

## **Questions from Board Chairman Gerry Creme And the Schools Attorney**

### **Specific answers to questions**

Raised in a letter written by BOE Gerard Creme on Oct 17, 2022, as well as the letter dated Nov 14 from the Shipman and Goodwin Law firm regarding the construction of the community center. It also answers questions raised in a third request by Superintendent Bruneau.

- 1. Question: Have the Plans been superimposed to note town Vs School Property?**
  - a. Yes -After the survey that info was provided to the BOE.
- 2. Appropriate environmental assessment of the Construction site to assess possible contamination and related construction issues.**
  - a. The Board of Education should have conducted Phase 1 environmental reviews for the Preschool Playground addition, addition of 4 new classrooms, and for the outdoor classroom. Since the letter cited CGA section 10-291, and concerns the town presumes that the school has done multiple Phase 1's in the past for AES projects. Since Phase 1 reviews cover a wide geographic area of review, (depending on specifics between ¼ and 1 mile radius around the proposed site) If there were specific areas of concern based on the results of the previous ESA's, the town is unaware of them.
  - b. Other than the potential for the schools inground oil tanks leaking, the town does not know of any specific concerns and has no reason to conduct its own Phase 1, nor are we legally obligated to do so. To our knowledge this area has never had industrial or commercial uses and we already own the properties so there is little reason to consider a Phase 1 ESA
- 3. Debris and Soil Management**
  - a. At this point, the town does not have a final staging plan from the builder, however all materials will be stockpiled in the locations indicated on the mapping. The town will of course comply with town ordinance 01-04 regarding on site dumpsters during construction as well as all zoning, state and federal laws regarding soil management.
  - b. The town will also insure all stockpile areas are located wholly on town and not "school" controlled properties.
- 4. Location of the septic system to avoid contamination of drinking water and sprinkler system**
  - a. The septic system that the town will employ already exists, is legally permitted, and has been functional for more than 30 years. The town proposes to expand it by adding about 1/3 additional leaching field capacity.
  - b. The town of Andover paid for a complete system inspection of the system that serves the town hall/ fire dept last year including a cameral inspection of the leaching field and all piping to field verify the locations and conditions.
  - c. Any increase in capacity or new construction must meet state Health Code under the CT Dept of Public Health and will be regulated and approved by Eastern Highlands Health

District. The Approval by Sanitarian Thad King is included. If the school would like to have their own engineer review the application, they may.

- d. Because the towns septic system is located much farther away and in a direct line to the school's Septic system, concerns over drinking water contamination appear unfounded. Any septic effluent would have to travel up gradient, across the Schools leach field and travel approximately 600 ft to the closest AES well, all without being renovated by the soil. Given the soil types present this seems unlikely.
- e. By comparison the schools' septic systems closest leaching trench is within 180 ft of the schools own well. so would be far more likely source of contamination if it were to occur.
- f. If the school has a in ground sprinkler system, the town is unaware of it.

#### **5. Smoking bans**

- a. The community center is not on school property and therefore a school use related smoking ban would not be in effect at that location. However state statute 7-148 makes it clear that the Board of Selectman MAY propose to regulate smoking on town property. They would do so by ordinance. So far the BOS declined to put forth an ordinance regulating smoking or vaping tobacco or cannabis.
- b. State Statue 19a-342 now prohibits it in any building or within 25 ft of any window or door or air intake vent, or on School buildings or grounds, but not on town property in general.
- c. The town's personnel policy does prohibit smoking on town property for employees. Since the State of Connecticut has recently changed the definition of employee to include all members of boards that are elected or appointed, including the Board of Education, it is reasonable to conclude that they also are prohibited from smoking on all town properties.
- d. Town personnel policy excerpt:

*The Town of Andover is dedicated to providing a healthy environment for all staff, town residents and visitors. In order to eliminate the documented health hazards of secondhand smoke and to maintain good air quality in all working environments, smoking is strictly prohibited in all areas of all buildings and grounds owned and managed by the Town of Andover. Smoking includes cigarettes, cigars, pipes, smokeless tobacco, snuff, chew, e-cigarettes, and vapor products. This prohibition includes all work areas or visitor areas, vehicles, corridors, stairwells, restrooms, meeting rooms, and closed offices. If you smoke off site, please ensure that you dispose of your butts and debris in an appropriate receptacle.*

*Smoking is prohibited in all Town vehicles.*

*All employees share the responsibility for adhering to this policy and cooperating in its enforcement. Any concerns should be brought to the attention of the employee's supervisor, the Town Administrator or First Selectman.*

If the Board of Education proposed to the Board of Selectman an ordinance to prohibit smoking on all town properties, and they chose to endorse it, it would have to go to town

meetings as the governing body of the town. Otherwise, the BOE would have to follow the charter regarding petitioning for a town meeting.

## **6. Use of pesticides**

To our knowledge, the town does not use any pesticides or fertilizer on its own properties with the exception of the Veterans Monument and Long Hill Veterans Memorial athletic fields. These applications are by a licensed applicator following a written plan. (this may not hold true for the Library property or Fire Station). The town does not use pesticides on property used by the school. The community center will not be built on property under the authority of the Board of Education and therefore the town has no obligation to abide by 10-231B. However, if the School wishes to share its integrated pest management plan with the town, the town will be accommodate it in future decisions. The town notes that the school has a history of applying pesticides on town property without notifying the board of selectman, not the reverse.

### **Access to the Schools rear area and equipment storage**

- a. The town agrees that the emergency and maintenance access to the rear of the school property shall be maintained during construction and afterwards. This is called out on the plan set and will be part of the review by the fire marshal.

## **7. Liability for the Schoolboard for construction.**

- a. The town is insured through CIRMA and this includes a Builders risk policy with a higher limit than this project entails
- b. The RFP for the design/build contract clearly spelled out the town's requirements for insurance by the contractor and subs. This is publicly available on the town's website. If there are specific concerns with these requirements, the town can address them.
- c. The town currently spends approx. \$113,000 annually in total and assumes all costs related to both Liability and Workers Comp for all town entities including the Board of Education and School. If the BOE is concerned with their own liability related to construction that could be a subject of future discussion between the boards.

### **Additional Questions Posed by Superintendent Bruneau.**

1. Do we have a written timeline as of yet for the build? When ground will break and the area that may affect the school use of our lot and grass area?
  - a. No timeline. We would prefer to begin construction over the summer. But that depends on zoning approval among other things.

2. Will all of our utilities be in tact during the initial dig? do you need us at any point to “ shut anything off” while anything is being dug?
  - a. No AES Utilities will be affected during construction
3. Is there s 3-d drawing yet of the superimposed proposed to scale model?
  - a. Not sure what is being asked for here
4. The model we have on paper was “ missing things” according to Eric like the septic. What else is missing? can we have the complete plant include everything NOT on the map?
  - a. This is not really an accurate statement. No single map will show all the layers and notes. If you turn all the layers on at once in CAD you get an unreadable mess. Collectively the drawings in this application provided has all the plan details and calculations
5. We will need MOUs with the town for many things. First will be the parking and driveways. Is the town going t draw up all MOUs? We will then need them viewed by our attorney. Since this is a town project, it is assumed you will pay for all legal fees going forward pertaining to this build since we don’t have a budget for this, its not ours. Can you please confirm that all MOU expenses will be paid through the town?
  - a. No MOU’s are needed, if they are they will be drafted by the town’s Legal Council if specifically requested by the PZC
  - b. AES has Chosen to spend a lot of money with their attorney at Shipman and Goodwin. If they Chose to have their attorney represent the BOE that is the BOE’s responsibility. The town is not responsible for AES legal costs. The town is likewise not charging the BOE for our extra legal costs incurred when they interceded in the zone change.
6. Are you planning on removing the island with the gazebo or keeping this area...?
  - a. There are no changes for this area anticipated.
7. The town will assume financial responsibility for the parking (lower lot anyway), correct?
  - a. It is an extension of the existing town parking area so the town will continue to maintain it and have financial responsibility for it.
8. Can I meet with CERT and FD to get their advice on a safety and security reroute plan for when our kids are evacuated to the firehouse? Currently we go behind the town hall, I will need to document a new okay to DEHMSS in my fall plan— not a problem but I don’t want to wait until august to plan for this.
  - a. Of course-
9. Can I get a rendering of the full parking lot? Taylor will plan for all schematics for parent pickup/drop off and parking .....for handbook and such...we do this in June-July for the following year.
  - a. The parking area is outlined the survey plan. IF you want a print that shows a blow up of the parking area, that can be arranged.
10. Can you inform the architect and builder please to keep in mind school codes when it comes to materials? I will get lists of things we have to inform families of like pesticides, chemicals and you can forward to them....doesn’t mean they CANNOT use it, means we just have to inform families it’d being used.
  - a. They are both aware they are building next to a school. When we have a full product list for construction, it will be made available to AES.

