

## Moretown Development Review Board

### Minutes of DRB Hearing Held December 6, 2012

Members of the Board present: Erick Titrud; John Riley; Jim O'Neill; Raymond Munn; David Russo

#### Continued Application of Moretown Landfill for Cell 4

The Board again met at the Moretown Town Hall with the hearing convening at 6:30 PM.

Prior to tonight's hearing, Mark Harlacker on behalf of Moretown Landfill, Inc. submitted a request that the Board continue the application so that the Applicant can focus its immediate efforts and attention on operations at the existing site. The letter stated MLI anticipated it would be prepared to continue to advance the proposed Cell 4 project on February 1, 2013. On December 4 Attorney James Dumont, on behalf of Scott Baughman and Lisa Ransom, filed a response, suggesting that any continuance be on condition that current complete plans be filed within ten days; that waste contracts be produced; and that copies of prior zoning permits for Cell 2, including plans, be submitted.

Just prior to the inception of the hearing Attorney Brian Dunkiel entered an appearance on behalf of the Applicant. Also present for the Applicant on December 6 was Matt Poirier of the Sanborn-Head Engineering Firm.

The Board received comments with respect to the proposed continuance. Questions were raised as to whether the evidence produced thus far would become "stale" as a result of delay. Also, whether Board Members' schedules would allow them to be present at the time of the proposed reconvened hearing date.

In response to a question from Mr. Dunkiel, John Riley clarified that the Development Review Board has no separate procedural rules, beyond those set forth in the Town's zoning ordinance.

In response to a question as to what the Applicant would do if the request for continuance was denied, Mr. Dunkiel stated it would withdraw the application, with the intent to re-submit at a later date.

One Board member is planning to leave Vermont shortly for the winter months and will not return until May 1. The Applicant was asked its position as to whether the matter could be continued to May 1. Mr. Dunkiel said he could not agree to such action as he had no authority to do so from his client.

During the discussions, Martha Douglass submitted a letter dated November 27, 2012 from the Agency of Natural Resources outlining alleged violations and need for remedial action. There was no objection to the letter being evidence in this proceeding. Ms. Douglass was asked to submit a scanned copy of the letter to the service list.

Matt Poirier submitted to the Board prior issued permits for Cell 2 and Cell 3 from 1997 and 2005. These will similarly be circulated to all parties on the service list.

The Board recessed the hearing for ten minutes to enter deliberative session to discuss the Applicant's request for a continuance.

Upon reconvening, John Riley stated that a majority of the Board would vote to grant the continuance, but to do so until the fifth board member has returned, with the next scheduled hearing to be at the Moretown Town Hall at 6:30 PM on Thursday, May 2, 2013. A condition of the continuance is that any revisions to previously submitted plans or policies be submitted by the Applicant no later than April 1, 2013. A motion to that effect was made, and seconded, with four members voting yes, and one member (Titrud) voting in the negative. Erick stated his view that he believed no continuance should be granted, and that the matter should proceed to decision unless NLI withdrew the pending application.

Erick Titrud then made a motion that the Board directs the Applicant to produce and submit to the Board the recent correspondence from the Agency of Natural Resources providing notices of violations, together with the Applicant's responses in reply to those notices. The motion was seconded. Four members voted in favor of the motion with one in the negative (Riley). John explained that he believed that the Board should not be directing what evidence or documents be submitted in this proceeding. That the letters at issue, and any responses, should be public records and any interested party could choose to submit them, subject to any evidentiary objections as to their relevance in this proceeding.

Given that the matter is now continued to May 2, 2013 the Board will not at this time go forward with the second site visit which had been scheduled for Saturday, December 8. It is the intent of the Board that upon reconvening this matter that a second site visit then be scheduled.

The Board concluded proceedings at approximately 8PM with the matter having been continued to May 2, 2013 at 6:30PM at the Moretown Town Hall.

Respectfully Submitted,

John P. Riley  
Acting Clerk