

Tom Mims and his current Bait and Switch.

In a court case that starts 28 May 2013 Tom Mims will attempt to pull an 'End Run' around the Polk County BoCC and use the Circuit Court to override the June 2010 Land Use Change (LUC) issued by them in response to his Innovation Environmental Park presentation/promises. At a series of two meetings in 2010 his presentations resembled an Economic Development Opportunity in the area of Recycling that would bring jobs and new ideas to waste processing. His presentation at the time was very careful to avoid any hint that the request was really all about a Huge Regional sized landfill filled with waste brought in by trains. At both meetings the residents (Citizens to Stop the Dump) of Bradley, Rolling Hills, Oak Terrace and Pinedale made a series of presentations that took issue with what was said by Mr. Mims and asked that the BoCC disapprove the request, We asserted that the IEP presentation was akin to Trojan Horse and what he really wanted was a huge dump. At the final hearing the BoCC made him swear under oath that the principal business would be recycling and was not a landfill. To further underscore this point he was asked to affirm the IEP proposal was in fact his intent by agreeing in writing to the constraints that he agreed to at the meeting. Well 90 days later he filed suit. Mr. Mims decided that he did not get what he wanted and asserted he had signed the agreement 'under duress' and it was invalid. To further throw gas on the fire he submitted a brief to the court in March 2013 that asks the Court to disregard the IEP propaganda, he wants it to rule he can have a Regional sized landfill and in a deposition he affirmed that he planned on using trains to bring in garbage from outside the county.

In this regard Tom Mims has made assertions and comments that attempt to minimize the efforts and objections to his landfill made by the citizens who live south of Mulberry in the communities of Pinedale, Rolling Oaks, Oak Terrace and Bradley junction (The Residents). His suit against the county contains a bewildering number of allegations and half-truths not supported by any facts in spite of an overwhelming blitz of interrogatives and depositions that seemed designed to punish those who dared to object to the project rather than uncover any nefarious efforts of an outside party.

The effort of the communities affected by the landfill cannot be so causally dismissed by the developer who then wrongly redirects the blame for the BoCC decision on the county staff and Republic. A summary of our efforts is in order.

On 16 July 2009 a LUC (CPA 09B-04) request was presented to the Polk County Planning commission request to change 360+ acres of Mims property adjoining CSX rail tracks and Hwy 37 between Hwy 640 and Bradley Junction. Three citizens from the area attended that meeting (Myself and wife and a resident of Rolling Hills) and were impressed and worried by what was presented. Mims started his presentation with an hour+ diatribe of data designed to convince the Planning Commission anyone living in this area was poor, uneducated, black or poor white trash and not worthy of being considered a part of Polk County society. This in itself was extremely troubling to me; it was uncalled for and alerted me to other more telling assertions made about the project. Based on the location of the property, existing roads and the state of the economy I found it difficult to believe there was a market for rail supported firms in this area. I was also aware that even though he made point to discuss the advantages of rail access there was no one from CSX to affirm his inference of

support from them. Most alarming was an exchange with the Long Range Planning reprehensive about the rail sidings. Mims had included them in the planning document but when challenged about his ownership of these sidings he asserted he was in talks with CSX and they had agreed to do a quick claim deed to award him ownership of the land. Lacking this documentation they were excluded from the LUC. This was later proved a fabrication on his part and had the planners known of the truth they would not approved the project. Point of fact: CSX learned of the project through a newspaper article and advised the county by letter they were not a party to this project and had commitments for the sidings for the foreseeable future. I think it is important to point out that this letter arrived at the county 2 days before the BoCC meeting that approved the project and forwarded it to DEP, it was included as an attachment to the meeting but never brought up by the Commissioners. As a result the BoCC approved the request and forwarded to DEP for review. We did not learn of the letter until someone released it to one of the citizens involved in the opposition. In addition we have since learned from the developer that the real use of this parcel is to use the existing sidings to offload Class 1 and 3 waste for a landfill being planned less than 1 mile away on the West side of HWY 37. At the final hearing the developer was asked if there was anything that tied this parcel to the landfill, it was denied and no mention was made of bringing garbage by rail which is the sole and real reason for the change request. Can one say in bad faith?

In September 2009 Tom Mims added the IEP proposal (LUC CPA 09-17) to the picture and initiated a TV ad campaign that portrayed this change as a recycling project, it never mentions a request for a 1000+ acre class I and a 300+ acre C&D landfill. In the meantime The Residents concerned began holding meetings to discuss how to present our objections and we retained Brent Geohagen to guide/represent our efforts. We held a series of 20 meetings in Bradley churches and had from 15 to 75 citizens in attendance at each meeting. At the first meeting it became apparent to me that there was no natural leader among us so I took the lead and became the voice of The Residents for the series of meetings we held concerning both LUC requests (we used 'The Committee To Stop the Dump' to describe what we were about). In each meeting I emphasized the importance of being truthful and 'In Good Faith' at all times concerning these projects and we were. In order to inform the citizens on just what a landfill represented I decided to go to experts in commercial and public landfills, Mark Talbot of Waste Management and Brooks Stayer director of the county landfill operations. I called them both and got some background information and since it was a commercial landfill I spoke to Mark Talbot most of the time. For the 360 acre BoCC Meetings we did shirts, signs and had a good showing of citizens at the BoCC meeting. As this LUC passed through the BoCC channels the landfill LUC entered the pipeline.

The landfill LUC drew far more attention/objection than the earlier LUC change and we continued to hold citizen meetings to organize and plan how we could proceed. These meetings demonstrated that the communities did not want the project to proceed but it was apparent we just did not have the financial resources to employ a costly PR campaign to educate all the county residents on the reality of what was being proposed. What we did have was a knowledgeable voice concerning the laws that we had to follow. We were advised pro bono by Susan McDuffie who made sure we made an effort to act 'in good faith'. One has to realize these are small communities not accustomed challenging the

'government' and are very uneasy doing so even knowing this LUC will unfairly burden them with adverse environmental conditions. In Oct 2009 we began a campaign to circulate petitions throughout our communities in protest to the changes. In the end we obtained 2000+ individually signed petitions. We also asked for donations but all business owners declined and the residents of these communities just do not have any money to give to fund the effort.

In late Jan 2010 Mark Talbot advised that he would help us with expenses and access to a PR (McCormick Agency) firm to help us choose the most effective actions we could accomplish given our limited funds and capable citizens. I discussed this with Susan and we held a meeting with McCormick agency to get a feel for what they advised we do. We decided that The Residents had to make the decisions and initiate any actions through a community effort which we did. Our agreement with Mark was we would submit the receipts for money we spent and he could help us or not but importantly all actions emanated from our community effort would be through the efforts of The Residents. This included yard signs, shirts, newspaper ads, radio spots, and petitions.

In the same time period we approached Clark Environmental to help present a coherent picture of landfill issues and previous actions of the BoCC toward landfills. They felt as Mark Talbot did, that IEP was trying to bully us and we would not get a fair hearing at the BoCC so they joined us to help organize presentations for the BoCC meeting and educate one on one the county commissioners. It needs to be emphasized here that there was no outside guidance/pressure from anyone. I also asked the Clarks to work with the county staff to determine how best to represent our objections to the LUC to the BoCC. It was custom that individual citizens be given 3 minutes to make any comments in front of the commission. We were advised we could pool individual times by name to get a time block for our presentations. However at the meeting the county had decided we represented the 3 communities/citizens and allowed us a block of time to make our presentations. We did have a listing of 50 citizens at the meeting willing to grant us their time but the county felt that is was not necessary. In addition to our presentation the individual citizens were allowed to make comments. One only has to review the video of the hearing to see our presence and more importantly those were the people who stayed to the end of the meeting. Many of those you see are citizens who used busses that originated in Bradley, they were arraigned by local churches but Mark agreed to reimburse us, the busses referred to in the Mims document were used exclusively by The Residents.

The above represents the actions prior to the first BoCC and the decision of the Commission disappointed us all. It is important to note here that none of the points we raised were ever challenged as not applicable or that a landfill in this location was compatible with the surrounding communities. A point of fact is that the commissioners all stated that the recycle facility (presented as an Economic Development Opportunity) and prospective jobs warranted dismissing some compatibility concerns and approved the change. It is our contention the commission does not have the power to ignore land use laws. They agreed the law is being violated then just dismiss it. The real irony here is the developer wants a landfill not a recycle facility that the BoCC tried so hard to craft in the decision.

The actions and efforts you see by The Residents at the BoCC meetings and in advertisements in the local newspapers/radio coverage was predicated on our efforts and it was 'The Committee to Stop the Dump', IE those who executed the plans developed at town meetings by The Residents, that took point on making those things happen. AT NO TIME DID ANY OF US REPRESENT ANY OUTSIDE AGENCY NOR DID WE HAVE SOME KIND OF HIDDEN AGENDA. We did/do not want a regional sized landfill sighted on the property affected by the project, it violates the LUC laws currently enforced by Polk County.

In the suit starting 28 May 2013 Tom Mims seeks to force the county to allow a regional landfill serviced by rail with waste from out of county and state awaits the decision of a Judge. This is a xxx filing that seeks to bypass the decision made by the BoCC. A quick review of the 2 changes in question is in order.

In the case of CU 09B-04 the developer misrepresented the real reason for the land use change. He stated he wanted to develop the 360 acres to sell the property to companies needing rail facilities. In reality:

1. He intends to use the rail sidings to import waste from outside the county and possibility outside the state.
2. He asserts he currently owns title to the rail sidings, which CSX has flatly denied.
3. He intimated that CSX was a part of the project, which was denied in a letter to the BoCC.
4. He stated in a planning meeting that some facilities supporting the landfill would be located on the property. When asked at the BoCC meeting the county said it was an independent development and he did not correct that statement.

In the case of CU09-17 (Landfill/IEP) Mims went to great effort to mask his real intentions.

1. He spent \$40,000 to make a video extolling his IEP concept and ran it on the Warner channel for weeks as well as making presentations to anyone he could including the Ledger.
2. He made a fool of thousands of people with his 'Green Team' organization and meetings. It appears this was a publicity stunt done solely to mislead/impress the members of the BoCC. If you go to the web site you see it has not be active for years.
3. At the BoCC meeting in Feb 2010 he was very careful to NOT mention or infer that he was really seeking approval for a Regional Landfill. This was another effort to mislead the BoCC and in spite of our efforts he was successful.
4. At the BoCC meeting in June of 2010 he swore under oath he was not after a landfill. He also intimated that all waste would be coming from Polk County and would not answer when it was pointed out his numbers were suspect.

We were right about our warnings 3 years ago and want to go on record with the following predictions.

1. Tom Mims owns at least 8,000 acres of land south and east of Mulberry and at least 4,000 acres of that land could be incorporated into future proposals to expand the current facility. If he is successful in winning his suit the county will be powerless to stop any expansion efforts.
2. Polk County will be the home of the largest landfill in the US and would become the garbage county of the US.
3. Anyone living near any rail facilities in Polk county better be ready for garbage trains headed to his facility.
4. If the judge finds for Mims in his lawsuit the effect on Land Use Laws will be immediate and the case will be used to dismantle ALL Land use laws throughout the state. This would also completely undermine the role of the BoCC in application of these laws in every county. In addition to invalidating those laws the fact the judge would allow a developer to submit a change to his initial proposal that constitutes a MAJOR change to what was approved and in effect invalidate the agreement he made with the county in the June 2009 meeting would make a mockery of the court system. The county would have no recourse but to appeal costing even more dollars.
5. In spite of what Tom Mims says about bringing competition to this market he cannot build the facility under current EPA rules at a cost that can compete with the County cost per ton rates. The cost to build one 60 acre cell was \$55 million dollars several years ago, this would put the cost of his facility at \$85+ million dollars. In view of this he would have to bring in waste from areas that can afford to pay the \$55 or \$60 a ton needed to cover his costs.
6. I find it distressing that Mr. Mims can rail at the county government about wasting taxpayers money then would attempt to mislead the BoCC into approving a Regional Landfill and when denied would initiate a suit that will in the end cost the taxpayers far more than what he contends was lost by improper billing for refuse collection (at least 1 million to date).

In summary it is time our elected officials stopped pandering to Tom Mims and treat him like you treat us. In the June 2010 Meeting the BoCC advised him that what was being approved depended on a proof of concept. I contend his court filing to change the project to a Regional Landfill constitutes a breach of contract, an act of bad faith and in effect admits he cannot execute the project as defined at those meetings. The BoCC needs to recognize the developer has demonstrated sufficient bad faith and the June 2010 LUC approval has to be vacated. Should Tom Mims prevail here Mulberry will have a new city motto, 'home of the largest dump in America', and Polk County can advertise itself as being the final destination for your garbage. The Chamber of Commerce can place ads in the Northeast telling people they can now be next to what they threw away as garbage years ago.

What you read above is in the form of an OP ED and constitutes an exercise of my freedom of speech. I encourage you research what is presented above to become informed and demand action by the BoCC to vacate the approval of both CPA 09-4 and CPA 09-10.

Tyler Townsley

Spokesman

Committee to Stop the Dump