

COPY

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ORANGE

-----X  
TOWN OF WOODBURY and the TOWN OF WOODBURY  
TOWN BOARD,

Plaintiffs,

-against-

Index No. EF006036-2018

VILLAGE OF WOODBURY, VILLAGE OF WOODBURY BOARD  
OF TRUSTEES and ORANGE COUNTY,

Defendants.

-----X

Monday  
June 24, 2019  
1:35 p.m.

EXAMINATION BEFORE TRIAL

of the Plaintiffs, TOWN OF WOODBURY and the TOWN OF  
WOODBURY TOWN BOARD, by and through its witness  
ROBERT HUNTER, held at the offices of Burke, Miele,  
Golden & Naughton, 40 Matthews Street, Goshen, New  
York before a Notary Public in and for the State of  
New York.

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ROBERTA O'ROURKE  
Court Stenographer  
P.O. Box 142  
Cornwall, New York 12518  
(845) 527-2572

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

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STIPULATIONS

IT IS HEREBY STIPULATED, by and between the attorneys for the respective parties hereto, that:

All rights provided by the C.P.L.R., and Part 221 of the Uniform Rules for the Conduct of Depositions, including the right to object to any question, except as to the form, or to move to strike any testimony at this examination is reserved; and in addition, the failure to object to any question or to move to strike any testimony at this examination shall not be a bar or waiver to make such motion at, and is reserved to, the trial of this action.

This deposition may be sworn to by the witness being examined before a Notary Public other than the Notary Public before whom this examination was begun, but the failure to do so or to return the original of this deposition to counsel, shall not be deemed a waiver of the rights provided by Rule 3116 of the C.P.L.R., and shall be controlled thereby. The filing of the original of this deposition is waived.

IT IS FURTHER STIPULATED that a copy of this examination shall be furnished to the attorney for the witness being examined without charge.

1  
2 ROBERT HUNTER, the witness herein,  
3 having been first duly sworn by Roberta O'Rourke, a  
4 Notary Public of the State of New York, was examined  
5 and testified as follows:  
6

7 THE REPORTER: Will you state your  
8 name, please?

9 THE WITNESS: Robert Hunter.

10 THE REPORTER: What is your business  
11 address?

12 THE WITNESS: 615 Route 32, Highland  
13 Mills, New York.  
14

15 **EXAMINATION BY MR. GOLDEN:**

16 Q Mr. Hunter, my name is Rick Golden and  
17 I'm representing the Village of Woodbury in  
18 connection with the lawsuit brought by the Town of  
19 Woodbury against the Village of Woodbury.

20 I'm going to ask you a question. If  
21 you don't understand the question you can ask me to  
22 rephrase it and I'll rephrase the question so I make  
23 sure that you understand the question, okay?

24 A Okay.

25 Q And also if you didn't hear the

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question for some reason just ask for it to be read back or I'll repeat the question, is that understood?

A Yes.

Q I just want you to make sure that you've heard the question and you've understood the question before you answer it, is that fair?

A Yes.

Q The transcription only takes down verbal responses, so no shakes of the head or ah-hah or anything like that. Just verbally indicate your response, okay?

A Understood.

Q If you would look at Plaintiffs' Exhibit 7, please, in that pile? And it's been identified that these are the minutes of the town board meeting that were held on July 20th, 2017 and that at that meeting there was a motion that you can see at the bottom of the first page and carrying on to the next page that was seconded by you to authorize the then supervisor, which was Mr. Sutz, to sign any and all documents relating to a property exchange with the Village of Woodbury as follows, upon final preparation, review and authorization by

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counsel, from the town to the village lot 21, also a portion of lot 20, that is the highway garage and salt shed, and from the village to the town of 204-1-30 which is Earl Reservoir. And you voted yes in connection with that motion.

Now, I would just sort of set the stage to get you back in that mindset.

So earlier in that paragraph on the exchange of land with the Village of Woodbury it says here Councilman Hunter feels the arrangement between the town and the village needs to be ironed out so that when issues occur in the future they're clearly defined, what did you mean by that?

A If it's not in writing then we don't know exactly what agreements we have. That was my intent.

Q If what is not in writing?

A Any agreements that we might have with the village. As a general practice I think we need to have things in writing and, you know, clearly defined.

Q You voted yes on this, did you think that this was clearly defined?

A Did I think what was clearly defined?

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Q The motion --

A Yes.

Q -- that you voted yes?

A Yes, the motion was clearly defined,  
yes.

Q Now, on the portion of lot 20 it then  
has highway garage and salt shed. Were there other  
things on lot 20 at the time, to your knowledge?

A Other things?

Q Other buildings, structures of the  
town that were on lot 20?

A I don't know.

Q Do you not know whether or not the --

A I think it was just the highway garage  
and the salt shed. There's nothing else up there.

Q So the library was not part of lot 20  
and the town senior center?

A I'm not sure which lot that was in.

Q Now, Maria Hunter is your wife, is  
that correct?

A Yes.

Q And she had testified earlier that she  
had spoken to you about this land swap and that it  
had occurred, been carried out, a few months after

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this, maybe in December of 2017, do you recall that conversation you had with her?

A No, no, I don't.

Q Did you ever talk to your wife with respect to this land swap?

A No.

Q At any time up until the present day?

A Only in general terms what would be, you know, common knowledge.

Q What were those general terms that you discussed with her?

A Well, for instance, you know, I don't know how to say it, you know, how come this isn't moving along. There were a lot of moving parts at this time.

Q Which time is that?

A We were talking about the land swap plus the addition to the building at the reservoir. And there were a lot of things going on that needed to be fleshed out. Also we were coming off of a failed referendum of our town building. And so to try to piece it together, you know, it just, we were juggling a lot of different things.

Q The town board was?

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A Yes.

Q How much of those things did you discuss with your wife Maria Hunter?

A I don't discuss that type of business. I consider it and so does she, that her term on the planning board, that's her business, my term on the town board is my business. We don't discuss it in detail because number one I don't think it's really proper and it just really isn't done.

Q I'm trying to get at a little bit more particularized relationship that you have with respect to the discussion of these issues.

You've said that you've spoke to her in a general way and you did not speak to her in a detailed way. But what I'm asking you is simply what did you say to her or she say to you with respect to the land swap at any time?

A I didn't speak to her about the land swap.

Q At no time?

A No.

Q Did she speak to you about her non-reappointment as planning board chair?

A Yes.

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Q And what did she say to you about

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that?

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A She said the village board did not

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reappoint her to the planning board.

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Q And that was it?

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A Yeah.

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Q She didn't express any disappointment,

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she didn't express any cheer for not having to

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continue to do that work? She didn't say anything

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else other than they didn't reappoint me?

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A She was a very dedicated and a very

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hard working individual on that board as you know.

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Q Yes.

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A And she was very upset when it

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happened because of all her work for the town and

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the village over the years she felt she was unfairly

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treated and, yeah, she was upset.

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Q And what did she say that gave you the

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impression that she thought that she was unfairly

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treated? What were the specific words that she used

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or to the best of your recollection the words that

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she used when she described to you those

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circumstances?

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A Her specific words?

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Q The best as you can recollect.

A I don't know exactly what she said. I mean her emotions, you know, boiled over and why are they doing this to me, you know, hurt feelings there were.

Q Did she ever talk to you previously about somebody in the town or the village asking her to sign a map for approval with respect to this land swap?

A She had mentioned something about maps and refusing to sign them. She didn't go into detail. I didn't ask. And that's all I know about it.

Q You knew it had to do with the land swap though, right?

A No, it was about maps that she said didn't go through the proper channels in the planning board.

Q And you didn't inquire any further on that?

A No.

Q You believed that the Earl Reservoir was owned by the Village of Woodbury?

A Earl Reservoir was -- I'm not sure of

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the ownership. I guess it's in there somewhere.

Q So you don't recall who owned the Earl Reservoir prior to the land swap?

A Well, it would have been the town.

Q The town owned it?

A Right?

Q I'm asking you, do you know?

A Isn't it in there?

Q I'm looking for what I think is in here but I'm asking you regardless of what's in here what your present knowledge is? Do you know who owned the village prior to the land swap?

A I can't answer that.

Q I'll rephrase. Do you know who owned Earl Reservoir prior to the land swap, that's my question to you?

A That would have been turned over to the village.

Q I'm talking about before the land swap who do you think owned Earl Reservoir?

A It was my understanding that it went from the town to the village when the village was incorporated. If I'm wrong then...

Q If that's your recollection, that's

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your recollection.

After the land swap the town retained a portion of land that included the library, the senior center and some parking, is that correct?

A Yes.

Q Is the town able to use the library?

A The public is, yeah. Yes.

Q So it's a usable library, right?

A Yes.

Q It's a usable senior center?

A Yes.

Q It's a usable parking lot?

A Yes.

Q And if you wanted to make an addition onto the senior center or library you could do that, right?

A I can't answer that. I mean I don't know how you would, you would have to engineer it out somehow.

Q Assuming that you have it engineered out and you have it contracted out and it's performed in accordance with all the public procurement codes, if the town wanted to add onto that building it could do so?

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MR. MAHON: Objection to the form of the question. You can answer that question.

A As far as I understand it it could be.

Q Now, there's an allegation in the Complaint, if you would look at A here paragraph 40, it says upon information and belief efforts were taken to ensure that the town board, the attorney for the town and the engineer for the town were kept out of the property exchange process all together, do you see that?

A Yes.

Q To your knowledge, what efforts were taken to ensure that the town board, the attorney for the town and the engineer for the town were kept out of the property exchange process all together?

A I don't know.

Q Were there any discussions during the land swap -- let me go back.

Do you recall when the land swap first started being discussed with the town board?

A I don't know the date.

Q If you would look at Exhibit B on the third page, there's a section under letter C that talks about property exchange with village?

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A Yeah.

Q So it was certainly discussed at a town board meeting on February 16th, 2017, correct?

A Yes.

Q Is this the first time you ever heard about the potential land swap?

A Yes.

Q Now, when did you find out that the land swap actually happened, there were actually deeds that were filed?

A It was after Supervisor Palermo took office. I think it was in January.

Q How did you hear?

A We had a, we had a meeting regarding it.

Q Do you recall when that meeting was?

A No, but I'm sure it's here somewhere.

Q Not that I'm aware of. Was this an official town meeting, like a special meeting of the town or did you all get together without calling a meeting?

A I think it was -- I don't recall when it was called.

Q Do you recall whether or not it was an

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official meeting?

A No, I don't.

Q Did you ever conduct business when a quorum was present without it being an official meeting?

A No.

Q So if you discussed it was there a quorum present when you had it or was it just you and Supervisor Palermo?

A I don't recall the actual format of the meeting.

Q Do you recall who was there?

A It was the board and Mr. Palermo.

Q So the full board was there?

A Correct.

Q So based upon the fact that you never discussed business outside of the meeting context when you had a quorum there this must have been a meeting of the board, correct?

A Yes.

Q Do you recall ever calling a special meeting of the board or would this have been at a regular meeting as a board?

A It seems to me it was at a regular

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meeting.

Q In the beginning of January?

A Yes.

Q Now, from that time when you first heard about the land swap in February of 2017 until you found out about the fact that it actually had occurred in January, beginning of January 2018, had you ever taken a position that there needed to be compensation paid one way or the other in this land swap from the town to the village or the village to the town?

A Would you repeat that?

Q Sure.

MR. GOLDEN: Can you read it back, please?

(Whereupon, the last question was read back.)

A Did I take a position?

Q Yes.

A No.

Q Did you think that money needed to change hands between the village and the town on this land swap?

A No.

Q Do you believe that Earl Reservoir is

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parkland?

A Yes.

Q And what's the basis for that belief?

A It was established I think given to the town many years ago for use as parkland. I think it was by a private resident.

Q And did the town accept it as parkland?

A To my knowledge, yes. I mean this is something that was years and years ago.

Q Was it given to the town or was it given to the town water district?

A I'm not sure.

Q And you're not sure whether or not it was actually accepted for parkland purposes specifically?

A To my knowledge it was accepted for parkland purposes.

Q And what's that knowledge based upon, is it based upon a document or some meeting minutes or something else upon which your knowledge is based?

A It's just more or less common knowledge that it was perceived by the town for

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development of a park at the reservoir.

Q But you've never seen any document that supports that?

A No.

Q Could you look at Exhibit C, please? If you look on the second page the last sentence of that first continuing paragraph right above new business where it says Councilman Hunter noted the board began discussing this issue in February 2016 with the Attorney McKay and does not want to see it delayed.

Is that incorrect there where it says February 2016 or do you recall now that it actually started, because this was March of 2017, did you think that it just started last month or do you think it started a year ago?

A I was referring to the addition to the building at the reservoir.

Q Not the swap?

A No. No because, you know, it was delayed and I just wanted to encourage to move it along.

Q Understood. After July 20th when the motion was made, July 20th, 2017, if you look at

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2 those meeting minutes when the motion was made and  
3 adopted with you voting in favor of it, that the  
4 supervisor could sign whatever documents were  
5 necessary for the land swap subject to attorney  
6 review, etc, after that date of July 20th, 2017 up  
7 until that meeting that you referenced in the  
8 beginning of January 2018 when you found out about  
9 the fact that the swapped property deeds have been  
10 filed, did you discuss the land swap with anyone  
11 from July to January?

12 A No, no.

13 Q Didn't inquire as to the status of it  
14 with Mr. McKay or with the other town board members  
15 or then Councilperson Palermo?

16 A No, we were waiting for documents and  
17 visuals and also we were waiting for a meeting  
18 between the village and town.

19 Q I have no further questions.

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21 **EXAMINATION BY MR. MAHON:**

22 Q I have some questions. Mr. Hunter,  
23 I'm going to ask you a couple of questions on  
24 follow-up.

25 First I'm going to show you what's

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been marked as Defendants' Exhibit B. Take a look at that. And you see Defendants' Exhibit B is identified as the town board minutes from February 16th, 2017?

A Yup, yes.

Q I'm going to ask you to turn to page three? Do you see the bottom half of page three there is an agenda item, it's subparagraph C, property exchange with village, do you see that?

A Yes.

Q And if you turn over to the next page it carries over onto page four, okay?

A Yes.

Q And then there was a motion made right at the top of page four the first full paragraph it says motion was then offered by Supervisor Sutz, seconded by Councilman Hunter, you, to authorize the supervisor to sign the required paperwork to be filed with the county to exchange property from the town to the village and from the village to town once prepared and reviewed by Attorney McKay, do you see that?

A Yes.

Q And you recall that was Supervisor

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Sutz's own motion, is that correct?

A Yes.

Q And the contingency language in there once prepared and reviewed by Attorney McKay, that was part of Supervisor Sutz's motion, is that correct?

A Yes.

Q I'm going to now show you, we're done with that exhibit, I will now show you what's been marked as Defendants' Exhibit C which is a copy of the March 2nd, 2017 minutes. Take a look at page two?

Now, actually at the very bottom of page one, just to give you a reference, item number II says old business and it says extra item pre-fab building at Earl's Reservoir, do you see that?

A Yes.

Q And it carries over onto page two? Now take a look at page two? Do you see at the top of page two it says Supervisor Sutz stated he spoke with Attorney McKay this morning about the land swap issue, do you see that?

A Yes.

Q Now, in that same paragraph I want you

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2 to go down to the last two sentences, I'm going to  
3 read them and I'm going to ask you a question. The  
4 second to the last sentence -- I'm sorry, the third  
5 to the last sentence says Supervisor Sutz noted he  
6 invited the village board member, it should be  
7 members, to attend a meeting once he puts together a  
8 packet for both boards with visuals of both  
9 properties, do you see that?

10 A Yes.

11 Q I point that out because you had  
12 mentioned the word visuals when you were testifying.  
13 After the date of this meeting, and again this is  
14 the March 2nd, 2017 meeting, did you ever receive a  
15 packet from Supervisor Sutz?

16 A No, no packet was received.

17 Q Did you ever receive a packet from  
18 anybody else concerning the land swap?

19 A No.

20 Q I'm going to show you what's been  
21 marked as, I'm finished with that exhibit now, take  
22 a look at Plaintiffs' Exhibit 7. It's right here,  
23 Plaintiffs' Exhibit 7, which is the town board  
24 meeting of July 20th, 2017, do you see that?

25 A Yes.

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Q That's number 7 I gave you, right?

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A Yes, number 7.

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Q So at the top of the first page you see these are the minutes of July 20th, 2017 for the town board?

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A Yes.

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Q I'm going to direct your attention to the second part of the page, the first page and under II, it says old business and subparagraph A exchange of land with Village of Woodbury, do you see that?

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A Yes.

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Q Now, down the bottom there there was a motion made, and it's a separate paragraph, it says motion then offered by Councilman Arone, seconded by Councilman Hunter, you, to authorize the supervisor to sign any and all documents relating to a property exchange with the Village of Woodbury as follows, upon final preparation, review and authorization by counsel, do you see that?

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A Yes.

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Q Do you have an understanding of what those words mean upon final preparation, review and authorization by counsel?

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A Yes.

Q What's your understanding?

A That it's to be reviewed by our legal department to make the, everything is legit.

Q And I pointed out language in the prior exhibits about Supervisor Sutz making motions contingent upon Attorney McKay, even identified Attorney McKay by name in the prior minutes, do you recall that?

A Yes.

Q At this time, and on July 20th, 2017, who was the attorney for the Town of Woodbury town board?

A Joe McKay.

Q And do you know if in accordance with the wording I just read to you, the wording of that motion, do you know if, to your knowledge, there was a final preparation, review and authorization by Mr. McKay?

A There was none.

Q When this motion was made, seconded and then voted upon, did you have an understanding of what would happen next?

MR. GOLDEN: Objection to the form.

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Q Do you understand what I'm asking you?

A Yes.

Q Okay, what was your understanding?

A Once it was reviewed by Joe McKay we would then take it into consideration if everything was equitable and fair to both village and town and then we would consider it as a joint, within a joint meeting of the town and village.

Q This particular meeting July 20th, 2017 Mr. McKay was not present, was he?

A No.

Q And the other meetings, now I'm looking at Defendants' Exhibit C which was the March 2nd, 2017 meeting and the February 16th, 2017 meeting, do you know if Mr. McKay was present at those meetings?

A No, he was not.

Q Do you know as to the July 20th, 2017 meeting, that would be Exhibit 7 right there, do you know why Mr. McKay was not present for that meeting?

A No, I don't.

Q Just as a general, as a general policy or practice, was the town board's attorney normally present at meetings or was it sporadic?

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A He was usually there.

Q Do you know if anybody on the board or the supervisor asked him not to attend on July 20th, 2017?

A I don't know.

Q So as Mr. Golden asked you there came a time in January of 2018, I believe, you testified that you found out that this property transfer had gone through, is that correct?

A Yes.

Q And you found that out from the supervisor at the town?

A Yes.

Q What was your reaction when you learned that?

A I feel we had been let down and deceived by our former Supervisor Sutz. I was very disappointed and we had put our faith and hope that he would follow through with this matter and he just totally let us down, I don't know why, but it was very upsetting to me. And to me the supervisor is our point man out there, whatever comes into the town he's usually there for us and we rely on him to do the right thing.

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Q When you voted on July 20th, 2017 to approve this with the conditions indicated, did you fully expect that you would receive the packet or something or some visuals just as Supervisor Sutz had promised you?

A Yes.

Q And you never received that?

A No.

Q I have no further questions.

**EXAMINATION BY MR. GOLDEN: (CONTINUATION)**

Q Mr. Hunter, the position in your lawsuit is that regardless of anything else the village should still own Earl Reservoir, is that your position?

A Yes, we -- yes.

Q I have no further questions.

(Whereupon, the proceeding was concluded.)

(The jurat is on the next page.)

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STATE OF NEW YORK )  
COUNTY OF Orange )

I have read the transcript of my testimony taken at the time and place noted on the title page, and I acknowledge it to be true and correct. Any and all corrections will be put on the errata sheet included at the end of this transcript.



Robert Hunter

Sworn before me this

18 day of July, 2019.



Notary Public

**HEATHER FOLEY**  
Notary Public, State of New York  
No. 01F04985176  
Qualified in Orange County  
Commission Expires August 12, 2021

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W I T N E S S I N D E X

Examination by Mr. Golden .....4  
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E X H I B I T S

NONE

I N F O R M A T I O N R E Q U E S T E D

NONE

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C E R T I F I C A T I O N

I, ROBERTA O'ROURKE, a Stenotype Reporter and Notary Public within and for the State of New York, hereby certify:

That the witness whose examination is hereinbefore set forth was duly sworn or affirmed by a Notary Public and that the transcript of said examination is a true record of the testimony given by the said witness; and

That I am not related to any of the parties in this action by blood or marriage, and I am in no way interested in the outcome of this matter.

*Roberta O'Rourke*  
\_\_\_\_\_  
Roberta O'Rourke