DU PAGE COUNTY

AD HOC ADULT BUSINESS COMMITTEE

ROOM 3500B

FEBRUARY 12, 2019

12:30 p.m.

PROCEEDINGS HAD and testimony taken before the AD HOC ADULT BUSINESS COMMITTEE, taken at the DuPage County Administration Building, 421 North County Farm Road, Wheaton, Illinois, before LINDA M. CIOSEK, C.S.R. No. 084-002892, a Notary Public qualified and commissioned for the State of Illinois.

MEMBERS PRESENT:

MS. JULIE RENEHAN, Chair.
MS. DAWN DE SART, Member.
MR. JAMES ZAY, Member.
MR. SAM TORNATORE, Member.
MR. TIM ELLIOTT, Member.
MR. SEAN NOONAN, Member.

ALSO PRESENT:

MR. CONOR MC CARTHY, Assistant State's Attorney.
MR. PAUL HOSS, Planning and Zoning Administration Coordinator.
MR. GRANT ECKHOFF, County Board Member.
MS. LIZ CHAPLIN, County Board Member.
MS. MARY OZOG, County Board Member.

STAFF PRESENT:

MR. JIM STRAN, Building & Zoning Department Manager.
MR. NICK KOTTMEYER, Superintendent of Public Works.
MS. JESSICA INFELISE, Zoning Administration Coordinator.
MS. EILEEN SCHWALM, Clerk.

CHAIR RENEHAN: I'm Chair Renehan of the newly-formed Ad Hoc Adult Business Committee. We're here for our second meeting. The time is now 12:31, and I'm calling the committee to order.

Will the clerk please take the roll.

THE CLERK: Member Zay?

MEMBER ZAY: Here.

THE CLERK: Member Tornatore?

MEMBER TORNATORE: Here.

THE CLERK: Member Noonan?

MEMBER NOONAN: Here.

THE CLERK: Member Elliott?

MEMBER ELLIOTT: Here.

THE CLERK: Member DeSart?

(No response.)

THE CLERK: Chair Renehan?

CHAIR RENEHAN: Here.

Looks like we have a quorum, so I will proceed with my remarks. We're doing this with a court reporter, so any staff, we've already established, will be reflected in our record.

Thank you for all the interest in your

committee and our work to develop a comprehensive plan counteracting negative secondary impacts from adult businesses. Our intent is to be responsive to residents' concerns regarding public health and safety. And I'd like reiterate that the purpose of the hearing is not to impose undue restrictions on Constitutionally-protected conduct.

Last week we heard from Assistant State's Attorney Tony Hayman providing information regarding the current status of the law impacting adult business use in DuPage County, and also from Paul Hoss from Planning & Zoning, who we'll hear from again today, who provided information on the scope of zoning ordinances that we have in DuPage.

Today we have a much shorter meeting, but with a much longer homework assignment. We will receive exhibits. They'll help form our opinion in how to best counteract adult businesses' secondary negative impacts from Paul Hoss, and then we'll receive a large volume of cases and studies into evidence by Assistant State's Attorney Conor McCarthy. To that end, to help your digestion of the articles, we have a helpful memo from Assistant State's Attorney Tony Hayman to walk us through the evolution of

laws pertinent to adult business regulations.

(Whereupon, Member DeSart entered the hearing.)

CHAIR RENEHAN: Also note, due to the large volume of material, it's too large to include in our normal minutes of the DuPage County website. Paul and his staff, along with the IT Department, have done an amazing job creating a whole new tab on the County website at www.dupageco.org/committees/adultbusiness with all information, including weekly meeting transcripts.

That concludes my remarks, and I will now open the meeting up to public comment. Looks like we have Mr. Vey Miracle. And I must remind you we have a three-minute limit per speaker.

MR. MIRACLE: Thank you. Basically I'm a homeowner that's in the vicinity of what I consider an adult entertainment business called Hot Shots. The business was in Lombard, and a warehouse replaced it, so it moved from Lombard into my neighborhood. Obviously the neighbors are not very happy about the situation, and are hoping that the County will use its power. I think we have existing laws. We talked some with Paul Hoss about zoning, about being too

close to schools and also not being in an industrial zone parcel of land.

I feel the business will cause home values to decrease. It will increase crime in the area. It will encourage more adult entertainment businesses to open up in the neighborhood. And, most importantly, it could harm students that go to the nearby schools, the Montessori School and the Wheaton North.

I know at one time when they were in Lombard there was an issue, an arrest with selling drugs. I don't know if that's the case now. I don't think many people know what's going on there. It portrays itself as a photography business, but if that doesn't -- all the reviews online tend to point towards it doing sexual services.

Now, this committee is supposed to minimize the second effects of these businesses? How do you mitigate the secondary services of murder? Bella One is a spa in Roselle that's owned by the same person that runs the Wheaton location, and a security guard was shot in their parking lot and he died. So, I know you want to narrow the focus on this, but the neighbors would like to see the business gone, and I think there's laws in place that

support that.

So, that's why I'm here. I have -- I can read some of the reviews online saying -- you tell me when my time is up.

MEMBER DE SART: It is. That was the alarm that you heard. The time is up.

MR. MIRACLE: Okay.

Basically all the reviews on a website call Citysearch, interviews john -- are basically johns posting reviews. All of them are of the adult entertainment --

MEMBER DE SART: Mr. Miracle, I'm sorry, your time is up.

MR. MIRACLE: Okay.

CHAIR RENEHAN: Thank you so much.

With no other public comment, is there a motion to approve the minutes?

MEMBER TORNATORE: So moved.

MEMBER DE SART: Second.

CHAIR RENEHAN: So ordered.

MEMBER ELLIOTT: Actually, I don't think we can approve them. As I was reading them, the minutes don't

actually say who was at the meeting. And so I think -- can I recommend that we pull these back and approve them at the next meeting?

CHAIR RENEHAN: Of course.

MEMBER ELLIOTT: Because we need to know who was in attendance at the meeting.

CHAIR RENEHAN: Sure. We actually just discussed that.

MEMBER ELLIOTT: Motion to table the approval of the minutes until the next meeting.

CHAIR RENEHAN: Okay. So ordered then. We are tabled.

MEMBER TORNATORE: Second the motion to table.

CHAIR RENEHAN: Okay. With that, let's move on to staff presentations. First --

MEMBER DE SART: We need to vote.

CHAIR RENEHAN: Okay.

MEMBER ELLIOTT: This could be a voice vote, I think.

THE CLERK: All in favor?

(Whereupon, all members responded aye.)

CHAIR RENEHAN: All opposed?

(No response.)

CHAIR RENEHAN: So ordered.

Then we're going move on to staff presentations. First we'll have Paul Hoss followed by Assistant State's Attorney Conor McCarthy. Paul has already been sworn in. So without further ado, let's proceed.

(Whereupon, the oath was previously duly administered.)

MR. HOSS: Just some housekeeping items between me and Conor today. I'm Paul Hoss, DuPage County Building and Zoning, Planning and Zoning Coordinator.

What I've handed out in front of you here is an exhibit list which lists all the exhibits that we're going to tender today. I've also included a document or memo from me that talks about the three areas in the County codes where we have regulations dealing adult businesses. That's the Zoning Ordinance. Within the Zoning Ordinance is also massage licenses that we talked about before. That is no longer active because the State's taken charge on that.

The other is the Liquor Ordinance where we have some regulations relative to the ability to sell or not have the ability to sell liquor where we have adult

businesses. And then in addition to that, we have -- the Zoning Ordinance is Chapter 37, the Liquor Ordinance is Chapter 3. And then we also have a Public Nuisances Offending Morals and Decency statute under Chapter 26.

So those are the three areas that we have in our current regulations in our current County code that deals with adult business uses.

MEMBER ELLIOTT: I'm missing this one, the one from Bob Berlin.

MR. HOSS: Here you go. So I'm going to go ahead and tender the exhibit list, along with my memorandum.

Also we have a letter -- a memo from Assistant State's Attorney Tony Hayman talking about and summarizing all of the exhibits that we are tendering today. Those would be all the exhibits that deal with adult business cases, case law, also our studies that we found relative to adult business uses and also through licensing programs that exist out there.

You'll note in the list of exhibits that we have included, for the most part, law and exhibits that deal with positive government action that's been upheld in the courts or been found to be acceptable forms of

regulation. We've also included at the back end of the law section of the exhibit list, and also the study section of the exhibit list, a couple of cases, and also a couple of studies that take a contrarian's view on some of the stuff we're talking about. And Conor will explain a little bit about the value and the need to have that in sort of our discovery, in our process here.

So, without further ado, what I'll do is go ahead and tender all of these exhibits. We're giving you paper copies that we will keep in the file down at the Building and Zoning Department. More importantly, for the public, all exhibits that we have tendered and we will continue to tender can be located on the County website under County Building and Zoning, and we have a special directory under Ad Hoc Committee and Adult Business Uses. This is where all these documents will be downloaded. We're trying to keep them in the same format that we have here going forward. These exhibits will be 2/12/2019 exhibits. The next exhibits that we'll be tendering in the future will be for the next meeting.

You'll find that from time-to-time we'll go ahead and add to this list, and then anything that we

add, we'll actually bring those formal exhibits to this committee to actually tender them and have you accept them at the following meeting. When we do add to this list, we will send a group email out to everybody indicating that we've added to the list, and here's where you can find it. I would encourage you if you have any questions or comments, if you do want to respond, respond individually as opposed to sending it to the entire group.

This is where you can find all that information, not only for the County Board members, but for the general public as well. And we'll get information out on our website, on the County website indicating where people can see as well.

In addition, you'll notice that we have broken everything up by meeting, so all of the information that was tendered at the last meeting under the January 29th, we've got the transcripts from the court reporter in here as well. So this transcript of this meeting you'll find in the February 12th file as well. So if you need -- if something is not coming up, a link is broken, give me a call and we'll get it updated.

So I'll go ahead and tender these, and

I'll turn it over to Conor and he can give a brief summary from Mr. Hayman's memo.

MEMBER ELLIOTT: Sure. Can I just ask a question?

MR. HOSS: Yep.

MEMBER ELLIOTT: I don't know, Paul, whether this is for you or for Conor, and I talked with Conor a little bit beforehand. I went through the materials on here, some of them, in advance. And many of them appeared to be older, a lot of them from the late 90s, some from the 80s and 70s. The most recent one appeared to be what I think you characterized as a dissenting view?

MR. HOSS: Correct.

MEMBER ELLIOTT: Which is a West Virginia study. I think the Texas study was from trafficking from 2013. Is there going to be an effort made to have more recent or more updated studies on that? I want to make sure we're not relying on information that's stale.

MR. HOSS: Yes. One of the things we've done in collecting this data is we've taken it from our 2005 text amendment when we worked on adult business uses, so we had a lot of the data already collected. And a lot of data that you see in here actually is relied upon under the new

studies. It's like anything with case law, is you're relying on precedent relative to new information that's out there.

So a lot of the information that you see is sort of seminal information, both in the law, and both in terms of the studies that has been relied on through the court system and been upheld. We will continue to update with newer studies once we find them, absolutely. But, again, all of this information here has really created the basis for --

MEMBER ELLIOTT: This is the foundation.

MR. HOSS: This is the foundation for a lot of work that's been done in other jurisdictions. And, actually, it was a foundation we used in creating our zoning regulations in 2005. It's pretty much the same information all the way through, but we understand the need to find fresher data as well.

MR. MC CARTHY: And, to be fair, we are still looking for fresher studies. I did include a couple 2013 studies, some 2014 studies that make reference to some of the older ones, but as we go along, you'll see more recent things come in as we obtain copies from various cities, municipalities,

publications, et cetera.

The same thing with case law, the initial plan I had here was sort of give you the foundation, and that's why we start with a 1926 case, because I don't think you can really discuss regulation of adult businesses unless you talk about Village of Euclid, just like you can't really discuss nudity in public without talking about Renton versus Playtime, or at least in the legal context.

So, I'll take that opportunity to sort of segue into Tony's memo, unless there are other questions on what Paul discussed. In that case, Tony, at my request, put together sort of a brief summary of the legislative record that you have here, not so much the actual items, but the importance and relative importance of it and a suggestion for how you should want to proceed as you go through reading through it, and what may be important to glean from it.

As I said, we discussed Young versus American Mini-Theaters. Just as a start, Young establishes that there is a Constitutionally-protected right of sexually oriented business to disseminate erotic communications with the recognition that those businesses are associated with various negative harmful activities. Young sets up a

balancing test, and the key point here is it's not possible to just silence the speech, you need to provide a reasonable opportunity to have an avenue to conduct that speech. But, at the same time, we're also allowed to explore and experiment with the solutions to admittedly serious problems about those secondary effects.

One of the big things is we don't need to do our own study. We are allowed to rely on the work that other municipalities, counties, and similarly-situated units of government, what they've done. That's why we see some of these baseline studies from Minneapolis, which is from the early 80s, I want to say. And as I quick double check to make sure I'm not too far off, I think the original Austin study was from '89. These are studies that took a lot of data and a lot of comparables. And in order to regulate this business, the Supreme Court acknowledged we shouldn't have to spend $200,000.00, $300,000.00 doing our own studies when the work's already been completed in similar areas.

I'll also point out that the Court in Barnes Theater did discuss that we don't need to await localized proof of harm, we can take and analogize over a lot of the harm that we see from our studies in similarly-

situated municipalities.

And Tony points out, quite correctly and astutely, that doing the homework on these type of ordinances is pretty much the only way you can be certain that your ordinance is going to stand up to Constitutional muster.

The biggest problems after Renton are woefully inadequate or completely missing legislative records. For example, I think in Ben's Bar versus Village of Somerset, they created a record based upon a plan, the generic ordinance-in-a-box from a national group. They didn't make any specific findings, they didn't do any specific studies, they didn't reference anything, it was this is the ordinance you were going to enact.

The community -- the next attack you see on the ordinance often is the data is wrong or shoddy. That's one of the reasons why we're incorporating, for your review, what I'll call the naysaying studies that would complain or otherwise claim that other studies are in error. You are in a unique position as this committee to make a finding of credibility on these studies one way or another; which studies you find more credible, which studies you

don't, and that you are aware of -- that you reviewed them and that's why you've made the basis of your determination.

The key factor I would point out is Illinois is governed by the Schultz and Genusa standards from the late 80s and early 2000's. To my knowledge, it's mostly fallen out of use, except in the 9th Circuit and the 7th Circuit. But we're going to have some people come in and help draft legislation and ordinances for other municipalities to discuss, one, what's effective; and two, how we can work inside of our framework to make sure we're doing effective things to combat the negative secondary impacts.

MEMBER ELLIOTT: You said Schultz, and what was the second one?

MR. MC CARTHY: Schultz and Genusa. It's J-e-n-u-s-a [sic] versus City of Peoria, I think. Schultz versus City of Cumberland is No. 14, and it references Genusa in great detail. I'm hesitant to provide Genusa immediately because it's a district court opinion from the Central District from the early 80s, and it gets very bogged down in specific facts about specific Peoria Ordinance, but that's -- it's cited and referenced heavily in its follow-up case Schultz

versus City of Cumberland. I didn't know why I said v. Cunningham.

So, the important part -- the important takeaway from Mr. Hayman's memo is that when we're going through these studies, it's important to come up with concepts and with distinguishing factors that may make DuPage very similar to the group that we're seeing and very different. For example, there are some of these ordinances in the case law that I have provided, they pertain to retail stores with off -- designed for off-premises use, versus those that would relate to, say, on-premises entertainment like a strip club or other things. You should pay attention to how these -- how the specific impacts vary based on the use location and the spots, the type of entertainment and the type of use.

You should also take into account the -- I hate to say the rural nature of rural portions of the county and the very urban nature of urban portions of the county. There is a case out of, I believe, the 5th Circuit that overturned a rural municipality's ordinance because they only relied on studies from urban areas. As part of the studies I have provided you, you'll find discussions of

both rural hotspots for crime-related secondary effects and more discussions on urban areas.

We have a very unique county here, a county that on the far west side can be -- far northwest side can be very rural and, you know, even the far southwest side or far east side can be very urban in nature, and they face different problems relating to these uses.

You know, they take into account often times the Court discusses in great detail, or the studies discuss in great detail, particularized licensing regulations, or particularized regulations. You should take into account how you think those would impact your negative secondary impacts we see, and also how the Court ruled on those, if the Court says it's unlawful. While it may be a great way to solve it, it may also be problematic down the road.

And it would be helpful, as you go along, to consider this with an open mind. This is not an issue designed to be on rails. This is an issue where I think it's important that you give an honest impression as to what you find persuasive about these studies and ordinances, and what you do not find persuasive. Consider all the viewing

points, including the dissenting ones, because that only -- it's important for you to make those findings as a legislative body. Your findings are what we're going to be working off of and in any future issues.

That being said, I'm here for guidance. I'm here to help if you don't understand something. I'm here to explain. Legal writers are, shall we say, not always the most clear, and it can be very confusing to people. I think the lawyers on the committee can agree, law school isn't about learning the law, it's about learning how to think like a lawyer. We've rewired our brains significantly, so if there's something that's not clear, talk to me, talk to Tony, talk to Paul. We're all happy to try and explain, either with the studies or with the law.

Another point I want to make is this is just the first batch of data. I hate to say I don't want to overwhelm everybody right away with that banker's box full of studies and cases, but there's more to come. There will be more to supplement the record as we go along. They will get newer, they will get more fresh, and this is just sort of the 101, to give you an idea about the lay of the land and allow you to form your own opinions and your own

informed thoughts on the issue.

I have really nothing else in particular to say about Tony's memo, except it's well-drafted and it references a few cases that will be included in the second batch.

Are there any other questions for me? Yes, Mr. Elliott?

MEMBER ELLIOTT: Yeah. Palmetto, there's two DuPage County's, right?

MR. MC CARTHY: Yes.

MEMBER ELLIOTT: There are two DuPage County cases. Is Palmetto the forest preserve case, or is that the one that was up on Lake Street?

MR. HOSS: Palmetto is the North Avenue Diamond Gentleman's Club.

MEMBER ELLIOTT: That was the one where there was no -- there's no rational relationship between the thousand feet and the forest preserve?

MR. MC CARTHY: Yeah. We didn't have a basis -- that was the one for a weekend we didn't have a Zoning Ordinance because the Court struck the Zoning Ordinance in its entirety, instead of just into severable provisions.

MR. HOSS: And to be clear, that process, and that's one of the reasons why we have contrary cases and studies in here, is that whole process allowed us to understand where our failure was in the zoning and correct it right away, to actually develop standards that met the Court's scrutiny.

MEMBER ELLIOTT: And the other one issue is it was overly restrictive. There was literally no place in DuPage County where they could operate.

MR. MC CARTHY: It was a geographic limitation issue, and that was discussed at great length by the Court. You are allowed to put zoning regulations on these things, but you also can't zone them out of town, so to speak. There has to be altered -- ample alternate avenues to express their speech, and that's just where we find ourselves.

So, I think at that time there was a GIS error that created it, that basically accidentally made too few spots. I also point out that being a county, we're in a little bit different view as to municipalities as to the availability of spaces. Unlike a municipality which constantly grows and absorbs, the County is sort of on the waning side of that tide. Every time a municipality grows, by and large, it does it by taking it away from us. So

there is some case law out there that discussed the geographic limitations, and I believe that takes into account the fact that counties rarely change their boundaries except by state laws, whereas municipalities tend to accrete space.

MEMBER TORNATORE: Which case was that?

MR. MC CARTHY: It's not on this list. It came out maybe --

MEMBER TORNATORE: What's the name of the case?

MR. MC CARTHY: It was a case out of the 11th Circuit. I'm going to have to double check.

MEMBER TORNATORE: Okay.

MEMBER ELLIOTT: I'd be interested in seeing that.

MR. HOSS: Just very briefly, relative to what the County did when we found out our ordinance was unconstitutional because of these issues, we went to the Court and said some of the most desirable land that the County has is the industrial, and that's the first thing that goes. We don't have a lot of industrial zoning land. Basically the Court was, "Well, I'll start rezoning -- not rezoning, but I'll start putting things in residential properties, start rezoning properties to industrial."

One of the things we did to deal with that is that we changed the way -- we changed the distance requirements to not just the property lines of industrial property, but the tenant spaces of industrial property. When we did that, that opened up almost 200 properties that would be available. And that really sort of allowed us to get past the avenues of expression issue.

The other thing that we did is that we found that the State statute was 1,000 feet from a protected use. We originally just adopted that verbatim. The answer that we got from the Court was, "If the State jumped off the bridge, would you jump after them?" And that's technically what we did, we followed whatever the State statutes were. So we had to establish our 1,000 distance requirement.

One of the things we found was that we modified that a bit with respect to forest preserves. We found that forest preserves that are inactive recreational areas, we got a lot of forest preserves in the unincorporated areas, that is inactive in the sense that it's wetland. So we actually reduced our distance to protected uses for inactive forest preserves or recreational areas to 500 feet. That opened up a lot more properties as

well.

One of the things that we were able to mitigate is that 500-foot distance. We brought folks in from the forest preserve district, the police officer from the forest preserve district that indicated that it was something that was counterintuitive, that the people who were going to engage in some sort of nefarious activity by taking people and taking them to have sex with them somewhere, literally would not go and run into the wetlands in forest preserves. They put them in their car and they would walk them to a parking lot in the forest preserve, because they didn't want to trounce through wetland and areas of water to get through. So we were able to show, effectively, that if we had a 500-foot distance, we were able to open up a lot more properties, but we wouldn't have a problem with having forest preserve properties within 500 feet of an adult business use if we didn't have a lot of people lining up there at noon to engage in sexual activity.

MEMBER ELLIOTT: Because they're so concerned about the negative flora and fauna.

MR. HOSS: Exactly.

MEMBER ZAY: It all goes back to stormwater.

MR. HOSS: That's how we were able to deal with our own processes.

One of the things I will say that moving forward is that, as the chairman indicated, there is a large homework assignment. You will see in these studies and case law, more to the studies actually, it talks about various activities at municipalities and other government agencies, and it also gives information, for instance, the Iowa State Senate exercise. As people -- as people come from the industry to give their take on the industry, as employers and managers in the industry, how they dealt with things and what was -- where they were getting people from and how they ran their operations.

Towards that end, it is our intention moving into the next several meetings, we will actually bring people before you who will give you direct testimony as their experiences directly in the adult business trade, people who are involved in it, people who got out, people who are assisting people who are involved in it and getting out, people in sexual traffick areas. So we'll be bringing you direct testimony from those people as to how it impacts them, not only regionally, but in DuPage County. And then

we'll be moving forward to people at our States Attorney's Office and our sheriff's office can give you some direct testimony about the things that they deal with on a daily basis; crime, rape, prostitution, things like that. So, we won't be able to go into too much detail because of some of the operations that are going on, the whole idea is that to give you actual direct testimony relative to some things that you would be reading about.

And then we'll eventually conclude it with one of our meetings with some information from appraisers and real estate professionals talking about the impact of property values, and not only impact property values, but the impact of being able to get other businesses to be viable in the area where there is adult business uses located.

And then, finally, we will have someone come in who is sort of an industry leader in development of regulations and licensing for municipalities come and talk with us about that. So the whole idea is to read all these studies, give you basically a foundation, a background, and get direct testimony from people telling you what their story is about how they're dealing with that in DuPage

County and in the area.

CHAIR RENEHAN: Any other questions?

MEMBER TORNATORE: Do we have a timeline on when you think we might be in a position to have an ordinance ready to go to the County Board? And I'm asking because people are asking me.

CHAIR RENEHAN: You know, we're expecting to hear testimony pretty much through April. So, as Paul said, it's real estate, it's crime, it's sex trafficking, so our meetings will get more interesting and less dry. We've laid the framework these past two meetings, but we'll be hearing more factual. And so, I would say by mid-April we'll be able to come together as a committee and discuss where we want to take the fact findings and where we're going, and hopefully I would say May we're looking at.

MEMBER TORNATORE: Okay.

MR. MC CARTHY: A lot of the people we're interacting with are not County employees, they're people from outside of the County, whether it's with the Health Department, whether it's with the subject matter experts, whether it's with appraisers, so we're somewhat at their mercy as to scheduling, especially with some of the Federal agencies

coming out of a shutdown. So it's been a bit of a challenge. But all things being equal, that's the goal we're trying to meet.

MEMBER ZAY: I know you said have an open mind, but this is all great, and we're doing great, but ask my wife and kids, I have no patience. I mean, we've been dealing with this for a long time, and this sounds like a great thing. I'm sure the neighbors are looking at it. I mean, what can we do in the meantime, close some loopholes, quickly make changes? Fire, life safety, anything we can do to close these places down in the meantime with what we have right now? I mean, you know, we worked on Diamonds for years, and eventually what we did is we changed the alcohol that basically put them out of business at that point. Well, the State might have, too, but we did something to try to slow down what was going on.

I know this is a big, you know, amendment thing and everything else, and this is all great, but, I mean, I don't think the residents are going to be too happy going we're studying this, we're doing -- is there something we can do in the meantime while we're doing this? I know there's still -- the sheriff's office is still investigating

and doing stuff. Have we been able to get in there and see for fire safety, anything like that?

MR. HOSS: I think, to your point, one of the things that we have done in this entire record is stepped up our holistic approach to adult business uses in terms of code enforcement investigations, what's going on there. I think it's safe to say that as part of this effort we have really stepped up our code enforcement efforts, not only in building and zoning, but across all of the disciplines that we have in the County; the Sheriff's Office, Health, and so on. And I think that's working, for lack of a better term, at this point.

MEMBER ZAY: That's good to hear at least we're doing something. It's not only this one. I mean, we have one in Keeneyville on Lake Street that we hear about all the time.

MR. HOSS: In the case of Keeneyville, they shut down. We heard about Bella One here today, that is shut down. And that's part of our code enforcement that we're talking about.

And like I say, we really take a holistic approach. This is one of the things that we're working on, and that's caused sort of all of us to say we really need to

step up our enforcement efforts, and we're doing that at a pretty high level.

MEMBER ZAY: Okay, thank you.

CHAIR RENEHAN: I just would add it's a long-term problem, we're looking at a long-term solution. So while the sheriff might be able to do some things, we're not able to discuss that.

MEMBER ZAY: No, I think what we're doing is great, but maybe there's a loophole somewhere we can get in and shut them down in the meantime, and when they try to reopen, we already have our plan in place where we can say, "Well, great, but here's the ordinance. Here's what we're doing."

MR. HOSS: To that point, we did change the Zoning Ordinance to add the 18-and-over provision with the exemption for alcohol. So that -- we haven't had to enforce that yet, but for instance, on one of the facilities itself they took that sign down, but that's an example of what we're trying to do to step up our efforts.

MEMBER ZAY: What if we were home rule, what would change?

MR. MC CARTHY: Home rule would give us some more tools in the toolbelt, but not so much as to allow us to

short circuit this process, because the best way I can describe it is the purpose of the regulation is obviously not to close businesses down or stifle speech, it's to regulate these negative secondary impacts that we see. So as much as we may find the business to be distasteful, or the message to be distasteful, we cannot regulate businesses based on the content of the messages, even if we were home rule.

MEMBER ZAY: But they come to us because we're not home rule and we lack the authority of the municipalities, and it's easier to set up shop in an unincorporated area.

MR. MC CARTHY: I wouldn't say it's easier, it's just we have to go through more steps to get our tools in the toolbelt. And one of the effective ways, things this committee is doing, Member Zay, is to put a toolbelt together for the County to more effectively meet and match those challenges. It's not something that the magic wand of home rule can necessarily solve. Does it make the process a little bit easier often times, slightly less hurdles? Yes. But, as I've often said, home rule is not necessarily a one-size-fits-all solution to all problems.

MR. HOSS: If I could just add one last thing is that

one of the things that we always -- and we talked about this at the last meeting, we had a lot of adult business uses, massage parlors, literally they closed down and they moved up shop down the road. One of the things that we're doing to try to combat that is to identify those properties that are in -- that might be eligible for some of them to move down the street, to identify those properties and deal with them on code enforcement issues before one of these uses gets {inaudible}. And we did that. For instance, even though Bella One was in there, we used code enforcement to basically have Bella One shut down because of code violations. And we're identifying other properties on some of the major corridors where we know there might be a benefit for them to move on down the road to deal with that.

MEMBER ZAY: Okay, thank you.

MEMBER DE SART: And through this process, we're going to make that toolbelt so powerful that other counties across the country are going to emulate what we're doing here in DuPage.

MR. MC CARTHY: And I would point out one of the things that we've heard is that there's a lot of these -- a lot of these places try and get by by not doing the work

because it's hard to do the work, it's hard to put the studies together, it's a lot of reading. That's not what we're doing, and I'd like to think this could -- our studies and our record and everything could provide guidance to other communities that would face similar negative secondary impacts to ours.

MEMBER DE SART: That's what I just said.

CHAIR RENEHAN: If there are no other questions, Paul, thank you so much for your work on this and putting it together so we can all truly take a look and work hard on it.

Conor, thank you as well, and please thank Tony.

Do we have any old business?

(No response.)

CHAIR RENEHAN: Any new business?

MEMBER DE SART: I just want to understand for homework purposes, this is up on the website right now?

CHAIR RENEHAN: Yes.

MEMBER DE SART: Okay, thank you.

CHAIR RENEHAN: For new business, if I could have the committee just wait after. Evan, you're going to take a

picture for media purposes, so we can all share the fun of that. And if there's no new or old business, we stand adjourned until February 26th at 12:30.

(Which were all the proceedings had at the above-entitled meeting.)

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

I, LINDA CIOSEK, C.S.R. #084-002892, a Notary Public duly qualified and commissioned for the State of Illinois, County of DuPage, do hereby certify that I reported in shorthand the proceedings had and testimony taken at the public hearing of the above-entitled cause, and that the foregoing transcript is a true, correct and complete report of the entire testimony so taken at the time and place hereinabove set forth.

_____

CERTIFIED SHORTHAND REPORTER

Notary Public

My Commission expires:

July 3, 2022

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