

**TOWN OF UNITY, MAINE
PLANNING BOARD MINUTES**

DATE/TIME: Wednesday, January 27th, 2016

COMMITTEE MEMBERS PRESENT: Chia Murdock, Jim Kenney, Jim Porter, Mark Nickerson, Jean Bourg, Sherry Powell-Wilson

COMMITTEE CHAIR: Chia Murdock

COMMITTEE VICE CHAIR: Jim Kenney

SECRETARY: Sherry Powell-Wilson

CODE ENFORCEMENT OFFICER: Charlie Porter

19:00:01: Meeting commenced.

Jim Kenney: Mike is going to join us in a moment but he's requested he has free opportunities to speak tonight.

Chia Murdock: Free or three?

Jim Kenney: Free. He would like to be able to say what he has to say.

Chia Murdock: Okay, so he feels as though he didn't have that in the last meeting?

Jim Kenney: Yes. And so that was why I was called out. He would like to be able to say what he has to say and needs to say. Fully.

Chia Murdock: Well we're going to still conduct the meeting the way we conduct it and when he is given the opportunity to speak, then he may. Sure. Mike?

Chia Murdock: Okay, we will open the meeting...

Mike Rocque: Excuse me. [Mike setting up a tape recorder.]

Sherry Powell-Wilson: Mike, I can record this for you?

Mike Rocque: No, I'll have my own copy. I appreciate it. Test test.

Chia Murdock: So it is three minutes past seven, we will open this Planning Board meeting. Our first order of business is to discuss the Minutes that Sherry prepared for the December meeting. I trust that everyone on the Planning Board has had a chance to review those draft Minutes, and do we have discussion about it?

Jim Kenney: I have read the Minutes and I find that they accurately and fully represent the last discussion.

Chia Murdock: And do I have a motion to approve? Is there any further discussion? [Moved and seconded.] The December 9th Minutes, Sherry, are approved. Thank you very much. And just a note about Minutes as they get approved, I notice there has been something of a lag time in getting them posted on the Town website. Obviously they don't get posted to there immediately in case someone goes there looking for them. They cannot be posted while they are draft. Once they are approved they are free to be posted. With the transition to the new website, that may or may not happen the way it has in the past but we just want everyone in the public to know that you should be able to and soon will be able to go and look at all of the past Minutes that have been approved on the website, whichever one it winds up being. I'd also like to well come our newest board member, Jean Bourg. She has taken over for Matt Curtis who was unable to fulfill the remainder of his term, and Jean's term expires at the end of March in 2016. So welcome Jean. I believe I have one of Debbie King's students here. Is that true? Yes, would you identify yourself?

Katelyn Harlin: Hi, I'm Katelyn Harlin[sp].

Chia Murdock: Welcome. If at any point later, and I'll let you know when, you have a question about our process then I'll give you an opportunity to ask a question about the Planning Board process. Is there anyone here on the Board or among the observers who needs to leave early tonight? Okay. Great. The only application that we have to consider tonight is Mike Rocque's. I do have here, in case anyone has not already seen these, a couple of copies of his application that I can pass around if anyone wishes. Just ignore that it says December 9th. His application hasn't changed so the material is still the same. Do I need to pass these around? Yeah, we passed those around at the last minute but, like I said Mike's application hasn't changed so anyone who hadn't seen it previously I thought we could pass it around. I do see a new face or two here from the last meeting so this is my opportunity to say that at such time that we get to the question and answer point of this meeting, which will be briefer than it was last time, for reasons I will explain, that observers will be given a limited amount of time in this meeting comment but we will not be repeating anything that was commented upon last time, for example, the abutting and adjacent landowners who were here last time expressed concerns about the aquifer and infiltration from runoff, proximity of at least one residential well, threat of fumes from petroleum products for a resident with a serious health concern, light pollution from canopy lighting, noise pollution, traffic safety, that would be egress or access for Vickery Lane, and maintaining the historical character of the Village. Other residents who are not abutting or adjacent property owners expressed concerns about the aquifer, noise pollution, pedestrian and traffic safety, light pollution, the possibility of having to remove a gas station and convenience store in the future in the event that it fails, and how to require the owner to provide for that, perhaps through some kind of bond. So the reason I mention these now is that when we get to that question and answer period, I would ask that you only bring up something totally new or perhaps a new comment on any of these that have already been raised previously. In that way people who have not had a chance to comment before will be able to provide something new to the discussion.

Mike Rocque: May I interrupt?

Jim Kenney: I was going to interrupt first. Mike should be afforded an opportunity.

Chia Murdock: He will be. That's right next...

Jim Kenney: Okay, I'm sorry.

Chia Murdock: Yep, I just needed to...

Mike Rocque: Madam Chairman I object. I'm going to object.

Chia Murdock: You're going to object to...

Mike Rocque: I'm going to object to you allowing the public to speak and I'm going to recite Title 1, MSR, MRSA 401. It's the Maine Freedom of Access Act. It states that the right for the public to speak is based on whether the meeting has been advertised as a public hearing unless a specific local ordinance says otherwise. Now I object to the last meeting based on this law, and I'm objecting on the record tonight based on this law.

Jim Kenney: I'm sorry, Chia. And an explanation, you're stating that citizens who are with us tonight should not be afforded an opportunity?

Mike Rocque: I am stating that the law states that citizens do not have a right to speak at a public meeting unless the public meeting has been advertised as a public hearing. Period. That's the law.

Chia Murdock: I was not aware of that. All I know about is the tradition of our town...

Mike Rocque: I don't care about the tradition. I'm talking about the law. The law states what I just said on the record. I am on the record objecting to this. Now you run this meeting any way you want but it's on the record that you are breaking the law by allowing this to happen.

Chia Murdock: Well you're telling me that I cannot run this meeting any way I want.

Mike Rocque: I'm telling you you can run this meeting any way you want but what you're doing is illegal. That's what I'm telling you.

Chia Murdock: Would you please lower your finger?

Mike Rocque: Certainly.

Chia Murdock: Thank you. Now you presupposing that anyone who would choose to comment during the question and answer period would have only something negative to say, so you're not interested in anyone having anything to say that might support what you're about here?

Mike Rocque: That's correct. I'm not interested in hearing what anybody has to say for or against. I'm on the agenda, it's my turn to speak and nobody else's, and the law protects that right.

Jim Kenney: When you say nobody else, the Board members may speak...

Mike Rocque: The Board members may speak absolutely. Absolutely. I will get into all of it but I'm stating this this far and my objection. This is America. You can run this meeting any way you want but you are breaking the law and I want you to be aware of it now.

Jean Bourg: Chia, is it permissible for Board members to ask expert opinion from specially qualified.

Chia Murdock: Well we have done that. We did that at the last meeting when Kevin spoke and it had been my intention at this meeting to read at least part of the summary that he has provided me as a follow-up to the last meeting. Frankly now I'm feeling as though I'm not even permitted to do that.

Mike Rocque: You are absolutely correct.

Jim Kenney: I'm sorry, Chia. Our Chair is going to ask a question of a citizen, an expert.

Mike Rocque: The citizens do not have the right to speak at a public meeting without the meeting being advertised as a public hearing.

Jim Kenney: I would fight the State on that. I would fight the State. When the Board needs advice from people who have expertise, I wouldn't think that law [inaudible] even because they are expert as well as being a citizen.

Mike Rocque: And those people have the right to speak at a public hearing. That's when those professionals and those people are allowed to speak. Any other time they are not per law. I've cited you the Statute.

Mark Nickerson: Mike, what do you think is a public notice anyway?

Mike Rocque: It's a minimum of 30 days public notice and it has to state it is a public hearing.

Mark Nickerson: Have you read the Town of Unity...

Mike Rocque: I have searched all of the ordinance that I could find online and there is no specific ordinance that the Town has passed that says that they a specific law or a specific ordinance that allows the public to speak.

Mark Nickerson: No, what I'm asking you is Chia puts this out, we have a [Inaudible] ...

Jean Bourg: Town website.

Mark Nickerson: Town website and it's posted there.

Mike Rocque: The meeting was advertised, however, the meeting was not advertised as a public hearing, which is what the law calls for.

Mark Nickerson: I think you should go back and look for the December meeting, the public was invited into that one, if anyone had any comments to make.

Mike Rocque: And I objected to that. I objected at that time because I was aware of this law that the public is not allowed to speak. I objected and Chia stated that that's your policy. Well, okay, I objected and that's all I could do. I couldn't stop [inaudible] and do anything else. I did object and I'm objecting tonight. I will cite the law again if you wish.

Jim Kenney: I don't need [inaudible]. It was clear what you read to us, Mike, is the law is written the Board can have conversations with you.

Mike Rocque: Absolutely.

Jim Kenney: And no others. That's what I interpreted what you read.

Mike Rocque: Absolutely.

Jim Kenney: And if we had brought in an expert tonight from from wherever they live we couldn't have the conversation with them?

Mike Rocque: That's correct. Unless this meeting was properly advertised according to the rules of a public hearing notification.

Charlie Porter: Can an old man give his two cents?

Mike Rocque: Absolutely.

Charlie Porter: I think it's a lot of bullshit. I hope you've got a lot of money because you're going to need it.

Mike Rocque: I do have a lot of money and I hope you people do too.

Chia Murdock: Okay, Charlie, I don't think we need to go there.

Charlie Porter: I'm sorry, it was needed. He's trying to buffalo us I and I don't think it's fair.

Mike Rocque: No I'm not trying to buffalo anybody, sir. I'm here to protect my right and the law is the law.

Charlie Porter: Protect your rights before they've been disturbed?

Mike Rocque: No my rights have been disturbed already. Thank you.

Charlie Porter: No they haven't.

Mike Rocque: Yes they have.

Chia Murdock: I'm sorry, Sherry, can I get out?

Sherry Powell-Wilson: Absolutely.

Chia Murdock: Excuse me, I will return in a moment. : Alright, back to the meeting. We were just checking the writing of our Ordinance, which of course, I have here in front of me but our Selectboard members were checking it. The way I would like to be able to continue this meeting, because I seem to be at a standstill at the moment, is to ask those of you, of the public who are here tonight, potentially for the first time, I believe Lori you were not here last time. Are you okay with not being able to comment at the meeting tonight?

Lori Grant: Ahhhh, I think so.

Jean Bourg: Just an observation, at numerous small towns and ours and many areas operate on a combination of law and tradition and those intertwine and some things you you'll never find a law for it but what tradition has has carried through the years and I think this is one of those where we're a small, tiny group of people and if someone has something to say we do honor what they have to say.

Chia Murdock: Well, yes that is how we operate but Mike has gone to some lengths to explain to us that we're in violation of the law if we do that despite or tradition. So is there anyone else who is here as an observer at the meeting who had intended to say something and would like to find some other opportunity perhaps outside of this meeting to be able to have their voice heard? Are you good? Okay. Then we will continue on and this is where I was going to introduce Mike to be a part of the meeting now, and so he is. We had asked you at the last meeting for your DEP information that you were going to provide us, which I assume you have brought with you today, and we had also asked for greater detail regarding your traffic counts. In addition to that...

Mike Rocque: What DEP information was you...

Chia Murdock: Whatever it was that you thought you needed to bring us. You mentioned at the last meeting you said, "Oh yes, I intended to submit those. I will bring it next time."

Mike Rocque: [Inaudible.]

Chia Murdock: Okay. But we recall that we asked you to substantiate the dates on your traffic information, your traffic count information.

Mike Rocque: I do have that.

Chia Murdock: You do have that, okay. And do you acknowledge receiving an e-mail from our Town Clerk, sent from me just reminding you that Appendix 1 of Unity's Land Use Ordinance is effectively your checklist for everything we expect you to submit as part of a Type 1 Development Permit Application?

Mike Rocque: I did receive the e-mail. I received the e-mail ago on a Wednesday, a week before the meeting. Again, that's something that should have been told to me at the December 9th meeting so I had weeks to prepare for tonight. Instead, it was forwarded to me a week before the meeting. I'm am prepared [inaudible]...

Jim Porter: Oh you do have it?

Mike Rocque: I have what?

Jim Porter: You have the answers to the Appendix.

Mike Rocque: Absolutely.

Jim Porter: Thank you.

Chia Murdock: And just for anyone's education, what I'm referring to in Appendix 1 is A 1 through 3 and then general information, 1 A through I, and then existing conditions 2 A through P, and then 3 Proposed Development Activity A through M. If we look at 3, Proposed Development Activity, item L, it says copies of applicable state approvals and permits provided, however, that the Board may approve development plans subject to the issuance of specified state approvals and permits where it determines that it is not feasible, for the after fact, to obtain them at the time of the Development Review. So relative to that one item, mike, I would simply ask you to tell the Board which applicable state approvals and permits are part from your current application to the Town you believe you need to provide?

Mike Rocque: One application that has already been filed is an application with the DOT and the existing entranceways there, existing, and it's a simple matter, and the application is a simple change of [inaudible] application. I spoke with Jim Peloff[sp] of the MeDOT today, reviewed everything. He sees absolutely no problem with it. They are going to finalize it and they will send it out in the mail. The only other approval is going to be DEP approval and that's going to be consistent of a geologist that is going to go out onsite and he's going to determine number 1 whether it's in an aquifer. He's going to determine everything as to whether or not this is going to be in the guidelines of the State DEP law. So DEP permits and DOT permits.

Mark Nickerson: Who is the person you spoke to at the DOT?

Mike Rocque: I spoke with Jim Peloff, I spoke with Dave Allen who is going to make the final decision. Jim Peloffe is the engineer that does all of the designing of stuff, prepares everything and sends it to Dave Allen for the final approval.

Jim Kenney: I'll interject. Dave is the designated person for Unity and surrounding communities. He has worked with the Town [inaudible].

Mark Nickerson: And is there a timeframe with the DEP?

Mike Rocque: The DEP, well, it's all going to depend on when I get started but this is an estimated cost of around \$10,000 or something I'm not going to go spend until I Have Town Approval obviously.

Chia Murdock: So what are some of the components of this DEP approval that you would expect to provide and what I'm asking for here is greater detail of the components?

Mike Rocque: First of all I speak with Dan Locke. He is the gentleman who drew these maps. He's the gentleman that determines whether and maps out where all aquifers are in the State of Maine. I had a meeting with Dan Locke the very next day, I believe after our last meeting. We looked at the maps. First of all, I would like to read this. Previously somebody had stated that the installation of underground tanks are prohibited in an aquifer. That's not an accurate statement. The only place in an aquifer that these tanks are prohibited is what's considered a high-yield aquifer. Now, in order for it to be a high-yield aquifer it has to produce something greater than 50 gallons a minute of good quality drinking water and for it to be even considered an aquifer at all, it must have a minimum of 20 feet of saturated top soil, and it must yield a minimum of 10 gallons per minute of good quality drinking water, even to be considered an aquifer. And Jim can at least attest to the fact that the water was undrinkable.

Jim Kenney: The water had to be treated through filtration in order to make it potable.

Mike Rocque: Correct. Okay.

Jim Kenney: That's one of the things I faced when I drilled on this property.

Mike Rocque: Also you'll see that we reviewed these maps. You'll see on these maps here that the distance to ledge is 17 feet, 10 feet to 30 feet and 17 feet in regards to this property. Okay? In order for it to even be considered in an aquifer at all it has to have a minimum of 20 feet of saturated top soil. There is 17 feet of topsoil to ledge, obviously it cannot be an aquifer and that's Dan Locke's own words. Now he also stated to me that [inaudible]. I had a meeting with Dan Locke who created the aquifer maps. The map shows here to have bedrock approximately 17 feet below grade. The area is also rated on 7-8 on the risk chart for potentially contamination, 1 as being highest risk, 10 being the lowest risk. Dan stated to me that the chances of this site not actually being on an aquifer by definition are pretty good. The DEP as well as the Town of Unity understands and accepts the fact that the [inaudible] shows a large portion of this area to be in an aquifer it may not always be accurate. Therefore, they allow applicants to hire a licensed geologist to test the site and make that determination. He has recommended a firm to me who is highly respected and accepted at the DEP and this is going to be a considerable expense, as I mentioned, and this test is something I would be doing after I have the Town approval. Section 9, subsection 2 of the Ordinance says the aquifer protection district shall

improve the following areas of land, land overlies the sand and gravel aquifer associated with Sandy Stream. This land is identified on the Land Use map, district boundaries and they were derived from the Maine geological survey map. If an applicant wishes to challenge this district boundary, he shall present hydrogeological evidence to support the claim. The evidence shall be prepared by a geologist. The bottom line in regards to this aquifer is the DEP is the one who has the experts in the fields. The DEP is the one who wrote the laws, they're the ones that designed review, permit, inspect and oversee the installation of these types of developments located in similar areas. They also inspect these on a yearly basis. It is their Department who will insure protection of the Town's aquifer and rightfully so. They are the experts. And I'll be glad to provide the Town with these two maps. [Mr. Rocque submitted two maps.] This will give the Town or the Board an idea of what's involved in a site preparation prepared by Michael White who will be the [inaudible] that I was using. Okay? And as you can see the detail that goes into this is right extensive and, to be honest, it's over my head and unless this is something that's in your profession, frankly, I don't understand it but they do, and that's why these professionals are the ones. But as you can see the amount of information that they have to provide to the DEP, the DEP is the one who approves it and Dan Locke is the gentleman that will be the one that reviews it and approves it or disapproves the permit.

Mark Nickerson: That doesn't pertain to the lot?

Mike Rocque: That does not pertain to my lot. That is an example I wanted to bring you so you could see how much detail and how much information they have to provide so that you can be rest assured that your aquifer will be protected.

Mark Nickerson: The 17 figure you talked about, was that both lots?

Mike Rocque: Well, again, it's an area. The DEP only has, the information they have based on is number one, they have wells. When somebody drills a well a copy of that well gets sent to the State. The State records that information so all of these wells, this information is at the State and they can determine this well here has 17 feet of casing, this well here has 20 feet of casing that well has 300 feet of casing. So they can determine, that's one way they determine the depth to ledge. Another way is they have what's called, I'm not sure of the terminology but it's some type of seismograph, and it's something that they drag over the ground and that will determine the topsoil to ledge, the depth to bedrock. Okay? And so basically they check, the information from the wells they've compiled, they've gone out and they've checked different sites and they've come up with this area of what aquifer. And again, like he said, the Town obviously acknowledges the same thing in that Ordinance. Just because it's in that zone in the map doesn't necessarily mean that that particular spot is an aquifer: And again, in order to determine that it's a great expense, which I will gladly do. I don't have a problem with that but now is not the time to do that.

Jim Kenney: When is the time to do that? After the public hearing? Before the public hearing?

Mike Rocque: Well we'll get into that issue as far as the public hearing goes. When I can obtain the floor I will go down through my things that I wish to discuss.

Chia Murdock: This is probably a good time for me to just say briefly, um, how this process is going. In other words, what we hope to accomplish at this meeting and then in terms of scheduling the public hearing that we know is triggered by development review. There has been a bit of misinformation, I think, out there in the public as to whether the Planning Board is going to be making a decision about Mike's application tonight. We are not. There will need to be a public hearing and all the necessary experts both for Mike and for the Town, and will be at the public hearing. And some people assume the decision will be made at the public hearing. It is permissible that this can happen but it doesn't have to happen that way. So just to sort of say a little bit about what people's expectations may be about this process, just so there is no unnecessary misinformation out there. My goal for this evening is that we get to a place where at the end of it where at the end of it we're able to say to Mike that we consider his application complete. To say it's complete is not to say that we approve this preliminary plan. If we get to the point where we say we approve this preliminary plan that is also not assuming that we approve the plan as it goes into its next stage. So that's just, again, to lay it out there for the public.

Mike Rocque: Now can you hear what I have to say?

Chia Murdock: So what else can you tell me, Mike, about what you believe in a DEP regard that you would need to provide in the way of permits? I have here an e-mail from Lynn Charron[sp] at me.gov. This is a response... she is responding for DEP. Looking at the plan, the area for development looks to be approximately 1. 2 7 acres. Depending on how much area will be paved/graveled and/or built upon, and how much would be replanted, the developer will need a storm water permit or a storm water PVR from the Maine Department of Environmental Protection. If the amount of impervious area is one acre or over, a full storm water permit will be required. If the amount of impervious area is less than 20,000 square feet, a storm water permit by PVR, will be needed. Another factor to consider is that Unity Pond is considered a lake at most at risk. If the development is within that water shed, it would also require a full storm water permit even if the impervious area is under 20,000 square feet.

First of all, there would be less than 20,000 square feet of impervious surface because I intend to use nonpervious asphalt on the entire property, and that is acceptable by DEP as a nonpervious surface, as a pervious surface, excuse me. So that's just a matter a permit by rule, it's a matter of filing a piece of paper. There is nothing to wait for. It's just basically putting the DEP on notice. Also, as far at watershed goes you're saying get this, get that--if it is I'll deal with it. If there's an issue, if there is another permit that I need, I'm sure that the DEP in their process of review will deal with this, will continue to put me through the different agencies with the different processes that I need to go through. That's how it's done. I've been here before. Now I don't know every single DEP permit out there that I have to but I can assure you they will inform me of anything I need.

Chia Murdock: Okay. Well I asked you about that not to challenge you, Mike, but to simply we're looking for completeness here. You have come to a number of meetings now and you have had to go away for whatever reason without us being able to tell you that your permit is complete. We need to be able to get to that point before we can schedule in your public hearing.

Mike Rocque: And I'll get to that in here as well because my permit application was complete and is complete. I'm sorry for that but I am, when it's my turn I want to be organized, I want to go through my things methodically so I'll answer whatever questions you have and I'll have the floor when you're done.

Chia Murdock: Okay. Well I have asked you what I wanted to you about the completeness of your permits so I believe that it's time, unless someone from the Board has a question for Mike, that we can open the floor to you to say what it is you came here to say:

Mike Rocque: Okay. Now it's 7:36 and I'll get started. The first thing I'd like to address is.... I'll just address this. Charlie Schaeffer made the comment that there is a public well with a public water supply and I believe Kevin or somebody made that same comment. There is no public water supply in the Town of Unity that I'm aware of unless you've got city water running up and down the streets, there is no public water supply.

Jim Kenney: You're wrong.

Mike Rocque: Okay. Like I said, I'm unaware of that. When is it?

Jim Kenney: There is one located by Spanky's Pizza behind the CrossTrak Restaurant. That serves the inhabitants along Depot Street and the businesses up there. I'm going to continue.

Mike Rocque: I'm sorry.

Jim Kenney: And there is one on Vickery Lane right across, when I point in the right direction that serves the residents on Vickery Lane.

Mike Rocque: But that is not a public water supply by definition. A public water supply by definition is a water supply that is open to the public, now Vickery Lane is supplied by a private entity called Taber Water Company...

Jim Kenney: You're right.

Mike Rocque: So they are not a public... that is not by definition. I did research that and it is not by definition a public water line. And if there is one up by Spanky's Pizza it's more than 1,000 feet away from me.

Jim Kenney: Well over a 1,000.

Chia Murdock: Kevin?

Mike Rocque: No.

Chia Murdock: No, we can't get... would you keep that Kevin? We'll get to you.

Mike Rocque: Not at this meeting you won't or you'll be violating my right to due process. Again.

Chia Murdock: No I'm asking him to wait. He's an expert. The Board can ask an expert to speak. You said that yourself.

Mike Rocque: No, I did not. The Board, nobody in this public room except for me has the right to speak tonight because this because this is not...

Emily Newell: I'm a Selectman and want to tell you that we are making the discretion to let the public speak.

Mike Rocque: And that's fine and I'll tell you that you're breaking the law and violating...

Emily Newell: I don't feel that I am... the Board... and I stand behind them.

Mike Rocque: And that's fine and that's on record and I appreciate that.

Chia Murdock: I believe that your recording and Sherry's minutes will show that in an earlier part of this meeting you said that an expert can speak.

Mike Rocque: No. An expert can speak, yes, at a public hearing. At a public hearing.

Chia Murdock: Alright I think you need to continue to say what it is you came here to say.

Mike Rocque: Alright then I don't have to address this then. I was going to do that for your own courtesy but I don't have to do that and I won't. We've addressed this issue of the aquifer. I've supplied the criteria that it's going to take. The first thing I'll address is your standards for approval. In Section 10, A, is the preservation of land. It is my intent to try and preserve two roadside trees that are pretty well [drawing] as well as some along the back line. Most of the property is cleared and has minimal existing trees and scrub growth as it is right now. I also intend to replant some vegetation and shrubbery as you see on the plan. The lot in general is flat. Grade changes will be minimum. There are no environmentally sensitive areas on the site as listed, and I will preserve the natural drainage to the extent practical. The property is not productive farmland by definition nor is this a Type 2 development. B, is open space. This does not apply to me. The open space is something that applies to residential development, which this is not. C, is access to the site. Access to the site will be from highway 202 and 9, and the plan has been submitted to the DOT as well as a change of use application. I have had meetings with Pat Cronin who is the other gentleman, I couldn't think of, who was out of the Knox Garage. I met with him onsite and as well as Jim Peloffe, I met with him first, both of them DOT. He stated my plan of ingress and egress was designed well and they didn't see any negative issues with the permit process and it will take about 15 days. The pedestrian walkways already established. The existing road, State highway 202 and 9 was built to State highway specifications and it is more than adequate to handle any amount of traffic by both volume and weight. D, is access into the site.

Again, MeDOT will review and permit only a plan that does provide safe access into a site. It is also their opinion that not only will this have no adverse impact but will actually improve the adverse impact already existing on Depot Street. Though it's maintained by the MeDOT, it is still a town road and it is built to MeDOT standards. They are not only pleased that this will reduce the passing of car traffic but also the big truck traffic on Depot Street. They also mentioned their desire to keep all large trucks off Depot Street at some point, discontinue it as a throughway shortcut for these large trucks. D1, this is not applicable because this is not a new driveway or a new road. Two is not applicable because this is not a subdivision by definition. Number 3, the plan was designed to avoid hazardous conflicts with existing turning movements and traffic flows. MeDOT will review that to ensure this. Number 4 is not applicable. This is not a new road nor is it a new commercial driveway. E is on internal vehicular circulation. The layout does provide for adequate space for all passenger cars as well as all delivery vehicles. I've been a developer for more than 30 years and a firefighter for nearly 20. The layout provides more than adequate space for any emergency vehicles as well as setback distances for entrance to fight the fire. The layout consists of one 20-foot wide entrance point, and one 20-foot wide exit point with a circular drive. There is no reason for anyone to be backing out onto the street. F pertains to pedestrian circulation. Pedestrians will have a designated route that leads from Route 202 and 9 to the store entrance. They will be delineated by yellow [inaudible]. Summer maintenance will consist of reapplying paint as needed and keeping the pathway clean and free of obstructions. The winter maintenance will consist of snow removal and ice melt to maintain safe passage. G is an erosion and sedimentation control plan. One, stripping of the vegetation and regrading shall be done in such a way as to minimize erosion. Two, the disturbed area and the duration of the exposure of the disturbed area shall be kept to a practical minimum. Temporary vegetation or mulching shall be used to protect exposed critical areas during development. The permanent vegetation and erosion control measures shall be installed as soon as practical on site. Five, until the disturbed area is stabilized, sediment and runoff water shall be trapped. Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the developer, me, causing such sedimentation to remove it from all adjoining surface drainage systems and watercourses to repair any damage at the expense as soon as possible. Seven, the development shall be undertaken in a manner that adequately manages surface water runoff. Eight, the activity is not on a stream, watercourse, swale or floodway. Nine, there are no drainage facilities or watercourses on this property. H, construction site conditions. The construction site will be maintained and left each day in a safe and sanitary manner. Surface water drainage, I'm sorry, that's I, all surface water drainage shall continue to flow as it naturally has in the past. There is no intent to change its direction in the natural drainage course. J, groundwater protection. Upon DEP review, we will implement safety devices and design practices to ensure groundwater protection. K, this is a type 1 development therefore, this requirement does not apply. L, drinking water supply, I have three options for drinking water. Option 1 is to obtain [inaudible] from UniTel to continue to access their well, which was providing water to the building that was there that burned. My option two is to drill a new well on the site, and option three is to contract [inaudible] water. M, sewerage disposal. There are already two existing sewer hookups onsite. An application has been filed with the Unity Utilities District and they will issue a permit only after Town approval I'm told by the Clerk. N is exterior lighting. As I mentioned before, all exterior lighting shall be high pressure or low glare sodium lights facing in a downward direction. Canopy lights will only be

on during operating hours. This will create no hazards to pedestrians or vehicular traffic. Glare and reflection will be minimal on adjacent properties as well as the traveling public. O, odor, two sources of odor. The first is carbon monoxide odor. Emissions expelled from automobiles are always expelled at a higher temperature than the surrounding air. This causes the carbon monoxide to immediately rise and is rapidly diluted and dissipated in higher concentrated air and is dissipated almost immediately. The second source of odor is the tank vents. All vents are piped away from the tank area and the outlet of the vent is positioned approximately 15-20 feet above ground level. That usually goes up the [inaudible] and walls of your building. These fumes are minimal and almost immediately dissipated into the air. Therefore there will be no offensive or harmful odors perceptible beyond the lot lines either at ground level or at [inaudible]. P, noise, this development is located on state highway 202, the highest travelled road in the Town of Unity. Traffic noise there already exists. Truck traffic is very minimum and I've gone out and I've done my own traffic counts and each night I've counted no more than 3 trucks going from 4 p.m. to 6 p.m. in a 2-hour period. Mostly one night there was no trucks, one night I had two trucks, and one night there were three, so the truck traffic is very limited. It's on the interstate now.

Mark Nickerson: You're saying 4 p.m. to 6 p.m.?

Mike Rocque: It's now 8:10 and we've had to change the cassette. I'll go back to P, noise, the development is located on the highest traveled road and noise traffic already exists. Trucks are minimal. As a resident brought up before about noise, I can assure the Board that an occasional honk of the horn or Tom saying good morning to John across the parking lot hardly raises the noise levels to the extent that the abutting and/or nearby residents would be adversely affected. Q is landscaping. The landscaping is designed to enhance the physical design of the building as well as the site. It will minimize the encroachment of the proposed use on neighboring land uses, and it will soften the appearance of the off-street parking areas. R, relation of the proposed development to existing setting, the Ordinance has set forth specific guidelines to accomplish this. These requirements are noted on the plan. S, financial and technical capacity. I've been a self-employed building developer for more than 30 years. I've done projects much larger than this. The last development I sold I did have to sign a confidentiality agreement but I can tell you it was more than a 7-figure price. This is my profession and I'm very successful at it: T is Comprehensive Plan. I have reviewed the Comprehensive Plan and this proposed activity is in complete conformance with the Comprehensive Plan. U is additional standards for commercial telecommunications towers and that does not apply to me. I'm going to go to section 10, subsection 5. The Planning Board shall base its decision of whether to approve a final plan following the standards listed later in this section, which are the standards that I just went over. If the Planning Board votes to disapprove the final plan, the applicant shall be notified in writing and the specific causes of disapproval shall be noted. If it Planning Board votes to approve the final plan, it shall issue a Development Permit provided that all requirements of this ordinance are met.

Now I want to get into law because law is what's taken over precedence, it has become more important to me than process pertaining to these permits from the Town of Unity. I'm going to start with the first law.

Chia Murdock: Would you explain that, please? Explain what you just said. It's taking precedence than what you're actually submitting?

Mike Rocque: That's correct. The law has become more important to me than seeking application and approval from the Town. The rights that have been violated and the laws that have been broken here have become more important to me than this permit. It has consumed more of my time than this permit application and it's going to continue to consume more of my time until I'm satisfied. The first law I'm going to talk about is the law of the land. The law of the land is called the Town of Unity Land Use Ordinance. The first thing of the law of the land I'd like to talk about is page 4, section 1 subsection 3, the purpose. Now why does an ordinance have a purpose? What is the purpose of the purpose? The purpose of the purpose is to provide guidance to the Planning Board members so that they can interpret the Ordinance in a fashion that the people have voted and that the people want. Okay? So when you interpret the Ordinance you're going to interpret it in favor of the purpose of the Ordinance, not against the Ordinance, the purpose of the ordinance. A in the purpose, it says to allow for affordable residential and commercial growth while preserving Unity's rural character, particularly its open land, scenic beauty, and reasonable tax rate. Okay? Number one, Unity's rural character will be protected by Unity's own Ordinance in the building requirements, which I have agreed to abide by. Number two, 1.7 or 1.2 acres is hardly open land. Number 3, I would hardly call that old, dilapidated building that sits on the property now, that is gaining absolutely no tax revenue and is nothing but an eyesore, I would hardly call that scenic beauty. And as far as a reasonable tax rate, if the residents in the Town of Unity like any other town in the State and the country wants their taxes to be low, they need to have commercial businesses paying those taxes because the commercial businesses are the people who pay the majority of the taxes in town. This is what keeps the residents taxes down. Not only does it keep the residents taxes down, it provides jobs, it provides convenience to the people, and it promotes good businesses to come to Town, and the more businesses that come to own the more tax base the Town gains. The more tax base the Town gains, the lower the mil rate becomes for the people and the residents of the Town. Not only are we going to be providing more and more jobs, more and more tax base, but it's going to be more and more convenience for the people in town to be able to do business here in town instead of having to travel to Waterville or Augusta or Bangor or wherever they may go. Also, I want to point out the fact that every business that does come to this town or any other town, not only do they pay their fair share of taxes but they don't burden the town with schoolchildren. They don't burden the school budget. They bring absolutely no burden with them whatsoever. B, under purpose, to guide growth and to make efficient use of land and public facilities. Though this isn't a public facility, I do have 30 years of experience in making efficient use of land. It is my profession. C of purpose is to help protect the natural resources of the community from degradation. All of the federal, state, and local laws ensure protection to the maximum extent possible. We have professionals in DEP that are far higher educated than all of us probably ever will be. Those are the people that need to be making decisions. Those are the people that have been trained to protect the environment. D, the purpose is to foster harmonious coexistence of commercial, residential, recreation and other potentially conflicting activities. That's the Planning Board's responsibility. I've had to listen to citizens that say, well it's rural and we're old fashioned and we know the Town looks like this and that. I understand that and the Ordinance has a place in the Ordinance that restricts your buildings to certain codes that will help to blend in and help to be harmonious and coexist both commercial, residential, recreational

and other potential [inaudible]. E under purpose is to provide a degree of clarity and consistency to the Town's treatment of growth and development. I did a little research. On August 30th, you had the first meeting for Dunkin Donuts. At that first meeting not only did you accept all of his information and application is complete and you even scheduled a public hearing, and on the second meeting it was approved. The Town Office came and got their permits to build this Town Office building. According to the records, it was done all in one meeting. There was no public hearing, there was no review. The Unity College came in and they built an 18,000 square foot dorm, okay? They were approved in two meetings. They had no public hearing and they no review, or at least there is no record of it. The Unity College again came in. They built a dining hall. Again, no review, no public hearing. Just recently Unity College came in again to build another dormitory. I note in here on September 3rd an exploratory meeting. In their November meeting it was approved. There was no public hearing, there was no review. This sets precedence for the Town. The Town sets precedence by handling that way. Therefore, they must treat every applicant in the same way. Otherwise, they'll be discriminating against other applicants. Everybody needs to be treated the same.

Jim Porter: Are you looking for an answer or... [No] Your information is wrong.

Mike Rocque: Okay, everybody is welcome to disagree. Everybody can disagree and I don't have a problem with that. And again, that is only based on the information that I would obtain through the Town's website according to the Minutes. That's the records that are there is all that is available to the public so I can only obtain information that is available to the public and I can only report on that. L of the purpose is to invite and this word, encourage, additional complimentary commercial and industrial development. I won't comment on that at this time. G, purpose is to protect the landowner's rights and freedom of choice in development activities. H is to minimize adverse traffic impacts. This development does minimize traffic impacts. It keeps traffic on the Maine State highway, it will reduce traffic on the Town's road, Depot Street, it will reduce damage to Depot Street, and again, this is favorable to MeDOT. The last is I, to promote the health and safety, excuse me, and the general welfare of the residents. This development has no adverse impacts in regards to these issues. The next thing I want to get into is civil law, which I'm very well versed in. The Maine Civil Rights Act, Title 5, MRSA 4681 to 4683. This prohibits a person from intentionally interfering by threat, intimidation or coercion with another person's exercise or enjoyment of his right secured by the United States Constitution. This means that a Board member can be sued out of this law whether or not he or she was acting in official capacity if a violation of this law results from the Board member's actions. The Maine Attorney General's Office is authorized to seek an injunction or other corrective action on behalf of the injured person to order, to protect that person in exercising his constitutional rights. This injured person may also pursue a civil action on his own behalf seeking appropriate monetary and corrective relief as well as attorney's fees and costs. Now the key word in this law is intimidation. The December 9th meeting in my opinion was nothing more than an attempt to further discourage me from exercising my rights and to further try to intimidate me. You, Madam Chair, allowed the public to speak out against this development not for 15 minutes you originally allotted to them, instead you let this lynching continue for 38 minutes, even after my objection. You may find it humorous but I don't. Even after my objection you let this continue. When you ran out of people in the room, you solicited for more comment out in the hallway. You gave me no proper notice in an effort to catch me unprepared

to defend myself, and this is another violation of my constitutional right to due process. And again, I will restate Title 1, MRSA 401, Maine Freedom of Access Act states that the right for the public to speak is based on whether the meeting has been advertised as a public hearing unless a specific local ordinance says otherwise. Applications for Building permits received by the Planning Board three business days of the Board meeting shall be placed. This is Section 2, subsection 6, shall be placed on the meeting of that meeting. The Planning Board shall review all applications and decide whether or not to grant permits. This is first meeting. They'll decide whether or not to grant permits. Wherever practical, the Board will act on each application at the first meeting where it is taken up. If it is found that additional information is required, the application will be considered old business and be given priority for continued review at the next meeting provided that the additional information is supplied by the applicant. Again, this next section is my opinion and you're very welcome to disagree with it. At the close of the November meeting, the Board requested additional information and revisions to the plan. All that additional information in the revised plan was provided to the Board at the December 9th meeting. At the close of that December 9th meeting, I specifically asked the Board if there was any other information requested. The Board's reply was no. They didn't request no amendments to the plan, no other information other than traffic count study, which is not part of the Ordinance and I'll get into that as well. The Board's reply was no. At this point in time, my application and my revised plan was accepted by the Board as complete. It had to have been, otherwise you would have been requesting changes and other modifications. Still, no action was taken. No public hearing was scheduled. In fact, the Minutes of the December 9th meeting have my application listed on hold. Another obvious attempt to stall these proceedings, frustrate me and the continuation of violating my constitutional rights to due process. There was no motion on the floor by the Planning Board nor was there a vote taken to put my application on hold and I can assure you my attorney and I will be inquiring as to when did this action take place, who placed my application on hold, under who and what authority did this action take place, and under what legal grounds was this action taken. Hearing for Type 1 projects will be held at the discretion of the Planning Board. Any public hearing shall be held within 30 days of determining that the application is complete and shall follow the notification requirements outlined in Section 1-9. That 30-day window came and went. Therefore, the Board, by default, has legally waived its right to hold a public hearing on this matter.

Sherry Powell-Wilson: Can we take a quick break here?

Mike Rocque: Absolutely. It's 8:07 and we're going to take a break.

Chia Murdock: Okay, I think we're ready to resume the meeting and the time is 11 past? [Yes.] Eleven past eight.

Mike Rocque: Also, I forgot but I would like to have each of you Board members state your name so for the record we will know who's present here tonight.

Chia Murdock: Chia Murdock, Chair.

Jim Kenney: Jim Kenney, Vice Chair.

Jim Porter: James Porter.

Mark Nickerson: Mark Nickerson.

Sherry Powell-Wilson: Sherry Powell-Wilson.

Mike Rocque: Thank you all.

Jean Bourg: Jean Bourg.

Mike Rocque: Jean Bourg. Thank you and I apologize. We're going to continue on with civil law. What we're going to get into now is what's known as the FOIA and FOAA. That's the Freedom of Information Act and the Freedom of Access Act. Okay? The first thing we're going to talk about public records and proceedings. Training for certain elected officials and public access officers and some of you folks may know this, and you may not. I'm hoping that you just [inaudible] of this law. This law states that training is required. That public access officer and an elected official subject to this section shall complete a course of training on the requirements of this chapter related to public records and proceedings. The official of public access officer shall complete the training no later than the 120th day after the day the elected official takes the oath of office to assume the person's duty as an elected official or the person designated as a public access officer pursuant to Section 4-13, subsection 1. Training course minimum requirements, the training course under subsection 1 must be designed to be completed by an official or public access officer in less than 2 hours at a minimum. The training must include instructions in the general legal requirements of this chapter regarding public records and public proceedings. B, Procedures and Requirements regarding complying with the request for public record under this chapter. C, Penalties and Other consequences for failure to comply with this chapter. An elected official or public access officer meets the training requirements in this section by conducting a thorough review of all information made available by the State on a publically accessible website pursuant to Section 4-11, subsection 6, paragraph C regarding the specific guidance on how a member of the public can use the law to be a better informed and active participant in open government. To meet these requirements of this section, any other training course must include all of the information that may include additional information. Certification of Completion. Upon completion of this training course required under subsection 1, the elected officials or public access officer shall make a written or electronic record attesting to the fact that the training has been completed. The record must identify the training completed and the date of completion. The elected official shall keep the record or file with the public entity to which the official was elected. A public access officer shall file the record with the agency or official that is designated as public access officer. And this section applies to public access officer and the following elected officials, the governor, the attorney general, secretary of state, treasurer, so on and so forth down to the municipal officers, which include the [inaudible]. Now, at this time I'd would like to ask one question of the Board, have you Board members all had that training and certification?

Jim Porter: No, we haven't. We're not required to have it. That would be the Selectmen's. Can we move on to your application so we can get this done?

Mike Rocque: I'm going to have my turn to speak and I'm going to go down through all of the information that I have.

Jim Porter: Does this really apply to your application or does this apply to the lawsuit you're going to file against the Town?

Mike Rocque: Can I continue?

Jim Porter: You have effectively alienated people that supported you here tonight. I want you to know that.

Mike Rocque: I understand that, and that wasn't my intent. And I want you, let me stop, I should have started this way. I had no intention because I know I have, I know the integrity of you and Mark and Jim and I don't know, Sherry, she hasn't spoken much but I don't know.

Emily Newell: I think that's a personal comment and that's heinous and appropriate to deliberately leave out a person.

Mike Rocque: Moving on. I appreciate your support. I appreciate your integrity and I want all of you people to know regardless of whether this comment is offensive to anybody, that this is not directed to any of you Board members except for the Chairman.

Emily Newell: That was so inappropriate.

Mike Rocque: And that's fine but the law is the law. And she is the one that is violating the law and she is leading the rest of the Board members to do the same thing. That is inappropriate. The leadership that you have is causing you folks to break the law. Period. And I'm sorry but I didn't write the law but I'm not going to stand to have it trampled on, have my rights trampled on.

Jim Porter: And nobody here intended to trample on your rights.

Mike Rocque: And you may not have intended to, Jim, and I know you and you and you and I don't know that you intended to either and I'm not accusing you of that. I am stated the law, though, and these are my rights and I do have these rights and I want to exercise these rights:

Chia Murdock: At what point may I speak?

Mike Rocque: When I'm done I'll give you the floor.

Penny Picard Sampson: I don't think...

Emily Newell: ... giving up control of an unusually rude and loud disruptive person.

Mike Rocque: Excuse me but this meeting these proceedings are to be held, parliamentary proceedings according to Robert's Rules of Order.

Penny Picard Sampson: You have Selectmen that are in charge.

Mike Rocque: Not in charge of the Planning Board.

Penny Picard Sampson: Yes, we're the authority in charge of the Planning Board.

Mike Rocque: Okay, now are you going to continue to...

Penny Picard Sampson: We are the elected officials.

Mike Rocque: Are you going to continue to violate my right to due process? If you are then I will just take my tape recorder, I'll get up and we'll just finish the discussion in court.

Emily Newell: We are asking that you speak to your application so we can all... just stay on track, do our business here and go home.

Mike Rocque: This is my business and I'm trying to conduct it and instead I'm still being interrupted it and I don't appreciate it... and it violates my right to due process.

Penny Picard Sampson: We're letting you know this. You are not in control of this meeting. The Chair of the Planning Board is in control of this meeting.

Mike Rocque: And I'm letting you know that Robert's Rules of Order calls for once the Chair gives me the floor, the floor is mine until I give it back.

Penny Picard Sampson: If you continue to be rude we can have you removed. I want to make that clear.

Mike Rocque: That's fine...

Penny Picard Sampson: Penny Picard Sampson for the record, Selectman.

Mike Rocque: And for the record, I had no idea that I was being rude.

Emily Newell: [Inaudible]

Mike Rocque: Well that's your opinion.

Emily Newell: Please know it is not a reasonable fact and don't do it again. I'm Emily.

Mike Rocque: I will state, and I will say whatever I want to say at this meeting. It's a public meeting and it's my right to speak.

Emily Newell: Okay, let's get back to business.

Mike Rocque: I will if you'll stop interrupting me. Public records are available for inspection and copying. I'll be brief with this. I'm sure that you're all aware that all of these proceedings are a matter of public record and I have the right to request them and, also, as part of that public record is all of the notes that everybody has been taking. That is also part of the public record

and I, at this time, am going to be requesting a copy of the entire record of these proceedings as well as of the Board's notes as a matter of public record and my freedom of access.

Chia Murdock: I would simply like to say in case anyone is unaware that you were given within days the draft Minutes of our last meeting so I would not anyone to think that we are not aware that you deserve and should have any of those public records. Those will be provided to you once again.

Mike Rocque: And I wasn't insinuating that I wasn't. I was only making a request for them. Proceedings open to the public. Except as otherwise provided by the Statute or by Section 405, which refers to Executive Session, other proceedings must be open to the public and any person must be permitted to attend a public proceeding. Unless otherwise provided by law, a record of each public proceeding for which notice is required under Section 406 must be made within a reasonable period of time after the proceedings and must be open to a public inspection. At a minimum, the record must include the date, time and place so on and so forth. Audio and video recording is also allowed. And for the record I would like you to know that the last meeting was recorded as well and I have every right to record that last meeting. And the reason I am stating this, that the public has a right to be here will come into play later on. As I mentioned before, I did record the last session, I recorded the last session where the Chair asked the public to move, to leave the room. The Chair also said that the meeting is now close. The public left, the meeting continued on. At that point, you not only broke that law but you violated all of those people's right to their right to access. You don't have the right Madam Chair, with all due respect, to ask anyone to leave this meeting unless you're going into Executive Session and there are very strict rules that you must follow in order to go into Executive Session.

Under the Freedom of Access law the violations, Section 4-10, for every willful violation of this subchapter, the State government agency or local government entity whose officer or employee committed the violation shall be liable for a civil violation for which a forfeiture of not more than \$500 may be adjudged. The next legal issue is called bias, and yes this does pertain to my application. The issue of bias emerges in the area of the municipalities' quasi-judicial functions and one of those functions is the issuance of permits or approvals of any kind. It is mandatory that quasi-judicial functions are performed by municipal officials who are capable of being completely objective or disinterested with regard to the outcome of these proceedings. This requirement for disinterest flows primarily from the due process clause of the United States Constitution as well as the Maine Constitution. There are three types of bias, financial bias, family bias, and prejudicial bias. Prejudicial bias is the bias we'll be discussing. Maine Revised Statute 71-6 states a municipal official must abstain when there is a significant degree of bias for or against an applicant such as the official cannot make an impartial decision, therefore, depriving the applicant of his constitutional right to due process and his right to a fair and objective determination and even where extraordinary prejudice does not exist, the prior statements made by the municipal official might suggest that a precedence of bias, that there is a precedence of bias that official must step down to avoid the appearance of making a biased quasi-judicial decision.

Chia Murdock: Excuse me.

Charlie Porter: Excuse me. I think this Board should adjourn for another time.

Mike Rocque: Well, if this Board adjourns...

Chia Murdock: Just a minute.

Mike Rocque: I'm nearly done. I'm nearly done.

Jim Kenney: I recommend we proceed.

Chia Murdock: I recommend we proceed and please as expediently as possible. You're in danger of not allowing us any time to consider what you've told us.

Mike Rocque: Again, I'm sorry that it takes so much time but I have the right to present this evidence. It is mandatory, it is mandatory the quasi-judicial functions are performed by municipal officials **who** are capable of being completely objective or disinterested in regard to the outcome of these proceedings. This requirement for disinterest flows primarily from the due process clause of the United States Constitution as well as the Maine Constitution. MRSA 71 states a municipal official must abstain when there is a significant degree of bias for or against the applicant such as the official cannot make an impartial decision therefore depriving the applicant of his constitutional right to due process and his right to a fair and objective determination and even where extraordinary prejudice does not exist, prior statements made by the municipal official might suggest the presence of bias must step down to avoid the appearance of making bias quasi-judicial decision. Statements made by the Planning Board Chair, at the first meeting the Chair stated that after the building burned, many people e-mailed in to say what they would like to see on this property and I can assure you that a convenience store was not one of them. Another statement made at the December 9th meeting, after the meeting the Chair actually scolded Mr. Nickerson and Mr. Kenney for, and I quote, it is very discerning to me that you two Board members are encouraging him and leading him to believe that he will get his permits. These statements did not sit well with me, I don't believe they sat well with those two gentleman either. The Chair has also provided and stated erroneous statements to the public. She stated that these lots are not residential. These lots are both commercial lots by definition. She also stated that the Depot Street is already a dangerous intersection. That's inaccurate as well. The State Highway Department has graded that intersection as a grade A. That's as high as you can get as far as safety by the MeDOT.

Mike Rocque: The next thing I want to talk about is the Tort Claims Act. The Tort Claims Act was devised to protect municipal officials for unintentionally making wrong decisions in good faith. However, it does not protect them from bias or intentional acts. They go on to define good faith. Good faith shall mean that the Board did not know and should not have known that its decision would deprive the injured person of his constitutional rights. The Board members can be sued under a Tort Claims Act.

Chia Murdock: Yes, Mary.

Mary Leaming: I'm sorry, I can't wait for this but why are we talking about suing if no decision has been made? I'm a little confused about this and this may be out of place but...

Mike Rocque: I'm almost through and if I would stop being interrupted...

Mary Leaming: If someone would explain to me if no decision is being made why are we...

Mike Rocque: There will be a decision being made. The last thing I want to talk about, or one of the last things is the right to due process. No person shall be deprived of life, liberty or property without due process and we'll get into that at a later date. The violations of civil law that I have seen here, at our last meeting the Chair stated that at a June 24th meeting they held a meeting and they only had two members. There was no quorum with two members. A meeting cannot take place without a quorum, and a quorum requires a majority of the Board to be present. So any action that you did take at that meeting is no good and it's also a violation of law. December 9th you allowed the public to speak without public hearing notice and without notice to me. That is also a violation of the Freedom of Access law. The on December 9th the meeting was posted to the public by the Chair, another violation. December 9th, after your private meeting, before the meeting closed, we had a private meeting after entirely off the record. That is illegal. That is against the law. At this point, I intend to seek legal action for the violations of law and your violations of my constitutional rights against the Chair and any other members that may violate my rights. I intend to meet with not only the Board of Selectmen but also the Attorney General. At this time I'm formally on the record requesting a copy of all documents including all of your notes regarding this matter. My attorney is also intending to subpoena all e-mails and text messages. Any and all correspondence regarding the Town business will become a matter of public record by law. Title MRS 30-A, subsection 2607 states that a municipal official can be personally liable if the Board fails to act or continually tables action without valid reason in the hope of discouraging the applicant. This shall be considered yet another violation of my constitutional right to due process. At this time, I know it's a lot of information to decipher and to swallow. At this time I'm going to call for a vote. I'm going to call for this Board to take action. The Board has one of three choices tonight. The Board can A, approve my permit with conditions upon obtaining all the other State and local permits, B, the Board can deny my permits, tell me in writing why they have denied my permits, and we'll move on in a different direction, or C, the Board can take no action at all. And, again, if the Board decides to take no action at all, it can be held liable for that as well. So at this time I'm calling for a vote from the Board, and you have one of three choices. And that's all I have to say. Madam Chair you can have the floor back.

Jean Bourg: I think it's a matter for the Chair to decide when votes gets taken and, also, one thing that kind of surprises me is that Mr. Rocque seems familiar with our Ordinance and yet not so familiar with 1, the requirements for the development Review application and being it's not completed.

Chia Murdock: I'm not prepared to say that he has not completed those but my hope for this meeting was that we would be able to say at the end of it that he has addressed everything in Appendix 1 and he did acknowledge receiving an e-mail from our Town Clerk referring him to that as his checklist for what needs to be completed and that if it turned out that he would not have everything this evening in order for us to say that, yes, he has every document handy, that he would be required to provide in Appendix 1 that he would be able to tell us when he would be

able to provide that and give us the number of days. That was my intention. Emily, did you have a question?

Emily Newell: Yes I have a question on process. Our Ordinance, I don't know what it says, when the application is deemed complete, how long does the Board have to analyze it and see if that application is doable?

Mike Rocque: Again, we're going to allow the public to speak, again, on the record, it is a violation of my right to due process.

Emily Newell: You cannot stop me from talking.

Mike Rocque: No, you're right, I cannot.

Chia Murdock: Correct me if I'm wrong but it sounds like if you do not get approval of your application tonight and perhaps even if you do, that you're going to be bringing legal action against the Town.

Charlie Porter: No, against you.

Chia Murdock: Against me personally?

Mike Rocque: And the Town. And I have every legal right to do that and that's why I am creating this record. I do have an attorney. I've had an attorney for 30 years. I have met with my attorney. We have gone over all this law. I know what I'm talking about. I'm not here... I'm sorry. I'm not here to threaten anybody. I'm not here to force anybody. [Laughter] No, no, it's not a threat.

Emily Newell: There have been threats throughout the night.

Mike Rocque: Madam Chair, I would ask that you ask the public to be quiet so that we can continue our conversation. Otherwise I'll ask you to clear the room. If you don't mind, I'm just going to have another tape put in then we can go on.

Jim Porter: Sure, can we, do you have copies of these [inaudible] to include with your application? That I told you specifically on two different occasions to include at the last meeting that we met.

Jim Porter: Do we have the original application?

Chia Murdock: Do I have what?

Mike Rocque: It's now 8:38.

Jim Porter: The one that isn't signed.

Chia Murdock: This is the original one.

Mary Leaming: Can I also point a process?

Chia Murdock: I cannot, no, I'm sorry, Mary, you can't speak.

Jean Bourg: For the public record I want to state that we've never had a public meeting like this where a person has not been allowed, just a general question.

Mike Rocque: And again, the law doesn't say provided this Town has had a tradition it's okay. The law says the town has to have a specific ordinance to allow. Madam Chair, may I speak?

Chia Murdock: Yes.

Mike Rocque: The bottom line here is I've provided everything that the Board has needed. I have complied with the Comprehensive Plan, I've complied with the Ordinances of the Town of Unity, and I will be obtaining all State, local and federal permits before I proceed with anything.

Jim Porter: And that's all we asked you for. And that's over a period of several months because we didn't get it. When you walked in with your application you said okay, it falls into this category. We need this, this, and this. By the way, here's a guy who has done this several times, go talk to him if you have any questions. And then you came to the last meeting and we didn't have this, this, and this and we also said the DEP is going to be a problem.

Mike Rocque: No. I specifically asked the Board is there anything. Now I've read the Minutes of the meeting that you accepted and there was no request for anything, anything in the Minutes of the meeting that I'm aware of.

Jim Porter: I told you that the development guidelines for downtown were going to need to be answered. You needed to go through, and you have, and yes, but you're saying that we didn't ask for those and it came in an e-mail later on.

Mike Rocque: It did.

Jim Porter: I did ask for those and it was followed up with an e-mail.

Mike Rocque: I don't recall.

Jim Porter: If you'll recall, I said go through these development guidelines. If it doesn't apply you put not applicable, just go down through them one by one, answer them, we attach it to the application and you're good to go. Just like when you hire a contractor to build a, you don't do that without a contract. We have in the past, and it has bit us in the butt to go by somebody's word and then they don't follow up with what they're supposed to do. So, here is your plan, we want you to follow your plan.

Mike Rocque: And I have every intention to follow my plan. It's in writing and I... if you go around and look at my history you'll see I don't build dumps. I build nice properties.

Jim Porter: Nobody is saying you are. I'm saying we've all people in this town that had every intention of doing what the Ordinance required that whatever The Planning Board, but when it came time to follow through, they didn't. That's why we wanted it on paper.

Mike Rocque: And I understand I have it all on paper and you have the legal right to enforce anything that is in the Ordinance or on that paper. But I gotta say I don't recall the request for the other stuff until, the first time I saw it was a week ago today.

Jim Porter: Maybe you were reeling because of the blasting you got from the public.

Mike Rocque: And you're right and it may be possible but it doesn't reflect that in the Minutes of the meeting.

Chia Murdock: I think you drew the conclusion that because we didn't get specific about what we were asking you for except for asking for more detail on your traffic counts and asking you to submit the DEP information that you had already said you were going to submit. That that meant there was nothing more that needed to be submitted. The whole purpose of sending you an e-mail by way of our Town Clerk was to remind you of the other reference that you should be looking at, the Appendix 1, for everything else that you would need to supply. What you're saying or implying is that the onus is on the Planning Board to know everything about your business that you need to supply. If you are truly the expert in your area of business, then the onus is on you to supply everything you need to supply. So, I think it's rather pointless for you to be trying to be accusatory about whether and when we said we didn't need anything more from you. Why at that point would we make sure to communicate with you before this meeting to say just make sure you're looking at this Appendix, that way you'll know everything that you need to supply.

Mike Rocque: Again, I was want mistaken. I don't recall that being said at the last meeting and it is not reflected in the Minutes of the meeting. Again, I'm going to call for a vote. The Board has one of three choices and I'm going to sit here until either action is taken or action is not taken.

Charlie Porter: I don't think he has the right to call a vote on anything.

Mike Rocque: Okay, that's fine.

Chia Murdock: I think that puts us in that third position then which is to take no action at this meeting.

Mike Rocque: That's fine. Is that going to be the Board's decision? If it is I want a motion on the floor and I want it official.

Chia Murdock: Do I have a motion?

Jean Bourg: I move that we take no action on this application tonight.

Chia Murdock: Do I have a second?

Jim Kenney: I'll second it.

Chia Murdock: We are taking no action on this motion.

Mike Rocque: You need to poll, I'm sorry.

Chia Murdock: I'm sorry, call for the vote.

Mike Rocque: And if you don't mind, Jean Bourg is the one that made the motion, Jim Kenney is the gentleman who seconded the motion.

Chia Murdock: So I'll call for the vote please. We're taking no action this evening.

Mike Rocque: Just for the record, I'd like to go around so everybody can notate their vote. Um, will start with you Sherry.

Sherry Powell-Wilson: I'm Sherry Powell-Wilson and I will not be threatened and forced into making a decision.

Mike Rocque: A simple no is fine.

Chia Murdock: I'm Chia Murdock and I believe that the Board cannot be coerced into taking action this evening.

Jim Kenney: I'm Jim Kenney and I seconded that motion.

Mark Nickerson: Can I make a comment before I...

Chia Murdock: Please.

Mark Nickerson: One thing I do remember, and I can't remember putting it on record when that was said but when I left the meeting last time back in December, what I remember was that at our next meeting we was going to be seeing information coming from the DEP stuff and the DOT stuff and that's what I was looking forward to tonight so I do remember that being said but it might have been at the very end when we were going out the door and it may not have been on record. I don't know. But that is what I thought I was going to be looking at tonight for the vote on this tonight. So, anyway, that was my thought about that and as far as the vote tonight, I say no action. I don't understand, one thing I don't understand is why would we approve your permit without seeing these things in our hands first?

Mike Rocque: But what things are you asking for?

Mark Nickerson: Well...

Mike Rocque: You have everything in your hands. What is not in your hands that you need? This is my point. These delays. These specifically and directly violate my right to due process.

Mark Nickerson: Let me ask you this question, Mike.

Mike Rocque: Sure.

Mark Nickerson: If we approve you to do this project and you can't get the permits, what happens then?

Mike Rocque: Then your permit is null and void automatically by law because your permit will stipulate conditioned upon approval from all State and local and federal government permits. Federal, State, and local permits.

Mark Nickerson: These are permits that he has to go get.

Jim Porter: What he is saying is, and I agree with this totally is the DEP survey that he has to do in order to be able to build here is extensive and I wouldn't want to pull that out of my pocket to find out that I can't build there. So, especially the permit, you know. The DEP, if they're not going to let him build there, that's one thing. If we're not going to let him build there after he's gone and spent \$10,000 to get the survey, that's even worse.

Mike Rocque: I would be a fool to do that.

Mark Nickerson: Exactly.

Jim Porter: And, again, so that's what he can do conditions of...

Mike Rocque: And your Ordinance does allow, has a section in there and does allow you to do just that and, again, I was a Chair of a Board, I sat on the Board for quite a few years and we always approved ours conditioned upon requiring all other federal and state and local permits.

Mark Nickerson: My next question is a public hearing. Where does that fall into this process? Do we have to wait for him... if we say yes on the permit, and he goes forward with the DEP and everything is a go, is this when the public hearing comes in or is it before...

[Not identified]: It needs to be before.

Chia Murdock: Right, and the public hearing as you probably know is triggered by the development review unless the Planning Board waives it, and we have not discussed whether the Planning Board might waive it or what those conditions might be. But until the Planning Board has had a discussion like that and had a reason consider waiving the requirement for a public

hearing, then that is why there has been a discussion continuously about scheduling a public hearing and doing that at the right time.

Mike Rocque: And again I would go back to saying that the law is sometimes made by precedence and precedence has been set by your approval without public hearings.

Jim Porter: You're wrong.

Mike Rocque: You had a public hearing on the college?

Jim Porter: Number one, the first building they did, yes, we did because it generated that. The rest of them, because the size of the parking lot and the building, did not generate having to have a public hearing. The cafeteria or whatever you're talking about there that was an addition to an existing building that did not generate public hearing or review. The new building they're building doesn't, in the district that it's in, doesn't require a public review by the size of the footprint.

Chia Murdock: Well, before we leave...

Mike Rocque: No, you're allowed to have a motion on the floor and then a discussion and then a vote.

Chia Murdock: Also, Unity College has had an opportunity through the partnership with the Town to take advantage of the Finance Authority of Maine arrangement whereby they pay considerably less interest and that discussion has happened before each project that the College has brought to the Town where it has been an open meeting where representatives of the College and the Finance Authority of Maine and our Town Clerk and other members of the public have shown up and have had an opportunity to comment on that so...

Mike Rocque: The public has had an opportunity to comment here.

Jim Porter: And while the cat's out of the bag, you also mentioned the Town Office. The Town Office had about 20 public hearings as to the location and height and design and...

Mike Rocque: But when the permit was submitted to the Planning Board for approval, was there a public hearing? For the construction of this building specifically due to the permit?

Jim Porter: The footprint didn't require it. And believe me, the Town Meeting had enough of the public... not to mention all of the other ones.

Jim Kenney: I'd like to interject. The Committee that designed this building brought it to the Town and then it got voted on in a public hearing. You conducted the meeting. And I recall that.

Mike Rocque: And that's fine. Now I researched the record and I couldn't find any record of a public hearing on the Dollar Store. And again, I can only research the records that the Town

provides and there is no record of a public hearing on the Dollar Store so, again, it's the Board's discretion to waive that or not, that public hearing. That's up to the Board. It has been waived in the past obviously and...

Jim Porter: I'd have to go back to or defer to our former chair on that one but I was there for that vote and either it didn't, because of the district it's in or the size of it, again, footprint didn't require.

Mike Rocque: It does require. The footprint does require.

Jim Porter: And we may have had the public hearing and nobody showed up.

Emily Newell: I just want on record a point of process and it has to do with a complete application, it's supposed to be in to the Board within 10 days of, which can be waived and if it's found complete the Board has 60 days to approve or disapprove.

Mike Rocque: Again, are you going to continue to allow the public to speak? Even though I have cited the law to you and made you aware that you cannot possibly let this continue in good faith?

Emily Newell: You don't have to vote yes or no tonight. This is a lot of stuff.

Mike Rocque: And that's coming from somebody...

Emily Newell: It should be read thoroughly to know.

Chia Murdock: That's coming from someone who is on our Selectboard.

Mike Rocque: She has every right but not at this time.

Chia Murdock: We have a vote on the table and we had some questions.

Jean Bourg: I recommend we not take any action until we can declare the application complete...

Mike Rocque: Let me ask the Board here this? Are you telling me that my application still is not complete?

Chia Murdock: Mike is correct that we can take an action, we can call his application complete tonight and still take further action afterwards. But I am concerned about the lack of public input. And you have been very pointed in your opinion that I have acted with less than integrity in trying to lead this Board and that I am biased. I consider that defamation and I do take exception to that. My intention all along has been to try to lead the board with neutrality, which by the way when we did come to the end of that last meeting you were perfectly happy to get the sense that there were people on the Board who were in your corner and my reaction was that I

was displeased with that position because we should be acting with neutrality in the Town's interest and not be showing our biases.

Mike Rocque: I'm sorry but that's incorrect because the purpose of the Ordinance is to encourage applicants and those two gentlemen were doing nothing more than encouraging me and they were reprimanded for that.

Jim Porter: You're taking that out of context.

Mike Rocque: Again, these were all opinions and everybody is welcome to it and I understand that.

Jim Porter: That's certainly not the way I took that conversation.

Mike Rocque: It's the way I took it.

Chia Murdock: Well I think that's unfortunate but I would like to move on from there because these good people, the public who is not allowed to speak tonight, are filling this room and waiting for us to wind this up. Is there anyone who has not voted, anyone on the Board who has not voted to take no action and if you have not yet voted to take no action are you questioning anything about that?

Mark Nickerson: Okay, it stopped at me because I had some questions. The Board Chair said that she feels the application. Would you say that it's complete?

Jean Bourg: Well I was just going to ask about one item.

Mark Nickerson: Because I think you should go for a vote. If we don't have everything, then I would say no.

Chia Murdock: I am not able to say that we have everything because the onus is not...

Mike Rocque: Are you able to say that we don't?

Chia Murdock: Let me finish please, Mike. You had your say.

Mike Rocque: Go ahead.

Chia Murdock: Because I am not a developer, I don't know if everything is complete. I don't know if we've received everything we ultimately need to have from him in order to say that we're all comfortable with what he's proposing. But he is correct that we can vote to accept his application as complete and he can still provide us with further information that he may yet need to provide. So that is true.

Jim Kenney: I believe that it is also true we can vote to decide with conditions.

Chia Murdock: And can we vote to decide with conditions and not determine those conditions tonight or do we know what we would determine those conditions to be?

Mike Rocque: I think the conditions are pretty simple if you ask me. The conditions that would cover everything is conditioned upon federal, state, and local guidelines. You are the locality and to obtain approval from DEP and State Fire Marshal's office or any type of agency that I may need to get permits from, then yes. But as far as right now, here we are. /R-RPBG

Mark Nickerson: So without a yea from us, you're still treading water? You can't move forward until we say go, right?

Mike Rocque: That is correct and it's stalling me and time is money and I don't mean to be rude but I don't appreciate it. I'm not here to coerce, if that's the word that was used or threaten or anything. I'm here to stand up for myself. I'm here to... what flabbergasts me, Board members, I'm here to build a convenience store. I'm not here to put in a nuclear waste dump. I'm not here to dump oil on the ground and fill up the aquifer with water. I'm here for a simple permit that I've gotten five or eight times in other towns before. Okay? It really does, it flabbergasts me to think that this could be so upsetting and so difficult and now you made a comment that you don't know if everything is complete. How long it is going to take for you to know whether everything is complete? It has been three months. The Ordinance says after one month you're supposed to tell me everything I need at the first meeting and the second meeting I provided. Again, I'm not trying to force anything but it's very simple. The Board can vote to approve based and condition it upon all federal and state permit applications and you're covered and this project will move forward, everybody can go home, get back to their lives, nobody needs to be stressed out. I'll through all my paperwork away and we'll all just go home and move on with our lives and I can continue on with my project. If for some reason this turns out to be undoable because the DEP cannot be bought. If it goes it goes and if it don't it don't. It's that simple. I'm not going to be able to buy anybody or bribe anybody. It either passes or it fails. And for us to sit here and nit-pick all this is a waste of time because we've got engineers that are going to spend \$10,000 to make these determinations. We're far more, I don't mean to make us all look stupid but they're far more educated in this field than any of us are, myself included. Now it just proper that they should be the ones to do the review and pay attention. And again, you can cover your whole self and we can just all move on with our own happy lives by a simple vote which is conditioned upon the federal and the state approval. It's really that simple:

Jean Bourg: I have a about the Board's process, that we had an hour and a half reading documents out loud we would have gotten to this. So to declare an application complete when it triggers development review, do we check off things in Appendix 1, is that how we declare a thing complete, is we go through Appendix 1 and check things off?

Chia Murdock: Well we should be adhering to what's in Appendix 1 as well much as Mike should be, as much as the applicant should be. I mean I would say we're bound by an understanding of the same things that are supposed to be provided according to Appendix 1 but as it's open ended there in that one item where it says state permits and other permits that must be provided, that is where I am interpreting that the onus is on the applicant based that every development review is for a different type of construction, the onus is on the applicant to know

what all of those permits are. So, yes, we should all be looking at Appendix 1 for what should be supplied but the Board does not have to become experts in the development of gas station and convenience store in order to have the burden of proof put on us to say, yes, we received everything we're supposed to receive.

Jean Bourg: For example, 2M, the location and proximal depth of any wells on the property within 500 feet.

Mike Rocque: Now again...

Chia Murdock: If I may while you're thinking, as I stated earlier in the meeting, in case anyone didn't hear it or didn't absorb it, the Board does have the ability to approve the applicant's preliminary plan and those are the words that are used in your guidelines, and still not approve the final plan if something should come up.

Mike Rocque: That's going to be unacceptable to me.

Chia Murdock: Well it's written. It can happen. And that's not my opinion. That's not me saying this is what I wish would happen. I want you to understand that.

Mike Rocque: And I do understand that, however, the Ordinance is clear on a timeframes and you have gone over those timeframes.

Jim Kenney: According to you.

Mike Rocque: According to me. Correct.

Jim Kenney: I'm going to jump in there because information came to us tonight that we've had to ask, and that's been misinformed, Mike. I was the one to ask the question have you been to the DEP.

Mike Rocque: And my answer, Jim, if you'll recall was no I haven't. I will go to the DEP after I obtain my town permits.

Jim Kenney: I missed that.

Mike Rocque: I only went and got these for my own personal education but I decided to provide them to the Board.

Jim Kenney: And you gave us more information. You gave us information here tonight that I thought was part of the sense that I had is where will the DEP go and it looks like with some experts that you have talked to, that this project is highly possible.

Mike Rocque: Absolutely.

Jim Kenney: And that helps me because I had a long history with that process.

Mike Rocque: I know you did, Jim. And I'm not out to degrade it or make it anything worse. I'm only out there to upgrade it, to make it a better place. That's all I'm after. I have really done a lot of research just trying to save that home as I really don't want to tear it down.

Chia Murdock: Okay, I need to interrupt here. We do have a vote on the table and unless anyone on the Board, hearing what we've heard since we first called for a vote, has changed their mind, then I believe we're voting for no action tonight. Is that true or does someone else need to speak up?

Sherry Powell-Wilson: I'd like to say something. I think it's sad that this whole thing has come to this because we probably, you know, we could have spent the time looking over what you submitted and I think...

Mike Rocque: I agree but just for a moment come over on to my side of the table and spend all this time and money and still meeting after meeting after meeting no action, no action, no action, and the application is on the floor. That's not right. That's not proper.

Sherry Powell-Wilson: At each meeting we've had a plan, we have asked.

Mike Rocque: You did not have a plan at the last meeting when the application is on hold and I don't even know why and I don't even know how.

Sherry Powell-Wilson: You were going to consult with the DEP because it was determined if the DEP says no, there is no point in going forward, and that...

Mike Rocque: No, the discussion was that the DEP information would come after the approval of the town and I would never say anything other because I would never spend that kind of money before I get town approval. That would just be idiotic of me. And I would never do that. Things happen in timeframes and process, you know, you have to do things in the proper order and spending \$10,000 for something that I don't even know if I'm going to get on the other end is not proper order. So I would never agree to that and, again, I provided that information to the Board because I wanted to. It was voluntary. It's nothing that I recall the Board asking for. And, again, here we are, you've all come to the conclusion or not the conclusion, I still don't know whether my application is complete but I'm not going to sit here for the next 6 months until it is. I can get relief in court and it will be much faster.

Jim Kenney: I believe we heard the Chair say that the items are met, right? Is that what I heard? I believe so.

Chia Murdock: As far as I know, everything has been submitted that by looking at Appendix 1, that Mike would know ought to have been submitted. And as I have also said a couple of times, the Board is within its right and as part of the Planning Board's procedure, to preliminarily approve Mike's development plan and it is written in the Board's own Ordinance that we may still, if something should come up and we find out that something is not complete after all, or something that's been represented to us cannot be done the way it's been represented, we can still

disapprove the plan after approving the preliminary plan. We can do that. And, again, I'm not putting that out there to say that's how I want it to go but we're talking about procedure that is part of our procedure as it is written.

Mike Rocque: And the procedure also calls for you to tell me what you need at the first meeting and this is meeting number three.

Chia Murdock: Well we can't go back to the first meeting.

Jim Porter: And we did.

Mike Rocque: We don't have to argue anymore.

Chia Murdock: I'd really rather not argue right now. I simply would like...

Mike Rocque: I would simply like, you know, Jim, to make a motion that this gets approved and subject to DEP and federal approval and let's make this simple and... confirmation of completeness, fine.

Jim Porter: There is already a vote on the floor.

Jim Kenney: You can rescind that.

Chia Murdock: So if we vote to take no action tonight then you're going to proceed with your attorney and...

Mike Rocque: I will not come back to the Board. That's correct.

Chia Murdock: And you will be suing me personally and requiring that I step down from the Board? Is that correct? Did I hear that correctly?

Mike Rocque: Yep, that pretty much sums it up.

Jim Kenney: I don't think we need to go that far.

Mike Rocque: I don't think we need to either and it's certainly... I don't want to go anywhere. All I want to do is build a convenience store. That's all I want to do. I don't want this to go on for 6 months, you know?

Jim Kenney: If we was to move forward with the conditions we just described you have to come back with all those permits before we can move.

Mike Rocque: Absolutely. And again, I'll throw all of my papers in the rubbish.

Chia Murdock: And he doesn't come back to the Board and say what more do you need from me? He has to know what he needs.

Jim Kenney: Yes. Does that work?

Jean Bourg: Did we look at the things that he has given us tonight?

Chia Murdock: We have had a chance to look at them tonight?

Jean Bourg: Like the traffic study.

Chia Murdock: We can still... we can take no action tonight or we can take an action.

Jean Bourg: ... a Planning Board meeting sooner than next month?

Jim Porter: Yes, we can.

Jean Bourg: That would give us time to go over the...

Jim Kenney: ... the is not going to change because... the same vehicle between Unity will continue... and he has committed to, he's not creating new entrances to 202, and he's not going to use entrance from Vickery Lane. That's what you've committed to?

Mike Rocque: Absolutely. You can also make the condition that I will not go forward with my project until I supply the Board or the Code Enforcement Officer with all of the applicable permits that are required. I will be glad to forward those to whoever you steer me to, whether it's the Board, Code Officer, whoever. I'll be glad to provide them with all those permits and information before I proceed with anything.

Jim Porter: So you can get your building permit, you just have to bring it to the Town Office?

Mike Rocque: That's correct.

Jim Porter: ... the CEO as far as the building permit.

Mike Rocque: Gladly.

Jim Porter: But again, as far as the traffic survey goes, really this isn't one of our side roads that we're creating more traffic like the Common Ground or something that. I mean it's a State highway. It is what it is so.

Jean Bourg: It's a State highway in the middle of town with a 25-mile per hour speed limit. At an intersection.

Jim Porter: Right. I understand that but that doesn't affect the traffic flow. It's still the same whether they stop at the store or not. It's not going to change.

Jim Kenney: I agree.

Chia Murdock: You were going to say something, Jim?

Jim Kenney: I would like to move forward with the conditions that we've just described.

Jim Porter: Is that a motion, Jim?

Jim Kenney: I'm trying to get the sense, I can speak that motion if we want to move? Shall I speak that motion?

Jim Porter: Do we have to reconsider the vote?

Chia Murdock: I think we have to reconsider. We did not get to the point of calling for the vote on no action. We had discussed it and it was on the table so we need to take it off the table if we're going to consider something else. It is the wish of the Board members to take the possibility of voting to take no action now off the table so that we may consider what Jim would like to propose? [Yes] I have a motion, I have a second. We are removing from the table the probability of voting no action. Jim?

Jim Kenney: I would propose that we vote to approve the application with conditions that all permits are in hand and all questions that we haven't had a chance to study or get answers to are considered before the actual construction takes place.

Chia Murdock: I am going to take a question from the public.

Mike Rocque: You cannot do that.

Citizen: Are we waiving a public hearing?

Chia Murdock: That's a good question. No, we're not waiving a public hearing.

Mike Rocque: Madam Chair, I'm calling the point of order here.

Chia Murdock: You're calling a public order?

Mike Rocque: Yes, the public is continuing to speak while there's a motion on the floor and you can't allow that to happen. You are conducting this meeting and you cannot allow that to continue. You see what I'm saying.

Jim Porter: That has no effect on the public hearing.

Mike Rocque: There's a motion on the floor by Jim Kenney for the record.

Chia Murdock: Is there a discussion?

Jean Bourg: I would like to hear his motion carefully stated again to see what I'm agreeing to.

Chia Murdock: Okay, go ahead, Jim.

Jim Kenney: Can you read back those?

Sherry Powell-Wilson: Oh God.

Jim Kenney: I will state it to the best of my ability. Correct me if I'm wrong. I make a motion that we move forward in approval with the conditions of all permits in hand and all our questions that might be asked as a result of us receiving today before construction begins.

Jim Porter: Specifically DEP, Fire Marshall's Office, DOT.

Mike Rocque: Absolutely.

Chia Murdock: And I would like to add to that, and conforming to all regulations and guidelines that the Unity Planning Board is bound by.

Jim Kenney: I accept that modification.

Mark Nickerson: One quick comment. Where does the public hearing fall into that?

Jim Kenney: When we call it.

Mark Nickerson: Is that a motion?

Chia Murdock: That's a motion.

Mark Nickerson: I second it.

Chia Murdock: Call for the vote.

Jim Kenney: Is this in favor? [Yes.]

Chia Murdock: So that was not unanimous. I think we need to record who voted for and who abstained.

Jean Bourg: One abstention.

Chia Murdock: One abstention, Jean Bourg.

Jim Kenney: I, Jim Kenney, voted for it.

Sherry Powell-Wilson: I, Sherry Powell-Wilson, voted for it.

Chia Murdock: Chia Murdock.

Jim Porter: James Porter.

Mark Nickerson: And Mark Nickerson.

Mike Rocque: I appreciate that. We can all get along with our happy lives now. I'd keep my word, I'll do a good job there. All of permits and everything will be brought into the Town of Unity at the Town Office. If it's okay I'll drop that stuff off with the Clerk, if the Clerk is the person you want to have be given to, whoever is the...

Jim Kenney: It will be directed to the appropriate destination.

Mike Rocque: That's what I'm looking for.

Mary Leaming: I have a question. Now that you've got the result you wanted, Mr. Rocque, now are you going to not file legal action on Chia and the other people? Are you satisfied that you have a result?

Mike Rocque: I am satisfied, yes.

Mary Leaming: It's not the best way. Not the best way to enter Town with this approach.

Mike Rocque: I understand that.

Mary Leaming: You should be careful the next time with a small community and all the leaders that are here.

Mike Rocque: Is that a threat?

Mary Leaming: No, no. I'm just saying, no, no, it would be smart to not, I mean, it makes sense for you to come in and not approach it the way you did, I think because we're a small town. That's all.

Mike Rocque: Thank you:

Mary Leaming: Best to the future.

Citizen: So that was a preliminary plan that got voted on?

Chia Murdock: Yes.

Mike Rocque: No that plan was approved. That was an approval.

Chia Murdock: Yes.

Citizen: I just have a question in regard to the public forum and what purpose that holds on...

Jim Porter: We're all set.

Chia Murdock: We'll have to reevaluate that. The Board can still...

Mike Rocque: I'm leaving. Thank you. [Applicant left the meeting.]

Chia Murdock: The Board can still determine quickly if a public hearing needs to happen or not. We'll need to reevaluate based on what we had just moved, whether there is a need for the public hearing or not. I thought I knew what the purpose would have been for it and now I think we need to reconsider that.

Jim Porter: And to answer your question it's hopefully that the public can either express their opinion about the project and the person that is proposing the project would have an idea or feel for what the Town would like to see...

Citizen: What weight does that forum have?

Jim Porter: From my experience I think it's more on the shoulders of the applicant.

Jean Bourg: Chia, the Town can hire, it says so in the Ordinance and it's recommended in certain conditions, it's recommended that we hire our own, for example, groundwater experts. You know. That we can bring in our own opinions.

Kevin Spigel: I believe it's time to get the DEP involved. I am by no means a legal expert and will not go out on a limb saying that. I simply provided a summary of what my information is, what I plan on from my own knowledge what exists beneath our feet.

Chia Murdock: And I appreciate that.

Jim Porter: If you look at what's in the Ordinance and what's on the map, in the generic downtown area so if you...

Kevin Spigel: There are tons of wells. His definition of an aquifer is...

Chia Murdock: His definition is supporting his purpose. His application. Let me just say that the Planning Board is within it's right to call for an allowed technical review. This could be with KVCOG, it could be with anyone who could prepare us for that public hear in the event we decide to go ahead with it and we have the rationale for doing that and that's a 21-day review and that review would happen prior to the public hearing. So these are, we have tools that we can still employ but we need to think we, as a Board, need to think carefully, how we would employ those and what our purpose would be now that we have taken the step with Mr. Rocque that we have.

Jim Kenney: When he was reading to us, an expert, it sounded well. But the question comes would another expert reach the same conclusion? We're hanging on that discussions.

Kevin Spigel: If you go to the right consultant you can find the answer that you want.

Jim Kenney: That's why I'm asking it exactly the way I'm speaking. We have some very knowledgeable people in this state about water. When I had wells drilled, we didn't know what we know today and we've learned more. When I struck water there, I had to treat it because it came up contaminated. I had a filter that could handle the contents of the well. I do not know if we had the list of contaminants into that water.

Chia Murdock: Jim, I'm sorry, I need to interrupt you right now. Sherry is getting to cramp up completely. She has been, we're all ready to go home and I appreciate your comments but we have made the decision that we have made. If anyone feels the need to say something more before we adjourn I'm feeling really compelled to adjourn.

Penny Picard Sampson: I have one thing. You did an awesome job.

Charlie Porter: We got snookered.

Jim Porter: One more thing for the record, Sherry, I would like the record to reflect that the applicant chose to leave the meeting before its conclusion.

21:24:47 Meeting adjourned.

**Respectfully submitted,
Sherry E. Powell-Wilson, Notary Public**