

THE POLITICS OF REDEVELOPING BROWNFIELDS AND ABANDONED PROPERTY

A Primer For County Officials

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**A Publication of
Community Services Division
of the County Services
Department**

April 2008



About NACo – The Voice of America's Counties

The National Association of Counties (NACo) is the only national organization that represents county governments in the United States. Founded in 1935, NACo provides essential services to the nation's 3,066 counties. NACo advances issues with a unified voice before the federal government, improves the public's understanding of county government, assists counties in finding and sharing innovative solutions through education and research, and provides value-added services to save counties and taxpayers money. For more information about NACo, visit www.naco.org.

The Politics of Redeveloping Brownfields and Abandoned Property, A Primer for County Officials was produced by the National Association of Counties Research Foundation in March, 2008 under Cooperative Agreement 83280601 U.S. Environmental Protection Agency Office of Brownfield Clean-up and Redevelopment. The publication was written by James Davenport, NACo Project Manager and design layout was performed by Emily Pollock, NACo Graphic Artist. The opinions in this publication are those of the contributors and do not necessarily reflect the views of the U.S. Environmental Protection Agency or NACo.

NACo would also like to thank the following people for their help in reviewing this guide:

- NACo Land Revitalization Advisory Committee.
 - Dan Kildee – Treasurer, Genesee County, MI.
 - Bill Doherty - County Commissioner, Barnstable County, MA.
 - Brent Paxton - Board Member, Lake County, IL.
 - Harold Young- Deputy County Administrator for Community Development, Orangeburg County, SC.
 - Mary Gattis-Schell - Senior Environmental Planner, Lancaster County, PA Planning Commission.
 - John Brooke - County Commissioner, Delaware County, IN.
 - Percy H. Dougherty, Ph.D. - Chairman Lehigh County Commissioners, Lehigh County, PA.
 - Althea Jefferson - Chief Planner, Orange County, FL Planning Division.
 - Brad H. Johnson - Redevelopment Administrator, Stafford County, VA.
 - Brett Hulsey - County Commissioner, Madison County, WI.
 - Evie Slone, AICP, LEED AP - Director of Planning, Hill Studio, Roanoke, VA.
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 - Gillian K. Beams, Robinson & Cole LLP, Hartford, CT.
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- Abigail Friedman - Senior Program Director, NACo.
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- Anthony Raia - Senior Program Analyst, U.S. EPA/Office of Brownfields Clean-up and Redevelopment.
- Dr. Patricia Mitchell, Director of Economic Development Ashe County, NC
- Eric Schertzing, Treasurer Ingham County, MI Land Bank Chair

This publication will be included in the County Land Revitalization Information Kit CD that will be available in late spring 2008.

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Introduction

Many county officials are facing the conundrum of encouraging economic development in their counties while at the same time working to preserve natural and environmental resources unique to their jurisdiction. In numerous cases, counties have a limited amount of land suitable for commercial and residential development. In addition, counties and local governments need the ability to acquire political support to redevelop contaminated or possibly contaminated properties. As can be expected, this is not an easy task.

One important approach would be the implementation of institutional controls (ICs) and engineering controls. ICs are legal and administrative measures to protect human health and environment from risk based cleanups in which residual contamination is contained on site. Engineering controls are the physical measures to address contamination. These measures may include impenetrable liners to restrict leaking, soil or other containment covers, fences, and groundwater pumping and treatment systems. These tools can help protect general public from exposure to contamination. However, those measures alone cannot alleviate the political stigma, and even fear, of a site with known or perceived environmental problems.

“Redeveloping brownfields and underutilized sites is a good way for county officials to reduce traffic growth, water pollution, and can reduce greenhouse air pollution by up to 25%.”

— Brett Hulsey
Dane County, WS
Supervisor, District 4

Though no one wants to see an abandoned chemical plant day after day, people may be even more adverse to step in and redevelop the property. Elected policy makers may be most averse to dealing with a contaminated site and might oppose the use of taxpayers' monies in purchasing and/or improving the site. Redevelopment of a site is even more difficult if the new land use will be used by children such as a school or public park.

Counties should have a comprehensive approach that incorporates a system of incentives, policies and regulations that makes it more attractive to build residential, industrial and other uses on brownfields and infill parcels. Approaches such as making redevelopment of abandoned properties a key part of an overall community vision for future growth goes a long way in selling the project to the general public. Also, project proponents should present the general public with historic examples how the redevelopment of abandoned sites was not only an economic engine but in turn lessened the amount of spread-out and leap-frog development in suburban and rural areas that

helped to reduce infrastructure costs, improve air and water quality and preserve natural and cultural resources. As with any land use or planning decision, involving the public early and often in the redevelopment process is a key factor in successfully completing a project.

A Perspective on Brownfields Redevelopment and a Little History

Virtually every community in America is plagued by idle properties that lay abandoned for years due to fear of environmental contamination, unknown cleanup costs, and potential legal liability issues. The U.S. Environmental Protection Agency (U.S. EPA) estimates that there are more than 450,000 brownfields properties nationwide. On one hand, brownfields can cause blight to neighborhoods, inhibit economic development, threaten public health and the environment, and encourage urban sprawl. However, many local governments have found that redevelopment of brownfields and abandoned sites can also offer opportunities to protect environmental health and spur economic revitalization. Examples include waterfront redevelopment, affordable housing, retail and commercial reinvestment, or the creation of new parks. Counties and localities are now using the redevelopment of these sites to enhance local quality of life, promote job creation, instill new community vitality, and spark economic growth.

One helpful approach would be to dispel many of the myths about brownfields which can cause negative reaction among the public and throw up a major roadblock in moving these redevelopment projects forward. Brownfields and the perceptions that make the redevelopment of these properties problematic have been around a long time. Local communities in early 1990 began to recognize that the fear and uncertainty associated with potential environmental contamination was seriously undermining efforts to keep urban areas vital. Developers and financial institutions were reluctant to invest their time and money to redevelop brownfields properties and were content to focus their resources in developing in pristine areas where there were no environmental issues to complicate the development process. Some local political leaders at that time viewed environmental contamination as the number one obstacle facing the development community.





Cities like Chicago and Cleveland began organizing forums to develop new strategies to overcome the barriers to brownfields redevelopment. States like Illinois, Minnesota and New Jersey began to develop state voluntary cleanup programs to encourage private parties to voluntarily step forward to address environmental issues on brownfield properties. The U.S. EPA launched the Brownfields Economic Redevelopment Initiative, which focused on clarifying the liability associated with the cleanup of brownfield properties, and providing funding to create local brownfield pilot programs in communities across the nation. In addition, U.S. EPA established a federal partnership with other federal agencies which has leveraged the participation of over 20 federal agencies including the Economic Development Administration (EDA), the Army Corps of Engineers, the Department of Housing and Urban Development (HUD) and others. All of these actions have contributed to a decade of remarkable results. www.naco.org/Content/ContentGroups/Programs_and_Projects/Environmental/Land_Use/UnlockingBrownfields.pdf

Brownfields – Dispelling the Myths

As part of the effort to dispel some of the fear tied to brownfields, it is good to address some of the common myths related to them. For instance, the perception that a property may be contaminated can be just as great a barrier to redevelopment as actual contamination. Therefore, sites where contamination is merely perceived, and site conditions are unknown, are still considered brownfields. As noted in the publication (link above) “Unlocking Brownfields,” one-third of the brownfield sites that have been assessed with U.S. EPA brownfields funding have turned out to be free from significant contamination. And most of the sites considered brownfields are not the big closed factories but are smaller-sized properties that were formerly gas stations, dry cleaners and vacant lots.

Additionally, while brownfields have always been perceived as an environmental issue, the solutions to brownfields problems almost always involve much broader issues including economic reuse, neighborhood improvement, infrastructure and transportation capacity, job creation, tax incentives, crime prevention, and many other approaches. Successful brownfield reuse generally occurs when economic and community development issues are addressed along with contamination concerns. The multi-disciplinary nature of brownfields is one

reason that more than 20 federal agencies and a broad range of state, local, private, and non-profit entities are now involved in brownfields revitalization.

Local Liability

Another problem jurisdictions have to face is the fear of incurring liability in acquiring a potentially contaminated site. As stated before, local governments play an increasingly vital role in the redevelopment of brownfields that in many cases hinge on the ability of the local government to acquire the site. As counties acquire brownfields properties to facilitate cleanup and redevelopment, their risk of incurring liability under federal environmental laws is a continuing concern.

This is especially true for “mothballed” properties where the current property owner is unreachable or unwilling to discuss a property transfer and reluctant to improve site conditions. In such circumstances, local governments often have to use eminent domain, tax foreclosures, or other involuntary means to take possession of the property to facilitate development.

“The benefits of developing brownfields sites should be clearly communicated to the general public. Benefits include the creation of new jobs, increase in local tax revenues, encouraging development in areas already served by existing infrastructure, and preserving existing open space.”

— Robert Weine
County Councilman
New Castle County Council, DE

Often, the fear of such liability dissuades local governments from acquiring and redeveloping these sites. The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or Superfund) was enacted in 1980 with the goal to clean up the nation’s most contaminated sites including those where parties who caused the contamination were no longer viable or could no longer be held accountable. Congress has enacted several provisions of CERCLA since then that are intended to protect local governments when they acquire property. www.naco.org/SuperfundLiability.pdf.



■ Possible Solutions

The key is to involve the community early in any development proposal, whether involving a brownfields property or not. Additionally, an overall plan or program must be in place that prioritizes these properties for redevelopment, is consistent with the overall future vision for development, and is endorsed by local constituents. Approaches in engaging the general public in this decision making process may include:

- Develop a community and regional vision that brings everyone together, continues to seek a high level of community involvement, and identifies key properties for redevelopment that are consistent with those visions. (*See Case Study #1*)
- More communication and coordination is needed with neighborhood leaders about the details of the proposed projects. Many times opposition is related to fear of not knowing the details or the effects of redevelopment, or simply fear of change.
- Public meetings and charettes to discuss development proposals at the beginning of the development process may help lessen neighborhood opposition and provide opportunities for neighbors to have input and an affect on the project. (*see box*)
- Community education and outreach that explains the community and environmental benefits of redeveloping a brownfields property is critical. Education and outreach materials should describe the connections between infill and brownfields redevelopment and the economic and environmental benefits.
- Gather good local examples of brownfields redevelopment and how historically it has benefited a local community. For example, in a 2005 survey of 216 cities by the U.S. Conference of Mayors, 121 jurisdictions reported having success in redeveloping brownfields. The results of the survey indicated the benefits of developing brownfields sites would include the creation of more than 213,000 new jobs, the ability to accommodate an additional 1.8 million residents without burdening existing infrastructure, and an increase to local tax revenues by up to \$1.1 billion annually. (*Based on findings from the report "Stimulating Infill and Brownfield Development in the Land-of-Sky Region" www.landofsky.org/downloads/StimulatingInfill.pdf*)
- Begin with the end in mind. Along the same lines as including a brownfield redevelopment project as part of an overall comprehensive approach, brownfields projects have much greater success when the local community first identifies the potential reuse of the idled, contaminated property as a priority. This end-use approach can help focus the environmental remedial response, attract private investors and public resources, and build the community consensus to see the project through. Too often, localities will

spend many months and many dollars on brownfields cleanup, without any real plans for how the property will be utilized. This clean-up first approach has resulted in projects becoming stalled, the loss of community stakeholder support, or the delay of remedial efforts because the site is not cleaned in the way necessary to support an identified use. Instead, local communities can build consensus around prospective end uses first, and then work backward through cleanup to get those goals accomplished.

Charettes are an intensive collaborative process involving professional facilitators, planners, designer, and citizens. These forums are used, among other things, to develop or revise comprehensive, community, and /or neighborhood plans.

For instance, Eaton County, MI recognized the need for redevelopment in its county seat of Eaton Rapids and a county housing study identified the need for housing for senior citizens. It was decided to use an old abandoned school bus garage in the city to be the site of a 40-unit housing center to serve senior citizens, a much-needed facility in the rural area. Once that was established, an assessment - funded through a U.S. EPA Brownfields grant - identified the need to remove underground storage tanks and hydraulic lifts from the site. In addition, private investment covered removal costs and the Michigan State Housing Authority helped with redevelopment incentives. www.epa.gov/brownfields/success.htm

- Brownfields initiatives can dovetail with a community's specific plans for development. For example, where brownfield redevelopment is part of a concerted downtown revitalization program, it stands a better chance of securing public and private investment, as well as gaining political and community support. (*See Case Study #2*)
- Make clear to the general public that the implementation and enforcement of ICs or land use controls to ensure the appropriate new land use for the site given past contamination and that various engineering controls and monitoring programs are in place to guarantee no exposure to the general public. For instance, an IC can be designed to guarantee that a brownfield cleaned up to industrial standards for reuse as a new manufacturing facility is not converted to a day care center thirty years from the



present time. [Note: for a more comprehensive discussion of the use of ICs, please see the NACo Publication “The Redevelopment of Vacant Sites and Protecting Public Health – A Primer for County Officials.”]

“Particularly in housing, there are two opposing approaches to improvement. One is to start in the more blighted areas and then plan for the redevelopment to move outward to the areas with higher property values. The other way is to start at the more stable fringe and work toward the more blighted areas.

Where there is less community support or less money to invest, I would suggest starting in areas where property values are stable and then move toward the more challenging areas. This has the effect of increasing values surrounding the blighted areas and creating wealth to help take on the harder to fix areas.”

— Eric Schertzing
Ingham County, MI Treasurer and
Ingham County, MI Land Bank Chair

Governmental controls involve restrictions that are generally within the traditional police powers of state and local governments. The most common types are permit programs, planning, and zoning limitations on land use. But no matter what form they take, ICs must prevent an unanticipated change in land use that could result in unacceptable exposures to residual contamination. Enforcement concerns still need to be addressed; someone has to monitor them, and to make sure that they are continued and not altered for future uses. Most states also require some mechanism for recording and transferring this information to future site users. The inclusion of appro-

priate engineering controls as part of the IC program is a key part of the process. In practice, this may involve things like using a parking lot to cap a site, or installing monitoring wells.

- Assess available technologies for clean-up. Many communities are realizing significant cost savings by implementing innovative assessment and cleanup technologies and approaches. Counties may consult with state and federal environmental agency experts, who can link them, and the developers, to information on new technologies that can bring site preparation and cleanup costs down. The U.S. EPA Technology Innovation Office provides information and technical assistance on characterization and treatment technologies for the hazardous waste remediation community. www.epa.gov/tio/
- Funding is essential for turning a community’s brownfields vision into real results. The general public may not support using tax payers’ monies to purchase and clean-up an impaired site. It is advantageous to counties if they are able establish partnerships with key federal and state agencies as well as private entities in order to leverage funds to support brownfields revitalization projects. Success depends on whether decision makers can convince the general public that public investment in these properties is an investment in the future. The general public may be more supportive for a project if resources devoted to redevelopment may be recoverable either through sale of the site or from new tax revenues and jobs that the project generates. (See Case Study 3) *Some of these approaches are based on findings from the report “Unlocking Brownfields.”* www.naco.org/Content/ContentGroups/Programs_and_Projects/Environmental/Land_Use/UnlockingBrownfields.pdf)

■ Case Studies

Case Study 1 Reuse of a Mothballed Site in Lake County, OH

The Diamond Shamrock Painesville Works property in Lake County, Ohio was mothballed and mired in litigation from 1977 until 2001, when Hemisphere Development signed a contract to clean up and redevelop the site. Located on 1,100 acres on the coast of Lake Erie and the Grand River, the former chemical manufacturing facility operated from 1912 through 1977, where it produced a variety of products including soda ash, baking soda, chromium compounds, carbon tetrachloride, hydrochloric and sulfuric acids, chlorinated wax, and coke. The land was the site of various activities over the years, including a 500-acre settling pond, a chromium production facility and a landfill.

The site is so large it spans three municipalities, which historically battled over

development issues in the region. Hemisphere entered into a partnership with the county and the municipalities, the Ohio Environmental Protection Agency, Lake Metro parks and numerous other public stakeholders to create a plan for transforming the old industrial property into a mixed use and recreational facility. A key component of Hemisphere’s strategy was to transform negative public perception related to the site’s industrial past toward a more favorable focus on the land’s unparalleled natural attributes and a groundbreaking real estate development concept.

One critical aspect in freeing the site from its mothballed status was to change the direction of the early re-development plans, focused on achieving an industrial reuse in a region that is not expecting any significant additions to the manufacturing sector, and orienting the site for a prime, mixed use, waterfront revitalization plan that could command substantial value, thereby providing an incentive to the site owners and other parties to move toward site transfer. By the end of 2007, the majority of required clean-up activities were completed and the implementation of one of the largest shoreline redevelopment projects on the Great Lakes and the construction of significant recreational amenities was well on its way.

www.epa.gov/brownfields/publications/mothballed.htm

“The The projects are unique because of the unique architectural features of the buildings... people want to own them”

— Mary Foote

City of Rock Hill, SC Economic
and Urban Development Department

Case Study 2

Textile Mill in Rock Hill in York County, SC

For more than 100 years, Rock Hill, South Carolina, was an important cotton market for county farmers. Nearly 20 textile mills were located in the area at the peak of the cotton manufacturing era. A gradual decrease in cotton crop production and an increase in labor costs spurred the decline of the area’s textile industry until it virtually ceased to exist in the early 1980s. As a result, Rock Hill lost its major economic driver and faced a citywide unemployment rate of 17 percent. In addition, the neighborhoods that existed as mill communities for generations suffered severe economic and community impacts, including declining housing and infrastructure, and rising crime and health concerns.

Rock Hill needed a strategy to quickly address the loss of its primary economic engine to prevent further social and economic decline. Two partnerships emerged to develop and support this strategic approach. The Rock Hill Economic Development Corporation (RHEDC) formed in 1983 to combat the area’s economic decline and spearhead redevelopment. The Rock Hill Council of Neighborhoods was incorporated in 1999 to preserve and promote the integrity of the city’s neighborhoods and assist with the transformation of former mill communities.

In 2003, project partners developed the Textile Corridor Master Plan that included a feasibility study and physical assessment for the redevelopment of Old Town Rock Hill and four associated mill sites. In 2004, Rock Hill and York County worked with the Rock Hill Council of Neighborhoods to develop the Neighborhood Master Plan to restore infrastructure, provide amenities, and spur investment. Many of the mills were converted to address the needs of housing in the city:

- In 2002, the city and the council worked together to revitalize the former Arcade Textile Mill site. A fire at the property in 1996 destroyed the mill building and

heightened environmental concerns. RHEDC and the city jointly acquired the property through foreclosure and demolished the remaining structures. Assessment and cleanup of the property are happening now. Once completed, the site is scheduled for redevelopment as single-family homes.

- Two other mills in Rock Hill were restored to preserve their historic architecture. In 2001, a private developer worked with the City of Rock Hill and formed a public/private partnership with the York County Council on Aging and the Rock Hill Housing Authority to redevelop the Highland Park Mill into 116 apartments for the elderly. In May 2006, the RHEDC sold the five-acre former Rock Hill Cotton Factory for \$300,000 to Williams & Fudge, a national college loan agency, and Bryan Barwick, a Charlotte developer, for office and retail space that will bring 200 jobs to the area.
- A fourth mill, the Rock Hill Body Company, is privately owned and plans for redevelopment are in place. www.epa.gov/brownfields/policy/Mill_Report_110306.pdf

Case Study 3

Consumers Energy Relocating its Headquarters in Jackson County, MI

Six adjacent brownfields in the City of Jackson, within Jackson County, Michigan, is now home to Michigan’s largest utility company. Consumers Energy relocated its headquarters to these brownfields in a \$113 million brownfields redevelopment project. The Jackson County Brownfield Redevelopment Authority’s (BRA) Brownfields Assessment Demonstration Pilot spent \$60,000 of the \$200,000 U.S. EPA grant for environmental assessments on the six properties, which included a former gas station and auto repair shop, a machine shop, and an iron scrap yard. The City of Jackson contributed \$43 million in infrastructure improvements, and Consumers Energy invested \$70 million in the construction of its new headquarters. In addition, more than \$11 million in other funding was leveraged for this project, which is working in partnership with the City of Jackson’s “Grand New Vision” community revitalization efforts.

Jackson County (population 155,000) is located in south-central Michigan about 80 miles west of Detroit. The City of Jackson began as an agricultural town and quickly developed into an industrial and manufacturing community focusing on the automotive industry. When the nation’s economy changed during the late 1970s and early 1980s, the city’s and county’s industrial base fell apart as plants closed, resulting in job loss, population decline, and hundreds of vacant and abandoned industrial and commercial properties. The Jackson County BRA estimates that there are more than 2,000 brownfields countywide. The Jackson County Pilot project targeted 20 of these properties for the remaining U.S. EPA grant funds, including several commercial or industrial sites in the City of Jackson’s industrial corridor, for assessment and redevelopment.

www.epa.gov/swerosps/bf/pdf/ss_jacks.pdf

Conclusion

As county decision makers face intense political pressure in their efforts to revitalize unwanted and abandoned sites, it is important for them to help their constituencies understand the potential economic value inherent in all properties. Beauty is in the eye of the beholder. There are approaches to restore and revitalize all types of properties. It just may take some ingenuity to see the project through and political leadership to convince the general public that the reuse of a particular site is in the best interest of the community from many standpoints, but especially an economic one.

Additionally, it is important for decision makers to help the general public get past the common myths about brownfields, especially the fact that historically many of these sites have little to no contamination, and that legislative developments may now protect county governments from environmental liability when they acquire these types of properties.

Again, there is a need for a comprehensive approach that incorporates a system of incentives, policies and regulations that makes it more attractive to build residential, industrial and other uses on brownfields parcels. This approach also must be consistent with the overall future vision of the community. Promoting and executing brownfields redevelopment projects is not just an investment in funding and technical expertise, but an investment in time. But as many historic examples show, including those in this publication, success of these projects is well worth the investment.

Resources

- **NACo Land Revitalization Project**

www.naco.org/techassistance
under.....land use/resources

- **U.S. EPA Brownfields Website**

www.epa.gov/brownfields/index.html

- **U.S. EPA Grants and Funding**

www.epa.gov/brownfields/pilot.htm

- **Small Business Liability Relief and Brownfields Revitalization Act**

www.epa.gov/brownfields/sblrbra.htm

- **"Unlocking Brownfields"**

released in 2004 by the National Association of Local Government Environmental Professionals and the Northeast-Midwest Institute

www.naco.org/Content/ContentGroups/Programs_and_Projects/Environmental1/Land_Use/Unlocking-Brownfields.pdf

- **"Superfund Liability, A Continuing Obstacle to Brownfields Redevelopment"**

released in 2006 by the National Association of Local Government Environmental Professionals for the Brownfield Acquisition Task Force

www.naco.org/SuperfundLiability.pdf

- **"Stimulating Infill and Brownfield Development in the Land-of-Sky Region"**

Released by the Land-of-Sky Regional Council, NC
www.landofsky.org/downloads/StimulatingInfill.pdf

- **U.S. EPA "Brownfields Success Stories"**

www.epa.gov/brownfields/success.htm

- **U.S. EPA "Innovative Technologies"**

www.epa.gov/tio/

- **Reuse of a Mothballed Site in Lake County, OH**

www.epa.gov/brownfields/publications/mothballed.htm

- **Case Study 2: Textile Mill in Rock Hill in York County, SC**

www.epa.gov/brownfields/policy/Mill_Report_110306.pdf

- **Consumers Energy Relocating its Headquarters in Jackson County, MI**

www.epa.gov/swerosps/bf/pdf/ss_jacks.pdf





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