Before you make any decisions concerning this case I would like the opportunity to review how we got here and address some points that are relevant to your decisions.

In Sept 2009 Tom Mims filed a request with Polk County to change Land Use laws to allow the establishment of a 1760 acre class 1 and class 3 landfill on land west of Hwy 37 between Hwy 640 and Bradley. Actions such as this are handled IAW the Land Development Code. This document sets forth the criteria and steps that a developer has to follow to obtain the necessary changes to existing laws which allows the developer to construct the facilities needed to support the proposed activities on the site. This document is comprehensive and complex but in the end it is the law.

In this case the overall impact and size established a set of requirements that had to be followed in order to be enacted.

1. The developer had to submit a detailed outline of the principle activities that would be accomplished on site. It needed to address the necessary land use categories that applied and what would need changing.
2. Due to the nature of this project it was necessary to notify adjacent residents in order to alert them of the changes and a give them a chance to review the applicable document.
3. IAW the LDC this project would have to be presented to the Polk Planning Commission for comments, the county staff for comments, Swiftmud, various state planning agencies and then referred to the county Board of County Commissioners for final approval. At both the planning commission and the BoCC the public is invited to make comments.

In addition to submitting the documents to the County Tom Mims paid for a misleading commercial to be run on cable TV that asserted the project was an Innovative Environmental Park and the principal activities would be dedicated to state of the art waste recycling and even set out what the recycle per cent would be on the material taken to his facility. The promise was to establish a recycle facility (est. $70 million facility) and employ 350 people (est. $7 million payroll). He also established a ‘Green Team’ activity dedicated to convincing citizens of Polk that he did not intend to just build a large landfill. He also set up an elaborate job application program for these 350 positions mentioned in his project documents.

Concurrent with the submission of the project to the County the communities of Bradley, Rolling Hills, Pinedale and Oak established community meetings held at churches in Bradley and Rolling Hills to discuss the impact of the project on our communities. In all there were at least 17 of these meetings between Nov 2009 and June of 2010. Early on it became obvious no one trusted Tom Mims and felt he was just trying to mislead the citizens of the County and slip one over on the BoCC. In order to make it clear what our goal was we decided to call ourselves ‘Citizens to STOP the dump’. We felt that we could make presentations at the BoCC actual meetings that would show the project as presented by Mr. Mims was in fact nothing but a deliberate attempt by to obscure his ultimate goal which was to establish one of the largest landfills in the US on his 1700 acres.

To do this we established some basic ground rules:

1. Always be truthful about the facts.
2. Hire a lawyer familiar with the land use codes.
3. Aggressively pursue information from all sources.
4. Look for money where we could to help pay the lawyer fees and other expenses.
5. Use the talents and knowledge of local residents to make sure our meetings were professional and informative and we did the same when making our presentations to the BoCC.

As you review the video of the BoCC meetings you can see we accomplished our objectives on all counts. In the final June 2010 meeting you can see the BoCC begin to realize that a simple approval would not commit the developer to the IEP facility he proposed. This led to some confusion on the part of the BoCC as to just what Mr. Mims wanted the BoCC to approve. Mr. Mims was given an opportunity to clarify his project purpose and objectives since based on our presentations it was apparent he could NOT accomplish what was being touted in his presentations. Under oath he swore that the project was NOT a landfill oriented project and affirmed the IEP presentation. The BoCC then negotiated on the final wording of the approval which included conditions designed to make sure he lived up to the presentations made before them. The agreement to change the applicable laws was done with the understanding that the developer (sworn to under oath) would construct the project as presented in the BoCC meetings. In the confusion surrounding what to do to insure adherence to the recycle activities the BoCC committed procedural errors that will be addressed in our other suit. It cannot be emphasized enough when Tom Mims was given an opportunity to clarify his project objectives he realized that without declaring the recycling (IEP presentations) was his main goal the project would be disapproved. He then chose to LIE to the BoCC about the landfill being the primary purpose of his LUC request.

The Tom Mims project presented to your court was not the same document presented to the BoCC. In the revised project as presented to the court he committed what has to be considered a breach of contract to the tune of at least $100 million dollars and voided the agreement between him and the County. In addition to materially the changing the purpose of the project he included in this document 300++ acre not addressed in the 2010 approval. The area in question had previously been changed to Industrial. In that approval hearing he expressly indicated the change request was independent of the landfill request. He was advised at the meeting use of this property for as part of the landfill would constitute a major change and would need to come back to the BoCC for approval. This included the use of rail assets to import trash for the facility. This document in no way adheres to the guidance for De Nova action and the correct action by the court should have been a dismissal of both suits and the developer be instructed to return to the BoCC with the new proposal as it constituted a major change to what was presented in the Feb 2010 and June 2010 meeting. As his own lawyer said bad faith on either side of the suit would be grounds for a judgment against that party and his submission to the court of the Tom Mims project and his testimony under oath that the project was always about a landfill affirms he acted in bad faith at the BoCC meetings.

Through you Tom Mims will attempt to punish us for getting in his way on this project. The residents did none of the things he claims we did except object to his building a huge landfill in our back yard.

I will address in no particular order events, accusations, facts, and what I consider failing on the part of the court.

1. The suits you heard last year were De Novo in nature which means a new examination of previously presented information. In this kind of a case the parties are to present the positions taken in the previous court so that you can examine if the applicable laws were in fact followed and the decision was not governed by influence outside the presentations. In the Tom Mims case he chose to present a totally different project which constituted a major change to the presentation made at the BoCC. By Law this kind of a change has to be addressed to back to the BoCC for approval. There is no place in the laws applicable to this kind of proceeding that gives a county Judge the power to override that law. To reiterate under the laws governing land use reviews you do not have the authority to allow a developer to make a major change to a project through a De Novo proceeding without it being readdressed by the BoCC. Mr. Gibson alerted you to that fact and included several Florida Supreme court decisions upholding that view, Judge by law you were obligated to refer the project back to the BoCC.
2. You were presented video evidence of a judicial type hearing (BoCC meeting) in which the developer swears under oath the goals and principal activities of the project was geared to a state of the art recycle facility (the IEP Proposal) and swore that landfill was not a major part of the project. In March 2013 he replaced the document outlining the project that was filed with the BoCC with one that completely changes the focus and objectives of his project and included 300+ acres not addressed in these proceedings. You honor, Tom Mims had the gall to lie to you about what transpired at the BoCC by asserting that the BoCC knew he wanted a landfill and that’s what they approved. I challenge anyone to review video of the 2 BoCC proceedings and come to that conclusion. The BoCC made it an issue that the developers clarify what his objectives were and left no doubt they would NOT votie for a landfill. So now we have demonstrated that Tom Mims is willing to lie under oath to the BoCC and then lie under oath to you that he even committed to the goals set forth in his IEP presentations.
3. Tom Mims deliberately misled the citizens of Polk of the true intentions he had for the development to be located on the 1700 acres. He did this on TV; he made the IEP presentation to schools and any group that might have opposed a landfill. He did this to hide the fact he wanted nothing more than to construct one of the largest landfills in the US on his 1700 acres. In establishing and promoting his ‘Green Team’ he deliberately mislead them of his true objectives and used their presence at the BoCC meetings to try and represent they were there to support his landfill request. They had no idea he was requesting a 1000 acre Class 1 landfill project as he presents in his March 2013 document. In addition he got their hopes up by advertising he was going to hire 350 people to operate his facility and taking applications. I contend that none of the above constitute good business practices and only demonstrates Tom Mims has no sense of responsibility for what is right by the citizens of this county.
4. Tom Mims spent 10 days attacking the citizens who were opposed to his project as if they were committing some kind of crime. At no time were we given an opportunity to address what he was saying. We were not a party to that suit so we were in fact deprived of due process. In his presentations Tom Mims repeatedly accused us of conspiracy:

Conspiracy

a secret plan or agreement to carry out an illegal or harmful act, esp. with political motivation; plot 2. the act of making such plans in secret

Synonyms

1. collusion, sedition. 2. Conspiracy, plot, intrigue, cabal all refer to surreptitious or covert schemes to accomplish some end, most often an evil one. A conspiracy usually involves a group entering into a secret agreement to achieve some illicit or harmful objective:

a vicious conspiracy to control prices. A plot is a carefully planned secret scheme, usually by a small number of persons, to secure sinister ends: a plot to seize control of a company.

We would like it noted for the record that at no time did the residents of these communities do anything in secret, conspire to commit illegal acts, plot with outside agencies in any manner that could be considered illegal. The name we chose to call ourselves defines without any doubt our objective. Committee to Stop the Dump. The various meetings were of the town hall type that any person could attend, and Tom Mims did in fact attend 2 of these meetings.

It should also be noted that the namesake of this suit, Ms. Susan McDuffie is a retired civil service employee whose last position was heading the San Francisco division of the EEOC. She is a member of the Florida Bar and was licensed to practice law at the time. From mid November 2009 through the initial filing of the suits she provided pro bono legal guidance to her fellow citizens involved in making presentations to the BoCC. If you take the time to review our presentations you will appreciate her contributions and guidance. We had every right to hold open discussions at town meetings. We had every right to present to the BoCC what we believed to be his actual motives and support those conclusions with the facts that led us to come to those conclusions. We had every right to gather information from those who were familiar with landfill operations on facts applicable to this kind of operation. We had every right to ask the county staff to provide documents/information to outside agencies we contacted for information/support. We had every right to accept money for documented expenses form any part. This is done in politics all the time. The accusations were never proven nor did the supporting documentation prove his allegations. What is of particular concern to us is we were never given an opportunity to address these allegations.

I would like to address 3 documents that were submitted to support his claims.

1. An email from me to Amy Baily a county employee who worked in the Planning department. In that email which you the county spared over for 30 minutes I thanked her for forwarding the proposal to several outside agencies including the EPA. In the proceedings Mr. Mims alleged this proved that a county employee was acting on her own in an attempt to stop the project. This was a rather fanciful supposition on the part of Mr. Mims. The actual fact was I had contacted the EPA in Atlanta on my own to ask for help in assessing the project and they asked that I forward the proposal and they would review it. Since I did not have a copy in electronic format I called the County Land use department to ask Mr. Peterson to forward a copy but he was not available. I knew Amy worked in the same department and asked that she forward the documents. She did so I thanked her in the email furnished by Mr. Mims. This is an example of the lengths Mr. Mims will go to discredit someone who has opposed him.
2. Tom Mims furnished an email from the McCormick agency dated Sept 2009 to Republic advising they will be in the area. Tom Mims used this to imply they were here to coordinate our efforts in preparing our presentations to the BoCC. No one had any contact with them until late January 2010. Again another example of Tom Mims using unrelated facts to prove unfounded allegations.
3. Tom Mims spent thousands of dollars trying to prove we were acting on the behest of Republic Corp to oppose the project,