

**WORCESTER TOWNSHIP BOARD OF SUPERVISORS MEETING  
 WORCESTER TOWNSHIP COMMUNITY HALL  
 FAIRVIEW VILLAGE, WORCESTER, PA  
 MONDAY, JUNE 4, 2012, 9:00A.M.**

**CALL TO ORDER** by Arthur Bustard at 9:00 A.M.

**PLEDGE OF ALLEGIANCE**

**ATTENDANCE**

PRESENT:

ARTHUR C. BUSTARD [X]  
 STEPHEN C. QUIGLEY [X]  
 SUSAN G. CAUGHLAN [X]

**INFORMATIONAL ITEMS**

Chairman Bustard had no informational items.

**APPROVAL OF THE MINUTES OF APRIL 2, 2012**

Chairman Bustard commented that statements made by Planning Commission Chairman, Gordon Todd needed to be corrected.

Supervisor Caughlan moved to approve the minutes of April 2, 2012. Supervisor Quigley seconded the motion.

James Mollick, Worcester, remarked about his comments in the April 2, 2012 minutes. Lee Mangan, Township Manager, indicated he would review the audio and get back to Dr. Mollick.

Chairman Bustard called the motion and the motion passed unanimously.

**1. MANAGER'S REPORT**

**a. Subdivision & Land Development Update (current activity only)**

Tiffany Loomis, Zoning Officer, provided the Board with an update stating that the Our Farm property was toured by the Planning Commission.

**b. Zoning Hearing Board Update**

Tiffany Loomis, Zoning Officer, reported the last meeting was May 22<sup>nd</sup>. Application #12-02, 1335 Dell Road, was granted, after the applicant withdrew some requests. Application #12-03 was continued by the Zoning Hearing Board, to be heard at the next meeting, June 26, 2012.

Supervisor Quigley commented on several emails going back and forth about this application and why it was not discussed at the last public meeting of the Board of Supervisors. He indicated he has a concern with the timing and prohibiting uses now because of a possible future overlay ordinance.

**c. Moran Trail Update**

Mr. Mangan reported that a rough cut of the trail path will be cut this week. Finishing touches will then be completed by staff.

Supervisor Quigley questioned definition of trail.

In other information, Mr. Mangan reported to the Board that two changes had been made to the employee manual, related to an option for employees to opt out of health care coverage for a 50% incentive, and incorporating the existing tuition-reimbursement policy into the manual.

## **2. ENGINEER'S REPORT**

### **a. 2012 Road Improvement Project**

Joseph Nolan, Township Engineer, informed the Board that the scope of work has been provided to the Board for review. The Township's roadmaster and engineer collaborated on the list of priorities, with a total projected cost of \$364,000. The proposed work related to Fawn Road will come from separate funds.

Supervisor Caughlan asked about the portion of Mill Road between Merrybrook and Kriebel Mill Road.

Mr. Nolan reported that much of the proposed work for 2012 included drainage repairs to minimize additional road damage in the future.

Supervisor Caughlan moved to advertise the 2012 Road Improvement Project. Supervisor Quigley seconded the motion.

James Mollick inquired about advertising procedures, a previous Right to Know request he submitted, and road repairs related to drainage problems.

Mr. Mangan reported that the roads selected for the 2012 project as the preferred roads chosen by the Township Engineer and Roadmaster. None of them have been resurfaced within the last 3-5 years.

Maeve Vogan, Worcester, asked about North Wales Road paving citing the construction vehicles in the area due to the turnpike widening.

Chairman Bustard called the motion and the motion passed unanimously.

### **b. Valley Green Sanitary Sewer Project**

Joseph Nolan, Township Engineer, informed the Board that this report was generated as a result of a meeting with DEP. The Valley Green Wastewater Treatment Plant was constructed of steel in the 1970s, expanded in 1988 and 1993, with a total capacity of 230,000 gallons per day. The original plant is no longer functional, and DEP requested that it be put back on line or reduce the permit capacity. The township must upgrade the plant to meet the current standards and keep the current capacity for future development.

Chairman Bustard remarked that this proposed work would bring the township into compliance with DEP, and noted that the Berwick Place Wastewater Treatment plant is in similar condition.

Supervisor Quigley asked about standard use, the bid process, how long planning will take, and will it meet DEP's timetable.

Mr. Nolan replied that it will take about 2-3 years.

Supervisor Caughlan commented that it is two separate projects, upgrade of plant and extend area of coverage. She asked if we can require developers to pay for upgrades.

Chairman Bustard said the proposal is for \$1.7 million.

Mr. Mangan indicated that there are two options. The project can be financed and charged to the 850 users or an inter-fund transfer from the General Fund to the Wastewater Fund to be repaid later which would eliminate financing charges.

Supervisor Quigley commented on the sewer project in Fairview Village causing many residents to be upset that the Township paid for installation and that the property owners have benefitted when the house is sold.

Mr. Nolan asked the Board for authorization to proceed with negotiations with DEP.

Mr. Nolan noted that the 537 Plan needs to be revised and DEP wants revised scope of work, which would include revising the 537 Plan. DEP also requested a schedule and time frame with the plan.

Supervisor Quigley remarked that expanding sewer lines invites development.

Susan Caughlan made a motion to authorize CKS Engineers to update the 2006 study with the Palmer tract included, Berwick Place future needs to be reviewed and consideration to the Cedars Ordinance. Supervisor Quigley seconded.

James Mollick requested an explanation of the proposed inter fund transfer.

Maeve Vogan remarked that this topic should be discussed at a night time meeting noting that it will cost residents a lot of money and has been delayed for many years.

Steve Quigley remarked about new sand mounds that have been required by the Health Department for many residents costing over \$45,000.

Chairman Bustard called the motion and the motion passed unanimously.

#### **c. Mount Kirk Pedestrian Bridge update**

Mr. Nolan reported that the bridge was installed, is functioning and looks good. He complimented the public works department.

Supervisor Quigley asked about the paint, and if it was designed to look that way.

### **3. SOLICITOR'S REPORT**

James Garrity, Township Solicitor, had no report.

### **4. OTHER BUSINESS**

None

**5. PUBLIC COMMENTS**

Maeve Vogan asked about the Heyser Zoning Hearing Board application, and why the two buildings are not zoned the same. She further asked about employee benefits and why an incentive was being offered to opt out. Mr. Mangan replied that it would save the Township money.

James Mollick asked about email communication between the solicitor and supervisors. He continued by reading an email from Mr. Garrity related to attorney-client privilege, and who authorized Mr. Garrity to express an opinion, costing the Township more money.

Oliver Smith, Worcester, commented that the Board should preserve the Palmer property, referencing that 80% of voters in Worcester supported open space.

John Heyser, Worcester, thanked the Board for causing problems over a barn.

Tiffany Loomis, Zoning Officer, asked if she could have the solicitor review the Zoning Hearing Board's application with Mr. Heyser.

Supervisor Quigley asked if it was appropriate for the Board to discuss a zoning application before the Zoning Hearing Board. Supervisor Caughlan said the application seemed broad and he wants all uses but restaurants and funeral homes. Mr. Heyser said he will request the use of office space and personal services only.

Mr. Garrity commented that will require an amendment to his application.

**ADJOURNMENT**

**There being no further business or comments from the public, Chairman Bustard adjourned the meeting at 10:40AM.**

**Respectfully submitted:**

  
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F. Lee Mangan, Secretary

WORCESTER TOWNSHIP  
 WORCESTER TOWNSHIP BOARD OF SUPERVISORS  
 WORCESTER VOLUNTEER FIRE DEPARTMENT  
 WORCESTER, PA  
 WEDNESDAY JUNE 20, 2012 - 7:30 P.M.

**CALL TO ORDER** by Chairman Bustard at 7:30 p.m.

**PLEDGE OF ALLEGIANCE**

**ATTENDANCE:**

PRESENT:

ARTHUR C. BUSTARD [X]

STEPHEN C. QUIGLEY [X]

SUSAN G. CAUGHLAN [X]

**INFORMATIONAL ITEMS:**

Chairman Bustard thanked the Worcester Volunteer Fire Department for allowing the Board to hold the meeting in their air conditioned facility.

The Board of Supervisors and residents heard a presentation from Mr. Nolan, Township Engineer, regarding a cost analysis of the Wastewater Treatment facilities. Further details will be presented at the July 18, 2012 meeting.

Supervisor Caughlan announced that Paul Steuer, an Eagle Scout candidate, has completed a loop trail through the woods at Heyser Field. Signage will be installed later. She thanked Cedar Ridge Nursery for donating the wood chips.

Chairman Bustard informed the residents that Worcester Township recently received a PECO Green Region Grant Award. This money will be used to offset costs of the Moran Trail.

**US Army Reserve Base Report: Manko, Gold, Katcher & Fox**

Chairman Bustard introduced Joseph Manko, Esquire, & Matthew Sullivan, Esquire, of the law firm of Manko, Gold, and Katcher & Fox of Philadelphia. They made a lengthy presentation based on their engagement by the Board of Supervisors on the proposed transfer of the property.

A detailed, verbatim record of their presentation is included as Appendix A.

The presentation closed at 8:30 p.m. with the Board requesting the Township Manager follow up with Manko, Gold, and Katcher & Fox by means of written correspondence requesting action from DEP.

**PUBLIC HEARING: CEDARS VILLAGE OVERLAY ORDINANCE (CONTINUED)**

Chairman Bustard opened the hearing at 8:35 p.m. and James Garrity, Township Solicitor, provided a description of the ordinance. A court reporter was present to record an official transcript of the proceedings.

John Kennedy, Professional Land Planner, was present to propose a revised ordinance. He is representing David Markel, a 73% landowner in the Cedars Village.

Marilyn Teed, Craig Schloer, Gordon Todd, Vincent Pupillo, Mark Landis, and Ciro Tornambe, all of Worcester, commented.

Supervisor Quigley inquired if the consultants reviewed the Township’s Comprehensive Plan.

The public hearing was continued indefinitely at 9:40 p.m. until the Board has time to review the input. Supervisor Quigley recommended that it be on the July agenda for discussion.

**PUBLIC HEARING: INFILTRATION TESTING ORDINANCE**

Solicitor James Garrity opened the public hearing at 9:41 p.m. and provided a description of the ordinance.

Joseph Nolan, Township Engineer, explained that this is a result of the new requirements for storm water best management practices. It involves seepage pits and infiltration standards.

Supervisor Caughlan inquired about insufficient depth of soil and how to take corrective actions.

Rick DeLello, Worcester, inquired as to what action would require compliance with the new ordinance.

William Kazimer, Worcester, commented on the depth of the facility and roof water runoff.

The hearing was closed at 9:50 p.m.

Supervisor Caughlan moved to approve Ordinance 12-236, Infiltration Testing Ordinance. Supervisor Quigley seconded the motion. Chairman Bustard called the question and the motion passed unanimously by all.

**APPROVAL OF THE MINUTES OF MAY 16, 2012**

Supervisor Caughlan moved to approve the minutes of May 16, 2012. Supervisor Quigley seconded the motion. Chairman Bustard called the question and the motion passed unanimously by all to dispense with the reading of and approve the minutes of May 16, 2012.

**TREASURER’S REPORTS**

The Treasurer’s report for May, 2012 net change on cash basis:

<b><u>May, 2012 Report:</u></b>	
General Fund	\$630,024.34
State	\$155,337.58
Capital Reserve	\$695.60

Supervisor Caughlan moved to accept the Treasurer’s Report. Supervisor Quigley seconded the motion. There were no comments from the Board. Chairman Bustard called the question and the motion passed unanimously.

**PAYMENT OF THE BILLS OF THE TOWNSHIP**

Supervisor Caughlan moved to pay the bills of the Township in the amount of \$251,717.79. Supervisor Quigley seconded the motion. Chairman Bustard called the question and the motion passed unanimously.

**MANAGER'S REPORT****Zoning Hearing Board Update**

The last meeting was May 22, 2012. Application #12-02 was granted. The next meeting is June 26, 2012 for one continued application.

**Land Development and Subdivision Update** provided by Tiffany Loomis.

Tiffany Loomis informed the Board that there were no new updates.

Manager Lee Mangan announced the construction of the Moran Trail is moving forward and should be completed by mid-July, 2012.

**ENGINEER'S REPORT**

Joseph Nolan noted that his monthly report was sent to the Township, and he would be happy to answer any questions from the Board.

Bids for the 2012 Road Improvement Project will be opened July 12, 2012 at 1:00 p.m.

**SOLICITOR'S REPORT**

Mr. Garrity had no report.

**OTHER BUSINESS**

Supervisor Quigley inquired about the status of the ordinance regulating athletic field lighting at the High School. James Garrity responded he needs authorization and guidance from the Board to draft the ordinance. Chairman Bustard commented that they are still waiting for technical information and field use guidelines.

Supervisor Caughlan commented on the sign ordinance and its need to be addressed. James Garrity responded that it is a two part ordinance and can be discussed at the work session on July 2, 2012.

**PUBLIC COMMENTS**

Mark Landis commented on the notice of changing the of location of the meeting.

Ronald Evans, Worcester, commented on the meetings of the Board of Supervisors with Methacton School District regarding the field lights.

Vince Pupillo complimented the improved Zacharias Trail and inquired about a manhole.

George Yerger, Worcester, commented on the warranty on the re-paving of roads.

Rick DeLello, commented on the length of time (three years) on development of the Cedars Village Overlay ordinance before outside professional input was received.

Maeve Vogan, Worcester, commented favorably on the presentation made by Mr. Kennedy regarding the Cedars Village overlay ordinance.

James Mollick agreed with the two prior statements regarding the professional land planner.

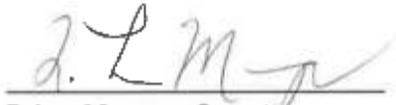
Susan Watson, Worcester, commented on the progress regarding public sewers in the Center Point Village area. Specifically, she noted concerns about failing septic systems and the possibility of falling property values.

Chairman Bustard noted that at the July, 18, 2012 meeting, an update to the Valley Green Wastewater Treatment Plant would be presented.

**ADJOURNMENT**

There being no further business brought before this Board, Chairman Bustard adjourned the regularly scheduled meeting at 1015 p.m.

Respectfully submitted:



F. Lee Mangan  
F. Lee Mangan, Secretary

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## Appendix A

### US Army Reserve Base presentation made by Joseph Manko, Esquire & Matthew Sullivan, Esquire of Manko, Gold, Katcher & Fox of Philadelphia

Mr. Manko: I must say it has been thirty five years since I was up here representing you in a curative amendment, in the barn, in the summer, with not only no air conditioning but it didn't have much of anything, and you have come a long way.

What I would like to do, I would like to have basically, for the benefit of the public who may have not had a briefing, have Matt tell you where we are, with respect to, from the beginning, what the Department of Defense has to do and what they are doing, and what they haven't done and what we have to make them do, and then take whatever questions you or the public have.

Mr. Sullivan: So Lee sent us the files that you had on this site and we looked through those files. We also have spoken with DEP, corresponded with DEP a little bit, and the basic status of the site is this: The site is one of the ones identified on the 1998 Multi-Site Agreement. That was an agreement that the Department of Defense entered with PA DEP and it establishes what they need to do to clean up the various government-owned properties around the Commonwealth, this being one of them. The ultimate end point of the process for any site is to achieve what they call a resolved status. And for a site like this where there have been certain contaminants detected in the past that means one of two things. They either get PA DEP to agree to that there is no further action required at the site or they take it through Act 2 and they get an Act 2 approval. An Act 2 approval means that they do a certain amount of site characterization and they do testing to show that they meet all of the applicable cleanup standards and they submit reports to that effect, which PA DEP would then approve. If they go that route, that would end the process. They are not there yet. They are currently still in the process of doing site characterization work, and the correspondence from DEP indicates that they are not yet satisfied with the amount of characterization done, in particular with respect to ground water. So there have been a series of reports submitted by the consultants for the government which have outlined the sampling results that have been done and each time DEP comments on them, the last iteration of that occurred in roughly February of last year. And DEP's responses to that report in particular outline the need to do ground water characterization at the site. There were certain contaminants detected in ground water back in the early to mid-90s. The subsequent ground water sampling showed lower values than were initially detected and there was at least some thought at the time that it was because of the nearby cleanup of the other North Penn site. But DEP still wants them to do further ground water characterization at this site. DEP is also looking for them to do additional sampling of a few discrete areas of the site, namely some sumps and pits that were used in prior operations by the government. And they did some sampling of the storm water ditch in front of the site and DEP questioned whether or not they had used the right values and whether they had done the right kind of sampling. So, to date, the consultants for the Army have neither resubmitted a report that addresses those comments nor have they done the additional work that would address those comments. So it is, at least from that perspective, in a holding pattern.

After we completed our review, we contacted DEP to outline a couple of other areas that we thought were worth looking at, and I think you all have our letter in front of you which outlined those areas. In addition to what DEP identified, we particularly want to see some characterization done or we think it would be appropriate to do some characterization of the silos themselves. There has been minimal sampling of the water in the silos and in particular the soil under the silos and there is a potential for impact there from prior operations. There is a prior outfall from the two sewage treatment plants that were ultimately replaced by the sand mound that's there now which used to outlet to a creek across the street. We think it would be appropriate to do some sampling of that creek and the sediments to show that there is no impact there. And there is one other storm ditch on the site which, as far as we can tell

has never been sampled. That's the one, looking at this picture (on the screen in the front of the room) is sort of in the bottom right corner. So it looks like they have done sampling of the storm ditch that comes out in the middle of the building but they have never sampled this one. And it would be appropriate to do some sampling there. We have conveyed those comments to DEP, and DEP is at this point, waiting for the Department of Defense and their contractor to take the next step.

Before this property would be transferred, as I mentioned, the Department of Defense would have to convince DEP that nothing else is required or they would have to go through the Act 2 process and get an approval. They have not done any of the steps under either of those two paths, so they haven't prepared a Finding of Suitability for Transfer which is what they would do right before they transfer the property, which would require DEP sign off, they have not initiated any of the steps to go through Act 2.

Joe spoke today with the regional counsel for Southeast Region for DEP.

Mr. Manko: Matt, in addition to being a good lawyer, is also an engineer. So, he just went over the technical aspects of what needs to be done. I just want to back up for a second and explain why Act 2 is important. Before 1995, there was no way in which you could get the state to bless a cleanup. You wind up litigating with them and something kind of a consent order. In 1995 they came out with a program that would, if you properly characterized anything that's identified as a contaminant, they would give you a standard to achieve. And once you achieved that standard, you could get protection. It is important because the protection is two types of things. Number one, the state will not ask you to do any more clean up and number two, no one else can ask you to do any more clean up. It does not protect you if somebody, a neighbor says they got cancer, things of that nature, but it's called clean up liability protection. From our standpoint, the township must get that, because if the township takes over the property, either possessing it and/or owning it, they step into strict liability which means they would end of fighting with the Corps and the Department of Defense. A. B, the standards that are promulgated really go to the use. And to the extent that the township would like to use this for park purposes they need to meet the residential use standards which are more stringent than a commercial or industrial standard. The other standards are to show no pathways of exposure but from our standpoint, and I'm saying "our", the township wants it for a park, they want to clean it, there are standards for residential use. When they signed the Multi-Site agreement, in 1998, there was attached to it, a number of sites that the Department of Defense agreed that they would take through this Act 2 process, thereby giving them the protection, and whoever got the transfer, that protection.

What I have experienced in another situation, and I will be very candid with you, is the Frankford Arsenal, which was built for the Civil War, I mean, it was a science fair in terms of what was there compared to what's here. The Corps has been kicking, screaming, dragged to clean up that site so it could be turned into some productive commercial use. Here the township would like to have the park sooner than later but I think it is our job to make sure that when they are able to take it, they take it free of any concerns from a public health safety and with a strict liability protection that they get from Act 2. So the job is to get the Corps, Department of Defense, hiring the Corps as their engineer, to meet the standards. The standard we want them to meet is a residential standard for park purposes and what they have done at this point, as Matt says, is first you have to identify the contaminants of concern then you have to put them up against the standard to see if you have to do anything. In our view, from a residential standard, they're going have to do something in terms of cleaning up ground water and soil. If they haven't sampled in every place where they should, then you don't get any protection, because you only get protection for what you identify. So when Matt is talking about site characterization, that's the first step. Once the site characterization is adequate, DEP can say ok, now give me your cleanup plan. It is our job from the township's standpoint, to make sure that DEP gets everything they can in that characterization, so nothing is left off the table. At this particular point, they haven't finished the site characterization, they haven't given the notice of intention to comply with Act 2, and, we started, I think, in March or late February, when Lee (Mangan) called us, there's email exchanges from March, no

response until April, then we get DEP to go after them. For the township to start saying, we're going to sue you, we're going to do this kind of thing, it's not on my recommendation at all. And again, it's not like you have to have the park by July 30<sup>th</sup> or the world will end. You'd like to have it clean and soon as you can. So, what we have done, we have made sure that the counsel for DEP who is in charge of this program, is very well aware of it. Now, Jim (Garrity) would know, Andy Hartzell, he happens to be a terrific lawyer and a good friend of many of the environmental lawyers. So we are dependent on Andy to get the staff people to get after the Corps and that's what we did tonight. I said we have a meeting tonight what can I tell you, he says I'm going in tomorrow morning, I can't do it right now, and get ahold of Dustin Armstrong who is a staff person and find out why the Corps hasn't responded. That is what we can do as lawyers. One thing also, which is not a law school kind of thing, is you've got state representatives, you've got congressmen, people like that, you've got to be able, at some point, when this foot dragging continues, to be able to have the Corps on the carpet to be able to explain why they're not living up to what they agreed to do in 1998. So that, one of the things that, assuming that we don't get a complete turnaround, and they get a religion and here they are, and they're doing it, is to brief your elected officials, not just yourselves, but going up as far as Congress to make sure that that gets done, because they will tell you as they have told me with the Frankford Arsenal, well we didn't get an appropriation this year, we have this, you know, we don't have the money, we don't have the staff, kind of thing. The money is the money and the staff is they go out for consultants and the consultants are dying to do the work but they're not going to do the work unless they're paid and they're not going to do it unless the Corps says this is what has to be done. So we basically have to go after and make that wheel squeak. And I think we've tried to explain the process. If they were going to do this ASAP, we could probably get this thing wrapped up this year. But it's just, you look at the emails, and what happened in the month when they never got back to you? So we've got to get the pressure up on them and I think at this point if you've got questions about the procedure or where we are or what's missing, etcetera, we're here to answer them and if you want to take comments from anybody, it's up to you.

Chairman Bustard: You talked about characterization of the site, ok, and it's a terminology that I'm not all that familiar with so you expanded on it, told me that that's where they test.

Mr. Manko: It's an investigation. Any area of possible concern, they've got to test.

Chairman Bustard: OK, who determines what's an area of possible concern? Do we have any way to go in there and say hey this was here 30 years ago, are you testing that? Are you testing that? Do we identify that? Does DEP identify that?

Mr. Manko: Both.

Mr. Sullivan: It's them and DEP. Them, being the government and DEP but we've also now pushed to say, hey don't forget about these other areas, places you should be looking as well.

Chairman Bustard: You identified like 6 or 7 different items here in areas that you were talking about and you made the point in this that you've seen this in the past where the silos have problems underneath them and that type of thing. Can you give me a little background on where you've seen this type of stuff and what leads you to that conclusion?

Mr. Manko: I'm going to lean on my engineer and associate here.

Mr. Sullivan: Who actually is going to lean vicariously on the technical consultants we have back in the office. We have two in-house engineers who've worked on other sites and that was one of their comments, was that they typically use the type of fuels that they used in the missiles, the solvents they used to clean them, often wound up underneath the silos, in the soils and ground water. So, if they haven't tested that, they should be testing it.

Mr. Manko: Our in-house senior engineer used to be with Westinghouse and before that was with the Department of Defense on Superfund sites so we rely on him very heavily.

Chairman Bustard: OK, I know one of the things that concerned me when we first talked about this back in 2006 and 2007 was the amount of water that was in those silos there. Apparently they filled one of them just for use as part of the fire department that they had there, was practicing, and they wanted the water available. I was informed at that time that they have to take all of the water out of there and test it and everything. They haven't done any of that then, because there is still water in there.

Mr. Sullivan: There is still water. Lee (Mangan) and I actually did a site visit, and Julie (Lanzillo) a couple of months ago and we met the building manager and did a walk through and actually went to the silos, and yeah, one of them is still shown as totally full of water and the other two, when we opened the hatch to look, certainly had water in them.

Mr. Manko: I have had experience with a municipality in Bucks County where they actually took contaminated ground water, they put it up in a water tank for the fire department to use and we said to them all you're going to do is spread it all over the place. Don't do that.

Chairman Bustard: OK, the other thing is I know when we walked through the building there, we were concerned about the lead-based paint, the asbestos and everything else that we saw in there. They were telling the fact that they took the fire range out so there was no lead poisoning available and that, but...

Mr. Manko: I'm glad you said that, Art because the Act 2 is for soil and ground water. It doesn't cover the interior kinds of contaminants so it really would be up to us, in other words we can get the department to say well it might be violating this law or that law but it's not part of the Act 2. So if they were to do everything they needed to do under Act 2 and left that kind of area to be done, we would say we're not going to take it until you do this, and in fact, we'll go to the EPA and say, hey, you know, they've got lead paint. In other words, if they're violating any law it's easy. If not, we're not going to get it through Act 2, so we're going to have to negotiate.

Chairman Bustard: OK, now it was my understanding that when they had the base decommissioning act that went through it did say in there that it had to be environmentally clean. Is that incorrect? Was that not in that Act? It was in this separate 1998 Cooperative Agreement?

Mr. Manko: It wouldn't be in the Multi-Site Agreement.

Chairman Bustard: OK. But it wasn't in the BRAC Act that was closing these.

Mr. Sullivan: It says in the Multi-Site Agreement that you have to achieve a resolved status. A resolved status basically means clean. It doesn't mean that there's nothing there but it means that you would meet the Act 2 standards.

Chairman Bustard: For the sake of argument, we get a characterization of the entire place there, based on what we know and we find out 10 years down the road that there's one pit over there for some reason that has a lot of contamination in there, is going to cause problems. Who is liable to clean that up?

Mr. Manko: I thought you might ask something like that. What happens if you don't identify every contaminant? To the extent that you wind up negotiating with them for the takeover, I would make sure that you except from any kind of release from them anything that is subsequently found.

Chairman Bustard: OK, so in other words they're responsible for anything.

Mr. Manko: That's sort of like the suspenders. Right now, for the first protection is for us to be able to come up with every possible area that there could be from the prior use so to make DEP make them do that testing.

Mr. Sullivan: And, under Superfund, under CERCLA, they're going to remain liable for any contamination that's out there that they caused. They own that liability. The issue becomes how do you prove it?

Mr. Bustard: I was just going to say they own the liability. Have you ever seen an instance where they have been successfully remediated after it's been found 10 years ago and they have given away all of this stuff? In other words, have you ever been able to get back and get the federal government to do anything with it?

Mr. Manko: Yes. The other site that I have, this Frankford Arsenal, the client, when they bought it, long before I ever met them, basically was required to release the Army. Well that release doesn't stand up when you have a one-sided negotiation. In other words, the liability can be joint and severable, but what we want to make sure is the township isn't part of the joint liability. They will never get out from their liability for anything they may miss. And then when they comply with Act 2 it basically satisfies the state. OK?

Chairman Bustard: I guess what I am trying to find out is can a township go to the federal government and say you've got to clean that up by next year?

Mr. Manko: Well, they can say it.

Chairman Bustard: Basically, is it going to be a long legal battle to do something like that or are they going to recognize it?

Mr. Manko: The Department of Defense is not exempt from lawsuits. Most of the worst sites in America are former energy and defense sites.

Mr. Sullivan: And it just highlights the need to make sure that they fully and properly characterize the site. That's where we are now, is making sure that they go out and do all of the testing they need to do, to the greatest degree of certainty you can achieve, identifying anything that's out there now.

Mr. Manko: If it's not clear, the BRAC requirements are federal requirements. Act 2 goes well beyond those, into soil and ground water. So, when they signed onto that, it was "aha."

Chairman Bustard: OK, and when they were telling us 2 years ago that they were doing an environmental assessment, they were not characterizing the site, they were talking to the neighbors about what the traffic would be, I take.

Mr. Manko: That's some assessment!

Ms. Caughlan: That's NEPA. That's different.

Chairman Bustard: So I misunderstood what they were talking about the environmental assessment, because they have not done it then.

Mr. Manko: It's inadequate what they have done so far.

Chairman Bustard: OK, alright, any questions, Steve?

Mr. Quigley: Let Susan go.

Ms. Caughlan: Going back to Act 2, how does that interface with off-site ground water testing? Because I know that Act 2 requires on-site and that they are supposed to test to be sure that there is not off-site migration. You know how they propose to test? Will they actually test off-site properties?

Mr. Manko: DEP can get them to do so if in fact you can show that the ground water flow is taking a contaminant off-site.

Mr. Sullivan: DEP has already asked them to do so.

Ms. Caughlan: To do off sites?

Mr. Sullivan: Part of their 2011, the last set of comments they sent to the Department of Defense's contractor, was saying you need to characterize ground water and part of that characterization we want you to sample wells within a quarter-mile.

Mr. Manko: And that's for ground water, but as Matt indicated from the sediment standpoint of the creek where the discharge took place, that's off-site too.

Ms. Caughlan: Exactly. Not necessarily potable but it could filter down into potable. Because if they adequately characterize on-site and there are limited exposure paths on that location because the township obviously is never going to dig it up for any reason, I think that DEP would probably require deed restrictions even under Act 2, do you think... That there would be no soil disturbance?

Mr. Manko: You're mixing a couple things up. I think to the extent you have off-site wells, they should be sampled.

Ms. Caughlan: Oh yes, that's different.

Mr. Manko: To the extent that there is off site contamination in the soil, it would be unusual.

Ms. Caughlan: They are not required to test that, correct?

Mr. Manko: Well if you have soil contamination up to a boundary line, you can't just say, ok, that's as far as we're going to go. You'd have to show that it didn't go off site. But generally, the soil disposal is more local than where the ground water can go.

Ms. Caughlan: And the migration path is usually through the water.

Mr. Manko: Yes. And once you clean up the soil, you've eliminated the source of future ground water contamination.

Ms. Caughlan: That would be the goal, correct? So we either isolate it onsite to where there is no exposure to the public or if it migrates off site it's identified and in some way remediated before we take it.

Mr. Manko: It's still exposure to the public if it's on site.

Mr. Sullivan: And they won't get an Act 2 approval until they've done that.

Mr. Manko: The problem is, they don't care. I'll be very blunt. It's not their most important job to spend money in Worcester Township.

Ms. Caughlan: Right. Which is why we're going the route that we are and why we've asked you to step in, because we know we need those protections. We know we need the additional leverage.

Mr. Manko: And your political people need to know they are on very solid ground.

Ms. Caughlan: Could you talk a little bit more about the building. I think there is some confusion in the public when people speak of asbestos and lead, I think the public automatically thinks contamination, whereas there are some issues with asbestos and lead in place, that may not be required to be remediated, I think that we need to understand that a little better.

Mr. Manko: Friable versus non-friable.

Mr. Sullivan: There have been surveys of the building. I can't remember off hand when the last one was done, but it's probably been a good ten years since the last one was done.

Ms. Caughlan: There was one in '04.

Mr. Sullivan: '04, ok so, eight years ago they did a full building survey for asbestos, lead-based paint, and radon. There was, Art referred to earlier, there used to be a gun range in the building, and so there had been lead contamination identified with the indoor firing range but that had been cleaned up as far as we can tell from the records. So, the outstanding items would be the lead-based paint, which they identified on various doors, windows, surfaces in the building and the asbestos-containing materials and where they predominantly found those was in vinyl tiles and a couple of partitions, but they were not identifying a lot of asbestos in the pipe insulation or those kind of things. When you look at the Finding of Suitability for Transfer documents that they'll put together to transfer the site, if you look at a draft one of those, they'll often mention the lead-based paint and the asbestos and while it's not an Act 2 requirement, they're going to look to make sure that it's in a safe condition, so if the lead paint's there, that it's not peeling and chipping. If the asbestos is there it's not in a friable condition or in a condition that's at risk of exposing people.

Mr. Manko: We get down to sort of the short strokes with those kinds of things, to the extent that it's not disturbed but it's not friable, like the vinyl floor, if you take up the vinyl floor, you have to handle it as asbestos-containing material. What you need to do if we're going to wind up taking it over otherwise and occupying it in any way, is to have an inspection maintenance plan so that you watch that it doesn't ever get in a position where it could become friable. They're not going to say, ok we'll stay on the hook for that but I would basically try to negotiate some type of a fund with which you could have somebody do that kind of work.

Ms. Caughlan: Do you think we could do that?

Mr. Manko: We can ask for anything and if it's reasonable, well, when I said short strokes, right now we've got big areas of soil contamination that they say, oh, where? So I mean, we get down to that, yes, that's the kind of thing you can do. And worse comes to worse, if you wind up getting everything else done, you just make sure it's just another building, it's like any other building.

Mr. Quigley: I have a few questions. I guess the first thing is, when you said about being a superfund type site, I see it more as a sinking fund site. I'm just making the correlation we're going to sink a lot of funds into this building before we're all said and done. You talked about all of the restrictions and the

problems you found in the research you did. I think you summed it up, this place in Worcester is pretty far down probably on the list of the sites that the government has. Do you have any idea how many actual sites the government's trying to give over to different municipalities or trying to unload? Hundreds? Thousands?

Mr. Manko: Steve, there aren't a lot of municipalities that want these sites. So I think it's a bit unusual for you to be in that position.

Chairman Bustard: But they're unloading thousands of them.

Mr. Manko. Oh yeah, they want to get out as fast as they can.

Mr. Quigley: So, when you say they're unloading thousands of them, once again, the Frankford Arsenal, I remember that, as a kid, when they tried to unload that, and still there are problems. I'm just worried, once again, the pecking order, where Worcester is on this small, less than 20-acre site compared to these major sites throughout the country.

Mr. Manko: They've started it. They're obligated to do it. You're not going to spend a lot of money on our law firm. Our job is to make sure that DEP does its job in enforcing the agreement that they got them to sign. And we just have to make it such that, in other words, if they hadn't started the thing and they said, ah, we'll get to that when we get to that, it's one thing. They're in the process of doing it. They're just going to do what anybody else who wants to get rid of something does, they're going to do as little as they can. And we just have to make sure that DEP will keep after them and we will tell them what needs to be. Now if DEP says, no, Matt, that's unreasonable, they asked for it, then we have a problem with DEP. We haven't had that.

Mr. Quigley: Right. I think the other concern that I would have is that you mentioned about there are certain requirements that they have to fix. There are some other things that don't fall under that umbrella that the residents could really come back against the township in the future with recourse and how do we really protect ourselves with that and I guess to just sum it up I could go for 15 or 20 minutes with some of the questions I have but as you said that there's a lot of problems with the site, not many municipalities want to take on a project like this. A lot of times it's individuals or corporations, the O'Neill's of the world willing to clean these sites up but that's all I have.

Chairman Bustard: You know, whether we take it or somebody else takes it, it still has to be cleaned up. Like I said, we have to make sure.

Mr. Manko: It's just a question of how clean is clean.

Mr. Bustard: Well, how clean is clean?

Mr. Sullivan: And not by you. That's the ultimate goal.

Mr. Bustard: I understand. But it has to be done, ok, otherwise it is going to impact the residents around there.

Mr. Manko: The transfer of the Frankford Arsenal was in 1981. I'm still working on it.

Mr. Sullivan: They haven't found big pockets of contamination here that need to be cleaned up either. We're still in the characterization stage of making sure that there is no...

Chairman Bustard: But from reading your report there is concern about water, you know, contaminated water migrating off the facility.

Mr. Manko: Just as you're concerned that you are low on the list of squeaky wheel this is also not a major site compared to some of the others things, which, I mean I was telling Susan before, we've got unexploded ordinances from the Civil War in the Frankford Arsenal they were finding, and stuff like that.

Mr. Quigley: Well, you made mention about, Art just said, about not a lot of, maybe, contaminants there. They haven't even done the basic thing. We've all been through those missile silos and the water is there. I mean if they weren't even smart enough to take a water sample out of those silos, you know, where does it start and where does it stop?

Mr. Manko: It's not a question of smart. They just didn't want to spend the money.

Mr. Quigley: It's the government, I know.

Mr. Bustard: But, no matter what happens, it might be sitting there for 30 years but sooner or later they're going to have to clean it up.

Mr. Manko: Act 2 covers the water, it covers the soil but the asbestos and the lead is outside of Act 2.

Chairman Bustard: What worries me a little bit now is that we've got, you know, contaminants in the storm water that's leeching out there all the time now. So I've got a problem with the neighbors around there having problems with environmental contamination coming through their properties as a result of this not getting cleaned up now.

Mr. Manko: Again, Art, if any of them are on wells, those wells need to be sampled. Because that gives us proof. You just match the fingerprint that where did it get there, this does not naturally occur. This isn't a fracking situation, with shale, but this is one where it's got to be for them.

Mr. Quigley: The residents incur that cost if they wish to do that? They should have their wells tested?

Mr. Manko: No. What I am saying is that that should be part of the requirement that if we can show that the ground water contamination doesn't stop at the property line but the flow is naturally there, they have to go do that.

Mr. Sullivan: And that's what DEP told them to do is you need to see whether or not there's ground water contamination.

Mr. Manko: They have to do the sampling.

Mr. Quigley: It's on the residents to do the sampling?

Mr. Manko. No.

Mr. Bustard: It's on DEP

Mr. Quigley: But DEP is not doing it. But if you wait for DEP to do it and maybe 2 years, 4 years, 5 years before they do it, in the meantime, a resident's sitting there and all this stuff is leeching into their water system they don't know that, so if they wait for DEP to come in, as you said, they're not even answering

your emails. If I was a homeowner there, I had children, or even my wife, I'd be concerned about the water.

Mr. Manko: if I was on well water, and right near the site, I probably would spend a couple of bucks to take a sample.

Ms. Caughlan: Or just filter your water.

Mr. Manko: Yeah, but I would sample it first before you spend the money for the filter. And anything you find out, give it to Lee (Mangan) and he'll get it to us.

Chairman Bustard: But from your contacts with DEP, you're getting the feeling that they are starting to move and push the Department of the Defense to get some of this stuff done?

Mr. Manko: Relying on the relationship we have with DEP which Jim (Garrity) can tell you is a pretty good relationship. One. Number two, the director who I've been working with for thirty-some years is retiring July 7<sup>th</sup>. There is a new regional director. We met with him Monday and he said would you please come to me and tell me what problems you're working on and how I can get them resolved and this is on that list.

Ms. Caughlan: It's been asked occasionally what would happen, what would the scenario be if a private party had taken this site or was on the list to receive this site. Would it be any different in terms of what needed to be done?

Mr. Manko: No.

Ms. Caughlan: Could a private party get anything going quicker than we can?

Mr. Manko: No. It would probably be much more difficult to get something going. You people are elected to represent all of the people in this township.

Ms. Caughlan: And, in fact, could a private party, if it took the site for an industrial or residential use, they could be digging things up, they could be putting in foundations, moving soil around.

Mr. Manko: Everything that we don't want you to do, we wouldn't want them to do.

Ms. Caughlan: And everything we would agree, the township agrees we don't do, would there be any way to, for the township to restrict a private party from digging things up, putting in foundations, moving a lot of soil?

Mr. Manko: Before you pass some type of an ordinance you want to make sure that anybody who says hey, you know, government's overreacting, that you've got some good ground with this particular area that we are concerned with. I think what Steve (Quigley) said is if you're drinking water from a well and you're nearby and you've never tested it, especially if it doesn't smell quite right, or doesn't taste quite right that is something I would love to have... It's not DEP that's holding it up, it's the Corps. I'd love to have DEP pay for it, so the individual didn't but it's not a lot of money to have it sampled once and then if need be you could put a filter on. Those are, it's funny, they are the kinds of costs that are cost recovery costs which you could then ask the government to pay for but if you think the township is low on the list, I mean, that's got to be really low on the list. But any person who does that should keep a record of it in addition to giving the information over, should be a record of what it cost too, because if we ever get down across the table from the Corps, we have all these unreimbursed cost recovery

responses by people and that would be something that would be eligible if somebody had contaminated ground water and we cleaned up the well.

Ms. Caughlan: What I was concerned with, with the question about a private party taking the site is, is the township being more protective of our residents by working on taking the site if we can than if we just let it go to whatever private applicant would be approved by the Army.

Mr. Manko: I don't think you would just let it go to somebody else. You'd have the same kinds of concerns.

Ms. Caughlan: Well if the transfer had been approved for, say, a private applicant, then the township would not be involved at all. Our input from the Army was that the site is considered unzoned so I don't even know that we would have zoning authority over it.

Mr. Manko: I don't think anybody is going to want to take it over. They'd probably have to get some kind of approval and I think that would be a darn good reason to say "uh uh."

Ms. Caughlan: We're trying to look out for the interest of the residents as well as provide a public park service but given the expenses it has been asked, should the township really take this on, and one question is are we being more protective of our residents by stepping up and doing this ourselves or should we just let private industry come in and do whatever would be approved by the Army?

Mr. Manko: A, I think you are being more protective and B as I said before, other than the initial work that we did, it's really for us to try to make sure that DEP does its job. It's not like DEP doesn't have an agreement with these people. If there was no Multi-Site agreement, you'd be really pushing up hill. But because of that Agreement, you're not going to spend a lot of money for professional people. You're not going to need to have consultants come out and do that other than possibly testing a well or two that looks like it might be within the zone of danger. It's going to be low key.

Ms. Caughlan: It's been my observation that DEP in general has been on our side in terms of reviewing the Environmental Condition of Property reports and saying "uh oh, we need these five extra things tested or whatever."

Mr. Manko: Absolutely. It's true, but they've got a whole desk full of things they do. And they have had a budget cut and they had staff reduction. And Dustin Armstrong is the same guy working with the Arsenal but he's one person there and it's our job to make sure that he gets beat up on the head for not getting any response, in a nice way. But I will say this, Governor Corbett's appointments, have been very "business friendly" and I reviewed a Bill this afternoon where they're going to put 30-day and 60-day time limits on DEP to turn permits around. Unfortunately, that would not be this case but I think that there is all the more reason why they're going to be more responsive.

Mr. Bustard: Ok, good, we had a couple more questions.

Mr. Quigley: Mr. Manko, you're certainly aware of this, now's the time for me to ask the question. Is there a waiting list for people looking for these properties?

Mr. Manko: Do I know of anybody?

Mr. Quigley: Well, are they a hot commodity?

Mr. Manko: DEP, I think, still has a list of sites that are available but contaminated. They call them Brownfields. This is unusual, because you want to turn this, not only into reuse, but you want to turn it into a Greenfield.

Mr. Quigley: Right.

Ms. Caughlan: It's easier to make it into a Brownfield. Just like Chemical Road. Cover it over with macadam, put something on top of it and never disturb the soil. Make sure there's not off site ground water contamination and you're good to go.

Mr. Manko: Correct.

Mr. Bustard: You get commercial, it's a lot easier.

Mr. Manko: That would never get you to the residential standard, statewide health standard.

Ms. Caughlan: Exactly.

Mr. Quigley: But the commercial person who buys it, it's up to him to have the problems, and I guess that's, from my perspective from looking at it...

Mr. Manko: He's looking for the same clean up liability protection you're looking for. The difference is he would have a deed that says you can't do this, you can't do that. Any time they tear up the parking lot it opens up the whole question, all that kind of stuff. You want to have it so that you have no future obligations.

Mr. Quigley: I think if I was a developer I couldn't imagine personally trying to take over a site like that and investing the money in a rural area where it's got a return on investment.

Mr. Manko: I can see the headline in the local paper, you know, fool buys Nike site. I mean, you know?

Mr. Quigley: Thank you, enough said.

Mr. Vincent Pupillo, Worcester: Early in your presentation, you said something to the effect that the township, we want this to be residential grade or residential quality...

Ms. Caughlan: Standards.

Mr. Pupillo: Standard.

Mr. Manko: Because a park has to meet that standard.

Mr. Pupillo: OK. But, so if an industrial developer goes in there they don't have to meet that same standard under the Act 2?

Mr. Manko: Right. Correct.

Mr. Pupillo: So, you guys should do whatever you need to do to make sure you keep control of the situation there, because if an industrial user gets in they get off a little scot free.

Mr. Manko: The problem could arise where the Multi-Site agreement doesn't specify what standard, it just says they have to get Act 2 protection. But if the government comes in and says, we're going to clean it up but we're not going to clean it up to residential standards.

Mr. Pupillo: Well then I say the township needs to really stay on this thing.

Mr. Bustard: For what it's worth, could you give me your name and address so I have it in the...

Mr. Manko: It's a good point.

Mr. Pupillo: Vince Pupillo, Fawn Road.

Mr. Bustard: Thank you. In the back.

Ms. Vogan: Hi, I'm Maeve Vogan. I live over on Dell Road. I wanted to know, you said that there's a large field, that there's a large portion of land of the 20 acres that might be contaminated. About what percentage, or about how many acres?

Mr. Manko: I don't know that we said a large area. There are areas that haven't been looked at. Not large areas, areas where, from prior usage they should have looked at this because it may have been exposed.

Ms. Vogan: So, are you thinking of when, of what you've seen so far, are you thinking that it's going to be a half an acre, an acre, spread over the 20 acres or are you thinking it's going to be 5 acres of contamination? Just from your best judgment.

Mr. Sullivan: Off the top of my head, I'd say it's more towards the former. There are some discreet areas of the property, like the one storm water ditch where they really haven't done sampling. The ground water would be site-wide but that's not, when you talk about how big the areas of potential contamination are, I think of it in terms of the soil.

Ms. Vogan: I was only talking about the soil.

Mr. Sullivan: That's what I assumed. So there's one area in the northeast corner of the site that they really haven't looked at where they used to do some missile assembly and handling activities that they should do some sampling there. They need to clarify an area of spoils and they need to look at a ditch so altogether, it's maybe a couple of acres.

Mr. Manko: Matt came out here and went through all of the papers that Lee (Mangan) got from DEP and wrote an email to DEP, with a copy to the township, where there were 6 areas of former usage that were areas of concern and an area of concern is an area where it should be investigated. It doesn't necessarily mean that it needs to be remediated but it's got to be investigated.

Ms. Vogan: I understood that and I read the report from a few years ago or at least skimmed it. It really didn't say that there particular areas that were of concern. So thank you so much for your work.

Mr. Manko: You're welcome.

Mr. Plager: Dave Plager of Worcester. You could argue both ways to take this property or not take the property. What's really got me concerned is you're dealing with the government, the federal government and you can go through everything you want to go through and they can put things off a little bit and what really scares me is we take the property and then find out several years later there's a

major league problem which nobody knew about. But it's there. And it's always been there. And once again you go to the DOD and say give us some money to fix it up or you fix it up and all they do is "Well, we'll get back to you when we can." In the meantime, you've got a piece of property that nobody can live on or work on or stand on because there are potential problems. And if we know it and don't keep people off then we've got a significant liability.

Mr. Manko: I don't mean to differ with you but you can get on your bike and go to Norristown and that's the state and you do have the state holding the federal government responsible.

Mr. Plager: You didn't let me finish. The problem is this. Someone says you've got to pay Worcester a million dollars, whatever the number is, and they say fine, we'll get to it when we get to it and you'll be dealing years and years and years. It's not like I owe you six dollars and I write you a check. It doesn't go that way. The people you're dealing with, it's not your money they've got, it's our money and they don't have the same type of "let's fix it now because it's the right thing to do" and that's what's got me scared. It really does. And of course the other half is if we don't take it who does take it and then what?

Mr. Bustard: Are they going to clean it up then too, so?

Mr. Plager: I don't really know but I'm just saying you got to think about both ends. Neither solution sounds good to me.

Dr. Mollick: Jim Mollick, Worcester. Can we get a copy of that letter?

Mr. Garrity: I don't know what letter he's talking about.

Dr. Mollick: The letter you sent to the Supervisors.

Mr. Manko: Email?

Dr. Mollick: Or email, whatever you sent.

Mr. Manko: There's an email to the DEP. It's a public record at DEP.

Dr. Mollick: Yeah, it's not legal advice is it?

Mr. Quigley: No.

Mr. Manko: It's the 6 areas that we felt had potential...

Mr. Garrity: Even if there's legal advice, it went to a third party.

Mr. Manko: It wasn't legal advice.

Dr. Mollick: So we can get a copy of it right?

Mr. Bustard: Yeah.

Mr. Manko: Yeah. They have a copy, DEP has a copy, we have copies. It's basically the six that Matt summarized in the beginning.

Dr. Mollick: I appreciate a man of action which you seem to be and one of the problems here has been inaction for about 10 years and I've gone through the file that you went through and we see in the file,

and you probably saw it too, there's a document authored by Supervisor Caughlan where she actually marks out all the sites that are potential problems, including asbestos, including lead paint, including all the contaminated areas on the site. So I think if anybody wants to look at all the contaminated areas there's one document that has them all labeled, A, B, C, D, E, F...

Mr. Bustard: That's the ones that we have identified so far. He's pointing out that there's a lot of, that maybe we need to check somewhere else too.

Ms. Caughlan: It's probably the same ones.

Dr. Mollick: I'm making a statement. If anybody's interested to see what they are you guys have had the same document to look at as well.

Mr. Manko: Lee gave us everything.

Dr. Mollick: Right and I looked through the file as well to check it out. I think too, and I kind of agree with the gentleman back there, you know, in a way, and I don't agree, I don't think we can go ahead and buy a toxic waste site so we can control a toxic waste site so we have control of it. You know, I understand how he feels and everything else but I don't want to buy a toxic waste site just to control it. That's why we have you two guys to make sure that if we do take control, all the protection is built in so we don't get stuck with a site that the Army doesn't take care of completely now and in the future.

Mr. Manko: If I were asked the same question in my municipality I would do what this Board has done. A. B, they're never going to let anybody develop it until it's clean. First of all they don't have the right to develop it because they don't even own it and C, other than perhaps nearby wells that could be sampled just to make sure that they're not toxically contaminating their family, I don't see you putting a fence around it. People aren't there playing games and stuff like that. I assume they're not using the site in a way that could jeopardize them, other than the ground water contamination that could be in a well.

Dr. Mollick: Art, are you having people complain to you about the surrounding area, about the water or something?

Chairman Bustard: Not yet. But it worried me when I read the thing here that they wanted to check the ground water contamination and make sure that it hasn't migrated. That's what's started to get me worried in the situation because if it's contained right there then that's the Department of Defense's problem and everything else and we can work with DEP to get it remediated.

Mr. Manko: The soil is easier because it's not going to move around and it is the source of contamination. When it rains, it's going to leech out into the ground water.

Chairman Bustard: Right. So what I'm looking at is long term there could be a problem here?

Mr. Manko: And I'll be honest with you. What Andy said today was it looks like the soil will eventually be OK but they do have concerns about the ground water which in part comes from here.

Chairman Bustard: I was going to say, how does the soil change?

Mr. Manko: It means we got called in March and its 10 years old but nothing happened for nine and a half years.

Chairman Bustard: At least everything went downstream right?

Mr. Manko: Well, that's why we want to check the sediment.

Dr. Mollick: I appreciate the work that you've done. It sounds like you're doing a great job. I have two questions for you and don't take offense, this is not an offensive question, how much have we spent so far, to date, on this and how much do you anticipate it's going to cost us in the future to get your job done?

Mr. Manko: I think that what we have done, most of the time was really going through everything that happened here. I think what we need to do know is just bird dog the DEP.

Dr. Mollick: Is it going to cost, how much it is going to cost?

Mr. Manko: You tell me how long it's going to take for us to continue to bird dog DEP. I can pick up the phone like I did today and in three minutes I got a promise that's he's going to go over and talk to Dustin in the morning. So, I mean, 3/10s of an hour is not going to be a big number. I don't expect this to be a large legal bill for you.

Dr. Mollick: See, I guess my question, the reason I ask is you keep talking about this Franklin job from 1981, I mean that seems to be a lot of time and effort you're putting into that job.

Mr. Manko: Absolutely. But, I mean, this was the Civil War detention for the North.

Dr. Mollick: But you don't know Worcester. We've got our own Civil War here. Ask Mr. Garrity. He's got a shore house from the civil war. I have one more question. At this point, what do you see the plan going forward? Is there a plan going forward?

Mr. Manko: The plan going forward is to get the DEP to get the Corps to be responsive.

Chairman Bustard: I need to know what's going to happen environmentally down there before we do anything, ok, so I've got to find out if DEP's going to get the Department of Defense moving forward to get us that information. I've made a point that I'm not taking this until I'm sure it's clean.

Dr. Mollick: And you know what, I agree with you 100%.

Chairman Bustard: So, but the problem is I can't make a decision until I know what's going to be done and once I know what's going to be done...

Mr. Manko: I would say this, if I find DEP dragging their feet, which I haven't, then I think your State Rep can pick up the phone and call the regional director. We have a meeting with him early next month and this is on the list. I want to get from him some kind of a timetable where they're going to keep after the Corps. I mean I could pick up the phone and yell at the Corps too but that's not the same. I'm not a party, we're not a party to that agreement. DEP is. They are the enforcer in this. And thank God they are because if you didn't have this, I would tell you never take this site.

Mr. Quigley: Isn't Representative Moyer still working for the DEP? Jay Moyer?

Chairman Bustard: Jay Moyer, yeah. We have explored some of the political, if you will, in the background. That's a once and done deal, you know, you don't want to get that involved until you absolutely have to.

Mr. Manko: Exactly.

Chairman Bustard: OK, so what I want to do is I want to find out what DEP is going to be able to get them to do and if we're not satisfied with it then we go to the political route and start getting the political people calling the Department of Defense and everything else.

Mr. Manko: Let me make a suggestion. If you want to write a letter to us saying, this is over ten years old now, and I understand that you're going to be meeting with the DEP and make sure this is on the list, I will give that letter to the new regional director on July 2<sup>nd</sup>. But at this point I would not call in the heavy guns.

Chairman Bustard: It's premature.

Mr. Manko: It's just going to get the staff people annoyed at you.

Chairman Bustard: That's one of the reasons we gave them a couple years down there to decide what to do and the person that we were dealing with at DEP did retire in that time which is one of the problems that we've had, ok, and it became evident by the end of last year that things were moving from the Department of Defense's point of view that were not advantageous to us. Which is one of the reasons we brought you guys in to say, you know, what do you have, what do we need to know ok, to move forward and by them coming here and itemizing this for us we now know where we need DEP to work on. And we're going to see what DEP does.

Dr. Mollick: There's been more movement on this project in the last month than there has in the last 10 years.

Mr. Manko: Well, it's not moving fast enough for us. I'm a very patient person. I'm 72 years old. I'm going to die before this is over. But, I mean, all our firm does is, and Jim can tell you, this is what we do, we do environmental energy work. We're not a big city firm. We don't have the big hourly rates kind of thing. I don't see this as something where we're going to need to have an assessment on people to pay our legal bill.

Ms. Caughlan: Could I ask a quick question? Mr. Sullivan was there anything that you found in looking through the documents and in your site visit that had not been previously identified by DEP as a site that needed, an area that needed further work? Did you identify any additional areas?

Mr. Sullivan: I think the one storm ditch.

Ms. Caughlan: OK

Mr. Sullivan: I don't think DEP had ever identified that.

Ms. Caughlan: Is that the one where there was an oil leak from the old oil heater?

Mr. Sullivan: I think that's the other one that they have sampled. It's the one where we had identified the release that reached that storm sewer.

Ms. Caughlan: Right. OK.

Mr. Sullivan: There's a second storm swale that I don't think anybody ever sampled.

Mr. Manko: That was the wastewater treatment?

Mr. Sullivan: No, the wastewater treatment outfall was always piped as far as we can tell.

Ms. Caughlan: Thank you.

Mr. Quigley: Mr. Manko, a question as far as moving this forward I thought we were supposed to take ownership of this somewhere in year 2012. Where is that timeframe now? How long do we wait before we pull the plug on it, if we pull the plug on it?

Mr. Manko: Well, you don't have to pull the plug.

Mr. Quigley: It just keeps here in limbo. If we don't take it can the Army go back and say ok you guys didn't take it ...

Mr. Manko: They have to meet the agreement's requirements.

Mr. Quigley: They can't go to somebody else. They have to meet the agreements before the can go to XYZ company and move on.

Mr. Manko: With all due respect to the general state government, they're the party who is in the position to enforce it.

Mr. Quigley: Right, so we can just sit there with the property...why we would want to do that...

Mr. Manko: For the last 10 years, that's what's happened. When we looked at it, Matt came back and I said, these people are not going to take this until it's done, because first of all, it wouldn't get done and second of all, you'd have liability.

Chairman Bustard: Right.

Mr. Quigley: Well, I think that between the Supervisors, we need some public meetings once again to get back on track with the use of that building before we spend a lot of time and energy. What are we really going to do with the property besides a park with a building sitting there that if it goes another 2 years, 5 years, 7 years and it hasn't been occupied. At least when the Army was there, there was heat on in the building and it was being used and it was a bit more functional. The longer it sits there, it deteriorates and then the township is faced with more problems.

Chairman Bustard: Well, the more it deteriorates, the less likely we are to take it too, which is a push against.

Mr. Manko: One of the things that you ought to ask, and this is asking, it's not under Act 2, is for them to keep the building habitable. They don't have to do that but it would be embarrassing for them to let it go to rot in the middle of your township.

Ms. Caughlan: So let's include that in the letter. A suggestion about the building.

Mr. Kazimer: William Kazimer, Fairview Village. The emphasis seems to be on nearby wells possibly being polluted. But isn't it true that underground, underwater contamination can travel miles?

Mr. Manko: Yeah, I just said that if I were you I would start with the ones that are closest to the property because if, unless, since the soil hasn't been cleaned up, whatever contamination is it could be going, continuing. It's not like there was one slug and it went down and now it's past this area. So you would start with the ones that are most exposed before you would do anything else. There should be a whole sampling plan. If you find there's contamination then we've got to get DEP to chase that as far as it can

be done. I just don't want to see your residents paying to put things on that they shouldn't have to put on and winding up with a claim against the government. Cause that's really bad to have a person have a claim against the government.

Mr. Kazimer: Well, I live in Fairview Village. I have city water now but I still use my well for watering plants.

Mr. Manko: Do they live?

Mr. Bustard: Only when he waters them.

Mr. Kazimer: Isn't it possible though that the Nike site could pollute my well a mile away?

Mr. Manko: It could but if there are wells between you and the Nike site, I'd start with the ones that are closer.

Mr. Kazimer: But it is possible?

Chairman Bustard: That's one of the reasons that we're concerned about it and we want to get DEP moving on it.

Ms. Caughlan: But we also have to look at geology. And that's the other side of the ridge.

Mr. Manko: It's going to follow whatever the subsurface flow is.

Chairman Bustard: OK, well I think we've beat this up pretty good. I appreciate very, very much your report tonight. We'll take it all under advisement. We will do that letter, I think it makes sense.