
MEMORANDUM

TO: Norwich Select Board
FROM: Mary Layton
SUBJECT: Nate Stearns Correspondence
DATE: January 30, 2016
CC: Neil Fulton, Nancy Kramer

Nate Stearns recent correspondence concerning the failed application to secure a Stream Alteration Permit for restoration of the Norwich Pool Dam does not provide an adequate explanation for the thoroughness with which the Vermont Agency of Natural Resources turned down the application. Stearns provides an explanation of the regulatory framework but fails to address the twenty-seven specific criteria cited in the rejection letter. His letter carefully skirts explanation of why this application failed in so many areas. His charge, as I understand it, was to develop a strategy in partnership with DuBois & King and Aquatec to ensure that the application met statutory requirements. The rejection letter clearly shows that these requirements were not met in the application. Why did Nate Stearns not ensure that an acceptable application was filed? Was he charged with that task or not?

I asked Neil Fulton today to provide documentation that Nate Stearns signed off on the statutory requirements part of the application. In an email message, I was informed by Fulton, that such a letter does not exist. It is clear from this statement that Nate Stearns played an advisory role, but was not actually expected to be held to a standard that would result in a successful application. He did not sign off in writing to state that the application was prepared in accordance with statute. This is a major mistake in terms of controlling risk. Who is to be held accountable for this failure? Why was Nate Stearns not asked to sign off on the application? Was it because he thought it had a poor chance of success? Was his role limited to general advice about the relevant statutes?

In supporting this application I expected that the team of experts would use good judgment and their combined professional expertise to develop an application that would be acceptable to the Vermont Agency of Natural Resources. The Stream Alteration Permit was a key piece of the puzzle. The development of the proposal was very expensive at \$86,000. The failure to secure this permit is a serious matter. It is also clear from this failure that the Selectboard cannot trust the Town Manager to make prudent decisions in terms of capital improvement projects. At best, stringent and detailed supervision by the Selectboard that second-guesses each decision is required. A better result might be obtained by pulling the Town Manager off such projects completely. In this case a \$500,000 FEMA grant was put at significant risk because of the question of securing a Stream Alteration Permit. In addition, Alternative Projects were not developed until the Pool Dam effort failed and the FEMA funding cycle had begun to close. I stand by my statement in earlier correspondence in which I described this effort as a “colossal failure”. In addition, I am concerned that this type of mismanagement will extend to future projects.

At this time, the FEMA funding process has been winding down. In an independent legal opinion I have been told that there was little chance of a successful appeal. An appeal process in any case would be lengthy and expensive and would have extended beyond the FEMA funding cycle. Our best bet in the first place was to think clearly and realistically about what was possible, and this was not done. The reality is that ANR is not receptive to the idea of building new dams in Vermont. No alternative projects were developed as Plan B. The application was submitted without the written support of a qualified environmental lawyer. I view this effort as a failure of management to exercise good judgment on behalf of the Town of Norwich. It is no wonder that Nate Stearns wishes to distance himself from this disaster. I understand his recent letter as an effort to do just that.