

**CITY OF NEWARK
DELAWARE**

**CONSERVATION ADVISORY COMMISSION
MINUTES**

June 13, 2017

MEETING CONVENED: 7:05 p.m. Council Chambers

MEMBERS PRESENT: George Irvine (presiding), Ajay Prasad, John Wessells, John Horner, Bob McDowell, John Horner, Kismet Hazelwood

ABSENT: Jason Kramer, Kass Sheedy, Sheila Smith

STAFF: Tara Schiano, Deputy City Secretary

Mr. Irvine called the meeting to order.

1. APPROVAL OF MINUTES FROM MEETING HELD ON MAY 9, 2017

MOTION THAT THE MINUTES FROM THE MAY 9, 2017 MEETING BE APPROVED AS RECEIVED.

MOTION PASSED UNANIMOUSLY.

2. PUBLIC COMMENT

Sarah Bucic came forward to thank the CAC for allowing her to speak at the last meeting. Ms. Bucic recapped that she was a concerned Delaware citizen who lives next to a water tower that was sandblasted. Ms. Bucic advised that she had done some research on the process and found that Newark owns their own water towers. Ms. Bucic stated that since she had attended the CAC meeting in May, she had spoken with the DNREC secretary who had met with Tom Coleman. The DNREC secretary was concerned that having the permitting fall under state regulation would not capture everything Ms. Bucic was looking for. Ms. Bucic stated that instead the DNREC secretary would be talking to municipalities and water tower owners to come up with best practices. Ms. Bucic shared with the CAC what she had learned through a Freedom of Information Act (FOIA) request. Ms. Bucic stated that she is still waiting for the air monitoring report from the Windy Hills water tower sandblasting project. Ms. Bucic noted that she had provided to the board the notice sent out to the neighborhood in regards to the project, which did not include information about particulates, hazardous materials or precautions that could be taken in regards to lead exposure. Ms. Bucic advised she had also asked who had received these notices and was informed that the notices were provided to properties that were adjacent or adjoining the Windy Hills water tank. There was no defined perimeter, which Ms. Bucic would like to see changed. Ms. Bucic stated that the Windy Hills project had daily inspection reports. One of these reports advised that there was a breach of containment and that 4 different soil samples were taken. Ms. Bucic advised that these soil samples were very high.

Ms. Bucic noted that she had gone back to listen to Council minutes from when this had occurred. Ms. Bucic noted that Councilman Ruckle was the Council representative for that district at the time and had felt that the company had cleaned up adequately after the incident. Ms. Bucic stated that in the contract that this

company had with the city, the company advised that they used lead-safe practices, but that there were no penalties. Ms. Bucic felt that under state regulation, enforcement would have been possible. Ms. Bucic stated that another water tower was sandblasted at Louviers and that Mr. Ruckle had wanted soil samples done before and after. Ms. Bucic stated that the Louviers water tank was approved with the caveat that the contract approval would not include the unsatisfactory crew that was utilized in the Windy Hills water tank refurbishing. Ms. Bucic felt that there was a lack of consistency and regulatory requirements from tower to tower. Ms. Bucic requested that the CAC make a recommendation that City Council recommend to DNREC that water tower sandblasting be placed under state permitting structure. Ms. Bucic noted that this would benefit Newark because the City would not be liable should a company do something wrong. Mr. McDowell asked who had taken the photos of the site. Ms. Bucic stated that they were taken by a 3rd party agency that the City had paid to be present at the site every day and to do daily inspection reports. Mr. Irvine asked for Ms. Bucic for more information about the soil reading levels. Ms. Bucic stated that anything over 100 is considered more than background for an urban area and that 100-300 is elevated. Ms. Bucic stated that the federal limit is 400 parts per million. Mr. Irvine asked if there was a correlation between the date of the sample with the lead result at 5300 and activity done at the site. Ms. Bucic stated that she was unable to correlate that because there were no soil samples done before the contamination incident. Mr. Filasky advised that the 5300 parts per million test result struck the Public Works and Water Resources Department as odd because it was so much higher than other results taken in that area. Mr. Filasky stated that there was a retest done and that the result was actually 57 parts per million. Mr. Filasky advised that there was an error in the testing that led to that 5300 number.

Mr. Irvine stated that the other soil samples did show a high level of lead, though it was hard to compare without a baseline reading. Mr. Irvine asked Ms. Bucic why she thought this could not be better managed by the City without involving DNREC. Ms. Bucic was not sure. Ms. Bucic noted that there were many different owners of water towers and no written standards. Ms. Bucic stated that without permitting, there is no way to find information. She cited the example of the water tower next to her house which is owned by Suez. She shared that she had been having issues getting information from Suez. Ms. Bucic also noted that the State is not aware of projects or overseeing them.

Mr. Horner asked if there was a proper practice for the way that the contractors should be removing the paint to avoid contamination. Mr. Filasky advised that there was containment when the Windy Hills project was being done but high winds had come in unexpectedly and the containment was dropped to avoid damage to the tank. Mr. Filasky noted that work was not done when high wind was in the forecast, but on this particular day it was unexpected. Mr. Filasky advised that there are standards for protective coatings (SFPC) which was created by the inspection agency. Mr. Filasky advised that this inspection agency comes out and inspects the projects, gives recommendations to the city and does testing. Mr. Filasky advised that contractors are required to follow the SFPC guidelines, however it is not regulated by the state only by federal regulations. Mr. Irvine noted that the city has the power to write provisions into the contract. Mr. Filasky affirmed they did. Mr. Irvine felt that the public notice was an issue. Mr. Irvine asked if Ms. Bucic was arguing for a greater number of people being informed about a project. Ms. Bucic answered that she was and that she also wanted people to be informed about the possible health implications with regards to lead. Ms. Bucic stated that it was not apparent when one looked at the notice that there were going to be hazardous materials being handled.

Mr. Irvine asked Mr. Filasky to explain more about the contractual mechanism, specifically when a project could be suspended for noncompliance. Mr. Filasky stated that in the case of the breach of containment for the Windy Hills project, the remedy was to have the contractors fix the situation. Mr. Filasky stated that contractually the city is able to make sure that the contractor fixes the problem and to make sure it does not

happen again. Mr. Irvine noted that public notice is not covered under the contract. Mr. Filasky advised that was correct and that the city does all the notification for projects. Mr. Irvine asked if it was possible to expand the number of people that are informed about projects. Mr. Filasky advised they were happy to make those changes. Mr. Irvine asked about adding the potential of health concerns to the notice. Mr. Filasky felt that the hype for these concerns may be worse than the actual work being done. Mr. Filasky clarified that these concerns had not been hidden and that this had been addressed through the Capital Improvement Plan which was vetted multiple times through public hearings and that it was mentioned in the recommendation that lead paint would be removed. Mr. Irvine asked how many more tanks Newark has that will need to be repainted. Mr. Filasky advised that if there is any lead paint at all, it should be treated as if it is all lead paint. Mr. Filasky stated there were 5 tanks in 4 locations that are slated to be completed by 2021. Mr. Irvine noted that this would affect 2/3 of the electoral districts. Mr. Filasky specified that 2 towers are on the same site and another 2 are very close to each other. Mr. Filasky stated that the city was willing to work with the CAC and Ms. Bucic to improve the process as much as possible. Mr. Filasky advised that the reason they are working on these tanks is to prevent them from falling into disrepair and having lead chips fall off on their own. Mr. Irvine felt that best practices should be implemented to prevent accidents from being frequent. Mr. Filasky noted that the remaining tanks are ground standing pipes rather than an elevated bowl. Ms. Bucic stated that some of these remaining tanks are only 53 feet from residences. Ms. Bucic asked whether the family affected by the Windy Hills project was notified about health issues. Mr. Filasky was not aware but knew the City had been in contact with the owner many times. Ms. Bucic stressed that lead is a neurotoxin which can be harmful after just one exposure especially for children. Mr. Irvine asked if there had been any additions to the best practices for a pre-project and post-project soil sample. Mr. Filasky advised that any forthcoming tanks with lead will be put under this requirement.

Mr. Irvine pointed out that many residents do not pay attention to the Capital Improvement Plan, but would pay attention to a notice delivered to their home. Mr. Filasky advised that they were discussing best practices with DNREC in regards to this. Mr. Prasad asked if these notices were mailed to homeowners. Mr. Filasky advised they are hand delivered. Mr. Irvine asked the committee how they felt about submitting a recommendation to Council. Mr. Prasad felt that at a minimum, the CAC should convey the concerns addressed by Ms. Bucic and ask that best practices be followed and every effort be taken to inform residents of the dangers. Mr. Wessells felt that the CAC should push for state regulation to protect residents outside of Newark who may be affected by these projects. Mr. McDowell agreed with Mr. Wessells that state regulation was preferable. Mr. McDowell also pointed out that the City of Newark can do more to make their practices better and "ahead of the curve". Mr. Horner was concerned that they were opening a can of worms. Mr. Horner felt that there should be regulations for lead paint but was worried about all the other projects that the city works on. Ms. Hazelwood felt that there should a short-term and a long-term solution. Ms. Hazelwood suggested that a short-term solution would be notifying residents in the surrounding area. In the long-term, Ms. Hazelwood agreed with Mr. Horner. Ms. Hazelwood felt that it would be difficult to get projects through. Mr. Filasky stated that these tanks would be lead-free within about 5 years. Mr. Filasky felt it would not be an issue long-term. Ms. Hazelwood asked if there were regulations for this in other states. Ms. Bucic advised there were and noted that she had brought research about this to the last meeting. Ms. Bucic summarized the policies of some other states. There was some discussion between the committee members and a final recommendation was decided upon (see attached to minutes).

Mr. Irvine asked if there were other structures, such as bridges, in the city that contained lead paint. Mr. Filasky advised that the city does not own most of the bridges but that there are some small parks bridges that may have lead paint. Mr. Filasky advised that most of those small bridges are just getting taken out and replaced. Ms. Bucic noted that the lead ban is only for indoors, not outdoor structures.

MOTION BY MR. WESSELLS, SECONDED BY MR. PRASAD TO APPROVE THE RECOMMENDATION AS PRESENTED.

MOTION PASSED UNANIMOUSLY.

3. GREEN ENERGY FUND/ ENERGY EFFICIENCY PROGRAM UPDATES

Mr. Irvine stated that at the last meeting, the CAC spoke about the need to rewrite the Green Energy Fund incentive related to residential projects. Mr. Irvine advised that Mr. Horner and Mr. Prasad had drafted a recommendation which was presented to the committee and submitted into the record. Mr. Prasad advised that he had worked with Scott Lynch to develop the new incentive details. Mr. Prasad reminded the committee that Mr. Lynch had attended the April meeting and strongly suggested that the CAC change their incentive details because they were too generous. Mr. Prasad stated, on Mr. Lynch's suggestion, they had changed the coverage of initial PV project costs from 1/3 to 50 cents per watt for the first 5 kilowatts and 20 cents per watt beyond 5 kilowatts with a maximum grant of \$3500. Mr. Prasad noted that this was the same for both residential and non-residential customers, though for non-profits it is slightly higher per watt. Mr. Prasad advised that for wind and fuel cells, Mr. Lynch stated that there has not been a single fuel cell or wind application in the history of the program. Mr. Prasad felt that the CAC should not preclude future applications in these areas, so the payout for these programs was reduced to \$3500. Mr. Prasad advised that for geothermal and solar hot water, the incentives were made consistent with state incentives. They also followed Mr. Lynch's suggestion and removed non-residential and non-profit from geothermal and solar.

Mr. Irvine asked if the previous incentives mentioned non-profits. Mr. Prasad answered they had not and that they had added the distinction between non-residential and non-profits on the advice of Mr. Lynch. Mr. Irvine clarified that this was just for the first trifurcation. Mr. Prasad advised that was correct. Mr. Irvine asked if there was any reason the incentives should be more generous than the states' incentives. Mr. Prasad stated that Mr. Lynch's recommendation was to offer no incentive whatsoever because PV costs have come down so much but Mr. Prasad felt that was too drastic.

MOTION BY MR. WESSELLS, SECONDED BY MR. HORNER TO APPROVE THE RECOMMENDATION AS PRESENTED.

MOTION PASSED UNANIMOUSLY.

4. GREEN ENERGY DASHBOARD PROJECT UPDATE

Mr. Irvine asked whether Ms. Schiano had a chance to speak with Ms. Bensley about the possibility of an intern being brought on to work on the Green Energy Dashboard. Ms. Schiano advised that she would ask around. Mr. Irvine wanted to get the statistics on what the CAC has accomplished out there and visible for residents to see.

5. REVIEW OF PLANNING/DEVELOPMENT REPORTS

There were no comments.

6. OLD/NEW BUSINESS

Mr. Wessells advised that Community Day is on September 17, 2017 and the CAC plans to have a table with

the electric light display again. Mr. Wessells was also looking to get more grocery bags and was researching getting small trees to give out. Mr. Wessells was hoping to talk to someone at DEMEC and get their ideas. Mr. Wessells stated that he had learned that the Delaware Nature Center does a water show with Red Clay Watershed; Mr. Wessells thought it may be possible to do it with the White Clay. Mr. Wessells suggested pens with the CAC name on them made out of recycled water bottles. Mr. Wessells advised they would also need an updated fact sheet listing the projects the CAC had been involved in. Mr. Irvine summarized the ideas that had been suggested at last month's meeting. There was some discussion as to which members would research certain projects. Catherine Ciferni suggested looking into Networks, which works with developmentally disabled students and prints t-shirts. Ms. Ciferni also requested that a list of what is recyclable and where items can be taken to be on display at Community Day.

Mr. McDowell shared with the board a website that showed the amount of tree canopy coverage in Delaware. Mr. McDowell felt this site could be used as a tool to see what neighborhoods may need to be targeted for more tree growth.

7. NEXT MEETING

The next regularly scheduled meeting is July 11, 2017.

8. ADJOURNMENT

The meeting was adjourned at 8:37 p.m.

Tara Schiano
Deputy City Secretary

TAS/sjc



CITY OF NEWARK
DELAWARE

TO: Mayor & Council

FROM: Conservation Advisory Commission

SUBJECT: Best Practices Recommendation

DATE: June 13, 2017

The CAC recommends to City Council that it refurbish the City's water tanks using best practices related to but not exclusive of: (1) an expanded radius for public notices around the water tank; 2) informing the public about the dangers of lead exposure; 3) pre, during, and post refurbishment-soil testing for lead and other appropriate toxins to establish baselines; 4) continuing to use existing engineering project standards delineated in the contracts, and 5) continue to use the City contracts with the hired contractors to ensure safe and healthy refurbishment practices, etc.

Secondly, the CAC recommends to the City Council it support efforts for DNREC to take on the regulation of water tower refurbishment in the state to ensure protection of public health.

George Irvine, Chair
Conservation Advisory Commission

cc: Tom Coleman, Acting City Manager
Tim Filasky, Acting Public Works & Water Resources Manager