

**Town of Shaftsbury  
Special Meeting  
Public Hearing  
Application for Certificate of Approved Location  
Brownell's Salvage Yard  
6:30 PM  
Monday, July 11, 2016  
Cole Hall, 61 Buck Hill Road, Shaftsbury**

**DRAFT**

**Selectboard Members Present:** Tim Scoggins (Chair), Mitch Race, Tony Krulikowski, Ken Harrington

**Selectboard Member Absent:** Art Whitman,

**TA Present:** David Kiernan

**Others Present:** Bill Brownell, Paul Miller, Deana Ruge

**1. Call to Order**

Tim Scoggins (Chair) called the meeting to order at 6:30PM.

**2. Conflict of Interest Statement**

NONE

**3. Public Hearing for Certificate of Approved Location**

Tim Scoggins explained that in the process of renewing Brownell's Certificate of Approved Location, the Board has reviewed both a Court Order from 2004 and a Town Stipulation regarding the salvage yard and must determine what can and cannot change regarding the conditions of operation for the yard.

David Kiernan gave some brief history on the matter by stating that the Certificate had last been approved by the Town in 2012. Mr. Kiernan stated that all conditions of the Court Order were still in place and Brownell's must meet those requirements, which are incorporated by reference in the Town's agreement. Mr. Kiernan pointed out that some requirements are no longer applicable or, if the conditions are strictly Town-related, may be amended.

Paul Miller, a local hydrogeologist, informed the Board that he had performed groundwater monitoring at the site and had collected samples of water and soil from the site under the guidance of the State Wastewater and Site Management Department. Mr. Miller said that he last submitted a site investigation report in July of 2013. Soon after, the State, through the Department of Environmental Conservation (DEC), issued a

“SMAC” letter stating that no further investigation was needed at the Town level. Mr. Miller said that this was largely due to Mr. Brownell’s decision to move the vehicle-crushing operation off-site to a location in North Hoosick, NY.

Tim Scoggins asked what State oversight is still required for Brownell’s and Paul Miller replied that site-salvage monitoring is mandated by the State.

David Kiernan then addressed the Town’s current conditions of operation under the original stipulation:

Items #1 and #2 regarding approval of location conditions are covered by the DEC letter.

Item #3 concerning the need for a surface trap raised issues during a site visit by David Kiernan, Art Whitman and Ken Harrington prior to the hearing. Paul Miller stated that a natural swale directs water runoff to a trap. David Kiernan asked if this area was tested and Mr. Miller replied that as long as the trap was “percolating”, Stormwater Management approved. Mr. Kiernan asked how frequently this trap was investigated and Mr. Miller said it had been examined annually.

Item #4 requires an operating license to be in place. This is complete.

Item #5 requires all dead trees to have been removed. This is complete.

Item #6 requires trees along the fence line. It was pointed out by those who had visited the site and Mr. Brownell that it was difficult to grow trees in parts near the fenceline. It was pointed out, however, that this was a condition ordered by the Court and cannot be changed by the Board. A provision in the Town stipulation required the plantings be made under the supervision of the Town tree warden, and Mr. Kiernan suggested that this could be made an optional condition. The Court will have to change any further language regarding the planting of arbor vitae. It was determined that any dead trees will need to be replaced.

Item #7 requires the yard to keep all vehicle parts within the fence and not piled above the fenceline, or otherwise visible from the road.

Item #8 requires all material topping the fenceline to be removed. This has been completed.

Item #9 is a Court-ordered condition.

Item #10 requires that the gate be closed at all times except for moving vehicles in and out of the property. This item is something that the owner is working on.

Item #11 is a Court-ordered condition and regards volume of business (and has been left in place for any future resumption of car-crushing on site).

Item #12 requires the Cook property be in good order and no vehicles be sold from this location. There was some discussion regarding this condition and the definition of the former Cook property. It was determined this condition was being fulfilled.

Item #13 concerned hours of operation when the site was used for crushing cars.

Item #14 requires no stacking of cars or parts above top of fence. No increase to height of fence without Town approval.

Item #15 again regards surface trap. Mr. Miller agrees that this part of the annual testing that was required by the State and is now covered under the DEC report of 2013.

Item #16 requires “No Smoking” signs on the exterior of the property. This will be addressed.

Items #17 and #18 are not guided by the Court and state that there is no parking of vehicles in front of the fence facing White Creek Road. This condition would effectively end Mr. Brownell’s used car business, which has been conducted at the property for decades. Mr. Kiernan said that this was a condition that the Board can address.

Item #19 appears to contradict #17 and Mr. Kiernan recommended deleting Item #17 altogether.

Item #20 regards a date change.

Item #21 requires that the yard operate within all applicable State environmental laws and regulations.

David Kiernan then reviewed the Court Order from 2004 with the Board, highlighting the following points:

- Junk in the yard needs to be within enclosure
- No pile above fence
- Comply with all applicable environmental laws and regulations.
- No cars on Cook property

David Kiernan stated that the requirements of the Order still need to be followed and no violations were noted at the site inspection. Mr. Kiernan went on to say that the oversight by DEC covers some of the conditions. Paul Miller stated that a State inspector visits all salvage yards within the State. Tim Scoggins asked if the State is thorough in their inspections. Paul Miller stated that the State representative does inspections of the Bennington County salvage properties. Ken Harrington asked if a report is issued if deficiencies are found and Mr. Miller confirmed. Mr. Miller said that the program has been improved under DEC, as site inspections were not conducted when the yards were being overseen by the Department of Motor Vehicles. Bill Brownell confirmed that any reports or letters regarding problems are sent to the Town.

Tim Scoggins asked Bill Brownell and Paul Miller for any further comments. Mr. Miller said that the yard has come a long way since the original Court Order. Mr. Scoggins then asked the public for comments. There were none. Mr. Scoggins concluded taking testimony and asked for recommendations from the Inspection Committee.

David Kiernan advised going into Executive Session for review and then presenting a recommendation to the Board for signature after attorney review. Tim Scoggins questioned why an Executive Session was needed. Mr. Kiernan said that the Board could dispense with that formality if they wished to do so.

Mr. Kiernan recommended removing Items #1, 2, 3 and 15 as they are no longer valid due to the DEC report of 2013 and Mr. Miller's mandated State annual testing. Mr. Kiernan advised that Items #4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 16, 19, 20, 21 should be kept as mandated by Court or if car-crushing resumes on premise. Mr. Kiernan recommended Item #12 regarding the Cook property should be withdrawn. Mr. Kiernan also advised that as long as the used cars for sale are not on the former Cook property, Items # 17 and 18 should be eliminated.

Tim Scoggins asked for feedback regarding the recommendations as he believed that they should be pursued. Tony Krulikowski agreed. David Kiernan said that he would edit the stipulation and send it to the Town attorney for review and then present it to the Board for signature. Mr. Scoggins suggested that the stipulation also include a new set of findings, considering the current conditions of the property. Ken Harrington asked about setting a time-frame for the next review of the conditions. Mr. Kiernan said that the Board can pick a period of one (1) to five (5) years before the next hearing. A five year renewal period was chosen.

43 m 29 s

#### **4. Public Comments**

Deanna Ruge came before the Board to address road conditions on Bennett Hill Road, stating that the recent rainfall had created deep crevices in the road. Mrs. Ruge wanted the Board to know that she and her husband appreciated the grading work that had been done to correct the issues and especially appreciated the attention to detail that had been made by the road crew to restore the condition of the roadway.

#### **5. KAS Contract Date Amendment (Expiration Date Change) – Sidewalk to be put out to bid July 11, 2016**

David Kiernan asked the Board to resign an amendment that they had first approved in October 2015. The amendment extends the contract period to August 31, 2016.

Motion: Mitch Raced moved to extend the contract with KAS to August 31, 2016. Tony Krulikowski seconded.

4-0-0 Motion approved.

Mr. Kiernan then presented another amendment to the Board to extend the date of completion for work further to June 30, 2017.

Motion: Mitch Race moved to extend the contract with KAS to June 30, 2017. Tony Krulikowski seconded.

4-0-0 Motion approved.

**6. Grant Signing East Road Paving FY17**

Mr. Kiernan presented a grant from the State Transportation Fund for \$124,982.69 for the East Road paving job. The Town will match this amount by 20%.

Motion: Mitch Race moved to approve the grant agreement with the State for \$124,982.69 for the East Road paving project. Tony Krulikowski seconded.

4-0-0 Motion approved.

**7. Adjournment**

Motion: Mitch Race moved to adjourn at 7:22PM. Ken Harrington seconded.

4-0-0 Motion approved.