

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: April 21, 2009

**Action Agenda
Item No.** 6-a

SUBJECT: Transfer Station Site Search Follow-up Report

DEPARTMENT: Solid Waste Management

PUBLIC HEARING: (Y/N)

ATTACHMENT(S):

Provided under Separate Cover in Binder

- A. *Olver, Inc. Report – Environmental Assessment*
- B. *Olver, Inc. Report – Analysis of Hauling to Out-of-County Transfer Stations*
- C. *Olver, Inc. Report – Alternative Technologies*
- D. *Solid Waste Staff Report – Seeking Governmental Partnerships*
- E. *SWAB Memoranda – April 2009*
- F. *(a) Contingency Planning – Olver, Inc. Report*
(b) Agreement Letter between Orange County and Womble Carlyle Sandridge & Rice

INFORMATION CONTACT:

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PURPOSE: To provide follow up information on the solid waste transfer station site search and associated parallel track process as directed by the Board of County Commissioners on January 22, 2009, and obtain feedback and direction on recommended next steps.

BACKGROUND: At the BOCC meeting on January 22, 2009 the solid waste transfer station site search was discussed and the following feedback and direction was provided to County management and staff.

- Proceed with the evaluations of the two sites and report back the various findings, including the environmental assessments, property appraisals, surveys, etc.
- Investigate on a parallel track possible alternative approaches, partnerships, and methodologies for solid waste disposal in Orange County, in consultation with the Solid Waste Advisory Board and other interested citizens

- Once a site is selected, form an advisory board and include in its mission addressing the concerns of citizens, with the goal of minimizing impacts on the citizens, and invite the towns to participate in the process of minimizing impacts.

The following sections of the agenda abstract respond to direction received from the BOCC.

Site Evaluation

54 West, LLC. – Site 056

The property survey is complete and the property has been confirmed as 142.71 acres in size. The property appraisal is complete and the market value of the 142.71 property to be \$820,000 (or \$5,746/acre). The appraisal of the 8.01 parcel which is also owned by West 54, LLC. (part of which would be used for an entranceway to the transfer station) is complete and the market value is \$115,000 (or \$14,357/acre).

Regarding the environmental review of the property, discussions with Olver, Inc., and the County's Environmental and Resource Conservation Department and the Planning Department led to following action steps.

- 1) Use County's right of entry to conduct Surface Water Assessment (County Soil and Erosion Control Division)
- 2) Conduct Environmental Assessment (EA), including examining available historical data and information submitted by the public [conducted consistent and in compliance with the State Environmental Policy Act (SEPA) and County ordinances] (Olver, Inc.)
- 3) Olver, Inc. submit all available data resulting from environmental assessment to County Planning, who then submits the data to the State Clearinghouse (various State review agencies) (Olver, Inc. and Planning)
- 4) Conduct professional jurisdictional wetlands assessment and biological survey (Olver, Inc.)
- 5) Delay cultural and archaeological survey until site decision made by BOCC. Since the transfer station will be a County facility and ground disturbing activity would definitely occur, staff will be obliged to follow the County's cultural and archaeological policy once an affirmative decision to proceed with this site is made (ERCD/Planning)
- 6) County receives and evaluates State Clearinghouse Report (Planning)
- 7) Planning issues either (1) FONSI (Finding of No Significant Impact) or (2) Requirement of an EIS (Environmental Impact Statement.) Prior to issuing either a FONSI or EIS, Planning may request additional clarifying information or analysis of Olver, Inc., in response to recent questions about local data sets employed.

Steps 1-4 have been completed. Step 5 happens after the final site selection. The County is on hold for Steps 6 and 7.

As of this agenda item, the State Clearinghouse has not issued its report to Planning but it is expected shortly. Planning anticipates it would take about 3-5 days from receipt to review the Report and make an initial determination. Even if Planning were to issue a FONSI, the BOCC as the project "applicant" could still submit to an EIS voluntarily. A formal EIS is a more expensive operation that would entail developing a final proposed site plan and would take an estimated 75-90 days to complete.

See Attachment A: (Olver, Inc. Environmental Assessment/ Site 056)

OWASA - Site 759

The OWASA Board of Directors in a letter dated October 24, 2008 informed the County that it would not allow entry to their 43 acre parcel for purposes of conducting various assessments, surveys, etc. Therefore, no such evaluations, assessments or surveys have been conducted. In a March 12, 2009 letter to the County Manager OWASA further indicated, in the absence of an identified property to swap, it has no interest in consideration of a land-swap option as an alternative for further County pursuit of this candidate transfer station site.

SWAB and Community Exploration of Possible Alternative Approaches, Partnerships and Methodologies for Solid Waste Disposal

Alternative Waste Transfer Approaches

Olver, Inc. has presented a detailed analysis regarding the financial (and other) implications of delaying or not developing a local transfer station. Much discussion occurred with regard to this topic in SWAB meetings that included various citizens groups, residents and other interested persons. Olver, Inc.'s analysis was amended as a result of some of the input submitted in this forum.

Staff also recommended revisions to the analysis partially in response to the worsening budgetary environment. First, Olver, Inc. was directed to reduce the property to be acquired to 25 acres (although acquiring the entire 143 acres should still be considered. Second, Olver, Inc. was directed to reduce the size requirements of the transfer station itself to the minimum needed to function properly but still retain the state of the art enclosed design.

The analysis reveals it will be more expensive for the hauling of waste from Orange County to existing regional transfer stations than to the Hwy. 54 candidate site. The analysis found the County's Inter-local Government partners (with the exception of Hillsborough) will incur significant additional costs to haul to an out-of-county transfer facility. A recent staff inquiry with the City of Durham staff indicated Orange County could not realize a preferential tipping fee at the City of Durham transfer station.

Another recent inquiry with Wake County staff indicated a possible discussion among the South Wake Landfill Partners to consider the notion of the Wake County landfill hosting one or more neighboring jurisdictions waste. As a result of this reasonably positive, though non-committal, response from Wake County the County has asked Olver, Inc. to include within the hauling

analysis consideration of the economics of the Wake County (or a Chatham/Alamance County) landfill being a final destination for Orange County's transferred waste.

See Attachment B

Technological Alternatives to Land filling

The Solid Waste Advisory Board and Olver, Inc. have evaluated the short and mid-term potential for implementation of a variety of alternative technologies to manage Orange County's waste, considering both Orange County only and regional partnership options. Both have concluded the existing technological alternatives are long-term planning options and hold little promise with regard to the County's current waste management disposal situation.

See Attachment C

Engagement of Surrounding Potential Jurisdictional Partners

Staff has engaged its counterparts in the following jurisdictions with regard to their interest in entering partnerships relative to waste transfer and disposal, alternative technologies, and other possible solid waste management endeavors:

Chatham County
City of Durham
Lee County
Alamance County
Wake County

See Attachment D

Solid Waste Advisory Board Review and Response

Consistent with BOCC guidance the Solid Waste Advisory Board also assumed a key role in the additional analysis and discussions by providing the forum for continued exchange of information and discussion of issues and as a platform for public input. The SWAB has conducted three meetings exclusively dedicated to these issues and has heard from county residents, community groups, Olver, Inc., private waste companies/technology vendors, and a statewide environmental group. In April the SWAB conveyed a memorandum (attached) to the BOCC regarding alternative technologies and alternative transfer station hauling analysis. The SWAB intends to continue providing a forum in which solid waste issues such as alternative technologies can be discussed and considered.

See Attachment E

Contingency Transfer Alternatives

Remaining Capacity – The most recent annual survey (March 2009) of the landfill indicates various operational and programmatic steps taken (described in the attached report) over the past year have had substantive impact on remaining landfill capacity. Capacity management measures are the least disruptive and costly of actions that can be taken to address the

undesirable situation of the landfill reaching capacity before the new transfer station is available. While the recent survey unexpectedly indicated about a year additional capacity staff must confirm this result given the degree of change and the significance of additional capacity to the decision making process. A second survey is being scheduled with results to be reported to the BOCC.

Contingency Planning

There are three approaches to how Orange County will handle the locally collected waste should the landfill reach capacity prior to the availability of a new transfer station:

- Reduce the quantity of incoming waste to the landfill by eliminating non-Interlocal government partner customers
- Once capacity is reached, divert all government and private customer waste to out-of-county regional transfer stations
- Develop a temporary waste transfer/diversion operation at the landfill (non-landfill temporary waste transfer/diversion locations would be much more difficult, costly and time-consuming to permit)

The details and implications of each option are presented in the attached Olver, Inc. report. However, it appears extending landfill capacity through capacity management planning is far preferable to the extent it can be achieved.

See Attachment F(a)

NEXT STEPS

After the State Clearinghouse Report has been received, reviewed and ruled upon by the Planning Department, County Management will bring that information back to the BOCC for discussion as part of the final site selection process for the waste transfer station.

Once the BOCC has approved a final site for the waste transfer station staff will proceed expeditiously to create a **Citizens Advisory Committee** consistent with the report recommended at the January 22 BOCC meeting, as amended to include inviting the towns to participate in the committee with the goal of minimizing negative impacts for all entities involved.

The County may also need the services of special counsel to handle litigation potentially emanating from any of the solid waste disposal alternatives now under consideration or which may hereafter be considered. The County Attorney recommends the County employ the firm of Womble Carlyle Sandridge and Rice for this purpose as provided in the letter agreement that is attached. The County will incur no expense by employing Womble Carlyle unless it engages that firm in necessary covered litigation.

See Attachment F(b) (Womble, Carlye Letter)

FINANCIAL IMPACT: There will likely be substantial costs to the County in the overall land acquisition, design, and development of a selected site and the permitting and construction of the actual facility along with any ancillary features the BOCC may authorize. There are also costs associated with the various surveys, appraisals, analyses, and contingency implementation strategies that involve outside vendors and consultants.

RECOMMENDATION(S): The Manager recommends the Board:

1. Receive the Solid Waste Transfer Station Site Search Follow Up Report
2. Provide feedback and direction to County Management on the site evaluation "due diligence" performed to date
3. Provide feedback and direction to County Management on contingency planning options for solid waste disposal
4. Authorize the County Attorney to execute the March 11, 2009 letter of agreement between the County and Womble Carlyle Sandridge & Rice to handle litigation on behalf of the County arising from or related to the County's Solid Waste Transfer Station siting process
5. Direct County Management to bring back to the BOCC the ruling from the Planning Department pending receipt and review of the State Clearinghouse Report on the Environmental Assessment of candidate site 056.