

## WITNESS STATEMENT

**DATE:** August 31, 2021

**TIME:** 12:00 p.m.

**INTERVIEW OF:** Robert Anderson  
Director, Cumberland Department of Public Works

**INTERVIEW BY:** Lieutenant Matthew Salisbury  
And  
Investigator Gerard Ratigan  
Rhode Island State Police Financial Crimes Unit  
And  
Assistant Attorney General John Moreira  
Rhode Island Office of the Attorney General

**LOCATION:** Cumberland Town Hall  
45 Broad Street  
Cumberland, Rhode Island 02864

**SUBJECT:** 20RIX1-1408-OF

1. **Q.** Today's date is Tuesday, August 31<sup>st</sup>, 2021. The time is approximately 12:00 p.m. at the Lincoln [sic] Town Hall. This is an interview of Mr. Robert Anderson. Mr. Anderson, is it 's-o-n' at the end?

**A.** Cumberland.

2. **Q.** I'm sorry.

**A.** [Indiscernible]

3. **Q.** Oh, did I say Lincoln? Again? All right, it's Cumberland Town Hall.

**A.** Yeah, you said that [Indiscernible].

4. **Q.** Your last name, 's-o-n,' or 's-e-n'?

**A.** 's-o-n.'

5. Q. 's-o-n.' Okay.

A. [Indiscernible]

6. Q. Mr. Anderson, you are the DPW Director here in the Town of Cumberland and also an engineer, is that correct?

A. **The Town engineer, yes.**

7. Q. Town engineer.

**INVESTIGATOR RATIGAN:**

8. Q. Mr. Anderson, as, as I'm sure, I'm sure you know, the State Police and the Attorney General's Office have been requested by the governor to investigate whether there is anything . . . improper in former police chief or chief of staff Anthony Silva's activities regarding a application to alter wetlands on property at 45 Canning Street in Cumberland.

A. **Mm hmm.**

9. Q. Are you familiar with the piece of property?

A. **Oh, I'm very familiar with it. I had a--, My, my role as town engineer is technical review. So, I'm familiar with it because when it goes through the planning department, that's where everybody administers it, plans like any project come to me for review and to work with the consultant regarding—I, I look at from im--, standpoint of impacts on roadways and infrastructure, that type of thing. So, I am very familiar with it.**

10. Q. Okay.

A. **Yup.**

11. Q. Brief--, Briefly, could you just give us your background as far as how long have you been here, what your previous employment was...?

A. **Well I'm a—I'm a professional engineer. I've been registered since 1987. I'm a—I've**

been here since 2015, July. And before that I was a consulting civil engineer, you know, working for different consulting engineering firms in the state. Most of my practice has been here since 19 uh--, I've been an engineer since 1979.

12. Q. Okay.

A. But again, registered since 1987.

13. Q. Okay. So, helping me out ... do the math.

A. About 40-something--, Forty--

14. Q. Forty-something years.

A. Forty-two years' experience, yeah.

15. Q. So around about--

A. Yeah. Right.

16. Q. -- it's 42 years.

A. Yeah. Yup.

17. Q. Quite a bit. And through our interviews with other employees, my—our understanding is that the first notice you receive of an application to alter wetlands usually comes through notification from DEM--

A. That's correct, yeah.

18. Q. -- Wetlands.

A. Yup.

19. Q. Did you have any knowledge that—th--, there was going to be an application to alter the a--, wetlands [Indiscernible / voices overlapping]...

A. I don't get them directly, the Planning Department gets them, or sometimes the building official.

20. Q. Mm hmm.

A. They don't routinely copy me on those. But they'll, just like if I get a copy of something the Planning Board's involved with, I'll give a copy of it, you know.

21. Q. Okay. If, if you recall, in this instance do you recall how—how you received notification?

A. It's usually by uh--, Well, it usually comes by regular mail, but mine would be e-mailed to me. Because again, I don't get copied directly, --

22. Q. Right.

A. -- Planning would give me a copy of it just for our files, that type of thing.

23. Q. Did ...

A. DEM notifies you that a, an application has been submitted--

24. Q. [Indiscernible]

A. -- like they do for any type of project. Yeah. They--

25. Q. Right.

A. -- they t--, they, they no--, notify the town officials, which, just to repeat, is usually typically the town offic--, the building official or the planning— the planning department.

26. Q. In this particular instance --

A. [Indiscernible]

27. Q. -- regarding 145 – excuse me, --

A. Forty-five

28. Q. -- 45 Canning Street, --

A. Mm hmm.

29. Q. -- do you recall what you did after you received notification that an application to alter wetlands had been found?

A. I wouldn't take any action on that, that's just for my records. I don't -- We don't do anything until the Planning Department gives us plans to review.

30. Q. Okay. So, --

A. So, I wouldn't—I wouldn't uh—I get them all the time for miscellaneous work, so I wouldn't be investigating that, that's not my responsibility.

31. Q. Did you ever do any investigating?

A. Oh no, I investigate it once we . . . receive the plans to look at it. I know that DEM has to approve it, but I still do a technical review of the plans. I'm aware of the wetlands and that circumstance if I still do a, a technical review. Like any—any job, even like this one had you know, the issues, sometimes you have a property that has wetlands on the back in the buffer area, I know that DEM letter will be forthcoming, so you don't even have to make a comment about that. I'm looking at it from impacts on roadways, utilities, right, the present drainage situation that's there. So, I wouldn't be taking any action... That's like for your information if you will. Again, it's all administered through the Planning Department, and I'm like a support group. Just like a fire department or somebody that might be signing off on something, you know.

32. Q. Did you provide any support to planning on...?

A. Oh yeah. Oh yeah. I had to, yeah.

33. Q. Do you re--, Do you recall when that...?

A. Oh, I—You see, you're catching me off guard. I would have to prepare for it, --

34. Q. [Indiscernible]

A. -- I wouldn't--

35. Q. [Indiscernible]

A. That job started in 2019, I believe.

36. Q. The—the initial --

A. Yeah, I wouldn't—I wouldn't be able to get that without my file. Heh.

DETECTIVE LIEUTENANT SALISBURY:

37. Q. Okay.

A. You know. But there was like a, a preliminary submission and uh, then it, then it got rescinded and they did another one. Now, I do this for all the jobs, you know.

INVESTIGATOR RATIGAN:.

38. Q. Would you—Would you recall what you—what—what you did?

A. Oh yeah.

39. Q. Can you just--

A. Yeah.

40. Q. -- tell us—tell us--

A. Well, my comments were that that particular parcel of land, that's the low point of a roadway [Indiscernible] and road drains into that parcel. Right.

41. Q. Yup.

A. They call it overland flow—the sheet flow, and it goes overland. And then there's a pipe that's across the street that was put in probably many years ago when we were in grade school. Okay. So that's an old, corrugated pipe that drains the, the uh, the upland area, if you will, across the street between Nate Whipple and that, and that, and that street that goes under the road and goes into the back—through that property and into the back.

42. Q. If—if I can set the scene, and correct me if I'm wrong: In general, Nate Whipple Highway is to the north.

A. **That's correct, yeah.**

43. Q. And--

A. **Mm.**

44. Q. -- the, the uh, --

A. **You have a—You have a, a chunk of land in between Nate Whipple--**

45. Q. Which--

A. **-- that comes down to Canning...**

46. Q. -- which slopes down towards Canning Street, --

A. **That's correct.**

47. Q. And then there's a pipe underneath Canning Street--

A. **That's correct.**

48. Q. -- which feeds into this lot.

A. **Through that lot, and then into this low lying wetland vegetated area that's an**

**L-shaped behind it owned by the abutter.**

49. Q. Right.

A. **Yeah. Right.**

50. Q. And there's also to the—to the west of this particular lot, it's a very steep incline of the road.

A. **To the west. The roadway you're talking about.**

51. Q. The roadway itself.

A. **Yeah, the roadway. That's—So that's why I said it's a low point. You have a low**

**point at that particular parcel.**

52. Q. Right.

A. That's right. Yeah, the roads are coming down. That is the low point. That happens to be coincidentally right at that parcel of land.

53. Q. Well, almost from the north, from the west, from the east, --

A. That's correct, --

54. Q. -- all bordering--

A. That's the low point, yeah.

55. Q. -- and flowing down.

A. It's called the watershed area. That just happens to be the funnel—the focal point.

Yes.

56. Q. Okay.

A. Yup. And that was my job to comment to the—to them about that. Because if they were going to be, you know, putting . . . The DEM issues aside, looking at that roadway, what did they have to do? Because we—we knew they were going to impact the land, you'd have to divert that water. Right? Because

57. Q. So the road wouldn't flood?

A. -- it would have no place to drain. That's right, the road wouldn't flood. And also—So that was going to be done by a swale. That's-- a--

58. Q. Yup.

A. -- swale is a depressed channel that you--

59. Q. Yes.

A. -- put on the property to, to convey water. And then that was going to be put right over this new pipe, because that pipe, just like a lot of pipes that are throughout the towns, they were built years ago without easements, you know, with people agreeing, hey, can I—we

use this land to, to drain? And of course the people that live there say, oh, as long as it's going to help the road, they let them do it. So, the pipe has been there for many, many years. And my—the people that work for me are like, my sewer superintendent, he's a 30-something year man, that's been there forever. So again, that's the pipe that conveys the upland, Nate Whipple area that we just described across that road.

60. Q. Okay.

A. Yup.

61. Q. And what w--, what was your impressions after reviewing the plans to alter the wetlands?

A. Only that I knew that it was going to—I said, you got to get DEM approval for this, right?

62. Q. Yeah.

A. I wouldn't be commenting to them, ... my personal opinion about the wetlands, you make a comment about it ...

63. Q. So, professional opinion.

A. Professional opinion?

64. Q. Yes.

A. Professionally, if they were diverting, improving the r--, water, the, the, the uh, the drainage there, I wouldn't have—I, I would have—It didn't really matter to me what they were doing to the land, if you know what I mean. They were--, I look at it for infrastructure: if they were going to improve what was—what was taking place over there, they had to improve that waterway, they had to improve the drainage at the roadway because they would be interrupting that. And then of course they're improving—they were going to be replacing that pipe, which we did a television inspection, we only could go so far, so there was a condition, a

compromising condition we were anticipating they were going to encounter once they did excavation out there. Because they probably—Because it was such a tight lot, they probably—the excavator probably would have punctured it at the beginning. Like it's—it's shallow, it's only—it's only so deep.

65. Q. At some--

A. But I let DEM—DEM would comment about the thing. I don't, like, override DEM or anything, I'm just technically looking at the thing objective--, uh, the thing—the project objectively to see what impacts it has on the, the—our present infrastructure; namely, the roadway and the present drainage that's in place for that.

66. Q. That's on two occasions the town planner wrote to DEM--

A. Right.

67. Q. --objecting to --

A. To--

68. Q. -- the—to the permitting--

A. Right. Yeah.

69. Q. -- to allow--

A. Mm.

70. Q. -- the wetlands to be altered.

A. Mm.

71. Q. Did—did you have any input...?

A. No, that—that was his. I only had input about the—the flooding. But that wasn't my verbiage that was in there. I didn't write that letter.

72. Q. I, I didn't suggest that you wrote the letter...

A. No, no, I just wanted to let you—I'm just clarifying that, yeah. Right.

73. Q. Did you—Did, did you have—did you have any opinion, professional opinion as to whether the alter should—the wetlands should be altered or not?

A. Well they have to be altered to accomplish this—that—that uh, drainage work I just described.

74. Q. And--

A. I didn't have an opinion as to what DEM was going to be saying about that, they--, DEM is DEM; they have—they're the regulatory body that approves that. I did make a comment to the engineer about the—the project and say: gee, this is gonna be a—this is gonna be an interesting one, you know what I mean, to uh, get approved.

75. Q. Mm hmm.

A. You know. But again, I'm objectively looking at what could be improved over here if this went through. And also, because this—this project, even before the recent state of events, right, when that was brought to my attention about that drain, I had my staff look at it and so forth, had this project not come to fruition, just like I do around town for regular maintenance of structures and everything, I, I probably would have been giving consideration to going in there myself. But apparently, the—the pipe is still functioning like that. Obviously, we'd have flooding over there. Where the water finds its way—did you hear that expression, 'water finds its way.'

DETECTIVE LIEUTENANT SALISBURY:

76. Q. No.

A. That's an expression they have. Physics and downhill--

77. Q. Right.

A. -- water will find its way to the lowest point. So that is functioning there, but

it's—we don't know about the condition of the pipe. And that's what we were going to find out about had this construction gone through.

**INVESTIGATOR RATIGAN:**

78. Q. Okay. Are you familiar with the area in general as far as flooding occurs?

A. Yeah.

79. Q. And, and what—what's your knowledge ...[Indiscernible / voices overlapping] ...?

A. Well I wasn't here when the--, In 2010, you--, I don't know if you recall that year, we had all the flooding and the rivers swelling.

**DETECTIVE LIEUTENANT SALISBURY:**

80. Q. Sure.

A. Also, remember West Warwick and Cranston and all that?

81. Q. Mm hmm.

A. That's what I—From--, You know, I've been in town here, but I wasn't in this position. But from the staff that was here, that was – they-- probably the event that they remembered that was flooding. But I'm not aware of any recent flooding there. I mean uh, there might be a little inundation that takes place. But water finds its way through that plot of land.

**INVESTIGATOR RATIGAN:**

82. Q. Water going into the basements of home in the area, is that something you have knowledge of--

A. No.

83. Q. -- or would you--

A. No.

84. Q. -- would you have?

A. No, I wouldn't—if that happened, that happened before. I wouldn't—I wouldn't—I don't have any knowledge of that.

85. Q. All right.

A. That would have to be reported to me.

86. Q. At--, But would that be reported to you if people--

A. Well, were they not, [Indiscernible] it goes to the mayor's office or somebody else.

Eventually, anything that happens outside comes my way. But I wouldn't be aware of the uh, flooding, no. I mean, excuse me, what you just said about the basement, I wouldn't be aware of that. I was just aware of flooding in general, like, and that pre-dates me, --

87. Q. Yup.

A. -- the 2010--

88. Q. Yup.

A. -- events, that heavy, heavy rainfall events that we had that caused all the—the river swelling statewide, and, and really severe local flooding as the weathermen usually refer to it, localized flooding.

89. Q. Have you ever had any conversations or communications with anyone about that piece of property outside of other town employees?

A. My wife. Heh. My wife. That's about probably, you know.

90. Q. Yeah. I--

A. Yeah.

91. Q. -- i—is she a uh, abutter or a uh, --

A. No, she's not an abutter.

92. Q. [Indiscernible]

A. Oh, that's what you were—That's what you were getting at? No, no.

93. Q. No, I--

A. No. No. No.

94. Q. No, I was not.

A. Oh, excuse me, let me—I stand corrected. That Michelle, that was the only one,

Michelle, the abutter, Michelle Burgoyne.

95. Q. Yes.

A. She owns the parcel behind.

96. Q. Yes.

A. That's the L-shaped parcel. That's the low--, low lying wetland area. She was put in

touch with me either through the planner or Kelley that you just met, to talk about the—the

drain back there. And I explained the hy--, we call it the 'hydrology.'

97. Q. Yes.

A. That was what I just explained to you about the water-water--

98. Q. [Indiscernible] water...

A. I said that's been there for years, Michelle, and I says, uh—Then she wanted me to

take the pipe out. I said I couldn't do that. I said, that's where the—the water goes. It still would

go there in an irregular pattern. But not that ... we were going to pursue that, you know, taking

that out.

99. Q. Okay.

A. There's one conversation I had with her. She did an e-mail to me, and that's how I

got in touch with her. Because Kelley or Jonathan put her in touch with me to explain...

100. Q. Did she say--?Did she say what her concerns were?

A. Well, she didn't want that house built there, and she didn't think we should be dumping water onto her property.

101. Q. Okay.

A. She did say that. But I said, that's been going on since the 50s and 60s.

102. Q. Okay.

A. There's a lot of existing conditions that take place throughout the town. That, that, that's just the way it is.

103. Q. Would—Would a--

A. You know.

104. Q. -- house being built on that property exasperate the amount of water?

A. That—that'd be—That'd be—It would just go in like, at higher rate. But it, the, the impermeable of a roof--

105. Q. Yup.

A. -- that goes down, that's small compared to what it sees during a rainstorm. A rainstorm is very heavy and flows like that. That's—that's really insignificant compared to that, you know, uh. The property's always received water.

106. Q. Mm hmm.

A. Through rainstorm—rain events and through the um, for the road—Excuse me. From the roadway, and then from the upland area that I explained with that pipe. That's always captured that water down there. So the house is insignificant really.

107. Q. All right.

A. Compared to that. Yeah, it's altering the lands and so forth, but that's not the, the contribution of water to that. Even the ariel, I'm sure you've probably seen the ariel views that

the news had going over, you saw that, that pond in the back.

108. Q. The fact that a house that—does that--? Does the space that the house occupy lessen the amount of area that's permeable for [Indiscernible / voices overlapping]...

A. Oh yeah, certainly it does. But it's in—It's, it's, it's insignificant compared to what the amount of water is that goes in there. And by the way, the uh, the engineer probably, you know, he had a um, he had to make a report, you know, about that, you know, the – that they normally do on the uh, on the property. So he has to look at that too from a drainage standpoint and what have you. You know. Because he had the—He's the one that submitted the DEM report.

109. Q. So, --

A. The DEM submission. I'm sorry.

110. Q. So taking what you've told us, it seems like you wouldn't have probably a house being built on that lot.

A. No.

111. Q. Is that accurate?

A. Yeah. Yeah. But they did it. But I didn't have any personal opinion about it. You know, I know that you might have a personal opinion about the density of an area; that's what Planning gets into like that. My own, my own, my own personal will say, gee, that's a real tight lot. But from my standpoint, I was looking at, again, the cor--, corrective actions that would improve the area, you know, the, the water—the, the water over there, you know, the, the, the drainage, off-road drainage flows.

112. Q. And the, the corrective action, those aren't your suggestions, it's what the plan was, and you...

**A. Well that was our discussions with the—my discussions with the site engineer what had to be done once I got familiar with the site, knew about that pipe from my staff, --**

**113. Q. Mm hmm.**

**A. -- and the conditions over there and then, the off-road conditions meandering through that property.**

**114. Q. Who was the site engineer, do you recall?**

**A. Yeah, it's Commonwealth Engineering.**

**115. Q. Okay. So, this was the--**

**A. Commonwealth's the site engineer. That's what we refer to him as.**

**116. Q. This was the ap--, the applicant's engineer.**

**A. The applicant's engineer, correct. Yeah.**

**117. Q. Okay.**

**A. Yup. And the intent at the time was to get an easement, you know, for, like I often try to do once we start working on our own projects, we have pipes that we, we find that don't have easements that we're going to be obtaining the easement for that pipe too that goes through there.**

**118. Q. Okay.**

**A.G. MOREIRA:**

**119. Q. The drainage pipe that you refer to that goes through there and starts—I think you described upland Nate Whipple, was there some—some in--, inspection of that or some type of camera...?**

**A. Yeah, I did—we did a camera inspection from the roadway, my sewer superintendent. We have television inspection cam--**

120. Q. Okay.

A. -- equipment. They went in because I wanted to see what was going on. They could only go so many feet. And I think there was either a blockage or something preventing the camera from going through. But again, in spite of that finding, water still goes through that pipe. It finds its way, probably surcharges a little and jumps over. And that's--

121. Q. When--?

A. So that's what we did.

122. Q. When was that roughly?

A. Probably during the uh, subsequent to the first time it was—there was a submittal made.

123. Q. Okay.

A. I don't know specifically, I can't tell you that without looking at my—my file.

124. Q. Okay.

A. But um, I can get you that information. Dave would remember that. It was during the time where it was under review. I don't think it was during the—Because we always refer to 2020 as the Covid year. I want to say it's 2019.

125. Q. That sounds right. Okay.

A. That would be 2019 we did that. Because even with his knowledge of the pipe, I didn't know—we didn't know a lot about it. We know water made its way, but I wanted to see what the, the condition of that was. But even in spite of that, the intent was to take that pipe out and replace it so we had a good pipe, the conduit—the structural integrity was good, and they were going to build right over with that swale channel I talked about that would divert water off the roadway. Yup.

**INVESTIGATOR RATIGAN:**

126. Q. I want to sh--, show you—show you a map--

A. Mm hmm.

127. Q. -- and see if I've got this right. The lot in question is marked here with a little bit of a star.

A. Yup.

128. Q. This is the L-shaped lot indicating that the lot behind--

A. That's the one.

129. Q. -- [Indiscernible / voices overlapping]

A. Yeah. Right. Yeah.

130. Q. -- property next door neighbor.

A. Yup.

131. Q. So am I correct that you got a pipe coming under here which is going [Indiscernible / voices overlapping] ...

A. This is 45 right here, --

132. Q. That's 45.

A. -- the one right here?

133. Q. Yeah.

A. Yeah. Right. So the pipe is actually right along the property line kind of,--

134. Q. Right.

A. -- it's very, very tight right here, and then goes into here somewhere.

135. Q. Goes into this lot. And then does this lot then feed into this pond?

A. I don't know. I don't know. You can't get back there.

136. Q. Okay.

A. Ob--, Obviously it's influenced by this here. There's underground ground water, you know, and --

137. Q. Yeah.

A. -- tributaries that feed something. It's possible that I, you know, I don't--

138. Q. You don't know.

A. -- I don't—I don't have—I have no idea. I know--

139. Q. This many.

A. -- I know where that is, but that's—you wouldn't be able to tell that from this whole stretch of land and through here. It's very overgrown.

140. Q. Okay.

A. Yup.

141. Q. All right. Thank you.

**DETECTIVE LIEUTENANT SALISBURY:**

142. Q. I think you mentioned...

A. But again, that contributes to the uh, the whole overview of the, the hydrology of the area; that's where ponds form. That's how they're formed over years and thousands of years and so forth, water, intermittent tributaries everything find their way to the low lying areas as did that lot that's probably always drained that area in general probably before a road. Most of those roads were done like, post World War II. Then there was a big suburban boom in the 50s and everything like that; that's when—As soon as the road came in, somebody said we got to—where's it going to drain to? Well, it's going to drain – Then it was probably that strip of land probably wasn't overgrown like that, it was probably, you know, barren or just partially established, and that's where they – But for all I know, they had a little channel going down

there that gets overgrown. Again, water made its way through that strip. Then somewhere, I don't know the record or the history of this, there's no records of it, only that that other pipe from the upland area across the street has been there for many years, corrugated metal pipe was used back in the um, the um, (tapping) World War II era, and then into the 50s and part of the 60s. But it's been there for quite a while. They've used the 60s as a measure of time. Fifty years. That's how long that pipe's been there. Sometimes engineers use materials, the type of material construction as a, a, a, an indicator of, of timeframe of when something was built, what the state-of-the art was at that time.

143. Q. So the corrugated pipe would...

A. Corrugated. So, the uh, America got a lot of steel during World War II and iron was going to the, the war effort, and that was the most readily available. And they had stockpiles of it, so they continued to use it until re-enforced concrete pipe was developed, which was cheaper. You know, it's thicker and so forth, and that's what they started to use late in 60s and into the 70s. You know.

144. Q. I think you mentioned earlier that you were aware that this 45 Canning lot was wetlands.

A. Mm. Well it's marked on the plans. They--

145. Q. Okay.

A. They have to—they have to do flagging on it. Yeah.

146. Q. Other than the plan, would you—would you have that information, like, through town records or?

A. No, we have map—it's MapGeo. We have--

147. Q. Okay.

A. -- that thing, the ariel. Just like you would go on Google, but it's called MapGeo.

148. Q. Okay.

A. But you go by-- You, you, you, you, you have a—if you have a common knowledge of it, you're expecting to see it plotted on the uh, on the map. Which they did, they had a biologist—that's what they usually, do have the thing mapped. So you have little diamonds, different shapes they use to--

149. Q. Okay.

A. -- to show wetlands and so forth.

150. Q. And then once the plans came in for ... referring to as the first application, did you provide like, technical review for [Indiscernible / voices overlapping]?

A. That was the first time. And then there was a big gap as you're—you're probably aware before.

151. Q. Yeah.

A. Then we were—we're aware of a re-submission--

152. Q. Okay.

A. -- based on comments. Because they had to do—Any type of change—You know, if it's at the recommendation of the town or they do their own change, if they change the plans they have re-submit anyways.

153. Q. Okay.

A. But there was like—there was a big gap on this. There was a lot of inactivity. And then all of a sudden we found—then the letter came to the planner, or the building official, I don't know which one that got the approval, the last—the, the last approval for that.

154. Q. Okay. So--

A. So, --

155. Q. -- fo--, focusing on the, the, the first one, when you said you provided technical review and--

A. Mm.

156. Q. -- I guess consulted with the planning director.

A. Well my comments go, you know, to him, but I—there—there was a meeting with the, the, the, which is—which is very common with the, the consulting engineer.

157. Q. Okay. Sure.

A. Yup.

158. Q. So then we had talked to Mr. Stevens, the planning director, --

A. Mm.

159. Q. -- and just went through the letter that he submitted on the town's behalf.

A. Yup.

160. Q. I just want to see if we can go through some of it with you that appears to involve some technical things.

A. Yeah.

161. Q. So, the, the—number two here, and you can take your time if you—if you wanted to read it. I just want to ask you about let's say, the first sentence of number two.

A. Yup.

162. Q. [Indiscernible]

A. He talked about chronic flooding. That was his language. 'Is the area subject to flooding?' Yeah, like that. But to the extent that they had in 2010? No.

163. Q. Okay.

A. So that's not my--, I mean, they—he put that together. But I did comment to him

about c--, flooding, and saying, hey, you know, there—is there a—is there a flooding issue there like that occasion? But, ugh, that's—that was mainly because of the low lying area that that property is located at. It receives water from those two sources that I just said.

164. Q. Okay.

A. So, I, I, I know what he was trying to get across from there, but I w-- And that —That's his letter. I wouldn't be critiquing everything, that was his decision to put that in there.

165. Q. Okay. But you--

A. I don't disagree with it, but I would have pro--, I probably would have put more of a, a spin on what happens there when it does. We'd be getting calls every—when there's heavy rainstorms, we'd have like—we, we have one coming up pretty soon this week.

166. Q. Okay.

A. That storm will come and go, but I, I'd be getting calls every time you turn around if there was a, a chronic there. You know. Is there intermittent flooding issues there? Yes.

167. Q. Okay.

A. But not—but not at that frequency.

168. Q. Would you agree there's a flooding—there's been a flooding issue there in the last decade?

A. Yes.

169. Q. Okay.

A. Oh certainly.

170. Q. Yeah.

A. Yeah. That two--, That's why—That's why I commented about 2010. And that was

based on observations from my staff that have been here longer than me.

171. Q. Okay.

A. Yup.

172. Q. And then he gets into the drainage pipe that I believe you were just earlier referring to that runs over land. I'll give you a chance to read it... that might be more helpful.

A. No, those are my—Yeah, part of this is from—the consultant part of this is from me, because I said it was going to be encountered during trench excavation for that: 'Conditions with possible disturbance of pipe due to construction may warrant repair.' That's me. 'And prohibited to the...' Well. The part about the cost prohibitive to the town. Well, if I had to do it, I would have done it. But that's—He was making that comment because we were—they were—they were intending to replace the pipe.

173. Q. Okay.

A. Yeah. (pause) [Indiscernible] to the town applic... [Indiscernible] application may also be requested for the... Oh, so is what led—this is what led into the uh, this might have led into that second submittal then. See what he said over here about the, the new um, may be required for this amended [Indiscernible] application?

174. Q. Yeah.

A. He needed that as a segue into it.

175. Q. Another pipe, --

A. Yeah.

176. Q. -- right?

A. Well, that w--, Well not the other pipe, no. But that was a change. Any time you change plans, you have to resubmit to DEM, right.

177. Q. Okay.

A. So, --

178. Q. So, --

A. -- the first—the first submission that was done, they plotted the pipe, and there was no intention to do anything with the pipe until I said, gee, we got a compromising condition over here, we don't know the condition of it. So they--, So the, the, the engineer wanted to address that.

179. Q. So the--, this—this is basically noting that the applicant would have to address the issue with the drainage pipe--

A. Right. Right.

180. Q. -- we're talking.

A. Yup.

181. Q. Okay.

A. That probably came from one of the comments that he saw me put together or, or one of those meetings I put together.

182. Q. Okay.

A. Mm.

183. Q. Because without that, there would have been --

A. They probably wouldn't—they wouldn't be able to do anything to the land.

They—they would encounter that pipe. It's, it's all grown—overgrown and everything and they have to cl--, what they call 'clearing grub.' They'd be—They have to handle that. Because if the disturb the pipe, now they disturb the whole channel that the water goes through. So, they'd have to manage that—that water--

184. Q. Okay.

A. -- to facilitate building, you know.

185. Q. Uh, --

A. But they didn't have anything. I think they had just the swale at that time, you know, recogn--, the engineer recognizing that the property drained--

186. Q. Okay.

A. -- water, but they weren't going to do anything to the pipe.

187. Q. So aside from disturbing the pipe, was it a—was—is this noting like, there's a drainage issue if you just go ahead with the plans as submitted in the first application, or is this number [Indiscernible / voices overlapping]...?

A. Well, it would have been—it would have been a drain because they—they—the, the uh, the backhoe, and then clearing and grubbing all that stuff, they would have--

188. Q. Would--

A. -- pierced that that...

189. Q. -- have disturbed the pipe. Okay.

A. They would have grabbed that pipe and probably ripped it right out.

190. Q. Okay.

A. As tedious as they were with maneuvering the operator and so forth, it—you'd encounter it. There's no question about it, you would encounter it, and they didn't have enough room. It's not like it's a big parcel and they could stay to the--

191. Q. Yeah.

A. -- the left of it. So, I was—I look at something from a constructability standpoint too--

192. Q. Sure.

A. -- what, what you're going to impact as a result of construction operations. So that's what I, I, I alerted them to. He should have been thinking that way too, but um, it wasn't on the plans, so if I don't see a note on the plans about replacing something. So that's where that came about on... Yup.

193. Q. Okay.

A. Mm.

194. Q. And then at the bottom here it talks about: 'the applicant would still be required to obtain written permission from Public Works director whereupon existing storm modifications are, are required [Indiscernible / voices overlapping]...'

A. That's right. Then they had the second submission that came in.

195. Q. Okay.

A. Right. Yeah.

196. Q. Did--, So that's you writing to the DPW Director?

A. Mm.

197. Q. Okay. Did--

A. Mm.

198. Q. -- you give them that?

A. Yeah, that was—that's after the second approval.

199. Q. All right.

A. I had to look at—There was no permit. It's like, if you object, you, you give comments and saying that you're doing this and you're doing that, and, and then it goes to the, the planning department, you know. There's no permit, it's—it's, it's, it's a--, it's approval per

the, the comments that I make, you know, they—have they done this, have they done that? Yes, they've done that.

200. Q. Okay.

A. Yeah.

201. Q. So, is it--?

A. [Indiscernible]

202. Q. Would-- It required your...?

A. Otherwise, there would be a comment that said, no, I'm not accepting what they're doing, or...

203. Q. Okay. It would have--

A. They were doing their—there are improvements including things that aren't relative, you know, like um, restoration of a roadway—because we had paved that roadway a long time ago. So whenever someone disturbs something so many feet and everything, you make them do curb to curb restoration of the roadway. So, --

204. Q. [Indiscernible]

A. -- all these little things that was being done.

205. Q. If I'm understanding, if—if they got the go ahead to go forward with the project, --

A. Mm.

206. Q. -- they would have needed your approval to fix the pipe, revise the pipe; then fix the road,--

A. Yeah, well that—Which is reflected on their drawing.

207. Q. Okay.

A. Yeah. Which is reflected--

208. Q. [Indiscernible]

A. -- on their drawing.

209. Q. -- the second application.

A. Yeah, the right.

210. Q. All right.

A. Yeah.

211. Q. Okay.

A. Yup.

(pause)

212. Q. Then there's one more letter that I wanted to show you from Mr. Stevens. So, this—I'm trying to cut to it a bit—I mean, it's dated April 22<sup>nd</sup> of this year, 2021.

A. Oh, that's the new one. Yeah. Right.

213. Q. Were you consulted in the same manner, for technical review and review of the plans prior to this letter?

A. Um. (pause) Not that I can recall. I got copied on this thing, yes, send that out there, but um, you know, the comments about benefiting the owner and so forth, that's—that was him.

214. Q. Okay.

A. He knew about this—the background behind this too, the interim, the whole planning and review process. You know, the background? You know what I mean, some of the information that he has, he knew about this coming forward.

215. Q. Okay.

- A. All that's identified there. But I wasn't—I didn't have to be consulted about that letter.
216. Q. Okay. Not--
- A. That's him indivi--, Just like when I send a letter off to somebody, I don't—I don't c--, I'm a DPW--
217. Q. Yeah.
- A. -- director.
218. Q. Okay. [Indiscernible]
- A. But, but I don't—I don't remember—I remember seeing this letter, but I don't get to critique it or anything.
219. Q. Well let me back up a little bit.
- A. Yeah.
220. Q. So there would have been the second application that I think we've talked about regarding the same property, so second set of plans, you remember that.
- A. That's right. Yeah.
221. Q. Okay. [Indiscernible]
- A. But actually, that pre-dates that I think. You know. The second set of—the second--
222. Q. Sure.
- A. -- [Indiscernible] like that, that pre-dates that, yeah.
223. Q. So, were you consulted though to review that second set of plans...?
- A. Oh yeah. I said--
224. Q. Okay.
- A. -- that earlier.

225. Q. Okay.

A. Yeah, I did. Okay.

226. Q. Okay.

A. Yeah.

227. Q. And then any issues about the drain—the drainage affecting the neighbors or the uh, the abutting landowners that you'd recall from the second set of plans?

A. No, it was the same set of plans except that they had to add those notes about the replacement of the pipe. And I think they did improve the swale—the uh, off-road waterway that needed to be used, you know, that conveys water to that swale.

228. Q. Okay.

A. That thing like that that. There was nothing—They were just putting that information on the, on the, on the drawing.

229. Q. Okay. And that's [Indiscernible / voices overlapping]...

A. I'm not aware of anything else. That's what--

230. Q. Okay.

A. Again, my—the premise of my remarks was this is a, a pl--, a plot of land that receives previously—has always received water from the roadway and from that upland area. Right. And even though it couldn't be recorded whether the, the town t--, I, I, I assume they had to be if it was a roadway. So when that drain was put in by either a private developer or a contractor like that, the road—the consultant had to be consulted—I mean, excuse me, the town had to be consulted because they were going across the roadway. But there's no record of that. But just like a lot of drainage that we have in town, we assume the stewardship, if you will, of that, because it's drainage. And any time there's drainage where the town's public

works is—uh, we're the—we're the—we're the, the maintenance people for that—that drainage infrastructure. You know.

231. Q. And you mentioned being in contact with the site engineer. Is that throughout this process, like the first applica...?

A. Well it's not—it's not frequently. There was one—I think I—Well, I talked to him on the telephone. But I think there was one meeting the first time he came in to talk about--, Not the first time, about the um, the drainage improvements that we just talked about --

232. Q. Okay.

A. -- for the thing. That was a meeting we had in...

233. Q. So, I guess with the markers in time: first application, second application, do you think it was in between those?

A. It was in between there, the first and the second. Yeah.

234. Q. Okay.

A. First and second.

235. Q. Any communications with DEM through this process?

A. No, that would have been with—that would have been with uh, with, with Jonathan.

236. Q. Okay.

A. I only have to speak with DEM if they happen to call me about—get clarification or something. But Marty Wencek who I know who's on that letter like that, I didn't have any conversations with him.

237. Q. Okay.

A. My conversations are with the, the applicant—not the app--, but the site engineer, Tony Silva, because he went to one meeting. He—I think he went to that meeting I had with Tim.

Because he was ... And uh, and then of course, the, the planner during the, the planning process.

238. Q. Tell us about the conversations with Tony Silva.

A. He was just listening to what I was saying with – to Tim Behan.

239. Q. Tim is the site engineer...?

A. Site engineer, B-E-A – B-E-A--, B-E-H-A-N.

240. Q. [Indiscernible] never saw that name.

A. No. I think he was having a problem with the paving of the road or something like that. But that's what I make everybody do.

241. Q. Who was having the problems?

A. Huh? Oh, Tony.

242. Q. Okay.

A. Yeah. But. But he uh--, That's—that's what I recall, see as I wasn't doing anything different I wouldn't do for anybody else. We paved--, Like that road right there probably costs 70 to \$80,000 to pave, and we don't like it when we have an ordinance and—but you start ripping up a road--

243. Q. Mm hmm.

A. But then a moratorium you hear that if you go 100 feet, we do the—we or--, we have them replace the road from the thing. But he was—But then he, you know, he conceded to that. But he was mostly listening to the conversation I was having with Tim. You know. That's all.

244. Q. Did it ever—Was it ever communicated to you that any drainage problems were the town's own doing; that it wasn't an issue with the property or something to that effect?

A. The drainage that was there, you know, the, the condition I said? Yeah, it probably

is—is . . . probably Michelle.

245. Q. What do you mean?

A. What you just said there,--

246. Q. Yeah.

A. -- you know, about the pipe should have never been there, blah blah blah. I can't

help that, that pre-dates me.

247. Q. Oh okay.

A. Like I just said, 50-years-old.

248. Q. But through this application process, did you ever get information that it was being stated that this was a town issue as far as the way the water was being drained and, and things like that and not the applicant's issue or the prop--, or an issue with the property?

A. I don't remember that being communicated to me.

249. Q. Okay.

A. Maybe my own personal opinion was that it was the town because it, it goes—I have to inherit—I have to get involved in—of things that were built a long time ago.

250. Q. Sure.

A. It was a town issue because that's why they agreed to put that pipe in the, the, the—to drain that upland area.

251. Q. Okay.

A. Right? They had to put that there. And then the other—the, the p--, the other condition with the roadway has always been there since the roadway has been there. That's why that—that property wasn't developed, even in the back. Right?

252. Q. And do you remember anyone from DEM communicating something like that, there's--?

A. No, I've had no conversations with DEM at all.

253. Q. Okay.

A. I wouldn't have a need to. There's project—big projects we get involved in with subdivisions, and they might call me about a, a, a comment that I, I made or, you know, or something they're concerned with, you know, but not, not, not in this one. The only thing I'm aware of from DEM is what the, the copies of the letter that people chose to copy me on.

254. Q. Okay.

A. You know.

255. Q. All right. Well, I appreciate you--

A. So, I thought if I answered you without being uh, preparing, if I answered your questions as completely as I could.

256. Q. No, well we appreciate you taking the t...

A. Yup.

257. Q. [Indiscernible]

A. All right. That's all right.

258. Q. Okay. Okay.

**DETECTIVE LIEUTENANT SALISBURY: The time now...**

**INVESTIGATOR RATIGAN:**

259. Q. [Indiscernible] Thank you. ...

A. Yeah. Great.

260. Q. Appreciate it. It's –

**DETECTIVE LIEUTENANT SALISBURY: 12:40.**

WITNESS STATEMENT OF ANDERSON, ROBERT

Ref: 21RIX1-1408-OF

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STATEMENT TAKEN BY:

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WITNESSED BY:

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