

Minutes of a Meeting of the Board of Trustees held on Saturday,
January 30, 1982 at 9:15 AM relative to the Brookside Storm Sewer

Present: Gordon J. Kuzon, Mayor

 William Bancroft
 Lawrence R. Brenton Trustees
 Michael Kibby
 Connie C. Murray

 Theresa L. Cummins, Village Clerk
 Thomas V. Troy, Village Attorney

 Tony Cimato
 Phil Boudreau
 William Merrill
 John Madden

Mayor Kuzon: We're going to tape record it just for purposes of our own records and minutes. I think for purposes of the record we want to show that Mr. Boudreau is here this morning as a representative and spokesman for Bissell - Bissell Engineering, or Bissell Consultants, and Mr. Merrill is here today as the design engineer. I think Terry gave you a copy of the letter I sent to Mr. Merrill on the 26th. That is going to be more or less the agenda, or the items we're going to address this morning. We're going to stick to those items and not try to get all over the map on this project. And at this point - these weren't listed in any priority, so we're going to start with the last one on this list which would be the question of the test, the exfiltration test on the storm line itself and at that point I guess I would let Phil, you know bring us up to date on the test, advise us what had happened and we'll go from there.

Mr. Boudreau: Okay, we ran a test, I believe it was the 15th, with Cimato Bros. there - an exfiltration hydraulic test on the line, and it failed. There were a couple of things that happened during the test that may have caused it to fail. I don't know - did Carmen bring you up to date on that, Tony?

Trustee Bancroft: Phil, what do you mean by failure before we go any further? What constitutes acceptance and what constitutes failure?

Mr. Boudreau: Well, I have the exact figure if you would like it.

Trustee Bancroft: Tell me, when you say it failed...

Mr. Boudreau: Well, you get a calculation on the volume of water pumped into the sewer and two foot of head over the crown of the pipe. Okay? It was supposed to stay steady, as is, for six hours. We measure the level before, come back six hours later and measure the fall, if any at all, in the sewer and then compute the loss. We have predetermined what the acceptable loss should be versus what the actual loss is measured.

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Trustee Bancroft: What's an acceptable loss?

Mr. Boudreau: 0.66 of a foot drop in the manhole according to my figures, the net volume of water.

Trustee Bancroft: Over what period of time?

Mr. Boudreau: We reduced it to four hours. They wanted six so we agreed to four on the job that day. The weather conditions were very bad, cold, windy and what have you. We agreed to go with four hours and initially the water drop when they finished pumping it in, the bladders were all set, they pumped it in, the water started to drop within the first 15 seconds. We watched it go down, down, down. Within two minutes he lost about three foot of head in the sewer. It dropped to just below the pipe crown in the manhole. So we agreed we would come back at, I believe it was at 3:00 that day, four hours down the line and the water had gone down to within two inches of the bottom of the pipe.

Trustee Bancroft: What does that indicate?

Mr. Boudreau: Well, it indicates there's a considerable leakage someplace in the line.

Trustee Bancroft: Water that had been in the line that went out?

Mr. Boudreau: Exfiltrated somehow, yes.

Trustee Bancroft: Exfiltrated.

Mr. Boudreau: Now let me back up on this. Initially, when we put in the bladder plugs and pumped it up the - I went back to the DI out on Brookside and looked in and the bladder plug was leaking badly there and I got them to come back and take a look at it and they agreed. They pumped the sewer down, took the plug out, cleaned out the pipe and found debris underneath the plug inside, just inside the pipe, cleaned it out nicely and put it back in, pumped everything up again and the water went down slower this time, but still went down to that 2" depth. The plug held firm, by the way, at Brookside after they made the repairs up there. At that time there was nothing else we could do so they pumped it out and we all agreed to wait and I made out my report and I think you people have it.

Trustee Bancroft: In your opinion is it practical, or excuse me, is it possible to perform that bladder test on that line?

Mr. Boudreau: I think under the right conditions, yes.

Trustee Bancroft: What are those right conditions? What has to change to get a good test up there again?

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Mr. Boudreau: In my opinion, the pipe be cleaned out where the plugs were put in, nicely, and the plugs pumped up tight enough. The gate - there be no ice in the creek so we can observe if anything's getting by the downstream plug. The reason I bring this up is I went back about three - two days later and I found - originally on the first day of the test the gate was shut tight and you couldn't see if water was getting out, getting by the gate underneath, out under the ice. I went back the next day and the gate had apparently been forced open by some kind of a hydraulic head inside the line. My guess is I might have been losing water out that end but you just couldn't see it at that time.

Mr. Cimato: In your opinion what you're saying, Phil, is you think that the pipe will hold a test?

Mr. Boudreau: Oh, yeah, to a degree it will, yes. It wouldn't be watertight. We're not saying that.

Mr. Cimato: For the record, let's make this more specific when you say to a degree. What do you mean by that?

Mr. Merrill: What he thinks, Tony, is that the water ~~there~~ there was dirt underneath the outside bladder and the water leaks.

Mr. Cimato: I understood the question, except that when he says to a degree. When you say the test, you look on the specifications you say according to EPA regulations. Can you interpret to the Board here what's the EPA regulation for storm sewers? Where did you get...

Mr. Boudreau: Gravity sewer.

Mr. Cimato: Gravity sewer? Sanitary sewer.

Mr. Boudreau: No, gravity sewer.

Mr. Cimato: That's a sanitary sewer.

Mr. Boudreau: Whatever.

Mr. Cimato: EPA don't have any regulations for storm sewer.

Mr. Boudreau: The EPA has a regulation for a sewer and I specified that they use the methodology. Since you elected to go with exfiltration, fine, we'll use the two foot of head, fill the pipe up and contain it for six hours. This is all we ask.

Mr. Cimato: I didn't show that. I could have gone any way you wanted but the air, you see, is a lot thinner than the water. If the water don't hold it right now what do you think is going to happen with the air?

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Mr. Boudreau: I don't know.

Mr. Cimato: Just remember they - we brought it up to this table, Mr. Brenton you were here when I said original, Phil you expect to put a test on this pipe, what kind of a test do you want to put, because if you intend to test corrugated pipe on which you have an open joint you never test - you said the manufacturer told us it could be tested. We made it clear that when the time for construction. Now, have you and Armco's Jim Pax to come in on the job and take a look the way the installation is made. You come in right on the X line right between the house when Pax was working on it and he asked you if you please if that's what you're looking for on the installation. You say yes. I won't do any different. Now Norm Wolf was there and your inspector was there and you agree that this is the way the installation is going to go.

Mr. Boudreau: Do you agree the pipe joints were installed as designed?

Mr. Cimato: Yes, sir. Yes, sir. For storm sewers wouldn't you say they were? You say they weren't?

Mr. Boudreau: I'm asking you a question. Do you say they are installed as designed?

Mr. Cimato: Yes, sir.

Mr. Boudreau: Okay, fine.

Mr. Cimato: Okay, now I'm asking you. You've seen it. Were they installed as of design?

Mr. Boudreau: I saw one joint made up, yeah, and I saw a collar installed, but I didn't see gaskets put in. I didn't witness it, Tony. I didn't see the pipes come together. I didn't see the collar or the gaskets installed. I'd have to say I didn't witness that. All I saw was one collar put in.

Mr. Cimato: What your inspector's report show?

Mr. Boudreau: He shows that...

Mr. Cimato: That the gaskets were in?

Mr. Boudreau: I don't know. I can't qualify that.

Mr. Cimato: You get paid by the Village. What's the report show? Did we install those pipes properly or not? Do you have any report that the storm sewer pipe has not been installed properly?

Mr. Boudreau: Bill, do you want to speak to that?

Mr. Merrill: We've got the reports. Read them.

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Mr. Boudreau: Should I - should we address that right now?

Mr. Merrill: Why don't we settle this exfiltration.

Mr. Cimato: That's properly...

Trustee Brenton: Well, if it's not installed properly that's probably where our problem is and I think we're working on a solution.

Mr. Cimato: Well, all right.

Mr. Boudreau: It could be one of many problems.

Mr. Merrill: I think, Tony, that the tests should be rerun. I think, in my honest opinion, that the bladder could have had debris under it. It was shown it was that way up at the other end and Phil expressed an opinion to me it was a reasonable question that they were tight. Apparently, the guy that set the bladder might have been a little careless and left some dirt under there and it leaked. Now the basic purpose for the test was we want a reasonable assurance that this pipe was tight. We weren't going to hold it to a 200 gallon per inch, per mile, per day rate. We're going to hold it to something that's reasonable, that we could live with. Did we make a reasonable attempt to prevent water from leaking into these two cellars? That was what we wanted to do.

Mr. Cimato: Okay. In order to prevent this - I won't disagree with you and I won't say that my men were 100% perfect when they put those baldders in. Maybe there was leaking. Maybe there was debris on the bottom. I don't say it one way or the other.

Mr. Merrill: Well let's rerun the tests and settle it.

Mr. Cimato: But I know for a fact that those pipes - because we installed 7,600 feet down in Cheektowaga under the DE, EDA regulations - if you want to say it fine, but there was no test. They tried to say there was a test. Bob Petit from Nussbaumer and Clarke checked it further and came to find out there's no such test. The only thing it does when you put those gaskets, it prevents if you do have silt in the ground so this won't silt in to fill your lines. I brought your att - to your attention, Phil, and said it to you that if you want to have a perfect test you have to go to concrete pipes which would have been a sanitary pipes and you said that you wanted 20 foot lengths joints. I told you that this pipe will not hold a test. You were notified before those pipes were delivered on the site.

Mr. Merrill: May I address the question now?

Mr. Cimato: If the test holds it would have surprised the hell out of me because it has never passed on a test and it's been thirty years I've been installing those pipes.

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Mr. Merrill: Okay. First of all let me ask a question. Do I, as the design engineer, have the right to specify that certain tests be made on work?

Mr. Cimato: Do you have the right?

Mr. Merrill: Do I have a right to put it in the specifications?

Mr. Cimato: You have the right to put anything you want, if...

Mr. Merrill: And I did put it in the specifications and the reason, as I said before, was to assume a tightness. Now the other thing is I know on my own experience and from the design handbooks that are put out, not only by Armco Steel Products but all the other people, that you can get tight joints with Armco Steel pipe and I can attest to that because they're using it for sanitary sewage in other areas in this state and other states. I can attest to it that they've used Armco pipe to rig the sewers across open chasms. The reason they liked it there is that first of all they have a tight joint which would be absolutely leakproof. You can't have a sanitary sewer line through the air and having it leak. And the reason that they like the pipe is because it is light, it doesn't have to have a big truss bridge underneath it and it's much more economical to install.

Mr. Boudreau: Yeah, the rigidity of the joints.

Mr. Merrill: The rigidity of the joints that you don't get with concrete pipe. Concrete pipe is heavy. You'd have to build a truss bridge. It can be done. It tells how to do it in the design handbooks put out by the manufacturers. Not only Armco, but all of them. I suggest you look at them.

Mr. Troy: Can I clarify this for the non-technical people here at this end of the table. If I understand correctly, Mr. Cimato is taking the position that even before the pipe was laid, even before it arrived, with the specs that we had established and the lengths of pipe, or unit of pipe, that it would not be able to sustain the type of test which had been established by the specs, that it simply no way could pass. That is my understanding. Is my understanding correct?

Mr. Cimato: Yes, sir. That's right.

Mr. Troy: Is that your understanding of what he's claiming too, Phil?

Mr. Boudreau: Ah, yes.

Trustee Brenton: I have to say, since my name was brought up as having been made aware of that, I do not recall that. In fact, the only discussion that I remember at this particular table in our preconstruction meeting was the fact that we would use the

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corrugated pipes for the manhole rather than the original specifications. Any air testing or exfiltration hydro testing of this line was never discussed with me to the best of my memory. Never.

Mr. Cimato: Larry, was it discussed at the same time when it was originally discussed it and for the manhole that was corrugated and I asked Phil, I said why do you want corrugated. I said it actually is a tubeless that you have on top and then you're never going to be able to put your frame on top, you're going to put your slab on concrete on less than a quarter of an inch steel, but only come up with the regular which cost me more money, come up with the regular concrete precast manhole, that was what you discussed. At the same time we discussed the test. Mr. Boudreau, just a minute - there was a test discussed.

Mr. Boudreau: I admitted we discussed it and I said...

Mr. Cimato: Before installation was there and then right between the houses, we ask you because three people were present, three people were present and show you and asked that the installation that you want. You said yes! We installed the pipe accordingly. I did have my doubts right from the start knowing that this pipe don't pass because if you actually run according to the recommendation of the manufacturer manuals those manuals tell you nothing because for over thirty years I've been dealing with the salesman. They will sell you anything they can so long as they could get an order. Those gaskets, as I say, was one performant just to prevent any silt penetrating. Just to remember you've got an open joint. It's not a bell and spigot. It's an open joint and the specifications that you wrote is for a bell and ring type joint when you refer to EPA regulations. That's a bell and spigot with a ring type knotted to an open joint and I brought it to your attention.

Mr. Madden: Tony, can I ask you a question? When you say open joint, does that mean two pipes butting?

Mr. Cimato: Two pipes butting together and actually you never do butt them 100% touching because one way or the other...

Mr. Madden: Not one fitting into the other?

Mr. Cimato: That's right. Instead of one - when you refer to the EPA regulations, which actually is only referring to a sanitary system because a storm - EPA don't have any storm regulations. What you have, it's a socket so the water - I don't know if you all know, but I'd like to make this clear - has a bell, which this bell is roughly 6" to 9" longer than the type of pipe you have and the spigots would fit right in. At this point is like a groove and the whole ring fits right in there. Now when you force - you have to put a lubricant on in order to force it in place, which it fits right in like this, in the socket - see - so that prevents, you'd be able to put an air test on this and perform up to four pounds of air test in the hole right there.

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Mr. Madden: The pipe you installed fits like this?

Mr. Cimato: Yes, sir, and then around here would be a collar.

Mr. Madden: The other kind fits like that?

Mr. Cimato: Yes.

Mr. Merrill: Water lines fit that way too.

Mr. Cimato: No.

Mr. Merrill: Bottom up.

Mr. Cimato: Not bottom up. Well it can. Then you're talking about a bell and sleeve, not a spigot.

Mayor Kuzon: Well, all right. Let me clarify this for myself a minute here. First, what the specs called for, the corrugated steel pipe, okay. And as specs it was common knowledge at that time that corrugated steel pipe is not an airtight, or a water-tight pipe.

Mr. Merrill: No, we disagree.

Mr. Boudreau: That's not correct.

Mayor Kuzon: That's not correct?

Mr. Cimato: I say won't - they say will.

Mayor Kuzon: Okay. Now is the differ - is the corrugated steel pipe is the type that just abuts, it's not inserted - okay?

Mr. Cimato: Yes.

Mayor Kuzon: And what do the specs call for for that joint? Did it call for - is this where we get into the question of the collars?

Mr. Cimato: No.

Mr. Merrill: We get into...

Mayor Kuzon: No?

Mr. Cimato: Actually, I don't think that anything is specified, just say corrugated pipes.

Mr. Boudreau: Oh, no. There is a joint specification.

Mr. Merrill: There's a joint spec for it.

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Mr. Cimato: With a cover, right? It's with a cover.

Mr. Boudreau: Yes.

Mr. Merrill: The joint specification...

Mr. Cimato: Just another way of putting it.

Mr. Merrill: The joint specification is the one set up by the manufacturers to assure a waterproof joint, a water - a leak proof joint.

Mr. Boudreau: A degree of water tightness. Let's establish that.

Mayor Kuzon: Now, wait a minute. The engineers say that the corrugated steel is a watertight, airtight...

Mr. Boudreau: Will test to a certain degree of water tightness, may I say that?

Mayor Kuzon: Mr. Cimato says that it's not necessarily that way.

Mr. Cimato: Through my experience, sir, it never did pass a test.

Mayor Kuzon: Okay.

Trustee Brenton: Okay, then my question would be did you review these specifications prior to bidding on the project?

Mr. Cimato: Yes, sir.

Trustee Brenton: And you did see within these specifications - you did bid on these specifications to install corrugated pipe and in section 7. - 3 you agreed via your bid to allow this pipe to have an air test conducted, and I might add on the whole project, the entirety of the project. I'm not only concerned with the X line. As I brought out when we first discussed this project, we want - we want our sanitary sewers to be infiltration free. If we've got a leaking storm sewer that we're paying good money, brand new money that this Village has needed for 20 or 30 years and couldn't get, and we're going to now rehabilitate our sanitary sewers and install at the same time a leaking storm sewer, the - I guess we're not very effective Village Board members. Our purpose is to preclude this type of situation and in order to do that, I discussed this at great length before the specs were ever drawn with Mr. Boudreau, and received assurance that indeed, we would have a tight line. This entire Board was given that insurance - assurance, and now I have to again say that if these specs called for a line to be installed with manufacturers methods of installation and these methods were included in the specs, the specs were bid, the bid was let. There's no sense in talking about whether they work or don't work.

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Mr. Merrill: No, wait a minute...

Mr. Cimato: Let me clear that up.

Trustee Brenton: They don't conform to the test.

Mr. Cimato: Mr. Brenton, let me clear that up - one of the points for the rest of the members. Number one, when you said the whole line had to be tested. No. It specifically says right there on the X line.

Trustee Brenton: Well, let me - can I...

Mr. Cimato: Clear yourself up on that because it says X line to be tested.

Trustee Brenton: In here - test will be required and performed by the contractor under direction of the engineer. The contractor will provide all labor, materials, equipment necessary for each leg of the sewer and perform the air test as directed by the engineer in conformance with the latest standards and procedures of the NCPI. Okay. Now, each leg of the sewer. Now this is the entire sewer. Does this section - Bill, I'll ask you - Does this section that I'm reading from, does that pertain to just the X line or does that pertain to the entire sewer? I might be wrong.

Mr. Merrill: You're right. It would pertain to the entire sewer.

Trustee Brenton: Well the, that pertains to the entire sewer.

Mr. Cimato: No, there's another item there. I think that Phil could point it out. It would take me a while to find it in there, which says the X line must be tested with the hydrostatic test.

Trustee Kibby: Let's get back to the X line. It leaks, doesn't it?

Mr. Cimato: No.

Trustee Brenton: Let's get back to the whole line, because if the whole line leaks I'm not going to accept it. That's it. Let's not go any further. We're starting with - in reverse order here and if we've got a line that's leaking water and pumping it into our sanitary system and we're spending I don't know how many hundred thousand dollars to rehabilitate our sanitary system, we've got a problem and that is what I tried to preclude when these specs were drawn.

Mr. Cimato: Larry...

Mayor Kuzon: At this time though, the rest of the line hasn't been tested so we don't know whether it leaks or not, right? The only thing we're certain of is that the X line has a problem.

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Mr. Cimato: Yeah.

Mayor Kuzon: In its ability to hold the water, or the air, or whatever it is.

Mr. Cimato: Yeah, but again as I said, sir,...

Mayor Kuzon: Yeah, whether the specs call for a test of the whole system or the X line is to be clarified.

Mr. Cimato: I brought it to their attention before I did start my construction. I brought to the engineer's attention, which I think that revealed here that Mr. Boudreau don't deny to the point that I brought to their attention. Mr. Boudreau told me that the manufacturer told him that this would pass the test. And yet I don't say it don't pass the test. Mr. Boudreau thinks that there could have been debris underneath the bladders. Why we - I'd be more than happy to give it another try.

Mr. Merrill: I think we should. I think that would be the best way to satisfy the question.

Mr. Cimato: I let this Board know that I still stand and say that this test it will not pass. According to my past experience because if it does pass it is a miracle which I've never seen before. There's only one answer for that, that the clay worked around the joints and actually the clay will hold your water in or out but not the joints.

Mr. Boudreau: Tell me how would the clay get into the joints if you put the collars in place right?

Mr. Cimato: Not in the joints. Around the joints. You've got two openings on each side. When I say the clay you get - Phil, ...

Trustee Bancroft: Okay, we've got agreement at this point that you're willing to perform that test again.

Mr. Cimato: Sure.

Trustee Bancroft: Okay. Let's go on.

Mr. Cimato: Let's all be sure because I tell you I like to be sure myself. Because Mr. Boudreau says something that...

Trustee Bancroft: When are you in a position to run it - the test?

Mr. Cimato: We have to find a time when there is no ice...

Mr. Merrill: It's got to be dry out.

Mr. Cimato: Ice at the end of it in order to be able to perform this.

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Mr. Merrill: Tony, do yourself a favor and read the design manuals from the manufacturer.

Mr. Cimato: No, do yourself a favor and believe in yourself and believe in the experienced contractor. Don't believe in the seller's manual.

Mr. Merrill: I don't believe in the sales manual. I believe in engineers.

Trustee Bancroft: Okay, I think we've reached agreement here on one point, that the contractor is willing to perform that test again. The engineer is willing to observe that test again, I assume, Mr. Boudreau.

Mr. Boudreau: Oh, yeah.

Trustee Bancroft: And that between the engineer and the contractor you'll pick a mutually acceptable date to perform that test.

Mr. Boudreau: Yes.

Trustee Bancroft: And the sooner the better, is that right?

Mr. Boudreau: Well, we're going to have to...

Trustee Bancroft: Now is weather a factor? Can you perform that test in...

Mr. Boudreau: The ice has to get out of the creek.

Trustee Bancroft: The ice has to get out of the creek.

Mr. Boudreau: We need a free movement of the flap valve at the outflow headwall.

Trustee Bancroft: Do we have to wait until April?

Mr. Boudreau: I would think so, yeah.

Mr. Cimato: Whenever the weather permits.

Trustee Brenton: Well would this have a factor in the amount to be paid on this project then?

Mr. Cimato: No, sir, it don't. It don't for one simple reason. It is nothing the engineers could verify at this point. No. 1 - the 10% is just for that purpose. The 10% retention is for testing and clean up the job. One. Second. Second voucher is ready to process. This is partial payment. You haven't even paid for the whole line yet. This is a partial payment. This don't have anything to do whatsoever, because remember now that you people refer me to the specifications. And I refer to you the specifications on the item under the instruction of billings.

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You want to read it, you're welcome to read it what it says there. It says as soon as the engineers approve the voucher within thirty days it must be paid. There's Doug Bissell's signature right there. November 18th - October 19th. It means the voucher should have been paid. By November 19th the voucher should have been paid. If you want to go to the specifications that you just pointed out.

Trustee Brenton: Quite frankly I agree with that. I mean I do agree with that.

Mr. Boudreau: He's right.

Trustee Bancroft: Tony, you've...

Mr. Merrill: Besides you've got Jack over here who's his bonding agent in the event that there was a catastrophe, or he goofed or something it would bring Jack into the picture.

Trustee Bancroft: So in the event that the X line fails the test in April or May, or whenever the ice is off the creek, and there is remedial work that's required to fix that line there are monies available to make those repairs. Is that correct?

Trustee Brenton: With the 10% retention you're - in other words, if the contractor is paid in full minus the 10% retention, I think your question is then are those monies available to conduct all necessary repairs, Bill?

Trustee Bancroft: The 10% is available. If it takes more than that 10%?

Mr. Merrill: Bonded.

Trustee Brenton: If it takes more than 10% we've got a year's performance bond and as I have quite frankly informed the Board, I was comfortable with that.

Trustee Bancroft: Okay, do we know where we are then on that one point?

Mr. Cimato: Except for one thing. What are we - what's going to happen then. Is this going to require another meeting if in case, I'm looking at the worse now, okay. Let's hope it pass so that this will be all resolved. But what happen if it don't pass.

Mayor Kuzon: You mean as far as the Village Board paying you, or as far as you doing remedial work?

Mr. Cimato: As far as the Village Board paying us, but what's the position of the engineers at the time.

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Mayor Kuzon: That's right. What is the next step? Is it to dig it up and fix it so it doesn't leak?

Mr. Cimato: I too would like to know.

Mayor Kuzon: What are the - I guess you would have to refer back to the specs.

Mr. Cimato: But in the specs is no such thing, sir, is what I'm saying. There's no such specs for this particular test for this particular pipes.

Mayor Kuzon: And no allowance for failure.

Trustee Kibby: The question comes up, if you do the test again in April and it leaks at an unacceptable level and the level has been specified by the specifications, what do we do? We've paid the contractor. He's certainly not going to give us our money back. Is he going to come out and dig it up and put it in correctly? Are we going to go to the performance bond to get the money to hire another contractor to dig it up and put it in correctly?

Mr. Merrill: I would say this, that Mr. Cimato has been a good contractor through the years and I've seen other jobs where he's come back and made repairs and he's been around awhile. I don't think he's going to leave the job. I would give him a very high probability that he would come back and do it.

Mr. Merrill: It's been experienced. Now in the event that something happens unpredictable, whatever it may be, then you've got Uncle Jack over here who supplied the bond. Look at him.

Trustee Kibby: I don't have any problem with Uncle Jack. I have a problem with the performance bond. My question is, what I see right here, is a significant disagreement between the design engineer who says these pipes will hold water, and the contractor who says from the very beginning I told you they weren't going to hold water. Which doesn't make a lot of sense because we aren't going to spend \$85,000 to put in a sewer that doesn't hold water. That doesn't make any goddamn sense at all.

Mr. Cimato: Yes, but the storm sewer is not actually specified to hold water.

Trustee Kibby: I don't want to swim in it. I just want it to hold water.

Mr. Cimato: It is to collect water. A storm system is specified as a , actually to collect water, not to hold water.

Trustee Brenton: Yeah, but Tony, but this particular line does hold water and it has to by its very physical nature hold water.

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It's a retention line. It's going to be many times of the year, several months of the year, totally filled with storm water that is not going to be allowed an exit any place but into that creek and this is one thing that I made perfectly clear when these design specs were drawn up, that we would not have leakage, because we knew we were going to have a retention system here and I was given assurance, again I'm reiterating, but I was given assurance we would have a tight line and that was my position as a representative of the people of Williamsville, that we would have a tight line, and now it appears, and I hope that this is only a temporary aberration in the testing procedures, that we don't have a tight line. So let's go by the line. Let's - we're going to conduct another test on it and I think we've covered that sufficiently here and...

Trustee Kibby: Let's just finish up the one question here. We do have a disagreement here. We've got a contractor with a reputation - I'm not trying to say anything about Mr. Cimato - We've got a contractor who says, who's saying right now if it passes the test we're lucky and if it doesn't pass the test I told you it won't. That says to me he's not going to be terribly inclined to fix it even though our engineers. So what happens when we go back again.

Mr. Cimato: Let me make that clearer, sir. Unless the engineer could prove that it was installation, wrong done, then I'll be willing to go tear the line right out. But you've got to prove it to me. Because if he tells me dig this line because I feel it is not installed properly, and I excavate the line and it is installed properly, somebody's going to foot the bill. But if he finds that this line is not performing, is not installed the way it's supposed to be installed, Cimato Bros. will eat every penny and I think we stood on that throughout the past years, 30 years performance, and I will say it and let this Board know...

Mr. Boudreau: I'd like to ask you a question. Is it possible in a 24 inch line of that type to put a midget in there to check some joints if we find out where they're leaking?

Mr. Cimato: How you going to fix it? There could be a way.

Mr. Boudreau: I'm asking a question.

Mr. Merrill: You can do that. Sure it can be done.

Mr. Cimato: How you going to fix it?

Mr. Boudreau: Armco makes an expanding diaphragm for just such a purpose, fixing joints inside sanitary pipe. I've seen the literature. I - I admit I've never seen it used, but they do make an expanding diaphragm. I've seen the literature.

Mr. Cimato: I didn't see it, and I'm not going to say that I did, but if you said did, okay. But let's look - the other side of

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the coin, who's going to pay for this. Now you're saying something else to be done and I don't even know how much is involved. You're asking me the question for a man to go in there - yes, Phil, they have done it, because we went in on a 17 - a 18 inch line. I have men going into an 18 inch line. Yes. I could go in a 24 inch line.

Mr. Boudreau: How about...

Mr. Cimato: Who's going to pay this bill?

Mr. Boudreau: How about a fixed set epoxy grout. Have you ever done that before?

Mr. Cimato: I do that on a regular - acp pipes, I could use Treyco, or what we call water plug, okay, which would be able to make a whole joint, but this would be done on any basis that you have a bell and spigot. I never performed on an open joint, but I'm open for suggestions. Whatever your manufacturer thinks that would be because I'm going to tell you I intend to Armco on this. He's going to have to if this don't pass the second time around. I'll be there because I'm going to set this meter. Whoever sells your engineer the contract and your salesman that told you they could pass this test. He's going to have to show me where those tests has been performed and give me data and any other city or towns that this test has been performed. Because I asked Mr. Pax did you ever test this pipe before. Well he said the manufacturer said that it passed. Did you ever test it - I don't know.

Mr. Merrill: That's only one individual.

Mr. Cimato: What it tell - the salesman he sells from here all the way up to Syracuse, sir, and right down through the southern tier to the Pennsylvania border. I think it's a pretty wide area that this salesman covers.

Mr. Boudreau: Could I ask you another question, please.

Mr. Cimato: He never had it test performed so he don't know.

Mr. Boudreau: If the pipe line is leaking, where's the pipe going to be leaking?

Mr. Cimato: Phil...

Mr. Boudreau: At the joints?

Mr. Cimato: Phil, your guess is as good as mine. Just remember those are spiral pipes.

Mr. Boudreau: Okay.

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Mr. Cimato: It could have been right in between because those spiral, actually those sheets only come in about two feet sheets if you look at the spiral. They're only two feet sheets and actually supposed to be welded, as you go in a spiral it's welded. How do we know that the weld some place in the line...

Mr. Madden: Well, they're not...

Mr. Cimato: isn't a miss.

Mr. Madden: They are not singles then?

Mr. Cimato: No.

Mr. Boudreau: Welded.

Mr. Cimato: Those are welds - spiral welds.

Mr. Madden: Each section of pipe is not singles?

Mr. Cimato: No, sir.

Mr. Boudreau: But may I point out that if it's leaking at the joints where we usually find leaks in pipe beds, there are only eight - seven joints involved - seven or eight joints involved in a 20 foot length. That's what? 160 foot of pipe.

Mr. Cimato: Yeah, I think that's what it would be.

Mr. Boudreau: You're talking about maybe seven joints. It wouldn't take too long to epoxy seal seven joints if you can get a guy in there.

Mr. Cimato: Oh, I can get the guy in. I could get the guy in.

Mayor Kuzon: But what you're saying, though, that's - that is work that would have to be paid for. In other words, that's not in this contract, or this bid.

Mr. Cimato: Unless, as I said, unless you can prove that I didn't install this pipe right. Then it's my responsibility.

Mr. Merrill: Well we can prove, Tony, that the pipes can be put in leakproof. But let's not belabor the Board here on this. We can prove it. No question about it.

Mr. Cimato: How you prove it, Bill?

Mayor Kuzon: At this point, I think the only thing we can do is retest it.

Mr. Merrill: Take my word for it, this time we can. We've got the backup information. Let's go on.

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Trustee Bancroft: I've got some questions on the point.

Mr. Cimato: Maybe I jumped the gun at this point to say it won't. Let's hope it does pass, okay.

Trustee Brenton: Knock on wood.

Mr. Cimato: That's all I have to say gentlemen. I'd be willing to go back again, but if we don't what are we going to do from there.

Trustee Brenton: What are we - from here - then I would have to rely on the specs and whatever was called for in the specs. If for some reason the specs are - deviate from normal and acceptable construction procedures, or whatever the situation might be, if there's a hole in one of the pipes, as you indicated a bad weld, it got moved - I mean the possibility, okay?

Mr. Cimato: Yeah, okay.

Trustee Brenton: And here we've got a great big gaping hole and this is where the water is going, well then we've got a problem with somebody else quite obviously, but as far as we're concerned we are the owner, no different than any other owner of any other merchandise in this whole world and we want it to be right, and it's going to be right. Now if it's not right, I can't answer your question. We're going to have to find out why it's not right and that's the party that's going to be involved, and if it happens to be that there is an aberration in construction procedure here, then we will - I'm sure the engineers will bring it to your attention and if you're agreeable to correct it swell. We don't have a problem. If you're not, then I guess we have to...

Mr. Boudreau: Could I add one more thing while we're on the subject of technique. It's possible the manhole is leaking. Maybe you could get Carmen to test from the other end to see if...

Mr. Cimato: You're saying put another bladder in?

Mr. Boudreau: Test it from Brookside.

Mr. Cimato: How you going to perform two tests. Once we go up there, Phil, what we could do - we could fill again the way he did it before. But you feel it is possible the bladder will leak.

Mr. Boudreau: Fine.

Mr. Cimato: Let's try it once more. If it don't work then we go with the second bladder in line with the pipe in the manhole so we only test the pipe itself.

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Mr. Boudreau: Maybe you have a tight pipe, but a leaking manhole.

Mr. Cimato: But there's one thing more, Phil. If the manhole would have been leaking you would have seen signs where the calcium come through the concrete. You see calcium signs coming through the concrete.

Mr. Boudreau: In the water?

Mr. Cimato: In your manhole, but you don't have no water there on the bench of your manholes. the lip comes right in to there.

Mr. Boudreau: Is there gaskets in the joints?

Mr. Cimato: No, on the upper part.

Mr. Boudreau: In the manhole too.

Mr. Cimato: Oh, yeah, definitely. Otherwise you would have seen the water coming in anyway down there.

Mr. Boudreau: Yeah.

Mr. Cimato: You would have seen the water coming in. That's how we perform a test on a manhole, through that infiltration, or exfiltration.

Mayor Kuzon: Okay. Jack, you have one thing?

Mr. Madden: Yeah, I did want to ask a question. What - you said this pipe failed the test. How much - you've got to relate to me in the gallonage or something - was the pipe leaking out in exfiltration.

Mr. Boudreau: Okay, I'll give you the figures.

Mr. Madden: This is a two foot pipe?

Mr. Cimato: Yeah. If he takes sanitary sewer regulations under EPA, I'll tell you right now he's got to have two feet of water head over the pipes on the higher point.

Mr. Boudreau: That's what he did.

Mr. Cimato: I don't have to look in there. Through 30 years I don't have to look in there.

Mr. Boudreau: Jack's looking for the magnitude of the leak.

Mr. Cimato: Sanitary sewer.

Mr. Madden: How much is leaking out of there?

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Mr. Boudreau: Okay. Here's the summation. The volume of filling of this piece of pipe in this manhole - now I've got my calculations here, that's just the report, okay?

Trustee Kibby: That's for later.

Mr. Boudreau: The volume of filling, Jack, was 552.28 cubic feet. The volume actual lost in the accrued four hours was 524.7 cubic feet. The allowable drop was .66 of a foot in the manhole from the point of filling accrued four hours. The drop you've got is 3.83 feet per hour. Here's a sketch.

Mr. Madden: Okay.

Mr. Boudreau: So the magnitude of the leak is, if you want to compare it in gallons - how do you want it? Cubic Feet? Gallons?

Mr. Madden: Gallons.

Mr. Boudreau: Okay, the volume allowable in four hours was 61.2 gallons, he could lose in the whole system tested. The volume actually lost in four hours was 3,924.7 gallons.

Mr. Cimato: On what - I mean upon what gallons you losing water - what method - what percent of gallons are you using?

Mr. Boudreau: Yes, the equation I used...

Mr. Cimato: 200 gallons, has EPA set that standard?

Mr. Boudreau: No. No I did not. I used 500 gallons, inch gallons. EPA's 200. I used 500.

Mr. Cimato: How did you come to 500?

Mr. Boudreau: If I used 200 I don't think it would test out that way. I arrived at 500. Bill and I thought it was fair.

Mr. Cimato: You even deviated yourself out of the specifications.

Trustee Kibby: It doesn't matter if it's 2 gallons, 12 gallons, we lost...

Mr. Merrill: It leaks.

Trustee Kibby: 3,000 plus gallons. I don't care whether you got 200 or 500.

Mr. Boudreau: Bill, what I'm saying is there is a considerable leak in here.

Trustee Kibby: You lost 90% of the water didn't you?

Mr. Boudreau: Well if that's a good comparison, yeah. Yeah, in four hours.

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Trustee Kibby: Bought a cup and got a sieve.

Mr. Boudreau: In two minutes we lost three feet - all of it
in the manhole. You want to know how much that is in gallons?

Trustee Bancroft: Now, Phil, at this point I think the numbers
are very gross and they indicate you know that whatever the
intended number was, that it was supposed to leak, it leaked
orders of magnitude greater. But when you go back up there and
test again, and the contractor's agreed to test and you agreed to
witness it, what are you looking for? Are you looking for this -
What's the number you are looking for?

Mr. Boudreau: That's the number we're looking for.

Trustee Bancroft: The 500 number?

Mr. Boudreau: Yeah.

Trustee Bancroft: Even though the spec that you referred to...

Mr. Boudreau: Was 200.

Trustee Bancroft: Was 200. So you have opened up and made that
spec more liberal.

Mr. Boudreau: Oh, yes, I have.

Trustee Bancroft: Okay.

Mr. Boudreau: Yeah.

Trustee Bancroft: And the basis for going from 200 to 500 is what?

Mr. Boudreau: The reason for it?

Trustee Bancroft: Why are you willing to?

Mr. Boudreau: Because it's storm water, not sanitary,

Trustee Bancroft: Okay.

Mr. Boudreau: that you're exfiltrating.

Trustee Bancroft: In your engineering judgement a reasonable
alternate - a somewhat relaxed specification.

Mr. Boudreau: That's exactly so.

Trustee Bancroft: This 500 rather than 200. So you're acknowledging
that it doesn't have to meet the precise number that...

Mr. Boudreau: That's right.

Trustee Bancroft: that the specs call for.

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Mr. Merrill: Well the reason that they went to the number 200, and some of the people went to the number 100, was the dollars to treat at the end in the sanitary sewer system. In other words, if water leaks in the sanitary sewer it increases the load to the sewage plant. If you can keep that water back, that's why they tighten them. Because for many years they used the number 500 which was a reasonable number for pipes - any pipe to maintain.

Trustee Bancroft: It's a cost trade-off.

Mr. Merrill: It's a cost trade-off.

Trustee Bancroft: And the tighter the spec, the more money you guys - the more money you guys have to build into the system.

Mr. Merrill: We designed this, Bill, as a reasonable assurance that we weren't going to lose too much water.

Trustee Bancroft: I understand that, and at this point you're saying that that reasonable number is of a somewhat relaxed version of the spec and that relaxed version says 500, and 500 -again refresh my memory - is what? 500 Gallons?

Mr. Boudreau: Inch gallons.

Trustee Bancroft: Inch gallons.

Mr. Merrill: The gallons of water per inch of diameter per mile of length of pipe per day.

Trustee Bancroft: Okay, and so we have a 24" diameter line. We have substantially less than a mile. So what does that come out?

Mr. Merrill: 166 divided by 5,280.

Mr. Cimato: Roughly about 190 gallons.

Trustee Bancroft: How many gallons in what - four hours or six hours?

Mr. Merrill: 24 (sic) hours.

Trustee Bancroft: 24 (sic) hours.

Mr. Boudreau: Okay, here are the figures again. The volume allowable using the 500 parameter is 61.2 gallons.

Mr. Merrill: Six hour period of time, or four hours?

Mr. Boudreau: 61.2 gallons in four hours.

Mr. Merrill: Four hours - okay.

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Trustee Bancroft: So in four hours you've been...

Mr. Boudreau: Allowable.

Trustee Bancroft: So you've agreed to a four hour test.

Mr. Boudreau: Yes, I did.

Trustee Bancroft: Now did the specs - do the EPA standards...

Mr. Boudreau: EPA says six hours.

Trustee Bancroft: Six hours. So already you're saying four is acceptable, not six.

Mr. Boudreau: Yes.

Trustee Bancroft: Okay. And 500 rather than 200 is acceptable.

Mr. Boudreau: That's right, yes.

Trustee Bancroft: Now the equivalent then is 61 some odd gallons of water.

Mr. Boudreau: The comparisons are the allowable is 61.2 gallons. The actual is 3,...

Trustee Bancroft: No, I don't care about the actual. I know it was terrible. Okay. All I want to know is what the standard test - what the test results have to be the second time.

Mr. Boudreau: 61.2 gallons.

Trustee Bancroft: In four hours?

Mr. Boudreau: In four hours.

Trustee Bancroft: And we have a tight line, and the engineer is happy.

Mr. Boudreau: You have a reasonably tight line, we feel.

Trustee Bancroft: You're happy? You'll accept it?

Mr. Boudreau: Yes. Bill will agree to that.

Mr. Merrill: Yes.

Trustee Bancroft: Accept the work and that represents some relaxation of the EPA spec.

Mr. Merrill: EPA remember, Bill, is...

Trustee Bancroft: That you're referencing.

Mr. Merrill: That's right.

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Trustee Bancroft: Okay.

Mr. Cimato: Please, let's don't confuse. Let's don't use the EPA, what everybody practiced. There is no such EPA regulations for storm sewer. I think I've been referring from the first evening, there is no such thing, EPA regulation, for storm sewer. What Mr. Boudreau and Mr. Merrill referring right now it's a sanitary EPA regulations. Not a storm sewer.

Mr. Boudreau: Methodology, Tony. That's all we're asking you for.

Mr. Cimato: I don't care what you say. There's no such thing for storm sewer.

Mr. Merrill: We have a right to specify certain - we could...

Mr. Cimato: You have a right to specify within reason that makes sure they pass.

Trustee Kibby: Well 90% loss certainly is not reasonable.

Mr. Boudreau: That's right.

Mr. Merrill: Well why keep - why do we keep beating this particular issue into the ground. I think we have agreed...

Mayor Kuzon: Let's go on then. We're going to retest it, weather permitting.

Mr. Merrill: Why sit here until the middle of the afternoon.

Mr. Cimato: I can see right now we may require another meeting. I hope not, but...

Mayor Kuzon: Me too. Let's go up the list then because I think the next three items are all related and they have to do - that's the swale and the outfall and the cutoff walls. I believe they're all related to the pipe as it exits into the creek and maybe the three of them can be considered together, and I guess the primary objection or concern is that there's an allegation that they're not built to specs. From what we've seen in the inspector's logs that have been furnished to us, and maybe again Phil...

Mr. Cimato: Well what we did is start from the bottom going up.

Mayor Kuzon: Yeah, start with the swale.

Mr. Cimato: Okay. The swale, that has been corrected. Mr. Boudreau apparently never did check. We did go back and we corrected when Doug Bissell came over. I will repair - was this - was the swale was checked after the original installation. The original

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installation what I did it caused - you've got three feet of grout material beyond the length of the headwall and then have to be flared out to bring it out so what I did I made like a bank of concrete coming out. Mr. Boudreau at the time, he felt it wasn't wide enough, this channel. Doug Bissell come in. We broke this concrete and we opened up the channel larger than 24" as your pipe is right now and brought it up to the creek. To my knowledge it has been done, because I was there myself with my men and Doug Bissell come over and he observed it. Now do you have anything else.

Trustee Brenton: Doug Bissell approved it I have to ask, Phil, the designer, if he has been up there since this has allegedly been approved, and if so does - is the spec built to specifications - is the swale built to specification?

Mr. Boudreau: At my last look at it, which was a week ago, no.

Trustee Bancroft: Is it acceptable?

Mr. Boudreau: In my opinion it doesn't conform with the design plan.

Mr. Cimato: What's needed to be done?

Mr. Boudreau: Okay, let me show you.

Mr. Cimato: Mr. Merrill, I mean Mr. Bissell come over there and he was satisfied. Now he thought it was. If it's not, so just tell me what's got to be done and I'll be more than happy to take care of it.

Mr. Boudreau: Here's what it's built to. Now the question was is it built as designed and I'll give it a clinical no. Now if somebody else approved what Tony did in remedial work, I don't care. I can't help that.

Trustee Brenton: Okay. Six inches of clearance between the flap valve and the top of the swale. What do we have there. I have my own...

Mr. Boudreau: Last time I went over there, about two inches.

Trustee Brenton: Right. I have my own report from my Department of Public Works people.

Trustee Bancroft: Is this what the swale should look like, Phil?

Mr. Boudreau: Yes.

Trustee Bancroft: Okay. With the stone underneath and it says slope down and slope down.

Mr. Boudreau: How wide is this?

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Trustee Bancroft: And dimensions from four feet - four feet flat and then it slopes for another approximately four to six feet, overall.

Mr. Boudreau: Yeah, read that distance then.

Mr. Merrill: Four feet.

Trustee Brenton: That's not...

Trustee Bancroft: Four feet, plus four feet, plus four feet - so the overall is twelve feet.

Mr. Boudreau: Yeah.

Trustee Bancroft: Four feet slope, four feet flat, and then four feet slope again. Okay. And this red line represents the way it is today?

Trustee Brenton: Right.

Mr. Boudreau: As of a week ago when I checked it.

Trustee Bancroft: Tony, have you done any work on that in the last week?

Mr. Cimato: No.

Trustee Bancroft: Okay, so this is the way your inspections would say how it is today.

Mr. Boudreau: That's how I see it.

Mr. Cimato: This four feet, Phil, if I'm correct you've got to go back three feet, all right. That's what you're showing.

Mr. Boudreau: Go back three feet, in front of the headwall, yes.

Mr. Cimato: I have.

Mr. Boudreau: And then three feet.

Mr. Cimato: And then when you said I only have below that flap valve, I only got two inches.

Mr. Boudreau: The last time I measured it.

Mr. Cimato: Wait a minute. There's solid rock there. Why do you want to go below the solid rock? Why do you want to go down below the rock, go below the invert of the creek? I don't understand.

Mr. Boudreau: No here's the reason, right here. Look at this profile. You can read...

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Mr. Cimato: What is this?

Trustee Brenton: Well, let's answer the question. If you leave that, in my opinion - and I'm not an engineer of the type that we're involved with in this particular instance - if you leave this situation, and I think I can pick this up and show you, as it is right now, that's going to fill up. You've got a pocket there which is an automatic trap to water. The water cannot leave say two to three feet out from the flap valve. It's trapped. That's going to freeze. Ice is going to freeze from the creek when the creek is high. The purpose of the flap valve obviously is to retain the water when the creek is high in the system and to allow the water out when the creek is down. Now I mean this is a logical...

Mr. Cimato: Larry, you're missing the point.

Trustee Brenton: Okay.

Mr. Cimato: Right now this pipe is 2" below the lowest point of the water. In the middle of the summer when we installed those pipes that was the lowest tide of water and we already changed below the existing water. When the creek is at the lowest point...

Mr. Merrill: This was referred to the Corps of Engineers.

Mr. Cimato: So it make no difference it would still come back to you.

Mr. Merrill: They gave us recommendations.

Mr. Boudreau: Oh, yeah.

Mr. Cimato: You still trap way in there.

Mr. Boudreau: No.

Mr. Cimato: When you say the water remain there. There's no way you could get the water out of there because we below the creek.

Mr. Merrill: Did you hear my question, Larry? This was reviewed by the Corps of Engineers and they made certain recommendations.

Mr. Boudreau: Anybody wants to see any pictures of it, here they are.

Mayor Kuzon: Yeah, could I see those?

Mr. Merrill: That's why we came to that because it was their recommendations.

Trustee Brenton: No, I don't understand you there.

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Mr. Merrill: The Corps of Engineers.

Trustee Brenton: Okay, I understand the Corps of Engineers. The Corps of Engineers instructed that perhaps it would be better to deviate from the specs.

Mr. Boudreau: No.

Mr. Merrill: No, that's what they told us to do because they have to issue a permit.

Mr. Boudreau: No, Bill. I designed it. A guy I know at the Corps gave me a water level to design to as my outfall and to be sure the back water through there fluctuates up and down on the creek. What we need, I feel, 6 inches of clearance on the dry times so we can pass the stuff out of there. When you're up this close to it, you're going to be more close to attracting debris that will get in front of that gate and impeding it from opening, when you get a flash rainstorm.

Mr. Cimato: Phil, are you agreed with me that we're two inches? Remember when we shot the wall. Original when we put in the headwall and the first pipe, the creek was two inches above our invert over the pipe.

Mr. Boudreau: Right, at that time.

Mr. Cimato: Now how you going to get rid of the water? Can you just answer me that?

Mr. Boudreau: I...

Mr. Cimato: That was the lowest point in the water because you were shooting the water and you were shooting the elevation.

Mr. Boudreau: You mean in order for you to construct it - in order for you to...

Mr. Cimato: No, no. You just say you want to get rid of the water out of there. How you...

Mr. Boudreau: No, I'm saying building the headwall as designed. Now if the creek is up at the time you get there your methodology in keeping the water out of there...

Mr. Cimato: It was the lowest when we went in there at the time the water was below the lowest point of the year. All right? And we still...

Trustee Brenton: Tony, it doesn't matter. Don't you see? It doesn't. I don't care where the water is. I have been there when the creek level was below the bottom of the flap valve, all right, so...

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Mr. Boudreau: We've got it shot well below that point and at the time we did the topography, Tony. That's why we did this and set the elevation of the outfall headwall at that point.

Trustee Brenton: But the point is you're - the pressure of the creek as it rises if it is greater than the water that is inside the storm system will, the creek pressure will force the valve shut. Quite simple.

Mr. Cimato: Let me just ask this in another way.

Trustee Brenton: Now we want that valve to function so that when the creek level does drop down and we have 24" of contained water going back to 18", or whatever level, going all the way over to Cadman Drive, this whole system is contained by this flap valve and pressure depending on which side the pressure is greater. All right now, if this flap valve gets iced up, or - we're not going to send a man down there every day of the week to check on that flap valve, and that was another thing that was discussed prior to the spec drawing of this particular project - that we would design a valve that would require minimum maintenance, projected to be one time a year to go and clean it, if my memory serves me correctly, and now if we've got this - this physical situation here is as indicated, we have a potential for having that flap valve be impeded so that it cannot relieve the system. If we don't relieve the system we know damn well the longer we hold water within the system the more water we're going to pump into our sanitary, not even regarding the Cimato project - regarding the tributaries to it, Cadman and areas that have been preexisting to this project. This drains a large area, this particular project, okay, so we've got to make sure that this flap valve works. In my mind, I'm not an engineer again, but in my mind we have a problem with this being handled in this way as it was done, contrasting to the way it was called for in the specs. Now, then, you can discuss that.

Mr. Madden: Can I ask you something?

Trustee Brenton: Sure.

Mr. Madden: Let's get away from the engineering terminology.

Mr. Boudreau: Yeah, that's a good idea.

Mr. Madden: If Mr. Cimato is right, the bottom of the sewer, let's forget inverts and all that kind of fancy jazz talk - the bottom of the sewer pipe is 2" below the bottom of the creek right now.

Mr. Cimato: It will let water out.

Trustee Brenton: Yeah, go ahead.

Mr. Madden: Is that correct?

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Mr. Cimato: Not right now. Right now is a lot more than that.

Mr. Madden: Okay, but it's below the bottom of the creek.

Mr. Cimato: Yes.

Mr. Madden: Where the water flows in the creek, right? So here's the creek.

Trustee Brenton: Is it, or not. Let's have an answer there.

Mr. Boudreau: Well in my inspection this past week, the water level was way down in the creek. Eddies taken the gates out.

Mr. Madden: I'm talking about the earth from the bottom of the creek or whatever is there.

Trustee Brenton: Well Phil just said the answer to your question is...

Mr. Boudreau: Oh, you mean the invert of the creek.

Mr. Madden: Yeah.

Mr. Boudreau: The invert of the creek is well below that.

Mr. Cimato: Water - we're talking about the water.

Mr. Madden: The water level.

Mr. Boudreau: He just said...

Trustee Brenton: The height of the creek, that's what Jack wants to know.

Mr. Cimato: The water - just the water. Not the bottom of the creek.

Mr. Boudreau: The actual top of water.

Mr. Cimato: Because the bottom of the creek, actually if you go in the middle of the creek there is maybe a least of 18" below, I mean the...

Mr. Madden: So you're talking the water.

Mr. Cimato: The water.

Mr. Madden: The water level.

Mr. Cimato: Because you have at least of 18" of water flowing right through there now.

Mr. Boudreau: What's your point, Jack? Let's get to the point.

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Mr. Madden: Okay. If the bottom of the pipe is below the level of the water, the deeper you go the more the water in the pipe will be impeded from getting out into the creek.

Mr. Cimato: That's what I've been trying to say. My bottom put them on a proper prospect

Mr. Madden: The deeper you go, the more pressure you're going to have against that flap to prohibit the water from going out of the pipe.

Trustee Brenton: You want to answer that, Phil.

Mr. Boudreau: Well, if you want to get into...

Mr. Cimato: I think you should answer that Larry, because you've been making the statement the water you want to get it out.

Mr. Boudreau: Let me make a statement.

Mayor Kuzon: Before you guys - let me ask a question to clarify it in my own mind. Has this pipe been designed so that when it's below the grade of the water - is that what I understand?

Mr. Boudreau: It's seasonal, oh, yes.

Mayor Kuzon: No, but what Mr. Cimato is saying that even last summer when it was built it was below the grade of the water when the creek was at its dry point.

Mr. Boudreau: I inspected it during the rainy season. It started in late August and September, okay? The back water curve in the creek fluctuates up and down as much as three or four feet in that area.

Mayor Kuzon: Okay, depending on the season, right?

Mr. Boudreau: Yeah. Now at times the hydraulic head in the creek when it gets up will exceed the hydraulic head in the sewer. Now it becomes imperative that that flap valve shut tight and hold. That whole system then becomes a retention basin for everything coming from the, from

Mayor Kuzon: Right, but the pipe itself is designed so - see this is where I'm confused - in the dry time, it sounds - you said it was below 2" of water even when it was the dry period of the year.

Mr. Boudreau: That's wrong.

Mayor Kuzon: That's wrong?

Mr. Boudreau: May I show you on this...

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Mr. Cimato: No, I think it was right because actually when I went in it was in August. This should be the lowest point.

Trustee Brenton: I've got a point here. Now, wait a minute here - I don't care whether the design is right. My question, or my purpose for being here and taking the time of the other members of this Board and everyone else who is attending this meeting, is just to determine whether or not this was done to spec. Okay. And I think, Jack, you will have to agree that's what we're looking for. If the design is correct, if it leaks or it doesn't leak, you know that's another thing. Is it done to spec? Answer - yes or no. That's what I want. You can argue here back and forth. Is it done to spec?

Mr. Boudreau: In my opinion, no.

Trustee Brenton: Is it done to spec?

Mr. Cimato: No.

Trustee Brenton: Okay, let's go on.

Mr. Cimato: I'm going to say no because there's no way it could be done to spec, and I brought it up - let that record show - that I brought it up before the job was started to be constructed. That it cannot be done according to specs.

Trustee Brenton: Do the specs call for you to be aware of the contents of the specs and to familiarize yourself with them and to know that what you are exactly bidding on and did you bid according to those specs?

Mr. Cimato: Yes, I bid it, but I brought it to your attention, Mr. Brenton.

Trustee Brenton: Okay, I, don't bring...

Mr. Cimato: and the rest of the engineers.

Trustee Brenton: Let's move on.

Mr. Cimato: I brought to you attention that it cannot be built according to specs.

Trustee Brenton: It's cost me enough money to be here right now.

Mr. Cimato: Does it cost a lot more, Mr. Brenton, than \$56,000. It cost me 20%, Mr. Brenton. You is already three months late.

Trustee Brenton: You're going to get your money.

Mr. Cimato: I've waited three months already and didn't get the money.

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Mr. Madden: Come on, come on, let's go.

Mr. Cimato: Don't tell me that the specs, because you don't
live up to specs yourself.

Trustee Bancroft: Unless there has been...

Trustee Brenton: This Village has gone up. What I'm saying...

Trustee Bancroft: Larry, knock it off. Unless there has been an
acknowledged and accepted departure from the specs that the
engineer authorizes that says contractor you can depart from the
specs, and we agree that is not the way we want to do things,
that there is an acceptable alternate, unless there's a piece
of paper that came from you, Phil, that you got that said we
will depart from the specs, then it ought to be built by the
specs. Okay? And the specs talk. Do you agree to that?

Mr. Boudreau: I do.

Trustee Bancroft: Do you agree to that?

Mr. Cimato: It cannot be built according to the specs.

Trustee Bancroft: We may be crazy, but the specs say that
that's the way it has to be.

Mr. Cimato: The headwall.

Trustee Bancroft: Okay.

Mr. Cimato: Yeah, the headwall could be built - yes.

Trustee Bancroft: Okay, and this guy did not give you a piece
of paper to say depart from the specs - did he?

Mr. Cimato: Who's that? What do you mean?

Trustee Bancroft: The engineer. The owner's representative did
not give you a piece of paper that said depart from the specs.

Mr. Cimato: Sir, but I made it clear and I specified - I told
him that it cannot be built according to specs.

Trustee Bancroft: And he disagreed with you.

Mr. Cimato: That's right.

Trustee Bancroft: And he said build it per the specs. Did
you build it per the specs?

Mr. Cimato: I tried to.

Trustee Bancroft: Did he build it per the specs?

gmv

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Mr. Cimato: The pipes it has, am I right?

Mr. Boudreau: The pipe is where we check the invert of the outfall pipe at the valve. It's right on the nose, built right on the nose. The headwall is not built and the outlet swale is not built as designed. Does that answer your question?

Trustee Bancroft: It's not built per the specs.

Mr. Boudreau: As designed.

Trustee Bancroft: Per the specs, and the design are the specs. Do you want it built per the specs?

Mr. Boudreau: Do I? Yes.

Trustee Bancroft: Yes, and have you indicated to the contractor that he can do anything but build it to the specs? Okay.

Mr. Cimato: This is the first time that I hear about this outfall, let the record show, that this is the first time I hear about that outfall. The outfall I always known it was correct. Everything was correct except that on the outfall that I - Mr. Boudreau brought it to my attention that it needed a pin which right now they are brass and should have been stainless steel and furthermore, it's got a hook if the Village should ever decide to go out and pick up this valve to open and close. That's a miss which is \$.35 item and I think I brought it to your attention that night. This is the only thing that I knew that was done beyond the specifications as you call it. This is the first time I know it when I received this paper which was two days ago. It says the outfall is not built according. Otherwise, as I said, Doug Bissell was there and inspected the job and Norman Wolf was at the same time there, and they were happy with it so I thought the job was done accordingly. Now they say it's not done. I even go that far, I go back and do what Mr. Boudreau says if I didn't do it and if it could be done I'll do it. I don't say I'm not going to do it, so long it could be done.

Trustee Brenton: That's fair enough.

Mr. Madden: That was not it on the punch list, Tony?

Mr. Cimato: No, sir. I never seen this one here until two days ago. I've never seen a punch list. The only punch list that he had, and let the member know it, it don't show on here. Now the catch basin they have to be filled up within...

Mr. Madden: So this was - my point is, if he didn't know to correct it, he couldn't correct it.

Trustee Bancroft: I perfectly agree with you, Jack, that you're getting yanked around by getting signals from three or four different people in your organization. Phil, I think that you and

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your organization have got to speak with a single voice and tell this contractor once what's expected of him and have that consistent and not change from man to man, depending on which employee, on which day is dealing with this contractor.

Mr. Boudreau: I agree with you.

Trustee Bancroft: I don't think that should be any revelation. I think that should have been recognized before this job even started that part of your responsibility as the owner's representative, and indeed you are the owner's representative - I'm not talking about you personally, but the firm that we retained as to...

END OF TAPE SIDE I

SIDE II

Trustee Bancroft: ...contractor responsible for work and that firm cannot reach agreement as to what you expect of the guy.

Mr. Madden: He can't do it unless he's told.

Trustee Brenton: Right, and as a matter of record we have told the representative of the dissolving partnership of Bissell Merrill, that representative that we had in on our meeting with this Board on October 1, 1981. We gave the representative a list, that representative again being Doug Bissell, a list of areas of concern that this Board shared pertaining to this subject. That list was in the firm of Bissell Merrill's hands October 1st, discussed October 1st and there is obviously a failure here to communicate between Bissell Merrill and Cimato Bros. Contractors.

Mr. Madden: Let me say one thing at this point. Shouldn't it be decided at this morning's meeting who should give Mr. Cimato directives from now on so there is no future misunderstanding?

Mr. Cimato: I sure would love to have that answered.

Mr. Madden: Just one person giving directives on behalf of the Village of Williamsville and the man will do it.

Trustee Brenton: No, the Village - Okay, on behalf of the Village of Williamsville, and I think we've arrived at that level and that this is why Mr. Merrill now has been assigned, or at any rate has had the responsibility of this project passed on to him as the member of that firm, which is still to this day a firm. It has not been dissolved, and irregardless of whether it is dissolved or not, the performance and contractual obligations of that firm by and to the Village of Williamsville continue -

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continue for several years I have to assume, even though there is a disolution of that firm, so I think that what, I think what I'm trying to say here is that Mr. Merrill sits here and hereafter Mr. Merrill would have the ultimate responsibility. If he wishes to delgate that as to instructing the contractor via Mr. Boudreau, that would be his perrogative.

Mr. Troy: I'm not sure that you can make that statement. We - these people...

Trustee Brenton: I made it.

Mr. Troy: Well, you made it but I don't know if it will hold water. These people themselves, Merrill and Bissell, have to get together and formally notify us of what the situation is. We cannot start - all we know is that we're dealing with Bissell Merrill. We cannot start saying okay we're not going to deal with Bissell on this, we're going to deal with Merrill on that - we're not going to deal with Merrill on this, we're going to.... We have to know. They have a contract with us and it is they who have to make the decision and advise us. We cannot start allocating, you know, without either one or the other being here to have any input into it.

Trustee Brenton: Well I didn't say that we allocated. I said that I thought this was the level that we had arrived at, and by Mr. Merrill's presence. Okay? I think you've got a good point. I think what we need from the firm of Bissell Merrill is a letter indicating to the Village who is responsible, who maintains continuing responsibility, let's put it that way, for this project.

Mr. Merrill: You will be informed.

Mr. Cimato: You haven't answered Mr. Madden's question, unless I missed it. Who do I take orders from because today - because I cannot - you see this is the problem that has been because apparently has been miscommunication between Merrill and Bissell or Mr. Boudreau and Bissell, and I don't know who to listen any more. I want one person telling me do this, and I'm satisfied. Give me the one person.

Trustee Kibby: Okay, it's up to Mr. Boudreau, who is the representative of Bissell Merrill.

Trustee Brenton: No, he's...

Mr. Cimato: If you say he's the design engineer. I think he's just the design engineer and at this time tell me, I'll take order from Phil. I'll take order from Phil. I tell you only one person I want because if I call Phil and if I say Phil is this voucher okay to be put in - yeah, but you've got to check with Doug and I'll tell you right out I've never had to contact Mr. Merrill because nobody told me I have to contact Mr. Merrill.

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I call Doug. I say Doug, what we have to do in order to complete this job? Check with Phil. Damn it, there's two of you together in the same office and you don't even talk to each other. How can I talk with you. So realize that-that I'm having my problem to get them two together. So give me one person, whether it's Mr. Merrill, whether it's Mr. Boudreau, or Doug Bissell. Give me one man.

Trustee Brenton: Do you want to make a commitment to that now, Bill, or...

Mr. Merrill: I'll talk it over with Phil.

Mr. Boudreau: What I should do, is go back to Doug as Tom suggested, send a letter who will make the decisions for the company, whether it's you or him, and if you guys want me to do it I will continue acting in that capacity, get together with Tony and solve these problems.

Mr. Merrill: I frankly think it should be you because you're today employed by Doug Bissell who is obviously - in practicality and in reality carried on the job and made the decisions and signed the vouchers. I think that's the way it should be. Doug Bissell really should have come here today.

Mr. Boudreau: Because it is confusing to Tony. I have to admit that.

Mr. Merrill: And he's right.

Mr. Cimato: You're showing about five items, six items. Okay I could go with you and say Phil tomorrow seems to be a decent day, let's get together. I do the swale and say Phil come and inspect this today. Is this according to specs for you and you say yes, check this punch list, check this item out. We do whatever the heck it takes. The flap valve, is this according to specs to you? You say no. What do you want? What do you expect? You say I want this. I'll take care of it. But not that you're going to tell me do, but I have to check with Doug. I don't want to hear that. One man is going to have to tell me what's got to be done.

Trustee Brenton: Well, I've got to feel that you know I'm sorry to interrupt though...

Mr. Cimato: That's all right.

Trustee Brenton: But I do feel when you mention check with Doug in particular I know that you're just using that as an example, but I think that if Bill Merrill's the one that stamped these prints, I want the Board's consideration on this - then I think that Bill Merrill has a responsibility for these prints and I don't think that Doug Bissell does. I don't care, you know, what

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the relationship of the firm is. I think that if there's litigation involved here, or in the event that something would happen, we've got to go to the performance bond, then I think that we're going to have to have Bill Merrill interpret these plans and I think that if he utilizes his former employer, Phil Boudreau, okay. But nonetheless, the bottom line - Tom, and I definitely seek your opinion on this - would appear to be Bill Merrill, now...

Mr. Troy: The bottom line is the firm of Bissell Merrill. We have no formal knowledge, we have no notice. We don't even know if - maybe there has been a legal dissolution - who has been assigned this and if the assignment took place, did we consent to it. As far as I'm concerned, Bissell Merrill is it.

Trustee Brenton: Okay.

Mr. Boudreau: Tom, would you require a letter from Doug - he's the only principal left in the firm now - answering that question?

Mr. Troy: Would I require a letter from Doug for what reason?

Mr. Boudreau: A letter stating the designated project engineer to final this job up, because up until this point at this meeting I was not the project engineer on that job, I want that...

Trustee Bancroft: Who was?

Mr. Boudreau: I don't know. Somebody else will have to speak to that. The only time I was...

Trustee Bancroft: You mean there wasn't one?

Mr. Boudreau: Well, the only time...

Mr. Cimato: No, there wasn't one, sir.

Mr. Boudreau: When I appeared on the job, let me finish, please - the times I appeared on the job are in the record, are when the inspector called me on the radio on certain questions. They're in the inspection reports. I went up and gave my contract document the interpretation of that, only, during construction time. I'm coming from the inspection records and what I've seen that you can see on the job now, what I saw personally when I was on the job.

Mr. Troy: Phil, I've told you before that nobody's faulting you or holding you responsible. You are a victim of this situation just as much as the rest of us.

Mr. Boudreau: Well I'm not trying to duck away from any responsibility.

Mr. Troy: I didn't say - I'm not accusing you of ducking away.

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Mr. Boudreau: But Tony's confused. He has been from the time he's been on the job and I wanted - I just wanted to make it clear to everybody here today, there's reasons for it and maybe Bill wants to explain it. I don't know.

Mr. Cimato: I stated it before and I don't want to know because this partnership has been broken up, and when a partnership is breaking I may feel that he's wrong, he feels that I'm wrong. Okay, so we cannot communicate together, but where do you think the contractor stands? It's got to be one big .
If we lose our President, somebody's going to have to take his place, gentlemen, otherwise this country's going to go down the drain. So that's what I'm saying. So we lost the President, let's get the Vice President, the Speaker, whoever. Give me someone.

Mr. Troy: The act of one partner binds the other one, John, as far as third persons are concerned.

Trustee Kibby: What rights do we have? We are the employer in this case. What rights do we have?

Mr. Cimato: I think you have the rights as far as I'm concerned, you have the rights for the man who put the stamp because if he builds you this building, even though it's Bissell Merrill, when Mr. Merrill put the stamp on this building he is responsible as far as I'm concerned, and I think Mr. Merrill would consent to that, wouldn't you say, Bill? I think your name is up there.

Mr. Merrill: My name is on there as design engineer. I'm responsible for the design. Now many, many times somebody else will inspect another engineer's work and it's done every day in the week. They have it down in Waterfront Village for example.

Mr. Cimato: You designed it.

Mr. Merrill: I was the design engineer on all infrastructure at Waterfront Village - all the sewers, waters and so forth, and my seal is on it. The City of Buffalo has Miss Myra Court come in, do the inspection, the supervision they had John W. Cowper Company do the inspection management. They also had people from various divisions within the city acting as inspectors. It's done every day in the week when someone else inspects a job. We are called upon often for interpretations of the job - what did we want here - it's a question about what this line meant, you drew something here, do we accept a change. We had to sign off on all the change orders and we - so you can do this. Now a few years ago under my supervision we inspected many, many public improvement units in the Town under other engineers you know. Krebbiel did a lot of these. He designed it. We inspected it, supervised construction. But coming down to the reality of this supposing I died, supposing I was six feet underground now, you're going to dig me up and say Bill Merrill's going to accept this?

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Mayor Kuzon: Well could we come to an answer today as to who is responsible?

Mr. Merrill: What it boils down to...

Mayor Kuzon: Who is the project engineer.

Mr. Merrill: The project engineer on this job, in my opinion, was Doug Bissell for the construction. I designed it and legally responsible for, and practically responsible for the design of the job.

Mayor Kuzon: All right, but from this day forward who is going to be the spokesman?

Mr. Troy: No, Bill. No, sir. You can take that position, Bill. We can't accept that position. I hope you appreciate that.

Mr. Merrill: I realize that and I appreciate your position and your feeling, and as I told you once before I'll do all I can to help you. I made that clear at a Village Board meeting I think. That's way back in June or July or something like that. I forget the date when I was, shall we say pushed out of the office.

Mayor Kuzon: But Bill's question was our rights as owner. As our rights as owner can we then designate, or can we direct the firm to appoint, or whatever they do, a new project engineer from this day forward? Can you do that, Bill?

Mr. Merrill: What they should do - what Doug Bissell should do is he should write you a letter and say that he is the project engineer, or Phil is the project engineer, or whoever else he decides to put on and designate as the project engineer to complete the job.

Mr. Troy: That's not going to alleviate any legal responsibility, however, Bill for what has occurred up to now. That letter is 1) self-serving and 2) can only alert us to the fact that there has been a disolution and a shift of responsibility, or at least he's washing his hands, or somebody's washing their hands, but anything that's happened up to now as far as we're concerned, it's a Bissell Merrill project. We have no formal knowledge...

Mr. Merrill: All right then I wouldn't - then I would suggest one thing. Don't write to me at Millersport Highway, write to the firm Bissell Merrill and then dealing with the firm.

Mr. Cimato: Let me answer something too.

Mr. Merrill: Then when you write a letter to me out there at my office...

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Mr. Cimato: What you just said before, that you have the right to assign project engineers - yes you do - you the rights to remove a project engineer as well as the superintendent of the construction outfit. You do have the rights. If the superintendent of my firm do not perform, you have the rights to demand to be removed by the federal and by the state law and as well you have the rights to remove the project engineer. Yes, you do have the rights.

Mr. Troy: I think we have the right, Tony, to say we do not want that man doing your work, but we do not have the right to compel you to hire another specific person. In other words, you can - you can still say all right I won't put this man on the job, but you are not bound - in other words, I can't say to you now you have to hire Bill Bancroft.

Mr. Cimato: No, no.

Mr. Troy: Okay.

Mr. Cimato: But you could tell me that he's not to answer any questions on it.

Mr. Madden: He just has to be told who he has to listen to and follow the directions of. That's all we want.

Trustee Kibby: We've got three or four points here and I think that we can come to some agreement on. One is - first off - there has to be a decision about payment of Cimato - to Cimato Bros. Two, there has to be a decision which Mr. Merrill, who is a professional engineer and is a partner in the firm and has been in the business for years, says that we as employers have a right to designate to Bissell Merrill that there be a project engineer and who it is provided we don't say we want to hire Bancroft, or someone like that. That person we can do, we can do that Monday morning and we can then inform Cimato as to who he - to whom he listens. The third thing I think that comes up here is are jobs being built to specifications. I think it's been perfectly clear here at this table that we want it built to specifications unless the engineer says in writing that you may vary for some reason or another - in writing. Fourthly, I think a problem that has been hanging around this table and hasn't been said is that there may be, or there is a possibility - and I don't mean to indict anyone - that there are specifications, that even if the job is built to specifications it isn't going to work. That is a possibility, a distinct possibility, and there are also alternative ways to handle that problem I am informed. So it just seems to me that those are the four things that we can spend the rest of the afternoon discussing these and I don't care, because I don't know a damn thing about lateral lines, whether they should be 2" or 4". All I know is that if our specifications call for them to be 6", it damn well better be 6" unless it says in writing from the project engineer that, that there's a reason for it not to be 6" and it can be 2". I

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couldn't care less whether there's sand or manure underneath those lines. It's up to the engineer. Now I think we ought to just kind of think about bringing this meeting to an end. Let's make the decisions on these four points.

Mr. Cimato: I think you point's well taken.

Trustee Kibby: And get on with it and let the engineer handle it and I would say a fifth point when we're alone about the engineer - firm.

Trustee Brenton: Well unless you - unless you want to not discuss it further and the other two remaining points, I guess Tony's familiar with them - I don't want to have anybody come back to me a month from now and say well, you know, I didn't know what you were talking about - insufficient clearance between sanitary laterals. Okay? If you want to...

Trustee Kibby: But you're perfectly - you've said before, Larry, it's not really our job, is it, to tell Mr. Cimato that those lines should be 6" instead of 2".

Trustee Brenton: Definitely not. We're wasting our time here.

Mr. Cimato: How come this matter couldn't be closed right now. You have just stated it's going to have to be between the engineers and the contractor to make sure we both agree that the work is done.

Trustee Kibby: You see that we can't just sit back and take the engineer's word because we have right there a voucher that says everything is hunky-dory and we're telling you right now we know everything is not hunky-dory, even though the damn thing is signed. So we are caught. We are the ones that are caught in between. You are caught in between in terms of money.

Mr. Cimato: I understand what you say.

Mr. Madden: We still think though that that voucher should be honored.

Trustee Brenton: I agree.

Trustee Kibby: Well we'll probably have to make a decision on that I would think. Maybe by ten to, I would hope. I hope. That's one man.

Trustee Brenton: That's the original voucher, right?

Mr. Cimato: Yes.

Mr. Madden: He's - when I say he's - Cimato Bros. will do that contract and they won't touch a dime and I'm not here as a bonding man. Really, we're just interested in one thing. Why he hasn't been paid for a job he did.

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Trustee Kibby: I think it's clear as to why.

Mr. Madden: I think it's getting clearer.

Trustee Bancroft: Can we caucus as a Board and discuss these points
and see if we can't wrap this up?

Mayor Kuzon: Sure.

Trustee Brenton: Anybody else have anything to say prior to
ending this meeting? Phil?

Mr. Boudreau: and then the rest of the points in this
list would be addressed by who?

Mr. Cimato: By the project engineer.

Trustee Brenton: It would be my preference - it's a good question -
it would be my preference if the project engineer for the remainder
of this project be Phil Boudreau. That he be the one that be
responsible for the completion of this project. Does anybody
else have any other opinion on that. I understand that probably
it's been brought out here that maybe we can designate a
project engineer, but I'll defer to Bill Merrill as to whether
or not we can. - Can we tell you who we want to have on the job?

Mr. Merrill: I think you basically could to a point, but in
contract law I think you'll agree you cannot tell a contractor
how he has to do a job. In other words, a specific person, a
specific machine, or a specific thing. You can tell them
this is what you're supposed to do, the total way. In other words,
if you're going to build a building and the contractor decides
to build the roof before he builds the foundation, he may be
crazy but you can't tell him he can't do it that way. He bid
the job and he has the right to fulfill it in his way. You
can be his - the owner's concerns and the engineer can be concerned
about is the proper completion when this thing is finished - the -
what do you call it?

Mr. Troy: My position, Bill, is this. It is an unimportant issue
just on general principles alone that we have a negative vote.
We can say to Bissell Merrill Mr. X is unacceptable to us.

Mr. Merrill: You're correct. You're 100% right.

Mr. Troy: We may not say you must hire Mr. Y as a project
engineer.

Mr. Merrill: That's right.

Mr. Troy: Okay. We have a negative declaration there now,
you see, so that - not that certainly I want Phil to suffer in
any way at all. He and I have gone through our - our wars together
and worked rather well, but I don't think we can compel either you
or Doug to appoint Phil as project engineer.

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Mr. Boudreau: I'd like to say something at this point.

Mayor Kuzon: Let's caucus.

Mr. Boudreau: The remaining points on this list were addressed once by another individual and a decision was given to Tony to do it or don't do it, even though I disagreed with it at the time. Again, I wasn't the project engineer when you - when construction was going on, and to appoint me as the project engineer now with all this through and address the things somebody else made another decision I would be foolhardy because I'm only going to come back to Tony and say fix it. He's going to get upset. It's going to be expensive and we'll go round and round again.

Mr. Troy: May I ask this question. What is the custom in the trade if there is no designated project engineer? Then does the entire firm become the project engineer? This would be my understanding.

Mr. Merrill: Well, usually - usually what the firm does they put a man in responsible charge of the project.

Mr. Troy: Right.

Mr. Merrill: And it's under the direction of the partner, or the president, or whoever. In other words, he designates a someone - you do this and here's the policy. The partner or the president, or whoever it is sets the policy of the particular project. What you're going to do, you're going to build a storm sewer here for example. We're going to use these materials, you handle it, put it together, so forth, and then the vouchers have to get signed by a P.E. and so forth, but somebody is just designated as a project engineer.

Mr. Troy: Yes, Bill, but in the absence of the appointment of a project engineer, then the partners themselves are all responsible.

Mr. Merrill: Right.

Mr. Troy: Individually and collectively responsible at that point. That's good, so that you understand. All right.

Mayor Kuzon: Shall we take a few minutes then, as a Board take a few minutes. Why don't we go in the other room to address this.

The meeting ended at 10:45 AM. After discussion, the meeting resumed at 11:00 PM.

Trustee Brenton: The Board has determined to address the firm of Bissell Merrill, respectively Mr. Merrill and Mr. Bissell, in order to obtain a project engineer for the conclusion of this

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project and we will then determine what amount will be paid, etc. through the input of the firm of Bissell Merrill, and I would also like to add that this project is bid on a unit price bid basis and, therefore, the discussions as to quantities, etc., work performed will have to take place between the contractor and the engineering firm for the final determination of those costs to the Village.

Mr. Cimato: That's what I'm looking for.

Mr. Madden: Yes, but you will be advising Mr. Cimato as to who he will listen to and...

Mr. Merrill: In other words, Larry, then you will write Bissell Merrill a letter and ask them to designate who is responsible. Then when we designate who is responsible then you will advise Tony.

Trustee Brenton: That's the only way we can do it at this stage of the game and we want - we definitely want a response from you and Doug - I mean the letter is going to go to Gentlemen, or frankly it would go, or should go I think to Bissell Merrill Associates, attention Doug Bissell and William Merrill and so that there's no ambiguity here as pertains to who's in charge of what or who did what, because we've just absolutely got to resolve this thing and get it put away because shortly we're going to be in our sanitary project and I'm going to burn up.

Mr. Merrill: Out of gas, huh.

Mr. Cimato: Mr. Brenton, I wish this had been done a long time ago because by now everything could have been completed and we wouldn't be wasting each other's time this morning. If we know who to listen to from the beginning. I don't want to say at this time that Cimato Bros. is 100% perfect. We all have our fault. We all make our mistakes but have someone tell us where those mistakes are made. Not that I'm going to have to guess and not know.

Mr. Merrill: I want to make a comment regarding that statement, Tony. When I first started working for senior Bissell and Bronkie about 17 - 18 years ago, Carl, Sr., God Rest His Soul, had an expression. He says we never make mistakes, Bill, we make blunders.

Mr. Madden: We want to thank your prompt attention to the matter too. We appreciate it very much.

Mr. Boudreau: May I ask a question before we break? Gord I have one question before we finally break up. A letter comes back from our firm, whoever is the project engineer the decisions he makes on these six items, whatever they are, will the Village accept them in the way of remedial work? Whatever we come back with?

Trustee Brenton: Well I'm going to answer that question. I'm going

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to answer it very clearly if no one else minds if I answer it. This would be my opinion anyway. We haven't caucused as a Board regarding this. If we disagree with the results of the, of your, the firm of Bissell Merrill's relationship with Cimato Bros. in order to fulfill this project - if we do disagree, this Board has made a determination that we're going to call in a neutral engineering firm to advise us as to our rights. So I think that answers your question. If we disagree. If we feel that there is just something glaringly wr., still wrong here and we get what could be construed as a rubber stamp to that particular exception, then I think we're going to, without a doubt, have a neutral engineer come in and advise us.

Mr. Cimato: That's fine with me.

Trustee Kibby: Somebody's going to pay for that third engineer.

Mr. Boudreau: Will copy you, Bill. How does this sound. We'll come up with a solution for each point. I'll get an agreement for remedial work.

Mr. Merrill: And you want my input into it.

Mr. Boudreau: Right. I'd like to have your input into it also, and a copy to Tony, and a copy to you.

Trustee Brenton: I think from now on copies probably should go to the entire Village Board.

Mr. Merrill: Okay.

Mr. Boudreau: And if you disagree with that you'll get back to us in time so Tony can know that we agree or disagree on the remedial work we're going to say.

Mr. Cimato: Phil, I think I said at this time even before we write any letters we know that there are some of the items which I agree to go back and correct on the best that can be possible. Now we know what items is in dispute. Let's wait until the project engineer is decided, whoever it's going to be that's finishing this project. Then we'll meet with the project engineer. Then if there's some work is in dispute it couldn't be done. Those are the points that are going to have to be sit down between the contractor and the engineer and see if it could be worked out first and then if it can't, then we have to agree with the Board whoever is designated from the Board, but I think this should have been able - this is what's been done in the past practice between the contractors and the engineers. They have to work this problem out. Not to drag them every time we forget to dot the I.

Trustee Brenton: Yes, that's not our function. We don't want to be involved in that.

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Mr. Cimato: That's right, and I can see that.

Trustee Brenton: I don't want to be involved in that even though that's my area of responsibility. I don't want to have to go out and interpret designs and I shouldn't have to and, or compliance with specs. It's not my function. They don't pay me enough money to do that. That's all there is to it. It should, you know we should have a rapport with our engineering firm and our contractors, whoever they are and get our work done and bingo.

Mr. Boudreau: Bill, how do think you - it should be handled?

Mr. Merrill: When just like that I think they should write a letter to the engineering company and ask exactly what he said and I as a designer should be advised of what changes they're making. Keep it in the folder up there and I know that you'd advise me directly the way we have. My input is to whether - how I would interpret the design and any modifications that may come to it.

Mr. Boudreau: Do you want me to make up a specific solution for each item - address each item specifically?

Mr. Merrill: Well we're going to have to address each item because it was written to us and it's on record as being a question in someone's mind. I think it should be answered.

Mr. Boudreau: Before I do that I'll talk to Doug and if he wants me to pursue it I will.

Mr. Merrill: I think...

Mr. Boudreau: He wants to handle it.

Mr. Merrill: I think, I think he is going to have to address this thing though. If he wants to compromise something, he wants to change the design on something, or if he feels that something should have been differently and he would go along with the change, then I want him to put his name on it and say - I, Doug Bissell, say so and so. That's the way I think it should be and then I can be compromised. Look, when we designed this thing, we designed it with our opinion to be - to go overboard to prevent water from going into those cellars. Remember we had a lot of problems with easements and we argued this back and forth, Tom, Leo Lynett, and God knows who else. So we went to extra precautions like the diaphragms there and the pipe line, the leakage in the pipes. We went to extra precautions to minimize any possibility of water backing up in that trench, going into those cellars and creating problems. Remember too, you've got a dike along that creek. We have a flood plain level to think about and we went to extra precautions to minimize any backups that come in that sewer. It was going to be under head, it's going to be under pressure, so forth to insure it wouldn't leak and so forth. Now someone else comes along and

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says we went too far I think and wants to compromise what we thought of. Okay. He's got his and I won't argue with him - somebody about it. I know we did check with the Corps of Engineers about certain things, we checked as far as we could possibly go to insure that water wouldn't - well, you know that. So that's what I would have to say.

Trustee Brenton: Beautiful.

The meeting ended at 11:15 AM.

Theresa L. Cummins,
Village Clerk-Treasurer