



LONDONDERRY TOWN COUNCIL AGENDA

June 5, 2023 • 7:00 P.M. • MOOSE HILL COUNCIL CHAMBERS

John Farrell • Chair
Chad Franz • Vice Chair
Ted Combes • Councilor
Jim Butler • Councilor
Ron Dunn • Councilor

Michael Malaguti • Town Manager
Kellie Caron • Assistant Town Manager | Director of Economic Development
Justin Campo • Finance Director
Kirby Brown • Executive Assistant

A. CALL TO ORDER

B. PUBLIC COMMENT

- 1. Presentation of Historical Society Gift**
(Kirsten Hildonen & Linda Green, Londonderry Historical Society)

C. PUBLIC HEARINGS

D. NEW BUSINESS

- 1. Twin State Clean Energy Presentation**
(National Grid and Representatives)
- 2. Capital Improvements Plan Committee Appointments**
(Kellie Caron, Assistant Town Manager & Economic Development Dir.)
- 3. Lithia Springs Finalization**
(Michael Malaguti, Town Manager)
- 4. Approval of 35 Gilcrest Road (Release of Conservation Easement) Transaction**
(Michael Malaguti, Town Manager)

5. **Discussion of Historic Preservation Easement at 2 Litchfield Road**
(Michael Malaguti, Town Manager & Kellie Caron, Assistant Town Manager & Economic Development Dir)

- E. **OLD BUSINESS**

- F. **APPROVAL OF MINUTES**

May 15, 2023 Town Council Minutes

- G. **APPOINTMENTS/REAPPOINTMENTS**

- H. **OTHER BUSINESS**
 1. Liaison Reports
 2. Town Manager Report
 3. Assistant Town Manager Report

- I. **ADJOURNMENT**

- J. **MEETING SCHEDULE**
 1. Town Council Meeting 06/26/2023
Moose Hill Council Chambers, 7:00 P.M.

In addition to the items listed on the agenda the Town Council may consider other matters not on the posted agenda and may enter a non-public session or convene in a non-meeting in accordance with RSA 91-A if the need arises.



**Town of Londonderry
Planning and Economic Development Department**

268B Mammoth Road
Londonderry, NH 03053
Phone 603.432.1100 x 128
www.londonderrynh.org

To: Town Council
From: Amy Kizak, GIS Manager/ Comprehensive Planner
Date: May 31, 2023
Subject: **2025-2030 Capital Improvement Program (CIP) Committee**

In accordance with Section 5.5 of the Town Charter, and RSA 674:5, the Town Council must appoint the members of the Capital Improvements Program (CIP) Committee. By Town Charter, the CIP Committee is comprised of one (1) member of the Town Council, one (1) member of the School Board, one (1) member of the Budget Committee and two (2) members of the Planning Board. The following Committee members have been recommended for appointment to the Committee by the Council:

- Town Council Representative (1) – Ted Combes
- School Board Representative (1) –Bob Slater
- Budget Committee Representative (1) – Sarah Meier
- Planning Board Representatives (2) – Jake Butler and Jeff Penta

The CIP Committee is tasked with preparing and submitting a Capital Improvements Plan to the Planning Board, which will then hold a public hearing on the plan. The Planning Board will finalize recommendations, adopt the CIP plan and forward the plan to the Town Council and School Board for consideration.

Staff recommends that the Council accept the nominations as presented and appoint the above listed individuals to the 2025-2030 Capital Improvement Plan Committee.

**PURCHASE AND SALE AGREEMENT
(FOR RELEASE AND TERMINATION OF
EASEMENT AND RESTRICTIVE COVENANTS)**

This PURCHASE AND SALE AGREEMENT (this "Agreement"), made and effective as of the ~~19th~~^{14th} day of April, 2013 (the "Effective Date"), is by and among the **Town of Londonderry**, New Hampshire, a municipal corporation with a place of business at 268 B Mammoth Road, Londonderry, New Hampshire 03802 (the "Seller") and **Gilcreast Realty Holdings, LLC**, a New Hampshire limited liability company with an address of P.O. Box 543, Londonderry, New Hampshire 03053 (or its assignee) the "Purchaser"). The Seller and the Purchaser are sometimes, collectively, referred to herein as the "Parties."

WITNESSETH

WHEREAS, the Purchaser is the owner of a tract of land situated in Londonderry, New Hampshire 03801, as more particularly described in the Warranty Deed of Paul A. Villemarie and Reginald A. Ronzello, as Trustees of Boston North-Tinkham Nominee Trust I to Purchaser, recorded on August 15, 2001 in the Rockingham County Registry of Deeds (the "Registry") at Book 3628, Page 2149 (the "Land");

WHEREAS, the Seller and the Purchaser are parties to that certain Open Space/Conservation Easements and Declaration of Restrictive Covenants dated September 15, 2003 and recorded in the Registry at Book 4150 Page 127 (the "Easement Agreement");

WHEREAS, the Land is identified as the "Orchard Lot" in the Easement Agreement;

WHEREAS, the Seller, by way of the Easement Agreement, is the holder of certain easement rights as to the Land described as a Conservation/Open Space Easement as set forth in Article IV of the Easement Agreement (the "Conservation Easement") and the holder of certain beneficial rights of equitable servitudes as to the Land as set forth in Article VII of the Easement Agreement (the "Restrictive Covenants"); and

WHEREAS, the Seller, in consideration of the payment of Two Million Six Hundred Fifty Thousand Dollars (\$2,650,000.00) from the Purchaser, now desires to terminate and release the Conservation Easement and release of substantially all of its rights as to the Restrictive Covenants as the same may affect the Land as contained in the Easement Agreement by sale to Purchaser of the rights of the Conservation Easement and release and revocation of Seller's rights to the Restrictive Covenants by Seller, all as provided for and permitted in Article XXVII of the Easement Agreement; and the Purchaser desires to purchase same, on the terms and conditions hereinafter set forth.

NOW, THEREFORE, for good and valuable consideration received and in further consideration of the mutual covenants and promises hereafter set forth, the Parties hereto do hereby mutually covenant and agree as follows:

1. PURCHASE AND SALE.

Subject to and on the terms and conditions herein set forth, the Seller hereby agrees to sell, convey and release by Quitclaim Deed all of Seller's rights in and to the Conservation Easement over the Land and revoke and terminate almost all of the Seller's rights in the Restrictive Covenants, and the Purchaser hereby agrees to purchase the same from Seller.

2. TITLE

Said sale, revocation and termination of the Conservation Easement and Restrictive Covenants are to be accomplished by a quitclaim release deed (the "Quitclaim Release Deed") of the Conservation Easement and Restrictive Covenants running to the benefit of the Purchaser, excepting the following (collectively, "Permitted Exceptions"):

(a) Such taxes for the then-current year as are not due and payable on the date of the delivery of such deed; and

(b) Provisions of existing building and zoning laws; and

(c) Other existing or remaining easements, restrictions and reservations of record, if any, so long as the same do not prohibit or materially interfere with the Purchaser's intended use of the Land in accordance with this Agreement including those restrictions as to the use of surface and groundwater retained from the original Agreement.

(d) The Quitclaim Release Deed shall serve to convey, release, terminate and revoke the Conservation Easement and the Restrictive Covenants as to the Land and exact form shall be agreed upon by the parties, as a condition of Closing. Following the conveyance of the Quitclaim Release Deed, it is the intention of the parties that a continued restriction of the use of surface and groundwater on the Land as set forth in the Easement Agreement and any conditions as they relate or apply to the Gilcreast II Land as described in the Easement Agreement shall remain. The Closing is contingent upon the parties approval of the Quitclaim Release Deed, in form and substance, within sixty (60) days of the Effective Date.

3. ENVIRONMENTAL INDEMNIFICATION

In consideration of the Seller's granting the Quitclaim Release Deed, the Purchaser shall grant to the Seller an environmental indemnification (the "Environmental Indemnification") in the form to be agreed upon within sixty (60) days of the execution of this Agreement indemnifying the Seller from all liability as to environmental matters related to the Land. The Closing is contingent upon the parties approval of the Environmental Indemnity Agreement, in form and substance, within sixty (60) days of the Effective Date.

4. PURCHASE PRICE.

The "Purchase Price" to be paid by the Purchaser to the Seller for the Quitclaim Release Deed is Two Million Six Hundred Fifty Thousand Dollars (\$2,650,000) subject to the closing

adjustments set forth herein. The Purchase Price shall be payable in immediately available funds at the Closing (as hereinafter defined) by wire transfer to Escrow Agent (as hereinafter defined) by instructions provided to the Purchaser for disbursement to the Seller in accordance with the terms of this Agreement.

5. EARNEST MONEY DEPOSIT.

(a) No later than five (5) Business Days (as hereinafter defined) following the Effective Date, the Purchaser shall deposit with Sheehan Phinney Bass & Green, P.A., or another entity acceptable to the Parties (the "Escrow Agent") by federal wire of funds in accordance with instructions from the Escrow Agent, the amount of Fifty Thousand Dollars (\$50,000) (the "Earnest Money Deposit").

(b) At Closing, the Earnest Money Deposit shall be credited against the Purchase Price.

(c) The Escrow Agent shall be obligated to disburse the Earnest Money Deposit at Closing or upon cancellation or termination of this Agreement in accordance with this Agreement. In the event of any dispute, the Escrow Agent shall be and is hereby authorized, but not obligated, to pay the entire amount of the Earnest Money Deposit into the Clerk of the Superior Court of Rockingham County, with notice to the parties hereto at the addresses recited hereinabove, and any reasonable expenses of the Escrow Agent for so doing shall be payable out of the Earnest Money Deposit. It is acknowledged by the parties hereto that Sheehan Phinney Bass & Green, P.A., (the "Seller's Counsel") represents the Seller in connection with this Agreement. The Parties agree that, notwithstanding the Seller's Counsel's functions under this Agreement as Escrow Agent, the Seller's Counsel may, in its capacity as a law firm, represent the Seller in connection with any dispute between the Purchaser and the Seller (and notwithstanding that the Seller's Counsel may be a party to that dispute and may, in its capacity as a law firm, represent itself) with respect to the Earnest Money Deposit, the Land, or this Agreement. The provisions of this Section 5(c) shall survive the termination of this Agreement.

6. CONTINGENCIES AS TO APPROVALS

The Seller's and the Purchaser's obligations hereunder are contingent upon

(a) certain approvals of the transactions contemplated herein by certain authorities that may include the following: i) the Town of Londonderry Town Council, and ii) The Town of Londonderry Conservation Commission (the "Seller's Approvals"). The Seller's Approvals are to be to the satisfaction of the Seller and the Purchaser.

(b) a signed approved plan showing Purchaser's development plans for residential housing of not less than ninety (96) units related to the Land by the Londonderry Planning Board in substantially the plan layout, and with municipal sewer and water utility availability provided by the Town, as shown on **Exhibit A** ("Development Plan") and the necessary approvals from the State of New Hampshire for the Development Plan (collectively the "Purchaser's Approvals"); all to be pursued by the Purchaser using its

best efforts and to be received without appeal therefrom. Upon failure of this contingency, either party may: i) withdraw from this Agreement; ii) waive and release this contingency; or iii) with assent of the other Party, amend this Agreement.

By executing this Agreement, the Purchaser acknowledges that the Seller makes no representation as to: 1) the likelihood of success of the granting of any of the needed Purchaser's Approvals, including those needed from the Londonderry Planning Board, the Londonderry Zoning Board of Adjustment or any Town of Londonderry board, committee or authority; 2) the adequacy, legality and compliance of the Development Plan, or that of any related plans of Purchaser related to the Land with the Town of Londonderry's development regulations and ordinances or that of state and federal law.

(c) The Seller providing to the Purchaser sufficient sewer capacity in the municipal sewer system to allow up to, but not exceeding ninety-six (96) 3-bedroom units as shown on **Exhibit A** to have access to the system ("Seller's Sewer Certificate") conditioned upon construction of the project (site work and infrastructure) as shown on the Development Plan to be initiated within twelve (12) months of Closing and pursued by Purchaser to completion while exercising Purchaser's best efforts.

Seller's Approvals, Purchaser's Approvals and Seller's Sewer Certificate are hereinafter referred to as the "Approvals".

7. DUE DILIGENCE AND TITLE INSPECTION

Commencing on the Effective Date and continuing for sixty (60) days thereafter, the Purchaser and its agents, employees, representatives and contractors shall be permitted to commence due diligence with respect to the Land (the "Due Diligence Period") and pursue the Approvals with the Seller's reasonable cooperation, at the Purchaser's sole cost and expense. Any due diligence done on the Land must be approved ahead of time by the Seller. All of the costs of the Purchaser's tests and inspections and applications for the Purchaser's Approvals shall be paid for by the Purchaser. Notwithstanding anything in this Agreement to the contrary, the Purchaser shall have the right to terminate this Agreement at any time and for any reason during the Due Diligence Period and upon written notice to the Seller shall receive the return of its Earnest Money Deposit and the agreements contained herein shall be null and void.

The Purchaser may, at the Purchaser's option, cause the record title to the Land to be examined (the "Title Inspection") and to have the proposed Quitclaim Release Deed reviewed by a title insurance company in New Hampshire for purposes of confirming the recording of the Quitclaim Release Deed will result in release of the Conservation Easement and Restrictive Covenants and Purchaser's ability to develop the Land in accordance with the Development Plan. The Purchaser shall notify the Seller within the Due Diligence Period of the existence of any encumbrance, defect or other matter affecting title and not excepted in this Agreement that renders the title to the Land unmarketable or unsuitable for the Purchaser's use. The Purchaser may, at the Purchaser's sole discretion: (a) extend the Closing Date for a period not to exceed

sixty (60) days to provide additional time for Seller to cure such defects; or (b) terminate this Agreement and receive the return of its Earnest Money Deposit where upon the agreements contained herein shall be null and void. In the event that the Purchaser fails to give such notice in a timely manner, this condition and any objection to the title to the Land shall be deemed waived.

8. REPRESENTATION AND WARRANTIES OF PURCHASER.

(a) The Purchaser's Representations and Warranties. The Purchaser represents and warrants to Seller as of the Effective Date (and shall be deemed to represent and warrant to Seller as of the Closing Date) the following:

(i) Authority. The Purchaser is a duly organized limited liability company and is a validly existing limited liability company under the laws of the State of New Hampshire and has full authority and capacity to enter into and perform this Agreement and each agreement, document and instrument to be executed and delivered by it pursuant to this Agreement. The persons executing this Agreement and the other documents required hereunder are the duly designated representatives of the Purchaser and are authorized and have the power and capacity to do so.

(ii) Proceedings. There are no claims, actions, suits or proceedings pending or threatened against the Purchaser which question the validity or enforceability of this Agreement or of any action taken by Purchaser under this Agreement.

(iii) No Garden-style apartments. Purchaser will not develop garden-style apartments on the Land and development shall occur substantially as shown on **Exhibit A**. This representation shall survive the Closing. *

(iv) The Purchaser understands that the Seller makes no warranty or representation, nor takes any position, as to the likelihood of success of the granting of any approvals needed for completion of the Purchaser's planned project on the Land, including those needed by authorities, boards or committees affiliated with the Town of Londonderry.

(v) Binding Obligations. This Agreement and all documents executed by the Purchaser which are to be delivered to the Seller at the Closing are, or at the time of delivery will be, duly authorized, executed, and delivered by the Purchaser and are, or at the time of delivery will be, legal, valid, and binding obligations of the Purchaser, and do not, and at the Closing will not, violate any provisions of any agreement to which the Purchaser is a party or to which it is subject.

9. REPRESENTATION AND WARRANTIES OF SELLER

(a) The Seller's Representations and Warranties. The Seller represents and warrants to the Purchaser as of the Effective Date hereof (and shall be deemed to represent and warrant to Purchaser as of the Closing Date) the following:

* The buyer shall be obligated to construct a fence along the boundary of the abutting property which is owned by the Newins Condominium. *Sy M M*

- (i) Owner. The Seller is the holder of the Conservation Easement and Restrictive Covenants.
- (ii) Authority. The Seller is a municipal corporation in the State of New Hampshire, duly organized, validly existing, and in good standing under the laws of the State of New Hampshire. The Seller has full authority and capacity to enter into and perform this Agreement and each agreement, document and instrument to be executed and delivered by it pursuant to this Agreement.
- (iii) Judicial Actions. There are no pending or threatened claims, lawsuits, arbitrations or other similar actions against the Seller which, if adversely determined, would: (a) restrain the consummation of the transaction contemplated by this Agreement, (b) have a material adverse effect on the Seller's ability to amend the Easement Deed and convey the Quitclaim Release Deed prior to or after the Closing, or (c) result in any lien or encumbrance against the Land prior to or after the Closing.
- (iv) Purchase Rights. There are no options, rights of first offer or rights of first refusal, or other similar agreements, affecting the Conservation Easement or Restrictive Covenants, of any kind which have not been waived and terminated, and the Seller has no knowledge of any purchase contracts, options or other agreements of any kind whereby any third party will have acquired or will have any right to acquire title or interest to all or any portion of the Conservation Easement or Restrictive Covenants.
- (v) Foreign Person. The Seller is not a "foreign person" within the meaning of Section 1445(f) (3) of the Internal Revenue Code of 1986, as amended.
- (vi) Binding Obligations. This Agreement and all documents executed by the Seller which are to be delivered to the Purchaser at the Closing are, or at the time of delivery will be, duly executed, and delivered by the Seller and are, or at the time of delivery will be, legal, valid, and binding obligations of the Seller, and do not, and at the Closing will not, violate any provisions of any agreement to which the Seller is a party or to which the Seller is subject. No other proceedings on the part of the Seller are required to authorize this Agreement or to consummate the transaction contemplated hereby.
- (viii) Purposely omitted.
- (ix) Condemnation. The Seller has not received written notice of any pending condemnation proceedings relating to the Conservation Easement or Restrictive Covenants, nor to the Seller's knowledge, are any such proceedings threatened or pending.
- (x) Restrictive Agreements. Seller has not received any notice of violations of the Conservation Easement or Restrictive Covenants applicable to the Land.

10. OPERATION OF LAND AND NOTICE.

(a) From the Effective Date until the Closing Date, the Seller agrees to and represents that it will:

(i) Maintain and operate the Conservation Easement in the same manner as before the Effective Date, ordinary wear and tear excepted, subject to this Agreement.

(ii) Not cause any action to be taken which will cause any of the foregoing representations or warranties to be untrue at the Closing; and

(iii) Advise the Purchaser in writing of any matter of which the Seller receives notice which may cause any of the foregoing representations or warranties to be untrue at the Closing, including, but not limited to all written notices received by the Seller from any property owner abutting the Land or any governmental authority, including notices alleging violation of any law, statute, ordinance, regulation or order of any governmental or public authority relating to the Conservation Easement, within three (3) Business Days following the Seller's receipt thereof, but, in no event later than one (1) Business Day prior to the Closing Date.

11. SURVIVAL.

The representations and warranties made in this Agreement by the Purchaser and the Seller shall not merge into any instrument of conveyance delivered at the Closing and except as to the representation, warranty and agreement set forth in Section 8(a)(iii), which shall survive indefinitely, shall survive the Closing for a period of twelve (12) months. Any claim based upon a misrepresentation or breach of any of the representations and warranties herein, shall be actionable and enforceable only if notice thereof is given by the party asserting such claim within the aforesaid time after the date of the Closing.

12. CLOSING.

The closing contemplated herein (the "Closing") shall take place at the office of the Seller's Counsel, or other location agreeable to the Parties, or by escrow as provided hereunder on or before thirty (30) days after receipt by the Purchaser of all Approvals and subdivision and site plans depicting the Development Plan signed by the Seller and ready for recording in the Registry of Deeds (the "Closing Date"). Notwithstanding the foregoing, the parties need not attend the Closing in person and shall have the right to close the transaction contemplated by this Agreement pursuant to the Parties' written Closing escrow instructions, so long as such instructions are consistent with the terms of this Agreement.

(a) Seller's Closing Deliverables.

(i) The Seller shall deliver to the Escrow Agent at or prior to the Closing a certification that all of Seller's representations, warranties and agreements set forth in Section 9 hereof are true and correct as of the Closing. The Seller shall not have at the Closing failed to meet, comply with, or perform any material conditions or agreements on its part to be performed hereunder.

(ii) The Quitclaim Release Deed of substance and form agreeable to the Parties, including the title of the document, specificity of the remaining covenants and rights not being released, and adequate representation as to the sufficiency of authority with the lack of Gilcrest II, LLC's approval.

(iii) A Non-Foreign Affidavit, if required, in the form as required by the Purchaser's counsel ("Purchaser's Counsel"), or any title company or closing agent acting on behalf of the Purchaser or on behalf of a lending institution utilized by the Purchaser (the "Purchaser's Lender") to finance the purchase (the "Closing Agent");

(iv) Seller's Sewer Certificate, so long as Purchaser's development plans are sufficiently otherwise approved by all relevant authorities, authorizing access for up to ninety-six (96) 3-bedroom units as shown on **Exhibit A** to be constructed on the Land by Purchaser;

(v) A 1099-S form, or effective equivalent thereof, describing the "sale of the Easement", together with a designation of the "reporting person" with respect of such sale;

(vi) A closing statement, consistent with this Agreement, in a form acceptable to the Purchaser's counsel and the Closing Agent (the "Closing Statement");

(vii) Evidence acceptable to the title company and reasonably acceptable to the Purchaser, authorizing the consummation by the Seller of the purchase and sale transaction contemplated hereby and the execution and delivery of the closing documents on behalf of the Seller, an appropriate certificate of Seller regarding the authorization of the sale and the authority of any individual or entity signing this and any closing instruments on behalf of the Seller;

(viii) A duly executed New Hampshire Department of Revenue Administration ("DRA") Form CD-57-S;

(ix) Any other documents reasonably required in connection with the transactions contemplated by this Agreement, or reasonably required by the Purchaser's Counsel and the Closing Agent, provided however that in no event shall such other documents impose any additional liability on the Seller or reduce the consideration otherwise due to the Seller as contemplated in this Agreement.

(b) The Purchaser's Closing Deliverables. At the Closing, the Purchaser, shall execute and deliver to the Escrow Agent the following documents:

i. The Closing Statement;

ii. A duly executed New Hampshire Department of Revenue Administration ("DRA") Form CD-57-S;

iii. The Environmental Indemnification;

iv. An appropriate certificate of the Purchaser regarding the authorization of the purchase and the authority of any individual or entity signing this Agreement and any of the closing instruments on behalf of the Purchaser; and

iv. Any other documents reasonably required in connection with the transactions contemplated by this Agreement, or reasonably required by the Closing Agent or the Seller's Attorney.

(c) Purchase Price.

i. Earnest Money Deposit. At the Closing, the Seller and the Purchaser shall direct the Escrow Agent, or the Closing Agent if applicable, to disburse to the Seller, in accordance with the Closing Statement, by federally insured wire transfer, the Earnest Money Deposit.

ii. Balance. At the Closing, the Purchaser, by and through either Purchaser's Counsel or the Closing Agent, shall transmit to the Escrow Agent, by federally insured wire transfer, the total amount of the Purchase Price less the amount of the Earnest Money Deposit.

(d) Further Assurances. Seller and Purchaser shall, at the Closing, and from time to time thereafter, upon request, execute such additional documents as are reasonably necessary in order to accomplish the transactions contemplated under this Agreement, provided that such documents are consistent with the terms of this Agreement, and do not increase Seller's or Purchaser's respective obligations hereunder or subject Seller or Purchaser to additional liability not otherwise contemplated by this Agreement. This Section 11(e) shall survive Closing.

(e) Escrow Delivery. Upon receipt of the Seller's and the Purchaser's Deliverables and mutually agreed upon Closing escrow instructions, Escrow Agent shall release the Seller's Deliverables, the Purchase Price, the Purchaser's Certification and Environmental Indemnification to the Seller and the remainder of Purchaser's Deliverables to Purchaser.

13. PRORATIONS AND ADJUSTMENTS. Purposely Omitted.

14. CLOSING COSTS.

(a) The Seller. The Seller, as a municipal corporation, is not responsible for any real estate transfer taxes associated with the conveyance of the Quitclaim Release Deed, but is responsible for the fees and costs of Seller's Counsel representing it in connection with this transaction.

(b) The Purchaser. The Purchaser shall be responsible for the payment of (i) of any real estate transfer taxes associated with the recording of the Quitclaim Release Deed, if any, (ii) fees for the recording of the Quitclaim Release Deed (iii) the fees and costs of Purchaser's Counsel representing it in connection with this transaction, (iv) all the costs associated with

Purchaser's due diligence and investigations, and (v) all other costs customarily incurred by purchasers of real estate in the State of New Hampshire.

(b) Survival. To the extent applicable, the provisions of this Section 14 shall survive Closing.

15. REMEDIES.

(a) Purchaser Default. If the Purchaser fails to perform any of its material obligations under this Agreement, then the Seller shall have the right, as its sole and exclusive remedy for such failure, the option to terminate this Agreement by delivering written notice thereof to the Purchaser, and should the Purchaser fail to cure such failure within five (5) days, this Agreement shall terminate and the Earnest Money Deposit (together with all interest thereon) shall be paid to the Seller as liquidated damages. The Seller and the Purchaser agree that the Seller's actual damages in the event of a Purchaser closing default are uncertain and difficult to ascertain, and that the earnest money deposit (together with all interest thereon) is a reasonable estimate of the Seller's damages.

(b) Seller Default. If, prior to the Closing, the Seller shall for any reason whatsoever default in the performance of the Seller's obligations under this Agreement or if the Purchaser discovers prior to Closing that any representation and warranty of the Seller was incorrect or misleading in any material respect, and the Purchaser does not wish to waive such default or incorrect or misleading representation and warranty, the Purchaser, as its remedies, may either (i) terminate this Agreement for such default, in which event (x) the Purchaser shall be entitled to the immediate return of its Earnest Money Deposit and this Agreement shall terminate without further recourse and (y) solely to the extent that the Seller commits an intentional default or intentional misrepresentation (or intentionally causes a third party to take an action or omission which causes a default or misrepresentation by the Seller), the Seller shall promptly reimburse the Purchaser for all out-of-pocket costs and expenses incurred by the Purchaser in connection with this Agreement, or (ii) commence an action for specific performance against the Seller, it being acknowledged that damages at law would be an inadequate remedy.

(c) Survival. The provisions of this Section 15 shall survive the Closing and/or any termination of this Agreement.

16. CONDEMNATION AND CASUALTY.

If, prior to the Closing, any portion of the Land is damaged, destroyed, or a condemnation proceeding is commenced against the Land (defined herein as "Casualty" or "Condemnation") then the Purchaser shall have the right to terminate this Agreement by delivering written notice thereof on or before the Closing Date. In such event, the Earnest Money Deposit shall be returned to the Purchaser and the Parties shall be released from all obligations under this Agreement except those which expressly survive termination of this Agreement. If the Purchaser fails to terminate this Agreement pursuant to this Section 16, then at the Closing, (i) the Seller shall pay to the Purchaser all insurance proceeds and condemnation awards paid to the Seller in connection with such Casualty or Condemnation, (ii) the Seller shall

assign to the Purchaser all of the Seller's right, title and interest in any insurance proceeds or condemnation awards to be paid to the Seller in connection with the Casualty or Condemnation and (iii) the Purchaser shall receive a credit against the Purchase Price for any deductible amount under any applicable insurance policy.

17. GENERAL PROVISIONS.

(a) Entire Agreement. This Agreement and exhibits hereto constitute the entire agreement of the Seller and the Purchaser with respect to sale of the Land and supersedes all prior or contemporaneous written or oral agreements, whether express or implied.

(b) Notwithstanding anything in this Agreement to the contrary, the Purchaser will have inspected the Land and as of the Closing will be thoroughly acquainted with its condition and will take the Quitclaim Release Deed as to the Land "as-is", as of the date of the Closing. The Seller has not made and does not make any representations as to the physical condition, expenses, operation or any other matter or thing effecting or related to the Land, except as is specifically set forth in this Agreement. The Purchaser acknowledges that all representations which the Seller has made and upon which the Purchaser may have relied in making this contract have been included in this contract.

(c) Anything herein to the contrary notwithstanding, it is understood and agreed by the Parties that whenever an obligation, statement, or representation of the Seller is said to survive the Closing, it shall be understood that such survival shall continue for not longer than twelve (12) months following the Closing.

(d) Amendments. This Agreement may be amended only by a written agreement executed and delivered by the Seller and the Purchaser.

(e) Time and Computation of Time. Time is of the essence in the performance of this Agreement. In the computation of any period of time provided for in this Agreement or by law, the day of the act or event from which the period of time runs shall be excluded, and the last day of such period shall be included, unless it is not a Business Day, in which case it shall run to the next day which is a Business Day. All times of the day set forth herein shall be Eastern Standard Time. In computing periods of time, the Effective Date shall not be counted.

(f) Successors and Assigns. This Agreement shall be binding upon and enforceable against, and shall inure to the benefit of the Purchaser and the Seller, and their respective legal representatives, successors and assigns. The Parties agree that Purchaser shall have the right to assign this Agreement to an affiliate, of common ownership upon written notice to the Seller.

(g) Notices. Any notices or other communications permitted or required to be given hereunder shall be in writing, shall be delivered personally, by reputable overnight delivery service with proof of delivery, and shall be addressed to the respective party as set forth in this subsection (g). All notices and communications shall be deemed given and effective upon receipt thereof.

To Seller: The Town of Londonderry
Attn: Michael Malaguti
mmalaguti@londonderrynh.org
268B Mammoth Road
Londonderry, NH 03053

With copy to: Sheehan Phinney Bass & Green, PA
ekilchenstein@sheehan.com
Attn: Eric T. Kilchenstein, Esq.
75 Portsmouth Boulevard, Suite 110
Portsmouth, NH 03801

To Purchaser: Gilcreast Realty Holdings, LLC
susan@re-results.com
Attn: Susan Mesiti
P.O. Box 543
Londonderry, New Hampshire 03053

With a copy to: Gottesman & Hollis P.A.
mhollis@nh-lawyers.com
Attn: Morgan A. Hollis, Esq.
39 East Pearl Street
Nashua, NH 03060

(h) Governing Law and Venue. This Agreement shall be construed, interpreted and the rights of the Parties determined in accordance with the laws of the State of New Hampshire. Unless otherwise agreed upon in writing by the Parties, the Rockingham Superior Court shall be the exclusive venue for any dispute between the Parties.

(i) Emailed/Facsimile Signatures. In order to expedite the transaction contemplated herein, electronic or faxed signatures may be used in place of original signatures on this Agreement. The Seller and the Purchaser intend to be bound by the signatures on an emailed or telecopied document, and are aware that the other party will rely on emailed or telecopied signatures, and hereby waive any defenses to the enforcement of the terms of this Agreement based upon the form of signature.

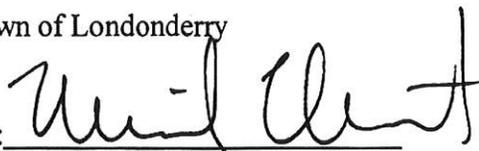
(j) Business Day. A "Business Day" shall mean any day other than a Saturday, Sunday or other day on which commercial banks are authorized or required to close under the laws of the State of New Hampshire.

(k) Broker; Commissions. The Seller and the Purchaser represent each to the other that each has not engaged or dealt with any broker or finder in connection with the transaction contemplated under this Agreement

IN WITNESS WHEREOF, the parties have executed this Agreement, under seal, as of the Effective Date.

SELLER:

Town of Londonderry

By: 

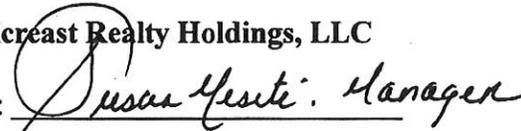
Name: Michael Malaguti

Title: Town Manager

Duly Authorized

PURCHASER:

Gilcrest Realty Holdings, LLC

By: 

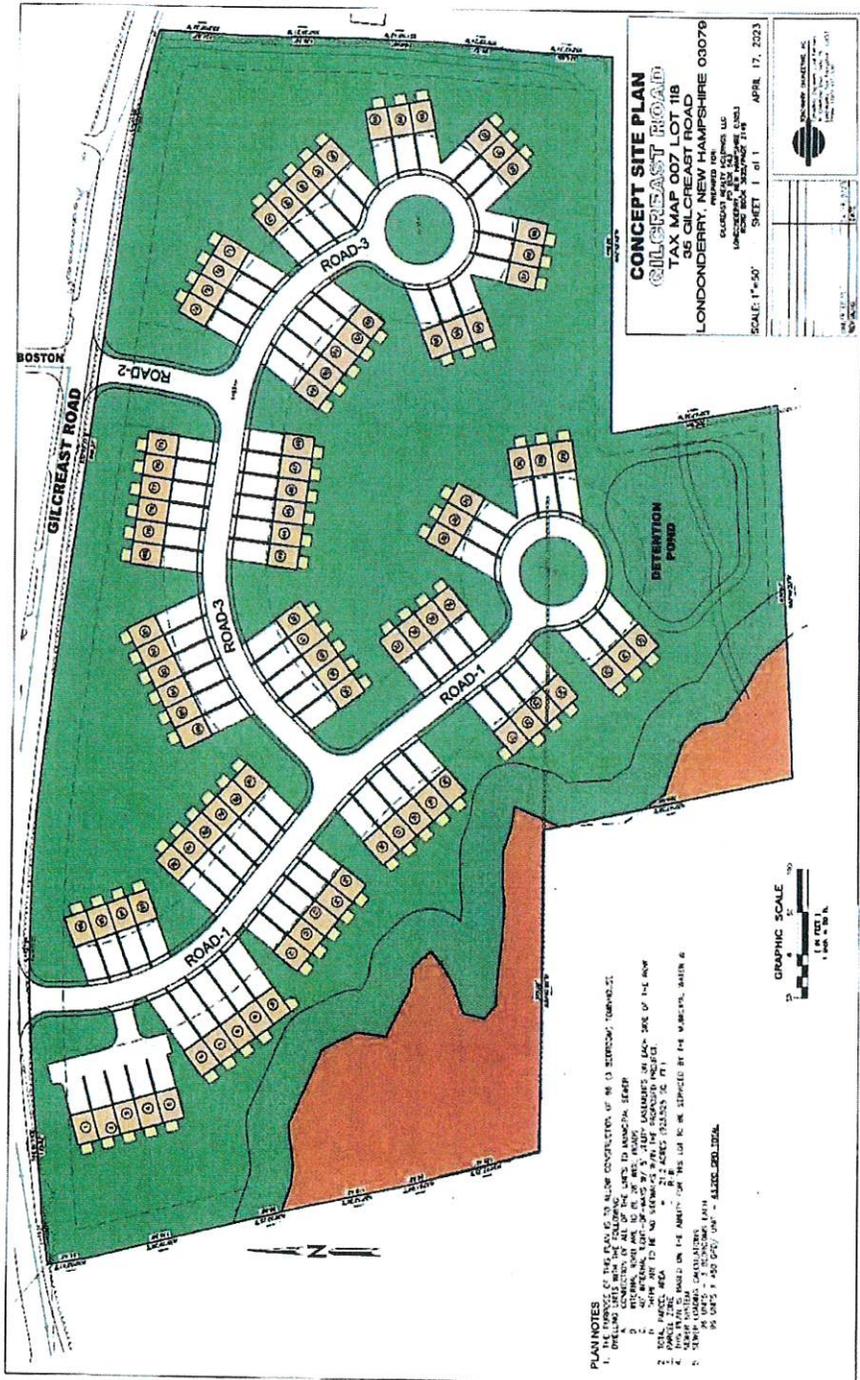
Name:

Title:

Duly Authorized

[Signature Page to Purchase and Sale Agreement]

EXHIBIT A
Attached



PLAN NOTES

1. SHALL BE USED WITH THE CALCULATIONS TO DETERMINE THE REQUIRED DETENTION POND VOLUME, WHICH ARE TO BE SHOWN ON THE PLAN.
2. SHALL BE USED TO DETERMINE THE REQUIRED DETENTION POND VOLUME, WHICH ARE TO BE SHOWN ON THE PLAN.
3. SHALL BE USED TO DETERMINE THE REQUIRED DETENTION POND VOLUME, WHICH ARE TO BE SHOWN ON THE PLAN.
4. SHALL BE USED TO DETERMINE THE REQUIRED DETENTION POND VOLUME, WHICH ARE TO BE SHOWN ON THE PLAN.
5. SHALL BE USED TO DETERMINE THE REQUIRED DETENTION POND VOLUME, WHICH ARE TO BE SHOWN ON THE PLAN.
6. SHALL BE USED TO DETERMINE THE REQUIRED DETENTION POND VOLUME, WHICH ARE TO BE SHOWN ON THE PLAN.



CONCEPT SITE PLAN
GILCREAST ROAD
 TAX MAP 007 LOT 118
 LONDONERRY, NEW HAMPSHIRE 03079
 SCALE: 1"=50'
 SHEET 1 of 1
 APRIL 17, 2023

PREPARED FOR:
 LONDONERRY DEVELOPMENT, LLC
 1000 WINDY HILL ROAD, SUITE 200
 LONDONERRY, NH 03079

DESIGNED BY:
 [Logo]
 1000 WINDY HILL ROAD, SUITE 200
 LONDONERRY, NH 03079

Unofficial Document Unofficial Document Unofficial Document Unofficial Document
Prepared by: Barton L. Mayer, Esq.
Upton & Applefield, LLP
P.O. Box 1090
Concord, NH 03302-1090

BK 4708 PG 2498

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2006 SEP 18 PM 12: 23

ROCKINGHAM COUNTY
REGISTRY OF DEEDS

Unofficial Document Unofficial Document Unofficial Document Unofficial Document
HISTORIC PRESERVATION EASEMENT DEED

Unofficial Document Unofficial Document Unofficial Document Unofficial Document
JOSEPH A. DICARLO and **MARCY LYNN DICARLO** (hereinafter "Grantor"), with a mailing address of 2 Litchfield Road, Londonderry, New Hampshire 03053, for consideration paid, grant to the **TOWN OF LONDONDERRY** (hereinafter "Grantee"), of with an address of 268 B Mammoth Road, Londonderry, New Hampshire 03053, **WITH WARRANTY COVENANTS**, an historic preservation easement, pursuant to RSA 477:45-47, relative to the structures located at 2 Litchfield Road in the Town of Londonderry, identified in the Town of Londonderry Tax Records as Tax Map 12, Lot 68.

Unofficial Document Unofficial Document Unofficial Document Unofficial Document
1. Purposes:

Unofficial Document Unofficial Document Unofficial Document Unofficial Document
1.1 The Grantor and Grantee recognize the architectural, historic, and cultural values and significance of the structures located upon the property, and have the common purpose of conserving and preserving the aforesaid preservation values and the significance of the structures on the property.

Unofficial Document Unofficial Document Unofficial Document Unofficial Document
1.2 The grant of this preservation easement by the Grantor to Grantee on the property will assist in preserving and maintaining the property and its architectural, historic and cultural

features for the benefit of the people of the Town of Londonderry by preserving the façade and elevations of the structures on the property, including, without limitation, all exterior doors, doorframes, windows, window sash, window frames, wall sheathing, clapboards and other decorative elements.

1.3 The purpose of this easement is to assure the architectural, historic and cultural features of the property will be retained and maintained forever, substantially in their current or better condition.

2. Limitations:

2.1 The exterior of the single-family home and barn located on the property shall be maintained in their current or better condition in a manner consistent with their historic architectural character. There shall be no alterations, additions to or changes of the exterior construction materials, façades or roofs, unless approved by Grantee in writing in accordance with §3.2.

2.2 The Grantor shall not remove, demolish or alter the exterior appearance of the structures, unless approved by Grantee in writing in accordance with §3.2.

2.3 Grantor agrees at all times to maintain the buildings in the same or better structural condition and state of repair as that existing on the effective date of this easement, which obligation shall require replacement, repair, and/or reconstruction by Grantor whenever necessary to preserve the buildings in substantially the same structural condition and state of repair as that existing on the date of this easement.

2.4 Nothing shall be erected or allowed to grow on the property which will impair the visibility of the buildings on the property from street level, without first securing the permission of the Town of Londonderry Planning Board, consistent with the landscaping requirements contained in the site plan regulations. For the purposes of this section, no improvement or

landscaping shall be erected or permitted to grow higher than the mid-point of the first floor windows, and no more than 40% of the perimeter of the structure.

3. Grantor's Reserved Rights:

3.1 The Grantor shall not change the use of the buildings on the property to another use other than what currently exists or what is permitted, permitted by conditional use, or by special exception in the C-III Zoning District.

3.2 Grantor shall submit appropriate applications in writing to the Town of Londonderry Planning Board and Historic District Commission for approval in accordance with the Town of Londonderry's zoning ordinance, Site Plan Review Regulations and Historic District Regulations. The Grantor shall submit such plans, specifications, designs, materials and other required information in accordance with the zoning ordinance, Site Plan Review Regulations, Historic District Ordinance and Regulations as may be necessary to render an informed decision relative to any interior or exterior changes or modifications to the structures or changes in use, accompanied by a timetable to complete the proposal. No changes in the buildings or site shall take place unless expressly authorized, in writing, by the Planning Board and/or Historic District Commission. Grantee reserves the right to consult with governmental agencies, non-profit preservation and conservation organizations, and/or other advisors deemed appropriate by the Grantee, concerning the appropriateness of the Grantor's development proposal. For the purposes of this section, an interior change shall be interpreted to mean one which will materially alter molding, flooring, doors, frames and other historic features of the property. By way of illustration, the extension of electric or telecommunications wires throughout the building where only outlets are exposed shall not be considered an interior change.

All construction, alteration, repair or maintenance of the exterior of the barn and single-family home shall be subject to Historic District Commission review and approval.

4. **Inspection:** With appropriate prior notice to Grantor, representative of Grantee shall be permitted to inspect the barn and single-family home, including the interior, at all reasonable times. Grantee shall provide written notice at least seven (7) days in advance of an annual inspection or inspections which are to occur during construction.

5. **Breach of Easement:**

5.1 When a breach of this easement, or conduct by anyone inconsistent with this easement, comes to the attention of Grantee, it shall notify the Grantor in writing of such breach or conduct, delivered in-hand or by certified mail, return receipt requested.

5.2 The Grantor shall, within ten (10) days after receipt of such notice or after otherwise learning of such breach or conduct, undertake those actions, including restoration, which are reasonably calculated to cure swiftly said breach, or to terminate said conduct, and to repair any damage. The Grantor shall promptly notify the Grantee of its action taken to cure the breach.

5.3 Grantee may, following the above-referenced notice to Grantor, institute a suit to enjoin any violation of the terms of this easement by *ex parte*, temporary, preliminary, and/or permanent injunction, including prohibitory and/or mandatory injunctive relief, and to require the restoration of the buildings to the condition and appearance that existed prior to the violation complained of in the suit. Grantee shall also have all legal and other equitable remedies to enforce Grantor's obligations contained in this instrument.

5.4 In the event Grantor is found to have violated any of its obligations under the terms of this easement, Grantor shall reimburse Grantee for any costs or expenses incurred in connection with Grantee's enforcement of the terms of this easement, including but not limited to all reasonable court costs and attorneys', and architectural, engineering and expert witness fees. If Grantee is found to have instituted proceedings in bad faith, then Grantor shall be

entitled to all reasonable court costs and attorneys', and architectural, engineering and expert witness fees.

5.5 Exercise by Grantee of one remedy hereunder shall not have the effect of waiving or limiting any other remedy, and the failure to exercise any remedy shall not have the effect of waiving or limiting the use of any other remedy or the use of such remedy at any other time.

6. Interpretation:

Any rule of strict construction designed to limit the breadth of restrictions on use of the property shall not apply in the construction or interpretation of this easement, and this easement shall be interpreted broadly to effect its purpose and the transfer of rights and the restrictions on use contained in this instrument.

7. Binding Effect: The obligations imposed by this easement shall be effective in perpetuity and shall be deemed to run as a binding servitude with the property. This easement shall extend to and be binding upon Grantor and Grantee, their respective successors-in-interest and all such persons in the future claiming under or through Grantor and Grantee.

8. Insurance.

8.1 Grantor, at its expense, shall carry and maintain at all times property damage insurance with respect to the structures on the property, with full replacement cost coverage against loss from all perils commonly covered under the broadest standard home owner's or business policy form in use from time-to-time, including without limitation fire, lightning, wind storm, hail, explosion, damage by vehicles, smoke, vandalism, malicious mischief, weight of ice, snow, or sleet, freezing of plumbing, HVAC or sprinkler systems, and sudden and accidental damage from artificial electric current explosion.

8.2 Every policy required pursuant to §8.1 shall name Grantee as a loss payee.

8.3 Every policy required pursuant to §8.1 shall be issued by an insurance company rated "A" or better by A.M. Best Company or equivalent rating by a comparable rating service, and shall provide for the sending of any and all notices of cancellation by the insurer to Grantee at least twenty (20) days prior to any cancellation taking effect. Grantor shall promptly provide copies of all insurance policies required by §8.1 and all supplements or endorsements thereto to Grantee.

9. Casualty, Damage or Destruction:

9.1 In the event that the buildings or any parts thereof shall be damaged or destroyed by fire, flood, windstorm, hurricane, earth movement, or other casualty, Grantor shall notify Grantee in writing within fourteen (14) days of the damage or destruction, such notification including what, if any, emergency work has already been completed. No repairs or reconstruction of any type, other than temporary emergency work to prevent further damage to the buildings and to protect public safety, shall be undertaken by Grantor without Grantee's prior written approval. Within thirty (30) days of the date of damage or destruction, Grantor at its expense shall submit to the Grantee a written report prepared by a qualified restoration architect and engineer, who may be the same individual or two (2) individuals, who are acceptable to Grantor and Grantee; this report shall include the following:

9.1.1 An assessment of the nature and extent of the damage;

9.1.2 A determination of the feasibility of the restoration of the buildings and/or reconstruction of damaged or destroyed portions of the buildings; and

9.1.3 A report of such restoration/reconstruction work necessary to return the buildings to the condition existing at the effective date of this instrument.

9.2 If after reviewing the report provided in ¶8.1 and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims, Grantor and Grantee

agree that the purpose of the easement will be served by such restoration/reconstruction, Grantor and Grantee shall establish schedule under which Grantor shall complete the restoration/reconstruction of the building in accordance with plans and specifications approved by the Planning Board and Historic District Commission up to at least the total of the casualty insurance proceeds available to Grantor.

9.3 If after reviewing the report and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims, Grantor and Grantee agree that restoration/reconstruction of the property is impractical or impossible, or agree that the purpose of the easement would not be served by such restoration/reconstruction, Grantor may, but only with the prior written consent of Grantee, alter, demolish, remove, or raze one or more of the buildings, and/or construct new improvements on the property.

10. Extinguishment:

Grantor and Grantee acknowledge the possibility that circumstances may arise in the future to render the purpose of this easement impossible to accomplish. In addition, both parties recognize that the possibility of condemnation and casualty always exists. In the event such circumstances do in fact arise, the parties agree that those provisions of this easement which are rendered impossible of performance by such circumstances, condemnation or casualty, may be extinguished by judicial proceedings in a court of competent jurisdiction, and all other provisions of this agreement shall remain in full force and effect unless and until this agreement is terminated or extinguished by judicial proceedings in a court of competent jurisdiction.

11. Insertion in Subsequent Instruments:

Grantor shall insert a reference to this easement, such reference to include registry book and page number of this easement, into any subsequent deed or other legal instrument by which Grantor divests itself of either the fee simple title or any lesser estate in the premises.

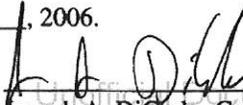
Concurrently with its entering into any such deed or other legal instrument, Grantor shall give written notice to Grantee of same.

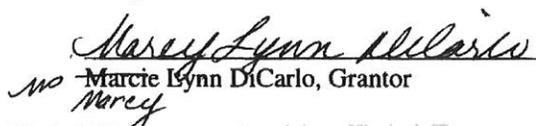
12. Subordination of Prior Liens.

Grantor represents and warrants to Grantee that the premises are subject to no mortgages, liens, leases, restrictions, easements or encumbrances prior in right to this easement.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Preservation

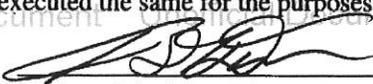
Easement this 16 day of SEPTEMBER, 2006.


Joseph A. DiCarlo, Grantor

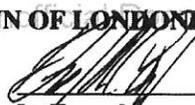

Marcie Lynn DiCarlo, Grantor
no Marcie

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

Personally appeared the above-named Joseph A. DiCarlo and Marcie Lynn DiCarlo, Grantors, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.


Justice of the Peace/Notary Public
My Commission Expires: 8/6/08

TOWN OF LONDONDERRY, Grantee

By: 
Its Town Manager
David R. Caron

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

Then appeared David R. Caron, Town Manager of the Town of Londonderry, duly authorized to execute the foregoing instrument on behalf of the Town as aforesaid.


Justice of the Peace/Notary Public
My Commission Expires: 8/9/11

THIS TRANSFER IS EXEMPT FROM THE REAL ESTATE TRANSFER TAX
TO RSA 78-B:2, I.



MARGARET M. LAPIERRE, Notary Public
My Commission Expires August 9, 2011

Londonderry Town Council Minutes

Monday, May 15, 2023

7:00 PM

Moose Hill Council Chambers

Meeting Link: <http://173.166.17.35/CablecastPublicSite/show/12229?channel=4>

Attendance: Present: Chairman John Farrell; Vice Chairman Chad Franz; Councilors Jim Butler, Ted Combes, and Ron Dunn; Town Manager Michael Malaguti; Assistant Town Manager Kellie Caron.

CALL TO ORDER

Chairman Farrell called the Town Council meeting to order at 7:00 PM. The Pledge was led by Chairman Farrell. This was followed by a moment of appreciation for those who serve us both here and abroad.

PUBLIC COMMENT

Name: Doug Thomas

Address: 143 Mammoth Rd, Londonderry, NH

Representative Thomas presented about the Twin State Clean Energy project. Thomas stated that he wanted to announce that this is a project being proposed and it proposes to bring approximately twelve hundred megawatts of clean hydropower down from Quebec. This project is different than other projects in the past, to some extent. The entire area needs this power, we are short, Thomas stated. Thomas stated that this is a proposal and nothing has been decided yet. The power enters the state via Vermont, down the state highways. Thomas stated that the people putting the project together will be coming to the Council meeting to discuss it soon. Thomas stated that this is positive news for Londonderry and this will help the citizens of Londonderry. Thomas stated that this will all be done on existing rights-of-way.

Name: Lynn Wiles

Address: 46 Willey Hill Road, Londonderry, NH

Wiles stated that he is Chair of the Utilities Committee. Wiles stated that they are looking forward to working with Rep. Thomas on the project and it will be a wonderful project for Londonderry. Wiles stated that it will be using the National Grid right-of-way coming from Monroe down to Londonderry. They are planning on a sub-station near the West Field soccer fields. Wiles stated that this project is one of the first things the new committee will be working on.

41 **Name:** Tara Myles

42 **Address:** 11 Lancaster Drive, Londonderry, NH

43 Myles stated that she wanted to discuss kindness and some of the lessons she is trying to teach her
44 toddler. Myles stated that she always tells her daughter to lead with kindness and she hopes those
45 who are present at the meeting and watching from home will also lead with kindness. Myles stated
46 that everyone should lead with kindness and lead by example. Myles continued to share her
47 thoughts about the community coming together.

48

49 **Name:** Laura Gandia

50 **Address:** 3 Chamberlin Drive, Litchfield, NH

51 Gandia stated that she is the former Associate Planner for Londonderry. Gandia stated that her
52 interactions with the town the last few months have been nothing short of surreal. Gandia stated
53 that she worked for the town for over seven years where she provided the upmost customer service
54 and worked really hard to make sure the Planning Department was top notch. Gandia stated that
55 her husband was a police officer for twenty-five years, giving his heart and soul to the community.
56 Gandia stated that craziness with the town started on January 19th. A proposed reorganization by
57 the Town Manager, two Town Council meetings, an improper analysis by Town Council of its
58 duties as elected officials, and the Town Charter. Gandia stated that she was not able to obtain her
59 personal items in a dignified manner. Gandia stated that there was also the stripping of her
60 constitutional rights and liberties with a serving of a no-trespass order by the Town Manager,
61 prohibiting Gandia and her husband from being at town hall and on town property. Chairman
62 Farrell stated that the no-trespass order is not a Council issue. Chairman Farrell stated that it is a
63 civil matter and legal action is being taken against the town. Gandia stated that the order stated
64 that if they stepped foot on town property, the Town Manager would make a criminal trespass
65 complaint to the Londonderry Police Department. Gandia stated that the Town Manager submitted
66 a proposed reorganization plan, that was never a reorganization plan. How is this plan working?
67 There is no Town Planner, Associate Planner, or Land Use Assistant. Gandia stated that the
68 Assistant Town Manager hired a Land Use Assistant on Monday, and now as of Friday she is no
69 longer there. They hired a consultant, at over one hundred dollars an hour for a plan review, a
70 service formally provided by the Associate Planner at a significantly lower cost. Gandia stated that
71 the department is operating in violation of RSA 91-A and has seen a decrease in serviceness [*sic*]
72 and responsiveness. Gandia stated that there hasn't been a no-trespassing order in over twenty
73 years, so why now. The ACLU viewed those orders as extremely problematic and unconstitutional.
74 They contacted the town and informed the town of its intent to send out a letter detailing the town's
75 abuses and the town immediately removed the trespassing order, even though Gandia tried to
76 peacefully remove the orders over the last three months. Gandia stated that she now has several
77 pending litigation matters against the town. Gandia stated that what happened to her and her
78 husband is an injustice.

79

80 Chairman Farrell stated that the Council doesn't get involved in employee issues. One side of the
81 story is being told, and he appreciates that, but the Council will not be responding to anything.

82

83

84

85 **Name:** Chris Gandia

86 **Address:** 3 Chamberlin Drive, Litchfield, NH

87 Gandia stated that the ACLU warned Town Manager Malaguti that if the unlawful no-trespassing
88 order was not rescinded, a public letter was going to be sent outlining numerous details outlining
89 numerous details pertaining to violations of their civil rights. Gandia stated that within hours of
90 Town Manager Malaguti receiving this letter, the orders were lifted. Gandia stated that they are
91 going to continue efforts to seek accountability.

92

93 Chairman Farrell stated that this is not a Town Council issue and reminded the public that there is
94 no clapping.

95

96 **Name:** Jonathan Esposito

97 **Address:** 5 Shelly Drive, Londonderry, NH

98 Esposito stated that the Town Manager has previously utilized his freedom of speech to put
99 correspondences in the paper questioning the credibility of the citizens in the past. Esposito stated
100 that he filed a 91-A and he saw a piece of the correspondence the ACLU sent to the town with
101 their concerns. Esposito also reminded people to support their local journalism.

102

103 **Name:** Erin Matlin, Leach Library Director and Donna Plante, Assistant Director and Head of
104 Technical Services

105 Matlin shared updates of the Leach Library with the Council. Matlin stated that there is a library
106 survey out to the community for the last two months. Matlin shared how the community can fill it
107 out and share their thoughts about the needs of the Library. Plante shared about summer reading
108 and stated that they offer programs for all ages. This year's theme is "all together now". Plante
109 also stated that the Board of Trustees have decided to implement summer hours and they will be
110 effective Monday, June 19th through Saturday, September 9th and they will be open on Thursdays
111 from 9 AM – 5 PM and Saturdays 9 AM – 1 PM. Plante stated that they will still offer curbside
112 service by request.

113

114 **Name:** Maria Barut

115 **Address:** 6 Bridle Path, Londonderry, NH

116 Barut stated that these meetings are for the Council to conduct business in a transparent manner.
117 Barut stated that they are also chances for town residents to voice their concerns and opinions. The
118 Council may not agree with the opinions, yet they should listen. Barut stated that the Council also
119 has to follow the Town Charter Barut stated that the Council needs to engage in better dialog with
120 the community and the gavel is not the answer for the questions they don't like to hear.

121

122 **Name:** Kristine Perez

123 **Address:** 5 Wesley Drive, Londonderry, NH

124 Perez stated that she stated she is happy the no-trespass orders were lifted and she finds it sad the
125 ACLU had to be involved. Perez stated that she has some questions. The pumping station proposal,
126 it is her understanding the town accepted the four-million-dollar grant. Chairman Farrell stated

127 yes. Perez asked if that meant if it was a go now. Chairman Farrell stated that the town is moving
128 forward with the project. Perez asked what the total of the project was. Town Manager Malaguti
129 stated that it is \$7.75M. Perez stated that it means there's another \$3.8M needed, correct? Chairman
130 Farrell stated yes. Perez stated she doesn't understand how a multi-million-dollar development
131 could be passed and partially completed without knowing exactly where the waste disposal would
132 be handled and how much there would be. Perez stated that she spoke with Assistant Town
133 Manager Caron and she stated that the town knew it would be needed all along that this would
134 need to be addressed at some time. Perez asked if it was an additional project at Woodmont that
135 needed the pumping station, or is it the original one. This project went on for fifteen years before
136 it went in. Perez stated that something seems off about the whole scenario. Something doesn't
137 seem right and she hopes someone can explain to the town why negotiations are being made.

138

139 **Name:** Ralph Giangregorio

140 **Address:** 16 White Plains Avenue Londonderry, NH

141 Giangregorio stated that he would like to show his gratitude and appreciation to the police and fire
142 departments, as well as Vice Chairman Franz. Giangregorio stated that their help and assistance
143 and effort with regards to an unsettling event. Giangregorio stated that his daughter was lost in the
144 Musquash Conservation area and the police and fire departments went out of their way to help find
145 her and bring her home safe. Giangregorio shared his experience with the Council. Giangregorio
146 stated that it's comforting that this town has the resources the assist the citizens in time of trouble
147 and it made a big difference to his family and they are thankful.

148

149 **Name:** Peter Kimpton

150 **Address:** 89 Fieldstone Drive, Londonderry, NH

151 Kimpton stated that he agrees with Representative Thomas on his statement about the cleaner and
152 cheaper the power, the more it benefits residents. Kimpton stated four days ago Representative
153 Thomas said solar and wind may be popular now, but he believes they will be too costly and
154 unreliable in the near future. Kimpton stated that he is concerned that Representative Thomas will
155 be working closely on the project and he advises the Council to work closely on it as well. Kimpton
156 also stated that Representative Thomas has received campaign donations from Eversource.

157

158 **Name:** Doug Thomas

159 **Address:** 143 Mammoth Road, Londonderry, NH

160 Thomas stated that Kimpton is correct, they do not believe one hundred percent renewable energy
161 is going to be the cheapest form of energy in the future, and they work hard to have a balance.
162 Thomas stated that the characterization that he may be on the take for Eversource is a figment of
163 someone's imagination. Thomas stated that ninety-five percent of his campaign he paid for, but it
164 is true one time, for one campaign, he received a two-hundred and fifty-dollar donation from
165 Eversource.

166

167 **Name:** Ray Breslin

168 **Address:** 3 Gary Drive, Londonderry, NH

169 Breslin spoke about the project that the town is going to be looking at. Breslin stated that it has
170 been going on since 2017 and the town has to realize who is really behind it. Breslin stated that
171 the town has to look at the big picture. Breslin stated that it's a good idea the group is coming in
172 and presenting.

173

174 **Name:** Ann Chiampa

175 **Address:** 28 Wedgewood Drive, Londonderry, NH

176 Chiampa stated that she didn't expect to speak. Chiampa stated that she wants to recognize Laura
177 Gandia and Beth Morrison. Both did a wonderful job for the town. Chiampa thanked both of them
178 for all they did and a job well done, from her point of view.

179

180 Chairman Farrell closed Public Comment. Chairman Farrell corrected a few statements. Chairman
181 Farrell stated that the Woodmont agreement was filed over ten years ago with the deed. If the
182 public wants to know what it says, it's many pages, feel free to go read it.

183

184 Councilor Butler shared a few things with the public. Councilor Butler stated that he has had some
185 comments the last few meetings. Councilor Butler shared some emails and correspondences and
186 made some clarifications as to what people don't see, the emails that come back to the Council.
187 Councilor Butler stated that everyone has a right to 91-A. But when does it become abusive?
188 Councilor Butler clarified some accusations the Council has received.

189

190 **NEW BUSINESS**

191

192 **State of Londonderry DPW Presentation**

193

194 Director of Public Works and Municipal Facilities, Dave Wholley, presented. **See attached**
195 PowerPoint. Wholley stated that he has been in this position for almost two years now, but he has
196 been a resident of Londonderry for almost twenty-four years. He also has twenty-six years of
197 service to public works. Wholley presented that it's important to come before the Council to give
198 them a snap shot as to where they are in time right now with the infrastructure within the
199 department, their assets, what the employees deal with, and the level of service they try to provide.
200 Wholley stated that he knows there have been a lot of questions asked over the years, he has been
201 doing a lot of listening and he hopes he can answer some. Chairman Farrell stated that Wholley
202 and the Public Works Department do a fantastic job in town. Wholley said the Town of
203 Londonderry has been into modernizing their facilities over the last few years. Wholley went
204 through his PowerPoint. Wholley shared some upcoming projects.

205

206 The Council thanked Wholley for his presentation.

207

208 Chairman Farrell moved the agenda around. The Council conducted Pickleball interviews.

209

210 **BOARD APPOINTMENTS/REAPPOINTMENTS**

211

212 The Council interviewed Dawn Cava, Christine Adie, and Michael Nader.

213

214 Chairman Farrell suggested that the Council should wait for more applicants at the next meeting,
 215 or they can appoint the members who interviewed tonight. Councilor Combes motioned to appoint
 216 the five members who put their names in, as five regular members. And if two more apply they
 217 can be alternates. Vice Chairman Franz stated that the Council didn't meet all five, so he is
 218 proposing an amendment. Vice Chairman motioned to appoint Christine Adie, Dawn Cava, and
 219 Michael Nader as full members and leave the alternate positions open. Second by Councilor
 220 Combes.

221

John Farrell	Yes
Chad Franz	Yes
Jim Butler	Yes
Ted Combes	Yes
Ron Dunn	Yes

222

223 Chair votes 5-0-0. The Council thanked the members for volunteering.

224

225 **NEW BUSINESS CONT.**

226

227 **Resolution #2023-11 – Resolution Relative to Reconstructing the Municipal Aggregation**
 228 **Committee**

229

230 Chairman Farrell introduced Resolution #2023-11, a Resolution reconstituting the Municipal
 231 Aggregation Committee. Town Manager Malaguti presented. Malaguti stated that in pursuit of the
 232 goal to offer community choice aggregation the town formed the Municipal Aggregation
 233 Committee sometime last year. It was a standalone committee. After the Council created the utility
 234 committee, it seemed to make sense to simply ask the Utility Committee to take up the work of
 235 the Municipal Aggregation Committee and to replicate its membership.

236

237 Motion to approve Resolution #2023-11 made by Vice Chairman Franz. Second by Councilor
 238 Butler.

239

John Farrell	Yes
Chad Franz	Yes
Jim Butler	Yes
Ted Combes	Yes
Ron Dunn	Yes

240

241 Chair votes 5-0-0.

242

243 **Order #2023-05 – An Order Relative to Expenditure of Roadway Maintenance Trust Funds**

244

245 Director of Engineering and Environmental Services, John Trottier, presented. Trottier stated that
246 back in April 2023 they put out to bid for this.

247

248 Motion to approve Order #2023-05 made by Vice Chairman Franz. Second by Councilor Butler.

249

John Farrell	Yes
Chad Franz	Yes
Jim Butler	Yes
Ted Combes	Yes
Ron Dunn	Yes

250

251 Chair votes 5-0-0.

252

253 **Resolution #2023-10 – Elderly Income and Asset Limits Revision**

254

255 Town Assessor Steve Hamilton presented. Hamilton stated that this is the first of two Resolutions
256 that the department will be bringing forward this year that deal with the elderly and disable
257 exemptions. This is about the qualifications for the income and asset limits. Hamilton stated that
258 there is a small amount of rounding. Chairman Farrell stated that next budget season we will look
259 at what Windham does for those eighty and over.

260

261 Motion to approve Resolution #2023-10 made by Vice Chairman Franz. Second by Councilor
262 Butler.

263

John Farrell	Yes
Chad Franz	Yes
Jim Butler	Yes
Ted Combes	Yes
Ron Dunn	Yes

264

265 Chair votes 5-0-0.

266

267 **APPROVAL OF MINUTES**

268

269 Motion to approve the non-public minutes from April 24th made by Vice Chairman Franz. Second
270 by Councilor Combes.

271

John Farrell	Yes
Chad Franz	Yes
Jim Butler	Yes
Ted Combes	Yes
Ron Dunn	Yes

272

273 Chair votes 5-0-0.

274

275 **BOARD APPOINTMENTS/REAPPOINTMENTS CONT.**

276

277 Town Manager Malaguti stated that there was some confusion at the last meeting about how many
278 open seats there were on the Utility Committee. There is one open alternate position on that board.

279

280 Councilor Dunn motioned to appoint Deb Paul to the open alternate position on the Utility
281 Committee. Councilor Combes stated that we need to put it out to the public before we appoint
282 someone. The other members of Council agreed. Motion died without a second.

283

284 **LIAISON REPORTS**

285

286 Council members gave their liaison reports.

287

288 **TOWN MANAGER REPORT**

289

290 Town Manager Malaguti informed the Council about an award the Town Clerk, Sherry Farrell
291 received recently.

292

293 Town Manager Malaguti gave his update on the trespass order. Malaguti stated that this matter
294 didn't involve the Town Council, as the Town Manager oversees the town facilities. Town
295 Manager Malaguti stated that he does not plan to elaborate his reasons any further. See video link
296 for the Manager's full statement.

297

298 Town Manger Malaguti shared how much time he has spent answering 91-A requests over the past
299 year. Malaguti stated that a conservative estimate of the amount of time he has spent on these
300 requests is 151.75 hours over the past year. Town Manager Malaguti shared what it would have
301 cost the town if all of these requests had been sent off to an attorney as opposed to being fulfilled
302 by the Town Manager.

303

304 Town Manager Malaguti shared some emails he has received in the past from two residents who
305 spoke negatively this evening about how the Town government is conducting itself, thanking him
306 for all that he is doing.

307

308

309 The Council discussed upcoming Council meetings. The next meeting is June 5th and June 19th.
310 After that it will be summer schedule.

311

312 **ADJOURNMENT**

313

314 **Motion:** Vice Chairman Franz

315 **Second:** Councilor Combes

316

John Farrell	Yes
Chad Franz	Yes
Jim Butler	Yes
Ted Combes	Yes
Ron Dunn	Yes

317

318 Chair votes 5-0-0.

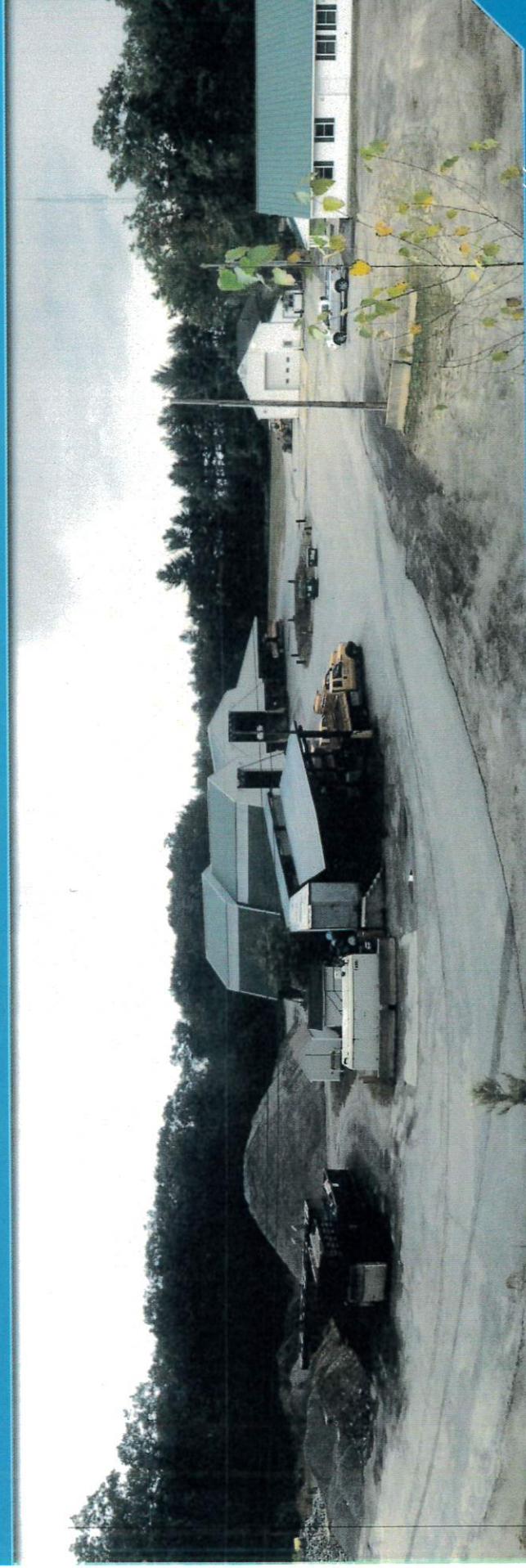
319

320 Minutes taken by Kirby Brown on 5/15/2023

321 Minutes typed by Kirby Brown on 5/17/2023

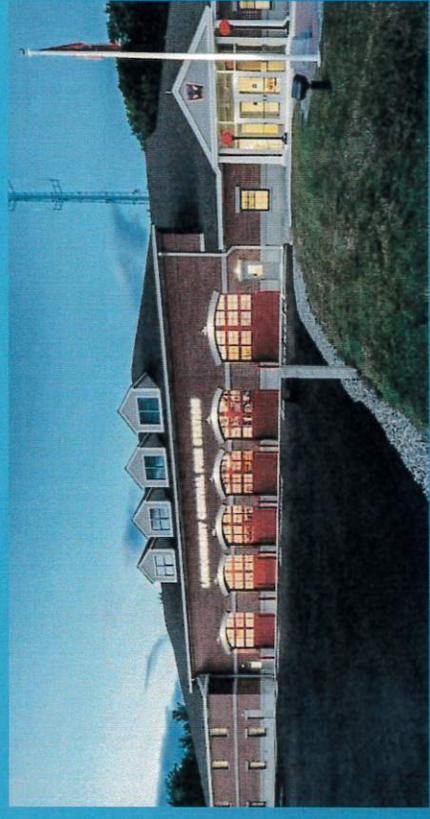
322 Minutes approved by Town Council on 6/5/2023

STATE OF LONDONDERRY DEPARTMENT OF PUBLIC WORKS



Dave Wholley
Director of Public Works & Municipal Facilities

FACILITY COMMITTED



- ◆ Heavily invested in modernizing facilities over the past 20+ years
- ◆ However, what's missing? Perhaps Overlooked?
- ◆ Perhaps Council Resolution -Tax Payer Relief Act Of 2020?
- ◆ HOWEVER, Perhaps now it's time to discuss the possibility of a DPW facility

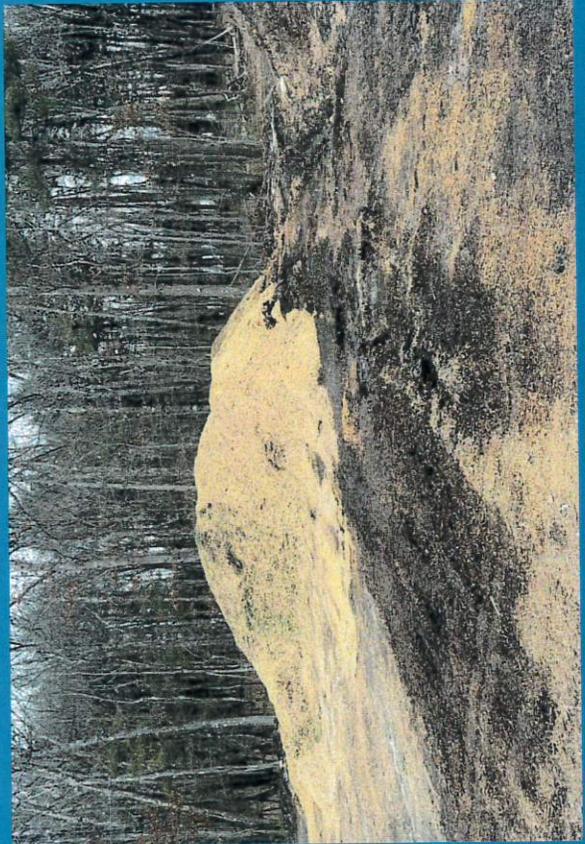
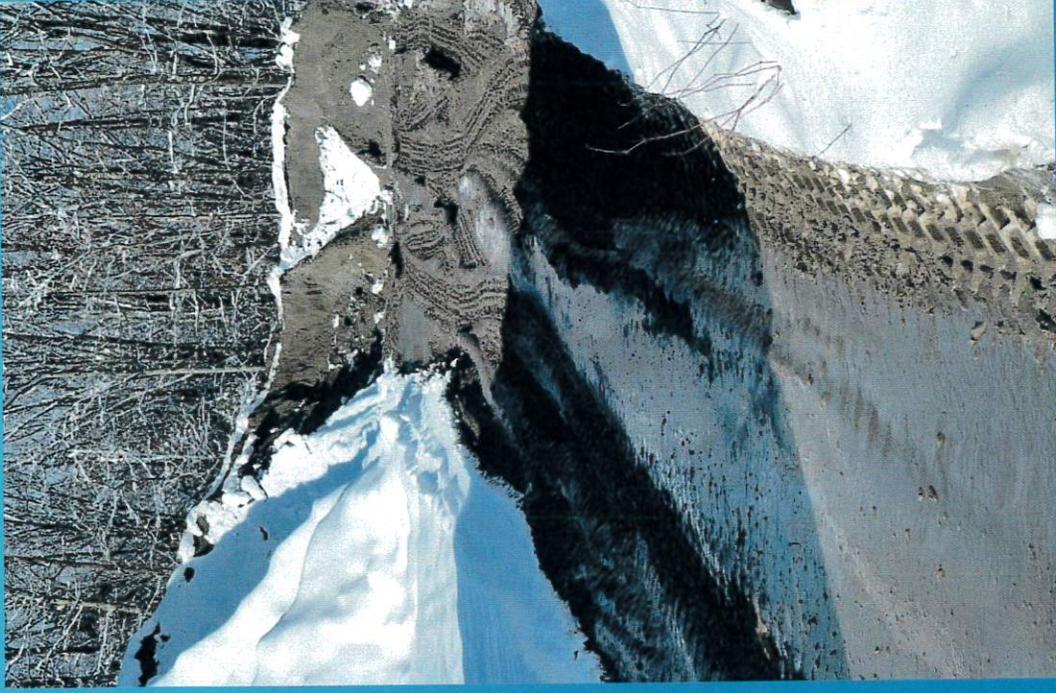


MAIN AREAS OF CONCERN

- ❖ Site Conditions
- ❖ Material Storage
- ❖ Equipment Storage
- ❖ Facility Inadequacies
- ❖ Operational inefficiencies
- ❖ Employee Safety & Working Conditions

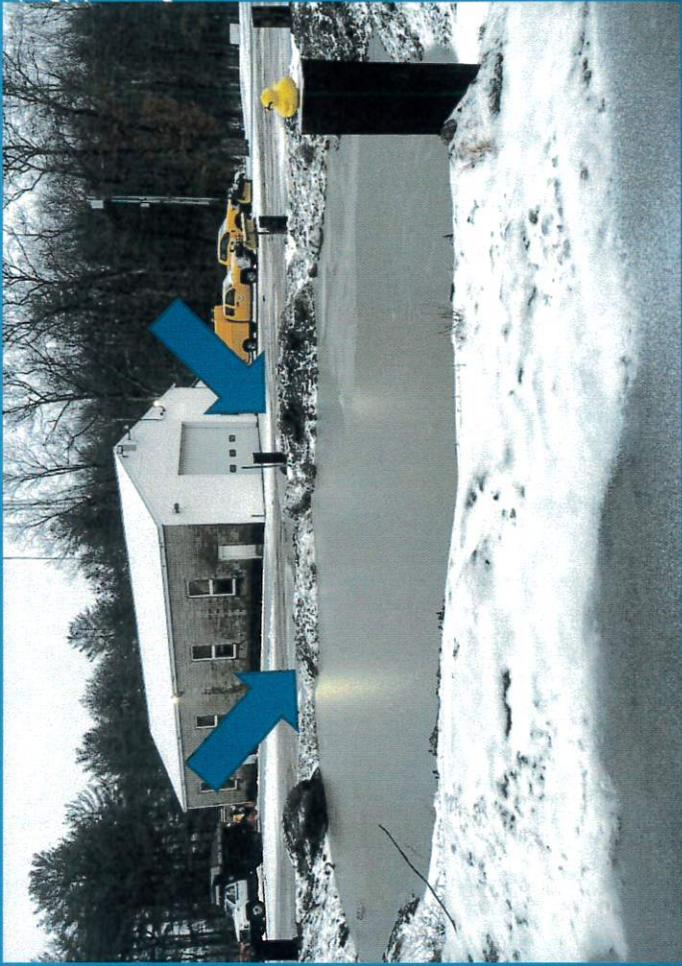
SITE CONDITIONS

- ❖ Muddy parking areas
- ❖ Muddy materials
- ❖ Muddy work areas
- ❖ Muddy mess



SITE CONDITIONS

- ❖ Ice!!
- ❖ Unsmooth surfaces!
- ❖ Slow runoffs
- ❖ Ponding water



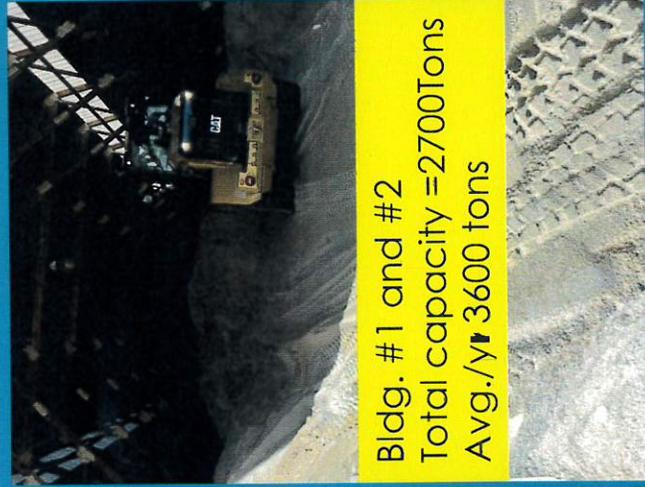
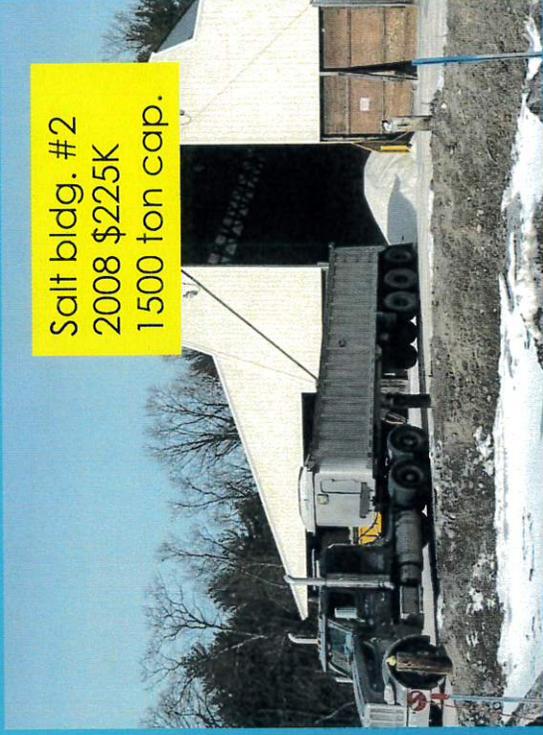
Bldg. #1
est. \$50K
ton cap.



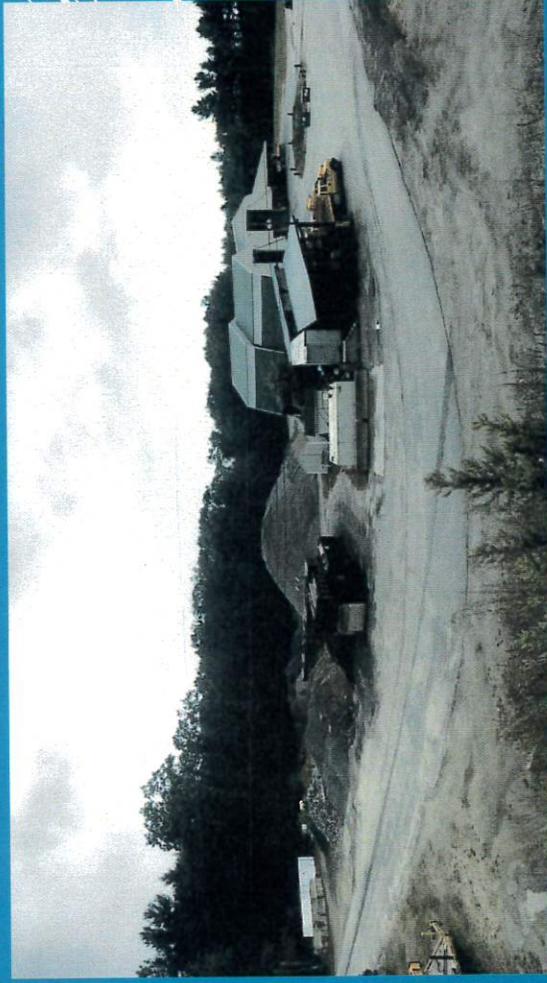
MATERIAL STORAGE

- ❖ Grossly undersized sand/salt mix shed
- ❖ Small and tight salt sheds
- ❖ All construction material uncovered
- ❖ Inadequate cold patch bin

Salt bldg. #2
2008 \$225K
1500 ton cap.

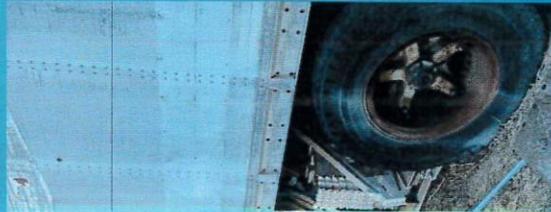
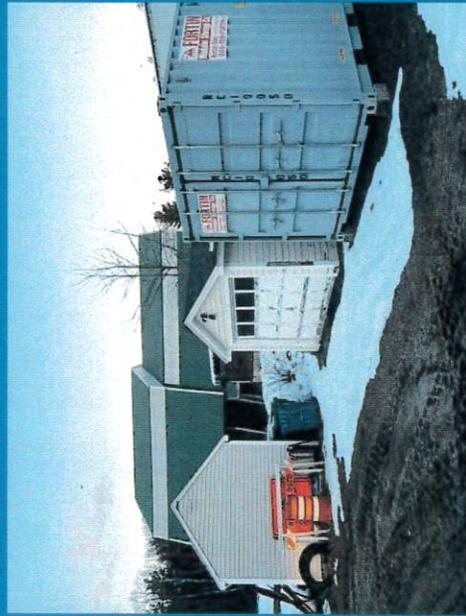
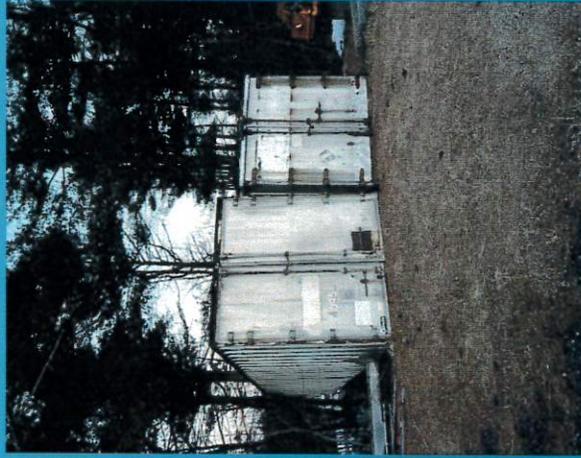
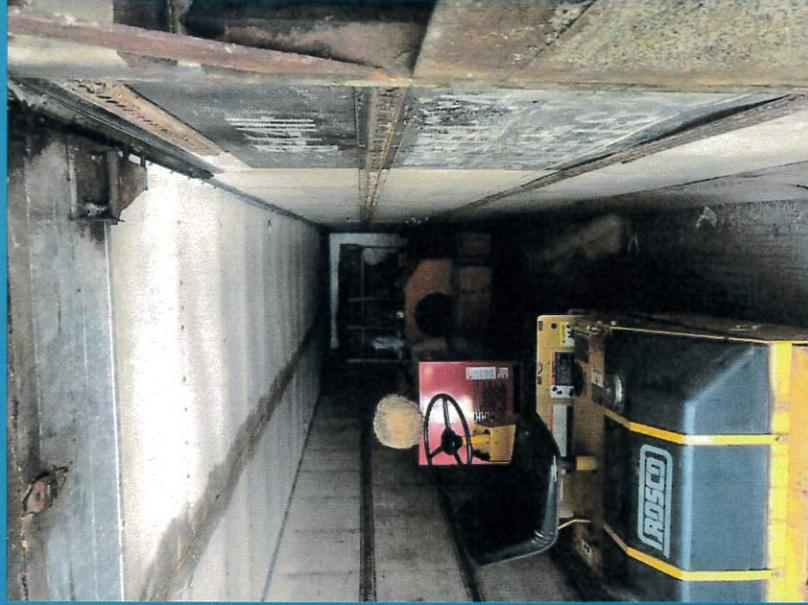


Bldg. #1 and #2
Total capacity = 2700Tons
Avg./yr 3600 tons



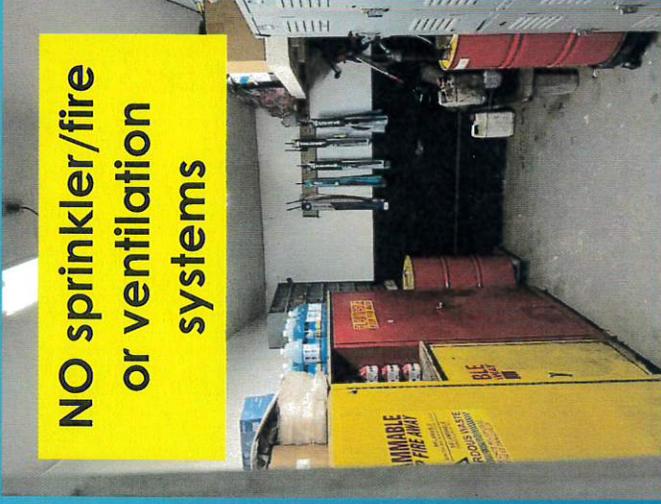
MATERIAL STORAGE-TRAILERS

- ❖ Total of 9 storage structures
- ❖ In/on/under or around
- ❖ Unlit, not ventilated, unstable
- ❖ Impractical/unsafe

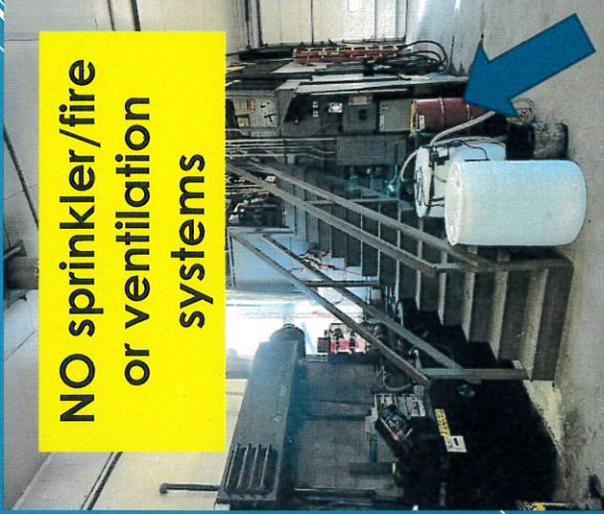
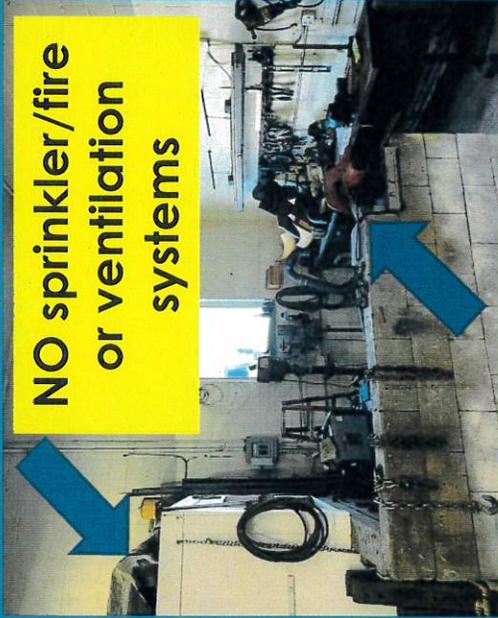
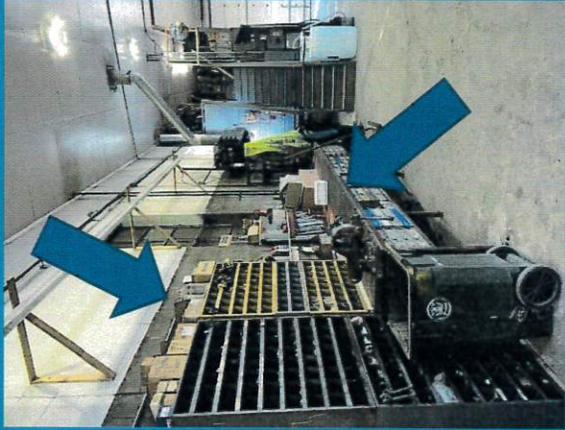


MATERIAL STORAGE-BUILDINGS

- ❖ Inadequate storage
- ❖ Improper storage
- ❖ Limited work surfaces
- ❖ Upstairs parts room
- ❖ Flammable materials



NO sprinkler/fire or ventilation systems



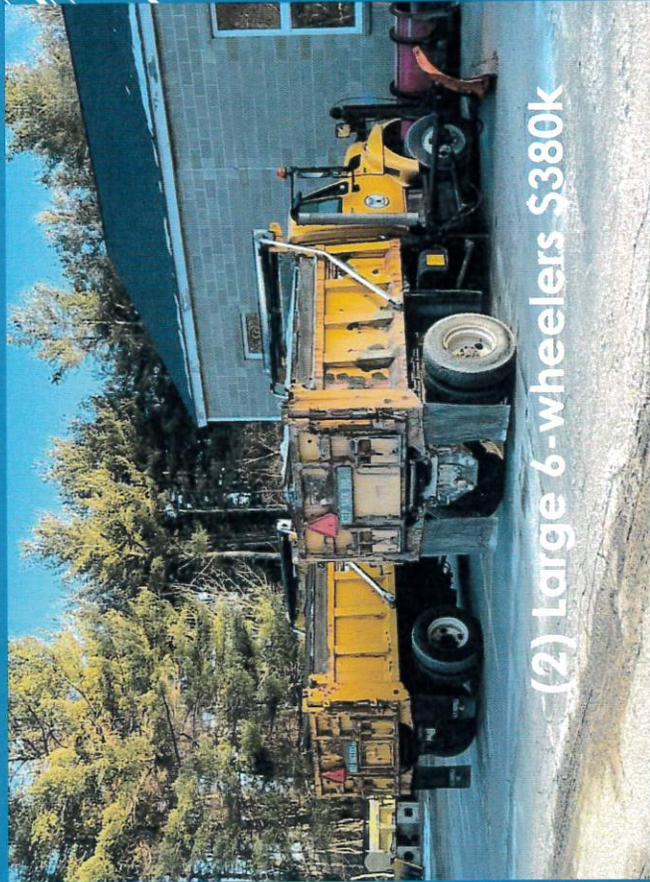
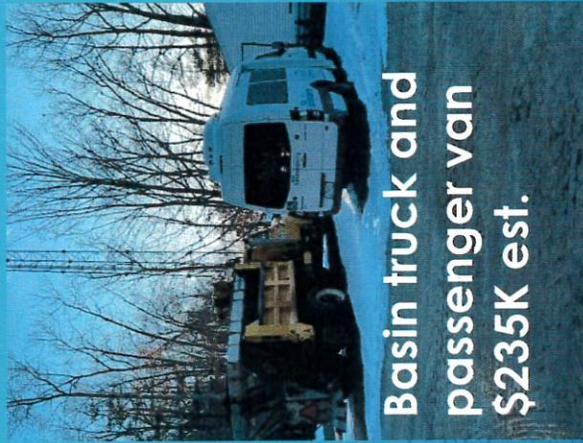
EQUIPMENT STORAGE - UNCOVERED

- ❖ Year round outside – in sun, rain, snow, ice, mud, dust, bird waste, critters, rodents, etc.

Replacement value \$600K est.

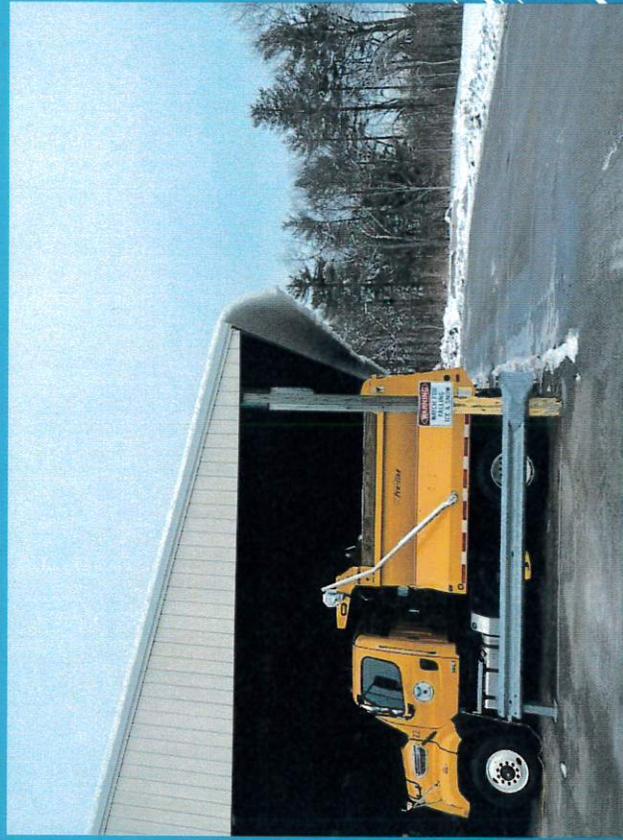
Basin truck and passenger van \$235K est.

(2) Large 6-wheelers \$380k



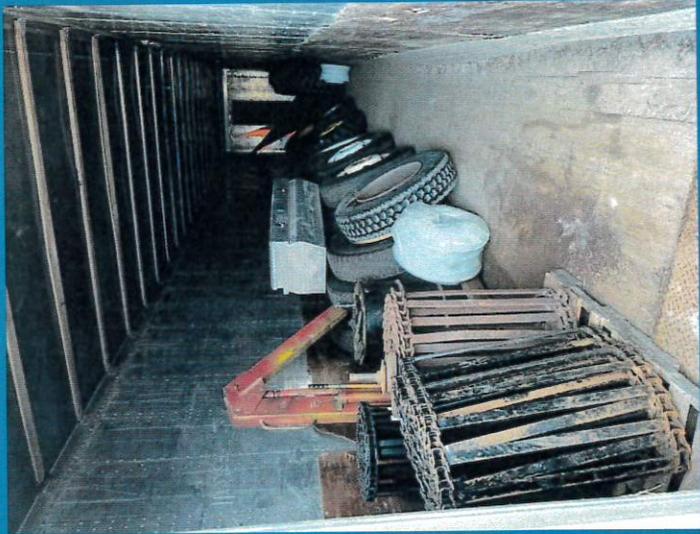
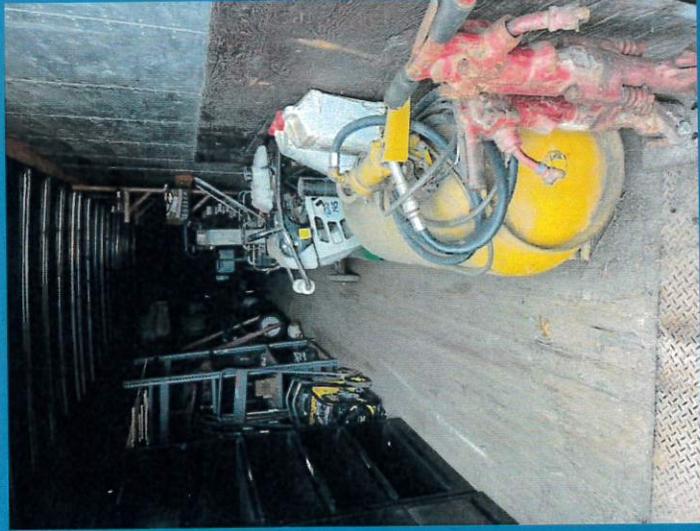
QUIPMENT STORAGE-LIMITED COVER

- ❖ Not immune to the elements
- ❖ Wildlife-critters, birds nest here



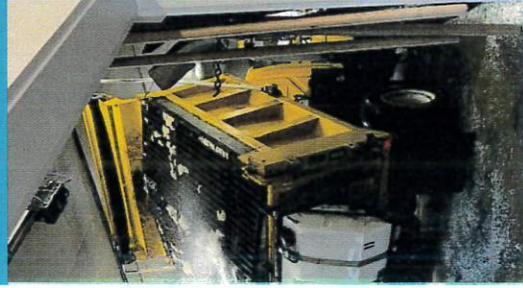
GARAGE INADEQUACIES

- ❖ No room for crimping machine
- ❖ Tight working quarters
- ❖ Spare parts and tools located in trailers



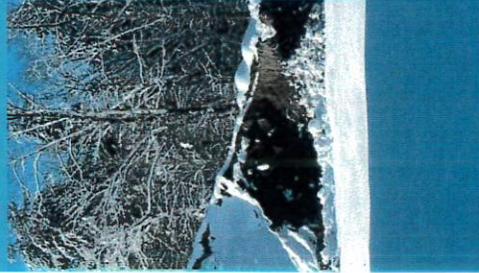
GARAGE INADEQUACIES

- ❖ Built in 1971 (50+ years old)
- ❖ 40x80 (3200 sq. ft.) \$27K
- ❖ Limitations on work schedule
- ❖ Side by side tasks difficult
- ❖ Closes down garage to singular task
- ❖ Employees waiting on others welding/grinding/cutting



OPERATIONAL INEFFICIENCIES

- ❖ End up with an inferior product
- ❖ Clumps on screens and belts



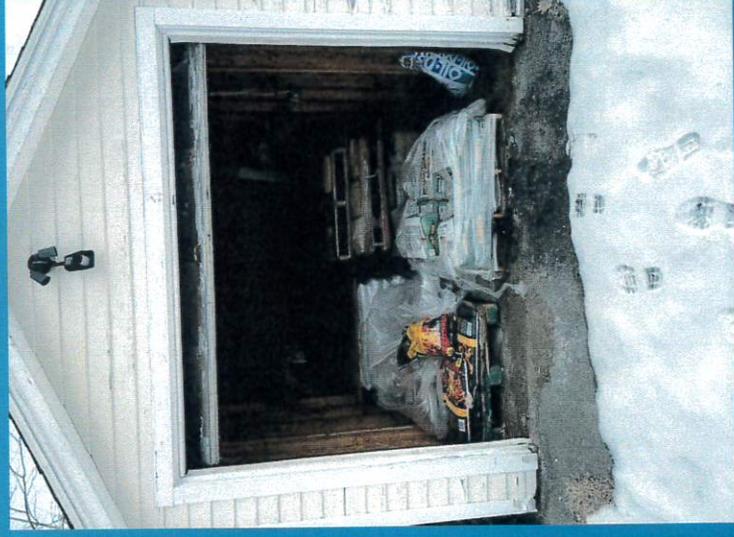
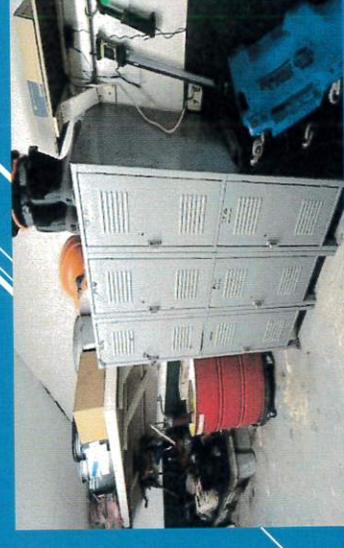
- ❖ Wears on equipment hydraulics
- ❖ Places employees in the weather



OPERATIONAL INEFFICIENCIES

- ❖ Tight breakroom/training room
- ❖ Small locker room, limited locker space
- ❖ Move equipment to get at equipment
- ❖ Move supplies to get at supplies
- ❖ Limited back up power to garage

Employee bldg.
est. \$180K



EMPLOYEE SAFETY & WORKING CONDITIONS

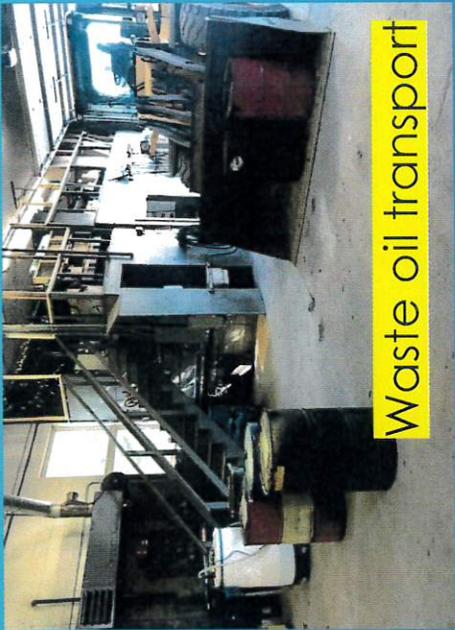


all

PUBLIC WORKS

All that we do, is in response to you!

FIRST RESPONDER



Waste oil transport

Red and Blue FOLLOW Yellow!!



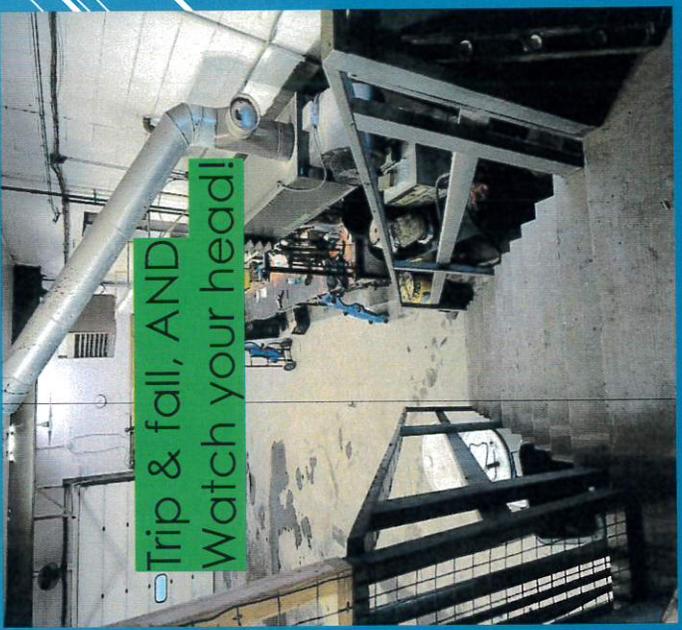
me
ND FALL



Slip, trip & fall



Slip, trip & fall



Trip & fall, AND
Watch your head!

MOVING FORWARD

- ❖ Heavily invested in modernizing facilities over the past 20+ years
- ❖ However, what's missing? Perhaps Overlooked?
- ❖ Perhaps now it's time to discuss the possibility of a DPW facility

o authorize and conduct a Facility Master Plan Feasibility Study

mentioned items to be completely evaluated for lost efficiencies and inadequacies

appropriate square footage needs for each task needed and improved response times

rent location vs. alternate location within Londonderry

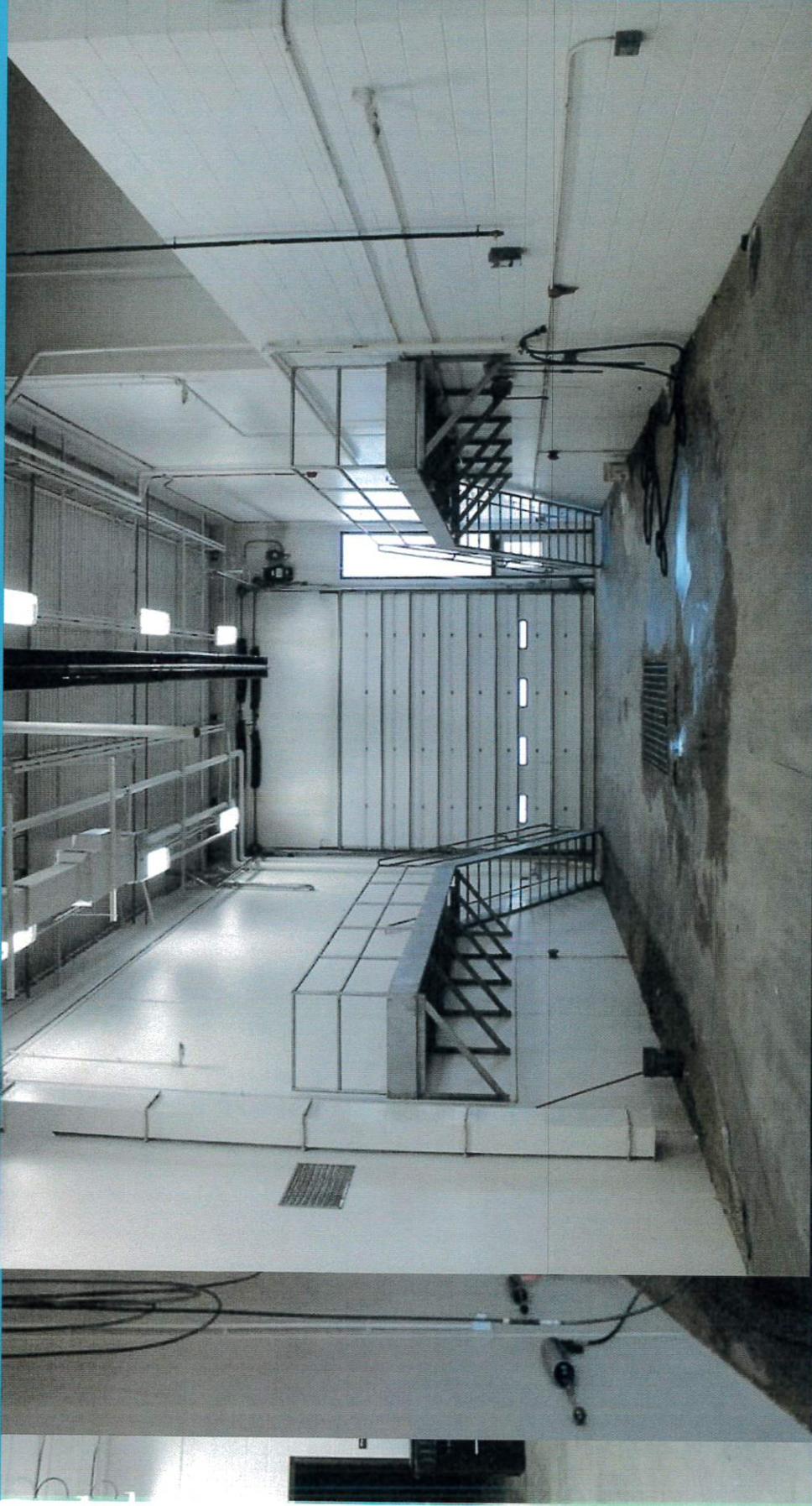
ibility for this facility to help with other community needs as follows:

- Fleet management for all vehicles
- Fuel farm for all departments-frees up space at Central Fire
- Relocate waste oil drop off-frees up space at Central Fire
- Free up office and storage space at Town Hall
- Potential for additional parking at Town Hall
- Relocate drop off center to achieve year round access
- Storage units for other departments- PD, FD, HR, Finance, TM, Etc.
- Opportunity for GoGreen initiatives-solar panels/E.V. charging area
- Wash facility to improve longevity of costly equipment
- List goes on and on-endless opportunities to solve long standing challenges

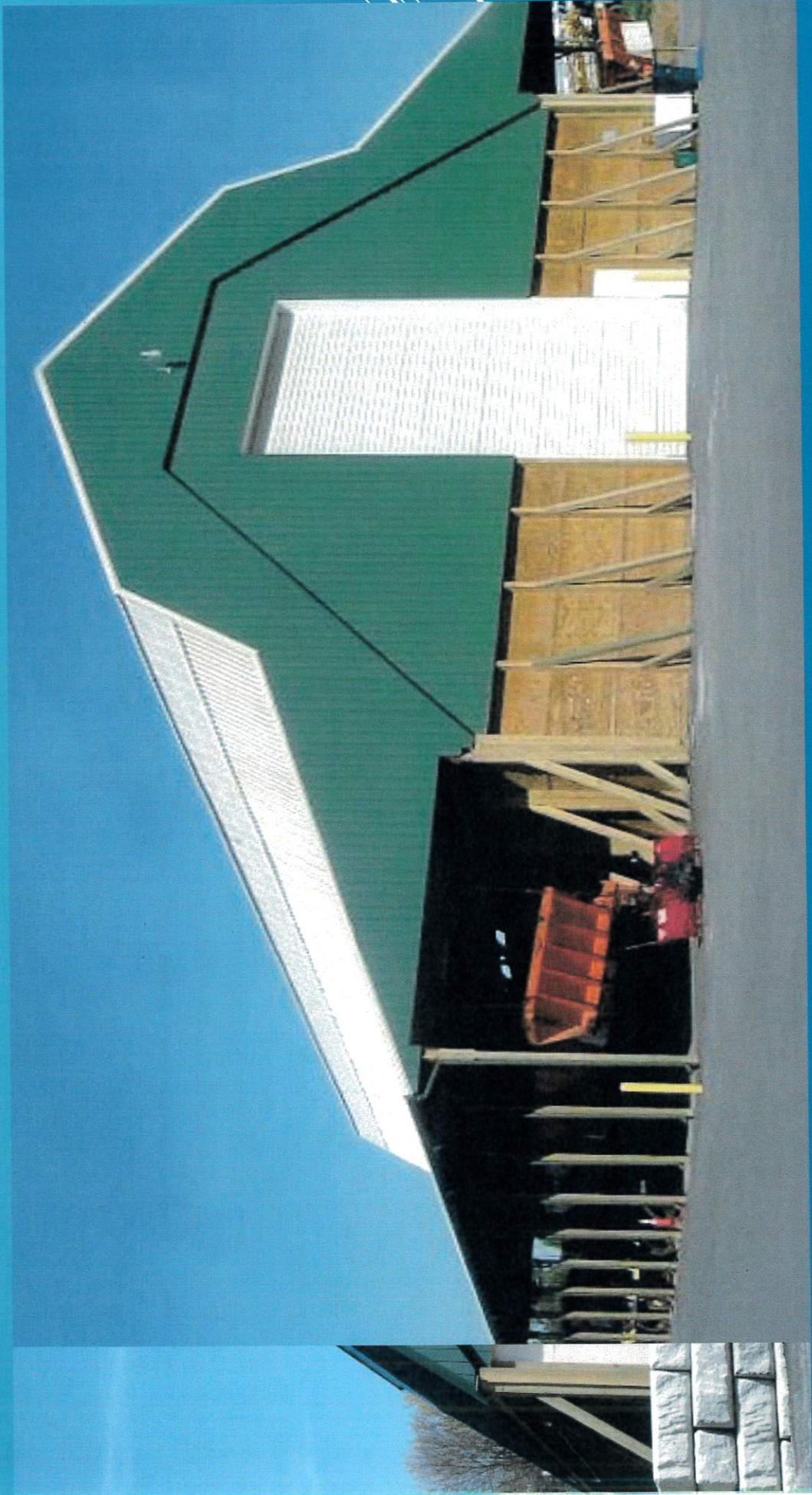
MODERN FACILITY



FLEET MANAGEMENT



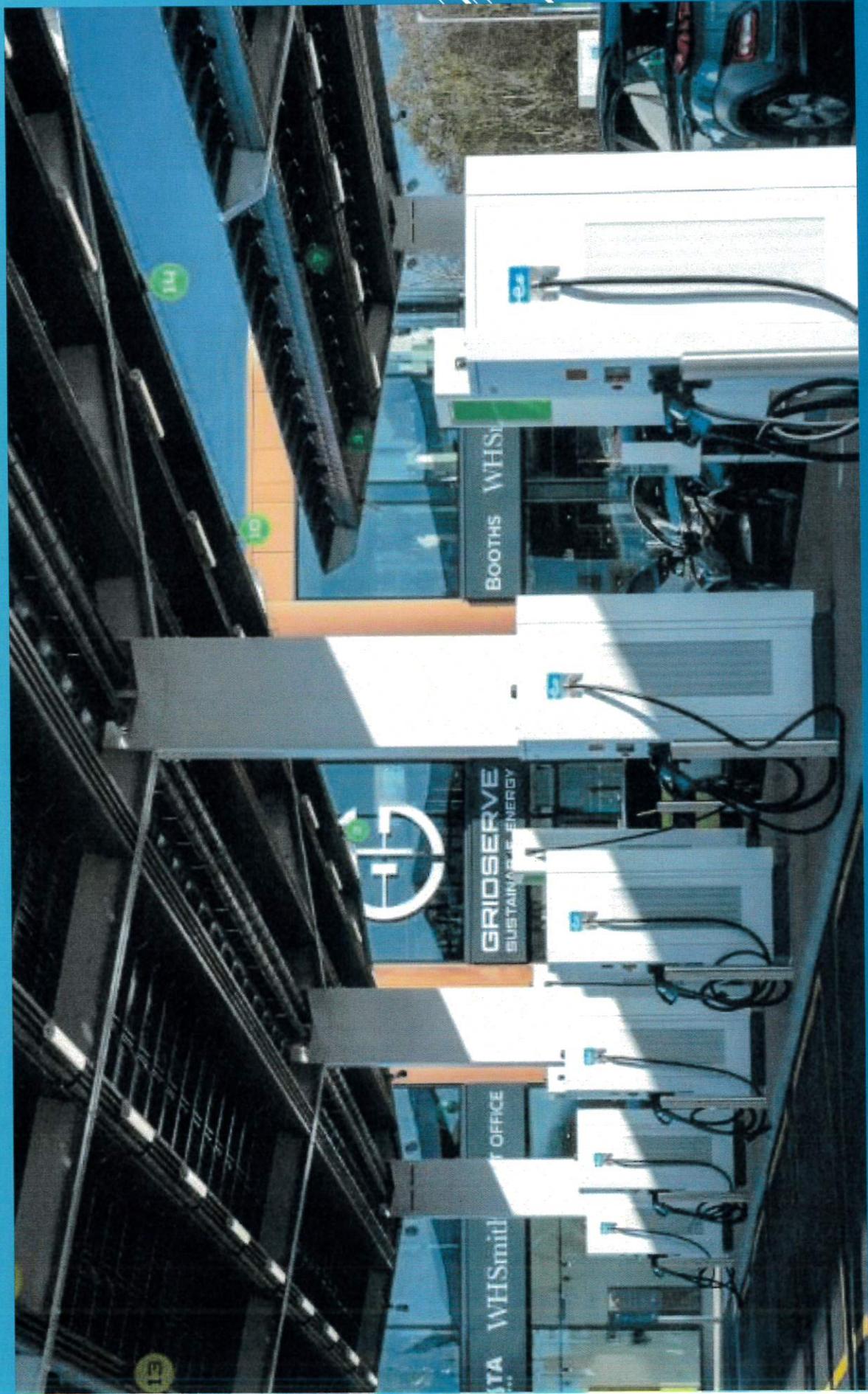
FUEL FARM & SALT BARN



YEAR ROUND DROP OFF CENTER



GO GREEN!!!



BOUND BY THE LIMITATIONS OF NO FACILITY

What we had:

Flatbed truck

Sweeper

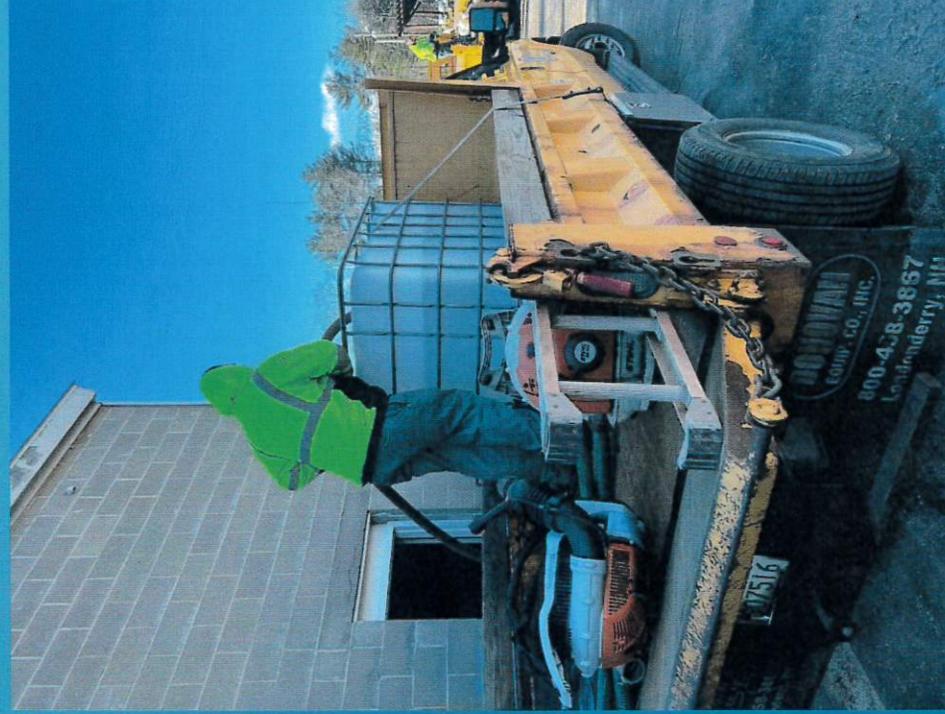
Gas-lawn maintenance

Walk machine

Box

Liquid
Salt/brine

Equipment



We could perform:

Jetting of drain lines/culverts.

Sweep roads and MS4 compliance.

Hire seasonal summer help-mow cemeteries and other properties.

Provide winter maintenance for all sidewalks.

Better and longer lasting repairs of pot holes.

Make better use of pre-wet systems resulting in enhanced salt operations

THANK YOU!!!

Questions/Comments?