

**TOWN OF UNIONVILLE
MINUTES OF REGULAR MEETING**

The January 19, 2009 regular meeting of the Town of Unionville was held at 7:30 p.m. in Town Hall, 1102 Unionville Church Road, Monroe, NC. Mayor Simpson and Commissioners Jim Baucom, Randy Baucom, Ken Brown and Edd Little were present. Town Attorneys Ken Helms and Tom Griffin were present. Commissioner Robert Crutch was absent.

Everyone stood and recited the Pledge of Allegiance to the United States flag, after which Mayor Simpson led the prayer of invocation.

Mayor Simpson called the meeting to order and welcomed everyone in attendance.

There being no corrections or additions to the minutes of the December 8, 2008 special meeting and the December 15, 2008 regular meeting, Mayor Simpson declared them approved as reviewed by Council.

Mayor Simpson recognized Budget & Finance Officer, Darrell Baucom, who reviewed the financial reports. A copy of same is appended to these minutes. Mr. Baucom reported that the Town is favorable to budget by \$19,000, highlighting that the Town is over budget on franchise taxes, and under budget on landfill tax, zoning, contributions, and legal expenses. In activity for the month, there have been several deposits, a franchise tax receipt and payment to Unionville Volunteer Fire Department for a fire truck. Upon motion duly made by Edd Little, seconded by Ken Brown, Council unanimously approved payment of pending bills.

Mayor Simpson recognized John Kapelar with Potter and Company. Mr. Kapelar reviewed the recent audit, stating that they found an unqualified audit opinion, which is the highest level of assurance given. He reviewed the report, a copy of which is appended to these minutes. Mayor Simpson made inquiry as to this report meeting all requirements of the state. Mr. Kapelar confirmed that it does.

Mayor Simpson recognized Clerk Sonya Gaddy, who made a recommendation to purchase a Sharp ARM257 copier for \$5,138.41 to replace the old copier. Upon motion duly made by Ken Brown, seconded by Randy Baucom, Council unanimously approved this purchase.

Mayor Simpson then recognized Attorney Tom Griffin. Mr. Griffin stated that the Town currently has information to consider regarding the Griffin Farm and Landfill franchise application. The current franchise expires February 9, 2009, and all requirements have been met for a new franchise, including a public hearing last Friday at Piedmont High School. Mr. Richard Griffin is appearing before Council now, as he needs to have in place for his operation another permit from the state that can kick in when the old one expires. For Town of Unionville to grant a franchise, we must treat it like an ordinance, in that it must be read at two separate regular meetings 30 days apart, passing both times. He handed out tonight a revised agreement to meet all statutory requirements. Mr. Tom Griffin has asked that Jon Adams address Council about three things: 1) the package Mr. Runkle distributed at the public hearing with confusing questions, 2) monitoring of groundwater toluene levels

and 3) one inspection report. The application for the franchise is limited to continuing the operation to use the same operations authorized last time; no additional cells, no additional height, no additional waste; simply additional life of the existing landfill. Commissioner Randy Baucom asked that Mr. Tom Griffin bring the public up to date on the existing lawsuit. Mr. Griffin stated that the Town won at the district court level and that decision has been appealed. Briefs were filed and we were just notified a couple weeks ago that the court asked us to argue the appeal before the Fourth Circuit Court in Richmond, Virginia in March. That court will either uphold or return Judge Conrad's decision. The timetable could be 6-8 months before a decision is handed down. It is unlikely that it would go any further, as he believes the Town will win again.

Griffin Farm and Landfill Attorney Jon Adams addressed the three above items. He stated that Griffin Farm and Landfill is seeking renewal of the same five-year permit. Under the original franchise, they anticipated waste streams of 80,000 cubic yards per year, which equals a five-year life. Due to the slowdown, the actual capacity to operate another five years is 38,000 cubic yards per year. All restrictions remain the same—the footprint and acceptable items. In addressing Mr. Runkle's letter, Mr. Adams stated that he spoke with the state about the debris being covered, and a cover has now been put on the debris, therefore, it is no longer an issue with the state. Secondly, regarding the need to follow the new rules, he feels comfortable that they are abiding by the rules, and doesn't see an issue with that. Thirdly, the state requirement can't be met without a high level of expertise (finances). Mr. Griffin and Griffin Farms and Landfill are out of bankruptcy, and everything is fine. Upon receiving a new franchise from the Town, Mr. Griffin will put forth new financial assurances for closure. He doesn't want to put forward \$2,000,000 to \$3,000,000 if there is no new franchise. Concerning the toluene levels in wastewater, Mr. Adams checked with engineers and the standard is 1000 parts per billion. Mr. Griffin's levels were 31 and 200, and the state did not find him out of compliance with regulations. This had not existed previously, and he wants to find out where it's coming from. Concerning the allegation of industrial waste being accepted at Griffin Farm and Landfill, he saw a file cabinet from Omnova with papers and plastic with it. The state classifies this as industrial waste. Mr. Griffin offered to remove it and the state said no; they just wanted to advise him what was going on.

Mayor Simpson made inquiry as to any other violations found by any other monitoring agencies. Mr. Griffin stated that there is nothing else he's aware of. Commissioner Randy Baucom stated that the permit states that we need 120 days; why has the permit been submitted 30 days prior to expiration? Mr. Adams stated that it is the best fiscal and business sense for GFL to keep going forward. They are working to get a franchise from the town and will try to get a permit from the state. There has been no waste accepted since June 30, 2008. Commissioner Little referred to the NC DENR letter of January 12, 2009 requiring a minimum of one foot of soil and vegetation. Mr. Adams stated that this has been done, although the vegetation has not had time to grow. Commissioner Little asked about financial assurance and contact with DENR. Mr. Adams stated that if Mr. Griffin gets a franchise from the Town, he will be submitting that later. Mr. Adams stated that they began talking to NC DENR in July. Mr. Little referred to a letter stating "failure to comply...per violation", dated January 12, 2009. Mr. Adams stated that they are following up with the state since they received the letter. Mayor Simpson asked if the landfill is open. Mr. Adams stated that the last day was June 30, 2008, because financial assurance would take affect after that date. Mayor Simpson read from a letter

from Griffin Farm and Landfill “To Our Valued Customers”. Mr. Adams stated that while the lawsuit was going on, they talked to the Town about several settlement opportunities. In the end, they would be out that much money if the Town doesn’t grant the franchise, so they are seeking a five-year franchise from the Town, with the only changes being technical changes to comply with the new statutes. Commissioner Randy Baucom made inquiry as to what would happen if Mr. Griffin closes down the landfill today. Mr. Adams stated that it would fall under the old regulations, which are not as detailed as the new requirements. It becomes an orphaned site and there is no requirement to permanently close it. Post-closure care of thirty years would not pertain to it. Commissioner Brown made inquiry as to the financial responsibility. Mr. Adams said that if the landfill is permitted and Mr. Griffin accepts waste on February 10, he must put together a bond or some other mechanism he can draw on to fix things. If he does not accept waste, there is no requirement in place. Again, this permit would only allow Mr. Griffin to finish the current landfill; if he wanted to expand he would need another approval from the Town.

Attorney Tom Griffin stated that the Town has three options: 1) to deny the permit, 2) to grant the permit, 3) to take additional time to evaluate it. The Town could grant the permit with limitations, but you would need additional time to think those things through, and he can’t think of anything to protect the Town’s interests. Attorney Ken Helms pointed out that the Town could approve the permit at the first reading and decide not to have the second reading. Mr. Griffin pointed out that if the Town turns this down, it will have a landfill that doesn’t have financial mechanisms to close, and if they grant it, they will have the same bargain plus money to close out and monitor the situation so that it’s not a cleanup responsibility of the Town. Upon motion duly made by Randy Baucom, seconded by Ken Brown, Council unanimously agreed to adjourn to Executive Session to discuss the landfill issue with its attorney.

Upon motion duly made by Edd Little, seconded by Randy Baucom, Council unanimously adjourned Executive Session.

Upon motion duly made by Ken Brown, seconded by Jim Baucom, Council unanimously agreed to table this decision, as they just received the permit draft and other important information today and have not had ample time to review; and to follow the same process as before to set up a committee consisting of Randy Baucom and Robert Crutch to review additional information and work with Griffin Farm and Landfill prior to making a recommendation to the Town.

There being no other business, Mayor Simpson declared the meeting adjourned.

Respectfully submitted, Sonya W. Gaddy, Clerk

Approved as to form:

Thomas N. Griffin, III, Town Attorney

R. Kenneth Helms, Jr., Town Attorney