



Kenneth Kovalchik <kovalchikk@togny.org>

followup points from the May 7 Town Board Meeting

1 message

tbohl50565@aol.com <tbohl50565@aol.com>

Thu, May 9, 2024 at 8:34 PM

To: Kenneth Kovalchik <kovalchikk@togny.org>

Cc: valarie jeffers <vjeffers0109@gmail.com>, gbowitch@bowitchlaw.com, Chris Farrell <cfarrell@vanguardfine.com>,

Kenneth Brownell <kbrownell@vanguardfine.com>

Ken,

I wanted to clarify a couple of things from the meeting comments that hopefully help the process understanding.

1. There are no NYS grants to remediate brownfield sites. The only "reimbursement" is if the site is cleaned up to standard and receives a certificate of completion from DEC, the developer can then apply for tax credits on the cleanup, which generally would be about 28% of the remediation cost. Building on the site can also offer potential tax credit (I think about 20% of build cost) but on this site, only that spot where the dry cleaner site is would qualify, given setbacks etc, very little would actually be built on the spot that would qualify for further credits.

2. The presenter incorrectly stated that there wasn't a deadline from DEC on the project. They are new to the BCP, recently signing on as our co-volunteer to the program. They have not been the recipients of registered letters from the DEC as we have. You have seen some of the urgent letters I have submitted to Assemblywoman Fahy's office to help us get DEC to give us time. Only through her office's help and constant contact from our environmental attorney and our CTMaie engineer with DEC have we been able to "slowboat" this. Recently we were required by DEC to provide a site visit to see what, if any, progress has been made on the workplans we have had to submit at various intervals. DEC also wanted to meet our co-volunteer to probably see that they were real as we have had 2 previous partners on the BCP who backed out. The Site visit was April 22. We had our engineer from CTMale (Jeff Marx) take the lead on the visit as they had to inspect our test well sites. These are some of Jeff's notes to me, as his client, on some points from the visit:

- NYSDEC questioned where the boundary of the site and how it was shown in C.T Male's Remedial Action Work Plan (RAWP). I indicated that it was approximated on our RAWP figures in the absence of a site survey. I alluded to establishing the property boundaries at some point in the project using survey so that work is kept within the boundaries of the site under the BCP.
- Chris O'Neill (supervisor of our DEC project manager Matt Dunham) shared details on how close the Department was in mobilizing contractors and taking over the cleanup because it is documented to be contaminated and there was no progress. Chris said that was put on hold when The Markstone Group signed on. :
- Chris also indicated a couple of times that the Department needs information from the SRI so they can investigate the off-site portions of the surrounding area. They were contemplating doing this work even before doing the SRI. I addressed by offering up raw data throughout the SRI, which we would do on any BCP project.
- Chris asked several SRI scoping questions that were easily answered to say that the Department approved SRI covers those items. The biggest question was Chris asking about PFAS testing. I had indicated that the SRI does not include these emergent contaminants. Chris stated that the Department is going to have to revisit the approved SRI suggesting that they are now going to require PFAS testing. This can be described more in a conversation, but this testing is expensive and NYSDEC has indicated in many capacities that PFAS testing is a requirement for all BCP

projects. This is a newer requirement over the last few years. I have tried to argue out of this requirement on other BCP projects and was shut down by DEC.

3. If the DEC were to take over the cleanup, it would be bad on all fronts, it would mean that they would have to first go through the county to take ownership of the property, eventually it would be up to the taxpayers to foot the bill. It would probably mean the property sitting vacant for a decade until this was resolved. There's nothing good about that option.


4. We have been dealing with the DEC on this site for many years between our environmental attorney and engineers. It is very complex and we have done a lot of testing and studies. I would suggest at some point once the CTMale team is hired by Markstone to restart the required study and testing, that that engineer come to one of the meetings for Planning board or Town Board and answer questions on the process and what has been done to-date and what next steps would be.

5. The recent activity on the site mentioned was probably either prepping for the DEC site visit or working with the contractors and engineers who are removing test materials held in drums that were left behind by the previous buyer and I am now having to contract an pay to have disposed of. That was completed today, May 9.

6. The ownership of the Charles Bohl, Inc corporation is as follows: There are 94.5 outstanding shares. 63 (66.66%) are owned by me, 28 (29.63%) owned by Charles Bohl (my cousin who resides in Miami) and 3.5 shares (3.7%) are owned by Laurel Bohl

6. I'm attaching a summary history that I would like submitted to the Planning board as I spoke at the Town board on the moratorium but not at the planning board. Just as background as you start the discussions.

Please let me know if I can provide any further information to help this process.

 **ChsBohlIncplanningBoardletter02282024.pdf**
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