

**Work Session
Commissioner's Assembly Room
Third Floor, Administration Building
October 3, 2006 at 5:00 p.m.**

The Montgomery County Board of Commissioners met in a work session on Tuesday, October 3, 2006 in the Commissioner's Assembly Room, Third Floor of the Administration Building in Troy. The meeting was moved into the Assembly Room due to the large crowd of citizens in attendance. A full board was present and the following was heard:

(County Attorney Russell Hollers was also present.)

Discussion on Landfill Expansion Agreement

County Manager Lance Metzler gave the Board several handouts. He said the first document is the Solid Waste Landfill Ordinance. The Landfill Franchise Ordinance does two things. First it grants the exclusive landfill franchise in Montgomery County to Republic Services of North Carolina, LLC (Republic). Second, it allows Republic, on behalf of Uwharrie Environmental, to increase the average daily waste tonnage from 2,000 tons per day to 3,000 tons per day a daily increase of 1,000 tons. Of course, this is contingent on the State's approval on all permitting.

The Landfill Franchise Ordinance is the only document that the Board of Commissioners will consider tonight. If the majority of the Board approves the Landfill Franchise Ordinance, then it will be placed on the October 17th agenda at which times the Commissioners will consider voting on the draft agreement between both parties. If the majority of the Board votes not to approve the Landfill Franchise Ordinance then the Ordinance fails due to lack of a majority. It takes two decisions on the ordinance and one on the agreement.

Mr. Metzler said we have been working with GBB and our attorneys Nelson Mullins. He said it is hot off the press. He said I want to give it to the Commissioners to take home and read and write down all the questions that you have. I will be scheduling a meeting with the consultants, Nelson Mullins, Attorney Hollers, and you all to answer any questions you may have.

The County Manager went over the improvements in the proposed agreement from the original agreement. He said, in my mind, the thing with the new draft is that it provides more accountability and it also asks for more responsibility for Republic and reduces the liability of the County once had in the original contract. He said even if it comes with that and no additional revenues, in my mind, it is pretty powerful.

Mr. Metzler said the existing agreement that is in place, in my opinion and in the opinion of our consultants and our attorneys it is extremely one sided in favor of Republic. This allows a little more balance to an agreement that should be in place for Montgomery County and Republic.

The definitions section has expanded and is modified to make it easier to interpret certain key terms and terminology in the Agreement and/or to provide for certain County benefits and a more reasonable and balanced application of the provisions in the Agreement.

Adverse Economic Impact and Force Majeure: In the original agreement it appeared that Republic could terminate the contract for a variety of reasons which would leave the County holding the bag. The draft agreement limits Republic to termination only due to an act or omission by the County such as a local County law that the County has enacted that will cause an actual loss in operation for Republic.

The first document we received from Republic's counsel included wording that Republic would "materially comply" with applicable laws and regulations. We insisted on changes requiring "compliance" with state and federal laws and regulations: either you comply or you do not comply. It if stayed "materially comply" then the County may be liable if Republic did not operate as per the regulatory requirements or permits. We changed to comply which makes Republic totally liable for their operations at the landfill.

The current host fee per ton is \$2.00. Republic's stance was that this is a new agreement. We negotiated to add the CPI from 2004 to present to be included which is \$.18, so that to start the new agreement with the host fee at \$2.18 per ton which equates to an additional revenue to the Count of \$131,400 per year on the 2,000 tons per day and \$65,700 on the increased 1,000 tons per day. The Host Fee will be adjusted by the CPI every year thereafter throughout the term of the Agreement.

The overall increase in the Host Fee revenues from the additional 1,000 tons per day at the adjusted, increased host fee equates to approximately \$795,000 annually.

It must be said that the host fee on the additional 1,000 tons per day is not guaranteed but the other benefits from a more accountable agreement, the increase on the hose fee, the landfill gas, the revenues from the alternative daily cover, the franchise fee and the community benefit fee will still be an increase in revenues and substantially enhance the vitality of Montgomery County.

Chairman Maness said Lance; you said it could be 1,500? Mr. Metzler said yes, as long as the end of the 5 year cycle it averages out of 3,000 tons per day, then if they go above that they are violating State law. If they go under or average the 3,000 then they are okay.

Commissioner Morris said they have 365 a year; they could take in more on Friday. Mr. Metzler said as long as they stay within the 3,000 average.

Alternative Daily Cover:

Under the current agreement, the County does not receive any revenues from Alternative Daily Cover (ADC) that is purchased and used for landfill cover. The County has negotiated \$.50 per ton on all ADC. It is estimated that the Operator will bring in 12,000 tons per year which would equate to \$6,000 of additional annual revenue for the County.

Community Benefit Fee:

In the existing agreement specifies that the Community Benefit Fee is designated to be used for recreational purposes and is not to exceed \$75,000. The County negotiated that we could utilize the \$75,000 anywhere as needed and that this Community Benefit Fee would also be adjusted annually by the CPI. Based on a conservative annual increase in the CPI of three percent, this would yield an annual revenue increase of \$2,250 over the existing agreement upon the initial adjustment.

Landfill Gas:

A concern that was voiced by the opposition group was that the County did not have any provisions in the existing agreement to benefit from the sales of any landfill gas. The County negotiated to receive \$.10 per decatherm sold (or its energy equivalent) of landfill gas which was estimated to provide the County an additional \$50,000 to \$100,000 in revenues when landfill gas sales commence.

Franchise Fee:

The Franchise Fee is a key financial benefit on which we went back and forth on. The County finally negotiated a Franchise Fee of \$530,000 annually, to be adjusted each year throughout the term of the Agreement by the CPI. Republic was told that most other franchise agreements have this form of fee included. The current agreement does not include a franchise.

Authorized Vehicles:

The Operator would be required to provide the County annually with Certificates of Insurance for commercial vehicles accessing the Landfills or the Recycling Center that are owned by the Operator and its affiliates, and the contractors that have written contracts with the Operator providing for such access, so the County can monitor insurance coverage of such parties to make sure they have sufficient coverage in case of any accidents.

Roadside Litter Program:

The existing agreement does not require a litter control program. The draft agreement provides that the Operator is responsible for ½ mile North of the Landfill on Landfill Road; Landfill Road South to 24/27; and at the intersection of Landfill Road ½ mile East and West on 24/27.

Republic has agreed to also publicize to Solid Waste Landfill users appropriate routes to the landfill and to assist the County with other roadside litter programs that are concerns of the County.

Tractor trailers are not supposed to travel secondary roads due to State-controlled weight limits. Now, local waste trucks use secondary roads to pick-up waste from their customers. All vehicles are regulated as to which State roads they can travel by weight limits. The two main roads of concern appear to be Highway 109 and Highway 134 which will be a focus of litter management.

Landfill Inspection:

The County currently does not have the right to inspect the Landfills or Recycling Center for any reason at any time. The draft agreement allows the County or its designee to inspect the Solid Waste Landfill and the Recycling Center during normal business hours and have access to all areas of such facilities for purposes of monitoring the operation of the Solid Waste Landfill and the Recycling Center, and the Operator's compliance with its obligations for the Original Landfill, the Solid Waste Landfill, and the Vertical Expansion. In addition, under the expanded reporting requirements of the Operator in the draft agreement the Operator has to provide certain information to the County in order for the County to sufficiently verify compliance with this agreement.

Unacceptable Waste:

The existing agreement does not address what needs to be done with unacceptable waste. The draft agreement requires the Operator to contact the County when they have turned a hauler away due to unacceptable waste. They have to contact the County so that we can

ensure that the waste is not dumped illegally in the County and we can contact its end destination to assure that the waste was handled appropriately.

Closing and Fee Changes:

The Operator is required to notify the County on any closings of the Solid Waste Landfill and any fee changes.

Disaster Debris:

The Operator will work with the County on developing a disaster management plan to handle any needs that may be needed due to the debris from an event.

Hardship Waste:

Hardship Waste is the waste the County asks the Operator to accept such as results from a home fire or similar tragedy where assistance is needed. The County is allotted up to 1,500 tons per year of Hardship Waste free of charge, with provisions for a rollover of unused Annual Hardship Waste Limit.

Recycling:

The Operator is now required to provide the County with copies of documents the Operator provides the North Carolina Department of Environmental and Natural Resources.

The Operator is also now required to post notice at the gates of the Solid Waste Landfill and the Recycling Center to notify residents of the specific clean, separated recyclable materials the Operator will purchase from all residents.

The Operator will make presentations to school, outreach program, civic programs, etc. about recycling and landfills. In general, the draft agreement provides for a more definitive and expanded community information and outreach program by the Operator than is set forth under the existing agreement.

Republic has agreed to work with the County and within 24 months, report its recommendations from a study by the Operator of cost feasible options to handle recycling which may provide both parties a cost savings. It is recognized that the Operator's existing "dirty MRF" is aged and expensive to operate and it costs the County a lot more to use this facility and the Operator a lot more to operate it than might be possible through a modified program of recycling in the County. It is intended that Republic's study of other options be focused to a more cost-effective recycling system in the County.

Disposal Fee:

Disposal Fee is not addressed in the existing agreement. The County has the right to increase the disposal fee for local commercial haulers in the draft and agreement and also have the authority to receive a rebate which is additional revenue for the County.

Closure and Post-Closure:

The current agreement the County is responsible for remediation of the Original Landfill. In the draft agreement Republic is responsible for closure, post closure of all landfills and remediation for all but the Original Landfill.

Termination:

The current agreement allows Republic to get out of the agreement basically at their call. The negotiated agreement has been modified to address termination, breach, performance

bond and indemnity to give the County more protection and prevent the Operator from eliminating closure, post-closure, and remediation obligations if Republic ceases to operate the landfill unless such event is caused by acts or omissions of the County.

Parent Guarantee:

The existing agreement has no guarantee of the Operator's obligations by its parent company. Therefore, the County has no entity/financial backing to access for relief if the Operator can't perform and has no resources. The draft agreement includes a parent guarantee by Republic Services, Inc., the Operator's parent over the Operator's performance obligations under the agreement.

Animal Shelter:

Republic has agreed to provide the County with 5 acres of land and \$20,000 towards a new Animal Shelter.

Job Openings:

Republic has agreed to give Montgomery County residents priority over other candidates for employment as long as they meet the hiring criteria.

Insurance:

The County negotiated for Republic to increase their Pollution Liability Insurance from \$10,000,000 to \$20,000,000 and Comprehensive Automobile Insurance from \$1,000,000 to \$2,000,000.

Chairman Maness asked Mr. Metzler to repeat the coverage and he did.

Performance Bond:

The existing agreement flat lines the performance bond at \$5,000,000. The draft agreement addresses the fact that the performance bond should be evaluated periodically by the County and the Operator to determine if the bond is sufficient to cover operations in the time of need. There will be a review of the performance bond amount to determine reasonable and sufficiency every three years by the County and the Operator, with possible adjustments of the bond amount by the change in the CPI over such three-year period.

If the County finds the Landfill Franchise Ordinance and the Agreement acceptable then I would recommend that new revenue be put in to Fund 21 or the Capital Improvement Fund to address current and future capital needs.

Montgomery County Revenue Comparison From Uwharrie Environmental

Current Annual Revenues

\$1,470,000	2,000 tons per day x \$2.00
<u>+ 75,000</u>	Community Benefit Fee
\$1,545,000	

Negotiated Annual Revenues (if additional 1,000 per day +/- is approved)

\$ 795,000	1,000 tons per day \$2.18 which includes the CPI increase from 2004
131,400	.18 cents per ton on the original 2,000 tons increase from 2004 CPI
530,000	Franchise Fee
2,250	CPI increase on Community Benefit Fee
<u>+ 6,000</u>	Based on 12,000 tons of Alternative Daily Cover at .50 cents per ton

\$1,464,000

Combined Revenues in Proposed Draft Agreement:

\$1,545,000	Current Revenues
<u>+1,464,000</u>	Negotiated Revenues
\$3,009,000	Annual Revenues

Mr. Metzler said it all depends on how much they bring in. Right now they are having to shift loads.

Other Revenues:

- \$20,000 for Animal Shelter
- Funds for Water line for Nance Farm Road
- Landfill Gas Revenue Estimated to Start in three years
- Negotiated paying additional attorney fees
- Disposal Fee Rebate

Valid Point:

In the opinion of our attorneys, consultant and I, we believe that the current agreement is extremely one-sided of the benefit of Uwharrie Environmental. They have very little accountability to the County.

The draft Agreement makes Uwharrie Environmental more accountable to the citizens of the County and provides more of a balance to the Agreement rather than one-sided.

If the Commissioners decide to accept the increase of 1,000 tons per day then at least you would have a new Agreement that includes more accountability and balance and give the County enhanced ability and resources to monitor the Operator and the Landfills and Recycling Center and protects the interest of its citizens.

If the agreement providing for an increase of 1,000 tons per day is not accepted, then the County is stuck with the existing agreement reflecting limited accountability by Republic and subjecting the County to continued liability.

Mr. Metzler presented the "Maximum Annual Contract Gains" table.

Mr. Metzler said if the Commissioners accept the 1,000 tons per day increase then I would strongly recommend that it be put in a separate fund for Capital Improvement Needs. He said I know in the past the County has put in into the operational funds and the landfill funds are finite pots of money they are not infinite. Finite pots of money are typically used for capital improvement not annual operations. He said in the future I am going to try to start working those landfill funds out of the operation funds so 15-20 years from now, they will not be so dependant on that.

Mr. Metzler said I do want to set up a meeting with our consultants and attorneys and the Commissioners on this. He said I think we have worked very hard on this. I have been working on it 14-15 months in the process. He said a lot of hard work and white hair has gone into it, but in my opinion it is a much better agreement than what we have now.

Chairman Maness asked Mr. Metzler if that was it for him. Mr. Metzler said I just wanted to present this to you. Again, the franchise ordinance is on for the meeting tonight. If you vote

no for it, it is resolved there; but if you vote yes, it takes another majority vote at the next meeting and also the agreement has to be decided on then as well.

Mr. Metzler asked Russ Hollers if he had anything to add to it. Mr. Hollers said obviously you have a better contract here than you have with the first one.

Mr. Metzler said when you are reading through the agreement if you do have questions, call me and I will get an answer for you and we will have a meeting with our consultants and our attorneys Nelson Mullins and Russ to answer any other questions you may have at this time.

Chairman Maness asked another question is how we handle the public comment area. Mr. Metzler said I would strongly advise a public comment period. I would advise the Commissioners somehow to promote or advertise that through the media for the October 17 meeting. Chairman Maness asked if the public forum would be sufficient. Mr. Metzler said you could have it during the public forum, yes. Mr. Maness asked if the agreement would be posted. Mr. Metzler said we will have it in the office and probably have one at the library and somewhere else so the public will have access to it.

Mr. Metzler said as soon as the meeting is over with today and if the Commissioners approve the 1,000, if anyone would like a copy, we will make it available. If the Commissioners do not vote to approve the additional 1,000 tons, then the agreement would not be valid.

Commissioner Corbett said Mr. Chairman I have a question for Lance. Mr. Maness said okay. Commissioner Corbett said Lance; tell us exactly how much of this is guaranteed money. Mr. Metzler said again the 1,000 tons . . . Mr. Corbett said no the guaranteed funds. Mr. Metzler answered \$663,650 because you can't guarantee the alternate daily coverage because it could be 1,500 tons or 500 tons. The 1,000 tons per day you really don't know. Commissioner Corbett said I don't understand that part. We are giving them a firm contract for 20 years; it looks like they could give us a firm contract for money. Mr. Corbett said I don't understand contracts where it isn't spelled out on both ends. Mr. Metzler said okay. Mr. Corbett said thank you.

Commissioner Bostic said Mr. Chairman, I have looked at this and I think that our Manager and GBB have done a remarkable job putting this together. Mr. Bostic said one of the things that I would like to see done is negotiated for the Franchise Fee. I would like to see that Franchise Fee earmarked for road improvements for those roads that go into the developments where the State does not go into these roads. We could take this money and bring up those roads where the State could take over and give our citizens an easier way for citizens to egress and ingress from their homes and the emergency vehicles and buses are accessible to. If a portion of that money could be used for that, I think the citizens of this County would be grateful for that. Mr. Metzler said a portion of the franchise fee. Mr. Bostic said right.

Chairman Maness said I know we just got this information and we have a couple of weeks to go through it and kind of digest this. I encourage, along with myself, to schedule a time with Lance to discuss the big issues and make sure we are all on the same page and work through it.

Commissioner Corbett said Mr. Chairman, when will we get the final contract in, word for word? Mr. Metzler said I have one other area we are working on and it is almost final and it should be by tomorrow. I will have those delivered around and I will give you this now so you can look at it and review it.

Mr. Metzler said Mr. Chairman if you want to recess and then we can open back up at the regular session.

Chairman Maness said first of all are there any other questions or concerns.

Commissioner Knight said Mr. Chair, I have a list of items that I would like to address if I may. Chairman Maness said yes sir.

Mr. Knight said first of all there is a landfill procedure for consideration of landfill expansion that is a page the manager put in our packets. I would like our manager to read over, with a break down of all of the funds, especially the "act before November 1". Mr. Metzler said Mr. Hollers may be able to help expand on that. On August 23, 2006, the General Assembly approved new legislation that created a moratorium on any new landfill, renewal permit, or substantial change to a permit that has not had an official permit by November 1, and then they will have to comply with new regulations. Currently, Uwharrie Environmental is on the priority list now which will fall under the new regulations so as soon as they file for the temporary amendment they will receive a temporary permit, they will be issued a temporary permit until they go to the final permit and the agreement. If they apply after November 1st they will fall to the bottom of the list and it may take them two to three years to be approved with new regulations. It would result in additional liability for the County and the old contract we would also lose roughly \$3,000,000 in two years and \$1.5 million in one year. Mr. Metzler said the reason I put that on there is if we do have an additional two years on that, then we will still fall under the old contract which leaves very little responsibility and accountability for the County on behalf of Republic. This agreement in my opinion is a lot better than the older agreement plus we will lose the additional dollars.

Mr. Knight said I was just thinking it came to my attention a few days ago that we were going to be doing all of this and I have asked the question in the past to hire a consultant to do some work for us as far as the landfill is concerned and I can't remember meeting with the consultant or seeing anything from that consultant with his recommendation. Mr. Metzler said yes sir. Mr. Knight said and all of a sudden we have to act on this. So, I just wondered how we skipped all of that and jumped on this. Mr. Metzler said Mr. Chairman, from my understanding, the Commissioners charged me with bringing back a draft contract and 14-16 months ago we talked about that and I don't think any of us thought, especially August 23, that would say they would have to fall under the new regulations instead of the old regulations. Their work and the attorneys work is in this contract sir.

Mr. Knight said one other thing, when I start reading a document, I like to start by reading the purpose of the document and in the purpose it reads "This ordinance is enacted to promote and to protect the health, safety, and welfare of the people of Montgomery County." He said now, you went through this whole ordinance, and I haven't heard you mention anything about protecting the health, safety, and welfare of the people of Montgomery County. Mr. Metzler said Mr. Chairman, if I may, as I mentioned earlier, and I will mention again, the new contract by promoting and protecting the health, safety, and welfare of the people of Montgomery County is requiring that Republic be more accountable to Montgomery County and its citizens requiring Republic to be more responsible to

Montgomery County and its citizens and reducing the liability of Montgomery County reducing the financial burden on Montgomery County in the landfill. Mr. Knight said I understand that, but what I am saying here is that, although Republic is supposed to abide by Federal and State laws and all of that, we know sometimes these laws only gives us the minimum protection and I think we need to have more than the minimum protection for our people in this County. Just because the Federal and State Government say that we are operating within their laws, doesn't mean it is the best for our County. Mr. Knight said I haven't seen anywhere where any landfill is safe and healthy for people in the County. Maybe I missed some reading somewhere but I haven't seen anywhere that a landfill, any landfill, would be safe and healthy for the people of the County.

Chairman Maness said we don't have our rules in . . .go ahead.

Mr. Metzler said Mr. Chairman, the agreement you have in place, you already have a landfill and you have agreement which is in my opinion one sided. Again, it requires more accountability and responsibility to Montgomery County. For example, providing more insurance coverage on pollution and auto as well as allowing us to come in there and monitoring things they are doing. Mr. Knight said okay fine, Mr. Chairman may I continue. Chairman Maness said yes. Mr. Knight said one thing I really dislike about the whole picture here is I know right off the bat what you are recommending and I know where you are going to recommend where the money will go as far as the revenue coming in from the landfill, hey, three votes can change that after the first of the year. Mr. Metzler said you are right. Mr. Knight said so the people after the first of the year might decide to take that revenue and put it into the general fund and reduce taxes, so we can't make decisions today based on what might happen or what we want to happen. Mr. Metzler said you can not guarantee it, no sir. Mr. Knight said we are going to go into a contract with an organization that is going to be binding for 20 years, but we can't promise the people of this county what we are going to do with the revenues for the next 20 years. Mr. Metzler said that is right. Mr. Knight said I think it is kind of one sided. Mr. Metzler said I have one point to make, the original contract doesn't expire until 2018, so you have a long time on the original one, again it is one sided and allows very little or less accountability than the new one does. Mr. Knight said hey, we have lived with it this long; we can live with it 18 more years and then decide what we want to do for the people of this County.

Commissioner Knight said one thing I did not hear you mention in the contract was the fee for sending our garbage through the dirty MRF. We pay a lot more sending our garbage through the recycling plant than other counties bringing anything they want in our landfill. They can dump what they want to for \$17 a ton or whatever; our County sends a lot of their garbage through the recycling and pays 20 some dollars per ton. Mr. Metzler said that is right.

Commissioner Knight said recycling, I know you mentioned recycling that Republic is going to do this and do that, but do you think they want to get paid to recycle stuff when they are getting paid to put that stuff in our landfill. Mr. Metzler said it is costing them a lot of money to operate that, and they would be the first ones to tell you that. It would cost them less to operate a clean MRF out there; it would cost them a lot less to operate.

Mr. Knight said when I look around at other Counties trying to recycle and trying to protect God's green earth by recycling as much as they can, and then I look at Montgomery County and we are trying to put everything in our earth into land that we will not be able to use anymore. I don't think it is fair here, somebody is not really looking out for the people of the

County is the way I feel because if we put this burden on the generations today, bringing in garbage to pay for services, what are future generations going to do? They are going to have to bring in more garbage to pay for more services. Mr. Metzler said Commissioner Knight, I agree with you 100%. If the Commissioners agree to allow the additional 1,000 tons, then I would recommend that you be on the committee with Republic to find an alternate solution. Mr. Metzler said I agree with Mr. Knight 100%.

Commissioner Knight said I know I mentioned to the Board at one time that we need to go to some other Counties and look at their recycling operations and all of that. We are not even concerned with recycling because we didn't go anywhere and look at nothing. I think that we as a body of people that has sworn to take care of our people that we should look at these alternatives today to protect God's green earth, not to be wasteful, put it in the dump. We could recycle our aluminum. A lot of things we could recycle, but we are not doing it. We are not even trying to come up with solutions. If we had recycling, we might not even need the 2,000 per day that is going into our landfill. We are going to increase 1,000 tons so we can bring more garbage into our County. I can understand that there are a lot of Counties on the east coast that have no other way of getting revenue so they are bringing in garbage for revenue, but I think this County is capable of bringing in revenue to this County with jobs and things instead of bringing in garbage for revenue. I just don't understand it.

Commissioner Knight said one thing we also didn't bring out was we said we would bring in \$1,400,000, how much are we paying out to dispose of the garbage. Do you know that right off hand? Mr. Metzler said approximately \$400,000. Mr. Knight said so we are getting around \$1,000,000. He said I think all of these things should be looked at as well. We should tell the public everything, not just the good. All we talked about here was money, money, money coming in. If we bring all this money in for garbage, we got all this revenue coming in. There are a lot of Commissioners that talk about lowering taxes to get elected. He said lowering taxes is not going to do anything for our poor people out there.

Mr. Metzler said Mr. Knight, I tried to make it clear as far as my recommendation, put the money aside, I think it is a more solid agreement, I brought it to the Commissioners, and I negotiated in good faith for Montgomery County. I think it is a solid agreement as far as their accountability and responsibility to Montgomery County. Also, with us, less liability is on us and shifted back on Republic where it should have been in the process. In my opinion, put the money aside, and look at the contract itself.

Commissioner Knight said I agree with that. You did an outstanding job, your recommendation, the money, the revenue, it's great, it looks good. I am just trying to mention the other side, the things we didn't talk about, things the general public need to be able to understand there is more than one side of the issue. I have been to the meetings where people talked about the landfill, the only people, if I recollect correctly, the only people in favor of the landfill are the kind of wealthy, they are going to benefit for it. If we lower the tax rate, which will benefit, these are all the people that I have seen in favor. There are a lot of poor folks out there crying out that aren't speaking, but there are a lot of poor folks crying out. I just hope this County Government wants to start operating like some of our towns making people pay for services, making people pay for garbage pick-up that is a service. Poor folks have to pay for it to keep from raising taxes. Mr. Knight said people are going to have to wake up. He said our average people are going to have to wake up and see what's going on around them and speak out.

Mr. Knight said I am through Mr. Chairman.

Chairman Maness asked if there were any other questions. There were none.

Recess

Chairman Maness recessed the work session until the 6 p.m. regular session.

William D. Maness, Chairman

Laura B. Morton, Clerk to the Board

**Montgomery County Commissioner's Meeting
October 3, 2006**

**Chairman – William D. Maness
Vice Chairman – Sally M. Morris
Commissioner – Dolon W. Corbett
Commissioner – R.C. Bostic
Commissioner – George H. Knight, Jr.
County Manager – Lance L. Metzler
Finance Officer - Cathy S. Baxter**

**Clerk to the Board – Laura B. Morton
County Attorney – Russell J. Hollers**

The Montgomery County Board of Commissioners met in a regular session on Tuesday, October 3, 2006 at 6:00 p.m. in the Commissioner's Assembly Room. A full Board was present. *Chairman Maness reconvened the meeting and the following was heard:*

(Attorney Russ Hollers was also present.)

Invocation

Rev. Horne gave the invocation.

Public Forum

Jolene Cagle with Building Futures was not present.

Chairman Maness asked the County Manager to briefly go over the rules and regulations for the public forum, which he did.

Mrs. Karen Frye of 242 Cardinal Avenue in Troy was present. She said I am here about the Landfill situation. She said I do not have a prepared statement or anything like that. I would like to thank Commissioner Knight for expressing a lot of concerns that the citizens have. I know we hear a lot about the money issue that the Landfill can bring into it and I understand that but we do have to look forward to our children and what financial situations they may have. She said the other thing is I have a question and I know that you will not be able to address it but as far as the contract issue, Mr. Metzler made the comment about the documentation of refusal of loads coming in and documentation of income, tonnage and everything. Who is going to be monitoring that? If someone refuses the load are you going to be on top of it today or a week from today? Not to say you are not capable of doing it, but I can understand with the work load you may not be Johnny on the Spot with it. My other concern is, are we going to have another public meeting with this ordinance. I know you said

there would be another voting on this on the 17th and may be another public forum that day, will the County give citizens prior to that voting date where County Commissioners will have a chance to review or rethink what public citizens have brought up. The other thing is I am right in thinking that you are going to be voting on the ordinance tonight when you just received the draft contract. If that is the case, I think that would be poor judgment that you need to look over what you are voting on, if that is the case. Mrs. Frye said the other thing is, I am getting to a personal matter here and I hope Billy doesn't take offense, but I do have a concern with your personal, your business, you are in the trash business, you are with BFI and I have a little issue on a voting status with that. I just wanted to make my feelings known. Nothing personal against you, but . . . Chairman Maness said I understand. You are in trash we are voting on trash, there seems to be a little bit of a conflict there. That is all I wanted to bring up and I hope I can make it back to my chair.

Mr. Paul Passmore of Badin Lake was present. He said I am here to speak on behalf of the Badin Lake Residents, not only the residents, but the especially the elderly and the low income which this mandatory sewer system being forced upon us. We have some people that absolutely can not afford this sewer system. I have also learned that you have Environmental Waste. He asked Chairman Maness if that is part of his business too. Chairman Maness said no. Mr. Passmore said I have some questions concerning the meeting we had Saturday morning, the environmental guy, according to statistics, that our sewer systems are not up to date. However, our septic systems could, I stress the word could, because of the way he put it, our systems are subject to fail in 25 years, but if that is the case, they are also subject to lasting for 30 years, am I correct? These septic tanks can be replaced for the part that wears out or the extra filtration for a lot less than \$7,500. That would grant us another 50 years according to your environmental people. No one would take my questions on Saturday regarding that matter. We have just as much right, don't get me wrong, I am not against this septic system or growth in the community, what I am against is, you see when someone needs something in this community, everyone pulls together to get it. It is not something forced down their throats, no body deserves that. This needs to be taken into consideration, if it is a statewide project, then there should be no exemptions for what part of the County you live in. As it is, there is quite a bit of land not in the district it is called for. Mr. Metzler said he time is up. Chairman Maness asked Mr. Passmore to wrap his comments up. Chairman Maness asked Mr. Metzler to get Mr. Passmore's phone number.

Mr. Bill Page gave his minutes to Mr. Passmore. Mr. Passmore continued. Mr. Passmore said if this project is a mandatory deal, when this thing was originated and the price was \$1,500 with a cap of \$3,000, then why are we being charged \$3,500 before New Years and \$7,500 after. That is highway robbery. Anyway you look at it that is highway robbery. That is more than a lot of people in a section there have to offer. No one would say they are against growth in the community. If this project goes forward, where will the labor come from out of state or local talent bid out? Chairman Maness said I don't know, it is not our project. Mr. Passmore said it would hardly be fair to bid out the project and turn around and not give the bid to a local person who is capable of doing the project. He said thank you for your time.

Chairman Maness asked Lance to line up a time with the Commissioners and Handy to set up a meeting for questions and answers. Mr. Metzler said I mentioned to Mayor Page on Saturday that I had planned on scheduling a meeting between the Commissioners and the Handy Sanitary Board because there are a lot of valid concerns that need to be addressed. We can have this wherever the Commissioners want to have it. Chairman Maness said that sounds good.

Becky Stegall of 306 Nance Farm Road was present. She thanked Mr. Knight and Mr. Corbett for their concerns for the citizens on this landfill issue. Mrs. Stegall said I think I understood Lance correct when he said we would be taking in contaminated cover dirt and will be getting 50 cents a ton for that. Have you figured how much and who will be monitoring this contaminated dirt when it ends up in Rocky Creek after so much rain. It will be a lot more than 50 cents a ton. Mr. Metzler said they are already bringing that in now, and my point was that we get something out of it since we aren't currently now. Mrs. Stegall said I live out there along with a lot of other people and my logic would say that 50 cents a ton is not worth my life or anyone else's life out there. I would stop contaminated dirt from coming in there. Mr. Metzler said Mr. Chairman; they may be something the Commissioners would like to consider. Mrs. Stegall said it is not worth 50 cents a ton, and if anybody up here thinks it is, then that is a big insult to me. She said I also think there should not be a vote taken tonight. I would also agree with Karen Frye that like her, don't take this personally, I do not think that Chairman Billy Maness should be a part of this vote. You are in the trash business. In 2002, Allied Waste and Republic Services were both in cahoots together when they were caught for racketeering from the government. Look it up on your website, look it up on your website Billy before you go cocking your head. Chairman Maness said first of all Becky, I am not going to sit here and I don't have anything to . . . Mrs. Stegall interrupted and said I am not saying you do. Chairman Maness said I am not saying you do. Mr. Maness said easy, just a minute. I have talked with our attorney Russ Hollers and have had him check through this thoroughly and he said there is no problem with me voting for the landfill. If Russ would like to speak on this that would be fine. Mrs. Stegall said fine, that's fine it is a little moral issue too. Mr. Maness said I understand. Mrs. Stegall said the people of this County trusted Billy Maness too. They voted for Billy Maness. You are sitting in that sit because of the people of Montgomery County. Thank you.

Mrs. Patricia Marshall Harris was present. She said I have a two part issue. She said I have two issues I want to bring up. She said the first issue is that we were supposed to be on the agenda tonight, but for some ungodly reason we were not able to be on there. They kept telling us they wanted a few of us in a meeting, but it involves more than a few people, it involved the whole community up at the lake area, and so we wanted to have an open forum where it could be audioed and everything go on tape. I also want to know they Town of Troy had to run a line 26 miles up the road to Dixie Shores and Uwharrie Point, when we give ya'll our money, ya'll our taxes. It is like the Boston Tea Party, if you remember in history, taxation without representation. Ya'll are getting our tax money but we are not getting trash pick up or none of that. Our kids have to get on the bus at 4:30 a.m. to get down here to Troy. So if Handy is to run our water up there, you can't drink it, you have to drink bottled water or jugs of water. That is another thing, why can't we hook onto that new tank at Eldorado. There is a new tank five miles up the road and let Montgomery County provide our water, we live in Montgomery County. Why does Handy Sanitary District have to provide us water? I want that answered and answered now. Why does the Town of Troy, where some of your families members are, why did they have to get involved in this when it first originated from the county. Now, they came to ya'll about running sewer up that road, the next thing I know, some of your family members are up there and let the Town take it over. It went from \$1,500 to \$3,500 now to \$7,500. She said I know there is some cahoots going on, but we are fixing to break it up.

Secondly, like I said my other issue. I have some land down in the Springdale area. Now, you all gave River Road a \$750,000 grant to run pipeline down through there. Why can't you run that pipeline without worrying about their income is? Ya'll got a grant to run that pipe down that road? Why are you worried about what a person's income is? You know what you

are doing is not right. What you are doing is hitting the poor folks that way and the poor folks up that way, but you are forgetting the rich folks all around there because you are part of it and I don't think that is fair.

Chairman Maness asked Mr. Metzler if he had that down.

Mrs. Esther Fowler of 217 Brutonville Church Street Road in Candor was present. She said I was here a couple of years ago. Over there we do not have a paved road. We have two businesses on this road. We pay a lot of taxes. We asked the highway department if they could dig our drain line and just assist us in laying some rock and they could not do anything. My husband had to pay some guys as much as he could to dig the drain lines so the ditches wouldn't flood the yards. After they did that, we had to buy some rocks and some of the people were able to give us a little. The taxes that we pay and we couldn't get assistance to run a drain line; they refused to give us rocks or anything. The way we pay taxes we should get some assistance. Chairman Maness asked where this is. Mrs. Fowler said 217 Brutonville Church Street in Brutonville. Commissioner Corbett said Ralph and I talked about this before the meeting and are very aware of the situation and the aware that the ditch has been dug recently. Mr. Corbett said I personally think that someone else should have been responsible. Mrs. Fowler said like whom? Mr. Corbett said other than you guys. Mr. Corbett said we talked with the State at the last meeting about it that we need some movement on that, but you do need it.

Consent Agenda

In a motion made by Commissioner Corbett, seconded by Commissioner Morris, and so the motion carried unanimously to approve the following consent agenda items:

- Approval of the Minutes – August 15 regular session, September 5 regular session minutes
- Approval of the Work First Plan July 2007-June 2009
- Budget Amendment 08/07 – Sheriff's Office/Drug Forfeiture \$11,095

Landfill Franchise Ordinance

Chairman Maness asked Mr. Metzler to go through the process of voting on this ordinance, if it passes today what we have to do or if voted down.

Mr. Metzler asked Mr. Hollers to correct him if he says anything out of line.

Mr. Metzler said the Landfill Ordinance itself is really a four-page document with two objectives. One lays out Montgomery County and allows Republic the exclusive Solid Waste Landfill rights for Montgomery County and allows Republic to increase its volume from 2,000 to 3,000 tons per day and that is the only thing the ordinance allows. The ordinance has to have two majority votes. If the majority doesn't approve it tonight, then it is a dead issue, if the majority approves it tonight, it will be put on the October 17 meeting agenda. At that meeting, the Commissioners will have to vote on that and the agreement. If they vote successfully with a majority then the 1,000 extra tons are granted, if not, then it is null and void then as well.

Chairman Maness asked Russ Hollers if he had anything to add to it. Mr. Hollers said this is simply an amendment to an ordinance we already have. It is amended to add the tonnage and to answer your concern Mr. Knight about the purpose. The original was done in 1991. They state some general purposes and that hasn't changed since that time. This has

nothing to do with the particular terms of the agreement if their negotiated and agreed upon at a later time. It simply allows Republic to allow 3,000 tons per day. We already have an ordinance, what this is an amended and restated ordinance. It is better than it was before as far as defining. It more scientific than it was 15 years ago, all the language and knowledge and experience of other folks written were not available at that time.

Commissioner Corbett said Russ I have a question, page three article five . . .”Regardless of the length of the Appeal Period, the Exclusive Right Period shall not exceed a total of thirty (30) days.“ He asked Mr. Hollers to explain that to non-lawyers. Mr. Hollers said it means if there is an appellate process in any of the licensing and okaying of it by the state, it may take 10 years to get approval. It is just saying it can’t go any longer than 30 years. Mr. Hollers said that sounds like a planted question, do you have another answer for that. Mr. Corbett said no, I was just wandering, and I have never seen one like that before. Mr. Hollers said it is sort of peculiar.

Chairman Maness asked if there were any other questions for Lance or Russ.

Commissioner Knight said I asked the County Manager to familiarize himself with certain General Statutes and so he would be able to relay what the General Statutes are all about, once I mentioned a Statute in County Governments.

Mr. Knight said I received the 4th Edition of it when I went off to a commissioner’s school and I still have that 4th Edition. On pages 13 and 14 in that edition, it says, and I would like to quote a few lines, I understand what the attorney told you, and I am not questioning him, but this is general statutes. “However, the chair may not vote to break a tie vote in which he or she participated.” No there have been some people up here talking about connections and all that other stuff, and that is what we consider participating and general statues answers that. I don’t know, I can’t argue with the attorney on that. There may have been some changes. Attorney Hollers said I don’t think it has anything to do with conflict of interest. If the ordinance voted on it he couldn’t turn around and vote again and make it pass that is my interpretation Mr. Knight. He said we normally only vote once, Mr. Hollers said I understand but I don’t think it is applicable in this case and has nothing to do with conflict of interest case; he said I assume you are talking about the 153A statutes. Mr. Knight said yes. Attorney Hollers said I looked those up today and I didn’t see where that was . . . if you are trying to bar him from voting, he is obligated to vote. It is not a matter of whether he should vote for or against, but he is obligated to vote. Mr. Knight said I didn’t want to read it and take up a lot of time. Attorney Hollers said I understand. Mr. Knight said it does say that he is obligated to vote, but it goes on to say however, that is the part I read in the same statutes. It also goes on to tell you that the chair has no more power that the other members. All of this in this statute I am referring to.

Commissioner Bostic said Mr. Chairman; I guess I am the only one that was here on this Board at the time of the inception of the Landfill. He said when this came about, those of you that were here back in the 90’s we were under a mandate and we had to go to a line landfill. The State had given us a certain amount of time to do this. The Commissioners at that time visited other places and talked to other people that had similar landfills. The landfill that we chose to go to was a state of the art landfill. No County around this area, whether you like it or not, had that type of a landfill. The dirty MRF or the recycling thing was the first of its kinds. We thought we did something that citizens of this County would be proud of. I know we did something that saved this County a lot of money. I know that people get real emotional when you talk about money, but you try to do something without money and let

me know how you come out. This is one of the things we did. I see one of the Commissioners that served with me back then, Commissioner Dickson, we thought and of course we were doing what was best and of course we made mistakes, but we were depending on the guidance of the engineers, Russ as our attorney and other attorneys to bring this thing to fruition. We brought this County to a place with woods full of garbage to a place where you can take your garbage. We had meetings all over the County, we went from area to area holding community meetings and what we heard was people did not want to separate garbage. With that, I move that we will okay this franchise ordinance.

Chairman Maness repeated the motion; Commissioner Bostic made the motion to approve the amended franchise ordinance.

Commissioner Morris seconded the motion.

Chairman Maness asked if there was any further discussion.

Commissioner Knight said Mr. Chair, Commissioner Bostic was right. This was 16 years ago and you know how fast this world changes and then to the Counties that had no landfill at all. They had rather pay to send their garbage to some one else's County. Ever since we had County Governments, somebody figured out how to support those governments through taxes not through garbage pickup. There are ways of supporting your government instead of bringing in garbage. Somewhere along the line, we should look at other methods. He said 10 years from now there might be a better way to dispose of garbage and then how will we make up for the revenue coming in from that garbage. It is going to have to be a whole lot of taxes. We have got to consider all of these things when we start looking at revenue from garbage. Things change. Why don't we look at people that are recycling? We might not even need 2,000 tons a day, but we don't look at recycling. I know we have some lazy people out there that don't want to look at recycling and separate their cans and plastic. People are people all over this world. If other people can do it, why can't the people of Montgomery County do it? These are the things I don't understand. If a person is going to vote for the landfill, I think they should tell the public why. Now, I am going to no and I have been telling why all night why I am voting no. So I think the others voting for should say why they are voting that way.

Chairman Maness said with that we have a motion and a second on the floor. The Chair Called for the vote.

The motion carried 3-2 (voting against the motion were Commissioner Knight and Commissioner Corbett).

Commissioner Knight asked if he could say something else. Chairman Maness said if you will keep it brief. Commissioner Knight said I will make it is a brief as possible. He said I believe and General Statutes says "that the Board for the benefit and interest of the Board and the public a public hearing on the matter can be held," it is not mandatory. Then too, anytime you have a Board that is split on an issue like this, I think the public should have a say so.

Chairman Maness said again as I announced before, we will have a public comment period at the next meeting during our public forum. It will be the same as a public hearing and we will listen to everyone that wants to speak.

Chairman Maness said I do feel that a Commissioner should say why he votes for or against something he should say why and when I vote for or against the agreement I will explain why I voted the way I did and let everyone know why.

Finance Officer Report

Mrs. Cathy S. Baxter presented the Financial Statement. She said there are several items you may have questions regarding. Mrs. Baxter said the first is the 54% expenditure in the Governing Body. She said this is due to the worker's compensation payment. She explained the second item is Public Buildings and that increase was due to an equipment contract payment and a small repair and maintenance to the vehicle.

Commissioner Corbett asked if the print can be made larger so I can read it. Mrs. Baxter said yes sir.

Commissioner Knight I have two questions. He said we voted to take so many thousands out of the sewer fund to go toward the expansion of the pipe on river road. Mrs. Baxter said if you would look at your water and sewer fund at the second column. We at this time have not received or expended any funds for that project. Mr. Knight said the Commissioners voted to spend the money but it will not show until the money is spent. Mrs. Baxter said that is correct. Mr. Knight said now, if we spent money from the revenue from the results of the sewer, the money we had left over from Mt. Gilead, the taps fees and stuff, and we take money from the regular sewer fund that is all the same sewer fund right. Mrs. Baxter said yes sir. Mr. Knight said so we took all of the funds from the sewer fund. Mrs. Baxter said yes sir. Commissioner Knight said Mr. Chairman, if I remember correctly, we increased the cost of water and sewer at one time so that we could pay for water and sewer pipes being ran and all that stuff, we said that when we came up with some money, we would go back a reduce the rates, I don't see how we are ever going to get to that point if we keep spending. He said if I recollect correctly that is what we said we would do. This is the type of question that pops in my mind, I don't understand it.

Chairman Maness asked if there were any other questions. There were none. Chairman Maness thanked Mrs. Baxter.

County Manager's Report

Mr. Lance L. Metzler presented the following County Manager's Report:

Upcoming Meetings

- We have had to reschedule the joint meeting with the school board because it conflicts with the Montgomery Fund annual banquet and the school board has quite a few of their member attending this event. (late October or early November).
- The tour of the Montgomery County Community College on November 14th at 12:30 p.m. and lunch will be.

Badin Lake EMS Update

- As you are all aware, the Badin Lake Volunteer EMS voted not to contribute the \$20,000 for a paramedic and ambulance 24 hours a day in the Badin Community.
- They felt that this was a service that the County should provide and that they should not have to pay additional funds.
- I spoke with First Health and it will cost them an additional \$17,000 to provide these services in this area.

- We do have a little flexibility in that line item because we anticipated an annual increase starting in July instead of the actual increase at the renewal of the contract in August. (around \$60,000)
- The County received a letter to the Board requesting the Board fund the additional dollars for a paramedic and ambulance 24 hours a day in the Badin Community.
- (\$48,000 currently budget the additional \$17,000 would bring it to \$65,000).

Mr. Metzler said I recommend the commissioners consider this. Chairman Maness asked if they started up there. Mr. Metzler said First Health started October 1 in hopes that we will provide funds for that. Chairman Maness asked if the new ambulance was up there. Mr. Metzler said there will be once they receive the commitment from the County.

Commissioner Morris said this will not require funds from our general fund balance. Mr. Metzler said yes ma'am. Chairman Maness asked for the dollar amount. Mr. Metzler said \$17,000.

Commissioner Bostic asked if the whole amount would have to be put in the budget. Chairman Maness said yes.

In a motion made by Commissioner Morris, seconded by Commissioner Corbett and so the motion carried unanimously to take the \$17,000 from lap money in the EMS budget.

County Home Cemetery Update

Mr. Metzler gave the Board a handout regarding the update on the County Home Cemetery. He said the County placed an RFP out for the Cemetery and received only one for the monument work to be done and that was from Tony Hutto. The Cemetery Committee agreed on three 5' granite monuments and three benches to view the monuments. One monument is to remember those residents who lived and died in the Montgomery County Home. The second is to remember Dr. W. T. Harris and his staff for their commitment to make sure the patients were treated with care. The third was to show appreciation to the Commissioners and to Melanie Wade Goodwin for bringing the cemetery to life. The Committee will also work with a local landscaping business to landscape the memorial and to provide access to the monuments. A memorial service will also be scheduled. Mr. Metzler recommended the Board approve the cost of the monuments and installation which is \$13,300.

Chairman Maness asked where the money would come from. Mr. Metzler said we got State funding through our Representative last year. Mr. Corbett said there was also some private money given toward the cemetery. Mrs. Morris said that is correct.

In a motion made by Commissioner Corbett, seconded by Commissioner Knight and so the motion carried unanimously to approve the cost of the monuments and installation at \$13,300.

Update on Springdale Heights Sewer Project

The County is eligible to apply for CDBG Infrastructure grants. It was conveyed that we could not apply for this grant in the past that we could not apply, but we can. There was concern that we had a Concentrated Needs Grant open, I talked with the State and they said we could. The County is looking to obtain funding to extend sewer services to Springdale Heights and to upgrade water line and eliminate remaining wells and increase fire protection. Due to costs, the project engineer recommended that we break this project in to a two year project. The first year to apply for sewer and the second year for water. We will

still be a 21st Century Community next year and would have a chance for the same pot of money for the water. Last year there was \$2 million set aside for CDBG infrastructure and there wasn't a single county that took advantage of it. We can apply for up to \$750,000, so we are hopeful. He said year one would be sewer and year two water. (2007 Sewer and 2008 Water) We have to submit the application in by October 31st with a preliminary engineering report and the income surveys which are both being done now. The income surveys are a requirement to receive State funds. Unfortunately, there is not a way to get around it. Out of 54 dwellings, we only have 15 surveys. All American Associates have had several meetings in Springdale Height and we also have residents in the area trying to get the information but are not having a tremendous amount of success. We have Ms. Thomas working on this for us and public meeting to get support out there. We will continue to do that; I have told our guys if we have to go door to door we will. Mr. Metzler said I just wanted to bring the Board up to date on this project.

Planner Update

Mr. Metzler said we received 14 applications for Planner position and Paul Kron with the Council of Government and I reviewed and narrowed the interview process down to five. Only one was interested in an interview and I interviewed him needless to say we are re-advertising this position this coming week.

Moratorium Committee Update

Commissioner Corbett and I attended the moratorium committee meeting yesterday, that's the reason you didn't have anything in your packet. The meeting went well and we should have something to the Planning Board and the Commissioners in late October or early November to be reviewing. It depends on how fast the Council of Governments can turn around a document.

Beyer's Island Buoys

The Commissioners asked that I look into the County purchasing the lake buoys for those who have filed in the past and the answer is no. The buoys are not expensive and there is a safety issue. It is completely up to the Commissioner but I would like to ask ALCOA for Badin Lake and Progress Energy for Lake Tillery to see if they would be willing to do this to protect the lake in agreeing to purchase these in the future. Mr. Metzler said I don't know if they will do it, but I will certainly try. Commissioner Morris asked how much are we talking. Mr. Metzler said between \$200 and \$500. Commissioner Corbett said that is close. Chairman Maness asked how many buoys are there. Mr. Metzler said two.

In a motion made by Commissioner Corbett, seconded by Commissioner Morris, and so the motion carried unanimously to purchase the buoys for the Beyer's Island Buoys, with a cost not exceed \$500.

Commissioner Knight asked what have we done in the past getting them into place in these no wake zones. Mr. Metzler said general statutes say that Montgomery County is responsible for anchoring them down and painting and upkeep of them. In the past, from my understanding, Mrs. Baxter can confirm, the County has not been responsible for purchasing them. The Coast Guard and one other Community, Woodrun and some other communities paid for them their selves.

Mr. Knight said I thought we had talked about this before about the County not paying for buoys, but if statutes say we are responsible. . .Mr. Metzler said the County is responsible for maintenance and upkeep of the buoys. Mr. Knight said we are talking about \$400 to

purchase the buoys and I think somewhere we should set a standard so that everybody that comes this way that the County is responsible for purchasing them, that way we don't have to decide if we will do it for some and not for others. Mr. Metzler said exactly. Chairman Maness said I agree.

Brady Dickson, former Commissioner came forward. When I was a Commissioner, N.C. Wildlife was responsible for designating . . . for setting a no wake zone and the community was responsible for purchase of the buoys. Mr. Metzler said they do still declare the no wake zones, but the County is responsible for maintaining it.

Mr. Bob Freedle said I have spent exactly one year and did exactly what I was supposed to do, signatures and maps. This Beyer's Island issue is different than the rest. It is real dangerous because it is an island but is connected to the main channel on the northwest side. Someone is going to get killed. A lot of these no wake buoys are probably not necessary, but this would save someone from a serious injury. He said I have worked for a year and have talked with everybody, ALCOA, and Wildlife.

Commissioner Corbett said two weeks ago they told me the exact same thing, that if we pass it, we are responsible for it.

Chairman Maness said we need to set the standard.

Health Department Request

Chairman Maness asked Dr. John Woodyear, Chairman of the Montgomery County Health Board and County Attorney Russ Hollers to come forward. Chairman Maness asked Attorney Hollers to go through how long is the proper time to speak and make sure we are doing this the proper way. If you would go through that for me please.

Attorney Hollers said there are no rules in that respect about that in the statutes. He said it is a matter of making sure everyone is heard. Attorney Hollers suggested that maybe each side get 10 minutes, then a 5 minute rebuttal on each side, then if more time is needed, then the Chairman will decide that. We need to make sure everyone is heard. Chairman Maness said okay. He also said that is his opinion also that everyone is heard.

Chairman Maness said I would like to make sure that the Commissioners hear all sides. He said I would like to keep this very professional. He said Dr. Woodyear will have 10 minutes to speak and you can sit down and at that time Commissioner Knight will have 10 minutes to speak. Chairman Maness said there will be a 5 minute rebuttal on each side.

Commissioner Knight said Mr. Chair, before you get started; this was one thing I tried to point out to the Board before. Statutes say that I must be given a chance to respond. Now, I first had four allegations to respond to, but the registered letter I received in the mail the other day had eight. Now, I have eight allegations that I am asked to respond to. I haven't timed myself on how long it would take to respond. Mr. Knight said I think I should be allowed the time needed to respond to everything that I am being accused of. Chairman Maness said with that Commissioner Knight, I will give you the time you need to respond and the other side also. Mr. Maness said I have no problem with that, he asked Attorney Hollers if that would be okay. Mr. Hollers said yes, that will be fine. Chairman Maness turned the meeting over to Dr. Woodyear.

Dr. Woodyear said thank you Mr. Chairman and good evening, Chairman, Madam Vice Chairman, fellow Commissioners, Mr. Metzler, Mrs. Morton and fellow citizens of Montgomery County, as Mr. Maness has indicated, my name is Dr. John Woodyear, I am the Chairman of the Board of Directors for the Montgomery County Health Department, a board of which Commissioner Knight has been serving as the Commissioner representative. It has been tasked to me, according to General Statute, the Commissioner that has been assigned to our Board be reassigned. Originally, I thought this would be a relatively easy process, especially after having a conversation with the Commissioner in question, but at our last meeting it was a little more than a conflagration I thought it would be. Subsequent to that and subsequent to General Statute 130A-35 (g) we have been asked to enumerate the reasons for our request to reassignment of Commissioner, to that end, a letter was sent to Mr. Knight, because I thought it was the best in of decorum not to enumerate these things, I simply asked for a request of change for a Commissioner; however, the eight reasons Mr. Knight made reference to are in this letter and I will address them. Mr. Knight contacted a candidate for the Health Director position without the direction of the board. This has subsequently resulted in multiple emails sent by this candidate, some of which have been quite threatening to the Board of Directors threatening legal action against us. Without mentioning this candidate's name, this candidate was found unsuitable by the Board, was voted on, and we did send the candidate a statement that his application was no longer being considered. Mr. Knight independently did contact that candidate and did discuss matters that had been discussed by the Board, supposedly in confidence. This behavior was overlooked, at least at the time. Unfortunately, it is necessary to bring this up now. Dr. Woodyear said I don't have a specific example of the next one, being argumentative and rude at most meetings, but instead of following general rules of decorum at a meeting where each person is given an opportunity to speak and have his fair hearing, Mr. Knight will on multiple occasion while they are speaking and make comments such as they are a bunch of clowns and he is only here for business and the Board itself was acting like a bunch of clowns. These comments were. . He said I guess I am carrying on to number three which is making comments that question the integrity of the Board of Health. Dr. Woodyear said I should point out that the Board is comprised of me, a medical doctor, a licensed pharmacist in this State, a licensed veterinarian, an attorney, an optician, a registered nurse, a hospital administrator, a school teacher, and we did, at one time have a clergyman on the Board, and a general citizen of Montgomery County. Our board has one of the highest attendances to meetings of any board in the County. Dr. Woodyear said we normally have between 85% and 100% at every meeting. I think the members of my Board do take their business serious and they are not a bunch of clowns. Dr. Woodyear said when I asked Mr. Knight if he would reconsider his remarks, he said, and he may or may not confirm this, he calls a spade a spade, he mentioned that his parents taught him to call things as exactly as they are and that he would not resend his remarks even though they were insulting to the Board. During the interview for the Health Director, he asked questions that are considered out of bounds during the interview, he asked about the candidate's family, her plans to have a family, if she was married . . . when I made the attempt to tell the candidate that the questions were not related to her employment and not predicated on whether she would be employed, Mr. Knight continued to ask these questions and reiterated that he really wanted to know about her family. When I pointed this out to Mr. Knight that these questions are illegal to asked, he said in no certain terms, I know the law, I'm asking these questions, at which point, fortunately, the interview went on without her either having to address those questions or without Mr. Knight continuing to ask these questions; however, at the end of her interview (number five - Asking questions concerning disability during an interview), Mr. Knight did ask or make reference that the candidate had mentioned on her application that she is disabled. It was debatable whether he was asking her about her disability or just simply congratulating

her on her service to the country. At any event the question was a bit inflammatory and could certainly have put the County at risk of having to answer defamation or discrimination lawsuit.

Dr. Woodyear said item #6, on at least two occasions, (Racial overtones during open meetings) Mr. Knight made comments which were to put it mildly insulting and certainly embarrassing. He did state that the Board was acting in a racist manner and he did say to me and to the entire board and to me specifically, without me being verbatim, he made it clear to me that one day I was in a situation where people of the majority race would find me unsatisfactory and they would remind me of my status as an African American.

Dr. Woodyear said item #7, he has on multiple occasion made disparaging and unpleasant remarks directed at me. Specifically at the hearing or the interview for the Health Director, when I did state that it was not in good policy to ask personal questions, I said it was illegal to ask these questions, he said you just always want to make me look wrong or look bad. That is specifically one incident I know there were several others, but that will stand for the purposes of giving Mr. Knight the opportunity to respond.

Dr. Woodyear said item #8, disruptive to the business of the Board. Our meetings normally have a very short agenda and the business of our board can usually be wrapped up between 45 minutes and 1 hour. On occasion, our meetings have gone as long as 2 – 1/2 hours because of long and repetitive statements made by Mr. Knight, many of which were not germane to the business of meeting, but were gone on in depth and quite a long time. In the interest of being polite, he was never cut off, but allowed to make these comments and subsequent to that our meetings were quite long. As you have asked me to limit the time of this presentation, I have done so, and I hope that this will suffice to at least be a point of discussion for if necessary.

Chairman Maness thanked Dr. Woodyear and asked if there were any questions before Dr. Woodyear sits down. There were none. Chairman Maness then turned the meeting over to Commissioner Knight for his allotted time to speak.

Commissioner Knight said Mr. Chairman I have prepared a letter for the Commissioners based on the information that I received from the Board Chair of the Commissioners. Now, I went back and got two years of minutes from the Board of Health. I wish the Commissioners would have investigated all of this before they made their decision because if you look at the minutes, they will not show what Dr. Woodyear is talking about. Then too, if you ask your attorney if I can respond to what Dr. Woodyear just said and I responded to the letter I was given, it is totally different. I could not respond to some of the allegations, simply because it is so vague . . . argumentative and rude at most meetings . . .how can you respond to that if he doesn't tell you what you said, what you've done, the day you said it and got the minutes to back it up. Now, how can I respond to all of this he just put out here on the table? The letter I received didn't mention anything about what he said. Making comments that question the integrity of the board, hey, our integrity is questioned daily; just because we have doctors and dentists and all that. I don't want Dr. Woodyear to think I don't care for these people, my son is a physician and my daughter is a nurse. Now, how can they be in those positions and I don't have respect for their positions. Hey, you are good in your profession, but when it comes to running the affairs of this County, you have only been here a few years; you don't even know what we need.

Mr. Knight said I have a prepared letter that I am going to go over and it will not address all of what Dr. Woodyear just read because I didn't know about all of that stuff he just read. Now, I have copies of the minutes, I have statutes, I have everything that I say, I have something to back me up. A man in that profession, he should know, he needs something to back up what he is saying. Then, too, I don't see the other members of the Board because I wanted to ask them some questions. My wife and I went through two years of minutes, and I can tell you everybody that was out on certain days and that was not accurate when you said 90% or 100%. Mr. Knight said I believe we had 100% one time out of two years.

Chairman Maness said I want to say one thing while we are in this meeting; we are not going to be laughing out loud anymore or clapping anymore, that is our policy. I would like for Commissioner Knight to say his stuff and I would like for you all to respect that please, thank you.

Mr. Knight said I just wanted to mention that because I believe the attorney can advise you that I can't answer something or prepare to answer something that I am not aware of or haven't been informed of. So, I will leave it like that, because I wanted people from that committee to say in their own words, I know they signed a petition agreeing to all the things that took place and some of them were not even there when some of that stuff took place. Now how are you going to sign agreeing to something you were not even there to see? We had about six or seven people at that interview and there are eleven members on that Board. How can they say what I said at an interview? Well. I'm just not used to that. My time in the military we had to be specific you had to say when, where, how, how many, if the sun was shining or whatever because when you went in front of intelligent people, you had to be specific. I worked for the State over eighteen years and I have people that used to be my boss and I thought that just gave me hard times, but he showed me I had to go by rules and regulations and that is all I have tried to do since I have been on this Board. I have tried to point out the things we are doing wrong. I have tried to point out the Health Board was doing wrong. You know we have eleven members on there and State Statutes say we shall only have nine. The State statutes say we will have representatives that represent the general population. I mean State Statutes tell us all of that. I mean, when do we become above the law? I have been told one time that three votes can change the day of the week. I don't care how many votes you've got, you can't change statutes.

Mrs. Morton asked if she could have a few minutes to change CDs.

Commissioner Knight handed out the following letter. He said I kind of get emotional sometimes, so bear with me.

September 30, 2006

Mr. George H. Knight, Jr.
Montgomery County
Board of Commissioners
2773 NC Hwy 109 South
Mt. Gilead, North Carolina 27306

County of Montgomery
Board of Commissioners

102 East Spring Street
P.O. Box 425
Troy, North Carolina 27371-0425

Chairman Maness and Fellow Commissioners:

This letter is in response to the document dated September 20, 2006 from Mr. Billy Maness, Chairman of the Montgomery County Commissioners who is acting on a request from Chairman John Woodyear and the other Board Members that I be removed from the Montgomery County Health Board.

It saddens me that as officials elected by the citizens of Montgomery County, you have yet to take the time to familiarize yourselves with the Code of Ethics and Standards of Conduct for Members of the Montgomery County Board of Commissioners that you swore to uphold in governing the affairs of the Montgomery County citizens.

When a person is accused of a crime, there should be a statement identifying Who? What? When? Where? and How? I have been unduly asked to address publicly, issues I have yet been given the opportunity to address privately as set forth in the Guiding Principals of the County Commissioner Procedures Manual. Directly below the Guiding Principals, we as Montgomery County Commissioners signed our names as a promise to each other to abide by the same codes, standards and principals. One's honor in an agreement is what is remembered when all is said and done.

Though my rights as a County Commissioner have been violated, I will respond to the original four matters of concern presented by the Board of Health as well as the five that were added later. For the record, the Board of Commissioners made no effort to notify me about any concerns of the Board of Health regarding my service.

The Board of Commissioners, following the events of September 5th, voted to make Chairman Maness the County Commissioner appointee to the Health Board despite the fact that his wife and mother-in-law work for the Health Department. However, the Board was unwilling to reappoint Ernesto Robledo to the Health Board in March of 2005 after serving on the Health Board for a number of years prior because his wife is employed with the Health Department representing a conflict of interest.

Matter 1 – Contacting candidates for the Health Director position without the direction of the board.

Response

1. I informed the Board of Health that the State of North Carolina had in its employ only two or three black Health Department Directors and considering their actions they weren't interested in the possibility of hiring one either. The applicant, who we will refer to as John Doe, was a more than qualified candidate. A background check was performed on Mr. Doe without his permission as a result of a criminal charge he openly admitted having during the application process as it is unlawful to check into an individual's history without their consent. The criminal charge was stated as the reason for not hiring him. Mr. Doe was more than willing to come in for a question and answer session regarding the item and I requested that the Health Board invite him back for the opportunity to do so. I have the minutes where that request did not receive a second. My request was denied.

2. I contacted John Doe on my own time and spoke with him at my own expense. He shared with me information that would have nullified any legitimate misgivings regarding his qualifications and ability to serve Montgomery County as its Health Department Director.
3. Again, I couldn't find anything in the policy where I could not contact the candidate. I don't require the Board's "permission" to contact a candidate.

Matter 2 – Argumentative and rude at most meetings.

Response

1. I am not a yes person. I was elected to see that the needs of the community that elected me are addressed. It would be irresponsible of any elected official to vote in favor of or against something that he or she has not investigated themselves and found to be beneficial for the greater good. We owe the people of this county more than that.
2. To be called rude is to be called barbarous or ignorant: lacking refinement, culture, or elegance; uncouth. I have given no reason and you can give no instance in which I have acted as the word "rude" characterizes and I take offense to what it suggests.

Matter 3 - Making comments that question the integrity of the Board of Health such as: That he was serious with his decisions and evidently other members were not. He did not expect to receive a second on his motion because evidently only he thought the Board of Health meetings were important. Stating at an open meeting the Board of Health members act like "clowns". (Again I have minutes).

Response

1. Just because we have a physician, dentist, pharmacist, veterinarian, nurse, and an optometrist on the Board of Health doesn't mean that I can't question the board on their decisions. To question integrity is to question moral or ethical strength and an individual's quality of honesty. These things come into question every day.
2. I am very serious about my duty and responsibility to all people of this county. Not a population of a select few or particular community. I don't go to official meetings to see the chairperson come in to the meeting late, as he often does.
3. A clown is a person whose words or actions provoke or are intended to provoke amusement or laughter. The chairman comes in disrupting the meeting with his jokes (1. Words or actions intended to excite laughter or amusement; 2. a mischievous act) and other Board members turning their attention to him and forgetting about county health business.
4. I have requested that the Health Board meetings be recorded for accurate documentation as is the case with County Commissioner meetings. My motion failed as I expected.

Matter 4 – Asking personal questions during an interview such as are you married, do you have any children, etc.

Response

1. I did ask an applicant if she was married, not knowing that it was inappropriate. When Dr. Woodyear informed me that it was inappropriate to ask, I immediately apologized to the applicant and instructed her not to answer.

Matter 5 – Asking questions concerning disability during an interview.

Response

1. The topic of disability is addressed on the application. The applicant shared that she is x-military, declaring a service-connected disability. In an effort to make the applicant feel at ease and welcomed, I shared with her that I was a retired Marine disabled veteran. I took the opportunity to commend her for her service and to express my gratitude as I do with all disable veterans I have the pleasure of meeting.

Matter 6 – Racial overtones during open meetings.

Response

1. Every time I say something in support of an effort for the poor, Black, Hispanic, Asian or any race other than white, I am perceived as having a racial overtone.
2. I go to sleep and wake up in Montgomery County every day. The fight has always been the same. I was elected to the Montgomery County Commissioners because it became recognized that the Black population was being under-represented in political office. The only way that the problem could be rectified was to allow counties to create districts that were highly populated by Black people, increasing the chance for the successful election of Black representation.

Matter 7 – Regularly making derogatory comments directly to the Chairman of the Board of Health.

Response

1. I really don't know what to say in response to this. I checked the Board of Health minutes back for two years and couldn't find anything to help me recall what I said to the Chairman that was derogatory on a regular basis.

Matter 8 – Disruptive to the business of the Board.

Response

1. Again, I couldn't find anything in the minutes that indicated that I was ever disruptive in an official meeting. Most people I serve on boards or committees with know that I am serious about my job and responsibilities. I always try to abide by the rules and regulations, and make every effort to be prepared.

In closing, I don't see how I can be judged by a group of people that can not act within the law themselves as I have made clear. Please pay close attention to the County Commissioners Procedures Manual. Especially the first paragraph under Guiding Principles – Page #5, that says "Board Members further agree to initially speak with colleagues who violate any portion of the agreement and if consensus is not reached, to bring the issue before the entire Board for review and resolution." No member of the Board of Commissioners spoke with me about any of the issues. Not a phone call, not a letter, no nothing.

Commissioner Knight said Mr. Chair, I had some questions to ask, but I don't think we are prepared because we don't have the Health Board here. So, I can't get any comments from the people that are putting me on the stand here today. I think that is inappropriate there,

because if I am going to be accused of something I think everyone that is accusing me should be present. I don't have them here; I wanted to see the hands of the Board of Health members that were at all of these meetings, which were even at the interviews. I was going to let them show you their hands and let you figure out what I said or did at these meetings. I was then going to ask to see the hands of the Board of Commissioners that abided by what we signed and we had to sign and date it stating we would abide by these guidelines. Right above their signatures it says they will initially get with me. Then, if we don't come to a consensus . . . I could have sold this from day one, I could have them from day one how they could get me if they wanted to get me. I could have told them they could have gone back and check the minutes. They refuse to tape the meetings, they don't have accurate minutes. I requested to get a tape so we could have accurate minutes. I know how important it is to have evidence. When you make accusations you need to have some evidence. I know how important that is. Anything that Dr. Woodyear accused me of, he should have minutes, because it all happened in official meetings because there should be minutes to say what happened in the official meetings so he should have minutes to back up what he says. Now, I know sometimes, I have been down this road before and we make our decisions before we get here, we know who is going to make the motion and who all is going to vote and when we get three votes, we think we can just throw it out there and get it passed. I am pleading to the Commissioners, and I think we owe it to the people of this County, go back and do your job, look at the evidence and make sure what I am being accused of is for real and then bring me back before the Board. That is what policy says and I don't see any reason not to do that. Mr. Knight said thank you Mr. Chair. Chairman Maness said you are quite welcome.

Chairman Maness asked Dr. Woodyear if he had a rebuttal. Chairman Maness said the rebuttals are to be kept to five minutes, please. Dr. Woodyear said thank you for the opportunity to address Mr. Knight and his lengthy response. I will not, as Mr. Knight has done, enumerate these things one by one. I will make some brief and general remarks. It is not the policy of any meeting to make verbatim transcripts of the minutes of the meeting. It is impossible and it is not financially possible and it is not done time wise. The first order of business at all of our meetings, Mr. Knight, do you not deny that you are present at those meetings and you do not approve the minutes. There is always the opportunity to make additions or corrections and to my knowledge, Mr. Knight, you have never offered to do that. You will also be informed that the Health Department has a very limited budget and it would extremely burdensome for us to try to transcribe all the minutes all of the conversations and in fact it would be quite embarrassing. The members of the board were not asked to be here, but they certainly would have had they known this was going to turn into a line by line hearing. The point that we wanted to make initially is there was only one member of our board that was causing disruption. Although you can put light on any part of it you want. Since, none of us are under oath I would not ask you to Mr. Knight to admit or deny, I would not under any circumstance because I do try to respect your position as a Commissioners and so our minutes do as well. Again, if it is your pleasure, I certainly can arrange for as many members of the Board to confirm the statements that I have made and I find it is a bit distasteful to have my creditability called into question, I would not sink to the level to call yours into question Mr. Knight. I have made my comments to the Board and if the Board is requesting any different information I can provide information to collaborate it. If you have enough I ask your indulgence. He said I appreciate the opportunity to address you all, you have been very cordial. I hope I have not caused too much inconvenience. I hope your deliberation will be true and our request will be fulfilled and we will be able to get along with the business of the County.

Commissioner Knight said Mr. Chair; I have said just about all I want to say, but I would like to mention one thing. Since it was mentioned that I approved the minutes, a lot of things I did to make sure I got along, a lot of things I did, that were not against the law, but in order to get a long, I did some things. Every time I went to a meeting I couldn't question the minutes, I got tired of it because I knew one day something was going to come up and we would need accurate minutes. The last minutes our Board secretary did, she did the minutes word for word. I think that is great, because one day, the question is going to come up and you are going to have to refer back to the minutes. The policy says the health director would do the minutes our acting director acts as the secretary. I think we pay a secretary to do the minutes of our meeting. We just don't pay attention to what directives say. Money for the tapes . . . I have been to just about every meeting, I have missed a couple of meetings, but I don't remember the Board of Health coming to us asking us to purchase a system, we approved a new system for our Board secretary to be better equipped to do her minutes. One thing I do request, I don't know how it is going to turn out here tonight, but I request a written statement from each one of the Board of Health members explaining in detail what they want or what they saw or what they heard or what they are accusing me of. I think it would be no more than right to get a signature under their statement and telling me and the Board of Commissioners, when, what happened, where it happened, and how it took place. He said I don't think I am asking for too much to get that. Mr. Knight said that is all I have Mr. Chairman.

Chairman Maness said there is one point I want to make clear about the procedures and our County Manager can probably speak to this. We tried to take this into closed session with our attorney so we could keep it quiet, I tried to do it. Mr. Metzler said Attorney Hollers can probably speak to this better, but the closed session allows the Board to go into closed session for specific items such as staff members, but public bodies have to be discussed in open session.

Chairman Maness said we have heard from Dr. Woodyear and I have heard from several Board members. He said I would also like to request that I not go on that Board, even though our attorney said it would be okay, a precedent has been set in the past. Commissioner Bostic said when Rev. Robledo was on the Board and would rather not have him on the Board because he has a relative working at the Health Department. I have a relative working there as well that is why I wish not to be appointed to serve on the Health Board. I would never dare want to have a conflict of interest. He asked for a motion.

Commissioner Morris said Commissioner Knight brought this up when we first made the motion and the proper letters were not written and our attorney took it over and has advised us that the proper letters were sent to Commissioner Knight, I would like to uphold the request of the Board of Health to remove Commissioner Knight from the Board and leave open until December when we appoint Board members. Commissioner Corbett seconded the motion.

Chairman Maness asked for further questions. Commissioner Bostic said Mr. Chairman if you would indulge me, I noticed there are several members from the African American Community here today and I applaud you for coming and I hope this will be a trend you will keep. As one of the duties of the Commissioners, you appoint people to Board and those people serve with little or no compensation and it is a job that you are willing to give up of their time and talent to help Montgomery County that it has to do by statute and by law. He said I had the opportunity to talk with several members of the Board of Health. He said I didn't get to talk to all of them, but the ones I talked to said they would like for this Board to

remove Commissioner Knight from that Board. Now, I know, I might be different from a lot of people, if I belong to an organization or served on a Board that did not want me, I would be the first one to say I am out of here. Now, we know by that, the people I talked to were not interested in working with Mr. Knight. Commissioner Bostic said I feel for the peace and tranquility of that Board and the best interest of this Board to remove him. It is nothing personal that I have other than seeing the County work in a peaceful co-existence.

Commissioner Knight said before I vote, I hope I have a chance to vote this time. There have been people in this County that have been sued for their wrong doings and no body removed them and they have been sued. I don't understand that. I want to make a point clear. I am not begging to stay on the Health Board; I asked to get off of the Health Board last time we appointed people, no one else wanted to serve on that Board so I volunteered to stay. Don't get me wrong I am not begging to stay; I volunteered to go on the Health Board to start with because I wanted to help the needy people of the County. I didn't want to go on the Airport Board because I don't know anyone who has an airplane, what do I need to be on that committee for. I volunteered to be on the Partnership for Children Board because I love children and want to do something to help our children. So it is not because I want to stay on the Board of Health, but I do think if a Commissioner has time to go and talk to the people accusing me, then maybe they should have a little time to come and talk to me.

Commissioner Bostic said just in reference I called Mr. Knight and he responded through his wife I don't want to talk to Ralph. Is that not a fact? Commissioner Knight said can you blame me? Commissioner Bostic said I am not blaming anybody.

Chairman Maness called for the vote and the motion carried 4-1 (Voting against: Commissioner Knight) to remove Commissioner Knight from the Health Board and wait to appoint someone after the election.

Adjournment

There being no further business, Chairman Maness adjourned the meeting.

William D. Maness, Chairman

Laura B. Morton, Clerk to the Board

**MONTGOMERY COUNTY
BOARD OF COMMISSIONER'S MEETING
OCTOBER 17TH, 2006 AT 6:00 P.M.**

REGULAR SESSION

Landfill

Local Government Agreement to Expand the Landfill

- The state requires action by the local governing body to allow an expansion of a landfill if they deem appropriate in accordance with the North Carolina Codes.
- This is included as part of the permit application.

Landfill Franchise Ordinance

- The local franchise ordinance does two things. It allows Republic to have the exclusive right to operate a landfill in Montgomery County and it allows for the increase of tonnage per day from 2,000 tons per day to 3,000 tons per day.

Landfill Franchise Agreement

- Based on your comments at our meeting last week, I had several changes made to the agreement which I had delivered to you last week. In addition, I had a few minor improvements in definitions and content to provide more security for the County. For the benefit of the public, I would like to mention these changes
- Changed the Definition title of 1.13 from Community Benefit Fee back to Recreation Benefit Fee.
- Changed the Definition title of 1.24 from Disposal Fee Rebate to Disposal Fee Payment based on discussions from Commissioner Corbett and Attorney Hollers.
- Changed 2.8 on page 22 to reflect a Recreation Benefit Fee to be used towards recreation instead of a Community Benefit Fee.
- 3.3 Closure on page 25 changed expanded landfill to Solid Waste Landfill, which includes expanded landfill to not leave out the original responsibilities to the old landfill.
- On page 37 under 5.13 Transportation routing section was added that Republic will make sure that all large commercial truck traffic uses the main routes and not the secondary roads. If they do get knowledge that a company is using secondary roads then Republic will notify County of company, truck tag and name so that local law enforcement can contact company.
- On page 38 Section 6.1 the acceptance of recycling would include glass, plastic and steel cans.
- On page 42 Section 9.4 changed from Disposal Fee Rebate to Disposal Fee Payment.
- On page 48 removed Section 11 Animal Control Facility.
- On page 62 removed Section 35 Water Project.
- On page 64 improved Parent Guaranty to make Republic Services Inc., the corporate office to provide a guaranty compare to the previous version where North Carolina Republic, LLC. was responsible.