

Fox Moraine Appeal PCB Written Public Comment Submittal to the Illinois Pollution Control Board on 4/27/09

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APR 28 2009

Reference PCB 2007-146, Fox Moraine LLC v. United City of Yorkville

STATE OF ILLINOIS
Pollution Control Board

PC# 1

Hello, my name is George Gilson and I am currently and have always been the President of Friends of Greater Yorkville (FOGY). I wanted to point out a few interesting things for the record in public comment to be considered before these proceedings come to a close and the Pollution Control Board renders their judgment on whether the decision of the City of Yorkville to deny this landfill should be upheld or denied.

First, throughout these proceedings Fox Moraine's witnesses and their attorneys continually are making an attempt to attack the efforts of Friends of Greater Yorkville which is a non-for-profit corporation established and chartered for the betterment of Yorkville and the surrounding community. Along with Fox Moraine's continual attempt to discredit the efforts put forth by Friends of Greater Yorkville in opposition to this landfill, they also are trying try to paint a negative portrait of the individual members of the corporation without any clue of who the members actually are.

Friends of Greater Yorkville, or commonly referred to as the "opposition group" by Fox Moraine, only consists of 5 members of which most if not all of the accusations in this appeal do not apply to. Contrary to sworn testimony under oath by Fox Moraine's witnesses, the officers or members of FOGY are not and have never been Todd Milliron or Joe Plocher. Ron Parish himself, was only an officer of FOGY for a week or two and had no involvement or knowledge of the officers of FOGY either before or after his own involvement.

Not only do Fox Moraine and their attorneys not know who FOGY is, but they continually take what was a community opposition consisting of many people of the community stepping forward and opposing this landfill application and

everything that led up to it, and are trying to convince the PCB to believe that anything said in opposition to the landfill before and during the application, was all coming from the 5 individuals that make up the Friends of Greater Yorkville. This cannot be farther from the truth.

FOGY's concern was that the annexation process was being undertaken in a fundamentally unfair manner to the citizens of Yorkville, and would have ultimately resulted in a fait accompli approval of the landfill prior to the siting hearing. It is ironic that Fox Moraine alleges ex parte communications by the citizens of Yorkville, while admitting that their representatives did the same. FOGY, as well as other citizens of Yorkville, therefore elected to exercise their first amendment and statutory rights to vigorous participation in the annexation process and the siting hearing. There is nothing in state statute, the PCB Rules, or the case law that could be interpreted to interfere with citizen rights during the annexation process, and the PCB certainly would not want to attempt to create a rule of finding which would abridge or stifle the rights of the citizens to participate in public hearings and to petition their elected officials. These are core and fundamental legal rights.

I also find it alarming that Fox Moraine's attorneys want the PCB to believe that the 39.2 process supersedes the Constitution of the United States and our 1st amendment rights of freedom of speech. There were no threats of physical harm made by anyone in FOGY and everything said in opposition to this landfill application was our right under the Constitution of the United States for freedom of speech. I find it equally concerning that stones are being cast at what they inaccurately believe as the members of FOGY, but yet the real and current long standing members of FOGY have never been deposed, subpoenaed, and put on the stand to testify to all of the inaccuracies testified to by the applicant and their witnesses. Fox Moraine only wants the audience and the PCB to hear one side of the story, and that is the skewed after the fact version of why they were not granted approval of their application. This version is a lot like sour grapes, and cannot be trusted. An example of these sworn inaccuracies is Charlie Murphy's testimony that I threw him out of a FOGY informational meeting. I had a

microphone on for that meeting he was referring to in front of a large crowd of residents. The truth is that I invited Charlie Murphy to come up and speak at this meeting, and Charlie refused and left on his own accord. This can be testified to by any one of a large number of attendees at this public meeting.

I can go on and on about the inaccuracies and false testimony in this appeal hearing, but it is not the burden of FOGY or the citizens to prove that this self serving testimony by Fox Moraine's witnesses are false. The fact remains, that it is up to Fox Moraine to prove that their testimony is true beyond a shadow of a doubt. This proof has not been accomplished with solid evidence to back up their statements.


Fox Moraine does not like that the community opposed the landfill application and stepped forward to publicly express their opposition in every way and at every opportunity. Fox Moraine does not like that the community and members of FOGY petitioned their government as to their stance and beliefs about the annexation process and this landfill, but frankly, that is too bad. There is nothing illegal about freedom of speech. FOGY did not under any circumstance talk to the city council during the application about anything substantive in the application. The current city council made their decision to deny this landfill based on the 39.2 process and the lack of Fox Moraine to meet the criteria set forth in the process.

The PCB needs to only be concerned with one thing. Fox Moraine had ample time, witnesses, and opportunity to prove that they could meet all the criteria set forth in the siting process, and unfortunately for them, could not get that task accomplished. Fortunately for the community, this landfill was denied based on failure to meet the criteria in the 39.2 process, and that fact alone. Therefore, the City of Yorkville's decision to deny this landfill should be upheld.

Thanks for your time and careful consideration of these thoughts and comments. I respectfully urge the Pollution Control Board to strongly consider the facts, and to look at what Fox Moraine has truly proven with evidence over accusation in this appeal. Please consider the rights of our first amendment of freedom of speech and look at the siting hearings as to whether the denial was based on failure to

meet the criteria in the process. After careful review, I know the record points toward a fair, non-biased hearing in which the City of Yorkville looked at the criteria and based their decision. I respectfully urge the PCB to protect the rights of the Constitution and to avoid being sidetracked by anything other than the record and the facts. Please uphold the decision by the City of Yorkville to deny the siting of the Fox Moraine landfill. I know that the appellate court will uphold the decision to support the denial of this landfill siting in the future.

Respectfully,

A handwritten signature in black ink, appearing to read "G. Gilson Jr.", written in a cursive style.

George Gilson Jr.

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