

COUNTY BOARD PROCEEDINGS

May 10, 2010

The County Board met in an additional meeting at the Legislative Center Monday May 10, 2010. Chairman Tobias called the meeting to order and the Clerk called the roll. Those Members present were Mrs. Allen, Ken Andersen, Larry Anderson, Mr. Augsburger, Mr. Chambliss, Mrs. De Fauw, Mrs. Dubin, Mr. Emerson, Ms. Fauci, Mr. Gudmunson, Mr. Haines, Mr. Hulseberg, Ms. LaVigne, Mr. Metzger, Mr. Newport, Mr. Stoddard, Mr. Stuckert, Mr. Todd, Mrs. Turner, Mr. Tyson, Ms. Vary, Mr. Walt and Chairman Tobias. One Member was absent, Mr. Oncken. Twenty three Members were present and one was absent.

Chairman Tobias asked Mr. Augsburger to lead the pledge to the flag.

Mr. Oncken arrived at 7:32.

Chairman Tobias made an opening statement:

Before we move into our deliberations, I think it would be helpful for me to make some brief opening remarks to put our decision tonight in the proper context.

As I have stated, we are here tonight to make our final decision on the Site Location Application of Waste Management for the expansion of the DeKalb County Landfill in our county, DeKalb County. In 1981, the Illinois Legislature amended the Illinois Environmental Protection Act to require local government sitting of approval as a prerequisite or precondition for issuance of a permit from the Illinois Environmental Protection Agency. There has been much discussion regarding the sitting process but the intention of the law is clear: the decision is then subject, under certain circumstances, to review by the Illinois Pollution Control Board.

The decision we have before us must be based on the information and evidence submitted on the nine very specific criteria set out in the Environmental Protection Act. There are two important points here. We must base our decision on whether compliance with the nine criteria has been demonstrated and that decision must be based on the information and evidence presented during the sitting proceeding. I must remind everyone and I know we all have them, personal beliefs, political positions and general policy considerations must be put to the side as we consider whether the nine criteria have been met. We also must come to this decision without prejudice and again base our decision on the information presented during the sitting proceeding.

There has been a lot of comment on this aspect of our deliberations and allegations of unfairness so I am going to explain our role again. The law requires us to be judges not legislators—a role not natural to us as County Board members because we were elected to be legislators not judges. As legislators, our duty is to adopt policies and enact laws that reflect the

views of our constituents. State law, however, asks us to serve as judges in rendering the decision we have before us tonight.

Therefore, as judges, we may not consider information or evidence that is not part of the record. Think of a judge of a civil or criminal case, parties to that case, or members of the public, may not unilaterally communicate to the judge and present information or argue their case outside the proceeding. That would be unfair and would be unfair if done here.

As was required by state law and our ordinance, public hearings were held for six days beginning March 1, 2010 and ending March 11, 2010. Our Hearing Officer, who many have complemented for a job well done, allowed public comment at any time. A public comment period was also set by the hearing officer for a 30 day period following the last day of hearings which ended April 12, 2010. The law requires that our decision on the Site Location Application be made within 180 days after the date on which the county received the Application, which was November 30, 2009. Under state law, if we do not make a timely decision, Waste Management may consider its request approved.

When we make our decision tonight, we must present it in writing and specify the reason for our decision based on the nine criteria. If we decide to approve the request, we can impose conditions that are necessary and reasonable and do not conflict with environmental regulations.

The Pollution Control Facility Committee has presented Resolution R2010-31 for consideration and that Resolution does recommend granting siting and the imposition of certain conditions upon any approval granted by this Board. The recommended conditions, as presented, are appropriately based on the information and evidence presented in the siting proceeding and many of the address concerns expressed, during the proceeding, by our constituents. I would like to thank the Committee and staff who assisted with the detailed review of the application, including the independent review by our consultants, Patrick Engineering and legal counsel.

Regardless of whether we approve or disapprove Waste Management's site location request, we must pass a resolution stating the reason for our decision.

The Resolution before us for consideration presents our findings that all nine criteria have been satisfied and indicates our siting approval subject to 31 conditions we believe are reasonable and necessary. The Committee also forwarded to the full County Board the April 27, 2010 Staff Report as part of its recommendation. The Staff Report contains the conclusion of DeKalb County staff that all nine criteria have been satisfied and recommends certain specific conditions be included in any grant of local siting approval.

I would like to now entertain a motion to approve Resolution R2010-31.

A member from the audience spoke up and wanted to add additional information before the County Board made their final decision.

Chairman Tobias said, "I'm sorry, we are not considering anything that has not been presented at or during the Public Hearing and in the Staff Report, that is all that we are accepting and what we are basing our decision on."

The man tried to further argue his position.

Chairman Tobias stated, "I'm sorry the record is closed. Yes, the record is closed, that information came in after the public comment period."

The man continued to talk.

Chairman Tobias said, "That was Patrick Engineering's report to the Pollution Control Facility."

The man continued along with other audience disturbance.

Chairman Tobias stated, "No it is not to be considered."

POLLUTION CONTROL FACILITY COMMITTEE

Resolution 2010-31: The Request of Waste Management Of Illinois, Inc. for Site Location of DeKalb County Landfill Expansion

Motion

Larry Anderson moved to approve a Resolution for the DeKalb County Board to grant site approval of the DeKalb County Landfill Expansion, subject to conditions, to Waste Management of Illinois, Inc. Mr. Stoddard seconded the motion.

Motion to Amend

Larry Anderson moved to amend the Resolution and add the following: The road shoulder width shall be increased to five (5) feet on either side of Somonauk Road from I-88 overpass to Route 38 and shall be built to the standard slop for an aggregate shoulder, which is 6%. In addition, the slope of the embankments from the shoulder edge to the toe of slope shall be a standard slope and fall within approved by IDOT standards. In no case shall the embankment slope be steeper than 1 vertical to 3 horizontal (1V:3H). Waste Management of Illinois, Inc. shall be responsible for funding and maintaining the shoulder improvements and the slope improvements. Mr. Newport seconded the motion.

Voice Vote

Chairman Tobias asked for a voice vote on the amendment. All Members voted yea. Motion carried unanimously.

Motion to Amend

Mr. Haines moved to amend #15 on page 7 to add to the last sentence "and approval by the DeKalb County Board". Mr. Walt seconded the motion.

Voice Vote

Chairman Tobias asked for a voice vote on the amendment. All Members voted yea. Motion carried unanimously.

Motion to Amend

Mr. Gudmunson moved to amend that each of the nineteen DeKalb County Townships receive \$50,000 annually with a 3% increase each year to go towards road repairs and improvements. This will be paid by Waste Management to cover the cost of damage done to township roads during annual spring postings. Ms. LaVigne seconded the motion.

Voice Vote

The Chair called for a voice vote on the amendment. A majority of Members voted nay. Motion failed.

Motion to Adjourn

Ken Andersen moved to adjourn or postpone the meeting and discuss the amendments further. There was no seconded to this motion.

Roll Call Vote on R2010-31 as Amended

Those Members voting yea were, Mrs. Allen, Larry Anderson, Mr. Augsburger, Mrs. De Fauw, Mr. Emerson, Ms. Fauci, Mr. Haines, Mr. Hulseberg, Mr. Metzger, Mr. Oncken, Mr. Stoddard, Mr. Stuckert, Mrs. Turner, Ms. Vary, Mr. Walt and Chairman Tobias. Those Members voting nay were, Ken Andersen, Mr. Chambliss, Mrs. Dubin, Mr. Gudmunson, Ms. LaVigne, Mr. Newport, Mr. Todd and Mr. Tyson. Sixteen Members voted yea and eight Members voted nay. Motion carried.

ADJOURNMENT

Motion

Mr. Walt moved to adjourn the meeting. Mr. Augsburger seconded the motion.

Voice Vote

The Chair called for a voice vote on the adjournment. All Members present voted yea. Motion carried unanimously.


DeKalb County Board Chairman

ATTEST:


DeKalb County Clerk