

## MINUTES

### COTTAGE GROVE CITY COUNCIL

COUNCIL CHAMBERS  
12800 RAVINE PARKWAY SOUTH

April 5, 2023

### **SPECIAL MEETING - 5:30 P.M.** **TRAINING ROOM**

#### 1. CALL TO ORDER

Mayor Bailey called the Special Meeting to order at 5:30 p.m.

#### 2. ROLL CALL

City Clerk Tammy Anderson called the roll: Mayor Bailey-Here; Council Member Khambata-Here; Council Member Dennis-Here; Council Member Thiede-Here; Council Member Olsen-Here.

#### 3. AGENDA ITEM

##### A. MPCA Workshop (Decommissioning Plan for 3M Incinerator)

City Administrator Jennifer Levitt stated tonight representatives from the Minnesota Pollution Control Agency (MPCA) were present to explain the process of decommissioning the hazardous waste incinerator at 3M. The incinerator closed down last December; as part of that, there are ongoing efforts and permitting that has to take place. Tonight, they'll be able to outline for us the challenges and environmental work that they're doing to ensure that it's done safely and properly and protects the environment. There are also representatives from Washington County here tonight, as they've also been working with the MPCA on some of the decommissioning efforts.

Mayor Bailey and the Council Members introduced themselves, and also present were: Karla Bigham, Washington County Commissioner; Ryan Burfeind, Public Works Director; Samantha Adams, MPCA Supervisor of the Land Permits Unit, responsible for the hazardous waste permit team, including John Chikkala; Craig Bigelow, MPCA, Supervisor in the Remediation Program; John Chikkala, Senior Engineer, MPCA; Michael Ginsbach, Hydrogeologist, Remediation Division of MPCA; Jennifer Levitt, City Administrator; Amanda Meyer, City Engineer; Emily Schmitz, Interim Community Development Director; Pete Koerner, Public Safety Director; Gretchen Larson, Economic Development Director; Tyler Dale, Washington County; Zach Hartfiel, Resident; Lisa Hartfiel, Resident.

John Chikkala gave his history with the PCA; he's now working on the closure of this incinerator. He wanted everyone to have a clear understanding of what the MPCA staff was dealing with. He displayed an aerial view of the 3M site, which has been operating since 1948, primarily for manufacturing. In the 1970s, 3M had built an incinerator to treat some of the waste generated by this facility, but a few years later, 3M was bringing in waste from all of their manufacturing sites in North America.

He pointed out the stack seen from Highway 61, and a navy blue building underneath, which contains the air pollution controller equipment; it's the last step of purifying before it's released into the environment, it helps to cool down the gases and also controls the emissions from this building. Once hazardous waste is incinerated, it cools the gases a little bit, but some of it is brought to another building where it's further cooled through an exhaust fan; it's state of the art technology. The buildings are all next to each other and are used for hazardous waste management. To store the hazardous waste, 3M uses semi-trailers, as well as a tank farm, on their property.

John stated the 3M incinerator processes waste from other sites, including Texas, transported by commercial traffic. The onsite trailers were primarily to store hazardous waste in drums at the Cottage Grove facility; those were not on the freeway, so they used commercial HAZMAT trucks to collect the hazardous waste and brought those to the loading dock at the 3M incinerator. Those drums were temporarily stored onsite in semi-trailers, 43-to-53 feet long, primarily stationed at the incinerator for the past 20 years. There were about 700 semi-trailers, but 200 of those have been removed. 3M also used tanker trucks to bring the liquid hazardous waste; if they're not able to use the incinerator directly, then they store them in the hazardous waste storage tanks in their tank farm.

Their incinerator was brand new in 2001, with a very high destruction efficiency of 99.49; it was brand-new technology at the time, required by the Clean Air Act. As Administrator Levitt previously noted, 3M announced the closure of their incinerator in August 2021 and said they would shut it down by the end of 2021, and they did so; it was done in a proper manner. As of February 1, 2022, 3M is using Clean Harbors for their hazardous waste. On April 6, 2022, 3M sent the MPCA and Washington County the full Cottage Grove incinerator workplan; that was required by the MPCA Hazardous Waste Department. When 3M closes the incinerator, they're supposed to submit a closure plan for the agency to review and approve what they're proposing. The 3M workplan is over 3,000 pages, with lots of detail.

Closure Performance Standards: Requirements were already spelled out when 3M submitted the application to the MPCA in 2009, and also when they submitted the application in 2016. Every time there's a pigment storage disposal facility, like the 3M incinerator, they submit an application and also have to submit a plan on how they will close the facility. They said they did not want to close the facility, but everything is spelled out in the application and the permit required. The workplan submitted a year ago is the most recent and most complete. Previously, 3M had submitted a permit application, and in the permit that the MPCA issued, there were descriptions of certain things, hazardous risk management, and 3M will be closed to meet Federal and State standards. The standards will require 3M to close the incinerator and the hazardous and solid waste management in a manner to minimize the need for further maintenance.

The Minnesota rules go a little farther than the Federal rules: When a facility is closed, when they cease operations, we want the agency to terminate the permit or to close it, and the emissions generated from those operations are minimum to the air, land, surface water, stormwater, and groundwater. The Minnesota rules are very clear to both the regulated party, as well as the MPCA, that these operations should be conducted in a manner for safety of all human health and the environment.

Historically, 3M has had so many activities, called solid waste management, which can include landfilling, where they have just dumped their waste; that can be hazardous waste or solid waste, incinerator ash, etc. So, the 3M Cottage Grove site, not only the incinerator complex, has several solid waste management permits that have been in operation since 1948. So, as part of the closure of this permit, the MPCA is required to evaluate each of those units and required to close them properly. The closure plan that 3M submitted to the MPCA and to Washington County, that we're reviewing, are specific to each of the units. For example, a trailer is considered a hazardous waste storage unit, so, how does 3M plan to close each of those trailers in a clean close; this is being spelled out. Or, an underground storage tank, how does 3M plan to close that; those standards have been requested.

One other key part of the closure plan is what's called a Sampling and Analysis Plan (SAP); this is very crucial for MPCA and Washington County to review because this plan possibly dictates how much sampling we have to do. We have hundreds of acres of land there, and how do you do sampling of a particular area; it's all spelled out in the SAP. MPCA and Washington County will work with 3M to kind of narrow down the radius because there are hundreds of spaces at this site. It still has the hazardous waste; is it through the trailers or manifesting operations? So, SAP captures those details: Number of samplings, what to sample for, and the frequency, all those details.

3M closure is a regulated party, so we can come up with a schedule as to when we think they can finish the closure. 3M also gets to arrange for a future use of this site; the future development and use of this site kind of dictates what SAP should be done. Depending on the jurisdiction of the local government of this site, to use a particular property, the SAP has those parameters, such as industrial vs. residential use. 3M can determine the future use of this location.

John stated 3M used the back part of a trailer for storing 55-gallon drums, and they would fit in this part of a metal container tray, the metal liner, and this extends through the body of the semi-trailer. Because they have stayed in one location for so long, they have experienced damage; some of them have leaked from the roof, and then have spilled over onto the 55-gallon drums, and also onto these storage lots. When 3M is trying to decontaminate these trailers, these trailers located in the parking lot were on lease from a company, Braaten. In order to clean them properly under the hazardous regulations, 3M purchased them from Braaten. 3M proposed to decontaminate them, disassemble, and demolish the trailers, which were made of metal, wood, fiberglass, and plastic; there were so many materials in the semi-trailers, so the workplan details to the MPCA how 3M plans to bring each of these trailers into a designated area and try to decontaminate them and clean them. If they cannot do it, they'll take the liner out. So, those are complex issues on which our staff is working with 3M, trying to understand how do they close each of these hazardous waste units.

The next example he shared was the above-ground tank farm. This is a newer tank farm; 3M has had another tank farm right next to this location. As we're reviewing the closure plan, our staff has to evaluate how do each of these tanks get decontaminated. 3M plans to remove all the hazardous waste in any vestibule, from the inside out of these tanks. All of this equipment, any equipment that has the potential to handle that, and the pipes getting the hazardous waste into the incinerator, anything like pumps, valves, etc., each of those has to be decontaminated properly or considered hazardous waste. Then, there's the containment system, where the tanks sit; it's concrete with a coating, and we have to figure out how to decontaminate that. And, then, the soils: Whatever leaked from these tanks, how do they decontaminate the soil, and how much is it, etc., and this is on the very ground for our hazardous waste management team.

The incinerator is very, very tall; he described the various chambers and drums. The temperatures are 1600-to-1800 degrees Fahrenheit. It's an enormous piece of equipment, with inside burners. Our staff and Washington County are reviewing exposure plans; we are wrestling with how does the 3M plant get decontaminated, this is a lot of work, as each of these pieces has movement. He displayed a photo, noting we're not only talking about metal, but there are breaks in this concrete; it could be fiberglass and asbestos in the piping, we don't know. So, we're looking very closely as to what are the materials that the property plans to use to decontaminate, to clean the equipment in case they have to use it again or send it for recycling. Or, the whole incinerator is considered hazardous waste; if so, how would it be sent out from there.

John noted the photos were all taken by 3M; they provided them to the MPCA and to Washington County so we would have this story to share with you today.

There are two pieces of equipment that are really unique to this hazardous waste incinerator, one is unique in the entire nation; it has 55-gallon drums and it's not able to be pumped and so it has other properties. 3M will bring those drums over here and then empty them into this hopper. Once the 55-gallon drum is dumped into that, then there is a tank below with about a 2,000-gallon capacity. From there, after mixing, 3M uses this collection dome to mix different waste from different facilities. So, we have to determine which components could have come with the waste. And how does 3M plan to decontaminate this hazardous waste? Again, because this has been in direct contact with the hazardous waste for at least 22 years since the incinerator has been in operation, staff has to evaluate and look at how to decontaminate this system.

John asked if there were any questions for staff:

Council Member Olsen stated there are several people in this room who were here when 3M decided to bring in outside waste for their incinerator; those people were not thrilled with that decision and fought against it. Ultimately, that decision was approved by the State, so 3M was able to do that. As mentioned tonight, from the time when they started bringing in that outside waste stream to when they ceased, they've had several violations, fines, and different actions taken against them for not managing the process effectively. This process, if not managed effectively, will be very detrimental to the environment. There's a lot of work to do here, and it will require tremendous oversight to make sure that it gets done correctly. We are subject to ground contamination, soil contamination, etc. based on the way that this incinerator's been used for the last 10

years; we had ambient air monitoring that we put into place, in partnership with the MPCA, when this whole thing started to look at some of those heavy metal compounds, etc. because those settle into the ground. They can create all kinds of problems for people. He asked what will the decontamination oversight look like? Will there be somebody there every day, making sure that 3M is following the letter of the law as it relates to the decontamination of all these different parts and pieces of equipment, etc.? Will there be unannounced inspections? How are we going to ensure that this is done correctly? Because the track record speaks for itself, and we definitely want to ensure that the residents of the community, who've had to deal with this situation for the last several years, don't come out on the short end of the stick a second time by failure to actually decontaminate properly.

John replied a week ago Thursday, we had a two-week check-in meeting with 3M, MPCA, and Washington County. During the meeting, it was mentioned that they're back to moving some of this equipment. We contacted 3M, and we were there, along with Washington County staff, a week later, asking questions. The regulation told 3M to prevent movement when the closing plan is still not reviewed. So, we've been to 3M numerous times, and we will be going again. 3M is sending us monthly reports on any activity, any things that they removed from a kitchen or from the dining room, whatever equipment has been removed, we have photographs and logs of activity that's going on, completed at 3M. So, we are either being notified before or after, we're actively involved in reviewing, and also are aware of what's happening at the site.

Michael Ginsbach stated in addition to that, as John mentioned earlier, the SAP of the closure plan and the Quality Assurance Program (QAP) plan, which is another portion of that, compromised the bulk of that 3,100-page document. Those are the things that spell out once 3M has finished decontaminating material, how they're going to investigate all of the environmental material on site: How they're going to look for those releases, the spill that happened historically, how they're going to evaluate the soils to make sure that the material has been cleaned up to a method that's in place. Utilization of the existing monitoring network that's on the site and installation of new monitoring networks to look for some of these releases to groundwater that may be present. The bulk of that is spelling out where they're going to sample, how they're going to sample, what materials they're going to sample; that will be run at an independent, third-party analytical laboratory, submitted directly to the MPCA. His primary task on this is to evaluate that. Craig and other folks in our unit and Superfund, this is what we do; we evaluate contaminated sites, we oversee the remediation, the cleanup of those. We look to make sure that they're able to be used, that we evaluate everything that could potentially be there as part of the processes, operations, both historic and ongoing, to make sure that when we're done with this, it's a parcel of property that can be used for the intended purpose. We use our risk-based standards, our values that are protective of human health long term; these are chronic long-term values that are based on 70 years of exposure, either commercial industrial when you're there for 8 hours a day, 5 days a week, or residential or recreational, where you're there for the rest of the time, when you're not at work. So, there is an abundance of data headed our way. Ms. Adams has been in regulatory oversight for years and years, and all of that analytical data will help to show and make sure that the decontamination of

material, when they're cleaning something off, it didn't spill to the gravel; that will be done afterward, they'll grab a soil sample from these spots, grab groundwater, and compare those against everything that we look at from a risk-based perspective.

Council Member Olsen asked if that included soil samples, etc. from the spills that have already occurred; Michael replied they'd requested all that historical data from 3M. The 200 numbers that John mentioned are also included in that. We submitted comments back, and we received that report almost a year ago. We've been reviewing it significantly, and that was one of our highest-level comments and one of our most pointed comments that's caused 3M to have to kind of go back to the drawing board in portions, as we explicitly requested discrete soil samples from the spots where these releases had happened. Releases of soil are kind of difficult; if it spilled in one spot, it might move through the soil, it might move to the groundwater, it might stick to the clay, etc.

Council Member Olsen stated what Michael just said is what keeps him up at night; it moves, it goes into groundwater, etc. When they proposed bringing in outside waste streams so that this incinerator was profitable, that was a business decision, profit and motive driven. One of the things that Washington County and Cottage Grove brought up was okay, how are you going to ensure that that material does not create exactly what you're dealing with right now. We heard all sorts of guarantees that they were going to take special care and different ways of storing the material, but here we are today; exactly what we hoped would not happen is what happened. The fear is if there's not significant oversight, as it relates to what's going on now with this situation, that that problem will be exacerbated vs. actually being resolved.

Michael stated that's understandable. In the Superfund program where he works, which overlaps significantly with the work that John and he are doing here, we use the phrase "extended magnitude of contamination". That requires a regulated party or a responsible party to figure out how much contamination has occurred and where it's gone. You don't get to draw an arbitrary boundary in our program and say, well, this is where the incinerator was, I guess we're done looking. You have to continue to step out to do these interim approaches to find and see how far it's gone, where it's traveled. We're working on what's called a conceptual site model at the moment, which talks about these multimedia transfers from air to soil to groundwater to stormwater; John talked about where you find the problem, you don't just say there's a problem here, you go out until you reach our standards at the MPCA and the Department of Health standards, for what we consider to be safe on those. It's a risk-based approach for everything.

Mayor Bailey asked Michael how long he'd been with the MPCA. Michael replied he's been with the MPCA for about 5.5 years. John stated he's been with the MPCA for 25 years.

Mayor Bailey asked John if he worked on this when they wanted to expand the incinerator; John replied he worked on the incinerator, but not the permit for the incinerator. He attended the meeting in Cottage Grove, so he sat through the MPCA's presentation and reviewed the Board Meeting presentations, as part of preparing for today. He knew that was a time, from 2009 to 2012; so, he's familiar with the history.

Mayor Bailey stated pardon my language, this is what pisses him off; we were told by the MPCA back when this all came about that there were not going to be any issues, it was safe, they were going to do regulatory checks to make sure that 3M was compliant. In fact, the City of Cottage Grove was so concerned about it that the City and our citizens paid to have an air-monitoring system put in down there to check for what was coming out of the stack. Oh, by the way, the MPCA didn't want us to do that because you were concerned that there were going to be two types of readings; one that you get off of the stack and then the other one, which is what we wanted to do, through an outside firm. So, we're now here; he always wanted to be at this point where the plant was being decommissioned, but now we're hearing that there's contamination and all these issues down there. What he's really asking is where were you guys for the last 10 or 20 years? Why did this get to this point where there's now ground contamination? It's fine to look at the pictures today, it's kind of like the PFC issue. He's just sharing his anger with them because he's had to deal with the PFC issue even before he became mayor, for at least 20 years. Our MPCA partners were saying that everything was going to be fine, that this is a good thing for the environment because it's going to get rid of this waste stream that otherwise could go into a landfill. And he's just letting them know that he's angry about how we got to this point, that there wasn't more being done before we got to this point. Now, it looks like after the fact, we're also now going back to 3M and saying, oh, by the way, you screwed up on all these things. This is more of a statement than a question. It just irks him that we're now at this point, and then as this information starts getting out into the public, then they're going to say, hey, Council, what were you doing? And we'll have to keep rehashing the fact of what we tried to do back when they wanted to expand, where we were against the expansion, and what we were trying to do to protect our citizens, only now to come to find out that there's contamination.

Council Member Olsen stated 3M offered to take law enforcement waste, if you remember; Mayor Bailey and Commissioner Bigham both stated yes, they did. Council Member Olsen stated that was the sweetener that enabled them to get their permit.

Commissioner Bigham stated, with the history that she's seen, 3M keeps getting a pass from the MPCA on deadlines to do corrections. She asked if there were benchmarks and deadlines to decommission this and the steps to do this? Are they hard and fast, is there a Memorandum of Understanding (MOU), is there something binding that says a time certain of when these different areas have to be decommissioned? Are you planning quarterly meetings to meet with the City to have status updates on the remediation efforts and kind of the plan to drawdown? If so, she'd like to be included on those meetings, as well as probably our State legislators.

John stated regarding the benchmarks, deadlines, and something binding for the agencies, there are no deadlines. We want to review the workplan thoroughly, to be able to understand, and if we believe that what has been proposed meets the intent of the regulations, the application, the permit, and the workplan, then we can grant approval of those operations. There are certain parts that got partial approval in the body of work; for example, decommissioning the trailers, so that people can access the storage lots to sample. Right now, they're all sitting in about nine storage lots.

Commissioner Bigham asked if he was then going to go and make sure the trailer is gone and X that off and initial it, date it; is that how that's going to work?

John replied yes, ma'am. The proposal is reviewed, we send it back with comments. So far, we're just literally discussing all those steps. Right now, there are no deadlines. We are doing those, again based on the body of work. For example, the tank farm, we need to see if we can figure out how many tanks are there, how can 3M decontaminate; the same with the trailers. So, we're doing partial, rather than waiting for months or years it takes to really review the entire body of work to keep the operations moving. That is the agency's plan at this time. Secondly, we'll talk to the supervisors to figure out status updates, meetings, quarterly or whatever time period.

Commissioner Bigham told Mayor Bailey and the Council that she would never tell them how to do their job because she wouldn't like it if they did the same to her; but if she was in their shoes, she would be asking staff to work with MPCA to get an MOU between 3M and the MPCA, and maybe the City can be a party to it to have a phase out of the deadline, like get it agreed upon. The longer this stuff sits there, the more it's going to go through; so, she wouldn't be satisfied with that answer that there is no deadline of when this has to be done. If she were in a situation like that, that's what she'd be asking. She could ask her own staff to see if that is possible to work with them as well, on anything that they want to provide insight on to that timeline. She honestly thinks it's kind of unacceptable that the MPCA is not having a deadline to have this removed once it's been established it's being decommissioned. There should be a drawdown deadline, timeline, that this will happen, to have it completed.

Samantha Adams stated there have been several questions, and she'd like to address a couple of them. As far as the historical decisions made, she doesn't think our staff are prepared to address that today, but we can look into it more if there are more questions about that and/or with our AERA team, which is a different unit within the agency.

As far as the authority to enforce this and to properly do this, in the beginning, John referenced our hazardous waste permit, our permit for the site. The closure plan is an enforceable component of that permit; so, in having the closure plan, the 3,100-page document, is an enforceable component of that permit. So, the timelines and the work within that plan is enforced through the RCRA permit, which is a Federal permit that we are delegated to issue and to enforce.

Regarding unannounced inspections, that is always something in our repertoire; so, with our compliance and enforcement unit, that is always something that is available in the agency.

As far as timelines, she thinks one of the things that gets lost in the work that we're doing, is these things are connected to one another. Looking at the scope and the magnitude of this, when we're sampling, we're looking, and we're expanding that; so, putting a timeline to say you have to be done with it, when this potentially could go bigger, as far as we need to sample here, but now we need to sample there. If you say this has to be done by May 2024, and our sampling is still ongoing, and the SAP that is an enforceable component of the closure plan is ongoing, it's really hard to say now you have to stop, you have to have this done. We want to make sure through the proper



evaluations that we get it all; that we evaluate whatever is out there, so we can actually address what's out there. So, that's one of the challenges that we're facing is a timeline. As we move forward, you'll see some of these questions be addressed. But that's really why it's hard for us in the closure process to completely decontaminate, evaluate, sample, analyze, and then take that stuff out far enough, so we can say that we've met the limit of the residence, or you met the limits for that use, when we have to know the extent and magnitude.

Council Member Khambata asked for the types of hazardous waste that the MPCA is aware of on the site, is it strictly toxic or corrosive or reactive, or is there any radioactive waste or anything else that might be of concern? Michael used the term Superfund; what qualifies a site as a Superfund site? Is this site at or near what qualifies a Superfund site? More importantly, who's paying for all of this remediation? And what tangible accountability measures do we have as the affected community? He stated those are his questions, but some of those might be answered as John continues.

John replied 3M's formulations in North America vary greatly, some of them are corrosive, reactive, or ignitable. When 3M shoots the waste into the incinerator, they're required to develop what's called a waste profile; that can be either a D, P, or U, whatever indication of the type of waste. He's not sure if there was any radioactive waste, but any types of hazardous waste, under the rules, would have been from manufacturing and would have been incinerated.

Michael stated when he says Superfund, a Minnesota Superfund comprises three distinct programs: 1) The Federally listed, the national priorities list; those are the ones the EPA is involved in. 2) The Permanent List of Priorities, called POP, that's at the State level; those are sites where there's no solvent, responsible party, there's no one we can find who actually caused the release. 3) Cooperative responsible party, which is where we know who caused a release, what had gone on throughout here, and they're on the hook. Minnesota is what we call a polluter-pay state, so the remediation work that we're talking about here is being funded by 3M under that work. He'll use the phrase Superfund referring to this site as well because it's been a State-led Superfund site, it's been under our oversight, in Craig and his program since about 1984; that was primarily related to old volatile organic compounds, PCP, dry cleaning chemicals, releases from their production facilities back then. In addition to being the technical lead on the incinerator closure, he also works on their Superfund part of it.

Council Member Khambata asked if there was still anything buried in the ground there, as far as landfill waste; Michael replied John will talk about that.

Council Member Dennis stated Council Member Olsen had asked a number of questions, one of which had to do with onsite oversight and management of this process. He didn't believe that that was adequately addressed. Also, as he looks at this, he doesn't think there should be a single individual who's vested in this process sitting in this room right now who would not be wholly disturbed by the fact that we would allow the actor who caused all these problems to be responsible; he thinks that's what he heard, that they would be allowed to go and lead the effort on the cleanup and processing of this material, and then only have the MPCA there periodically stepping in,

monitoring, looking at it from a 30,000-foot level, as opposed to being on the ground and actually having hands-on oversight and monitoring of this. This would be like inviting T-Rex into the chicken house; that's ridiculous. If you look at what this company has done, if you look at the history, if you look at the number of violations, if you look at the result of what history records for this area, they have poisoned our land. He can't trust them; he doesn't think anyone in this room can. We need you guys, and if this Superfund, if it's at the level that you say it is, big time, let's put together a plan so that you can actually have somebody here as a representative of the organization(s) to be on site, monitoring and watching and managing this process as it goes along. He doesn't care what the costs are, it has to be done because it's the right thing to do. He doesn't believe that we can trust 3M; they've hidden information in the past, they've not been forthright, they've had a tremendous number of violations, historically, and again, like Mayor Bailey said, we're sitting here as representatives of the people and protectors of our community. We want to ensure that we get the best possible outcome for everyone. He knows in their hearts that's what they want, too, but he's challenging them to find a way, make it happen so that you are hands on, not just monitoring from afar or coming in periodically, taking measurements or taking their data and overlooking it. We want to know that you are actually managing the process.

Council Member Thiede stated it sounds like this is an extremely huge problem, but he didn't see any figures saying what is the magnitude of the problem.

Council Member Olsen asked if that's even known at this point; Michael replied not at this point.

Council Member Thiede asked if we're overreacting; there might be a couple little spots of stuff and that's it. It seems like everybody's just up out of their chairs and hanging from the lights, screaming and shouting, and we don't know the magnitude of the problem.

Michael stated he thinks there needs to be a separation of the closure of this incinerator and the decontamination and the decommissioning of this incinerator; that's happening under the permit, to do the analysis of that material as it gets broken down and removed. If there have been any releases from the trailers, to make sure that we have a real good understanding of how much, has it moved past the area; and we need to separate that from the contamination that's occurred out there from 1948 up to the 1980s and after, and that's where the Superfund issues and cleanup come in. There is contamination out at this site, its got a long history, so there's a lot of work to do to define the extent and magnitude of that contamination, and make sure that we have a good handle on it, and understand how they're going to move ahead and clean up all that stuff. He just wanted to draw the distinction here between closure of this unit and the releases that have occurred at this property for a long period of time.

Council Member Khambata asked if the MPCA has any indication, you said there was about 200 trailers left there? John replied there were 700 trailers, and then we received a workplan for decommissioning 500 out there.

Council Member Khambata asked, so, there will be 200 remaining when all of this cleanup is done? John stated no, 3M is evaluating if they are road worthy, they can

send them to another facility to reuse, but at this time, they are not planning to demolish or decontaminate them, but at least 500 of them will be decontaminated and demolished.

Council Member Khambata stated so they determined that at least 500 of the 700 trailers had deteriorated to a point where they're not road worthy; John stated that's correct.

Council Member Khambata asked of those 500 trailers that are determined to not be road worthy, is there any indication of how many of them may be leaking chemicals?

Council Member Olsen stated they've been fined, they've had action taken against them, they've done some self reporting, and they've also had inspections that resulted in violations for leaking chemicals over the last 12 years.

Council Member Khambata asked is it 10% of the trailers are problematic, or?

Council Member Thiede stated we need some facts and figures.

Samantha stated our compliance and enforcement staff works on any open cases; these gentlemen are our regular closure and permitting staff. So, if there are additional questions about the compliance and enforcement or the history, we'll have to address that at a different time.

John stated he mentioned earlier that on the complex, each of these numbers represents what's called a solid waste management container. Historically, 3M may have had a landfill or ash pile or a cooling water pond. So, these numbers represent historic activity that has happened, that the hazardous waste permit is required to list them. When we're planning on closing the incinerator or terminating these incinerator permits, each of these have to be validated. The incinerator is down here, but the rest of all of this property has to be looked at, either by sampling or other means, to figure out if it can meet the current standards of quality environmental media on those units. As you are aware, some of this is really close to the banks of the Mississippi River and also are very close to the waste water treatment plant.

#### Challenges for this Closure Plan

- A trailer is different than a tank, which is different than a trailer, etc. So, staff has to pay close attention to which hazardous waste unit we're talking about, how to decontaminate whatever materials: Metal, wood, fiberglass, whatever else. That makes it really unique and complicated. There is very limited guidance available at the State because this is such a hazardous waste site downriver, with an incinerator; that's not common.

- Some of these units have undergone ash exposure, historically, and when we find exposure, we have to really understand the history that has happened in the 1970s and 1980s, earlier, and to figure out how to close each of those units. This is very hard for 3M as well as the MPCA. There are different materials when you're taking the incinerator metal apart, for example, those combustion chambers. How do you manage the solid waste, the hazardous waste, the metal for recycling, the soils. It's really crucial and critical for us to understand how that needs to be managed.

- Sometimes 3M proposes something, and then they go to the contractors, and then they get their decision and say, oh, we can't do it this way; so, we have to change

our plan. Previously, 3M told us they were going to get a temporary shelter and bring those 45-or-53-foot trailers and move them. They asked for a Request for Proposal (RFP), and they said, no, we're going to use the existing facility, which is building something new, so asked if we could authorize the work. So, we lost five months of time because the permittee now wants to propose a change to what they told us.

#### Timeline

John said this is a draft timeline proposed by 3M, and we as staff can only talk about anticipated MPCA approval of the workplan. We're hoping the first thing will be the semi-trailers, as mentioned, about 500 of them; we're hoping to approve the workplan, and this kicks off the project for 3M to do an RFP for contractors. Once they get those back and award the contract, then the actual work begins. Even though we may approve semi-trailers and the tank farm decontamination, etc., the work may not begin immediately because this work has to be given out to different contractors.

#### Closure Next Steps

Staff at both MPCA and Washington County think as soon as 3M makes an effort to get approval of workplan for these trailers and tank farms and hopefully storage lots, then we think the next phase will be closure of the incinerator and the other buildings.

We know the incinerator is a huge building with multiple components, so we're expecting that will be the next large priority of work that we will be reviewing and approving. As he mentioned earlier, certain parts of this 3M incinerator complex will be used for decontamination and decommissioning and demolition. Once 3M is done with decontamination, etc., then we have to close both particular parts of the incinerator and make sure that there is no contamination in there. Currently, even though the incinerator is not generating any waste water, there are waste water components still in place, and 3M might use them for some of the ongoing decontamination operations. Going in sequence, the next step will be the closure of waste water treatment components. The final large part will be the closure of the solid waste management units; there are about 15 of them.

Once the regulated part of 3M is done, all of it, 3M is required to send a full closure report to our engineer, certification to the MPCA, and then we will go through it tactically, one by one, area and unit, all over. Once the MPCA approves it, that's when it is considered closed. Before it gets to that point, we also need to evaluate this hazardous waste permit, if it's the right tool or is there like a Consent Order, or whatever else is the proper tool for this site. Also, the MPCA believes in what's called an Institutional Control; it's like a deed restriction for the future use of this land. So, those are the next steps we see in terms of steps to review, approval, as well as activities at 3M. John stated that's the plan he has to share tonight, and asked if there were any questions.

Mayor Bailey stated the frustration of people, like himself, who have been through this since the beginning, it feels like we're letting 3M kind of dictate the parameters. There are certain things he remembers because he was very passionate about it back when, with the air monitoring, etc. and the expansion was on there; one of the things that was mentioned was the storage of the product. Where was it going to sit, how much was going to be there, who was going to maintain it and make sure that leaks didn't happen?

And now what's happening, as we've heard today, is that there are maybe 500 trucks or 200, whatever number you want to use; like the picture you showed, it looks like there has been something that maybe was leaking out of the truck, which I know is what you guys are trying to do, and then you're going to check on the ground. His question is how did it get to that point? How did it get to the point if you were out there looking and you're out there working with them on this enforcement process? How did it get to the point where we're now coming in, a year after its been decommissioned, and we're now discovering these things? That's his question for whoever wants to answer it.

Samantha replied one thought is there's multiple facets to it; there's the compliance and enforcement facet, and the actions that have been taken and/or may be open. Compliance and enforcement within the agency, those are our inspectors; they're the ones that are on site, asking did you comply with your permit? Did you comply with the Minnesota Rule, State Statute, etc.? That piece has been happening and ongoing, and a current part of the work that happens. This piece is the closure, it's the removal. As far as the inspections by the compliance and enforcement unit, if they were sitting here with me, I would be happy to let them talk about what they could talk about. She was a hazardous waste inspector for many years, and so that work is evaluating that on an ongoing basis; that's all facilities across Minnesota. And so this closure work is to come in and so maybe they did enforcement, and maybe they evaluated that, and the closure work is to say, okay, we're taking this away; we're not going to let you do it without doing it properly and making sure that it's protective. So, as far as the fox watching the henhouse, she wants to say that the sampling and the analytical and all of that with a third party is a valid way to say that has to be evaluated this way, and we have to know that this is being closed properly. So, she doesn't have all of the history to be able to fully answer those questions, she wishes she had the whole litany and she could be even more detailed for you. She can tell him that the staff that we have working on this, the reason why you're seeing these timelines and you're seeing these efforts is to make sure that this is properly addressed and cleaned up before anybody walks away or stops doing anything. She can say that with the work that they're doing.

One other thing she commented on was the request for quarterly meetings from Commissioner Bigham; that is something that we can bring back and talk to our upper-level leadership about, and she's taken some notes to be able to do that after this meeting. She will have that conversation with them.

Mayor Bailey stated that would be good, and to be honest, maybe it's a meeting with the commissioner; because the commissioner was involved and was at meetings with us many years ago, and was one of the people who said everything's fine, everything's going to be great, you don't need to do all this stuff. And then we're at this point today where now you guys are left to do the cleanup. So, on the enforcement piece, that's what makes him angry. What would cause the MPCA to say you're done? Like, is there a certain amount of violations?

Samantha asked if he was talking about closing the facility; Mayor Bailey replied yes, the fact that there have been violations, even in what's going on right now, we didn't know about some of these issues. As a matter of fact, to be frank with you, as he looks at the timeline here, he and our City Administrator had 3M reaching out to us, saying

we're trying to get this thing closed, and you guys are holding us up, okay? I'm just telling you that's how it is; so, what's interesting is he's looking at their timeline and 3M's timeline are fairly close, so he's not sure where that's all coming from. Administrator Levitt was at the same meeting and heard them complain. If it's taking the stack down, he totally understands that you want to make sure everything is cleaned up on the site, and that's what he wants. But that's what we're hearing from 3M, which is why we want to hear it from you. What he's sharing with them is just that you're dealing with the aftereffects; he's more angry at how did it get to the point where now we're having to deal with possibly contaminated soil and things like that, when we were told that there were a lot of processes in place to make sure that that didn't happen.

Council Member Khambata stated he's really questioning how does a repeat offender be allowed to continue to self report? People are there periodically, but if they have a spill, he's assuming they have to disclose that, right?

Samantha replied yes, dependent upon the spill, you have to call the duty officer and there's very specific steps that you have to take.

Council Member Khambata stated but if they have a track record of contamination, isn't it reasonable to assume that they might not be proactive?

Samantha replied they're required by State Statute to do it, but if they don't do it, then they're in violation of Minnesota State Statute. So, every company in the State of Minnesota has to report spills.

Council Member Khambata stated there's a 60-year history of contamination, so can we assume that the State Statute maybe doesn't have as many teeth as it should?

Samantha replied she'd have to talk to the legislators. Mayor Bailey stated he agreed, it's not her, and it's a legislative thing. Samantha stated she's not trying to be glib; she's just saying that is the standard in Minnesota for spill response.

Mayor Bailey stated from a takeaway standpoint, she's going to take some of the notes back and talk to them; he would also recommend that Administrator Levitt be included.

John stated before we move on with the trailers, he wanted to mention that there is only one other state, North Carolina, that had allowed semi-trailers to have hazardous waste in them, and they had about 14. So, this is a very unique situation; supposedly it was temporary, so he doesn't know how it went on for decades. We're now dealing with over 500 of them.

Mayor Bailey apologized for interrupting John, but he gets it. To his point, and you said how did it get to 500 or 700 trailers? To him, that's more of a question for the leadership than you guys. And that's what he's looking for, so when he says your administrator, he actually would like, and he knows Samantha will take it back, is to get the leadership of the MPCA to have a meeting with the Council so that we can voice our displeasure but also make sure that there's an understanding of what our expectations are. He knows the gentlemen here tonight know, and he knows they'll do their best to clean up the site to a level that it needs to be. At the same time, he wants to make sure that they're very clear and concise with the unfortunate issue of how much; again, there's a distrust, there's a distrust because of the PFC issue and then now we have the

incinerator issue, and there are just so many things that are kind of snowballing. We feel like we have no control on stopping it or to rectify the issue in as quick a manner as we possibly can. So, that's his comment.

Samantha addressed two things: She knows you guys have other places to be and our time tonight is short. As far as closing a facility, we're very bound by the Code of Federal Regs and the Statutes and the Rules. So, if they're following those, and they're meeting their permit conditions, it's very challenging to just close a facility. She's only ever known one, and that was a feed lot, and that was like an act of unbelievable proportions to do that. With that being said, what would it take to close 3M? She doesn't know; that's her answer.

As far as follow up and additional work, she said we'll do that.

Administrator Levitt stated she is confident, as Samantha's team has been working really hard on this with the level of detail. We'll figure out a way to have those regular communications and check-in available to report to you. She's confident in Samantha's team and what she's got going here, that they're doing a very thorough job. So, back to our original issue with 3M and the response time, she thinks it's just following the level of diligence that they're going through to ensure that every valve, every piece of pipe is decontaminated and addressed appropriately; so, they're not rushing that component. So, we will work to get you a detailed schedule on those updates.

Mayor Bailey thanked everyone for their attendance tonight and thanked the MPCA for their presentation.

#### 4. ADJOURNMENT

The meeting was adjourned at 6:51p.m.

Minutes were transcribed by Judy Graf, reviewed by Tamara Anderson, City Clerk.