

The Alleghany County Board of Commissioners met in regular session on Wednesday, January 19, 2005, at 10:00am 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 and County Attorney Ed Woltz were absent.

Chair Eldon Edwards called the meeting to order and opened with a prayer.

Chair Eldon Edwards stated that the agenda needs to be changed to reflect that Duane Davis and Charles Joines would not be attendance.

Chair Eldon Edwards made a motion to approve the amended agenda for this January 19, 2005, meeting. Commissioner Warren Taylor seconded the motion. Vote 4:0.

AGENDA
Wednesday, January 19, 2005
10:00 AM

- 10:00 Meeting Called To Order
Motion on Agenda for January 19, 2005 meeting
Motion on Minutes for January 3, 2005 meeting
- 10:05 Mary Walker
RE: Tax Releases & Refunds
- 10:10 Danny Staley
RE: Annual Report and CAP Administration
- 10:25 Wendy Williams
RE: Aerial Photos
- 10:45 Linda Hash
RE: Soil and Water Full-time Position
- 11:00 Duane Davis/Charles Joines (deleted)
RE: Property Needs
- County Business
1. Alleghany Garbage Service Franchise
 2. Fuel Oil Contract
 3. Budget Amendment—Blue Ridge BDC
 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 January 3, 2005, meeting. Commissioner Sandy Carter Herndon seconded the motion. Vote 4:0.

Mary Walker, Tax Administrator, presented the November 2004 real property requests in the amount of \$206.66 for releases and \$4,047.93 for refunds.

Commissioner Warren Taylor made a motion to approve the November 2004 real property requests in the amount of \$206.66 for releases and \$4,047.93 for refunds. Commissioner Sandy Carter Herndon seconded the motion. Vote 4:0.

Mary Walker, Tax Administrator, presented the November 2004 automobile requests in the amount of \$489.74 for releases and \$442.75 for refunds.

Commissioner Sandy Carter Herndon made a motion to approve the November 2004 automobile requests in the amount of \$489.74 for releases and \$442.75 for refunds. Commissioner Warren Taylor seconded the motion. Vote 4:0.

Mary Walker, Tax Administrator, presented an application for a property-tax exemption. She explained that the property is 0.688 acres that joins New Hope Missionary Baptist Church and will be an addition to the cemetery.

Commissioner Warren Taylor made a motion to approve the property tax exemption for New Hope Missionary Baptist Church. Commissioner Sandy Carter Herndon seconded the motion. Vote 4:0.

Mary Walker, Tax Administrator, presented the December 2004 real property requests in the amount of \$1,652.45 for releases and \$236.40 for refunds.

Chair Eldon Edwards made a motion to approve the December 2004 real property requests in the amount of \$1,652.45 for releases and \$236.40 for refunds. Commissioner Sandy Carter Herndon seconded the motion. Vote 4:0.

Mary Walker, Tax Administrator, presented the December 2004 automobile requests in the amount of \$703.14 for releases and \$371.58 for refunds.

Commissioner Sandy Carter Herndon made a motion to approve the December 2004 automobile requests in the amount of \$703.14 for releases and \$371.58 for refunds. Commissioner Warren Taylor seconded the motion. Vote 4:0.

Mary Walker, Tax Administrator, presented a motor-vehicle appeal for a 1998 Volvo truck. She explained that the vehicle has 1,119,399 miles. She stated that she is recommending the value to be \$24,000 based upon the appraisal she received.

Commissioner Warren Taylor made a motion to approve the Tax Administrator's recommendation on this vehicle-tax appeal. Commissioner Sandy Carter Herndon seconded the motion. Vote 4:0.

Mary Walker, Tax Administrator, presented a letter asking that the solid waste fee be discontinued on this property. She explained that this house hasn't been occupied since April 2003 and without power since December 2004.

The Board of Commissioners, County Manager Don Adams and Mary Walker discussed the criteria for releasing solid waste fees including prior discussion concerning releasing the solid waste fees if no one is living on the property.

Commissioner Sandy Carter Herndon made a motion to approve the solid waste fee to be discontinued for tax year 2005. Commissioner Warren Taylor seconded the motion. Vote 4:0.

Danny Staley, Director Appalachian District Health Department, presented the annual report for the Health Department's activities for 2003-2004 explaining areas of concern in the County as

well as accomplishments. He presented the Community Health Report for Alleghany County,

Commissioner Warren Taylor asked Danny Staley about a study showing radon is a cancer-causing agent. They talked about radon studies that are done here and home testing kits for radon.

Danny Staley continued discussing the Community Health Report for Alleghany County.

Commissioner Sandy Carter Herndon and Danny Staley talked about domestic violence issues in the County.

Chair Eldon Edwards and Danny Staley discussed the dental program at the Health Department.

Eva Wooten talked about sending dental emergencies to Ashe or Watagua counties if the dentist isn't in Alleghany County.

Danny Staley talked about the maternity program that the Health Department is offering since the Hospital doesn't offer maternity services.

Commissioner Sandy Carter Herndon, Danny Staley and Eva Wooten talked about the delivery aspects concerning the area hospitals; primarily the hospitals in Elkin and Jefferson.

Danny Staley talked about the Health Department administering the Community Alternative Program (CAP). He stated that after researching this concept, the Health Department thinks the program is a valuable, needed service. He further stated that he is asking the Commissioners to appoint the Health Department as lead agency to administer the CAP program. He further stated that if this is the Board's wish, the Health Department can start administering the CAP program on April 1.

County Manager Don Adams gave the Board an overview of the meetings and discussions leading up to the Health Department administering the CAP program.

Commissioner Sandy Carter Herndon and Danny Staley discussed that the Health Department will provide a nurse oversight and social worker oversight and then contract through a local in-home aide service for the remaining personnel similar to how the hospital operates the CAP program now.

Commissioner Warren Taylor made a motion to designate Appalachian District Health Department as the lead agency on the CAP program. Commissioner Ken Richardson seconded the motion. Vote 4:0.

Wendy Williams, E-911 Coordinator/Mapper, stated that she is asking the Board for permission to update the aerial photos in the County and the need for the update. She gave an overview of the six bids received for the aerial photo project; with the low bid from Kucera International at \$33,269 and the next lowest bid at \$39,479 from L. Robert Kimball and Associates. She explained that the bids did not include a server needed for the Mapping Department concerning this project. She reviewed the bids and the services offered for each bid. She gave reasons why she wasn't recommending Kucera including the quality of the photos and the timeliness of their work. She reviewed reasons she is recommending L. Robert Kimball and Associates.

Commissioner Warren Taylor stated his appreciation for the work that has been completed on this project.

Commissioner Sandy Carter Herndon and Wendy Williams talked about Kimball having the services completed by the end of July 2005.

Commissioner Ken Richardson asked if the server needs to be ordered now.

County Manager Don Adams talked about waiting until the end of the project in order to get a better server for the same amount of money.

Wendy Williams stated that these monies will come from the E-911 fund.

Commissioner Warren Taylor and Wendy Williams talked about providing the photos online.

Wendy Williams talked about several other departments that use this information and the new building where everyone will be networked together so they can get real-time data versus on the Internet; which is updated monthly.

County Manager Don Adams explained how all of the departments will be networked together to share information at the new building.

County Manager Don Adams stated that the contract has been reviewed by the County Attorney.

The Board of Commissioners and County Manager Don Adams discussed bringing the contract back to the Board at another meeting or voting on the contract at this meeting.

Commissioner Warren Taylor made a motion to approve the contract with L. Robert Kimball & Associates for \$39,379. Commissioner Sandy Carter Herndon seconded the motion. Vote 4:0.

Linda Hash, Soil and Water Office Manager/Technician, talked about how the aerial photos will benefit the Soil and Water department, too. She explained that she is coming to the Board to ask for the part-time Administrative Assistant/Technician position be changed to a full-time position as of February 1. She explained that the reason she is asking for the change now is due to the recent Federal position changing in Alleghany County. She discussed the amount of money needed for the change for the fiscal year and the amount of money needed for next budget year. She talked about how the Soil and Water office has been asked to take over the Federal workload until the Federal position is filled. She further talked about the current workload between all of the programs; Federal, State and County.

Commissioner Warren Taylor and Linda Hash talked about the hiring freeze on the Federal level, and the Federal position would not be reviewed until the hiring freeze is removed.

Commissioner Warren Taylor asked if the \$2,000 from the Soil and Water Board would be ongoing.

Linda Hash stated that the Board has appropriated the money for this year. She further talked about grants and other funding sources that they are looking at to further the Soil and Water district activities.

Commissioner Warren Taylor, County Manager Don Adams and Linda Hash talked about the amount of money needed for this year; \$5,734.25, and next budget year; \$28,539 which is an additional \$18,273.

Chair Eldon Edwards and Linda Hash talked about the person in the part-time position being reclassified to full-time.

Commissioner Sandy Carter Herndon made a motion to approve the request of changing the part-time position to a full-time position in the Soil and Water department. Commissioner Ken Richardson seconded the motion. Vote 4:0.

County Manager Don Adams presented the second reading of the Alleghany Garbage Service franchise agreement. He stated that Alleghany Garbage Service has indicated that they will be requesting a fee change from \$14 to \$15 per month on residential pickup.

Commissioner Warren Taylor made a motion to approve the franchise ordinance. Commissioner Sandy Carter Herndon seconded the motion. Vote 4:0.

County Manager Don Adams gave the Board an overview of the facilities that use fuel oil and the bids received last year on fuel oil. He stated that he is asking the Board for direction on fuel-oil bidding this year. He explained to the Board all of the different ways that fuel oil can be bid out. He reminded the Board about conducting business with a Commissioner; contracts cannot exceed \$25,000 annually and no contract can be over \$5,000. He asked the Board how they want to bid the fuel oil and how does the Board feel about doing business with a Commissioner.

Commissioner Warren Taylor asked if bidding it out in different parts would the County save money over bidding everything together.

County Manager Don Adams talked about the different ways the bids came in last year being within a couple of hundred dollars of each other. He further talked about how the fuel oil used to be spread out over all of the fuel oil businesses. He explained that if the contract is broken down, several businesses will benefit versus one business doing everything.

Commissioner Warren Taylor talked about reasons for separating the bidding including saving money and ensuring all of the services are being offered including Social Services.

County Manager Don Adams stated that there is only one company that can do it all currently; G&B Energy.

Commissioner Sandy Carter Herndon talked about the minimum amount of Social Services fill-up and the interest of the fuel companies.

Commissioner Sandy Carter Herndon asked about having any complaints or concerns from Social Services concerning the way the fuel oil was done in the past.

County Manager Don Adams stated that he wasn't aware of any problems.

Commissioner Sandy Carter Herndon asked if the old system worked, why not go back to it. She talked about letting the system work like it did.

County Manager Don Adams talked about how he thinks the safest route is to group the Courthouse/COA together but grouping them together could go over \$5,000, having the Transfer Facility only filled up when needed and how that could more easily be monitored than automatic fill-up. He talked about using Hometown Fuel and keep a running total for Transfer Facility and Social Services and using G&B for the Courthouse/COA.

Commissioner Warren Taylor stated that he thinks the County Manager should bid fuel oil both ways, overall and group it the way he thinks is necessary. He further stated that the bids should be brought to the Board and let the Commissioners decide.

County Manager Don Adams presented budget amendment General Fund #23 in the amount of \$50,000. He explained the reason for bringing budget amendments back to the Board for issues that have already been passed.

Commissioner Warren Taylor stated that he thinks the budget amendments are necessary to bring back to the Board.

Commissioner Ken Richardson made a motion to approve budget amendment General Fund #23 in the amount of \$50,000. Commissioner Sandy Carter Herndon seconded the motion. Vote 4:0.

County Manager Don Adams informed the Board that Amy Pardue would come to the next meeting to discuss the Master Recreational Plan. He talked about completing a survey for the Plan, the need for the Plan and the costs of the Plan/survey. He stated that he would like for everyone to think about the survey and asked any questions that they may have.

Commissioner Ken Richardson stated that he would like to commend Clerk to the Board Karen Evans for her obtaining the Certified Municipal Clerk designation.

Commissioner Ken Richardson talked about attending the Legislative Goals Conference last week. He explained that this conference was to adopt goals and policy statements. He further reviewed the importance of contacting our legislators in Raleigh including handing out information from the North Carolina Association of County Commissioners (NCACC) detailing strategies for county officials. He talked about the three main goals from the NCACC including Medicaid. He further talked about a bill that will be introduced to phase out the County portion of the Medicaid funding by 3% annually. He explained the other two goals of revenue options and school construction bonds. He reviewed the 54 adopted goals and explained significant changes. He reviewed a State budget outlook presentation that was given at the Conference. He told the Board that he would talk to any of the Commissioners about any of these issues if anyone wanted more information on the Conference.

Commissioner Ken Richardson addressed the comments at the last meeting about the County Manager speaking for the entire Board but not each individual Commissioner.

Commissioner Ken Richardson talked about attending a meeting in Alamance County on the January 25th concerning the schools and after-school programs.

Chair Eldon Edwards thanked Commissioner Ken Richardson for attending the Legislative Goals Conference and the report about the Conference.

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

Commissioner Warren Taylor made a motion to enter into closed session under NCGS 143-318.11 (a) (6)—personnel at 11:52am. Commissioner Sandy Carter Herndon seconded the motion. Vote 4:0.

Chair Eldon Edwards called for a 5-minute recess.

Commissioner Warren Taylor left the meeting at 11:54am.

Bill Graham joined the meeting at 12:04pm.

Bill Graham left the meeting at 12:19pm.

Chair Eldon Edwards made a motion to adjourn closed session and reconvene the regular meeting at 12:27pm. Commissioner Ken Richardson seconded the motion. Vote 3:0.

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

Being no further business, Commissioner Sandy Carter Herndon made a motion to adjourn the meeting at 12:28pm. Commissioner Ken Richardson seconded the motion. Vote 3:0.

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.

ATTEST:

ALLEGHANY BOARD OF COMMISSIONERS:

Karen Evans
Clerk to the Board

Eldon Edwards, Chair

Warren Taylor, Vice-Chair

Graylen Blevins, Member

Sandy Carter Herndon, Member

Ken Richardson, Member

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