

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: October 8, 2013

**Action Agenda
Item No. 2**

SUBJECT: Review the Process of Creating a Solid Waste Collection and Disposal System Service District

DEPARTMENT: Solid Waste/Recycling

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

- A) Draft Notice of Public Hearing
- B) Draft Resolution Establishing a Solid Waste Collection and Disposal System Service District

INFORMATION CONTACT:

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John Roberts, 245-2318
Michael Talbert, 245-2308

PURPOSE: To review the process of creating a Solid Waste Collection and Disposal System Service District and the possible inclusion of the Towns.

BACKGROUND: Orange County is recognized as being number one in the state for waste reduction, reaching 59% of its 61% aggressive reduction. The County is disposing only 0.56 tons/person compared to the base year of 1991-92, when the disposal rate measured 1.36 tons. In the region, Wake County has achieved a 25% reduction rate, Durham County rate is at 21%, Chatham County is 37%, and Alamance County with 26%. Orange County's 61% waste reduction goal was adopted in 1997 by the County and by the Towns of Carrboro, Chapel Hill and Hillsborough as part of the County's original Comprehensive Solid Waste Plan. The County is committed to robust public education services and waste reduction programs regardless of the funding options preferred by the Board.

The County's Reduce, Reuse & Recycle (3-R) Fees previously consisted of four annual recycling fees adopted by Orange County in 2004 to fund recycling programs and services that are billed in conjunction with the annual property tax. The fees consisted of a Basic Fee (\$37/year) that was charged to all improved properties county-wide and funds various recycling operations such as the county Toxicity Reduction Improvement Program (Household Hazardous Waste, batteries, waste oil, electronics, etc.), recycling drop-off sites, recycling at solid waste convenience centers, education and outreach, enforcement, planning, etc. An Urban Curbside Fee (\$52/year) was assessed to improved residential properties within incorporated municipalities and funded weekly curbside recycling service. A Rural Curbside Fee (\$38/year) was charged to residential property in areas of unincorporated Orange County eligible to receive bi-weekly curbside recycling service. Finally, a Multi-family Fee (\$19/year) was charged multi-family units throughout Orange County for multi-family recycling services.

Not related to recycling, the County also assesses a county-wide Solid Waste Convenience Center Fee that is billed in conjunction with the annual property tax. The Unincorporated Areas

Fee is (\$20/year/Household); the Incorporated Areas Fee is (\$10/year/Household), and the Multi-family Fee is (\$2/year/multi-family unit). This basic Solid Waste Convenience Center Fee covers a portion of the operating costs of the County's five (5) Convenience Centers.

A recent court decision, *Lanvale v Cabarrus County*, essentially stated that where there was no direct statutory authority to levy a fee, a local government cannot levy a fee. Since the *Lanvale* opinion was issued, Orange County's staff has been engaged in discussions regarding how, going forward, the County can best address the issues created by this action by the Supreme Court. The Supreme Court decision indicates that the Basic Fee is likely consistent with existing law, but the Urban, Rural and Multi-family recycling fees may not be consistent with existing case law. The County Manager recommended that the Board of County Commissioners cease assessing the Urban, Rural and Multi-family recycling fees beginning with Fiscal Year 2013/14 Annual Budget. The County Manager further recommended funding these services for Fiscal Year 2013/14 only with solid waste enterprise fund reserves in order to allow the Board of Commissioners time to resolve the funding problem.

The Rural Curbside program currently is limited to 13,730 households eligible in the unincorporated area of the County. These services are provided by County Solid Waste staff. Just 6,000 households lack access to rural curbside service at this time. Waste collections in unincorporated Orange County are provided by several private haulers, without a County Franchise Agreement, on a voluntary basis to those using the services.

The Urban Curbside recycling serves Chapel Hill, Carrboro and Hillsborough municipal residents. The services are paid for by Orange County Solid Waste under contract with Waste Industries, Inc. and the towns are responsible for household solid waste within their town limits.

The Multi-family recycling serves multi-family establishments in both incorporated and unincorporated Orange County. The multi-family recycling services are provided by Orange County Solid Waste staff.

On April 9, 2013 the Board reviewed eight (8) options for Orange County to fund the County's Solid Waste and Recycling Services and eliminated a county-wide Franchise agreement from consideration. The Board held a public hearing on April 23, 2013 to receive public comments on the top three (3) options identified by the Board on April 9, 2013. Attachment 2 provides a detailed assessment of the three (3) options considering the Board's goals and commitment to recycling. Those options are:

- 1) Create a County-Wide Solid Waste Management Authority,
- 2) Create a Solid Waste Tax Service District; and
- 3) Eliminate Rural Curbside Recycling.

The Board unanimously wished to maintain the current recycling program and

- Directed the Manager to meet with the Managers of Carrboro, Chapel Hill and Hillsborough to determine their willingness to participate, to ascertain their needs and concerns, and report back to the Board of Commissioners by the end of 2012-13 fiscal year so that the county may proceed with implementation;
- Directed the Chair to meet with the three Mayors for a similar, parallel discussion;
- Adopted an interim funding plan for 2013-14 at the end of this fiscal year;
- Committed to further investigate both a Solid Waste Tax Service District and a Solid Waste Authority.

A county-wide Solid Waste Tax Service District approach is a more comprehensive and flexible option that would include the Towns and the current Rural Curbside Service Area. A Tax Service District can provide services via County staffing, contracted, optional or mandatory programs or otherwise formulated approaches to both solid waste and recycling services as long as services are delivered and funded on some basis county-wide in the unincorporated areas of the County and can allow one or more towns to opt into the District. The effective date of a new Solid Waste Tax Service District would be July 1, 2014.

There is a process to create a Solid Waste Tax Service District that is identical to the process used for the creation of Fire Service Districts completed in the spring of 2013.

Schedule and Publish a Notice of Public Hearing:

Prior to the Public Hearing, the County must prepare a Report on the district. A copy of the report must be kept in the Clerk's office. The report must contain the following:

1. A map of the proposed district, showing its proposed boundaries;
2. A statement showing that the proposed district meets the standards set out in subsection (a); and
3. A plan for providing one or more of the services listed in G.S. 153A-301 to the district.

The Report should also include:

1. The resident or seasonal population and population density of the proposed district.
2. The appraised value of property subject to taxation in the proposed district.
3. The present tax rates of the county and any cities or special districts in which the district or any portion thereof is located.
4. The ability of the proposed district to sustain the additional taxes necessary to provide the services planned for the district.
5. If it is proposed to furnish water, sewer, or solid waste collection services in the district, the probable net revenues of the projects to be financed and the extent to which the services will be self-supporting.
6. Any other matters that the commissioners believe to have a bearing on whether the district should be established

Notice of Public Hearing must be mailed (first class prepaid is fine), at least 4 weeks prior to the date of the public hearing, to the "owners as shown by the county tax records as of the preceding January 1 (and at the address shown thereon) of all property located within the proposed district." The preceding January 1 is the January 1 prior to the public hearing. The commissioners designate who handles the mailing. If the towns choose to be included in the district, the BOCC can designate the towns to conduct the mailing to all owners of district properties located within town limits.

The Notice of Public Hearing must be published at least one week prior to the public hearing. A map of the service district must be attached to the notice and the resolution.

If the Towns authorize the County to collect and charge a fee for recycling within their town limits, as Chapel Hill recently did for areas within its limits located in Durham County, there would be no need to include the towns in the service district. A fee structure similar to what the county has always had could be implemented. Included in the Fiscal 2013-2014 Annual

Budget, Chapel Hill gave the County authorization to collect recycling and impose fees in its Durham County jurisdiction. If this authorization was used by the towns it would be an easier way to reach the same goal.

The Town of Chapel Hill is exploring alternative options for solid waste disposal, as well as ways of increasing efficiency with solid waste collection. The Town contracted SCS Engineers to provide a Comprehensive Review of Solid Waste Collection and Disposal Options (study). The study examines the Town's current solid waste collections and disposal programs to identify opportunities to enhance these services, improve efficiencies, and evaluate innovative technologies in the solid waste industry. The Chapel Hill Town Council will begin discussion of Solid Waste options in October 2013 and is not ready make a commitment to join a Solid Waste Tax Service District.

Both the Town of Carrboro and the Town of Hillsborough have indicated an interest in being part of a Solid Waste Tax Service District.

In Fiscal Year 2013-14 the Basic 3R Fee of \$37/year was charged to all improved properties county-wide and funds various recycling operations such as the County Toxicity Reduction Improvement Program (Household Hazardous Waste, batteries, waste oil, electronics, etc.), recycling drop-off sites, recycling at solid waste convenience centers, education and outreach, enforcement, planning, etc. The Urban Curbside Fee of \$52/year, the Rural Curbside Fee of \$38/year and the Multi-family Fee of \$19/year were not billed in Fiscal Year 2013-14. Solid Waste Reserves were utilized to fund the County's Recycling Program in Fiscal Year 2013-14 and is not an option for Fiscal Year 2014-15.

FINANCIAL IMPACT: There is no financial impact to the County in discussing funding options for the County's Recycling Programs.

RECOMMENDATION(S): The Interim Manager recommends that the Board discuss a Solid Waste Tax Service District and provide guidance to staff.

**NOTICE OF PUBLIC HEARING
ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS**

Pursuant to the requirements of the General Statutes of North Carolina, Chapter 153A-302(c) notice is hereby given that the Board of County Commissioners will hold a Public Hearing in the meeting room located at _____, on Tuesday _____ at 7:00 p.m. for the purpose taking specific action on the following item:

Creation of a solid waste collection and disposal system service district.

1. A report prepared on the proposed district as required by N.C.G.S. 153A-302(b) may be inspected in the Office of the Clerk to the Board of County Commissioners located in the John Link Government Services Building located at 200 South Cameron Street, Hillsborough, North Carolina between 8:00 a.m. and 5:00 p.m., Monday through Friday.
2. A map of the proposed solid waste collection and disposal system service district is attached as Exhibit One.

Questions regarding the proposed solid waste collection and disposal system service district may be directed to the office of _____ located on the second floor of the _____, Hillsborough, North Carolina, 27278. Office hours are from 8:00 a.m. to 5:00 p.m., Monday through Friday. You may also call (919) 245-XXXX extension_____.

PUBLISH:
NEWS OF ORANGE CHAPEL HILL HERALD

**ORANGE COUNTY BOARD OF COMMISSIONERS
RESOLUTION ESTABLISHING A SOLID WASTE COLLECTION AND DISPOSAL
SYSTEM SERVICE DISTRICT**

WHEREAS, the Orange County Board of County Commissioners ("Board") has determined there is a need to establish a solid waste collection and disposal system service district in order to provide for the health, safety, and general welfare of the residents of the area shown on Attachment 1 hereto that being the solid waste collection and disposal system service district ("District"); and

WHEREAS, in accordance with Article 16 of Chapter 153A of the North Carolina General Statutes the Board conducted a public hearing on the establishment of the District; and

WHEREAS, during the public hearing and in determining whether to establish the District the Board considered the resident or seasonal population and population density of the proposed District, the appraised value of property subject to taxation in the proposed District, the present tax rates of the county and any cities or special districts in which the District or any portion thereof is located, the ability of the proposed District to sustain the additional taxes necessary to provide the services planned for the District, the probably net revenues of the projects to be financed and the extent to which the services will be self-supporting, and the overall need for solid waste collection, disposal, and recycling in the District.

NOW, THEREFORE, BE IT RESOLVED, the Board finds that there is a demonstrable need for providing solid waste collection, disposal, and recycling in the District as authorized by N.C.G.S. 153A-301(a)(5), it is impossible or impracticable to provide those services on a countywide basis, it is economically feasible to provide the proposed services in the District without unreasonable or burdensome annual tax levies, and there is a demonstrable demand for the proposed services by persons residing in the District.

BE IT FURTHER RESOLVED that for all the foregoing reasons the Orange County Board of Commissioners hereby establishes a solid waste collection and disposal system service district in the areas of Orange County shown on Attachment 1.

Passed the ____ day of _____, 201__ and having an effective date of July 1, 2014.

Barry Jacobs, Chair
Orange County Board of Commissioners

Attest:

Clerk to the Board of Commissioners