

**CITY OF NEWBURGH
INDUSTRIAL DEVELOPMENT AGENCY ("IDA")
DRAFT MINUTES OF MEETING
OCTOBER 15, 2012**

Present

Board Members: Richard Bedrosian, Vice Chair
John Penney
Michael Curry
Sean O'Shea
Excused Absence: Joshua Smith
Jerry Maldonado
Counsel: Thomas Whyatt, Esq.
Staff: Theresa Waivada, CEO
In Attendance: James McIver, CT Male
Janet Gianapolous

1. **Roll Call** Mr. Bedrosian called the meeting to order at 7:15pm. A quorum was present.
2. **Proof of Notice of Meeting** Accepted.
3. **Approval of Minutes of September 17 Monthly Meeting**

Mr. Penney: Motion to Adopt the September 17th Minutes.
Mr. Curry: Motion Seconded
Vote: Unanimously adopted.

4. **Report by Mr. McIver of CT Male:**

Work is completed on the IDA parcel. Mr. McIver discussed his report (attached) and the various implications suggested by testing at the Drum Cache site. Mr. McIver suggested that the Agency meet with the DEC to discuss the findings to date and the DEC's potential decision on its designation/classification of the site as well as actions that the Agency might take to lead to the development of the sited.

Mr. Penney: Motion to have Ms. Waivada, Mr. MacDougall and Mr. Whyatt meet with the DEC to discuss designation of the land, and to discourage landfill designation.

Mr. Curry: Motion seconded.

Discussion None.

VOTE: Unanimously approved.

Mr. Whyatt recommends moving forward with the property investigation as soon as possible. An application for a Brownfield Clean-up Grant can be submitted with a GIS map; a formal survey report could come later. The Agency will need to enter into a Right of Access Agreement with the City if it wishes to make application for a Brownfield Clean-up Grant.

5. **Communications:** Ms. Waivada reported that the NCAC sent a letter of support for the HV Lighting project, and letter from the EPA approving a request to modify the Drum Cache Areas Operating Plan in order to cease excavation at 3 feet below the ground surface of the Drum Cache Area located on the IDA's property. (Letter is attached)

6. Bills and Treasurer's Report. Mr. Curry distributed the 3rd quarter progress report. He also presented the Treasurer's report (ending balance of \$752,389.99) and requested a motion to accept payment of 6 invoices as presented.

Mr. Penney: Motion to approve 6 checks.

Mr. O'Shea Motion Seconded.

VOTE: Unanimously approved.

7. Report from the Chair. There was no report from the Chair.

8. Report from Executive Director:

- Purchased InfoUSA database through a grant provided by TSEC.
- There will be a meeting on Wednesday (October 17) night relative to the candidates for the board vacancy.
- Phone conference with the City Planner, Agency Attorney, HV Lighting's attorney, Executive Director with DEC to discuss the Brownfield Tax Credit Program; DEC suggested that Mr. Littman put a team together to hold a preliminary meeting with the DEC relative to application for the program.
- Starting to work on number of CDBG and TSEC tasks.
- Plan to announce availability of the small business program.
- Met with the City and the designated developer for the mid-Broadway project. Discussed in detail what his plans were and I was asked to review the project agreement. I detailed what the IDA could provide for retail and rental housing and what would be required (SEQRA).
- Met with owner of American Legion hall—asked for assistance in finding a tenant for roughly 4000 sf of office space.
- Met with the Land Bank to discuss IDA's involvement. It's a complicated process.
- Met with TSEC, City and PACE on their work documenting available space. TSEC wants to aggressively go after companies to determine the potential for expansion and relocation to the City.
- Met with Orange County Partnership and Hudson Valley Economic Development Corp concerning a Market certification program will provide information on industrial and commercial sites over 5000sf. We will look at vacant city properties, both city and privately-owned.
- Spoke with OC Partnership on marketing; and plan for a possible brokers' tour in the spring of 2013.

9. Report from Counsel: Mr. Whyatt asked to defer the Foundry discussion to Executive Session. Regarding Home Depot research: In 1996 Murphy's' Ditch was deeded to the IDA by the City. IDA entered into a 48-year lease agreement with Home Depot (\$51,000 up front which was paid). That would be the only Home Depot payment expected. Lease ends in 2044. IDA should make some permanent arrangement with Home Depot instead of a 48-year situation. Mr. Whyatt will contact John Cappella for information. The Audit Committee will report next month on any additional payments.

Mr. Bedrosian: what about the bonds on the GEMMA Armory building? Ms. Waivada explained that the county would be buying the mortgages on the Armory and the Motor Vehicles building. Ms. Waivada advised the city manager that it would be prudent to talk with the county, since there are tax consequences. Mr. Whyatt spoke with counsel for the bondholders, but she had no information. The County Legislature must approve county payments to the bondholders.

10. Reports of Committees

Audit Committee: There was no meeting, but the 2013 Budget and 5-year Plan have been submitted to PARIS. The final budget will be revised and adopted in the Agency's annual meeting in December. The Auditor was asked to submit a contract for the 2012 budget.

Governance Committee: There was no meeting. Ms. Waivada and Mr. Whyatt will review the by-laws to tweak them.

11. Old Business.

- Board vacancy applications. A briefing and interviews of the candidates is planned for October 17. Mr. O'Shea stated that he will be leaving the board when his term expires.
- All IDA Committees will meet in November and early December as needed prior to adopting policies in December.

12. New Business: None.

The next meeting is scheduled for November 19th.

Mr. Curry: Motion to adjourn to Executive Session to discuss the Foundry litigation.
Mr. Penney: Motion seconded.
VOTE: Unanimously approved.

The public portion of the meeting was adjourned at 8:35 pm.

The Executive Session adjourned at 9pm.

The Board reconvened at close of the Executive Session. No action was taken, the Meeting was adjourned at 9:05.

Respectfully submitted,



C. K. Boyle
Recording Secretary

October 15, 2012

File

C.T. MALE ASSOCIATES

Engineering, Surveying, Architecture & Landscape Architecture, P.C.

MEMORANDUM

DATE: October 12, 2012

TO: The Newburgh Industrial Development Agency, Chairman Josh Smith,
Executive Director, Teresa Waivada, Tom Whyatt, Esq. and Ian MacDougall

FROM: Jim McIver

RE: Status of the Drum Excavation Effort, 5 Scobie Drive

The United State Environmental Protection Agency (USEPA) mandated drum excavation and earth removal work occurred on the Newburgh Industrial Development Agency (NIDA) property located at 5 Scobie Drive, Newburgh, New York during the week of October 1-4, 2012. The work was performed O'Brien & Gere (OBG) on behalf of DuPont Stauffer and its assignees in accordance with the scope of work outlined in the Drum Cache Area Operating Plan for the Newburgh City Landfill (NCL) Superfund Site dated January 2011 and revised April 27, 2011.

The area of concerned (AOC) encompassed approximately 0.5 acres situated along the northern border of the NCL property along the far western edge of the NIDA's Scobie Drive parcel, between the NCL and the I-84 corridor. The AOC is trapezoidal in shape, and comprises approximately ¼ acre with another ¼ acre being part of the maintenance zone. This work was mandated because previous investigations had indicated that there was the potential for drums and other hazardous waste associated with historic disposal activity by DuPont Stauffer at the NCL.

The work was performed by dividing affected portion of the NIDA parcel into 50' by 50' cells and working one cell at a time until it was completed before moving on to the next cell. OBG's remediation contractor, Abscope Environmental, began excavation at the south-eastern corner of the AOC, and proceeded northwesterly, excavating each cell in turn to a depth of 3 feet below grade. They live loaded the excavated material directly onto dump trucks then dumped into the pre-designated stockpile area. Soil and waste excavated from the IDA parcel was not co-mingled with material derived from the NCL. The excavated material was placed into four on-site stockpiles, of approximately 700 yd³ each. The attached photo log documents the activities performed.

Observations made during the excavation indicated that the waste material consisted primarily of what appears to be incinerator ash and limited amounts of municipal solid waste. The soil profile in this portion of the IDA parcel consists of 1-2 feet of dark brown, organic rich soil (humus, roots and other plant residue) underlain by light brown to yellow sand mixed with varying percentages of silt and cobbles. In some areas of the site, shallow bedrock may have been encountered; however, this was not confirmed with drilling.

Throughout much of the excavated area, a layer of what appeared to be old municipal waste, including glass bottles, ceramics, and oxidized ferrous wastes, was encountered above or mixed within the layer of lighter brown soil. A layer of light grey ash approximately 3-4 inches thick was encountered in one area. No drums or other evidence of hazardous waste or other regulated

C.T. MALE ASSOCIATES

Engineering, Surveying, Architecture & Landscape Architecture, P.C.

substances (oily, stained, or odiferous soils) were encountered during the excavations that occurred on the NIDA parcel. It was evident that fill layer was limited. Virtually everywhere in the NIDA AOC, native soil was encountered at around three feet below ground surface (bgs). Based on these findings, OBG, on behalf of DuPont-Stauffer, petitioned the USEPA to modify the DCAOP, which required excavation to a depth of six feet bgs, to cease excavation at the three foot mark. The letter requesting the modification is also attached to this memo. The USEPA has approved the modification. The approval letter is also attached to this memo.

Mr. Gezahegne Bushra of the USEPA has been on site each day observing the activities. Test pits were excavated in the AOC on Tuesday, October 9, 2012. Staff from C.T. Male was on-site for most of the test pitting investigation. Before the test pits were excavated,

Following the post-excavation sampling, OBG completed test pits throughout the NIDA AOC. The test pits were excavated to a depth of at least six feet below the original grade, or until bedrock was encountered. No additional hazardous or municipal wastes were encountered. The results confirmed that the limits of excavation where appropriate (please see the attached letter from Alfred Farrell of OBG to Gezahegne Bushra of the USEPA).

OBG has sampled each of these four stockpiles for TCLP analysis and the preliminary results are attached to this memo. The results indicate that the excavated material is not a hazardous waste. Based on these findings, the material will be returned to the excavated areas, graded to discourage erosion and covered with a soil cover system. Please note that DuPont-Stauffer has requested an additional modification to the DCAOP to allow for the placement of six-inches of clean cover instead of two feet. We are of the opinion that there are no significant issues associated with this request, given the nature of the material on the NIDA's property

Opinion of Findings

Overall, the results are encouraging. The observations of limited waste and the test results that indicate that the material is not a hazardous waste suggest that the NIDA's potential exposure would be limited. If these results are consistent throughout the NIDA's entire Scobie Drive parcel, redevelopment would not be overly complicated.

Please note that incinerator ash can often contain hazardous levels of heavy metals. One of the test results contained lead at 3.7 mg/l which is only slightly below the threshold of 5.0 mg/l for hazardous lead levels. Heavy metals are typically not very mobile in the subsurface but nonetheless, there are concerns moving forward. Please note that the presence of the ash could facilitate acceptance into the Brownfield Cleanup Program, should any future developers decide to move forward with a project on the site.

Based on information conveyed to Ian MacDougall from Dave Crosby of the NYSDEC, the site could possibly be placed into the NYSDEC's landfills program after the Drum Cache Area work is completed. If the site were to be listed in the NYSDEC's landfill program, the NIDA may be required to close its portion of the landfill under the provisions outlined in 6 NYCRR Part 360.

According to Mr. Crosby, this type of listing does not necessarily preclude the site from redevelopment under the BCP, but it could complicate it. It may be worthwhile to approach the NYSDEC in advance of future listing to discuss options. An option may be for the NIDA to apply to the BCP. The issue of listing is complicated and has legal ramifications. The NIDA should seek advice from its legal counsel before moving forward.

City of Newburgh IDA
 Adopted Budget VS. Actual

<u>Adopted 2012 Budget</u>			
	<u>Budget</u>	<u>9/30/2012</u>	<u>Actual</u> <u>Variances</u>
Revenues:			
Fees from projects	0.00	0.00	0.00
Fees and rent	92,000.00	65,892.49	26,107.51
Easement income	0.00	0.00	0.00
EDA grant reimbursement from City	0.00	0.00	0.00
Settlement of promissory note	0.00	0.00	0.00
Interest	6,000.00	533.81	5,466.19
Contracts/grants	TBD	0.00	0.00
Fund Balance	<u>107,618.00</u>	<u>96,542.58</u>	<u>11,075.42</u>
Total Revenues:	205,618.00	162,968.88	42,649.12
Expenses			
Personnel			
Staff - Contractual	45,000.00	41,890.17	3,109.83
Legal services	75,000.00	66,178.00	8,822.00
Engineering/Brownfield	25,000.00	8,991.75	16,008.25
Audit	<u>15,000.00</u>	<u>27,109.65</u>	<u>(12,109.65)</u>
Subtotal of Personnel:	160,000.00	144,169.57	15,830.43
City of Newburgh Services:			
Personnel: Dir. Of Development, Assessor, GIS, reception	19,318.00	12,497.64	6,820.36
Archives	2,500.00	0.00	2,500.00
Website Maintenance, server connections, scans, etc	2,500.00	0.00	2,500.00
Office and meeting room rental	3,000.00	0.00	3,000.00
Telephone/ land line	<u>450.00</u>	<u>0.00</u>	<u>450.00</u>
Subtotal of City Contract For Services:	27,768.00	12,497.64	15,270.36
Operating Costs:			
Directors insurance	1,800.00	0.00	1,800.00
Equipment supplies and repairs	600.00	0.00	600.00
Office supplies	500.00	339.39	160.61
NYS EDC annual membership	1,250.00	750.00	500.00
Wireless telecommunication	1,000.00	329.71	670.29
Postage	100.00	25.00	75.00
Travel and Development	5,000.00	675.34	4,324.66
Collateral materials for retention & attraction	<u>2,500.00</u>	<u>0.00</u>	<u>2,500.00</u>
Subtotal For Operating Costs:	12,750.00	2,119.44	10,630.56
Other Costs:			
Property Management:			
Insurance Property and Office Liability	2,100.00	3,053.23	(953.23)
Title searches	500.00	1,129.00	(629.00)
Property maintenance/contractual	<u>2,500.00</u>	<u>0.00</u>	<u>2,500.00</u>
Subtotal For Property Management:	5,100.00	4,182.23	917.77
Contract/Grants (EPA, CDBG):	TBD		
Total Expenses	<u>205,618.00</u>	<u>162,968.88</u>	<u>42,649.12</u>
Surplus/(Deficit)	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II
EDISON, NEW JERSEY 08837

October 12, 2012

Mr. Alfred Farrell
O'BRIEN & GERE
333 West Washington Street
Syracuse, NY 13221

RE: Letter of Request submitted on October 10, 2012 to modify the Drum Cache Area Operating Plan (DCAOP) for the Newburgh City Landfill Site, Newburgh, New York. Administrative Order on Consent, Index No. CERCLA-02-2010-2029

Dear Mr. Farrell:

The United States Environmental Protection Agency has received your request to modify the Drum Cache Area Operating Plan (DCAOP) in order to cease excavation at 3 feet below ground surface of the Drum Cache Area (DCA) located on the Newburgh Industrial Development Agency (NIDA) property.

Based on the field observation of the excavation at the 3 feet depth and the inspection of the test pits excavated in the NIDA property, your request to modify the DCAOP is approved.

Sincerely,

A handwritten signature in black ink, appearing to read "Gezahegne Bushra".

Gezahegne Bushra
On Scene Coordinator
U.S. EPA- Region II

CC: Dan Harkay - Region II EPA-ERRD-RAB
Carol Berns - Region II EPA-ORC
Kiera Thompson - NYSDEC
John Greenthal - Nixon Peabody
Charles Elmendorf - SMC
Michael Sherrier - Dupont
Stephen Rahaim - Dupont
James McIver - Representing NIDA
Polly Armour - Representing NIDA



October 10, 2012

Mr. Gezahegne Bushra
On-Scene Coordinator
U.S. Environmental Protection Agency Region II
2890 Woodbridge Avenue
Building 205 (MS-211)
Edison, New Jersey 08837

RE: Drum Cache Area Removal Action, Newburgh Landfill Superfund Site
FILE: 8757/47240

Dear Mr. Bushra:

Bayer CropScience, Inc. (the successor-in-interest to Stauffer Chemical Company) and E.I. duPont de Nemours & Company (collectively the "Respondents") request modification to the Drum Cache Area Operating Plan (DCAOP) for the Removal Action (RA) at the City of Newburgh/Newburgh City Landfill Superfund Site (CIRCLIS ID #NYD980534846) to allow excavation on the Newburgh Industrial Development Agency (NIDA) property portion of the Drum Cache Area (DCA) to cease at 3 ft below ground surface (bgs), rather than 6 ft bgs. This request is made based on field observations, described below, made during the initial excavation to a depth of 3 ft bgs.

Excavation of the DCA on property owned by the NIDA started on October 1, 2012. As discussed that day, excavation on the NIDA property was initially completed to a depth of 3 ft bgs. The interval between the surface and 3 ft bgs includes a dark brown cover soil with roots and other vegetative material. In portions of the area, some solid waste not containing industrial material or a thin layer of ash (not greater than 3 inches thick) was observed in the 0 - 3 ft interval. The solid waste and ash sometimes included bottles and fragments of glass. The remainder of the material removed from the interval of 0 to 3 ft bgs appeared to be native soil without wastes. The excavated material was removed and stockpiled for characterization in accordance with the DCAOP prepared in accordance with the Administrative Settlement Agreement and Order on Consent (CERCLA-02-2010-2029) (hereinafter Settlement Agreement); and if non-hazardous will be backfilled in the excavation on the NIDA property.

At 3 ft bgs on the NIDA property, except as noted below, a lighter-brown or tan colored native soil with cobbles is present. The material appears to be virgin soil without wastes. Rather than removing this material from the 3 ft to 6 ft bgs interval as described in the DCAOP, it is proposed that the excavation cease and post-excavation documentation samples be collected at the current excavation floor; which is 3 ft bgs.

In four portions of the excavated area, the surface at 3 ft bgs has some old municipal solid waste present. These may have been low spots, two of the four extended a short distance from the toe of the neighboring City of Newburgh Landfill. The waste includes some newspaper, shoes, glassware and miscellaneous items suspected to be from the period of landfill operation, but no wastes appearing to be connected to an industrial or manufacturing operation. Rather than remove this material, post-excavation documentation samples were collected from each area on October 9, 2012 to characterize the material where presently located. The samples are being analyzed in accordance with the DCAOP for total and TCLP VOCs, SVOCs, RCRA metals and for total PCBs.

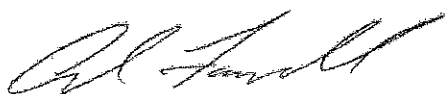
Mr. Gezahegne Bushra
October 10, 2012
Page 2

Afterward, five test pits (approximately 4 ft wide and 8 ft long), as opposed to the 50 ft long trenches described in the DCAOP, were excavated on October 9, 2012 in the areas of residual solid waste described above, confirming that each is a thin layer less the 4 inches thick with native soil located below. Bedrock was encountered between 2 and 3 ft below the floor of the initial 3 ft excavation.

The excavation was examined by representatives of O'Brien & Gere, USEPA, and the NIDA who were present during the collection of the post-excavation samples and excavation of test pits on October 9th.

We look forward to receiving USEPA's approval of the requested modification. Please feel free to contact me with any questions regarding the requested modification.

Very truly yours,
O'BRIEN & GERE ENGINEERS, INC.



Alfred R. Farrell, P.E.
Project Manager

cc: Mr. Charles Elmendorf - SMC
Mr. Michael Sherrier - DuPont
Mr. Stephen Rahaim - DuPont
Mr. Thomas Stajkowski - DuPont
Mr. Daniel Harkay - USEPA
Mr. Stephen Anagnost, P.E. - O'Brien & Gere
Attorney for Newburgh Landfill Site - USEPA
Ms. Kiera Thompson - NYSDEC
Mr. John Greenthal - Nixon Peabody
Mr. James McIver - C.T. Male representing NIDA
Ms. Polly Armour - C.T. Male representing NIDA



Newburgh Community Action Committee, Inc.
PO Box 1477
48 Grand Street
Newburgh, NY 12550

PHONE: 845-562-0100
FAX: 845-562-4027

www.newburghcac.org

Officers:
Salahuddin M. Muhammad, President
Charles Woodard, Vice President
Michael Sussman, Secretary

Members:
Gabrielle Hill
Jarrett Price
Roosevelt Norfleet

Executive Director:
Jade S. Greene, MBA

October 2, 2012

Chairman Joshua L. Smith
Members of the Board
City of Newburgh Industrial Development Agency
83 Broadway
Newburgh, NY 12550


RE: Hudson Valley Lighting Proposal
Northern Newburgh BOA

Dear Mr. Smith and Members of the Board:

The Board of Directors of the Newburgh Community Action Committee, Inc met and reviewed the Agency's letter of September 13, 2012 detailing the a proposal by Hudson Valley Lighting to construct a new facility on property contained within the Northern Newburgh Nomination Area.

We find the project to be consistent with the nomination plan and we were pleased to learn that the NYS Dept. of Conservation agreed to the project's feasibility. We believe that the Hudson Valley Lighting development will serve to strengthen the NCAC's plan to transform the Dupont Stauffer site into a viable, commercial center.

We support your efforts and look forward to continuing the cooperative relationship between our two organizations as we work for brownfield redevelopment and job creation.

Yours truly,

Jade S. Greene, MBA
Executive Director

cc: Dr. Salahuddin Muhammad, NCAC Board President