

# WARREN COUNTY BOARD OF SUPERVISORS

## COMMITTEE: COUNTY FACILITIES

DATE: DECEMBER 6, 2018

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### COMMITTEE MEMBERS PRESENT:

SUPERVISORS: DIAMOND  
BEATY  
LEGGETT  
LOEB  
GERAGHTY  
STROUGH  
SIMPSON  
FRASIER  
WILD  
MCDEVITT

### OTHERS PRESENT:

KEVIN HAJOS, SUPERINTENDENT OF PUBLIC WORKS  
FRANK MOREHOUSE, SUPERINTENDENT OF BUILDINGS  
RONALD CONOVER, CHAIRMAN OF THE BOARD  
RYAN MOORE, COUNTY ADMINISTRATOR  
MARY ELIZABETH KISSANE, COUNTY ATTORNEY  
AMANDA ALLEN, CLERK OF THE BOARD  
FRANK E. THOMAS, BUDGET OFFICER  
SUPERVISORS BRAYMER  
DRISCOLL  
MAGOWAN  
MERLINO  
JULIE BUTLER, PURCHASING AGENT  
BRIAN LAFLURE, FIRE COORDINATOR/DIRECTOR, OFFICE OF EMERGENCY SERVICES  
TAMMIE DELORENZO, ASSISTANT TO THE COUNTY ADMINISTRATOR  
BOB PERKINS, PERKINS RECYCLING CORP.  
TRAVIS WHITEHEAD, TOWN OF QUEENSBURY RESIDENT  
DON LEHMAN, *THE POST STAR*  
MOLLY GANOTES-GLEASON, LEGISLATIVE OFFICE SPECIALIST

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### COMMITTEE MEMBER ABSENT:

SUPERVISOR: SOKOL

*Please note, the following contains a summarization of the, December 6, 2018 meeting of the County Facilities Committee; the meeting in its entirety can be viewed on the Warren County website using the following link:*  
<http://www.warrencountyny.gov/gov/comm/Archive/2018/facilities/>

Mr. Diamond called the meeting of the County Facilities Committee to order at 2:00 p.m.

Motion was made by Mr. Loeb, seconded by Mr. Simpson and carried unanimously to approve the minutes of the previous Committee meeting, subject to correction by the Clerk of the Board.

Mr. Diamond informed the purpose of today's meeting was to discuss the potential sale of Warren County's property located 299 Lower Warren Street that was currently being rented by D & G Recycling. He said an RFP (*Request For Proposal*) had been sent and the only response was from Perkins Recycling, who had submitted a deposit.

Mr. Strough thanked Mr. Wild for being proactive with D & G Recycling and he displayed a large map of the property for the Committee to review. He indicated the property consisted of 15 acres, adding he had original documents from 1991 which included the recorded agreement between Warren County and Cieba Geigy listing the easements and restrictions on the property. He said he could make a PDF of the documents and share them with the Committee. He mentioned BASF, the parent company to Cieba Geigy, still owned a small portion of the land, advising there were binders of studies, deed restrictions, human exposure controls, EPA (*Environmental Protection Agency*) analysis, ground water analysis, water migration, emails from BASF of potential uses, DEC (*Department Environmental Conservation*) institutional controls and site inventory along with maps. He explained the same deed restrictions that applied to the County's property also applied to the little piece of property owned by BASF. He said that residual sub-surface contamination remained at the property and due to contaminant in the sub-surface, final

corrective measures for the property required post remedial obligations, and the concept might still apply to the County's property. He appraised the market value of the property was \$2.9 million.

Mr. Leggett entered the meeting at 2:09 p.m.

Mr. Strough said when the study was done contamination was found. Mr. Geraghty asked about the parcel owned by BASF and Mr. Strough replied the area was badly contaminated and had no value. Mr. Wild advised he had read reports about APA (*Adirondack Park Association*) and DEC investigations and remediation work which indicated there were test wells throughout the property. He informed of all the information he gathered relected there was no contamination that needed remediation on the County's property based on what the test wells revealed. He remarked the area owned by BASF included a retention pond that was more contaminated then other parts of the property. He informed the property could be used for industrial and commercial uses, informing the deed restrictions included no soil or pavement could be removed, and the soil had to be tested and if it was deemed contaminated it had to be disposed of properly. He said nothing precluded further development.

Mary Elizabeth Kissane, *County Attorney*, informed the deed had restrictions built in which limited what the property could be used for; she informed the property could be used for industrial purposes such as recycling. She appraised the asphalt and the building could not be disturbed because the areas under them had not been tested and could lead to more contamination, she noted that if the water was going to be used it would have to be tested, as well. She indicated there was also a deed notice filed that carried more restrictions with terms that allowed the State to enter the property to run tests and she advised the State would need to become involved if there was change of use on the property. Mr. Wild informed of his conversations with EPA and the DEC representatives during which he had been advised there were no actions or concerns at this time and there were no active investigations. He informed the DEC investigated a hydraulic leak from D & G Recycling's excavator. Mr. Geraghty inquired if Phase 1 and Phase 2 testing had been done and Kevin Hajos, *Superintendent of the Department of Public Works* replied the test wells had been there for years and he did not know if they were monitored. He explained how the recent hydraulic spill was cleaned. Mr. Loeb asked if the drain wells were monitored and Mr. Diamond replied he would have to speak with the City of Glens Falls Sewer and Water Department to find out. Mr. Wild advised the main site that had environmental work done was not actively monitored. Mr. Strough mentioned the DEC was satisfied that the upper soils were clean and the pre-treatment was no longer being used so the groundwater was currently being sent to Glens Falls Waste Water Treatment Plant. He advised BASF was continuing to test the area.

Mr. McDevitt opined there were properties that should not be sold and others that should have never been purchased and he inquired if the liability could be transferred with the sale. He appraised in 2012 a local law was passed to help protect the County from liability arising out of possible environmental contamination for which the County agreed to be held responsible for an agreement made with Cieba Geigy Corporation at the time the County purchased the property. He stated after Cieba Geigy closed BASF leased the property until it was purchased by the County. He remarked BASF would not sell the property because it opened them up to significant liability. He opined to sell the property would be a mistake unless there was an iron clad solution to being free from liability. Ms. Kissane explained the County could not transfer liability within a Super Fund site and Cieba Geigy or the parent company would be responsible for the Super Fund contamination when they were owners of the property when the contamination occurred. She advised the County would be responsible for any contamination when they were the owner, informing the only thing that could be done was to sign an indemnity which she said, meant the County was still responsible for their pollution and had to pay the cost of remediation and then sue whomever indemnified the County for the cost of the clean up. She informed the County signed an indemnity which left the chance for BASF to sue for any environmental cleaning they did on the property. Mr. Wild reiterated the liability stayed with the original owner when the contamination occurred. Mrs. Kissane notified Cieba Geigy indemnified in 1991 so they could sue the County

for the cost of cleanup. Mr. Diamond said that questions were raised during the RFP process, adding easements and restrictions would be transferred to the buyer. He advised Perkins Recycling Corporation had no intention of disturbing the asphalt. Mr. McDevitt stated he was envisioning in the long-term they would be defending themselves in court, as this was an accident waiting to happen. Mr. Geraghty interjected if that was the case no town would clean off-site properties. He informed he had no problem selling the property that was deemed cleaned up. Mr. Wild notified he would prefer the DEC and APA to provide approval that the property was clean, adding the risks were minimal.

Mr Diamond asked Bob Perkins, *Owner Perkins Recycling Corporation*, if he accepted the indemnity and Mr. Perkins replied he was interested in expanding his business and he would speak to his attorney regarding the indemnity. Ms. Braymer opined she wanted the DEC to sign off on the property. She inquired if the indemnity could be transferred and Ms. Kissane replied in the positive. She asked if there was potential contamination and Mr. Hajos replied he did not believe so.

Travis Whitehead, *Town of Queensbury Resident*, expressed in 1991 Cieba Geigy sold the property to the County and indemnified them because they had deep pockets, advising to make sure the potential buyer has deep pockets, as well. Mr. Conover suggested to have a risk based assessment done. Ms. Braymer commented she wanted a baseline of the pollution. Mr. Leggett informed there was a total of 14 acres that were worth \$2.6 million and the sale price was \$400,000. Mr. Hajos notified it would cost \$660,000 for the assessment. Mr. Wild inquired what it would take to move forward and Mr. Perkins informed he would have to replace the scale and the roof, adding a total investment of \$700,000 was required. Mr. McDevitt asked if BASF had veto rights and Mrs. Kissane replied in the positive. Mr. Wild read from his list of pros and cons. Mr. McDevitt questioned why Cieba Geigy sold the property for \$1.00. Mr. Leggett suggested to put the proceeds from the sale toward a building to store the OES (Office of Emergency Services) equipment. Mr. Simpson expressed he was in favor of selling, however, he said, he did not want any further contamination. Mr. Wild suggested to include a do not disrupt.

Mr. Wild provided a slide show of photos from the site where D & G Recycling was renting County property. He indicated there were fibers of plastic covering the ground along with issues of them being disrespectful. He advised they were in a contract and they should not be a nuisance or pollute, informing their facility was not being maintained.

Mr. Diamond asked the Committee members for their opinion regarding the potential sale of the property and the consensus of the Committee was to sell the property. Mr. Conover suggested to do a literal search because there was a lot of history they were not involved in which would be beneficial for a buyer. Mrs. Kissane recommended to get state and federal sign off, adding they would not sign off on a sale. Mr. Diamond declared the property not subject for public use.

A motion was made by Mr. Loeb, seconded by Mr. Geraghty and carried by majority vote, with Mr. McDevitt voting in opposition, to declare the County-owned property located on Lower Warren St. in the City of Glens Falls, formerly known as the Cieba Geigy property, as not necessary for public use and the necessary resolution was authorized for the December 21<sup>st</sup> Board meeting.

As there was no further business to come before the County Facilities Committee, on motion made by Mr. Loeb and seconded by Mr. Geraghty, Mr. Diamond adjourned the meeting at 3:19 p.m.

Respectfully submitted,  
Molly Ganotes-Gleason, Legislative Office Specialist