

CITY OF NORWALK
AQUIFER PROTECTION AGENCY - SPECIAL MEETING MINUTES
August 9, 2023

PRESENT: Louis Schulman, Chair; Tammy Langalis; Nick Kantor; Mike Mushak; Galen Wells; Chapin Bryce; Jacquen Jordan-Byron; Richard Roina; Ana Tabachneck

STAFF: Alexis Cherichetti; Bryan Baker; Steve Kleppin

OTHERS: Atty Chris Russo; Richard Ettinger; Ray Deltgato

I. CALL TO ORDER

Mr. Schulman called the meeting to order at 6:04 p.m. It should be noted that this meeting was held on Zoom.com with participants calling in, separately.

II. ROLL CALL

Ms. Cherichetti called the roll.

III. SEATING OF MEMBERS

Mr. Schulman said that he would seat Mr. Bryce and Ms. Tabachneck for this matter.

IV. ENFORCEMENT ACTIONS/SHOW-CAUSE HEARINGS

a) #APV23-37 – 30 Muller Avenue – Foam Systems LLC – Enforcement Order #APV23-37 & Suspension of APA Permit #PA17-02

Alexis Cherichetti explained the process when an enforcement order is issued. She then said she would explain why it was issued. The Aquifer regulations were adopted in 2009 and explained how businesses were grandfathered if they were in existence before the regulations. They had to be registered to acknowledge that they were following best business practices according to the regulations. She then explained the permit process. She said that these permits are only good for 10 years and then must be applied for again.

Ms. Cherichetti explained that the applicant's registration had lapsed last year but it also had a permit which is still in effect. It would have to be renewed in 2027. She then oriented the commissioners as to the location of the property on an aerial map.

She noted that the facility had expanded which was one reason that the order was issued. She then explained the applicant's business which was to manufacture spray foam insulation for homes. Some materials are hazardous and toxic. She showed them pictures from inside the facility, taken in July 2023. Some of their storage suites were not compliant with the regulations. The expansion was not allowed under the registration or permit. There was also storage of materials in the parking lot which was not allowed under the regulations.

Another issue, she noted, was the stormwater management. She discussed the dry well system, some of which were closed. There was a discussion about the grates in the ground. She also explained the pictures of the loading dock as well as how they were discharging materials inside the facility. She explained what happens if a facility does not have an aquifer registration which included ceasing operations until they have a completed registration. Mr. Schulman had concerns about the harm that had already been done.

Ms. Cherichetti said that she, Planning and Zoning and the Fire Department had met with the business in July. The Fire Department had requested some materials be removed from the facility which they had done. She said that the commissioners had the opportunity to request that they not operate until they register.

There was a discussion about the timeline of events from 2022. Ms. Cherichetti explained that a notice of violation may have been sent to the business owner last year but the Planning & Zoning employee had left the department. Ms. Cherichetti explained how the process would have gone had it been sent out. There was then a discussion about the impact of this business on the aquifer and what the responsibility of the business owner is. She said that the facility was not operating within best management practices. She did not have any indication that there had been an active spill. There was a discussion about the pictures that had been taken during the department's inspection. There was a discussion about containment of spills within the building.

There was a discussion about whether there were any fees for the violations. Ms. Cherichetti said there were not. There was a corrective agency registration fee which is twice the registration fee. Mr. Schulman asked Ms. Cherichetti if she could review what other towns are doing in these situations. There was a discussion about whether any testing had been done. Ms. Cherichetti said that the agency did not have the authority to do it but that the commissioners could require it with the reinstatement of the permit.

There was discussion about the testing of the Superfund site on Main Avenue. Ms. Cherichetti said that there are monitoring wells being tested but she would not be able to access the test results until it's published. She also noted that the commission

could require an engineer to answer whether the groundwater has been contaminated. It was noted that they would not be using the same system as a gas station would to protect the groundwater. There was also a discussion about how to protect the stormwater when it rains heavily, one of which was to cover the loading bay. There was a discussion about calling in the Department of Energy and Environmental Protection (DEEP) to check its monitoring wells in the area. Ms. Cherichetti said that the aquifer division was aware of this action. There was also a discussion about a partial cover on a drain in one of the pictures. Ms. Cherichetti then explained the next steps for the owner including re-registration which is a directive of the order.

Atty Chris Russo, attorney for the respondent, mentioned that all regulated activities have ceased on the site. He then discussed the drywells. He said that there was fabric underneath the grate which was blocking water from going in. He also noted that there are some materials that are not toxic and explained that there was a plan that addressed how the materials were used. He discussed the order that the respondent had received. He said that units 6C and 7 had been cleared out and showed them current pictures. The second item he addressed was the storage of materials outdoors, which he showed them current pictures. He said that they would continue to work with Ms. Cherichetti about the leakage of water. Atty Russo was asked to explain why the violations had occurred in the first place. He explained that there had been management issues. They were also working with the Fire Department about their violations as well. He said they are actively working to address the violations.

There was a discussion about the 2017 permit as well as interior spills and the floor drain. Ms. Cherichetti explained that the permit must be renewed every 5 years as well as the requirements including a materials management plan. She asked for clarifications from the respondent for materials that were being transferred to the facility. There was a discussion about what the materials were in the tankers as well as what drip dry is. Richard Ettinger, the owner of Foam Systems, explained drip dry which occurs inside the facility. Ray Deltgato, the warehouse manager, explained that a sump pump was being used in one of the photos. There was a discussion about which facilities must be registered. Atty Russo again noted that the facility has ceased operations until the registration is completed.

Mr. Roina noted that the residents of Norwalk and some surrounding areas got their water from this area. He expressed his concern about the drinking water in Norwalk.

Mr. Schulman closed the hearing.

V. DISCUSSION & DECISION

a) #APV23-37 – 30 Muller Avenue – Foam Systems LLC – Enforcement Order #APV23-37 & Suspension of APA Permit #PA17-02

There was a clarification about when the commissioners could require testing. Ms. Cherichetti would also contact the spill division of DEEP to notify them that the commission had made a decision on this matter. She also noted that the First Taxing District also tested drinking water and had been notified about a possible spill.

**** MS. LANGALIS MOVED to uphold Enforcement Order #APV23-37 & Suspension of APA Permit #PA17-02.**

Mr. Roina seconded.

Mr. Kantor asked if an ordinance could be created so that fines could be assessed in the future. He asked this matter to be forwarded to the Common Council.

Louis Schulman; Tammy Langalis; Nick Kantor; Mike Mushak; Galen Wells; Chapin Bryce; Jacquen Jordan-Byron; Richard Roina; Ana Tabachneck approved.

No one opposed.

No one abstained.

VI. ADJOURNMENT

Mr. Bryce made a Motion to Adjourn.

Mr. Roina seconded.

Louis Schulman; Nick Kantor; Mike Mushak; Tammy Langalis; Galen Wells; Hector Pachas; Jacquen Jordan-Byron; Richard Roina; Darius Williams; Chapin Bryce; Ana Tabachneck approved.

No one opposed.

No one abstained.

The meeting was adjourned at 7:13 p.m.

Respectfully submitted,

Diana Palmentiero