

SOUTHWEST REGION PLANNING COMMISSION
BROWNFIELDS ADVISORY COMMITTEE
MINUTES
March 17, 2009

Present: Dorianne Almann, Town of Hinsdale; Rodney Bartlett, Town of Peterborough; Richard Berry, City of Keene; Beth Fox, Town of Swanzey; John Gomarlo, Town of Winchester; Bob Harcke, Town of Westmoreland; Larry Robinson, Town of Marlborough; Ralph Wentworth, Town of Troy.

Staff: Tim Murphy, Executive Director; J. B. Mack, Senior Planner; Rebeckah Bullock, Planning Intern.

Guests: Mike McCluskey, NH Department of Environmental Services; Gary Lynn, NH Department of Environmental Services; Chris Lombard, U.S. Environmental Protection Agency; Matt Robbins and Tom Biolsi of TRC; Steve Lamb and Mike Asselin of GZA.

I. Welcome & Introductions

Acting Chair Fox called the meeting to order at 12:15 p.m. and introductions were made.

II. Minutes of October 22, 2008

The minutes of October 22, 2008 were approved as submitted by unanimous vote.

III. Presentation on Phase I Assessment for Former Elite Laundry Site, Jaffrey

Staff member J.B. Mack introduced Matt Robbins and Tom Biolsi of TRC, and turned the floor over to them for an update on the Phase I Assessment of the Former Elite Laundry Site in Jaffrey.

Mr. Robbins began by distributing a handout version of the presentation to Committee members. He provided a brief overview of the project's background, stating that TRC was engaged last fall to assess four parcels for hazardous materials as well as three hazardous building materials inspections for the three structures on the site. Mr. Robbins explained that TRC reported the results of their Phase I Assessment in December, and that they would entertain questions regarding that report today.

Mr. Biolsi noted that their project approach culminated in four Phase I reports, one for each of the four parcels. He went on to say that TRC will explain the findings and then respond to questions from Committee members. He described the methods TRC employed to compile the Phase I Assessments, including reviewing historical database reports, discussions with local officials, and site visits. Mr. Biolsi noted that chlorinated solvents had been previously documented on site. He went on to describe the various buildings found on site and their historic uses, noting that hazardous building materials assessments were conducted due to the age of the buildings.

Mr. Biolsi explained that the Phase I Assessments identified three Recognized Environmental Conditions (RECs). These included the known chlorinated solvent contamination, an Underground Storage Tank (UST) with residual product, and potential contamination from the adjacent Mr. Mike's gas station. He added that Mr. Mike's has removed roughly 20 tons of contaminated or potentially contaminated soil from their property.

Mike McCluskey asked if Mr. Mike's was noted as a potential contamination issue due to their adjacent location. He observed that Mr. Mike's appears to be down-gradient from the Elite Laundry Site. Mr. Biolsi explained that groundwater flows to the northwest in the area of the site, adding that Mr. Mike's was noted as a potential contamination source due to their known contamination issues and adjacent location. Mr. Biolsi went on to suggest analyzing test wells in the area to determine the extent of contamination. Mike McCluskey advised having Mr. Mike's perform follow-up testing using its wells. J. B. Mack pointed out that grant funds from the SWRPC program could be used to further test the Elite Laundry site if deemed necessary by the Brownfields Advisory Committee.

Mr. Biolsi reviewed the next steps in the project. These included examining a UST, performing sampling and analyzing groundwater samples to assess the potential impacts from Mr. Mike's, continued actions relating to the chlorinated solvents, and efforts related to management of the hazardous building materials. He added that large amounts of asbestos were found in the building that housed the self-service laundry, which will require follow-up sampling after the asbestos abatement process has been completed.

Mr. Robbins stated that TRC has also helped the Town of Jaffrey apply for Environmental Protection Agency clean up grants. The town is currently waiting for the EPA to review their clean-up grant application. He added that the Town of Jaffrey used the report written by TRC to contract a consultant to perform asbestos abatement. He noted that they will be looking at the first building tomorrow and the remaining buildings next week.

Chris Lombard asked if the asbestos abatement activities had been listed in the original proposal. Mr. Robbins confirmed that the abatement activities were not included in the original proposal.

Mike McCluskey noted that work had been done on the sites in 2006, and that the current project involved re-sampling the soil, water, and air as well as creating an action plan and examining adjacent parcels.

Mr. Robbins explained that as stated in the clean-up grant application, they intend to perform in-situ chemical injections and well water bailing sampling. The clean up grant can provide up to \$200,000 per parcel.

J.B. Mack asked if the asbestos abatement activities would cover all three parcels that contain buildings. Mr. Robbins indicated that the abatement activities would cover all three parcels with buildings, adding that the parcel with the self-service laundry would require more attention. J.B. Mack asked if the buildings on the three parcels were still to be demolished. Mr. Robbins indicated that the buildings were still slated to be demolished, acknowledging that the project is slightly behind schedule due to inclement winter weather. J.B. Mack asked if the feral cats had been removed from the buildings. Mr. Robbins indicated that the cats had been removed.

Chris Lombard commented that the outcome of the clean-up grant application will be available soon.

IV. Update on Phase II Assessment for Former Armory Site, Peterborough

J.B. Mack introduced Mike Asselin and Steve Lamb of GZA GeoEnvironmental (GZA). Before turning the floor over to GZA for the Former National Guard Armory Phase II Assessment update, J.B. Mack drew the Committee's attention to a memo included in the agenda packet describing a drilling accident that occurred on site in January. He noted that GZA would be addressing the issue at today's meeting.

Mr. Asselin began the discussion by drawing the Committee's attention to a map depicting the National Guard Armory site. He explained that GZA recently finished its environmental assessment and currently is in the process of compiling the report and findings. GZA hopes to have the report completed by the end of next week.

Mr. Asselin then described the summary of findings for the National Guard Armory site. He reported that the site was found to be fairly clean. Materials surveys conducted on the two buildings found limited quantities of hazardous materials including waste oil, mercury, florescent lights and ballasts. GZA estimated the financial impact of disposing of the materials at \$5,000-\$10,000.

Mr. Asselin went on to point out the locations of several test pits on the map. He noted that sampling of these test pits indicated that arsenic levels were acceptable and considered normal background levels, but benzene and petroleum levels were slightly elevated. This could be attributed to a truck that leaked hydraulic fluid during the 2008 Ice Storm recovery efforts, as the National Guard Armory was used as a staging area. He added that the contamination was limited in quantity.

Mr. Asselin then indicated the positions of four ground water wells on the map. He noted that monitoring well #4 (MW4) located upgrade of the two buildings exceeded ground water standards. The amount by which MW4 exceeded the standards was minimal. Telephone poles stored onsite during the 2008 Ice Storm recovery efforts could be the source, or alternatively equipment using heavy oils.

Mr. Asselin remarked that the report will go into more detail regarding the significance of the two REC's found onsite and their potential sources.

Mr. Asselin then pointed out the area of contamination on the map, citing the need to remove approximately three drums of soil. He commented that some areas of contamination had levels so low that it may be reasonable to let nature take its course for remediation. He added that the report will note any recommendations based on the assessment results.

Mr. Asselin opened the discussion of the drilling accident by first pointing out the accident location on the map. He then provided an overview of the events leading up to the drilling accident. Mr. Asselin stated that prior to drilling MW2 they received a sketch from the National Guard Armory depicting the location of a pipe running between the tank and the building. Based on the sketch, GZA staff moved approximately 15 ft over from the presumed location of the pipe on the map before drilling in an effort to avoid hitting the pipe. Unfortunately, the sketch proved inaccurate and the pipe was hit and pulled from its connections to the tank and the boiler. No product from the tank was released. The project manager contacted all involved parties to alert them to the situation, and took precautions to winterize the building. GZA staff drained the waterlines and poured antifreeze into any standing water, including toilets and drains. National Guard staff inspected the winterization efforts the following day and found them to be satisfactory. The boiler is currently still disconnected, and GZA has been in continuous contact with the National Guard staff, the SWRPC, and other involved parties regarding the situation.

Mr. Asselin provided a handout covering GZA's insurance policy. He explained that this type of accident falls under general liability. GZA has a separate policy for pollution, but since no product was released the accident doesn't fall under that category. He added that the pollution policy is negligence based and has a deductible. The general liability category in GZA's policy has a \$25,000 deductible. Mr. Asselin noted that the contract with SWRPC states that GZA would not be held liable for subsurface damages if the accident was not a negligent act. Based on preliminary findings, Mr. Asselin did not feel that GZA was negligent in their actions. He expressed that this is a difficult situation, given that the contract seems to indicate that GZA isn't liable for the accident, but SWRPC and the Town have nothing currently in place to cover the cost. He commented that GZA runs into this problem 2-3 times per year and usually work out an agreement with the client to divide the costs evenly.

Mr. Asselin stated that GZA has been in contact with the EPA and SWRPC regarding what can be done in the future to prevent this situation. He provided copies of a proposed contract amendment to Committee members for review. He explained that GZA recommends closer scrutiny of subsurface utilities location information in the future, coupled with the use of additional technology to avoid similar issues. He cited the need for closer communication with SWRPC regarding this type of issue. Mr. Asselin listed potential preventative techniques such as ground piercing radar and vacuum drilling for the first 8 feet, adding that the cost of these technologies can be higher than normal drilling costs. This information is stated in the proposed amendment, which he noted also gives GZA the right not to drill in an area that they feel has unknown conditions.

Mike McCluskey remarked that GZA had information provided by the property owner regarding the locations of underground utilities, and asked what other information they could have used. Mr. Asselin responded that in hindsight, GZA should have gotten more substantive information than a sketch. He stated that it was an accident that must be fixed, noting that GZA feels they weren't negligent and the repair costs fall below their deductible.

Chris Lombard stated that it is up to the contractor to determine how to approach this type of issue. J.B. Mack referenced the contract stipulation divulging the contractor of any liability for actions involving subsurface activities. Steve Lamb added that the insurance company won't pay unless the contractor was negligent.

J.B. Mack asked Mr. Asselin to point out the locations of the boiler and the tank on the map. Mr. Asselin expressed uncertainty on their exact locations, but indicated where he thought the items were located.

Mr. Asselin cautioned that this is a difficult situation, given that there are third parties involved and the client isn't the property owner in this case. He expressed that this can create information flow problems. He stated that in the future GZA will be more careful, using additional drill safety techniques and not using sketches.

Gary Lynn commented that depending on the type of utility lines present, the risk level of drilling can be high. He added that New Hampshire Department of Environmental Services (NH DES) is often open to approving additional funding for the additional techniques mentioned today when it seems likely that damage to a line may occur. He also mentioned that hand-drawn sketches can make the involved parties nervous in terms of their accuracy.

J.B. Mack stated that SWRPC is currently working on acquiring a repair cost estimate from the National Guard. He noted that the National Guard prefers to do repair work themselves, which may slightly complicate the situation.

Chris Lombard asked if the heat in the buildings has been off since January. Mr. Asselin responded that it has been off since the accident in January, noting that the buildings were winterized at GZA's expense.

J.B. Mack thanked GZA staff for the project update, and stated that the situation would be discussed further by the Committee. GZA was then excused from the meeting.

Discussion then ensued among Committee members and SWRPC staff regarding the accident at the National Guard Armory site.

Tim Murphy assured Committee members that SWRPC staff followed standard operating procedures for the preparation of the contracts. He added that even after following the protocol currently in place, a situation developed that luckily was fairly minor in nature. Because of this, he stated that the matter will be looked into further.

Chris Lombard remarked that although she does think SWRPC should consider this type of issue in the future, she feels that SWRPC handled the contracts and accident appropriately.

Committee members expressed concern about the accident, including the use of a hand-drawn sketch and the decision to drill in a potentially risky location. Other Committee members expressed confusion over why the cost issue was brought to SWRPC since a professional is employed by GZA to do the drilling, suggesting that the drilling professional and GZA may each be partially responsible. Committee members indicated that they would prefer more information on the accident and the repair costs. It was decided that SWRPC staff should perform a site visit, acquire more precise repair costs, and research how other groups are handling similar issues.

Motion: To approve up to \$1,000 towards a cost-sharing arrangement with GZA GeoEnvironmental pending a site visit for repairs to the tank, pipeline, and boiler damaged during the drilling of a monitoring well at the National Guard Armory Site.

Motion by Acting Chair Fox, seconded by Larry Robinson. Approved by majority vote with one member opposed and Rodney Bartlett recusing himself.

Motion: To pass over the proposed amendment to the contract between SWRPC and GZA GeoEnvironmental regarding the National Guard Armory Site Phase II Assessment pending further research.

Motion by Acting Chair Fox, seconded by Larry Robinson. Approved by unanimous vote.

V. Cleanup Planning Policy

J.B. Mack explained that this item on the agenda was a follow-up from the previous meeting. The Town of Peterborough has expressed interest in using Brownfields grant funds for cleanup planning, leading to a review of the Cleanup Planning Policy. He explained that this type of planning would be done in conjunction with Phase II Assessments. At the previous meeting SWRPC staff brought the Cleanup Planning Policy before Committee members who asked that examples be included in the document. The Policy has been revised to include examples and is before Committee members today to be revised further or approved.

Tim Murphy pointed out that it is stated in the Policy that the Committee would still need to approve any proposals related to cleanup planning.

Motion: To Approve the Cleanup Planning Policy as submitted.

Motion by Larry Robinson, seconded by Dorianne Almann. Approved by unanimous vote.

VI. Brownfields Program Outreach

J.B. Mack began by reminding Committee members that the Brownfields program at SWRPC has been operating since 2003. During this time staff members have experienced increasing difficulties in gaining access to certain sites and acquiring third party nominations from towns in the region. SWRPC staff members have asked the EPA and others for suggestions on how to increase the number of nominations. It was suggested that SWRPC staff start a pilot program using consultants to help acquire nominations. SWRPC staff wanted to broach the idea with Committee members to gauge their interest and opinions on a pilot program.

J.B. Mack noted that if the Committee decides to consider this option, SWRPC staff would need to determine how the consultants would be paid. Tim Murphy explained that the consultants would be paid with grant funds, but that the rate of pay would need to be established. Tim Murphy added that he would expect the rate to be less than what would be charged for Phase I and II Assessments given the nature of the work.

Mike McCluskey asked how the program would work, specifically if the consultant would be primarily focusing on marketing or identifying potential sites. Tim Murphy responded that both could be focuses.

Mike McCluskey noted that some consultants work within distinct “territories” which could be problematic.

Tim Murphy explained that the consultants would work with SWRPC staff. He added that SWRPC staff would remain the front-line of the program.

J.B. Mack provided examples of how consultants could help acquire nominations. He proposed that a consultant may help clarify negotiation issues and aid in the coordination of agreements with property owners by establishing a comfort level with them.

Richard Berry asked J.B. Mack to explain further. J.B. Mack explained that a consultant could be vital when a property owner or potential owner has technical questions above SWRPC staff’s expertise level. Larry Robinson commented that a consultant could help collect accurate information from all involved parties.

Richard Berry noted that a consultant could be helpful, but questioned whether there would be a conflict of interest with their involvement if an environmental consultant was hired. Ralph Wentworth suggested keeping it broad to include different types of consultants to avoid any conflicts of interest, and have the consultants focus on marketing and outreach activities.

Chris Lombard suggested having a consultant focus on creating an inventory of potential sites. Tim Murphy noted that SWRPC staff have worked on this but there is a need to go deeper to get more nominations. He added that it may not be a conflict of interest to have consultants working on outreach activities, as it would be in their better interest to encourage program involvement. He reminded the Committee that the consultants who get the assessment work are approved by the Committee based on their proposal. Chris Lombard stated that some groups use only one consultant for all of their efforts.

Richard Berry questioned how the Committee can avoid paying excessive costs for consultants. Chris Lombard explained the up-front nature of proposals with regards to cost, adding that a high cost proposal often sticks out in comparison to others received for the same or similar jobs.

Motion: To allow Brownfields grant funding to be used for a pilot program using consultants.

Motion by Larry Robinson, seconded by Bob Harcke. Approved by unanimous vote.

VII. Other Matters

Gary Lynn briefly described a funding program to which NH DES recently applied. He explained that NH DES applied for \$1.5 million and received \$1.3 million in funding. The program funding is for the cleanup and assessment of federally regulated USTs, and is intended for abandoned sites and foreclosed homes. He asked that Committee members contact him with nominations for the program.

Rodney Bartlett asked if this program was separate from the Brownfields program. Gary Lynn indicated that the programs are separate.

Gary Lynn went on to explain that the program works with the property owner concerning costs and is very transparent, employing Davis-Bacon wage rates for all work done. He added that the site must meet specific criteria to be considered for the cleanup and assessment work.

J.B. Mack additionally stated that he would be in contact with Mike McCluskey regarding the Elite Laundry Site to discuss what clean-up steps are next and what follow-up steps will be necessary.

VIII. Next Meeting

The next meeting of the Brownfields Advisory Committee will be at the call of the Chair.

IX. Adjourn

Meeting adjourned at 2:15 p.m.

Respectfully Submitted,

Rebeckah Bullock
Planning Intern