

Item Title: Request from Shotwell Landfill, Inc. for Amendment of Landfill Franchise (Public Hearing concluded; Action to be taken)

Specific Action Requested:

That the Board of Commissioners considers Shotwell Landfill, Inc.'s request to amend their existing landfill franchise to increase the annual tonnage threshold from 91,250 tons/year to 365,000 tons/year and to increase the service area from Wake and Johnston counties to include Durham, Orange, Granville, Franklin, Nash, Harnett and Chatham counties.

Item Summary:

The Wake County Solid Waste Ordinance requires that all construction and demolition debris (C&D) landfills obtain a franchise from the County before operating. Once the franchise has been granted, the landfill owner must request a franchise amendment if the landfill owner desires to modify or change the conditions specified in the standing franchise (primarily service area and tonnage threshold).

Previous Board Actions

Previous Board actions related to the Shotwell Landfill are as follows:

1. December 1999 – Denied franchise request to open the facility. Applicant subsequently appealed to Superior Court and the Commissioners' decision to deny the franchise was upheld because Applicant did not properly describe the geographic area of the landfill.
2. July 2000 – Approved initial franchise request.
3. August 2003 – Denied amendment to increase both the franchise service area and tonnage threshold.
4. November 2003 – Approved amendment requesting a smaller increase in tonnage threshold.
5. April 2005 – Approved request to re-issue franchise to reflect change in ownership.
6. September 2006 – Approved amendment to increase the franchise service area and disposal volume per year (to Wake and Johnston Counties with a maximum of 91,250 tons/year)
7. March 2011 – Denied request to increase franchise service area (adding 15 counties) and annual disposal volume (401,500).
8. May 2011 – Denied same request as March 2011 to increase franchise service area and annual disposal volume. Directed staff of investigate a re-write of the C&D Franchise Ordinance – re-write completed in March of 2012.
9. June 2012 – Denied request to increase annual tonnage disposal volume (273,750) and add two counties (Durham & Orange) to the service area.

Current Franchise Amendment Request

Based upon the approval of the original franchise for the Shotwell Landfill in July of 2000, and a couple of subsequent amendments noted above, it authorizes Shotwell to accept up to 91,250 tons of C&D waste per year. Also included in the franchise is that the waste can be received from Wake and Johnston counties only.

Note that the stated threshold is an annual tonnage. Daily tonnages can vary, but the annual landfilled tonnage must currently be less than 91,250 tons. In the current franchise amendment request, the Applicant requests the following changes:

1. Increase the tonnage threshold from 91,250 tons per year to 365,000 tons per year.
2. Increase the franchise service area from Wake and Johnston counties to include seven additional counties: Durham, Orange, Granville, Franklin, Nash, Harnett and Chatham.

Some other items noted by the applicant in their application package are as follows:

1. The landfill is under Chapter 11 reorganization bankruptcy proceedings.
2. The landfill only accepts C&D material and is not seeking to add any new types of waste.
3. The landfill currently operates Monday thru Friday from 7:30 AM until 4 PM and is not requesting any change to the operational days or hours.
4. This request does not seek to expand its footprint.
5. The stated purpose of the franchise amendment request is to increase the annual volume and expand the franchise service area to be more in keeping with the other similarly sized construction and demolition debris landfills in Wake County. The other three C&D landfills in Wake County currently have significantly higher daily tonnage thresholds, and two have significantly larger franchise service areas than the Applicant as shown in the chart below:

C&D Tonnage ¹						
FACILITY	ANNUAL THRESHOLD	COUNTIES IN SERVICE AREA	WASTE PLACED			
			FY 2012	FY 2013	FY 2014	FY 2015
Shotwell	91,250	2	95,838.83 ²	91,209.99	85,799.41	84,645.65
Shotwell (Proposed)	365,000	9				
WCA (Brownfield)	401,500	16	107,084.86	85,995.88	95,869.23	130,440.00
Red Rock	730,000	59	66,122.46	60,520.00	93,965.67	97,858.00
Hwy 55 (Greenway Waste)	300,030	1	48,469.92	72,431.00	74,405.25	72,887.40

¹Data gathered for NCDENR C&D Facility Annual Reports (July 1-June 30).

²Over the Threshold due to tornado recovery issues.

6. There are no existing violations of permits, ordinances or regulations governing the Shotwell Landfill enforced by Wake County Environmental Services or NC Department of Environmental Quality.

Though not required by the Franchise for C&D Landfills Ordinance, Shotwell included in their application some traffic related data and a letter from a Ramey Kemp & Associates (Transportation Engineers). The letter states based upon their traffic count on Tuesday, March 22, 2016 that “an increase in the daily operations of the Shotwell facility...would not be expected to result in any added delay or congestion to the area infrastructure.”

In addition, contact was made with the NC Department of Environmental Quality regarding the potential for odors from the facility due to recent information provided in the media. Contacts at DEQ stated that they have not typically received odor related complaints regarding Shotwell, but if there are they can inspect the facility to confirm that the various monitoring wells on-site are still operating properly.

The current C&D Landfill Ordinance, the full application and a proposed amended franchise ordinance are attached for review and consideration.

Solid Waste Ordinance Requirements

A public hearing was conducted on September 6, 2016. State law requires that a franchise ordinance be approved at two regular meetings before it can be adopted. Action taken on this item will be considered the Board's first reading of the Applicant's franchise amendment request and, if approved, this item will be placed on a subsequent agenda for a second reading.

Timing

Based upon review of the ordinance in place at the time of prior approvals, the current franchise for Shotwell is good thru July 9, 2020 which is 20 years from the original franchise approval date of July 10, 2000. Based upon research of prior Shotwell and other C&D franchise approvals, most franchise amendments stated that the approval was coterminous with the original franchise. Hence the expectation is that an approval of a modification to the current franchise would run coterminous with the original franchise, unless otherwise approved by the Board of Commissioners.

Groundwater

A number of the public comments centered on groundwater concerns. Due to this, Environmental Services staff reviewed various DEQ reports and met with the Shotwell consultant that develops the semi-annual (twice a year) reports. Based upon that research and discussion attached is a report on the topic of groundwater.

Summary

Based upon review of the current C&D Franchise Ordinance, the Shotwell Landfill request meets the requirements in order to be considered for an amended C&D Franchise, subject to a second reading as described above.

Attachments:

1. C&D Landfill Ordinance 2012
2. Shotwell C&D Franchise 2016 Rev Req
3. Proposed Franchise Amendment
4. Shotwell Landfill Groundwater Quality Evaluation