

Haywood County “Toeprints”

April 22, 2014

Vol. #5 Issue #5 (Subject: Santek Contract Amendment)

www.haywoodtp.net

What’s Happening?

The purpose of this newsletter is to inform Haywood County Taxpayers of what transpires at the bi-monthly County Commission Meetings. This newsletter will be written from the perspective of a casual observer, myself. Any opinions expressed will be mine.

County Commission Meeting, April 21, 2014.

It was a quiet day in Haywood County, so Haywood County Commissioners decided to sneak in a fast one during New Business:

2. Request approval of second amendment to Sanitary Landfill Operation Agreement – Santek – **Ira Dove**, Interim County Manager – [ATTACHMENT 4](#)

<http://www.haywoodnc.net/downloads/commissioners/agmin2014/ag042114/a4.pdf>

This attachment, a4.pdf, is reproduced at the end of this newsletter.

What’s this? Why, it is an amendment to the Santek Landfill Agreement. In the normal real world, when an amendment is introduced, and an entire section is about to be replaced, the old section is referenced with a ~~strike-out~~, and the new section is underlined.

There was no such reference to the old section in this attachment, rather, they wrote this Amendment deliberately disguising what they were eliminating. Fortunately, taxpayers of Haywood County can reference the original agreement on www.haywoodtp.net -

<http://haywoodtp.net/pubII/110902SLOA.pdf>

As Chip, a.k.a. Leon Killian pointed out during the meeting, an old version of the agreement had remained on the county website, www.haywoodnc.net and was updated just today (the day of the meeting). That really gives people a lot a chance to study the changes.

The following is verbiage from the original agreement posted on www.haywoodtp.net -

5.13 Tonnage Limitation. Except with the approval of the County, Contractor agrees not to accept waste at the Landfill at a volume in excess of an average of 400 tons per day; such limitation shall be computed as average tons per day for any consecutive 30-day period during the term of this Agreement. If a generator of Haywood County Generated Solid Waste seeks to dispose of waste in the

Landfill, but the tonnage limitation prevents the Contractor from accepting such waste, the Contractor shall request from the County an increase in the tonnage limitation in order to accommodate the generator’s waste stream. In addition, in the event that the tonnage limitation set forth herein limits access of any Haywood County Generated Solid Waste to the Landfill, the Contractor shall take reasonable steps to adjust out of County waste volume to accommodate such County waste streams. It is the responsibility of the Contractor to pursue all aspects of Landfill Permit modifications to achieve the modified waste limits and modified service area, including but not limited to the cost of the modification to the Landfill Permit.

As stated above, it is the goal of Contractor and Count to achieve a limited expansion of the service area and daily tonnage capacity and use of the Landfill, in an effort to achieve economies of scale whereby the operation of the Landfill effectively funds the compliant operation, maintenance, financial assurance, Closure and Post-Closure Care requirements set for tin Solid Waste Laws and provides assurance of compliant solid waste management capacity for Haywood County for a minimum period of 10 years past the Initial Term for a total of 30 years capacity assurance. To that end, Contractor will immediately apply for the service area permit modification of the Landfill Permit in preparation for the ability to serve any county within the State of North Carolina.

At no time will any out of state waste be accepted into the Landfill.

The SECOND AMENDMENT TO SANITARY LANDFILL OPERATION AGREEMENT states in the **WHEREAS**’s vague references to an “increase in the tonnage capacity of the Landfill”. Why don’t these people (county commissioners and Santek) just come right out and say what this increase in the tonnage capacity is?

Also, one of the statements rubbed out was the daily average of 400 tons per day. **What is the new daily average tonnage per day? There is none!**

Why do these commissioners have to be so [expletive deleted] sneaky?

After comparing the prior Section 5.13, Tonnage Limitation with the revised/amended Section 5.13, Tonnage Limitation, there are gapping sections which have been ripped out. Again, why? All commissioners have to do is answer simple questions with simple answers, and everything gets resolved, but no, they stone-wall.

The following is a reprint of the original section, with sections highlighted in yellow being what remains in the amended section, and the **obliterated text is underlined, in bold red.**

5.13 Tonnage Limitation. Except with the approval of the County, Contractor agrees not to accept waste at the Landfill at a volume in excess **of an average of 400 tons per day; such limitation shall be computed as average tons per day for any consecutive 30-day period during the term of this Agreement.** If a generator of Haywood County Generated Solid Waste seeks to dispose of waste in the Landfill, but the tonnage limitation prevents the Contractor from accepting such waste, the Contractor shall **request from the County an increase in the tonnage limitation in order to accommodate the generator's waste stream. In addition, in the event that the tonnage limitation set forth herein limits access of any Haywood County Generated Solid Waste to the Landfill,** the Contractor shall take reasonable steps to adjust out of County waste volume to accommodate such County waste streams. **It is the responsibility of the Contractor to pursue all aspects of Landfill Permit modifications to achieve the modified waste limits and modified service area, including but not limited to the cost of the modification to the Landfill Permit.**

As stated above, it is the goal of Contractor and Count to achieve a limited expansion of the service area and daily tonnage capacity and use of the Landfill, in an effort to achieve economies of scale whereby the operation of the Landfill effectively funds the compliant operation, maintenance, financial assurance, Closure and Post-Closure Care requirements set for tin Solid Waste Laws and provides assurance of compliant solid waste management capacity for Haywood County for a minimum period of 10 years past the Initial Term for a total of 30 years capacity assurance. **To that end, Contractor will immediately apply for the service area permit modification of the Landfill Permit in preparation for the ability to serve any county within the State of North Carolina.**

At no time will any out of state waste be accepted into the Landfill.

2014 Primary Elections.

You know, there is a primary election coming up, and there is a runoff in the Democrat County Commissioner race. Contenders are three incumbents, **Kirkpatrick, Sorrells and Upton**, with two new candidates, Kyle Edwards and Bob McClure. As is sometimes the case with county commissioners and some other offices, I express a preference with my opinion of who would best serve Haywood County.

I have used the following symbols as an aid...



This means a good guy, and



This means we could do better.

Here are recommendations for County Commissioners in the May Primary Election.



Kyle Edwards



Bob McClure



Kirk Kirkpatrick



Michael Sorrells



Bill Upton

Democrats can vote on these candidates. Unaffiliated voters, if they select a Democrat voting ballot, can also vote for these candidates.

If you feel you must vote for three, then vote for Kyle Edwards, Bob McClure and **Bill Upton**. **Bill Upton** has traditionally trailed in all elections behind **Kirkpatrick** and **Sorrells**, and would most likely be the easiest to beat in the November Election, where two (2) Republicans and one (1) Libertarian is running.

Legend: If any name is in **bold**, it can't be a good thing.

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**SECOND AMENDMENT TO
SANITARY LANDFILL OPERATION AGREEMENT**

THIS SECOND AMENDMENT (this "Second Amendment") is made and entered into as of the ___ day of May, 2014, by and between HAYWOOD COUNTY, NORTH CAROLINA (the "County") and SANTEK ENVIRONMENTAL OF NORTH CAROLINA, LLC, a limited liability company organized under the laws of the State of North Carolina ("Contractor").

W I T N E S S E T H:

WHEREAS, the parties entered into the Sanitary Landfill Operation Agreement, dated as of September 6, 2011 (the "Original Agreement"), under which terms the Contractor agreed to manage the County's sanitary landfill; and

WHEREAS, the parties there after entered into the First Amendment to Sanitary Landfill Operation Agreement dated as of October 1, 2012 (the "First Amendment" (the Original Agreement and the First Amendment are collectively hereinafter, the "Agreement");

WHEREAS, the Agreement contemplated an effort by the parties to obtain from NCDENR permission **to increase in the tonnage limitation applicable to the Landfill;**

WHEREAS, since the Commencement Date, such effort has been accomplished and NCDENR has amended the Landfill Permit **to increase the tonnage capacity of the Landfill;**

WHEREAS, accordingly, the parties desire to amend the terms of the Agreement **to reflect a Tonnage Limitation provision consistent with the Landfill Permit;**

NOW, THEREFORE, for and in consideration of the foregoing premises and the mutual covenants and agreements herein set forth in the Agreement and this Second Amendment, and intending to be legally bound thereto, the parties hereby agree as follows:

1. Section 5.13 (Tonnage Limitation) of the Agreement **is hereby deleted in its entirety and replaced with the following language:**

5.13 Tonnage Limitation. Except with the approval of the County, Contractor agrees not to accept waste at the Landfill at a volume in excess of the tonnage limitations in the Landfill Permit, as written and effective on the date of this Second Amendment. If a generator of Haywood County Generated Solid Waste seeks to dispose of waste in the Landfill, but the tonnage limitation prevents the Contractor from accepting such waste, the Contractor shall take reasonable steps to adjust out-of-County waste volume to accommodate such in-County waste streams.

It is the goal of the Contractor and the County to achieve a limited expansion of the service area and daily tonnage capacity and use of the landfill, in an effort to achieve economies of scale whereby the operation of the Landfill effectively funds the compliant operation, maintenance, financial assurance, Closure and Post-Closure Care requirements set forth in Solid Waste Laws and provides assurance of compliant solid waste management capacity for Haywood County for a minimum period of 10 years past the Initial Term for a total of 30 years capacity assurance.

At no time will any out-of-state waste be accepted into the Landfill

2. Definitions used herein shall have their respective meanings ascribed in the Agreement, unless otherwise expressly defined herein. Except as expressly amended by the terms of this Second Amendment, all of the terms and provisions of the Agreement are valid, binding and enforceable, and shall remain in full force and effect.

3. The parties each represent and warrant to the other party that (a) it has the power and authority to enter into this Second Amendment, (b) the Agreement, as modified by this Second Amendment, is valid and binding on the parties, and (c) any and all required approvals and consents have been obtained for the valid execution and delivery of this Second Amendment.

IN WITNESS WHEREOF, the parties hereto have obtained all necessary approvals and taken all necessary steps to empower and caused their duly authorized representatives to execute this Second Amendment as of the day herein above written.

HAYWOOD COUNTY, NORTH CAROLINA

By: _____

Title: _____

**SANTEK ENVIRONMENTAL OF
NORTH CAROLINA, LLC**

By: _____

Edward A. Caylor, President