

---

# TROUTMAN SANDERS LLP

---

A T T O R N E Y S A T L A W  
A LIMITED LIABILITY PARTNERSHIP

BANK OF AMERICA PLAZA  
600 PEACHTREE STREET, N.E. - SUITE 5200  
ATLANTA, GEORGIA 30308-2216  
www.troutmansanders.com  
TELEPHONE: 404-885-3000

CHARLES F. PALMER  
charles.palmer@troutmansanders.com

Direct Dial: 404-885-3402  
Direct Fax: 404-962-6647

November 12, 2009

**VIA HAND DELIVERY**

Honorable Chairman Mack B. Bohlen, Sr.  
Morgan County Board of Commissioners  
150 E. Washington Street  
Madison, Georgia 30650

Honorable Commissioner Andrew Ainslie  
Morgan County Board of Commissioners  
150 E. Washington Street  
Madison, Georgia 30650

Honorable Commissioner Samuel Cathey  
Morgan County Board of Commissioners  
150 E. Washington Street  
Madison, Georgia 30650

Honorable Commissioner Donald B. Harris  
Morgan County Board of Commissioners  
150 E. Washington Street  
Madison, Georgia 30650

Honorable Commissioner Ellen Warren  
Morgan County Board of Commissioners  
150 E. Washington Street  
Madison, Georgia 30650

Re: Requested Agenda Items for December 1, 2009 Meeting:

1. Temporary Moratorium on Municipal Solid Waste Landfill Zoning Requests
2. Initiate Amendment to the Morgan County Solid Waste Management Plan

Dear Board of Commissioners:

Citizens to Preserve Morgan County, Inc. respectfully requests that the above referenced items be placed on the Work Session agenda for the November 17<sup>th</sup> meeting and be acted upon in the following special Commission meeting that same day.

My client requests that the Commission issue a Temporary Moratorium on consideration of New Municipal Solid Waste Landfill Zoning Applications. This request is being made in order to close a harmful loophole in the County's Solid Waste Management Plan ("SWMP") and to make the SWMP consistent with safeguards that exist in the County Zoning Ordinance.

Morgan County Board of Commissioners

November 12, 2009

Page 2

As currently written, the SWMP has major implications for all of Morgan County:

1. The SWMP has no restriction on the number of Municipal Solid Waste landfills that can be placed throughout the County;
2. The SWMP is inconsistent with the County Zoning Ordinance for landfills in that there are no dimensional restrictions, such as height limitations to protect views in the County; and
3. The SWMP is silent on whether out-of-county waste should be accepted and has no restriction on accepting out-of-state waste.

With landfill capacity across the southeast beginning to decline, the current SWMP has and will attract landfill developers to all corners of Morgan County. Because the SWMP is so liberally-written, in certain situations the County may have little choice (assuming the proposal conforms to all the other criteria) but to issue consent that the proposed landfill is consistent with local planning standards and the Georgia Environmental Protection Division would issue a permit for a landfill in Morgan County.

The current County Zoning Ordinance limits the height of landfill cells to sixty feet from the original grade (Section 15.14.4). This provision, among others, was adopted in response to a landfill proposed previously in the Apalachee Community. This height requirement ensures that visual aesthetics and viewsheds are preserved and that any landfills that are permitted in appropriate areas blend into the topography. Without amending the SWMP to incorporate the dimension requirements, for instance, a simple but harmful variance to the Zoning Ordinance can be approved as part of the rezoning process with little public input. The same protections in the Zoning Ordinance that were implemented to protect the Apalachee Community should be applied equally to all parts of the County through the SWMP.

While we firmly believe Morgan County should continue to utilize landfill space in less valuable, more rural areas of the state, it is imperative the dimensional requirements, such as the cell height limitations, be placed in the SWMP in the event a landfill were to be permitted in Morgan County. Such restrictions would be more than adequate considering Morgan County only forecasts no greater than 24,551 tons per year would be generated by Morgan County residents by 2013.

Morgan County Board of Commissioners  
November 12, 2009  
Page 3

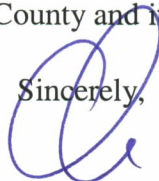
The need to issue a moratorium and amend the SWMP is well-timed considering the potential that a zoning change may be requested to allow an approximately 480-acre landfill south of the City of Madison. This parcel is not zoned for M-2 Industrial as required for a landfill to be operated in that area. While it is true that the Future Land Use Plan contemplates the area as being within an industrial development corridor, that Future Land Use Plan was developed with the intent of enticing a large manufacturing facility, such as Ford Motor Company, not a solid waste landfill which would detract from economic development in the area.

Moreover, this proposed landfill is bordered by Indian Creek, which is a drinking water source for neighbors to the south in the City of Eatonton in Putnam County. Even more troubling, this site also sits adjacent to the Norfolk Southern rail line. Absent a change to the SWMP, rail access would allow waste to be brought in from not only outside Morgan County, but from states to the north that have little geography available for new landfills.

Specifically, we ask that the County issue a temporary moratorium in order to close this loophole that invites uncontrolled landfill development. Having issued a moratorium, the County would then act on a proposed amendment to the SWMP and hold at least one public hearing. The County and each of its participating cities would then pass respective resolutions and forward the amendment to the Northeast Georgia Regional Development Center who would review it against regional considerations. The RDC would then forward the updated plan to the Georgia Department of Community Affairs for submission and adoption by member counties of the Northeast Georgia RDC.

Without taking the action requested, Morgan County is vulnerable to having to act on zoning requests that subject Morgan County citizens to unplanned landfills in undesired locations with undesired consequences.

On behalf of Citizens to Preserve Morgan County, we thank you for your consideration and efforts to protect the quality of life of Morgan County and its citizens.

Sincerely,  


Charles F. Palmer

CFP/dpo

cc: Mr. Michael Lamar, County Manager