

Edgewater can't fire contractor over PCBs

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EDGEWATER — The borough can't immediately fire the contractor who brought new contaminants onto Veterans Field, but must wait for Waterside Construction's insurance company to decide if the firm can make things right.

Elected officials have learned that the insurer, Liberty Mutual — not the borough — has the deciding vote about whether Waterside can remain on the job. Apparently, that's the law, the borough administrator said during Monday's council meeting.

The borough has notified Liberty Mutual that Waterside, hired to clean up and renovate Veterans Field after cancer-inducing toxic compounds were discovered in the soil, breached its contract last fall when it introduced new contaminants to the area.

A spokesman for developer Fred Daibes, who owns Waterside, declined to comment on the latest development Tuesday.

Representatives for Waterside have previously said the company was unaware that the crushed concrete it imported from an old aluminum plant on River Road was tainted with polychlorinated biphenyls since the state Department of Environmental Protection allowed materials from that site to be reused. The material was brought to Veterans Field before undergoing mandatory testing, according to the borough's environmental consultant.

Borough Administrator Greg Franz said Waterside has been put on notice that it breached its contract. "The contract called for the removal of contaminated fill, not for bringing in contaminated fill," Franz said, adding: "They were told not to come back to the site."

During the last council meeting, several officials spoke of permanently severing ties with Waterside. But upon review of a law governing public contracts following that meeting, Franz said, it appears the borough must adhere to a process.

For now, the insurance company will act as a mediator between the parties. Waterside posted performance bonds with Liberty Mutual to cover the project.

"If those differences can't be resolved, the bond company has to make a choice, and that is to force the contractor to complete the process ... or they make the decision to call in another contractor," Franz said.

Mayor James Delaney said Tuesday that it's "very safe to say" that the borough would prefer a new contractor.

The closure of Veterans Field has resulted in a citizens' petition. Normally, the borough uses Veterans Field as a dumping ground for snow piles after heavy storms. But the last two winters, public works employees have dumped snow on a commercial parking lot in the Shadyside neighborhood.

During Monday's meeting, a property owner reported that the snow piles have scared away customers and caused problems for a delivery truck driver. Officials said they would speak with public works employees about moving the snow to a less intrusive spot.