



TOWN OF CHAPEL HILL  
NORTH CAROLINA  
EXECUTIVE SUMMARY

Meeting Date: 1/23/2012  
AGENDA #12

**Title of Agenda Item:** Information Report on Landfill Related Items.

**Background:** This memorandum provides a summary of the information in the attached reports relative to the status of the Rogers Road Small Area Plan, landfill and solid waste issues resulting from the impending closure of the Rogers Road Landfill, and the financial and legal implications of potential changes moving forward. This information is being provided in part as a primer for the meeting with Orange County officials to discuss solid waste issued scheduled for January 26.

**Fiscal Note:** A change in land use or current solid waste disposal methods in or around the Rogers Road area will result in future fiscal impacts to the Town.

**Recommendations:** That the Council receive this report and its attachments in preparation for the January 26, 2012 Joint Meeting on Solid Waste.

**ATTACHMENTS:**

*Viewing attachments may require [Adobe Acrobat](#).*

Manager Cover Memorandum

Status Report on Rogers Road Small Area Plan

Letter dated March 11, 2011 from Chapel Hill Mayor to Carrboro and Orange County

Letter dated March 31, 2011 from Orange County Board of Commissioners Chair

Information about Changes to Annexation Law

N.C. League of Municipalities Memo dated August 4, 2011

Orange County Landfill Financial Analysis

Comparison of Balance Sheet FY1999 and FY2011

Status Report on Future Solid Waste Collection and Disposal Options



## MEMORANDUM

TO: Mayor and Town Council

FROM: Roger L. Stancil, Town Manager

SUBJECT: Information Report on Landfill Related Items

DATE: January 23, 2012

### PURPOSE

The purpose of this memorandum is to provide a summary of the information in the attached reports relative to the status of the Rogers Road Small Area Plan, landfill and solid waste issues resulting from the impending closure of the Rogers Road Landfill, and the financial and legal implications of potential changes moving forward. This information is being provided in part as a primer for the meeting with Orange County officials to discuss solid waste issued scheduled for January 26.

### DISCUSSION

#### **Rogers Road Small Area Plan**

The Rogers Road Small Area Plan Report is a document that provides recommendations for the Rogers Road neighborhood in Chapel Hill's jurisdiction. The recommendations of the Task Force address future land uses, infrastructure investment, community preservation, transportation improvements, and open space and recreation improvements.

The Task Force Report and discussions with Orange County and Carrboro identified issues to be addressed before the small area plan could be adopted and implemented. Because of these multi-jurisdictional issues, at the time we recommended that an inter-local work group comprised of elected officials be convened to develop strategies for these issues prior to endorsement of the Rogers Road Small Area Plan. Topics identified that could be addressed by such a workgroup included:

- The recommended future land uses for the Greene Tract.
- The preferred way to consider Joint Land Use Plan Amendments in the area.
- The recommendations of the Rogers Road Task Force that impact multiple jurisdictions.

As part of the current Chapel Hill 2020 process, the Chapel Hill community will be evaluating future growth and change scenarios. In February 2012, a community visioning charette may identify additional interest and opportunities for the Greene Tract and the northern area of Chapel Hill.

#### **Rogers Road and Changes to Annexation Law**

The Rogers Road study area is located in Orange County in the northwestern area of Chapel Hill's planning jurisdiction adjacent to the Town of Carrboro. The study area is located in the Chapel Hill Joint Planning Transition Area, an area which is anticipated to become part of the Town of Chapel Hill. The boundary for the Joint Planning Area was drawn as part of the 1988 Joint Planning Agreement between Chapel Hill, Carrboro, and Orange County. Land uses proposed by the Rogers Road Small Area Plan would require a modification to both the Chapel Hill Land Use Plan and the Joint Planning Area Land Use Plan, the latter requiring approval by all boards following a Joint Public Hearing.

It should also be noted that the North Carolina General Assembly rewrote the laws pertaining to city-initiated annexations. Under the new law, if a municipality determines that an area qualifies for annexation by virtue of its development and population density, prepares an annexation report so demonstrating and enacts an ordinance to annex the property, the owners of 60 per cent of the parcels included in the annexation may now by petition veto the annexation. In addition, if an annexation is made effective, under the new law additional responsibilities are imposed upon the municipality with respect to the provision of water and sewer services.

### **Orange County Landfill Financial Analysis**

The County's October 4, 2011 agenda item titled "Roger's Road Area Mitigation Options and Landfill Closure Impacts" states that "the Solid Waste enterprise fund, without considering the sale of any assets, is \$4,073,276 short of meeting all long-term obligations." The Town staff review of the County's audited financial statements show the difference between current assets and all liabilities (current and non-current) to be \$3,568,461. We need to reconcile any difference in assumptions between these two numbers. In addition, the following factors should be considered in assessing the adequacy of the Solid Waste Fund resources to meet future obligations:

- The closure of the landfill will provide an opportunity to liquidate some fixed assets associated with landfill operations that can provide additional funding for long-term costs.
- The costs associated with post closure care (\$4,336,913) will be paid out over 30 years. During that time the fund should have sufficient current assets to generate significant interest earnings over the 30 year period.
- The C&D landfill is expected to stay open beyond 2013, providing an opportunity to generate additional funding toward closure and post closure costs.
- There appears to be \$2.4 million of unexplained corrective action costs associated with the closure of the C&D landfill. The total estimate for C&D corrective action costs of \$3.0 million seems out of proportion to corrective action cost of the MSW Landfill.
- OPEB liability costs may decrease as a result of employees leaving landfill operations when the landfills are closed. Also, if other operations accounted for in the Solid Waste Fund, Recycling Operations and Sanitation and Convenience Center Operations, continue

to operate after the closure of the landfills, revenues associated with those operations will be available to pay fund obligations.

### **Future Solid Waste Collection and Disposal Options**

The Interlocal Agreement obligates the County to provide the Town with two year's notice to terminate the Agreement. To date, the Town has not received official notice. The Orange County Commissioners have expressed their intent to close the landfill as early as the spring of 2013, which, in the absence of an alternative provided by the County (for example, a transfer station), would effectively constitute a termination of the Agreement as to solid waste. In light of this development, the Town has begun proactively exploring alternative options for solid waste disposal, as well as ways of increasing efficiency with solid waste collection.

To that end, The Public Works Department put out a Request for Qualifications (RFQ) to provide the Town with a Comprehensive Review of Solid Waste Collection and Disposal Options in November 2011. We hope to select a vendor by mid-February 2012. Additionally, in anticipation of the potential need to haul our solid waste to the Durham Transfer Station, Town staff also conducted a two-week pilot program transporting residential and commercial solid waste to the Durham Transfer Station. Key findings of the pilot program are as follows:

- The average travel distance to and from the transfer station is approximately 18 miles one-way, adding about an hour of off-route travel time per trip. During peak hours the wait time at the transfer station may be slightly greater than those experienced during the pilot.
- The vehicles participating in the pilot program experienced no maintenance issues on the way to or from the Durham Transfer Station. We believe that the programmed allowance for additional maintenance associated with the mileage is still reasonable at this time.

Total additional costs moving forward will depend on decisions made relative to collection and disposal options. If we begin hauling solid waste to Durham, estimated additional annual costs resulting from the increase in hauling distance would be between \$500,000 and \$600,000.

An additional consideration is the increased safety risk to our employees and the liability to the Town of placing fully loaded solid waste vehicles and drivers on an interstate highway.

### **RECOMMENDATION**

That the Council receive this report and its attachments.

**ATTACHMENTS**

- 1) Status Report on Rogers Road Small Area Plan Report
  - a. Letter dated March 11, 2011 from Chapel Hill Mayor to Carrboro and Orange County
  - b. Letter dated March 31, 2011 from Orange County Board of Commissioners Chair
- 2) Information about Changes to Annexation Law
  - a. N.C. League of Municipalities Memo dated August 4, 2011
- 3) Orange County Landfill Financial Analysis
  - a. Comparison of Balance Sheet FY1999 and FY2011
- 4) Status Report on Future Solid Waste Collection and Disposal Options

## MEMORANDUM

TO: Roger L. Stancil, Town Manager

FROM: J.B. Culpepper, Planning Director  
David Bonk, Long Range and Transportation Manager  
Garrett Davis, Planner II

SUBJECT: Status Report on Rogers Road Small Area Plan Report

DATE: January 23, 2012

### PURPOSE

The purpose of the memorandum is to provide a status report on the Rogers Road Small Area Plan Report for the upcoming joint solid waste meeting.

### BACKGROUND

The Rogers Road study area is located in Orange County in the northwestern area of Chapel Hill's planning jurisdiction adjacent to the Town of Carrboro. The study area is located in the Chapel Hill Joint Planning Transition Area, an area which is anticipated to become part of the Town of Chapel Hill. The boundary for the Joint Planning Area was drawn as part of the 1988 Joint Planning Agreement between Chapel Hill, Carrboro, and Orange County. Land uses proposed by the Rogers Road Small Area Plan would require a modification to both the Chapel Hill Land Use Plan and the Joint Planning Area Land Use Plan, the latter requiring approval by all boards following a Joint Public Hearing.

Chronology of Events:

**December 4, 2006:** The Council [adopted a resolution](#) to set the schedule for the process and composition of the Task Force and identified the following topics to be addressed:

- Desirable Land Uses and a Revision to the Land Use Plan
- Water and Sewer Extension Plan
- Roadway Network
- Transit Service Plan
- Zoning Ordinance and Map Amendment

**June 2007:** The Task Force presented an [interim report](#) to the Council.

**June 2008:** The Town hired the Durham Area Designers to lead a community design workshop.

**February 2009:** The Task Force endorsed a [final report](#).

**March 2009 to November 2009:** The Council received the Task Force report and referred the

document to advisory boards and local government agencies. It was also a topic of discussion at the March 26, 2009 Assembly of Governments meeting.

**November 16, 2009:** The Council opened a Public Hearing regarding the [Rogers Road Small Area Plan Task Force Report](#). Council referred the report to Carrboro, Orange County, and the Chapel Hill-Carrboro City Schools.

**May 18, 2010:** The Chapel Hill Manager wrote to Orange County and Carrboro Managers to request a meeting to discuss the relationship of the Task Force Report and the Greene Tract and ideas for how to look at the issues differently. The meeting occurred in June of 2010.

**January 24, 2011:** The Council received a [report](#) following the public hearing which included comments from Carrboro, Orange County, and the Chapel Hill-Carrboro City Schools. The Council adopted a resolution forwarding the draft Rogers Road Small Area Plan to a Joint Public Hearing and requesting the establishment of an inter-local work group composed of elected officials from Chapel Hill, Carrboro, and Orange County.

**March 11, 2011:** The January 24, 2011 resolution was forwarded to the Carrboro Mayor and Orange County Board of Commissioners Chair with the request for an inter-local workgroup to begin work as early as April followed by a Joint Public Hearing in the fall (letter attached).

**March 31, 2011:** Response received from Orange County Board of Commissioners Chair that recommended that the identified issues in the resolution of January, 2011 be brought before an existing elected officials work group formed in 2009 (letter attached) and suggesting that if a joint hearing is needed in the fall of 2011, that it take place at the fall Assembly of Governments meeting.

## SUMMARY

The Rogers Road Small Area Plan Report is a document that provides recommendations for the Rogers Road neighborhood in Chapel Hill's jurisdiction. The recommendations of the Task Force address future land uses, infrastructure investment, community preservation, transportation improvements, and open space and recreation improvements.

The Task Force Report and discussions with Orange County and Carrboro identified issues to be addressed before the small area plan could be adopted and implemented. Because of these multi-jurisdictional issues, at the time we recommended that an inter-local work group comprised of elected officials be convened to develop strategies for these issues prior to endorsement of the Rogers Road Small Area Plan. Topics identified that could be addressed by such a workgroup included:

- The recommended future land uses for the Greene Tract,
- The preferred way to consider Joint Land Use Plan Amendments in the area, and
- The recommendations of the Rogers Road Task Force that impact multiple jurisdictions.

As part of the current Chapel Hill 2020 process, the Chapel Hill community will be evaluating future growth and change scenarios. In February 2012, a community visioning charette may identify additional interest and opportunities for the Greene Tract and the northern area of Chapel Hill.

#### **ATTACHMENTS**

1. Letter dated March 11, 2011 from Chapel Hill Mayor to Carrboro and Orange County
2. Letter dated March 31, 2011 from Orange County Board of Commissioners Chair





OFFICE OF MAYOR KLEINSCHMIDT  
Town of Chapel Hill  
405 Martin Luther King Jr. Blvd.  
Chapel Hill, NC 27514

phone (919) 968-2714 fax (919) 969-2063  
www.townofchapelhill.org

March 11, 2011

Chair Bernadette Pelissier  
Board of County Commissioners  
200 S. Cameron St  
Hillsborough NC, 27270

Dear Chair Pelissier,

On January 24, 2011, the Chapel Hill Town Council adopted a resolution requesting a Joint Public Hearing and requesting to convene an inter-local workgroup regarding the Rogers Road Small Area Plan Task Force Report prepared by a Chapel Hill initiated Task Force.

We request that a Joint Public Hearing be held in the fall of 2011. It is our hope that the workgroup could begin in April of 2011 and expect they will address the following topics.

- Identify recommended future land uses for the Greene Tract,
- Develop a preferred way to consider Joint Land Use Plan Amendments,
- Consider the recommendations of the Rogers Road Task Force that impact multiple jurisdictions.

This workgroup will rely on staff to present background materials and any requested information.

Chapel Hill requests support from your board for this effort. Please consider appointing one member and an alternate to be a representative for this workgroup. Once you provide us with those names we will bring the group together. Please also let us know how to confirm a date for the Fall 2011 Joint Public Hearing. My office will be in contact with you shortly to arrange a date in April.

Sincerely,

Mayor Mark Kleinschmidt

Attachment: Chapel Hill Town Council January 24, 2011 Memorandum and adopted Resolution

CC: Town Manager Roger Stancil, Town of Chapel Hill  
Town Manager Steven Stewart, Town of Carrboro  
County Manager Frank Clifton, Orange County





OFFICE OF MAYOR KLEINSCHMIDT  
 Town of Chapel Hill  
 405 Martin Luther King Jr. Blvd.  
 Chapel Hill, NC 27514

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[www.townofchapelhill.org](http://www.townofchapelhill.org)

March 11, 2011

Mayor Mark Chilton  
 Town Hall, 301 W. Main St  
 Carrboro NC, 27510

Dear Mayor Chilton

On January 24, 2011, the Chapel Hill Town Council adopted a resolution requesting a Joint Public Hearing and requesting to convene an inter-local workgroup regarding the Rogers Road Small Area Plan Task Force Report prepared by a Chapel Hill initiated Task Force.

We request that a Joint Public Hearing be held in the Fall of 2011. It is our hope that the workgroup could begin in April of 2011 and expect they will address the following topics.

- Identify recommended future land uses for the Greene Tract,
- Develop a preferred way to consider Joint Land Use Plan Amendments,
- Consider the recommendations of the Rogers Road Task Force that impact multiple jurisdictions.

This workgroup would rely on staff to present background materials and any requested information.

Chapel Hill requests support from your board for this effort. Please consider appointing one member and an alternate to be a representative for this workgroup. Once you provide us with those names we will bring the group together. We will notify you again when a date is confirmed for the Fall 2011 Joint Public Hearing. My office will be in contact with you shortly to arrange a date in April.

Sincerely,

Mayor Mark Kleinschmidt

Attachment: Chapel Hill Town Council January 24, 2011 Memorandum and Resolution

CC: Town Manager Roger Stancil, Town of Chapel Hill  
 Town Manager Steven Stewart, Town of Carrboro  
 County Manager Frank Clifton, Orange County



**A RESOLUTION REQUESTING A JOINT PUBLIC HEARING AND TO CONVENE AN INTERLOCAL WORKGROUP REGARDING THE ROGERS ROAD SMALL AREA PLAN TASK FORCE REPORT (2011-01-24/R-12)**

WHEREAS, The Rogers Road Small Area Plan Task Force has completed a planning study and made recommendations regarding the future development of the area;

WHEREAS, 104 acres of the study area is the Greene Tract, an undeveloped property jointly owned by the towns of Chapel Hill, and Carrboro, and Orange County;

WHEREAS, the owners of the Greene Tract established a workgroup in 2002 to agree on future land use of the property including that 18 acres be set aside for affordable housing; and 86 acres be set aside for open space: and

WHEREAS, the Chapel Hill-Carrboro City School System has identified the Greene Tract as a potential location for a new school in the future.

NOW BE IT RESOLVED, that the Chapel Hill Town Council refers the draft Rogers Road Small Area Plan to the Carrboro Board of Alderman and the Orange County Board of Commissioners with a request that the report be scheduled for review at a Joint Public Hearing.

BE IT FURTHER RESOLVED, that the Chapel Hill Town Council requests that members of the Carrboro Board of Alderman and Orange County Board of Commissioners appoint a member to an Interlocal Work Group that would review the Rogers Road Small Area Plan Task Force Report, the work of the Greene Tract Workgroup of 2002, and the following topics and report back to their respective boards.

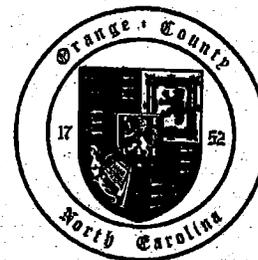
- Identify recommended future land uses for the Greene Tract,*
- Develop a preferred way to consider Joint Land Use Plan Amendments,*
- Consider the recommendations of the Rogers Road Task Force that impact multiple jurisdictions.*

This the 24<sup>th</sup> day of January, 2011.



BERNADETTE PELISSIER, CHAIR  
 STEVE YUHASZ, VICE CHAIR  
 VALERIE P. FOUSHEE  
 ALICE M. GORDON  
 PAM HEMMINGER  
 BARRY JACOBS  
 EARL MCKEE

ORANGE COUNTY BOARD OF COMMISSIONERS  
 POST OFFICE BOX 8181  
 200 SOUTH CAMERON STREET  
 HILLSBOROUGH, NORTH CAROLINA 27278



March 31, 2011

Mayor Mark Kleinschmidt  
 Town of Chapel Hill  
 405 Martin Luther King Blvd.  
 Chapel Hill, N.C. 27514

Dear Mayor Kleinschmidt,

I received your letter of March 11, 2011 requesting that the County, along with the Town of Chapel Hill and the Town of Carrboro, appoint a Commissioner and alternate to a newly proposed inter-local work group regarding the Rogers Road Small Area Plan Task Force Report prepared by a past Chapel Hill-initiated task force.

Upon discussion with Vice Chair Steve Yuhasz, County Manager Frank Clifton and staff, it was brought to my attention that a similar elected officials group was formed in early 2009 (this idea came out of an Assembly of Government's meeting) whose mission was to develop a goal for funding a phasing-in plan for, and access to, water and sewer services for the Rogers Road area. The members included are below:

Town of Carrboro  
 Orange County  
 Town of Chapel Hill

Mayor Mark Chilton/Alderman Gist  
 Commissioner Yuhasz and BOCC Neighborhood Rep. David Caldwell  
 Ex- Council Member – James Merritt

It would be our suggestion to try and incorporate the topics/function of your proposed interlocal work group into this already existing elected officials work group, with the additional elected officials/alternates to be appointed as needed.

As for the third topic listed in your letter, we are interested in knowing whether Chapel Hill has any specific issues that are intended to be discussed.

If a Joint Public Hearing is needed for Fall 2011, it would also be our suggestion that this joint hearing take place at our already scheduled Assembly of Governments Meeting, on Thursday, October 27<sup>th</sup> at 7:00pm at Southern Human Services Center.

We will wait to hear from you about how to proceed on the Town's request.

Sincerely,

*Bernadette Pelissier*

Bernadette Pelissier, Chair  
 Orange County Board of Commissioners

Cc: Board of Commissioners  
 Mayor Mark Chilton, Town of Carrboro  
 Town Manager Steve Stewart, Town of Carrboro  
 ✓Town Manager Roger Stancil, Town of Chapel Hill  
 County Manager Frank Clifton

[www.co.orange.nc.us](http://www.co.orange.nc.us)

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 Orange County, North Carolina – You Count!  
 (919) 245-2130 • FAX (919) 644-0246



**MEMORANDUM**

TO: Roger L. Stancil, Town Manager

FROM: Ralph D. Karpinos, Town Attorney  
J.B. Culpepper, Planning Director

SUBJECT: Information about Changes to Annexation Law

DATE: January 23, 2012

**PURPOSE**

The purpose of the memorandum is to provide information about recent changes to annexation law for the upcoming joint solid waste meeting.

**BACKGROUND**

The attached memorandum from the N.C. League of Municipalities provides a detailed summary of the substantial changes that occurred in 2011 to the statutes governing municipal annexation capabilities.

**SUMMARY**

The North Carolina General Assembly rewrote the laws pertaining to city-initiated annexations. Under the new law, if a municipality determines that an area qualifies for annexation by virtue of its development and population density, prepares an annexation report so demonstrating and enacts an ordinance to annex the property, the owners of 60 per cent of the parcels included in the annexation may now by petition veto the annexation.

In addition, if an annexation is made effective, under the new law additional responsibilities are imposed upon the municipality with respect to the provision of water and sewer services.

**ATTACHMENT**

1. N.C. League of Municipalities Memo dated August 4, 2011





215 NORTH DAWSON STREET  
 RALEIGH, NC 27603  
 POST OFFICE BOX 3069 | 27602-3069  
 919-715-4000 | FAX: 919-733-9519  
 WWW.NCLM.ORG

To: Managers/Administrators/Clerks/Attorneys/Planners  
 From: Kimberly S. Hibbard, General Counsel  
 Date: August 4, 2011  
 Re: Substantial Changes to the Annexation Laws

The 2011 General Assembly made sweeping changes to the statutes governing the municipal annexation process. The changes are contained in a series of acts, each of which is discussed in its appropriate subject matter categories below:

*HB 845 - Annexation Reform Act of 2011 (SL 2011-396)*  
*HB 56 - Local Annexations Subject to 60% Petition (SL 2011-177)*  
*SB 27 - Local Annexations Subject to 60% Petition (SL 2011-173)*  
*HB 168 - Farms Exempt from City Annexation & ETJ (SL 2011-363)*  
*HB 171 - Municipal Self-Annexations (SL 2011-57)*

Collectively, the legislation implements a property owner “veto petition” process that can terminate a city-initiated annexation; subjects certain previously completed annexations to the veto process; requires “no cost” extension of water and sewer lines all the way to the home/structure in city-initiated and some types of voluntary annexations; allows, and in some cases compels, the annexation of distressed areas with less than a 100% petition; and exempts “bona fide farms” from being annexed without consent.

Be aware that the legislation is unclear in some respects and will require significant legal analysis and interpretation. It also raises a number of questions that will perhaps only be answered by the courts. For example, the requirement to use public funds to make infrastructure improvements to private property may raise constitutional concerns.

### **CHANGES TO THE CITY-INITIATED ANNEXATION PROCESS**

*HB 845 - Annexation Reform Act of 2011 (SL 2011-396)* makes several fundamental changes to city-initiated annexation statutes, as well as numerous procedural changes summarized below.

## I. Water and Sewer Extensions

When municipalities initiate an annexation, they no longer have the discretion to set the terms of financial participation by annexed property owners in the extension of water and sewer infrastructure. Instead the act implements a new “opt-in” process and cost limitations for those services. Municipal financial responsibility for water and sewer extensions is dramatically increased as a result.

**Opting in.** The city’s obligation to provide water and sewer extensions is triggered if the owners of a majority of the properties in the annexation area request the extensions. In addition to the major infrastructure, individual water and sewer lines must be provided all the way to the structures on the requesting properties. Once the opt-in threshold has been met, the municipality must provide the extensions at no cost (other than user fees) to all properties that request it by the deadline, and at a reduced cost on a sliding scale to those requesting it at a later time. In order for lines to be installed to structures on the individual properties, the property owners must provide installment easements. Following installation of the lines, the property owner takes ownership of them and becomes responsible for their maintenance and repair.

**Who requests.** The property owners that are eligible to sign up for water and sewer extensions at no cost are those who own the property as of the date of the combined notice of the public informational meeting and public hearing.

**Procedure.** The municipality must begin the water and sewer sign-up process within five business days of the resolution of intent by notifying property owners, in writing, of the opportunity to have water and sewer lines and connections installed at no cost. The property owners are allowed 65 days from the passage of the resolution of intent to respond yes or no to this opportunity. A majority of the property owners of a single parcel of real property must respond favorably before the parcel can be counted as a “yes.” Any owners of parcels that already receive the municipality’s water or sewer, whether provided by the municipality or by a third party under contract with the municipality, are deemed to respond favorably.

**Successful opt-in.** If after 65 days, the property owners of a majority of the parcels respond favorably, those that responded favorably receive the right to have lines and connections installed at no cost, a right that runs with the land. The municipality must notify, within five days, those property owners who failed to respond, or who responded negatively, that water and sewer will be extended to the area and offer a second, 30-day opportunity for that property owner to sign up. Those property owners responding favorably to this second opportunity also receive water and sewer extensions at no cost.

If the opt-in threshold is met, property owners who fail to respond favorably during the sign-up period may request service in the future and the municipality may charge them for a percentage of the average cost of installation (based on the cost of residential installations from curb to residence, including connection and tap fees, in the area described in the annexation ordinance). The proportion that may be charged to latecomers is on a sliding scale for five years, after which the city may charge any properties requesting service according to the city's policy.

**If owners do not opt in.** If the owners of a majority of the parcels do not request extension of water and sewer services, the municipality may proceed with the annexation and is not required to provide water and sewer services to any property owners in the annexation area. [If it nonetheless decides to provide the services, the act sets out a sliding scale of the amount that a requesting property owner can be charged for the connection during the first five years after the effective date; after that the city can charge according to its policy.]

**No fees to non-customers.** The city may not require the payment of capacity charges, availability fees, or any other similar charge from property owners in the annexed area who do not choose to become customers of the water or sewer system.

**Time for completion of infrastructure.** Any required water and sewer infrastructure must be in place within 3.5 years of the effective date of the annexation ordinance. If the municipality is unable to provide the services within that timeframe due to permitting delays through no fault of its own, the municipality may petition the Local Government Commission for a reasonable time extension.

**Applicability.** The requirement to extend water and sewer applies to municipalities that already provide water or sewer service to customers within their existing boundaries. If the municipality does not provide water or sewer, but its existing residents are served by a public water or sewer system (or by a combination of a public water or sewer system and one or more nonprofit entities providing service by contract with the public system), the city could be exempt from financial responsibility for the extension of service to the annexed area. The exemption applies only if the annexed area is served by the public water or sewer system and the municipality has no responsibility through an agreement with the public water or sewer system to pay for the extension of lines to annexation area. "Public water or sewer system" in this context means a water or sewer authority, a metropolitan water or sewerage district, a county water or sewer district, a sanitary district, a county-owned water or sewer system; a municipally-owned water or sewer system; a water or sewer utility created by an act of the General Assembly; or a joint agency providing a water or sewer system by interlocal agreement.

## II. Veto (Denial) Petition

The act institutes a veto petition process by which the owners of 60 percent of the parcels in the annexation area can terminate the annexation.

**Procedure.** Within five days following the adoption of the annexation ordinance, the municipality sends the county tax assessor a list of owners of real property within the annexation area. The assessor in turn forwards a list of parcels to the county board of elections, and the board of elections prepares petition forms for each of the properties with each owner listed individually, a signature line for each owner, and a statement that the person signing is petitioning to deny the annexation. The board of elections then mails a petition to the address of record for those property owners within five business days of receipt from the assessor.

**Who signs.** If there is a change in ownership of real property after the date of the resolution of consideration until 30 days after the date of the adoption of the annexation ordinance, the new owner of the real property is to be considered the eligible owner of the property. A majority of the property owners of a single parcel of real property must sign the petition before the board of elections may count that parcel as having submitted a petition to deny annexation.

**Submitting Petitions.** The signed petition may be submitted to the board of elections in person or by mail. If the signature on the petition form is not the same as the preprinted name on the form, then the signed petition must be notarized and accompanied by a copy of the legal authority for the signature of the person signing a petition. The board of elections also must accept signatures signed on a petition form prepared by the board of elections, but collected by another person. The act does not specify whether this form can include the signatures of the owners of more than one property, but it does require the petition form to be returned to the board of elections in a sealed container.

**Results.** The denial petition signature process closes 130 days after the adoption of the annexation ordinance and the board of elections must certify the results within 10 business days. The determination of the results must be observed by three property owners from the area proposed for annexation, chosen by lot by the board of elections from among those who request to serve in this role, and three persons designated by the municipality. The act does not specify the criteria that should be used to determine if a petition is valid. The municipality is required to reimburse the board of elections for its costs related to the denial petition process.

**Effect of successful petition.** If the property owners of at least 60 percent of the parcels submit denial petitions, then the annexation terminates and the municipality may not

adopt a resolution of consideration for the area described in the annexation ordinance for at least 36 months.

**Applicability.** The veto petition process does not apply to any owner of real property located within any part of the annexation area that is completely surrounded by the municipality's primary corporate limits (a “doughnut hole”).

### **III. Farm Property**

*HB 168 - Farms Exempt from City Annexation & ETJ (SL 2011-363)* makes a significant additional amendment to the city-initiated annexation statutes. It provides that property that is being used for “bona fide farm purposes” on the date of the “resolution of intent to consider annexation” may not be annexed without the written consent of the owner or owners. [It is not clear whether the General Assembly meant the resolution of consideration or the resolution of intent.] The change applies to annexations of property used for bona fide farm purposes that were initiated on or after June 27, 2011 or are pending on that date.

Previously the annexation statutes implemented a “delayed annexation” process for agricultural property subject to present use value taxation that allowed those lands to be included in an annexation area for setting boundaries and for land use authority, but not for taxation or other purposes until the property lost its use value status. Those provisions were removed from the statutes by HB 845.

The new protections for farms are much broader. Land used for a qualifying bona fide farm purpose may not be included in the annexation area for any purpose unless the owner consents. Because the definition of bona fide farm is very broad, we anticipate a great deal of uncertainty in application and more difficulty in avoiding the creation of doughnut holes. (Please see the League’s memo on *Land Use* for further discussion on the definition of bona fide farms.)

### **IV. General Procedural Changes in City-Initiated Annexations**

- The city-initiated annexation statutes are now one-size-fits-all. There is no longer a distinction based on population of the municipality.
- The annexation process must begin with a resolution of consideration, followed by a resolution of intent at least one year later. There is no longer an option to begin with the resolution of intent and delay the effective date.

- Density and contiguity standards generally did not change, although doughnut holes can now be annexed without the need to meet the density standards.
- Annexation ordinances must become effective on the first or second June 30th following adoption.
- The act codifies, in part, case law prohibiting “shoestring” annexations by clarifying that contiguity cannot be established by a connecting corridor that consists solely of the length of a street or street right-of-way.
- The act prohibits the splitting of parcels. If any portion of a parcel of property is proposed for annexation, the entire parcel as recorded in the deed transferring the title is to be included.
- There are several changes to notification procedure. Mail notice to property owners and publication are now required after passage of the resolution of consideration. As to notices following the resolution of intent, the combined notice of the public informational meeting and public hearing must contain several additional information items and must be mailed within five business days of the resolution of intent in addition to publication.
- There are changes to the timeline and contents of the public meetings. The public hearing may not take place until 30 days after the water and sewer sign-up period is complete. The public information meeting must now include an explanation of the provision of major municipal services; how to request water or sewer service to individual lots; the average cost of a residential connection to the water and sewer system; and an explanation of the opportunity for installation of a residential connection.

## V. Appeals and Remedies

**Services.** The city must report to the Local Government Commission regarding its delivery of services. If the LGC determines that the municipality failed to deliver any required police, fire, solid waste, and street maintenance services within 30 days of the effective date, the residents of the annexation area are not included in its population of the municipality for state, federal, or county funding distributions based on population until all of the services are provided. During the period from 30 days until 15 months after the effective date, property owners may also seek a writ of mandamus if services are not being provided. The city must also report to the LGC as to whether it has completed installation of water and sewer lines. Reports are required within six months of the effective date of the annexation, and again within 3.5 years or upon completion of

the installation, whichever is sooner. If the LGC finds that the city has failed to deliver the water and sewer services within 3.5 years, the municipality must halt any other annexation in progress and must restart a stopped annexation from the beginning once water and sewer services are provided.

**Appeals.** The filing period for lawsuits challenging an annexation is moved to 60 days after the close of the veto petition signature period. The court must set the effective date for an annexation as the first June 30 at least six months after the final judgment or following the date upon which a municipality takes any required action to conform to the court's remand instructions.

**Attorneys' Fees.** The court now may award attorney's fees to a property owner if a final court order is issued against the municipality.

## **VI. Effective Date and Applicability**

The changes in HB 845 are effective July 1, 2011 and apply to city-initiated annexations for which no ordinance has been adopted as of that date. For city-initiated annexations begun prior to July 1, 2011, but which had not reached the point of adopting the ordinance by that date, the city can reinstate the annexation, but it must comply with the new provisions. The act does not apply to any city with a charter provision requiring a owner consent or a referendum in city-initiated annexations.

## **VII. Voting Rights Counties**

Cities located within one of the forty Voting Rights counties need to include within their plans and timelines the additional step of obtaining preclearance from the U.S. Department of Justice. If using the new city-initiated method, we believe preclearance will be needed for both the veto petition process and for the annexation itself. The petition process is so closely analogous to a referendum that municipalities should submit it for preclearance before the veto petition process begins. A letter from the Attorney General's office to one of our member cities supports that stance. Existing statutes place the responsibility for preclearance submissions on the municipal attorney.

## **CERTAIN COMPLETED ANNEXATIONS SUBJECT TO VETO PETITION**

Although the annexation reform provisions in HB 845 do not apply to annexations for which an ordinance was adopted before July 1, 2011, two additional acts apply the veto petition process retroactively to specified annexations in nine municipalities. Under *HB 56 - Local Annexations Subject to 60% Petition (SL 2011-177)* and *SB 27 - Local Annexations Subject to 60% Petition (SL 2011-173)*, the affected cities and towns are Asheville, Fayetteville, Goldsboro, Kinston, Lexington, Marvin, Rocky Mount, Southport, and Wilmington. All of the annexations in question had ordinances in place, many had

already been upheld by the appellate courts, and one had been effective for almost three years (with millions of dollars in public expenditures toward the water and sewer infrastructure). Nonetheless, the two acts require these particular annexations to reopen the process and go through a veto petition procedure similar to that in HB 845. If the property owners of at least 60% of the parcels in the annexation area sign a petition to deny the annexation, the annexation is terminated (or, in the case of the one that had become effective, it is repealed) and the municipality may not adopt a resolution of consideration for the area for at least 36 months. These acts raise a number of questions and set a disturbing precedent.

They were effective June 18, 2001 and require the county board of elections to mail petitions to property owners within 30 days thereafter. Affected cities in Voting Rights counties have been made aware of preclearance needs (see Voting Rights in Sec. VII above), adding a logistical issue to the other concerns with the legislation.

### **CHANGES TO THE VOLUNTARY ANNEXATION PROCESS**

*HB 845 - Annexation Reform Act of 2011 (SL 2011-396)* also amends the statutes on voluntary annexation. The act provides for two new types of voluntary contiguous annexations that allow annexation with less than a 100% petition. For one of these types, the city retains discretion on whether to annex but for the other the municipality is required to annex under specified circumstances.

#### **I. Distressed Areas.**

**Applicability.** The new types of voluntary annexation are applicable only to certain high poverty areas. These are defined as areas in which at least 51% of the households have incomes that are 200% or less than the most recently published U.S. Census Bureau poverty thresholds. For both of the new types of voluntary annexation, the petitioners are required to submit reasonable evidence to demonstrate that the area meets the poverty thresholds. The evidence presented may include Census Bureau data, signed affidavits by at least one adult resident of the household attesting to the household size and income level, or any other documentation verifying the incomes for a majority of the households within the petitioning area. Petitioners may elect to submit the names, addresses, and social security numbers of persons in the area to the city clerk for confidential submission to the Department of Revenue. This information is not a public record. The Department uses the list to provide the city with a summary report of income for households in the petitioning area that can serve as evidence that the poverty thresholds are met.

**Discretionary annexation.** A municipality may annex a distressed area when an adult resident in at least two-thirds of the households in the area has signed a petition. If an

ordinance is adopted in response to such a petition, the effective date must be within 24 months of adoption.

**Mandatory annexation.** The city is required to annex a distressed area if the owners of at least 75% of the parcels have signed the petition. To qualify, the area must be at least one-eighth contiguous to the city's boundaries and it can be no larger than 10 percent of the city's existing land area. Upon determining that a petition meets the requirements for a mandatory annexation, the municipality has 60 days to determine whether the estimated annual debt service payment that would be required to extend water and sewer to all properties in the annexed area is less than five percent of the annual revenues of the city's water and sewer system. If so, the city must adopt an annexation ordinance within 30 days and set an effective date within 24 months of the adoption. If not, the city may decline to annex the area, provided the LGC certifies its cost estimates.

If the city declines, it must make ongoing good faith efforts during the three years following the certification to secure Community Development Block Grants or other grant funding for extending water and sewer service to all parcels in the areas covered by the petition. If sufficient funding is secured so that the estimated capital cost for extension, less the funds secured, would result in an annual debt service cost of less than five percent of the annual water and sewer systems revenue for the most recent fiscal year, the governing body has 30 days to adopt an annexation ordinance for the area with an effective date no later than 24 months after the adoption of the ordinance.

In any event, a city is not required to approve more than one annexation petition submitted under this provision within a 36-month period.

**Services.** For both of these new types of voluntary annexation, services must be provided to the area after the effective date of the annexation "in the same manner and according to the same schedules" as apply to city-initiated annexations. This appears to mean that the water and sewer opt-in process and the "no cost" provisions would apply.

## II. Other Changes to the Voluntary Process

**Ordinance effective date.** In voluntary contiguous annexations other than those for distressed areas, the city may make the annexation ordinance effective immediately or on the first or second June 30 following the ordinance's passage.

**No shoestrings.** The act applies the concept of prohibitions on "shoestrings" to voluntary annexation. It specifies that a connecting corridor consisting solely of a street or street right-of-way cannot be used to establish contiguity. It further clarifies the definition of contiguity by allowing the property to be considered contiguous if it is separated from the municipal boundary by the width of a street or street right-of-way.

**State-maintained streets.** *HB 171 - Municipal Self-Annexations (SL 2011-57)* makes changes to both the contiguous and the satellite voluntary annexation statutes intended to restrict the annexation of state-maintained streets on the city's own volition. It specifies that a city has no authority to adopt a resolution or to petition itself for voluntary annexation of property it does not own or have a legal interest in. It then states that, for purposes of the prohibition, a city has no legal interest in a state-maintained street unless it owns the underlying fee rather than an easement. The act also amends the satellite annexation statute to provide that a satellite petition is not valid if it is unsigned; signed by the city for the annexation of property the city does not own or have a legal interest in; or it is for the annexation of property for which a signature is not required and the property owner objects to the annexation. The act was effective April 28, 2011.

### **III. Effective Date**

Aside from the provisions on state-maintained streets mentioned above, the changes to the voluntary process were effective July 1, 2011 and apply to petitions for annexation presented on or after that date.

### **CHANGES APPLICABLE TO ALL TYPES OF STATUTORY ANNEXATION**

**Recordation of agreements.** HB 845 requires any written agreement regarding annexation between a municipality and a person having a freehold interest in real property to be recorded in the register of deeds office in the county where the property is located in order for the agreement to be enforceable.

**State fund priority.** HB 845 requires that Community Development Block Grant, Wastewater Reserve, and Drinking Water Reserve funding guidelines give priority to projects located in areas annexed by a municipality in order to provide water or sewer services to low-income residents. Low-income residents are those with a family income that is 80% or less of median family income. (This is applicable regardless of the type of annexation process but may be of more interest for the high poverty petitioned areas.)

### **RECOMMENDED ACTIONS**

The legislation significantly alters the authority of municipalities to annex, and it is important to review your municipality's practices to ensure that they reflect these changes.

**Assess the status of annexations in progress.** It is important to first determine whether the municipality has any city-initiated annexations currently underway and where they are in the process. Based upon the effective date of the changes (see Sec. VI above),

some annexations may need to be reinitiated. For a small number of cities, even a completed annexation must be retroactively run through the veto petition process. (See “Certain Completed Annexations Subject to Veto Petition” above.)

**Review local policies.** In light of these changes, we strongly recommend that you begin to review any policies or procedures you have established regarding annexation and consider any necessary or appropriate changes. Cities may wish, for example, to consider whether or not to continue extending water and sewer lines outside of their corporate limits in the future.

**Emphasize public information/build understanding.** In city-initiated annexations, the municipality must as a practical matter prepare to convince a sizable portion of the property owners of the value of becoming a part of the municipality. It is now more important than ever to be able to articulate the advantages of annexation to citizens in a proposed annexation area, to existing city residents, and to legislative decision-makers.

**Resources.** In many cities and towns, the professionals in the planning department and management staff can advise on needed changes to policies and procedures. Throughout the process of review and consideration of changes, we urge you to consult with your city or town attorney. Remember that this area of the law is often litigated, and may be more so in the future, so you should act prudently with the benefit of legal advice. The League and the School of Government can provide general information and guidance regarding the annexation statutes and possible interpretations. Two recent School of Government postings discuss the annexation changes:

<http://sogweb.sog.unc.edu/blogs/localgovt/?p=4494>  
<http://sogweb.sog.unc.edu/blogs/localgovt/?p=5000>.



## MEMORANDUM

TO: Roger L. Stancil, Town Manager

FROM: Kenneth C. Pennoyer, Director of Business Management

SUBJECT: Orange County Landfill Financial Analysis

DATE: January 23, 2012

### PURPOSE

To review the financial information provided by the County concerning the financial position of the Solid Waste Landfill Fund and the impact of the pending closure of the Municipal Solid Waste (MSW) Landfill.

### BACKGROUND AND DISCUSSION

The Orange County Regional Landfill was established in 1972 as a joint venture among Orange County, Chapel Hill and Carrboro to facilitate the management of solid waste disposal in Orange County. The agreement established initial investment and ownership of the landfill at 43% for Orange County, 43% for Chapel Hill and 14% for Carrboro, with a combined initial investment for the three entities of \$409,840. Under the agreement, the Town of Chapel Hill was designated as the administrator of the landfill operations and was responsible for the financial records of the joint venture. All users of the landfill, including the parties to the agreement, pay user charges based on proportional use.

The joint venture operated until April 6, 2000, at which time the Town transferred all regional landfill assets and liabilities and the role of administrator to Orange County. Segment information for the period July 1, 1999 through April 16, 2000 is as follows:

Operating Revenues	\$3,024,714
Operating Expenses	2,970,778
Operating Income	53,936
Non-operating Income	\$ 149,900
Depreciation Expense	\$ 610,798
Total Assets	\$10,284,701
Closure and Post Closure Liability	2,507,149
Total Equity	\$ 7,478,161

In addition to physical assets (land & equipment) that had a depreciated value of about \$5.6 million, the Town transferred \$4.17 million in cash, net of adjustments, as part of the transfer.

Comparative balance sheets for FY1999 and FY2011, the last full year the landfill was under Town of Chapel Hill administration and the latest available financial information from Orange County, are shown in Attachment 1. Please note that due to changes in the government financial reporting model that went into effect in 2003, some of the assets and liabilities are categorized differently. Landfill operations are accounted for as an enterprise fund, so that in addition to financial assets and current liabilities that would be presented in a typical governmental fund, the landfill fund reporting also includes economic assets such as land and capital equipment as well as long-term liabilities such as the non-current portion of debt. Also, as an enterprise fund, depreciation is recorded on fund fixed assets.

The fund has grown significantly over the comparison period. Cash and cash equivalents increased from \$4.4 million to \$12.9 million. This is similar to the increase in the post closure liability, which is the amount set-aside to pay for the closure of the landfill and 30 years of subsequent monitoring and maintenance. The landfill closure and post closure care liability, which is discussed further below, increased from \$2.3 million to \$11.9 million. Despite the overall growth in the fund, the net assets – the theoretical value of the fund’s assets after all liabilities are paid off – decreased from \$6.9 million to \$3.5 million, due to the increase in liabilities, including OPEB which was not recognized in 1999.

### **Landfill closure and post closure care costs**

Landfills are financially responsible for the costs of closing the site at the end of its useful life and the cost to monitor and maintain the site for 30 years after closure. These costs are recognized over the useful life of the landfill and are comprised of the following three elements:

- The cost equipment and facilities that will be acquired for the purpose of post closure care and monitoring.
- The cost of applying the final cover.
- The cost of post closure care and monitoring.

Estimated costs are adjusted annually to reflect inflation and any changes in technology or regulations and are calculated based on current costs. An annual expense related to closure and post closure costs is calculated using a formula that recognizes the amount of capacity used during the period and any adjustments to prior costs. The accumulated costs are shown as a liability in the Landfill’s Statement of Net Assets.

As of June 30, 2011 the estimated cost of closure and post closure costs are shown as \$11,966,601 in the County’s financial statements. The calculations for this cost estimate are

shown below. There are two sets of calculations, one for the MSW Landfill which is slated for closure in 2013 and another for the C&D Landfill that will remain open well past 2013.

**Closure and Post Closure Costs Municipal Solid Waste (MSW) Landfill\***

Closure Costs	\$ 3,116,720
Post Closure Care Costs	4,241,544
Corrective Action	<u>583,011</u>
Total MSW	\$ 7,941,275

\* Per HRD October 28, 2010 (revised Feb 3, 2011) Report

**Closure and Post Closure Costs Construction & Demolition (C&D) Landfill\***

Closure Costs	\$ 929,957
Post Closure Care Costs	95,369
Corrective Action **	<u>3,000,000</u>
Total MSW	\$ 4,025,326

\* Per Draper Arden Assoc. July 6, 2011 Report

\*\* *The engineer's report details corrective action cost of \$661,598, leaving \$2,338,402 of unsupported corrective action cost.*

The total of the two calculations above is \$11,966,601, which is also reflected in the Notes to the Financial Section of Orange County's June 30, 2011 financial statements along with the following information:

- Costs during the monitoring period are estimated to be \$95,000 per year.
- Total liability per financial statements represents a cumulative amount based on 85% capacity used.
- There is an additional \$1.3 million of closure costs and care that will be recognized in future years.

**The FY2011 Financial Statements**

As of June 20, 2011 the Landfill Fund had current assets of \$13.4 million, non-current assets of \$6.4 million and total assets of **\$19.8 million**. The fund also had current liabilities of \$1.4 million, non-current liabilities of \$15.6 million and total liabilities of **\$17.0 million**. Total assets exceed liabilities by almost \$3 million; however this net asset number is made up of two components. The first is investments in capital assets of \$3.5 million that represents value of the

County's equity in fund fixed assets. The second is negative unrestricted assets of (\$0.7 million) that represent an excess of liabilities over liquid assets (cash).

### SUMMARY

The County's October 4, 2011 agenda item titled "Roger's Road Area Mitigation Options and Landfill Closure Impacts" states that "the Solid Waste enterprise fund, without considering the sale of any assets, is **\$4,073,276** short of meeting all long-term obligations." The Town staff review of the County's audited financial statements show the difference between current assets and **all** liabilities (current and non-current) to be **\$3,568,461**. We need to reconcile any difference in assumptions between these two numbers. In addition, the following factors should be considered in assessing the adequacy of the Solid Waste Fund resources to meet future obligations:

- The closure of the landfill will provide an opportunity to liquidate some fixed assets associated with landfill operations that can provide additional funding for long-term costs.
- The costs associated with post closure care (\$4,336,913) will be paid out over 30 years. During that time the fund should have sufficient current assets to generate significant interest earnings over the 30 year period.
- The C&D landfill is expected to stay open beyond 2013, providing an opportunity to generate additional funding toward closure and post closure costs.
- There appears to be \$2.4 million of unexplained corrective action costs associated with the closure of the C&D landfill. The total estimate for C&D corrective action costs of \$3.0 million seems out of proportion to corrective action cost of the MSW Landfill.
- OPEB liability costs may decrease as a result of employees leaving landfill operations when the landfills are closed. Also, if other operations accounted for in the Solid Waste Fund, Recycling Operations and Sanitation and Convenience Center Operations, continue to operate after the closure of the landfills, revenues associated with those operations will be available to pay fund obligations.

### ATTACHMENT

- 1) Comparison of Balance Sheet FY1999 and FY2011

**LANDFILL FUND COMPARISON OF BALANCE SHEET FY1999 AND  
STATEMENT OF NET ASSETS FY2011**

	<b>1999*</b>	<b>2011</b>
	<b>Town</b>	<b>County</b>
<b>ASSETS</b>		
Current assets		
Cash and cash equivalents/investments	\$ 4,446,721	\$ 12,941,892
Accounts receivable, state	-	67,486
Accounts receivable, other	-	422,157
Other	<u>120,379</u>	<u>-</u>
Total current assets	<u>4,567,100</u>	<u>13,431,535</u>
Noncurrent assets:		
Land, land improvements & Bldgs	4,560,435	-
Equipment	3,808,086	-
Construction in Progress	1,281,256	-
Non-depreciable Assets		1,617,824
Capital assets net of depreciation	-	4,806,084
Accumulated Depreciation	<u>(4,255,354)</u>	<u>-</u>
Total noncurrent assets	<u>5,394,423</u>	<u>6,423,908</u>
Total assets	<u>9,961,523</u>	<u>19,855,443</u>
<b>LIABILITIES</b>		
Current liabilities		
Accounts payable	250,706	432,282
Accrued liabilities	64,130	24,247
Employee taxes and related withholdings	-	147,355
Accrued interest	-	87,314
Current portion of long-term debt	-	549,784
Compensated absences, current portion	<u>-</u>	<u>149,773</u>
Total current liabilities	<u>314,836</u>	<u>1,390,755</u>
Noncurrent liabilities		
Compensated absences	-	99,850
Post Closing Liability	2,372,362	11,966,601
OPEB Liability	-	1,197,787
Long-term Debt	<u>-</u>	<u>2,345,003</u>
Total noncurrent liabilities	<u>2,372,362</u>	<u>15,609,241</u>
Total liabilities	<u>2,687,198</u>	<u>16,999,996</u>
<b>NET ASSETS</b>		
Invested in capital assets	-	3,529,121
Unrestricted	-	(673,674)
Contributed Capital	279,850	-
Retained Earnings	<u>6,994,475</u>	<u>-</u>
Total net assets	<u>\$ 6,994,475</u>	<u>\$ 3,529,121</u>

*\* The format for reporting enterprise fund balance sheet information changed to a net assets presentation in 2003, therefore asset and liability categories may not be equivalent. The above information is provided to show proportional changes over-time and may not represent strict apple to apple comparisons.*



**MEMORANDUM**

TO: Roger L. Stancil, Town Manager  
FROM: Lance Norris, Public Works Director  
SUBJECT: Status Report on Future Solid Waste Collection and Disposal Options  
DATE: January 23, 2012

**PURPOSE**

The purpose of this memo is to provide Council with an update on the Town's solid waste collection and disposal options for the future. In light of recent developments, namely the possible closure of the Orange County Landfill by the spring of 2013, the Town is exploring alternative sustainable and viable options for solid waste collection and disposal. This memo summarizes the Town's efforts, to date, to begin exploring options for solid waste collection and disposal, which are as follows:

1. An Independent Comprehensive Review of Solid Waste Collection and Disposal Options.
2. A Residential and Commercial Solid Waste Pilot Program to Durham.

**BACKGROUND AND DISCUSSION**

The Interlocal Agreement obligates the County to provide the Town with two year's notice to terminate the Agreement. To date, the Town has not received official notice. The Orange County Commissioners have expressed their intent to close the landfill as early as the spring of 2013, which, in the absence of an alternative provided by the County (for example, a transfer station), would effectively constitute a termination of the Agreement as to solid waste. In light of this development, the Town has begun proactively exploring alternative options for solid waste disposal, as well as ways of increasing efficiency with solid waste collection.

Wendy Simmons, the Town's new Solid Waste Services Superintendent, will play a central role in overseeing these projects going forward. Wendy has a Masters Degree in Environmental Management from Duke University. She has many years of work experience in the field of solid waste management, including tenure with NCDENR and most recently with the City of Asheville, where she was the Solid Waste Manager.

The Town will continue to explore additional innovative and realistic opportunities for solid waste management that align with our organizational values and commitments to sustainability, economic vitality and cost-effectiveness.

## **Comprehensive Review of Solid Waste Collection and Disposal Options Consultant Project**

The Public Works Department put out a Request for Qualifications (RFQ) to provide the Town with a Comprehensive Review of Solid Waste Collection and Disposal Options on November 16, 2011. The primary goals of this project are to:

1. Conduct a complete review of the Town of Chapel Hill's current solid waste collection and disposal practices, including residential waste, commercial waste, white goods, yard waste, and brush.
2. Present a comprehensive set of options for the Town's future management of solid waste collection and disposal. These options should include opportunities for enhancing and/or streamlining the Town's current solid waste disposal and collection activities, as well as those the Town does not currently manage, such as recycling and energy conversion (including waste-to-energy).
3. Identify opportunities for public-private partnership (i.e. waste to energy), including specific partners, for the implementation of an enhanced solid waste management system.

The Town received proposals from seven firms by the December 5<sup>th</sup> deadline, and will interview in late January two consulting firms who meet the criteria established in the RFQ and have the required diversity of experience and expertise in solid waste management. The staff anticipates making a selection of the firm by mid-February and receiving sufficient information that will allow for decisions as it relates to the impact on the budget for FY 2013.

### **Solid Waste Pilot Program to Durham**

In an effort to begin actively exploring alternatives for solid waste disposal options, the Town conducted a two-week pilot program transporting residential and commercial solid waste to the Durham Transfer Station.

The Town staff is in the process of evaluating the results of the pilot program. Our preliminary review of the results are consistent with our earlier fiscal impact estimates, based on the current method of providing the in-house services. Key findings of the pilot program are as follows:

- The average travel distance to and from the transfer station is approximately 18 miles one-way, adding about an hour of off-route travel time per trip. During peak hours the wait time at the transfer station may be slightly greater than those experienced during the pilot.
- The vehicles participating in the pilot program experienced no maintenance issues on the way to or from the Durham Transfer Station. We believe that the programmed allowance for additional maintenance associated with the mileage is still reasonable at this time.

Total additional costs moving forward will depend on decisions made relative to collection and disposal options. If we begin hauling solid waste to Durham, estimated additional annual costs resulting from the increase in hauling distance would be between \$500,000 and \$600,000.

An additional consideration is the increased safety risk to our employees and the liability to the Town of placing fully loaded solid waste vehicles and drivers on an interstate highway.

### **RECOMMENDATIONS**

That the Council receive this report.

