

**MINUTES  
WORKSHOP  
DOVER CITY COUNCIL  
CITY COUNCIL CHAMBERS  
JANUARY 5, 2005  
7:00 PM**

**WORKSHOP:**

Those present: Councilors Perry, Lewis, Trefethen, Colwell-Ellis, DeDe, Mayor Pro-Tem Hindle, Councilors Keays, Mayberry and Mayor Myers, also Acting City Manager Joyal.

**1. PLEDGE OF ALLEGIANCE**

Mayberry led the Pledge of Allegiance.

**2. UPDATE ON TOLEND ROAD LANDFILL  
CLOSURE/REMEDIATION**

Acting City Manager Joyal opened the meeting saying the council had questions about the landfill so to get everyone up to speed he has asked Dean Peschel and consultants, John Peltonen and John Gilbert, the City's technical consultant from Geo Insight to give a presentation.

Mr. Peltonen gave a slide show presentation showing the site location as he reviewed the history of the landfill from approximately 1960. He explained there are no caches of barrels waiting to be released. But what is astonishing to us now was at that time the common practice of officials when someone wanted to get rid of any chemical waste they were advised to just dump it on the ground at the landfill up until the time it was closed in 1978.

In 1980 the superfund statute was passed by the Carter administration. So even though the landfill was closed, the liability was retroactive dating back to the beginning of time. The liability is strict, there is no fault associated with it. The liability is absolute even though the landfill was closed before the statute was passed.

The State of NH was conducting some monitoring around 1977; it then became a superfund site in 1983. He continued with the presentation. (see slide show presentation in council folder of 1/5/2005). DeDe wanted to know who the additional parties were that are involved. Peltonen says Davidson Rubber and Wentworth Douglass Hospital along with about 150 smaller PRP's some of whom bought their way off the list, others were taken off the list. The cost of the remedy was estimated to be 35 million dollars. In 1994 and 1995 they convinced the EPA to allow them to do a study. It was conducted and completed in 2002, then a focus feasibility study was completed in 2003 and in June of 2004 the EPA issued the responsiveness survey. They then issued a Record of Decision such as they did in September of 2004. Trefethen questioned if the original estimate was calculated in 1995 dollars, Peltonen confirmed this was 1995 dollars. Lewis wondered if the City of Dover has a special fund for this issue. Peltonen only knows the City has been paying on the bill. Mike explained that what was done is the Council made a decision to set aside about \$500,000 per year since about 1990, then we stopped contributing in 1996 and it has been paid through the CIP since then. Perry explained our share is 42% and Textron's share is 46% and the rest is made up of the smaller PRP's and we were contributing as needed with the \$500,000. This year we did put \$500,000 in the CIP for that purpose. He added it was a 35 million dollar price tag when all was said and done but we agreed that it was only going to cost 26 million dollars. Peltonen said that agreement has not changed. Lewis asked if any of the PRP's fail. Their percentage disappears under the statutory scheme Peltonen explained as they received parental guarantees from all the corporations involved. Peltonen added and part of the Dover share was from gravel an in kind service. Perry explained the credit that has been received so far. Peltonen says the Record of Decision has been amended from the 1991 decision as of September 2004. Part of the purpose of this workshop is for everyone to become familiar with this process. There are things that should be negotiated with the EPA but if

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the negotiations fail then the EPA can order us to do it. Whatever the EPA doesn't get then they can penalize us 3 times over. Even in this climate there are things we can do to make sure this is as safe and as efficient as possible. Mayberry asked if we could involve the congressional delegation in this process. Peltonen wants to wait until the EPA comes to us as they may not need the delegation. He then introduced John Gilbert of GEO Insight Engineers from Manchester to tell us about the current conditions in the landfill and he then stated we will be available for additional questions.

Gilbert stated it is worth summarizing what the status is and the conditions around it, as the landfill is currently covered with soil. And in places the soil cover is re-vegetating. There is a fence along Tolend Road and public water has been supplied to that area of town. The other thing that is important is that both Dover and Madbury have controls in place with regards to the use of groundwater. DeDe wants to know what a plume is. Gilbert explained a plume is groundwater that contains dissolve materials: chemicals or compounds that originate in the landfill as actual chemical wastes. He then continued with the explanation of how the plumes flow and how many more additional wells have been drilled throughout the landfill. Lewis asked about the arsenic content as this is found in wells all over NH, he asked is this enhanced because of the landfill. Gilbert says Lewis is correct that there is a lot of arsenic in NH but it is in bedrock. This is arsenic in soil but there is also definitely an arsenic in the marine clay near the seacoast. They are dealing with a lot of fine sands and the danger is it can dissolve in the groundwater and create a reducing condition and this causes more arsenic to go into the groundwater. He believes this is a result of the reducing conditions. The EPA feels there is also some sludging from the parties involved. It is a challenging situation. This is a condition that is found in many landfills so it may be that the remediation may be related to the landfill itself. The Mayor asked why some of these chemicals have dissipated since 1995. Gilbert says it is a combination of a lot of things; they can evaporate and dissipate as well as degrade and become mineralized. They have seen enough indicators that tell them they could stimulate bio-mediation but in some instances that could stall. Colwell-Ellis asked about one of the chemicals; Gilbert explained that **tetrachloroethene** is associated with paint wastes and are they rising in one certain area where there is a pocket of this chemical. Colwell-Ellis wants to know what the danger of this is. Gilbert says it is not *carcinogenic*; the risks at the landfill have to do with potential drinking water use in the future. If that happens it becomes a premise for remedial action.

Keays says we do have a city well out there. Gilbert says it is a half a mile from the site and it was put below where the contamination is. Keays wants to know if we are gaining ground or losing ground on this issue. Gilbert says that depends. Keays says should we continue or just cap the whole thing. He wants to get it done and done right. Gilbert says it is not that easy because they have to continue monitoring the wells out there for another 80 to 100 years. Keays feels we have wasted a lot of the taxpayer's money on this project. He wants it taken care of and completed. Gilbert explained that he is here to tell them what the EPA wants them to do for a remedy. He explained the way they plan to treat these areas. The Mayor wants to know what is acceptable to the EPA to dissipate. Gilbert says around 15 to 20 years.

Perry thought the pump and treat area was contingent, Gilbert confirmed this. Trefethen thought we were going to be treating this on sight. Keays wonders if in time we will need a treatment plant out there. Gilbert says maybe we will have to. Mayberry wonders if we are ahead of schedule in the scheme of superfund sites. Gilbert says this is a complex, very large site and very spread out and has taken a lot of time evolving through this site. These current remedies are designed to be complete in 18 months. We do not want to cover the landfill with this remedy but have the rain and snow come down on it instead. Gilbert continued to explain the remediation process he is hoping for. The way this remedy will be designed is with Air Sparging Technology. This is technology that is built in segments and in phases with the air sparging trench. The Mayor wants to know the time frame and the cost of this one segment. Gilbert's expectation is within the 18 month period. The Mayor asked if this was a closed trench. Gilbert

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confirmed this. The Mayor continues and who is the arbitrator if we want to go with another remedy. Peltonen says this could be submitted to arbitration he supposes. But it would be quite a quagmire since the EPA has accepted the remedy proposed. There is a strong likelihood of success here. What does it mean if the air sparging trench does not workout. They have to build a trench along the Tolend Landfill to collect the leaching that will come out of the landfill for 50, 80 or 100 years. The risk of failure is they will just convert the trench for air use. It will be 15 to 20 million dollars to build this trench.

Gilbert then presented the summary of remedies.

The Mayor asked for information saying we have options, one is the trench and one is to put in the partial trench and after 3-6 months find it is not working or thirdly we would stick with the 1991 remedy. Gilbert will get this information to them. Lewis asked who "we" is; is it the council or Gilbert. Gilbert feels it is the consultant team that also includes Dean Peschel from the City. Lewis now wants to know about air sparging and how it refers to Appendix I and where it has or has not been used. Gilbert says they involve primarily industrial sites. This trench is in thousands of feet here at the Tolend site. They have been studying and summarizing if the sparging trenches will work.

Gilbert says the process now is a revised remedy that will be designed with a series of steps that need to be done such as the study of the air, water, trench etc. Trefethen asked about the projected cost of operating the sparging trench for the next 15 or 20 years. Gilbert says this cost is rolled into the 19.4 million dollars. Trefethen continued if we end up pumping water and putting it into our own sewer system, what is the charge and how will we do this. Dean Peschel added this has always been apart of the cost of the system and will be born by the PRP's.

Perry says some of the costs are in kind and it is really complicated. He has a question about the Cocheco River sediments. Gilbert says more studying of the sediments have been done from different areas of the river and they have been collected for arsenic and iron. The findings are that they are not harmful to human health but it does exceed the guidelines.

Brian Stern asked if he could ask one question and that is if the trench works and we get to the point of the landfill closure will there be a need for a lower grade cap when all is said and done. Gilbert says the current plan calls for a cap at that stage. If it works as of their expectations then the need for more of a cap would not be needed. It will be evaluated at that time. The Mayor wants an estimate of what the cost would be. He feels we are dealing with the EPA who has the power to ask and get whatever they want.

Gilbert says there is a five year review for the remedy. So we have no protection on any remedy says the Mayor. The agency has the option of reviewing the remedy every five years. There is no statutory provision to establish this every five years.

Rick Hebbard asked if there has been anything done about a fence for the animals such as the deer to keep them from drinking the water in the area. He stated he can guarantee there are 1000's of barrels in the dump, and some of them have not been oxidized as yet. He referred to "Frenchy". Peltonen said "Frenchy" testified that he emptied the barrels and sent them off to the Kingston drum facility and that thousands of the barrels were sent there for reformation. And this information has been conferred to him privately when "Frenchy" was still alive. They have done a life expectancy of the remaining barrels and very few if any of the barrels would be intact at this time. Gilbert says this was a U.S. study that was done and that after 7 to 10 years the barrels would be rusted and the chemicals would be leaking out. Mayberry wants to know if the workshops are open to the public and is the public allowed to speak. The Mayor says that is an excellent point but as a courtesy to the residents, he has allowed these few people to speak, but Mayberry is correct it does set a precedent as the workshop is basically for the council and he wanted to err on the side of inclusiveness. Hebbard again stated knows there were 100's of barrels. His question is what if these chemicals were in the barrels and are some of the plumes coming towards them. Peltonen says what we have been doing is they personally have been up

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there and the chemical data coming from the landfill does not suggest significant evidence of caches of barrels. They will be analyzing hotspots he thought. Don Medbury is here to speak and reinforces what Rick says about the fence out there as it is in deplorable condition. And he wants this addressed as soon as possible. Tom Fargo came forward and said he has been involved in the landfill professionally for a number of years; back in August he had written a 3 page letter with assurances that he would hear back but he did not follow up with his letter. He wants to know the effect on the amended rot as there is an awful odor out there. Additionally noise could be a potential problem with air sparging. He is also concerned about the Cochecho River and feels the DES should take action with regards to having a minimal impact on the river. Mayberry asks if we could get a copy of the letter.

DeDe says all of Tom's questions have been addressed in Appendix I. Peltonen says under the superfund statute the EPA will look to the State DES departments, but he will not suggest to the City, his client, to look to the DES to be a part of this permitting process.

Brian Stern states again about the small group of people that formed a small corporation and that they have formed their own opinion; and they have also issued a report. Brian then addressed Mayberry's question on how the process of these workshops should go. He added his group will pay to come address the questions of the council. He continued about the proposed trench. He says the EPA did not approve the suggested plan; they approved it with a contingency. He wants the council to have another workshop to address all these unanswered questions.

Peltonen wants any questions asked of him as he is their lawyer, he again explains about the consequences of failure. He does not feel they are holding anything back. Peltonen wants them to know there is no one sided presentation that he would give to his client, he represents the City. He worries that Brian would say anything like that in a public forum. He wants this clear. Trefethen says the way he is taking this is we do not have a decision here tonight; we are getting alternatives here and there are opportunities for public forum. Trefethen says Stern has had an opportunity to make this presentation to the lawyer. DeDe too is concerned at what Stern said at the public hearing. He urged Stern to write a response to this appendix. He feels the council is comfortable with Stern's concerns. The Mayor interrupted Stern again saying he, the Mayor, probably has set a dangerous precedent.

The Mayor thanked everyone again and encouraged the public to contact the council with any questions.

DeDe moved seconded by all to adjourn at 9:07 PM with all in favor.

**3. ADJOURNMENT**

JUDY GAQUETTE,  
CITY CLERK