BOARD OF COMMISSIONERS MONMOUTH COUNTY

REGULAR MEETING FOR: TRANSCRIPT OF PROCEEDINGS

November 7, 2024

Thursday, November 7, 2024
12:30 p.m.

BEFORE:

COMMISSIONER DIRECTOR ARNONE
COMMISSIONER DIROCCO
COMMISSIONER KILEY

ALSO PRESENT:
TAMARA BROWN, Clerk
TERRI O'CONNOR, County Administrator
MICHAEL FITZGERALD, County Counsel

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MR. FITZGERALD: So the Commissioners know that all of the attorneys involved in the process have been in touch with Mr. Sena. I also know that he had distributed an email to all counsel and part of that was admittedly at my behest was to make sure all of the attorneys involved understood the process would be a presentation to all of you and hopefully will be in abbreviated fashion with the rules of evidence normal rules of evidence relaxed, rules of civility are not so I would ask you to comport yourselves accordingly.

This would be a presentation that we anticipate having a hard stop today at 3:30. If we continue past that I'm hopeful that the Applicant and anyone else who wishes can be heard will complete that.

Jason has also provided the email to all counsel including pictures of this room and the reason for that was to provide an opportunity to see the setup that there was a place for the Applicant and or anyone else who wish to be heard have witnesses who could be sworn if necessary and also provide testimony to this Commissioner Board for consideration of the

amendment of the SWAC application and that was done for all of the lawyer due process to make sure everybody had an understanding what it was. To my understanding there was no objection to that and the presentation in this form was considered appropriate.

Mr. Sena has also been kind enough to put together binders which are now provided to you. Those contain much of the information.

DIRECTOR ARNONE: This one here?

MR. FITZGERALD: Yeah. That's fine. I will also indicate that for the record and I apologize for not knowing I should know. Is Mr. Ligorano here?

MR. LIGORANO: Yes, I am.

MR. FITZGERALD: Michael, how are you?

MR. LIGORANO: I'm fine. How are you?

MR. FITZGERALD: Mr. Ligorano provided a letter day before yesterday and it was a in response to other things certainly appropriate and for the record, Mr. Ligorano, so you are aware I provided a copy of the letter to the Commissioners. I took the attachments off of the letter that's been provided to them and that was done. I just didn't want to have any

prior consideration until we had the Applicant have an opportunity to be heard and maybe Mr. Sena. I have copies of those to be presented to them.

MR. LIGORANO: That's fine, Counsel.

MR. FITZGERALD: Out of abundance of caution.

MR. LIGORANO: No problem.

MR. FITZGERALD: My old trial days I didn't want to have anything admitted.

MR. LIGORANO: I am just a country real estate lawyer so you have no problem with me.

MR. FITZGERALD: And the Commissioners will understand anyone who starts that way isn't. So the Applicant and anyone else involved is aware of it. If we run into our time limit then we'll certainly continue to another day as we would do in any other function.

DIRECTOR ARNONE: Let's hope we don't go over.

MR. FITZGERALD: We will continue as needed if there is more opportunity so that everyone can be heard as the three

Commissioners are aware and Mr. Ligorano I'll wait for your presentation to distribute this to the Commissioners.

MR. LIGORANO: That's fine, Counselor.

MR. FITZGERALD: You will be hearing from the Applicant. You'll be hearing from anyone else who wishes to be heard. The itself will be run by Mr. Sena. He serves as Special County Counsel for the County on this particular Applicant. Also here is the County Representative of the Sold Waste Advisory Council. I asked him to be here as well if a question arises as to it relates to SWAC and if any questions arise both Mr. Sena and myself will serve as your County Counsel and we will jump in as needed and I don't know that there is any other housekeeping.

MR. SENA: I will just state for the record the Notices that were given. Commissioners, this was a continuation of the Public Hearing that began on August 22nd. At that meeting I've placed all of the extensive Public Notices on the record during that meeting but I'll do it again just for the sake of it. Let's see here.

MR. FITZGERALD: Do all Counsel consent Notice was properly given?

MR. SENA: Yeah. I want to put it on the record. Notice of this Public Hearing was published in the Star Ledger on July 22nd, the 30th, August 8th 2024 and the Coast Star on July 26, August 15th 2024. It was further posted on the bulletin board in the Monmouth County Hall of Records and transmitted to the Monmouth County Clerk into the Howell Township Environmental Commission on July 1st 2024.

Further physical Notice was posted at the following locations in Howell Township on July 22nd. ShopRite located 4594 U.S. Route 9. The Howell Library located at 318 Old Tavern Road. Stop & Shop located 4861 U.S. 9 and the continued presence of said Notices was confirmed by visual observation of the Applicant on July 26, 29th and August 2nd 2024.

As I mentioned earlier this Hearing actually began on August 22nd 2024 at your regular meeting. It was continued on various dates until today which is also duly Noticed.

DIRECTOR ARNONE: Okay.

MR. SENA: The way that I suggest we

conduct the Hearing in a similar fashion how the SWAC hearing has conducted the Applicant has an opportunity to present their case and their witnesses. Folks from the public and anyone that wishes to ask questions of the Applicant's witnesses and then there were two written objections filed one my Mazza Recycling Services and one by Ocean County Landfill Corporation.

Those written Objectors pursuant to DEP regulations have the opportunity to make a presentation before the Commissioners and make closing remarks before deliberation.

DIRECTOR ARNONE: Okay. Let's get started.

MR. SENA: Mr. Vitolo, the floor is yours.

MR. VITOLO: Good afternoon, Commissioners. My name is Frank Vitolo and I am with the law firm of Sills, Cummis and Gross. I represent the Applicant Resource Recycling LLC. I first thank you for hearing us today. In 2017 we made it as ar as the hallway but we never actually got in the chamber so my clients who Mr. Gelbwachs is

sitting here. The rest of the partners in the back. They started this process if you recall 2015 and we got as far as SWAC in '17. SWAC approved the project and then there was some concerns raised by Howell and by this Board and I'm not going to go into the gory details. There was a lot of twists and turns in this litigation but we are here today.

And what's remarkable about the length of this process is just how unremarkable this application is. My client is already operating a solid waste facility at this property and they're simply seeking to move certain operations indoors which is certainly a benefit. There are also installing a traffic signal which you'll hear from my traffic expert is a benefit. We're also going to be phasing out certain Class B operations on the site involving wood and brush and focusing on what's called Type 13 and Type 13C waste which is appliances, construction debris which my clients believe there's more demand for those types of services.

So as you're going to hear from my witnesses here and actually let me put some

documents. I know you have your binders and you have a lot of materials in there but what I like to do is I have a couple exhibits I want to give them to you guys and just point out a few things so we can make this a lot quicker you know flipping around in your binders or anything like that.

So, Mr. Sena, if you would please agree I have marked Exhibit A-1 that I'd like to give to the Commissioners.

MR. SENA: Is it something that's already in the binder?

MR. VITOLO: Yes. These are the Settlement Agreement with Howell.

MR. SENA: So this is what the Applicant's Attorney is referring to is an attachment to Exhibit 1 I believe, right, it's an attachment to your application.

For the record it is already appended to Exhibit 1 which has been premarked but you're separately marking it A-1.

MR. VITOLO: A-1 for our presentation, yes. The two things that I mentioned before, Commissioners, we were lacking back in '17. The first thing that we were lacking is and I don't

know if you guys were around but there was an email from the Mayor you know taking objection to certain things about the project and we have worked extraordinarily hard over the last couple of years to come to an agreement with Howell and that agreement is contained in this document before you. This is a Settlement Agreement that we negotiated with Howell. If you go to the last page of this document you'll see it is signed by Mayor Berger. This is also authorized by Resolution. I'm going to give you a copy of that as well.

What's important about this Settlement Agreement is that it really is the bones for what conditions under which the residents of Howell and SWAC agree to allow us to proceed and those conditions are on Page 3 of this document. You'll see it's called Revised Project Terms and these Revised Project Terms are very detailed as to what Howell and ultimately what SWAC believed were reasonable conditions under which to operate the facility.

For example, you will see in i on Page 3 the hours of operations 7 to 3 half day on Saturday. D there would be no outside loading

or unloading of trucks. Then you'll also see it relates to how many average trucks 80 trucks per day. Trips per day. You'll see the size of the facility, et cetera, so these are all conditions that were highly negotiated and that Howell agreed upon and then I also want to draw your attention to the next page on Page 4 n at the top you'll see that part of this negotiated agreement with Howell involves payment of a host fee and typically a host fee is around you know 50 cents. A dollar. This is $5 per ton that we're paying to Howell. That is a very, very, general generous host fee for Howell.

We've also agreed to accept certain waste at a discount 50 percent discount and also accept for free certain types of Type 13 and 13C waste and we've agreed to give them $50,000 in open space fund among other things so that was again all negotiated with Howell.

I want to just read to you on Page 5 you know it's come up during some of our other hearings and discussions in this case exactly what position Howell has taken and I'm just going to quote for you this is on Page 5 in the middle of the page it says, quote, The Project

as envisioned in this Agreement is acceptable to the Township because it greatly enhances the financial benefits of the community, signalize a busy intersection, minimizes negative impact by processing only non-crucible waste, does not substantially add to vehicle transits, assists in recycling Type 3 and Type 13C waste, is sited in a nonresidential area and represents an overall more beneficial endeavor to the Township than the prior project. That really encapsulates the entire argument that we were making in this case and why I believe that we got the approval of SWAC or the recommendation of SWAC to move forward.

Mr. Sena, I just want to mark as A-2 and I'm not going to ask to talk about this document. I just want to make sure this is on the record. This is the Resolution from Howell authorizing them to sign the Settlement Agreement. Again that's A-2. It's self explanatory. It just states that the adoption of the Settlement Agreement is appropriate and in the best interest of Howell.

Next, Commissioners, the next important part from this process was that we presented our

case to SWAC and we presented our case to them through expert testimony. We had a traffic expert and a civil engineer. We also heard testimony from our one of our clients on operations and the SWAC members actually asked and took a walking tour of the facility so we had them out. They came out. We had boards with the project up. They walked all around and we explained how we anticipated the operations to occur on the site.

SWAC of course is made up of people who know this business and they know the industry so they asked a ton of great questions and then after that process they had a meeting took a vote and they ultimately approved or approved to recommend this 4 to 1 was the vote and after that vote they went back on the record at a separate meeting and stated all of their reasons for why they voted in the way they did and so what I'm marking next is a copy of the Resolution recommending the project and then again this is just for the record this is A-3, Mr. Sena.

MR. SENA: This is already in the binder.

MR. VITOLO: Yes.

MR. SENA: Premarked Exhibit 10.

MR. VITOLO: And 1 on Page 1 of this Resolution it states that Resource to abide by all conditions set forth in the Settlement Agreement between the Township of Howell and Resource. So again that Settlement Agreement really does contain the guts of the deal that we struck here and then I also want to show you next this is the meeting I just referenced where reasons were placed on the record for why they were voting to approve and, Mr. Sena, this is A-4. This is a copy of the transcript from the SWAC meeting that occurred on October 8th of this year.

MR. SENA: This is also already in the binder that same transcript, right, Mr. Vitolo?

MR. VITOLO: Correct.

MR. VITOLO: And, Commissioners, look, I have to make a record here so I'm going to read to you what the reasons why for the Commissioners I mean for the SWAC Commissioners. It's not long but I just want to get you a feel of why they thought that this project was acceptable from the view of professionals in the

industry, okay? First Mr. Boodey. He is one of the SWAC Commissioners. Here's what he said. He said, First the signed Settlement between the Township of Howell and Resource Engineering includes the following possible incentives for the Township. Howell Township receives a host community tax at $5 per ton with yearly increases. I didn't mention that. There's actually a yearly increase on the fee as well.

Resource Engineering agrees to accept a thousand tons of Type 13 and 13C waste from Howell each year free of charge. Resource agrees to accept 5,000 tons of IE 23 waste from Howell free of charge.

Resource Engineering agreed to install a traffic light and widen roads at the intersection of County Road 547 and Randolph Road bringing the service level from the current F rating to a more improved service Level B rating. Resource agrees to start by accepting average of 680 tons of Type 13, 13C waste and working with the Township to increase that amount.

Resource agrees to contribute $50,000 to the Township's open space fund, enhance capital

improvements at the site including a brand new 36,000 square foot transfer station which is over there where all operations will occur except for the wood recycling and trucks which can manage up to 20 vehicles.

And you're going to hear from our traffic expert. One of the really important issues is that we heard from residents of Howell was we don't want trucks on the road. We want enough space so that the trucks if they queue queue interior to the site so as you'll hear from my guys they created an interior roadway that can queue up to 20 trucks so we don't envision any trucks queuing on the road for this project.

And again SWAC Commissioner Branch had similar comments. He said I believe the plan is consistent with the Monmouth County Solid Waste Plan. Commissioner Reinforth had similar comments. He said upon listening to all concerned objectors and interested citizens I foresee that the County of Monmouth and its residents will benefit by more competition not less considering the residential growth trend and the market will determine their viability.

Commissioners, there have been some objectors in this case. Not surprisingly they are competitors and I would submit to you the reason for their objections is they don't want the competition and so you'll see this thread throughout their paperwork that they submitted. They make some technical arguments but at bottom what they say is there's no need for the facility.

If that were the case, Commissioners, and this is right off of Mazza's website they're doing better every year and I showed this chart to the SWAC Commissioners. This shows their business it's going up every year.

MR. SENA: What is that document?

MR. VITOLO: I'll mark it. This is A-5. This is a printout from Mazza's public website and you know you can't have it both ways. You can't say that there's no need for our facility and then show that your business is going up every year. There is need and as these SWAC Commissioners said and they also agreed that competition is better not worse.

MR. SENA: I don't want to interrupt your flow. You marked that exhibit.

MR. VITOLO: Yes.

MR. SENA: When was the printout in the website taken?

MR. VITOLO: So we used that at the SWAC hearing. I pulled another copy today so you can mark it.

MR. SENA: Do you have extra copies of that document for the Commissioners?

MR. VITOLO: After all of the evidence was submitted both at Howell and by the way we had a very comprehensive long meeting before Howell. A public meeting. All the public got a chance to speak, ask questions, they asked questions of our witnesses and after all of that the Howell committee voted to approve this agreement and approve this settlement so as you will hear and I'm going to call my two witnesses now we submit to you that unless we're missing something Howell, SWAC, they all believe that given all the hard work we've done and the conditions that have been imposed that this is a net benefit and acceptable project and it should be included in the solid waste plan.

I have not seen anything pointing to the contrary other than competitors who don't want

competition. That's essentially where we are with this application. So first I would like to call our civil engineer. This is Mr. Pat Ward. Are we going to swear him in?

MR. VITOLO: Yes. Patrick Ward.

Patrick Ward sworn.

DIRECT EXAMINATION BY MR. VITOLO:

Q. Mr. Ward, could you just give the Commissioners the benefit of your experience and your licensures?

A. Sure. So I'm with Insite Engineering located in Wall Township. I've been with the firm 15 years. I've been working on this application for eight plus years so the majority there. I have a Bachelor of Science in Civil Engineering from Drexel University licensed Professional Engineer for just over 11 years. Hopefully that's the extent.

Q. And have you provided testimony before land use boards and other boards relating to civil engineering?

A. I have. Numerous throughout Monmouth County and other Counties throughout the State of New Jersey.

MR. VITOLO: Mr. Sena, I would ask Mr. Ward then qualified as an expert in civil

engineering.

MR. SENA: Any objection? I would submit he be qualified as an expert.

MR. FITZGERALD: Mr. Ligorano, no objection?

MR. LIGORANO: No objection.

Q. Mr. Ward, you've reviewed the plans or you've prepared the plans for this project, sir.

A. That's correct.

Q. And you've reviewed the other information that's available in the file?

A. Correct.

Q. And I believe you have a summary of your review of this project from a site civil perspective. Is that correct?

A. I do. I'd like to walk the Commissioners through that briefly if I can.

Q. Sure.

A. So just to kind of orientate everybody the property is 34 Randolph Road. It's at the intersection of Randolph Road and Lakewood Farmingdale which is County Route 547. Block 5, Lot 4. We are in the Township of Howell of course. The site itself is just over 10 acres and today if you had a chance to drive by it per chance it's operating

today as a recycling facility which is an outdoor wood recycling facility. Mulch operations, grinding the like has been happening outside. Footprint of the site is about three quarters of it is material and operations.

The easterly side where the JCP&L right of way is is limited topsoil operations currently which is regulated in that classification. So what we're proposing to do is take that Class B operation and on one of the boards behind Mr. Vitolo that kind of brown color is what the final sorry for the green light there, Frank.

MR. VITOLO: No. I hit my head on the desk.

A. The brown color off to the left is really where we're going to condense the Class B operations. The outdoor activities will be condensed to a much smaller footprint less than half the site. We're seeking inclusion into the County plan for a solid waste transfer station to replace the rain in areas and what we're proposing here is a thousand tons per day as a daily capacity for Type 13C and Type 13 waste. The material will be sorted inside the main building and either recycled onsite or transported offsite to an end location.

The existing Class B approval and inclusion is proposed to remain unchanged except for the reduced is footprint. Starting in 2015 as Mr. Vitolo stated we began work on this project and over the years we've been working with the Township of Howell and the Solid Waste Advisory Council to address any and all concerns they have with the project, the operations and anything else to this point. As Mr. Vitolo stated an Agreement was established with the host community with several conditions.

SWAC then proceeded amended request for inclusion this year and after a public meetings recommended approval and inclusion in the County plan so that brings us here at this meeting of the Board.

I'll start with site selection and location. Several factors were considered by the Applicant when selecting the site for the new proposed transfer site facility. First is location. It's in an industrial zone in Howell Township. It's the SED 2 zone. Types of uses permitted are warehouses, industrial uses, something that is not unlike this. Obviously solid waste preempts the Municipal Land Use Law but similar uses in terms of impact.

Lakewood Farmingdale Road as you know is a County road that has access to 195 about three-plus miles to the north of this facility and again just looking at the site as it operates today. Today it's nearly fully covered by Class B wood recycling operations. We're seeking to condense those outdoor operations and with this new facility we are mandated and required to do all sorting and inside the building.

So today there exists formerly single family dwelling now used as the office and a garage for the Class B operation. All site improvements physical improvements will be removed and razed. The proposed facility here we're proposing a 36,000 square foot transfer station building where the sorting will occur. There is also just under 9,000 square foot office and maintenance building proposed as well and a detached scale house with three scales.

Driveways, parking areas and walkways are proposed to accommodate the operations of the facility. At every entrance or exit to Randolph Road lock in gates will be provided for security purposes.

The site will be landscaped at the entrances and around the building. Office building. In a manner consistent with the typical Howell

Township requirements. There is an existing landscape berm and buffer that exists around the site that will remain as is and will be supplemented. All pavement areas will be adequately lit and consistent with the Ordinance of the Township of Howell.

As part of this application the Applicant's proposing to rectify existing traffic concerns at the intersection of Lakewood Farmingdale Road and Randolph Road. We have a traffic engineer who will be happy to explain what the existing condition is in terms of traffic but what we're proposing is to do is provide a traffic signal where there is a stop sign there now. Dedicated turn lanes off Randolph Road will be provided and the ultimate design of that and all of those improvements will be fully engineered and improved by the County and the Township by their review.

Another benefit here along the frontage of our site Randolph Road will be physically widened to provide a shoulder where one doesn't exist today and the road will be repaved again to accommodate the Township's Master Plan goals.

In terms of operation the anticipated source material here is Monmouth County. Recyclable wood and concrete material extracted from the

incoming waste stream will be transferred to the Class B area for recycling. The goal here by the Applicant is to come full circle with the waste stream and recycle as much as possible on the site. Other process material will be transferred to appropriate enduser for recycling or disposal.

It's important to note again the operations associated with the transfer station will be internal to the building. Today all the operations are outside for material tipping, all the equipment, processing of the wood materials, et cetera, but the new facility the tipping and sorting of material must be internal of the building.

Overall considering the effort spent by the Applicant SWAC and the host municipality Howell Township to get to this point and again in brief summary that includes full compliance with the established agreement with Howell Township. They will produce requested capacity daily of the Facility and the limitation of accepting Monmouth County waste.

We feel that this Facility will be an aesthetic improvement to the site itself. Will be a benefit to Howell Township and ultimately a benefit to the County Solid Waste Management Plan. That is

what I have.

Q. Mr. Ward, just if you could on the rendering if you could walk over and just identify for the Commissioners the different parts of where you know the building, the office and just the roadway interior roadway just so they?

A. Yeah. So we're looking southwest here so really it's pointing this way and this is the main facility, the main 36,000 square foot building and here's that 9,000 square foot office and maintenance building. This is intended to represent Randolph Road. This is the landscaped area between our internal queuing lane and as you could see on our colored rendering we come in here at more at the center of the property there is a very long queuing lane to get into the scale house which is really like the entrance to the Facility. That was done purposefully again to avoid any queuing trucks on Randolph Road where they can't exist.

So generally speaking right now if you happen to be by the site in the last day or several years this rendering concept rendering is clearly an upgrade and to what's going on there now which is all outdoor recycling operation. There's nothing wrong with it. It's a necessary thing we have to do.

MR. VITOLO: We don't have any more questions for this witness. I'm absolutely happy to answer questions.

MR. DIROCCO: I'm just curious of a overview of the site. Can you give us a little color on the surrounding uses? Surrounding blocks and lots and what's in the area?

THE WITNESS: Sure. So like I said we're in the SED 2 zone. Howell within the last year or two changed the zoning but not much slight designation. Across the street at the other opposite corner is a mixed office/light industrial use. Directly across the street is a landscape yard Pillari if you know the name. Also across the street large frontage newly constructed 110, 120 square foot warehouse.

As you go further to the northeast there's Arnold Steel which is an industrial operation. There is a dwelling there as well in between Arnold Steel and Randolph Road warehouse. To the east of us is a 300 acres of undeveloped space. I believe there's going to be a public utility going in there associated with electric. The Laraby substation is to our south so that 300 acres was slated for another

type of development that didn't make it. Yeah, that's just generally the nature of what's immediately surrounding.

MR. DIROCCO: That's JCP&L property.

THE WITNESS: Yes.

DIRECTOR ARNONE: Jason, would this be the time to ask a few questions of Counsel or there or you should I do that at the end?

MR. SENA: You can ask questions as we go along.

DIRECTOR ARNONE: Even if that witness isn't up there and another one comes?

MR. SENA: Yeah. If you have questions for Mr. Ward relating to engineering now would be the appropriate time to ask those.

DIRECTOR ARNONE: Talk about I guess traffic wise you know just write myself a few notes as both of you were talking here. Talk about I think you max'd it out at 80 trucks a day that you would have.

MR. VITOLO: Commissioner Arnone.

COMMISSIONER ARNONE: Correct me if I'm wrong.

MR. VITOLO: We have a traffic expert.

COMMISSIONER ARNONE: So that would be

then.

MR. VITOLO: Yeah. They're going to answer those questions.

MR. DIROCCO: Just to be clear the Agreement I saw says you expect 80. It doesn't say you max out at 80 trucks.

MR. VITOLO: Yeah. No. It's an average of 80 trucks per day so some days there will be more than 80. Some days there will be less. It's an average of 80 trucks.

DIRECTOR ARNONE: I was getting there. I was looking at the amount of tons that you were projected to get and I was going to get to the size of the trucks you were going to have there but can I go back to the Agreement with Howell, okay, and I guess I'm the only Member that was here in at that period of time when the first I guess application came and for whatever reason we're still here in 2024. I'm here.

With that being said I just like to know at that period of time I received I didn't receive any agreement or not me Commissioner of the Board Freeholder Board did not receive any agreement like you just stated you know some of the agreements of what you're going to pass onto

Howell there and so at that period of time but what I did receive I received a letter stating that they weren't in favor of it at that time, okay, and I just wonder here because it was a very nice generous contributions and all of the items that you're going to give to Howell Township would that have anything to do with why they have a change of mind and no disrespect to Howell you know they are a town here in Monmouth County but you know that's a financial gain to them that obviously they're seeing.

Prior to that I did not see that financial gain and at that period of time they were against the project so was it because of I guess in layman's terms you know you sweeten the pot so now they're in agree with it which ultimately potentially I'm sure the traffic expert will clarify that but show that there's going to be a major impact to the County and you know no disrespect to Howell that they were just caring about the financial gain to them.

MR. VITOLO: Yeah. So every host town is entitled to a fee. This fee was negotiated but every host community is entitled because there's impacts on a community.

DIRECTOR ARNONE: I'm aware of that.

MR. VITOLO: Impacts on the community that others don't bear so of course and we did negotiate, for example, the open space payment. I mean I do redevelopment and development projects all over the state and I got one tonight too and as part of my projects that is a typical agreement.

DIRECTOR ARNONE: No. No. I guess maybe you're confusing what I'm saying. I totally agree with the agreements and we as you know we own Monmouth County Landfill so we have a host agreement with Tinton Falls so I'm very aware of it and I'm in my private there. This is not my full time job thank God and I do and I know the development pretty well there so I understand that but what's a little confusing to me is that they were so extremely opposed to this before and I saw no really agreement and now you show a very you know good agreement for Howell Township and now they're onboard.

MR. VITOLO: So not to dig up old bones but you asked the question.

DIRECTOR ARNONE: Dig them up.

MR. VITOLO: Before the Mayor issued her

email the BA had written a letter in support so there wasn't this vociferous objection until the Mayor sent her email. I don't know if she was traveling or something. I don't know the full story. But before that we did have.

DIRECTOR ARNONE: Are you talking about in 2015?

MR. VITOLO: Yes. We did have an agreement from the BA at least. This is all litigation by the way so there's all sorts of nonetheless.

DIRECTOR ARNONE: Just to be clear on the record because we're digging up bones like you said. Quite frankly I'm not going to take and I don't want to speak for the rest of my Committee but I would never take a letter from a BA and I understanding the BA is no longer there maybe part of that reason why that's a decision made by the Mayor and Council that's why you're lacking there.

I didn't want to bring that up because I knew that happened but I didn't want to go back that far but since you brought it up I engaged with it there.

MR. VITOLO: I'll flip it on you. Were

they at least for the right reasons? Overall look you asked what was in the mind of Howell in making this Agreement. Okay?

DIRECTOR ARNONE: Exactly.

MR. VITOLO: I don't know but what I do know is we had a hearing that there were maybe 20 people that came and asked questions. We had objectors. We had witnesses and we proved to them that this is an acceptable project and now SWAC unless you think they're getting some benefit out of it agreed 100 percent a hundred percent there was one no vote 4 to 1 but they looked at this project, they took the tour. They're not getting a dime out of this and they all voted for it.

DIRECTOR ARNONE: They better not be.

MR. VITOLO: To answer your question you know if it was just Howell that on their own came up with this and all of a sudden loved the project I think that you have SWAC because they are an objective arbitrator. They looked at it and they approved it so that's my answer.

DIRECTOR ARNONE: Okay. That's fair.

MR. SENA: I'm going to ask a question, Mr. Ward, I just want to get some clarification

because you were talking about the Class B. I know I have my back to you and I'm trying to turn around when I talk but I'm trying to talk into the microphone. I've definitely not trying to be rude to you.

In the RFI which is the marked as Exhibit 1 the application. RFI stands for Request for Inclusion. It states that the Applicant proposes no changes to the existing Class B operation but in the Settlement Agreement with Howell it was stated that their Class B operation is being reduced by 50 percent after project completion. Can you talk more about that?

THE WITNESS: More of a technical statement in that we weren't going to seek an amended DEP approval for the Class B. Keep the current approval as is. Yes, it will be a reduced footprint and reduced capacity by virtue of that footprint but that was the intent there, Mr. Sena.

MR. SENA: Can you talk about the hours per day for the sorting operation? I understand in the RFI it talks about hours per day that you're open accepting waste but what are the

hours for the actual sorting?

THE WITNESS: I think I'll leave that for the owner.

MR. SENA: Okay. That's fair. Anybody else has any questions feel free to jump in.

DIRECTOR ARNONE: So could I ask a question? You brought up a good point there. So I guess I would ask this question to the owner but I'll ask you it while it's on my mind and I won't forget it. So you're talking about sorting. There is the potential of a average of 80 trucks a day on that County road as I guess was stated it's an average there but if they're sorting there a material that isn't acceptable to that facility that would mean it would have to be taken out of that facility with trucks going out. Is that true?

THE WITNESS: Correct.

DIRECTOR ARNONE: So there is a potential of having a heavy load that day of trucks maybe the average being and I'll use for example 40 on one day and a hundred and twenty on the other day which would make 80 the average but on a hundred twenty a day because of the high volume and the sorting of the material

extra material that there could be an extra amount of traffic leaving the area to deport that material. Is that true?

THE WITNESS: More outgoing material, yes.

DIRECTOR ARNONE: Outgoing. I just want to be clear. I'm talking about the traffic. It's a County road and that's our biggest concern. Okay. Thank you. Are we done?

MR. SENA: Yeah. If anybody has any questions of Mr. Ward now is the time to ask. I don't have any further questions for Mr. Ward.

MR. VITOLO: Okay, Commissioners, our next witness is Mr. Justin Taylor. He is our Traffic Expert.

Justin Taylor sworn.

DIRECT EXAMINATION BY MR. VITOLO:

Q. Mr. Taylor, could you please give the Commissioners the benefit of your qualifications and your licenses?

A. Surely. I'm a Senior Principal in the firm of Dynamic Traffic. I have a Bachelor in Engineering from the University of Delaware and a Licensed Engineer in the State of New Jersey as well as several other States. I'm also Certified

Professional Traffic Operation Engineer by the Institute of Transportation Engineers practicing traffic engineering for 25 years now and I've done hundreds of planning board presentations throughout the State and other States. I haven't been before the Commissioners though. This is my first time.

MR. VITOLO: Mr. Sena, we would ask Mr. Taylor be qualified as an expert in traffic engineering.

MR. SENA: Any objection? Director, I would submit his qualifications.

Q. Sir, you have reviewed the plans for this project. Your firm has also issued a report. Please walk the Commissioners through your conclusions and your analysis.

A. Absolutely. So our responsibilities for the project was to review the surrounding roadway network to determine whether sufficient capacity to accommodate trips to be generated new to this site and also work hand in hand with the civil engineer to ensure that the onsite circulation works so we're not having trucks back out onto either Randolph Road or even 547 so I kind of want to take those two pieces apart and separate.

I've heard the concern what's going on

547. Well in order to determine what kind of impact this site is going to have we have to collect a couple different pieces. We need to figure out what the traffic is out there is today so we know what's going on and how the intersections are operating. We then want to look at what the proposed project is going to generate. That is solely tied to one of the employees but more appropriately the count on the trucks that we're talking about.

So to get the background data we have to go and collect traffic counts Randolph Road and 547. We do it during the morning peak hour and the evening peak hour to really get the public because that's the business times on the road.

We collect that information and then we plug into a model using the formulated calculations published by the FHWA. What we find is currently today it's operating Level of Service F. The vehicles trying to get out on Randolph Road from Randolph Road onto 547 without the benefit of a signal are having a hard time doing it, right, so we're already behind the eight ball with a Level of Service F. We'll get into the dimension. Build a traffic signal there and that is what the mitigation is going to be.

Once you accommodate the traffic associated with the project. But two actually provide the public benefit to the vehicles that are already there. The people living in Howell Township. The people that are Randolph Road to come from Southern Ocean County to Route 9. It's going to improve the situation. You've heard that it's going to go from a Level Service F to when we're done a Level Service B inclusionary of that background traffic the warehouses across the street from us on Randolph hasn't opened yet and the traffic associated with the project but to determine what's going to be put on the road based on our project we go back to 80 trucks.

Now that's 80 trucks a day throughout the entire day, right, we're not talking about 80 trucks coming in that morning. They're coming in and out all day long so we really break it out over that you know 10 hour period you're talking about 80 trucks an hour. A truck every five minutes or so.

The impact of that surrounding roadway network is negligible. It doesn't rise to the level of what the NDOT sets a threshold of a hundred new trips through the intersection or what the Institute of Transportation Engineers has also set. One peak

hour at any of the adjacent intersections.

What we really wanted to provide conservative analysis. We wanted to give you a worst case picture when we look at the operation of that intersection so we made the assumption out of that 80 trucks 20 of them are going to come in that morning peak hour. And 20 are going to come in the evening peak hour, right, we then ran these analyses with the traffic signal there and what we determined was we're going to be operating at Levels of Service B. If this is approved and the traffic signal once it's built it will be Level Service B.

So I really feel this is to accommodate with this improvement the traffic associated with the project. The other piece that we looked at like I said was the queuing now we have provided stacking interior to the site prior to scales for 20 vehicles, right, so that's again that maximum as they come in maybe it's 8 maybe it's 10 we can stack all 20 that we think showed up in that hour.

We'll also talk the time on the scales to come in it's approximately three minutes so it's constantly turning over. You would need to have 30, 40 trucks show up and not be able to process them or half what's allowed throughout the entire day in

order to have any type of real queuing issue. We wanted to provide a buffer, a little factor of safety in that so if there is a rush and you had 8 or 10 show up in that five minute span we could stack them in there until they process the site.

I think from those two aspects one of queuing which is a major concern to Howell and two the ability for vehicles the ability for the roadways to accommodate this additional traffic I think the traffic shows that we can do both of those. There is capacity and the site will operate safely and efficiently.

DIRECTOR ARNONE: Do you guys have any questions?

MR. DIROCCO: Yeah.

DIRECTOR ARNONE: Go ahead.

MR. DIROCCO: Thank you, Mr. Taylor. Good comments there. Three scales proposed. Is that correct?

THE WITNESS: One inbound and two outbound.

MR. DIROCCO: Do you have a plan for if one or more of the scales goes down you know stacking is a problem. Not a problem. It's a concern. So you've got you've accommodated in

your testimony for certain level of stacking. If you've got an issue where you've got operational concern, scales are down and scales not working and then you've got trucks stacking up what's the plan of handling that in terms of local roadway offsite traffic?

THE WITNESS: It's a great question. I will defer slightly to the operator this but it's my understanding that you could convert one of the outbound scale to one of the inbound scale, right, you may have to keep the truck you have but there is the ability to utilize the other scales.

MR. DIROCCO: Account.

THE WITNESS: Account. If there was a little bit of a down time.

MR. DIROCCO: And then also asked earlier about the surrounding property and I think you also mentioned warehouse that is not.

THE WITNESS: Not operating.

MR. DIROCCO: JCP&L site which is ground zero for tons of megawatts of offshore wind electric coming in. Two pretty intense uses that are about to happen right on the periphery of this. Does your traffic analysis take into

account any of those?

THE WITNESS: That's a great question. The 41 warehouse traffic associated with that is incorporated in the traffic study, right, we knew that was there when we started this. I'm going to call it the Monmouth County site but where the substation and offshore wind is coming in our firm was associated with the traffic too and while it's a big site you don't have regular people showing up. They have maintenance that comes in once a month, right, and maintenance that comes in once a year. Unless there's something that goes wrong with it there aren't people there. The traffic associated with that is negligible.

MR. DIROCCO: That's it.

DIRECTOR ARNONE: So I appreciate and very detailed report there so the one thing I want to get to obviously and I don't want it to be perceived our main concern listen Howell is Howell. We respect them. They're one of our larger municipalities and you know what I guess the average public doesn't realize the impact and the negligent aspect that gets to us on our County roads when something is approved because

whether approved by a town, whether it's a development or not we get the impact because people just automatically to the County as you know. You did bring up some concerns and I think with Randolph Road when you said Randolph Road it was very difficult to get out and I think categorized it as an F or something like that so that's something that internally us and our engineering firm would have to take a look at whether this application was in front of us or not to see if there is something that we need to do to correct that so that it becomes obviously safe and more accessible to vehicles.

So that's being done obviously through this development here but is that being done and then adding on top of it and I know you said you know potentially 8 and later time you said possibly 10 and it's probably likely 10 with your hours of operation because you're only open from 7 to 3 there.

THE WITNESS: Yeah.

DIRECTOR ARNONE: Getting back to my question to Counsel then before we're not looking at outgoing. Now let me just ask you this and I don't know this world so this is just

a question I'm asking you and maybe this probably would go to the owner of the operations so let's just say the day comes and these trucks come in and let's just say it's 10. Ten trucks come in with material and then it has to be all separate.

The operations of accepting material stops at 3, okay, but the you outgoing of that material after separated is that still possible could occur and that's added traffic over the course of the day that's on the County road? And then one other question and forgive me for not knowing this but this is the same road that follows all the way down to Connie's in Farmingdale, isn't it? It goes through Farmingdale.

THE WITNESS: Eventually. Once you cross 195.

DIRECTOR ARNONE: I haven't been by the site in awhile.

THE WITNESS: You're on the north side of 195.

DIRECTOR ARNONE: I just worry about all of that traffic coming from in Town potentially. It's not all going to come from one area

obviously and I'm sure you don't expect it to come from just all one area so I'm impacting another very, very residential area potentially. I'm not saying we're going to because it's not fair to say that. Those are some of the concerns I have.

And then obviously you know we're looking at continually traffic on a County road and you know the abuse of the County road and I don't mean by the owner or anything like that but just the abuse from the truck traffic being on the County roads you know on a regular basis because we're talking 10 a day, 5 days a week well actually maybe even a little more there and then the outgoing traffic because we're not counting that outgoing.

THE WITNESS: So I need to correct you there. The 80 trucks that are quoted including incoming and outgoing. The intent is to have the roll off trucks. They're going to come and they're going to drop. Things are going to be sorted and they're going to utilize a portion of those to hold off the recycle material so there is a difference I have 80 contractors coming in and out and then we have separate trucks going

out with the recycling material. That 80 number is the cap, right, those inbound and outbound.

DIRECTOR ARNONE: Let me ask you this and I appreciate you did your analysis there and I appreciate that you have come with an average there but at the end of the day it could be an extremely successful facility. There's nobody regulating it at the average of 80 and I throw a very example number out there. It could be 200 a day but so there is no regulations.

MR. DIROCCO: That's been my concern, too. It didn't say 80 max. It says we estimate an average of 80. That is a little bit of a concern too when I read through the material.

THE WITNESS: I would tell you my understanding was that 80 was the maximum that we were at, right, and if there is a little fluctuation so be it. I will tell you the capacity that we're building into that signal can handle 200. Can handle probably 3 or 400 a day at this location so the concern I think professionally has been mitigated because we're building so much extra capacity in this intersection to handle that. The driveways will be able to handle it and go in and out and

getting your point downtown Farmingdale which you got to remember 195.

DIRECTOR ARNONE: The only reason I say that is just we just had Terry our Administrator maybe a month or two months ago we had representatives from Howell contact us about their concern there and we actually put service officers on there and I wish Joe Ettore was here and I forget what they call traffic calming measures because of truck traffic in Farmingdale there. Am I correct?

MS. O'CONNOR: Yeah.

THE WITNESS: Unfortunately it's a function of warehouses that have been approved in the north end.

DIRECTOR ARNONE: I agree there is a function. Is it right to add to that?

THE WITNESS: What I will tell you I don't think the amount of traffic that we're talking about coming to this facility is driving through downtown Farmingdale because you have 195 intervening and 195 is going to provide you Route 9 and Route 35 it's going to provide you other points in the County.

DIRECTOR ARNONE: No. No. I understand

that.

THE WITNESS: Nobody is.

DIRECTOR ARNONE: I agree with you on that. One question with your traffic study. So obviously this has been going on since 2015 as I think Counsel said so is this traffic study in 2015 or is this?

THE WITNESS: So our firm got involved in 2024. We collected the traffic count data 2024 so it's current data.

DIRECTOR ARNONE: I know Monmouth County has grown.

THE WITNESS: I've been doing work in Monmouth County for 25 years.

MR. DIROCCO: You said right now the intersection indicating Service Level F.

THE WITNESS: That's right.

MR. DIROCCO: Anticipated Service Level B is that under current condition or with all of the other build out?

THE WITNESS: With all of the build out including the traffic with our project it will be a Level B.

MR. VITOLO: Commissioner Arnone, you said there's no regulations.

DIRECTOR ARNONE: No. I said is there?

MR. VITOLO: This is not the first time this has come up. Howell citizens were concerned how do we check it so what we agreed to do is we're going to provide information on both the truck trips and tonnage and Howell is going to make sure that we meet the terms of this agreement because unlike a lot of instances where maybe you have a resolution of approval they have a settlement agreement here so they're going to make sure we meet all of the terms of the settlement agreement so I believe a representative of Howell one of SWAC, yeah, we're going to check it.

We're going to make sure they're not exceeding the levels they agreed upon so there will be a regulation.

DIRECTOR ARNONE: Thank you.

MR. SENA: On that point, would you agree that Department of Environmental Protection has oversight authority on enforcement of truck traffic for a regulated site?

THE WITNESS: I can answer that. The DEP is more than just traffic, yes.

MR. SENA: I respect their agreement with Howell but what does that really mean that Howell would have the authority to oversee that because DEP has enforcement authority over that, right?

MR. VITOLO: Well so Howell has agreement with us and they will sue us if we do not comply and they will claim that we have breached the agreement and then I'm assuming that they would go and try to validate or file action to validate our permission to do it and they'll probably go right to DEP first so you know there's lots of levers.

DIRECTOR ARNONE: Could I ask you and believe me I know you guys have put all of your details and plans in there but doesn't the word average give you a lot of leniency in something like this? It's not limited to. It's not maximum. It's average so you know very creatively and I'm not saying that would happen let's use somebody else for an example creatively use well over the year if it's only been eight, yeah, last week we were busy and there was a tremendous amount and you would be safe and protected I should say protected

because the word average is in there.

MR. VITOLO: So there's first it is a seasonal business, right, so sometimes there will be one truck. I don't know one truck. If it's bad weather or a snowstorm.

DIRECTOR ARNONE: Of course.

MR. VITOLO: And moreover we have a tonnage limitation there so that's a double check so if we're doing more than a thousand tons the truck traffic assuming would increase.

DIRECTOR ARNONE: Your tonnage is the tonnage you collect and keep in the transport station. Correct me if I'm wrong on this. I could be totally off.

MR. VITOLO: The amount to be processed.

DIRECTOR ARNONE: But theoretically 3,000 tons could come in and 2,000 could go out as long as you're only processing a thousand.

MR. VITOLO: Right.

DIRECTOR ARNONE: And I could be totally wrong.

MR. VITOLO: So when we swear in the owner he's probably it. The best prepared.

DIRECTOR ARNONE: Sure.

THE WITNESS: In terms of processing

material whatever comes in whether it's into some sort of device or sorter it's technically being processed because it's being moved to a different vehicle so it's really a thousand tons incoming. I know what you're asking.

DIRECTOR ARNONE: I don't know that business.

THE WITNESS: Some processes move this truck to that one.

DIRECTOR ARNONE: Exactly. That's fair.

MR. LIGORANO: Why did you use the average as opposed the maximum per the DEP regulations?

THE WITNESS: So we were given 80 trucks a day.

MR. LIGORANO: Who gave you 80 trucks a day?

THE WITNESS: It's in the Howell settlement and so we utilized that within our analysis.

MR. LIGORANO: Did you examine the DEP regulations or the waste management plan that requires you to calculate based upon your maximum capacity a thousand?

THE WITNESS: So knowing that we had 80

trucks that's the limited factor in the traffic counts.

MR. LIGORANO: So you didn't calculate it based upon the maximum capacity of a thousand.

THE WITNESS: No.

MR. LIGORANO: Thank you.

DIRECTOR ARNONE: So, Jason, maybe you can clarify what was just asked because I have no idea. I'm sure it was something because a gentleman would not get up and ask that question.

MR. LIGORANO: Sir, in our report. It's my turn. It's explained.

MR. SENA: I'll allow the Objector to answer the question and I could provide further explanation during deliberation.

MR. VITOLO: Any other questions from the public?

MR. SENA: I have a question about the truck route. The application does not propose a specific truck route, is that correct, for the incoming waste?

THE WITNESS: I did not see the actual application. It's my understanding that you

will be utilizing 547, 195 and County 526 to the south which is another travel. Route 526 provides access to Route 9.

DIRECTOR ARNONE: 526.

THE WITNESS: Ocean County at that point to Monmouth County.

DIRECTOR ARNONE: 526 is in Monmouth County.

THE WITNESS: Western Monmouth. Millstone.

DIRECTOR ARNONE: So impact it's in your plan.

THE WITNESS: Yes.

DIRECTOR ARNONE: Two County roads.

MR. VITOLO: Hold on one second.

Q. Just to summarize. In your expert opinion having analyzed all of the traffic data available as updated in 2024 is it your expert opinion that this that the impact from any traffic truck traffic created here is minimal?

A. Yes.

Q. And do you also, sir, is your opinion that the addition of a traffic signal will convert an F rated intersection to a B?

A. Yes. It will rectify an existing

deficiency out there today while accommodating the traffic we are proposing.

Q. And have you seen any other data in any other traffic studies that are submitted in this case that would at all impact your conclusions in this case?

A. That's a great question and this may come up because I believe it was the objecting country lawyer who put that report together.

MR. LIGORANO: I shouldn't have said that.

A. They utilized I believe 400 trucks an hour because the original study was based on 15 tons. They used the smallest trucks he could use a two ton truck. They used 400 trucks an hour and their conclusion the traffic signal they are proposing operate at Level of Service B so that gives me the level of comfort that even if 80 is the average a little bit higher lower when you take those numbers and look at the results you're going to see the results that we have in our study.

MR. VITOLO: Thank you.

DIRECTOR ARNONE: Thank you.

MR. VITOLO: I believe there were a couple of questions that we have an owner

representative here Mr. Gelbwachs who I think would rather be anywhere than getting up at this podium and have to answer these questions.

David Gelbwachs sworn.

MR. VITOLO: Mr. Arnone, I know you said you had one or two questions that are appropriate for the owner.

DIRECTOR ARNONE: I have to think back. We got so engaged in some of the questions we talked about before. It was operation of the outgoing and how the process works. You cleared up some of the process questions there. It's just your traffic expert did the statement that he made kind of engaged a little bit on the size of the trucks that would be coming in there and I guess I have to ask the question of not that it's not business whatsoever to look at you know competitiveness and businesses but I'll be frank and on the record I care about Monmouth County. That's what we sit here and represent so you know I'm concerned about that and in just doing a little bit of my research I know Mazza was named and I think somewhere in western part of the County there is another company. Is there another transfer station?

THE WITNESS: There is.

MR. VITOLO: Freehold cartage. So in proximity to this Freehold would be the closest one there. So it just concerns me that are we getting did SWAC look at the Monmouth County needs itself, okay, and this is question to SWAC, okay, or did it look at the Monmouth County I have to use nothing against my neighboring county but Ocean County because Ocean County is only a stone throw away and did they take the need in the geographic area not the individual counties.

THE WITNESS: It's only Monmouth County and one of the reasons we thought this was a good spot because we already exist.

DIRECTOR ARNONE: I know. Unfortunately I haven't been there recently but I was there initially when this whole thing came up. I took a ride there on Saturday and looked. I don't think it's a pretty active site.

THE WITNESS: It is an active site. Another thing I want to point out you mentioned as far as how it's an impact of the County roads they are on the roads as we speak. They're going to another Monmouth County. It's not like

we're creating new construction debris. They're already on the roads.

DIRECTOR ARNONE: Trucks are on the road. This type of use unfortunately I should know Freehold cartage and I don't unfortunately know where it's at. I don't know if there is a direct line that would go to Freehold cartage that would go down that road but we would have to go down that road.

THE WITNESS: You wouldn't go the other way on those same roads.

DIRECTOR ARNONE: Okay. Do you guys have any questions?

MR. DIROCCO: I would just ask you know we asked the engineer, we asked the traffic engineer, the site plan engineer you're the owner operator on the record do you average 80 trips a day is that what you're representing here that that's your understanding is that an accurate number that we can expect because you know it's a busy area, it's a growing area, we've got a warehouse, you've got Laraby warehouse. We got to know what's happening on our County Road the next 2, 3, 5, 10 years. On the record do you stand by that number?

THE WITNESS: Yes.

MS. KILEY: I had a question about residents and people trying to get to different places and now you're going to add all of this traffic is that going to create a major inconvenience for the residents that are in that area.

THE WITNESS: No. It's not. Currently operating we do have trucks as we speak so we're not getting that much.

MS. KILEY: That volume of trucks is there now.

THE WITNESS: Yes.

DIRECTOR ARNONE: I'm not trying to get into your business. I'm a little curious when you say that that is operating now because you know quite frankly you know I'm in business, most of us are in business here and so you have a facility that operates and you're saying that you have that much traffic now you know by the site by the rendering it's beautiful there. The investment is going to go there. Most cases people put the investments there to increase their business and increase their revenue. We are in business. I mean you should. I don't

devalue you of that at all but I have to believe because of that it's got to be impact full to the region and the area and I'm still stuck and I know that you made presentation incoming and outgoing but that's really something that's got me concerned about the outgoing component being part of the equation of trucks so let's say what is your average trucks per day today the way exist today.

THE WITNESS: Around 60.

DIRECTOR ARNONE: Sixty a day.

THE WITNESS: Yeah.

DIRECTOR ARNONE: And how many go out?

THE WITNESS: Comes in and goes out. Sixty total.

DIRECTOR ARNONE: No. I'm sorry. The material that you have to deport out.

THE WITNESS: Comes out in the same trucks. Trucks take stuff in and take stuff out.

DIRECTOR ARNONE: I'm not familiar with the type the way the business runs. So if a truck comes in say a 20 yarder comes in, okay, and then you process the material, okay, and the material that you don't accept, okay, that's

maybe mixed in there if that is the way it happens how does that material that actually truck driver waits for the material and then puts it and takes it?

THE WITNESS: It's actually outgoing stage ready to go out the truck comes in empty and also in mind trucks coming are not packed well so volume outgoing is much less than coming in.

MR. VITOLO: Are you asking him about today because I think he's talking about the proposed project but you're asking about today.

DIRECTOR ARNONE: Today yeah.

MR. VITOLO: He wants to know so there's piles of material there, right, so they don't have to wait. They get loaded up and go. Are you saying like the stuff on the truck has to get processed and put back on the truck?

DIRECTOR ARNONE: No. There's certain material that you do not take, right, that you don't accept.

THE WITNESS: They can't come in. They know that.

DIRECTOR ARNONE: Forgive me. I'm not in that business. I don't know. Okay.

MR. DIROCCO: Operation to get back on the scaling operation, right, and so you've got we learned a little bit how your scales you know you've got three scales two going out and one for coming in and I was asking the question about what if you have mechanicals you got to imagine these are probably I'm sure they're state of art but listen constantly things break down I think maybe Mr. Taylor or somebody else indicated you can mix and match.

THE WITNESS: Sure. They switch traffic patterns.

MR. DIROCCO: How quickly can that happen? Can you address the stacking?

THE WITNESS: It's a matter of moving cones over. It's not something that usually happens.

DIRECTOR ARNONE: That is fair. Thank you.

MR. SENA: Mr. Vitolo, are you going to present testimony from the owner or would you prefer questions?

MR. VITOLO: No. Questions.

MR. SENA: I asked a question something I apologize again I don't mean to have my back

to you but there's a question earlier about sorting. In the RFI it indicates there is going to be manual sorting and then in another section of the RFI you're going to use mechanical sorting. Can you clarify the sorting method?

THE WITNESS: On days like this we drop on the floor there will be an operator larger pieces of debris and load that onto a mechanical vibrator and separate fines and overs and at that point as long as they're there that's ancillary.

MR. SENA: I didn't understand the answer to the first part of your answer. A person is going to pick up?

THE WITNESS: No. An operator.

MR. SENA: Can you describe the equipment that's going to be used?

THE WITNESS: Large excavator called an orange peel grapple and moving the equipment.

MR. SENA: How much room does that take up in the building that you propose approximately?

THE WITNESS: Approximately a third. I'm talking about the dumping area.

MR. SENA: Is it your request of the

County Commissioners that you have the ability and capacity to process up to a thousand tons per day of Type 13C and 13 waste using that method?

THE WITNESS: Correct.

MR. SENA: Let's talk about the sorting hours. We already know what the hours of operation are from the application. What are the proposed sorting hours?

THE WITNESS: Sorter will be going on throughout the day. Obviously three to five when the last trucks come in the sorting going over past 3:00. I don't expect to be that many more hours. I would say 5:00.

MR. SENA: Is there any restriction on the hours that sorting operation can occur?

THE WITNESS: I don't know.

MR. SENA: So it's fair to say there is no one currently.

THE WITNESS: They have to be sorted that day.

MR. SENA: Right. Because DEP regulations require the material be off the floor at the end of day. Under this application is it accurate to say that there's currently no

limit on sorting hours?

THE WITNESS: They're not spelled out.

MR. SENA: So since there's no limit on sorting hours in this application do you have plans to sort at night?

THE WITNESS: No.

MR. SENA: You wouldn't be limited to under this application, right?

THE WITNESS: Correct. Not to my knowledge.

MR. SENA: So can you describe in greater detail the process for flow for the materials when they're received from receipt to storage for the Commissioners?

THE WITNESS: I'm not understanding.

MR. SENA: Describe when a truck comes in where does the material go from when it comes in? You started to describe because we talked about sorting.

THE WITNESS: A truck comes in going into the incoming scale the weight. He'll pull up to the warehouse building, back inside, tip the material onto the floor and he'll pull out, go back onto the scale get weighed and paid.

MR. SENA: What if a truck brings in

hazardous materials that you're not to accept. Can you describe that process?

THE WITNESS: You have to tell us what's and not allowed to dump.

MR. SENA: What if a truck comes in and tells you one thing you're allowed to accept and buried underneath is something you're not allowed to accept. How would you describe that?

THE WITNESS: There is a process that the engineer would put in place.

MR. SENA: Are you prepared to answer that question?

MR. WARD: All of these operation questions will have the reviewed thoroughly by the DEP if it passes beyond this Board. No. I don't have a prepared answer for that.

MR. VITOLO: My clients will abide by all applicable regulations and meet all applicable standards with respect to handling any hazardous materials.

DIRECTOR ARNONE: One question. I don't know if that goes to you. I know SWAC went through the approval process and there was testimony there and information given but so is there and I don't know maybe somebody in this

room can answer this question is there an amount of tonnage per County that you have to be at that would allow them to say, okay, you need another facility? There's that much tonnage being collected in all of the facilities, okay, let's just say we have five, okay, I don't know how many we have, say we have five and there's a number saying say it's a thousand. I'm just throwing numbers out there. A thousand. And we've exceeded that number so they made a decision that there's a need for another facility. I don't know is that the way they judge it? I have no idea.

MR. VITOLO: Who?

DIRECTOR ARNONE: The SWAC. Because how can they randomly say there is a need unless they're looking at some sort of criteria that says there's a need and it can only be by tonnage?

MR. FITZGERALD: We have testimony.

MR. SENA: Just for the record too currently in the Solid Waste Management Plan there are four transfer stations. There is a Republic facility, Freehold cartage, the Mazza and I think the Reclamation center also

qualifies as a transfer station so there are four just to be clear.

DIRECTOR ARNONE: Okay. Okay.

MR. VITOLO: SWAC did address the data on need. They decided that there was you know.

DIRECTOR ARNONE: A need.

MR. VITOLO: Yeah. I read for you some of it. I didn't read all of it but other SWAC Members said, for example, just because you have a Home Depot doesn't mean you can't have a Lowe's. I mean it was that sort of anti-competition in their mind.

DIRECTOR ARNONE: I'm just saying is there a number.

MR. VITOLO: A magic number?

MR. SENA: I can answer that, Director, there is not. As the Managers we'll call it of the Solid Waste Management District in Monmouth County it's up to the Applicant to demonstrate what they believe the need is when you consider a plan so that's a good read into a question for the Applicant.

MR. SENA: Have you conducted an analysis or study or review of any kind of the current needs of the County for this type of

waste processing? If so can you speak to that?

THE WITNESS: I don't believe we've had such a study done.

MR. SENA: Do you believe that there's some type of unmet need for the processing of the waste type that you're proposing?

THE WITNESS: From my understanding of SWAC and DEP they do feel that is.

MR. SENA: Let me take the second part. You said you had a discussion with DEP.

THE WITNESS: We've had that conversation with DEP, yes.

MR. SENA: Who at DEP did you speak to about the needs of the solid waste?

MR. WARD: There was a meeting with Tom Byrnes I believe at the time Director of Solid Waste.

MR. SENA: When was that meeting?

MR. WARD: I don't have that date.

MR. SENA: Who attended the meeting?

MR. WARD: I was there and another representative the Applicant who is no longer with the Applicant.

MR. SENA: Is he a representative of Monmouth County there?

MR. WARD: No. It was a pre-application meeting with DEP similar to land use.

MR. SENA: Mr. Gelbwachs, is the your representation that the DEP representative made a representation to you about Monmouth County's needs?

THE WITNESS: No. It was they didn't have push back.

MR. SENA: In answer to my earlier question you also said that you had discussions with the SWAC and they made a determination as to need.

THE WITNESS: We've had many SWAC meetings.

MR. SENA: Right. So is it your position that the SWAC conducted an analysis and made findings as to the needs for this type of waste processing?

THE WITNESS: I can't represent.

MR. SENA: Do you know if in the SWAC's Resolution or in any of the meetings where they considered this application they made findings as to need?

THE WITNESS: I don't.

MR. VITOLO: I will point Counsel to the

records which I read earlier where they expressly made findings as to need and competition and whether this facility was needed.

Q. I would also ask you, Mr. Gelbwachs, did you spend the last nine years of your life, hundreds of thousands of dollars, filed lawsuits, went to numerous hearings because you thought there was not a need for this facility?

A. No. I obviously feel a need.

Q. So you feel there is a need for this and that's based on your experience in the industry, sir?

A. Yes.

Q. And it's also based on what you see in the market, correct?

A. Correct.

MR. VITOLO: Thank you.

MR. SENA: I have other questions of the owner I'd like to continue those. I don't know if we're going to take a break.

DIRECTOR ARNONE: Few more minutes.

MR. FITZGERALD: Wrap up and finish after the owner.

MR. VITOLO: I would just you know I'd like to close but if after the opposition and

then I close.

MR. FITZGERALD: Close after.

MR. SENA: Close at the end.

MR. VITOLO: I want to go last.

DIRECTOR ARNONE: I always say the same thing.

MR. SENA: There was an objection filed by Ocean County Landfill basically stating that you're not allowed to take waste from Ocean County and process it at this facility. You're aware of that, right?

THE WITNESS: Yeah.

MR. SENA: There is a provision in the Howell Settlement Agreement and there was discussion at the SWAC meeting about that exact issue. Do you recall that?

THE WITNESS: Yes.

MR. SENA: In there is a letter actually an exhibit to the Settlement Agreement to Howell but it wasn't attached to the Howell agreement but it's referenced in it. It's dated October 26, 2022. It was a letter from Ocean County Counsel. Are you aware of that?

THE WITNESS: Yes.

MR. SENA: And in that letter and I'm

paraphrasing but it states that under the Ocean County Solid Waste Management Plan processing of waste from Ocean County outside of Ocean County is prohibited except if the waste from Ocean County is taken and transferred to another facility out of state for processing. Does that summary of the letter reflect your understanding?

THE WITNESS: I don't.

MR. VITOLO: The letter speaks for itself.

MR. SENA: Lead into a question do you have plans to take waste from Ocean County and either process it at this facility or transfer it at this facility to another facility out of state?

THE WITNESS: No.

MR. SENA: So if there was a condition like you agreed with Howell prohibiting that you would agree to abide by that condition.

THE WITNESS: I don't know.

MR. SENA: You don't know.

THE WITNESS: I'm saying I'm not sure whatever was in that letter.

MR. SENA: I'm trying to be completely

transparent. I'm trying to address the issue of taking waste from Ocean County transferring it at the proposed facility somewhere else out of state. I want to know if that's your business idea.

THE WITNESS: No.

DIRECTOR ARNONE: Jason, could I ask one question? And again I'm sure none of us know this answer but how is it regulated, okay, that that material isn't and I have nothing against Ocean County it's just scenario that we're in, okay, that you're able to regulate that the material did not come from Ocean County? I mean is there a way to regulate that?

THE WITNESS: Yeah. When trucks come in the driver has to sign a document inbound origin.

DIRECTOR ARNONE: Being a contractor for many years it's basically just the signing of the contractor saying oh I got this from Monmouth County? Maybe if that's it that's it.

MR. VITOLO: I mean you got competitors in here. I mean if you're not bound by the paperwork what can you be bound by?

DIRECTOR ARNONE: I'm just asking.

MR. VITOLO: No. They have to sign a certification.

THE WITNESS: Let's keep in mind it's not anyone just come in. You have to be approved.

DIRECTOR ARNONE: I know that. I know that.

THE WITNESS: You have to have a license.

DIRECTOR ARNONE: You have to have a license. I know that. That's fair.

MR. SENA: Do you possess A 901 license?

THE WITNESS: We are in the process of getting one.

DIRECTOR ARNONE: Can you tell me?

MR. SENA: An A 901 license generally speaking is a required license to participate in the processing or the transport of solid waste by the Department of Environmental Protection.

THE WITNESS: A year and a half.

MR. SENA: It's like an investigation. It's a serious thing. You don't currently possess that license, right, does any owner of Resource Engineering possess that license?

THE WITNESS: Not that I'm aware.

MR. SENA: By the way who are the owners of Resource?

THE WITNESS: Myself, Simon Ketner and Schlomo Horowitz.

MR. SENA: By the way did either of those gentlemen possess an A 901 license?

THE WITNESS: Not that I know of. Site contractor.

MR. SENA: He might have the license?

THE WITNESS: I don't think he does.

MR. SENA: There's no proof of licensure submitted with the application, right?

THE WITNESS: No.

MR. SENA: Is it fair then to say that Resource Engineering or Resource Recycling, the other company paperwork, neither of those companies have obtained the Certificate of Necessity from NJDEP, right?

THE WITNESS: Correct.

MR. SENA: Do you agree you would need those things in order to operate the facility.

THE WITNESS: Right.

DIRECTOR ARNONE: So you're telling me you could apply for something without having the credentials to apply for it with the hopes of

receiving that?

MR. SENA: That's a question for the Applicant.

THE WITNESS: It's basically a background check. Very intense background check.

MR. VITOLO: Just to give you an analogy that everyone is familiar with now I got a book load of people who do not have their license to operate who have been waiting two or three years already for the State so, yeah, these guys proceed down the track that they're going to get the license and they invest a ton of time and money in doing so in the view or the hope they're going to get the license.

DIRECTOR ARNONE: Okay. Jason, do you have any more questions?

MR. SENA: A couple. Sorry. What types of trucks do you foresee coming to drop off material?

THE WITNESS: You know dumpsters or walk in trailers.

MR. SENA: So when you say dumpsters are you referring to like a roll off truck?

THE WITNESS: Yeah.

MR. SENA: What capacity does a roll off truck have?

THE WITNESS: Ranges between two and eight tons.

MR. SENA: You mentioned the second vehicle type. Can you say what that is again?

THE WITNESS: A walking trailer.

MR. SENA: What is that a walking floor trailer?

THE WITNESS: It's basically a tractor trailer.

MR. SENA: How many tons of material can they can hold?

THE WITNESS: Twenty three.

MR. SENA: Twenty three tons of material can fit in a walk off trailer?

THE WITNESS: Right.

MR. SENA: As part of this application as you know it's in the record that I premarked but you had Counsel submit a letter prior to the SWAC meeting reducing the tonnage that you're seeking for 1,500 tons per day at 1,000. Is that right?

THE WITNESS: Correct.

MR. SENA: So how do you reconcile the

proposed limit of a thousand tons her per day accepting waste in the vehicles you describe? I don't know if the math works out.

THE WITNESS: It does. It's outside number. It's just again there will be days when we have more trucks and just a safety net.

DIRECTOR ARNONE: So could I chime in here for a second?

MR. SENA: Yes.

DIRECTOR ARNONE: So this is news to me. I didn't know what the trucks and trailers. I'm glad you brought that question up. So that's where that very vague word of average comes into play because by what you were saying at one point I didn't know that 1,500 was requested. The first time I heard of that there but let's stick to the thousand. At the size of the trucks that you're saying it should be reduced to 500 because at that if that should ever occur at those sized trucks that would be 200 trucks or more a day at the amount of material that could fit in those trucks that you just stated. I mean I'm not sitting here calculating.

THE WITNESS: I don't think that's a number we'll ever hit.

MR. SENA: Legally if this application were approved you would be allowed to accept up to a certain tonnage.

THE WITNESS: We would be bound.

MR. SENA: Putting that aside for a moment you would agree though that the tonnage that you're allowed to accept if the Commissioners permit the facility in the plan and it was ultimately approved by DEP and all of those things that come later it would be up to a thousand, right?

THE WITNESS: Yes.

MR. SENA: Theoretically you could accept and I did some backhand math it was more than a hundred roll off trucks per day so that's more than the average of 80.

THE WITNESS: It's a theory.

DIRECTOR ARNONE: They don't regulate you to the thousand tons.

THE WITNESS: Correct.

MR. SENA: Switching gears for a second you're asking the Commissioners to approve a facility for Type 13 and Type 13C waste. Can you describe the specific materials that you're planning on extracting and you're planning

taking those materials to market?

THE WITNESS: Primarily wood, concrete, sheetrock, stuff like that. Metals.

MR. SENA: Have you submitted any letters of intent with the application for like potential customers for those types of materials?

THE WITNESS: No.

MR. SENA: Do you have a plan to take those materials once extracted to market?

THE WITNESS: Yes.

MR. SENA: And in as general terms as you can because I'm not asking you to put your business plan on the record but can you generally describe what the plan is?

THE WITNESS: Local business with materials and repurpose them.

DIRECTOR ARNONE: Jason, could I ask one question? Going back to the license component so you say you regulate this type of facility now, okay, well how you do you regulate this type of facility now without having the proper license?

MR. VITOLO: No.

THE WITNESS: It's not required.

MR. SENA: It's a different class. This is currently running Class B facility. They're proposing a different type of facility.

MR. VITOLO: Just a question for the record. The question, Counsel, that you are asking are they coming right from the Objectors's reports?

MR. SENA: Nope.

MR. VITOLO: Because the reports are they in the binder of the reports. The Objectors's reports.

MR. SENA: I believe the initial reports are in the binder.

MR. VITOLO: I have objection if they're not going to be here I do object to questions coming from those reports that I don't get a chance to cross examine the report.

MR. SENA: No. These are my own notes.

MR. VITOLO: Right. I'm beyond that. I believe you a hundred percent. I'm just saying you know those reports and your files that you all have.

DIRECTOR ARNONE: Is that what's in here?

MR. VITOLO: He put some of them.

MR. LIGORANO: I'd like to rise on that. The regulations specifically allow you to submit documents in writing. They do not require cross examination. In fact the regulations specifically say it's not to be an adversarial proceeding so we could easily submit that and not be here today so the Commissioners are entirely within their to rights to review those reports per the regulations.

MR. VITOLO: That may be your understanding of the regulations.

MR. LIGORANO: It is.

MR. VITOLO: Can I finish?

MR. FITZGERALD: Gentlemen, this is exactly how we started. We insisted on the rules of civility and not the strict rule of evidence. For all of those same reasons our Counsel did not object to your testifying, witnesses referencing probably hearsay on conversations with the DEP and members of SWAC nor did anybody have an issue with your paraphrasing what came out of the SWAC transcript. I think we all understand we're in a relaxed situation. These are appropriate arguments for your closing and I would ask you

to hold them.

MR. VITOLO: I maintain my objection. Thank you, Counsel.

MR. SENA: You talked about the roll off trucks and walking trailers. Once the materials are processed what types of vehicles do you propose using to haul those materials to market?

THE WITNESS: Both those types.

MR. SENA: I don't have any further questions of the owner unless somebody else has.

MR. FITZGERALD: Redirect?

MR. VITOLO: I don't. I just again reserve to make my closing to the extent there is a presentation by other Counsel.

MR. FITZGERALD: You can close last. I have no problem with that. If there is a natural spot I would ask the Commissioners have an opportunity to take a short break.

MR. VITOLO: It would be great to take a break, Counsel.

MR. FITZGERALD: Until 2:25 p.m.

DIRECTOR ARNONE: Call this meeting back to order at 2:24.

MR. SENA: See if Mr. Vitolo has anything further.

MR. VITOLO: Yeah. I just want to close.

MR. SENA: Let's let everybody else go. I know there is a member of the public that plans on speaking and there were two objectors so I want to see if they have anything to add.

MR. VITOLO: Yeah.

MR. SENA: You're done with presenting witnesses?

MR. VITOLO: I would like to cross examine you know if there are any witnesses coming up from the other side but yeah as far as affirmative testimony we're good.

DIRECTOR ARNONE: Okay.

MR. SENA: There were two written objections filed. One as I mentioned earlier by Ocean County Landfill Corporation and another by Mazza Recycling Services so why don't we start and see if anyone from Ocean County Landfill is present and if so if they would like to say anything.

MR. SULLIVAN: William Sullivan. Scarinci Hollenbeck on behalf of Ocean County Landfill Corporation. As you know may know we represent the Ocean County Landfill in

Manchester Township in Ocean County. The Ocean County Solid Waste Management Plan provided that all nonhazardous material generated within Ocean County must be disposed of at the Ocean County Landfill or transferred and disposed of out at the State of New Jersey.

DIRECTOR ARNONE: Out of the State of New Jersey?

MR. SULLIVAN: Waste flow the courts have said that if you're hauling out waste flow doesn't apply if you're hauling out of the State of New Jersey it's a violation. We fought that in the courts forever. Mr. Sena addressed the main concern as we have which you can imagine making sure that Ocean County Waste stays in Ocean County and waste or recyclable materials that come to this facility are from Monmouth County and so it's not just about the competition as Mr. Vitolo said. It's about compliance with the law and the issue that we've had through these last several meetings is that there's been as Counsel for Mazza says lack of clarity in the various resolutions and public statements about exactly what level of commitment is being made in terms of the Ocean

County waste.

The lack of clarity, for example, is the initial application said that the material accepted at that facility must be predominantly from Monmouth County but then the Notice of the SWAC Hearing said that the waste must originate exclusively in Monmouth County and then the SWAC Resolution says that resources prohibited from accepting any solid waste from other counties and limited to accepting waste generated in Monmouth County only and shall be responsible to enforce such prohibition and everybody might think that they understand what that means but we wanted to make sure come here today and offer our commentary to make sure that it was ironclad that the waste from Ocean County will stay in Ocean County.

Mr. Sena just asked the question I think correctly which is that no material should be accepted from Ocean or stated affirmatively and that includes material that its ultimate destination is an out of state facility so I believe the record will reflect that the owner Resource's answer to Mr. Sena's question will establish that and we can be comfortable and

know that regardless of the waste issue which is always an issue that all of the material that should go to the Ocean County Landfill will do so and that would address our primary concern so I thank you.

DIRECTOR ARNONE: Thank you.

MR. VITOLO: I have no questions for him.

MR. SENA: Is there anyone from Mazza Recycling?

MR. LIGORANO: Michael Ligorano appearing for Mazza. Good afternoon.

MR. FITZGERALD: Hang on for one second. If Counsel will yield seats.

MR. LIGORANO: I appreciate the courtesy. I could stand. I've been sitting so long. There will be no witnesses. First from the top again thank you for your courtesy and we intend to rely on the documentation that was submitted before the SWAC and supplemented by my letter yesterday but I would like to make one comment about my friend's comment about competition.

Competition is the heart of this Country and I've been sitting at your meetings the last

few months and I was very proud to see that you celebrated the 250th anniversary of this Country which stands for our right folks to do what they need to do so just because I'm a competitor doesn't mean I don't have a right to stand before you to speak about what's wrong or what is perceived as something is not proper so let's just address that and let it go on.

In my November 5th letter which you were provided I think at the start of this I made some highlights. We also gave you a cheat sheet somewhere in that massive binder that you have the six issues that we have pertaining to this application.

MR. SENA: If I could interject very quickly. Director, there is written objection submitted dated August 1st 2024 that's in your binder. It's Item 4. Item 4 Tab 4 in the binder.

DIRECTOR ARNONE: Got it.

MR. SENA: There was also a written objection submitted by supplemental written objection submitted by Mazza Recycling dated November 5th 2024.

MR. FITZGERALD: Mr. Sena, so Mr. Sena

is aware and I didn't know whether Mr. Ligorano would have an objection so the Commissioners the three Commissioners have been provided Mr. Ligorano's cover letter but not the attachments. Is there any issue with the attachments, Mr. Vitolo in consideration with the Commissioners?

MR. VITOLO: No. The supplementary material was provided yesterday so for what it's worth you know I'm happy to let him continue.

MR. FITZGERALD: Sounds like closing.

MR. VITOLO: No. I'm not going to put that in my closing. I also wanted to, Counsel, the binder that you guys keep referring to just so this is orderly and you have a record that makes sense is this going to be entered as a complete document the binder? Is it going to be like you should label it because I was labeling my exhibits so could we label this as the next exhibit?

MR. SENA: Binder consists of 11 exhibits which I shared via email in advance.

MR. FITZGERALD: The Administrator and I are happy to provide Counsel.

MR. SENA: No. It's not going to be an individual one exhibit. I intend to at the

close of deliberate I'll describe that further. There are 11 items in the binder which I'm not going to read right now but I intend to mark those separately so we can talk about them separately for purposes of the record. Mr. Vitolo has also marked documents separately that will be just to be organized.

DIRECTOR ARNONE: We should close this binder?

MR. FITZGERALD: No. That's in addition to the binder.

MR. SENA: I received it after the binder was complete.

MR. FITZGERALD: I did not know whether or not how Mr. Sena would have to rule on the relaxed admissibility rules based on Mr. Vitolo's position on it so I did not provide it to the Commissioner so they could not have covered it before now. As an abundance of caution that is being provided to them.

For the record the entirety of the binder provided by Mr. Sena yesterday we provided both Counsel with complete version of that for purposes of this proceeding.

MR. VITOLO: Great.

MR. FITZGERALD: With the exception.

MR. VITOLO: Of the attachments.

MR. FITZGERALD: With the letter attachments. The letter itself should be inside the binder without the attachments.

MR. VITOLO: And then also this binder does not constitute the complete record in the case. This is just materials that you provided to the Commissioners for this Hearing, correct?

MR. SENA: That's correct.

MR. VITOLO: There are other materials as we know there are transcripts, other materials that have been produced that are part of this record.

MR. FITZGERALD: Provided today.

MR. SENA: Just for the Commissioners. This is the second of two required public hearings as Mr. Vitolo alluded to. There was a public hearing that took place before the SWAC which counts as one of the two public hearings. There were documents introduced there for purposes of application and there are documents obviously put in this binder.

MR. VITOLO: Thank you.

MR. LIGORANO: Okay.

DIRECTOR ARNONE: It's all you.

MR. LIGORANO: First off we objected to the Hearing going forward with our litigation against SWAC. We're happy to act to completion. We believe the actions of SWAC were arbitrary and capricious and does not provide you with an adequate basis to the nature of this application. I know you have thick binders. I'm not going to take too much time because I know I want to be mindful of the time.

We do believe that the capacity issue has not been properly addressed and we make reference to the DeFeo Associates report that the County itself had prepared August 5th and was introduced at the SWAC which in our opinion if you read the record indicates that there's no need for this facility. That there's plenty of capacity and there's no need for this facility to be added in the existing capacity.

Also in terms of taking waste from Ocean County we agreed with our prior Counsel testimony that is a key concern that this is to serve Monmouth County only and not to be articulated very well not Ocean County in any way.

In terms of the traffic we feel as a major issue that has not been properly addressed. I asked the traffic engineer if he had calculated based on the maximum and all we're hearing is averages. The DEP regulations and your solid waste management plan require as part of the submission that calculate be based upon the maximum being sought which this case is 1,000 which based upon the reports that we have filed with you would not be 80 trucks a day but would be about approximately 250 trucks a day so we believe the traffic information you've been provided is not accurate. It does not meet the regulations and does not meet the requirements on solid waste management plan in terms of coming before you and asking for relief.

I'm sorry. In terms of the transporting the material out of the area and all of that it's got to stay at the Monmouth County, okay, that's our position. We rely upon all of the other information we have provided both to the SWAC and to you today in support of our objection to this matter being granted any kind of approval and recommend that it be postponed until the litigation involving the SWAC is

resolved and/or remand it back to the SWAC to comply with the law, have a proper traffic study analysis prepared and also have a capacity analysis actually reflects the reality of what is happening in Monmouth County. That's all I have to say.

DIRECTOR ARNONE: Could I ask you one question on just the last statement that you just said? A proper traffic study.

MR. LIGORANO: Yes, sir.

MR. VITOLO: Why do you think that this is not proper traffic study?

MR. LIGORANO: Because it does reflect average not maximum. When you were asking about before could be days where it hits a higher number and the requirements of the solid waste management plan and the DEP is to calculate it based upon the maximum capacity not the average.

MR. DIROCCO: Can I follow up? I'll hear from Applicant's Counsel as well but in your opinion then if the DEP requirements are not being met you know I understand we should take into account wouldn't the DEP approvals not be proved?

MR. LIGORANO: That can be challenged on

that also but your solid waste management plan also included in your binder specifically provides you have to calculate it on the maximum not the average.

MR. DIROCCO: I'm staying that's DEP regulation, right?

MR. LIGORANO: Yes.

MR. DIROCCO: If we had a regulation here something unrelated to this not being met it would be on us to not make approval does the DEP then take that into consideration and provide permits and approvals?

MR. LIGORANO: They would. Your procedure to amend solid waste plan at Page 2 specifically requires that the calculation be based on a maximum so potential impact of this upon the County road system and that's why I ask that question. It was based upon the average. It doesn't matter what they settled with Howell that's between them and Howell.

In order to really understand the true effect you need to know what the maximum potential truck traffic would be on this property caused by this and that's not clear.

DIRECTOR ARNONE: Let me just ask you I

mean I guess I'm going to compare and maybe it's not fair to compare and let me look at my Counsel on this because we do this every meeting when a project comes that's controversial development project and I'll use housing development, for example, okay, there is a calculation by units on what is zero point eight per unit you know cars and that's the way we calculate the traffic onto our County road.

MR. FITZGERALD: Traffic counts.

DIRECTOR ARNONE: Traffic counts. In this case here is there some sort of criteria that we look at and say it's acceptable or not because right now we're just using these words an average so we don't know what's going to be really on our County road.

MR. FITZGERALD: So, Director, you somewhat predicted the future. SWAC Counsel, I'm sorry, your counsel for this matter on behalf of the County Mr. Sena will be providing the expert that did attend to some of these issues and would answer some of these questions traffic and some of the other factors that go into a determination as it relates to SWAC and to address the issue of the request to adjourn

this until such time as SWAC were to make some different determination. That question was posed and I would advise at this time advise these Commissioners to move forward with today's hearing.

The litigation would continue. The litigation has been filed. If there was an arbitrary capricious decision to SWAC made by the court that would end that determination by this Board so that it would then be returned and I don't see that there is a reason to suspend or postpone today's hearing for purposes for that purpose and candidly one of the things I did not talk with counsel about were there a showing of irrevocable harm or a probability of cause on the merits showing cause that was not done. I quite frankly agree that burden would be impossible so it makes sense for the matter to go forward today and I appreciate counsel's assertion but I would be advising you as Commissioner as Counsel to the County to move forward with the determination today on that issue and I think Mr. Sena will probably have a witness after the objector or two to attend to some of those issues.

DIRECTOR ARNONE: Is there any counter to Counsel here?

MR. LIGORANO: I'm finished with my Direct. Respectfully ask that you deny the request.

MR. FITZGERALD: Just to make sure I may have misspoken in terms of testimony. My understanding there was a report rendered to SWAC which is going to be moved by Mr. Sena as part of the record. If there is objection by counsel then I guess it would be testimony but I think we've beaten that horse.

MR. VITOLO: No. I'm sorry. What?

MR. FITZGERALD: Mr. DeFeo's report any required testimony from that report.

MR. VITOLO: Do I require testimony?

MR. FITZGERALD: Yes. We're going to move the report in.

MR. SENA: Just to be clear I'm sure the Commissioners will consider the figures that were considered in Mr. DeFeo's report. I think what County Counsel is asking do you have any questions for Mr. DeFeo before that happens. They were just going to consider it.

MR. VITOLO: I mean obviously you know

is he here?

MR. SENA: Yeah. Right here.

MR. FITZGERALD: You move the report you can cross.

MR. VITOLO: If you move it in have you given the directions to the Commissioners of what it is and what it's for?

MR. SENA: Yeah. So Mr. DeFeo's report they've obviously received it and I'm sure they'll consider.

MR. VITOLO: Right.

MR. SENA: When they deliberate.

MR. VITOLO: Because I asked the question when we got Mr. DeFeo's report is that a study showing the need for the facility and you said it was not.

MR. SENA: No. It's a census of the capacity for the County.

MR. VITOLO: That's important, okay, that report from Mr. DeFeo is not a conclusion that there is no need for this facility. That is not what it says, correct?

MR. SENA: I agree with that. Let's talk about that right now because there is a member of the public that has questions. In

your binders there is a report you procured. Item 5 it's a report prepared by Mr. DeFeo the County's Solid Waste Consultant. What Mr. DeFeo was asked to do was take a consensus of the capacity in Monmouth County because of the statute and we will talk about this further when you deliberate, you're required to consider what the capacity is when you consider a new facility. Mr. DeFeo wasn't asked to otherwise opine.

DIRECTOR ARNONE: Could I just ask a question?

MR. SENA: Sure.

DIRECTOR ARNONE: It's a very simple question. Is there a capacity each facility is allowed to maximum takes?

MR. SENA: Yeah. Based on the permit, yeah.

DIRECTOR ARNONE: That's all I need to know.

MR. SENA: I wasn't planning on having Mr. DeFao testify as a witness.

MR. VITOLO: With that representation I'm fine.

MR. FITZGERALD: Look you're closing is

you can opine as you wish based upon. I just wanted you to be aware that's going in as evidence. Jason, any other objectors?

MR. SENA: No. There may be members of the public who want to speak. We have to open it for purposes of the record.

MR. SENA: At this time I would ask if there are other members that wish to be heard.

DIRECTOR ARNONE: Are there any members from the public that wish to be heard? Sure. If you could come up and state your name and address.

MR. PARISI: Marc Parisi. Howell Township. Thank you. Director and Commissioners, congratulations on your reelection. I've been a Howell resident since 2014. I've been following this application since it came before the Town in approximately 2017. 2018. I was at the SWAC meeting that they held in January of 2018 in Howell Township. It was packed. Standing room only. Many Township officials that were there that were in opposition of the project at this time. I know there was some brief discussion whether or not the Township was in favor of the project or not

but if you were in the room that night it was pretty clear that everyone was opposed to it including the late former Mayor Bob Walsh, Former Deputy Mayor Robert Mizastro, Mayor Berger. There were numerous Township officials that were there and spoke in opposition to that project and that was in January of 2018.

Having looked at that application and compared it to the current application it's not that different other than they reduced some of the tonnage. I mean it's essentially the same application for the type of project with the types of waste as far as I understand. I'm not an expert in any of this. I just try to be as informed as I possibly can.

I know that I was at the meeting in January 2024 where Howell Township approved the Settlement Agreement with this owner operator I've said it before and I'll say it again on the record that the Township did not make that Settlement Agreement available to the public prior to them voting on it. The Agreement was not read into the record prior to the Council voting on it.

They gave a presentation regarding the

Agreement in which they talked about some of the general terms of the Agreement but the Agreement itself was not made available to the public so that we could review it days in advance of the actual Council voting on it so we could ask specific questions of our elected officials about that Agreement. That's important that you guys know that.

I'm not asserting that as a violation of any Open Public Records Meeting anything like that. I'm just saying the public is not provided with that document.

I know that at that meeting that there was representations made that this particular property had open DEP violations and there were representations made by Township officials and I believe the Applicant's representation that those issues would be resolved through the DEP somehow some way but that wasn't really germane or relevant to the hearing of the Settlement Agreement itself.

That was brought up again on September 10th of this year when SWAC held a Hearing that there was still outstanding DEP violations. Again it seems to be kind of dismissed. I will

tell you that I went on the DEP data this morning and printed out the 17 page document showing that there continues to be pending DEP violations on this property. I printed one copy. I am more than happy to give it to whoever wants it. If they want to submit it into the record but my concern with that as a resident of Howell is that you know.

MR. VITOLO: Can I see that please?

MR. SENA: Yeah. I want to see the document. What is this, Mr. Parisi?

MR. PARISI: This morning I went into the DEP block and lot of this particular property and printed out the 17 page document. I searched the time period from January 1st 2016 up until today of November 7th 2024 and this is what I printed out. It showed like air quality pending violations. There's some violations that have been resolved. There are some violations that are still pending. I just think that it's important that this Commission knows if you're going to be granting this application to an owner operator that you have a full scope as to whether or not they've been in compliance with current DEP regulations and whether or not

they're going to be operating you know in good faith going forward you know if they're have been outstanding violations for several years that have not been resolved I think that's important.

MR. FITZGERALD: For the record, I've been provided 17 pages of what appears to be a printout of enforcement actions issued at site between 2016 and today and it does list. It also lists penalties assessed and I think what I do with the Commissioners's approval I'm going to go and make four or five copies of this to make them available to all Counsel so they can address this as part of their presentation and we can also make this part of the record which we're permitted to do. You can object to it.

MR. VITOLO: Yeah. I object. Mr. Parisi has been here with his list at least two other hearings and both disregarded it. It's not relevant. I'll have Mr. Gelbwachs get up and address it but to make it an entire case within a case I object to. That's overbroad, sir.

MR. FITZGERALD: I think procedurally as a objector he could voice his opinion on this.

MR. SENA: He could say what he wants to say but for purposes of the Solid Waste Management Act this is not considered a written objection in the Hearing. The purposes of that certainly he's allowed to say what he wants to say but that document hasn't been provided in advance.

MR. FITZGERALD: For purposes of housekeeping I'm going to make copies anyway so Counsel has it. I'm going to give it to Mr. Sena for him to maintain it and then you can proceed, Mr. Parisi, and have an opportunity to finish. I in artfully cut you off. I apologize.

MR. VITOLO: Now that you mention I do object. I'll take a copy but I do object to it being into the record. I did not receive it. It's irrelevant and we move to strike it if you guys did admit it. Thank you.

MR. FITZGERALD: You can finish.

MR. PARISI: As I previously said these DEP violations were issues that were raised both in January and September of this year so this is not new information. As Mr. Vitolo just said he's aware that I brought these issues up.

Whether or not resolve these pending violations I have no specific knowledge. Having reviewed the DEP website as of today they're still showing as pending. As a layperson resident makes me concerned that you have an owner operator that has not made an effort to resolve violations that are as old as a year and a half. Two years. That concerns me.

One of the things that I raised at the September 10th SWAC meeting was the proximity of this property to the Laraby substation. That was also alluded to earlier in this meeting and at that time I questioned Mr. Vitolo and his expert over here Mr. Ward, right, if they had done any due diligence to investigate any regulations regarding having a utility use with this solid waste use in such literally adjoining property lines regarding setbacks and any other regulations that might be relevant to this application and they had told me that there was no investigation made regarding that whatsoever which was a concern to me.

It does also concern me that and I guess my question to them today would be since we had that meeting on September 10th have either of

you made any efforts to further investigate and explore if there is any state regulations, local ordinances that would somehow change this application because of the proximity to the proposed expansion of the Laraby substation. It's been nearly two months.

MR. VITOLO: You probably should have asked that when they were testifying but I will offer to recall Mr. Gelbwachs after you're finished and he can answer questions about your 17 pages that you submitted.

MR. FITZGERALD: We can't ask. We don't ask the lawyers questions which is kind of part of the fun going to law school we can't make them witnesses so he will not be answering questions. He will just put his witness up as I appreciate as a courtesy counsel doing, he will direct you to his client.

MR. PARISI: I appreciate that. There were also some other you know, Director Arnone, you talked about your concern the County and the County road system that's been a theme throughout your questions the impacts this could have on County roads and especially with other potential development. This is something that

I've raised previously in the past that you know a lot of people don't spend time looking at the Monmouth County Scenic Roadway Plan from September 2021 but I've looked at it a couple of times and I found that it's informational as far as siting of certain projects in Howell and that this section of County Road 547 is considered a scenic road and within that there's you know an understanding that they're going to limit the development along that section of 547 to maintain the scenic nature of that road.

I would go as far as say try to limit development that's going to bring in non-passenger vehicles so consistent with what you've been talking about I think that the County Commissioners are absolute within their right to consider the fact that this section of 547 is a scenic road and that this particular project would be bringing in non-passenger vehicles.

It's no mystery that the 547 195 exchange is a mess at certain times of the day. There is substantial queuing that takes place on that section of 547. You guys are all familiar with what I'm talking about, right, the 537 the

Herbertsville right there.

During the morning and evening peak travel it's a disaster. This applicant has already testified that you know there may be sorting that takes place after their operational hours after 3:00 and creating additional truck traffic northbound because we all know it's not collecting waste from Ocean County. Then all of the trucks are going to be traveling southbound to the facility and then back northbound of 547 or a vast majority of them I would assume.

There may be some that disperse east and west. The siting of this project can't be worse when it's the southeasternmost corner of the property. It's not centrally located within the County and it begs the question why you would want to site a project like this that close to Ocean County border if it's not going to be accepting waste from Ocean County? That's a rhetorical question that you should ask and ask yourselves.

I don't believe that the traffic expert did explore any traffic impacts at that intersection of 547 and 195 and I say that because previous questions at the SWAC meeting

on September 10th. Mr. Ward made a comment about how the zoning change on this property wasn't significant. I would disagree with that. After the Monmouth Commerce Center warehouse application was denied in 2020 and the Town changed the zoning on this property it changed it from SED to SED 2 eliminating warehousing uses on that particular property. So the fact that they want to build a waste transfer station with a 36,000 square foot warehouse or facility on it is very akin to warehouse facility so I would submit that this application if it needed to go before our land use board would need variance relief for this project.

So regarding the traffic you know this whole thing about averages this is something that the public has the same questions on September 10th at the SWAC hearing about you know these numbers like how did you get to these numbers if you have a four ton truck you know and a thousand tons a day you can all do simple math and some of it doesn't add up and you start talking about averages. What if you had a slow week? The average week is going to be 560 trucks so if you have a slow week where there's

only 10 to 20 trucks a day are you now having 1,500 trucks in that week because that's what it averages out? You know like what does this really mean you know like when you start having hundreds of trucks per day on 547 you know queuing on Randolph Road and you know up towards the 195 exchange you know we're traveling you through local roads. Miller Road going out to Lanes Pond Road or they decide to go down Randolph Road and Lakewood Allenwood Road into Ramtown you really have to look the at the map and see where these trucks are going to go if this you know happens you know the way they're saying it's going to happen.

So listen I've said a lot. I'm not going to drone on. I will let you deliberate but my feeling is that this is a poorly sited project and I would respectfully ask you to deny it. Thank you.

DIRECTOR ARNONE: Thank you. What next?

MR. VITOLO: We're going to recall Mr. Gelbwachs just to briefly address the violations. Give you an update on where we are with that.

THE WITNESS: When we took over the

property there was a number of violations existing plus ones that were discovered.

MR. FITZGERALD: Can we fix a time when did you take over the property?

THE WITNESS: Two years.

MR. FITZGERALD: Two years ago 2022. I ask that Commissioners because the records provided have violation dates 2016 to 2024 so Pages 1 through something would be prior to this gentleman's involvement with it.

THE WITNESS: Some items once we started working with the DEP to correct everything but we're working hand in hand to correct all items.

DIRECTOR ARNONE: Thank you. Is there any more testimony?

MR. FITZGERALD: The only suggestion I would have, Director, we have a hard stop at 3:30. I assume the two closing arguments would be from the representative from Mazza and the Applicant's Attorney.

DIRECTOR ARNONE: Nope.

MR. SENA: They're fine. Frank.

MR. VITOLO: I have five minutes, Counsel.

MR. FITZGERALD: That's fine. We may be

closing but then would you want to recess and return for deliberations because of the time constraints?

DIRECTOR ARNONE: Do what you got to do. Basically closing arguments you said you have five minutes.

MR. VITOLO: Five minutes.

DIRECTOR ARNONE: I mean what are we talking time wise?

MR. SENA: I can't imagine any more than another hour.

MR. FITZGERALD: Deliberating is up to you. The three of you then with counsel would deliberate on this, review the documents that are there, speak with counsel on this particular issue that could be totally up to you. That could be 10 minutes it could be days that's your choice and then when you determine you're in a position where you have the information you need.

MR. SENA: Right. You know the deliberations would take place in the public today, right, and they have to vote public.

MR. FITZGERALD: A resolution.

MR. SENA: Right. So what sometimes

will happen you know let's assume we deliberate and vote today. What we have to adopt a Resolution pursuant to the Solid Waste Management Act. Obviously I haven't prepared a Resolution because I don't know what the decision is. We'll have to adopt that at our next regularly scheduled meeting. We have to conclude the Public Hearing today at least.

MS. KILEY: We haven't heard from any residents. We heard from one but you know I think the biggest impact of this is going to be on the people that live there and I'm sure you've had some kind of meetings with them as he testified but I just have no idea what I would hear if I went down to local residents and said what do you think of this?

MR. SENA: I can speak to that because the first Public Hearing that occurred in Howell Township there was extensive public participation and we have the transcript of that for review if you'd like.

MS. KILEY: Okay.

MR. SENA: We can also provide. It's not in the binder because it's thick that's the only reason it's not in the binder. That did

occur. There was extensive participation in that Hearing.

MR. VITOLO: The only thing I would add I have a telephone conference 8:30 in the morning with the judge.

MR. FITZGERALD: Why don't you close.

DIRECTOR ARNONE: We'll close out.

MR. SENA: I'll advise Commissioners how to deal with the judge.

MR. VITOLO: I'm just saying what he told me.

MS. KILEY: We're going to vote today.

MR. VITOLO: That is what we promised the judge and we've been delayed so many times that he is now scheduling conferences at next morning at 8:30 after each one of these meetings and he wants to know why certain things didn't happen.

MR. SENA: Respectfully, Mr. Vitolo, I'll advise the Commissioners. I appreciate your say.

DIRECTOR ARNONE: Let's move forward.

MR. VITOLO: Thank you. So a lot of times when I make these presentations to Boards particularly you know land use talking about

land use case people have strong opinions, okay, people have strong opinions. The Commissioners you have opinions. Members of the public have opinions but the law binds us to make decisions on the record that's what we have to make decisions on and the documents in the record and the testimony and the expert testimony that you heard that is what if this, for example, were to go to a court? I would argue to the judge it's bound by what's in the record, okay, not what someone thinks or what their experience or my personal.

I've had witnesses or Board Members in cases who have gone to Home Depot and bought measuring wheels and started measuring distances because they think they know you know more than my experts so you know and I've one those cases because we have to be bond by the record. Today and over the last years we have appeared at these bodies at Howell where there was Notice, public participation and the elected representatives of Howell were all sitting at the front. They listened to every resident and their concerns including this gentleman who was there and as the elected officials they voted to

approve this deal so they considered what all of the citizens and the citizens knew about this meeting because we posted it in the library at the shopping center. It's been in the newspaper numerous times. One person came here today on this application now and I'm not demeaning his opinion he's got strong opinions and they're actually well educated, et cetera, but there's one person on this supposedly controversial project in Howell one human being showed up here. The rest of the people before you are the competitors and while opposing counsel says oh they got to do what's right and good. Please. They're here because they do not want this facility to compete with their facility plain and simple and you had experts here again use your eyes human beings who came here to defend their positions today and their reports have gone unchallenged.

There was no one here challenging the conclusions of Mr. Ward and there was no one here challenging the conclusions of my traffic expert. There is minimal impact from this project. You can say average truck. That truck. Maximum trucks. They counted the truck

trips that we said would occur on this site and it was minimal. Not medium impact. Not a great impact.

Commissioners, you mentioned hypotheticals. Churches don't build parking lots based on Christmas Eve. You don't build something out expecting the worst case scenario. Will there be days more trucks of course as any other business but the experts, the ones who came and testified before you today looked at the traffic data, they used their years and years of experience in this industry, they came up opinions, they proved them and they testified to defend them that is what's in the record. There was nothing said here at this Hearing at SWAC or at Howell. We heard no expert witness come before a body swear in person and say that our traffic study doesn't hold water.

Nobody said that and no one has said it since. So this idea that the traffic this is going to burden the roads. As one of my witnesses the trucks are already on the roads. Mazza's trucks are on the roads. If they come to our facility instead so be it but because we're opening up a facility it's not going to

create. People aren't going to start knocking down houses because we open up a facility. We're all competing for the same business. And by the way we're putting in a traffic signal, Commissioners, that's going to change an intersection from failing F to B. That's big time for an application like this. That is going to cost a fortune as has the last nine years of this insane process honestly. It has been we had to file a lawsuit just to get a vote. Nine years.

These are good people. They just want to open up a transfer station on a property that already is a solid waste facility. It's not like we're knocking down homes or trying to put something next to you know residential areas. This is an industrial area with a facility that already exists and again use your eyes it looks so much better than what's there. Take a ride there. They are moving all of the operations inside. They're creating this nice office. They have a lane that's going to queue all of the trucks. None of that exists here today so I mean I hate to be you know I hate to be cynical but for the only people to be here today are the

only ones that are going to have an impact economically from our business that's it aside from this gentleman here.

So this facility has now gone through two rigorous processes. Negotiating with Howell was not easy. They had like you said a whole room full of residents. We had to do many, many changes. We made many concessions that we did not want to make but we made them because they really do believe that they're going to have a successful business that will serve the community.

SWAC the same thing. These are people in the industry. They asked great questions. There was public there. There was testimony. Our experts were all there. And SWAC voted 4 to 1 to approve. Why? Because they told us they said we believe that competition is good. This is a good business. We like the plans. We like the fact that you're going to have everything inside. Less noise. Less everything. Looks good to us. Yet here we are today with still the objectors and everyone trying to question traffic. It's just talking words. We have the testimony from the witnesses and that's what

binds the Board. Not opinions or hypotheticals or suppositions or you know that is what binds the Board and we believe we have proven our case, Commissioners. This has been a nine year odyssey and we please respectfully ask that you approve this. DEP will deal with any issues if there is issues regarding DEP regulations. Trust me DEP will handle those issues and we like we've done every step of the way here is we will work with them and we will make sure that we comply.

So thank you for your time and hearing us out and hopefully we can get this business off the ground. Thank you so much.

DIRECTOR ARNONE: Thank you. Any other?

MR. SENA: Motion to close the Public Hearing.

DIRECTOR ARNONE: Motion to close the Public Hearing.

MR. SENA: All in favor?

Ayes.

MR. SENA: At this point we should deliberate. I believe there is a time constraint. If you have a legal question about what the law is or something like that I can

answer that in executive but other than that we have to deliberate in public. You heard all of the testimony that was presented today. There was an earlier Public Hearing before the SWAC. The SWAC considered what was presented to them and they voted and they adopted a Resolution memorializing that vote that occurred you know following the Public Hearing. What I include in your binders there's the application submitted by Resource Engineering dated March 29th 2024 which includes specific information on the facility, Resources's traffic study, Ocean County Landfill objection which is Item 3, Mazza's Recycling Services's rejection which is Item 4. Item 5 is the Solid Waste Management Plan Amendment, I'm sorry, Analysis prepared by Wayne DeFeo. Mr. DeFeo as you know is procured as the County Solid Waste Consultant solely for assessing what the current solid waste capacity in the County because pursuant to the law you have to consider what other facilities exist and what the capacity is when you consider plan amendment exists. That's the purpose of Mr. DeFeo's report.

You heard some exchange between me and

the Applicant's Attorney earlier you know there was a lot of discussion of what the report was for. The report isn't a report about this application. It's a report about what currently exist in the count and what capacity is that's the information that you have to consider.

There's a supplemental traffic study prepared by the Applicant Item 7 that's prepared in response to a traffic study that was included by one of the Objectors. Then you have the information from the SWAC, the Public Hearing report, the Resolution. I did include the transcript of the October 8th SWAC meeting because as you may recall when we last met on this application the SWAC did hold an extensive Public Hearing following which they voted but they didn't place any reasons on the record so what they did then did was Notice another public meeting, they adopted a Resolution and they discussed the reasons on the record but that's what the application is. It's before you. I'm happy to answer any legal questions that you have or anything like that.

DIRECTOR ARNONE: So I guess I'm a little frustrated.

MR. FITZGERALD: If you have a legal question for Counsel you ask to go executive.

DIRECTOR ARNONE: Yeah, I know.

MR. FITZGERALD: Don't ask the question.

DIRECTOR ARNONE: Sometimes I don't know if it's a legal question or not.

MR. FITZGERALD: You can't un-ring that bell so if it might be.

DIRECTOR ARNONE: I wonder is there some sort of regulation and I'm using simple numbers. I'm sure everybody has to supply a permit to DEP on what their tonnage will be or their maximum tonnage will be. There has to be I would imagine. Is that true or?

MR. SENA: Yeah. They have the DEP regulation permits.

DIRECTOR ARNONE: The other facilities in the County their permit whatever that permit is are they meeting or exceeding the amount of tonnage that they're accepting?

MR. SENA: So that is a question. If you refer to Item 5 in the binder Mr. DeFeo's report he talks about what the other facilities are and what they've been processing in terms of tonnage.

DIRECTOR ARNONE: Do you want to give us that or do you want us to sit here?

MR. SENA: Yeah. Each of the facilities is limited by what the permit is. What the permit limit is. Mr. DeFeo analyzed the available capacity in the County based upon what those other facilities are allowed to process.

DIRECTOR ARNONE: And are they meeting that number or exceeding it?

MR. SENA: Well there is so I'm referring to Page 4 Mr. DeFeo's report which indicates on the bottom paragraph over the last 11 years data analyzed Monmouth County disposed of 708, 820 tons of solid waste per year. Concurrently Monmouth County has solid waste processing of 805, 587 tons per year so there is some room there because there's capacity in excess of what's permitted by 96,786 tons so there is room from the facilities that are in the plant.

Remember there are four facilities that exist include the Reclamation Center. There's room from what they're allowed to process currently from what we have.

DIRECTOR ARNONE: Okay. And I guess the

thing and I know Counsel explained it very good but it's still in my mind that the truck size and the roll off size of material and then the request from the Applicant they just didn't pull it out of their hat the number of a thousand tons, okay, I would think they're anticipating that and as they should they're in business, okay, but with that and the size of trucks you're saying are coming obviously it's going to be much higher than 80 trucks a day and you know I look at that average and it makes me very concerned because it's a County road and on top of it at the end of the day no disrespect to the Howell, okay, and quite frankly I'm not pleased with Howell because quite frankly and you guys did a great job negotiating with Howell but they never even contacted us and told us, okay, I heard that on the street but they sure didn't mind calling me in 2015 and 2016 in a rage when they wanted and they did not agree with this application, okay, but they surely didn't call us and tell us that they approved this application and that they negotiated a very good deal for them which I all for them. Good for them. So I'll put that on the record, too,

Howell, and any elected official there does not make me happy the way they handled it. Terry O'Connor you were here with me and you saw that rage of all of the elected officials back then and then I just wonder the impact to our roads and the traffic study that's got me you know not saying that your traffic study isn't well detailed but we're using trucks and you're not saying the amount you know never in your testimony did you say the truck is going to be this size truck and it's going to be that much material off there. I mean it's simple math that it's going to be a lot of trucks coming down there. I mean it's just things that are roaming in my mind.

As far as the competition that's really not up to me. My personal opinion I mean I do not want to see people losing their jobs that already have jobs because obviously we always want to see jobs increasing here. It's very, very important but retention is just as much as supplying new jobs there so but that's competition and that's the field that they're in.

I'm having a tough time with the traffic

and the word average if there was a maximum on there but what do you guys think?

MR. DIROCCO: I'm struggling a little bit too and I appreciate great testimony from you know the experts and the owners very earnest. I appreciate all of that. There's some unanswered questions too that I'm struggling with around truck traffic and talk about averages I looked through the Howell agreement sitting here and there's nothing about maximum or limits. It's all about averages. And that kind of questions what's going to happen there.

Hours of operation I know the trucks are going to stop at a certain time but we don't know after that there's nothing in the agreement specifying what's happening on that site which is you know talking about a big site with a lot of industrial and you know related operations. We're not really sure what the limits and parameters around that will be.

Adjacent uses we've got a lot of other things happening in the area that you know Laraby substation is again ground zero for a fairly significant increase in utilization.

You've got warehouse spaces and other things happening. A lot of unanswered questions. I'm also struggling with how it affects into the matrix decisionmaking and what it means for traffic and impact on County operations and County roads.

DIRECTOR ARNONE: And the other thing that I do want to just touch a little bit on and it has nothing to do with this project but example in closer proximity without naming the town there is a large project going on a County road and we have no ability to make the decision whether approved or not. It's a town municipal but it's on a County road.

What we did require them because of similar to this situation to put a traffic light on there and it's being done quite frankly it's being done right. As we speak the traffic light in the development being developed right now but what's ironic about it is and I foresee this same scenario happening not that I know we're elected officials and we have to you know you just go to do what you have to do, okay, but this Board here is getting the full blunt end of the negativity in the whole region about it and

if anything we did the right thing. We made them put a traffic light. We had no ability to have input or make decisionmaking on the actual development and these elected officials in that town are sitting back and saying County. It's a County road. We didn't approve the project there and this is similar to what my good friends in Howell which, listen, I know I'm very blunt with them and I will tell them when I see them probably in about 15 minutes when I call they will but I'm uncomfortable with whatever way this goes here that they weren't as I guess responsive to us and to give us the information as they were the last time when they were totally against this project there and I understand and maybe they did it for financial reasons. I don't know their financial budgets. I don't know the reasons they did it.

It seems it's the same governing body that was so far against it the last time and I know it was the Mayor there that was and now granted the Mayor is no longer there as of January.

MR. SENA: Yeah. Director, I would say I don't want to impose a time limit. There is

other reasons.

DIRECTOR ARNONE: I don't want the judge to be mad at us either.

MR. SENA: Right. I respect the judge and the judge look I know there is a time limit I guess an obligation nothing to do with this application. If you need, if you want to continue to deliberate on this to another meeting we would have to you know Public Hearing is over. We're not taking additional testimony but if you wanted to continue to deliberate on this at another meeting you could do that because I don't want there to be, I don't want you to feel like you're rushed.

DIRECTOR ARNONE: I don't want to rush because it's impactful. It's impactful for these gentlemen here. I totally understand that. I respectfully don't want to do that.

MS. KILEY: You guys are much more expert in this sort of thing than I am because you have much more experience with it. There's two things that like just feel squirrelyf to me. I don't know how else to say it. You know you've got a town that shows up at a meeting and violently angry about this happening a County

Committee that says they don't want it and then all of a sudden there's a complete role reversal to a positive and I don't understand that. I don't know what happened there and then you know the only other experience I have with trucks coming up and down a main road or a County road is that in my town when they had to do work on the highway all of the trucks came down that County road and it was loud. It built up traffic. People weren't happy about it.

I do think that what you talked about in the way you want to run your operation is terrific but those are the two things that are still kind of sticking to me. Why is Howell going totally role reversal?

MR. SENA: So I would say under the statute we have to consider in addition to all of the testimony that was presented is the existing facilities in the County and the County's needs that's the primary focus of the solid waste management plan which you are the overseers of.

DIRECTOR ARNONE: But it has to be some sort of impact also to the area that exists.

MR. SENA: Absolutely. I'm not

discounting the things you're talking about now. I'm saying those are the things you have to consider.

MR. VITOLO: Counsel, we'd be happy despite what I said about the judge to allow the Board further time to deliberate. It sounds like they have questions and concerns and I wouldn't object to you counseling them outside of you know if they had legal questions so I'm happy to defend that.

DIRECTOR ARNONE: I appreciate that.

MR. SENA: Yeah. I don't want to be in a situation where you have to cut short for any reason.

MR. VITOLO: No.

DIRECTOR ARNONE: I appreciate that. I know this has been going on. I've been here longer so I've been through it hearing over and over. I appreciate you bringing that up, Counsel, I do and now when you say so we shouldn't speak about it.

MR. SENA: Right. The deliberation on the merits of the application. We will have to continue at our next available meeting.

DIRECTOR ARNONE: But if we decide to

generate more questions.

MR. SENA: You can always ask me any question privately.

DIRECTOR ARNONE: We have to ask you privately.

MR. SENA: You can contact me separately. My advice to you is privileged. I speak to the Administrator and Assistant Administrator and County Counsel regularly or you can contact me directly about a legal question about the application.

DIRECTOR ARNONE: Do you guys agree with that?

MR. DIROCCO: Yeah. That's fine.

MS. KILEY: I agree.

DIRECTOR ARNONE: Our next meeting is December 12th and we would make the decision.

MR. SENA: Yeah. We would have to deliberate in public which your next meeting was already Noticed. We're not continuing the Public Hearing.

DIRECTOR ARNONE: Are you okay with that? We'll promise to make a decision.

MS. O'CONNOR: I'm not an attorney but you just got these binders today. I think the

answers to some of your questions are in these binders to review this before your next deliberation you may have and any answers that you're looking for.

MR. VITOLO: And the documents we submitted. The whole pile.

DIRECTOR ARNONE: In all fairness no disrespect to the SWAC but they had this information when they made their determination. I believe it's been eight years.

MR. VITOLO: They actually didn't have the November 5th letter that these guys just submitted yesterday.

MR. SENA: By evidence they weren't in my binder.

DIRECTOR ARNONE: Thank you. I want to rearrange the meeting schedule for December 12th so we come in.

MR. FITZGERALD: You have to pick a time to Notice them.

MR. SENA: No. We closed the Public Hearing. It's over. Deliberation has to occur at a Public meeting. No further testimony on the merits of the application.

MR. FITZGERALD: What time?

MS. BROWN: One thirty.

MS. O'CONNOR: You could do noon.

DIRECTOR ARNONE: Let's do what we did today. Is that okay?

MR. FITZGERALD: Definitive time so the folks only interested in the SWAC portion would know they can come deliberation time.

MS. O'CONNOR: If you start at 12 or 12:30 by the time the last meeting of the year there will be a number of things on the Agenda you probably won't get to your deliberations until 1:00 would be my guess. Yes?

DIRECTOR ARNONE: I don't anticipate it taking more than 20 minutes. Fifteen minutes for deliberation. I mean we're going to read this and we're going to have our questions for you and then we're going.

MR. VITOLO: Yeah. The two Commissioners who recuse can you just remind me what the reasons were for both?

MR. FITZGERALD: Commissioner Lictra removed himself because he is related to the Hese family.

MR. VITOLO: And the Hese family is?

MR. FITZGERALD: Owners of the Ocean

County Landfill.

MR. VITOLO: Who are objecting to the project.

MR. FITZGERALD: Yes. And I could figure that out.

MR. VITOLO: I just wanted it on the record. Thank you. Mr. Anderson?

MR. FITZGERALD: Mr. Anderson sat.

MR. SENA: Prior to being elected to County Commissioners he was the Attorney for Solid Waste Advisory Council in the other lawsuit that we were both party to.

MR. VITOLO: You're taking the position that's a conflict because what?

MR. SENA: He's recused himself so it doesn't really matter.

MR. FITZGERALD: He has made the determination that he is properly recusing himself.

MR. VITOLO: Did he provide any color?

MR. FITZGERALD: He can provide the color that he wants, quite frankly, that he needs to provide.

MR. SENA: Public official can recuse themselves for whatever position he wants. He

was the legal representative for the Solid Waste Advisory Council in this application prior to being elected so I totally respect his decision.

MR. VITOLO: I have nothing further, Commissioners.

DIRECTOR ARNONE: Motion to adjourn.

(Whereupon concluded 3:31 p.m.)

CERTIFICATE

I, LISA NORMAN, a Notary Public and Certified Court Reporter of the State of New Jersey, do hereby certify that prior to the commencement of the examination, the witness was duly sworn by me to testify the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

Notary Public of the State of New Jersey
License No. 30X100177700
Dated: November 11, 2024

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