

Decatur County Board of Zoning Appeals Minutes
Decatur County Courthouse
150 Courthouse Square
Meeting Room

The regular scheduled meeting of the Decatur County Board of Zoning Appeals was convened at 6:45 p.m. on Wednesday, December 2, 2020 at the Decatur County Emergency Management meeting room. The meeting was called to order by Paul Stone. Present at the meeting was Paul Stone, Janey Livingston, Jay Hatton and Joyce Brindley. Attending via Zoom were Gary Fischer and Melissa Scholl, BZA Attorney. Also attending the meeting was, Krista Duvall – Area Plan Director, Debbie Martin – Administrative Assistant and Rick Nobbe – Decatur County Commissioner.

Paul Stone called the meeting to order and read the following; *to comply with Title VI of the Civil Rights Act of 1964, Decatur County requests that participants in this meeting complete a voluntary, anonymous survey that is available on the table in the back of the room.*

***Approval of minutes:** The November 4, 2020 minutes were approved as mailed.

*** BZA Petition 2020-21 - Mark Fixmer of BEX Farms** is requesting a “**Special Exception**” in an I-2 zoning classification to operate a landfill on approx. 48.4 acres more or less. This request falls under Decatur County Ordinance #1220(n). The property is currently owned by the petitioners and is located at 2280 S US Hwy 421, Greensburg in **Washington Township**.

Due to a recorder malfunction, the recording did not record comments from the following:

Kirk Pueblo: Kirk gave a brief overview of the request referencing overhead maps.

Jean Johannigman: Jean passed out some literature to all board members and staff. Gave brief talking points referencing each of the items presented. Recommended that the board turn this request down and at the least that they table it to give them time to review all of the literature that she gave them.

Tim Nobbe: asked questions such as setback requirements, if the landfill weighs everything that they take in and is there a tipping fee, if the landfill raises their fees does the County get extra funds from the increase and what percentage of the landfill waste comes in from other counties. Kirk Pueblo gave some comments to all of his concerns.

The recording picks up during

Letter from Shawn Green: Paul Stone read the following;

SUBJECT: Existing landfill issues and concerns of future landfill expansion.

- Throughout the past landfill meetings, many of us neighbors and people of Decatur County have compiled the following information and would like some answers from the County before approving any landfill expansion.
- Rick Nobbe and Paul Stone both gave input that the County should be able to help with paying for some testing.

- Also, in past meetings, the boards requested that we do not ask any questions about the landfill because it did not matter for the zoning that was occurring at that time. So now is the time for help from our County leaders! To help answer our community questions and concerns.
- An aquifer is under the existing and proposed landfill site. A second opinion not associated with Bex or the landfill should be required. How and when will this be checked?
- How and when will the water near site be tested for PFAS and other waterborne pathogens?
- How and when will the soil of the existing and proposed new site be tested for PFAS and other harmful soil contaminants?
- How and when will the air quality in the area be tested for PFAS and other harmful contaminants.?
- How and when will the noise pollution that is already apparent and a nuisance to neighbors be tested/measured and what is projected with the future expansion?
- Is there a well on the property for potable or other water? How and when will this be tested for PFAS and other harmful contaminants?
- How and when will the leachate area/pipes be tested for PFAS and other harmful contaminants??
- How and when will the water that is dumped into the creek from the water treatment plant that "cleans" the leachate be tested for PFAS and other harmful contaminants??
- Do you believe the landfill expansion follows STATE & COUNTY guidelines of approval?
- Does the existing landfill have approval to bring in out of County trash to our local landfill?
- If approved for a future landfill expansion, we suggest a special County tax on the "out of County trash". Strict guidelines to the landfill with severe consequences. Monthly audits and onsite audits, testing of scales, and record keeping as needed. Taxes would be collected by the landfill and forwarded to Decatur County to help save money for road improvements, testing neighboring sites, testing water lines, testing leachate areas, testing waterways, testing soils, testing air, testing site tools, labor, and savings. A saving plan should be in place for future contamination and or future closure of landfill.
- Any landfill expansion MUST agree to allow Decatur County special team to inspect, test at any time. And if we are not satisfied with the landfills paper work, site, work, test results, etc., we may apply severe fines and or shut down the landfill at our discretion. The County team in charge of this must include one County commissioner, One City Employee or Commissioner, and one residence within 5 miles of the landfill. All position must be voted in by majority vote. Voting will occur every two years with local voting ballots. County team will override IDEM and or any other rules that landfills follow.
- If approved for future landfill expansion, we suggest a minimum setback that would not harm or devalue neighboring properties and our overall health of our community.
- If approved for future landfill expansion, all trash trucks and containers have mandatory screen covering to help the littering of trash in our County.
- If approved for future landfill expansion, Hours of operation should only be from 7am –

6pm Mon – Fri & Sat from 8 – Noon.

Paul: certainly, there are many questions here that have been raised and I certainly am not in a position to answer them off of the cuff right now.

Dave Nobbe: can you pull up the overhead map again, I want an explanation the question I am leaning to is county road 280 going to be closed? **Paul;** there has been no road closure discussion on this board but I don't know who.... **Dave;** that is what the map is showing...

Paul; I don't believe so, that is area of it but the road is still there. **Jay;** we are not informed that they are doing that, that is not this boards decision, we are approving a conditional use. **Dave;** are you planning on starting in the far south corner or where? 1-2 acres at a time, how does that work? And are you planning on closing 280, is that the intention? **Kirk;** if that is something that we wanted to pursue, that would be totally separate from this board. We don't know where we will start until the final design is done, we would start at the highest part of that liner and work our way to the lowest part. **Dave;** my point is (inaudible) if we put a hog barn or another business, there is a full plan required with a map or drawing with exact distances of where everything needs to be and again we are getting a blanket request to do something. There needs to be more information, Jeans questions and more testing done before we ok this, you guys need to think about that. Closing road 280, if that is not a part of this, we can't do this for one business and hurt all of the locals making them do something different just for one business...

Jay; just by memory, this has to go through county levels in order for them to go to IDEM to get a drawing, you are saying a drawing is not complete, I don't think it can be completed unless it succeeds in the local county, as I remember it. **Kirk;** that is correct, that is the way the steps go through. **Jay;** so, it is impossible to get the final drawings, it has to be approved at the local level before it can be approved at the State. **Dave;** so, is a landfill the only thing that is backwards from what normal businesses have to do, is that correct? **Paul;** as far as memory serves me this is probably the most detailed site plan of anything that I have voted on. Certainly, what you are saying about where they would begin digging at on the site, I agree there is nothing on there but as far as the setback, this is probably one of the most professional ones that I have experience with. **Jay;** I zoning is rare in our county, it is unique and special and we try to treat it that way as well. It doesn't happen often. They are rare, the zoning gets asked for a lot but they don't always succeed. **Dave;** one more question, do you accept asbestos and lead paint?

Kirk; those are examples of things, of wastes that are specially regulated by IDEM and are sometime disposed of at Decatur Hills as long as they meet the IDEM requirements and the sites requirements which are sometimes stricter. **Jay;** so, clarification, if someone brings in something and does not disclose it to be asbestos, is there a process to check, do the worker that are speeding this if they see it do they alert someone? **Kirk;** we do have a waste screening process that requires that we screen a certain percentage of loads and materials that are not accepted. **Jay;** I know of a roof that was taken off and suspected to be asbestos, I know it was bagged in the dumpster, if that comes out there what is the process? **Kirk;** if it was disclosed that that is what it was then there is paperwork and an approved process, we have to dig a special hole and then that waste has to be put in that hole, there is no contact with heavy equipment so that you do not rupture the bags. There is a special approval and disposal process for those. **Jay;** just trying to answer the question, we have probably generated questions with that comment.

Paul; I'll take time for one more question. **Kurt Comer;** what are you looking at Jay from 421,

if you are pointing at the map from the current landfill? **Jay**; the bottom angled line would be 421, that is showing what Kirk said was green zone and 100' setback, the next blue shaded area is support area. **Kurt Comer**; referencing the overhead map asked several questions on what each area represented. Is there any plan to move the landfill closer, filling it towards 421? **Kirk**; no. **Kurt Comer**; is there a set back from 421? **Kirk**; off the top of my head I don't know what the setback is from that roadway. **Kurt Comer**; there is some concern that the truck station will get moved and that will go towards 421 also. **Paul**; so, what you are asking is the existing landfill towards the south. **Kurt Comer**; yes, we want to keep it off of 421 for sure. Is there any plan or any way we can get that area as a gray area too, I'm talking about for trash not trucks? There is a concern that they move all the trucks to the other side and there is a big area there that could be filled from the existing pile from 421. **Paul**; I think I understand that, so you are asking if the existing landfill expansion south is a possibility. **Kirk**; we don't have any plans for that and it would need a separate approval from this board to consider that. **Kurt Comer**; so, it's not zoned to be a landfill? **Kirk**; it is zoned I-2 but that is as far as it goes. **Paul**; to use that property for other than what it is currently being used would require approval from this board. **Kurt Comer**; referencing the overhead map asked more questions on what each zoned color represented. I know you asked but as far as the open trash area, the answer given was whatever we are not currently working on, I think what we want to know is how big is that area allowed to be that you are calling currently working on? We still don't have the answer. The biggest question is are we filling this one up, covering it up and then opening a new one, or are we having both sides open? **Paul**; I don't think that it is a realistic expectation that the same day they stop on one and start on the other. There would have to be period of transition but I think we will ask for clarification as to what that looks like. **Kurt Comer**; if this is approved are they both available to be open, a lot of the people around are like we have one landfill, we don't have to have two if this one has 20 years capacity, it its close to being full I understand that we would close this one and open the other. But to approve this and say tomorrow let's call 30 other counties and say that we have a big hole to fill now that we didn't have before, so I guess most people don't think we need 80 acres of open trash when we can fill that one, cover it up and close. I understand the transition period. And on the setback really quick, 100', 200' is there any way for us to increase that, or does it strictly go by IDEM? **Paul**; we certainly have discretion over that. Kirk can you respond to a couple of those questions please? **Kirk**; sure, regarding the current working area, there is not an objective as far as acreage size. That working phase, the active working phase has to be covered daily, it has to be a manageable size to be able to get that done. **Paul**; so basically, is it fair to say that the size of the daily working area is somewhat limited by the idea that you cannot effectively cover 15 acres daily so there is not a lot of interest in doing something widespread, it would be a smaller area so that you can manage it, is that correct? **Kirk**; that is correct and also think about it in terms of not wasting the cover as a resource. You want to try to keep the area that you need to cover on a daily basis..... **Paul**; let me ask this, as of today as an example what would the size that you would need to cover? **Mark Fixmer**; about 1/8th of an acre. **Paul**; is that, would you say on par as a normal thing? **Mark**; the smaller the better. **Paul**; is there anything that IDEM prevents you from any excavation or is that something that is a real concern that we would potentially have two open, and if so how long would that be? **Kirk**; from a practical prospective, that amount of working phase would still need to be managed on a daily basis so it wouldn't be practical to have, whether you have this

big space over here or two smaller spaces, to try to manage all of that. To answer the question, there isn't a requirement or a standard that would prevent it. **Paul**; but the feasibility of daily cover prevents a large or two large sites from being active, is that correct? **Kirk**; yes, and this is a small volume site that doesn't generate a lot of waste. I know there is concern that this is somehow going to turn into some big thing but even with the expansion that we are proposing now, that is still not a large site. **Paul**; that is something that has been raised fairly often to me as well, what proof then, say that this would pass, the statement was made that you all make a call and 30 other counties would begin supplying the waste to here, how do you respond to that? **Kirk**; it's a market driven business so there are other landfills that are in different locations and you can only effectively serve like a certain radius. Once you get beyond that the cost of transportation, even if the disposal cost is low, the transportation cost is prohibitive when you can go to another site that is closer. **Paul**; so, is it fair to say, and I understand, I'm not asking you to apply some limit, but is it fair to say that Best Way does not expect the area of service to change because cost currently prohibits getting a larger radius? Or do you feel like expansion geographically is a likely thing? **Kirk**; I do not think it is likely, we view this proposed expansion as, it is not an expense to us to have this available, so there is no need to fill, to cover that expense, the expense happens when you do the design and construction work. That is why we construct in small pieces. This is mainly a support for our existing business to give the Best Way business that uses the landfill primarily today, to have a long-term viable disposal. **Paul**; there has been a fair amount of concern about odor, and I think that it is believed that proper cover with dirt as opposed to the alternately approved, does a better job in controlling some of those things. What is the inspection process like, when would the last time that there would have been someone from IDEM to come and check your due diligence about covering that on a daily basis, how often is that monitored and can you respond to the idea that the alternate doesn't do a good enough job to control odor, if that's something you can provide feedback on? **Kirk**; we have a lot of confidence in the spray on product, it is used at a lot of facilities around the state and country. **Paul**; do you think there is a performance difference in the two? **Kirk**; on some days there could be, sure. I think that overall if it is applied well, I think it does a good job. There may be other things that are causing those differences. **Mark Fixmer**; IDEM was out last month, they can come out daily, there is no limit. **Kirk**; I think they have an internal quarterly requirement for landfill inspections, there is nothing that prevents them from doing it more than that. **Jay**; are those IDEM reports at the Courthouse or are they on IDEM'S website? **Kurt**; I don't think that they are at the Courthouse, they maybe do send a copy to the Health Department. **Mark Fixmer**; as well as to Solid Waste. **Jay**; so that could be obtained? **Paul**; so, anyone can access that off of the internet, is that correct? **Kirk**; yes. **Paul**; and water sample results, is that available in the same location? **Kirk**; the groundwater monitoring reports are, yes. **Kurt Comer**; can you tell us when they approved alternative was started? **Paul**; the question is when the approved alternative to the spray was approved, is that right Kurt? **Kurt**; yes. **Kirk**; that would have been before 2005 but I don't remember the exact date. **Kurt**; when did you guys start administering that out here, was it about the same time? **Kirk**; shortly after it was approved, yes. **Paul**; we are going to shut this off right now, we appreciate all of the feedback, there has been a great deal of information provided to the board tonight, thanks Jean for that, thanks to Best Way for providing responses to answers of a lot of these concerns. We are in a position to make a vote on this this evening. We will ask that you all allow us to table this to

allow time to review the information and to respond to the letter from Mr. Green as well.

With no other business to be brought before the board the meeting was adjourned at 7:35 p.m.

Decatur County Board of Zoning Appeal

Secretary, Gary Fischer

Decatur County Area Plan Commission

ATTEST:

Paul Stone, President Decatur County Board of Zoning Appeals