

**PORT CLINTON CITY COUNCIL MINUTES  
SPECIAL MEETING**

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The special meeting of the Port Clinton City Council was held at the Port Clinton City Hall with De Anna Kuzma, President of Council, presiding. The meeting opened at 5:30 pm.

The roll was called and the following council members were present: Gabe Below, Joel Freedman, Beth Gillman, Roseann Hickman, Margaret Phillips, Lisa Sarty and Jerry Tarolli.

Ms. Phillips made a motion; seconded by Mrs. Sarty to waive any and all irregularities in the calling and conduct of this meeting. With all in favor, the motion was carried

The chair noted that certification has been received regarding the compliance with the rules and notification of this meeting.

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Mrs. Kuzma stated the reason for the meeting this evening is to discuss the SME Phase II Environmental Site Assessment Report on Waterworks Park.

Mr. Below thanked his fellow council members with agreeing to the special meeting. He stated we thought it would be good to get insight from the law director, safety service director and the mayor office in regards to what they found in the final report that was delivered to council this past Friday.

Mr. Wilber stated that he doesn't have any recommendations at this time. He stated that there are various questions that they would like answered from SME and are waiting to have a call with them.

Mr. Colston stated that he called Ann at SME and she is out of the office today. He stated he is trying to get her recommendations where to go from here.

Ms. Phillips asked what questions she will be answering. He stated that he would like to get questions from council tonight that they would like asked of SME. He stated he would like to know what her recommendation is to do as far as how many spots. Mrs. Gillman stated that it states several times in the report "The carcinogenic risk to recreational receptors from direct contact exceeds the Ohio EPA VAP acceptable risk of 1 in 100,000." She stated to me that means that we need to do something. She stated that Ann has recommendations in the report. Mr. Wilber stated that he is not sure they are recommendations but she made certain findings depending on what is going to be done with the property. He stated that we need to more readily define what SME has come to as its conclusions and take a look at the options depending on the type of use as to the scope of what needs to be done. He stated that administration needs to go back and get clearer definition of those things on those areas.

Mrs. Gillman stated that it is also stated in the report that the land was changed from residential to recreational. When was that changed? She stated that report states that the city changed it but she does not remember when that happened. The report states that they did all study based on residential and during the course of the studies it was changed to recreational. It states that it was going to be used for open spaced use. She also asked if there is a Phase III.

Mrs. Sarty stated that under #11 it does state "the City's plans changed and at the time of this writing, the City plans for the Property to remain as recreational land for the community to use." She stated that she is unsure who Ms. Vanessa Steigerwald-Dick is that made this recommendation. Mrs. Sarty asked Mr. Colston if the letter came from the city to change it or not. Mr. Colston stated he was not aware of a letter. She stated that she agrees with Mrs. Gillman that someone needs to come in and direct us about where to go from here.

Mr. Colston stated that he is hoping that Ann will direct us. He stated the statement in the report that gets me is "In accordance with the regulations, TPH was not used in the direct contact evaluation of risks. If a No Further Action Letter is issued for the Property, the TPH-impacted soil would have to be removed. However, as this soil presents no health risks, remediation is not needed if an NFA Letter is not issued." He stated that this is something that he wants some clarification on from SME. Mrs. Gillman stated that she read they would not do the NFA letter unless remediation occurred.

Mr. Tarolli asked if we are still in contract with SME. Mr. Colston stated that no we are not. Mrs. Gillman stated that we still have not seen a copy of the contract. Mr. Wilber stated that the scope of the contract was to perform a phase I and a phase II. He stated that we all got it within the last week to ten days. He stated that we need to go through it and get some clarifications on some things. Mr. Wilber stated it depends on what action may be

determined in the future as to what uses will be made to the property as to may or may not need to be done. Once you know that need to look at the cost of what needs to be done to the property. He stated that he thinks it is something again that Tracy, Cole and himself need to talk to SME if we need to retain, then we need to get an estimate from them so it can be worked in the budget and then presented to council

Ms. Phillips stated that she has a question in regards to section 11 that states we changed the property to recreational. She asked council if we voted on that. A few stated that no it was not voted on. Mr. Colston stated that that is one of the questions that he has for Ann. He stated that is also why he is asking council members to email him questions that they would like asked of Ann at SME. Mr. Tarolli asked if Ann will answer these questions since the city is out of contract with SME. Mr. Colston stated that she acted like she would base on the five-minute phone call that he had with her. Mr. Tarolli stated that he is concerned that she will not because we are not in contract anymore.

Mr. Below stated that the finance committee made a request of the Mayor to have Ann come present and answer questions. He stated that the Mayor stated she will not come to council because she is not under contract. On page 22 of the report it states "A risk assessment performed for the Property indicates that pre-remedial soil concentrations present an unacceptable carcinogenic risk and remediation and institutional controls are required." He stated that this statement seems fairly clear to me and not acting promptly troubles him greatly. Mr. Below stated that Mayor Wheeler got a quote on April 4<sup>th</sup>, 2016 from Environmental Remediation Contractors, supplied by Mr. Colston at the last finance committee, in the amount of \$20750.00 for 90 tons of soil excavation loading/disposal and placing 90 tons. Clearly someone in this building knows what the problem is and was getting quotes for it. How can we get a quote if we didn't have enough information in the draft report? He stated that he is pretty sure that there is draft report somewhere if there is enough information to get what Mayor Wheeler stated at the Finance Committee on September 29<sup>th</sup>, 2016, that 80 cubic yards of dirt is needed. It took three weeks for the Finance Committee to get a copy of the quote and they are still waiting on background information on what it actually means. Mr. Below stated that at the Finance Committee meeting in September, Mayor Wheeler stated that Ann was working with another contractor to get us a better quote. Mayor Wheeler also stated that there is only one spot that we need to do something about and there are two other questionable spots. Mr. Below stated that he still kept asking about why there is three not five. He stated that somebody has information and we are not getting it and we are requesting it because we think it is in the best interest of the city. Meanwhile, we are having festivals down there. The Homecoming Festival was pushed to Waterworks Park instead of downtown. How can this information not be there? He stated that it is very disappointing that the Mayor is not here this evening. He stated that the Mayor does not respond to any requests from Mr. Below or his committees. Mr. Below stated that he feels sorry for Mr. Colston because he has not been kept in the loop, as Safety-Service Director, since Mayor Wheeler went into office regarding this project. He stated the fact that you never saw a letter or anything going out saying SME please do the report not under residential standard, which was the original agreement, but do it as recreational, and they come up with the recreational standard signed off by EPA, but the fact that you weren't aware it was bumped up to recreational, a less strict standard, that troubles me as well.

Mrs. Gillman stated in Phase I it states that Mayor Wheeler indicated that lands be left as open space for the community to use. She stated she doesn't know if he told them recreational or if they assumed recreational by him saying open space for the community. Mrs. Sarty said with it being zoned commercial are we obligated to address it if something does go down there. Mrs. Gillman stated that it would be nice if Ann could prioritize the recommendations. Mrs. Gillman stated that she agrees with Mr. Below that it is a very thorough report.

Ms. Phillips asked if the ground is zoned commercial but this is presumed to be residential does it make this report null in void. Mr. Wilber stated that the report that we received is a phase I and phase II study of the activities of the property. What happens next depends on what the ultimate use of the property is going to be and defining what the city wants to do. Does the city want to proceed with a covenant not to sue or a NFA letter and if that is the case then there is a whole other process to go through? Depending on what the area is going to be used as this drives what the criteria is applied to it. While they say there are various areas that may need to be remediated, what is the size, location and capacity of those locations. He stated that these are all answers that are usually in this report. He believes that these questions need to be asked of SME. He stated that he believes the city is moving forward with due diligence based on what it's got to come up with the information to come back to council and inform them of things. Ms. Phillips asked if you think this is something that will be on the agenda for council next week. Mr. Wilber stated that he can't answer that. He stated he will not know until they speak with SME.

Mr. Below states that his concern is that none of this information would had been shared and he doubts that they would have it now if Mr. Leone would not have brought it to the last council meeting. He stated that Mrs. Sarty learned through the courthouse that the final report had been delivered and then it was distributed to council.

Mr. Below referenced the following statement "Benzo(a)pyrene only exceeded the recreational land use standard within the 2 ft POC at SB-9." He stated that it is not just the future land use but the way it sits now is what he is concerned about. So based on just the recreational standards there is one spot that it says it exceeds those standards. Because the Mayor got a quote back in April that makes me believe that he had some sense of that. Mrs. Gillman stated she was also told that there were not standards for recreational and there may not be, however in the report it states the recreational standards were calculated from changing the days of exposure from 350 days to 120 days. At 120 days still it says "The carcinogenic risk to recreational receptors from direct contact exceeds the Ohio EPA VAP acceptable risk of 1 in 100,000." She stated that they are clearly giving recommendations and she doesn't understand how it can be questioned. She stated that there are definitely some areas of question.

Mr. Freedman asked if we should have the EPA come in and talk to us to make sure that we are understanding the numbers correctly. Mr. Wilber stated that he believes we should get some final information from SME first in regards to the Phase II study that they completed. He stated based on those answers then we will have to make decision of what standard we want to have. He believes that first we need to get our information together before we take any action.

Mrs. Gillman stated that if you pull up the map a lot of the spots that were addressed in 2008 seem to be the same spots that are on the 2016 map. She stated in the report they reference the report from 2013 that states we were eligible for a grant. She agrees that it would be great if Ann could come explain the entire report. She stated that there is study, study and study and when do we finally take action.

Mr. Below stated that he has a couple question for Mr. Colston to ask Ann.

1. When the city made the determination to change to recreational did that add anytime on their end?
2. When that determination was made were any of the borings wasted?

Mr. Below asked Mr. Colston what is his understanding of where the hot spots are? Mr. Colston stated it is not necessarily from conversations with the Mayor but off of the report. He believes they are SB9, SB206 and possibly SB242. Mr. Below than stated that one of those spots are adjacent to the playground. Mr. Colston stated that it is behind the playground but that is one of the questions he has for Ann. How big is the area and exactly where is it? Mr. Below stated that he suspects that someone knows because there was a quote drawn up.

Mr. Colston stated that he plans on getting all the questions answered from Ann. He stated once he has the answers he will supply a summary. He stated that one of his questions is going to be how much it is going to cost to get her out her to review the report for us.

Mr. Below asked Mr. Colston and Mr. Wilber about blocking off those areas until we get answers on this. Mr. Colston and Mr. Wilber stated that they believe it would be premature. Mr. Below stated that blocking it off cost nothing. He stated that he understands it could look troublesome to people who drive by but he stated that there are things in the report that cause great concern to him. Delay after delay even after it was delivered here in hard copy on the 17<sup>th</sup>, it approached two weeks before we were notified. He said he feels this is the opposite of transparency. He stated that he does not believe that administration see this as a priority.

Mrs. Hickman asked Mr. Wilber if this leaves us open as council to a possible law suit because we have this information and did nothing. He stated that it is a difficult answer but you can never stop lawsuits from being filed whether they have merit or no merit. Mr. Wilber stated that there have been a number of allegations over the years in regards to the area down there. A number of them have proven to not be truthful. Mrs. Hickman stated that CORD has said there are possible carcinogen and that is probably reason for it never to be developed. We now are aware of this. Mr. Wilber stated that we now have a report now that identifies the limited areas to take a look at and I think we need to address those areas.

Mrs. Sarty asked Mr. Colston if we can pursue to try and get a copy of the contract so we can make sure every element of the contract has been met.

Ms. Phillips stated that it is zoned commercial currently but the report is stating that it is recreational. Mr. Wilber stated that the information in the report is speaking in regards to the standards and not the zoning.

Mrs. Kuzma asked everyone to get their questions to Mr. Colston.

Mr. Below moved; seconded by Mr. Tarolli that council direct the Mayor and safety service director to come up with a remediation plan by weeks' end. Mr. Wilber stated that he believes that it is premature to ask for a remediation plan be drawn up in three days when we have not talked with the engineer that has drawn up the

report to get answers to questions. He doesn't disagree that they should move forward and do something. He stated maybe the standard should be that they report on it at each council meeting for the next month and come up with a plan. But until we get a better understanding of the report and costs if need be he believes that it is premature. Mrs. Gillman stated that they have a copy of a quote from April and she doesn't know how much longer they should wait. Mr. Wilber stated that we don't even know what the quote is even for exactly and until we have the answers to the questions we are just spinning our wheels. Let the administration do what they are supposed to do. Mrs. Gillman stated that she believes that there should be some kind of timeline because this has been going on for years and we need to move forward. Mr. Below moved to withdrawal the motion; seconded by Ms. Phillips. Mrs. Kuzma asked for votes on the original motion. Results of a voice roll call were: Below, no; Sarty, no; Gillman, no; Tarolli, no; Hickman, no, Phillips, no and Freedman, no. With all those in favor, the motion failed.

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With no further business to discuss Ms. Phillips made a motion to adjourn. With all those in favor, the meeting was adjourned at 6:14 p.m.

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April Pipoly  
Clerk of Council

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De Anna Kuzma  
President of Council