

James L. Conner II

Attorney & Mediator

December 11, 2008

Geoff Gledhill, Esq.
Orange County Attorney
Via facsimile and email attachment

Orange County Commissioners
Via email attachment

Re: Waste Transfer Station

Dear Mr. Gledhill and Honorable Commissioners:

I have been retained by a group of citizens of Orange County to help them address their concerns about the proposed waste transfer station for Orange County. It is our understanding that the Board of Commissioners is prepared to vote on Thursday night, December 11, to approve a site for this facility.

First, it is important for you to know that my clients are a broad array of Orange County citizens. I have been practicing environmental law for 25 years, and I have been involved in waste facility siting decisions from all sides—as staff in Alamance County, as a private attorney representing waste management companies, as an attorney representing citizen groups, and as a judge hearing challenges to siting decisions. Often, citizen challenges are seen as merely NIMBY reactions, and often that is what they are. This case is different. My clients are from all over the county. Some live near the current proposed site. Others live near sites that have not been chosen. These are well educated and worldly business people and professionals. They have come together because they are all concerned that this process has been faulty and has resulted in a faulty conclusion. They all understand that a bad choice on something this important will have negative impacts on Orange County for many years to come.

We are writing to ask that you engage in dialogue with us about this important decision before you make the decision. We respect the work that has already gone into this process, and we understand that the overall task of deciding Orange County's next step in solid waste management started some years ago. We are acutely aware that you are concerned about the time constraints imposed by the end of the useful life of your current landfill. We know that there has been some public input into the process.

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However, this lengthy process is one that has accelerated with alarming speed to an unexpected and unseemly result at the very end of the process. As recently as September, representatives of the areas around the Highway 54 sites demurred from speaking at a public hearing in order to let representatives of communities “more likely to be chosen” speak. Only in October were these Highway 54 sites elevated to the top of the list, and only on November 17 was there a chance for representatives of that area to speak to the Board. (I am working to get up to speed on this case—if I have erred in any detail, please forgive me).

Some of my clients recently sent you a report titled “Sustainable Waste Management for Orange County,” dated December 8, 2008. I read that report last night. I was struck by the level of detail and the number of hard, verifiable statistics provided in that report. I have reviewed hundreds of consultant-prepared reports in my career. I can tell you that it is the rare consultant report that provides the sort of detail and project-specific information that this citizen report provides. Consultant reports are usually 500 pages, with 490 pages of it boilerplate the consultant pulls off his computer for every such report. By contrast, every page of this citizen report is directly involved with this particular project in this particular county.

This Report provides a number of specific alternative locations for any needed waste transfer station, several of which we feel are clearly superior to the site recommended for selection by the Board. The Report raises many other cogent issues for the future of solid waste management in Orange County. Importantly, this report was prepared on a very short timeframe (a few weeks), and its preparers tell me that they are able to provide more and better information if given a little more time.

We know that Orange County staff have expressed their pride in conducting a process that they feel has been thoughtful. We know that staff are good people, and undoubtedly express this opinion sincerely. However, there are at least two glaring indicators (other than the timeline itself) that this process has become derailed in the end. First, and most obvious, is the fact that this process ended up exactly where poorly conducted processes end up: with a waste site located far out in the country where fewer people are neighbors, so it is assumed fewer people will complain. Second, the site selected is not a site that anyone thought was the best site. It is a site selected by default, as better sites were shot down for various non-scientific reasons. There is precious little to recommend this site other than its remoteness from Chapel Hill. Out of sight, out of mind: exactly what good solid waste planners try to avoid (and Orange County waste planners have indeed avoided in the past).

There are any number of specific problems with this site, a few of which follow:

- it locates an activity that is quintessentially industrial in nature far from the nearest industrial zoning or other industrial activities.
- it locates the solid waste processing center for the county far from the population center of the county.
- it promises negative environmental impacts to a site that is currently relatively pristine: why take a 'greenfields' and turn it into a massive garbage facility?
- significant issues regarding illegal zoning demands, cumulative impacts, costs, and inappropriate road access raised by the letter of November 24 from the owners of the property under consideration.

There are many other issues, several of which are set out in the Report.

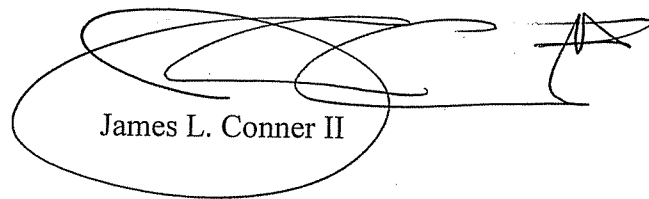
The real point right now is that this broad array of citizens, from all over the county, wants to work with the leaders of their local government to come up with a better solution. Rather than oppose a single site, these citizens have come together to look for a better solution. We are not seeking to have the County go back to any of the other sites that have been considered and rejected (specifically not the Eubanks Road or Hillsborough sites). All we ask right now is that you take a breath, decline to approve a site at this moment, and meet with us to discuss the alternative sites we have located, the problems with the current site, and long term solid waste management for Orange County. We will be glad to do this in any format that is acceptable to you, so long as decision makers are involved. You may be familiar with the stakeholder negotiation model that is used for the creation of many environmental laws and regulations at the State and Federal level. This is a highly successful model for citizen involvement that goes beyond the "speak for three minutes at a public hearing" process. The key is to have those who have strong interests in the outcome actually involved in the decision making process, and thereby committed to the result produced by the process. This both forces staff to take citizens seriously, and forces citizens to look with eyes open at all the competing considerations staff must consider. My clients are committed to continue this work until a suitable site is selected.

The point of this letter is to ask for a dialogue. That is what we sincerely want. However, it is also my duty to inform you that if the county is unwilling to have a meaningful dialogue with us prior to the Board's decision on siting this facility, I have been authorized to file suit seeking, first, a Restraining Order and Injunction to keep this facility from going forward at this site and, second, an eventual judgment invalidating the selection of this site.

Please call me, and work with us, so that we can all avoid this expensive and time consuming outcome.

With thanks and best regards, I am

Sincerely yours,



James L. Conner II