



A G E N D A
ORMOND BEACH BROWNFIELD
ADVISORY BOARD
Regular Meeting

January 14, 2020

6:00 PM

City Hall
Ormond Beach City Commission Chambers
22 South Beach Street
Ormond Beach, FL

I. ROLL CALL

II. ADMINISTRATIVE ITEMS

- A.** Election of Chairperson and Vice-Chairperson
- B.** Review and Adoption of 2020 Meeting Schedule
- C.** Approval of the 2020 Rules of Procedures

III. APPROVAL OF THE MINUTES:

- D.** March 12, 2019

IV. OTHER BUSINESS AND DISCUSSION ITEMS:

- E.** Grant Project Status Report
- F.** Brownfield Board Continuation Discussion

V. MEMBER COMMENTS

VI. ADJOURNMENT

BROWNFIELD ADVISORY BOARD MEETING DATES 2020

Meeting Date:	Public Hearing Ad due: (Thurs. of 2 wks ahead)	Packet assembly and mail out
January 14, 2020	December 31, 2019	January 7, 2020
February 11, 2020	January 28, 2020	February 4, 2020
March 10, 2020	February 25, 2020	March 3, 2020
April 14, 2020	March 31, 2020	April 7, 2020
May 12, 2020	April 28, 2020	May 5, 2020
June 9, 2020	May 26, 2020	June 2, 2020
July 14, 2020	June 30, 2020	July 7, 2020
August 11, 2020	July 28, 2020	August 4, 2020
September 8, 2020	August 25, 2020	September 1, 2020
October 13, 2020	September 29, 2020	October 6, 2020
November 10, 2020	October 27, 2020	November 3, 2020
December 8, 2020	November 24, 2020	December 1, 2020

**RULES OF PROCEDURE
OF THE
BROWNFIELD ADVISORY BOARD
FOR THE
CITY OF ORMOND BEACH**

The Brownfield Advisory Board of the City of Ormond Beach, Florida shall be governed by the terms of the Code of Ordinances, and the Rules of Procedure set forth herein and adopted by the Board.

SECTION 1. OFFICERS, MEMBERS AND DUTIES

1.1 Chairman. A Chairman shall be elected by the Board, in accordance with Subsection 2-229 (d) of the City Code of Ordinances. The Chairman shall decide upon all points of order and procedure subject to these rules, unless otherwise directed by a majority of the Board in session at the time. The Chairman shall appoint any subcommittee found necessary to investigate matters before the Board. The Chairman shall sign all minutes of the Board and all pertinent correspondence.

1.2 Vice-Chairman. A Vice-Chairman shall be elected by the Board, in accordance with Section 2-229 (d) of the City Code of Ordinances. The Vice-Chairman shall serve as Acting Chairman in the absence of the Chairman and, at such times, shall have the same powers and duties as the Chairman.

1.3 Secretary. The Secretary shall be the Director of Planning or the designee of the said Director. The Secretary shall keep all records, shall conduct all correspondence of the Board, shall cause to be given the required legal notice of each public hearing and shall generally take charge of the clerical work of the Board. The Secretary shall take, or cause to be taken, the minutes of every meeting of the Board. These shall show the record of all important facts pertaining to each meeting and hearing, every resolution acted upon by the Board, and all votes of members of the Board upon any resolution or upon the final determination of any questions, in dictating the names of members absent or failing to vote. The Secretary shall endeavor to present the final copy of the minutes to the Chairman for signature not later than five (5) days before the next regular meeting. The Secretary shall keep all records open to the public at all times during normal business hours (8:00 AM-5:00 PM), but shall in no event relinquish the original of any record to any person, unless such authority is granted by the Chairman of the Board.

1.4 Members. As required by Ordinance 2012-01 codified as Section 2-229 (b) of the City Code of Ordinances, the board shall consist of seven (7) members who shall be comprised of residents within or adjacent to a Brownfield area, businesses operating within a Brownfield Area, and other persons deemed appropriate by the City Commission in accordance with the residency requirements of Section 5 herein. Terms and conditions of appointment shall be governed by subsection 2-229 (c). Members shall provide the Secretary with their current home address and home and/or office telephone number, unless such information is made confidential by law. Such information shall be kept

current by the members. In the event that a member of the Board shall be unable to attend a regularly scheduled meeting, the member shall notify the Secretary of the member's expected absence no later than five (5) days before that meeting. The five (5) days notice of absence shall not apply to emergency absences beyond the member's control, nor to special meetings described in Subsection 2.2 below.

1.5 Viewing. The Board members shall make every effort to view any redeveloped site being considered by the Board for financial incentives related to the Brownfield designation. The Secretary shall provide each member with a map showing the subject site.

1.6 Schedule of Meetings. Pursuant to Subsection 2-229 (c) of the City Code of Ordinances, the Board members shall approve a yearly calendar of meetings at its inaugural meeting in January of each year. This schedule of meetings will establish timeframes for application submittal and staff review.

SECTION 2. MEETINGS

2.1 Regular Meetings. Regular meetings of the Brownfield Advisory Board shall be held generally on the second Tuesday of each month, at 6 PM, in the City Hall Commission Chambers. If the Chambers are not available, an alternate location shall be noted on the agenda and in all related advertising and noticing. The time and place of the regular monthly meeting may be changed by affirmative vote of a majority of the Board.

2.2 Special Meetings. Special meetings of the Board may be called at any time by the Chairman, or at the direction of any three (3) members of the Board. At least seventy-two (72) hours advance notice of the time and place of special meetings shall be given by the Secretary or Chairman to each member of the Board.

2.3 Cancellation of Meetings. Whenever there is no business for the Board, or whenever so many members notify the Secretary of inability to attend that a quorum will not be available, the Chairman may dispense with the regular meeting by instructing the Secretary to give written or oral notice to all members not less than twenty-four (24) hours prior to the time set for the meeting.

2.4 Quorum. A quorum shall consist of four (4) members for the transaction of business.

2.5 Conduct of Meeting. All meetings shall be open to the public. The order of business at regular meetings shall be as follows:

- a. Roll Call
- b. Invocation
- c. Pledge of Allegiance
- d. Approval of the Minutes
- e. Public Hearings on applications
- f. Other Business and Discussion Items
- g. Member Comments

h. Adjournment

2.6 Continued Meetings. The Board may continue a regular or special meeting if all business cannot be disposed of on the day set, and no further public notice shall be necessary for resuming such a meeting if the time and place of its resumption is stated at the time of continuance and is not thereafter changed.

2.7 Adjournment. Upon the conclusion of member comments, the meeting shall adjourn. New items other than those properly advertised and on the agenda shall not be heard by the Board.

SECTION 3. VOTING

3.1 Vote. The affirmative vote of a majority of the members present and legally entitled to vote at any meeting shall be necessary to make any recommendation on any matter coming before the Board. The Chairman shall have one (1) vote on all issues voted upon by the Board.

3.2 Voting Conflict of Interest. No member of the Board shall participate in any matter which would inure to the member's special private gain or loss, which the member knows would inure to the special private gain or loss of any principal by whom the member is retained, or to the parent organization or subsidiary of a corporate principal by which the member is retained; or which the member knows would inure to the special private gain or loss of a relative or business associate of the member without first disclosing the nature of the member's interest in the matter.

Such disclosure, indicating the nature of the conflict, shall be made in a written memorandum filed with the Secretary prior to the meeting in which consideration of the matter will take place, and shall be incorporated in the minutes. Any such memorandum shall become a public record upon filing, shall immediately be provided to the other members of the Board, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.

In the event that disclosure has not been made prior to the meeting, or that any conflict is unknown prior to the meeting, the disclosure shall be made orally at the meeting when it becomes known that a conflict exists. A written memorandum disclosing the nature of the conflict shall then be filed within fifteen (15) days after the oral disclosure with the Secretary and shall be incorporated into the minutes of the meeting at which the oral disclosure was made. Any such memorandum shall become a public record upon filing, shall immediately be provided to the other members of the Board, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.

Any member of the Board who, after written notice and public hearing, is found to have violated the provisions listed above, shall have the member's membership on the Board immediately terminated.

3.3 Abstention. All members of the Board shall vote in favor of, or in opposition to, all matters coming before the Board for vote, and such vote shall be recorded in the official records of the Board. However, no member shall vote upon any matter which would inure to the member's special private gain or loss; which the member knows would inure to the special private gain or loss of any principal by whom the member is retained or to the parent organization or subsidiary of a corporate principal by which the member is retained, other than an agency as defined in Florida Statutes, Section 112.312(2); or which the member knows would inure to the special private gain or loss of a relative or business associate of the member. Any member so required to abstain shall, prior to the vote being taken, publicly state to the assembly the nature of the member's interest in the matter from which the member is abstaining from voting and, within fifteen (15) days after the vote occurs, disclose the nature of the member's interest as a public record in a memorandum filed with the Secretary, who shall incorporate the memorandum in the minutes.

3.4 Policy. It shall be the policy of the Board to provide sufficient findings to ensure all applications before the Board have addressed the criteria described in section 376.80 (5) of the Brownfield Act. The information and application provided by the applicant shall be reviewed by the Planning staff with a recommendation to the Board along with appropriate information or evidence and testimony presented at the public hearing.

SECTION 4. ATTENDANCE

Attendance of the Brownfield Advisory Board members shall be subject to the standards contained in the Code of Ordinances, Chapter 2 Administration, Article VI Boards, Commissions, Committees and Other Agencies, Division 1. Generally, Section 2-202, Attendance of Members, as amended.

SECTION 5. RESIDENCY REQUIREMENTS

Members need not live in the same zone as the City Commissioner making the appointment. All Board members must be residents of the City of Ormond Beach. A member who, after appointment or selection to the Board, ceases to be a resident of the city shall promptly tender a resignation, which shall be effective immediately upon its tender. Failure to resign shall result in the person's membership on the Board being terminated by the City Commission. Upon request of the person involved and upon a showing of good cause, the City Commission may extend such time.

SECTION 6. CONDUCT OF HEARINGS

The applicant may appear in person or by agent or by attorney at the hearing. The order of procedure for each hearing shall be as follows:

6.1 The Chairman, the Chairman's designee, shall present a summary explanation of the application;

6.2 The staff shall present its analysis and recommendations regarding the application;

6.3 The applicant or the applicant's agent shall be afforded the opportunity to speak in behalf of the application;

6.4 Any Board member, with permission of the Chairman, may request additional staff input or question the application or his agent;

6.5 The Chairman shall direct persons wishing to speak in favor of, or in opposition to, the application shall be allowed to do so after signing in and stating their name and address - such presentation shall be made at the podium. The Chairman shall ensure that there is sufficient time allocated to the staff, applicant and public to provide comments and to address questions, comments and recommendations raised by the Board members in their discussion of the application;

6.6 In order to allow the meeting to proceed in an orderly fashion, the Board, by motion, may limit the time allowed for remarks concerning a specific agenda item to a maximum of thirty (30) minutes for City staff, the designated representative of the applicant and the designated representative of any organized group and to five (5) minutes for members of organizations and other individual speakers. Additional time shall be allowed to respond to questions from the Board. The Chairman may also direct speakers to limit their comments to issues which have not been previously stated;

6.7 Arguments between the parties shall not be permitted - all remarks shall be addressed to the Chair;

6.8 Where there is no opposition to an application, the Chairman, by consensus of the Board and upon confirmation that all Board members have read the staff report, may waive the staff analysis;

6.9 Members shall at all times speak directly into the microphones to facilitate the recording of the meetings; and

6.10 Copies of any and all letters, exhibits, or any information not otherwise provided prior to the meeting are required to be presented to the recording secretary for inclusion in the Board minutes.

SECTION 7. DECISIONS

7.1 Time. Decisions by the Board shall be made in the form of a motion upon completion of the hearing.

7.2 Notification. The Secretary shall send a copy of the Board's recommendations to the City Commission and to the applicant within fifteen (15) days of the date of decision by the Board. A copy of the Board's recommendation shall be inserted in the applicant's file.

SECTION 8. AGENDA

Each matter shall be placed upon the agenda of the Board by the Secretary. The order shall be set by the Chairman with emphasis placed on anticipated audience interest. There may be a cut-off date established by the Board after which no further matters shall be added to the agenda. The agenda of matters to be heard shall be mailed or delivered to each member of the Board at least five (5) days before the regular meeting.

SECTION 9. RECONSIDERATION

Once a motion has been adopted, the Board may reconsider that matter at the same meeting, provided a motion to reconsider is made by a member who voted with the prevailing side.

SECTION 10. AMENDMENTS

These Rules of Procedures may be amended or modified by an affirmative vote of not less than four (4) members of the Board, provided that such amendment be presented in writing at a regular meeting and action taken thereon at a subsequent regular meeting.

SECTION 11. MOTIONS

Every motion shall require an affirmative vote of the majority of the Board members present and voting. Prior to polling the board, the Chairman shall announce the movant and the second.

SECTION 12. ROBERT'S RULES OF ORDER

Any point of procedure not otherwise addressed by these Rules shall be governed by the current edition of Robert's Rules of Order, Newly Revised.

PRESENTED IN WRITING at a regular meeting of the Board on January 14, 2020.

MINUTES
BROWNFIELD ADVISORY BOARD

March 12, 2019

6:00 p.m.

City Commission Chambers
22 South Beach Street
Ormond Beach, Florida

I. ROLL CALL

Members Present

Curtis Burkett
Mary Anne Connors
Fred Heyne
Kenneth Kimble
Josh Pringle
Michael Sznajstajler
Thomas MacDonald, Chair

Staff Present

Becky Weedo, Senior Planner
Randy Hayes, City Attorney
Melanie Nagel, Recording Technician

II. ADMINISTRATIVE ITEMS

A. Election of Chairperson and Vice-Chair

Mr. Sznajstajler moved to appoint Thomas MacDonald as Chairperson. Mr. Kimble seconded the motion. Vote was called, and the motion unanimously approved.

Mr. MacDonald moved to appoint Michael Sznajstajler as Vice Chair. Mr. Pringle seconded the motion. Vote was called, and the motion unanimously approved.

B. Approval of the 2019 BFAB Calendar

Mr. Sznajstajler moved to approve the 2019 BFAB Calendar. Mr. Burkett seconded the motion. Vote was called, and the motion unanimously approved.

C. Approval of the 2019 BFAB Rules of Procedures

Mr. Burkett moved to approve the 2019 Brownfield Advisory Board Rules of Procedures. Mr. Sznajstajler seconded the motion. Vote was called, and the motion unanimously approved.

III. APPROVAL OF THE MINUTES

A. February 13, 2018 and July 10, 2018 Minutes

Mr. Sznajstajler moved to approve the February 13, 2018 and July 10, 2018 Minutes. Mr. Burkett seconded the motion. Vote was called, and the minutes were approved.

IV. OTHER BUSINESS AND DISCUSSION ITEMS

- A. Ms. Becky Weedo, Senior Planner, stated that she would like to give a status report for the ongoing grant project. Another \$21,000 was recently invoiced, for a completed total of \$82,000, with a grant balance of \$173,353 for Hazardous Substances and \$144,302 for Petroleum Products. The grant period ends September 30, 2019, so there is plenty of funding for more projects. Ms. Weedo stated that there are two designated Brownfield target areas; the North U.S. Hwy. 1 properties and the Granada Blvd. properties. However, for grant funding purposes, all properties in the City are considered Brownfield eligible.

Ms. Weedo continued that since so many of the board members are new, she wanted to give an update of what has been done. Phase I Environmental Site Assessments were completed on four properties – 1175 North U.S. Hwy. 1, 1535 North U.S. Hwy. 1, 1561 North U.S. Hwy. 1, and more recently, 385 Old Kings Rd. Following the completion of the Phase I assessments, Phase II ESAs were recommended for 1535 North U.S. Hwy. 1 and 385 Old Kings Rd.

Ms. Weedo stated that the property located at 1535 North U.S. Hwy. 1 was formerly operating as a Shell gas station. The property has been on Florida DEP's list for funding, but had a very low score so a geophysical investigation and an updated Phase I were completed. Because the data that DEP had was so old, a Phase II ESA was conducted. Based on the results from the Phase II ESA, a Site Rehabilitation Completion Report was prepared and submitted to DEP, with recommendations for the Department for consideration and approval of a Site Rehabilitation Completion Order with conditions to be issued. The Department responded by requiring the installation of additional offsite monitoring wells to confirm the groundwater plume had not migrated offsite and outside of the property boundary. In addition, based on the lack of historical data, a request was made to conduct a comprehensive site survey to document the property boundaries, and other significant features (ie. wells, concrete, boundaries, utility lines, etc.). Upon completion of these tasks and based on the results from the additional activities, if DEP gives approval for the SRCO with conditions, site closure documents will be prepared in the form of restrictive covenants with either risk management options II or III.

Ms. Weedo stated that the property located at 385 Old Kings Road is a residential property that abuts Central Park. Recently, the property was listed for sale. The City had a Phase I ESA conducted to determine if there might be environmental hazards on the property. The assessment found a house, accessory structures, abandoned vehicles, and many other misc. items. Forty-seven 55-gallon drums were found, many of them empty but some with unidentified substances. Phase II testing has been recommended. A City Commission workshop was held on February 19, 2019 to discuss the potential purchase of the property for the expansion of Central Park.

The City Commission directed staff to proceed with purchasing the property. The Phase II assessment is pending closing on the property and City ownership.

Ms. Weedo continued that last year the board recommended printing brochures for distribution as part of the public outreach for the Brownfield program. The brochure was completed and it is available for hand-outs. Since the grant funding ends September 30, 2019, Ms. Weedo brought some brochures to give to board members, so that they can distribute them to their contacts and customers as one last marketing effort to get the word out about the Brownfield grant funding that is available.

Mr. Burkett asked if any new realtors, or anybody else, have taken interest in the program, other than the ones who have already used it in the past. Ms. Weedo stated that so far only the ones who have used it in the past. Mr. Burkett stated that it was unfortunate.

Mr. Sznajstajler stated that he gave a talk to the Board of Realtors in January and walked them through the steps. People seemed to be interested, and he discussed some of the communities that have funding available. He told the people that if they were interested in the program, they should reach out to the local governments.

Mr. Burkett stated that he doesn't know if he has noticed as many properties along U.S. 1 or in the area that have been for sale lately. He does not know if they have been off the market for a while, waiting for the values to go up. He thinks it is good to see the one property on Old Kings Road get cleaned up. That is such a nice area. Mr. Burkett asked if the City owns the land just south of that, or if it is under private ownership. Ms. Weedo stated that she believes it is under private ownership.

Ms. Connors asked how it works with a realtor making the request, as opposed to the property owners. Mr. Sznajstajler stated that the EPA Brownfield program is really focused on connecting parties that are interested in redeveloping a site, with due diligence level materials, with what are called Phase I's and Phase II's. So, realtors are really the key spoke in the wheel to make sure buyers and sellers know that the City has resources available to them, because they are the ones who are primarily involved in all of the details when properties are sold. So, when a realtor knows that the City has a grant, they are in the best position to tell the buyers and sellers that they can utilize the grant.

Ms. Connors asked if there is a map showing target properties that are known sites. Ms. Weedo stated that there is an EPA list of properties that are already on the list where hazards have been identified. The City designated a broad area to target because the areas were blighted and needed redevelopment. Any property, whether it has known hazards or not, can do a Phase I to see if it has hazards. That is why 1175 and 1561 North U.S. Hwy 1 did not go any further, because there were not any hazards identified.

Mr. Pringle asked if the 1535 property was larger than what was shown in their handout, and if the displayed red part was the section that got tested. Ms. Weedo replied that it might look small, but the actual size is shown. Mr. Pringle asked if a submission had to be made by the deadline, or if the process has to start by the deadline. Ms. Weedo answered that she was told after September 30, 2019, there

cannot be anyone in the field. All of the field work has to be done by that time. Mr. Sznajstajler stated that Phase 1 can usually be done within 30 days. Mr. Pringle stated that a request would need to be made by the 15th of August, for the Phase I to occur.

Ms. Connors stated that part of the due diligence is the responsive process, and wondered if there is any way to be more proactive, as far as identifying good candidates. Mr. Sznajstajler stated that a lot of work has been done by the City to be aggressive and educate the public through workshops, announcements and material that was printed up. There is a 3rd party consultant that has administered the grant and has worked with the City on outreach with the MainStreet group, the realtor group, the building contractors, and others. You hate to see the money go to waste, but no one is coming forward. Mr. Pringle stated that you can lead a horse to water, but you can't make him drink it.

Mr. Sznajstajler stated that other local governments who have had clients take advantage of the grants, a lot of times it has come down to the wire. Many times people come forward when they know they are running out of time. He believes that if a final push is done to promote this, there could be some additional properties identified. Ms. Connors thinks that there could be interest now that did not exist a year ago, since the developers are so active now. Mr. Sznajstajler stated that for years, the biggest risk that someone had for buying commercial property and doing their due diligence, is spending \$2,000-\$3,000 for the Phase I and \$15,000 on Phase II and then just walking away. That money is gone, once they decide not to buy the property. Mr. Sznajstajler concluded that there is an opportunity for a free look, with grant money to pay for it.

Mr. Pringle stated that he thinks people would be amazed that if we have another economic downturn, how many people will be kicking themselves that they did not take advantage of this.

Ms. Connors asked how the residential site was identified, since that is a whole different category for someone realizing there is an opportunity. Ms. Weedo replied that the property has been in the hands of one family for many, many, many years and when Central Park stormwater improvements were done, that particular property owner was resistant, and when the property went up for sale, the City saw a possible opportunity to obtain the property. Attorney Hayes stated that the City does not own it yet, since it has not worked through the details.

Ms. Connors stated that she pondered what other properties the City might be interested in, as far as future parks or parking lots, that could take advantage of this money. Ms. Weedo stated that sometimes when a property is being sold, they do not want to take the time to do the assessment. The 1535 North U.S. 1 property has been going on for quite some time now. That was one of the first properties to start the process, and there was a buyer for the property, and then it got caught up in the EPA change to their review process, which delayed it even further. It took a while, but the new owner has taken possession of the property.

Mr. Pringle asked that once the Phase I and II assessment has been done, if it will carry over to new ownership. Mr. Sznajstajler answered that generally Phase I is good for six months, and then it would need to be updated.

Mr. Burkett stated that Mr. Jones had said some things in the paper not too long ago about him looking to do a BBQ restaurant across from Hulls Restaurant, where there used to be a gas station, and asked if the property had this process and had been evaluated. Ms. Weedo replied that it was a dry cleaner at one time, and there was some cleanup that had been done, and it did not need anything further.

V. MEMBER COMMENTS.

Mr. Sznajstajler stated that for the new members, he is willing to do a Brownfield 101 for about 20 minutes at a future meeting. He also stated that the State Brownfield Conference was held in Daytona Beach this past September. This coming October 24-30, it will be held in Orlando, and this conference will be a regional conference, with people from Tennessee, North Carolina, South Carolina, Georgia, Alabama and Mississippi. They will be talking about Brownfield development in their communities and what is and is not working. Mr. Sznajstajler concluded that it is a great program and resource, connecting people who deal with Brownfields.

VI. ADJOURNMENT

As there was no other business, the meeting was adjourned at 6:25 p.m.

Respectfully submitted,

Becky Weedo, Senior Planner

ATTEST:

Thomas MacDonald, Chair

Minutes prepared by Melanie Nagel

Brownfield Grant Project Summary Report

The City of Ormond Beach was awarded a US EPA Brownfields Assessment Grant for a community-wide brownfields assessment to provide support for efforts to perform hazardous substance (50%) and petroleum assessments (50%) on multiple brownfield sites within the designated Brownfield Areas. The two targeted brownfield areas are North US Highway 1 and Granada Boulevard. However, all of Ormond Beach is considered eligible for brownfield assessments. The grant was awarded in the amount of \$400,000 for a three-year project period (October 1, 2016 – December 31, 2019). The grant period ended September 30, 2019 for field work and invoicing and was officially closed out on December 30, 2019. An approved Work Plan Budget and Final Project Task Status is attached. A total of \$116,608.83 in grant funding was expensed. Below is a summary of the projects funded by the grant:

1535 North US Highway 1

The subject site is currently a privately owned vacant commercial property. Based on available historical records the site operated as a retail gasoline filling station and convenience store from 1976 until 2007, when the underground storage tanks (USTs) were removed and the facility was closed. The site has been unoccupied and vacant since June 2013.

The Phase I Environmental Site Assessment (ESA) and geophysical investigation were conducted in 2017. Based on the results from the PH I report, limited Phase II ESA activities were recommended in particular; groundwater sampling to determine whether or not onsite groundwater impacts have decreased due to natural attenuation and whether the site conditions support site closure with or without conditions, in accordance with Chapter 62-780, Florida Administrative Code (F.A.C.), and referred to as the Brownfields Cleanup Criteria Rule.

Based on results of the samples from the Limited Phase II ESA and comparison of the historical data with the current groundwater analytical data, Cardno recommended that the FDEP issue a Risk Management Option (RMO) II site rehabilitation completion order (SRCO) with conditions under Risk Management Option (RMO) II, "No Further Action Criteria with Conditions" as stated in Rule 62-780.680 of the Florida Administrative Code (F.A.C.) with groundwater use restrictions (i.e. institutional controls) in conjunction with engineering controls (i.e. pervious / asphalt paving) for this facility.

In response, FDEP requested that an updated professional site survey be conducted and a minimum of two (2) offsite monitor wells be installed to determine whether or not the plume had migrated offsite. Concurrently, the Department agreed to properly abandon fifteen (15) of twenty (20) onsite wells and funded the activities. In 2019, groundwater sampling activities were conducted in the remaining wells.

In December 2019, FDEP requested that additional monitor wells be installed within the area of the former tank pit and to continue monitoring the groundwater for approximately 1-year to confirm natural attenuation. The property owner will continue to work with FDEP to achieve a SRCO with conditions and to redevelop the property into a "Dunkin Donuts". The project has approved building permits for building and signage demolition, site work, and construction of a new building.

1561 North US Highway 1

The subject site is currently a privately owned vacant commercial property. Based on available historical records the site is occupied by one structure containing a closed Wendy's restaurant and truck stop, which formerly was utilized as a petroleum filling station. Prior to 1991, a retail gasoline station was located on the southeastern portion of the site which consisted of four (4) underground storage tanks (USTs) located on the north central portion of the property.

In August 2011, approximately 778 tons of petroleum impacted soils were excavated and the USTs were properly removed and disposed of. In addition, approximately 70 tons of petroleum impacted soils were removed. Periodic soil sampling events confirmed that no additional petroleum impacted soils were encountered onsite. Recent (2019) sampling results reported exceedances in groundwater concentrations for their respective constituents of concern. Subsequently, the property owner requested and received a letter of support from Alachua County Environmental Protection Department in concurrence of a "No Further Action with conditions" (groundwater use restrictions) at the site. The City of Ormond Beach received a Notice of Intent letter on July 8, 2019 documenting the property owner's status of request for SRCO with conditions to FDEP. In August 2019, the FDEP received Declaration of Restrictive Covenant (DRC) documents. On September 23, 2019, the Department submitted an approval SRCO with Conditions letter to the property owner. There was a sale for this property on November 18, 2019 to Southern Star Restaurant Management, Inc. in the amount of \$560,000. There have been no development or redevelopment discussions with city staff on this property.

1175 North US Highway 1

In September 2017, a Phase I ESA was conducted on the undeveloped property. Based on results from the site reconnaissance and historical records search, no further assessment was recommended for the site. The Phase I ESA was conducted in anticipation of a property / land transaction.

385 Old Kings Road

In December 2018, a Phase I ESA was conducted on the subject property. Based on results from the site reconnaissance and historical records search, further soils and groundwater assessment activities and geophysical investigation activities were recommended for the site. The Phase I ESA was conducted in anticipation of a property / land transaction.

During the course of the site reconnaissance, small amounts of isolated nonhazardous solid waste piles were observed on the property. Items included but were not limited to, empty oil containers, household waste, a discarded propane gas tank, discarded air conditioning unit, one (1) small boat and three (3) used tires. Various vehicles were observed onsite, including several moving vans, a bus, a motor home, several vehicles, and several flatbed trailers. In addition, approximately thirty-seven (37) discarded 55-gallon drums were observed that are filled and scattered throughout the property, all containing unknown materials. Surface soil staining and distressed vegetation were observed adjacent to one of the drum areas located in the central portion of the property. None of the out buildings were accessible during the site visit and were recommended to be inspected prior to the property transaction.

A Phase II Site Eligibility Determination form was submitted and approved by EPA to conduct Phase II ESA activities at the 385 Old Kings Road (a.k.a. Duncan Property) however the City deferred the activities until final acquisition of the property. Subsequently, the sale of the property was suspended due to issues with the legal ownership of the parcel.

1141 North US Highway 1

The property located at 1141 North US Highway 1 is an inactive mobile home site. A site reconnaissance and a geophysical investigation were conducted in September 2019. Due to results from the site reconnaissance, further assessment activities were recommended for the site. The Phase I ESAs were conducted in anticipation of a private property / land transaction. Since the grant period ended on September 30, 2019, there was no time to conduct the Phase II ESA.

Environmental Protection Agency (EPA) Brownfields Program
EPA Cooperative Agreement No. BF 00D45816-0
Approved Work Plan Budget and Final Project Task Status

Hazardous Substances (Account G400NY00)										
Project Tasks	Task 1 Programmatic Support		Task 2 Site Characterization Phase I/Is		Task 3 Cleanup Plan/ABCA		Task 4 Outreach/Community Participation		Total	
Categories	Budget	Completed To-Date	Budget	Completed To-Date	Budget	Completed To-Date	Budget	Completed To-Date	Budget	Completed To-Date
Travel	\$ -		\$ -		\$ -		\$ 3,000.00	\$ 932.37	\$ 3,000.00	\$ 932.37
Supplies	\$ -		\$ -		\$ -		\$ 500.00		\$ 500.00	\$ -
Contractual	\$ 4,000.00	\$ 3,950.34	\$ 170,000.00	\$ 33,502.92	\$ 17,000.00		\$ 5,500.00	\$ 5,393.59	\$ 196,500.00	\$ 42,846.84
Total	\$ 4,000.00	\$ 3,950.34	\$ 170,000.00	\$ 33,502.92	\$ 17,000.00	\$ -	\$ 9,000.00	\$ 6,325.95	\$ 200,000.00	\$ 43,779.21
Petroleum Products (Account G400OR00)										
Project Tasks	Task 1 Programmatic Support		Task 2 Site Characterization Phase I/Is		Task 3 Cleanup Plan/ABCA		Task 4 Outreach/Community Participation		Total	
Categories	Budget	Completed To-Date	Budget	Completed To-Date	Budget	Completed To-Date	Budget	Completed To-Date	Budget	Completed To-Date
Travel	\$ -	\$ -	\$ -		\$ -		\$ 3,000.00	\$ 932.36	\$ 3,000.00	\$ 932.36
Supplies	\$ -	\$ -	\$ -		\$ -		\$ 500.00		\$ 500.00	\$ -
Contractual	\$ 4,000.00	\$ 3,950.34	\$ 170,000.00	\$ 62,553.34	\$ 17,000.00		\$ 5,500.00	\$ 5,393.59	\$ 196,500.00	\$ 71,897.26
Total	\$ 4,000.00	\$ 3,950.34	\$ 170,000.00	\$ 62,553.34	\$ 17,000.00	\$ -	\$ 9,000.00	\$ 6,325.95	\$ 200,000.00	\$ 72,829.62
Grand Total	\$ 8,000.00	\$ 7,900.67	\$ 340,000.00	\$ 96,056.26	\$ 34,000.00	\$ -	\$ 18,000.00	\$ 12,651.90	\$ 400,000.00	\$ 116,608.83

Brownfield Advisory Board Summary

The City of Ormond Beach Brownfield Advisory Board (BFAB) was created on January 17, 2012 per Ordinance 2012-01. The BFAB was established for the purposes prescribed by the Brownfields Redevelopment Act, sections 376.77 through 376.85, Florida Statutes.

Per section 376.80(C)(4) F.S., Local governments responsible for rehabilitation and redevelopment of brownfield areas must establish an advisory committee or use an existing advisory committee that has formally expressed its intent to address redevelopment of the specific brownfield area for the purpose of improving public participation and receiving public comments on rehabilitation and redevelopment of the brownfield area, future land use, local employment opportunities, community safety, and environmental justice.

The City of Ormond Beach was awarded a US EPA Brownfields Assessment Grant for a community-wide brownfields assessment to provide support for efforts to perform hazardous substance (50%) and petroleum assessments (50%) on multiple brownfield sites within the designated Brownfield Areas. The two targeted brownfield areas are North US Highway 1 and Granada Boulevard. However, all of Ormond Beach was considered eligible for brownfield assessments. The grant was awarded in the amount of \$400,000 for a three-year project period (October 1, 2016 – December 31, 2019). The grant period ended September 30, 2019 for field work and invoicing and was officially closed out on December 30, 2019.

Even though the grant has been closed out, the BFAB is still needed in an advisory capacity for brownfield projects that may want to apply for voluntary clean-up tax credits or other associated programs. In order to be eligible, the property owner has to enter into a Brownfield Site Rehabilitation Agreement (BSRA). The BFAB would need to be notified of the intent to rehabilitate and redevelop the site before executing the BSRA, and provided a copy of the draft plan for site rehabilitation which addresses elements required by subsection (5) of 376.80 F.S. This includes disclosing potential reuse of the property as well as site rehabilitation activities, if any, to be performed. The advisory committee shall review any proposed redevelopment agreements prepared pursuant to paragraph (5)(i) and provide comments, if appropriate, to the board of the local government with jurisdiction over the brownfield area.

The BFAB must receive a copy of the executed brownfield site rehabilitation agreement. When the person responsible for brownfield site rehabilitation submits a site assessment report or the technical document containing the proposed course of action following site assessment to the department or the local pollution control program for review, a public meeting is required to be held in order to present the findings and recommendations in the site assessment report.

After reviewing the statutory provisions, the City of Ormond Beach Legal Department recommended that the Brownfield Advisory Board be maintained to continue the administrative functions including brownfield site rehabilitation review.

Select Year:

The 2019 Florida Statutes

[Title XXVIII](#)
NATURAL RESOURCES; CONSERVATION,
RECLAMATION, AND USE

[Chapter 376](#)
POLLUTANT DISCHARGE
PREVENTION AND REMOVAL

[View Entire
Chapter](#)

376.80 Brownfield program administration process.—

(1) The following general procedures apply to brownfield designations:

(a) The local government with jurisdiction over a proposed brownfield area shall designate such area pursuant to this section.

(b) For a brownfield area designation proposed by:

1. The jurisdictional local government, the designation criteria under paragraph (2)(a) apply, except if the local government proposes to designate as a brownfield area a specified redevelopment area as provided in paragraph (2)(b).

2. Any person, other than a governmental entity, including, but not limited to, individuals, corporations, partnerships, limited liability companies, community-based organizations, or not-for-profit corporations, the designation criteria under paragraph (2)(c) apply.

(c) Except as otherwise provided, the following provisions apply to all proposed brownfield area designations:

1. Notification to department following adoption.—A local government with jurisdiction over the brownfield area must notify the department, and, if applicable, the local pollution control program under s. [403.182](#), of its decision to designate a brownfield area for rehabilitation for the purposes of ss. [376.77-376.86](#). The notification must include a resolution adopted by the local government body. The local government shall notify the department, and, if applicable, the local pollution control program under s. [403.182](#), of the designation within 30 days after adoption of the resolution.

2. Resolution adoption.—The brownfield area designation must be carried out by a resolution adopted by the jurisdictional local government, which includes a map adequate to clearly delineate exactly which parcels are to be included in the brownfield area or alternatively a less-detailed map accompanied by a detailed legal description of the brownfield area. For municipalities, the governing body shall adopt the resolution in accordance with the procedures outlined in s. [166.041](#), except that the procedures for the public hearings on the proposed resolution must be in the form established in s. [166.041\(3\)\(c\)2](#). For counties, the governing body shall adopt the resolution in accordance with the procedures outlined in s. [125.66](#), except that the procedures for the public hearings on the proposed resolution shall be in the form established in s. [125.66\(4\)\(b\)](#).

3. Right to be removed from proposed brownfield area.—If a property owner within the area proposed for designation by the local government requests in writing to have his or her property removed from the proposed designation, the local government shall grant the request.

4. Notice and public hearing requirements for designation of a proposed brownfield area outside a redevelopment area or by a nongovernmental entity. Compliance with the following provisions is

required before designation of a proposed brownfield area under paragraph (2)(a) or paragraph (2)(c):

a. At least one of the required public hearings shall be conducted as closely as is reasonably practicable to the area to be designated to provide an opportunity for public input on the size of the area, the objectives for rehabilitation, job opportunities and economic developments anticipated, neighborhood residents' considerations, and other relevant local concerns.

b. Notice of a public hearing must be made in a newspaper of general circulation in the area, must be made in ethnic newspapers or local community bulletins, must be posted in the affected area, and must be announced at a scheduled meeting of the local governing body before the actual public hearing.

(2)(a) *Local government-proposed brownfield area designation outside specified redevelopment areas.*—If a local government proposes to designate a brownfield area that is outside a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated brownfield pilot project area, the local government shall provide notice, adopt the resolution, and conduct public hearings pursuant to paragraph (1)(c). At a public hearing to designate the proposed brownfield area, the local government must consider:

1. Whether the brownfield area warrants economic development and has a reasonable potential for such activities;
2. Whether the proposed area to be designated represents a reasonably focused approach and is not overly large in geographic coverage;
3. Whether the area has potential to interest the private sector in participating in rehabilitation; and
4. Whether the area contains sites or parts of sites suitable for limited recreational open space, cultural, or historical preservation purposes.

(b) *Local government-proposed brownfield area designation within specified redevelopment areas.*—Paragraph (a) does not apply to a proposed brownfield area if the local government proposes to designate the brownfield area inside a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated brownfield pilot project area and the local government complies with paragraph (1)(c).

(c) *Brownfield area designation proposed by persons other than a governmental entity.*—For designation of a brownfield area that is proposed by a person other than the local government, the local government with jurisdiction over the proposed brownfield area shall provide notice and adopt a resolution to designate the brownfield area pursuant to paragraph (1)(c) if, at the public hearing to adopt the resolution, the person establishes all of the following:

1. A person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site.
2. The rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site that are full-time equivalent positions not associated with the implementation of the brownfield site rehabilitation agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area. However, the job creation requirement does not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing as defined in s. [420.0004](#) or the creation of recreational areas, conservation areas, or parks.
3. The redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permissible use under the applicable local land development regulations.

4. Notice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated pursuant to paragraph (1)(c), and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subparagraph must be posted in the affected area.

5. The person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment of the brownfield site.

(d) *Negotiation of brownfield site rehabilitation agreement.*—The designation of a brownfield area and the identification of a person responsible for brownfield site rehabilitation simply entitles the identified person to negotiate a brownfield site rehabilitation agreement with the department or approved local pollution control program.

(3) When there is a person responsible for brownfield site rehabilitation, the local government must notify the department of the identity of that person. If the agency or person who will be responsible for the coordination changes during the approval process specified in subsections (4), (5), and (6), the department or the affected approved local pollution control program must notify the affected local government when the change occurs.

(4) Local governments or persons responsible for rehabilitation and redevelopment of brownfield areas must establish an advisory committee or use an existing advisory committee that has formally expressed its intent to address redevelopment of the specific brownfield area for the purpose of improving public participation and receiving public comments on rehabilitation and redevelopment of the brownfield area, future land use, local employment opportunities, community safety, and environmental justice. Such advisory committee should include residents within or adjacent to the brownfield area, businesses operating within the brownfield area, and others deemed appropriate. The person responsible for brownfield site rehabilitation must notify the advisory committee of the intent to rehabilitate and redevelop the site before executing the brownfield site rehabilitation agreement, and provide the committee with a copy of the draft plan for site rehabilitation which addresses elements required by subsection (5). This includes disclosing potential reuse of the property as well as site rehabilitation activities, if any, to be performed. The advisory committee shall review any proposed redevelopment agreements prepared pursuant to paragraph (5)(i) and provide comments, if appropriate, to the board of the local government with jurisdiction over the brownfield area. The advisory committee must receive a copy of the executed brownfield site rehabilitation agreement. When the person responsible for brownfield site rehabilitation submits a site assessment report or the technical document containing the proposed course of action following site assessment to the department or the local pollution control program for review, the person responsible for brownfield site rehabilitation must hold a meeting or attend a regularly scheduled meeting to inform the advisory committee of the findings and recommendations in the site assessment report or the technical document containing the proposed course of action following site assessment.

(5) The person responsible for brownfield site rehabilitation must enter into a brownfield site rehabilitation agreement with the department or an approved local pollution control program if actual contamination exists at the brownfield site. The brownfield site rehabilitation agreement must include:

(a) A brownfield site rehabilitation schedule, including milestones for completion of site rehabilitation tasks and submittal of technical reports and rehabilitation plans as agreed upon by the parties to the agreement.

(b) A commitment to conduct site rehabilitation activities under the observation of professional engineers or geologists who are registered in accordance with the requirements of chapter 471 or chapter 492, respectively. Submittals provided by the person responsible for brownfield site rehabilitation must be signed and sealed by a professional engineer registered under chapter 471, or a professional geologist registered under chapter 492, certifying that the submittal and associated work comply with the law and rules of the department and those governing the profession. In addition, upon completion of the approved remedial action, the department shall require a professional engineer registered under chapter 471 or a professional geologist registered under chapter 492 to certify that the corrective action was, to the best of his or her knowledge, completed in substantial conformance with the plans and specifications approved by the department.

(c) A commitment to conduct site rehabilitation in accordance with department quality assurance rules.

(d) A commitment to conduct site rehabilitation consistent with state, federal, and local laws and consistent with the brownfield site contamination cleanup criteria in s. [376.81](#), including any applicable requirements for risk-based corrective action.

(e) Timeframes for the department's review of technical reports and plans submitted in accordance with the agreement. The department shall make every effort to adhere to established agency goals for reasonable timeframes for review of such documents.

(f) A commitment to secure site access for the department or approved local pollution control program to all brownfield sites within the eligible brownfield area for activities associated with site rehabilitation.

(g) Other provisions that the person responsible for brownfield site rehabilitation and the department agree upon, that are consistent with ss. [376.77-376.86](#), and that will improve or enhance the brownfield site rehabilitation process.

(h) A commitment to consider appropriate pollution prevention measures and to implement those that the person responsible for brownfield site rehabilitation determines are reasonable and cost-effective, taking into account the ultimate use or uses of the brownfield site. Such measures may include improved inventory or production controls and procedures for preventing loss, spills, and leaks of hazardous waste and materials, and include goals for the reduction of releases of toxic materials.

(i) Certification that the person responsible for brownfield site rehabilitation has consulted with the local government with jurisdiction over the brownfield area about the proposed redevelopment of the brownfield site, that the local government is in agreement with or approves the proposed redevelopment, and that the proposed redevelopment complies with applicable laws and requirements for such redevelopment. Certification shall be accomplished by referencing or providing a legally recorded or officially approved land use or site plan, a development order or approval, a building permit, or a similar official document issued by the local government that reflects the local government's approval of proposed redevelopment of the brownfield site; providing a copy of the local government resolution designating the brownfield area that contains the proposed redevelopment of the brownfield site; or providing a letter from the local government that describes the proposed redevelopment of the brownfield site and expresses the local government's agreement with or approval of the proposed redevelopment.

(6) Any contractor performing site rehabilitation program tasks must demonstrate to the department that the contractor:

(a) Meets all certification and license requirements imposed by law; and

(b) Will conduct sample collection and analyses pursuant to department rules.

(7) During the cleanup process, if the department or local program fails to complete review of a technical document within the timeframe specified in the brownfield site rehabilitation agreement, the person responsible for brownfield site rehabilitation may proceed to the next site rehabilitation task. However, the person responsible for brownfield site rehabilitation does so at its own risk and may be required by the department or local program to complete additional work on a previous task. Exceptions to this subsection include requests for “no further action,” “monitoring only proposals,” and feasibility studies, which must be approved prior to implementation.

(8) If the person responsible for brownfield site rehabilitation fails to comply with the brownfield site rehabilitation agreement, the department shall allow 90 days for the person responsible for brownfield site rehabilitation to return to compliance with the provision at issue or to negotiate a modification to the brownfield site rehabilitation agreement with the department for good cause shown. If an imminent hazard exists, the 90-day grace period shall not apply. If the project is not returned to compliance with the brownfield site rehabilitation agreement and a modification cannot be negotiated, the immunity provisions of s. 376.82 are revoked.

(9) The department is specifically authorized and encouraged to enter into delegation agreements with local pollution control programs approved under s. 403.182 to administer the brownfield program within their jurisdictions, thereby maximizing the integration of this process with the other local development processes needed to facilitate redevelopment of a brownfield area. When determining whether a delegation pursuant to this subsection of all or part of the brownfield program to a local pollution control program is appropriate, the department shall consider the following. The local pollution control program must:

(a) Have and maintain the administrative organization, staff, and financial and other resources to effectively and efficiently implement and enforce the statutory requirements of the delegated brownfield program; and

(b) Provide for the enforcement of the requirements of the delegated brownfield program, and for notice and a right to challenge governmental action, by appropriate administrative and judicial process, which shall be specified in the delegation.

The local pollution control program shall not be delegated authority to take action on or to make decisions regarding any brownfield site on land owned by the local government. Any delegation agreement entered into pursuant to this subsection shall contain such terms and conditions necessary to ensure the effective and efficient administration and enforcement of the statutory requirements of the brownfield program as established by the act and the relevant rules and other criteria of the department.

(10) Local governments are encouraged to use the full range of economic and tax incentives available to facilitate and promote the rehabilitation of brownfield areas, to help eliminate the public health and environmental hazards, and to promote the creation of jobs and economic development in these previously run-down, blighted, and underutilized areas.

(11)(a) The Legislature finds and declares that:

1. Brownfield site rehabilitation and redevelopment can improve the overall health of a community and the quality of life for communities, including for individuals living in such communities.

2. The community health benefits of brownfield site rehabilitation and redevelopment should be better measured in order to achieve the legislative intent as expressed in s. 376.78.

3. There is a need in this state to define and better measure the community health benefits of brownfield site rehabilitation and redevelopment.

4. Funding sources should be established to support efforts by the state and local governments, in collaboration with local health departments, community health providers, and nonprofit organizations, to evaluate the community health benefits of brownfield site rehabilitation and redevelopment.

(b) Local governments may and are encouraged to evaluate the community health benefits and effects of brownfield site rehabilitation and redevelopment in connection with brownfield areas located within their jurisdictions. Factors that may be evaluated and monitored before and after brownfield site rehabilitation and redevelopment include, but are not limited to:

1. Health status, disease distribution, and quality of life measures regarding populations living in or around brownfield sites that have been rehabilitated and redeveloped.

2. Access to primary and other health care or health services for persons living in or around brownfield sites that have been rehabilitated and redeveloped.

3. Any new or increased access to open, green, park, or other recreational spaces that provide recreational opportunities for individuals living in or around brownfield sites that have been rehabilitated and redeveloped.

4. Other factors described in rules adopted by the Department of Environmental Protection or the Department of Health, as applicable.

(c) The Department of Health may and is encouraged to assist local governments, in collaboration with local health departments, community health providers, and nonprofit organizations, in evaluating the community health benefits of brownfield site rehabilitation and redevelopment.

(12) A local government that designates a brownfield area pursuant to this section is not required to use the term “brownfield area” within the name of the brownfield area designated by the local government.

History.—s. 4, ch. 97-277; s. 3, ch. 98-75; s. 11, ch. 2000-317; s. 2, ch. 2004-40; s. 44, ch. 2005-2; s. 7, ch. 2006-291; s. 5, ch. 2008-239; s. 2, ch. 2014-114.