



LCPCC Zoning Committee Meeting Summary:

**Gable Landfill Discussion
Between Loudoun County Staff and Cattail, LC.
Thursday, July 25, 2019, 2:00 pm**

MEETING ATTENDEES:

Mark Stultz, Zoning Administrator	Joe Ohler, Erosion & Sediment Control
Michelle Lohr, Dept. of Planning & Zoning	Keith Fairfax, Zoning Administration
Chris Mohn, Dept. of Planning & Zoning	Joyce & Henry Harris, Cattail, LC, Hamilton, VA
Jim Brown, Building & Development	Maura Walsh-Copeland, LCPCC Zoning Committee Chair

1. INTRODUCTIONS: Henry Harris

Primary purpose is to continue the discussion regarding

- a. Prevention of issues similar to Gable Farm through changes to county Policies and Regulations, and
- b. Status of current remediation efforts of the Gable Farm Landfill, Hamilton, Virginia.

2. STATUS OF THE GABLE LANDFILL

- a. Is the County still waiting for a take-off plan? If so, how long does it intend to wait for a plan?

RESPONSE: This case (even after 9 months) is still in “Notice of Violation” status. Staff still waiting status of a “take off” plan. Currently with County Attorney’s office. Planning Staff not aware/privy to timeframes or details from County Attorney.

ACTION: Request County Attorney’s office to attend September meeting (or schedule separate meeting) to highlight *PROCESS* that a case/violation of this type goes through, with *hypothetical* timeframes and outcomes. (Stultz/Mohn)

- b. What additional fines have been issued?

RESPONSE: No additional fines issued (K. Fairfax)

- c. Is the landfill currently operating? (Loaded trucks have been seen leaving the site.)

RESPONSE: No “sanctioned” activity (J. Brown), No “new” disturbance (J. Ohler)

- d. Has the County decided to not file a suit?

RESPONSE: Unknown. Refer to discussion with County Attorney’s office for process review.

- e. What measures are being taken to prevent further erosion of the landfill and surface water run-off?

RESPONSE: Berm recommended/implemented on top of stockpile to control surface water runoff. J. McCormick inspectors. J. Ohler will inspect and meet with contractor.

3. ACTION ITEM 1: MOTION TO BE PRESENTED BY SUPERVISOR HIGGINS

- a. Review of why this did this not happen.

LCPCC Zoning Cmte: Staff changes to Ch.3 Strategy 1.1, Action C text for June 1st work session made **AFTER** draft motion request (from Mr. Higgins) was discussed during a meeting on May 17th and Motion was submitted to Planning (Chris Mohn) on May 21st.

- MOTION Submitted to Staff for June 1 BOS Worksession:
“Protect the County’s natural resources and landscape by considering environmental concerns at all levels of land use-related decision making, as applied to land disturbing activities.”
- Language changed in the June 1 work session draft -- AFTER notice of a motion:
 - C. Adopt zoning regulations and development standards that implement a ~~conservation design or similar process applicable to process identifying natural, environmental, and heritage resources worthy of preservation and developing around those resources as part of all~~ land development.
- Staff Admin (Yudd) felt new language will be sufficient as a policy statement to guide future zoning ordinance changes.

4. ACTION ITEM 2: INTERNAL STANDARD OPERATING PROCEDURES – JIM BROWN / B&D

- a. Are there any proposed changes that address thresholds or standards for handling fill/soil volume?

RESPONSE: J. Brown completed a draft within a week of the May 9th meeting (!!). Draft currently in internal review.

SUMMARY:

- Internal Standard Operating Procedure (SOP) describes how to handle an application/site plan, with Zoning determining whether the use is sufficient/approved or not. ANY/ALL fill applications will trigger a review.
- Previously, Erosion & Sediment Control (E&S) had a 45-day window of approval and, if exceeded, an application was deemed approved. New SOP defined referral deadlines to close this loophole.
- **QUESTIONS/ACTIONS:**
 - Where is SOP posted? **RESPONSE:** Internal Staff shared “G” drive
 - Can draft be reviewed by Harris (as Subject Matter Expert for assistance)?
RESPONSE: Will inquire before September follow-up meeting. Review may require a “friendly FOIA.”
- **REQUIREMENT-Future:** Ensure/add requirements to have SOP’s posted to “InterGov” or other document repository system for personnel succession and procedural consistency.

5. ACTION ITEM 3: B&D EROSION AND SEDIMENT CONTROL PROPOSED FORM FIELD ADDITIONS/CLARIFICATIONS TO BETTER DOCUMENT PROPOSED DIRT VOLUME ON APPLICATIONS – JOE OHLER, B&D, E&S

- a. How will these additions/clarifications document dirt volume on the applications?
RESPONSE: J. Ohler successfully added information to the application, regarding "More than 5 loads of dirt." Grading permit application and application checklists have added language regarding importation of fill soil and more than 5 truckloads require a plan review. Revised application and checklists available online.
- b. Does the check list for a narrative include soil amounts needed?
RESPONSE: Indicates 5+ truckloads require plan review.
- c. How will this information change procedures or zoning regulations?
RESPONSE: The default from Zoning for fill applications is a Special Exception (SPEX) is required – unless applicant can explain appropriate use for fill.
- Value of having SPEX as default is that ALL applications greater than 5 truckloads will be reviewed
 - with information collected over next 1-2 years as requirements documentation for Zoning Overhaul.

6. ACTION ITEM 4: P&Z DRAFT OF "CHEAT SHEETS" IN DEVELOPMENT FOR RURAL USES – CHRIS MOHN AND MARK DEPO, P&Z

- a. Examples? How will "cheat sheets" on handling fill be circulated and used?
RESPONSE: It was clarified that the landfill "cheat sheet" is NOT intended to be "marketing/promotion oriented" in the same manner as the newly released Rural Uses Cheat Sheets. Planning/Zoning added clarification for new businesses/applicants for grading plan and permitting requirements (i.e., any movement of dirt for any use requires a grading permit).
- b. How will a "cheat sheet" prevent landfills from happening again?
LCPCZ Zoning Cmte: They won't, however they will educate new business owners of the requirements and put new or current business owners who knowingly violate regulations on notice. Note: Movement of dirt of 5000 sq.ft. triggers a grading permit.

7. ACTION ITEM 5: IS THE COUNTY ATTORNEY REVIEWING TAX MATTERS ALONG WITH ZONING VIOLATIONS? - MARK STULTZ

RESPONSE: Previously discussed (#2 above)

8. SUMMARY OF MEETING WITH COMMISSIONER OF REVENUE, BOB WERTZ – JOYCE AND HENRY HARRIS, MAURA WALSH-COPELAND

- a. Meeting held Monday, July 22. Reviewed key Gable Farm chronology and information to Commissioner of Revenue (COR), Bob Wertz.
- b. COR Wertz aware of Gable/Skinner sale and dumping are commercial activities (requiring commercial business revenue and personal property assessments).
- c. COR Wertz not required to be part of County Attorney suit; can subpoena and enforce assessments with bills through Treasurer's office (R. Zurn).

- d. Business Tax Compliance division:
“Responsible for investigating businesses through desk and field review to ensure that business owners are properly registered and taxed in a fair and equitable manner.”

- e. **ACTIONS: To be discussed internally by County Staff. Follow-up at September 2019 meeting:**
 - i. Current Ordinance states business/property owners have “Duty to report change of use Zoning w/in 60 days.” How is information provided to Comm of Rev to support?
 - ii. COR Wertz now receiving Notices of Violations, however, should receive information sooner. How before ELMIS?
 - iii. COR Wertz requests notice of other stockpiling locations for revenue and property assessment/bill enforcement.

9. WORKSHOP ON FILL DIRT AND DEBRIS IN RURAL AREAS HOSTED BY PEC, NORTHERN REGIONAL COMMISSION, RAPPAHANNOCK RAPIDAN REGIONAL COMMISSION

- a. Who attended from Loudoun County?
RESPONSE: County Staff did not attend. Staff will investigate how to get on distribution/announcements earlier to provide more notice.

- b. Level of abuse in other counties?
RESPONSE: Equally bad throughout Virginia in all areas experiencing increased development, and therefore increased need to find places to “dump the dirt.”

- c. What are other jurisdictions doing to prevent private landfills or illegal stockpiling of dirt? What are the solutions?
RESPONSE: Other counties are equally concerned, and have actually looked to Loudoun’s zoning/regulations that are superior to theirs.
ACTION: More information related to other county actions/issues to be discussed at September 2019 meeting.

Next Meeting:

To be scheduled for mid-September, 2019 by Department of Planning & Zoning (C. Mohn)



LCPCC Zoning Committee Meeting Summary:

**Gable Landfill Discussion
Between Loudoun County Staff and Cattail, LC.
Thursday, May 9, 2019, 4:00 pm**

MEETING ATTENDEES:

Geary Higgins, Catoclin Supervisor	Joe Ohler, Erosion & Sediment Control
Stacey Carey, Staff Aide, Higgins	Jim Brown, Building & Development
Mark Stultz, Zoning Administrator	Jacob Hambrick, Zoning Administration
Michelle Lohr, Dept. of Planning & Zoning	Joyce & Henry Harris, Cattail, LC, Hamilton, VA
Chris Mohn, Dept. of Planning & Zoning	Maura Walsh-Copeland, LCPCC Zoning Committee Chair

INTRODUCTIONS & PURPOSE: Henry Harris

1. Discuss changes to county Policies and Regulations so that issues similar to Gable Farm will not happen again.
2. How landfill was approved in 2015
3. Status of the Gable Farm Landfill

ACTIONS SUMMARY:

ACTION 1: Supervisor Higgins agreed to present a motion during the 2019 Comp Plan BOS Work Sessions to address policies, strategies or actions (PSA's) to address/prevent similar situations in advance of zoning ordinance revisions.

ACTION 2: Building & Development will document the internal Standard Operating Procedures (SOPs) currently in use to ensure ongoing application review before zoning ordinance changes.

ACTION 3: Building & Development Erosion & Sediment Control will identify/propose form field additions/clarifications to better document proposed dirt volume on applications. Information will be key data for development of procedures and/or future zoning clarifications.

ACTION 4: Department of Planning & Zoning to investigate/draft document *similar to "Cheat Sheets"* in development for Rural Uses (brochure and website content in process from Dept. of Economic Development).

ACTION 5: Apprise/confirm County Attorney is reviewing tax matters along with zoning violations.

ACTION 6: Arrange a meeting with Commissioner of Revenue, Bob Wertz and staff for Harris' to share information that may be useful.

DISCUSSION:

1. Changes to county Policies and Regulations.

- a. Zoning Ordinance improvements/overhaul/modernization related to stockpiling will be done after Loudoun 2019 Comprehensive Plan is completed. Estimated completion: 2 years.

ACTION 1: Supervisor Higgins agreed to present a motion during the 2019 Comp Plan BOS Work Sessions to address policies, strategies or actions (PSA's) to address/prevent similar situations in advance of zoning ordinance revisions.

RESP: Maura Walsh-Copeland & Chris Mohn

Maura Walsh-Copeland will work with LCPC Subject Matter Experts to identify PSA(s) to strengthen or add. Language to be provided to Chris Mohn.

DUE: Week of 5/20/2019 for Staff submission of motion to Supervisor Higgins, planned no later than 5/29 BOS work session (RPA/Chapter 3 agenda items).

2. How landfill was approved in 2015

Identification of primary issues and suggestions to address prior to Zoning Ordinance overhaul and Land Management Information System (LMIS) replacement (both not expected until ~2021).

- a. In 2015 various departments “stayed in lanes” and “missed signals” for this application.
- b. 2017 Board Initiatives improved communication between departments. New procedures instituted (verbally, informally) between Building & Development and Department of Planning & Zoning.
- c. Procedures include review of ALL applications for grading beyond standard applications (i.e., anything over 5 truckloads).

ACTION 2: Building & Development will document the internal Standard Operating Procedures (SOPs) currently in use to ensure ongoing application review before zoning ordinance changes.

RESP: Jim Brown, B&D

DUE: DRAFT due by June 30th for review at July meeting (To Be Scheduled)

- d. Discussion of Harris’ request for threshold criteria to trigger SPEX or Minor SPEX and notification to adjacent property owners. Options discussed included quantity of cubic yards, quantity of truck loads, site acreage, and engineering plan justification. Sup. Higgins cautioned setting thresholds that could impede “garage,” or bona fide construction operations.
- e. Discussion of forms/applications in use that require/capture the proposed volume of dirt movement. Information currently requested in application “narrative.”

ACTION 3: Building & Development Erosion & Sediment Control will identify/propose form field additions/clarifications to better document proposed dirt volume on applications. Information will be key data for development of procedures and/or future zoning clarifications.

RESP: Joe Ohler, B&D / E&S

DUE: DRAFT due by June 30th for review at July meeting (To Be Scheduled)

- f. Identified need/suggestion for **external/customer/resident** documentation.

ACTION 4: Department of Planning & Zoning to investigate/draft document *similar to "Cheat Sheets"* in development for Rural Uses (brochure and website content in process from Dept. of Economic Development).

RESP: Chris Mohn / Mark Depo, Dept. of Planning & Zoning

DUE: DRAFT due by June 30th for review at July meeting (To Be Scheduled)

3. Status of the Gable Farm Landfill

- a. Property has received Notice of Violations from Zoning Enforcement. No response from property owner for Board of Zoning Appeal. Matter is currently in review by County Attorney's office.
- b. Harris's asked whether County Attorney review includes only Zoning/B&D violations, or also matters related to Commission of Revenue taxation (e.g., non-payment of taxes by commercial operation).

ACTION 5: Apprise/confirm County Attorney is reviewing tax matters along with zoning violations.

RESP: Mark Stultz, Zoning Administrator

DUE: Week of 5/13/2019

ACTION 6: Arrange a meeting with Commissioner of Revenue, Bob Wertz and staff for Harris' to share information that may be useful. Note: Business tax matters are confidential, therefore information cannot be provided to residents/neighbors/interested parties.

RESP: Maura Walsh-Copeland, Henry & Joyce Harris

DUE: TBD

Next Meeting:

To be scheduled for July, 2019 by Department of Planning & Zoning (C. Mohn)

AGENDA
Gable Landfill Discussion
Meeting Between Loudoun County Staff and Cattail, LC.
Thursday, May 9, 2019, 4:00 pm.

- 1. Introductions**

- 2. Changes to County Policy and Regulations**
 - a. County update**
 - b. BOS amendment**
 - c. Proposed language**

- 3. Physical, Legal, and Financial Status of the Landfill Now**
 - a. New plans**
 - b. New violations**
 - c. Fines issued**
 - d. Tax issues**
 - e. How will the County proceed**

- 4. Discussion on How the Landfill Was Approved in 2015**