

**TOWN OF PATTERSON**  
**PLANNING BOARD MEETING**  
**February 23, 2012**  
*Work Session*



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Shawn Rogan, Chairman  
Thomas E. McNulty, Vice Chairman  
Michael Montesano  
Ron Taylor  
Edward J. Brady, Jr.

**Planning Board  
February 23, 2012 Work Session Meeting Minutes**

Held at the Patterson Town Hall  
1142 Route 311  
Patterson, NY 12563

**APPROVED**

Present were: Chairman Rogan, Board Member McNulty, Board Member Montesano, Board Member Taylor, Board Member Brady, Rich Williams, Town Planner and Ted Kozlowski, Town of Patterson Environmental Conservation Inspector.

The meeting began at 7:05 p.m.

Michelle Lailer was the Secretary and transcribed the following minutes.

Chairman Rogan called the meeting to order.

Chairman Rogan stated okay, good evening everyone, a little bit different tonight, we normally don't hold work sessions in this room and we are going to jump around a bit to try to accommodate people who have shown up for this meeting. Let's start, because we're in this room with the Pledge of Allegiance, if I could have everybody stand and join us.

The Secretary stated it's behind you.

Rich Williams stated I know that, I'm having a bit of trouble here.

Chairman Rogan stated we'll wait for these guys since they're...

Ted Kozlowski stated gentlemen.

Chairman Rogan stated well they're involved so.

Board Member Montesano stated stop using that kind of language.

Chairman Rogan stated I don't want to exclude them.

Board Member McNulty stated our two engineers having trouble there.

Chairman Rogan stated put a pin it.

Ted Kozlowski stated it takes a Town Planner and a Town Engineer to pin a piece of paper.

Chairman Rogan stated okay.

Chairman Rogan led the Pledge of Allegiance.

Chairman Rogan stated okay, so again a little bit different than normal for tonight's work session, first thing the Board wanted to discuss was the Commerce Drive commercial subdivision and the associated wetlands that are on site and...

## 7) OTHER BUSINESS

### a. Commerce Drive Master Plan

Board Member Taylor stated if I could I'd like to make one background comment.

Chairman Rogan stated sure.

Board Member Taylor stated at the last conference I was at, there are some towns who are doing turn-key industrial parks, this is in response to what engineer and the lawyer were saying, they provide streets, sewers, utilities, and water and I guess they've decided that putting the money upfront gets their clients in and the return is worth it, so just there are places that do that so I don't think that we're out of, this isn't unique what we're trying to do, it's the industrial park and it's not like we're trying to design it, we're just trying to make it function in some way but that's, that's, it was like they were saying what are you guys doing, you're crazy, nobody else does this, I don't think that's true, I think it may in this area people don't do it but I think we could say we're not being unique and we could.

Rich Williams stated okay then, you know, I will try to defend...

Board Member Taylor stated the engineer.

Rich Williams stated what we said is yeah you are being unique in that you're trying to be site specific, what other towns do, is they take a much broader view, they say this is an industrial area, we're going to provide them sewer, we're going to provide them the road to access but we're not going to tell them specifically what they're going to be developing on each site, that's where our concern was. That you're getting into the very particulars about a particular site, case and example the Town may come in, it may build Commerce Drive, it may put a sewer plant out there, it may develop a water system and run those utilities through the street and then it's up to each individual lot owner to develop in accordance with the zoning but the Town is not going to come in and say you know on this lot you're going to have 50,000 square feet of warehouse and on this lot you're going to have an office building.

Board Member Taylor stated I don't think we're, at least I'm not looking to do that.

Rich Williams stated well that's what, you know listening to you the last time that was everybody's big concern on this side of the fence.

Board Member Taylor stated that's, I just want to make these lots functional...

Chairman Rogan stated right.

Board Member Taylor stated I think we're going to talk about how many square feet of wetlands are on this lot can we move the equivalent amount to some other lot, that's all, that's I think...

Board Member McNulty stated I think we were looking at the give and take we could possibly lean towards.

Board Member Taylor stated yeah, people were asking questions I think about parking and building size just so we, what is conceivable could work on that lot, just so we have some idea, not that we're saying this is what you have to put on that lot.

Chairman Rogan stated right, I think my definite focus was to try to delineate a usable area on the lot and if there, we could certainly say there is X number of square feet without wetland impacts and maybe there are some areas that are less functioning wetlands that we might be able to mitigate in other areas of the subdivision for stormwater improvements, that would allow a great use of, usable area and what I was asking about the dynamic of square footage to parking to stormwater was just for that evaluation, to just say if you have 20,000 square foot available, that would typically allow you to build X with associated impacts and that was all that was intended for, not to try to say, we were going to say okay property owner you can put a 30,000 square foot building, just maybe we can create a little more usable area and that's all that I was intending by that and I think the Board is on the same page.

Board Member Taylor stated yeah, yeah.

Andrew Fetherston stated I guess, had minor conversation prior to coming in but I was just suggesting that perhaps the person who knows the property best, the owner, could possibly talk to the Board about what his thoughts were, what lots he thinks have the best potential and then he could hear from, in a work shop atmosphere that Board's concerns on that lot, the professionals and the consultants on you know, from the Town on that lot and try and see you know, what's workable, is there anything workable so then he can take it to his consultants or someone who may be interested in pursuing you know, due diligence what's available from legal and physical standpoint.

Chairman Rogan stated we had asked for the background information that Rich had prepared on the different lots and the different assessments or functional analysis, if you will, of the different wetland areas, Rich, maybe we can try to classify or at least visually and maybe you've done that with the colors you've listed but talk for a minute about the different wetland areas and what we feel the value, if you will, is of each other those areas.

Rich Williams stated well first up, start over at White Birch, you have a fairly...

Board Member Taylor stated we can't see you.

Rich Williams stated yeah, okay, large wetland area compared to all the wetland areas in the lot, a large wetland system here that is probably about half an acre, just under half an acre, 17,000 square feet and you've got two smaller, very small wetlands in close proximity to that and you have a larger wetland along

the frontage which the three wetlands, if not considered hydrologically connected, actually all 4 wetlands are not really regulated, the stream coming through is a regulated area, the pond is a regulated area.

Board Member McNulty stated Rich, those are all Town regulated.

Rich Williams stated they are Town regulated if they meet a half-acre criteria.

Board Member McNulty stated in size.

Rich Williams stated or if combined they meet a half-acre criteria.

Board Member McNulty stated so the State's not involved in this lot.

Rich Williams stated the State is not involved in this lot, now there are Army Corps requirements they basically regulate all wetlands regardless of size, it's been a long time since I've looked at the nationwide permit, Andrew jump if you know this one or maybe we can ask Ted as well.

Andrew Fetherston stated yeah, I defer to Teddy.

Rich Williams stated last I knew, you were allowed on a commercial site to fill in half an acre of wetland under a nationwide general permit, I don't know if that is still the case. If you intended to do that and you broke a tenth of an acre of fill then you had to notify the Army Corps and you had to demonstrate that you were mitigating that loss of that wetland somewhere else, so anything greater than a tenth of acre you had mitigate but you could fill in half an acre, so. We jump across the street, the Black Birch site has a couple of small wetlands, they have very low functional value for aesthetics, for wildlife, they do somewhat manage the stormwater coming through here and then you get to the back of the Black Birch site and that is a very functional for aesthetics, wildlife, stormwater retention, water filtration, it's also a DEC regulated wetland in the back of the site.

Board Member Taylor stated that's that white area there.

Rich Williams stated yeah, this whole area right here is all a DEC regulated wetland.

Board Member McNulty stated its right up against Fair Street, right.

Rich Williams stated yup, Fair Street is right here...

Board Member McNulty stated it's very visible now when you drive past.

Rich Williams stated [Interstate] 84 is down here.

Chairman Rogan stated is that the area that the gentleman years back tried to put a road through or something to that effect.

Board Member Montesano stated yes.

Rich Williams stated yeah, from here coming right down through here.

Chairman Rogan stated okay.

Rich Williams stated moving up the lot you have a smaller lot in the center, I think it's about three acres roughly, it's the Liotta, we identify it as the Liotta site, it has a wetland in the central portion of the site with a couple of smaller wetlands on either side of it, this was the subject of a site plan application many years ago, the owner wanted to build a building, went in, cut the trees down before the application was made, there was an enforcement action, he was required to restore this area with some vegetation, some grading and then he was allowed to use the back and front for storage within the buffer areas. Maybe I should touch on what some of these colors are, the pink of course are the buffer to the wetlands, to the larger wetlands which I think are regulated, you've got some blue here which designates bodies of water, this pink down here is that vernal pool, the green is what I believe the wetland edge is for this LC-50 though it's shown differently on the map and this yellow is what I believe is the area, the footprint of the landfill. So last up here, well not last actually but the Stone Hedge [Hill] site, you have the large wetland running through the central area, this is moderately functional for stormwater retention, water filtration, it's got some, it's got some value for wildlife habitat but it's fairly low and it serves as I believe a ground water recharge area.

Board Member Taylor stated can you point out the water flow through all these sites.

Rich Williams stated all right, the water generally flows down this way, there is a culvert right here, it was put in without Town approval, we don't know what that culvert looks like running under the landfill, we know that leachate is flowing into that pipe and coming out the other side and flowing down to LC-15. Drainage in this area comes down like this, comes back around to LC-15, this all flows this way and out.

Board Member Taylor stated they divide in middle there, about where those buildings, it flows in two different directions.

Rich Williams stated everything flows kind of this way, except for right here, they, what they did is they kind of re-graded this, you know changed the drainage patterns with the road so now grade area, this area right here flows this way and this all comes this way.

Mr. Monteleone stated Stone Hill site is the one that drains through the landfill.

Rich Williams stated yes.

Mr. Monteleone stated whatever goes in one side, comes out smelly on the other side.

Board Member Taylor stated so if we were take the square footage of the wetlands in those two sites, that big pink area...

Rich Williams stated this, yes.

Board Member Taylor stated would it fit in other site or it's more than, if we were to do a one to one swap...

Rich Williams stated these two areas would be probably larger than...

Board Member Taylor stated than anything left in those other two.

Rich Williams stated yes, certainly the non-wetland area in this site.

Board Member McNulty stated Rich that last lot on the end, that's the whole landfill site.

Rich Williams stated this is the whole landfill.

Board Member McNulty stated could those areas be mitigated to that site or does the landfill prohibit that.

Rich Williams stated it's possible, I'm not that familiar with this site topography generally drops off steeply this way, you know I'd have to go out there and take a look at the site, I haven't, we haven't done anything on this site.

Ted Kozlowski stated who owns that site, you know.

Chairman Rogan stated well...

Rich Williams stated well he...

Ted Kozlowski stated no.

Rich Williams stated somebody's got an option but I don't know who he's got an option with.

Mr. Monteleone stated well I have the paperwork from the original contractor but then the Town took it over and then the County took it over and then the Town took it over again.

Rich Williams stated the Town never took it over.

Mr. Monteleone stated so the County took it over.

Rich Williams stated County may have touched it but the Town's never touched it.

Mr. Monteleone stated right not it's in limbo.

Chairman Rogan stated it sounds like no man's land.

Rich Williams stated yeah, it pretty much is.

Mr. Monteleone stated nobody paid taxes in 20 years.

Board Member Taylor stated so it's County land.

Rich Williams stated I don't know that the County has taken it.

Mr. Monteleone stated no, the county gave it back.

Board Member Taylor stated but they could if nobody's paid taxes in 20 years.

Rich Williams stated they could but then they become in the chain of title for this landfill that they might have to responsible for.

Board Member McNulty stated nobody wants that.

Board Member Montesano stated and nobody wants to touch the pool.

Board Member Taylor stated yeah, okay, a bunch of fools.

Chairman Rogan stated yeah.

Board Member Montesano stated so if you want to pitch a tent on it...

Board Member Taylor stated we're fine, yeah.

Board Member McNulty stated maybe Homeland Security wants it.

Chairman Rogan stated getting back to what Ron originally said was, it sounds like in essence the Liotta and the Stone Hill site, the wetland areas and buffers are a significant portion of each of those lots and certainly I don't think anybody believes that there is enough mitigative area within this subdivision to completely eliminate those wetlands but there may be areas that are less functioning that can be pushed back to create a little more usable area with mitigation done either at the same site to increase the functionality of the on-site wetland or increase the functionality of another wetland on the property, I think that is kind of what, where we were, what the focus was.

Board Member Taylor stated yes.

Rich Williams stated one of the difficulties Mr. Monteleone is going to have is that if you talk about eliminating these two, you're probably going to hit that Army Corps trigger where either they're going to exceed that half acre and not be able to do it or they're going to have to come in with a two to one mitigation, now you've got to come up with twice as much area.

Andrew Fetherston stated would the Town, there is a term wetland banking, anybody know what that is, where you have a lot of wetlands on one site that's really valuable and you really want to use, so you would allow to fill in that wetland in exchange for other property of parcels that you own that are maybe more valuable from a wetland standpoint, so if these are not desirable and not so well functioning wetlands and it's just as well to fill them in, maintain the stormwater, you know, you have to do everything that the permanent, you know with the stormwater and all but if these aren't so well functioning and the client owns another parcel that has greater value wetlands, take that equivalent area over here or like Richie's saying, it might go as much as one and a half or two to one I mean that's something you have to work out with the [Army] Corps but this is done in other areas, we do it in other areas.

Board Member Taylor stated now the, that parcel at the far end...

Chairman Rogan stated Ted, jump right in.

Ted Kozlowski stated I will, can I ask a question.

Chairman Rogan stated absolutely.

Board Member Taylor stated on the left, above the road.

Rich Williams stated are you talking about here.

Chairman Rogan stated this is a very general conversation, so I would say yes.

Board Member Taylor stated no, no the other end.

Board Member Montesano stated no, the other end, across the road.

Board Member Taylor stated on the left, up, yeah up there, there.

Rich Williams stated White Birch.

Board Member Taylor stated that's White Birch, okay, now is there another parcel in there.

Rich Williams stated this is a level area, there are some pocket wetlands in here and then it rises up very steeply.

Board Member Taylor stated and there is a pond sitting there.

Rich Williams stated there is a pond right here.

Mr. Monteleone stated that's man-made but it's a pond.

Ted Kozlowski stated can I make a general suggestion.

Chairman Rogan stated I think so, sure.

Board Member Montesano stated all right, you want to be adjourned.

Rich Williams stated it's okay.

Ted Kozlowski stated I would consider looking at the DEC wetland as the thing that you want to enhance the most and then what I would consider is looking at parcels in general that we can enhance it by dedicating that as a conduit to the state wetland in exchange for other lesser value wetlands.

Board Member Taylor stated that's LC-50.

Ted Kozlowski stated at the...

Board Member McNulty stated and LC-15, too.

Ted Kozlowski stated yeah.

Board Member McNulty stated the one on the far right.

Ted Kozlowski stated one of the issues that I think is, I don't know what's flowing through that dump and that's an issue I think that...

Rich Williams stated it's a big issue.

Ted Kozlowski stated it's a big issue and we don't know what's flowing through that dump and I don't know if it's a good thing that there is stuff flowing through that dump and then winding up in what looks to be another state wetland. So in general I would say that I would favor enhancing the existing wetland that has significant resource in exchange for doing something else to another property that may actually be contributing to something harmful over time.

Rich Williams stated I mean I agree with that and if I can expand on that.

Ted Kozlowski stated I think you should.

Rich Williams stated thanks, you know hydrology, you have to maintain the hydrology, all the water is basically flowing down this way, this is a fairly good, functional wetland, it may be possible and you know, I would support from the Town's perspective, I can't tell you what the Army Corps, would be to eliminate these two areas you know, keep them as stormwater retention ponds to some degree because you've got to still deal with the stormwater...

Mr. Monteleone stated maintain your water.

Rich Williams stated capture the hydrology that's in here, divert it through down the road drainage system, come down in here and enhance this area and expand this area so it's a more functional wetland but a storm...

Ted Kozlowski stated where your hand is, who owns that property.

Rich Williams stated this...

Board Member McNulty stated no, the next one.

Rich Williams stated this is Black Birch.

Ted Kozlowski stated right where your...

Rich Williams stated this, is this Markey Purdue.

Mr. Monteleone stated no, Purdue is the one that I own...

Rich Williams stated that you own, Black Birch.

Mr. Monteleone stated White Birch, this is the one I bought.

Rich Williams stated that's this one.

Mrs. Monteleone stated yeah.

Mr. Monteleone stated that one over there, somebody inherited and they think they have something but they...

Ted Kozlowski stated good, that's all I need, good, that's good.

Rich Williams stated but in doing that, create a stormwater wetland that is also treating this road.

Chairman Rogan stated and also now you're reducing the leachate in the water going through that dump site in essence.

Mr. Monteleone stated right.

Rich Williams stated yes.

Chairman Rogan stated which is also valuable just in reducing the filtration through that bad area.

Andrew Fetherston stated putting the stormwater in a more centralized area too; you're reducing the amount of stormwater you're going to do on that site, most likely.

Chairman Rogan stated I like it.

Andrew Fetherston stated so then you've got more development you know, potential.

Ted Kozlowski stated in general I think this is a good idea.

Mr. Monteleone stated you like...

Board Member Taylor stated so in terms of the [Army] Corps though, the tipping point for the [Army] Corps, how close are we to the half-acre, if we take those two out.

Chairman Rogan stated you'd be over it.

Board Member Taylor stated we're over the half acre.

Chairman Rogan stated oh yeah.

Ted Kozlowski stated I think no matter what you do, you're going to have at least get a clarification from Army Corps just to be on the safe side.

Board Member Montesano stated have to deal with them.

Chairman Rogan stated yeah.

Board Member Taylor stated okay.

Ted Kozlowski stated just get through it.

Board Member Taylor stated but if you leave stormwater ponds in there, does that count as part of the half acre.

Rich Williams stated its filling or altering.

Ted Kozlowski stated yeah.

Board Member Taylor stated oh okay, so...

Ted Kozlowski stated once you start digging up...

Board Member Taylor stated once you do anything.

Ted Kozlowski stated buffer does not count with Army Corps, only actual wetlands.

Andrew Fetherston stated the half acre is the limitation on a general permit...

Board Member Taylor stated yeah I understand.

Andrew Fetherston stated you can get an individual permit for something over and above but it's not going to be easy.

Board Member Taylor stated right.

Chairman Rogan stated is the, sometimes the way to handle this though is to go head on, be up front with...

Andrew Fetherston stated get delineation from the [Army] Corps.

Chairman Rogan stated well no I don't even mean the delineation, I mean to speak directly to the Army Corps up front to say this is what the intent is, what do you think, in other words you're putting, giving them a little bit of say in it to help guide...

Andrew Fetherston stated absolutely, I mean you know even getting the [Army] Corps and the DEC out, look we're looking to benefit the DEC, it would be stormwater, that is another DEC, elimination of those wetlands is Town and you know [Army] Corp, you know having a site visit so everybody can see it with flagging done so everybody can, you know...

Ted Kozlowski stated the only thing with [Army] Corps, they're going to want wetlands creation. I had a conversation with them a while ago about things like this and Brian Orzel who is the contact person indicated that they are going to want creation.

Chairman Rogan stated because is that a balance between creation and enhancement, in other words you say the two for one or someone said two for one, is there a possibility that the Army Corp would say in recognition of that enhancements that you're planning for this one area, maybe you only need to provide one to one in another area for instance, I mean is that just a bargaining.

Ted Kozlowski stated that might be too logical.

Chairman Rogan stated well okay.

Board Member Taylor stated now is there wetland down in the LC-15, in that lot.

Rich Williams stated the LC-15 is a state regulated wetland area.

Board Member Taylor stated but what's the, do you have the boundary of that there, how much of that lot isn't wetland.

Rich Williams stated most of the lot is not wetland.

Board Member Taylor stated so we could make that a functional wetland.

Chairman Rogan stated it's an upland lot.

Mr. Monteleone stated 20 acres in this...

Board Member Taylor stated I mean it's downhill anyway, nobody's going to build on that.

Ted Kozlowski stated the Town, we don't own that and neither does anybody in this room.

Board Member Taylor stated I understand that but we're not talking about ownership here, we're talking about these parcels, the possibilities for these parcels.

Ted Kozlowski stated right but you've got to get permission of that property owner to do that.

Board Member Taylor stated yes, yes but I think we've got to figure out a conceptual, if we start talking about who owns and only work with the owner, I don't think we can go forward with this.

Ted Kozlowski stated no, Ron, all I'm saying is that we might be forever trying to get that done.

Board Member Taylor stated okay, right, I understand but...

Ted Kozlowski stated I don't disagree with you on what you're saying there, I just don't know...

Board Member Taylor stated right I understand that, I understand, I'm just saying though we're in a bind with the [Army] Corps, we need a two to one with the [Army] Corps, the only land we have available that would give us a two to one is that lot there, we could enhance that wetland.

Rich Williams stated possibly, possibly, here's the problem though when you're creating wetlands, the first thing you need is the hydrology...

Chairman Rogan stated right.

Rich Williams stated all right, right now you've got the hydrology coming down through here, you're going to take this away because you want to stop it, you can either take it through the M&S Iron Works site, which isn't designed out so it would push that project way back and we don't want to do that.

Board Member Taylor stated right.

Rich Williams stated or you've got to leave it coming through here and you don't want to do that either, the benefit for convincing the Army Corps to maybe let it go this way is that we're stopping the pollution coming down through here.

Ted Kozlowski stated so you have big argument, I think with that landfill...

Board Member McNulty stated that's a big benefit.

Chairman Rogan stated yeah.

Ted Kozlowski stated I think the landfill is going to favor what people do here because...

Board Member Taylor stated you think the [Army] Corps will give us credit for that.

Ted Kozlowski stated I don't know, you know Ron, we're trying to be logical here...

Board Member Taylor stated yes, sure.

Ted Kozlowski stated and a lot of times the Army Corps is not logical.

Board Member Taylor stated right.

Ted Kozlowski stated I have asked them in the past to come out and at least let's talk about this, a while ago and they want you know, you have to file a permit and all this other stuff, it's, it's not...

Board Member Taylor stated okay.

Ted Kozlowski stated it's not that easy.

Rich Williams stated the bottom line on this if you're interested in pursuing that we certainly can put a package together, send it down, and see if they'll review it. I have to tell you they are usually very slow on reviewing anything, very slow on getting back to you; they don't want to, they want to think about things.

Chairman Rogan stated so you're saying they don't really like to get involved until there is something that we've done wrong and they come in and say oh, you overstepped your bounds.

Board Member McNulty stated until they can make money.

Chairman Rogan stated in other words, what happens if we proceed without them.

Rich Williams stated right.

Ted Kozlowski stated so it might not be a bad idea if you get DEC on board with this and get other agencies that have these concerns on board that might help us.

Andrew Fetherston stated I think, I seriously think you nail everybody at one time, you do not overlook the [Army] Corps...

Chairman Rogan stated right.

Andrew Fetherston stated you get them out and the DEC and you have those wetlands flagged so the competent experts that are going to say yup that's right or move this flag 20 feet or whatever they're going to do, they can go it that day their out there and see the condition and say I see your point we got some kind of leachate coming out there, for the better of the whole.

Rich Williams stated here's the problem with that scenario, they're not DEC regulated wetlands, DEC isn't going to worry about the flagging, they're not going to care, and they're not going to come out flag them.

Andrew Fetherston stated no, I'm saying.

Rich Williams stated we could talk to the people who handled the landfill and get them on board saying yeah you've got to do this and get support from them but I don't think the wetlands people are going to be involved in this.

Andrew Fetherston stated well, no...

Ted Kozlowski stated the only thing Rich is though, that is draining into a state wetland and we could, you know.

Rich Williams stated yeah, agreed but I think we'd be better off getting the people, the DEC people with the landfill...

Ted Kozlowski stated right, well.

Rich Williams stated the other part of this, if we're going to do this, you need the commitment upfront of these two property owners that that's what we're going to do because us going to the Army Corps and saying let's do this is meaningless unless we can you know, you know have a plan of what we're going to do.

Andrew Fetherston stated the [Army] Corps is going to come out only if you say I want to give me, I want a JD, a jurisdictional determination, that is yes I agree with the boundary of wetlands or I don't and you have to adjust it but the JD is a jurisdictional determination saying yup, that's it, you got it and it's on a map. The validated map is what they call it when it's a DEC wetland but irregardless, we're kind of splitting hairs, the JD, the [Army] Corps will only come out as far as my experience if your requesting a JD and they're going to come out and verify it or if you're going for a pre-construction notification, where we're saying hey [Army] Corp, we're going to do something and you have 45 days to come out, I believe it's 45, you have 45 days to come out or otherwise if we don't hear from you, we're self-authorized and we're doing it, that usually gets their attention too.

Board Member McNulty stated do they always show up.

Andrew Fetherston stated no, no but...

Board Member McNulty stated put their feet to the fire.

Andrew Fetherston stated if you can get the wetlands flagged by the parties that are concerned with developing their property and arrange to have the [Army] Corps out and DEC out and that Town at the same time to see.

Rich Williams stated they're flagged.

Mr. Monteleone stated they're flagged already.

Andrew Fetherston stated at least you have a starting point, sorry.

Mr. Monteleone stated they were flagged already, last year.

Mrs. Monteleone stated they're flagged already.

Andrew Fetherston stated yeah I mean if it's already done and it's got a recent or a valid validation map or a JD, then you already have that one done, if you don't have a JD or anything...

Rich Williams stated we don't have a JD but they are flagged.

Andrew Fetherston stated yeah.

Board Member McNulty stated so what's the process to get a JD.

Andrew Fetherston stated it's photos and a report generally submitted to the [Army] Corps, and we say hey, here's what we got, here's our photos, here's what we think about this wetlands in general and I'm over generalizing of course and then we ask them to come out and verify it in the field and in our experience they come out, I'm not talking about...

Rich Williams stated JD is a request for jurisdictional determination.

Board Member McNulty stated we heard that part.

Andrew Fetherston stated having, calling up the DEC and asking them to flag it which sometimes they're reluctant to because they don't have staff, I'm saying come out and just verify it and that way you know, move this flag ten feet, that one five feet, it's an adjustment, you get it on the map, then at least the property owners know exactly what they have, they know exactly where the buffers are, if there are any, you know then you also get to know about endangered species or anything else that might be out there that's of concern from a development standpoint, anything else that would be a constraint so at least you have all that nailed.

Board Member McNulty stated how does Eurostyle flow, does anything we're talking about here effect what's already been done there.

Rich Williams stated a little piece right here I believe, comes this way, everything else comes this way.

Board Member McNulty stated so it's in the general flow of everything else.

Rich Williams stated stormwater pond is right here and then they cross over.

Board Member Taylor stated all right, so what are we saying here, we would entertain a one to one swap which would incorporate basically doing away with, I'm terrible with these names, whatever that, the LC-50 lot...

Rich Williams stated Black Birch.

Board Member McNulty stated Black Birch.

Board Member Taylor stated yes, basically eliminate that lot as a buildable lot and in exchange you get the same amount of, up there but there've got to be some stormwater ponds and whatever is left of the wetlands that we can't move based on this deal with the Army Corps. Is that kind of where we're at and we don't know the answer to the Army Corps thing until we go through this process with the Army Corp but it would, it seems like we're saying if that's in fact what we're saying, that we would consider doing that, that's what makes sense, to do that.

Andrew Fetherston stated the applicant, we're recommending the course, I think you're recommending the course that the applicant should take...

Board Member McNulty stated yes.

Andrew Fetherston stated to determine the build ability nothing that you're doing, you're not submitting for a JD on property you don't own.

Board Member Taylor stated no, no, no, no.

Board Member McNulty stated the applicant would go through this process.

Andrew Fetherston stated exactly.

Board Member Taylor stated yeah, yes, that's all I'm saying, just what the steps are, yeah...

Ted Kozlowski stated it might be helpful if the Planning Board and Planner, we all some sort of findings statement that made bullet point remarks.

Board Member Taylor stated right.

Ted Kozlowski stated why you want to do this, what our concerns are...

Board Member McNulty stated we could write it as we support the applicant's...

Andrew Fetherston stated yeah, yeah.

Ted Kozlowski stated you know, you know that...

Andrew Fetherston stated absolutely.

Ted Kozlowski stated this is happening and that is happening and we ,you know, I think basically from what I'm hearing in general that this is a better outcome long term for the wetlands that a more important that if we were to just walk away and leave that alone, I think over time that dump, that whole area gets worse and I think the water going through there is going to be worse and in the long run, it's going to be a major contributor of pollution to a state wetland so I think it's a very positive move environmentally.

Board Member Taylor stated now can we call on resources to deal with that, at least find out what's coming out of the dump, is...

Rich Williams stated I can search our records, I may have the reports, if not I can...

Ted Kozlowski stated Rich, does DEC do testing on that, that land fill.

Rich Williams stated they did some testing.

Board Member Montesano stated they did, I think they did, a long time ago.

Board Member McNulty stated we should find out if the County has ownership and see them, force them, force their hand to deal with it.

Rich Williams stated we did receive reports on the testing that was done, I can see if I can find them.

Board Member Taylor stated and how long ago was that.

Ted Kozlowski stated because that outflow pipe has come up.

Rich Williams stated '94, '96.

Board Member Taylor stated almost a decade.

Andrew Fetherston stated the only, the other concern is that...

Mr. Monteleone stated early nineties.

Andrew Fetherston stated with landfills, from not my direct experience but from my experience with my environmental guys, who are dealing with these things, landfills can change over time, things settle, water pockets build up in areas where something rots and things change and different stuff comes to the surface.

Ted Kozlowski stated and don't forget that landfill was done at a time when technology wasn't as, is what it now.

Rich Williams stated wait, wait, wait, that landfill was done at a time when they ignored the technology that was in existence, so there is no technology there.

Ted Kozlowski stated Jimmy Hoffa's buried in there.

Board Member Taylor stated is there some way we could get an update on this without the Town having pay for it, that's what I'm asking.

Rich Williams stated on that landfill.

Board Member Taylor stated yeah on the landfill.

Rich Williams stated well we can, I can contact the DEC and see if we can get something.

Board Member Taylor stated because I mean if we're going to make the argument that we want to preserve their wetlands from this stuff, it would be nice to know what this stuff is that's flowing, it's certainly colorful looking.

Board Member McNulty stated it is pretty red, yeah.

Board Member Taylor stated so can we then do that, I like the idea of the findings statement, just these are the points and then the, whoever owns these properties can decide whether they want to go this way or not.

Rich Williams stated before we do this findings statement, do we want to see the application that's going down to the Army Corps, at least the preliminary application if we can attach the findings statement on to that.

Andrew Fetherston stated it wouldn't be a bad idea, I mean similarly to, I come before the Planning Board and I know I need variances the Planning Board knows I need variances, I come to you, you have to deny me and say you know what, we'll send you but we are in favor of this and we want the Board to know that, you give them your opinion and it's helpful to the other board who is looking at it fresh sometimes, so absolutely, same thing.

Chairman Rogan stated right.

Board Member McNulty stated it's like, it's up to the applicant to steer this project and for us to support it or not support it however...

Andrew Fetherston stated just like we were talking about with other projects and workshops and you know, call and we'll help you, we're here to help and that's exactly what this is.

Board Member Montesano stated we need a big tug boat to (inaudible) ship.

Ted Kozlowski stated and I don't mean to harp on it but I think coming from a health and safety standpoint would be is something warrant going north...

Andrew Fetherston stated yeah, I agree.

Board Member McNulty stated you know, is it a landfill.

Ted Kozlowski stated whose running that landfill.

Board Member Montesano stated right, we've got all these suggestions and I appreciate them very much but right we're sitting here and we're stirring the pot, with all the vegetables we can't pick out the apples from the oranges so to speak...

Ted Kozlowski stated apples are not vegetables.

Board Member Montesano stated all right, we'll get into your fruit in a minute. What I am trying to find out is we have all these great ideas, can we come up with something in writing so that we could say yeah this is what we'd like to do.

Chairman Rogan stated and that is what I think the gentleman we're talking about knows is going to call on all of our wonderful technical staff to put their brains together and come up with their suggestions based on what we talked about tonight because a lot of great ideas were discussed.

Andrew Fetherston stated I would suggest that the people who are interested in the development of those lots, take notes and if they choose to, act on these things, you know that's really just where it's at...

Chairman Rogan stated well you meant in terms of the, the, you said the written information to go along with the Army Corps from the Town.

Andrew Fetherston stated right, right.

Chairman Rogan stated in essence a findings statement or an intent statement.

Andrew Fetherston stated well yeah, if there are some records that you have or can be drawn, you know.

Rich Williams stated we're going to call into DEC, we're going to see what's in there.

Andrew Fetherston stated sure.

Rich Williams stated we're going to, you know if we're going to write them a letter, we're going to talk about our opinion of the wetlands, our opinion of the economic benefit of doing this, how we can enhance the wetlands and what the potential health, safety, and environmental issues are that this would mitigate.

Chairman Rogan stated I mean look at the subdivision map as it exists today, you have one lot in there that we're working on that's close to fruition, the M&S site, every other lot in there that's vacant based on the current regulations is, you might as well say is not usable, you have basically about 50% of this subdivision, which I'll be it we didn't create the dump but that isn't usable under the current regulations and you know if we can create some areas that would make two of the lots very usable, that might offset the balance of things.

Andrew Fetherston stated hey Richie, topographically, those two lots that we're speaking about, those the wetlands are quite a bit lower than the road, yes.

Rich Williams stated yes.

Chairman Rogan stated yeah.

Mr. Monteleone stated no, the Liotta lot, they on the road, the Liotta lot you can drain it right into the road, the Stone Hill lot is low.

Andrew Fetherston stated because I'm just, you know I'm just thinking, if you get like Steve Parisio of DEC...

Mr. Monteleone stated this is the Liotta lot.

Andrew Fetherston stated the landfill guy involved, you know, you're opening up a can of worms there and I don't know, you're going to...

Rich Williams stated how so.

Andrew Fetherston stated I mean, I, well is the thought that we're going to drain, we're going to drain these lots to the road and provide more hydrology to where you want, right, is that what you're talking about. So then this no longer gets water, so that would get plugged or capped or something, filled solid...

Mr. Monteleone stated filled solid right from here over, in other words...

Rich Williams stated DEC wants that as part of their closure plan for that, they want that pipe plugged.

Andrew Fetherston stated okay.

Mr. Monteleone stated what happens is the water is semi-clean here, when it comes out on the other side you put nose there, you could faint.

Ted Kozlowski stated can you divert...

Andrew Fetherston stated okay, yeah.

Rich Williams stated its hydrogen sulfide.

Ted Kozlowski stated can you...

Andrew Fetherston stated where's it going, where is it going to go then, afterwards.

Mr. Monteleone stated well afterwards...

Rich Williams stated if you plug it.

Andrew Fetherston stated yeah.

Rich Williams stated well that's the problem right now, where is it going to go...

Mr. Monteleone stated you raise the grade there.

Andrew Fetherston stated yeah, just wondering, what's the can of worms that we're opening plugging that, we're not...

Ted Kozlowski stated you're not getting the hydrology for the other wetland you're saying.

Andrew Fetherston stated well that too, that too.

Ted Kozlowski stated I mean can you divert the runoff from the hillside there around that landfill, so...

Andrew Fetherston stated I don't know.

Chairman Rogan stated it is already. Remember when we walked that, that dump section is such a fill section that, remember how steep it drops off.

Mr. Monteleone stated right here, it drops off 30 feet.

Chairman Rogan stated but also, even the high side I think this comes down but then you go back up gradient to the fill, I'm sorry guys, to the fill section, that's quite a hump.

Ted Kozlowski stated it might be worth a look to see if you can get around it you know, from some other way if that's argument that's presented.

Andrew Fetherston stated you don't know that can be touched by who owns it and everything, I mean if it can be blocked on this property that you do have control of, you know.

Ted Kozlowski stated Rich do you know if...

Rich Williams stated the pipe is actually, the pipe is actually here, off of this property.

Mr. Monteleone stated yeah but it's here.

Ted Kozlowski stated Rich, do you know if LC-15, is that LC-15.

Rich Williams stated yeah.

Ted Kozlowski stated is that draining towards LC-50.

Rich Williams stated no.

Ted Kozlowski stated do you know.

Chairman Rogan stated no.

Ted Kozlowski stated it's going in another direction.

Rich Williams stated no, this was a huge wetland system that went down like this...

Ted Kozlowski stated so it's...

Rich Williams stated and then when they did [Interstate] 84, they filled it in.

Board Member Montesano stated that was stupid.

Mr. Monteleone stated I think that might go someplace like this and go back but I'm not sure.

Rich Williams stated it might.

Mr. Monteleone stated because it doesn't go any other way.

Rich Williams stated well, you know we're real close, I'm not sure it doesn't go all the way down to...

Ted Kozlowski stated Andrew I just don't know if that is a major contributor to that.

Rich Williams stated you know where, down Fair Street.

Ted Kozlowski stated that's a legitimate question.

Mr. Monteleone stated in here we have a lot of water coming down, right here, I mean all this water that comes down here has to come from some place and I have a feeling it goes across from [Interstate] 84, I think makes the circle somehow.

Rich Williams stated you're getting a heck of a lot water from the Patterson Crossing site into there. Patterson Crossing up here...

Mr. Monteleone stated right.

Rich Williams stated drains down like this.

Mr. Monteleone stated into there. I think this here, if you go across, if you take that road (inaudible) street going to Carmel, there is no bridges there, I really don't know where would it go.

Rich Williams stated it goes to a big pond I'm trying to think, Windsor Oaks, trying to think of that, Highview Drive...

Ted Kozlowski stated yeah.

Board Member Montesano stated yeah.

Rich Williams stated it goes down to a big pond at Highview Drive, possibly.

Board Member Montesano stated and then it drains off, it drains going down Fair Street on the side because I remember we had a problem when that development went in off of Highview [Drive]and...

Rich Williams stated well it goes down to Pond View, it blew at the dam on Pond View at one point...

Board Member Montesano stated right.

Rich Williams stated it goes down a little bit farther past down that, to property right at the intersection of Fair Street and Fields Corners that we are being sued by the property owner, because we let too much water go.

Board Member Taylor stated okay.

Mr. Monteleone stated I mean, I want to ask a recommendation on my part, is if I can take this here is a hillside, if I can take this and run it off and cut this like this and fill this, make a pond right here and then I have an overflow of it coming back this way it would stop everything from going this way and you're talking about saving 5 acres from runoff, instead of going through this and coming out on this side, rather filled it in and let it go back to this wetlands over here. I think that would be a plus.

Andrew Fetherston stated yeah Pete, if you had done what you just said in preparation for a visit with the, even in the field with the [Army] Corps and then hand off these things for them to review, you'd be making a, you know, do everything one time, get it consolidated, here's what's here and here's what I want to do and here's how this flows, here's how this flows, what's going to get affected by this, this will get more water, this will get less.

Chairman Rogan stated isn't this the kind of stuff that engineers like yourself, your firm do for people...

Andrew Fetherston stated yes.

Chairman Rogan stated you were saying as...

Andrew Fetherston stated due diligence studies, yeah absolutely.

Chairman Rogan stated normal due diligence, so maybe...

Andrew Fetherston stated well in conjunction with somebody you know with a...

Chairman Rogan stated right, right.

Andrew Fetherston stated wetland ecologist for sure you know...

Chairman Rogan stated right.

Mr. Monteleone stated what happens this is not an engineer, it's like a more, in this case it's more of a common sense situation on top of engineering.

Andrew Fetherston stated engineering and a wetland ecologist.

Mr. Monteleone stated engineer, right you know...

Ted Kozlowski stated you need the science to go behind this.

Mr. Monteleone stated right, you need a combination of both, it's not just paper and pencil...

Chairman Rogan stated because you want them at the end of that day to yes we agree with you, instead of asking a whole lot more questions.

Mr. Monteleone stated yes, right.

Ted Kozlowski stated hydrologically that wetland feeds the state wetland but it's not regulated by the state, they never declared it when they did the flagging.

Mr. Monteleone stated took over there.

Ted Kozlowski stated yeah.

Mr. Monteleone stated right.

Chairman Rogan stated right.

Ted Kozlowski stated so they really don't have a say in that wetland from a wetlands point...

Board Member Taylor stated its back in your court, we're kind of saying we're willing to consider a trade as a global thing because of all these different issues but you can see the problems...

Mr. Monteleone stated yes.

Board Member Taylor stated the [Army] Corps's got to be involved and so on and so on, you've got to decide whether economically it makes sense for you to do this globally or you're going to continue to pursue these as individual lots with the extreme limitations, you can see the pink lot, that's your buildable area.

Mr. Monteleone stated very little

Board Member Taylor stated very little and that's what you've got to decide and...

Mr. Monteleone stated what I would like to propose, if it's a sure situation is once I sell this, I would like to see if I can approach these people here that own this lot and unless they have telephone numbers in their heads, I could turn around and say listen, you have a lot here, my lot is almost not good at all, yours is definitely no good at all. I'll give you some money, buy your lot and that case, I wouldn't go buy another lot but I did ask about this one and you guys weren't against it, you, so I bought this lot for \$350,000, they were asking for \$650,000, I bought it for \$350,000 and now I'm told that I really can't do much there either, to make a long story short, let's leave that aside. I wouldn't mind stepping out again, you know get my foot in the trap but I would need some consent from everybody to say okay, I buy this lot here and do this lot and this lot would make a nice wetlands in here maybe you have a little bit of something built over here, get rid of this wetlands, make a pond here, a little pond, a little water treatment area here, stop the leachate from going into here, give me something to build here, something to build here, maybe some little here if I buy this or give this up all together, you know...

Board Member Taylor stated exactly, exactly...

Mr. Monteleone stated I mean I'm...

Board Member Taylor stated we can't give you consent without an application.

Mr. Monteleone stated without an application but I don't want to go buy another lot and be in the same spot I am today with nothing.

Board Member Taylor stated right.

Andrew Fetherston stated I think if you had the delineations done and you had some conversation with that other owner and you did, you know, you propose to us, us meaning you know, certainly Richie and Ted...

Mr. Monteleone stated the whole Board, everybody together, Ted, Rich, you, I don't want nobody to be hide anything...

Andrew Fetherston stated and you know, even having the [Army] Corps...

Rich Williams stated everybody in the room.

Ted Kozlowski stated yeah, just remember, just please everybody remember that the Army Corps has the final say in this.

Board Member Taylor stated yes.

Ted Kozlowski stated we could all be on the same page and all want to do the wonderful thing here, if Army Corps says no, it's no.

Board Member McNulty stated Pete when you develop this assessment of what you would like to do, even without the purchase of that lot...

Mr. Monteleone stated that's what I'd like to do.

Board Member McNulty stated you'll have to figure that into your assessment and...

Mr. Monteleone stated well I incorporate it into this one and say okay this is part of this...

Board Member McNulty stated and then before you bought it, you could see what the Army Corps said...

Mr. Monteleone stated right.

Board Member McNulty stated and then it would be up to whatever deal you can make.

Mr. Monteleone stated that's what I'd like to do, I'd like to move forward that way...

Board Member Taylor stated get an option on the lot, instead of buying the lot...

Mr. Monteleone stated yeah, no, right I wouldn't buy another one without, I already own too many, believe me....

Board Member Taylor stated yeah, yeah, then yes, okay, then we understand each other.

Mr. Monteleone stated I wish I owned none of them.

Board Member Taylor stated yes, yes.

Chairman Rogan stated I agree with what you were saying, as part of this whole conceptual plan, I would propose a little bit of an impact in this area pushing because this is the hundred foot buffer, if you push back and even propose some impacts to this area because you are mitigating in other areas, you, like you said, there is still a fairly sizeable, especially looking at what's used on some of these other lots, you might very well create an delineated area that allows some use of that.

Mr. Monteleone stated I really would like to have a little office building there for somebody because it would make the place look better...

Chairman Rogan stated sure.

Mr. Monteleone stated instead of a construction yard.

Ted Kozlowski stated the only thing is that may...

Chairman Rogan stated what people were saying...

Ted Kozlowski stated that may have to go to Army Corps, if they want two to one or something...

Chairman Rogan stated no, I think this should all be done as one whole.

Mr. Monteleone stated as one.

Ted Kozlowski stated they might want the whole chunk, that's a possibility.

Chairman Rogan stated yup and, but always ask, start up front with what you want but be able to show you're going to mitigate it, I think that is the common theme is, I would show what you want to do on this, this, and this all in one ball and then show the mitigation as less water into this area, improvements in these areas that you would have ability over, maybe not here, these people may not care about it, they might say hey if you want to improve the wetlands back there and the Town is okay with, fantastic.

Ted Kozlowski stated Shawn, just remember that if you're dedicating wetland that's already wetland...

Chairman Rogan stated right.

Ted Kozlowski stated that doesn't count in the equation.

Chairman Rogan stated what about improvements though to functionality, doesn't even the Army Corps say this is a low functioning.

Ted Kozlowski stated I believe it's got to be new wetland.

Chairman Rogan stated new wetland.

Rich Williams stated yeah, I don't have a lot of experience with the Army Corps, I'll say that right up front.

Chairman Rogan stated yeah.

Rich Williams stated but what I have seen is they're not worried so much about the functions, they want a one to one in area.

Ted Kozlowski stated right.

Chairman Rogan stated but it doesn't have to be on property that Mr. Monteleone owns, correct.

Rich Williams stated no, it does not.

Chairman Rogan stated so there's the potential say for Town or for property that may be owned by Town, State, someone that we might say hey, you know in this area we could use improvements for stormwater or wetland, that might improve the phosphorus loading or the, you know, water supply or something.

Rich Williams stated the MS4 Program.

Chairman Rogan stated yeah, so there is still potential within our community for improvements.

Ted Kozlowski stated but Shawn again Army Corps is a little different.

Chairman Rogan stated oh okay.

Ted Kozlowski stated okay, they're not, they're not looking at New York State stormwater...

Rich Williams stated they could care less.

Chairman Rogan stated they're looking at ecology...

Ted Kozlowski stated they are looking at Federal wetland jurisdiction.

Chairman Rogan stated okay.

Andrew Fetherston stated that's true.

Ted Kozlowski stated and they're not, they're going to look at a piece of property that they know can't developed because it's wetland, that's not going to count, that's not going to count.

Andrew Fetherston stated I, I don't disagree, I just want to say, we didn't even talk about DEP yet but you bring up another point, look to get this done, you need two things, I think, you need consultants that are experienced with multiple agencies in doing exactly this and I suggest that whoever is the owner whose having this done, looks for those references and makes sure they get the right guy to do the job or multiple consultants but if you can get a buy-in after you got that plan prepared from DEP, DEC, Town Board, you know Planning Board you know that this is really the best way to attack this.

Rich Williams stated I just want to caution everybody...

Andrew Fetherston stated it's going to carry some weight.

Rich Williams stated these are, most of these are not DEP regulated wetlands so if you try to bring DEP...

Chairman Rogan stated right, right, right...

Rich Williams stated into the process...

Chairman Rogan stated can of worms...

Andrew Fetherston stated DEP is going to have jurisdiction over the stormwater review also, you know, yeah.

Rich Williams stated stormwater but that's after the wetlands are gone.

Andrew Fetherston stated yeah.

Mr. Monteleone stated that's only for the pond.

Board Member McNulty stated let's leave them out of the picture as long as you can.

Mr. Monteleone stated right.

Board Member Taylor stated okay just one, I think one problem I still see, in trying to put a building on White Birch, is that it...

Mr. Monteleone stated White Birch is up here, Stone Hill...

Board Member Taylor stated the other, the other one down, no, no...

Board Member McNulty stated Stone Hill.

Board Member Taylor stated down, LC-15.

Rich Williams stated Black Birch.

Board Member McNulty stated Black Birch, Black Birch.

Board Member Taylor stated keep that one, trying to put a building there, I don't think will work because we are talking about a one to one trade...

Chairman Rogan stated you're right, with that you're right.

Board Member Taylor stated if there is a building over there.

Chairman Rogan stated yeah.

Ted Kozlowski stated that's what I just said.

Board Member Taylor stated oh okay.

Chairman Rogan stated and that's what, and you're right, I wasn't thinking about the one for one as much as the improvements to the existing wetlands.

Board Member Taylor stated right, right.

Board Member McNulty stated but you can ask for the package and then be ready to give back, I mean ask for everything you can and be prepared to make your adjustments.

Ted Kozlowski stated the improvements to the wetlands is something that DEC will like because you're improving their wetland over there, but Army Corps is not...

Board Member Taylor stated but Tom, the reason I'm bringing it up is he's got to weigh whether it's profitable for him to do this, I think in weighing that he's got to realize he cannot use that property to build on.

Board Member McNulty stated possibly.

Chairman Rogan stated possibly.

Board Member Taylor stated you've got to take it out of the equation in terms of you calculating whether, you can come to us and say you want to do this but we're probably going to say you can't, you have to trade one to one, there is no other place to put the one to one, so that is all I'm trying say, I want to make it as clear as possible.

Mr. Monteleone stated no, I understand, yeah.

Board Member Taylor stated where we're going with this.

Mr. Monteleone stated but if I get enough here to do the, to oversee this, then it is okay but if not I don't really know where I am, I'm in limbo anyway.

Board Member McNulty stated but if he has the option of the other lot, he may have room and still...

Board Member Taylor stated no, no, no, no, no look at where the red line is on the other lot, there is no usable land on the other lot, right.

Mr. Monteleone stated this one.

Mrs. Monteleone stated no, no, Ron is saying is if (inaudible).

Board Member McNulty stated no, no, no, I'm saying that lot, if he was able to purchase that.

Board Member Taylor stated but there is no usable land there right, is there.

Rich Williams stated very little, there is very little.

Board Member McNulty stated oh, I gotcha, I gotcha.

Board Member Taylor stated because of the buffer.

Mr. Monteleone stated but what I don't understand is how can we tell this, you as the Town or as anybody, how can anybody tell this guy you can do nothing with the lot and he's been paying taxes for 20 years.

Chairman Rogan stated they should have done something with it before the laws changed.

Mr. Monteleone stated before they bought it.

Chairman Rogan stated it's like anything else...

Board Member McNulty stated it's very easy, just, you know...

Chairman Rogan stated I mean there's residential lots where we've told people no, it's just so far gone.

Mr. Monteleone stated no, I'm just curious, I don't own this so I'm not saying.

Chairman Rogan stated yeah.

Board Member Taylor stated yeah but that's, laws change, that's what happens.

Mrs. Monteleone stated what if, not that we would personally do it, if that property owner turned around and donated the land to the Town, they would get a write off as a donation because I'm sure that...

Mr. Monteleone stated but the Town don't want it.

Chairman Rogan stated the Town wouldn't want it but...

Rich Williams stated we might.

Mrs. Monteleone stated but what if there was that, part of the whole package to do something with the wetlands.

Board Member Taylor stated would the Town want it in that case Rich.

Mrs. Monteleone stated they make a park or something there.

Rich Williams stated we would, well we would consider it. We've got a big stormwater program that's...

Chairman Rogan stated yeah.

Rich Williams stated you know we're always looking for property we can do something on, if we can do something like I outlined at the beginning where we can put some stormwater wetlands, treat the road, you know it would give us both the environmental plus the MS4 benefits on this, there might be some value there.

Board Member Taylor stated all right.

Chairman Rogan stated so Rich does and Ted, does the Town...

Board Member McNulty stated but that's up for the applicant to approach and get the deal motivated.

Board Member Taylor stated yeah, sure, yeah.

Board Member McNulty stated you would push that.

Chairman Rogan stated have any experience with offsite, with mitigations for wetland impacts on other projects that have occurred offsite. In other words, we're impacting here but we're going to improve something I mean it happens in other areas, I've...

Inaudible – all speaking at one time.

Ted Kozlowski stated didn't we look at that years ago, we tried to do that with some...

Rich Williams stated it's kind of hard doing offsite mitigation in a Town that owns the second largest wetlands in New York State, it's not like we have some place we want you to put wetlands, you know.

Chairman Rogan stated yeah, except now with the MS4 program, you've got to create, maybe not wetlands but these treatment areas.

Ted Kozlowski stated and you're dealing with other property owners.

Rich Williams stated yeah.

Chairman Rogan stated you know, so and a treatment as you said Ted, just so I'm clear, a treatment area like if you said, hey you know we have this vacant parcel that was through tax foreclosure was donated to, or the Town or County acquired and it would be a great spot to be able to treat the stormwater from Front Street, whatever, that doesn't account if Mr. Monteleone proposed mitigation there that doesn't account for that one for one because you're not creating wetland, you're creating stormwater.

Ted Kozlowski stated well if you make the argument that it is a functional wetland, this is a discussion we've had many times.

Chairman Rogan stated yeah.

Rich Williams stated there are stormwater ponds; there are stormwater wetlands that do that same thing...

Ted Kozlowski stated right.

Rich Williams stated they are more land intensive but they actually to some degree get a better phosphorus removal because of the longer flow path it takes longer to hydrate.

Ted Kozlowski stated don't forget a wetland treats stormwater whether you create it or not, that's one of its functions, so you...

Board Member Montesano stated what is that big pit out there, create and treat.

Ted Kozlowski stated you know the Great Swamp...

Chairman Rogan stated oh yeah.

Ted Kozlowski stated treats a lot of stormwater.

Chairman Rogan stated okay.

Rich Williams stated having said all that, it releases phosphorus as well.

Chairman Rogan stated okay, all right, I mean I think that the potential here, if it all can be done is significant for development on this property, everybody has recognized that this is a commercial subdivision. I think we need to, you want to move on to M&S and talk about that quick and then we'll switch over, switch gears to Poppy's Place.

Rich Williams stated I don't know if you've had a chance to look at it, I haven't had the chance to look at anything.

Andrew Fetherston stated we gave it a glaze through today, I left it out in my car, I got to grab my notes, if I could do that...

Mrs. Monteleone stated we have the copies.

Board Member Taylor stated do you want to borrow one of these copies.

Andrew Fetherston stated no, no, no, I've got my marks and notes on there.

Chairman Rogan stated you can run out, we'll do Poppy's Place while on there.

Board Member Taylor stated cliff's notes.

Andrew Fetherston stated good, okay.

Board Member Montesano stated all right.

#### **4) OSBORNE/COOK – Patterson Garden Center Site Plan**

Mrs. Rosemary Osborne and Mr. Edward Cook were present.

Chairman Rogan stated these nice folks have been patient enough, you heard about all kinds of wetlands issues which is one of the concerns that we had with Poppy's Place previously and I know you've been talking to Rich.

Mrs. Osborne stated yes.

Chairman Rogan stated and Rich you want to take us through a little bit about what they are proposing.

Rich Williams stated I'm moving here just so I can get in the middle of everything.

Chairman Rogan stated just so you know we lock that door so you can't escape.

Rich Williams stated so you know the background on this, the history on this is John Bellucci originally came in...

Mrs. Osborne stated Joe.

Rich Williams stated Joe Bellucci, okay, thank you, Joe Bellucci originally came in, he wanted to start a nursery there, he did, he got site plan approval, he ran it successfully for a number of years expanded, expanded, a new property owner, took the property over, wanted to expand it even further, he did so generally without getting site plan approval, we brought him in, trying to clean the site up, trying to get it back into compliance with our requirements that you have a site plan to show the overall area. Finally got him through the process with a conditional approval, he had to go out and make some improvements out there, such as putting in mafia blocks where he wanted to store material, moving some things around and he was making these improvements, we got to the end of the construction season in the fall, it was our impression he was stopping, that's what we were led to believe, when we went back out in the spring, we had found that he had done all sorts of things that were not shown on the site plan and pushed a little bit

into the wetlands, at that point we and that was, jeez about four or five years ago, we asked him to come back in to the Planning Board and get back into compliance and we left it off with we weren't sure where the boundaries of the disturbances were, so we were requesting an as-built. The as-built never got done, never got submitted, there was no further action taken on the site for a number of years, recently it was discovered that there was an oil leak on the site, that kind of brought everything back to the forefront. We contracted Mrs. Osborne, we explained the situation, we've been working with her and she's been very gracious about working with us trying to get this site cleaned up. At this point she has somebody who wishes to run a nursery operation again at the site, the problem is the site plan never got followed through, it kind of lapsed, there is no site plan for the site at this point, so it was my recommendation to everybody that you know we take the old site plan, we get a new application in and we walk it through the process, get the site cleaned up and you know, allow the nursery to open up. Process would be that you would need to accept that application, schedule a public hearing and make a determination, we can check with Mike Liguori, our Town Attorney to confirm this, there is no difference in, between this application and the previous application, so my opinion is SEQRA's already been completed on the environmental impact that might occur, so we can skip that step.

Chairman Rogan stated okay.

Rich Williams stated and that's where we are.

Board Member McNulty stated this '05 plan, this is the plan that was originally never followed through on.

Rich Williams stated correct.

Chairman Rogan stated right.

Board Member McNulty stated is it accurate now.

Rich Williams stated it is fairly accurate, there are some things that need to be cleaned up, pulled out to get it to where we need it, that would be one of the conditions of course if you decided to you know, consider an approval. Now along with all this you know, we're fast approaching the spring season for nurseries, I know the nursery is anxious to get on this site and I know Mrs. Osborne is looking to get then on site as well. So I think there needs to be some sort acknowledgement that you know, we're going to allow the nursery to proceed on the site, as long as clean up continues at a reasonable pace and does so, he acknowledges that he does so at his own risk, you know, pending this all getting resolved.

Chairman Rogan stated we would need the...

Ted Kozlowski stated can I just ask a question before you go any further, please.

Chairman Rogan stated yeah.

Ted Kozlowski stated Rosemary, DEC has been out to the site, have they given you any further information, instructions, do you have to do anymore remediation out there.

Mrs. Osborne stated no, we finished.

Ted Kozlowski stated that's all cleaned up now and they are no longer involved.

Mrs. Osborne stated no.

Ted Kozlowski stated okay and the other, the only, I'm all for a green nursery, it's a great idea, the only thing is, let's make sure that the new person doesn't turn this into a contractors yard like the past person did and cause you problems and caused us a lot of problems. So if it's green that's fine but if it's going to be trucks and oil tanks and all that, I think that's an issue.

Mrs. Osborne stated agreed, the guy in the nursery still wants to do, the gentleman for the nursery would still want to do you know, like the areas for the mulch and top soil and you know that, where the mafia blocks were.

Board Member Taylor stated that's on the plan right.

Rich Williams stated it is on the plan.

Mrs. Osborne stated yes.

Board Member McNulty stated is it.

Chairman Rogan stated yeah.

Mrs. Osborne stated well I just wanted to make sure...

Ted Kozlowski stated right.

Mrs. Osborne stated trucks would have to bring that in and he said that he would have a fork lift, a small dump truck on the property...

Ted Kozlowski stated right it just, this, I would be.

Mrs. Osborne stated not the tractor trailer trucks.

Ted Kozlowski stated I would be sensitive to having what was there before.

Mrs. Osborne stated right absolutely...

Chairman Rogan stated Rich; procedurally we would get a revised site plan showing the existing, the things that are not as the plan is approved but how they would want to do things.

Rich Williams stated I think the easiest way to deal with this and wrap it up and the lease expensive so we can get it done, is just to go with the plan that we originally approved and then you know, from my end of it, administratively we'll make sure that she's in compliance with that plan.

Board Member McNulty stated when you say originally approved, was this an approved site plan.

Rich Williams stated it received a conditional approval...

Board Member McNulty stated conditional approval.

Rich Williams stated the conditions being that they had to do the improvements, they didn't want to bond them, and they want to do the improvements without putting the bond up so they had to complete the improvements as shown on the site plan.

Board Member McNulty stated for final approval.

Rich Williams stated so the Board could sign off, they never got to that.

Chairman Rogan stated so procedurally we could re, we could get an application and re-issue a conditional approval on this, have a public hearing on it, issue a conditional approval have that approval, conditional approval be fairly tight in terms of completing the improvements and that would still allow them the same use of the site and keep them on a time crunch...

Rich Williams stated correct.

Chairman Rogan stated so that we're not into this time next year and we're spinning our wheels.

Rich Williams stated and if the Board may recall, I did issue a memo and I can get you a copy of it that essentially lays out what needed to be cleaned up at the site to get this back to where it was supposed to be and I have met with the applicant and reviewed that memo with them.

Mrs. Osborne stated yes.

Board Member Taylor stated my only issue with this, I think this is a good idea, is that we're in the position again of saying to someone please do what you promised to do without having any real enforcement of that.

Rich Williams stated well we do have enforcement we just actually have to do it first and second the original applicant was Martin Parenti, he was the one that came in, got the site, well he finished up the site plan process, he wasn't the original, he is now out of the picture all together and we are dealing directly with the property owner. So, we're dealing with different parties...

Board Member Taylor stated I understand that but just not, not anything with you...

Mrs. Osborne stated no offence, no offence.

Board Member Taylor stated it's just we have this all the time with people who say we'll do this, there is no bond in place even in this case, people who promise to do their things and then they don't do it, we're in a hurry because it's spring, we're in a hurry because it's fall and ski season's coming up, we're in a hurry because we need to open our restaurant and then the things never get done, that's all I'm saying.

Mrs. Osborne stated okay, may I just say that...

Board Member Taylor stated yes, please.

Mrs. Osborne stated I don't know if you're familiar with the property but I could bring you in photos of what we were left with and what it looks like now and its 500% improved and working with Rich we intend to continue, so...

Ted Kozlowski stated and she's, I've been there too and there's been great improvement on the site.

Rich Williams stated and Ron, all that it really comes back to us in enforcing it.

Board Member Taylor stated I know but we've talked about the problems with enforcing things.

Chairman Rogan stated if this approval was done a month from today, just for case in point, even, whether it's possible procedurally or not, what would be a reasonable time frame to get the improvements done so that the conditional [approval] would become a final [approval].

Rich Williams stated there's not really that much that needs to be done, I probably would recommend giving them until June, you know because there's also some work that needs to be done to get the applicant in and you know, signing off in June.

Mrs. Osborne stated right.

Chairman Rogan stated yeah, okay.

Board Member McNulty stated is that your January memo that you wrote, this past January.

Rich Williams stated I believe so, yeah.

Board Member McNulty stated okay.

Chairman Rogan stated yeah, okay and Ron, I'm in the same boat as you, I'm equally frustrated with the way, and again nothing to do with you specifically with applications that we seem like we're always up against the, you know, you don't want to stop people from operating, it's a bad economy, you want people to be able to do what they want to do but you want to finish these things so they don't turn into the problems that we've had in the past and I'll put the onus back on the people who are willing to vouch for the process and Rich and say you know let's, if you say it can be done, let's get it done and we'll you know, I'm great with it.

Rich Williams stated with Nick with the Building Department now, we've got somebody perceptive to working on these issues with us, you know so I think that's going to help quite a bit.

Chairman Rogan stated I also believe we have people in our justice that have been through the Planning process enough that if we have to send somebody through that route, it will get compliance.

Rich Williams stated that...

Board Member Taylor stated can this cleanup be speeded up, I mean we're talking about a public hearing, we're talking about a month away at least before approval, can you get most of this done in a month.

Mr. Cook stated yes.

Chairman Rogan stated good.

Board Member Taylor stated then there's no issue.

Chairman Rogan stated the conditions become much less and it becomes a, yeah awesome.

Rich Williams stated they're not going to get, yes he can, I'm sure he can if he says he can but there are going to be things he can't really do...

Board Member Taylor stated yes.

Rich Williams stated that are going to be the responsibility of the person moving on to the lot.

Chairman Rogan stated sure.

Board Member Taylor stated right, right but the list will be much smaller.

Rich Williams stated yes.

Board Member Taylor stated all right then I think that's, that would help.

Board Member McNulty stated yup.

Chairman Rogan stated so we need a, we don't have an application yet or we do.

Rich Williams stated yes you do.

Chairman Rogan stated we do, so can we based on the application and based on the fact that we're going to be talking about this next week, can we tentatively make a motion for a public hearing for the next...

Board Member Taylor stated yeah.

Chairman Rogan stated everybody okay with that.

Rich Williams stated for when.

Board Member Montesano stated for when.

Chairman Rogan stated for next month, for next meeting...

Rich Williams stated yes.

Chairman Rogan stated this way it will be a wrap up next meeting, assuming everything goes the way it, you know.

Ted Kozlowski stated Rosemary this client...

Board Member Taylor stated yeah, fine by me.

Ted Kozlowski stated that's come in, is this person experienced in the nursery business.

Mrs. Osborne stated what we're, we're very gun shy so we are reviewing him more because we want to make sure when we do this it's going to be one time and not experience what we did.

Ted Kozlowski stated so you mean comfortable that he knows what he's doing.

Mrs. Osborne stated I feel very comfortable with him and he knows what he's doing, have we given him a definite approval, not yet.

Ted Kozlowski stated is he a nursery that's moving from another place to here or...

Mrs. Osborne stated ah yes, he has a tree farm, a tree farm...

Mr. Cook stated tree farm.

Mrs. Osborne stated down in Somers.

Ted Kozlowski stated I'm curious, where in Somers.

Mrs. Osborne stated I have never been there.

Chairman Rogan stated that might be a good idea, get a sense of how he operates down there, you'll know how he's going to operate in this place.

Ted Kozlowski stated I work in Somers and I know the area, I don't know of any tree farms there but...

Mrs. Osborne stated in Somers, in Somers you cannot sell from the farm, you have to take your produce out.

Unknown Speaker stated Lasdon...

Ted Kozlowski stated what's his name Rosemary.

Mrs. Osborne stated George...

Mr. Cook stated but either way we'll have it done.

Mrs. Osborne stated we're going to get somebody substantial in there.

Mr. Cook stated you know in a timely fashion we're going to get right on it, we don't want it the way it's been left and it's not really a problem. We've been through a lot of mess and a lot money but it's got to be done.

Board Taylor stated all right, let's go ahead. What do we need, a motion for...

Chairman Rogan stated Tommy was just looking at that.

Board Member Taylor stated I thought were going to take that out and hand it to the rookie.

Board Member McNulty stated I'm still the rookie.

Board Member Montesano stated he's already got one but I told him he's got to train him.

Board Member McNulty stated I move that the Planning Board hold a public hearing on the application of Rosemary Osborne/Edward Cook, is that right up name on the date March 1<sup>st</sup> is it, no...

The Secretary stated April 5<sup>th</sup>.

Board Member McNulty stated April 5, 2012 at 7 p.m. or as soon thereafter as may be heard by the Patterson Town Hall.

Chairman Rogan stated I think that might have been the very best motion for a public hearing I've ever heard in ten years.

Board Member Taylor seconded the motion.

Chairman Rogan asks for all in favor:

Board Member Brady	-	aye
Board Member Taylor	-	aye
Board Member Montesano	-	aye
Board Member McNulty	-	aye
Chairman Rogan	-	aye

The motion carried by a vote of 5 to 0.

Ted Kozlowski stated you've come a long way Tom.

Chairman Rogan stated I know it was very nice.

Board Member McNulty stated it's easy when it's written down.

Board Member Montesano stated he listened to Charlie very well.

Chairman Rogan stated very nice, you're filling that seat wonderfully.

Rich Williams stated we'll be in contact, you have to mail out some notices.

Mrs. Osborne stated yes.

Chairman Rogan stated okay.

Mrs. Osborne stated thank you all very much.

Chairman Rogan stated thank you very much.

Mrs. Osborne stated thank you Rich.

Chairman Rogan stated looking forward to have someone else in there.

Board Member McNulty stated good luck.

Chairman Rogan stated okay, we're jumping around a bit but I think it's worthwhile to get things...

Board Member Taylor stated it will be wonderful, won't it.

Board Member Brady stated yes, that is ideal.

Board Member McNulty stated yeah.

### 3) M&S IRON WORKS SITE PLAN – SEQRA

Chairman Rogan stated okay back to M&S and you, Andy.

Board Member Montesano stated in that Chevrolet or...

Andrew Fetherston stated we went through it cursory; I'm plenty loud enough for these...

Ted Kozlowski stated you sure.

Andrew Fetherston stated I guarantee you, I'm booming guy.

The Secretary stated don't get carried away.

Ted Kozlowski stated it must be those shoes.

Andrew Fetherston stated it's the shoes that do it. We took a cursory look at it and 90, 95% of the things we marked this done on the list, so it was a good submittal, it really was, we didn't get the stormwater report, had I, did they send it to DEC, no...

Rich Williams stated DEP possibly.

Mrs. Monteleone stated yeah, that's been out for a while.

Andrew Fetherston stated okay, all right because we didn't get it but that's fine, that's fine.

Mrs. Monteleone stated wasn't that the three sets.

Rich Williams stated previously.

Mrs. Monteleone stated previously.

Rich Williams stated previously but I think he, he hasn't revised that but he's revised the plans and resubmitted the plans.

Andrew Fetherston stated that's right, yeah, I brought last months, the prior submittal and this submittal and we had, we noticed minor things that you know I would say to the Board or cleanup items for a final, that's what I would suggest and Richie and I spoke on it briefly but I think it's a good submittal yeah, absolutely.

Chairman Rogan stated that's good news.

Andrew Fetherston stated yeah, sure.

Chairman Rogan stated I like that.

Board Member Taylor stated do we want to target SEQRA for a week.

Rich Williams stated yes between now and the next meeting I'm going to do the Part II EAF as requested and get it out to the Board so you can take a look at that and we'll review that at the next meeting and see where you want to go with it.

Board Member McNulty stated okay.

Chairman Rogan stated okay, great.

Mrs. Monteleone stated next meeting, meaning like Thursday.

Andrew Fetherston stated yes.

Mrs. Monteleone stated and Dan will be here.

Chairman Rogan stated okay.

Board Member Montesano stated anybody tell Ed he's got to be there then.

Andrew Fetherston stated I'll get a final memo out as soon as possible, we didn't get to it; get it out as soon as possible.

Chairman Rogan stated so SEQRA next meeting and Full EAF review. Ron if Rich, the Full EAF, would have the ability to scan that and forward that by e-mail.

Board Member Taylor stated yes.

Chairman Rogan stated I'm thinking Ron, you might be able to take a look at that.

Board Member Taylor stated yeah, sure, yeah.

Chairman Rogan stated before the next meeting you know, I mean we'll all take a look at it but I'm thinking Ron has that, he's been looking at that form pretty good and you've been really honing that craft...

Board Member Taylor stated yeah.

Chairman Rogan stated I think we're looking to learn from you on that one.

Board Member Taylor stated okay, sure, yeah I can do that.

Chairman Rogan stated okay, all right, great, all right, thank you.

Mrs. Monteleone stated thank you.

Chairman Rogan stated good, a little bit of progress tonight.

Mrs. Monteleone stated not a lot of progress.

Chairman Rogan stated a lot of talk. Have a good evening.

Mrs. Monteleone stated good night.

Chairman Rogan stated okay, so why don't we start at the beginning...

**1) JOSEPH ROMANO – Request for Driveway Waiver**

Chairman Rogan stated we have a request for a driveway waiver from Romano.

Rich Williams stated correct, this is the house that is, Towners Road, it's off of Fair Street, near the Highview Drive, Windsor Oaks subdivision, it is a new house, the driveway comes in off of a county road, Towners Road is a county road and rises up steeply, it's a fairly short driveway, I would encourage you all to take a look at it.

Board Member McNulty stated Towners [Road] and Fair Street, I always thought that was in Lake Carmel or in Carmel.

Rich Williams stated the first few lots are in Patterson.

Board Member McNulty stated as you go in on Fair Street it'd be on the left, on Towners [Road] from Fair Street, it would be on the left side.

Rich Williams stated it would be on the left of Towners [Road], yes.

Chairman Rogan stated is that the new house.

The Secretary stated yes.

Chairman Rogan stated there is a new house there.

Rich Williams stated new construction.

Board Member McNulty stated I don't know it but.

The Secretary stated yeah, it is a new construction.

Chairman Rogan stated new construction that's been underway for a couple of years.

Rich Williams stated yes.

The Secretary stated it has been and I think he's finally finished, it's a new owner, the house was sold while it was still under construction.

Chairman Rogan stated so I'm sorry...

Rich Williams stated he is looking to get a waiver of the driveway so he doesn't have to pave it.

Chairman Rogan stated oh thank you, oh okay, all right that's the one that the, from time to time because of the pitch the driveway material ends up out on the road.

Board Member Montesano stated yeah and that's why the minimum should be what 25 feet...

The Secretary stated well he is on county road, so it's a requirement.

Rich Williams stated county is going to make him do 15 feet but then the question is you know what do we want to do after that.

Board Member Taylor stated what is he proposing.

Rich Williams stated he's proposing to leave it gravel right now. You know, I realize it's a hardship, I realize it's a hardship for him to pave it and the problem is he doesn't have the money to either pave it or post the bond.

Chairman Rogan stated oh wow.

Rich Williams stated and he's looking to get his C.O. but I think long term this is going to be a problem because it's always going to be running out into the road.

Chairman Rogan stated I agree, yeah, when you see that way that pitches, kind of comes up diagonal to the frontage.

Rich Williams stated right.

Chairman Rogan stated it's always, the pitch on its pretty bad too.

Rich Williams stated and then the whole backyard continues, is lawn so you've got a lot of runoff coming there and continues to go up the hill.

Chairman Rogan stated yeah.

Rich Williams stated so everything from up the hill where the septic is comes right down into the driveway and then down onto the road.

Chairman Rogan stated I think we need a site walk on this one; maybe we do it this Saturday morning.

The Secretary stated we have pictures.

Board Member Taylor stated if we do it early.

Board Member McNulty stated I think I can do early.

Chairman Rogan stated oh yeah like breakfast.

Board Member Taylor stated I have an appointment at 10.

Chairman Rogan stated oh no, we'd be done by then, this is a 15 minute site walk.

Ted Kozlowski stated don't rookies buy breakfast.

Chairman Rogan stated no, that's not fair to do in this economy.

Board Member McNulty stated Mike already established that.

Board Member Montesano stated we already got that straightened out.

Chairman Rogan stated but if we could do Saturday, we'd probably be done by, be over there a quarter over 8, we've be done by 9.

Board Member Taylor stated fine by me.

Rich Williams stated well yeah.

Chairman Rogan stated with this one anyway, we don't have anything else.

Board Member McNulty stated maybe we can meet at Sauro's instead of going to the diner and then all the way back.

Chairman Rogan stated sure, is there anything else over that way.

Ted Kozlowski stated where're you going.

Rich Williams stated you're killing Shawn's whole morning, here.

Chairman Rogan stated no, no, that's okay.

Board Member McNulty stated trying to go easy on the rookie, he'd just have to buy coffee.

Board Member Montesano stated oh, no, no.

Board Member McNulty stated we're only teasing.

Board Member Brady stated beat me up, go ahead.

Chairman Rogan stated you wait until we go out for beers.

Board Member Brady stated what's the shortest anybody's ever sat on the Board.

Ted Kozlowski stated you may be it.

Board Member McNulty stated the last guy.

Rich Williams stated yeah, the last guy.

Board Member Taylor stated he didn't even make it to the Board.

Board Member McNulty stated he didn't even, he quit before he got the first meeting.

The Secretary stated it was less 24 hours.

Board Member Brady stated I'm doing more reading than I did in all of my school years.

Chairman Rogan stated all right, so where does everybody want to meet on Saturday morning.

Board Member Montesano stated at the diner, give me a break.

Chairman Rogan stated it's just we jump up and over.

Board Member McNulty stated okay, that's fine.

Chairman Rogan stated we can do the diner.

Board Member Taylor stated Route 164...

Board Member Montesano stated sit down like a person.

Rich Williams stated we meet at Putnam Diner at 7 o'clock.

Chairman Rogan stated 7 a.m.

Board Member Montesano stated you're going to sit there and schlep coffee in the parking lot and it's going to get cold Saturday, what are you out of your mind.

Ted Kozlowski stated they only take cash.

Board Member Brady stated I'll have to let my wife give me the credit card that day.

Chairman Rogan stated no, no, they're only kidding.

Ted Kozlowski stated we're only kidding.

Board Member Montesano stated we're only kidding, bring two.

Andrew Fetherston stated do you want me there Shawn.

Chairman Rogan stated I think erosion control, I think we're fine on this one right.

Rich Williams stated it's just a driveway yeah and nothing personal...

Chairman Rogan stated you could always join us for breakfast.

Rich Williams stated we've got a \$25 dollar driveway permit...

Chairman Rogan stated that's right.

Rich Williams stated to cover the Planning Board's cost and everything else.

Chairman Rogan stated right but this one though, you know, I think this one our Board does need to see.

Rich Williams stated I don't disagree but I you know, like I said I suggested just you know as you're driving by stop but, you want to do a site walk, that's fine.

Chairman Rogan stated you know what I think, I think we need your input to understand how water is going to flow over this.

Rich Williams stated sure.

Ted Kozlowski stated I think it's a good bonding experience.

Board Member Montesano stated we might as well get the new guy stuck...

Rich Williams stated that's fine, it's not a problem.

## 2) **ADAM LEVINE – Fill Permit**

Chairman Rogan stated Mr. Levine.

Rich Williams stated Mr. Levine, you want some good news.

Chairman Rogan stated yes.

Rich Williams stated okay, let's talk about Watchtower, no we can't do that either.

Board Member Montesano stated space travel has been taken over by the...

Board Member McNulty stated oh, don't say this...

Rich Williams stated I'm going to call Mr. Levine tomorrow to find out why we still don't have the survey.

Chairman Rogan stated okay.

Board Member McNulty stated and do we have the finalized water test, I think it was still pending.

Rich Williams stated yeah, no we got that last meeting.

Board Member McNulty stated we did get it.

Board Member Montesano stated yes.

Board Member McNulty stated we did, that's right.

Chairman Rogan stated okay, so at this point I guess by next week we'll know what we have and what we don't have. Has he signed or has the attorney prepared the certification for him to sign.

The Secretary stated yes, he got that last meeting but we haven't seen it back from him since.

Rich Williams stated he already got it.

Chairman Rogan stated he did, oh okay, he has not returned the certification.

The Secretary stated no, sir.

Board Member Taylor stated well he'll be here next week.

Chairman Rogan stated okay, we'll go from there.

##### **5) WATCHTOWER EDUCATION CENTER – Amended Site Plan**

Chairman Rogan stated Watchtower, we should be closer to a findings statement.

Rich Williams stated yeah, we are definitely closer to having it done.

Chairman Rogan stated that's positive, not a big deal, as I read in the paper, you've been a busy man lately anyway.

Rich Williams stated yeah.

Ted Kozlowski stated oh yeah.

Chairman Rogan stated and all kinds of other things.

Rich Williams stated oh it's a whole long story.

The Secretary stated you didn't tell me you made the paper.

Chairman Rogan stated after we get off minutes.

Rich Williams stated well the whole, anyway...

**6) PATTERSON CROSSING – Request for Extension**

Chairman Rogan stated Patterson Crossing, we have a one year extension.

Rich Williams stated yes actually we're...

Board Member McNulty stated one year or two year.

Rich Williams stated he's going to be coming in for looking for a two year extension but he's already 6 months behind the time when he should have been in, so we're a little bit behind the gun here.

Chairman Rogan stated all right...

Rich Williams stated and you know it's an opportunity...

Chairman Rogan stated so if we gave him a year now, it's only good for 6 months.

Rich Williams stated yeah it's, actually, yeah...

Board Member Montesano stated it's an extension.

Rich Williams stated and he's going to update the Board about where he is and what's going on, so that will be interesting.

Chairman Rogan stated okay.

Board Member Montesano stated is he going to be retroactive to the six months or...

Rich Williams stated well that's up to you.

Chairman Rogan stated well yeah, well won't it, if we give a two year extension...

Rich Williams stated yes it will be retroactive if you do it.

Chairman Rogan stated so it will be a year and a half from next week.

Rich Williams stated correct.

Andrew Fetherston stated yeah.

Chairman Rogan stated I wouldn't...

Rich Williams stated Ron I saw that on the side.

Board Member Montesano stated I'll talk to you later about that one.

**b) PLFD Telecommunications Site Plan**

Chairman Rogan stated okay. Commerce Drive we're done, the telecommunications site, I saw that you had a letter to the telecommunications people.

Rich Williams stated correct but that is something different, that is something we need to talk about, I finally got that...

Chairman Rogan stated oh this is the Put Lake...

Rich Williams stated that is the Echo Road, Concord Road site and final got the final site plan in and I just have to take a look at and get the Board to sign now that they're almost done.

Chairman Rogan stated okay.

Rich Williams stated no, this is the Putnam Lake Telecommunications site. The ZBA is looking to do a balloon slash crane test out there to evaluate the height, typically we coordinate between the ZBA and the Planning Board to do it at the same time, and the tentative date is March 10<sup>th</sup> with a potential rain date for the green tower on the 17<sup>th</sup>.

Chairman Rogan stated yeah.

Board Member McNulty stated a green balloon.

Chairman Rogan stated I like that one.

Rich Williams stated green balloon.

Ted Kozlowski stated green balloon.

Chairman Rogan stated and they don't meet...

Rich Williams stated St. Patty's Day.

Ted Kozlowski stated okay.

Chairman Rogan stated they don't meet as early as our Board and I think they probably have other stuff going on, so...

Rich Williams stated I believe the test is at 9:30.

Chairman Rogan stated 9:30, 8:30, that's 8:30 at the diner, maybe 8:15 at the diner for our Board, you know we're not concerned with what the Zoning Board's doing.

Board Member Montesano stated bravely said Shawn.

Board Member McNulty stated Rich, you hang with whatever Board you want.

Rich Williams stated I can what.

Board Member McNulty stated you can hang with whatever Board you want.

Rich Williams stated I, listen, I don't hang with the ZBA.

Chairman Rogan stated no, he doesn't go with the ZBA on their site walks.

Board Member McNulty stated oh no.

Rich Williams stated no.

The Secretary stated they go unsupervised.

**c. Raymond See Driveway Waiver**

Chairman Rogan stated and Mr. See's driveway waiver, I know there was a lot of back and forth on that, I got your correspondence as well. We have a driveway waiver request for Ed's edification, the guy built a beautiful garage and in doing so, created a lot of wetlands mess basically and we went out and did a site walk, December, early December...

Rich Williams stated December 10<sup>th</sup>.

Chairman Rogan stated and when we actually had winter weather and the gentleman did not appear at the January meeting, he didn't show up and I think we're at the point now where he's going to be issued an appearance ticket or a violation for...

Rich Williams stated yeah, the difficulty is when we got out there to take a look at the driveway, we had found out that he had brought in an enormous amount of fill which extended, the toe of the fill goes out into the wetland buffer, he also had put the fill into a stream channel which didn't help, it was not stable, very steep banks, so we started working with him, we got him to commit to doing some stabilization on the embankments, he chose not to do that and did something entirely different and then finally most recently Ted went out there and found that well, being as he had a machine on the site, why not take it into the wetlands and dig it up.

Ted Kozlowski stated just for Ed's, just so you're welcome to my world, in 2008 in exactly the same location, I was out there and issued a violation for disturbing the stream corridor and messing around in the wetland, at the time he was trying to sell the property and sell it as a farm and kind of contrived. He rectified the violation and then again in this past December as Rich said, we went out on a site walk and he again did stuff within the wetland buffer, disturbed the stream, I issued another violation and on December 21<sup>st</sup>, he called me at home, we had a very frank conversation, I told him this is your second violation, I don't want to take you to court, you need to fix this, I was very specific, I also followed it up with a letter which you're going to get a copy of and then on February 15<sup>th</sup>, I went out there to check on it, he restored the stream corridor, what.

Rich Williams stated a portion of it.

Ted Kozlowski stated a portion of it.

Rich Williams stated thank you.

Ted Kozlowski stated but also took a machine and went into the wetland and dug it up, put a big trench in and then...

Board Member McNulty stated where is this Ted, down at the bottom, off the bottom of the property.

Ted Kozlowski stated yeah down at the bottom and in his thinking, to make the stream flow faster but it's a wetland, it's not going to flow any faster, it's going to be what it is, the water is sitting there now and to make things worse, everything he dug out he threw into the wetland, so he not only dug out a portion of the wetland, he filled another portion with what he dug out so he affected both. I called him up, I asked him what the hell happened and he claimed ignorance, he admitted doing it himself, he had so and so's machine, he did it, didn't think it was a big deal and then when I explained to him look, this doesn't fly with me, in 2008 I sent you a letter, we talked about it, two months ago, sent you a letter, talked about it and now you went into the wetland which has nothing to do with this other violation and then he proceeded to tell me that the Town created that wetland, that it's a farm and he gave me a whole bunch of other, and I told him, it's the third strike, so, I actually, I did issue an appearance ticket, I am taking him to court, I am recommending a fine, I have the paperwork here, you guys are going to get a copy tonight, I did a deposition and I am going to hand it to him, if he'll see me.

Rich Williams stated we'll talk about that before you leave.

Ted Kozlowski stated right, what I am recommending is that that has to be re-filled and restored, there is a tremendous amount of stuff that comes off and now he's got this massive amount of fill there with a lot of small rock, Rich and I had a little discussion which I think we should all talk about at this point is maybe have some sort of detention basin or something there before it goes into the wetland as an additional mitigation but this is clearly in my mind an individual that will continue to do stuff until...

Rich Williams stated we've got to see what we can do.

Ted Kozlowski stated we bring him to court and that's what I'm doing so.

Board Member McNulty stated so in the meantime we still have the driveway waiver in front of us.

Rich Williams stated correct and based on the site walk and my review memo, which he has been provided a copy now twice, he also needs to file for the fill permit, which he hasn't done yet.

Board Member McNulty stated we talked about stabilizing that slope to some degree to the left of the driveway, to the right of the driveway.

Rich Williams stated yeah.

Board Member Montesano stated so.

Ted Kozlowski stated and I have met with the Building Inspector and communicated to the Building Inspector these same issues so everybody's aware of what's going on.

Board Member McNulty stated question, he brought up the issue of a farm, now I didn't see a farm when we were out there but if it was a farm, does it fall into a different classification, does it change anything.

Ted Kozlowski stated no, no, there are some people out there that believe if you declare it agriculture, you are somehow exempt from wetlands laws, that in to a certain degree is true with DEC wetlands but you can't just take a wetland, decide to clear it, put cows out there and call it a farm, that doesn't happen. The bottom line Tommy, his property is at the low point between Farm to Market Road and the other hillside, it's a wetland, it's always been a wetland, no one created it, it's there, it was never a farm, it's a massive wetland system so and he's not farming, there's no farm...

Board Member McNulty stated no, I just heard the farm issue came up...

Board Member Montesano stated he's spooking deer.

Board Member McNulty stated I didn't know if it would be a different classification.

Ted Kozlowski stated he's a mechanic or a body shop person, that's what he does for a living, so I don't know where the farming comes in other than it was just a reach.

Rich Williams stated if he's in agricultural district and if he's conducting legitimate farm practices, there is a relaxed standard for wetlands but he's not doing either.

Board Member McNulty stated okay, I was just curious.

Ted Kozlowski stated no, it's, you know, Ron said it earlier, I've been a really nice guy to him for a few years now and it just doesn't stop, it's not paying off, it's you know, this new violation has nothing to do with this...

Board Member Taylor stated you can add them up...

Ted Kozlowski stated you know it seemed like, oh the machine's here, let me take out into the wetland and dig it up, I mean it just...

Board Member McNulty stated so if he doesn't apply for a fill permit, does that become another violation that gets issued, how does that work.

Rich Williams stated it potentially could.

Chairman Rogan stated along those lines, if he gets, he's getting an appearance ticket, he's going to court, paying a find should be an incentive to compliance obviously, the goal is not to fine guy so much as it is to get him into compliance, maybe it's to fine him for the violation but ultimately it's the compliance for the resolution. It's like otherwise he just goes and pays a fine and doesn't come back and see us and says well so I spent \$500 dollars but I'm done.

Board Member Taylor stated like the guy on [Route] 22.

Chairman Rogan stated I didn't want to say that, I didn't want to say that.

Board Member McNulty stated chicken man.

Board Member Brady stated won't the court, if you bring him to court, won't the court give him a time limit to rectify...

Rich Williams stated the courts have no injunctive authority, they can fine you or not but they can't, we'd have to go to Supreme Court to get some action enforced.

Board Member Montesano stated and all that fill keeps flowing out into the wetlands anyway, if we don't stop it.

Board Member Brady stated so that mean you have settle.

Board Member McNulty stated you just hope that it will become a motivator.

Board Member Brady stated not until the fine is high enough does it become a motivator.

Chairman Rogan stated right.

Board Member Taylor stated if all these issues were dealt with, would we give him a waiver.

Rich Williams stated well that's up to you.

Board Member Montesano stated that's up to us.

Rich Williams stated there are still...

Board Member Taylor stated I know, I'm just asking, what would we say about the driveway, we kind of got distracted by these other things.

Board Member Montesano stated all right.

Board Member McNulty stated so if we say a scenario brought a denial of the waiver, does that mean he can't get a C.O. for the barn, for the garage.

Rich Williams stated he can't get a C.O. until he's met our Code requirement which means paving the driveway.

Board Member McNulty stated so if the wavier is denied, he can still pave it...

Rich Williams stated now there is the other issue of the fill and there is also the outstanding issue about he has cut those banks back vertically with no retaining walls, you know possibly we could pull that in under an erosion control, excuse me, issue but really that was an issue that should have been deal with by the Building Department when he built the garage and I don't know that we're going to be able to get him to do that or we're going to get Nick to and I, you know I've talked to Nick about it a little bit and I can talk to him again tomorrow about you know Nick's really got to step up and say...

Board Member Montesano stated well the County's...

Rich Williams stated you know you created the situation you have to do something as part of your building permit.

Board Member Montesano stated the County's going to, sooner or later we'll end up with another snowy year, the County is going to come by and plow that area, that snow is going right over the edge and that wall is eventually going to start to deteriorate, if not the road coming down.

Andrew Fetherston stated I was just thinking the same thing, what wall are you referring to, is that a, that's a County highway.

Board Member Montesano stated that's the County highway here...

Andrew Fetherston stated that...

Board Member Montesano stated his wall is right here.

Andrew Fetherston stated yeah.

Board Member Montesano stated you come down that driveway, that thing...

Andrew Fetherston stated I didn't think there was a wall, I thought it was just like a, too steep cliff, too steep of a cut, no or...

Rich Williams stated it's a, well you remember it drops down and then when it gets down to where the parking area is...

Andrew Fetherston stated did he put more, I couldn't recall, yeah...

Rich Williams stated right there, right there, it was fairly steep, and there was a 4 foot vertical incline...

Andrew Fetherston stated yeah.

Rich Williams stated and then over by the garage, it was very, very steep between the garage and the edge of the driveway.

Andrew Fetherston stated yeah, yeah, yeah, I remember that, yeah.

Board Member Montesano stated right.

Rich Williams stated those two areas.

Andrew Fetherston stated no, I just wondered if it would help things along if the County highway super came out and took a look, if he thought that his road was in danger of failing.

Board Member Montesano stated I would think so eventually because the weight of the equipment coming by on that road the school buses every day...

Andrew Fetherston stated yeah.

Board Member Montesano stated more than one, you're going to get the vibrations, it's just a matter of time and he could care less and if you, to give him a waiver at all, all that water is going to come down that driveway without being done properly, it's going to go into the wetland, it's going to bring that driveway

and all the gravel along with it, if it isn't paved and even if it's paved, you're going to come down twice as fast, so...

Board Member Taylor stated that's what I'm saying, would we be wanting, why don't we just, if...

Chairman Rogan stated just deny the waiver.

Board Member Taylor stated deny the waiver and say it's got to be paved, plus you've got to deal with what all these other issues are.

Board Member Montesano stated if we deny it now, then he's going to just use the driveway.

Rich Williams stated he can't do that without a C.O.

Chairman Rogan stated in other words that holds him from getting a C.O.

Board Member Montesano stated I can't use the building but I can still drive up and down and we're not going to have a guy sitting there 24/7...

Board Member McNulty stated I was just going to say, whose going to stop him.

Board Member Montesano stated and in all honesty, maybe it's, the object is I'm going to use it, now you don't give me the waiver, I don't care, I'm not going to do anything else to it because I have no incentive, they said no and that's it.

Board Member Taylor stated well but the incentive he's going to be issued a violation.

Board Member Montesano stated well he's already got the violation, he's going to be in court.

Ted Kozlowski stated well he's got a wetland violation.

Board Member Taylor stated this is a different violation.

Ted Kozlowski stated there are other things here now.

Rich Williams stated part and parcel of that is the fill permit, all right, so you've still got to, you know he's going to have to deal with the issue of the fill he brought on without any permits and you know how that's going to tie back into both the C.O. for the garage and the driveway.

Board Member Montesano stated the man's got a previous history, if we tell him no, you can't have your driveway he's going to continue to use it, he's going to use the garage, it's there...

Board Member McNulty stated maybe the carrot we need to dangle and say if you take care of things, we'll consider approving this waiver.

Board Member Montesano stated we can consider it, we don't have to say we're giving it anything but now we can, to get our consideration you have to do what you're supposed to do.

Rich Williams stated all right I'm going to stop you right now, maybe we want to have to you know have this discussion in front of our attorney.

Board Member Montesano stated all right.

Ted Kozlowski stated yeah.

Board Member Montesano stated legal counsel.

Chairman Rogan stated it is surprising when people apply for an application...

Board Member McNulty stated yeah because it is...

Chairman Rogan stated or told they'll be on the agenda and they don't show up, that's surprising to me...

Rich Williams stated yup.

Chairman Rogan stated I agree we should talk to Mike [Liguori] next week.

## 8) MINUTES

Chairman Rogan stated okay and we have minutes that we will be getting from Michelle. When they're done, these meetings, she said our work session was 88 pages and our...

The Secretary stated the work session was 85 pages and your regular meeting was 76 [pages] so...

Chairman Rogan stated I want to show that Ed didn't even contribute to that burden that you have so...

The Secretary stated I'm not blaming you.

Chairman Rogan stated he should be commended by you, you know.

Board Member Brady stated I read them online.

The Secretary stated yeah.

Ted Kozlowski stated it just shows we're doing our job.

Board Member Brady stated I looked at January.

The Secretary stated me too.

Board Member Montesano stated do we get paid by the page.

Board Member McNulty stated AJ Maxwell was violated, is there...

Rich Williams stated was he violated.

Board Member McNulty stated a violation was issued, I received something here.

The Secretary stated don't look at me, I, probably in the file bin.

Board Member McNulty stated I didn't, any update on that Rich.

Rich Williams stated no, I'm not close to that at this point.

Board Member McNulty stated any update on Boniello and the Town Board, did they review that lot line.

Rich Williams stated yes, they gave him a schedule last night, in which to make payments. Yes. Do you know what it is.

Ted Kozlowski stated no, I don't.

Chairman Rogan stated a one payment, payment schedule.

Rich Williams stated no, half by March, half by September.

Board Member McNulty stated and then their considered a lot line adjustment, is that how that works.

Rich Williams stated well that was the condition, yeah.

Ted Kozlowski stated how much does he owe.

Chairman Rogan stated lots.

Rich Williams stated thirteen or fourteen.

The Secretary stated yeah.

Chairman Rogan stated hey the Town Board, you know that's their...

Board Member Montesano stated bailiwick

Rich Williams stated yeah but, you know when he's got all his spring start up and he's already strapped for cash and it's not been a good winter for him, you know, trying to come up with that additional money, I don't know what he's going to say.

Chairman Rogan stated oh, he wasn't at the meeting.

Rich Williams stated oh no, he was not there. So we'll see what happens.

Chairman Rogan stated okay.

Board Member Taylor stated but we're done with that right, we made it a condition and passed it on.

Chairman Rogan stated we issued an approval on that, conditional approval, so yeah we're out of that process.

Board Member Taylor stated good.

Chairman Rogan stated only one but we're out of it. Motion to adjourn.

Board Member Montesano stated Ed you want to make a motion to adjourn.

Board Member McNulty seconded the motion.

Board Member Brady stated I'll make a motion to adjourn.

Board Member McNulty stated second.

Chairman Rogan asks for all in favor:

Board Member Brady	-	aye
Board Member Taylor	-	aye
Board Member Montesano	-	aye
Board Member McNulty	-	aye
Chairman Rogan	-	aye

The motion carried by a vote of 5 to 0.

The meeting adjourned at 8:42 p.m.