

APPROVED

TOWN OF PATTERSON

PLANNING BOARD MEETING

April 28, 2011

Work Session

AGENDA & MINUTES

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PLANNING DEPARTMENT
P.O. Box 470
1142 Route 311
Patterson, NY 12563

Michelle Russo
Sarah Wager
Secretary

Richard Williams
Town Planner

Telephone (845) 878-6500
FAX (845) 878-2019



TOWN OF PATTERSON
PLANNING & ZONING OFFICE

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Ron Taylor

Planning Board
April 28, 2011 Work Session Meeting Minutes

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

APPROVED

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

The meeting began at 7:02 p.m.

Michelle Russo was the Secretary and transcribed the following minutes.

1) FESER WETLANDS/WATERCOURSE APPLICATION

Chairman Rogan stated okay, Feser Wetland/Watercourse application, new application, what have we got on this guys, who wants to start, anybody know anything about this.

Board Member Taylor stated it's a replacement bridge, right.

Rich Williams stated this is the one that Ted looked at...

Board Member McNulty stated like a repair.

Rich Williams stated and had him come in for a wetlands permit at the last meeting, Teddy has been out there taking a look at it, he submitted plans, Teddy has his copy he has not submitted the application fee yet, pending Ted's determination on what the fee should be and its been sent over to the Town Engineer to take a look at because of the structural issues with the bridge. You look puzzled...

Ted Kozlowski stated are we talking about...

Rich Williams stated [Route] 292.

Board Member McNulty stated Feser.

The Secretary stated Feser.

Chairman Rogan stated Feser.

Ted Kozlowski stated dam rehabilitation, is that the one.

Rich Williams stated no, that's something different, we have to talk about that as well.

Board Member Taylor stated bridge repair.

Ted Kozlowski stated oh I've got it, yeah this is, I really feel sorry for this guy because he can't get to his house with his vehicle and I went out there, the March storm where we had the combination heavy rains that night and heavy snow melt, completely blew out the bridge, blew it off its rockers, the flow actually went around you know, once the bridge collapsed and all the stone and everything, it went around and put a deep gouge throughout his property. So he can walk across the bridge but he can't drive anything [over it], so a fuel truck can't get over there, emergency vehicles can't, nothing can get...

Chairman Rogan stated fire protection, emergency vehicles...

Ted Kozlowski stated you know so this is clearly an emergency, I know we've talked about fees, my feeling is in an emergency, the fee should be minimal if anything, just what I felt strongly about out of all of this is not so much the environmental protection but it's the, the bridge itself that's going to be done. I am not qualified to say that that bridge is safe enough, it should be somebody who can understand, is this bridge going to hold an oil tanker to come across or a garage truck, whatever...

Chairman Rogan stated fire truck.

Ted Kozlowski stated his car, his personal vehicles, you know because it's a bridge, I'm not so much worried about the flow but it's the, so the Town Engineer really should sign off on it I would think.

Board Member McNulty stated everything that I see is that he wants to reuse the deck, the steel and the deck and add a reinforcement layer of timber with new concrete abutments. How old are the existing abutments, would anybody know.

Rich Williams stated I don't know but this is something I think the Planning Board and Ted need to weigh in on and consider is that there was a storm event and it blew the bridge out and he's looking to basically replace it in kind. He's probably going to have the same problem again if he doesn't increase the hydraulic capacity under that bridge.

Board Member McNulty stated but, I understand what you're saying but this is a stone bridge that's been here 30 years, 40 years, I don't know, it would be good to know that, I would think a concrete bridge of similar kind would be, you know, what are we looking to get 500 years out of a bridge, 100 years...

Rich Williams stated well its not so much that but based on what happened and Teddy was out there, is so much water was trying to get down a constricted alley way that the velocity increased and correct me if I'm wrong Ted, it undermined the abutments.

Ted Kozlowski stated yeah but the only thing Rich is I don't know, did something get blocked and exacerbate the problem, I don't know, he doesn't know...

Rich Williams stated I don't know.

Ted Kozlowski stated I asked him, I tried to find out what happened, he was sleeping, he said I heard the storm and then when I got up the next morning I couldn't, fortunately he parked his car on the other side otherwise his car would be stuck there. I think there is an economic situation here, I don't know what this is costing but he was worried about cost, I don't know, this is one of those situations where Rich is right, I mean are we going to put back what is going to, what might blow out again...

Rich Williams stated and if I could just interject, I was just thinking that we need to ask the question and see if there was an answer...

Ted Kozlowski stated I don't know.

Board Member McNulty stated it does show it to be wider on the down flow that the up stream by a foot.

Ted Kozlowski stated is this Putnam Engineering.

Board Member McNulty stated no, no...

Rich Williams stated this is a friend of his that seems to be pretty good.

Ted Kozlowski stated if we ask for a drainage study that's going to cost him a lot of money and...

Board Member Montesano stated what I'm thinking here is, for arguments sake if we've got a 20 foot span, can he possibly and I'm just going by erector set conditions, you get a 30 or, they're not cheap, but you can get a 30 foot I-beam and then build it across where it would be laying way past the stream...

Rich Williams stated yeah, you know as Ted pointed out, now you're getting into big structural issues...

Board Member McNulty stated the engineer points out that the existing structure is satisfactory, I don't know what this limits...

Chairman Rogan stated its just holding it up, is what you're saying...

Board Member McNulty stated it's the abutments that are undermined and there's danger.

Ted Kozlowski stated I'm, if I had my druthers, I don't know if I would want another stone bridge, I'd rather have concrete or something stronger...

Board Member McNulty stated it calls for concrete I think.

Ted Kozlowski stated but I don't know if the guy can afford, Putnam wasn't declared a disaster, right, we didn't get FEMA money or anything...

Board Member Cook stated I don't remember hearing that.

Ted Kozlowski stated I don't think we did.

Chairman Rogan stated I'll find out.

Ted Kozlowski stated I don't think we did because Westchester didn't get it...

Chairman Rogan stated no that's really not...

Ted Kozlowski stated and usually Westchester gets blown out more because of the Kentsico area but you know, fees, I think the fee should be minimal, I think this should be expedited, I mean the guy really has a hardship, he really does...

Chairman Rogan stated yeah, also safety concerns.

Ted Kozlowski stated the other one that's coming in they have an alternate access, well not really.

Rich Williams stated can we stick with the fee, you have a number.

Ted Kozlowski stated yeah.

Rich Williams stated you want to do an individual residential permit.

Ted Kozlowski stated yeah, minimum a hundred bucks.

Rich Williams stated you want to call him tomorrow.

The Secretary stated sure.

Ted Kozlowski stated I would say free but we're going to have to have the engineer look at this and there is going to be some cost, no...

Rich Williams stated well no, I'm just saying don't worry about that because we are never going to cover the engineers cost on this.

Ted Kozlowski stated I know but I'm just saying you know we have a provision in the law for emergency work, as long as somebody says that's safe enough, I say we just, you know I don't think we need a public hearing here...

Chairman Rogan stated well it's a replacement of an existing structure...

Ted Kozlowski stated although, to be the Devil's advocate, if I was the neighbor to the south of that flow, you know, and he does something wrong and that blows out, I'm going to be the recipient of what blows out. So I'm just being Devil's advocate there I don't know if we need to have a public hearing because that's just going to hold him up more.

Board Member Cook stated does Andrew have a copy of this, he already has it so he can give us his input...

Ted Kozlowski stated has Andrew commented.

Rich Williams stated not yet.

Ted Kozlowski stated when did this come in, the 19th, so...

Board Member Cook stated it would be good to get Andrew's comments by next meeting.

Rich Williams stated oh I'm sure you will, I'll confirm that he is looking at it.

Ted Kozlowski stated you mean by next Thursday.

Chairman Rogan stated yeah, okay.

Board Member Montesano stated can I make a suggestion then, that we put him towards the end of the meeting for the simple reason that we are going to have time to look at that...

Chairman Rogan stated it's a short meeting.

Board Member Montesano stated I realize that...

Chairman Rogan stated you're right.

Board Member Montesano stated I think with Andrew coming in with it Thursday, we are going to have to try to read it and make decision.

Rich Williams stated well you, usually Andrew gets it in here a day or two before we e-mail out.

Chairman Rogan stated also, we're going to, we'll put Andrew on spot to verbally discuss his review so we're hearing it you know granted you want to have it ahead of time but we'll do the best that we can, but it seems like there is a pretty darn legitimate concern for fire protection and public safety here that we have an existing house that's being lived in so I think that alone is justification for moving on this with the right assurances from engineering and making sure we're looking at our impacts and get this moving so the guy so the guy because there is still a lot of work to do, if we approved it tonight, not that we can but if we approved it tonight, he would still be three weeks building this thing, a month...

Ted Kozlowski stated I also, this, he has to wait for some of this flow to go down and the flow is still, I haven't looked at it recently but I would think the flow is still good, stuff is oozing out of the ground every where else...

Chairman Rogan stated I'm happy to see the house isn't very far from the road.

Ted Kozlowski stated to answer Tommy's question, the house is not that old, its not an old house...

Board Member McNulty stated but it was the bridge I was asking about.

Ted Kozlowski stated maybe a 70's house, I don't know.

Board Member McNulty stated it doesn't look like the deck was actually anchored to this abutment very well, there was no comment in the remarks that I saw how that was anchored, the new engineering does say its going to be anchored.

Ted Kozlowski stated this bridge to me and I'm not a bridge engineer and I only saw it after the damage, it didn't look like, it looked like somebody that knew what they were going built it but it wasn't done by you know...

Chairman Rogan stated it wasn't done off a set of plans.

Ted Kozlowski stated no I don't think, I think it was, I think somebody like Tommy McNulty did it.

Board Member McNulty stated how is my bridge.

Rich Williams stated the drawings show basically it was a stone and cement abutment that was homemade.

Board Member Montesano stated put on top of rocks that don't see to have any solid base.

Ted Kozlowski stated it was just a lot of rocks and then you know I...

Board Member Montesano stated yeah.

Ted Kozlowski stated you know I, it was clearly done before the wetlands laws and these things really come into play.

Board Member Montesano stated some of the those houses were built in the '50's, 60's...

Rich Williams stated its right next to Joe Wanderlingh's...

Board Member Montesano stated yeah, that's what I'm saying, Joe's house was built many, many years ago, his father built that house.

Board Member McNulty stated how does it compare to neighboring bridges, did you look at the bridges on either side of it.

Ted Kozlowski stated I looked briefly up and down and I asked him if anybody else got blown out but I think it came out underneath road if I'm not mistaken, I'm not sure but he said no, he was pretty much the only one that got, we would have heard from somebody else if it happened.

Board Member Montesano stated this guy looks like he copied Wanderlingh's bridge with the steel I-beams, he just didn't get them big enough, because if you look, there is a steel I-beam in here, I know Joe, if I remember right when Joe was reinforcing the bridge after he decided to move into that house, they just went and got longer I-beams so that they would bypass laying it right on the edge of the stream so they can sink it in, cement it in there and it was a solid platform, that's why I'm just looking at this here.

Board Member McNulty stated it says that, I think he called them out there W1227's, is that 12 pounds a foot, steel...

Chairman Rogan stated not 27...

Board Member McNulty stated the steel designation, is it...

Chairman Rogan stated isn't it 27 pound per foot.

Board Member McNulty stated that might be the length...

Rich Williams stated that's what I was thinking...

Chairman Rogan stated oh.

Board Member McNulty stated yeah, I think it's the...

Rich Williams stated or the width.

Ted Kozlowski stated he's saying he needs DEC approval...

Board Member McNulty stated I don't think they look 27 inches...

Rich Williams stated that's what he put.

Board Member Montesano stated yeah.

Rich Williams stated because he's in a stream and it is probably a trout stream.

Ted Kozlowski stated you think so.

Rich Williams stated (inaudible).

Chairman Rogan stated it looks bigger than Stephen's Brook.

Rich Williams stated huh.

Chairman Rogan stated it looks bigger than Stephen's Brook.

Rich Williams stated yeah.

Ted Kozlowski stated wouldn't that be a kicker if DEC gets involved and makes him go through the ringer.

Chairman Rogan stated they don't seem to have that (inaudible).

Board Member Montesano stated (inaudible – mumbling).

Board Member McNulty stated this requires a SEQRA determination at some point, wetlands.

Rich Williams stated you know whose back doing the wetlands in this area, the same guy that said the guy on Old Road didn't need a permit, an article 15 permit.

Chairman Rogan stated the question was, SEQRA on this.

Rich Williams stated unlisted action.

Chairman Rogan stated we can waive the public hearing and articulate why.

Rich Williams stated you can do an uncoordinated action, consider it an uncoordinated review and let the DEC make their own determination; they're probably going to do it anyway.

Ted Kozlowski stated yeah and you have a provision in the wetland law that if it's an emergency situation, so you can...

Board Member Taylor stated we are also dealing with a replacement...

Chairman Rogan stated right.

Board Member Taylor stated so its like building a house on existing foundation, I mean some rules you don't have to deal with because its either grandfathered...

Chairman Rogan stated you would hope so.

Board Member Taylor stated or, yeah...

Chairman Rogan stated I guess with the DEC, at least I could understand you're re-disturbing because they're not just replacing the top of bridge, they're doing the abutments so...

Rich Williams stated sure.

Board Member McNulty stated one at a time.

Chairman Rogan stated they are concerned with the disturbance of the stream bed and how you go about doing it, so yeah.

Board Member McNulty stated so if it was, if you go uncoordinated, SEQRA review, how does the DEC get involved then, wouldn't it technically then have to be coordinated or does that include more agencies...

Rich Williams stated no, if its an unlisted action you have the ability to consider it, you know an uncoordinated review, every agency then would have to do their own individual SEQRA determination. The question here is DEC may look at it and say the same thing everybody else is, you know this is an emergency action, we're going to waive the Article 15 permit requires and just you know, let him go do it, in which case they wouldn't be involved anyway.

Ted Kozlowski stated I don't know if this is true but he told me that the engineer that he was getting is a retired DOT bridge engineer who has his own company. So, I've never heard of this gentleman but...

Chairman Rogan stated I have and I'm sure I've met him but I thought, I must be wrong, I thought he was retired from I'm going to be wrong now, Dutchess County Health Department or, like somebody that is known within the Health Department but from either another county or...

Ted Kozlowski stated I don't know.

Chairman Rogan stated I know I've met him before, I'll find out more next week.

Ted Kozlowski stated like I said, my big concern is, is it the right design.

Chairman Rogan stated sure.

Ted Kozlowski stated he's also going to have to do some restoration, I don't know if he's showing it on the plans but he's going to have to do some stream bank restoration because a lot of eroded...

Board Member McNulty stated he does...

Ted Kozlowski stated I haven't looked at the plans.

Board Member McNulty stated he does comment about restoring some of the bank.

Rich Williams stated he is but just so you know, this is one of my concerns as well, he's talking about taking all the stones out of the stream to do the stream bank restoration. You need those stones for the roughness.

Ted Kozlowski stated maybe those stones in the stream came from the bridge itself.

Rich Williams stated in which case, no harm no foul.

Ted Kozlowski stated yeah, similarly, you know.

Board Member McNulty stated I would think if Andrew says this replacement bridge is of equal or better...

Chairman Rogan stated that you're not narrowing down the channel, you're making it, even if they can make it, you don't ever want to be narrower than the width, the average width of the channel because then you bottle neck it but they could even widen that out a foot or two, they want to use the existing support.

Board Member Montesano stated what is the width on this thing because I can't find it on here.

Board Member McNulty stated fifteen feet on the down stream side, or eleven feet, the abutment span is eleven feet.

Rich Williams stated and if you look at it, he's only got three and a half feet between the base flow and the bottom of the bridge.

Chairman Rogan stated right.

Rich Williams stated not a lot of area.

Chairman Rogan stated that's not a lot of area.

Ted Kozlowski stated no it actually is, the driveway comes off the road and it kind of goes down a little bit, levels off and then when you cross the bridge, it goes up to his, his house sits up a little higher, so its kind of in a depression.

Rich Williams stated so you think he can raise it up.

Ted Kozlowski stated maybe he could raise it up, berm it up so the bridge is even a little higher, I don't know what a hundred year storm is anymore because I think in the last ten years I've seen three or four hundred year storms.

Chairman Rogan stated yeah it seems like it.

Ted Kozlowski stated you know.

Board Member Montesano stated its because of that global warming.

Chairman Rogan stated yeah it does look like its in a low area, probably could gain a, even just a foot of elevation tapered back out is nothing, right because its gravel on both sides, so...

Ted Kozlowski stated you can see in the photo...

Chairman Rogan stated gain (inaudible).

Board Member McNulty stated that one photograph shows.

Ted Kozlowski stated he's standing higher where he's taking that picture.

Chairman Rogan stated it would be nothing to taper that out...

Board Member Montesano stated (inaudible).

Ted Kozlowski stated that is where he's parking his cars; his house is like right here.

Chairman Rogan stated yeah.

Board Member Montesano stated 20 foot span that comes right across the, and it works.

Chairman Rogan stated shows it here, his house, anyway.

Board Member Taylor stated (inaudible) he's also got this bump upstream, the profile, look at the bump he's got upstream.

Board Member McNulty stated the depression in the driveway, is this the bottom of the driveway here.

Board Member Taylor stated this is the plan view, for some reason...

Ted Kozlowski stated that's how he was destroyed, it went like this...

Board Member Taylor stated cut the bump off, that would keep some of the flow from going to the opposite bank, it just...

Chairman Rogan stated I see what you mean.

Board Member Taylor stated it looks very odd.

Chairman Rogan stated you're changing the flow of the water, its almost like creating a oxbow...

Board Member McNulty stated you can see it in this drawing, it comes out here.

Ted Kozlowski stated yeah it looks like, from this diagram it looks like the flow is hitting this, bounces off of this and then hits the bridge, that's really where the failure is.

Chairman Rogan stated right.

Board Member Taylor stated he needs an apron there.

Rich Williams stated wing walls.

Board Member Taylor stated wing walls on one side, yeah.

Chairman Rogan stated to create a more directional stream flow through that section, so...

Board Member Montesano stated put it on one side and its better off on both because it will just bounce.

Chairman Rogan stated (inaudible).

Rich Williams stated I was surprised that Rich didn't have wing walls on it.

Chairman Rogan stated yeah.

Board Member McNulty stated it did a couple rocks.

Chairman Rogan stated okay.

Board Member Montesano stated fairy wings.

Board Member Taylor stated it works for 30 years...

Chairman Rogan stated it sure did, so I guess we'll wait to hear from Andrew and see if we can, is there any reason at this point to try and reach out to the DEC Ted to explain the situation and see if they can give us a verbal on how they might proceed between now and next week.

Ted Kozlowski stated I wouldn't mind doing that but I don't know if he contacted the DEC...

Chairman Rogan stated okay fair enough.

Ted Kozlowski stated and if he didn't am I opening a can of worms for him.

Chairman Rogan stated okay.

Ted Kozlowski stated you know I kind of thing these days DEC is on their own...

Chairman Rogan stated yeah.

Ted Kozlowski stated since they've really not participated with us on much.

Chairman Rogan stated well I'll tell you, of all the things the DEC might be working on, I would hope that they would see this as less important than like things like contaminated fill and you know, things that maybe are more pressing but okay Eurostyle Marble and Tile...

2) EUROSTYLE MARBLE AND TILE – Continued Discussion

Rich Williams stated Eurostyle Marble and Tile, you know I apologize I didn't get right on this which I wanted to do but I did contact Martin or he contacted me, we got together, I'm going out there Monday to go through the punch list that we have with him, he also explained to me that currently the bank is holding his full letter of credit even though it was reduced by the Town. According to Martin the bank refuses to release any of the money, its coming due May 1st and he said he was not paying another \$13,000 to renew the bond, I told him that I would reach out the bank if he so requested and talk to them about reducing the amount, right now I think it's a \$300,000 bond they are holding, down to the \$40,000. He said the bank is not interested, they don't want to talk to anybody, they're not going to reduce the letter of credit, they want the full amount and I'm not paying it, so May 1st he may default on the bond, just so you know.

Chairman Rogan stated what happens then.

Rich Williams stated the Town has to decide whether it wants to then notify the bank or call the bond.

Board Member Montesano stated it's amazing.

Chairman Rogan stated we're into this situation because of a lack of him keeping on top of getting in front of the Board because it sounds, when he came before us it was almost like I did everything that we said we were going to do but we kept saying come back to us and let's get a status report and we had no action so its not like from lack of trying, we were trying to get this guy in here and your punch list depending on what we see, maybe everything isn't done, I mean there were still things that needed to be taken care of so I don't think we've neglected nor held the man...

Board Member Montesano stated no, we've...

Chairman Rogan stated in anyway, if anything we've gone just the opposite and tried to...

Board Member Montesano stated we've reduced it, the bank doesn't want to let go of the money.

Chairman Rogan stated right.

Board Member Montesano stated so its not us, it is actually, when you look at it, it's the bank, they want this \$300,000 they don't want to keep only \$40,000 because now they are more stable with \$300,000 than they would be with \$40,000, its like not getting your tax return...

Board Member McNulty stated didn't we receive the as built last month and what, you said they were pretty much back dated though, correct.

Rich Williams stated he, yeah, they were out dated to 2009 and in our phone conversation he threw that in my face and said I don't know what the problem is, I don't know what the hold up is, they got the as built in 2009...

Board Member McNulty stated but we never got them.

Rich Williams stated and that's what I said, I said I got them a few weeks ago, it's the first time we ever saw them.

Board Member McNulty stated the biggest issues I see in your notes Rich is some of the stormwater, outside of some signage, the grass, curbing...

Rich Williams stated striping.

Board Member McNulty stated even that...

Rich Williams stated you know I'm going to start right off with you know, in order to get in, he was told to put in a temporary handicap asphalt handicap ramp in one of the parking spaces just to get the C.O. in...

Chairman Rogan stated right.

Rich Williams stated because didn't put the drop curbing...

Board Member McNulty stated the cut curb...

Rich Williams stated that he was supposed to and at that point the Board said that's what we want in here, you know go back and put that in, today when I'm talking to him I'm saying that you didn't put the drop curbing in, you don't have your handicap accessibility and the drive aisle and everything, he said yes I do I have the asphalt handicap ramp that I was told to put in, so you know its going to be a...

Board Member McNulty stated but what about the stormwater issues, about the swales, I didn't quite understand, I think it was item 7 on here, your notes...

Rich Williams stated be more specific.

Board Member McNulty stated grass lined swales were to be constructed at the toe of the slope, at the main entrance, one swale at the northeast side of YD 105, I don't know what that designates.

Rich Williams stated what number.

Board Member McNulty stated item 7, second page.

Rich Williams stated okay, yard drain 105, one swale to the south west (mumbling) oh he hasn't put one of the swales in that was supposed to capture.

Board Member McNulty stated and that's what stuck out to me as an important item.

Rich Williams stated because of that we've got some really within the detention basins and in addition I know the emergency overflow has got to come up and over the top of the berm, he only brought it part way

up the berm, I know that is another stormwater issue out there, so I'm going to go out there Monday and I am going to point all these things out to him and I've going to see what he has to say.

Chairman Rogan stated part of the, certainly part of the frustration is and we end up with these items and it seems like this happens on every project but we end up with these items that each one of them by themselves may not be a big deal but we end up with incomplete sites from what we approved and that's where, sometimes its frustrating because people are so anxious to get their approval that they agree to things maybe that they have no idea they are either agreeing to or that they intend to do and then we're left being the bad guy to say yeah but you haven't finished your plan, you have a permit and you know, you haven't put the shingles on the roof per se, you know you need to finish this up, it's getting...

Board Member Cook stated its like Green Chimneys last month.

Chairman Rogan stated yeah, getting tired of feeling like being the bad guy on this stuff but if you agree to do a plan then finish it out and you know, you do your work and we'll do ours...

Rich Williams stated just to expand on that...

Chairman Rogan stated yeah.

Rich Williams stated one of the problems we have with these sites is people get the site to where they can start building the building, the site isn't complete but they get it to where they build the building and that's really what they want is to build...

Chairman Rogan stated sure.

Rich Williams stated so then they focus all their energy and all their funding on the building, build the building they want to build and then, after the fact they go back and now we have to touch up the site but we've got no money, the general contractor has walked off the site, whatever...

Board Member McNulty stated and this particular site has a temporary C of O, correct, from what I read.

Rich Williams stated yeah, which expired two years ago in June.

Board Member McNulty stated so there is no C.O. on that building.

Rich Williams stated well that's the question, is there or isn't there, he can't operate...

Board Member McNulty stated has the temporary, has the T.C.O. been extended.

Rich Williams stated they've done nothing other than notify them that it was a temporary C.O., he needs to finish the plans.

Chairman Rogan stated so it sounds like if push came to shove, you know...

Board Member McNulty stated maybe that's why the bank's not releasing his money because he's in a temporary C.O. that's...

Rich Williams stated I don't know...

Board Member McNulty stated that's expired because that will affect your financing.

Rich Williams stated on the other hand if he doesn't pay the bank fee and extend the letter of credit, you know, if that's the case then the bank isn't going to take kindly to that either.

Chairman Rogan stated that might be a piece of information the bank doesn't know...

Board Member McNulty stated that they should know...

Chairman Rogan stated or...

Rich Williams stated let me go out there Monday and see what I can move along and then we can talk to him Thursday.

Board Member McNulty stated how does the Building Department tie into this because they issued the C.O.

Rich Williams stated they've issued a letter back out to him, you know basically saying listen it was, you know a temporary C.O. you didn't finish the requirements, you've got to get back to the Planning Board, ultimately they are the enforcement mechanism in all this...

Board Member McNulty stated they could literally close the doors, correct.

Rich Williams stated yes, they could.

Chairman Rogan stated you would think that they need something though that is substantive that would result in public safety being compromised or something, you know, don't you think...

Board Member Taylor stated depends on what town you're, some towns will close you down.

Board Member McNulty stated well no, in my past, you get a document that is a temporary C of O document with a specific time frame and if you don't meet the requirements of the time frame, you risk being locked out just like if you didn't pay sales tax and the IRS came and locked you out but it depends on the, I don't know how the Town Code is written or how its written in the Building Inspector's governing literature, law, I don't know how that works.

Board Member Montesano stated if you want to push it, we gave him approval for A B C D in this building, he did A, he did C, he left B out, by rights if he wants, they're not up to the plan that was approved he can shut the door.

Chairman Rogan stated what is unfortunate is we want exactly what he wants, we want him to finish the site and he wants to finish the site its just a matter of not knowing the reasoning...

Board Member Montesano stated he's done something uncalled for...

Board Member McNulty stated its economics I'm sure.

Board Member Montesano stated its economics, the man has been in there for how long...

Chairman Rogan stated two years, over two years, right...

Rich Williams stated about three years.

Board Member Montesano stated how much longer do you want to wait, if we took three years more to approve his project he'd be in here jumping up and down but now he's put the thing in and the building and we've bent over backwards giving him all the opportunities and now he's still looking, he took your fingers, he wasn't happy, now he's up to your throat, so now its time to start fighting back slightly.

Board Member Taylor stated I think with some of these people I get the impression from them that some of this stuff is, they consider it decorative and they could care less whether it gets finished or not...

Chairman Rogan stated I think you're right.

Board Member Taylor stated so its not an issue of public safety or anything they, they're just, they're not going to do and there is no pressure to force them to do it so, that's what seems to keep coming back that no one has any desire to force them to do anything, I mean that's what the Building Inspector was saying, there is no T.C.O. procedure, there is no way to do anything temporarily and we're not going to not give them it because then we are denying them a business, so there is no mechanism here then there is not political will behind to create a mechanism.

Board Member Montesano stated well we've had that reputation for years...

Chairman Rogan stated especially in this economy, you know.

Board Member Montesano stated the economy, they were in business before the economy dropped so do that you said you were going to do, now you want to cut corners, if you...

Board Member Taylor stated were they one of the one's on your list...

Board Member Montesano stated yes.

Chairman Rogan stated yeah.

Board Member Taylor stated so they've been on the hit list for awhile.

Board Member Cook stated a long time.

Board Member Taylor stated so we have no, I don't think we have any reason to worry about what's going to happen with the bank, its not in our court, its his responsibility...

Chairman Rogan stated I hate to say it but we're going to see what Rich comes back with, we're going to more forward when things are done, that's kind of the way, I don't almost want to get too much more involved in it then that, it's a punch list, you finish these items...

Board Member Taylor stated or you don't.

Chairman Rogan stated if there is a justifiable reason why one of these things should be either altered or not done, let's discuss that but short of that, let's finish what we started.

Board Member Cook stated Ron, the list that you referred to, that's all those folks, that goes back two or three plus years and it's the same thing, I mean they agreed to do certain things, we approved it with conditions they haven't followed through with the conditions and just as a side note, I got an e-mail today after I followed up with him from Tim Curtiss that said he is going to be meeting with the Supervisor and the Town Board next week.

Board Member Taylor stated are they going decide whether they are going to issue any money to go after somebody.

Board Member Cook stated right.

Board Member Montesano stated yeah and unfortunately we have, Patterson itself has gotten the reputation that we don't bite, we bark a lot, we don't bite.

Board Member Cook stated meeting the Supervisor...

Rich Williams stated not the Town Board.

Board Member Cook stated I misspoke.

Board Member Taylor stated we agree with you, let's not worry about this, let what happens happen, we did everything we could, we appealed to the Town to enforce it, we appealed to the people to clean up their act...

Chairman Rogan stated we've appealed to owner to help us to solve his issues for the last two years...

Board Member Taylor stated its just costing more money discussing this all the time.

Chairman Rogan stated okay, how much discussion do you guys anticipate having on item three without getting into yet.

Board Member Taylor stated which is three.

Board Member McNulty stated Thunder Ridge.

Board Member Montesano stated none, no, next...

Chairman Rogan stated resolved...

Board Member Cook stated not a lot.

Board Member Taylor stated five ten minutes...

Chairman Rogan stated all right, why don't you...

Board Member Cook stated unless you know, we could finish the other items...

Chairman Rogan stated no, no that's fine.

Board Member Taylor stated you need a break.

Chairman Rogan stated I'll go, let me recuse myself on Thunder Ski Area for discussion, yell down the hall when you're done.

Board Member Taylor stated what time is the Office coming on.

Board Member McNulty stated I don't watch that show, Swamp People is my kind of show...

Board Member Taylor stated I don't watch it either but I was just...

3) **THUNDER RIDGE SKI AREA – Continued Discussion**

Vice Chairman Cook stated okay, we all received a copy of Tim Curtiss' or his assistant's response to Ron concerning his questions and just basically it confirms that the Board can not force the guy...

Board Member Taylor stated we knew that...

Vice Chairman Cook stated is there anything on here that you want to comment on or...

Board Member Taylor stated it clarifies, most of the claims they were making turn out to be legal claims, I mean some of its false legality, these dummy corporations, they protect each other but then, at least that we know now but there are a couple of issues that they were saying that really don't pertain in some ways, it doesn't change anything, I mean, it doesn't change the way we're going to proceed I don't think, it does clarify, that's all I was after. It got to the point where they were saying stuff to us we didn't know whether it made sense, whether it was rational, whether it had any basis or not, they were just throwing all these arguments out, I just wanted to clarify which ones had some substance and which ones didn't. It seems clear we're down to two possible alternate sites, the six acres which is a problem because of all the extra land it would entail and the parking lot which is a problem because it would have to be a separate parcel tied into the other parcel.

Board Member Montesano stated that six acre parcel, if I can interrupt you, we do lot line changes by the ton...

Board Member Taylor stated yes, yes, that's not the issue.

Board Member Montesano stated and it's not that difficult...

Board Member Taylor stated no but that's not the issue.

Board Member Montesano stated and to knock it down from six acres to five acres, or five and a half, that thing is not going to take up an acre of land.

Vice Chairman Cook stated go the other way, even go from five to three.

Board Member Taylor stated but that's really not the issue, that can be done but what then is required is that all the frontage between the lodge and there has to become part of the parcel so its encumbering that whole frontage across there in some way.

Board Member McNulty stated or the lodge becomes part of Patterson LLC.

Board Member Taylor stated well the lodge is part of the Patterson LLC...

Board Member McNulty stated I get confused.

Board Member Taylor stated there is a parcel in between that's the ski slope and toe of that slope on the road has to be connected to whatever we take out of, they would take out of that six acre parcel, it has to be continuous, right...

Rich Williams stated contiguous, yeah.

Board Member Taylor stated they would have to set in easements for the road that goes across to the upper ones, so its just more frontage that would be taken than just what would be taken out of the six acres, so in some sense, the parking lot makes more sense because you're encumbering less that way, you're leaving the six acres, you're leaving the frontage of the slope there, its just the problems of dealing with the parking lot and the parking lot is part of P LLC anyway...

Rich Williams stated yes.

Board Member Taylor stated so you don't run into those issues.

Rich Williams stated and if I could just jump on one, expand on what Ron is saying, by taking away all the frontage right there, you're either creating a non-conforming parcel on the backside or you're forcing another stream crossing because you have to give him access to that back lot.

Board Member Taylor stated and an easement isn't enough.

Rich Williams stated probably not.

Board Member Taylor stated okay, so and that is something they never mentioned because it...

Board Member Montesano stated they don't want to mention it.

Board Member Taylor stated I don't think it occurred to them, it's a great argument, its just they had never processed it.

Board Member Montesano stated why an easement, not to be, I mean there are plenty of properties here that have had easement across...

Rich Williams stated because the easement is to the benefit of the property owner and the property owner certainly can use an easement and probably would rather than fight for the stream crossing but he's also entitled to a, you know under his ownership, access to his property and the only place you're going to do that is by going through the stream, so you really don't want to create a parcel that takes up all the frontage.

Board Member McNulty stated can we get the DEP to move the lodge over to the six acre lot.

Rich Williams stated you can ask.

Board Member Taylor stated so that is why I think that is the only thing that makes sense is to connect these two irrevocable together, put the WTP on that, that's the parking lot and its not much good for anything else anyway, once you put the wastewater treatment there, what do you have, you're going to continue to park but you're not going to put another building on the site.

Board Member McNulty stated I tended to like that position but after seeing Fox Run and the size of the structure, I don't know if I'd want that right out on [Route] 22.

Board Member Taylor stated well that's the problem.

Board Member McNulty stated it's hidden up here somewhat...

Board Member Taylor stated but you've got this, you've got that, you have the bank down the street...

Board Member McNulty stated that's true.

Board Member Taylor stated what would it be relative to those, I mean they keep talking about aesthetics but you drive up and down there what aesthetics are there along the road, I'm not saying that that's, I'm just saying in terms of...

Board Member McNulty stated it's logical.

Board Member Taylor stated the most logical alternative seems to be that one, they don't have to do it, there's no way we can force them to do it but we can say there is an alternative if we want to take that stand.

Ted Kozlowski stated well in the wetland, this is a wetlands permit and in the wetlands law the way I'm reading is if there are alternatives, you have a right to deny this permit if there are alternatives, you know this is not an economic hardship...

Board Member Taylor stated no, it is not.

Ted Kozlowski stated and they've chosen one of the most pristine parts of that stream to cross and you know, I know they're talking mitigation, mitigation but again you know I'm looking at this, if this is the true footprint you know and if they have to be somewhere, why can't we move this footprint somewhere further down where that stream isn't so pristine...

Board Member McNulty stated well they have it here.

Ted Kozlowski stated you know maybe above the detention basin for the snow making...

Board Member Taylor stated the problem is then getting up slope, where is the road going to go up slope because they don't want to use that ski run...

Board Member McNulty stated I wouldn't want to live here though and have this thing there.

Ted Kozlowski stated but is it and this is a rhetorical question, I don't know, is it this Board's responsibility to find them a location, they have 200 acres...

Board Member Montesano stated its not your responsibility but if you're going to argue a point that says no we don't want it there, you've got to give an alternate location that is sensible...

Ted Kozlowski stated I don't know Mike, I don't know enough but all I'm saying is it goes contrary to the intent of the wetlands law for the Town of Patterson because there were standards set for that law and then there were standards set on how to decide to evaluate a permit and there are five conditions and this application fails three of those five conditions, so and there are alternate sites...

Board Member Taylor stated there are alternate sites...

Ted Kozlowski stated there are alternate sites, so I am making the argument that there is reason enough to deny this wetlands permit based on a wetlands permit and not anything else, now this is Thunder Ridge, all the other things thrown in...

Board Member Montesano stated when we tried to stop a certain County Executive from putting Patterson as the recycling center of the world, we argued the point but we said these are alternate sites when we were ready to go, we went all over the state finding ways to do things and we have alternate sites as well as plans that were feasible and when we went in and they looked at it, they said that's a sensible and we've already thrown this thing in so it for our side to come up with the A+ rather than just a B+ and you don't know what the party that's going to make the decision is got to be on but if you give him something else to play with then they can have an alternate means of getting out of there.

Board Member Taylor stated yeah, we've given them that...

Vice Chairman Cook stated yeah.

Board Member Taylor stated and there may be others as Ted is suggesting...

Board Member Montesano stated we've given them more than just...

Board Member Taylor stated there may be others if they would just sit down and thing about it.

Board Member Montesano stated well they don't want to think about it.

Board Member Taylor stated well they are not the ones that are ultimately going to make the decision.

Vice Chairman Cook stated right, I don't think that we have to think about it for them, I think that Ted's last e-mail tying it in with the Code says what it says and he's just restated it now, so I think we just keep that in the back of our minds and we reread his e-mail, read that section of the Code so everybody gets comfortable with what Ted is saying so eloquently...

Ted Kozlowski stated I will send you that.

Rich Williams stated what.

Ted Kozlowski stated I wrote an e-mail...

Board Member Taylor stated also the DEP was kind of saying that.

The Secretary stated hang on, hang on.

(Side1 Ended – 7:44 p.m.)

Rich Williams stated probably needs to get to the applicant.

Ted Kozlowski stated Rich you know what, nothing I've said...

Rich Williams stated so, let me finish, my only you know suggestion is that you take what you did in the e-mail, put it in a memo and then give it to the Board, then it can go to the applicant because we've always got to let the applicant know everything that we do.

Ted Kozlowski stated and I agree and all I'm saying is that what I said in that is believe is not any different than what I've said publicly, I've just kind of spelled it out a little more concise...

Board Member Taylor stated yes.

Vice Chairman Cook stated that's true.

Ted Kozlowski stated and I'm using...

Rich Williams stated there was nothing inappropriate or untrue...

Ted Kozlowski stated right, I'm just using the law and the standards for that law and why that law was formed and Tommy you didn't read this but let's look at this from a wetlands permit application and that is what was before this Board...

Rich Williams stated can I just jump in, we are also dual tracking the site plan application, as well, so that you all know, the impacts are all wetlands.

Ted Kozlowski stated right, right but I'm speaking from my...

Rich Williams stated I get it.

Ted Kozlowski stated little world and Tom and Mike as when the Town Board set the wetlands and watercourse law they set standards, the reasons why we need to protect wetlands and watercourses and then further down in that law is a set of standards that we are supposed to follow when we decide on a wetlands permit and there are five conditions and one is you know, there is no other alternate source, you know there is no other practical location, this is the only one, economic hardship, that kind of stuff and I can't remember the whole kit and caboodle here but clearly in my mind, three of those conditions are not met and that's to me, if I was arguing this and I'm not an attorney but if I'm arguing this, its clear to me that they don't meet the standards that are put in our law, so if they are going to wins this or they are going to say you know they gets this, then why do we have this law, that's my point, why are we going through this if we're not holding to the standards of the law.

Board Member Montesano stated I agree.

Vice Chairman Cook stated like Rich said, put everything like that in the memo form to the Board, copy Rich, copy the applicant...

Ted Kozlowski stated you'll have it tomorrow.

Board Member McNulty stated that will help to understand that law.

Vice Chairman Cook stated now, it came up now in the conversation which I'm starting to question too, is that, is this area of disturbance where they talk about 0.9 or 0.96, whatever it might be, is that covering just where the plant is going to go.

Rich Williams stated no, it covers the disturbance going all the way up the hill and the plant and the driveway crossing...

Vice Chairman Cook stated okay, it covers all of that.

Rich Williams stated but as Andrew pointed out, it does not cover the staging area that is necessary to put the crane in, it was a good pick up on their part, a valid point that may push it over an acre...

Board Member McNulty stated and the DEP has picked up on the same situation in their memo...

Board Member Taylor stated 15% slopes, the whole business yes, they're kind of side stepping it, they are saying give us more information but at least they've picked up on it, the other thing, their big argument seems to be now in terms of alternate sites, economic impact to them so I would say you know the DEP should buy the development rights for whatever parcel the alternate is and that eliminates the economic impact to the owner, if they want to do that or the DEP argues we're putting in a 4.5 million dollar facility that is going to benefit you but I don't see the economics as a valid argument.

Vice Chairman Cook stated I was looking at what, excuse me, I was thinking along those same lines about that six acre parcel business and what could DEP do, as far as buying it, leasing, doing something along those lines and I think that is a fair question to, they are the ones who are mandating this and somehow if it were to go there and turn into a hardship for the owner, well maybe with this budget there is some way they can mitigate that expense or loss...

Board Member McNulty stated the economic loss.

Vice Chairman Cook stated to the applicant.

Board Member Taylor stated and it would probably be cheaper than the expense of putting this in.

Vice Chairman Cook stated maybe, maybe, I mean I don't think they would want to buy that parcel and be a land owner, DEP but there may be some other mechanism that they can work out.

Board Member Montesano stated they can buy it and I'm sure a certain bank would be willing to buy it back.

Ted Kozlowski stated I also want to bring something else to all of your attention, I don't know if you've done this but you should go to the New York City DEP website on stream protection, okay, there is a ton of stuff that they state in their website in their various, DEP is like a giant bureaucracy as we all know and they have different divisions, okay, these divisions apparently don't communicate very well with one another...

Board Member McNulty stated which is probably a good thing.

Ted Kozlowski stated and they have a whole litany of document statements on their website about the importance of stream protection and doing alternate ways there is a gentleman by the name of Michael Usai, I'm not pronouncing his name right, he's down in Valhalla, there is a whole wetland mitigation unit for DEP that has not reviewed this.

Vice Chairman Cook stated I don't know about that name but we did receive from DEP this particular letter dated...

Ted Kozlowski stated that is partially because of a phone call that I had made to Michael Usai about this, I wanted to know whether DEP internally when they were designing this whole thing, did they consult with the wetlands unit, did they understand they were crossing a trout stream and they were going contrary to their own published documents online and they didn't, they did not, now they are reviewing.

Vice Chairman Cook stated now they now and its interesting I found that the points that they brought out...

Board Member McNulty stated were similar to our point.

Vice Chairman Cook stated exactly, so the applicant has a lot of responding back to even, speaking to the co-applicant DEP, to the other department in DEP has a lot to respond back to and I think that that is what we ask them, we need to see that response, we need to see the response to the DEC letter and with the DEC which I want to bring up, we talked about it very briefly last meeting or the meeting before about the good old bog turtle...

Rich Williams stated yeah.

Ted Kozlowski stated which we want a study.

Vice Chairman Cook stated what I would like to suggest to the applicant is that they review a bog turtle report that Tractor Supply prepared and either tell us that how either that they want to do their own study or taking off of the Tractor Supply study, their response, how it would apply to Thunder Ridge, we'll do that...

Board Member Taylor stated don't they have to bring in an expert to do that, they can't do it themselves can they.

Rich Williams stated they have to bring in somebody qualified.

Board Member Taylor stated they'll have to go out of house and bring somebody in to say whether it applies or doesn't apply.

Vice Chairman Cook stated right and the other thing and I asked Rich about this, prior to the meeting, they have submitted the Short...

Rich Williams stated environmental assessment form.

Vice Chairman Cook stated right, we can ask for the full one, we may not get a lot more information but we have the right to ask for it and I think we should ask for that.

Board Member Taylor stated I agree.

Board Member Montesano stated I agree, especially since you got a trout stream in there and that could start the ball rolling.

Vice Chairman Cook stated get all of this.

Ted Kozlowski stated in case you're interested, I did, I made a copy because I was going to generate a whole thing here but there is the Riparian Buffer Protection Program from DEP stressing...

Board Member McNulty stated you gave that to us.

Ted Kozlowski stated well no, that's within the Agricultural Watershed Council Program which is the forestry program that I'm involved with, this is something else...

Board Member Taylor stated this is DEP itself.

Ted Kozlowski stated yeah, this is which is what I got online and this is all stuff about avoiding what they are telling us to do.

Board Member Taylor stated yeah, in their letter they say we are moving away from mitigation toward prevention...

Ted Kozlowski stated right.

Board Member Taylor stated and that is exactly what we've been saying from the beginning, move the damn thing and then you'll prevent.

Vice Chairman Cook stated yes.

Board Member Montesano stated question, if we were to make that up as part of his memo, take that...

Rich Williams stated take what.

Board Member Montesano stated a copy of the DEP's website information given to us by our...

Ted Kozlowski stated I can make this now and just give it to you guys.

Board Member Montesano stated no, no, what I'm saying is this, we have this also any copies that have to go to the applicant should include this and let Bob explain why.

Rich Williams stated well that's up to Ted whether he wants to attach it or not.

Ted Kozlowski stated I'll be happy to do whatever you guys want, I have it here, I've been carrying it around and I'm like, I'm just scratching my head as to how this got, how it got this far with DEP in their internal review.

Board Member McNulty stated well after reading their letter I wonder the same thing.

Board Member Montesano stated well if we submit this to the applicant that means he's got to show it in his department, which means we looked at your department...

Board Member Taylor stated yeah, sure I would think whatever supporting documents we have...

Board Member Montesano stated so whatever we're got.

Rich Williams stated what do you want (speaking to Patricia Brooks, Town Comptroller).

Vice Chairman Cook stated you're working late...

Rich Williams stated can we just jump back real quick, would you like me to contact the applicant to tell them to get a long form EAF in here or you want to wait for the meeting.

Vice Chairman Cook stated yes, no and that we want him to, might as well tell him the same conversation that we want him to look at the Tractor Supply Bog Turtle report, okay and it was not only us that have waived this red flag its DEC is also asking about it...

Board Member Montesano stated DEP.

Board Member McNulty stated DEP.

Vice Chairman Cook stated no, DEC.

Board Member Montesano stated that's right, it is.

Board Member Taylor stated DEP didn't mention it.

Vice Chairman Cook stated and we would like them to see, get their responses to, does that apply, how do they think that applies to their application and then we'll decide whether we'll ask them to go full bore for their own report but at least they can look at what we have and I think that's only fair.

Board Member Montesano stated can we include this in a memo and tell them hey, by the way, this is from your department, please explain, that puts the ball in their court, they've got to explain the situation, if you're department says this is what's going on and you're not admitting to it, then you ought to have a talk with them. We are just going by what we were shown and what they have asked.

Board Member Taylor stated if they are over an acre of disturbance, what does that mean in terms of the process with us, are there other forms.

Rich Williams stated nothing with the process, it means that they have to include, they have to do a basic SWPP plus water quality controls and we are probably going to push them to do water quality controls anyway because probably the single biggest impact to this project is putting the wastewater treatment plant where they are proposing to put it, there are thermal impacts to the stream because it's not a very functional one in my opinion but it is still a cold water fishery and between the road run off and the heat that is going to be generated, the loss of vegetation and the increased heat from the effluent discharge out of the plant, you know you're probably going to be impacting that stream.

Board Member Taylor stated can we start that now with them.

Rich Williams stated with what, start what.

Board Member Taylor stated whatever those things that they have to start filing and doing and...

Rich Williams stated as far as the thermal impacts and such, Charlie had asked me to take a look at all the past correspondence and everything and do a memo on what I perceive as the impacts and whether the mitigation is adequate or not which I've been working on and you'll have that.

Board Member Taylor stated because it certainly looks like they are going to be over an acre of disturbance, doesn't it.

Rich Williams stated I would think they are going to be over an acre...

Board Member McNulty stated one acre of disturbance I don't see being picked up either is the disturbance of the main line from the lodge to the plant, now they said it was going to be along the road that goes up there and the road isn't that wide and they keep saying they don't want to impact the ski slope in anyway, so I would think they are going to clear some land or disturb something to bury that line from the lodge to the plant, correct.

Rich Williams stated when the plant first came in, I took the preliminary and I measured it all out, now I can't do it with the accuracy they can do it with CAD but going with the preliminary it was, you know, right on that line of the one acre threshold.

Board Member McNulty stated included the disturbance for the main.

Rich Williams stated going, yeah, with the new pump chambers, with the new septic tanks, lines going all the way up the hill.

Board Member Taylor stated did that include, DEP was pointing out, did they include the calculation for getting rid of the old stuff as part of the disturbance.

Rich Williams stated that I don't know, that I don't know.

Board Member Taylor stated because they asked that question, have you include this, again that would push them over, they are so close now...

Vice Chairman Cook stated right, DEP itself is asking that.

Board Member Taylor stated yes, they asked that question, yeah.

Board Member McNulty stated I have a question in regard to the DEP letter and their item one, what they're asking submission included, including a site plan application that requests a waiver from the Town of Patterson section 154-79, I don't remember seeing a waiver other than just the wetlands...

Rich Williams stated they asked for a waiver from 79 which requires them to show topography over the entire site and asked to limit to just the area of disturbance.

Board Member McNulty stated so that was the specifics of their waiver letter, they didn't say specifics, when I looked up at that Code, 154-79, its just a bunch of required information, so I don't know.

Rich Williams stated there was some large trees, there was also the bedrock outcroppings which we typically do.

Vice Chairman Cook stated correct but DEP itself is asking for that, for that letter from the applicant.

Board Member McNulty stated well they want to know if we've granted the waiver which we haven't done yet.

Rich Williams stated and I don't know why they are asking that, that has no bearing on their decision what we waive.

Board Member Taylor stated their curious maybe as to what we're waiving.

Vice Chairman Cook stated please forward the reference waiver request letter to each involved agency in order for each agency to determine the waivers impact on the SEQRA review, DEP itself is asking the applicant, send that letter out.

Ted Kozlowski stated don't you see, maybe its just me, don't you see this as so bizarre that DEP wants this wastewater treatment plant done, they've gone through this whole process, they dump it in our laps and them themselves are questioning what they already...

Board Member Taylor stated yes.

Board Member McNulty stated no doubt...

Board Member Taylor stated yes.

Ted Kozlowski stated what, and they are going to the Ryder's, why didn't they ask themselves that question when they first opened book and said okay, we need a wastewater treatment plant here...

Board Member McNulty stated because those offices are across the hall from each other.

Ted Kozlowski stated that is what is so perplexing here.

Board Member Montesano stated yeah but that's normal bureaucracy, the right hand never knows what the left hand is doing, that's been going on for centuries.

Vice Chairman Cook stated yeah I agree, yeah.

Board Member McNulty stated one more question, Rich can you just update us where we are in the application, did we declare lead agency.

Rich Williams stated we did declare lead agency, we circulated, that's how we got that letter back from DEP and DEC, that is their response to our circulation for lead agency, everybody at this point as acknowledged receipt and excuse me (coughing) accepted our intent to be lead agency, so you're in a position at this point, at the next meeting to make a SEQRA determination...

Vice Chairman Cook stated for when.

Rich Williams stated or to tell the applicant you need additional information in specific areas.

Board Member McNulty stated that's why we need the long form EAF.

Rich Williams stated that's why Charlie is asking for the bog turtle, some of the issues that were raised tonight about you know the stream crossing...

Vice Chairman Cook stated with all of these questions between DEC, DEP all right, not to mention what Ted's bringing up, I don't know how we could make a SEQRA determination at this point.

Rich Williams stated I just said you in a position to make one.

Board Member Montesano stated we're in a position all right.

Board Member McNulty stated we're at that point, that's out next step, then a public hearing from there.

Rich Williams stated right.

Vice Chairman Cook stated but there is so much stuff that we need...

Ted Kozlowski stated there is a lot of stuff and Army Corp has weighed in yet, either. You want Shawn...

Vice Chairman Cook stated yes, okay, are we okay guys for tonight, okay.

Board Member McNulty stated I can see clearly now...

Board Member Montesano stated oh what fun it is to ride...

4) M&S IRON WORKS – Site Plan Application

Rich Williams stated everybody got the site walk comments.

Board Member Taylor stated yes.

Rich Williams stated have a chance to look at them.

Board Member Cook stated it says what we observed.

Board Member Montesano stated all right, okay, I'm looking and I don't see it.

Board Member Cook stated welcome back Shawn.

Ted Kozlowski stated just before you, I gave Michelle, I got a letter, I got something from Peder Scott regarding something you don't know about yet, Michelle is going to...

Rich Williams stated is this PBJ down by the old...

The Secretary stated PJB.

Rich Williams stated PJB by the old Town Hall.

Ted Kozlowski stated yeah.

Chairman Rogan stated okay, I trust you guys are done with...

Rich Williams stated did you pick up your e-mail.

Chairman Rogan stated Thunder Ridge Ski Area.

Board Member Taylor stated yes we are.

Board Member McNulty stated welcome back.

Chairman Rogan stated all right.

Board Member Taylor stated done for now, I wish we were done.

Chairman Rogan stated all we can ask, it's a lively debate, right.

Board Member Taylor stated yes.

Board Member Cook stated done for this evening.

Chairman Rogan stated so M&S Iron Works, obviously we did the site walk the other day, Rich we got new plans in from M&S...

Rich Williams stated yes, yes you do.

Chairman Rogan stated okay.

Board Member Cook stated I will say one thing that I thought that the, their engineer's response letter was a good letter.

Board Member Taylor stated yes.

Board Member McNulty stated he covered all the notes.

Board Member Cook stated yes, I mean I like how he did it, I guess that's the way I am.

Board Member Taylor stated point by point, yeah I agree.

Board Member Cook stated and I like the phraseology throughout about we have adjusted as suggested, we have done as suggested.

Board Member Taylor stated they look like they're cooperating.

Board Member Montesano stated you mean somebody sounds like a professional maybe, I just figured I'd throw that word out there.

Chairman Rogan stated okay, but they, it sounds like I haven't looked at it yet but it sounds like they did what we've been talking about is they've responded comment by comment to the comments that were given to them.

Board Member McNulty stated this is the new set.

Board Member Taylor stated probably, I have no idea I have so many stacks.

Chairman Rogan stated yeah.

Board Member McNulty stated I threw away the old set so I know...

Board Member Taylor stated I don't dare throw anything out (inaudible).

Board Member McNulty stated no, it feels good to throw stuff away.

Board Member Taylor stated I'm sure it does.

Board Member McNulty stated this is April 19th.

Board Member Taylor stated yeah, this is March so I have the old one.

Board Member McNulty stated yeah open these up.

Board Member Taylor stated changed substantially.

Chairman Rogan stated I read them via e-mail.

Board Member Montesano stated thank you.

Board Member Taylor stated that's what I've got, that's what I have already.

Board Member McNulty stated Rich the engineer's response to yours and Andrew's comments, did you, were you able to go through, I didn't go through it in depth, did he cover your response well.

Rich Williams stated I haven't gone through it in depth but I have gone through it, yes.

Board Member McNulty stated okay, to me it looked like he did.

Rich Williams stated yes.

Board Member McNulty stated he said he showed the driveway here.

Board Member Taylor stated I think the only concern I had up to the walk was this is unlike, in terms of my time walking any other site because these buildings are so close to the property line, its not like down in whatever it was...

Board Member McNulty stated Route 22, down by the...

Board Member Taylor stated the flex building...

Chairman Rogan stated yes.

Board Member Taylor stated where you're out in the middle of you know 20 acres, especially these buildings right here with the slope going into the neighbors property which is something I'm very sensitive about. When they do these cuts, can they cut it so that it is graded slightly back into their property underneath so any under, subsurface flow goes that way instead of out to the neighbors.

Rich Williams stated yeah, you can grade anything any way you want it or if you can't pitch it that way then you can you know put something along the property line to capture it to make sure it doesn't go over it.

Board Member Taylor stated that was my only concern, I mean it looks like they are doing a great job on this, have it all figured out. The other thing was the issue about [Interstate] 84, seeing it from [Interstate] 84, I don't understand why is that an issue.

Chairman Rogan stated I don't think it an issue that can't be spoken about as an impact, you know we talked about when we looked at Patterson Crossing, are we going to see it from the highway when people are driving through, you may see parts of it but you try to figure out what that view will be, so that we can soften it or at least take it into consideration, I don't think it's the issue, its just something that we...

Board Member Taylor stated no, I think...

Board Member McNulty stated I think its nice if we can keep in mind to keep some kind of tree lined buffer, so if your on [Interstate] 84 you don't have a big clear cut through a...

Chairman Rogan stated you're not looking at the backs of buildings.

Board Member McNulty stated through a generally wooded area.

Chairman Rogan stated yeah.

Board Member Taylor stated even though the towns on either side of us are...

Board Member McNulty stated we'll have that distinction of a tree line.

Board Member Cook stated this is our stretch of [Interstate] 84.

Board Member Taylor stated all right.

Board Member Montesano stated one side.

Board Member McNulty stated if I compare this to Connecticut, you drive Route 2 or not some of the interstates so much but their state roads, you can see industry off through the woods, they have it but they keep that buffer and it keeps the road, I like to travel a lot, so on the road it looks nice.

Board Member Taylor stated I understand just, a mile down the road...

Board Member McNulty stated you get down to Kohl's, it's a different...

Board Member Montesano stated maybe we can make a rock wall up there.

Board Member McNulty stated well we have quartz outcropping.

Board Member Taylor stated oh you're going to leave that so it's exposed.

Board Member McNulty stated no its going to be chips in the front.

Chairman Rogan stated that's going to be gone.

Board Member Taylor stated move it over to the side so you can see it better.

Board Member Cook stated I think we should buffer to some extent between the property and...

Board Member McNulty stated he's got fifty feet, yeah, that should be more than enough.

Chairman Rogan stated but that fifty feet isn't show necessarily within limits of disturbance as not being...

Board Member McNulty stated that's true.

Rich Williams stated you go...

Board Member McNulty stated stormwater...

Rich Williams stated burrow back in, show the grading plan, it goes right to the line...

Board Member McNulty stated and the stormwater pond.

Chairman Rogan stated the buffer is this case really, what's not shown is the DOT right of way which is the section off of the maintained lawn area that goes up to the property line, that is part of the buffer so that is why I was mentioning some potential plantings that could soften the building a little bit, you know.

Board Member McNulty stated even here the buildings in this stormwater area are pretty far from the property lines.

Chairman Rogan stated it's the one building here closer to the neighbors.

Board Member Montesano stated it's that garage, that's phase 3, so we don't know when that's going to get...

Board Member McNulty stated (inaudible) keep the buffer here.

Chairman Rogan stated yeah I mean this was one of the easiest sites we've walked considering the average site that we deal with and it sounds like everybody is agreement to just keep moving through the process and as long as they keep answering and responding and there is no reason why this won't, shouldn't be a smooth process.

Board Member Cook stated one of the comments in the engineer's letter, 14, he says, he's talking about the fire prevention, fire fighting, therefore, we will reach out the fire company unless there is a more appropriate, unless it is more appropriate for the Town to do so as to how they would fight a fire on this property.

Rich Williams stated typically we do not refer these to the fire department, we've gotten very sporadic results in doing that, sometimes they respond, sometimes they don't. Everything goes to Dave Raines, Fire Inspector.

Chairman Rogan stated Fire Inspector.

Board Member Cook stated so we need to tell the applicant its Dave Raines that either they talk to or...

Rich Williams stated it's already been referred over, I've already talked to Dave.

Chairman Rogan stated Dave gets a set of plans on these initial, so what would be nice is if Dave would give us a letter that gave his observations or whatever he, you know, add to the pile and make sure its addressed or considered or whatever.

Board Member Cook stated and then Rich relative to using item four versus item two, I mean I guess they are also looking for direction there, are they or you had asked them to use item four or preferred item four...

Rich Williams stated no, I'm not a big fan of item four I mean anybody who goes down Ice Pond Road knows why I'm not a big fan of item four because every time you get a large volume of water running across the item four surface, it cuts rills, it takes all the fines with it, cuts channels and that all goes down into your stormwater pond and ultimately gets discharged...

Board Member Cook stated so...

Rich Williams stated me I'd rather have blacktop, you're talking about a steel operation out there, blacktop, you know may take a real big beating on that, they want to go with a different type of material, a stone type of material, a large stone, you know possibly, but that is a real pain in the ass maintenance headache for them...

Board Member Cook stated the stone.

Rich Williams stated the stone, now there are some other materials that you may want to look at that I personally used and that's blacktop fines that compact down really hard, really dense to an almost blacktop surface without the petroleum binder in it, you roll it, you pack it, it makes a great surface. So we'll talk to them about it and we'll see what we can come up with as we go through the process.

Chairman Rogan stated help me recall last meeting, was it the cost being their biggest factor or was it stormwater...

Rich Williams stated I thought it was stormwater.

Chairman Rogan stated that's what I thought and that is where I think we were talking a little bit about grass pavers or you know, pervious surfaces and I think grass pavers was one of them as far as, okay...

Board Member McNulty stated the front half will be all blacktop it just I think from this point back, becomes item four or...

Rich Williams stated on the side.

Board Member Cook stated no, on the side I thought...

Board Member McNulty stated this side road here, which they do show the turning radius now for vehicles...

Rich Williams stated do you have that in front of you...

Board Member McNulty stated yeah.

Rich Williams stated if you see he has to move over as I said outside of the normal drive aisle and into the apron of the garage area and then if you look very closely, the truck turning radius is off of the driveway area.

Board Member McNulty stated yeah, his nose will be way out here, he says there is a 45 foot radius, I don't know how that compares.

Board Member Montesano stated you have a 45 foot radius, if you have a box that's 40 or 45 feet plus your tractor...

Rich Williams stated that's a small tractor, yeah.

Board Member Montesano stated yeah even that, you have to include that tractor in there because you've got a 40 or 45 foot box that you're backing up and now you're going to swing to get that in there and if the tractors, even if he's good, unless he's going to back and go forward and then back until he swings around.

Rich Williams stated most steel trucks that I've seen though are W55 turning radius, the long beds.

Board Member McNulty stated this will all be open too to drive through here...

Rich Williams stated I don't know how much they are going to be able to drive through that.

Board Member Montesano stated give them time.

Board Member McNulty stated they can open it here.

Board Member Taylor stated are we talking about traffic on this road at all.

Board Member McNulty stated just deliveries, in house traffic.

Board Member Taylor stated it will be one truck at a time so it doesn't matter if he swings out into the other lane or not.

Rich Williams stated well on the side driveway you just want to make sure that the driveway is wide enough so that it accommodates the trucks...

Board Member Taylor stated so they're cutting the drive.

Board Member McNulty stated I think you're just talking about this corner here.

Rich Williams stated yeah, so you may need to expand it out a little.

Board Member Taylor stated oh okay.

Board Member McNulty stated maybe yea they would bring it up here and square it off.

Board Member Montesano stated either that or diagonal cut the building.

Board Member McNulty stated so we're at the point now we can declare lead agency or not on this.

Rich Williams stated yes.

Board Member McNulty stated would this be a coordinated review because of the DEC wetland adjacent to it and the DOT...

Chairman Rogan stated typically we...

Rich Williams stated there are other agencies involved in this, DEC, DEP because of the septic and the stormwater, Putnam County Health Department because of the septic and the well, so there are other agencies and I would recommend to the Board that they do a coordinated review but there is not obligation. DEC wetlands are off site not really impacted by this so they are not going to be looking for a permit, that doesn't qualify the DEC as an involved agency.

Chairman Rogan stated the plan that I have open is probably different from the one you have, it shows the subsurface sewage trenches in that area and the one comment from the site walk, what we were talking, boy there was an awful lot of ledge sticking up all over the place out there around their deep test holes six thirteen...

Board Member Montesano stated what's the date.

Chairman Rogan stated what's the date, it says April 19th but maybe they didn't put the revision, it says original March 22nd and then revision April 19th, the set that was on my box.

Board Member Montesano stated okay.

Chairman Rogan stated but I mean I know that's more of a function of the Health Department but boy that ledge was sticking up all over the place out there in the area of the...

Board Member McNulty stated right along through here basically.

Board Member Montesano stated I get the feeling they are going to grind that up and use that, as much as they can get out of there without, just a compacter.

Board Member McNulty stated this is area where the disturbance comes right up to the line.

Chairman Rogan stated right, let's not beat the dead horse, we'll work on, it looks like they're...

Board Member Taylor stated did you see any major issues.

Rich Williams stated no, the only thing I want to talk about is the vernal pool, the biggest issue out there.

Board Member Montesano stated and its not even his property yet, I mean...

Board Member McNulty stated I know vernal pools are significant but to what degree, if one is degraded or even lost in an area like this in a commercial industrial zone.

Chairman Rogan stated lost.

Rich Williams stated they are very unique ecological habitat areas that are important, probably one of the more critical wetland areas for the Town to protect because of the unique ecology and biology that is within them.

Board Member McNulty stated even at the toe of a landfill.

Rich Williams stated even at the top of a landfill and more so because they occupy a unique area with the landscape and vernal pools as they work, they need to be in proximity of other vernal pools in the area because the amphibians will travel between the two for purposes of breeding, so if you've got a vernal pool it is a really important ecological habitat that needs to be protected at all costs.

Board Member Montesano stated when that turned into the landfill that's what brought it out, was the fact that DEC came in and DE whoever and everybody else who got involved with that thing, came in and found that and that was, because all the garbage was running off into it.

Rich Williams stated I don't know the first time we knew about it was when Ted went out there on the previous application and we found that.

Board Member Montesano stated when the person that owned it, the people involved, when they started that fill, if I remember right, I don't know if it was state workers on the highway but somebody brought it in and that's when the war started because that's when the person that owned it started to make phone calls

to everybody he knew to say have it taken care of and it wasn't because the stuff that was flowing out there was causing a major problem for the people who found it.

Ted Kozlowski stated Mr. Chairman.

Chairman Rogan stated yes.

Ted Kozlowski stated I believe I can make a statement in general of the vernal pool.

Chairman Rogan stated general relating, absolutely...

Ted Kozlowski stated not specific to this one but Richie's right, vernal pools, Tom just you know and anybody else, they are important because they don't hold fish and fish are predators of amphibian eggs so amphibians somehow know that vernal pools are vernal and vernal means temporary, its only a pond for a short duration so in February that pond becomes a big sexual escapade among amphibians...

Chairman Rogan stated what time of year is that usually...

Board Member Montesano stated now.

Ted Kozlowski stated Rich and I were out there and we witnessed salamanders having fun so we know it's productive...

Rich Williams stated it was purely scientific.

Ted Kozlowski stated right.

Chairman Rogan stated yes.

Ted Kozlowski stated before we started drinking.

Board Member Montesano stated you want to come over to my house and look at my pool right now with the guys having fun.

Ted Kozlowski stated and that particular vernal pond...

Rich Williams stated stop, stop...

(Tape 1, Side 2 Ended – 8:23 p.m.)

Ted Kozlowski stated so amphibians like tiger salamanders, many salamanders, many frogs, they breed, they quickly breed, they lay the eggs, the eggs have a very short time to mature, to hatch, mature and then the animals leave the vernal pond and they become terrestrial, which means ground and vernal ponds are usually in a low spot and studies by Dr. Michael Clemens have indicated that up to 400 feet from a vernal pond should be protected because the amphibians or tiger salamanders and such, they go up to the upland sites and they go into the soil and under the down tree logs and all and that's where they habitat but its not just the vernal pond that's important but its also the upland hillside that is equally as important so vernal ponds are very special attributes to the environment and that's the main breeding ground, that is why they are important, its not because they are a wetland per se, its because of what they produce, now some vernal

ponds are so vernal that they can maintain a habitat for amphibians because they are not wet enough, some are and those ones are more (inaudible – train whistle) vernal ponds have a certain degree of importance like wetlands...

Board Member McNulty stated so where does this one fall.

Ted Kozlowski stated well I'll let Rich get to that.

Chairman Rogan stated let's stay on that for a minute and talk, since we are moving forward with what the ultimate impacts will be to this area and Rich and I had talked about this briefly, it would make sense if we can do a present day classification, functional analysis if you will of what do we have out here what is the you know, we have different elements, we have what exists and what the functional analysis and the worth if you will and then we have a whole other spectrum which is what would the potential impacts be, not only from this site but from build out of the entire site, so we had spoken a little bit about ways to do this, some of this stuff you were just talking, vernal pools in general and past information, past practice...

Ted Kozlowski stated right.

Chairman Rogan stated might make it feasible to have the past and present site conditions done in house by our technical staff, impacts for future, we may, that may be done in house under another, say under Richie or with other technical input, so just talking procedurally about this...

Board Member McNulty stated so you're referencing the entire Commerce Drive area.

Chairman Rogan stated no, this vernal...

Board Member McNulty stated just this vernal pool.

Chairman Rogan stated this vernal pool because this seems to be really a, I mean we have other wetlands issues out on this site that we can also extrapolate out past conditions that, areas that haven't been interfered with. We have a lot of information on this, we've done this with other project where with Eastern Jungle Gym we looked at the stream corridor and so we have a lot of institutional knowledge if you will that's part of our record that we can probably draw from but I think in this specific instance if we can try to cut the pie up into a few different pieces there may be some pieces that Teddy very well would be the perfect person to...

Ted Kozlowski stated well I just, vernal ponds in general, if a vernal pond is important as an amphibian breeding site, it is important not to make it a full time pond by diverting water to it to be constantly wet and it's equally as important not to change that drainage where it becomes excessively dry too soon.

Chairman Rogan stated right and I think that is what Richie had hit on in terms of a net zero no increase, no decrease and that is where, remember we were talking, there is an area on the site if you will remember, it looked like a pathway where some of the storm events had really washed out all the debris, it was pretty obvious it was an area that would become eroded.

Rich Williams stated and if I could just expand on that...

Chairman Rogan stated yeah.

Rich Williams stated no net increase or decrease seasonally because seasonally, these things are very seasonal and that's as critical as anything.

Chairman Rogan stated yeah, have we ever, speaking about past have we ever seen that area dry up, because you mentioned the intermittence of vernal ponds, I bet you that stays with some water all the time...

Ted Kozlowski stated I was at that site, there was, I don't know what the project was but it was three or four years ago, we were looking at that, I had monitored that one over the period of year and I had monitored the one at Bear Hill Estates...

Chairman Rogan stated right, that's the other one I was thinking of.

Ted Kozlowski stated for a period of time and yes they do dry out you know but again it depends on what we had for the winter and what is going on in the summer. Sometimes a vernal pond will stay wet year round because it's an unusually wet year...

Chairman Rogan stated sure.

Ted Kozlowski stated you know nature is never exact...

Chairman Rogan stated sure.

Ted Kozlowski stated wetlands are never on a straight line, so it's you know...

Chairman Rogan stated let me ask you this question, you got my thinking about the, when you said absence of fish does that mean that some small ponds can be very good breeding grounds for those amphibians specifically because they lack fish because I'm thinking of a ton of small ponds that you know that just don't have any fish in them.

Ted Kozlowski stated I don't know enough about the nature, well certainly for frogs yes...

Rich Williams stated can I jump in here...

Ted Kozlowski stated go ahead.

Rich Williams stated is one of the other unique things about vernal pools is the leaf litter and the sticks and everything else which also serve as a breeding habitat...

Chairman Rogan stated yeah, okay.

Rich Williams stated so that's also as critical whereas when you get the ponds a lot of times you just get the mucky bottom without the leaf litter...

Ted Kozlowski stated yeah, there is a certain cleanliness to that pond but also I'm not making this up but fairy shrimp are an important resource in those pond and I think some of the emerging maturing amphibians prey on them, fish change their whole scenario and that's not to say salamanders and frogs won't breed in fish ponds but their chances of survival and their productivity is greatly reduced because of predators...

Board Member McNulty stated being lower on the food chain at that point.

Chairman Rogan stated yeah, all right so some of these, what we were bringing up tonight about functional analysis, we can I think kick this around but we need to be thinking about our process and how we're going to get to the end game which is taking into account, not only this project but potentially other projects that might have impact because if you remember, part of I think you brought it up on the site walk with Mr. Monteleone part of what we were talking about was this concept plan, this looking at the totality of this site so that we can say because there are some areas that we might be looking in the future to say the functionality of this area is low, we are going to allow some intrusion into it but we're going to do a two for one I believe we were saying Army Corp was a two for one, get another area either on site or off site, well you know these things all need to be looked at and so that is going to be a big challenge something that I think could really turn into an asset for the Town.

Board Member Taylor stated where do we stand on the 400 foot buffer around the vernal pond in terms of this project.

Rich Williams stated we don't have a 400 foot, we have a 100 foot.

Board Member Taylor stated okay, so that's a problem in terms of the survival of the pond...

Chairman Rogan stated let me make sure I understand this...

Rich Williams stated well this was Michael Clemens and I remember it a little bit differently and I'm not saying Ted's wrong but I remember it as a 700 foot, he said really...

Ted Kozlowski stated actually I think you're right...

Rich Williams stated there are vernal pools, you need that 700 foot radius around them because they are within seven to 1400 feet of each other and the amphibians will travel that far over land to get to the next spot to drop their sperm and to lay eggs...

Chairman Rogan stated that's not a regulatory statute is what we're...

Board Member Taylor stated no, no, I understand, we're talking about the environment here.

Chairman Rogan stated right.

Ted Kozlowski stated that's the perfect world, Michael Clemens is looking for the world but...

Board Member Taylor stated but we've got, I mean in terms of that dump site that's there, in terms of restoring that dump site to something, that would be a way of adding the two for one to help the vernal pond then since its right above the vernal pond, if you could turn that into the area that would then become habitat...

Rich Williams stated here is where the Board is going to run into a bit of a problem is, yes everybody wants to encourage commercial development, myself as well, if you develop that dump site you are going to isolate this vernal pool from any other vernal pools that are going to be in the area, amphibians are not going to make it across [Interstate] 84...

Chairman Rogan stated right.

Rich Williams stated you go south and you have a big wetland and they are not going to make it through that...

Chairman Rogan stated so it's only east.

Rich Williams stated the only vernal pools are going to be up on the hill and essentially you're going to be isolating this vernal pool and in my opinion severely impacting this.

Ted Kozlowski stated aren't you limited to what can develop on top of a landfill.

Rich Williams stated probably, yeah...

Chairman Rogan stated you mean structurally yeah...

Rich Williams stated we know Mr. Monteleone is looking to develop something on that landfill site if he can and if the Town is receptive and you know as we talked about a little bit on the site walk its really going to be dictated by what the DEC will him to do, we don't know.

Chairman Rogan stated right.

Ted Kozlowski stated I can't comment on Mr. Monteleone but Westchester County who I work for, we own a couple of unfortunate landfills and we can't even grow trees on those landfills just grass that has to be cut every two years because we have a membrane, I don't know if this landfill has a membrane...

Rich Williams stated it, the closure plan requires a membrane but nobody has done the closing plan.

Chairman Rogan stated yeah, sounds like I heard just some clay has been placed over the top.

Ted Kozlowski stated so I don't know if you're going to be able to put foundations and heavy duty stuff on top of a landfill because it's going to constantly settle...

Chairman Rogan stated yeah, it doesn't sound like it but and I didn't...

Board Member Taylor stated I wasn't talking about developing the landfill, I was talking about using the landfill as a way of extending the buffer for the vernal pool, of increasing the amount of buffer that is what I mean by the two for one, if you use the landfill, put some money into making the landfill serve as part of...

Chairman Rogan stated the surface of it...

Board Member Taylor stated the landfill serve as part of the settlement area or whatever it is for the vernal pool.

Ted Kozlowski stated the only thing Ron is and correct me if I'm wrong but the DEC has the final say and they may some day say you have to take every thing off and put a membrane down if there's not one and close it properly, I don't know...

Board Member Taylor stated okay.

Chairman Rogan stated okay.

Ted Kozlowski stated or they may want to dig for Jimmy Hoffa, I don't know.

Chairman Rogan stated yeah.

Board Member Taylor stated okay.

Chairman Rogan stated what I got from what Mr. Monteleone was asking was he was looking for some assurance, if he could get all the DEC to agree, there was a usability to the property, maybe not right on top of what was land filled but the rest of the property, whether or not something could be done with it and the answer goes right back to him, how do we know, we don't have a plan, we don't know what usable area is there et cetera but certainly...

Board Member McNulty stated what is your proposed used.

Chairman Rogan stated certainly nobody was against using viable property that is currently not being used for anything more than a capped landfill.

Board Member Taylor stated well the night he was here what he was talking about at that point was using the property for access to his 18 acres which is off to the side, he said there is no access to that and he would like to run a road through and now he's talking about, it seems like he was talking about something very different...

Chairman Rogan stated something slightly different, yeah.

Board Member Taylor stated yeah.

Chairman Rogan stated because at first he did mention the 18 acres one site...

Board Member McNulty stated does he have additional property to access back there.

Board Member Taylor stated yes.

Chairman Rogan stated and then he said something about 2 acres, so okay, so there is, there is a lot more here than M&S Iron but anyway I thought it was a good discussion tonight...

5) **OTHER BUSINESS**

a. **Levine Fill Permit**

Chairman Rogan stated do we have anything now on Levine.

Rich Williams stated I've talked to Adam, I've talked to his contractor, they are anxious to move forward, I'm going to reach out to the Health Department tomorrow to see if I can't get that meeting scheduled between them and the DEC...

Chairman Rogan stated that would be great.

Rich Williams stated (inaudible).

Board Member Cook stated because we are coming up to our one year...

Chairman Rogan stated it will be July before you know it...

Board Member Cook stated anniversary...

Board Member McNulty stated and we're waiting for the DEC to make a determination still.

Rich Williams stated well their waffling all over the place, I mean I talked to Meg Filmer who is the Lieutenant up there, Code Enforcement, who said she doesn't understand how this feel through the cracks, this is absolutely regulated, this is outrageous that it did, send everything up to the gentleman who does the analysis form and then I get e-mail back from his assistant who says we don't do this on residential property, so...

Chairman Rogan stated its just very frustrating.

Rich Williams stated I don't know, they're all over the place.

Chairman Rogan stated and can you imagine how frustrated we are, can you imagine how frustrated the homeowner ends up being in something like this where they're dealing with a bunch, they say you guys don't even know what you want and you're holding my up here and I'm doing something wrong...

Board Member Taylor stated can't we just move ahead. Can't we just send a 30 day notice to the DEC saying you've got 30 days to respond and then we're going to make a decision, he's willing now to dig it out, is that correct...

Rich Williams stated we can, yes.

Board Member Taylor stated restore it, why don't we just...

Board Member McNulty stated but do we take ownership of the problem then if there is a serious problem...

Board Member Taylor stated we have ownership, we have ownership of the problem, DEC has not responded, we've given them time to respond, they've dropped it back in out, that is essentially is what's happening...

Ted Kozlowski stated Ron, I...

Chairman Rogan stated the last...

Ted Kozlowski stated in my experience with stuff like this and Westchester County is I agree with you and we probably have good grounds to go ahead with that because we've given them plenty of notice, the problem, the thing, the challenge or the concern I would have and I know we did test investigations and stuff, let's just say there is a drum of something really bad there that got slipped in with the fill and we don't know about it and we tell Adam now to go and take this stuff out and DEC is not on board with it and that backhoe hits that drum and that drum is full of whatever...

Chairman Rogan stated polly bolly bad crap.

Ted Kozlowski stated polly bolly back crap...

Board Member McNulty stated it glows in the dark.

Ted Kozlowski stated okay, who is going to responsible and we are going to have some blame in that and I just don't, I wouldn't feel comfortable, I don't think, its just amazing about DEC not...

Chairman Rogan stated oh, I think...

Ted Kozlowski stated I don't know what else to do.

Chairman Rogan stated I think also the last correspondence or communication was they were willing to set something up and I think that fell through the cracks waiting for the weather you know waiting for that snow and really its been the last month that we've lost where now the snow is completely off and they can see what's out there, so maybe Rich will, I think by this meeting next week he should have a, either probably he's going to come back and say they've got something schedule for a site visit or I didn't get any response and that you know but...

Rich Williams stated well I'm going to start with Anne Bitner, so...

Chairman Rogan stated and tomorrow she's back, she was away for 2 weeks, so tomorrow is the perfect day but let's follow this through, let's say for the sake of argument and follow through the conversation that we did say we're done, we're tired of waiting we are going to tell the guy yes go ahead and do this, what do we do with the other property...

Board Member Taylor stated we've got to get permission from the other...

Chairman Rogan stated we have a violation...

Rich Williams stated just so you know, I did track down the real estate agent that I knew that was handling it, Rich Ricci...

Chairman Rogan stated yeah.

Rich Williams stated I told him the exact situation, he said he knows the local property owner, he definitely would contact them and that was 2 months ago.

Chairman Rogan stated Levine you mean, he would contact...

Rich Williams stated the adjacent property owner...

Chairman Rogan stated yeah.

Rich Williams stated and have them contact me.

Chairman Rogan stated oh, oh, oh the guy who lives in Puerto Rico or somewhere.

Rich Williams stated and the guy still but apparently he's got family up here so, still nothing.

Board Member McNulty stated the realtor was going to contact him or Mr. Levine was, the realtor...

Rich Williams stated the realtor, Rich Ricci.

Chairman Rogan stated got it.

Ted Kozlowski stated I don't think he legally can go on to someone else's property...

Chairman Rogan stated no, nor can...

Rich Williams stated we can't but he's got illegal fill on his property, we can issue a notice of violation.

Board Member Taylor stated I think that's what we should do.

Board Member McNulty stated I think we should do it, we've got no response...

Board Member Taylor stated well we got a response from him, well we got, did we get a response or did they sign the...

Rich Williams stated they signed the slip.

Board Member Taylor stated well then yeah, I think we should go ahead...

Chairman Rogan stated they signed the slip notarizing, not notarizing...

Board Member Taylor stated we're ready to move on this, you need to be involved, make a decision.

Chairman Rogan stated yeah, I agree with you.

Rich Williams stated you want a notice of violation to go out, I'll talk to Nick in the morning.

Chairman Rogan stated yeah, I think so.

Board Member Taylor stated get their attention.

Board Member McNulty stated I think so too.

Board Member Taylor stated and then can we ask the lawyer, is there some way to cover our backs in terms of what you're saying, if the DEC doesn't weigh it and they've had the opportunity to weigh in, can they claim they're not liable.

Ted Kozlowski stated what ever became when our attorney wrote to them, to DEC, what was the outcome.

Board Member Taylor stated we didn't get a reply.

Rich Williams stated I don't remember.

Chairman Rogan stated I don't remember getting a reply.

Rich Williams stated this was so...

Board Member Taylor stated yeah.

Rich Williams stated many letters from the DEC which didn't amount to (inaudible).

Chairman Rogan stated they really didn't amount to much.

Board Member Taylor stated well I think we should pursue that too because it seems like we're over this hurdle...

Chairman Rogan stated this is a very litigious situation so, you know.

Board Member Taylor stated yeah but the big hurdle was is he going to leave it and cap it, is he going to this and that and stabilize it, he's agreed to take it now, so let's go back and then...

Ted Kozlowski stated do they have a new regional director or is it still Willie Janeway...

Board Member Cook stated Levine has had an action plan from day one...

Chairman Rogan stated right, you're right.

Board Member Cook stated when he was told...

Rich Williams stated I haven't heard that Janeway's out...

Board Member Cook stated you did bad and we have that letter from Terri Hahn...

Ted Kozlowski stated he's not out or is.

Rich Williams stated I haven't heard.

Chairman Rogan stated from Beth Evans, or Terri Hahn, you're right.

Board Member Cook stated that says here's what we're willing to do or this is what we're recommending be done and its been spinning and spinning...

Board Member McNulty stated has Terri reviewed that action plan since the testing was done maybe she should look that over again.

Chairman Rogan stated that's a good point.

Board Member McNulty stated and see if what she proposes is adequate for what is now found in the soil.

Rich Williams stated the trouble is Terri is Adam's consultant and Adam needs to give it to Terri and pay Terri to review it and that's the disconnect.

Board Member McNulty stated should we advise that he should do that.

Ted Kozlowski stated the other thing is (inaudible – too far from microphone).

Chairman Rogan stated that's the...

Rich Williams stated his response right now is he's got a contractor who has reviewed everything and is willing to take the material out and replace it with clean fill...

Ted Kozlowski stated replace it at the same height.

Rich Williams stated we don't know what he's...

Chairman Rogan stated well we're going to...

Ted Kozlowski stated the guy buried his house.

Rich Williams stated going to take out, where is going to take it to, where the new fill is coming from, to what height...

Chairman Rogan stated it needs to be highly supervised...

Board Member Taylor stated so if we were going to go ahead, he's got to submit a plan of what he's going to do right...

Rich Williams stated yes.

Board Member Taylor stated can we ask him to go ahead and do that, prepare that plan while we're messing around with the DEC, I almost said something I shouldn't have on the record...

Board Member Cook stated but it will probably 90% tie back into what Terry Hahn said last year.

Board Member Taylor stated well that's fine, as long as its what we need to be able to say yeah, go ahead, go forward.

Board Member McNulty stated maybe our response should be for him to review it with Terri based on the findings of the official soil samples, finalize their plan and submit it to us.

Board Member Montesano stated can I ask a question here, if we proceed and we said tell the gentleman to go ahead, can down, can the five members on the Board downstairs supersede us or tell us no we don't because they don't want the Town to have responsibility.

Rich Williams stated you're just issuing the permit, you're not going to have liability.

Board Member Montesano stated all right.

Board Member Taylor stated was this a review that goes to them for approval.

Rich Williams and Chairman Rogan stated no.

Board Member Montesano stated I'm just saying.

Board Member McNulty stated is there a particular process in our review, how do we, what is the permit that he applies for.

Chairman Rogan stated a fill permit.

Board Member McNulty stated and the goes through here or the Building Department.

Chairman Rogan stated through here, you haven't really been involved, we don't do it for less than 30 yards or whatever it was, so many yards and mostly its to do with stabilization and safety is really what it comes down and quality of fill and its really, I mean get called on a lot of these where we end up with illegal fill was placed, they didn't realize they needed a permit and we go out and the fill is junk with very, very steep slopes and we try to figure out a way to make it work at that point, there have been some doozies that we're dealt with, real, there is one right down below Ted's house on Big Elm Road, remember that fill up on Schek property up there, that was a doozy.

Ted Kozlowski stated that was it.

Board Member McNulty stated I remember Mr. Napo's...

Chairman Rogan stated really bad but anyway.

Board Member Montesano stated zipidedoda...

Rich Williams stated I have one more quick issue.

Chairman Rogan stated yes.

b. Stilwell - 480 Route 164 Dam Discussion

Rich Williams stated a couple days ago I got, well a few weeks ago I was contacted by DEW Construction, we had issued a wetlands/watercourse permit to dredge out the pond on the Stilwell property, they said when they started to do the dredging, they found that the dam was leaking, they wanted to repair the dam. I suggested to them that they submit some plans so we can see what they're doing and then Ted or myself or somebody can evaluate what permitting process they were going to have to go through, got the plans in a couple of days ago and they are proposing a full build out or rebuild of that dam, plus a considerable disturbance with the buffer of that pond, I know there are wetlands out there, I'm not sure where they are, I bring this up because what they, what they are initially looking for is what permits they are going to need to move this forward and I wanted to get some input from Ted and the Board, clearly because they are more than 5,000 square feet they need an erosion control permit, it is really an environmental remediation

program so they don't need water quality, they don't need to address water quality issues in that SWPPP that they are going to have to do, do they need a wetlands permit what do you want to do with that...

Ted Kozlowski stated yeah, they are going to need a wetlands permit and then we have to decide, we have to determine based on the volume of water they are holding back, they may need a DEC dam permit.

Rich Williams stated they are fifteen feet, so the dam is fifteen feet in height from the bottom so they are going to need a dam permit anyway.

Ted Kozlowski stated right, so...

Chairman Rogan stated it's the structural integrity.

Rich Williams stated yeah.

Ted Kozlowski stated yeah, they are going to, because that does drain into the Great Swamp, so yeah that went from a small little project now to this...

Rich Williams stated it's big.

Chairman Rogan stated look at the bright side, they didn't just plow forward and do it and then say oh by the way, you know...

Ted Kozlowski stated no, their up front about it but...

Board Member Montesano stated right now they are.

Chairman Rogan stated what wetlands permit, the dam permit is not ours, you said that was the DEC...

Rich Williams stated DEC.

Ted Kozlowski stated DEC.

Chairman Rogan stated and we're looking at the SWPPP and the wetlands permit, correct.

Rich Williams stated well basically, I'm going to be looking at the SWPPP, you're going to be looking at the wetlands permit...

Ted Kozlowski stated they're going to have to come in for a wetland permit.

Rich Williams stated I didn't know if you want to declare this an emergency or remedial, all right so I'm going to write them back saying full wetlands permit, SWPPP...

Ted Kozlowski stated they are going to have to contact DEC...

Rich Williams stated yeah, they will.

Chairman Rogan stated well let's face it from our standpoint, I'm going to put myself out on a limb here but this Board, if the wetlands issues are not a big deal, this is a dam, it's a, it comes down to them doing

the right thing structurally and I don't have any, if you guys said hey we have everything we need and it looks great, I would approve the darn thing tonight...

Ted Kozlowski stated oh absolutely, you have, no this is now a health and safety issue because its holding a substantial amount of water, if they don't do it right and that dam goes, somebody down stream is going to pay for that and that is now a liability issue.

Board Member McNulty stated but is that our responsibility, this Board, to see that the dam is structurally built right.

Chairman Rogan stated well that's through...

Ted Kozlowski stated DEC is going to do that.

Board Member McNulty stated yeah.

Chairman Rogan stated we're more looking at the...

Ted Kozlowski stated they are going to take some of that our of our hands, I hope.

Chairman Rogan stated well...

Ted Kozlowski stated it might be a residential area so they don't cover that.

Board Member McNulty stated I had a question, we talked about project notifications over the last couple months...

Chairman Rogan stated yeah.

Board Member McNulty stated did we send them out for anybody yet, I know we were talking about Haviland Estates and the Haviland Road Estates...

Rich Williams stated oh the 450...

Board Member McNulty stated and also the Thunder Ridge.

Rich Williams stated we did not do it for 450 Haviland Drive Subdivision...

The Secretary stated no.

Rich Williams stated we were waiting to do the site walk, get out there, take a look at it and then we were going to do it after that. We did do it for Thunder Ridge.

The Secretary stated yeah, it went out the day after the meeting and I actually had somebody in here, probably about two weeks ago...

Board Member McNulty stated had one response.

The Secretary stated we've only had a couple of inquiries, not, nothing in writing so far and only a couple of people have called or come in.

Board Member Taylor stated so we can expect somebody at the next meeting.

Rich Williams stated we'll see.

Board Member Cook stated it could happen.

Board Member McNulty stated but we got a response, so maybe it was good thing we sent it out.

Board Member Taylor stated okay, I've got one thing, we had talked about doing in-house training and we did some already, we went to Lasdon...

Chairman Rogan stated yeah.

Board Member Taylor stated I have a friend who is a college professor and did her dissertation on the watershed and the land use, the history land use and so on, in correlation with the watershed who would be willing to sit down and talk to the Board if the Board was interested in that, it would be an open conversation, she can present her research for about hour, we can then talk for another hour with questions, are you interested in that...

Board Member McNulty stated sure.

Chairman Rogan stated yeah.

Board Member Cook stated its fine with me.

Ted Kozlowski stated I also would like to offer to all of you I have a good friend who just retired from Westchester County, Beth Herr, she is an excellent wildlife person and we're talking about vernal pools and stuff and she I know would be willing to take us out in the woods and look at some of things...

Chairman Rogan stated talking about ecology type, wildlife ecology.

Ted Kozlowski stated yeah, an ecology thing which I think gets you credits or the time in which you kind of need and she can organize that, she lives in Kent, she's not far, get something together, if you'd like.

Board Member Montesano stated this is the time of year to do it.

Board Member Cook stated you do that type of trip locally or...

Ted Kozlowski stated yeah, we would do it locally, could be a Saturday, Sunday...

Board Member Montesano stated right in my backyard.

Ted Kozlowski stated it could be after work you know now that daylight is, I know some of you don't work...

Board Member Montesano stated sounds like a plan.

Board Member Taylor stated you want to pick a weekend or an evening or...

Chairman Rogan stated well their done, the form letter.

Board Member McNulty stated evenings...

Board Member Taylor stated rather than weekends.

Board Member McNulty stated the day is already shot during the week, so.

Rich Williams stated all right so you want to talk Beth Herr...

Ted Kozlowski stated Beth Herr.

Rich Williams stated I know her don't I...

Ted Kozlowski stated (inaudible).

Rich Williams stated anyway...

Board Member Cook stated figure out a night and...

Ted Kozlowski stated my house.

Rich Williams stated I'll get some dates, you want to get some dates and e-mail them in and I'll circulate...

Ted Kozlowski stated yeah, I'll contact her and I'll get you guys some dates and decide what you'd like to do.

Board Member McNulty stated Meadowbrook, this legal determination that was sent April 4th...

Rich Williams stated yup.

Board Member Montesano stated not here.

Board Member McNulty stated Mike is recused. I'm confused by this...

Rich Williams stated really why.

Board Member Montesano stated I'll leave the room because I'm (inaudible) excuse me.

Board Member Taylor stated back and forth.

Board Member McNulty stated this attorney says he represents the Homeowners Association and the bottom line is the court ruled in favor of JZG originally and then he says they reversed the decision...

Rich Williams stated I think they originally ruled in favor of the Homeowners and the Homeowners Association that JGZ was obligated...

Board Member McNulty stated that's not the way it reads though, it reads...

Rich Williams stated I think that's what it says and then the judge reversed himself and said that he is, he ruled against the Homeowners Association and the only way that the Homeowners Association gave clarification is from the Comptroller's Office and the only way the Comptroller will respond is from the Town Attorney, so he was asking the Town to have the Town Attorney contact the Controller's Office to get this ruling about the applicability of the fees to the...

Board Member McNulty stated that's not what its saying, it says initially the court found that JZG had an obligation to make payments...

Board Member Taylor stated had an obligation.

Rich Williams stated that's right, it ruled against JGZ, who said they didn't owe anything.

Board Member McNulty stated so they ruled against and now they say JGZ owes them nothing, that is the way I read the final determination, I read the front page wrong, my mistake.

Rich Williams stated right, and then they reversed it.

Board Member McNulty stated I am unconfused, you did a good job Rich.

Rich Williams stated thank you.

Board Member Taylor stated all right just one last thing if I could ask, on this discussion would the Board be interested in making it a wider public discussion or do you want to keep it in-house. Are we trying to do a round table discussion where the audience is invited to participate, listen.

Chairman Rogan stated I think that is certainly...

Board Member McNulty stated will it still count as training for us.

Board Member Cook stated of course.

Chairman Rogan stated of course it would, I think that makes a lot of sense we can do it as a, if its sitting in here or something, do it as a public meeting, you know.

Board Member Taylor stated I was thinking more about the court house.

Chairman Rogan stated well there you go, that's even better. I like that, I haven't even been in there yet.

Board Member McNulty stated looks great.

Board Member Taylor stated we'll see what happens, if you're interested then I will pursue that, I will see about inviting Comcast to film it and get it on TV (inaudible).

Board Member McNulty stated you going to come in your white suit.

Board Member Taylor stated oh you think I should.

Board Member McNulty stated on TV.

Chairman Rogan stated we're almost done.

Board Member McNulty stated we need Mike to come back here, he recused himself.

Ted Kozlowski stated want me to get him.

Board Member McNulty stated yeah, that way we can adjourn.

Board Member Taylor stated we need you to make a motion.

Chairman Rogan stated we need a motion.

Board Member Montesano stated we need a motion to adjourn.

Board Member McNulty stated Mike's back.

Chairman Rogan stated I'll second.

Chairman Rogan asks for all in favor:

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

The motion carried by a vote of 5 to 0.

The meeting adjourned at 8:53 p.m.