

ENVIRONMENTAL OVERSIGHT COMMITTEE
Thursday, March 8, 2007
(9:00 AM)

Present: Jim Rosen, City Council
Ravi Yalamanchi, City Council
Derek Delacourt, Deputy Director, Planning & Development Department
Roger Moore, Professional Surveyor, Department of Engineering Services
Ed Anzek, Director, Planning & Development Department

Absent: Jim Duistermars, City Council
Paul Davis, City Engineer, Department of Engineering Services

General Discussion

Update regarding Hamlin/Adams Project:

Review of 381 Work Plan on-going; Jim Anderson, STS Consultants, has talked to Ben Mathews from the DEQ, and Ben Mathews has discussed the Plan with Trevor Woollatt, AKT Peerless Environmental Services.

A formal response should be received from the DEQ in the near future. Additional investigation may be required. Plan could be brought back to BRA and CC.

Have not heard anything from REI. They have held a very general conversation with the Drain Commission re sanitary sewer capacity

- what they would have to install if the site is built out
- what additional infrastructure would be required
 - those engineering issues have to be resolved to build on the site
- need to know in order to ensure they will receive engineering approvals
 - may have to hire a consultant to investigate
 - provide a detailed analysis

AT&T is aware of the proposed project

- may have to relocate telephone cables

Utilities, capacity, relocation of telephone lines, power

- all items that have to be worked out by developer

What happens if the site remains fallow for years?

- economy not good now
- could be an excess of retail land available

What would cause the developer to become active on this site

What happens in the meantime

- rainwater
- leachate

DEQ says as long as they do not exacerbate the conditions

DEQ thought Suburban Softball was making the conditions worse

- new owner does not have to fix what prior owner did
- just cannot make it worse

“Exacerbate” – is not only doing something to make it worse

- intentionally doing “nothing” knowing it could get worse
- act of neglect
(is that also exacerbation?)

Could make a case

- by not continuing on with the plan, site would sit inactive
- site could sit inactive for five years or more
- because of inaction, site could get worse
- do they have to do anything to keep the site from getting worse
- nothing being done at this time
- even something like covering the light pole bases

Suburban Softball’s activities caused the site to become worse

- installed bleachers, light poles, electricity
- destroyed some vents
- there is erosion to the detention/retention basin

Should there be some short-term improvements?

- who would enforce?
- would REI or DEQ be asked to make those improvements

If known, but it does not increase, DEQ would not require anything

Something to keep on the City’s radar

If leachate from the site increases, creates more exposure

- could go through culvert to wetland, then to the river

Can see garbage breaking out

- has not been tested
- unknown what it is

Storm sewer is collapsing

- Easement Agreement would require property owner to maintain
 - former owner would not fix

Does the current owner have an obligation to test?

- does not

Is there a legal or moral obligation?

- what is the City's obligation

If something caused by the landfill

- property owner is responsible
 - go back to owner

REI's obligation is not to make it worse

Should the City investigate it?

- Council would have to decide and allocate funding
 - who would perform possible remedies?

If did do testing, and there were negative results

- give reports to DEQ
 - would DEQ then enforce to contain?

Need a baseline for worse conditions

- who is responsible for due diligence

DEQ normally goes back many years trying to find responsible parties

- tried to get the former owner to correct
 - former owner refused

DEQ was concerned about Suburban Softball's activities on the site

Is there a basic maintenance agreement?

Does the City want to ask REI to do anything?

- interim measures
 - prior to site plan approval, ask what REI's intentions are

Is it appropriate to ask

- what are your intentions?
- is this project "dead in the water"?

Still unknown how the economy is going in Michigan

- currently the economy is not getting better
 - large companies are leaving the State

REI – time frame outlined in Consent Judgment

- 10 years to complete remediation
 - 4 – 5 years have already passed
- 2004 started collecting TIF
 - 3% per year
 - collecting school tax
- No 381 Plan to use TIF
 - Per DEQ – keep funds separate
 - how long will City collect with no activity
- nothing done according to Consent Judgment time frame

Oversight

- what is going on
- what is the City's obligation

REI's site plan approved August 30, 2006

- will expire
 - have not submitted revised plans based on conditions of approval
- City may not extend approval without conditions being addressed
- Consent Judgment does not address extension of site plan approval
 - site plan process has a time line
 - plan expires in one year from Council approval
 - if applicant working in good faith to address conditions
 - staff can extend
 - if no action
 - City will send reminder notice
 - if don't hear anything
 - plan will expire

Where does the City go from here?

- establish policy
 - steps to do this
- talk to Ann Arbor about their policy
- come to grips with level of cleanup
 - generic or engineered controls

Landfills could become valuable some day

- re-mine for metals
- incentives to clean up

Remediation

- set number of years to complete

Policy

- one page statement
 - City Council and Brownfield Redevelopment Authority to review
 - ask DEQ criteria/input
- City reserves right to require level
- set goals, benchmarks, criteria
- establish minimum standards

Brownfield Plan could be like a Master Land Use Plan

- identify sites
- goals and obligations
- flexible areas
- seek grants

Site investigation by the City

- facilitate containment
- re-use

Would have City-wide Brownfield Redevelopment Plan

When legislation first came in

- municipalities tried to create brownfield plans
 - all that did was save property owners and developers money
 - if developer does this, is reimbursed through TIF

TIF is discretionary

- Council can say what it wants demonstrated

Know what landfills are in the City

- sanitary or old dumps
 - know what they were and description
 - capped and closed?
- have fairly good descriptions
 - know what faced with as a City
- establish plan
 - and tools for using it

Create a base to work from

- where City should be headed

City has to have

- a zoning ordinance
- a master land use plan
 - brownfield plans are discretionary
 - not a lot of case law on brownfields

If put policy in place

- developer can say they met the criteria
 - could take away from current “case by case” customization

If the city has a policy and a plan

- makes it known
 - could take away discretion
- need to include “city discretion” in the policy/plan

City Council policy statement

- not only redevelopment
 - containment
 - closure
 - control environmental concerns in the City

Curious about how Ann Arbor’s policy is working

Kalamazoo has been very proactive with brownfields

Detroit, Taylor (other Downriver communities) and Traverse City have also been proactive

Brownfield Plans

- are redevelopment oriented

Kalamazoo has a desire to develop

- considered a premier community
 - does Kalamazoo help to pay for cleanup
 - do they get the developers to cleanup

City has not been able to take a strong, positive stand

- Developers use the law and put the City in a “box”

Both sites in the City have required due diligence beyond normal standards for brownfield redevelopment

- above the DEQ requirements

Next Meeting: April 5, 2007 9:00 AM
Obtain copy of Ann Arbor’s Policy

Discussion with Tom Wackerman

- examples of policies
- examples of city brownfield plans