

**APPROVED MINUTES OF A SPECIAL MEETING OF  
HAMILTON COUNTY Solid Waste  
POLICY COMMITTEE  
In person & Zoom**

**DATE:** December 6, 2021

**TIME:** 1:30 p.m.

**PLACE:** Hamilton County Environmental Services  
250 William Howard Taft Road  
Cincinnati, Ohio 45219

**PRESENT:** **Policy Committee Members**

Tony DiPuccio, Generator Representative, Chair  
Denise Driehaus, County Commissioner, Chair  
Bob Gedert, Public Member, Vice-Chair  
Karen Hurley, General Interest Member  
Greg Kesterman, Hamilton County Public Health Representative  
Sue Magness, Largest Municipality Representative  
Raj Rajagopal, Township Representative

**Staff**

Michelle Balz, Solid Waste Manager  
Gage Bradford, Community Specialist  
Elise Erhart, Outreach Specialist  
Brad Johnson, Director  
Ali Khodadad, Operations Manager  
Mike Kramer, Assistant Director  
Susan Schumacher, Assistant Solid Waste Specialist, Clerk

**Others in Attendance**

Albin Bauer, Peters Kalail & Markakis  
Nee Fong Chin, Prosecutor's Office  
Sally Dannemiller  
Craig Davidson, Hamilton County Public Health  
Carrie Davis, Child Advocacy for Jobs & Equity  
Chuck DeJonckheere, Hamilton County Public Health  
Dean Ferrier, Rumpke  
Matt Hittle, Ohio EPA  
Tim Mara, Oxbow  
Gina Marsh, Chief of Staff for Commissioner Driehaus  
Bryan Peak, Hamilton County Sheriff's Office  
Billy Rumpke, Rumpke  
Jim Thaxton, Rumpke  
Kathy Trent, Waste Management  
Matt Tietsort  
Erica Turner, Ditch the Dump  
Max Webster  
Molly Yeager, Rumpke

**1. INTRODUCTION/OPENING COMMENTS**

Ms. Driehaus called the meeting to order at 1:03 pm.

Ms. Driehaus stated that she would like to begin with having any members of the Rules Subcommittee of the Policy Committee that would like to say anything before we get started and then we will also welcome comments after the Public Comments and the Presentation from Rumpke.

Mr. Gedert stated that the Subcommittee has recommendations of rules to move forward to the Policy Committee and will discuss more on item number three. The update from the Subcommittee is the movement forward of the Rules. Mr. DiPuccio asked for clarification. Mr. Gedert stated that the Subcommittee did vote to move forward the rules to the Policy Committee as a recommendation from the Subcommittee. Mr. DiPuccio stated it was not unanimous. Mr. Gedert stated it was not unanimous, it was a two to one vote.

Ms. Driehaus asked that she assumed everyone had that recommendation in front of them for further discussion later.

Ms. Driehaus stated that each person giving public comments will now have three minutes instead of two minutes.

Ms. Driehaus also stated that she would call on people giving public comments in the order they were received.

## **2. PUBLIC COMMENTS**

### **Sally Dannemiller:**

Dear Commissioner Driehaus, Members of the Policy Committee,

The Sierra Club Miami Group endorses the Draft of the Solid Waste Management District Rules as passed by the Solid Waste Rules Subcommittee at their meeting on December 2, 2021. We feel that these rules will better protect both the environment and human health.

At that meeting, a lawyer stated that rules are usually set in place for “good housekeeping, past problems or protection.” For the over thirty (30) facilities in our district, all three reasons could apply. Another very good point was made that a substantial portion of western Hamilton County is not under any zoning code, thereby leaving it “vulnerable to anyone who would choose to purchase land.”

In addition to adopting the Draft Rules, we would urge you to “fill in the blank” in that document regarding proximity – with a distance of five (5) miles. In 1988, the EPA found that all landfills eventually leak, potentially discharging waste and toxins into the groundwater system. In our district, one site in particular, that of the Bond Road Landfill, lies in a sensitive area. This area includes: an important aquifer, which provides water to many; the cleanest river in Ohio (the Whitewater River); and a significant nature preserve downstream of the facility, that of Oxbow, Inc.

In thinking about these rules, there are several statistics to consider. According to the EPA:

- Ohio has the fifth largest buried trash per capita in the US – at 48.8 tons
- Ohio rates #4 in the nation for landfill waste acceptance (i.e., The most new waste per capita
- In Hamilton County, Rumpke Sanitary Landfill serves as the largest in the state and one of the largest in the nation
- Finally, increased of imported trash from other districts and states will add further stresses to our human and natural environment.

The lack of comprehensive set of rules could spell disaster for our county.

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The Miami Group strongly urges the Solid Waste Policy Committee to adopt this set of Draft Rules (Draft Rules 12/2/21) for consideration by the Hamilton County Commissioners at their December meeting.

**Debbie Kastens:**

Ms. Kastens stated that she has worked all of her life in Hamilton County but lived in Dearborn County. She worked for Cincinnati Public Schools for 33 years as an Intervention Specialist.

Ms. Kastens stated that she was going to go off of what Rumpke sent to the people around the proposed landfill. Rumpke said it would improve traffic and safety for them; not for us. Three thousand cars use that street everyday from Indiana to Hamilton County to either go to work or shop. When you go from their entrance to Lawrenceburg Road, in Ohio, there are four of those yellow signs that say, "sharp right turn", "sharp left turn", and "S" turn. It is not a safe road for us.

Ms. Kastens stated that the other thing is with no plans for immediate use; she remembers last week, Mr. Rumpke said they were going to start permitting January 1. The other thing they have said is landfill won't start for decades which is included in the Rumpke letter.

Ms. Kastens stated that the one thing that bothers her the most because when they've got the permit for the entrance, they originally told people 20 trucks, but the permit goes to 40 trucks, but somebody forgot to mention, the 400 trucks in the distant future. That is not a small landfill; 400 trucks.

Ms. Kastens stated that the other thing she would like to say since she is a teacher, the Indiana school is less than a mile away if not less from the dump. It is an elementary school with over 500 kids. The Cleves school is about 2 – 3 miles away, She'll even give you 4 miles; that would be the max. There are schools around that; they say this is a sparsely populated area; not true. If you go down Stateline Road in Indiana, there is suburb after suburb, after suburb and she is in one of those 100 home suburbs, and it is three miles from it. So, it is not sparsely populated.

Ms. Kastens stated that the last thing is for the elderly, like her. There is a 55+ community adjacent their land downhill. These poor people are trying to move now and sell their property because of this landfill. This was supposed to be their retirement home, not a garbage dump next door. They already have to put up with some stuff, but now, they are stuck there.

**Tim Mara:**

Mr. Mara introduced himself and stated that he was here as a Board Member of Oxbow, Inc. Mr. Mara stated that he sent the Committee a letter by email dated December 3 in which he suggested a few changes regarding the list of considerations on page 9 subparts of Section V(C)(2):

e. proximity of the site to any Aquifer - this is important, but related to the Aquifer, should be added "proximity to any Wellhead Protection Area" as any landfill has the potential to contaminate a source of public drinking water.

f. hunting, trapping or fishing and recreational opportunities (probably should add boating to that but thinks the radius should be increased to five miles because the odors from the landfills can impact the public's desirability of coming to a park or preserve such as Oxbow and the stench from the landfills goes way beyond half mile) currently within a \_\_\_\_\_ of the site – a half-mile radius was originally suggested, but this would be entirely inadequate, particularly with regard to a proposed landfill. I suggest that the radius be increased to as much as

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five miles because impacts from landfills (such as odors) can seriously harm such uses for a considerable distance.

h. surface waters on or near the site – because landfills can seriously degrade downstream waters for a substantial distance, this provision should be amended to read “surface waters on or near the site and downstream surface waters” and gave an example.

o. the proposed project’s compatibility with existing land uses at the proposed site and for one-quarter mile in all directions from the Facility’s property line – as a Planner by education and experience, I know that major solid waste facilities (most notably landfills) can be harmful to certain land uses for a distance far greater than one-quarter mile. I suggest increasing the radius to five miles and stated that this is based upon his experience as a land planner and training; clearly, waste from facilities can impact way beyond a quarter mile which is 1,000 and some feet. So, we need to have a greater distance to deal with things like odors, water contamination, etc.

### Marie Kocoshis

Ms. Kocoshis introduced herself and stated that she was representing the League of Women Voters of the Cincinnati area. She was here making her statements the other day but just wanted to repeat that the League of Women Voters of the Cincinnati area supports these proposed regulations and she also questions the advisability of having the regulated community i.e., Rumpke, make a presentation to this Committee. It seems as though it is just not appropriate for them to be involved in writing the regulations that will regulate their own facility.

### Sandra Stehlin:

Ms. Stehlin stated that she had to laugh last week when she heard Rumpke's lawyer whining about new rules, like they should be allowed to operate with minimal regulations like they did 50 years ago. National past business practices have created climate changes and led to local and global catastrophes. The planet has decided that it has had enough carbon and greenhouse gases. Current "best practices " are no longer good enough.

The State of Ohio has agreed we need to address 1,000 identified orphan oil and gas wells and maybe another 1,000 unidentified wells that are leaking Methane. Then we have Rumpke that is THE LARGEST METHANE EMITTER OF ANY LANDFILL in the COUNTRY and they are allowed to spew the worst of the greenhouse gases unabated.

Ms. Stehlin stated that she knows the EPA does not consider road usage as criteria for their permits.

Ms. Stehlin stated she would like to know if the Ham Co road engineer has ever sat and watched traffic at the intersection of Kilby and Suspension Bridge Road? ONCE again, they failed to create the intersection that was needed for that site. Trucks cannot make the turn, and now Rumpke want to run how many more large trucks through that intersection onto Suspension Bridge Road, a 2-lane road, with either no, or minimal shoulders and Sand Run Road, another 2-lane road that is winding, curving and uphill its entire length.

Rumpke’s entire new land acquisition is a watershed...pure and simple...the elevation of that hillside drops nearly 400' into a Class A river, one of the few within 100 miles. It is a cleaner and healthier river than the lauded Little Miami Scenic River. Lawrenceburg Road is IN the floodplain, and like every river in the area, the Whitewater River is flooding more often. We don't just have rainstorms now, we have 2-4" gully washers, as hillsides and creeks have washed out Bender Road, South Road, Van Blaricum Road and Sand Run Road in recent years. Across the country, communities are having 100-year floods every couple of years.

You cannot build a landfill on a hillside, in a watershed!

Ms. Stehlin stated that she couldn't find the specs on the bridge, to see if the current usage of hundreds of loaded dump trucks a week is already compromising the integrity of the bridge. But she can tell you that many times of the day, traffic is backed up to a stand still trying to get on and off Suspension Bridge Road. The road is already NOT designed for the usage it already receives.

When she attended school in Harrison in the late 60's, we were known as farmers and hicks. Many of the people closest to the Bond Hill Rumpke fiasco are generally considered trailer trash...also known as the extremely hard-working poor. We really don't want your Hyde Park, Indian Hill, West Chester trash in OUR neighborhood. Dig a hole and bury it in your own backyards. The West side has had enough of our air, soil and water being used and abused for the benefit of the rest of the County and the State.

**Carrie Davis:**

First, she would like to thank Commissioner Driehaus and Commissioner Reece for requiring a very open process that has afforded us a lot more personal contact than any EPA public hearing has allowed. She finds the access an opportunity, extraordinaire for all parties including Rumpke.

Ms. Davis stated that she also wanted to thank these three people Ms. Magness, Mr. Gedert, and Ms. Hurley for having the courage and the patience and Mr. Kesterman, for reading the emails that she bombarded them with in order to get this issue here.

Ms. Davis stated that she was glad to hear from Rumpke. From day one, she wanted Rumpke's input; she would have liked to have had a more intimate conversation with them.

Ms. Davis stated that this was only act one of a three act play and Rumpke will have an opportunity when she brings up act three to fully realize the benefit of these rules. These rules, in her plan, are not against Rumpke and are for all of us.

Ms. Davis stated that she sent the Committee an email; in that email was the last public hearing that was conducted by the EPA in Colerain Township in April, 2019. The EPA summarized the concerns of all the residents and she asks the Committee to give it a good glance over. She knows the Health Department's office was there and then she referenced act three. Because you had staff that brought up at our last meeting concerns about how restrictive these rules are and what these rules do is lay the foundation for this Committee and the Commissioners to do further work to bring our solid waste industry and Hamilton County into a more safer, secure future for all parties so she wanted to make sure they knew that this is going to be addressed. We just have to do step one first.

Ms. Davis asked to please take a gander at that. The same thing you are hearing from the Whitewater residents were heard by the Colerain Township residents and what is really noteworthy in that record is how many times the EPA says, the very first thing they say in it, is most of these questions can't be answered by us because it is not our authority, it is the authority facing the townships. She stated that she begs to differ and say it is the authority of the Commissioners; townships don't have the authority, the Commissioners do.

Ms. Davis stated that that record documenting over 100 resident's comments on this very issue summarized in a formal format by the EPA is an extraordinary record for us to take a look at on why we need these rules.

Ms. Davis stated that she also wanted to say that Sharon Lutz actually summed it up best, the representative from Oxbow and Whitewater, summed it up the best the other day when she said this is about us having a voice

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locally essentially, we can't have Columbus telling us what is best for Hamilton County. These residents deserve a voice and that is what this rule does. It gives us a voice.

**Gary Hammerle:**

Mr. Hammerle introduced himself and state that he was representing his family and named them.

Mr. Hammerle stated that he lives in Indiana and his property borders the proposed site. The only thing that separates us and them is some honeysuckle, small trees, and imaginary line we call the state line. He is asking the Committee today that you do not allow this dump to happen. He is concerned for his family's health and as well as the health of those in the surrounding areas.

Mr. Hammerle stated that we all know dumps release gases. Some of these gases are carbon dioxide and methane. Methane gas as you know is that rotten egg smell and carbon dioxide doesn't have a smell. Exposure to this gas can produce a variety of health effects that includes headaches, dizziness, restlessness, difficulty breathing, sweating, tiredness, increased heart rate, elevated blood pressure, coma, affixation, convulsions, mood changes, slurred speech, vision problems, memory loss, nausea, vomiting, facial flushing and headaches.

Mr. Hammerle stated that in several severe cases there may be changes in breathing and heartrate, balance problems, numbness, and unconsciousness. There are studies done that show living near a dump greatly increases your chances of respiratory infections, asthma, and cancers.

Mr. Hammerle stated that he has provided a map of area dumps with a five-mile radius from them and as you can see that areas that are overlapping that will dramatically increase the risk of health infections to the people who live in these areas. When children live in these areas, they are more at risk with an 11 percent chance of being admitted to hospitals for respiratory problems and for asthma which his daughter already suffers from.

Mr. Hammerle stated that dumping sites release many other toxins from landfill sites which contaminate water, air, and soil. A study has also found that among men and women living in this exposure zone closest to the sites have an elevated risk have been observed for cancers of the prostate, stomach, liver, and lungs.

Mr. Hammerle stated that he was asking the Committee to be a good neighbor to all those around this area which includes the people in Bright, Lawrenceburg, Harrison, Bridgetown, Colerain, New Baltimore, Cleves, as well as his family, your next-door neighbor. If you allow this dump to go in, you are saying the health of his family and his children are not important to you and you should accept full responsibility for it.

Mr. Hammerle stated if it does go in, how much are we allowed to dump there? Where is it being dumped? How high will it be? Will he now have a hillside of garbage blocking the beautiful sunrise that once was? When is the dump considered full? Are they going to keep expanding it like they did at Colerain?

Mr. Hammerle asked what were the plans in place for the area for when it is considered full?

Ms. Driehaus stated that Mr. Hammerle's time was up and asked him to please summarize.

Mr. Hammerle stated that in closing, he would like for you to look at his family, especially his children and ask yourself when you sleep through the night knowing that you are willing to let Rumpke increase his family's chance of suffering illness or death. You do not want this for yourself, your children, or any of your family members; you do not have to let this happen and we can't afford to get it wrong. You have the power to say no.

**Kurt Grossman:**

Mr. Grossman introduced himself and stated that he was an attorney living, voting, and pay taxes in Cincinnati and Hamilton County. He sent an email Sunday to Ms. Balz and Ms. Schumacher for some suggested edits for consideration from a policy and hopes he doesn't have to read through those here as you should have them.

Mr. Grossman stated that he wanted to reserve his time for two points. One, he wants to make a formal objection to one party getting special time in response to the draft rules while others getting that same special time or even an opportunity to respond or reply or rebut anything that might be said. While he appreciates the public comments put up front to take care of all Public Commentors, so we get a chance up front rather than having to sit through the whole meeting. One good deed doesn't always go unpunished and that means the rest of us don't get a chance to respond to what we are going to hear from Rumpke today, and why they are the only party that gets a chance to make whatever presentation, at whatever length they choose. He thinks that's inappropriate.

Mr. Grossman stated that he also wanted to make sure he addresses something he heard in the Rules Subcommittee the other day and that seems to be a notion that you can't have rules if the EPA and zoning already has them; that is simply untrue under Ohio law. You can have any rules you want but supplement, add to, or override in more serious ways or more serious limitations than what the otherwise rules are provided under state law, the EPA or zoning. We already know some parts of this County has no zoning. But this is the final place; it's up to the County Commissioners with whatever rules get adopted and stated that he so strongly encourages you to adopt these rules with his few edits he sent and perhaps some of the other things you have heard today.

Mr. Grossman stated that he wished he could be with you in person today but he and his wife have been suffering some illness since traveling with family and he didn't want to share this with you; he would rather share his thoughts this way.

**3. POLICY COMMITTEE ITEMS**

**a. Solid Waste Rules Subcommittee Recommendation**

**1. Rumpke Presentation**

Ms. Driehaus stated that Rumpke will make a 10-minute presentation and Bill Rumpke and Tom Tepe are both here to make that presentation.

Mr. Rumpke thanked the Committee for having them and gave a presentation on what was going on at the Bond Road Landfill (available on website).

Mr. Tepe introduced himself and stated that he was with with Keating, Muething, and Klekamp and was here representing Rumpke Sanitary Landfill.

Mr. Tepe stated that like all of you, we have only had a few days to review the proposed rules. We appreciate that your legal counsel convinced the Subcommittee to remove a couple of the very blatant illegalities that were contained in that but am afraid we have a long way to go. There's still more work that needs to be done.

Mr. Tepe stated that the Revised Code is extremely clear on what must and may be included in a Plan and when you start to consider these rules it becomes important as you will see. Solid Waste Districts

are creatures of statute; you can only do what the general assembly allows you to do; no more than that.

Mr. Tepe stated that to be clear, the passage of these rules as presented will prevent this solid waste management district from being able to plan for the safe and sanitary management of solid waste in the future.

Mr. Tepe stated that something very important came out of the Subcommittee the other day. Your own expert from the County testified that these subjective rules would prevent new landfills and transfer stations from being built or existing ones from being expanded or modified and that other industries are not subject to those foolish rules. He asks you; do you trust your people to give you good advice then you need to listen to this gentleman who was sitting right here; I believe his name is Chuck. He has grave concerns regarding the rules as they are written. It is not too long ago that Mr. Kesterman's predecessor, Commissioner Ingram testified in previous litigation that sanitary landfills like the one in Colerain provide an essential public service and was very clear about that.

Mr. Tepe asked why you would enact any rules that in any way threaten an essential public service that we all must have. We all must have.

Mr. Tepe stated that under these rules as proposed, a landfill or transfer station cannot even upgrade its equipment or methods of operation without an arduous process and a subjective approval by the Commissioners. In fact, it speaks volumes that these Subcommittee members decided to remove composting facilities from these same rules. He is sure no one has ever complained about the smell of a composting facility, members have ever received calls have you, however, for some mysterious reason, they were removed from these rules. You have to ask yourself, why? Well, it's clear; the rules are aimed to stop the landfill and any expansion there.

Mr. Tepe stated that there are many reasons why you should take pause and we have asked time and time again to slow down; let's do it right; let's be involved; let's come up with some rules that are workable and objective and not subject to the whims to whoever seems to hold particular seeds at the time.

Mr. Tepe stated that he talked about it the last time; the statute does not allow rules to come out of a Subcommittee. Period. It doesn't. There is a Policy Committee, and the Policy Committee may utilize a technical advisory council who must be comprised of a member representing the solid waste hauling and disposal industries. Where is the technical advisory council involved in this process? To his understanding, they haven't been at all.

Mr. Tepe stated that we also believe these rules are outside the scope of the authority, the Revised Code again is clear on what solid waste districts can do and what they can't. It is clear that these rules are not governing the maintenance and protection of solid waste facilities. So, we have to look to what else does the statute allows you to do. It allows the County Commissioners to have rules to prohibit any person, municipal corporation, township, or other political subdivision from constructing, enlarging, or modifying any solid waste facility until general plans and specifications for the proposed permit have been submitted and vetted. That's it. Nothing more. We have no other authority.

Mr. Tepe stated to submit general plans and specifications to see if they comply with the Plan. There are no additional alumnus compliance reports that is contained in here. The law doesn't allow those things. Have you ever read the rules, these proposed rules in consideration of the alumnus statutory authority?

Have you ever laid these rules out side by side with the District Plan? He suspects you haven't because this process has been so unbelievably lightning fast. It is a little bit disturbing. But if you did, you would realize they are outside the scope of the solid waste management district as authorized by statute.

Mr. Tepe stated that he made a comment earlier about Ohio law being very clear as to what may or may not be included in a Plan. He does not see anything in the law that allows transportation plans to be considered, utility usage, wildlife, and vegetative studies; why? Because they are not in the District's purview. With all due respect, neither is hunting, fishing, boating or the Indiana bat. Those are all covered by places in the Revised Code.

Mr. Tepe stated that many of the rules proposed are simply just land use issues that should be addressed by the locality. Whitewater Township has voted on at least two occasions to not enact zoning all the while there has been an operating landfill in its jurisdiction. Those voters have spoken; these rules are nothing more than a way to try to prevent the expansion of the Bond Road landfill because zoning is not in place there. They've spoken. They don't want zoning.

Ms. Driehaus asked Mr. Tepe to wrap it up.

Mr. Tepe stated that there are a couple of things in the rules that you have to ask yourself; how are we going to judge these. How are we supposed to know what the metrics of social and environmental justice is required in this plan? What is the standard? What is the criteria? He is not sure he knows what it is either.

Mr. Tepe stated also socio-economic impacts. Which ones and who's, why, what standard? Those are a bit problematic. We ask that you slow down, do it right, work with your counsel, work with us, work with all the other people that have a stake in this. He thinks we can come up with things that are workable for everyone. We just ask that you slow down and do it for everybody.

2. Policy Committee Discussion

Ms. Driehaus stated that she has not met legal counsel and asked Mr. Bauer to introduce himself.

Mr. Bauer introduced himself and stated that he was attorney Albin Bauer with Peters, Kalail & Markakis. We have offices in Cleveland but he primarily works out of Toledo. Mr. Bauer stated that he has been a solid waste lawyer since the early 1990's and it has been the principal focus of his practice.

Ms. Driehaus stated that she would like to hear from the Subcommittee members related to the recommendations and then hear from legal counsel in response to what is in front of us. Ms. Driehaus stated that Mr. DiPuccio chaired the Subcommittee so it's only fair that he went first. Mr. DiPuccio stated that the other members could go first.

Mr. Gedert stated that as mentioned earlier, with a two to one vote, we recommend the December 2<sup>nd</sup> draft rules to the Policy Committee and stated that he brings forward some recommended changes to these draft rules.

Mr. Gedert stated that they do not come from the Subcommittee but as citizens have talked to him since the last Subcommittee meeting, so the Subcommittee recommends these rules to the Policy Committee and then he comes to this meeting with a few amendments and asked if it was an appropriate time to bring these amendments to the Committee's attention. Ms. Driehaus stated she would like to hear from the other Subcommittee members first.

Ms. Magness stated that she also had a few people reach out to her stating that they have some concerns about some of the language and we need to get an opinion from Mr. Bauer on a couple of those changes and she has not had a chance to discuss at all, those changes with him.

Ms. Magness stated that as it was, thought the point with these amendments was to tighten it up and give it a little clarity. As long as Mr. Bauer is OK with the suggestions from Mr. Gedert, she thinks we are good to move forward.

Mr. DiPuccio stated obviously, he was the “no” vote on the Subcommittee. Mr. DiPuccio stated that the Subcommittee started out that it was going to be a very deliberate approach; look to see if there was a need, and if there was a need, could the District address it. If the District could not address it, then determine how the Subcommittee would go about developing rules, related rules, or regulations.

Mr. DiPuccio stated that there may be a need but he is not convinced that there is a need that the District has this authority. Mr. Bauer has given us an opinion on certain topics on that.

Mr. DiPuccio stated that the process is being extremely rushed and the source of the rules are taking it from another county and saying we are going to start with these rules and he has not seen that those rules have been tested in terms of their usage and their impacts.

Mr. DiPuccio stated that he would say over fifty percent, maybe up to eighty percent of the items that are listed in the rules and regulations are items already under Ohio EPA’s purview. He stated that he is not a legal counsel but doubt we can overrule what Ohio EPA requires or he doubts we can make it any more restrictive.

Mr. DiPuccio stated that we have talked about this need to bring it down to a local level and having been involved in other zoning throughout the county, he thinks the Whitewater Township voters have clearly spoken a number of times that they do not want local zoning and this is not to say they cannot change their minds.

Mr. DiPuccio stated that he sees the rules as stepping in and opposing basically zoning, at least for one site, in the Township and in a broader view, finds this inappropriate the county to step in and do that in a Township that has been clear on it.

Mr. DiPuccio stated that there are a lot of inappropriate provisions that he does not understand; why we would need to know what the electric usage at a facility is, why we need to know their financial break-even information; this is beyond him and he doesn’t understand.

Mr. DiPuccio stated that he thought we could come up with something that is more comprehensive and not so arbitrary and talk about traffic, noise, odors and gave an example where he lives and stated that all these things are the nature of development.

Mr. DiPuccio stated that stakeholder input has been minimal and thinks much more of that is required. He is at a loss on how the District, he assumes it will be the District, is going to go about enforcing these rules and regulations, with the criteria that they need to do.

Mr. DiPuccio stated that if he could have approached this differently, once a need was determined that we need some rules and regulations, he would have turned it over to District staff, the Health Department, etc. Maybe they needed some outside consultants for them to develop the rules and regulations. Also, how is all of this going to be funded? There is supposedly some funding mechanism where the applicant needs to pay for any reviews that need to be done and that's fine, but he thinks that beyond that, there will be enforcement needed and he is not sure where that money is coming from.

Mr. DiPuccio stated that he thinks there is going to be litigation because he does not see these as being really defensible but that is another issue and we have outside legal counsel to handle that.

Ms. Driehaus thanked the Subcommittee members for their time and effort in getting us to this point.

Ms. Driehaus stated that as has been discussed; we have a recommendation in front of us. Ms. Driehaus stated that she is going to turn it over to legal counsel to walk us through this to the degree he thinks is necessary and to give us his perspective as someone that has operated in this field. We hired outside counsel because we needed some expertise and will be interested in his comments.

Mr. Bauer stated that we've had a couple of interesting presentations. Mr. Bauer stated that he would talk about district rules, generally. District rule making authority has been around for a long time and before there were solid waste management districts there were county refuse and disposal districts. The authority for rule making by those districts, in almost the identical language as they have in 341(g)(2) now, existed back to, frankly, 1949 which pre-dates Ohio EPA.

Mr. Bauer stated that things have changed a lot since then. In 1989, we switched from county refuse and disposal districts to solid waste management planning districts and that was done at a time when there was a lot of concern about "are we running out of landfill space" so the direction of the legislature said to do this at the County level of government because they already have a fair amount of experience dealing with solid waste management issues.

Mr. Bauer stated that with this, the switch to solid waste management districts was made and this authority was carried over lock, stock, and barrel from how it had existed for many years prior to that. But because it was done now, in the context of a landscape where Ohio EPA had significant responsibility for looking at technical design elements of landfills to make sure best available technology was being met and there was sufficient protection of the environment from the facilities that were being proposed.

Mr. Bauer stated that the solid waste district rule making authority was adjusted to clarify that solid waste districts rules cannot establish facility design standards and must be consistent with Ohio EPA statutes and regulations.

Mr. Bauer stated that part of the exercise when he was hired was to look at the draft rules and make sure they were scrubbed to get rid of items that, in his judgement, would be problematic in terms of stepping over the line for facilities design standards or for not being consistent with Ohio EPA's laws and regulations.

Mr. Bauer stated that what he thinks this exercise is about and not about. One thing it's not about is he has not approached this and does not think the Policy Committee should be approaching this either in the context of trying to pre-judge what we think might be a proposal for a facility, development, facility

enlargement, modification, etc. by any particular developer. He doesn't care if it is Rumpke, Republic Services, scrap tire facility, etc.

Mr. Bauer stated that we do not have a proposal in front of us to try and sit and evaluate it now and figure out if it is a good idea, bad idea, or figure out if it should be pursued or not. In the abstract, in the absence of this specific proposal this is a wasteful exercise and it does not accomplish anything useful. Mr. Bauer stated that if anything, he thinks it would have potential negative ramifications for a future application of the rules and standards when an application and a concrete proposal is actually put forward.

Mr. Bauer stated that this is not what this exercise is about and thinks the Policy Committee in its consideration of these draft rules should not be trying to pre-judge any kind of a particular project or concept that may be floating out there or that anybody has talked about. We do not have that in front of us.

Mr. Bauer stated that what he thought this exercise is about; at least in his experience going through the Clark County litigation, which is really the only significant piece of litigation of any modern vintage that has really closely considered the district rule making process and standards.

Mr. Bauer stated that in that case, where the court really focuses its energy is looking at the statute. The statute focuses on not duplicating Ohio EPA's effort; not setting design standards and not trying to override what EPA does. So, they went through the Clark County rules and they struck out the items that were duplicative of the effort Ohio EPA engages in which at that point was not even a completed process. EPA had not completed its review. The court said there is no purpose served in having a district go through and look at the same issues Ohio EPA looks at whether the district agrees or not.

Mr. Bauer stated it's EPA's call, and he thinks it makes a lot of sense; that was the ruling in that case. He thinks that sets the parameters on that issue.

Mr. Bauer stated that in the Clark County example, they were considering all the things just mentioned in the prior discussions. They looked at property values, traffic, odor, noise, trash, etc. that had a particularly local flavor and impact, and those items were allowed to remain.

Mr. Bauer stated that ultimately in Clark County, after they made some adjustments to the rules, that was the focus of that review. The important thing about it, and where we are right now in his view, is making sure the district gets all the information it needs to fully understand the different aspects of a proposed facility creation or modification.

Mr. Bauer stated that a big part of what went into his suggestions to making adjustments was to be clear about what information we need submitted to the district so that we have all the information we need to evaluate and to determine whether there are adverse impacts in the various areas that are discussed in the rules and the criteria and the compliance report.

Mr. Bauer stated that there were some comments made about excluding compost facilities, legitimate recycling facilities and at some point, at least at the Subcommittee level, it was discussed that this might come back in but has to disagree with one of the comments that was made in terms of having representatives from the regulated community come in and discuss their concerns about the rule.

Mr. Bauer stated that none of the members of the public are required to submit anything to the district if there is a new facility or modification of a facility that is proposed; it is the facility developer that has to submit this information, make sure it is complete, that it can be acted upon, and they address the questions that are relevant to the review process.

Mr. Bauer stated that in his way of thinking, the idea that the solid waste facility owners and operators stand in the same positions of general members of the public for purposes of commenting on a rule that regulates their industry specifically, he doesn't buy it and it doesn't make sense.

Mr. Bauer stated that he thinks the Committee made exactly the right decision by asking Rumpke to come in and speak in greater length as to their views on the proposed rules. Having said that; the idea that this rule as drafted will prevent landfills and transfer stations from being built; he disagrees with this fundamentally.

Mr. Bauer stated that these rules do not pre-judge an outcome; they ask for information, they have standards regarding substantial adverse impacts of the socio-economic nature with respect to land use. At some point in time, there is a proposal, and the rule has to be invoked, the Committee is going to go out and get the proper technical help that it needs in terms of consultants who know this area who can look at these plans and specifications and advise the Committee as to whether there are substantial impacts that they need to be concerned about. At that point in time some judgments can be made whether a proposed project is acceptable or problematic and this decision can be made at that point in time.

Mr. Bauer stated that he did not think there was anything under these rules that would cause anyone to say that there is a pre-determined outcome to approve or disapprove a facility. When he was reviewing it, he was reviewing it with an eye to looking at it asking is there anything here that would automatically disqualify or automatically wave through a particular kind of project because the intent is not to have that. The intent is to create a process with a legitimate review with integrity.

Mr. Bauer stated that the Commissioners and the Committee are government entities, and they have a responsibility to go through this process and to treat everyone that is coming before it looking for some authorization or approval with fairness and integrity.

Mr. Bauer stated that the process may be significant, may require a party to come forward to go through and put a lot of effort into it in order to go through that process which is OK. The EPA process is not an easy one either. Local zoning can be quite a handful. Having an arduous process is not a disqualifier.

Mr. Bauer stated that part of this is to address some things to reduce any anxiety or concerns the Committee may have about handling this correctly and procedurally.

Mr. Bauer stated that under the statute, the process of adopting rules is very streamlined and there is no requirement for hearings, written comments, to conduct a hearing to receive public comments. Some things have happened that he commends the Committee for but they are not required under the statute in order to adopt this rule.

Mr. Bauer stated that there has been some criticism thrown at the idea that the technical advisory committee was not involved in the process but if you look at the statute of 3734.54, the role of the technical advisory committee is very narrow and confined. It is really involved in drafting the plan,

providing some input on that, and doing the annual review but there is nothing in their portfolio that speaks to the issue of rulemaking. If they are invited to participate that's fine, but if they are not, that's OK as well.

Mr. Bauer stated that many public bodies, from time to time, decide that they want to set up a subcommittee to divide the work to enable them to be more effective in getting the very issues done that are before them and whether that is an HR subcommittee, a finance subcommittee, an audit subcommittee, or any other kind of subcommittee to just divide the work so the issues can be dealt with in a more efficient way that is perfectly OK. This is an issue for the internal management of the committee; they can make that decision themselves and the law is perfectly OK with that.

Mr. Bauer stated that those criticisms do not create any anxiety in his mind about whether this process is done with integrity and fidelity to the Ohio Revised Code for considering and adopting rules.

Mr. Bauer stated that beyond that, as the Committee considers the proposed rules recommended by the Subcommittee, he would emphasize that that consideration should be done with respect to potential facilities in general and not with respect to any possible proposals we think may be coming before the Committee in the future. There is nothing in front of the Committee on that level now and the time for evaluating specific proposals will come later if the Board adopts a rule when that time comes.

Mr. Bauer stated he would leave it at that and if there are any questions, he could help tackle them but thinks that covers the landscape for now.

Ms. Driehaus thanked Mr. Bauer for his perspective.

Ms. Driehaus stated that the rules were emailed to the Committee members and asked the Policy Committee members if they had questions.

Mr. Kesterman stated that it is his understanding that today, Rumpke plans to increase the maximum daily waste received or the AMDWR at the facility at Bond Road from 100 tons to 1,500 tons per day. He does not believe this would be considered in these rules but thinks it is worth this Committee that is responsible for waste in Hamilton County, to be aware of that change.

Ms. Hurley stated that she wanted to know how we will deal now with the amendments that Mr. Gedert and Ms. Magness have in an expedited way. Mr. Driehaus stated that we can talk about amendments but wanted to get to the other Committee members to make sure everybody had an opportunity to convey their thoughts.

Mr. Rajagopal stated that he doesn't see anything from these rules against or going towards Rumpke moving forward deciding the future for what is the best thing for our community. We have the local Subcommittee, the County Commissioners local authority to watch what is best for our community and for our residents live in this area and doesn't want to see anything go against the current operation of the Committee.

Ms. Driehaus asked Mr. Bauer, for the sake of the those who may have not reviewed the rules, if he could briefly summarize what these rules do before we talk about amendments.

Mr. Bauer stated that the Revised Code specifically allows the district to adopt a rule that requires anyone who wants to construct, enlarge, or modify a solid waste facility to obtain approval from the Board of Commissioners of the district of their general plans and specifications before construction can commence on that project.

Mr. Bauer stated that the principal function of the rules package in front of you today is to invoke that particular authority. The way that we have done that in these rules is because these are specific kinds of projects and there are some technical aspects and so there are definitions to explain what facilities it applies to and what kind of projects to make sure that is clear enough.

Mr. Bauer stated that we did exclude, at the Subcommittee level, compost facilities and legitimate recycling facilities which is not a permanent exclusion; it is just that the Committee wants to have more time to consider how these rules might apply in those kinds of situations or whether there should be another set of rules with maybe a different kind of evaluation process for those kind of facilities since those facilities are typically a little less intensive than transfer stations, full blown sanitary landfills, tire facilities, etc.

Mr. Bauer stated that after we get past the definitions, then the rule starts to talk about what kind of information needs to be submitted to the district as part of, what is referred to as, the improvement plan. The rule goes through to discuss a number of different aspects of information that needs to be submitted to the district in order to allow the Board to evaluate the proposal.

Mr. Bauer stated that as part of that submission, the rule also requires that the developer submit a compliance report. The point of the compliance report is it will summarize from the developer's point of view why the proposed plans and specs do not result in substantial and adverse impacts in the areas that are articulated in the criteria for deciding whether to approve or disapprove the plan.

Mr. Bauer stated that then the rule sets forth two principal criteria that the Board would utilize whether to approve or disapprove. One would be adverse impacts on the District's programs and implementation of the plan and its ability to finance implementation of the plan. The other criteria have to do with evaluating the degree and magnitude of substantial adverse impacts that the proposal would have on the local environment, local infrastructure, local community, local socio-economic conditions, and that is in the document.

Mr. Bauer stated that in a nutshell, that is how that rule is lined up. There are some items at the end of it that deal with some obligations of existing solid waste facility owners and operators to provide certain kinds of data to the district on an ongoing basis but that is not as significant. The vast bulk of this rule is related to the process for reviewing proposed creation of new facilities and modification of existing facilities.

Ms. Driehaus stated these conversations are related to the balance between different interests so when she reads through the draft of the rules, her focus is on page seven where it talks about what we are trying to accomplish as related to any proposal to enlarge or modify the language here for solid waste transfer or disposal facilities.

Ms. Driehaus stated that it talks about the proposed project avoiding or mitigating adverse socio-economic impacts, adverse environmental impacts, and adverse impacts on the health and safety of the local community, that are not being addressed by OEPA so it seems to her that is kind of the reason we are here even talking about this. We all know that EPA has certain requirements and there is a certain

process to go through. This is a more local process where public input is welcome and relied on to help inform our decisions which is her take on the need for the rules, the reason we are doing them, and the language in the rules that are in front of us.

Ms. Driehaus asked Mr. Bauer if this Committee would recommend the rules to the Board of County Commissioners and presumably, they would take that up and render a decision; if there would be a need or desire to make a change to rules once they are agreed to, asked what the process was.

Mr. Bauer stated that the Board could request to the Policy Committee changes be made in certain areas and come up with a recommendation but the Board does not have to do that. The process could be as simple as this. The Board passes a resolution proposing to amend the rules and publish that in the local paper; adopt, publish, and enforce which is what the statute requires.

Mr. Bauer stated that there is nothing in the District's solid waste plan that adds additional procedure to what he just described and anything we do beyond that would be enhancements the Board would be making on its own discretion.

Ms. Driehaus stated that if everybody is in agreement, we would move on to the amendments that have been referenced.

Mr. Gedert stated that he recognized the focal point of many citizens has been a single facility; his focal point has been that this affects all solid waste facilities throughout the county. He wanted that clarification that this is not picking on one facility, these rules affect all solid waste facilities as defined at the beginning of the rules.

Mr. Gedert stated that the Subcommittee presented to the Policy Committee the December 2, 2021 rules; what he presents today, are the following amendments to the December 2 rules. These came to him from various, different citizens. He has consulted with our attorney on these amendments, and he brings these amendments to the Committee.

Mr. Gedert stated that the first amendment is the landfill definition on page two. He would like to add after "limits of Solid Waste placement", the sentence, "and all areas within the property line within the facility" just for clarification.

Mr. Rajagopal asked if he was talking about the property line any measurable distance of three hundred feet. Mr. Gedert stated yes and it says, "in areas of within three hundred feet radius from the limits of the Solid Waste placement and all areas within the property line of the facility."

Mr. Gedert stated to back up a bit, as we work on amendments, the process he suggests is that we ask our attorney to take these amendments, and if the Policy Committee accepts these amendments, and the Policy Committee may accept or reject these amendments, but if the Policy Committee accepts these amendments, that he asks our attorney to generate a new version of this set of rules and print and distribute the new rules and that this Policy Committee, before the end of this meeting adopts the new rules contingent upon the printing of these newly adopted, revised amendments and that new version is what the Commissioners are recommended to a vote on.

Ms. Driehaus asked Mr. Gedert to give the Committee the intent of the amendment. Mr. Gedert stated that the intent is to be inclusive of the definition of sanitary landfill facility by Ohio Revised Code. Mr. Gedert stated to be consistent as possible.

Ms. Driehaus asked for legal counsel's perspective on this amendment. Mr. Bauer stated that the question was raised because it is not unusual in Ohio for sanitary landfills to have other activities going on at their site that are kind of ancillary to the disposal at the working face and activities happening in connection with the limits of waste placement.

Mr. Bauer stated that the idea was that under the existing definition, there are activities that are going on that are incidental and ancillary to the actual disposal function that we should be paying attention to. Because of that, he considered adding this language "and areas within the property line of the facility" and this was something he suggested.

Ms. Magness stated that it could be a solid waste landfill that has a compost facility on it and this would cover both of those processes.

Mr. Bauer stated that sometimes there are facilities that are engaged, and they have situations set up to pull off and clean up their landfill gases or potentially energy usage and some of the infrastructure that goes with that can go outside the three-hundred-foot perimeter of the limits of waste placement and gave a few other examples.

Mr. Bauer stated that the concern here is just because we have that three-hundred feet of limits of waste placement, could you be potentially be excluding your ability to consider the impacts of those other activities?

Mr. Bauer stated it was changed because the Board wants to be able to consider anything relevant that is going on with the operations at that facility, whether it is within the three hundred feet of the limits of waste placement or beyond.

Mr. DiPuccio asked if an example would be if Duke Energy wants to run an easement through part of the landfill, the landfill cannot grant that easement without first coming back to the District. Mr. Gedert stated this was correct.

Mr. DiPuccio asked if the landfill wants to have a renewable natural gas fueling operation for commercial purposes, they have to come back to the District for approval. Mr. DiPuccio asked Mr. Gedert what his intent was. Mr. Gedert stated that he was not sure.

Ms. Driehaus stated that since Mr. Bauer suggested the amendment language, she would like to get his take on the question.

Mr. Bauer stated that if the question is, based on the example, if the facility owner/operator is also going to use part of the premises for housing and fleet maintenance of its solid waste collection vehicles; is this something we might want to consider how that is going to be operated and maintained?

Mr. Bauer stated that it is conceivable to him that the answer is yes. There are many facilities where they have the landfill facility still within the property line but outside the area of three hundred feet of the limits of waste placement whether they are conducting yard waste operations, other specialized operations, waste stabilization station, specialized waste streams that are coming in for disposal at the facility, etc.

Mr. Bauer stated that in the abstract, it is hard to answer and say that we need that authority specifically to address this situation or that situation. He cannot predict every way a facility is going to be presented to the District.

Mr. Bauer stated that the impression he got from the question was would we be potentially preventing ourselves from being able to look at a situation that could be relevant because we have this limitation that is limited to three-hundred feet from the limits of waste placement. So, he thought, it is possible and this is the basis for the added language.

Ms. Driehaus asked how many amendments were being offered. Mr. Gedert stated there were nine.

Ms. Driehaus stated that each amendment would be voted on separately in case there are some that we cannot agree to.

Ms. Driehaus asked Mr. Gedert if he was making a motion to the amended rules. Mr. Gedert stated yes. Ms. Driehaus asked Mr. Gedert to read the language again so we know what we are voting on. Mr. Gedert stated that under the "Landfill" language at the very end of the Landfill language the phrase "and all areas within the property line of the facility" is being added. Ms. Driehaus asked if this was the motion. Mr. Gedert stated yes. Ms. Driehaus asked if there was a second. Ms. Hurley seconded. Mr. DiPuccio voted no; Mr. Kesterman abstained; everyone else was in favor and the motion was approved.

Mr. Gedert stated that on the "Rules" definition on page three which is a deletion request. He is asking for this deletion simply because the line could be confusing or misinterpreted. Mr. Gedert stated that he consulted with our attorney on this, and he recommended deleting "this Appendix to the Plan as authorized by it which sets forth." Mr. Gedert stated that the line would read after the deletion "Rules" means the Rules that have been adopted, published and are to be enforced pursuant to the authority provided in Ohio Revised Code Sections 343.01 (G)(2) and 3734.53 (C)(2)" and stated that he is making this motion. Ms. Hurley seconded; Mr. Kesterman abstained. Everyone else in favor and the motion was approved.

Mr. Gedert stated that on page five, number nine, "Traffic and Transportation Plan", the first line after the word "routes", he would like to add "and alternative routes." A portion of the new sentence would then read "A plan showing the proposed routes and alternative routes to and from the proposed Solid Waste Facility ....."

Ms. Driehaus asked what the intent was. Mr. Gedert stated that any routing to and from a facility has proposed routes but when there is snow emergency or road closure, something that closes that proposed route, there is alternative routes, and it would be wise to include the alternative routes.

Ms. Driehaus asked if he was making a motion. Mr. Gedert stated yes. Ms. Hurley seconded. Ms. Driehaus asked for discussion. Mr. DiPuccio stated that you can do this for transfer trailers and direct haul vehicles like the City of Cincinnati but how you can do it for individual loads coming in for individual loads coming in from elsewhere and from citizens. Mr. Gedert stated that he was speaking of the actual transfer facility vehicles, the company vehicles. Mr. DiPuccio stated that this was not the way this reads.

Ms. Driehaus stated that the question is the plans showing the proposed routes; that language is not there to begin with so how does this alter; Mr. Gedert stated that if you read the rest of the sentence "and anticipated number and weight of transfer and direct haul vehicles utilizing Facility, including identification of the routes to be used when the transfer vehicles, direct haul vehicles, rail cars or other

modes of transportation either enter....” and further stated that the whole sentence is referring to the company vehicles.

Mr. DiPuccio stated that it says, “or other modes of transportation” and that covers a pretty broad area.

Ms. Driehaus asked if there was any further discussion. Seeing none, asked all in favor say “aye.” Mr. DiPuccio and Mr. Kesterman abstained; everyone else was in favor.

Ms. Driehaus asked for the next amendment. Mr. Gedert stated on page 5, number 12, under “Control of On-site Debris” and stated he would read the sentence and mention the change. A description of Applicant’s proposed management and control procedures to minimize the potential for debris from the Solid Waste Facility being deposited on arterial streets and county and townships roads.

Mr. Gedert stated that the change is to include “to and” after the word “debris” making the sentence read as follows: “A description of Applicant’s proposed management and control procedures to minimize the potential for debris to and from the Solid Waste Facility....” Mr. Gedert stated that the meaning behind this is that the vehicles may enter the roadways to and from the facility and not necessarily just from and leaving the facility.

Ms. Driehaus asked if this was a motion. Mr. Gedert stated yes. Ms. Hurley seconded.

Mr. DiPuccio stated that his objection to this was the same as the last one in that you cannot control individuals’ vehicles. Ms. Driehaus stated that she understood the concern and stated that “A description of Applicant’s proposed management and control procedures to minimize the potential for debris from the Solid Waste Facility....” which they can control from the facility and asked Mr. Bauer is there was common language related to “to and from” with the waste coming to the facility and the level of control that the solid waste manager has.

Mr. Bauer stated that it was common for communities to be concerned about litter escaping from untarped vehicles and other situations with vehicles going to the landfill. We expect them to be full when they are travelling to the landfill or at least have significant loads.

Mr. Bauer stated that we want the trucks to be covered, not leaking, etc. but they may not be trucks that are owned or operated by the facility owner operator. The facility owner operator’s ability to control that on the incoming loads can be fairly limited.

Mr. Bauer stated having said that, he is focusing on the two parts. On the front part, that makes sense and that is why we require wheel washes, etc. to the vehicles as they are leaving to go back out.

Mr. Bauer stated that in his mind, he sees it as being a fair thing to ask the facility to describe in a plan if they will send some crew out once or twice a week to check out the immediate surroundings within a half mile or mile. It is really just part of their upkeep to their facility given the nature of their business.

Mr. Bauer stated that that does not necessarily seem to be way out of bounds to him. But what he hesitates to do is read all of these terms in the document in the most restrictive, harshest possible way against the facility owner operator. He does not take these provisions in that spirit. He believes the Committee and the Board of Commissioners, when the time comes, are going to apply these in a reasonable way in view of all of the normal circumstances affecting a facility.

Mr. Bauer stated that he doesn't look at this as saying that we want you to provide a plan as to how you are going to control litter from spreading from individual vehicles coming from the facility including the ones not owned and operated by the facility. He does not read this provision that way because he does not think that is a reasonable request. Mr. Bauer stated that he thinks the idea of saying that we want to plan for how you are going to go out and look at the surroundings to your facility within a reasonable perimeter once a week or a couple of times a month to make sure the place isn't starting to look trashy and stated that he was not offended by that.

Mr. Rajagopal stated that it seems like a normal local enforcement issue and wanted to make sure that we make it clear that local enforcement is involved in this issue.

Mr. Bauer stated that this is true and a lot of times this particular issue of leakage and debris that flies out of vehicles, at least on the incoming vehicles in particular, is something that is dealt with at the health department level. Mr. Kesterman stated that if the truck was leaking, we would go after the truck.

Ms. Driehaus stated that her only question here is how much control the operator has over incoming vehicles that are not necessarily part of their fleet; not to say they don't have some obligation to go out into the community and do a clean-up.

Ms. Driehaus asked if this amendment was just asking that this be part of the conversation with the District. Mr. Gedert stated yes. Ms. Magness stated that some operators proactively educate their customers. Mr. Gedert stated that this is what he sees it as.

Ms. Driehaus stated that she has all the clarity she needs and if there was no more discussion stated that there was a motion and a second. Mr. DiPuccio and Mr. Kesterman abstained. Everyone else was in favor and the motion was approved.

Ms. Driehaus asked to move on to the next amendment. Mr. Gedert stated that on page seven, under "Compliance Report", number two, the sentence starts out "To the maximum extent practicable;" and he wanted to add "as determined by the Board of County Commissioners" after the word "practicable" so the sentence doesn't determine who makes that decision (to the maximum extent practicable). Mr. Gedert stated that new sentence would read "To the maximum extent practicable as determined by the Board of County Commissioners;" and is making this motion. Ms. Hurley seconded.

Mr. DiPuccio stated that he thinks this is a repeat already and if you look at the first paragraph under "Compliance Plan" it says "which will allow the Board to determine.." Ms. Driehaus stated that she does not disagree that it is repetitive and doesn't see a problem and asked Mr. DiPuccio if he saw a problem with it.

Ms. Driehaus asked if there was any other discussion. Seeing none, asked all those in favor say "aye." All in favor; Mr. Kesterman abstained and the motion was approved.

Ms. Driehaus asked for the next amendment. Mr. Gedert stated the next one was on page 9, letter e, he wanted to add at the end of the sentence "and proximity to any wellhead protection area" in which he heard from three citizens on this one.

Ms. Driehaus asked Mr. Gedert to read the whole sentence. Mr. Gedert stated that the new sentence would now read as "proximity of the site to any Aquifer and proximity to any wellhead protection area"

and he makes that motion. Ms. Hurley seconded. Ms. Driehaus asked all those in favor say "aye." All in favor; Mr. DiPuccio abstained stating he thought it was a repeat and Mr. Kesterman abstained; the motion was approved.

Ms. Driehaus asked if we were going to talk about letter f. Mr. Gedert stated that on the same page, letter f which has two items. Mr. Gedert stated that the first is he would like to add right after "hunting, trapping or fishing" and before "recreational opportunities" "water activities" and he believes that phrase includes boating and he knows citizens have asked for boating to be included. Mr. Gedert stated the new sentence would read "hunting, trapping, or fishing and any water activities and recreational opportunities....".

Mr. Gedert stated that that sounded repetitive. Mr. Gedert stated he would recommend adding "water" before "recreational opportunities" so the sentence would read: hunting, trapping, or fishing and water recreational opportunities. Ms. Driehaus stated that he might want to say, "any recreational opportunities." Mr. Gedert stated that he accepted that.

Ms. Driehaus asked if he was making a motion. Mr. Gedert stated yes. Ms. Hurley seconded. Ms. Driehaus asked all those in favor say "aye." All in favor; Mr. DiPuccio and Mr. Kesterman abstained and the motion was approved.

Ms. Driehaus stated that she is a little concerned about doing anything on letter f because we have a blank. Mr. Gedert stated that that was the next suggestion on letter f. Ms. Driehaus stated to do these two together.

Mr. Gedert stated that he has counted five citizens that have recommended to include "currently available" within five miles of the site. Ms. Driehaus stated to get the motion on the floor and asked if there was a second. Ms. Hurley seconded.

Ms. Driehaus stated that she would like to get some legal counsel on this one related to the mileage of the site. Mr. Bauer stated that there is nothing that says that there needs to be any milage standard in here one way or the other whether it is a half-mile, a quarter-mile, etc. It seems to him that in the first instance, you are asking for the applicant to submit a compliance report that describes the effects of that description which is a significant burden.

Mr. Bauer stated that if we are going through this exercise, you are going to have a consultant and they are going to evaluate whether they agree with that or they see it differently and they may actually look at some other issues that are in the five-mile buffer. He thinks it could involve a fair amount of work for the applicant and for your consultant who is going to be looking at this and trying to provide you a summary of some kind of recommendation as to whether they think there are effects that need to be dealt with or not.

Mr. Bauer stated that in the abstract, whether it is a half-mile or quarter-mile, he cannot tell the Committee at what point it becomes clearly unreasonable and to him, that is the standard. At what point does it become unreasonable.

Mr. Bauer stated that five-miles does not strike him as automatically unreasonable but it is a fair distance away. If everybody that was trying to site a business had to address all the effects within five-miles, that would be an awful lot of work.

Mr. Rajagopal stated that it seemed like a reasonable distance, so it is best for the milage of a reasonable distance from the site. Ms. Driehaus stated that someone is going to have to determine what reasonable is and be more explicit.

Ms. Hurley stated that she was sitting in on the Subcommittee meeting when this came up and what prompted the discussion was that the original document said a half-mile and there seemed to be a general sense that is pretty close so that is why the blank is in there and she does not think the Subcommittee itself had any recommendation, they were just looking for what would be reasonable.

Ms. Magness stated that when she was doing research, it varied from a half-mile to a full mile from other states and stated that she would be comfortable with a mile.

Ms. Magness suggested one to five miles based on the particular project that it may be in a sensitive zone or not. With the Bond Road issue, they are thinking about how close the Whitewater River is and that is what they want assessed.

Ms. Driehaus stated that noting that this is not about a specific project and that in "C" (2) Compliance Report shall describe the effects and impacts of the proposed project in light of the following:" she thinks the Committee needs to land on a reasonable number. She thinks five is excessive, so the motion is already on the table. Mr. Gedert state that he would be willing to amend the motion. He feels one-mile may be too short and would offer two-miles. Mr. Kesterman asked if he could offer one comment although he will pre-state that he will be abstaining from the vote.

Mr. Kesterman stated that these will apply to a transfer station and many of Hamilton County communities are not two-miles wide so if a transfer station was in the middle of that community, that community would have to look to other communities nearby.

Mr. Gedert stated that he was looking at waterways and how this impacts waterways and he has done chemical studies on waterways and he sees absorption rates and such and he thinks two miles would be a reasonable pattern of study.

Ms. Hurley asked Mr. Gedert if he could include in his amendment two-miles or what seems most reasonable given the type of project involved because she hears what Mr. Kesterman is saying. So, not all projects are the same.

Mr. DiPuccio stated that he was going to abstain from this also, but it is going to be an arbitrary number at this point and is speaking for himself. He doesn't have any basis with coming up with a number.

Ms. Driehaus stated that if we were to say "reasonable", asked Mr. Bauer who determines reasonable and asked if there comes a point that the County Commissioners have to define reasonable.

Mr. Bauer stated that he does not know if it works very well; you are asking an applicant to submit a document to you that provides an analysis and thinks you have to tell them up front how much distance. When he thinks about the proposal for one-mile for example, he is going to think about a dot on a map; a particular place in Hamilton County and based on the rule here, if you make the standard a mile, they have to look at a mile in all directions. If you have a mile, you are already requiring them to do an analysis that is based upon a circle that is a two-mile diameter minimum.

Mr. Bauer stated that if it was a bigger site, say a 600-acre site; this is already starting out as a square mile or less, now you are looking at a mile on the other side, a mile on the opposite side, so now you are looking at an area that is three miles in diameter all the way around. That is a lot of area.

Mr. Bauer stated that going beyond a mile, it concerns him that it may be too much of an imposition.

Ms. Driehaus stated that she understood the need to have some clarity. Mr. Gedert stated he could amend his motion to the will of the Committee. Ms. Driehaus asked if everyone could agree that reasonable is one mile knowing in geography it is more than one mile. Mr. Gedert stated it is really two miles and stated that he would agree to one mile.

Ms. Driehaus stated that Mr. Gedert was withdrawing his amendment and creating another amendment that says one mile and we are going to fill in the blank on item f. Ms. Hurley seconded.

Ms. Driehaus stated that item f is going to say hunting, trapping, or fishing and any recreational opportunities currently available within one-mile of the site.

Ms. Driehaus stated that was the amendment and there has been a second and asked all those in favor to say "aye." All but Mr. Rajagopal voted aye. Mr. DiPuccio and Mr. Kesterman abstained and the motion was approved.

Ms. Driehaus asked for the next amendment. Mr. Gedert stated it was letter h on page 9. Mr. Gedert stated that he would like to add at the end of the sentence. Currently, it says, "Surface Waters on or near the site" and would like to add "and downstream surface waters." Ms. Driehaus asked if there was a second. Ms. Magness seconded.

Ms. Magness stated that the downstream surface waters could potentially be outside of that one-mile and asked if that would still include it. Mr. Gedert stated that this was a good question. Ms. Magness stated that especially if it was on a hillside. Mr. Gedert stated that in the current language, it is undefined how far down. Surface waters on or near the site. Near is not defined by distance and asked if it should be.

Ms. Magness stated that she thought the intent is that those tributaries could be polluted so if they can be polluted then it should be; Mr. Gedert asked if it should be captured by the one-mile standard and stated that he did not think so.

Mr. Bauer stated that if you are talking about surface water pollution of nearby surface water bodies, EPA is going to address that as part of their review. Ms. Driehaus asked if it was Mr. Bauer's advice to leave it as is and not address the downstream surface water. Mr. Bauer stated that at a minimum, leave it as is and it may be something to ultimately strike permanently at some point in the future. We do not have to cross that bridge today. Mr. Bauer stated that he did not see any value in making this change.

Mr. Gedert stated that he would withdraw the amendment.

Ms. Driehaus asked for the next one. Mr. Gedert stated the next one was letter o on page 9 regarding a mileage question. Mr. Gedert stated that "...and existing land uses at the proposes site and for one-quarter mile in all directions form the Facility's property line" and stated that there were several citizens asking that this one quarter mile be expanded to five miles and we had that same discussion that we had before.

Mr. Gedert asked what that one-quarter mile should be from the Committee's perspective and asked if it should be consistent with the decision prior and he stated that he would recommend one-mile. Ms. Driehaus asked if he was making a motion. Mr. Gedert stated yes. Ms. Hurley seconded. Ms. Driehaus stated that we are striking one quarter mile and putting in one-mile.

Ms. Driehaus asked if there was any discussion. Hearing none, asked all those in favor to say "aye." All were in favor except Mr. DiPuccio and Mr. Kesterman abstained and the motion was approved.

Mr. Gedert stated that on page 10, letter u says, "impacts on aesthetics, particularly the visual sightlines from adjacent public roadways and nearby domiciles" and would like to add "and previous uses of site" before "domiciles" and right after "public roadways."

Ms. Magness asked Mr. Gedert to read the whole sentence. Mr. Gedert stated impacts on aesthetics, particularly the visual sightlines from adjacent public roadways and previous use of site and nearby domiciles. Ms. Magness asked for an example of a previous use of site. Mr. Gedert stated that if it is an acquired site, it could have been an industrial use site, commercial site, apartment complex, etc. and this might come into consideration in the review what was on that site prior.

Ms. Hurley stated that it seems to make sense that this "previous use of site" should come after "domicile" so it reads "nearby domiciles and previous uses of site" so it is at the end of the sentence. Mr. Gedert stated that the proposed language is "from adjacent public roadways and nearby domiciles and previous uses of site. Ms. Hurley seconded.

Ms. Magness asked how "nearby" is defined. Ms. Driehaus stated that she is still not clear on a need for this because we are still under "Compliance Report shall describe the effects and impacts of the proposed project in light of the following:" "impacts on aesthetics, particularly the visual sightlines from adjacent public roadways and nearby domiciles" and stated she was not sure why we are contemplating "previous uses of site" in this context.

Mr. Gedert stated that "previous" is common when you are acquiring land for a new transfer station or landfill that would have had a prior use; it could have been an industrial site of some sort and the concern from citizens might be, was it was previously a chemical waste site, brownfield that went through the brownfield clean-up system or was it an abandoned site.

Ms. Driehaus stated that she was not convinced but in this context she does not understand. Mr. Gedert stated that maybe it should not be under letter u, maybe it should under letter r or even attached elsewhere. Ms. Driehaus stated if we are talking about the impacts of the proposed projects and previous use of site related to a proposed project, she does not see the relevance.

Ms. Driehaus asked if we had a motion and a second. Ms. Hurley asked what the motion was. Mr. Gedert stated the motion was to add "previous uses of site" to the end of the sentence under letter u. Ms. Hurley voted no. Mr. DiPuccio and Mr. Kesterman abstained. Everyone else was in favor and the motion was approved.

Ms. Driehaus stated that we have an amended document and asked if there was any further discussion before a vote was taken. Mr. Kesterman stated he wanted to explain why he was abstaining. Mr. Kesterman stated that he supports the County Commissioner having rule making authority, however, his organization serves very much in an oversight capacity for solid waste facilities throughout the County.

Furthermore, we are approved by the Ohio EPA to do this so for those reasons he feels like it was inappropriate for him to vote on the rule making authority, so he abstained.

Mr. DiPuccio stated that he already ran down his list, so he is not going to repeat it.

Ms. Driehaus stated that she was going to ask for a motion to approve the Hamilton County Solid Waste Management District rules as amended. Ms. Hurley moved; Mr. Rajagopal seconded. Ms. Driehaus asked for discussion. Ms. Hurley stated as a Policy Committee member and not as a Subcommittee member, she sat in on the Subcommittee meetings in order to hear the discussion and she personally found the efforts of the Subcommittee to listen to citizens and to discuss themselves to be a really good faith effort to deal with the task at hand; to come up with rules; not perfect rules and maybe only somewhat temporary rules but none the less, rules that spoke to real citizen concerns that had been brought to the Policy Committee and so she is really happy to vote in favor of moving these on today.

Ms. Driehaus thanked the Subcommittee members for their work on this.

Ms. Driehaus asked if there was any other discussion. Hearing none, asked all those in favor to say "aye." Mr. DiPuccio voted no; Mr. Kesterman abstained. Everyone else was in favor and the motion was approved.

Ms. Driehaus stated that from here, this recommendation will go to the Board of County Commissioners for discussion and contemplation. We have a staff meeting tomorrow and this is on the agenda tomorrow in anticipation voted out today. At the staff meeting, we will have a conversation about this, outline what the recommendation is about, provide the rules and we will eventually take a vote related to that. There will not be a vote tomorrow at the staff meeting; it will come at a meeting after that. This is the expectation so everyone knows and asked Ms. Balz if she had anything to add.

Ms. Balz stated that she has written down all of the changes and will amend them. Ms. Driehaus stated that the amended document will come before the Board.

**4. UPCOMING DISTRICT MEETINGS**

The next Hamilton County R3Source Policy Committee meeting will be held on Wednesday, January 19, 2022. The meeting will be a hybrid of in person for Committee members/staff and Zoom for others wishing to attend virtually. The meeting will begin at 1:30 p.m. at 250 William Howard Taft Road, 1<sup>st</sup> Floor, Cincinnati, Ohio 45219. Meeting information will be sent at a later date.

Ms. Magness stated that she would be absent as she will be out of town.

Ms. Driehaus stated that for the benefit of the public that comes to our meeting, whether virtually or not, we do not accept public comment on Tuesdays. The opportunity to comment is on a Thursday and expects the voting session where we bring this up will be on a Thursday.

Mr. Gedert stated that he wanted to thank the District staff for shepherding us through this process and wanted to thank our attorney for his advice through this process as well.

**5. ADJOURNMENT (Target Time – 2:00 p.m.)**

Ms. Driehaus asked for a motion to adjourn. Mr. Gedert moved; Ms. Magness seconded. All were in favor and the meeting was adjourned at 3:17 p.m.