

MEETING REPORT

Bernhart's Park Joint Meeting

City-County-Muhlenberg Township-EPA

Wednesday, October 10, 2007

Council Chambers

Attending: J. Waltman, Vice President City Council; D. Sterner, City Council; M. Goodman-Hinnershitz, City Council; S. Marmarou, City Council; T. McMahon, Mayor City of Reading; L. Kelleher, City Clerk; C. Kanezo, Deputy City Clerk; L. Churchill, Managing Director; D. Hoag, Public Works; D. Didyoung, Engineer Muhlenberg Township; S. Landes, Manager Muhlenberg Township; N. Deluca, Muhlenberg Township Supervisor; P. Hill, Blank Rome counsel for the City; J. Cohen, Blank Rome counsel for the City; T. Smith, Cong. Tim Holden's office; C. McPhedran, PennFuture counsel for the County; D. Erdman, Keystone E Sciences Group advisor for the County; J. Poremba, Senator Specter's Office; A. Mittelman, Senator Bob Casey's Office; Patrick O'Brien, Borough of Lauderdale; M. Scott, Berks County Commissioner; M. Kircher, Berks County; M. Dougherty, US EPA; K. Dao, US EPA; P. Gotthold, US EPA; J. Krueger, PA DEP.

The meeting began at approximately 5:05 p.m. Councilor Waltman invited the representatives from EPA to summarize the work plan submitted by Exide on September 20th and to update the group on progress made with Exide since our August meeting. An Executive summary of the work plan was distributed to those attending.

Mr. Dao summarized the key elements of the proposed residential cleanup work plan. Mr. Dao emphasized the necessity of following the points contained in the draft plan, as revision to the plan would delay the estimate start date for remediation. The draft work plan contained the following points:

- Properties with a soil lead concentration greater than 650 mg/kg will receive the option to remediate. EPA estimates 150 properties in the study area will possess lead levels high enough to require remediation.

- Properties will be prioritized according to occupancy. Those properties with children six years old and younger will receive remediation first. All other properties will be scheduled according to the number of occupants.

EPA Clarification:

The remaining properties will be prioritized based on soil lead levels and not number of occupants.

- Remediation is scheduled to begin in the spring of 2008. EPA projects total time for remediation to take three years.
- Property owners will be given the option to accept or decline remediation.
- Prior to remediation occurring, meetings will be held between property owners and Exide to discuss the method of remediation and other options.
- The majority of residential remediation will consist of soil excavation, confirmatory sampling, backfilling with clean soil and property restoration.
- Alternative methods, such as soil capping and soil tilling may be implemented, if the specific site situation requires.
- Exide will comply with all Pennsylvania Department of Environmental Protection (DEP) regulations governing the preparation, transportation, and disposal of lead-contaminated soil generated during the residential cleanups.
- EPA contractor will provide oversight during the residential cleanups.
- Exide will sample additional properties to confirm the extent of the study area.
- Exide will attempt to sample previously inaccessible properties.

Ms. Hoag noticed that the Lucent Technologies property was not included in the study group. Mr. Dao replied that this was in part due to the extensive paving of the property and lack of access.

Commissioner Scott questioned the EPA's exclusion of other properties – specifically the Reading-Muhlenberg Vo Tech and Convent properties – from the study area. Commissioner Scott felt the accuracy of the study is questionable due to the lack of contiguity amongst properties surveyed. He also noted strong

evidence of a cancer cluster in the Muhlenberg High School Area.

Mr. Dao responded that the EPA surveyed the Vo Tech property as part of the initial study conducted in 2001/2002. That study indicated the majority of the Vo-Tech property was free of excessive levels of lead contamination. [Mr. Dao admitted the convent property was not sampled due to issues of accessibility.](#)

EPA Clarification:

At the time, the Gethsemane Cemetery was not sampled due to access issues not the convent.

Commissioner Scott read copies of letters, prepared by the DEP, dated pre 2000. The letters indicated DEP's concern with obtaining access to the convent and Lucent Technologies properties. According to the letters produced by Commissioner Scott, the DEP desired to access the properties as it was believed that soil lead concentrations on those properties exceeded the 650 mg/kg threshold. Mr. Dao stated that Lucent Technologies refused repeated requests for access to the property.

Commissioner Scott also questioned the methodology employed by EPA in the conduct of the study. Commissioner Scott felt EPA was endangering properties and the community by undervaluing levels of contamination throughout the entire study area. He questioned the difference in the methodology used by the DEP and the EPA.

Ms. Hill requested an explanation regarding the reported dispute between Exide and EPA. Ms. Hill explained that understanding these disputes is essential to understanding the study ultimately conducted by EPA. She reminded Mr. Gotthold of the EPA's lack of response to the FOIA request submitted in June. Mr. Dao suggested that Ms. Hill contact the EPA Attorney. Ms. Cohen stated that she spoke with EPA Attorney Cynthia Nadolski about the FOIA request last week, at which time the Attorney Nadolski claimed to be reviewing the documents requested with Mr. Dao for confidential material.

Mr. Gotthold was reluctant to discuss specific disputes between EPA and Exide without having EPA counsel present. Mr. Gotthold was willing to say that the disputes, generally, centered on site specific inputs that were used as part of the study model, with EPA questioning data submitted by Exide. Mr. Dao added that the inputs referred to by Mr. Gotthold are contained in the Risk Assessment report and that beyond those minor disagreements there were no other disputes between Exide and EPA.

Commissioner Scott requested EPA explain how the study area was determined,

as numerous properties outside of the area have confirmed levels of lead soil contamination. Commissioner Scott expressed surprise at what he viewed to be the arbitrary boundary lines set forth by the EPA. Commissioner Scott also questioned the wisdom of ignoring contaminated properties outside of the study area, as the lead contamination, if not corrected, could lead to other environmental problems in the future. He read an excerpt from a letter dated January 28, 1999 reporting contamination from multiple resources at extremely high levels.

Mr. Dai suggested that the letter responds to the questionable practices used by the DEP. Commissioner Scott disagreed. Mr. Gotthold noted that the information in the letter caused the EPA to order an additional 1200 soil samples. Commissioner Scott suggested that the EPA review the old records from the DEP dating back to the early 1990s.

EPA Clarification:

Commissioner Scott was referencing a letter from Lucent Technologies, commenting on Exide sampling results and delineation of the original Study Area under the PADEP Consent Order. EPA has since required Exide to expand the Study Area under the 2001 EPA Consent Order with over 10,000 additional soil sample locations.

EPA Project manager is Khai Dao.

Mr. Gotthold and Mr. Dao acknowledged that EPA reevaluated and subsequently changed the boundaries of the study area, based on the results of repeated soil samplings, which indicated contamination patterns had shifted beyond what was originally thought to be the limits of the contamination. Mr. Gotthold stressed that the criteria used by EPA during initial evaluations in 2001 was extremely rigorous and went beyond the results initially presented by [GeoServices Corp](#), which had conducted soil samplings on behalf of Exide.

EPA Clarification:

Exide's contractor is [Advanced GeoServices Corp](#).

Mr. Gotthold explained that the unclear data was released to protect the confidentiality of individual property owners. . He also offered to provide additional maps of the study area and results.

Mr. Dao further explained the distribution patterns caused by the smelting operation. He stated that lead is an inert element, incapable of penetrating non porous soils which will allow environmental degradation to occur. Mr. Dao assured those present that lead would not seep through the soil and contaminate

the water table or pose other long term environmental risks.

EPA Clarification:

Mr. Dao stated that lead is a heavy metal and does not degrade. Lead does not easily leach from soil and impact groundwater. Several conditions (low pH, high temperature and high oxidation-reduction potential) must be present before lead mobility is a problem. Lead much more readily adsorbs to soil particles and stays within the top layer of soil.

Commissioner Scott repeated his earlier question regarding the determination of the study area. Due to such uncontrolled factors as atmospheric fallout, Commissioner Scott believed, the boundaries of the study area appeared to be quite arbitrary. Commissioner Scott questioned how certain parcels could record soil lead concentrations in excess of 650 mg/kg, while adjacent properties were not affected.

Mr. Dao explained how lead levels are affected by air dispersment patterns, which makes estimating areas of contamination extremely difficult. According to Mr. Dao, multiple soil samples are taken across a wide area to compensate for the variability of air dispersion.

Mr. Gotthold emphasized that the study, as conducted by EPA and [GEOServices Corp.](#), is accurate. Mr. Gotthold explained that the impression of arbitrary boundaries is a perception issue. [According to Mr. Gotthold the study maps included with most EPA materials is a significantly smaller scale, which, due to the reduced scale, cannot clearly show contaminant fallout patterns. This method is used to protect the confidentiality of the property owner. Mr. Gotthold agreed to provide copies of larger scale maps, which would hopefully reduce confusion.](#)

EPA Clarification:

The study was conducted by EPA and Exide's contractor, Advanced GeoServices Corp. Mr. Gotthold stated that the color coded map of the study area that is posted on the EPA website delineates the extent of contamination and to a degree the dispersion pattern of the lead contaminant. EPA intentionally reduced the scale of map to limit the display of sensitive information such as soil lead levels and addresses to protect the confidentiality of the property owners.

Ms. Hill inquired if DEP has been involved, in any way, with the preparation of the remediation work plan. She also inquired if the EPA plans to include the DEP in the PA Act II liability release. She added that the City is also interested in both release from liability in addition and remediation services at Bernhart's Park.

Mr. Gotthold indicated DEP has not been involved, to any great extent, beyond

the initial study, which dates to 1999 and early 2000.

Ms. Hill stated a memorandum of understanding should have been developed between EPA and DEP; the MOU clearly explaining that DEP would be requested to issue liability release forms to cleaned-up properties as required by PA Act II. Ms. Hill explained that Act II allows property owners to receive releases of liability, thereby protecting their properties value, upon proof that abatement had occurred. DEP would be the agency responsible for issuing the liability release, hence the need for clear cooperation between DEP and EPA.

Mr. McPhedran asked the EPA to reevaluate remediation letters that will be sent to property owners. Mr. McPhedran felt the language contained in the letter was far too dense for the average property owner to understand. Mr. McPhedran emphasized the need to present simple and concise language that would ensure all eligible property owners understood the material and were able to participate in the remediation program.

Commissioner Scott noted that Mr. McPhedran raised an interesting point about property owners participating with the remediation. Commissioner Scott inquired why property owners were given a choice to have their properties cleaned. Commissioner Scott outlined what he felt were several flaws with allowing property owners to choose whether or not they wished to participate. The principle concern raised by Commissioner Scott was that the contamination would be allowed to exist over a long period of time, thereby presenting a greater threat to the community and future property owners.

Mr. Gotthold indicated that owners, depending upon the specific circumstances at their property, could be compelled, by EPA, to remediate their property. In such cases the EPA would be the determining authority.

Ms. Hill raised the issue of Bernhart's Park, noting that regulations governing the management of Superfund sites specifically state that park land shall be accorded the same remediation priority as residential properties. Ms. Hill inquired how EPA proposes to treat the park.

Ms. Hill noted the need for an eco-risk assessment and asked the EPA to consider applying the lead remediation levels used for Superfund Site properties.

Mr. Gotthold stated EPA would likely require the remediation of the park concurrently with residential properties. The same soil lead concentration levels would be applied to the park as are applied to residential properties.

Commissioner Scott then questioned why EPA had determined soil lead

concentrations of 650 mg/kg to be acceptable levels, when other sites contaminated by Exide across the country get higher levels of remediation.

Mr. Dao explained the cleanup level was derived from the site-specific risk assessment. The risk assessment evaluated a number of factors and enters these data into a uniform model known as Integrated Exposure Uptake Biokinetic (IEUBK) to predict an acceptable soil lead concentration. The IEUBK model calculated 650mg/kg to be within acceptable tolerances. Mr. Dao further explained that this IEUBK model was developed to calculate the expected blood lead concentration *in children 6 years and younger and is highly accurate.*

EPA Clarification:

The IEUBK model was developed to protect children 7 years old and younger.

Ms. Hill stressed the need for public officials to explain their wishes and concerns directly to Exide. Mr. Gotthold offered to arrange a meeting. Ms. Hill noted that Mr. Gotthold previously offered to have Exide present at this meeting.

Commissioner Scott requested that the EPA explain why levels of arsenic and cadmium, both known carcinogens, were not evaluated as part of the study. He questioned the effect this contamination would have on ground water, stressing that a good number of Muhlenberg residents rely on underground well systems.

Mr. Dai explained that lead is a stagnant material. He suggested that lead contamination in ground water may come from underground lead piping. Commissioner Scott countered that arsenic is a more mobile contaminant and has been identified in the earlier samples taken by the DEP. He also noted the existence of lead contamination in dust located on hard surfaces in the test area. Mr. Gotthold replied that the EPA believes this dust comes from lead paint not the smelter.

EPA Clarification:

EPA Project Manager is Khai Dao.

Councilor Goodman-Hinnershitz noted that unremediated contamination has caused a decrease in property values. She suggested the degradation of the properties around Exide is a result of lowered values. Ms. Hill agreed and noted the importance of an Act II liability relief letter to restore or neutralize this loss.

Councilor Waltman agreed with the questionable scope of testing and remediation proposed. He also stated that the amount of time the contamination has existed is unacceptable.

Mr. Erdman agreed and questioned the EPA's application of capping at residential properties. He questioned if the EPA will try to use paving rather than direct remediation applications to neutralize the contamination.

Mr. Gotthold replied that remediation applications will be worked out individually with each property owner. Mr. Erdman questioned the viability of paving back yards of residential properties. Mr. Dao stated that the remediation applied by the EPA would address all types of contamination.

Commissioner Scott noted that the unsafe levels of exposure for those who work in smelter sites. He suggested that the EPA reduce standard levels at work sites.

Commissioner Scott described the carcinogenic tendencies of arsenic and cadmium. He reported that in the study conducted by the DEP in 1991 shows many properties having three to four times the allowable amount of arsenic and cadmium. He stated that the levels of these contaminants exceed the levels of lead in the study area. He again reminded everyone of the cancer cluster recently identified in the Muhlenberg area.

Ms. Hill agreed and suggested that the EPA consult with a toxicologist. Commissioner Scott suggested that the EPA also consider the study results provided by the DEP from the early 1990s, as this information seems to be more comprehensive. Councilor Waltman observed that Exide has been more attentive to remediation in other areas while turning away from this site.

Mr. Didyoung agreed that the existence of arsenic and cadmium are huge concerns.

Mr. Gotthold stated that the public meeting with affected residents would take place on Thursday, October 11th. Residents will be afforded an opportunity to comment and ask questions of representatives from EPA.

Ms. Hill noted the City, County and Muhlenberg Township officials still hope to meet with representatives from Exide. This meeting could hopefully be arranged as soon as possible.

Mr. Gotthold agreed to contact Exide to establish a meeting date and time. Mr. McPhedran suggested the group keep the upcoming Tuesdays and Wednesdays free.

Mr. Erdman reminded the EPA of the need to reword the letter going to the homeowner. This letter needs to be written in simple terms and stress that cost of the remediation will be paid by Exide.

It was agreed to that the follow up meeting, to include Exide and the DEP, will occur as soon as a meeting can be arranged by the EPA with Exide, on a Tuesday or Wednesday at 5 p.m.

Respectfully submitted by

Linda A. Kelleher, City Clerk

Christopher G. Kanezo, Deputy City Clerk