



Board of County Commissioners Meeting Agenda

06-03-2010 Meeting Minutes

June 3, 2010 BoCC Public Hearing meeting

PRESENT: Bob English District No. 1, Chairman
 Edwin V. Smith District No. 3, Vice Chairman
 Randy Wilkinson District No. 2
 Jean Reed District No. 4
 Sam Johnson District No. 5

ALSO PRESENT: Mike Herr County Manager
 Michael Craig County Attorney

The Board convened pursuant to adjournment taken on June 2, 2010.

CALL TO ORDER - 9:00 a.m. (BOB ENGLISH, CHAIR)

INVOCATION

1. [William D. Beasley - Infrastructure Management Director](#)

PLEDGE OF ALLEGIANCE (BOB ENGLISH, CHAIR)

PUBLIC HEARINGS

2. [CU 09-17 \(Innovation Environmental Park\) to consider the approval of a landfill. \(No fiscal impact\)](#)

Attachment: [CU 09 17 staff report.pdf](#)

Minutes:

County Attorney Michael Craig reminded the audience of the procedures to be followed during public hearings and swore in those who plan to give testimony today for any of the three cases.

Erik Peterson, Land Development Division, said the three cases to be heard today involve a landfill in the southwest portion of Polk County. He presented the Staff Reports for Comprehensive Plan Amendment (CPA) 10A-03 - 800 Acres changed from Phosphate Mining (PM) to Institutional (INST); Land Development Code (LDC) 09D-04 - 800 acres from Inst-1 to Inst-2; and Conditional Use (CU) 09-17 - approximately 527 acre Class I Solid Waste Landfill, 334 acre Class III Construction Debris (C & D) Landfill, 405 acre Class IV Landfill for Emergency Debris Disposal, and 223 acres of accessory Materials Recovery Facilities and ancillary manufacturing facilities, along with educational facilities and offices on a 1,741 acre property (Binding Site Plan). He discussed the comments received from the Department of Community Affairs (DCA) upon transmittal. He explained the different types of landfills including Class I, Class III, and Class IV Landfills. He explained a typical landfill system.

Mr. Peterson explained that while the original request was for 1,741 acres, the Board transmitted only 800 acres of the request to DCA on February 18, 2010.

Mr. Peterson compared the previous Binding Site Plan to the revised Binding Site Plan. He discussed the factors for Board consideration for CPA 10A-03. He demonstrated the boundaries of the original request and compared them to the revised request.

Director of Growth Management Tom Deardorff outlined the chronology of the staff recommendations and explained the process for hearing the three cases and presented staff's recommendation based on the public hearing and revised Site Plan. He read the language that was included in the revised Site Plan that was submitted to DCA as part of the transmittal package.

Mr. Deardorff said staff recommends approval of CPA 10A-03, approving the proposed land use change from Phosphate Mining to Institutional, denial of LDC 09D-04, subdistrict map change, due to concerns regarding the compatibility and scale of the proposed uses, and denial of CU 09-17 due to concerns regarding the compatibility and scale of the proposed uses. He said after the February 18, 2010, public hearing, staff expected the revised site plan to reflect a reduced scale in terms of the overall footprint of the project; however, solid waste activities are still being proposed for the 1,700 acres. He said in staff's judgment, the revised Site Plan does not address the concerns raised at the February 18th public hearing.

Mr. Deardorff reviewed the previously recommended conditions of approval, based on the original application reviewed by the Planning Commission which continue to reflect a 1,040 acre Class I Solid Waste Landfill, the landfill height of 220 feet for the Class I land fill which was submitted with the original Binding Site Plan. He said if the Board chooses to approve the CU today, it will have to address the size of the Class I Landfill and also the landfill height.

Upon question regarding staff's recommendations, Mr. Deardorff stated staff does not have the benefit of a public hearing process before it makes its recommendation as part of the review process. He said when the Board continued the Subdistrict Map Change (LDC 09D-04) and the Conditional Use (CU 09-17), staff has an opportunity to take into account the public hearing testimony in providing a staff recommendation. He said at the February 18th public hearing, there was board discussion as to limiting the Class I Landfill to a 2,500 acre footprint and limiting the height of the Landfill to no more than 100 feet from grade on State Road 37. He said staff's recommendations are based on the public comment that came out of the public hearing held on February 18th., which emphasized that the Solid Waste activities should be farther away from the residential areas. He said the applicant has submitted a Revised Site Plan that does reflect a 527 acre Class I Landfill; however the Site Plan continues to have Solid Waste processing activities on most of the entire 1,741 acres. He stated staff's recommendation is based on an acknowledgment that the proposed use would be more compatible if the Landfill activities were limited to the far northwest portion of the site.

The Chairman announced a brief recess due to technical and audio difficulties.

Mr. Craig encouraged the Board members to disclose ex parte communication, and Chairman English stated he has had two meetings with the applicant and one meeting with the opposition.

Commissioner Reed said she has had conversations with both the applicant and the opposition, and has received numerous phone calls and electronic communications. She read a statement emphasizing that public hearings are a vital part of the process and she will keep an open mind until the end of the public hearing.

Commissioner Johnson stated he has spoken on several occasions to Mr. Mims and to Mr. and Mrs. Clark. He said he received many phone calls and e-mails about these hearings. He reported that he has done a lot of research on the subject of landfills and has talked with staff.

Commissioner Smith stated he has been contacted by numerous parties on both sides of the issue. He said he has done his due diligence on the subject and is aware of all the issues. He said he wants to hear more facts from the public.

Commissioner Wilkinson was not present at this time in the meeting.

Tom Mims, Applicant, gave a presentation on the Innovation Environmental Park (IEP). He outlined the location of IEP processing facilities and disposal site and described the activities which are proposed for IEP. He gave the needs and objectives of this proposed facility which, he said will implement the "one touch" approach to recycling.

Mr. Mims stated the size of the project has been reduced by 50%. He discussed the Findings of Facts and recommendations in the three staff reports dated February 18, 2010, and compared them to staff's recommendations today. He also reviewed the recommendations of the Planning Commission.

Mr. Mims pointed out errors he feels appear in the Staff Report and summarized the staff analysis. He reviewed changes to the Site Plan necessitated by the Board's transmittal to DCA on February 18th. Again, he said the site has been reduced by 50%. He said IEP is 3,200 feet from residential areas. He compared this distance to the

North Central and Cedar Trails Landfills. He stated the Revised Staff Report now discounts the Planning Commission approval.

Mr. Mims described the on-site activities being proposed for IEP including re-manufacturing, re-construction and re-use facilities.

A brief recess was announced.

Mr. Mims showed a video on recycling of various waste materials, the impact of recycling on the environment, and the single-stream recycling process. He discussed the competition opposing this proposed facility and refuted myths regarding this type of operation and facility. He discussed the positive economic impact IEP will have on the community and County. He stressed that this will not be a hazardous waste site. He asked the Board to approve CPA 10A-03, LDC 09D-04 and CU 09-17.

In response to statements made by Mr. Mims in his presentation, Chairman English stated as elected officials, the County Commissioners are elected by the people and must review all changes to the Comprehensive Plan to determine what is best for the people.

Upon question, Mr. Mims emphasized that he does not plan to sell, or flip, this facility if he is successful in getting approval for a Class I Landfill. He responded to other Board questions.

There was discussion regarding the goal that future host fees are used within the Mulberry area and the communities near the proposed IEP facility.

Upon question, Mr. Mims explained why IEP must include a disposal waste site as a component of the complex.

Commissioner Smith stated the Planning Commission approved all three cases 4/3 which, while a majority, is a very close vote.

Mr. Mims said the initial plan of IEP is a recycling facility, but a Class I Landfill is one component of the facility, and he will keep his options open as to hauling operations.

There was discussion regarding whether IEP would accept waste from outside Polk County, as well as the County's contract with Republic for residential collection and the agreements the County has entered into with some municipalities to accept solid waste at the North East Landfill. Discussion also followed on the expected life of a landfill.

Upon question, Mr. Deardorff stated staff's concerns regarding compatibility would be substantially reduced if the proposed Construction and Demolition (C and D) landfill were not proposed to be located next to State Road 37.

Mr. Mims discussed the recyclable materials expected to come in to IEP from outside the County to be used for remanufacturing processes.

Chairman English announced a recess until 1:00 p.m.

The Board reconvened at 1:05 p.m.

Susan McDuffie, Rolling Hills resident, stated she is representing the surrounding communities and they are opposed to the three cases being heard today. She said a landfill is not compatible with the community. She showed slides of residential areas located near the site and noted that the proposed landfill is too close to their homes. She discussed the ecological devastation that the proposed landfill will cause. She questioned a comment Commissioner Johnson made at a previous hearing regarding the local citizens being able to survive the proposed landfill. She stated that Commissioner Wilkinson has shown lack of support for the citizens living near the site.

In response to Ms. McDuffie, Commissioner Wilkinson discussed his visits to the site, community forums and interactions with citizens. He stated he appreciates both Ms. McDuffie's comments and those from City of Mulberry Officials. He said he grew up next to an industrial area.

Commissioner Johnson stated he does not recall speaking those words and apologized for Ms. McDuffie taking offense.

Brent Geohagan, Attorney with Geohagan P.A., stated he is representing citizens in opposition. He said he is an expert in Land Use Law, and low density residential land use is not permitted to be located adjacent to an industrial site. He read portions of the Growth Management Act highlighting the standards that the Board should follow. He discussed negative environmental factors that a landfill can cause. He requested the Board deny the three cases. Discussion followed.

Upon question, Mr. Peterson, stated that in the definition of a landfill, it sites salvaging and recycling as an accessory

use. He stated that a landfill is in an institutional district and salvage yards without disposal are designated as industrial.

County Attorney Michael Craig clarified the location of the 800 acres that were transmitted to the Department of Community Affairs (DCA). Discussion followed on the areas that were and were not transmitted to DCA.

Upon question, Mr. Peterson stated that the only comments received from DCA involved transportation issues.

Jerry Bruer, Mulberry City Attorney, defined the Environmental Protection Agency (EPA) and the goals for EPA. He reviewed the educational background and median income for residents in the area. He stated that the proposed landfill does not give fair treatment to the homeowners. He requested denial.

James Clark, Clark Environmental, showed a video from the December 7, 2009, Planning Commission meeting of citizens speaking against the proposed landfill.

Jim Clark, Vice President Clark Environmental, discussed incompatibility issues. He presented a video from the Kovac Landfill Case at the December 7, 2005, Board meeting regarding the risks of sink holes and contamination. He showed a video from the Nichols Landfill Case at the February 20, 2008, Board meeting with footage of Tom Mims requesting denial of the proposed Nichols Landfill.

Beth and James Clark demonstrated the size and width of the proposed landfill. They noted that the size of the proposed landfill is equivalent to 1,583 football fields, and the height of the cells will be taller than the Statue of Liberty. They analyzed the effect of approximately 1,750 incoming tons of waste materials accepted daily. They said 70% of the waste materials received at this proposed facility will not be recycled. They stated that Polk County's current recycle rate is 28% and the applicant's proposed 60% recycle rate is impossible to achieve.

Commissioner Wilkinson thanked the Clark's for their presentation.

Jim Clark discussed biomass and read portions from a letter received from Governor Charlie Crist.

A brief recess was announced.

Jennifer Codo-Salisbury, Central Florida Regional Planning Council, was sworn in by County Attorney Michael Craig. She stated she serves as a planner for the cities of Mulberry and Fort Meade and that the application is premature and should wait for the completion of the Bone Valley Selected Area Study and the Brown Field Assessment Coalition Grant. She noted that the City of Mulberry is developing six action plans to further develop the City and the proposed landfill will negatively impact the community.

Upon question, Growth Management Director Tom Deardorff stated that the Bone Valley Selected Area Study will be completed in approximately 18 months to two years.

The Chairman opened a public hearing.

Tyler Townsley spoke in opposition and requested the Board to deny the proposed landfill.

Joann Holmes, Lakeland resident, spoke in opposition and discussed how a landfill will pollute the land.

Neal Anderson discussed the Myers property located next to the applicant, Tom Mims, and stated that the only berm between the two properties is a barbed wire fence. He requested Board denial.

Terry Evers, Mulberry City Commissioner, spoke in opposition and stated that staff is qualified to review proposals and discussed how school buses coming from Kingsford Elementary have trouble accessing State Road 37.

Jennifer Alexander discussed the innovation that is coming to Polk County and said the landfill will give Polk County a bad image. She stated that the communities around the landfill will be destroyed.

James Dansen, Winter Haven resident, spoke in opposition and requested that the water and air quality be tested. He described a solar farm and suggest a solar farm compared to a landfill.

Wayne Street, Bradley resident, requested Board denial and discussed negative impacts of traffic and pollution.

Jerry Woods, Mulberry Commissioner, stated he is speaking as a citizen and is opposed to the landfill.

County Attorney Michael Craig swore in those who are planning to speak who had not previously been sworn in.

Lesly McDougle stated she believes in recycling and spoke in support of the proposed recycling facility.

Missy Perish stated she is opposed to a dump but in support of IEP. She thanked the Commissioners for their

attention to these cases. She stated she looks forward to the future and for Polk County being the model County.

Debbie Street, spoke in opposition and requested denial of the proposed landfill.

Commissioner Wilkinson responded to public comment.

Reverend Clyde Lewis thanked the Board for its commitment to Polk County and asked the Board to listen to the citizens that will be impacted by the proposed landfill. He stated that Mr. Mims spoke to citizens to inform them of his plans, but did not listen to what the citizens had to say. He requested denial.

Joy Hall discussed how the increase in traffic will negatively affect the County if the proposed landfill is approved.

Louie Mims spoke in support and requested imposing the same rules on the applicant as those in place for the County.

Commissioner Smith clarified that the County has no control over the Cedar Trail Landfill.

Rick Harrell discussed how the landfill will increase jobs and requested Board approval.

Faye Singletary and Joseph Singletary were sworn in by the County Attorney Michael Craig. They spoke in opposition and requested the Board deny the proposed cases.

Avril Jean Townsley and Bart Davis discussed the negative impacts of a landfill and requested the Board deny the proposed landfill.

Sue Boyd, Oak Terrace resident, stated she is against the landfill and is concerned with water pollution and poor health conditions arising from a landfill.

Pastor Ronnie Moats, Bradley Church of God, thanked Chairman English and Commissioners Smith and Reed for returning his calls. He stated he is speaking on behalf of Frankie Smith to "Just say No" to this project.

Commissioner Reed stated the applicant is willing to provide funding for educational purposes. She asked Mr. Moats if funding could be used for a program in the community. Mr. Moats said that funding could be used for a computer lab, for computer classes for students once a week.

Bobby Jay Harper and Mark Sieglar spoke in opposition.

The Chairman closed the public hearing.

A brief recess was announced.

Tom Mims, applicant, spoke in rebuttal to public comment.

Mike Gurr, consultant for the applicant, spoke in rebuttal to public comment. He referred to the video footage of him presented by Clark Environmental regarding the Kovac and the Nichols proposed landfills. He described how each landfill situation was unique.

Upon question, Mr. Gurr stated he was not the applicant and did not prepare the information for the Kovac and Nichols proposed landfill cases. He stated that different data was collected for IEP, noting that IEP's data is more complete than the Kovac and Nichols cases. He outlined the various forms of data that was collected for IEP. Discussion followed.

Mr. Mims outlined proposed changes to the conditions of approval for CU 09-17.

Upon question, Mr. Mims stated that if the criteria is met by Florida Department of Environment Protection (FDEP), the next cell would be approved by the County based on the data received by FDEP.

Mr. Mims stated the changes in Condition Number 9 regarding biomass was added by the Planning Commission and said that biomass is not a goal of IEP. He explained how it might be beneficial to the County to include biomass in the proposed Conditional Uses. Discussion followed.

Commissioner Johnson questioned whether other landfills require 60% recycling.

Mr. Mims stated that the state has a goal of a 60% recycling rate for landfills and he does not know of any landfill that has met a 60% recycle rate.

Upon question, Mr. Mims stated he sees IEP as a recycling and reuse facility and not a landfill. He stated he believes this proposed case is the right thing to do. He discussed how North Central Landfill is larger than IEP and

IEP is nowhere near being the largest landfill in the nation. He further stated that IEP is an asset to the community and the County, he said it will make a positive difference by providing job opportunities.

Commissioner Reed stated that she has concerns with properties along State Road 37. She questioned if Mr. Mims could start the recycling center with 800 acres and come back at a later time for approval of the surrounding property. She said that Mr. Mims owns the neighboring properties.

In response, Mr. Mims stated that he could settle with 800 acres with the prospect for future growth.

John Ryan responded to questions from Commissioner Wilkinson. He stated he is not speaking as a Planning Commission staff member. He reviewed his suggestions to the Planning Commission, such as increasing the number of cells based on the recycle rate and limiting the amount of traffic coming onto the site.

Discussion followed on the capacity and the life of a cell.

County Attorney Michael Craig stated that prior to the February 18, 2010, Public Hearing, Chairman English questioned how to limit the overall project of the applicant. He discussed the Class I, Class III, and the C and D landfills. He stated that Jones Edmunds and Associates, Inc. was contacted to calculate the cell sizes in various proximities. He stated that a 30 acre cell for Class I material would allow over 20 years of landfill space based on 1300 tons per day and a 60% recycling rate. He stated that at the previous hearing it was not taken into account the Class III and the C and D landfills. He said a revised site plan was created with GIS. He demonstrated Class III and Areas C and D on a map. He noted that the applicant has stated numerous times the proposed case is a recycling facility and this is contrary to what has been applied for. He said the applicant has applied for a landfill with recycling as an accessory use.

David Dee, Attorney in Tallahassee, gave an overview of the three cases heard today. He stated he has contacted Jones Edmunds and Associates, Inc. and reviewed their analysis of the proposed cases. He presented the option of approving a smaller area of 25 acres with 100 foot high cells and approving a larger area of land in the future. He discussed various scenarios of the landfill life with different acreage amounts and cell sizes. He said that according to Jones Edmunds and Associates, Inc. the current application would have a capacity of 85 million tons of garbage. He stated that if the landfill brought in the maximum amount of waste of 1,500 tons a day and operates 6 days a week; the landfill would last 185 years and would last 460 years if a 60% recycle rate is met. He concluded that the applicant needs less than what has been applied for. Discussion followed.

Upon question, Waste Resource Management Director Brooks Stayer, stated approximately 2,000 tons per day are received at the North Central Landfill, and the current cell in use is 60 acres and 300 feet in height. He noted that the life of the current cell is approximately 9 years. Discussion followed.

In response to questions by Commissioner Reed, Mr. Stayer stated that the highest cell at North Central Landfill is 145 feet. He stated that operating hours are 7:00 a.m -5:00 p.m. Monday through Friday and 7:30 a.m. to 4:00 p.m. on Saturday. In regards to biomass, he stated that yard trash is mixed 50/50 with cover soil. Discussion followed.

Commissioner Reed discussed the option of charging an out-of-county host fee of .50 cents per ton.

Mr. Dee responded to questions regarding out-of-county host fees in Osceola and Okeechobee Counties.

Mr. Dee submitted the Jones Edmunds and Associates, Inc. report into the record.

County Attorney Michael Craig outlined proposed changes to the conditions of approval for CU 09-17.

Mr. Mims responded to the comments by Mr. Dee and the conditions outlined by County Attorney Michael Craig. He stated that the County has actively worked against IEP. He requested the approval of IEP's conditional uses and the two additional amendments that have been submitted.

Commissioner Smith stated he has listened to the comments from the citizens and he has taken into account both the benefits and the harm to the County.

Commissioner Smith moved to Deny CU 09-17, LDC 09D-04, and CPA 10A-03. The motion died for lack of second.

County Attorney Michael Craig reviewed the options for the Board. He outlined the conditional use standards for purposes of the record. He gave recommendations for procedures to be followed for voting for CU 09-17, LDC 09D-04 and CPA 10A-03.

Motions:

Approve to continue CU 09-17 to June 16, 2010. - FAIL

Vote Results

Motion: Randy Wilkinson

Second: Jean Reed

Bob English - Nay

Sam Johnson - Nay

Jean Reed - Aye

Edwin Smith - Nay

Randy Wilkinson - Aye

Motion Minutes:

Commissioner Smith stated he is not in favor of continuing these cases and that action should be taken today.

Commissioner Reed suggested voting on CPA 10A-03 first.

Upon question, County Attorney Michael Craig stated that additional testimony would not have to be given if the continuance is a rendition of the topics heard today.

Upon question, Mike Cotter, Engineer representing the applicant, responded to questions regarding cell life and he stated that a 60 acre cell life spans between 9 to 15 years, depending on the density of the materials being collected. Discussion followed.

A brief recess was announced.

Mr. Cotter clarified his earlier response noted above.

Discussion followed with Mr. Mims and the Commissioners regarding cell acreage.

Mr. Mims outlined the site plans and the phases of development if the proposed IEP is granted. He further discussed engineering, hiring contractors for building roadways and buildings for remanufacturing and recycling.

Mr. Geohagan referred to the staff report and said the applicant previously agreed to 25 acres for the landfill.

Motions:

Approve Conditional Use CU 09-17 with Condition Numbers 1 through 31 as modified during the Public Hearing. - PASS

Vote Results

Motion: Sam Johnson	
Second: Jean Reed	
Bob English	- Aye
Sam Johnson	- Aye
Jean Reed	- Nay
Edwin Smith	- Nay
Randy Wilkinson	- Aye

Motion Minutes:

Commissioner Johnson outlined changes made to the Conditional Uses.

A brief recess was announced.

Augie Fragala, Fragala and Associates, provided hard copies of the Conditions to CU 09-17 that will be reviewed by the Board and Mr. Mims.

The Commissioners, Mr. Mims and County Attorney Michael Craig reviewed and made changes to the conditions submitted by the applicant and County staff. Conditions that had further discussion are listed below.

Condition Number 1 was discussed regarding the amount of acres and percentages of recycle rates for each cell.

Beth and Jim Clark discussed concerns with Condition Number 6.

Commissioner Reed requested to set the operating hours on Saturday from 8:00 a.m to 5 p.m. on Condition Number 18.

Mr. Peterson and Mr. Fragala further explained the annual traffic monitoring subject to a methodology as described in Condition Number 27.

Discussion followed on the additional condition added by the applicant regarding host fees.

3. [LDC 09D-04 \(Innovation Environmental Park\) to consider the adoption of an ordinance amending the Land Development Code Sub-district Map. \(No fiscal impact\)](#)

Attachment: [LDC 09D 04 Ordinance.pdf](#)
Attachment: [LDC 09D 04 staff report.pdf](#)

Motions:

Adopt Ordinance No. 10-030, adopting LDC 09D-04. - PASS

Vote Results

Motion: Sam Johnson	
Second: Jean Reed	
Bob English	- Aye
Sam Johnson	- Aye
Jean Reed	- Aye
Edwin Smith	- Nay
Randy Wilkinson	- Aye

Motion Minutes:

Commissioner Reed discussed issues regarding water, waste water and air quality impacts.

Upon question, Land Development Director Chandra Frederick, stated there are reports that the applicant would have to complete with DEP regarding the monitoring of water, waste water and air quality controls. She stated the County will handle any complaints regarding odor and other issues through the Code Enforcement Department and issues with a landfill will be coordinated with DEP. She stated that in order for the applicant to move forward with any further development, the capacity issues would be evaluated by staff.

Discussion followed on waste water treatment sludge.

4. [Ordinance adopting CPA 10A-03 to change the Future Land Use on 800+/- acres from Phosphate Mining \(PM\) to Institutional \(INST\). \(No fiscal impact\)](#)

- Attachment: [CPA 10A 03 Ordinance.pdf](#)
- Attachment: [CPA 10A 03 Adoption Hearing staff report.pdf](#)

Motions:	
Adopt Ordinance No. 10-031, adopting CPA 10A-03.	- PASS
Vote Results	
Motion: Sam Johnson	
Second: Randy Wilkinson	
Bob English	- Aye
Sam Johnson	- Aye
Jean Reed	- Aye
Edwin Smith	- Nay
Randy Wilkinson	- Aye

Motion Minutes:

Commissioner Smith stated he will vote in opposition for a landfill. He stated that a landfill is inappropriate for the site. He stated that Polk County has enough capacity for a landfill for seventy years.

Commissioner Wilkinson stated that if Mr. Mims is successful that the County will be successful. He discussed the importance of job creation.

Commissioner Reed stated the critical portion is in the changes to conditions of approval for CU-09-17.

The Chairman adjourned the meeting at 9:10 p.m.