

The Alleghany County Board of Commissioners met in regular session on Monday, January 3, 2005, at 6:30pm in the Conference Room of the County Office Building, 90 South Main Street, Sparta, North Carolina.

Present: Chair Eldon Edwards, Vice-Chair Warren Taylor, Commissioner Sandy Carter Herndon, Commissioner Ken Richardson, County Manager Don Adams, and Clerk to the Board Karen Evans. Commissioner Graylen Blevins was present but arrived late. County Attorney Ed Woltz was absent.

Chair Eldon Edwards called the meeting to order.

Commissioner Warren Taylor opened the meeting with a prayer.

Commissioner Sandy Carter Herndon made a motion to approve the agenda for this January 3, 2005, meeting. Commissioner Warren Taylor seconded the motion. Vote 4:0.

AGENDA  
Monday, January 3, 2005  
6:30 PM

- 6:30 Meeting Called To Order
  - Motion on Agenda for January 3, 2005 meeting
  - Motion on Minutes for December 20, 2004 meeting
- 6:35 Public Hearing
  - RE: E-911 Road Names
- 6:45 Public Hearing
  - RE: Garbage Franchises Ordinances
- 7:00 Public Hearing
  - RE: Administration Building Financing and LGC Application
- County Business
  - 1. Reminder 1/17/05 Meeting
  - 2. Reminder 1/31/05 Joint Meeting
  - 3. Legislative Goals Discussion
  - 4. Other Business
  - 5. Public Comments—30 minutes
  - 6. Closed Session—NCGS 143-318.11 (a) (6)—personnel
  - 7. Adjourn

Commissioner Warren Taylor made a motion to approve the minutes for the December 20, 2004 meeting. Commissioner Sandy Carter Herndon seconded the motion. Vote 4:0.

Wendy Williams, E-911 Coordinator/Mapper, presented a road name for approval; Bear Hollow Lane. She explained where the road is located in the County.

Chair Eldon Edwards recessed the regular meeting at 6:32pm and opened the public hearing regarding the E-911 Road Name.

Chair Eldon Edwards asked for public comments. None were received.

Chair Eldon Edwards closed the public hearing at 6:33pm and reconvened the regular

meeting.

Commissioner Sandy Carter Herndon made a motion to approve the E-911 road name as presented by the E-911 Coordinator/Mapper. Commissioner Warren Taylor seconded the motion. Vote 4:0.

Commissioner Graylen Blevins arrived at 6:35pm.

County Manager Don Adams reminded everyone that the next regular meeting is on a holiday. He stated that according to our rules of procedures, the meeting will be held on the next day, Tuesday, January 18, if that works with everyone's schedule.

The Board of Commissioners discussed moving the meeting to another day and decided to hold the meeting on Wednesday, January 19, 2005 at 10:00am.

County Manager Don Adams reminded the Board that the Joint Meeting with the Town Council is on January 31 at 7:00pm at Sparta Town Hall.

County Manager Don Adams read the recommended changes to the proposed Construction Debris Franchise Ordinance and the Solid Waste Collection Franchise Ordinance. He explained the services offered by Alleghany Garbage Service for solid waste collection. He further explained that they had asked that their existing franchise be updated. Then, he explained that Darren Cranford, doing business as M&J Disposal, came before the Board to ask for an exclusive franchise for contractors using a Dumpster service. He further explained that the proposed construction debris franchise ordinance does not require contractors to use M&J Disposal but states that M&J Disposal is the only company that can provide Dumpster service to the construction industry.

Chair Eldon Edwards recessed the regular meeting at 6:47pm and opened the public hearing regarding the Alleghany Garbage Service exclusive franchise for solid waste collection.

Chair Eldon Edwards asked for public comments. None were received.

Chair Eldon Edwards closed the public hearing on the Alleghany Garbage Service franchise at 6:48pm.

Commissioner Warren Taylor made a motion to approve the Solid Waste Collection Franchise Ordinance. Commissioner Sandy Carter Herndon seconded the motion. Vote 5:0.

County Manager Don Adams reminded everyone that franchise ordinances must be voted on twice before they are considered adopted.

The Board of Commissioners and County Manager Don Adams discussed the effective date for the Alleghany Garbage Service franchise.

Chair Eldon Edwards opened the public hearing at 6:53pm regarding the Construction Debris Franchise Ordinance.

Chair Eldon Edwards asked for public comments from the approximately 25 people in attendance.

Randy Dillard asked that the contractor charges be reviewed.

County Manager Don Adams read the proposed charges by M&J Disposal for this service.

Randy Dillard asked if he could haul his construction debris on his dump truck and haul Jerry's construction debris, too.

County Manager Don Adams stated that he can haul his own debris not someone else's.

Commissioner Warren Taylor stated that is not what has been discussed. He further stated that it was his understanding that the Dumpster service is the only thing affected by this proposed franchise. He explained that if someone wanted a Dumpster to put their construction debris in, then they had to call M&J Disposal.

Commissioner Sandy Carter Herndon stated that if someone wants to hire someone with a dump truck to haul the construction debris, this ordinance would not affect that action.

Randy Tucker asked if a contractor has a Dumpster onsite and needs other things hauled off; such as, stumps, could other people haul those things off.

Commissioner Warren Taylor stated that shouldn't be a problem.

Commissioner Graylen Blevins talked about if there is a Dumpster on the job site, the contractor can still haul or have stuff hauled away from the job site by a dump truck.

Chair Eldon Edwards stated that is one concern that was discussed with Darren Cranford.

Commissioner Sandy Carter Herndon talked about yard debris.

Randy Tucker talked about tearing an old building down and having stumps and other debris to haul to the landfill.

Commissioner Warren Taylor stated that would be no problem.

Commissioner Graylen Blevins talked about clarifying the terms and further explaining this proposed franchise.

Darren Cranford explained the reasons for calling M&J Disposal when you need a Dumpster for the construction debris.

Scott Smith asked if you could call Waste Management for their Dumpster services.

Darren Cranford stated that you would not be able to call them for their Dumpster services under the proposed franchise.

Larry Woodie asked if compactor Dumpster service will be available.

Darren Cranford stated that is not in M&J Disposal's scope of services.

Larry Woodie talked about language should be added to the ordinance to state that if M&J Disposal can't offer a particular Dumpster service then people can call other Dumpster services for

that particular Dumpster service.

Scott Smith asked how much weight the Dumpsters will hold.

Darren Cranford stated that the weight will vary according to the type of material in the Dumpster.

Scott Smith asked if he has different size Dumpsters.

Darren Cranford stated that he has small and large Dumpsters.

DW Miles asked about the fee schedule.

County Manager Don Adams stated that the fee schedule is M&J Disposal's fee schedule.

DW Miles asked if he hauls his own stuff, what he will be charged.

County Manager Don Adams stated that currently the fee at the Transfer Facility is \$50 per ton.

DW Miles stated that it isn't going to cost the citizens any more than it will cost M&J Disposal to take the debris to the Transfer Facility.

County Manager Don Adams stated that will not cost citizens more to haul their own than it does for M&J Disposal to haul the debris concerning the Transfer Facility fees.

Jerry Sadler asked why this franchise is needed.

Chair Eldon Edwards stated that Darren Cranford requested the Board to consider this request.

Darren Cranford explained the reasons for asking the Board to consider granting an exclusive franchise to M&J Disposal for the construction debris.

Jerry Sadler stated that everyone is in the same situation with investing a lot of time and money in our businesses.

Scott Smith said that the waste industry is a growing business and it is not fair to say that everyone else is not eligible to spend their money to offer this service. He added that he doesn't see why there is a need for an exclusive franchise.

Randy Tucker asked about the length of the contract being 10 years and if the rates would stay the same on the fee schedule.

Darren Cranford answered that the rates would stay the same unless the landfill fees go up or fuel goes up.

County Manager Don Adams stated that all price changes must go before the Board of Commissioners.

Randy Dillard asked about the financial side of the business, if contractors stopped using

M&J Disposal, would they go bankrupt if the services are reduced.

Darren Cranford stated that he has no insight to a rate increase and is not attempting to stop anyone from hauling their own debris.

Randy Dillard asked if something happens financially to M&J Disposal, what happens to the franchise.

Darren Cranford stated that he loses the franchise.

Randy Dillard asked can someone reinstate the franchise if they buy Darren Cranford's business.

Commissioner Sandy Carter Herndon stated that the franchise would be open to anyone who wants an exclusive franchise.

Larry Woodie asked if M&J Disposal could sell it to someone who would pay over and above.

Chair Eldon Edwards and Commissioner Warren Taylor stated that the Board has no control over that kind of action.

Commissioner Sandy Carter Herndon stated that the Board's control is the service aspect.

County Manager Don Adams stated that this is the Board's contract and it can be changed to state the franchise can't be sold.

Commissioner Graylen Blevins asked if this is going to be our responsibility to provide this service and incur any liability associated with the service.

Commissioner Warren Taylor and County Manager Don Adams stated that there is a section that the company shall hold the County harmless.

Commissioner Sandy Carter Herndon stated that this ordinance does not obligate the County to give an exclusive franchise to anyone else.

DW Miles asked if this action is necessary. He stated that a good contractor has little waste. He further stated that he is glad that Darren provides this service but is this something that needs to be regulated since it is a private service like everyone else's businesses.

Commissioner Graylen Blevins stated that the Board is considering the request because Darren Cranford asked the Board to consider granting an exclusive franchise. He further stated that it is the Board's responsibility to hear each and every comment.

DW Miles stated that he heard that a fee will be added to the building permit for this service.

Chair Eldon Edwards stated that isn't true and this is one reason a public hearing is good in order to straighten stuff like that up right now.

Johnny Williams pointed out that the port-a-johns are now tied to the building permit.

County Manager Don Adams stated that the port-a-john issue is a State law and our Building Inspectors are to enforce the State law.

Commissioner Sandy Carter Herndon stated that the ordinance doesn't dictate how or if the contractor use M&J Disposal's services.

DW Miles asked if the Board thinks that this could become a State law.

County Manager Don Adams stated that he didn't think so but can't say what the State does.

Commissioner Sandy Carter Herndon asked for input from the public concerning why everyone is opposed to the ordinance. She further asked if the problems were the exclusive terminology, length of contract or taking away something you want to do.

Scott Smith talked about how, if this is passed, Darren Cranford would have his foot in the door with the building industry concerning grading, landscaping and hydro seeding. He talked about the monopolizing effect this would have on the other services besides the Dumpster service.

Darren Cranford stated that before the Dumpster is set down on a job site, most of the stuff is already set. He further stated that he rarely sees the landowner and mostly deals with the contractor.

Scott Smith talked about having Waste Management haul their stuff.

Jerry Sadler stated that he doesn't like being told where he has to go to get the services.

Allen Shaw talked about how he started his grading business and might want to take the chance to get into the Dumpster business later.

Commissioner Sandy Carter Herndon asked how the franchise could be changed to make it more agreeable with everyone.

Allen Shaw stated that we shouldn't look at granting an exclusive franchise at all.

Larry Brown asked if this will add \$50 to the building permit fees.

County Manager Don Adams stated that this franchise does not add anything to the building permit fees.

Commissioner Sandy Carter Herndon stated that fee schedules are adopted during budget time.

DW Miles stated that the franchise is taking away the competition, and it is a private enterprise and shouldn't be allowed to monopolize the industry.

Commissioner Graylen Blevins asked the County Manager to explain regular franchise and exclusive franchise.

County Manager Don Adams explained that a regular franchise is given when there are several companies offering the same services and the services need to be regulated. He further explained that an exclusive franchise is to ensure that the service will continue to be offered. He

gave an example of the how regular and exclusive franchises operate and the need for the different franchises.

Chair Eldon Edwards requested a show of hands that was in favor of granting an exclusive franchise to M&J Disposal.

Randy Dillard asked what about if you don't care one way or another and how that affects the hand count.

Commissioner Graylen Blevins stated that it is up to everyone to vote how they feel or not to vote at all.

Chair Eldon Edwards requested a show of hands that was in favor of granting an exclusive franchise to M&J Disposal.

No one in the audience raised their hand.

Chair Eldon Edwards requested a show of hands that was not in favor of granting an exclusive franchise to M&J Disposal.

The majority of the audience raised their hands.

Chair Eldon Edwards closed the public hearing at 7:30pm and reconvened the regular meeting.

Commissioner Ken Richardson stated that this is a perfect example of why public hearings must be held. He explained that the request had been made and procedure followed. He stated that after the public hearing, there is no way he can support this issue, will all due respect to M&J Disposal.

Commissioner Warren Taylor talked about with granting a franchise, the service is guaranteed to be offered and without a franchise, the business could quit offering the services now. He explained that the Alleghany Garbage Service franchise is to ensure the garbage collection service is provided for people who want the service.

Commissioner Graylen Blevins stated that he had several issues with the proposed exclusive franchise including the free-trade issue. He further stated that he listens to the public and his decision would have to go with the public comments.

Chair Eldon Edwards stated that he has always had questions about the exclusive franchise but understands Darren Cranford's reasons including the investment.

Commissioner Graylen Blevins stated that everyone here would like to protect their investment for their business but it is a risk that all business owners must take.

Chair Eldon Edwards talked about Alleghany Garbage Service franchise is a different situation that M&J Disposal.

Commissioner Graylen Blevins talked about everyone protecting their investment. He further talked about the public hearing process.

Chair Eldon Edwards asked if there is a motion on the proposed M&J Disposal exclusive franchise.

No motion was made.

Darren Cranford stated that this was not his intention when he was trying to get the same as Allegheny Garbage Service. He further stated that he sees no reason to get upset over this matter and hopes there are no hard feelings on what he was trying to do.

Randy Tucker asked about his \$5 per month solid waste fee and changing the billing to annually.

County Manager Don Adams explained the reasons for changing to a monthly billing cycle versus the quarterly billing cycle including business owners requesting the billing cycle change.

Larry Brown asked what the \$5 is for.

County Manager Don Adams explained the fee is an availability fee to use the Transfer Facility. He further explained that the fees to operate the Transfer Facility must come from residents and businesses because that is the only funding source available. He stated that the business solid waste fee could be viewed as a business license fee. He gave a brief history of the solid waste fee schedule or using the property tax base. He stated that the other option is to reduce costs at the Transfer Facility.

Chair Eldon Edwards talked about when the Transfer Facility was first started, money was being used from the General Fund and the State said the County couldn't do that because the Transfer Facility fund must be self supporting.

Commissioner Ken Richardson invited everyone to stay for the next public hearing regarding spending \$1.5 million.

Chair Eldon Edwards called for a brief recess at 7:50pm and reconvened the meeting at 7:58pm.

Chair Eldon Edwards reconvened the regular meeting at 7:58pm and opened the public hearing regarding the Local Government Commission application for the Administration Building and the proposed financing for the Administration Building.

County Manager Don Adams stated that there are two resolutions before the Board. He explained the resolutions are giving permission to the County Manager to file an application with the Local Government Commission for approval of renovating the Administration Building at a cost of \$1,450,000 and the resolution with BB&T for financing \$1,450,000 at 3.89% for 15 years. He further explained that the financing with BB&T is contingent upon Local Government Commission approval.

County Manager Don Adams gave a PowerPoint presentation explaining the development of the Administration Building project.

Chair Eldon Edwards asked for public comments. None were received.

Chair Eldon Edwards closed the public hearing at 8:23pm and reconvened the regular

meeting.

Commissioner Warren Taylor made a motion to approve the resolutions as presented by the County Manager on the Administrative Building project. Commissioner Sandy Carter Herndon seconded the motion. Vote 4:1. (Ken Richardson)

Commissioner Sandy Carter Herndon thanked the County Manager for the presentation and the amount of time spent on this project. She talked about how she thinks that the Board is not wasting money and feels the right decision has been made to proceed with this project.

The Board of Commissioners reviewed the proposed legislative goals for the upcoming NCACC Legislative Goals Conference where Commissioner Ken Richardson will represent Allegheny County. The Board and County Manager discussed the following proposed goals; flexible use of E-911 funds, add school nursing and temporary tier designation.

Commissioner Ken Richardson talked about his disappointment in the public not attending public hearings and the need to do more to let the citizens know about certain public hearings. He listed "why" questions that the public has asked about County government concerning the Administration Building including points of taking away one of the best corners on Main Street, end up with at least three buildings that are 40+ years old, plans did not include a building that pays almost \$50,000 in rent annually, chose a location for a consolidated facility, spend \$1,500,000 on a facility by increasing taxpayer burden and take away the ability to help fund the schools, tea pot project, library, courthouse, county building and other needs and this cannot be accomplished without raiding the fund balance and having to raise taxes to help these other projects. He reiterated that these are the questions that he is unable to answer.

Commissioner Graylen Blevins asked if the public said that the Board is neglecting the tea pot project, the schools and the library.

Commissioner Ken Richardson stated that he was referring to the ability to fund those projects.

Commissioner Graylen Blevins talked about sending notices to every household, people watching Channel 50; which the Board spends \$60 per month on, and people reading the newspaper as public notification of the Board's actions. He stated that it would cost around \$2,400 to mail the notifications to address the monthly meetings. He said he has concerns about having the County Manager go to the radio to have the Board's action about each meeting broadcasted. He further said that he wouldn't ask the County Manager to go on the radio to justify the Board's actions and that he should be able to justify his own actions. He talked about the \$1,500,000 debt for the Administration Building is spread out over several years. He further talked about how he has tried to make the best decisions.

Commissioner Sandy Carter Herndon stated that she appreciates Commissioner Ken Richardson's comments and allowing him to speak his peace. She further stated that she doesn't think it is right sitting on the outside to place judgment against the Board for their actions. She talked about how the Board took a lot of time to make the decision on the Administration Building. She further talked about how embarrassing the facilities are now and how if you want people to think well of the County, you need a nice facility. She stated that she makes absolutely no apologies for making the decision to have a decent place to work and live. She addressed the tax-raise issue by stating that only 1¢ of the 5¢ tax raise went to the Administration Building. She said that no one on this Board would have even considered a 15¢ tax increase for the project. She

further said that it is inappropriate to place a 15¢ tax raise on the building.

Commissioner Warren Taylor talked about how a consolidated government center would be great if the County could afford such a facility. He further talked about how the County doesn't have the revenues to support that type of facility. He said when he is looking at making a \$2.5-million-dollar decision versus a \$5 to \$6-million-dollar decision; it wasn't hard for him to make that decision. He further said that if the Board had funded the higher level project, it would take away the ability to fund other things.

Chair Eldon Edwards talked about trying to build a joint municipal facility several years ago and couldn't get the funding for the project. He stated that the County needs to have a good working environment. He said that he didn't think the County should be paying rent if at all possible for County government.

Chair Eldon Edwards asked for public comments. No comments were received.

Commissioner Ken Richardson asked about the joint meeting with the Board of Education.

County Manager Don Adams stated that the meeting will be January 24 at 6:30pm at the Board of Education's Conference Room.

Commissioner Ken Richardson stated that he thinks everyone is missing an opportunity for the Boards to go to all four schools.

County Manager Don Adams said that he is asking everyone to bring their calendars to that meeting to decide when and where the next joint meeting will be.

Commissioner Warren Taylor made a motion to enter into closed session under NCGS 143-318.11 (a) (6)—personnel at 8:45pm. Commissioner Sandy Carter Herndon seconded the motion. Vote 5:0.

Jimmy Reeves and Alex Reeves joined the meeting at 8:50pm.

Jimmy Reeves and Alex Reeves left the meeting at 9:10pm.

Donna Shumate joined the meeting at 9:12pm.

Donna Shumate left the meeting at 9:28pm.

Commissioner Warren Taylor made a motion to adjourn closed session and reconvene the regular meeting at 9:30pm. Commissioner Graylen Blevins seconded the motion. Vote 5:0.

Chair Eldon Edwards stated that no action was taken during closed session.

Being no further business, Chair Eldon Edwards made a motion to adjourn the meeting at 9:31pm. Commissioner Warren Taylor seconded the motion. Vote 5:0.

Respectfully submitted,

Karen Evans  
Clerk to the Board

Attest:

Eldon Edwards  
Chairman

**NORTH CAROLINA  
ALLEGHANY COUNTY**

**SOLID WASTE COLLECTION FRANCHISE ORDINANCE**

**AN ORDINANCE GRANTING A SOLID WASTE COLLECTION  
FRANCHISE TO ALLEGHANY GARBAGE SERVICE, INC.  
(Pursuant to North Carolina General Statute 153A-136)**

**BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE  
COUNTY OF ALLEGHANY:**

**Section 1. SHORT TITLE:**

This ordinance shall be known and may be cited as the “Alleghany County Solid Waste Franchise Ordinance.”

**Section 2. DEFINITIONS:**

For the purposes of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not consistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

- (1) “Business Records” means all documents, papers, letters, plats, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts or other documentary material, regardless of physical form or characteristics made or received by the Company.
- (2) “County” means Alleghany County, North Carolina.
- (3) “Company” means Alleghany Garage Service, Inc.
- (4) "Solid waste" means 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. Solid waste does not include hazardous waste, sludge, industrial waste managed in a solid waste management facility owned and operated by the generator of the industrial waste for management of that waste, or solid waste from mining or agricultural operations.

**Section 3. RESIDENTIAL AND COMMERCIAL RATE:**

Residential and Commercial rates shall be initially as set forth on the attached Exhibit "A", as those rates are varied in accordance with action by the Board of County Commissioners. The fee schedule may be varied by an affirmative vote of a majority vote of the Board of Commissioners. The current fee schedule shall be maintained by the County Manager and shall be available for review upon request.

**Section 4. PRICE INCREASES:**

*During the term of this Franchise and any renewal of the same, the Company shall maintain the stated rates until a rate change is approved by the Board of County*

Commissioners. Any request for a change in rates must be accompanied by a written request from Company with supporting justification for an increase or decrease. The Board may consider justification for a change in rates, to include, but not be limited to (1) increase in the cost of living index; (2) increase in fuel costs; (3) increase in insurance costs; (4) an increase in landfill charges.

**Section 5. TERM OF FRANCHISE:**

The term of this franchise is ten (10) years and shall continue in full force and effect during this period of time unless terminated as permitted below.

**Section 6. ADDITIONAL RATES:**

For specific types of pickups other than those stated above, there shall be charges allowed as per individual contract, so long as such contracted charges shall be reasonably in accord with the above rate, as amended.

**Section 7. EXCLUSIVE GRANT:**

This franchise is exclusive. The County may not grant the same or similar rights and privileges to other persons while the franchise is in effect. However, this ordinance shall not apply to industrial or commercial business that requires equipment or capabilities beyond those available to Franchisee. Further, this ordinance does not require any citizen, resident or commercial entity to use the services provided by the Franchisee holder.

**Section 8. TERRITORY:**

This Franchise is granted for all unincorporated territory within Alleghany County. The Franchisee must service any and all residents and commercial properties within Alleghany County that apply to the Company for pickup at a bona fide residence, industrial or commercial facility so long as Company has facilities and equipment to accommodate the pickup requirement. Failure to provide service at a bona fide residence, industrial or commercial facility due to the Company's lack of facilities and equipment (other than as noted in Section 7 above) may be cause for the forfeiture of this franchise and all rights here under. No person or commercial enterprise is entitled to service unless current in payment for previously provided services.

**Section 9. DISPLAY OF NAME:**

The Company must prominently display its name and phone number on each vehicle used to collect solid waste.

**Section 10. LAWS AND ORDINANCES:**

The Company shall, at all times during the term of this franchise, be subject to and in compliance with the provisions of the present Charter of the County, the current ordinances, resolutions, rules and regulations of the County, and the laws of the State of North Carolina, and the United States Government so far as they may be applicable, especially with regard to environmental regulation.

**Section 11. FORFEITURE:**

Any violation by the Company of the provisions of this franchise or the failure by the Company to promptly perform any of the provisions herein shall be cause for the forfeiture of this franchise and all rights hereunder. The County may revoke and terminate this franchise following a thirty (30) day written notice to the Company that a violation of the ordinance has occurred and Company fails to cure the breach or nonconforming activity.

**Section 12. COMPANY TO SAVE COUNTY HARMLESS:**

- (1) The Company shall hold harmless the County and the County's officers, agents and employees from every loss, cost, expense, claim, judgment, execution, suit or demand resulting or in any manner arising from the action or inaction of the Company in operating its solid waste collection service.
- (2) If the County or any officer, agent or employee of the County is sued in any court by any person or account of the action or inaction of the Company in operating its solid waste collection service or exercising or failing to exercise any right or privilege granted by this franchise, the Company shall defend all such suits and pay the final judgment resulting therefrom, and shall, at the option of the County or any officer, agent or employee of the County who is a defendant in such suit, be made a party to the suit.

**Section 13. COUNTY TAKING PART IN LITIGATION:**

The Company shall not object to County's taking part, by intervention or otherwise, at its option, in any suit, action or proceeding instituted by or against the Company in which any judgment or decree or act can be rendered foreclosing any lien on any of the Company's property, or affecting the right, powers or duties of the Company to do or not to do anything which by this franchise it is obligated or may be require to do or not to do, and also to taking such steps in any such proceeding as may be deemed essential by the County to protect the interest of the public or the County.

**Section 14. ACCESS TO BUSINESS RECORDS:**

The County shall have access to business records of the Company at all reasonable times. The Company shall provide to the County a copy of any business record requested by the County, at the Company's expense. This section does not apply to any business record made private by any state or federal law or regulation, to personnel records of the Company, to proprietary or trade secret information contained in business records or to information which is privileged under the attorney-client relationship.

**Section 15. BANKRUPTCY OR RECEIVERSHIP:**

Should the Company go into bankruptcy or into the hands of a receiver or other court officer, either voluntarily or involuntarily, or reorganize or merge or consolidate under provisions of law, or should the properties and business of the Company be foreclosed or sold to satisfy any lien or indebtedness or obligation of the Company, the interest, rights and remedies of the County in respect to said properties and operations shall not be affected or prejudiced, and any receiver, assignee, trustee, purchaser, or successor, whether by operation of law or otherwise, so succeeding to or representing the interest or position of the Company in respect to the property shall be bound by this ordinance and the

terms and provisions hereof, and shall be bound to carry out and perform the obligations and duties imposed upon the Company by this ordinance.

**Section 16. ACCEPTANCE:**

This franchise and its terms and provisions shall be accepted by the Company in writing, executed and acknowledged by it in such way as may be necessary to meet the approval of the County Attorney, and filed with the County Manager, who shall record the same in the Book of Ordinances.

**Section 17. EFFECTIVE DATE**

This ordinance is effective from and after the date of its adoption.

This Ordinance shall take effect and be enforced on the \_\_\_\_ day of \_\_\_\_\_, 2005.

Adopted this the \_\_\_\_ day of \_\_\_\_\_, 2005.

**Exhibit "A" to Ordinance**

**RESIDENTIAL RATE:**

**As of the date of the passage of this ordinance the residential rate is as follows:** Residential curb collection, once per week, is \$14.00 per month.

**COMMERCIAL RATE:**

**As of the date of the passage of this ordinance the commercial rates are as follows:** The rate varies from Fifty (\$50) Dollars per month to One Hundred (\$100)

Dollars per month depending on the size of the dumpster used by the customer as

follows:

- 2 cubic yards container \$50;
- 3 cubic yards container \$55;
- 4 cubic yards container \$65; and
- 6 cubic yards container \$100

**ALLEGHANY COUNTY  
NORTH CAROLINA**

**RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR APPROVAL OF A  
FINANCING AGREEMENT AUTHORIZED BY NORTH CAROLINA GENERAL STATUTE  
160A-20**

WHEREAS, the County of Alleghany, North Carolina desires to finance the renovation of facility to consolidate departments into an Administration Building to better serve the citizens of Alleghany County; and

WHEREAS, the County of Alleghany desires to finance the Project by the use of an installment contract authorized under North Carolina General Statute 160A, Article 3, Section 20; and

WHEREAS, findings of fact by this governing body must be presented to enable the North Carolina Local Government Commission to make its findings of fact set forth in North Carolina General Statute 159, Article 8, Section 151 prior to approval of the proposed contract;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Alleghany County, North Carolina, meeting in regular session on the 3<sup>rd</sup> day of January, 2005, make the following findings of fact:

1. The proposed contract is necessary to renovate an existing facility for consolidation of Alleghany County departments and free up space in the Alleghany County Courthouse.
2. The proposed contract is preferable to a bond issue for the same purpose because of the cost incurred for this small of an issue and interest rates would be very similar in either instance. (i) It would not be prudent for Alleghany County to use available unappropriated fund balance to undertake the proposed project and the County is not capable of issuing a non-voted bond pursuant to Article V, Section 4, of the North Carolina Constitution to fund the project. (ii) This method was chosen to expedite the process without causing undue expenses.
3. It is anticipated the cost of financing under the proposed contract is less than the cost of issuing general obligation bonds.
4. The sums to fall due under the contract are adequate and not excessive for the proposed purpose because of the size of the issue.
5. Alleghany County's debt management procedures and policies are good because of the continued management letters stating responsible fiscal control in all areas in funds and departmental operations. These operations continually meet with Generally Accepted Accounting Principles as required by the LGC.
6. The increase in taxes necessary to meet the sums to fall due under the proposed contract will be \$1.46 per \$100 valuation and is not deemed to be excessive.
7. The County of Alleghany is not in default in any of its debt service obligations.
8. The attorney for the County of Alleghany has rendered an opinion that the proposed Project is authorized by law and is a purpose for which public funds may be expended pursuant to the Constitution and laws of North Carolina.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the County Manager is hereby authorized to act on behalf of the County of Alleghany in filing an application with the North Carolina Local Government Commission for approval of the Project and the proposed financing contract and other actions not inconsistent with this resolution.

This resolution is effective upon its adoption this 3<sup>rd</sup> day of January, 2005.

**NORTH CAROLINA**

**ALLEGHANY COUNTY**

**RESOLUTION**

**WHEREAS**, Alleghany County ("County") has previously determined to undertake a project for installment purchase for renovation of building, and the Finance Officer has now presented a proposal for the financing of such Project.

**BE IT RESOLVED, as follows:**

1. The County hereby determines to finance the Project through Branch Banking and Trust Company

("BB&T"), in accordance with the proposal dated December 17, 2004. The amount financed shall not exceed \$1,450,000, the annual interest rate (in the absence of default or change in tax status) shall not exceed 3.89% and the financing term shall not exceed fifteen (15) years from closing.

2. All financing contracts and all related documents for the closing of the financing ("the Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the County are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution. The Financing Documents shall include a Financing Agreement and an Escrow Agreement as BB&T may request.
3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by County officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.
4. The County shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The County hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265 (b)(3).
5. All prior actions of County officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Approved this the 3<sup>rd</sup> day of January, 2005.