

IN THE SUPERIOR COURT OF BRYAN COUNTY
STATE OF GEORGIA

lit
Filed In Clerk's Office
Time 7:00pm
JAN 11 2012
Rebecca G. Crowe
Clerk of Courts
Bryan County, Georgia
le
1-12-12

ATLANTIC WASTE SERVICES, INC.,)
AND PMP, INC.,)

Plaintiff)

vs.)

CIVIL ACTION NO 2012-V-032

BRYAN COUNTY, GEORGIA;)
BRYAN COUNTY BOARD OF)
COMMISSIONERS: JIMMY BURNSD,)
JOE KENDRICK, WADE PRICE, GLEN)
WILLARD, CARTER INFINGER AND)
JIMMY HENDERSON, in their official)
capacities as members of the Board of)
Commissioners of Bryan County, Georgia,)

Defendants.)

SUMMONS

TO: JIMMY BURNSD

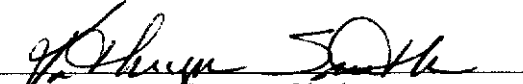
YOU ARE HEREBY SUMMONED and required to answer the Appeal to Superior Court. Complaint for Declaratory Relief, and Petition for Mandamus of the Plaintiff in this action, a copy of which is served herewith upon you and to serve a copy of your Answer upon the subscribers at their offices, Post Office Box 9848, Savannah, Georgia 31412-0048, within thirty (30) days after service hereof upon you, exclusive of the day of such service; and if you fail to answer the complaint in time aforesaid, a judgment by default will be rendered against you for the relief demand in the Complaint.

Witness, the Honorable Clerk of said court.

This 11th day of January, 2012.

Prepared by:
Harold B. Yellin
Georgia Bar No. 780757
Attorney for Plaintiff
200 East Saint Julian Street
Savannah, GA 31401
(912) 236-0261 (telephone)
(912) 236-4936 (facsimile)
hyellin@huntermaclean.com

REBECCA G. CROWE
Clerk Of Superior Court
BRYAN COUNTY

By 
Deputy Clerk

IN THE SUPERIOR COURT OF BRYAN COUNTY
STATE OF GEORGIA

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capacities as members of the Board of)
Commissioners of Bryan County, Georgia,)

Defendants.)

SUMMONS

TO: BRYAN COUNTY BOARD OF COMMISSIONERS

YOU ARE HEREBY SUMMONED and required to answer the Appeal to Superior Court, Complaint for Declaratory Relief, and Petition for Mandamus of the Plaintiff in this action, a copy of which is served herewith upon you and to serve a copy of your Answer upon the subscribers at their offices, Post Office Box 9848, Savannah, Georgia 31412-0048, within thirty (30) days after service hereof upon you, exclusive of the day of such service; and if you fail to answer the complaint in time aforesaid, a judgment by default will be rendered against you for the relief demand in the Complaint.

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Attorney for Plaintiff
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hyellin@huntermaclean.com

REBECCA G. CROWE
Clerk Of Superior Court
BRYAN COUNTY

By *[Signature]*
Deputy Clerk

IN THE SUPERIOR COURT OF BRYAN COUNTY
STATE OF GEORGIA

Filed in Clerk's Office
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JAN 11 2012
Rebecca G. Crowe
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Bryan County, Georgia
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ATLANTIC WASTE SERVICES, INC.,)
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Plaintiff)

vs.)

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BRYAN COUNTY, GEORGIA;)
BRYAN COUNTY BOARD OF)
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WILLARD. CARTER INFINGER AND)
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Commissioners of Bryan County, Georgia,)

Defendants.)

SUMMONS

TO: BRYAN COUNTY, GEORGIA

YOU ARE HEREBY SUMMONED and required to answer the Appeal to Superior Court, Complaint for Declaratory Relief, and Petition for Mandamus of the Plaintiff in this action, a copy of which is served herewith upon you and to serve a copy of your Answer upon the subscribers at their offices, Post Office Box 9848, Savannah, Georgia 31412-0048, within thirty (30) days after service hereof upon you, exclusive of the day of such service; and if you fail to answer the complaint in time aforesaid, a judgment by default will be rendered against you for the relief demand in the Complaint.

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Harold B. Yellin
Georgia Bar No. 780757
Attorney for Plaintiff
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(912) 236-0261 (telephone)
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hyellin@huntermaclean.com

REBECCA G. CROWE
Clerk Of Superior Court
BRYAN COUNTY

By *Arthur Smith*
Deputy Clerk

IN THE SUPERIOR COURT OF BRYAN COUNTY
STATE OF GEORGIA

JAN 11 2012

Rebecca G. Crowe *Re*
Clerk of Courts
Bryan County, Georgia
1-12-12

ATLANTIC WASTE SERVICES, INC.,)
AND PMP, INC.,)

Plaintiff)

vs.)

CIVIL ACTION NO *2012-1-032*

BRYAN COUNTY, GEORGIA;)
BRYAN COUNTY BOARD OF)
COMMISSIONERS; JIMMY BURNSD,)
JOE KENDRICK, WADE PRICE, GLEN)
WILLARD, CARTER INFINGER AND)
JIMMY HENDERSON, in their official)
capacities as members of the Board of)
Commissioners of Bryan County, Georgia.)

Defendants.)

SUMMONS

TO: GLEN WILLARD

YOU ARE HEREBY SUMMONED and required to answer the Appeal to Superior Court, Complaint for Declaratory Relief, and Petition for Mandamus of the Plaintiff in this action, a copy of which is served herewith upon you and to serve a copy of your Answer upon the subscribers at their offices, Post Office Box 9848, Savannah, Georgia 31412-0048, within thirty (30) days after service hereof upon you, exclusive of the day of such service; and if you fail to answer the complaint in time aforesaid, a judgment by default will be rendered against you for the relief demand in the Complaint.

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This 11th day of January, 2012.

Prepared by:
Harold B. Yellin
Georgia Bar No. 780757
Attorney for Plaintiff
200 East Saint Julian Street
Savannah, GA 31401
(912) 236-0261 (telephone)
(912) 236-4936 (facsimile)
hyellin@huntermaclean.com

REBECCA G. CROWE
Clerk Of Superior Court
BRYAN COUNTY

By *[Signature]*
Deputy Clerk

IN THE SUPERIOR COURT OF BRYAN COUNTY
STATE OF GEORGIA

Filed In Clerk's Office *RH*
Time *H:00*

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Rebecca G. Crowe
Clerk of Courts
Bryan County, Georgia

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ATLANTIC WASTE SERVICES, INC.,)
AND PMP, INC.,)

Plaintiff)

vs.)

CIVIL ACTION NO. *2012-1-032*

BRYAN COUNTY, GEORGIA;)
BRYAN COUNTY BOARD OF)
COMMISSIONERS; JIMMY BURNSED,)
JOE KENDRICK, WADE PRICE, GLEN)
WILLARD, CARTER INFINGER AND)
JIMMY HENDERSON, in their official)
capacities as members of the Board of)
Commissioners of Bryan County, Georgia,)

Defendants.)

SUMMONS

TO: WADE PRICE

YOU ARE HEREBY SUMMONED and required to answer the Appeal to Superior Court, Complaint for Declaratory Relief, and Petition for Mandamus of the Plaintiff in this action, a copy of which is served herewith upon you and to serve a copy of your Answer upon the subscribers at their offices, Post Office Box 9848, Savannah, Georgia 31412-0048, within thirty (30) days after service hereof upon you, exclusive of the day of such service; and if you fail to answer the complaint in time aforesaid, a judgment by default will be rendered against you for the relief demand in the Complaint.

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This 11th day of January, 2012.

Prepared by:
Harold B. Yellin
Georgia Bar No. 780757
Attorney for Plaintiff
200 East Saint Julian Street
Savannah, GA 31401
(912) 236-0261 (telephone)
(912) 236-4936 (facsimile)
hyellin@huntermaclean.com

REBECCA G. CROWE
Clerk Of Superior Court
BRYAN COUNTY

By *[Signature]*
Deputy Clerk

IN THE SUPERIOR COURT OF BRYAN COUNTY
STATE OF GEORGIA

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ATLANTIC WASTE SERVICES, INC.,)
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Plaintiff)

vs.)

CIVIL ACTION NO. 2012-V-032

BRYAN COUNTY, GEORGIA;)
BRYAN COUNTY BOARD OF)
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JOE KENDRICK, WADE PRICE, GLEN)
WILLARD, CARTER INFINGER AND)
JIMMY HENDERSON, in their official)
capacities as members of the Board of)
Commissioners of Bryan County, Georgia)

Defendants.)

SUMMONS

TO: JIMMY HENDERSON

YOU ARE HEREBY SUMMONED and required to answer the Appeal to Superior Court, Complaint for Declaratory Relief, and Petition for Mandamus of the Plaintiff in this action, a copy of which is served herewith upon you and to serve a copy of your Answer upon the subscribers at their offices, Post Office Box 9848, Savannah, Georgia 31412-0048, within thirty (30) days after service hereof upon you, exclusive of the day of such service; and if you fail to answer the complaint in time aforesaid, a judgment by default will be rendered against you for the relief demand in the Complaint.

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Harold B. Yellin
Georgia Bar No. 780757
Attorney for Plaintiff
200 East Saint Julian Street
Savannah, GA 31401
(912) 236-0261 (telephone)
(912) 236-4936 (facsimile)
hyellin@huntermaclean.com

REBECCA G. CROWE
Clerk Of Superior Court
BRYAN COUNTY

By *[Signature]*
Deputy Clerk

IN THE SUPERIOR COURT OF BRYAN COUNTY
STATE OF GEORGIA

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CIVIL ACTION NO. 2012-V-032

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WILLARD, CARTER INFINGER AND)
JIMMY HENDERSON, in their official)
capacities as members of the Board of)
Commissioners of Bryan County, Georgia,)

Defendants.)

SUMMONS

TO: CARTER INFINGER

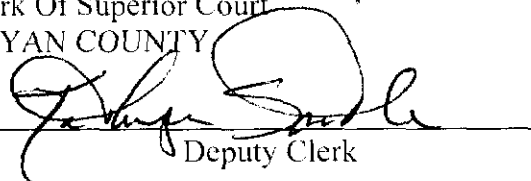
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This 11th day of January, 2012.

Prepared by:
Harold B. Yellin
Georgia Bar No. 780757
Attorney for Plaintiff
200 East Saint Julian Street
Savannah, GA 31401
(912) 236-0261 (telephone)
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hyellin@huntermaclean.com

REBECCA G. CROWE
Clerk Of Superior Court
BRYAN COUNTY

By 
Deputy Clerk

IN THE SUPERIOR COURT OF BRYAN COUNTY
STATE OF GEORGIA

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WILLARD, CARTER INFINGER AND)
JIMMY HENDERSON, in their official)
capacities as members of the Board of)
Commissioners of Bryan County, Georgia,)

Defendants.)

SUMMONS

TO: JOE KENDRICK

YOU ARE HEREBY SUMMONED and required to answer the Appeal to Superior Court, Complaint for Declaratory Relief, and Petition for Mandamus of the Plaintiff in this action, a copy of which is served herewith upon you and to serve a copy of your Answer upon the subscribers at their offices, Post Office Box 9848, Savannah, Georgia 31412-0048, within thirty (30) days after service hereof upon you, exclusive of the day of such service; and if you fail to answer the complaint in time aforesaid, a judgment by default will be rendered against you for the relief demand in the Complaint.

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Harold B. Yellin
Georgia Bar No. 780757
Attorney for Plaintiff
200 East Saint Julian Street
Savannah, GA 31401
(912) 236-0261 (telephone)
(912) 236-4936 (facsimile)
hyellin@huntermaclean.com

REBECCA G. CROWE
Clerk Of Superior Court
BRYAN COUNTY

By *[Signature]*
Deputy Clerk

Filed In Clerk's Office
Time

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Bryan County, Georgia
R.H.

ATLANTIC WASTE SERVICES, INC.,
AND PMP, INC

Plaintiff

vs.

CIVIL ACTION NO. 2012 V-032

BRYAN COUNTY, GEORGIA;
BRYAN COUNTY BOARD OF
COMMISSIONERS; JIMMY BURNESED,
JOE KENDRICK, WADE PRICE, GLEN
WILLARD, CARTER INFINGER AND
JIMMY HENDERSON, in their official
capacities as members of the Board of
Commissioners of Bryan County, Georgia

Defendants.

**APPEAL TO SUPERIOR COURT, COMPLAINT FOR DECLARATORY
RELIEF, AND PETITION FOR MANDAMUS**

NOW COME ATLANTIC WASTE SERVICES, INC. and PMP, INC. and files this Appeal to the Superior Court, Complaint for Declaratory Relief, and Petition for Mandamus to the Superior Court of Bryan County, Georgia (collectively "Appeal").

PARTIES AND JURISDICTIONS

1. Atlantic Waste Services, Inc. is a corporation duly incorporated under the laws of the State of Georgia, and registered to do business in the State of Georgia.

2. PMP, Inc. is a corporation duly incorporated under the laws of the State of Georgia. PMP, Inc. is the present title holder to certain real property located in Bryan County, Georgia. PMP, Inc. has entered into a binding lease agreement for the lease of said property to Atlantic Waste Services, Inc., and Atlantic Waste Services, Inc. is the agent in fact for PMP, Inc. for all purposes herein.

3. Bryan County is a political subdivision of the State of Georgia and may be served by serving the Chairman of the Bryan County Board of Commissioners.

4. Defendants Jimmy Burnsed, Joe Kendrick, Wade Price, Glen Willard, Carter Infinger and Jimmy Henderson constitute the Board of Commissioners of Bryan County, Georgia, whose duties and responsibilities include the enactment and enforcement of Bryan County ordinances.

5. Defendant Bryan County is subject to the jurisdiction and venue of this court.

6. Defendants Jimmy Burnsed, Joe Kendrick, Wade Price, Glen Willard, Carter Infinger and Jimmy Henderson are residents and public officials in Bryan County, Georgia and are subject to personal jurisdiction and venue in this court.

7. Notice is hereby given that Atlantic Waste Services, Inc. and PMP, Inc. appeal to the Superior Court of Bryan County, Georgia from those certain decisions of Bryan County, Georgia and its Board of Commissioners, which denied the Application for Zoning and which denied the Petition for Text Amendment to the Bryan County Zoning Ordinance.

8. All conditions precedent to this action have been satisfied by Atlantic Waste Services, Inc. and PMP, Inc.

9. This Court has jurisdiction over the claims asserted herein under the Georgia Constitution, Art. III, Sec. VI, Para. IV, pursuant to the Court's authority to enforce statutory laws and regulations of the State of Georgia. This Court has jurisdiction under O.C.G.A. Section 9-4-1 et seq. providing for declaratory judgment relief.

STATEMENT OF FACTS

10. Atlantic Waste Services, Inc. and PMP, Inc. (collectively "Plaintiffs") hold a legal interest in the subject property.

11. Atlantic Waste Services, Inc. proposes pursuant to its leasehold agreement with PMP, Inc. to operate a municipal solid waste disposal facility in accordance with applicable solid waste laws and regulations promulgated by the State of Georgia.

12. The proposed municipal solid waste disposal facility will be located on Plaintiff's property which consists of approximately 1137 acres. The footprint of the landfill facility to be used for waste disposal will consist of approximately 208 acres. The remaining acres located within the site will contain required buffers, sediment ponds, a 119-acre borrow pit, and approximately 600 acres of conservation area.

13. The location, topography, soils and other physical characteristics of the site are well suited for the proposed landfill facility. A copy of Plaintiffs' submissions to the Bryan County Board of Commissioners and which were made a part of the record below are attached as Exhibit A to this Appeal.

14. The Georgia Comprehensive Solid Waste Management Act, O.C.G.A. Section 12-8-20, et seq. and the State of Georgia Department of Natural Resources, Environmental and Protection Division, Rules for Solid Waste Management, Chapter 391-3-4, contain extensive, comprehensive rules and criteria governing the siting, permitting, design, operation and closure of municipal solid waste landfill facilities in Georgia. These include requirements for hydrogeological assessment of the site, engineering design of a landfill, operational requirements, groundwater and surface water monitoring requirements, criteria for closure and post closure care, financial responsibility, waste measuring and reporting requirements, landfill operator certifications, and other operational and environmental protection standards for such facilities.

15. Prior to the issuance of a solid waste handling permit from the State of Georgia Environmental Protection Division, a landfill operator must comply with comprehensive state solid waste laws, regulations and requirements and a landfill facility must pass a detailed review and approval process by the Georgia Environmental Protection Division. The approval process will include a review and approval of the location of the site and surrounding area, the physical characteristics of the site, the facility design, the operational plans, plans for surface water and ground water monitoring around the proposed landfill facility, and the plans for closure and post closure care and financial assurance requirements associated with such closure. The operation of the landfill facility will be subject to further inspection and reporting requirements of the Georgia Environmental Protection Division.

16. Bryan County has established a “Waste Management District” (zoning designation “WP”) which appears as Section 1116 of the Bryan County Zoning Ordinance. A true and accurate copy of Section 1116 of the Bryan County Zoning Ordinance is attached as Exhibit B to this Appeal.

17. Bryan County approved its Solid Waste Management Plan on or about May 20, 2009. A true and accurate copy of the Solid Waste Management Plan is attached hereto as Exhibit C to this Appeal.

18. As more particularly set forth in Count II of this Appeal, Section 1116 of the Bryan County Zoning Ordinance is a *de facto* prohibition of any Waste Management District (as defined in the Bryan County Zoning Ordinance), including but not limited to a landfill facility in Bryan County. It is in conflict with the Georgia Comprehensive Solid Waste Management Act; it is in conflict with the State of Georgia Department of Natural Resources, Environmental

Protection Division, Rules for Solid Waste Management; and it is in conflict with the Solid Waste Management Plan adopted by Bryan County in March, 2009.

19. Plaintiffs filed an Application for Zoning on March 18, 2011, requesting that its property be removed from its A-5 zoning classification to a Waste Management (“WP”) District pursuant to the Bryan County Zoning Ordinance. Attached to this Appeal as Exhibit D is a true and accurate copy of the Plaintiff’s Application for Zoning dated March 18, 2011.

20. Plaintiffs filed a Petition for Text Amendment with Bryan County on June 6, 2011 to amend those portions of the Bryan County Zoning Ordinance which were contrary to the Georgia Comprehensive Solid Waste Management Act, the State of Georgia Department of Natural Resources, Environmental Protection Division, Rules for Solid Waste Management, and the Solid Waste Management Plan adopted by Bryan County. The Petition was amended on September 27, 2011. Attached to this Appeal as Exhibit E is a true and accurate copy of the Petition for Text Amendment dated September 27, 2011.

21. After the filing of Plaintiffs’ Application for Zoning on March 18, 2011 and Plaintiff’s Petition for Text Amendment on June 6, 2011, Defendants forwarded the applications to the Coastal Regional Commission for Development of Regional Impact (“DRI”) review. The Coastal Regional Commission, rather than rendering an official recommendation, remanded the matter to the Defendants, based on a finding that it could not make any recommendation to Bryan County because the underlying zoning ordinance did not allow Plaintiffs’ landfill facility in Bryan County.

22. Plaintiffs withdrew their application for consideration by the Coastal Regional Commission, so that their previously filed applications could proceed before the Bryan County Board of Commissioners.

23. Prior to the Bryan County Board of Commissioner's meeting on December 13, 2011, Plaintiffs informed Defendants, in accordance with state law, that two (2) Petitions had been filed before the Bryan County Board of Commissioners: one (1) application for zoning of certain property located in Bryan County, Georgia to the Waste Management Zoning District and one (1) petition for a text amendment to Section 1116 of the Bryan County Zoning Ordinance. Attached to this Appeal is Exhibit F is a true and accurate copy of Plaintiffs' Amendment to Petition.

24. On December 13, 2011, the Bryan County Board of Commissioners considered Plaintiffs' proposed Text Amendment to Section 1116 of the Bryan County Zoning Ordinance. The Text Amendment would have removed the items in its ordinance which were inconsistent with state law and the Solid Waste Management Plan. The Bryan County Board of Commissioners denied the Text Amendment. A true and correct copy of the official minutes of the December 13, 2011 Bryan County Commission Meeting is attached to this Appeal as Exhibit G.

25. The Application for Zoning was not heard and will not be heard by the Bryan County Board of Commissioners, because Defendants have confirmed that zoning cannot proceed because the Petition for Text Amendment was denied. A true and correct copy of an e-mail from the County Attorney confirming that Plaintiffs Application for Zoning would not proceed before the Bryan County Board of Commissioners is attached to this Appeal as Exhibit H.

26. Plaintiffs have thus exhausted all administrative remedies.

COUNT I

VIOLATION OF STATE LAW AND PREEMPTION

27. The allegations in Paragraphs 1 through 26 above are hereby incorporated by reference in this Count I as if fully restated herein.

28. The Georgia Comprehensive Solid Waste Management Act, Section 12-8-20, et seq. and the State of Georgia Department of Natural Resources, Environmental Protection Division, Rules for Solid Waste Management, Chapter 391-3-4 provide comprehensive rules and criteria governing the siting, location, permitting, operation and closure of municipal solid waste landfill facilities.

29. The policy of the State of Georgia appears in O.C.G.A. Section 12-8-21(a) of the Solid Waste Management Act and reads as follows:

It is declared to be the policy of the State of Georgia, in furtherance of its responsibility to protect public health, safety and well being of its citizens and to *protect and enhance the quality of its environment*, to institute and maintain a comprehensive and statewide program for solid waste management which will assure that solid waste facilities, whether privately or publicly operated, do not adversely affect the health, safety and well being of the public, and do not degrade the quality of the environment by reason of the location, design, method of operation or other means...

30. The Uniformity Clause of the Constitution of the State of Georgia provides as follows:

Laws of a general nature shall have uniform operation throughout the state and no local or special law shall be enacted in any case for which provision has been made by an existing general law, except that the General Assembly made by general law authorize local governments by local ordinance or resolution to exercise police powers which do not conflict with general laws.

Art. III, Sec. VI, Para. IV.

31. A local or special law or ordinance which conflicts with and impairs operation of the general law, is preempted by state law and is therefore invalid, null and void.

32. The State of Georgia Department of Natural Resources, Environmental Protection Division, Rules for Solid Waste Management, Chapter 391-3-4-.07 is captioned “Landfill Design and Operations” and reads in pertinent part:

[F]acilities must provide a minimum of a 200 foot buffer between the waste disposal boundary and the property line and a minimum 500 foot buffer between the waste disposal boundary and any occupied dwelling and the dwelling’s operational private, domestic water supply well in existence of the date of permit applications. The 500 foot buffer may be reduced if a current owner of the dwelling provides a written waiver consenting to the waste disposal boundary being closer than 500 feet. The waste disposal boundary is defined as the limit of all waste disposal areas, impertinences, and ancillary activities (including but not limited to internal access roads and drainage control devices).

33. The State of Georgia Department of Natural Resources, Environmental Protection Division, Rules for Solid Waste Management, Chapter 391-3-4-.05 is captioned “Criteria for Citing” and reads in pertinent part:

A solid waste handling facility shall not be located in wetlands, as defined by the U.S. Corps of Engineers, unless evidence is provided to the Director by the Applicant, that use of such wetlands has been permitted or otherwise authorized under all other applicable state and federal laws and rules. The owner or operator must place a demonstration of compliance in the operating record and notify the Director that it has been placed in the operating record.

34. Neither the Georgia Comprehensive Solid Waste Management Act, nor the State of Georgia Department of Natural Resources, Environmental Protection Division, Rules for Solid Waste Management, contain any ordinances, rules, regulations or guidelines that would require that a landfill facility’s primary access be located on a federal or state highway.

35. Section 1116 of the Bryan County Zoning Ordinance, to specifically include but not necessarily limited to subsections (b)(vi), (viii) and (ix), is contrary to state law with respect to the distance requirement from a landfill boundary to a well; it is contrary to state law with respect to wetlands; and it is contrary to state law because it requires the siting of a landfill facility’s primary access on a federal or state highway.

36. Section 1116 of the Bryan County Zoning Ordinance reads in pertinent part:

(b)(vi) No Waste Management District shall be located within one thousand (1,000) feet of a Residence or a residential domestic water supply (well).

(viii) All Waste Management Districts must have primary access via a state or federal highway.

(ix) Waste Management Districts shall not be located in wetlands as defined by the U.S. Corps of Engineers. All applications for a Waste Management District must be accompanied by a wetlands delineation of the site and must demonstrate that all processing, storage or disposal of waste products will be outside of wetland areas.

37. Section 1116 of the Bryan County Zoning Ordinance, by increasing the distance requirement from 500 to 1000 feet to a well, by prohibiting landfill operations in wetlands that have been permitted or otherwise authorized by applicable state and federal laws and rules, and by requiring that a landfill facility's primary access be located on a federal or state highway, is directly contrary to and directly conflicts with and impairs the operation of a landfill facility pursuant to Georgia law.

38. Section 1116 of the Bryan County Zoning Ordinance and its aforementioned subsections prohibit the operation of a legitimate business and there is no public interest protected by the prohibition.

39. Section 1116 of the Bryan County Zoning Ordinance and its aforementioned subsections are preempted by applicable Georgia laws, rules, and regulations and is therefore invalid and unenforceable.

COUNT II

UNCONSTITUTIONALITY OF ZONING ORDINANCE

40. The allegations of Paragraphs 1 through 39 above are hereby incorporated by reference in this Count II as if fully restated herein.

41. Section 1116 of the Bryan County Zoning Ordinance, to specifically include but not necessarily limited to subsections (b)(vi), (viii) and (ix), is unconstitutional on its face, and as applied to Plaintiffs.

42. Section 1116 of the Bryan County Zoning Ordinance was intended to allow and specifically provides for a landfill facility and waste disposal in Bryan County and the Waste Management District created under this section is the only zoning classification in Bryan County that permits a landfill facility and waste disposal.

43. Section 1116 of the Bryan County Zoning Ordinance excludes a landfill facility in Bryan County, by virtue of the conditions and restrictions contained within its zoning ordinance. The ordinance is a *de facto* prohibition of landfills in Bryan County by virtue of the fact that no properties in Bryan County can meet the criteria set forth in Section 1116 (b)(vi), (b)(viii), and (b)(ix) of the Bryan County Zoning Ordinance.

44. The State of Georgia Department of Natural Resources, Environmental Protection Division, Rules for Solid Waste Management, Chapter 391-3-4-.01 requires a minimum 500 foot buffer between the waste disposal boundary and any occupied dwelling and the dwelling's operational private, domestic water supply well in existence of the date of the permit applications. Section 1116(b)(vi) of the Bryan County Zoning Ordinance requires a 1,000 foot buffer between the waste management district and a residence or residential domestic water supply (well).

45. The State of Georgia Department of Natural Resources, Environmental Protection Division, Rules for Solid Waste Management, Chapter 391-3-4-.05 does not permit a solid waste handling facility in wetlands, unless such wetlands has been permitted or otherwise authorized under applicable state and federal laws and rules. Section 1116(b)(ix) of the Bryan County Zoning Ordinance states that a waste management district shall not be located in wetlands.

46. There are no federal or state laws, ordinances, rules, regulations or guidelines that would require that a landfill facility's primary access be located on a federal or state highway. Section 1116(b)(viii) of the Bryan County Zoning Ordinance requires that all Waste Management Districts must have primary access via a state or federal highway

47. Unlike state law as codified in the State of Georgia Department of Natural Resources, Environmental Protection Division, Rules for Solid Waste Management, the Bryan County Zoning Ordinance provides no ascertainable standards that would permit a landfill facility in Bryan County.

48. The absence of clear, objective criteria sets forth an unconstitutionally vague standard in violation in Article I, Section 1, Paragraph 1 of the Constitution of the State of Georgia of 1976; Article I, Section 3, Paragraph 1 of the Constitution of the State of Georgia of 1976; Article I, Section 2, Paragraph 3 of the Constitution of the State of Georgia of 1976; and the *Fifth and Fourteenth Amendments of the Constitution of the United States*.

49. For these and other reasons to be proved on or before trial, Plaintiffs seek an order declaring unconstitutional, illegal and void Section 1116 of the Bryan County Zoning Ordinance, to specifically include but not necessarily limited to subsections (b)(vi), (viii) and (ix).

COUNT III

VIOLATION OF SUBSTANTIAL DUE PROCESS

50. The allegations in Paragraphs 1 through 49 above are hereby incorporated by reference in this Count III as a fully restated herein.

51. Plaintiff applied for a rezoning petition for its property that would allow it to operate as a landfill facility in Bryan County.

52. Defendants have effectively denied the Plaintiffs' request, even though there was no evidence presented that the planned use would in any manner adversely affect the health, safety, morals or general welfare of the public.

53. Defendants' actions were not supported by the evidence presented at the hearing. The denial and/or failure to consider Plaintiffs' request for rezoning was arbitrary, capricious, not supported by the evidence and unreasonable and a gross abuse of discretion.

54. The denial of Plaintiffs' petition constituted a substantive due process violation and an equal protection violation of Article I, Section 1, Paragraph 1 of the Constitution of the State of Georgia of 1976; Article I, Section 3, Paragraph 1 of the Constitution of the State of Georgia of 1976; and the Fifth and Fourteenth Amendments of the Constitution of the United States.

55. The denial of Plaintiffs' petition was detrimental to Plaintiffs and was not substantially related to public health, safety, morality or the general welfare of the community, in violation of Article I, Section 1, Paragraph 1 of the Constitution of the State of Georgia of 1976; Article I, Section 3, Paragraph 1 of the Constitution of the State of Georgia of 1976; and the Fifth and Fourteenth Amendments of the Constitution of the United States.

COUNT IV

DECLARATORY JUDGMENT

56. The allegations in Paragraphs 1 through 55 above are hereby incorporated by reference in this Count IV as if fully restated herein.

57. An actual controversy exist between Plaintiffs and the Defendants, and Plaintiffs are uncertain of their legal rights and the status of those rights with respect to the approvals and permits necessary to operate a landfill facility on the subject property.

58. Plaintiffs seek a Declaratory Judgment pursuant to O.C.G.A. Section 9-4-1, et seq., declaring that Section 1116, to specifically include but not necessarily limited to subsections (b)(vi), (viii) and (ix), is unenforceable for the reasons set forth in this Appeal and declaring that Plaintiffs have the legal right to use the subject property as a landfill facility without restriction from the unenforceable provisions of the Bryan County Zoning Ordinance.

COUNT V

DAMAGES

59. The allegations in Paragraphs 1 through 58 above are hereby incorporated by reference in this Count V as if fully restated herein.

60. The Bryan County Zoning Ordinance and the decision of Defendants based on its ordinance, denies Plaintiffs an economically viable use of their property.

61. The Defendants' decision to deny Plaintiffs' petition constitutes a taking of the Plaintiffs' property without the payment of adequate compensation in violation of Article 1, Section 3, Paragraph 1 of the Constitution of the State of Georgia of 1976; Article 1, Section 1, Paragraph 1 of the Constitution of the State of Georgia of 1976; and the Fifth and Fourteenth Amendments of the Constitution of the United States.

62. Defendants' actions were a confiscatory taking of Plaintiffs' property and property rights without just and adequate compensation.

63. The actions of the Defendants constitute inverse condemnation under the Fifth and Fourteenth Amendments of the Constitution of the United States of America and the Constitution of the State of Georgia and is a violation of the Civil Rights Act, 42 U.S.C. §1983 and § 1988.

64. Defendants' actions have caused Plaintiffs to be damaged in an amount to be proved at trial.

WHEREFORE, Plaintiffs pray as follows:

1. That an order issue from this Court to the Defendants ordering Defendants to answer this appeal to Superior Court of any answer they may have;

2. That this court issue an order declaring Section 1116 of the Bryan County Zoning Ordinance, to specifically include but not necessarily limited to subsections (b)(vi), (viii) and (ix), unconstitutional and void;

3. That a writ of mandamus be issued from this Court ordering Defendants to allow Plaintiffs to use the subject property for their intended use as a landfill facility, subject to applicable state and federal laws, rules and regulations governing solid waste landfill facilities in Georgia;

4. That the Court issue a mandamus nisi to Defendants requiring it to show cause at a time and place to be designated by the Court not less than ten days and no more than thirty days from this date, why a mandamus should not issue against it;

5. That the court award Plaintiff attorney fees and costs of litigation as authorized by O.C.G.A. § 50-14-5 or, in the alternative, attorney's fees and costs of litigation pursuant to the Civil Rights Act. 42 U.S.C. § 1983 and § 1988;

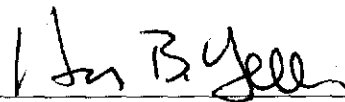
6. That this Court declare the decision of the Defendants to be an unconstitutional taking of a property right without due process or just compensation under the Constitution of the United States and the Constitution of the State of Georgia and that such action be declared illegal and invalid;

7. That the Defendants pay damages to Plaintiff in an amount that would equal the amount of Plaintiffs' loss of value resulting from the actions of the Defendants; and

8. That this Court award such other and further relief as it deems just and proper.

This 11th day of January, 2012.

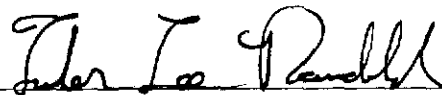
HUNTER, MACLEAN, EXLEY & DUNN, P.C.



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Hinesville, Georgia 31313

IN THE SUPERIOR COURT OF BRYAN COUNTY
STATE OF GEORGIA

Rif
Filed in Clerk's Office
Time *4:00*
JAN 11 2012
Rebecca G. Crowe
Clerk of Courts
Bryan County, Georgia

Rec
1-12-12

ATLANTIC WASTE SERVICES, INC.)
AND PMP, INC.)

Plaintiff)

vs.)

CIVIL ACTION NO. 2012-V-032

BRYAN COUNTY, GEORGIA;)
BRYAN COUNTY BOARD OF)
COMMISSIONERS; JIMMY BURNESED,)
JOE KENDRICK, WADE PRICE, GLEN)
WILLARD, CARTER INFINGER AND)
JIMMY HENDERSON, in their official)
capacities as members of the Board of)
Commissioners of Bryan County, Georgia)

Defendants.)

CERTIFICATION UNDER RULE 3.2

Pursuant to Rules 3.2 and 3.4 of Georgia Uniform Superior Court Rules, I hereby certify that no case has heretofore been filed in the Superior Court of the Eastern Judicial Circuit involving substantially the same parties or substantially the same subject matter or substantially the same factual issues which under Rule 3.2 of the Superior Court Rules would require the petition-pleading to be specifically assigned to the judge whom the original action was or is assigned.

This 11th day of January, 2012.

Harold B. Yellin

Harold B. Yellin
State Bar No. 780757

Hunter, Maclean, Exley & Dunn, P.C.
200 East St. Julian Street
Savannah, Georgia 31401
(912) 236-0261

BRYAN COUNTY
BOARD OF COMMISSIONERS MEETING

November 15, 2011
commencing at 5:30 p.m.

CHAIRMAN: Mr. Jimmy Burnsed

COMMISSIONERS:
Mr. Glen Willard
Mr. Joe Kendrick

APPLICANT:
ATLANTIC WASTE MANAGEMENT

 ORIGINAL

TOM CRITES & ASSOCIATES INTERNATIONAL, INC.

A PROFESSIONAL ASSOCIATION OF STENOTYPE REPORTERS

POST OFFICE BOX 9438
SAVANNAH, GEORGIA 31412
(912) 233-1883

(GEORGIA)
(800) 533-0681

(ALL OTHER STATES)
(800) 631-3480

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D O C U M E N T A R Y E V I D E N C E

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	NUMBER	DESCRIPTION	PAGE
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4	2	Documents from Atlantic Waste Services	
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1 DISCLOSURE STATEMENT

2 STATE OF GEORGIA

3 COUNTY OF CHATHAM

4 Pursuant to Article 10.B of the Rules and
5 Regulations of the Board of Court Reporting of the
6 Judicial Council of Georgia, I make the following
7 disclosure:

8 I am a Georgia Certified Court
9 Reporter.

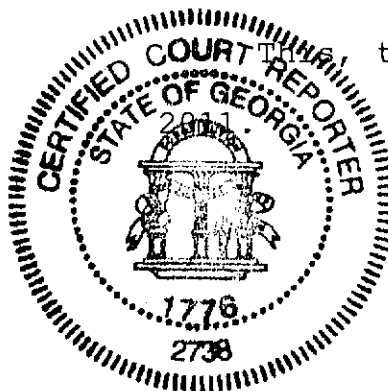
10 I am not disqualified for a
11 relationship of interest under the
12 provisions of O.C.G.A 9-11-28(c).

13 I am an employee of Tom Crites &
14 Associates International, Inc. My
15 office was contacted by Mr. Tyler
16 Randolph to provide court reporting
17 services for this proceeding.

18 Tom Crites & Associates,
19 International, Inc. will not be taking
20 this proceeding under any contract that
21 is prohibited by Georgia law.

22 the 2nd day of December,

23
24
25



Celeste Mack
Celeste Mack, CCR, RPR 2738

1 (Whereupon, Exhibit Nos. 1
2 through 3 were provided to
3 the Bryan County Board of
4 Commissioners.)

5 THE CHAIRMAN: As we always do, I'd
6 like everyone to stand and Commissioner
7 Willard will lead us in prayer.

8 (All stand for prayer and Pledge of
9 Allegiance.)

10 THE CHAIRMAN: We have a few things
11 to take care of. We need to approve the
12 October 11th meeting. Do we have a
13 motion?

14 MR. WILLARD: I make a motion.

15 THE CHAIRMAN: Do we have a second?
16 All in favor, please say aye.

17 (Response was aye en masse.)

18 THE CHAIRMAN: (Inaudible).

19 Now, one of the things that we get
20 a lot of pleasure doing is making a
21 presentation. We have with us a new
22 Eagle Scout tonight, Mr. Patrick Eason,
23 member of Boy Scout Troop 357. And
24 Patrick, if you'll come forward, we'd
25 like to give you this proclamation.

1 Whereas, Patrick Eason has
2 demonstrated commitment to his fellow
3 citizens to countless hours of tireless
4 and dedicated efforts. Whereas the
5 achievements of Patrick Eason in
6 (inaudible) commendable; and whereas,
7 Patrick Eason served as an example to
8 youth through his high level of personal
9 achievement, leadership and community
10 service.

11 We're a very proud that Patrick is
12 a member of our county, whereas we, the
13 Commissioners of Bryan County recognize
14 the Eagle Scout award as a positive
15 indicator that the youth of today are
16 the leaders of tomorrow.

17 (Applause from audience.)

18 THE CHAIRMAN: Now, one thing that
19 we're going to do this evening, and let
20 me explain exactly what's going to
21 happen. Atlantic Waste Management is
22 going to make a presentation on their
23 proposed landfill. They will be given
24 45 minutes to make their presentation,
25 so all of us can hear and see and

1 understand, and, of course, ask
2 questions about that. The commissioners
3 will ask the questions.

4 Now, after that is done, then at
5 6:30 we will have a public hearing on
6 the proposed text amendment. During
7 that public hearing, our staff will
8 present the findings and the results of
9 it going through the Planning and
10 Zoning.

11 And then, of course, Atlantic Waste
12 will have 15 minutes to speak to that
13 issue and, of course, those, who are in
14 opposition, will have 15 minutes too.
15 And I'm assuming that Mike Baxler and
16 Don Stack will make being their
17 comments.

18 MR. STACK: Yes, sir.

19 THE CHAIRMAN: So that will take
20 place.

21 Now, at the close of that public
22 hearing, there is no vote tonight. Our
23 procedure is, on a text amendment, the
24 first meeting, we listen to it, we
25 listen to those in favor and those who

1 oppose, and then it waits until the
2 December meeting, come back, public
3 hearing, and both sides get an
4 opportunity to speak.

5 But at that December meeting, then
6 Mr. Baxler and Mr. Stack will have
7 45 minutes to discuss what they want to
8 discuss. So we're giving equal time to
9 both sides throughout this process.

10 Now, it's a process that may seem
11 lengthy to you, but it is a process
12 that, as our attorney will tell you, is
13 due process and that's what we have to
14 do. That's what our ordinance calls for
15 and that's what we will follow in this
16 process.

17 So we'll turn it over to Atlantic
18 Waste and let y'all begin.

19 MR. BURKE WALL: Honorable
20 Chairman, distinguished members of the
21 Board of Commissioners and the audience.
22 My name is Burke Wall, I am President of
23 Atlantic Waste. We are going to present
24 tonight in an effort to try and clear up
25 a lot of misconceptions and concerns of

1 the (inaudible) landfill that we are
2 proposing on north (inaudible).

3 If any of you have any questions
4 and feel like we need to answer them, we
5 haven't answered to your satisfaction,
6 feel free to call us any time and we'll
7 do our absolute best to answer them.

8 I'm now going to turn to my
9 (inaudible), Mr. Harold Yelen.

10 MR. YELEN: Mr. Chairman, members
11 of the Commission, my name is Harold
12 Yelen and I'm here today on behalf of
13 Atlantic Waste Company. With me today
14 is, of course, Burke Wall, and his son,
15 Ben Wall.

16 There are several other people who
17 I would like to introduce who will be
18 here to either make a brief presentation
19 or answer questions. Steve Harbin, who
20 is with Harbin Engineering, Mike Demell
21 of Environmental Services, Bob Krasco,
22 who is the project hydrologist, all are
23 here to answer questions that y'all may
24 have.

25 The presentation tonight will be

1 longer than the one we gave at Planning.
2 To be candid, there was a staff report
3 that we did not receive. Other folks
4 did get it, but we did not. That staff
5 reports contains certain questions that
6 they wanted to have answered. We did
7 not have the ability to answer the
8 questions at Planning, so we will make
9 sure that all of those questions are
10 answered tonight.

11 So the petition before you tonight
12 is, in fact, one, that is a text
13 amendment. We are asking that your
14 binding county zoning ordinance be
15 amended and there are several reasons
16 for this petition.

17 The first reason and the most
18 important reason is because Atlantic
19 Waste would like to build a landfill in
20 Bryan County. Please make no mistake,
21 that is the purpose of this text
22 amendment.

23 Section 1116 is your ordinance for
24 Waste Management District and it has a
25 number of provisions in it which we

1 think probably are, at best, make it
2 impossible to comply with and, at worst,
3 make it unconstitutional.

4 Now, I am required by law to do
5 this and it's a very awkward process,
6 but Georgia law requires that I raise
7 constitutional objections here. And
8 I've given a sheet of paper to your
9 clerk and I've submitted it, which
10 basically says in a nutshell that we do
11 think the ordinance that you have, the
12 one that's in operation, has
13 Constitutional issues and we've raised
14 those objections.

15 So tonight we are asking for three
16 changes to your ordinance. And I have
17 to tell y'all that folks who spoke
18 against us at the last meeting said they
19 were -- yes, sir.

20 THE CHAIRMAN: Could we talk about
21 that after the presentation with the
22 Planning and Zoning and just have the
23 presentation on the landfill?

24 MR. YELEN: Sir, we'll go whatever
25 direction you want. I was going to try

1 and just give you the overview of the
2 three items in the ordinance. If you
3 prefer me to take this for my
4 15 minutes, I'll be happy to.

5 MR. CHAIRMAN: I think that would
6 fit better for these guys and what have
7 you, because I think primarily y'all
8 want to give us the reasons for a
9 landfill and we need to, all of us, hear
10 that.

11 MR. BURKE WALL: What we'd really
12 like to do, Mr. Chairman, is we would
13 like to discuss the whole agenda. And
14 we don't have anything at all we're
15 trying to hide, we're trying to be very
16 open with all the people, many of who I
17 know, are our neighbors. And like I
18 said, we'd like to clear up as many
19 issues as we possibly can. And
20 hopefully we'll be given that
21 opportunity here and I appreciate the
22 time that y'all have set aside for us.

23 Now, if you wish him to handle some
24 issues from the text amendment later on,
25 then fine, we can do that.

1 MR. CHAIRMAN: Yeah, I just don't
2 want to go over the same ground twice.

3 MR. BURKE WALL: What he's trying
4 to do is just sort of clarify some
5 issues now because some of these people
6 weren't here in the past.

7 MR. YELEN: Mr. Chairman, I think I
8 do agree with you, though. Let me just
9 tell you the three items, I'll sit down,
10 I'll turn it over to the folks and they
11 can tell you about the landfill.

12 The three items are, number one,
13 the distance requirement between the
14 Waste Management District and a well, a
15 water supply well. It's the language in
16 your ordinance that says that a landfill
17 can only be served by a federal or state
18 highway. And the third item is the one
19 that says that the ordinance of a
20 facility cannot be located in a wetland,
21 period. Even if permitted by state or
22 federal rules.

23 Those are the three items that we
24 would like to talk to y'all about. I'll
25 come back during the public hearing and

1 we'll address it then, but thank you for
2 your time.

3 MR. HARBIN: Board members,
4 Mr. Chairman, can everybody hear me?
5 Can y'all hear me in the back?

6 My name is Steve Harbin, I'm the
7 project engineer. I'm the President of
8 Harbin Engineering and I graduated many
9 years ago. I have about 29 years
10 experience as a civil engineer, 28 years
11 of those, that experience is in solid
12 waste management, working on over
13 hundreds of projects throughout the
14 southeast, with the majority of the work
15 being in the State of Georgia.

16 I completed my first landfill
17 design in 1980, and since then have
18 completed several designs as a
19 professional engineer. I also had the
20 privilege to write the siting section of
21 the landfill operator certification
22 course. Every landfill that's run has
23 to be run with a certified operator.

24 The State of Georgia, along with
25 the SWANA, which is the Solid Waste

1 Association of North America, Georgia
2 Chapter, teamed together and put this
3 course together. I wrote the section on
4 siting and for over 20 years have taught
5 that section. Also served as
6 Vice-President of the Georgia Chapter of
7 SWANA and have served teaching in that
8 before it was SWANA, actually in the
9 GRCDA, which is a long, long time ago.

10 Anyway, what I wanted to do is, one
11 of the things, I think, as the Chairman
12 has mentioned, we wanted to provide some
13 education because I would, in looking
14 through the comprehensive plan, under
15 the section that's labeled Economic
16 Development Issues and Opportunities,
17 one of the things noted in that plan is
18 this point: Citizens express a distaste
19 of locating undesirable land uses near
20 neighborhoods as often associated with
21 the NIMBY syndrome, not in my backyard.

22 And they said under that, in the
23 plan, many Bryan County residents
24 expressed sentiments associated with the
25 not in my backyard, NIMBY syndrome.

1 This could possibly be alleviated
2 through more information and education
3 being offered to the residents of the
4 county. And we know that we're not very
5 popular being here trying to educate on
6 this issue, but that's what we're trying
7 to do, is to educate on this issue.

8 I've dedicated my engineering
9 career to solving solid waste problems.
10 As a professional engineer, I'm under
11 ethical and professional obligations to
12 protect the public and it has been
13 something that I've taken very seriously
14 in my career as an engineer. So be that
15 as it may, people may still not want to
16 hear what I have to say, but, you know
17 what, I'm glad that tomorrow the guys
18 will come and pick up my trash at my
19 house and will take it to a landfill.
20 It will be properly handled and disposed
21 of. And then as technology allows, as
22 -- it will also have other types of
23 things, as far as waste energy and other
24 things that can be helpful in solving
25 the solid waste problem because it's

1 just not this county, it's all over the
2 country, but we have to work together on
3 this.

4 And this particular site, I don't
5 know, the first slide there just shows
6 basically an entrance, an artist's
7 rendering of an entrance to the
8 facility. Most of the facilities, a lot
9 of them that I've worked on, people said
10 it looks like you're going into a really
11 nice development when you go into the
12 landfill.

13 (Outburst by audience.)

14 MR. HARBIN: And I know I'm going
15 to get lots of chuckles and everything,
16 that's quite all right. Y'all have
17 really been a very good audience. I
18 mean, the time I've been exposed to
19 y'all, y'all have been very nice. I
20 appreciate that.

21 But also, I just want to say, take
22 a few moments, we're not here to tell
23 y'all about landfills. The course for
24 operators is three and-a-half days with
25 an exam, and so we can't cram that much

1 information into one, 45-minute section,
2 but we are going to try to hit some of
3 the high points of landfills and why we
4 believe this site is a very good site.
5 And I want to give a few reasons.

6 In my career, I've worked on a lot
7 of sites all over the State of Georgia
8 and this is probably one of the best
9 sites I've ever come across. And I know
10 that may -- you may think that's crazy,
11 but here's some of the reasons why.
12 Just a few of them.

13 One is the site does have excellent
14 buffers. If you look at the site, you
15 know, the northern part of I-16 -- the
16 northern boundary is I-16, so is bounds
17 on -- it borders on an interstate
18 highway. And so -- and you got a large
19 right-of-way across that highway.

20 The required minimum buffer for any
21 landfill in the State of Georgia is a
22 required 200 feet undisturbed, that
23 means that's Holy Grail land. You can't
24 do anything in that buffer. As a matter
25 of fact, we had some -- a site that had

1 pine beetles in their trees and the EPD
2 would not allow us to take the trees off
3 the site. We could cut them and lay
4 them down in the buffer, but we could
5 not move them or do any disturbing in
6 that area. And so they're very serious,
7 EPD is, about that buffer.

8 Your own ordinance has a 200 foot
9 undisturbed buffer. This area right
10 there (indicating), that's the 200 foot
11 as you can see right there. Down here
12 (indicating) off the borrow area is
13 200 feet. That's a very small area.
14 Most of the buffers around the site far
15 exceed that.

16 As a matter of fact, if some of the
17 folks have been following this, we had
18 an original proposed waste footprint of
19 273 acres. We have reduced that to
20 208 acres to accommodate the 1,000 feet
21 from any house, any well around there.
22 And there will be -- our hydrogeologist
23 will be talking more about that as his
24 time to speak comes up.

25 But the buffers are great. Over

1 here where Black Creek is, a very
2 valuable resource. The closest the
3 landfill area comes to that is over a
4 thousand feet. And in this area here
5 (indicating) it's probably a couple of
6 thousand feet or more. So you got this,
7 and you got the fact that as part of the
8 development of this site, the Atlantic
9 Waste Services has agreed to place into
10 a permanent conservation easement, upon
11 receiving a permit that's final and
12 effective for this facility of over
13 600 acres. We show here even 709 acres
14 of potential conservation area because
15 all the buffers will become conservation
16 areas so they can't be disturbed.

17 And the buffer is a wetlands. And
18 the wetlands are nature's natural filter
19 and so they serve as a great thing to
20 have in a landfill as far as a natural
21 buffer.

22 The other thing is that the total
23 site here is about 1173 acres of total
24 site, with only about 208 acres of
25 actually waste footprint, where waste

1 would be placed.

2 Understand these are conceptuais,
3 they could go up plus or minus a little
4 bit because we don't have the detailed
5 plans yet. We're at the very beginning
6 of a very long journey if we pass the
7 hurdles of this text amendment in the
8 zoning.

9 The other thing is we did some
10 preliminary borings on this site and our
11 hydrogeologist will talk more about
12 that. But by doing those borings and
13 taking some groundwater readings, the
14 other thing that is very, very good
15 about this site, there are no wells that
16 are downstream of this landfill. All
17 the wells in the area, based on the
18 hydrogeologist, based on the borings we
19 did, are upgrade. As we all know water
20 does not flow uphill.

21 Plus we're adding, the state only
22 requires a 500-foot buffer, we're going
23 1,000 feet. We're going back to that in
24 the original ordinance. We're willing
25 to do that, Atlantic Waste is.

1 The other thing that we see is that
2 in those sole borings we found clay that
3 is about ten times to twenty or more
4 times more less permeable than the clay
5 liner we have to put on the bottom, so
6 we got a natural layer of clay, it's
7 anywhere from two foot thick to twelve
8 foot thick in the areas that we
9 observed, which was the majority of the
10 footprint area. So we've got some
11 really good things going there.

12 The other thing about this is that
13 there's a conception, if you don't work
14 in solid waste all the time, you think,
15 well, 208 acres, that means they go out
16 there and get the bulldozers and push
17 down all the trees and everything and
18 clear 208 acres and start the landfill.
19 That is not how it happens.

20 A landfill is developed in phases
21 and so we had some phase plans with our
22 old footprint but I didn't want to put
23 that up to confuse anybody. So if you
24 look right in this area here
25 (indicating), we would probably begin

1 with our first area right there
2 (indicating), just where I'm dancing the
3 laser around. It's hard to hold these
4 things steady if you've ever tried it.

5 Anyway, it's developed in phases.
6 They are usually seven to ten acres, so
7 you disturb seven to ten acres, plus a
8 little bit more for access and you build
9 that cell. You put waste in that cell
10 until it reaches the design grades as
11 much as you can. Then you build another
12 cell, which we would probably put one up
13 here at this side (indicating) or up
14 adjacent to it in this interior part of
15 the landfill (indicating). And we would
16 develop that.

17 And then as we get those areas, say
18 we develop this lower half right here
19 (indicating) and we got it to our
20 designed -- approved design grade is
21 full, we would go in there and start
22 phase closure. So we would go closing,
23 and planting grass and putting things on
24 there so it will be a grassed area. So
25 you would never have an entire area

1 open. You would have small segments of
2 it, some that are being developed, some
3 that are being closed. And I know
4 that's a quick thing there, and so you
5 have those phased closures.

6 And those are some of the major
7 things, I guess. There's a lot of other
8 things I could say about this site. And
9 again, the owner has gone the extra
10 mile, usually we don't put a drill rig
11 on the site until after we get zoning
12 because it costs a lot of money to have
13 those things done and to do the
14 investigations. But because of the
15 concerns of both P&Z and the board of
16 citizens and everything, we wanted to
17 see what we have. Do we have a big sand
18 ridge? Do we have a problem with
19 groundwater? What was the problems
20 there? So we wanted to address those
21 issues.

22 And Mike Demell is going to come up
23 in just a moment, or Bob is, Bob is
24 going to come in a minute. He's the
25 hydrogeologist, he's going to tell you a

1 little bit about the hydrogeology of
2 this site and how the groundwater flows
3 and what we've done.

4 I don't know if you want to take
5 questions intermittently or if you want
6 to wait until the end and take
7 questions? I'm going to hand the
8 pointer to Bob and let him take over
9 from this point.

10 UNIDENTIFIED CITIZEN: Is there
11 going to be a time period when we can
12 ask questions?

13 MR. CHAIRMAN: No, sir, not from
14 the audience, but you have
15 representatives who will take care of
16 that for you, the way I understand it.

17 UNIDENTIFIED CITIZEN: Will a
18 transcript of this be available to the
19 general public?

20 THE CHAIRMAN: Yes, we do our
21 minutes and we can give you a copy of
22 the minutes, yes, sir.

23 UNIDENTIFIED CITIZEN: When will
24 that be available?

25 THE CHAIRMAN: Give us a couple of

1 days, I guess.

2 UNIDENTIFIED PERSON: Takes us
3 several days to do them but those are
4 unapproved and they won't be approved
5 until the following meeting in December.

6 MR. KRASCO: My name is Bob Krasco,
7 I'm the hydrogeologist for this project.
8 I have over 20 years of experience in
9 Georgia working on solid waste issues
10 and landfills. Like Steve, I'm also
11 involved in the SWANA training program.
12 We both teach there. We've written
13 parts of that manual.

14 Prior to that, I was EPA's advisor
15 on Subtitle D, up in the states and in
16 this region, developed their programs
17 and how they're going to implement the
18 new rules for Subtitle D. So I have a
19 pretty good understanding of the broad
20 picture of all aspects of landfills, but
21 I focus on water, both surface water and
22 groundwater.

23 When we looked at this site, I got
24 called in to say, you know, there's
25 concerns about wells, there's some

1 concerns about wetlands, about run-ons,
2 storm water, all kinds of things, and we
3 started looking at what information is
4 available before we even do our
5 hydrogeologic assessment, which is
6 required as a first step in pursuing a
7 permit through EPD. After we get zoning
8 and get everything squared away, we have
9 to do this extensive study, drilling and
10 sampling and all kinds of things to
11 present to EPD for them to decide is it
12 geologically and hydrogeologically
13 acceptable. Does it have the right kind
14 of properties that they would even look
15 at it?

16 So we started looking at maps and
17 what we did is we pulled together the
18 surface water flow maps, and you can see
19 here (indicating) the dark blue, that's
20 the floodway of Black Creek, and then
21 there are two lines here (indicating),
22 intermediate blue and a light blue,
23 that's the hundred year and the 500-year
24 floodplain.

25 And there's been a lot of talk

1 about putting the landfill in the
2 floodplains or putting it in the
3 wetlands. The footprint of the
4 landfill, as you can see here, nowhere
5 encroaches upon a floodplain. It would
6 be illegal for us to encroach upon that
7 floodplain and take away from the flood
8 storage capacity of that floodplain. We
9 cannot do it. That's one thing.

10 The second thing is you cannot put
11 a landfill in a place where flood waters
12 are going to potentially expose that
13 waste and discharge it. Just
14 unallowable.

15 So in looking at this site, we
16 looked at it and said we got a very big
17 property here, but we really only have a
18 certain amount of useable space.
19 There's a lot of area that's just not
20 useable for a landfill. It's very good
21 for other things. It's a great wetlands
22 area, it's a floodplain and so forth.

23 And then we looked at what's going
24 on around the site and we saw that there
25 is some floodplain issues north of the

1 site. Well, that's kind of interesting
2 because they don't exist coming from the
3 federal flood maps, they don't exist on
4 the site, and that's because I-16 was
5 built and cut these off. The water was
6 then put through culverts onto the
7 property and channelized on the property
8 which changed the hydrology, the surface
9 hydrology of the site.

10 That water then was -- it traversed
11 the site. There was a series of ditches
12 which changed the hydrology, surface
13 water hydrology entirely. And Mike
14 Demell will talk about that, how it
15 relates to wetlands, because prior to
16 that activity, which was more than
17 20 years ago, there was probably more
18 wetlands on the site.

19 But if you drain the water and you
20 put it in a ditch and it doesn't spread
21 out over a large area, it doesn't exist
22 after 20 years. That's just the way it
23 is. So this whole site, the majority
24 became upland areas, there are just some
25 ditches that carry the water across.

1 The interesting thing about -- a
2 lot of people are concerned about the
3 water quality going into the wetlands in
4 the Black Creek. The worst thing that
5 can happen is channelized flow, because
6 what it does, when we took that water
7 from this dispersed flow and years ago
8 it was put into the channels, it creates
9 high velocity, high volume through one
10 channel. It transports a lot of
11 sediment into the wetlands into the
12 river and it also transports any
13 contaminants, from agriculture, from
14 fertilizing, just natural things that we
15 every day do on all kinds of properties
16 around here, but it transports that to
17 the wetlands and to the river.

18 What our proposal is, we have an
19 opportunity in developing this site to
20 revert a lot of that -- the existing
21 hydrology, surface water hydrology back
22 to represent much more the historical
23 setting, where there was dispersed flow
24 into this floodplain and the wetlands
25 area here.

1 What we're going to do is we're
2 going to capture this water and take it
3 around. We got a series of ponds, and
4 between those ponds we have an
5 infiltration swale, so that water will
6 be captured and then be allowed to
7 disperse throughout the wetlands area by
8 infiltrating it to groundwater, being
9 treated through the soils, and then
10 discharged into the wetlands not
11 creating this channelized flow which
12 causes most damage to the surface water.

13 So that's one of the benefits of
14 what our proposal is, and some of that
15 came from input that we got from
16 regulatory entities saying these are
17 some good ideas we'd like to see and we
18 combined a lot of those things. So this
19 is what the surface water hydrogeology
20 is.

21 When we looked at groundwater, now,
22 typically groundwater mirrors the
23 surface water flow pattern or the
24 topography. And when I went out to the
25 site, first time I said, well,

1 groundwater discharge is to Black Creek,
2 it's just the way it is. It discharges
3 to the nearest creek.

4 But the Walls were concerned
5 because they had a lot of people saying
6 we're worried about our well, which we
7 knew were all upgradient, all the wells
8 were here (indicating). And you can see
9 the well locations here, the triangles,
10 they're located in the triangles.

11 Well, they had me go out there and
12 put in a series of wells. We went out
13 there and put in borings to see what the
14 geology was, but decided to turn them
15 into wells so that we could collect data
16 from them. And we collected water level
17 data and drew a potential metric map and
18 you can see here, the arrows, showing,
19 based upon that data and the
20 hydrogeologic interpretation, the
21 groundwater flows towards the river.
22 That confirmed with hard data that all
23 of these wells are hydrologically
24 upgradient.

25 The concern has been historically

1 that we don't want to -- we're worried
2 about these wells, we don't want
3 contaminants to come from the landfill
4 to those wells, but water doesn't flow
5 uphill. And what we see is in the EPD
6 rules, because the well had protection,
7 they developed a 500 foot radius to
8 protect large diameter water supply
9 wells, because that's an area that if
10 there are any contaminants outside that
11 area, will be not drawn into wells that
12 yield 100,000 gallons per day. Large
13 municipal wells.

14 Private wells draw so little water
15 on a daily basis that their area of
16 influence that they draw water from is
17 much, much smaller. And also we know
18 hydrologically that when you have a
19 point discharge of water, whether it's
20 in a stream or in groundwater, most of
21 the water comes from the upgradient
22 direction.

23 Just think about a river. If you
24 put a pump in a river, you don't pump
25 water from -- back from down river, you

1 capture the water that is flowing with
2 the natural flow direction. So these
3 wells would capture water, as you can
4 see from the triangle, from this area
5 upgradient, and only pull in a little
6 water from the downgradient immediate
7 area based on their pumping rates.

8 So we felt that the 500-foot
9 distance is very, very conservative, and
10 then we saw the county ordinance that
11 said 1,000 feet, and we said that's way
12 beyond what's even required for
13 protection of municipal wells. But the
14 Walls, we've talked about it and said,
15 you know, if that's something that makes
16 people feel more comfortable, regardless
17 of what the technical data tells us,
18 that's something we have to consider
19 because that's a -- people worry about
20 their wells. And it's an issue that we
21 just have to look at and say, well, if
22 it makes people feel more comfortable,
23 then that's something we might have to
24 address.

25 That's basically why the

1 hydrogeologic conditions of both surface
2 water and groundwater, which as Steve
3 talked a little bit about, created an
4 ideal setting hydrologically for this
5 site, as well as the buffer-wise,
6 because we have no downgradient wells.
7 That's the worst scenario when you have
8 wells downgradient of any source,
9 whether it's a gas station or a dry
10 cleaners or anything like that. The
11 contamination problems occur when the
12 wells are downgradient. Here we have
13 this ideal scenario.

14 The other part of my expertise is
15 the groundwater and surface water
16 chemistry. And this is something people
17 don't like to hear, but it's been
18 acknowledged by EPA and all the
19 regulatory people and all of the
20 scientists who study this, wetlands are
21 the ideal treatment mechanism for low
22 levels of contaminants and that's what
23 we see coming out of old unlined
24 landfills, a few parts per million.
25 That means like 10 or 100 molecules of a

1 contaminant in a billion molecules of
2 water. Very low levels. Not like a gas
3 station where you get a puddle of
4 gasoline. Those kind of plumes tend to
5 migrate much more readily because they
6 don't dissipate. Low levels like this,
7 the micro-organisms in the soil and in
8 the wetlands, think of it as Godiva
9 chocolate, they love it. It's an
10 organic source for them and it's not
11 toxic to them at those low levels and
12 they eat it up.

13 It's been recognized that wetlands
14 do that. That's not to say that our
15 intention is to use that wetland as a
16 remediation strategy, but the reality of
17 the technology is that those wetlands
18 provide the ideal downstream buffer that
19 even if a few parts per billion were
20 ever to get out, and this is a lined
21 landfill, there is no evidence that
22 anything has gotten out of the modern
23 lined landfills, it would be mitigated
24 within 100, 200 feet from the landfill
25 because the micro-organisms will eat up

1 those few parts per billion.

2 So that's basically a brief
3 summation of the surface water and
4 groundwater hydrology at the site. Now
5 turn it over to Mike Demell, who is
6 going to go from here and talk more
7 about the wetlands issues.

8 THE CHAIRMAN: Mike, before you,
9 let me address the audience a minute.
10 Some of you came in late. Atlantic
11 Waste is being given 45 minutes to
12 discuss their landfill. This is not --
13 later on we'll have the hearing about
14 the text amendment, and then we will
15 hear from Atlantic Waste about that, and
16 then we will hear from those who oppose
17 it, represented by Mr. Stack and Mike
18 Baxley.

19 Now, if you in the audience have a
20 question, you need to see Mike and
21 Mr. Stack and make sure they take care
22 of your question, because they're going
23 to get 45 minutes in the December
24 meeting to talk about the objections to
25 it.

1 So we want to make sure we hear
2 everything, but we just don't want to
3 take the same question over and over
4 again because these two gentlemen will
5 take your questions and put it in their
6 material and bring it to us in December,
7 okay? Everybody, okay? Thank you.

8 MR. DEMELL: Very good, we'll carry
9 on. Again, my name is Mike Demell. I
10 am the Vice-President and Operations
11 Manager of a firm called Environmental
12 Services. I started in 1987 and have
13 been consulting for 24 years effectively
14 here in this area since 1992. I opened
15 an office in Savannah in '92, so I've
16 been working from about Charleston to
17 Jacksonville for -- since '92.

18 My job as an environmental
19 consultant is to deal with landowners
20 and be the interpreter, or the middle
21 man between a landowner and all the
22 regulatory agencies. And that's Corp,
23 Fish and Wildlife, EPA, the whole group
24 of regulatory agencies.

25 In doing that job, my first

1 objective is to take a concept plan and
2 understand whether or not there are
3 fatal flaws with that concept plan based
4 upon a given piece of property. So
5 early on in the project, we look at it
6 and see if it's feasible by concept or
7 if it's infeasible by concept, similar
8 to what these two gentlemen talked about
9 earlier.

10 In the record you have seen that
11 there is some discussion about pristine
12 wetlands on this project and pristine
13 wetlands being impacted by this project.
14 And in your zoning ordinance, or in your
15 ordinance, excuse me, there is the
16 preclusion of waste districts or waste
17 management districts in wetlands.

18 And the fact of the matter is, I as
19 one consultant in the southeast, deal
20 with 80 to 100 brand new projects per
21 year and I've been doing it for
22 24 years. So there is a true need to
23 impact wetlands when necessary to
24 accommodate a project. There is a need.

25 In fact, Bryan County, I've done

1 more than 30 projects in my tenure in
2 Bryan County alone. So the fact of the
3 matter is, the regulations are set up,
4 there's wetlands in Coastal Georgia and
5 sometimes you need to fill a wetland.

6 So the key comes in to meeting the
7 regulations to accommodate what your
8 goal is. So the practicality of
9 excluding any waste management areas in
10 a wetland in Bryan County is impractical
11 by -- just simply by design. So where
12 it will come down to, the regulatory
13 side, where should a project go on this
14 particular property, just like I would
15 evaluate that on anybody else's
16 property.

17 Several of you probably work -- or
18 live in subdivisions that I worked on
19 when they were pine plantations and now
20 it is a subdivision, or you shop at a
21 mall or you go to wherever, based upon
22 previous permitting that allowed that
23 project to persist.

24 For the last three years, the Corp
25 of Engineers has issued almost

1 1400 acres of wetland fill in the State
2 of Georgia alone. Out of that
3 1400 acres -- that's statewide now,
4 about 1400 acres, they've mitigated
5 about three times that. So the volume
6 of mitigation is roughly a three-fold
7 multiplier, which is not really what I'm
8 going to get into.

9 So as it relates to this particular
10 project, as I said earlier, there is a
11 perception that there is pristine
12 wetlands on the site. The boundaries of
13 the site are shown in blue, and
14 relatively speaking, the approximate
15 wetland locations are shown in red. As
16 we've seen on other exhibits, the
17 landfill cells are generally located in
18 this area (indicating) and it's not
19 located in the Black Creek drainageway.
20 Generally speaking, the highest, best
21 value wetlands on this particular piece
22 of property is the Black Creek
23 drainageway, not the wetlands that are
24 interiorly located.

25 So a couple things on this exhibit

1 I'll bring your attention to, is the
2 shading in purple, and then these three
3 cross sectional details, and then the
4 black lines that bisect this site. The
5 black lines represent ditches, okay?
6 Timber activities in the southeast deals
7 with surface ditches so you can manage
8 your property. That's common, everybody
9 seen them, they're all over the place.

10 Well the effect of ditches on
11 wetlands is sometimes they drain
12 wetlands. Sometimes they take the water
13 off of the land for a period of time,
14 which has an effect on a regulatory
15 prospective of what a wetland actually
16 is. So wetlands, your one-on-one
17 wetland class, you need three things,
18 you need plants, you need soils and you
19 need hydrology.

20 The rest of this discussion we'll
21 talk about the lack of or apparent lack
22 of hydrology and demonstrate there's an
23 impairment on these portions of the
24 wetlands (indicating), not on the Black
25 Creek, but these portions of the

1 wetlands which happen to be within the
2 footprint of the project.

3 Well, I'm going to go back one more
4 here. Again, on this, the cross
5 sections show three areas that we went
6 out and we topoed, we surveyed a cross
7 sectional line across this land in three
8 different spots, so the next exhibit
9 here is just that. It's cross section
10 number one, which is the southernmost.
11 I'll draw your attention to the top
12 line, which is the relative surface
13 elevation out there. Relative surface
14 elevation.

15 You come up out of the uplands, you
16 come down into this ditch, you come back
17 into this depressional area which used
18 to be a wetland area and come back up
19 the other side, okay?

20 I'll also bring your attention to
21 the soil types across the bottom. We
22 got three different soil types. Like I
23 said earlier, you need soils to make a
24 wetland. Well, Riceboro is known to be
25 a hydric soil and it can be a wetland.

1 I'll also bring your attention to
2 this red line, which is a -- it's a
3 12-inch takeoff of the relative surface
4 which is that surface of soil just below
5 the surface of the ground that the Corp
6 looks at. If you don't have water in
7 that soil, that 12 inches of soil for a
8 certain part of the growing season, you
9 don't have a wetland. That's the
10 regulations.

11 So you compare this relative
12 surface with that soil layer, you got
13 hydric soil, you got non-hydric soils to
14 the side, and then you look at the
15 ditch. The dimensions of the ditch,
16 based upon USDA information, have a
17 lateral effect, okay? They drain
18 laterally through certain soils.

19 These on the surface are sandy
20 soils, meaning they drain well on the
21 surface. Bob says there's a clay layer
22 below. I'm not talking about a clay
23 layer, I'm talking about the surface
24 layer, that top 12 inches that the Corp
25 of Engineers is concerned about.

1 So if you look at this, the bottom
2 of that ditch, compared to the bottom of
3 that 12-inch surface, you cannot hold
4 enough water in that wetland area, which
5 is defined roughly by these two orange
6 lines, you can't hold enough water in
7 there for it to be a pristine wetland.
8 No way. Absolutely no way.

9 You may not hold enough water in
10 there for it to be concerned a wetland.
11 So, I say may, because, as these
12 gentlemen have already said, we don't
13 have all the tools yet, but because of
14 this meeting and because of what has
15 been said in the past, pristine wetlands
16 are not being proposed to be impacted on
17 here.

18 The last couple slides are just
19 additional details of the other two
20 cross sections, which show exactly the
21 same information. Cross section two
22 I'll blow-up as 2A. You see the
23 relative surface, another ditch, this
24 depression where we got hydric soils and
25 probably an old wetland, okay? Again

1 the separation from here to the bottom
2 there (indicating) is greater than
3 12 inches.

4 The next cross section B, again,
5 same but a larger ditch section going
6 through there. It's an impaired
7 wetland. The hydrology is probably
8 lacking on this site, on this portion of
9 the site.

10 And then the third cross section is
11 just that, it's a cross section that
12 shows yet another ditch in this
13 depression taking water off the site.

14 So for the record, we got impaired
15 wetlands on the site. We may not
16 technically meet the definition of a
17 wetland on these portions of the site.
18 And it's my job to site a project,
19 again, be it a subdivision, a mall a gas
20 station or a landfill, the best place on
21 the site. And the best place on this
22 particular site, as we've demonstrated,
23 is not in Black Creek that's being
24 proposed to be preserved, it's instead
25 up on this hill.

1 So that's all I got to say.
2 Appreciate your time.

3 MR. BEN WALL: My name is Ben Wall.
4 I guess I'm the developer of this
5 project and I want to talk about the
6 benefits this project will have to all
7 of y'all in Bryan County.

8 Bryan County is due to receive host
9 fees of this facility \$500,000 a year.
10 That can go to their general fund. Over
11 the life of that facility, that's
12 approximately \$55 million. The
13 potential uses for the county, they can
14 use them for emergency personnel and
15 equipment, schools, tax relief, parks
16 and recreation, roads. It can go to the
17 development authority to attract new
18 business.

19 There will be disposal savings.
20 Bryan County currently, its citizens and
21 business pay Wayne County approximately
22 \$100,000 a year in host fees to Bryan
23 County from their contract with Republic
24 and some of the businesses that Republic
25 hauls to, or hauls for.

1 So the cost to haul waste 80 miles
2 one way, or 160 miles total, is \$12 a
3 ton. The county produces nearly
4 160 tons a day. The county and its
5 citizens and businesses can expect to
6 see savings easily of over \$450,000 a
7 year, or \$30 million over the life of
8 this facility.

9 We plan to make a large investment
10 in this county between the liners, the
11 roads, equipment, buildings, scales,
12 landscaping, they estimate to be worth
13 \$7.5 million. We're going to create 50
14 new construction jobs by this project.
15 There will be residual construction
16 projects every three to four years worth
17 about \$2 million.

18 The total investment of this
19 project over the life of it is
20 \$250 million. The facility will result,
21 because of this initial investment and
22 property taxes worth \$70,000 a year.
23 The county can use what they feel.

24 So the estimated operation, we feel
25 we can operate this facility at about

1 \$2 million a year, with an annual
2 operating expenses and payroll budget.
3 There will be a preference to Bryan
4 County merchants and suppliers. There
5 will be a \$750,000 annual payroll with
6 about eight to fourteen high paying jobs
7 with preference to Bryan County
8 citizens. I'm going to try to do my
9 best to use everything I can in Bryan
10 County.

11 And let me say something, the
12 studies show that a local dollar will
13 generate and turn seven times with
14 leakage and everything. Once you
15 multiply that out, that's about \$3.5
16 million a year that Bryan County's
17 businesses and citizens will receive.
18 That equates to a sales tax revenue of
19 around \$75,000 a year that you can use
20 for your SPLOST I know y'all recently
21 passed, that can now go to SPLOST.

22 So when you put that all together,
23 and you look at everything together,
24 you're looking at about a \$1.2 million
25 annual increase to Bryan County, and

1 over the life of this facility you're
2 talking about \$100 million.

3 So this facility will have future
4 development benefits that it will
5 produce green energy production from
6 methane that is produced by a landfill,
7 and that methane gas can be used to
8 power homes, businesses, from the
9 disposal facility as it matures.

10 And some of the examples of this
11 are the BMW facility in Greenville,
12 South Carolina. They pump gas six miles
13 to power that entire BMW plant. You
14 have a development, industrial
15 development less than a mile from this
16 site and it could use to power that
17 entire park.

18 This will be an infrastructure
19 upgrade that will allow Bryan County to
20 attract more industrial developments
21 with high waste output volumes or
22 industries pursuing green energy to use
23 that park, industrial park.

24 Some of the local issues I want to
25 address that have been stated earlier is

1 the roads. People are worried about the
2 roads. Atlantic Waste will pay for the
3 upgrade, the initial upgrade of Olive
4 Branch Road to any reasonable
5 specification deemed fit by the county
6 engineer. We will also be -- and this
7 is in light of the King Finishing thing,
8 we felt like we needed to have a
9 concerned citizens committee, which will
10 be allowed to monitor the construction,
11 operation, testing and data collection,
12 with semi annual visits to voice any
13 concerns that they have with the
14 facility. That was not something that
15 King Finishing had given to any of y'all
16 and I want to try to do that.

17 There will be a website that will
18 be created to publish all this testing
19 data.

20 Other concerns are property values.
21 Everybody is concerned that their
22 property values are going to go down.
23 We don't think it's going to happen, and
24 what we're going to do to ensure that is
25 that there will be a property value

1 assurance program. The program will be
2 available to residential property owners
3 within a half a mile of the landfill
4 footprint for property owners along the
5 one half -- a half a mile from the
6 entrance of the facility along Olive
7 Branch Road.

8 An example of this is that if you
9 have a \$150,000 house, and after
10 12 months it's been listed on the market
11 and it cannot be sold, and then it's
12 later sold for 135, Atlantic Waste will
13 end up paying the \$15,000 so the
14 property owner can recoup the appraised
15 value for that.

16 All right, there will be land
17 donations. We will take 600 acres, put
18 it into a permanent conservation
19 easement along Black Creek to protect
20 Black Creek and its floodplain. We will
21 be willing to donate and set aside five
22 acres to Olive Branch Church for their
23 expansion if they need a cemetery or
24 other buildings as they grow. We're
25 also willing to help pave the parking

1 lot while we're constructing the
2 entrance into the facility.

3 Some other benefits we're willing
4 to do is a \$5,000 a year annual donation
5 to the Hendrix Park Recreation
6 Association. They can use that for
7 football helmets, pitching machines,
8 uniforms. We'll give two \$1,000
9 scholarships to a graduating student in
10 Bryan County majoring in business
11 marketing logistics, environmental
12 engineering, geology or chemistry.

13 There will be annual deer hunting
14 and fishing days on the property for
15 citizens. And there can be free field
16 trips for Bryan County schools for
17 environmental education.

18 And ultimately when this facility
19 is done, there will be 900 acres that
20 will be -- to go into a park for Bryan
21 County. There can be a 119 acre lake
22 with a beach. You can have swimming
23 platforms, docks, an amphitheater,
24 playgrounds, ball fields, anything that
25 you choose.

1 Here's some other landfills that
2 are around. You know, residential,
3 people are concerned about residential
4 property. This is one in Savannah.
5 This is the Superior site. This is one
6 in Augusta. You've got one in Atlanta.
7 You've got one in Charlotte.

8 Here's another one, this is South
9 Bridge. I mean, everybody knows -- or
10 most people know that South Bridge is a
11 nice neighbored. It's right next to a
12 landfill. I mean, within 200 feet.

13 You have another one in Atlanta.
14 Here's another one in Savannah. This is
15 the Republic facility and there's plenty
16 of development going along that. Here's
17 another one in Florida. And, I mean,
18 goodness gracious, you couldn't tell the
19 difference between a landfill and a
20 building top. And here's another one in
21 Georgia.

22 If you have any questions you can
23 visit AtlanticWasteDisposal.com. And
24 I've also got a quick video.

25 THE CHAIRMAN: Can we go to

1 questions? One of the commissioners has
2 a question. Is that video on the
3 website?

4 MR. BEN WALL: No, but we can get
5 it published and we can put it on
6 U-tube. Have y'all had a chance -- have
7 any of the commissioners, have y'all had
8 a chance to see it?

9 THE CHAIRMAN: I think most of us.
10 Any questions? Okay.

11 MR. WILLARD: I have a question.
12 During your presentation, you stated
13 concerns about health, welfare and
14 safety of the county, but yet you want
15 to use the minimum standards by the
16 state for a landfill construction. Why
17 not have a double line with the lead
18 detective system in it? Why don't we
19 have -- you know, instead of using just
20 bear minimum standards?

21 MR. BEN WALL: I'm going to refer
22 that question to Steve.

23 MR. HARBIN: Let me do my best to
24 answer that. The way the thing will be
25 designed, again, we won't know until EPD

1 says we can actually have a landfill out
2 there and they give a site suitability
3 letter, they will give us conditions
4 that we have to use and absolutely be
5 designed by. Any time we can add an
6 extra level of safety to it, and AWS
7 agrees to that, we will do that. We've
8 actually talked about some things that
9 we can do on-site, including increasing
10 the thickness of the line, looking at
11 those kind of things.

12 Also, we were planning -- right now
13 the plan is the maximum side slope that
14 EPD will allow on the site is three
15 horizontal and one vertical. We've said
16 that we would prefer to have four
17 horizontal to one vertical because it's
18 more stable and you won't have to worry
19 about it in drainage situations and
20 everything when the site is finished.

21 So we are not just designing to the
22 minimum standards, but we are looking at
23 those as the threshold, and then
24 wherever we think we can add things, we
25 will do that. And those are a couple of

1 things that we've mentioned. Again,
2 we're at the very front end of the
3 design process and typically we do not
4 entertain those kinds of questions until
5 we know exactly what we have that we're
6 dealing with.

7 And we have some natural things
8 that we mentioned too that actually
9 enhance this site above and beyond what
10 is required on the minimum standards,
11 having a clay layer there, having the
12 wetlands, having additional buffers.
13 Going 1,000 feet instead of 500 feet,
14 we've already doubled that thing, so we
15 are looking at those. We are cognizant
16 of that and we are willing to look at
17 those kinds of things.

18 MR. WILLARD: That thousand foot is
19 from the edge of the landfill, not the
20 edge of the property; is that right?

21 MR. HARBIN: That is correct.

22 MR. WILLARD: That's what you have
23 changed.

24 MR. HARBIN: Yes, sir, that is
25 correct. Yes, sir.

1 MR. WILLARD: And then the other
2 thing I had, is there any law which
3 states that a county can't have higher
4 standards than the state on landfills?

5 MR. HARBIN: You can have a higher
6 standard. There is -- you can set
7 higher standards. I do know of one
8 instance, and one of the most recently
9 permitted private landfills in
10 Meriwether County, they went with an
11 ultra higher standard, and the court
12 system, I believe, upheld that they
13 couldn't go that stringent.

14 MR. YELEN: Can I answer that
15 question? You can have stricter
16 standards, but you cannot have
17 (inaudible). There are some limitations
18 to that. You can have stricter
19 standards, but you cannot have is a
20 statute or ordinance that makes it
21 impossible to be eligible. In my
22 opinion, that's what you have. You have
23 an ordinance that says you can have a
24 landfill, but if you try and find a
25 place and follow everything in the

1 ordinance, there's no place to put it.

2 (Applause from audience.)

3 MR. WILLARD: On the tonnage, you
4 got 160 tons a day. Is that a predicted
5 tonnage or is that --

6 MR. BEN WALL: That was a number
7 that came from your solid waste
8 management plan.

9 UNIDENTIFIED PERSON: That's high
10 county-wide. Currently we're only
11 turning about 700 tons a month. But
12 that's the unincorporated. That's
13 unincorporated.

14 MR. BEN WALL: Where that came from
15 is all the county and all the trash that
16 is produced by the county, cities and
17 counties and businesses.

18 MR. STACK: And those are
19 projected.

20 THE CHAIRMAN: Any other questions
21 here?

22 UNIDENTIFIED CITIZEN: Four
23 counties in addition to this one will
24 use it; is that correct?

25 THE CHAIRMAN: No other questions?

1 MR. KENDRICK: I had one other
2 about the dollar tipping fee. I know
3 Meriwether County charges 2.75.

4 (Inaudible) dollar is a very state
5 minimum requirement. It's, again, why
6 should we have very state minimum
7 standards in the county.

8 MR. HARBIN: Let me explain that.
9 I believe you're correct, state law
10 requires, they actually require, you're
11 required by state law to collect that
12 from Atlantic Waste, but it can be set
13 at anything you want. As a matter of
14 fact, that host fee is a minimum of \$1
15 required by the state. Anything above
16 that is something that's negotiated
17 between the local governing authority,
18 which would be the county, and Atlantic
19 Waste Services. So if y'all -- when
20 y'all sit down at the table and
21 negotiate the host fee, that's when you
22 say, okay, we want this, we will give
23 that, and it's a negotiation to reach
24 that negotiated host fee.

25 MR. KENDRICK: Meriwether County is

1 2.75.

2 MR. HARBIN: I'm not sure the
3 numbers on that one. My own firm worked
4 on that project, but I wasn't privy to
5 the information on it and that was over
6 five years ago and they were still
7 working on the front end of it. But
8 yeah, there are other -- you can look at
9 other public private sites or private
10 sites around the state and they have
11 different numbers for their host fees.
12 And different benefits too. They work
13 out some other benefits as well, it's
14 just a direct host. Yes, sir.

15 MR. BURKE WALL: Let me just say
16 this if I could. In our projections,
17 the revenue that the county receives
18 through the host fee, those projections
19 have increased in the host fees as time
20 goes on.

21 One of the things that we felt like
22 when we first started talking about the
23 dollar, if you get your host fee and
24 that sort of thing (inaudible) to
25 competitive market, then it can possibly

1 hold that tonnage for awhile, and by
2 doing that the county will receive zero.
3 But it does have -- that \$500,000 a year
4 that we project the county receives in
5 host fees is after eight years and it's
6 escalated upgrade.

7 MR. WILLARD: Right, but that
8 \$500,000 host fee, and in the book, it
9 said this can be used for us to maintain
10 that road that y'all are going
11 (inaudible), but in your presentation we
12 can use that for recreation or whatever
13 we deem fit.

14 MR. BURKE WALL: You can do
15 whatever you want with it.

16 MR. WILLARD: But it also has to be
17 used to maintain that road. So you're
18 going to do the initial road --

19 (Outburst from audience.)

20 MR. BEN WALL: The county has a
21 budget of around \$1.8 million a year to
22 maintain roughly 250 miles of county
23 roads. That equates to right at about
24 \$7,000 per mile. We're projecting it to
25 be about a mile and-a-quarter, and we

1 feel that the 500,000 should be able to
2 cover that -- you know, that small
3 distance that the county --

4 MR. KENDRICK: That's fine.

5 MR. BEN WALL: But there are
6 escalations in what -- we projected a
7 dollar to start out with, and then after
8 maybe about year five, 1.25, and then
9 after maybe year eight 1.50, and that's
10 where we're at. It's about an
11 eight-year projection. And that's
12 negotiable.

13 THE CHAIRMAN: I think that
14 clarifies some things. Anybody else got
15 a question here?

16 MR. KENDRICK: About the road, I
17 thought one time about y'all were going
18 to fix the road and not charge the
19 county for that.

20 MR. BURKE WALL: Let me clarify
21 that. What we said we would do was
22 this, is that -- the county
23 administrator told us that the road
24 would need to be upgraded in order to
25 handle the weight of the trucks. We

1 have agreed to pay for the upgrade of
2 the portion of the road that we're going
3 to use. We're planning on coming in
4 from Highway 80 and so there's about
5 1.4 miles of road that we will have to
6 pay to get upgraded. We're estimating
7 that's going to be somewhere in the
8 neighborhood of \$750,000.

9 So to answer your question, yes, we
10 will pay to upgrade the road.

11 MR. BEN WALL: And it will not be
12 taken out of host fees or anything for
13 the county. The road will be upgraded
14 solely on our back, it will not be at
15 any point to where the county will have
16 to pay for this road to be upgraded.

17 (Outburst from audience.)

18 THE CHAIRMAN: We've got just a
19 couple of minutes and we're going to
20 need to start the public hearing. We
21 need to start and stay on time, so if we
22 could just -- got about a minute to go
23 now, so we want to start on time.

24 MR. BURKE WALL: I'd just like to
25 say again to you, Mr. Chairman and the

1 Board of Commissioners, we certainly
2 appreciate you giving us -- and also the
3 county administrator, we certainly
4 appreciate you giving us the time
5 tonight to present this program. And
6 hopefully we've cleared up a few
7 answers -- a few questions that you
8 people may have in the audience. If we
9 haven't, please give us a call. Thank
10 you.

11 THE CHAIRMAN: All right. I need a
12 motion to adjourn the meeting? Do we've
13 second?

14 MR. KENDRICK: I second it.

15 THE CHAIRMAN: All in favor say
16 aye.

17 (Response was aye en masse.)

18 THE CHAIRMAN: All right. Now I'll
19 call to order the public hearing on the
20 text amendment that is before us, and
21 Kirk, you going to handle that?

22 MR. CROASMAN: Thank you,
23 Mr. Chairman. We're here tonight to
24 here an application for a text
25 amendment, Text TA-132-11 by Atlantic

1 Waste Services, submitted on June 6,
2 2011. The application was presented at
3 a public meeting that was held on
4 November 3rd by the Planning Commission.

5 There were four proposed text
6 amendments that were put on the screen,
7 and I guess we'll need some
8 clarification as to what are the changes
9 because I'm going to be reading off from
10 the amended application that went before
11 the Planning Commission on the 3rd.

12 First question of change would be
13 from Chapter 12, Section 1116A,
14 permanent uses, add "disposal" following
15 "solid waste processing".

16 Number two would be Section
17 1116B(6) under area regulations. Revise
18 the sentence after the semicolon to read
19 as follows: However, the waste disposal
20 boundary is defined by rules of Georgia
21 Department of Natural Resources,
22 Environmental Protection Division
23 Chapter 391-4-3-4.071B, "shall be
24 located no closer than 500 feet of a
25 residence or a residential domestic

1 water supply or well".

2 Item three, Section 1116B(8) under
3 area regulations, remove the sentence
4 "always management districts must have
5 primary access via a state or federal
6 highway" and replace with the following:
7 "The applicant must show on its site
8 plan the location and condition of
9 abutting roads and proposed
10 improvements, and the location of
11 on-site roads to serve areas of activity
12 and points of ingress and egress to the
13 site".

14 The last one is under Section
15 1116B(9) area regulations, in the first
16 sentence replace "districts with
17 facilities" and add the following to the
18 end of the sentence: "Unless the use of
19 such wetlands can be permitted or
20 otherwise authorized under all other
21 applicable state and federal laws and
22 rules".

23 And remove the second sentence
24 which reads "all applications for a
25 Waste Management District must be

1 accompanied by a wetlands delineation of
2 the site and must demonstrate that all
3 processing, storage or disposal of waste
4 products will be outside of wetland
5 areas".

6 Mr. Chairman, that's what we had at
7 the meeting, are the revisions to those,
8 and I don't know what the procedure
9 would be if those are now changing.
10 From what I heard, you're going to have
11 three and not those four?

12 THE CHAIRMAN: I think we will take
13 those up at the second meeting, but what
14 was the staff's recommendation of the
15 Planning & Zoning committee.

16 MR. CROASMAN: Based on review of
17 this new documentation, staff
18 recommended denial of the proposed text
19 amendments based on review of the
20 submitted documentation. And
21 recommendation of staff for denial, the
22 Planning Commission unanimously
23 recommended denial of the proposed text
24 amendments as presented.

25 (Applause from audience.)

1 MR. CROASMAN: Based on review of
2 the additional information submitted by
3 the applicant, in conjunction with staff
4 comments from the November 3rd meeting,
5 staff maintains its position and
6 recommends denial of the proposed text
7 amendments due to the following: One,
8 it is clear that a previous board of
9 commissioners carefully contemplated the
10 possible detrimental effects that a
11 waste management district could have in
12 the county as the ordinance specifically
13 states, due to the special nature of
14 waste and the potential health and
15 environmental risks involved, this
16 district will only be designated on a
17 zoning map in response to a specific
18 zoning request by an applicant.

19 Two, as part of this special
20 consideration process, the Commission
21 also provided for certain conditions
22 that needed to be met in order to better
23 protect the health, safety and welfare
24 of the residents, as well as the overall
25 character and well-being of the county.

1 As long as these conditions do not
2 conflict with minimum state and federal
3 standards, the commission has the right
4 to impose stricter zoning setbacks and
5 buffer requirements related to well head
6 protection and proximity to residential
7 structures.

8 In addition, staff is of the
9 opinion that the commission also
10 carefully considered potential impacts
11 to the county roadway network with
12 regard to traffic loadings, levels of
13 service and inconvenience to the
14 residents when limiting any waste
15 management district to access by a state
16 or federal road which are typically much
17 better prepared to handle such impacts.

18 As we are of the opinion that the
19 applicant has failed to meet its
20 obligation providing staff with
21 sufficient evidence in order to support
22 the assertions that the proposed text
23 amendments are more beneficial to the
24 county and its residents than of the
25 ordinance currently in place, we do not

1 support the (inaudible) as presented.

2 (Applause from audience.)

3 THE CHAIRMAN: As we know, the
4 Planning and Zoning Commission is a
5 voluntary group that looks at all
6 planning and zoning issues and makes a
7 recommendation to the commissioners.
8 And how is the vote on that?

9 MR. CROASMAN: It was unanimous for
10 denial.

11 THE CHAIRMAN: Okay. All right,
12 now we will entertain comments from
13 Atlantic Waste and (inaudible).

14 MR. YELEN: Thank you,
15 Mr. Chairman. If we can talk text
16 amendment now, we are asking for three
17 changes to your text. The staff report
18 says four, let's see if we can do away
19 with one very quickly.

20 In your Section A, we added the
21 word "disposal" because we thought that
22 your ordinance was slightly ambiguous,
23 because if you look at the very first
24 sentence of your ordinance, it says "the
25 district is established to provide land

1 for waste treatment and disposal". It
2 says it right there, disposal. If you
3 look at Section B(6), it says
4 "verification of compliance Article II
5 shall be required before the landfill
6 becomes operational". I do not know how
7 you have disposal and you have a
8 landfill without allowing disposal
9 services in your district. So we added
10 the word "disposal" thinking that it was
11 a fairly harmless word and it made your
12 ordinance consistent.

13 If in fact y'all don't think
14 disposal goes there, we probably can
15 back up now because your ordinance will
16 simply say no, and you'll have this
17 internal inconsistency in your
18 ordinance. That was done simply to make
19 it consistent. So let's get past that
20 one.

21 There are, in fact, three items
22 that we've asked you to consider as part
23 of the text amendment. With your
24 permission, we'd like to take these up
25 one at a time and we can do these pretty

1 quickly.

2 Matter number one is the distance
3 between landfills and wells. As I think
4 you've heard tonight, landfills are
5 probably the most regulated service and
6 operation in the state. In order to
7 have a landfill you've got to go through
8 EPD. They evaluate soils, groundwater,
9 surface water. Literally they are
10 involved in every step of this process.
11 From siting at the very beginning to
12 permitting, design operation and then
13 closure. That's the group charged with
14 responsibility of just every detail.

15 I've included in the package that I
16 gave to you the EPA ordinance on
17 distance requirement. As was pointed
18 out, it is a lesser standard, it's
19 500 feet and y'all have 1,000 feet.
20 Interestingly, the state ordinance has a
21 funny little provision that says
22 500 feet, it can actually be reduced
23 less than 500 feet if a current owner of
24 a dwelling provides a written waiver.
25 So state is actually 500 and can be

1 reduced, Bryan County right now is 1,000
2 feet.

3 What makes us so unusual is that
4 the county ordinance has 1,000 feet from
5 the district, from the Waste Management
6 District to the water supply, or
7 residence, whether occupied or not. The
8 state 500 feet is from the waste
9 disposal boundary, which is the EPD term
10 of art, to the water supply and to a
11 dwelling if it's occupied.

12 What we're asking for now, we are
13 willing to increase, and we've put that
14 in our materials, we are willing to
15 increase the distance from 500 feet to
16 1,000 feet. But our request to this
17 board is that the county ordinance
18 mirror the way EPD measures as to where
19 to measure, how to measure. So the
20 1,000 feet that we are suggesting would
21 be from the waste disposal boundary to
22 the water supply.

23 Item number two, access to state or
24 federal highway. I have never seen an
25 ordinance like this before. As I told

1 Planning & Zoning, I reviewed about 30
2 waste management districts before
3 tonight. I have not read them all, we
4 have a lot of counties in Georgia, but I
5 can't find language that says you have
6 to have access to federal and you got to
7 have access to state.

8 I found some ordinances like
9 Chatham County that says you got to have
10 a site plan review and you got to show
11 your access. I found a bunch of them
12 like in Emanuel County that says you got
13 to have an acceleration and a
14 deceleration lane, and I found a bunch
15 like Evans county that said you can abut
16 a federal, state or county road, or a
17 service road to be construed in
18 accordance with county road
19 requirements.

20 I couldn't find one that said
21 mandatory obligation federal or state
22 highway. And, in fact, the three
23 largest landfills that I'm aware of to
24 Bryan County, you got Waste Management
25 on Little Neck Road, and that is not

1 federal or state. You got Republic,
2 which you folks do business with, on
3 Gulfstream Road. I don't believe
4 Gulfstream is federal or state. And
5 you've got Broadhurst in Wayne County on
6 Broadhurst Road West, also not a federal
7 or a state road.

8 If you look at your ordinance, you
9 do have an I1 and an IL district, those
10 are your most intensive zoning
11 districts. It's included in my package
12 as Exhibit 3. You have warehouses and
13 distribution centers and transportation
14 terminals and nowhere in your industrial
15 ordinance do you require access to a
16 federal or state highway. Recent
17 approvals like Belfast Center, no such
18 requirement that I'm aware of.

19 And so we've asked what exactly is
20 the basis for this restriction? Why is
21 this restriction only applicable to your
22 Waste Management District when it's not
23 applicable to other industrial districts
24 that may have more traffic at peak hours
25 than what we have?

1 Last comment on this requirement, a
2 road designated as federal or state does
3 not automatically make it a better road.
4 I've included in the materials Exhibit
5 No. 4, which is Appendix C to your
6 ordinance. In it it shows that Olive
7 Branch Road is an arterial road, but
8 Georgia 67 between 280 and Fort Stewart
9 is a collector, yet under your ordinance
10 we could put a landfill on Georgia 67,
11 which is just a collector.

12 So what we've asked for tonight is
13 that we simply have a text amendment
14 consistent with language that we have
15 found in other ordinances. We will
16 still be required to show you all of our
17 road improvements on the site plan.
18 We'll show you all improvements, all
19 points of ingress, egress, and we'll
20 make all improvements as Bryan County
21 deems appropriate.

22 Third item and final item is
23 wetlands. And your ordinance, as Mike
24 Demell mentioned earlier, says just like
25 your roads, you can't put anything on a

1 site that has wetlands. If there's a
2 postage stamp of a wetland, you can't
3 have a landfill, and you don't find that
4 language anywhere else. I can't find it
5 anywhere else in the ordinance that I've
6 reviewed. It's pretty clear that
7 wetlands do come in all shapes and
8 sizes. Within our footprint we know
9 that these degraded, they're not
10 pristine, they're impaired.

11 We're asking for similar language
12 that you can find in the state
13 regulation, and it's really quite
14 simple. It says no wetlands unless the
15 wetlands are permitted or authorized by
16 applicable federal or state law. And if
17 you look at what I've included as
18 Exhibit No. 5, it's the state language,
19 and I'll read it very briefly to you: A
20 solid waste handling facility shall not
21 be located in wetlands unless evidence
22 is provided that the use of such
23 wetlands has been permitted or otherwise
24 authorized under all other applicable
25 state and federal laws. That's the

1 exact statute that we've modeled our
2 text amendment after.

3 So a very quick summary, those are
4 the three provisions that we're asking
5 for a text amendment. Without some form
6 of text amendment, it is my opinion you
7 have an ordinance that says a landfill
8 is permissible in Bryan County, but
9 there's nowhere in Bryan County that we
10 can find eligible for a landfill. And
11 in fact --

12 (Applause from audience.)

13 MR. YELEN: And if that's what
14 y'all are saying, y'all should tell us.
15 If y'all are telling us that under your
16 statute that a proper business, a
17 business use, which is acknowledged all
18 over the state as being something that's
19 necessary, is a necessary
20 infrastructure, if that's what Bryan
21 County is saying that you don't want a
22 landfill anywhere in Bryan County, then
23 y'all should tell us.

24 (Applaud from audience.)

25 MR. YELEN: We have no issue, we

1 really do not. We don't have any issue
2 with an ordinance that contains
3 conditions or restrictions. Your
4 ordinance, and I've read it, I admit
5 that I do that for a living and it's not
6 a lot of fun, but I've read your
7 ordinance, the conditions themselves are
8 so restrictive that a landfill is
9 impossible. We don't mind conditions,
10 we don't mind restrictions, but your
11 ordinance makes it impossible.

12 We have done our very best to work
13 on the distance issue. We have doubled
14 the distance issue from 500 feet to
15 1,000 feet, using the boundary as the
16 criteria like the state does. But where
17 we have the really tough issue is on the
18 wetlands because you're telling us if
19 there is a wetland of any kind, you
20 can't do it. And that's a restriction
21 that hasn't been imposed on anybody
22 else, any other use, even industrial.
23 And when you say you can't have a
24 landfill unless it's on a federal or
25 state highway, that's another

1 restriction. You don't see that
2 anywhere in the ordinance except on
3 landfills.

4 So I will defer to the opposition,
5 who I know has comments to make. I
6 would like to close by telling you that
7 we are very much aware of what we do for
8 a living, we are in the landfill
9 business. That's what we do and we
10 provide that basic fundamental service
11 that everybody needs and nobody wants.
12 We know that.

13 And we also know that this is not a
14 popularity contest. Y'all should try
15 standing here for a moment and y'all
16 will know this is not a popularity
17 contest, but it is about your ordinance
18 and that's why we're here, the text
19 amendment.

20 Do you want to correct your text
21 amendment or not? You have three
22 options. You do have three options.
23 You can approve the text amendment
24 tonight, or in December, I should say.
25 You can deny the text amendment, or you

1 can remand this item back to Planning
2 and come up with something that also
3 makes sense and you can work with the
4 language itself.

5 The text amendment is the one that
6 we've proposed and there are
7 opportunities to work on this text, but
8 right now we believe that the ordinance
9 is ambiguous. We believe it is
10 unconstitutional. We believe it denies
11 the ability to operate a business in
12 your county.

13 Thank you very much for your time.

14 THE CHAIRMAN: All right, before
15 you sit down, Harold, any questions from
16 the commissioners?

17 MR. YELEN: Thank y'all very much.

18 THE CHAIRMAN: All right. Let me
19 reiterate again for those that came in
20 late, there will not be a vote on the
21 text amendment tonight. There is a
22 requirement in our ordinance for a
23 second meeting, which will be done at
24 the December meeting, December 13th, and
25 that will be in Richmond Hill. And at

1 that meeting, again, we will have a
2 second meeting. These gentlemen will
3 have an opportunity to address the
4 amendment again, as well as Mr. Stack
5 and Mike Baxley will have 45 minutes to
6 talk, so I just want to put that in
7 perspective for everybody.

8 MR. STACK: For the record, my name
9 is Don Stack and obviously it's
10 impossible to cover concerns of 200
11 people here in eight to ten minutes or
12 whatever. I think you probably have a
13 good idea both from their perspective
14 but also from observations made by
15 Atlantic Waste.

16 I think I want to commend them,
17 actually, for their strategy of having
18 you listen to 45 minutes of presentation
19 that is basically irrelevant to the
20 issues that you've got tonight. Because
21 what you're being asked to decide here
22 tonight and in December is validity of
23 the text amendments, but what they want
24 you to do is they want you to get
25 distracted and talk about the actual

1 merits of the proposal of the rezoning
2 itself and throw out these Christmas
3 gifts for everybody and say, well, we've
4 got something for everybody.

5 You looked at Mr. Wall's Christmas
6 list here, I can't think of anybody he
7 left off of that list except me. I
8 think I'm the only one he didn't offer
9 some sort of benefit to. And it's a
10 great strategy.

11 The other component of their
12 strategy is to tell you in so many
13 words, Mr. Yelen is saying you're going
14 to get sued. That's what he was telling
15 you, okay? You can't fall for that.
16 You've got to understand that just
17 because as he contends it's ambiguous,
18 does not make it unconstitutional.
19 You've got very learned counsel who will
20 tell you about what your rights and
21 obligations are in that regard, but I
22 would submit to you that your text, as
23 it is written out, clearly falls within
24 the constitutional parameters of what
25 you have the authority and the

1 obligation based upon your requirement
2 to protect the health, safety and
3 welfare of all the people, not just one
4 applicant. That's what you're being
5 asked to do.

6 (Applause from audience.)

7 MR. STACK: Mr. Yelen wants you to
8 sit there and say, well, that term of
9 disposal is a throwaway. I'm glad at
10 least to hear him tonight acknowledge
11 it, because at Planning and Zoning he
12 didn't even acknowledge that was a
13 change of the text amendments that you
14 guys were being asked to review.

15 And disposal is, in fact, key to
16 what you're being asked to do here.
17 You, in fact, as a county, spent a lot
18 of time looking through your solid waste
19 management plan, planning process,
20 comprehensive plan, and spent literally
21 thousands of man hours evaluating what
22 you could and couldn't do in this county
23 and what rationale relationship for that
24 was.

25 As your lawyer is going to tell

1 you, as long as you have a substantial
2 relationship between your goals that are
3 protecting all the citizens and actually
4 addressing the concerns that are being
5 raised, you're good to go. So do not
6 allow them this implicit threat that
7 they're going to be sued sway you in
8 making a determination and evaluating
9 the proposal as submitted.

10 The decision you're being asked to
11 make tonight and in December is a
12 hundred year decision. I don't know if
13 you realize that, but when he sat there
14 and told you there was \$500,000 a year
15 benefit to the county, we can -- I know
16 we're not supposed to address the merits
17 of that particular application, but
18 \$500,000 a year, and then he said
19 \$55 million for proposed -- you know,
20 generated for the county. That's a
21 hundred years.

22 So what they're asking you to do is
23 change the text amendment for them to
24 benefit them for a hundred years, but
25 tell you, oh, don't worry about it,

1 we're going to put a park in. Well,
2 that's beside the point. The text
3 amendment that you're being asked to
4 look at, the disposal, there is, in
5 fact, a provision in your ordinance that
6 talks about medical waste and disposal.
7 That's the component of why the county
8 had that.

9 Let's be real clear, a landfill
10 under your current ordinance is not a
11 permitted use, period. What is
12 permitted --

13 (Applause from audience.)

14 MR. STACK: -- is solid waste
15 handling, solid waste processing, solid
16 waste recycling. If they wanted to come
17 to you and say that's what we want to
18 do, that would be acceptable, and that
19 is, in fact, what you as a county made a
20 determination was an appropriate policy
21 for the county to use or to employ.

22 Looking at the conservation
23 standards to allow waste districts to be
24 sited on wetlands, the commissioner has
25 already addressed that when he said,

1 well, what about minimum standards,
2 okay? You've made a decision as a
3 county to not subsist or rely on minimum
4 standards. That's a very commendable,
5 smart, proactive decision that y'all
6 made ten years ago, continue to make it,
7 and should be continuing it in the
8 future here. That since when do we
9 aspire only to meet only the bear
10 minimum?

11 Everything they told you, say,
12 well, we can't tell you for sure because
13 we have to rely on site suitability, we
14 have to rely on the agency that allowed,
15 you know, Ogeechee River fish kill to
16 occur, we had to rely on an agency that
17 had its budget cut 44 percent since
18 2008, 87 percent since 2005. But that's
19 who they want you to believe is guarding
20 the chicken coop here. That's not what
21 you are being asked to do.

22 You have very clearly a rationale
23 relationship as to why you have this
24 restriction on roads and the access for
25 that. You've already addressed that, so

1 I'm not going to belabor that point
2 about who has the responsibility for it.

3 Again, you're being asked to make a
4 text amendment that will apply
5 throughout the county for one applicant.
6 Dangerous business to be getting into.
7 That's a bad precedence for you all to
8 be looking at and starting down that
9 road. No pun intended here, folks.

10 I think I've probably taken
11 probably enough time that I need to
12 take. I know Mr. Baxler and I know the
13 Reverend have other comments and I'm
14 sure there are other folks here, if we
15 have time, that would like to be heard
16 from. Thank you very much.

17 (Applause from audience.)

18 MR. BAXLER: Well, I don't know
19 about you but I'm kind of brain dead
20 from all of this. But I think one thing
21 we need to keep in mind is this is not a
22 decision that's going to affect people
23 for a year, this is a hundred year
24 decision. And the addition of the word
25 "disposal" is not a harmless little

1 amendment to the text of the ordinance
2 that exists today. This is profound.

3 This is a profound departure from
4 the existing ordinance with permanent
5 and negative impacts on health, safety
6 and well-being of the residents of Bryan
7 County.

8 Let me move to the district's
9 requirement because this is a slippery
10 slope. They're talking about moving
11 this distance requirement now and going
12 from the 500 they requested, back to the
13 thousand, but words are a miraculous
14 thing. Within that is a request that
15 says, oh, by the way, why don't you just
16 mirror what the state says? And
17 imbedded in the comments were that the
18 state can say, oh, if the property owner
19 agrees, you can go even closer than
20 500 feet. So you are eroding the
21 controls that you have today if you move
22 in that direction.

23 Contaminants, as Godiva chocolate?
24 Can you believe that word play, that
25 word combination? I think by that, by

1 establishing the hunting preserve over
2 there and the public lake with a beach,
3 they're trying to sell you that this
4 landfill is going to be a garden. It's
5 not. It is going to be a landfill, and
6 with that I will turn it over for
7 closing comments from the Reverend of
8 Olive Branch Church.

9 REVEREND: Y'all, my primary
10 preparation for coming here tonight has
11 just been prayer. And I want you to
12 know that it's my calling to do what's
13 right and to face often of challenging
14 talk. And so tonight I want to appeal
15 to you from wisdom.

16 First I want to say very quickly
17 Mr. Burke Wall has been an incredible
18 neighbor to me, and I do not gild the
19 lily when I say I respect the man. We
20 should respect him and what he has to
21 say. Ben Wall I consider a personal
22 friend, although I am completely at odds
23 with what he desires to do behind the
24 place that I call home.

25 I wanted to just share and appeal

1 to you gentlemen from wisdom tonight, I
2 want you to listen and reflect in your
3 own heart on some of the things that you
4 have heard. I'm not going to use any of
5 the easy stuff that was laid out earlier
6 that I could oppose, because I don't
7 want to be at all ugly but I want to
8 share with y'all and have you think with
9 wisdom.

10 I heard tonight that this was the
11 best site that a man had ever seen. I
12 grew up in a land where there was not
13 sand, where there was red clay. And if
14 there was ever a place to put a
15 landfill, Spartanburg, South Carolina is
16 a place, because when you try to plant a
17 pecan tree in South Carolina you have
18 got a day long job ahead of you. That
19 is an excellent site for a landfill.
20 That's my home.

21 I also want to appeal to you from
22 wisdom to consider the wording that
23 there will be a 208-acre waste footprint
24 on this piece of property. I have been
25 invited and gone by invitation to this

1 property and it is absolutely a
2 paradise. It is fit for a park. It is
3 one of the most beautiful pieces of
4 property I've ever seen in my life, and
5 I commend Mr. Wall on developing it in
6 the way that he has.

7 Y'all, we heard testimony tonight
8 that sounded like no water can ever go
9 anywhere dangerous, either by running
10 off or by seeping through the ground.
11 And I'm just curious about how that
12 would possibly be.

13 Once tonight we heard a consultant
14 say that there is a need to impact
15 wetlands to meet the goal of a project.
16 Well, it's not your responsibility to
17 develop the opportunity for this
18 project. It is not the goal of Bryan
19 County residents to allow a festering
20 landfill in our wetlands, among our
21 homes, although it is Mr. Wall's goal to
22 do so so that he might profit by it.

23 This property is not a good choice
24 for a landfill and no amount of flowery
25 talk or education can make it one. It's

1 a profitable place for a landfill.

2 The property doesn't meet
3 requirements of our ordinances for the
4 establishment of a waste management
5 district. It is adjacent to a wetland
6 we know. The people have asked you
7 repeatedly and clearly to be opposed to
8 this site and you should be, as you've
9 strived to represent us.

10 Three things that have been
11 mentioned is the distance from the
12 landfill, that they want to change this
13 text amendment that has already been
14 opposed by our Planning and Zoning, it's
15 been opposed by our county forethinking
16 commissioners in the past, they want you
17 to also allow it on a county highway.

18 I'm thankful that we have stricter
19 standards in our county than we have the
20 state. In fact, it was argued in that
21 Planning and Zoning meeting that the
22 more conservative number was 500 feet
23 instead of 1,000 feet, and I say
24 instead, that 10,000 feet would be the
25 more conservative number of feet from a

1 well to a landfill.

2 Our ordinances also say that it
3 cannot be in a wetland. That is simple
4 speech. I'm thankful that it's so
5 simple and I think it should remain as
6 such.

7 Tonight it was read in our midst
8 that our commissioners have the right to
9 impose. Gentlemen, I ask you to impose.

10 (Applause from audience.)

11 THE CHAIRMAN: As we said before,
12 there will be another public meeting at
13 the December 13th meeting. That is the
14 second meeting of the proposed amendment
15 with the changes that were presented to
16 us tonight. And then at the close of
17 that public meeting, the commission will
18 take a vote on the issue of whether to
19 approve or disapprove the text
20 amendment.

21 So that's where we stand. We will
22 adjourn this public hearing.

23 (The hearing concluded at 7:02
24 p.m.)

25

C E R T I F I C A T E

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GEORGIA :
CHATHAM COUNTY:

I hereby certify that the foregoing transcript was taken down, as stated in the caption, and the questions and answers thereto were reduced to typewriting under my direction; that the foregoing Pages 1 through 96 represent a true and correct transcript of the evidence given upon said hearing, and I further certify that I am not of kin or counsel to the parties in the case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.

This, the 2nd day of December,
2011.



Celeste Mack
Celeste Mack, CCR, RPR, 2738

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Atlantic Waste Services

**Response to Planning & Zoning
Recommendation of Denial**

for

**Proposed Text Amendments
in Bryan County Ordinance,
Chapter 12 "WP" Waste Management
District Section 1116 (a),
(b) (vi), (viii) and (ix)**

Case Number Z# 132-11

November 11, 2011

**Atlantic Waste Services
125-B Pine Meadow Drive
Pooler, Georgia 31322**

Telephone 912-964-2000

Fax 912-964-2009

EXHIBIT

Applicant 2
11-15/11 cm

Bryan County Ordinance

Section 1416. "WMP" Waste Management District:

District Intent: This District is established to provide land for waste treatment and disposal in locations which meet strict criteria for protection of other land Uses and the environment. The District's regulations are designed to provide a compatible environment for waste processing and treatment facilities so that they will not be encroached upon by either Uses or be adversely effected by nearby conflicting land Uses. Lands designated for Waste Management should be located in relation to the transportation systems it will utilize so that it will not disrupt normal traffic flow patterns within the County. Due to the special nature of waste and the potential health and environmental risks involved, this District will be only designated on the Zoning Map in response to a specific rezoning request by an applicant.

(a) Permitted Uses: Medical waste treatment and incineration, hazardous waste processing, sewerage treatment, solid waste processing, disposal and recycling services.

(b) Area Regulations:

- (i) Minimum lot area: 50 acres.
- (ii) There shall be a minimum of two hundred (200) foot wide thick, mature, natural or cultivated landscape buffer established and maintained along all property lines, excluding approved driveways, Building sites and drainage facilities as shown on the approved Development Plan.
- (iii) As conditions for approval, access to the site shall be controlled and monitored by the operator.
- (iv) The operator shall be responsible for the control and proper disposal of incidental litter by providing fencing or other physical barriers around the site.
- (v) As a conditional of approval, the applicant shall develop an emergency plan which will be used should there be an accident or other problems which threatens the health or environment. The applicant shall put in place the necessary equipment, hire the necessary personnel and other requirements of the emergency plan before operation can begin. This plan must be approved by the County Commission.
- (vi) The applicant shall follow the procedures for siting, operating, closure and post closure in accordance with Article 2, O.C.G.A. §

12-8-20 and subsequent changes. Verification of compliance with Article 2, O.C.G.A. § 12-8-20 shall be required before the landfill becomes operational; however, No the Waste Management District Disposal Boundary as defined by Rules of Georgia Department of Natural Resources Environmental Protection Division Chapter 391-3-4-.07 (1) (b) shall be located within one thousand (1,000) no closer than five hundred (500) feet of a Residence or a residential domestic water supply (well).

- (vii) The applicant must show evidence that the facility will comply with all applicable Federal, State and local laws, rules and regulations, including all specifications but not limited to provisions of the Bryan County Ordinance regarding the collection, storage, and disposal of solid waste. (Revised-4/12/11)
- ~~(viii) All Waste Management Districts must have primary access via a state or federal highway.~~(viii) The Applicant must show on its site plan the location and condition of abutting roads and proposed improvements, and the location of on-site roads to serve areas of activity, and points of ingress and egress to the site.
- (ix) Waste Management Districts Facilities shall not be located in Wetlands, as defined by the U.S. Corps of Engineers unless the use of such wetlands can be permitted or otherwise authorized under all other applicable state and federal laws and rules. All applications for a Waste Management District must be accompanied by a wetlands delineation of the site and must demonstrate that all processing, storage or disposal of waste products will be outside of wetlands areas.

391-3-4-.07 Landfill Design and Operations. Amended.

(1) All landfills must be designed by a professional engineer registered to practice in Georgia and designed in accordance with the following criteria:

(a) Site limitations: the landfill must be designed in such a manner as to comply with the specific site limitations issued by the Division as a part of a site approval.

(b) Buffers: facilities which have submitted a permit application to the Division prior to July 1, 1991 must provide a minimum 100 foot buffer between the property line and the waste disposal boundary. All other facilities must provide a minimum 200 foot buffer between the waste disposal boundary and the property line and a minimum 500 foot buffer between the waste disposal boundary and any occupied dwelling and the dwelling's operational private, domestic water supply well in existence of the date of permit application. The 500-foot buffer may be reduced if the current owner of the dwelling provides a written waiver consenting to the waste disposal boundary being closer than 500 feet. The waste disposal boundary is defined as the limit of all waste disposal areas, appurtenances, and ancillary activities (including but not limited to internal access roads and drainage control devices). No land disturbing activities are to take place in these buffers, except for construction of groundwater monitoring wells and access roads for direct ingress or egress, unless otherwise specified in a facility design and operation plan or corrective action plan approved by the Division.

(c) Site survey control shall be provided to ensure the operation will be on permitted lands. Survey control will be accomplished through use of permanent, accessible benchmarks, survey control stakes, and/or boundary markers which designate and/or delineate all permitted areas. Survey control shall be as indicated on the design and operational plan. Where necessary for construction or operational purposes, vertical as well as horizontal survey control will be established and maintained to delineate fill boundaries, buffers, and property boundaries.

(d) Liners and Leachate Collection Systems: new MSWLF units and lateral expansions shall be constructed with liners and leachate collection systems. The liner and leachate collection system must ensure that the concentration values listed in Table 1 will not be exceeded in the uppermost aquifer at the relevant point of compliance. The liner and leachate collection system must be designed and installed under the supervision of a professional engineer registered to practice in Georgia who shall certify the installation.

TABLE 1

Chemical MCL

(mg/l)

Arsenic 0.05

Barium 1.0

Benzene 0.005

Cadmium .01

Carbon tetrachloride 0.005

Chromium (hexavalent) 0.05

2, 4-Dichlorophenoxy acetic acid 0.1

1, 4-Dichlorobenzene 0.075

1, 2-Dichloroethane 0.005

1, 1-Dichloroethylene 0.007

Endrin 0.0002

Fluoride 4
Lindane 0.004
Lead 0.05
Mercury 0.002
Methoxychlor 0.1
Nitrate 10
Selenium 0.01
Silver 0.05
Toxaphene 0.005
1, 1, 1-Trichloromethane 0.2
Trichloroethylene 0.005
2, 4, 5-Trichlorophenoxy acetic acid 0.01
Vinyl Chloride 0.002

1. If the MSWLF is located in an area of higher pollution susceptibility, as defined by Hydrologic Atlas #20, A Pollution Susceptibility Map of Georgia, or in a significant ground water recharge area as designated by Hydrologic Atlas #18, the liner and leachate collection system must, at a minimum, be designed with:

a. a composite liner, as defined in paragraph c. of this section and a leachate collection system that is designed and constructed to maintain less than a 30-cm depth of leachate over the liner.

b. at least a five foot separation between the synthetic liner and the seasonal high ground water elevation.

c. For purposes of this section, "composite liner" means a system consisting of two components; the upper component must consist of a minimum 30-mil flexible membrane liner (FML), and the lower component must consist of at least a two-foot layer of compacted soil with a hydraulic conductivity of no more than 1×10^{-7} (SUP)-7(/SUP) cm/sec. FML components consisting of High Density Polyethylene (HDPE) shall be at least 60-mil thick. The FML component must be installed in direct and uniform contact with the compacted soil component.

2. The relevant point of compliance shall be no more than 150 meters from the waste management unit boundary and shall be located on land owned by the owner of the MSWLF unit. In determining the relevant point of compliance, the Division shall consider at least the following factors:

a. The hydrogeologic characteristics of the facility and surrounding land;

b. The volume and physical and chemical characteristics of the leachate;

c. The quantity, quality, and direction, of flow of ground water;

d. The proximity and withdrawal rate of the ground-water users;

e. The availability of alternative drinking water supplies;

f. The existing quality of the ground water, including other sources of contamination and their cumulative impacts on the ground water and whether groundwater is currently used or reasonably expected to be used for drinking water;

g. Public health, safety, and welfare effects; and

h. Practicable capability of the owner or operator.

3. For MSWLF units not located in significant ground water recharge areas or areas of higher pollution susceptibility, liners and leachate collection systems may meet a design standard other than that specified in paragraph (1)(d) 1. of this Rule, so long as such

design ensures that the concentration values listed in Table 1 of this Rule will not be exceeded in the uppermost aquifer at the relevant point of compliance. The factors listed in subparagraph 2. above for determining the relevant point of compliance, shall also be used in determining the suitability of the liner and leachate collection system design.

(e) Erosion and Sedimentation Control: all surface runoff from disturbed areas must be controlled by the use of appropriate erosion and sedimentation control measures or devices. Sediment basins must be designed to handle both the hydraulic loading for the 25 year, 24-hour storm and the sediment loading from the drainage basin for the life of the site. Runoff from the facility must be designed for flow through permanent sediment control impoundments which are designed to assure discharges meeting the requirements of O.C.G.A. 12-7-6(18).

(f) Vegetation: the plan must call for the vegetation of any disturbed area that will remain exposed for more than three (3) months. Vegetation of final cover must take place within two (2) weeks after final cover placement.

(g) Sequence of Filling: the plan must define a sequence of filling showing a detailed progression of filling the entire site that minimizes any problems with drainage and all weather access roads to the working face.

(h) Limited Access: a gate or other barrier shall be maintained at potential vehicular access points to block unauthorized access to the site when an operator is not on duty. A fence or other suitable barrier must be provided around the site, including impoundments, leachate collection and treatment systems and gas venting and processing facilities, sufficient to prevent unauthorized access.

(i) Final Grading: the grade of final slopes shall be designed to:

1. insure permanent slope stability;
2. control erosion due to rapid water velocity and other factors;
3. allow compaction, seeding, and vegetation of cover material placed on the slopes;
4. minimize percolation of precipitation into final cover and provide diversion of surface runoff from disposal area; and
5. meet the final closure requirements of Rule 391-3-4-.11.
6. the grade of the final surface of the facility may not be less than 3 percent nor greater than 33 percent.

(j) Access Roads: access roads shall be designed to provide for the orderly egress and ingress of vehicular traffic when the facility is in operation, including during inclement weather.

(k) Fire Protection: the disposal site must be designed to prevent and minimize the potential for fire or explosion. A minimum supply of one day of cover material must be maintained within 200 feet of the working face for fire fighting purpose, unless other acceptable means have been provided and approved by the Director.

(l) Ground water and Surface water Monitoring Plan: the design must provide for a groundwater monitoring plan in accordance with the requirements for Ground Water Monitoring and Corrective Action as provided in Rule 391-3-4-.14. A surface water monitoring plan which will determine the impact of the facility on all adjacent surface waters must also be included.

(m) Closure Criteria: the design must provide for proper closure in accordance with Rule 391-3-4-.11.

(n) Post-Closure Care: the design must provide for Post-closure care in accordance with

Tent and Trailer Campgrounds.
Mini-Warehouse(s). (Revised-8/1/00)
Customary Accessory Buildings and Uses incidental to the
above Permitted Uses.

- (b) **Conditional Uses:** The following Uses may be permitted in this District on a conditional basis upon approval by the County Commission, after recommendation by the Planning Commission:

Banks.
Shopping Centers.
Truck Repair Shops/Garages.
Lounges.
Truck Terminals.
Professional and Business Offices.
Customary Accessory Buildings and Uses incidental to any approved Conditional Uses. (Revised-3/3/98)

- (c) **Lot and Building Requirements:** Unless otherwise specified in this Ordinance, uses permitted in the C-I, Interchange Commercial District shall conform to the following regulations:

Minimum Lot size..... 30,000 Square Feet
Minimum Lot width at building line..... 100 feet
Minimum front yard, setback from Road.....50 feet
Minimum side yard, setback from property line..10 feet
Minimum side yard, setback if corner lot.....35 feet
Minimum rear yard, setback from property line....15 feet
Maximum building height.....35 feet

- (d) **Special Site Regulations:**

- (i) Maximum percent of gross land to be covered....60%
(Revised-3/3/98)
(ii) Minimum open space required.....
25%

Section 1113. I-L, Light Industrial District: (Revised 2/14/06)

District Intent: This District is established to provide land for light industrial Uses which are **not** significantly objectionable with regard to noise, odor, fumes, etc., to surrounding properties. This District's regulations are designed to provide a compatible environment for Uses generally classified as light industrial in nature; to protect and reserve undeveloped areas within the County that are suitable for such light industries; and to discourage encroachment by Residential, Commercial, or other Uses that may

adversely affect the industrial character of the District. Lands within this District should be located in relation to the thoroughfare network of the County, as well as rail and air if required, and designed so that Uses within the District do not disrupt normal traffic flow patterns within the County. Planned industrial parks are encouraged within this District.

- (a) **Permitted Uses:** Property and Buildings in an I-L Light Industrial District shall be used for the following purposes, provided that such Uses are conducted in such a manner that noxious odors, fumes, dust and similar particles, or noise are not emitted or detectable beyond the property lines of the Lots on which the Uses are located:
- (i) Building material sales yards and lumber yards, including the sale of rock, sand, gravel, and the like.
 - (ii) Warehouse and wholesale establishments.
 - (iii) Public utilities, including Buildings, necessary structures, storage yards and other related Uses.
 - (iv) Research or experimental stations and laboratories.
 - (v) Radio and/or television station transmission or reception towers.
 - (vi) Horticultural nurseries.
 - (vii) Large Office Buildings for business, governmental, professional, or other general purposes.
 - (viii) Repair garages, provided there is no open storage of wrecked automobiles or scrapped or salvaged vehicle parts on the Premises.
 - (ix) Transportation/trans-shipment terminals.
 - (x) Extermination, Pest Control, Fumigation, Septic Tank Pumping, Furnace Cleaning and Well Drilling Services.
 - (xi) Customary Accessory Buildings and Uses incidental to any approved Conditional Uses.
- (b) **Conditional Uses:** The following Uses may be permitted in this District on a conditional basis upon approval by the

County Commission:

- (i) Retail businesses or services provided such businesses or services are (1) incidental to a permitted light-industrial Use and (2) located on the same Premises.
- (ii) Storage Yards
- (iii) Watchman or Caretaker's One (1) or Two (2) Family Dwelling, provided that:
 - 1) such Dwelling is located on the Premises of the permitted light-industrial Use and
 - 2) the head of the household is employed by the industry as a watchman or caretaker.
- (iv) Open yard Use for the sale, rental, dismantling and/or storage of new or used salvage and/or Junk materials or equipment, provided that:
 - 1) such Uses are separated from adjoining properties by a suitable planting screen, fence, or wall at least eight (8) feet in height, and
 - 2) no burning of materials or products will be conducted on the Premises.
- (v) Animal hospitals with exercise yards (no outside pens).
- (vi) Commercial kennels with exercise yards (no outside pens).
- (vii) Customary Accessory Buildings and Uses incidental to any approved Conditional Uses.
- (c) Area Regulations: Unless otherwise specified in this Ordinance, Uses permitted in the I-L, Light Industrial District shall conform to the following regulations:
 - (i) Minimum Lot area: 30,000 Square Feet (Larger if required by the County Commission to meet District's regulations and intent).
 - (ii) Minimum Lot width at Building line: 150 feet.
 - (iii) Minimum front yard setback: 75 feet.

(iv) Minimum side yard setback (interior or street):
30 feet.

(v) Minimum rear yard setback: 50 feet.

(vi) Maximum Building height: 45 feet.

(d) **Special Site Regulations:**

(i) Maximum percent of gross land to be covered....65%

Section 1114. "I-1" General Industrial Districts: (Revised-2/1/05)

District Intent: The purpose of this District is to provide areas for manufacturing, assembling, fabricating and related activities and to provide standards to prevent adverse effects on surrounding properties.

(a) **Permitted Uses:**

Manufactories, assembly facilities and their associated buildings;
Asphalt emulsion (water-based) plants;
Machine shops;
Warehouse and transfer/storage establishments (distribution centers);
Radio and television transmission, antennas and towers;
Public utilities, including buildings, necessary structures, storage yards and other related uses;
Research or experimental stations and laboratories;
Repair garages for commercial vehicles and trucks;
Transportation terminals;
Mobile home, utility building, and trailer sales lots;
Office buildings for business, governmental, professional or general purposes; (Revised 11/7/06)
Customary accessory buildings and uses incidental to the above Permitted Uses.

(b) **Conditional Uses:** The following uses may be permitted in this district on a conditional basis upon approval by the County Commission, after recommendation by the Planning Commission:

Vehicle sales and support centers;
Extermination, pest control, fumigation, septic tank pumping, furnace cleaning and well-drilling services;
Construction supply yards;
Junk yards;
Lumber yards;
Food processing;

Wholesale businesses;
Equipment sales and repair;
Cleaning, laundry and dry cleaning plants;
Customary accessory buildings and uses incidental to any
approved Conditional Uses.

Section 1115. "O" Office District:

District Intent: It is the intent of this Section that the "O" Zoning District be developed and reserved for Business, office, institutional, or specified public purposes. The regulations which apply within this District are designed to encourage the formation and continuance of a quiet, compatible and uncongested environment for office type business or professional firms and certain public Uses and to discourage any encroachment by unrestricted retail and/or wholesale business establishments, industrial concerns, or other Uses capable of adversely affecting the specialized commercial, institutional and housing character of the District.

(a) **Permitted Uses:**

- (i) Medical, dental, chiropractic or other medically oriented office, outpatient clinic and laboratory, and Health Services.
- (ii) Artist Studios for crafts, dance, drama, music, and photography.
- (iii) Multi-unit Office Parks.
- (iv) Lifetime Learning.
- (v) Office Buildings and offices for governmental, business, professional or general purposes, but not including any storage, sale, rental or servicing of goods on the Premises.
- (vi) Photographic studios.
- (vii) Radio and/or television studios.
- (viii) Customary Accessory Buildings and Uses incidental to the above Permitted Uses and any Conditional Uses permitted by the County Commission. (Revised-3/3/98)

- (b) **Conditional Uses:** The following Uses may be permitted in this District on a conditional basis upon approval by the County Commission: (Revised-3/3/98)

included in fees expressed above. Any additional reviews performed by the county engineer will be charged to the developer.

**Fee is for reactivation of an application that was denied by the Planning Director, Planning Commission or County Commission. Fee is valid only on application reactivation within ninety (90) days of denial.

Appendix (c)

ROAD CLASSIFICATION PLAN

(Revised 3/3/98)

Arterials:

Black Creek Church Road
Eldora Road
GA SPUR 144
Olive Branch Road
Park Hill Road
Wilma Edwards Road from GA 119 to US 280

Collectors:

Ash Branch Road
Bacontown Road
Belle Island Road
Beulah Church Road,
Charles Shuman Road and Steve Bulloch Road from GA 67 to GA 204
Bill Futch Road from Wilma Edwards Road to GA 119
Brisbon Road
Cartertown Road
Daniel Siding Road from US 17 to Cartertown Road
GA 67 from US 280 South to Ft. Stewart Line
Groveland Nevils Road
Mack English Road
Port Royal Road
Harris Trail Road from US 17 to Port Royal Road
Rathlin Road
Sims Road from GA 67 to GA 119
Toni Branch Road
Timber Trail Road

Scenic Parkways:

Belfast Siding Road
Belfast Keller Road (from Belfast Siding Road to GA 144 @ Oak Level Road)

Oak Level Road

Approved Private Road Systems:

Mill Run Drive, South of drainage canal

Mill Run Lane

Mill Run Terrace

Mingarry Drive, West of boundary line between Lots 5 and 6,
Buckhead Subdivision

391-3-4-.05 Criteria for Siting. Amended.

(1) The following criteria must be met for a site proposed as a solid waste handling facility:

(a) Zoning. The site must conform to all local zoning/land use ordinances. Written verification must be submitted to the Division by the applicant demonstrating that the proposed site complies with local zoning and land use ordinances, if any. This verification shall include a letter from the local governmental authority stating that the proposed site complies with local zoning or land use ordinances, if any. This verification shall be provided at the time of submission of a permit application and reaffirmed by the governmental authority prior to permit issuance.

(b) Disposal Facility Siting Decision. Whenever any county, municipality group of counties, or authority begins a process to select a site for a municipal solid waste disposal facility, documentation shall be submitted which demonstrates compliance with O.C.G.A. 12-8-26(a), and whenever the governing authority of any county or municipality takes action resulting in a publicly- or privately-owned municipal solid waste disposal facility siting decision, documentation shall be submitted which demonstrates compliance with O.C.G.A. 12-8-26(b).

(c) Airport Safety:

1. New MSWLF units or lateral expansions of existing units shall not be located within 10,000 feet (3,048 meters) of any public-use or private-use airport runway end used by turbojet aircraft or within 5,000 feet (1,524 meters) of any public-use or private-use airport runway end used by only piston-type aircraft.

2. Owners or operators of existing MSWLF units, that are located within 10,000 feet (3,048 meters) of any public-use or private-use airport runway end used by turbojet aircraft or within 5,000 feet (1,524 meters) of any public-use or private-use airport runway end used by only piston-type aircraft must demonstrate that the units are designed and operated so that the MSWLF units do not pose a bird hazard to aircraft.

3. Owners or operators proposing to site new MSWLF units and lateral expansions within a five-mile radius of any public-use or private-use airport runway end used by turbojet or piston-type aircraft must notify the affected airport and the Federal Aviation Administration (FAA).

4. The owner or operator must place the demonstration in paragraph 2. of this section in the operating record and notify the Director that it has been placed in the operating record not later than October 1, 1993.

5. For purposes of this section:

a. "Public-use airport" means an airport open to the public without prior permission and without restrictions within the physical capacities of available facilities.

b. "Private-use airport" means an airport that is not open to the public and which may not be used without prior permission of the airport owner and which has restrictions other than the physical capacities of available facilities and such airport is shown on the Sectional Aeronautical Charts published by the U.S. Department of Commerce for Atlanta, Jacksonville, or New Orleans, which charts are dated at least one year prior to the submission of a MSWLF permit or major permit modification application.

c. "Bird hazard" means an increase in the likelihood of bird/aircraft collisions that may cause damage to the aircraft or injury to its occupants.

(d) Floodplains. A solid waste handling facility located in the 100-year floodplain shall

not restrict the flow of the 100-year flood, reduce the temporary water storage capacity of the floodplain, or result in a washout of solid waste so as to pose a hazard to human health and the environment. The owner or operator must place a demonstration of compliance in the operating record and notify the Director that it has been placed in the operating record.

1. For purposes of this section:

a. "Floodplains" means the lowland and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands, that are inundated by the 100-year flood.

b. "100-year flood" means a flood that has a 1-percent or greater chance of recurring in any given year or a flood of a magnitude equalled or exceeded once in 100 years on the average over a significantly long period.

c. "Washout" means the carrying away of solid waste by waters of the base flood.

(e) Wetlands. A solid waste handling facility shall not be located in wetlands, as defined by the U.S. Corps. of Engineers, unless evidence is provided to the Director, by the applicant, that use of such wetlands has been permitted or otherwise authorized under all other applicable state and federal laws and rules. The owner or operator must place a demonstration of compliance in the operating record and notify the Director that it has been placed in the operating record.

(f) Fault Areas.

1. New landfill units and lateral expansions of existing landfills shall not be located within 200 feet (60 meters) of a fault that has had displacement in Holocene time unless the owner or operator demonstrates to the Director that an alternative setback distance of less than 200 feet (60 meters) will prevent damage to the structural integrity of the landfill unit and will be protective of human health and the environment.

2. For the purposes of this section.

a. "Fault" means a fracture or a zone of fractures in any material along which strata on one side have been displaced with respect to that on the other side.

b. "Displacement" means the relative movement of any two sides of a fault measured in any direction.

c. "Holocene" means the most recent epoch of the Quaternary period, extending from the end of the Pleistocene Epoch to the present.

(g) Seismic Impact Zones.

1. New landfill units and lateral expansions shall not be located in seismic impact zones, unless the owner or operator demonstrates to the Director that all containment structures, including liners, leachate collection systems, and surface water control systems, are designed to resist the maximum horizontal acceleration in lithified earth material for the site. The owner or operator must place the demonstration in the operating record and notify the Director that it has been placed in the operating record.

2. For the purposes of this section:

a. Seismic impact zone means an area with a ten percent or greater probability that the maximum horizontal acceleration in lithified earth material, expressed as a percentage of the earth's gravitational pull will exceed 0.10g in 250 years.

b. Maximum horizontal acceleration in lithified earth material means the maximum expected horizontal acceleration depicted on a seismic hazard map, with a 90 percent or greater probability that the acceleration will not be exceeded in 250 years, or the

maximum expected horizontal acceleration based on a site-specific seismic risk assessment.

c. Lithified earth material means all rock, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. This term does not include man-made materials, such as fill, concrete, and asphalt, or unconsolidated earth materials, soil, or regolith lying at or near the earth surface.

(h) Unstable areas.

1. Owners or operators of new landfill units, existing landfill units, and lateral expansions located in an unstable area must demonstrate that engineering measures have been incorporated into the landfill unit's design to ensure that the integrity of the structural components of the landfill unit will not be disrupted. The owner or operator must place the demonstration in the operating record and notify the Director that it has been placed in the operating record. The owner or operator must consider the following factors, at a minimum, when determining whether an area is unstable:

- a. On-site or local soil conditions that may result in significant differential settling;
- b. On-site or local geologic or geomorphologic features; and
- c. On-site or local human-made features or events (both surface and subsurface).

2. For the purposes of this section:

a. "Unstable area" means a location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of some or all of the landfill structural components responsible for preventing releases from a landfill. Unstable areas can include poor foundation conditions, areas susceptible to mass movements, and karst terrains.

b. "Structural components" means liners, leachate collection systems, final covers, runoff/run-off systems, and any other component used in the construction and operation of the landfill that is necessary for protection of human health and the environment.

c. "Poor foundation conditions" means those areas where features exist which indicate that a natural or man-induced event may result in inadequate foundation support for the structural components of a landfill unit.

d. "Areas susceptible to mass movement" mean those areas of influence (i.e., areas characterized as having an active or substantial possibility of mass movement) where the movement of earth material at, beneath, or adjacent to the landfill unit, because of natural or man-induced events, results in the downslope transport of soil and rock material by means of gravitational influence. Areas of mass movement include, but are not limited to, landslides, avalanches, debris slides and flows, soil fluctuation, block sliding, and rock fall.

e. "Karst terrains" means areas where karst topography, with its characteristic surface and subterranean features, is developed as the result of dissolution of limestone, dolomite, or other soluble rock. Characteristic physiographic features present in karst terrains include, but are not limited to, sinkholes, sinking streams, caves, large springs, and blind valleys.

(i) Closure of existing municipal solid waste landfill units:

1. Existing MSWLF units that cannot make the demonstration specified in section (c), pertaining to airports, section (d), pertaining to floodplains, or section (h), pertaining to unstable areas, must close by October 9, 1996 in accordance with Rule 391-3-4-.11 and conduct post-closure care activities in accordance with Rule 391-3-4-.12.

2. The deadline for closure required by subparagraph 1. of this paragraph may be

extended up to two years if the owner or operator demonstrates to the Director that:

- a. There is no available alternative disposal capacity; and
- b. There is no immediate threat to human health and the environment.

(j) Significant Groundwater Recharge Areas. A new municipal solid waste landfill or lateral expansion of an existing municipal solid waste landfill shall not have any part of such site located within two miles of any area that has been designated by the Director as a significant groundwater recharge area unless such municipal solid waste landfill will have a liner and leachate collection system. In the case of a regional landfill which accepts solid waste generated outside the counties or special districts constituting the region or a municipal solid waste landfill which accepts solid waste generated outside the county in which the landfill is located, no part of such site shall be within any area that has been designated as a significant groundwater recharge area.

(k) Hydrological Assessment. A hydrological site investigation shall be conducted with the following factors, as a minimum, evaluated:

1. Distance to nearest point of public or private drinking water supply: all public water supply wells or surface water intakes within two miles and private (domestic) water supply wells within one-half mile of a landfill must be identified;
2. Depth to the uppermost aquifer: for landfills, the thickness and nature of the unsaturated zone and its ability for natural contamination control must be evaluated;
3. Uppermost aquifer gradient: for landfills, the direction and rate of flow of groundwater shall be determined in order to properly evaluate the potential for contamination at a specific site. Measurements of water levels in site exploratory borings and the preparation of water table maps are required. Borings to water are required to estimate the configuration and gradient of the uppermost aquifer;
4. Topographic setting: features which shall be provided include, but are not limited to, all upstream and downstream drainage areas affecting or affected by the proposed site, floodplains, gullies, karst conditions, wetlands, unstable soils and percent slope;
5. Geologic setting: for landfills, the depth to bedrock, the type of bedrock and the amount of fracturing and jointing in the bedrock shall be determined. In limestone or dolostone regions, karst terrain shall not be used for waste disposal. This consideration does not preclude the siting of landfills in limestone terrains, but rather is intended to prevent landfills from being sited in or adjacent to sink-holes, provided, however, that the demonstration required by section (h) has been made.
6. Hydraulic conductivity: evaluation of landfill sites shall take into consideration the hydraulic conductivity of the surface material in which the wastes are to be buried, as well as the hydraulic conductivity of the subsurface materials underlying the fill;
7. Sorption and attenuation capacity: for landfills, the sorptive characteristics of an earth material and its ability to absorb contaminants shall be determined; and
8. Distance to surface water: municipal solid waste landfills shall not be situated within two miles upgradient of any surface water intake for a public drinking water source unless engineering modifications such as liners and leachate collection systems and ground-water monitoring systems are provided.

(1) New MSWLF units shall not be located within two miles of a federally restricted military air space which is used for a bombing range.

(2) Construction/Demolition waste landfills must comply with the siting criteria specified in "Criteria for Performing Site Acceptability Studies for Solid Waste Landfills in

Georgia", Circular 14, Appendix B.

(3) Industrial waste landfills permitted to receive only a single type industrial waste (monofil) or receive only a single industry's waste, must comply with the siting criteria specified in "Criteria for Performing Site Acceptability Studies for Solid Waste Landfills in Georgia", Circular 14, Appendix A. Commercial industrial waste landfills must meet the same siting criteria as municipal solid waste landfills.

(4) A site assessment report addressing the criteria listed above shall be prepared by a geologist registered in Georgia or a geotechnical engineer registered in Georgia and submitted to the Division for review at the time of submitting a permit application. The site assessment report shall be prepared in accordance with Circular 14, 1991, (amended 1997) as published by the Georgia Geologic Survey, Georgia Environmental Protection Division.

(5) Monitoring wells and borings shall be constructed by a driller having a valid and current bond with the Water Well Standards Advisory Council.

Authority O.C.G.A. Secs. 12-8-20 et seq., 12-8-23. **History.** Original Rule entitled "Disposal Operations" adopted. F. Sept. 6, 1973; eff. Sept. 26, 1973. **Repealed:** New Rule entitled "Plans Required" adopted. F. Sept. 19, 1974; eff. Oct. 9, 1974. **Repealed:** New Rule entitled "Criteria for Siting" adopted. F. June 9, 1989; eff. June 29, 1989. **Amended:** F. Sept. 4, 1991; eff. Sept. 24, 1991. **Amended:** F. June 7, 1993; eff. June 27, 1993. **Amended:** F. July 31, 1997; eff. Aug. 20, 1997

AMENDMENT TO PETITION

The petition before this board or commission is for a text amendment to Section 1116 of the Bryan County Zoning Ordinance. Atlantic Waste Services, Inc (“Applicant”) is the owner of certain property located in Bryan County, Georgia (Parcel No. 024008) (“Property”).

The portions of the Bryan County Zoning Ordinance as applied to the subject Property which result or may result in a denial of approval of the Applicant’s petition are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

The application of the Bryan County Zoning Ordinance to the Property, which restricts its use to any use other than as requested by the Applicant, is unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and a violation of the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States, denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A refusal to approve the petition as proposed would constitute an arbitrary and capricious act without any rational basis therefore, constituting an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and of the Due Process Clause of

the Fourteenth Amendment to the Constitution of the United States, which respectively provide in pertinent part:

- Private property shall not be taken or damaged for public purposes without just and adequate compensation being first paid.
- No person shall be deprived of life, liberty, or property except by due process of law.

A refusal to approve the petition as proposed by the Applicant would be unconstitutional and would discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States, which respectively provide in pertinent part the following:

- Protection to person and property is the paramount duty of government and shall be impartial and complete.
- Nor shall any state deny to any person within its jurisdiction, the equal protection of the laws.

Any approval of the development of the subject Property subject to conditions which are different from that requested by the Applicant, to the extent such different conditions would have the effect of further restricting Applicant's utilization of the subject Property, would also constitute an arbitrary, capricious and discriminatory act would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

A denial of this application or approval subject to more restrictive conditions than those requested by the Applicant will give rise to a claim by the Applicant for monetary damages in

the amount of the diminution in value of the Property caused by the restrictions, on the theory, among others, of inverse condemnation in that the Applicant's Property has been taken without the payment of just compensation in violation of the Just Compensation Clause of the Fifth Amendment and the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the Constitution of the United States and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983.

Section 1116 of the Bryan County Zoning Ordinance as it currently exists is a *de facto* prohibition of the right to have property within Bryan County rezoned as a "Waste Management District," and thereby also a prohibition of any and all corresponding and ostensibly allowable uses (e.g., waste disposal/landfill, recycling), because the zoning ordinance contains provisions which make it impossible for a piece of property within Bryan County, Georgia, to qualify as a "Waste Management District;" therefore, the ordinance would be unconstitutional and would discriminate in an arbitrary, capricious and unreasonable manner in violation of the constitution of the United States and of the State of Georgia.

This notice is being given to comply with the provisions of O.C.G.A. §36-33-5 this 15th day of November, 2011.

ATLANTIC WASTE
SERVICES, INC.

By: Harold B. Yellin
Harold B. Yellin

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A refusal to approve the petition as proposed would constitute an arbitrary and capricious act without any rational basis therefore, constituting an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and of the Due Process Clause of

EXHIBIT
Applicant
cm 3 11-15-11

the amount of the diminution in value of the Property caused by the restrictions, on the theory, among others, of inverse condemnation in that the Applicant's Property has been taken without the payment of just compensation in violation of the Just Compensation Clause of the Fifth Amendment and the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the Constitution of the United States and Article I, Section 1, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983.

Section 1116 of the Bryan County Zoning Ordinance as it currently exists is a *de facto* prohibition of the right to have property within Bryan County rezoned as a "Waste Management District," and thereby also a prohibition of any and all corresponding and ostensibly allowable uses (e.g., waste disposal/landfill, recycling), because the zoning ordinance contains provisions which make it impossible for a piece of property within Bryan County, Georgia, to qualify as a "Waste Management District;" therefore, the ordinance would be unconstitutional and would discriminate in an arbitrary, capricious and unreasonable manner in violation of the constitution of the United States and of the State of Georgia.

This notice is being given to comply with the provisions of O.C.G.A. §36-33-5 this 15th day of November, 2011.

ATLANTIC WASTE
SERVICES, INC.

By: Harold B. Yellin
Harold B. Yellin

RECEIVED this 15th day of November, 2011

Atlantic Waste Services

**Response to Planning & Zoning
Recommendation of Denial**

for

**Proposed Text Amendments
in Bryan County Ordinance,
Chapter 12 "WP" Waste Management
District Section 1116 (a),
(b) (vi), (viii) and (ix)**

Case Number Z# 132-11

November 11, 2011

**Atlantic Waste Services
125-B Pine Meadow Drive
Pooler, Georgia 31322**

Telephone 912-964-2000

Fax 912-964-2009

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I. EXECUTIVE SUMMARY OF MATERIALS

This document addresses the issues and provides explanations with supporting documentation for those items listed in the P&Z Staff Report and Analysis, dated October 26, 2011, prepared by Mr. Kirk Croasmun, PE, Director of Planning & Zoning for Bryan County and Ms Christine Kinzie, Bryan County Zoning Administrator. This document offers modifications and additional text amendment language based on the Staff Report and Analysis, concerns voiced by the P&Z Board Members, and concerns voiced by citizens.

Section II provides a detailed response and explanation to the four areas of the proposed text amendment. **It is the contention of the Applicant that Section 1116 of the current Bryan County Zoning Ordinance is at best impossible to comply with and at worst unconstitutional.** Explanations and data with supporting documentation are provided. The text amendments as modified maintain the intent of the original Ordinance and offer the same protection of the health and safety of its citizens, their convenience, order, prosperity and general wealth while allowing the responsible establishment of "WP" Districts.

Section III consists of maps developed from a detailed search of the entire County of all parcels 50 acres (required minimum lot size) or greater that would allow primary access from a state or federal highway as required by the current Ordinance and still meet all the other requirements for a "WP" District. No parcels meeting the Ordinance requirements were found. Most were eliminated because of the presence of wetlands on the parcel which is not allowed. There were only two parcels located in the County that did not have wetlands on them and they were eliminated because the property lines for each (which are also the boundary of the "WP" District) were within the required 1000 ft buffer distance from a residence. **Therefore, to the best of our knowledge after a detailed search of the entire land area of Bryan County, there are no parcels where a Section 1116 "WP" Waste Management District can be established.**

Section IV contains our submittal of supporting documentation submitted to Chris Emmer at the CRC during the DRI review process which was withdrawn. However, the submittal is helpful and was referenced as part of the documents reviewed by P&Z Staff. It addresses several of the areas raised in the P&Z report and analysis.

Section V contains several supporting documents including revised figures reflecting a disposal footprint that allows a buffer of 1000 feet between the waste activity boundary (instead of the Waste District property line) and a residence or residential domestic water supply(well). This revision was made due to concerns raised by Staff, P&Z Board members and concerned citizens. The section also includes two studies on property values demonstrating that properties in proximity of landfill do not necessarily lose value. The Applicant also has provided a draft of a property value assurance program that protects property values and is available for all residents within one-half mile of the proposed landfill property.

November 10, 2011

County Board Bryan of Commissioner
51 North Courthouse Street
Pembroke, Georgia 31321

Subject: Response to P&Z Staff Report & Application
Text Amendment Case TA# 132-11

Dear Commissioners:

This letter is in response to questions and points of evaluation made by Kirk D. Croasmun, PE, Bryan County Planning Director and Christine Kinzie, Zoning Administrator in a staff letter report addressed to the Bryan County Planning & Zoning Commission and Mr. Phil Jones, Bryan County Administrator, regarding the Application for Text Amendment Case TA #132-11 submitted by Atlantic Waste Services, Inc for text revisions to Chapter 12 Section 1116 (b) (vi) and (viii).

In the aforementioned correspondence, the Applicant was asked to address three specific points in conjunction with the analysis. We are most willing and glad to address these points. However, we would have preferred to address all points prior to or at the Planning and Zoning meeting held on November 3, 2011, but we were not afforded a copy of the report prior to that meeting even though we had requested it. We also requested a meeting with staff a month prior to discuss the text amendments and any changes that might need to be made, but were told no meeting was necessary or required. We were totally unaware of any issues requiring our attention or additional explanation regarding our application until that meeting. Regardless of past actions we are glad to be able to provide factual information necessary to bring clarity to the issues in conjunction with addressing the overall analysis. We received a copy of the report following the meeting and we were able to distribute it to our project team members on Friday, November 4. We have only had three and one-half days to prepare a response when we discovered we would have to provide the County with our presentation materials no later than 5:00pm Thursday evening. We appreciate Phil allowing that extension beyond the typical 12:00 noon Wednesday deadline. Had we been aware of issues requiring our attention or additional explanation regarding our application earlier then we could have addressed these with staff prior to the November 3, meeting before the P&Z Board. Therefore, as you read our responses you will note suggestions for modifications to our original text amendments. These suggestions are to address our original intent and to address P&Z and citizen concerns brought forward at the November 3 meeting. We look forward to presenting this information in person at the first reading meeting on Tuesday, November 15, answering your questions and providing any

additional information you may need prior to the second reading and your vote on Tuesday, December 13. Please contact Mr. Ben Wall, Vice President Atlantic Waste Services (AWS) if you have any questions or need additional information. He will be glad to assist you or, if necessary, direct you to the project team member who can better assist you. Following the body of this letter are the points of concern and our responses.

AWS will be glad to facilitate field trips to our proposed site and/or landfills in the area.

Sincerely,

The Atlantic Waste Services Project Team

I. Response to Planning Director Evaluation

1. The Applicant should explain the reasoning for the proposed addition of “disposal” to Section 1116(a) and discuss what impacts, if any, this change would have on any future rezoning requests related to Section 1116.

Response: the word “disposal” was added to clarify disposal as a permitted use. The District Intent of Section 1116 states: “This District is established to provide land for waste treatment and disposal (underlining for emphasis)... and elsewhere in Section (b) (vi) it states “Verification of compliance with Article 2, O.C.G.A. 12-8-20 shall be required before a landfill (underlining for emphasis) becomes operational;” Therefore, we believe the text amendment of adding “disposal” only brings clarity to the permitted uses in the Section, but are willing to strike it as a requested text amendment.

2. The proposed text amendments eliminate all references to “Districts” and replace it with “Facilities” in the Area Regulations of Section 1116. The Applicant should explain the reasoning for this proposed change and what effect it would have on Section 1116 as this change was not requested in the District Intent portion of Section 1116.

Response: The purpose of using “Facilities” versus “Districts” was an attempt to differentiate between the property line of the “District” versus the actual location of the solid waste processing and/or disposal activities. We interpreted the original intent of the Ordinance was to measure buffers from the actual waste disposal and/or processing activities, not the property line of the District defined as “activity boundary”, including the limits of all waste processing and/ or disposal areas, appurtenances, and ancillary activities. Therefore, the following text change modification is suggested to bring clarity to the Section (b) (vi):

“However, the activity boundary in the Waste Management District defined as including the limits of all waste processing and/ or disposal areas, appurtenances, and ancillary activities shall be located no closer than 1000 feet of a Residence or a residential domestic water supply (well).”

We have increased the distance of separation as measured from the activity boundary from 500 to 1000 feet taking into account the concerns expressed by the citizens, Board Members and Staff at the P&Z meeting. Therefore, the distance of separation from the activity boundary meets what we believe to be the original intent of the Section for an application made for a WP District anywhere in the County.

3. In the Analysis of Text Change the Applicant responded to 6 of the 14 Questions (ie C, D, E,F,G and H) with the following response, “this is a text amendment request that would apply to any future or pending zoning/rezoning request application. Accordingly, this question would have to be addressed on an individual basis during the zoning/rezoning decision process and not during consideration of a general text amendment.” While we agree that there would be a myriad of site specific issues that would need to be evaluated for any future rezoning requests related to the “WP” Waste Management District, there are inherent impacts that may be realized in a broader sense as a result of the proposed text amendments related to traffic, wetlands, and/or well head protection regardless of the zone or location of the proposed facility within the County. The Applicant should address each of these proposed text amendments by explaining the reasoning for the amendments and what impacts they would have on future rezoning requests. For example, the text change that a “WP” facility to be located on any road within the County would have certain impacts related to increased truck traffic such as noise, reduction levels of service, roadway fatigue, etc.

Response: In regard to the road issues raised we suggest modifying the text amendment to read in Section (b) (viii) to:

“All Waste Management Districts must have primary access via a state or federal highway, however, other road access can be approved by the County Commission if the Applicant agrees to reasonable and appropriate conditions for the approval of the access. These measures will include, but not limited to such road and right-of-way improvements necessary to safely handle anticipated traffic loads, roadway fatigue and level of service to meet the District Intent that “Lands designated for Waste Management should be located in relation to the transportation systems it will utilize so that it will not disrupt normal traffic patterns within the County.” The Applicant shall provide a traffic study and road access plan designed by a Professional Engineer licensed to practice in the State of Georgia with experience in said studies and plans. All costs necessary to study, design and construct the access as approved by the Commissioners shall be born by the Applicant. Waste Management District activities shall not become operational until the road access is constructed. An approved performance bond shall remain in place to cover all costs for replacement or repair for a one year period. At the end of the one year period the County shall inspect the work and finding no defects release the bond and accept the road improvements assuming all future maintenance costs and requirements.”

This revised text preserves the intent of the ordinance and protects roads within the County that cannot be adequately improved in a short distance to access a state or federal highway. It requires a professional traffic study and allows the County to review and approve proposed road improvements based on factual traffic data and professional road design. Having the Applicant be responsible for the road improvements and bond requirements is not unlike the requirements for the County

accepting other private roads within a subdivision or development into the County road system. This also would be similar to language and process found in the County's Section 700 dealing with approvals of Conditional Use Districts.

Turning to wetlands, we suggest the following modification to the text amendment to Section (b) (ix) for clarity:

“Activities within a Waste Management District shall not be located in wetlands as defined by the U. S. Corps of Engineers unless the use of such wetlands can be permitted or otherwise authorized under all other applicable state and federal laws and rules. All applications for a Waste Management District must include a wetlands map for the proposed site generated from either the National Wetlands Inventory Maps for Bryan County, or a site specific field assessment and/or delineation performed by qualified company or individual indicating the estimated acreage of wetlands to be permitted and what measures will be taken to protect any remaining wetlands including but not limited to additional buffers, maintaining or improving hydrology and surface water drainage and sediment flow, if any. No Waste Management activities shall become operational until a copy of the wetlands permit and/or authorization for the site is placed on file with County Engineer demonstrating that no processing, storage and disposal of waste products will impact the protected wetland areas.”

II. Response to Zoning Administrator Evaluation

To address the detailed analysis completed by Ms. Christine Kinzie, Zoning Administrator, we have provided a copy of her analysis followed by our response for each section. We also have provided a copy of the document dated August 30, 2011 and submitted to the CRC in response to their comments which Ms Kinzie appears to have relied heavily on in her analysis. There are also some additional documents provided as well and as so noted in the Table of Contents with this submittal.

BRYAN COUNTY ZONING ANALYSIS OF STANDARDS FOR PROPOSED TEXT AMENDMENTS IN BRYAN COUNTY ORDINANCE, CHAPTER 12 “WP” WASTE MANAGEMENT DISTRICT §1116(a), (b), (vi), (viii) and (ix). PREPARED FOR PUBLIC HEARINGS SCHEDULED NOVEMBER 3, NOVEMBER 15 AND DECEMBER 6TH.

A. Determine whether or not the proposed text amendments are in conformance with the County Comprehensive Plan.

Bryan County along with The City of Richmond Hill and Pembroke completed their joint Comprehensive Plan in 2008. This document, developed through a public process, provides a guideline for future development within the county. The Plan includes the Community's Vision for the Future, Key Issues that need to be addressed and an Implementation Plan for achieving the vision and methods for addressing the key issues. Building on the Vision for the Future, the Future Development Map incorporates the

Character Areas identified in the Community Assessment as Conservation Areas, Corridor, Gateway, Crossroad Community, Kilkenny, Regional Commercial, Rural Residential/Agricultural, and Suburban Developing Areas. (p. iv) . According to State Regulations incorporated by the Department of Community Affairs, it is the responsibility of Bryan County to adhere to this plan as closely as possible.

Bryan County's Vision Statement on page I-1 of the Comprehensive Plan indicates that the Values of the community include coastal amenities, unique rural character, and quality of life. One of the Goals included in this Vision is to prepare for growth, economic development and provide adequate facilities and services while preserving our natural resources and native character. The caveat in this statement "while preserving our natural resources and native character" indicates to what extent the county is willing to allow for growth and development. In other words, the county will allow growth, economic development and provision of additional services as long as the natural resources and native character of the county are preserved.

The Quality Community Objectives (QCOs) in the Comprehensive Plan provide a framework for considering broader topics. Four primary objectives discussed are development patterns, resource conservation, social and economic development and governmental relations. The QCO also includes specific visions, policies and implementation plans. Under Resource Conservation, the Vision is to "preserve, protect and promote the County's natural, historic and cultural resources with special consideration to the rural character inherent to Bryan County." Policies stated under resource conservation include the assurance of adequate supplies of quality water through protection of groundwater resources and the protection of natural resources by controlling the location of proposed developments. To implement these policies, the county was to adopt environmental standards related to groundwater recharge, river corridor and wetlands as well as to utilize "zoning" to protect the environment from development pressures. (Page 1-14, Bryan County Comprehensive Plan)

In addressing the initial question as to whether or not the text amendments are in conformance with the comprehensive plan, it is clear that the county wants to preserve their rural character and quality of life by controlling growth. The county does admit that growth will continue but that it must occur under specific guidelines and regulations. Those specific guidelines and regulations are enumerated in the County Ordinances, Comprehensive Plan and Waste Management Plan. The applicant stated in his response to question number one of the Analysis of Text Change, included in his Application for a Text Amendment that "The County Comprehensive Plan does not mention a waste management district" and that is true, it does not. In addition, it is unclear if the Ordinance allows landfills in the Waste Management District. As currently worded the permitted uses allowed in the Zoning Ordinance are limited to solid waste processing and recycling services. (Chapter 12, Section 116(a)). The Solid Waste Plan

indicates sufficient space for waste disposal via the county's current contract with Republic Waste. The county therefore draws the conclusion that no Waste Management District is either desired or needed in the county.

The county policies specify that the citizens should have assurance of adequate supplies of quality water through protection of groundwater resources and protection of natural resources by controlling development. Again on page I-19 of the Comprehensive Plan the issue discussed is the preservation of our Natural Resources and the plan states that the preservation of natural resources is increasingly important due to development pressures and that County Ordinances and Development Practices need to be encouraged to address this issue. The people depend on the County Ordinances and Regulations to protect their quality of life, their natural resources, their community and their livelihood. When the ordinances and regulations are more stringent than the state regulations, that is to protect to a greater extent the rural character and quality of life in Bryan County. It is the conclusion of the Planning and Zoning Staff that the Comprehensive Plan does not support a Waste Management District or any changes to the Waste Management District Zone enumerated in the Zoning Ordinance of Bryan County nor is there any indication that an additional landfill in the coastal area should be considered.

Response:

Vision:

To preserve, protect and promote the County's natural, historic and cultural resources with special consideration to the rural character inherent to Bryan County.

We believe the intent of this language is to preserve, protect... those resources "worthy" of said protection.

Therefore, consistent with the "Vision" outlined in the QCO, the proposed plan calls for the preservation of ~93% of the wetlands on site. The wetlands to be preserved are the "highest quality" wetlands found within this parcel. Furthermore, the preservation of these wetlands remains consistent with the river corridor protection objectives and compliments the Future Development plan outlined in the Bryan County Comprehensive Plan by placing this area of Black Creek into a permanent conservation easement. Additionally, this conservation easement also protects rare G2/G3 habitats defined by GA DNR on the Land Cover mapping for this area.

Pursuant to the existing Bryan & Chatham Counties Soil survey, there are approximately 149,580-acres of hydric soils mapped within Bryan County alone. The presence of hydric soils is loosely tied to the presence of wetlands. For discussion purposes, consider that approximately 150,000-acres of wetland exist within Bryan

County. Also consider if the project resulted in approximately 40-acres of wetland impact, that action would constitute a .00027% impact to the total wetland area within the County. It's been demonstrated in the record, that even the county from time to time must impact wetlands to accomplish the development objectives. When considering there are approximately 561-acres of wetland on site, impacting ~40-acres represents only a ~7% of the total on site wetlands.

As outlined in the QCO objectives, it remains clear that the Issues and Opportunities, Policies, and Implementation Measures have been written to protect those areas worthy of such protection. As outlined above, 93% of the highest quality wetlands on site will be preserved. However, it should be considered compliant with the comprehensive plan when development must occur, it should be performed in areas of lesser quality wetlands, wherever possible, as is normal protocol with the existing Federal regulations. Ultimately, those wetlands that are permitted to be filled are compensated for through appropriate, agency approved mitigation activities in order to comply with the Federal no net loss policies.

Pursuant to Section 404 of the Clean Water Act (33 United States Code (U.S.C.) 1344), the U.S. Army Corps of Engineers has the Statutory Authority to receive and process permit applications for proposed wetland impacts. Commentors to Section 404 permit applications include US Environmental Protection Agency, US Fish and Wildlife Service, National Marine Fisheries Service, Georgia State Clearinghouse, Georgia Department of Transportation, Georgia Environmental Protection Division; Air Protection Branch; Flood Plain Management Section and Wildlife Resources Division, Coastal RC of Georgia, Metropolitan Planning Commission, local governments, and Georgia Department of Community Affairs. Each commentor has their own authoritative responsibility and when complete, the Corps takes into consideration if the project is permissible. If permitted, only then can the wetlands be filled and the approved land use implemented. Once these wetlands are removed, as with all other projects, the soils that replaced / filled the previous wetland area are suitable for the proposed development and this area no longer functions as a wetland. Therefore, regardless of the current function of the wetland or upland areas pre construction, these functions are changed to accommodate the new use, i.e. one form of development or another.

During the permitting process, extensive analysis of the proposed project is performed pursuant to the Section 404(b)(1) Guidelines of the Clean Water Act (Part 230 of Title 40 of the Code of Federal Regulations). Generally speaking, this is a three part process that begins with avoidance of wetland impacts where possible, minimization of unavoidable wetland impacts, and finally mitigation for the unavoidable wetland impacts. In detail, the Corps evaluates the permit application regarding the need for the proposed activities, the practicability of project alternatives, and the beneficial and

detrimental effects, including cumulative impacts. This evaluation includes; Economics/Social, Education/Scientific, Aesthetics, Food-Fiber Production, Historical/Archaeological/Architectural, Recreation, Land Use, Mineral Resources, Soil Conservation, Water Supply Conservation, Water Quality, Air Quality, Noise Levels, Public Safety, Energy Needs, National Security, Navigation, Shoreline Erosion Accretion, Flood Hazards, Flood Plain Values, Wetlands, Refuges, Fish, Wildlife, and Food Chain Organisms, Threatened and Endangered Species, General Environmental Concerns, Property Ownership, and Other issues there may be to unknown project related impacts that are not discussed above.

Although extremely thorough, when dealing with landfills, the EPD has yet a separate site suitability process that specifically deals with the science associated with siting landfills. Combined, this regulatory evaluation ensures a safe and acceptable project that meets all applicable regulatory standards.

As a result, we believe the original intent of the ordinance was not to preclude waste management districts in wetlands, but instead to make sure all appropriate resource agencies review, assess, and if worthy, issue the necessary permits for the proposed action. The statutory function of these agencies is in part, to oversee compliance with state and federal rules, regulations, and laws to ensure compliance. Certainly, the ordinance was not intended to replace this concerted effort.

Additionally, we believe the proposed land use is in compliance with the County Comprehensive Plan because:

- Typical Land to be used for waste disposal is rural in nature and completed disposal areas function as open green space attractive to wildlife and are maintained by mowing of the closed areas.
- The green space is constructed incrementally as each phased area reaches design capacity.
- Only the area necessary to facilitate construction of the next phase is disturbed.
- A landfill is a valuable piece of infrastructure and provides a needed service for business and industry looking to locate in Bryan County realizing lower waste disposal costs than transporting their waste to a more expensive out of County facility.
- A landfill will remain an open green space with a rural character since it cannot be developed under State law.
- The final end use is much the same as the existing property except for in this case the addition of a recreational area and more than 600 acres in a permanent conservation easement. At the present time no acreage is set aside in a conservation easement on the existing tract.

The County's conclusion is "that no Waste Management District is either desired or needed in the County and that the Comprehensive Plan does not support a Waste Management District or any changes to the Waste Management District Zone enumerated in the Zoning Ordinance of Bryan County nor is there any indication that an additional landfill in the coastal area should be considered." Based on this statement, the staff is concluding that the Comprehensive Plan does not support a Waste Management District which nullifies all its permitted uses including recycling facilities. Based on this conclusion the Comprehensive Plan appears to assume that, for whatever reason, waste disposal will always be handled as an out-of-County service as well as sewerage treatment, recycling services, medical waste treatment and incineration and hazardous waste processing. This conclusion seems contrary to the portion of the vision statement that states *"Our goals are to master plan for growth, economic development and provide adequate facilities and services for our citizens while preserving our natural resources and native character."*

It is wise to prepare for the projected future growth by providing in-County cost saving solid waste disposal now. Even if AWS is able to clear the zoning hurdle it will be 2-5 years before the site could receive all permits, clear potential legal hurdles, make necessary road improvements, construct the first disposal cell and be ready to receive waste and materials for recycling and disposal. The projected rapid growth over the next 30 years will most likely require one or more, if not all of the services listed in the ordinance. Therefore, developing a text amendment that would allow these services and still preserve the natural resources and native character is difficult, but not an impossible task. Atlantic Waste Services is up to the task and is willing to put the time and resources in place to work with the County in addressing two of those critical areas, disposal and recycling services. As determined by the staff, the Comprehensive Plan has set high standards as to prohibit all businesses trying to develop in areas that may require the need to "preserve, protect and promote the County's natural, historic and cultural resources with special consideration to the rural character inherent to Bryan County." As this relates to this text amendment and section of the zoning code, requiring other land uses not to abide by the same standards while prohibiting a legitimate business such as recycling, processing and waste disposal could be deemed unconstitutional.

- B. Whether the proposed text amendment improves the overall zoning scheme and helps carry out the purposes of this Ordinance.

The systematic arrangement of zones in the county depicts the way in which the county is currently developing. Because there is no land in the county currently designated as a Waste Management District (WMD), staff believes that means that the county has not considered a Waste Management District as part of its plan. Changing the text in the

Waste Management District to allow this district more leniencies would not help to carry out the purposes of the Ordinance which are to protect the health, safety, prosperity and general welfare of the residents of Bryan County.

The applicants state that the proposed text amendment would improve the overall zoning scheme in the county because it would make the WMD more conforming with state rules and guidelines, (Analysis of Text Change, Applicant's application). The zoning ordinance states that in addition to the authority granted by the state, each county has their own responsibility for the protection of the health and safety of its citizens, their convenience, order, prosperity and general wealth. (p.1, Chapter 12, Bryan County Zoning Ordinance) It is suggested by the state that each county be more stringent than the state regulations.

Response: We again understand that no land is designated as a Waste Management District because the very nature of the ordinance requires an applicant to apply for a specific rezoning request for it to be added to the Zoning Map which Atlantic Waste Services plans to do. We agree the County has both the right and responsibility for the protection of the health and safety of its citizens, their convenience, order, prosperity and general wealth. The intent of AWS is never to decrease the level of protection for the health and safety of its citizens, their convenience, order, prosperity and general wealth. This is the reason we have retained an experienced team of professionals to evaluate the project site and design the facility to meet or exceed all requirements of the law for the health and safety of its citizens, their convenience, order, prosperity and general wealth.

- C. Whether the proposed text amendment is compatible with or would negatively impact the overall character and land use pattern or a particular piece of property or neighborhood within one mile of the revised zone.

Section 1116, paragraph vi, of the current Waste Disposal Ordinance states that the required distance between a house or well and a landfill would be measured from the house or well to the boundary of the Waste Management District. The applicant has petitioned to change that boundary to be measured from the Waste Disposal Boundary Line instead of the Zoning District as indicated in the state ordinance. The other change in paragraph (vi) would allow the landfill to be no closer than 500 feet rather than 1000 feet from a water source or residence as currently required in the county ordinance. A landfill could therefore be as close as 500 feet from a water source or residence because if the waste disposal site runs along the edge of the property line, the only distance required between the site and the water source or residence would be the 500 foot requirement. The 200 foot buffer which is required along all property lines could be included within that 500 foot distance. Staff does not believe that these ordinance changes would be compatible with the overall character or land use pattern on any

piece of property in Bryan County because the county has no other property zoned as a Waste Management District.

The applicant proposed in paragraph *viii* of the Waste Management District Zone, Section 1116, to change the following statement, "All Waste Management Districts must have primary access via a state or federal highway" to a statement that would allow landfills to locate on a local road if the applicant "proposed needed improvements to the road." If large commercial trucks hauling waste to the Landfill were allowed on local roads, there would be a potential for impact on residences that were located on that road because of the number of trucks, the smell, the potential for leakage. This would have a negative effect on residences bordering on these local roads.

Response: Please note as discussed above we have increased the separation distance from 500 to 1000 feet from the waste disposal activity, not the property line. Also, please note the modifications to the text proposed in Section *viii* have been revised to address the access portion of the Section on page 4 of this document.

- D. The adequacy of public facilities and services intended to serve the zone proposed to be reclassified, including by not limited to: Roads, parks and recreational facilities, police and fire protection, schools, storm water drainage systems, water supplies, wastewater treatment, and solid waste services.

The applicant proposed in paragraph *viii* of the Waste Management District Zone, Section 1116, to change the following statement, "All Waste Management Districts must have primary access via a state or federal highway" to a statement that would allow landfills to locate on a local road if the applicant proposed needed improvements to the road. The county does not believe that local roads would provide adequately the strength and endurance a road would require handling heavy commercial trucks full of waste which would commute to a site on a regular daily basis. In addition to the current condition of roads, continuous use by large commercial trucks would mean frequent repair would have to be made by the county to their roads and may not be feasible for the county to be responsible for repairs to the road.

Response: See discussion on page 4 as the text proposed for paragraph *viii* has been revised to address the intent of the access portion of the Section and address your concern regarding repairs and maintenance. Also please note that revenue from the \$1.00 per ton of waste disposed host fee the State requires the County to collect from AWS can be used to more than cover any repair and maintenance costs for the up-graded road.

The existing zoning for this property is A-5. Section 1100(b) (xi) allows a conditional use for the "Excavation or mining of sand, gravel or other natural materials" yet does not require access from a state or federal highway as is required for a "WP" District. However, as part of the Commissioners approving the conditional use they could

require improvements to the road to handle the traffic associated with mining activities which could equal or exceed the anticipated landfill traffic. Also, since sand, soil and gravel have much higher unit weights than solid waste, then trucks servicing a mining operation could possibly carry heavier loads on the road. The Chairman of the Planning and Zoning Board, Mr. Peter Shonka noted this fact in making comments on the matter before him that trucks hauling soil to the landfill would be heavier than the waste trucks. As a side note all necessary soils for construction, operation and closure of the landfill are available on-site and will not require any hauling over any public road, county, state or federal highway.

Atlantic Waste Services in requesting this text amendment change is only asking for equitable treatment regarding access that is afforded to all other uses in the Bryan County Zoning Ordinance. The requirement to access from a state or federal highway cannot be found as a requirement in any other zoning classification and many of those classifications could produce similar or greater traffic volume and loads. One example is the Belfast Center, a heavy industrial development with primary access from Belfast Keller Road, a county road, not a state or federal highway.

- E. Whether the proposed text amendment will adversely affect a known archaeological, historical, cultural or environmental resource, such as water or air quality, ground water recharge areas, drainage, soil erosion sedimentation and flooding.

The last text amendment to the above referenced ordinance will allow Waste Management Districts and/or Facilities to be located in wetlands if the application can be permitted by the Army Corps of Engineers. The current Ordinance does not allow any Waste Management District or Facility to be located in Wetlands. It must be demonstrated that all processing, storage or disposal of waste products will be outside the wetlands area. Again, just as stated in the answer to number 2, this ordinance change will allow any Waste Management Developer more leniencies as is allowed in the State ordinance and will not go to the same extent in protecting the county's natural and environmental resources.

The applicant proposed in paragraph *viii* of the Waste Management District Zone, Section 1116, to change the following statement, "All Waste Management Districts must have primary access via a state or federal highway" to a statement that would allow landfills to locate on a local road if the applicant proposed needed improvements to the road. If large commercial trucks hauling waste to the Landfill were allowed on county local roads, there would be a potential for impact on residences that were located on that county road. The number of trucks, the smell, and the potential for leakage, all would have a negative effect on cultural, environmental, water and air quality.

Response: Every other zoning district or classification in the Bryan County Zoning Ordinance is allowed to permit wetlands as delineated in proposed text change. A properly designed, permitted, constructed, and operated municipal solid waste landfill is required by law not to adversely affect a known archaeological, historical, cultural or environmental resource such as water or air quality, ground water recharge areas, drainage, soil erosion, sedimentation and flooding. We have already previously responded to the comment regarding access. Also see our previous response under item A. pages 7, 8 and 9 regarding wetland preservation and habitat protection.

- F. Whether the proposed text amendments will adversely affect the existing uses or usability of adjacent or nearby lots or the preservation of the integrity of any adjacent neighborhoods;

The first ordinance change request to Section 1116, paragraph vi, would be to change the distance measured from the waste management district to the waste disposal boundary as indicated in the state ordinance. The other change in paragraph (vi) would allow the landfill to be no closer than 500 feet rather than 1000 feet as currently required in the county ordinance. The integrity of the adjacent neighborhood would be affected more so if the distance from a landfill to the neighborhood was decreased. This would increase the risk of odor from the landfill. Existing uses will be at a greater risk from adverse affects such as contaminated water.

The applicant proposed in paragraph *viii* of the Waste Management District Zone, Section 1116, to change the following statement "All Waste Management Districts must have primary access via a state or federal highway" to a statement that would allow landfills to locate on a local road if the applicant proposed needed improvements to the road. Roads currently used by homeowners would be inundated by large trucks carrying loads to the landfill for dumping. This would affect the traffic as well as the condition of the roads requiring additional repairs at the expense of the taxpayer.

Wetlands and natural habitats may also be adversely affected by the suggested ordinance changes. The Bryan County Ordinance does not allow a Waste Management District to be located in wetlands. The suggested change would allow Facilities and their required zoning district to be allowed if wetlands could be permitted under applicable state and federal agencies.

Response: All points have already been addressed.

- G. Whether the proposed text could adversely affect market values of nearby lots;

Based on the information provided by the Bryan County Tax Assessor's Office, it is difficult to anticipate how much or how little property values will be affected until the landfill is placed on the site but experience has shown that property values decrease markedly when a landfill locates nearby. Factors such as the wind can have an effect on the market value of property near a landfill. These factors do not change when the

landfill is closed but because landfill residue and pollution does not decompose for decades, the property surrounding the landfill will be at risk for decades of time and will thus keep property values low for that same time frame.

Response: Appended to this document is a copy of a white paper “Solid Waste Landfills and Residential Property Values” by Bruce J. Parker, President & CEO National Solid Wastes Management Association (NSWMA) stating that “The effects of landfills and other solid waste facilities on nearby residential properties cannot be easily generalized; however, academic research and other evidence indicate that residential property values are not necessarily adversely affected by close proximity to such facilities”

Also included with this document is a Restricted Appraisal Report for properties near three landfills in Chatham County, Superior Landfill, Southbridge City of Savannah Landfill and The Republic Landfill completed by Johnnie Ganem, J.D., CRA, a Georgia and South Carolina Certified Appraiser. Mr. Ganem stated: “In conclusion, our search of sales adjacent to the three subject landfill sites turned up limited results and therefore the search area was expanded to nearby locations surrounding the landfill sites, of which sales were found. There was not a direct correlation determined to be found between sales located near the landfill sites with fluctuations largely impacted by local and national real estate and economic trends as is shown by the above sales, which followed the boom and bust of the latest economic cycle.”

It would be helpful if you could site your academic studies and sources you utilized to reach the extreme conclusions regarding the initial and long term effects of landfills on property values.

Atlantic Waste Services is also in the process of developing a Property Value Assurance Plan that will allow residents within one-half mile to participate in the program to guarantee no loss in property value due to the effects of the proposed landfill. A copy of the draft of this plan is found in section V. F. of this document.

It is estimated the taxable value of the property on which the landfill is to be constructed will be increased significantly providing a greater tax base resulting in additional tax revenue both now and in the future.

- H. Whether the proposed text amendment would require an increase in existing levels of public services, including but not limited to: Schools, parks and recreational facilities, storm water drainage systems, water supplies, wastewater treatment, solid waste services, roads or police and fire protection beyond the existing ability of the County to provide.

The applicant proposed in paragraph *viii* of the Waste Management District Zone, Section 1116, to change the following statement, "All Waste Management Districts must have primary access via a state or federal highway" to a statement that would allow landfills to locate on a local road if the applicant proposed needed improvements to the road. The county is not prepared to provide additional funds for road improvements if there was a need to do so and is therefore not willing to change this ordinance to allow for additional road improvements if traffic from a landfill was to use county roads.

Response: This concern has been addressed in previous responses. Additionally, the landfill will provide an estimated average over the life of the facility of \$500,000 in annual host fee funds as required by State law. These funds can be utilized by the County to increase funding for public services including but not limited to ROADS, schools, parks and recreational facilities, storm water drainage systems, water supplies, wastewater treatment, solid waste services, or police and fire protection. As previously stated an increase in land value will produce additional property tax revenues and sales tax revenues from equipment and supply purchases. A list of economic benefits is provided in the materials submitted with this response.

- I. Whether there are other existing or changing conditions that would require further updates or changes to the ordinances.

The County is not aware of any existing or changing conditions that would require updates or ordinance changes.

Response: As previously stated, the current ordinance is at best difficult, if not impossible to comply with and at worst it is unconstitutional. Therefore, AWS has submitted these text changes for review and approval. Bryan County is expected to have a population growth of over 50% in the next 30 years. Growth is a changing condition that typically flows along state and federal highway systems. An increase in development along these highways will do nothing to improve the difficult, if not impossible task of finding a suitable tract of land with access from state or federal highway for a "WP" District. Therefore, a change in the ordinance to allow access from a County road that can be adequately improved is necessary.

- J. The relative gain to the public as compared to the hardship imposed upon the petitioner, by the current wording of the Ordinance;

The County's Comprehensive Plan, Future Land Use Map and Solid Waste Plan do not call for a waste management land use/facility to be established in the county. At this time there is sufficient capacity for normal waste disposal levels based on an investigation of other landfills in the area. The conditions required for a landfill in the county's waste management district, (Chapter 12 of the Zoning Ordinance) are more stringent than the state's minimum requirements in order to provide better protection to the citizens than the state currently provides. For these reasons, there is no current

need for text amendments that would allow more leniencies in the ordinances for a landfill that may cause hardship on the citizens.

Response: AWS has addressed these issues in previous responses. The issue requiring the demonstration of “a need” for the establishment of a “WP” district for construction of a private municipal solid waste landfill is no where required in the County’s Comprehensive Plan, Zoning Ordinance, Solid Waste Management Plan, the County’s Environmental Ordinance or any other Federal, State or local law, ordinance or rule. Simply because it is not shown or discussed in the County’s Comprehensive Plan doesn’t necessarily demonstrate the lack of a need for one, but more importantly it represents the need to plan for freeing the County from potentially higher and higher disposal costs associated with long hauls to out of County private landfills in the region.

There are plenty of references to regulations to make certain that health and environmental risks are safe guarded, traffic is handled, property values are protected, critical wetlands, floodplains and habitats are preserved and a myriad of other regulations are satisfied. However, it is the burden of the developer/businessman to demonstrate compliance with all the regulations, acquire the zoning approvals, complete all the investigations, develop detailed and extensive plans, participate in the public meetings, hearings and facilities issues processes, spend millions of dollars on engineers, scientists, attorneys, public outreach firms, permit fees, construction costs, equipment, hiring personnel, and improving roads.

The petitioners of this text amendment and the principals of Atlantic Waste Services, Inc., have 47 years experience in hauling, disposing and recycling waste in the Savannah metro area. As qualified investors assuming all the risks associated with this project, they are the party that has determined that a business of this type and in this proposed location is both needed and will be successful. If there is no need and the project is unsuccessful they will bear the full load and cost of their own evaluation and decision to move forward.

Perhaps the community, residents and businesses will realize that this landfill is not the demon it was made out to be but a legitimate business providing a necessary service at a significantly lower disposal cost so all can save needed funds in these critical economic times while still protecting and preserving the environment, the health and well being of all those living near the landfill, while giving back to the community at large through host fees, jobs, purchasing goods and services, providing scholarships, donating funds to parks and recreation, creating a permanent conservation easement of more than 600 acres of pristine wetlands and wildlife and plant habitat, maintaining the rural nature of the area by preserving green space, controlling drainage ways and donating to the County a lake area that can be developed as a recreational park for hiking, boating, various sports activities, concerts and educational opportunities with an outdoor

classroom to teach the proper balance between responsible waste handling, processing, recycling and disposal while preserving natural resources.

- K. Whether there are substantial reasons why the ordinance cannot function as intended without the proposed text amendment.

No substantial reasons exist.

Response: As previously stated the current ordinance is at best difficult, if not impossible to comply with. At worst it is unconstitutional. Therefore, AWS has submitted these text changes for review and approval.

- L. Whether the proposed text amendment would allow a use not otherwise approvable in the current ordinance and/or allow a use that is incompatible with existing uses.

The proposed text amendments if approved would allow a landfill to locate much closer to existing homes and water sources than currently allowed by the Bryan County Zoning Ordinance. It would allow the large commercial trucks travelling to dispose of waste to travel through a residential neighborhood using county roads without any compensation for road repairs. The proposed changes in the ordinance would also violate federal and state conservation guidelines for development. Any zoning change request that violated the current ordinances and was within 1000 feet of the Landfill District, which was not accessed by a state or federal road was within a wetland area would not currently be approved by the county.

Response: All the above issues as best as we can understand the above text regarding distances to well and residences and use of access from County roads rather than state or federal highways have been previously addressed in this document. As previously stated the current ordinance is at best difficult, if not impossible to comply with and at worst it is unconstitutional. Therefore, AWS has submitted these text changes for review and approval.

To the best of our knowledge and through a detailed review of all parcels 50 acres or larger accessed by a state or federal highway, we have confirmed there is not one parcel that can meet all the current ordinance's requirements.

We are not certain what federal or state conservation guidelines you are referring to that would be violated, but we can assure you that any development of the proposed site or any other site AWS should choose will be developed in strict compliance with all federal, state and local laws, rules, regulations and guidelines as may be enforceable by law.

M. Whether the proposed text amendment relieves a particular hardship, and/or confers special rights or privileges, and/or benefits the petitioner in any way;

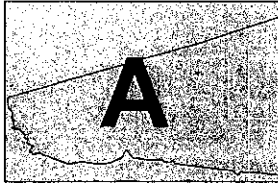
The proposed text amendments as mentioned above would allow a solid waste company to build on a property that would currently not be feasible because of the zoning regulations. It is believed that this would relieve particular hardships now endured by the petitioner.

Response: As previously stated the current ordinance is at best difficult, if not impossible to comply with. At worst it is unconstitutional. Therefore, AWS has submitted these text changes for review and approval. To the best of our knowledge and through detailed review of all parcels 50 acres (minimum required lot size) there is not one parcel that can meet all the current ordinance's requirements.

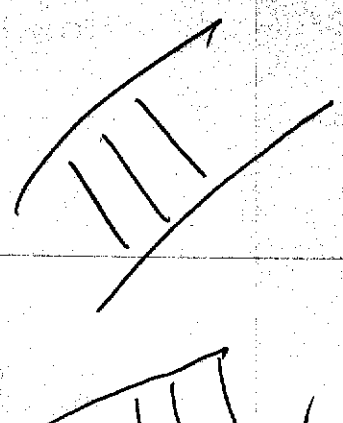
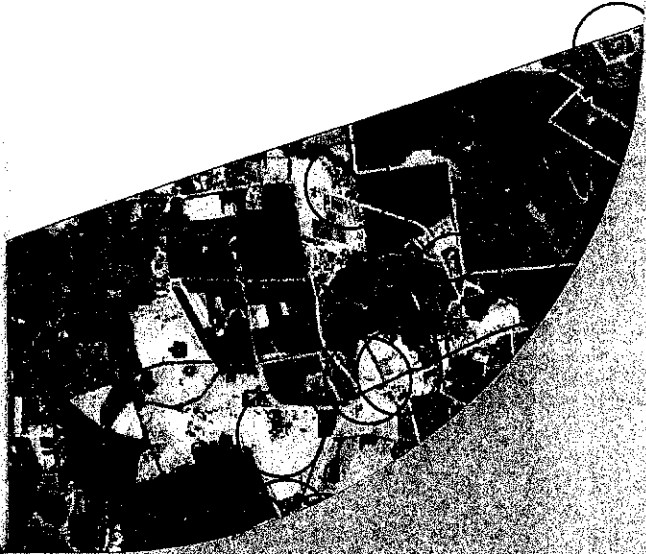
N. Whether the proposed text amendment negatively impacts and/or benefits the general public in any way.

As mentioned earlier, the negative impacts on the general public would be the proximity of the landfill to private water supplies and existing homes, the increased road repairs and the negative impacts to the land use pattern, overall character and integrity of the neighborhood, lots adjacent to or nearby the site, the land values, and the environment.

Response: Both the impacts and benefits of the proposed text amendments have been addressed in previous responses.



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Addendum Information for DRI #2189
Atlantic Waste MSW Disposal Facility and
Recycling Facility
Bryan County, Georgia

August 30, 2011

Atlantic Waste Services

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IV

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Addendum Information for DRI #2189

Atlantic Waste MSW Disposal Facility and Recycling Facility

August 30, 2011

SUMMARY RESPONSE TO DRAFT "FINDINGS NOT IN THE BEST INTEREST"

Purpose:

The purpose of this addendum material is to respond to the draft "Findings Not In The Best Interest" (Findings) attached to a letter dated July 15, 2011, from Mr. Allen Burns, Executive Director, Coastal Regional Commission (CRC), addressed to Mr. Phil Jones, Bryan County Administrator. Atlantic Waste appreciates the 30 day extension to address the impacts so as to mitigate and/or resolve them in a positive manner. Our response will proceed by listing each section of the Findings and presenting narrative, maps, studies and data that were part of the original submittal or that have been revised or expanded upon to clarify particular issues. We are also submitting some new maps, narrative, studies and data completed that address more fully areas of concerns raised in the CRC's draft findings as well as other issues raised by interested parties since the original DRI submittal.

Findings: "The Coastal Regional Commission (CRC) finds that this project is not within the best interest of the state"

Response: We trust that the information that follows will change this statement to "The Coastal Regional Commission (CRC) finds this project is within the best interest of Coastal Region and therefore the State."

Findings: Though this finding is advisory in nature, we urge the Bryan County Planning Commission and the Board of Commissioners take the following reasoning and comments into consideration prior to any action in furtherance of this project:

Response: We agree with this statement. As we said in our meeting with CRC staff on July 26, 2011, we believe although CRC's findings are only "advisory in nature" they can carry significant weight as the Planning Commission and Board of Commissioners consider planning and zoning decisions critical to the success of this vital project. Therefore, we want to be sure every point of concern is addressed at this "advisory level" in such a convincing manner, with a preponderance of facts and evidence, that CRC's revised findings can be **"the project is within the best interest of the Coastal Region and the State"**. Our team of consultants are well respected and highly qualified in their fields. They and their firms have more than 100 years of combined experience on more than 5000 projects in areas including, but not limited to, wetland delineation, mitigation and permitting; floodplain hydrology; drainage; storm water

management; sediment and erosion control; field identification and evaluation of rare habitats and rare and endangered species; historical and archeological site identification and evaluation; identification of State Waters and evaluation; land use policy; geology; hydrogeology; biology; groundwater science; groundwater monitoring and evaluation; corrective action; stream restoration; siting, design, construction, operation, closure, post closure care of solid waste disposal and recycling facilities. Their resumes are provided in the appendix of this addendum. Our team is providing the information in this document and they are available if you have any questions or need additional information.

Findings: The project is not consistent with the Regional Plan for Coastal Georgia. The regional plan seeks to protect natural resources such as wetlands, floodplains and rare habitats with sound land use policy.

Response: Mike DeMell discusses the procedures for identifying, protecting, preserving and permitting of the wetlands and rare habitats in Section 2 of this document. Steve Harbin, P.E. discusses floodplain locations, preservation and buffers to this natural resource in Section 1. Also, Figures II Flood Hazard Areas, III Wetlands, and VI Land Cover Association provide locations of all three natural resources mentioned in your findings above and demonstrate minimal or no impacts.

Findings: The regional plan has identified a portion of this site as an Area Requiring Special Attention specifically an Area of Significant Natural Resource with a future land use of Conservation.

Response: Atlantic Waste Disposal Facility Figure V shows the proposed limits of the project on the CRC Figure 15, Future Development Bulloch County and North Bryan County. No portion of the proposed project limits encroaches on the area designated for Conservation.

Findings: In addition to the future land use map, there are several guiding principles concerning stormwater management, natural resources, regional growth management and agricultural lands that the project is not consistent with.

Response: Bob Krasko, P.G. discusses the Stormwater Management Practices from the Georgia Coastal Stormwater Supplement that are employed as part of the proposed project in line with the guiding principles for stormwater management in Section 3. The location of these practices is shown on Figure I Conceptual Site Plan. Steve Harbin, P.E. discusses in Section 1 how the Potential Post Development Site Plan, Figure VII demonstrates how several acres of the completed site can also be returned to agricultural, recreational and open space use once the project is completed.

Findings: The project is not consistent with the Bryan County Future Land Use Map which designates the area as conservation and rural development agriculture, which does not include provisions for waste management district(s).

Response: Figure V Future Land Use Plan shows the project site does not encroach on the conservation area in the future use plan and Figure VII Potential Post Development Concept Plan show an increase of 389 acres of conservation area over the 519 acres designated by the North Bryan County Future Land Use Map.

Findings: The proposed rezoning request to a Waste Management Zone does not comply with the following requirements in the Bryan County Zoning Ordinance:

- a. 12-11-1116(b) (vi) prohibits waste management district within 1000 feet of a resident or residential well.
- b. 12-11-1116(b) (vii) required primary access to landfill from state or federal highway.
- c. 12-11-1116(b) (ix) prohibits landfills in wetlands.

The CRC recognizes that text amendments are requested to change the separation distance from 1000 feet to 500 feet and to allow a waste management district to locate on a county road. There will still be residences and water supply wells within 500 feet of the proposed waste management district boundary. The county road would need improvements to support the weight and volume of traffic anticipated by the development. The impact of new traffic on the existing traffic would need to be determined through a traffic study.

Response: We are very much aware that the existing Bryan County Zoning Ordinance governing waste management will need to be amended in order to allow the requested use and that the subject property will then need to be rezoned to the amended W-P (Waste Management) District. This is a zoning matter for consideration by the Bryan County Board of Commissioners and, in fact, there is a pending petition before the Board of Commissioners with respect to a text amendment. We would respectfully request that the Coastal Regional Commission make its recommendation to Bryan County based on established DRI review procedures understanding that any future development of the site will require a zoning and text amendment to be approved by the Bryan County Board of Commissioners.

Findings: The developer will need to apply for a permit and would be required to mitigate for the wetlands proposed to be developed.

Response: Mike DeMell addresses the permitting and mitigation of wetlands in Section 2.

Findings: The development may result in impacts to the remaining wetlands that include rare habitats.

Response: Mike DeMell addresses these potential impacts in Section 2 and Bob Krasko, P.G. addresses site hydrology, stormwater and groundwater hydrology as they relate to these issues in Section 3.

Findings: The project has the potential to have detrimental impacts on the natural resources within and adjacent to the proposed site. Given the vulnerability of this location to natural resource impacts, the adjacent land use, local and regional planning objectives as stated in published plans, and additional input from comments received we believe that this site is not suitable for this project.

Response: It is our understanding that as described in Chapter 110-12-3-.01(1) General “The intent of the DRI review process is: (1) enhanced focus on quality growth in planning and executing major development projects throughout the state; (2) careful consideration of, and planning for, impacts of major development projects on local public infrastructure and services; and (3) improved local, regional, and state level communication about new growth in the state.” Therefore as an advisory agency, it is our understanding that the CRC is to conclude either the DRI is in the best interest of the region or is not in the best interest of the region. If the DRI moves forward and zoning is granted, then it is our understanding the Georgia Environmental Protection Division is the State agency vested with the responsibility to determine whether the site is suitable or not suitable for the project. We believe CRC’s concerns in the areas mentioned above have been adequately addressed in CRC’s findings and we have responded accordingly.

Findings: Comments were received from numerous organizations, including some private non-governmental organizations and private citizens. Though this review is intended to solicit comments and concerns from other governmental authorities, overwhelming private organizational comment cannot be justifiably ignored. Therefore copies of all comments received during the review period are enclosed.

Response: We understand that projects of this nature evoke strong opinions and emotions from private citizens and organizations. However, as we understand the DRI review process, these entities are not “Affected Parties” as defined by Chapter 110-12-3.06 and information from those parties should not be utilized by the CRC in the DRI review process. These parties will have ample opportunities in the local zoning application and approval process and the EPD public participation and permitting process for input and to be heard. Even though, we have reviewed these documents as provided by the CRC and believe the issues relating to DRI review process have been addressed in our responses. Additionally, we request since the CRC included these documents in their initial DRI review, the CRC also review and take into consideration the data, surveys and letters from numerous sources in favor of this project as presented in Section 4 of this document.