

NAVAL BASE CHARLESTON
RESTORATION ADVISORY BOARD MEETING MINUTES
July 11, 2000

North Charleston Meeting Hall
1077 East Montague Avenue
North Charleston, SC

RAB Members Attending

Don Harbert
Tony Hunt
Wannetta Mallette-Pratt
Henry Shepard
Dann Spariosu

Guests Attending

Paul Bergstrand	SCDHEC
Steve Best	Community
Mike Danielsen	SCDHEC
Bobby Dearhart	EEG-SCRA
Florence Frail	Old Village Neighborhood Council
Keith Johns	EnSafe Inc.
Mansour Malik	SCDHEC
Mihir Mehta	SCDHEC
Joni Rennhack	Community
Kevin Tunstall	EEG, INC.

Tony Hunt brought the meeting to order at 6:05 p.m.

Administrative Remarks

Tony Hunt announced that Ann Clark would no longer be working with the Charleston RAB. Mr. Hunt said that Ann recently had a baby girl and has transferred to one of the district offices for South Carolina Department of Health and Environmental Control (SCDHEC), a position that requires less travel. The state will announce a federal facility liaison replacement on July 14th. Mr. Mehta and Mr. Bergstrand will facilitate any discussions for DHEC until the replacement arrives.

Mr. Hunt also announced that Henry Shepard is transferring to the headquarters liaison office.

Wannetta Mallette-Pratt advised that Ray Holt has not been receiving meeting notices. Mr. Hunt thought that Mr. Holt was not a member anymore, and Ms. Mallette-Pratt advised that he is and,

if not, he would like to be reinstated.

Subcommittee Reports

Mr. Hunt said that he and Keith Johns attended the community relations subcommittee meeting today. Fact Sheet 14, which has to do with the property transfer phases, has been updated, and revised and is scheduled to go to the printers in the next week or two. Mr. Hunt also noted that an upcoming Fact Sheet, number 15, deals with the early transfer process. This will outline all the steps that need to be done in order to obtain the early transfer authorization.

Environmental Cleanup Progress Report

RFI Completion Status

Mr. Hunt reported that additional sampling was going in the area of solid waste management unit (SWMU) 166. He did not present a full status report on the site because there was a shortage of time: the meeting hall was reserved for other community meetings beginning at 7 p.m. A more complete report will be presented at the September meeting.

Property Transfer Status

Mr. Hunt advised that early transfer of property is possible at the former Naval Base. This is from a revision of the law that requires complete cleanup in all cases before property transfer.

Mr. Hunt explained that the Department of Defense was faced with the fact that they couldn't transfer any property until the Navy completed all of the remedial action. This was a requirement of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). As a result, thousands of acres of property made available under BRAC, and intended for use by communities, were sitting idle while the Navy conducted environmental investigations and remedial actions.

However, Section 334 of the 1997 National Defense Authorization Act amended CERCLA, Section 120(H), which has to do with covenant deferral. The CERCLA covenant is a statement appended to the deed that says all the remedial steps needed to protect human health and the environment have been completed for the property in question.

The Department of Defense now has the opportunity to pursue property transfer without having to give this covenant until the remedial actions are completed. The Navy will still conduct whatever remedial actions necessary to protect human health and the environment.

In areas where contamination is limited to groundwater contamination with virtually no direct exposure to humans or the environment, and the ground surface above it is useable, there's no reason not to pursue early transfer. The benefit of early transfer is that the communities will become the property owners and therefore will be in a better position to negotiate business deals with developers. Previously, communities could only conduct business deals through leases. Many times, developers weren't interested in these kinds of temporary arrangements. With early transfer, developers can obtain capital investments with no question about the property's title.

Right now the Navy still owns this property and transfer is conducted one of three ways:

- X Economic Development Conveyance. This method transfers property to the Redevelopment Authority. The Redevelopment Authority submits a business package, the Department of Defense evaluates it, approves it and the property is transferred at no cost to the Redevelopment Authority.
- X Public Benefit Conveyance. This is used for transfers when a public entity, such as Parks or the Education Board, applies to receive the property for public benefit,
- X Direct Sale. This option is used when there's no interest from the community or other public agencies. The General Services Administration puts the property up for sale.

Another benefit of Early Transfer is it allows the property to be developed at the same time as the cleanup, and property taxes can provide a source of revenue for the community.

Mr. Hunt then outlined the early transfer process:

1. The first step is for the Redevelopment Authority to submit a letter of interest to the Navy. This sets the process in motion. The Navy must then evaluate the potential impediments, such as environmental contamination, that might preclude a transfer. The Navy then notifies the Governor's office and the U.S. Environmental Protection Agency (EPA) of its intent to proceed with the early transfer.
2. The second step is for Naval Facilities Engineering Command, Southern Division to submit a paper describing the intended early transfer to the Chief of Naval Operations and the Office of General Counsel and the Deputy Assistant Secretary of the Navy. The Assistant Secretary of the Navy has the authority to approve an early transfer.
3. Next, a Covenant Deferral Request package is prepared, based on negotiations between the Navy, Redevelopment Authority and the regulatory agencies. Once the request package has been negotiated, it is sent to the Governor's office for his/her approval. If the property is a Superfund site, approval must come from the EPA. In the case of the Naval Base, the package has gone to the Governor's office and the EPA. At this point, public notice is given and the 30-day comment period begins, advertised in the local paper. RAB members would be made aware of the public notice and that the process has begun.
4. The last step is signing the memorandum of agreement.

Mr. Hunt explained that the Navy is currently at Step Two. The Navy is preparing the request package and will soon begin negotiations with the other two agencies (Governor's office and EPA). The request has been approved by Navy headquarters.

The Covenant Deferral Request package, prepared in Step Three, consists of a cover letter requesting the referral to the Governor, and a Finding of Suitability for Early Transfer (FOSET). The FOSET contains information on any contaminated sites that represent a potential elevated risk to human health or the environment, a legal description based on a survey, description of the contamination based on RCRA and underground storage tank documents, risk analysis based on intended future land use, corrective action and maintenance requirements, the response to comments during the public comment period and any regulatory comments.

The Covenant Deferral Request package also contains the deed, notice, covenant, access clauses

and response action assurances. The assurances describe what the Navy intends to do for cleanup, when the Navy intends to do it and identify that funding is in place to accomplish the cleanup.

Once this process is complete, the property is transferred to the RDA, and the Navy proceeds with the remaining field work for the investigation and to complete the corrective action. In the case of the Naval Base, the community has even more of a guarantee. This is because the Navy has a firm, fixed price contract, which essentially commits a large part of Navy funds for remediation over the next couple of years at an accelerated schedule.

Paul Bergstrand inquired if the Covenant Deferral Request contains any land use restrictions or prohibitions on digging. Mr. Hunt said it can. Those requirements are in the negotiations phase with the Navy and DHEC. One of the conditions of the memorandum of agreement for the transfer from the Navy to the Redevelopment Authority states the Redevelopment Authority must maintain access and a control such as the Navy did. Mr. Shepard added there will be an actual deed recorded with any land use controls or any restrictive covenants.

Ms. Mallette-Pratt inquired if the package goes to the city's planning or zoning department for review. Dann Spariosu noted here that there are different ways to control reuse of the land; one of them being restrictive covenants in the deed. He said that South Carolina laws hopefully says that no matter how many times the land is resold, that the restriction still applies. He added that zoning departments can change with different administrations. Whereas, if the property itself is restricted, the public or the regulatory agencies could sue if the land use was not according to the restriction. Mr. Spariosu also commented that some states have time limits on deed restrictions. In Florida, for example, no deed restrictions can extend beyond 30 years.

Don Harbert noted that some county regulatory agencies are not funded, meaning there is no control over deed restrictions. He added that if the county has not uniformly enforced the restrictions in previous years, they can't enforce them now.

Questions

Florence Frail stated her understanding of the transfer schedule (the property was going to be turned over in June) and inquired about deadlines and the possibility of delays. Ms. Frail also asked about a lawsuit in reference to a pier. Mr. Hunt responded that the lawsuit has been withdrawn. He added that the Redevelopment Authority is doing a survey of the property to be transferred in Phase One of the Economic Development Conveyance. This is necessary to transfer the property.

Ms. Frail also inquired about the contamination by the north gate. Mr. Hunt informed her that they were looking at chlorinated groundwater contamination and whether it had migrated under the neighborhood. Mr. Hunt said that this contamination has been confined to the Navy base and migrating toward the headwaters of Noisette Creek, but not towards any residences. He noted that it hasn't reached Noisette Creek.

Ms. Frail also asked about any high rates of cancer in this section. Mr. Hunt stated that it would

be difficult for anyone to be exposed to that contamination because it is in the groundwater (in an aquifer under the ground), which is not a source of drinking water. There must be exposure for there to be risk. Mr. Hunt said that if the contaminated groundwater were to move under an occupied building, there's a potential for some gas to collect in the building's air, but that hasn't happened. A thorough investigation was done, and the results show that it is contained mostly under the Navy base property.

An audience member asked if this RAB receives information on the activities of other RABs and Redevelopment Authorities around the country, and if there is an agency that disseminates that information. Mr. Hunt answered that there are a couple of RABs, especially on the west coast, that have web pages, and they respond to any questions the public has. The Navy has a newsletter called BRAC News, which is a reflection of what everyone else is doing. Mr. Hunt will provide copies at the next meeting.

An audience member inquired what the pace of Charleston's RAB is compared to other bases. Mr. Spariosu stated Charleston is in the middle, faster than some and slower than others. In terms of economics, Charleston leads the nation in how many jobs have been created. Almost 2,000 jobs have been created from companies leasing property on the base.

An audience member wanted to know when this thing would end. Mr. Hunt said the contract is in place, and have tasked these contractors to have remedies in place by the end of calendar year 2001. They are tasked to use aggressive technology to make it happen as soon as possible.

Mihir Mehta inquired if the Economic Development Conveyance Phase One has already gone out for the second review. Mr. Hunt said it has since been sent to DHEC in its final form.

Next Meeting

The next meeting will be on Tuesday, September 12 at the same location: North Charleston Meeting Hall.

Meeting adjourned.

Minutes approved by:

Tony Hunt
Navy Co-Chair

Louis Mintz
Community Co-Chair