

## Questions and Answers as of January 31, 2020

### GENERAL

1. COMMUNICATION: MH Mayor states, “the State if the chosen leader to manage communications with the public...I will continue to rely on the coordinated plan and share messages from the State...”. We need to consider that Rep. Shane Hernandez from Sanilac County most recently stated in a Huron Daily Tribune report (Port Huron, MI – 1/24/2020) that EGLE is still lacking in communication. How can we be sure we are getting the most accurate and up-to-date information? How can we be assured that EGLE is doing EVERYTHING they can when communication and trust have previously been broken?

The City Madison Heights officials and staff attend weekly update meetings hosted by EGLE and the EPA. Staff also visits the site and talks with on-site personnel are a regular basis. Unlike the situation in Sanilac County, we have had “boots on the ground” continuously since December 20<sup>th</sup>, actively working at this site. In addition City Administration and elected officials have testified before the State House Appropriations committee which not only has funding authority but operation control over departments such as EGLE. They have heard our concerns and we heard from the new director of EGLE regarding many items including communication. As the City Manager I currently believe the current EGLE staff working on this site is dedicated to doing everything they can to make sure it is remediated and to provided updated and accurate information to staff, elected officials and residents.

### POLICIES

1. What is the Madison Heights policy for code inspection for businesses? Does the protocol differ based on the presences of toxic material/waste at a business? How has this protocol changed overtime?

Code enforcement only inspects outside of buildings and houses and they do not have the credentials to identify or handle situations that may involve toxic waste. If they suspect they have found toxic waste then they will contact the appropriate subject matter experts to investigate. Code enforcement in the City has been a topic of improvement and in July 2018 City Council approved a new enforcement policy and added an additional code enforcement officer to our one person division. During the recession the City reduced staff to one officer for the entire City. We currently have two code enforcement officers. Before adding additional staff, we are working on implementing several other operations changes. Code enforcement is a focus of administration for improvement. We will be evaluating how the operational changes impact the effectiveness of code enforcement and evaluate our needs for a proactive response in future budgets.

In the particular case of EPS, the City was prohibited from issuing tickets due to ongoing litigation. In 2016, the City started legal proceedings against the owner to have this site demolished under the State Building and Fire Code. In January 2020 we finally started the trial in Oakland County Circuit Court.

In 2016, the Fire Department changed their practice and policy to inspect Title III businesses on a bi-annual basis. In early 2019, this was changed to an annual basis and staff included all identified high hazard facilities to this list for inspection by the Fire Marshall. These inspections focus on fire code violations and include life safety issues. When anything is observed outside the fire departments scope of practice, they call in subject matter experts including Hazmat material, sprinklers, site plans etc. EGLE should have been inspecting this facility and communicating findings to the City.

2. What is the city doing to protect residents from the 18 other businesses in our city that use or produce toxic (waste) materials? Has anyone visited them since the EPA disaster?

In early 2019, the Fire Department changed protocol and in addition to 18 businesses on the Title III list, added several other high hazard facilities that for annual inspection. Inspections of all facilities will be completed by March of each year. The Fire Department has inspected these facilities and there are no known or outstanding issues in any other facility.

The majority of businesses comply with State law and when something is cited by agencies such as the Fire Department, Building Department or State Departments the business owners/operators take action to remedy the situation

3. A warren resident brought up some great concerns and questions. (see Warren City Council meeting video from 1/14/2020 at 42:39) "Municipal governments are people's first line of deference against environment abuses of businesses. Often the degree to which corrective actions are taken, are based on subjective decisions made at the city level, in the form of industrial water permitting processes." Will the city undergo a rigorous process to identify other noncompliant businesses that are contributing to pollution in our waterways?" Madison Heights was in compliance with the NPDS permitting process. Either there was gross negligence or a system error? There is room for improvement and we should demand it.

We agree that Municipal government is peoples' first line of defense. As such we are demanding more communication from EGLE on known issues. Warren operates a wastewater treatment plant and therefore they have an Industrial Pre-Treatment Program (IPP). Madison Heights does not have a separate water treatment plant in the City. Instead we utilize the services of Oakland County as they have an IPP. Further they employ staff with expertise in wastewater treatment. The majority of other cities including Madison Heights rely upon Oakland County Water Resources and EGLE.

4. Is there room for the city to be more proactive? Can scheduled inspections of all facilities that handle toxic waste be published and made available to the public? Is the current schedule of inspections of every 5 years sufficient to protect the public?

In early 2019, the fire inspection schedule was changed to annual inspections. By March 1, 2020 all facilities will have had an annual fire inspection. However, toxic waste is overseen and should be inspected by State of Michigan EGLE.

The Fire Department can and will start to publish a list of facilities and inspection date on the City website.

5. Can the city/state/federal professionals please explain what sort of inspections/permits is needed to run a business like EPS, especially to protect the public? What city codes can/are enforced? Can the state describe the National Pollutant Discharge Elimination System (NPDES) permit? Are there any other state or federal permits required or inspections required?

City - City permits apply to zoning and building code when the building was built or modification are made. This type of business does not require an annual business license through the City. It is not feasible to inspect every single business every single year as to do so would require several additional full-time inspectors. We have implemented additional inspections by the Fire Department of high hazard locations and the Building Department conducts annual inspections of all hotels and inspects all rental units once every three years.

6. Looking at the pictures of the outside/inside of the building during the 2016 EPA clean up, it is hard to believe that there were not city code violations that could have been brought up sooner. I personally ask this as someone who has had great experience with the current code enforcement team. Is there a role for citizens taking an active role in watching and reporting? I am not looking to blame individuals, but rather this is clearly a system failure, where weaknesses at each level aligned resulting in this costly man made, environmental catastrophe.

There were failures with the code enforcement in the past. We are aware improvements still need to be made and are actively implementing operational changes to improve code enforcement across the City. In addition, we will be looking at apps and tools to make it easy for code violations to be reported by residents and tracked. We do depend heavily on residents to report known issues. In addition Code Enforcement is one of the main focuses of the upcoming strategic plan and budget. Through this process we will be evaluating the need for additional officers after operations have improved.

## **TESTING AND SITE REMEDIATION**

The City of Warren is doing an independent review of the findings from Michigan EGLE to make sure that data is validated by a third party. Is Madison Heights considering any Third party testing?

Yes. Madison Heights is currently conducting third party testing of water quality. We have received those test results (available on the website). This has verified what we have been told by GLWA and EGLE. In addition the City also conduct specific PFOA/POFS testing and the levels were non-detect (under the minimum testing level).