

MINUTES

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND COUNCIL OF ILLINOIS

COURTYARD CHICAGO WOOD DALE HOTEL WOOD DALE, ILLINOIS

NOVEMBER 4, 2019

John Polak, Chairperson, called the Drycleaner Environmental Response Trust Fund Council of Illinois meeting to order at 2:17 p.m. A quorum was present. Roll call was taken with the following members present:

Robert Dunham
Jemma Jones
Sung Do Kang
Daniel Kim
Young B. Kim
John Polak (via telephonic conference)

Also present were:

H. Patrick Eriksen, Program Administrator's Office
Emily Masalski, Legal Counsel
Dr. Juho So, Program Administrator's Office
Yong Kim, Program Administrator's Office

PRELIMINARY BUSINESS

The minutes from the July 8, 2019 Council meeting were reviewed. Mr. Kang made the motion the minutes be approved as presented. The motion was seconded by Mr. Dunham and approved by a vote of 6-0.

APPEAL OF LICENSE LATE PAYMENT FEES

Mr. Rich Sonshine of Drycleaner 365 in Prospect, IL was not in attendance. On a motion by Mr. Dunham and a second by Ms. Jones, the Council voted 6-0 to defer the appeal to the next council meeting.

APPEAL OF LOSS OF REMEDIAL PROGRAM BENEFITS

Mr. Duck Lim, the appellant, contacted the administrator's office this morning informing staff he is unable to attend today's meeting due to illness. On a motion by Mr. Dunham and a second by Mr. Young Kim, the Council voted 6-0 to defer the appeal to the next council meeting.

APPEAL OF CANCELLATION OF INSURANCE COVERAGE

1. Mr. Fahim Zuberi, owner/operator of Lapel's Dry Cleaning, 819 Ridge Road, Wilmette, IL (site #0001622), requested the Council reinstate the insurance coverage on his drycleaning facility without a lapse in coverage and reinstate the facility's remedial program benefits.

Mr. Eriksen reviewed background information outlined in his Council memo. Mr. Juberi addressed the Council noting he was new to the drycleaning industry when he purchased the facility in September 2018 and did not understand the insurance renewal requirements and the need to keep coverage in effect to preserve the remedial program cleanup benefits. Mr. Kurt Raggi, the prior facility owner/operator and remedial claimant, informed the Council cleanup is substantially complete at the facility.

After additional discussion, on a motion by Mr. Dunham and a second by Mr. Young Kim, the Council voted 5-1 to reinstate the insurance coverage without a lapse in coverage and restore the drycleaning facility's remedial program benefits.

2. Ms. Erika Aritzmeni, facility manager of Smile Cleaners, 1132 West Thorndale Ave., Chicago, IL (site #0002155), requested the Council reinstate the insurance coverage on this drycleaning facility without a lapse in coverage and reinstate the facility's remedial program benefits.

Mr. Eriksen reviewed background information outlined in his Council memo. Ms. Aritzmeni informed the Council she had misunderstood the date she needed to provide the inspection and repair logs and the operator training certificate. She noted this information has been provided to and accepted by the administrator's staff.

After additional discussion, on a motion by Mr. Kang and a second by Mr. Dunham, the Council voted 5-1 to reinstate the insurance coverage without a

lapse in coverage and restore the drycleaning facility's remedial program benefits.

APPEAL OF FINANCIAL ASSURANCE REQUIREMENT

Mr. Vilma, owner/operator of Discount Count Pride Cleaner, 558 East 79th Street, Chicago, IL (site #0001647) was not in attendance but since this appeal had been deferred several times, the Council wished to proceed with the appeal.

Mr. Eriksen reviewed background information outlined in his Council memo. The facility is currently insured and licensed by the Fund.

On a motion by Mr. Daniel Kim and a second by Mr. Polak, the Council voted 6-0 to not waive the financial responsibility requirement for this drycleaning facility.

OPERATIONAL ISSUES

A. Legislative Update

SB0171 was signed into law on August 16, 2019 by Governor Pritzker and it is now Public Act 101-0400.

SB0718 was amended in the veto session to correct various technical issues associated with SB0171, primary being the effective date of the extension of the license fee and solvent taxes. The amended bill has passed the senate and forwarded to the house for their review and action during the second week of the veto session.

B. Review of Fiscal 2018 Audit Report

Mr. Eriksen reviewed the fiscal 2018 audit report noting the only finding is a repeat finding for the past eleven audits and references the timeliness of Council member appointments. The Council continues to respond that the appointments are outside of their control.

Field work for the fiscal year 2019 audit was recently completed.

C. Insurance Archeology

Mr. Eriksen reviewed EnviroForensics material on insurance archeology. This firm had contacted him in July to discuss their services. Their research cost is \$7,500 or higher and is typically funded by the drycleaner. Their goal is to identify old insurance policies that did not contain a pollution exclusion clause and access the policy's coverage to pay for cleanup of drycleaning solvent releases. Henry Parker of S&ECC noted this firm has done some archeology work in Indiana but to his knowledge has not been successful in accessing insurance coverage in Illinois.

D. NDI Compliance Program Application

Ms. Catherine R. Brukalo, attorney for NDI, presented NDI’s compliance program application to the Council noting the material presented addressed all items outlined in Mr. Eriksen’s August 21, 2019 memorandum of compliance program requirements. Mr. Mike Tryon, board advisor, briefly commented NDI has remained an active organization even though it had not been a Council approved compliance program for several years.

Mr. Henry Parker of S&ECC spoke against approval of the program based on past problems with NDI’s previous compliance program.

After additional discussion on motion by Mr. Dunham and a second by Ms. Jones, the Council approved NDI’s compliance program application on a roll call vote of 5-1. Mr. Daniel Kim voted against the motion.

E. Third Party Administrator Contract

Mr. Kyle Rominger, Director of the Bureau of Land of the Illinois Environmental Protection Agency (Agency), reported the Agency has been working with Chairman Polak and the State of Illinois Chief Procurement Office to extend Williams & Company Consulting, Inc.’s current contract for the period of December 8, 2019 through June 30, 2020.

On a motion by Mr. Dunham and a second by Mr. Kang, the Council voted 6-0 to extend Williams & Company Consulting, Inc.’s contract for the period December 8, 2019 through June 30, 2020.

APPROVAL OF PROGRAM BILLINGS

There were seven (7) bills before the Council for their review and approval:

- 1. Hunter Masalski LLC \$ 2,735.00
Professional legal services for the period of July 8, 2019 through August 9, 2019.
- 2. Williams & Company Consulting, Inc..... \$ 56,459.00
Standard flat fee billing for July 2019, licensing, underwriting, claims processing and site inspections.
- 3. Williams & Company Consulting, Inc..... \$ 48,072.00
Standard flat fee billing for August 2019, licensing, underwriting, claims processing and site inspections.

4. Williams & Company Consulting, Inc..... \$ 41,800.00
Standard flat fee billing for September 2019, licensing, underwriting, claims processing and site inspections.
5. Williams & Company Consulting, Inc..... \$ 48,738.00
Standard flat fee billing for October 2019, licensing, underwriting, claims processing and site inspections.
6. Hunter Masalski LLC. \$ 1,272.50
Professional legal services for the period of August 10, 2019 through October 3, 2019.
7. Hunter Masalski LLC. \$ 1,272.50
Professional legal services for the period of October 4, 2019 through October 22, 2019.

On a motion by Mr. Dunham and a second by Ms. Jones, the bills were approved by a vote of 5-0. Mr. Kang briefly left the meeting prior to the vote.

REVIEW OF MONTHLY ACTIVITY REPORTS AND FINANCIAL STATEMENTS

Mr. Eriksen reviewed the monthly activity report for September 30, 2019 noting 688 licenses were in effect at the end of the month compared to 751 licenses as of September 30, 2018. Three hundred fifty three (353) active dry-cleaning facilities have pollution liability insurance coverage with the Fund. Open claims totaled 146 with estimated reserves of \$15 million.

The September 30, 2019 financial statements reflect a fund balance of \$753,003.

CLAIM PAYMENTS IN EXCESS OF \$75,000

Mr. Eriksen noted there were six (6) claim payment requests for Council review.

1. Trim & Tidy Cleaners, Chicago, IL; Claim #50864, Site #0002610:

Dr. So reviewed background information on the facility noting the budget request is for final costs relating to abandonment of monitoring wells and payment of

water bills associated with remediation from March 2015 through November 2018. The administrator requested budget approval of \$12,500.

On a motion by Mr. Dunham and a second by Mr. Kang, the Council approved the administrator's budget request of \$12,500 by a vote of 6-0.

2. Modern Way Cleaners, Naperville, IL; Claim #50376, Site #0001670:

Dr. So reviewed background information on the facility noting the budget request is for post remedial site investigation, site restoration, and closure of monitoring wells. The administrator requested budget approval of \$30,400.

On a motion by Mr. Young Kim and a second by Ms. Jones, the Council approved the administrator's budget request of \$30,400 by a vote of 6-0.

3. Fabricare Chicago, Inc., Chicago, IL; Claim #50331, Site #0001742:

Dr. So reviewed background information on the facility noting the budget request is for site restoration, NFR letter request, and installation of a building control technology. The administrator requested budget approval of \$40,000.

On a motion by Mr. Kang and a second by Mr. Young Kim, the Council approved the administrator's budget request of \$40,000 by a vote of 6-0.

4. Modernway Cleaners, Midlothian, IL; Claim #50799, Site #0002162:

Dr. So reviewed background information on the facility noting the budget request is for site investigation and reporting involving indoor air inhalation exposure routes. The administrator requested budget approval of \$25,000.

On a motion by Mr. Young Kim and a second by Mr. Kang, the Council approved the administrator's budget request of \$25,000 by a vote of 6-0.

5. Prehop Cleaners, Lombard, IL; Claim #50179, Site #0001823:

Dr. So reviewed background information on the facility noting the budget request is for costs relating to installation of a chemical oxidation remediation system, operation and maintenance costs, confirmation sampling and reporting. The administrator requested budget approval of \$176,000.

On a motion by Mr. Kang and a second by Ms. Jones, the Council approved the administrator's budget request of \$176,000 by a vote of 6-0.

6. Lamar Cleaners, Evergreen Park, IL; Claim #50121, Site #0001303:

Dr. So reviewed background information on the facility noting the budget request is for costs relating to soil sampling, Tier 3 calculations, and preparation of an amended FSIR/ROR/RACR. The administrator requested budget approval of \$18,500.

On a motion by Mr. Dunham and a second by Mr. Young Kim, the Council approved the administrator's budget request of \$18,500 by a vote of 6-0.

OTHER ISSUES

The next Council meeting is scheduled for Tuesday, December 3, 2019 beginning at 10 a.m.

PUBLIC COMMENT PERIOD

Mr. Polak asked for public comment. There was none.

Mr. Polak recessed the meeting at 3:45 p.m. for a brief break. The meeting reconvened at 3:50 p.m.

SEXUAL HARASSMENT TRAINING

Mr. Eriksen reviewed with the Council the 2019 Sexual Harassment Training for state employees under the jurisdiction of the governor.

CLOSED SESSION

On a motion by Mr. Kang and a second by Mr. Dunham, the Council voted 6-0 to go into closed session to discuss matters of potential litigation at 4:00 p.m.

The Council adjourned from closed session at 4:18 p.m.

On a motion by Mr. Kang and a second by Mr. Young Kim, the Council voted 6-0 to waive the 2017 license late payment penalty for Sparks Drive In, Morris, IL, and confirm the administrator's determination the facility was not operating in 2018.

On a motion by Mr. Dunham and a second by Mr. Young Kim, the Council voted 6-0 to reduce the 2019 license late payment penalty for Express Drycleaning and Laundry, Glendale Heights, IL, from \$435 to \$106.

On a motion by Mr. Dunham and a second by Mr. Daniel Kim, the Council voted 5-1 to reduce the 2019 license late payment penalty for Dulles Cleaners, Elmhurst, IL, from \$805 to \$166.

On a motion by Mr. Dunham and a second by Mr. Young Kim, the Council voted 6-0 to allow Eileen Cleaners, Homewood, IL to pay the \$3,652.23 balance of previous years license late payment penalties in 4 installments not-to-exceed six months.

On a motion by Mr. Dunham and a second by Mr. Kang, the Council voted 6-0 to reduce the 2019 license late payment penalty for Joseph Cleaners, Schaumburg, IL from \$835 to \$172.

On a motion by Mr. Daniel Kim and a second by Mr. Kang, the Council voted 6-0 to reduce the 2019 license late payment penalty for Hillside Royal Cleaners, Hillside, IL from \$1,170 to \$227.

There being no further business, on a motion by Mr. Dunham and a second by Mr. Polak, the Council meeting adjourned at 4:25 p.m.

Respectively submitted,

H. Patrick Eriksen
Administrator