

POLICY 2.109-A18: The purpose of the Phosphate Mining (PM) land use district is for phosphate mining operations, phosphate mining support facilities, and other uses that are compatible with and related to phosphate mining and its allied uses.

Does this not mean!

Under this category/definition no entity other than a company in Phosphate operations has the rights assigned to this property under this designation. On sale of PM lands to a non-phosphate entity it should be the responsibility of the new owner to apply for a land use designation that reflects its proposed/current use. If the new owner fails to apply then the land should be assigned a classification that most closely describes the characteristics of the land. In this case it would be A/RR.

POLICY 2.109-A4: The purpose of the Agriculture/Residential-Rural (A/RR) land use district is to provide lands for the continuation of productive agricultural uses and for compatible residential development within unincorporated rural areas. The A/RR district permits agricultural activities, agricultural support facilities, single-family dwelling units, farm labor housing, group living facilities, and community facilities.

OK Friday notes.

Gibson points:

Late last week Tom Mims submitted to the court a brief that asserts that he was really asking for a landfill similar to the NCLF. In it the title of the project changed names, it went from IEP Recycling with an emphasis on the environment, economic development and recycling to the Mims Project where they asserted they had applied for a landfill with the same rights as assigned to the NCLF with no mention of the IEP ideas. Gibson then pointed out that the state Supreme Court takes a dim view of changing a projects objective from one quasi-judicial hearing (BoCC) to the next judicial hearing (ours).

MY POINT!!

Tom Mims lied to the BoCC under oath. He committed perjury in order to get his change, this case should be over, and lying under oath is the ultimate exercise of bad faith. He should be charged and the BoCC decision vacated.

Gibson

He played all the excerpts from the BoCC meeting where Mims asserted this was not a landfill which made him look the fool in light of the morning presentation.

There seems to be a question about the right of the developer to invoke the De Novi appeal process, it is applicable to third parties not the principal party. He provided no resolution on this other than make a comment.

#### MY POINT:

There is absolute total confusion on mine and the judge's part about just what Mims is filing for compensation for, Hooker contends that the 800 acre was imposed on Mims and he was advised that the 941 acres could not be used for ancillary operations. Initially the county noted he was restricted to this in the signed agreement i.e. he could not use it for anything related to the project, not true under a PM designation but TRUE under an AR or A/RR designation which should have been applied on sale. Mims questioned this but never pointed out that the land should be AR/ARR (trust me he knows he does not have the rights of PM use as I pointed this out to him at the East side earlier hearing when he displayed a slide with the PM designation on his lands) the county replied that their rights on the 941 acres had never changed from what is applicable in a PM designation and a detailed a reply was not necessary, Mims only had to refer to the actions allowed under the code.

Hooker kept coming back to the 800 acre development order implying the county sprang it on him at the last minute at the last meeting!! The judge was genuinely confused that Mims would have signed the agreement if he did not agree with it, Hooker asserted that the county MADE him sign it??? The judge also appeared confused on this point and tried to get some clarification but in my mind he did not get a satisfactory answer.

#### My point:

Gibson did not take him to task on this. The 800 acres was done at the Feb 16 hearing and Mims has 2+ months to address if he could operate under this constraint and should have had the necessary information at the June meeting to make those decisions. It was not the responsibility of the county to tell him he did not have his shit together!!

Hooker and the judge kept going round and round on the 941 acre PM land and how it impacted the project, in the end he confused the judge and everybody else with conflicting and changing answers.

#### Gibson:

He played all the excerpts where Mims asserted this was not a landfill which made him look the fool in light of the morning presentation.

Hooker then got rolling on the 'everyone was conspiring against him' theme and if the county does nothing to present the actual facts it will prejudice the judge against us for a month before we can present the facts. We cannot leave the court with that idea in the judge's mind. Hooker used the Jones Edmonds Report to show the county waste was conspiring against him by having the document commissioned and then leaked to us. I would contend that the county had an obligation to seek outside opinions in order to be cognizant of the issues that should be raised at the hearing, it was a working paper being used to advise the BoCC of issues that needed to be presented at the meeting. In a series of discussions Brooks and Beth (Which she has a right to do, they are our county employees and we have no obligation to include Mims. he made no attempt to include us in his discussions with the BoCC members) she talked about conclusions we had come to regarding profitability and operating modes. That we and the Jones Edmonds report came to the same conclusion on many points could have been

used to bolster our presentation but we did not make that claim. We did not refer to that report at the BoCC. We were sent (leaked) a copy of the report however in a meeting on Sunday both Susan and I expressed concern and concluded we could not cite it to bolster our presentation. We set that information aside and I never read the report and our presentation did not use any of that report, that we came to the same conclusion just points to the fact that we were doing our job for our fellow citizens. It does not give Mims the right to assert we and the county conspired to prevent his landfill, the facts presented at the hearing governed how the BoCC should rule and what language was inserted in the document and that this was inserted into the final document only underscores the rights of the citizens, the BoCC were obligated to protect our rights in making the changes to the laws.

Facts that need to put in the record:

We (the Citizens) initiated the effort to exercise our rights as effected residents to object and place into the record our objections and clarification of just what this project was really about. This effort was started in Oct and included 10+ town meetings and at least 8 working group sessions. At a Nov meeting I recruited Susan Mc Duffie to assist in a pro bono (and resident) capacity to advise us on just what we needed to consider in making our presentations. I as the de facto head of this effort was obliged to pursue all avenues in order to become educated on what was being proposed and what rights were being infringed on. I was further more the one who had to devise a strategy to present this information to the BoCC and demand they protect our rights against the desires of the developer. I take great offense at the developer's insinuation that my contacting Republic and Polk county waste department was in some way a conspiracy against him. This is a free country and I have the right to talk to anyone I felt had knowledge or resources to help. If we would have had Mr. Mims resources we could have hired experts and lawyers to do the work but we did not we had to do it on our own.

It needs to be emphasized that our efforts to be informed of the facts through contact with the county and anyone else including Republic did not constitute conspiracy on anybody's part it was a normal course of being apprised of what we had to do to present our case to the BoCC and so that they were apprised of the facts. Mims hired his own PR agency and used it, Mark Talbot offered us the opportunity to use one that he used and we did. so what. I challenge anyone to review the BoCC tapes and the facts that were placed in front of the BoCC and conclude that we were in any way tainted or coached by anyone other than a good faith effort on our part to inform the BoCC. That Mark paid for some of our expenses, so what, we were not some hired stooges, we were citizens trying to make sure the BoCC followed the language of the LUC laws. The busses paid for by Mark were engaged by Bradley churches to transport citizens of that area to the meetings. Every person on those busses were residents of that area. Mark made it clear that his actions did not constitute Republic as a company support. I asked him if they wanted to join us officially as a company and he replied that they (The Company) did not really have dog in this fight. In fact his take was should the facility become permitted they would be interested in buying it, and he stated so at the June BoCC.

A landfill of this size and scope warranted extraordinary effort on the county to make sure affected communities have been noticed, for Hooker to say only 11 households deserved to be noticed is ludicrous, especially in light of Mims incessant FOA efforts.

Gibson's point about the access Mims had to the commissioners is very important. I tried for 3 weeks to talk to Randy before the meeting he never returned calls yet Mims could call him anytime and get right thru. I would contend that this is the essence of a problem with the existing sunshine laws. Tom Mims took great pains to obtain what could be classified working papers prepared by county employees as they discussed issues presented by the public or BoCC or staff. In this way he could use his access to the commissioners to halt or undermine what should be considered necessary staff actions to arrive at a position that best protected the citizens. As a citizen I do not want our county employees to just sit around and collect a paycheck, I assert that they have an obligation to explore issues that are of concern to its citizens. In his discussion Hooker implies that it was wrong for the Waste Management division to examine the operations of the landfill in the context of competitiveness, I contend that is their job and it should have been staffed and presented to the BoCC. In light of the latest change presented by Mims I think it should be referred to them for an opinion and the staff be protected from the sunshine laws as they go about making their assessment, I also believe this discussion should be protected as working papers not subject to some undue influence by the developer.

This cozy relationship between Mims and the commissioner also went the other way. In the 360 acre decision the CSX letter was received 3 days before the second (Nov 2009) BoCC meeting. It would have gone to Bob English and since he did not present it at the hearing he suppressed it. At the Last Meeting (Dec 2009) it was not presented by the BoCC however I made it available and brought it up, you could see by the actions of the members the only one who was aware of the letter was Bob English. He had had a month to get it on record but did not, we had to learn of from a county employee!

Mims, through Hooker, also lied when he said he did not know there was any opposition to the project. He attended one of our town meeting and was pointedly told we did not the project. He appeared with me in a TV broadcast out by the RR tracks where I questioned the projects value. I know he read the ads in the papers we placed so he damn well knew there was local objection. He also stated had he known he would have changed his presentation, I submit he did change his presentation in the face of our efforts, he was extra careful to NOT mention the landfill aspect and in fact denied it under oath.