

STATE OF NORTH CAROLINA
COUNTY OF GUILFORD

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
11 CVS 9764

GATE CITY WASTE SERVICES,)
LLC,)
Plaintiff,)
vs.)
CITY OF GREENSBORO and)
NANCY VAUGHAN and ZACK)
MATHENY, in their official)
capacities as members of the City of)
Greensboro City Council,)
Defendant.)

MOTION OF JACQUELINE NEAL
FERGUSON, ROOSEVELT FERGUSON,
BETTY CRITE, MARLINA SCALES,
LOTTIE NEAL, CITIZENS FOR
ECONOMIC AND ENVIRONMENTAL
JUSTICE, and LEAGUE OF WOMEN
VOTERS PIEDMONT TRIAD TO
INTERVENE AS DEFENDANTS

FILED
SEP 15 PM 3:22
COUNTY COURT C.S.C.

Jacqueline Neal Ferguson, Roosevelt Ferguson, Betty Crite, Marlina Scales, Lottie Neal, Citizens for Economic and Environmental Justice (hereinafter "CEEJ"), and League of Women Voter Piedmont Triad (hereinafter "LWVPT") hereby move for leave to intervene as Defendants in this action pursuant to Rule 24 of the North Carolina Rules of Civil Procedure. The applicants are residents of the City of Greensboro who own property adjacent to the city-owned White Street Landfill and two organizations whose members are residents of the City of Greensboro. The applicants for intervention seek to intervene to participate fully as parties in defense of this action, on the grounds that: the applicants have vital interests related to the subject matter of the action; the disposition of the action may, as a practical matter, impair the applicants' ability to protect those interests; and their interests are not adequately represented by the existing parties.

In support of said motion, Proposed Defendant-Intervenors show the Court the following:

1. Proposed Defendant-Intervenors are seeking to intervene in this action as a matter of

right, or alternatively to intervene by permission, and to participate fully as parties in defense of the action. Plaintiff alleges that Councilwoman Vaughan has a conflict of interest and is required to recuse herself from voting on the proposed contract put forward by Plaintiff to operate Phase III of the White Street Landfill. Proposed Defendant-Intervenors contend that recusal is inappropriate and that Councilwoman Nancy Vaughan must vote on a proposed contract put forward by Plaintiff to operate Phase III of the White Street Landfill.

2. Jacqueline Neal Ferguson is an adult residing at 1406 Nealtown Road, Greensboro, North Carolina. Mrs. Ferguson's home shares a property line with the White Street Landfill. She is concerned that re-opening the landfill could decrease the value of her property, result in additional vermin and garbage on her property, cause increased problems with smell and noise, as well as lead to adverse health impacts. She is also a Greensboro voter with an interest in her elected representatives participating in consideration of and voting on issues of community importance so long they are not legally forbidden from doing so.

3. Roosevelt Ferguson is an adult residing at 1406 Nealtown Road, Greensboro, North Carolina. Mr. Ferguson's home shares a property line with the White Street Landfill. He is concerned that re-opening the landfill could decrease the value of his property, result in additional vermin and garbage on his property, cause increased problems with smell and noise, as well as lead to adverse health impacts. He is also a Greensboro voter with an interest in his elected representatives participating in consideration of and voting on issues of community importance so long they are not legally forbidden from doing so.

4. Betty Crite is an adult residing at 9 Alonzo Court, Greensboro, North Carolina. Ms. Crite's home is in close proximity to the White Street Landfill. She is concerned that re-opening the landfill the landfill could decrease the value of her property, result in additional vermin and

garbage on her property, cause increased problems with smell and noise, as well as lead to adverse health impacts. She is also a Greensboro voter with an interest in her elected representatives participating in consideration of and voting on issues of community importance so long they are not legally forbidden from doing so.

5. Marlina Scales is an adult residing at 1212 Nealtown Road, Greensboro, North Carolina. Mrs. Scales's home shares a property line with the White Street Landfill. She is concerned that re-opening the landfill could decrease the value of her property, endanger her children, result in additional vermin and garbage on her property, cause increased problems with smell and noise, as well as lead to adverse health impacts. She is also a Greensboro voter with an interest in her elected representatives participating in consideration of and voting on issues of community importance so long they are not legally forbidden from doing so.

6. Lottie Neal is an adult residing at 1202 Nealtown Road, Greensboro, North Carolina. Ms. Neal's home shares a property line with the White Street Landfill. She is concerned that re-opening the landfill could decrease the value of her property, result in additional vermin and garbage on her property, cause increased problems with smell, traffic, and noise, as well as lead to adverse health impacts. She is also a Greensboro voter with an interest in her elected representatives participating in consideration of and voting on issues of community importance so long they are not legally forbidden from doing so.

7. CEEJ is a non-profit organization composed of Guilford County residents whose mission is to oppose and stop Greensboro City Council's plans to re-open the White Street Landfill to large amounts of residential solid waste. CEEJ and its members are concerned that re-opening the landfill could decrease the value of property in the community surrounding the White Street Landfill, result in additional vermin and garbage on individuals' private property,

cause increased problems in the community with smell, traffic, and noise, as well as lead to adverse community health impacts. CEEJ members include Greensboro voters with an interest in their elected representatives participating in consideration of and voting on issues of community importance so long they are not legally forbidden from doing so.

8. LWVPT is a 501(c)(3) membership organization including Guilford County residents as members and, among other purposes, is dedicated to citizen's right to know and facilitate participation in government decision making; the preservation of the physical, chemical, and biological integrity of the ecosystem, with the maximum protection of public health and the environment; promoting social and economic justice and the health and safety of all Americans; promoting the economic health of cities and improving the quality of urban life; promoting policies that manage land as finite resources and that incorporate principles of stewardship; promoting an environment beneficial to life through the protection and wise management of natural resources in the public interest by recognizing the interrelationships of air quality, energy, land use, waste management, and water resources, and promoting an open governmental system that is representative, accountable, and responsive and assures opportunities for citizen participation in governmental decision-making. LWVPT members include Greensboro voters with an interest in their elected representatives participating in consideration of and voting on issues of community importance so long they are not legally forbidden from doing so.

9. Proposed Defendant-Intervenors seek to intervene as a matter of right pursuant to Rule 24(a)(2) of the North Carolina Rules of Civil Procedure, or, in the alternative, to intervene by permission pursuant to N.C.R. Civ. Proc. Rule 24(b)(2). With regard to intervention as of right, Proposed Defendant-Intervenors claim an interest in the subject of this litigation including having their elected representative participating in a process to determine whether Plaintiff will

safely operate the White Street Landfill as well as mitigate potential impacts to the surrounding community from re-opening the landfill. Proposed Defendant-Intervenors also have an interest in their elected representatives voting on matters participating in consideration of and relating to the re-opening of the landfill so long as they are not legally forbidden from doing.

10. In the alternative, Proposed Defendant-Intervenors seek to intervene by permission pursuant to N.C.R. Civ. Proc. Rule 24(b)(2) on the grounds that their defense of the Greensboro City Attorney's prior determination that Councilwoman Nancy Vaughan must vote on a proposed contract put forward by Plaintiff to operate Phase III of the White Street Landfill has issues of law and fact in common with the claims and defenses in this action.

11. Proposed Defendant-Intervenors' intervention in this litigation is timely. Plaintiff's Verified Complaint for Declaratory and Injunctive Relief was filed on September 13, 2011.

12. Proposed Defendant-Intervenors may not be adequately represented by Defendants. Proposed Defendant-Intervenors have been at odds in the past with the City of Greensboro on issues relating to the White Street Landfill and its consideration. It is also the duty of the City to act for all residents, balancing economic interests alongside the interests of protecting the City's environment and resident's health. Proposed Intervenors have a more particularized interest in protecting the environment, public health, and their own properties. These concerns dovetail with the need for as close to full participation by members of the Council as possible because the previous four-person Council majority failed to ask any questions of Plaintiff in regards to its environmental, public health, and community relations records during the course of Council's August 16, 2011 deliberations on entering into contract negotiations with Plaintiff. Proposed Intervenors are uniquely well situated to highlight the importance of elected representatives participating in these contract discussions and being responsive to community environmental,

public health, and property concerns. Proposed Intervenors are furthermore uniquely well situated to highlight the importance of elected representatives participating in consideration of and voting on matters of community importance so long as they are not legally barred from doing so.

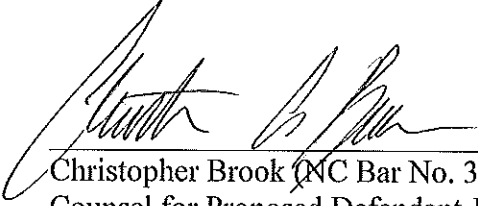
13. The involvement of Proposed Defendant-Intervenors ensures that the perspectives and interests of Greensboro residents with a history of interest in environmental, public health, and public participation/transparency concerns are represented and defended in this litigation.

14. Counsel for Proposed Defendant-Intervenors has informed Counsel for Plaintiff that Proposed Defendant-Intervenors will seek to intervene in this matter. Counsel for Plaintiff has not responded in regards to Plaintiff's posture on the proposed intervention at this point.

15. Counsel for Defendants has indicated to counsel for Proposed Defendant-Intervenors that Defendants consent to the intervention of Proposed Defendant-Intervenors in this case.

16. Pursuant to Rule 24(c) of the North Carolina Rules of Civil Procedure, Jacqueline Neal Ferguson, Roosevelt Ferguson, Betty Crite, Marlina Scales, Lottie Neal, CEEJ, and LWVPT's Answer is filed as Exhibit A herewith.

This is the 15th day of September, 2011.


Christopher Brook (NC Bar No. 33838)
Counsel for Proposed Defendant-Intervenors
Southern Coalition for Social Justice
1415 West Highway 54, Suite 101
Durham, NC 27701
Telephone: (919) 323-3380 ext. 113
Facsimile: (919) 323-3942

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served the above pleading or other document in this action, by:

Depositing a copy of such pleading or other document, enclosed in a first class, postpaid wrapper, properly addressed to the attorney(s) for the other party(s), in a post office or official depository under the exclusive care and custody of the United States Post Office.

Hand delivery to the attorney(s) for the other party(s).

Hand delivery to the office of the attorney(s) for the other party(s). (Pollard)

Via facsimile (Levitas)

as follows:

Steven J. Levitas
Todd Roessler
Kilpatrick Townsend & Stockton, LLP
4208 Six Forks Road, Suite 1400
Raleigh, NC 27609
Attorneys for the Plaintiff

Tom Pollard
City Attorney, Greensboro
P.O. Box 3136
Greensboro, NC 27402-3136
Attorney for the Defendants

This 15th day of September, 2011.

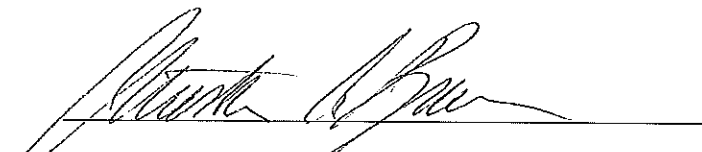

Christopher A. Brook

Exhibit A

STATE OF NORTH CAROLINA
COUNTY OF GUILFORD

IN THE GENERAL COURT OF JUSTICE
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11 CVS 9764

GATE CITY WASTE SERVICES,)
LLC,)
Plaintiff,)

vs.)

CITY OF GREENSBORO and)
NANCY VAUGHAN and ZACK)
MATHENY, in their official)
capacities as members of the City of)
Greensboro City Council,)
Defendant,)

and)

JACQUELINE NEAL FERGUSON,)
ROOSEVELT FERGUSON, BETTY)
CRITE, MARLINA SCALES,)
LOTTIE NEAL, CITIZENS FOR)
ECONOMIC AND)
ENVIRONMENTAL JUSTICE, and)
LEAGUE OF WOMEN VOTERS)
PIEDMONT TRIAD,)
Proposed Defendant-Intervenors)

PROPOSED ANSWER OF JACQUELINE
NEAL FERGUSON, ROOSEVELT
FERGUSON, BETTY CRITE, MARLINA
SCALES, LOTTIE NEAL, CITIZENS
FOR ECONOMIC AND
ENVIRONMENTAL JUSTICE, and
LEAGUE OF WOMEN VOTERS
PIEDMONT TRIAD

NOW COME Proposed Defendant-Intervenors, through counsel, and respond to the allegations of the Verified Complaint for Declaratory and Injunctive Relief as follows:

NATURE OF ACTION

1. Admitted.

PARTIES

2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.

JURISDICTION AND VENUE

6. Denied.
7. Admitted.

FACTS

The RFP Process

8. Admitted.
9. Admitted.
10. Admitted.
11. Defendant-Intervenors lack sufficient information to either admit or deny the allegations, and, therefore, denies same.
12. Defendant-Intervenors lack sufficient information to either admit or deny the allegations, and, therefore, denies same.
13. Admitted.
14. Admitted.
15. Upon information and belief, admitted.
16. Admitted.
17. Defendant-Intervenors lack sufficient information to either admit or deny the allegations, and, therefore, denies same.
18. Admitted,
19. Admitted.
20. Defendant-Intervenors admit that Gate City and Waste Industries responded to the Second RFP and were selected as the most responsive proposers. Defendant-Intervenors further admit Guilford County Superior Court issued a preliminary injunction enjoining the City from selecting or approving a site for a new sanitary landfill that receives residential solid waste, including Phases IV and V of the White Street Landfill. Except as expressly admitted herein, the remaining allegations are denied.

21. Denied.
22. Admitted.
23. Admitted.
24. Admitted.
25. Defendant-Intervenors admit that Councilpersons Vaughan and Matheny did not participate in the deliberations or vote declaring Gate City the most responsive proposer. Except as expressly admitted herein, the remaining allegations are denied.
26. It is admitted that the document attached as Exhibit A to the Complaint is a written document that speaks for itself, is the best evidence of its contents, and must be read in the context of the whole.
27. Defendant-Intervenors lack sufficient information to either admit or deny the allegations, and, therefore, denies same.
28. Admitted.

Conflicts of Interest- N.C. Gen. Stat § 160A-75

29. Admitted.
30. Admitted.
31. Denied.

Vaughan's Conflict of Interest Saga

32. Admitted, upon information and belief.
33. It is admitted that Councilwoman Vaughan's husband, Don Vaughan is a licensed attorney practicing law in Guilford County. It is further admitted that before August 22, 2011, Ms. Vaughan did not vote or participate in any City Council meeting related to the three RFPs. It is further admitted that the document attached as Exhibit B to the Complaint is a written document that speaks for itself, is the best evidence of its contents, and must be read in the context of the whole. Beyond these points, Defendant-Intervenors lack sufficient information to either admit or deny the allegations, and, therefore, denies same.
34. It is admitted that the document attached as Exhibit C to the Complaint is a written document that speaks for itself, is the best evidence of its contents, and must be read in the context of the whole.

35. Defendant-Intervenors lack sufficient information to either admit or deny the allegations, and, therefore, denies same.
36. It is admitted that the document attached as Exhibit D to the Complaint is a written document that speaks for itself, is the best evidence of its contents, and must be read in the context of the whole. Except as expressly admitted herein, the allegations are denied.
37. It is admitted that the document attached as Exhibit E to the Complaint is a written document that speaks for itself, is the best evidence of its contents, and must be read in the context of the whole. Except as expressly admitted herein, the allegations are denied.
38. It is admitted that the document attached as Exhibit E to the Complaint is a written document that speaks for itself, is the best evidence of its contents, and must be read in the context of the whole. Except as expressly admitted herein, the allegations are denied.
39. It is admitted that the document attached as Exhibit E to the Complaint is a written document that speaks for itself, is the best evidence of its contents, and must be read in the context of the whole.
40. The allegations state legal conclusions to which no response is required. To the extent a response is required, the allegations are denied.
41. It is admitted is that the City Council is holding a public hearing on September 20, 2011. It is further admitted that members of the public are free to urge the Council at that hearing to make the award to Waste Industries instead of Gate City. It is further admitted that Gate City was selected as the most responsive proposer to the Third RFP and is the party with whom the City is now in contract negotiations. Otherwise, the allegations state legal conclusions to which no response is required. To the extent a response is required, the remaining allegations are denied.
42. It is admitted that the document attached as Exhibit J to the Complaint is a written document that speaks for itself, is the best evidence of its contents, and must be read in the context of the whole.
43. It is admitted that the document attached as Exhibit I to the Complaint is a written document as well as a video clip, both of which speak for themselves, are the best evidence of their contents, and must be read and viewed in the context of the whole.
44. The allegations state legal conclusions to which no response is required. To the extent a response is required, the allegations are denied.

45. The allegations state legal conclusions to which no response is required. To the extent a response is required, the allegations are denied.
46. The allegations state legal conclusions to which no response is required. To the extent a response is required, the allegations are denied.

Matheny's Alleged Conflict of Interest

47. Admitted, upon information and belief.
48. Upon information and belief, admitted.
49. It is admitted that the document attached as Exhibit K to the Complaint is a written document that speaks for itself, is the best evidence of its contents, and must be read in the context of the whole. Except as expressly admitted herein, the allegations are denied.
50. It is admitted that the document attached as Exhibit K to the Complaint is a written document that speaks for itself, is the best evidence of its contents, and must be read in the context of the whole.
51. Defendant-Intervenors lack sufficient information to either admit or deny the allegations, and, therefore denies same.
52. It is admitted that the document attached as Exhibit L to the Complaint is a written document that speaks for itself, is the best evidence of its contents, and must be read in the context of the whole. Except as expressly admitted herein, the allegations are denied.
53. It is admitted that the document attached as Exhibit D to the Complaint is a written document that speaks for itself, is the best evidence of its contents, and must be read in the context of the whole.
54. The allegations state legal conclusions to which no response is required. To the extent a response is required, the allegations are denied.
55. The allegations state legal conclusions to which no response is required. To the extent a response is required, the allegations are denied.
56. It is admitted that the document attached as Exhibit M to the Complaint is a written document that speaks for itself, is the best evidence of its contents, and must be read in the context of the whole.

FIRST CLAIM FOR RELIEF
(Request for Declaratory Relief)

57. Proposed Defendant-Intervenors incorporate by reference as though fully set forth here, answers in paragraphs 1-56.
58. The allegations state legal conclusions to which no response is required. To the extent a response is required, the allegations are denied.
59. The allegations state legal conclusions to which no response is required. To the extent a response is required, the allegations are denied.
60. The allegations state legal conclusions to which no response is required. To the extent a response is required, the allegations are denied.

SECOND CLAIM FOR RELIEF
(Request for Permanent Injunction)

61. Proposed Defendant-Intervenors incorporate by reference as though fully set forth here, answers in paragraphs 1-60.
62. The allegations state legal conclusions to which no response is required. To the extent a response is required, the allegations are denied.
63. The allegations state legal conclusions to which no response is required. To the extent a response is required, the allegations are denied.
64. The allegations state legal conclusions to which no response is required. To the extent a response is required, the allegations are denied.

MOTION FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION

1. Proposed Defendant-Intervenors incorporate by reference as though fully set forth here the preceding paragraphs.
2. The allegations state legal conclusions to which no response is required. To the extent a response is required, the allegations are denied.
3. The allegations state legal conclusions to which no response is required. To the extent a response is required, the allegations are denied.
4. Admitted.
5. Upon information and belief, admitted.
6. The allegations state legal conclusions to which no response is required. To the extent a response is required, the allegations are denied.

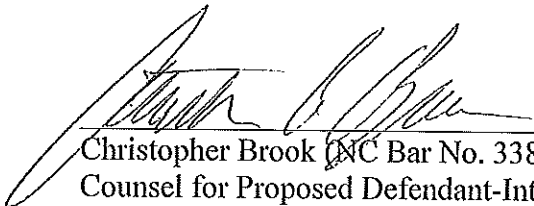
7. The allegations state legal conclusions to which no response is required. To the extent a response is required, the allegations are denied.
8. The allegations state legal conclusions to which no response is required. To the extent a response is required, the allegations are denied.
9. The allegations state legal conclusions to which no response is required. To the extent a response is required, the allegations are denied.
10. The allegations state legal conclusions to which no response is required. To the extent a response is required, the allegations are denied.
11. The allegations state legal conclusions to which no response is required. To the extent a response is required, the allegations are denied.
12. The allegations state legal conclusions to which no response is required. To the extent a response is required, the allegations are denied.
13. The allegations state legal conclusions to which no response is required. To the extent a response is required, the allegations are denied.

PRAYER FOR RELIEF

WHEREFORE, Defendant-Intervenors pray unto the Court that:

1. This action be dismissed with prejudice;
2. Costs and reasonable attorney's fees incurred in defending this action be awarded to Defendant-Intervenors; and
3. For such further relief as the Court deems just and proper.

This is the 15th day of September, 2011.


Christopher Brook (NC Bar No. 33838)
Counsel for Proposed Defendant-Intervenors
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1415 West Highway 54, Suite 101
Durham, NC 27701
Telephone: (919) 323-3380 ext. 113
Facsimile: (919) 323-3942

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served the above pleading or other document in this action, by:

Depositing a copy of such pleading or other document, enclosed in a first class, postpaid wrapper, properly addressed to the attorney(s) for the other party(s), in a post office or official depository under the exclusive care and custody of the United States Post Office.

Hand delivery to the attorney(s) for the other party(s). ~~(Pollard)~~

Hand delivery to the office of the attorney(s) for the other party(s). (Pollard)

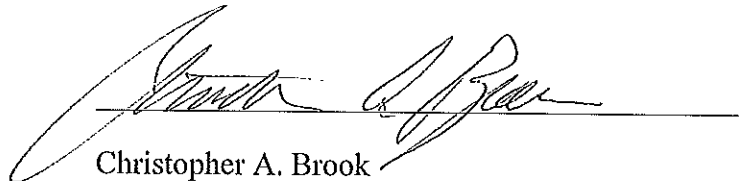
Via facsimile (Levitas)

as follows:

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Attorney for the Plaintiff

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Attorney for the Defendants

This 15th day of September, 2011.



Christopher A. Brook