

1 PLANNING BOARD COUNTY OF ALBANY  
2 TOWN OF COLONIE

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4 \*\*\*\*\*  
5 A PUBLIC HEARING REGARDING SABLE WOODS  
6 AN 18 LOT PROPOSED RESIDENTIAL SUBDIVISION  
7 LOCATED AT 277 CONSAUL ROAD  
8 \*\*\*\*\*

9 THE TAPED AND TRANSCRIBED MINUTES of the above  
10 entitled proceeding BY NANCY STRANG-VANDEBOGART  
11 commencing on April 20, 2010 at 7:03 p.m. at the  
12 Public Operations Center 347 Old Niskayuna Road,  
13 Latham, New York 12110

14 BOARD MEMBERS:

15 CHARLES J. O'ROURKE, Chairman  
16 ELENA VAIDA  
17 PETER GANNON  
18 PAUL ROSANO  
19 TOM NARDACCI  
20 MICHAEL SULLIVAN  
21 PETER STUTO, Jr. Esq., Attorney for the  
22 Planning Board

23 Also present:

24 Joseph LaCivita, Director, Planning and Economic  
25 Development

Lynn Sipperly, Sipperly and Associates

Brad Grant, Barton and Loguidice

Fred Danby

Suzanne Perry-Potts

Chris Fernando

24

25

1                   CHAIRMAN O'ROURKE: The first project on  
2                   for this evening is a public hearing for Sable  
3                   Woods subdivision, 277 Consaul Road. It's an  
4                   18 lot residential subdivision, review and  
5                   action on concept acceptance and final plan.

6                   MR. STUTO: Notice is hereby given that  
7                   pursuant to Section 276 of the Town Law, the  
8                   Town Planning Board of the Town of Colonie,  
9                   Albany, New York will meet and conduct a  
10                  public hearing at the Public Operations  
11                  Center, 247 Old Niskayuna Road, Latham in said  
12                  Town of Colonie, County of Albany, New York on  
13                  the 20<sup>th</sup> day of April, 2010 at 7:05 p.m. for  
14                  the purpose of hearing all persons upon the  
15                  approval, modification, or disapproval of a  
16                  certain residential subdivision plat in the  
17                  Town of Colonie, County of Albany known as  
18                  Sable Woods consisting of approximately 18.56  
19                  acres of land located at 277 Consaul Road to  
20                  be divided into 18 lots. Dated April 14, 2010,  
21                  Town of Colonie Planning Board, C.J. O'Rourke,  
22                  Chairman.

23                  CHAIRMAN O'ROURKE: Thank you, Pete.

24                  For those of you in the audience that  
25                  haven't attended a Planning Board meeting,

1 they've changed slightly. The way that we go  
2 about our business here is we'll be updated by  
3 the Planning and Economic Department.  
4 Joe LaCivita will bring us up to speed. Then  
5 we'll ask the applicant to present the project  
6 and then if there is a town designated  
7 engineer in the project, they will then speak.  
8 If there is not a town designated engineer,  
9 then it will open to the board members for  
10 specific questions in regard to the project.  
11 When the board is through asking their  
12 questions, we will then open it up to those of  
13 you in the audience who would like to go on  
14 the record this evening. What I do ask you  
15 beforehand is that if you do speak, please  
16 enunciate clearly your name and your address  
17 so that it can be transcribed properly in the  
18 record.

19 Joe, if you just want to give us some  
20 background?

21 MR. LACIVITA: I can give you a brief  
22 summary of the history of the project.

23 In '84 the Town of Colonie, through the  
24 department coordinating committee meeting  
25 January 24, 2007 - the proposal was for an 18

1 unit subdivision. It is in a single family  
2 residential zoning district that has a  
3 conservation overlay attached on the property.  
4 It is in the Lisha Kill/Kings Road GEIS.

5 The conservation findings were adopted by  
6 the Planning Board February 15, 2007. There is  
7 no expiration of these findings for the Land  
8 Use Law.

9 Concept acceptance was initially granted  
10 July 7, 2007 and had no expiration on that, as  
11 well. Portions of the site lie within the  
12 town's protected watercourse area and a  
13 variance has been issued by the town's  
14 Significant Environmental Areas Management  
15 Appeals Board, better known as SEAMAB for the  
16 disturbance of a portion of the protected  
17 area.

18 Town departments have reviewed the plans.  
19 Like I said, it's been before the Planning and  
20 Economic Development Department since January  
21 of 2007.

22 I'll turn it over to Mr. Sipperly.

23 CHAIRMAN O'ROURKE: Thanks, Joe.

24 MR. SIPPERLY: Mr. Chairman, members of  
25 the Planning Board good to see you again.

1           Sable Woods residential subdivision is a  
2           conservation subdivision located on the west  
3           side of Consaul Road surrounded by a  
4           residential subdivision on our north, our  
5           south is Vanessa Court, this is Oakmont  
6           Terrace, across the road on the west side of  
7           the development and over here are lands of the  
8           West Albany Rod and Gun Club. We have 172 feet  
9           of frontage on Consaul Road in this area  
10          (Indicating). The utilities on Consaul Road  
11          are water and sewer and we propose to extend  
12          those utilities to provide water and sewer  
13          service to lots within the subdivision.

14                 As Joe mentioned, there are two protected  
15          watercourses on the property. One is at the  
16          northerly side of the line right here and that  
17          is a 100 foot buffer. The second one is really  
18          at our southwest corner. That's the blue line  
19          in this area right here (Indicating).

20                 We have received a variance from the  
21          SEAMAB board basically in two areas. One  
22          variance is for this detention basin to exist  
23          within the buffer area (Indicating). A second  
24          was for the outlet of the two detention basins  
25          to actually be constructed to the physical

1 stream because there is a stream right here.

2 The subdivision laid out in this  
3 conservation area provides for a larger area  
4 of open space for preservation of lands;  
5 approximately 12.86 acres. The preservation of  
6 lands is approximately 68% of the property.

7 We're proposing two new streets. One is  
8 Craigmere Lane which is approximately 700 feet  
9 long, and also Brisbane Court which is about  
10 500 feet in length.

11 The topography of the property kind of  
12 flows northeast to southwest in this direction  
13 here (Indicating) and we have a detention  
14 basin in this location here and a second  
15 detention basin over here to both attenuate  
16 the stormwater off the site caused by  
17 additional development and also for water  
18 quality.

19 When we were before the SEAMAB board,  
20 they recommended to the Planning Office that  
21 this open space area conveyed to the Town of  
22 Colonie. There is an area right here  
23 (Indicating) that is currently owned by the  
24 Town of Colonie. It's kind of a watercourse  
25 protection parcel and they feel that this open

1 space area here would be a natural extension  
2 of that. If the Town of Colonie is not a party  
3 to accept this open space area, then our plan  
4 would be to convey it to a nature conservancy  
5 type operation, or a not for profit operation.  
6 An organization that would be stewards to make  
7 sure that it is open space and keep it  
8 undeveloped space so that there is no  
9 development within this parcel.

10 One of the lots is affected by the buffer  
11 area. The rear line in some instances is  
12 coincident with the 100 foot buffer line and  
13 that's along here (Indicating). SEAMAB has  
14 asked us to install a physical fence. We  
15 propose a vinyl post and rail type fence so  
16 that it will be a physical marker for lot  
17 owners here to tell them that's the beginning  
18 of the protected lands of the Colonie. Where  
19 the property line does not directly abut the  
20 buffer line, the SEAMAB board has asked us to  
21 install signs which indicate that area beyond  
22 this here is protected lands. So, where we  
23 actually border the boundary of the 100 foot  
24 buffer, there will be a physical fence. Where  
25 the buffer goes beyond the lots, these areas

1 would have signs indicating that this is a  
2 protected environmental area.

3 CHAIRMAN O'ROURKE: Can you show the  
4 board where the actual 82 feet under the  
5 protected water course is going to be?

6 MR. SIPPERLY: It's actually 100 on  
7 either side.

8 CHAIRMAN O'ROURKE: Isn't there  
9 proposed -

10 MR. SIPPERLY: Oh, yes. There are also  
11 federal wetlands on the site. Our impact to  
12 federal wetlands is .03 acres.

13 This impact is caused by the sanitary  
14 sewer. The sanitary sewer is presently located  
15 at this location down here (Indicating).  
16 They're doing it by gravity to service this  
17 development; we need to cross this watercourse  
18 in this location here (Indicating). That's  
19 driven mostly by the invert or the depth of  
20 the sewer. The sewer is quite shallow at this  
21 point here. As we extend it, we're losing  
22 grade so that if we were to put the road - the  
23 sewer would only be actually be a foot under  
24 the pavement which would freeze and not be  
25 adequate coverage. We're actually coming from

1           this route here (Indicating). We could  
2           maintain the proper coverage over the sanitary  
3           sewer and also achieve a gravity sewer  
4           situation for the development. That's the  
5           preferred grade to construct sewers as per the  
6           Pure Waters Department.

7                     Our impact is really this area right here  
8           (Indicating). Between my two fingers right  
9           here is the 82 feet and that's really caused  
10          by the sewer that has to come above the  
11          stream. We're going to put a culvert in here  
12          and then put a berm on top and the sewer would  
13          be within that berm to maintain coverage and  
14          provide for working areas because the sewer  
15          has to be maintained. This is where the impact  
16          to SEAMAB occurs. This is also the area where  
17          we have application to the Corp of Engineers  
18          for a permit.

19                    CHAIRMAN O'ROURKE: But it's going under  
20          the stream?

21                    MR. SIPPERLY: No, it's going above the  
22          stream. We're actually going to pipe the  
23          stream and then above that we're going to put  
24          the sanitary sewer. So, we have the bottom of  
25          the stream and you've got a culvert and then

1 we would put in that 80 foot section. We would  
2 put the fill over the top of the culvert and  
3 in that fill that's where the sanitary sewer  
4 would be kept.

5 To give you some numbers: Over the  
6 culvert we would have that 80 foot of area and  
7 we would maintain four feet from the surface.  
8 We'll also maintain a four foot clearance on  
9 that from the culvert underneath. That's  
10 really to achieve this gravity service to the  
11 subdivision. We have discussed this many times  
12 with Pure Waters and talked to the Army Corp  
13 of Engineers about moving this back and forth  
14 and it doesn't work for us. If we move it in  
15 this direction here (Indicating), we still  
16 have the same impacts. If we move it out to  
17 Consaul Road, it just doesn't work at all. If  
18 you can picture the sewer is almost out of the  
19 ground.

20 CHAIRMAN O'ROURKE: And there is a force  
21 main on the other side?

22 MR. SIPPERLY: There is a force main  
23 providing service for these two lots right  
24 here (Indicating), which goes in this  
25 direction and to the sewer on Oakmont Terrace.

1           Actually it's a grinder pump for these two  
2           homes right here. So in total, these three  
3           homes here are on this force main that starts  
4           right here (Indicating).

5           The project head has gone through the  
6           reviews of all the town departments, Pure  
7           Waters, DPW and the Planning Office in  
8           response to all their comments. That's why  
9           we're back before this board.

10          We actually started this application  
11          prior to what Joe had mentioned. We started it  
12          in 2006. Actually, it was before the current  
13          Land Use Law that was adopted by the Town of  
14          Colonie. At that time this was zoned A3  
15          residential and we planned it as a  
16          conventional subdivision where we had lots  
17          that extended back here and we were using this  
18          area here for lots also. The yield is the  
19          same; 18 lots and 18 lots. Once the new town  
20          Land Use Law was adopted and assumed and this  
21          conservation overlay was placed, we were asked  
22          to take a look at it for development of the  
23          conservation overlay procedure. That's why we  
24          kind of brought the development lots across  
25          this wetland to use this area right here

1 (Indicating).

2 CHAIRMAN O'ROURKE: With it being in the  
3 conservation overlay, what does it reduce the  
4 lots size to?

5 MR. SIPPERLY: The average lot size is  
6 about 10,000 square feet. The lot size for an  
7 SRF zone is 18,000 square feet. Times have  
8 changed to where we're looking at putting in  
9 cottage type homes as opposed to large  
10 two-story homes. We envision these to be  
11 probably one story homes, about 1,700 or 1,800  
12 square feet and a two car garage. The small  
13 lots are also very much en vogue today with  
14 regard to yard maintenance. These are really  
15 attractive to mature adults, young  
16 professionals, young couples who don't want to  
17 be required to do a lot of yard maintenance  
18 and mow lawns and things like that.

19 We would probably see that there would be  
20 some kind of an association set up. It might  
21 not be an association, but a plan set up where  
22 we would have common care of the grounds. It  
23 also allows a large area of local space which  
24 creates a buffer between existing homes and  
25 development. It also provides a larger

1 separation between proposed homes and lands of  
2 the Albany Rod and Gun Club. The closest home  
3 here would be approximately five feet from the  
4 property line. There is a large buffer as you  
5 can see that occurs.

6 Also a benefit to the town in the future  
7 is that it reduces the paving costs and  
8 plowing costs. They are significantly reduced.  
9 The tax benefit to the town will remain the  
10 same of 18 lots. Again, I think as part of  
11 green development, this will reduce the amount  
12 of impervious area that has to be treated and  
13 detained for stormwater quality.

14 That's what we're proposing for a  
15 subdivision. I know that this board has not  
16 seen this subdivision until this evening in  
17 your packets, but we feel that we have  
18 addressed all the comments of the utility  
19 systems and it has been reviewed by the town  
20 departments. The next step would be to go to  
21 the Albany County Health Department.

22 CHAIRMAN O'ROURKE: Peter?

23 MR. GANNON: Can you describe the  
24 condition of that land that you're designating  
25 for conservation and if there is in your

1 opinion any potential uses - any benefit other  
2 than the preservation of the open space.

3 MR. SIPPERLY: We do have a really large  
4 area here that is usable land (Indicating).  
5 The soils out here are sandy type soils.  
6 They're good soils. The real benefit to the  
7 town is the opportunity actually for the town  
8 and for the neighborhood. This is an  
9 opportunity to provide or maintain a  
10 significant amount of green area that they're  
11 accustomed to right now to provide protection  
12 of these two watercourses.

13 MR. GANNON: Could there be a recreation  
14 use?

15 MR. SIPPERLY: We could provide for that.  
16 That could be recreational use back there.

17 CHAIRMAN O'ROURKE: Mr. Sipperly, could  
18 you please use the microphone?

19 MR. SIPPERLY: Sure.

20 There are areas on this open space  
21 preservation area of lands that would be  
22 suitable for recreation area. This area right  
23 here, again, is all uplands and it's not  
24 affected by the wetlands. The access to this  
25 parcel really would occur through the parcel

1 here that's owned by the Town of Colonie right  
2 here. We have not provided for any access to  
3 this parcel because we're really trying to  
4 keep it open space without a lot of activity.

5 MR. GANNON: My only other question right  
6 now is about the sewer system. You indicated  
7 that you have come into compliance with the  
8 department's request.

9 MR. SIPPERLY: Yes.

10 MR. GANNON: So you have accepted their  
11 recommendation that they made in there from  
12 March 1<sup>st</sup>?

13 MR. SIPPERLY: Yes. The preferred way to  
14 service as per the Pure Waters Department is  
15 by gravity. The other option would be to have  
16 rider pumps in each unit with a low pressure  
17 main to this point over here (Indicating). A  
18 pump station is a lot more cost and  
19 maintenance to the Town of Colonie to the Pure  
20 Waters Department just because it's a major  
21 improvement and installation. A pump station  
22 has a 15 year life where they need to be  
23 upgraded. Also, they are inspected every  
24 couple of days to check and make sure that  
25 everything is functioning properly. So, the

1 gravity sort of eliminates all of that. That's  
2 why they put a gravity sewer in.

3 MR. GANNON: That's all I had right now.

4 CHAIRMAN O'ROURKE: Thanks, Pete.

5 Mike?

6 MR. SULLIVAN: Mr. Sipperly, I just had  
7 one question. Can you show me where the fire  
8 hydrants are provided in the subdivision?

9 MR. SIPPERLY: There are a lot of lines  
10 on this drawing and that's why you can't find  
11 it.

12 MR. SULLIVAN: I found one at the end of  
13 one of the cul-de-sacs.

14 MR. SIPPERLY: Typically, you put them at  
15 the end of the cul-de-sacs. There is one right  
16 here (Indicating). You have to do that for  
17 flushing. There should be one in this area  
18 here. There is a hydrant right here also at  
19 this location along this lot line  
20 (Indicating).

21 MR. SULLIVAN: My reason for asking is  
22 that I came across a memo from Peter Lattanzio  
23 dated June 21, 2007. This was a comment on the  
24 concept submission from a Chief of the Midway  
25 Fire Department. He requested having an

1 additional fire hydrant installed on the  
2 property lines between 2 and 4 Craigmore Lane.  
3 I couldn't find one there. I was wondering if  
4 perhaps that had been addressed in a later  
5 correspondence or if the lots had been  
6 renumbered in some manner.

7 MR. SIPPERLY: There is a hydrant at this  
8 location here on Consaul Road. There is  
9 probably another hydrant as we proceed  
10 southerly. I think what happened is there  
11 might be a conflict between what the fire  
12 department requests and what Latham Water  
13 finds to be fire protection. The spaces  
14 between fire hydrants typically don't exceed  
15 500 feet. We have to kind of build what Latham  
16 Water requests.

17 MR. SULLIVAN: I couldn't find one when I  
18 looked at the plans that I have in the packet.

19 MR. SIPPERLY: I don't believe that there  
20 is another one. I think that Latham Water  
21 indicated that between this hydrant and the  
22 one up here and one up here (Indicating), they  
23 would have adequate fire protection.

24 MR. SULLIVAN: Joe are you aware of any  
25 correspondence that occurred after this?

1 MR. LACIVITA: Not to my knowledge, Mike,  
2 but I can certainly go through the packet now.

3 MR. SULLIVAN: That's fine. That was my  
4 main concern. I just wanted to make sure that  
5 we have them there if it's required or if it  
6 has been addressed at a later date.

7 MR. SIPPERLY: I think that it's been  
8 addressed in the regard that Latham Water  
9 seems to have the jurisdiction of the fire  
10 hydrants and what the locations are and the  
11 spacing.

12 MR. SULLIVAN: Okay, we can check to see  
13 if there is any other correspondence from  
14 them. Thank you.

15 That's all I had C.J.

16 CHAIRMAN O'ROURKE: Thanks, Mike.

17 Elena?

18 MS. VAIDA: When you were initially  
19 speaking, did you say that the stormwater was  
20 going to be discharging into a stream?

21 MR. SIPPERLY: Yes. The stormwater from  
22 the development is going to be collected and  
23 brought down to this detention basin here  
24 (Indicating). A portion of the site would be  
25 brought to this detention basin here. These

1           detention basins are again, for a continuation  
2           of flows and also for water quality. The  
3           outlet of these detention basins will be to  
4           the stream here and to the stream here  
5           (Indicating). This is where the property  
6           drains into. It's kind of a natural topography  
7           of land.

8           MS. VAIDA: And then did you also say  
9           that before it discharges to the stream that  
10          there is going to be some sort of treatment?

11          MR. SIPPERLY: Yes. Stormwater management  
12          now evolves to what is the storage of  
13          additional waters that are caused by  
14          development; and also water quality treatment.  
15          We have the appropriate ways to treat the  
16          water that goes off the site.

17          MS. VAIDA: That was one of my concerns  
18          was getting discharge into the stream. I guess  
19          the treatment is also to protect the lands  
20          against pollution of any kind getting into the  
21          streams or chemicals from treating the lawns  
22          and things like that.

23          MR. SIPPERLY: Yes, that's the intent of  
24          that. During construction sediment control is  
25          in check so that the stream does not see

1 sediment from erosion on the site during  
2 construction and also after construction  
3 again, whatever else may come off of the  
4 pavement or fertilizers from one area and have  
5 the opportunity to be treated and discharged.

6 MS. VAIDA: And when you initially filed  
7 your application, I guess the original plan  
8 was to have the sanitary sewers on  
9 Consaul Road - that you were actually going to  
10 connect to those.

11 MR. SIPPERLY: We are. We're actually  
12 connecting at this location right here  
13 (Indicating). This is the last manhole on  
14 Consaul Road. From here the sewer flows in  
15 this direction, southerly. There is no sewer  
16 along this section of Consaul Road. It's  
17 really because Consaul Road here is like a  
18 crest point and it goes down to a low point  
19 here (Indicating) and then it goes back up.

20 MS. VAIDA: So you're saying that the  
21 original proposal for the connection hasn't  
22 changed so this is the original application  
23 that has been the same all along.

24 I was a little surprised at the  
25 environmental assessment form. The answer to

1 the question whether there is any possible  
2 adverse impact on existing air quality surface  
3 or groundwater quality drainage, potential for  
4 erosion -- the answer to that was no after you  
5 ran through the issues that seem to have come  
6 up during the process. Could this be amended,  
7 do you think, or do you think that answer is  
8 still no?

9 MR. SIPPERLY: I think it's still no.  
10 We're not going to effect air quality.

11 MS. VAIDA: I know that.

12 MR. SIPPERLY: The only impact is really  
13 traffic. That's not really even effective. We  
14 have 18 lots here and I think that the traffic  
15 is 15 vehicles in the a.m. peak hour and 19 at  
16 the p.m. peak hour. Again, the stormwater  
17 detention basins are the same as is required  
18 for all development now; both in Colonie and  
19 in New York State in regard to detention and  
20 quality. It's actually better than it was  
21 years ago because DEC has increased the  
22 requirements in regard to stormwater  
23 treatment. I don't think that there would be  
24 any opportunity for pollution of this stream;  
25 no more than would occur if something were to

1           happen on Consaul Road. By that I mean if  
2           there's an accident here or there was some gas  
3           from a car that leaked into the sewer system.  
4           This stream is actually flowing in this  
5           direction here (Indicating). So, we're kind of  
6           upstream from Consaul Road.

7           MS. VAIDA: Had you always been planning  
8           to do the culvert to gain access?

9           MR. SIPPERLY: It was really the only  
10          practical route. We came across Consaul Road  
11          with a gravity service. We could do that with  
12          a force main. A force main and pump station  
13          requires energy so there is electricity for  
14          the pumps and it requires town enforcement for  
15          maintenance and inspection and it requires  
16          some replacement over a period of time - at  
17          least for a pump station component.

18          MS. VAIDA: Is that the way that you were  
19          planning on doing it from the beginning?

20          MR. SIPPERLY: No. The directive of Pure  
21          Waters and the Town of Colonie has not changed  
22          in probably 40 years. The gravity is the  
23          preferred.

24          That's all I had.

25          CHAIRMAN O'ROURKE: Paul?

1           MR. ROSANO: If I was going to buy the  
2 lot at 14 Craigmere and I was in my backyard  
3 on a Thursday night or a Sunday afternoon,  
4 would I be hearing gunshots?

5           MR. SIPPERLY: You probably would. You  
6 would in the sense that I live off of Vly Road  
7 probably two miles from here and I hear gun  
8 shots. They're not such that it's alarming,  
9 but I do hear it as background noise.

10          MR. ROSANO: Could you show me on a map  
11 approximately where the range is? I know that  
12 there is nothing there now but since you live  
13 in that area -

14          MR. SIPPERLY: I'm not a member of the  
15 Rod and Gun Club, but my understanding is that  
16 the range is probably over in this area here.

17          MR. ROSANO: That's the drive way in,  
18 right?

19          MR. SIPPERLY: Right.

20          MR. ROSANO: Would you know where the  
21 range is, sir?

22          FROM THE FLOOR: My house is here and the  
23 range is just about here (Indicating). They  
24 shoot right about here (Indicating)

25          MR. ROSANO: Yeah, that was my next

1 question. If you're going to build a house,  
2 people need to know. They don't want to be  
3 startled on Thursday night when it sounds like  
4 World War III is going on.

5 MR. SIPPERLY: That's something that I  
6 didn't mention. We would put that in the deed  
7 so that anyone that purchases in here is well  
8 informed.

9 CHAIRMAN O'ROURKE: Tom?

10 MR. NARDACCI: Concept acceptance has  
11 expired from 2007, right?

12 MR. SIPPERLY: I don't know if it has  
13 expired. Since 2007 we have really been in the  
14 mill of submitting drawings to the departments  
15 and we have received comments back and have  
16 resubmitted them. There has been no hiatus on  
17 our part or on the part of the subdivision to  
18 respond to any comments received by the  
19 departments. There was a long delay between  
20 the time that we would submit comments and  
21 then receive comments back. You can see why it  
22 started in 2007 and now it's 2010.

23 MR. NARDACCI: So tonight we're solicited  
24 to do review and action on concept acceptance  
25 and on the final plans. Tonight we're going to

1 take action on concept acceptance.

2 MR. SIPPERLY: That's because the board  
3 has never seen it. This board hasn't had the  
4 opportunity to see this plan because it was  
5 really presented three years ago.

6 MR. CHAIRMAN O'ROURKE: Remember that I  
7 haven't gone yet, Mr. Sipperly.

8 MR. LACIVITA: I think that in the PDD  
9 summary, it does say in the first paragraph  
10 there that concept acceptance was initially  
11 created on July 7, 2007. It has in fact  
12 expired based on the time frames and based on  
13 the Land Use Law in 2007. That's why it says  
14 necessitating a new action on concept prior to  
15 consideration on final subdivision approval.

16 Mr. Sipperly is correct, though. As you  
17 look through the history of the project, they  
18 have been responding back and forth. I think  
19 we finally got packaging and answers done but  
20 I think that probably on the developers' part,  
21 I don't see a request for extension happening  
22 during the course of it or during the course  
23 of the review process.

24 MR. NARDACCI: Is there a reason why you  
25 haven't requested an extension?

1           MR. SIPPERLY: I guess that the reason is  
2 that we were not aware of it. There was no  
3 interruption in our proceeding to final  
4 subdivision plan with any acts on our part.

5           MR. NARDACCI: I'm asking because this is  
6 something that we have seen a few times. I  
7 think that trying to get to the root of why  
8 did this lapse? Why didn't you file for an  
9 extension? I think that it's important to  
10 understand. You've been communicating back and  
11 forth on the issue and on this plan. I'm just  
12 trying to understand how we get to this point  
13 where we have to do concept again.

14           The other part of it is I'm uncomfortable  
15 with having an item listed that we're seeing  
16 for the first time and we're expected to  
17 review action on a concept as well as final.  
18 We wouldn't do it on other projects and I  
19 understand that this came before a prior board  
20 and review and granted concept. For us, this  
21 is the first time that we're reviewing it. I  
22 would want to see this project undergo the  
23 same review by this board that any other  
24 subdivision that you brought here has to go  
25 through. I understand the prior but I guess

1           that's just a general comment. That's for us  
2           here. They've been working through the  
3           departments for three years too. It's not for  
4           you. It's rhetorical.

5           The other question that I have is where  
6           are you with SEQRA?

7           MR. SIPPERLY: I believe that we got  
8           SEQRA approval on concept.

9           MR. NARDACCI: That's another issue that  
10          we've talked about recently. Looking at the  
11          SEQRA document that's here and signed by a  
12          previous Chairman and looking at the minutes  
13          at the Planning Board meeting, there was no  
14          vote taken on SEQRA. We have a signed SEQRA  
15          form. Do you remember that in July of 2007?  
16          Did the Planning Board take a vote on SEQRA?

17          MR. SIPPERLY: My experience has been  
18          that on projects that they did two actions.  
19          One would be the acceptance of SEQRA and the  
20          second would be concept plan approval.

21          MR. NARDACCI: Well in the minutes from  
22          2007, we have review and action on concept.  
23          But we don't have any review and action on  
24          SEQRA. This is where we get to the territory  
25          that we've discussed at recent meetings and

1 while the process has changed now that we're  
2 not going to review SEQRA and approve it at  
3 concept because three years from now, we don't  
4 have minutes to show us what happened that  
5 night. How am I supposed to know July 10, 2007  
6 if it was properly approved? In our own  
7 minutes it doesn't say that there was a vote.  
8 I have a problem with that. So our preview as  
9 a board and our responsibility is that we have  
10 to also take up SEQRA once again. That's our  
11 right. That's something that we talked about  
12 before.

13 Furthermore on top of that, in our  
14 packets we have another EAF form filled out  
15 separately unsigned. Here's July 10, 2007.  
16 It's a signed form by Chairman Platt. It's  
17 signed by Kevin DeLaughter. Then in our packet  
18 we have an EAF form, no date, signed by Kevin  
19 DeLaughter with Jean Donovan, Chairperson and  
20 no signature. What does this mean for us?

21 CHAIRMAN O'ROURKE: I can explain that.  
22 That was supposed to come to the board and the  
23 prior Chairman put it off and didn't allow it  
24 to come to the board. I believe that Kevin  
25 prepared that for that meeting and it just

1 never happened. It never came before us.

2 MR. NARDACCI: At that prior meeting we  
3 were expected to take action on SEQRA. That's  
4 why we have this form, right? The meeting was  
5 put off and didn't happen. Yet tonight we're  
6 here with no action on SEQRA. The whole point  
7 here is fairness and equity for all projects.  
8 This doesn't show fairness in my book. I just  
9 want to be equitable. So I think we're going  
10 to need another SEQRA application that we can  
11 review and approve.

12 MR. SIPPERLY: In all fairness, again, we  
13 were proceeding in good faith. I can't attest  
14 to the housekeeping of the prior Planning  
15 Board. To my knowledge, It's not the  
16 applicants responsibility to keep the minutes  
17 of the meeting.

18 CHAIRMAN O'ROURKE: I agree. There are  
19 some responsibilities that I'm going to get  
20 into that are of the applicant.

21 MR. NARDACCI: I think that these are  
22 important issues. Some of my comments were  
23 rhetorical. There is a lot of work that has  
24 been done on this. I have looked through the  
25 entire packet for the last few years. There

1 are a lot of analyses, engineering reports,  
2 stormwater and Latham Water work, but it's  
3 incomplete in my opinion. I feel bad for you  
4 too because you're coming here tonight as a  
5 professional expecting to have concept review  
6 and then possibly final. You have a property  
7 owner, who is waiting to get a phone call to  
8 see well whether they'll get the final.

9 MR. SIPPERLY: That's exactly right.

10 MR. NARDACCI: I just can't see how we do  
11 it, in my opinion. It just wouldn't be  
12 equitable.

13 MR. LACIVITA: Tom, I agree.

14 C.J., if I may, I just want you to look  
15 at the July 10, 2007 minutes. There is a  
16 paragraph that says, and again, I can't attest  
17 to how the prior Planning Board acted or voted  
18 upon actions, but it certainly looked like  
19 this was an all encompassing action which they  
20 may have taken on July 10<sup>th</sup>. I'm hopeful that  
21 the Planning Department didn't mislead you in  
22 April by giving you another SEQRA because it  
23 certainly doesn't say that SEQRA was acted  
24 upon here. It's like an all encompassing  
25 action where it talks about the Planning Board

1 reviewing the plans, the environmental  
2 assessment form and the application. It speaks  
3 that the proposal would have significant  
4 impact but it never talks -- we split out the  
5 SEQRA action and we split out everything so we  
6 can go back and say that it was done. So, I  
7 can't tell you that in fact it was. I think  
8 that's why the Planning Board may have given  
9 you that April action to say vote on SEQRA  
10 again. I don't think that it was clear what  
11 was done here.

12 MR. NARDACCI: There is so much  
13 uncertainty and they didn't transcribe minutes  
14 as we do now. You can't go back in the record  
15 and say, what was exactly done? I'm not  
16 confident in what was done in the past. So  
17 perhaps going forward we should, as a board,  
18 take up SEQRA. We have the authority to take  
19 up SEQRA again.

20 MR. STUTO: That's right.

21 MR. NARDACCI: What I would suggest  
22 moving forward is that any plans that have  
23 been around that are coming forward again that  
24 we had SEQRA - that we let the applicant know  
25 that we expect to take it up again.

1                   CHAIRMAN O'ROURKE: I don't think that's  
2                   fair in all cases. Again, I think that there  
3                   are certain circumstances and certain projects  
4                   that SEQRA is more significant than others.  
5                   Unfortunately, I think that this board is  
6                   handicapped by the fact that not all the time  
7                   in the past were things done in a manner that  
8                   coincided with the Land Use Law and the laws  
9                   of the town. That's as diplomatic as I think  
10                  that I probably can be.

11                  So, unfortunately, Tom, my opinion is  
12                  that each project -

13                  MR. NARDACCI: At least where it is  
14                  unclear.

15                  CHAIRMAN O'ROURKE: I agree with that. If  
16                  you are done, I have some things that I can  
17                  get into that are certainly specific to SEQRA  
18                  and certainly specific to this property,  
19                  certainly specific to the Land Use Law and  
20                  again I'd like to read into the record

21                  The purpose of the conservation  
22                  development overlay district is to require the  
23                  use of conservation development design  
24                  principals to preserve open space and viable  
25                  agricultural lands.

1           Part of the responsibility of the  
2           applicant is to prepare a conservation  
3           analysis.

4           Was one of those done, Mr. Sipperly?

5           MR. SIPPERLY: Yes. The calculations are  
6           shown on the plans. The constrained lands, the  
7           unconstrained lands, and the percentage of  
8           unconstrained lands which are set aside -

9           CHAIRMAN O'ROURKE: I'm very familiar  
10          with both the site and the plan. After I  
11          walked this property and wiped the ticks off  
12          myself I might take offense that there might  
13          not be issues to the air with all the skunk  
14          cabbage that is included in the swampland that  
15          Mr. Weis owns. Unfortunately, the town doesn't  
16          want to own that swampland. You can call it  
17          whatever type land you want, but if I were to  
18          take 10 reasonable people for a walk through  
19          this property, the reasonable estimation would  
20          be that it's swampland. So, especially those  
21          that live on Vanessa Court -- that wetland  
22          that you have right there - your detention  
23          basin -

24          MR. SIPPERLY: The wetland is up here.  
25          The detention basin is over here (Indicating).

1                   CHAIRMAN O'ROURKE: Right, but where your  
2 detention basin is - that's very wet.

3                   MR. SIPPERLY: The delineation of the  
4 wetlands is shown on the drawing and you can  
5 see that line is a dotted pattern. We can't  
6 put detention in the wetlands. We really go in  
7 there.

8                   CHAIRMAN O'ROURKE: I guess I'm not  
9 understanding then what the applicant would  
10 think that the Town of Colonie and the  
11 taxpayers therein would want to own your  
12 swampland which, by the way, doesn't fall into  
13 it being preserved.

14                   MR. SIPPERLY: The mention of the Town of  
15 Colonie being perhaps a grantee for this  
16 parcel is really a suggestion from the SEAMAB  
17 board. If that is not the will or the  
18 recommendation of this board, then we would  
19 have this area -- we need to preserve it.

20                   CHAIRMAN O'ROURKE: I agree and I'll get  
21 to SEAMAB in about three points.

22                   Can you tell me with regard to the  
23 history of this property - can you tell me  
24 where the easement is for the rest of it? Is  
25 that Brisbane? Up in the cul-de-sac of

1 Brisbane there is an easement that goes  
2 through there.

3 MR. SIPPERLY: Yes. This is a proposed  
4 easement.

5 CHAIRMAN O'ROURKE: Right where that  
6 cul-de-sac is there is a swamp. I have some  
7 pictures that you can take a look at.

8 MR. SIPPERLY: That's an isolated  
9 wetland. That's a wetland that was determined  
10 by the Corp and had no connectivity to the  
11 stream and watercourses.

12 CHAIRMAN O'ROURKE: I understand that it  
13 wasn't part of the ACOE ,but you're bringing  
14 this project before this board to look at.  
15 We're going to run infrastructure through this  
16 property that the taxpayers of the Town of  
17 Colonie are going to own, correct?

18 MR. SIPPERLY: Correct.

19 CHAIRMAN O'ROURKE: And I'm just having  
20 some difficulty understanding. In my  
21 estimation it's not this board's fault that  
22 Mr. Weis bought preverbal swamp land. In my  
23 estimation, the conservation overlay allows  
24 you to have those 9,000 square foot lots but  
25 it's not going to help the people that buy

1           them.

2           MR. SIPPERLY: Any wetlands over in this  
3           area here would be totally removed. This will  
4           have grades and be filled and there will be  
5           positive drainage. There will be no character  
6           of wetness left there in the soils when this  
7           is developed.

8           CHAIRMAN O'ROURKE: So that swamp land  
9           that is between Brisbane and Oakmont, that  
10          entire swamp land -

11          MR. SIPPERLY: Not the entire swamp land.  
12          There are wetlands over here.

13          CHAIRMAN O'ROURKE: No, I walked that  
14          property. That swamp land goes all the way  
15          back to your gradient of 344, which is almost  
16          to the end of your property.

17          MR. SIPPERLY: That's correct.

18          CHAIRMAN O'ROURKE: Obviously this hill  
19          where the 100 foot string buffer that you  
20          show - that hill obviously isn't swamp land.

21          MR. SIPPERLY: Correct.

22          CHAIRMAN O'ROURKE: Everything north of  
23          that is swamp land.

24          MR. SIPPERLY: It's delineated on there.  
25          It's no secret. The end of this wetland was

1 delineated on the map.

2 CHAIRMAN O'ROURKE: I understand that,  
3 but you did say that you did a conservation  
4 analysis. I didn't see anything about swamp  
5 land.

6 MR. SIPPERLY: Swamp land is considered  
7 to be -- wetlands are considered to be  
8 constrained lands.

9 CHAIRMAN O'ROURKE: You're going where  
10 I'm trying to lead you. What are the  
11 unconstrained lands?

12 MR. SIPPERLY: Unconstrained lands - is  
13 10 acres.

14 CHAIRMAN O'ROURKE: Okay and what are you  
15 building on?

16 MR. SIPPERLY: The unconstrained  
17 lands - we were required to take 40% of that  
18 and add that to the conservation lands.

19 CHAIRMAN O'ROURKE: And where was that  
20 done?

21 MR. SIPPERLY: The next sentence down.  
22 Required reserved lands -

23 CHAIRMAN O'ROURKE: Can you show the  
24 board on the map, please?

25 MR. SIPPERLY: This whole area right here

1 on the map. As far as where the constrained  
2 lands are?

3 CHAIRMAN O'ROURKE: Yes.

4 MR. SIPPERLY: It's in here (Indicating),  
5 here and any lands that are outside of the -

6 CHAIRMAN O'ROURKE: So the town doesn't  
7 want to own it. So, then what are we going to  
8 do with it? What's the preservation? You can't  
9 give it away. It has to be part of the site  
10 and stay as part of preservation.

11 MR. SIPPERLY: There would be a  
12 conservation easement, or it would be conveyed  
13 to -

14 CHAIRMAN O'ROURKE: Conveyed to whom?

15 MR. SIPPERLY: A land conservancy or  
16 Albany County Land Conservancy.

17 CHAIRMAN O'ROURKE: Have you checked to  
18 see who would want your swamp land?

19 MR. SIPPERLY: We could also convey it to  
20 the Rod and Gun Club if they wanted to take  
21 it. They could accept it with a conservation  
22 easement on it that they couldn't do anything  
23 on the land, but they could own it. All we  
24 need to do is set it aside so that it remains  
25 open space with no development and the

1 environmental qualities of the property  
2 remain.

3 CHAIRMAN O'ROURKE: Did you guys do your  
4 own SWPPP investigation?

5 MR. SIPPERLY: Yes.

6 CHAIRMAN O'ROURKE: You're familiar with  
7 the culverts that run under Consaul?

8 MR. SIPPERLY: Yes.

9 CHAIRMAN O'ROURKE: Anybody inspect  
10 those?

11 MR. SIPPERLY: Yes, we did.

12 CHAIRMAN O'ROURKE: So, what are you  
13 doing about the one that is all rusted and  
14 caved in halfway underneath the road?

15 MR. SIPPERLY: We inspected it and we  
16 also asked the Town of Colonie Highway  
17 Department to take a look at it. We also asked  
18 them to check their records to see if there  
19 was any flooding and they have no record of  
20 flooding.

21 CHAIRMAN O'ROURKE: Now that's how I have  
22 difficulty because this is the second project  
23 in two weeks that every town department has  
24 signed off on. When a reasonable person goes  
25 out and looks, I can't understand how somebody

1 says that those culverts are good. If it was a  
2 town person that went, at least they should  
3 have moved the shopping cart that's been there  
4 at least 10 years because it's rusted apart.

5 Who is going to pay for those culverts  
6 under the road?

7 MR. SIPPERLY: Certainly we're not.  
8 That's the town culvert. Why should we be  
9 paying for culverts under the town highway  
10 that aren't under our jurisdiction? We pay  
11 taxes and that's where the taxes go is to the  
12 maintenance on roads and utilities. I don't  
13 think that it's our responsibility to replace  
14 culverts under the town highway. We would need  
15 to replace it if due to our development, all  
16 the sudden it becomes an issue. That's not the  
17 situation. We studied and looked at the  
18 capacity of that culvert and because we're  
19 doing the stormwater detention, we're not  
20 adding any more to that culvert.

21 CHAIRMAN O'ROURKE: Let me ask you this,  
22 then. Are these homes - you're going to put  
23 basements in these homes?

24 MR. SIPPERLY: Yes.

25 CHAIRMAN O'ROURKE: So, they're all going

1 to be on sump pumps.

2 MR. SIPPERLY: Yes.

3 CHAIRMAN O'ROURKE: Every one.

4 MR. SIPPERLY: Yes.

5 CHAIRMAN O'ROURKE: So is that figured  
6 into your SWPPP analysis?

7 MR. SIPPERLY: Yes. We did our borings  
8 and testing and we don't think that we have  
9 groundwater.

10 CHAIRMAN O'ROURKE: Sir, I hate to  
11 dispute your facts, but where did you do your  
12 borings?

13 MR. SIPPERLY: They're on the map also.  
14 There is a series of test pits and all the  
15 results are right here. They are represented  
16 by these circles here. They are distributed  
17 throughout the site. That's what we used. We  
18 looked at the results of what the soils that  
19 we encountered were and we left the holes open  
20 in case there was some infiltration that we  
21 would have an accurate reading and  
22 groundwater.

23 CHAIRMAN O'ROURKE: So the holes are open  
24 right now?

25 MR. SIPPERLY: No. We dug them and we

1 just didn't fill them back in. We left them  
2 open for an hour to see if any more filled  
3 into the holes. It didn't. Where they did, we  
4 indicated that. We dug the holes about nine  
5 feet deep and it was dry. We came back an hour  
6 later and we saw a little water in there so  
7 they said the ground water is at nine feet or  
8 wherever they saw that the water was.

9 CHAIRMAN O'ROURKE: What time of the year  
10 did you possibly dig those test pits?

11 MR. SIPPERLY: Test pits were performed  
12 April 12, 2007. We did it a second time. We  
13 also did it on October 20, 2008.

14 CHAIRMAN O'ROURKE: So roughly the same  
15 time as right now, roughly.

16 MR. SIPPERLY: Yes.

17 CHAIRMAN O'ROURKE: I'm not an engineer  
18 but one thing that I am and that's reasonable  
19 and I'm fair, and I'm telling you that if  
20 somebody took a backhoe and dug nine feet  
21 there, they'd sink that backhoe.

22 MR. SIPPERLY: I would respectfully  
23 disagree with that.

24 CHAIRMAN O'ROURKE: We'll agree to  
25 disagree on that.

1                   Can you show me on the map where the two  
2 sight distances were taken?

3                   MR. SIPPERLY: Here is the other end of  
4 the arrowhead. To this point right here we  
5 have 480 feet of sight distance.

6                   CHAIRMAN O'ROURKE: I paced off 480 feet  
7 and it's around the corner. How did that  
8 position from 480 feet -- again I'm just  
9 taking in account that Craigmore - is that  
10 where the path is right off of Consaul right  
11 now where all the number two stone goes up the  
12 hill?

13                   MR. SIPPERLY: Close to it. It might be  
14 down here a little bit (Indicating). It might  
15 be 50 or 70 feet.

16                   CHAIRMAN O'ROURKE: So when I went out  
17 480 feet, I was beyond the corner. So I just  
18 wanted to understand how the sight distance  
19 was determined to be 480 feet.

20                   MR. SIPPERLY: It was measured in the  
21 field with survey equipment. The same as this  
22 one up here is. We actually went out into the  
23 field, set up on the side of the road and shot  
24 down the road along side of the road to where  
25 we could first see a car coming around the

1 corner. We did need to get off the road  
2 because of the traffic, so we sat up here at  
3 this point (Indicating) and sited down the  
4 road to a point where we could first see a car  
5 come around that bend and that's where we  
6 measured.

7 CHAIRMAN O'ROURKE: Sewer easements - did  
8 you have to get an easement through some  
9 property?

10 MR. SIPPERLY: Yes. We have a sewer  
11 easement across the front of these three  
12 properties. These two properties don't have  
13 sewer right now. They're on septic systems.

14 CHAIRMAN O'ROURKE: Okay, let me  
15 understand it again. I just want to clarify  
16 what Elena Vaida commented on.

17 Your actual proposal wasn't to go to  
18 gravity. Pure Waters said that you're going to  
19 gravity. You guys wanted to go to force main.  
20 That's what the paperwork said. Whether or not  
21 that's true or not, I don't know. That's in  
22 our packet. It says that was what you wanted  
23 to do and Pure Waters said, no, we want you to  
24 go gravity.

25 MR. SIPPERLY: We made a first approach

1 to have grinder pumps at each unit.

2 CHAIRMAN O'ROURKE: Yeah, there was. And  
3 again that's why I'm just clarifying that for  
4 the record, because that wasn't your initial  
5 thing. It was to go with the gravity. So I'd  
6 just like the facts to be used.

7 So, can you explain that sewer easement?

8 MR. SIPPERLY: Again, the last manhole on  
9 Consaul Road is right here (Indicating). It's  
10 in the center of the road. What happens here  
11 is Consaul Road is actually going to a down  
12 grade, but the land on these lots is above  
13 Consaul Road. So the way that we could  
14 maintain the gravity and cover on the sewer is  
15 to come back and go across these front yards  
16 (Indicating) and then go across the property  
17 at this location here to provide gravity  
18 service to the lots.

19 CHAIRMAN O'ROURKE: So I'm sure that  
20 you're using ductile pipe.

21 MR. SIPPERLY: We're probably using PVC  
22 SDR 26 which is the standard material. It's  
23 very similar to ductile iron. It's used by the  
24 town and by Pure Waters Department.

25 CHAIRMAN O'ROURKE: So the estimation on

1 elevating that and putting a stream through a  
2 culvert -- it's a PVC culvert, right?

3 MR. SIPPERLY: The actual culvert is the  
4 HDPD.

5 CHAIRMAN O'ROURKE: It's a high density  
6 polyethylene,

7 MR. SIPPERLY: Right.

8 CHAIRMAN O'ROURKE: So then we're going  
9 to cover it with four feet in steps, right?

10 MR. SIPPERLY: Right.

11 CHAIRMAN O'ROURKE: And then we're going  
12 to go up that. And again, I'm just having  
13 difficulty because here the town is going to  
14 own this infrastructure.

15 MR. SIPPERLY: It would be very similar  
16 to a road crossing.

17 CHAIRMAN O'ROURKE: Right, except that  
18 it's a stream, a protected watercourse.

19 MR. SIPPERLY: It's between what is best  
20 for the town as far as a future maintenance  
21 gravity system, and what are the impacts to  
22 the water course are that was determined by  
23 SEAMAB. I think that in their mind they also  
24 took into consideration that there was a  
25 potential amount of open space here which is a

1 benefit to nature and to the environment. So I  
2 guess that they were looking to put their  
3 environmental glasses on in approving that we  
4 could -

5 CHAIRMAN O'ROURKE: Sir, again, we will  
6 just agree to disagree because that's swamp  
7 land. You can call it whatever you want, but  
8 it's swamp land.

9 In regard to the SEAMAB, I have a little  
10 difficulty as does Tom with the SEQRA because  
11 there is no significant environmental impacts.  
12 Yet, this goes in front of the Significant  
13 Environmental Areas Management Appeals Board.  
14 So, there is no significant impact that this  
15 development would create. Yet, you have to get  
16 a variance from SEAMAB. Does that make sense?

17 MR. SIPPERLY: That's the town policy.

18 CHAIRMAN O'ROURKE: Sir, let's not  
19 confuse town policy versus the Land Use Law.  
20 They're different.

21 MR. SIPPERLY: It might not be town  
22 policy, but it's the town regulations.

23 CHAIRMAN O'ROURKE: In my opinion, sir,  
24 if the SEQRA was done properly, this would  
25 have been looked at as more than

1 insignificant. Any project that we've seen  
2 that's had to have SEAMAB approval or Army  
3 Corp has ended up with full EAFs.

4 MR. SIPPERLY: We were only requested to  
5 prepare the short form.

6 CHAIRMAN O'ROURKE: And again, I really  
7 don't have a whole lot more to go into. I have  
8 some real reservations as a taxpayer in this  
9 town that we're going to own this  
10 infrastructure. I don't have the time or the  
11 expertise to look at it.

12 What I'd like to do is if the rest of the  
13 board agrees is to have Barton and Loguidice  
14 who is a town designated engineer be our  
15 expert and look at this project as far as all  
16 the infrastructure that the residents and the  
17 taxpayers of this town are eventually going to  
18 own. If that were to open the need for SEQRA  
19 to be reevaluated, we certainly would take  
20 that expert engineering into consideration. I  
21 don't think that we're ready to make any  
22 motions on this project in terms of either  
23 concept or final. If you do, please, for the  
24 record state it now. If not, that's the  
25 direction I'd like to move.

1                   MR. NARDACCI: C.J., could you just  
2 clarify the use of the TDE in circumstances  
3 like this? Is this something that the town  
4 pays for?

5                   CHAIRMAN O'ROURKE: No. I actually read  
6 into the record last meeting the portion of  
7 the Land Use Law that allows any board to hire  
8 expertise at the cost of the applicant for the  
9 project to move forward. So, I'm looking for  
10 that expertise to be done by Barton and  
11 Loguidice in this instance. So, no, it will  
12 not fall on the taxpayers of the Town of  
13 Colonie. The cost will be borne by the  
14 applicant.

15                   MR. NARDACCI: I think that instances  
16 like this where there are some significant  
17 issues that need to be looked at, it's  
18 definitely warranted and it's a good idea.

19                   MS. VAIDA: I just wanted to comment  
20 again back to the SEQRA. I actually think that  
21 the SEQRA needs to be resubmitted and I'm not  
22 sure if it should be the long form or the  
23 short form, but I do feel strongly that the  
24 answers to some of these questions are not  
25 accurate. The question regarding the potential

1 for adverse impacts on architectural  
2 historical agricultural in part two of the  
3 form and you saying no doesn't seem to be  
4 consistent with the comments throughout the  
5 documents that we have. For instance ENCON  
6 says in their comments:

7 The site appears to be located within a  
8 potential archeological and or historic area.

9 Somewhere in here I saw a comment where  
10 they asked for an archeological study to be  
11 done.

12 MR. SIPPERLY: We have done that. That's  
13 been submitted to the Planning Department.

14 MR. NARDACCI: Yes, that was in our  
15 packet.

16 MS. VAIDA: The installation of the  
17 sanitary sewer crossing of protected stream  
18 corridor by installing the culvert also seems  
19 to trigger a positive response to that  
20 question. So I think that just needs to be  
21 looked at again.

22 MR. SIPPERLY: And provide a proper  
23 response.

24 CHAIRMAN O'ROURKE: Mike, do you have  
25 anything that you'd like to add?

1 MR. SULLIVAN: No.

2 CHAIRMAN O'ROURKE: Peter?

3 MR. GANNON: No.

4 MR. LACIVITA: If I could just say that  
5 I'll need to see if Barton and Loguidice is  
6 the next one to receive a project.

7 CHAIRMAN O'ROURKE: I want Barton and  
8 Loguidice on this because my concerns are  
9 specifically stormwater. My biggest concern is  
10 the stormwater and the sewer issue and I feel  
11 most comfortable with Barton and Loguidice  
12 handling that.

13 MR. SIPPERLY: Can I make a comment?

14 CHAIRMAN O'ROURKE: You may.

15 MR. SIPPERLY: We've been in this process  
16 since 2006. We can document where we have not  
17 lapsed in the concept approval and we've had  
18 due diligence efforts in responding and  
19 providing adequate design. We're now in 2010  
20 and the developer has spent a lot of money on  
21 engineering and studies. We would ask if we  
22 could get into the TDE review quickly so that  
23 we could get it back before the board?

24 CHAIRMAN O'ROURKE: Absolutely. Actually  
25 with the last project, the town designated

1 engineer that we brought in went and had a  
2 meeting the very next week so he could develop  
3 a cost structure. I think that's fair to the  
4 applicant to ensure that they understand that  
5 this is going to be the cost structure of this  
6 review. That's what they're going to be  
7 responsible for.

8 Certainly I think that's fair and within  
9 10 days, Brad, you'll be able to have a  
10 meeting, the cost structure and be able to  
11 proceed forward?

12 MR. GRANT: Yes.

13 CHAIRMAN O'ROURKE: And once through that  
14 review, sir, I will guarantee absolute  
15 promptness back in front of this board.

16 MR. SIPPERLY: That's much appreciated.

17 MS. VAIDA: Just one more quick thing on  
18 this concept approval, since you brought it  
19 up. It did expire and I was wondering if you  
20 had filed a request for an extension.

21 MR. SIPPERLY: We did not because we did  
22 not realize that we had to. If this expired it  
23 was because the departments were  
24 non-responsive. Is that our responsibility?

25 MS. VAIDA: It's in the Land Use Law that

1           you're supposed to make an application and I  
2           assume that would have been your reasons that  
3           you needed it extended because it was taking  
4           so long.

5           MR. SIPPERLY: We would have to review  
6           the Land Use Law to be familiar with that  
7           point.

8           CHAIRMAN O'ROURKE: Does anyone in the  
9           audience want to comment?

10          Yes, sir.

11          MR. DANBY: I live at 264 Consaul Road. I  
12          live the closest to where you're talking  
13          about. It is wet. You're right what you're  
14          saying about the land being wet.

15          Altering the stream to put the sewer in  
16          doesn't seem right to put sewers underneath  
17          and on top of the creek.

18          I don't have sewers in my house. If this  
19          goes through, do I have to have a sewer?

20          CHAIRMAN O'ROURKE: No. Your septic  
21          system is approved by Albany County. You don't  
22          have to hook in.

23          MR. DANBY: Even though there are sewers  
24          out in front of the house?

25          CHAIRMAN O'ROURKE: No.

1           MR. DANBY: When I built the house, they  
2 almost told me that I had to hook up to the  
3 sewer. They wanted me to hook up to that  
4 manhole that he's talking about.

5           MR. STUTO: New construction is different  
6 than existing. I don't believe that the town  
7 law would require you to tie into the sewer,  
8 but I'm not 100% positive about that.

9           MR. DANBY: Back in '84 -

10          MR. STUTO: You're saying at that time?

11          MR. DANBY: Yes, at that time. And when  
12 the softball and soccer fields are in use, I  
13 can't hardly drive and get out of that  
14 driveway when they all let out.

15          CHAIRMAN O'ROURKE: Yes, we encountered  
16 that many places across the town. Again, it's  
17 one of those things that is a double edged  
18 sword. It's good that a lot of people want to  
19 live in our town and spend money in our town  
20 and yet there has got to be a balance to the  
21 quality of life that we all look for as well.  
22 So, that's a balancing act that we try to do  
23 our best with but there is no magic answer to  
24 that.

25          MR. DANBY: That's another thing. When I

1 found out about this at the last meeting, you  
2 said something about the culvert. A little  
3 farther down the road - down the stream to  
4 where this water is going to go -

5 CHAIRMAN O'ROURKE: No, I went about half  
6 way down the soccer field.

7 MR. DANBY: You've got to go farther back  
8 there because trees are falling across there.  
9 It's scouring out something fierce. I've seen  
10 this thing increase width wise to about  
11 10 feet at least; depth wise maybe four feet  
12 in spots. Something should be looked at with  
13 the Lisha Kill Creek at that point with the  
14 town or whatever to do something about that  
15 because they're going to dump that detention  
16 in there.

17 CHAIRMAN O'ROURKE: Brad, if you would  
18 just give us for the people in the audience  
19 that aren't familiar with the stormwater  
20 regulations - if you could just tell them what  
21 the regulations are and what the detention and  
22 the allowable amount of water is?

23 MR. DANBY: Well, I understand most of  
24 that. What I'm saying is that water has got to  
25 go down that stream in time, right?

1                   CHAIRMAN O'ROURKE: Right, but again, if  
2 this project goes forward and they're able to  
3 develop that land, they can't put anymore  
4 water into that stream corridor than is going  
5 there now. By law, they can't. So, that's the  
6 regulation.

7                   MR. DANBY: That's the Lisha Kill Creek.  
8 Is that the one that's on the map?

9                   CHAIRMAN O'ROURKE: Actually it says that  
10 they were un-named in the ACOE. It also says  
11 that they are tributaries to the Lisha Kill,  
12 but it says that they are unnamed.

13                   MR. DANBY: Something should be looked at  
14 in that area. The soccer fields towards the  
15 end where they extend this way at the end of  
16 the soccer fields (Indicating) -- I'm getting  
17 parts of my property - because part of that  
18 creek is on my property and I'm getting the  
19 trees falling over. I keep my end clean, but  
20 the rest of it - somebody has got to go look  
21 at that.

22                   CHAIRMAN O'ROURKE: That's town swamp  
23 land now so maybe I'll let the Supervisor know  
24 to clean up some of the trees and swamp land  
25 that somebody else has given us over the

1 years.

2 Anybody else?

3 Yes, ma'am.

4 MS. PERRY-POTTS: It's not a given that  
5 land is going to be given to the Town of  
6 Colonie, correct?

7 CHAIRMAN O'ROURKE: No. We don't want it.

8 MS. PERRY-POTTS: My name is Suzanne  
9 Perry-Potts and I live over on Kings Road. I  
10 think that it should be like a homeowners  
11 association. I don't like the idea of it being  
12 given to a nature conservancy either. Then in  
13 a couple of years they could sell it to New  
14 York State and then there will be state taxes  
15 paid for this.

16 CHAIRMAN O'ROURKE: Honestly, ma'am,  
17 that's where I was going with that. My  
18 understanding is that we can require that to  
19 be done with an HOA. I want to confer with the  
20 attorney on the board. There will be options  
21 that they can do. There will be one preferred  
22 by this board and I'm not ready to speak on  
23 that yet.

24 MS. PERRY-POTTS: Thank you.

25 CHAIRMAN O'ROURKE: You're welcome.

1                   Anyone else?

2                   Yes, sir.

3                   MR. FERNANDO: My name is Chris Fernando  
4 and I live at 5 Oakmont Terrace. I don't think  
5 that I have a whole lot to add so I'll be very  
6 brief.

7                   I just want to express the fact that I'm  
8 very appreciative of the board taking this  
9 time to be methodical and I'm sympathetic to  
10 the situation that's been going on for three  
11 or four years. I'm very appreciative the town  
12 is thoroughly investigating this and the  
13 impact on the environment and the quality of  
14 life. I'm pleased about that. I just wanted to  
15 mention that.

16                  CHAIRMAN O'ROURKE: Thank you, sir.

17                  Anyone else?

18                                 **(There was no response.)**

19                  CHAIRMAN O'ROURKE: Mr. Sipperly, Brad  
20 will get on this and contact someone in your  
21 office. Thank you.

22                  MR. SIPPERLY: Thank you very much.

23                                 **(Whereas the proceeding concerning the**  
24 **above entitled matter was adjourned at**  
25   **8:20 p.m.)**

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**CERTIFICATION**

*I, NANCY STRANG-VANDEBOGART, Notary  
Public in and for the State of New York,  
hereby CERTIFY that the record taped and  
transcribed by me at the time and place noted  
in the heading hereof is a true and accurate  
transcript of same, to the best of my ability  
and belief.*

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**NANCY STRANG-VANDEBOGART**

***Dated May 20, 2010***