

FORSYTH COUNTY
BOARD OF COMMISSIONERS

**BRIEFING
DRAFT**

MEETING DATE: SEPTEMBER 12, 2016 – First Reading
SEPTEMBER 26, 2016 – Second Reading

AGENDA ITEM NUMBER: **13**
16

Second Reading on
**SUBJECT: ORDINANCE REVISING A FEE CHARGED BY FRANCHISE HOLDERS FOR
RESIDENTIAL AND SMALL BUSINESS SERVICE COLLECTION,
TRANSPORTATION AND DISPOSAL OF SOLID WASTE IN UNINCORPORATED
AREAS OF FORSYTH COUNTY
(OFFICE OF ENVIRONMENTAL ASSISTANCE AND PROTECTION)**

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS: Recommend Approval

SUMMARY OF INFORMATION:

Effective July 1, 2016, the discounted tipping fee paid by the three Franchise Holders for solid waste disposal at the Hanes Mill Road landfill increased by \$0.50 per ton (from \$31 to \$31.50/ton).

Section 5(a)(ii) of the Franchise Ordinance states:

"The fee for collection, transportation, and disposal for residential and small business solid waste service currently in the amount of \$14.53 per household per month shall be reviewed and adjusted by the Forsyth County Board of Commissioners in a proportional amount based on average amount of household waste in response to any increases in the tipping rate charged to franchise collectors."

Based on the average quantity of solid waste collected by the Franchise Holders from their subscribers, the tipping fee increase will result in an increased cost of disposal of \$0.04 per household per month. Therefore, the base rate for solid waste collection service should be increased from \$14.53 to \$14.57 per household per month.

ATTACHMENTS: YES NO

SIGNATURE: *J. Dudley Atts, Jr.* COUNTY MANAGER DATE: September 8, 2016

**ORDINANCE REVISING A FEE CHARGED BY FRANCHISE HOLDERS FOR
RESIDENTIAL AND SMALL BUSINESS SERVICE COLLECTION,
TRANSPORTATION AND DISPOSAL OF SOLID WASTE IN UNINCORPORATED
AREAS OF FORSYTH COUNTY**

WHEREAS, pursuant to the authority provided by N.C. General Statutes, Chapter 153A, Chapter 19 of the Forsyth County Code, and other applicable laws, the Forsyth County Board of Commissioners hereby considers the following ordinance granting franchises for residential and small business service collection, transportation, and disposal of solid waste to be in the best interests of Forsyth County; and

WHEREAS, the Forsyth County Board of Commissioners is satisfied that the proposed franchise holders each hold a currently valid solid waste management permit issued by the County to collect and transport solid waste and will comply with all applicable regulations, and will render prompt, efficient, and continuing service to the area for which their respective franchise is granted, and that each proposed franchise holder has sufficient equipment and personnel to render the proposed services to all within their respective franchised area;

NOW, THEREFORE, BE IT ORDAINED that the Forsyth County Board of Commissioners hereby grants franchises for residential and small business service collection, transportation and disposal of solid waste to the following entities, pursuant to the following terms and conditions:

Section 1. Franchise Holders

Franchises for the residential and small business service collection, transportation and disposal of solid waste are hereby granted, as listed herein below, to the following persons, firms and/or corporations to provide services to the areas indicated. For purposes of this ordinance, “private corporation” means a corporation in which the shares of stock are closely held or not publicly traded; “public corporation” means a corporation in which the shares of stock are traded on a recognized exchange; and “proprietorship” means a business which is not incorporated and is not a partnership. This Ordinance shall extend, replace, and supersede the Ordinance which was adopted and became effective January 1, 2012, with subsequent revisions effective July 1, 2014 and July 1, 2015.

Franchise area	Franchise Collector
1	ABC Garbage, Inc. P.O. Box 546 Rural Hall, NC 27045 Phone: (336) 985-3572 Darrell and Mike Marshall (Private Corporation)

2, 3, 12A, 12B Rural Garbage Service, Inc.
P.O. Box 543
Kernersville, NC 27285
Phone: (336) 993-4307
Chris Parrish
(Private Corporation)

4, 8, 9, 10, 13, 15 Waste Management of the Carolinas, Inc.
3303 North Glenn Avenue
Winston-Salem, NC 27105
Phone: (336) 723-5744
(Public Corporation)

***** (There is no area #5 or #6)

7, 14 Rural Garbage Service, Inc.
(Temporary exclusive franchise
effective February 8, 2016 through
December 31, 2016)

***** (Area #11 was annexed by the City of Winston-Salem in its entirety in
September 2006)

Section 2. Franchise Area

With the exclusion of land areas located within incorporated municipalities, the residential and small business franchise holders as set forth in Section 1 above are hereby granted franchises for the areas designated in Section 1 of this ordinance, as further described in the attached documents entitled "Map of Franchise Area" and "Description of Residential and Small Business Service Franchise Areas", which documents are incorporated herein by reference, and are on file and available for public inspection in the office of the Clerk to the Board of Commissioners. The documents designate the franchise areas by franchise numbers.

Section 3. Nature of Franchises

The franchises granted herein for residential and small business service collection, transportation and disposal of solid waste shall be and are hereby adopted as exclusive franchises within the respective areas designated.

Section 4. Period of Franchise

The franchises for residential and small business service collection, transportation and disposal of solid waste were granted for a period beginning January 1, 2012 through December 31, 2014 with provisions to be automatically extended for two additional two-year terms unless the County or the franchise holder provides one hundred eighty (180) days' written notice of

termination prior to the expiration of the initial term or of either of the two, two-year additional terms.

Section 5. Establishment of Limits On Fees for Certain Residential And Small Business Solid Waste Collection, Transportation and Disposal Services

- (a) (i) There is hereby established and imposed limits on fees for collection, transportation, and disposal for residential and small business solid waste service in the amount of \$14.57 per household/location per month for curbside pickup (which includes the State Solid Waste Disposal Tax), not including a fuel surcharge fee which is adjusted quarterly based on the average price of diesel fuel during the preceding ninety-day period and determined using Exhibit A which is attached hereto and incorporated herein by reference per household per month as authorized by the Forsyth County Board of Commissioners on May 12, 2008. This fee shall be charged for once per week collection of no more than 64 gallons of solid waste. Subscribers with additional volume shall be charged additional fees at a rate of \$5.00 per month for each additional 32 gallons of solid waste collected weekly.
- (ii) The fee for collection, transportation, and disposal for residential and small business solid waste service currently in the amount of \$14.57 per household per month shall be reviewed and adjusted by the Forsyth County Board of Commissioners in a proportional amount based on average amount of household waste in response to any increases in the tipping rate charged to franchise collectors.
- (b) Subscribers with special needs and approved documentation shall receive back yard collection services for no additional fees if the containers are not more than one hundred fifty (150) feet from a passable public road and access is free from interference from dangerous animals or other obstructions. Any subscriber requesting back yard collection must submit proof of special needs to the Department of Public Health. In its sole discretion, the Department of Public Health shall determine whether such special needs exist.
- (c) Residential and small business franchise holders may charge an additional three dollars (\$3.00) per month for rent of roll-out containers that may be provided by the franchise holder upon request by the subscriber.
- (d) Franchise holders are authorized by this ordinance to bill subscribers for no more than three (3) months in advance of services rendered.

Section 6. Fees for Additional or Special Services

Holders of franchises for residential and small business service are hereby granted a non-exclusive franchise for additional or special services which may include the collection,

transportation and disposal of yard waste, demolition materials, white goods, tires, and recyclable materials but does not apply to the collection, transportation or disposal of containerized commercial and industrial material, which is not covered by this Ordinance. The franchise holders must comply with all applicable laws, regulations and other permits, which may be required in providing these services. Fees charged for such additional or special services may be agreed upon by the franchise holder and subscriber, subject to review and approval by the County Manager as to reasonableness if it is deemed advisable.

Notwithstanding anything to the contrary herein, the County reserves the right to award an exclusive franchise for the collection, transportation and disposal of yard waste, demolition materials, white goods, tires, and recyclable materials, or any one or more of these materials. At such time as an exclusive franchise is awarded for the collection, transportation, and disposal of any such material, all non-exclusive franchises for the collection, transportation, and disposal of the same material shall immediately terminate.

Section 7. Authority to Adjust Franchise Fees

- (a) Except as authorized by Subsection 7(b) and 9(f), the fees for residential and small business solid waste collection, transportation, and disposal services as outlined in Subsection 5 above may only be revised by action of the Forsyth County Board of Commissioners and shall not be adjusted during the first two years of the initial term of the franchise.
- (b) The fuel surcharge will continue in effect and shall apply to the fees for weekly services set out in Section 5(a).

Section 8. Required Service

Within each franchise area, the assigned franchise holder must provide service once per week to everyone who requests it for residential and small business solid waste collection, transportation, and disposal and related additional or special services as authorized herein. The Board of Commissioners may from time to time require residential and small business solid waste franchise holders to provide special programs of solid waste collection, transportation and disposal sponsored and paid for by the County.

Section 9. Additional Conditions and Requirements

- (a) Residential and small business solid waste containers shall be watertight metal or plastic containers with covers. Back yard service shall be provided by the franchise holder for any authorized subscriber with special needs, if the containers are not more than one hundred fifty (150) feet from a passable public road and access is free from interference from dangerous animals or other obstructions.
- (b) After first obtaining approval from the County Manager's Office, during emergencies, to ensure uninterrupted service within each residential and small business solid waste franchise area, adjoining franchise holders shall provide collection, transportation, and disposal services and assistance for a period not to

exceed ninety (90) days to franchise areas without service. It shall be the responsibility of the franchise holder of the area without service to obtain the necessary approval from the County Manager's Office and to arrange for the service and assistance, and to resolve financial compensation for said service and assistance.

- (c) The Board of Commissioners or the County Manager may require franchise holders to submit such information and reports as the Board or the Manager deem necessary or advisable in the administration of this ordinance.
- (d) "Once per week" means the same day each week service except for extreme weather conditions (snow or ice), equipment breakdowns, or holidays. Service will be resumed as quickly as possible following any unavoidable delay.
- (e) All solid waste collected under this Ordinance must be deposited at the Winston-Salem/Forsyth County Utility Commission Sanitary Landfill located at 325 Hanes Mill Road, Winston-Salem, NC.
- (f) In the event of new technological developments or collection methods that the Board of County Commissioners deems beneficial to the citizens of Forsyth County, the County reserves the right to amend and renegotiate these franchises to implement such methods. This could include adjustments in authorized fees or financial compensation to franchise holders.
- (g) Franchise holders must have a local customer service telephone number and contact person in North Carolina and shall make every reasonable effort to respond to telephone and e-mail inquiries by subscribers, potential subscribers, and County administration, within two (2) business days.

Section 10. Record of Franchise

Approved franchise applications and the documents described in this ordinance and in Section 19-51 of the Forsyth County Code shall be maintained and kept on file in the office of the Clerk to the Board of Commissioners.

Franchise holders shall provide subscribers with a written schedule for collection of solid waste.

Section 11. Termination of Franchise

Franchise holders must provide the County Manager at least one hundred eighty (180) days' prior written notice of intent to terminate their franchise or discontinue any services in the franchise area. Franchise holders may not sell or otherwise transfer the franchise to any other provider in exchange for any consideration. If a franchise holder fails to provide services as required in this ordinance, the County Manager shall have the authority to suspend the franchise

subject to possible termination by the Board of County Commissioners as provided in Section 19-50 of the Forsyth County Code.

Section 12. Applicable Laws and Regulations

The franchises granted by this ordinance and their continuation are conditioned upon the franchise holder's compliance with all applicable federal, state and local laws and regulations, particularly those relating to residential and small business solid waste collection, transportation, and disposal, including but not limited to Chapter 19 of the Forsyth County Code. The franchises and their continuation are also conditioned upon Forsyth County's continued jurisdiction, legal authority, and decision to administer and control the area of residential and small business solid waste collection, transportation and disposal.

Section 13. Effective Date

This ordinance becomes effective on October 1, 2016.

Adopted on first reading this 12th day of September 2016.

Adopted on second reading this 26th day of September 2016.

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WHEREAS, the Forsyth County Board of Commissioners is satisfied that the proposed franchise holders each hold a currently valid solid waste management permit issued by the ~~Health Director~~ County to collect and transport solid waste and will comply with all ~~health~~ applicable regulations, and will render prompt, efficient, and continuing service to the area for which their respective franchise is granted, and that each proposed franchise holder has sufficient equipment and personnel to render the proposed services to all within their respective franchised area;

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Franchise area

Franchise Collector

1

**ABC Garbage, Inc.
P.O. Box 546
Rural Hall, NC 27045
Phone: (336) 985-3572
Darrell and Mike Marshall**

(Private Corporation)

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Section 13. Effective Date

This ordinance becomes effective on ~~July 1, 2015~~October 1, 2016.

Adopted on first reading this ~~8~~12th day of ~~June 2015~~September 2016.

Adopted on second reading this ~~22nd~~26th day of ~~June 2015~~September 2016.