

**TOWN OF UNIONVILLE
MINUTES OF REGULAR MEETING**

The March 16, 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 all Commissioners were present. Attorneys Ken Helms and Allison Edgar were also present.

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

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

Upon motion duly made by Ken Brown, seconded by Jim Baucom, Council unanimously approved the minutes of the February 16, 2009 regular meeting and executive session.

Mayor Simpson recognized Budget & Finance Officer Darrell Baucom. Mr. Baucom presented a report by Baxter Starnes regarding the audit of Griffin Farm and Landfill. Mr. Starnes reports that there is no material difference in the host and franchise fees paid than what Mr. Griffin is reporting. Mr. Baucom then highlighted the financial report, a copy of which is appended to these minutes; reporting that the Town is under budget on property taxes, landfill franchise taxes, zoning fees and contributions. He has received a request for charitable contributions from Piedmont High Athletic Booster Club, and will include that on the April 20, 2009 agenda, as the Parks and Recreation Committee is not currently meeting. Most recent activity includes Parker Poe and the purchase of the copier. Upon motion duly made by Ken Brown, seconded by Edd Little, Council unanimously approved payment of pending bills, including Parker Poe, Baxter Starnes and Patsy Carriker.

The next item of business was to set two public hearings for text amendments. Upon motion duly made by Ken Brown, seconded by Randy Baucom, Council unanimously set the public hearing regarding age-restricted communities for 7:00 p.m. Monday, April 20, 2009 and the public hearing regarding the minor subdivision definition and addition of Sections 84 and 85 for 7:15 p.m. Monday, April 20, 2009.

Mayor Simpson recognized Bill Duston, Centralina Council of Governments, who presented a CONNECT power point presentation to the Council, and asking Council to approve the CONNECT program and adopt the attached resolution. The six core values represented by CONNECT are:

1. Sustainable well-managed growth
2. Safe and healthy environment
3. Strong and diverse economy
4. High-quality educational opportunities
5. Enhanced social equity and engagement
6. Increased collaboration between jurisdictions

Upon motion duly made by Ken Brown, seconded by Randy Baucom, Council unanimously adopted the CONNECT resolution, a copy of which is appended to these minutes.

Mayor Simpson recognized Jon Adams regarding the Griffin Farm and Landfill application. Mr. Adams introduced Wayne Sullivan of Municipal Engineering Services, who will address the water questions. Mr. Sullivan has been working with Griffin Farm and Landfill since 1997 monitoring wells in the landfill. In the system, there is a series of monitoring wells, and groundwater flowing into the wells could be affected by the landfill, although a background well that is upstream of the landfill can't be affected by the landfill. The same is true with surface water monitoring points. There are two or more of these—one upstream and one downstream so they can tell if they are affected by landfill groundwater. These wells are 5-19 feet deep, and are sampled twice per year. Mayor Simpson made inquiry as to violations. Mr. Sullivan stated that over the past five years, there have been naturally occurring metals detected in the groundwater at levels above the state's standards. However, the trouble is the way they are sampled. If the water is stirred too much, it will create issues because the metals are in the sediment in the bottom of the well. In 2007, the wells were shallow due to the drought. They use bailers and take out 1.5 times the volume of the well. This stirs up the sediment in the bottom of the well. The worst time is when there was a low water level, and iron and manganese were found in the wells due to low groundwater levels. Metals are naturally occurring, and they know it shows up in background wells. Metals were found over 2L and 2B standards. They look for anything manmade. Commissioner Randy Baucom made inquiry as to why the toluene detected was giving a false positive. Mr. Sullivan stated that this could occur in several places, such as a lab or in cleaning materials in the lab when clean equipment is used for sampling. The standard is 1,000 parts per billion, and the highest reading is 200 ppb. Mr. Sullivan stated that toluene is in lab results from cleaning equipment. Commissioner Baucom also asked about cobalt. Mr. Sullivan stated that cobalt is not a 2L standard, it is a groundwater protection standard, and it is a naturally-occurring metal which showed up several times. The standard is 70 ppb, and there is no groundwater standard. 2L doesn't cover everything, and the groundwater protection standards are set up by the state. There is no cobalt reading over the standard for the last five years except in October 2008.

Town Attorney Allison Edgar made inquiry as to how 2B standards fold into surface water. Mr. Sullivan stated that 2B is the standard for surface water, and 2L is the standard for groundwater. They should report any 2L and 2B exceedences. They had a couple they didn't report in the last five years—copper in 2008 detected 7.5 in surface water at downgrading and 8 at upgrading; standard is 7.

Commissioner Edd Little made inquiry as to iron exceedences. Mr. Sullivan stated that when the groundwater was very low in April 2007, almost every well had iron due to the low amount of water in the well. Surface water wells are 10-15 feet deep; upgraded to 15-19 feet of water depth. They're all quite shallow. The total depth of most wells is 20 feet.

Town Attorney Edgar asked Mr. Sullivan to explain the presence of benzene detected the end of 2007. Mr. Sullivan pointed out that the detection was not over the standard. They can't explain where it came from; perhaps the tampering of wells. Wells 5 and 6 were sampled 2-3 times and not over the 2L standard of 1 ppb. Benzene was detected once in monitoring well 6. It was sampled twice in 2008 and no benzene was detected. Commissioner Crouch made inquiry as to the harmfulness of benzene. Mr. Sullivan stated that it is very harmful, but only low concentrations are present.

Commissioner Little made inquiry as to chromium detection in 2004 and 2008. Mr. Sullivan stated that this is naturally occurring, and did not exceed the standard. Commissioner

Little stated that the reading was 71 ppb and the standard is 50 ppb. Mr. Sullivan stated that some standards have changed over the past five years.

Commissioner Randy Baucom made inquiry as to Griffin Farm & Landfill's NC DENR permit status. Mr. Sullivan stated that this permit has expired, and they must have a franchise with the Town before applying for another permit with DENR.

Mr. Jon Adams stated that he is aware that NC DENR spoke with Tom Griffin and Allison Edgar and they understood that DENR would not grant a permit Griffin Farm and Landfill, so why continue? Mr. Adams stated that the statute states that the applicant must apply for a franchise and then go to DENR for a permit prior to being formally told no. Mr. Adams doesn't think what the Town understands NC DENR may or may not do is a basis to deny the franchise. A franchise must be applied and granted before a permit is considered by DENR, according to the statute.

Ms. Allison Edgar stated that since the last Town Council meeting, her office has spoken with Mr. Ed Mussler, head of the permitting section at DENR. Mr. Mussler informed them that DENR would not grant a permit for Griffin Farm and Landfill to continue filling the existing cell (Cell 5), although they would consider granting a new permit for land filling activities on other parts of the property. The reason DENR won't allow the continuation of the filling of this cell is because the landfill has been closed. Based on this information, Ms. Edgar recommends that the Town request that Griffin Farm and Landfill obtain written assurance from DENR that DENR would allow Griffin Farm and Landfill to continue filling the current cells and assure the Town that they are not going through a futile exercise when the proposed activities can't be permitted. Ms. Edgar understands that a franchise must be granted before DENR will grant a permit and is not suggesting that the Town require DENR to issue the permit before the Town will grant a franchise. She is recommending that the Town stay their consideration for a certain finite period of time that's reasonable to see if Griffin Farm and Landfill can get some sort of assurance from DENR that they can do what they are seeking to do. This information will shed much light on the proceedings.

Mr. Adams confirmed Ms. Edgar's recommendation that the Council takes no action until Griffin Farm and Landfill can get assurance from NCDENR that it will consider granting a permit to operate a landfill in the existing cell. Mr. Adams stated that this is not called for by law, and is impossible to know until they can make a full request to DENR. If the Town votes for the franchise, and Griffin does not receive a permit from the state, they're done with it anyway.

Ms. Edgar stated that, under the current franchise ordinance, the Town has the right to seek additional information as part of its determination, and that the Town is requesting an assurance letter from DENR as an important factor in its determination of whether to grant Griffin Farm and Landfill's request for a franchise.

Mr. Adams stated that this is not appropriate, and if this is the basis by which the franchise will be turned down, this is a legal issue. Mr. Adams stated that they would be asking for an advisory opinion in this situation, where DENR wouldn't have all of the information without the franchise. Under these circumstances, he doesn't know what he can do. The statute says they must have a franchise prior to receiving a permit. This is not in line with the process the legislature has passed.

Ms. Edgar stated that Town of Unionville is able to ask for additional information, and has been told by DENR that they would not issue a permit. If Griffin Farm and Landfill can provide some sort of assurance letting the Town know that these facts are wrong and DENR will consider issuing a permit, then Town of Unionville will consider a franchise. Otherwise, it makes little sense for the Town to continue with the process if DENR won't consider issuing a permit.

Mr. Adams feels that an advisory opinion from DENR is entirely inappropriate. Ms. Edgar made it clear that the Town is not asking if DENR will approve the permit; simply if they will consider allowing it at all.

Mr. Adams stated that he was unsure if they could abide by what the Town is asking them to do. There should not be much more information for the Town to consider prior to a vote. This would violate due process and is not required.

Upon motion duly made by Ken Brown, seconded by Randy Baucom, Council unanimously agreed to enter into Executive Session to consult with its attorney regarding the Griffin Farm and Landfill franchise.

Upon motion duly made by Ken Brown, seconded by Robert Croutch, Council unanimously agreed to close Executive Session.

Upon motion duly made by Randy Baucom, seconded by Robert Croutch, Council unanimously agreed to table the franchise application to allow Griffin Farm and Landfill twenty days to request and obtain written assurance that NC DENR will consider permitting the activities requested in the franchise application. Mr. Baucom stated that the Town is not requesting that Griffin Farm and Landfill apply for a permit before a franchise is issued, nor is it requesting that DENR say definitively that it will grant a permit to Griffin Farm and Landfill if a franchise is issued. The Town just wants to know that it is not engaged in a futile exercise of evaluating a franchise if DENR will not grant a permit for the requested activities. The Town considers the application incomplete until it receives written assurance from DENR along these lines. As soon as it receives written assurance from DENR, the Town will continue its review of the information that it has received from Griffin Farm and Landfill to date, including the information it received on Friday and the information Mr. Sullivan provided this evening.

The next item of consideration was a Resolution to Adopt Legislative Positions for the 2009-2010 Session of the North Carolina General Assembly. Upon motion duly made by Ken Brown, seconded by Randy Baucom, Council unanimously agreed to adopt this resolution.

The next item of consideration was to appoint one member to the Union County Commissioner Governance Advisory Committee. Town resident Andrew Benton agreed to represent the Town on this committee.

Mayor Simpson reminded Council that the request of \$300 from Literacy Council would be considered April 20, 2009. Darrell Baucom also reminded them that the request of \$10,000 from Piedmont High Athletic Booster Club would also be considered at that time.

In other business, Commissioner Randy Baucom stated that two of the County Commissioners would like to set up a meeting with the Town Council in July or August to discuss needs of the Town Council. Mr. Baucom will follow-up and advise Council next month as to when the County Commissioners can meet with the Council.

There being no other business, and upon motion duly made by Ken Brown, seconded by Robert Croutch, Council unanimously adjourned the meeting.

Respectfully submitted,

Sonya W. Gaddy
Clerk

Approved as to form:

R. Kenneth Helms, Jr., Town Attorney

Allison B. Edgar, Town Attorney