

In the Matter Of:
HAYMARKET DuPAGE LLC

REPORT OF PROCEEDINGS

June 30, 2021

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1 PRESENT VIA REMOTE VIDEOCONFERENCE:

2 MR. BRENDAN DALY, Chairman;

3 MR. FRANK CARELLO, Commissioner;

4 MS. LORI DRUMMOND, Commissioner;

5 MR. JEFFREY HOLMES, Commissioner;

6 MS. KRISTA RAY, Commissioner;

7 MR. ANTHONY RUSSO, Commissioner.

8
9 ALSO PRESENT VIA VIDEOCONFERENCE:

10 MS. YORDANA WYSOCKI, Village Attorney;

11 MR. MO KHAN, Village Planner

12 HERVAS, CONDON & BERSANI, P.C., by

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Appeared on behalf of City of Itasca;

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Appeared on behalf of Haymarket DuPage LLC;

24

1 PRESENT: (CONT'D.)

2 FRANCZEK, P.C., by
3 MS. JENNIFER SMITH
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8 Appeared on behalf of Itasca School District;

9 JOHNSON & BELL, LTD., by
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15 Appeared on behalf of 865 West Irving Park
16 Road, LLC;

17 and

18 OTTOSEN, DiNOLFO, HASENBLAG & CASTALDO, LTD., by
19 MR. STEPHEN H. DI NOLFO
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24 Appeared on behalf of Itasca Fire Protection
District.

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I N D E X

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1 CHAIRMAN DALY: Good evening, everyone, and
2 welcome to this meeting of the June 30th --

3 (Zoom announcement: "This meeting
4 is being recorded.)

5 CHAIRMAN DALY: Good evening, everyone, and
6 welcome to this meeting of the June 30th, 2021,
7 Itasca Plan Commission. I call this meeting to
8 order.

9 Will the secretary please call the
10 role.

11 MR. KHAN: Commissioner Carello.

12 COMMISSIONER CARELLO: Here.

13 MR. KHAN: Commissioner Drummond.

14 COMMISSIONER DRUMMOND: Here.

15 MR. KHAN: Commissioner Holmes.

16 COMMISSIONER HOLMES: Here.

17 MR. KHAN: Commissioner Russo.

18 COMMISSIONER RUSSO: Here.

19 MR. KHAN: Commissioner Ray.

20 COMMISSIONER RAY: Here.

21 MR. KHAN: Chairman Daly.

22 CHAIRMAN DALY: Here.

23 Thank you. I declare a quorum
24 present.

1 Good evening, everyone. Today is
2 Wednesday, June 30th, 2021. The case before the Plan
3 Commission is PC #19-014 continued from last
4 Wednesday, June 23rd.

5 The petitioner and owner is
6 Haymarket DuPage, LLC. The location is 860 West
7 Irving Park Road.

8 The procedures for tonight's meeting
9 and moving forward are as follows: Tonight we will
10 begin with rebuttal testimony by Dr. Lustig of
11 Haymarket.

12 The Plan Commission has adopted new
13 rules of procedure which are now in effect. We are
14 proceeding remotely with 25 people in the room due to
15 COVID-19, and the public may watch the proceedings
16 through the Village's YouTube channel.

17 Anyone wishing to make public
18 comment will be able to do so after the presentation
19 of cases. They will need to sign up on the Village's
20 website until further notice.

21 Anyone wishing to ask questions of
22 Village staff or other parties will be able to do so
23 after the presentation of cases. The form is on the
24 Village's website.

1 And, finally, remote staff is
2 monitoring the video streaming. If the video
3 streaming does not work during the proceedings, we
4 will stop and wait until the video streaming is fixed
5 or reschedule for another date.

6 At this time I would like to invite
7 Mr. Charles Hervas for his opening remarks.

8 MR. HERVAS: Thank you, Mr. Chairman.

9 Again, my name is Chuck Hervas, and
10 I am the attorney advising the Plan Commission in
11 this matter.

12 This is a legal proceeding with
13 legal significance. A court reporter is swearing in
14 witnesses and is transcribing the testimony. This is
15 not a trial, but we are developing a record of
16 proceedings before the Plan Commission. This is a
17 legal public hearing on a zoning petition.

18 My job is to protect the rights of
19 the petitioner, any objectors, and the public.

20 The Plan Commission will make
21 findings and a recommendation to the Village Board.
22 Please understand that the Plan Commission is a
23 recommending body. The Village Board will make the
24 final decision on the Haymarket zoning petition.

1 Due to the pandemic and the
2 Governor's emergency orders, we are unable to meet in
3 person. A virtual hearing is not the preferred
4 method for hearing this zoning petition. However,
5 the business of government must move forward, and the
6 virtual hearing has been approved by state statute
7 and is used by local governments across the state.
8 Everyone is doing the best they can under the
9 circumstances.

10 I'm also happy to share with
11 everyone that this is the last virtual hearing in
12 this matter. As a result of changes with respect to
13 the Governor's order and moving into Phase 5, we will
14 resume on July 14th at Peacock with an in-person
15 format.

16 Please note that the procedures used
17 by the Plan Commission for large hearings during the
18 pandemic are available on the Village's website.
19 These procedures will be updated at the July 14th
20 hearing to reflect that we are going to in-person --
21 an in-person hearing. Please note that the website
22 has a lot of information, including a comprehensive
23 step-by-step guide about this hearing.

24 The public will have an opportunity

1 to ask questions and provide public comment at the
2 appropriate time. And I'm happy to also tell you
3 that the appropriate time, currently the plan is for
4 public questions to begin on July 14th. And I was
5 just notified shortly before this hearing that the
6 website for the Village has a form in which the
7 public can now sign up for public questions as well
8 as for public comment.

9 Please note that witnesses will be
10 presented by the petitioner and possibly other
11 interested parties. Cross-examination will be
12 allowed only by the attorneys or anyone who has been
13 legally recognized as an interested party.

14 And, finally, this is a slow and
15 deliberate process that creates a record appropriate
16 for a Plan Commission hearing. Please respect this
17 legal process even if you do not agree with it.

18 That's all I have, Mr. Chairman.

19 CHAIRMAN DALY: Thank you, Mr. Hervas.
20 Appreciate it.

21 I now call this meeting to order.
22 The business before the Commission this evening is
23 the public hearing on case No. PC #19-014. The
24 request is for a petition for a planned development

1 by special use with exceptions and Class I Site Plan
2 approval all in order to permit a mixed-use
3 residential and healthcare facility and other
4 accessory uses in the B-2 Community District located
5 at 860 W. Irving Park Road.

6 I will now entertain a motion to
7 open this continued public hearing.

8 COMMISSIONER HOLMES: Chairman, so moved.

9 COMMISSIONER RAY: Second, Ray.

10 CHAIRMAN DALY: We have a motion and a second.

11 Will the secretary please call the
12 vote.

13 MR. KHAN: Commissioner Carello.

14 COMMISSIONER CARELLO: For.

15 MR. KHAN: Commissioner Drummond.

16 COMMISSIONER DRUMMOND: For.

17 MR. KHAN: Commissioner Holmes.

18 COMMISSIONER HOLMES: For.

19 MR. KHAN: Commissioner Ray.

20 COMMISSIONER RAY: For.

21 MR. KHAN: Commissioner Russo.

22 COMMISSIONER RUSSO: For.

23 MR. KHAN: Chairman Daly.

24 CHAIRMAN DALY: For.

1 The motion carries. The public
2 hearing is now open.

3 At this time I will ask Ms. O'Keefe,
4 if Dr. Lustig is your only witness, please so state
5 so we can have him sworn in by the court reporter.

6 MS. DICKSON: Chairman Daly, this is Mary
7 Dickson, and on behalf of Haymarket I will inform the
8 Board, as you stated previously, that our sole
9 witness this evening is Dr. Dan Lustig, the president
10 and CEO of Haymarket Center. He is with me --

11 CHAIRMAN DALY: Thank you very much. Will the
12 court reporter please swear in Dr. Lustig.

13 (Witness sworn.)

14 CHAIRMAN DALY: Thank you very much.
15 Ms. Dickson, would you please proceed.

16 DR. DAN LUSTIG
17 called as a witness herein, having been first duly
18 sworn, was examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MS. DICKSON:

21 Q. Yes. Dr. Lustig, if you would proceed
22 with your rebuttal evidence this evening.

23 A. Thank you. I want to thank you for the
24 opportunity to appear before the Plan Commission this

1 evening. I've listened to the testimony presented in
2 this proceeding and would like to provide rebuttal to
3 many of the questions.

4 I will start with the testimony of
5 Superintendent Benes from School District 10.
6 Mr. Benes testified relative to the economic impact
7 on the district and the high school district if
8 Haymarket's application is approved. Superintendent
9 Benes did not quantify the impact by any dollar
10 amount. Instead, he's simply providing the cost of
11 education of children.

12 Even if he had quantified the
13 alleged impact, based on my professional background
14 and work at Haymarket and my personal knowledge of
15 our clients and those suffering from the disorders we
16 treat, believe Mr. Benes's concerns misses the point
17 based on a fundamental misunderstanding of clients
18 coming to Haymarket.

19 The people coming to Haymarket, no
20 matter their age, are suffering from a life-or-death
21 disorder. When clients come to Haymarket, they're
22 trying to get their lives back. They are not looking
23 for housing or education. They are much like people
24 arriving at a hospital emergency room in need of

1 immediate treatment, and that's what we provide.

2 I think that's such an important
3 point that I'm making because this is a medical
4 facility that is going to be treating individuals
5 that have a medical disorder.

6 Relative specifically to
7 District 10, I want to make clear that Haymarket
8 listened to the original concerns voiced by
9 Mr. Benes, and while not requested to do so,
10 Haymarket determined to not offer its
11 mother-and-child program at Haymarket DuPage.

12 This decision was made to relieve
13 the district of its concerns that it would be
14 financially required to provide educational services
15 to disabled prekindergarten children.

16 With the removal of this
17 programming, if a mother comes to Haymarket DuPage
18 and need the mother-and-child programming to
19 successfully participate in treatment, we will
20 transport that mother to Haymarket Center in Chicago.

21 Mr. Benes also testified on behalf
22 of the high school district relative to its statutory
23 duty to provide special education services to
24 students age 18 to 21. Again, based on my

1 professional background and work at Haymarket and my
2 personal knowledge of the clients we will treat, I
3 believe any concern of the high school district is
4 purely hypothetical.

5 Over the 46-year history of
6 Haymarket Center, we have never had a client want to
7 take advantage of services offered by a high school.

8 In response to testimony of the
9 school districts relative to economic impact, on
10 behalf of Haymarket, I commit to assisting the school
11 districts in any way we can relative to educational
12 programming geared at preventing or discouraging drug
13 use and to assist any child who may have mental
14 health issues which could lead to drug use.

15 We can also work with the districts
16 to provide educational programming to teachers and
17 support staff to help them recognize children in need
18 or to work with families of children in need. As a
19 matter of fact, we already provide these services to
20 some of Chicago's elementary and high schools
21 currently.

22 I now want to turn to the testimony
23 from emergency services providers. Haymarket's
24 impact on emergency services, particularly on the

1 fire protection district, has been strongly debated.
2 In response to these concerns, I suggested that as a
3 condition of approval, the Village require Haymarket
4 at all times to have a private ambulance contract in
5 place so that all of our basic life support needs can
6 be met without making a call on the resources of the
7 fire protection district. If that is not enough, I
8 have offered to have a second ambulance as needed.

9 We have tendered a copy of the
10 amended agreement with Elite Ambulance to verify that
11 the contract is in place and ready to be enforced
12 upon opening in Itasca.

13 Elite's dispatch and ambulance
14 services are to be available 24 hours a day, 7 days a
15 week, 365 days each year, including holidays, to
16 provide EMS services to Haymarket. Pursuant to the
17 contract, Elite is required to maintain any and all
18 licenses required by the operation -- for the
19 operation of ambulance services at the ALS and BLS
20 levels of service.

21 Haymarket did not select Elite as
22 its ambulance provider without undertaking due
23 diligence. Elite is the second largest private
24 ambulance company in Illinois and is already

1 providing ambulance services in Itasca.

2 Haymarket staff and our expert, Jim
3 Dominik, worked with Elite to assure Haymarket that
4 Elite could meet our needs in Itasca.

5 We have also offered to meet with
6 the fire protection district to discuss protocols
7 which will best meet the district's concerns. So far
8 the protection -- the fire protection district has
9 not been interested in such a meeting, but we remain
10 ready and willing to discuss EMS and fire concerns
11 with them.

12 I also took note of Itasca Police
13 Director O'Connor's testimony. I was particularly
14 struck by the explanation he gave as to why it was
15 important for the police to accompany the fire
16 protection district on EMS calls. He stated that
17 they may be needed to provide life-saving measures
18 such as CPR, the Heimlich maneuver, and provisions of
19 Narcan. And then once the fire department is on the
20 scene, they may need to be informed of the status of
21 the individual they're ready to treat.

22 In response, I ask that you
23 recognize that Haymarket will have medical staff on
24 site, security on site, 24 hours a day, 7 days a

1 week, every day of the year.

2 The medical services Director --
3 Director O'Connor outlined as available through
4 police assistance on fire district calls are all
5 services Haymarket staff is trained to provide.

6 For example, all Haymarket staff are
7 certified in CPR. In fact, it's a requirement of our
8 accreditation through CARF. Further, staff is
9 trained in the Heimlich maneuver. But most
10 importantly, all of Haymarket's staff will have
11 access to Narcan and is trained to administer Narcan.
12 This includes maintenance all the way up to my
13 position.

14 As a medical facility, Haymarket
15 DuPage also will have access to appropriate medical
16 supplies to respond to medical emergencies at all
17 times. This information should alleviate the need
18 for the police to respond to fire district calls to
19 Haymarket, a topic we remain interested in discussing
20 with the Village.

21 Testimony has been provided that the
22 police and fire personnel have had to respond to
23 residents in Itasca who suffered from drug overdoses.
24 Director O'Connor and Chief Burke's testimony

1 establishes that Itasca and its emergency service
2 providers are not immune to the issues involving
3 substance use disorders.

4 From Director O'Connor's testimony,
5 I would ask that Itasca leaders consider how
6 Haymarket can be a partner to the Village and its
7 emergency service providers rather than simply
8 rejecting our proposal. If we are in Itasca and the
9 police respond to a substance use or mental health
10 related incident, they can call on us for support.

11 Haymarket is a powerful resource in
12 the battle against substance use and mental health
13 disorders, and we urge you not to ignore what
14 Haymarket can bring to the community.

15 One of the last witnesses to testify
16 was Kevin Wrigley, who was called by Mr. Ellenbecker.
17 It is my understanding that Mr. Wrigley was not
18 presented as an expert witness but testified solely
19 based on his prior employment at Leyden Family
20 Services in the SHARE Program.

21 As I listened to the testimony, I
22 could not help but compare the operations and issues
23 he witnessed during his employment at Leyden Family
24 Services with the operations of Haymarket Center.

1 environment.

2 Recovery home patients are
3 encouraged to engage in work interviews, job training
4 programs, which will have them leaving the facility
5 during the day. They are also encouraged to attend
6 support groups and alternative housing appointments.

7 Patients must have a clinical,
8 medical, or job training appointment to leave the
9 facility. However, while these opportunities are
10 offered, there is no state or licensing requirement
11 that patients in recovery home care must leave the
12 facility during the day.

13 As a professional in the field, I
14 believe Mr. Wrigley's testimony was more reflective
15 of a shelter where people come and go and where few
16 rules or regulations for actual treatment. In any
17 event, his testimony as to this issues was incorrect.

18 Leyden and Haymarket differ in other
19 ways as well. For example, as I testified, Haymarket
20 is open 24 hours a day, 365 days a year. We have an
21 open access system to care, which means that if a
22 loved one needs services at 1:00 in the morning, they
23 could be brought to Haymarket and we'll do an intake
24 assessment and admissions into programming.

1 Mr. Wrigley's testimony relative to
2 its early experiences sounded like he worked in a
3 challenging environment. His testimony was not
4 representative of my experience at Haymarket, a
5 health -- health facility founded in 1975 by pioneers
6 in the field of addiction and medicine.

7 Relative to facility certification,
8 Mr. Wrigley testified that Leyden is accredited by
9 the Joint Commission on Accreditation of Health
10 Organizations or JCAHO. To the extent his testimony
11 called into question Haymarket's certification, I
12 want to reiterate here that Haymarket is an
13 accredited facility through the Community
14 Accreditation of Rehabilitation Facilities
15 International or CARF. JCAHO certification is
16 different but not better than accreditation through
17 CARF.

18 JCAHO is an American-based company
19 which primarily is used for hospital certifications
20 or through programs affiliated with hospitals.

21 CARF is an international
22 organization which provides certification for
23 substance use disorder treatment facilities and those
24 providing mental health care. CARF establishes

1 guidelines for its 47,000 certified entities, both in
2 the United States and internationally. These
3 facilities are located on five different continents
4 from these entities.

5 CARF accumulated -- accumulates
6 knowledge from all providers for all providers. It
7 also provides a vast network which allows us to learn
8 from each other. There is also a level of adherence
9 to standards which are rigorous for purposes of the
10 credentialing process. Therefore, in my opinion,
11 CARF accreditation is more appropriate than JCAHO for
12 a facility such as Haymarket.

13 Mr. Wrigley also called to testify
14 relative to comments he heard from a handful of
15 patients over his 18 years at Leyden concerning their
16 dissatisfaction with treatment that they received at
17 Haymarket.

18 In response to that testimony, it is
19 important to know that Haymarket follows a very
20 structured medical protocol when it comes to medical
21 interventions.

22 We do not give medications without
23 medical necessity. Many people coming for treatment
24 are looking for medications, and so our protocols

1 sometimes create dissatisfaction with these clients.
2 They tend to want to be transported to other
3 facilities after arriving at Haymarket in the hope
4 that a different facility will not practice such
5 rigorous protocols and be given medication on demand.

6 To the extent a client at Leyden may
7 have described Haymarket in negative terms, I think
8 it is more reflective of the fact that our provision
9 of care is strict and designed to thoughtfully treat
10 the individual.

11 As you can imagine, some individuals
12 suffering from substance use or mental health
13 disorders are not ready for this, and they leave
14 Haymarket and later excuse their leaving treatment on
15 issues they found with Haymarket.

16 Relative to testimony on the
17 economic impact on the school district, EMS
18 providers, and the Village's expert, Sarah Ketchum, a
19 point in rebuttal that I have consistently made
20 during these procedures is that Haymarket has 46
21 years of experience in providing treatment to those
22 who suffer from substance use and mental health
23 disorders. Haymarket's mission is to aid people in
24 their recovery by providing comprehensive behavioral

1 health solutions. Haymarket is a leader in the field
2 of addictions and behavioral health treatment, both
3 in Illinois but also nationwide. It has obtained
4 this status through evidence-based interventions and
5 state-of-the-art programming geared towards strong
6 outcomes.

7 We think we will bring a benefit to
8 Itasca that will more than outweigh any objection to
9 our opening here. We have provided evidence that
10 we've received strong support from the medical
11 community for opening a facility in Itasca.

12 We are currently in Edwards
13 Hospital, Elmhurst Hospital, and Linden Oaks.
14 Dr. Dan Sullivan, the chief executive at
15 Edwards-Elmhurst Hospital, testified at length to the
16 need for the Haymarket facility in Itasca and the
17 partnership Edwards-Elmhurst hopes to secure with
18 Haymarket DuPage.

19 He described Haymarket as being
20 well-respected in the medical community for providing
21 comprehensive behavioral health programs to aid
22 individuals with substance use disorders. He
23 acknowledged that Haymarket is one of the few
24 providers which can and will provide treatment to

1 those without private insurance. He told you that
2 Haymarket is a valued referral source for those
3 leaving a hospital setting, and he testified that
4 Itasca's location will benefit local collaboration
5 for providing treatment.

6 In addition to Edwards-Elmhurst, our
7 medical community supporters also include
8 Northwestern Medicine at Central DuPage Hospital,
9 Loyola Medicine, Heartland Alliance Health, Rush
10 University Health System.

11 I want to thank all of the witnesses
12 who testified as to the need for treatment, and
13 especially Director O'Connor, for testimony relative
14 to the fact that overdoses and deaths have occurred
15 in Itasca. Each death from overdose is a societal
16 cost that the Village is bearing right now. Each
17 resident of Itasca and each individual working in
18 Itasca who is a substance use or a mental health
19 disorder is bringing a societal cost to Itasca and
20 its residence.

21 We have learned through this
22 epidemic that no municipality is immune to the opioid
23 epidemic. We can debate the economic impact of
24 substance use disorders on a community such as Itasca

1 all day. The impact is felt by the individual, the
2 family, the business, and has a ripple effect in the
3 community. First responders such as police and fire
4 personnel are impacted when they have to respond to
5 multiple calls within the Village for aid as a result
6 of overdose. Chief Burke and Director O'Connor have
7 the firsthand experience to testify to that point.

8 Director O'Connor, I assume, would
9 also agree that the criminal justice system is
10 tremendously impacted by those suffering from
11 substance use or mental health disorders. It is a
12 sad fact that those with behavioral health disorders
13 and their family become involved in the criminal
14 justice system. The residents of the Village are
15 already paying for this through their property taxes
16 to provide for fire and police response to incidents
17 involving individuals suffering from substance use
18 and mental health disorders. Property taxes support
19 the local and county criminal justice system.

20 Businesses in the Village are
21 impacted by employee loss. These are economic
22 impacts felts everywhere.

23 After recently speaking to the
24 DuPage County Sheriff, he reported to me that over 80

1 percent of the detainees in jail have an opioid
2 disorder. Are we going to think that none of these
3 inmates live in Itasca or have had an impact on
4 Itasca?

5 The solution to these impacts on
6 society, including on the Village of Itasca, is to
7 expand the opportunity for providing evidence-based
8 treatment for those who are in life-and-death
9 struggle that is substance use addiction. Treatment
10 is crucial for reversing these impact trends.

11 Through my own experience in patient
12 care, substance use disorders represent one of the
13 most pressing public health crises of our time.
14 Too many people in our country have viewed substance
15 use disorders as a moral failing. We must help
16 everyone see that addiction is not a character flaw;
17 it is a chronic illness that we must approach with
18 the same skill and compassion with which we approach
19 heart disease, diabetes, and cancer.

20 Stigma has created an added burden
21 of shame that has made people with substance use
22 disorders less likely to come forward and seek help.

23 Questions in this hearing have
24 demonstrated the passion that the citizens of Itasca

1 have for this community. It is my sincerest hope
2 working together as a community we can make a
3 difference in the lives of our friends and family.

4 Thank you for your patience over the
5 past year and a half since this process began. We
6 know that this has been a long process which isn't
7 over yet, and we greatly appreciate your commitment
8 and willingness to listen and learn about this
9 important issue.

10 CHAIRMAN DALY: Thank you, Dr. -- Excuse me.
11 Thank you, Dr. Lustig, for your testimony this
12 evening.

13 At this time, I would like to ask
14 Ms. Smith if she would like to begin any
15 cross-examination of the witness.

16 MS. SMITH: Yes, thank you.

17 CROSS-EXAMINATION

18 BY MS. SMITH:

19 Q. Dr. Lustig, I believe you testified
20 that -- that it was a -- that Superintendent Benes --
21 it was a failure of his testimony to not quantify the
22 economic impact that Haymarket would have on the
23 school district; is that right?

24 A. Correct.

1 Q. And did you understand Superintendent
2 Benes to testify to per student or per evaluation, so
3 service-based costs that could be incurred depending
4 on the number of students or residents; correct?

5 A. Yeah, I -- there were no specific numbers
6 of students that could quantify for impact.

7 But, again, I think what's important
8 to note here is the fact that in 46 years of running
9 an organization that used to see 12,000 to 18,000
10 people a year in the west side, we've never had
11 individuals want to access the school system. I
12 think that's an important fact to make note here.

13 Q. Well, that is my question, is that -- so
14 while the school district has and testified to the
15 cost component, they asked you for information to try
16 to determine the other variable, which is the number
17 of students or number of residents that may be
18 generated by Haymarket, and you would have better
19 information about the number -- or you may have some
20 relevant information that the school would not have
21 about the number. I think that's essentially what
22 you were just saying.

23 Is that a good summary?

24 A. Correct, yes.

1 Q. And in -- on October 25th, 2019, the
2 school district sent you, your counsel, a letter
3 asking questions that went to this point. They asked
4 you to explain the residency status of parents and
5 children as a result of your program.

6 Have you to date provided or
7 responded to a number of projected students or
8 parents -- they asked for parents or students -- that
9 would establish residency as a result of the
10 Haymarket development?

11 MS. DICKSON: I object to the nature of this
12 question as it goes beyond the information that was
13 tendered in rebuttal, and that information has been
14 previously testified to by Dr. Lustig.

15 MS. SMITH: It was directly relevant to the
16 testimony tonight and probing his testimony regarding
17 the quantification of the economic harm. So it was
18 particularly probing, not criticism, that he just
19 made tonight. It's not about rebuttal evidence.

20 The -- the particular letter I
21 referred to has been in evidence for a long time.

22 MS. DICKSON: I agree. And what Dr. Lustig
23 testified to is that Superintendent Benes did not
24 quantify how many students District 10 believes that

1 it will have to serve.

2 Dr. -- or Mr. Benes did outline the
3 cost for education per child, but he -- Dr. Lustig
4 tonight, his rebuttal was that Superintendent Benes
5 was not able to quantify the number of students that
6 the district believes it may serve.

7 MS. SMITH: Right. And Dr. Lustig has
8 testified that they have information the school
9 district would not have, and I just asked him about
10 when the district asked them for that information and
11 the response.

12 So this is all -- I don't understand
13 the -- I'll let -- I'll accept the --

14 MR. HERVAS: The nature of the objection, as I
15 understand it, is both relevancy and outside the
16 scope.

17 And the direct issue is a
18 quantification issue, and so the question relates to
19 the witness's understanding of quantification and
20 request.

21 It seems to me clearly within the
22 scope of what Dr. Lustig testified to, so I'm going
23 to allow the question.

24 MS. DICKSON: Well, I believe Dr. Lustig

1 testified that within the 46 years of experience of
2 Haymarket, that quantification would be zero. And I
3 suppose you can testify to that yourself.

4 MR. HERVAS: And -- and, Ms. Dickson, you know
5 better. You shouldn't have -- you shouldn't be
6 testifying that way --

7 MS. DICKSON: I wasn't, Mr. Hervas --

8 (Simultaneous speaking.)

9 MR. HERVAS: -- you know the rules, and so let
10 the witness answer the question. Let's proceed.

11 BY THE WITNESS:

12 A. So as I mentioned in tonight's testimony
13 in rebuttal, in our 46 years, we have not accessed
14 the school system. I -- and as I mentioned again
15 tonight, between the 12 to 18,000 people that we
16 serve in the west side, I think it's a powerful
17 number to address impact that we've never accessed
18 the school system. So I think I answered the
19 question there.

20 BY MS. SMITH:

21 Q. So my question is a little different,
22 because a decision to not access the school system is
23 different than I'm asking what students or residents,
24 based on their parent's residency in your program,

1 would be -- establish residency so that they would be
2 entitled to services? That's my first question.

3 A. So patients here don't establish
4 residency, okay?

5 This is a treatment facility. And
6 just like when patients are entered into a hospital
7 or enter an emergency room, these questions aren't
8 answered of them. So they're not establishing
9 residency; they are getting -- they are giving
10 treatment here.

11 And they may move into our recovery
12 home, but as soon as they start moving into our
13 recovery home, they start finding housing for
14 themselves. So this is not a place where they are to
15 establish residency.

16 Q. But then can you please clarify, because
17 I was -- so is your testimony that they couldn't
18 establish residency from the short-term stays, but
19 you have a different -- there's different programs
20 proposed for Itasca; correct?

21 A. Correct.

22 Q. Including some -- a residential program
23 in which individuals may physically reside there for
24 up to a year; correct?

1 A. No.

2 Q. Okay. Please clarify, then, why --
3 explain your answer of no.

4 A. The program that I think you are defining
5 is the recovery home and which is an individual can
6 stay up to 365 days. However, the average length of
7 stay for most individuals are -- is roughly less than
8 90 days.

9 The longer term program is designed
10 for those people that are -- are struggling with
11 finding housing, which is an issue in our state. But
12 in our program at -- if we wanted to compare it to
13 Haymarket Chicago, a majority of those clients only
14 stay 90 days.

15 Q. Okay. But it would be true to say -- I
16 mean, you said 365 days, which is a year; correct?
17 And so people could stay a year.

18 You're saying the average stay is 90
19 days? Do I understand your testimony correctly?

20 A. Yes. But I want to emphasize the fact --
21 the fact that a year represents less than one percent
22 of the population we serve.

23 Q. Okay. And if 90 days, you said, is
24 average, then half are more than 90 days and half are

1 less? It would be --

2 A. Correct.

3 Q. Okay. So with respect to residency in a
4 school district, you agree that the school district
5 requested that you provide the status of parents and
6 children with respect to your program as early as
7 2019 to understand the number of children who they
8 may be responsible for? Is that your understanding
9 of the request, and did you -- well, that's my first
10 question.

11 MS. DICKSON: And I'm going to object again
12 because Dr. Lustig's rebuttal testimony this evening
13 was limited to the fact that Superintendent Benes
14 provided the cost of education per child but didn't
15 provide any quantification of what the school
16 district believed that the impact would be on the
17 school system. It was not to go back to 2019 or 2020
18 or any relationship prior to that time. It was very
19 specific rebuttal testimony.

20 MR. HERVAS: Let me jump in here.

21 The fact that the letter that the
22 school district sent that was already established and
23 discussed, and Dr. Lustig is aware of that, is -- the
24 fact that that was not part of his testimony does not

1 mean that it cannot be used to probe the rebuttal
2 testimony of Dr. Lustig.

3 And so what Ms. Smith is asking is
4 trying to elicit a comparison of the data based on
5 what was asked; and what the school district is
6 asking is whether or not there's a way to establish
7 who would be qualified as opposed to who would
8 actually request services. So that is, in my
9 opinion, clearly valid cross-examination on rebuttal.

10 If the doctor doesn't know, he
11 doesn't know; but she can ask the question.

12 MS. DICKSON: Just for purposes of the record,
13 Mr. Hervas, I do want to voice my objection to your
14 response.

15 What Dr. Lustig testified, again, in
16 rebuttal was that the superintendent did not quantify
17 the number. Where we're headed now is how Haymarket
18 would quantify the number, and that goes outside the
19 purpose of the rebuttal testimony.

20 But I will recognize the fact that
21 you've made a ruling. I just wanted that to be
22 placed on the record.

23 MR. HERVAS: Duly noted.

24 MS. DICKSON: If you could repeat your

1 question, Ms. Smith.

2 I'm sorry, could you repeat your
3 question? I don't recall what it was.

4 BY MS. SMITH:

5 Q. Yes. In effect, my -- in essence, my
6 question was, you received a request that -- from the
7 school district to explain the residency status of
8 parents and children related to your Haymarket Itasca
9 program. Have you ever provided the school district
10 with the status of parents and children as a result
11 of the Haymarket -- proposed Haymarket project in
12 response to the school district's request? Have you
13 provided that information?

14 A. That information wasn't provided in a
15 timely manner because, one, we were trying to do
16 extensive research since we have never in our 46
17 years been asked this question. We wanted to do
18 research on, you know, what is it that we didn't know
19 relative to those questions. And so we were trying
20 to do our due diligence to understand the question.

21 And then, unfortunately, we had a
22 Pandemic occur. So, yes, it was not responded to in
23 a timely manner.

24 Q. And can you answer the question tonight?

1 What would be the -- for parents --
2 for individuals who reside at Haymarket, do you know
3 their residency status -- well, how many are parents,
4 and do you know what their residency status, if they
5 are parents, in -- would be in Itasca school
6 district?

7 A. I do not have those numbers off my head,
8 no.

9 Q. And do you have any numbers with respect
10 to how many -- do you even know how many parents you
11 would have that have children ages three to 23?

12 A. You mean currently at Haymarket Center,
13 or what's projected in DuPage?

14 Q. What's projected in DuPage.

15 A. Keep in mind, one of the things that we
16 did was we removed the women's and children's
17 program.

18 Q. That's not my question --

19 A. If I could finish, Ms. Smith.

20 Q. But it was not responsive, so I'm
21 stopping you.

22 And I'm asking, do you have a
23 projection regarding how many residents are parents
24 of children age 3 to 23, yes or no?

1 A. No.

2 Q. And -- okay. So just to tie that
3 together, you agree that the two factors that would
4 be needed are exactly that: How many students and
5 parents multiplied by the cost in order to determine
6 projected cost; correct?

7 A. Again, I can't -- I will not be able to
8 answer that question because in our 46 years we've
9 never accessed the school system.

10 Q. Well, let me ask you a little bit more
11 about that.

12 You say that you've never accessed
13 the school district. One of your -- you have
14 testified previously -- or I can push -- point you to
15 an exhibit. You do provide community linkages?
16 That's one of your services that you provide to
17 patients of Haymarket; correct?

18 A. Yes. I'm not understanding what you mean
19 by community linkages generally; but, yes, we have
20 linkages for services, yes.

21 Q. Okay. And -- and to date, though, you're
22 saying even for school-aged children ages three to
23 five, you have declined to refer them to school-based
24 services?

1 MS. DICKSON: I object. That is absolutely
2 not what he testified to. He didn't say they've
3 declined. He said --

4 MS. SMITH: But that's not --

5 (Simultaneous speaking.)

6 MS. DICKSON: -- it has not occurred.

7 BY MS. SMITH:

8 Q. Okay. You have failed to refer
9 school-aged children to public school services
10 despite them residing at your program; correct?

11 MS. DICKSON: That misstates his testimony as
12 well.

13 BY MS. SMITH:

14 Q. I -- the question stands.

15 MS. DICKSON: I object to the question. He
16 didn't say they have failed to refer students. He
17 said -- his testimony was not that.

18 MR. HERVAS: My suggestion, so we can move on,
19 is either establish what he did say by asking him to
20 recall what he said, or to provide him with a
21 transcript of what he said and verify it that way.
22 Otherwise, we're not going to get anywhere.

23 So let's -- let's establish first
24 what the witness actually said.

1 MS. SMITH: Well, you know, let me move on
2 slightly.

3 BY MS. SMITH:

4 Q. How about asking Mr. -- or, Dr. Lustig,
5 are you now aware that children aged three to five
6 would be eligible for school-based services?

7 A. Well, we are aware of that, and so --
8 but, again, we are not currently servicing any
9 children in that age group, first of all.

10 Second of all, in reference to your
11 question, what's important to make is we have had
12 hundreds and hundreds of DCFS site visits, and this
13 has never once come up.

14 Q. Okay. I'm asking --

15 A. -- relative to children and its parents.

16 Q. You said you have no children.

17 You currently serve that population
18 at Haymarket Chicago; correct?

19 A. Yes.

20 Q. And have you reconsidered -- or now that
21 you know regarding school-based services, have you
22 considered referring such children to public school
23 services, or is it your practice to not do that?

24 MS. DICKSON: Objection to the relevance of

1 what is occurring at Haymarket Center. This is only
2 relative to Haymarket DuPage.

3 MS. SMITH: Tonight Dr. Lustig has repeatedly
4 drawn comparisons and used Haymarket Center Chicago
5 as illustrative of how they would operate in Itasca.
6 So it's -- it is relevant.

7 MR. HERVAS: To the extent -- I'm going to
8 allow the question, but only if it's tied directly to
9 the Haymarket DuPage. So without that linkage, I
10 would sustain it. So I'm going to give you leeway to
11 hook it up.

12 MS. SMITH: Okay.

13 BY MS. SMITH:

14 Q. Well, let me ask a foundational question:
15 On your last -- during your prior -- previous
16 testimony, you said that there -- you could not
17 commit to not having a three- to five-year-old
18 program in Itasca; is that correct?

19 A. That is correct.

20 Q. Okay. So -- and if you did have one in
21 Itasca, would you likely operate it in the same
22 manner that you do in Chicago?

23 A. It would be determined based on obviously
24 what the Village requirements are, what the state

1 requirements are.

2 Q. Okay. So I'm going to ask you again, for
3 three- to five-year-olds in Chicago, you're aware
4 that they would be eligible for school-based
5 services; correct?

6 MS. DICKSON: Objection to the relevance of
7 the question for the same reasons. That was not an
8 appropriate linkage to the DuPage -- Haymarket
9 DuPage.

10 MR. HERVAS: Well, she hasn't gotten there
11 yet. Let's -- let's keep moving forward.

12 I'm going to overrule the objection,
13 and let's see where it goes.

14 BY THE WITNESS:

15 A. Can you repeat the question, please?

16 BY MS. SMITH:

17 Q. For the three- to five-year-olds, your
18 practice for three- to five-year-olds in Chicago,
19 you're aware that they're eligible for services but
20 you have decided not to refer them to services; is
21 that right?

22 A. That is not true.

23 We have to remember that families
24 that come to Haymarket are in crisis. And oftentimes

1 DCFS places children at Haymarket Center to begin
2 reconnecting with their mom. And that is what has
3 become the priority in this, is that the mother and
4 child are reconnecting in a safe environment. So
5 that is the priority that DCFS places on us.

6 Q. Has DCFS instructed you not to connect
7 three- to five-year-olds to school-based services?

8 A. No, they've outlined safety rules and
9 contracts relative to that child. And so as the
10 child is here at Haymarket, they are getting services
11 through our child development specialists.

12 Q. Okay. And do you plan to operate -- if
13 you do have a three- to five-year-old program in
14 Itasca, do you plan to follow those same protocols
15 and practices in Itasca?

16 MS. DICKSON: You know, if I can just clarify
17 for the record. It's not a three- to five-year-old
18 program. It's a mother-and-child program. The
19 mother -- the program that offered.

20 I will stop there. I just wanted to
21 correct your phraseology of the program. It's not a
22 three- to five-year-old program.

23 BY THE WITNESS:

24 A. So at this point in time we do not plan

1 to have that program in Haymarket DuPage.

2 BY MS. SMITH:

3 Q. Correct, but --

4 A. And how I will be needing those services
5 will be transporting those moms and babies or
6 children to Haymarket Chicago.

7 Q. Unless, as you've said, you've not -- you
8 decline to commit to not have that program in the
9 future at Itasca; correct?

10 A. Correct.

11 Q. Okay. Moving on, then, to you testified
12 that on the other end of the spectrum when you said
13 no residents access educational services, does that
14 also apply to your 18- to 23-year-old population?

15 A. Yes.

16 Q. And do you have 18- to 23-year-olds that
17 are not high school graduates?

18 A. Yes.

19 Q. And do you know whether those 18- to
20 23-year-olds were eligible for IEP services when they
21 were last enrolled in public school?

22 A. I would not know that.

23 Q. What percentage of the population or --
24 that you project for Haymarket Itasca would be age 18

1 to 23 without a high school diploma?

2 A. I -- we do not have that information.

3 All our license dictates is that we
4 will be serving individuals 18 and older.

5 Q. Do you have any information that you know
6 today without referencing anything else about
7 approximate age ranges, like a percentage of how
8 many -- how much -- how large the population you
9 serve is in that 18- to 23-year-old range? Do you
10 have any sense of that?

11 A. No.

12 Q. And you testified that Haymarket should
13 be viewed as a hospital emergency room and not with
14 respect at all to establishing residency.

15 But you would agree that the
16 continuum of care, while you provide some services
17 that are comparable to an emergency room, you provide
18 other services that look like longer term --
19 intermediate term housing; correct?

20 A. No.

21 Q. Well, tonight we've gone over there is a
22 program where residents reside for on average 90
23 days; correct?

24 A. Yes.

1 Q. Up to 365 days in that program; correct?

2 A. They can, but less than one percent stay
3 that long, as I testified earlier.

4 MS. SMITH: Okay. I'm looking over my notes.
5 I'll wrap up here shortly.

6 I have no other questions. Thank
7 you.

8 THE WITNESS: Thank you.

9 CHAIRMAN DALY: Thank you, Ms. Smith.

10 At this time I'd ask if Mr. DiNolfo
11 has any cross-examination questions for the witness.

12 MR. DI NOLFO: I do have a few.

13 CROSS-EXAMINATION

14 BY MR. DI NOLFO:

15 Q. Good evening, Dr. Lustig. Good to see
16 you again.

17 A. Good to see you, Mr. DiNolfo.

18 Q. Doctor, you started out your remarks by
19 commenting that people that are coming to Haymarket
20 are coming there often with life-threatening
21 conditions.

22 Did I hear you correctly?

23 A. Yes.

24 Q. You would agree with me that those

1 individuals who at times come to you with
2 life-threatening conditions are going to need EMS?

3 A. Yes.

4 Q. And I think you touched upon the fact
5 that one of the ways you were -- when I say you --
6 when I say you, I'm referring to Haymarket, okay,
7 just so we're clear?

8 A. No problem.

9 Q. All right. One of the ways that you or
10 Haymarket is trying to address that is through the
11 contract that you submitted as an exhibit with Elite?

12 A. Yes.

13 Q. Now, what we saw submitted was an amended
14 contract.

15 Was there another contract that
16 existed?

17 A. Yes.

18 Q. What was changed from the amended to --
19 from the original to the amended?

20 A. Two issues, primarily. The first issue
21 was the adding of a second ambulance if needed -- so
22 we wanted to make sure that that was contained in the
23 contract -- and a 45-day out clause.

24 Q. And if I looked at it correctly -- and if

1 you need me to pull it up and put it on the screen,
2 let me know. I'm happy to do it if you want it --
3 but it would appear from looking at the contract that
4 Elite promises to provide you BLS services; is that
5 correct?

6 A. Correct -- well, both BLS and ALS.

7 Q. If you recall from looking at the
8 contract, they refer to the fact they'll provide you
9 BLS service, and they give a time frame for that, is
10 that correct, 10 to 20 --

11 A. Correct, yes.

12 Q. There is no such reference saying they
13 will provide you ALS in a time frame in that
14 contract; is that true?

15 A. Correct.

16 Q. And I think you touched on this:
17 Paragraph 11 gives you an out clause, and paragraph
18 12 gives Elite an out clause; is that correct?

19 A. Correct.

20 Q. Meaning that you can cancel the contract
21 or Elite can cancel the contract if they so desire?

22 A. Correct.

23 Q. And I think we touched on this: You're
24 not aware of any authority that the fire district has

1 to make you enter into a contract; is that correct?

2 A. That is correct.

3 Q. Now, you also started out or included in
4 your remarks some comments about Leyden. You seemed
5 to go to -- to some great lengths to differentiate
6 Haymarket from Leyden.

7 Did I hear you correctly?

8 A. I wanted to clarify the response of the
9 witness, yes.

10 Q. Sure. I think you pointed out that
11 Haymarket is different from what Mr. Wrigley
12 described Leyden to be; is that fair?

13 A. That's fair, yes.

14 Q. And I think you also realized that Leyden
15 was one of the comps that Polaris relied upon to come
16 up with their opinions?

17 A. Correct.

18 Q. Okay. Lastly, you mentioned about the
19 testimony, I think, of both Chief O'Connor and
20 Chief Burke about overdoses occurring in Itasca.

21 Do you remember that?

22 A. Yes.

23 Q. Do you know the number of overdoses that
24 have occurred in Itasca in the last year?

1 A. I do not know off the top of my head.

2 Q. And the last thing I have a question
3 about is just jumping back to the contract.

4 The section that dealt with the
5 rates that people are going to be charged wasn't
6 included. Do you know why that was?

7 A. That -- those rates were -- are a private
8 contract between me and Elite.

9 Q. Okay. Is there any other parts of the
10 contract you didn't include, then, if you know, that
11 were in the exhibit -- contained in the exhibit?

12 A. None.

13 MR. DI NOLFO: That's all I have, sir. Thank
14 you for your time.

15 THE WITNESS: Thank you.

16 CHAIRMAN DALY: Thank you, Mr. DiNolfo.

17 Mr. Ellenbecker, good evening.

18 MR. ELLENBECKER: Good evening. I have a few
19 questions for Dr. Lustig.

20 CROSS-EXAMINATION

21 BY MR. ELLENBECKER:

22 Q. How are you doing tonight, Dr. Lustig?

23 A. Good, sir. How are you?

24 Q. I'm doing all right.

1 Just I'm going to jump around a
2 little bit because I'm going last.

3 So you testified earlier about CARF
4 and JCAHO accreditation, and I think you said they're
5 different but that doesn't mean one is better; right?

6 A. Correct.

7 Q. Based on your experience, though,
8 hospitals in the traditional sense are accredited by
9 JCAHO; correct?

10 A. Correct.

11 Q. And hospitals, as you know, are not
12 accredited by CARF; correct?

13 A. Correct.

14 Q. And with regard to the length of stay, I
15 think you said that the average length of stay in the
16 recovery homes at Haymarket Itasca would be 90 days;
17 correct?

18 A. Or -- 90 days or less.

19 Q. Okay. 90 days or less.

20 Are you aware that the average stay
21 at a traditional hospital is four-and-a-half days?

22 A. I think that would depend on the
23 hospital, and it would depend on what a person's
24 being admitted for.

1 Q. Are you aware of any statistic that would
2 indicate that the average stay in a traditional
3 hospital is anywhere close to 90 days?

4 A. Well, the reason why -- I'm not trying to
5 be elusive here -- is that hospitals might have a
6 specific interventional stay, but they also might
7 have respite beds that patients transition into, and
8 those respite beds can go anywhere up to a year.

9 Q. Right. Back to my question.

10 Are you aware of any data that
11 demonstrates or states that a traditional hospital
12 has an average stay anywhere close to 90 days?

13 A. Again, I think it would depend on the
14 admitting diagnosis.

15 Q. Okay. There's been some talk about the
16 amended contract with Elite.

17 You've been keeping track of these
18 proceedings. You're aware that no one from Elite has
19 testified in these proceedings; correct?

20 A. Correct.

21 Q. Witnesses for Haymarket, including you,
22 have testified at length about what Elite can do, but
23 Elite's never been here to say what it can and can't
24 do; correct?

1 A. I -- yes, I testified under oath what
2 they're -- can do, yes.

3 Q. Right. But nobody from Elite, including
4 Dennis Dooley who signed the Elite contract, has ever
5 been asked to come and testify and give direct and be
6 cross-examined on what Elite can and can't do;
7 correct?

8 A. Correct.

9 Q. Mr. DiNolfo asked you about Leyden as a
10 comp.

11 The only thing I was going to say, I
12 believe -- and correct me if I'm wrong -- but I
13 believe Mr. Dominik indicated that you all, maybe not
14 you personally, but Haymarket actually provided
15 Leyden as a comp for him to assess; is that right?

16 A. Yes, that is correct.

17 Q. You indicated earlier in your rebuttal
18 testimony that Haymarket is considered to be a leader
19 in the field of substance use disorder treatment;
20 correct?

21 A. Correct.

22 Q. Can you point me to any publication that
23 analyzes and assesses and ranks substance use
24 disorder treatment centers that list Haymarket at or

1 near the top in terms of those services?

2 A. There are none.

3 I think what defines the specific
4 portion of your question is that you will not find a
5 treatment center in this country that has 19
6 evidence-based interventions attached to it.

7 Furthermore, in 1994, Haymarket
8 Center was the first substance abuse treatment
9 facility in the country to colocate a health facility
10 inside of it. It took the Federal government 10
11 years for them to determine that that was best
12 practice and actually sent out an RFP for other
13 providers to start doing that.

14 And so there are several examples of
15 Haymarket's leadership up to including that Dr. James
16 West and Father McDermott, who cofounded Haymarket
17 Center, traveled to Canada and were the ones that
18 brought social setting detox back to the
19 United States. So we have that piece as well.

20 And then I would probably conclude
21 with the fact that Dr. James West was Betty Ford
22 Center's longest serving medical director. And one
23 of the things that he wanted to be able to do for
24 Haymarket Center was to bring the Betty Ford concept

1 to homeless individuals. And so that also made
2 Haymarket Center a leadership -- a leader in that
3 category.

4 Q. And re -- thanks for the answer.

5 Regardless of the number of whether
6 it be 19 or more evidence-based interventions, can
7 you point me to a single industry publication that
8 has ranked Haymarket at or near the top in the
9 industry?

10 A. Mr. Ellenbecker, I actually -- I
11 understand where you're going. Unfortunately, the
12 substance use field doesn't have a ranking like that.
13 Unfortunately, we -- or fortunately, we should have
14 something but the field doesn't have a ranking.

15 THE REPORTER: I'm sorry. I lost the witness.

16 THE WITNESS: Can you hear me?

17 (Background interference.)

18 THE WITNESS: Hello?

19 THE REPORTER: I'm getting a lot of feedback.
20 Is anybody else experiencing that?

21 MS. DICKSON: No, what you may -- I'm sorry,
22 Ms. Court Reporter. There was -- we're in Haymarket
23 Center, and there was a communication going on
24 outside the hall.

1 If Mr. Ellenbecker wouldn't mind
2 either asking the question again so Dr. Lustig can
3 answer for the court reporter. If you remember
4 where --

5 THE WITNESS: I remember where I left off, if
6 that's helpful.

7 BY THE WITNESS:

8 A. So, no, Mr. Ellenbecker, there is not a
9 publication that lists any substance abuse treatment
10 provider.

11 However, there are a lot of
12 peer-reviewed articles that Haymarket Center is
13 mentioned in that speaks to our programming and our
14 expertise at that.

15 BY MR. ELLENBECKER:

16 Q. And to your knowledge, have your lawyers
17 for Haymarket entered any of those peer-reviewed
18 articles into evidence?

19 A. No.

20 Q. (Inaudible.)

21 A. No.

22 Q. The answer is no?

23 A. No.

24 Q. You mentioned Dr. Sullivan a bit ago.

1 You recall Dr. Sullivan and
2 acknowledging he's not a rehab expert; correct?

3 A. I can't speak to his background as
4 what -- first as a chief medical officer, now as a
5 chief executive physician. I would imagine -- I
6 can't really speak to his background, but I would
7 imagine that he would have to have a pretty complex
8 background in order to hold that position.

9 Q. You don't recall Dr. Sullivan testifying
10 that he was not an expert in rehabilitative
11 treatment?

12 A. I do not recall that.

13 Q. Do you recall Dr. Sullivan's testimony
14 that the numbers of opioid -- those addicted to
15 opioids are plateauing and dropping off based on
16 statistics?

17 A. No, I do not recall that.

18 Q. And do you recall Dr. Sullivan saying
19 that he never offered Haymarket a location or
20 building at Edwards-Elmhurst Hospital at which you
21 could operate a substance use treatment center?

22 A. You mean a location?

23 Q. Right.

24 A. No -- no, we are on site in their

1 emergency room. So I just wanted to make sure I
2 answered that correctly.

3 Q. Right. And to this day, Edward-Elmhurst
4 Hospital has never offered Haymarket a spot at its
5 Elmhurst location or any space within its facility to
6 operate a substance use treatment center; correct?

7 A. No, but we are in the emergency room
8 providing services.

9 Q. All right. Is that -- is the emergency
10 room treatment the same as what you're suggesting
11 you'd provide in Itasca?

12 A. No.

13 MR. ELLENBECKER: Okay. No further questions.

14 CHAIRMAN DALY: Thank you. Mr. Ellenbecker.

15 At this time, I would ask
16 Ms. Dickson for any redirect questioning.

17 MS. DICKSON: Chairman Daly, if I could ask if
18 we could just have a 10-minute break. I would like
19 to review my notes from the questioning from the
20 three various lawyers here to see if there is
21 anything that I need to cover with Dr. Lustig in
22 response.

23 CHAIRMAN DALY: That would be fine. Why don't
24 we reconvene at 8:15.

1 MS. DICKSON: Thank you, sir.

2 CHAIRMAN DALY: Thank you.

3 (Recess taken.)

4 MR. KHAN: If everyone could just turn on
5 their cameras for a moment so we can just confirm
6 everybody is here before we resume, that would be
7 appreciated. Thank you.

8 THE REPORTER: The court reporter is present.

9 MR. KHAN: Chairman, we have everyone here, it
10 looks like.

11 CHAIRMAN DALY: Thank you, Mo.

12 At this time I would invite
13 Ms. Dickson to begin her redirect of Dr. Lustig.

14 MS. DICKSON: Thank you, Mr. Chairman. We
15 have no further questions for Dr. Lustig.

16 CHAIRMAN DALY: Okay. That being said, I
17 believe our witness is excused.

18 Thank you, Dr. Lustig.

19 MR. HERVAS: Unless the --

20 CHAIRMAN DALY: Oh, I'm sorry. Of course.
21 Plan Commission.

22 All right. Does any member of the
23 Plan Commission have any questions of Dr. Lustig at
24 this time?

1 COMMISSIONER HOLMES: No questions here,
2 Chairman.

3 COMMISSIONER RAY: No questions from
4 Commissioner Ray.

5 COMMISSIONER DRUMMOND: No questions,
6 Commissioner Drummond.

7 COMMISSIONER RUSSO: No questions,
8 Commissioner Russo.

9 COMMISSIONER CARELLO: No questions,
10 Commissioner Carello.

11 CHAIRMAN DALY: Okay. Thank you, everyone.

12 Dr. Lustig, I have no questions,
13 either. So at this time I thank you for the
14 testimony this evening, and you are excused.

15 MS. DICKSON: Thank you, Mr. Chairman.

16 CHAIRMAN DALY: You are welcome.

17 So before we adjourn this evening,
18 before we continue and adjourn, just to remind the
19 public and all interested parties that the
20 next meeting for this hearing will be at Peacock
21 Middle School here in Itasca at 7:00 p.m. All the
22 information related to this meeting and how to
23 participate is on the Village's website.

24 We would please invite anyone who

1 has any intention of asking questions in the next
2 phase to please visit the website. You can do it
3 either on the website or in person at the meeting.

4 The procedures for the meetings
5 moving forward are also on the website. This is just
6 reiterating what Mr. Hervas opened the meeting with.

7 And at this time I would ask for a
8 motion to continue this meeting until July 14th --

9 MS. O'KEEFE: Mr. Chairman --

10 MR. KHAN: Chairman Daly --

11 CHAIRMAN DALY: Yes.

12 MR. KHAN: Ms. O'Keefe has --

13 CHAIRMAN DALY: Yes, Ms. O'Keefe. I'm sorry.

14 MS. O'KEEFE: Hi, Mr. Chairman. I just want
15 to raise a housekeeping question because we're a
16 little confused.

17 We've been working under certain
18 presumptions regarding the public hearing process and
19 how it's going to be -- be conducted with regards to
20 the number of nights, the panels of witnesses, and
21 the rules that would apply and the sign-up process.
22 And it seems as if as of this afternoon there was a
23 change in that.

24 There was a reference to a sign-up

1 form, which I believe I've identified on the website.
2 On Friday the Village sent us a sign-up form for
3 review and comment that dealt with panels of
4 witnesses, identified people who could be subject to
5 questions. We commented on that and sent it back.
6 We thought we were in agreement. And now we have a
7 form that -- if I'm talking about the right form, it
8 doesn't contain any of that information.

9 So we're a little confused as to --
10 about the process that's going to be followed for
11 public questioning and public comments because it's
12 not what we have discussed previously.

13 CHAIRMAN DALY: Okay. I would ask Mr. Hervas
14 to respond to your question, Ms. O'Keefe. I
15 understand, and I apologize if there's any confusion.
16 I'm going to pass it over to Mr. Hervas.

17 MS. O'KEEFE: Thank you, Mr. Chairman.

18 MR. HERVAS: And, Ms. O'Keefe, I did send an
19 e-mail to the attorneys, and I hope that it explained
20 it sufficiently.

21 With the elimination of the COVID
22 portion of the in -- of the hearing process, the
23 Village staff is streamlining the process in terms of
24 just making sure that the public knows that they can

1 sign up to ask questions.

2 Nothing has changed with respect to
3 the panels of people who will be presented, but the
4 public is simply asked to sign up in advance
5 voluntarily, but they do not have to. They can come
6 to the meeting and sign up at the meeting as well.
7 So that's -- that's what's different.

8 MS. O'KEEFE: Well, but the form that you all
9 sent over earlier this week identified that different
10 panels of witnesses would appear on the different
11 nights and that they would only have the right to
12 question those witnesses on those particular
13 evenings. And that information is not located in the
14 form that's posted on the website.

15 Now, perhaps I'm not looking at the
16 most current form, but I -- it is the only one that
17 could be accessed via your website.

18 Are you planning on posting the form
19 that we previously saw and commented on which lay out
20 the parameters of this?

21 MR. HERVAS: I actually don't know the
22 specific answer to that question right now.

23 I don't believe the same form will
24 be utilized that we discussed in the attorney group,

1 but clearly the panels will be the same for the 14th
2 and the 28th and the 5th. Those panels are not
3 changing at all. And if there is any deficiency on
4 the website, that will be clarified.

5 Simply because the form itself may
6 not identify a particular panel, it does not mean
7 that we're not following that process. We're still
8 following the panel process.

9 MS. O'KEEFE: Well, maybe for the record we
10 can identify who is going to speak on what night,
11 because I want to make sure we've -- you asked us to
12 go back to confirm availability of all of our
13 witnesses in person, which was a change from the
14 original agreement that Zoom would be allowed. So
15 could we just review for the record who is going to
16 be available for questioning on which night?

17 MR. HERVAS: Yeah, we will definitely make
18 sure that the information provided on the website
19 indicates which witnesses will be available on the
20 particular day that they -- well, actually, Mo may
21 have an answer on that.

22 MR. KHAN: Hi, Ms. O'Keefe, this is Mo. You
23 typically don't see me or hear me on these nights.

24 But actually on the form -- I'm not

1 sure if you have it opened up on your laptop right
2 now, but when you get to the form, if you click on
3 the radio button that says, "I want to sign up to ask
4 a question" --

5 MS. O'KEEFE: Yes.

6 MR. KHAN: It will pop up underneath, "What
7 witness group do you want to direct your question
8 to?"

9 MS. O'KEEFE: I don't have that. It just
10 says, "ask a question," "provide public comment" or
11 "both."

12 I'm sorry. Maybe I just don't have
13 access to the right form.

14 MR. KHAN: No, click the radio button that
15 says "Ask a question."

16 MS. O'KEEFE: Click that.

17 Oh, I see.

18 MR. KHAN: Then it will pop up the three
19 groupings.

20 MS. O'KEEFE: Okay.

21 MR. KHAN: Does it show you July 14, 2021,
22 Economic Impact?

23 MS. O'KEEFE: It does. This is very helpful.
24 This is more consistent. And this is more

1 consistent --

2 MR. KHAN: Yeah, so the way the form is set up
3 is as you click on different things, other options
4 show up.

5 The reason we did it this way is so
6 it didn't -- in the date, the whole window, a bunch
7 of information. So it just kind of shows you what
8 information is relevant to who you are selecting.

9 So, yeah, it has the information on
10 there. It's hidden, but it shows up as you click on
11 the different options that is of interest to the
12 individual, whether they want to do a comment or a
13 question or both.

14 MS. O'KEEFE: Well, that's very helpful. I
15 appreciate that clarification.

16 And so it seems like the only open
17 issue we have is regarding the interested parties and
18 whether or not they are also going to be available to
19 be questioned as required by the rules that are
20 governing large hearings. And we've had a series of
21 e-mails going back and forth on that, and I was just
22 wondering where the Village's position was on that in
23 terms of requiring those witnesses -- or those
24 interested parties be presented for testimony.

1 MR. HERVAS: Excuse me --

2 MS. O'KEEFE: And let me clarify, it's not
3 testimony, it's for public questioning. I want to
4 clarify my comment there.

5 MR. HERVAS: We're not going to resolve that
6 issue here -- here at this time. We will -- you'll
7 get a response from myself with respect to an e-mail,
8 and we can have an attorney conference on that issue.
9 But we're not ready to resolve that right now.

10 MS. O'KEEFE: Okay. Well, we've -- we've made
11 our position known in the e-mails, so I hope you'll
12 carefully consider those.

13 Well, thank you so much,
14 Mr. Chairman, for letting me ask these questions and
15 clarify the process. We really greatly appreciate
16 your time.

17 CHAIRMAN DALY: No problem, Ms. O'Keefe.

18 And I would just -- just to add on a
19 little bit, before the meeting on the 14th, I'm sure
20 there's going to be a motion to adopt the new rules
21 as we've kind of discussed this evening so that
22 they're in the record and everybody understands the
23 process moving forward.

24 Also, anyone who signs up on the

1 website with questions for the appropriate topic on
2 the appropriate night, just so the public
3 understands, the people who sign up on the website
4 will be able to go first.

5 So we encourage you to sign up on
6 the website. It's not required, but it's a good way
7 to ensure that you are heard in the meeting. And we
8 will do our best to accommodate everyone who has
9 questions of the appropriate witnesses on the
10 appropriate evening.

11 So with that, I would now entertain
12 a motion to continue this hearing to Wednesday,
13 July 14, at 7:00 p.m. at Peacock Middle School.

14 COMMISSIONER HOLMES: Chairman, so moved.

15 COMMISSIONER RAY: Second, Ray.

16 CHAIRMAN DALY: Thank you. I have a motion
17 and a second.

18 Would Mo -- would you please call
19 the vote.

20 MR. KHAN: Commission Carello.

21 COMMISSIONER CARELLO: For.

22 MR. KHAN: Commissioner Drummond.

23 COMMISSIONER DRUMMOND: For.

24 MR. KHAN: Commissioner Holmes.

1 COMMISSIONER HOLMES: For.

2 MR. KHAN: Commissioner Ray.

3 COMMISSIONER RAY: For.

4 MR. KHAN: Commissioner Russo.

5 COMMISSIONER RUSSO: For.

6 MR. KHAN: Chairman Daly.

7 CHAIRMAN DALY: For.

8 Motion carries.

9 I will now entertain a motion to
10 adjourn.

11 COMMISSIONER HOLMES: Chairman, so moved.

12 COMMISSIONER RAY: Second, Ray.

13 CHAIRMAN DALY: Mo, would you please call the
14 vote.

15 MR. KHAN: Commission Carello.

16 COMMISSIONER CARELLO: For.

17 MR. KHAN: Commissioner Drummond.

18 COMMISSIONER DRUMMOND: For.

19 MR. KHAN: Commissioner Holmes.

20 COMMISSIONER HOLMES: For.

21 MR. KHAN: Commissioner Ray.

22 COMMISSIONER RAY: For.

23 MR. KHAN: Commissioner Russo.

24 COMMISSIONER RUSSO: For.

1 MR. KHAN: Chairman Daly.

2 CHAIRMAN DALY: For.

3 I wish you all a happy and safe
4 Fourth of July holiday. Good evening.

5 MS. O'KEEFE: Thank you.

6 MS. SMITH: Thank you. Goodbye.

7 (Whereupon, the above-entitled cause
8 was continued to July 14, 2021, at
9 7:00 P.M.)

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1 STATE OF ILLINOIS)
) SS.
2 COUNTY OF DU PAGE)

3 I, Kathleen M. Grove, CSR No. 84-002197, RPR,
4 do hereby certify that the foregoing hearing, Pages 1
5 through 70, was recorded stenographically by me and
6 computer-transcribed under my personal direction; and
7 that the said deposition constitutes a full, true,
8 and correct record of the testimony given by the
9 deponent as heard via remote video conferencing.

10 I further certify that I am not counsel for
11 nor in any way related to any of the parties to this
12 suit, nor am I in any way, directly or indirectly,
13 interested in the outcome thereof.

14 This certification applies only to those
15 transcripts, original and copies, produced under my
16 direction and control; and I assume no responsibility
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18 produced.

19 IN WITNESS WHEREOF I have hereunto set my hand
20 this 12th day of July, 2021.

21 

22

Certified Shorthand Reporter

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