

BRTF

NEW JERSEY BROWNFIELDS REDEVELOPMENT TASK FORCE REGULAR TASK FORCE COMMITTEE MEETING

MINUTES OF MEETING HELD TUESDAY, APRIL 11, 2006
10:00 A.M. – 12:00 NOON

SALEM CITY MUNICIPAL BUILDING
1 NEW MARKET STREET
CITY OF SALEM, NEW JERSEY 08079

Members Present—

Dennis M. Toft, Chairman – Public Member (Development)
Talvin Davis – NJ Department of Transportation
Sally H. Dudley, Vice Chairperson – Public Member (Environmental)
Leah C. Healy – Public Member (Community Redevelopment)
Frances E. Hoffman – NJ Department of Community Affairs, Office of Smart Growth
George P. Kelley – Public Member (Regional Planning)
Ken Kloo – NJ Department of Environmental Protection
William T. Mullen – Public Member (Labor/Trade)
Nicole Royle – NJ Economic Development Authority

Members Not Present—

Yuki Moore Laurenti – Public Member (Financial)
Lauri F. Sheppard – NJ Redevelopment Authority
James D. Simmons – NJ Commerce, Economic Growth and Tourism Commission

Other Attendees—

Dan Reynolds – Counsel to the Task Force
Cynthia Weiser –Brownfields Program Assistant, NJDCA, OSG
Alan Miller – Brownfields Outreach Manager, NJDCA, Office of Smart Growth
The Honorable Donald Asay – Mayor, Mannington Township
John Boyer - NJ Department of Environmental Protection
Phyllis E. Bross, Esq. – Parker McCay
Garry Centifonti – NJ Department of Health and Senior Services
Chris Davenport - Stand Up for Salem
The Honorable Earl R. Gage - Mayor, City of Salem
Donald Gerber – NJ Department of Health and Senior Services
Louis Joyce - City of Salem
Don Kircithoffer - NJCF
Mike Meriney - Excel Environmental Resources
Jack Rugler - Stand Up for Salem
Jim Sassi – ANJEC
Kathy Stuart – Office of Senator Sweeney
Beth Timberman - Salem County Freeholder
Bill Tubito - Excel Environmental Resources
James Waddington - Salem County Economic Development
Barbara Wright - City of Salem

WELCOMING REMARKS—

Mayor Earl R. Gage welcomed the Task Force to the City of Salem and gave a description of the 300-year old city. Presently there are some excellent downtown projects that are bringing in new jobs, including the Main Street program. Both the City Council and the public are enthused and working together to make Salem a better place. The brownfields in Salem's waterfront industrial area are in need of help, and Salem would be grateful for any assistance received from the State programs.

Beth Timberman, Salem County Freeholder, stated that, with respect to farmland conservation, not all of Salem County is farmland, and that the physical and economic condition of many town centers was a problem. In many cases, the town centers do not meet criteria for receiving grant monies. Freeholder Timberman added that Salem City feels it is what the 'Garden State' stands for, and that the brownfields situation needs to be resolved.

James Waddington, Director of Economic Development for Salem County then welcomed the Task Force and said that the city views the Task Force as embodying the concept of adaptive reuse, whether for the existing brownfield sites or to start redevelopment. The Salem County Court House itself is an example of adaptive reuse, having been a bank in 1888 at a different location, moved to its current site in 1924, and serving as Municipal offices from 1924 – 1995, after which it was renovated. As Director of Economic Development in Salem County, Mr. Waddington deals with other municipalities that are looking for adaptive reuse opportunities. Salem County is currently looking at a number of brownfield sites for possible redevelopment, one among several being in Pittsgrove Township.

Dennis Toft thanked the local and county officials for their hospitality and their helpful remarks.

I. CALL TO ORDER—

The Task Force Chairperson called the meeting to order at 10:35 a.m.

II. PLEDGE OF ALLEGIANCE—**III. ANNOUNCEMENT OF ADHERENCE TO OPEN PUBLIC RECORDS ACT—**

Dan Reynolds, Counsel to the Task Force, read the adherence to the Open Public Records Act.

IV. ROLL CALL—

Cynthia Weiser, Brownfield Program Assistant, called roll. A quorum was present.

V. PRESENTATION—

John Boyer, Environmental Scientist of NJ Department of Environmental Protection (DEP) made a presentation on "Vapor Intrusion Regulations" to the Task Force and the members of the public.

Mr. Boyer explained that vapor intrusion contamination from vapors in groundwater, indoor air, soil gas and various other contaminants into existing and newly constructed buildings. He described the various stages of preliminary assessment and site investigation for vapor intrusion, offering conceptual examples of site models. Sources of contamination are generated by consumer activities such as household products, building materials, outside air, as well as laboratory contaminants, and other sources. He stressed the importance of being able to identify what situations constitute more of an emergency. The DEP relies upon a vapor intrusion guidance document and "professional Judgment" as opposed to formal regulations, to determine remedial action necessary. DEP is responsible for discharges; however, once a building has been contaminated, the Health Department takes over. Mr. Boyer was unaware of any concerns that Hazardous Discharge Site Remediation Funds are being used in vapor intrusion incidents.

Remedial action for vapor intrusion is similar to a RADON management system, which basically vacuums the air out of and from beneath buildings. New buildings are designed with the sub-slab depressurization system built in so that vapor intrusion never becomes an issue.

Mr. Boyer expressed that community outreach, i.e., communicating with public officials, health officers, residents, property owners, and media, and educating the public in general is critical. He circulated a copy of his presentation to the Task Force and members of the public.

The DEP is presently revising the technical regulations. The NJDEP Current Policy on Vapor Intrusion can be found at www.nj.gov/dep/srp/guidance/vaporintrusion/.

The DEP will look into the question as to whether or not Hazardous Discharge Site Remediation Funds will become available for vapor intrusion investigations / remedial actions.

It was agreed that mere guidance documents rather than Regulations that the State has now tend to cause confusion about the requirements for vapor intrusion remedial action. The State Health Department will look into amending Building Codes to address these issues so that developers and others will know what to expect going forward.

VI. PUBLIC COMMENTS—

- In response to a question from the public, Mr. Boyer answered that any volatile chemical, e.g., gasoline fumes, household cleaning products are the type referred to. Widespread problems involve PCBs and petroleum compounds or biodegradable products. Regulations have tightened up over the past 20-30 years.

Research and evaluation is fairly new to the Vapor intrusion field. The Task Force mentioned that the public is concerned about outdoor air. The DEP usually requires or recommends that ambient/outdoor sample be collected anytime indoor samples are collected. It was noted that outdoor air has improved dramatically since the Clean Air Act was established in the '70s.

- A question was asked about the 14,000-15,000 site remediation cases that DEP is handling, and how common/how frequently they are investigated as a precaution and to determine if they presented a vapor intrusion problem. There is currently no way to determine this. Reopening cases is also a big issue. In a New York quick study within their Superfund program, 800 cases were reviewed, and 400 were being revisited due to concerns about vapor intrusion. For many years it was thought that as long as contaminants were not in the drinking water there was no problem. These areas are now being reinvestigated for vapor intrusion.

There are a number of cases, particularly schools, where there is concern about vapor intrusion. New schools are now being designed with the sub-slab depressurization systems built into the construction.

- In response to the concerns voiced by the Task Force about the latest amendments to the HDSRF law, DEP stated that it has been looking into the issue of both the 75% cap on total remediation costs and eminent domain, due to local government's lack of liability protection if it purchases property during a cleanup. NJEDA's Deputy Attorney General has already addressed these issues.

The Task Force's position is that municipalities need the full 100% of the HDSRF grant for PA, Site Investigation (SI) and Remedial Investigation (RI), and that they use eminent domain powers provided to municipalities through the Land Use Law should not prohibit the use of Hazardous Discharge Site Remediation Funds grants in these areas. The new legislation does not address the eminent domain issue. Legislative fixes are needed immediately to address the problem. DEP is evaluating options and is considering significant changes to the processing of HDSRF applications which should result in positive and streamlined changes. Reinterpretation will allow applications to move more expeditiously. The Task Force stated that it has the ability to prioritize HDSRF applications for special projects.

DEP has been having discussions with the deputy attorney generals assigned to DEP as well as EDA and following a discussion at the Bayonne Task Force meeting, there may be reconsideration of that position relative to the local redevelopment and housing law, and there may be a reinterpretation of that going forward.

VII. APPROVAL OF MINUTES--

A motion was made and seconded that approval of the February 21 Task Force minutes be tabled pending revision. There were six ayes and two abstentions. The motion was carried.

VIII. COMMITTEE REPORTS—

- **Policy & Legislative Committee**—Leah Healey, Chairperson

Leah Healey, Chair of the Legislative Committee, reported that municipalities need HDSRF funds when they use eminent domain in Brownfields and that immediate legislative fixes are needed to address that problem.

The Task Force passed a Resolution to support existing Bill S1473, recognizing however, that the Bill does not go as far as necessary to remedy the eminent domain issue.

Regarding oversight documents used by DEP, presently, a redeveloper who is voluntarily cleaning up a property is required to sign the same document that is currently in place between DEP and the responsible party. The Committee feels this is potentially discouraging to a redeveloper who otherwise does not have liability, to be required to sign an Administrative Consent Order (ACO)—an enforcement-type document. It was reported that an internal DEP white paper was presented to the new Assistant Commissioner, Irene Kropp, on how MOAs should be used more often for brownfield cases. It is believed that the white paper will be positively received.

Lastly, the Committee is continuing to follow the port area incentives. It was recommended that the Task Force resolve to support Senate Bill 1473.

- **Data & Marketing Committee**—George Kelley, Chairperson
Data Day 2006

The Third Annual Data Day was held at the Trenton War Memorial on March 31, 2006. It focused on the gathering and use of data for the SiteMart. The three panels were received very well, with the panel on the value of the inventory to municipalities, counties and the private sector. Certificates of appreciation and achievement were awarded to municipalities, counties, academic institutions and students who participated in the County-Municipality/Academic Partnership (C-MAP).

Task Force Program funds

The problem with using the \$285,000 (Bill S1633) is that the language needs to be changed in order to have use of the funds extended beyond June 30. The Task Force needs to find a way to renew these funds and establish more certain funding.

Mr. Kelley moved to adopt a resolution that the Task Force support efforts to immediately address the issue of having the funding continued in the amount of \$285,000 at the end of this fiscal year. It was recommended that the crafting of the resolution be provided first before the language is drafted. A question arose as to why the Task Force does not apply for the \$285,000 and, since it is not a grant, put it into an account to be spent as the Brownfields Program sees fit. DCA Commissioner is reportedly working on extending the State appropriation for use beyond the end of the fiscal year, and the Task Force committed to contact the Bill's sponsor to request the extension. No resolution was passed at the meeting; however, a commitment was made to hold a special telephone conference meeting shortly to agree on the wording for such a resolution.

DEP expressed concern that the Task Force is not accepting additional money that will result in the Federal grant money first not being fully expended.

The DCA grant portion of that grant will be used to enhance the inventory, generate related materials and promote outreach. The money needs to be obligated by September 30 and closed out by the end of November, 2006. Although the Task Force has the opportunity to request an extension from the EPA, the Task Force prefers to expend the funding because over the past two years DCA and DEP have been penalized for carrying the money forward. To determine the awards, EPA evaluates any unexpended balances an agency has, and penalizes the agency dollar for dollar of that which is not spent.

IX. BROWNFIELDS DIRECTOR'S REPORT—Frances E. Hoffman, Director

It was noted that fully utilizing available Federal funds was a priority. Since the level of funding for the succeeding year is determined by the spending history of previous years.

Funding for the Task Force Functions

October 1, 2005 – September 30, 2006 – OSG received 17% (\$119,000). It was used to fund the hosting of SiteMart, outreach activities, and the hiring of staff until December, 2005, and currently, staff conducting Task Force work as detailed in the grant work plan.

In addition, there were some unexpended funds from an earlier USEPA grant to DEP which is proposed to be shared with DCA for Task Force/Inventory-related functions, the total of which is over \$200,000.

The DCA portion of the unexpended grant (approximately \$200,000) must be used prior to September 30, 2006. The funds will cover the cost of a statewide environmental insurance symposium, help to maintain the SiteMart, and provide for a number of Task Force related activities. Staff would have been hired to replace the two that were lost due to lack of certain funding except for the statewide hiring freeze. A summer program to engage university teams and/or consultants could provide important, short-term support for inventory work.

Dr. Hoffman noted that she lost her two staff members who had worked on Site Mart, and also that, due to the State budget and hiring freeze, she cannot secure substitute help. She also stated that, although she has used some monies from the recently passed State law, which included a \$285,000.00 appropriation for the Task Force to use for Site Mart and other brownfield purposes, unless the Legislature agrees to extend that use of those monies beyond June 30, the Site Mart will once again be in need of funding. Ken Kloo pointed out that the Federal DEP/DCA grant has some Site Mart dollars available, and it was clarified that those funds were already earmarked and will be fully expended .

DCA Commissioner Bass Levin is reportedly working on extending the State appropriation for use beyond the end of the fiscal year, and the Task Force committed at the meeting to contact the Bill Sponsor to request the extension. Although no actual Resolution was passed at this Task Force meeting to further support such appropriation extension, a commitment was made to hold a special telephone conference meeting shortly to agree on the wording for such a Resolution.

- **SiteMart—**

Data Day was a success and the partnerships with schools remains positive, as more sites are added and updated on the State brownfields inventory.

All BRIT sites are being added to Site Mart. Dr. Hoffman reported that DCA and HMFA work regularly with redevelopers and municipalities to secure tax credits for projects by first verifying that a site is in fact a "brownfield," to be listed on Site Mart.

A limited number of repeat C-MAP partnerships are still active, even with the staff reduction. The earlier experience with the C-MAP Program requires less intensive staff support from the State. Lauri Sheppard has been the primary link recently.

- ***Non-profit Symposium-BRIT***

On April 20, BRIT will present an educational seminar in Trenton to non-profit organizations on what the State can do to assist with brownfield redevelopment.

- ***Task Force Membership and Advisory group—***

The Task Force's Deputy Attorney General will draft wording with regard to extending Task Force membership by as many as four groups. The Task Force will recommend other groups, i.e., large landowners, etc. A list of organizations for the advisory group will be drafted by the Task Force which will include the private and public sectors. The Treasury Department and a person representing academic economic studies will be proposed as new members through statutory amendment. Nothing further has been heard from the Commissioner about additional Task Force membership.

DCA is working on a list of entities, from both private and public sector, to be added as advisory group to the Task Force. The Task Force members will need to decide on how an advisory group would be used.

- ***Portfields Incentives—***

Portfield MOU establishes clear working relationship with the EDA/DEP. Department of Environmental Protection will later advise the Task Force as to the name of a newly appointed Department of Environmental Protection Land Use spokesperson for brownfields/Portfields. It is expected that the new MOU between Department of Environmental Protection and EDA to elevate Portfields use will support the notion of allowing land use permits and HDSRF applications for Portfields to flow better.

X. CHAIRMAN'S COMMENTS—

The Chairman stated that there are growing concerns on the brownfields boundaries. The Task Force needs to make suggestions/recommendations and also meet with the DEP. The Task Force needs to be wary of how sites are redeveloped using fill from offsite. There is much misunderstanding about fill/recycles material, and the public needs to be informed and the clean-up process needs to be understood by the community.

XI. PUBLIC COMMENTS—

- A member of the public asked if DEP considered making changes to the regulations to address clean fill issues. (Ken)

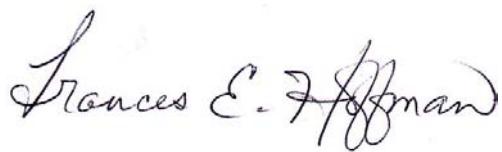
XII. TASK FORCE MEMBER COMMENTS—

- An announcement was made about the High Performance Redevelopment workshop sponsored by the NJ League of Municipalities and the NJ Green Building Council at the Forsgate Country Club.
- A reinterpretation of eminent domain regulations will allow applications to move more expediently. Although the final decision is made by EDA, Dr. Hoffman requested to be part of the discussions.

XIII. ADJOURNMENT—

Ms Hoffman moved to adjourn the meeting; Ms Dudley seconded. The meeting was adjourned at 12:15 p.m.

Respectfully submitted,



Frances E. Hoffman
Secretary, New Jersey Brownfields Redevelopment Task Force

Prepared by Cynthia Weiser, Primary Brownfields Program Assistant
4/01/06