

Analysis of the New Fire Station Site Selection and Public Process

The aim of this analysis is to document a pattern of apparent deception in the siting and promotion of Bedford's new fire station, which was overseen by former Town Manager Sarah Stanton. It does not claim to have all the answers, but simply to ask questions that require answers in the face of credible evidence of concerted wrongdoing.

It is organized to convey the overall scope of the offenses by reading through the initial quotes and segment summaries before exploring the evidence that supports the charges. The following examination is based on published facts. As are the conclusions. But with more background to go through, it will continue to be developed and updated at SaveOurBlock.org.

Bedford voters should not be asked to authorize a bond issue without having knowledge of what is presented here. Spending at least \$32 million on a fire station headquarters can be justified if there is solid evidence that other feasible sites were indeed carefully considered.

But if the process violated the intent of the Open Meeting Law, the result is illicit.

A valiant effort has been made by the Town's building committee and designers for almost two years to develop plans for a new fire station at 139 The Great Road, but that is not a legitimate basis for continuing those efforts if the project was deliberately misrepresented.

The integrity of every element of the process has depended on whether or not there were other sites that could have been developed without the myriad complications of the Bacon site and without violating the Historic District protections.

If there were other feasible options, voters were entitled to know them before the vote and the Town Manager had a fiduciary duty to disclose them. Bedford's officeholders pledge to faithfully and impartially perform and discharge all the duties incumbent on them. An independent investigation into the apparent misuse and abuse of power presented here is overdue.

The purpose of the Open Meeting Law is to ensure transparency in the deliberations upon which public policy is based... the democratic process depends on the public having knowledge about the considerations underlying governmental action...

— Attorney General's "Open Meeting Law Guide" | January 2018

When the Town finally released Executive Session minutes for 2020 and 2021, something very surprising was revealed. Plans for the new fire station, which the Select Board had named the Town's top construction priority in August of 2020, were not discussed by the

Select Board in a single general or executive session until October 25, 2021. ***That means the public has no knowledge of how vital decisions were made or who made them.***

The Office of the Inspector General (OIG) June 2023 edition of “Guide for Members of Public Boards and Commissions” states:

“Fiduciary principles remind the board that it must act on behalf of the organization, not its executive. They will lead the board to actively oversee the executive and to expect accountability from the executive, which will help the public organization operate effectively, transparently and in accordance with its mission.”

The guide also explains how “discussing certain matters with other board members outside of a properly noticed meeting – such as by email or telephone – will likely violate the open meeting law... because the public is entitled to notice and an opportunity to witness deliberations concerning board business.” Some of the key decisions made in the process of building a new fire station that are nowhere mentioned in the minutes of either Open or Executive Sessions during the 2020-2021 period include:

- * When did the Select Board decide to pivot away from the plan to acquire the TD Bank site for the new station? When was that discussed?
- * The Town’s published project “Timeline” begins with a request from the Select Board for “staff to reevaluate sites, including historic and residential properties.” But Public Records Requests (PRR) have produced nothing to show how and when that request was made or any evidence of how, or even if, that reevaluation was conducted.
- * PRRs have identified no follow-up sent to the Select Board or requests from the Board for staff progress reports on how, or if, the potential sites were being explored.
- * There is no evidence that the Select Board ever discussed advertising to assess interest when the post-TD reevaluation began. Wouldn’t that have been in the best interests of the town? If not, why not? Who made that decision and when was it discussed?
- * In the Summer of 2021, the Timeline notes that “Staff reached out to Utah State University, learned that they were preparing 139 The Great Road for sale.” There were no minutes or PRRs to explain why staff would not have reached out to Utah State in the many months after the request to reevaluate the sites was made.
- * When residents who were experienced in Town government objected that the site selection process was not being handled in the customary public manner, it was said that details were being shielded to protect competitive pricing with private buyers. But by Open Meeting Law standards, until there were specific sites under consideration, there would be nothing to protect. It was the people’s business.
- * Finally, there is no evidence that there was any discussion regarding the need to gauge the scope of the HDC’s mandated duties. Consulting with the Commission

before deciding to invest so many of the town’s resources to virtually “take” the property from the Historic District would have been the prudent thing to do.

* And when did the Board discuss doing without the customary contingency plan?

There is *no evidence* that the Select Board and the Town Manager’s Office worked together between the time when the TD Bank site was indefinitely postponed and the October 25, 2021, Select Board Meeting. **There is *nothing* to support the claim that the Select Board guided the process or made the decisions.** If it did, it operated outside the lawful channels mandated by the Open Meeting Law. Otherwise, If the Select Board left the entire matter in the Town Manager’s hands, it neglected the fiduciary calling to “actively oversee the executive”.

When residents were deprived of the “transparency in the deliberations upon which public policy is based,” the Open Meeting Law was “broken”.

As people have said, this is a difficult decision for this group, but as an architect, I've done lots of site selection feasibility studies... and if there was a true study done it would have made our job a lot easier if it said, this really is the only site that's feasible. Just wish that effort had been done... with a professional planning firm actually doing that... to say, here are the sites... and score them and know the pros and cons – because it would have made our job not feeling like *we have a gun to our head*...

— Commissioner Sal Canciello | February 7, 2024

On January 3, 2024, the Historic District Commission (HDC) disapproved the new fire station project at 139 The Great Road. It should not have been a surprise because the text of the enabling Act of 1964 made that outcome foreseeable. **Therefore, the Town’s choice to provide no contingency plan was particularly negligent.** And telling, since a “Plan B” would have defeated the rationale to force the project through. (The attached letter to the Select Board covers this issue in more depth.) Nevertheless, the strategy failed. The Town then asked the HDC to reconsider its decision based on “the substantial hardship” and “disregard for the public welfare” it would cause.

But if the Town created the hardship to begin with by claiming there were no feasible options to the site when, in fact, there were, that claim had no merit.

The design changes that were made after the application was turned down were a cosmetic improvement that did not make enough of a difference to warrant the Commission's reconsideration.

Moreover, the Town's planned appeal to the Superior Court was based on picking and choosing the parts of the law that seemed favorable. But the three Commissioners who had voted against the Town's application understood that the enabling Act authorized the HDC to grant an exemption on the basis of "substantial hardship" **only if** it would not affect "the historic district generally" **or** cause "substantial detriment to the public welfare **and** without substantial derogation from the intent and purposes of this act." **In short, accepting a "hardship" claim of the Town's own making would defy both the letter and the spirit of the law.**

Commissioner Canciello's decision to change his vote came two weeks after giving his extensive and principled reasons for denying the application, which included his "gun to our head" remark. He was likely guided by a desire to save the Town from the certain havoc that would follow a final denial.

Unfortunately, the reversal rewarded the Town for playing "chicken" with the new Fire Station by forcing the HDC and the people into a corner.

139 The Great Road is not the bargain it's been represented to be.

— Historian and Former Selectman Donald Corey | November 14, 2022

After the P&S Agreement was signed in February 2022, Town officials started making the rounds of Committees to secure their support and eventual warrant recommendations. The PowerPoint document that was presented at the Finance & Capital Expenditures Joint Meeting and the Historic District Commission was heavy on pros and misrepresented the cons.

A good example of that appeared in the Town's 3/23/22 video on Articles 8&9. "It is worth noting that if for some reason the Town does not acquire 139 TGR, someone else will." The narrative went on to describe a mixed-use development larger than the former Papa Gino's construction site. Whoever wrote that script must have known that the rigorous HDC process would certainly prevent that. The only reason it was "worth noting" was as a scare tactic.

At the same time, **the significant expenses of a lengthy HDC approval process, radically grading the slope, installing signals, and moving poles were not added into cost projections or shared with the officials who were responsible for making recommendations to the voters.**

The Select Board is not supposed to be political. Its own recently revised handbook maintains that it has a primary ethical duty to “represent the entire community at all times.” While the Town may have its preferred initiatives, which they believe best serve the public good, ***it is not possible to withhold material information from voters and also “represent the entire community at all times.”***

The justification for tearing apart a signature property in Bedford’s Historic District was that it uniquely met all the criteria for the new station. That was objectively not true. And presenting the TD Bank site as the only other feasible option misled the voters.

At what point does misrepresentation become fraud?

The Town has determined that this is a unique property and *that therefore* advertising concerning this acquisition will not benefit the Town's interest. The Town has determined the parcel is unique because the property is uniquely situated in the Town and *specifically* (i) consists of a single parcel of land of approx 60,000 sq. ft. that has a structure that is not occupied for residential purposes, (ii) provides dispersal through the main roads of Route 62 East and West, Route 4 East and West and Route 225 East and West, which minimizes impact to the neighborhoods and allows for a safer travel for emergency apparatus, and (iii) does not extend the response time more than one minute from baseline to any section of populated town. As such, the Property meets the lot size and emergency response time requirements for the location of a fire station...

— The Central Register | February 23, 2022

Every objection to the site selection process was and is rooted in the Town’s claim of 139 The Great Road’s “uniqueness”. If it truly was the only option to the TD Bank site, there likely would have been much less opposition to the Town’s decision to build the urgently needed Fire Station there. But even though “uniqueness” was ferociously asserted and defended, the “Interactive Map” discussion below will show how specious the claim was.

Splitting hairs over Procurement Law would not have been necessary if the Town had done the thorough and transparent job it claimed it had in evaluating other potential sites. But as a Selectman, Bill Moonan knew firsthand that the normal site selection process had not been followed. As a Historic District Commissioner, he knew that the purchase would be contrary to the town's best interests. And as a professional rehabber of historic buildings, he knew it was possible to do much better for Bedford's Firefighters.

Efforts to discredit all of Bill's expertise because he and Carol Amick are abutters were cynical and opportunistic. Bill had been a Selectman for twelve years and a Historic District Commissioner for a good deal longer. Notably, he had saved the Union School from demolition and conceived the prized Town Center. Carol, a former Representative and State Senator, was equally devoted to the town's Historic District – and to the rule of law. Pouncing on their civic distress over the site selection provided a useful deflection of attention away from the many drawbacks of the chosen site. And reckless rhetoric effectively undercut their sacrificial efforts to save the character of the historic block.

How could a declaration in the "Central Register" possibly serve the public interest by listing how a property met the Town's specified criteria ***while omitting to mention all the ways it did not meet Fire Department needs – when at the same time there were properties that did?***

[I]f there's a site in town within our radius for response time, we've looked at it.

— Select Board Member Emily Mitchell | March 23, 2022

Apparently we've "looked at it" did not mean we've "looked into it." The map listed 13 properties "In Final Review". Three of them would never have been acceptable options: 74-80 Loomis Street, 110 South Road – Depot Park; 131-133 The Great Road – The Jonathan Bacon Home; 26 The Great Road – The Penniman-Stearns House.

Another three were very unlikely to be chosen: 43-51 South Road – 2 Residences in the Historic District; 31-43 Great Road 2 Residences in the Historic District; 190 Springs Rd / the VA Site – Difficult travel route and deed restriction.

That left six sites – aside from the current station – to consider. There were other properties that met the criteria but were excluded from consideration. But for the purposes of comparing apples to apples, only the remaining six sites will be examined here.

All six meet the size requirement. And all meet the response time criteria of not increasing response time by more than 1 minute to any part of town. The Town’s objections to multiple owners is irrelevant at best if the owners are found to be willing to sell and the site is otherwise appropriate.

The information that appears directly below the address was taken from the Town’s website. The considerations in red were not included in the Town’s notations but should have been. Even without the “scoring” that Sal Canciello said is such an integral part of a professional site selection feasibility study, it is clear that there were other sites that met the grade.

1-9 Railroad Avenue

Land Size | Ratio of 60,000 S.F. Target: 68,451 | 1.1
Number of Parcels: 2
Assessed Value (2021): \$1,118,600
Comments: Ruled out due to needing to acquire multiple parcels to meet square footage required.

Pros- Meets the Town’s criteria Excellent location – multiple major travel routes.

Cons- No apparent drawbacks unless two owners present drawbacks.

Owner Interest- Not Known

Meets Central Register Criteria – ii and iii

Note: Quick build. Has since been sold.

44-50 Loomis Street

Land Size | Ratio of 60,000 S.F. Target: 63,816 | 1.1
Number of Parcels: 3
Assessed Value (2021): \$1,379,100
Comments: This property was ruled out due to needing to acquire multiple parcels to meet square footage, and is a residential property.

Pros- Excellent location – multiple major travel routes. Right size.

Cons- No apparent drawbacks unless multiple owners present drawbacks.

Owner Interest- Not Known

Meets Central Register Criteria – ii and iii

Note: The March 3, 2020 ”Bedford Fire Station Site Evaluation Process” included a “Loomis and DeAngelo Option 3” – Instead of including a residential property, it included the

Professional Building at 50 Loomis Street and a slice from the industrial property behind it at 1-3 DeAngelo Drive. That property went on the market early in the year – status unknown.

185-199 Great Road, 3 Loomis Street

Land Size | Ratio of 60,000 S.F. Target: 68,221 | 1.1
Number of Parcels: 3
Assessed Value (2021): \$3,230,100
Comments: Ruled out due to needing to acquire multiple parcels to meet the required square footage. This parcel is the most expensive option considered, and would eliminate important community amenity, the pharmacy.

Pros- Excellent location – multiple major travel routes.

Cons- See comments above.

Owner Interest- Not Known but one of the owner’s is the owner of the TD Bank building.

Meets Central Register Criteria – ii and iii

Note: The economics of CVS chain have changed...

175 Great Road

Land Size | Ratio of 60,000 S.F. Target: 62,297 | 1
Number of Parcels: 1
Assessed Value (2021): \$2,179,000
Comments: Selected as preferred site for 2020 Town Meeting; not chosen for 2022 Town Meeting due to anticipated lengthy and costly process of eminent domain.

Pros- Excellent location – multiple major travel routes.

Cons- One of the two owners is uncooperative.

Owner Interest- Eminent domain required for the building. Landowners willing to sell.

Meets Central Register Criteria – i, ii, and iii

Note: The costs were not weighed against the lengthy HDC delay and the remediation required at the 139 TGR site.

139 Great Road

Land Size | Ratio of 60,000 S.F. Target: 64,821 | 1.1
Number of Parcels: 1
Assessed Value (2021): \$921,900 (There was an original map notation of @ \$1,400,000.)
Comments: Selected as the site for 2022 Town Meeting. Site has sufficient square footage, sightlines, response time, and is not a residential property.

Pros- Other than price, this site has nothing to recommend it.

Cons- Landlocked during heavy traffic. Requires demolition of elements of the Historic District / Major de-gradation of landscape and mature trees, Relocation of utility poles and wires on uncertain schedule / Requires signalization / Intrusion into prime Historic District block of industrial building out of scale. Overpowers the streetscape. Involves lengthy Historic District Commission approval process.

Owner Interest- N/A

Meets Central Register Criteria – N/A

Note: The current grounds and building could be a prime civic treasure at a very good price.

30 North Road/Bedford Motel

Land Size | Ratio of 60,000 S.F. Target: 95,382 | 1.6

Number of Parcels: 1

Assessed Value (2021): \$1,379,300

Comments: Ruled out due to not meeting response time requirements.

Pros- Commercial location. Multiple travel routes. Room to expand. See more in the box below.

Cons- It was recently said that the turn onto Concord Road by ladder truck would be awkward. But the aerial view shows it could be negotiated.

Owner Interest- Indicated openness to discussion prior to 2022 ATM.

Meets Central Register Criteria – i, ii, and iii

Note: Loss of property taxes would be offset if 139 The Great Road were sold.

*Given how urgently needed the new station is, the Bedford Motel was always a far more feasible site. It meets all of the Central Register criteria. **It offers 60% more land than 139 The Great Road for a similar cost, is not a residential property, is a far better shape, offers better dispersal through major travel routes than the landlocked site on the Great Road, and is located slightly closer to the two quadrants with the most activity.** It is a “single-parcel to minimize complications with ownership, easements, and acquisition.” It would require minimal review by the Historic District Commission, minimal demolition time, no moving of utility poles, no tearing up of a gracious property at the gateway to the Center, no removal of mature trees, and is located in a commercial area. It therefore would not impose an overpowering industrial building on a historic streetscape. It is located in an area where improved signalization is already planned. **And it would be a quick build.** But the owner was never approached to gauge interest.*

The option that was likely the best one was written off with the absurd claim that it did not meet response time requirements. That was an obvious falsehood that resulted in a tremendous amount of unnecessary delay, expense, proposed destruction, and breakdown in community harmony and respect – with no accountability.

Bedford needs a new fire station. The time is now and 139 The Great Road is the most viable site with the right size, location, and price tag.

— Select Board Member Emily Mitchell | March 23, 2022

In the Select Board’s video leading up to Town Meeting, Ms. Mitchell asked: “Why does the Select Board recommend 139 The Great Road for a Fire Station?”

“One big reason is that it saves money, a whole lot of taxpayer money. The site would be six million dollars less in acquisition costs than the prior option. And because we would not lose two years to eminent domain proceedings, we will also enjoy savings for construction so we can start sooner.”

In the weeks before Town Meeting, voters were assured that the only option to the TD Bank site was the Utah State University property. Residents were assured that a diligent site selection process had been conducted by the Select Board and they were primed to disbelieve claims that there were other feasible and affordable locations that needed to be explored.

The many drawbacks to the chosen site were minimized or ignored altogether. That was an abuse of authority and dereliction of duty. Even if only 5% of the voting public participated in Town Meeting, 100% of the voters were entitled to all the known facts without finessing.

It is quite possible that the pandemic was responsible for a lot of the angst and anxiety surrounding this issue of public cost and public safety. But that does not justify the manipulation of information to force a “solution” that was the result of an opaque and distorted process.

The video of the comment period before the vote shows that many people’s support for the purchase was based on a belief that it was the only way to support Bedford’s Firefighters and that it would save time and money. Because that’s what their officials told them. They heard nothing about the additional expenditures or the lengthy delays that could be foreseen. ***And it passed by a mere three votes.***

Unfortunately, the use of a secret ballot to gauge true support was not used. Before the Special Town Meeting in November 2022, the same Town Moderator explained in *The Bedford Citizen* that the vote regarding paving the Reformatory Bike Trail would be held by secret ballot because of “*the controversy surrounding the project, the degree of emotion felt by residents on both sides of the issue, and the desire for privacy in voting.*”

If only those same prudent criteria had been applied to the far more consequential vote to acquire 139 The Great Road, everything that followed could have been avoided.

If the Warrant Article’s passage depended on misrepresenting facts and withholding information, 139 The Great Road was never the right site.

There’s no backroom dealing, there’s no lack of transparency.

— Nina Pickering-Cook, Bedford Town Counsel

If that were remotely true, the information contained in this analysis would be common knowledge. That is the entire purpose of the Open Meeting Law. While the defense that the Town’s declaration in the Central Register was consistent with the law is accurate, using the statute to mask backroom dealing and lack of transparency can’t be tolerated.

When Bill Moonan and Carol Amick spearheaded the legal challenge to the purchase of 139 The Great Road on the basis that it violated the protections of Chapter 30B, it was the best hope that the murky, runaway process could be arrested. For all the reasons discussed above, there was a compelling reason to try. It was anything but frivolous.

Once the injunction was denied there was no sense in pouring more money and effort into a lawsuit, where the facts would have been tried, but too late to prevent the purchase. So, there is no way to know whether the litigation would have succeeded on the merits, or not. But what is clear is that although **Chapter 30B was written to prevent “fraud, waste and abuse in the expenditure of public funds,”** as is stated on the **OIG’s website, it failed the taxpayers of Bedford.**

It is possible to come up with “solutions” to anything for \$2 million, but the \$32 million question is still unanswered: What would the Town have recommended if the #139 property had not been for sale and the TD Bank site were off the table?

Many people tried to challenge the process that landed the town in the current mess, but none put as much on the line as Bill Moonan and Carol Amick. So, when Town Meeting approved the purchase by only three votes – *after months of aggressive politicking by Town officials* – and then the effort to get a temporary injunction failed, the Moonans still made one last effort – in the face of heavy partisan sniping – by raising the bid.

If the Town had not met that bid, the move would have given the Town time to “regroup” instead of waiting until almost certain HDC defeat. If they had succeeded in aborting the project, it would have saved the town a massive amount of lost time, money, and goodwill. They are owed a very sincere apology.

Now, Instead of building a good station on a bad site, it is still possible to build a good station on a good site. Because that is what will matter in the decades to come. And showing the courage to admit that will be worth the price.

Before spending \$32,000,000, shouldn't Bedford citizens know whether or not the current program is the result of fraud and abuse of power? Given the role of former Town Manager Sarah Stanton in the fiasco and her current position as an Undersecretary of State, only an independent review by the Inspector General can be trusted to provide the answer.