

TRAVIS COUNTY COMMISSIONERS' COURT AGENDA REQUEST

Voting Session: 10/4/05

Work Session: _____

I. A. Request made by: Joseph Gieselman, Executive Manager Phone # 854-9383

B. Requested Text:
DISCUSS AND TAKE APPROPRIATE ACTION ON IESI, TX LANDFILL L.P. REQUEST FOR VARIANCE TO SUBCHAPTER C, CHAPTER 64, TRAVIS COUNTY CODE (SOLID WASTE FLOODPLAIN ORDINANCE) FOR SITE AT 9600 FM 812.

C. Approved by:

Signature of Commissioner Margaret Gómez, Precinct 4

II. A. Backup memorandum and exhibits should be attached and submitted with this Agenda Request (Original and eight copies of agenda request and backup).

B. Please list all the agencies or officials names and telephone numbers that might be affected or involved with the request. Send a copy of this Agenda Request and backup to them:

Joseph P. Gieselman, TNR	854-9434	Fred Dennick, TNR	854-9383
Tom Nuckols, Cty Attny	854-9415	Stacey Scheffel, TNR	854-9383
Charles Bergh, TNR	854-9408		
Dave Fowler, TNR	854-9383		

III. Required Authorizations: Please check if applicable:

Planning and Budget Office (854-9106)

- Additional funding for any department or for any purpose
- Transfer of existing funds within or between any item budget
- Grant

Human Resources Department (854-9165)

- A change in your department's personnel (reclassifications, etc.)

Purchasing Office (854-9700)

- Bid, Purchase Contract, Request for Proposal, Procurement

County Attorney's Office (854-9415)

- Contract, Agreement, Policy & Procedure

AGENDA REQUEST DEADLINE: This Agenda Request complete with backup memorandum and exhibits should be submitted to the County Judge's Office no later than 5:00 PM on Tuesday for the following week's meeting. Late or incomplete requests may be deferred to the next subsequent meeting.



TRANSPORTATION AND NATURAL RESOURCES

JOSEPH P. GIESELMAN, EXECUTIVE MANAGER

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MEMORANDUM

Date: 9/26/05

TO: Members of Commissioner's Court

FROM: Joseph P. Gieselman, Executive Manager

SUBJECT:

Discuss and take appropriate action on IESI FM 812 Landfill request for variance – Subchapter C, Chapter 64, Travis County Code (Solid Waste Floodplain Ordinance).

Summary and Staff Recommendation:

IESI, TX Landfill L.P. (IESI) owns and operates a solid waste management facility for the disposal of construction and demolition debris and other Type IV municipal solid wastes at 9600 F.M. 812 in Travis County (Precinct 4). The facility has completed a drainage system manipulation process with the stated goals of improving facility operations and storm water handling. IESI narrowed and relocated the 100-year Flood Plain of an un-named tributary to Cottonmouth Creek from within its facility to its western perimeter. The floodplain's new location was formerly within a cell permitted by TCEQ for waste disposal. TCEQ has modified IESI's permit to prohibit disposal in the new floodplain, but to allow it in the old floodplain location instead, thus allowing IESI seeks to "recapture" some of the original cell's lost capacity. This re-arrangement of the site results in a decrease in both the overall capacity and footprint of the landfill and ~~would not~~would not result in a vertical expansion. Because disposal in the old floodplain would place waste closer than 500 feet from the current 100-year floodplain, IESI must, in addition to the TCEQ approval, obtain a variance to Section 64.071, Subchapter C, Chapter 64, Travis County Code, or what we refer to as the Solid Waste Floodplain Ordinance. TNR has reviewed the proposal and recommends approval of the variance.

Budgetary and Fiscal Impacts:

This discussion and potential action will not have budgetary or fiscal impacts.

Issues:

Landfill Operations within 500' of the FEMA Flood Plain

On October 2, 2001 Travis county Commissioners Court adopted Section 64.071, Travis County Code, to establish a 500-foot setback from the 100-year floodplain for solid waste management and disposal facilities. Since this ordinance did not apply to solid waste facilities that were fully permitted and operating in compliance with all regulatory requirements prior to that date, it did not apply to IESI despite the fact that they were able to place waste immediately next to the 100-

year floodplain. However, on the date Section 64.071 was adopted, there was no TCEQ permit or application covering the old floodplain area where IESI now wants to dispose of waste, so , the ordinance applies to this project. For this reason, the applicant filed a request for variance September 25, 2003. This request is attached for your review. The drainage improvements actually decrease the surface area of waste permitted within 500' of the 100-year flood plain from approximately 120,000 to 72,000 square feet.

Section 64.072, Travis County Code, sets out 4 requirements for a variance:

1. The facility must currently be in compliance with all other regulatory requirements.
2. No alternative site must be available to the applicant.
3. Due to special conditions, strict enforcement of Section 64.071 would result in an unusual and unnecessary hardship to the applicant.
4. Any necessary conditions and measures must be met by the applicant to protect public and health, safety.

Regarding #1, TNR is unaware of any current violation of any regulatory requirements. Regarding #2 and #3, in this unique case, IESI is seeking only to “recapture” a limited amount of waste disposal capacity that IESI voluntarily gave up in order to make drainage improvements to its facility. This capacity had been permitted by TCEQ before Travis County adopted the Solid Waste Floodplain Ordinance on October 2, 2001. Moreover, even if the variance is granted, the overall effect would be to reduce the overall capacity and perimeter footprint of the facility as it existed on October 1, 2001. Therefore, TNR believes these two requirements are met. Finally, TNR does not believe any conditions or measures are required by #4.

Background:

IESI has filed applications and received approvals from the City of Austin, Travis County and the Texas Commission on Environmental Quality (TCEQ) for this project. Specifically, Travis County granted them a site development permit and entered into a restrictive covenant for the flood plain modifications in January 2003. However, it was specifically stated that Travis County’s issuance of the permit did not constitute a variance from Section 64.071. They have also filed a Conditional Letter of Map Revision with the Federal Emergency Management Agency (FEMA) and received a Letter of Map Revision (LOMR) effective July 22, 2004.

Attachments:

JPG/jk