

**TESTIMONY TO SENATE INSTITUTIONS COMMITTEE
ANTHONY O'MEARA, NEWBURY VT.
JANUARY 12th, 2021**

Good afternoon, my name is Tony O'Meara, resident of Newbury, Vermont.

Thank you for the invitation to speak to Senate Institutions. There are several other Newbury residents here today so hopefully you will get the views and perspectives you are looking for.

Everything I say today is from public data and I will be please to provide it if necessary. I am going to try to be as concise as I can but there are many details on the issues I want to cover.

Around the beginning of February 2021, many of us in Newbury began to get become aware of a project that had been approved to build the Woodside replacement here in Newbury's conservation district. We also learned that this process had been ongoing for at least six months, apparently with no attempt to involve or communicate with the Town.

No one in Newbury disagrees with the urgent need for the woodside replacement facility, or likely the program. Everything about the proposal is reasonable, except for some significant facts - that the proposed use is not compliant with town zoning ordinances for the chosen location, or able to be supported by necessary services, and will have an adverse impact on the community.

It is unfortunate that the assertion that it was an allowed use, and that there was already a permit in place, has been used as a basis for obtaining project approval and repeated continually. On this matter, DCF made assertions to the oversight committees that are not supported by the facts.

It's easy to paint Newbury as the 'bad guys' here, and dismiss as NIMBY as we have turned out to be not the bump in the road, the mere formality DCF and Becket had planned on. And to some extent it's also now being implied that Newbury is somehow 'blocking' the facility the State urgently needs.

If a Newbury property owner proposes a use that is clearly out of compliance, then opposing the proposed use is not being NIMBY. It is an entirely reasonable position for any Newbury resident to take. Just because the owner is a wealthy private company, supported by a State agency using taxpayer dollars, doesn't make the proposed project compliant, or automatically get a pass on zoning and permitting requirements. If someone believes the opposition is simply NIMBY, then they do not believe in the Vermont planning and zoning process.

The reality is, community members participated in three informational meetings where they heard the DCF/Becket proposal and responses to community questions and concerns; after evaluating, the community has decided to overwhelmingly oppose this project. Opposition is diverse and distributed throughout all Newbury regions, not only the area closest to the proposed facility.

Community opposition to this project is measured, reasoned and is not complicated.

During the JLCPO committee hearing on Friday Nov 19th regarding the DCF/Becket permit denial, Sen. Lyons said she was "*concerned that the municipality has come out so strongly against the facility in Newbury.*" In Newbury were pleased to hear that the depth and strength of opposition to the proposed facility is being acknowledged by the legislature. Hopefully today we can shed some light on the reasons behind this.

Throughout this process there have been attempts by DCF and Becket to discredit the opposition, and characterize it first as a loud and local minority, which we are not, and then asserting our opposition to the proposed location as being against the need for this facility in Vermont, saying "*These individuals have rejected the notion that the purpose of the program is to treat a needy population*" which is absolutely not true, and further stating to the

Newbury DRB, an unfounded accusation that opponents are simply lying, that our reaction “*is, bluntly, an ignorant one*” and we “*use a pejorative*” to misrepresent the facts, and we have “*perhaps other considerations and motives*” for doing so. There were some quite insulting remarks about the community made by DCF through their attorney at the Newbury DRB hearing.

Having been accused of having ‘other motives’ for opposing, I have to say my only motive is the correct interpretation and enforcement of zoning law as it applies to this project, a realistic and objective assessment of the lack of necessary services at this location and doing my best to point out that I believe the integrity of the legislative approval and oversight process is being challenged.

We all can appreciate that there has been a considerable amount of work completed to date, but this work was built on a very shaky foundation; the issue of land use and zoning for the repurposed use of that property should have been one of the first things addressed.

As part of this deep dive, I’d like to review prior permit issues. I believe it’s important.

PERMIT HISTORY

In 2014, VPI applied for an ACT250 permit for the property in Newbury stating “VPI dba CRA will purchase the existing B&B property for use as a pre-vocational outdoor education/experiential learning center for up to 12 Students”. The application was signed by Becket President.

That 2014 application further stated to comply with the Town Plan : “the project is located in the conservation and natural resources area and the conditional use review by the town found that by maintaining the 278 acres as an outdoor classroom for environmental/agricultural studies, the project meets the goals of the town plan.”

That language exactly mirrored the Newbury Conditional use review which stated “...by maintaining the 278 acres as an outdoor classroom for environmental/agricultural studies, the project meets the goals of the town plan.” as a condition of use. It was for a very specific outdoor school, not a treatment center, and was the basis for the conditional approval.

As a result, the 2014 land use Permit was issued, stating: - *This permit specifically authorizes the use of an existing bed and breakfast property as a pre-vocational outdoor education/experiential learning center for up to 12 students. No changes are proposed to the existing buildings, access, parking, outside lighting, or trails.* The project is located at Stevens Place in Newbury, Vermont.

For three years VPI operated various ‘schools’ at the location, but they eventually closed and in 2018 VPI opened the Vermont Assessment Center at Newbury (VACN) in collaboration with DCF. This was a change in use that was not disclosed to the zoning authorities. VACN operated until August 2020 when it was closed to make way for the proposed secure facility.

VACN was a short-term residential assessment program and licensed as a residential treatment program by DCF.

However, a DCF license is not a permit, and the DCF Licensing Regulations for Residential Treatment Programs in Vermont (DCF policy document) states in section 307 The Governing Authority (in this case VPI/Becket) is responsible for assuring the Residential Treatment Program's continual compliance and conformity with the Relevant laws and/or regulations, whether federal, state, local or municipal, This may include but is not limited to Zoning.

So VACN, the prior program, was opened and operated in non-compliance with the land use permit, and that non-compliant use was subsequently used as the basis for ‘selling’ the project to the legislature and to persuade the oversight committees there were not going to be any issues throughout the following months.

The LOI was signed with DCF in September 2020, and the legislative approval granted November 2020

Then in December 2020, three months after the LOI with DCF was signed, Becket submitted a Project Review Sheet to the Act250 commission with a project description to “convert a “pre-vocational outdoor education/experiential learning center” ... **TO** a secure juvenile treatment center...”. (emphasis added) that is the tacit acknowledgement by Becket/VPI that their property was NOT previously permitted as a treatment or assessment center.

On Jan 5th, 2021 the Act250 coordinator issued a Jurisdictional Opinion that no amendment is needed as there is “no material change”. This was based entirely what was disclosed, which has turned out to be significantly mischaracterized. That opinion leaves the conditions of the current permit in place. So, it still is not permitted as a treatment center.

Moving on to the round of oversight hearings....

On Jan 26th 21 (Senate Judiciary) Jay Wolter said. “The actual legal zoning issues here are actually very minor because we have a permit for this particular use already,” and also added “Now, if there is opposition that arises, it’s going to arise, and I think the legal processes in that community will advise us as to how to proceed and ultimately make a decision...” (if I can paraphrase, he is saying they will rely on Newbury’s DRB to make the decision, not the opponents)

On Feb 3rd 21 (Senate Institutions) DCF was asked why Newbury and Becket were chosen, and replied that it was because the proposed location “had operated as a similar facility in the past, and had the proper permits in place”

On Feb 12th21 (Human Services) Commissioner Brown said “...it is already permitted as a residential treatment program in their community because it was operating as such”.

On August 11th 21, (Joint Legislative Justice Oversight) Commissioner Brown said “the fact that this was already a permitted juvenile center or treatment facility in their town that had already gone through the process....”

None of there were correct. It turns out that despite many statements the oversight committees have heard to the contrary, there was no permit for a treatment center at the Newbury location. The permit language is very specific; and it’s not a treatment center. Clearly the Newbury property permit status has been misrepresented to legislature, and I believe approval was based on false pretext.

It was made clear by Commissioner Brown in committee hearings that a key factor in the selection of Becket’s Proposal by DCF was that the proposed location had the proper permit in place.

On December 15th, 2021, even after everything that has happened, a similar claim to House Appropriations was made saying “There’s already an existing act 250 permit for the current facility that is there” while pragmatically correct, there is a permit, it is not true for the purpose it was stated.

Due to the tenuous nature of their permit relative to zoning, and they must have known there would be issues, but DCF still made no effort to consider a backup plan.....even after telling the legislature they would.

NO PLAN B

On Jan 26th 2021, one year ago, (Senate Judiciary) Sen. Sears asked the question “Do you have a backup plan if the community says absolutely not to the covered bridge treatment center?” Commissioner Brown said “we are working through contingency plans, we were having conversations with other providers at the time so those conversations have been left on hold, but there has certainly been interest from other providers to work with us, but we felt that Becket was the best program and the best facility, but there have been other conversations so that we would be able to move in a different direction if there are issues with the placement of this treatment program in that community.”

On May 12th (House Human Services) Judith Rex said “ if the development review board denies our application, then the State would have to regroup and figure out whether we want to appeal that, or move to plan B; which there isn’t a plan B right now”

So a DCF decision was made to not start or to discontinue any backup plan despite what Comm. Brown told Senate Judiciary in January. What were the factors behind this decision? Also, as far back as May, DCF is being very open about having no backup plan.

On August 11th, (Joint Legislative Justice Oversight) ‘Plan B for Beckett’ was a written agenda item, but when it came to testimony, ‘Plan B’ was completely absent from the discussion and it became a ‘rose colored glasses’ review of the project status, so much so that it was reported with implied certainty on WCAX. Why was ‘plan B’ dropped from the agenda/discussion?

On Nov 19th (JLCPO) to discuss the DRB permit denial, DCF says they are appealing the Newbury board’s decision, but is also now making contingency plans for another facility but only if the appeal fails.

However, as recently as last week, January 5th 2022 (Institutions/Judiciary) there was, in my opinion, still no acknowledgement of the need for a Plan B, and Commissioner Brown seemed to confirmed a commitment to ‘stick with Becket in Newbury’ seemingly at any cost.

So, despite prior statement to the contrary, DCF has chosen to double down on a problematic location, committing to a protracted legal process of uncertain timing and outcome that does nothing but waste valuable time while the states critical needs continue to be unmet

The decision behind abandoning a plan B, or if they ever really intended to have one, should be investigated.

The decision to abandon contingency planning shows DCF went all-in on Newbury for the plan despite not having the permits in place, and after permit denial have now doubled down with a questionable and disturbing strategy.

In the best interests of the State the long-term alternate plan needs to be kicked off now, and the project redirected, rather than wait for result of the appeal.

Additionally, Commissioner Brown has now confirmed that the State is paying for the appeal, and all of Becket's permit costs as its “part of the permit process”. Speaking as a taxpayer, this is not appropriate given that there was no suggestion that they even needed permit activity when the business was awarded to Becket and the consulting side agreement signed. That the legal costs are an order of magnitude higher than anticipated by DCF is entirely due to Becket. Taxpayers should not be paying for this.

PURPOSE OF BUILDING / ZONING STRATEGY

The true purpose of the building and its occupants has become very important for the ongoing zoning, and community concerns.

Act 154 Sec. E.316 required the Agency of Human Services shall submit ...a long-term plan for Vermont youths who are **in the custody DCF, are adjudicated or charged with a delinquent or criminal act, and who require secure placement (target population)**. The stated intention is that the facility is or short-term stabilization with discharge to a less restrictive placement as soon as possible.

There are also extensive physical modifications costing some \$3.5 million needed to comply with secure placement requirements. DCF have described its various security features at length: no one will dispute any of the items listed below:

Concrete Block walls in the bedrooms, locked doors, furniture fastened in place, non-opening and bullet proof windows, 24/7 surveillance, infra-red cameras, a correctional grade fence 14ft 10" tall (12' high plus a 4' 45deg sloping extension) with tight 'anti-climb' mesh significantly reducing daylight, Steel studs, Secure 'sally port' drop off area. Control room behind several locked doors. 60,000 lumen of lighting, large staff to resident ratio, community alert system. etc. etc.

The design of the proposed facility at Newbury meets all the conditions as defined in the State of Vermont Youth Justice Compliance Monitoring Policy & Procedure Manual (28 CFR § 31.304 and 34 U.S. Code § 11103) to be legitimately called a 'secure detention facility' and also can be legitimately called a 'secure correctional facility', as the youth must be adjudicated to being placed at Newbury.

Additionally, DCF Licensing Regulations for Residential Treatment Programs in Vermont defines a **Secure Program**: as "*a building secure Residential Treatment Program which employs locked or inoperable doors and windows to prevent children/youth from leaving the building i.e. a **detention program** or hospital.*"

There is no ambiguity here. – the Newbury facility will be a secure detention center by State of Vermont definition, and DCF's own residential Treatment Center guidelines, and must be considered as such for the purpose of zoning.

I don't care what euphemism is used once the facility is up and running, but for zoning compliance, community impact and safety discussions it must be a truthful and accurate description.

Despite the facts, DCF and Becket dismiss the use of the correct definition as Newbury residents hyperbole and suggesting questionable motives for doing so, stating to the DRB "*These individuals have rejected the notion that the purpose of the program is to treat a needy population and instead have sought to characterize the home as a prison and detention center*" and "*...the opponents may use a pejorative of saying this is a detention center; that is incorrect language...*" that assertion, under oath at the DRB hearing, is clearly incorrect.

However, during the permit process, things changed quickly....

An abrupt change in direction was disclosed to the Act250 commission on October 8th, some eleven weeks after the original permit application and shortly after the Newbury DRB hearing when it became apparent to DCF that their other strategies were being challenged.

It was a clear change in direction. DCF went from stating that it is a "school/treatment center", or a "treatment and educational center", and the "use of the site is not changing", to its a "residential group home" for the "mentally disabled".

They now say that the primary purpose of the Newbury facility is a residential group home for the disabled, solely for the purpose of avoiding the zoning authority. A strategy that needs a clear misrepresentation of the facility's true future use and its target population.

At issue here is the DCF assertion that **ALL** adjudicated youth requiring secure placement at the proposed facility will be -- by definition -- mentally disabled, since this is required for them make the case that the facility must be treated as a "group home for the disabled" and thus, treated as a "single family residence".

As the Newbury facility must accept ALL high risk adjudicated youth with no reject/no eject, this is a blanket assertion that all youth offenders charged with a crime and judged as 'at risk' are deemed to be mentally disabled, or more disturbingly requiring an evaluation with a seemingly preordained outcome so the proposed Newbury facility can be used.

The associated assertion that all 'future residents' are prejudged as having a mental disability simply to avoid the legitimate permit process, is truly disturbing. Even more so as it was backed up by an affidavit from the DCF Commissioner.

The terms 'Group home' or 'mental disabilities', or 'mentally disabled' were not used anywhere in the many documents from the RFP in January 2020 onwards. The Group Home definition was introduced and attempted to be retroactively applied simply as a strategy to avoid legitimate zoning.

This is an outrageous approach, and I am appalled that DCF would seek to label 'adjudicated at risk youth' as having a mental disability under the law, with the long-term consequences and potential stigma that such a claim may have for the individuals in question, all for the purpose of receiving a favorable zoning or land use decision for this facility

The discriminator that sets the Newbury facility apart from other similar programs in the State is the mandated and approved purpose specifically for adjudicated youth in DCF custody **who require locked, secure placement.** Whether they are mentally disabled, or not, has no influence whatsoever on a decision to place a youth at Newbury or whether they continue their stay at Newbury.

In addition to a complete misrepresentation of the purpose of the physical building and the occupants, they also misrepresented legislative intent. In a permit submittal DCF stated: *The project involves the reconstruction of a building **defined by the Legislature** to be a single-family residence:*

This is completely incorrect. the legislature did not define a single-family residence. The legislative approval memo in November 2020 stated very clearly what they were approving, and who it was for. The legislature did not define a building, but a purpose, which is clearly not the same as that being presented now by DCF.

Pursuant to 2020 Act No. 154, Sec. E.316, the Joint Legislative Justice Oversight Committee met jointly with the Joint Legislative Child Protection Oversight Committee on November 12, 2020 to review the Department for Children and Families' long-term plan for Vermont justice-involved youths in the custody of the Department for Children and Families **who require locked, secure placement.** After reviewing the plan, including cost comparisons, capacity, and expertise evaluations, the Committees unanimously voted to approve the Department's proposal to contract with the Becket organization **to operate a secure placement facility for youths who require a locked setting** in which to reside and receive treatment. And further that ... the use of the facility shall be **limited to justice-involved youth** and shall employ a "**no eject/no reject**" policy.

Shortly after the Newbury DRB permit denial, it was reported in the Media the "State plans civil rights challenge", and DCF are saying "The Newbury DRB decision disregards applicable civil rights law". They are now framing as a 'civil rights challenge' to force through a reversal of a legally correct zoning decision.

And That "*The Newbury DRB decision disregards applicable civil rights law*" Is simply ludicrous

The rights being disregarded here are those of the adjudicated youth who DCF will pre-judge as mentally disabled or will be assessed by a DCF process with a pre-ordained outcome and WILL be found mentally disabled, as this will be needed to be placed at Newbury. This prejudicial clinical ruling is required for the singular and only purpose of being the basis for a permit strategy.

Clearly Misrepresenting the facility planned use and Legislative intent and labeling **ALL** adjudicated youth as mentally disabled as a basis for an appeal and to simply to suit a zoning strategy is appalling.

Despite DCF's statements to the contrary, the primary and only reason a youth will be ordered to be placed at Newbury is for 'secure placement' due to public safety concerns and the fact that they have been charged with a crime and are considered a risk to the community or themselves. **NOT** mentally disabled.

Based on the definitions and facts presented here, DCF is clearly wrong. Their motive here is clear; complete misrepresentation for the purpose of avoiding the legitimate zoning authority of Newbury's DRB.

The Urgent State need is not for ‘a secure group home for adolescent Vermont boys with mental disabilities’, as DCF now claim, but is for a secure facility to confine and stabilize at risk justice involved youth. Complete misrepresentation.

I am sure the oversight committee members would not condone such draconian and Orwellian measures being planned by DCF for the justice involved youth, or the blatant misrepresentation of purpose of the building and legislative intent, solely to evade due process.

DCF MEMO JULY 20th

I’d like to refer to a memo from Aryka Radke, to Senator Lyons, dated July 20th, 2021 that refers to me by name. It is about an email I had sent Senator Sears pointing out the groundswell of community opposition and make him aware of Commissioner Browns Statement to not move the project forward without community support, and to urge that Commissioner Brown honor his commitment.

It States: We reviewed the e-mailed that Senator Sears forwarded to Judy Rex. The statement Tony O'Meara is referring to is a comment made by Commissioner Brown early in the process to House Human Services on February 12, 2021. The DCF team believes we have engaged the community in a meaningful way and have been completely transparent throughout the process. We know there are members of the community who support the project and others that do not. We also understand there are community members who believe as long as there is any level of opposition, we should not proceed. We respectfully disagree with that premise.

Commissioner Browns statement I was referring to was made the day after the first town meeting during the House Committee on Human Services ‘Residential Treatment for Justice Involved Youth’ hearing on 2/12/2021.

Commissioner Brown was responding to a question from Rep. Redmond about the community, and the potential for opposition. In answering he said the State wanted to secure “community support” before moving forward with this project and would not “sign any contracts or lease agreements or start making investment in this facility” until “we know we have the support to do so” and adding “that’s crucial” This statement in not taken out of context. Please refer to the video clip and transcript.

TRANSCRIPT: “I don’t want to be as presumptuous to say that we are going to move this forward without community support, I think it’s important that we work with the community and make sure they have a comfort level with this project before we sign any contracts or lease agreements or start making investment in this facility that we know we have the support to do so. That’s crucial”

In the period after the town informational meetings, residents completed a survey regarding the proposed facility where over 300 have indicated opposition. This is a huge number for Newbury. Based on the number of respondents and town population it projects 93% opposed, with 5% undecided, if the town voted.

Those who are opposed are evenly distributed throughout the town, not just close to the proposed site, and opposition also crosses socio-economic and political lines. It is truly a unifying issue in Newbury. Please refer to the map.

In the face of evidence to the contrary, Commissioner Brown has simply chosen to say he has support and will move forward. He has said this to the media, and he told me this personally on Saturday Oct 2nd saying (paraphrasing) “I just spoke to a someone who supports it; I have community support”. (Emphasis on the singular; there were over a hundred in the room, and many more on zoom, all opposed). This position is laughable if the implications were not so serious coming from an Administration official.

Let's consider the memo statement: *"We also understand there are community members who believe as long as there is any level of opposition, we should not proceed. We respectfully disagree with that premise"*

So, if the 'any level of opposition' is >90% of the town (overwhelming by any measure) then they are 'respectfully disagreeing' with the basic principle of democracy to justify moving forward. And it is the converse they are really saying, that if they can find anyone who say they support it no matter how few, then we should proceed as we have community support". Unbelievable.

Despite overwhelming community opposition Commissioner Brown chose to simply say he has the community support to rationalize moving forward despite the strong evidence to the contrary. Let's put it to a town wide vote. If Windsor get a say in their future, why not Newbury?

I also take issue with the memo statement that DCF *"have been completely transparent throughout the process."* There are many examples where this has not been the case.... When one thing has been said to the legislature or the media, and another to the Newbury Community or the permit authorities.

The whole process has been shrouded by double speak, euphemisms, and flat-out misrepresentation. There are many examples, here are a few.

- From the beginning there has been a wholesale misrepresent the true purpose of the building, and of its intended occupants. What is a secure facility for justice involved youth who are a potential danger to themselves and the community is portrayed as an 'educational facility' for 'children' and now it's been taken one step further: now it's 'Group home' where all the 'kids' are 'mentally disabled'..... (simply to evade zoning). Truly disingenuous.
- There are just too many examples of open and candid discussion about 'youth dangerousness' in the oversight committees, then telling the community things like 'youth who lost their way' or 'made a bad choice' attacking the residents who use the same description as the Commissioner, or Senator Sears in hearings; often criticizing their own words repeated back to them. Just last week Sen. Sears described the 'target population' of this facility as *"... I'll use the term kids but they're serious youthful offenders."* Just one of many similar statements used in hearings over the last year.
- In one instance at the town meeting, DCF would not even acknowledge their own written words regarding the occupants and range of possible offenses.
- DCF have continually said we are lying about using the term 'detention center', even saying so under oath at the DRB hearing. Even though it meets state definitions and even defined as detention program in DCF RTC guidelines.
- In an August 8th committee hearing it was stated that the Becket facility will be serving youth described by Senator Sears as *'extremely dangerous'* - then shortly after that DCF completely downplayed all of it at the act250 and DRB hearings and disparaging the community for expressing concerns.
- At a Special Senate Judiciary and House Human Services meeting. February 5, 2021. Aggressive Behavior of Juvenile and Danger to staff was openly discussed by DCF and Becket at other facilities, where they recounted numerous examples of aggressive behavior and attacks on staff in their programs. So, only days before the first town meetings they were openly discussing how dangerous the youth were, and then took the complete opposite position in trying to convince the community there was no likelihood of any issues whatsoever and pushing back strongly when we used similar words to describe potential occupants. Becket also noted that in emergencies they were fortunate to have the police respond 'quickly', which of course is not an option at Newbury....

- In the community meetings, when addressing concerns about security, Comm. Brown was emphatic that we should look to Woodside (secure facility) for an example of a likely number of escapes, and the number was very low. In a written response, his words were “likely be a very rare occurrence.” However, shortly before he had said “Woodside has had plenty of escapes. “. Which is it?
- There are conflicting answers on why the prior VACN program at that site was closed. The legislature was told it was coordinated with this project, but the town told it was not related - Becket said at town meeting that there were no negotiations prior to VACN closing and that they had begun shortly after the closure, but this directly contradicts what Sean Brown said to House Corrections & Institutions just days earlier. Why?

I could go on.... All these ‘descriptions’ and ‘euphemisms’ and conflicting stories have compounded over the months and Becket/DCF have created an atmosphere of a lack of trust which is entirely their responsibility and will be very difficult, if not impossible to recover from.

So, the DCF statement to Sen. Lyons that DCF has “*engaged the community in a meaningful way and have been completely transparent throughout the process.*” is clearly questionable, and just another misrepresentation.

COST COMPARISONS

As a related issue, I’d like to briefly comment on cost comparisons, as they are a big part of the decision process.

The cost comparison of \$3.8M for Newbury vs \$6M for Woodside is a bit misleading for today’s situation. Given the DCF commitment to cap age at 17 in Newbury, there is the need for a separate facility for the ‘raise the age’ youth, and the legislature has asked DCF for a proposal.

Both age groups would both have been at woodside, so the \$6 million should be compared with (\$3.8 million + cost of running the new facility). What became clear from listening to many hearings was that many in the legislature and judiciary thought the raise the age youth would be in Newbury.

Similarly, when considering the any future alternate site proposal that would house both groups, the cost of renovations and operations in that comparison also needs to be compared with the Newbury costs plus the cost of the new separate raise the age facility.

CLOSING

Looking back, it is now apparent that DCF has squandered over a year of valuable time the State did not have by not openly disclosing the facts to the legislature relative to the viability of the chosen location for the proposed use, even when directly questioned about it in hearings. And did not consider basic contingency planning.

They have also squandered any goodwill they may have been able to establish with the community regarding this facility operating in Newbury.

It appears the Administration is intent on forcing a detention facility onto Newbury despite the Town’s permit denial, with absurd accusations of “disregarding applicable civil rights law” simply for enforcing zoning ordinances.

Many in town are rightly upset and appalled by what they see as State sanctioned bullying. Both the municipality and the community have filed notices of appearance through their attorneys to fight the appeal.

Despite what they said previously, when that legal process played out and the decision did not go their way, the State came back with a heavy hand to attempt an end-run to reverse a legally sound and well-reasoned DRB decision. An unconscionable and reprehensible move by the state.

Even if the project is railroaded through, the site still has ALL the other issues and incremental costs associated with the remote location. It is so far removed from services that the state must pay extra for them, and also pay for private Becket security personnel, and is totally at odds with the community; and is somehow this is “the best location”. Unbelievable.

All the additional payments for necessary services and paying for private security that DCF agreed to is tacit acknowledgement that the location is not appropriate.

Sticking with Newbury and moving forward with a protracted legal process is not the best and most expeditious option for the State when there are other viable and more flexible options available. Many in Newbury were rightly upset and appalled when the nature of the appeal language was disclosed, and I’d be very surprised if anyone in the legislature would condone this course of action once all the facts are on the table. To reiterate, Commissioner Brown has confirmed that the State is paying for the appeal.

It’s not clear, and I’m not going to speculate, if DCF was complicit in willful misrepresentation, or just did poor due diligence, but to continue to repeat the incorrect assertion to the Legislature as recently as Dec 15, DCF seem to give all appearances are that they are condoning it. We urge the legislature not to do the same. I can only assume DCF are now fully aware of the facts.

We recognize that a secure facility is still urgently needed and the major gap in the State’s system of care for youth is extremely unfortunate. However, the responsibility falls squarely on the Administration and DCF for prematurely closing of Woodside without a viable plan in place.

The situation DCF has created is not Newbury’s issue and the fact that the DCF is now scrambling to fill that gap should not in any way be a factor in the zoning or appeal process. DCF has a responsibility to abide by the zoning regulations that exist in Newbury, but unfortunately, they tried, and are still trying to circumvent them.

Newbury Opposition is not emotional, and fear based as DCF have mischaracterized, but pragmatic, measured, and service and ordinance based. You only need to look at the many thoughtfully written submissions by Newbury residents to the DRB, the Act250 Commission, and The Legislature to see that.

So many things have not seemed right with all this. Why is DCF trying so hard to make the Newbury property work? Why is DCF willing to commit additional taxpayer money in perpetuity to make this remote location work? Why is DCF doubling down on this location committing tax money to a protracted legal battle. It feels like DCF’s position has become a point of principle rather than pragmatically addressing the real State need. Who knows, but something is driving it....

Unfortunately, the reality is that the Administration based the project on a falsehood, and now perpetrating another to recover from being wrong footed by the correct zoning decision and now scrambling to force it through appeal.

In a previous letter to the Town, Commissioner Brown wrote “DCF has no interest in using a strong-armed approach or mis-represent the truth” if the permit was not approved. But when faced with the DRB’s well-reasoned and legally sound permit denial, and coming as no surprise to many Newbury residents, it seems DCF has decided to do both.

I only have the most basic understanding of the legislative process and how legislative oversight of the Administration works but do have a question. Now that we know the facts as presented were not correct, is it reasonable to assume that it should be grounds to rescind and revisit the legislative approval?

In pushing forward it seems that the Administration is willing to condone misrepresentation and enable a benefit from it. We urge the legislative oversight committees not to do the same. The legislative approval of this project

was based in part on a false premise, and we believe the approval should be rescinded and the project reassessed to maintain the integrity of the process.

In closing, I urge the legislature to consider the following:

- The Administration Based the project on one falsehood, and now perpetrating another to force it through. The facts are on the table and clear and obvious. We urge the legislature to respond to this.
- The assertion that the facility is a group home for those with mental disabilities is clearly incorrect and should be rejected.
- That 'mentally disabled' is being used to describe the entire target population of justice involved youth is clearly incorrect and should be rejected.
- I urge this committee to recommend to (the approving committees) that they rescind the legislative approval memo due to the false pretext approval and the project reevaluated
- Commissioner Brown should be held accountable to meet his commitment not to move forward without Newbury community support.
- There should be an immediate stop to State taxpayer payment for legal costs of the appeal.
- In the best interests of the State that an alternate plan in a more appropriate location needs to be kicked off now, rather than wait for result of the appeal.

Thank you for your time and the invitation to testify

Woodside Replacement Detention Center in Newbury - Community Survey

330+ respondents: 93% opposed, 3% not opposed, 5% undecided

Opposition evenly distributed throughout Newbury, not just close to the location.

