



City of Grand Island

Tuesday, August 09, 2011

Council Session

Item F11

#9310 - Consideration of Amending Chapter 35 of the Grand Island City Code Relative to Parkview Groundwater

Staff Contact: Tim Luchsinger

Council Agenda Memo

From: Tim Luchsinger, Utilities Director
Craig Lewis, Building Department Director
Jason Eley, Assistant City Attorney

Meeting: August 9, 2011

Subject: Groundwater Control Ordinance
Chapter 35, Article VIII. Groundwater Control Area No. 3

Item #'s: F-11

Presenter(s): Bradley Vann, EPA

Background

The Parkview Well Superfund Site is located in the southwestern portion of the City of Grand Island in Hall County, Nebraska. The Site consists of two areas of groundwater contamination and associated source areas which resulted from the historical mismanagement of industrial solvents.

A contaminant source area located at a facility at 3304 Engleman Road South has resulted in contamination in the groundwater which trends to the east. This groundwater contamination is referred to as the Southern Plume. A contaminant source area located at a facility at 3445 West Stolley Park Road has resulted in groundwater contamination which trends to the east. This groundwater contamination is referred to as the Northern Plume.

A component of selected remedies is the enactment by the City of Grand Island of an institutional control ordinance designating a Groundwater Control Area through which groundwater use would be restricted to prevent human exposure and consumption of contaminated groundwater and prohibit the installation of new wells supplying water for human consumption in the plume areas.

Discussion

There are currently 2 groundwater control ordinances. At a study session on May 17th 2011, Bradley Vann, from the United States Environmental Protection, presented an overview of the Parkview groundwater measures. The Parkview groundwater measures will constitute a 3rd groundwater control ordinance. The Parkview measures will be an addition to the current City

Code Chapter 35, and will be of similar character as the other 2 groundwater ordinances already in place.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

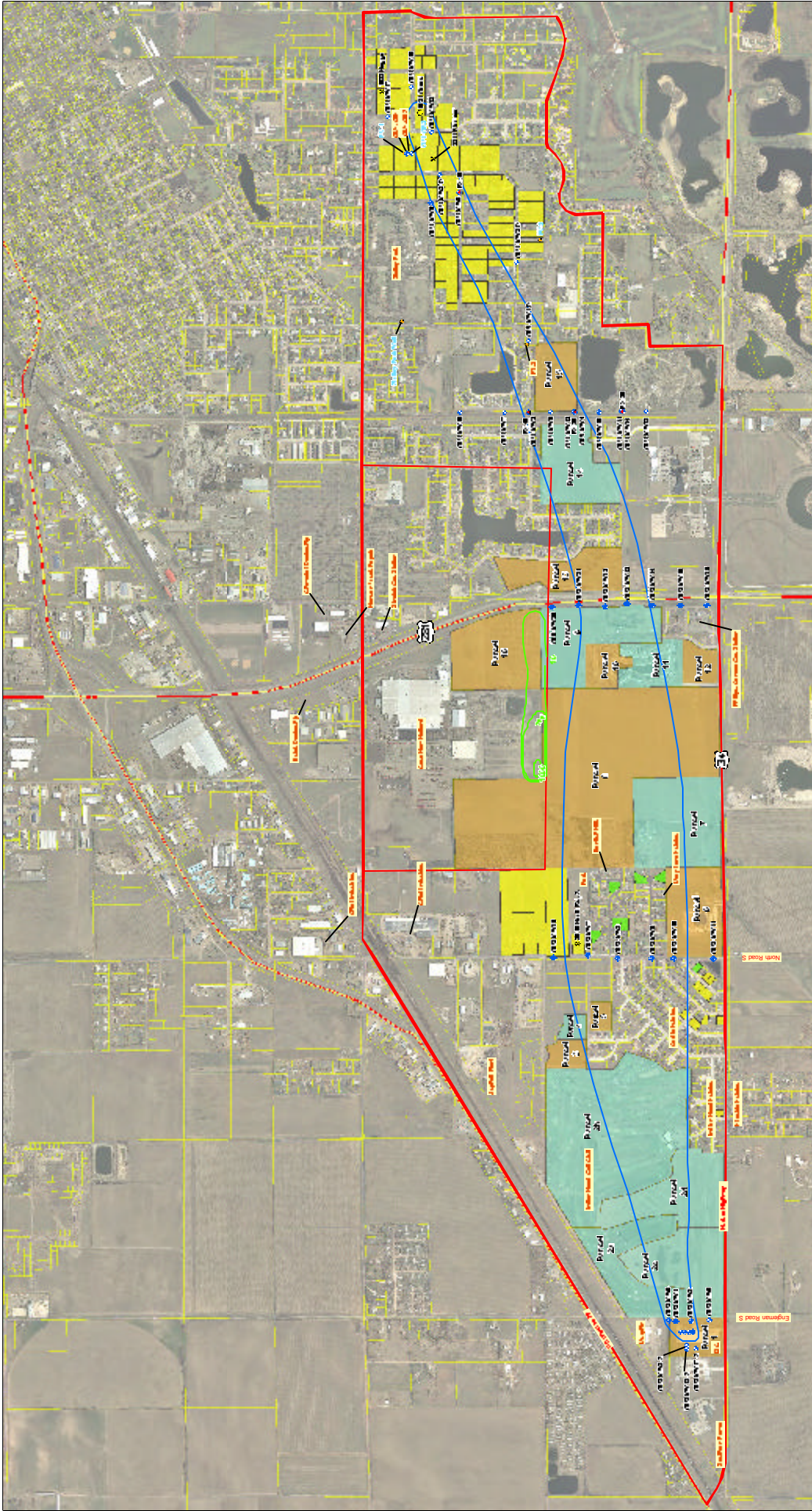
1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

Recommendation

City Administration recommends that the Council approve Ordinance 9310 amending Chapter 35 of the Grand Island City Code relative to Parkview Groundwater Control Area No. 3.

Sample Motion

Move to approve Ordinance 9310 amending Chapter 35 of the Grand Island City Code relative to Parkview Groundwater Control Area No. 3.



Park Row Wells in Grand Bend, Michigan

Figure IC-010-03
PARTS OF THE PART B
PRIVATE WELL LOCATIONS

BLACK & VEATCH
ENGINEERS ARCHITECTS

SCALE IN FEET
0 370 740 1110 1370

N

Image Source:
City of Grand Bend/MapInfo
2010

Parcel Boundary Zone
City of Grand Bend/MapInfo
2010

Old Parcel of Need

Well screened through multiple zones
Approximate Color of Grand Bend Contamination
Approximate Color of Park Row Well 540
Approximate Color of New Island (2007)
Grand Bend Plume (March 13, June 2007)

Notes
1. Parcel shared on City/State
2. Parcel for investigation well
3. Parcel for a separate investigation well

Legend
Monitoring Well Marking Well Head
Elevation Well
Piezometric Well
Municipal Well
Highway
Lot Boundary
Property on City/State
Property of Investigation Well
Grand Bend Case of Area No. 1

Title Block
Scale 1:370
North Arrow
Image Source
Parcel Boundary Zone
Old Parcel of Need
Well screened through multiple zones
Approximate Color of Grand Bend Contamination
Approximate Color of Park Row Well 540
Approximate Color of New Island (2007)
Grand Bend Plume (March 13, June 2007)
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TerryTech LLC, Remedial Investigation Report
PDR-Wells-Part B-012-000-2007

ORDINANCE NO. 9310

An ordinance to amend Chapter 35 of the Grand Island City Code; to add Article VIII, subsections 35-84 to 35-92 pertaining to Groundwater Control Area No. 3, and any ordinance or parts of ordinances in conflict herewith; and to provide for publication and the effective date of this ordinance.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA:

SECTION 1. Section 35-84 through 35-92 of the Grand Island City Code is hereby added to read as follows:

Article VIII. Groundwater Control Area No. 3

§ 35-84. Purpose

(A) The Parkview Well Superfund Site (“Site”) is located in the southwestern portion of the city of Grand Island in Hall County, Nebraska. The Site consists of two areas of groundwater contamination and associated source areas which resulted from the historical mismanagement of industrial solvents.

(B) The United States Environmental Protection Agency (EPA) has issued an Interim Record of Decision dated September 26, 2006 (“Interim ROD”), and a Record of Decision dated September 30, 2007 (“Final ROD”), and an Explanation of Significant Differences for the Site. The RODs identified two contaminant source areas. A contaminant source area located at a facility at 3304 Engleman Road South has resulted in contamination in the groundwater which trends to the east. This groundwater contamination is referred to in the RODs as the Southern Plume. A contaminant source area located at a facility at 3445 West Stolley Park Road has resulted in groundwater contamination which trends to the east. This groundwater contamination is referred to in the RODs as the Northern Plume.

(C) The RODs presented the selected remedies for the source areas and the plumes. A component of the selected remedies in the Interim ROD is the enactment by the City of Grand Island of an institutional control ordinance designating a Groundwater Control Area through which groundwater use would be restricted to prevent human exposure and consumption of contaminated groundwater and prohibit the installation of new wells supplying water for human consumption in the plume areas. This institutional control ordinance is to remain in full force and effect until the groundwater contamination identified in the RODs is reduced to a level making the groundwater safe to be used as a source of drinking water pursuant to the Safe Drinking Water Act, 42 U.S.C. §§ 300f– 300j-26, or its successor legislation.

Approved as to Form
August 2, 2011_

City Attorney

ORDINANCE NO. 9310 (Cont.)

§ 35-85. Definitions

As used in this Article, the following terms mean:

City means the City of Grand Island, Nebraska.

Domestic use means human consumption and any use of groundwater for human health and sanitation including, but not limited to, drinking, cooking, washing, bathing, showering, and other similar household uses.

EPA means the United States Environmental Protection Agency, and any successor departments or agencies of the United States. Submissions to be made to EPA hereunder shall be sent to: U.S. Environmental Protection Agency, 901 North 5th Street, Kansas City, Kansas 66101, and shall reference the “Parkview Well Superfund Site.”

Groundwater means water pumped from a well located within the Groundwater Control Area No. 3 described in § 35-86.

Groundwater contamination means the chemicals of concern described in the RODs for the Parkview Well Superfund Site.

Groundwater Control Area No. 3 means a defined area within the corporate limits of the City of Grand Island subject to the institutional controls provided for in this Article which are intended to prohibit human exposures to contaminated groundwater from wells.

NDEQ means the Nebraska Department of Environmental Quality, and any successor departments of agencies of the State of Nebraska.

NDNR means the Nebraska Department of Natural Resources, and any successor departments of agencies of the State of Nebraska.

RODs mean those Records of Decision, and Explanation of Significant Differences described in § 35-84 above, as well as any subsequent Records of Decision, Record of Decision Amendments, and/or Explanation of Significant Differences, issued by EPA pertaining to the Site.

Well means a hole or shaft sunk into the earth in order to obtain water from a natural subterranean supply or aquifer.

The definitions found in Neb. Rev. Stat., Chapter 46 - Irrigation and Regulation of Water - are adopted herein by reference, except where such definitions are in conflict with those provided herein.

§ 35-86. Groundwater Control Area Boundaries

The boundaries of Groundwater Control Area No. 3 are described as follows and are shown on the attached map: Commencing at the southeasterly corner of the intersection of County Road 27/State Highway 34 and New State Highway 30; thence running easterly along the north boundary of State Highway 34 to the southwesterly corner of the intersection of Garland Street; thence running northerly and then easterly along the west boundary of Garland Street to the northwesterly corner of the intersection of Garland Street and South Blaine Street; thence running northerly along the west boundary of South Blaine Street to the northwesterly corner of the intersection of South Blaine Street and Stagecoach Road; thence running easterly along the north boundary of Stagecoach Road to the intersection of Stagecoach Road and Stagecoach Road; thence running predominately northeasterly along the north boundary of Stagecoach Road to the northwesterly corner of the intersection of Stagecoach Road and South August Street; thence running northerly along the west boundary of South August Street to the southwesterly corner of the intersection of South August Street and West Stolley Park Road; thence running westerly along the south boundary of West Stolley Park Road to the southwesterly corner of the intersection of West Stolley Park Road and Old State Highway 30; thence running southwesterly along the south boundary of Old State Highway 30, merging with New State Highway 30 and continuing southeasterly along the south boundary of New State Highway 30 to the point of beginning. A map of the boundaries of Groundwater Control Area No. 3 shall be maintained in the City’s Geographical Information System MapSifter (or any successor application, if any) using information provided by EPA.

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§ 35-87. Duration of Institutional Control Ordinance

(A) This Article shall remain in full force and effect as long as there remains groundwater contaminated at levels that exceed the residential use cleanup levels provided for in the RODs making the groundwater unsafe to be used as a source of drinking water pursuant to the Safe Drinking Water Act or its successor legislation.

(B) Following EPA notifying the City that the groundwater contamination within the Groundwater Control Area No. 3 has been reduced to a level making the groundwater safe to be used as a source of drinking water pursuant to the Safe Drinking Water Act, or its successor legislation, the City's Mayor and City Council may proceed to repeal this Article forthwith.

§ 35-88. Prohibited Groundwater Uses

(A) Groundwater pumped from wells within Groundwater Control Area No. 3 shall not be used for any domestic use which may result in human exposures. Such uses include drinking, food preparation, washing, bathing, showering, and other household uses which result in human exposures to contaminated groundwater. Because groundwater from wells within Groundwater Control Area No. 3 may be contaminated and presents a hazard to the health, safety, and welfare of persons exposed to such water, any human consumption or prohibited use of groundwater from wells within Groundwater Control Area No. 3 is a violation of this Article and is declared to be a public nuisance subject to abatement as provided in § 35-91 of this Article .

(B) No new well with a design capacity of more than 50 gallons per minute (gpm) may be drilled or installed in Groundwater Control Area No. 3 unless and until the party proposing the well installation has demonstrated, by a hydrogeological study performed by a competent environmental consulting firm, that the operation of the well will not cause the movement of the groundwater contamination or adversely affect the remedial action provided for in the RODs for the Site. Any such hydrogeological study shall be submitted to EPA for review and approval prior to well installation.

(C) This Section on Prohibited Groundwater Uses shall not prohibit uses of groundwater pumped from wells within Groundwater Control Area No. 3 which do not result in human exposure to contaminated groundwater, including, but not limited to, groundwater monitoring wells, EPA or NDNR remediation wells, wells that produce 50 gpm or less for dewatering purposes, wells used for non-contact cooling water for industrial, commercial or residential uses, or wells used for watering vegetation not used for human consumption. Discharges from dewatering wells must be appropriately handled and disposed of in accordance with applicable City, State and Federal laws including National Pollution Discharge Elimination System permits under the Clean Water Act.

§ 35-89. Well Installation

(A) No person shall drill or install a well with a design capacity of more than 50 gallons per minute within Groundwater Control Area No. 3 prior to applying for and obtaining a well permit from the Central Platte Natural Resource District.

(B) No person may install a well within Groundwater Control Area No. 3 which penetrates two or more water-bearing zones unless water-tight casings are installed which conform to the regulations governing water well construction, pump installation, and water well decommissioning standards of the Nebraska Department of Health and Human Services, Regulation and Licensure Division (178 NAC 12, Section 003.11D - Contaminated Water-Bearing Zones).

§ 35-90. New Well Registration, Application for Well Permit

The following information shall be submitted to the City's Building Department prior to drilling a new well in Groundwater Control Area No. 3:

ORDINANCE NO. 9310 (Cont.)

- (1) A copy of the well permit obtained from the Central Platte Natural Resources District.
- (2) The address and legal description of the property on which the proposed well is to be located.
- (3) The address of all properties to be served by groundwater pumped from the proposed well.
- (4) A description of the uses to be made of water pumped from the proposed well; including a certification that such groundwater will not be used for domestic use which may result in human exposures.
- (5) Whether City water is available to the property to be served by the proposed well.
- (6) The depth of the proposed well and pump intake.
- (7) A diagram showing the location of the proposed well.
- (8) An application for any dewatering well will include a plan for the appropriate handling and disposal of the discharge water in accordance with applicable City, State and Federal laws including NPDES permits.
- (9) A statement as to whether the design capacity of the proposed well exceeds 50 gpm. If the design capacity of the well exceeds 50 gpm, the owner of the well shall demonstrate, by a hydrogeological study performed by a competent environmental consulting firm in accordance with § 35-88(B) of this Article, that the operation of the well will not cause the movement of the groundwater contamination or adversely affect the remedial action provided for in the RODs for the Site.

§ 35-91. Violations of Institutional Control Ordinance; Abatement of Public Nuisance

Whenever the City's Building Department Director, or his/her designee, has inspected any well within Groundwater Control Area No. 3 and determined that such well is being operated, or that the groundwater pumped from the well is being used, in violation of this Article, he/she will send a written notice to the owner of record of the real property where the well is located, or the owner's agent, or the occupant of the property, by certified mail, return receipt requested, notifying such party of the violation. The written notice will contain the following:

- (1) The street address and/or a legal description sufficient for identification of the property where the well is located.
- (2) A description of the acts or circumstances constituting a violation of this Article.
- (3) A description of the corrective action required to be taken to render the well and groundwater uses in compliance with this Article.
- (4) A statement advising the addressee that if the well and groundwater uses are not brought into compliance with this Article within the time specified, the City's Building Department Director, or his/her designee, may order electrical power to the well disconnected and may request the City Attorney, with the consent of the City's Mayor, to file an action to charge the costs thereof against the real estate, the owner of record and the addressee. The charge shall constitute a lien against said property.

§ 35-92. Procedure for Abatement of Public Nuisance

(A) If the addressee of the notice described in § 35-91 of this Article fails to abate said nuisance within the time specified, the City of Grand Island, at the written request of the City's Building Department Director, or his/her designee, directed to the City Attorney, and with the consent of the Mayor, may abate said public nuisance pursuant to § 20-15 of the Grand Island City Code, and charge the costs thereof against the real estate on which the well is located and the addressee of the notice.

(B) If the City, in its sole discretion, determines that the use of the groundwater in violation of this Article might cause irreparable harm or poses a threat to public health, safety or welfare, or the health, safety or welfare of the persons using the groundwater, the written notice to abate pursuant to § 20-15 of the Grand Island City Code shall not be required as a condition precedent to commencing a legal action to obtain abatement of the nuisance. The City, with the consent of the Mayor, may immediately file an action requesting such temporary and permanent orders as are appropriate to expeditiously and

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permanently abate such public nuisances and protect the public health, safety or welfare or the health, safety or welfare of persons using the groundwater in violation of this Article.

SECTION 2. The validity of any section, subsection, sentence, clause, or phrase of this ordinance shall not affect the validity or enforceability of any other section, subsection, sentence, clause, or phrase thereof.

SECTION 3. That this ordinance shall be in force and take effect from and after its passage and publication in pamphlet form within fifteen (15) days according to law.

Enacted August 9, 2011.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk