

BZA SPECIAL MEETING**MAY 24, 2004 MINUTES**

Members present: Dale Clevenger, Mike Blankley, Charles Addington, James Trautman, Gary Moore.

Members absent: Jeff Prescott, Bill Davis.

Staff present: Cathy Flatter, Executive Director, Jamie Stump, Recording Secretary.

Legal representation: Robert C. Oliver.

Others present: See attached sheet.

The meeting was called to order by Chairman, Charles Addington at 7:05 P.M.

Chr. Addington: Good evening ladies and gentlemen. This is a continued meeting from May 11, 2004 and this is a recorded meeting. This will be for the remonstrators to present their facts, arguments and rebuttals. Who wants to speak first? Please identify yourselves for the record.

C. Cantrell: I am Charles Cantrell.

J. Zakelj: I am John Zakelj.

C. Cantrell: We would like to ask for a continuance for ...

J. Zakelj: Until July 1st.

Chr. Addington: I think we better maybe kind of put that off until the end of the meeting and see how we get along. Is that okay or can we do it now?

C. Flatter: Are they wanting to present, are you wanting to present any information tonight?

C. Cantrell: We are not at this point. We would like to postpone the presentation.

Chr. Addington: Are you talking about just your own presentation?

C. Cantrell: Yes, our groups presentation. We have a number of segments to present that we would like to postpone until July 1st.

G. Fine: Mr. Chairman.

Chr. Addington: Yes.

G. Fine: They indicated at the last meeting that

Chr. Addington: Come up so we can hear you Gary on the recorder.

G. Fine: My name is Gary Fine. I am representing the Randolph Farms, Inc. They indicated at the last meeting that they would be ready and they would complete their presentation this evening and I think it would be unfair to grant them an extension.

C. Cantrell: We did indicate that we would be prepared to present but we did not indicate that we would be prepared to conclude our presentation at this time, however, we have been through several meetings where Mr. Fine has asked for a continuance and I don't see that that was unfair for us to ask for a continuance at this point.

Chr. Addington: Let's get maybe an opinion from the board members and see what they think about that. Mr. Trautman, how do you feel about that?

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J. Trautman: We have to give everybody their say so I guess if that's, I would like to get this over with as soon as possible but you know everybody has to have their say. That is an awful long, that is a whole month.

Chr. Addington: That seem to be the earliest you can

J. Zakelj: No. That is what.... Could I explain a little bit why we are requesting this? One reason is that some of the information we were hoping to have and we feel we need is going to be provided by the landfill with the test borings that Mr. Fine mentioned at the last meeting. Those were not available until, he had indicated that he would let us have those, let us see those, we didn't receive them and I stopped by to talk with him last week on a couple of occasions and he indicated they wouldn't get, the analysis, the reports, whatever it is, wouldn't get to him until late in the week. I wasn't able to get back to him so I don't know if he has those or not. Second reason is, the person at IDEM who takes in and does the analysis of the data that the landfill sends in on their water quality, water testing has been on vacation since the day after the last BZA meeting and he won't be back until June 1st. We haven't been able to talk with him. I spoke with his supervisor and she told me that he would be the person who could summarize that data for us and help us know what is there. So.....

J. Trautman: Okay, time out a minute. It sounds like what you guys don't have is a lot of technical and geological information that you want to present to us, who are lay persons who don't know a dang thing of what you are going to be talking about. Now wait a minute, now our job is just to give them a special....

C. Flatter: Exception.

J. Trautman: Special Exception to expand their landfill but if IDEM does not grant them the permit, it is void. It is nothing. What we do doesn't mean anything. I will ask Mr. Oliver, is this really, do we need all this technical information to make this decision as to give them the okay to do because if they don't follow IDEM they are dead. Our exception is void.

C. Cantrell: Can I respond to that sir?

Chr. Addington: Sure.

C. Cantrell: I understand that this board is not here to judge the technical merits of the plan which Randolph Farms is presenting to you. That is not why we are presenting the technical information. The reason we are presenting the technical information is to support our arguments that the landfill is not sited in a suitable location and while we do have test borings that show that from previous arguments and previous presentations of this issue before this board, we don't have the current drawings and the current test boring data so we feel as though that is appropriate that we provide that supporting material. We also think that is very important that it be a part of the record to support our position.

Chr. Addington: Mr. Blankley how do you feel about this?

M. Blankley: Well I don't think we ought to go to July 1. They can come to the next meeting and if they have it fine, if they don't....

Chr. Addington: Dale.

D. Clevenger: When did you realize that they had put in to expand this? What date was it?

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C. Cantrell: I am not sure sir.

D. Clevenger: According to my memory and it could be bad, but it was May 11th. This is to my estimation, stretching it too long.

Chr. Addington: It was May the 1st, I believe.

C. Flatter: May 1st was at the landfill.

M. Blankley: We had that in April.

Chr. Addington: That is right we had one in April didn't we?

J. Trautman: We had one in April some time and then we went to the landfill.

G. Fine: April 19th.

Chr. Addington: What are you thinking Dale?

D. Clevenger: I think that is asking for a little bit too much time.

Chr. Addington: I believe so too.

C. Cantrell: What would be an acceptable amount of time sir?

G. Fine: Mr. Chairman these gentlemen know good and well they have been there and reported to IDEM, the file room is open on the 12th floor at the State House and that information is public record there.

Chr. Addington: Gary could you come around over here and speak so we can get this recorded. I hate to move you around but I don't know any other way to do it.

G. Fine: In the prior proceedings...

Chr. Addington: Identify yourself.

G. Fine: My name is Gary Fine, representing the applicant Randolph Farms, Inc. In prior proceedings they have visited the file room and got several pieces of information from the file room so they are familiar with what the procedure is down there. As far as the current borings, our consultant will not release data in draft form because of the possible litigations that we'll have through these proceedings. Once the information is available I will present it but I can't give you a time when all that information will be in final form.

Chr. Addington: Will that information be forwarded onto these fellows?

G. Fine: They sent a retired professor from Ball State to meet with me today and we had a nice meeting for about 2 ½ hours and had a good discussion and I am going to call him when I do get that information.

J. Zakelj: Will we have an opportunity to respond to that information after Mr. Fine presents.....

G. Fine: Mr. Chairman I remind the board again that this board is not a technical review board. The technical review will be done by IDEM at the time we present our application to IDEM.

J. Zakelj: We are not interested in presenting overly technical information. What we are interested in is getting information that we think supports our case.

C. Cantrell: We also have the right to remonstrate against any evidence that Randolph Farms would present and if he hasn't presented his entire case then it is not appropriate for us to respond to that at this time.

G. Fine: I presented my entire case. I do not have to present those boring logs. That is something that is for the expansion that will be turned in with our application. I completed my statements at the last meeting.

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Chr. Addington: I think July 1st, if we are going to grant this, is too long. That is carrying it out too far.

J. Zakelj: Okay.

Chr. Addington: What other date do you have?

J. Zakelj: The next meeting, the next regularly scheduled meeting is when?

B. Oliver: June 21st.

Chr. Addington: The third Monday in June, which would be the 21st.

J. Zakelj: If that would be acceptable then we will make it happen.

D. Clevenger: Gary would you have to have time after their presentation?

Chr. Addington: You would want to come back for a rebuttal wouldn't you after they are done?

D. Clevenger: You wouldn't want to do it that night right?

G. Fine: Depending on what they address. I may be able to finish it in one night. I am not sure of that but I would try.

B. Oliver: Charles or John are you going to get your evidence in in one evening, one meeting?

J. Zakelj: I think from our group we would most likely be able to do that.

C. Cantrell: I wouldn't want to say absolutely but I would think so.

J. Zakelj: If it would help we could present a portion of it this evening.

B. Oliver: How many people out here do you represent?

J. Zakelj: With our group specifically? I don't know, 6 or 7.

B. Oliver: Okay are there other people here that want to present evidence this evening that aren't with John and Charles? Apparently they represent 6 or 7 out here they said and if we are going to have evidence and it is up to the board if they grant the whole thing as far as the continuance but are there other people that want to speak that aren't represented by these two gentlemen? Okay there is one.

C. Flatter: Is there a reason why you could not present some of your evidence tonight since we are gathered, we have a quorum and we do have other things that are on the agenda for the 21st besides this. It could save us some time.

B. Oliver: Why don't we take the others, if the board is going to grant a continuance to these particular requests then why don't we hear anybody else and then see where we are and then if they are going to go to the 21st then they have to come back then.

Chr. Addington: I think that is what we need to do.

C. Cantrell: Okay that would be fine.

B. Oliver: These people are here and they should have a right to speak if they are..

Chr. Addington: Yes they are here.

C. Cantrell: Yes if they would like to speak I would sure hate to..

Chr. Addington: That is the reason I suggested in the beginning maybe you guys could be at the tail end but if you want to have the information.....

B. Oliver: So right now we will just table that request. I guess I shouldn't say that. You can say it.

Chr. Addington: That is fine. That is the way we will do it. At the end of the meeting we will decide what date and for sure here.

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C. Cantrell: All right. Thank you very much

J. Zakelj: Thank you.

Chr. Addington: Okay Mr. Holaday do you want to come up?

M. Holaday: I am Max Holaday, a resident of Randolph County near Losantville. Candidate for County Council. Really I have nothing, it is going to be short, I have a couple of questions. One of the questions I have is what protection does the county have in the ultimate event of an EPA clean up of the dump? Is there bond? Has there been a bond established? What kind of protection does the county have that we will not be having to pay for it out of our pockets?

Chr. Addington: Is it okay if Gary comes up here, do you want to come up and respond to that?

G. Fine: Sure. As part of my presentation at the last meeting Randolph Farms has over \$4.5 million dollars set aside for closure and post-closure funds. That fund is controlled by the Indiana Department of Environmental Management and can only be released once closure has been complete and once post-closure has been completed. Post-closure is 30 years after closure.

M. Holaday: And what if there is a mandated clean up?

G. Fine: The monies come from this fund.

M. Holaday: And that would be sufficient?

G. Fine: It is added to, as you open acreage on a landfill it is added to so many dollars per acre, again if you certify close a portion of the landfill they will give that money back to you but it is a figure that is mandated by law a minimum of \$82,500.00 for closure per acre.

M. Holaday: I am just a lay person you understand.

Chr. Addington: We covered some of this before Mr. Holaday.

M. Holaday: Okay I didn't realize there was a meeting before this or I would have been here.

Chr. Addington: Okay.

M. Holaday: I guess the only other thing I have to say, other than the fact that I would question whether that would be sufficient to environmentally protect the county. The other question I have is or it is really a statement I guess, it doesn't make a whole lot of sense in my mind to rush into a decision that we will be paying for for years or we will be living with for years and years in the future. Thirty days, sixty days really isn't much compared to what we would be living with and you are not that close to being filled with your landfill at this point right? You have several years left?

G. Fine: We have some years left, yes.

M. Holaday: Thank you.

R. Davis: My name is Robbie Davis. I am a Randolph County resident and what I wanted to speak about is with the size of this expansion that is proposed right now, I am going to go with numbers off the top of my head but based on what I read in the paper that Randolph Farms stated, that based on the amount of acreage that they want us to allow for it, they would be using 44 to 47 years which would be 3.6 acres per year is what they currently need in order, is what they would be expanding right now.

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R. Davis: Figuring the amount of land they are asking for and if they are stating their selves it takes that long to fill that up. I still have doubts why if you are going to use 3.6 acres per year why you would need that much acreage to expand because you are talking about a matter that let's face it, most of us will never live long enough to know the consequences of it. It will be our children and grandchildren that will have to deal with whatever decision you make. I realize what I am asking you to do is to keep this company on a short leash. I am not saying, I don't want anybody to lose their job, I don't want any economic loss to Randolph County but I have heard it stated a lot on how well this landfill operates and I am not disputing that. They seem to be, I don't know a good landfill from a bad one but I guess they do a pretty fair job but if you ever stop to think that maybe the reason they do such a good job is because this county has them on a short leash. If they have this county covered for the next 50 years they may not have to do quite as good a job. Knowing someone that has dealt with corporations and the work force for 20 years now, a lot of things can happen in that amount of time, different owners, different corporations and to me with the amount of land they are requesting and what they are going to do to this county with it, bringing in a lot of out of state waste, you can not safely approve that much property. I wouldn't see how you could leave yourself that open for that length of time. Thank you.

Chr. Addington: Thank you. Who else?

K. Davis: My name is Kathy Davis and I just had a question about the methane gas that the landfill produces and I just want to know what happens to that after the site closes?

Chr. Addington: Okay I don't think Gary was called here tonight to answer questions. We did that the other night. I am not sure if he wants to do that or not, if he does that is okay.

G. Fine: I don't mind answering that. The methane gas is collected from the landfill and the header pipes. We have approximately 102 methane gas extraction wells. The methane gas is sucked off the landfill with a blower system. After the landfill closes we are required by law to monitor the landfill and still collect the gas, still collect the leachate, monitor the ground water monitoring wells and all this is in this 30 year post-closure period that we just discussed earlier but there is a plan written and approved by the State of Indiana that allows us to do all those things.

K. Davis: The other concern that I had was, I was reading the article in the Muncie paper about the landfill and it said, "What a change had come over since the new owners and what a good job that they did with everything", and I am concerned that if it improved in that short of time, how fast could it go bad again if they had different owners or whatever. That is all.

Chr. Addington: Thank you. Now who wants to come up and speak about this? How about Mr. Lumpkin, do you want to come up and speak? You are welcome to come up Lee if you want to.

D. Clevenger: Gary I have a question to ask you. On this monitoring your gas and all that, that is not just the State of Indiana, that is the whole code for the whole country right?

G. Fine: I am sorry. I didn't understand the question.

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D. Clevenger: Like monitoring the wells and all those rules and regulations, that is for the whole country, that is not just for the State of Indiana?

G. Fine: Correct. The USEPA came out with their subtitle D regulations and these requirements were part of that subtitle D regulations. EPA gave each state the authority to adopt those rules as they were or make them more stringent than the federal rules. Indiana rules are more stringent than the federal EPA rules.

Chr. Addington: Is there anybody else here that wants to speak about this tonight? If not, Mr. Cantrell if you can come back up we can figure out when we can have this continued if we decide to do so. Is there any way you can do it before the 21st?

J. Zakelj: I will be away between the 4th and the 17th.

G. Fine: Mr. Chairman again, we've known about this since the middle of April and they have had plenty of chances to collect the information they wanted to collect at the IDEM file room. Now there is no reason to prolong this any longer.

Chr. Addington: Okay what we are going to do is vote whether to continue this or not. We have 5 members here.

B. Oliver: Did you hear the opening as to what the request is? You probably need to.....

Chr. Addington: Well you can't vote on it if, it is going to be recording. They are requesting, since they don't have some vital information, Gary, they first asked to continue it to the 1st of July and we decided that was too long. What are your thoughts on that?

G. Moore: From presenting it at our next meeting, is that what you are saying?

Chr. Addington: Well it would be the 1st of July which would be beyond our next regular meeting.

C. Flatter: June 21st is the next meeting Gary. They asked for July 1st. We've kind of compromised and asked if they could do it at the next meeting. It is information from IDEM on the soil borings on the proposed expansion area that they haven't gotten yet.

G. Moore: I agree with what has been said, it seems a bit long to extend it to July.

Chr. Addington: I think the next step then would be to see what the board thinks about this. If they want to continue it or not, I need a motion to continue this. If I don't hear a motion and a second then it won't be continued.

J. Trautman: I'll make the motion to continue it to the 21st of June.

Chr. Addington: Do I hear a second?

D. Clevenger: I will second with the stipulation that within a week after that we have a special meeting to vote on this.

B. Oliver: I don't think you can do that because I don't know whether Gary would have enough time when he initially talked....

D. Clevenger: Would that give you enough time Gary, a week?

B. Oliver: He indicated a couple of weeks at the last meeting between presentations. If you can do it in a week, fine or

D. Clevenger: Two weeks we are going to be right back to the 1st of July.

G. Fine: They will present their information at the next regular meeting, I would try to rebuttal as much as I could that evening, is that what you are saying?

C. Flatter: He said vote.

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B. Oliver: No he wants to move then your rebuttal no later than a week.

G. Fine: I can go for that.

C. Flatter: But not vote.

D. Clevenger: Yes, I would say we could vote on it after his.....

B. Oliver: That would be up to the board just depending on how much information you have.

Chr. Addington: I don't believe we can say that yet can we?

B. Oliver: No.

D. Clevenger: After Gary does

B. Oliver: I think what you have to do, this case has to go, if it is going to be continued to the 21st, see where we are at the end of that day, trying to keep in mind that we want to move it along, but I don't think setting dates now until the evidence is in, that we would know. I think with that in mind, we at least have a time frame, Gary thinks he can do it in a week if they would get finished on the 21st, but you may have a lot of things as in the past, to review, from Gary's first presentation at the landfill through rebuttal as opposed to trying to squeeze in a date definite for tonight just for the idea of the quantity of information that you

Chr. Addington: Do you still want to second that then Dale?

D. Clevenger: Yes.

M. Blankley: A question before we vote. What happens if they can't get it all done in one evening? Are we here until midnight or what are we going to do?

G. Moore: That is what I was going to ask, are we looking at continuing it again?

C. Flatter: I think that is what Bob was saying was that until we meet on the 21st and see if they can complete their presentation, we can't say that we are definitely going to have a meeting in one week for Gary to make his rebuttal if they haven't been able to present all their information in the one evening. None of us want to be here until midnight, you can only handle so much information in one evening.

G. Fine: I have a question Mr. Chairman. Is there other business on your agenda for the 21st?

Chr. Addington: Yes there is.

G. Fine: Would they go before us or.....

C. Flatter: Yes.

Chr. Addington: We would have them before you guys. Okay I have a motion and a second on that to continue this to the 21st of June.

J. Trautman: Some of this information is going to be technical you know and my mind can only comprehend what my rear end can tolerate so can a lot of this be ran into the record without us going into a lot of, basically you are doing this for your presentation and then again to IDEM and say, "This is the material we brought to the county", and if we okay this you are going to go to them and say, "They okayed it and we had all this information and it is on the record that the information wasn't given to a governmental....."

C. Cantrell: I can understand your concern and we will work very diligently to make the technical information palatable and understandable and make it make sense. We are not just reading information in to be reading it in or saying things to be saying it.

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G. Fine: I will add to that, once the application is submitted to IDEM and reviewed, IDEM will have a meeting for the local citizens for them to present that information at that time.

J. Trautman: I was just wondering if it would make any bigger impact on IDEM that you presented this to another.....

J. Zakelj: No, not that I am aware of. Certainly not part of our plans.

B. Oliver: I would bring as much as exhibit as you could just so that they can leave with it.....

J. Zakelj: Yes.

B. Oliver: But we can't restrict what they want to put in.

J. Trautman: No.

B. Oliver: No former records. No former findings or minutes or anything of that nature, I mean, we have to be, the evidence presented here. We had one a couple weeks ago. It is new. It is the evidence that you present here. You follow me?

C. Cantrell: We do follow you.

Chr. Addington: Is it okay to set time limits?

B. Oliver: Well I just think at a certain point it is nobody wants to be here until midnight.....

C. Flatter: Is it possible for your group to be here at 6 on the 21st?

C. Cantrell: I may have some difficulty with that because of my job and so I would hate to commit to that.

C. Flatter: That is why I asked.

Chr. Addington: Okay. We have a motion and a second to give you a continuance on the 21st at 7:00 PM. All in favor say aye.

J. Trautman: Wait a minute. The other part of it was, with another meeting on the 28th. Is that part of the same motion?

Chr. Addington: No

B. Oliver: No he withdrew that I think.

D. Clevenger: Yes to see what happens and then that night try to get a special meeting.

Chr. Addington: I have a motion and a second. Everyone in favor say aye. "Ayes". Opposed (none). You got your continuance to the 21st at 7:00 P.M.

C. Cantrell: Thank you very much sir.

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The meeting adjourned at 7:40 P.M.

THE NEXT REGULARLY SCHEDULED MEETING WILL BE HELD JUNE 21, 2004
AT 7:00 P.M. IN THE COMMISSIONERS CONFERENCE ROOM OF THE
RANDOLPH CENTER FOR FAMILY OPPORTUNITY, WINCHESTER, INDIANA.



Charles Addington, Chairman

Mike Blankley, Vice Chairman



Jamie Stump, Recording Secretary