

**TOWN OF SOMERS
SOMERSVILLE MILL STRATEGIC PLANNING AD HOC COMMITTEE
MEETING MINUTES
Tuesday, July 14, 2015
7:00pm
Selectmen's Conference Room
Town Hall**

Call to Order:

Chairman Tim Keeney called the meeting to order at 7:03pm.

Members Present:

Members present included Chairman Tim Keeney, Vice Chairman Brad Pellissier and Members Erik Ness and Ralph Williams. Member Tim Potrikus was not available. Also present were First Selectman Lisa Pellegrini (recording), DECD Deputy Commissioner Tim Sullivan and DEEP Brownfield Coordinator Mark Lewis and two interested residents.

Approval of Minutes:

July 7, 2015 Meeting Minutes:

At this time Chairman Keeney addresses Approval of Minutes and requests the July 7th Minutes be revised to state the full and official name of a prior owner of the mill from "Trustee of Maria Orosz" to "Orosz Maria, Trustee of the HLM 2008 Trust". He also requested that a reference made by one of the attorneys be included in the minutes. That reference includes "The liability of the Town due to the mill's attractive nuisance factor is relatively low as the fence is maintained".

Mr. Williams makes a motion to approve the minutes of July 7th, 2015 meeting as amended above, seconded by Vice Chairman Pellissier. Motion passed 4-0.

July 9, 2015 Meeting Minutes:

Mr. Pellissier made a motion to approve the July 9th, 2015 meeting minutes, seconded by Mr. Williams. Motion passed 4-0.

Discussion with representatives from the Connecticut Department of Economic and Community Development (DECD) and the Connecticut Department of Energy and Environmental Protection (DEEP) re brownfield cleanup legislation and programs, funding sources, municipal liability and reuse potential:

DECD Deputy Commissioner Tim Sullivan and DEEP Brownfield Coordinator Mark Lewis were introduced to the group and Deputy Commissioner Sullivan began the meeting by thanking the Town for putting together the Committee. He says there are various programs available that may be helpful to the Town. He also says the Somersville Mill project nicely fits as an example of the type of remediation project the State had in mind when it made policy changes and funding commitments to the Brownfield Program. Once the community decides what path to take the State has both the financial and technical resources to help the Town.

As an overview, Deputy Commissioner Sullivan stated the State had over the last several years invested \$138,000,000 for Brownfield funding and has just announced an additional \$40,000,000 that will be available during the next two years. He stated Somers is proceeding in the right direction.

Grant funding of \$4,000,000 per site is available for sites that are Town owned. Mr. Pellissier asked if that is straight funding or a matching grant. The answer was straight funding. Mr. Ness asked about scoring and how is that determined. Deputy Commissioner Sullivan said the State looks at what the site is to be used for. What will bring it back to a productive reuse, for example jobs, housing, development filling imminent needs such as a grocery store where there is much need for one, etc. Low interest flexible loans of \$4,000,000 per site are also available to private party developers. Such loans may be forgiven in certain circumstances.

There will be a call for applications for funding in September and then again in the Spring. It would be advantageous for the Town to know the environmental aspects of the site as it makes for a stronger grant application.

Deputy Commissioner Williams asked if grants would include the removal of the brick and steel rubble. The response was yes. Grants do not cover construction. However, the grants would cover parking lots that cap hazards. Loans are processed more quickly than grants, with grants taking around 3 months to process.

Deputy Commissioner Williams turned the meeting over to Mr. Lewis. Mr. Lewis began by mentioning that the EPA had developed a prepared workbook to assist cities and towns in navigating through the brownfield remediation process. He acknowledged that Ms. Pellegrini had participated in the BETA testing of the workbook with DEEP.

A Connecticut Brownfields Liability Relief Programs Sheet was distributed by Mr. Lewis. Mr. Lewis then went through the various programs that provide municipal liability relief such as Municipal Brownfields Liability Relief (CGS Section 22a-133ii), Brownfield Remediation and Revitalization Program (CGS Section 32-769) and Abandoned Brownfield Cleanup Program (CGS Section 32-768).

The group began lengthy discussion as to the programs available.

With regard to Municipal Brownfields Liability Relief (CGS Section 22a-133ii), it is recommended that towns apply for this pre-purchase of the brownfield as it cannot be applied for retroactively. A key requirement is that the town would not be required to fully investigate or cleanup the brownfield but must be good stewards. In signing up for this the town doesn't necessarily have to take ownership of the property. There is no fee to apply. Chairman Keeney asked when would the town apply for this if results of Phase II are not available. The answer was it is best to wait to obtain the results first. Vice Chairman Pellissier asked when would a town be able to acquire a property once accepted in the program. The answer was at any time- the next day or 4 months from

now. It was mentioned that due diligence was necessary in keeping current with testing before applying.

With regard to Brownfield Remediation and Revitalization Program (CGS Section 32-769), protections apply to the town and may transfer to the subsequent buyer. There is no fee for the municipality. A 5% upcharge on the unimproved land value is charged to a new buyer when acquiring site from a municipality. This functions as an insurance premium for the new buyer. An example would be if there was ground water contamination then the State would step in. It essentially protects the property owner. Mr. Ness asked what would happen if the town couldn't find a developer and keeps the site as open space. There would still be no offsite investigation required and it would still be exempt from the Transfer Act. Chairman Keeney asked what would be the likelihood of the EPA getting involved. It was mentioned that EPA is willing to cooperate with innocent parties. It is understood they are underfunded and understaffed.

With regard to the Abandoned Brownfield Cleanup Program (CGS Section 32-768), it includes a free covenant not to sue. This normally would cost 5% of the value of the land with the buildings. The town must develop a plan and schedule for a cleanup.

It was discussed that the town must own the property to obtain grants for remediation. Mr. Ness stated it would be desirable for the town to use grant money to clean up the property. Mr. Lewis also added that in some cases loans were preferred over grants as the cost to do the work is cheaper, an example being that prevailing wage would not come into play. Utilizing loans sustain historic preservation tax credits as well. Mr. Ness added that in some cases the low interest loans may be forgiven.

The grant process is competitive and a town would score higher if there is a clear development vision and a developer committed. Developers would prefer a clean site though. It would also be beneficial to send out a RFQ for development. Chairman Keeney asked when you would do this. The answer varies. Chairman Keeney then asked how you would investigate the site for development. Planning studies, housing studies, clear vision were all mentioned as answers.

Mr. Williams stated it looked as if the process would be to apply for desired liability relief, take title of the property and then apply to DECD for funding to remediate the site if the decision was made to take over the site.

Deputy Commissioner Sullivan and Mr. Lewis offered assistance in the future if there were any questions during anytime of the process.

Process Discussion and Schedule for Future Meetings:

Discussion began as to future possible guests. They include the Town Engineer and Sanitarian with Engineering Consultants from Milone & McBroom, as well as experts in Hydro Power. Chairman Keeney also talked about having meetings with adjacent property owners. Ms. Pellegrini confirmed that Attorney John Wertam is confirmed for July 21st. Members agreed the next meeting date will be on July 21st at 7pm. It is

unlikely there will be a meeting on 7/23 as two members will not be available, however that may change.

Adjournment:

Mr. Williams made a motion to adjourn the meeting at 8:33pm, seconded by Vice Chairman Pellissier. The motion passed and the meeting was adjourned.

Respectfully Submitted,

Lisa Pellegrini, Recording

Minutes are not official until accepted at a subsequent meeting.

Connecticut Brownfields Liability Relief Programs

Abandoned Brownfield Cleanup Program (CGS Section 32-768)

- For property unused/ significantly underutilized 5 years prior
- Redevelopment of regional or municipal benefit
- No obligation to investigate/ remediate off-site, must stop offsite migration
- Liability relief from state and third parties
- No fee, Property Transfer Act exempt
- Must apply prior to property acquisition
- Must enroll/ remain in DEEP voluntary remediation program (CGS Section 22a-133x or y) \$3250 fee for 133x
- Eligible for free covenant not to sue (133aa)

Brownfield Remediation and Revitalization Program (CGS Section 32-769)

- For bona fide prospective purchaser, innocent property owner or contiguous landowner
- No offsite investigation/ remediation, must stop offsite migration
- Must investigate/ remediate within site boundaries
- Liability relief from state & third party
- Fee 5% of land value (collected by DEEP Central Processing)
- No fee for municipality but new owner must pay when acquiring from municipality
- Exempt from Transfer Act

Municipal Brownfields Liability Relief (CGS Section 22a-133ii)

- Open to municipalities or development corporations that are not responsible parties
- Simple application submitted prior to acquisition
- State and third party liability relief, exempt from Transfer Act, no fee
- Not required to fully investigate or cleanup Brownfield but must be good stewards of land
- Municipality must submit plan & schedule to facilitate investigation, remediation & redevelopment

Covenants Not To Sue (CGS Section 22a-133aa)

- Available early in the process. Plan and schedule for investigation and remediation needed.
- Agreement with DEEP that releases claims related to pollution or contamination on or emanating from the property that resulted from a discharge, spillage, uncontrolled loss, seepage, or filtration on such property prior to the effective date of the covenant.
- Property must be remediated in accordance with Remediation Standard Regulations, and any environmental land use restriction necessary to comply with RSRs must be recorded on the land records and must remain in effect.
- Fee 3% of property value appraised as if not contaminated, free for municipalities.
- Transferable for qualifying new owners.

Covenants Not To Sue (CGS Section 22a-133bb)

- DEEP will not require additional remediation in the future even if the remediation standards change after the covenant is executed.
- No fee, not transferable to new owner

Third-party liability Relief (CGS Section 22a-133ee)

- A non-responsible owner is not liable except to the state and federal government for pollution that occurred or existed prior to taking title. This requires DEEP approved investigation report and remediation report (prepared by LEP)

Innocent Landowners (CGS Section 22a-452d & 452e)

- A property owner is not liable for State actions taken to contain, remove or mitigate a spill, or for an order to abate or remediate a spill or discharge issued on/ before August 1, 1990 and subject to appeal as of July 6, 1995; or any order issued after July 1, 1996.
- Due diligence is required for private landowners
- Due diligence is not required for government entities, inheritance or bequest, estate executor/ administrator

Municipal Access Liability Relief (CGS Section 22a-133dd)

Any municipality, economic development entity, or LEP may enter a property to conduct an investigation without liability if:

- Owner cannot be located, or
- Property encumbered by tax lien, or
- Notice of eminent domain filed, or
- Municipality finds investigation in public interest to determine if property should be redeveloped, or
- Municipal official determines investigation necessary to assess potential risk to health or environment.

For further information contact:

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