43:17 actually 10:6; 18:8; 22:8; 38:17; 45:4; 47:9; 50:9; 68:9 ad 18:10 add 19:16; 57:22
<pre>11-11 41:4 115 42:13 11:50 76:4 11th 5:11; 16:9; 67:7 121 31:11 1307 32:24; 33:8; 34:8 144 1:4; 8:11, 14,17,18,23; 9:21; 14:4; 16:11; 22:12;</pre>	9:16; 11:9; 14:7; 16:15; 17:17; 27:18; 32:1; 35:24; 36:15,21,22, 23; 42:9; 45:12; 67:22; 68:6 <b>30-day</b> 8:2; 17:17,23; 68:16 <b>31</b> 3:11	8 3:5 80s 49:5 864-6993 1:25  9,000 42:19 90 9:14,24 909,000 50:7 97 35:1 99 7:21; 24:14; 35:2;	63:7 activities 6:17 activity 43:17 actually 10:6; 18:8; 22:8; 38:17; 45:4; 47:9; 50:9; 68:9 ad 18:10 add 19:16; 57:22 added 4:25;
<pre>11-11 41:4 115 42:13 11:50 76:4 11th 5:11; 16:9; 67:7 121 31:11 1307 32:24; 33:8; 34:8 144 1:4; 8:11, 14,17,18,23; 9:21; 14:4;</pre>	9:16; 11:9; 14:7; 16:15; 17:17; 27:18; 32:1; 35:24; 36:15,21,22, 23; 42:9; 45:12; 67:22; 68:6 <b>30-day</b> 8:2; 17:17,23; 68:16	8 3:5 80s 49:5 864-6993 1:25  9 9,000 42:19 90 9:14,24 909,000 50:7 97 35:1 99 7:21; 24:14; 35:2; 46:1; 48:7,8,	63:7 activities 6:17 activity 43:17 actually 10:6; 18:8; 22:8; 38:17; 45:4; 47:9; 50:9; 68:9 ad 18:10 add 19:16; 57:22 added 4:25; 43:7
<pre>11-11 41:4 115 42:13 11:50 76:4 11th 5:11; 16:9; 67:7 121 31:11 1307 32:24; 33:8; 34:8 144 1:4; 8:11, 14,17,18,23; 9:21; 14:4; 16:11; 22:12; 24:15,16,20;</pre>	9:16; 11:9; 14:7; 16:15; 17:17; 27:18; 32:1; 35:24; 36:15,21,22, 23; 42:9; 45:12; 67:22; 68:6 <b>30-day</b> 8:2; 17:17,23; 68:16 <b>31</b> 3:11 <b>368</b> 1:23	8 3:5 80s 49:5 864-6993 1:25  9,000 42:19 90 9:14,24 909,000 50:7 97 35:1 99 7:21; 24:14; 35:2;	63:7 activities 6:17 activity 43:17 actually 10:6; 18:8; 22:8; 38:17; 45:4; 47:9; 50:9; 68:9 ad 18:10 add 19:16; 57:22 added 4:25; 43:7 adding 42:22
<pre>11-11 41:4 115 42:13 11:50 76:4 11th 5:11; 16:9; 67:7 121 31:11 1307 32:24; 33:8; 34:8 144 1:4; 8:11, 14,17,18,23; 9:21; 14:4; 16:11; 22:12; 24:15,16,20; 31:19,22;</pre>	9:16; 11:9; 14:7; 16:15; 17:17; 27:18; 32:1; 35:24; 36:15,21,22, 23; 42:9; 45:12; 67:22; 68:6 <b>30-day</b> 8:2; 17:17,23; 68:16 <b>31</b> 3:11	8 3:5 80s 49:5 864-6993 1:25  9 9,000 42:19 90 9:14,24 909,000 50:7 97 35:1 99 7:21; 24:14; 35:2; 46:1; 48:7,8,	63:7 activities 6:17 activity 43:17 actually 10:6; 18:8; 22:8; 38:17; 45:4; 47:9; 50:9; 68:9 ad 18:10 add 19:16; 57:22 added 4:25; 43:7
<pre>11-11 41:4 115 42:13 11:50 76:4 11th 5:11; 16:9; 67:7 121 31:11 1307 32:24; 33:8; 34:8 144 1:4; 8:11, 14,17,18,23; 9:21; 14:4; 16:11; 22:12; 24:15,16,20; 31:19,22; 32:6,25;</pre>	9:16; 11:9; 14:7; 16:15; 17:17; 27:18; 32:1; 35:24; 36:15,21,22, 23; 42:9; 45:12; 67:22; 68:6 <b>30-day</b> 8:2; 17:17,23; 68:16 <b>31</b> 3:11 <b>368</b> 1:23 <b>37</b> 3:13	<pre>8 3:5 80s 49:5 864-6993 1:25 </pre>	63:7 activities 6:17 activity 43:17 actually 10:6; 18:8; 22:8; 38:17; 45:4; 47:9; 50:9; 68:9 ad 18:10 add 19:16; 57:22 added 4:25; 43:7 adding 42:22 addition
<pre>11-11 41:4 115 42:13 11:50 76:4 11th 5:11; 16:9; 67:7 121 31:11 1307 32:24; 33:8; 34:8 144 1:4; 8:11, 14,17,18,23; 9:21; 14:4; 16:11; 22:12; 24:15,16,20; 31:19,22; 32:6,25; 33:9,12;</pre>	9:16; 11:9; 14:7; 16:15; 17:17; 27:18; 32:1; 35:24; 36:15,21,22, 23; 42:9; 45:12; 67:22; 68:6 <b>30-day</b> 8:2; 17:17,23; 68:16 <b>31</b> 3:11 <b>368</b> 1:23	8 3:5 80s 49:5 864-6993 1:25  9 9,000 42:19 90 9:14,24 909,000 50:7 97 35:1 99 7:21; 24:14; 35:2; 46:1; 48:7,8,	63:7 activities 6:17 activity 43:17 actually 10:6; 18:8; 22:8; 38:17; 45:4; 47:9; 50:9; 68:9 ad 18:10 add 19:16; 57:22 added 4:25; 43:7 adding 42:22 addition 10:23; 11:6;
<pre>11-11 41:4 115 42:13 11:50 76:4 11th 5:11; 16:9; 67:7 121 31:11 1307 32:24; 33:8; 34:8 144 1:4; 8:11, 14,17,18,23; 9:21; 14:4; 16:11; 22:12; 24:15,16,20; 31:19,22; 32:6,25; 33:9,12; 34:16,23;</pre>	9:16; 11:9; 14:7; 16:15; 17:17; 27:18; 32:1; 35:24; 36:15,21,22, 23; 42:9; 45:12; 67:22; 68:6 <b>30-day</b> 8:2; 17:17,23; 68:16 <b>31</b> 3:11 <b>368</b> 1:23 <b>37</b> 3:13 	<pre>8 3:5 80s 49:5 864-6993 1:25 </pre>	63:7 activities 6:17 activity 43:17 actually 10:6; 18:8; 22:8; 38:17; 45:4; 47:9; 50:9; 68:9 ad 18:10 add 19:16; 57:22 added 4:25; 43:7 adding 42:22 addition 10:23; 11:6; 63:9; 74:9
<pre>11-11 41:4 115 42:13 11:50 76:4 11th 5:11; 16:9; 67:7 121 31:11 1307 32:24; 33:8; 34:8 144 1:4; 8:11, 14,17,18,23; 9:21; 14:4; 16:11; 22:12; 24:15,16,20; 31:19,22; 32:6,25; 33:9,12;</pre>	9:16; 11:9; 14:7; 16:15; 17:17; 27:18; 32:1; 35:24; 36:15,21,22, 23; 42:9; 45:12; 67:22; 68:6 <b>30-day</b> 8:2; 17:17,23; 68:16 <b>31</b> 3:11 <b>368</b> 1:23 <b>37</b> 3:13 	<pre>8 3:5 80s 49:5 864-6993 1:25 </pre>	63:7 activities 6:17 activity 43:17 actually 10:6; 18:8; 22:8; 38:17; 45:4; 47:9; 50:9; 68:9 ad 18:10 add 19:16; 57:22 added 4:25; 43:7 adding 42:22 addition 10:23; 11:6; 63:9; 74:9 additional
<pre>11-11 41:4 115 42:13 11:50 76:4 11th 5:11; 16:9; 67:7 121 31:11 1307 32:24; 33:8; 34:8 144 1:4; 8:11, 14,17,18,23; 9:21; 14:4; 16:11; 22:12; 24:15,16,20; 31:19,22; 32:6,25; 33:9,12; 34:16,23; 39:4; 42:18,</pre>	9:16; 11:9; 14:7; 16:15; 17:17; 27:18; 32:1; 35:24; 36:15,21,22, 23; 42:9; 45:12; 67:22; 68:6 <b>30-day</b> 8:2; 17:17,23; 68:16 <b>31</b> 3:11 <b>368</b> 1:23 <b>37</b> 3:13 	<pre>8 3:5 80s 49:5 864-6993 1:25 </pre>	63:7 activities 6:17 activity 43:17 actually 10:6; 18:8; 22:8; 38:17; 45:4; 47:9; 50:9; 68:9 ad 18:10 add 19:16; 57:22 added 4:25; 43:7 adding 42:22 addition 10:23; 11:6; 63:9; 74:9 additional 5:13; 10:8;
<pre>11-11 41:4 115 42:13 11:50 76:4 11th 5:11; 16:9; 67:7 121 31:11 1307 32:24; 33:8; 34:8 144 1:4; 8:11, 14,17,18,23; 9:21; 14:4; 16:11; 22:12; 24:15,16,20; 31:19,22; 32:6,25; 33:9,12; 34:16,23; 39:4; 42:18, 22; 45:21;</pre>	9:16; 11:9; 14:7; 16:15; 17:17; 27:18; 32:1; 35:24; 36:15,21,22, 23; 42:9; 45:12; 67:22; 68:6 <b>30-day</b> 8:2; 17:17,23; 68:16 <b>31</b> 3:11 <b>368</b> 1:23 <b>37</b> 3:13 <b>4</b> <b>4</b> <b>37</b> 3:13 <b>4</b> <b>4</b> <b>37</b> 3:13	<pre>8 3:5 80s 49:5 864-6993 1:25 </pre>	63:7 activities 6:17 activity 43:17 actually 10:6; 18:8; 22:8; 38:17; 45:4; 47:9; 50:9; 68:9 ad 18:10 add 19:16; 57:22 added 4:25; 43:7 adding 42:22 addition 10:23; 11:6; 63:9; 74:9 additional
<pre>11-11 41:4 115 42:13 11:50 76:4 11th 5:11; 16:9; 67:7 121 31:11 1307 32:24; 33:8; 34:8 144 1:4; 8:11, 14,17,18,23; 9:21; 14:4; 16:11; 22:12; 24:15,16,20; 31:19,22; 32:6,25; 33:9,12; 34:16,23; 39:4; 42:18, 22; 45:21; 48:7; 62:15;</pre>	9:16; 11:9; 14:7; 16:15; 17:17; 27:18; 32:1; 35:24; 36:15,21,22, 23; 42:9; 45:12; 67:22; 68:6 <b>30-day</b> 8:2; 17:17,23; 68:16 <b>31</b> 3:11 <b>368</b> 1:23 <b>37</b> 3:13  <b>4</b> <b>4</b> 3:3; 48:21 <b>40</b> 35:21,24; 45:12	<pre>8 3:5 80s 49:5 864-6993 1:25 </pre>	63:7 activities 6:17 activity 43:17 actually 10:6; 18:8; 22:8; 38:17; 45:4; 47:9; 50:9; 68:9 ad 18:10 add 19:16; 57:22 added 4:25; 43:7 adding 42:22 addition 10:23; 11:6; 63:9; 74:9 additional 5:13; 10:8;
<pre>11-11 41:4 115 42:13 11:50 76:4 11th 5:11; 16:9; 67:7 121 31:11 1307 32:24; 33:8; 34:8 144 1:4; 8:11, 14,17,18,23; 9:21; 14:4; 16:11; 22:12; 24:15,16,20; 31:19,22; 32:6,25; 33:9,12; 34:16,23; 39:4; 42:18, 22; 45:21; 48:7; 62:15; 73:11</pre>	9:16; 11:9; 14:7; 16:15; 17:17; 27:18; 32:1; 35:24; 36:15,21,22, 23; 42:9; 45:12; 67:22; 68:6 <b>30-day</b> 8:2; 17:17,23; 68:16 <b>31</b> 3:11 <b>368</b> 1:23 <b>37</b> 3:13  <b>4</b>  <b>4</b> 3:3; 48:21 <b>40</b> 35:21,24; 45:12 <b>404</b> 64:13	<pre>8 3:5 80s 49:5 864-6993 1:25 </pre>	63:7 activities 6:17 activity 43:17 actually 10:6; 18:8; 22:8; 38:17; 45:4; 47:9; 50:9; 68:9 ad 18:10 add 19:16; 57:22 added 4:25; 43:7 adding 42:22 addition 10:23; 11:6; 63:9; 74:9 additional 5:13; 10:8; 15:21; 17:23; 18:12; 68:4;
<pre>11-11 41:4 115 42:13 11:50 76:4 11th 5:11; 16:9; 67:7 121 31:11 1307 32:24; 33:8; 34:8 144 1:4; 8:11, 14,17,18,23; 9:21; 14:4; 16:11; 22:12; 24:15,16,20; 31:19,22; 32:6,25; 33:9,12; 34:16,23; 39:4; 42:18, 22; 45:21; 48:7; 62:15; 73:11 155 1:9; 4:3;</pre>	9:16; 11:9; 14:7; 16:15; 17:17; 27:18; 32:1; 35:24; 36:15,21,22, 23; 42:9; 45:12; 67:22; 68:6 <b>30-day</b> 8:2; 17:17,23; 68:16 <b>31</b> 3:11 <b>368</b> 1:23 <b>37</b> 3:13  <b>4</b> 3:3; 48:21 <b>40</b> 35:21,24; 45:12 <b>404</b> 64:13 <b>45</b> 68:7,8	<pre>8 3:5 80s 49:5 864-6993 1:25 </pre>	63:7 activities 6:17 activity 43:17 actually 10:6; 18:8; 22:8; 38:17; 45:4; 47:9; 50:9; 68:9 ad 18:10 add 19:16; 57:22 added 4:25; 43:7 adding 42:22 addition 10:23; 11:6; 63:9; 74:9 additional 5:13; 10:8; 15:21; 17:23; 18:12; 68:4; 74:14
<pre>11-11 41:4 115 42:13 11:50 76:4 11th 5:11; 16:9; 67:7 121 31:11 1307 32:24; 33:8; 34:8 144 1:4; 8:11, 14,17,18,23; 9:21; 14:4; 16:11; 22:12; 24:15,16,20; 31:19,22; 32:6,25; 33:9,12; 34:16,23; 39:4; 42:18, 22; 45:21; 48:7; 62:15; 73:11 155 1:9; 4:3; 8:22,25;</pre>	9:16; 11:9; 14:7; 16:15; 17:17; 27:18; 32:1; 35:24; 36:15,21,22, 23; 42:9; 45:12; 67:22; 68:6 <b>30-day</b> 8:2; 17:17,23; 68:16 <b>31</b> 3:11 <b>368</b> 1:23 <b>37</b> 3:13  <b>4</b> 3:3; 48:21 <b>40</b> 35:21,24; 45:12 <b>404</b> 64:13 <b>45</b> 68:7,8 <b>47</b> 3:15	<pre>8 3:5 80s 49:5 864-6993 1:25 </pre>	63:7 activities 6:17 activity 43:17 actually 10:6; 18:8; 22:8; 38:17; 45:4; 47:9; 50:9; 68:9 ad 18:10 add 19:16; 57:22 added 4:25; 43:7 adding 42:22 addition 10:23; 11:6; 63:9; 74:9 additional 5:13; 10:8; 15:21; 17:23; 18:12; 68:4; 74:14 address 30:13,
<pre>11-11 41:4 115 42:13 11:50 76:4 11th 5:11; 16:9; 67:7 121 31:11 1307 32:24; 33:8; 34:8 144 1:4; 8:11, 14,17,18,23; 9:21; 14:4; 16:11; 22:12; 24:15,16,20; 31:19,22; 32:6,25; 33:9,12; 34:16,23; 39:4; 42:18, 22; 45:21; 48:7; 62:15; 73:11 155 1:9; 4:3;</pre>	9:16; 11:9; 14:7; 16:15; 17:17; 27:18; 32:1; 35:24; 36:15,21,22, 23; 42:9; 45:12; 67:22; 68:6 <b>30-day</b> 8:2; 17:17,23; 68:16 <b>31</b> 3:11 <b>368</b> 1:23 <b>37</b> 3:13  <b>4</b> 3:3; 48:21 <b>40</b> 35:21,24; 45:12 <b>404</b> 64:13 <b>45</b> 68:7,8	<pre>8 3:5 80s 49:5 864-6993 1:25 </pre>	63:7 activities 6:17 activity 43:17 actually 10:6; 18:8; 22:8; 38:17; 45:4; 47:9; 50:9; 68:9 ad 18:10 add 19:16; 57:22 added 4:25; 43:7 adding 42:22 addition 10:23; 11:6; 63:9; 74:9 additional 5:13; 10:8; 15:21; 17:23; 18:12; 68:4; 74:14 address 30:13, 14; 31:4;
<pre>11-11 41:4 115 42:13 11:50 76:4 11th 5:11; 16:9; 67:7 121 31:11 1307 32:24; 33:8; 34:8 144 1:4; 8:11, 14,17,18,23; 9:21; 14:4; 16:11; 22:12; 24:15,16,20; 31:19,22; 32:6,25; 33:9,12; 34:16,23; 39:4; 42:18, 22; 45:21; 48:7; 62:15; 73:11 155 1:9; 4:3; 8:22,25;</pre>	9:16; 11:9; 14:7; 16:15; 17:17; 27:18; 32:1; 35:24; 36:15,21,22, 23; 42:9; 45:12; 67:22; 68:6 <b>30-day</b> 8:2; 17:17,23; 68:16 <b>31</b> 3:11 <b>368</b> 1:23 <b>37</b> 3:13  <b>4</b> 3:3; 48:21 <b>40</b> 35:21,24; 45:12 <b>404</b> 64:13 <b>45</b> 68:7,8 <b>47</b> 3:15	<pre>8 3:5 80s 49:5 864-6993 1:25 </pre>	63:7 activities 6:17 activity 43:17 actually 10:6; 18:8; 22:8; 38:17; 45:4; 47:9; 50:9; 68:9 ad 18:10 add 19:16; 57:22 added 4:25; 43:7 adding 42:22 addition 10:23; 11:6; 63:9; 74:9 additional 5:13; 10:8; 15:21; 17:23; 18:12; 68:4; 74:14 address 30:13,

( . .

# Page 2

51:5; 60:24;	agreed 30:25	and/or 14:9;	34:5; 35:20,
62:15; 63:25;	<b>agrees</b> 71:14,	16:18; 60:24;	25; 36:4,15;
67:7	20	61:4	42:17; 44:16;
addressed	<b>ahead</b> 22:17,	annoyance	48:8; 50:21,
15:1; 30:16;	22; 34:5;	44:2,5	22; 51:24;
53:10; 66:22	75:21	another 19:11,	52:12,18;
addressees	airport 55:5	22; 32:5;	53:22; 54:5;
11:11	allege 22:2	53:22; 57:9;	55:2; 57:4,
addresses 67:1	allow 25:8;	75:2	19; 60:23
	27:5; 48:1;	answer 17:10,	<b>areas</b> 12:8;
adequate 32:18	52:13	11; 45:18;	27:3; 39:14,
adjacent 12:14		61:20	19; 44:20;
adjoining	<b>allowed</b> 25:4;	answers 36:25;	48:2; 52:21;
34:7; 35:21	32:1; 48:9	66:6	53:5
adjustments	allowing		aren't 24:3
19:5	26:21; 49:21	anticipate	argue 62:10,21
administer	allows 26:24;	44:23; 45:1	argument 62:18
72:25	67:21	anticipated	arose 33:11
admit 42:6	alluded 56:4	42:4	around 21:10,
<b>adopt</b> 53:13	almost 42:5;	anybody 30:3;	
adopted 71:21	58:8	38:15; 43:14;	13,16,18;
adult 6:20;	already 27:12;	44:10; 51:7,	38:18; 40:5,
73:16	38:12; 55:11;	14; 69:3	6; 44:13;
advantage	56:4; 72:7;	anyway 36:11	47:19; 70:7
17:23	73:21; 74:12;	apologize 30:1	aspects 7:14
advertise 18:8	75:9	apparent	assistance
advertised	<b>alter</b> 25:1	21:13; 33:13	15:19,22;
13:4; 42:3;	alteration	apparently	30:24
67:12	26:6,17,22;	21:17; 36:9	attend 7:24;
advertisement	27:5	<pre>appeal 8:14;</pre>	66:24
10:3; 68:5;	alterations	15:11; 63:13	attendance
75:2	26:10,14;	appealed 64:9	75:23
advertisements	29:10	appeals 8:12	attending
12:19; 74:10	alternative	APPEARANCES	67:9,15
advice 54:2	26:5	2:1	author 5:22
advisement	although 5:19;	appellate 8:10	authority
8:15	8:24; 9:6	applied 35:20	27:7; 63:5
advisory 74:20	amending	<pre>applies 34:20;</pre>	authors 5:22
affected 11:4;	14:17; 15:13;	35:25	available
12:17; 22:10	16:25	<b>apply</b> 11:20;	13:18; 21:7;
affects 38:2	amendment	43:5,11,18;	54:21
affidavit 13:1	8:24; 10:20,	45:4; 55:14	avoid 65:18
affirmed 8:20	24; 11:7;	appointed 4:5;	aware 9:7;
affirming 8:17	12:4; 14:15;	37:11	21:14; 40:20
affixed 77:15	15:11; 16:11,	appreciate	away 48:14;
agency 9:18,	23	24:4; 46:20;	50:16
19; 10:16;	amendments	66:17,21;	
14:8; 16:17;	1:3; 10:12;	75:24	В
73:6	14:3; 15:3;	appropriate	
agent 14:6;	18:6,23,24;	54:1	B-U-S-T-A-M-A-
16:14	19:4,7	approval 29:3,	-N-T-E 47:3
ago 35:23;	American 13:5	8,17	<b>back</b> 5:17;
45:12	amount 45:4;	approved	7:4,8; 12:16;
1	52:16,17;	40:18; 41:1	14:25; 24:11,
agree 24:23;	54:20; 55:9	approximately	16; 27:18;
39:5; 45:10;	analysis 7:9;	4:10	31:19; 32:6;
46:1; 55:24;	27:8; 34:23;	<b>area</b> 11:4,13;	35:12,13;
59:11,20;	35:15; 53:24;	21:21; 24:14;	36:9,10;
60:3; 61:13;	54:3	29:21; 33:25;	38:6; 48:19;
75:24	91.9		

Ĺ

(

-

49:5; 52:1;	57:23	<b>both</b> 21:13;	54:6
	big 29:8;	34:16; 46:20;	carbon 14:23
62:13,24;	58:22; 70:17;	66:25	care 31:14
69:8		bothered 44:6	carefully 26:6
<b>bad</b> 46:1;	75:25		carve 25:7,25;
56:12	<b>bill</b> 31:14	bought 29:2	· · · ·
balance 43:24	bills 11:12	boundaries	58:23
balancing 27:1	bit 7:18;	21:10	<b>case</b> 6:7;
Baltimore 70:1	23:17; 26:3;	Box 1:23	25:9; 53:25;
BARRY 2:11	57:12	<b>Brad</b> 5:1,7,16;	71:21
	biweekly 41:17	13:15; 30:19;	caution 11:25;
<b>base</b> 51:13;	block 36:2	31:2; 41:6	21:25
57:1,3	1	Brant 35:7;	cautious 12:13
<b>based</b> 19:18;	board 8:12,13;	-	cease 63:11
35:12; 56:21	26:12,24;	49:14	1 1
basically	27:9; 54:18;	braved 66:18	CEHR 38:11
29:1,2	62:21; 63:14;	breaking 40:14	certain 75:4
basis 6:24;	64:5,6	brief 19:2	certainly
61:10	boat 32:18;	<b>brings</b> 51:12	4:22; 20:1;
BCO 65:12	34:8,9; 62:4;	broad 67:3	24:1; 36:16;
1	63:19; 64:15,	brought 33:24;	50:8; 60:23;
became 25:20;	19; 65:5,6	39:1,4; 50:1	69:4
33:12; 49:24		bucks 70:17	certify 77:5
become 28:2	boating 63:23		cetera 32:19
becomes 55:16;	<b>boats</b> 36:22	build 23:9;	, , , , , , , , , , , , , , , , , , , ,
69:22	<b>BOB</b> 3:9,15;	49:6; 50:1,	chairman 30:8
bed 12:12	30:7; 31:6;	12; 51:1,6	chalets 25:16;
beforehand	47:2; 49:14;	building 23:8;	58:6; 59:7
17:22	56:4; 59:20;	24:24,25;	challenge
began 31:18	63:1; 69:9;	28:12,14,16;	33:12; 65:17
	73:25	56:23; 60:7;	challenged
beginning	body 9:10,14,	65:8,9,12;	35:15; 49:25
19:24		67:8	change 10:5,6,
BEHALF 2:3	19; 10:17,20;		24; 11:8;
belief 50:9	18:24	buildings	
believe 4:14;	<b>boils</b> 46:5	64:19; 65:5	13:23; 16:7;
18:11,15;	borough 1:2;	built 27:11	20:16; 25:4;
19:17; 22:3;	2:3; 4:7,21;	bulldoze 51:5	27:18; 29:13;
23:7; 29:10;	8:25; 9:11;	bulldozed 50:5	50:13; 51:4;
32:2; 36:23;	12:12; 13:11,	burden 26:7;	54:10; 71:18,
51:7,14;	20; 14:2,16,	49:11	20,25; 72:1;
52:10,17,19;	24; 15:2,6,	business	74:24; 75:1
	1 · · ·	15:25; 67:12	changed 32:21;
55:19	12; 16:4,10,	BUSTAMANTE	34:12,19;
believed 64:3	15,24; 17:5;	1	39:6; 51:23
believes 65:11	18:1; 21:6;	3:15; 47:2	
beneficial	24:9; 25:14;	button 66:3	changes 4:17;
60:14	26:2; 27:3,		7:10; 10:17;
benefit 41:9	16,19; 29:24;	C	12:4,17;
Berlin 1:15	33:14,23;		15:6; 19:18;
besides 71:25	34:2,3;	call 27:22;	39:10,13;
best 27:14;	37:22; 43:5;	46:14; 56:8;	45:8; 71:12,
44:24; 45:16;	44:13; 45:9,	65:12	13,21; 75:3,
46:15; 54:23	11; 51:11;	<b>called</b> 21:17;	6,10
	-	48:14; 70:2	changing 27:4;
better 8:15;	52:11; 53:13,	calls 43:23	47:20; 74:25
11:25; 22:15;	19,21; 54:17;		Chapman 4:8
29:18; 39:7;	55:4,23;	came 22:12;	- /
46:2,3; 56:1	56:15; 60:24;	33:16; 35:9;	character
betterment	61:2,11,17;	36:24; 49:6;	51:16
57:10	65:8; 66:23;	51:3; 62:24	charge 70:3
between 4:13;	67:8,10;	capable 27:4	CHARLES 2:9
62:13	70:19; 72:10;	capacity	Cheyenne 49:3
beyond 33:20;	74:20	50:11; 51:2;	Christ 1:14
Derona 33.201	1	· · ·	· ·

(

(

-

Church 1:14	52:24	Commonwealth	conditions
circulation	commended 5:23	1:12; 77:1,4	66:18
13:5; 18:19;	comment 5:19;	communication	conducted 41:9
19:1	17:8; 19:18;	5:1	conflict 72:16
citizens 11:3	24:4; 30:10;	communications	conforming
<b>city</b> 55:7;	33:25; 39:16,	4:24	25:5,8,11;
74:21	17; 46:20;	community	26:1; 54:25;
<b>Clair</b> 48:20,	56:19; 63:1;	23:20; 30:21;	61:10
23; 59:2	67:5,18;	44:8; 51:17;	congratulate
clarification	68:1; 70:18;	57:10; 63:18	31:13
31:17; 32:9,	73:7,9,11,12	compare 31:22	consequently
20,24	comments 4:2,	complaining	12:7
clarified 75:9	23; 5:6,10,	71:6	consider
<b>clarify</b> 19:16;	14,21; 6:1,	completed	32:21; 49:21
27:24	12,16; 7:5,7,	4:14,20; 7:6;	considered
<b>class</b> 11:10	24; 8:4;	15:16	26:6
classificatio-	14:9; 15:17;	completely	consistent
<b>ns</b> 31:25	16:17; 17:19,	12:3	42:25; 50:22;
classify 26:9;	22; 20:14,18;	compliance	75:9
71:25	30:11,12;	11:17	conspicuously
<b>clause</b> 11:7,19	33:11; 36:8;	comprehensive	10:25; 21:5
<b>clear</b> 64:25	52:6; 60:17;	1:3,7; 5:8;	constitute
clearance	66:25; 67:24;	8:22; 10:5;	10:5; 19:17;
26:12	68:16,18;	11:20,23;	26:9,17
cleared 72:14	69:5,15;	12:3; 13:23;	constitutes
<b>clock</b> 27:18	70:10,12,15;	14:3,16;	11:20; 26:6;
<b>close</b> 56:17;	71:3,7,10;	15:6,12;	27:5; 77:12
67:16,23;	73:18,20;	16:7,11,24;	<pre>contact 14:23; 15:18,20</pre>
75:22	74:17,24;	45:11,22,23	
clubs 28:3	75:16	compromised	contention
cluster 52:9;	commercial	55:17	32:12
<b>cluster</b> 52:9; 54:20; 57:2,	commercial 23:7; 28:1,6,	55:17 computer 70:24	32:12 context 8:9
<b>cluster</b> 52:9; 54:20; 57:2, 24	<pre>commercial   23:7; 28:1,6,   12,21; 32:6;</pre>	55:17 computer 70:24 concern 22:17;	32:12 context 8:9 continue
<b>cluster</b> 52:9; 54:20; 57:2, 24 <b>clustered</b>	<pre>commercial    23:7; 28:1,6,    12,21; 32:6;    43:8,9,12,17;</pre>	55:17 computer 70:24 concern 22:17; 23:5; 24:2;	32:12 context 8:9 continue 36:19; 56:18;
<b>cluster</b> 52:9; 54:20; 57:2, 24 <b>clustered</b> 52:16	<pre>commercial   23:7; 28:1,6,   12,21; 32:6;   43:8,9,12,17;   47:20; 48:10;</pre>	55:17 computer 70:24 concern 22:17; 23:5; 24:2; 27:1; 31:18;	32:12 <b>context</b> 8:9 <b>continue</b> 36:19; 56:18; 69:5
<pre>cluster 52:9; 54:20; 57:2, 24 clustered 52:16 clusters 57:8</pre>	<pre>commercial 23:7; 28:1,6, 12,21; 32:6; 43:8,9,12,17; 47:20; 48:10; 52:22,25</pre>	55:17 computer 70:24 concern 22:17; 23:5; 24:2; 27:1; 31:18; 32:15; 35:12;	32:12 context 8:9 continue 36:19; 56:18; 69:5 contrary 57:12
<pre>cluster 52:9; 54:20; 57:2, 24 clustered 52:16 clusters 57:8 CM 34:20;</pre>	<pre>commercial 23:7; 28:1,6, 12,21; 32:6; 43:8,9,12,17; 47:20; 48:10; 52:22,25 commission</pre>	55:17 computer 70:24 concern 22:17; 23:5; 24:2; 27:1; 31:18; 32:15; 35:12; 36:9,13;	32:12 context 8:9 continue 36:19; 56:18; 69:5 contrary 57:12 control 38:19;
<pre>cluster 52:9; 54:20; 57:2, 24 clustered 52:16 clusters 57:8 CM 34:20; 35:20,21</pre>	<pre>commercial 23:7; 28:1,6, 12,21; 32:6; 43:8,9,12,17; 47:20; 48:10; 52:22,25 commission 5:4,14; 6:15;</pre>	55:17 computer 70:24 concern 22:17; 23:5; 24:2; 27:1; 31:18; 32:15; 35:12; 36:9,13; 50:4; 51:5;	32:12 context 8:9 continue 36:19; 56:18; 69:5 contrary 57:12 control 38:19; 39:14; 40:5,7
<pre>cluster 52:9; 54:20; 57:2, 24 clustered 52:16 clusters 57:8 CM 34:20; 35:20,21 code 1:11;</pre>	<pre>commercial   23:7; 28:1,6,   12,21; 32:6;   43:8,9,12,17;   47:20; 48:10;   52:22,25 commission   5:4,14; 6:15;   7:6,25;</pre>	55:17 computer 70:24 concern 22:17; 23:5; 24:2; 27:1; 31:18; 32:15; 35:12; 36:9,13; 50:4; 51:5; 55:15; 56:25;	32:12 context 8:9 continue 36:19; 56:18; 69:5 contrary 57:12 control 38:19; 39:14; 40:5,7 convert 28:6
<pre>cluster 52:9; 54:20; 57:2, 24 clustered 52:16 clusters 57:8 CM 34:20; 35:20,21 code 1:11; 5:25; 7:20;</pre>	<pre>commercial   23:7; 28:1,6,   12,21; 32:6;   43:8,9,12,17;   47:20; 48:10;   52:22,25 commission   5:4,14; 6:15;   7:6,25;   13:14,16;</pre>	55:17 computer 70:24 concern 22:17; 23:5; 24:2; 27:1; 31:18; 32:15; 35:12; 36:9,13; 50:4; 51:5; 55:15; 56:25; 64:21	32:12 context 8:9 continue 36:19; 56:18; 69:5 contrary 57:12 control 38:19; 39:14; 40:5,7 convert 28:6 copied 14:23
<pre>cluster 52:9; 54:20; 57:2, 24 clustered 52:16 clusters 57:8 CM 34:20; 35:20,21 code 1:11; 5:25; 7:20; 8:25; 9:4,6;</pre>	<pre>commercial   23:7; 28:1,6,   12,21; 32:6;   43:8,9,12,17;   47:20; 48:10;   52:22,25 commission   5:4,14; 6:15;   7:6,25;   13:14,16;   14:7; 15:8,</pre>	55:17 computer 70:24 concern 22:17; 23:5; 24:2; 27:1; 31:18; 32:15; 35:12; 36:9,13; 50:4; 51:5; 55:15; 56:25; 64:21 concerned	32:12 context 8:9 continue 36:19; 56:18; 69:5 contrary 57:12 control 38:19; 39:14; 40:5,7 convert 28:6 copied 14:23 copy 9:16;
<pre>cluster 52:9; 54:20; 57:2, 24 clustered 52:16 clusters 57:8 CM 34:20; 35:20,21 code 1:11; 5:25; 7:20; 8:25; 9:4,6; 10:16; 12:20,</pre>	<pre>commercial 23:7; 28:1,6, 12,21; 32:6; 43:8,9,12,17; 47:20; 48:10; 52:22,25 commission 5:4,14; 6:15; 7:6,25; 13:14,16; 14:7; 15:8, 15; 16:3,4,</pre>	55:17 computer 70:24 concern 22:17; 23:5; 24:2; 27:1; 31:18; 32:15; 35:12; 36:9,13; 50:4; 51:5; 55:15; 56:25; 64:21 concerned 23:13; 54:4,	32:12 context 8:9 continue 36:19; 56:18; 69:5 contrary 57:12 control 38:19; 39:14; 40:5,7 convert 28:6 copied 14:23 copy 9:16; 13:13,18;
<pre>cluster 52:9; 54:20; 57:2, 24 clustered 52:16 clusters 57:8 CM 34:20; 35:20,21 code 1:11; 5:25; 7:20; 8:25; 9:4,6; 10:16; 12:20, 23; 13:12;</pre>	<pre>commercial 23:7; 28:1,6, 12,21; 32:6; 43:8,9,12,17; 47:20; 48:10; 52:22,25 commission 5:4,14; 6:15; 7:6,25; 13:14,16; 14:7; 15:8, 15; 16:3,4, 15; 17:16,25;</pre>	55:17 computer 70:24 concern 22:17; 23:5; 24:2; 27:1; 31:18; 32:15; 35:12; 36:9,13; 50:4; 51:5; 55:15; 56:25; 64:21 concerned 23:13; 54:4, 15	32:12 context 8:9 continue 36:19; 56:18; 69:5 contrary 57:12 control 38:19; 39:14; 40:5,7 convert 28:6 copied 14:23 copy 9:16;
<pre>cluster 52:9; 54:20; 57:2, 24 clustered 52:16 clusters 57:8 CM 34:20; 35:20,21 code 1:11; 5:25; 7:20; 8:25; 9:4,6; 10:16; 12:20, 23; 13:12; 14:5; 15:9;</pre>	<pre>commercial 23:7; 28:1,6, 12,21; 32:6; 43:8,9,12,17; 47:20; 48:10; 52:22,25 commission 5:4,14; 6:15; 7:6,25; 13:14,16; 14:7; 15:8, 15; 16:3,4, 15; 17:16,25; 19:13; 30:8,</pre>	55:17 computer 70:24 concern 22:17; 23:5; 24:2; 27:1; 31:18; 32:15; 35:12; 36:9,13; 50:4; 51:5; 55:15; 56:25; 64:21 concerned 23:13; 54:4, 15 concerns 4:3;	32:12 context 8:9 continue 36:19; 56:18; 69:5 contrary 57:12 control 38:19; 39:14; 40:5,7 convert 28:6 copied 14:23 copy 9:16; 13:13,18; 14:11; 16:19;
<pre>cluster 52:9; 54:20; 57:2, 24 clustered 52:16 clusters 57:8 CM 34:20; 35:20,21 code 1:11; 5:25; 7:20; 8:25; 9:4,6; 10:16; 12:20, 23; 13:12; 14:5; 15:9; 16:2,13;</pre>	<pre>commercial 23:7; 28:1,6, 12,21; 32:6; 43:8,9,12,17; 47:20; 48:10; 52:22,25 commission 5:4,14; 6:15; 7:6,25; 13:14,16; 14:7; 15:8, 15; 16:3,4, 15; 17:16,25; 19:13; 30:8, 9; 42:9;</pre>	55:17 computer 70:24 concern 22:17; 23:5; 24:2; 27:1; 31:18; 32:15; 35:12; 36:9,13; 50:4; 51:5; 55:15; 56:25; 64:21 concerned 23:13; 54:4, 15 concerns 4:3; 20:4,10,13;	32:12 context 8:9 continue 36:19; 56:18; 69:5 contrary 57:12 control 38:19; 39:14; 40:5,7 convert 28:6 copied 14:23 copy 9:16; 13:13,18; 14:11; 16:19; 73:23
<pre>cluster 52:9; 54:20; 57:2, 24 clustered 52:16 clusters 57:8 CM 34:20; 35:20,21 code 1:11; 5:25; 7:20; 8:25; 9:4,6; 10:16; 12:20, 23; 13:12; 14:5; 15:9; 16:2,13; 28:16; 65:9</pre>	<pre>commercial 23:7; 28:1,6, 12,21; 32:6; 43:8,9,12,17; 47:20; 48:10; 52:22,25 commission 5:4,14; 6:15; 7:6,25; 13:14,16; 14:7; 15:8, 15; 16:3,4, 15; 17:16,25; 19:13; 30:8, 9; 42:9; 43:20; 52:11;</pre>	55:17 computer 70:24 concern 22:17; 23:5; 24:2; 27:1; 31:18; 32:15; 35:12; 36:9,13; 50:4; 51:5; 55:15; 56:25; 64:21 concerned 23:13; 54:4, 15 concerns 4:3; 20:4,10,13; 23:19,24;	32:12 context 8:9 continue 36:19; 56:18; 69:5 contrary 57:12 control 38:19; 39:14; 40:5,7 convert 28:6 copied 14:23 copy 9:16; 13:13,18; 14:11; 16:19; 73:23 correct 13:9;
<pre>cluster 52:9; 54:20; 57:2, 24 clustered 52:16 clusters 57:8 CM 34:20; 35:20,21 code 1:11; 5:25; 7:20; 8:25; 9:4,6; 10:16; 12:20, 23; 13:12; 14:5; 15:9; 16:2,13; 28:16; 65:9 combined 48:13</pre>	<pre>commercial 23:7; 28:1,6, 12,21; 32:6; 43:8,9,12,17; 47:20; 48:10; 52:22,25 commission 5:4,14; 6:15; 7:6,25; 13:14,16; 14:7; 15:8, 15; 16:3,4, 15; 17:16,25; 19:13; 30:8, 9; 42:9; 43:20; 52:11; 53:12; 58:5;</pre>	55:17 computer 70:24 concern 22:17; 23:5; 24:2; 27:1; 31:18; 32:15; 35:12; 36:9,13; 50:4; 51:5; 55:15; 56:25; 64:21 concerned 23:13; 54:4, 15 concerns 4:3; 20:4,10,13;	32:12 context 8:9 continue 36:19; 56:18; 69:5 contrary 57:12 control 38:19; 39:14; 40:5,7 convert 28:6 copied 14:23 copy 9:16; 13:13,18; 14:11; 16:19; 73:23 correct 13:9; 32:8; 40:25;
<pre>cluster 52:9; 54:20; 57:2, 24 clustered 52:16 clusters 57:8 CM 34:20; 35:20,21 code 1:11; 5:25; 7:20; 8:25; 9:4,6; 10:16; 12:20, 23; 13:12; 14:5; 15:9; 16:2,13; 28:16; 65:9 combined 48:13 come 17:12,20;</pre>	<pre>commercial 23:7; 28:1,6, 12,21; 32:6; 43:8,9,12,17; 47:20; 48:10; 52:22,25 commission 5:4,14; 6:15; 7:6,25; 13:14,16; 14:7; 15:8, 15; 16:3,4, 15; 17:16,25; 19:13; 30:8, 9; 42:9; 43:20; 52:11; 53:12; 58:5; 67:6,22,25;</pre>	55:17 computer 70:24 concern 22:17; 23:5; 24:2; 27:1; 31:18; 32:15; 35:12; 36:9,13; 50:4; 51:5; 55:15; 56:25; 64:21 concerned 23:13; 54:4, 15 concerns 4:3; 20:4,10,13; 23:19,24; 41:4,9;	32:12 context 8:9 continue 36:19; 56:18; 69:5 contrary 57:12 control 38:19; 39:14; 40:5,7 convert 28:6 copied 14:23 copy 9:16; 13:13,18; 14:11; 16:19; 73:23 correct 13:9; 32:8; 40:25; 50:17; 61:18;
<pre>cluster 52:9; 54:20; 57:2, 24 clustered 52:16 clusters 57:8 CM 34:20; 35:20,21 code 1:11; 5:25; 7:20; 8:25; 9:4,6; 10:16; 12:20, 23; 13:12; 14:5; 15:9; 16:2,13; 28:16; 65:9 combined 48:13 come 17:12,20; 19:6; 30:25;</pre>	<pre>commercial 23:7; 28:1,6, 12,21; 32:6; 43:8,9,12,17; 47:20; 48:10; 52:22,25 commission 5:4,14; 6:15; 7:6,25; 13:14,16; 14:7; 15:8, 15; 16:3,4, 15; 17:16,25; 19:13; 30:8, 9; 42:9; 43:20; 52:11; 53:12; 58:5; 67:6,22,25; 69:21; 72:25;</pre>	55:17 computer 70:24 concern 22:17; 23:5; 24:2; 27:1; 31:18; 32:15; 35:12; 36:9,13; 50:4; 51:5; 55:15; 56:25; 64:21 concerned 23:13; 54:4, 15 concerns 4:3; 20:4,10,13; 23:19,24; 41:4,9; 42:18; 52:11;	32:12 context 8:9 continue 36:19; 56:18; 69:5 contrary 57:12 control 38:19; 39:14; 40:5,7 convert 28:6 copied 14:23 copy 9:16; 13:13,18; 14:11; 16:19; 73:23 correct 13:9; 32:8; 40:25; 50:17; 61:18; 64:4; 71:12;
<pre>cluster 52:9; 54:20; 57:2, 24 clustered 52:16 clusters 57:8 CM 34:20; 35:20,21 code 1:11; 5:25; 7:20; 8:25; 9:4,6; 10:16; 12:20, 23; 13:12; 14:5; 15:9; 16:2,13; 28:16; 65:9 combined 48:13 come 17:12,20; 19:6; 30:25; 31:3; 41:19;</pre>	<pre>commercial 23:7; 28:1,6, 12,21; 32:6; 43:8,9,12,17; 47:20; 48:10; 52:22,25 commission 5:4,14; 6:15; 7:6,25; 13:14,16; 14:7; 15:8, 15; 16:3,4, 15; 17:16,25; 19:13; 30:8, 9; 42:9; 43:20; 52:11; 53:12; 58:5; 67:6,22,25; 69:21; 72:25; 73:22; 74:19</pre>	55:17 computer 70:24 concern 22:17; 23:5; 24:2; 27:1; 31:18; 32:15; 35:12; 36:9,13; 50:4; 51:5; 55:15; 56:25; 64:21 concerned 23:13; 54:4, 15 concerns 4:3; 20:4,10,13; 23:19,24; 41:4,9; 42:18; 52:11; 60:17; 75:17	32:12 context 8:9 continue 36:19; 56:18; 69:5 contrary 57:12 control 38:19; 39:14; 40:5,7 convert 28:6 copied 14:23 copy 9:16; 13:13,18; 14:11; 16:19; 73:23 correct 13:9; 32:8; 40:25; 50:17; 61:18; 64:4; 71:12; 72:15,23
<pre>cluster 52:9; 54:20; 57:2, 24 clustered 52:16 clusters 57:8 CM 34:20; 35:20,21 code 1:11; 5:25; 7:20; 8:25; 9:4,6; 10:16; 12:20, 23; 13:12; 14:5; 15:9; 16:2,13; 28:16; 65:9 combined 48:13 come 17:12,20; 19:6; 30:25; 31:3; 41:19; 55:21; 59:24;</pre>	<pre>commercial 23:7; 28:1,6, 12,21; 32:6; 43:8,9,12,17; 47:20; 48:10; 52:22,25 commission 5:4,14; 6:15; 7:6,25; 13:14,16; 14:7; 15:8, 15; 16:3,4, 15; 17:16,25; 19:13; 30:8, 9; 42:9; 43:20; 52:11; 53:12; 58:5; 67:6,22,25; 69:21; 72:25; 73:22; 74:19 committee 4:5,</pre>	55:17 computer 70:24 concern 22:17; 23:5; 24:2; 27:1; 31:18; 32:15; 35:12; 36:9,13; 50:4; 51:5; 55:15; 56:25; 64:21 concerned 23:13; 54:4, 15 concerns 4:3; 20:4,10,13; 23:19,24; 41:4,9; 42:18; 52:11; 60:17; 75:17 concluded	32:12 context 8:9 continue 36:19; 56:18; 69:5 contrary 57:12 control 38:19; 39:14; 40:5,7 convert 28:6 copied 14:23 copy 9:16; 13:13,18; 14:11; 16:19; 73:23 correct 13:9; 32:8; 40:25; 50:17; 61:18; 64:4; 71:12; 72:15,23 corrected 39:5 corrections 60:14
<pre>cluster 52:9; 54:20; 57:2, 24 clustered 52:16 clusters 57:8 CM 34:20; 35:20,21 code 1:11; 5:25; 7:20; 8:25; 9:4,6; 10:16; 12:20, 23; 13:12; 14:5; 15:9; 16:2,13; 28:16; 65:9 combined 48:13 come 17:12,20; 19:6; 30:25; 31:3; 41:19; 55:21; 59:24; 65:13; 66:18;</pre>	<pre>commercial 23:7; 28:1,6, 12,21; 32:6; 43:8,9,12,17; 47:20; 48:10; 52:22,25 commission 5:4,14; 6:15; 7:6,25; 13:14,16; 14:7; 15:8, 15; 16:3,4, 15; 17:16,25; 19:13; 30:8, 9; 42:9; 43:20; 52:11; 53:12; 58:5; 67:6,22,25; 69:21; 72:25; 73:22; 74:19</pre>	55:17 computer 70:24 concern 22:17; 23:5; 24:2; 27:1; 31:18; 32:15; 35:12; 36:9,13; 50:4; 51:5; 55:15; 56:25; 64:21 concerned 23:13; 54:4, 15 concerns 4:3; 20:4,10,13; 23:19,24; 41:4,9; 42:18; 52:11; 60:17; 75:17 concluded 35:17; 76:4	32:12 context 8:9 continue 36:19; 56:18; 69:5 contrary 57:12 control 38:19; 39:14; 40:5,7 convert 28:6 copied 14:23 copy 9:16; 13:13,18; 14:11; 16:19; 73:23 correct 13:9; 32:8; 40:25; 50:17; 61:18; 64:4; 71:12; 72:15,23 corrected 39:5 corrections 60:14 correctly
<pre>cluster 52:9; 54:20; 57:2, 24 clustered 52:16 clusters 57:8 CM 34:20; 35:20,21 code 1:11; 5:25; 7:20; 8:25; 9:4,6; 10:16; 12:20, 23; 13:12; 14:5; 15:9; 16:2,13; 28:16; 65:9 combined 48:13 come 17:12,20; 19:6; 30:25; 31:3; 41:19; 55:21; 59:24; 65:13; 66:18; 69:25; 74:4</pre>	<pre>commercial 23:7; 28:1,6, 12,21; 32:6; 43:8,9,12,17; 47:20; 48:10; 52:22,25 commission 5:4,14; 6:15; 7:6,25; 13:14,16; 14:7; 15:8, 15; 16:3,4, 15; 17:16,25; 19:13; 30:8, 9; 42:9; 43:20; 52:11; 53:12; 58:5; 67:6,22,25; 69:21; 72:25; 73:22; 74:19 committee 4:5, 13; 37:11,21;</pre>	55:17 computer 70:24 concern 22:17; 23:5; 24:2; 27:1; 31:18; 32:15; 35:12; 36:9,13; 50:4; 51:5; 55:15; 56:25; 64:21 concerned 23:13; 54:4, 15 concerns 4:3; 20:4,10,13; 23:19,24; 41:4,9; 42:18; 52:11; 60:17; 75:17 concluded 35:17; 76:4 conclusion	32:12 context 8:9 continue 36:19; 56:18; 69:5 contrary 57:12 control 38:19; 39:14; 40:5,7 convert 28:6 copied 14:23 copy 9:16; 13:13,18; 14:11; 16:19; 73:23 correct 13:9; 32:8; 40:25; 50:17; 61:18; 64:4; 71:12; 72:15,23 corrected 39:5 corrections 60:14 correctly 57:4; 60:22
<pre>cluster 52:9; 54:20; 57:2, 24 clustered 52:16 clusters 57:8 CM 34:20; 35:20,21 code 1:11; 5:25; 7:20; 8:25; 9:4,6; 10:16; 12:20, 23; 13:12; 14:5; 15:9; 16:2,13; 28:16; 65:9 combined 48:13 come 17:12,20; 19:6; 30:25; 31:3; 41:19; 55:21; 59:24; 65:13; 66:18; 69:25; 74:4 comes 18:13;</pre>	<pre>commercial 23:7; 28:1,6, 12,21; 32:6; 43:8,9,12,17; 47:20; 48:10; 52:22,25 commission 5:4,14; 6:15; 7:6,25; 13:14,16; 14:7; 15:8, 15; 16:3,4, 15; 17:16,25; 19:13; 30:8, 9; 42:9; 43:20; 52:11; 53:12; 58:5; 67:6,22,25; 69:21; 72:25; 73:22; 74:19 committee 4:5, 13; 37:11,21; 38:5,8,21;</pre>	55:17 computer 70:24 concern 22:17; 23:5; 24:2; 27:1; 31:18; 32:15; 35:12; 36:9,13; 50:4; 51:5; 55:15; 56:25; 64:21 concerned 23:13; 54:4, 15 concerns 4:3; 20:4,10,13; 23:19,24; 41:4,9; 42:18; 52:11; 60:17; 75:17 concluded 35:17; 76:4 conclusion 37:18,22; 39:19 condition	32:12 context 8:9 continue 36:19; 56:18; 69:5 contrary 57:12 control 38:19; 39:14; 40:5,7 convert 28:6 copied 14:23 copy 9:16; 13:13,18; 14:11; 16:19; 73:23 correct 13:9; 32:8; 40:25; 50:17; 61:18; 64:4; 71:12; 72:15,23 corrected 39:5 corrections 60:14 correctly 57:4; 60:22 cost 29:19,25;
<pre>cluster 52:9; 54:20; 57:2, 24 clustered 52:16 clusters 57:8 CM 34:20; 35:20,21 code 1:11; 5:25; 7:20; 8:25; 9:4,6; 10:16; 12:20, 23; 13:12; 14:5; 15:9; 16:2,13; 28:16; 65:9 combined 48:13 come 17:12,20; 19:6; 30:25; 31:3; 41:19; 55:21; 59:24; 65:13; 66:18; 69:25; 74:4</pre>	<pre>commercial 23:7; 28:1,6, 12,21; 32:6; 43:8,9,12,17; 47:20; 48:10; 52:22,25 commission 5:4,14; 6:15; 7:6,25; 13:14,16; 14:7; 15:8, 15; 16:3,4, 15; 17:16,25; 19:13; 30:8, 9; 42:9; 43:20; 52:11; 53:12; 58:5; 67:6,22,25; 69:21; 72:25; 73:22; 74:19 committee 4:5, 13; 37:11,21; 38:5,8,21; 40:13,15,18;</pre>	55:17 computer 70:24 concern 22:17; 23:5; 24:2; 27:1; 31:18; 32:15; 35:12; 36:9,13; 50:4; 51:5; 55:15; 56:25; 64:21 concerned 23:13; 54:4, 15 concerns 4:3; 20:4,10,13; 23:19,24; 41:4,9; 42:18; 52:11; 60:17; 75:17 concluded 35:17; 76:4 conclusion 37:18,22; 39:19 condition 52:14; 63:18	32:12 context 8:9 continue 36:19; 56:18; 69:5 contrary 57:12 control 38:19; 39:14; 40:5,7 convert 28:6 copied 14:23 copy 9:16; 13:13,18; 14:11; 16:19; 73:23 correct 13:9; 32:8; 40:25; 50:17; 61:18; 64:4; 71:12; 72:15,23 corrected 39:5 corrections 60:14 correctly 57:4; 60:22 cost 29:19,25; 39:3
<pre>cluster 52:9; 54:20; 57:2, 24 clustered 52:16 clusters 57:8 CM 34:20; 35:20,21 code 1:11; 5:25; 7:20; 8:25; 9:4,6; 10:16; 12:20, 23; 13:12; 14:5; 15:9; 16:2,13; 28:16; 65:9 combined 48:13 come 17:12,20; 19:6; 30:25; 31:3; 41:19; 55:21; 59:24; 65:13; 66:18; 69:25; 74:4 comes 18:13; 26:13; 62:18</pre>	<pre>commercial 23:7; 28:1,6, 12,21; 32:6; 43:8,9,12,17; 47:20; 48:10; 52:22,25 commission 5:4,14; 6:15; 7:6,25; 13:14,16; 14:7; 15:8, 15; 16:3,4, 15; 17:16,25; 19:13; 30:8, 9; 42:9; 43:20; 52:11; 53:12; 58:5; 67:6,22,25; 69:21; 72:25; 73:22; 74:19 committee 4:5, 13; 37:11,21; 38:5,8,21; 40:13,15,18; 44:13; 45:25; 62:24 common 8:20;</pre>	55:17 computer 70:24 concern 22:17; 23:5; 24:2; 27:1; 31:18; 32:15; 35:12; 36:9,13; 50:4; 51:5; 55:15; 56:25; 64:21 concerned 23:13; 54:4, 15 concerns 4:3; 20:4,10,13; 23:19,24; 41:4,9; 42:18; 52:11; 60:17; 75:17 concluded 35:17; 76:4 conclusion 37:18,22; 39:19 condition 52:14; 63:18 conditional	32:12 context 8:9 continue 36:19; 56:18; 69:5 contrary 57:12 control 38:19; 39:14; 40:5,7 convert 28:6 copied 14:23 copy 9:16; 13:13,18; 14:11; 16:19; 73:23 correct 13:9; 32:8; 40:25; 50:17; 61:18; 64:4; 71:12; 72:15,23 corrected 39:5 corrections 60:14 correctly 57:4; 60:22 cost 29:19,25; 39:3 costly 39:2;
<pre>cluster 52:9; 54:20; 57:2, 24 clustered 52:16 clusters 57:8 CM 34:20; 35:20,21 code 1:11; 5:25; 7:20; 8:25; 9:4,6; 10:16; 12:20, 23; 13:12; 14:5; 15:9; 16:2,13; 28:16; 65:9 combined 48:13 come 17:12,20; 19:6; 30:25; 31:3; 41:19; 55:21; 59:24; 65:13; 66:18; 69:25; 74:4 comes 18:13; 26:13; 62:18 comfortable</pre>	<pre>commercial 23:7; 28:1,6, 12,21; 32:6; 43:8,9,12,17; 47:20; 48:10; 52:22,25 commission 5:4,14; 6:15; 7:6,25; 13:14,16; 14:7; 15:8, 15; 16:3,4, 15; 17:16,25; 19:13; 30:8, 9; 42:9; 43:20; 52:11; 53:12; 58:5; 67:6,22,25; 69:21; 72:25; 73:22; 74:19 committee 4:5, 13; 37:11,21; 38:5,8,21; 40:13,15,18; 44:13; 45:25; 62:24</pre>	55:17 computer 70:24 concern 22:17; 23:5; 24:2; 27:1; 31:18; 32:15; 35:12; 36:9,13; 50:4; 51:5; 55:15; 56:25; 64:21 concerned 23:13; 54:4, 15 concerns 4:3; 20:4,10,13; 23:19,24; 41:4,9; 42:18; 52:11; 60:17; 75:17 concluded 35:17; 76:4 conclusion 37:18,22; 39:19 condition 52:14; 63:18	32:12 context 8:9 continue 36:19; 56:18; 69:5 contrary 57:12 control 38:19; 39:14; 40:5,7 convert 28:6 copied 14:23 copy 9:16; 13:13,18; 14:11; 16:19; 73:23 correct 13:9; 32:8; 40:25; 50:17; 61:18; 64:4; 71:12; 72:15,23 corrected 39:5 corrections 60:14 correctly 57:4; 60:22 cost 29:19,25; 39:3

.

(

(

# Page 5

costs 23:22	51:4	DCED 30:21;	53:20,23;
cottages 23:4	<b>crazy</b> 23:11	31:2	54:7,8,11,16;
couldn't 44:6;	create 27:7,	deal 61:14,15	56:2,12,13;
69:25	23; 34:6;	dealing 44:18	57:14,15,16,
<pre>council 2:3;</pre>	54:4,11,16;	dealt 61:3	22; 58:21,23;
4:2,5,8,15;	55:21; 63:22;	<b>Dean</b> 4:9;	59:6,13,17,19
5:3,12; 6:14;	71:18	21:2,4,25;	department
9:11; 11:22;	created 38:17;	61:7; 65:11	30:21,23
14:2,24;	48:15; 49:2;	<b>Dear</b> 15:4	depend 75:5
16:10; 18:1,	55:4	debate 20:9;	depending
2,14; 20:4,	<b>creates</b> 25:13	59:9	19:5; 32:4;
14,22,23;	creating 47:9;	debris 63:21	72:3
27:22; 30:16;	53:20; 62:11	December 1:15;	deposition
37:22; 40:19,	CRG 21:12;	5:11; 6:6;	77:8,10
	51:24	20:7	depth 5:20;
22; 41:4;	CRH 24:13,16,	decide 56:17;	35:15
43:21; 45:17;	20,21; 40:5;	60:11; 68:3;	designated
46:16; 48:20;		73:15	52:12,18
49:6; 52:7;	42:16,17;	decided 28:2;	designation
53:13; 56:8,	48:9,12;	50:17; 68:4	50:20
16; 60:4,8,	50:20; 51:4;	decides 18:14	designed 50:23
11,16; 66:22,	52:20; 57:19	decision 8:14,	designed 33:7
25; 67:13,20;	current 4:9;		desist 63:11
68:1,3,8,9,	24:23	16; 18:3;	despite 7:3
11,18,20;	currently	46:16,19;	destroy 51:15
71:14,17,19;	25:15; 54:15;	64:8; 74:22	detail 19:3
73:22; 74:3,	55:1	declaring 63:5	detailed 39:16
21; 75:17	<b>cute</b> 23:4	decretive 63:7	determination
council's		deemed 11:1;	1 1
43:1; 67:10	D	27:11; 61:6	63:13,16;
counter 62:18		deep 36:10	64:4; 65:13,
counties 9:18	Daily 13:5	deficient	15
county $5:4;$	<b>dam</b> 49:9	73:10	determinations
9:17,20;	<b>Dan</b> 8:4;	define 25:8	60:25; 61:9
13:2,14,16;	17:13; 18:6;	defined 21:22;	determine 64:7
14:7; 15:7,	19:11; 20:2;	55:1	determined
15; 18:21;	61:20; 63:4	definition	65:8
30:20; 65:9,	<b>danger</b> 32:17;	27:5; 31:21;	develop 7:2;
12; 72:17,21,	63:17	45:2; 66:7	20:8
24; 73:6;	DANIEL 2:12	definitions	developer
74:19; 77:2	<b>dare</b> 75:24	64:25	53:22; 54:18;
County's 72:25	database 67:3	definitive	55:21
couple 68:6	<b>date</b> 9:24;	47:24	developing
course 6:23;	11:5,10,15;	<b>degree</b> 48:16	57:9
21:14; 22:3;	13:22; 14:1;	delivered	development
35:10; 42:20;	16:8	13:17; 16:3	25:17; 27:3,
49:19; 50:4;	<b>dated</b> 15:1;	delivering	4,15; 30:22;
62:17	41:4	13:22; 16:6	48:21; 49:1,
courses 21:13;	<b>dates</b> 68:12	denied 25:1	13,16,19,21,
48:13; 50:2,	<b>day</b> 16:6;	<b>dense</b> 52:14	23; 51:11,15;
18; 51:6;	46:13; 56:8;	densities	54:17; 57:1,
52:2	70:9	57:13,18;	23; 73:1,3
cove 35:25;	days 7:22;	58:21; 59:13,	developments
49:14	9:14,16,24;	16	50:19; 56:2
coverage 59:14	11:10; 14:7;	density 25:14,	device 62:25
CR 21:12;	16:16; 17:17;	24; 26:2,3;	<b>DEWAR</b> 2:10;
24:14,15,20;	18:8,25;	27:2,11,15;	61:24; 72:19
32:3; 34:16;	42:9; 67:22;	29:23; 50:5,	Dick 44:10
48:14; 49:24;	68:6,7,8,10	18; 51:10,15;	difference
			. ,

(

(

(

53:16; 58:20;	47:21; 49:13,	28:20	44:11; 65:21
59:18	15; 56:5	<b>easier</b> 29:15;	<b>entire</b> 14:16;
differences	<b>done</b> 7:15;	45:7,14	15:12; 16:24;
31:23	14:19; 17:2;	<b>easily</b> 59:21;	26:19
different	23:15; 26:11;	70:22	equally 43:6,
31:24; 47:17;	27:19; 37:15,	Economic 30:21	12,18
53:13; 55:14;	19,20,23;	Ed 6:22	<b>err</b> 11:25
71:19; 73:4	38:8,10,21;	effect 33:20	especially
	42:5; 45:11,	effort 11:16;	44:14; 51:8
<b>dig</b> 73:13	18; 47:9;	49:9,19	essentially
dilapidated	•	eight 23:21;	6:15; 52:9;
63:20	52:2,20;	32:2; 55:1;	57:8,17
direction	54:19; 57:4,	58:7,12	establish
53:11; 77:11	24; 68:10		68:11
director 13:15	door 26:1;	Eight-and-a-h-	estate 11:11
<pre>disagree 18:7;</pre>	27:15; 29:23;	<b>alf</b> 58:10	1
52:13	38:18	either 10:7;	estimation
discuss 4:2;	dormer 26:15;	24:20; 29:23;	32:17
6:7	29:15	40:8; 60:10;	et 32:19
Discussion	dormers 25:9	74:18	evaluate 53:20
19:9; 22:20;	<b>doubt</b> 41:18	<pre>elected 12:13;</pre>	even 11:22;
66:10	down 22:2;	34:4	12:14,15;
distance 34:25	46:5,14;	<b>element</b> 56:23	18:9; 21:25;
district 21:9,	62:19	elements 52:9;	22:7,14;
23; 24:13,22;	draft 5:22	53:10	33:7,24;
25:7,23;	drafted 7:4	eliminate	37:22; 39:10;
28:4,10;	drilled 29:8	44:4; 52:23;	47:5; 53:1;
34:13,14,17,	driveways	53:3; 64:22	57:7; 68:8;
21; 35:21;	54:13	eliminating	71:7
38:11,15;	due 33:11	44:2	event 18:22;
40:5; 42:22;	duly 77:6	elsewhere	22:1
40:5; 42:22, 43:2,4; 48:9,	duplex 53:6	27:3; 28:9	eventual
	during 33:11,	empathize 42:9	62:17; 65:18
13,14; 49:24;	12	enacted 8:11;	everybody
52:20; 54:5;	dwell 53:8	14:4; 16:12;	4:22; 12:15;
56:24		60:10	22:4,9; 23:9;
districts	dwelling 51:1;	enactment 1:7;	42:11; 51:18;
24:8; 33:10;	59:17; 64:12,		66:2; 67:5;
71:18	18; 65:5	9:9,13,16,25;	69:14; 70:5,6
diverse 44:12;	dwellings 7:2;	10:19; 18:25;	everybody's
46:9	24:19; 42:20;	19:25	69:14
diversity 46:6	50:2; 51:7;	encouraged	
<b>doable</b> 29:19	59 <b>:</b> 13	4:22; 17:21	everyone 12:13
dock 32:1,4,		encroachment	everything
13; 35:8	E	32:18	40:9; 47:19;
docker's 35:16		end 34:25;	74:3
<pre>docking 33:9;</pre>	<b>e-mail</b> 5:1,11;	37:19; 42:19;	evidenced
34:8	7:23; 20:7;	46:13; 56:7;	11:13
docks 31:21;	66:23; 67:1,	70:8,16	exact 21:6
35:1,3,16;	3; 69:7;	<b>ends</b> 33:18	<pre>exactly 23:6;</pre>
36:14,18,20;	71:10; 73:24	enforced 61:22	58:15
39:14,15;	<b>each</b> 21:9;	enforcement	<pre>example 39:14;</pre>
47:11; 64:19;	42:15; 58:25;	60:25; 61:5,	72:5; 73:8;
65:6	59:5; 70:18	6; 63:4,9,10,	74:23
Doctor 31:6;	<b>earlier</b> 17:15	16; 64:1,9	excellent
60:18	<b>early</b> 32:15	enjoyment	5:23; 19:14;
documentation	ease 26:7	43:25; 47:7	56:6
74:14	easement	enough 22:15;	exception
documents 17:9		28:8,17;	26:23; 27:7;
	35:22.23	20:0,1/,	20.25/27.7/
doing 33:3;	35:22,23 easements	33:4; 36:10;	28:20; 29:11

l

(

# Page 7

			reperate 57.2
exemplars 21:8	<b>favor</b> 49:12	23	generate 57:3
exercising	<b>fax</b> 6:4,9	foregoing	genesis 61:25;
21:25	feasible 28:19	14:22; 77:8	62:3
<b>exist</b> 24:9;	February 68:15	forestry 6:16	gentleman
25:8; 43:11;	<b>fee</b> 26:25	forget 49:3	30:20; 31:2;
50:15	<b>feed</b> 69:5	Forgive 69:2	38:13
existed 50:21	feel 15:18;	forgot 70:16	getting 6:6;
existing 9:19;	39:18; 66:25	formed 5:21	26:11; 45:8;
26:7; 50:25	feet 32:1,2,4,	<b>forth</b> 6:12;	65:2
exists 26:21;	6,16; 35:1,9,	10:13; 19:2;	<b>giant</b> 42:12;
65:11	21,24,25;	62:13	69:22
expansion 35:8	36:7,14,21,	fortuitous 8:3	<b>give</b> 12:13;
expected 33:7	22; 56:23;	forward 7:16,	54:2; 56:19
expedite 6:6	59:4	25; 18:4,13;	<b>given</b> 4:16;
expenses 39:11	<b>fell</b> 62:10	20:24; 47:7;	16:2; 38:23;
expensive	felt 22:9;	49:17	77:12
18:9; 56:23	73:10	forwarded	<b>gives</b> 60:24;
explain 31:3	few 5:20;	6:14; 7:5;	61:2
explicit 34:11	17:22; 41:21;	9:17; 41:6;	giving 11:25
	73:13	73:21	<b>gizmo</b> 34:25
expressed	fight 65:21,22	found 62:6	golf 6:23;
36:13	figure 45:17	four 37:11,17;	21:13,14;
expressly	-	58:6,8,17,18,	28:2; 42:20;
24:19; 53:23	filling 43:5	24	48:13; 49:18;
extending	final 67:22;	fourth 68:13	50:2,4,18;
32:7,13	74:22	frame 23:4,23;	51:6,24; 52:2
extends 64:14	financial		golfers 51:8
<b>extent</b> 26:16;	49:20	28:12; 29:2;	got 5:1; 22:5;
28:5; 35:19;	find 25:22;	52:18; 57:8	25:20; 29:17;
36:19; 42:24;	46:4	frames 23:3;	
43:16; 45:6;	finding 64:7	24:6; 26:18;	35:1,12,13;
58:22; 60:3;	first 9:3;	52:9; 54:5,	44:9
71:7; 75:8	10:10; 11:10;	23; 55:7,22;	gotten 20:6;
<b>extra</b> 18:15;	18:2; 38:7;	56:22	22:4; 74:4
73:13	42:6; 48:24;	<pre>frankly 12:12;</pre>	governed 9:3
extraction	63:16; 77:6	45:9	governing 9:6,
6:16	<b>five</b> 4:5;	free 15:18;	10,13,19;
	18:10; 37:13,	66:25	10:17,20;
F	14; 62:14	front 31:12,	18:24
	<b>fix</b> 26:8;	25; 34:18	government
<b>face</b> 43:22	29:22	frustrated	30:24
<b>faces</b> 41:21	floating 35:8	46:10	grading 43:5
facilities	foiled 32:25	full 12:21;	grammatical
6:19	<pre>folks 8:3;</pre>	13:13	72:7; 75:3
<b>fact</b> 17:22;	17:21; 71:6	further 15:19;	granted 28:21;
29:16; 64:7,	follow 39:20	36:1,6,18;	35:22
16	<pre>follow-up 6:3;</pre>	53:11; 73:14	granting 33:22
<b>factor</b> 38:19;	7:21	<pre>future 6:11;</pre>	grasp 5:24
54:11; 58:23	followed 10:8	55:21	great 66:2,21
factors 32:13;	following		greater 59:7
57:14,15,16,	10:11,18	G	group 44:12
22	foot 23:23;		guess 31:5;
fairly 47:4	34:20; 35:19;	garages 65:6	37:10,18;
<b>faith</b> 11:16	36:23; 38:14,	<b>Gay</b> 67:2;	38:7,17;
familiar 24:3	15	69:19	47:13; 63:6;
fantastic 47:6	footprint	gazillion 51:6	69:13,16;
far 24:12;	58:25	<pre>general 13:5;</pre>	72:12,13,14
40:13,20	forced 51:19	18:19; 19:1;	guidelines
<b>fast</b> 65:4	forcing 38:9,	53:24	61:5,8
	_		

ĺ

(

		1	
<b>guru</b> 70:24	54:14		informal 67:2
guy's 44:15	<b>height</b> 75:7,8	L I	information
	<b>help</b> 6:11;		15:16; 22:15
н	26:16; 48:21	<b>idea</b> 51:8;	informed 21:4
	helpful 20:14;	56:11,12;	inherited
H-A-N-S-O-N	44:14	70:6; 71:5	25:16
30:8	hereby 77:5	identical	initiates
haggling	herein 77:9	58:8,18	10:17
64:22; 65:18	hereunto 77:14	identified	<b>ink</b> 31:15
half 47:5	hesitate 14:23	19:15	<b>input</b> 26:5;
	high 25:14;	identify 20:12	44:11,20;
half-acre 58:8	-	identifying	53:19; 66:19;
hammered 39:19	26:2,3; 27:2,		68:19
Hampton 49:14	15; 29:23;	10:10	<b>insane</b> 50:6
hand 13:17;	50:18; 51:10,	<pre>imagine 55:5;</pre>	
16:4; 77:15	14; 53:20,23;	62:1; 68:5	Inspector
handled 61:24	54:8,16;	impact 20:16;	_65:10
HANSON 3:9;	56:2,12,13	44:22; 53:20,	Inspectors
30:7; 56:4;	higher 12:5;	21; 54:15;	65:12
58:4,12,15,	54:14	55:20; 75:25	installed 35:6
24; 59:3,12,	Highway 1:15	impacts 42:15;	instance 28:2
22; 70:18,22,	hire 60:9	44:3	<pre>instead 12:20;</pre>
25	historically	implementation	34:13
happen 42:24;	48:4	8:19	intended 11:24
48:2; 50:15,	history 4:4;	important 8:8;	intensity
-	47:18	9:1	25:24
16		<b>Inc</b> 6:23	intent 14:14;
happened 47:19	hold 9:11;	incidental	16:22; 42:21;
happening 48:1	10:20; 60:13		43:1; 50:8
happens 45:9	holdover 7:20	64:18; 65:4	-
hardest 44:22	holes 29:9	inclement 7:18	interest 75:24
<b>hazard</b> 35:18;	<b>Holy</b> 33:5	include 11:15	interested
63:22	home 28:8;	including	11:3; 67:9
<b>health</b> 31:14;	53:8	64:17; 65:4	interesting
63:17,22	homes 25:18,	increase 43:3	19:12
<b>hear</b> 44:6;	20; 40:8	increases	internalize
57:6	hope 36:24;	51:13	42:13
heard 8:1;	45:3; 49:17;	INDEX 3:1	interpret
36:13; 74:24	53:12; 66:6	INDIAN 1:2;	62:22
hearing 1:1,	hopefully	2:3; 5:18;	introduce
10; 4:1; 6:5;	30:19; 31:3;	13:23; 15:2,	25:14
	41:21	6; 16:7,15;	introduction
7:22; 8:12,	hoping 23:11	38:25; 47:4,	27:2
13; 9:8,11,	hotel 50:24	18; 50:23;	investment
15; 10:21,25;		51:16; 72:10;	38:3,24
11:5,9,10,16;	hours 38:1	74:20	invited 41:16,
14:3,8,12;	house 34:9;		19
16:11,16,20;	37:9; 62:4;	indicate 22:16	involved
17:16; 19:22;	63:19	indicated 5:7;	
26:12,24;	houses 64:15,	15:20; 16:6	28:15; 32:14;
27:9; 33:12;	19; 65:6	indicating 7:4	46:6
62:20; 63:14;	However 42:24	individual	involves
64:5,6,7;	Huckleberry	44:20	10:24; 11:8
66:20; 67:23;	1:14	individuals	Irwin 1:24
71:12; 75:2,	hundred 12:22;	4:6	<b>island</b> 35:22,
21,22; 76:4	32:16; 36:6,	industrial	24
hearings 4:10;	14	6:17	<b>isn't</b> 33:16;
9:22,25	hundreds 38:1	industry	53:23
heart 41:24	hurt 38:19	28:13,15	<b>issue</b> 35:14,
heavy 6:17		inevitable	16; 44:17;
heck 53:25;		64:23; 65:22	46:5; 54:22;
HECK JJ.4J,	l	· ··· · · · · · · · · · · · · · · · ·	

.

(

(

56:11; 59:9;		61:12	43:21; 53:6;
60:8,16;	L	<b>lend</b> 44:11	56:21; 59:10,
61:13,15;		<b>length</b> 18:10;	22; 72:4
63:10; 64:2;	labeling 68:25	31:21; 32:12	<b>looked</b> 35:5;
67:7; 68:9	labor 28:13,14	lengthy 7:11	47:13
-	laid 29:21;	less 12:1	looking 30:18;
<b>issued</b> 63:12		<b>letter</b> 5:5,19;	47:7; 48:7;
<b>issues</b> 22:12;	45:11		49:19; 58:21;
28:7,18;	<b>lake</b> 1:2; 2:3;	6:3,22,25;	59:16; 75:5
31:17; 32:12;	5:18; 6:23;	7:4; 13:15;	-
39:1; 43:19;	12:8,9,12,14;	15:22; 21:15;	looks 31:13
44:19; 45:15;	13:23; 15:2,	41:4,5	<b>loose</b> 39:25
46:14; 53:15,	6; 16:7,15;	level 12:5	lose 39:12
24; 72:8	21:16,19;	library 13:2;	losing 7:2
itself 12:8	31:11,25;	18:21	lot 4:12;
	32:7,13,16,	LICHTY 2:11	23:22; 24:7,
J	18; 33:16,17;	<b>life</b> 28:17	8; 25:21;
	34:5,6,18;	limited 51:2;	27:19; 34:17;
<b>T</b>	35:20; 36:2,	52:15; 64:15;	37:25; 38:2,
January 30:19;	17; 38:25;	68:22	3,4,11,15,24;
31:1; 67:7,11	· · ·	limits 25:8	39:4,5;
JIM 3:13;	44:21; 47:4,	line 32:5;	41:23,24;
35:7; 37:4,8;	9,10,19;	-	43:22; 44:5,
43:19; 46:20;	50:23; 51:16;	33:17,18,20;	16,20; 45:10,
49:14; 68:21;	61:15,16;	34:25; 36:15;	
75:24	62:4,11;	72:6	24; 47:8,17;
<b>Jim's</b> 45:18	72:10; 74:20	<b>link</b> 74:12	54:14; 57:18;
<b>job</b> 5:23;	<b>land</b> 33:20;	<b>list</b> 40:11	58:19,25;
19:14; 45:14,	34:1; 52:17;	listen 62:21	60:6; 69:24
23; 70:13	54:6,21;	literally 40:4	lots 12:16;
<b>joke</b> 51:9	73:1,3	litigation	44:8,20; 54:9
	language	62:12	lower 27:8
judge 8:17;	language	little 7:18;	lowering 29:11
judge 8:17; 33:24			lowering 29:11 ludicrous 35:4
judge 8:17; 33:24 judgment	<pre>language   14:18; 15:14;   17:1</pre>	little 7:18;	lowering 29:11
<pre>judge 8:17; 33:24 judgment 27:21; 43:23;</pre>	<pre>language    14:18; 15:14;    17:1 larger 57:1</pre>	<pre>little 7:18; 23:3,4,17,20;</pre>	lowering 29:11 ludicrous 35:4
<pre>judge 8:17; 33:24 judgment 27:21; 43:23; 45:15; 46:14;</pre>	<pre>language   14:18; 15:14;   17:1 larger 57:1 laser 34:24</pre>	<pre>little 7:18; 23:3,4,17,20; 29:25; 39:8,</pre>	<pre>lowering 29:11 ludicrous 35:4 LYONS 3:13;</pre>
<pre>judge 8:17; 33:24 judgment 27:21; 43:23; 45:15; 46:14; 56:8,16</pre>	<pre>language   14:18; 15:14;   17:1 larger 57:1 laser 34:24 last 9:14;</pre>	<pre>little 7:18; 23:3,4,17,20; 29:25; 39:8, 22; 46:2; 48:9; 51:17;</pre>	<pre>lowering 29:11 ludicrous 35:4 LYONS 3:13; 37:8,14;</pre>
<pre>judge 8:17; 33:24 judgment 27:21; 43:23; 45:15; 46:14; 56:8,16 judgments</pre>	<pre>language   14:18; 15:14;   17:1 larger 57:1 laser 34:24 last 9:14;   15:25; 65:23;</pre>	<pre>little 7:18; 23:3,4,17,20; 29:25; 39:8, 22; 46:2; 48:9; 51:17; 56:22; 57:12</pre>	<pre>lowering 29:11 ludicrous 35:4 LYONS 3:13; 37:8,14; 40:3; 68:21, 25; 69:6,13,</pre>
<pre>judge 8:17; 33:24 judgment 27:21; 43:23; 45:15; 46:14; 56:8,16 judgments 20:24</pre>	<pre>language   14:18; 15:14;   17:1 larger 57:1 laser 34:24 last 9:14;   15:25; 65:23;   67:20</pre>	<pre>little 7:18; 23:3,4,17,20; 29:25; 39:8, 22; 46:2; 48:9; 51:17; 56:22; 57:12 live 33:17;</pre>	<pre>lowering 29:11 ludicrous 35:4 LYONS 3:13;     37:8,14;     40:3; 68:21,     25; 69:6,13,     18,24; 70:14,</pre>
<pre>judge 8:17; 33:24 judgment 27:21; 43:23; 45:15; 46:14; 56:8,16 judgments 20:24 juggling 44:9</pre>	<pre>language   14:18; 15:14;   17:1 larger 57:1 laser 34:24 last 9:14;   15:25; 65:23;   67:20 later 39:1</pre>	<pre>little 7:18; 23:3,4,17,20; 29:25; 39:8, 22; 46:2; 48:9; 51:17; 56:22; 57:12 live 33:17; 37:8,9</pre>	<pre>lowering 29:11 ludicrous 35:4 LYONS 3:13;     37:8,14;     40:3; 68:21,     25; 69:6,13,     18,24; 70:14,     24; 71:11,24;</pre>
<pre>judge 8:17; 33:24 judgment 27:21; 43:23; 45:15; 46:14; 56:8,16 judgments 20:24 juggling 44:9 June 42:5</pre>	<pre>language   14:18; 15:14;   17:1 larger 57:1 laser 34:24 last 9:14;   15:25; 65:23;   67:20 later 39:1 law 13:2;</pre>	<pre>little 7:18; 23:3,4,17,20; 29:25; 39:8, 22; 46:2; 48:9; 51:17; 56:22; 57:12 live 33:17; 37:8,9 lives 38:2;</pre>	<pre>lowering 29:11 ludicrous 35:4 LYONS 3:13;     37:8,14;     40:3; 68:21,     25; 69:6,13,     18,24; 70:14,</pre>
<pre>judge 8:17; 33:24 judgment 27:21; 43:23; 45:15; 46:14; 56:8,16 judgments 20:24 juggling 44:9 June 42:5 justify 55:15</pre>	<pre>language   14:18; 15:14;   17:1 larger 57:1 laser 34:24 last 9:14;   15:25; 65:23;   67:20 later 39:1 law 13:2;   18:21</pre>	<pre>little 7:18; 23:3,4,17,20; 29:25; 39:8, 22; 46:2; 48:9; 51:17; 56:22; 57:12 live 33:17; 37:8,9 lives 38:2; 39:13</pre>	<pre>lowering 29:11 ludicrous 35:4 LYONS 3:13;     37:8,14;     40:3; 68:21,     25; 69:6,13,     18,24; 70:14,     24; 71:11,24;     72:5,9,11,23;</pre>
<pre>judge 8:17; 33:24 judgment 27:21; 43:23; 45:15; 46:14; 56:8,16 judgments 20:24 juggling 44:9 June 42:5 justify 55:15</pre>	<pre>language   14:18; 15:14;   17:1 larger 57:1 laser 34:24 last 9:14;   15:25; 65:23;   67:20 later 39:1 law 13:2;   18:21 lawyer 62:14;</pre>	<pre>little 7:18; 23:3,4,17,20; 29:25; 39:8, 22; 46:2; 48:9; 51:17; 56:22; 57:12 live 33:17; 37:8,9 lives 38:2; 39:13 living 51:20</pre>	<pre>lowering 29:11 ludicrous 35:4 LYONS 3:13;     37:8,14;     40:3; 68:21,     25; 69:6,13,     18,24; 70:14,     24; 71:11,24;     72:5,9,11,23;</pre>
<pre>judge 8:17; 33:24 judgment 27:21; 43:23; 45:15; 46:14; 56:8,16 judgments 20:24 juggling 44:9 June 42:5 justify 55:15</pre>	<pre>language   14:18; 15:14;   17:1 larger 57:1 laser 34:24 last 9:14;   15:25; 65:23;   67:20 later 39:1 law 13:2;   18:21 lawyer 62:14;   65:21</pre>	<pre>little 7:18; 23:3,4,17,20; 29:25; 39:8, 22; 46:2; 48:9; 51:17; 56:22; 57:12 live 33:17; 37:8,9 lives 38:2; 39:13 living 51:20 located 9:20;</pre>	<pre>lowering 29:11 ludicrous 35:4 LYONS 3:13;     37:8,14;     40:3; 68:21,     25; 69:6,13,     18,24; 70:14,     24; 71:11,24;     72:5,9,11,23;     73:2</pre>
<pre>judge 8:17; 33:24 judgment 27:21; 43:23; 45:15; 46:14; 56:8,16 judgments 20:24 juggling 44:9 June 42:5 justify 55:15 </pre>	<pre>language   14:18; 15:14;   17:1 larger 57:1 laser 34:24 last 9:14;   15:25; 65:23;   67:20 later 39:1 law 13:2;   18:21 lawyer 62:14;   65:21 lawyers 62:21;</pre>	<pre>little 7:18; 23:3,4,17,20; 29:25; 39:8, 22; 46:2; 48:9; 51:17; 56:22; 57:12 live 33:17; 37:8,9 lives 38:2; 39:13 living 51:20 located 9:20; 11:12</pre>	<pre>lowering 29:11 ludicrous 35:4 LYONS 3:13;     37:8,14;     40:3; 68:21,     25; 69:6,13,     18,24; 70:14,     24; 71:11,24;     72:5,9,11,23;     73:2</pre>
<pre>judge 8:17; 33:24 judgment 27:21; 43:23; 45:15; 46:14; 56:8,16 judgments 20:24 juggling 44:9 June 42:5 justify 55:15 </pre>	<pre>language    14:18; 15:14;    17:1 larger 57:1 laser 34:24 last 9:14;    15:25; 65:23;    67:20 later 39:1 law 13:2;    18:21 lawyer 62:14;    65:21 lawyers 62:21;    64:22; 65:25</pre>	<pre>little 7:18; 23:3,4,17,20; 29:25; 39:8, 22; 46:2; 48:9; 51:17; 56:22; 57:12 live 33:17; 37:8,9 lives 38:2; 39:13 living 51:20 located 9:20; 11:12 location</pre>	<pre>lowering 29:11 ludicrous 35:4 LYONS 3:13;     37:8,14;     40:3; 68:21,     25; 69:6,13,     18,24; 70:14,     24; 71:11,24;     72:5,9,11,23;     73:2</pre>
<pre>judge 8:17; 33:24 judgment 27:21; 43:23; 45:15; 46:14; 56:8,16 judgments 20:24 juggling 44:9 June 42:5 justify 55:15 </pre>	<pre>language    14:18; 15:14;    17:1 larger 57:1 laser 34:24 last 9:14;    15:25; 65:23;    67:20 later 39:1 law 13:2;    18:21 lawyer 62:14;    65:21 lawyers 62:21;    64:22; 65:25 leader 38:4</pre>	<pre>little 7:18; 23:3,4,17,20; 29:25; 39:8, 22; 46:2; 48:9; 51:17; 56:22; 57:12 live 33:17; 37:8,9 lives 38:2; 39:13 living 51:20 located 9:20; 11:12 location 11:15; 27:10;</pre>	<pre>lowering 29:11 ludicrous 35:4 LYONS 3:13; 37:8,14; 40:3; 68:21, 25; 69:6,13, 18,24; 70:14, 24; 71:11,24; 72:5,9,11,23; 73:2 M </pre>
<pre>judge 8:17; 33:24 judgment 27:21; 43:23; 45:15; 46:14; 56:8,16 judgments 20:24 juggling 44:9 June 42:5 justify 55:15 </pre>	<pre>language   14:18; 15:14;   17:1 larger 57:1 laser 34:24 last 9:14;   15:25; 65:23;   67:20 later 39:1 law 13:2;   18:21 lawyer 62:14;   65:21 lawyers 62:21;   64:22; 65:25 leader 38:4 learning 22:11</pre>	<pre>little 7:18; 23:3,4,17,20; 29:25; 39:8, 22; 46:2; 48:9; 51:17; 56:22; 57:12 live 33:17; 37:8,9 lives 38:2; 39:13 living 51:20 located 9:20; 11:12 location 11:15; 27:10; 57:9</pre>	<pre>lowering 29:11 ludicrous 35:4 LYONS 3:13; 37:8,14; 40:3; 68:21, 25; 69:6,13, 18,24; 70:14, 24; 71:11,24; 72:5,9,11,23; 73:2 </pre>
<pre>judge 8:17; 33:24 judgment 27:21; 43:23; 45:15; 46:14; 56:8,16 judgments 20:24 juggling 44:9 June 42:5 justify 55:15 </pre>	<pre>language   14:18; 15:14;   17:1 larger 57:1 laser 34:24 last 9:14;   15:25; 65:23;   67:20 later 39:1 law 13:2;   18:21 lawyer 62:14;   65:21 lawyers 62:21;   64:22; 65:25 leader 38:4 learning 22:11 least 11:5,9;</pre>	<pre>little 7:18; 23:3,4,17,20; 29:25; 39:8, 22; 46:2; 48:9; 51:17; 56:22; 57:12 live 33:17; 37:8,9 lives 38:2; 39:13 living 51:20 located 9:20; 11:12 location 11:15; 27:10; 57:9 locations</pre>	<pre>lowering 29:11 ludicrous 35:4 LYONS 3:13; 37:8,14; 40:3; 68:21, 25; 69:6,13, 18,24; 70:14, 24; 71:11,24; 72:5,9,11,23; 73:2 </pre>
<pre>judge 8:17; 33:24 judgment 27:21; 43:23; 45:15; 46:14; 56:8,16 judgments 20:24 juggling 44:9 June 42:5 justify 55:15 </pre>	<pre>language   14:18; 15:14;   17:1 larger 57:1 laser 34:24 last 9:14;   15:25; 65:23;   67:20 later 39:1 law 13:2;   18:21 lawyer 62:14;   65:21 lawyers 62:21;   64:22; 65:25 leader 38:4 learning 22:11 least 11:5,9;   18:25; 21:14;</pre>	<pre>little 7:18; 23:3,4,17,20; 29:25; 39:8, 22; 46:2; 48:9; 51:17; 56:22; 57:12 live 33:17; 37:8,9 lives 38:2; 39:13 living 51:20 located 9:20; 11:12 location 11:15; 27:10; 57:9 locations 21:5,6</pre>	<pre>lowering 29:11 ludicrous 35:4 LYONS 3:13; 37:8,14; 40:3; 68:21, 25; 69:6,13, 18,24; 70:14, 24; 71:11,24; 72:5,9,11,23; 73:2 </pre>
<pre>judge 8:17; 33:24 judgment 27:21; 43:23; 45:15; 46:14; 56:8,16 judgments 20:24 juggling 44:9 June 42:5 justify 55:15 Karl 4:8; 44:13 keep 25:3; 42:11; 47:25; 74:16 kind 23:14,20,</pre>	<pre>language   14:18; 15:14;   17:1 larger 57:1 laser 34:24 last 9:14;   15:25; 65:23;   67:20 later 39:1 law 13:2;   18:21 lawyer 62:14;   65:21 lawyers 62:21;   64:22; 65:25 leader 38:4 learning 22:11 least 11:5,9;   18:25; 21:14;   32:16; 48:18;</pre>	<pre>little 7:18; 23:3,4,17,20; 29:25; 39:8, 22; 46:2; 48:9; 51:17; 56:22; 57:12 live 33:17; 37:8,9 lives 38:2; 39:13 living 51:20 located 9:20; 11:12 location 11:15; 27:10; 57:9 locations 21:5,6 lodge 35:11,</pre>	<pre>lowering 29:11 ludicrous 35:4 LYONS 3:13; 37:8,14; 40:3; 68:21, 25; 69:6,13, 18,24; 70:14, 24; 71:11,24; 72:5,9,11,23; 73:2 M M M M M M M M M M M M M M M M M M M</pre>
<pre>judge 8:17; 33:24 judgment 27:21; 43:23; 45:15; 46:14; 56:8,16 judgments 20:24 juggling 44:9 June 42:5 justify 55:15 </pre>	<pre>language   14:18; 15:14;   17:1 larger 57:1 laser 34:24 last 9:14;   15:25; 65:23;   67:20 later 39:1 law 13:2;   18:21 lawyer 62:14;   65:21 lawyers 62:21;   64:22; 65:25 leader 38:4 learning 22:11 least 11:5,9;   18:25; 21:14;   32:16; 48:18;   49:22; 59:3,4</pre>	<pre>little 7:18; 23:3,4,17,20; 29:25; 39:8, 22; 46:2; 48:9; 51:17; 56:22; 57:12 live 33:17; 37:8,9 lives 38:2; 39:13 living 51:20 located 9:20; 11:12 location 11:15; 27:10; 57:9 locations 21:5,6 lodge 35:11, 17; 40:6;</pre>	<pre>lowering 29:11 ludicrous 35:4 LYONS 3:13; 37:8,14; 40:3; 68:21, 25; 69:6,13, 18,24; 70:14, 24; 71:11,24; 72:5,9,11,23; 73:2 </pre>
<pre>judge 8:17; 33:24 judgment 27:21; 43:23; 45:15; 46:14; 56:8,16 judgments 20:24 juggling 44:9 June 42:5 justify 55:15 </pre>	<pre>language   14:18; 15:14;   17:1 larger 57:1 laser 34:24 last 9:14;   15:25; 65:23;   67:20 later 39:1 law 13:2;   18:21 lawyer 62:14;   65:21 lawyers 62:21;   64:22; 65:25 leader 38:4 learning 22:11 least 11:5,9;   18:25; 21:14;   32:16; 48:18;   49:22; 59:3,4 leave 21:8;</pre>	<pre>little 7:18; 23:3,4,17,20; 29:25; 39:8, 22; 46:2; 48:9; 51:17; 56:22; 57:12 live 33:17; 37:8,9 lives 38:2; 39:13 living 51:20 located 9:20; 11:12 location 11:15; 27:10; 57:9 locations 21:5,6 lodge 35:11, 17; 40:6; 48:8,13,25;</pre>	<pre>lowering 29:11 ludicrous 35:4 LYONS 3:13; 37:8,14; 40:3; 68:21, 25; 69:6,13, 18,24; 70:14, 24; 71:11,24; 72:5,9,11,23; 73:2 </pre>
<pre>judge 8:17; 33:24 judgment 27:21; 43:23; 45:15; 46:14; 56:8,16 judgments 20:24 juggling 44:9 June 42:5 justify 55:15 </pre>	<pre>language   14:18; 15:14;   17:1 larger 57:1 laser 34:24 last 9:14;   15:25; 65:23;   67:20 later 39:1 law 13:2;   18:21 lawyer 62:14;   65:21 lawyers 62:21;   64:22; 65:25 leader 38:4 learning 22:11 least 11:5,9;   18:25; 21:14;   32:16; 48:18;   49:22; 59:3,4 leave 21:8;   29:24</pre>	<pre>little 7:18; 23:3,4,17,20; 29:25; 39:8, 22; 46:2; 48:9; 51:17; 56:22; 57:12 live 33:17; 37:8,9 lives 38:2; 39:13 living 51:20 located 9:20; 11:12 location 11:15; 27:10; 57:9 locations 21:5,6 lodge 35:11, 17; 40:6; 48:8,13,25; 49:18; 50:21,</pre>	<pre>lowering 29:11 ludicrous 35:4 LYONS 3:13; 37:8,14; 40:3; 68:21, 25; 69:6,13, 18,24; 70:14, 24; 71:11,24; 72:5,9,11,23; 73:2 </pre>
<pre>judge 8:17; 33:24 judgment 27:21; 43:23; 45:15; 46:14; 56:8,16 judgments 20:24 juggling 44:9 June 42:5 justify 55:15 </pre>	<pre>language   14:18; 15:14;   17:1 larger 57:1 laser 34:24 last 9:14;   15:25; 65:23;   67:20 later 39:1 law 13:2;   18:21 lawyer 62:14;   65:21 lawyers 62:21;   64:22; 65:25 leader 38:4 learning 22:11 least 11:5,9;   18:25; 21:14;   32:16; 48:18;   49:22; 59:3,4 leave 21:8;   29:24 left 45:24</pre>	<pre>little 7:18; 23:3,4,17,20; 29:25; 39:8, 22; 46:2; 48:9; 51:17; 56:22; 57:12 live 33:17; 37:8,9 lives 38:2; 39:13 living 51:20 located 9:20; 11:12 location 11:15; 27:10; 57:9 locations 21:5,6 lodge 35:11, 17; 40:6; 48:8,13,25; 49:18; 50:21, 24; 51:23</pre>	<pre>lowering 29:11 ludicrous 35:4 LYONS 3:13; 37:8,14; 40:3; 68:21, 25; 69:6,13, 18,24; 70:14, 24; 71:11,24; 72:5,9,11,23; 73:2 </pre>
<pre>judge 8:17; 33:24 judgment 27:21; 43:23; 45:15; 46:14; 56:8,16 judgments 20:24 juggling 44:9 June 42:5 justify 55:15 </pre>	<pre>language   14:18; 15:14;   17:1 larger 57:1 laser 34:24 last 9:14;   15:25; 65:23;   67:20 later 39:1 law 13:2;   18:21 lawyer 62:14;   65:21 lawyers 62:21;   64:22; 65:25 leader 38:4 learning 22:11 least 11:5,9;   18:25; 21:14;   32:16; 48:18;   49:22; 59:3,4 leave 21:8;   29:24 left 45:24 legal 7:14;</pre>	<pre>little 7:18; 23:3,4,17,20; 29:25; 39:8, 22; 46:2; 48:9; 51:17; 56:22; 57:12 live 33:17; 37:8,9 lives 38:2; 39:13 living 51:20 located 9:20; 11:12 location 11:15; 27:10; 57:9 locations 21:5,6 lodge 35:11, 17; 40:6; 48:8,13,25; 49:18; 50:21, 24; 51:23 long 33:3;</pre>	<pre>lowering 29:11 ludicrous 35:4 LYONS 3:13; 37:8,14; 40:3; 68:21, 25; 69:6,13, 18,24; 70:14, 24; 71:11,24; 72:5,9,11,23; 73:2 </pre>
<pre>judge 8:17; 33:24 judgment 27:21; 43:23; 45:15; 46:14; 56:8,16 judgments 20:24 juggling 44:9 June 42:5 justify 55:15 </pre>	<pre>language   14:18; 15:14;   17:1 larger 57:1 laser 34:24 last 9:14;   15:25; 65:23;   67:20 later 39:1 law 13:2;   18:21 lawyer 62:14;   65:21 lawyers 62:21;   64:22; 65:25 leader 38:4 learning 22:11 least 11:5,9;   18:25; 21:14;   32:16; 48:18;   49:22; 59:3,4 leave 21:8;   29:24 left 45:24</pre>	<pre>little 7:18; 23:3,4,17,20; 29:25; 39:8, 22; 46:2; 48:9; 51:17; 56:22; 57:12 live 33:17; 37:8,9 lives 38:2; 39:13 living 51:20 located 9:20; 11:12 location 11:15; 27:10; 57:9 locations 21:5,6 lodge 35:11, 17; 40:6; 48:8,13,25; 49:18; 50:21, 24; 51:23 long 33:3; 36:22; 67:16</pre>	<pre>lowering 29:11 ludicrous 35:4 LYONS 3:13; 37:8,14; 40:3; 68:21, 25; 69:6,13, 18,24; 70:14, 24; 71:11,24; 72:5,9,11,23; 73:2 M </pre>
<pre>judge 8:17; 33:24 judgment 27:21; 43:23; 45:15; 46:14; 56:8,16 judgments 20:24 juggling 44:9 June 42:5 justify 55:15 </pre>	<pre>language   14:18; 15:14;   17:1 larger 57:1 laser 34:24 last 9:14;   15:25; 65:23;   67:20 later 39:1 law 13:2;   18:21 lawyer 62:14;   65:21 lawyers 62:21;   64:22; 65:25 leader 38:4 learning 22:11 least 11:5,9;   18:25; 21:14;   32:16; 48:18;   49:22; 59:3,4 leave 21:8;   29:24 left 45:24 legal 7:14;   17:11; 55:19,   25; 62:17;</pre>	<pre>little 7:18; 23:3,4,17,20; 29:25; 39:8, 22; 46:2; 48:9; 51:17; 56:22; 57:12 live 33:17; 37:8,9 lives 38:2; 39:13 living 51:20 located 9:20; 11:12 location 11:15; 27:10; 57:9 locations 21:5,6 lodge 35:11, 17; 40:6; 48:8,13,25; 49:18; 50:21, 24; 51:23 long 33:3; 36:22; 67:16 longer 8:16;</pre>	<pre>lowering 29:11 ludicrous 35:4 LYONS 3:13; 37:8,14; 40:3; 68:21, 25; 69:6,13, 18,24; 70:14, 24; 71:11,24; 72:5,9,11,23; 73:2 M M </pre>
<pre>judge 8:17; 33:24 judgment 27:21; 43:23; 45:15; 46:14; 56:8,16 judgments 20:24 juggling 44:9 June 42:5 justify 55:15 </pre>	<pre>language   14:18; 15:14;   17:1 larger 57:1 laser 34:24 last 9:14;   15:25; 65:23;   67:20 later 39:1 law 13:2;   18:21 lawyer 62:14;   65:21 lawyers 62:21;   64:22; 65:25 leader 38:4 learning 22:11 least 11:5,9;   18:25; 21:14;   32:16; 48:18;   49:22; 59:3,4 leave 21:8;   29:24 left 45:24 legal 7:14;   17:11; 55:19,   25; 62:17;   65:18</pre>	<pre>little 7:18; 23:3,4,17,20; 29:25; 39:8, 22; 46:2; 48:9; 51:17; 56:22; 57:12 live 33:17; 37:8,9 lives 38:2; 39:13 living 51:20 located 9:20; 11:12 location 11:15; 27:10; 57:9 locations 21:5,6 lodge 35:11, 17; 40:6; 48:8,13,25; 49:18; 50:21, 24; 51:23 long 33:3; 36:22; 67:16 longer 8:16; 36:20; 49:7</pre>	<pre>lowering 29:11 ludicrous 35:4 LYONS 3:13; 37:8,14; 40:3; 68:21, 25; 69:6,13, 18,24; 70:14, 24; 71:11,24; 72:5,9,11,23; 73:2 </pre>
<pre>judge 8:17; 33:24 judgment 27:21; 43:23; 45:15; 46:14; 56:8,16 judgments 20:24 juggling 44:9 June 42:5 justify 55:15 </pre>	<pre>language   14:18; 15:14;   17:1 larger 57:1 laser 34:24 last 9:14;   15:25; 65:23;   67:20 later 39:1 law 13:2;   18:21 lawyer 62:14;   65:21 lawyers 62:21;   64:22; 65:25 leader 38:4 learning 22:11 least 11:5,9;   18:25; 21:14;   32:16; 48:18;   49:22; 59:3,4 leave 21:8;   29:24 left 45:24 legal 7:14;   17:11; 55:19,   25; 62:17;</pre>	<pre>little 7:18; 23:3,4,17,20; 29:25; 39:8, 22; 46:2; 48:9; 51:17; 56:22; 57:12 live 33:17; 37:8,9 lives 38:2; 39:13 living 51:20 located 9:20; 11:12 location 11:15; 27:10; 57:9 locations 21:5,6 lodge 35:11, 17; 40:6; 48:8,13,25; 49:18; 50:21, 24; 51:23 long 33:3; 36:22; 67:16 longer 8:16;</pre>	<pre>lowering 29:11 ludicrous 35:4 LYONS 3:13; 37:8,14; 40:3; 68:21, 25; 69:6,13, 18,24; 70:14, 24; 71:11,24; 72:5,9,11,23; 73:2 M </pre>

1

main 36:11;         68:2,12         40:12,23;         52:19;         56:22           maintained         41:16;         42:1;         47:1;         49:22           diraction         41:16;         42:1;         47:1;         49:22           maintained         41:16;         42:1;         47:1;         49:22           maineder         39:10;         40:15         54:24;         55:1;         MCI 18:20;           manager         13:11;         12;         61:12;         56:7,20;         63:6;         73:4;5           14:24;         16:4;         57:11;         20:3;         64:12;         31:16;         36:1;4;           manneger         13:1;1;         12;         61:22;         33:18;         36:1;1;           display         mention         21:1;1;         61:22;         49:12;5;1;23;         49:12;5;1;23;           for         mention         21:1;1;         71:2;1;3;         49:12;5;1;23;         49:12;5;           marina         34:2;1;         mention         71:2;1;3;         49:12;5;5;         51:7;20;1;           marina         34:2;1;         mention         71:7;1;1;         49:12;5;5;         51:5;5;           marina         34:1;2;5;46:3;1;				
56:25         meetings         41:25,8;         motivation           maintained         41:16,42:3;         42:1;47:1;         49:22           major 65:7         member 2:6,7;         52:6;53:15;         75:22           major 65:7         member 2:6,7;         52:6;53:15;         75:22           managed 73:13         member 2:6,7;         55:70;         26:24;29:13;           managed 73:14;         12;6:14;         55:70;         26:24;29:13;           managed 73:13         member 3:4;         55:70;         26:24;29:13;           managed 73:14;         12;6:14;         53:6;720;         26:24;29:13;           managed 73:17         member 3:10;12;         51:11,15;         72:19           managed 73:17         remorize 33:1         23;65:2;         33:18;36:1;           10:5,24;         mention 21:1         66:12,17;         64:22;           maintaine 32:21         mentor 50:14         20;71:2,13;         49:6;23;           marine 32:10         mesey 66:3         71:7; 71:2,13;         49:6;23;           marine 32:10         mesey 66:3         miseilee 66:8         multipal           mark 6:10         52:13         miseilee 61:8         multipal           marine 32:10         mesey 66:3	main 36:11;	68:2,12	40:12,23;	
mainrained         41:16, 42:3;         42:1; 47:1;         49:22           61:23; 65:1         member 2:6,7,         52:6; 53:15;         75:22           majority 75:11         8,9,10; 40:15         54:24; 55:11;         MC 18:20;           managed 73:13         member 2:6,7,         54:24; 55:11;         MC 18:20;           manager 13:11;         12; 6:14;         57:11,21;         MS. 61:24;           17:6         52:7; 56:8;         20; 59:11,15;         72:19           manager 13:11;         12; 6:14;         57:17;         63:3; 61:7;           maner 66:22         20; 73:22;         18,20,25;         33:18; 36:11;           46:9; 74:7;         75:17         69:2,11,7;         64:22           10:5,24;         34:1; 42:16;         69:2,11,7;         multi 53:5           11:8; 12:4,         34:1; 42:16;         69:2,11,7;         multi 53:5           71:25         mentor 50:14         20; 70:8,15;         71:20         multi 90:21           marina 34:21,         Merit 1:13;         72:2,18:21;         61:2,21         61:2,21           match 2:0:9         MICHAEL 2:5;         mitigate 69:10         multiple 9:21           maria 34:21,         Merit 1:13;         71:2,13;         91:61:2			41:2,5,8;	motivation
Girls 23, 65:1         44:10         48:4,24;         move 18:4;           major 65:7         member 2:6,7,         52:6; 53:15;         75:22           managed 73:13         member 3:8,8,         56:7,20;         26:24; 29:13;           managed 73:13         member 3:8,8,         56:7,20;         26:24; 29:13;           managed 73:13         member 3:8,8,         56:7,20;         33:16; 3:6; 73:4,5           managed 73:13         member 3:8,8,         56:7,20;         33:16; 3:6; 73:4,5           many 35:23;         20; 73:22;         18:20,25;         33:18; 3:6:1;           66:12,7;         memorize 33:1         23:65:2;         49:12; 51:23;           map 35:23;         corr 75:17         66:12,17;         multi 53:5           map 4:17;         mention 21:1         66:12,17;         multi 53:5           mark 3:24;         Merit 1:13;         72:2,13;         49:6,23;           mark 7:7         mest 5:14         mest 6:13         missile 6:18         multi-family           Mary 1:10;         MicHAEL 2:5;         missile 6:25         municipal         municipal           mark 7:7         Mary 1:1;         missile 6:25         municipal         municipal           mark 1:10         MicHAEL 2:5;         missile 6:2;<				49:22
major (5.7)         member 2:6,7, Bajority 75:11         member 2:6,7, Bajority 75:11         75:22 Bajority 75:11         75:22 Bajority 75:11           managed 73:13 manager 13:11;         12; 6:14; 12; 6:14;         55:7,20; 55:11;         75:12 Bajority 72:17         76:12,21; Bajority 72:17         63:6; 73:4,5; Bajority 72:17           manner 66:22         67:12; 6:15; 20; 73:22;         18:20,25; 18:20,25;         33:16; 72:17         18:20,25; 33:16; 72:7         33:16; 72:17           map 6:17; map 6:17; map 6:17; map 6:17; marina 34:21, Marina	1			move 18:4;
majority 75:118.9.10; 40:1554:24; 55:11; 61:7; 72:12MPC 18:20; 62:24; 29:13; 63:6; 72:0; 72:12managed 13:11; 14:24; 16:4; 17:612; 6:14; 20:3; 45:25; 52:7; 56:8; 60:3; 61:7, 63:6; 72:752:7; 56:8; 72:1972:19 much 22:14,15; much 22:14,15; much 22:14,15; 72:19many 35:23; 20; 73:22; 16:5:3; 61:7, 33:6; 72:762:3; 64:14, 72:1942:5; 46:5; 6; 72:19may 35:23; 20; 73:22; 10:5,24; 11:8; 12:4, 11:8; 12:4, 35:5;75:17 75:17 75:17 12:26; 11:8; 12:4, 34:1; 42:16; 12:7; 58:5 20; 70:8,15; 11:8; 12:4, 17:7; 21:22; 11:8; 12:4, 17:7; 21:22; 11:8; 12:4, 13:3; 38 17:3,18 12:4; 35:3,8 17:3,18 12:4; 35:3,8 17:3,18 12:4; 35:3,8 17:3,18 12:4; 35:3,8 17:3,18 12:4; 35:3,8 17:3,18 12:4; 35:3,8 17:3,18 12:4; 35:3,8 17:3,18 11:19; 12:4, 11:19; 12:10 11:19; 12:10 11:19; 12:10 11:19; 12:10 11:19; 12:10 11:19; 12:10 11:19; 12:10 11:19; 12:10 11:19; 12:10 11:19; 12:11; 11:19; 12:12, 11:19; 12:12, 11:19; 12:12; 12:11; 11:19; 12:12, 13:11; 11:19; 12:12, 13:11; 11:19; 12:12, 13:11; 11:11; 13:12; 13:12; 1				75:22
managed 73:13 managed 73:14 managed 73:13 managed 73:13	-			MPC 18:20;
manager 13:11; 14:24: 16:4; 17:6       12; 6:14; 20:3; 45:25; 58:1,10,14, 17:6       63:6; 73:4,5         manager 13:11; 14:24: 16:4; 17:6       20:3; 45:25; 20: 59:11,15; 60:3; 61:7, many 35:23; 40:9; 47:7; 75:17       63:6; 73:4,5         many 35:23; 40:9; 47:7; 75:17       75:17 75:17       62:3; 64:14, 42:5; 46:5,6; 49:12; 53:6; 12: 64:22; math 61:7; 10:5,24; 11:8; 12:4, 34:1; 42:16; 69:2,11,17, multi 53:5       much 22:14,15; 64:22; 10:5,24; 11:8; 12:4, 34:1; 42:16; 69:2,11,17, multi 53:5         marina 34:21, Marina 34:21, math 68:10       Merit 1:13; 72:2,18,221       77:3,18       24; 73:3; 77:3,18       57:16,21 72:75:6,21         math 20:10       71:25       mentor 50:14       20; 71:2,13; 72:70:6,21       57:12,0         marina 34:21, Marina 34:21, math 68:10       Merit 1:13; 72:19; 75:6,21       77:20:70:8,15; 77:20       57:20         math 21:10       MICKEY 3:11; math 68:10       missile 66:25 mitsigat 49:10       multiple 9:21 multiple 9:21         math 21:10       MICKEY 3:11; math 68:10       multiple 9:21       multiple 9:21         math 25:17       10:16; 12:20, 12:9; 42:24;       multiple 9:21       multiple 9:21         math 25:17       11:11; 50:24;       11:11; 50:24;       11:11; 50:24;         math 21:10       MICKEY 3:11; modifications       11:11; 50:24;       11:11; 50:24;         math 8:10       missile 6:16       27:7; 49:8;       9:20; 11:12,			• ·	
Marine 16.4;       21:3; 45:25;       5s:1,10,14;       MS. 61:24;         17:6       55:7; 56:8;       20; 59:11,15;       much 22:14,15;         manner 66:22       60:12; 64:12,       32:16; 42:5;       32:16; 55:6;         manner 66:22       20; 73:22;       18:20,25;       32:16; 55:6;         map 6:17;       mentioned       67:12; 66:12,       49:12; 51:22;         map 6:17;       mentioned       67:12; 66:24;       multi family         11:8; 12:4;       34:1; 42:16;       69:2,11,17,       multi family         17; 21:22;       mentor 50:14       20; 70:8,15,       71:2; 42:19;         71:25       mentor 50:14       20; 70:8,15,       71:2; 42:19;         Marine 32:10       messy 66:3       74:7; 75:6,21       multiface         Maryland 70:1       28:18       missile 66:82       multicipal         matter 1:0       MCKEY 3:11;       missile 66:82       multicipalities         maximum 75:7       22:9; 42:24;       25:10       10:16; 12:20;         Mayor 2:11       Mike 30:17;       Mohavk 37:9       23:12:10;       10:16; 12:20;         Mayor 2:11       Mike 30:17;       Mohavk 37:9       9:20; 11:1,2;       13:3:0:25;         matimum 75:7       22:9; 42:24; <t< td=""><td></td><td></td><td></td><td>· · ·</td></t<>				· · ·
17:6       52:7; 56:8;       20; 59:11,15;       72:19         manner 66:22       67:12; 68:19,       60:3; 61:7,       much 22:14,15;         assist of the second se		-		
1/10       66:22       67:12; 68:19,       60:3; 61:7,       much 22:14,15;         many 35:23;       20; 73:22;       18,20,25;       33:18; 36:1;         46:9,47:7;       memorize 33:1       23; 65:2;       49:12; 51:23;         map 6:17;       memorize 33:1       23; 65:2;       49:12; 51:23;         map 6:17;       memorize 33:1       23; 65:2;       49:12; 51:23;         marine 34:21,       Marine 50:14       69:2,11,17,       multi 53:5         marine 34:21,       Merit 1:3;       71:2,13;       49:6,23;         marine 32:10       mesy 66:3       74:7; 75:6,21       57:20         mark 7:7       met 4:11;       missile 66:8       multiple 9:21         marine 32:10       mesy 66:3       74:7; 75:6,21       57:20         math 68:10       52:13       missile 66:8       multiple 9:21         maxizing       31:10       mixture 48:10       47:9,10         match 20:9       Mick 20:17;       14:13; 16:21;       71:9:3,5;         maximum 75:7       S0:15,16       Mohawk 37:9       23; 14:5;         Maryor 2:11       50:15,16       Mohawk 37:9       23; 14:5;         Macd 20:9;       mined 45:11       13:2       13:30:25;         maximum 75:7 <td></td> <td></td> <td></td> <td></td>				
many 35:23;       20; 73:22;       32:12;       33:12; 36:1;         46:9; 47:7;       75:17       62:3; 64:14,       42:5; 46:5, 6;         53:6; 72:7       memtion 21:1       66:12,17;       64:22         10:5; 24;       mentioned       67:19; 68:24;       multi 53:5         11:8; 12:4,       34:1; 42:16;       69:2,11,17,       multi 53:5         marx 33:32,       mertor 50:14       20; 70:8,15,       71:2; 42:19;         71:25       mentor 50:14       20; 70:8,15,       71:2; 42:19;         71:25       mertor 50:14       20; 70:8,15,       71:2; 42:19;         71:25       mertor 50:14       20; 70:8,15,       71:2,12;       53:6;         Marine 32:10       messy 66:3       74:7, 75:6,21       57:20         mark 7:7       met 4:11;       missiles 65:25       multispla       12:9; 34:6;         Maryland 70:1       28:18       missiles 65:25       multispla       11:1; 5:24;         maximum 75:7       22:9; 42:24;       25:10       10:16; 12:20;       12:9; 33,5;         maximum 75:7       22:9; 42:24;       25:10       10:16; 12:20;       12:20;         Mayor 2:11       Micke 30:17;       Monday 6:4;       15:9; 16:2,       12:22;         Mayor 2			-	
A6:9; 47:7;       75:17       memorize 33:1       62:3; 64:14,       42:5; 46:5, 6;         53:6; 72:7       memorize 33:1       23; 65:2;       49:12; 51:23;         10:5,24;       mentioned       67:19; 68:24;       multi-family         11:8; 12:4,       34:1; 42:16;       69:2,11,17,       multi-family         17; 21:22;       mentor 50:14       20; 70:6,15,       7:2; 42:19;         71:25       mentor 66:3       77:3,18       24; 73:3;       51:6; 53:6;         Marine 32:10       messy 66:3       74:7; 75:6,21       57:20         mark 7:7       met 4:11;       missile 66:8       multiple 9:21         match 20:9       MTCHABL 2:5;       mitigate 49:10       12:9; 34:6;         matter 1:10       MCKEY 3:11;       mobil 65:28       municipalities         matter 1:10       MICKAEL 2:5;       municipalities       11:1; 5:24;         matter 1:10       MCKEY 3:11;       mobil 6:218       municipalities         maximizing       31:10       modifications       1:11; 5:24;         maximum 75:7       22:9; 42:24;       25:10       10:16; 12:20,         Mayor 2:11       50:15,16       Mohawk 37:9       23; 14:5;         McCAULEY 2:9;       minimal 45:8       54:18; 64:5; <td></td> <td></td> <td></td> <td></td>				
33:6, 72:7       memorize 33:1       23, 65:2;       49:12; 51:23;         map 6:17;       mention 21:1       66:12,17;       64:22         11:8; 12:4,       34:1; 42:16;       69:2,11,17,       multi 53:5         17; 21:22;       58:5       20; 70:8,15,       7:3; 49:6,23;         marina 34:21,       Merit 1:13;       72:2,18,21,       50:1,19;         23; 35:8       77:3,18       24; 73:3;       51:6; 53:6;         Marine 32:10       messy 66:3       74:7; 75:6,21       multiple 9:21         match 20:9       MICHAEL 2:5;       mitigate 49:10       47:9,10         matter 1:10       MICKEY 3:11;       mobile 53:8       multiple 9:21         matmaimizing       31:10       mobile 53:8       multicipalities         55:9       midifications       7:19; 9:3,5;       13:30:25         Mayor 2:11       Mike 30:17;       Mohawk 37:9       23:14:5;         Macol 2:2;       minimizing       65:21       morth 4:11;       13:2         mean 28:2;       minimizing       65:21       morth 4:12;       13; 30:25         matter 1:10       MICKEY 3:11;       mohifications       1:11; 5:24;       13; 30:25         mating 6:16;       7:7; 49:8;       9:20; 11:1.2,20;		-		
35.36, 12.17mention 21.166:12,17; 67:19; 68:24; multi 53:510:5,24; 11:8; 12:4, 17; 21:22; 71:25mention 21:166:12,17; 67:19; 68:24; multi 53:5multi 53:5 multi 53:571:25 marina 34:21, 24; 35:3,870:11,21 77:3,1820; 70:8,15, 20; 70:8,15, 71:2,13; 71:2,18,21, 71:2,18,21, 50:1,19; 55:671:7,75:6,21 57:20Marine 32:10 matk 68:10 matter 1:10messy 66:3 MCKEY 3:11; mitgit 20:17;missile 66:8 mitgite 49:10multiple 9:21 multiple 9:21 multiple 9:21match 20:9 maximum 75:7might 20:17; 22:9; 42:24; 55:914:13; 16:21; 71:9,1012:9; 34:6; multiple 9:21 multiple 9:21 multiple 9:22 multiple 53:8 multiple 53:8 multiple 53:8Mayou 2:11 Mayou 2:11 50:15,16 McAUEY 2:9; 61:11,13; 61:12,24 minimal 45:8 65:20; 69:8, 21:11 61:12 66:7,8; 79:7 means 49:10; 61:11,23; 61:11,23; 61:11,23; 61:12 61:12 61:12 61:12,22 61:11,23; 61:12,22 61:11,23; 61:12 61:12 61:12 61:13,22; 73:17 73:17 73:17 73:17 73:17 73:17 74:7; 26:18; 73:17 74:7; 26:18; 73:17 71:9 71:17 71:17 71:17 71:17 71:17 71:17 71:17 71:17 71:17 71:17 71:17 71:17 71:17 71:17 71:17 71:17 71:17 71:17 71:17 <br< td=""><td></td><td></td><td></td><td></td></br<>				
Initial of the second	53:6; 72:7			1
11:8; 2; 4;       34:1; 42:16;       69:2,11,17,       multi-family         17; 21:22;       58:5       20; 70:8,15,       72; 42:19;         71:25       mertor 50:14       20; 70:8,15,       72; 42:19;         71:25       mertor 50:14       20; 71:2,13;       49:6,23;         marina 34:21,       Merit 1:13;       72:2,18,21,       50:1,19;         24; 35:3,8       77:3,18       24; 73:3;       51:6; 53:6;         Marine 32:10       messy 66:3       74:7; 75:6,21       multiple 9:21         matk 7:7       met 4:11;       missiles 66:8:5       multiple 9:21         math 68:10       52:13       missiles 66:8:5       multiple 12:9; 34:6;         matter 1:10       MICKEY 3:11;       mobile 53:8       multiple 12:9; 34:6;         maximizing       31:10       mobile 53:8       multiple 12:9; 34:6;         maximum 75:7       22:9; 42:24;       25:10       10:16; 12:20,         Mayor 2:11       50:15,16       Mohawk 37:9       23; 14:5;         McCNUEY 2:9;       Mike 30:17;       Monday 6:4;       15:9; 16:2,         13:2       minind 45:4;       65:10;       13:3; 30:25         mazing       36:20; 69:8,       minimixing       65:21       month 4:11; <tr< td=""><td>map 6:17;</td><td>mention 21:1</td><td></td><td></td></tr<>	map 6:17;	mention 21:1		
11.8; 12:4, 17; 21:22; T1:2534:1; 42:16; 58:5 $69:2,11,17,$ 70:8,15, 20; 70:8,15, 71:2,13; 21; 21:3; 49:6,23; 50:1,19; 21:3; 49:6,23; 50:1,19; 21:3; <b< td=""><td>10:5,24;</td><td>mentioned</td><td></td><td></td></b<>	10:5,24;	mentioned		
17: 21:22;       58:5       20; 70:8,15,       71:2; 42:19;         71:25       mentor 50:14       20; 71:2,13;       49:6,23;         marina 34:21,       Merit 1:13;       72:2,18,21,       50:1,19;         24; 35:3,8       77:3,18       24; 73:3;       51:6; 53:6;         Marine 32:10       messy 66:3       rd:right 24; 73:3;       51:6; 53:6;         matr 0:20:9       metsy 66:3       rd:right 24; 73:3;       51:6; 53:6;         math 20:9       mitight 28:18       missile 66:8       multiple 9:21         match 20:9       MICHAEL 2:5;       mitight 29:10       12:9; 34:6;         maximum 75:7       22:13       modifications       1:11; 5:24;         maximum 75:7       22:9; 42:24;       25:10       0:16; 12:20,         Mayor 2:11       50:15,16       Mohawk 37:9       23; 14:5;         McCAULEY 2:9;       Mike 30:17;       Monday 6:4;       15:9; 16:2,         64:21,24       minimal 45:8       54:16; 64:5;       9.14; 19:2         29:7; 38:15;       minerals 6:16       27:7; 49:8;       9:20; 11:1,2,         61:12       month 4:11;       means 49:10;       68:13       N         61:12       68:7,8; 75:7       month 4:11;       mee 22:17;		34:1; 42:16;		
71:25       mentor 50:14       20; 71:2,13;       49:6,23;         marina 34:21,       Merit 1:13;       72:2,18,21,       50:1,19;         24; 35:3,8       77:3,18       24; 73:3;       51:6; 53:6;         Marine 32:10       meesy 66:3       74:7; 75:6,21       57:20         mark 7:7       met 4:11;       missile 66:8       multiple 9:21         math 68:10       52:13       missile 65:25       municipal         matter 1:10       MICKEY 3:11;       mobile 53:8       municipal         maximizing       31:10       modifications       1:11; 5:24;         maximum 75:7       22:9; 42:24;       25:10       10:16; 12:20,         Mayor 2:11       50:15,16       Mohawk 37:9       23; 14:5;         McCAULEF 2:9;       Mike 30:17;       Monday 6:4;       15:9; 16:2,         mana 28:25;       minimal 45:8       54:18; 64:5;       9:42; 19:2         20:7; 38:15;       minimum 45:4;       68:13       mame 22:17;         means 49:10;       minimum 45:4;       68:13       78:         meant 25:17,       mining 6:18;       MOORE 2:6;       municipal 4:7         means 49:10;       minimum 45:4;       68:13       78:         61:12       9:10;       12		58:5	20; 70:8,15,	
marina34:21, 24; 35:3.8Merit1:13; 77:3.1872:2.18.21, 24; 73:3; 51:6; 53:6; 57:20Marine32:10messy66:374:7; 75:6.2157:20mark7:7met4:11; missilemissile66:8multipleMaryland70:128:18missile66:25multiplematch20:9MICHAEL2:5;mitigate49:1012:9; 34:6;matter1:10MICKEY3:11;modifications1:11; 5:24;matinizing31:10modifications1:11; 5:24;55:9might20:17;14:13; 16:21;7:19; 9:3.5;maximum75:722:9; 42:24;25:1010:16; 12:20,Mayor2:1150:15,16Mohawk37:923; 14:5;McAULEY2:9;Mike30:17;Monday64:1113:213:213; 30:25municipalitymean28:22;minerals65:21municipality29:7;38:15;minerals65:21municipality61:12,68:7,8; 75:7month4:11;meant25:17,mining61:8;37:8measure36:5minor5:21;23:11; 30:7;measure36:5minor5:21;23:12; 37:8measure36:5minor5:21;municipalitymeasure36:5minor5:21;23:12; 37:8measure36:5minor5:21;23:12; 37:8measure		<b>mentor</b> 50:14	20; 71:2,13;	
24; 35:3,8       77:3,18       24; 73:3;       51:6; 53:6;         Marine 32:10       messy 66:3       74:7; 75:6,21       57:20         mark 7:7       met 4:11;       missile 66:8       multiple 9:21         math 20:9       MICHAEL 2:5;       mitsure 48:10       47:9,10         matter 1:10       MICKEY 3:11;       mobile 53:8       municipalities         maximizing       31:10       modifications       1:11; 5:24;         maxyor 2:11       50:15,16       Mohawk 37:9       23; 14:5;         McCAULEY 2:9;       41:13; 64:11       13:2       13; 30:25         mean 28:22;       mind 49:22       monery 23:22;       municipality         minimal 45:8       54:18; 64:5;       9,14; 19:2         65:20; 69:8,       minimizing       65:21       myself 4:7         measure 36:5       minor 5:21;       28:14; 52:8;       37:8         measure 36:5       10:27:6       54:19; 55:8,       nature 26:9,         34:25       MISCOE 2:5;       24; 56:19,21;       15; 29:21         mechanism       3:3; 4:1;       57:14,24;       meaecs:17;         18; 38:1       73:17, 58:2; 59:19       necessarily         MICCAULEY 2:9;       12:18; 13:7, 58:2; 59:19       necessarily <td></td> <td></td> <td>72:2,18,21,</td> <td>50:1,19;</td>			72:2,18,21,	50:1,19;
Marine 32:10       messy 66:3       74:7; 75:6,21       57:20         mark 7:7       met 4:11;       missile 66:2       multiple 9:21         Maryland 70:1       28:18       missiles 65:25       multiple 9:21         match 20:9       MTCHAEL 2:5;       mitigate 49:10       47:9,10         matter 1:10       MICKEY 3:11;       mobile 53:8       municipalities         maximizing       31:10       modifications       1:11; 5:24;         55:9       might 20:17;       14:13; 16:21;       7:19; 9:3,5;         Mayor 2:11       50:15,16       Mohawk 37:9       23; 14:5;         McCAULEY 2:9;       Mike 30:17;       Monday 6:4;       15:9; 16:2,         64:21,24       41:13; 64:11       13:2       13; 30:25         mean 28:22;       minimal 45:8       54:18; 64:5;       9; 14; 19:2         65:20; 69:8,       minimizing       65:21       myself 4:7         61:12       68:7,8; 75:7       month 4:11;          measure 36:5       minor 5:21;       28:14; 52:8;       37:8         measuring       26:10; 27:6       54:19; 55:8,       nature 26:9,         34:25       MISCOE 2:5;       24; 56:19,21;       15; 29:21         mechanism       3:3; 4:			24; 73:3;	51:6; 53:6;
mark 7:7met 4:11; met 4:11; mark 7:7missile 66:8 missiles 65:25 missiles 65:25 mitigate 49:10multiple 9:21 muncipalMaryland 70:128:18 missiles 65:25 math 68:10mirture 48:10 mitigate 49:10multiple 9:21 muncipalmatter 1:10MICKEY 3:11; mobile 53:8 matimum 75:7mirture 48:10 mobile 53:8 modifications47:9,10 muncipalitiesmaximum 75:722:9; 42:24; 25:1025:10 modifications10:16; 12:20; 10:16; 12:20; 10:16; 12:20; 10:16; 12:20; 10:16; 12:20; 10:16; 12:20; 11:1,5;Mayor 2:11 McCAULEY 2:9; 64:21,24 64:21,24 64:21,24 61:11,13; 61:11,13; minimal 45:8 65:10 61:12,12; 73:8:15; minimizing 65:20; 69:8, minimig 6:18; measure 36:5 34:25minimig 6:18; minor 5:21; 73:17 73				57:20
Marl and 70:1       20:18       missiles 65:25       municipal         match 20:9       MTCRAEL 2:5;       mitigate 49:10       12:9; 34:6;         math 68:10       52:13       mitigate 49:10       12:9; 34:6;         matter 1:10       MTCKEY 3:11;       modifications       1:11; 5:24;         maximizing       31:10       modifications       1:11; 5:24;         maximum 75:7       22:9; 42:24;       25:10       10:16; 12:20,         Mayor 2:11       50:15,16       Mohawk 37:9       23; 14:5;         McCAULEY 2:9;       Mike 30:17;       Monday 6:4;       15:9; 16:2,         Mac 28:22;       mind 49:22       money 23:22;       municipality         29:7; 38:15;       minerals 6:16       27:7; 49:8;       9:20; 11:1,2,         61:11,13;       minimizing       65:21       myself 4:7         22       55:9       month 4:11;          means 49:10;       minimizing       68:13       N         Miscore 3:5;       minor 5:21;       months 4:11          means 25:17,       mining 6:18;       MOORE 2:6;       nature 26:9,         34:25       MISCOE 2:5;       24; 56:19,21;       15; 29:21         mechanism       3:3; 4:1;				multiple 9:21
match 20:9       MICHAEL 2:5;       mitigate 49:10       12:9; 34:6;         match 20:9       MICHAEL 2:5;       mitigate 49:10       47:9,10         matter 1:10       MICKEY 3:11;       mobile 53:8       municipalities         maximum 75:7       22:9; 42:24;       25:10       municipalities         55:9       might 20:17;       14:13; 16:21;       7:19; 9:3,5;         MaccAULEY 2:9;       Mike 30:17;       Mohawk 37:9       23; 14:5;         McCAULEY 2:9;       Mike 30:17;       Monday 6:4;       15:9; 16:2,         64:21,24       41:13; 64:11       13:2       13; 30:25         mean 28:22;       minerals 6:16       27:7; 49:8;       9:20; 11:1,2;         9:17; 38:15;       minerals 6:16       27:7; 49:8;       9:20; 11:1,2;         61:11,13;       minimizing       65:21       myself 4:7         722       55:9       month 4:11;		-		
math 68:1052:13mixture 48:1047:9,10matter 1:10MICKEY 3:11;modifications1:11; 5:24;maximizing31:10modifications1:11; 5:24;55:9might 20:17;14:13; 16:21;7:19; 9:3,5;maximum 75:722:9; 42:24;25:1010:16; 12:20,Mayor 2:1150:15,16Mohawk 37:923; 14:5;McCAULEY 2:9;Mike 30:17;Monday 6:4;13:2mean 28:22;mind 49:22money 23:22;municipalityp:7; 38:15;minerals 6:1627:7; 49:8;9:20; 11:1,2,61:11,13;minimizing65:21myself 4:72255:9month 4:11;meant 25:17,minimu 45:4;68:13N61:1268:7,8; 75:7months 4:11meant 25:17,mining 6:18;MOCRE 2:6;name 22:17;18; 38:173:174:7; 26:18;37:8measure 36:5minor 5:21;28:14; 52:8;37:8measuring26:10; 27:654:19; 55:8,nature 26:9,34:25MISCOE 2:5;24; 56:19,21;15; 29:21met 13; 70:21;17:13; 19:11;MORE's 6:1;71:461:3,22;9; 15:20,24;MOSE's 3:11;12:14; 30:12;71:921:3,8;23:1; 27:24;19:21; 23:14;19:21; 23:14;22:17; 29:15;12:18,22;23:11; 30:12;11:3; 37:22;29:5,19;32:11; 60:18,53:10; 54:7;18; 20:2;29:5,19;32:11; 60:18,53:10; 54:7;	-			
Matter 1:10       MICKEY 3:11;       mobile 53:8       municipalities         maximizing       31:10       14:13; 16:21;       7:19; 9:3,5;         maximum 75:7       22:9; 42:24;       25:10       10:16; 12:20,         Mayor 2:11       50:15,16       Mohawk 37:9       23; 14:5;         McCAULEY 2:9;       Mike 30:17;       Monday 6:4;       15:9; 16:2,         mean 28:22;       mind 49:22       money 23:22;       municipality         mean 28:22;       minimal 45:8       54:18; 64:5;       9,14; 19:2         61:11,13;       minimizing       65:21       myself 4:7         22       55:9       month 4:11;          means 49:10;       68:7,8; 75:7       month 4:11;          measure 36:5       minor 5:21;       28:14; 52:8;       37:8         measuring       26:10; 27:6       54:19; 55:8,       nature 26:9,         34:25       MISCOE 2:5;       24; 56:19, 21;       15; 29:21         meet 24:7;       22:18; 13:7,       58:2; 59:19       necessarily         61:3, 22;       9; 15:20, 24;       Moore's 6:1       71:4         16:3, 22;       9; 15:20, 24;       29:10; 30:13;       22:14; 20:13;         13:10; 70:21;       17:				
maximizing       31:10       modifications       1:11; 5:24;         maximum 75:7       22:9; 42:24;       25:10       10:16; 12:20,         Mayor 2:11       50:15,16       Mohawk 37:9       23; 14:5;         McCAULEY 2:9;       Mike 30:17;       Monday 6:4;       15:9; 16:2,         Mayor 2:11       mind 49:22       money 23:22;       municipality         mean 28:22;       mind 49:22       money 23:22;       municipality         64:21,24       minimizing       65:21       money 23:22;         mean 28:22;       mind 49:22       money 23:22;       municipality         61:11,13;       minimizing       65:21       myself 4:7         72       55:9       month 4:11;       myself 4:7         71       68:7,8; 75:7       month 4:11;       maxe 22:17;         means 49:10;       minimig 6:18;       MOORE 2:6;       naure 26:9,         measuring       26:10; 27:6       54:19; 55:8,       nature 26:9,         34:25       MISCOE 2:5;       24:56:19,21;       15; 29:21         mechanism       3:3; 4:1;       57:14,24;       need 6:7,9;         61:3,22;       9; 15:20,24;       Moore's 6:1       71:4         MORGESE 3:7;       need 6:7,9;       1				
Maximum 75:7might 20:17; 22:9; 42:24; 34:25:1014:13; 16:21; 25:107:19; 9:3,5; 10:16; 12:20, 23; 14:5; Motawk 37:9McCAULEY 2:9; McCAULEY 2:9; McCAULEY 2:9; McCAULEY 2:9; Mike 30:17; 64:21,24Mike 30:17; 41:13; 64:11 minerals 6:16 65:21; money 23:22; money 23:22; municipality 9:20; 11:1,2, 9:20; 11:1,2, 9:21; 23:14; 52:8; 9:20; 11:1,2, 9:21; 23:14; 52:8; 9:20; 11:1,2, 9:21; 23:14; 52:8; 9:221 15; 29:21 15; 29:21 16:3,22; 29:15; 10; 13; 13:1; 37:22; 20:24; 16:3,22; 29:10; 30:13; 17:4 26:20; 20:3; 31:6; 32:11; 30:22 29:10; 30:13; 28:8,25 24:1; 26:20; 20:41; 26:20; 20:11; 60:18, 53:10; 54:7; 32:11; 67:12; 30:3; 31:6; 22; 61:8,19, 53:10; 54:7; 32:11; 67:12; 59:10,22,24; 16:21; 67:6, 33:3,6; 37:4, most 17:9; 17:14, 10; 12:10,23; <td></td> <td></td> <td></td> <td></td>				
maximum 75:722:9; 42:24; 50:15,1625:1010:16; 12:20, 23; 14:5;Mayor 2:1150:15,16Mohawk 37:913:9; 16:2, 13; 30:25McCAULEY 2:9;Mike 30:17; 	_			-
Mayor 2:11Energy fullyMayor 2:1150:15,16McCAULEY 2:9;Mike 30:17;64:21,2441:13; 64:11mean 28:22;mind 49:2229:7; 38:15;minerals 6:1627:7; 49:8;9:20; 11:1,2,61:11,13;minimal 45:865:20; 69:8,minimizing65:20; 69:8,minimu 45:4;61:1268:7,8; 75:7meant 25:17,minimg 6:18;61:1268:7,8; 75:7meant 25:17,mining 6:18;18; 38:173:1718; 38:173:1726:10; 27:634:25MISCOE 2:5;26:21; 29:15;12:18; 13:7,71:921:18; 13:7,71:921:3,8;26:21; 29:15;12:18; 13:7,71:921:3,8;28:8,2524:1; 26:20;MoRGESE 3:7;19:21; 23:14;28:8,2524:1; 26:20;MoSES 3:11;32:8; 35:4;18; 20:2;29:5,19;31:1; 37:22; 30:3; 31:6;22:12; 67:6,33:3,6; 37:4,meet 17:5;29:5,19;31:1; 37:22; 30:3; 31:6;22:12; 67:6,33:3,6; 37:4,most 17:9;60:6,24;60:6,24;60:6,24;60:6,24;60:6,24;60:6,24;60:6,24;60:6,24;60:7,9;71:9;71:9;71:9;71:9;71:9;71:9;71:9;71:13;71:14;71:14;7		-		
Macyof 2:11Bike 30:17; Mike 30:17;Monday 6:4; monday 6:4;15:9; 16:2, 13; 30:25 municipalityMcCAULEY 2:9; 64:21,24Mike 30:17; Mike 30:17;Monday 6:4; money 23:22; money 23:22; money 23:22; municipality13:2 money 23:22; municipalitymean 28:22; 09:7; 38:15; 61:11,13; 61:11,13; 65:20; 69:8, 65:20; 69:8, 65:21minimal 45:8 minimul 45:8 65:219:20; 11:1,2, 9:20; 11:1,2, 9:21,2,21; 9:21,2,21; 9:14; 19:2 9:14; 19:2 9:14; 19:2 measuring 9:20; 11:1,2, 9:14; 19:2 9:14; 19:2 9:15:20; 24; 9:16:20; 25; 9:19Moore 2:6; 10:21; 23:14; 13:1; 37:22; 30:3; 31:6; 31:6; 22; 61:8,19, 31:1; 37:22; 30:3; 31:6; 31:6; 31:6; 32:10; 54:7; 31:1; 37:22; 30:3; 31:6; 31:6; 31:6; 32:10; 24:7Meet 10; 41:16; 31:1; 37:22; 30:3; 31:6; 22:11; 60:18, 19; 22:12; 55:5, 56:1; 31:1; 37:22; 30:3; 31:6; 22:11; 60:18, 19; 22:11; 60:18, 13:7; 10:21, 23:14; 23:10; 54:7;Meet 11; 37:22; 30:3; 31:6; 32:10; 22:11; 60:18, 19; 32:10; 22:2, 24: 31:6; 10,15; 32:10; 24:7; 32:11; 60:18, 19; 32:10; 24:7;Mike 30:10; 32:10; 23:10; 24:7; 31:1; 37:22; 30:3; 31:6; 22; 61:8,19, 55:25; 56:1; 31:1; 37:22; 30:3; 31:6; 22; 61:8,19, 55:25; 56:1; 31:1; 32:10; 23:10; 24:7;		-		-
McRedRollMarket 13; 64:1113:213; 30:25mean28:22;mind49:22money23:22;municipality $29:7;$ 38:15;minerals6:16 $27:7;$ $49:8;$ $9:20;$ $11:1,2,$ $61:11,13;$ minimal 45:8 $54:18;$ $64:5;$ $9,14;$ $19:2$ $65:20;$ $69:8,$ minimizing $65:21$ myself 4:7 $22$ $55:9$ month 4:11;means49:10;minimud 45:4; $68:13$ N $61:12$ $68:7,8;$ $75:7$ month 4:11meant $25:17,$ mining $61:8;$ MOORE $2:6;$ name $meant25:17,$ mining $61:8;$ MOORE $2:6;$ name $22:17;$ $18;$ $38:1$ $73:17$ $4:7;$ $26:18;$ $23:1;$ $30:7;$ measure $36:5$ minor $5:21;$ $28:14;$ $52:8;$ $37:8$ measuring $26:10;$ $27:6$ $54:19;$ $55:8,$ nature $26:9,$ $34:25$ MISCOE $2:5;$ $24;$ $56:19,21;$ $15;$ $29:21$ mechanism $3:3;$ $4:1;$ $57:14,24;$ near $32:4$ $26:21;$ $29:15;$ $12:18;$ $13:7,$ $58:2;$ $59:19$ necessarily $61:3,22;$ $9;$ $15:20,24;$ Moore's $6:1$ $71:4$ $63:15;$ $70:21;$ $17:13;$ $19:11;$ $MORGESS$ $3:11;$ $32:8;$ $35:4;$ meet 24:7; $22:18,22;$ </td <td></td> <td></td> <td></td> <td>· · ·</td>				· · ·
mean 28:22;mind 49:22money 23:22;municipality29:7; 38:15;minerals 6:1627:7; 49:8;9:20; 11:1,2,61:11,13;minimal 45:854:18; 64:5;9,14; 19:265:20; 69:8,minimizing65:21myself 4:72255:9month 4:11;means 49:10;68:7,8; 75:7months 4:11meant 25:17,minimum 45:4;68:13N61:1268:7,8; 75:7months 4:11meant 25:17,mining 6:18;MOORE 2:6;name 22:17;18; 38:173:174:7; 26:18;23:1; 30:7;measure 36:5minor 5:21;28:14; 55:8;nature 26:9,34:25MISCOE 2:5;24; 56:19,21;15; 29:21mechanism3:3; 4:1;57:14,24;near 32:426:21; 29:15;12:18; 13:7,58:2; 59:19necessarily61:3,22;9; 15:20,24;Moore's 6:171:463:15; 70:21;17:13; 19:11;MORGESE 3:7;need 6:7,9;71:921:3,8;23:1; 27:24;19:21; 23:14;meeting 17:15,28:4,22;31:6,10,15;46:17; 49:21;18; 20:2;29:5,19;32:11; 60:18,53:10; 54:7;31:1; 37:22;30:3; 31:6;22; 61:8,19,55:25; 56:1;31:1; 37:22;30:3; 31:6;22; 61:8,19,55:25; 56:1;31:1; 37:22;30:3; 31:6;22; 61:8,19,55:25; 56:1;31:1; 37:22;30:3; 31:6;22; 61:8,19,55:25; 56:1;31:1; 37:22;30:3; 31:6;22;	MCCAULEY 2:9;			-
Interal 26:27, 29:7; 38:15; 61:11,13; minimal 45:8 $27:7; 49:8;$ 9:20; 11:1,2; 9.14; 19:2 myself 4:72255:9month 4:11; 68:7,8; 75:7 $$ month 4:11;2255:9month 4:11; 68:7,8; 75:7 $$ month 4:11;means 49:10; meant 25:17, 18; 38:1minimg 6:18; 73:17MOORE 2:6; 4:7; 26:18; 23:1; 30:7; 38:14; 52:8; 37:8name 22:17; name 22:17; 18; 38:1measure 36:5 measuring 34:25minor 5:21; 26:10; 27:628:14; 52:8; 54:19; 55:8, 24; 56:19,21; 15; 29:21 15; 29:21 15; 29:21 16:3,22; 61:3,22; 9; 15:20,24;more's 6:1 meet 24:7; 22:18,22; 22:18,22; 29:1,18; 30:271:4 16:41; 26:20; 29:1,18; 30:2meet 1917:15, 28:4,22; 29:1,18; 30:229:10; 30:13; 28:8,25meeting 17:15, 18; 20:2; 31:1; 37:22; 30:3; 31:6; 31:1; 37:22; 30:3; 31:6; 32:10,23; 22:10,23; 21:62:1most 17:9; 60:6,24;	64:21,24			
29:17, 30:13; 61:11,13; 65:20; 69:8, 22minimal 45:8 minimizing 55:9 $54:18; 64:5;$ 65:21 month 4:11; 65:21 month 4:11; 61:12 meant 25:17, 18; 38:1 73:17 $9,14; 19:2$ myself 4:7 68:13 MOORE 2:6; months 4:11 MOORE 2:6; 18; 38:1 73:17 measure 36:5 minor 5:21; 26:10; 27:6 34:25 mechanism 61:3,22; 61:3,22; 71:9 $N$ $26:21; 29:15;26:10; 27:631:7, 70:21;71:9meat 24:7;22:18,22;71:922:18,22;9; 15:20,24;23:1; 27:24;23:1; 27:24;23:1; 27:24;23:1; 27:24;19:21; 23:14;23:12; 29:10; 30:13;23:12; 27:24;19:21; 23:14;23:12; 29:10; 30:13;23:12; 27:24;19:21; 23:14;23:12; 29:10; 30:13;23:12; 29:10; 30:13;23:12; 20:22;32:11; 60:18, 53:10; 54:7;31:1; 37:22; 30:3; 31:6;22:61:8,19, 55:25; 56:1;31:1; 37:22;30:3; 31:6; 32:11; 60:18, 55:25; 56:1;51:20; 24;most 17:9;mothermotherfor 17:4$	mean 28:22;			
61:11,13, 65:20; 69:8, 22minimizing 55:965:21myself 4:7means 49:10; 61:12minimum 45:4; 68:7,8; 75:768:13Nmeant 25:17, 18; 38:1mining 6:18; 73:17MOORE 2:6; 4:7; 26:18; 23:1; 30:7; 34:25name 22:17; 33:4:1; 57:14,24;measuring 61:3,22; 71:926:10; 27:6 26:21; 29:15; 12:18; 13:7, 9; 15:20,24; 15:20,24;4:7; 26:18; 24:55:8, 12:18; 13:7, 58:2; 59:19name 22:17; name 22:17; 15; 29:21 necessarily 71:4meat 24:7; 22:18,22; 28:8,2521:1; 37:14,24; 22:18,22; 24:1; 26:20;meat 32:4 71:4need 6:7,9; 71:4meet 24:7; 22:18,22; 24:1; 26:20; 18; 20:2; 31:1; 37:22; 30:3; 31:6; 31:1; 37:22; 30:3; 31:6; 31:1; 37:22; 30:3; 31:6; 31:1; 37:22;31:6; 32:10; 23:4 22:16:8,19, 22:16:8,19, 22:16:20;myself 4:7 	29:7; 38:15;			-
22 $55:9$ month $4:11;$ $1$	61:11,13;			
22 $55:9$ month $4:11;$ $$ means $49:10;$ minimum $45:4;$ $68:13$ N $61:12$ $68:7,8;$ $75:7$ months $4:11$ $$ meant $25:17,$ mining $6:18;$ MOORE $2:6;$ name $22:17;$ $18;$ $38:1$ $73:17$ $4:7;$ $26:18;$ $23:1;$ $30:7;$ measure $36:5$ minor $5:21;$ $28:14;$ $52:8;$ $37:8$ measuring $26:10;$ $27:6$ $54:19;$ $55:8,$ nature $26:9,$ $34:25$ MISCOE $2:5;$ $24;$ $56:19,21;$ $15;$ $29:21$ mechanism $3:3;$ $4:1;$ $57:14,24;$ near $32:4$ $26:21;$ $29:15;$ $12:18;$ $13:7,$ $58:2;$ $59:19$ necessarily $61:3,22;$ $9;$ $15:20,24;$ Moore's $6:1$ $71:4$ $63:15;$ $70:21;$ $17:13;$ $19:11;$ MORGESE $3:7;$ need $6:7,9;$ $71:9$ $21:3,8;$ $23:1;$ $27:24;$ $19:21;$ $23:14;$ $28:8,25$ $24:1;$ $26:20;$ MOSES $3:11;$ $32:8;$ $35:4;$ meet $24:7;$ $22:18,22;$ $31:6,10,15;$ $46:17;$ $49:21;$ $18;$ $20:2;$ $29:5,19;$ $32:11;$ $60:18,$ $53:10;$ $54:7;$ $31:1;$ $37:22;$ $30:3;$ $31:6;$ $22;$ $61:8,19,$ $55:25;$ $56:1;$ $40:16;$ $41:16;$ $32:10,23;$ $21;$ $62:1$ $59:10,22,24;$ $62:21;$ $67:6,$ $33:3,6;$ $37:4,$ most $17:9;$ $60:6,24;$	65:20; 69:8,	minimizing		myself 4:7
Internal 13: 49:10,Internal 13: 17,Months 4:11 $61:12$ $68:7,8; 75:7$ months 4:11meant 25:17,mining 6:18;MOORE 2:6; $18; 38:1$ $73:17$ $4:7; 26:18;$ measure 36:5minor 5:21; $28:14; 52:8;$ measuring $26:10; 27:6$ $54:19; 55:8,$ mature 26:9, $15; 29:21$ mechanism $3:3; 4:1;$ $57:14,24;$ near 32:4necessarily $61:3,22;$ $9; 15:20,24;$ Moore's 6:1 $71:4$ $63:15; 70:21;$ $17:13; 19:11;$ MORGESE 3:7;need 6:7,9; $71:9$ $21:3,8;$ $23:1; 27:24;$ $19:21; 23:14;$ $28:8,25$ $24:1; 26:20;$ Moses $3:11;$ $32:8; 35:4;$ meeting $17:15,$ $28:4,22;$ $31:1; 37:22;$ $30:3; 31:6;$ $22:61:8,19,$ $53:10; 54:7;$ $31:1; 37:22;$ $30:3; 31:6;$ $40:16; 41:16;$ $32:10,23;$ $41:16; 41:16;$ $32:10,23;$ $21:62:11$ $59:10,22,24;$ $60:6,24;$ $61:124:65:7:4;$	22	55:9		
61:12 $68:7,8;75:7$ months $4:11$ meant $25:17,$ mining $6:18;$ MOORE $2:6;$ name $22:17;$ $18; 38:1$ $73:17$ $4:7; 26:18;$ $23:1; 30:7;$ measure $36:5$ minor $5:21;$ $28:14; 52:8;$ $37:8$ measuring $26:10; 27:6$ $54:19; 55:8,$ nature $26:9,$ $34:25$ MISCOE $2:5;$ $24; 56:19,21;$ $15; 29:21$ mechanism $3:3; 4:1;$ $57:14,24;$ necessarily $26:21; 29:15;$ $12:18; 13:7,$ $58:2; 59:19$ necessarily $61:3,22;$ $9; 15:20,24;$ Moore's $6:1$ $71:4$ $63:15; 70:21;$ $17:13; 19:11;$ MORGESE $3:7;$ need $6:7,9;$ $71:9$ $21:3,8;$ $23:1; 27:24;$ $19:21; 23:14;$ $28:8,25$ $24:1; 26:20;$ MOSES $3:11;$ $32:8; 35:4;$ $meeting 17:15,$ $28:4,22;$ $31:6,10,15;$ $46:17; 49:21;$ $18; 20:2;$ $29:5,19;$ $32:11; 60:18,$ $53:10; 54:7;$ $31:1; 37:22;$ $30:3; 31:6;$ $22; 61:8,19,$ $55:25; 56:1;$ $40:16; 41:16;$ $32:10,23;$ $21; 62:1$ $59:10,22,24;$ $62:21; 67:6,$ $33:3,6; 37:4,$ most $17:9;$ $60:6,24;$	means 49:10;	<pre>minimum 45:4;</pre>		N
meant $25:17$ , $18;$ mining $6:18;$ $73:17$ MOORE $2:6;$ $4:7;$ name $22:17;$ $23:1;$ measure $36:5$ measuringminor $5:21;$ $26:10;$ $28:14;$ $52:8;$ $37:8$ measuring $34:25$ $26:10;$ $27:6$ $54:19;$ $54:19;$ $55:8,$ $15;$ $29:21$ $15;$ mechanism $26:21;$ $23:3;$ $4:1;$ $12:18;$ $57:14,24;$ $13:2;$ $near$ $32:4$ $26:21;$ $29:15;$ $12:18;$ $13:7,$ $15:20,24;$ $58:2;$ $59:19$ $necessarily$ $16:3,22;$ $9;$ $61:3,22;$ $61:3,22;$ $17:13;$ $19:11;$ $17:13;$ $MORGESE$ $3:7;$ $71:4$ $19:21;$ $23:15;$ $70:21;$ $17:13;$ $17:13;$ $21:3,8;$ $23:1;$ $27:24;$ $29:1,18;$ $30:12;$ $29:10;$ $71:9$ meet $24:7;$ $22:18,22;$ $24:1;$ $26:20;$ $26:20;$ $MOSES$ $3:11;$ $32:11;$ $60:13,$ $32:11;$ $8:20:2;$ $31:1;$ $37:22;$ $30:3;$ $31:6;$ $32:10,23;$ $22:61:8,19,$ $22:61:8,19,$ $55:25;$ $56:1;$ $59:10,22,24;$ $40:16;$ $41:16;$ $62:21;$ $67:6,$ $33:3,6;$ $37:4,$ $37:4,$ $most$ $17:9;$ $60:6,24;$	1	68:7,8; 75:7	months 4:11	
18; 38:1 $73:17$ $4:7; 26:18;$ $23:1; 30:7;$ measure $36:5$ minor $5:21;$ $28:14; 52:8;$ $37:8$ measuring $26:10; 27:6$ $54:19; 55:8,$ nature $26:9,$ $34:25$ MISCOE $2:5;$ $24; 56:19,21;$ $15; 29:21$ mechanism $3:3; 4:1;$ $57:14,24;$ near $32:4$ $26:21; 29:15;$ $12:18; 13:7,$ $58:2; 59:19$ necessarily $61:3,22;$ $9; 15:20,24;$ Moore's $6:1$ $71:4$ $63:15; 70:21;$ $17:13; 19:11;$ MORGESE $3:7;$ need $6:7,9;$ $71:9$ $21:3,8;$ $23:1; 27:24;$ $19:21; 23:14;$ meet $24:7;$ $22:18,22;$ $29:1,18; 30:2$ $29:10; 30:13;$ $28:8,25$ $24:1; 26:20;$ MOSES $3:11;$ $32:8; 35:4;$ meeting $17:15,$ $28:4,22;$ $31:6,10,15;$ $46:17; 49:21;$ $18; 20:2;$ $29:5,19;$ $32:11; 60:18,$ $53:10; 54:7;$ $31:1; 37:22;$ $30:3; 31:6;$ $22; 61:8,19,$ $55:25; 56:1;$ $40:16; 41:16;$ $32:10,23;$ $21; 62:1$ $59:10,22,24;$ $62:21; 67:6,$ $33:3,6; 37:4,$ most $17:9;$ $60:6,24;$		mining 6:18;	MOORE 2:6;	
measure $36:5$ measuringminor $5:21;$ $26:10; 27:6$ $28:14; 52:8;$ $54:19; 55:8,$ $12; 29:15;$ $37:8$ nature $26:9,$ $15; 29:21near 32:4near 32:426:21; 29:15;61:3,22;63:15; 70:21;12:18; 13:7,17:13; 19:11;21:3,8;22:18,22;24:1; 26:20;58:2; 59:19Moore's 6:1MORGESE 3:7;23:1; 27:24;29:1,18; 30:229:10; 30:13;32:8; 35:4;32:8; 35:4;32:11; 37:22;30:3; 31:6;31:1; 37:22;40:16; 41:16;62:21; 67:6,28:14; 52:8;54:19; 55:8,19; 55:8,10,23;24:5; 56:19,21;57:14,24;Moore's 6:171:410,23:11; 27:24;29:1,18; 30:229:10; 30:13;32:8; 35:4;31:6,10,15;32:11; 60:18,53:10; 54:7;55:25; 56:1;51:1, 22:24;21: 62:1$		-		23:1; 30:7;
measuring26:10; 27:654:19; 55:8,nature 26:9,34:25MISCOE 2:5;24; 56:19,21;15; 29:21mechanism3:3; 4:1;57:14,24;near 32:426:21; 29:15;12:18; 13:7,58:2; 59:19necessarily61:3,22;9; 15:20,24;Moore's 6:171:463:15; 70:21;17:13; 19:11;MORGESE 3:7;need 6:7,9;71:921:3,8;23:1; 27:24;19:21; 23:14;meet 24:7;22:18,22;29:1,18; 30:229:10; 30:13;28:8,2524:1; 26:20;MOSES 3:11;32:8; 35:4;meeting 17:15,28:4,22;31:6,10,15;46:17; 49:21;18; 20:2;29:5,19;32:11; 60:18,53:10; 54:7;31:1; 37:22;30:3; 31:6;22; 61:8,19,55:25; 56:1;40:16; 41:16;32:10,23;21; 62:159:10,22,24;62:21; 67:6,33:3,6; 37:4,most 17:9;60:6,24;		minor 5:21;	28:14; 52:8;	
34:25 <b>MISCOE</b> $2:5;$ $24; 56:19,21;$ $15; 29:21$ <b>mechanism</b> $3:3; 4:1;$ $57:14,24;$ <b>near</b> $32:4$ $26:21; 29:15;$ $12:18; 13:7,$ $58:2; 59:19$ <b>necessarily</b> $61:3,22;$ $9; 15:20,24;$ <b>Moore's</b> $6:1$ $71:4$ $63:15; 70:21;$ $17:13; 19:11;$ <b>MORGESE</b> $3:7;$ <b>need</b> $6:7,9;$ $71:9$ $21:3,8;$ $23:1; 27:24;$ $19:21; 23:14;$ <b>meet</b> $24:7;$ $22:18,22;$ $29:1,18; 30:2$ $29:10; 30:13;$ $28:8,25$ $24:1; 26:20;$ <b>MOSES</b> $3:11;$ $32:8; 35:4;$ <b>meeting</b> $17:15,$ $28:4,22;$ $31:6,10,15;$ $46:17; 49:21;$ $31:1; 37:22;$ $30:3; 31:6;$ $22; 61:8,19,$ $55:25; 56:1;$ $40:16; 41:16;$ $32:10,23;$ $21; 62:1$ $59:10,22,24;$ $60:6,24;$ $60:6,24;$ $60:6,24;$			54:19; 55:8,	
mechanism3:3; 4:1;57:14,24;near 32:426:21; 29:15;12:18; 13:7,58:2; 59:19necessarily61:3,22;9; 15:20,24;Moore's 6:171:463:15; 70:21;17:13; 19:11;MORGESE 3:7;need 6:7,9;71:921:3,8;23:1; 27:24;19:21; 23:14;meet 24:7;22:18,22;29:1,18; 30:229:10; 30:13;28:8,2524:1; 26:20;MOSES 3:11;32:8; 35:4;meeting 17:15,28:4,22;31:6,10,15;46:17; 49:21;18; 20:2;29:5,19;32:11; 60:18,53:10; 54:7;31:1; 37:22;30:3; 31:6;22; 61:8,19,55:25; 56:1;40:16; 41:16;32:10,23;21; 62:159:10,22,24;62:21; 67:6,33:3,6; 37:4,most 17:9;60:6,24;			24; 56:19,21;	15; 29:21
26:21; 29:15;12:18; 13:7,58:2; 59:19necessarily61:3,22;9; 15:20,24;Moore's 6:171:463:15; 70:21;17:13; 19:11;MORGESE 3:7;need 6:7,9;71:921:3,8;23:1; 27:24;19:21; 23:14;meet 24:7;22:18,22;29:1,18; 30:229:10; 30:13;28:8,2524:1; 26:20;MOSES 3:11;32:8; 35:4;meeting 17:15,28:4,22;31:6,10,15;46:17; 49:21;18; 20:2;29:5,19;32:11; 60:18,53:10; 54:7;31:1; 37:22;30:3; 31:6;22; 61:8,19,55:25; 56:1;40:16; 41:16;32:10,23;21; 62:159:10,22,24;62:21; 67:6,33:3,6; 37:4,most 17:9;60:6,24;	1	-		<b>near</b> 32:4
20:11, 12;9; 15:20,24;Moore's 6:171:461:3,22;9; 15:20,24;MORGESE 3:7;need 6:7,9;63:15; 70:21;17:13; 19:11;MORGESE 3:7;19:21; 23:14;71:921:3,8;23:1; 27:24;19:21; 23:14;meet 24:7;22:18,22;29:1,18; 30:229:10; 30:13;28:8,2524:1; 26:20;MOSES 3:11;32:8; 35:4;meeting 17:15,28:4,22;31:6,10,15;46:17; 49:21;18; 20:2;29:5,19;32:11; 60:18,53:10; 54:7;31:1; 37:22;30:3; 31:6;22; 61:8,19,55:25; 56:1;40:16; 41:16;32:10,23;21; 62:159:10,22,24;62:21; 67:6,33:3,6; 37:4,most 17:9;60:6,24;				necessarily
63:15; 70:21;17:13; 19:11;MORGESE 3:7;need 6:7,9;71:921:3,8;23:1; 27:24;19:21; 23:14;meet 24:7;22:18,22;29:1,18; 30:229:10; 30:13;28:8,2524:1; 26:20;MOSES 3:11;32:8; 35:4;meeting 17:15,28:4,22;31:6,10,15;46:17; 49:21;18; 20:2;29:5,19;32:11; 60:18,53:10; 54:7;31:1; 37:22;30:3; 31:6;22; 61:8,19,55:25; 56:1;40:16; 41:16;32:10,23;21; 62:159:10,22,24;62:21; 67:6,33:3,6; 37:4,most 17:9;60:6,24;	· ·	-	-	71:4
03.113, 70.21,17.113, 8;23:1; 27:24;19:21; 23:14;71:921:3,8;29:1,18; 30:229:10; 30:13;meet 24:7;22:18,22;29:1,18; 30:229:10; 30:13;28:8,2524:1; 26:20;MOSES 3:11;32:8; 35:4;meeting 17:15,28:4,22;31:6,10,15;46:17; 49:21;18; 20:2;29:5,19;32:11; 60:18,53:10; 54:7;31:1; 37:22;30:3; 31:6;22; 61:8,19,55:25; 56:1;40:16; 41:16;32:10,23;21; 62:159:10,22,24;62:21; 67:6,33:3,6; 37:4,most 17:9;60:6,24;				<b>need</b> 6:7,9;
meet 24:7;22:18,22;29:1,18; 30:229:10; 30:13;28:8,2524:1; 26:20;MOSES 3:11;32:8; 35:4;meeting 17:15,28:4,22;31:6,10,15;46:17; 49:21;18; 20:2;29:5,19;32:11; 60:18,53:10; 54:7;31:1; 37:22;30:3; 31:6;22; 61:8,19,55:25; 56:1;40:16; 41:16;32:10,23;21; 62:159:10,22,24;62:21; 67:6,33:3,6; 37:4,most 17:9;60:6,24;				
Meet 24.7,22.10,217,28:8,2524:1; 26:20;meeting 17:15,28:4,22;18; 20:2;29:5,19;31:1; 37:22;30:3; 31:6;20:16; 41:16;32:10,23;62:21; 67:6,33:3,6; 37:4,most 17:9;60:6,24;61:16, 41:16;65:7;	1			
meeting 17:15,       28:4,22;       31:6,10,15;       46:17; 49:21;         18; 20:2;       29:5,19;       32:11; 60:18,       53:10; 54:7;         31:1; 37:22;       30:3; 31:6;       22; 61:8,19,       55:25; 56:1;         40:16; 41:16;       32:10,23;       21; 62:1       59:10,22,24;         62:21; 67:6,       33:3,6; 37:4,       most 17:9;       60:6,24;	[			
18; 20:2;29:5,19;32:11; 60:18,53:10; 54:7;31:1; 37:22;30:3; 31:6;22; 61:8,19,55:25; 56:1;40:16; 41:16;32:10,23;21; 62:159:10,22,24;62:21; 67:6,33:3,6; 37:4,most 17:9;60:6,24;	1 · · · · · · · · · · · · · · · · · · ·			
31:1; 37:22;30:3; 31:6;22; 61:8,19,55:25; 56:1;40:16; 41:16;32:10,23;21; 62:159:10,22,24;62:21; 67:6,33:3,6; 37:4,most 17:9;60:6,24;	-			-
40:16;       41:16;       32:10,23;       21;       62:1       59:10,22,24;         62:21;       67:6,       33:3,6;       37:4,       most 17:9;       60:6,24;				· · ·
62:21; 67:6, 33:3,6; 37:4, most 17:9; 60:6,24; 61:14:65:7				
02.21, 07.0, 03.070, 07.1, 01.10, 05.7			-	
10, 11, 20;   $13; 39:24;$   $31:18; 35:7;$   $61:14; 65:7;$	-			· · · ·
	10,11,20;	13; 39:24;	37:78; 32:1;	01:17, 00.77

(

1

Í

73:17; 74:6;	11:6,8,15;	official	9; 4:3,17;
75:9	12:1,5,10,13;	28:16; 65:9	5:18,20,22;
needed 12:6;	14:12; 16:1,	of	7:8,21; 8:10,
50:17	20; 22:6;	77:16	17,18,21,22;
needs 12:10;	63:11,12	okay 32:23;	9:10,17;
	noticeable	44:15; 58:14;	10:13,14;
37:23; 39:9	ł do statu i	61:8,19;	12:21; 13:13,
neighbor 44:2,	21:17		24; 14:3,4,
6; 51:20	notices 16:1;	68:25; 70:20;	
neighbors	21:5,10,24	72:11; 73:1,2	14,20; 15:2,
44:9; 53:1	notification	once 18:13;	7,10; 16:8,
neither 50:8	14:6; 16:14;	71:16	11,12,22;
nervous 26:4	61:3; 67:2	one 4:18;	17:3; 18:18,
<b>never</b> 33:6;	notify 11:2;	11:5; 18:15;	23; 21:23;
42:21; 44:25;	22:7,9	19:1; 21:1,	23:14; 24:10,
45:1; 46:4	noting 41:4	12; 22:4;	12,13,14,15,
<b>new</b> 8:21;	November 13:2,	23:3,6,22;	16,17,23;
31:20; 47:4;	7,8,16; 14:1;	24:4; 27:24;	27:10; 32:24;
	15:1; 16:5,9	28:16; 30:11,	33:9; 34:12,
51:12; 53:12;	nuclear 65:25;	12; 31:17;	16; 35:2;
67:12; 71:18	66:8	32:5; 37:10;	39:9; 40:22;
newsletter		38:12,20,21;	42:13; 43:18;
20:7	nuisance 62:9,		45:3; 46:1,2,
newspaper	11; 63:8,24	39:3; 41:13;	· · ·
13:4; 18:19;	number $4:24;$	44:8; 48:14;	4; 47:12;
19:1	6:9; 8:21;	49:18; 50:10;	48:6,8,12,18;
<b>next</b> 18:2;	14:20; 19:15;	53:15; 54:14;	49:25; 60:6,
35:25; 38:18;	28:16; 30:17;	55:6; 57:18;	23,24; 62:7,
45:17; 46:16;	36:16; 42:8;	59:5; 61:24;	9,22; 63:9,
67:6,10	50:6; 51:2;	62:23; 66:1,	24,25; 64:12;
nice 40:8;	72:22; 73:9	3; 69:9	67:21; 72:13,
51:17	numbers 59:23	one-and-a-half	22; 73:1,6,8,
nine 4:11		58:12,15	11,12; 74:11,
No. 1:4,9	0	ones 57:17	13
nobody 39:11,		only 12:10;	ordinances
-	object 66:7	22:7; 26:21;	1:6; 11:24;
12	objecting 6:24	29:22; 30:11,	14:15,18;
non 63:6	objection 74:3	12; 34:21;	15:11,14;
non-conforming		39:3; 40:15;	16:23; 17:1;
24:22; 25:2;	objective	42:14; 57:7,	39:20; 40:21;
26:7,22;	47:16,20,25;		41:23; 50:15
36:17; 48:16	48:1	19; 59:8;	organization
non-conforms	objectively	60:5; 67:4;	
48:17	45:4	70:21; 74:20	56:3
non-substanti-	obviously	<b>open</b> 26:1;	organized
<b>ve</b> 75:10	7:11; 39:4	29:23; 38:15;	57:17
<b>none</b> 39:21;	occasions 13:6	41:20; 67:17	oriented 62:11
75:21	occupations	opening 27:15	original
<b>normal</b> 25:11,	28:9	opinion 46:6;	25:17; 50:23
22	occur 42:15;	53:16; 55:20	originally
North 31:11	50:9; 68:14	opportunity	35:10; 36:24;
Northland's	October 4:14	4:16; 8:1;	42:4
6:23	offer 15:17	14:9; 16:17;	<b>other</b> 9:25;
Notary 77:17	<b>office</b> 77:15	20:3; 67:5	20:10; 21:1;
note 19:11;	officer 4:9;	opposed 10:17	27:25; 34:10;
51:22; 64:14	44:18; 45:3;	opted 27:4	36:4; 40:15;
	60:25; 61:6;	option 10:14	41:13; 48:17;
notes 6:3	63:10,16;	options 25:7;	49:3; 52:6;
nothing 29:13;	-	30:17; 31:4	55:6; 65:20;
60:7; 77:7	64:1,9	orange 21:18	66:12; 70:10;
<b>notice</b> 9:12; 10:3,23,24;	officer's 63:5	ordinance 1:4,	75:16
1 10+3 23 24:	offices 13:11		1

otherwise 12:6	12:8; 39:17;	24:19; 25:1,	56:1; 58:5;
out 7:23; 8:2;	44:16; 54:2	12; 28:9;	67:1,6,22,25;
17:14,15;	passed 70:7	45:7; 48:19;	68:16; 69:5,
18:5; 21:24;	PATRICIA 2:10	53:19,23	21; 71:2,10,
25:7,25;	Pause 8:6;	permitting	14; 72:7,9,
26:16; 29:21;	22:24; 30:5;	43:10	12,15,24;
	31:8; 37:2,6;	<b>person</b> 64:3;	73:6,15,22;
31:15; 33:24;		65:20	74:18,19,21
34:24,25;	46:24; 52:4;		planning's
35:2,8,24;	60:20	person's	
36:6,10,14,	<b>pay</b> 27:6;	43:24; 44:23	68:17; 70:13
18; 42:2;	64:4; 65:21	personally	plans 7:3
43:14; 44:17;	<b>PDF</b> 73:24	32:15; 49:12	<b>play</b> 26:13;
45:12,17;	Peninsula	perspective	44:17
48:21,25;	31:11	49:20; 50:5	<b>Pleas</b> 8:20
49:8; 53:25;	Pennsylvania	pertained 33:9	<b>please</b> 14:23;
	1:12; 5:24;	Petrina 4:9;	15:18; 18:6;
57:7; 60:1,5;			22:16; 56:20;
62:6; 66:23;	15:9; 77:1,5	40:16,20,25;	
67:25; 70:13;	<pre>people 17:19;</pre>	41:3,7,11,13,	66:25
73:13	20:10; 22:8;	14	plural 50:2
over 7:13;	36:9; 37:12,	phases 19:25	<b>plus</b> 68:6
12:21; 18:10;	14; 38:2,18,	pick 6:9	<b>point</b> 17:14;
26:3; 31:16;	24; 39:20;	pictures 22:1	18:5; 19:12;
36:4; 44:16,	44:19,22;	<b>piece</b> 15:25;	20:25; 32:23;
	51:12; 52:24;	60:9	35:2; 36:13;
17; 46:10;	56:1; 57:8;	pieces 62:10	42:2; 48:25;
50:13		pile 69:22	55:3,12;
overlooked	63:12; 66:24;		59:8; 60:1,5;
20:16	67:17; 68:15,	<b>Pine</b> 49:14	-
own 16:3;	22; 69:6,24;	pins 33:18	63:25; 65:2;
20:23; 22:8;	70:10,21;	Pittsburgh	67:15; 71:9
23:3,20;	71:6	30:20	pointed 17:15;
24:11; 34:4,	<b>per</b> 56:23;	<b>place</b> 61:22;	67:25
10; 48:9;	57:18; 58:6;	63:15; 77:9	points 11:1
52:12,18;	59:13,14	<b>places</b> 33:14;	pontoon 36:22
57:8	perceived	36:16	portion 10:15
		placing 33:21	position 11:22
owned 12:12;	42:21,23;		positive 71:8
33:17,22	43:1	<b>plan</b> 25:17;	possession
owner 22:5;	perception	50:23; 51:3	
31:25; 48:25	7:1; 60:15	planner 5:16;	11:14
owners 12:10;	perfect 45:1;	60:9	possibility
34:7; 54:23	46:4; 60:15	planning 1:11;	20:16; 49:23
	perform 5:7	4:16; 5:4,14,	possible
P	period 17:17,	24; 6:15;	22:13; 28:22;
·	24; 46:11;	7:5,6,20,21,	42:23; 44:2,
1.15 04	68:5,16;	25; 9:4,5,18,	4; 64:22
<b>PA</b> 1:15,24	70:16	19; 10:16;	possibly
<b>PAGE</b> 3:3,5,7,	1		44:23; 53:18;
9,11,13,15	permissible	12:20,23;	74:17
pages 12:22;	55:4	13:14,16;	
18:10; 42:13	permission	14:5,7,8;	<b>post</b> 70:22,25;
<b>paid</b> 70:17	74:6	15:8,9,15;	73:25; 74:3
parcel 58:8	permissive	16:2,3,4,13,	postcard
parking 6:24;	34:6,11; 35:3	15,16; 17:16,	12:16; 22:3
7:1; 43:4	permit 23:9;	25; 18:13;	posted 4:17,
part 6:21;	24:24,25;	19:13; 20:20;	20; 10:25;
	25:12; 26:8;	30:8,9,24;	11:4,7;
7:12; 8:15;		38:6; 42:9;	12:25; 13:2;
24:12,13;	55:12,16;	43:20; 45:11;	21:5,9,10,13,
25:16; 48:3;	56:9,10		16,20,24;
69:22; 73:20	permits 12:24	52:10; 53:9,	
particular	permitted	12,18; 54:2;	70:19

( · · ·

posting 13:1;         problem 24:18;         43:19; 45:7;         purpose 10:10           18:20; 74:10         36:12; 50:17;         66:18; 67:1;         purpose 10:10           postings 74:10         36:12; 50:17;         66:18; 67:1;         9:12; 10:23;           potential         55:3; 62:4;         providad 5:13;         14:5; 15:8;           jotantial         55:13;         ji:25; 16:8         16:2, 13           potential         provided 5:13;         put 6:3; 25:9;           potentially         pic:33:39:5         provided 5:20;         34:14, 25:9;           procedure         16:14, 19;         put 6:3; 25:9;           procedure         16:14, 19;         put 6:3; 25:9;           procedure         16:14, 19;         put 6:3; 25:9;           procedure         10:13; 17:12         provision         34:14; 53:7;           presentse         51:2; 20:24;         42:12; 33:8;         7:20; 8:2;         7:25; 9:39:9;           present 20:10;         28:23; 29:7;         provision				
The section of the sectin of the sectin of the section of the section of the section of	posting 13.1:	problem 24:18;	43:19; 45:7;	purpose 10:10
Dosting         74:10         36:12, 50:17, 50:17, 50:12, 10:23;           postponed         70:22, 70:24, 72; 42:15;         Social         provided         Social           27:2; 42:15;         problems         24:5;         provided         Social         field         fie				pursuant 1:11;
postponed         70:2         53:3, 62:4;         provided         5:3:3;         62:4;           potential         65:11         13:25;         16:8;         16:2,13;           potential         problems         24:5;         38:3,5;         39:5;         16:6;         16:2,13;           potentially         10:13;         17:12;         21:14;         10;         29:15;           procedure         10:14,19;         put 6:3;         25:9,           q:23:3         procedure         10:14,19;         put 6:3;         25:9,           q:23:3         procedure         10:14,19;         put 6:3;         39:9;           q:23:3         procedure         10:12;         17:24;         30:9;         31:35;         30:9;         31:35;         30:9;         31:32;         31:15;         31:32;         11:12         10:12,14;         21:15;         77:25;         69:19         puts 69:19         10:14;         70:6;         73:15           presented         45:8;         46:18;         16:25;         17:7;         qualify 27:12         11:12;         11:12;         11:12;         11:1				9:12; 10:23;
potential         cs:11         13:25; 16:8         16:2,13           27:2; 42:15;         problems 24:5;         providing         66:3         push 54:18;           55:20; 57:9         procedure         16:14,19;         put 6:3; 25:9,           potentially         10:13; 17:12         22:14         10:29:15;           practically         57:2; 68:3,4         7:20; 8:2;         37:25; 39:9;           presentation         2; 3; 8:19:22,         42:21         40:9,10,17;           premises 63:19         9:2,0; 10:1,         34:20; 35:20;         41:24; 53:7;           preparation         2; 3; 8:17;         9:14,16;         7:1; 10:4;         7:25; 39:19;           present 20:10;         28:23; 29:7,         rois; 13:1:9; 7:12;         qualify 27:12         qualify 27:12           present 20:10;         26:5; 66:5;         19:3,16,19;         qualify 27:12         qualify 27:12           present 21:21         71:24; 76:2         34:9; 42:18;         9; 19:6,20;         yr:10:6,21;           present 21:22;         prodiang 7:14         yr:2,25;         37:10; 41:13;         14:12;         17:10;           d6:12         proidet 9:16         7:22; 9:8; 13:16;         60:9;         prudent 22:9         question 5:2,           previsi 12:				
Problems 24:5;         providing         push 54:18;           52:23; 53:21;         38:3,5; 39:5         14:6,11;         push 54:18;           55:20; 57:9         procedure         16:14,19;         put 6:3; 25:9,           potentially         10:13; 17:12         22:14         10; 29:15;           practically         57:2; 68:3,4         7:20; 8:2;         37:25; 39:9;           premises 63:19         p:0:2,8; 10:1,         34:20; 35:20;         41:24; 53:7;           preparation         2,3,8; 19:22,         42:22; 44:21;         60:14; 62:15;           prepart 20:10;         28:23; 29:7,         provisions         motify 73:15           presented         45:8; 46:18;         16:25; 17:7;         qualify 27:12           question 2:1         71:24; 76:2         34:9; 42:8;         9: 19:6,20;           presented         45:8; 46:18;         16:25; 17:7;         question 5:2,           president 2:5         prodding 73:14         43:4; 46:7,9;         34:3; 36:25;           president 2:5         proding 73:14         43:4; 46:7,9;         34:3; 36:25;           previous 1:5;         profesional         7:12; 9:6,11;         38:6,11; 20;           previous 1:5;         profesional         7:22; 9:6,11;         38:6,12;		1 .		1 1
52:33, 53:21;         38:3, 5, 39:5         14:6, 11;         66:3           52:32; 57:9         procedure         16:14, 19;         put 6:3; 25:9,           potentially         10:13; 17:12         22:14         put 6:3; 25:9,           practically         57:2; 68:3, 4         rovision         34:14, 23;           preside         10:13; 17:12         22:14         10; 29:15;           preside         10:13, 17:12         21:14         37:25; 39:9;           preside         10:12, 14         25; 20:24;         42:22; 44:21;         60:14;         60:14;           preparation         2, 3, 8; 19:22,         42:22; 60:14;         70:6; 73:15         put 69:9           present 20:10;         28:23; 29:7,         portisions         71:1; 10:4;         Q           d:21         31:33; 35:17;         9:14:6; 70:7;         qualify 27:12         qualify 27:12           preserve 21:21         71:24; 76:2         34:9; 42:8;         9; 19:6, 20;         34:13; 36:25;           preseumption         5:16; 60:9;         prodactive         5:13; 22;         37:10; 10:4:13;           previus 1:5;         proofesional         7:22; 9:8, 11;         38:6, 11; 20;         66:16           presiden 2:5         profibit 57:22         n3:10; 14:		1		
52:23;         57:32         Frocedure         16:14,19;         put 6:3;         25:9;           potentially         10:13;         17:12         22:14         10;         29:15;           prected 18:14;         process 7:14;         22:14         34:14,23;           premises 63:19         process 7:14;         21:21;         33:25;         39:12;           premises 63:19         p:2,8;         10:1,         34:12,0;         37:12;         53:20;           premises 63:19         p:2,8;         10:1,         34:12,0;         37:12;         62:15;           present 20:10;         28:23;         29:7;         provisions         71:1;         10:4;         Q           d:21:21         31:19;         31:12;         14:17;         15:13;         quastions 5:2;           presented         45:8;         46:18;         16:12;         quastions 5:2;         quastions 5:2;           president 2:5         prodductve         51:12;         37:10;         34:13;         36:12;           previus 1:5;         p:16:13;         60:14;         62:13;         63:19;         66:16           previus 1:5;         professional         73:17         quastions;         71:10;         11:12;         12:19;	27:2; 42:15;			1 - 1
Dotentially         Introduction         Introduction         Introduction           potentially         Introduction         Introduction         Introduction         Introduction           practically         friding         provision         Introduction         Introduction         Introduction           premises         63:19         process         Friding         Introduction         Introduction         Introduction           preparation         2.3.8;         19:22,         42:22;         44:12;         Introduction         Introduction           preparation         2.3.8;         19:22,         42:22;         44:12;         Introduction         Intreprepreparetion         Introduction	52:23; 53:21;			
potentially         10:13; 17:12         22:14         10; 29:15;           11:2         proceed 18:14;         provision         34:14,23;           9ractically         57:2; 68:3,4         7:20; 8:2;         37:25; 39:9;           42:23         process 7:14;         21:21; 33:8;         40:9,10.17;           premises 63:19         9:2,8; 10:1,         34:20; 35:20;         41:24; 53:7;           preparation         2,3,8; 19:22,         42:22; 44:21;         60:14; 62:15;           present 20:10;         28:23; 29:7,         provisions         puts 69:9           present 20:10;         28:23; 29:7,         provisions         9; 19:6,20;           present 20:10;         71:12 76:2         34:9; 42:8;         9; 19:6,20;           preseint 21:5         productive         51:22,25;         37:10; 41:13;         36:25;           presumption         51:16         60:9;         public 1:1,10;         14:22; 17:10,           46:18; 47:14;         professional         73:17         66:13         11; 20:5;           prevail 65:24         professional         73:17         66:13, 21;         11; 20:5;           proserve 11:5;         procet 49:13         12; 14:21; 25;         25; 11:8, 16;         75:16           previous 1	55:20; 57:9	procedure		
11:2         proceed 18:14;         provision         34:14,23;           practically         57:2; 68:3,4         7:20; 8:2;         37:25; 39:9;           42:23         process 7:14;         21:21; 33:8;         40:9,10,17;           premises 63:19         9:2,8; 19:22,         42:22; 44:21;         60:14; 62:15;           10:12,14         25; 20:24;         45:2; 60:14;         70:6; 73:15           present 20:10;         28:23; 29:7,         provisions         provisions           presented         45:8; 46:18;         16:25; 17:7;         quality 27:12           48:20         56:5; 66:5;         19:3,16,19;         question 5:2,           presented         45:8; 46:18;         16:25; 17:7;         quality 27:12           48:20         proding 73:14         43:4; 46:7,9;         37:36; 36:25;           presented         51:12         professional         73:10; 41:13;           66:12         professional         71:10; 41:42; 25;         37:10; 41:13;           previous 1:5;         profest 3:10         prosents         quicker 13:20;           previous 1:5;         properties         25: 11:8,16;         75:16           primary 64:18;         33:15,17,20;         41:12,20;         75:13;           printe	1	10:13; 17:12	22:14	
practically         57.2; 68:3,4         7.20; 8:2;         37.25; 33:9;           42:23         process 7:14;         21:21; 33:8;         40:9,10.17;           premises 63:19         9:2,8; 10:1,         34:20; 35:20;         41:24; 53:7;           preparation         2,3,8; 19:2,         42:22; 44:21;         60:14; 62:15;           present 20:10;         28:23; 29:7,         provisios         puts 69:9           presented         45:8; 46:18;         16:25; 17:7;         qualify 27:12           preserve 21:21         71:24; 76:2         34:9; 42:8;         9; 19:6,20;           preserve 21:21         71:24; 76:2         34:9; 42:8;         9; 19:6,20;           presumption         51:12         62:3; 63:9;         45:19; 60:13;           preductive         51:12         62:3; 63:9;         35:10; 60:3;           provious 1:5;         professional         73:17         66:6           provious 1:5;         proofs 13:10         10:3,20,23;         66:13,21;           previous 1:5;         proofs 13:10         10:3,20,23;         66:13,21;           previous 1:5;         proofs 13:10         10:3,20,23;         66:13,21;           primary 64:18;         33:15,17,20;         13:19; 14:2;         12:14;           <	-		provision	34:14,23;
Pactor         Process 7:14; premises 63:19 preparation         Process 7:14; 21:21; 33:8; 40:9,10,17;           premises 63:19 preparation         9:2,8; 19:22, 25:20:24; 25:20:24; 25:20:24;         21:22; 33:20; 42:22; 44:21; 60:14; 62:15;           prepare 12:24 present 20:10; 31:23; 35:17; 9:14:17; 33:12; presented         23:8; 19:22, 45:8; 46:18;         16:25; 17:7; 16:25; 17:7;         puts 69:9           d0:21 presented         45:8; 46:18; 45:8; 46:18;         16:25; 17:7; 16:25; 17:7;         quality 27:12 question 5:2, 9; 19:6,20;           president 2:5 presumption 68:12         proding 73:14 project 49:16         34:4; 46:7,9; 43:3,36:25;         37:10; 41:13; 9; 19:6,20;           presty 12:25; presumption 66:12         professional project 49:16         prudent 22:9 questions         questions           d4:12; 45:22; 44:12; 45:22;         77:18 pronote 49:13         12; 14:21; 13:20; 13:41; 16:23; 25:18;         13:19; 14:2; 13:24; 14:15, 11:24; 14:15, 11:24; 14:15, 11:24; 14:15, 12:9         properties 25; 11:8,16; 17:16; 15:11, 25: 17:1; 19:3         11:12; 12:11; 19:18,22;         R           printed 7:8 printed 31:15; 14:8; 16:16; proposal         publications ratio 58:17 ratio 38:17; 9ublications         40:22; ratio 38:17; 9ublications         R2:52; ratio 38:17; 9ublications           propead 1:8; printed 7:8 printed 7:8; 13:20; 18:11; 14:8; 16:16; proposal         13:10; 18:15; 13:20; 18:12; 17:10; 22:2; 13:10; 18			7:20; 8:2;	37:25; 39:9;
Transpon         Parameter         Parameter <th< td=""><td></td><td>1</td><td></td><td>40:9,10,17;</td></th<>		1		40:9,10,17;
preparation       2,3,8,19;22, 25,20:24;       42:22,44:21;       60:14;       70:6;73:15;         10:12,14       25;20:24;       45:2;60:14;       70:6;73:15;       70:6;73:15;         present 20:10;       28:23;29:7;       71;10:4;       Q         40:21       31:19;33:12;       14:17;15:13;       questions;         presented       45:8;46:18;       16:25;17:7;       question 5:2,         presented       56:5;66:5;       19:3;16,19;       question 5:2,         presented       51:12       34:9;42:8;       9;19:6,20;         presented       51:12       62:3;63:9;       37:10;41:13;         festions       51:12       66:6       71:1,0;10:4;       9;19:6,20;         presention       51:12       62:3;63:9;       37:10;41:13;       66:6         previous 1:5;       professional       73:17       66:6       66:13;         previous 1:5;       project 49:16       7:22;9:8,11;       38:6,11,20;       51:17         previous 1:5;       properties       25;11:8;16;       75:16       75:16         13:14;16:23;       71:1;39:12       8,12;16:10,       quicker 13:20       quicker 13:20;         primety 12:25;       21:11;2:12:11;       19:18,22;       R       75:				
10:12, 14       25; 20:24;       45:2; 60:14;       70:6; 73:15         prepare 12:12       22:13; 26:23;       62:15; 67:20       puts 69:9         present 20:10;       28:23; 29:7,       provisions			1	
Drepart 12:24         Drepart 22:13; 26:23;         62:15; 67:20         puts 69:9           present 20:10;         28:23; 29:7,         provisions         provisions           31:23; 35:17;         9,14.16;         7:1, 10.4;         Q           d0:21         31:19; 33:12;         14:17; 15:13;         qualify 27:12           presented         45:8, 46:18;         16:25; 17:7;         qualify 27:12           presented         45:8, 66:5;         19:3,16,19;         question 5:2,           presented         5:6; 66:5;         19:3,16,19;         question 5:2,           presented         productive         51:22,25;         37:10; 41:13;           68:12         productive         51:22,25;         37:10; 41:13;           68:12         prodedesional         73:17         66:6           previols         5:16; 60:9;         prudent 22:9;         questions           propict 49:16         proof 13:10         10:3,20,23,         66:13,21;           previols         15:5;         properties         25:11;         6:10;           previously         11:12; 12:11;         19:18,22;         R           13:12;         property         16:20; 717:4;         quicker 13:20;           prontisi         33:10;				
present 20:10;       28:23; 29:7,       provisions         31:23; 35:17;       9,14,16;       7:1; 10:4;       Q         40:21       31:19; 33:12;       14:17; 15:13;       qualify 27:12         q8:20       56:5; 66:5;       19:3,16,19;       question 5:2,         presented       45:8; 46:18;       16:25; 17:7;       qualify 27:12         q8:20       preserve 21:21       71:24; 76:2       34:9; 42:8;       9; 19:6,20;         presented       51:12       62:3; 63:9;       45:19; 60:13;         genesize       51:12       62:3; 63:9;       45:19; 60:13;         pretty 12:25;       professional       73:17       66:6         previous 1:5;       project 49:16       7:22; 9:8; 31:10;       11:20;         previous 1:5;       project 49:13       12,14,21,25;       52:7; 60:17;         previous 1:5;       profes 13:10       10:3,20,23,       66:13,21;         j1:24; 14:15;       profes 13:10       10:3,20,23,       66:13,21;         j1:24; 14:15;       proservi       16:20; 17:18;       7:11; 39:12         j1:24; 14:15;       property       16:20; 17:18;       7:12         j2:9       8; 28:8;       36:1,3;       R-1 25:22;         primary 64:18;       <				
31:23; 35:17;       9,14,16;       7:1; 10:4;       Q         40:21       31:19; 33:12;       14:17; 15:13;       Q         presented       45:6; 46:18;       16:25; 17:7;       qualify 27:12         presented       56:5; 66:5;       19:3,16,19;       question 5:2,         presented       56:5; 66:5;       34:9; 42:8;       9; 19:6,20;         presented       productive       51:22,25;       37:10; 41:13;         68:12       productive       51:22,25;       45:19; 66:13;         presented       5:16; 60:9;       prudent 22:9       questions         44:12; 45:22;       77:18       public 1:1,10,       14:22; 17:10,         46:8; 47:14;       profest 13:10       10:3,20,23,       66:13,21;         prevail 65:24       promet 49:13       12:14; 21:5;       52:7; 60:17;         previous 1:5;       profest 13:10       10:3,20,23,       66:13,21;         11:24; 14:15,       properties       25; 11:8,16;       75:16         17,18; 15:11,       property       16:20; 17:8;       75:16         13:14; 16:23,       27:11; 39:12       8:12; 6:13,3;       R-1 25:22;         primary 64:18;       33:15,17,20,       41:15,20;       49:4; 57:23         printer 31:15 </td <td>prepare 12:24</td> <td></td> <td></td> <td>puls 69:9</td>	prepare 12:24			puls 69:9
40:2131:19; 33:12;14:17; 15:13;	present 20:10;	28:23; 29:7,		
40:21       31:19; 33:12;       14:17; 15:13;	31:23; 35:17;	9,14,16;		Q
presented45:8; 46:18; 56:5; 66:5; 9reserve 21:2116:25; 17:7; 91:3,16,19; 19:3,16,19; 19:3,16,19; 19:3,16,19; 19:3,16,19; question 5:2, 9:19:6,20;president 2:5 presumptionprodding 73:14 productive43:4; 46:7,9; 51:22,25; 9:7:10; 41:13; 66:12 9:13:22,25; 9:7:18; 11:2; 45:22; 9:7:18 predet 22:9 professional 9:12:4:2,45:22; 77:1816:25; 17:7; questions 9:19:6,20; 34:3; 36:25; 37:10; 41:13; 66:6 questionspretty 12:25; 9:8; 33:18; 65:16 pretvious 1:5; previous 1:5; proofs 13:1073:17 proofs 13:10 10:3,20,23; 10:3,20,23; 66:13,21; 75:1666:6 questions 11:22:7; 9:8,11; 38:6,11,20; 12:4; 14:15; properties 25; 11:8,16; 13:19; 14:2; quicker 13:20 quiet 51:17 13:14; 16:23; 25; 17:1; previously 13:15; 17:1; printed 7:8 printed 7:8 printed 7:8 printed 7:8 proposal printed 7:8; 16:16; proposal proposal pris1 25:1; 26:7, 76:12; 26:10; publications 76:4; 77:4 publications ratio 31:15; printed 7:8 printed 7:8; 14:3; 51:16 proposal prior 11:5,10; 14:8; 16:16; proposal proposal proposal pris1 25:1; 26:7, 22:3:12; 21:10; 14:3:10; 18:15 publication proposal pris16:20; 15:1; 26:7, publication 		31:19; 33:12;	14:17; 15:13;	
48:20         56:5; 66:5;         19:3,16,19;         question 5:2,           preserve 21:21         71:24; 76:2         34:9, 42:8;         9; 19:6,20;           president 2:5         productive         51:22,25;         37:10; 41:13;           68:12         51:12         62:3; 63:9;         45:19; 60:13;           68:12         productive         51:22,25;         37:10; 41:13;           68:12         professional         73:17         66:6           29:8; 33:18;         5:16; 60:9;         prudent 22:9         questions           44:12; 45:22;         77:18         public 1:1,10;         11:20:5;           65:16         project 49:16         7:22; 9:8,11,         38:6,11,20;           previous 1:5;         prooperties         25; 51:18;         13:19; 14:2,         52:7; 60:17;           properties         25; 11:8; 15;         75:16         quicker 13:20         quicker 13:20           11:24; 14:15,         property         16:20; 17:8;         75:16         quicker 13:20           12:9         g: 28:8;         36:1,3;         R-1 25:22;         guicker 13:20           property         16:20; 17:8;         R-2 57:21         R         guicker 13:20           11:24; 12:11; 12:12; 1; 19:19         19:8,22;<			16:25; 17:7;	qualify 27:12
preserve 21:2171:24; 76:234:9; 42:8;9; 19:6,20;president 2:5prodding 73:1443:4; 46:7,9;34:3; 36:25;presumptionproductive51:22,25;37:10; 41:13;68:12professional73:1766:629:8; 33:18;5:16; 60:9;prudent 22:9questions44:12; 45:22;77:18public 1:1,10,14:22; 17:10,46:8, 47:14;prohibit 57:2213; 4:1,8,10;11; 20:5;previous 1:5;profes 13:1010:3,20,23,66:13,21;previous 1:5;proofs 13:1010:3,20,23,66:13,21;17:12; 15:11,6:23; 25:18;13:19; 14:2,quicker 13:2013;14; 16:23,27:11; 39:128,12; 16:10,quicker 13:2019:311:12; 12:11;19:18,22;R-119:311:12; 12:11;19:18,22;R-1previously21:11; 22:5,21:14; 35:12;R-112:9property16;23; 68:19;R-2printed 7:810; 49:1;67:23; 68:19;R-2printing 31:20proposal76:4; 77:4raised 42:18private 50:315:2,5,10;publicationraised 42:18private 50:315:2,5,10;publicationsratified 32:2213:20; 18:11;17:3; 18:23;publicationratified 32:2213:20; 18:11;17:3; 18:23;publicationratified 32:2213:20; 18:11;17:3; 18:23;publicationratified 32:22printed 7:814:4; 14,20;71:5rationale 7:9probably				
President 2:5 presumptionprodding 73:14 productive43:4; 46:7,9; 51:22,25; 37:10; 41:13; 68:1268:12 pretuy 12:25; professional 29:8; 33:18; 51:16; 60:9; 44:12; 45:22; 46:8; 47:14; 65:16 project 49:16 project 49:16 project 49:16 project 49:16 project 49:16 project 49:17; 12; 12; 12; 13; 4:18,810; 12:14,21,25; 52:7; 60:17; 52:7; 60:17; 52:7; 60:17; 52:7; 60:17; 13:4:1,4; 16:23; 25; 11:8,16; 17:18; 15:11, 6:23; 25:18; 13:19; 14:2, 11:12; 12:11; 19:3 11:12; 12:11; 19:3 11:12; 12:11; 19:3 primted 7:8 printed 7:8 projoeal projoeal 1:8; projoeal 1:8; printed 7:8 printed 7:8 printed 7:8 projoeal 1:8; projoeal 1:8; printed 50:3 private 50				9; 19:6,20;
presumption 68:12       productive 51:22,25;       37:10; 41:13;         68:12       51:12       62:3; 63:9;       45:19; 60:13;         pretty 12:25;       professional       73:17       66:6         29:8; 33:18;       5:16; 60:9;       prudent 22:9       questions         44:12; 45:22;       77:18       public 1:1,10,       14:22; 17:10,         46:8; 47:14;       prohibit 57:22       13; 4:1,8,10;       11; 20:5;         previous 1:5;       proofs 13:10       10:3,20,23,       66:13,21;         previous 1:5;       proofs 13:10       10:3,20,23,       66:13,21;         11:24; 14:15,       properties       25; 11:8,16;       75:16         17,18; 15:11,       6:23; 25:18;       13:19; 14:2,       quicker 13:20         13:14; 16:23,       27:11; 39:12       8,12; 16:10,       quiet 51:17         12:9       8; 28:8;       36:1,3;       R-1 25:22;         primary 64:18;       33:15,17,20,       41:15,20;       49:4; 57:23         printed 7:8       10; 49:1;       67:23; 68:19;       R-2 57:21         printed 7:8       10; 49:1;       67:23; 68:19;       raised 42:18         printing 31:20       proposal       76:4; 77:4       raised 42:18         printe 71:5,10				
presumptionprofessionalformation68:1251:12formationpretty12:25;professional73:1729:8;33:18;5:16;60:9;prudent22:9guestions44:12;45:22;77:1846:8;47:14;prohibit57:2265:16project49:16prevail65:24promoteprevious1:5;proofs11:24;14:15,previous1:5;11:24;14:15,properties25;11:12;11:12;12:14;11:12;13:14;16:23;25:17:1;property19:311:12;11:12;11:12;12:98;primary64:18;33:15,17,20,41:15,20;49:4;57:2365:522;9:11:5;76:19:11:5;76:19:11:5;76:19:11:5;13:10;14:8;16:16;17:15;13:16;14:8;16:16;17:15;13:17;11:8;25:1;25:1;26:7,26:17;24:11;11:12;10:14,25:1;26:7,11:5;15:2,13:16;15:2,15:15;15:2,16:12,22;16:20;17:1717:18;15:2;17:19;15:2;17:11;15:2;16:12,16:12;17:15				
bit 12:25; protessionalforessional (29:8; 33:18; 44:12; 45:22; 45:22; 44:12; 45:22; 45:12; 				
procession       prodect 22:9       questions         29:8; 33:18;       5:16; 60:9;       prudent 22:9       questions         44:12; 45:22;       77:18       public 1:1,10,       14:22; 17:10,         46:8; 47:14;       prohibit 57:22       13; 4:1,810;       11; 20:5;         5:16; 60:9;       project 49:16       7:22; 9:8,11,       38:6,11,20;         prevail 65:24       promote 49:13       12,14,21,25;       52:7; 60:17;         previous 1:5;       proofs 13:10       10:3,20,23,       66:13,21;         11:24; 14:15,       properties       25; 11:8,16;       75:16         17,18; 15:11,       6:23; 25:18;       13:19; 14:2,       quicker 13:20         13:14; 16:23,       27:11; 39:12       8,12; 16:10,       quiet 51:17         25; 17:1;       property       16,20; 17:8;          12:9       8; 28:8;       36:1,3;       R-1 25:22;         primary 64:18;       33:15,17,20,       41:15,20;       R-2 57:13         65:5       22; 34:4,7,       50:3; 63:23;       R-2 57:13         printer 31:15       76:1       75:1,22;       R1 36:15         printig 31:20       proposal       76:4; 77:4       raised 42:18         prior 11:5,10;       48:2	68:12	(	1	
25.6, 35.76, 44:12; 45:22;77:18public 1:1,10, 14:22; 17:10, 11; 20:5;46:8; 47:14;prohibit 57:2213; 4:1,8,10;11; 20:5;65:16project 49:167:22; 9:8,11, 38:6,11,20;prevail 65:24promote 49:1312,14,21,25;52:7; 60:17;previous 1:5;proofs 13:1010:3,20,23, 66:13,21;11:24; 14:15,6:23; 25:18;13:19; 14:2, quicker 13:2013,14; 16:23, 27:11; 39:128,12; 16:10, quiet 51:1719:311:12; 12:11; 19:18,22;Rpreviously21:11; 22:5, 21:14; 35:12;12:98; 28:8; 36:1,3;primary 64:18; 33:15,17,20, 41:15,20; 65:510; 49:1; 75:12printed 7:810; 49:1; 75:14; 75:12;printed 7:810; 49:1; 75:14; 75:12;prior 11:5,10;48:21; 51:1prior 11:5,10; 14:12; 12:11, 12:10; 13:10; 18:15ramp 34:9; raised 42:18prior 11:5,10; 48:21; 51:1publication14:8; 16:16; proposalrais 6:17; raised 42:18private 50:315:2,5,10; publicationprivate 50:315:2,5,10; publicationprivate 50:315:2,25; 10; 12:22; 71:10; 42:213:20; 18:11; 17:3; 18:23; 19:16; 28:12; 24:21; 34:16; 6:13; 77:7; 6:1,25; 7:11; 12:22; 71:2213:20; 18:11; 17:3; 18:23; 19:11; 12:22; 71:2213:20; 18:11; 17:3; 18:23; 19:12; 22:71:2213:20; 18:11; 17:3; 18:23; 19:12; 22:71:2213:20; 18:11; 17:3; 18:23; 19:12; 22:71:2213:20; 18:11; 17:3; 18:23; 19:12; 22:71:2213:20; 18:11; 17:3; 18:23; 19:13; 12:2; 71:2213:20; 18:11; 17:3; 18:23; 19:13; 12:22; 71:2213:20; 18:11;	<b>pretty</b> 12:25;			1 1
44:12; 45:22;       77:18       public 1:1,10,       14:22; 17:10,         46:8; 47:14;       prohibit 57:22       13; 4:1,8,10;       11; 20:5;         65:16       project 49:16       7:22; 9:8,11,       38:6,11,20;         prevail 65:24       promote 49:13       12,14,21,25;       52:7; 60:17;         previous 1:5;       proofs 13:10       10:3,20,23,       66:13,21;         11:24; 14:15,       properties       25; 11:8,16;       75:16         17,18; 15:11,       6:23; 25:18;       13:19; 14:2,       quicker 13:20         13:44; 16:23,       27:11; 39:12       8,12; 16:10,       quiet 51:17         25; 17:1;       property       16,20; 17:8;       7:21         19:3       11:12; 12:11;       19:18,22;       R         primary 64:18;       33:15,17,20,       41:15,20;       R-1 25:22;         printer 31:15       76:1       75:1,22;       R -2 57:13         printer 31:15       76:1       75:1,22;       R1 36:15         prior 11:5,10;       48:21; 51:1       Public-Regist-       rang 34:9;         14:8; 16:16;       proposed 1:8;       ered 77:17       36:1,3         private 50:3       15:2,5,10;       publication       ratified 32:22         18:8,25;<	29:8; 33:18;	5:16; 60:9;		
46:8; 47:14; 65:16prohibit $57:22$ project $49:16$ 13; $4:1,8,10;$ 7:22; $98,11;$ $38:6,11,20;$ $38:6,11,20;$ $52:7; 60:17;$ $52:7; 60:17;$ $11:24; 14:15, properties25; 11:8, 16;75:16quiet 51:1775:16quiet 51:1775:17:1;11:12; 12:11;19:18, 22;11:12; 12:11; 19:18, 22;12:98; 28:8;31:15, 17, 20,65:522; 34:4, 7,50:3; 63:23;R-2 57:23R-2 57:23printed 7:8printed 7:8printed 7:8printed 7:8prior 11:5, 10;14:8; 16:16;proposalproposal14:8; 16:16;15:2, 51:12;22: 36:17;24:3; 5:18;publication15:2, 5.10;22: 36:17;24:3; 15:12, 22;21:10; 42:221:10; 42:221:10; 42:216:12, 22;21:10; 42:221:10; 42:216:12, 22;11:22; 7:1221:10; 42:213:20; 18:11;17:3; 18:23;10:1clypublications16:12, 22;11:10; 42:216:12, 22;11:10; 42:216:12, 22;11:10; 42:216:12, 22;11:10; 42:216:12, 22;11:10; 42:216:12, 22;11:10; 42:216:12, 22;11:10; 42:216:12, 22;11:10; 42:216:12, 22;11:10; 42:216:12, 22;11:10; 42:216:12, 22;11:10; 42:216:12, 22;11:10; 42:216:12, 22;11:10; 42:216:12, 51:1;12:10; 42:216:12, 51:1;12:12; 71:1212:14; 27:10;11:12; 11:11;11:12; 11:11;11:12; 11:11;11:12; 11:11;11:12; 11:11;11:12; 11:11;11:12; 11:11;11:12$		77:18	public 1:1,10,	· · ·
65:16project 49:167:22; 9:8,11,38:6,11,20;previous 1:5;promote 49:1312,14,21,25;52:7; 60:17;previous 1:5;proofs 13:1010:3,20,23,66:13,21;11:24; 14:15,properties25; 11:8,16;75:1617,18; 15:11,6:23; 25:18;13:19; 14:2,quicker 13:2013,14; 16:23,27:11; 39:128,12; 16:10,quiet 51:1725; 17:1;property16,20; 17:8;19:311:12; 12:11;19:18,22;Rpreviously21:11; 22:5,21:14; 35:12;12:98; 28:8;36:1,3;R-1 25:22;primary 64:18;33:15,17,20,41:15,20;49:4; 57:2365:522; 34:4,7,50:3; 63:23;R-2 57:13printed 7:810; 49:1;75:1,22;R1 36:15print 31:20proposal76:4; 77:4raised 42:18prior 11:5,10;48:21; 51:1Public-Regist-raised 42:1814:8; 16:16;proposal 1:8;ered 77:1736:1,325:1; 26:7,8:21; 10:14,13:10; 18:1549:822; 36:17;24; 11:7;publicationratified 32:2248:816:12,22;21:10; 42:2Re 1:3probably16:12,22;21:10; 42:2Re 1:313:20; 18:11;17:3; 18:23;published 5:5;read 4:22;13:20; 18:11;17:3; 18:23;publishing23:14; 27:10;14:4; 45:16;12:2; 71:29:7; 13:21;54:1; 56:17,provide 4:2;publishing23:14; 27:10; <td></td> <td>prohibit 57:22</td> <td>13; 4:1,8,10;</td> <td></td>		prohibit 57:22	13; 4:1,8,10;	
prevail65:24promote49:1312,14,21,25;52:7;60:17;previous1:5;proofs13:1010:3,20,23,66:13,21;11:24;14:15,properties25;11:8,16;75:1617,18;15:11,6:23;25:18;13:19;14:2,quicker13,14;16:23,27:11;39:128,12;16:10,quiet19:311:12;12:11;19:18,22;Rpreviously21:11;22:5,12:14;35:12;12:98;28:8;36:1,3;R-165:522;34:4,7,50:3;63:23;printed7:810;49:1;67:23;68:19;printed7:810;49:1;75:1,22;printed7:810;49:1;75:1,22;printed7:810;49:1;75:1,23;R-257:21Proposal76:4;77:4prior11:5,10;48:21;51:15Public-Regist-prior11:5,10;48:21;13:10;18:1548:814:4,14,20;7:15ratified32:22ratio58:17;24;11:7;publicationsratifiedprivate50:315:2,5,10;publicalratioprobably16:12,22;21:10;42:2ratio13:20;18:11;17:3;18:23;published5:5;private50:315:2,5,10;published5:5;probably16:12			7:22; 9:8,11,	38:6,11,20;
previous 1:5;proofs 13:1010:3,20,23,66:13,21;11:24; 14:15,properties25; 11:8,16;75:1617,18; 15:11,6:23; 25:18;13:19; 14:2,quicker 13:2013,14; 16:23,27:11; 39:128,12; 16:10,quiet 51:1725; 17:1;property16,20; 17:8;quiet 51:1719:311:12; 12:11;19:18,22;Rpreviously21:11; 22:5,21:14; 35:12;R12:98; 28:8;36:1,3;R-1 25:22;primary 64:18;33:15,17,20,41:15,20;49:4; 57:2365:522; 34:4,7,50:3; 63:23;R-2 57:21printed 7:810; 49:1;67:23; 68:19;R-2 57:21prior 11:5,10;48:21; 51:1Public-Regist-raised 42:18prior 11:5,10;48:21; 51:1Public-Regist-raised 42:1814:8; 16:16;proposed 1:8;ered 77:1736:1,3private 50:315:2,5,10;publicationsratified 32:2213:20; 18:11;17:3; 18:23;publiclyratio 58:17private 50:315:2,5,10;21:10; 42:2ratio 58:17priof; 28:12;24:21; 34:16;6:13; 7:7;6:1,25; 7:11;38:4; 45:14;35:10; 52:1512:22; 71:229:7; 13:21;13:44; 15:6:17,provide 4:2;publishing23:14; 27:10;	\$			52:7; 60:17;
provideproperties25; 11:8,16;75:1611:24; 14:15,6:23; 25:18;13:19; 14:2,quicker 13:2013,14; 16:23,27:11; 39:128,12; 16:10,quiet 51:1725; 17:1;property16,20; 17:8;19:311:12; 12:11;19:18,22;Rpreviously21:11; 22:5,21:14; 35:12;12:98; 28:8;36:1,3;R-1 25:22;primary64:18;33:15,17,20,41:15,20;49:4; 57:2365:522; 34:4,7,50:3; 63:23;R-2 57:21printed 7:810; 49:1;67:23; 68:19;R-2s 57:13printing 31:20proposal76:4; 77:4raised 42:18prior 11:5,10;48:21; 51:1Public-Regist-ramp 34:9;14:8; 16:16;proposed 1:8;ered 77:1736:1,3private 50:315:2,5,10;publicationsratified 32:22ratio 58:1716:12,22;21:10; 42:2ratio 58:17private 50:315:2,5,10;publiclyratified 32:22;13:20; 18:11;17:3; 18:23;published 5:5;read 4:22;13:20; 18:11;17:3; 18:23;published 5:5;6:13; 7:7;9:16; 28:12;24:21; 34:16;6:13; 7:7;9:7; 13:21;9:16; 28:12;24:21; 51:1publishing23:14; 27:10;44:4; 45:14;55:10;52:1512:22; 71:229:7; 13:21;54:1; 56:17,provide 4:2;publishing				66:13,21;
11:24;14:13;property13:19;14:2,quicker 13:2017,18;15:11,6:23;25:18;13:19;14:2,quiet 51:1725;17:1;property16,20;17:8;19:311:12;12:11;19:18,22;Rpreviously21:11;22:5,21:14;35:12;12:98;28:8;36:1,3;R-1primary 64:18;33:15,17,20,41:15,20;49:4;57:2365:522;34:4,7,50:3;63:23;R-2printed 7:810;49:1;67:23;68:19;R-2sprint 31:1576:175:1,22;R136:15prior 11:5,10;48:21;51:1Public-Regist-ramp 34:9;14:8;16:16;proposed1:8;ered 77:1736:1,318:8,25;4:3;5:18;publicationran 31:15;22;36:17;24;11:7;publicationsratified 32:2248:814:4,14,20;7:15rationale 7:9probably16:12,22;21:10;42:2Re13:20;18:11;17:3;18:23;publich5:5;19:16;28:12;24:21;34:16;6:13;7:7;19:16;28:12;24:21;34:16;6:13;7:7;13:20;18:11;17:3;18:23;published 5:5;read 4:22;19:16;28:12;24:21;34:16;6:13;7:1214:11;55:10;22:2; <td></td> <td></td> <td></td> <td></td>				
17,10, 15,11,27:11, 39:128,12; 16:10,quiet 51:1713,14; 16:23,property16,20; 17:8;19:311:12; 12:11;19:18,22;Rpreviously21:11; 22:5,21:14; 35:12;R-1 25:22;12:98; 28:8;36:1,3;R-1 25:22;primary 64:18;33:15,17,20,41:15,20;49:4; 57:2365:522; 34:4,7,50:3; 63:23;R-2 57:21printed 7:810; 49:1;67:23; 68:19;R-2s 57:13printer 31:1576:175:1,22;R1 36:15prior 11:5,10;48:21; 51:1Public-Regist-ramp 34:9;14:8; 16:16;proposed 1:8;ered 77:1736:1,325:1; 26:7,8:21; 10:14,13:10; 18:1549:822; 36:17;24; 11:7;publicationsratified 32:2248:814:4,14,20;7:15rationale 7:9probably16:12,22;21:10; 42:2Re 1:313:20; 18:11;17:3; 18:23;published 5:5;read 4:22;13:20; 18:11;17:3; 18:23;published 5:5;read 4:22;13:4; 45:14;35:10; 52:1512:22; 71:229:7; 13:21;38:4; 45:14;35:10; 52:1512:22; 71:229:7; 13:21;54:1; 56:17,provide 4:2;publishing23:14; 27:10;				
15,17,16,10,25,7property16,20; 17:8;19:311:12; 12:11;19:18,22;Rpreviously21:11; 22:5,21:14; 35:12;12:98; 28:8;36:1,3;R-1 25:22;primary 64:18;33:15,17,20,41:15,20;49:4; 57:2365:522; 34:4,7,50:3; 63:23;R-2 57:21printed 7:810; 49:1;67:23; 68:19;R-2s 57:13printer 31:1576:175:1,22;R1 36:15prior 11:5,10;48:21; 51:1Public-Regist-ramp 34:9;14:8; 16:16;proposed 1:8;ered 77:1736:1,318:8,25;4:3; 5:18;publicationran 31:15;25:1; 26:7,8:21; 10:14,13:10; 18:1549:822; 36:17;24; 11:7;publicationsratified 32:2248:814:4,14,20;7:15ratio 58:17private 50:315:2,5,10;publiclyrationale 7:9probably16:12,22;21:10; 42:2Re 1:313:20; 18:11;17:3; 18:23;published 5:5;read 4:22;13:20; 18:11;17:3; 18:23;published 5:5;read 4:22;14:4; 45:14;35:10; 52:1512:22; 71:229:7; 13:21;54:1; 56:17,provide 4:2;publishing23:14; 27:10;				
19:311:12; 12:11;19:18,22;Rpreviously21:11; 22:5,21:14; 35:12;12:98; 28:8;36:1,3;R-1 25:22;primary 64:18;33:15,17,20,41:15,20;49:4; 57:2365:522; 34:4,7,50:3; 63:23;R-2 57:21printed 7:810; 49:1;67:23; 68:19;R-2s 57:13printer 31:1576:175:1,22;R1 36:15printing 31:20proposal76:4; 77:4raised 42:18prior 11:5,10;48:21; 51:1Public-Regist-ramp 34:9;14:8; 16:16;proposed 1:8;ered 77:1736:1,318:8,25;4:3; 5:18;publicationran 31:15;22; 36:17;24; 11:7;publicationsratified 32:2248:814:4,14,20;7:15rationale 7:9private 50:315:2,5,10;publicalionsratified 32:22;13:20; 18:11;17:3; 18:23;published 5:5;read 4:22;19:16; 28:12;24:21; 34:16;6:13; 7:7;6:1,25; 7:11;38:4; 45:14;35:10; 52:1512:22; 71:229:7; 13:21;54:1; 56:17,provide 4:2;publishing23:14; 27:10;		1 -		quiec sitt,
19:311:12, 12:11, 22:5, 21:11; 22:5, 12:921:11; 22:5, 21:14; 35:12; 36:1,3; 36:1,3;R-1 25:22; 49:4; 57:23primary 64:18; 65:533:15,17,20, 22; 34:4,7, 65:541:15,20; 49:4; 57:23R-2 57:21printed 7:8 printer 31:1510; 49:1; 76:167:23; 68:19; 75:1,22; R1 36:15R-2s 57:13printing 31:20 prior 11:5,10; 14:8; 16:16; 18:8,25;proposal 48:21; 51:176:4; 77:4 Public-Regist- ered 77:17R1 36:15 raised 42:18 ramp 34:9; 36:1,322; 36:17; 48:84:3; 5:18; 14:4,14,20; 22; 36:17; 48:8publication 13:10; 18:15ran 31:15; 49:8 ratified 32:22 ratio 58:17 rationale 7:9private 50:3 15:2,5,10; probably16:12,22; 21:10; 42:2 21:10; 42:2Re 1:3 rationale 7:9 Re 1:313:20; 18:11; 17:3; 18:23; 19:16; 28:12; 24:21; 34:16; 54:1; 56:17,12:22; 71:22 publishing 23:14; 27:10; 43:14; 27:10;				
12:98; 28:8;36:1,3;R-1 25:22;primary 64:18;33:15,17,20,41:15,20;49:4; 57:2365:522; 34:4,7,50:3; 63:23;R-2 57:21printed 7:810; 49:1;67:23; 68:19;R-2s 57:13printer 31:1576:175:1,22;R1 36:15print 31:20proposal76:4; 77:4raised 42:18prior 11:5,10;48:21; 51:1Public-Regist-ramp 34:9;14:8; 16:16;proposed 1:8;ered 77:1736:1,318:8,25;4:3; 5:18;publicationran 31:15;22; 36:17;24; 11:7;publicationsratified 32:2248:814:4,14,20;7:15ratio 58:17private 50:315:2,5,10;publiclyratioale 7:9probably16:12,22;21:10; 42:2Re 1:313:20; 18:11;17:3; 18:23;published 5:5;6:13; 7:7;19:16; 28:12;24:21; 34:16;6:13; 7:7;6:1,25; 7:11;38:4; 45:14;35:10; 52:1512:22; 71:229:7; 13:21;54:1; 56:17,provide 4:2;publishing23:14; 27:10;	19:3			ĸ
12:98; 28:8;36:1,3;R-1 25:22;primary 64:18;33:15,17,20,41:15,20;49:4; 57:2365:522; 34:4,7,50:3; 63:23;R-2 57:21printed 7:810; 49:1;67:23; 68:19;R-2s 57:13printer 31:1576:175:1,22;R1 36:15printing 31:20proposal76:4; 77:4raised 42:18prior 11:5,10;48:21; 51:1Public-Regist-raised 42:1814:8; 16:16;proposed 1:8;publicationran 31:15;25:1; 26:7,8:21; 10:14,13:10; 18:1549:822; 36:17;24; 11:7;publicationsratified 32:2248:814:4,14,20;7:15ratio 58:17private 50:315:2,5,10;publiclyrationale 7:913:20; 18:11;17:3; 18:23;published 5:5;read 4:22;13:20; 18:11;17:3; 18:23;published 5:5;read 4:22;19:16; 28:12;24:21; 34:16;6:13; 7:7;6:1,25; 7:11;38:4; 45:14;35:10; 52:1512:22; 71:229:7; 13:21;54:1; 56:17,provide 4:2;publishing23:14; 27:10;	previously	21:11; 22:5,		
primary 64:18; 65:533:15,17,20, 22; 34:4,7, 10; 49:1;41:15,20; 50:3; 63:23; 67:23; 68:19; 75:1,22; R-2 57:21 R-2s 57:13 R1 36:15 raised 42:18 raised 42:18 ramp 34:9; 36:1,3 ran 31:15; 14:8; 16:16; proposed 1:8; 14:8; 16:16; 18:8,25; 22; 36:17; 48:21; 10:14, 22; 36:17; 48:8 private 50:3 probably 16:12,22; 13:20; 18:11; 17:3; 18:23; 13:20; 18:11; 17:3; 18:23; 13:20; 18:11; 17:3; 18:23; 19:16; 28:12; 24:21; 34:16; 35:10; 52:1541:15,20; 50:3; 63:23; 67:23; 63:23; 67:23; 68:19; 75:1,22; Public-Regist- ered 77:17 public-Regist- ered 77:17 publication ran 31:15; 49:8 ratified 32:22 ratio 58:17 ratio 58:17; 6:13; 7:7; 9:7; 13:21; 9:7; 13:21; 9:7; 13:21; 23:14; 27:10;		8; 28:8;	36:1,3;	
65:5 $22; 34:4,7,$ $50:3; 63:23;$ $R-2 57:21$ printed 7:8 $10; 49:1;$ $67:23; 68:19;$ $R-2s 57:13$ printer $31:15$ $76:1$ $75:1,22;$ $R1 36:15$ printing $31:20$ proposal $76:4; 77:4$ raised $42:18$ prior $11:5,10;$ $48:21; 51:1$ Public-Regist-ramp $34:9;$ $14:8; 16:16;$ proposed $1:8;$ ered $77:17$ $36:1,3$ $18:8,25;$ $4:3; 5:18;$ publicationran $31:15;$ $22; 36:17;$ $24; 11:7;$ publicationsratified $32:22$ $48:8$ $14:4,14,20;$ $7:15$ ratio $58:17$ private $50:3$ $15:2,5,10;$ publiclyratio $16:12,22;$ $13:20; 18:11;$ $17:3; 18:23;$ published $5:5;$ read $4:22;$ $13:20; 18:11;$ $17:3; 18:23;$ published $5:5;$ read $4:22;$ $19:16; 28:12;$ $24:21; 34:16;$ $6:13; 7:7;$ $6:1,25; 7:11;$ $38:4; 45:14;$ $35:10; 52:15$ $12:22; 71:22$ $9:7; 13:21;$ $54:1; 56:17,$ provide $4:2;$ publishing $23:14; 27:10;$		33:15,17,20,	41:15,20;	49:4; 57:23
printed 7:810; 49:1; 76:167:23; 68:19; 75:1,22; 75:1,22; 76:4; 77:4R-2s 57:13 R1 36:15printing 31:20proposal76:4; 77:4raised 42:18prior 11:5,10; 14:8; 16:16; 18:8,25;48:21; 51:1Public-Regist- ered 77:17raised 42:1825:1; 26:7, 22; 36:17; 48:84:3; 5:18; 24; 11:7; 24; 11:7;publication publicationran 31:15; 49:8private 50:3 probably16:12,22; 24:21; 34:16; 35:10; 52:15publicly 21:10; 42:2rationale 7:9 Re 1:313:20; 18:11; 19:16; 28:12; 38:4; 45:14; 54:1; 56:17,17; 49:16; provide 4:2;12:22; 71:22 publishingred 4:22; 23:14; 27:10;			50:3; 63:23;	<b>R-2</b> 57:21
printer 31:1576:175:1,22;R1 36:15printing 31:20proposal76:4; 77:4raised 42:18prior 11:5,10;48:21; 51:1Public-Regist-ramp 34:9;14:8; 16:16;proposed 1:8;ered 77:1736:1,318:8,25;4:3; 5:18;publicationran 31:15;25:1; 26:7,8:21; 10:14,13:10; 18:1549:822; 36:17;24; 11:7;publicationsratified 32:2248:814:4,14,20;7:15rationale 7:9private 50:315:2,5,10;publiclyrationale 7:9probably16:12,22;21:10; 42:2Re 1:313:20; 18:11;17:3; 18:23;published 5:5;read 4:22;13:20; 18:11;24:21; 34:16;6:13; 7:7;6:1,25; 7:11;38:4; 45:14;35:10; 52:1512:22; 71:229:7; 13:21;54:1; 56:17,provide 4:2;publishing23:14; 27:10;	4		-	<b>R-2s</b> 57:13
printing 31:20proposal76:4; 77:4raised 42:18prior 11:5,10;48:21; 51:1Public-Regist-ramp 34:9;14:8; 16:16;proposed 1:8;ered 77:1736:1,318:8,25;4:3; 5:18;publicationran 31:15;25:1; 26:7,8:21; 10:14,13:10; 18:1549:822; 36:17;24; 11:7;publicationsratified 32:2248:814:4,14,20;7:15ratio 58:17private 50:315:2,5,10;publiclyratio 16:12,22;13:20; 18:11;17:3; 18:23;published 5:5;read 4:22;13:20; 18:11;17:3; 18:23;published 5:5;read 4:22;13:4; 45:14;35:10; 52:1512:22; 71:229:7; 13:21;38:4; 45:14;35:10; 52:1512:22; 71:229:7; 13:21;54:1; 56:17,provide 4:2;publishing23:14; 27:10;		-		<b>R1</b> 36:15
princing 51.16proposed 1:8;Public-Regist- ered 77:17ramp 34:9;14:8; 16:16;proposed 1:8;ered 77:1736:1,318:8,25;4:3; 5:18;publicationran 31:15;25:1; 26:7,8:21; 10:14,13:10; 18:1549:822; 36:17;24; 11:7;publicationsratified 32:2248:814:4,14,20;7:15ratio 58:17private 50:315:2,5,10;publiclyrationale 7:9probably16:12,22;21:10; 42:2Re 1:313:20; 18:11;17:3; 18:23;published 5:5;read 4:22;19:16; 28:12;24:21; 34:16;6:13; 7:7;6:1,25; 7:11;38:4; 45:14;35:10; 52:1512:22; 71:229:7; 13:21;54:1; 56:17,provide 4:2;publishing23:14; 27:10;				
14:8; 16:16; 18:8,25; 25:1; 26:7, 48:8proposed 1:8; 4:3; 5:18; 8:21; 10:14, 24; 11:7; 48:8ered 77:17 publication 13:10; 18:15 publications36:1,3 ran 31:15; 49:8 ratified 32:22 ratio 58:17 ratio 58:17private 50:3 probably 16:12,22; 19:16; 28:12; 38:4; 45:14; 54:1; 56:17,13:10; 18:15 publications49:8 ratified 32:22 ratio 58:17 publications14:4,14,20; publications7:15 publicationsratified 32:22 ratio 58:17 ratio 58:17 rati			-	1 1
14.0, 10.10,plopological iso,publicationran 31:15;18:8,25;4:3; 5:18;publication49:825:1; 26:7,8:21; 10:14,13:10; 18:1549:822; 36:17;24; 11:7;publicationsratified 32:2248:814:4,14,20;7:15ratio 58:17private 50:315:2,5,10;publiclyrationale 7:9probably16:12,22;21:10; 42:2Re 1:313:20; 18:11;17:3; 18:23;published 5:5;read 4:22;19:16; 28:12;24:21; 34:16;6:13; 7:7;6:1,25; 7:11;38:4; 45:14;35:10; 52:1512:22; 71:229:7; 13:21;54:1; 56:17,provide 4:2;publishing23:14; 27:10;			-	
10:0,23,11:0,10:14,13:10; 18:1549:825:1; 26:7,8:21; 10:14,13:10; 18:1549:822; 36:17;24; 11:7;publicationsratified 32:2248:814:4,14,20;7:15ratio 58:17private 50:315:2,5,10;publiclyrationale 7:9probably16:12,22;21:10; 42:2Re 1:313:20; 18:11;17:3; 18:23;published 5:5;read 4:22;19:16; 28:12;24:21; 34:16;6:13; 7:7;6:1,25; 7:11;38:4; 45:14;35:10; 52:1512:22; 71:229:7; 13:21;54:1; 56:17,provide 4:2;publishing23:14; 27:10;	•			
23:17, 20:77, 22; 36:17; 48:824; 11:7; 14:4,14,20; 15:2,5,10;publications ratified 32:22 ratio 58:17 publiclyprivate 50:315:2,5,10; 15:2,5,10; 16:12,22;publicly 21:10; 42:2 published 5:5;rationale 7:9 Re 1:313:20; 18:11; 19:16; 28:12; 38:4; 45:14; 54:1; 56:17,17:3; 18:23; 21:10; 52:15published 5:5; 12:22; 71:22ratio 12:22; ratio 12:22;13:20; 18:11; 17:3; 18:23; 19:16; 28:12; 24:21; 34:16; 12:22; 71:2212:22; 9:7; 13:21; 23:14; 27:10;			-	
48:8       14:4,14,20;       7:15       ratio 58:17         private 50:3       15:2,5,10;       publicly       rationale 7:9         probably       16:12,22;       21:10; 42:2       Re 1:3         13:20; 18:11;       17:3; 18:23;       published 5:5;       read 4:22;         19:16; 28:12;       24:21; 34:16;       6:13; 7:7;       6:1,25; 7:11;         38:4; 45:14;       35:10; 52:15       12:22; 71:22       9:7; 13:21;         54:1; 56:17,       provide 4:2;       publishing       23:14; 27:10;				
Private 50:315:2,5,10;publiclyrationale 7:9probably16:12,22;21:10; 42:2Re 1:313:20; 18:11;17:3; 18:23;published 5:5;read 4:22;19:16; 28:12;24:21; 34:16;6:13; 7:7;6:1,25; 7:11;38:4; 45:14;35:10; 52:1512:22; 71:229:7; 13:21;54:1; 56:17,provide 4:2;publishing23:14; 27:10;	22; 36:17;	-	_	1
private 50:315:2,5,10;publiclyrationale 7:9probably16:12,22;21:10; 42:2Re 1:313:20; 18:11;17:3; 18:23;published 5:5;read 4:22;19:16; 28:12;24:21; 34:16;6:13; 7:7;6:1,25; 7:11;38:4; 45:14;35:10; 52:1512:22; 71:229:7; 13:21;54:1; 56:17,provide 4:2;publishing23:14; 27:10;	48:8			1
probably16:12,22;21:10; 42:2Re 1:313:20; 18:11;17:3; 18:23;published 5:5;read 4:22;19:16; 28:12;24:21; 34:16;6:13; 7:7;6:1,25; 7:11;38:4; 45:14;35:10; 52:1512:22; 71:229:7; 13:21;54:1; 56:17,provide 4:2;publishing23:14; 27:10;		15:2,5,10;		
13:20; 18:11;17:3; 18:23;published 5:5;read 4:22;19:16; 28:12;24:21; 34:16;6:13; 7:7;6:1,25; 7:11;38:4; 45:14;35:10; 52:1512:22; 71:229:7; 13:21;54:1; 56:17,provide 4:2;publishing23:14; 27:10;			21:10; 42:2	
19:16; 28:12;24:21; 34:16;6:13; 7:7;6:1,25; 7:11;38:4; 45:14;35:10; 52:1512:22; 71:229:7; 13:21;54:1; 56:17,provide 4:2;publishing23:14; 27:10;				read 4:22;
38:4; 45:14;35:10; 52:1512:22; 71:229:7; 13:21;54:1; 56:17,provide 4:2;publishing23:14; 27:10;				6:1,25; 7:11;
54:1; 56:17, provide 4:2; publishing 23:14; 27:10;	1			· · ·
	-		-	
		13:12; 15:21;	12:21; 18:19	40:11; 64:16,
	22; 65:17;		-	
68:7; 75:4   18:22; 30:24;   <b>pull</b> 22:1   20; 65:3;	68:/; /5:4	10:22; 20:24;	Part 22.1	

(

(

69:7,14	<b>record</b> 4:25;	49:9	resolved
reading 47:12	6:21; 7:12;	remember 40:17	59:21; 62:6;
readvertise	9:7; 13:18;	removal 61:4	66:5
19:1,21;	19:9; 22:17,	<b>remove</b> 75:14	respect 20:10;
71:23	20; 65:3;	rendered 8:14,	31:21; 42:18;
<b>ready</b> 40:21	66:10; 67:17;	16	52:8; 57:1;
<b>real</b> 11:11,12;	73:20; 77:12	<b>rental</b> 25:18	63:5
23:11; 66:3	recorded	renter 28:2	respectful
reality 36:1	35:23; 40:23;	reorganization	66:22
realize 7:17	77:10	67:11	responded 5:13
<b>really</b> 23:21;	records 11:13;	reorganize	response 5:2;
39:19; 45:19;	13:20; 69:23	18:3; 67:14	14:25; 66:15;
47:6; 48:3;	recreational	reorganizing	75:19
51:8; 52:8;	23:7; 28:1;	52:24	responsibility
53:10; 55:19;	47:21; 48:10	<b>repairs</b> 65:7	68:17
60:6; 62:6;	red 72:6	repeal 1:5;	responsible
63:25; 72:17;	redesignation	14:15; 16:23	34:4; 35:7
73:15			· · · · · · · · · · · · · · · · · · ·
	51:21,25	repetitive	rest 24:9
<b>reason</b> 50:10;	reduced 77:11	70:5	restored
51:21; 74:8	<b>Reed</b> 67:3;	replicate	50:20,22;
reasonable	69:19	55:22	52:1
19:3; 36:21	reenacting	replicating	restoring
reasons 20:2;	15:13; 16:25	55 <b>:</b> 5	49:23
47:17	reenactment	Reporter 77:18	restrict 70:21
recall 41:6;	14:17	Reporter-Nota-	restriction
67:19	reevaluate	<b>ry</b> 1:13; 77:4	33:21; 36:21,
recalls 40:18	53:4	<b>REPORTING</b> 1:22	24
receive 23:16	referenced	request 5:3,	restrictions
received 6:22;	10:21; 15:23;	12; 38:7	43:3
12:16; 14:25;	18:18	require 73:5;	retrieve 69:8,
15:5; 17:22;	refining 45:2;	75:1	9
36:8; 72:6	47:11	required 7:19;	returning
recession	reflect 5:19	13:12; 22:7;	24:16
34:18	regarding 15:1	52:17; 53:9;	reversal 64:8
reclassified	Registered	56:12,13;	review 4:17;
42:17; 43:2	1:13; 77:3	71:4,8; 74:11	5:5,8,15,17,
recodification	regular 74:9	requirement	20; 7:6,21;
1:8; 14:19;	regulate 33:13	11:6; 18:7;	8:10; 15:8,
17:2	regulating	28:24; 35:11	16; 17:18;
recodified	33:19	requirements	20:21; 41:10;
8:25; 14:20;	regulations	11:17; 12:5;	55:25; 56:1;
17:3	6:18; 33:14;	28:17; 29:11;	67:22,23;
recognize	64:25	34:14; 43:8,	68:17; 73:7
72:12	reinsert 63:1,	10,16	reviewed 15:4,
recognizing	3	resident 47:4	5; 20:3
29:9; 50:13	relationship	residential	reviewing
recommendation			-
	53:2	24:8,19;	41:19; 72:13,
30:15; 68:18	relative 4:3;	48:10,15,19;	17
recommendatio-	6:16,18; 9:2;	52:19,21,24;	reviews 72:16
<b>ns</b> 14:10;	17:12; 19:19;	53:5; 57:4	revise 46:18
16:18; 18:1,	34:9; 43:4,	resolution	revised 10:7
13; 20:21;	10,20; 48:17;	53:13	revising 41:19
71:15,16;	50:14; 51:22	resolvable	revision 8:22;
74:18	<b>rely</b> 61:9	58:4; 59:10;	19:21
recommended	remain 67:17	60:2	revoke 11:24
53:4	remained 24:15	<b>resolve</b> 53:17;	rewording 75:4
reconstruct	remains 36:15	54:22; 58:6;	rezoned 11:13;
26:14	remediation	59:25	12:11; 22:8;

(

24:14	scriveners	47:10	Smiths 49:2
rezoning	17:9	several 39:3	Snyder 4:9;
11:20,21,23;	<b>seal</b> 77:15	<b>sewage</b> 50:10,	21:2; 61:7
	season 60:7	11; 51:2	socially 51:19
12:3; 14:16;		shall 9:11,14,	sold 25:20
15:12; 16:24	seated 67:13	1	solicit 17:19
RICHARD 2:8	<pre>second 23:13;</pre>	17; 10:14,20,	
ROBERT 2:7	68:13	25; 11:4,9,	solicitor
roll 27:18	section 4:19;	15,17,19;	2:12; 12:24;
rolls 22:5	7:9; 9:5,6;	13:25; 18:25	53:19; 54:3;
	10:2,13,15,	share 24:6	62:13
Ron 4:8;		sheds 65:6	solid 65:16
40:16; 41:14;	21; 12:23;		somebody 6:9;
42:1; 44:18;	18:7,17,18;	<b>shore</b> 32:4;	-
46:21	20:12; 27:10;	36:15	25:10; 29:16;
roof 26:8	32:24; 33:8;	<b>short</b> 27:15	38:14; 45:6
rule 23:21;	40:3; 42:11;	<b>shot</b> 34:25	somehow 58:23;
	43:9; 64:11,	shouldn't	64:24
25:3		30:11	someone 21:17;
RULLO 2:12;	12,13; 73:4		
3:5; 6:2,4,8;	sections 4:18;	shouting 20:9	22:1; 26:1;
7:13; 8:8;	9:1; 10:11;	<b>show</b> 44:11	29:4; 41:12;
12:19; 13:8,	40:2; 45:21;	<b>showed</b> 64:11	49:5; 51:5
10; 15:4,25;	75:14	<b>side</b> 11:25;	Somerset 5:4;
	see 12:7;	34:10; 36:4;	13:5,14,16;
18:17; 21:1,		40:8; 65:20	14:7; 15:7,
4; 63:8;	13:19; 20:8;		15; 30:20;
66:7; 72:3,6,	32:6; 41:21;	signed 17:5	
10,20; 74:9	44:1,6;	significant	65:9,12;
<b>rushed</b> 39:18	51:10; 70:19;	31:18; 32:12,	72:9,12,15,
	71:6; 73:23;	17	16,21,24,25
S	74:8,13	<b>signs</b> 21:18	something
د ا	•	similar 35:11	23:12,15;
	seek 53:19		38:14; 45:16;
<b>safe</b> 65:14	<b>seem</b> 31:24;	simply 5:5,16;	
<b>safety</b> 28:18;	36:12	42:17	46:12,15;
32:13; 35:16,	seems 23:17;	<b>since</b> 8:19;	47:23,25;
18; 36:9,14;	31:23	24:10; 49:7	48:1,2;
38:24; 62:11;	<b>seen</b> 41:22	<b>single</b> 43:14;	55:13; 56:14;
•	Senate 31:14	62:23	60:4; 63:24;
63:17,22		single-family	69:4
same 28:23;	send 7:23;		
42:10	66:23; 70:25;		sometime 68:15
<b>sat</b> 44:10	73:23	<b>site</b> 47:10	sometimes
satisfy 11:17	<b>sense</b> 43:17;	situation	4:18; 65:24
saw 63:21	65:24; 74:15	31:4; 48:16;	somewhere
	sent 5:2,11;	53:9; 61:24;	32:4; 54:17;
saying 40:4;			55:14,22
57:5,11,12;	11:12; 21:15	62:1,16; 70:9	1
69:12; 70:4	sentence 70:16	<b>size</b> 28:14;	<b>soon</b> 54:4;
says 9:9;	<pre>separate 63:8</pre>	34:17	66:2
41:11	septic 24:7	<b>sizes</b> 24:7,8;	<b>sorry</b> 15:5;
scaled 35:12,	seriously	25:21; 44:5	64:19; 67:21;
1	49:21	<b>ski</b> 40:6;	72:11
13			sort 25:16;
scared 53:25	service 1:22;	49:7,8	1
scary 33:4	6:18	<b>skiers</b> 25:19	35:4; 70:13
scheduled 6:5;	<b>set</b> 8:8;	<b>skiing</b> 32:19	<b>space</b> 51:18
	10:13; 77:14	<b>slope</b> 49:7,8	SPEAKER 33:1,
I			5; 40:1
14:2; 16:10		STODER OTTAL	j
14:2; 16:10 scheme 74:16	<pre>setback 28:7;</pre>	<b>slopes</b> 6:19;	
14:2; 16:10 scheme 74:16 SCOTT 2:6;	<pre>setback 28:7; 43:8</pre>	40:6	SPEAKERS 3:1
14:2; 16:10 scheme 74:16	<pre>setback 28:7; 43:8 setbacks</pre>	40:6 slowly 64:20	SPEAKERS 3:1 speaking 6:2
14:2; 16:10 scheme 74:16 SCOTT 2:6;	<pre>setback 28:7; 43:8</pre>	40:6 slowly 64:20 small 28:17,	<pre>SPEAKERS 3:1 speaking 6:2 special 26:23;</pre>
14:2; 16:10 scheme 74:16 SCOTT 2:6; 4:7; 26:16; 40:23; 45:10;	<pre>setback 28:7; 43:8 setbacks</pre>	40:6 slowly 64:20 small 28:17, 18; 38:13;	<pre>SPEAKERS 3:1 speaking 6:2 special 26:23; 27:7; 29:11;</pre>
14:2; 16:10 scheme 74:16 SCOTT 2:6; 4:7; 26:16;	<pre>setback 28:7; 43:8 setbacks 25:21; 28:13,</pre>	40:6 slowly 64:20 small 28:17,	<pre>SPEAKERS 3:1 speaking 6:2 special 26:23;</pre>

ĺ

Page 16

43:15	29:22	suggested	72:16
specific	studied 35:14	52:10; 63:21;	therefore 57:5
20:12; 39:24;	study 35:16	75:11	thereon 9:11;
43:19; 44:20	stuff 28:13;	suggestions	10:21
specifically	42:10; 45:9,	5:21	Theresa 17:5
	24; 50:12;	summary 6:24;	they've 24:11;
20:15; 60:8		12:24,25;	73:21
speed 42:11	69:22	13:13; 14:12;	thing 21:1;
<b>spent</b> 41:23;	subdivided	16:20; 18:10,	23:13; 27:25;
62:5	49:2		39:2,3;
spillway 36:5	subdivision	18; 19:2,4	44:22; 75:14
sponsored	49:3,14;	supplemental	1 7 1
30:23	73:1,3	6:18	things 19:15;
<b>square</b> 23:23;	subjectivity	supposed 51:9	26:9,14;
56:23; 59:4	45:5	surface 73:17	27:6,19;
<b>St.</b> 48:20,23;	submit 4:23;	<b>sworn</b> 77:6	33:2; 43:20,
59:2	7:24; 14:9;	system 24:7;	22; 45:13,20;
standardized	16:17; 17:21;	26:19; 38:9;	47:8,11,18;
43:7	25:11; 66:25;	54:20; 57:2,	50:13,14,16;
standards	68:1; 69:3,6;	25; 67:2	66:3,5;
59:24	70:10,12;		71:19; 73:9,
standpoint	71:3; 73:5;	т	13; 75:4,8,11
	74:15		thinks 51:7
12:2; 16:1;	submitted	talked 63:19	though 7:17;
32:17		taught 65:23	11:23; 18:9;
start 10:1;	4:15; 7:8;	tax 11:11,13;	22:7; 39:10;
33:19; 36:2	15:7; 20:20;		53:1
<b>state</b> 22:17;	41:1,3;	22:5; 49:10;	thoughts 6:7
59:9; 63:20	69:18,20;	51:13; 57:1,3	
stated 5:17;	70:11	technically	thousand 59:4
77:9	submitting	27:9	three 31:24;
1 11.5	Duoma Duang		
	40:19	teeth 62:7	37:16
states 10:9, 11; 11:19		teeth 62:7 telecommunica-	three-quarter
<b>states</b> 10:9, 11; 11:19	40:19	teeth 62:7 telecommunica- tion 6:19	three-quarter 58:7,19,24
<pre>states 10:9,    11; 11:19    steep 6:19</pre>	40:19 <b>subsection</b> 11:18	teeth 62:7 telecommunica-	three-quarter 58:7,19,24 three-quarters
<pre>states 10:9, 11; 11:19 steep 6:19 stenographica-</pre>	40:19 subsection 11:18 subsequent	teeth 62:7 telecommunica- tion 6:19	three-quarter 58:7,19,24 three-quarters 58:17
<pre>states 10:9, 11; 11:19 steep 6:19 stenographica- 11y 77:10</pre>	40:19 <b>subsection</b> 11:18 <b>subsequent</b> 17:18; 73:19	<pre>teeth 62:7 telecommunica- tion 6:19 ten 18:8,25</pre>	three-quarter 58:7,19,24 three-quarters
<pre>states 10:9, 11; 11:19 steep 6:19 stenographica- 11y 77:10 STERN 2:8</pre>	40:19 subsection 11:18 subsequent 17:18; 73:19 substance	teeth 62:7 telecommunica- tion 6:19 ten 18:8,25 termination	three-quarter 58:7,19,24 three-quarters 58:17
<pre>states 10:9, 11; 11:19 steep 6:19 stenographica- lly 77:10 STERN 2:8 still 12:25;</pre>	40:19 <b>subsection</b> 11:18 <b>subsequent</b> 17:18; 73:19 <b>substance</b> 73:18	<pre>teeth 62:7 telecommunica- tion 6:19 ten 18:8,25 termination 64:2 terms 29:14;</pre>	three-quarter 58:7,19,24 three-quarters 58:17 threshold 27:8; 29:12
<pre>states 10:9, 11; 11:19 steep 6:19 stenographica- 11y 77:10 STERN 2:8 still 12:25; 24:25</pre>	40:19 subsection 11:18 subsequent 17:18; 73:19 substance 73:18 substandard	<pre>teeth 62:7 telecommunica- tion 6:19 ten 18:8,25 termination 64:2 terms 29:14; 47:11; 59:12,</pre>	three-quarter 58:7,19,24 three-quarters 58:17 threshold 27:8; 29:12 throughout
<pre>states 10:9, 11; 11:19 steep 6:19 stenographica- 11y 77:10 STERN 2:8 still 12:25; 24:25 stinks 27:1,17</pre>	40:19 <b>subsection</b> 11:18 <b>subsequent</b> 17:18; 73:19 <b>substance</b> 73:18 <b>substandard</b> 64:12	<pre>teeth 62:7 telecommunica- tion 6:19 ten 18:8,25 termination 64:2 terms 29:14; 47:11; 59:12, 14</pre>	<pre>three-quarter     58:7,19,24 three-quarters     58:17 threshold     27:8; 29:12 throughout     22:13; 24:9;</pre>
<pre>states 10:9, 11; 11:19 steep 6:19 stenographica- 11y 77:10 STERN 2:8 still 12:25; 24:25 stinks 27:1,17 stipulation</pre>	40:19 subsection 11:18 subsequent 17:18; 73:19 substance 73:18 substandard 64:12 substantial	<pre>teeth 62:7 telecommunica-    tion 6:19 ten 18:8,25 termination    64:2 terms 29:14;    47:11; 59:12,    14 territories</pre>	three-quarter 58:7,19,24 three-quarters 58:17 threshold 27:8; 29:12 throughout
<pre>states 10:9, 11; 11:19 steep 6:19 stenographica- 11y 77:10 STERN 2:8 still 12:25; 24:25 stinks 27:1,17 stipulation 32:3</pre>	40:19 <b>subsection</b> 11:18 <b>subsequent</b> 17:18; 73:19 <b>substance</b> 73:18 <b>substandard</b> 64:12 <b>substantial</b> 11:17; 18:6,	<pre>teeth 62:7 telecommunica- tion 6:19 ten 18:8,25 termination 64:2 terms 29:14; 47:11; 59:12, 14 territories 10:6</pre>	<pre>three-quarter     58:7,19,24 three-quarters     58:17 threshold     27:8; 29:12 throughout     22:13; 24:9;     36:17; 43:5,     18</pre>
<pre>states 10:9, 11; 11:19 steep 6:19 stenographica- lly 77:10 STERN 2:8 still 12:25; 24:25 stinks 27:1,17 stipulation 32:3 stop 20:24;</pre>	40:19 subsection 11:18 subsequent 17:18; 73:19 substance 73:18 substandard 64:12 substantial 11:17; 18:6, 22; 19:7,18,	<pre>teeth 62:7 telecommunica-    tion 6:19 ten 18:8,25 termination    64:2 terms 29:14;    47:11; 59:12,    14 territories    10:6 Terry 48:21;</pre>	<pre>three-quarter     58:7,19,24 three-quarters     58:17 threshold     27:8; 29:12 throughout     22:13; 24:9;     36:17; 43:5,     18 tight 39:20,25</pre>
<pre>states 10:9, 11; 11:19 steep 6:19 stenographica- lly 77:10 STERN 2:8 still 12:25; 24:25 stinks 27:1,17 stipulation 32:3 stop 20:24; 28:11; 54:16</pre>	40:19 subsection 11:18 subsequent 17:18; 73:19 substance 73:18 substandard 64:12 substantial 11:17; 18:6, 22; 19:7,18, 20; 25:21;	<pre>teeth 62:7 telecommunica- tion 6:19 ten 18:8,25 termination 64:2 terms 29:14; 47:11; 59:12, 14 territories 10:6 Terry 48:21; 49:2</pre>	three-quarter 58:7,19,24 three-quarters 58:17 threshold 27:8; 29:12 throughout 22:13; 24:9; 36:17; 43:5, 18 tight 39:20,25 tighten 62:24
<pre>states 10:9, 11; 11:19 steep 6:19 stenographica- 11y 77:10 STERN 2:8 still 12:25; 24:25 stinks 27:1,17 stipulation 32:3 stop 20:24; 28:11; 54:16 stops 60:7</pre>	40:19 subsection 11:18 subsequent 17:18; 73:19 substance 73:18 substandard 64:12 substantial 11:17; 18:6, 22; 19:7,18, 20; 25:21; 44:3; 46:11;	<pre>teeth 62:7 telecommunica- tion 6:19 ten 18:8,25 termination 64:2 terms 29:14; 47:11; 59:12, 14 territories 10:6 Terry 48:21; 49:2 testify 77:6</pre>	<pre>three-quarter     58:7,19,24 three-quarters     58:17 threshold     27:8; 29:12 throughout     22:13; 24:9;     36:17; 43:5,     18 tight 39:20,25 tighten 62:24 tightened</pre>
<pre>states 10:9, 11; 11:19 steep 6:19 stenographica- lly 77:10 STERN 2:8 still 12:25; 24:25 stinks 27:1,17 stipulation 32:3 stop 20:24; 28:11; 54:16 stops 60:7 storage 65:6</pre>	40:19 subsection 11:18 subsequent 17:18; 73:19 substance 73:18 substandard 64:12 substantial 11:17; 18:6, 22; 19:7,18, 20; 25:21; 44:3; 46:11; 71:11,25;	<pre>teeth 62:7 telecommunica- tion 6:19 ten 18:8,25 termination 64:2 terms 29:14; 47:11; 59:12, 14 territories 10:6 Terry 48:21; 49:2 testify 77:6 testimony</pre>	<pre>three-quarter     58:7,19,24 three-quarters     58:17 threshold     27:8; 29:12 throughout     22:13; 24:9;     36:17; 43:5,     18 tight 39:20,25 tighten 62:24 tightened     62:18</pre>
<pre>states 10:9, 11; 11:19 steep 6:19 stenographica- 11y 77:10 STERN 2:8 still 12:25; 24:25 stinks 27:1,17 stipulation 32:3 stop 20:24; 28:11; 54:16 stops 60:7 storage 65:6 structural</pre>	40:19 subsection 11:18 subsequent 17:18; 73:19 substance 73:18 substandard 64:12 substantial 11:17; 18:6, 22; 19:7,18, 20; 25:21; 44:3; 46:11; 71:11,25; 74:24; 75:1	<pre>teeth 62:7 telecommunica- tion 6:19 ten 18:8,25 termination 64:2 terms 29:14; 47:11; 59:12, 14 territories 10:6 Terry 48:21; 49:2 testify 77:6 testimony 8:13; 77:12</pre>	<pre>three-quarter     58:7,19,24 three-quarters     58:17 threshold     27:8; 29:12 throughout     22:13; 24:9;     36:17; 43:5,     18 tight 39:20,25 tighten 62:24 tightened     62:18 today 6:2;</pre>
<pre>states 10:9, 11; 11:19 steep 6:19 stenographica- 11y 77:10 STERN 2:8 still 12:25; 24:25 stinks 27:1,17 stipulation 32:3 stop 20:24; 28:11; 54:16 stops 60:7 storage 65:6 structural 26:14,17,19;</pre>	40:19 subsection 11:18 subsequent 17:18; 73:19 substance 73:18 substandard 64:12 substantial 11:17; 18:6, 22; 19:7,18, 20; 25:21; 44:3; 46:11; 71:11,25; 74:24; 75:1 substantially	<pre>teeth 62:7 telecommunica- tion 6:19 ten 18:8,25 termination 64:2 terms 29:14; 47:11; 59:12, 14 territories 10:6 Terry 48:21; 49:2 testify 77:6 testimony 8:13; 77:12 text 12:21;</pre>	<pre>three-quarter     58:7,19,24 three-quarters     58:17 threshold     27:8; 29:12 throughout     22:13; 24:9;     36:17; 43:5,     18 tight 39:20,25 tighten 62:24 tightened     62:18 today 6:2;     17:7; 67:18;</pre>
<pre>states 10:9, 11; 11:19 steep 6:19 stenographica- 11y 77:10 STERN 2:8 still 12:25; 24:25 stinks 27:1,17 stipulation 32:3 stop 20:24; 28:11; 54:16 stops 60:7 storage 65:6 structural</pre>	40:19 subsection 11:18 subsequent 17:18; 73:19 substance 73:18 substandard 64:12 substantial 11:17; 18:6, 22; 19:7,18, 20; 25:21; 44:3; 46:11; 71:11,25; 74:24; 75:1 substantially 36:18; 46:3	<pre>teeth 62:7 telecommunica- tion 6:19 ten 18:8,25 termination 64:2 terms 29:14; 47:11; 59:12, 14 territories 10:6 Terry 48:21; 49:2 testify 77:6 testimony 8:13; 77:12 text 12:21; 13:13</pre>	<pre>three-quarter     58:7,19,24 three-quarters     58:17 threshold     27:8; 29:12 throughout     22:13; 24:9;     36:17; 43:5,     18 tight 39:20,25 tighten 62:24 tightened     62:18 today 6:2;     17:7; 67:18;     69:25</pre>
<pre>states 10:9, 11; 11:19 steep 6:19 stenographica- 11y 77:10 STERN 2:8 still 12:25; 24:25 stinks 27:1,17 stipulation 32:3 stop 20:24; 28:11; 54:16 stops 60:7 storage 65:6 structural 26:14,17,19;</pre>	40:19 subsection 11:18 subsequent 17:18; 73:19 substance 73:18 substandard 64:12 substantial 11:17; 18:6, 22; 19:7,18, 20; 25:21; 44:3; 46:11; 71:11,25; 74:24; 75:1 substantially 36:18; 46:3 substantive	<pre>teeth 62:7 telecommunica- tion 6:19 ten 18:8,25 termination     64:2 terms 29:14;     47:11; 59:12,     14 territories     10:6 Terry 48:21;     49:2 testify 77:6 testimony     8:13; 77:12 text 12:21;     13:13 Theodore 1:12;</pre>	<pre>three-quarter     58:7,19,24 three-quarters     58:17 threshold     27:8; 29:12 throughout     22:13; 24:9;     36:17; 43:5,     18 tight 39:20,25 tighten 62:24 tightened     62:18 today 6:2;     17:7; 67:18;     69:25 today's 9:24</pre>
<pre>states 10:9, 11; 11:19 steep 6:19 stenographica- lly 77:10 STERN 2:8 still 12:25; 24:25 stinks 27:1,17 stipulation 32:3 stop 20:24; 28:11; 54:16 stops 60:7 storage 65:6 structural 26:14,17,19; 58:21; 59:16;</pre>	40:19 subsection 11:18 subsequent 17:18; 73:19 substance 73:18 substandard 64:12 substantial 11:17; 18:6, 22; 19:7,18, 20; 25:21; 44:3; 46:11; 71:11,25; 74:24; 75:1 substantially 36:18; 46:3 substantive 71:13; 75:12,	<pre>teeth 62:7 telecommunica- tion 6:19 ten 18:8,25 termination 64:2 terms 29:14; 47:11; 59:12, 14 territories 10:6 Terry 48:21; 49:2 testify 77:6 testimony 8:13; 77:12 text 12:21; 13:13 Theodore 1:12; 77:3,17</pre>	<pre>three-quarter     58:7,19,24 three-quarters     58:17 threshold     27:8; 29:12 throughout     22:13; 24:9;     36:17; 43:5,     18 tight 39:20,25 tighten 62:24 tightened     62:18 today 6:2;     17:7; 67:18;     69:25 today's 9:24 together 19:3;</pre>
<pre>states 10:9, 11; 11:19 steep 6:19 stenographica- lly 77:10 STERN 2:8 still 12:25; 24:25 stinks 27:1,17 stipulation 32:3 stop 20:24; 28:11; 54:16 stops 60:7 storage 65:6 structural 26:14,17,19; 58:21; 59:16; 65:7</pre>	40:19 subsection 11:18 subsequent 17:18; 73:19 substance 73:18 substandard 64:12 substantial 11:17; 18:6, 22; 19:7,18, 20; 25:21; 44:3; 46:11; 71:11,25; 74:24; 75:1 substantially 36:18; 46:3 substantive	<pre>teeth 62:7 telecommunica- tion 6:19 ten 18:8,25 termination 64:2 terms 29:14; 47:11; 59:12, 14 territories 10:6 Terry 48:21; 49:2 testify 77:6 testimony 8:13; 77:12 text 12:21; 13:13 Theodore 1:12; 77:3,17 theoretically</pre>	<pre>three-quarter     58:7,19,24 three-quarters     58:17 threshold     27:8; 29:12 throughout     22:13; 24:9;     36:17; 43:5,     18 tight 39:20,25 tighten 62:24 tightened     62:18 today 6:2;     17:7; 67:18;     69:25 today's 9:24 together 19:3;     51:19; 53:7</pre>
<pre>states 10:9, 11; 11:19 steep 6:19 stenographica- lly 77:10 STERN 2:8 still 12:25; 24:25 stinks 27:1,17 stipulation 32:3 stop 20:24; 28:11; 54:16 stops 60:7 storage 65:6 structural 26:14,17,19; 58:21; 59:16; 65:7 structure 26:22; 28:6;</pre>	40:19 subsection 11:18 subsequent 17:18; 73:19 substance 73:18 substandard 64:12 substantial 11:17; 18:6, 22; 19:7,18, 20; 25:21; 44:3; 46:11; 71:11,25; 74:24; 75:1 substantially 36:18; 46:3 substantive 71:13; 75:12,	<pre>teeth 62:7 telecommunica- tion 6:19 ten 18:8,25 termination 64:2 terms 29:14; 47:11; 59:12, 14 territories 10:6 Terry 48:21; 49:2 testify 77:6 testimony 8:13; 77:12 text 12:21; 13:13 Theodore 1:12; 77:3,17</pre>	<pre>three-quarter     58:7,19,24 three-quarters     58:17 threshold     27:8; 29:12 throughout     22:13; 24:9;     36:17; 43:5,     18 tight 39:20,25 tighten 62:24 tightened     62:18 today 6:2;     17:7; 67:18;     69:25 today's 9:24 together 19:3;     51:19; 53:7 took 34:8,24;</pre>
<pre>states 10:9, 11; 11:19 steep 6:19 stenographica- 11y 77:10 STERN 2:8 still 12:25; 24:25 stinks 27:1,17 stipulation 32:3 stop 20:24; 28:11; 54:16 stops 60:7 storage 65:6 structural 26:14,17,19; 58:21; 59:16; 65:7 structure 26:22; 28:6; 48:19; 58:22;</pre>	40:19 subsection 11:18 subsequent 17:18; 73:19 substance 73:18 substandard 64:12 substantial 11:17; 18:6, 22; 19:7,18, 20; 25:21; 44:3; 46:11; 71:11,25; 74:24; 75:1 substantially 36:18; 46:3 substantive 71:13; 75:12, 15 substitute	<pre>teeth 62:7 telecommunica- tion 6:19 ten 18:8,25 termination 64:2 terms 29:14; 47:11; 59:12, 14 territories 10:6 Terry 48:21; 49:2 testify 77:6 testimony 8:13; 77:12 text 12:21; 13:13 Theodore 1:12; 77:3,17 theoretically 42:25 there's 26:25;</pre>	<pre>three-quarter     58:7,19,24 three-quarters     58:17 threshold     27:8; 29:12 throughout     22:13; 24:9;     36:17; 43:5,     18 tight 39:20,25 tighten 62:24 tightened     62:18 today 6:2;     17:7; 67:18;     69:25 today's 9:24 together 19:3;     51:19; 53:7 took 34:8,24;     42:5; 48:14</pre>
<pre>states 10:9, 11; 11:19 steep 6:19 stenographica- 11y 77:10 STERN 2:8 still 12:25; 24:25 stinks 27:1,17 stipulation 32:3 stop 20:24; 28:11; 54:16 stops 60:7 storage 65:6 structural 26:14,17,19; 58:21; 59:16; 65:7 structure 26:22; 28:6; 48:19; 58:22; 61:17; 62:10;</pre>	40:19 subsection 11:18 subsequent 17:18; 73:19 substance 73:18 substandard 64:12 substantial 11:17; 18:6, 22; 19:7,18, 20; 25:21; 44:3; 46:11; 71:11,25; 74:24; 75:1 substantially 36:18; 46:3 substantive 71:13; 75:12, 15 substitute 71:17,20	<pre>teeth 62:7 telecommunica- tion 6:19 ten 18:8,25 termination 64:2 terms 29:14; 47:11; 59:12, 14 territories 10:6 Terry 48:21; 49:2 testify 77:6 testimony 8:13; 77:12 text 12:21; 13:13 Theodore 1:12; 77:3,17 theoretically 42:25</pre>	<pre>three-quarter     58:7,19,24 three-quarters     58:17 threshold     27:8; 29:12 throughout     22:13; 24:9;     36:17; 43:5,     18 tight 39:20,25 tighten 62:24 tightened     62:18 today 6:2;     17:7; 67:18;     69:25 today's 9:24 together 19:3;     51:19; 53:7 took 34:8,24;</pre>
<pre>states 10:9, 11; 11:19 steep 6:19 stenographica- lly 77:10 STERN 2:8 still 12:25; 24:25 stinks 27:1,17 stipulation 32:3 stop 20:24; 28:11; 54:16 stops 60:7 storage 65:6 structural 26:14,17,19; 58:21; 59:16; 65:7 structure 26:22; 28:6; 48:19; 58:22; 61:17; 62:10; 63:6; 64:15,</pre>	40:19 subsection 11:18 subsequent 17:18; 73:19 substance 73:18 substandard 64:12 substantial 11:17; 18:6, 22; 19:7,18, 20; 25:21; 44:3; 46:11; 71:11,25; 74:24; 75:1 substantially 36:18; 46:3 substantive 71:13; 75:12, 15 substitute 71:17,20 successful	<pre>teeth 62:7 telecommunica- tion 6:19 ten 18:8,25 termination 64:2 terms 29:14; 47:11; 59:12, 14 territories 10:6 Terry 48:21; 49:2 testify 77:6 testimony 8:13; 77:12 text 12:21; 13:13 Theodore 1:12; 77:3,17 theoretically 42:25 there's 26:25;</pre>	<pre>three-quarter     58:7,19,24 three-quarters     58:17 threshold     27:8; 29:12 throughout     22:13; 24:9;     36:17; 43:5,     18 tight 39:20,25 tighten 62:24 tightened     62:18 today 6:2;     17:7; 67:18;     69:25 today's 9:24 together 19:3;     51:19; 53:7 took 34:8,24;     42:5; 48:14</pre>
<pre>states 10:9, 11; 11:19 steep 6:19 stenographica- lly 77:10 STERN 2:8 still 12:25; 24:25 stinks 27:1,17 stipulation 32:3 stop 20:24; 28:11; 54:16 stops 60:7 storage 65:6 structural 26:14,17,19; 58:21; 59:16; 65:7 structure 26:22; 28:6; 48:19; 58:22; 61:17; 62:10; 63:6; 64:15, 17; 65:14,16</pre>	40:19 subsection 11:18 subsequent 17:18; 73:19 substance 73:18 substandard 64:12 substantial 11:17; 18:6, 22; 19:7,18, 20; 25:21; 44:3; 46:11; 71:11,25; 74:24; 75:1 substantially 36:18; 46:3 substantive 71:13; 75:12, 15 substitute 71:17,20 successful 49:17	<pre>teeth 62:7 telecommunica- tion 6:19 ten 18:8,25 termination 64:2 terms 29:14; 47:11; 59:12, 14 territories 10:6 Terry 48:21; 49:2 testify 77:6 testimony 8:13; 77:12 text 12:21; 13:13 Theodore 1:12; 77:3,17 theoretically 42:25 there's 26:25; 28:8; 32:3; 33:18; 34:17;</pre>	<pre>three-quarter     58:7,19,24 three-quarters     58:17 threshold     27:8; 29:12 throughout     22:13; 24:9;     36:17; 43:5,     18 tight 39:20,25 tighten 62:24 tightened     62:18 today 6:2;     17:7; 67:18;     69:25 today's 9:24 together 19:3;     51:19; 53:7 took 34:8,24;     42:5; 48:14 top 51:20</pre>
<pre>states 10:9, 11; 11:19 steep 6:19 stenographica- lly 77:10 STERN 2:8 still 12:25; 24:25 stinks 27:1,17 stipulation 32:3 stop 20:24; 28:11; 54:16 stops 60:7 storage 65:6 structural 26:14,17,19; 58:21; 59:16; 65:7 structure 26:22; 28:6; 48:19; 58:22; 61:17; 62:10; 63:6; 64:15, 17; 65:14,16 structures</pre>	40:19 subsection 11:18 subsequent 17:18; 73:19 substance 73:18 substandard 64:12 substantial 11:17; 18:6, 22; 19:7,18, 20; 25:21; 44:3; 46:11; 71:11,25; 74:24; 75:1 substantially 36:18; 46:3 substantive 71:13; 75:12, 15 substitute 71:17,20 successful 49:17 sufficient	<pre>teeth 62:7 telecommunica- tion 6:19 ten 18:8,25 termination 64:2 terms 29:14; 47:11; 59:12, 14 territories 10:6 Terry 48:21; 49:2 testify 77:6 testimony 8:13; 77:12 text 12:21; 13:13 Theodore 1:12; 77:3,17 theoretically 42:25 there's 26:25; 28:8; 32:3; 33:18; 34:17; 36:4,9; 40:7;</pre>	<pre>three-quarter     58:7,19,24 three-quarters     58:17 threshold     27:8; 29:12 throughout     22:13; 24:9;     36:17; 43:5,     18 tight 39:20,25 tighten 62:24 tightened     62:18 today 6:2;     17:7; 67:18;     69:25 today's 9:24 together 19:3;     51:19; 53:7 took 34:8,24;     42:5; 48:14 top 51:20 topography     32:5</pre>
<pre>states 10:9, 11; 11:19 steep 6:19 stenographica- 11y 77:10 STERN 2:8 still 12:25; 24:25 stinks 27:1,17 stipulation 32:3 stop 20:24; 28:11; 54:16 stops 60:7 storage 65:6 structural 26:14,17,19; 58:21; 59:16; 65:7 structure 26:22; 28:6; 48:19; 58:22; 61:17; 62:10; 63:6; 64:15, 17; 65:14,16 structures 49:7; 61:1,2,</pre>	40:19 subsection 11:18 subsequent 17:18; 73:19 substance 73:18 substandard 64:12 substantial 11:17; 18:6, 22; 19:7,18, 20; 25:21; 44:3; 46:11; 71:11,25; 74:24; 75:1 substantially 36:18; 46:3 substantive 71:13; 75:12, 15 substitute 71:17,20 successful 49:17 sufficient 11:1	<pre>teeth 62:7 telecommunica- tion 6:19 ten 18:8,25 termination 64:2 terms 29:14; 47:11; 59:12, 14 territories 10:6 Terry 48:21; 49:2 testify 77:6 testimony 8:13; 77:12 text 12:21; 13:13 Theodore 1:12; 77:3,17 theoretically 42:25 there's 26:25; 28:8; 32:3; 33:18; 34:17; 36:4,9; 40:7; 46:12; 47:8,</pre>	<pre>three-quarter     58:7,19,24 three-quarters     58:17 threshold     27:8; 29:12 throughout     22:13; 24:9;     36:17; 43:5,     18 tight 39:20,25 tighten 62:24 tightened     62:18 today 6:2;     17:7; 67:18;     69:25 today's 9:24 together 19:3;     51:19; 53:7 took 34:8,24;     42:5; 48:14 top 51:20 topography     32:5 totally 57:11;</pre>
<pre>states 10:9, 11; 11:19 steep 6:19 stenographica- lly 77:10 STERN 2:8 still 12:25; 24:25 stinks 27:1,17 stipulation 32:3 stop 20:24; 28:11; 54:16 stops 60:7 storage 65:6 structural 26:14,17,19; 58:21; 59:16; 65:7 structure 26:22; 28:6; 48:19; 58:22; 61:17; 62:10; 63:6; 64:15, 17; 65:14,16 structures</pre>	40:19 subsection 11:18 subsequent 17:18; 73:19 substance 73:18 substandard 64:12 substantial 11:17; 18:6, 22; 19:7,18, 20; 25:21; 44:3; 46:11; 71:11,25; 74:24; 75:1 substantially 36:18; 46:3 substantive 71:13; 75:12, 15 substitute 71:17,20 successful 49:17 sufficient	<pre>teeth 62:7 telecommunica- tion 6:19 ten 18:8,25 termination 64:2 terms 29:14; 47:11; 59:12, 14 territories 10:6 Terry 48:21; 49:2 testify 77:6 testimony 8:13; 77:12 text 12:21; 13:13 Theodore 1:12; 77:3,17 theoretically 42:25 there's 26:25; 28:8; 32:3; 33:18; 34:17; 36:4,9; 40:7;</pre>	<pre>three-quarter     58:7,19,24 three-quarters     58:17 threshold     27:8; 29:12 throughout     22:13; 24:9;     36:17; 43:5,     18 tight 39:20,25 tighten 62:24 tightened     62:18 today 6:2;     17:7; 67:18;     69:25 today's 9:24 together 19:3;     51:19; 53:7 took 34:8,24;     42:5; 48:14 top 51:20 topography     32:5</pre>

ĺ

	1		
towers 6:19		until 63:21	W
townhomes	υ	untouched	, v
42:19; 50:25;		45:25	
58:9,18,24;	<b>UAI</b> 55:5	unzoned 10:7	wall 26:19
59:1,6	<b>UCC</b> 65:15	up 6:3,10;	wanted 5:17;
townhouse	ultimately	7:7; 17:12;	23:24; 49:6;
38:13	46:15	22:12; 29:23;	60:1
townhouses	unanimous	36:13; 39:1,	wants 39:11,
74:25	30:13,14	4; 40:14;	12; 51:14;
tract 11:2,4	under 8:10,15,	42:11,19;	60:4; 71:2
trade 27:21	25; 9:22;	44:11; 46:7;	wasted 42:7
traditionally	10:2,4,9;	50:1; 55:5;	water 33:18;
35:6; 50:21;	11:7; 12:19;	56:16; 59:24;	63:21
52:1; 68:14	13:12; 16:6;	60:11,13;	Wawrzyniak
traffic 36:11	18:7; 24:23;	62:18,25;	1:13,22;
	35:2; 52:21;	71:3; 72:2,	77:3,17
transcribed	63:6,24;	14; 73:14,25;	way 9:23;
20:19		74:4	25:6; 29:22,
transcript	64:12; 65:15;	upheld 65:1	24; 31:19;
17:15	67:20; 68:12;	useful 71:5	45:16; 46:15;
transparent	77:11		47:21; 50:11;
22:13; 74:16	underneath	utilization	55:19; 57:16
<b>treat</b> 43:14	34:15	32:19	ways 36:11;
treated 12:3	understand	utilizing 8:19	-
<pre>treating 8:24;</pre>	9:2; 12:15;		54:22
12:4	15:22; 24:1;	v	weather 7:18;
<b>tried</b> 22:12;	29:18; 37:16,		8:3
42:11; 62:9	25; 39:25;	<b>vague</b> 23:17	website 4:21;
tripped 53:24	47:8; 48:3;	<b>valid</b> 8:17	66:24; 70:19;
true 77:12	54:24; 59:15;	value 76:1	71:3; 74:1,5,
<b>Trust</b> 33:6	60:22; 69:11;	<b>values</b> 39:12	11
<b>truth</b> 77:7,8	70:14; 71:24;	variance	Wednesday
try 17:11;	72:19	26:23; 27:9,	68:13
31:4,16;	understandable	13; 28:21;	week 5:18;
42:10,13;	27:12	53:2	11:5
55:21	understanding	various 21:5;	<b>weird</b> 45:9
trying 43:13,	15:10; 44:21	33:9	welfare 63:18,
14; 49:10;	unfortunate	version 13:25;	23
62:5; 69:13;	66:4	16:8; 72:6	Westmoreland
74:16	unfortunately	<b>via</b> 71:10	77:2
tubing 32:19	25:5; 26:19,	<b>VIDEO</b> 1:22	Weyant 17:5
tuning 50:18	20,25; 29:20;	view 11:23	whatever
turn 7:13;	34:12; 54:9;	<b>virtue</b> 29:20;	38:18; 54:13;
22:16	65:24	51:20	63:7
	UNIDENTIFIED	VOGEL 2:7;	whatnot 25:22;
turning 28:11		67:16; 74:2	57:13
turns 8:2	33:1,5; 40:1 unit 57:18	voice 23:25	whatsoever
tweak 46:13	United 1:14	voluminous	40:5,7
twice 4:11;	1	12:25	WHEREOF 77:14
42:5	units 51:1;		whether 5:9,
two 4:18;	52:16; 53:6,	vote 9:13;	10; 12:2;
13:6; 23:5,	7; 54:20;	18:8,14;	18:4,14;
24; 38:20;	55:1,9	37:15; 40:13,	
50:2; 53:6;	Unity 1:14	14,23; 68:9;	19:6; 26:17;
65:23	unless 25:4	74:7	27:22; 34:3;
<b>type</b> 6:3; 57:2	unmaintained	voting 9:9;	43:23; 56:9,
<b>types</b> 20:14;	61:2	10:19; 18:24	11; 60:11;
25:10; 66:5	<pre>unsafe 61:1;</pre>		63:17; 65:13;
typewriting	65:8,16		68:3; 71:2;
77:11	unsightly 61:1		73:15,17
	-		

(

(

<pre>whole 6:25; 39:9; 45:10; 54:14; 60:5; 73:4; 75:14; 77:7 wider 32:2 wildlife 21:20 will 4:24; 5:14; 6:3,4, 21; 7:11,13, 14,23,25; 8:25; 14:9; 15:11; 16:17; 17:3,11,16, 17,19,23,25; 18:3,12; 20:18,20,21, 23,24; 24:25; 27:22; 36:20; 38:18; 42:6;</pre>	<pre>worked 4:10; 56:2 works 29:14 worse 39:6 wrestle 42:10 wrestled 24:5; 30:9; 42:8 wrestling 58:3 writing 7:24 writing 7:24 writien 43:17 year 8:16; 18:2; 37:19; 47:5 years 27:18; 35:23; 44:14; 45:12; 47:7; 62:5,14;</pre>	45:3; 47:10, 21; 50:15; 53:2,24; 62:7,20,24; 63:4,10,13, 25; 64:1,5,6, 8; 67:21; 71:18; 72:13, 17,22; 73:4,6 
<pre>43:21; 44:25; 45:16; 46:18; 53:13; 60:16; 61:9,11,20; 62:20; 63:4; 64:16; 66:23; 67:1,7,8,10, 11,13; 68:1, 2,3; 70:25; 71:16; 72:2; 73:14,20 windmills 73:16 wintry 66:18 wish 34:22; 74:17 wishes 13:19 within 9:14, 16; 11:12,14; 24:20,22; 34:1; 53:21; 54:17,20; 55:4; 56:15, 24; 61:12,17; 68:16 without 26:11; 27:6; 29:3 witness 77:5, 13,14 wondering 47:15 word 47:13; 63:2,3,7 words 38:1; 62:25; 66:8 work 4:12,14, 20; 26:11; 37:24; 41:24</pre>	<pre></pre>	