

## **Salem Harbor Task Force: Subcommittee on Demolition and Remediation: Draft Minutes**

Monday December 17, 2012  
Room 348  
State House, Boston, MA

### **Attendees:**

Representative John D. Keenan	Massachusetts House of Representatives, Chair
Paul Stakutis	Attorney General's Office
Lee Smith	MassDevelopment
Ron Gerwatowoski	National Grid
Undersecretary Barbara Kates-Garnick	Energy and Environmental Affairs
John Beling	Attorney General's Office
James Simpson	IBEW Local 326
Ed Starzec	MassDevelopment
Gary Moran	Department of Environmental Protection
Sean Navin	Energy and Environmental Affairs
Chris Eicher	Committee on Telecomm, Utilities and Energy
Liam Holland	Committee on Telecomm, Utilities and Energy
Gary Davis	Energy and Environmental Affairs
George Chapman	Committee on Telecomm, Utilities and Energy
James McCaffrey	Beyond Coal New England/Sierra Club
Stephanie Pan	Conservation Law Foundation
Eugenia Gibbons	Environmental League of Massachusetts
Joel Wool	Clean Water Action

Chairman Keenan called the meeting to order at 10:00am.

### **Welcome from Chairman Keenan**

Chairman Keenan welcomed the attendees and asked that everyone introduce themselves. Attendees went around the room indicating their name and what group or groups they represented. Chairman Keenan thanked everyone for attending and discussed his hope that Footprint will clean up the site. He indicated that he had heard Footprint pledge on several different occasions their commitment to clean up the site regardless if a new power plant is built there. He also indicated that the timing of the cleanup may be impacted if a new plant is not built, but that hopefully the site will still be cleaned up within the regulatory framework.

Chairman Keenan then read through the supplied agenda, discussing the topics to be considered under a road map to both remediation of the site and demolition of the current structures and buildings. The Chairman also noted potential opportunities to explore which, if any, programs that may be available to assist in the remediation/demolition, as well as looking to see how other states have faced similar situations. The Chairman noted the opportunity to provide beneficial development in Salem as well as clean-up the site. He then asked attendees to go around the room and discuss any issues they thought the subcommittee should add to the agenda, and any ideas for future meetings or topics to discuss.

## Overview of Task Force Discussion

John Beling from the Attorney General's office indicated that he believed their role was not to get into the potential funding mechanisms, but they instead could provide legal support for the subcommittee, particularly in regards to identifying responsible parties. He indicated that under current regulations the buildings and the land would be treated differently, with typically only the land being subject to regulatory remediation. He indicated that Footprint, as the current owner, would be jointly and severally liable for the remediation of the land. He opined that the land was probably purchased by Footprint under the name of a LLC in order to limit their liability for remediation costs. He also indicated that federal funds might be possible if it were found to be a national priorities site, and might potentially be eligible for superfund status. Chairman Keenan noted that the different treatment of the buildings and land under current regulations was an interesting point to raise. Gary Moran from MassDEP noted that Footprint had committed to take down the existing buildings in their filing with the Energy Facility Siting Board.

Lee Smith from MassDevelopment discussed the role that organization could be able to play in the redevelopment of the site. He explained that MassDevelopment has both community development and engineering expertise they could provide. Furthermore, he noted that MassDevelopment administers the state's brownfields fund.

James Simpson from IBEW said his primary concern was with the future employment of the workers from the current plant. He indicated that the demolition could be done in two phases. He noted that if a new plant is approved that Footprint might start demolition of the small tanks where the future gas plant would be located, while leaving the current plant in place until its 2014 retirement. He stated that workers currently have a contract through September 2014 and they have been in discussion with Footprint to keep current employees working through the demolition and construction phases, potentially in an overseer role.

Chairman Keenan asked how far along those discussions had gotten. James Simpson indicated that those discussions were preliminary and were not substantive yet. He also noted that plant components could be re-sold after demolition, as they had with an earlier oil-fired unit. He stated that employees were in a grieving phase as many were long-term employees, and that training programs had already started. He said there were several funding and other options for re-training of workers. He stated that he wanted to include the role of current plant workers in any demolition and remediation as part of the subcommittee agenda.

Undersecretary Kates-Garnick mentioned that several regulatory agencies were involved in the process, including EFSB, DEP and DPU, and that DPU currently had an open docket regarding capacity needs in the NEMA Boston zone. She stated that EEA could serve as a resource for laying out the regulatory rules, but that they had to be cautious about certain topics because of the ongoing regulatory proceedings. Chairman Keenan thanked Secretary Sullivan for helping establish the task force and expressed his gratitude that the Secretary was staying with the administration. There was general agreement.

Stephanie Pan from the Conservation Law Foundation indicated that her group was present in an observers' role and to remind everyone that natural gas is a fossil fuel. Chairman Keenan asked about a recent CLF filing in regards to Brayton Point and she answered that it was a filing required 30 days prior to filing a lawsuit and was an indication that CLF intended to sue Brayton Point.

Gary Moran from MassDEP indicated that so far the environmental testing had found petroleum and nickel but not anything unexpected and that it appeared the remediation would be subject to the normal timelines. He stated that more details would come out in January, but at the moment it appeared that the normal three year timeline to remedy would be in place. He stated that Footprint was likely planning the level of remediation based on the expected future uses of the site. He suggested that the subcommittee consider the level of remediation required as part of the agenda.

James Simpson asked if different phases of the project could be subject to different timelines. Gary Moran answered that all parts would likely be subject to the same regulatory timeframe, but that they might undertake different parts of the project at different times depending on their priorities. Chairman Keenan mentioned that it had been indicated to him that the tanks would need to be torn down as part of the remediation. Gary Moran stated that the tanks needed to be cleaned up, but not necessarily torn down as part of the remediation, and that they were subject to the same timeline as the rest of the site.

Ron Gerwatoski from National Grid said that there was no regulatory requirement to remove the stacks, tanks and buildings from the site. He said that Footprint had committed to do this in their EFSB filing and he was eager to see how they were planning to pay for it. John Beling noted that the land and buildings were subject to different treatment and that removal of the buildings could potentially be required if treated as a brownfields site. Chairman Keenan stated that old plants should not be allowed to remain as a blight on a community and that is what Senator Knapik's subcommittee would address.

Ron Gerwatoski stated that Footprint had committed to clean-up the site, and that if the subcommittee assumed they would follow through then the subcommittee should focus on what level of remediation is desired and what should be the timing for that. He indicated that the timing was often slow because many agencies did not have enough staffing to expedite the permitting process. He noted that other states allow companies to provide the agencies money to help hire additional staff to move the process along more quickly. He stated that Salem might have a goal to remediate the site to a "higher" level than is required of Footprint/National Grid but that higher level could not simply be imposed on them. Instead he proposed that the subcommittee examine ways to expedite permitting and provide funding to bring the remediation up from the levels required by regulation to the higher levels desired by Salem.

Gary Moran stated that Footprint was already working with MassDEP to determine what permits would be needed. Chairman Keenan noted that not all parts of the site would require the same amount of remediation, and that certain portions of the site acting as a residential buffer might not require as much remediation to bring them up to a higher standard. Ron Gerwatoski stated that the subcommittee needed to know exactly what Footprint was planning to do, and how they were planning to pay for it, and whether they had an escrow deal with Dominion to help with these costs. Chairman Keenan mentioned Mayor Driscoll's task force meeting tomorrow. Sean Navin from EEA forwarded thanks from Secretary Sullivan to Chairman Keenan for his work on the subcommittee.

### **Discussion of Future Meetings**

Chairman Keenan asked for suggestions of topics or presentations for future subcommittee meetings. Ron Gerwatoski noted that they were waiting for the site characterization study, and that it had a self-imposed mid-January deadline. John Beling from the AG's office stated that Footprint should also meet with the Redevelopment Committee. Paul Stakutis from the AG's office stated that the AG was concerned with the effects on ratepayers, and that it was important to get Footprint in the room. He noted that the subcommittee needed to ask if Footprint was viable, and that while they had made

promises nothing was in stone and so they had to consider how strong those promises were. He also asked if the subcommittee should look at a potentially similar situation in Virginia for guidance.

Chris Eicher from Chairman Keenan's staff indicated that they had started to look into the situation in Virginia and would see if it made sense to have discussions with people involved there. Chairman Keenan stated that the subcommittee would have Footprint come in and present, and Undersecretary Kates-Garnick mentioned that it might be good to have Footprint present to the entire Task Force. Chairman Keenan asked for agenda suggestions going forward, and also stated that he was similarly concerned that Footprint may not have binding commitments and that was one of the purposes of the Task Force, to provide oversight.

Undersecretary Kates-Garnick stated that she would like to learn more from MassDevelopment to see what their role might be in the redevelopment. Lee Smith responded that he would like to bring in a staff person to talk about potential options, possibly as a joint meeting with the Redevelopment subcommittee. Chris Eicher mentioned that it might be desirable to also schedule a joint meeting in regards to the characterization study.

Chairman Keenan stated that he was also concerned about ratepayer impact and asked what that would be. Ron Gerwatoski replied that there would be ratepayer impact in regards to the costs of remediating the site to the regulatory requirements, reflecting the agreement with FERC after deregulation. He stated that demolition of the site, as well as any remediation to achieve a level higher than required, would not be borne by ratepayers. Paul Stakutis asked how much of the remediation costs would be borne by Massachusetts ratepayers. Ron Gerwatoski stated the 70% of those costs would go to Massachusetts as 70% of the power produced had been consumed in Massachusetts.

James McCaffrey of Sierra Club stated that his organization had concerns about additional fossil fuel and asked the subcommittee to look holistically at all similar plants in Massachusetts and plan ahead for those other sites. He stated that Sierra Club could be helpful in seeing what other states had done in similar situations. Joel Wool from Clean Water Action said he echoed those thoughts and asked that community members be involved in the process. Eugenia Gibbons suggested trying to procure the purchase and sale agreement between Dominion and Footprint. Stephanie Pan and Ron Gerwatoski noted that they had asked for the agreement as part of the EFSB process, but that Dominion had argued it was 100% confidential.

Paul Stakutis asked if the subcommittee was planning to meet again before the holidays. Chairman Keenan promised he had no intention of spending New Year's Eve with the members. Chris Eicher stated he would be in touch regarding scheduling. Chairman Keenan wished everyone a happy holiday.

The meeting concluded at 11:15am.