

FORSYTH COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: AUGUST 12, 2013-FIRST READING
AUGUST 26, 2013-SECOND READING

AGENDA ITEM NUMBER: 9
21

Second Reading on:
SUBJECT: AMENDMENT TO ORDINANCE GRANTING A FRANCHISE FOR RESIDENTIAL AND SMALL BUSINESS SERVICE COLLECTION, TRANSPORTATION AND DISPOSAL OF RECYCLABLES IN UNINCORPORATED AREAS OF FORSYTH COUNTY

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS: Recommend Approval

SUMMARY OF INFORMATION:

See attached

ATTACHMENTS: YES NO

SIGNATURE: *J. Dudley Abbotts Jr.*
COUNTY MANAGER

DATE: August 22, 2013
August 8, 2013

**AMENDMENT TO
ORDINANCE GRANTING A FRANCHISE FOR RESIDENTIAL AND SMALL
BUSINESS SERVICE COLLECTION, TRANSPORTATION AND DISPOSAL OF
RECYCLABLES IN UNINCORPORATED AREAS OF FORSYTH COUNTY**

WHEREAS, pursuant to the authority provided by Chapter 153A of the N.C. General Statutes, Chapter 19 of the Forsyth County Code, and other applicable laws, the Forsyth County Board of Commissioners hereby considers the following ordinance granting a franchise for residential and small business service collection, transportation and disposal of recyclable materials in an approved processing facility to be in the best interests of Forsyth County; and

WHEREAS, Waste Management of Carolinas, Inc. provided prior written notice of its intent to terminate the franchise for collection, transportation and disposal of recyclables in unincorporated areas of Forsyth County under the terms of the said franchise ordinance and Forsyth County staff submitted a Request For Proposals to identify another franchise holder; and

WHEREAS, based on the proposal submitted by the proposed franchise holder, the Forsyth County Board of Commissioners is satisfied that the proposed franchise holder holds a currently valid solid waste management permit issued by Forsyth County to collect, transport and dispose of recyclable materials and will comply with all federal, state, and local laws and regulations, and will render prompt, efficient, and continuing service to the unincorporated areas of the County for which the franchise is granted, and that the proposed franchise holder has sufficient equipment and personnel to render the proposed services to all within the franchised area;

NOW, THEREFORE, BE IT ORDAINED that the Forsyth County Board of Commissioners hereby grants an exclusive franchise for residential and small business service collection, transportation and disposal of recyclable materials to the following entity, pursuant to the following terms and conditions:

Section 1. Franchise Holder

A franchise for the residential and small business service collection, transportation and disposal of recyclable materials (recyclables) in an approved materials reclamation facility (MRF) is hereby granted, to the following corporation to provide services to the unincorporated areas of Forsyth County.

**Waste Industries, LLC
302 Grumman Road
Greensboro, NC 24709
Phone: (336) 668-3712
(Private Corporation)**

Section 2. Franchise Area

The franchise holder identified in Section 1 above is hereby granted a franchise for the unincorporated areas of Forsyth County for the purpose designated in Section 1 of this ordinance, which excludes land areas located within incorporated municipalities.

Section 3. Nature of Franchise

The franchise granted herein for residential and small business service collection, transportation and disposal of recyclables shall be and is hereby adopted as an exclusive franchise within the unincorporated areas of Forsyth County.

Section 4. Period of Franchise

The franchise for residential and small business service collection, transportation and disposal of recyclables is hereby granted for a period beginning November 6, 2013 through December 31, 2016. This franchise will be automatically extended for two additional two-year terms unless the County or the franchise holder provides at least one hundred eighty (180) days' written notice of termination prior to the expiration of the initial term or of either of the two, two-year additional terms. Service shall begin in the unincorporated areas on November 6, 2013.

Section 5. Establishment of Limits On Fees for Certain Residential And Small Business Service Collection, Transportation and Disposal of Recyclables

- (a) There is hereby established and imposed a limit on the fee for residential and small business service collection, transportation and disposal of recyclables in the amount of \$8.65 per household/location per month for biweekly curbside pickup, hereinafter referred to as the "basic service fee". This fee shall be charged for single stream collection of one 96 gallon cart of comingled recyclable materials.
- (b) The franchise holder is authorized by this ordinance to bill subscribers for no more than three (3) months in advance of services rendered.

Section 6. Authority to Adjust Franchise Fees

The basic service fee for residential and small business service collection, transportation and disposal of recyclables as outlined in Subsection 5 above may only be increased by action of the Forsyth County Board of Commissioners and no requests for increases will be considered before November 6, 2015.

Section 7. Required Service

- (a) Basic service under this ordinance will consist of biweekly curbside collection of comingled recyclables in the containers described herein. Subscribers with approved documentation of special needs shall be provided back yard collection services for the basic service fee, if the containers are maintained not more than one hundred fifty (150) feet from a passable public road and access is free from interference from dangerous animals or other obstructions. Any subscriber requesting back yard collection at the basic service fee must submit proof of special needs to the County

Manager's designated representative. In its sole discretion, the County shall determine whether such special needs exist.

- (b) The franchise holder is authorized to provide back yard collection, transportation and disposal of recyclables to subscribers without special needs at rates mutually agreed upon between the subscriber and the franchise holder.
- (c) Residential and small business service containers provided by the franchise holder for collecting and storing recyclables before transportation and disposal shall be watertight 96 gallon carts with covers and wheels and shall be provided to each subscriber by the franchise holder and included in the fee for basic service at no additional charge. The 96 gallon carts provided by the franchise holder shall remain the property of the franchise holder.
- (d) "Bi-weekly" means service on the same day of the week every other week except for extreme weather conditions (snow or ice), equipment breakdowns, or holidays. Service will be resumed as quickly as possible following any unavoidable delay.

Section 8. Additional Conditions and Requirements

- (a) Beginning November 6, 2013, the franchise holder must provide residential and small business service collection, transportation and disposal of recyclables as authorized herein to everyone in the franchise area who requests it.
- (b) All recyclable materials collected under this Ordinance must be delivered to an approved materials reclamation facility (MRF) for processing. The recyclable materials to be collected shall include, but may not be limited to, mixed paper; corrugated cardboard; glass containers; tin, steel and bi-metal containers; aluminum beverage containers; plastic containers and packages labeled with code numbers 1 through 7.
- (c) The franchise holder shall provide subscribers with a written schedule for collection of recyclables.
- (d) The franchise holder must have a local customer service phone number and contact person in North Carolina.
- (e) The franchise holder shall submit an annual report to the County Manager's designated representative by January 31 of each year during the term of this franchise stating the number of subscribers served and the quantity of recyclables collected during each quarter of the preceding year.
- (f) The Board of Commissioners may from time to time request the franchise holder to provide special programs of collection, transportation and disposal of recyclable materials sponsored and paid for by the County.

Section 9. Record of Franchise

Approved franchise applications and the documents described in this ordinance and in Section 19-51 of the Forsyth County Code shall be maintained and kept on file in the office of the Clerk to the Board of Commissioners.

Section 10. Termination of Franchise

The franchise holder must provide the County Manager at least one hundred eighty (180) days' prior written notice of intent to terminate the franchise or discontinue any services in the franchise area. The franchise holder may not sell or otherwise transfer the franchise to any other provider in exchange for any consideration. If the franchise holder fails to provide services as required in this ordinance, the County Manager shall have the authority to terminate the franchise. The franchise is also subject to termination by the Board of County Commissioners as provided in Section 19-50 of the Forsyth County Code.

Section 11. Applicable Laws and Regulations

The franchise granted by this ordinance and its continuation are conditioned upon the franchise holder's compliance with all applicable federal, state and local laws and regulations, particularly those relating to collection, transportation, and disposal of recyclables, including but not limited to Chapter 153A of the N.C. General Statutes and Chapter 19 of the Forsyth County Code. This franchise and its continuation are also conditioned upon Forsyth County's continued jurisdiction, legal authority, and decision to administer and control residential and small business service collection, transportation and disposal of recyclables in unincorporated areas in Forsyth County.

Section 12. Effective Date

This ordinance shall become effective on November 6, 2013.

Adopted on first reading this 12th day of August 2013.

Adopted on second reading this the 26th day of August 2013.