

**In The Matter Of:**

*Town of Stoneham Conservation Commission  
Notice of Intent by Weiss Farm Apartments, LLC*

---

*Public Hearing*

*July 9, 2015*

*With Regard to 170 Franklin Street*

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TOWN OF STONEHAM  
CONSERVATION COMMISSION

Public Hearing Re  
Notice of Intent by  
Weiss Farm Apartments, LLC  
With Regard to 170 Franklin Street

Commission Members Present:

Ellen McBride, Co-Chairman  
Robert Parsons, Co-Chairman  
Megan Day  
Rachel Rennard  
Norman L'Esperance  
Eric Buckley  
Herlinda Saitz

Catherine Rooney, Secretary

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jon@hugginsandwitten.com, 781.934.0084,  
for the Board.

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781.438.4060 - and -

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MA 02110, rgallogly@rackemann.com,  
617.542.2300 for the Applicant.

Held at:

Stoneham Town Hall  
35 Central Street  
Stoneham, Massachusetts  
Thursday, July 9, 2015  
7:12 p.m.

Alexander K. Loos, Registered Diplomate Reporter

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1 P R O C E E D I N G S

2 CO-CHAIR McBRIDE: So we already opened the  
3 public hearing, so now we're ready for the next item  
4 on the agenda is --

5 Do you need a few minutes, Ingeborg?

6 MS. HEGEMANN: I'm okay.

7 CO-CHAIR McBRIDE: The next item on the  
8 agenda is the continuation The Commons at Weiss  
9 Farm.

10 The last time we -- well, we were going to  
11 meet and then Applicant asked for a continuance to  
12 this date. I can't remember when our last meeting  
13 was, but it was June, middle of June. It may have  
14 been the end of May. But anyway, in the meantime,  
15 I'm going to ask Ingeborg and Bob maybe to give a  
16 little update on what's been happening.

17 But our engineers, their engineers, our  
18 wetlands scientist, their wetlands scientist have  
19 been, you know, working back and forth with each  
20 other since our last public hearing and are here  
21 tonight to report on the latest information.

22 How's that?

23 CO-CHAIR PARSONS: I'm okay.

24 MS. HEGEMANN: So my name is Ingeborg

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1 Hegemann. I work with BSC, and I'm a consultant --  
2 one of the consultants for the Conservation  
3 Commission.

4 Since our last hearing, there was a good  
5 amount of exchange of information between the  
6 Applicant's representatives and the Conservation  
7 Commission. We had a conference call -- let's see.  
8 I wasn't prepared to do this, so I don't have  
9 everything in my brain.

10 CO-CHAIR McBRIDE: Sorry.

11 MS. HEGEMANN: But there was a conference  
12 call to discuss drainage on the site and off the  
13 site, flood storage, flood plain locations. We  
14 asked for some revisions to the watershed study that  
15 was submitted, and those revisions were submitted to  
16 the Commission on June -- I'm going by memory --  
17 June 10th. And then also Bob Griffin from Griffin  
18 Engineering reviewed some of the information and had  
19 some additional comments which he submitted, and I  
20 understand that today there was additional  
21 information, as well as some information that was  
22 submitted earlier this week in response to Bob's  
23 comments. So there has been a fair amount of  
24 information exchange.

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1           And the other thing that the Applicant did,  
2           which I thought was very helpful, was they submitted  
3           a plan that showed topography off the property to  
4           the west. And part of the discussions that the  
5           Commission has been having is flows to the west as  
6           well as flows to the east underneath Franklin  
7           Street. So that information was, as well, provided  
8           to us.

9           And that's a quick summary.

10           CO-CHAIR McBRIDE: Where does that come  
11           from? Do you know the date of it?

12           MS. HEGEMANN: Yes. It was submitted by  
13           HW -- well, I'm not sure if AECOM or HW Moore  
14           submitted it. I think HW Moore submitted it to us.  
15           And it's a plan of land called "Existing conditions  
16           with abutters," dated June 19th, 2015.

17           I did communicate with HW Moore and asked  
18           them the date of the aerial topography that's shown  
19           on this plan. And he -- and correct me if I'm  
20           wrong -- but I believe he said it was 2013 topo.  
21           I'm going by memory, so I think --

22           CO-CHAIR PARSONS: That's okay. Yeah.

23           MS. HEGEMANN: So I think that information  
24           is helpful as the Commission reviews some of the

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1 proposed discussions with respect to the weir  
2 restoration.

3 And so that's a quick summary.

4 CO-CHAIR McBRIDE: So I'm just saying that  
5 we just got this tonight, and it doesn't have  
6 numbered pages, but it looks like it's probably  
7 eight or ten pages in response to -- well, the  
8 actual response is two pages but there is maps and  
9 et cetera that add up to eight to ten pages,  
10 response to Bob Griffin's comments. So clearly no  
11 one here is going to be able to respond to these  
12 tonight because we just got them.

13 MR. CICATELLI: Can I make one correction?

14 CO-CHAIR McBRIDE: Sure.

15 MR. CICATELLI: There is a slight typo on  
16 the "re." It's response to peer review report dated  
17 July 7th.

18 So we received this on Tuesday, and our  
19 engineer responded to it, obviously, as quickly as  
20 he was able to, but that's a typo at the top.

21 CO-CHAIR McBRIDE: So instead of June 7th  
22 it should say July 7th?

23 MR. CICATELLI: July 7th, yes.

24 CO-CHAIR McBRIDE: Thanks.

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1 MR. CICATELLI: Thank you.

2 CO-CHAIR McBRIDE: But is that a fair  
3 assessment, having just received this tonight -- I  
4 mean, I'm just...

5 MR. GALLOGLY: We just received two days  
6 prior to tonight the comments from the town  
7 engineer, so we had no choice.

8 CO-CHAIR McBRIDE: Right. Yep.

9 My point is that it's back and forth and  
10 back and forth, and it doesn't seem like we're at a  
11 point now where there is agreement. Or if there is  
12 agreement, we don't know it yet and --

13 MR. CICATELLI: Madam Chairman, if it's  
14 possible, maybe what we could do is sort of give a  
15 summary, have our engineer give a summary as to some  
16 of the other discussions that have gone on between  
17 the two.

18 CO-CHAIR McBRIDE: Sure.

19 MR. CICATELLI: And I think there is fair  
20 amount of agreement, as the board mentioned, a very  
21 large exchange of information. We feel that we have  
22 addressed all the issues that have been put before  
23 us, but maybe if Dennis or Jim could give us a  
24 summary, with your permission.

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1 CO-CHAIR McBRIDE: Okay. I think that  
2 would be helpful, and I'm sure the people in the  
3 audience would want to hear it.

4 And does everybody already agree you can  
5 hear better down here, a lot better?

6 AUDIENCE MEMBER: It is better, but  
7 everybody should be speaking in closer to the mics.

8 CO-CHAIR McBRIDE: Okay. We'll do our  
9 best.

10 AUDIENCE MEMBER: I mean, that's.

11 CO-CHAIR McBRIDE: Can you guys hear in the  
12 back okay?

13 Thank you.

14 MR. WHITE: Good evening.

15 My name is Jim White, and I concur with  
16 most of Bob's comments, and if you want I can just  
17 very quickly just go over them. There is only about  
18 10, 10 or 12 comments.

19 The first one is he mentions that he  
20 believes that a -- let me get my glasses on so I can  
21 read -- a forebay is required in the detention  
22 basin. We included -- we updated the detention  
23 basin with a forebay and included a sketch of that  
24 in --

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1           CO-CHAIR McBRIDE: Jim, can I just ask, are  
2 you looking at Bob's letter to you dated July 7th?

3           MR. WHITE: That's correct.

4           CO-CHAIR McBRIDE: Are you talking about  
5 Point Number 1?

6           MR. WHITE: Yes.

7           CO-CHAIR McBRIDE: Okay. I just want to be  
8 able to follow.

9           MR. WHITE: We received this on July 8th,  
10 actually.

11          CO-CHAIR McBRIDE: Okay.

12          MR. WHITE: So we updated the plan and  
13 included a sketch, revised sketch of the detention  
14 basin showing the forebay, and the forebay was  
15 designed in accordance with the DEP storm water  
16 management handbook.

17                 Number 2, we also concur with this  
18 recommendation, and we will be adding a screen to  
19 the 18-inch pipe of the detention basin. This will  
20 prevent the pipe from clogging, so we -- we agree  
21 with Bob's comment on that.

22                 Number 3 was a request for additional  
23 boring information. We had performed new borings in  
24 May at one of the infiltration systems, and we have

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1 supplied that information, new boring information.

2           Number 4, we sent over the recharge  
3 calculations to Bob last -- I think it was yesterday  
4 in response to Number 4.

5           Number 5, we have updated the inspection  
6 and maintenance report -- operation and maintenance  
7 plan as requested to include the area drains, and  
8 that's included in the report we gave you today.

9           Number 6, this is the only item that we  
10 disagree with. We feel that adding a backfill  
11 prevention or force main will increase the flooding  
12 at Sunset Road area. Right now there is sort of an  
13 equilibrium between the water being stored on the  
14 north side of Franklin Street, and by putting a  
15 backfill preventer and a force main you would be  
16 introducing considerably more water into the Sunset  
17 Road area. The only way more water is going to flow  
18 out of that area is for the water to rise. The pipe  
19 at Sunset Road culvert -- it's called Sunset Road  
20 culvert -- it's about 450 feet long. It's a flat  
21 pipe. It has very little flow capacity. The inlet  
22 is about eight inches above the outlet of the  
23 Franklin Street culvert. So if you start pumping  
24 water into this area, the only way you're going to

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1 get more water out is by flooding increasing, and we  
2 don't want to increase the flooding in the Sunset  
3 Road area.

4 CO-CHAIR McBRIDE: Can I ask a question  
5 about that?

6 MR. WHITE: Yes.

7 CO-CHAIR McBRIDE: Are you saying that as  
8 the pipe -- the condition is now, or are you -- are  
9 you -- would you have that same opinion if the pipe  
10 was clear, the one behind -- the culvert behind  
11 Sunset Road?

12 MR. WHITE: The problem is the pipe is too  
13 high and it's too flat. We usually -- when you  
14 usually design a drainage system, you usually put a  
15 pitch in the pipe and the water flows.

16 This one was put in 450 feet almost  
17 perfectly flat, and therefore, the only way water is  
18 going to flow in that is to build up what we call a  
19 head at the inlet. And as soon as we start building  
20 up a head, you're going to increase flooding.

21 As we saw on our site walk, the water was  
22 standing about six inches, or about half the way up  
23 the pipe. And, you know, that was pretty close to  
24 flooding the properties at that point. By

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1 introducing more water at that time would have  
2 flooded the properties.

3 CO-CHAIR McBRIDE: Can I ask which  
4 properties you're talking about the flooding  
5 occurring?

6 MR. WHITE: The properties in this area are  
7 the properties along Sunset Road.

8 CO-CHAIR McBRIDE: What was the first  
9 thing?

10 MR. WHITE: It would be the properties  
11 along Sunset Road.

12 MR. WANTMAN: Which houses? What numbers?

13 CO-CHAIR McBRIDE: I think he's talking  
14 about behind Sunset Road.

15 MR. BENNETT: 4 and 7.

16 MR. WHITE: All right.

17 Number 7, which is the watershed study, I  
18 think in our letter we responded to that comment  
19 regarding potential contributions to the  
20 improvements.

21 Number 8, there was a concern --

22 CO-CHAIR McBRIDE: Can you go back to  
23 Number 7 again?

24 MR. WHITE: Sure.

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1 CO-CHAIR McBRIDE: Say that again. I must  
2 have missed a part of that.

3 MR. WHITE: Number 7, we -- was asked about  
4 the amount of contribution to the cleaning of the  
5 wood and debris in the channels, and we included a  
6 potential improvement fee in our response.

7 CO-CHAIR McBRIDE: Okay. Thanks.

8 MR. WHITE: Number 8 was with regards to  
9 about -- I think about four or five locations we're  
10 using a Contech catch basin water quality device.

11 Bob had a concern about if this met the DEP  
12 requirements. We're going to go back to the --  
13 we've already gone back, I think, a couple of times  
14 to the manufacturer. We'll go back again and check.

15 If this is not acceptable, we'll switch the  
16 type we're using to a -- to a different brand name  
17 that has been accepted by DEP on the MassTech  
18 program, and I've included information in the letter  
19 that I submitted.

20 Number 9, there was concern, where we have  
21 two locations where we're connecting directly into  
22 the infiltration system, there is no means of  
23 access, so we've added manholes at both those  
24 locations so we have a means of access to clean out

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1 the system, and a sketch of those is included in the  
2 package.

3           Number 10 was the operation and maintenance  
4 plan. We've updated the operation plan as requested  
5 to include the pump station and concrete weir dam,  
6 and a copy of that is included in our letter.

7           Number 11 is the storm water pollution  
8 prevention plan, and we concur with the  
9 recommendation that that would be submitted to the  
10 Commission prior to the start of the construction.

11           Number 12 was landscaping plan  
12 improvements. This had to do with landscaping  
13 within the -- I believe it has to do with the  
14 landscaping within the 25-foot no-build area, and as  
15 we mentioned to you before, that we would be willing  
16 to improve that area, and we say that in the letter.

17           And Number 13 is a disposition of the  
18 stockpiles, and that's -- that's still pending, and  
19 we're -- the Applicant is willing to work with the  
20 Commission on those items.

21           MR. LOWRY: Madam Chair, if I could -- this  
22 is Dennis Lowry. I'm the wetlands scientist for the  
23 Applicant.

24           And I just wanted to fill in a couple of

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1 pieces that -- to make clear, you know, for the  
2 Commission and the audience the way this has  
3 transpired is Ingeborg mentioned we had a conference  
4 call on May 20th where we got into some of the  
5 substance of the drainage issues.

6           And, you know, during that call we talked  
7 about, you know, conditions on the proposed site  
8 itself, which is a discrete area of upland where  
9 there is a storm water management plan that's  
10 proposed which fully meets the storm water  
11 management standards of the Wetlands Protection Act  
12 and will control the peak rate and the quality of  
13 all runoff coming off the site. So it will not  
14 aggravate existing drainage conditions in our view.

15           And we talked about the existing drainage  
16 problems that run -- that occur to the east and  
17 downstream to the southeast of the site, and the  
18 fact that we are not doing anything to aggravate  
19 that.

20           We have defined the wetlands based upon the  
21 approved limits of wetlands that were determined in  
22 the ORAD of February 2012, and we have also used a  
23 very conservative estimate of the limit of a  
24 100-year flood plan at elevation 163.6 I believe it

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1 is.

2           And if you look at the map, the limit of  
3 wetland and the limit of that flood plain are fairly  
4 consistent. The wetland goes up a little bit  
5 higher, but the project doesn't do anything within  
6 the limit of that flooding; it doesn't do anything  
7 within the wetland. There is no direct activity  
8 within -- within any wetland resource area as  
9 defined under the regulations of the Wetlands  
10 Protections Act. And, again, we're controlling  
11 storm water runoff from the site.

12           So the issue that's been raised is, you  
13 know, what could we do to improve the existing  
14 drainage conditions off the site and downstream from  
15 the site. And during the conference call, I think  
16 there was a very specific request for us to say very  
17 directly what could be done to -- on the part of the  
18 Applicant, apart from his project, to try and  
19 ameliorate some of those drainage issues. And what  
20 was put on the table and came out in Jim's -- HW  
21 Moore's reports that were issued on June 8th --  
22 which was the storm water pump station and weir dam  
23 improvement report, which was submitted to the  
24 Commission and the peer reviewers -- and, on

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1 June 10th, an updated watershed study which updates  
2 the May 6th watershed study. And within both of  
3 those reports we tried to address some of the issues  
4 that were raised that I think the peer reviewers and  
5 the Commission itself had raised relative to these  
6 existing drainage problems.

7 And the commitment was made to ensure that  
8 the pump station is operating properly and operating  
9 more effectively. The commitment was made to take  
10 the existing weir, which is upstream of that pump  
11 station and was put in as part of the administrative  
12 consent order with the DEP. It was designed by --  
13 is it FSL?

14 MR. WHITE: FSL.

15 MR. LOWRY: -- FSL Associates in  
16 coordination with the DEP as part of that  
17 administrative consent order, and it was designed to  
18 address some of these issues that have been out  
19 there and are continuing to be out there.

20 And if you look at this existing weir, it's  
21 been well recognized that it has kind of fallen in  
22 disrepair, so it's not functioning as it was  
23 intended back in I think it was the 2010  
24 administrative consent order, I believe.

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1           So what was -- what has been offered as  
2 part of the submissions from HW Moore is to -- is to  
3 restore that existing weir to the design conditions  
4 that were agreed upon by DEP through the FSL design,  
5 so that that weir is operating functionally and will  
6 allow the pump station itself to operate more --  
7 more effectively.

8           Right now the weir has been leaking quite a  
9 bit. It allows more water to drain from kind of the  
10 northern portion of the site down into the southern  
11 area, so that the pump station itself doesn't --  
12 doesn't function to -- to dewater that southeast  
13 area the way it was intended to and the way, you  
14 know, DEP had looked to have it function.

15           So by putting those measures in place, and  
16 by offering financial contribution towards  
17 maintaining drainage ditches -- whether they be in  
18 the southeast part, south of Franklin Street or  
19 whether they be over in the Meeting House Brook area  
20 on the west part of the site -- the Applicant  
21 believes that they have addressed the off-site  
22 drainage issues to the extent that's practicable and  
23 to a point which will -- which will improve existing  
24 conditions.

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1           And obviously, you know, our position has  
2 been, through Mr. Griffin's review, that the on-site  
3 storm water management program effectively controls  
4 storm water runoff from the site, both in terms of  
5 peak rate control and water quality, and so will not  
6 aggravate existing conditions as is required by the  
7 storm water management standards.

8           And as Jim also mentions in his report,  
9 there has been off and on the discussion of whether  
10 the existing 25-foot zone between the proposed  
11 development and the wetland area could be enhanced  
12 in terms of its buffering capacity. And, you know,  
13 the Applicant is perfectly willing to do that. We  
14 recognize that there has been another recent plan  
15 approved by the Commission which does include such  
16 buffer zone plantings, and we are perfectly willing  
17 to implement a plan comparable to that as part of  
18 this project as well.

19           So I think that fills in some of the gaps  
20 that may be -- may be there for people that haven't  
21 been involved in some of our discussions.

22           CO-CHAIR McBRIDE: Can you -- you just said  
23 some plan that was just approved?

24           MR. LOWRY: Correct.

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1 CO-CHAIR McBRIDE: What plan is that?

2 MR. LOWRY: The subdivision plan that --

3 MR. MAHONEY: Gerald Road.

4 MR. LOWRY: Gerald Road subdivision.

5 CO-CHAIR McBRIDE: How does that affect the  
6 25-foot no-disturb zone on Weiss Farm property?

7 MR. LOWRY: Not on Weiss Farm. I'm saying  
8 the Applicant of Weiss -- of this particular project  
9 is willing to provide buffer zone plantings  
10 comparable to what has been improved.

11 And we've discussed this off and on. If  
12 that's the desire of the Commission to have buffer  
13 zone plantings, it would certainly be --

14 CO-CHAIR McBRIDE: Oh, okay.

15 MR. LOWRY: -- as a condition of approval,  
16 we would certainly be willing to prepare a specific  
17 landscape plan that would be comparable to what this  
18 Commission has approved across the ditch area and,  
19 you know, would be certainly a -- an acceptable  
20 condition of approval.

21 CO-CHAIR McBRIDE: So have you -- did  
22 Corcoran and you folks meet with Bob Grover, with  
23 DPW, which was what you were going to do after our  
24 last meeting?

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1           MR. WHITE: Yes, I met with Mr. Grover.

2           CO-CHAIR McBRIDE: Okay. Can you tell us a  
3 little bit about that meeting, please.

4           MR. WHITE: We reviewed drainage issues in  
5 the Franklin Street area.

6           CO-CHAIR McBRIDE: Which street?

7           MR. WHITE: In the Franklin Street and  
8 Weiss Farm area in general.

9           We talked about the watershed for Weiss  
10 Farm, what's going on downstream from Weiss Farm,  
11 what Mr. Grover thought may improve the situation  
12 going to the south of the pump station area.

13           He didn't feel that cleaning the culvert  
14 would be a significant help. His feeling was the  
15 only thing that would really make a big difference  
16 there was to replace the existing culvert which is  
17 450 feet long. It was built back in the '60s.

18           CO-CHAIR PARSONS: Would it be an upside in  
19 culvert? Or what would be the point?

20           MR. WHITE: Well, as he mentioned, that the  
21 culvert was put in too high. It was put in before  
22 he started working here. I guess he's been here a  
23 long time. And it doesn't have the proper slope.  
24 So, I mean, it's all things that we already knew or

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1 heard.

2 CO-CHAIR McBRIDE: And did he -- excuse me,  
3 Caroline. Could I please ask you, if you want to  
4 talk, to go outside, because I can hear you  
5 whispering and it distracts us.

6 Did he say that replacing that culvert  
7 would be \$20,000, or did he --

8 MR. WHITE: Oh, no. No.

9 CO-CHAIR McBRIDE: Okay.

10 MR. WHITE: No. He really didn't think  
11 anything would be practicable to improve the  
12 situation on Sunset Road.

13 CO-CHAIR McBRIDE: So then -- then if I'm  
14 understanding you correctly, the meeting you had  
15 with the director of DPW here in town basically said  
16 nothing is going to help that culvert, even if it's  
17 cleaned out?

18 MR. WHITE: That was his opinion.

19 CO-CHAIR McBRIDE: Okay.

20 MR. WHITE: That was his opinion.

21 CO-CHAIR McBRIDE: Is that also your  
22 opinion?

23 MR. WHITE: It's not my --

24 CO-CHAIR McBRIDE: I'm not trying to put

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1 you on the spot.

2 MR. WHITE: No, it's not my opinion,  
3 because I don't know if there is dirt in there or  
4 not.

5 When you have a culvert that's flat, you  
6 have very, very slow velocities. When you have slow  
7 velocities, sediment settles out, and that's -- and  
8 pipes become clogged.

9 So my feeling is, I don't know if there is  
10 sediment in there or not, but I think with the  
11 flatness of the slope, there probably is sediment,  
12 and cleaning the culvert will help.

13 Mr. Grover also said that he sends  
14 personnel down there before or during every large  
15 storm to make sure the culvert is -- the mouth of  
16 the culvert's cleaned out, the entranceway is clear  
17 of debris.

18 But I think it would certainly help to wash  
19 that -- to flush that culvert out to make sure there  
20 is no sediment inside to help the water flow through  
21 the culvert.

22 CO-CHAIR McBRIDE: And what was his opinion  
23 about the culverts on -- the drainage ditches on the  
24 northwestern side of the property?

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1 MR. WHITE: The Meeting House Brook?

2 CO-CHAIR McBRIDE: Uh-huh. And the  
3 ditches.

4 MR. WHITE: He said he's been back there.  
5 He didn't -- he didn't really know how to improve  
6 the situation. He didn't think the town should  
7 be -- he really didn't know if cleaning out that  
8 area would improve the drainage on the Weiss Farm  
9 property.

10 CO-CHAIR McBRIDE: But I think we've had  
11 discussions that, in fact, it would, correct? Am I  
12 wrong there?

13 MR. LOWRY: I mean, I have walked that  
14 area, and I have reviewed the wetlands back in that  
15 area. And I believe that there are measures that  
16 can be taken fairly -- fairly moderate -- I mean,  
17 there are trees that are wind thrown down into the  
18 ditch. There is debris within the ditch. And I  
19 think, you know, reasonable efforts to improve that  
20 condition could allow drainage to move that  
21 direction, you know, more readily than under current  
22 conditions.

23 And if you put that in combination with the  
24 improvements at the weir, which is then going to

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1 stage water up north of the Weiss area so that it  
2 will induce water to want to flow more to the west.  
3 And if you combine that with the improvements at the  
4 pump station, which are, you know, designed to make  
5 the weir -- work in concert with the weir to kind of  
6 dewater that area during higher flows. And then I  
7 think, you know, if you do keep the area south down  
8 towards Sunset clear of debris, it certainly can  
9 help under certain conditions.

10 You know, the biggest thing that would make  
11 a difference in that is to lower the whole culvert  
12 and put a slope on it, but that's, you know,  
13 probably many hundreds of thousands of dollars and  
14 work in people's yards, and it's probably not a  
15 practicable solution here.

16 So all of these other things that are  
17 practicable are steps to be taken to improve that --  
18 that off-site drainage both going to the southeast  
19 and to the west.

20 CO-CHAIR McBRIDE: So I guess here's my  
21 layman -- I'm not a wetlands scientist or an  
22 engineer, but here's my best guess at this:

23 You're going to look at improving the  
24 condition of the weir, hopefully get the pump to

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1 function the way it's supposed to function, not  
2 necessarily clean out the ditch that goes under --  
3 or repair the culvert that goes under the Sunset  
4 Road. There is still a question as to even if that  
5 was clear as a bell, no sediment no, you know, tree  
6 limbs, not like the way we saw it on our site  
7 visit -- and it's not going to increase the pitch of  
8 it -- and then if nothing happens with the northwest  
9 ditches, your project isn't going to do -- it's not  
10 going to get better.

11 I guess maybe I'm not understanding. I'm  
12 not hearing anything that says, "This is going to  
13 fix the problem."

14 MR. WHITE: Well --

15 CO-CHAIR McBRIDE: So I guess that's what  
16 I'm hearing.

17 MR. WHITE: One of the large issues now is  
18 that water historically went through the westerly  
19 culvert under Franklin Street. The dam -- the weir  
20 dam -- there used to be a dam across the ditch which  
21 forced water to go there. That dam has long been  
22 gone.

23 CO-CHAIR McBRIDE: We're talking the  
24 northwest section, not the culvert right under where

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1 the pump station is, right?

2 MR. WHITE: No. This is upstream of that.  
3 Where the weir dam is.

4 CO-CHAIR McBRIDE: It's no longer there.

5 MR. WHITE: The weir dam has settled almost  
6 one foot on the east side. By raising that up to  
7 its original elevation -- so it would be the same  
8 elevation as the east side -- now that weir dam's at  
9 a higher elevation than the land is to the west, and  
10 so that will increase flow -- large volume of water  
11 will now flow through the westerly culvert rather  
12 than through the weir dam.

13 Also there is a massive leak in the dam at  
14 this time on the westerly side. Water -- I mean  
15 water -- it really pours out, very, very high  
16 rate --

17 MR. WANTMAN: What dam on the westerly  
18 side?

19 CO-CHAIR McBRIDE: Marty, let us ask the  
20 questions.

21 MR. WANTMAN: There is no dam.

22 CO-CHAIR McBRIDE: We're good.

23 CO-CHAIR PARSONS: We'll open it up.

24 MR. WHITE: Of the weir dam. On the

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1 westerly side of the weir dam is a large leak.

2 CO-CHAIR McBRIDE: Could you describe --  
3 because I have the same question.

4 MR. WHITE: Okay.

5 CO-CHAIR McBRIDE: The weir dam is exactly  
6 where for all of us -- I wish we could have a map up  
7 there.

8 MR. WHITE: It's maybe 3- or 400 feet up  
9 from Franklin Street.

10 CO-CHAIR McBRIDE: Okay. So it basically  
11 parallels Mr. Wantmann's property, Gerald Road.

12 MR. WHITE: Just past.

13 CO-CHAIR McBRIDE: So you're saying there  
14 is an east side and a west side. So in this little  
15 five-foot --

16 MR. WHITE: 12-foot wide.

17 CO-CHAIR McBRIDE: You're saying there is  
18 two sides of it. You're not talking about the west  
19 side --

20 MR. WHITE: No. I'm just talking about the  
21 12-foot-wide dam. There is an east side and a west  
22 side of that dam. And on the east side of that dam  
23 it has settled. And you can see the blocks all  
24 misplaced. It's made out of precast concrete

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1 blocks, large blocks. And on the west side, there  
2 is a very large leak between the blocks and the  
3 embankment.

4 So once those two items are repaired, the  
5 water elevation behind the dam will be at the  
6 correct elevation.

7 Now, we also submitted, I think it was  
8 mentioned, additional topographic information to the  
9 west of the site, and that shows an elevation of the  
10 ground 162 -- 162, 162.5. The dam, culvert dam  
11 elevation is going to be over 163. So you can tell  
12 that the water now will be going toward the westerly  
13 culvert under Franklin Street rather than the pump  
14 station once that dam is repaired.

15 And that was the intent of the dam when DEP  
16 issued the consent order, to put the water -- that  
17 was the whole purpose of the dam, to create more  
18 storage and create a way for water to go back the  
19 way it was supposed to go under original conditions.

20 CO-CHAIR McBRIDE: Okay.

21 Ingeborg or Bob? Or Bob? Do you have any  
22 comments or --

23 MR. GRIFFIN: Well, I do have a couple of  
24 comments.

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1           I think that, you know, you guys have both  
2 said that you think the project meets the storm  
3 water management standards, and I told you the last  
4 meeting I don't think it does, and I continue to  
5 think that it does not. I think right now you have  
6 off-site flooding that's occurring, and you're going  
7 to exacerbate it by your development. So until this  
8 flooding problem is solved at Franklin Street,  
9 you're going to make conditions worse. And, in my  
10 mind, I can't recommend to the Commission that they  
11 approve this project until the storm water  
12 management standards are met, so I see that as a  
13 significant issue.

14           In regards to the weir, it pretty clearly  
15 is going to push water west, and I'm concerned that  
16 it's going to create a problem off site that doesn't  
17 exist today. I don't think any of us know exactly  
18 what's going to happen if you operate the weir as it  
19 was apparently intended some years ago.

20           I'm also concerned that the weir is poorly  
21 constructed, and you're really not doing anything to  
22 improve the condition of the weir in the long term.  
23 If you were going to put a weir on a brook, you  
24 wouldn't build it out of those precast concrete

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1 blocks. They're kind of un-uniform and prone to  
2 leakage and prone to failure, as has already  
3 happened. So I don't see how, you know,  
4 repositioning those blocks is going to be a  
5 permanent repair to that weir.

6 I like the -- I like the idea that there  
7 will be an adjustable component on top of the weir  
8 so that if this water does head to the west and it  
9 does create problems off site, at least you can  
10 return the function of the weir to what is currently  
11 occurring. So I think at that point we could at  
12 least say you will not have made things worse. But  
13 the topographic information that you provided, as  
14 you indicated, suggests that there is some low land  
15 off site and, you know, we're attempting to push  
16 water in that direction, and I'm not sure if that's  
17 going to create problems or not, and I don't think  
18 any of us do. So relying on that as a solution here  
19 to me is tenuous.

20 In regards to the -- you know, this  
21 flooding issue, I think that you've got a pump  
22 station right now that doesn't work; it causes  
23 flooding locally. I think pushing the water across  
24 the street is the correct course of action. I think

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1 cleaning the Sunset Road culvert is the correct  
2 course of action. And I think if you're concerned  
3 about exacerbating the flooding on the south side of  
4 Franklin Street, then it would be possible to put a  
5 float on the south side of Franklin Street that  
6 would force the pump to shut off if the water levels  
7 exceeded some particular problematic number on the  
8 south side of Franklin Street.

9           So I think, you know, I'm sympathetic to  
10 the concern you state, but I'm not sure that the  
11 concern you state means that we haven't be upgrading  
12 the pump station.

13           CO-CHAIR McBRIDE: I also have a question  
14 about the pump access road, which I'm sure you've  
15 read the DEP's administrative consent order for the  
16 penalties that that's supposed to be maintained at  
17 all times, and everybody knows it's not currently.  
18 It's part of the enforcement order that we filed  
19 against Weiss Farm, Inc.

20           I didn't hear you mentioning that at all.  
21 What would be your plan for that?

22           MR. WHITE: The -- my opinion is that road  
23 isn't necessary. The pump can be serviced from --  
24 from Franklin Street.

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1 CO-CHAIR McBRIDE: Uh-huh.

2 MR. WHITE: I think that road goes with the  
3 consent order, and the consent order goes with the  
4 farm. So I believe once the farm is -- is gone, the  
5 consent order is no longer standing.

6 CO-CHAIR McBRIDE: Yeah. But our issues  
7 with that property would certainly be --

8 MR. WHITE: I mean, do you like that --  
9 would you like us to maintain that access drive?

10 CO-CHAIR McBRIDE: No. I'm just asking  
11 what your plan is, because you didn't mention the  
12 access road in your report, that I saw. Maybe you  
13 did, and I didn't --

14 MR. WHITE: No. I -- I think it's more  
15 of -- the pump station is more -- better maintained  
16 off Franklin Street than trying to use that road.

17 CO-CHAIR PARSONS: I have a quick question.

18 You said you would restore the weir or the  
19 dam to its original intended design point.

20 In doing so, I know it's going to drive  
21 more water to the west, which may or may not be a  
22 good thing. Have we gone to the level to understand  
23 what the effects would be raising the hydraulic  
24 grade line on the west side to the resource areas,

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1 the surrounding areas, or even how much water would  
2 be discharged through that culvert on the west side?  
3 I've always been -- when you start talking about  
4 moving flows around, I'm just worried about what's  
5 happening on the other side.

6 MR. LOWRY: Right. And it's a fairly  
7 complicated question, and it's not something that  
8 lends itself necessarily cleanly to either  
9 engineering or science.

10 But the way I look at it is when they put  
11 the ditch in along the east side in particular, you  
12 know, they changed the hydrology of that wetland  
13 from what it was originally. They changed the  
14 controlling elevation of where that water should be,  
15 wants to be.

16 If you look at the elevation of the wooded  
17 swamp to the north, it's generally between 162 and  
18 163. That's all the spot shots. And, you know,  
19 there is some pits that are lower than that and some  
20 mounds that are higher than that. The tree -- the  
21 tree root mounds, for example. But generally it's  
22 162 to 163.

23 By improving the weir, restoring it to that  
24 original design intent, we're putting it back to

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1 controlling the peak elevation at about that  
2 elevation, about 163. Now, obviously it has a notch  
3 in it as well, so it stages that water temporarily  
4 and draws down slowly through the notch. The notch  
5 will bring it back down to -- is it like 161 1/2 or  
6 something, Jim?

7           So, you know, it is drawing it down. It  
8 allows the trees to maintain, you know, the  
9 hydrology that they're accustomed to and that they  
10 function well at. There is no indication that when  
11 they put that weir in originally trees were stressed  
12 or flooded beyond their bounds or normal growth.  
13 And I think it's because they basically -- you know,  
14 there was some logic to the design of that weir in  
15 terms of restoring the hydrology in that wetland  
16 that was there, you know, prior to -- prior to any  
17 ditching at all. It does function to maintain water  
18 levels back to where they were originally.

19           So we're not -- and we're not talking about  
20 a big change in elevation all the way through here.  
21 If you look at the invert elevation -- you know,  
22 Franklin Street is, what, 160 -- just over 160, I  
23 think. And, you know -- and the edge of the  
24 wetlands are 163, 164. You know, the normal water

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1 level out there ranges from that 160 up to 162.

2 I mean, this is a flood plain. This is a  
3 wetland. It is a flood plain. So when we talk  
4 about drainage problems and drainage issues, that's  
5 like saying, "Well, the Connecticut River flood  
6 plain is a problem." It's a flood plain, and that's  
7 why we're staying out of the flood plain. We're  
8 staying out of the wetland. We're controlling  
9 runoff from our upland into this flood plain wetland  
10 system.

11 And I guess we disagree that we're not  
12 meeting the storm water management standards, and in  
13 meeting the storm water management standards we're  
14 not aggravating or exacerbating those flood  
15 conditions.

16 And I think if -- if the flood plain were  
17 respected all the way down -- and, obviously, if the  
18 Sunset Road culvert weren't put in so miserably back  
19 40, 50 years ago -- there wouldn't be ongoing  
20 issues. But the issues are with respect to  
21 encroachment into the flood plain, that 163.6 or,  
22 you know, however you want to define -- we're  
23 defining it conservatively, but there is no evidence  
24 that flooding occurs above that elevation on our

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1 site.

2           So -- so we are respecting the limit of  
3 flooding. We are designing a storm water management  
4 standard design that's consistent with the  
5 standards, and, you know, it's our opinion that  
6 we're not exacerbating those issues.

7           CO-CHAIR PARSONS: So you're saying that  
8 the Applicant will be improving whatever flooding  
9 condition there is on site now by modifying -- or  
10 restoring, I guess, the weir the -- the dam, the  
11 weir elevation, and by making improvements at the  
12 pumping station?

13           MR. LOWRY: Correct.

14           CO-CHAIR PARSONS: The question regarding  
15 the dollar value to the town for whatever  
16 maintenance, whatever. Do we have any idea what it  
17 would cost to address the sediment issue within that  
18 450-foot culvert?

19           I'm just wanting to know how far it gets  
20 the town, because then the town needs to be aware of  
21 what's then left if that's what the plan would be.

22           MR. LOWRY: Right. Right.

23           And Jim could probably address this better,  
24 but we thought in terms of removal of debris,

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1 removal of vegetation that's -- you know, some of  
2 the trees that are wind thrown and throwing their  
3 roots up, and cleaning of the culvert through  
4 hydraulic measures, that that \$20,000 figure was a  
5 reasonable expenditure towards that, towards that  
6 effort.

7 CO-CHAIR McBRIDE: I'm sorry.

8 CO-CHAIR PARSONS: Relative to the 163  
9 elevation, what's the -- what's the proposed grade  
10 for -- surface, I guess, for the proposed site? Do  
11 you know offhand? I just...

12 MR. WHITE: The site's going to be about --  
13 the site will be about 171.

14 CO-CHAIR PARSONS: 171. Okay. Okay.

15 In -- I think we've all looked at the 2010  
16 regulatory driver on the site.

17 In your opinion has the Applicant met the  
18 requirements of that regulatory driver? I mean, I'm  
19 just curious as to -- if they have, they have. If  
20 they haven't, then how much has that potentially  
21 exacerbated the problem? We can either look at the  
22 culvert or --

23 MR. CICATELLI: Are you referring to the  
24 consent order, Mr. Chairman?

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1 CO-CHAIR PARSONS: I'm sorry?

2 MR. CICATELLI: Are you referring to the  
3 consent order?

4 CO-CHAIR PARSONS: Yeah. It was the  
5 consent order.

6 MR. CICATELLI: That's not our consent  
7 order. That's for -- the present owner's consent  
8 order. I believe this Commission has addressed that  
9 with the owner of the property at the last meeting.  
10 We're talking about a new order of condition this  
11 evening.

12 CO-CHAIR PARSONS: Okay.

13 CO-CHAIR McBRIDE: So I have a question.

14 No one really knows what's going to happen  
15 on the northwest side of this property if you build  
16 your project, really. I mean, you can make your  
17 best guess, estimates, but we don't really know if  
18 the ditches that are there now are designed -- are  
19 functioning the way they were designed to function  
20 years ago because there -- some of them are off  
21 property; some of them are filled. They're all --  
22 what's the right word -- they're all altered, all of  
23 them, the east side, north side, everywhere, because  
24 of all the debris that's blown into them over the

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1 years because of how the farm's been managed.

2           So I can't in good conscience say, "Oh,  
3 okay. Yep. You've done everything you're supposed  
4 to do. You're not making it worse, but you're not  
5 making it better." And I can't help but think if we  
6 don't address all the other actions -- I mean, that  
7 you are agreeing are problems -- and whether it be  
8 you that address it, or the town address it -- which  
9 would take, as you, I'm sure, know, a gazillion  
10 years because we don't have the money to address  
11 it -- it would make no sense for us to approve a  
12 project that those things aren't addressed -- in my  
13 opinion; this is not -- you know -- if those issues  
14 aren't addressed, because it just -- it can't  
15 continue the way it's functioning now. And even  
16 with what limited improvements you're willing to  
17 throw money at or improve.

18           It sounds like the culvert under Franklin  
19 Street is a big part of the problem. Why would we  
20 put 268 apartments across the street on a 50-year or  
21 however old that culvert is and not expect that  
22 before we allow your project, that we either have  
23 the town improve that, correct that, replace that or  
24 you would replace it? So I don't know if that came

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1 up in any of your conversations or if you think I'm  
2 way out of line.

3 MR. LOWRY: Well, I would offer the  
4 following response:

5 Within -- within the updated watershed  
6 study -- and this was actually in the May 6th  
7 watershed study as well -- there are a series of  
8 pictures provided in the back portion there which  
9 document the conditions --

10 CO-CHAIR McBRIDE: Just so we're all clear,  
11 you mean the northwest part?

12 MR. LOWRY: Yes.

13 CO-CHAIR McBRIDE: Okay.

14 So if you're standing on Franklin looking  
15 at it, you're talking about the part on the left.

16 MR. LOWRY: Yeah. Actually go back to the  
17 last one. Left. Yep. No. This is good. This is  
18 where it's going to show it.

19 So the area of Meeting House Brook -- it  
20 doesn't cover all of it; I'll go to the next one --  
21 but this particular area is shown on the photographs  
22 that we provided in that -- in that watershed study.

23 And if you go, for example -- I know you  
24 don't necessarily have it, and we don't have the

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1 pictures loaded up here, but Photos 4 and 5 in  
2 particular include shots from around this portion  
3 right in through here. And, as an example, right  
4 where this is shot, right here, there is a large  
5 tree that's wind thrown over into the ditch and is  
6 clearly blocking flow just downstream of that. That  
7 would be picture -- Pictures 4 and 5, I believe,  
8 show that wind-thrown tree. And Picture 5 shows the  
9 drainage just below that area.

10 So I'll go to the next one. Yes. It's  
11 kind of too far away here, but it's basically in  
12 this area here. And it shows debris. There are  
13 boards. There are rocks. There is other  
14 vegetation. And it's -- you know, those -- that  
15 debris material, along with that wind-thrown tree,  
16 was very much blocking flow heading to the west  
17 towards -- it The Arbors, is that the name of that?

18 MR. CICATELLI: Yes.

19 MR. LOWRY: And then if you walk along the  
20 limits of The Arbors, where this stream flows  
21 completely around on the north side of The Arbors  
22 and then takes a southward, a left-hand turn --

23 MS. HEGEMANN: Dennis, we've lost you.

24 MR. LOWRY: Okay. Sorry about that.

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1 MS. HEGEMANN: So the pictures are not  
2 following your conversation.

3 So we're looking at the document, but  
4 what's on -- it's --

5 MR. LOWRY: Right. I'm stating it for the  
6 record in part, Ingeborg, because what I'm trying to  
7 say is we have pointed out specific areas of debris.

8 MS. HEGEMANN: Okay. Well, since I've  
9 opened up the document, can you just -- I'm sorry to  
10 do this --

11 MR. LOWRY: Sure.

12 MS. HEGEMANN: -- just reiterate which  
13 pictures you're referring to again?

14 MR. LOWRY: Yep. If you look at Picture  
15 Number 4, it's entitled, "Northwest corner of old  
16 fill, no flow apparent." That -- that picture is --  
17 let me go back to the previous.

18 CO-CHAIR McBRIDE: You don't have these  
19 that we could put up on the screen?

20 MR. LOWRY: No, we don't have them loaded  
21 up here.

22 But that picture is looking right along the  
23 limit of this right where I'm pointing here. And  
24 there is a tree -- you can see the tree in the

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1 picture -- that's -- that's been blown over right  
2 across the ditch, if you look at Picture 4. And  
3 that tree is right in a pivotal point of drainage  
4 trying to get -- trying to make it to the west.

5 CO-CHAIR McBRIDE: Uh-huh.

6 MR. LOWRY: And, you know, removal of that  
7 tree and the root system that's blocking that  
8 area -- and then Picture 5, which is on the next  
9 page, shows around the corner from that tree. In  
10 fact, if you look at Picture 6, it's looking back  
11 upstream where you can see the tree wind throw and  
12 the debris within the ditch below the tree wind  
13 throw.

14 CO-CHAIR McBRIDE: And just to clarify,  
15 this is not Weiss property?

16 MR. LOWRY: No. This is off the Weiss  
17 property.

18 CO-CHAIR McBRIDE: Do we have a name?

19 MR. LOWRY: But what I'm trying to get to is  
20 the town -- based upon the record documents, the  
21 town does have drainage easements and the right to  
22 improve the drainage through that area. And, you  
23 know, for a small work crew to go back there maybe  
24 with a Bobcat to remove the debris, to remove the

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1 tree, you know -- and probably, you know, from what  
2 I observed along The Arbors as well, ensure that the  
3 debris is not blocking the flow through that area  
4 and back around towards Franklin Street to the south  
5 where it discharges towards the high school site,  
6 all of that would contribute to -- in combination  
7 with the weir working properly, to inducing flow  
8 towards the west.

9           And so all of these are incremental  
10 measures which we feel are practicable and could be  
11 accommodated for by the donation that the Applicant  
12 is willing to provide. I mean, obviously the  
13 Applicant can't do it himself. I mean, it's not  
14 their land. The town has drainage maintenance  
15 rights in that area, and the town could do it. And  
16 we're suggesting that a reasonable, you know,  
17 contribution to that effort could be made by the  
18 Applicant as part of the conditions of approval.

19           CO-CHAIR McBRIDE: And just to be clear,  
20 you're talking the northwest section. You're not  
21 talking the Sunset culvert.

22           MR. LOWRY: Well, we've talked about an  
23 amount.

24           CO-CHAIR McBRIDE: No, no. I mean about

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1 the town having the rights to the Sunset culvert.  
2 My understanding is we don't have rights to that. I  
3 don't know if anybody has found something that tells  
4 us differently.

5 MR. WHITE: We have a plan from the town  
6 showing an easement between Franklin Street going  
7 down about 60 feet along the drainage ditch where  
8 the town had an easement.

9 Mr. Grover said the town actually does not  
10 have an easement there, even though it showed up on  
11 the plan.

12 CO-CHAIR McBRIDE: So wait. You have a  
13 plan that says we have an easement, but the town  
14 says --

15 MR. WHITE: Yes.

16 CO-CHAIR McBRIDE: -- we don't have it.  
17 Could we have a copy of that plan?

18 MR. WHITE: I believe it's in the report.

19 CO-CHAIR McBRIDE: Okay.

20 MR. WHITE: Yeah. It's in the Sunset Road  
21 plan, culvert plan, I believe Mr. Grover prepared.

22 CO-CHAIR McBRIDE: Okay.

23 MR. WHITE: I believe it's the last sheet.

24 MR. MAHONEY: The last sheet of the

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1 watershed study.

2 MR. WHITE: And that happens sometimes.  
3 Sometimes people provide the easement on the plan  
4 and there is no recorded easement, so -- but  
5 Mr. Grover was very clear that the town does not  
6 have an easement in that area.

7 CO-CHAIR McBRIDE: I'm looking for -- so  
8 that is an easement for Sunset Road culvert?

9 MS. HEGEMANN: Oh, no. No. Sorry. The  
10 Sunset Road is on a subdivision plan.

11 CO-CHAIR McBRIDE: And the town does have  
12 an easement?

13 MR. MAHONEY: The last sheet of the revised  
14 June 10th watershed study.

15 MR. WANTMAN: Ellen, will you allow me one  
16 second?

17 CO-CHAIR McBRIDE: Just give us -- just  
18 remember your question, Marty. Because you don't  
19 know what one second is.

20 MR. WANTMAN: No, it is.

21 The water doesn't leave Weiss going west --

22 CO-CHAIR McBRIDE: Marty. Remember your  
23 question. We'll give you a chance.

24 MR. WANTMAN: -- period.

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1 CO-CHAIR McBRIDE: So you're saying, if I'm  
2 understanding you, that the town does have access  
3 and the right and an easement, or whatever we need  
4 to go behind the homes on Sunset and clean that out?

5 MR. WHITE: No. I'm saying that Mr. Grover  
6 said there is no easement. The town does not have  
7 an easement, even though it does show up on the  
8 plan.

9 MR. MAHONEY: It may show on a plan, but  
10 there was never a recorded easement I think is what  
11 he's saying.

12 CO-CHAIR McBRIDE: Okay. So there was a  
13 proposed easement but never recorded.

14 So legally does the town have the right, if  
15 the easement is not recorded -- I guess I'll ask you  
16 guys at the end then.

17 MR. CICATELLI: You know, what happens,  
18 Madam Chairman, in many cases is the easement is  
19 shown on the subdivision plan and there is not a  
20 formal grant from the developer to the town.  
21 However, the planning board at the time approved the  
22 subdivision it showed the easement. This is  
23 something you could probably discuss with town  
24 counsel, but, in my opinion, clearly there was an

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1 intent to grant the easement.

2 And, quite frankly, even if there wasn't,  
3 I'm sure if the town wanted to do work, that the  
4 abutting owners would grant or confirm the easement.  
5 But it is shown on the subdivision plan.

6 So the bottom line is, in our opinion the  
7 town has the right to do work to that -- in that  
8 easement area.

9 CO-CHAIR McBRIDE: So my understanding is  
10 that the sub -- the Sunset Road culvert is not on  
11 the subdivision property. Am I wrong in that, or do  
12 you know -- what I've been told is it's Weiss  
13 property, but not this Weiss; it's Weiss Trust  
14 property.

15 No one in town has been able to contact the  
16 Weiss Trust. I haven't been able to contact them,  
17 so I'm not sure -- so I had a flat-out meeting with  
18 Dave -- with Bob Grover and asked him that question,  
19 and he said, "We do not have permission." It's a  
20 different -- so until we get an answer to that, I  
21 believe we have a bit of a conundrum.

22 MS. HUGGINS: And Madam Chairman, might I  
23 address one issue briefly?

24 CO-CHAIR McBRIDE: Sure.

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1           MS. HUGGINS: I'm Barbara Huggins, Huggins  
2 and Witten, special town counsel.

3           The fact that an easement is on a plan is  
4 not proof that the town has an easement. So that is  
5 not sufficient formalization, so I would  
6 respectfully disagree with my brother's conclusion.

7           CO-CHAIR McBRIDE: Okay. Thanks.

8           MR. GRIFFIN: So one of the concerns I have  
9 is I think the \$20,000 estimate is woefully  
10 inadequate. I don't think you could get an engineer  
11 to characterize the quality of the sediments and put  
12 out a construction contract to clean out the pipe  
13 and clean out the ditch for \$20,000, but it would be  
14 nice if I was wrong.

15           I think that the watershed study that HW  
16 Moore provided outlines the need for ditch cleanup  
17 in two areas: It's the ditch between Franklin  
18 Street and this Sunset Road culvert we've been  
19 discussing; it talks about the need for cleaning out  
20 the Meeting House Brook area to the west of the  
21 site; and it talks about the need to clean out the  
22 culvert. And I think all three of those things are  
23 necessary to support the infrastructure that's being  
24 proposed here.

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1           So I really think the next step is to, you  
2 know, get somebody who really knows what these  
3 things cost to prepare a decent estimate of what it  
4 would take schedule-wise, cost-wise to do all three  
5 of those components, and let's make it a part of the  
6 project.

7           MR. CICATELLI: Madam Chairman, I think one  
8 of the issues that you raise is a good --

9           CO-CHAIR McBRIDE: Steve, would you hold on  
10 one second.

11          MR. CICATELLI: I'm sorry.

12          CO-CHAIR McBRIDE: The audience asked can  
13 you repeat the three components, Bob, please.

14          MR. GRIFFIN: They come out of the HW Moore  
15 watershed study, as I recall, and it's the removing  
16 the sediment from this Sunset Road culvert; it's  
17 removing debris and sediment from the channel that  
18 extends from Franklin Street to the Sunset Road  
19 culvert; and then he talks about removing debris and  
20 sediment from the Meeting House Brook conveyances.

21          So, again, I think all those things are  
22 necessary. I think they would be significant  
23 improvements. They would help address the flooding  
24 problems that we have here, and I think they should

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1 be done.

2 MR. CICATELLI: Madam Chairman, I don't  
3 think we have a disagreement on a lot of these  
4 points. The issue is the Applicant's responsibility  
5 is not to improve the situation. It's to meet the  
6 performance standards and not exacerbate the  
7 situation.

8 And what our engineers have proposed are  
9 potential solutions, and clearly a solution that  
10 involves redoing the culvert is far too expensive.  
11 So it ultimately remains the town's responsibility  
12 to deal with some of the flooding issues relating to  
13 the culvert. We've offered some suggestions and  
14 a -- some compensation to help the town do that.  
15 But it's our position that we have met the  
16 performance standards and we will not exacerbate the  
17 existing condition, and, with these improvements, we  
18 feel they, in fact, will -- will help.

19 CO-CHAIR McBRIDE: So to my point earlier,  
20 that's exactly what I was feeling earlier was that  
21 you feel sort of -- and I'm a lay person, again, but  
22 the impression I'm getting -- and I don't know if  
23 this is the impression the other lay people are  
24 getting, not being a hydrologist or an engineer or a

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1 wetland scientist -- I'm getting sort of, "That's  
2 the way it is now. Not our fault. We can help a  
3 little bit, but it's really not our issue. It's  
4 really not our responsibility. And so here's some  
5 money. Maybe you can make it better, but we still  
6 want to put our project in."

7           And I don't know about anybody else on this  
8 Commission, but I, in good conscience, couldn't do  
9 that and wouldn't do that. And I wonder if it  
10 doesn't make sense to ask you guys to provide some  
11 sort of plan to basically help clean those, or maybe  
12 we talk to the town and say, "Before any project  
13 goes in at Franklin Street or at Weiss Farm, we want  
14 the Sunset Road culvert repaired, cleaned out" --  
15 "at least cleaned out and then potentially repaired  
16 or replaced. We want the weir fixed. We want the  
17 ditches to the north and west dredged, cleared  
18 whatever, see if that alleviates all the flooding  
19 all around." And then you come back to us when  
20 that's done and say, "Okay. This can work."

21           But right now, in good conscience, I  
22 couldn't, you know, say this would be a great idea.  
23 And I don't know that --

24           MS. DAY: Well, and I think our own

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1 consultant doesn't agree that it meets the storm  
2 water management standards. So, I mean, you can say  
3 it's -- it's going back and forth, but the truth is  
4 our consultant is saying that it doesn't, so with  
5 that in mind, there could be flooding in the  
6 resource area in Sunset, which is part of what we  
7 look at in this project. So unless our folks are  
8 convinced that these standards are met, I feel the  
9 same way. There could be flooding. There could be  
10 flooding in the Sunset resource area. Correct?

11 MR. CICATELLI: But, again, if we're not  
12 going to exacerbate that, I don't see how the  
13 project approval should hinge on that.

14 MS. DAY: But I don't think we're in  
15 agreement.

16 MR. CICATELLI: In terms of these  
17 discussions, they should take place. They have been  
18 taking place. No question.

19 CO-CHAIR McBRIDE: Well, why would we grant  
20 268 new apartments into an area that -- I mean, you  
21 know it. You can't drive down Franklin Street now  
22 during a bad rain storm. Why would we put 268 new  
23 citizens of the Town of Stoneham into that same  
24 predicament that everybody else who lives on

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1 Franklin Street during a bad flood is in now. It  
2 would be our -- in my opinion our responsibility to  
3 help make that better, and I would like to think it  
4 would be your wish to help make that better also,  
5 because you're building an apartment building that  
6 potentially 300 people are going to be living in,  
7 so...

8 AUDIENCE MEMBER: More.

9 MS. SAITZ: More than 300.

10 MR. L'ESPERANCE: It would seem to me that  
11 you would want to protect your own investment, not  
12 only by not exacerbating it, but by making sure that  
13 it doesn't back up into your site. I mean, you --  
14 you have a lot to lose here, too.

15 CO-CHAIR PARSONS: I guess what I would  
16 recommend is that we've got -- we've got some  
17 responses to some of the questions that came out of  
18 the review. I think we should take a look at it.  
19 I'm not sure how much it's going to change opinions  
20 at this point, but I think we owe it to look at this  
21 and see -- see what it does say, if we need to  
22 respond to that.

23 You know, I think we're at that point where  
24 let's take a look at what's been provided tonight.

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1 There has been some thought put into it and some  
2 time spent. So let's take a look at it, and we'll  
3 have the consultants look at it and provide any  
4 questions that we still may have and then go from  
5 there.

6 I don't know how everybody else feels.

7 Okay. Sure. Sure. Yes.

8 MR. GALLOGLY: Excuse me. We think the  
9 hearing should be closed. We've submitted enough  
10 information for the Commission to make a decision,  
11 and we could just agree to disagree, but we think  
12 the hearing should be closed.

13 CO-CHAIR McBRIDE: I don't think we have  
14 enough information, and it wouldn't be prudent on  
15 our end to close a public hearing if we don't have  
16 all the information we need. Because if we close  
17 the public hearing, 21 days we make a decision.

18 MR. GALLOGLY: That's correct.

19 MS. HUGGINS: Madam Chairman, if I may.

20 CO-CHAIR McBRIDE: Yes.

21 MS. HUGGINS: I would ask the Applicant and  
22 counsel whether the Applicant really thinks that is  
23 in the Applicant's best interests when this  
24 Commission clearly has questions raised, has

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1 additional questions, the Commission's consultant  
2 has raised serious concerns that I'm quite confident  
3 the Commission is not going to ignore.

4 So I would ask, perhaps, that counsel  
5 reconsider that advice.

6 MR. GALLOGLY: We don't see that there  
7 would be any progress to have more hearings. We  
8 would still be at loggerheads, and we would still  
9 disagree with each other. So we would just as soon  
10 go with the process. We're prepared to go talk to  
11 the DEP.

12 MR. WANTMAN: Could you repeat that,  
13 please.

14 CO-CHAIR McBRIDE: Well, before you do  
15 that, I just want to ask the panel here, does  
16 anybody else have any other questions or comments or  
17 anything on this -- on this side of the table before  
18 I open up? Because I know people in the audience  
19 have questions they want to ask. Anybody else?

20 Go ahead, Ingeborg.

21 MS. HEGEMANN: I have one question for  
22 Dennis.

23 When you talked about the design of the  
24 weir and the history of the weir, and you described

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1 it as having some logic, I have not been able to  
2 find any calculations supporting the elevation of  
3 the weir, and I was just wondering if you had,  
4 because the change -- that weir was 2006 time frame.  
5 So it's not necessarily -- when you say that it  
6 goes -- it addressed or tried to potentially restore  
7 the original hydrology going east and west.

8           So the change -- the question that I'm  
9 getting at is that, depending on the storage of the  
10 additional foot, plus or minus, of water in that  
11 back wetland, it may or may not affect the current  
12 condition of that wetland, if you have it for two  
13 days back there or if it's for three hours back  
14 there, it could make potentially a change to the  
15 type of wetland that's back there.

16           And then the other thing -- so I didn't  
17 know -- I guess, just first of all, was there, to  
18 your knowledge, any -- did DEP require any kind of  
19 calculation or study to come up with that elevation?

20           MR. LOWRY: There is an FSL report that's  
21 associated with the -- with that weir. I looked at  
22 it many months ago.

23           So I can't recall the specific content of  
24 it, but there was some basis behind it, and I'm just

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1 not...

2 MS. HEGEMANN: I think it was a very  
3 limited --

4 MR. LOWRY: Yeah. That could be.

5 MS. HEGEMANN: I was fairly surprised, you  
6 know, that there was a lot of unknowns with respect  
7 to that, and there was also that request for the  
8 watershed study, and then -- so there was a study  
9 done by FSL, I believe. And then one of the  
10 abutters also hired somebody to review that study.

11 That study actually came up with some  
12 elevations of the Meeting House Brook culvert, which  
13 I'm sure Jim has looked at as well, which sort of  
14 supports the discussion that flow could flow towards  
15 the westerly direction. So I think, given that  
16 there is a discussion, a push-pull here about  
17 closing or not closing and whether we're really just  
18 at loggerheads or whether there is some additional  
19 information that could be gleaned from continuing  
20 for one more time is -- and I'm sympathetic to both  
21 sides here -- is that if the Applicant -- because  
22 there is concern, there is a potential strong pro  
23 about going westerly and there is some potential  
24 cons going westerly. And I appreciate that the

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1 consultant -- that, Dennis, you've walked this  
2 entire thing and that you've provided these great  
3 photographs, but have you looked downstream by the  
4 high school and where does that water go?

5           You know, it may be minimal, but it may not  
6 be. And I think the Commission does have  
7 jurisdiction over the change in hydrology, and they  
8 have to ensure that, whatever happens -- including  
9 the restoration of the weir to the design elevation  
10 proposed -- doesn't have negative or that,  
11 conversely, that it does protect the interests of  
12 the Act across the site and off site.

13           So I think that is potentially a -- a  
14 technical substantive conversation that doesn't fall  
15 into interpretation of whether \$20,000 is enough. I  
16 think that Bob Griffin's comment about  
17 characterization of sediment is a very excellent  
18 one. As you know, each one of those, depending what  
19 you're testing for, depending on the land uses on  
20 this site, you could be talking, you know, hundreds  
21 of dollars just for the testing of the site.

22           So I think the two substantive things --  
23 and you guys can think about this, and you obviously  
24 prepared yourself because you responded so

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1 quickly -- that the two substantive things are what  
2 really -- how might there be an impact to the  
3 resource areas associated with restoring that weir?  
4 And I understand there is a push-pull here because  
5 the state says "thou shalt" and the Commission says.  
6 And that's why I asked the question about what  
7 really was on that FSL study.

8           And then the second piece is, I think it's  
9 fair to ask that there be a -- some backup  
10 numbers -- because you may be right. I mean, Dennis  
11 indicated removal of debris and so is the debris  
12 just at the Sunset Road piece or is the debris  
13 removal also on that easement to the west? And then  
14 secondly, cleaning out the Sunset Road culvert,  
15 which is an old culvert -- and I agree that it's too  
16 flat. And when I looked at all those subdivision  
17 plans, I was like, "Oh, okay."

18           So the point being it is clogged, and you  
19 indicated that it would be hydraulically cleaned,  
20 which is probably one of those pressure deals,  
21 right?

22           So I think the question that's legitimate  
23 is could you come up with backup on the \$20,000 that  
24 I think would help the Commission understand and be

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1 able to respond to that number? So those are the  
2 substantive pieces that I feel.

3 And I don't know if the Commission has  
4 other ones.

5 CO-CHAIR PARSONS: I would agree. I think  
6 if we're looking at moving flow from where it was  
7 originally intended to go, I think it would be good  
8 to know what is truly happening in those areas that  
9 we're diverting flow to. So I would concur with  
10 that.

11 MR. LOWRY: Well, I would simply respond,  
12 again, that we're not proposing to alter the  
13 hydrology. We're proposing to restore the weir to  
14 the condition it was approved by and required by DEP  
15 in the administrate consent order.

16 Our evaluation of that restored weir is one  
17 which would suggest that it's not going -- that it's  
18 well within the bounds of the hydrologic norms of  
19 that forested wetland; that the range in fluctuation  
20 of the water out there from 163, which is the top of  
21 the weir, down to 1 -- just over 161, which is the  
22 notch in the weir, is completely consistent with the  
23 hydrology of that forested wetland.

24 And this project is not changing that

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1 hydrology of the forested wetland. It is -- it is  
2 dealing with its own runoff internally, and we're  
3 offering to provide improvements or restoration of  
4 conditions out there that are independent of the  
5 project but which have been recognized through --  
6 through this review process.

7           So, you know, I'm a little bit sensitive  
8 when I hear a statement that we're changing the  
9 hydrology. I mean, if we weren't doing anything to  
10 the drainage -- or anything that's done to the  
11 drainage could be construed as altering the  
12 hydrology of the wetland. I mean, operating the  
13 pump system, you know, if you wanted to say we're  
14 changing the pumping regime, then you could go after  
15 that was well.

16           MS. HEGEMANN: Okay. Then I misused the  
17 word. I'll take back "change."

18           So by restoring the weir to the DEP  
19 requirement design --

20           MR. LOWRY: Right.

21           MS. HEGEMANN: -- there is a change in --  
22 and I know what you're going to say. "Well, it was  
23 supposed to be there. That weir broke, and now we  
24 have a change" -- "or we're restoring it back to

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1 what it was supposed to be."

2 The point being that this Commission has to  
3 issue an order of conditions approving the proposed  
4 activities, and one of the proposed activities is to  
5 restore that weir elevation.

6 The reason for my question is, whether  
7 there was ever, like, a stage storage analysis back  
8 there that it's going to be this high for this many  
9 hours. And I think this Commission should be  
10 looking at that on its own. And we may agree to  
11 disagree.

12 And I agree that -- your statement that  
13 we're not changing the hydrology, but there is going  
14 to be a change to the resource areas, and this  
15 Commission has to evaluate the interests of the Act  
16 in that regard.

17 CO-CHAIR McBRIDE: Can I also state?

18 I'm, again, not a hydrologist, and you may  
19 not be, the way you measure, changing the hydrology  
20 of a property, but I guess I don't understand how  
21 you can say that, if you're bringing in -- how much  
22 fill do you expect to bring in? Because you are  
23 going to go from -- what's the level now?

24 MR. LOWRY: Right. But that's totally

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1 independent of the wetland. It's not part of the  
2 wetland. There is no fill being placed on the  
3 wetland. The fill that's placed on the upland does  
4 not change the hydrology.

5 CO-CHAIR McBRIDE: It's all within the  
6 25-foot or 100-foot.

7 MR. LOWRY: Correct. That's right. And  
8 it's on --

9 CO-CHAIR McBRIDE: So if you add ten feet  
10 of soil --

11 MR. LOWRY: Right.

12 CO-CHAIR McBRIDE: -- which is what you're  
13 planning to do at least, right, if not 12? What is  
14 the level right now? It's, like, 160?

15 MR. LOWRY: It's about 164, 165.

16 CO-CHAIR McBRIDE: So nine feet to get you  
17 up to where you're going to go.

18 MR. WHITE: There is also a big hill in the  
19 middle of the site. So we're not --

20 CO-CHAIR McBRIDE: Here is my point as a  
21 lay person. Explain it out to me.

22 MR. WHITE: We're actually not bringing in  
23 fill. We're actually leveling off the site.

24 CO-CHAIR McBRIDE: But by leveling off the

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1 site, where rain water currently runs and goes down  
2 into the soil, the surface soil now, or runs off of  
3 it or whatever, to me you're altering the landscape.  
4 So maybe you aren't changing the hydrology, but it's  
5 hard for me to understand, not being a hydrologist,  
6 I know you're taking storm water, and I know you're  
7 going to capture the storm water so that you won't  
8 be flooding, adding to the flooding.

9 But the flooding exists already. So you're  
10 not going to make it worse, but you aren't making  
11 any effort to make it better. Hold on, Dennis, let  
12 me get to my thought before I lose it. But  
13 currently, right now, the way I understand it to  
14 work is water migrates through all that property,  
15 right? As the water -- and isn't the water table,  
16 like, eight inches down? Or, you know, what's the  
17 depth of it?

18 MR. LOWRY: Well --

19 CO-CHAIR McBRIDE: It ain't deep.

20 MR. WHITE: It's several feet.

21 CO-CHAIR McBRIDE: DEP said eight inches.

22 MR. WHITE: Well, it depends on where you  
23 are on the site. On the wetlands it's eight inches.

24 CO-CHAIR McBRIDE: It's not deep, which is

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1 obviously why you're putting eight feet of soil  
2 there, right, because you wouldn't build a  
3 building --

4 MR. WHITE: We're putting eight feet of  
5 soil for a couple of reasons.

6 One, we do not want to take material off  
7 site. We want a balanced site. It's a better way  
8 of doing things.

9 Secondly, our storm water system,  
10 infiltration system, has to be above the water.

11 CO-CHAIR McBRIDE: Right. Maybe I'm not  
12 saying it right.

13 MR. WHITE: And our infiltration system --

14 CO-CHAIR McBRIDE: So you have to build in  
15 tons and tons and tons of soil so you can put your  
16 infiltration systems in.

17 So, to me, this is the same thing as so  
18 many projects we've had recently in town where there  
19 is wetlands on the edges, and we've had to look past  
20 them. And after they're built, all hell breaks lose  
21 and all the people said, "Never used to get  
22 flooding; now I'm getting flooding." But the law  
23 is -- and the jurisdiction simply, it seems to me,  
24 hasn't caught up to what's really happening in the

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1 world. And whether it's -- I don't want to say  
2 something that's going to cause me to get in trouble  
3 for saying it, but it just -- it would -- it would  
4 go against everything I can think of to allow this  
5 project -- for me, personally, to allow this  
6 project, knowing full well that if those drainage  
7 ditches aren't cleaned out as part of the project --  
8 because the town's not going to do them. If Sunset  
9 Road ditch isn't drained -- whether it's their  
10 responsibility or not, we're asking you, what are  
11 the chances that you might take that on?

12 MR. WANTMAN: That's one out of three,  
13 though.

14 CO-CHAIR McBRIDE: Marty.

15 MR. LOWRY: I mean, I would start by  
16 responding to your comments about the drainage  
17 conditions. And obviously the whole intent of storm  
18 water management standards, and the whole approach  
19 to managing storm water runoff -- and Massachusetts,  
20 in my, you know, 38 years of experience has the most  
21 sophisticated set of storm water management  
22 standards in the entire country. And, you know, is  
23 to look at the characteristics of the land under  
24 existing conditions; look at how water runs off;

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1 look at how it infiltrates; you know, look at all  
2 those issues that you're talking about; and, in your  
3 proposed development, to develop management of the  
4 proposed conditions that replicate those -- those  
5 condition in terms of infiltration, in terms of  
6 water quality, in terms of peak rate discharge.

7           And so, I mean, that is -- that is the  
8 intent of these very sophisticated storm water  
9 management standards, and you have to meet those  
10 standards.

11           Now, I know Bob made a comment about an  
12 hour ago or so that we aren't -- that, in his view,  
13 we're not meeting those storm water management  
14 standards. And I guess I would like to go back to  
15 him and ask him more specifically, you know, what  
16 areas of storm water management standards he  
17 believes this project does not meet.

18           MR. GRIFFIN: Well, what I said, Dennis,  
19 was that I don't think -- I think you're going to  
20 exacerbate off-site flooding, which is one of the  
21 storm water management standards. So that's the one  
22 that I think you've got a problem with.

23           In my most recent letter I also raised the  
24 concern about recharge. I know Jim today has

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1 provided some new information about the recharge  
2 calculation, so it's not clear to me as to whether  
3 or not he's answered that one or not. I just  
4 haven't had a chance to review what Jim has written  
5 yet, but those two, in particular, I have concerns  
6 with.

7 MR. LOWRY: And so when you make the  
8 comment that we will exacerbate flooding, are you  
9 looking at peak rate or something different than  
10 peak rate off of this site?

11 MR. GRIFFIN: So I'm concerned about the  
12 volume of water that's going to be captured on the  
13 north side of Franklin Street. I don't think you're  
14 going to be doing anything to address the increased  
15 amount of runoff that would come off of your  
16 property.

17 And clearly you're going to have a lot of  
18 paved surfaces. You're going to have a lot of  
19 roofs. All of that's going to be delivering water  
20 to the failing pump at Franklin Street, which is  
21 going to cause water levels to increase and stay  
22 high for longer periods of time than they would  
23 today.

24 MR. LOWRY: So you're suggesting that the

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1 total volume of runoff is the area of concern?

2 MR. GRIFFIN: It's an area of concern, yes.

3 MR. LOWRY: But is that a storm water  
4 management standard, volume of runoff?

5 MR. GRIFFIN: Off-site flooding is a storm  
6 water management standard.

7 MR. LOWRY: Right. But if you're  
8 controlling the peak rate of flow off your project,  
9 the only other way that you could be suggesting that  
10 we're exacerbating flooding would be total volume,  
11 it would seem to me.

12 MR. GRIFFIN: Well, I'm concerned about the  
13 volume, certainly. I'm concerned about off-site  
14 flooding, however it occurs.

15 MS. HEGEMANN: I think, Dennis, you're  
16 correct that Massachusetts does have one of the  
17 strongest storm water management requirements, but  
18 one of the biggest flaws that the Wetlands  
19 Protections Act also has is that it does not control  
20 the volume. So one of the problems that's been  
21 going on -- and there is a number of reasons for all  
22 these upstream watershed development in this  
23 particular location -- is that very few of them  
24 controlled either the rate or the volume of runoff.

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1           And so part of the concern is that -- or  
2 part of what's happened over time is increased  
3 volumes being caught in this bowl. So that, I  
4 think, everyone knows that the Wetland Protection  
5 Act has that one flaw with respect to drainage  
6 conditions, and I think that's one of the reasons  
7 that the Commission is pushing so hard with respect  
8 to understanding what off-site improvements there  
9 could be with respect to drainage improvements.  
10 Because you're correct, it's not required.

11           CO-CHAIR McBRIDE: So I just want to be  
12 frank here. Are we just going to go back and forth  
13 and back and forth and after two more hours you're  
14 just going to say you still want to close the public  
15 hearing?

16           MR. CICATELLI: Well, you can open it up,  
17 Madam Chairman, if you like.

18           CO-CHAIR McBRIDE: I know. I'm asking you  
19 guys that question, just now.

20           MR. GALLOGLY: Yes.

21           CO-CHAIR McBRIDE: So I have a another  
22 question before we open it up to the public.

23           You're being very patient, Marty. Thank  
24 you.

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1           In your notice -- current notice of intent,  
2 have you included all of these -- are things like  
3 repairing the weir, improving the pump station, are  
4 those all part of the current Notice of Intent?

5           MR. LOWRY: Yes. I would say they are.

6           MR. GALLOGLY: Whatever we submitted to the  
7 Commission is part of the NOI.

8           CO-CHAIR McBRIDE: Some of these have been  
9 discovered since you submitted it, so that's why I'm  
10 asking. Have they all been -- did you in the Notice  
11 of Intent have a plan for how you were going to fix  
12 the weir and how you were going to fix the pump.

13           MR. GALLOGLY: Well, we've supplemented the  
14 initial filing with some additional filings at every  
15 meeting.

16           CO-CHAIR McBRIDE: Anybody here on the  
17 table have any questions, or Commission members?

18           MS. DAY: I'm good.

19           CO-CHAIR McBRIDE: Okay.

20           Anyone in the audience?

21           Marty's been waiting here all night.

22           Marty, can you come up to the mic, please.

23           MR. WANTMAN: I would rather go to the map.

24           CO-CHAIR McBRIDE: Can you get to the mic

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1 so they can hear you.

2 MR. WANTMAN: I can talk loud.

3 CO-CHAIR McBRIDE: Hold on.

4 George, can you hear Marty if he's at  
5 the --

6 CONTROL ROOM: No.

7 CO-CHAIR McBRIDE: Okay. You need to go to  
8 the mic, Marty. They can't hear you at home.

9 I just asked them; they said they can't  
10 hear you.

11 MR. WANTMAN: Allow me to speak louder,  
12 then.

13 CO-CHAIR McBRIDE: Marty.

14 MR. WANTMAN: Okay. I'll come up to the  
15 microphone.

16 I'm --

17 CO-CHAIR McBRIDE: Name and address.

18 MR. WANTMAN: My name is Martin Wantman. I  
19 live at 20 Gerald Road. I've been there since 1984,  
20 likely more intimate on how the drainage works at  
21 Weiss Farm than anyone in this room because Walter  
22 didn't show up tonight.

23 I tried to interject and ask a question,  
24 and I think it's Jim, the gentleman to the left.

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1           I wanted to ask him how many houses on  
2 Sunset Road flood, what the numbers of those houses  
3 are, and if you have any pictorial or other evidence  
4 that there is any flooding of any houses on Sunset  
5 Road?

6           MR. WHITE: It's my understanding from  
7 previous hearings that I believe there was three  
8 houses that were impacted by flooding on Sunset  
9 Road.

10           One house is under construction now. It  
11 had to be torn down because of potential flooding.

12           MR. WANTMAN: No. That was --

13           MR. WHITE: That was the understanding from  
14 previous hearings. We also visited the site on the  
15 site walk. The flood waters were very close to the  
16 apartment parking area. It was almost within inches  
17 of that parking lot, which floods.

18           MR. WANTMAN: That parking lot, that  
19 building is on Franklin Street. It's not on Sunset.  
20 You're talking about a parking lot, not about a  
21 flooding in a property.

22           The house that was moved was not moved  
23 because of flooding. It was moved because it had  
24 42 feet of peat and it was sinking. I think Ellen

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1 McBride heard that. We asked the landowner at that  
2 time.

3 The only other house that I know of that's  
4 on Sunset Road that could possibly be impacted is  
5 Mr. Bennett's house at Number 8.

6 MR. BENNETT: 7.

7 MR. WANTMAN: 7, excuse me.

8 And I don't believe that he has had an  
9 incursion or flooding on his property in the last  
10 five years.

11 MR. BENNETT: It's been flooding.

12 MR. WANTMAN: When did it flood last?

13 MR. BENNETT: In the basement.

14 MR. WANTMAN: When did you have water in  
15 your basement?

16 MR. BENNETT: The last storm, in February.

17 MR. WANTMAN: Really? Did you report it to  
18 anybody?

19 MR. BENNETT: No, I didn't.

20 CO-CHAIR McBRIDE: Hey, Marty, can I just  
21 ask you, can you make your point?

22 MR. WANTMAN: The point is that I don't  
23 believe there is significant flooding on Sunset  
24 Road.

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1           MR. BENNETT:    There is.

2           MR. WANTMAN:    During the walk-through when  
3 everyone was there, the significant flooding was on  
4 Gerald Road.  The -- what used to be my tennis court  
5 was at least halfway underwater.  I just approved --  
6 I didn't just approve.  I'm hoping to build houses  
7 over there.  I don't want those houses to flood,  
8 just two houses, that would be subject to the  
9 flooding.

10           My property has been a retention basin for  
11 Weiss Farm since approximately 2000 when Saul Weiss  
12 died.  The original weir that you're talking about  
13 was not original.  As Hildegard (sic) pointed out,  
14 it was installed in 2006, made out of Jersey  
15 barriers, which are very heavy and sink into the  
16 peat in the ditch.

17           CO-CHAIR McBRIDE:  Marty, is your point  
18 that the flooding goes to your house, not to Sunset?

19           MR. WANTMAN:    The point is on the weir that  
20 original design was an earthen check dam.

21           CO-CHAIR McBRIDE:  Uh-huh.

22           MR. WANTMAN:    No Jersey barriers.  It  
23 worked perfectly well, 100 percent.

24           Concerning the notch that's been discussing

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1 in the current weir, which is made out of Jersey  
2 barriers, the notch was put into the earth with the  
3 edge of the front-end loader's bucket, and they  
4 could easily control the level of the water leaving  
5 to the south.

6 Concerning the gentleman's -- I have to  
7 just move over here for a moment. Everybody saw it  
8 during the walk-through.

9 CO-CHAIR McBRIDE: Can you hear Marty?

10 MR. WANTMAN: Okay. Let me see. I'm going  
11 to need a pointer to point it out.

12 Water does not leave Weiss property to the  
13 west under the current conditions.

14 Are you going to get the pointer?

15 CO-CHAIR McBRIDE: I am.

16 You've got to help Marty.

17 MR. WANTMAN: If I can see from over there.

18 CO-CHAIR McBRIDE: You can talk.

19 MR. WANTMAN: Do you know where it is?

20 The map that we're looking at is not  
21 oriented south to north and east to west.

22 So where Ellen has the arrow is in the  
23 westerly area of Weiss. I can't see from here,  
24 unfortunately.

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1           CO-CHAIR McBRIDE: Marty, why don't you  
2 come over here and talk into this mic.

3           MR. WANTMAN: Uh-oh.

4           This is the westerly area right here  
5 where -- sorry, next to Jim.

6           MR. WHITE: Dennis.

7           MR. LOWRY: Dennis.

8           MR. MAHONEY: Dennis.

9           MR. WANTMAN: Dennis was talking about some  
10 trees being down.

11           And the weir that he was talking about is  
12 essentially right in here, the concrete weir.  
13 That's -- everyone knows is leaking. That used to  
14 be an earthen dam.

15           Now he was talking about water leaving the  
16 Weiss property to the west. If this weir is  
17 operating properly, the water would have to flow and  
18 it dead ends there and it can't get out here. Water  
19 is -- this weir has nothing to do with water flowing  
20 off of Weiss' property in a westerly area, period.

21           CO-CHAIR McBRIDE: Under the conditions  
22 that it's in now.

23           MR. WANTMAN: Under the conditions that  
24 it's in now.

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1 CO-CHAIR McBRIDE: Right.

2 MR. WANTMAN: The ditches are blocked.

3 CO-CHAIR McBRIDE: If the ditches were  
4 cleared, then it would help.

5 MR. WANTMAN: During the last meeting you  
6 asked Corcoran representatives if they would  
7 approach the owners of the property where the  
8 ditches are blocked. I'm going to point to where  
9 the ditch is supposed to go.

10 The ditch is supposed to go like this, the  
11 water, the ditch.

12 CO-CHAIR McBRIDE: Yep.

13 MR. WANTMAN: The ditch used to go right  
14 here. You can see there is a little bit of an  
15 outline there and there were ditches that would  
16 drain from the north down to this main ditch, which  
17 is in the northern area. This is the south. This  
18 is the north. This is the northern area, the  
19 northwesterly ditch that you were talking about.  
20 But the northwest -- I mean the North Meeting House  
21 drainage easement is in this area here, and it is  
22 blocked.

23 So in 2006, Weiss added a channel, what I  
24 call the J channel that I'm pointing to now, which

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1 gave it more storage capacity because no longer  
2 could the water leave Weiss to the westerly -- in a  
3 westerly manner. So fixing this weir is not going  
4 to help the water leave Weiss to the westerly  
5 direction.

6 CO-CHAIR McBRIDE: Unless the ditches are  
7 clear.

8 MR. WANTMAN: The ditches need to be  
9 reestablished. The ditches need to be  
10 reestablished. The North Meeting House drainage  
11 easement ditches are on the Weiss lot line. Weiss  
12 would need to reestablish this little piece here, or  
13 whatever else we blocked that we all saw on the  
14 walk-through, and then the rest of the ditches would  
15 need to be reestablished here, or perhaps they could  
16 still move around without properly reestablishing  
17 where they were in the past.

18 This is fill that went in from 1968 to  
19 1974. I believe I presented the Conservation  
20 Commission with the documentation of that. And this  
21 blockage went in in 1958 to 1964, and the reference  
22 on the property that I live in, Gerald Road,  
23 indicate the homeowner applied for the initial  
24 abatement for flooding in 1974. I didn't know that

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1 when I purchased the property in 1984.

2 I didn't -- I don't have a copy of the  
3 reports that were given to the Conservation  
4 Commission over the next -- over the last couple of  
5 days, but you were talking about operation and  
6 maintenance and cleaning, and my concern would be  
7 the ditch that abuts my property line. The bank of  
8 the ditch is either on my property or it's on Weiss'  
9 property, but in the 30 years that I've lived at  
10 that property, nobody has ever come over to the  
11 easterly side, or the side that I live on, to  
12 maintain it, and on the westerly side -- that would  
13 be on Weiss' property -- the growth of invasive  
14 species is probably approaching eight feet in height  
15 since the Conservation Commission has been there.  
16 So I would ask are there any plans to maintain the  
17 current ditch systems on both sides of the bank?

18 And the other thing that I would ask is to  
19 revisit Ellen McBride's suggestion that the main  
20 ditch, which abuts Gerald Road, that somebody take a  
21 look at it now when the water levels are down to see  
22 how unprofessionally it was dug and to see if now  
23 would be a proper time to remove it and -- I mean to  
24 remove some of the sediment and clean that out

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1 properly.

2 I would also ask you is there any plan in  
3 place, or has Corcoran submitted a plan concerning  
4 failure of the pump? The pump has failed in the  
5 past. I don't know if they've addressed that. I  
6 think there should be a plan in place for them to  
7 address the situation. If all the water is -- is  
8 still going to be pumped by the pump to leave Weiss'  
9 property, it's catastrophic when the pump isn't  
10 functioning.

11 One of the problems that I have when I was  
12 sitting here trying to contain myself is the  
13 gentleman kept referring to the flooding level on  
14 Weiss' property at 163.6. I objected to that last  
15 time. I submitted subdivision plans to this  
16 Commission, and the actual level of the highest  
17 flood that has been reported -- and that would be  
18 documented on videotape that I have made over and  
19 again over the years is -- is that 164.5, which is a  
20 full 9/10 of a foot higher than the level that  
21 Corcoran is proposing that they're going to take as  
22 the high level of flooding.

23 Let me see.

24 MR. LOWRY: Can we just respond to that

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1 quickly while it's on the table?

2 MR. WANTMAN: Sure.

3 MR. LOWRY: There is a difference in datum  
4 that he's referring to. So the difference in datum  
5 reflects a difference in that flood elevation, not  
6 an actual difference of what we're representing  
7 versus what has been represented on -- on his side.

8 CO-CHAIR McBRIDE: Now can you say that in  
9 English?

10 MR. WANTMAN: Thank you.

11 MR. LOWRY: Okay. I apologize.

12 Jim, say it in English.

13 MR. WHITE: Our side is using the NAD 88  
14 datum. The plans that -- your subdivision plans  
15 didn't say datum, but they did say the benchmark,  
16 the original benchmark they used they were given  
17 from the Town of Stoneham with an elevation.

18 So we had our surveyors check that  
19 benchmark next to ours. There is a .85-foot  
20 difference between the two datums on the plan. So  
21 we used your 164.5 flood elevation, and we  
22 subtracted .85, the difference in the elevation and  
23 the datum.

24 And if the Commission wishes, we could

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1 always submit an affidavit from the surveyor stating  
2 that.

3 CO-CHAIR McBRIDE: Is that available now?

4 MR. WHITE: I can have the surveyor send  
5 you that.

6 CO-CHAIR McBRIDE: The only problem is if  
7 we close the public hearing, we can't accept any  
8 more.

9 MR. WHITE: This has been brought up  
10 before. This was brought up at the first hearing.

11 CO-CHAIR McBRIDE: But you have a document  
12 that preexists tonight?

13 MR. WHITE: This question, this came up a  
14 long time ago.

15 CO-CHAIR McBRIDE: Right. The document  
16 that you have.

17 MR. WHITE: I don't have a document. We  
18 had the surveyors go out and survey the benchmark.  
19 The benchmark on Mr. Wantman's plans, you know, did  
20 not have a datum listed. It was probably NAVD  
21 datum, which is very close to .85 difference between  
22 the NAD 88 datum that we're using.

23 MR. LOWRY: And you can readily see that by  
24 looking, as an example, on the tennis court. The

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1 elevation of the tennis court on his plan versus our  
2 plan reflects that difference in datum.

3           So we're saying the elevations are the  
4 same. It's just how you measure that, what the  
5 controlling level of where you start your  
6 elevations. We're using more of a standard -- a  
7 standard datum.

8           CO-CHAIR McBRIDE: All right.

9           MR. WANTMAN: I don't quite understand that  
10 because, you know, I was led to believe that we were  
11 going with an elevation that was observed with  
12 eyeballs and measured with the proper measurements  
13 to take elevations.

14           CO-CHAIR McBRIDE: What I'm  
15 understanding --

16           MR. WANTMAN: So my view is the actual  
17 flooding level --

18           CO-CHAIR McBRIDE: -- is there is two  
19 different ways to measure it.

20           MR. WANTMAN: I'm sorry.

21           CO-CHAIR McBRIDE: Bob, you can --

22           CO-CHAIR PARSONS: No -- let's move. I  
23 will note that yeah, I think it's different  
24 reference points, so you can go to your next point.

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1           MR. WANTMAN:   Okay.   We can move on.

2           My notes here indicate I'm in strong  
3 agreement with Mr. Griffin that the northwesterly  
4 ditch needs to be reestablished so that the property  
5 doesn't flood; that the southwest --  
6 southeasterly -- would that be the -- the ditch that  
7 goes near Sunset Road, I had gotten estimates on  
8 that that were wildly different from the \$20,000.  
9 Walter seems to indicate that it would take a man  
10 with a machine reaching over and then a number --  
11 say three men mucking it out near the pipe behind  
12 Mr. Bennett's house, and it would be closer to  
13 \$2,000, not 20.

14           Concerning the northwest Meeting House  
15 ditches, I could be wildly wrong on that, but I  
16 believe that one was supposed to come in at around  
17 25,000 for that one.

18           I don't know if anything can be done about  
19 the culvert, if it's called a culvert, or the way  
20 that the street is designed under Franklin Street  
21 near the pump house.   But if I'm understanding that  
22 schematic that I've seen under Franklin Street,  
23 unfortunately water is directed from Franklin Street  
24 towards the Weiss Farm property.   I don't know if

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1 that could be corrected, but that looks like a major  
2 flaw to me. And that's under Franklin Street, and I  
3 don't know what the expense would be involved in  
4 that.

5 CO-CHAIR McBRIDE: Marty, I don't want to  
6 be disrespectful, but do you have anything new that  
7 you haven't already asked us? Because you're --

8 MR. WANTMAN: I think that's basically it.

9 CO-CHAIR McBRIDE: Okay. Thanks.

10 MR. WANTMAN: Hold on just a moment.

11 CO-CHAIR McBRIDE: Yep.

12 MR. WANTMAN: That would do it.

13 Just I would like to see if there are any  
14 plans in place for operation and maintenance if the  
15 pump fails and to see if somebody can maintain the  
16 ditch on both sides of the ditches.

17 Thank you.

18 CO-CHAIR McBRIDE: Thank you.

19 Anybody else in the audience?

20 And just -- I just want to make sure we're  
21 asking new questions, not the same ones we've asked  
22 every meeting and just not the same ones Marty just  
23 asked.

24 MS. COLARUSSO: I just had a couple of

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1     comments.

2             First of all --

3             CO-CHAIR McBRIDE: Name and address for the  
4     record.

5             MS. COLARUSSO: Caroline Colarusso, 4  
6     Patrick Circle, also on the Board of Selectmen.

7             Thank you, guys, for performing your due  
8     diligence as the board tonight and really taking a  
9     step back. I really appreciate that. I've seen it  
10    consistently performed in every meeting. I just  
11    want to say thanks.

12            Also, with respect to the mark on the water  
13    flow, and the water flow not exacerbating. I think  
14    those amounts are disingenuous at best. I agree  
15    with the engineer in that you're placing five  
16    buildings on the property.

17            I was also on the walk-through on  
18    April 25th with the rest of the folks, many of them  
19    here in this room this evening, and there was  
20    significant areas of water there. To say that  
21    that's not going to be disturbed or shifted at this  
22    point I think is just not appropriate.

23            Also, to point to the remarks that was made  
24    regarding Mr. Grover's opinion on the culvert

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1 easements and otherwise.

2 Mr. Grover isn't here to authenticate those  
3 comments, so I'm not sure we should be accepting  
4 that until we hear from Mr. Grover --

5 CO-CHAIR McBRIDE: Uh-huh.

6 MS. COLARUSSO: -- himself. So I'm hoping  
7 the board will invite him along next time.

8 Thank you.

9 AUDIENCE MEMBER: Why isn't he here?

10 CO-CHAIR McBRIDE: Anybody else?

11 MR. DELACEY: Hi, just a quick question.  
12 I'm Brian Delacey. I actually live in Malden, on  
13 Earl Street.

14 So my question have traffic studies been  
15 done?

16 CO-CHAIR McBRIDE: That's not  
17 jurisdictional.

18 MR. DELANEY: That's not.

19 CO-CHAIR McBRIDE: Thank you, but --

20 MR. DELANEY: So when would that come up?

21 CO-CHAIR McBRIDE: Board of Appeals.

22 MR. DELANEY: So even if this meeting the  
23 closed from the point --

24 CO-CHAIR McBRIDE: Correct. This is just

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1 Conservation Commission. I don't mean just. This  
2 is Conservation Commission. So this is wetlands,  
3 flooding, that sort of thing; not traffic, not  
4 density of project.

5 MR. DELANEY: So flooding on Franklin  
6 Street, for instance, that was referred to for  
7 meeting would come up at the Appeals.

8 CO-CHAIR McBRIDE: It's already come up  
9 here over and over and over.

10 MR. DELACEY: So that would also be covered  
11 at the Appeals as well?

12 CO-CHAIR McBRIDE: Sure.

13 MR. DELACEY: Okay. Thank you.

14 CO-CHAIR McBRIDE: You're welcome.

15 MS. SENNA: I have a quick question. Do I  
16 need to go to the mic?

17 CO-CHAIR McBRIDE: Yes, you do.

18 Name and address. Let us know if you need  
19 help.

20 MS. SENNA: Hi. I'm from Melrose, not  
21 Stoneham.

22 CO-CHAIR McBRIDE: Name, please.

23 MS. SENNA: However, I live on the last  
24 street in Melrose --

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1 CO-CHAIR McBRIDE: What's your name,  
2 please, ma'am.

3 MS. SENNA: -- bordering Stoneham.  
4 It's Rose Senna.

5 CO-CHAIR McBRIDE: Thank you.

6 MS. SENNA: What I would like to know, you  
7 keep on talking about the Meeting House Brook. Does  
8 anybody have an idea where it starts and where it  
9 ends?

10 CO-CHAIR McBRIDE: Yes.

11 AUDIENCE MEMBER: Because a tremendous  
12 amount of underground streams and underground brooks  
13 are underneath the streets of the Highlands.  
14 They've been put there behind houses. And I have  
15 heard this from real old-timers. So the Highlands  
16 area was lots of brooks and streams.

17 So I think at this point in the Highlands  
18 we need to know where your streams go and do they  
19 come down to us? So that might be a very pertinent  
20 question.

21 We also have Whip Hill that has a vernal  
22 pool, two of them. It borders Stoneham. It's in  
23 Stoneham. So that would be my point, living where  
24 water constantly comes down off of Stoneham into

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1 Walton Park, which is almost like down the hill, and  
2 pools -- you know, floods there constantly, even  
3 now, with all the things that the City of Melrose  
4 has done to alleviate our concerns.

5 CO-CHAIR McBRIDE: Excuse me.

6 MS. DAY: Thank you.

7 CO-CHAIR PARSONS: Any other questions,  
8 comments from audience?

9 MS. SENNA: Can you answer my question?

10 CO-CHAIR PARSONS: I think we -- we've done  
11 a fair amount of -- the Applicant's done a fair  
12 amount of study on the property and even out beyond  
13 the property. I don't know if we've -- I know we've  
14 chased it off site downstream. I'm not sure how  
15 close to Melrose it got in our investigation.

16 I don't know if you guys have any -- it's a  
17 complicated -- are you talking about underground  
18 pipes that were there that were put in to control  
19 water? Or were you just, like --

20 MS. SENNA: No. There apparently are  
21 streams that they've put underground.

22 MS. HEGEMANN: So I know Dennis has  
23 probably got more on this, but when I first started  
24 on this project I asked the DPW to provide me plans

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1 of all the subdivisions upstream and downstream of  
2 the project site, and that shows all the different  
3 culverts and the discharge points. And with respect  
4 to potential vernal pools, there are none that I'm  
5 aware of on this particular property, and so there  
6 wouldn't be any that are potentially impacted as a  
7 result of this activity.

8 So the watershed is largely developed, the  
9 subdivisions. And as I mentioned earlier, very few  
10 of those had any drainage controls.

11 CO-CHAIR PARSONS: Anybody else?

12 No. Okay.

13 CO-CHAIR McBRIDE: So then we can have a  
14 discussion about whether we should close or not. We  
15 need to have a discussion, I guess, about that.

16 CO-CHAIR PARSONS: Okay.

17 CO-CHAIR McBRIDE: I just don't feel we're  
18 ready -- I don't feel like we have all the answers.  
19 Maybe you think you've provided us all the answers,  
20 but I guess -- yeah.

21 CO-CHAIR PARSONS: I mean, we just got a  
22 response to some comments made from a report that, I  
23 guess, our consultant put together. And, you know,  
24 there has been no -- obviously no review of this.

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1 We went over it quickly. So the fact that the  
2 request for the -- you know, or the implication of  
3 the closure came up was a little bit of a surprise,  
4 but, you know, I guess as a Commission we have to  
5 make a decision here as to --

6 I don't think we have all the answers,  
7 either, and I think there has been a lot of things  
8 that have been discussed that seem to be helping us  
9 understand what's being proposed, what are some of  
10 the controls being set up. And I think, once we're  
11 at that point, then we make a decision as to how --  
12 how we feel it is or is not meeting the storm water  
13 standards and the spirit of the Wetland Protection  
14 Act. So...

15 CO-CHAIR McBRIDE: I think like -- I'm  
16 sorry.

17 CO-CHAIR PARSONS: Go ahead.

18 CO-CHAIR McBRIDE: I'm just thinking, you  
19 know, if -- I feel like so much of your project is  
20 based on a lot of ifs. You know, if the culvert was  
21 cleared. If the culvert under Franklin Street  
22 didn't pitch the wrong way. If the culverts on the  
23 northwest were cleared out, then, you know, there  
24 might be improvements.

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1           I mean, what if the pump breaks one more  
2 time, you know, and we know the pump is off  
3 frequently, whether that's because it's just not on  
4 or that's because it's having, you know, failure  
5 issues. What if you presented to us a plan that  
6 said, you know, like, "Here's what will happen if  
7 the pump doesn't work." Because if the pump doesn't  
8 work, your project's flooded, too.

9           I just -- I feel like we don't have all the  
10 answers yet. I feel like -- I think we thought we  
11 would have more information from DPW by now. I  
12 thought you guys at -- last meeting I thought you  
13 were going to meet with them, and it doesn't feel  
14 like there was -- no insult to you, Jim. It just  
15 doesn't feel like there was anything fruitful that  
16 came of that to help us understand Meeting House  
17 Brook, that whole flow area.

18           MR. WHITE: Well, Mr. Grover told me --  
19 and, unfortunately, Mr. Grover is not here, and you  
20 asked me what part of our discussion.

21           CO-CHAIR McBRIDE: Right. And I think  
22 that's another issue.

23           MR. WHITE: Our discussion lasted, you  
24 know, maybe a half hour, so we did have quite a few

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1 discussions on many different topics.

2 CO-CHAIR McBRIDE: So maybe we have another  
3 meeting and have Mr. Grover at the meeting so that  
4 we can have him in the room while we answer a bunch  
5 of these questions. Because he's -- you know, DPW,  
6 anyway, is pivotal to a bunch of this.

7 MS. DAY: I believe we asked him to come at  
8 the last meeting.

9 CO-CHAIR McBRIDE: To this one?

10 MS. DAY: Or we had talked about having him  
11 come as part of the process.

12 CO-CHAIR McBRIDE: I don't know that we did  
13 that.

14 So. How would --

15 MR. CICATELLI: Madam Chairman, you know,  
16 we started the hearings back in January, and the  
17 Commission clearly could have invited Mr. Grover at  
18 any point.

19 It took us a couple of months to schedule  
20 the meeting, and I think Bob's position is he's  
21 deferring to your two consultants.

22 CO-CHAIR McBRIDE: Yeah. But we need Town  
23 knowledge, which we don't have. Our two consultants  
24 don't have the history, which it doesn't sound like

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1 you guys have it, either.

2 MR. CICATELLI: I'm surprised that the  
3 Commission or the consultants didn't request it, but  
4 again, we've submitted to this for about seven  
5 months.

6 CO-CHAIR McBRIDE: Well, I've had  
7 conversation with Bob about -- and to the best of my  
8 understanding he said that Sunset Road was  
9 inaccessible by the town, but Jim is saying  
10 something different. So that's what I'm saying.

11 MR. WHITE: You know --

12 MR. CICATELLI: I think what he's saying is  
13 he doesn't have a recorded easement, and you know --

14 CO-CHAIR McBRIDE: Right. That's news to  
15 me.

16 MR. CICATELLI: -- I disagree with Attorney  
17 Huggins. There is case law that supports that the  
18 intent to grant an easement can establish an  
19 easement. It's on a subdivision plan approved by  
20 the Stoneham Planning Board which the DPW, Board of  
21 Health reviews, so our position is that he has an  
22 easement, but...

23 CO-CHAIR McBRIDE: Not a recorded easement.

24 So that is exactly the sort of question I

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1 would like him here to answer and then we can move  
2 it forward.

3 MS. DAY: I also don't think it's  
4 unreasonable. I believe we have had six meetings.  
5 This is a very complicated project.

6 CO-CHAIR McBRIDE: And I think several have  
7 been continued on your -- we've never continued one  
8 of them. We've never asked to continue them. You  
9 guys have continued at least two.

10 MR. CICATELLI: We asked to continue so we  
11 could provide you with information, and we did not  
12 want this last continuance to go as long as -- as it  
13 did. And I believe the reason was the attorney --  
14 your counsel, special counsel, was not available.  
15 So that's --

16 CO-CHAIR McBRIDE: Well, that wasn't the  
17 main reason, because we would have had Ms. Higgins  
18 come in -- Huggins, but it was that I wasn't  
19 available one of the weeks; Bob wasn't available one  
20 of the weeks. So it was -- you guys, it wasn't a  
21 good day for some of you for other dates.

22 But I don't know, Barbara, what's your  
23 legal opinion?

24 MS. HUGGINS: Well, I think it would still

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1 be appropriate to ask the Applicant and Applicant's  
2 counsel one more time if they would agree to another  
3 continuance. I think there are issues that are  
4 unresolved, but I don't think they're unresolvable.  
5 I've certainly seen Commissions' consultants and  
6 Applicants' consultants much farther apart and still  
7 manage to come to some sort of an agreement within a  
8 reasonable period. And I think if the Commission  
9 could offer a date that's relatively soon, I think  
10 it's quite possible that there could be some  
11 agreement reached, and I think it would be very  
12 unfortunate if the Applicant decided, you know, not  
13 to grant an additional continuance of some  
14 reasonable period just to try to make that -- make  
15 that effort. Because, you know, the Commission's  
16 duty is to impose conditions that will contribute to  
17 the protection of the interests described in the  
18 Act, and not simply to allow the Applicant to meet  
19 previous conditions and then shrug and say "we don't  
20 have to do anything else." And I think, again,  
21 there is room for the Applicant and the Commission's  
22 consultants to have further discussions.

23           And reading the response that was given  
24 tonight, the HW Moore, you know, this document

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1 doesn't -- it's dated today. This doesn't sound  
2 like a document that says, "We're done. We're  
3 not" -- "we're unwilling to have further  
4 discussions." This document says, "We'll discuss  
5 the landscaping with the Commission at the next  
6 hearing." It provides a dollar amount for  
7 contribution to off-site maintenance. So it sounds  
8 as if off-site maintenance isn't really off the  
9 table.

10           So again I would ask the Applicant -- in  
11 particular, Applicant's counsel, who I know to be a  
12 very reasonable man having served with him on the  
13 Conservation Commission in Newton -- to just maybe  
14 perhaps regroup for a few minutes and think about  
15 whether that's something that they might prefer to  
16 do other than to force the board, the Commission to  
17 close tonight.

18           CO-CHAIR McBRIDE: And just a point.  
19 Before you got here we set our next meeting, and  
20 it's only -- it's not even two weeks away. It's the  
21 22nd. So that's not that much more time,  
22 considering, to your point, Steven, that we've had  
23 this many meetings. It's been on the agenda for a  
24 long time -- I mean on the dockets for a long time,

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1 I would respectfully request -- that way we can get  
2 Mr. Grover here hopefully at that meeting -- and, if  
3 not, a representative -- I don't think that's  
4 unreasonable, you know --

5 CO-CHAIR PARSONS: I would also suggest --

6 CO-CHAIR McBRIDE: -- continuance, 13 days.

7 CO-CHAIR PARSONS: -- ahead of having  
8 Mr. Grover at the next meeting, have a discussion  
9 with him ahead of that so that we're at least a  
10 little more prepared and we have as much  
11 information. This way we're not starting from --  
12 you know, from ground zero here when we are in the  
13 public hearing, so...

14 MR. CICATELLI: Can we take a five-minute  
15 break, Madam Chairman?

16 CO-CHAIR McBRIDE: We're going to take  
17 five-minute recess.

18 (Recess)

19 CO-CHAIR McBRIDE: Folks. Can you hear me?  
20 Take your seat, please.

21 Thanks, everybody.

22 So I feel like "My Cousin Vinnie," "What  
23 did you find out?"

24 MR. GALLOGLY: Positraction.

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1           Well, I must tell you we haven't changed  
2           our mind. We think we've complied with the Wetlands  
3           Protection Act, and we don't think anything would  
4           change in the next two weeks. Just you would be  
5           sitting here in two weeks, and we would disagree and  
6           you would disagree, so...

7           CO-CHAIR McBRIDE: Okay.

8           MR. GALLOGLY: We do not wish to continue  
9           the hearing.

10          MS. DAY: Is it common to end a hearing  
11          when our own consultant says that he doesn't believe  
12          that you're meeting -- I mean...

13          MR. GALLOGLY: As you believe in your  
14          consultant, I believe in our consultant. So it's  
15          common to have consultants disagree, but that's not  
16          a reason to continue the hearing for another two  
17          weeks or a month.

18          CO-CHAIR McBRIDE: But I think what we're  
19          saying --

20          MR. GALLOGLY: We don't see us -- we can  
21          come back here every month for six months. We don't  
22          see this Commission giving us an approval. If you  
23          want us to do all the drainage improvements in the  
24          Town of Stoneham, we just can't afford to do that.

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1           CO-CHAIR McBRIDE:   So not to be  
2   disrespectful, but what have we been doing for the  
3   last year?  If you thought we weren't going to give  
4   you an approval from the beginning.

5           MR. GALLOGLY:   No.  I'm sitting here today  
6   telling you that.  I didn't say from the beginning.

7           CO-CHAIR McBRIDE:   You said the last six  
8   months, so...

9           MR. GALLOGLY:   Well, excuse me.  I didn't  
10   mean to suggest that you had already made up your  
11   mind before the hearing started.

12          CO-CHAIR McBRIDE:   Don't get my Irish up.

13          MR. GALLOGLY:   Mine, either.

14          CO-CHAIR McBRIDE:   True.

15                 So it's at your peril if we close the  
16   public hearing before we feel confident that it  
17   should happen.

18          MR. GALLOGLY:   We're comfortable.

19          CO-CHAIR McBRIDE:   Okay.  So then I need  
20   someone to make a motion that we close the public  
21   hearing for The Commons at Weiss Farm.

22          CO-CHAIR PARSONS:   I will make a motion  
23   that we close the public hearing for The Commons at  
24   Weiss Farm.

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1 CO-CHAIR McBRIDE: Second?

2 MR. L'ESPERANCE: Second it.

3 CO-CHAIR McBRIDE: I'm going to ask for a  
4 roll call vote.

5 Linda, you can't vote.

6 Where is Eric?

7 MR. BERKLEY: Aye.

8 CO-CHAIR McBRIDE: Rachel?

9 MS. RENNARD: Aye.

10 CO-CHAIR McBRIDE: Norman?

11 MR. L'ESPERANCE: Aye.

12 CO-CHAIR McBRIDE: Megan?

13 MS. DAY: Aye.

14 CO-CHAIR McBRIDE: Bob?

15 CO-CHAIR PARSONS: Aye.

16 CO-CHAIR McBRIDE: And the chairman says  
17 aye.

18 So the public hearing's closed. Thanks for  
19 coming.

20 MR. CICATELLI: Thank you very much.

21 CO-CHAIR PARSONS: So just we will be  
22 issuing our --

23 CO-CHAIR McBRIDE: Just so everybody knows,  
24 when the public hearing is closed, then the

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1 Conservation Commission has 21 days to issue our  
2 decision. So we have 21 days to mull it over.  
3 We'll come back, but we can't meet on the 21st day,  
4 which happens to be July 30th.

5 CO-CHAIR PARSONS: So we'll do it on the --

6 CO-CHAIR McBRIDE: Herlinda, the meeting's  
7 still happening.

8 So we already scheduled the meeting for the  
9 22nd, so that is when we would -- the need to issue  
10 the decision in a public hearing, so that would be  
11 on Wednesday the 22nd. I'm going to assume Cathy  
12 will find out if we're -- this room is good or not.  
13 It will be posted. There is an agenda on the  
14 website. You can also call the office.

15 Thanks for coming.

16 CO-CHAIR PARSONS: Thank you.

17 MR. MAHONEY: Thank you.

18 (Whereupon, transcription ended  
19 at 8:58 p.m.)  
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C E R T I F I C A T E

I, Alexander K. Loos, Registered Diplomate Reporter, do hereby certify that the foregoing transcript, is a true and accurate transcription of my stenographic notes taken on July 9, 2015.



Alexander K. Loos  
Registered Diplomate Reporter

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