

Why Did Custodianship Go Awry?

Dear Editor:

July 13, 2024

On July 11, 2024, during the DPW Ad Hoc Building Committee meeting, we learned that Phase 2 of the Environmental Study at the existing DPW site on Town Hall Rd started. This has revealed some literally buried items including buried oil drums that may have leaked. This site has been used for industrial purposes for decades, and disposal methods that were commonplace years ago are not acceptable today. It's no surprise that cleanup of old buried items is needed now.

The Town Administration summarized the status of the study and cleanup in a [press release](#) on July 12. Nine test pits were excavated, buried metal parts and tires were staged to be recycled, and oil-contaminated soil that would fill a little more than half of a single car garage was removed. The summary included: "*Findings to date are not expected to impact suitability for a new Public Works Facility to be developed on the site.*"

This Phase 2 study will continue for the next 3 to 4 months. Until then it is hard to determine the extent of the environmental damage. But the fact is: damage to the Town Hall area was done by the owner and custodians — the Town of Truro — and the Town must fix it!

It is my opinion that everyone who cares about the environment should take the time to listen to the entire exchange about the study's findings. It can be found at this [link](#).

At that DPW Ad Hoc Committee's July 11 meeting, Bob Weinstein went out of his way to express his position that the current DPW site is NOT a viable location for the new DPW facility. This problem has nothing to do with where the new DPW building will be located. It is an environmental problem that is routine at municipal industrial sites that now face new regulations and have much better solutions today. While this must be resolved by qualified professionals without further delay, it is something that has to be done by the Town regardless of use of this property. It is our moral and legal responsibility to perform a thorough cleanup. It is not something we can ignore any longer, let alone walk away from.

As Mr. Weinstein has reminded us all many times, the Select Board is the Custodian of all Town-owned properties. According to the Truro charter section 4-2-6,

"The Select Board shall serve as the custodian of all Town-owned property ... and shall plan for its preservation, maintenance, and protection, and shall plan for the timely replacement of capital facilities and infrastructure."

The Merriam-Webster dictionary defines a "Custodian" as "one that guards and protects or maintains."

There is no dispute that the Select Board is the Custodian of the current DPW site. Nor is there any question that these items were buried while the Town was custodian.

Yet Mr. Weinstein asserts that the Phase 2 study should never have been done at Town Hall Hill and the Town will end up paying for the cleanup. He suggests that the Phase 2 Environmental Study has shown he was right that the Town Hall Hill site is not suitable for the new DPW. He stated, *“a reporter has already visited and photographed what was discovered at this point on the site. And I did that to push back at the nonsense that happened — stiff-arming the project here. I think it's important to get a newspaper's view of what's going on; not a press release from the Town, which is legitimate, but it's also legitimate if the press does its job. It will show people.”*

Quoting Mr. Weinstein: *“this proves exactly what really pisses me off and I told Ed Miller here's your front page story with photographs, and I hope next week there will be photographs of what was dug up which is now being protected by plastic; there is a plastic liner in that hole as required by DEP and between 40 and 50 yards of material is also sitting on a plastic liner, and just so everybody knows a 5 gallon spill cost the town of Truro more than \$10,000 to remove. Do the arithmetic, that pile is at least 40 yards and we've only started.”*

Let's look at this — No outrage about the environmental crime that was created by the Town. No concern that a Select Board member exceeded his authority again, acting on his own again, and called the newspapers rather than wait for the Town's explanation and presentation. Just concern with the cost for the cleanup.

So here are some questions I have:

Is the Select Board up to the challenges of fulfilling their role as a Custodian? How should we evaluate their past performance as Custodian of all Town-owned property? Are they doing their job? When Board member Weinstein invited the press to investigate, was this an official Select Board action (that is, with full knowledge of his colleagues in advance)?

Everything he says suggests he did it out of anger and mistrust, and thus, on his own. The Truro Charter Section 4-5-1 is unequivocal in stating that

“Members of the Select Board shall possess no individual authority.”

My question for Truro Townspeople is, do you believe our Town Property is in good hands? We've assumed so but how can we know? Below are some things to consider.

Phase 1 Environmental Site Assessment of 24 Town Hall Rd was conducted in 2020. The study uncovered issues that should have mandated an immediate Phase 2 study. But no Phase 2 study was ever commissioned by Town leadership. The Phase 1 engineers, Weston & Sampson, recommended the Phase 2 study, saying, *“...we understand that the facility will be upgraded and undergo major reconstruction. Therefore, Weston & Sampson recommends the performance of a Phase II ESA at the Site to evaluate the potential for adverse environmental impacts...”*

According to our prior Town Manager Rae Ann Palmer, after Phase 1 was done, “*the Department of Environmental Protection (DEP) said anything that is found that necessitates a cleanup shall be cleaned up and any associated expenses shall be borne by the Town of Truro because the Town of Truro was responsible for what ended up in the ground.*”

To be clear, I do not know if anything was found by the Phase 1 study. If not, that is another question, too. The Select Board, however, as Custodian of this Town-owned property had a duty to find out by launching a Phase 2 study. They failed us as Custodians and as civic leaders by neglecting to alert taxpayers to the possible liability and expense lurking under the DPW.

Why did the 2021 Select Board, chaired by Bob Weinstein, fail to own up to the problem and conduct further investigation? Likely because the Town Custodians knew that a Phase 2 Environmental Study was a point of no return: If you find something you have to fix it. Instead, they ignored it (along with any possible danger it poses to the people working there) and diverted our attention to a new, pristine site on Route 6. Ironically, nothing that has been found at THH will cost nearly as much as the site costs on Route 6 in any case, so all of this “expense” noise is just another diversion.

Mr. Weinstein isn’t psychic in 2024 – he already knew from the Phase 1 study in 2020 that the DPW industrial site likely needed some remediation. But for almost 4 years, as a Select Board chair or vice-chair most of that time, he failed to heed the Phase 1 study, consistent with his stated preference for abandoning Town Hall Hill as a DPW site and moving to the Route 6 site. As Mr. Weinstein said last week, “*where they’re going to be digging tomorrow is indicated on this map with the orange and yellow outlines. I know there were vehicles buried there which means gasoline battery acid, etcetera, etcetera.*” Really??? And he did nothing?

As a Town, we are not in a good position. Aside from the likely manageable cost of this routine cleanup, once again we are left to wonder if we can trust our governing officials. We are owed an explanation about why this problem was left unresolved for so many years. Who knew what and when did they know it? Why was nothing done sooner? And how do we reckon with a rogue Select Board member and what appears to be a cover-up, and improper use of his authority by acting independently to get Town Counsel opinion for himself (which ultimately did not confirm his views) and to go to the press because he “was pissed off”?

— Michael Forgione