

DRAFT
TOWN OF WEBSTER
PLANNING BOARD
WORK SESSION MINUTES
October 13, 2014

At 7:43 a.m. Chairperson Susan Rauth convened the work session of the Webster Planning Board.

Present: Chairperson Susan Rauth, Members Sue Roman and Select Board representative Roy Fanjoy. Member Lehmann and Alternate Turcotte was absent.

Chairperson Rauth stated the purpose of the work session is to discuss the conduct of a traffic safety study and a groundwater monitoring study, as a condition of the Copart site plan review. She asked if members had a chance to read the information from the CNHRPC meeting, remarks from the phone conversation with DES Pierce Rigrog, the engineering traffic study proposal. The Planning Board also wants to finalize legal questions for Attorney Bart Mayer, Town Counsel, for review in a telephone meeting the next day.

Member Buckley asked to confirm if Copart would pay for the truck traffic route study. Chairperson Rauth said that is what we envisioned. Member Roman said we want to check with Town Attorney Bart Mayer about the mechanisms for funding the study. Member Roman suggested that the traffic safety study proposal be forwarded to Attorney Mayer as background information.

Member Fanjoy pointed out when Copart's plan was originally presented to the Town, they represented that minimal impact would happen to the roads. Member Fanjoy's camera footage from his informal road study showed that Copart traffic represents a small percentage of the traffic. Member Roman asked if the CNHRPC traffic counts on Deer Meadow were taken after Concord barred Copart from using the road. Member Fanjoy said he didn't know but that greater traffic count creates more road damage. Copart traffic may account for a small percentage of the total Webster traffic but the weight and size of the trucks are a big difference. Member Fanjoy mentioned he recently received three complaint calls from citizens about Copart car haulers operating after hours (after 5 p.m.).

Member Rauth expressed the need for valid, consistent traffic count data. She suggested we aren't experts in traffic safety. She asked if we want to recommend that the Town hires experts to see if we want to do a traffic study.

Member Rauth made the same point as it relates to the groundwater quality question. Without coming out to the site, the engineers and DES experts contacted would not give an opinion of what would be the condition or the criteria to

determine whether or not groundwater monitoring is warranted. We could hire experts to visit the site and study the data about aquifers and other data.

Member Roman added that Copart is a junkyard under the licensing statute but it is not a junkyard under the “Green Yard” statute. Junkyard is a term that varies, depending upon which statute definition you are addressing. Although Copart is not currently subject to NH DES “Green Yard” standards, the DES is looking at the possibility of expanding the regulations. The volume of cars parked at the Copart lot over the year presents a greater risk of groundwater contamination than a regular lot. DES Pierce Rigrog could see that Copart could be of concern but he can’t say unless they come out and look. The concern is that it is a permeable surface and that it is big. We need an engineer who understands hydrology to tell us how it affects the aquifer.

Member Roman asked if we had heard back from the groundwater engineer in regards to a study to help us determine whether or not a monitoring system is needed. They provided costs of the wells but we need the other information. Chairman Rauth said no.

Chairman Rauth asked, do members think this is a worthwhile endeavor for the Town to undertake? She feels it comes down to whether or not we want these studies conducted and whether we want to ask Copart to pay for them. She feels site plan review is a good opportunity for us to take action on these issues. Should the Planning Board be responsible for making these requests or should the Select Board? Bart told us we have the authority to do it. Chairman Rauth asked if we could formulate the questions we have for Attorney Mayer today. Member Roman expressed she feels these studies are worthwhile and that safety issues exist. It is better to go to the Town with a study that says which routes are more safe than others.

Member Buckley asked how enforcement of a designated “safer route” would be accomplished? Member Roman said we ask them to enforce their own trucks they have control over. Member Rauth said the Copart manager says he tells the customers which route to take if they call in advance, but Copart could do more, i.e., put the recommended route on their website.

Member Fanjoy made the point that unless a road is posted “No Thru Trucking” or is posted with a weight limit, then the Police could enforce the route. The restriction applies to all vehicles, not just Copart. He stated if Gerrish and Bashan Hollow Roads were posted for “No Thru Trucking,” the Town would then have to look at all the dirt roads in a similar situation.

Member Roman said we need more than a “casual agreement” with Copart in terms of the preferred route and the enforcement would be at least relevant to their own trucks. Member Roman feels that Bashan Hollow and Gerrish should not be

used. Member Buckley said that could be accomplished with a “No Thru Trucking” posting.

“No Thru Trucking” will affect all heavy trucks going on those roads. Member Fanjoy said we would have to look at all the roads and all the trucks. Member Roman made the point that if we say, we know we have a safety issue here. But we could have safety issues all over, so we don’t do anything. Member Buckley agreed.

The Board discussed approving the site plan conditioned upon the conduct of a traffic safety road study. Do we do it as the Planning Board and put it as a condition that they don’t use that road? Or do we recommend to the Select Board that they do it? This is the Planning Board’s chance to do it. Member Roman is happy that we have a site plan on record if there is no further action. Her preference on road integrity (i.e., wear and tear on the road) is to have the Select Board handle it. As to recommendations for safety (signage, turn offs, broader roads, routes), she would like to leave that to the engineers.

She would like to approve the site plan with the conditions of doing the study and they follow the study recommendations. Are we entitled to keep the site plan process open? The Select Board may take up the enforcement since licensing statute requires businesses to be in compliance with the town laws. The Board agreed to confirm with Attorney Mayer that we have the authority to put conditions on the site plan review.

Chairperson Rauth summarized the discussion: a road study would be conducted; the Select Board would require Copart to follow the results of the study as part of the junkyard license process.

Member Buckley suggested the road study must only focus to Copart routes . Member Roman clarified that the engineering proposal as submitted focuses only on Copart routes.

Chairperson Rauth clarified that the study presented by CNHRPC would focus on looking at the condition of the roads and it would be a long range repair and maintenance plan that would go into the Capital Improvement Plan (CIP). It could be related to the impact of heavy trucks but it’s not the same study.

The engineering study relates to the traffic safety, turning radius, etc. It isn’t about the condition of the roads but is a highway safety study. We can make that point to the engineers. Member Roman said it would be great to work with CNHRPC and the Select Board could consult with the Planning Board. But the engineering study will be limited to safety issues.

Member Buckley asked, what happens if the conclusion of the study is that there are no safe routes unless the Town undertakes costly roadway engineering

changes? Member Roman suggested that she would like to require the study. She thinks there will be a “preferred route,” they won’t all be equally unsafe. Member Buckley suggested we need to be careful to ask Copart to pay for the study and they have to live with the study results. Member Roman said we could make the decision subject to final decision of the Select Board, under the licensing statute. Chairman Rauth said we aren’t saying Copart is going to pay for fixing everything, we want to designate the safest route.

The Board discussed that if Town procedures for a new business were followed in the first place, there might have been a designated “truck route.” Member Roman said that Copart operations now represent an expanded use with a greater impact on traffic safety. The Board agreed that the proposal and recommendations will have more validity for Copart and for the townspeople if they are completed by an outside engineering firm.

The Board discussed Member Buckley’s approach to voting on the site plan. He said he feels good about the direction we are taking. He said he feels differently about conducting the site plan review, as he has stated at past meetings. Member Roman pointed out it is all the same question: a site plan approval with conditions. Voting “no” substantively to the site plan application is different from whether or not we should have a site plan review: voting no would mean they aren’t allowed to operate under any circumstances.

The Board agreed to vote on the proposal at our regular meeting. Questions for Attorney Mayer will include the proposal that the Planning Board would vote on the site plan with the following conditions: that the road study is conducted by a contracted engineering firm and Copart would be subject to the Select Board decision related to study results. The study would focus on the safety of the routes for trucks.

The Board then switched to discussing the proposed groundwater monitoring at Copart. Member Buckley questioned if the Board has the authority to perform unannounced inspections. Member Roman suggested that monitoring wells are an objective way to monitor whether fluids are going into the aquifer. The Board agreed to check with Attorney Mayer about our right to conduct unannounced inspections. Member Fanjoy discussed that fire inspections are announced in advance and can’t be conducted without a warrant. Chairperson Rauth suggested and Member Fanjoy confirmed that DES inspections are announced in advance and are done when there is a problem or a citizen complaint.

Member Roman suggested that the regulatory framework for the Town is different from the regulatory framework for the State. She suggested we ask Attorney Mayer to review our town Groundwater Protection Ordinance. She sees we may need to bolster our regulations a bit since it was designed with the DES regulatory scheme. The hydrology engineers said they don’t act without a

precipitating event within a State regulatory framework. But this is a Town regulatory framework.

Member Roman suggested we ask the groundwater engineers for the costs of a study proposal to conduct a site visit to offer advice on whether or not we need monitoring wells. The engineers have submitted cost information about putting in wells but we would like the costs to conduct a study to determine if the circumstances warrant groundwater testing; the number of wells, where would they be located, etc. It would be a parallel track to the road safety: road study with recommendations; hydrology study with recommendations. The results go to the Select Board and they make the final decisions.

Member Fanjoy agrees that the Copart traffic has increased from what Larry Stripling discussed. He feels that Copart should be required to do the study. It is not a subjective approach but a professional one. The study will validate our recommendations for Copart and for inquiries from the public. The enforcement of the results may have difficulties but it is better to have it as a condition of the site plan and then ordered by the Select Board as part of the license process so we can review it with Copart every year.

Member Fanjoy said he still has concerns about enforcement. The Board agreed to ask Attorney Mayer how the enforcement of a designated “safer truck route” will be handled. The Board agreed to clarify with Attorney Mayer how the funds are put into escrow for Town use for the study. The Board will seek clarification on the best approach to require the traffic safety and groundwater studies: the studies could be incorporated into the site plan review as a condition of approval or the studies could be recommended for action by the Planning Board to the Select Board. The Select Board can request the funds for the studies. Alternatively, the monitoring could be treated as a condition of the annual junkyard license process.

The Board then talked about the CNHRPC proposal to study road conditions. Chairperson Rauth explained that the RSMS is a data driven approach to catalog all the roads in town; assess the condition of the roads; identify the maintenance options; prioritize the project; develop the CIP with funding requirements. Member Fanjoy outlined various approaches that have been recently discussed, including the UNH study; the current approach of working with the road agent to develop a list; findings of the Hazardous Mitigation committee; and other information collected in collaboration with the State DOT representatives.

Member Roman questioned the Planning Board’s authority over a road integrity study. It was explained that the Planning Board is responsible for writing the Town CIP and therefore would coordinate this type of study. No decision was made about pursuing the CNHRPC RSMS study, at this time.

The Board members then briefly discussed the draft driveway regulations. Member Buckley presented proposed text to regulate driveways on Class V and private roads. Member Roman noted that this text did not encompass all of the circumstances covered by NH RSA Sec. 674:41. Member Buckley agreed to revise his proposal accordingly.

The question of regulating the driveway features in the interior of the lot (as opposed to regulating the driveway **only** where it meets the road) was discussed. That question will be presented to Attorney Mayer.

The meeting was adjourned at 9:05 a.m.

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