

RESOLUTION NO. 2023-_____
CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS

A RESOLUTION DENYING AND WITHDRAWING ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION RULE 22.203 AND 22.204 APPROVAL OF ECO-VISTA CLASS 1 AND 4 LANDFILL EXPANSIONS IN THE CITY OF TONTITOWN, ARKANSAS, AND REPEALING RESOLUTION NO. 2018-07-797R; DECLARING AN EMERGENCY AND FOR OTHER PURPOSES.

WHEREAS, Eco-Vista, LLC (“Eco-Vista”) owns and operates a Class 1 and Class 4 Landfill (“Landfill”) within the municipal limits of the City of Tontitown (“Tontitown”); and

WHEREAS, Applications to expand the Class I and IV landfills are before the Arkansas Department of Environmental Quality (“ADEQ”); and

WHEREAS, Arkansas Pollution Control and Ecology Commission Rule “(APCEC”) 22.203(b) requires “specific geographic site approval” from the government of jurisdiction for the “expansion of the permitted acreage of landfills” when the “facility is located within a municipality or county that has adopted restrictions on sites in conjunction with a comprehensive county-wide land use plan;” and

WHEREAS, APCEC Rule 22.204 requires Host Community Approval when considering applications for “new or increased landfill acreage, or an application for increased landfill capacity;” and

WHEREAS, Twice before, on November 2, 2022, as Resolution 2022-11-1017R, and January, 2023, as Resolution 2023-01-1027R, the City of Tontitown stated its opposition to the Class I and Class IV landfill expansions, reversing any support purportedly granted on July 3, 2018, by Resolution 2018-01-797R; and

WHEREAS, It has come to the Council’s attention that ADEQ and Eco-Vista are questioning the effectiveness of Resolutions 2022-11-1017R and 2023-01-1027R as a denial of APCEC Rule 22.203 geographic site approval and APCEC Rule 22.204 Host Community Approval; and

WHEREAS, A third resolution specifically addressing APCEC Rules 22.203 and 22.204 is now adopted to make it abundantly clear the City of Tontitown does not grant either APCEC Rule 22.203 geographic site approval or APECEC Rule 22.204 Host Community Approval.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Tontitown, Arkansas:

Section 1. Resolution 2018-07-797R is repealed.

Section 2. Resolutions 2022-11-1017R and 2023-01-1027R remain in effect, and are hereby incorporated by reference, as submitted to ADEQ six and three months, respectively, prior to a final permitting decision on the Class IV expansion.

Section 3. Pursuant to APCEC Rule 22.203(b), The City of Tontitown states comprehensive county-wide land use planning is in place in Washington County, Arkansas, including:

- a. Land Use Planning pursuant to Washington County Planning Ordinances, Chapter 11; and
- b. Zoning pursuant to Washington County Zoning Ordinances, Sections 11-191 through Section 11-211.

Section 4. Pursuant to APCEC Rule 22.203(b), The City of Tontitown states it has and does participate in comprehensive county-wide land use planning, including:

- a. Participating in the Washington County PARA Task Force Recommendations for Establishing Various Zones and Implementing Zoning in Washington County, including then Mayor Paul Maestri serving as a member of that task force which made final recommendations to the County; and
- b. Submitting for review, as noted by Tontitown Code of Ordinances § 152.005, its Planning Area Map to the Northwest Arkansas Regional Planning Commission, an entity with a stated emphasis of regional, multi-jurisdictional planning, including “regional comprehensive planning;” and
- c. Mayor Angie Russell serving as a member of the Northwest Arkansas Regional Planning Commission; and
- d. Filing, as noted by Tontitown Code of Ordinances § 152.005, its Planning Area Map with the Washington County Clerk; and
- e. Coordinating with Washington County Planning Board regarding planning and zoning in Tontitown’s extra-territorial jurisdiction; and
- f. Utilizing Tontitown Recharge Area Best Management Practices.

Section 5. Pursuant to Ark. Code Ann. § 8-6-209(a)(3), The City of Tontitown states it has and does adopt municipal “comprehensive area-wide zoning” plans, including:

- a. A Planning calendar, schedule, and review cycle; and
- b. Land Use Code; and
- c. Master Street Plan; and
- d. Planning Area Map; and
- e. Future Land Use Plan Map.

Section 6. Pursuant to APCEC Rule 22.203(e), this Resolution constitutes written denial of the “geographic site” of the Eco-Vista Class I and IV landfill expansions, citing the following failures to comply with the requirements of Tontitown ordinances, resolutions and rules:

- a. This Resolution. It is hereby declared the policy of the City of Tontitown to deny all approvals required of Eco-Vista pursuant to APCEC Rule 22.203, APCEC 22.204, and the Arkansas Solid Waste Management Act for Eco-Vista Class I and IV expansion.
- b. Tontitown Code of Ordinances, § 153.086(B)(1). The purpose and objective of this ordinance is to establish landfill locations which prevent “water pollution, rodent infestation, air pollution, or other health hazards and nuisance-causing activities.” In regards to water pollution, the City of Tontitown understands there is a direct hydrological connection between the landfill expansion site and Wildcat Creek, thus creating an unacceptably high risk of ground and surface water pollution. In regards to air pollution, the City of Tontitown received three documented odor complaints to date this year. In regards to nuisance, the City of Tontitown received over a dozen documented complaints of mud, rocks, and debris on roads this year to date. Further in regards to nuisance, the City of Tontitown responded to 4 fires this year, and 10 or more in previous years. These numbers do not include dozens of oral complaints on each issue received in previous years, those stated during public meetings or other public statements.
- c. Tontitown Code of Ordinances, § 153.086(F)(2)(f). Standards for all new landfill uses, new expansions of an existing landfill use, and accessory landfill uses require that “litter control provisions” be maintained at all times, and if “daily or more frequent cover does not control on-and-off-site litter, other methods may be required, such as, but not limited to litter fences and litter crews.” The City of Tontitown received four litter complaints to date this year, with dozens of additional complaints received in previous years.
- d. Tontitown Code of Ordinances, § 92.01. This ordinance prohibits littering. Eco-Vista consistently operates in a manner creating off-site litter.
- e. Tontitown Code of Ordinances, § 93.01 and 93.02. Adopts Arkansas Fire Code and prohibits outdoor burning in the absence of a permit.
- f. Tontitown Code of Ordinances, § 130.03. This ordinance prohibits road spills. Eco-Vista operations regularly result in mud, dirt, and debris on Tontitown Roads, including a dozen or more documented complaints this year. Eco-Vista has previously spilled leachate on a stretch of road between Hwy. 112 and their facility, resulting in a hazardous materials clean up.

Section 7. The City of Tontitown has not, and does not, make any APCEC Rule 22.204(a) or (c) findings regarding alternative sites or incentives for siting of the Class I or IV landfill expansions. The City of Tontitown does not grant APCEC Rule 22.204 approval of site selection for the Class I or IV landfill expansions.

Section 8. The Mayor or her designee is hereby authorized to bring this Resolution to the attention of the regulatory authorities and to provide information to such regulatory authorities as is requested or necessary.

Section 9. Declaration of Emergency. It is hereby determined that it shall be necessary for the preservation of the public peace, health and safety that this Resolution shall become effective without delay. The facts stated herein, specifically regarding air pollution, odor, fire, interference with roads, litter, and spills are all incorporated and referenced as the basis for declaring an emergency support this emergency clause and the necessity to immediately oppose the pending applications for Eco-Vista Class I and IV landfill expansion. This resolution is immediately operable.

PASSED AND APPROVED this _____ day of August 2023.

APPROVED:

Angela Russell, Mayor

ATTEST:

Rhonda Ardemagni, City Clerk-Treasurer