

## Moretown Development Review Board

### Minutes of DRB Hearing Held September 6, 2012

#### Application of Moretown Landfill For Cell 4

Members of the Board present: Erick Tritrud; John Riley; Jim O'Neill; Raymond Munn; David Russo. Also present were individuals set forth on the attached Service List.

John called the meeting to order at 6:30 p.m. The application is to construct an above ground storage tank, re-route the access road with additional fill, and construct an additional landfill cell at 187 Palisades Park, Parcel ID #02-05.000. The application requires conditional use approval by the Development Review Board. The property is located in the commercial district and a sanitary landfill is a conditional use in that district. There are existing conditional use approvals for earlier cells. Moretown Landfill is applying for construction of Cell 4.

John asked that those present who wished to participate in the proceeding as interested parties fill out a sign up sheet with name, address, and email contact. Erick Titrud made an initial comment that he believed the submitted application was insufficiently detailed to be treated as a complete application under Section 5.1 of the Ordinance. The Board took time to discuss the issue and received comments from those present. All Board members agree that the submitted application does not contain adequate information and detail as to the scope of the project and its potential impact under the conditional use criteria. Two members were of the view the application should be dismissed as incomplete. Three other members stated positions that although additional information is required, as the application was accepted by the Zoning Administrator, and the meeting warned, that the Board should not dismiss the application, but rather require additional submittals which better detail the scope of the development, and address potential impacts.

The Board proceeded to identify information to be required in connection with the proposed application:

- A narrative description which provides historical perspective as to the previously permitted cells including conditional use approvals and conditions imposed with earlier approvals; a description of the proposed landfill expansion including volumes of soil and rock to be blasted and removed; the volume of waste material to be deposited; a timeline in terms of the anticipated life of the expanded facility; the existing conditions as to letters of credit or other financial security in place to insure the eventual closure and site monitoring appropriate for the site, etc.
- Evidence addressing potential contamination of groundwater that will contain information about the hydrogeology of the area, location of residences, the location

of groundwater monitoring wells, and results of groundwater testing that has occurred over the years.

- Noise impacts associated with construction of the new access road, blasting, and operations, etc.
- Air pollution/dust/and odor issues. Several of those present who live in the vicinity spoke to persistent issues the landfill has experienced emanating odors associated with its operation.
- Requirements of the landfill liner and associated leachate collection system.
- Traffic issues associated with volumes entering and existing the facility from U.S. Route 2.
- The types of permitted waste which are allowed to be deposited.
- Aesthetic, landscaping, and screening issues. There were initial representations from neighbors that the facility is clearly visible from Foggy Mountain Drive and that the proposed expansion will substantially increase the height of the cell mound, and its visibility from surrounding properties, including Interstate 89.

Questions were also raised as to whether the present construction activities such as construction of the retention pond adjacent to Route 2, construction of a new access road, extraction of rock, etc. is within the scope of existing permits, or rather part of the present application, and the narrative should address this issue as well.

The Board discussed a process whereby three hearing dates would be scheduled with data and evidence on particular issues to be submitted by the Applicant a week prior to the hearing date.

Lisa Ransom asked to submit a letter prepared by Attorney James Dumont, retained by Ms. Ransom and her husband, Scott Baughman. The letter, dated September 6, 2012, was received in the record by the Board. The letter makes several arguments that Attorney Dumont asserts compel denial of the application. The letter also notes that Thomas Badowski, who is representing MLI with respect to the application is a member of the DRB, and asks that any member of the Board who has discussed the matter with Mr. Badowski, is a friend of Mr. Badowski, or does business with the Applicant recuse themselves.

Copies of the letter were provided to Board members, and other parties present including representatives of the Applicant. John Riley stated a belief that the Board should treat the letter as a motion, but it would not be appropriate to act upon it this evening as the Applicant had just received it, and not had an opportunity to have their attorney respond to the issues presented.

Erick Titrud notes the letter is similar in articulating issues addressed earlier about whether the application should be considered complete. Erick moves that the Board dismiss the application as being insufficiently complete for the Board to consider the matter. Raymond Munn seconds. After discussion the motion failed with two “aye” votes (Titrud and Munn) and three “nay” votes (Riley, O’Neil, and Russo).

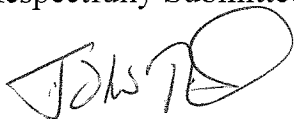
John Riley then acknowledged in response to a question from Martha Douglass that Tom Badowski is an appointed member of the DRB and cannot participate as a board member as he is employed by the Applicant. Raymond Munn is serving as an alternate. John notes that the Town has an adopted Conflict of Interest Policy. In addition that each Board member must ask themselves whether they can fairly listen and consider the evidence to be presented and make a decision based on the merits of the application and the requirements of the zoning ordinance. It was noted that the existence of the landfill and payments to the Town under the Host Town Agreement saves Moretown residents substantially each year in property taxes. Also, although Board members have participated with Mr. Badowski as a fellow Board member, they likely are also acquainted with some of the many neighboring property owners who at the hearing have expressed strong concerns about the ongoing operation of the landfill and its effects upon their properties.

The Board then discussed how it would address the application. John Riley will collect the sign-up list and develop a proposed service and email list for use in the proceeding. All parties present indicated a willingness to receive service of submitted documents by email. John asks that once the list is prepared and circulated that parties acknowledge that they received an initial communication. Mr. Badowski will prepare and submit the narrative description outlined above by Monday, September 17. The Board will then hold a site visit at the landfill property on Thursday, September 27 beginning at 4:00. Participants will meet at the temporary town office parking area at that time. A balloon demonstration of the eventual height will not be done that day, with the Board reserving a potential future date to visit various locations and observe the existing landfill operation. A balloon demonstration may be appropriate at that time.

After conducting the site visit on September 27 the Board will reconvene at the temporary town office September 27 at 6:30 p.m. At that initial hearing evidence will be presented as to the overview of the proposed project. The Board will also use that hearing to schedule additional evidentiary hearings on the balance of the above-identified issues, together with any additional issues relevant to the application. Erick Titrud makes a motion to the above effect, seconded by Jim O’Neill. All in favor.

The meeting adjourned at 8:45 p.m.

Respectfully Submitted,



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John Riley, Acting Clerk

Moretown Landfill Cell 4 Service List (9-12-12)

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