

ORDINANCE NO. 81-25

AN ORDINANCE TO APPROVE AND AUTHORIZE MEMBERSHIP BY THE COUNTY OF CARROLL IN THE CARROLL COUNTY SOLID WASTE DISPOSAL AUTHORITY AND FOR OTHER PURPOSES.

WHEREAS, the governments within Carroll County, Arkansas, including the governments of the cities of Berryville, Eureka Springs, Green Forest, Oak Grove and Blue Eye, agree to submit a proposal to their governing bodies whereby these cities would cooperate in the organization and operation of a Carroll County Solid Waste Disposal Authority; and,

WHEREAS, it is felt to be in the best interest of the County of Carroll that such authority be created; and,

WHEREAS, it is felt to be in the best interests of the County of Carroll that the County of Carroll become a member of such authority.

NOW THEREFORE, be it ordained by the quorum court of the County of Carroll, State of Arkansas:

1. That the County of Carroll, Arkansas, shall join in the creation of a Carroll County Solid Waste Disposal Authority, along with the following counties, cities and towns: Carroll County, Berryville, Eureka Springs, Green Forest, Oak Grove and Blue Eye.
2. That the County of Carroll, Arkansas is hereby authorized to become an initial member of the Carroll County Solid Waste Disposal Authority.
3. That the powers of such authority shall be as follows:
  - (a) To own, acquire, construct, reconstruct, extend, equip, improve, operate, maintain, sell, lease, contract concerning or otherwise deal in or dispose of any real property, personal property, or mixed property of any and every kind that can be used or that will be useful in the controlling, collecting, storing, removing, handling, reducing disposing of, treating, and otherwise dealing in and concerning solid wastes, including, without limitation, property that can be used or that will be useful in extracting, converting to steam (including the acquisition, handling, storage, and utilization of coal, lignite or other fuels of any kind or water that can be used or that will be useful in converting solid wastes to steam ) and distributing such steam to users thereof, or otherwise separating and preparing solid wastes for reuse.
  - (b) To have perpetual succession as a body politic and corporate and to adopt bylaws for the regulation of the affairs and the conduct of its business, and to prescribe rules, regulations and policies in connection with the performance of its functions and duties.

- (c) To adopt an official seal and alter the same at pleasure.
- (d) To maintain an office at such place or places as it may determine.
- (e) To sue and be sued in its own name, and to plead and be impleaded.
- (f) To make and execute contracts and other instruments necessary or convenient in the exercise of the powers and functions of the authority under ACT 699 of 1979 including contracts with persons, firms, corporations and others.
- (g) To apply to the appropriate agencies of the State, the United States or any state thereof, and to any other proper agency for such permits, licenses, certificates or approvals as may be necessary, and to construct, maintain and operate projects in accordance with, and to obtain, hold and use, such licenses, permits, certificates or approvals in the same manner as any other person or operating unit of any other person.
- (h) To employ engineers, architects, attorneys, real estate counselors, appraisers, financial advisors and such other consultants and employees as may be required in the judgment of the authority and to fix and pay their compensation from funds available to the authority therefor.
- (i) To purchase all kinds of insurance including, but not limited to, insurance against tort liability, business interruption, and/or risks of damage to property.
- (j) To fix, charge and collect rents, fees and charges for the use of any project or portion thereof, or for steam produced therefrom.
- (k) To accomplish projects as authorized by Act 699 of 1979 and the ordinances creating the authority.
- (l) To distribute steam produced by a project to any person, municipality or county.
- (m) To buy, sell, exchange, own and generally deal in real property, improved and unimproved, and buildings of every class and description.
- (n) To pledge or hypothecate any and all property of the authority, both real, personal and mixed, owned or leased by the authority for cash, on credit and time payment and to generally finance any property both real, personal, and mixed, sold or leased by this authority.
- (o) To issue tax-exempt bonds pursuant to the terms and provisions authorized in Act 699 of 1979 and amendments thereto.

(p) To do any and all other acts and things necessary, convenient or desirable to carry out the purposes and to exercise the powers granted to the authority herein.

4. That the number of directors of such authority and the voting rights of each director shall be as follows:

The number of directors constituting the board of directors of the authority shall be the same as the number of members of the authority, with each member entitled to place one director on the board of directors of the authority. Each such director shall be entitled to one vote on all matters relating to the affairs of the authority.

5. That the director representing Carroll County on the board of directors of the authority, shall be appointed by the County Judge, subject to the approval of the Quorum Court, and said director shall report to the Quorum Court, his or her actions and the actions of the board of directors following each meeting of the board of directors.

6. That the application of the initial members of the Carroll County Solid Waste Disposal Authority is attached hereto and made a part hereof, and said application is approved in all things.

7. It is hereby found and declared that adequate, reliable and economical methods and facilities for the disposal, treatment or other handling of solid waste are essential to the continued health, welfare, economic growth and development of the people of Carroll County, Arkansas who can be served by projects completed under the provisions of this Ordinance and that the availability of the authorities and powers granted by this Ordinance is immediately necessary for the protection and preservation of the health, safety and welfare of the people. Therefore, an emergency is declared to exist and this Ordinance being necessary for the preservation of the public peace, health and safety, shall be in force and effect from and after its approval, passage and publication, and the recording of a certified copy thereof with the recorder of Carroll County, Arkansas.

PASSED AND APPROVED, this 2nd day of December, 1981.

Wayne Farwell  
COUNTY JUDGE

ATTEST: Caree Marley  
COUNTY CLERK

SPONSOR: MR. NORPIS

CERTIFICATE

I, \_\_\_\_\_, County Clerk of Carroll County, Arkansas, do hereby certify that the above and foregoing is a true and correct copy of an Ordinance numbered \_\_\_\_\_ duly passed and approved by the Quorum Court and County Judge of the County of Carroll, Arkansas on the \_\_\_\_\_ day of \_\_\_\_\_, 1981, the same being recorded in book number \_\_\_\_\_ at page \_\_\_\_\_.

\_\_\_\_\_  
COUNTY CLERK

PROPOSED AMENDMENTS TO THE CARROLL COUNTY SOLID WASTE AUTHORITY  
ORDINANCE

Section Three to be amended to add the following subsections:

Q. (1) The Directors appointed by each member shall act through and in behalf of the governing bodies appointing them.

(2) The members shall not be obligated by the Authority without their prior approval. No member shall be financially obligated by the Authority except upon approval by ordinance by no less than two-thirds of the governing bodies of the members. Policy matters not requiring the expenditure of public funds shall require a simple majority approval of the membership's governing bodies.

(3) The day-by-day operations of the Authority shall be paid from user fees collected by an authorized employee of the Authority. User fees will be established by the Authority with approval of a majority of the members. The Authority will submit to the membership, a monthly accounting of the collections and expenditures and any other financial information requested by the members.

(4) The Authority shall, additionally, require prior approval of the members as stated in sub-section Q(2) of Section Three when exercising the following subsections of Section Three of this ordinance: Subsections A,D,F,G,H,I,J,K,L,M,N, and O.

(5) Monies for capital investments, captial improvements and operating costs exceeding user-fee collections shall be raised by the members on a pro-rata basis or on a volume basis as determined by the Board. The pro-rata basis shall be based on the relationship of each member's assessed valuation and property tax collections to the total assessed valuation and property tax collections of all members.

R. The Directors, when preparing financial impact statements and requests for any public monies or issues shall base such costs to the members on a pro-rata basis or a volume basis as determined by the Board. Pro-rata costs shall bear proportionately to each member's assessed valuation and property tax collections as certified by the Carroll County Tax Assessor and Tax Collector. ~~Carroll County~~

S. Said Authority shall issue to each member's governing body, a financial impact statement outlining proposed projects along with estimated costs for implementing and maintaining said project(s) as authorized in Section 3 of this Ordinance.

T. Unless otherwise specified by an amending ordinance enacted by said majority of the membership, collections of solid waste refuse shall be by private contract haulers under contract to the Authority. Said collections shall be disposed of only to a facility either under the jurisdiction of the Authority or to a facility with which the Authority has a contractual agreement.

U. The Authority shall not authorize sanitary operations in any facility not able to meet specifications of any governmental body charged with regulating solid waste disposal.

V. No refuse from outside the Authority's jurisdiction (Carroll County) shall be allowed to be received or delivered by any private contract hauler except upon authorization by a majority of the members.

Section Four to be Amended to read:

(a) The number of directors constituting...relating to the affairs of the County.

(b) No Director shall have a financial interest, either directly or indirectly, in any contract assumed by the Authority.

(c) The term of a director shall be for 3 years. In the event a director's position is vacated, the person appointed to serve the balance of the vacated term may be eligible for reappointment for a full term if the total length of time does not exceed 9 years.

(d) Directors will serve (under specific instructions of the member's governing bodies) subject to penalty of removal for cause by a majority vote of the respective governing bodies.

Section 8: If any provisions of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.