



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

235 Promenade Street, Providence, RI 02908-5767

TDD 401-222-4462

April 18, 2012

Ms. Jane Howington
City Manager
Office of the City Manager
City Hall - 2nd Floor
43 Broadway
Newport, RI 02840

Pieter N. Roos
Executive Director
Newport Restoration Foundation
51 Touro Street
Newport, RI 02840

RE: April 2, 2012 Public Meeting and Subsequent Public Comments Regarding the Environmental History and Potential Environmental Conditions at Queen Anne Square Intersection of Mill, Thames, Spring and Church Streets, Newport, Rhode Island
Case No. 2012-010

Dear Ms. Howington and Mr. Roos:

On November 9, 2011, the Rhode Island Department of Environmental Management (the Department) amended the Rules and Regulations for the Investigation and Remediation of Hazardous Material Releases, (the Remediation Regulations). The purpose of these regulations is to create an integrated program requiring reporting, investigation and remediation of contaminated sites in order to eliminate and/or control threats to human health and the environment in an efficient manner.

In the matter of the above referenced Site, the City of Newport, in accordance with the Public Involvement requirements under Rhode Island General Laws (R.I.G.L.), Title 23, *Health and Safety*, Chapter 23-19.14, *Industrial Property Remediation and Reuse Act*, Section 23-19.14-5, *Environmental Equity and Public Participation*, as well as Section 7.00, Rule 7.07.A.iii of the Remediation Regulations, scheduled and held a Public Meeting on April 2, 2012. The purpose of the meeting was to obtain information about conditions at the Site and the environmental history at the Site that may be useful in establishing the scope of the investigation of the Site and/or establishing the objectives for the environmental clean-up of the Site. The record of the meeting remained open for a period of ten (10) business days for the receipt of public comments, and concluded at 4:00pm on April 16, 2012.

During the public comment period, the Department's Office of Waste Management (OWM) received several documents including public comments about environmental conditions at the Site and the environmental history at the Site, submitted in accordance with Rule 7.07 of the Remediation Regulations. Copies of these written comments, with names and addresses removed, are attached to this letter.

Please review these submitted comments and prepare written responses to each of them as appropriate. It is the Department's understanding that Sage Environmental, Inc. (Sage), on behalf of the City of Newport and the Doris Duke Monument Foundation (DDMF), will be preparing a comprehensive response to the comments received at the Public Meeting, as well as any other written comments received by the Department, the City of Newport, the Newport Restoration Foundation (NRF) and/or the DDMF, during the public comment period, and submitting them to the Department for review and approval. The Department acknowledges that several of the comments may be directed specifically to the Department, and those will be addressed in a separate letter by the Department, upon Department approval of all final responses to all other relevant public comments.

The results of All Appropriate Inquiries, analysis and the public meeting, including the comment period, shall be documented in a written report submitted to the Department in both hard copy and electronic format (as specified by the Remediation Regulations). Copies of the stenographer's transcript of the Public Meeting, along with copies of any written comments received, should be submitted as attachments to the report.

If you have any questions regarding this letter or would like the opportunity to meet again with Department personnel, please contact me by telephone at (401) 222-2797, extension 7109 or by e-mail at joseph.martella@dem.ri.gov.

Sincerely,



Joseph T. Martella II
Senior Engineer
Rhode Island DEM
Office of Waste Management

Cc: Terrence D. Gray, P.E., Assistant Director, RIDEM/AW&C
Leo Hellested, P.E., Chief, RIDEM/OWM
Kelly J. Owens, RIDEM/OWM
Nicole Poepping, RIDEM/Legislative Liaison
Scott D. Wheeler, Newport Department of Public Services
Joseph J. Nicholson, Jr., Esquire, Newport City Solicitor
Jeff Moniz, Farrar Associates
Representative Peter F. Martin, District 75
Senator M. Teresa Paiva Weed, District 13
Bruce Clark, Sage

Queen Anne Square Environmental Questions DEM Meeting

1. Is it true that Sage did not test for PCB's and Dioxins? Why is this?
2. Regarding Sage, what assurances will DEM provide the citizens of Newport that Sage's test results will be reliable?
 - Why was Sage even chosen?
 - Was it competitively bid?

- Procedurally, could DEM require an independent source be used to corroborate Sage?
3. What is Trinity's official status? Just an abutter?
 4. If Trinity is "just an abutter", was there any soil testing done on Trinity's property? If not, why not?
 5. Presumably there was no benzene or toluene found in the Sage testing. Yet municipal records prove that there was a dry cleaner within the span of QAS on Frank Street.

- Was this surprising, and if so, does this warrant more investigation?
6. Does the “rumor” of more contaminated land abutting the tested areas indicate a present problem or a potential one?
 7. How far beyond the periphery of the actual “footprint” of the proposed project is required? i.e. 0 feet; 10 feet; or ??? feet?
 - Does DEM believe that the scope of the soil testing be extended beyond the current perimeters?

8. It is our understanding that NRF told Sage about the purported location of that laundry. Seems like a thorough examination of municipal records would have been more professional on Sage's part, wouldn't you agree?
9. Some believe that the number of bore holes tested were insufficient to analyze the true dimensions and toxicity of the entire property. Who will determine what is procedurally correct?
10. In addition to the dry cleaning facility, there was also an ARCO station on the corner of Mill and Spring. Landscaping volunteers from Trinity repeatedly cite finding oil and waste contaminants still in the soil after all these years.

- Did Sage investigate the existence of that ARCO station?
- How will DEM approach this?
- Does DEM even have jurisdiction there?

11. It is our understanding that the DEM will use a new internal procedure when analyzing QAS. Can you comment on this?

12. For the citizens of Newport, “open spaces”, especially historic ones, is of vital concern. Yet the NRF’s proposal to change QAS will result in an actual reduction in “open space”. Would this be philosophically inconsistent with DEM’s overall mission?

13. Does DEM believe that the scope of the soil testing should be extended beyond the current park perimeters?
14. Given that testing is expensive, how will DEM mandate that the city convey to Newport citizens that current efforts have been inadequate and more testing is needed?
15. Understanding that this is only speculation on DEM's part, what has been the effect on abutters' property values, in your experience, when home owners realize they're adjacent to a toxic waste site?

16. Do you have any examples of when a toxic waste site is exposed by DEM's investigations and injured parties (e.g. abutters) sue for damages (e.g. the city)?
17. If the QAS project were halted immediately, how would DEM classify the site?
18. Capping toxic sites and/or solid concrete capping have approximately a 50 year life span:
- Is there a long range site plan for management and funding for QAS toxic materials?
 - Who is writing the long term site remediation plan ?
 - Who is responsible long term? The city's taxpayers, NRF?

- Is there any money in the “endowment” for future testing
19. Does the DEM have any examples where **public** toxic sites in the state have returned to private ownership?
- What were their maintenance plans, short and long term and
 - Who paid the maintenance? Taxpayers?
20. Can the city legally “give” a known toxic site to a non profit? A homeowner cannot sell a house if it tests positive for Radon - it's against the law, so - how can the city endanger the public by a site that has far more dangerous chemicals than that.
21. What is the final authority on the legality of giving away toxic land? Did anyone call the EPA? There has to be a law against that. Or if they are going to do it, then some entity has

to ensure that the private party (NRF) will protect the public who are going to be using the site. Moreover, who even trusts the NRF?

Joseph Martella

From: [REDACTED]
Sent: Monday, April 02, 2012 12:43 PM
To: .Joseph Martella
Cc: [REDACTED]
Subject: Contamination in Queen Anne Square

My name is [REDACTED] I live in Newport. I have been a gardener at Trinity Church, Newport for 10 years. During that time, the iconic head gardener, Mary Alice Barker, told me that she had found soil in the oil on numerous occasions in the southeast area of the church yard (Spring and Mill Streets). She said a gas station had formerly been there.

In the Newport City Directory, The Old State House Service Station is listed there (Spring and Mill) for over 30 years. It is listed from at least 1941 to 1973.

Given the slope of the land there, it is reasonable for petroleum contaminants to be there.

[REDACTED]

Joseph Martella

From: [REDACTED]
Sent: Thursday, April 05, 2012 1:16 PM
To: Joseph Martella; Kelly Owens
Subject: ARCO station

Joe,

After the meeting Monday, a city counselor, Charlie Duncan, called me and said that the ARCO station at the corner of Mill St. and Spring, was torn down in the late 70's but he was certain that those gas tanks were never removed. He's been here for 40 years and is very knowledgeable about the town since he has a small printing shop not far from QAS.

If they were diligent Sage could have found this out through municipal records.

Joseph Martella

From: [REDACTED]
Sent: Thursday, April 12, 2012 2:51 PM
To: Kelly Owens; Joseph Martella
Subject: QAS

I just met with member of the Newport CC, Charlie Duncan, who vividly remember when the ARCO station on Spring and Mill was demolished and he's certain the gas tanks were never removed.

Public Comment

MEMO

TO: Joseph T. Martella II

FR: xxxxxxxxxxxxxxxx

DA: April 5, 2012

RE: Public Comments Relative to the Environmental Investigation of proposed Project at Queen Anne Square, Newport, RI

It is our understanding that the redesign of Queen Anne Square and the plans set forward for construction involve parts of the property belonging to Trinity Church, yet the testing that has already been conducted has revealed DEM action level contaminants, was limited only to the property owned by the City of Newport.

Given the fact that the redesign plans call for the excavation/removal and replacement of all the Belgium Block constituting Frank Street as well as the named brick pathways on Trinity property, construction of a Columbarium on Trinity property, and the removal and replacement of a utility shed where a foundation will need to be installed, it would be logical one does additional test borings in these locations given the two properties are contiguous in nature and one of them has shown action level contaminants.

There will also be the need for excavation on the Trinity property to accommodate plantings that are moving to their site from the City designated site. In fact I believe your Department has already been notified of a situation where during a transplant of garden material, petroleum laden soils were discovered on Trinity's property, yet to our knowledge the DEM has not notified the Church.

At the very least, we would expect the DEM to require environmental monitoring for contaminants/petroleum hydrocarbons during any

construction phase on Trinity property as well as City property to identify any release potential and exposure to the Public.

As an abutting neighbor to both sites, we are very concerned from an Environmental Health and Safety point of view as well as assuring future residents that our property, in the event of a sale, is compromised by environmental issues lingering at these sites.

In accordance with the RI Department of Environmental Management's Rules and Regulations for the Investigation and Remediation of Hazardous Materials, as amended November, 2011, section 7.07(A)iii, the CITY OF NEWPORT is collecting information about the conditions and environmental history at the site known as Queen Anne Square, Plat 24, lot 346, which may be useful in establishing the scope of investigation and the objectives for the environmental clean up of the site as necessary.

Although comments will be accepted at the meeting of April 2, 2012, from 5:30 pm to 7:30 pm, the comment period will remain open through 4pm on April 16, 2012 at which time the comment period will close. Written comments can be mailed to the following address:

Joseph T. Martella, II, Senior Engineer
RIDEM Office of Waste Management
235 Promenade Street
Providence, RI 02908

2012 APR -5 P 2:06

RECEIVED
D.E.M. / OWM

Name:

Address:

Please provide written comments about the site and the environmental history of the site below:

Comments in regard to the meeting on April 3rd at Newport Library

I want the DEM to complete all tests necessary. However, most of the comments at the meeting were presented by Newport citizens opposed to the renovation of Queen Anne Square.

Please know there are many Newport citizens in favor of the renovation plans and look forward to the completion of the project. Unfortunately the most vocal have been opponents to the plan.

I urge DEM officials to proceed in their professional manner without letting the negative atmosphere affect the necessary work to be accomplished. And at the same time, I don't want the opponents' pressure to change the plans already approved and put into place

Thank you for kind attention to my comments.

If additional room is required please complete on back side or attach additional sheets. Thank you for the information that you have provided to us. We appreciate your input.

To: Joseph Martella

Re: Queen Anne Square

RECEIVED
D.E.M. / O.W.M.

2012 APR 10 P 1:49

Dear Sir:

First of all, I applaud the opportunity for people to provide you with historical information regarding the site. This is an excellent means of obtaining primary sources. The Sanborn maps are not and should not be conclusive. Anyone can make a map. I also don't like to see errors and misrepresentation.

I am very familiar with the area in question, having traversed it en route between home, school, and after-school jobs, shopping, wandering, since the 1950's.

At the corner of James and Mill St. stood an enormous, perhaps 8' x 6' x 1', neon sign, "EGANS"

(1)

This is important because neon requires the use of a power transformer. Power transformers contain(ed) p c b s. The sign was a landmark, visible from the harbor. It acted as a beacon when Trinity Church was invisible. The transformers would have been also enormous. All this equipment was vandalized and abandoned 1972-3. Egans would also have had much in the way of machinery as dry cleaning requires electrically powered racks, driers, fans, heat, etc. All of this machinery would have been non-chalantly bulldozed into the site when demolition finally occurred. The area was a complete wasteland for years.

Other neighboring businesses were Ryans Sporting Goods (south corner of Mill St., not relevant), Hertz Bros., (a newstand/tobacconist, ground floor Thames st. side mid-block, also probably not relevant;), and of course WALSH BROS. FURNITURE, which caught fire and made the area available for redevelopment.

Walsh Bros. was an enormous barn-like structure, ~~which~~ I can not verify, but in all certainty; ^{it} contained fluorescent fixtures, as any industrial, showroom, or educational or institutional space would. Also in all certainty a freight elevator. Due to the fire all of this would have been unceremoniously bulldozed and incorporated into the site by the lowest bidder. Do Elevators require transformers? ~~I~~ I can't say. Fluorescent lights contain

a device called a ballast, which contains PCBs. Due to the fire very incomplete scrapping of materials would have occurred. Also, the acres of lead paint on the century-old structure would have become incorporated into the soil at the site.

I am not a partisan in the case, but feel that the statement by Roos " ... it is generally agreed that PCBs are not a relevant factor in the space is either naive OR negligent. Because the history of the area is one of industrial use rather than the benign-seeming retail and residential pattern ^{the maps might show}

The PCB issue should be more carefully explored. I suspect that the subsoil will reveal more.

Mr. Joseph Martella
RI DEM
By Fax: 222-3812

April 18, 2012

Dear Mr. Martella,

I have written to you before about the issues with contamination at Queen Anne Square. I live and work at 32 and 28 Church St. I observed the entire process of environmental testing in the Square. The test borings were not made in the locations that were shown on the engineers drawing. No test borings at all were done in the areas designated for fake foundations. These are the areas in which digging will take place.

In addition, the proposed alterations to Queen Anne Square also call for digging on the property currently owned by Trinity Church. No testing whatsoever has been done on the Trinity Church Property.

The changes there include digging a foundation for a "Columbarium" (a high rise burial crypt with lock boxes for human ashes) that will surround the existing, historic church yard.

Since the historic burial ground is very old, and many of the tombstones have been damaged, displaced or are missing altogether, it seems likely that human remains will be dug up when this foundation is dug.

In addition, there is to be a new structure built in the Trinity parking lot area that will house the electric service, pump house and filter house for the installation on the city's property. Obviously trenches will be dug from this structure to each of the fake foundations and to each lighting fixture in the rest of the Square. These trenches will run through contaminated soil.

No testing has been done in the area of the proposed Columbarium, or the electric, pump and filter house or in the areas of the service trenches.

I am fervently hoping that DEM will look into these matters.

Sincerely Yours,