Bernhart's Dam & Park
Joint Meeting
City-County-Muhlenberg Township
Wednesday, May 9, 2007
Council Chambers

Attending: V. Spencer, J. Waltman, S. Fuhs, D. Sterner, M. Goodman-Hinnershitz, S. Marmarou, T. McMahon, M. Scott, J. Schwank, T. Gajewski, R. Voit, S. Landis, C. Younger, G. Swavley, T. Smith, J. Meeks, D. Didyoung, C. Jones, D. Hoag, J. Murray, D. Blasey, L. Kelleher, C. Kanezo

Note: EPA was not present at this meeting; however, EPA has clarified specific statements regarding the Bernhart Park investigation in the meeting report.

Mr. Spencer convened the meeting to discuss the potential for litigation concerning Bernhart's Dam, Exide Corp and the EPA and existing litigation concerning the Saylor Estate, Exide Corp and the EPA.

The reporter from the Reading Eagle objected to the executive session. Mr. Younger and Mr. Spencer explained that meetings addressing litigation and the potential for litigation are permitted under the Sunshine Act.

Ms. Meeks, former Environmentalist for the City, explained that the Park was closed approximately 12 years ago and a task force was formed, with the City participating as the property owner. A risk assessment was prepared by the EPA. In the risk assessment, the EPA assigned remediation above 1200 parts per million for the park, rather than the 500 parts per million suggested by the State. Ms. Meeks explained that the 1200 parts per million is usually applied to areas with pregnant women and 500 parts per million is usually applied to residential areas and areas with children. The assessment also considered the length of exposure to the contaminant. Homes were remediated to a stricter standard since the exposure rate is substantially higher, as opposed to visitors to the park.

EPA Clarification:
EPA never prepared a risk assessment for Bernhart Park. It is not common practice for EPA to apply 1200 parts per million to areas with pregnant women.

The EPA believes that certain areas of the park can be closed down with directional signs and that only the pathways need to be addressed. The

remediation would be accomplished by tilling fresh soil in with the contaminated soil. The EPA believes that as this is only a recreation area it does not need the remediation used for residential areas. Ms. Meeks stated that the City continually objected to this remediation approach, requesting that the park be remediated to 500 parts per million. Ms Meeks explained the City was presented with data showing that individuals playing in the park, particularly young children would be just as susceptible to exposure as area residents.

EPA Clarification:

EPA initially proposed access restriction to the heavily wooded and steeply sloped areas as an interim proposal made to the City in 2001. This was not a final proposal but an interim proposal to reopen the park prior to the completion of the Exide Child Lead Risk Assessment. At the time EPA stated that EPA will re-evaluate Bernhart Park based on the conclusions of the Exide Child Lead Risk Assessment and may apply more stringent cleanup standards if necessary. The City declined the interim proposal and decided to wait for the completion of the Exide Child Lead Risk Assessment to re-evaluate the park.

For clarity, the requested 500 ppm cleanup level is the Pennsylvania Statewide Health Standard for residential areas.

Mr. Blasey, representing the Saylor Estate, explained that the first environmental problems called "unhealthy conditions" were found in a report from 1948. The lead contamination in the park and in the surrounding area was identified in 92-93. Since then some residential properties were remediated to bring the contamination below 500 parts per million; however, some properties have not been corrected. He stated that after Exide Corp went into Chapter 11 Bankruptcy, they did not disavow their responsibility to correct the contamination but they have done little to take corrective action. Mr. Blasey further explained even though Exide is no longer in bankruptcy, the legal ramifications are still not clear.

Mr. Didyoung stated that since this problem was identified regular inspections have been conducted at Exide Corp. A variety of problems such as lyme tainted effluent has caused scaling in the wastewater collection system, resulting in overflows during rain events, which can provide the DEP/EPA with grounds to issue fines. He described other discharge and waste handling problems. He stated that as Exide has not been diligent in remediating the contaminated land Muhlenberg has filed a lawsuit against Exide.

Mr. Blasey explained that a large problem has been created by the handholding between Exide and the EPA, when the City, Muhlenberg and the Saylor Estate

are depending on the EPA to drive the remediation process.

Mr. Spencer noted that Exide has acted in a timely manner in Hamburg where they remediated contaminated land below 500 parts per million. Mr. Spencer inquired if any complaints were filed with Congressman Holden or Gerlach. He explained that the northern side of Bernhart's is in Congressman Holden's district and the southern side is in Congressman Gerlach's district. Mr. Smith replied that some complaints were filed; however, the Congressman has not received requests for assistance.

The group next discussed litigation. When the discussion concluded the group asked Mr. Smith to contact other State and Federal Officials and the EPA to make arrangements for a meeting.

Respectfully submitted by Linda A. Kelleher, City Clerk