

Town Of Islesboro
Board of Selectmen- Regular Meeting
Wednesday, December 4, 2013
@ 6:15 PM
Town Office Meeting Room

MINUTES

Members present: Chair Arch Gillies, Sandra Oliver, Jay T. Zlotkowski, Fred Rollins, Craig Olson

Others Present: Janet Anderson- Town Manager, David Paul, Pam Grindle, Maggy Wilcox, CEO William Boardman, Robert Gerber, Steve Miller, Attorney Robert Crawford

The meeting was called to order at 6:15 PM, and a quorum was established.

MOTION by C. Olson to approve the minutes of November 20, 2013 as written. F. Rollins seconded the motion and it passed 5-0.

PUBLIC HEARING

MOTION BY C. Olson to go into Public Hearing to consider the Automobile Graveyard/ Junkyard Application of Pam Grindle and David Paul. F. Rollins seconded the motion and it passed 5-0.

Public Hearing began at 6:16 PM.

- A. Gillies established the order of comment as follows:
- 1) Applicant
 - 2) Abutters
 - 3) Town Officials
 - 4) Public Comment
 - 5) Board of Selectmen

1) APPLICANTS - DAVID PAUL AND PAM GRINDLE

David Paul commented that the papers he was just handed at this meeting were ones that he had not seen before, and questioned the content, specifically setback distances which he disagreed with.

J. Anderson explained to D. Paul that the materials given to him were references for the Board of Selectmen to use during the Public Hearing. David Paul also said that the letter he had previously submitted to the Board of Selectmen was not intended as his final response.

2) ABUTTERS

Attorney Steve Crawford and Robert Gerber of Ranson Engineering represent abutter, Maine Road Property Trust. *Attorney Crawford* reviewed the history of the application and outlined his concerns. They are as follows:

- Junkyard site is still 99' from the wetland
- A significant portion, approximately 30%, of the proposed site lies within a floodplain.
- Frustrated with applicants lack of attempt to address the points of concern that both Robert

Gerber and he presented at one of the original hearings, and ones which were then adopted by the Board of Selectmen as conditions/standards that they asked the applicant to address.

- Applicants have the burden of proof that they have the competency to run a facility in such a manner that it doesn't pose a problem or an environmental threat and he feels they have not demonstrated same.
- The topography and the soils type of this site lends itself to run-off into sensitive wetlands
- Significant chance that fluids will leak from old or damaged vehicles
- Applicants have no response plan in case of spill or leakage.
- Applicants have not demonstrated their understanding of the measures necessary to operate this junkyard in a safe manner.
- Why are you approving an area in a floodplain that does not allow vehicles if they are wet.
- Refrigerants, batteries, mercury switches will be part of vehicles arriving on that site and are substances for concern and there is no plan to deal with these.
- DEP stormwater permit has not been obtained.
- No assurance from the applicants that they will operate this business in a safe manner.

Robert Gerber added the following concerns to those listed above:

- Junkyards historically are a source of contamination
- Applicant did not make an effort to utilize the sample plan and operating standards that he and Mr. Crawford provided back in August.
- If fluids are not removed, they will most likely leak out of old/rusty vehicles
- For the applicants to say "I will comply" is not satisfactory.
- No evidence the applicants are able, willing or understand what goes into running this type of business.
- Access road should be widened or better road base material be put down to upgrade the wet/rutty road.
- Concerned that there are no provisions for storing or handling the tires.
- Leaking batteries will create a small hazardous waste situation, batteries should be taken out of the car and handled properly.

3) TOWN OFFICIALS

Bill Boardman, CEO, if the application were approved there does need to be provisions for the batteries and the tires. He admitted that J. Anderson had been asking that he move the 99' marker back to meet the 100' setback, but he was waiting first to see if the application got approved. Bill also reported that Earl Townsend, D.E.P. e-mailed him about the stormwater permit stating that it was not necessary because this site was small enough not to require same.

Janet Anderson, Town Manager, reported that she spoke with Murton Durkee, Islesboro Fire Chief, about the road and he said that the width of the road is adequate for a fire truck but he did not address the soils or the road condition.

Craig Olson asked Bill Boardman if inspections could be done twice a year as opposed to annually, to which Mr. Boardman replied that he is going to begin doing inspections twice a year with an updated and revised checklist.

4) PUBLIC COMMENT

Steve Miller, Chairman of the Groundwater Protection Committee, prepared the following statement which he read to the Board of Selectmen on behalf of the Groundwater Protection Committee:

The Town of Islesboro's Comprehensive Plan in 1994 recommended a hydrogeological study and groundwater resource evaluation of Islesboro. Issued in 1995, that report said that, in order to preserve both quantity and quality of the island groundwater supply:

"We recommend that the Town adopt an attitude or philosophy of self-sufficiency as an initiative for balancing economic needs with both the health risks and remediation costs associated with the degradation of ground water resources. Recharge to ground water occurs entirely from precipitation within the island's boundaries. The Town is responsible for balancing resource protection with other Town land use needs. Today, land use needs such as economic growth conflict with ground water resource protection. However, if abused over a period of time, ground water resource protection will become an economic liability unless the Town honors self-sufficiency. If the Town wishes to maintain very high ground water quality with essentially no additional degradation in quality, then controls must be justifiably strict. Extreme caution should be used when siting and containing petroleum storage facilities since any leak would contaminate a large portion of the Town's aquifer." (Islesboro Ground Water Resource Evaluation, August 1995)

In 1998, an Ad hoc Groundwater Protection Committee (GWPC) began an island-wide water well monitoring program and in 1999 applied for and Islesboro received EPA designation as a "Sole Source Aquifer."

On April 29, 2000, the Town of Islesboro adopted the Groundwater Protection Ordinance that made the GWPC a standing town committee.

Fast forward to December 19, 2012 when the Board of Selectmen asked the GWPC to review the application for an automobile junkyard from David Paul and Pamela Grindle and determine whether it might affect Islesboro groundwater.

In our reply, we said:

"The auto salvage business provides a vital Islesboro service and is an important example of recycling and reuse. The dismantling of vehicles for reusable parts and fluids, and the sale of remaining materials as scrap, manages waste effectively and helps keep older vehicles running longer. However, if not conducted properly, vehicle salvage and storage can result in serious, negative impacts to groundwater and other environmental resources."

The GWPC reviewed applicable Maine law and salvage yard "best management practices" from Florida, Iowa, New Hampshire, Rhode Island, Vermont and elsewhere. In order to protect the island's sole source aquifer, we recommended that local junkyards, including the auto salvage area proposed by Mr. Paul, be required to follow these best management protocols:

Institute a self-audit program, including a workbook and self-audit checklist, to help auto-recycling owners evaluate environmental compliance. Owners should then monitor their salvage yards regularly and record the date and any relevant observations and actions.

Upon arrival, log vehicles in salvage yards. Islesboro CEO should inspect yards at least once annually. Only vehicles introduced during the preceding 12 months need inspection.

On arrival of incoming, end-of-life vehicles, check for fluid leaks—stop leaks or use drip pans to avoid leaking on the ground.

Drain fluids and dismantle vehicles only over a concrete or other impervious surface,

preferably under cover to protect it from precipitation and storm water runoff.

Before moving incoming vehicles to storage, remove fluids such as fuel, motor oil, antifreeze, transmission fluid, and brake and power steering fluid only over a concrete or other impervious surface, preferably under cover to protect it from precipitation and storm water runoff. Do not remove fluids over bare ground.

Store fluids in properly labeled, protected and closed containers without leaks or defects in a fire-safe manner.

Maintain proper spill control measures and secondary containment for all fluids as required.

5) BOARD OF SELECTMEN

Craig Olson asked B. Boardman if he thought a layer of gravel is necessary at the site.

Mr. Boardman said not necessarily, but the applicants do need a spill prevention program/plan.

Arch Gillies said the BOS need to vote on the current application as it stands now.

The setback distance of 99' is not in compliance. The site is in a sensitive and in close proximity to Mill Creek. **Steve Miller** added, in conjunction with Mr. Gillie's statement, that the Mill Creek area is considered a highly sensitive area with significant development constraints. **Robert Gerber** also added that the site is low lying, the soils are primarily clay and there are wetlands scattered throughout which lends itself to concern of run off with the stream/brook in such close proximity. **Arch Gillies** said there is interest in future economic development of tidal fishing in the Mill Creek area.

Arch Gillies said that what is most troubling to him is that the BOS and the abutters have requested adherence to a set of conditions that the applicant refused to comply with.

MOTION BY CRAIG OLSON to go out of Public Hearing. F. Rollins seconded the motion and it passed 5-0. Time out of Public Hearing 7:19 PM.

MOTION BY CRAIG OLSON to review the automobile junkyard/graveyard application of David Paul and Pam Grindle. F. Rollins seconded the motion and it passed 5-0.

The Board of Selectmen reviewed each section of Maine Statute 30-A MRSA, §3754 Review/comment/and motions for each section are as follows.

§3754-A: Have the applicants demonstrated that the proposed junkyard/auto graveyard is located at least 600' off the highway? The BOS agree that the distance is approximately 545'.

§3754-A (1): Have the applicants demonstrated that the proposed junkyard/auto graveyard will be screened if necessary? The BOS agree that the site is not visible from Main Road at this time.

MOTION by C. Olson that the applicant meet the criteria in Section 3754-A. F. Rollins seconded the motion and it passed 5 - 0.

§3754-A(3): Have the applicants demonstrated that the proposed junkyard/auto graveyard is not located within 300' of a public building..... etc? The BOS agree that there has been testimony provided that demonstrates that there are no buildings as such within 300' of the site.

MOTION by C. Olson that the applicant meets the criteria in §3754-A(3). F. Rollins seconded the motion and it passed 5 -0.

§3754-A(4): Have the applicants demonstrated that the proposed junkyard/auto graveyard is not located within 300' of a well that serves as a public or private water supply? (Does not include the owner's abutting residence). The BOS agree that testimony provided demonstrates that there are no public or private water supplies, other than that of the owner's, that are within 300' of the proposed site.

MOTION by C. Olson that the applicant meets the criteria of §3754-A(4). F. Rollins seconded the motion and it passed 5-0.

§3754-A(5) (A): Have the applicants demonstrated how the proposed junkyard/auto graveyard will handle all fluids in such a manner that the fluids do not leak, flow or discharge into or onto the ground or into a body of water? F. Rollins felt that as the applicants stated they would follow the statute, and that the town has a CEO that will followup and monitor the junkyard, the applicants have met this criteria. A. Gillies said that the applicants have not demonstrated how they would handle the fluids. The applicant's only response has been in their undated, unsigned letter received November 6th in which they state: "Moot, as vehicles will be sent for dismantling and crushing "wet".

MOTION BY C. OLSON that the applicant meets the criteria of §3754-A(5) (A). F. Rollins seconded the motion. Vote 4 - No, 1 Yes (Fred Rollins) Motion does not pass.

§3754-A(5) (B) (1) Have the applicants demonstrated that, in dealing with a vehicle containing fluids, that such a vehicle will not be stored or dismantled within 100' of any body of water or freshwater wetland? The BOS agreed that what is before them at this time is a 99' setback which does not meet the criteria.

MOTION BY C. OLSON that the applicant meets the criteria of §3754-A(5) (B) (1). F. Rollins seconded the motion. Vote 5 No. Motion does not pass.

§3754-A(5) (B) (2): Have the applicants demonstrated that, in dealing with a vehicle containing fluids, that such a vehicle will not be stored or dismantled within the 100-year floodplain? The Board of Selectmen, based on the evidence presented, (maps, testimony, letters), that the vehicles will be in the 100 year floodplain.

MOTION BY C. OLSON that the applicant meets the criteria of §3754-A(5) (B) (2). Motion is seconded by F. Rollins. Vote 5 no, 0 yes. Motion does not pass.

§3754-A(5) (B) (3): Have the applicants demonstrated that, in dealing with a vehicle containing fluids, that such a vehicle will not be stored or dismantled over a mapped sand and gravel aquifer? Based on the evidence provided, the BOS do not feel vehicles are over a mapped sand or gravel aquifer.

MOTION BY C. OLSON THAT THE APPLICANT MEETS THE CRITERIA OF §3754-A(5) (B) (3). F. Rollins seconded the motion and it passed 5-yes, 0 no.

§3754-A(5) (C): Have the applicants demonstrated that they will not be placing junk, scrap metal, vehicles or other solid waste in to the inland waters, or tidal waters of the State or on the ice of inland waters or tidal waters in such a manner that they may fall or be washed into these waters? The BOS determined that this condition is not applicable to this application.

MOTION BY C. OLSON THAT THE APPLICANT MEETS THE CRITERIA OF §3754-A(5) (C)F. Rollins seconded the motion and it passed 5-0.

§3754-A(5) (D): Have the applicants demonstrated that, at the time of licensing, the facility for which they seek permits is, or is part of, a viable business entity and the facility is actively engaged in the business of salvaging, recycling, dismantling, etc junk or vehicles for the purpose of sale or trade? The BOS determined that as this applicant is in the start-up phase of a business, that they have met the criteria of this section.

MOTION BY C. OLSON THAT THE APPLICANT MEETS THE CRITERIA OF §3754-A(5) (D). F. Rollins seconded the motion and it passed 5-0.

§3754-A(5) (E): Have the applicants demonstrated that they have the ability and willingness to maintain throughout the term of the permit a log of all motor vehicles handled that includes the date each vehicle was acquired, a copy of that vehicle's title or bill of sale and the date or dates upon which all fluids, refrigerants, etc, were removed?

The Board agrees that the applicant will maintain a log as they have stated such in their application material.

MOTION BY C. OLSON THAT THE APPLICANT MEETS THE CRITERIA OF §3754-A(5) (E). F. Rollins seconded the motion and it passed 5-0.

§3754-A(5) (F): Have the applicants demonstrated that all fluids, refrigerants, batteries and mercury switches will be moved from motor vehicles that lack engines or other motor power or that are otherwise incapable of being driven under their own motor power, appliance an other items acquired by and on the premises of a junkyard or automobile graveyard prior to October 1, 2005 must have all fluids, refrigerant, batteries and mercury switches removed by January 1, 2007? The BOS believe, based on the applicant's letters and testimony, that they have not demonstrated their willingness to remove the fluids prior to placement at junkyard site.

MOTION BY C. OLSON THAT THE APPLICANT MEETS THE CRITERIA OF §3754-A(5) (F). F. Rollins seconded the motion. Vote 5 - no, 0 - yes. Motion does not pass.

§3754-A(5) (G): Have the applicants demonstrated that their storage, recycling or disposal of all fluids, refrigerant, batteries and mercury switches will comply with all applicable federal and state laws, rules and regulations? The BOS, based on applicant's letters and testimony, believe that they have not demonstrated that they will store, etc all fluids, etc. in a manner to comply with federal, state laws, rules and regulations.

MOTION BY C. OLSON THAT THE APPLICANT MEETS THE CRITERIA OF §3754-A(5) (G). F. Rollins seconded the motion. Vote 5 - no, 0 - yes. Motion does not pass.

§3754-A(5) (H): Have the applicants demonstrated that all fluids, refrigerants, batteries and mercury switches will be removed from the motor vehicles, appliances and other items before crushing or shredding? The BOS believe, based on the applicants letters and testimony, that they have not demonstrated that they will remove the items mentioned above before crushing or shedding.

MOTION BY C. OLSON THAT THE APPLICANT MEETS THE CRITERIA OF §3754-A(5) (H). F. Rollins seconded the motion. Vote 5 - no, 0 - yes. Motion does not pass.

§3754-A, (6-A) (A): Have the applicants demonstrated that a notice of intent has been filed with the DEP to comply with the general permit provisions for storm water discharges?

The BOS believe, based on testimony by the CEO, that DEP was notified regarding the storm water permit.

MOTION BY C. OLSON THAT THE APPLICANT MEETS THE CRITERIA OF §3754-A (6-A) (A). F. Rollins seconded the motion. Motion passes 5-0.

§3754-A (6-A) (B): Alternatively, have the applicants demonstrated that the DEP has determined that a storm water discharge permit is not required?

Based on testimony by the CEO, the BOS are in agreement that the DEP does not require a storm water permit for this project.

BY C. OLSON THAT THE APPLICANT MEETS THE CRITERIA OF §3754-A (6-A) (B). F. Rollins seconded the motion. MOTION passes 5-0.

§3754-A (7) Has the applicant complied with all applicable local ordinances?

The BOS believe the applicant has complied with this regulation in as much as it pertains to them, and further realize that if the applicant were to go to the Planning Board for a change of use permit, they would at that time need to follow the Development Review and Land Use Ordinances.

BY C. OLSON THAT THE APPLICANT MEETS THE CRITERIA OF §3754-A (7). F. Rollins

seconded the motion. MOTION passes 5-0.

MOTION BY CRAIG OLSON, THAT BASED ON THE FACT THAT AT LEAST ONE OF THE CRITERIA LISTED ABOVE IS NOT IN COMPLIANCE THAT THE APPLICATION OF DAVID PAUL AND PAM GRINDLE FOR AN AUTOMOBILE JUNKYARD/GRAVEYARD BE DENIED. F. ROLLINS SECONDED THE MOTION AND IT PASSED 5-0.

The BOS scheduled a special BOS meeting for December 11, 2013 at 6:15 PM to review and move the Findings of Fact for this application.

TOWN MANAGER REPORT

The following items were discussed and reviewed:

- 1) Will Aldrich has evaluated the soils at the old State lot and has found it suitable for a septic system. This is a possible site for a North Fire Substation.
- 2) November Expense and Revenues
- 3) DRC draft minutes of 11/21/13
- 4) Article "Scarborough Disagrees with FEMA Maps"
Arch would like to have Peter Slovinsky, a marine geologist from Maine Geologic Survey, be invited to speak on Islesboro regarding the new flood plain designations and preparations that towns can take to address the rising waters. Bill Boardman mentioned that the town has to budget for technical help in both the interpretation and perhaps accuracy of the new flood plain maps.

WARRANT #12, FY 14

MOTION BY C. OLSON TO APPROVE WARRANT #12, IN THE AMOUNT OF \$165,833.64.

Town Payroll	\$	45,697.08
Town Payables	\$	44,807.99
Health Center Payables	\$	12,579.01
Dark Harbor Wastewater	\$	59.69
School Payroll	\$	48,704.78
School Payables	\$	13,985.09

Total:\$ 164,833.64

MOTION BY C. OLSON TO GO INTO EXECUTIVE SESSION PURUSANT TO 1 MRSA, SS 405 (6) (F) AND 25 mrsa SS 2006 TO CONSIDER RENEWING CONCEALED WEAPON PERMIT APPLICATIONS #2013 1-7. F. ROLLINS SECONDED THE MOTION AND IT PASSEDF 5-0. Time in: 8:51 PM.

MOTION BY F. ROLLINS, SECONDED BY C. OLSON TO EXIT EXECUTIVE SESSION. MOTION PASSED 5-0. Time out: 8:53 PM

MOTION BY F. ROLLINS TO APPROVE CONCEALED WEAPON PERMITS #2013-1 THROUGH PERMIT #2013-7. Motion seconded by Jay Zlotkowski. Motion passed 4 yes, 1 no (Sandy Oliver).

Meeting adjourned at 8:58 PM

Respectfully submitted,

Peggy Pike
Secretary to the Board of Selectmen (Regular Meeting Minutes)

Janet Anderson
(Executive Session minutes)

