

# The Politics of Garbage: The Influence of the Political Process on the Construction of a Refuse-to-Energy Plant\*

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In his recent book, *The New Season*, George F. Will quotes Finley Peter Dunne's fictional bartender, Mr. Dooley, to make the point that politics is a game not always suited for the faint of heart. "Politics ain't beanbag," Dooley says.<sup>1</sup> As the construction of garbage-to-energy plants becomes more political, this process, too, becomes a game only suited for those who can face the rough and tumble of the political arena.

Public officials cannot determine on their own that a refuse-to-energy plant is going to be built in a community. Even after all of

\* An earlier version of this paper was presented as part of a symposium on risk assessment sponsored by the Environmental Law Committee of the Association of the Bar of the City of New York on February 4, 1988.

As part of this symposium, participants were asked to consider the model of a hypothetical community, Middleburgh, whose public officials had determined that the existing waste disposal facilities serving Middleburgh would soon be inadequate to meet the community's needs. The public officials were exploring the process for the creation of a refuse-to-energy plant. A health risk assessment prepared as part of this process revealed that there would be less than one excess cancer death per million from the operation of the proposed plant. Local citizens, opposed to the project, commissioned their own risk assessment, which concluded that the plant would lead to at least 30 excess cancer deaths per million.

In addition to challenging the results of the municipal risk assessment survey, the citizen's group in this hypothetical also challenges the use of risk assessment as a basis for decisionmaking, arguing that it oversimplifies the problems which it is intended to address. Local officials defend the use of risk assessment as a necessary means of organizing the complex data which must be analyzed in reaching their decision.

The hypothetical problem further assumes that the plant was built and, ten years later, the town of Middleburgh is defending a toxic tort suit, brought by a resident who claims that the plant has caused or contributed to his illness. As part of his suit, the plaintiff attempts to introduce the risk assessment commissioned by the citizen's group ten years earlier.

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1. G. WILL, *THE NEW SEASON* 17 (1987).

the required research and environmental impact studies are complete, and the decision is made to build such a plant, nothing can be accomplished without politics. Without a doubt, the construction of a refuse-to-energy plant requires those involved with the process to spend seventy-five percent of their time and energy on politics and twenty-five percent on technical, scientific, and financial matters. Were a public official to advocate the creation of such a facility without first gaining adequate support from members of the community, he or she would surely guarantee that it would never be built.

If public servants are to be involved with the establishment and location of such a facility in their communities, then they need to know the obstacles they face. The construction of a refuse plant demands skillful political leadership much more than it requires technical, financial, and scientific management. This reality becomes particularly evident as the technology of refuse-to-energy plants advances.

Why is this so? The answer is that scientific advancements in the refuse-to-energy process have led to greater public awareness, and hence greater apprehension about refuse burning plants. A recent survey by the National Solid Wastes Management Association showed that nationally, forty-seven percent of those surveyed oppose the building of waste-to-energy plants, while thirty-six percent are in favor and eighteen percent were undecided.<sup>2</sup> This is as expected. With its increased awareness and understanding of the issues surrounding the refuse-to-energy process, members of the public will insist on, and should insist on, having a voice in the process of determining whether a facility should be constructed in their community.

Political leaders who want to serve the best interests of their constituents—and serve their own best interests by ensuring that they continue to remain in their elected positions—must take into account public sentiment. As a result, public officials must not only involve the community in all stages of the decisionmaking process, they must also educate citizens about refuse-to-energy and its alternatives.

I have had occasion to deal with such situations both in the public sector as County Executive of Westchester County, New York and in the private sector as President/CEO of Signal Envi-

2. *Survey Shows Opposition to Resource Recovery*, American City & County, Feb. 1989, at 20.

ronmental Systems, a company specializing in the refuse-to-energy industry. In the mid-1970's, Westchester County began to run out of landfill space. On top of this, the county relied upon the Croton dump in Croton, New York, which was leeching into the Hudson River. The United States Attorney's office was attempting to close the dump, so our alternatives were limited. We decided to pursue a refuse-to-energy plant.<sup>3</sup>

Refuse-to-energy has become an alternative because opening new landfills has become a small, if not non-existent, possibility. While landfills are still the dumping area of choice, receiving over eighty percent of the nation's waste, nearly one-third of the nation's landfills should be full within the next five years.<sup>4</sup> In 1987, the United States produced 160 million tons of solid waste. Overall, municipal garbage has increased more than sixty percent since 1960 and is expected to increase another twenty percent by the year 2000.<sup>5</sup>

Shipping garbage to another state or municipality is also a less feasible alternative than in the past. We are all familiar with the story of the Long Island garbage barge that traveled the Western Hemisphere looking for a place to leave its cargo.<sup>6</sup> Even if public officeholders are politically deft enough to convince their constituents to pay the cost of shipping or trucking waste to another city or state on a temporary basis, these officials would still be leaving themselves vulnerable to the whims of another community.<sup>7</sup> If public officials of the recipient jurisdiction some day decide no longer to accept the solid waste of outside communities, an exporting community which relies heavily on disposing of its waste outside its own borders faces a dilemma of crisis proportion.

The garbage crisis, however, often begins to loom without the public realizing that a potential disaster exists. Mr. and Mrs. Pub-

3. *DelBello Gives Cost of Solid-Waste Plan*, N.Y. Times, Jan. 5, 1978, at B4, col. 6.

4. Buery, K., *EPA Develops an Agenda for Action*, American City & Country, Feb. 1989, at 16.

5. *Id.*

6. *Up in Smoke: Garbage Finds Resting Place*, Newsday, Sept. 2, 1987, at 3, col. 3 (New York City ed.).

7. A recent article in the New York Times told how the city of Benton, Arkansas approved and then rejected an arrangement to import garbage from New York City. A simple newspaper story, six weeks after the city council approved the agreement, caused a public outcry which eventually quashed the deal. The sentiment against the contract was so great that nine weeks after its original unanimous vote to accept the garbage, the city council voted 10-0 to reject the agreement. See, *Garbage Is One Thing, but Garbage from New York? Forget It!*, N.Y. Times, Feb. 12, 1989, at 26, col. 2.

lic pull their garbage cans to the top of their driveway once or twice a week and, for all they are likely to know, the garbage magically disappears. They are aware, perhaps, that the garbage truck picks it up and takes it to a dump or landfill somewhere, and that is the extent of the involvement of most citizens with the process. They do not know about overfilling landfills and toxic pollution. The reason why Mr. and Mrs. Public do not feel threatened by the disaster that is about to occur in their community is because they are not even aware of it.

It is the obligation of the local chief executive, *i.e.* County Executive or Mayor, to convey to his or her constituents the urgency of the problem at hand. If the officeholder is to have any hope of garnering their support, the populace needs to be informed of the impending crisis, so as to develop an atmosphere which reflects the urgency of the situation. Second, the legislative body must be convinced of their responsibility to deal with the garbage problem. And not insignificantly, they should be reminded that unless the locality resolves its problem as soon as possible, the garbage issue will come back to haunt them.

In Westchester, my office followed a step-by-step approach that created the necessary sense of urgency and forced the legislature to take action. As I mentioned earlier, the U.S. Attorney's office had threatened to take the County to court if it did not close the Croton landfill. We decided to cooperate with the U.S. Attorney and initiate the process of closing the dump. In turn, with the County legislature supporting the move to close the dump, the crisis was created. We then worked with the County Legislature to create a solid waste plan that called for a countywide system of waste disposal.

Once the problem becomes public knowledge, a public relations effort must begin, starting with the local newspaper. Having a working relationship with the local press, I met with the local editorial board to tell them in advance what we were planning to do and to make it incumbent upon them to stress the upcoming garbage crisis. Once the local newspaper reports the story—or better yet, prints an editorial that puts the garbage crisis on the public policy front burner—the local chamber of commerce, business people and the citizenry have the chance to become educated on the issue. Without editorial support from the mass media, such a project is doomed.

Another recent example of how to increase public awareness through public relations and crisis management occurred in Jackson County, Michigan.<sup>8</sup> In that situation, political leaders anticipated community concerns and met them in a well thought out and thorough way. Faced with a shortage of landfill space, county officials sought to involve the community during the early stages of a search for additional landfill sites. The idea of more landfills sparked great debate and paved the way for the resource recovery plant, as community leaders found that regardless of the cost of the alternative, people were adamantly opposed to another landfill near their homes.<sup>9</sup>

County officials were not unaware of the opposition that resource recovery plants often face. Following completion of an incinerator feasibility study, rather than put the question of whether or not to build an incinerator before the public, Jackson County officials in 1984 asked for, and received, voter support for a full faith and credit bond proposal enabling the county to sell \$15 million in general obligation bonds. These bonds were used to finance the plant. Despite this concerted effort and advanced planning, the process took six years; however, the operation of the Jackson County Resource Recovery Facility is expected to extend the life of the county's landfill by almost fifteen years.<sup>10</sup>

If officeholders are effective politicians, they will use every means at their disposal to "get the word out." By taking advantage of their highly visible posts, they can publicize the issue via speaking engagements and op-ed pieces, as well as through members of the administration. Yet despite their stature as chief executives of their counties or cities, they must bring in scientific experts and outside consultants who will appear in various public forums so as to lend credibility to the government's claims.

After all of these actions are taken, the County Executive is in a good position to rally support for whatever alternative is chosen as the solution to the refuse crisis. A landfill or a garbage dump will usually emerge as the leading option, but as is often the case with leading candidates in American politics, it quickly becomes an untenable choice. The landfill is an especially troublesome option which would have an extremely difficult time winning ap-

8. J. Hastreiter, *New WTE Plant Gives County An Edge on Wastes Disposal*, 1988 *WORLD WASTES*, 34.

9. *Id.*

10. *Id.*

proval from environmental agencies. Alternative choices are very limited. The locality can consider recycling, refuse-derived fuel, a mass-burn system,<sup>11</sup> and a number of other magical systems that have never proven to be effective.

A refuse-to-energy plant, which converts garbage into electric power, soon becomes the leading contender. The numbers bear this out. There are now 140 municipal waste-to-energy plants in operation. Besides the facilities in operation, there are thirty to forty such plants under construction, seventy in the later stages of planning, and at least 150 in the early planning stages.<sup>12</sup>

In order to minimize the demands which will be placed upon the refuse-to-energy plant, the development of a comprehensive waste management plan that provides for recycling is recommended. But is everything essential then in place? Despite support from the county legislature, the press, and most importantly, the voters, the plan must be adopted and a site found for the plant.

A good site from an environmental perspective might be on the far edge of the city or county, where the population is sparse, or where winds are blowing out over the ocean or a desert. But the best site from an environmental point of view is not necessarily the most politically practical one. Solely from the environmental perspective, the best site in Westchester was right in the middle of the County Legislature Majority Leader's district.<sup>13</sup> That alone was bad enough, but he was also a member of the opposing political party. The site had to be scrapped.

Determining the site of a refuse-to-energy plant requires that special consideration be given to politically-sensitive areas, such as the Majority Leader's district and the home of the local party chairperson. Of course, you wouldn't want to put a garbage plant near the home or golf course of your two major fundraisers either. These decisions are not folly, they are political reality.

In Westchester, the city of Peekskill offered a site which was satisfactory to all.<sup>14</sup> Having settled on the site, we now had to sell the complete plan to the legislature. But before the members of

11. Mass-burn process plants accept garbage directly "off the street" without any advance separation or processing required.

12. Interview with M. Kilgore, editor of *Solid Waste & Power*, an industry journal (Feb. 1989).

13. *DelBello Tries Again On Waste Disposal*. N.Y. Times, Jan. 15, 1978, § A2, at 1, col. 5.

14. *Peekskill Seeking Solid-Waste Plant*. N.Y. Times, Nov. 16, 1978, at D18, col. 1.

the legislature can give their "thumbs up," there are other related issues that need further exploration. If the plant is going to be one of the mass-burn variety, for instance, the County Executive or Mayor needs to consider requirements that range from something as general as emission controls to something as specific as the height of the smoke stack.

Then there are the "nuts and bolts" issues of site selection. What happens to the water that's used for cooling and washing down the system? How many truckloads of garbage per day can the road leading to the plant handle? Does the neighborhood have the capacity to receive 200 or 300 truckloads? How much noise does the plant emit? What is its energy output?

If the plant is indeed a 200 truck-per-day facility, it needs to be accessible to large amounts of traffic. The issue of roadways then enters the picture. That issue, as a matter of fact, could very easily become a "road-block" in the development of the facility.

Public health issues pose another significant obstacle. A risk assessment study needs to be done to find what, if any, health risks are associated with the plant. Whatever the results, whether they be that one, two, or thirty people in a million have a chance of developing cancer, the public will not take the revelation well. Just the fact that an assessment needs to be done (whereas a health assessment is not necessary for a new road, for instance) is bound to make people nervous, and generate opposition.

The health issue can trigger other concerns. Just this past year, opposition in Cobb County, Georgia, held up construction of a \$100-million-plus waste-to-energy plant that would burn as many as 1,250 tons of trash per day to produce electricity and steam.<sup>15</sup> A 3,300-member homeowners federation opposed the plant on the grounds that most incinerators of the type proposed posed serious environmental, financial or operational problems. The group said they had concerns about the potential effects of an incinerator on air and water quality and the financial health of the county.

The recent survey by the National Solid Waste Management Association<sup>16</sup> found that respondents were very concerned about potential threats to the environment from waste-to-energy plants. When asked to be more specific, seventy-two percent listed air

15. *Plan Stirs Opposition in Fast-Growing Suburb*, E.N.R., May 5, 1988, at 17.

16. *Survey Shows Opposition to Resource Recovery*, *supra* note 2.

emissions as a serious cause for concern, while fifty-four percent cited groundwater pollution from ash.<sup>17</sup>

Indeed, politicians who plan for refuse-to-energy plants must cover every angle. While I was President/CEO of Signal Environmental Systems, we spent four years and millions of dollars to build a refuse-to-energy plant in San Diego, California, before local opposition created a groundswell that eventually killed it. It seems that in the effort to get approval for the plant and close the local landfill, city leaders had failed to see that the landfill still had some life in it.<sup>18</sup> As long as San Diego was able to send garbage to the landfill, there was no apparent need for a refuse plant, and thus the public was not motivated to support their elected officials.

There is indeed a lot of garbage in politics. There is also a lot of politics in garbage.

17. *Id.*

18. *Trash Plant Up to Public*, E.N.R., Aug. 20, 1987, at 17.