

ORANGE COUNTY
BOARD OF COMMISSIONERS

ACTION AGENDA ITEM ABSTRACT

Meeting Date: February 2, 2010

Action Agenda
Item No. 6-e

SUBJECT: Resolution Approving a No Fault Privately-Owned Well Repair Concept and Authorizing the Development and Implementation of a No Fault Privately-Owned Well Repair Policy for Properties Near the Orange County Landfill

DEPARTMENT: County Manager

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

INFORMATION CONTACT:

Frank Clifton, County Manager, 245-2300

Resolution Approving a No Fault Privately-Owned Well Repair Concept and Authorizing Staff To Proceed With the Development and Implementation of a No Fault Privately-Owned Well Repair Policy for Properties Near the Orange County Landfill (with Attachment – Orange County Solid Waste Landfill Impact Zone – No Fault Privately Owned Well Repair Policy Proposal)

Orange County Landfill Area 2008 with 3,000 Foot Buffer Selection

PURPOSE: To consider a resolution approving a no fault privately-owned well repair concept and authorizing staff to proceed with the development and implementation of a no fault privately-owned well repair policy for properties near the Orange County Landfill.

BACKGROUND: In 1999, Orange County, the Town of Chapel Hill, the Town of Carrboro and the Town of Hillsborough entered into agreement whereby Orange County (subject to the terms of the agreement) assumed the solid waste management responsibility for the disposal of solid waste county-wide. Among the many items covered in detail with the agreement were provisions for the County to address various improvements within the 'area' neighboring the landfill property at the time the agreement was established.

Since the County has assumed the responsibility for managing the Solid Waste Landfill property and its functions, residents have expressed concerns pertaining to several issues including unconfirmed or documented failures of personal, privately-owned wells and septic systems serving individual residents within the general area of the landfill.

In 2002, the Orange County Board of Health and the Orange County Board of Commissioners adopted a No Fault Well Repair Fund Policy as part of resolving issues associated with a mining operation conducted by Martin Marietta elsewhere within Orange County.

Circumstances differ substantially from that of the Solid Waste Landfill operation but the parameters of that policy do align with the general aspects of addressing failed or failing personally owned private wells and septic systems. Similar in concept to the policy established in 2002 referenced above, a well repair policy could be established that would be funded via revenues generated by the Solid Waste operations.

Staff provided a draft proposal for such a policy at the Board's November 17, 2009 regular meeting to solicit input and feedback from the Board. In follow-up to that discussion, it is proposed that the Board approve the attached resolution approving the concept and authorizing staff to proceed with actual development and implementation of a formal policy. Staff would meet with the County's solid waste partners to assure concurrence and upon implementation initiate contact with residents within the impact area served by a non public water supply.

FINANCIAL IMPACT: The funds to support this no fault privately-owned well repair policy for properties near the Orange County Landfill will come from current landfill revenues/fees or a surcharge depending upon staff estimates and experiences at replacing wells.

RECOMMENDATION(S): The Manager recommends that the Board approve and authorize the Chair to sign the resolution approving a no fault privately-owned well repair concept and authorizing staff to proceed with the development and implementation of a no fault privately-owned well repair policy for properties near the Orange County Landfill.

ORANGE COUNTY BOARD OF COMMISSIONERS

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Resolution Approving the No Fault Privately-Owned Well Repair Concept and Authorizing the Development and Implementation of a No Fault Privately-Owned Well Repair Policy for Properties Near the Orange County Landfill

Whereas, in 1999, Orange County, the Town of Chapel Hill, the Town of Carrboro and the Town of Hillsborough entered into agreement whereby Orange County (subject to the terms of the agreement) assumed the solid waste management responsibility for the disposal of solid waste county-wide; and

Whereas, among the many items covered in detail with the agreement were provisions for the County to address various improvements within the 'area' neighboring the landfill property at the time the agreement was established; and

Whereas, since the County has assumed the responsibility for managing the Solid Waste Landfill property and its functions, residents have expressed concerns pertaining to several issues including unconfirmed or documented failures of personal, privately-owned wells and septic systems serving individual residents within the general area of the landfill; and

Whereas, staff developed the attached private residential well repair program proposal wherein wells within an impact area (3000 feet of the landfill's boundary) could qualify for consideration for repair or replacement; and

Whereas, this program is proposed for funding via revenues from current Solid Waste landfill revenues/fees or a surcharge depending upon staff estimates and experiences at replacing wells; and

Whereas, staff presented this program proposal to the Board of Commissioners at its November 17, 2009 regular meeting to solicit Board input and feedback; and

Whereas, the County Public Health Department would need to confirm the need for repair before any well repair or replacement actions commenced;

Now Therefore Be It Resolved that the Orange County Board of Commissioners approves the no fault privately-owned well repair concept and authorizes staff to proceed with the development and implementation of a no fault privately-owned well repair policy for properties near the Orange County Landfill.

Be It Further Resolved that the Board directs staff to meet with the County's solid waste partners to assure concurrence and upon implementation initiate contact with residents within the impact area served by a non public water supply.

This the 2nd day of February 2010.

Valerie P. Foushee, Chair
Orange County Board of Commissioners

**ORANGE COUNTY SOLID WASTE LANDFILL IMPACT ZONE
NO FAULT WELL REPAIR POLICY AUTHORIZATION**

In 1999, Orange County, the Town of Chapel Hill, the Town of Carrboro and the Town of Hillsborough entered into agreement whereby Orange County (subject to the terms of the agreement) assumed the solid waste management responsibility for the disposal of solid waste county-wide. Among items covered within that agreement were provisions to address community improvements within the 'areas' neighboring the existing landfill.

Page 9-10 of the agreement provides:

PART 6. The County will finance community benefits from system funds to the extent legally permissible.

The Parties will cooperate to provide public benefits to the community of residents and property owners in the neighborhood of the existing landfill.

The Parties note the expected forthcoming report of the Landfill Benefits Committee that has been studying the question of community benefits. Upon the release of the report, each Part shall provide for its Governing Board to discuss the working group's proposal for community benefits, and shall provide for such legal and other staff analysis of the proposed list as it may deem appropriate (especially including legal analysis concerning the use of System funds to pay the costs of such benefits). After each Party has completed its own analysis, the Parties shall work together, diligently and in good faith, to reach an agreement as to community benefits to be provided. The purpose of determining community benefits shall continue to include participation by persons belonging to the relevant community. Final determinations of the public benefits to be provided, the sources of financing and the mechanisms for providing the benefits, however, shall be made only by further agreement of all the Parties.

The Parties state their preference that benefits be financed from System funds to the extent permitted by law. To the extent permitted by law and by generally accepted accounting principles, to the extent determined by the Parties and notwithstanding any other provision of this Agreement, the costs of providing public benefits as described in this Part 6 may be treated as an expense of the System and may be paid from System Revenues.

The public benefits contemplated by this Section are to be considered as separate and distinct from any compensation determined to be owed for any "taking" of an interest in property as determined by State or Federal law.

Action taken to address any issue determined to fall within the scope of the agreement of the Parties is subject to revenues attributed to the operation of the landfill or the willingness of the Parties to fund improvements beyond the scope of landfill revenues.

In 2002, the Orange County Board of Public Health and the Orange County Board of Commissioners adopted a: **NO FAULT WELL REPAIR FUND POLICY** as part of resolving issues associated with a mining operation conducted by Martin Marietta elsewhere within Orange County. Circumstances differ from the Solid Waste Landfill operation but parameters of this policy align with aspects of addressing failed or failing personally owned private wells and septic systems.

PARAMETERS OF A NO FAULT WELL REPAIR FUND POLICY

Similar in concept to the policy established in 2002 referenced above a private residential well repair program is proposed for a designated impact area surrounding the county landfill property to be funded via revenues generated by Solid Waste operations. It is important that these issues be addressed sooner than later in that the actual operation of the landfill is scheduled to end within a short period of time. After that time, revenue streams that support the landfill operation may be drastically reduced.

Individual residential well problems within an impact area (3000 feet of the landfill’s boundary) would qualify for consideration of repair or replacement through this program.

In each case, the County Public Health Department will confirm the need for repair. The County’s effort will focus on repair or replacement of existing privately owned residential wells. If, site conditions or other limitations do not allow for a repair or replacement of an existing failed residential well, consideration will be given to extending a connection to a public water source if available. Those instances will be analyzed on a case by case basis and only pursued with agreement that the property owner assume future responsibility for user costs once the connection is complete.

SUMMARY

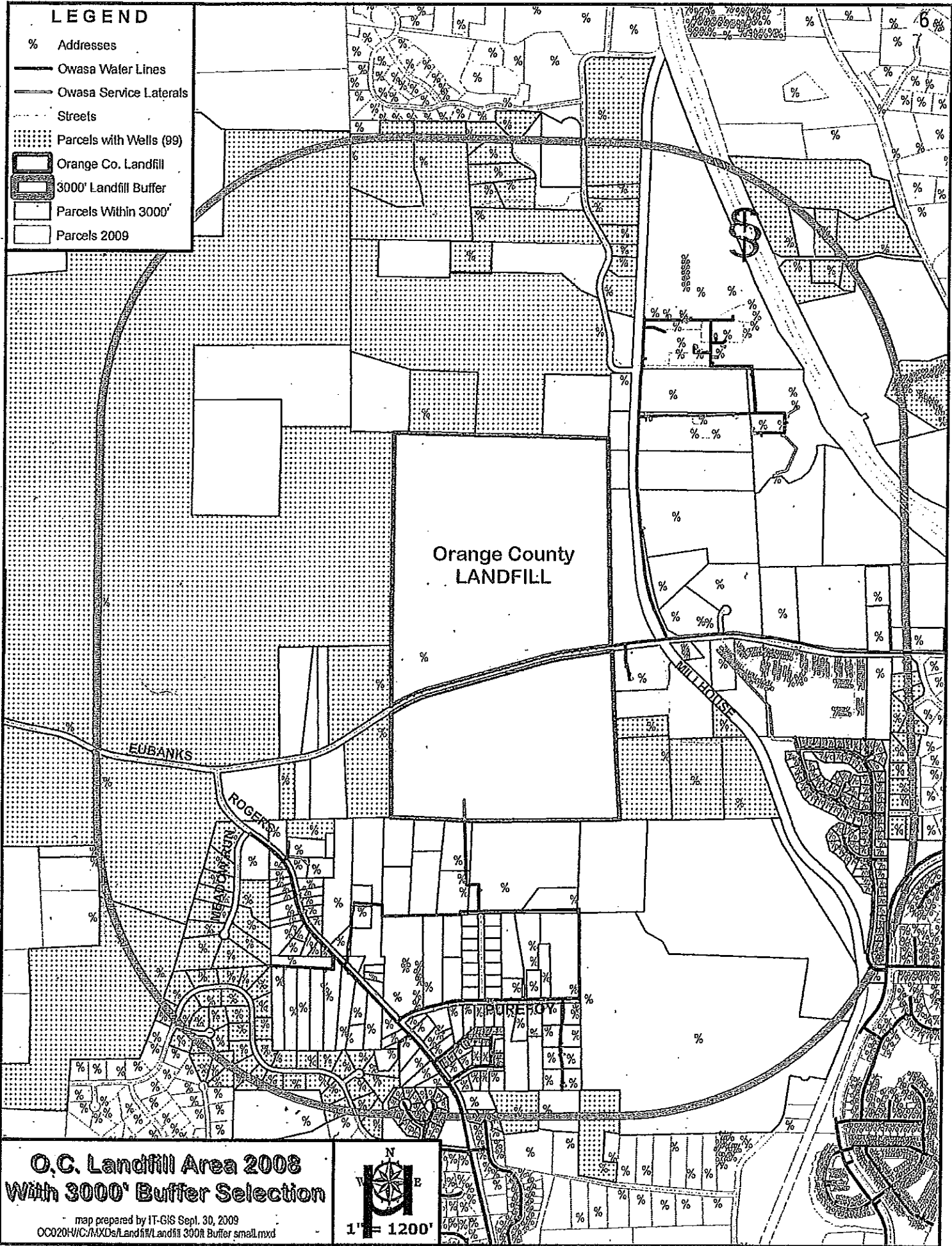
County staff will initiate administrative policy in coordination with the Towns in regards to future budget considerations and a solid waste disposal fee structures that provide adequate funding for the program. This program will be managed within the County’s Solid Waste Division in cooperation with the County Public Health Department. Appropriate guidelines and budgetary allocations will be established subject to annual appropriations and continued support of the Towns.

Frank W. Clifton, Jr.
County Manager

1/11/10

LEGEND

- % Addresses
- Owasa Water Lines
- Owasa Service Laterals
- Streets
- ▨ Parcels with Wells (99)
- ▭ Orange Co. Landfill
- ▭ 3000' Landfill Buffer
- ▭ Parcels Within 3000'
- ▭ Parcels 2009



**O.C. Landfill Area 2008
With 3000' Buffer Selection**

map prepared by IT-GIS Sept. 30, 2009
OC020\WC\MXD\Landfill\Landfill 300ft Buffer small.mxd

