

**Transcript Amendments per SWRB Meeting March 21, 2013**

Robert Diehl and Jack Vannatta arrived at the June 27, 2012 meeting late and were not listed as in attendance and Gail Hughes name had been misspelled throughout the transcript.

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BEFORE THE SOLID WASTE REGION BOARD MEETING  
800 Second Avenue South  
Metro Office Building  
Nashville, Tennessee 37219-6300

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TRANSCRIPT OF PROCEEDINGS  
June 27, 2012 5:00 p.m.

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BEFORE: JOHN SHERMAN, Chairman  
ANNA ALEXANDER  
JIM DRIVER  
GAYLE HUGHES  
DANIEL LANE  
AUSTIN MCMULLEN  
BETH REARDON  
JENNY HOWARD, Attorney for the Board

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 ORIGINAL

1 MR. SHERMAN: Good evening, members of  
2 the board and all the public that has come to this  
3 meeting tonight. My name is John Sherman. I'm chair  
4 of the Davidson County Solid Waste Region Board. Ad,  
5 ladies and gentlemen, we weren't sure we were going to  
6 see each other quite as soon as we are. We're here for  
7 a very particular reason. And before we go into that  
8 I'll have -- Paul, would you please read our membership  
9 role call.

10 MR. HILTZ: Anna Alexander.

11 MS. ALEXANDER: Present.

12 MR. HILTZ: Leslee Alexander.

13 (No answer.)

14 MR. HILTZ: Ashley Curry.

15 (No answer.)

16 MR. HILTZ: Robert Diehl.

17 (No answer.)

18 MR. HILTZ: Jim Driver.

19 MR. DRIVER: Present.

20 MR. HILTZ: Gayle Hughes.

21 MS. HUGHES: Present.

22 MR. HILTZ: Daniel Lane.

23 MR. LANE: Here.

24 MR. HILTZ: Austin McMullen.

25 MR. MCMULLEN: Here.

1 MR. HILTZ: Mike Paragon.  
2 (No answer.)  
3 MR. HILTZ: Beth Reardon.  
4 MS. REARDON: Here.  
5 MR. HILTZ: John Sherman.  
6 MR. SHERMAN: Present.  
7 MR. HILTZ: And Jack Vannatta.  
8 (No answer.)  
9 MR. SHERMAN: I believe we have a quorum;  
10 is that true?  
11 MS. HOWARD: Yes.  
12 MR. SHERMAN: We have a quorum. Thank  
13 you. So we're here for a very specific reason, and  
14 it's about the landfill that we had approved per the  
15 request in our last meeting. We're going to take that  
16 up in a minute, but first, we need to dispense of the  
17 minutes of the last meeting. The General entertained a  
18 motion to approve the minutes of the March 29th  
19 meeting.  
20 MR. LANE: I so rule.  
21 MR. SHERMAN: Moved by Mr. Lane. And a  
22 second?  
23 MR. DRIVER: Second.  
24 MR. SHERMAN: Thank you. All in favor?  
25 (All Board members respond.)

1 MR. SHERMAN: All opposed?

2 (No answer.)

3 MR. MCMULLEN: I abstained from that vote  
4 since I was not at that meeting.

5 MR. SHERMAN: That makes sense  
6 Mr. McMullen. Thank you.

7 So we're here to talk about the --  
8 Mr. Mitchell's landfill and the request to dwell on our  
9 request that we received on last time. As you know,  
10 there has been lots of events that have happened since  
11 March 29th. We're going to ask the -- I've asked  
12 Sharon Smith to give us a summary of that before we  
13 move on to taking action on the information that we've  
14 had received since then. Sharon.

15 MS. SMITH: All right. Thank you. And  
16 what I'd like to do is read into the record two -- a  
17 letter and a memo that have been submitted to the  
18 Board, and many of the members of the community have  
19 also heard. Because I think, in particularly, the memo  
20 is going to summarize the situation and help us in our  
21 direction going forward. This memo is from the --  
22 well, the acting director of Public Works at that time.  
23 He's actually now our fire chief, Billy Lynch, to  
24 Chris Whitson, who is the chair of the BZA.

25 "It is my understanding that you have

1 requested Metro Public Works to respond to issues  
2 surrounding Case 2012-061 for a proposed C&D landfill  
3 that came before the Board of Zoning Appeals on  
4 June 21, 2012. Please allow me to provide some  
5 clarifying background information as well as explain  
6 Metro Public Works' position as it relates to this  
7 proposed landfill.

8 In the fall of 2011, Public Works was  
9 contacted regarding this potential C&D landfill on  
10 Charlotte Pike along with the possibility for a  
11 residential recycling convenience center. We discussed  
12 with Mr. Tom White and his client the process of for  
13 approval from the Davidson County Solid Waste Region  
14 and the various requirements of the Region's Ten year  
15 Solid Waste Plan.

16 The Davidson County Solid Waste Region  
17 Board has been tasked by the Tennessee State Law to  
18 review landfill applications and determine if they fit  
19 within the Region's Ten Year Solid Waste Plan. The  
20 Region's plan includes the requirement that any  
21 landfill application have comprehensive on-site  
22 recycling and that the applicant offers a host  
23 community benefit program to the surrounding community.  
24 On March 29, 2012, the Davidson County Solid Waste  
25 Region Board met to hear the C&D landfill application

1 request and subsequently voted to approve.

2                   It is important to note that the Ten Year  
3 Solid Waste Plan was not amended at the meeting on  
4 March 29th. On a number of occasions, both by media  
5 and at the BZA hearing, statements have been made that  
6 the Board amended their Ten Year Plan to allow for  
7 another C&D landfill in Davidson County. This is not  
8 accurate. The Ten Year Solid Waste plan states that  
9 'Metro does not intend to approve the development of  
10 another C&D landfill in Davidson County unless it  
11 determines that the need for such a facility exists to  
12 enhance marketplace competition or secure and future  
13 C&D disposal capacity.' And because the C&D landfill  
14 on Central Pike is nearing its capacity, therefore  
15 leaving only one C&D landfill in the county, the Board  
16 determined that permitting a new C&D landfill would  
17 both enhance marketplace competition and secure the  
18 needed C&D disposal capacity.

19                   Throughout the process, Public Works was  
20 clear that our support for this C&D landfill was  
21 contingent upon the mutual support of both district  
22 council members closest to the property as well as the  
23 surrounding community, and that a convenience center be  
24 provided for residents as a host community benefit  
25 program. In light of recent developments, we feel

1 obliged to withdraw our support.

2           While I am now serving as Metro's interim  
3 Fire Chief, this initiative began during my tenure as  
4 Public Works Director, and I have remained interested.  
5 I appreciate the opportunity to explain our position  
6 and restate Public Works' commitment to providing  
7 convenient recycling and waste management opportunities  
8 for all residents of Davidson County."

9           And that is the end of the memo. I would  
10 now like to read a letter that we received this morning  
11 addressed to the Board and Bill Herbert, who is the  
12 Zoning Administrator. This letter is from  
13 Attorney Tom White, who is representing  
14 Charlie Mitchell, who owns the property.

15           "Dear Mr. Herbert and Mr. Sherman, this  
16 law firm represents Charlie Mitchell, who is the owner  
17 of the property located at 7739 Charlotte Pike. Please  
18 receive this letter as the request from our client that  
19 the Davidson County Solid Waste Region Board rescind  
20 their approval of my client's application for a  
21 construction and demolition landfill on the  
22 above-referenced property. In addition, we are  
23 requesting that the Board of Zoning Appeals receive  
24 this letter as an official withdrawal of application  
25 for a special exception.



1           You have received a memorandum from Billy  
2 Lynch, who was serving as Public Words Director during  
3 most of the time in question. My client and his  
4 engineer met on several occasions with the staff of the  
5 Metro Public Works Department. As mentioned in the  
6 memorandum from Billy Lynch, there was a sincere  
7 interest in utilizing my client's property for purposes  
8 that were in the best interest of my client as well as  
9 Metro Government. My client and Public Works agreed  
10 from the outset that the support for the uses on this  
11 site were clearly contingent upon the support of both  
12 district council members closest to the property. In  
13 addition, my client made it clear from the outset that  
14 he did not want to locate a C&D landfill on this  
15 property and if there was significant neighborhood  
16 opposition. After a public meeting at Gower School on  
17 March 13, 2012, my client and Metro representatives  
18 were convinced that there were no virtually no  
19 opposition.

20           Approximately 30 days later, it became  
21 clear that there was significant opposition, and this  
22 was in part evidenced at the hearing at the Board of  
23 Zoning Appeals. The two council persons justifiably  
24 took into account the concerns of their constituents  
25 and voiced their opposition.

1                   My client and I appreciate the time spent  
2 on this matter by your respective Board members and the  
3 staff. In light of the developments that have  
4 occurred, my client officially requests the action as  
5 reflected at the outset of this letter. Please  
6 communicate this information to the members of your  
7 Board."

8                   And Chairman Sherman, I believe, these  
9 two -- this letter and this memo summarize what has  
10 happened and where we are today.

11                   MR. SHERMAN: Okay. Thank you very much,  
12 Sharon.

13                   So we have before us a request from the  
14 applicant. We have an opportunity to rescind this  
15 request -- rescind our approval from the March 29th  
16 meeting. What I would like to do is before  
17 entertaining a motion, I will offer to be along these  
18 lines of accepting the letter and, secondly, to rescind  
19 our March 29th decision to approve this.

20                   I first want to talk about public  
21 comment, and I'm going to entertain a motion from the  
22 Board not to entertain public comment tonight for the  
23 very simple reason is that, one, I don't think anybody  
24 here is in favor of it; two, and perhaps more  
25 importantly or as importantly is that we have received

1 information from the attorney representing some of the  
2 members here. Jamie Highland is his name. We have  
3 that information. And that -- and given that this is  
4 -- we've already acted on this once, and we know the  
5 feelings of several of the public. So I believe that  
6 we don't need to take public comments at this time.

7 UNIDENTIFIED SPEAKER: I'd like to talk.

8 MR. SHERMAN: No. Excuse me. This  
9 needs to be -- this is a motion before I ask among the  
10 Board members, and I'm seeking that at this time.

11 UNIDENTIFIED SPEAKER: The agenda said  
12 that the public could talk.

13 MR. SHERMAN: Bruce, I'm seeking it at  
14 this time. We can modify the agenda any time we want.  
15 Thank you.

16 MS. HOWARD: And I'll jump in also, that  
17 because this has become more of a housekeeping meeting,  
18 an application is not to be reviewed, that public  
19 comment is not legally required.

20 MR. SHERMAN: Thank you, our attorney.

21 UNIDENTIFIED SPEAKER: I think it's  
22 legally required.

23 MR. SHERMAN: Ms. Gayle? Bruce, you're  
24 out of order.

25 MS. HUGHES: I so move.

1 MR. SHERMAN: Moved by Ms. Hughes. And a  
2 second?

3 UNIDENTIFIED SPEAKER: Well, Mr. Sherman,  
4 how can you not allow public comment in a scandalous  
5 situation?

6 MR. SHERMAN: Bruce, you're out of order.

7 UNIDENTIFIED SPEAKER: You're out of  
8 order. You're the one that said. It's not us.

9 MR. SHERMAN: Bruce, you're out of order.  
10 Sit down, Bruce, or leave. That's your choice.

11 Unidentified SPEAKER: Why not allow  
12 public comment?

13 MR. SHERMAN: All in favor?

14 (Board members respond.)

15 MR. SHERMAN: Any opposed?

16 (No response.)

17 MR. SHERMAN: I will now entertain a  
18 motion to accept the request from Mr. White on behalf  
19 of his client, secondly, to rescind approval of -- our  
20 approval of -- a decision made March 29th to approve  
21 this request.

22 BOARD MEMBER: Mr. Chairman...

23 MR. SHERMAN: Yes?

24 BOARD MEMBER: I move that we accept  
25 Mr. White's letter, that we rescind the approval from

1 March 29th for Charles B. Mitchell, Jr., to construct  
2 construction demolition landfill at 7739 Charlotte  
3 Pike.

4 MR. LANE: I second.

5 MR. SHERMAN: A second by Mr. Lane.

6 All in favor?

7 (Board members respond.)

8 MR. SHERMAN: Any opposed?

9 (No answer.)

10 MR. SHERMAN: Motion carries.

11 We will also be setting a letter to TDEC,  
12 as we always do on these occasions. If there's no  
13 further business by any of the Board, I would entertain  
14 a motion to adjourn.

15 MR. LANE: So move.

16 UNIDENTIFIED SPEAKER: Why won't you  
17 allow the public to comment?

18 MR. SHERMAN: Any second?

19 (A second was made.)

20 MR. SHERMAN: All in favor?

21 (Board members respond.)

22 MR. SHERMAN: Motion carried. We're  
23 done.

24 (Whereupon board meeting was adjourned.)  
25

