

Martin Wencek Interview

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1 Wencek: -- they'd come into the department requiring
2 processing, the technical staff --Uh-huh. Yeah. She
3 -- um, goes into this permanent application center and
4 they assess the application to make sure there's a
5 proper fee, to make sure that there's a narrative, to
6 make sure that there are four site plans and the basic
7 administrative requirements to get an application
8 through to the door. And then onto the technical
9 review status.

10 Ratigan: The -- the application, uh, review center that you're
11 speaking of, is that staffed by Freshwater Wetland
12 staff?

13 Wencek: No. It's a separate program, separate office --

14 Ratigan: Okay.

15 Wencek: -- Office of Customer and Technical Assistance.

16 Ratigan: Uh, would, that would be where, uh, is it Ron Gagnon?

17 Wencek: That's -- that's the Chief of that program where now
18 they call them Administrators.

19 Ratigan: Okay. So it goes into his unit, OC (ph), was it?

20 Wencek: Yeah.

21 Ratigan: That fair to say?

22 Wencek: Yeah.

23 Ratigan: And they look to make sure all the boxes are checked.

24 Wencek: Yeah.

25 Ratigan: We've got everything we need. And then it goes where?

1 Wencek: If everything is that's required is, uh, complete with
2 the application, it gets forwarded to administrative
3 staff who put it on a dolly and walk it down to the
4 Wetland Program if it's a wetland application.

5 Ratigan: Okay. And does that, does that necessarily next stop
6 your desk?

7 Wencek: No. Uh, fortunately not.

8 Ratigan: Okay.

9 Wencek: Uh, it goes to my administrative staff who basically
10 now that they have a complete application, um, assign
11 it an application number and enter the name, the
12 address, location of the, of the, of the project into
13 a database. So it gets into a database, it gets a
14 file number, and then it goes to my, what is she now,
15 Principal Environmental Scientist to take a look at
16 it, make sure everything we need is there for a
17 technical review because the Ron Gagnon's group is an
18 administrative group. We've taught them as much as we
19 can as far as what they need to recognize to get the
20 application through the gate. But, um, once it hits
21 our program, uh, my person that does that, Nancy
22 Freeman, um, reviews the application to make sure that
23 everything technically speaking is there and
24 acceptable. And often she's got to call the applicant
25 and say, "Hey, this isn't quite right." Or whatever,

1 little tweaks, but, um, it goes to her and she will
2 assign it to a staff member, uh, a typical person
3 which happened to be in my Program Biologist.

4 Ratigan: How, how many --

5 Wencek: -- Program Managers,

6 Ratigan: Uh, how many, how many of those uh --

7 Wencek: Let me see? I got six of them.

8 Ratigan: Six of them.

9 Wencek: So six and Nancy is seven, right? Seven people total.

10 Ratigan: Okay. So it doesn't. So when, when an application
11 goes in, first stop is the, uh, application center.
12 Second stop is your administrative staff. Third stop
13 would be a biologist on your staff

14 Wencek: Would be my Principal Biologist, who is assigning
15 applications. That's one of her functions is to
16 assign incoming applications because at that point I
17 have no need to see these applications, you know?
18 It's --

19 Ratigan: Okay.

20 Wencek: -- there's nothing, nothing has been determined other
21 than it's good to go through the gate.

22 Ratigan: Okay. And she's, she's got, she's triaging. She's
23 saying this is going --

24 Wencek: That's the word.

25 Ratigan: -- Sally Sally's got, might only have one project, but

1 it's huge, so we don't wanna send it over there. Jim
2 has two projects, but they're small so we can send it
3 over there, whatever --

4 Wencek: That's the thought process in a nutshell.

5 Ratigan: Okay. The biologist goes through, looks at the
6 application. Uh, what do they do?

7 Wencek: They've got a couple things they're gonna do. They
8 get the application on the desk. Um, they will
9 basically start to figure out what am I dealing with
10 here? So they'll go to look at aerial photographs to
11 get a feel for, you know, with open up the site plan
12 and get familiar with, with the project and then go
13 online these days and start looking at aerial
14 photographs, start looking at whatever supportive, uh,
15 mapping might be available that would just help that
16 person get a feel for what's going on with this
17 project. And what am I getting into here? And are
18 there other wetlands nearby? You're looking at the
19 plan. You're looking at the, at the aerial photograph
20 a 100% of the time and trying to figure out, did they,
21 did they miss anything? Is there anything I need to
22 really pay attention to here? What's the lay of the
23 community, you know? And, and then look at some, you
24 know, at the contour maps on the panel, show the
25 contour lines to get a feel for what are you, what are



1 you gonna be dealing with when you go out there? So
2 you do that kind of upfront work to prepare yourself,
3 to be able to get out there to the site so that you
4 can maximize your time at the site and have an -- a
5 very good idea of things you need to really pay
6 attention to, um, and spend some time with, as you
7 know? As well as all the other things they have to
8 do, listening for wildlife, visualizing certain
9 characteristics of the site, that's done on all the
10 sites, but anyway, you, they do this upfront work just
11 to get a key in, on, on things that maybe they need to
12 focus on.

13 Ratigan: And are they going to Google earth or are they going
14 to US Geological Survey? Um --

15 Wencek: All the above.

16 Ratigan: Oh, oh, okay.

17 Wencek: Yeah.

18 Ratigan: So it's --

19 Wencek: There's a couple, a couple mapping networks. We can,
20 we can utilize.

21 Ratigan: Okay.

22 Wencek: Um, I'm a Google earth guy, but we've got another one,
23 some other, um, aerial photograph tool, which is
24 superb.

25 Ratigan: It's, it's, it's not your own in-house system.

1 Wencek: We used to have that, but everyone goes online now.

2 Ratigan: Okay.

3 Wencek: We used to get aerial photographs, but they stopped
4 buying them, you know, eight years ago or whatever.

5 Ratigan: Okay.

6 Wencek: I still refer to them because it's a snapshot in time,
7 but it's easy to go online as well and just scroll
8 back to all the previous years.

9 Ratigan: Okay.

10 Wencek: So pretty much it's all done online with, with the
11 staff these days, but in my day it was all done by
12 hand.

13 Ratigan: All right. Your, uh, your biologist looks and gets a
14 feel for all that. What's, what's the next step?

15 Wencek: Okay. They're gonna schedule that into their, into
16 their, you know, going around the state, doing, doing
17 reviews of applications. Um, and it just gets in, it
18 goes into the queue.

19 Ratigan: Are they doing anything else other than reviewing
20 applications to, to alter freshwater wetlands? Are
21 they doing any other type of wetlands work? Or is --

22 Wencek: Yeah. There's a lot of things they're doing. I mean,
23 there's four or five application types that run
24 through our office, you know, verifying if the wetland
25 is present, um, if someone's flagged a wetland, they



1 want to know if the flagging is correct. The state's
2 the only entity that can officially determine that's a
3 correct edge of a wetland. So there's that
4 application process that comes through. There's the
5 preliminary determination application process that
6 comes through, that's the easy one. So the ones that
7 are pretty much outta wetlands, um, and maybe just
8 impact wetlands to a, to a much lesser degree. And
9 then there's the applications to alter, which is when
10 you're actually altering a wet when your, your
11 physical alteration is gonna have an impact on that
12 wetland. But the process, the application process to
13 find out is that gonna be, what's considered a
14 significant alteration or not to that wetland
15 resource.

16 Ratigan: Are, are they always, uh, going out and visiting the
17 site at some point?

18 Wencek: Yes.

19 Ratigan: Okay. So after they've done the, their looking at,
20 uh, um, exterior --

21 Wencek: Upfront assessments. Upfront assessments.

22 Ratigan: pictures --

23 Wencek: Yeah.

24 Ratigan: -- et cetera, they go to the site. And what are they
25 gonna do there?

1 Wencek: All right. You're gonna basically, you've got your
2 radar on, you know, what am I hearing? What am I
3 seeing? Looking for tracks. Looking for biological
4 things, I won't get into detail um, unless you want me
5 to, um, and basically the sites are required to be
6 staked and flagged. The wetland flagging is, is
7 present on the site. Um, if the applicant hasn't
8 received a -- an official verification through one of
9 our application processes to do determine if the
10 wetland is shown accurately on the site, in the
11 application to alter process, they will do that
12 because it's a requirement of that particular
13 application process that whatever wetlands are shown
14 on the site plan that's in, that's showing the project
15 in question has to be perfectly accurate. So they'll,
16 and usually that's, we have to do that. We don't
17 always get wetland verifications ahead of time, and
18 then have an application to alter submitted
19 afterwards. Oftentimes we're going out there for the
20 first time and it's an application to alter. So we
21 verify the wetland flags tweak them if they need to be
22 tweaked, that'll be like going back with a, with
23 comments to the applicant. So they're doing the
24 wetland verification as part of the proposal to make
25 sure that the Department and has a specific, very



1 accurate idea of what is being altered as far as
2 wetland. Um, and how much of wetland is being
3 altered. And then the biologists needs to assess,
4 start to assess it's the first time at site, start to
5 assess the different vegetative layers, the density of
6 vegetation, the type of vegetation, the amount of
7 hydrology, um, where flow channels might be. Um, and
8 at the same time, start to look at the plan and see
9 what's proposed. And they're staking in the, the
10 field they'll -- In this case, there was a house that
11 was being proposed, they'll put -- they were required
12 to put the stakes where the house is in, if there's a
13 septic system to flag up marked septic system with
14 stakes. So that the Biologist Project Manager, when
15 they get out to the site, has the site plan in front
16 of them, is now assessing what's going on, on this
17 particular site. And they're looking at the proposed,
18 you know, looking at, at the, at the site and saying,
19 'Okay, this is the plan it's showing me a house.' The
20 house is where these stakes are, and you start to
21 really digest and assess what's gonna happen if this
22 goes forward, you know, what are the, what are the
23 possibilities? Is this gonna be significant issue?
24 Is this gonna be a not significant issue? So that
25 initial inspection gets all that kind of like the pre-



1 going up to the site work and then onsite, you kind of
2 pull it all together. And sometimes it's easy,
3 sometimes you -- it's not so easy, but you start --
4 that Project Manager will start to formulate. Is this
5 something that's doable or is this like absurd?

6 Ratigan: Yeah. And is everything doable?

7 Wencek: No.

8 Ratigan: No. What are some of the things that you look at and
9 you say, well, you know, this is gonna be a no go?

10 Wencek: Okay. So, um, the beautiful thing about the Wetland
11 Rules is that they require an applicant to avoid
12 wetlands if at all possible on a, on a subject site.
13 So if someone's proposing, let's say most of the site
14 is wetlands, and they're proposing a five bedroom
15 structure with a three car garage, and they're gonna
16 fill the whole thing out to put that, put that house
17 or whatever on that piece of property. Well, if 90%
18 of the property is wetland, you can't avoid the
19 wetland, if you're gonna do something on that property
20 in all likelihood. So then the next litmus test is
21 you must minimize your impacts. So if we get a
22 proposal with 90% of it being wetland, and they're
23 proposing this absurd palace, we're probably gonna
24 deny it because we're gonna say, "We don't necessarily
25 think that, well, you're not meeting the rule. You

1 kind minimize, you've got a lot here that doesn't
2 allow four, a five bedroom house with three, a three
3 car garage. You've got a lot here, because of the
4 wetland resources on, on the site that in all
5 likelihood maybe, maybe a two bedroom house with no
6 garage." Kind of thing. So we will deny a project.
7 If there's something that's being proposed in that
8 wetland resource, that's just absurd. Every once in a
9 while, we still see them saw them a lot in the '80s.

10 Ratigan: Okay. Um, if you are, uh, if you're down in, in, um,
11 you know, South County and, uh, your building, and
12 you're gonna put your house up on stilts, which they
13 do down there, would, would that --

14 Wencek: Flood issues.

15 Ratigan: -- would that, uh, would that fly?

16 Wencek: It -- Moving target.

17 Ratigan: Okay.

18 Wencek: Um, you gotta see the site. You gotta know what, what
19 it's gonna be on stilts, but is it still gonna have
20 significant impacts because of some other component
21 that maybe the project is going to incur. Again, size
22 of the size of a proposal based on the amount of
23 wetland on a lot, there is a, not a direct
24 correlation, but there's a good correlation there. So
25 even if it's up on stilts, and they're not filling the



1 wetland --

2 Ratigan: Mm-hmm.

3 Wencek: If you've got that five bedroom, three garage palace
4 on stilts, we're probably gonna shoot that down too,
5 because it's, it's still gonna be altering way more
6 wetland than the lot is really able to support.

7 Ratigan: Okay.

8 Wencek: From a regulatory, um, perspective.

9 Ratigan: Is there is, is there amount of wetlands that you can
10 disturb, that's considered De Minimis that, which is
11 fine. And is there an amount of wetlands that you
12 just can't cross that line --

13 Wencek: No.

14 Ratigan: -- and say --

15 Wencek: No. It's a case by case basis. And it's, it's more
16 predicated upon what wetlands is at the subjects site?
17 What are the, what are the functions, the values of
18 that wetland? And how important are those functions
19 and values? Function and values being storm water
20 runoff, um, groundwater recharge, recreational
21 capabilities of the site, wildlife capabilities of the
22 site, those kinds of, of items. Um, if, if the
23 project is not gonna have them significant impact on
24 those functions and values, we're probably gonna wind
25 up approving it or working toward an approval for

1 something like that. Because what we're trying to do
2 is protect wetlands and the wetlands functions and
3 values, but hard numbers, obviously that can come into
4 play, but that's not a rationale applied in making the
5 determination as to whether something was approved or
6 denied.

7 Ratigan: Okay.

8 Wencek: In and of itself.

9 Ratigan: Now, now, if we could move into, uh, the specifics of,
10 of this particular project --

11 Wencek: Mm-hmm.

12 Ratigan: -- um, which I think correct me if I'm wrong, you're
13 very familiar with, by this stage in the game.

14 Wencek: Pretty much.

15 Ratigan: Okay.

16 Wencek: I better be.

17 Ratigan: So --

18 Wencek: Otherwise I should have retired with that, with that
19 incentive program.

20 Salisbury: Could I just jump in Gerard?

21 Ratigan: Sure. Sure. Sure.

22 Salisbury: (Inaudible - 00:14:24) the process generally on the
23 process. So you had taken us up to the point where
24 the, um, Project Manager Biologist has done the
25 upfront assessment. I think you, you had said?

1 Wencek: Yeah.

2 Salisbury: And then gone out to the site. Um, so then as one
3 of the next, um, main points in the process,
4 designating the application complete?

5 Wencek: Well, that's -- this --

6 Salisbury: Or I'm jumping ahead?

7 Wencek: There's, there's two that, that really gets met when
8 it hits the pack (ph), Permit Application on Ron
9 Gagnon's group office they took them.

10 Salisbury: Okay.

11 Wencek: They have to make sure the basic, do we have a check?

12 Salisbury: Okay.

13 Wencek: You know? Did, did, did they fill out the form right?
14 You know, that, that kind of thing. So that's one
15 process they need it to jump through hoop. And then
16 when it hits in this case, Nancy Freeman's desk, my,
17 my Principal Environmental Scientist, she looks at it
18 too to make sure is this ready to be handed over to a
19 technical person? Are they gonna be able to run with
20 the ball? Or if I hand this over to them, they're
21 gonna say, wait, we don't have, we don't have this.
22 And they, they gonna have to back pedal, we just try
23 not to waste their time. We want keep them working on
24 technical stuff and not worrying about any
25 administrative issues.

1 Salisbury: Okay. So I'm, I guess I'm, um, going back to
2 Gerard's, uh, intention of going into this actual
3 application, there's a letter in September of 2019
4 from you that the application's complete and then
5 adequate for a notice.

6 Wencek: Okay.

7 Salisbury: Um, so I guess, could you explain --

8 Wencek: How does that fit into the context?

9 Salisbury: Yeah. Yeah.

10 Wencek: Yeah. So we get the application, the Bio (ph) goes
11 out. Um, if there's comments that, you know, we look
12 at and say, "Hey, your wetland is wrong. You know,
13 you need to fix that." Um, we have those comments,
14 they reply back to us. They want their permit
15 processeed. So they usually comply with our requests
16 'cause they're based on rules. And if everything's
17 deemed now adequate for notice, which means they've
18 met everything they need to meet per our regulations.
19 There's a, you know, you've gotta do A,B C, D E F G
20 and H um, we will send it out to Public Notice and
21 that at, you know, that's when that language comes
22 into play, that it's deemed adequate --

23 Salisbury: Okay.

24 Wencek: -- for Public Notice, 'cause they met all the
25 requirements and the rules that are, that are, they

1 have to in order for us to send out the Public Notice.
2 Like for instance, the wetland edges must be 100%
3 accurate. If they're not 100% accurate on the site
4 plan, we can't send it out to notice. So it's those
5 kinds of things. It's gotta have a stamped engineer,
6 it's got a sync (ph) plan by regulation, even if
7 there's no engineering involved. Um, but that's the
8 regulation.

9 Salisbury: Okay.

10 Wencek: So if that stamp isn't there, you know, we're not
11 gonna send out the Public Notice. So --

12 Salisbury: The applicant's engineer.

13 Wencek: Yeah.

14 Salisbury: You're saying?

15 Wencek: Yeah.

16 Salisbury: Okay.

17 Wencek: Yeah. So that's when that language "Complete for
18 Public Notice." comes into play.

19 Salisbury: Okay. And that would be after, based on what you
20 have told us --

21 Wencek: After the technical review of --

22 Salisbury: After --

23 Wencek: -- of at least getting it -- See at that point, we're
24 just reviewing it to see what's going on. And is this
25 ready for Public Notice? You know, and the biologists

1 might go out there one or two times, sometimes three,
2 if they have to, um, to get a feel for what's going,
3 going on. A lot of times, certain times a year, you
4 wanna go out there a few times, 'cause at certain
5 times of year you might be recognizing something that
6 may not be around at another time of the year. So
7 depending on the time of year, depending on the site
8 and the characteristics of the site, the Bio is gonna
9 go out there between one and say three times, but more
10 often one or two. Um, and then bingo, it's adequate
11 for notice, complete application. And 45 days we send
12 it out to all the abutters within 200 feet of the
13 actual wetland alteration, and then to the town and to
14 the papers and any other organization, water shed
15 community groups that are -- that may be the project
16 may be in. It's a whole laundry list of people. And
17 we, you know, get comments often from --

18 Ratigan: Written comments you mean?

19 Wencek: They've gotta be written, they've gotta be signed.
20 Otherwise they're not valid again by rule. And um,
21 that's it, at that point that we get the comments in,
22 that we actually start to do an evaluation, which is
23 again, the Project Manager, the Biologist, um, is
24 gonna start to put what they've seen to paper based on
25 what's being proposed and marry those two and make the



1 determination, is this gonna be okay? Or is this, or
2 some issues here? Um, if there's issues here, you
3 know, maybe this is gonna be a project that we're
4 gonna deny if, if there are any issues here and it, it
5 meets all the letter of the rules and there's, no
6 nothing -- no functions and values of wetlands that
7 are gonna be significantly impacted, we're, we're
8 gonna approve it.

9 Salisbury: How does the Project Manager or Biologist document
10 their, their findings or their recommendation?

11 Wencek: Uh, every time they go out to the site before the
12 notice they're doing an inspection report. So bang,
13 bang, they always make sure those reports go in when
14 they've been out to the site. Um, when they're doing
15 the evaluation, um, it's like a, it's like a mini
16 report basically talks about the different functions
17 and values that the wetland possesses and what
18 potential impacts this project might have on any of
19 those functions and values. So they'll put that all
20 together as a report. And that's one of the documents
21 that goes to me in order to assess, "Okay, you're my
22 eyes. You know, you Project Manager, you're my eyes."
23 Um, I'll go out to the site maybe yes or no. I don't
24 always go out to the sites, if it's something
25 relatively straightforward that I can see on an aerial



1 photograph. And I've got a lot of information from
2 the Bio, I may not go out there. If it's a bigger
3 site or if it's something very complex, I wanna go out
4 there and see it for myself and to get a feel for it
5 as well. Um, so they'll put their evaluation or their
6 report together and, uh, package it up with whatever,
7 if there's an engineering review that that was done,
8 they're the project managers, so they're gonna pull it
9 all out together and basically once they get the
10 report done, they'll send it to me for review. And,
11 and then there's a decision process within the program
12 that, that starts up.

13 Salisbury: Okay. Is there a written evaluation they submit to
14 you also called the Application Inspection Report?

15 Wencek: That's their inspection reports, basically when
16 they're going out to the site, the first couple of
17 three times they're doing an Application Inspection
18 Report, is the, is the document that they'll fill out
19 and in our files it's should be always a green copy,
20 of course, you guys don't have green copies, but --

21 Salisbury: No. No.

22 Wencek: -- that's how we --

23 Salisbury: Okay.

24 Wencek: -- find them really quickly. You've gotta take file
25 and you're looking for the application reviews, bingo

1 the green ones are the ones I need to see.

2 Salisbury: Okay.

3 Wencek: So that's really for me for speed.

4 Salisbury: Okay. We'll probably look at some of those, but
5 then you mentioned the review process or the decision

6 --

7 Wencek: The, the evaluation is done on white paper.

8 Salisbury: But then once, once it's submitted to you after -- I
9 just --

10 Wencek: I, I get it and, um, I'll start to, I'm familiar with
11 the project to some degree at this point, because when
12 we put it out to notice, I'm asking, you know, I'm
13 doing the 20 question thing, have we done this? Have
14 you check that? It comes back now to me with this
15 evaluation and I'm gonna look at it again and then I'm
16 going to schedule a meeting with my senior people,
17 which is either Eric Beck or Chuck Horbert. Um,
18 normally these days it's Chuck Horbert, who I meet
19 with and for the life me, I don't remember who I met
20 with on this one, but I could tell you if I go to the
21 office and look at my book and see who I met. Um, but
22 I meet with their senior staff. Chuck Horbert is a
23 Deputy Administrator --

24 Salisbury: Administrator.

25 Wencek: -- and Eric Beck is an Administrator, which is -- used

1 to be a Chief. So I'm, I'm a supervisor, that's a
2 deputy chief and a chief. Um, and I'll sit down with
3 them after I've had a chance to look at the evaluation
4 and pretty much give them my feelings on it, based on
5 everything that has been given to me. And we, you
6 know, spread the plan out and talk about it. And at
7 that point, right, and then go over comments if any
8 comments were received, which is something I also do
9 when, when the evaluation is given to me, any comments
10 that are coming in during the Public Notice period are
11 attached with that evaluation. And the Project
12 Manager will say, "We received zero comments." Or, "We
13 received three comments." Or whatever it might be and
14 they're all numbered and they're all stacked up right
15 under their evaluation for me to canvas. If there's
16 something that was really important, that important,
17 meaning, "Whoa, this is an issue pop, potentially."
18 That gets flagged, you know, that's something that
19 we'll key in on and start to delve into to see if we
20 have any concerns or not.

21 Salisbury: Do you do any written documentations of your review?

22 Like, is it --

23 Wencek: Um, when I, well, I meet with Chuck or Eric, um --

24 Salisbury: Would you attach it? Do you --

25 Wencek: I do a Supervisor's determination.

1 Salisbury: Before you meet them?

2 Wencek: Nope. After I

3 Salisbury: Okay.

4 Wencek: -- meet with them. We're not making a decision until
5 we've all kumbayad (ph) around the table.

6 Salisbury: Okay.

7 Wencek: And everyone's pretty much -- It isn't just one person
8 making the decision. It's like, let's make sure we've
9 got a couple heads on this.

10 Salisbury: Okay. Is it, so is it typically three people or can
11 --

12 Wencek: No. It's two. It's me either Eric, which is --

13 Salisbury: Okay.

14 Wencek: -- which is not, not the norm, 'cause Eric's an
15 engineer.

16 Salisbury: Okay.

17 Wencek: So he really doesn't get the biological into things
18 all that well. But if there's an engineering issue
19 that needs to be looked at he'll weigh in, 'cause
20 we'll make him weigh in.

21 Salisbury: Okay.

22 Wencek: Um, or it's with Chuck Horbert who's also a biologist.

23 Salisbury: Okay. So then after that meeting with Chuck or
24 Eric, you do your supervisory review?

25 Wencek: Yep.

1 Salisbury: And then is there, is there another step after that?

2 Wencek: Well, a final administrative decision or some kind of
3 administrative decision and it's not always final.
4 Um, we hope that it's gonna be final, but once in a
5 while there is a hearing.

6 Salisbury: Okay.

7 Wencek: Was it twice? It's happened twice in my 42 year
8 career.

9 Salisbury: Okay.

10 Wencek: I've had two hearings.

11 Salisbury: Wow.

12 Wencek: And only one went forward.

13 Salisbury: Okay.

14 Wencek: So it's incredibly --

15 Salisbury: (Inaudible - 00:24:14)

16 Wencek: -- incredibly it's phenomenal. Night meetings, I
17 don't want night meetings. That's why I didn't work
18 for Salem City. Um, there're, they're rare as can be
19 and um, yeah, I don't want to go to ones if I don't
20 have to, but --

21 Salisbury: Okay.

22 Wencek: If you have to go to one? You go to one.

23 Salisbury: But from the time you do your supervisory review, I
24 guess we're familiar with different state agencies,
25 does it have to go through more of the chain of

1 command before that final determination?

2 Wencek: Uh, no. If, if, if Chuck and I normally have
3 determined, this is all set or if Chuck and I have
4 determined, this is no way this is going forward.
5 Basically, I, I write, I or my staff either, or we'll
6 draft that final administrative decision either
7 approving it or denying it.

8 Salisbury: Okay.

9 Wencek: Um, if we determine in this case that there was a
10 substantive comment, again, only twice in 40, almost
11 two years, then we have to go to plan C, which is go
12 to the applicant and say, "We've received a
13 substantive comment based on our rules, if you want to
14 go forward with a hearing, you need to give us like a
15 - its \$2,000 to initiate that process."

16 Salisbury: Okay. Just to make sure that in the scenario, when
17 the decision is to grant a permit to alter --

18 Wencek: Mm-hmm.

19 Salisbury: -- there's no real next step from supervisor review
20 to like issuing --

21 Wencek: No.

22 Salisbury: It's the -- It's -- Correct me if I'm wrong the
23 permit is issued through a letter --

24 Wencek: Correct.

25 Salisbury: -- to the applicant. Okay.

1 Wencek: Yep.

2 Salisbury: Okay. Um --

3 Wencek: And that would be me.

4 Salisbury: Okay. Yeah. We've seen, we've seen letters from
5 you.

6 Wencek: I've done a few of those.

7 Salisbury: Um, so we probably need Mr. Ratigan to come back in,
8 but so I started off if we go through kind of a
9 timeline of this application here, uh, um, September
10 11th, 2019, we have a letter from you indicating the
11 application is complete. Like we talked about a
12 little bit and it --

13 Wencek: That went to the applicant.

14 Salisbury: And it set for --

15 Wencek: 'Cause we need X number of plans, system. However
16 many abutters are we need to send reduced copies.

17 Salisbury: Sure.

18 Wencek: To all the abutters.

19 Ratigan: Um, and then what do you remember about the process?
20 And we have documents that can help, um, with your
21 memory if necessary --

22 Wencek: Um --

23 Salisbury: -- like at that point, so over like, you know, fall
24 of 2019?

25 Wencek: Uh, when did it come off notice, fall 2019? Uh, I

1 think so.

2 Salisbury: Well, the Public Notice was -- uh, your letter was
3 September 11th --

4 Wencek Okay. So they usually get the plans right back to us
5 cause they're hot to trot and um, it goes out to
6 Public Notice. And what was the question again?

7 Salisbury: What do you remember about that? Let's say the
8 Public Notice period.

9 Wencek: Uh, I knew we were getting comments. I got a few
10 phone calls from concerned neighbors --

11 Salisbury: Okay.

12 Wencek: -- which is not unusual. Um, just kind of explained
13 to them what the Public Notice period is. Most people
14 have never received a document like that before.
15 Cool. Am I gonna sing later around I can, you know,
16 and uh, if you've done homework on me, you know that.
17 So, um, we'll -- I'll talk to these people when they
18 call in and um, let them know, you know, if you have a
19 concern, please memorialize it and get it in to us by
20 such and such a date. So that happened on this
21 project. I probably got three phone calls, which is
22 unusual. I'll get one, two would be a lot. I maybe
23 got three on this one. Um, and so I knew comments
24 were gonna come in and they don't -- when the comments
25 come in again, that's all an administrative thing.

1 The letter comes in, they, they cite the file that
2 their comment is, is tied with. And we have a folder
3 that when comments got, I've got three, four or five
4 Public Notices going on at the same time. So when
5 comments come in, they go into this folder and my
6 administrative staff, you know, at the end of the 45
7 day, uh, Public Notice people go through that
8 particular folder with, with whatever comments have
9 come in and pull out the ones that are pertinent to
10 that file that is now off of notice after 45 days.
11 And that goes to the Biologist, the Project Manager to
12 take a look at.

13 Salisbury: Do you remember who the Project Manager was on this?

14 Wencek: On the first one it was Dan Kowal.

15 Salisbury: Okay.

16 Wencek: And then on the second one, Dan Kowal had retired so
17 much to Jane Kelly's fortune she inherited the second
18 one.

19 Salisbury: Okay. So the, the fact that, um, objectors or
20 people, you know, people --

21 Wencek: Concerned citizens.

22 Salisbury: Concerned citizens from Cumberland are calling you.
23 Is that unusual that they wouldn't call Dan Kowal? Or
24 --

25 Wencek: Nope. My name's on the notice. And that's all they

1 know --

2 Salisbury: You signed the letter? Okay

3 Wencek: -- that's all they know. They see the name, the
4 number's there. I mean, I think Dan Kowal's name are
5 on the notices. There might be the --

6 Salisbury: I think so.

7 Wencek: -- box, the Project Manager's name on it. But I don't
8 know if anyone called Dan or not, but I got two or
9 three calls.

10 Salisbury: Okay.

11 Wencek: More, more so than usual. I get one call, it's like,
12 "Oh, that's, it's cool." You get two calls, like,
13 "Uh." Get three calls, it's like, "This is a hot
14 little file."

15 Salisbury: Okay.

16 Wencek: So --

17 Salisbury: Uh, and then you were explaining that also the
18 written objections get put in a file and then Dan,
19 with his task at the end of the common period --

20 Wencek: Yep.

21 Salisbury: -- will be review those. How about the town? Do
22 you remember the town --

23 Wencek: Town --

24 Salisbury: -- comment?

25 Wencek: They commented on this one. Um, I, you know, I

1 probably talked out -- Yeah. Possibly talked to John
2 Stevens, um, from the town of Cumberland. Yeah. I
3 definitely must have talked to John Stevens, uh, on
4 the first application.

5 Salisbury: Wait --

6 Wencek: -- as well as the second.

7 Salisbury: What do you remember about talking to Mr. Stevens?

8 Wencek: Um, he was echoing the concerns of the neighbors and
9 the neighbor's biggest concern. They raised a couple
10 of concerns, but their biggest concern was flooding.
11 So he echoed that sentiment and I said, "Okay, you
12 know, you've got that concern. We're -- We'll see
13 what, how this plays out." And of course there no
14 engineering regarding potential impacts to flooding or
15 surrounding wetlands or neighbors. So this is one of
16 those rare instances where the comments that came in
17 from the public, including the town, um, raised an
18 issue, one of the functions and values of wetlands
19 this, in this particular instance, the flooding
20 function and value. They raised an issue that was not
21 assessed by the Department 'cause we didn't get any
22 information regarding it. So that's why you have
23 Public Notice periods so that the locals can tell the
24 State people, if there's something going on here that
25 maybe we don't know about.



1 Salisbury: Okay.

2 Wencek: I mean, it was obvious there was drainage going
3 through the site, but --

4 Salisbury: Is it unusual to hear directly from the town like
5 the --

6 Wencek: Is it unusual? No, it is not unusual.

7 Salisbury: Okay.

8 Wencek: I, I think, um, not necessarily every form, but I
9 mean, it isn't just formal applications. I'll get
10 even basic preliminary determination applications,
11 which is are easy, straightforward process. Whether
12 I, where the altering on a lot, I'll get calls from a
13 Town Builder, Town Planner about certain projects.
14 Subdivisions, yeah. I get, you know, a call from the
15 Town not often, but more often the bigger projects,
16 the solar projects in the state. Oh boy. Um,
17 everyone's concerned about that and they'll just want
18 to pick my brain. What are you thinking? Or are
19 there any issues here? Are, is there anything, you
20 know, we need to be concerned about and I have no idea
21 what they need to be concerned about, but I get asked
22 that a lot.

23 Salisbury: So is it not uncommon for like a Town Planner to
24 contact Program Supervisor as opposed to Dan the
25 Project Manager?

1 Wencek: Not unusual at all?

2 Salisbury: Okay.

3 Ratigan: Um, I've got, uh, mixed information about if a Town
4 objects to a project --

5 Wencek: Mm-hmm.

6 Ratigan: If a Town objects to a project, does that put a halt
7 on a project or not?

8 Wencek: It used to.

9 Ratigan: Okay.

10 Wencek: I, I see where you're coming from.

11 Ratigan: Yeah. In 2015, the Legislature, hurray, passed a new
12 Wetlands Law, which revised the way the Department did
13 some of their functions of, of how an application is
14 processed. And one of the significant changes in that
15 because the Rhode Island Builders were really pushing
16 for this was to remove the vetoing power of a City or
17 Town from the Wetland Notice process. In doing so,
18 they wanted -- a lot of changes were made to the, to
19 the, to the law to accommodate it so that wouldn't get
20 lost in the sauce. If there would still be a process
21 for cities of towns to be involved in a, in a Public
22 Notice. But as of 2015, that law was approved, which
23 basically removed the ability for a city or town to
24 have an objection that would halt the application
25 process. Now, interestingly, even more enough, the

1 Wetland Rules were supposed to be changed to
2 accommodate those new rules that hasn't even happened
3 yet, but it will happen, thank heavens after six
4 years, it will happen in January 15th, 2022. That the
5 new rules we'll go in to effect, which will now
6 reflect what the law has been prescribing be done.
7 But as a result of the 2015 law change, as it was
8 explained to me by one of our attorneys in an earlier
9 file, which happened not, not long after 2015 whatever
10 it was, that we received a comment from a Town and it
11 -- I was instructed that it wasn't substantive, uh, in
12 other words, It wasn't (inaudible - 00:34:03) it
13 wasn't going to result in us automatically denying the
14 project where pre 2015, we would. If a City or Town
15 said, we have an objection, and this is our rea-
16 rationale and it was within the context of our rules
17 and it was their comment instant -- That was beautiful
18 thing, just send out a le- --letter saying "Your
19 project is denied."

20 Ratigan: So is, so if I've got this correct, the law is changed
21 in 2015, the law subs supersedes your regulations.
22 Your regulations might not have been updated yet to
23 incorporate what the law change was.

24 Wencek: I, I don't know about the word, I understand what
25 supersede means, but I, I, I can't say yes to that

1 question. But I can say that as a result of that 2015
2 law change, from that point forward, the Department,
3 my Program was operating that if you gonna come from
4 the town, it was just handled -- it was treated as any
5 other -- as if it were any other comment from an
6 abutter or anyone else.

7 Ratigan: Okay. And does it make a difference whether it comes
8 from the Mayor or the Town Planner or does it have to
9 be from the Town Council after a vote? If you know.

10 Wencek: Uh, a town official that is duly -- can duly represent
11 the town. So Town Managers will send it sometimes. I
12 can't remember any coming from a Mayor ever, or for
13 selectmen. Um, Town Council, yeah. We've got some
14 Town Councilors, City Council letters. Um, I don't
15 think we take them from Conservation Commissions
16 'cause they don't have authority in the town at, at
17 the town -- at the -- at that level to -- if -- We get
18 a lot of Conservation Commission comments, but even
19 previous to 2015, if we got a Conservation Commission
20 comment and they said this project should be denied.
21 We did not deny that project because of the
22 Conservation Commission. So it had to be higher up
23 the, the -- it had to be the Town Council or it had to
24 be the, the first selectmen or the, or the Solicitor.
25 It had to be someone that could sign for on behalf of

1 the town. So some committee

2 Ratigan: Town Planner?

3 Wencek: Uh, yeah. Probably, probably. I don't know for sure.

4 Ratigan: Okay.

5 Wencek: But in my book that would be good enough.

6 Ratigan: Who, who would make the decision, if that did come in,
7 would it be you or would it have to be legal or would
8 it have to be administrative?

9 Wencek: I, I always get legal involved in, in anything that's,
10 you know, ownership issues. We got lots of owner fish
11 who owns this property. It's like, sometimes it's a
12 mystery, I'll get legal involved. 'Cause that just
13 not my value here right? I'm not gonna say "Yeah,
14 that, that passes buster let's prove, you know, let's,
15 let's process the application." If we get a comment
16 and, and it's like "Oh my gosh, we've got a comment
17 from the town." That's a big deal, "Let me run that up
18 flag pole with legal and make sure that's cool. And
19 what, what their feedback to me is." So I'll, I'll
20 always seek that kind of feedback from, from my legal
21 staff.

22 Salisbury: Uh, so then November 22nd, 2019, uh, letter, I'm
23 showing you from the Town of Cumberland, uh, signed by
24 John Stevens, a gentleman, um, you mentioned earlier.
25 If you could just take a, a quick look at that, um --

1 Wencek: Yeah. Okay. I'm familiar with it.

2 Salisbury: Okay. Um, so he lists looks like there's three
3 different paragraphs three, uh, reasons for the town's
4 objection.

5 Wencek: Yep.

6 Salisbury: Um, was anyone more, any one of the, the three
7 reasons more of a concern for you?

8 Wencek: Chronic flooding? Number one is irrelevant. Number
9 three, you know --

10 Salisbury: I guess let's go one by one. Why is number one
11 irrelevant?

12 Wencek: Um, it does -- Numbers don't matter. I mean the lot
13 could be 100% wetland and if they're filling a lot of
14 it, but we determine that as a result of filling that
15 particular area of wetland, it's not gonna represent a
16 significant impact to that function and value of the
17 whole wetland it gets approved.

18 Salisbury: It's more about minimizing the impact.

19 Wencek: But at the, at the same time you could have a project
20 that's just, just nipping the buffer of the wetland
21 and we're gonna say no way, just depends on what are
22 we dealing with? What kind of a resource are we
23 dealing with? So the number numbers are irrelevant.

24 Salisbury: Okay. So then number two, chronic flooding --

25 Wencek: Number two, chronic flooding that's that raised an

1 eyebrow because I'm looking at the application and
2 I've got nothing from an engineer. So I didn't send
3 it to our engineer to review necessarily until I got a
4 bunch of comments from abutters and John saying
5 there's a flooding issue here. So I believe I had my
6 engineer look at it, Nick Pisani, in this case and
7 say, you know, what do you think? And he said, "I
8 don't know, they didn't give us anything. I didn't
9 assess this." And he didn't even look at it to begin
10 with 'cause we just didn't go there. Again, one of
11 the beauties of Public Notice that things get brought
12 to light that, you know, you wouldn't necessarily
13 associate with that file.

14 Salisbury: So let me ask you from a layman's perspective, like
15 chronic flooding, how does that play into concerns you
16 would have with, uh, the function and value of a
17 wetland?

18 Wencek: If -- It, it comes down to pretty much th- well
19 wildlife and recreation, more so than --

20 Salisbury: Okay.

21 Wencek: -- anything. Um, if you're going to cause a, a
22 wetland area to, to raise up a couple inches during a
23 certain storm, and we've noticed there's a fair amount
24 of ground nesting birds in that area, and that work's
25 gonna come up one or two inches during, you know,



1 maybe o- -- only 20 minutes, but because of a project,
2 subdivision, usually something like that, it's gonna
3 raise the water temporarily, but we know that there's
4 Woodcock nesting in that swamp. Well that's at one or
5 two inches, even for 20 minutes is a no, no. Because
6 you're gonna wipe out that population. So that's the
7 kind of what, you know, when you see chronic flooding
8 you'll say, "Okay, what does that wetland have going
9 for it?" That, that this may be an issue. So, um, and
10 then if, is there a recreational value that's gonna be
11 affected by any change in water levels. I can't think
12 of one off the top of my head, but --

13 Salisbury: Like hiking trails? Would that be a rec-

14 Wencek: That would be beautiful.

15 Salisbury: Okay.

16 Wencek: Sure. You know, right now there's a muddy trail
17 there, if they raise it, they're gonna have to put a
18 boardwalk through in order able to be able to traverse
19 from A to B, like they have been traditionally. And
20 that's gonna raise a whole new specter of issues.

21 Salisbury: Okay. Uh, so then the next one, it looks like
22 drainage pipe.

23 Wencek: Yeah. That one we, we, we talked about in-house
24 because we felt, it was like, "Wow, it's a town road
25 and it's tall town drainage and the town's got a pipe



1 under this property and gee whiz they could just put a
2 bigger pipe there and take care of the whole problem,
3 put a catch basin in the street, put a pipe through
4 it, problem solved." So --

5 Salisbury: So what do you mean --

6 Wencek: That was- that wasn't something that we said, this is
7 a significant problem.

8 Salisbury: So what do you mean you talked about in house?
9 With?

10 Wencek: With, with, Eric.

11 Salisbury: Okay.

12 Wencek: And with Nick.

13 Salisbury: Okay.

14 Wencek: You know, we talked about what's going on here? And
15 you know, I always like to try to get to yes. Um,
16 what, what, what do they need to do for us to be able
17 to do something, to, to facilitate this application?
18 And this case it was like, well, there's a pipe there,
19 but no one's talking about it. It's a town pipe,
20 pretty sure we weren't positive. I'm still not
21 positive, but I kind of think it's a Town pipe. Um,
22 yeah, it would be in, in our, in our heads, just
23 kicking it around the table. "Gee, the Town should
24 step up and put a catch basin right there. And run a
25 new pipe right to there." And that flooding issue is

1 gone.

2 Salisbury: So just -- 'cause we've kind of put our heads
3 together on, on this one a little bit too, trying to
4 figure out exactly what issue was happening. So at
5 this point, the Town -- the language he's using is
6 drain piping system crosses Canning Street and
7 continues off the road generally along the west --

8 Wencek: Under the property, basically. It should be on the
9 plan.

10 Salisbury: Okay.

11 Wencek: The pipe goes under the property, along the side.

12 Salisbury: So the drainage system though, it sounds like it
13 starts, the other side of Canning --

14 Wencek: Water comes from all over the place --

15 Salisbury: Sure.

16 Wencek: It comes from one end of Canning Street comes from the
17 other end --

18 Salisbury: Canning Street --

19 Wencek: -- Canning Street and, and basically it does this to
20 this lot and then this slopes down. So this is like
21 the drainage way for the neighborhood. Um, this area
22 up here evidently was developed. It was outta
23 wetlands. So go ahead and develop it all you want.
24 We don't have to say on it, but it resulted in over
25 the years, more storm water coming down this way,



1 according to the neighbors. And then of course this,
2 the road going down to the slow spot was always an
3 issue. Soon as they paved the road, you had a conduit
4 with water shooting to the spot.

5 Salisbury: Okay.

6 Wencek: And yeah. That's -- I don't know.

7 Salisbury: Yeah, now sure, we'll talk a little bit more about
8 pipes and, and culverts. Um, but the next thing I was
9 gonna ask you about was then Nick Pisani's report, um,
10 that comes in then about three weeks later, 12/13/19.
11 Do you see it there? (Inaudible - 00:43:01) How does
12 he get involved again?

13 Wencek: After I received comments from the public, that
14 flooding was an issue.

15 Salisbury: Okay.

16 Wencek: I was like, "Whoa that needs to be looked at by an
17 engineer because only an engineer can make heads or
18 tails as to whether or not these comments are valid or
19 even past the laugh test. John couldn't make that
20 call. John's a planner. He doesn't have a clue
21 really, you know, but an engineer is another story.
22 John was basically, I think, just reiterating what To-
23 what the neighbors told him, 'cause what -- exactly
24 what they told me, he almo- -- almost said verbatim.
25 So I was like, "Okay, John." You know, I know where he



1 was coming from. I would've -- you know, it would've
2 been nicer for the Town Engineer to send that letter
3 in, but irrelevant. Had the same amount of weight at
4 the end of the day.

5 Salisbury: A lot of documents -- That makes sense that
6 engineers should be the ones looking at --

7 Wencek: This was an engineering issue, you know.

8 Salisbury: Okay. So this is, um, Mr. Pisani's report at the
9 top, it says 12/13 --

10 Wencek: All right. So that's during our -- Okay. Oh, Nick.
11 That's why I love this guy. He's so thorough.
12 Awesome. If we're gonna get intimate with this, I
13 have to have you ask Nick.

14 Salisbury: Okay.

15 Wencek: But, uh, I don't think I wanna read this whole thing.
16 Go ahead and ask questions. See if I can get there.

17 Salisbury: So, um, as part of what Nick is saying in his
18 report, there's just not enough information on the, on
19 the flooding issue.

20 Wencek: They, they just didn't provide it.

21 Salisbury: Okay.

22 Wencek: -- which again, this never happens. But it happened
23 on this one.

24 Salisbury: It's just --

25 Wencek: We didn't see it coming.

1 Salisbury: It's a kind of a big deficiency in the application.

2 Wencek: We didn't see -- you know, no one would've, even when
3 we did our site inspections, you wouldn't have known
4 that this was a real big flooding issue.

5 Salisbury: Okay.

6 Wencek: In retrospect, mm-hmm, yeah. It's got some potential
7 to be a big flooding issue, but without the neighbors
8 having told us that it's, it's as bad as it is,
9 wouldn't have known.

10 Salisbury: Okay. Um, it sounds -- I remember looking at here,
11 um, he talks about a more -- I'll just read out loud
12 if that's okay. "A more appropriate design solution
13 would be for the Town of Cumberland and or the
14 applicant to, to construct a closed draining system."

15 Wencek: Oh, the catch basin in the street. Yeah. We, we
16 kicked that around.

17 Salisbury: Okay. Um --

18 Wencek: Yeah. We're trying to figure out what, what would
19 they need to do here? 'Cause we need to know if they,
20 what, what can they do that's gonna pass muster as far
21 as beating the regulations?

22 Salisbury: He's he, he specifically says catch basins, drain
23 inlets on the north side of Canning Street. So --

24 Wencek: That's opposite the lot.

25 Salisbury: -- the opposite, the opposite side of the street.

1 Okay. Um, pipe culvert under Canning Street --

2 Wencek: Mm-hmm.

3 Salisbury: -- and additional catch basins drainage on the south
4 side of Canning Street. Okay.

5 Wencek: Mm-hmm.

6 Salisbury: So I'm sure you understand that better than I do,
7 but we're talking about --

8 Wencek: A little bit.

9 S; -- you know, drainage systems, the other side of the
10 street coming under the road. Go ahead.

11 Wencek: Because, again, the scenario of that's the lot, you
12 got the street coming down, you got this coming down
13 here because you've got this water coming down here.
14 You don't want this water to go across the street in a
15 winter time, you've got a freezing issue.

16 Salisbury: Sure.

17 Wencek: And you wanna put the catch basin to catch it before
18 it sheet flows across the road or blast across the
19 road. So we -- after Nick had a chance to analyze
20 this a bit, he said, "Well, and -- you know, put a
21 catch basin right here. You'll catch this water,
22 water coming down the street pitch the road one way or
23 the other to a catch basin on this side. If you pitch
24 it that way or pitch it this way. So it's coming down
25 to this catch basin and then run it through that

1 existing pipe and probably need to replace that pipe
2 'cause it's probably clogged."

3 Salisbury: And that's the --

4 Wencek: We don't know, we don't know if it was clogged or not

5 Salisbury: That's the pipe that's on the lot?

6 Wencek: On the edge of the lot.

7 Salisbury: Yeah.

8 Wencek: It's shown on the plan I believe.

9 Salisbury: Okay. Um, and this, because I'm very visual maybe.

10 Wencek: Yeah. That's a good thing.

11 Salisbury: I'm showing you an, a- -- an aerial photograph. So
12 this is the lot?

13 Wencek: That's the lot question.

14 Salisbury: The little red, uh --

15 Wencek: Yep.

16 Salisbury: -- balloon there. So we're talking about when
17 Nick's referring to drainage starting on the north
18 side. So --

19 Wencek: It's capturing all this.

20 Salisbury: Yep. Which is --

21 Wencek: Which is being funneled there.

22 Salisbury: With Nick's referring to a drainage system --

23 Wencek: Put a catch basin on that --

24 Salisbury: -- so it's at the top of the photograph?

25 Wencek: -- side of the street, on that side of the street --

1 Salisbury: Yeah.

2 Wencek: -- to catch this drainage and have an- I don't know if
3 they would need it, but another catch basin maybe on
4 that side of the street to catch this drain, unless
5 they wanted to deflect it to that one catch basin.

6 Salisbury: And then --

7 Wencek: If they deflected it all to that one catch basin, then
8 you need a really big pipe under the road 'cause
9 that's a lot more water.

10 Salisbury: Okay. So, but he --

11 Wencek: They could go either way.

12 Salisbury: He, my, I guess my main clarifying question. Is he
13 talking about a pipe under the road though?

14 Wencek: Yep.

15 Salisbury: Okay.

16 Wencek: I mean put, to put the catch basin on, on the,
17 whatever nor- that's the north side of the street --

18 Salisbury: I believe so. Yes.

19 Wencek: Um, yeah. You'd have to put a pipe under the road,
20 absolutely.

21 Salisbury: Okay. And then a catch basin in, on the other side
22 of the road --

23 Wencek: It may or may not be necessary depending on, again, an
24 engineer would assess the situation here and
25 determine, Okay, if we all the street runoff coming

1 down out of the neighborhood, got this runoff coming
2 out of this area, what's the best way to handle this.
3 And from a Town's perspective, what's the best way to
4 handle this in the cheapest manner possible. So
5 you're looking at one or two catch basins and you're
6 looking at what a pipe, X number diameter or X number
7 of diameter, depending on how much water's going into
8 however many catch basins. So, and an engineering
9 analysis would be done, which is pretty
10 straightforward in towns to figure out what do we need
11 to do to, to, to grab this drainage and prevent
12 whatever flooding 'cause I know they flood. And I
13 think she said she floods, um, you know, what do we
14 need to do to alleviate that problem?

15 Salisbury: And the town, someone obviously is gonna have a
16 concern about street flooding, right? If there's --

17 Wencek: They evidently have had --

18 Salisbury: Okay.

19 Wencek: -- a concern. I think according to the neighbors,
20 that's, that's an area that's flooded for a while.

21 Salisbury: Okay. And then, um, the drainage pipe that's
22 referred to, I think it- -- it's, uh, on the westerly
23 side of the lot --

24 Wencek: Yeah. I mean there's, there's something there. It
25 shows on a plan. I don't know that -- I don't recall

1 whether we actually found it.

2 Salisbury: Okay.

3 Wencek: We certainly don't go looking for them.

4 Salisbury: Okay.

5 Wencek: Um, in this instance, because there was no engineering
6 that came in with the, with the initial application,
7 we really weren't worried about that kind of a thing.
8 Whether the pipe was there or not, whether it was
9 functioning or not.

10 Salisbury: Okay.

11 Wencek: Basically we're looking, this was -- this is all
12 swamp. And then you've got a little is Mr. So of, you
13 know, peninsula swamp that comes up to the road there.

14 Salisbury: Okay. Uh, maybe just to be complete since we've dug
15 into the pipe and the, and the drainage, could we look
16 at the, the first set of plans?

17 Salisbury: I guess --

18 Ratigan: I think --

19 Salisbury: Go ahead.

20 Ratigan: -- uh, Jane Kelly did some writing over that when she
21 was, uh, describing it to us so that (inaudible -
22 00:51:33) on the, uh, border, I think she wrote in.

23 Wencek: Um, okay.

24 Salisbury: I just wanted to confirm where the, the drainage
25 pipe is on that.

1 Wencek: Uh, let's see if they have a notation on it looks like
2 that would be something. What is that? Approximate
3 possible, existing, love that, drainage along property
4 line. So they're calling a drainage. Um, do they
5 have a legend that calls that out as a pipe? I mean,
6 I assume it would be a pipe the way it's shown. Mm-
7 hmm. Can you have a look at this note right here?
8 Ratigan: Yeah. I think it says, oh yeah. Oh yeah --
9 Wencek: Approximate existing limit of vegetation. That's
10 fine.
11 Ratigan: Yeah.
12 Wencek: But the lower one says approximate possible existing
13 drain along property line.
14 Ratigan: Okay.
15 Wencek: So that's, they're saying they are pretty sure it is a
16 pipe there and we couldn't have cared less at this
17 point, whether there was one there or not, 'cause it
18 wasn't an issue that we were looking at, whether or
19 not there was a drainage or a flooding issue here.
20 Salisbury: Before --
21 Wencek: Before the --
22 Salisbury: Before the objection and before the, uh, Nick
23 Pisani's --
24 Wencek: Yeah, the objection --
25 Salisbury: -- report. Okay.

1 Wencek: was the -- the, the concerns that were raised put this
2 front and center.

3 Salisbury: Okay.

4 Wencek: Where it wa- --was not at all prior to notice.

5 Salisbury: So then maybe just finishing up with Nick's report,
6 he, he ends it with "It's recommended the status of
7 the existing drainage system be further and
8 investigated. Specifically the question of whether
9 the existing drain system was originally designed and
10 or approved by the Town of Cumberland should be
11 addressed."

12 Wencek: That's -- yeah.

13 Salisbury: Um, So let me know if this is kind of a fair
14 characterization. Town's objecting, the DEM engineers
15 coming in and saying the drainage system, there needs
16 to be addressed with the town. It seems like it's
17 kind of coming to a head with the applicant and the,
18 and the Town's present drainage.

19 Wencek: I don't know if the applicant was involved at that
20 point, but certainly, we had discussed the, this looks
21 like a Town issue.

22 Salisbury: Okay.

23 Wencek: Town road, town drainage, you know, not a DEM issue.

24 Salisbury: Okay.

25 Wencek: You know, if there's a flooding issue here and the

1 neighbors are getting flooded and that's a town, it's
2 usually a town issue.

3 Salisbury: Okay. And you think that was discussed in-house? I
4 think you said with Eric --

5 Wencek: Yep.

6 Salisbury: -- like during this timeframe.

7 Wencek: Yep.

8 Salisbury: Okay.

9 Wencek: Um, yeah, at this point I'm rolling my eyes saying,
10 "Oh my gosh, I have a substantive comment, this hasn't
11 happened in 35 years."

12 Salisbury: A big bump in the road?

13 Ratigan: Um, so then it looks like, uh, Dan Kowal

14 Wencek: Miss him.

15 Salisbury: He recently retired, right?

16 Wencek: Yes, he did.

17 Salisbury: Um --

18 Wencek: He's my hero right now.

19 Salisbury: Well, it sounds like that's on the horizon.

20 Wencek: Uh, I'm not in any rush.

21 Salisbury: Okay.

22 Wencek: Tomorrow would be good though.

23 Salisbury: All right. So we're getting into to, uh, January of
24 2020 now. Um, do you remember any input from above,
25 uh, Eric Beck at this point?

1 Wencek: I don't remember. Yeah. We were dealing with an
2 issue that was a substantive comment. We're gonna
3 scheduling hearing. Again, it's, it's regulations,
4 just like, this is what we gotta do under these
5 circumstances.

6 Ratigan: Sure.

7 Wencek: I don't recall anyone other -- above Eric getting
8 involved, whether they did or not. I don't have any
9 recollection of it.

10 Salisbury: Okay.

11 Wencek: It may have been something, but --

12 Salisbury: Well that's why we have --

13 Wencek: -- it wasn't a show stopper in, in my mind or I'd
14 probably remember it.

15 Ratigan: Okay.

16 Salisbury: Um, let me --

17 Wencek: What --

18 Salisbury: -- show you

19 Wencek: What date --

20 Salisbury: -- uh, so the date of the email, uh, that's printed
21 out is February 14th, but we're gonna go to --

22 Ratigan: I'm sure you're familiar with printed out emails. You
23 have to read from the time here.

24 Wencek: Yeah.

25 Salisbury: Um, so starting from the beginning of the email

1 chain looks like on January 28th, 2020 Terry Gray,
2 who's that I should ask you?

3 Wencek: That's now the Acting Director.

4 Salisbury: Okay. Um --

5 Wencek: At that time Associate Director, Associate Director, I
6 guess.

7 Salisbury: Okay. So number two --

8 Wencek: Yeah.

9 Salisbury: -- in the agency. Okay. Um, so he emails yourself
10 and Eric Beck, "Guys we need to move on this one. The
11 application has been for a long time and the applicant
12 is under a ton of pressure from his financing
13 companies --

14 Wencek: Yeah.

15 Salisbury: -- to get this done."

16 Wencek: Okay.

17 Salisbury: Um --

18 Wencek: I get those.

19 Salisbury: Okay. So I guess that's, uh, one of the first
20 questions. How often do you get emails like this from
21 the Associate Director?

22 Wencek: Oh gosh, one a month.

23 Salisbury: Okay.

24 Wencek: Sometimes more. It all comes down to how many
25 applications are really stuck in our queue.

1 Salisbury: Okay.

2 Wencek: And if something has gone out deficient and come back
3 in and went back out deficient again and come back in,
4 you know, now six months have gone by and we finally
5 get it to notice, uh, the applicant is chomping at the
6 bit at that point. But then in the process is the
7 process and "Oh gee I got 30 applications ahead of
8 you. I'll get to you when I can." But people start
9 calling, you know, where's my application? Why is
10 taking -- They call me sometimes. Sometimes they
11 call, you know, the Director's Office. So, and when
12 they call the Director's Office, he's obligated to
13 say, "Hey Marty, what's going on with this file? How
14 are we doing?"

15 Salisbury: Okay. So was this one stuck in the queue based on
16 what we've gone over with this?

17 Wencek: Uh, I am not fast at what we do because I don't have
18 enough staff. So I get these calls. I get the calls
19 often. It's not often they go up to --

20 Salisbury: From the applicant's saying --

21 Wencek: -- Director's Office, but they do.

22 Salisbury: Okay. Um, so just, I guess, try to give us a sense
23 of that. I have my little timeline here. We've, you
24 know, looked at the different submission dates. So
25 April of, uh, April 4th, 2019, the application was

1 submitted. Um, we talked about then in September,
2 your letter says "It's complete adequate for Public
3 Notice." So now we're in, hold on a second, January of
4 2020. So is that, has that like a slow

5 Wencek: That's taken a while.

6 Salisbury: It is? Okay.

7 Wencek: For a single family house plan that's taken a while
8 and it could be a lot of reasons why normally it's
9 because it takes us 45 to 65 or so days to do a review
10 from when it comes into, when we get a letter out.

11 Salisbury: Okay.

12 Wencek: And then we'll punt to the -- we'll send comments to
13 the applicant and it'll take them 30, forty, 50 days
14 to respond back to us. And then we, we get it and we
15 just don't drop everything and do it. It goes into
16 the queue, takes another 30, forty days. And if it
17 goes back again, you know, just so the timing gets
18 really ballooned, um, which is unfortunate, but that's
19 the way it is.

20 Salisbury: The reality --

21 Wencek: So when, when an application's been in for six months,
22 I mean, that's driving some people crazy. And I, and
23 I get that time is money. So, you know, we do the
24 best we can with the resources we have. And um, if
25 someone's really antsy, they'll call the Director's

1 Office. You know, they talk to me a lot and I try to
2 talk them off the ledge, but you know, if they're
3 really hot to trot and I know don't give the answer
4 they want to hear, which is --

5 Salisbury: Okay.

6 Wencek: -- well, too often the case

7 Salisbury: With this one, you don't remember that happening
8 that they called you first.

9 Wencek: I don't recall getting called on this 'cause from my
10 understanding, I've never met her. But evidently
11 Mooney, the applicant, is some old woman living in
12 Florida.

13 Salisbury: Okay.

14 Wencek: And she certainly never reached out to me. I don't
15 know if any of her, her family members did or not.

16 Salisbury: Okay.

17 Wencek: Um, the only people that reached out to me was John.
18 I remember John and I don't even remember exactly how
19 it went down, but I do remember

20 Salisbury: From Cumberland?

21 Wencek: Yeah.

22 Salisbury: That --

23 Wencek: John Stevens and three neighbors, at least I would
24 say.

25 Salisbury: Okay. Um, I mean, just what we've walked through so

1 far, your, your department is working on it. You
2 know, it's not like it's just sitting there, but --

3 Wencek: Well that's the problem.

4 Salisbury: Yeah.

5 Wencek: They do sit there because I've got 30 other
6 applications ahead of it --

7 Salisbury: Okay.

8 Wencek: -- that came in before it did. So I have no choice,
9 but to let things sit around for longer than I wish
10 they had to.

11 Salisbury: Okay.

12 Wencek: But you know, they get done one or two at a time,
13 'cause I'm talented so I can do two everyone now and
14 then at a time.

15 Salisbury: If we jumped ahead a little bit, then we have Dan
16 Kowal's report that's January 31st of '20. So it's
17 like, I'm, I'm not critiquing the speed that your
18 department's working, but I mean, the biologist is
19 still working on his report.

20 Wencek: There was no rush on this one 'cause we were in a
21 conundrum with this --

22 Salisbury: Okay.

23 Wencek: -- flooding issue and we were, we, you know, I said,
24 Dan, you don't have to, you know, do it as soon as you
25 can. He had a lot on his plate. Um, he had a lot on

1 his plate. He, he was my go-to guy. He was the most
2 senior biologist, my most thorough biologist. He came
3 up with ideas that were outstanding. I relied on this
4 guy a lot.

5 Salisbury: Okay.

6 Wencek: So, um, he got a lot on his plate at all times. So I
7 just like, we got this issue, we're dealing with, you
8 get me a report. I'll let you know if I need it, but
9 do your thing, get all these other things done, 'cause
10 this one's, we're dealing with something that's and he
11 knows you know, possible substantive objection. Like
12 that's a wow.

13 Salisbury: Okay. Um --

14 Ratigan: Just the, the quickly back to the email from the
15 Associate Director, the applicant is under a ton of
16 pressure from his financing companies to get this
17 done.

18 Wencek: Yeah.

19 Salisbury: Is that something that you get? But like did you
20 get that from applicants?

21 Wencek: That's the call I get.

22 Salisbury: Okay.

23 Wencek: That's, that's, that's a common thing. They've got a
24 closing deadline or their money's in, in, in, in
25 jeopardy. And if someone brings that to our

1 attention, I'll try to facilitate the process as best
2 I can.

3 Salisbury: Okay.

4 Wencek: You know, but 'cause I don't want anyone to lose their
5 financing. You know, the last thing we need is the
6 Wetland Program that isn't friendly to business.

7 Salisbury: Okay. So --

8 Wencek: So, you know, you gotta be cognizant of that, but it's
9 not, it doesn't guide everything we do. I mean, I've
10 got people tell me "I'm gonna have a closing this
11 Friday." And I say like, "There's no way pal. I'm
12 sorry."

13 Salisbury: Okay.

14 Wencek: You know, but if someone says, "I gotta have this by
15 Friday." And I can get it done by Friday, I'll try to
16 get it done for them.

17 Salisbury: Okay. So nothing

18 Wencek: It's customer service.

19 Salisbury: Sounds like nothing of jumped out at you about this
20 Associate Director's email.

21 Wencek: Not particularly.

22 Salisbury: Okay.

23 Wencek: I mean, I don't like to get these emails.

24 Salisbury: Sure. Nobody does. Yeah

25 Wencek: It's like, "Oh great thanks." You know --

1 Salisbury: Um, I mean I can show it to you, but then the
2 response --

3 Wencek: Yeah.

4 Salisbury: -- from Eric is "Marty let me know where the formal
5 application is timewise. I understand. It came off
6 Public Notice and the (Inaudible - 01:02:44) is there
7 a possibility to get this out by February 14th."

8 Wencek: Okay.

9 Salisbury: Um --

10 Wencek: I don't know when we got it out but --

11 Salisbury: Uh, you respond "I've been monitoring everybody's
12 workload." Um, I'll paraphrase a little bit, Dan will
13 get going on this by week's end. It will be a stretch
14 to get a decision out by the 14th. Um, there's
15 another file in front of it basically and then taking
16 this one ahead of that one will derail that project.

17 Wencek: Yeah. I for one I don't like to do if I don't have
18 to.

19 Salisbury: Okay.

20 Wencek: Unless the other person that I'm about to derail
21 couldn't care less about the timing.

22 Salisbury: Okay. And then you end your response to Eric. Uh,
23 "He too is up against a timeline, but he has been
24 civil so far. That's just the way it is right now."

25 Wencek: Okay.

1 Salisbury: What did you mean by that? That's just the way it
2 is right now.

3 Wencek: I got everyone calling me for freaking, you know,
4 "When's my application gonna be ready?" And I'll get
5 to it as soon as I can. There's only one of me, which
6 is really unfortunate. I'm a fun guy. I can see two
7 of me. Then I can fish and work at the same time.

8 Salisbury: There you go.

9 Wencek: That'd be great.

10 Ratigan: So then we continue on the email chain, uh, Associate
11 Director, again, February 13th, 2020 asked for an
12 update. Is that --

13 Wencek: Okay.

14 Salisbury: Is that unusual? Like, so it's two weeks later.

15 Wencek: If he called me the next day that would be unusual.

16 Salisbury: Okay.

17 Wencek: But two weeks, you know, what's happened in two weeks.
18 How are we doing it's on his radar screen? That's so
19 I, you know, at that point when I'm getting those
20 kinds of emails, like, okay, it's on the Director's
21 Office radar screen it's you know.

22 Salisbury: Okay.

23 Wencek: What it is, is what it is.

24 Salisbury: And then, uh, the next part of the email chain, if
25 you wanna just read this it's a little longer.

1 Wencek: Okay. I'm gonna read the other one above it

2 Salisbury: Sure. Go ahead.

3 Wencek: Okay.

4 Salisbury: All right. So on February 13th at 11:22 AM you
5 respond to the Associate Director. Um, basically with
6 what the options are regarding this one, because --

7 Wencek: That's what I thought options were.

8 Salisbury: Okay. Because the substantive --

9 Wencek: Yeah.

10 Salisbury: -- uh, comments came in.

11 Wencek: Yeah.

12 Salisbury: Okay. Could you just explain any those options?

13 Wencek: Applicant withdraw the application. He doesn't have
14 to request the public -- He doesn't have to go forward
15 with the public hearing. We've got substantive
16 comment he can say I'm done so --

17 Salisbury: Yeah.

18 Wencek: -- he can withdraw the application. Number two,
19 proceed with having the comment addressed through the
20 public hearing process, which is in, you know, it's
21 one of the, one of the scenarios. And three, um, we
22 could approach them before making a decision. We
23 could say, "Hey, we got these comments that you didn't
24 address and you know, give us information and we'll
25 chew on it. But because it's new information that the

1 public didn't have in the initial Public Notice, we'll
2 send it out to Public Notice again."

3 Salisbury: Okay.

4 Wencek: I don't even know if we can do that, but that was
5 something I was thinking of at the time. Just like,
6 what are we gonna do? So that's a, that's a thinking
7 out loud suggestion.

8 Salisbury: Okay.

9 Wencek: I don't, I don't know if we could actually do that or
10 not, but I would like to think we could.

11 Salisbury: Fair to say, uh, the onus is on the applicant
12 because of what they left out.

13 Wencek: They've got a decision (inaudible - 01:06:29) out of
14 me.

15 Salisbury: Okay.

16 Wencek: Yeah. I'm not making that decision for them.

17 Salisbury: All right. And then the Associate Director
18 responds. He passed the news on to the applicant,
19 along with electronic copies of the comments. Um --

20 Wencek: They're all the public comments. I, I imagine. Yeah?

21 Salisbury: Sure. Did that -- is there anything different about
22 that, that the Associate Director's forwarding the
23 comments to the, the public comments, to the
24 applicant?

25 Wencek: The Director's Office certainly doesn't get involved

1 in applications an awful lot, but they get involved in
2 applications and the depth of their involvement. I
3 don't even give it a thought. It's just not on my
4 plate.

5 Salisbury: Okay.

6 Wencek: It's in my head like, oh, Director's Office involved
7 in this, you know, sometimes it's like --

8 Salisbury: Okay.

9 Wencek: Bummer, man. But --

10 Salisbury: So I guess --

11 Wencek: I like to keep things in my realm and whenever --

12 Salisbury: Sure.

13 Wencek: -- it gets outta my realm, it's like --

14 Ratigan: So somewhat in fairness we have the benefit now
15 looking back on this, right? So wouldn't the
16 applicant, get the comments?

17 Wencek: The public comments?

18 Ratigan: The public comments

19 Wencek: They don't get sent those comments. No.

20 Ratigan: Really? Okay

21 Wencek: They would have to come in and take a look at them
22 themselves. They would make -- which happens a lot

23 Salisbury: Okay.

24 Wencek: -- at the end of a Public Notice period. The
25 applicant or their consultant will ask to see the

1 files so they can read the comments.

2 Salisbury: So they'll be notified there are some, and then they
3 have to come in.

4 Wencek: They will call and ask. Uh, we -- I don't notify
5 them.

6 Salisbury: Okay.

7 Wencek: You know, I'm, I'm just doing my process according to
8 rule, doesn't say I have to notify them. Um, but if,
9 but some of them are very concerned and then sometimes
10 as well, they should be, um, "Did we receive any
11 comments?" And I'll say, "Let me check." You know, at
12 the end of the 45 day Public Notice period, and I'll
13 go to the file that has all comments and you know, and
14 hopefully they're pulled out already and go to the
15 biologist, if it's a few weeks after the Public Notice
16 is over and then let the applicant know. "Yeah, we
17 got three comments." "Can you send 'em to me?" "I
18 don't have the resources to send them to you. You can
19 come right in and take a look at the file. Just make
20 an appointment."

21 Salisbury: Okay.

22 Wencek: 'Cause I've got three quarters of a clerical person.

23 Salisbury: I got you.

24 Ratigan: I can relate. And this was the Public Comment period
25 from back in that ended in November.

1 Wencek: Yeah.

2 Ratigan: Right?

3 Wencek: Yeah.

4 Ratigan: So the Associate Director is sending the public
5 comments to the applicant in February.

6 Wencek: Yep.

7 Ratigan: Okay. Does that, I don't know seem strange looking
8 back on?

9 Wencek: Not. Not at all.

10 Ratigan: Okay. Um --

11 Wencek: I mean they took a pers- they took an interest in it,
12 you know, I don't know how many times any Director has
13 come down and said, "Let me have all your comments so
14 I can send them to the applicant?"

15 Salisbury: Okay. So in that sense --

16 Wencek: I don't know of that necessarily happening that's
17 unusual to some degree.

18 Salisbury: Okay.

19 Wencek: But I don't put it past them doing whatever public
20 service -- public service they need to do.

21 Salisbury: Okay. It's kind of like the top --

22 Wencek: Whatever they're doing.

23 Salisbury: The top is now (inaudible - 1:09:17)

24 Wencek: They're running -- they're running with the ball with
25 me.

1 Salisbury: Okay. Um, and he goes on -- he did communicate that
2 -- he says the applicant will need to meet with
3 permitting staff to figure out the path forward.

4 Wencek: Based on the scenarios I was thinking of.

5 Salisbury: Okay.

6 Wencek: So, and that -- and that again, would be something I
7 would encourage because I'd like to know what are you
8 thinking. And here's what -- here's what you can --
9 here's what you can't do. Don't come to me with some
10 left field idea.

11 Salisbury: Right.

12 Wencek: You know, these -- these are our rules, these are the
13 options you have and, you know, have that discussion.

14 Salisbury: Okay. Fair to say number two person is talking to
15 applicant and saying you gotta meet with permitting
16 staff.

17 Wencek: Yeap.

18 Salisbury: Which would be you --

19 Wencek: Yeap.

20 Salisbury: -- and your staff. Okay. Did that happen?

21 Wencek: I think it did.

22 Salisbury: Okay.

23 Wencek: I don't recall specifics, but it -- it, in my Senate,
24 I don't -- I do not review this file, but in my mind it -- it
25 probably happened because he came back with a withdrawal of the

1 hearing. And so someone had to have it. He -- he either had a
2 discussion with us Wetland Program or with Wetland Legal or with
3 his consultant team -- her consulting -- his consultant team.

4 Salisbury: Okay.

5 Wencek: I think it was -- I think it was the guy that was
6 gonna buy the lot.

7 Salisbury: Okay.

8 Wencek: And he -- he was the -- he was the guy that was
9 approaching the department.

10 Salisbury: Okay. Let's get back to that. I think. Um,
11 just wanna quick- -- quickly, hopefully go through Dan Kowal's
12 report, which, uh, came -- is dated January 31st '20. So that
13 would be kind of just interspersed here, I guess. (inaudible -
14 1:11:00).

15 Wencek: Yeah. What's the date -- what's the date of those
16 emails?

17 Salisbury: So this -- the first one from Mr. Gray is 1/28/20
18 and then we end up on 2/14/20.

19 Wencek: Okay.

20 Salisbury: I'm gonna give it to you. Maybe I don't know if
21 you -- so that is Mr. Kowal's report (inaudible - 1:11:25).

22 Wencek: Just the facts then? Okay. Okay. Go for it.

23 Salisbury: Okay. So he talks about how it leads to a
24 disturbance of 5,196 square feet wetland.

25 Wencek: Right. I know that was being noticed. But yeah, he

1 cites it.

2 Salisbury: (inaudible - 1:12:11) or disturbed.

3 Wencek: Yep.

4 Salisbury: Okay. Um, not necessarily a reason to not grant
5 the permit. He's just noting.

6 Wencek: They always do 'cause we have to -- we have to track
7 it through EPA how much weapon is potentially gonna be lost if
8 we approve a project.

9 Salisbury: Okay. So I'm gonna jump to this paragraph three
10 where he talks about proposed project will inate. Again, the
11 5,196 square feet of existing wildlife habitat.

12 Wencek: Yep.

13 Salisbury: Could you, um, explain if that was a concern to
14 you or --

15 Wencek: Evidently it wasn't.

16 Salisbury: Okay.

17 Wencek: Yeah, that's a standard Dan comment. Okay. So
18 question?

19 Salisbury: Uh, was that a concern to you?

20 Wencek: The loss of wildlife habitat?

21 Salisbury: Yeah.

22 Wencek: No.

23 Salisbury: Why not?

24 Wencek: Wetland was such that you've got, uh, you had an
25 aerial out, but we don't need it. I guess. The wetland's

1 pretty large and you've got a small finger of it that goes up to
2 a road between two developed houses. So pretty much, yes,
3 they're filling wetland and that's something we don't
4 particularly care for is seeing in our program. But when
5 someone proposes it, you have to make an assessment as to
6 whether or not it's gonna be a significant loss. So Dan is
7 basically saying here, yeah, they're filling 5,000 plus square
8 feet of wetland. You know, that's, that's not necessarily a
9 good thing. You know, that -- that includes swamp and perimeter
10 wetland. So there's the buffer that's being filled and there's
11 the extra swamp that's getting filled. Um, you know, things
12 like this are approved by the department, not routinely, but we
13 do have these kinds of projects depending on what's going on and
14 what resources are there. Dan is basically saying we've got a
15 very disturbed landscape in the area. Um, there's cumulative
16 loss. Of course, if you lose one square foot of wetland,
17 there's cumulative loss. Um, don't disagree with that. And you
18 take that into a out is depending on circumstances with what's
19 going on on the property and what's being proposed on the site.
20 Um, so he's basically saying there's gonna be loss here. Um,
21 it's a disturbed landscape and there will be some -- there will
22 be some effect. Obviously you lose even one square foot of
23 wetland you're affecting wildlife.

24 Salisbury: Okay.

25 Wencek: So he's basically saying this will have an effect on

1 the local wildlife community. I mean --

2 Salisbury: That's -- that's a factor. That's not a --

3 Wencek: That's a -- that's -- that's why we're there --

4 Salisbury: Okay.

5 Wencek: -- to determine whether or not that's a problem or
6 not, or a concern.

7 Salisbury: Okay. Then I'll jump to his summary and
8 conclusion. So, uh, um, where he -- he ma- -- he makes some
9 suggestions. So he -- he says there appears to be design
10 changes that if incorporated into the proposed project would
11 further lessen the potential disturbances from the proposed
12 project on wildlife would further reduce wetland wildlife
13 habitat loss.

14 Wencek: Say that three times fast.

15 Salisbury: Relocate the proposed limit of the disturbance
16 about 20 feet northwestward.

17 Wencek: Northwestward. Yeah. That's tough thing to do.
18 Okay. What else --

19 Salisbury: Towards the road road, right?

20 Wencek: Yeah. That means they'd have to go to a variance to
21 the town. Okay. But anyway, go on with all of 'em 'cause I can
22 -- I can just walk you through what -- what -- what we are
23 thinking.

24 Salisbury: Add additional evergreen trees in between the
25 proposed white spruce. Yeah. So add --

1 Wencek: Yeah. And put more of a -- more of a vegetative
2 screen than what they proposed.

3 Salisbury: Along the perimeter so to -- for the protection
4 of wildlife? Is that --

5 Wencek: It basically, what you wanna do is screen out. This
6 is a -- a little wooded lot. It's tiny and as little as it is.
7 Um, but now you're putting a house there and associated with
8 house, and this is true with wall applications, not just this
9 one. You're putting a house in an -- in an area that's --
10 that's got wetland jurisdiction on it. And there's certain
11 wildlife components associated with that wetland. That's all
12 taken into account. I got two houses on the side. I got a road
13 right there. So this one, wasn't the biggest concern I had.
14 Um, but still you can still minimize the impacts that any
15 proposal will have on the existing wildlife community that's
16 going to remain in place. Because you stick a house in there
17 and you do nothing, you just stick a house there and have a yard
18 to the edge of the wetland, all the disturbance associated with
19 a house, the kids, dogs, lights, noise is gonna radiate out and
20 it's gonna have more an effect, you know, instead of just that
21 lot being affected, if you don't take any precautions, that
22 disturbance is going to permeate further into the resource. So
23 in order to minimize that, we'll throw some conditions in a
24 permit. We -- and we're almost always looking for some kind of
25 -- especially when they're in the lot like that or right up

1 against it, looking for some kind of vegetative screen. We
2 don't wanna fence because a fence is basically sterile. Um,
3 what you want to do is get a vegetative screen in to try to make
4 up for some of the loss of habitat that the -- that the proposed
5 development is going to basically is eliminate and put up a
6 screen, if you will, around the envelope of the project to not
7 only keep some of the disturbances associated with a home on the
8 subject property, but also to give a little bit more habitat
9 back 'cause you put up whatever, you know, shrubs or trees. If
10 it's very producing shrubs, you've got wildlife food. You've
11 just added back onto the site. If it's trees, you've, you know,
12 and shrubs, you've got nesting habitat that you've added back to
13 the site. It certainly doesn't make up for the loss of -- well,
14 sometimes it can, but it wouldn't necessarily make up for -- for
15 the loss of what's being proposed and -- and the amount of area
16 that's being encroached upon, but it helps just lessen the
17 impacts.

18 Salisbury: Okay.

19 Wencek: So he's, you know, as -- as normally do, um, a project
20 manager will basically do an evaluation and then throw some
21 ideas out as a -- as a potential -- something to -- to consider,
22 to apply to a project.

23 Salisbury: Okay. Is it almost expected that the applicant
24 would comply with those ideas or suggestions or --

25 Wencek: Well, if it winds up as a permanent condition, they're

1 obligated to.

2 Salisbury: Okay.

3 Wencek: So -- and Wencek: -- and if they don't show them, we
4 will, you know, put it in condition. You must do this. You
5 know, when you're getting a permit from us and for this permit
6 to be valid and for you to be in compliance with this permit,
7 here are the things you need to do, you know, and plant -- but
8 they show plantings on -- on a lot of their plans. Sometimes
9 they don't and if they don't we'll get them to show on a -- on a
10 rebound with a technical comment review or if it just isn't done
11 because some of them are just not with it, um, we will draw them
12 in ourselves and then make it a permit condition.

13 Salisbury: Okay. Um, while we're on this topic, do you
14 remember if the first, um, suggestion here, we locate the
15 proposed limit of disturbance 20 feet northward --
16 northwestward. Do you know if that was done --

17 Wencek: That was not done. That wasn't -- And we didn't even
18 explore that because there were two reasons for that. One was
19 the house is already basically pretty close to the road. And if
20 you go 20 feet further, you are gonna -- you work -- we would be
21 asking them to get a variance that would be nearly impossible.
22 Not to mention having the front door on the road. Pretty much a
23 little bit stretch for Dan to say that, but you know, he's
24 putting it out there. This is what he thinks to lessen the
25 impacts. Never mind if it's a zoning issue, that's not concern.



1 You never mind if they're gonna step out the front door and get
2 run over by a truck. In our world, that's not our concern. His
3 concern is how do we reduce impacts to wildlife basically 'cause
4 a biologist, you know, and other functions of values, but he's -
5 - his focus is -- is biology. So he makes that suggestion if --
6 if he thinks it's something would be applicable but I don't
7 think it's applicable on this case.

8 Salisbury: Okay. Let's see. Getting back to the process
9 chronologically of this first application, it's still, um,
10 awaiting whether there's gonna be public hearing or not based on
11 what we spoke about so far.

12 Wencek: Yeah, we have -- we have -- we had to let them know
13 we've got substantive comments.

14 Salisbury: Right. Okay. What do you remember about, um,
15 the public hearing that it was requested? Isn't that --

16 Wencek: They've gotta pay \$2,000, I think by 30 days, by the
17 end of the, uh -- within 30 days of receipt of -- of -- of the
18 letter that says you've got some comments you've gotta come to
19 us with, I think it's \$2,000 to initiate getting that public
20 hearing set up.

21 Salisbury: For this particular application. Do you remember
22 how that happened?

23 Wencek: On the 30th day at 3:45 and the application closes at
24 4:00 I got a call from Ron Gagnon. He's got a guy down here
25 about a hearing. Can you come down and help him?

1 Salisbury: Okay.

2 Wencek: And I'm like, "Which file?" He's like, "Oh, Mooney."

3 And I'm like, "Today's the last day?" And he's like, "Good thing

4 I didn't take the day off early." You know. So I go down there

5 and this guy is there and I honestly don't know the guy from

6 Adam. And I still told don't know him from Adam. Um, and he

7 tells me that he's gonna be buying the property. Okay, cool.

8 And he's trying to make the decision. Should he go forward with

9 the public hearing? What do I think? I basically looked him at

10 the eye. I said, "Whatever you wanna do? It's up to you. I

11 can't make that decision." Well, what happens if we have a

12 public hearing. We have a little, you know, questions about

13 what is the process and what are my options. And your option is

14 to walk or give us a check for \$2,000 in five minutes. You

15 know, what are you gonna do? And he said he was gonna go

16 forward. Now Ron was there and -- and -- and I said, "Okay,

17 you're gonna go forward." Terrific. You know, that's -- I'm

18 going, "Terrific." Yeah. Public hearing. Um, and Ron took it

19 from there. And Ron got the check from the guy from as -- as

20 far as I know, because we went forward and started scheduling a

21 public hearing.

22 Salisbury: When you -- when you say the guy, you -- you

23 didn't know him then.

24 Wencek: I don't know -- I found out who -- that he was a state

25 guy, uh, governor person for -- after the second application

1 when one of the neighbors said it's so and so, and I said, okay.
2 And he's so and so, okay. You know, and, uh, he, you know, did
3 he influence it? I was like, "I wasn't influenced." You know,
4 we'll get to that, I guess. But, um, that's what I said. Oh --
5 Ratigan: Who was --
6 Wencek: One of -- one of the neighbors -- one of the
7 neighbors. It's a woman. And I have her name. I have -- I
8 keep a lot of everyone that --
9 Ratigan: Michelle Bo Jones (ph).
10 Wencek: Yes.
11 Ratigan: She's -- she's the immediate about.
12 Wencek: Yeah. She's got the house downstream to the -- to the
13 left going downstream.
14 Ratigan: Yeah. And I believe a lot behind also.
15 Wencek: Okay. It's all swamped. So -- so -- it's wet all
16 right.
17 Salisbury: You know today who -- who he is?
18 Wencek: Oh yeah. I mean, I don't remember his -- don't tell
19 his name. I could probably pick his name off, but it just, I
20 don't know his name as I sit here and talk to you, but I know
21 who he is. Chief of staff to the -- to Governor McKee.
22 Moreira: Former.
23 Wencek: Former. That's right. That's right.
24 Moreira: Tony Silver.
25 Wencek: Thank you. And I would've come up with that.

1 Moreira: Okay.

2 Wencek: Michelle Bo Jones. She was calling me every week. I
3 don't blame her.

4 Ratigan: Um, and it seems like you did a pretty good job of
5 keeping her up to date on what the project was going on.

6 Wencek: I tried. Yeah. She called me at 6:00, I could call
7 her back. I don't know what the hell I was doing at 6:00, but
8 it happened a lot. She called late.

9 Moreira: It just seems like a little -- um, did he say who he
10 was when he dropped off the check? Was he having this
11 conversation with you?

12 Wencek: You know, I saw him as just another guy.

13 Moreira: Okay. As -- as you should.

14 Wencek: He did not -- he did not put anything forward that
15 would have made me believe that he was a political individual
16 politically.

17 Moreira: Okay. But he -- he conveyed you that he was looking
18 to purchase the property.

19 Wencek: 'Cause I -- for the applicants, Joan Mooney and
20 someone shared to give us a \$2,000 check to maybe go forward
21 with the hearing, who the heck are you? You know, are you the
22 son? Who heck are you? And he just introduced himself and said
23 he was looking to purchase the property if the -- if the permit
24 got issued or something like that.

25 Moreira: Okay. Um, there's some email traffic about, uh, that

1 I don't think we need to get into. I just wanna show you it's a
2 letter with the -- the -- the -- a check -- the check
3 photocopied to the bottom. It says it's a letter March 6th,
4 2020 from Joe Mooney and then a check for \$2,500 in (inaudible -
5 1:25:34). Do you think that was handed to you during this
6 exchange with Mr. Silva?

7 Wencek: It got handed to Ron. I believe.

8 Moreira: So he -- I mean --

9 Wencek: I mean, it was just me and Ron. I didn't wind up with
10 the check 'cause I don't do checks.

11 Moreira: Okay. Um, but it was hand with the letter and the
12 check?

13 Wencek: A check was in the man's hand.

14 Salisbury: Okay.

15 Wencek: And it ended up, it had to end up in Ron's hand. So,
16 if, you know, 2,500 bucks. Okay, I thought it was
17 2,000. I wonder when that went up. It used to be
18 2,000.

19 Salisbury: Okay. So then from there, what do you, what do you
20 remember happening next in terms of handling this
21 application?

1 Wencek: What do I, I don't remember a heck of a lot because
2 this is not something that I'm worried about or on my
3 radar screen. It's just another application. I know
4 bummer we got a public hearing. I haven't had one of
5 those in 30 years.

6 Salisbury: Okay.

7 Wencek: So I, I, if you tell me what happened next, I would
8 fill in blanks as best as I can, but I'm not, I, I
9 mean, we met with him eventually.

10 Salisbury: Okay. Do you remember, um--

11 Wencek: Or somehow I think it might have been through Zoom or
12 something. I don't remember how that meeting went
13 down.

14 Salisbury: Okay. Do you remember getting, uh, DEM legal
15 counselor involved or--

16 Wencek: Oh, they had to be. It was a hearing.

17 Salisbury: Okay.

18 Wencek: Yeah. That's, that's, it, it's in there.

1 Salisbury: Okay. Yeah. And I just wanted to caution you,
2 we're not concerned about what advice they were giving
3 you. We're just trying to-

4 Wencek: I'm just trying to remember.

5 Salisbury: Going through step by step of the process.

6 Wencek: Yeah.

7 Salisbury: So, you know, you know, please don't share--

8 Wencek: Anything. I can do.

9 Salisbury: Advice they, they gave you or something before--

10 Wencek: Okay. I get you.

11 Salisbury: Kind of the, the timeline. So they get involved.
12 It looks like, um, there's some emails, um, end of
13 April. So, April 30th of, of 2020. Does that sound
14 right time, timeframe wise?

15 Wencek: Um, it's chronologically in order.

16 Salisbury: Okay. Um, all right. So, let me see. So, let me
17 get up to early May. Guys jump in and says we're

1 going find a perti-- pertinent email if I can.

2 Wencek: Mm-hmm (affirmative).

3 Salisbury: All right. So, you-- I mean, you told us already
4 that Eric Beck and you are consulting about this from
5 the (inaudible - 01:28:22). So then looks like May 5th
6 of 2020 he contacts you via email asking you to
7 discuss. So this would be, uh, a little over a month
8 after the, after the check and the letter requesting
9 the hearing.

10 Wencek: Okay. Yeah, he's not coming into the office much at
11 that much. I'm in every day.

12 Salisbury: Okay.

13 Wencek: So--

14 Salisbury: Um, I wanted to ask about what you discussed with
15 Eric Beck do you think at this point?

16 Wencek: Well, we discussed the older, the older, the Hopkinson
17 file and the movie file.

18 Salisbury: Okay.

1 Wencek: I, I could not begin to tell you unless it, I've
2 memorialized it in the file or something.

3 Salisbury: Okay.

4 Wencek: But obviously we had a public hearing coming up and we
5 haven't had a public hearing in 30 years. So, I do
6 know, I don't know if it was at this juncture but it
7 very well might have been. We start discussing, well,
8 how do we do a public hearing? And what do we, you
9 know, what are the steps we need to do? And when can
10 we do this? And, you know, we haven't had one of
11 these and Eric certainly never had one. I had one 30
12 plus years ago and I'll be darned if I can remember
13 about how that works 'cause I didn't set it up. I was
14 just a regular staff biologist back then. So, um, I'm
15 sure we discussed the logistics of we need to set up a
16 public hearing--

17 Salisbury: Okay.

18 Wencek: And I'm sure we reached out to legal to help us with
19 that.

20 Salisbury: Okay. And then how about the, we looked at that
21 email, what the options you, I think you were telling--

1 -

2 Wencek: The three options--

3 Salisbury: Right, yeah. That one of 'em would be the applicant
4 could withdraw the application--

5 Wencek: Mm-hmm (affirmative).

6 Salisbury: And for lack of a better term, fix it, right?

7 Wencek: I mean, they could say, "I don't wanna go over here."

8 Salisbury: Yeah. They could just--

9 Wencek: I mean, and in my mind, why would you want to subject
10 yourself to that?

11 Salisbury: It could just end there, right?

12 Wencek: Right.

13 Salisbury: It would be one of the options. Um, but then if I
14 remember right another one of the options was they can
15 withdraw and then resubmit, something like that. Do
16 you remember that coming up?

1 Wencek: That was discussed.

2 Salisbury: Okay.

3 Wencek: Which again in my world was, wow, not have the public
4 hearing and keep this process moving forward and
5 maybe, maybe they can address that flooding issue.

6 Salisbury: Okay.

7 Wencek: In my world, whatever they want to do. I'm processing
8 applications.

9 Salisbury: Okay. So there, there's an email on May 7th from
10 Eric to you and, uh, Terry Gray. Um, they talk about,
11 he talks about, um, he's emailed Christine from legal.

12 Wencek: That's our attorney

13 Salisbury: Okay. Waiting for her response. But then he, he,
14 um, starts to explain that he thinks there's a clear
15 path to ask the applicant to withdraw the hearing
16 request and refund the money. Marty said it would not
17 go back in the queue. What does that mean? Marty
18 said it would not go back in the queue?

1 Wencek: We decided that since this guy had been through the
2 formal process and went through a public notice that
3 if you were-- Because we had discussed in one of the
4 options, if you were just to withdraw and submit a new
5 application. In the public hearing, we don't have to
6 worry about putting that together. And they'll submit
7 a new application, which would have to go through
8 another public notice period. So, now we've got an
9 applicant who's looking to develop a single family
10 dwelling. I'm already pretty well versed in what
11 we're dealing with on the property. From a biological
12 perspective, no issues. Yeah, I mean, there's issues.
13 They're still have to (inaudible - 01:31:41), there's
14 gonna be some disturbance, but nothing that can't be
15 approved under the, under the regulations. Um, we've
16 got a flooding issue that was never addressed. So if
17 they withdraw their hearing, if they want to go that
18 route fine. If they don't, they can always withdraw
19 their hearing and go the route of the application.
20 Trouble is you gotta go through a public notice period
21 again and we decided the guy's been through the
22 ringer. This is relatively straightforward in, in our
23 minds. We'll try to get the decision out as soon as
24 we can after that public notice is over. We shouldn't
25 make this guy, whoever it is, her or him, Moony or



1 Silva, we shouldn't keep them in suspend-- and made a
2 suspension. We already know what we're doing here.
3 If they can address that flooding issue--

4 Salisbury: How would you--

5 Wencek: So, let's, let's get this, you know, moving along for
6 these people.

7 Salisbury: How has the applicant been through the ringer?

8 Wencek: Just going through the process.

9 Salisbury: Okay.

10 Wencek: I mean they gotta get a wetland permit and sometimes
11 it's pretty straightforward. The preliminary
12 determination application process is pretty
13 straightforward. You go through a formal application
14 or an application to alt process, there's a lot of A,
15 Bs and Cs you gotta do to get the public notice. Then
16 you gotta wait the 45 days. And the decision period
17 is usually six plus or minus weeks after the public
18 notice to get a-- Without there being a subject of
19 comment. If there's no comment, well you're looking
20 at six weeks out 'cause I just can't get everything

1 done as fast as I'd like to. So through the ringer,
2 yeah, going through that whole process again.

3 Salisbury: Okay. So the, the, the check and the letter
4 requesting the public hearing was back in March. So
5 now we're in May 7th of 2020. Do you, do you think you
6 knew who the applicant was that's being referred to
7 by, at this point by May 7th?

8 Wencek: I, I don't think I did. If I did, it was irrelevant
9 to me, but I don't think it did. My first aha moment
10 that I can remember was Michelle saying, "That's so
11 and so, Tony Silva. I was like, "Okay." And then
12 she's like, chief of-- She's like, "He's the former
13 police chief of Cumberland."

14 Salisbury: Okay.

15 Wencek: I was like, "Okay." And he gets favors done all the
16 time. Okay. You know, so it's like, what are you
17 telling me, you know? And she was concerned that DEM
18 was coerced because we had scheduled-- I'm getting
19 ahead of ourselves but we had scheduled a public
20 hearing with the first file and the next thing you
21 know we're going out to public notice and she was

1 like, "What's going on?" Sure, she's calling me pretty
2 regularly. Here's what's going on? Here's the
3 process and we're gonna get a chance to comment
4 again." I said, "Absolutely." I said, "But it's gonna
5 be a revised proposal." And of course I think everyone
6 that commented the first time commented the second
7 time with basically the exact same comment. The
8 difference being that the second application was
9 addressing an issue that was not addressed in the
10 first application, so.

11 Salisbury: So let's go back to Ms. Bergoin's(ph) comment.
12 That's Tony Silva. Let's try to (inaudible -
13 01:34:45).

14 Wencek: Yeah, she, she was, she was, oh, that was, that was
15 after the second application.

16 Salisbury: Okay. So second application--

17 Wencek: When, when we, when we--

18 Salisbury: The time is November--

19 Wencek: When we issued the approval, I can't blame her. She
20 was beside herself and that's when that conversation

1 happened so that whatever the timeframe is you've got
2 it there. Um, after the second application was
3 administratively determined to be an approval, within
4 three days I'll say, she called me and we had that
5 conversation. Had I known it was Tony Silva who was a
6 connected politician. Connected politician, whatever
7 the hell that means. Um, I don't recall 'cause it
8 didn't matter in my mind. I have representatives
9 calling me. Not only senators call me,
10 representatives call me often enough and to me they're
11 just another person. If I'm not treating you well
12 enough talk to, talk to the director's office but
13 normally they're pretty civil with me.

14 Salisbury: Okay. And then one other part of this email talks
15 about it may be Eric Beck is saying, um, well to you
16 and Terry Gray, "Maybe best if we find out from the
17 town planner if he's satisfied with the applicant's
18 response."

19 Wencek: He was certainly concerned because when the town says,
20 "This ought to be denied." That's a big deal. I mean,
21 residents, they have passions, they don't wanna see
22 change. They're accustomed to having that in their
23 backyard. I can understand 100 percent why they get



1 uptight. But when the town says this should be
2 denied, that sets a little bit more weighty.

3 Salisbury: Sure. But he talks about whether the town planner
4 is satisfied with the applicant's response. What's,
5 what response is your--

6 Wencek: Applicant's response. What day was that? Because all
7 I can think of is that--

8 Salisbury: This is May 7th, of 2020, so we're still on the
9 first application.

10 Wencek: The applicant's response. Maybe that they're gonna
11 submit a new application, I'm not sure. But in, in
12 the time that came before the second application, so
13 it couldn't have been the response meaning what they
14 submitted but we were discussing options. I'm not
15 quite sure exactly what that would mean.

16 Salisbury: Okay. Um, so I don't know up until this point, May
17 7th of 2020, do you remember direct contact with the
18 applicant?

19 Wencek: I never spoke to Joan Moony.

1 Salisbury: Okay. How about Tony Silva?

2 Wencek: I can't recall if I did or not.

3 Salisbury: Okay.

4 Wencek: Um, if it, you know, I, I, if there was something that
5 shook my tree, I kind of remember that, but--

6 Salisbury: Okay.

7 Wencek: I may have, I may not. I just don't know.

8 Salisbury: And how about, uh, the town planner? Because I
9 think we were--

10 Wencek: We did speak.

11 Salisbury: Back in November of '19 that you spoke of.

12 Wencek: Um, boy, I'd be surprised if we didn't speak after
13 that initial decision but I cannot remember whether or
14 not we did. But I, I gotta think we did because I
15 kind of work with these towns and I kind of know John
16 Stevens. You know, I mean, I've worked with him on
17 several projects, so I'd be surprised if we didn't

1 have a discussion about what's going on 'cause he was
2 showing a significant amount of concern, obviously,
3 um, on behalf of the residences right around that,
4 that lot.

5 Salisbury: Okay. This concept of, uh, withdraw and resubmit.
6 Is that unusual?

7 Wencek: This is only the second time it's happened in 41
8 years.

9 Salisbury: Okay.

10 Wencek: I, I, is it unusual? It's a process that as long as
11 it's within guidelines or regulation, I couldn't care
12 less it's unusual. I would say it isn't just because
13 it's, it's a potential avenue and you've gotta look at
14 all your avenues.

15 Salisbury: Okay. Um, let's see. All right. So then, well, do
16 you remember how it plays out then in terms of
17 withdrawing?

18 Wencek: He would, he withdraws the application. I'm pretty
19 sure there was a letter. It better have been a
20 letter. Um, 'cause I want that in writing from

1 somebody. Um, so we closed the application I would
2 imagine. And I would think that there was a letter.

3 Salisbury: But in terms of the applicant deciding, uh, to
4 withdraw, was there outreach to him that you remember
5 at all?

6 Wencek: There, there had to be a discussion with, I'm pretty
7 sure Ron Gaggen(ph) would've been involved. Um, not
8 necessarily, but I think he was involved, would've
9 been involved.

10 Salisbury: You're trying say it wasn't you.

11 Wencek: It would've been with me. Um, I don't recall.

12 Salisbury: Okay.

13 Wencek: I mean--

14 Salisbury: Well, I guess help us understand this 'cause you,
15 you at least now know who Tony Silva is, the gentleman
16 that came in with the check.

17 Wencek: Yep.

1 Salisbury: So is it, you, you don't remember whether you had a
2 conversation with him up to this point or?

3 Wencek: It's no. I can't, I can't tell you.

4 Salisbury: All right.

5 Wencek: He was, he was nobody to me. Just like-- Well, I
6 shouldn't say that 'cause it's disrespectful. He's
7 Tony Silva, whoever the hell that is. he's just
8 another guy, just another guy trying to develop a lot.
9 I deal with hundreds of them a week. He's just
10 another guy. So did I have a discussion with him at
11 that point? I don't know.

12 Salisbury: Well, I guess--

13 Wencek: I have so many discussions with people every day.

14 Salisbury: I guess I'm more asking, did you have a subsequent
15 conversation with the guy that came in with the check
16 and the letter, a person could say that.

17 Wencek: In person, not to my recollection, no.

18 Salisbury: Okay. Not by Zoom. Like you don't remember.

1 Wencek: I mean, there might have been a meeting between the
2 time he submitted the check for the, to, to initiate
3 the hearing. I've gotta think there was a meeting
4 that he was involved in that I was at. I really think
5 there was one.

6 Salisbury: Okay.

7 Wencek: I can't recall it specifically, but hopefully there's
8 meeting notes or something you've got that memorialize
9 that. If not, it was all done, all done by phone, and
10 I wasn't overly involved in it.

11 Salisbury: Okay. Uh, so we have this email then, uh, May 14th.
12 So, like a week later from the moment we were just
13 looking at Eric Beck emails, you and Terry Gray.
14 Terry has discussed, it would be great if you could
15 communicate with the applicant.

16 Wencek: Okay.

17 Salisbury: If they have addressed the drainages with the town.
18 We can see a reason why a significant comment would
19 arise in a new round of PM public notice.

20 Wencek: Okay.

1 Salisbury: So does that-

2 Wencek: They didn't want the guy to submit. Me too, I didn't
3 want the guy-- The program didn't want the guy to
4 submit another application and have a stonewall. Uh,
5 in other words--

6 Salisbury: Okay.

7 Wencek: Say, "Hey, that's a substantive comment, this flooding
8 issue." So, he, Terry was making sure that if another
9 application came in that, are they gonna be able to
10 address this issue or are we leading them along only
11 to smash them again and say, "Yeah, you gotta go to a
12 hearing.

13 Salisbury: Okay. So, going--

14 Wencek: Which, which would be, you know, just bad practice,
15 bad business.

16 Salisbury: So going back to what we talked about a little bit
17 earlier, the substantive, uh, objection, and the
18 public comments being forwarded by associate director
19 to the applicant.

1 Wencek: Mm-hmm (affirmative).

2 Salisbury: So, it's like, it's up here in your agency and now
3 it's still up there--

4 Wencek: Yeah.

5 Salisbury: So to speak, right?

6 Wencek: Incidentally, right?

7 Salisbury: Okay. So it's Mr. Gray is communicating, is being
8 asked to communicate with the applicant about
9 withdrawing.

10 Wencek: That was, we discussed that at, at my level and that I
11 believe I didn't have any conversation with Terry.
12 Eric must have brought that up to, to the director's
13 office.

14 Salisbury: Okay.

15 Wencek: I imagine.

16 Salisbury: Okay. What do you think of that? Like that it's,
17 uh, the associate director communicating with the

1 applicant.

2 Wencek: It happens, it happens. You know, it's gotta be some
3 kind of player. It's gotta be someone who's got some
4 kind of--

5 Salisbury: Clout.

6 Wencek: Clout is a great word. Thank you. You know,
7 otherwise he wouldn't be following up and following up
8 and following up. So, you know, you don't have to be
9 a, a rocket scientist to know we're dealing with
10 someone who's got some clout, no doubt about it.

11 Salisbury: Okay.

12 Wencek: Otherwise this wouldn't persist at that level.

13 Salisbury: That makes sense. Uh, the next part of the email,
14 Marty agreed we could process in a straight line since
15 we know the site review should be short and sweet.

16 Wencek: There you go.

17 Salisbury: Um, so lemme stop there.

1 Wencek: Yep.

2 Salisbury: Did you agree to that?

3 Wencek: I agreed that we shouldn't-- After the notice period,
4 we shouldn't make this guy wait the six to 10 weeks
5 it's gonna take after that public notice is over.
6 We're gonna get-- I knew we'd get comments again.
7 They were almost verbatim, some of them. Um, and you
8 know, when we got the applications time, it went
9 through engineering because it was an engineering
10 component associated with the obligation. So,
11 basically we said, we already know this site inside
12 and out as long as the engineering aspects of this,
13 and it's a single family house lot. It's like a piece
14 of cake. Um, as long as the engineering aspects are
15 addressed, get it outta here because really in my
16 mind, this one's easy.

17 Salisbury: Okay. So I, I guess we should talk about, it sounds
18 like doesn't happen a lot, but with the withdrawal
19 resubmittal, that's-- Is that technically a new
20 application?

21 Wencek: Yes.

1 Salisbury: Okay.

2 Wencek: Absolutely.

3 Salisbury: So that has to follow--

4 Wencek: So it comes in through the back.

5 Salisbury: Same procedure.

6 Wencek: Absolutely.

7 Salisbury: You're gonna need a biologist to review it. Same
8 case we we're talking about two hours ago.

9 Wencek: It's instant replay, instant replay.

10 Salisbury: Okay. So all that has to happen--

11 Wencek: The only difference was now Dan's retired.

12 Salisbury: Okay.

13 Wencek: When I get this application, who am I gonna give this
14 to? Well, Jane's one of my senior people, and what's
15 her list look like?

1 Salisbury: Okay.

2 Wencek: Jane gets it.

3 Salisbury: So not to, I guess--

4 Wencek: And that, when that, that was my decision because I
5 was, this was now I'm involved. It's Nancy normally.
6 Nancy, my principal is usually assigning applications,
7 but this one, it came in, it was a higher profile
8 application and it was I'd been dealing with this a
9 lot. So, you know, Marty, what should we do with
10 this? And I was like, "Give it to Jane." You know, I
11 looked at the list and said, "There's, you know, I
12 gotta give it to one of my senior people."

13 Salisbury: Someone who's experienced, right?

14 Wencek: Yeah, and just here we go.

15 Salisbury: All right.

16 Moreira: You just, you just used a term higher profile
17 application. Why was it higher profile to you?

18 Wencek: It's coming back in after a, after an almost, after

1 substantive comment, I was gonna say almost a, a
2 public hearing. Um, and that it, that in my world
3 makes it an incredibly unusual file. And, and, and
4 it's like, I am so familiar with that file because
5 it's something that almost happened that hasn't
6 happened in 30 years so that's high profile. That's,
7 that's the reference I'm using. It was a file that
8 was unusual. In my world, it was pretty simple.

9 Moreira: Right.

10 Wencek: But it was an unusual file--

11 Moreira: But it was high profile because--

12 Wencek: And, and the director's office. Absolutely.

13 Salisbury: As to that, you, you explained generally, you know,
14 we don't expect you to have, uh, verbatim memory of
15 meetings with Eric about this, but you met with him--

16 Wencek: Generally, yeah.

17 Salisbury: Do you remember it coming up? Oh, Terry Gray is in
18 touch with the applicant?

1 Wencek: Incidentally.

2 Salisbury: Okay.

3 Wencek: I don't know.

4 Salisbury: Uh, I mean, do you remember anything more about the
5 conversations you had with Eric Beck about that?

6 Wencek: Uh, pretty much we've discussed it. We talked about
7 the options. What, how did the options affect DEM?
8 In other words, if he withdraws and he reapplies what
9 happens in our world. And that was from my
10 perspective the best case scenario (inaudible -
11 1:46:22) public hearing. Um, but we discussed what
12 the options were and, and what the potential outcomes
13 would be. I'm sure we checked with legal, um, to find
14 out, does this make sense if, if this happens? Does
15 this makes sense if this happens? What are our
16 options? Um, those were the discussions I definitely
17 recall having.

18 Salisbury: Okay.

19 Wencek: And that's, you know, the technical aspects or, or the
20 administrative aspects of this sentimental lifetime

1 scenario.

2 Salisbury: Okay. Uh, another email, uh, May 21st. So, I think
3 a week later from the, the email we were just talking
4 about, um, the bottom of the email chain is from Ms.
5 Ofshmid(ph). I don't want to-- Uh, I, I don't really
6 want to focus on that, but the gist of it is she's
7 saying there's a status conference on the, uh, appeal
8 of the application determination. Is that (inaudible
9 - 01:47:33).

10 Wencek: That, that, yeah, they, he, it was substantive
11 comment. So it's gonna go to a hearing, but he needs
12 to put a, a placeholder with AAD, Administrative
13 Adjudication Division, um, that he can test the, that
14 he basically wants an approval and his DEM following
15 their rules. So that's what that's referencing to
16 that, that 'cause that's part of the process, and
17 again, I'm not-- We've only had so many hearings, so I
18 really don't know the hearing process intimately--

19 Salisbury: Okay.

20 Wencek: But if we make a decision that the applicant is not
21 happy with or, or finds egregious, they have the

1 opportunity to put their rationale as to why this
2 application should be approved in front of a hearing
3 officer.

4 Salisbury: Okay. One of the inquiries has anybody been in
5 touch with the applicant and then we get a response up
6 here from Eric says, "We'll check with Terry and get
7 back to you."

8 Wencek: Okay.

9 Salisbury: So that fair to say that just it confirms that Terry
10 Gray is the contact person, the DEM for the applicant?

11 Wencek: Well, wasn't the applicant, was it?

12 Salisbury: I'm asking you.

13 Wencek: The applicant was Joan Mooney. I don't know if he
14 was, you know, communicating with Joan Mooney, but my
15 guess is, my educated guess is no, he was
16 communicating with, uh, Tony Silva.

17 Salisbury: Okay. And is, uh, at this point, you, you're not
18 sure whether it's the gentleman that came in and
19 handed the check or the woman whose name is on the

1 application. Is that what you mean?

2 Wencek: I'm saying I never communicated with Joan Mooney. I'm
3 sure Terry Gray wasn't communicating with Joan Mooney.

4 Salisbury: Okay.

5 Wencek: Um, I'm, I'm not 100 percent sure 'cause I wasn't
6 there, but I'm pretty confident that he was probably
7 dealing with Tony Silva. Salisbury: Okay.

8 Wencek: I mean, that was the guy who was like pushing this
9 thing to go forward. You know, he was the one who
10 sorted up with a \$2,500 check making it go to the
11 hearing.

12 Salisbury: Okay.

13 Moreira: I'm curious, like certain words that you use, pushing.

14 Wencek: Mm-hmm (affirmative).

15 Moreira: Now, your, your first contact with him was on the 30th
16 day

17 Of the month.

1 Wencek: 03:45.

2 Moreira: Right. 03:45, and you were off at four o'clock.

3 Wencek: Wow.

4 Moreira: So, you didn't have any contact prior to that with
5 him?

6 Wencek: No.

7 Moreira: All right. So, after how much contact you had if he
8 was pushing this application to get, to get approved?

9 Wencek: I, there was some, there was a, a meeting with Ron to
10 go over what the options were with him. That, that's
11 in my head somehow. But other than that, I did not
12 deal with that guy.

13 Moreira: Was-- All right. So, he was at that meeting. Tony
14 Silva was at that meeting.

15 Wencek: I think we had a Zoom meeting and I'm--

16 Moreira: Okay.

17 Wencek: Or he was on the telephone. I, I don't recall.

1 Moreira: Would you--

2 Wencek: I hope it's in the pie.

3 Moreira: Right. Would you have recorded that in a log or
4 something?

5 Wencek: In all likelihood if I'm in a meeting 99 percent of
6 the time I got it checked off somewhere in my-- I got
7 a diary book.

8 Moreira: Right. Was that prior to him filing the second
9 application?

10 Wencek: Oh, yeah.

11 Moreira: Okay.

12 Wencek: Yeah, because we would've had to have talked to the
13 applicant, you know, for them to go one way or the
14 other and they're gonna be looking to the department
15 like what are my options? If these are the options,
16 what are the potential outcomes?

17 Moreira: That's, that's true. You have to leave, but it's on
18 speaker phone.

1 Wencek: That's cool. That's cool. So, you know, I'm, I'm--

2 Salisbury: So, you, you discussed those three options that were
3 in

4 the email.

5 Wencek: Yep.

6 Salisbury: Okay.

7 Moreira: With Mr. Silva in some form, in a meeting?

8 Wencek: Well, you know, we had a meeting, hopefully there's
9 meeting notes 'cause it's just another meeting to me.

10 Salisbury: Okay.

11 Wencek: Hang on. Is that recording? I'll make sure it's
12 working. Gotta keep Jerry in the loop.

13 Moreira: You there? I got, I got a signal. Hello?

14 Wencek: Oh, man.

15 Moreira: Maybe he doesn't

1 Wencek: Well you are recording it, so.

2 Moreira: Yeah. Yeah, we can redo it after.

3 Wencek: Right.

4 Salisbury: Um, very similar to the last thing I was showing
5 you. We're getting to May 21st. Eric Beck emails, uh,
6 Terry Gray asking him-- Well, telling him, "I sent an
7 email recently on this case. Would you be able to
8 call the applicant? Um--

9 Moreira: You hear me? Okay.

10 Salisbury: If we had to, I could try and run the public hearing
11 on Zoom, but it'll, it'll take a significant amount of
12 prep time. Um, call me on myself if you wanna
13 discuss. And then, and then Terry Gray responds,
14 "I'll text him today."

15

16 Wencek: Okay.

17 Salisbury: You're not on this one, but--



1 Wencek: Okay. That's good 'cause I didn't remember it.

2 Salisbury: Okay. Um, do you remember though speaking with Eric
3 about all right, Terry's gonna have to get in touch
4 with, uh, the applicant or something to that effect?

5 Wencek: Not specifically. That's totally within the realm of
6 possibility obviously now that you're showing that
7 email, but--

8 Salisbury: Okay.

9 Wencek: Um, I don't recall specifically, no.

10 Salisbury: I just wanna make sure I'm, I'm accurate here.

11 Wencek: Yep.

12 Salisbury: You said the meeting notes. If you take notes when
13 you're in meetings.

14 Wencek: Usually, yeah.

15 Salisbury: Okay. Those go with the, with the official file at
16 DEM or is this a separate file that you keep?

17 Wencek: It would be a separate file. There's a, there's a

1 non-public you know, my meetings are like--

2 Salisbury: Okay. All right. Is it possible that you could go
3 back at, you know, go back to work tomorrow to look
4 for that to see if you have notes on that meeting?

5 Wencek: I mean it's either in, in our non-public file or it's
6 not. If it's there--

7 Salisbury: Right.

8 Wencek: Have a go, my world.

9 Salisbury: Okay. Next one. Uh, June 3rd. So moving along in
10 time, fortunately for us all, maybe. Uh, we start off
11 at the bottom here. It's actually May 28th, Tim
12 Behan. Do you recognize that? Wencek: He's their
13 engineer.

14 Salisbury: Okay. So the applicant's engineer. Um, he's, he's
15 telling, uh, Eric Beck, we're preparing to submit an
16 application to alter permit application for the above
17 reference site. I was asked to give you a call prior
18 to submitting. That looks like it's then forwarded to
19 you by Eric Beck.

1 Wencek: Okay.

2 Salisbury: And also to Chuck Colbert.

3 Wencek: Okay.

4 Salisbury: Um, and he reminds you, I'll just keep reading to
5 try to get through this. This is the Mooney case
6 being resubmitted with the drainage issues and the
7 engineering corrected. Marty, please let me know when
8 you receive and please remember we agreed to look at
9 it out of sequence. Chuck, please assign to Nick and
10 him to expedite. We'll go back to notice with the new
11 application.

12 Wencek: Mm-hmm (affirmative). Okay.

13 Salisbury: Um, let's see. Him asking you to let him know when
14 you receive it. Is that out the ordinary?

15 Wencek: It happens, but it's not normal. No, we, you know, we
16 get, let's just say four applications a day kind of
17 thing.

18 Salisbury: Mm-hmm (affirmative).

1 Wencek: He, he's not asking me to do, you know, such stuff,
2 but every once in a while he does.

3 Salisbury: Okay.

4 Wencek: Because I think a lot of people communicate directly
5 with him and they say, "I submitted the application
6 last week." And they, you know, they didn't. So he's
7 querying me on occasion and it's, it's not the norm
8 though, no.

9 Salisbury: Okay. And it's, I mean, at, at this point, I mean,
10 well, I'm just gonna read the email, but it's the
11 consultant saying we're preparing to submit a new
12 application and he's following up on that with Marty.
13 Let me know when it comes in.

14 Wencek: Yeah.

15 Salisbury: All right. And then Chuck, please assign to Nick.

16 Wencek: Yeah.

17 Salisbury: So, it hasn't even come in yet, right?

18 Wencek: That's right.

1 Salisbury: Okay.

2 Wencek: That's right.

3 Salisbury: Um--

4 Wencek: Lining up his, lining up his staff to get it through
5 the system.

6 Salisbury: Okay.

7 Wencek: Under the circumstances I don't necessarily disagree.

8 Salisbury: Okay. I mean it's, it's up to him to--

9 Wencek: I mean, if there's a good reason, if there's a good
10 reason and in my world, that's a good reason. I went
11 through one public notice.

12 Salisbury: It's getting jumbled here. Bear with me one second.

13 Wencek: Sounds like George is taking a shower.

14 Salisbury: Gerard?

15 Wencek: Gerard.

1 Salisbury: (Inaudible - 01:57:15) maybe. We were just
2 commenting on the background noise. By the way, if
3 you need, if you'd like to take a break or need to
4 take a break, you can do that too.

5 Wencek: I'll keep cruising.

6 Salisbury: Let's keep going through it.

7 Wencek: Another day.

8 Salisbury: Okay.

9 Wencek: An engagement at eight o'clock tonight.

10 Moreira: We should be done by then.

11 Wencek: Yeah, that's cool. That's cool.

12 Salisbury: Okay. So we're jumping, uh, to September of, of
13 2020. So we're still in the first, uh, application
14 process. Um, so we have at the bottom here, email
15 from Tim Behan to Eric Beck stating I spoke with Tony
16 Silva regarding the Canning Street, Cumberland wetland
17 permit, which has been withdrawn. We're preparing a
18 new application, which will address town comments. Do

1 we file a formal application--

2 Wencek: Oh, yeah.

3 Salisbury: And, and that's forwarded, uh, to you by Eric, all
4 right? So-

5 Wencek: That should have been, that should have, he, they
6 should have known that.

7 Salisbury: Okay.

8 Wencek: But that's Tim.

9 Salisbury: All right. So, by this point, anyway, you, you're
10 forwarded the email, like it's Tony Silva, um, is the
11 person submitting the application.

12 Wencek: On behalf, which is not unusual, on behalf of Joan
13 Moony. Salisbury: Okay.

14 Wencek: Yeah. That's common actually. Not that it's Tony
15 Silva.

16 Salisbury: The, the perspective buyer no, I am not following.
17 Okay. And just in terms of, I know we talked about,

1 is it a little bit, is it Joan Moony? Is it Tony
2 Silva? So then if we look at another September 16th
3 2020 email, it starts off at the bottom. Mr. Silva's
4 emailing Catherine Warren (inaudible - 1:59:54) and
5 CCing Eric Beck. I think this had something to do
6 with that, um, application appeal--

7 Wencek: Okay.

8 Salisbury: Determination. Um--

9 Wencek: Yeah, that's right. Okay. For the first application.

10 Salisbury: Okay.

11 Wencek: To, to keep it alive.

12 Salisbury: And it's about, I think reimbursing him. Um, well,
13 Ms. Dalton responds to Tony Silva, "I did receive
14 your letter and we closed the case. I believe I sent
15 the request to have the money refunded, so let me
16 double check until I'm working today." Um, and that's
17 something that gets forwarded to you by Eric. So,
18 just--

19 Wencek: That's an FYI, yeah.

1 Salisbury: Okay. Um, any Reason you think why he's forwarding
2 it to you?

3 Wencek: Keep me in the loop.

4 Salisbury: Okay. Yeah, just to--

5 Wencek: I'm, I'm guessing, but yeah, that makes sense.

6 Salisbury: Okay.

7 Wencek: So then it looks like he keeps you in the loop
8 further. So the next, uh, email that kind of jumps on
9 top of the last one we're looking at is September 23rd
10 of 2020. So, it's Eric Beck to Anthony Silva with,
11 uh, Martin Wencek CC'd. So, Beck, is, uh, saying,
12 "Anthony, I looked at the letter that was attached
13 from Scott Parrington and read the response from AAD.
14 I'm happy to hear that you have cleared that up and
15 you got your money reimbursed." Um, he continues to
16 clear this up. "Most expeditiously on our empty
17 submittal letter signed by the original applicant
18 address to Martin Wencek, supervising biologist in the
19 FWW program, specifically withdrawing to submit to Mr.
20 Barrington or legal counsel, please include
21 verification. She's represented by her in this

1 matter." All right. So, he's keeping you in the loop-

2 -

3 Wencek: Yeah.

4 Salisbury: And now making you even more of a point person--

5 Wencek: Yeah.

6 Salisbury: Fair to say. Okay.

7 Wencek: Oh, yeah, yeah. I gotta know what's going on if I'm
8 gonna be, you know, processing applications.

9 Salisbury: Sure. So by this point, anyway, uh, you're aware
10 that Tony Silva's the driving force, I don't know, for
11 lack of-- The person pursuing the application.

12 Wencek: Yeah, definitely the project proponent at that point.

13 Salisbury: Okay.

14 Wencek: I mean, I think when he dropped the check off, he said
15 that he wanted to buy the property. Cause I was like,
16 who the heck are you? You know, are you Moony's son?
17 Who are you?

1 Salisbury: He'd probably appreciate that, um.

2 Wencek: He didn't look that old, not that old. She's 87, I
3 think.

4 Salisbury: Okay. All right, then we can (inaudible -
5 02:03:07). Okay.

6 I left that. So back to the same email.

7 Wencek: Mm-hmm (affirmative).

8 Salisbury: Oh, just for that. So at the bottom here, this is
9 the one again from September 23rd, 2020, the PS from
10 Eric Beck, um, to Anthony Silva where you're CC'd,
11 "I've been in contact with Tim Behan and we've
12 confirmed the application should be submitted as a
13 formal application. I spoke to Marty Wencek, and as
14 agreed we would be able to process this application
15 relatively quickly given there's no need to revisit
16 the site for our biological
17 review.

18 Wencek: Factual. Yeah, that's good.

1 Salisbury: All right. Could you explain the, the last part? I
2 think you have a little bit.

3 Wencek: Yeah. We, we, we inspect every application that comes
4 in. We go out to the site and take a look at it. On
5 this one, um, we'd already done a formal evaluation,
6 which is the highest level that we give an application
7 as far as site work goes. So since we were getting,
8 um, a revised application for the exact same site for
9 virtually the exact same proposal, we don't have to go
10 out there and start to invent the wheel. I don't have
11 to have a biologist try to figure out what's
12 happening. What are the impacts gonna be? We've done
13 that already.

14 Salisbury: And that was the Dan Cow report that we looked at
15 earlier?

16 Wencek: Yep.

17 Salisbury: Okay. And would you agree in terms of communication
18 with the proponent of the application? It seems to be
19 Eric Beck, at least by the, the emails were this email
20 and other emails.

21 Wencek: The question is?

1 Salisbury: Um, in terms of the person who's communicating with
2 the proponent of the application, does it appear to be
3 it's Eric Beck at this point?

4 Wencek: At that point.

5 Salisbury: Okay. And then prior to that, does it appear, was
6 Terry Gray?

7 Wencek: I would agree with that.

8 Salisbury: Okay. And you're not recalling them-- Was you up to
9 this point as far as like direct contact with him?

10 Wencek: No.

11 Salisbury: Okay. Just trying to sort them.

12 Wencek: I get it, man. I get it.

13 Salisbury: Um, all right. Um, email looks like the same day if
14 I have it right. That we come out before, September
15 23rd, 2020 at 3:22 PM. This one, um, looks like Mr.
16 Beck's response to Tim Behan's email.

17 Wencek: What did Tim send him?

1 Salisbury: Uh, so Tim at the bottom, uh, I think we had looked
2 at this one and then in like a different email chain.

3 Wencek: Oh, okay.

4 Salisbury: He's preparing to file the new application. So,
5 he's still in September and no new application file.

6 Wencek: Yeah. Okay.

7 Salisbury: So Mr. Eric Beck, thanks Tim for reaching out. He
8 did, he lets him know he did reply, um, to his client,
9 basically Mr. Silva, that the withdrawal request was
10 for the hearing.

11 Wencek: Okay.

12 Salisbury: And that we need a, we need a request to Marty to
13 terminate the application.

14 Wencek: Okay.

15 Salisbury: The application was gonna be a formal application.
16 Someone hasn't changed so drastic to avoid filling a
17 wetland when submitting it, uh, the new application,
18 please also include the letter withdrawing the 19-01-

1 07 application, Eric, um, is this, I'll just put it
2 out there, a little bit more, uh, typical, more
3 typical communication with DEM and a consultant as
4 opposed to directly with the, the applicant or the
5 proponent of the application?

6 Wencek: I deal with Tim Behan quite a bit.

7 Salisbury: Okay.

8 Wencek: Um, but it's not overly unusual. It doesn't happen
9 all the time, but it certainly isn't overly unusual
10 for Eric to be involved. One of those higher profile
11 cases, you know? So it isn't unusual for Eric to be
12 involved with Tim being in this case, under the
13 circumstances, you know, the file being what it was.
14 Um, Tim's gonna be responsible for resubmitting and
15 Eric is pretty much directing him. This is what's
16 happening and here's how it's gonna go down.

17 Salisbury: Okay.

18 Wencek: And that's, you know, in this instance, I don't think
19 that that's unusual.

20 Salisbury: Okay. Yeah. Maybe to ask you a different way, in

1 the non-high profile case, would you have more
2 communication with the Tim Behans of the world or the
3 applicants?

4 Wencek: Tim Behans.

5 Salisbury: Okay.

6 Wencek: Yeah. Applicants kind of like, let it, let their
7 consultants deal with it. That's what they're paying
8 them for is what they always tell me.

9 Salisbury: Okay.

10 Wencek: So, yeah, but I do deal with applicants, you know, a
11 high percentage of the time, just not as often.

12 Salisbury: All right. And not to have you speak for Eric Beck,
13 but I guess based on being part of email traffic and
14 applications, would, would you think Mr. Beck in non-
15 high profile applications communicates more with Tim
16 Behans of the world or applicants?

17 Wencek: He's probably in the same boat I am. Probably the
18 more Tim Behans of the world.

1 Salisbury: Would someone in Mr. Beck's positions speak with
2 applicants? Would they get-

3 Wencek: Absolutely.

4 Salisbury: Okay.

5 Wencek: Yep.

6 Salisbury: How about above Mr. Beck? Does it seem unusual that
7 an applicant would make it further up the chain of
8 command and DEM?

9 Wencek: I mean, to put it this way, you know, if the guy's got
10 weight or clout, you know, I think Eric's got a
11 responsibility to be responsive to the director's
12 office and if the director's office has show all this
13 interest to this file, you know, to facilitate it.
14 Yeah, Eric's gonna get involved in it. He's going to
15 make sure that it's being facilitated as we discussed.

16 Salisbury: Okay. Um, I'll just, um, tell you, after reviewing
17 all these documents, November 4th of 20-- The new
18 application is filed. So there's discussions about
19 it's coming and Eric's lining people up. So it comes
20 in November 4th of, of, uh, 2020. And then, you know,

1 without referring to anything, do you remember
2 specifics about how it plays out from there? I think
3 you said you assigned it to Jane.

4 Wencek: We had it pretty much ready to hit the system.

5 Salisbury: Okay.

6 Wencek: Um, so it goes into Jane's queue. I, I'd have to look
7 at-- Oh, God, I'd have to look at her old list of
8 applications she had at the time and figure out if we
9 tried to expedite it. But there was really, I think
10 it might have been just through the queue, maybe a
11 little faster, but it's 'cause I, I already knew where
12 I was going with this if engineering was addressed
13 properly.

14 Salisbury: Okay.

15 Wencek: 'Cause in my world I'm a biologist by training. I
16 mean, biological aspects to this were straightforward.
17 Um, there's gonna be obviously disturbance and loss of
18 habitat, but was it gonna be significant to the
19 functions or values of that wetland? No. So, you
20 know, I'm just like, I don't remember whether or not
21 we tried to, you know, get it moving any faster or



1 not, but--

2 Salisbury: Okay.

3 Wencek: We certainly did know, at least I knew that this was
4 something that's at this point, a very straightforward
5 application process provided they got that engineering
6 right.

7 Salisbury: We'll keep going through some of the emails--

8 Wencek: Yeah, please.

9 Salisbury: Probably no surprise to you, but do you remember,
10 um, the requests coming that you really gotta move on
11 this so to speak?

12 Wencek: There might have been a few where are we at with this?
13 I would anticipate that because I do get that when,
14 you know, someone's got some kind of deadline or
15 someone's got a closing or something's happening and
16 we try to facilitate people to keep the wheels of
17 business on the cart.

18 Salisbury: Sure. For sure. All right, December 1st of 2020.
19 So we're just under a month after the second

1 application comes in, uh, Eric Beck to you, "Marty,
2 can you please locate this application? It's the 45
3 Canyon Street Cumberland application that the
4 applicant withdrew due to appeal to avoid hearing work
5 for engineering with town and resubmitting. The
6 biology has not changed so it does not need a
7 biological review. However, the engineering has to
8 satisfy the town. Nick did the original review." Uh,
9 so lemme stop there.

10 Wencek: Yeah.

11 Salisbury: Um, do you agree with the biology has not changed so
12 it does not need a biological review?

13 Wencek: Because they added a component to the proposal it
14 would need to be looked at by a biologist. Unless it
15 was identical before, no, we've done our evaluation,
16 but there was a component that was added to this
17 project. And as a result of that change, new way,
18 man. I'm having a biologist look at that and make
19 sure that added component isn't gonna have an impact
20 on the resource.

21 Salisbury: Okay. So then the, the last part of that same



1 sentence, however, the engineering has to satisfy the
2 town. Is that something--

3 Wencek: Engineering has to satisfy the town. Again, the
4 engineering has to satisfy the regulations.

5 Salisbury: Okay.

6 Wencek: If the town is a collateral beneficiary of that more
7 power to 'em.

8 Salisbury: Okay.

9 Wencek: If not--

10 Salisbury: Did you recognize that as an issue with the
11 application though? Like that, not really--

12 Wencek: I mean, not really. It's not, I mean, it's like, I
13 wouldn't have said anything that way necessarily if,
14 if I were writing that email, but it didn't, there's
15 nothing like I kind of get where he was coming from.

16 Salisbury: Okay. And then he, he continues on, we promised the
17 applicant that if they withdrew saving us the effort
18 of a public hearing, we would pick it up right away

1 and not require it to go through the queue again.

2 Wencek: We promised, I don't know why-- If it's what he did,
3 that's on him.

4 Salisbury: Okay. You didn't make, so--

5 Wencek: I said, we could facilitate it as best we can. We'll
6 get it through. I know where we're going with this.
7 If they've addressed the engineering, this shouldn't
8 get hung up again. It's already gone out to a public
9 notice. You know, I, I was saying, yeah, we should
10 move this along and get it through.

11 Salisbury: Okay.

12 Wencek: Because we know this project. It isn't like an
13 application just came in and we don't know what's
14 going on. Like any new application and yes, this is a
15 new application, but this one way different because,
16 because we know all the aspects save engineering.

17 Salisbury: Okay.

18 Wencek: So again, in my world, the biology, as long as that
19 engineering didn't result in the biological change and

1 for a little tiny single family house slot is almost
2 no way it could have. I'm, I'm good with this. Let's
3 just move it through.

4 Salisbury: So just to be clear though, the, the phrase we
5 promise the applicant, that's not something that Marty
6 Wencek (inaudible - 02:14:11)

7 Wencek: I never promise anything to anybody until, until I've
8 signed that letter and we say, "Yeah, you got it."

9 Salisbury: Okay.

10 Wencek: Until I signed a final administrative decision, there
11 are no promises.

12 Salisbury: Okay. So then next email, it's part of the same.
13 It's a response to Mr. Beck's email that we were just
14 reading. Um, so we have the, the request basically
15 from Eric Beck down here. And then you respond later
16 on December 1st at 10, 10:22 AM. "Hello, Eric. Jane
17 and I had a discussion about this file last week and
18 she'll be getting it reviewed for any comments or
19 letter shortly." So, let me just, let me just stop you
20 there. Do you remember doing that? Having the
21 discussion with Jane?

1 Wencek: No, I couldn't possibly.

2 Salisbury: Okay. But that's, that's--

3 Wencek: But that's, that's a routine. We discuss as, as an
4 application's going through, regardless whether it's
5 high profile, low profile, once it's in the system and
6 we are chewing on that application and trying to
7 figure it out, we'll have discussions about any
8 particular application at any time during in the
9 process.

10 Salisbury: Okay. So, I mean, he, he had stated in his, the,
11 the biology has not changed, don't need biological
12 review.

13 Wencek: Well,

14 Salisbury: Jane's gotta do--

15 Wencek: She's doing an evaluation.

16 Salisbury: Okay.

17 Wencek: That, that's my call. And if he wants to, you know,
18 tell me that I shouldn't get one done, we've got some

1 problems.

2 Salisbury: Okay.

3 Wencek: But I mean, that's what he's implying or saying there.

4 Salisbury: Yeah.

5 Wencek: But no, no, no, no, no, no. There was a change that
6 went through that application. I gotta have a
7 biologist look at that. Salisbury: Okay.

8 Wencek: You know, after I get the input from the engineer, I
9 gotta have an engineer, Nick Pisani(ph) in this case,
10 give his assessments, hand that to Jane, she's the
11 project manager, and now Jane will chew on it and then
12 meet with me if need be. In case something got
13 raised, or there could be an issue. But again, on
14 this kind of a lot, this kind of a proposal, I
15 would've been really shocked if they came up with
16 something that was gonna be--

17 Salisbury: Okay.

18 Wencek: Biological, uh, concern as a result of, of the
19 engineering.

1 Salisbury: But is part of your response like you were just
2 telling us everybody has their job or their role in
3 this. So you and Jane talked about it. She's gonna
4 get her comments out and then you start talking about
5 engineering and, well, is that right so far?

6 Wencek: Yeah, yeah.

7 Salisbury: Okay. Yep. And then--

8 Wencek: We do this all the time.

9 Salisbury: I'll update you as this moves forward and we'll
10 check with Nick this week to get a sense of time.

11 Wencek: Okay.

12 Salisbury: All right? Uh, and then, um, Eric Beck then thanks
13 you basically at the top of the email. Much
14 appreciate it.

15 Wencek: He's very cordial sometimes.

16 Salisbury: All right. So it looks like the next email December
17 7th. Uh, well it starts off with you on December 4th.
18 There's three days later after that email chain you

1 let Eric know you sent out a technical deficiency on
2 the project.

3 Wencek: Wow. Okay.

4 Salisbury: Why do you say wow?

5 Wencek: I've been through the ringer once. You don't have it
6 right? Uh, you know, that's my world, man. Just keep
7 playing ping pong with these people, but I'm a good
8 ping pong player.

9 Salisbury: Um, is this something you typically would be getting
10 back to Eric Beck about?

11 Wencek: He, you know, he's showing the whole profile and so I
12 gotta keep him up to date. If we, you know, he's,
13 he's looking at this, we're all looking at this.
14 Let's get it through the system. It's gotta go
15 through the, through the paces. You know, it is what
16 it is, but, uh, you know, if there's a bump in a road,
17 I gotta let 'em know. So, yeah, we had a bump in the
18 road.

19 Salisbury: I think it's a time profile.

1 Wencek: Everyone's interested in this file. You know, no
2 one's telling me to do anything crazy, but there
3 certainly is interest, but that's not-

4 Moreira: There's a lot of attention.

5 Wencek: Yeah, but that's not out of this world. I mean, it
6 happens with certain files. You know, there's certain
7 files that the director's office is interested about,
8 you know, and they're usually big projects, but every
9 once in a while there's smaller projects, but they,
10 they show interest and you just keep everyone in the
11 loop.

12 Moreira: So, what do you mean by big projects?

13 Wencek: Amazon, that's a big project. That, that got, you
14 know, get this through. The governor was like, "Get
15 this through if any way possible." So, okay, we made
16 arrangements to get it through as soon as we could,
17 which kind of meant dropping things in, in midstream
18 and jumping on that.

19 Salisbury: How did this compare to let's say the Amazon
20 project?

1 Wencek: I can't even see this project. You can't compare
2 them. I mean, that's, that's the alpha and omega
3 because Amazon is the biggest project I think our
4 program has ever had, and this is one of the smallest
5 house slots I've ever seen. So you're almost talking
6 to alpha and omega here in a true sense.

7 Salisbury: I like that analogy.

8 Wencek: I write songs.

9 Salisbury: Let's see. Okay. So we're in December of '20 on
10 the second application and you let Eric Beck know
11 about the technical deficiencies.

12 Wencek: I don't even know what it was, but oh my gosh, yeah.
13 Must have been engineering. It had to be engineering.

14 Salisbury: Yeah.

15 Wencek: But my gosh, on a single family house slot

16 Salisbury: What do you mean by that?

17 Wencek: Oh my gosh. It's like this, there's no engineering
18 that's like single family house slot. Nothing's

1 getting altered that could possibly have an impact on
2 anything, so it's pretty straightforward. There's,
3 you know, you figure out the analysis of the
4 watershed. You figure out what's going through the
5 property, where it's coming from, how fast is it going
6 to pitch? It's just basic mathematics. How do you
7 mess that up? Anyway, I, (inaudible - 02:19:51)--

8 Salisbury: So, if I'm, if I'm, if I'm following you, the first
9 application, for lack of a better term, they messed
10 that up, the engineering--

11 Wencek: They (inaudible - 02:20:03). They didn't even touch
12 it.

13 Salisbury: So now we have the second application. Everybody's
14 warned it's coming. Not to characterize things too
15 much. So now you get it. Tell them Erica it's, uh,
16 there's some technical deficiencies. So, I'm gonna
17 hand you three pages, uh, one by one. So the first
18 one's a letter, December 4th, 2020, addressed to Joan
19 Moony from you. Um, maybe you could just describe--

20 Wencek: This is the cover letter when, when, when we are
21 sending technical comments back to the applicant when



1 they've submitted an application, um, that's the cover
2 letter? This is basically we've got some comments.
3 Um, I don't know what this one says right off the bat,
4 but we normally verbalize, uh, what the issues are and
5 here's some specific issues that we need to get
6 addressed.

7 Salisbury: Okay. Um, we'll come back to the letter.

8 Wencek: Okay.

9 Salisbury: And so you have, um, Jane Kelly's--

10 Wencek: Jane, yes.

11 Salisbury: Application inspection report.

12 Wencek: Okay

13 Salisbury: That is dated 12/01 and 12/04. And she kind of fair
14 to say she lays out a little bit of the, the history
15 and her review comments here.

16 Wencek: Okay.

17 Salisbury: Um, number three, the currently proposed project

1 increases alterations within the freshwater wetlands
2 or were those previously proposed?

3 Wencek: They added some kind of grading to accommodate surface
4 water flow that was going through the property. Yeah.

5 Salisbury: Okay. And then number four, additional information
6 is required by the reviewing engineer.

7 Wencek: Yep.

8 Salisbury: That's a reference to Mr. Bazani(ph).

9 Wencek: Yes.

10 Salisbury: And she's the project manager like you've explained,
11 so she's gotta put all this in, in--

12 Wencek: She sets this letter up after she gets comments from
13 in this case, Nick.

14 Salisbury: Uh, but she's, this, her application inspection
15 report isn't limited to biology. It's the whole
16 (inaudible - 02:22:06).

17 Wencek: Her inspection report is, you know, I mean it takes

1 into account if something engineering wise comes in.
2 She's gonna have to say, "Hey, this is what the
3 engineering just told me. This is what might happen
4 as a result of that." That's gonna be a component of
5 her report. Otherwise, if it's just common, she says,
6 "We've got engineering comments." And they either, he
7 either, you know, the engineer either authorized it or
8 he's got technical issues that need to be addressed.

9 Salisbury: Okay. And then the third page of this document is
10 from Mr. Pizani dated 12/04/20. Um, and it looks like
11 drain issues have been substantially addressed except
12 for the two items below.

13 Wencek: Okay.

14 Salisbury: Um, all right. So those are kind of the technical
15 aspects that he, he needs addressed at the bottom of
16 it.

17 Wencek: Yeah. We've got certain must dos before we can get
18 it. Something out to public notice, so.

19 Salisbury: Okay. So then going back to this first page, your
20 letter to Ms. Moony on December 4th, 2020, just wanna
21 ask you about, uh, the sentence that starts with also

1 please be advised that you may wish to consider
2 revising your project to utilize the existing easement
3 containing what may be a failed culvert to capture and
4 convey storm water underground along the westerly
5 property boundary.

6 Wencek: Yeah.

7 Salisbury: All right. So that's getting back to the, the
8 drainage issues that you talked about.

9 Wencek: That pipe along the western, western side of property
10 line. Yeah.

11 Salisbury: Um, and you're suggesting that more revisions are
12 offered.

13 Wencek: Could be, could be incorporated into the project.

14 Salisbury: Okay.

15 Wencek: Yeah. I'll make suggestions often if I think there's
16 a better mouse trap. That doesn't necessarily mean
17 what they propose is not the best thing in the world,
18 or it can be approved or disapproved. But when I see
19 a better way, I kind of just throw it out there. It

1 doesn't necessarily mean they have to do it. If, if
2 I, I'll send comments where I say, I, you know, the
3 department strongly suggests that's another matter.

4 Salisbury: Okay.

5 Wencek: I don't know if I said that here or not. I don't
6 think I

7 Did.

8 Salisbury: We'll, we'll keep going. It appears that the
9 replacement and repair of the potentially
10 nonfunctioning culvert to prevent the known chronic
11 persistent flooding at the site maybe a neighbor
12 friendly alternative to the current proposed
13 vegetation. Uh, so I don't--

14 Wencek: I'm trying to get them to incorporate that color red
15 into their proposal to take care of a neighborhood
16 issue.

17 Salisbury: Okay.

18 Wencek: And if they stepped up to the plate, that would be
19 great.

1 Salisbury: Okay. Um--

2 Wencek: Or was it really a town thing?

3 Salisbury: All right.

4 Wencek: But they could do it for the town. I was, you know,
5 we just hoping that they could help alleviate the
6 issue that was being generated by existing conditions.
7 So here you are working on a lot that's the big
8 flooding a lot and oh my gosh, you guys have the pipe
9 there and you're gonna be developing this lot. Can
10 you help us out a little bit? Like help the community
11 out a little bit, like fix the culvert because it's
12 probably clogged. And that may be why everything's
13 flooding.

14 Salisbury: And back to our earlier discussion. Culvert meaning
15 the pipe under the pipe under the road.

16 Wencek: I, I think it goes under the road. I'm not positive
17 that it goes under the road, but it certainly goes
18 along the western.

19 Salisbury: Yeah. I might be using the wring terms. Okay.

1 Wencek: It goes under the lot.

2 Salisbury: Okay. When I think of culvert, I think of under the
3 road, am I misunderstanding it?

4 Wencek: No, that's, that's, that's 99 percent of the time
5 accurate.

6 Salisbury: Okay. Um, right. Um, so I guess stepping back for
7 a second, there's all these emails. We gotta keep
8 this at the front of the line, get on it and then--

9 Wencek: Don't forget it. Don't forget it.

10 Salisbury: Okay.

11 Wencek: I got 20, 30, 40 applications going across my desk.
12 It's like--

13 Salisbury: Okay.

14 Wencek: Don't forget that one, which is easy to do. I gotta
15 say.

16 Salisbury: And more deficiencies and also more suggestions
17 from--

1 Wencek: That's amazing to me, but yeah.

2 Salisbury: Amazing in the sense they haven't--

3 Wencek: They get deficiencies after all that.

4 Salisbury: And, back to our early discussion culvert, meaning
5 the pipe under the road?

6 Wencek: It-- I think it goes under the road. I'm not positive
7 that it goes under the road, but it certainly goes
8 along the Western.

9 Salisbury: Yeah. It might be using the road--

10 Wencek: Yeah.

11 Salisbury: Terms. Okay.

12 Wencek: Goes under the lot.

13 Salisbury: Okay. When I think of culvert, I think of under the
14 road, am I--

15 Wencek: No, that's, that's--

16 Salisbury: Misunderstanding it?

17 Wencek: That's 99% of the time accurate.

18 Salisbury: Okay. Um, so, I guess stepping back for a second,
19 there's all these emails, we gotta keep this at the
20 front of the line, get on it and then--

21 Wencek: Don't forget it. Don't forget.

22 Salisbury: Okay.

1 Wencek: I got 20, 30, 40 applications going across my desk.
2 Salisbury: Okay.
3 Wencek: It's like, don't forget that one--
4 Salisbury: And--
5 Wencek: Which is easy to do, I gotta say.
6 Salisbury: And more deficiencies and, well, that's also more
7 suggestions from--
8 Wencek: That's amazing to me, but yeah.
9 Salisbury: Amazing in the sense they haven't gotten--
10 Wencek: They get deficiencies after all that.
11 Salisbury: Okay. Um, um, you good to keep going still?
12 Wencek: I'm fine.
13 Salisbury: All right. We're, we're doing good. Um, all right.
14 Wencek: This is different from my normal every day, but--
15 Salisbury: Sure. All right. So that was early December of
16 2020, then I think, uh, to keep moving through this,
17 we jumped to February of 2021. Um, so the email I'm
18 showing at the top is dated February 17th, 2021 at
19 5:08 PM. But we go to the bottom of the email chain.
20 Wencek: Where it starts.
21 Salisbury: Yes. It starts with Mr. Beck, emailing you and
22 Jane, and, uh, Nicholas Bazani(ph). Marty, can you
23 please let me know what the status of this, of, of
24 this is? And the subject line is Moony permit.
25 Wencek: Yep.

1 Salisbury: Applicant said, "Resubmitted in December. Remember
2 this is the one we asked them to withdraw and resubmit
3 the savings from hearing and appeal. I'd like to live
4 up to what we told the applicant regarding processing
5 as it was priority when resubmitted."

6 Wencek: Yeah, I got a lot on my plate, man. I'm not gonna
7 drop everything for this one, unless they tell me to,
8 and they didn't tell me to drop everything and work on
9 this one. Like they did Amazon.

10 Salisbury: Okay. Um, and as we just went through what's
11 happening is they don't have a complete application,
12 it's deficiencies--

13 Wencek: Without (inaudible - 2:27:26) efficient. I mean, I'm-
14 - Again, I can't believe it, but yeah.

15 Salisbury: And you're still writing?

16 Wencek: And that's not my problem. You know.

17 Salisbury: And you're still suggesting to them, neighbor
18 friendly drainage issues, fix culverts.

19 Wencek: It would've be nice, it would've be nice, yeah.

20 Salisbury: Yeah.

21 Wencek: It wouldn't have cost me that much more.

22 Salisbury: Okay. Continuing on this email chain, uh, Jane
23 responds, the response to comments was received on
24 2:15:21 and forwarded to Nick, this morning. I, I
25 know what that means, but if you could just explain it

1 to us.

2 Wencek: Well, we had a technical deficiency out there and they
3 came in finally and gave us a resubmission to
4 theoretically address those comments. And it comes
5 into Jane and Jane wheels and deals to whoever needs
6 to be looking at the information that was submitted.

7 Salisbury: So, applicant responds--

8 Wencek: Yeah.

9 Salisbury: To what the, the deficiencies. Okay. And then,
10 let's see, the next part of the email chain is Eric
11 Beck. So we gotta go to this page and then turn back.
12 "Thanks Jane, for the update. Nick want to make sure
13 the drainage design meets concerns expressed during
14 last Public Notice. I assume in this design addresses
15 the run on in local drainage that comes through the
16 town, own drain line, mostly a flooding local drainage
17 issue. It will go out to Public Notice again or PN,
18 shortly, and we want to make sure all substantive
19 comments are addressed when it comes into
20 engineering." Uh, let me stop you there. Um, what do
21 you think of that? That we wanna make sure all
22 substantive comments are addressed when it comes to
23 engineering?

24 Wencek: They-- Eric was-- wanted to make sure this, the same
25 comments didn't come in, that we received in the first

1 application, and necessitated us to have to go to
2 another public hearing. In other words, if-- You
3 know, wanted to make sure that any substantive comment
4 would've been addressed in the submission. So that's,
5 that's not on us, that's on the applicant's consultant
6 to do. So, he's showing concern that we wanna make
7 sure we don't at the end of our Public Notice period,
8 have a comment that's going to be substantive. So,
9 that will be a-- We won't have a substantive comment
10 if in fact, in our, in Nick, Bazani's(ph) review, he
11 reviews it and determines they've done what they need
12 to do to address the regulations. So, I mean, that's
13 a given, Nick's gonna review it for that very reason.
14 And if it's not adequate, he's gonna kick it back.
15 So, you know, that's, he's just saying what's, what's
16 a, what's a known already, I guess.

17 Salisbury: Okay. So--

18 Wencek: And then you said run on, you meant run off?

19 Salisbury: I said run on, sorry.

20 Wencek: I know how this-- I'm, I'm curious. Did, did, did
21 Eric say run on?

22 Moreira: Yeah. He said run on

23 Wencek: It's supposed to be runoff.

24 Moreira: Okay.

25 Wencek: That's funny. How do you make that one. The mind

1 works in strange ways.

2 Salisbury: The, the last part of Eric Beck's emails is, "Marty,
3 it maybe advisable to have a connect with town planner
4 and engineer. These concerns are addressed before PN.
5 I'm willing to do that with Nick, if you think
6 advisable."

7 Wencek: Uh, yeah. Everyone's concerned about the town's
8 comment, 'cause it's the town. So, um, they were
9 someone, Eric was concerned that, you know, the town
10 comment is a, is a wavy comment 'cause they're
11 professionals as opposed to a homeowner and they were,
12 you know, thinking, could they-- could we get another
13 substantive comment? And I think that's where that's
14 coming from. And already in my mind, it's like, not
15 if they addressed the engineering issue, that was
16 never even given to us before the review. So, it was
17 asking like the question when the answer is already
18 given, but I can't speak for that. But that's what it
19 looks like to me, it was already known that.

20 Salisbury: So--

21 Wencek: They, they submitted the application, knowing exactly
22 what they have to do. And this is a single family
23 house slot. It is as easy, as easy as they get.

24 Moreira: So yeah, just, I'll just, just reading it again.

25 He's, he's-- Correct me if I'm wrong, he's asking you,

1 or requesting that you should probably meet with the
2 town planner and the engineer to make sure the
3 concern.

4 Wencek: I, I, I don't know if I did or not. To me that's like
5 not totally not necessary, but if he wants me to do
6 it, I'll probably do it.

7 Salisbury: But, it's totally not your job either. Right? It,
8 it almost reads--

9 Wencek: He should do that.

10 Salisbury: Okay.

11 Wencek: If he's so concerned, give him a call.

12 Salisbury: Well that's it, it seems to me the way it reads that
13 there's a lot of concern about the town making these
14 changes so that this weapons permit can be improved,
15 but it's-- That's (inaudible - 2:32:16), that's DEMs
16 role?

17 Wencek: You know what? We get comments and it's a substantive
18 which never happens except for him, um, then it is
19 what it is. And if we get comments and it's in this
20 case, almost verbatim.

21 Salisbury: Right.

22 Wencek: But they've addressed it or those comments are no
23 longer substantive because DEM has had the opportunity
24 to address a concern of a function of value of wetland
25 that was addressed by the applicant. So, it either--

1 they either addressed it or they didn't. So, so the
2 town in their first application and the first
3 application trashed it, trashed the project and, Eric
4 seems to be somewhat concerned. I wasn't concerned,
5 but Eric seemed to be somewhat concerned that the town
6 may trash it again.

7 Salisbury: Right.

8 Wencek: Well in my world. So what?

9 Salisbury: Right. I'm just-- I'm, I'm not suggesting you did
10 anything--

11 Wencek: Oh no. It's like--

12 Salisbury: I'm just, it's unusual to me that, that somebody
13 from DEM would almost advocate for the town to make
14 that change, when the town is objecting to the
15 development of that parcel in the first place.

16 Wencek: All I can say, we recognized that it was what, what we
17 felt it was a town issue and it was in our, in our
18 eyes, a relatively easy fix.

19 Salisbury: Mm-hmm.

20 Wencek: So, why is the town complaining about this, being
21 those worst things since dropping, you know, your
22 sandwich on the ground, in on the beach, why are you
23 complaining about this? When you guys have the power
24 to fix this in one fell, scoop.

25 Salisbury: The ball was in their court.

1 Wencek: You know, it's like, why would you be throwing darts
2 at this project? So, I mean, they can do whatever
3 they wanna do. They can take whatever stand they
4 wanna, they wanna take. But you know, Eric's
5 concerned by this email that the town is on board with
6 the proposal, whatever in my world.

7 Moreira: Okay. Uh, just for chronology sake. So this happens
8 to have writing on--

9 Wencek: Yeah.

10 Moreira: Can that, but 2:17:21 is then, uh, Mr. Bazani's
11 report. So same date as this email and maybe, uh, for
12 efficiency sake, he is recommended action adequate for
13 a Public Notice.

14 Wencek: Okay.

15 Moreira: Um, so fair to say, he's signing off. So to speak, on
16 the engineering.

17 Wencek: In other words, they've addressed the regulations. So
18 if we get a comment like we did on the first one, he's
19 saying, in essence, he's not referencing previous
20 comments, but again, in my world, he's telling me
21 they've addressed this engineering issue. So now I
22 know going-- before we even go to Public Notice, if I
23 get those same comments, I-- You know, that we do that
24 the first time they are no longer substantive because
25 I finally got my engineer to say, this works. This

1 meets the regulations.

2 Moreira: Okay. And we can take a look at that, but I wanna ask
3 you, you send then in response to Erick Beck, same
4 day, February 17th, uh, your response is at 5:08 at
5 night. So late, late in the day, this might be--

6 Wencek: Sometimes I sleep.

7 Moreira: Okay. Well, towards the end of uh, work day, um, if
8 you don't mind just taking a, a quick look of that
9 since it's lengthy.

10 Wencek: Should I read the one below it? Oh, we already
11 (inaudible - 2:35:36)

12 Moreira: It's the same one, you know.

13 Wencek: Yeah. Okay. What did I say? Well, I was just
14 clicking at 508.

15 Moreira: Absolutely.

16 Wencek: Wow. Well, how did that play out?

17 Moreira: Well, I guess that's, that's a ultimate question for
18 you, but let's work through, um, this email that you
19 sent to Eric Beck. So you're obviously responding to
20 something we were just talking about where he's
21 suggesting you connect with the town planner and the
22 engineer, to make sure the concerns are addressed.

23 Wencek: Yeah, it look like it took a little objection of that.

24 Salisbury: Yes. Okay. So, the first part, the first paragraph
25 of your response, that would be really incumbent on

1 the applicant. Yeah. I have actually, I have another
2 copy of this. Incumbent on the applicant to make sure
3 the town is, is in agreement. What do you mean by
4 that?

5 Wencek: It's not DEMs place to make sure the town is satisfied
6 with the proposal. I couldn't care less of the town
7 satisfied with the proposal. I've got a set of
8 regulations that I've gotta follow and the town's not
9 a player.

10 Moreira: Okay. And then you can continue on, I'll try to read
11 some excerpts. "It should have been ran by the, the
12 town by the project proponent, before the project
13 design was ever sent to us or at least concurrently."
14 What do you mean by that?

15 Wencek: Where are you reading, (inaudible - 2:38:20)

16 Moreira: It's like-- Sorry. It's the second sentence. Uh.

17 Wencek: I feel I should have been--

18 Moreira: It should have been. Yeah.

19 Wencek: So it's not DEM's place. If, if the, if the applicant
20 has a concern, they should bring it to the town. If
21 the town has an issue with the project, that is not
22 our place, I'm reiterating, that is not our place.

23 Salisbury: So, it's something that should have been worked out
24 with the applicant in the town beforehand or at least
25 at the same time?

1 Wencek: If they care, if they care, I don't care. DEM doesn't
2 care, at least, in my world, But--

3 Moreira: Doesn't it sound like Eric Beck cares?

4 Wencek: Evidently.

5 Moreira: Okay. Um.

6 Wencek: But I can understand why he might, he doesn't want
7 this to get snafued and to have DEM expend its
8 resources, go through this formal process a second
9 time only to come up with the same outcome of a public
10 hearing.

11 Moreira: Okay.

12 Wencek: Of course. I don't see that happening at, at this
13 juncture, But--

14 Moreira: Okay. So then you continue on to get into some of the
15 substance, I guess, of the, of the project and issues
16 with the permit.

17 Wencek: Maybe I had done too many coffees, but, I gotta read
18 this. Anyway, go all right, (inaudible - 2:39:40).

19 Moreira: I'll start reading a little bit.

20 Wencek: Yeah.

21 Moreira: That helps me ask the question. "Nick has known that
22 the current design that he reviewed today will not
23 exasperate the existing flooding problem or negatively
24 alter existing wetland conditions." So, let me just
25 stop up there, uh, because we've talked to Nick. So,

1 based on the, the status of the second application
2 plans, it's not gonna make the flooding worse, I
3 think. Is that, is that--

4 Wencek: Right.

5 Moreira: Is that what I'm understanding?

6 Wencek: If this project goes forward, all the comments we
7 received in the first application are not substantive.

8 Moreira: Okay. But then you continue, all caps underline,
9 provided the culvert in the street is functioning as
10 it was originally intended. Um.

11 Wencek: That was my feelings at that time.

12 Moreira: All right. Explain-- Uh, explain those feelings
13 (inaudible 2:40:17).

14 Wencek: I, I mean, we were having, we're having discussions
15 about that culvert and like why the town step up and
16 take care of that culvert. I even alluded to it as
17 you showed me, um, in that previous technical
18 deficiency, we're, we're--

19 Moreira: The challe--(inaudible - 2:40:35) or the applicant?

20 Salisbury: Sorry.

21 Wencek: I was hoping the applicant would step up and, and take
22 the care of help. (inaudible - 2:40:38) 'Cause
23 they're working on the lot.

24 Moreira: There was a letter to Moony, right?

25 Wencek: Yeah. So, um, I'm cognizant now of a serious

1 localized flooding problem. I'm processing an
2 application. That application is on the lot. It's
3 the key component to that flooding problem. And that
4 pipe probably, I can't be sure, but probably plays a
5 role in that flooding problem. So I'm saying, get
6 that fricking pipe it's part of this proposal. It
7 would be really great if we can get that pipe replaced
8 as part of this proposal, do we, you know, do we, can
9 we require it, and if it's not gonna have an impact on
10 the wetland, there'll still be a localized flooding
11 problem. But the-- But if we approve this project,
12 it's not going to make that flooding problem worse.
13 So it's, it's-- it works in that, in that sense,
14 because there's gonna be no harm to the wetland
15 functions and values.

16 Salisbury: You're already pointing out like a, a variable
17 that's not being addressed. Like if that culvert or
18 the pipe doesn't work, it-- the, the plans don't work
19 unless I'm missing something.

20 Wencek: All I know is at-- Well, I'm reading that, I'm saying
21 that's interesting. It's pretty well thought out.

22 Salisbury: Yeah.

23 Wencek: But I gotta say, when we finally got to making a
24 decision and issuing a permit on this case, it was
25 made clear to me in one form or another, it's gotta be

1 in here somewhere. Otherwise I wouldn't have made the
2 decision. We could approve this without any issues.
3 From a weapon perspective, the flooding won't get
4 worse. The weapon won't be impacted. This is-- I
5 can, I can see the hopefulness in this passage that I
6 wrote. Um, but they didn't do it, which, a missed
7 opportunity.

8 Salisbury: Okay.

9 Wencek: Not, not, not a DEM issue.

10 Salisbury: When you say that the, the hopefulness in this
11 paragraph, I take it to mean, you're looking at this
12 somewhat of a, um, broader level, like for this to
13 work, you gotta make sure this drainage system is
14 working.

15 Wencek: You know, I would love to have had this project go
16 forward and get that drainage issue addressed in one
17 fell swing.

18 Salisbury: Okay.

19 Wencek: But I-- There was more than one-- It was more than the
20 applicant involved 'cause its a town drainage.

21 Salisbury: All right--

22 Wencek: I, you know, I was just like, step up man, just step
23 up and do this.

24 Salisbury: Okay. So your thoughts, you know, in this email,
25 February 17th of 21, I believe the applicant should

1 provide us with compelling information that could
2 ensure the street culvert is in fact functioning in
3 its intended capacity. Um, that all makes sense that
4 that happened?

5 Wencek: No.

6 Salisbury: Okay. They could get a certification letter from
7 the town.

8 Wencek: No.

9 Salisbury: To that effect or conduct their own assessment for
10 us with permission of the town, that didn't happen?

11 Wencek: I wish it did, but it did not.

12 Salisbury: If that assurance cannot be provided that the design
13 is potentially flawed, relying on a situation that
14 potentially does not exist. And then parentes that
15 the street culvert freely forming to its capacity.
16 Um.

17 Wencek: And that's unfortunate 'cause I don't think it is.
18 And that's why there's a flood problem there on the
19 road. And the guy across the street definitely backs
20 up into his property.

21 Salisbury: Okay. So I'll jump to the end of the last couple
22 sentences of this paragraph. "When the new
23 application concept was hatched, what are you
24 referring to there?"

25 Wencek: That they would withdraw the request for a hearing and

1 actually submit a new application.

2 Salisbury: Okay. Uh, we noted the applicant needed to address
3 the trainings, concerns for the subject property. I'm
4 not confident they've done that yet.

5 Wencek: Yeah.

6 Salisbury: Why was that?

7 Wencek: I, I wanted that call for cleaned, whether it was
8 gonna help the project or not. I knew at least, I
9 didn't know. I strongly suspected 'cause I'm not an
10 engineer. I strongly suspected that if they took care
11 of that culvert issue, they're gonna take care of the
12 flooding issue. Is it going to-- If they don't get,
13 get that culvert done, is it gonna jeopardize the
14 project? It could. But ultimately it did not.

15 Moreira: I mean, 'cause we've looked at it prior documents,
16 it's about a drainage system, right? It's like you've
17 described it's from the high land--

18 Wencek: Three places, it's coming in from three places to that
19 one point.

20 Moreira: So if it doesn't work at this culvert, it doesn't
21 work.

22 Wencek: Well. I mean they're-- they've got a flooding
23 problem.

24 Salisbury: Yeah. Okay.

25 Wencek: And I'm looking at a potential solution right in front

1 of me.

2 Salisbury: Okay.

3 Moreira: So then you close the email. I would appreciate you
4 weighing in on this concern.

5 Wencek: That was to Eric, right?

6 Moreira: Yes.

7 Wencek: Okay. So he's an engineer. So yeah, he--

8 Moreira: You (inaudible - 2:45:29)?

9 Wencek: You tell me, I don't recall. I don't recall.

10 Moreira: I'm not sure-

11 Wencek: I don't even remember this email, but it's like, wow.

12 Moreira: Okay. Well you started saying, uh, it was
13 made clear to you, um, in terms of what? How the
14 application would proceed?

15 Wencek: I mean, we were gonna try to keep it moving if that's
16 what you mean. Yeah.

17 Moreira: Okay.

18 Wencek: We've been through, like I said, been through the ring
19 or once that's just, and in my mind--

20 Moreira: Okay.

21 Wencek: Should be a walkthrough. You know, we shouldn't, we
22 shouldn't make this wait and wait and wait in the
23 queue. When I already know where we're going with
24 this thing, we, we-- I'm, I'm intimate with what, what
25 the issues are predicated on the engineering always



1 predicated on the engineering. 'Cause that was what
2 put this into, into orbit.

3 Moreira: Okay. But it sounds like when you said it was made
4 clear to you, there's some discussions about the
5 culvert and-

6 Wencek: Oh yeah.

7 Moreira: when all this was gonna hold up. Okay. Tell us about
8 that.

9 Wencek: That was way early in the-- You know, when we were
10 talk-- when we received comments and we determined
11 that they were potentially substantive comments, we
12 got a flooding problem here. What's going on? So
13 we're looking at it from a lot of different ways and
14 there's a culvert there and we hadn't really looked at
15 that culvert too much 'cause we didn't know it was
16 gonna be a major player, turned out to be the major
17 player for that neighborhood situation. Was it a
18 major issue with regards to how the wetlands was gonna
19 get impacted? Not really. No. Because they didn't
20 do anything, but we still determined even without
21 fixing the existing flooding problem. If we approve
22 this proposal functions and values of wounds, aren't
23 gonna get impacted significantly as a result of it.

24 Salisbury: I guess my question is how do you get from you're so
25 concerned about the drainage system? It sounds like

1 not working 'cause of the culvert and then it
2 wouldn't, it wouldn't be as planned out as is in the
3 plans and issue.

4 Wencek: I mean, I don't remember this email, but I look at
5 this email and say opportunity. Let's not miss it.
6 And I, and I, and I wanna see things fixed, and I see
7 an opportunity here. It's beyond my capability
8 because if they don't do anything with that culvert,
9 I'm still processing that application as proposed.

10 Moreira: Okay. Is that your recollection that this--

11 Wencek: I mean, I'm, I'm, I'm only telling you what I'm
12 reading here and what's making sense to me.

13 Salisbury: Sure. That's the best you can do.

14 Wencek: And that's, that's, that's where I think I was coming
15 from because, that was definitely in my head.

16 Moreira: Okay. Let's see. Continuing on a little bit,
17 process. It looks like at some point, um, there's
18 questions about the Public Notice.

19 Wencek: The second one?

20 Moreira: Going out. Yeah.

21 Wencek: Okay.

22 Moreira: Um, let's see. So March 24th, about a month later
23 from the email, we're just looking at, uh, Eric Beck
24 emails, you and Jane, "Jane, please let me know when
25 the notice is going out. I'd like to call Jonathan

1 Stevens, a Town Planner to discuss when he receives
2 the notice to address any questions or concerns he may
3 have."

4 Wencek: Okay.

5 Moreira: Um, I'm just trying to kinda conceptualize that in the
6 process. So it would be going out to Public Notice,
7 at this point, why?

8 Wencek: It's on his radar screen. So he pinged us on it. I
9 couldn't tell you why on that date he sent that email,
10 but--

11 Moreira: Okay.

12 Wencek: He was, he was doing, he was working with John or
13 concerned about John. There's no question about that.
14 I'm saying that based on the email you're showing me
15 right now.

16 Moreira: Okay.

17 Wencek: But, whatever.

18 Moreira: All right, this is more process and just whatever you
19 can enlight us--

20 Wencek: Well, you need to know when you talk to Eric, what the
21 heck--

22 Moreira: Sure.

23 Wencek: Being thought about.

24 Moreira: Um, so then the follow up to that is from you. Um,
25 same day, March 24th, we sent a letter requesting

1 plans for notice the day you returned the file to me
2 after your review, that was on March 10th and we
3 haven't received the plans yet to my knowledge.

4 Wencek: Wow. Two weeks later?

5 Moreira: So that's um, Remind me. So that's um, the plans in
6 response to the technical deficiencies?

7 Wencek: We, nope.

8 Moreira: Okay.

9 Wencek: We, we sent out technical deficiencies. We gotta
10 reply to them. They evidently addressed the concerns
11 that were raised by Nick.

12 Moreira: Nick. Okay.

13 Wencek: And at that point now it's, they've addressed all the,
14 all the issues they need to address to enable that
15 project to go to Public Notice. And what I'll wind up
16 doing at that point is sending out a letter to them
17 saying, "Your project is now complete and ready to go
18 to Public Notice, we submit--

19 Moreira: Make the first one, okay.

20 Wencek: We submit X number of site plans for the (inaudible -
21 2:50:32), yada yada yada.

22 Moreira: Okay. We sent the letter requesting the plans for
23 notice. So it's--

24 Wencek: That's the preliminary, getting it out to notice. We
25 need to-- It's ready for notice your project, your

1 plans meet the letter with the regulations to enable
2 us to issue the Public Notice. Wetlands is shown
3 right.

4 Moreira: Okay.

5 Wencek: That land stamp by a registered professional engineer
6 to all the requirements.

7 Moreira: All right. Thank you for explaining that. So the two
8 weeks go by without them-- without the applicant--

9 Wencek: Evidently.

10 Moreira: Okay. Okay. So then above that, Eric responds or
11 Beck responds, "Just check and let me know, 'cause
12 applicant was told by engineer, the info was
13 delivered. I'll call the engineer now."

14 Wencek: Typical.

15 Moreira: What do you mean?

16 Wencek: Engineers tell their clients, they submit things at
17 DEM and they never did. And that's happened so often.

18 Moreira: Okay. So--

19 Wencek: Yeah. It's, it's all-- It's with DEM, um, they
20 haven't done it. They haven't submitted it. That's
21 common.

22 Salisbury: So it appears anyway, Eric Beck is, is, uh,
23 communicating to you. He's heard from the applicant
24 that the plans are there.

25 Wencek: I imagine Tony Silva.

1 Salisbury: Okay.

2 Wencek: Not Moony.

3 Salisbury: Okay. Yeah. At this point I think--

4 Wencek: Yeah, I think we're dealing with Silva and Moony is
5 not even a player.

6 Salisbury: Okay.

7 Wencek: So yeah. Uh.

8 Moreira: But that's holding up the Public Notice.

9 Wencek: Of course.

10 Moreira: That's (inaudible - 2:51:57) application.

11 Wencek: Yep.

12 Moreira: Okay.

13 Wencek: This is a great file.

14 Moreira: Lots of fun.

15 Wencek: Oh yeah.

16 Salisbury: Just to complete that loop, I suppose. So then, um,
17 we can read from the bottom, it looks like the file's
18 located. There's uh-- uh let me see, we start from
19 the beginning.

20 Wencek: Let's see, what's the date on that?

21 Salisbury: Yeah. So, so just--

22 Wencek: Day later.

23 Moreira: It's clear on recording. We're looking at an email at
24 the top date of March 25th at, at 4:43 PM. So if we
25 go to the bottom, it's Tim Beane, emailing Eric Beck

1 on March 25th, the documents were dropped off at DEM
2 today.

3 Wencek: Oh today?

4 Moreira: It's, the next day.

5 Wencek: Yeah. Okay.

6 Moreira: And then there's the email chain about the, the
7 documents making their way through DEM.

8 Wencek: And then the-- Again, it's got a stack of plans, stack
9 of plans. It's got to go administratively through,
10 goes to the project manager, Jane in this case. And
11 uh, then we prepare the Public Notice.

12 Moreira: Okay. So the top of the email chain, Eric's saying
13 that, "Becky will work with Marty to send ASAP, may be
14 sent out in the middle of next week." There's another
15 Public Notice in front of it. Nothing really,
16 (inaudible - 2:53:18)

17 Wencek: Yeah. For Thursday that was sent in middle of next
18 week. That's, that's actually right on, right on
19 target.

20 Moreira: Okay. Next email. So I'll look at is March 30th, uh,
21 2:29 PM. From Eric to you and Jane, "Marty and Jane,
22 can you please issue the Public Notice for the Moony
23 project? The applicant has informed me. They're in
24 jeopardy of losing the project. Remember we encourage
25 them to reapply, to avoid the hearing. I asked

1 Jennifer to have Becky available to help." Um, so the
2 last email, like it came in on the 25th, is this a
3 particular delay in your mind that Eric would be like
4 contacting you about?

5 Wencek: When did we receive, the 25th?

6 Moreira: Yeah.

7 Wencek: If I get-- if I can turn something around in a week,
8 that's fast.

9 Moreira: Okay.

10 Wencek: Um, that, and I try to turn these around because when
11 something, again, I get a, a, a project that's trying
12 to get through the system and you gotta get it ready
13 for Public Notice. And there's a lot of technical
14 issues that get vetted out before it's actually ready
15 for Public Notice. Once it's ready for Public Notice,
16 the thing at DEM, get it out to Public Notice because
17 we gotta get things moving here.

18 Moreira: Okay.

19 Wencek: And it's totally on me.

20 Moreira: Right.

21 Wencek: So I get, I get an application on the 24th and you
22 know, kicking it out in seven to 14 days is what I'm
23 going for.

24 Salisbury: All right. But this one, the first it comes in
25 Thursday and by Tuesday, he's, he's asking you please

1 get it out to Public Notice.

2 Wencek: All I can think of is that the previous email said
3 something about the middle of next week and he's
4 getting antsy by Tuesday.

5 Salisbury: Just go back to, what's a high profile application
6 or?

7 Wencek: He's certainly concerned about it. I'm just cruising.

8 Moreira: Okay.

9 Wencek: But you know, it isn't like this isn't unusual, you
10 know, you get an application in, it's ready for Public
11 Notice. I'm gonna get it out in about seven, 14 days,
12 you know, and he's looking for, you know, get this
13 out, get this out, you know? Okay. Yeah, no problem.
14 It's going out.

15 Salisbury: And based on what he's communicating you in the
16 email, again, it appears he's in contact with the
17 applicant.

18 Wencek: Losing funding, which, I hear that tale of all,
19 sometimes. Yeah. It's probably accurate.

20 Moreira: Okay. So quick question. So, you submit the
21 application dropped off on the Thursday, correct? And
22 he's emailing you on Tuesday?

23 Wencek: Yep.

24 Moreira: Do you work on the weekends?

25 Wencek: Never.

1 Moreira: Never. What about Jane?

2 Wencek: Never.

3 Moreira: Okay. So we are literally that we're talking about
4 Thursday,
5 Friday, Monday.

6 Wencek: What time is it on Tuesday? That's a good point. Oh,
7 2:30. So Tuesday at Tuesday. That's four days.

8 Moreira: Well, going back to the Thursday, March 25th email
9 it's uh, Jane Ryan saying, "Eric, Becky will work with
10 Marty to send ASAP." And that's it, that's the end of
11 it.

12 Wencek: It's 4:43.

13 Moreira: (Inaudible - 2:56:16) 4:43.

14 Wencek: Yeah, it's late.

15 Moreira: You basically had two days before he emails you again,
16 Friday and Monday.

17 Wencek: Yeah.

18 Moreira: Do you remember when you got the Public Notice out?

19 Wencek: No. I just know it had to be within seven to 14 days.
20 'Cause that's my (inaudible - 2:56:34).

21 Moreira: Would it be fair to say it was a little extra urging
22 to get the Public Notice out?

23 Wencek: Looks that way.

24 Moreira: Okay. I'm sorry. I missed what you said. When did
25 you get it out? Within the 45 days? Seven to 14,

1 sorry, (inaudible - 2:56:48).

2 Wencek: Once we get, yeah, once we get the plans back that,
3 that we ask for to go to Public Notice, I mean, it's
4 like, get it out, that doesn't wait in the queue, get
5 it out. It's ready to go. It's already gotten
6 through quite a ringer to get where it is now. It's
7 finally poised, ready to go. In my world, get 'em
8 out.

9 Moreira: Okay.

10 Wencek: Again, it's, it's, it's ready to go. There's no
11 review required. There's no-- Nothing needs to be
12 done except administratively get it out. And I've got
13 a few other things on my plate, so I can't do it
14 immediately.

15 Moreira: All right. So same day, Tuesday, March 30th. Uh, the
16 email chain starts, uh, down here March 30th at 3:59
17 PM. Um, what, what does this represent? At March
18 30th at--

19 Wencek: Who, who the players here?

20 Moreira: 4:32. So it's--

21 Wencek: Okay. So Carol (inaudible - 2:57:38), she's one of my
22 administrative people. Um, she basically, when we
23 send out a Public Notice, when we issue a Public
24 Notice she puts out this APB to all the, all the
25 interested parties.

1 Moreira: Okay.

2 Wencek: That this has been taken care of, this-- That this is
3 done. So this day or the day before, is when that
4 notice would've probably gone out.

5 Moreira: Uh, so it's this, um--

6 Salisbury: Yeah. So same day, right? As this email,
7 (inaudible - 2:58:03) Marty and Jane, can you please
8 issue the Public Notice?

9 Wencek: Yeah, because again, Public Notices are like, once you
10 get to the point that you've got the plans that you
11 asked for it's under Public Notice.

12 Moreira: Okay.

13 Wencek: It's almost like just hit the button.

14 Moreira: But you guys were very diligent and able to get the
15 Public Notice out later that same day?

16 Wencek: It was probably ready to go. Yeah.

17 Moreira: Okay.

18 Wencek: That's, that's understandable.

19 Moreira: Okay. And Public Notices are usually emailed to these
20 same people?

21 Wencek: We send out hard copies because we've got site plans
22 and we don't scan them. So we send out a hard copy to
23 all the butters and then the towns and cities and
24 towns get a full size set of plans with, with a paper
25 copy of the Public Notice. But then we do email.



1 Moreira: Okay.

2 Wencek: To everybody.

3 Moreira: So I should have asked the question a little better.

4 So focusing on this actual email, Carol McAndrew and

5 then she-- It's to Janet Koit(ph), Terry Gray,

6 yourself, Jane Kelly, Becky Panzarella(ph).

7 Wencek: Yep.

8 Moreira: Um, does that happen?

9 Wencek: That's a standard.

10 Moreira: When Public, when Public Notices go out?

11 Wencek: Yep, that's a standard, (inaudible 2:58:59) all those

12 players.

13 Moreira: Okay. Just internally, that's what happens?

14 Wencek: All, all Public Notices.

15 Moreira: Okay. (Inaudible 2:59:19) stretch air.

16 Wencek: Surely.

17 Moreira: Yes. Let's see. So, do you remember whether there

18 was any further objection from the town?

19 Wencek: Yeah.

20 Moreira: Okay.

21 Wencek: We got like a carbon copy letter from John Stevens. I

22 was like, you gotta be kidding me, but we, that's what

23 we got.

24 Moreira: Okay. Um--

25 Wencek: Yeah, but it wasn't substantive anymore because the

1 applicant addressed it and it was found that it
2 wouldn't have a significant impact on the wetlands,
3 the, the drainage issue associated with the proposal.
4 Moreira: Okay. Um.
5 Wencek: And John's not even an engineer, so I don't get it.
6 Moreira: Let's see. So you get the second objection from the
7 town it doesn't sound (inaudible 3:00:22) much of a--
8 Wencek: And, and all, and all the butters too.
9 Moreira: And all the butters, and it doesn't seem like it has
10 much of an impact--
11 Wencek: That was on termination.
12 Moreira: On your decision making. Okay. Um, So then, May
13 28th, um, Jane Kelly emails, you, "I just finished my
14 review and I'll put this file with the other vertical
15 folders waiting for review." Uh, Jane.
16 Wencek: Okay. It's her heads up that she's finished her
17 evaluation, I believe.
18 Moreira: Okay. So maybe before we go further, Just wanna,
19 hopefully quickly go through--
20 Wencek: Mm-hmm.
21 Moreira: Evaluation. Yeah. I'll let you take a look at it.
22 Wencek: Okay. That wasn't in the file like that, was it?
23 Moreira: It was.
24 Wencek: Really?
25 Moreira: Yeah, yesh.

1 Wencek: Wow. I usually have them edit that, reprint it.

2 Moreira: The crossed out portion, what?

3 Wencek: The heck.

4 Moreira: I guess, to, to ask you properly, do you-- So just
5 turn on the first page, it B27, 2021.

6 Wencek: Yes.

7 Moreira: You recognize that?

8 Wencek: Yep.

9 Moreira: It's Jane's, uh--

10 Wencek: Yes.

11 Moreira: Application inspection report. Okay. Um, let's see.
12 So I'll ask you, Um, (inaudible - 3:02:10). I guess
13 we'll continue with you reading, the proposed
14 residential development. As we resigned under the
15 current application to include changes to existing
16 gradients, construction of a paved waterway at the
17 intersection of the northwesterly property line in
18 Canning Street, a replacement of an existing pipe with
19 a new HDPE pipe, HDB drainage pipe, and associated
20 drainage (inaudible - 3:02:34) that were not
21 previously proposed in a long term operation and
22 maintenance plans submitted. Uh, I could have jumped
23 to this cause that's my question. The planning scheme
24 has not been revised.

25 Wencek: We asked for additional plantings as--

1 Moreira: Okay.

2 Wencek: A means for a better, better screen.

3 Moreira: Okay.

4 Wencek: And we're again, hoping for, was it necessary or
5 otherwise we would've been must or I would've added it
6 to a condition other permit.

7 Moreira: Okay.

8 Wencek: But we were hoping, but it didn't happen and not, not,
9 it was, that would've been a biological issue that was
10 getting addressed.

11 Moreira: Okay.

12 Wencek: But at the end of the day, the, basically the plans
13 they had in there adequate enough.

14 Moreira: So that's something you're willing to put aside?

15 Wencek: Absolutely.

16 Moreira: Okay. Um.

17 Wencek: I mean, I, I, I don't know if she felt good about
18 that. I think she would've been a big advocate for
19 more plants 'cause she always is.

20 Moreira: I think so.

21 Wencek: That's, that's fine.

22 Moreira: Uh, moving to paragraph--

23 Wencek: Gotta be, gotta be consistent.

24 Moreira: Sure. So moving to paragraph six, I think on the same
25 topic or issue, she writes, "As previously proposed

1 under the 2019, application, a vegetative screen of
2 five, four foot tall white spruce planted 10 feet on
3 centers proposed at the Southern limit of disturbance.
4 If the project is approved, Eastern White Pine or
5 Northern White Cedar--

6 Wencek: Mm-hmm.

7 Moreira: Could be more appropriate alternative where tree
8 plantings are proposed as the outlets of the drainage
9 spills, due to these species, greater tolerance or
10 wet conditions. Although it is also acknowledged that
11 Northern White Cedar tends to be browsed by deer.
12 Additionally, as noted in the biological review from
13 2019, adding an additional role of dense evergreen
14 plantings along the proposed limit of disturbance may
15 further reduce the prroposed projects potential to
16 service of wildlife and associated loss of habitat."
17 Um, so that's something that she was noting, but
18 wasn't part of the second application or wasn't
19 included.

20 Wencek: That wasn't included.

21 Moreira: Okay.

22 Wencek: Yeah. We've made that recommendation somewhere along
23 the line. I would want that second line of
24 vegetation, was coming-- You know, it just wasn't,
25 wasn't gonna make or break this project. You know,



1 you always try to build the best mouse trap you can,
2 and if they address the regulations, they're good.
3 But I kind of like to see them do a little bit more if
4 we can get it out of them and sometimes we can and
5 sometimes we can't. Jane wants to get more out of
6 them all the time. That's, I like that quality in my,
7 in my staff. So-

8 Moreira: Sure.

9 Wencek: She's making a recommendation here that you know, more
10 plants would've been good. White Cedar was um-- White
11 Spruce was definitely the plan to go with here. There
12 was some significant deer sign on that site. So even,
13 even White Pine, would've been probably whacked out.
14 Um--

15 Moreira: By the deer?

16 Wencek: Yeah. I mean, White Spruce was definitely the way to
17 go. And White Spruce, the form of White Spruce is, it
18 does this. So you don't need a lot of 'em because
19 they fill, they do this when they grow. So you don't
20 need a lot of them to get that screen in place. So
21 yeah, more plants, always better. And, it's never
22 gonna be a problem by adding more plants in this
23 instance, under these circumstances with the
24 surrounding habitat and, and the way the wetland came
25 up to the road like that, as far as I was concerned



1 and to be consistent with what we do all the time,
2 what they actually proposed was adequate, but could
3 have been better.

4 Moreira: Okay. Now, in terms of these, uh, what's this called?
5 Application inspection reports? So it's the project
6 manager that submits this kind of at the end of the
7 process that we keep coming back--

8 Wencek: Yep, yeah.

9 Moreira: to and in terms of their recommendations, they can re-
10 -recommend, (inaudible 3:06:16).

11 Wencek: If they, if they recommend.

12 Moreira: Yeah.

13 Wencek: Only sometimes I get no recommendation, I just get the
14 facts and that's fine with me.

15 Moreira: Okay.

16 Wencek: I can-- I need the facts. If they wanna give me a
17 recommendation, more power that's helps me think how
18 this might work out because it's not a one person
19 decision.

20 Moreira: Okay.

21 Wencek: You take the engineers, uh, evaluation to account,
22 take the biologist evaluation to account. And then
23 when I get that, I'm looking at it. I sit down with a
24 senior member of the staff and we formulate a decision
25 based on, on the facts, facts at hand.

1 Moreira: Okay.

2 Wencek: Having a recommendation is a-- appreciated--

3 Moreira: Is helpful. Okay.

4 Wencek: But, not, not, not necessary.

5 Moreira: So the recommendation could be to issue the permit, to

6 deny the permit. Okay. Or no recommendation.

7 Wencek: Or no recommendation.

8 Moreira: Okay.

9 Wencek: And I don't think she gave one on this one.

10 Moreira: Uh, so I guess you could interpret that for us.

11 Wencek: Significant alteration, supervises determination.

12 Yeah. She wanted more, she wanted more, more plants.

13 I, I, I, I mean, I, I talked to her about it, and I

14 think she was a little disappointed that we were gonna

15 approve this project. Um, but-

16 Salisbury: It sounded like she wasn't happy about it.

17 Wencek: No, she wasn't happy to get it.

18 Salisbury: Okay.

19 Wencek: It was an old formal, but you know, what are you gonna

20 do?

21 Moreira: So you meet--

22 Wencek: I gotta give it to the person that's--

23 Salisbury: with her.

24 Wencek: That it's gonna work in my world for.

25 Moreira: So she-- This is from, um, last-- Well, this, this

1 prior May. So you meet-- She submits this and then
2 you meet with her. Is that typical (inaudible -
3 3:07:55)?

4 Wencek: Oh yeah, absolutely.

5 Moreira: Okay.

6 Wencek: Yeah. We sit down and talk about every application,
7 that's a, that's a formal.

8 Moreira: Okay.

9 Wencek: At lengths.

10 Moreira: All right. What do you remember talking about with
11 her on this one?

12 Wencek: She wanted more, that's for sure. Protection. And it
13 just in, in the, in my world, in my decision making
14 process, it wasn't warranted here.

15 Moreira: Okay.

16 Wencek: Okay. It would, it have hurt. Oh, it would've helped
17 potentially. But is it necessary? No.

18 Moreira: Any, um, other issues that you remember talking with
19 her about?

20 Wencek: Well, she's a little bit concerned about wildlife, but
21 again, the connectivity, one of the, one of the things
22 that you look at when you assessing wildlife impacts
23 is it's connectivity from one resource to another, one
24 wetland to another specifically, you've got a water
25 course, that's a connection. So you've got a big

1 corridor there. She was concerned about wildlife. If
2 I remember this one, I think she was concerned about
3 wildlife movement and that, that didn't work at all
4 because there was no wetland on the other side of the
5 road to connect to. So, I think that was-- This was
6 the one. Pretty sure this was the one she was
7 concerned about wildlife movement and there was
8 nothing to connect to. So that was another, another
9 issue that always a consideration. It's a wooded
10 area, you know, wildlife is using it. And now it's
11 going to be gone, in this instance, in this setting,
12 in this neighborhood, that won't make a difference.
13 Critter's gonna go across a lawn or it's gonna go
14 through the woods, if it wants to go there because
15 it's already a fully developed neighborhood.

16 **Moreira:** And she didn't necessarily agree with that?

17 **Wencek:** She's uh, very protective.

18 **Moreira:** Okay. The term she uses significant alteration. Is
19 it, you understand that, that refers to significant
20 alteration of the wetlands?

21 **Wencek:** That's what it seems to be. I did not make an issue
22 with that with her when she gave me this and I read it
23 and I was like sitting for alteration, whatever,
24 didn't-- You know, we talked, she knew that we were
25 looking to probably approve this and she knew the



1 reasons that were going to be applied to approve from
2 a biological perspective. And she was a little--
3 What's the word I wanna use? Disappointed.

4 Moreira: Okay.

5 Wencek: And that's not overly unusual, but you know, you try
6 to make sure your staff is on board with everything.
7 Sometimes they're not, you gotta be consistent. I
8 can't-- You know, it's the sense of, you've got seven
9 people working for you and you can't have seven people
10 making decisions 'cause no one's gonna make the same
11 to you. That same application, seven people, you may
12 get five of them agree and two of them have something
13 totally different. You've gotta make sure that that
14 program has a consistent response to every application
15 that's submitted. That's why everything goes through
16 one or two people for consistency.

17 Moreira: So she wasn't on board with this during--

18 Wencek: She-- This did not wreck her day, but she wanted more
19 protection.

20 Moreira: Okay.

21 Wencek: She definitely wanted more protection. She wanted the
22 house to be, moved smaller, which wouldn't have
23 mattered. Now that I think about this a little bit
24 more, it wouldn't have mattered. That was a brief
25 discussion. She was looking for ways to minimize

1 impacts, which again, I, I, I am so happy at that
2 staff that thinks that way, but within the bounds of
3 what we do and what the regulations really want us to
4 do. And if, if they meet their letter of the
5 regulation, I gotta tell you, 30% of the applications
6 I sign, I can't stand the project. It's a bad
7 project. It's gonna have harm to the environment, but
8 in my world of wetlands, if they need that regulation,
9 bingo, out the door.

10 Moreira: All right. So ultimately you overruled her on this
11 one though, all right? She wasn't--

12 Wencek: She didn't gimme a recommendation, significant
13 alteration. There is no definition for that.

14 Moreira: Okay.

15 Wencek: But yes, I will say she wasn't happy to approve this
16 project. 'Cause if she was sitting in my shoes, I
17 don't think she would've approved it.

18 Moreira: Okay.

19 Wencek: But she's not sitting in my shoes.

20 Moreira: How often does that happen? I guess we should-- I
21 guess--

22 Wencek: Not often.

23 Moreira: Okay.

24 Wencek: Dan Cal and I had one, I've had three or four with
25 her, maybe in the last 30 years.

1 Moreira: Wow.

2 Wencek: Um, it doesn't happen often.

3 Moreira: Okay.

4 Wencek: But it happens.

5 Moreira: And you have seven total, uh, biologists. So how
6 about with o-- other people, about the same amount?

7 Wencek: Her more so than most.

8 Moreira: Okay.

9 Wencek: Um, but not by much.

10 Moreira: Okay.

11 Wencek: You know, she's, she's, she's not a, a way outlier,
12 but she's definitely more conservative than anyone
13 else in my office.

14 Moreira: Okay.

15 Wencek: And again, they all have that sense of protection and
16 especially minimization of an impact, which she's very
17 keyed in on to, if you're gonna allow a project to go
18 forward, minimize those impacts as much as possible.

19 Moreira: Okay.

20 Wencek: And I think she wanted more on this one, but based on
21 the juxtaposition of this project and the nature of
22 this project, not warranted, not consistent.

23 Moreira: So you received this from Jane, you meet with Jane,
24 there's a little disagreement like we've talked about.
25 Um, then who do you meet, meet with next, about?

1 Wencek: Chuck Hobert, I think.
2 Moreira: Not Eric?
3 Wencek: Or, Eric. I don't remember. To tell you the truth, I
4 don't, I have so many of these. I don't remember.
5 Moreira: I gue-- I guess, um, (inaudible - 3:13:32).
6 Wencek: I could look, I have, I have it in my notes. You
7 know--
8 Moreira: Okay.
9 Wencek: My office who, who I met with in my diary.
10 Moreira: I think that would be helpful.
11 Wencek: It might be Eric.
12 Moreira: I'm just surprised--
13 Wencek: It should be reflected.
14 Moreira: 'Cause it seems like Eric, Eric, Eric.
15 Wencek: It should be reflected. Yeah.
16 Moreira: Okay.
17 Wencek: Probably was Eric.
18 Moreira: Okay.
19 Wencek: But again, if Eric was, you know, out for lunch with
20 Chuck, I gotta get these things moving. I, I can't
21 wait for
22 People.
23 Moreira: Okay. Um, so you would've met with, uh, Chuck or Eric
24 and discuss--
25 Wencek: Probably Eric--

1 Moreira: Okay.

2 Wencek: Under the circumstances.

3 Moreira: Okay.

4 Wencek: But--

5 Moreira: Okay.

6 Wencek: I, I honestly couldn't tell you who I met with.

7 'Cause there's just too many of these things.

8 Moreira: Do you think--

9 Wencek: And this was, this was not a high profile project in
10 my world. It was to other people. But to me, this
11 was just another application, getting it outta here.

12 Moreira: Okay. So then thinking back to the February 17th
13 lengthy email expressing, um, I forgot how you put it,
14 but--

15 Wencek: The, the drainage issue.

16 Moreira: Yeah. But the culvert and--

17 Wencek: All right.

18 Moreira: If that you-- You know, if the applicant would just
19 step up and fix this--

20 Wencek: It takes care of a neighborhood problems.

21 Moreira: Sure. Does that come up with Eric in this time
22 period?

23 Wencek: Uh. We were so disappointed in the town. I just
24 remember we got another-- I got a sick comment from
25 the town, smashing the project. And we're thinking,



1 you guys step up and do something for these neighbors.

2 My goodness gracious.

3 Moreira: ;You guys meaning the applicant?

4 Wencek: The town.

5 Moreira: Okay.

6 Wencek: The town.

7 Moreira: But they tell us that--

8 Wencek: Here they are bashing the project and it's an easy
9 fix. So--

10 Moreira: But the town's not coming to DEM for the application.
11 I'm not really--

12 Wencek: That-- Again, I'm looking at this on a more holistic
13 viewpoint.

14 Moreira: Okay.

15 Wencek: I've got a job through, I've gotta press sweat on
16 applications, but when I see it wrong and I can see an
17 easy, right.

18 Moreira: Mm-hmm.

19 Wencek: I'm an advocate for that and I'm gonna put it on a
20 table.

21 Moreira: So let me ask you this though. So it seems like we've
22 gone through emails. Marty, can you get with the Town
23 Planner in the applicant or other, other, other, uh,
24 players in this, so to speak, we should get together
25 with the Town Planner and kinda figure this out. Do--

1 What happened with that? With those proposals?

2 Wencek: I don't have time for that.

3 Moreira: You don't? Okay. But did it ever-- Did you have any
4 knowledge about happening?

5 Wencek: Obviously Eric was in co-- concert with the town. I
6 wasn't in concert with that, that conversation with
7 John Stevens and after we issued the approval, John
8 Stevens and I had a conversation, but it wasn't even
9 because of this, this came up during another
10 conversation on something else.

11 Moreira: Okay.

12 Wencek: And it was a chuckle conversation like, "Ha ha, you
13 know, Jake, you know, you proved that, oh."

14 Moreira: So I'm trying to just follow it. So Eric's in touch
15 with the town. You've, you've flagged it like,
16 holistically, as you said, they just need to get
17 together and work out this drainage.

18 Wencek: It was disappointing that it wasn't taken care of.

19 Moreira: But like at this point, after you moved from the
20 conversation with Jane to now discussion with Eric, do
21 you remember that coming up? Like, well, what's going
22 on with--

23 Wencek: With the town? Yeah, absolutely.

24 Moreira: And what, and why-- I mean, Eric--

25 Wencek: What can you do?

1 Moreira: What did Eric say?

2 Wencek: You can't make a player that's-- You've got an
3 application in front of you. That's your focus.
4 That's your mission. Process that application for
5 better or for worse, but there's a, there's a problem
6 at this site.

7 Moreira: Sure.

8 Wencek: Is it more serious flooding at this site? So I could
9 just say I don't care about that, which is not my way.

10 Moreira: Right.

11 Wencek: And Eric is--

12 Moreira: We get that.

13 Wencek: Eric kinda, kinda feels that way too. It's an issue
14 that needs to be addressed by the town. Look at all
15 these people that wrote in, oh my gosh, they got a
16 serious problem here. This application isn't gonna
17 hurt it. Isn't gonna help it.

18 Moreira: But did Eric ever say to you, "I talked to the town,
19 I'm at a dead end." (inaudible 3:17:19).

20 Wencek: I'm sure, I'm sure he talked to me about talking to
21 the town, but you know, again, I'm not gonna remember
22 those conversations in, in detail.

23 Moreira: Okay.

24 Wencek: Because they're just a conversation about a file.

25 Moreira: Okay.

1 Wencek: I'm just having, I'm having thousands of
2 conversations.

3 Moreira: All right. I mean, I profile one where it's like town
4 and--

5 Wencek: Town's involved--

6 Moreira: And it's like, yeah.

7 Wencek: And Eric is obviously having a conversation with them.
8 I don't know why he ever wanted to put it in my court,
9 but, it wasn't gonna happen unless he ordered me.

10 Moreira: Okay. All right. So the, one of the last things I
11 wanna show you is the supervisor's determination. And
12 just as a, a June, 2021 date.

13 Wencek: Mm-hmm.

14 Moreira: Um, fair to say this would've drafted after Jane's,
15 May--

16 Wencek: Definitely.

17 Moreira: 27.

18 Wencek: That's, that's the only time I could ever write that
19 document.

20 Moreira: Okay. And would this, um, have been written after
21 your discussion with Eric?

22 Wencek: Correct.

23 Moreira: Okay.

24 Wencek: That's yeah, I have to be-- We have to come to a 100
25 percent consensus before I'm gonna write that.



1 Moreira: You and Eric?

2 Wencek: Yeah. And if we're not, I I'm gonna write that and
3 it's gonna say we're not, but that has never happened.

4 Moreira: Okay. So how does that work? If he's, if he helps
5 (inaudible - 3:18:36).

6 Wencek: He signs the permit

7 Moreira: Really?

8 Wencek: Oh yeah.

9 Moreira: (Inaudible 3:18:44)?

10 Wencek: There's a couple times, not with Eric, with my former
11 chief.

12 Moreira: Okay.

13 Wencek: Two or three permits, I would not sign that, no way.

14 Moreira: Okay. Maybe before we get into this, you, you were
15 explaining, there's just some projects that you hate
16 that it's gonna--

17 Wencek: Oh-

18 Moreira: Hurt the environment.

19 Wencek: You look at, you look at it. You know, it's gonna
20 hurt the environment.

21 Moreira: Yeah.

22 Wencek: But it's all in Uplands. It's all Upland forest. We
23 don't regulate Upland forest.

24 Moreira: Okay. What did you do?

25 Wencek: You, you look at the project. Solar projects.

1 Moreira: Yeah.

2 Wencek: I don't know if you guys are solar advocates. I love
3 solar, but at the same time, they're putting them in
4 the wrong place. And when you see a solar project go
5 in an Upland forest and they're gonna devastate 60
6 acres of forest to put solar panels in and they happen
7 to have a little wetland, you know, they get near a
8 wetland here. So they, they need to come into us to
9 get our permit. I can't stand signing something like
10 that. I'll put it on a record. I can't stand sign,
11 but I do, because that's my job. And it needs deliver
12 the letter of the regulation.

13 Moreira: How about this one?

14 Wencek: This one was an easy walk through approval.

15 Moreira: Okay. So when you met with Eric, was there like, uh,
16 back and forth, like, you know, disagreements over any
17 part

18 Of this?

19 Wencek: No. No. I mean, I remember that he was, he was
20 disappointed with the town as more maybe than I was,
21 you know, I'm, I'm hopeful. I think he was having
22 dialogue with the town evidently. Um, with John
23 Stevens, it would look like, um, maybe try to get them
24 to do something. Like I wanted them to do something
25 hoping, but I didn't have specific dialogue with John

1 saying the town needs to step out, that, that, that
2 conversation did not happen with me.

3 Moreira: Okay. Like, it sounds like you felt strongly about
4 it, but--

5 Wencek: I was, it was an easy fix in my mind. I mean--

6 Moreira: Okay.

7 Wencek: I've seen a lot of projects and a lot of situations
8 and you got, how many people gave us comments, seven
9 people or something like that.

10 Moreira: Nine.

11 Wencek: Holy smokes, town, step up, fix this and you know, for
12 short money, but-- And you're working on the lot.
13 They're gonna be working on the lot, get in cahoot
14 with the applicant and fix this, you know, have the
15 applicant pay for the pipe, you know, something. It
16 was an easy fix. That, not the first time.

17 Moreira: I'm looking at it from a, I think a different
18 perspective, correct me if, if I'm wrong, the town,
19 the town was objecting.

20 Wencek: Yes.

21 Moreira: Right. So, and the town is one of the objectives. So
22 why would they, fix that drainage pipe, because that
23 would only make it easier for the, whether it's Tony
24 Silva or anybody else to develop that piece of land.

25 Wencek: The fact that John Stevens wrote that comment letter

1 is flawed. He has no expertise whatsoever in my
2 opinion, on that matter. So he is just echoing the
3 comments of the residents in my, in my, in my frame of
4 mind, looking at the whole thing.

5 Moreira: Mm-hmm.

6 Wencek: And at the time he's just repeating what he's hearing
7 from them, and he wants to be their advocate. End of
8 story. In my, in my opinion.

9 Moreira: I mean, there's a chance he can consulted with his
10 engineering.

11 Wencek: Oh, absolutely. There's a chance. But you know,
12 normally when there's an engineering comment, a Town
13 Engineer makes the comments, not the planner, like
14 ever.

15 Moreira: Okay. I don't know, just to finish up, I guess, with
16 the, the culvert and the easy fix, as you said, it
17 sounds like you felt strongly about it, but you were
18 willing to let it go.

19 Wencek: Because I can't require it.

20 Moreira: Okay.

21 Wencek: They met the letter of the regulation for us to be
22 able to approve that project in the second
23 application.

24 Moreira: Okay.

25 Wencek: I see the, I see big possibilities. I always see big

1 possibilities, but you can only make someone do so
2 much, in my world because I'm bound by a certain set
3 of regulations.

4 Moreira: Okay. Um, maybe just to go through part of what you
5 wrote here in the supervisor's determination, let's
6 see, it's a long sentence with regards to the comments
7 by abutting property owner's Town Planner, high--
8 highlighting localized flooding that exists in and
9 around the vicinity of the subject property supportive
10 information by the design engineer and consequently
11 reviewed by DEM store (inaudible - 2:23:04)
12 engineering program, has determined--

13 Wencek: As designed.

14 Moreira: Yep. Has determined this project, has now proposed is
15 not expected to worsen the flooding conditions known
16 to be occurring at this site. Um, was that the bottom
17 line, really what you were looking at?

18 Wencek: I mean, I gotta take biological issues into account.
19 I gotta take recreational issues into account, but
20 this one, front and center was a flooding issue. And
21 once it was determined that this proposal, the second
22 application was not gonna result in the detrimental
23 impacts, exasperating or increasing any of the
24 existing conditions that were being experienced on the
25 site. Once that was made clear by regulation, that

1 stressed.

2 Moreira: So why you send that long email to Eric Beck? Like
3 about, you know--

4 Wencek: Five o'clock in the morning and maybe I was pissed off
5 at him. I don't know. I don't get pissed off with
6 Eric. Um.

7 Moreira: Okay.

8 Wencek: But he asked me to do something that I was like, what?
9 And I, and I ranted.

10 Moreira: Okay. It sounds like--

11 Wencek: Pretty, pretty long email.

12 Moreira: All right. But there wasn't a flaw in the plans that
13 you, um--

14 Wencek: No, I, I'm looking--

15 Moreira: I'm strongly enough to deny a permit.

16 Wencek: I'm looking at-- No, that's, that's I'm going-- That
17 passage was stepping out of bounds. In other words--
18 I'm looking for, can they do more than what the
19 regulations say they were required to do.

20 Moreira: Okay.

21 Wencek: They're required to do A, B and C. And I was asking
22 can't they do D? And just throw D into A, B and C.
23 That's kind of like when I read that, I don't remember
24 writing that, but reading it now, that's kind of like,
25 that's where I'm coming from. I'm pretty sure.

1 Moreira: How did you come to that, conclusion?
2 Wencek: Which conclusion?
3 Moreira: On your own?That, that this-- What I was asking about,
4 fixing the culvert and the easy fix, and maybe the
5 applicant can just step up here that that's outside
6 the regulations is that--
7 Wencek: Because once they give us enough-- Once my engineer
8 Nick tells me, this works, it meets the regulations,
9 that's addressed. That's ready to go. I can try to
10 cook it more.
11 Moreira: Which you did, right?
12 Wencek: I can't make--
13 Moreira: So I guess my question is, is someone tell you like,
14 "Hey, Marty, you're cooking it--
15 Wencek: No.
16 Moreira: More."
17 Wencek: No.
18 Moreira: You just backed off?I
19 Wencek: Have a few passionate emails I send every now.
20 Moreira: Okay.
21 Wencek: And Eric is-- 'cause Eric or Terry are usually the
22 recipients.
23 Moreira: Okay. Um.
24 Wencek: I just want my notes.
25 Moreira: One thing I didn't ask you, about this June 1st email,

1 uh, with Jane. Um, so she tells you she did her
2 review that, you know, the May 27th one we were looking
3 at and you respond. "Thanks, Jane. I'll be getting
4 this, out this week for Eric's directive."

5 Wencek: Yeah. Get it out as soon as you can.

6 Moreira: That was the directive?

7 Wencek: Yeah.

8 Moreira: Okay.

9 Wencek: Like, you know, we said we were gonna do this quick,
10 but yeah, whatever.

11 Moreira: Okay. And the decision to issue the permit was a
12 collective one. I think you told us, you and Eric.

13 Wencek: I was totally on board with it, Eric one. I was
14 totally on board with it once the engineering was
15 taken care of.

16 Moreira: Okay. And Eric who I believe, was checking Nick's
17 review as well, 'cause he's an engineer.

18 Moreira: Okay.

19 Wencek: And this project being what it was, I'm pretty sure he
20 must have looked at it too. So once, I've got my
21 experts telling me it's good to go. And from a
22 biological perspective, I'm comfortable with it. As
23 much as Jane may not have been, but I certainly was
24 comfortable with it. Next.

25 Moreira: I think that's all I got, I really appreciate.



1 Wencek: That was cool.

2 Moreira: I like the end of it.

3 Salisbury: That's all you got.

4 Wencek: I'm in jeepers. I don't even--

5 Moreira: (Inaudible 2:27:11). Three and a half hours.

6 Wencek: Wow. Sorry about that guys. It's like crap. Mm-hmm.

7 Ratigan: Can we, can we just go over that one more time?

8 Wencek: Yeah. Yeah. Tomorrow. How about tonight? Only I
9 got an eight o'clock engagement.

10 Moreira: All right. You good Gerard?

11 Ratigan: I'm good.

12 Moreira: All right. I'll see you tomorrow.

13 Ratigan: All right. Very good.

14 Moreira: Bye.

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