

# THE FUNCTIONS OF PSYCHOLOGY, PROCESS AND ENTROPY IN THE SITING OF SOLID WASTE DISPOSAL FACILITIES

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Euphemistically called the "Solid Waste Management Act,"<sup>1</sup> this statute sets forth a process and procedure which was designed, with resolute zeal, to "solve" New Jersey's solid waste crisis. The plan, however, has fallen somewhat short of the promised land of solution. The solid waste disposal crisis remains and has grown even as the piles of landfill-deposited refuse reach toward the stars.

The well-intentioned laws have certainly not succeeded. This failure is essentially because the Solid Waste Management Act and its supporters have failed to reckon with fundamental human psychological motivation and group dynamics. Moreover, there has been a confusion of theory and practice which has complicated and derailed most efforts to do something about waste disposal, regardless of the merits of those efforts.

Perhaps the most egregious of errors is contained in that section of the Solid Waste Management Act which serves to pronounce the "Legislative findings and declaration of policy."<sup>2</sup> The pronouncement is appropriately august, sincere and far-reaching. Indeed, under that section, the policy of the State, as declared by the Legislature, is to:

Provide citizens and municipalities with opportunities to contribute to the development and implementation of solid waste management plans by requiring public hearings prior to their adoption and by the creation of advisory solid waste councils. . .<sup>3</sup>

This process calls for "public hearings." Although hearings repre-

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<sup>1</sup> N.J. STAT.ANN. §§ 13:1E-1 to -48 (West 1979 and Supp. 1985).

<sup>2</sup> N.J. STAT.ANN. § 13:1E-2(b)(3) (West 1979 and Supp. 1985).

<sup>3</sup> *Id.*

sent a testament to the higher order of intelligence that is supposedly possessed by humanity, such a process fails to realistically assess the bitter experiences of other states and other communities in their efforts to site a landfill, resource recovery plant or composting facility.

The notion of "public hearings," particularly with respect to waste disposal, is grievously more complex than it seems. It is simply not the image that springs automatically to mind of Norman Rockwell's classic "Free Speech," wherein a working man has risen to make a point or perhaps ask a question about the annual report of his small Vermont town. Rather, "public hearings" on solid waste sitings more closely resemble a raucous Argentinian soccer game, complete with catcalls, booing, cursing and threats of violence. Indeed, comments of condemnation of the proposed site receive extended and ringing applause usually reserved for a goal scored by the home team. As the number of condemnors desiring to receive the crowd's lavish praise vastly outnumber those who would "contribute" their support to a particular site, Freud's "pleasure principle" is once again confirmed.

Practically speaking, there are at least five foreseeable factors which have been ignored, compromised away, acknowledged by wink and nod, or just flatly misconstrued as to force and effect:

(1) *There is the automatic and natural reaction to contradict the proposal of another.*

The dialectical observation of Issawi as stated in his Laws of Progress holds that "[d]irect action produces direct reaction." When viewed as the psychological parallel to Newton's Third Law of Motion it may be concluded that such forces are more formidable than originally conceived by the New Jersey Legislature. These forces, although sometimes subtly evinced, cannot be profitably ignored even though they appear variously garbed, occasionally in the uniform of a "friend."

(2) *There are functional misconceptions surrounding the values of logic and education, as well as the desire to "contribute to the development and implementation of solid waste management plans."*

The assumptions, implicit and explicit, contained in the Solid Waste Act are that people will act logically in light of full information and education on the subject of solid waste disposal. It, therefore, always befuddles the conceptualists that neither logic nor education carry the day, and that the "contribution" visualized by

the authors of the statute does not materialize. The fact remains that people do not care to live near landfills, mass burning plants, composting facilities or places to which garbage trucks are ultimately destined—logic and education to the contrary notwithstanding.

(3) *There always exists a subgroup with merely site-specific interests which objects to siting in terms of global devastation.*

Site-specific interest groups may be likened to a slowly simmering pot of chili, where as one group senses that its area of territorial imperative will be proposed as a potential site, it bubbles to the surface, expands and explodes. The early-warning system of each self-contained group is the envy of the "Star Wars" development team. Even a hushed comment in an executive-session meeting will be interrupted in mid-sentence by a telephone call demand for confirmation or denial that a particular site has been mentioned.

There is, as noted above, little desire to be "educated," "gain information," or to "contribute." The cohesive elements which bind community members together are their proximity to each other, their proximity to a potential site and their resolve: "Put it someplace else!" The most interesting aspect of such *ad hoc* group dynamics is that despite the broad nature of their objection, seemingly based on the dangers to the environment, to the children of the state, and to the general well-being of the planet earth, the group will immediately vanish the moment the threat to its specific geographical area seems to be extinguished. The group's concerns will be allayed as soon as the new "hot site" is selected in another municipality. Despite the group's self-induced dormancy, however, its sensors remain alert and the group remains capable of instant mobilization should the location of the site change.

(4) *There is unconscionable avoidance and procrastination by the State in terms of assignment of responsibility by the Legislature.*

In New Jersey, the most densely populated state, there are decisions which are "more appropriate" for one level of government than another. When the actual issues emerge and the weary slogans and shibboleths of "home rule," "sovereignty" and "delegation of powers" are set aside, it becomes clear that state, county and municipal governments each have sufficient problems appropriate to their levels that may consume them for eternity. Of course, the decision-level assignment cannot and should not be static. Ideally, there

should be some flexibility depending upon everchanging circumstances.

Because of the nature and broad cross-boundary ramifications of solid waste problems, however, the appropriate level of decision-making is state government. Indeed, a most compelling factor leads to this deduction: there is absolutely no logical reason for twenty-two separate solid waste districts (the twenty-one counties and the "Meadowlands" district) to indulge in separate and intrinsically duplicative studies. Aside from stimulating the expert, consultant and varied boffin markets, there exists no practical necessity to site twenty-two separate landfills in each of the districts when five or six landfills to serve the whole state should be sufficient. The "sharing the pain" theory may appear to justify twenty-two distinct solid waste processes, but in terms of efficiency, even that is arguable.

Solid waste responsibility should not be based upon purely arbitrary and inutile county boundaries. Clearly a regional orientation would be a more reasonable approach given the demographic, hydrogeologic and other factors that cut across county lines.

(5) *Finally, and lamentably, there is a fatal weakness in a process which becomes so susceptible to the inevitable and "pungent" factor of base politics.*

Ultimately, according to statute, the siting decisions must be made by the County Boards of Chosen Freeholders, the members of which serve three-year, generally staggered terms. This necessarily complicates the decision-making process as there are freeholder elections in almost every county practically every year. Of course, the wretched use of the public process is not limited to freeholder politics. The self-appointed public spokespersons, stoked by the superheated arena, often find within themselves the calling for municipal candidacy on the single issue. Consequently, the volatility of the siting process generates the insufferable demagoguery and shameless pandering which, in turn, produces the antithesis of logic and reason.

The inevitable "mother and carriage" parade during the hearing process weighs heavily against the logical analysis and reasoning capabilities of local and county officials. The signs bearing threats, pleas and slogans against officials who might be sympathetic to the site under consideration translate into *force*. This force, combined with the natural reluctance of a freeholder board to make a decision

under the best of circumstances, suggests that the siting decision is almost too much to ask.

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Paradoxically, while some of the arms of the state have been reluctant to join the fray, there are other arms which have evinced an eagerness to start swinging. The Mercer County Board of Chosen Freeholders has had thrust upon it a somewhat novel and hindsight assessment of its siting effort authored in July 1984 by the Department of the Public Advocate, Division of Public Interest Advocacy. Entitled a "White Paper on The Selection of a Resource Recovery Plant Site,"<sup>4</sup> ("White Paper") it casts itself as a "case study" of the siting machinations.

As with the Solid Waste Mangement Act, it is the ostensible goal of the White Paper to obtain a "rational siting policy."<sup>5</sup> Despite this laudable goal, the emphasis of the document is essentially a repetition of the most functionally unsupportable elements of the Act. The study thereby totally ignores the realities of siting solid waste facilities.

In addition to faulting the county site *selection process*, the White Paper presents a remarkably naive appreciation of the *political process*. It is the depth of the latter process which remains unappreciated. While the goal of apolitical site selection is very commendable, it not only eschews George Orwell's specific aphorism that "all issues are political issues," but also exhibits a stunning insensitivity to the reported history of the experiences of mankind.

The Paper recounts Mercer County's efforts in developing a Solid Waste Management Plan required under the Act. It recites the experiences and intermix of the Mercer County Improvement Authority (the Freeholder's legwork delegee), the inevitable and ponderous "consultant's" reports and the Freeholder's actions leading to the ultimate siting decision. The Paper then indulges in a synopsis of each of the eleven public hearings wherein nine proposed sites were considered by the Board. The Paper follows with "Conclusions" and ends with four "Recommendations."<sup>6</sup>

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<sup>4</sup> Remis, *White Paper of the Department of the Public Advocate, Division of Public Interest Advocacy, on the Selection of a Resource Recovery Plant Site* (July 1984) [hereinafter cited as *White Paper*].

<sup>5</sup> *Id.* at 1.

<sup>6</sup> *Id.* at 56-72. The *White Paper's* recommendations include: (1) the formulation

Of the recommendations ultimately produced by the Public Advocate, two may be loosely described as urging resolution of the difficulties engendered by the foregoing problems described as “state-avoidance.” The Paper calls for a statewide siting board<sup>7</sup> and for the development of specific mandatory “standards” upon which the counties may rely to resolve their particular difficulties.<sup>8</sup> The latter recommendation seems to have as part of its objective the development of a “partnership” or “cooperative” effort by the state with the counties. This is in contrast to the current “loco parentis” aspect of siting by the county and subsequent approval/disapproval by the state. While this will displace some of the acrimony of the process, it will not necessarily decrease any of it. To date, however, there have been no deaths or injuries occasioned by a legislative (or DEP) stampede to get the state more involved in the process.

After a semi-profound beginning, the Paper becomes quickly mired in the high-sounding muck of idealistic dogma by first recommending that each member of the Board of Chosen Freeholders “make a public record of all pertinent aspects of the site selection process.”<sup>9</sup> Moreover, “to enhance their public accountability” they are instructed to discuss “all technical, economical, and environmental considerations on the record.”<sup>10</sup> If that is not enough, the Paper recommends that freeholders “provide a *reasoned explanation* of why they chose a particular site. . . .”<sup>11</sup>

Requiring public officials to “explain” their votes does not work. Allusion to Persig’s Postulate may be comforting or upsetting to those possessed of such idealism: “The number of rational hypotheses that can explain any given phenomenon is infinite.”

The fourth and final recommendation is reproduced in its full and majestic resplendence:

Each Solid Waste Management District Should Insure that its  
Public Participation Program Provides Citizens and Municipi-

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of a statewide resource recovery siting board; (2) the development, by the state, of specific mandatory standards for siting resource recovery facilities; (3) the DEP should require each Board of Freeholders to make a public record of all pertinent aspects of the site selection process; and (4) the opportunity and contribution of public participation in the site selection process.

<sup>7</sup> *Id.* at 1.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 64.

<sup>11</sup> *Id.*

palities with Adequate Opportunities to *Contribute* to the Selection of a Solid Waste Disposal Site. (emphasis supplied)<sup>12</sup>

This recommendation is expanded by suggestions of public notification of hearings, conferences, seminars and workshops at which the public "should be given opportunity to comment and raise questions."<sup>13</sup> Moreover, it says, the public should be "invited to participate in review groups, *ad hoc* committees, task forces, workshops and seminars."<sup>14</sup>

As an interesting and informative aside, the Paper, in an effort to underscore the need for public involvement, draws particular attention to complaints received by the Public Advocate wherein the public has claimed that it "was not afforded an opportunity . . . to express their [sic] concerns."<sup>15</sup> Citing the Essex County experience, it notes that the Board of Chosen Freeholders there considered "42 possible locations," but only one hearing was scheduled on the selected site *after* the selection was made.<sup>16</sup> At this writing, Essex County is the only county that has successfully sited such a facility.

The Paper devolves with a sub-recommendation of "mediation" as one of the ways of "enhancing credibility" and "affording residents a voice."<sup>17</sup> Mediation, it holds, can "identify the concerns of the host municipality and local residents."<sup>18</sup> Phrases like "joint problem solving," "avenues of reconciliation" and other marmalade ooze throughout. Curiously and coincidentally, the Mercer County Board of Chosen Freeholders has been recently importuned to mediate by none other than the Center for Public Dispute Resolution, the step-sister of the White Paper creator.

Predictably, certain freeholders have quickly espied the potential off-put and, despite the proven ability of the local media to "afford the residents a voice," as well as "identifying their concerns"<sup>19</sup> there exists a substantial likelihood that the mediator might be engaged.

One becomes easily annoyed with the White Paper because it

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<sup>12</sup> *Id.* at 65.

<sup>13</sup> *Id.* at 66.

<sup>14</sup> *Id.* at 68.

<sup>15</sup> *Id.* at 69.

<sup>16</sup> *Id.* at 66.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> The media reports have identified the "concerns of local residents" as identical to those mentioned earlier in this article.

preaches and because of *what* it preaches. Moreover, cynicism is invited since the Paper conflicts with reality. This cynicism suggests that Herbert Marcuse was about ninety degrees off and that, in fact, we live in a society which is organized along increasingly *irrational* lines to serve increasingly irrational ends. Finally, it is abundantly clear that the author of the Paper has neither attempted to site nor participated in the siting of a resource recovery facility.

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It comes down to this: the most obvious and least understood mechanism in human relations is that of informational entropy. In a somewhat dyspeptic observation, physicist Leo Szilard offered in 1929 that "any action resulting in a decrease in the [informational] entropy of a system must be preceded by an operation of acquiring information, which in turn is coupled with the production of an equal or greater amount of entropy."<sup>20</sup> In less discrete terms, the Law of Communications states simply that "[t]he inevitable result of improved and enlarged communications between groups is a vastly increased area of misunderstanding."

The fascination or obsession with the balm of the existence of the cross-exchange of information is understandable. The idea has been a product of conditioning. Additionally, information has, enjoyed a good, if perhaps undeserved, reputation. But information, and its relatives, (credibility, reconciliation, contribution, explanation, rationale, mediation, even truth) *do not* add up to selling a site to the neighbors.

The fact is that the public, the neighborhoods, the community, the freeholders, and other public officials are all figures akin to Pynchon's Tyrone Slothrop:

Those like Slothrop, with the greatest interest in discovering the truth, were thrown back on dreams, psychic flashes, omens, cryptographics, drug-epistemologies, all dancing on a ground of terror, contradiction, and absurdity.<sup>21</sup>

Dreams, psychic flashes and the rest are, after all, the foundations upon which so many decisions, governmental and otherwise, are based.

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<sup>20</sup> W. Ehrenberg, "Maxwell's Demon" *Scientific American*, (Nov. 1967) at 109.

<sup>21</sup> T. PYNCHON, *GRAVITY'S RAINBOW* (1973) at 109.