

**AMESBURY PLANNING BOARD
CITY HALL AUDITORIUM, 62 FRIEND STREET
MONDAY, OCTOBER 27, 2014 AT 7:00 P.M.**

MEETING WAS CALLED TO ORDER AT 7:04 P.M.

Present: Ted Semesnyei, Scott Mandeville, Howard Dalton, Robert Laplante, Lars Johannessen, Karen Solstad.

Absent: David Frick.

Also present: Nipun Jain, City planner; Paul Bibaud, Recording Secretary.

MINUTES:

9-8-2014 Motion by Ted Semesnyei to approve as is, seconded by Lars Johannessen. AIF.

9-23-2014 Motion by Robert Laplante to accept as is, seconded by Karen Solstad. AIF.

9-29-2014 Motion by Robert Laplante to accept as is, seconded by Karen Solstad. AIF.

10-14-2014 Motion by Robert Laplante to accept as is, seconded by Lars Johannessen. AIF.

Form A 1370-14-7 42 South Hunt Road Justin Waitt.

Nipun Jain: This is a piece of property in the industrial zoning district. However, the structure was existing prior to zoning being in place and the applicant has gone before the ZBA to get relief from the zoning district requirements of lot area and therefore the proposed lot would be conforming to zoning dimensional controls, therefore the plan could be approved. It has vital access from Hunt Road. It meets the frontage, given the variance from the ZBA. The intent is to subdivide a 20,000 square foot parcel out of the existing map 95 lot 2. (explanation ensued re: the whereabouts of lot 5). Lot 3 and 4 have existing homes on them. This existing house is on a landfill property. He's going to make a lot. Frontage will be about 100 feet. This went before the ZBA and meets all the dimensional requirements of what the ZBA approved.

Justin Waitt, owner: Basically what happened is, we had a non-conforming existing dwelling that was supposedly grandfathered in when my partner and I purchased the home. We then realized that in 2004, there was a line missing off of one of one of the lot plans. After much discussion, we were advised by the building inspector to attain a very minimal amount of square footage to make it 20,000 square feet total, thus conforming to the residential requirement. There was a mishap with that. It was actually 40000 square feet, but because of all the advisement, we still attained the 20000 square feet, per his instruction, and that is why we met with the ZBA. Because at that point, we needed to get a zoning variance. It has always been a residential home there. We just fixed it up and they approved the fact it was only 20000 vs. the 40000 square feet. The only thing that happened is, we got more land. The back lot line had been taken away on one plan, and it was there in a different plan, and because there was no definitive answer on what exactly was the right one, plus all taxes were billed specifically for that one parcel and wasn't bundled in. So there was no set answer stating that that wasn't human error or not, which was our argument, that it simply wasn't drawn in. That's why we had to get an engineer and having that line drawn back in, and getting a variance from the ZBA. This now corrects the problem. It is zoned industrial, but there are multiple residential houses grandfathered in.

Lars Johannessen: The map says it is zoned Commercial.

Justin Waitt: I'd have to check on that. I thought it was industrial, but not sure.

Karen Solstad: I'm confused. This says just to subdivide a lot out of map 95 lot 5. So the whole time you've owned this property, you've always been a part of Waste Management?

Or did you have a separate lot...

Justin Waitt: that is what was confusing us. When we purchased the home, it was separated. That's why we thought it was human error on the lot line being missing. We always had map 95, lot 4. We've tried to correct this small issue since May.

Howard Dalton: I make a motion to approve on the subdivision control are not required. Motion was seconded by Robert Laplante. AIF.

SIGN APPLICATION FOR BURGER KING – 109 MACY STREET

Nipun Jain: This application is to be reviewed by the SIGN SUBCOMMITTEE. They have not met since we received the application. It is scheduled to meeting at the next Thursday, when we will review it and get comments back

Heather Detco, representative from National Sign.

Ted Semesnyei: For sign applications, we have a subcommittee that reviews them and work with the applicant. This is a revised application. We will be meeting this Thursday.

Motion was made by Howard Dalton to continue this hearing until November 10 meeting.

PRE APPLICATION CONFERENCE

56 SOUTH HUNT ROAD LANDFILL

Overview of this project was given by Briony Angus, Mgr / Tighe and Bond

Owner of the site is Waste Management.

Ray Opumger, representing Hunt Road Solar: Hunt Road Solar is owned by Citizens Energy.

Citizens Energy is the company that will develop the project. They are a non-profit that provides home heating assistance to the poor. The company was started over 30 years ago. Citizens started a solar company in 2010. All the profits from the solar company go back into the non-profit, and all the for-profit enterprises that Citizens has, all profits from those enterprises go back into the non-profit, which is the core mission of the company. We have signed a lease with Waste Management for their landfill. We are in the process of going through the approvals right now. We are going to be applying to the DEP for a spot close use permit. We are here for the pre-application meeting. The site needs a zoning amendment, which is in process. We will be coming back to the PLB on Dec. 8 for a more formal hearing. We wanted to introduce the project, get feedback from you so that we can be better prepared for that meeting. I would like to introduce our consultant: Tighe-Bond, who will present the project to you, and we'll be hear after that for any questions.

Briony Angus, I'm from Tighe and Bond. With me is Aaron Sekora, also from Tighe and Bond.

We're working with Hunt Road Solar and Citizens on this project. We've already had a pre-pre-application meeting with Nipun, and he suggested that we come before the PLB prior to submitting site plan review application, to present the project to you informally, and also get any feedback on things that we should incorporate into the site plan review application. I'll give you a brief overview. Hunt Road Landfill is owned by Waste Management is currently split by two zoning districts. The northern half is zoned industrial and the southern half is zoned R80. The renewable energy district overlay in Section 11 S of the town zoning regulations coincides with the industrial district, so with Nipun's help, there is currently a request before council, and you might have seen it already, to extend the limits of the solar overlay district to encompass the entire landfill portion. We plan to submit the site plan review application, assuming that that zoning amendment passes, so that the entire subject parcel would be subject to the same regulations. That is one of the asks that I have for the board tonight, just in terms of lining up the timing to get on your 12- 8 agenda. We're planning to submit our applications by Nov. 10, with the understanding that that zoning change might not be finalized yet, but

with the hope that it would be by the time Dec. 8 rolls around. We'll include in our narrative the understanding that for whatever reason that doesn't pass, We'll address that then. So that is one question we had for the board. This is a 6 mega watt project...a large project. The landfill itself, the footprint of it is 65 acres. The actual footprint of the solar project is going to encompass about 28 acres of mostly the high plateau portion of the landfill. It's a great site, surrounded on all sides by a good vegetated buffer. It is high, it is hard to see. There are other permits that the project needs. We need a post closure use permit from DEP. A portion of the site is in rare species habitat, so we're coordinating with natural heritage. In terms of scheduling for the project, the intent would be to get through local and state permitting this fall into early winter, and the project would likely go into construction in late Spring / Early Summer. One other question that we had for the board pertains to Section VII K.1 of your solar bylaws. This is what Amesbury considers a very large solar farm. This bylaw indicates that the board might request visualizations of the project from a number of vantage points. What we have gone ahead and done is sent a poor young engineer driving all around the site to take photos of the landfill from a variety of vantage points. I have handouts for the board here. This is a package of photos, then at the end of the photos there is a figure that shows you the vantage point from where the photos were taken. Obviously, you are seeing this for the first time right now, but the one thing we're requesting is to get a waiver from that requirement to have to do visual renderings. We feel, based on this evidence, you can't really see the project from very many places in Amesbury at all. The only places you can actually see it are from the couple locations along Hunt Road looking into it. But because of the elevation of the plateau area cap, how vegetated the surrounding areas are, and just how there are very few residential abutters looking at this, we don't feel that would be a good use of the board's time, to force us to do renderings of nothing. So I ask the board's consideration as to whether or not that needs to be included in our application, and maybe follow up with Nipun on your answer.

Nipun Jain: We had discussed that you might want to do a cross section of the site, to show the grade changes, which you would be doing anyways as part of your site plan approval package, to show grade changes and how you are going to address the grades. That would help the board get a better understanding of how the site topography is in relationship to public ways and existing structures that may be around the property and the vegetated buffer. There are other requirements under Section XI. S which requires vegetated buffers, and that is where this would be helpful. I'm sure you are also working on the other requirements, which pertain to public safety, access, and emergency. Those are the sort of things that will probably be more helpful for the board to see. As we discuss the merits of the zoning amendment, those additional pieces of information would be advantageous to have, so that the case can be made for extending the overlay boundaries to show that there is really no incursion into the residential area by extension of that overlay boundary into the residential zoned parcels, some of which are permanently protected, anyways. So that is the sort of information you should be working on. At this point, this is a site plan review, although there may be a special permit piece at some point.

Briony Angus: The site plan review application will respond to all the requirements, but certainly there is an emergency response plan that will be reviewed by police and fire, as well as part of this.

Nipun Jain: So when the applicant came to us looking at feedback, given that this kind project has not taken place in Amesbury, we basically used the Section XI S which basically requires all of those items that I just spoke about. Emergency access, sign off on protocols to be established for safe access, utility access around the facility, and given the scale and size, details on storm water, on how panels would be mounted, installed, and what makes it more interesting is that it is a landfill, so as Briony talked about, the post closure permit from DEP will also probably outline what are their requirements, so that the underlying landfill is not affected by the installation of this utility. So given that there is no

habitable structure per se involved, this was somewhat different from other projects that the board may have seen. They are still working on the application. What they are asking is to get feedback based on what you may see as issues. This is a work in progress. The board will be receiving a lot of information and will need reviewing. But if there are aspects to the project that you would like the applicant to include in the information package, as they prepare their application, it would be very helpful to them.

Lars Johannessen: What I would like to see is what you can see from the landfill and where you will be putting these things. Can you see West Newbury? Since you are at a pretty high elevation, is it visible from the other side of the river?

Briony Angus: We haven't driven across to that school there, but we assume...you can see the school, so chances are, they are going to see this. We'll address questions like "is there a reflection?" in the application. Solar panels these days are designed to absorb an enormous amount of light. They are black, with very low reflectivity, specifically for this concern. They are, compared to things like snow or a white roof, panels are estimated to have a 2% reflectivity, as opposed to snow having 80%. I think 15-20 years ago, solar panels were much more glarish than today. We'll address this in more detail in our application. We've worked on a number of these projects, and glare has not come up.

Ted Semesnyei: How many panels are planned, and what is the expected height?

Briony Angus: This is approximately 5.96 MegaWatt project, so it is almost 19000 solar panels. The height will be in a range, because it depends on the slant of various panels and how tall the panels will be. Because it is on a landfill, there are no penetrations or modifications to the cap at all, so it is a ballasted system, so the ballasts themselves, call it two feet, and then call it six to eight feet total. The clearing is about 4-5 feet from the ground. Then depending on the angle of inclination, 20 degree tilt or 30 degree tilt, etc. would depend on how tall they would be.

Howard Dalton: Is it similar to the one in Salisbury?

Briony Angus: I don't know what racking system they used. Our site plans will have a detail showing the exact elevation of the entire system, once it is on the ballasts.

Nipun Jain: Usually it is the tray or whole panel itself, which has a number of solar panels. So that is one big panel, and it depends on how long that row is.

Karen Solstad: If you're saying it is two feet and then four or five feet above that, and if the panel is either 25 feet across or 10 feet across, that makes a huge difference in how high up it is with the declination.

Ray Opumger: I think the total height would be 8 to 10 feet, to the top of the panel.

Ted Semesnyei: So is there a comparable solar project that you are modeling after that we could maybe look at that has been developed?

Ray Opumger: There have been over 40 landfills that have been approved by DEP through the post closure use permit. Now I worked on a landfill 4 years ago. At that time, there were all these issues in the post closure use permit... 19 issues that DEP goes through. Very rigorous process, because their mandate is not to affect the integrity of the cap, no matter what you do there, that is the first priority. So geotechnical loading considerations, storm water, erosion control, every technical detail. But now, because they have approved so many, they have a firm basis of what is acceptable and what is not. They are also getting more familiar with different kinds of equipment, so you can use different racking systems, different types of panels, etc. So I would say 3-4 years ago, it was dealing with unknowns. Today, there are very few unknowns, because they have approved these systems, they have learned from what has worked. Of course, we don't have a track record of 15-20 years. The solar industry in Massachusetts is relatively new. But we do know that DEP has gone through a very rigorous examining.

Briony Angus: With our application, Tighe-Bond has worked on 20 landfills that are already constructed. I can provide photos of other systems. I hesitate a little here because this project is using a different racking system that I don't know off the tip of my tongue. But what we can also do is provided visualizations you see for a wind turbine, we'll show an image of the entire installed panel with the racking, and then pictures of similar things that the board knows how high they are for comparison. That should adequately describe the visual impact and size.

Howard Dalton: How about power distribution? If you can't penetrate the cap, what are you going to do with the lines?

Briony Angus: The lines will run in conduit on gravel access roads that are on top of the cap.

Howard Dalton: So they'll be underground. Do you have a substation with transformers to boost the power?

Briony Angus: There are three electrical pads on the landfill that will each have invertors and trasnsformers on them, and then power will be run out to the interconnection point, so those are the only concrete pad areas on the landfill that will have all the electrical system components on them.

Howard Dalton: This goes directly into the Mass. Electric grid, and they purchase the electricity from you?

Ray Opumger: We don't have a net metering agreement, and one more thing we are going through right now is National Grid is doing a system impact study. Basically, any project that puts the energy into the grid goes through a system impact study to determine what kind of impacts the additional generation will have on their feeders and on the circuits in the area, tracing it all the way back to the substation.

Howard Dalton: You're fairly close to their new substation, so that shouldn't be too much of a problem.

Ray Opumger: It shouldn't be. And again, so you know the context of all this, DEP is strongly promoting the use of landfills throughout the state. Because you can't do a whole lot else with them, and because of the initiative that the governor has of promoting on brown fields, landfills, rooftops, parking lots, so people stay away from green fields and forested land. That is why DEP has been very cooperative in helping us comply with what they need, and moving the projects through as quickly as possible.

Robert Laplante: Is there a list of these completed projects? That would be worthwhile.

Nipun Jain: Yes it would. Also, under DEP website, there are these specific fact sheets both for communities and for private developers, in the case of landfills, what are those aspects that need to be taken into account to make sure that there are no issues as it relates to post closure requirements for such landfills and beneficial land use of these landfills for such projects. So there are ways specific rights here that have to be met, and we think that information will also be helpful for the board to make sure that requirements under the site plan review as it relates to storm water, capacity, loading, etc. is taken care of.

Howard Dalton: That's another concern is the storm water. That is like having 19000 roofs up there. It has to be addressed, certainly, especially on a hill.

Nipun Jain: We've discussed that issue, and it is a requirement under the local regulations, that they have to demonstrate that the storm water calculations are provided and there is adequate capture of runoff.

Ted Semesnyi: Since there is no one in the audience wishing to speak, regarding your timeline of Dec. 8, I don't see a pr4oblem with that, as long as you're able to provide the complete set of information. You've gotten some feedback here regarding some of the critical issues like storm water

and visual impacts. Obviously, this is also tied to the proposed zoning amendment that would be required.

Nipun Jain: The way we explained it to the applicant is, they will have to make application as a composite project, even though it could be considered as Phase 1 and Phase 2: Phase 1 being what is within the bounds of the existing overlay district, and Phase 2: what the proposed amendment is. Let the board review the composite, so that the application can be accepted and the review can start. They also understand that, if and when the zoning passes, only then can the board take final action on the full application and the full extent of the project. So really, what they need to do is submit the application as a composite application, but the final action by the board will depend on the final timing of the zoning amendment adoption.

Scott Mandeville: What is the effective lifespan of these panels, and what is your plan for replacement over time, and after they've gone past their useful life span, what is your intention for the site? Is it to install newer panels to continue use of the site, will it be abandoned, will these panels then be left?

Ray Opumger: The life of the panels is typically 25 years. We have an agreement with Waste Management for 20 years plus I believe it is three 5-year options, so it is a total term of 35 years. If for some reason we were to remove the panels after 20 years, it is by mutual agreement beyond that time, then we would have to bring the site back to its original state, making sure we are in compliance with all the DEP requirements, which we would have to be throughout the life of the project. Then we would give the site back to Waste Management in the form it currently is. That will be in a written contract with Waste Management. That will be included as part of the application we submit.

Briony Angus: Your regulation and also the DEP solid waste regulations require decommissioning surety, and because this is a landfill, Waste Management is very much on the hook, and so won't the applicant be on the hook.

Nipun Jain: I think that is why the post closure plan, the report, and what goes in that plan and what happens if the end use expires or when it expires, is critical for the board to know. It'll answer a lot of the questions that you are hearing today, as well as some of the requirements of the local regulations will be addressed.

Ray Opumger: The post closure use permit, which is the DEP application is so detailed, we're submitting that in the next couple of weeks. So before we are ready to submit to the PLB, we will have done a lot of the detailed analysis, including the questions you have about the heights of the panels, exactly. Their engineers will look at this in so much detail, spend several months digging through every little calculation, etc. So, we will have the information, as we are almost on our way to getting that permit application completed. We expect to submit it within the next couple of weeks.

Ted Semesnyei: Thank you.

PUBLIC HEARING

39 AND 39A WATER STREETM 33 OAKLAND STREET (LOT B), SITE PLAN REVIEW AND (3) SPECIAL PERMITS: REMOVAL OF EARTH MATERIALS, EARTH FILLING, WETLANDS AND FLOODPLAIN PROTECTION (NATIONAL GRID)... CONTINUED FROM SEPT. 22, 2014.

Nipun Jain: National Grid has submitted a site plan review and four special permits request for a proposed remediation project that is required by MGL21E and MCP 310 CMR40, which includes excavation of soil impacted by MGP residue, excavating and restoring a portion of wetlands, excavating a small upland area, dredging sediment at the edge of the Powow River, removing

denapple from select monitoring wells for up to approx. 10 years and implementing institutional controls in Amesbury, Ma.

Nipun Jain: This project came before the PLB last year somewhat around the same time frame as this year. At that time, the PLB had heard a comprehensive presentation, at which time, the applicant was also going before the ConCom for a parallel review of the work within the local and state regulations. The applicant has been working with ConCom to address the issues that were raised by that commission, and they have since then received an Order of Conditions from the ConCom at their last meeting. The applicant is back before the PLB to continue where it was left off, I'd like the applicant to review the project and summarize it, and what has changed since the last time, which would help the board recap what this project is about.

Michael Jarmo, Robinson and Cole, representing Boston Gas, DBA National Grid: One slight change to what Nipun said: we had to refile in Dec. of last year, so technically, this is the first session of this hearing, because the board's composition changed after last time we met before you. So this is a new hearing. For the record, we'd like to put on the record the description of the project.

Nipun Jain: This is a new hearing, yes. The project is the same, with nothing changed. Purpose, scope and nature of the project remains the same. The details have been added and it may have been modified, based on what ConCom required the project proponent to do. Otherwise, it is the same. So this is a new hearing.

Michael Jarmo: I am here with Jim Ash and Ryan Hoffman from GEI Consulting, Shelly Ohnin and Jason Lane from National Grid, And Chris Foster from my office. The project is in the corner of the property, encompassing three properties here above the River Walk. It involves hazardous waste remediation on a former gas site. It is being conducted pursuant to the MCP. We've requested relief under your zoning ordinance, under core provisions. One is a site plan review provision and one is 11B1 and 11B2, earth removal and earth fill, then under the wetlands and flood plains section of your ordinance, which is Section 12. We are reserving our rights on these, because I'm not positive that all these actually apply to this type of project, but we do want to go through and explain to you why you should grant us the relief. Jim, if you could walk them through the project?

Jim Ash, Licensed site professional with GEI Consultants and engineer of record for this project: Back in the 19th century, this is the site of a former manufactured gas plant, MGP. Before the discovery of natural gas, gas used in cities across the country was manufactured from coal and oil using a chemical process. When natural gas was discovered, the more expensive to produce manufactured gas went out of style. Since it was around a century ago that these manufacture plants were operating, environmental regulations about handling wastes were not around at that time. The by-products of the manufactured gas plant process were frequently discarded or discharged to the ground surface in the vicinity of these manufactured gas plant sites. The most common of these by-products is coal tar, actually used as a valuable by-product in tar for roofs on houses and other products. Management practices were not the same 100 years ago and more, we found contamination associated with the manufactured gas plant site. It persists to this day. We started work on the investigation of this site in 2004 and have made numerous submittals to the Mass DEP. It is a DEP site governed by the Ma. contingency plan. Some large reports illustrate the nature and extent of contamination on the property. We've conducted risk assessments and we have conducted a remedial alternatives evaluation to see what the most appropriate things to do with residual contaminants. (plans shown to educate board as to where these areas are on the property). The property is 20 feet lower in elevation than surrounding properties. Much of the site is occupied by wetland and it is on three different properties. National Grid owns one, the town of Amesbury owns one, and private property owner owns one. The site is vegetated; much of the area we're working on is vegetated wetland, although there is a portion

of upland where we will be doing some work also. The River Walk which follows a former right of way of a railroad comes right along the river, turns and this faint trail goes around the property boundary, and continues up Water Street. So we conducted investigations, collected soil, sediments, ground water, surface water, samples for lab analysis, did a comprehensive assessment of what the nature and extent of contamination was, identified that there were potential future risks, not current risks, to commercial users of the property, recreational users if ever used for that, and as a result, we had to design a remedy that addressed contaminants in the wetland portion of the property. That remedy consists of removal of the upper 3 feet of wetland soils, trucking that material offsite for disposal treatment at a licensed facility, then replacement of appropriate wetland soils and re-establishment of the wetland in the configuration it is now. A small portion of the site extends into the Powow River. It is an area where contaminants associated with the MGP have contaminated approx. the upper foot of sediment in the Powow River. So part of our remedy is going to be to remove and dispose of that upper foot of sediment offsite, also. Work of this nature being in a wetland will require a high level of control. First and foremost, we have along the Powow River we'll need to control water into the excavation area. We will drive a sheet pile wall 30-40 feet into the ground to keep Powow River water out, and keep ground water out of the excavation to the extent we can. We will still need to pump water from inside the excavation to keep it dry during our work. But since the excavation depth is only about 3 feet, we'll be able to minimize that. Once the sheet pile wall is in, we'll be constructing a roadway from Water Street into the site property up here. Material will be excavated, temporarily stockpiled in the wetland area for a short period of time, directly loaded onto trucks, and then hauled out of the excavation off to the treatment facility...no stockpiling of contaminated material outside or in any other locations. We will have to control precipitation that enters the excavation. This plan shows where we will work on that in these staging areas up on the adjacent property. We would site a ground water treatment system where we pump water from the excavation, treat it through activated carbon, settling to remove sediment, then discharge of that treated water back into the river under a Federal permit governing the discharge of waters. One thing that ConCom suggested that was different from last time we came up was a zone here that has sheet pile wall on two sides, where we would discharge the treated water into essentially this basin. Then it would discharge under the right tidal conditions into the Powow. It will provide a second layer of control for the potential discharges into the river. A project of this scale as a management of contaminants will be obligated to control the affects on the neighborhood. A big effort is to control odors, dust, VOC discharges, which are contaminants associated with the material we're taking out (VOC= volatile organic compounds), and of course noise and vibration. Our plan, done a number of times, we do a careful job of evaluating the threshold concentrations that would cause potential affects on the neighborhood, and we set pre-thresholds that, making the contractor conduct additional controls so that we don't exceed the thresholds that are set to protect human health and the environment Those would be four things like dust, VOCs, noise and vibration.

Ted Semesnyei: You mentioned the property is owned by three different entities. Are there agreements in place for these parties? Also, with the adjacent property owners for any potential access that would be needed? Finally, is there a plan timeline for all these activities to take place?

Jason Lane, National Grid, project manager for this site: We have the three parties involved here. Re: the city of Amesbury, we've met over 5 years over design and implementation. We met with the prior administration on this and have agreements on some principles. Environmental controls were discussed. So re: agreement, we have access to the properties. We met with public safety, and there are other issues like truck routing and traffic management. So the answer is, we don't have a specific agreement with the city at this point for this property, but the idea is to get the local, state and federal

permits, which we have applications in. We just got the ConCom. We'll bring full disclosure transparency to all parties. That is the process we're going through.

We have agreements with the other parties in place. The schedule for this process is months, depending on how long this process takes. The construction, because we are a utility, we have to go through public procurement processes, etc. The final engineering will be in place once we have the final permit conditions. We'll be looking to start this with a start of Oct. 1 of the following year, 2015. We have access agreements with those two properties owners. We can't do any of this work unless we have authorization to do the work. So we have to come to you for permits so the project stays on track, but we realize we can't show up and start doing things on properties that we don't have the right to do things on. Procedures are in place to monitor the water downstream via ConCom with rigorous requirements, and the federal government has

storm water discharge standards. We'll be getting a construction general permit, which has standards on it in terms of the quality of the water which can be discharged. Downstream must comply with stringent requirements. We have to collect samples during the start up process, day one, day three, day seven, then weekly for a while, then they go to monthly. That is from the actual discharge from the treatment plant into the surface water body. Those standards are protective and equivalent to drinking water standards. We have to demonstrate that we meet those stringent standards throughout the course of the project. As a result, there is no requirement to also test the water in the Powow River further downstream, since the water that is being discharged essentially meets drinking water criteria. We've done extensive sampling in the river already as part of our investigation to confirm that there were no discharges of sediment or ground water with contaminants that were already in the Powow. There are not ongoing discharges of contaminated ground water that result in a detection in the Powow River, nor in sediment, other than that small area that we said we are going to dredge. During the work itself, that is one of the reasons why we're putting in a sheet pile wall is to control any discharges, as well as keeping water out. There will be some leakage of water through the sheet pile wall during the work. But as I said, the main thing is, we don't have discharge contaminants in ground water to discharge. In fact the sheet pile wall will reduce the discharge of ground water to the Powow while we are doing the work. Those of course will come out. But those controls are set up exactly to prevent that type of thing. The excavation itself is only 3 feet deep, so there is no deep excavation. We're limiting our work to the upper 3 feet. To reduce the impact on wetland and achieve no significant risk for users. If there were some sort of failure, obviously more response actions would be required to determine what happened, but based on the proposed work and controlling those discharges so that we don't have any affect on the Powow River and don't need to do that type of follow up sample.

Nipun Jain: For projects of this magnitude, going in, there are two thresholds we usually monitor: the LSP, monitoring the contaminated portion of the project (soils) and then the wetlands scientist who would be monitoring depending on the scale of the activity and the construction schedule, and depending on the event, what if any mitigating activity have to take place, if an event of that magnitude takes place.

Scott Mandeville: I'm not suggesting something catastrophic, I'm just saying "what if" and there were a couple of bolts missing from a sheet pile wall, and a small leak was happening. What if? Who is going to catch it? How would we know that there is some sort of issue, is my concern.

Jason Lane: We'll create a sump in the area we are working, pumping water out, treating it, and discharging it back to the river. We've done a lot of these type clean ups.

Nipun Jain: Jim, do you have this in a report or in the information packet that you provided the ConCom, as far as the questions that Scott had?

Jim Ash: Details like that aren't described specifically in the submittal we've made to the ConCom. However, we have made what I call a Phase II – Phase III report, that is the nature and extent of contamination and alternatives evaluation. We still need to prepare what is called a Phase IV, Remedial Design Report. We submit that to DEP under the MCP regulations. That describes all the steps I'm describing to you right now, about how we'll control discharges to the environment, how we will protect human health and environment during the work, health and safety plan requirements, all that are all captured in that Phase IV report to DEP.

Ted Semesnyei: When will that be submitted?

Jim Ash: We are in the process of preparing it right now. We'll probably be submitting it early next year, during the first quarter of 2015.

Scott Mandeville: On a project of this scale, there is lots of money involved, lots of work going on, it is a large scope. Why don't we have some body monitoring downstream water? What would it take to check periodically, just to make sure?

Jim Ash: The most important place to make sure that the site isn't affecting the river and other bodies is right at the site itself, and we'll be there full time. GEI will have a full time site engineer who is observing conditions and making sure that there aren't discharges of the type that you are concerned about and describing. Sediment flowing out of the sheet pile wall, for example. We will be observing that in real time on a daily basis. We'll collect samples of treated water discharge. There will be a lot of attention at the location of the site, to make sure that any of those discharges that you described don't occur. That is the best way to preserve the safety of the Powow River. If we did see evidence of a discharge, that is certainly the time then to evaluate conditions downstream. But simply taking a water sample downstream from the site during the progress of the work would not be as effective as the steps we already propose to take. ConCom paid a lot of attention to this concept of water pumping and treatment, and asked us to describe the system, asked us to increase the sampling frequency over and above what the federal permit requires, which we agreed to do. I mentioned that sampling eventually went from weekly to monthly? ConCom asked us to do it weekly for the lifetime of the project. So that provided one more level of conservatism which we agreed to do.

Lars Johannessen: If you find contamination below the 3 feet that you are digging, what is happening with that?

Jim Ash: There is already contamination below the 3 feet that we're digging. In fact, contaminate levels in one portion of the property, further away from the river, are the highest at depths up to 15 feet below the ground surface. So we are not excavating that material that is located at greater depths. We're leaving it there because it currently doesn't have a pathway for exposure to humans or the environment. It is staying in one place. We're able to achieve no significant risk, eliminating pathways for exposure by simply remediating the upper 3 feet, restoring the wetland, and then maintaining it in that fashion. So contaminants will persist, and if we were to see contaminate conditions in the bottom of our excavation, we will, we're not planning to extend the excavation to achieve those. We already know they are there. We've already conducted the risk assessment on those, and confirmed that it is ok to leave them in place.

Lars Johannessen: So this property will never be used for anything other than a wetland, then? There is no commercial value in it? A foundation couldn't be put in there? Nothing at all?

Jim Ash: Correct. That is due to it's proximity to the wetland, more than anything else. But there won't be any residential development or commercial buildings built on this re=constructed wetland...no walls or anything.

Lars Johannessen: It would be helpful to have the order of Conditions that ConCom gave you, so that we actually know what is in there, so we don't duplicate everything here.

Jim Ash: We had just received it, and I transmitted it to Nipun this morning.

Karen Solstad: I'm looking at your note from Dec. 12, 2013 to the city clerk, saying that you were going to be filing a new application because of the change in membership on the PLB, and that to use the paperwork that was submitted last year in lieu of a new application.

Jim Ash: No, we filed a new form. The plans changed from Dec. and in July, we transmitted to the board the updated plans. And these are very recent, since they reflect the last round from the ConCom, but they are all describing the same project, the details that change are very subtle, particularly from this standpoint.

Nipun Jain: What we have is those large scale plans here for the board. The issue for us was, we were trying to determine what are the changes, so that we could explain to you, and that was the comment from the staff. It would help us to understand what has changed on the plans.

Karen Solstad: At least 3 members of the board weren't here last year, so they haven't seen anything at all.

Jim Ash: Which is why we wanted to start at ground level. I know you have seen plans.

Karen Solstad: I think it would be helpful for the PLB members to get something to look at besides looking at this little thing up here. We don't have it in our packages. That is my concern.

Jim Ash: We submit through the planning office, and I know Nipun tries to get you the information.

Nipun Jain: What we have is the most recent version of the plans. You may also be looking for the information that came along with the plans, that you want distributed. That is what we got as revised application. Nothing else has changed on the application material, correct?

Karen Solstad: So the Sept. 9, 2013 plans are identical to ...

Nipun Jain: The reason why we didn't make copies of anything that was submitted originally was we wanted to make sure that none of the supplemental information that accompanies the plan has not changed. If it has changed, then that information, if you can give it to us, noting what is the most recent version, then we can make copies of the plan. We've received so much information on this it doesn't help us to help the PLB to give them the information if we don't know if it is the recent version or not.

Ted Semesnyei: So it would be helpful to have a streamlined packet of the most recent information.

Nipun Jain: If you can give us the most recent updated version of information that you would like the board members to review, then that is very helpful. Otherwise, you'd have to explain which ones should we use from the past application, what should we use from the approve...

Jim Ash: Remember, the past application had some forms, a write up, and the original plans, which you were looking it from September. In December, we filed the new forms, the updated write up, and we kept the old plans. Exactly what does the board have?

Nipun Jain: What the board has is what was provided to them in January. But we haven't provided anything after that, because all we got was requests to continue the hearing. The only thing we got after that are the plans which we have here. So if there is nay information from the application that was submitted in January, that may have been updated.

Jim Ash: There has not from this, but there is ConCom information that we can get to you.

Nipun Jain: Would you like the PLB to consider that as part of this, because it appears there is storm water, there are other mitigating aspects that the ConCom received from you, which would assist your application.

Jim Ash: I will get them a copy of the Order, as well.

Lars Johannessen: In order to assist everybody that was on the board before, and those of us that are new, I think it'd be great if you could say to throw away the old plans and everything that went with it, and give us all new information for everybody to have.

Jim Ash: This package, under my letter, with all the application forms, if you have that, that is the writing for this application, supplemented by new plans and ConCom information, and Order of Conditions, which we will now assemble for you, Nipun, to distribute?

Nipun Jain: Yes. I suggest that you give me one original set of everything that you would like to be considered with this hearing.

Ted Semesnyei: I'd like to open it up to the audience now. We do have a speaker request form here. I'd like to invite up Mr. Richard Bartley.

Richard Bartley, my family owns the property that is abutting the property they propose to remediate: Quick overview: this is our property here. We had some of the same issues as National Grid, which were remediated, completing in 2009. We received closure, as far as remediating issues we had on our property. The access that they are requesting to use two areas on our property for staging areas to do some of their de-watering and also to move trucks in and out, and to move trucks over the County Road and back down onto Water Street. It is a fairly intensive use of our property. We've been in negotiations with them about how to give them access. We still haven't reached an agreement on how we would grant access to them, so there is still negotiations ongoing. My major concern is to make sure that whatever work is done there doesn't make the situation that is there worse than it already is. I hope to have an agreement with them soon, but we haven't at this point in time. Out of respect for negotiations we're having, I won't go into any detail. That is where we stand right now. Thanks.

Lars Johannessen: As far as the River Walk and the site plan that you have, or your staging area, is the River Walk going to be closed down for that time, and is it going to be repaired if need be after the trucks and bulldozers, etc.?

Jim Ash: The answer to the first part is, we'd have to be interrupted there, but hopefully there will be a re-route and we'd be working with the city to make sure that it would be possible. There would be a re-route during construction period. If anything happened to the surface of the Walk, it would be restored after work was done. There will be discussion with the city on that, the truck route, and on anything that involves the city. There will be a truck / wheel wash station for trucks leaving the site. That cleaning water is then captured, pumped through the treatment system, the soil that comes off in the wheel wash station is then combined with soil that we're removing from the site and hauled off for disposal. All those activities will occur either down in the work zone, or in those staging areas that we described. There will have to be some access control for the River Walk, but it is not going to be actively worked on within that River Walk area.

Ted Semesnyei: Our next meeting is Nov. 10. Will we be able to get those packets together, or are we looking at the Dec.8 meeting. (Dec. 8 is most appropriate, timeline-wise).

Motion was made by Lars Johannessen to continue this to the Dec. 8 meeting. Motion was seconded by Howard Dalton. Vote was unanimous.

**87 and 89 Haverhill Road, Site Plan / Special Permit, Map 74, Lots 8 and 9.
Submitted by Millenium Engineering, Inc. Applicant: Shea Concrete Products**

Nipun Jain: This is a site plan review/ special permit for proposed improvements regarding the construction of a new office building and related parking improvements. The applicant proposes to construct a pre-fabricated metal building for product and construction material storage. A Special permit is included for office use in an industrial zone and multiple buildings located on 87 and 89 Haverhill Road, Map 74, lots 8 + 9.

Nipun Jain offered a quick update: The proponent came before the PLB for a pre-application conference to get initial feedback on the proposed improvements at the project site. They have since then made application, but also incorporated some of the comments from that pre-application conference, and submitted documents as required in the site plan review, with regards to storm water management and other improvements, as per design and performance standards. I would request the applicant to go over any of the changes that they may have made on the plans, or to otherwise give a brief overview. This project will be reviewed by a peer review consultant and a report will be forthcoming. There were some comments made by the departments that if they have not already been provided to the applicant's engineer, will be provided to you for response. The building design will be reviewed by the board's design subcommittee to provide formal feedback both to the applicant and to the PLB.

Brian Murray, Millenium Engineering, Inc.: With me tonight representing Shea Concrete is Greg Stradus, and Mark Sedier from O'Sullivan Architects who worked on the building. Relative to changes that you've seen from the last time we were here with the pre-application, there really minor changes. Last time here, we didn't have a landscape plan done on it. That's been included into the package. Relative to the office building, the location remained the same. The parking has remained the same. We shifted a couple curb lines since we last met, but nothing significant. It's basically the same shape and design we had before. There weren't a lot of changes, we just tightened up the design, got into storm water management design and utility design, and finalized those aspects of the project. Project components: there is a new office building and a new storage Building with related parking for the office building. No parking associated with the storage building, it is just cold storage. No offices, no utilities other than electric. Parking at the office building will be both in front and back. Ten spaces out front for customers, visitors, clients. There are 27 spaces out back for employees at Shea Concrete, so a total of 37 parking spaces. The approx size of the parcels in question here is about 50 acres... the whole site. There is about 700 feet of frontage. The proposed building has about a 4600 square foot footprint. The office building is going to have 3 stories, one of which being a basement. So two stories of office space. There will be access to the first floor in the front of the building. The way the site is graded, we also have access directly from the second floor to the parking area out back. It is a hilly site, built into the side of the hill. The storage building will be 3600 square feet, 30 by 120. A pre fab metal building the same color as the existing manufacturing building on site. Same layout, made of the same materials. We looked at the number of employees since we came last time. We expect for employees is 16 full time employees working in the office. There will be public water and sewer service. It will tie into an existing sewer stub to the property and we'll be installing a new main to provide the proper fire suppression and domestic use for the office building. It ties into the main on Haverhill Road, which is under the jurisdiction of MassDOT, so we'll need to get an access permit to make that connection. A key component that Shea wants to do is, they want to incorporate as many of the products they make at this facility into the building. The building will have concrete panels that will be manufactured on site. We'll be using infiltration units that Shea concrete manufactures, and four retaining walls within the project also made by Shea. That's the overview.

Nipun Jain: You said it is a 50 acre site. How much of that is developable?

Brian Murray: Maybe 20 acres out of the 50 is what has been developed. It is the Great Swamp wetland behind us. I'd say about 15 of the 20 acres are developed and used.

Nipun Jain: At this point, the departments have made comments as part of the requirement under the regulations. We will provide copies of those comments to the applicant that were or should have been included in your packages. Once we get responses from the applicant, we will provide those, as well. It

will be reviewed by the peer review consultant of the board, and they will provide additional feedback that you guys can take a look at. That is where the project stands, as far as technical review goes.

Ted Semesnyei: So we will have to authorize a peer review, correct?

Nipun Jain: Yes.

Motion was made by Scott Mandeville to authorize peer review for the Shea Concrete project. Motion was seconded by Lars Johannessen. Vote was unanimous.

Motion was made by Lars Johannessen to continue this hearing to Dec. 8. Motion was seconded by Scott Mandeville. Vote was unanimous.

ZONING AMENDMENT, BILL # 2014-107 Sponsored by Councilmen Jim Kelcourse, President Joseph McMilleon, Jonathon Sherwood and Anne Ferguson.

Re: chicken coops.

Nipun Jain: The petitioner is seeking to ask the city to vote to amend the Amesbury Zoning Bylaw as follows: amend section 6E by adding chicken coops after section 6 subsection 8. A full and complete copy of the proposed zoning amendment is available in the city clerk's office. This zoning proposal was not prepared by city staff and didn't have much roll to play in these amendments. As discussion ensued on this amendment, there were some issues identified. So based on the feedback that we have received from other officials that possibly a working session would be much more helpful to iron out some of the issues identified. I request the PLB continue this to its Dec. 8 meeting, and to allow us to have a working session where we would be happy to have members from the PLB who would like to sit at that meeting. We'd invite the petitioners, to make sure that they are aware of what the issues are that are being discussed. We'd have the zoning compliance officer, police because of noise, nuisance and just the enforcement aspect. Who is going to do it? Should it be zoning enforcement or should it be a town enforcement issue? So we will organize, set a date, set a time, and it may be helpful if individual members would either discuss it with the planning staff so we can take notes, and have questions and answers all listed out. Or your comments in writing would also work. What are the overreaching objectives being sought by this proposed amendment, and how they play into public health, how they play into tying into the overall objectives of the master plan, land use plan, and also how do we include regulations that address the intent of the proponents? There is a balancing act, and I think that one aspect was addressed in the proposed amendment, but the other aspects may have been overlooked. So there is a lot of work that needs to be done.

The plan is that a working group will be formed and we'll continue this to Dec. 8.

Motion was made by Lars Johannessen to continue this item to the Dec. 8 meeting. Motion was seconded by Howard Dalton. Vote was all in favor.

Zoning Amendment, Bill #2014-115 Sponsored by Mayor Gray, Re: Amend the Amesbury Zoning Bylaw and Amesbury Overlay Zoning Map.

Nipun Jain: Mayor Gray is acting petitioner seeking to ask the city to vote to amend

Section 11 S5, general provisions, dimension and density regulations of the existing overlay zoning map of Amesbury. There is amended language and the amended overlay map that should have been included in your packages. You got a brief overview of the project that led to the amendment. If the board would be amenable to it, we can give you more input on this after the applicant who presented tonight in a pre-application conference gave us additional information. We were hoping to get the information that was presented on that project well in advance, so that we could provide you the technical basis for the change in the regulations and the policy as it relates to the zoning amendment. So I request that the board accept our request to continue this to November 10 meeting, where we

would be able to give you more feedback and input that would support the proposed zoning amendment. Unless you have questions, then I'd be happy to hear.

Motion to continue this hearing to the November 10th meeting was made by Robert Laplante. Motion was seconded by seconded by Scott Mandeville. Vote was unanimous.

ADMINISTRATIVE:

COUNTRY CLUB ESTATES, 22 Woodwell Circle, Lot 10, (formerly Nancy Drive/ Country Club Lake Estates)

James Sears Law Office, Danvers, MA.

Nipun Jain: It is my understanding that there were concerns raised by other city officials with regards to the subdivision, and the response back from the applicant's legal counsel is self evident in the email thread copies found in your packets, that the lot in question is really not part of the subdivision, but it was included in the covenant. That is the reason why the applicant and their representative are requesting that, if there are any concerns, that they be addressed through the developer of the subdivision, and to not necessarily hold this lot release at this time. We do have the representative for the applicant here tonight, to give you a quick update on any discussions.

Tom Delaney, attorney, standing in for Tom Sears to represent the applicants, Richard and Nancy Michaud, who until recently owned 22 Woodwell Circle for a period of years.

My understanding is, they owned the original tract of land, they sold it to a developer, but they retained one lot, then lot 10 turned into 22 Woodwell Circle, as an undeveloped lot of land. I understand the developer developed approx. 13 or 14 lots. This began in the late 90s, there were covenants reached at that time. The covenants applied to all of the lots, including this one lot that the Michaud's owned. The developer, as of 6-7 years ago, completed the work the developer was doing. The covenant was to ensure that the roadways and sidewalks and other common improvements were completed to the satisfaction of the town. They were at the time. The town accepted the street as a public road. The covenants were released lot by lot. This particular lot wasn't addressed at that time. My clients, as of September 10, 2014, sold the property to a Mr. Audette, who is in the audience here tonight. He seeks to build a house and wishes to have the covenant released so he can build. From my perspective, there is no reason that the covenant not to be released. I did hear through the town that there were some concerns that, well after the road and sidewalks were accepted, that there were four lots that a different developer began to build on, and that there was some damage done to four driveway aprons. I spoke to that developer, Cheryl McDonald, this morning. Mr. Audette is in the masonry business. She assured me that she is willing to take responsibility to repair those aprons. I'd suggest to you that this has nothing to do with the Michauds. Nonetheless, we're trying to help the situation. The plan is for Mr. Audette to get going on his foundation. It doesn't make any economic sense to address the aprons separate from a foundation pour, so Mr. Audette has been kind enough to say, let me get going, let me pour my foundation, and when I have the concrete guys out at the property, I will work with Ms. McDonald to repair the aprons. So I'm pleased to report that, because I think it is a good practical solution for the town, but again I think it has nothing to do with the Michauds, and I think their covenant should be released because there is no good reason not to be released.

Nipun Jain: Is there any written communication to the fact that you just said, or could that be provided as a way to close the loop on the damaged aprons, that would probably help in the discussion and dialogue?

Tom Delaney: The practical side of me says yes, but the non-practical side of me questions why it is that the Michauds are put in the position of having to do that work. I think they've gone above and beyond to put this together, and for them to now be further delayed so that they can get a letter from someone not under their control to do work that they had nothing to do with, just seems to me that we are far afield from what this now retired couple should be burdened with. That said, I'm happy to do what I can do, but I hope that it doesn't delay the process. I've known Ms. McDonald for over 20 years, I asked her specifically about what she will do, and she authorized me to make these statements for her. I hope that would satisfy the board.

Nipun Jain: From the staff point of view, given that the concern was from DPW and there is no representative present from DPW, I can see that the assurance provided tonight at this meeting would substantially address the concerns of the DPW, and my point earlier was really to close that loop, if that is what Ms. McDonald is willing to do. Having said that, I think that would take care of any outstanding issues that may have been presented to the board on this matter, and to recommend releasing the lot, given the assurance made tonight.

Motion was made by Howard Dalton to release the covenant. Motion was seconded by Robert Laplante. Vote was unanimous.

AMESBURY ANIMAL HOSPITAL – 277 ELM STREET

Request to release performance bond and erosion control bond being held by the PLB. Courtney Campbell / Project Manager / CMP Inc.

Nipun Jain: The last report that was prepared by the board's consultant I believe was September 10, which was also a report or a letter recommending what should be released. I did a subsequent visit today, given that at one of the meetings in late Sept., this request to release the bond and erosion control bond was also reviewed by the board, and at that time, the outstanding issues were that there was no grass growing, the ground was exposed, the landscaping was partially complete, and today I observed some grass growing, some of it still not coming back as one would have thought. So there are two things the board can do: You can go with a recommendation that I make, or if the board wishes to have their consultant do one final report and assessment, based on the conditions now, we can go with that. Your consultant is here. You can ask questions of him and ask what he may recommend, since two of you see erosion from downspouts in the site.

Karen Solstad / Lars Johannessen: The trees on the bordering property were supposed to be 10 feet on center, some are 11 to 13 feet, one has fallen over, there are 13 trees instead of the 17 listed in the plan.

Ted Semesnyei: Could the consultant please come to the podium?

Chris Houle, Horsley- Witten Group consultant: Yes, the last site visit / inspection report was around the time of Sept. At that time, there was some seeding done, but not around the entire site, so that was still an issue then. It was my recollection that the majority of the plantings were done, but as Karen just stated, there were some deviations. I'd like to point out that originally; the contractors were working off of an incorrect landscape plan... an old one. I think that was fixed toward the end, but there was some confusion there.

Nipun Jain: I think that was clarified. They were working off an old plan, they didn't have the revised plan, they wanted the city to consider the old plan and we said no, the plan is what was approved and you have to do that. It's possible that the contractor may have overlooked portion of the set of comments that the city staff gave them. But I think at the last discussion on this matter, the issue was coming up to the end of the growing season, the chances of grass coming and flourishing would be much less. That was one issue. The other was to see if there would be any erosion, based on the fact

that grass is not coming in well. Third, there is a requirement for the plants to survive two growing seasons, which was in your report to begin with. Those are the outstanding issues.

Robert Laplante: I remember reading or hearing a report said that they had not completed the lawn, hydroseeding, etc. It is a requirement in the contract, so how could someone ask for a bond release? Then I keep hearing that the grass hasn't grown. I drive by and see the property, it looks terrible. People see the yard first and it is not completed. How hard is it to hydroseed? This is not a difficult job.

Ted Semesnyei: Our discussion last time was that this would be covered under the performance bond.

Robert Laplante: We're wasting time discussing all this. They didn't do what was promised, so they don't get the bond release. Doesn't anybody check on things to make sure they are getting done?

Chris Houle: I believe that is what Horsley-Witten was hired to do.

Robert Laplante: I thought so, too.

Nipun Jain: Horsley-Witten was hired by the board to inspect the construction. It was paid for by the applicant, the inspection of the construction. Until the time the drainage systems were put in place, landscaping was put in place, and other site improvements, Horsley-Witten was required to only do that part. They were not hired to monitor on a weekly basis after the landscaping, hydroseeding was done to see if it had survived. That is not something that was in the contract. If that is something that the PLB wishes in future projects to be included and monitored on a weekly basis, it can certainly be done. Traditionally, if we allow plants and landscaping to be reviewed or to be inspected after they have been installed, maybe on a monthly or quarterly basis, because it takes time. That is why Horsley-Witten did not go to review after Sept. 10.

Chris Houle: The state approval actually prefers a two growing seasons period of time, holding the bond for that period. Our last report was when they had done hydroseeding. We commented on a few minor deficiencies with the project, but for the most part, they had done seeding, so that was the conclusion of that contract.

Howard Dalton: How much do we hold for the bond?

Nipun Jain: We have \$17000, give or take some on the erosion control and we have \$55000 for the performance bond.

Howard Dalton: Are they requesting the release of the performance bond?

Nipun Jain: They are requesting 100 % release for everything.

Howard Dalton: If they request in writing a release of the bond, we have to respond. So we don't have to give them 100%. If you feel there are deficiencies based on what he says and what you observe, we can hold a certain portion back. But we can't hold \$55000 just for grass.

Karen Solstad: But erosion control at the front of the property and the corner where the hickory tree is, it slopes down to Elm Street, it is totally bare earth, and with rain, it drains onto Elm Street. That is erosion control.

Howard Dalton: That is handled by holding the performance bond, by holding a certain portion of that back. The erosion control bond was for during the construction.

Nipun Jain: And the \$17000 was for the full limit of work. So if there are pockets where either the hydroseeding is not surviving or taken root, then you can ask Horsley-Witten to go on the site and establish a general sense of how much of the area is still exposed to the weather and can lead to erosion issues, and ...

Robert Laplante: Is there a mechanism for a punch list on these projects?

Howard Dalton: I think on this project, it'd be worth having them go and do it, so we can look at the bond and use that as a tool to get everybody on the same page. In the future, Nipun can make

recommendations based on what has happened and these conversations. For this particular project, I think to have the engineer go out would be a good deal.

Motion was made by Scott Mandeville to request an updated report from Horsley-Witten, a monetized punch list of items, so we can have a dollar value, on the deficient and missing items, landscaping and whatever it might be. Then we can release all but that amount.

Motion was seconded by Howard Dalton. **Lars** mentioned in further discussion that there is a list of things that I saw on a quick walk through there. Broken sidewalks already and erosion, the fact that the mechanicals are on the outside instead of as planned on the inside of the building. Robert suggested that Lars furnish a list of things he saw to Horsley-Witten so they could watch for them in particular. Karen saw mechanicals on the ground outside and she was under the impression they were supposed to be upstairs with vents. Karen also didn't remember that it would be just a little residential gutter that was going to carry all the roof water and put it out towards the swale, which is light aluminum that could easily be crushed. I thought it would be a more substantial pipe or gutter carrying roof water to the swale. Horsley-Witten will have to verify what was on the plans, and if that was different on the plans or just information that was not sufficiently documented. As far as mechanical units, downspouts, any changes to the storm water, anything that has been installed that is not functioning properly, all those issues such as sidewalks, do a site assessment of what is not working, what has changed, and what is failing.

Christopher Houle, Horsley-Witten: Just to point out that the bond estimate letter that we issued did have dollars values associated with certain items but not these specifics, but certainly we made recommendations for release of a portion of landscaping...

Nipun Jain: I can go over all those, but not right now. It appears now that some of those items may have failed or have not functioned properly. That is why this discussion is taking place.

Vote on the motion of the board was all in favor.

Motion was seconded by Howard Dalton. Vote was unanimous.

Motion was made by Robert Laplante to continue this meeting past 9:30 P.M. A time limit was set to end the meeting at 10 P.M. We'll take the most critical item left on the agenda out of order first. Then if there is time left, the board can decide whether they want to continue.

Motion was seconded by Howard Dalton. All in favor.

Scott Mandeville made a motion to take the Cumberland Farms project out of order. Motion was seconded by Lars Johannessen. All in favor.

CUMBERLAND FARMS 241-243 MAIN STREET. Performance Bond and Erosion Bond Approval and Inspection Services.

Nipun Jain: Before the Cumberland Farms presents the work that they have done to respond to the board's concerns, comments made on Oct. 14, I'll summarize briefly what those issues were.

One issue was that there was an existing tree buffer along the property line on the project side that abuts the cemetery that was cleared, even though it was on the approved plans to be preserved. There was work done on the cemetery property beyond the project site that required changes to the grading plan, the landscaping grading plan, and concerns about activity that took place on the cemetery site. So the applicant was asked to respond to all those issues, and how those modifications would be addressed, and to present to the board remedial actions that would be taken. That is a very short summary of the extent of discussion that took place on Oct. 14.

Luke DiStefano, Boehler Engineering: I also have with us tonight John Smolak, project attorney, representative from Cumberland Farms Dominic Taverna, and some representatives from the contractor who are building that facility. I'd like to start by setting the record straight and basically lay out a quick timeline and some of the facts, because I think since this work was done off property, there has been skewing of the facts or some misinformation relative to why the work was done, and what was actually done. If this board recalls, Cumberland Farms spent a considerable amount of time, effort and money and approved by this board after about 14 to 16 months and many hearings in front of this board, and ultimately put together a plan that was acceptable to all parties. That plan showed development right up to the abutting property line of the cemetery. Work was always intended to go to the property line but no further. That was shown on the approved plans, shown on the endorsed plans, and the plans that were ultimately recorded by this board. That work was being done, meaning the contractors had gone to the site and did a vertical cut at the property line, which allowed them to install the retaining wall that is located on that side of the fence, which is the westerly side of the property. As part of that vertical cut, and this happens all the time on construction sites, some roots were exposed on some of the existing vegetation onto the cemetery property. At that point, I believe the representatives of the building department and the DPW who visited the site, took a look, and stated some concerns to the contractor and to Cumberland Farms, that they felt that those trees may be impaired and may cause a safety hazard to that piece of property, at which point, they requested or asked the contractor if they would be willing to help the city out and remove those trees. The contractor agreed, reached out to Cumberland Farms, Cumberland Farms again, in an effort to be a good neighbor like they have been since day one on this project, reached out to the building commissioner and said "Listen, we don't want to do anything that will get us in hot water. This was a project that took a long time and a lot of review went into it, so what we request is if you would like to see the trees removed, give us something in writing that indicates your concerns and lets us know that you would like these trees removed. They got that letter, from the building commissioner. That letter also indicates that the building commissioner spoke with the DPW superintendent, and also consulted with Nipun on the removal of the trees. Only after Cumberland Farms got that letter did they proceed to do work on the abutting property. The only disturbance that was done on the abutting property was done as a direct result of the landscaping removal that was specifically requested by the building commissioner. (you can wave your hand, but that is fact. That is what happened). When there is work that has to be done, is there at times some grubbing and things that may encroach onto abutting properties? Certainly. In this case, however, again it is important to note that the work that was done on the abutting property was done at the request of the city. Now, Nipun ultimately was made aware of the work that was done, maybe even by board members who saw the work being, at which point we came in and explained our position at that meeting, I believe on Oct. 14. In the letter from the building inspector, it was also represented by him that he would like to see the trees that were removed replaced with seven rhododendrons, which is ultimately what was put on the plan that is here to my left and is a copy of a plan that was forwarded to Nipun last week, which shows a few things. It shows the grading behind the building, it shows the exact location of the wall, it shows the originally approved plantings that were endorsed by the board, it shows the existing slopes behind the wall, leading to the cemetery property, and what it also shows is some re-planting that is being proposed by Cumberland Farms at the request of the building commissioner. There have been some concerns about the viability of planting behind that wall, and there is one construction issue relative to the drainage swale that was built behind the wall, which was actually built a little too wide. So what is going to happen is that it is going to be brought back to basically a five foot wide swale, it'll start from the top of the retaining wall, and it'll go five feet, which was what was shown again on the approved plan that this board

endorsed. By doing that, we'll have, at its narrowest point, a three foot strip of land at no more than a 3:1 slope to plant the plantings that were approved on the plan. That is on Cumberland Farms property. Beyond that, as you can see, there also willing to install seven additional rhododendrons on the cemetery property, which is in keeping with what your building commissioner requested be done in lieu of the trees that were removed. There has been some temporary construction fencing put up, there has been some erosion and sediment control barriers set up, so that has all been taken place on the abutting property. We understand there is some concern over that. But it is important to note that CF was working with the city, as far as this offsite work goes. It wasn't something that they just took upon themselves to do, because they felt that would make their project better. They took in my opinion all the necessary steps to obtain the necessary approval to do that work. I think we're here this evening because this board and Nipun might see differently, but what we'd like to do is get this project back on track, so that everybody is in agreement with what is being done, so that CF can continue to enhance that corner with a multi million dollar project that they originally proposed and had approved.

Ted Semesnyei: So given the tight timeline and how everything has played out here, so this was recently submitted to... these updated plans were recently submitted to the city hall? (Correct).

We'll need to get a full report from the Planning Office, on...

Nipun Jain: Mr. Chairman, if the board members want to go first, they can go first, or I'd like to just talk to what about this. I believe it was impressed upon the contractor the significance of the issue at that Oct. 14 meeting. So nobody is skewing the issues. If you're talking about an approved plan, the plan was approved by the PLB. So the building commissioner didn't approve the plan. So the approval of a plan and any modifications to that go to the permitting agency if there are changes being proposed. As far as the trees that were to be preserved, which was discussed during the public hearing process, it was asked, and I know it is in the minutes, that talked about "will the trees on the cemetery side be preserved? And it was said very clearly at that hearing that we would not have to go that close in order to disturb the site, and that it would not have any issues to the trees that were on the cemetery site. But, as you said, all of the work that was... you can show me all those plans, I know those plans, there are trees that are on the approved plans on the cemetery site which came down, and that was, there is no issue as far as how and when those trees came down, the issue was if those trees had to come down, even if they were asked by the public safety officials because they became a safety issue when the cut was that close to those trees, it should have been communicated to the PLB, to let them know that yes, these trees will be coming down because of X, Y and Z reasons. That was issue one. There was never, during the public hearing process, a request made that you would have to put construction fence on the cemetery side, and would be digging 22 inches from gravesites. So that was work that was done by the contractor on behalf of CF, which is, if you have to do that, you have to do that, but you still have to come to the approval agency to let them know this is what you have to do, and get their approval on the changes that are being made to the permit and to the plan. The second thing is, if there were changes to the drainage system because of that, and the grading plan, then those should have been communicated to the inspection engineer before those changes were made to the plan.

Luke DiStefano: There are no changes to drainage; there are no changes to grading.

Lars Johannessen: There are huge changes to draining, I'm sorry.

Luke DiStefano: First off, lets...

Lars Johannessen: No, it is my turn...

Luke DiStefano: Let me address Nipun's questions first. Nipun, I agree with you. There was representation made that there would be no work done on the cemetery property. Just like we would on any site, where we propose development right up to an existing property line, we also know that

there were trees on the abutting cemetery property that weren't to be touched. They weren't. What happened here, and had we been notified, we might have come up with a different solution beyond agreeing to your building commissioner and DPW superintendent asking that the trees be removed. Just because the root structure of the tree may have been impacted during construction, that doesn't automatically mean that those trees are going to die, that those trees are not going to continue to prosper, and that those trees are going to be a safety hazard. However, again, in an effort to be a good neighbor with the city, CF at their own expense removed the trees. Now the work that was done on the cemetery property was outside of the plan approval that you had reviewed and approved. It was outside the limit of work, outside of the approval that this board had given. So CF thought that since it didn't impact the approved plan, that given the written authorization by the building commissioner, that that was the approval necessary to do the work on city property. It is also my understanding that the DPW superintendent is also the cemetery commissioner, or he oversees the cemetery. He was fully involved in the process. He also gave his approval and it was in that letter as being consulted. So we thought we had followed all the necessary steps and had taken all the appropriate measures to remove the trees off property. I get it. It caused work on the abutting property. That is why we are here. We don't want it to be a big argument. What we hopefully can do is come up with an agreed upon solution to the issue. But as far as grading is concerned, as far as the plans are concerned, the wall hasn't changed, the proposed landscaping hasn't changed, the slope behind the building hasn't changed. The only thing that is different was that the swale was built incorrectly and may look funny, but we went out, had an additional survey done, we had topos shot. This is a factual survey done based on existing conditions and we're confident, as the engineer, you met with my landscape architect on the fourteenth, he's confident that the plantings behind the wall can go in as proposed. We know, based on conversations with the structural engineer who designed the wall that the drainage swale, the rock swale shown on the plan, can be built per the plan without causing any issue. So I don't understand where there might have been changes to the plan beyond just the work on the abutting property.

Ted Semesnyei: Lars, your response?

Lars Johannessen: I'll let Karen go first.

Karen Solstad: For the board members who were not here on Oct. 14: just a quick overview. We talked about that when we approved the plan, there was no plan for the retaining wall that came after the board's final approval. The landscaping plan for the area behind the retaining wall shows the trees planted in the midst of the stone swale, which shame on us for not noticing that these trees were going to be in the stone swale. We had assurances all through the permitting process that there would be absolutely no incursion into the cemetery and that all due diligence and care would be taken there. At the Oct. 14 meeting, we discussed our concerns with the top of the wall elevation, the swale that goes down, and then goes up very steeply to the town property.

We had lengthy discussions about the fact that there was a big elevation change, in a very short distance, and you assured us that there was plenty of space for the swale and for the elevation change, and that it would be a very gradual slope up to the town property line. At that meeting, we asked that your landscape architect and CF come back with a plan to address what appeared to us on Oct. 14 to be a real disconnect between the plans and how this big elevation difference was going to happen. It looked to be a very steep slope. (DiStefano= we've done that).. And you were going to come back at today's meeting with at least two proposals for how to address that, whether it be a stone wall or somehow addressing that whole issue. The meeting got over at about 10 A.M. By 1 P.M. the stone swale was in place, going all the way up to the town property line. So I have a real issue. I thought we had a gentlemen's agreement at that meeting on the fourteenth that at this meeting tonight, we'd look at how to address all the issues on the top of the wall, and to find out that within 8 hours, the stone

swale was done, there was a really steep 1:1 slope along the town property line, and that the stone swale where we had multiple assurances that there is between 3 and 8 feet of space for landscaping, that that is all stone swale, right up to the town property line. So I really feel that you just gave the PLB, I won't even say what I think, but we had an agreement to come back today with a plan, and all we get now is some deal...we built a swale...oh, they built it wrong. Really?

Luke DiStefano: Again, I wasn't at the Oct. 14 meeting, but I know who was, and we spoke at length and in great detail about the outcome of that meeting. We understand there was concern about the slope behind the building. Based on follow up visits to the sight, visual observations and the information contained on a survey prepared by a registered land surveyor, and engineering plans prepared by licensed engineers, we can tell you that that planting plan that was previously approved, once the swale is built, only five feet off the face of the... or from 5 feet wide, as shown, can be built as designed. There is no need for...

Karen Solstad: OK, right now...

Luke DiStefano: There is no need to modify the plan except for... the only change we have to make at this point, as far as behind the wall work, is we need to bring that swale back so it is only 5 feet wide, so that it starts at the face of the wall and it extends 5 feet back towards the cemetery property. Once that is done, as I indicated, at the narrowest point between the back of that swale and the start of the cemetery property, we'll have three feet in which to plant the landscaping that was shown on the approved plan. I can tell you that never did the plan show landscaping being planted in the swale. I got the landscape plan here that was approved by the board. All the plantings are shown on the western edge of the swale.

Karen Solstad: Can you tell me why the swale was built that day that we had an agreement that you would come back today to propose how to deal with the elevation issues, the landscaping, and all of that, yet it was built that same day and it was built not to plans at all, because the stone swale goes right to the town property line. So your credibility is about zero right now with me, because all these issues up there, the stone wall to be taken care of on the right hand side to be preserved is totally covered in dirt right now. There's erosion issues on the town property. It was just left open dirt on a very steep 1:1 slope, so all the rain last week, there's big erosion issues coming down gullies on the town property. So I don't know when this is all going to be fixed, but I'm a little bit peeved that...

Luke DiStefano: I'll address the credibility issue, because there is no credibility issue here. The only reason the swale was built incorrectly is because there are two plans in play here. There is a retaining wall plan that was prepared by the retaining wall manufacturer that showed without scale that the swale was a little bit wider and graphically a little bit different than the engineering plans. Because of that discrepancy, the swale was built wider than it needed to be. It wasn't built because we were trying to put something over on the city. It wasn't built because we were trying to dodge a gentlemen's agreement that we had at a meeting on the fourteenth...

Karen Solstad: And can you explain to me why at the meeting on the fourteenth at 10 A.M. when we finished the meeting that there was an agreement that all these issues would be dealt with today, but you didn't say,"actually, we're going to build that swale today, so we're just going to charge ahead and do what we want to do there?"

Luke DiStefano: Well, one of the things we needed to do is to stabilize that swale. There was exposed dirt back there.

Karen Solstad: There still is exposed dirt back there.

Luke DiStefano: Putting some stone back there doesn't necessarily mean it wasn't CF intention to say "forget about the agreement we had. We're just going ahead and build it." One, they wanted to stabilize the swale, and two, they have to keep on some sort of schedule. Now they are trying to do

what they can. They have delayed construction to work through these issues. Never once, and you all sat in on every hearing that we had, everything that CF has promised to do, they have done, The design intent, the changes you guys wanted on the building, the architectural...

Nipun Jain: Luke, that has nothing to do with it. Come on.

Luke DiStefano: None of what we've done flies in the face of that approval.. The only thing that is different is some off site work ...

Lars Johannessen: The off site work is caused by your onsite work. Yes it was, because you upgraded the town property in order to get a 1:1 slope to get the swale in there. Now, the swale is not built to construction designs that were approved at all. They're supposed to be below the retaining wall with two feet of dirt on the retaining wall itself, and then the swale. Then you say that is 5 feet, so we're up to 7 feet.

Luke DiStefano: Three feet. Five feet wide total, including the 2 feet on top of the wall.

Lars Johannessen: Ok, so a 3 foot swale? (Luke = yes.). OK, where you have 10 feet to seven feet now, and 6 feet on the swale. That's how wide it is now, anyway. Then you have the soil on the cemetery side that was graded in order to get even just a 1:1 slope down to the swale that exists now. So you must've dug pretty far into town property to get anywhere to do that. As far as how close you are to the graves, can you tell me for certain that you did not disturb any graves? Because the gravestones of that era, the people were often placed behind the stone. So if that is the case, and they happen to be six feet tall, then you are 22 inches away from it on the fence, then I'm sorry, you are way into desecrating a gravesite.

Karen Solstad: Did we get the agreement on Oct. 14 that we were also going to talk about that there was going to be a temporary easement...that we'd have to have an agreement to have a temporary easement, for CF to work and be on town property back there?

Nipun Jain: Yes, that was one of the things that was discussed by the board, that in order to continue to work on city owned property, there should at least be a temporary construction easement until the site has been stabilized, until issues have been resolved by the board, that was scheduled for discussion today.

Lars Johannessen: Even to have the fence on town property, there should have been a temporary pre-construction easement.

Luke DiStefano: Agreed.

Robert Laplante: As the newest member of the board, when you started off your presentation you said you had all these meetings and thought you had a great project. Let me tell you, my first item coming onto the board in the middle of winter was Cumberland Farms. CF kept coming back. Other people came and went, and you guys did do a good job...excellent job. Having been in this kind of business in a different place, I was impressed on the give and take. That is one of the reasons this board is so unhappy, because I think they were expecting more. But regardless of what happened, I think the communication process is something that Karen talks about, I was at that morning meeting, when your guys who were there promised us stuff, and I can see what Karen was talking about. This is like an accident with 8 witnesses. We all saw the same accident, from a different point of view, and they all think they are right. My request, and I said it that morning when these guys were here: how do we fix this? It's done.

Ted Semesnyei: So there was a meeting on Oct. 14. There were a number of issues that were going to be addressed and brought to the board here. So that is the crux of the issue right now is how we're going to deal with that. The agreements that were discussed at the last meeting on Oct. 14 and receiving all that information in those agreements, correct?

Robert Laplante: But it's a moot deal, because they finished that wall.

Karen Solstad: But what is built above that wall is not to plan. That has to be addressed.

Luke DiStefano: And I addressed that. What's beyond the plan or beyond the wall, with the exception of the swale, which we already indicated will be pulled back, is in accordance...

Karen Solstad: When?

Luke DiStefano: If we are lucky enough to get your blessing this evening, that swale will start to come back as soon as possible.

Lars Johannessen: How do you propose to bring the grading of the town cemetery back to its previous grade? It is not there now...and still get a 3:1 pitch before the swale?

Luke DiStefano: Because based on the survey information we have, there is no issue with grading back from where our limits of work are, back to the cemetery.

Lars Johannessen: Is that because you don't have any topos on the cemetery itself?

Luke DiStefano: We have topo on the abutting cemetery property.

It doesn't extend far, but we don't need it to extend far, because if we can make it reach with a viable 3:1 slope, at the narrowest part of our site, now this plan that you guys asked that you guys asked that we put together on the meeting, it shows exactly...

Karen Solstad: But we don't have copies of that. It is new to us.

Luke DiStefano: It was forwarded to the city, Nipun ...

Nipun Jain: I did not get that. When did you send that?

Luke DiStefano: Thursday of last week. Because we knew you'd want to see it beforehand.

Nipun Jain: I have not seen it, if it came from you. If it was sent via e-mail, and you said it was, I have not received it.

Ted Semesnyi: Obviously that is an issue. There hasn't been an opportunity for planning staff and the board to see these plans upfront.

Karen Solstad: So on this plan, I don't see the swale, so I'm a little...

Luke DiStefano: It's here. On the top two feet of the wall, then a total of 5 feet wide. So two feet on top of the wall and 3 feet beyond the limit of the wall.

Lars Johannessen: Can you give us that every ten feet along the length of the wall?

Luke DiStefano: No. Because all we need to do is show you where it is most egregious. Where the slope is going to be the highest.

Lars Johannessen: You haven't shown us where it is most egregious.

Luke DiStefano: Right here, where we did the cut for the section, is where, based on the surveyed information, we've determined that is the most egregious slope.

I don't know that it is a 1:1 slope, the survey doesn't say.

Lars Johannessen: Then ok, then you don't know what you're talking about.

Luke DiStefano: We have the contractors here. I'll let them speak.

Karen Solstad: I would like to have a site walk, with the contractors and the landscape person, and with our consultant on the property, because it seems like we're talking past each other, and I know what I can see from the far side of the wall. I know what I can take photographs of. I know what did not happen after the last meeting, so besides you just saying that everything is hunky dory, I want a site walk with any members of the board that can be there, asap, to walk over it, and you tell me how it is going to be fixed, because it is a big issue right now. It is not in compliance. You managed to throw it up two weeks ago, but you haven't managed to fix it since then. So I have an issue with all the erosion that is taking place on the cemetery town property.

Glenn Kornichuk with the Torey Company: I'm not sure where to start, but the first part, I'd like to apologize to the board, because the Torey Company made one mistake. We took direction from the

building inspector, who we work with building inspectors everywhere, and realizing after the fact, we should have taken direction from the board.

Karen Solstad: OK, the trees are sort of right now a non-issue...

Glenn Kornichuk: You'll excuse me while I'm talking...thank you. I've sat here all night listening. The swale is not constructed per that drawing. It will be. The swale was built in the midst of your meeting. When they came back at the end of the meeting, that swale was built. The superintendent on site thought he was building a swale according to drawings he had at hand. There's two sets of drawings. One by an engineer for the retaining wall, telling him to do one thing, and there's a landscape drawing that tells him to do it another way. Excuse me, let me finish, please. We've discussed with CF and the engineer that we will re-construct the swale per that drawing. The only piece of property that we went onto was where we were asked to cut the trees down. The other thing that had occurred was, the trees line that property line. Some on our side, some on your side. When those stumps get pulled out, the roots tend to drag some of the soil at the top along with it. That is the only encroachment we made. The property line, which I'm sure we can probably dig out photos, is on the slope that turns down towards CF. The top of that cemetery is not flat. We didn't dig the top of that crown and pull it towards us to make the grade any better. That slope was always there. The fence on the cemetery, we got permission, not in writing, shame on us, from the DPW to install that fence, because we were going to drive posts on that property line to install that fence. Yes, it is not to drive posts to put the fence on the cemetery side with bases protected with weight, so it wouldn't fall over. We have since put up braces, so that in case it fell over on the cemetery side, wouldn't land on any of the stones. We've installed erosion control at the top of that freshly loamed slope, so that it wasn't washing down into the swale, which doesn't really matter, because it is going to get rebuilt. The erosion control was installed in the last few days. We did have some erosion in spots. Horsley-Witten provided us with a punch list, and we addressed those items.

Nipun Jain: I think that the question that was asked at the Oct. 14 meeting was also, there was no detail cross section of the condition behind the retaining wall, the drainage swale, and the slope leading to the edge of the property, which created probably more confusion to all parties involved. There was a schematic that was provided, based on what may be the retaining wall, and I think that is what had a domino effect, because the plan that was approved showed the swale, whatever that dimension was, and then worked behind it where the landscaping would take place. But never was there a cross section showing, and I think I remember Scott actually bringing that up during drainage discussion, asking how are you going to go from the retaining wall to the property line. That cross section never came, therefore, how the edge would be treated from the property line towards the wall was never clear, except for a schematic drawing, which may have taken a cross section from the site for this from 110. However, there is a section about 80 feet from where the wall starts closest to route 110 where it is the steepest. So that was one of the questions that was asked at the Oct. 14 meeting: what is the existing grade or what was the existing grade beyond the property lines towards the cemetery, so that there can be a better understanding of from that point to the swale, what would be the edge condition? Because it appears that the plans that based on the approved plan or modified landscaping plan, that slope will have to be treated differently for a lot of reasons: to keep it stable, to make sure it doesn't have to be engineered, and to make sure there is no wash out on the cemetery side. That was also discussed on Oct. 14. That is what the board was hoping to see as to how that edge treatment happens, and how we prevent the erosion control, given where we are in the construction season, how do we stabilize it, how do we address it permanently. Maybe not right now. We may have to address it in a temporary manner right now. But going forward, what would be the ultimate goal and

way of resolving that condition. So that's what the staff was expecting to see tonight, so we can bring it to the meeting.

Glenn Kornichuk: I think once the swale is built per that drawing, the swale will be flatter. Presently it dips down, then it goes back up...that makes the condition worse. If that swale comes across flat and gets narrower, that pitch will change dramatically, because it is a very short distance. Right now, it is too steep.

Nipun Jain: How will you be able to stabilize the slope, or what would you use to stabilize the slope, if it is more than 3:1? Has that been determined?

Glenn Kornichuk: The engineers through the survey stating it won't need to be more than 3:1. If it needs to be more than 3:1, there are numerous things we can do. For instance, it could be matted.

Nipun Jain: So in the section where you have the maximum pinch point, between the wall and the property line, it is not going to be 2:1?

Glenn Kornichuk: They went out and shot the grades. This isn't just paper in the office and a guy drawing. The surveyor came out, shot existing, shot the fence, shot all the locations of all the stones...

Nipun Jain: The existing grade on the cemetery side, were they shot after the trees were removed or were the shots taken before the trees were removed? That's the gray area, regarding have the grades changed?

Glenn Kornichuk: I think what we presently have is probably before, because we didn't pull the stumps.

Luke DiStefano: The survey that was done prior to the project, possibly sometime in 2012.

Nipun Jain: So it has the shots of the grades beyond the property line to a certain distance.

Luke DiStefano: We usually go a few feet over, maybe 5 feet. But what we looked at is, we design up to the property line. So whatever the grade is at the property line that is what we are obligated to design to. Because I know as a designer, I can't design at the abutting property.

But in regards to what the grade is after that, unless I'm doing something wrong, as long as we are leading in to that property line under standard practices, a good design, that's what we do and that's what we did.

Nipun Jain: It appears from what is the unfinished slope, that the slope goes beyond what may be the property line. Is that happening, or is it to be assumed that that is still rough grade there, so it looks like the slope of that grading is going beyond the property line?

Luke DiStefano: I don't think there's been any intent or any attempt to grade off onto the cemetery property. I think, as mentioned, what you are seeing is that some of the soil was disturbed on the abutting property. Not only from when they pulled the stumps for those trees on CF property, you can take the loam out right now. It looks extensive. Some area that is especially bad might be 7 or 8 feet. But in the steeper area, where you can see that, there's an iron pin out there in the middle of that lawn. That is the property line. That's been there since day, we have not disturbed it. Stakes are still on both sides and can be seen very well.

Lars Johannessen: And that metal pin is at the grade it was at?

Glenn Kornichuk: That pin was there long before us and never touched. It's located on the plans. That slope was in the woods. That area was wooded. We've actually loamed an area that had no loam on it.

Karen Solstad: I just want to point out that I've heard two contradictory things. One is, you said that you two sets of plans, from your plans and from the engineered wall, contradicted each other. And that despite all the assurances you made, and all the assurances about the trees, all of us knowing that the trees were on both sides of the property line or right on the line. You made all these assurances that nothing on the town or cemetery side would be disturbed, but then tonight I heard "well, of

course if we take down the trees on our side, it is going to pull up the roots and do this and do that. So of course you know it is going to pull up the soil, damage the roots and cause problems. I don't know why that wasn't stated when we were looking at the plan...

Luke DiStefano: Because it doesn't happen all the time. It depends on the root structure. Depends on the type of tree, the age of the tree, location. So it is not something that happens all the time.

Karen Solstad: So shame on me for listening to all of your assurances throughout the whole planning process. Now you're saying well, you don't really know. I want a site walk within the next two days.

Luke DiStefano: This site has to be built in accordance with the approved plans. Our contention is that right now, we can build the site per the approved plan. We don't see any issue with that, and that is based on engineering practice, surveyed material, and the fact that we've got guys who've been doing this a long time in the field, telling us we can do it. At the end of the day, we want to build it per the approved plan, and if we don't, you guys have every right to do whatever you're allowed to do to make it right. Right now, we want to move forward. We will go on town property and replant and continue to build the site as it was originally designed so that, at the end of the day, when CF goes for its certificate of occupancy, you'll see that. There will be no erosion issues. The slope will be stabilized, whether it's through a combination of plantings or just landscaping and probably hydroseed is intended.

Ted Semesnyei: We need to establish some sort of process in place here. From Oct. 14, we were expecting some paperwork that we have not yet received...

Karen Solstad: It was built differently since then, and there's been substantial erosion on the hill there. So there is an issue, and I don't know when it is going to be fixed.

Robert Laplante: What more do you want the man to tell us? He stated publicly he will build it per the approved plan. He will do what is legally required. What do we want to do here? Do we want to punish them? They admitted they didn't do it the way they were supposed to. Why?

Ted Semesnyei: Scott, you had a comment?

Scott Mandeville: Assuming that all of the site issues can be met, and you can build everything per the approved plans, you had mentioned that the drainage swale was constructed incorrectly. **Luke DiStefano:** It wasn't built incorrectly; it was built per one set of plan drawings and was slightly different from the proper plan drawing that should've been used.

Scott Mandeville: It was built per the wrong drawing. It was a wider swale than was supposed to be done. I had one question: was there additional excavation that was done to accommodate that swale? Could that have caused some of the issues of impeding on the tree roots?

Glenn Kornichuk: Absolutely not. The cut for the wall was done prior to that. The swale was done last.

Scott Mandeville: So the cut for the wall, the engineering that was done for the cut for the wall took into consideration the trees, their location, and assumed that they could be kept? When that engineering was done,...

Glenn Kornichuk: The trees were all pre-marked and kept, and they'd still be there today, if a town official hadn't come by to tell us to take them down.

Scott Mandeville: That is another issue for another day. As far as building the site plan per the approved plans, on the approved plans, we had a number of mature trees on there that were marked to be kept, on the landscape drawings. Given the continued construction on site, will you be able to get in there? My feeling is that we've got some large trees that came out, we have some erosion issues, we need to deal with the erosion issues and put back the large trees that were removed from the site. My understanding from the Oct. 14 meeting was that continued construction and completion of this building would make access to that area very difficult. Will we be able to get in

there to put the trees back that were removed so that we can build the project to the approved site plans?

Glenn Kornichuk: Absolutely, but there is still work to be done. None of it has been landscaped functions better yet.

Lars Johannessen: Will that be done using town property?

Glenn Kornichuk: No, it doesn't need to be. The fence is there, obviously, to protect the public. We're not going to take the fence down and try to use the cemetery. Absolutely not.

Nipun Jain: I think that those are the sort of issues that are concerns, in how the mitigating or modified plan would be accomplished. I think your assurance that you would be able to accomplish the approved plan leads to those next steps. OK, to build the slope, how do you verify. How do we better understand the slopes?

Luke DiStefano: That's what we gave you.

Lars Johannessen: Well, what I see in the one cross section you did give us is that there is a change of grade on the town property. It goes in about maybe 2 feet on your drawing alone right here. You've got the existing grade on the cemetery, then all of a sudden, two feet from the property line starts to go down a little faster. Now as it stands now, the existing grade at that point is probably a 1:1. Now you're proposing a 3:1, but it does look, according to what I see here, you graded down on town property.

Glenn Kornichuk: That slope existed. We'll dig out the photos. That slope existed. We didn't change that slope. It was already occurring. There probably was erosion there when those trees were young...way back.

Lars Johannessen: You have an existing grade as a depth, a dash dash line, and the rest of it is a solid line, which shows that it was changed, or something happened there. That is what the drawing shows.

Glenn Kornichuk: Have you been out there and seen the iron pin?

Karen Solstad: Yes, the iron pin is...

Glenn Kornichuk: Did you see how hammered over the iron pin is? That is old. It got painted orange. You see how low that is? It is well below the grade in the cemetery. That was the grade.

Scott Mandeville: Is that iron pin in disturbed land, or...

Karen Solstad: It is in disturbed land. It is disturbed a good 7-8 feet onto town property.

Robert Laplante: Did I hear you say that they need to replace the trees? I don't remember that from the meeting.

Scott Mandeville: I was asking if they'd be able to replace the trees to match what was in the approved site plan.

Luke DiStefano: Well see, again, you're talking apples and oranges. The only thing we want to do is, there is a change where the contractor wants to use white pines when I think it was cedar that was originally proposed, because it will work better. It still will provide that same vertical evergreen screen. I think it'll work better. Plus, the availability of the trees is more readily available now than the cedar, so ...

Scott Mandeville: So what I had said was,

Karen Solstad: Why?

Glenn Kornichuk: They can't be dug this time of year. I'm not an arborist, but trees are dig at certain times of the year to protect the trees from dying. Red cedars can't be dug...

Lars Johannessen: Can I say right now that white pine is not an acceptable tree for the area.

Luke DiStefano: We will plant according to the plan.

Howard Dalton: I think if you want to plant trees in the cemetery, give them to the town and let them put them in. Use the tree board. Let them decide.

Luke DiStefano: That's one of the things we talked about after the meeting. There has been all this talk about offsite easements and temporary construction easements, and liability for working on abutting property. CF would prefer to not do any work on the abutting property. What they'd like to do is, based on this plan or whatever the mutually agreed upon plan for offsite plantings is, if it comes to \$5K worth of plantings, go cut a check to the city, the city can plant at their leisure where they want the trees. That eliminates the need for any temporary construction easement, eliminates the need for any liability issues from occurring. CF contractors are going to be working on city property. You guys can hire your own contractors at the expense of CF.

Lars Johannessen: In order for even the town to dig in the cemetery, they'd have to know where the gravestones are.

Luke DiStefano: But they could plant within the area that was asked to be disturbed.

The gravestones are shown.

Lars Johannessen: The visible gravestones are shown, that is true. However, there are many gravestones in that whole cemetery that are not visible because they've been fallen over and now have been covered over by 2-3 inches of soil or more.

Luke DiStefano: But we'd only be planting within the area offsite that has already been disturbed. Based on it already being disturbed, you know there are no gravestones or burial sites that have been impacted.

Karen Solstad: I don't know that.

Lars Johannessen: I would not agree with that. Like I said, from a historical...

Glenn Kornichuk: All we did was pull the stumps. We didn't dig anything on the cemetery side.

Lars Johannessen: The gravestones are within 6 feet of the property line. Gravestones from that era could have the body on the back side of the stone, to respect the body so people could stand before the stone and read it while not standing on top of the body. That is how they were done.

Karen Solstad: I just want to take a second and reframe the issues. You keep on going back to the trees that were taken down. That's over. You have two sets of conflicting plans.

Luke DiStefano: They're not conflicting, they just have different detail.

Karen Solstad: Well, you know what? The devil is in the details. It's all details here, especially for the slope and trying to get your proposed landscaping into a very tight space. There's been infringement on the cemetery property. There is a very steep slope there that is eroding. The swale that is built there is not built to plans. I don't want to get stuck in the details about the big trees that were taken down. What I want to know is do we have to revisit the whole landscaping back, to make sure there is no erosion, there's no further infringement on the cemetery property, and that we get the swale and everything else...

Luke DiStefano: And we're telling you, based on the plans, we can build it.

Karen Solstad: Well which plans, because your plans are different...

Luke DiStefano: The plans are not different. The plan is not different. We are telling you that the plan you approved, all the landscaping, the wall, the swale, everything... when it is done, will be built per this plan.

Karen Solstad: And when will it be done? Before the ground is frozen, before there is more erosion...

Glenn Kornichuk: If we can get approval to move forward and not be stopped in what we're doing, absolutely. Time is of the essence for all of us.

Nipun Jain: Can I offer a three step process, and if you guys can comment on it. Is this the only information that you are going to give us, Luke? (you have the approved plan = Luke).

Nipun Jain: Based on the discussion that took place and what I'm hearing now, there are some existing grades along the whole section that you should incorporate.

Luke DiStefano: That is what we utilize, correct.

Nipun Jain: Can you show them on the plan, please? On this plan? I can't see it. If I can't see it, I don't know how others would be able to look at it. They are pretty light. You cannot see beyond... if you're talking about doing work in this section, then those grades should be more readable and clear. All I'm saying is to make them darker and easier to read. That would help us understand A. what is happening as far as slope conditions are, whether they are modified or they are the same, that are from the approved plan. 2.. It does not hurt to have a site visit to be able to see where the property line is, and what is the work that has been done on either side of the property line. It may alleviate the confusion that we are noticing on both sides. Then possibly, from that point on, a mutually agreed upon action plan of landscaping and how the slope would be addressed, could be worked out. Hopefully, then, this can be reviewed by Horsley-Witten, who is an engineering firm that can understand your language as well as the concerns of the board to recommend a solution that might work for the PLB as well. That would be my three step recommendation. It would fall under the approval as well that if there are any onsite construction issues that need to be addressed, then those will be reviewed by the board's inspection engineer. So there are three things: the slope, onsite, and to come up with the recommended solution that Horsley-Witten can recommend to the board.

Robert Laplante: Is that acceptable to you?

Luke DiStefano: We're still contending that we can build it per the approved plan. That is what you are ultimately asking us to do. We can certainly give you a better detail of that section, which is what you already have here, just with lines made darker. I don't know what...

Nipun Jain: Luke, it is almost 200 feet of land from one end to the other.

Luke DiStefano: So one multiple cross section? (Nipun = that would be fine). How many do you want?

Nipun Jain: I would say that you take 5 different sections at a place to be determined during a site walk.

Luke DiStefano: We can't wait for a site walk. I'll give you 5 different cross sections... (several people on both sides talking at once). We just want to be able to implement construction per the approved plan.

Nipun Jain: Luke, you talked about a mutually agreed upon process, and this might work.

Ted Semesnyei: So we obviously have a very difficult situation here. Sounds like we might have something that we might be able to work with. Can we have a motion?

Luke DiStefano: We have to talk about one other issue, too. About the drainage. I know the gentleman from Horsley-Witten is here. They had a difference of opinion on the estimated seasonal high ground water elevation. I don't want to speak for Horsley-Witten, but what we did upon their inspection report, on the drainage report, our estimated seasonal high ground water elevation, taken from monitoring well samples, provided by the geotech engineer, we specified a certain elevation. I think it was 55.3 +/-, or rather 52.3. When Horsley-Witten got out there, they noticed some standing water, due to some heavy rains. We went back and dug some test pits, at the assistance of the contractor, we came to the conclusion that the actual seasonal high ground water elevation was about 7 inches higher. So that the approved design now didn't have the minimum two feet of separation from the bottom of the system to the seasonal high ground water elevation. But what we also found, based on the actual soil conditions, is that the drainage system, as designed, functions better than originally designed, because the soils are 8 times more pervious than what we had used in our calculations. We have since provided revised calculations to Horsley-Witten and I think they will agree that the separation to ground water, we're a redevelopment project. So we don't need to comply with all the standards of the storm water management guidelines, and based on all the data we have, the system, as

designed, and as approved, will function as good, if not better, than originally referenced to you people during the approval process.

Nipun Jain: When did you provide that information?

Luke DiStefano: On Thursday we got it.

Nipun Jain: Chris Houle, have you finished your report, and if so and if you have it, can you present it? The board needs to have it, if you do.

Chris Houle: I have a report with me for what has been submitted to me to date. It is complete. I second everything that Luke just stated. We did receive the calculations that showed decreased ground water separation of about 1 foot. But this project site is a redevelopment project, it does not discharge to a wetland, so it is not subject to the Mass. Storm water standards. The soil conditions, I didn't see the original drainage calculations, because we were not the peer review consultants for the original approved plans. But we're properly documenting the sand infiltration rates in the new revised calculations. As proposed, currently they are proposing about a 1 foot separation from the bottom of the storm water system to the seasonal high ground water table. These new calculations document an improved peak flow conditions over the original existing conditions.

Nipun Jain: Did you provide a copy to the PLB, as a matter of record, to what you submitted to Horsley-Witten?

Luke DiStefano: To be honest, I thought that was for them to present to you.

Nipun Jain: That needs to be in the PLB files as to what you submitted to the peer review.

Chris Houle: I had requested some ground water mounding calculations to supplement the peak flow hydrology calculations. Those revised calculations show that there is a ground water mound that essentially reaches the bottom of the storm water system for the most severe conditions.

Scott Mandeville: Could you send a copy to Nipun so that we can distribute it and can have a look at it? (Chris=yes).

Ted Semesnyei: So we have recommendations for the landscape plan to better highlight the boundary here for a site visit for concerns and for peer review to be able to return with a full report for us.

Robert Laplante makes a motion that we do that, using the Three Points.

Nipun Jain: For that, you'll have to determine if people interested in a site walk can they come tomorrow, including people from the development team? For the PLB, a minimum of three is enough.

Dominic Taverna, working for CF as project manager: I listened all night. I have to tell you that I have complete faith in our contractor, our engineers, our architect, so we will get this project done the way it is supposed to be done, built according to the plan specifications. I want to assure you on that. Secondly, what time do you want to have a meeting and who would you like to be there?

Karen Solstad: Due to jobs to get to, I'm fine with as early in the morning as we can. Is Wednesday morning better?

Dominic Taverna: I think Wed. morning would be better for everybody. So Wed. morning at 8 A.M. is fine (board agrees).

Ted Semesnyei: So we have a motion by Robert on the floor.

Motion by Robert was seconded by Scott Mandeville.

Karen Solstad: Could we get a plan with all the elevations (existing topography) a little darker, so when we do our site walk for Wed. morning?

Nipun Jain: Yes.

Ted Semesnyei: All those in favor of the motion?

Vote was unanimous.

Scott Mandeville: Due to the lateness of the hour, I'd like to make a motion to continue the remaining items on the agenda to the next meeting on Nov. 10, and close the meeting.

Shaheen Bros. – Clipper City Gymnastics – 56 + 58 South Hampton, Locke Hill Lane – Amanda Lane / Evans Place – Letter from John F. Quinn, and the plan endorsements.

Motion to adjourn by Scott Mandeville was seconded by Karen Solstad. AIF..

Meeting was adjourned at 10:55 P.M.