

April 7, 2014

The Randolph County Board of Commissioners met in regular session at 6:00 p.m. in the 1909 Randolph County Historic Courthouse Meeting Room, 145 Worth Street, Asheboro, NC. Commissioners Holmes, Frye, Haywood and Lanier were present. Commissioner Kemp was absent. Vice Chairman Darrell Frye gave the invocation and everyone recited the pledge of allegiance.

### **Recognition of Retiree**

Major Johnny Hussey, who retired on April 1<sup>st</sup> with 22 years of service to Randolph County Sheriff's Office, was recognized by Sheriff Reid, who presented him with the Advanced Service Award. Col. Fred Rutledge read Major Hussey's bio, after which, Chairman Holmes presented Major Hussey with an engraved clock on behalf of the Board.

### **Public Comment Period**

Pursuant to N.C.G.S. § 153A-52.1, Chairman Holmes opened the floor for public comment. County Attorney Ben Morgan read aloud the Public Comment Rules of Procedure.

**Alan Ferguson**, 4794 Troy Smith Road, Liberty, said that on Friday, April 4, 2014, a real estate agent named Sam Simpson, with Simpson, Schulman and Beard, appeared as one of the panelists at the Triad Business Journal's annual State of Randolph event, at which the Greensboro-Liberty mega site was discussed. Mr. Ferguson said that not all the information that was presented was correct. He said that Mr. Simpson noted that the purchase and work-up of the Greensboro-Liberty mega site would cost \$50 million. Mr. Ferguson said that in response to the statement, Bobby Ferguson, who attended the State of Randolph event, asked why that sum shouldn't be applied to the already assembled and unopposed Chatham-Randolph site. Mr. Simpson responded that the state's best interest requires that we have "more than one developed site."

Mr. Ferguson said that since we all want what is best for North Carolina, and since even our state government has limited money, it is important to recognize that North Carolina already has 13 available large industrial sites. He said that according to *Site Selection Magazine* those sites are

- Aulander - Hearts Delight site - 1900 acres
- Elizabeth City - Tanglewood site - 5915 acres
- Forest City – Riverstone site – 1000 acres
- Hamlet – Pine Hills site – 1500 acres
- Jackson – Vernona Plantation site - 3943 acres
- Laurinburg – Laurinburg-Maxton site – 2000 acres
- Morganton – Great Meadows site – 1200 acres
- Newton Grove – I-40 site – 1161 acres
- Rocky Mount – Mid-Atlantic site – 1688 acres
- Rocky Mount – Kingsboro Rose site – 1307 acres
- Saratoga – Norwood site – 1315 acres
- Southern Pines – Monroe site – 1130 acres
- Winton – Hertford site – 1700 acres

**Jon Nance**, 3483 New Hope Church Rd, Asheboro, said that he has a series of presentations he and like-minded colleagues would like to make to the Commissioners for their consideration and educational value of the issues. He stated that he and other concerned citizens plan to speak

regarding the Second Amendment Preservation Act next month. Another issue he said he plans to cover in the future is the nullification of higher governing bodies regarding the cultivation of agricultural hemp for industrial use and the economic benefits it could have for the county, as well as, using nullification to encourage the reform of marijuana laws perhaps by copying the Colorado model. He said that later on in the year he would like to discuss currency alternatives or local currency for Randolph County that would work in conjunction with national currency.

**Changes to Consent Agenda**

Chairman Holmes announced the correction of a portion of Item A- changed to *Minutes of 3/26/14 Special Meeting (Planning Retreat)* instead of *3/12/14 Special Meeting (Planning Retreat)* to the Consent Agenda.

**Approval of Consent Agenda**

*On motion of Frye, seconded by Lanier, the Board voted unanimously to approve the Consent Agenda, as amended:*

- *approve minutes of 3/10/14 regular meeting; 3/12/14 special joint meeting with HLPC; 3/26/14 Special Meeting (Planning Retreat) and 5 Sets Closed Sessions;*
- *unseal closed session minutes of 2/3/14I (Brookline);*
- *approve Lottery Applications for Randolph County Schools at \$1,500,000 (Providence Grove HS--06 COPS) and Asheboro City Schools at \$400,000 (Teachey School--06 COPS);*
- *approve Budget Amendment #26 for Transfer to Emergency Telephone System Fund (\$11,540), as follows:*

<b>2013-2014 Budget Ordinance—General Fund—Budget Amendment #26</b>		
<b>Appropriations</b>	<b>Increase</b>	<b>Decrease</b>
<i>Emergency Services</i>		<i>\$11,540</i>
<i>Transfer to Emergency Telephone System Fund</i>	<i>\$11,540</i>	

<b>2013-2014 Budget Ordinance—Emergency Telephone System Fund—Budget Amendment #26</b>		
<b>Revenues</b>	<b>Increase</b>	<b>Decrease</b>
<i>Transfer from General Fund</i>	<i>\$11,540</i>	
<i>Appropriated Fund Balance</i>		<i>\$11,540</i>

- *approve Litter Sweep Proclamation, as follows:*

***Spring Litter Sweep April 26 – May 10, 2014***

***WHEREAS***, the North Carolina Department of Transportation organizes an annual spring statewide roadside cleanup to ensure clean and beautiful roads in North Carolina; and

***WHEREAS***, the spring 2014 LITTER SWEEP roadside cleanup will take place April 26 – May 10, 2014, and encourages local governments and communities, civic and professional groups, businesses, churches, schools, families and individual citizens to participate in the Department of Transportation cleanup by sponsoring and organizing local roadside cleanups; and

***WHEREAS***, Adopt-A-Highway volunteers, Department of Transportation employees, Department of Correction inmates and community service workers, local government agencies, community leaders, civic and community organizations, businesses, churches, schools, and environmentally concerned citizens conduct annual local cleanups during LITTER SWEEP and may receive certificates of appreciation for their participation; and

***WHEREAS**, the great natural beauty of our state and a clean environment are sources of great pride for all North Carolinians, attracting tourists and aiding in recruiting new industries; and*

***WHEREAS**, the cleanup will increase awareness of the need for cleaner roadsides, emphasize the importance of not littering, and encourage recycling of solid wastes; and*

***WHEREAS**, the spring 2014 LITTER SWEEP cleanup will celebrate the 26th anniversary of the North Carolina Adopt-A-Highway program and its 5,760 volunteer groups that donate their labor and time year-round to keep our roadsides clean; and*

***WHEREAS**, the LITTER SWEEP cleanup will be a part of educating the children of this great state regarding the importance of a clean environment to the quality of life in North Carolina;*

***WHEREAS**, Governor Pat McCrory proclaimed April 26 – May 10, 2014 as “LITTER SWEEP” time in North Carolina and encourages all citizens in all 100 counties to take an active role in making their communities cleaner; and*

***WHEREAS**, the Randolph County Board of Commissioners, on March 12, 2001, voted unanimously to give blanket approval for waiver of tipping fees at the solid waste facility for the Department of Transportation as they bring in the debris collected during any of their spring or fall Litter Sweep Roadside Cleanup programs;*

***NOW, THEREFORE**, the Randolph County Board of Commissioners join with the Governor and Department of Transportation and also proclaim April 26 – May 10, 2014 as “LITTER SWEEP” time in Randolph County and urge all citizens to participate.*

- *approve Budget Amendment #27 for Public Library (\$20,000 RCPC Grant), as follows:*

<b>2013-2014 Budget Ordinance—General Fund—Budget Amendment #27</b>		
<b>Revenues</b>	<b>Increase</b>	<b>Decrease</b>
<i>Restricted Intergovernmental</i>	\$20,000	
<b>Appropriations</b>	<b>Increase</b>	<b>Decrease</b>
<i>Public Library</i>	\$20,000	

- *appoint Hal Kirkman to Liberty Planning Board/Board of Adjustment (ETJ member);*
- *adopt DOT resolution to abandon 0.117 mile section of SR 1514, Old Way Road, as follows:*

**RESOLUTION**

***WHEREAS**, the Department of Transportation has investigated the 0.117 mile SR 1514 Old Way Road in Randolph County for purposes of abandonment; and*

***WHEREAS**, it has been determined that this portion of subject road should be abandoned from the Division of Highways’ Secondary Road System.*

***NOW, THEREFORE, BE IT RESOLVED** by the Randolph County Board of Commissioners that the 0.117 mile SR 1514 Old Way Road in Randolph County be abandoned from the Division of Highways’ Secondary Road System.*

*This is the 7th day of April, 2014.*

**Approval of Town of Ramseur Request for CDBG Local Match**

John Grey, PE, The Wooten Company, said that the Town of Ramseur was contacted earlier this year by Linda Blalock with NCDENR Underground Storage Tank Section regarding the possibility of Ramseur providing water to an area near Browns Grocery where they have found petroleum and PCE contaminates. Browns Grocery is located at the intersection of Whites Chapel Rd. to the west, Old Staley Rd. to the east and NC Highway 49. The State has been working in this area since 1998 on addressing water supply issues, and they have determined the best solution for water supply in this area is municipal water.

The Town asked The Wooten Company to investigate the feasibility of providing water in this area and funding sources. The Wooten Company's preliminary review has determined that because the area is 200 feet higher in elevation than the Town, a booster pump station will need to be installed to increase the water pressure to serve the area. It is also suggested that a 150,000-gallon elevated water storage tank be built to provide a stable water supply to the area. A twelve-inch water line from Ramseur to the Browns Grocery area is recommended along with some distribution lines to serve the houses in the area. At this time, approximately 28 homes in the Browns Grocery area have been tested and show some contamination of their wells. There are approximately 65 other homes along NC Highway 49 that could obtain municipal water from this water line. This line could also be extended in the future to serve the Staley area (approximately 300 homes and businesses) and could be extended in the future to Liberty as a redundant water supply.

Mr. Grey said the Town of Ramseur has decided to apply for a 2013 CDBG Infrastructure grant that has a maximum amount of \$3 million. In the past, DCA has required a local match of 5% in counties that were not Tier 1. This is not a requirement in this funding round; however, if two projects have equal point totals, the local match will be used as a tie breaker.

Mr. Grey stated that the grant will not pay for service lines on private property, but does require a mandatory hook up of the houses in the area the project is serving (28 homes). The cost from the right-of-way to the house would need to be paid out of a local match. This would be approximately \$1,000 per home or \$28,000. The Town of Ramseur is requesting the County pay this local match portion of the project cost since the homes are located outside Ramseur's municipal limits. The Town of Ramseur will manage the project, will be considered the owner of the line, and will provide operation and maintenance of the system.

The proposed project would cost approximately \$3.3 million broken down to \$2.5 million for construction and contingency and \$0.53 million in other services.

Mr. Grey said that 24 fire hydrants would be installed along the line and estimated it would take at least a year, if not longer, once advertising begins for contracts.

*On motion of Frye, seconded by Haywood, the Board voted unanimously to approve the expenditure of \$28,000 to the Town of Ramseur as a local match for a CDBG infrastructure grant for water line extension.*

### **Public Hearing and Adoption of Resolutions Effecting Merger of Sophia/Tiger Country Fire Districts into Randleman-Sophia Fire Service District**

Associate County Attorney Aimee Scotton reminded the Commissioners that at their February meeting, the Board officially considered moving forward to create a county service district for fire protection that encompasses the properties currently included in the Sophia and Tiger Country rural fire protection districts. This is being proposed to effect a merger of the two districts at the request of Sophia Fire Department. 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 proposed district or any portion thereof is located, the ability of the proposed district to sustain the taxes necessary to provide the services planned for the district and the desirability that all districts for fire protection in the County be capped at a tax rate of fifteen (15) cents per one hundred dollar (\$100) valuation. The Board adopted a resolution declaring its intent to create the proposed district, calling for a report to be prepared for the district in accordance with North Carolina General Statutes, and providing that, if the proposed district is indeed

created, its tax rate would be capped at fifteen (15) cents per one hundred dollar (\$100) valuation. The resolution also set a public hearing on the creation of this district for 6:30 p.m. on April 7, 2014. She said that if the new Randleman-Sophia service district is created, then fire protection will be provided by contracting with the Randleman Fire Department.

Ms. Scotton said that at the close of the public hearing, if the Board finds that there is a demonstrable need for providing fire protection services in the proposed district, that it is impossible or impracticable to provide fire protection services on a countywide basis, that it is economically feasible to provide fire protection services in the proposed district without unreasonable or burdensome annual tax levies and that there is a demonstrable demand for fire protection service in the proposed district, then the Board may create the service district via resolution. An additional resolution will be needed adding emergency medical services as a permitted service in the district.

At 6:30 p.m., Chairman Holmes opened and closed the public hearing after hearing no comments.

*On motion of Haywood, seconded by Frye, the Board voted unanimously to adopt a resolution creating the new fire service district, as follows:*

***RESOLUTION CREATING RANDLEMAN-SOPHIA COUNTY SERVICE DISTRICT FOR FIRE PROTECTION***

***WHEREAS***, North Carolina General Statute 153A-309.2 allows a County to establish a county service district for fire protection services with a tax rate limitation of fifteen (15) cents per one hundred dollar (\$100) valuation; and

***WHEREAS***, it has been requested that the Board of County Commissioners create a county service district for fire protection for the areas currently contained in the Sophia Fire Protection District and the Tiger Country Fire Protection District; and

***WHEREAS***, the Board has considered the population of the proposed new district, the appraised value of property in the proposed new district, the present tax rates in effect in the proposed new district, the ability of the proposed new district to sustain the taxing of the proposed district, the comments made at the public hearing, and other matters that the Board deemed relevant; and

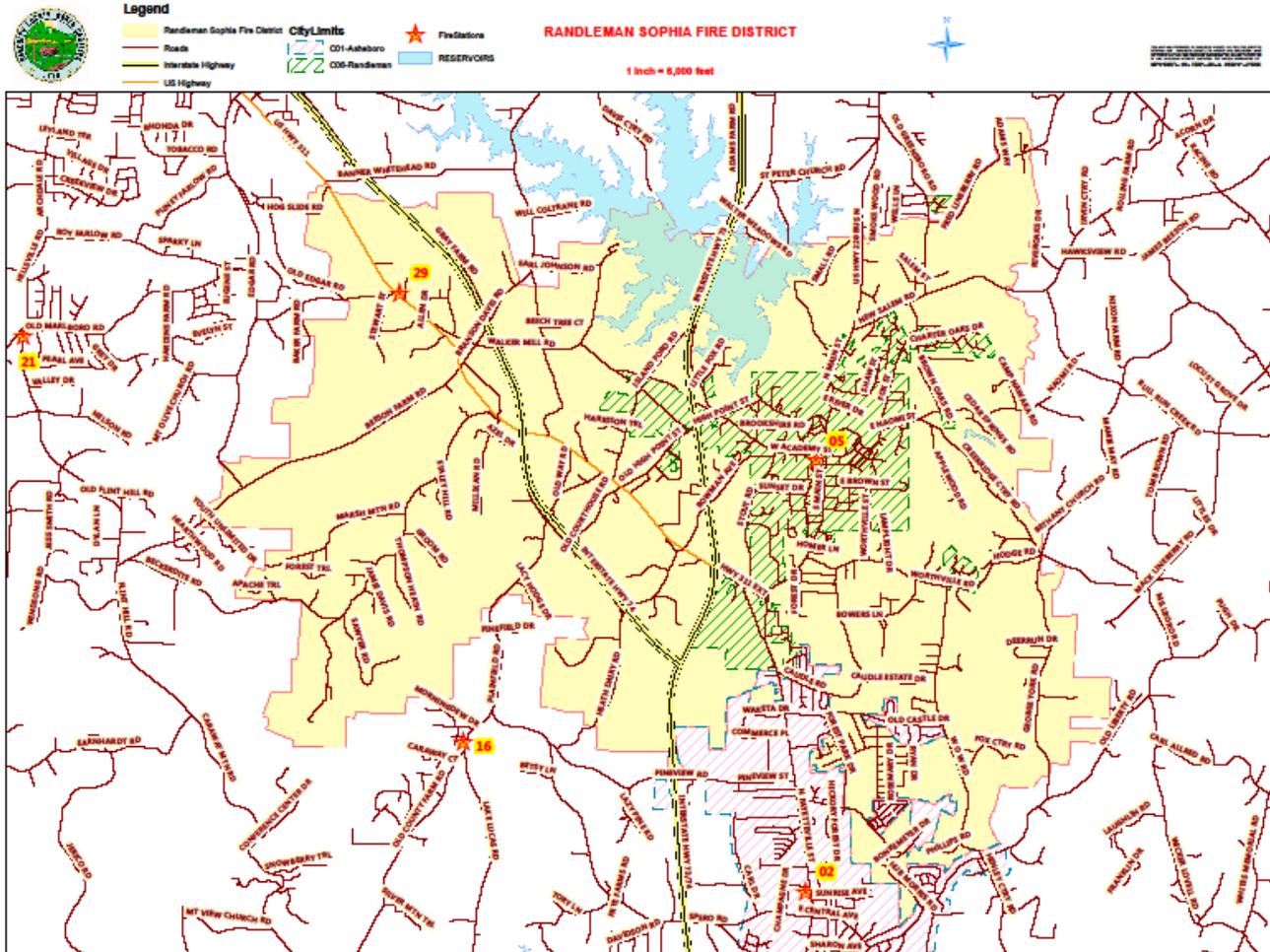
***WHEREAS***, the Board, having considered such matters, makes the following findings:

1. *There is a demonstrable need for providing fire protection services in the proposed new service district; and*
2. *It is impossible or impracticable to provide fire protection services on a countywide basis; and*
3. *It is economically feasible to provide fire protection services in the proposed new service district without unreasonable or burdensome annual tax levies; and*
4. *There is a demonstrable demand for fire protection services in the proposed new service district.*

***NOW, THEREFORE, BE IT RESOLVED***, that the Randolph County Board of Commissioners hereby creates the Randleman-Sophia county service district for fire protection effective July 1, 2014 with boundaries that encompass the existing Sophia and Tiger Country Fire Protection Districts as shown on the map included as Attachment A to this Resolution; and

***BE IT FURTHER RESOLVED*** that property taxes for fire protection within said county service district may not be levied in excess of a rate of fifteen (15) cents on each one hundred dollars (\$100) of property subject to taxation.

*This the 7<sup>th</sup> day of April, 2014.*



On motion of Haywood, seconded by Frye, the Board voted unanimously to adopt a resolution permitting ambulance service to the new fire service district, as follows:

**RESOLUTION PERMITTING EMERGENCY MEDICAL RESCUE AND AMBULANCE SERVICES TO BE PROVIDED IN THE RANDLEMAN-SOPHIA COUNTY SERVICE DISTRICT FOR FIRE PROTECTION**

**WHEREAS**, the Randolph County Board of Commissioners, pursuant to North Carolina General Statute 153A-309.2, has established a county service district for fire protection services with a tax rate limitation of fifteen (15) cents per one hundred dollar (\$100) valuation in the Randleman-Sophia area; and

**WHEREAS**, it has been requested that the Randolph County Board of County Commissioners authorize the provision of emergency medical, rescue and ambulance services in said district and that property taxes may be levied for such purposes; and

**WHEREAS**, North Carolina General Statute 153A-309 allows a board of county commissioners to permit, by resolution, the service district to provide emergency medical, rescue and ambulance services and to provide that property taxes are levied for such purposes.

**NOW, THEREFORE, BE IT RESOLVED**, that the Randolph County Board of Commissioners does hereby authorize the provision of emergency medical, rescue and ambulance services in the Randleman-Sophia Service District for Fire Protection and does hereby resolve

*that property taxes may be levied for these purposes, provided however, that the rate limitation of fifteen (15) cents per one hundred dollar (\$100) valuation continues to apply.*

*This the 7<sup>th</sup> day of April, 2014.*

### **Discussion Regarding Updating Fire Department Contracts**

Aimee Scotton, Associate County Attorney, said that Randolph County provides fire protection by contracting with local fire departments for these services. These contracts are woefully outdated and need to be expanded to more fully reflect the County's expectations. In meeting with the Emergency Services Director and Fire Marshal, it was determined that the best way to accomplish a rewrite of the fire department contracts was to have involvement by representatives of those departments from the beginning. A committee was formed comprised of Ms. Scotton, Emergency Services Director Donovan Davis, Deputy Director Lewis Schirloff, County Fire Marshal Rick Davis, and three fire chiefs: Brent Powell from Tabernacle, Marty Leonard from Randleman, and J.R. Beard from Liberty. Agreements were obtained from other counties for review and guidance. Following several meetings, an agreement was developed that will best serve Randolph County and its citizens.

After reviewing the major components of and the additions to the contract, the Board discussed details and asked Ms. Scotton to add a statement that the County expects the departments to have mutual aid agreements with other departments. The Board authorized Ms. Scotton to then send the contract to all Randolph County fire departments for review and the Board would then consider approving them at their May 5th meeting.

### **Special Recognitions**

Centenarian Luevenie Belo Austin, who will turn 101 on 4/13/14, was recognized by the Board. Ms. Austin and her family were unable to attend the meeting. *Note: Certificate will be hand-delivered or mailed to the honoree or family.*

Chairman Holmes recognized 2014 State 2-A Wrestling Champion Dalton Clark (145-lb. class) from Providence Grove High School, who was unable to attend. *Note: A Certificate of Recognition was presented to Randolph County School Superintendent Dr. Stephen Gainey to forward to Mr. Clark.*

### **Closed Session**

*At 6:44 p.m., on motion of Frye, seconded by Lanier, the Board voted unanimously to go into closed session to discuss matters relating to the location or expansion of business in the area, pursuant to [N.C.G.S.143-318.11(a)(4)].*

### **Regular Session Resumed**

At 7:21 p.m., regular session resumed.

### **Public Comment**

Chairman Holmes allowed Tom Morgan to speak in an extended public comment period. Mr. Morgan said he would be prepared at a later time to make a full presentation to the Commissioners regarding his concerns about elder abuse in the state, county and nation and the need for attention to the growing problem. He thanked the Board for their service and for being fair-minded.

### **Discussion of Possible Location of Psychiatric Hospital in Randolph County and Appointment of Study Task Force**

County Manager Richard Wells said that House Bill 981, introduced in the 2013 long session of the NC General Assembly, proposes that the state build a new psychiatric hospital in the south/central region of the state. Although the bill did not progress out of the Appropriations Committee, it is still possibly eligible to be considered in the 2014 short session. County Manager Wells said that the bill was introduced by Rep. Justin Burr of Stanly County and Rep. Allen McNeill was a co-sponsor of the bill. This was prompted by a study of the needs for psychiatric hospitals that was undertaken by the General Assembly. ("Report on Exploring the Costs and Feasibility of A New Psychiatric Facility." A descriptive history of the study appeared in: *North Carolina Health News*, August 1, 2013.)

County Manager Wells said that a group of 35-40 interested local citizens met in late 2013 and voiced their support of this bill and recommended that Randolph County be considered as a location for a new south/central region psychiatric hospital due to its central location in the area to be served. County Manager Wells recommended that the Commissioners appoint a task force to advocate for this hospital and its location here. He said Randolph County could also consider it an economic development issue due to the creation of possibly 1000 jobs and the building could cost up to \$3 million dollars generating tax revenues.

Representative Allen McNeill, who was attending this meeting, spoke in support of the hospital's placement in Randolph County and said that it was eligible to be discussed in the upcoming short session, but was unsure if it would be.

County Manager Wells proposed the Task Force membership as follows: Senator Jerry Tillman; Representative Allen McNeill; Commissioner Stan Haywood; Bonnie Renfro, Director--Economic Development Corp.; Dr. Bob Shackelford, President--Randolph Community College; Steve Eblin, Director--Randolph Hospital; Devin Griffith, VP of Care Continuum--Randolph Hospital; Victoria Whitt, Director-- Sandhills Center; Bob Morrison, retired hospital administrator; Richard Wells, Randolph County Manager.

County Manager Wells said that many more local leaders have expressed interest in supporting this project and they will be enlisted as the project becomes more viable. He said the Task Force was kept at a manageable number for logistics.

Vice Chairman Frye suggested Mazie Fleetwood be contacted to serve on the Task Force since she serves on the Sandhills Center Board of Directors as one of the County's representatives.

*On motion of Frye, seconded by Lanier, the Board voted unanimously to establish a task force to study the feasibility of locating a regional psychiatric hospital in Randolph County, consisting of the following members: Senator Jerry Tillman; Representative Allen McNeill; Commissioner Stan Haywood; Bonnie Renfro, Director--Economic Development Corp.; Dr. Bob Shackelford, President--Randolph Community College; Steve Eblin, Director--Randolph Hospital; Devin Griffith, VP of Care Continuum--Randolph Hospital; Victoria Whitt, Director-- Sandhills Center; Bob Morrison, retired hospital administrator; Richard Wells, Randolph County Manager; and Mazie Fleetwood, Sandhills Center Board of Directors member.*

#### **Approval of Ordinance Granting Franchise to Waste Management**

County Manager Richard Wells said that pursuant to NCGS 153A-46, an ordinance granting a franchise must pass at two regular meetings. He presented the proposed ordinance titled, "An Ordinance Granting a Franchise to Waste Management of Carolinas, Inc. to Permit, Construct And

Operate a Sanitary Landfill in Randolph County;” which was passed at its first reading at the March 10<sup>th</sup> meeting. Since the March meeting, staff and attorneys for the County and Waste Management have been preparing and working through the operating agreement. He said that the attorneys have advised that a modification of Section 12 of the franchise ordinance is needed to increase public protections and rights, as follows:

Original wording:

SECTION 12. Regulations of Fees and Rates

Waste Management shall be responsible for setting landfill fees and rates. Fees and rates charged for disposal of waste in the landfill facility may change from time to time and shall be fees and rates determined by Waste Management to be commercially reasonable and competitive within the industry as reflected by rates at privately owned or operated facilities in North Carolina. Posted gate rates shall not exceed an approximate average of posted gate rates at similar, privately owned or operated facilities in Piedmont North Carolina.

New wording:

SECTION 12. Regulations of Fees and Rates

Waste Management shall be responsible for setting landfill fees and rates. Fees and rates charged for disposal of waste in the landfill facility may change from time to time and shall be fees and rates determined by Waste Management to be commercially reasonable and competitive. Notwithstanding the foregoing, Waste Management shall provide its proposed gate rates (and any modifications thereof), which shall approximate the average of posted gate rates at similar, privately owned or operated facilities in the Piedmont area of North Carolina (unless otherwise justified), to the County Manager for approval. In the event that the County Manager does not object to the proposed rates within thirty (30) days of receipt, the proposed rates (and/or any modifications thereof), shall become effective. In the event any generator of waste within the County maintains that the Landfill is charging such generator a disposal rate above the effective gate rate(s), that generator may petition the County Manager for a determination of whether the disposal rate charged to the generator is above the facility’s posted gate rate. The County Manager’s determination shall be binding on the parties.

County Manager Wells asked the Board to consider the revised ordinance at this, the second reading.

Commissioner Haywood stated that he continues to be against the landfill. He is in the process of obtaining additional studies on solid waste landfills from Columbia and Perdue Universities.

*On motion of Lanier, seconded by Frye, the Board voted 3-1 with Haywood opposing, to adopt an ordinance granting a franchise to Waste Management of Carolinas to permit, construct and operate a sanitary landfill in Randolph County, as follows.*

**ORDINANCE GRANTING A FRANCHISE TO WASTE MANAGEMENT OF CAROLINAS, INC. TO PERMIT, CONSTRUCT AND OPERATE A SANITARY LANDFILL IN RANDOLPH COUNTY**

**SECTION 1. Grant of Franchise**

- (a) *Randolph County is responsible for providing long-term, cost-effective means of waste disposal for the citizens of Randolph County. The County has decided to open a regional Subtitle D solid waste landfill facility to serve its citizenry and surrounding counties and municipalities.*

- (b) Pursuant to authority established in N.C. Gen. Stat. §§ 153A-136 and 130A-294, and pursuant to the procedures and requirements established in N.C. Gen. Stat. §§ 153A-46, 130A-294(b1)(2), and the Randolph County “Ordinance Establishing Procedures for the Application and Issuance of Franchises for Solid Waste Facilities,” Randolph County (“County”) hereby grants a franchise for the construction and operation of a solid waste landfill to Waste Management of Carolinas, Inc., (“Waste Management”) subject to the conditions herein.
- (c) This grant of franchise is contingent upon the execution of an operating agreement between the County and Waste Management.

**SECTION 2. Extent and Limits on Franchise**

- (a) The County grants Waste Management an exclusive franchise for the following activities:
  - (i) the permitting, construction and operation of a solid waste landfill within Randolph County;
  - (ii) the operation and maintenance of the county’s convenience centers and recycling centers, subject to existing contracts;
  - (iii) the hauling of solid waste from within and outside Randolph County for disposal at the County’s landfill facility;
  - (iv) the recycling and resource recovery of materials in the waste stream.
- (b) The exclusive rights and privileges established in this franchise do not extend to the following: existing landfills; construction and demolition debris landfills; land clearing and inert debris landfills; or to decisions reserved by statute to Randolph County municipal corporations to control the hauling and disposal of waste within their municipal boundaries.
- (c) The County does not grant Waste Management a franchise for the conversion of landfill gas energy or any other waste-to-energy activities within the landfill facility. Any activity involving (i) the collection, transport, disposal or processing of solid waste or (ii) the conversion of solid waste into energy or for any secondary use that is not specifically covered by this franchise shall be deemed excluded from this franchise.

**SECTION 3. Acceptance of Franchise**

The execution by Waste Management of the Operating Agreement between the County and Waste Management shall constitute an acknowledgement by Waste Management that it accepts the terms and provisions contained herein.

**SECTION 4. Term**

This franchise shall commence on and run thirty (30) years from the date that Waste Management and the County execute an operating agreement for the permitting, construction and operation of a solid waste landfill.

**SECTION 5. Renewal**

This franchise may be renewed at the end of its thirty-year term subject to the laws existing at the time of the renewal application.

**SECTION 6. Territory and Population to be Served**

Waste Management may collect and receive permitted waste that is transported from within the State of North Carolina for recycling or disposal within Randolph County. The population to be served shall not exceed the population of the State of North Carolina as it increases or decreases from time to time.

**SECTION 7. General Description of the Proposed Sanitary Landfill**

- (a) *The proposed Randolph County landfill facility is located in central Randolph County adjacent to the existing closed Randolph County MSW Landfill, North Carolina Solid Waste Permit (NCSWP) #76-01. The center of the proposed Randolph County MSW landfill is located at Latitude: 35.752822°N and Longitude: 79.755992°W. The proposed disposal site is bordered to the north by the Deep River, to the west by the closed Randolph County landfill, to the south by Henley Country Road, and to the east by Old Cedar Falls Road. The proposed landfill is composed of several undeveloped parcels comprising approximately 667 acres, approximately 200 acres of which are proposed as the waste disposal unit. The footprint of the first phase of the proposed landfill is approximately 34 acres and is located on the southeastern side of the subject property. The first phase of the proposed landfill will be designed to contain approximately ten years of waste disposal and will occupy approximately 34 acres of the total 190-acre waste footprint. The facility entrance will be located off of Old Cedar Falls Road at the eastern corner of the landfill.*
- (b) *The landfill facility shall be served by an entrance road leading to scales for all incoming waste. Waste will be deposited into lined cells, compacted, and covered daily as required by law. Waste Management may receive, on average, up to 2,000 tons per day. Recycling and/or resource recovery is expected to occur within the landfill facility. The beneficial use of landfill gas is also an expected future activity. The proposed landfill facility will be permitted, constructed, and operated in accordance with state and federal rules and regulations governing Subtitle D facilities. The landfill shall have protective geo-membrane liner systems, leachate collection, and environmental monitoring systems as required by state and federal rules and regulations and the County issued Special Use Permit.*
- (c) *The County also owns four convenience centers and expects to have two more constructed. The convenience centers shall be managed as local collection centers for county citizens. This franchise extends to and includes these convenience centers which are located in areas outside the landfill facility.*

**SECTION 8. Types of Waste Allowed**

- (a) *The types of waste allowed in the waste stream shall be wastes defined by the State of North Carolina as “municipal solid waste” and any other wastes allowed by law and permit to be disposed of in a fully permitted municipal solid waste landfill. Municipal solid waste shall include any solid waste resulting from the operation of residential, commercial, industrial, governmental, or institutional establishments that would normally be collected, processed, and disposed of through a public or private solid waste management service.*
- (b) *If the facility permit provides for limitations on the types of solid waste allowed, Waste Management shall strictly abide by the permit requirements.*
- (c) *Limitations on waste types contained in the Special Use Permit shall apply.*

**SECTION 9. Description of the Volume and Characteristics of the Waste Stream**

- (a) *The volume of waste disposed shall not exceed an average daily intake and disposal rate of 2,000 tons per day or a maximum daily intake and disposal rate of 3,500 tons per day to account for times when intake rates may peak, including periods when emergency debris*

*management is required after floods, hurricanes, tornados or other such events.*

- (b) The characteristics of the waste stream entering the landfill facility may include all solid waste allowed by law, subject to limitations imposed by the facility's Special Use Permit and the facility permit. Unless limited by permit, Waste Management may accept all typical waste streams for a fully permitted Subtitle D landfill. Subject to limitations imposed by the facility permit and operating agreement, Waste Management may construct a solidification pit that enables Waste Management to accept liquid waste streams for treatment and disposal. Recovered and recyclable materials and any recycled products shall be diverted from the solid waste disposal facility to the extent reasonably feasible and required by the County, state laws or the operating permit.*

**SECTION 10. Projection of the Useful Life of the Landfill**

*Based upon preliminary engineering calculations and other data, the useful life of the landfill is projected to be approximately sixty-seven (67) years, with this franchise covering the first thirty (30) years. Waste Management accepts this estimate and acknowledges that this calculation is based upon information currently available and assumes any risks that the useful life could be less than projected.*

**SECTION 11. Procedures for Governmental Oversight**

- (a) The Randolph County Planning Department, acting in the normal course of business, shall oversee compliance with the Special Use Permit issued by the Randolph County Planning Board pursuant to authority bestowed by both general statute and the Randolph County Zoning Ordinance.*
- (b) NCDENR, pursuant to its own policies and schedules, shall oversee compliance with the Permit to Construct and the Permit to Operate.*
- (c) The North Carolina Department of Transportation shall oversee compliance with the terms of the landfill facility driveway permit and, in cooperation with the Randolph County Planning Department, shall oversee road improvements as required by the Special Use Permit.*
- (d) Randolph County shall regularly oversee compliance with the operating agreement and this franchise.*

**SECTION 12. Regulations of Fees and Rates**

*Waste Management shall be responsible for setting landfill fees and rates. Fees and rates charged for disposal of waste in the landfill facility may change from time to time and shall be fees and rates determined by Waste Management to be commercially reasonable and competitive. Notwithstanding the foregoing, Waste Management shall provide its proposed gate rates (and any modifications thereof), which shall approximate the average of posted gate rates at similar, privately owned or operated facilities in the Piedmont area of North Carolina (unless otherwise justified), to the County Manager for approval. In the event that the County Manager does not object to the proposed rates within thirty (30) days of receipt, the proposed rates (and/or any modifications thereof), shall become effective. In the event any generator of waste within the County maintains that the Landfill is charging such generator a disposal rate above the effective gate rate(s), that generator may petition the County Manager for a determination of whether the disposal rate charged to the generator is above the facility's posted gate rate. The County Manager's determination shall be binding on the parties.*

**SECTION 13. Payments to Randolph County**

*Waste Management shall pay Randolph County such payments, host fees, closure and post-closure costs and*

*other fees as set forth in the operating agreement.*

**SECTION 14. Compliance with Laws**

*Waste Management shall comply with all federal, state and local laws and permits regarding the hauling and transport of solid waste and the construction and operation of the landfill and convenience and recycling centers. Waste Management's willful or intentional violation of federal, state or local laws may be a ground for revocation of this franchise.*

**SECTION 15. Franchise Non-Transferable**

- (a) *This franchise is issued exclusively to Waste Management upon the County's determination that Waste Management has the requisite experience and financial strength to permit, construct and operate a regional municipal solid waste landfill. This franchise cannot be sold, transferred, leased, assigned, acquired or disposed of, including, but not limited to, by force or voluntary sale, merger, consolidation, acquisition, bankruptcy, receivership or other means to any other person or entity except upon consideration and approval of the Board of Commissioners following procedures established by law.*
- (b) *Waste Management shall promptly notify the county of (1) any actual or proposed change in or transfer of its ownership or (2) acquisition by any other party of control of the company. The word "control" as used herein is not limited to majority ownership but also includes operational control in whatever manner exercised. A rebuttable presumption that a transfer of control has occurred shall arise upon the disposal by Waste Management, directly or indirectly, by gift, assignment, voluntary sale, merger, consolidation devise or otherwise, of at least 50 percent ownership or controlling interest at one time or cumulatively over the term of the franchise to a person or group of persons, corporation, partnership, limited partnership, trust, limited liability, or company association. Any two or more persons or entities which cumulatively own more than fifty (50) per cent of the company and act in concert shall be considered one entity owning a majority interest.*
- (c) *The transfer, sale, lease, assignment or disposition of control of Waste Management, including, but not limited to, by force or voluntary sale, merger, consolidation, receivership or other means, shall make the franchise subject to cancellation unless and until the county shall have consented thereto. For the purpose of determining whether it shall consent to such transfer, sale, lease, assignment or disposition of control of Waste Management, the county may inquire into the legal, financial, character, technical and other public interest qualifications of the prospective controlling party, and the proposed grantee shall assist the county in any such inquiry. Failure to provide all information reasonably requested by the county as part of its inquiry may be grounds for denial of the proposed franchise transfer. After considering the legal, financial, character, technical, and other public interest qualifications of the applicant, the county may transfer and assign the rights and obligations of such franchise as may be in the public interest. The consent of the county to such transfer shall not be unreasonably withheld, conditioned or delayed.*
- (d) *Any approval by the county or transfer shall be contingent upon the prospective controlling party becoming a signatory to the franchise and any operating agreement or other agreement as required by the county.*
- (e) *The requirements of the State of North Carolina pertaining to the transfer of ownership or control of an entity possessing a solid waste permit are separate requirements.*

**SECTION 16. No Recourse**

Waste Management shall have no recourse whatsoever against the county or its officials, boards, commissions, agents, subcontractors, vendors, or employees for any loss, cost, expense or damage arising out of any provision or requirements of the franchise or because of the enforcement of the franchise. This section does not apply to equitable relief.

**SECTION 17. Forfeiture and Revocation**

- (a) *This franchise may be revoked in its entirety or with respect to certain rights and privileges upon (1) Waste Management's default in the performance of any of the material obligations under this franchise or the operating agreement after notice and opportunity to cure as provided in the operating agreement; (2) Waste Management's willful violation of any orders or rulings of any regulatory body having jurisdiction over Waste Management's operation of the landfill after notice thereof, continuing and not being remedied or reasonably addressed within 60 days of notice; (3) Waste Management's commission of fraud or any unfair or deceptive act or practice in its application for this franchise or as to the County under this franchise or the operating agreement; (4) Waste Management's insolvency, inability, or unwillingness to pay any debts; or Waste Management is adjudicated bankrupt; (5) Waste Management's misrepresentation of a material fact in the application for, or negotiation of the franchise or any extension or renewal thereof.*
  
- (b) *The procedures to be followed in the event of any of the reasons or bases for default established in Section 17(a) above shall be the procedures set forth in Section 8(b) of the Randolph County Ordinance Establishing Procedures for the Application and Issuance of Franchises for Solid Waste Facilities. The decision which results after completion of appeal procedures as set forth in Section 8(b) shall constitute an exhaustion of administrative remedies.*

**SECTION 18. Effective Date**

*This Ordinance shall become effective on \_\_\_\_\_.*

**Adjournment**

*At 7:21 p.m., on motion of Frye, seconded by Lanier, the Board voted unanimously to adjourn.*

\_\_\_\_\_  
J. Harold Holmes, Chairman

\_\_\_\_\_  
Darrell L. Frye

\_\_\_\_\_  
Arnold Lanier

\_\_\_\_\_  
Stan Haywood

\_\_\_\_\_  
Amanda Varner, Deputy Clerk to the Board