



Town of Clayton
Regular Town Council Meeting Agenda
Monday, June 7, 2021 @ 6:00 PM
Council Chambers

THE PUBLIC MAY VIEW THE LIVE COUNCIL MEETING ON THE TOWN'S YOUTUBE CHANNEL:
https://www.youtube.com/channel/UCwz_EIU1ENyy7BkFsqmWYzQ

BELOW PLEASE FIND ADDITIONAL INFORMATION REGARDING PROCEDURES FOR IN-PERSON MEETINGS:

- ALL persons attending must wear a mask.
- We will be following proper social distancing at all times.
- All council/board members will be socially distanced in the council chambers and wearing face masks.*
- All staff and visitors will be socially distanced while within the council chambers. Face masks will be worn.*
- Hand sanitizer will be available, both in the lobby and council chambers.
- Podium/microphone will be sanitized after each speaker.

**Masks may be lowered when speaking.*

1. CALL TO ORDER

Pledge of Allegiance and Invocation

2. ADJUSTMENT OF THE AGENDA

3. CONSENT AGENDA

(Items on the consent agenda are considered routine in nature or have been thoroughly discussed at previous meetings. Any member of the Council may request to have an item removed from the consent agenda for further discussion.)

- a. Resolution Setting Public Hearing for Payton Road Extension Annexation
[Resolution](#)
- b. Easement - Duke Energy
[Cover](#)
[Duke Energy Easement](#)
- c. NC Railroad Agreement
[Cover](#)
[NC RR Pipeline Agreement](#)
[NC RR Wireline Agreement](#)
[Special Provisions](#)
- d. DRAFT Minutes
 - May 17, 2021 - Regular Session
 - May 18, 2021 - Budget Work Session[May 17 2021 DRAFT Minutes](#)
[May 18 2021 DRAFT Minutes](#)

POTENTIAL ACTION: Adoption of Consent Agenda as Presented

4. ADMINISTRATIVE ITEMS

5. INTRODUCTIONS AND SPECIAL PRESENTATIONS

- a. Library Summer Read Program
Presenter: Joy Garretson, Library Director
[Cover](#)

POTENTIAL ACTION: Informational Only

6. PUBLIC HEARINGS

- a. Presentation of FY '21-22 Budget
Presenter: Rich Cappola, Interim Town Manager

Link to FY 21-22 Proposed Budget:

<https://www.townofclaytonnc.org/mayor-and-council/annual-reports-budgets.aspx>

[5-18-21 Budget Work Session Presentation](#)

[6-7-21 FY 21-22 Budget Presentation](#)

[Advertisement](#)

[Ordinance - FY 21-22 Budget](#)

[Ordinance - Fees & Charges](#)

POTENTIAL ACTION: Adoption of Ordinance #2021-06-01 (Budget)

POTENTIAL ACTION: Adoption of Ordinance #2021-06-02 (Fees & Charges)

- b. 2021-36-ANX - Ashcroft Phases 7 & 8 - Annexation
Presenter: Jeff Caines, Senior Planner

[Cover](#)

[Application](#)

[Plat](#)

[Legal Description](#)

[Staff Map](#)

[Advertisement](#)

[Ordinance](#)

POTENTIAL ACTION: Adoption of Ordinance #2021-06-03

- c. 2020-103-PDD - Lumen Rezoning
Presenter: Jeff Caines, Senior Planner

POTENTIAL ACTION: Continue to July 19, 2021

- d. 2020-104-SD - Lumen SD (Quasi-Judicial)
Presenter: Jeff Caines, Senior Planner

POTENTIAL ACTION: Continue to July 19, 2021

- e. Lumen Development Agreement
Presenter: Jeff Caines, Senior Planner
POTENTIAL ACTION: Continue to July 19, 2021

7. OLD BUSINESS

- a. Memorandum of Understanding - Triangle Land Conservancy and Town
Presenter: Scott Barnard, Parks and Recreation Director
[Cover](#)
[State of NC Land Lease](#)
[MOU and Town and Triangle Land Conservancy](#)
POTENTIAL ACTION: Approval of Agreement
- b. Land Acquisition - Easements
Presenter: Joshua Baird, Town Engineer
[Cover](#)
[Nigro Exhibit](#)
[Roberson Exhibit](#)
[Resolution](#)
POTENTIAL ACTION: Adoption of Resolution #2021-24

8. NEW BUSINESS

- a. Audit Contract
Presenter: Robert McKie, Finance Director
[Audit Contract](#)
POTENTIAL ACTION: Authorize Execution of Contract
- b. Code of Ordinance - Chapter 32 Update - Board of Adjustment & Planning Board
Presenter: Dick Hails, Interim Planning Director
[Cover](#)
[Ordinance](#)
POTENTIAL ACTION: Adoption of Ordinance #2021-06-04
- c. Code of Ordinance Chapter 54 Update - Water Conservation
Presenter: Brandon Carroll, Utility Compliance Technician
[Water Conservation Shortage Response Plan](#)
[Ch 54 Ordinance DRAFT](#)
[Ordinance](#)
POTENTIAL ACTION: Adoption of Ordinance #2021-06-05
- d. Street Intersection Pavement Markings and Stop Signs
Presenter: Blake Mills, Assistant Director of Public Services
[Cover](#)
[Intersection Drawings](#)
POTENTIAL ACTION: Informational Only

9. STAFF REPORTS

- a. Town Manager
- b. Town Attorney
- c. Town Clerk
- d. Other Staff

10. OTHER BUSINESS

- a. Informal Discussion & Public Comment
- b. Council Comments

11. CLOSED SESSION

- a. Closed Session Pursuant to NCGS 143-318.11.(a)(4) Regarding Economic Development

POTENTIAL ACTION: Motion to Go Into Closed Session

12. ADJOURNMENT

- a. Adjourn the Meeting

POTENTIAL ACTION: Motion to Adjourn

Quasi-Judicial (evidentiary) – These hearings are different from other public hearings in that they resemble a court hearing where testimony is presented and the Town Council acts like a court of law. During evidentiary hearings, the Town Council receives only sworn testimony and other credible evidence. In addition, the Town Council must make findings of fact based upon the evidence presented. Citizens may give testimony in an evidentiary hearing after they have taken an oath.

ANNEXATION PETITION 2021-50-ANX
Payton Drive Extension
Owners: Town of Clayton
Contiguous; 1.501 +/- acres

TOWN OF CLAYTON
RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION
OF ANNEXATION PURSUANT TO G. S.160A-31

WHEREAS, a petition requesting annexation of the contiguous area described herein has been received; and

WHEREAS, the Town Council has by resolution directed the Town Clerk to investigate the sufficiency of the petition; and

WHEREAS, certification by the Town Clerk as to the sufficiency of the petition has been made;

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Clayton, North Carolina that:

Section 1. A public hearing on the question of annexation of the contiguous area described herein will be held at Town Hall at 6:00 PM on Monday, June 21 2021.

Section 2. Lying and being in Clayton Township, Johnston County, North Carolina and being more particularly described as follows:

Beginning at an iron spike , the Northeast corner of lot 2428 in Riverwood Athletic Club as shown in Plat Book 67 Page 136-137 of the Johnston County Register of Deeds: thence N 23 degrees 50' 36" E 129.54' to an iron pipe; thence N 24 degrees 39' 44" E 9.54' to an iron spike; thence N 23 degrees 31' 49" E, 60.89' to a point, the southwest corner of the Vaughn property: thence with the southern property line of the Vaughn property S 60 degrees 42' 44" E 311.97' to an iron spike found in the western right of way of Covered Bridge Road, NCSR 1700; thence with the right of way of Covered Bridge Road S 14 degrees 35' 37" W 205.75' to an iron pipe; thence N 60 degrees 42' 44" W 345.00' to the point and place of beginning.

Section 3. Notice of the public hearing shall be published once in The Johnstonian Newspaper, a newspaper having general circulation in the Town of Clayton, at least ten days prior to the date of the public hearing.

Duly adopted this the 7th day of June, 2021 while in regular session.

Jody L. McLeod
Mayor

ATTEST:

Kimberly A. Moffett, CMC
Town Clerk



Town Council Agenda Cover Sheet

Meeting Date

June 7, 2021

Agenda Location

Consent Agenda

Item Title

Duke Energy Progress Easement

Presenter

Joshua Baird – Town Engineer

Summary/Description

Duke Energy Progress is requesting an easement to run electrical infrastructure across Town owned property adjacent to the newly constructed Payton Dr (NC PIN 177000-26-0118). The electrical infrastructure will allow streetlights to be installed along Payton and provide a redundant feed to Riverwood and Elementary/Middle Schools. Town staff are supportive of the dedication and request Town Council approve the dedication of the easement.

Requested Action

Approval/Denial

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Deed of Easement

Meeting Timeline

Click or tap here to enter text.

Prepared by: Duke Energy Progress, LLC
Return to: Duke Energy Progress, LLC
Attn: Southeastern Land Co.
P.O. Box 1241
Conway, SC 29528

Parcel # 16I02047Y

EASEMENT

State of North Carolina

County of Johnston

THIS EASEMENT ("**Easement**") is made this ____ day of _____ 20____, from **TOWN OF CLAYTON**, a North Carolina municipal corporation ("**Grantor**", whether one or more), to **DUKE ENERGY PROGRESS, LLC**, a North Carolina limited liability company ("**Grantee**").

Grantor, for and in consideration of the sum of One and 00/100 Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby grant unto Grantee a perpetual and non-exclusive easement, to construct, reconstruct, operate, patrol, maintain, repair, replace, relocate, add to, modify, and remove electric and communication lines including, but not limited to, all necessary supporting structures, and all other appurtenant apparatus and equipment for the transmission and distribution of electrical energy, and for technological purposes related to the operation of the electric facilities and for the communication purposes of Incumbent Local Exchange Carriers (collectively, "**Facilities**"). Grantor is the owner of that certain property described in that instrument recorded in Deed Book 5045, Page 39, Johnston County Register of Deeds ("**Property**"). The Facilities may be both overhead and underground and located in, upon, over, along, under, through, and across a portion of the Property within an easement area described as follows: A strip of land thirty feet (30') in uniform width for the overhead portion of said Facilities and a strip of land twenty feet (20') in uniform width for the underground portion of said Facilities, lying equidistant on both sides of a centerline, which centerline shall be established by the center of the Facilities as installed, along with an area ten feet (10') wide on all sides of the foundation of any Grantee enclosure/transformer, vault and/or manhole, (hereinafter referred to as the "**Easement Area**").

The rights granted herein include, but are not limited to, the following:

For Grantee's Internal Use:
Work Order #: 38735778

1. Grantee shall have the right of ingress and egress over the Easement Area, Property, and any adjoining lands now owned or hereinafter acquired by Grantor (using lanes, driveways, and adjoining public roads where practical as determined by Grantee).
2. Grantee shall have the right to trim, cut down, and remove from the Easement Area, at any time or times and using safe and generally accepted arboricultural practices, trees, limbs, undergrowth, other vegetation, and obstructions.
3. Grantee shall have the right to trim, cut down, and remove from the Property, at any time or times and using safe and generally accepted arboricultural practices, dead, diseased, weak, dying, or leaning trees or limbs, which, in the opinion of Grantee, might fall upon the Easement Area or interfere with the safe and reliable operation of the Facilities.
4. Grantee shall have the right to install necessary guy wires and anchors extending beyond the boundaries of the Easement Area.
5. Grantee shall have the right to relocate the Facilities and Easement Area on the Property to conform to any future highway or street relocation, widening, or alterations.
6. Grantor shall not place, or permit the placement of, any structures, improvements, facilities, or obstructions, within or adjacent to the Easement Area, which may interfere with the exercise of the rights granted herein to Grantee. Grantee shall have the right to remove any such structure, improvement, facility, or obstruction at the expense of Grantor.
7. Excluding the removal of vegetation, structures, improvements, facilities, and obstructions as provided herein, Grantee shall promptly repair or cause to be repaired any physical damage to the surface area of the Easement Area and Property resulting from the exercise of the rights granted herein to Grantee. Such repair shall be to a condition which is reasonably close to the condition prior to the damage, and shall only be to the extent such damage was caused by Grantee or its contractors or employees.
8. The rights granted in this Easement include the right to install Facilities wherever needed on the Property to serve future development on the Property and adjoining lands. Portions of the Facilities may be installed immediately and other portions may be installed in the future as the need develops. Facilities installed in the future shall be installed at locations mutually agreeable to the parties hereto if they are to be located outside of the Easement Area. Upon any future installations of Facilities at mutually agreed locations, the Easement Area shall be deemed to include such future locations.
9. All other rights and privileges reasonably necessary, in Grantee's sole discretion, for the safe, reliable, and efficient installation, operation, and maintenance of the Facilities.

The terms Grantor and Grantee shall include the respective heirs, successors, and assigns of Grantor and Grantee. The failure of Grantee to exercise or continue to exercise or enforce any of the rights herein granted shall not be construed as a waiver or abandonment of the right thereafter at any time, or from time to time, to exercise any and all such rights.

TO HAVE AND TO HOLD said rights, privilege, and easement unto Grantee, its successors, licensees, and assigns, forever. Grantor warrants and covenants that Grantor has the full right and authority to convey to Grantee this perpetual Easement, and that Grantee shall have quiet and peaceful possession, use and enjoyment of the same.

IN WITNESS WHEREOF, Grantor has signed this Easement under seal effective this ____ day of _____, 20____.

TOWN OF CLAYTON
a North Carolina municipal corporation

_____(SEAL)
Jody McLeod, Mayor

STATE OF _____

COUNTY OF _____

I, _____, a Notary Public of _____ County, State of _____, certify that Jody McLeod, as Mayor of TOWN OF CLAYTON, a North Carolina municipal corporation, personally appeared before me this day and acknowledged the due execution of the foregoing EASEMENT.

Witness my hand and notarial seal, this ____ day of _____, 20____.



Notary Public: _____

Commission expires: _____

For Grantee's Internal Use:
Work Order #: 38735778



Town Council Agenda Cover Sheet

Meeting Date

June 7, 2021

Agenda Location

Consent Agenda

Item Title

Railroad License Agreements

Presenter

Joshua Baird – Town Engineer

Summary/Description

As part of the New WRF project, the Little Creek Transmission main must cross the NC Railroad corridor. The design plans for the crossing have been reviewed and approved by the railroads consultant. Prior to construction, the Town must enter into a License Agreement with North Carolina Railroad Co. and Norfolk Southern Railway Co. Additionally, the Town plans to install additional conduit for future communication infrastructure. An agreement for the pipeline and the wireline have been prepared by the railroad and reviewed by the Town's attorney. Costs associated within the License Agreements are captured within the New WRF budget. Staff request approval for Town Manager to execute the pipeline and wireline agreements.

Requested Action

Approval/Denial

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☒ No ☐

Additional Documents to be Included in Agenda Packet

Pipeline Agreement
Wireline Agreement
Special Provisions

Meeting Timeline

Click or tap here to enter text.

Railroad Use Only
NS File No. 1291179

NCRR File No. o_h-097+0158
AC:

PIPELINE AGREEMENT

THIS AGREEMENT, made and entered into by and between NORTH CAROLINA RAILROAD COMPANY, a North Carolina corporation, hereinafter styled "Company"; and TOWN OF CLAYTON, a North Carolina government entity, hereinafter styled "Licensee"; and NORFOLK SOUTHERN RAILWAY COMPANY, a Virginia corporation, hereinafter styled "NSR";

WITNESSETH:

WHEREAS, Licensee proposes to install, maintain, operate and eventually remove one (1) 24-inch ductile iron wastewater pipeline encased within one (1) 42-inch steel casing pipe, under and across the right of way or property and any tracks of Company, at Milepost 097.03-NC, Valuation Station 5021 plus 46 feet, at or near East Front Street in Clayton, Johnston County, North Carolina; the same to be located in accordance with prints of the Drawings marked Exhibits A1 dated February 16, 2021, attached hereto and made a part hereof (hereinafter called "Facilities");

WHEREAS, Company is willing to permit the proposed Facilities, upon the following terms and conditions; and

NOW, THEREFORE, for and in consideration of the premises, payment of an initial fee by Licensee to NSR of TWO HUNDRED AND NO/100 DOLLARS (\$200.00), and also a one-time non-refundable fee to Company of NINE THOUSAND ONE HUNDRED EIGHTY AND NO/100 DOLLARS (\$9,180.00) and of the covenants hereinafter made, Company does hereby permit and grant to Licensee insofar as Company has the right to do, without warranty and subject to all encumbrances, covenants and easements to which Company's title may be subject, the use and occupation of so much ground as may be necessary for the Facilities. In the event that Licensee shall install additional cables into conduits covered by this agreement, or any additional overhead cables, a separate application will be required and, if approved, additional fees will be payable. This permit and grant to Licensee is made upon the following terms and conditions, to-wit:

1. Licensee will construct and maintain the Facilities, at its expense, in such a manner as will not interfere with the operations of Company or endanger persons or property of Company, and in accordance with (a) plans and specifications (if any) shown on said print(s) and any other specifications prescribed by Company, (b) applicable governmental regulations or laws, and (c) applicable specifications adopted by the American Railway Engineering and Maintenance of Way Association when not in conflict with plans, specifications or regulations mentioned in (a) and (b) above.

2. Licensee hereby agrees to indemnify and save harmless Company, its officers, agents and employees, from and against any and all liability, claims, losses, damages, expenses (including attorney's fees) or costs for personal injuries (including death) and/or property damage to whomsoever or whatsoever occurring which arises in any manner from the installation, maintenance, operation, presence or removal or the failure to properly install, maintain, operate or remove the Facilities, unless such losses, damages or injuries shall be caused solely by the negligence of Company. The indemnity contained herein is intended to survive the termination of this Agreement.

3. Licensee assumes all responsibility for any environmental obligations imposed under applicable laws, regulations or ordinances relating to the installation of the Facilities and/or to any contamination of any property, water, air or groundwater arising or resulting from Licensee's permitted operations or uses of Company's property pursuant to this Agreement. In addition, Licensee shall obtain any necessary permits to install the Facilities. Licensee agrees to indemnify and hold harmless Company from and against any and all liability, fines, penalties, claims, demands, costs (including attorneys' fees), losses or lawsuits brought by any person, company or governmental entity relating to contamination of any property, water, air or groundwater due to the use or presence of the Facilities. It is agreed that this indemnity provision extends to any cleanup costs related to Licensee's activities upon Company's property and to any costs related to cleanup of the Facilities or to other property caused by the use of the Facilities. The indemnity contained herein is intended to survive the termination of this Agreement.

4. No work of any character shall be started on the property until Certificates of Insurance, specifying that the policies have been furnished and accepted by Company as evidence that Licensee, Contractor, and Subcontractor maintain the following insurance coverages:

(a) Comprehensive General Liability Insurance having a combined single limit of not less than \$2,000,000 per occurrence for all loss, damage, cost and expense, including attorney's fees, arising out of bodily injury, liability and property damage liability during the policy period. Such policy shall be endorsed to name Company as an additional insured and shall include a severability of interests provision. In addition, Licensee's policy shall be endorsed to reflect Contractual Liability Insurance specifically relating to the indemnity provisions of this agreement. Any exclusion for construction or demolition activities (including installing wells or bore holes, but not for work done by means of a hand augur) conducted within 50 feet of railroad tracks shall be deleted from Licensee's policy.

(b) In the event Licensee cannot obtain contractual liability insurance to cover the obligations assumed under this Pipeline Agreement, Licensee or its contractor shall procure and furnish to Company a Railroad Protective Liability Insurance Policy having a combined single limit of \$2,000,000 per occurrence and \$6,000,000 aggregate. Said policy shall name Company as the named insured.

(c) Workers' Compensation Insurance in satisfaction of statutory requirements of the state where the property covered by this agreement is located. Also, Employers' Liability Insurance having limits of not less than \$500,000 each accident, \$500,000 per disease - policy limit, and \$500,000 per disease - each employee.

(d) Automobile Liability Insurance having a combined single limit of not less than \$500,000 per occurrence. Said policy shall name Company as an additional insured and shall include a severability of interests provision.

(e) The insurance required herein shall be of such form and content as may be acceptable to Company. Evidence of such insurance (a certificate of insurance for the general liability insurance policy and the original policy of Railroad Protective Liability Insurance) must be furnished to Company at Property Department, North Carolina Railroad Company, 2809 Highwoods Blvd, Raleigh, NC 27604 (or such other current address provided to Licensee) and approved by Company prior to Licensee's entry on the Premises. The insurance required herein shall not limit the liability assumed by Licensee under this Agreement or consent.

5. The details of the Facilities to be installed and maintained shall be at the option of Licensee, and subject to the approval of Company. In case of failure of Licensee to do the work as herein specified, Company reserves the right to remove the Facilities from Company's premises at the expense of Licensee, and to terminate this Agreement upon ten (10) days' written notice.

6. If Company shall make any change or addition on its right of way at or near the Facilities of Licensee affecting the character, height or alignment of any of Company's power lines, communication, signal or other wires or electrical apparatus, or shall place structures or additional wires or electrical apparatus upon its said right of way, or shall make on its said right of way any change to any line, grade, track, roadbed, installations, works or structures or in the use of any such line, grade, track, roadbed, installations, works or structure, which would be affected by the Facilities of Licensee or by the use thereof, Licensee shall within thirty (30) days of written notice from the Company to Licensee, at Licensee's sole cost and expense, make such changes in the location and character of the Facilities as, in the opinion of Company, shall be necessary or appropriate on account of any such changes or additions.

7. Licensee will notify Company prior to the installation and placing in service of cathodic protection in order that tests may be conducted on Company's signal, communications and other electronic systems for possible interference. If the Facilities cause degradation of the signal, communications or other electronic facilities of Company, Licensee, at its expense, will relocate the cathodic protection and/or modify the Facilities to the satisfaction of Company so as to eliminate such degradation. Such modifications may include, without limiting the generality of the foregoing, providing additional shielding, reactances or other corrective measures deemed necessary by Company. This provision applies to the existing signal, communications and electronic equipment of Company and to any signal, communications or electronic equipment that Company may install in the future.

8. If Licensee fails to take any corrective measures requested by Company in a timely manner or if an emergency situation is presented which, in the Company's judgment, requires immediate repairs to the facilities, Company, at Licensee's expense, may undertake such corrective measures or repairs as it deems necessary or desirable and Licensee shall reimburse Company upon receipt of an invoice.

9. Notwithstanding any other provision of this Agreement, it is understood, agreed and covenanted that Licensee accepts this Agreement as a mere license and assumes all risk of damage to its property by reason of its occupation of the premises herein described caused by any defects therein or business conducted thereon, whether caused by the negligence of Company, its officers, agents or employees, or otherwise, and Licensee hereby indemnifies Company, its officers, agents, and employees, from and against any such liability for said damage. The indemnity contained herein is intended to survive the termination of this Agreement.

10. Company shall furnish, at the cost of Licensee, labor and materials to support its tracks and to protect its traffic during the installation, maintenance, repair, renewal or removal of the Facilities.

11. It is further agreed between the parties that the premises shall be used by Licensee only for the Facilities and for no other purpose without the written permission of the chief engineering officer of Company.

12. Licensee shall give Company seventy-two (72) hours' advance notice (or less in case of emergencies) of any work to be performed on the premises of Company. Licensee agrees to pay any costs incurred by Company for the purpose of protection and inspection considered necessary by Company during installation, maintenance, operation, modification, replacement and/or removal of the Facilities. Such costs shall be paid upon the Company's submission of an invoice to Licensee.

13. Licensee shall not assign this Agreement without the written consent of Company which consent may be withheld in Company's sole discretion.

14. The word "Company" as used herein shall include any other company whose property at the aforesaid location may be leased or operated by Company. Said term also shall include Company's

officers, agents and employees, and any parent company, subsidiary or affiliate of Company and their officers, agents and employees.

15. This Agreement may be terminated by either party upon sixty (60) days written notice to the other party. During said sixty (60) day period, Licensee shall remove the Facilities from Company's premises and restore said premises to a condition satisfactory to Company's chief engineering officer. If Licensee fails to remove the Facilities within the aforesaid sixty day period, Company may elect: (a) to become the owner of the Facilities without any claim or consideration whatsoever therefor by or to Licensee, its successors or assigns, or (b) to remove the Facilities and all property of Licensee from the premises of Company at the expense of Licensee. Licensee agrees to reimburse Company for any and all costs of such removal upon receipt of an invoice. No termination of this Agreement shall affect any liability incurred by either party hereto prior to the effective date of such termination.

16. The terms set forth in the attached **Exhibit B**, consisting of two pages and titled "Agreement and Consent of Norfolk Southern Railway Company," are incorporated into this Agreement as if set forth verbatim herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in triplicate, each part being an original, as of the _____ day of _____, 20____.

COMPANY:

NORTH CAROLINA RAILROAD COMPANY

By: _____

Title: _____

LICENSEE:

TOWN OF CLAYTON

By: _____

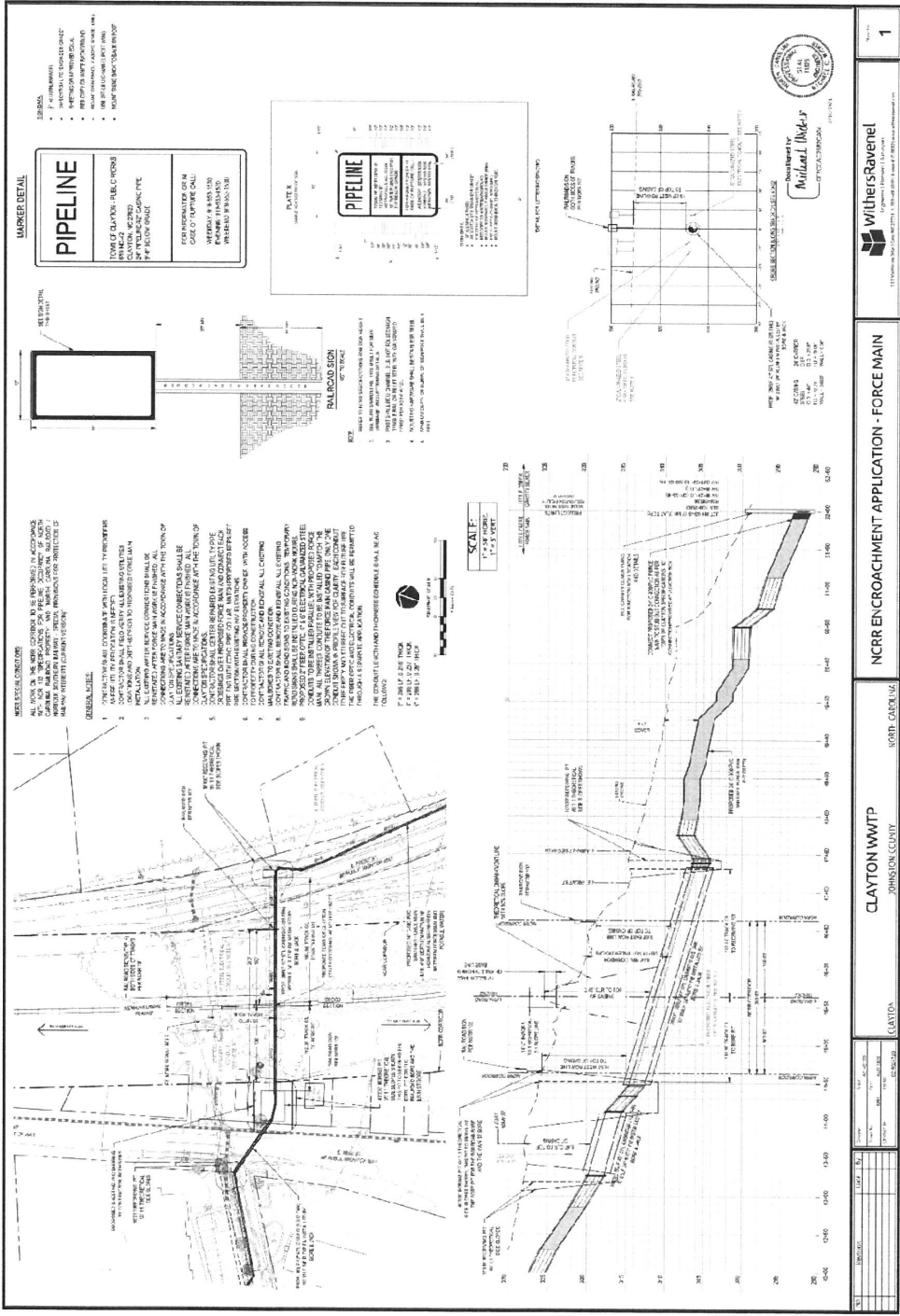
Title: _____

NSR:

NORFOLK SOUTHERN RAILWAY COMPANY

By: _____

Title: _____



Parcel No. 9 of V-24/24

EXHIBIT B

AGREEMENT AND CONSENT OF NORFOLK SOUTHERN RAILWAY COMPANY

WHEREAS, Company, Licensee, and NSR desire to enter into the attached Agreement regarding the property described therein (the "Premises").

NOW THEREFORE, in consideration of the above recitals and the promises and agreements contained herein, as well as for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, NSR, Company, and Licensee agree as follows:

1. NSR gives its consent to the Agreement pursuant to the terms and conditions of this Consent. All of the terms of this Consent are hereby incorporated by reference into the Agreement. The term "NSR" as used in this Agreement and Consent and as used in the Agreement shall include NSR's officers, agents and employees, and any parent company, subsidiary or affiliate of NSR and their officers, agents and employees.
2. The parties agree and understand that any right or claim of Company held in or by virtue of the Agreement shall also inure to the benefit of, and be enforceable by NSR or by any successor or assignee of Company or NSR, and NSR shall not be responsible for any obligations, duties or indemnities of Company to Licensee under the Agreement. NSR reserves any pre-existing rights, claims and defenses against Company and Licensee and said rights, claims and defenses shall not be waived or limited in any way by the Agreement.
3. Licensee understands that NSR makes no warranties or representations regarding the condition of or title to the Premises. Licensee takes the Premises "AS IS" and expressly waives any and all claims against NSR relating to or arising from the condition of or title to the Premises and the property surrounding the Premises, including without limitation, any claims and costs relating to environmental contamination under any applicable laws (such as, without limitation, those which might arise under CERCLA, RCRA, and the North Carolina Oil Pollution and Hazardous Substances Act).
4. Without the written consent of NSR, (i) neither the Agreement nor this Consent may be assigned in whole or in part by Company or Licensee; (ii) Licensee shall not enter into any sublicense or sublease of the Premises; and (iii) the Agreement shall not be amended by Company or Licensee. No consent by NSR to any sublease, sublicense, assignment, or amendment of the Agreement shall be construed to be consent to any further sublease, sublicense, assignment, or amendment of the Agreement.
5. In consideration of the rights granted by NSR to Licensee by this Consent, Licensee agrees to indemnify and hold NSR harmless to the same extent as Company is indemnified and held harmless pursuant to the Agreement. In addition, without limiting the indemnities provided in the Agreement, Licensee specifically shall indemnify and hold harmless NSR from and against any and all attorney's fees, costs, expenses, liabilities, injuries, claims (including third party claims and any claims under any environmental laws and regulations such as CERCLA, RCRA, and the North Carolina Oil Pollution and Hazardous Substances Control Act) and damages arising from or related to (1) the Agreement; (2) any acts or omissions by Licensee at or near the Premises, (3) Licensee's violations of environmental laws and regulations, and (4) environmental contamination caused by Licensee. For purposes of this paragraph, the term Licensee shall mean its officers, employees, agents, contractors, guests or invitees.
6. NSR must be given at least thirty (30) days notice prior to the placement of any equipment, structure, facility, fixture, or other improvement on the Premises other than those permitted by this Agreement.

7. Company and NSR agree that, by entering into this Consent, (i) NSR is not making any admission regarding any matter between NSR and Company; (ii) Company is not making any admission regarding any matter between NSR and Company; (iii) NSR is not waiving any claim or defense against Company or any affiliate of Company; (iv) Company is not waiving any claim or defense against NSR; (v) NSR does not waive or prejudice any position, claim or defense with regard to any legal or administrative proceedings in which Company or its affiliates and NSR are currently involved or may become involved, including but not limited to any claim or defense with respect to any leasehold rights, environmental obligation or liability, possessory rights, or holdover or non-holdover status of Company; and (vi) Company does not waive or prejudice any position, claim or defense with regard to any legal or administrative proceedings in which Company or its affiliates and NSR are currently involved or may be involved, including but not limited to any claim or defense with respect to any leasehold rights, environmental obligation or liability, possessory rights, or holdover or non-holdover status of Company.
8. Licensee acknowledges that NSR has not made any inspection of the Premises and that the Premises are located at or near active or inactive railroad facilities, structures, or related property.
9. No work of any character shall be started on the property until Certificates of Insurance, specifying that the policies have been furnished and accepted by NSR as evidence that Licensee, Contractor, and Subcontractor maintain the following insurance coverages:
 - (a) Comprehensive General Liability Insurance having a combined single limit of not less than \$2,000,000 per occurrence for all loss, damage, cost and expense, including attorney's fees, arising out of bodily injury, liability and property damage liability during the policy period. Such policy shall be endorsed to name NSR as an additional insured and shall include a severability of interests provision. In addition, Licensee's policy shall be endorsed to reflect Contractual Liability Insurance specifically relating to the indemnity provisions of this agreement. Any exclusion for construction or demolition activities (including installing wells or bore holes, but not for work done by means of a hand auger) conducted within 50 feet of railroad tracks shall be deleted from Licensee's policy.
 - (b) In the event Licensee cannot obtain contractual liability insurance to cover the obligations assumed under this Pipeline Agreement, Licensee or its contractor shall procure and furnish to NSR a Railroad Protective Liability Insurance Policy having a combined single limit of \$2,000,000 per occurrence and \$6,000,000 aggregate. Said policy shall name NSR as the named insured.
 - (c) Workers' Compensation Insurance in satisfaction of statutory requirements of the state where the property covered by this agreement is located. Also, Employers' Liability Insurance having limits of not less than \$500,000 each accident, \$500,000 per disease - policy limit, and \$500,000 per disease - each employee.
 - (d) Automobile Liability Insurance having a combined single limit of not less than \$500,000 per occurrence. Said policy shall name NSR as an additional insured and shall include a severability of interests provision.
 - (e) The insurance required herein shall be of such form and content as may be acceptable to NSR. Evidence of such insurance (a certificate of insurance for the general liability insurance policy and the original policy of Railroad Protective Liability Insurance) must be furnished to NSR at NSR Risk Manager, Three Commercial Place, Norfolk, VA 23510 (or such other current address provided to Licensee) and approved by NSR prior to Licensee's entry on the Premises. The insurance required herein shall not limit the liability assumed by Licensee under this Consent or the Agreement.

North Carolina Railroad Company



February 24, 2021

Joshua Baird
Town Engineer
Town of Clayton
653 NC-42
Clayton, NC 27520

Re: Request for Occupancy of North Carolina Railroad Corridor
File No.: 21007
NCRR ID No.: o_h-097+0148
NS Activity No.: 1291180
Location: Clayton, Johnston County

Dear Mr. Baird,

Enclosed please find three (3) originals of the North Carolina Railroad Company License Agreement, which also incorporates the Norfolk Southern Railway Company consent in Exhibit B. In order to complete the agreement process, please follow the below listed procedures:

1. Sign the 3 originals of the License Agreement. Please return all 3 originals to NCRR with your check for **\$6,588.00** made out to **North Carolina Railroad Company**, which covers the one-time licensee fee, and also, with your check for **\$200.00** made out to **Norfolk Southern Railway Company**, which covers their one-time application fee.
2. Please include an original of your general liability insurance policy with a combined single limit of not less than \$2,000,000 each occurrence. On separate certificates, name the following as insured and certificate holder:
 - North Carolina Railroad Co., 2809 Highwoods Blvd, Raleigh, NC 27604
 - Norfolk Southern Railway Co., Attn: Risk Manager, 3 Commercial Pl, Norfolk, VA 23510
3. Proof of Railroad Protective Liability Insurance for NCRR and NSR (as specified in Article 6 of the agreement and Exhibit B, Article 9) or a check of \$1,000 made out to NSR for Risk Financing Fee for addition to NSR's Master Railroad Protective Liability Insurance coverage, as described in the attached special provision.
4. Please return 3 signed License Agreements, the check, a copy of the application, and the insurance certificates to NCRR, 2809 Highwoods Boulevard, Suite 100, Raleigh, NC 27604, Attn.: Justin Madigan. **NCRR will not process the License Agreement until they receive all four (4) items.**

We look forward to working with you on this agreement. If you have any questions, please do not hesitate to contact me at (919) 424-0429 or cvernier@hntb.com, or Justin Madigan at (919) 954-7601.

Sincerely,

HNTB North Carolina, P.C.

A handwritten signature in cursive script, appearing to read "Corey Vernier".

Corey Vernier, PE
Railroad Engineering Manager

HNTB North Carolina, P.C.
343 E. Six Forks Rd, Suite 200, Raleigh, NC 27609
(919) 546-8997 General Office
(919) 546-9421 Fax

Form HN-53

Railroad Use Only
NS File No. 1291180

NCRR File No. o_h-097+0148
AC:

WIRELINE AGREEMENT

THIS AGREEMENT, made and entered into by and between NORTH CAROLINA RAILROAD COMPANY, a North Carolina corporation, hereinafter styled "Company"; and TOWN OF CLAYTON, a North Carolina government entity, hereinafter styled "Licensee"; and NORFOLK SOUTHERN RAILWAY COMPANY, a Virginia corporation, hereinafter styled "NSR";

W I T N E S S E T H:

WHEREAS, Licensee proposes to install, maintain, operate and eventually remove one (1) 2-inch steel pipe for future fiber optic wireline, one (1) 4-inch steel pipe for future electric wireline and one (1) 6-inch steel pipe for future electric wireline, under and across the right of way or property and any tracks of Company, at Milepost 097.29-NC, Valuation Station 5021 plus 36 feet, at or near East Front Street in Clayton, Johnston County, North Carolina; the same to be located in accordance with prints of the Drawings marked Exhibits A1 dated February 16, 2021, attached hereto and made a part hereof (hereinafter called "Facilities");

WHEREAS, Company is willing to permit the proposed Facilities, upon the following terms and conditions; and

NOW, THEREFORE, for and in consideration of the premises, payment of an initial fee by Licensee to NSR of TWO HUNDRED AND NO/100 DOLLARS (\$200.00), and also a one-time non-refundable fee to Company of SIX THOUSAND FIVE HUNDRED EIGHTY EIGHT AND NO/100 DOLLARS (\$6,588.00) and of the covenants hereinafter made, Company does hereby permit and grant to Licensee insofar as Company has the right to do, without warranty and subject to all encumbrances, covenants and easements to which Company's title may be subject, the use and occupation of so much ground as may be necessary for the Facilities. When Licensee chooses to install additional cables into pipes covered by this agreement, or any additional overhead cables, a separate application will be required and, if approved, additional fees will be payable. This permit and grant to Licensee is made upon the following terms and conditions, to-wit:

1. Licensee will construct and maintain the Facilities, at its expense, in such manner as will not interfere with operations of Company or endanger persons or property of Company, and in accordance with (a) plans and specifications (if any) shown on said print(s) and any other specifications prescribed by Company, (b) applicable regulations prescribed by statute or by governmental authority, and (c) applicable specifications of the National Electrical Safety Code when not in conflict with plans, specifications or regulations mentioned in (a) and (b) above.

2. If the Facilities cause degradation of the signal, communications or other electronic facilities of Company, or endanger the personnel of Company or anyone else entitled to be on Company's property, through inductive or electrostatic interference or otherwise, Licensee, at the request of Company, and at Licensee's expense, will modify the Facilities to the satisfaction of Company so as to eliminate such degradation or danger. Such modification may include, without limiting the generality of

the foregoing, transposing circuits or providing additional shielding, filters, reactances or any other corrective measure deemed necessary.

3. Notwithstanding any other provision of this Agreement, it is mutually understood, agreed and covenanted that Licensee accepts this Agreement as a mere license and assumes all risk of damage to its property by reason of its occupation of the premises herein described, caused by any defects therein or business carried on therein, whether caused by the negligence of Company, its officers, agents or employees, or otherwise, and Licensee hereby indemnifies Company, its officers, agents, and employees, from and against any such liability for said damage. This indemnity shall survive any termination of this Agreement.

4. If Company shall make any change or addition on its right of way at or near the Facilities of Licensee affecting the character, height or alignment of any of Company's power lines, communication, signal or other wires or electrical apparatus, or shall place structures or additional wires or electrical apparatus upon its said right of way, or shall make on its said right of way any change to any line, grade, track, roadbed, installations, works or structures or in the use of any such line, grade, track, roadbed, installations, works or structure, which would be affected by the Facilities of Licensee or by the use thereof, Licensee shall within thirty (30) days of written notice from the Company to Licensee, at Licensee's sole cost and expense, make such changes in the location and character of the Facilities as, in the opinion of Company, shall be necessary or appropriate on account of any such changes or additions.

5. Licensee hereby agrees to indemnify and save harmless Company, its officers, agents and employees, from and against any and all liability, claims, loss, damage, expense (including attorney's fees) or costs for personal injuries (including death) and/or property damage to whomsoever or whatsoever, occurring or arising in any manner from the installation, maintenance, operation, presence or removal or failure to properly install, maintain, operate or remove the Facilities, unless such loss, damage or injury shall be caused solely by the negligence of Company. This indemnity shall survive any termination of this Agreement.

6. No work of any character shall be started on the property until Certificates of Insurance, specifying that the policies have been furnished and accepted by Company as evidence that Licensee, Contractor, and Subcontractor maintain the following insurance coverages:

(a) Comprehensive General Liability Insurance having a combined single limit of not less than \$2,000,000 per occurrence for all loss, damage, cost and expense, including attorney's fees, arising out of bodily injury, liability and property damage liability during the policy period. Such policy shall be endorsed to name Company as an additional insured and shall include a severability of interests provision. In addition, Licensee's policy shall be endorsed to reflect Contractual Liability Insurance specifically relating to the indemnity provisions of this agreement. Any exclusion for construction or demolition activities (including installing wells or bore holes, but not for work done by means of a hand augur) conducted within 50 feet of railroad tracks shall be deleted from Licensee's policy.

(b) In the event Licensee cannot obtain contractual liability insurance to cover the obligations assumed under this Wireline Agreement, Licensee or its contractor shall procure and furnish to Company a Railroad Protective Liability Insurance Policy having a combined single limit of \$2,000,000 per occurrence and \$6,000,000 aggregate. Said policy shall name Company as the named insured.

(c) Workers' Compensation Insurance in satisfaction of statutory requirements of the state where the property covered by this agreement is located. Also, Employers' Liability Insurance having limits of not less than \$500,000 each accident, \$500,000 per disease - policy limit, and \$500,000 per disease - each employee.

(d) Automobile Liability Insurance having a combined single limit of not less than \$500,000 per occurrence. Said policy shall name Company as an additional insured and shall include a severability of interests provision.

(e) The insurance required herein shall be of such form and content as may be acceptable to Company. Evidence of such insurance (a certificate of insurance for the general liability insurance policy and the original policy of Railroad Protective Liability Insurance) must be furnished to Company at Property Department, North Carolina Railroad Company, 2809 Highwoods Blvd, Raleigh, NC 27604 (or such other current address provided to Licensee) and approved by Company prior to Licensee's entry on the Premises. The insurance required herein shall not limit the liability assumed by Licensee under this Agreement or consent.

7. In the event that Licensee defaults in performing its obligations pursuant to this Agreement, Company may terminate this Agreement by giving written notice to Licensee, provided that Company has given Licensee written notice of default and Licensee has failed, within a thirty day period, to correct the default. Upon such termination, the Facilities shall immediately be removed by Licensee at its sole cost, risk and expense. In the event Licensee fails to remove the Facilities, Company may elect to do so and shall bill Licensee for any cost of removal, which costs shall be reimbursed by Licensee immediately upon receipt of the bill. Company may maintain, repair or renew the Facilities at the sole cost and expense of Licensee if necessary to protect the interests of Company, if Licensee has been requested to do so in writing and has failed to do so promptly; provided, however, Company shall not be obligated to so maintain, repair or renew the Facilities or any part thereof.

8. Licensee shall give Company seventy-two (72) hours' advance notice (or less in case of emergencies) of any work to be performed on the premises of Company. Licensee agrees to pay any costs incurred by Company for the purpose of protection and inspection considered necessary by Company during construction, maintenance, operation, modification, replacement and/or removal of the Facilities.

9. If Licensee fails to take any corrective measures requested by Company in a timely manner or if an emergency situation is presented which in the Company's judgment requires immediate repairs to the Facilities, Company may undertake such corrective measures as it deems necessary or desirable at Licensee's expense to be reimbursed by Licensee upon rendering of a bill therefor.

10. The details of the Facilities are to be at the option of Licensee, subject to the approval of Company, and in case of failure of Licensee to do the work as herein specified, Company reserves the right to remove the Facilities from Company's premises at the expense of Licensee, and to terminate this Agreement upon ten (10) days' written notice to Licensee.

11. Company shall furnish, at the cost of Licensee, labor and materials to support its tracks and protect its traffic during the installation, maintenance, repair, renewal or removal of the Facilities.

12. It is further agreed between the parties hereto that the premises shall be used by Licensee only for the Facilities, and for no other purpose without the written permission of Company.

13. Licensee shall not assign this Agreement without the written consent of Company which may be withheld in the sole discretion of Company.

14. The word "Company" as used herein shall include any other company whose property at the aforesaid location may be leased or operated by Company. Said term also shall include Company's officers, agents and employees, and any parent company, subsidiary or affiliate of Company and their officers, agents and employees.

15. This Agreement may be terminated by either party hereto upon sixty (60) days' written notice to the other party. During said sixty day period, Licensee shall remove the Facilities from Company's premises and restore said premises to a condition satisfactory to Company. If Licensee fails to remove the Facilities within the aforesaid sixty day period, Company shall elect: (a) to become the owner of the Facilities without any claim or consideration whatsoever therefor by or to Licensee, its successors or assigns, or (b) to remove the Facilities and all property of Licensee from the premises of Company at the expense of Licensee. Licensee agrees to reimburse Company for any and all costs of such removal immediately after receipt of a bill therefor. No termination of this Agreement shall affect any liability incurred by either party hereto prior to the effective date of such termination.

16. The terms set forth in the attached **Exhibit B**, consisting of two pages and titled "Agreement and Consent of Norfolk Southern Railway Company," are incorporated into this Agreement as if set forth verbatim herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in triplicate, each part being an original, as of the _____ day of _____, 20____.

COMPANY:

NORTH CAROLINA RAILROAD COMPANY

By: _____

Title: _____

LICENSEE:

TOWN OF CLAYTON

By: _____

Title: _____

NSR:

NORFOLK SOUTHERN RAILWAY COMPANY

By: _____

Title: _____

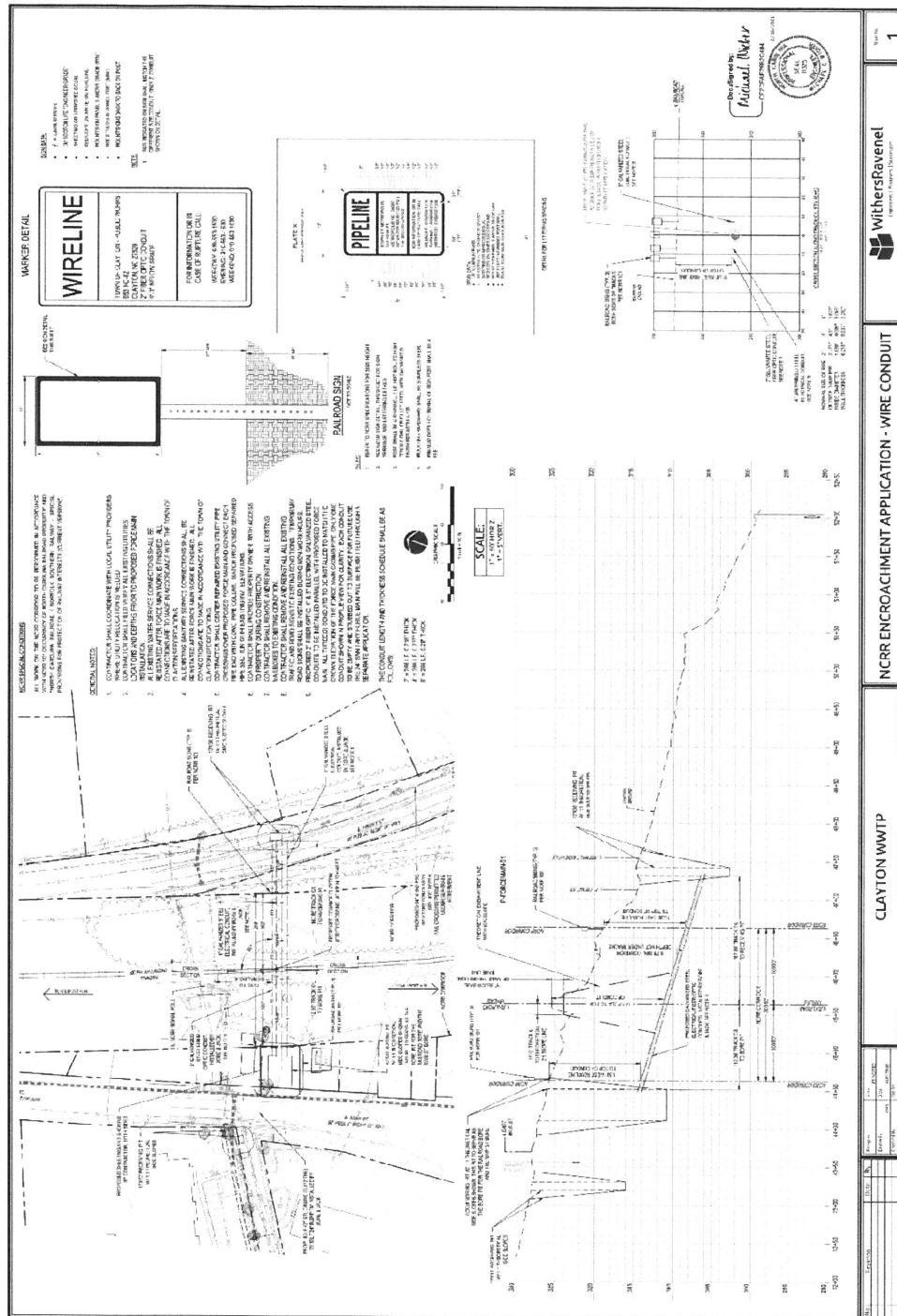


EXHIBIT B

AGREEMENT AND CONSENT OF NORFOLK SOUTHERN RAILWAY COMPANY

WHEREAS, Company, Licensee, and NSR desire to enter into the attached Agreement regarding the property described therein (the "Premises").

NOW THEREFORE, in consideration of the above recitals and the promises and agreements contained herein, as well as for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, NSR, Company, and Licensee agree as follows:

1. NSR gives its consent to the Agreement pursuant to the terms and conditions of this Consent. All of the terms of this Consent are hereby incorporated by reference into the Agreement. The term "NSR" as used in this Agreement and Consent and as used in the Agreement shall include NSR's officers, agents and employees, and any parent company, subsidiary or affiliate of NSR and their officers, agents and employees.
2. The parties agree and understand that any right or claim of Company held in or by virtue of the Agreement shall also inure to the benefit of, and be enforceable by NSR or by any successor or assignee of Company or NSR, and NSR shall not be responsible for any obligations, duties or indemnities of Company to Licensee under the Agreement. NSR reserves any pre-existing rights, claims and defenses against Company and Licensee and said rights, claims and defenses shall not be waived or limited in any way by the Agreement.
3. Licensee understands that NSR makes no warranties or representations regarding the condition of or title to the Premises. Licensee takes the Premises "AS IS" and expressly waives any and all claims against NSR relating to or arising from the condition of or title to the Premises and the property surrounding the Premises, including without limitation, any claims and costs relating to environmental contamination under any applicable laws (such as, without limitation, those which might arise under CERCLA, RCRA, and the North Carolina Oil Pollution and Hazardous Substances Act).
4. Without the written consent of NSR, (i) neither the Agreement nor this Consent may be assigned in whole or in part by Company or Licensee; (ii) Licensee shall not enter into any sublicense or sublease of the Premises; and (iii) the Agreement shall not be amended by Company or Licensee. No consent by NSR to any sublease, sublicense, assignment, or amendment of the Agreement shall be construed to be consent to any further sublease, sublicense, assignment, or amendment of the Agreement.
5. In consideration of the rights granted by NSR to Licensee by this Consent, Licensee agrees to indemnify and hold NSR harmless to the same extent as Company is indemnified and held harmless pursuant to the Agreement. In addition, without limiting the indemnities provided in the Agreement, Licensee specifically shall indemnify and hold harmless NSR from and against any and all attorney's fees, costs, expenses, liabilities, injuries, claims (including third party claims and any claims under any environmental laws and regulations such as CERCLA, RCRA, and the North Carolina Oil Pollution and Hazardous Substances Control Act) and damages arising from or related to (1) the Agreement; (2) any acts or omissions by Licensee at or near the Premises, (3) Licensee's violations of environmental laws and regulations, and (4) environmental contamination caused by Licensee. For purposes of this paragraph, the term Licensee shall mean its officers, employees, agents, contractors, guests or invitees.
6. NSR must be given at least thirty (30) days notice prior to the placement of any equipment, structure, facility, fixture, or other improvement on the Premises other than those permitted by this Agreement.

7. Company and NSR agree that, by entering into this Consent, (i) NSR is not making any admission regarding any matter between NSR and Company; (ii) Company is not making any admission regarding any matter between NSR and Company; (iii) NSR is not waiving any claim or defense against Company or any affiliate of Company; (iv) Company is not waiving any claim or defense against NSR; (v) NSR does not waive or prejudice any position, claim or defense with regard to any legal or administrative proceedings in which Company or its affiliates and NSR are currently involved or may become involved, including but not limited to any claim or defense with respect to any leasehold rights, environmental obligation or liability, possessory rights, or holdover or non-holdover status of Company; and (vi) Company does not waive or prejudice any position, claim or defense with regard to any legal or administrative proceedings in which Company or its affiliates and NSR are currently involved or may be involved, including but not limited to any claim or defense with respect to any leasehold rights, environmental obligation or liability, possessory rights, or holdover or non-holdover status of Company.
8. Licensee acknowledges that NSR has not made any inspection of the Premises and that the Premises are located at or near active or inactive railroad facilities, structures, or related property.
9. No work of any character shall be started on the property until Certificates of Insurance, specifying that the policies have been furnished and accepted by NSR as evidence that Licensee, Contractor, and Subcontractor maintain the following insurance coverages:
 - (a) Comprehensive General Liability Insurance having a combined single limit of not less than \$2,000,000 per occurrence for all loss, damage, cost and expense, including attorney's fees, arising out of bodily injury, liability and property damage liability during the policy period. Such policy shall be endorsed to name NSR as an additional insured and shall include a severability of interests provision. In addition, Licensee's policy shall be endorsed to reflect Contractual Liability Insurance specifically relating to the indemnity provisions of this agreement. Any exclusion for construction or demolition activities (including installing wells or bore holes, but not for work done by means of a hand augur) conducted within 50 feet of railroad tracks shall be deleted from Licensee's policy.
 - (b) In the event Licensee cannot obtain contractual liability insurance to cover the obligations assumed under this Wireline Agreement, Licensee or its contractor shall procure and furnish to NSR a Railroad Protective Liability Insurance Policy having a combined single limit of \$2,000,000 per occurrence and \$6,000,000 aggregate. Said policy shall name NSR as the named insured.
 - (c) Workers' Compensation Insurance in satisfaction of statutory requirements of the state where the property covered by this agreement is located. Also, Employers' Liability Insurance having limits of not less than \$500,000 each accident, \$500,000 per disease - policy limit, and \$500,000 per disease - each employee.
 - (d) Automobile Liability Insurance having a combined single limit of not less than \$500,000 per occurrence. Said policy shall name NSR as an additional insured and shall include a severability of interests provision.
 - (e) The insurance required herein shall be of such form and content as may be acceptable to NSR. Evidence of such insurance (a certificate of insurance for the general liability insurance policy and the original policy of Railroad Protective Liability Insurance) must be furnished to NSR at NSR Risk Manager, Three Commercial Place, Norfolk, VA 23510 (or such other current address provided to Licensee) and approved by NSR prior to Licensee's entry on the Premises. The insurance required herein shall not limit the liability assumed by Licensee under this Consent or the Agreement.

SPECIAL PROVISIONS FOR PROTECTION OF RAILWAY INTEREST
Pipeline and Wireline Crossings

INSURANCE:

A. In addition to any other forms of insurance or bonds required under the terms of the contract and specifications, the Prime Contractor will be required to carry insurance of the following kinds and amounts:

1. Commercial General Liability Insurance having a combined single limit of not less than \$2,000,000 per occurrence for all loss, damage, cost and expense, including attorneys' fees, arising out of bodily injury liability and property damage liability during the policy period. Said policy shall include explosion, collapse, and underground hazard (XCU) coverage, shall be endorsed to name Railroad specified in item A.2.c. below as an additional insured, and shall include a severability of interests provision.
2. Railroad Protective Liability Insurance having a combined single limit of not less than \$2,000,000 each occurrence and \$6,000,000 in the aggregate applying separately to each annual period. Said policy shall provide coverage for all loss, damage or expense arising from bodily injury and property damage liability, and physical damage to property attributed to acts or omissions at the job site (see **)

The standards for the Railroad Protective Liability Insurance are as follows:

- a. The insurer must be rated A- or better by A.M. Best Company, Inc.
- b. The policy must be written using one of the following combinations of Insurance Services Office ("ISO") Railroad Protective Liability Insurance Form Numbers:
 - (1) CG 00 35 01 96 and CG 28 31 10 93; or
 - (2) CG 00 35 07 98 and CG 28 31 07 98; or
 - (3) CG 00 35 10 01.
- c. The named insured shall read:

[Name of railroad that owns the track]; and
Norfolk Southern Railway Company
Three Commercial Place
Norfolk, Virginia 23510-2191
Attn: D. W. Fries, Director Risk Management
- d. The description of operations must appear on the Declarations, must match the project description in this agreement, and must include the appropriate Department project and contract identification numbers.
- e. The job location must appear on the Declarations and must include the city, state, and appropriate highway name/number.
- f. The name and address of the prime contractor must appear on the Declarations.
- g. The name and address of the Department must be identified on the Declarations as the "Involved Governmental Authority or Other Contracting Party."

- h. Other endorsements/forms that will be accepted are:
 - (1) Broad Form Nuclear Exclusion – Form IL 00 21
 - (2) 30-day Advance Notice of Non-renewal or cancellation
 - (3) Required State Cancellation Endorsement
 - (4) Quick Reference or Index Form CL/IL 240
- i. Endorsements/forms that are **NOT** acceptable are:
 - (1) Any Pollution Exclusion Endorsement except CG 28 31
 - (2) Any Punitive or Exemplary Damages Exclusion
 - (3) Known injury or Damage Exclusion form CG 00 59
 - (4) Any Common Policy Conditions form
 - (5) Any other endorsement/form not specifically authorized in item no. 2.h above.

- B. If any part of the work is sublet, similar insurance, and evidence thereof as specified in A.1 above, shall be provided by or on behalf of the subcontractor to cover its operations on Railroad's right of way.
- C. Prior to entry on Railroad right-of-way, the original Railroad Protective Liability Insurance Policy shall be submitted by the Prime Contractor to the Department at the address below for its review and transmittal to the Railroad. In addition, certificates of insurance evidencing the Prime Contractor's and any subcontractors' Commercial General Liability Insurance shall be issued to the Railroad and the Department at the addresses below, and forwarded to the Department for its review and transmittal to the Railroad. The certificates of insurance shall state that the insurance coverage will not be suspended, voided, canceled, or reduced in coverage or limits without (30) days advance written notice to Railroad and the Department. No work will be permitted by Railroad on its right-of-way until it has reviewed and approved the evidence of insurance required herein.

Insured Railroad:

RAILROAD Mailing Address:

Mr. D. W. Fries, ARM
Director Risk Management
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191

- D. The insurance required herein shall in no way serve to limit the liability of Department or its Contractors under the terms of this agreement.

****Depending on the type of work to be performed, this coverage may be added to our Master Railroad Protective Insurance policy for a premium fee of \$1,000.**



**Town of Clayton
Regular Town Council Meeting Minutes
Monday, May 17, 2021 @ 6:00 PM
Council Chambers**

COUNCIL PRESENT:

Mayor McLeod
Council Member Grannis
Council Member Holder
Council Member Bunn
Council Member Everett

STAFF PRESENT:

Rich Cappola, Interim Town Manager
Dolores Gill, D/Town Manager
Jim Cauley, Town Attorney
Kimberly Moffett, Town Clerk
Heidi Holland, D/Town Clerk
Greg Tart, Police Chief
Lee Barbee, Fire Chief
Matt Sutphin, Deputy Fire Chief
Jeff Caines, Senior Planner
Robert McKie, Finance Director

COUNCIL ABSENT:

Mayor Pro Tem Thompson

1 CALL TO ORDER

Pledge of Allegiance and Invocation

- a) Mayor McLeod called the meeting to order at 6:00 p.m. He led everyone in the Pledge of Allegiance as well as offering the Invocation.

2 ADJUSTMENT OF THE AGENDA

- a) It was requested that the item regarding CHS Joint Use of Turf Field Agreement be moved up in the agenda from Item 8a to Item 5a. Additionally it was requested that Final Acceptance for Village at Little Creek be pulled from the Consent Agenda. This item will be rescheduled for a later date.

3 CONSENT AGENDA

(Items on the consent agenda are considered routine in nature or have been thoroughly discussed at previous meetings. Any member of the Council may request to have an item removed from the consent agenda for further discussion.)

- a) ~~Final Acceptance~~
 - ~~Village at Little Creek Subdivision - Phase 1~~
- b) DRAFT Minutes
 - April 5, 2021 - Regular Meeting
 - May 3, 2021 - Regular Meeting
 - May 3, 2021 - Closed Session

Minutes will be sent under separate cover
- c) Resolution Authorizing Bank Signatures/Deputy Finance Officers
- d) Certification of Sufficiency

- 2021-36-ANX - Ashcroft Phase 7 & 8
- e) Resolution Setting Public Hearing
 - 2021-36-ANX - Ashcroft Phases 7 & 8
- f) Resolution Authorizing Acceptance of American Rescue Plan Act of 2021 Funding
- g) Proclamation - Public Works Week
- h) Proclamation - Building Safety Month
- i) Proclamation - 2021 National Police Week

ACTION: Adoption of Consent Agenda as Presented

Motion: Council Member Holder
 Second: Council Member Bunn
 Vote: Unanimous

4 ADMINISTRATIVE ITEMS

- a) Swearing In of New Police Officer
 - Officer Brandon Hart Rico

Officer Brandon Rico was joined by members of his family. He was sworn in as Clayton's newest Police Officer. Mayor McLeod welcomed Officer Rico to the town on behalf of the entire council.

- b) Fire Advisory Board Appointment Recommendation
Presenter: Kimberly Moffett, Town Clerk

Ms. Moffett stated that recently a member of the Fire Advisory Board resigned due to personal obligations. She further stated interviews for a previous opening were held recently. It was recommendation of staff that Chris Carter be appointed to fill this unexpired vacancy with a term expiration of December 31, 2023.

ACTION: Appointment of Chris Carter to Fire Advisory Board

Motion: Council Member Grannis
 Second: Council Member Holder
 Vote: Unanimous

5 INTRODUCTIONS AND SPECIAL PRESENTATIONS

- a) Clayton High School Joint Use of Turf Field Agreement
Presenter: Bennett Jones, CHS Principal

Mr. Jones was present and shared details regarding proposed agreement. He shared details about current facility needs at Clayton High School that include; an incomplete field house, tennis courts, softball and baseball field leveling, drainage issues on the football field, practice field, and more. He shared details about the school having only 30 acres while many high schools in

Johnston County have over 100 acres and how this limits the use of field space. He shared details about needs of the town to include; additional field space, additional gym space, meeting space for events, parking for events and additional lighted tennis courts. Idea is to create a joint use agreement between CHS and the Town of Clayton which would benefit both. Details include town making a financial investment in improving the facilities.

Council Member Bunn stated he was excited about this project. He questioned if we had a number with regard to maintenance cost. Mr. Barnard stated the approximate cost for equipment to get up and running would be approximately \$100,000-\$125,000 plus an annual cost of approximately \$100,000. Mr. Barnard stated most fields with artificial turf can last 10-14 years. He stated the average time for time to see investment return would be approximately 7 years. Representative from Field Turf was present and stated average time for fields is 13-14 years. He stated total grooming of field is only 15 minutes versus 3-4 hours. Council Member Holder asked if the \$500,000 was a one-time investment. Mr. Jones stated that was correct. Council Member Grannis asked Mr. Barnard about his thoughts for return on investment. Mr. Barnard stated the value would be immeasurable. He stated if the town were to have to build all the amenities we would be able to utilize with a shared agreement, we would be looking at the tens of millions of dollars. Mayor McLeod stated he felt this a fantastic opportunity. Board of Education Commissioner Todd Sutton was present and shared his thoughts and support for this awesome opportunity. He thanked Council for their consideration regarding this great collaboration. Council confirmed there was funding available for this project. Both Finance Director and Interim Town Manager stated funding would be available. Council Member Grannis confirmed funding would be available for initial funding and purchase of required equipment and cost of first year of maintenance costs.

ACTION: Authorize Town Manager to Negotiate with Johnston County Board of Education on a Joint Use Agreement with Clayton High School

Motion: Council Member Grannis
Second: Council Member Everett
Vote: Unanimous

b) Employee Introductions

Presenters: Kimberly Moffett - Town Clerk; Lee Barbee - Fire Chief & Matt Sutphin - Deputy Fire Chief

- Sarah Byers - Front Desk Receptionist
- Amy Shearin - Emergency Management Coordinator
- Stacey Turner - Battalion Fire Chief
- Kyle Driver - Fire Captain
- Joel Shanks - Fire Equipment Operator

Ms. Byers was introduced by Ms. Moffett. Ms. Byers stated she was very happy to be part of the team. Chief Barbee introduced Amy Shearin in her new role as the Emergency Management Coordinator with the Fire Department. Ms. Shearin stated she was happy to be here and looked forward to growing with the town. D/Chief Sutphin was present and introduced Stacey Turner, Kyle

Driver and Joel Shanks who were all recently promoted. Mr. Shanks stated he appreciated the opportunity for promotion and was very happy to be with Clayton. Mr. Driver stated he was very happy to be here and hoped to be part of the town until he retired. Mr. Turner offered his thanks for the opportunity and stated he was happy to be with Clayton.

c) Recognition of Long Term Employee

Presenter: Rich Cappola, Interim Town Manager

- James Warren - Wastewater Treatment Plant Superintendent

Mr. Cappola shared information about James. He has been with town for 27 years and we have been very fortunate with his outstanding leadership. He spoke about his high work ethic and professionalism. Mayor McLeod read and shared a Recognition of Retirement. He presented this plaque to Mr. Warren. Mr. Warren received a standing ovation. Mr. Warren offered his thanks and appreciation for all the opportunities afforded him from the Town. Mayor thanked Mr. Warren for his many years of service and the kind comments.

d) Introduction of Gannett Fleming & HDR Staff

Presenter: Rich Cappola, Interim Town Manager

Mr. Cappola introduced the team that includes Gannett, Craig, Adam & Steve. Mr. Cappola stated that Adam and Steve would be the day to day contacts with this project.

Council Member Holder issued a challenge to move the project from October 2023 to April 2023. He stated the sooner the better.

6 PUBLIC HEARINGS

a) 2021-04-SUP - Smithfield Chicken & BBQ - Special Use Permit (Quasi-Judicial)

Presenter: Planning Department

Attorney Cauley provided information about the process for a quasi-judicial. He stated only certain types of evidence could be considered when making decision. All testimony must be given under Oath. All those who wished to offer testimony were issued the Oath of Affirmation by the Town Clerk.

Mr. Caines reminded this item was heard at previous council meeting of May 3, 2021. He shared details about the project which is for a paved offsite parking area. He stated the request is consistent with Comprehensive Plan and Surrounding Land Use. It was stated that conditions of approval be placed upon the application if approved by council. These conditions were outlined in the staff report. He stated all parties were in agreement with proposed conditions.

Council Member Grannis asked about conditions related to storm water requirements. Mr. Baird, Town Engineer, stated this project would be subject to requirements. He stated proposed parking lot has less impervious surface. He stated project taking place on Durham Street is approximately a one year project. Mr. Baird stated that curb gutter would coincide with above project.

Mr. Temple was present and provided updated Findings of Fact to be included as part of the official record. . A copy of the updated Findings are attached as part of the record.

Council Member Grannis offered his thanks for elaborating on the Findings of Facts.

With there being nothing further and no one wishing to speak in opposition, the item was turned over to council for their deliberation.

ACTION: Approval #2021-04-SUP with Conditions as Listed in Staff Report

Motion: Council Member Grannis
Second: Council Member Holder
Vote: Unanimous

- b) 2020-103-PDD - Lumen - Rezoning
Presenter: Planning Department

ACTION: Continued to June 7, 2021

Motion: Council Member Bunn
Second: Council Member Everett
Vote: Unanimous

- c) 2020-104-SD - Lumen - Subdivision (Quasi-Judicial)
Presenter: Planning Department

ACTION: Continued to June 7, 2021

Motion: Council Member Bunn
Second: Council Member Everett
Vote: Unanimous

- d) Development Agreement - Lumen
Presenter: Planning Department

ACTION: Continued to June 7, 2021

Motion: Council Member Bunn
Second: Council Member Everett
Vote: Unanimous

- e) BREAK

15 minute break was taken.

7 OLD BUSINESS

- a) Parks & Recreation Bond Concept Idea

Presenters: Dolores Gill, D/Town Manager & Scott Barnard, Parks & Recreation Director

Ms. Gill shared a brief background regarding Parks Bond Update. Shared were details about the proposed updates to parks including, East Clayton Community Park and Municipal Park.

Mr. Barnard stated proposed updates to both East Clayton Community and Municipal Park were unanimously approved by the Parks & Recreation Advisory Board. They were very excited for these details to be shared. East Clayton Community proposals included artificial turf field, lighting enhancements and entrance enhancements. These changes would mean this location would house three fully functional fields. Also shared were details about Municipal Park to include design/build to re-think the layout of this park. A listing of amenities include picnic shelter, splash pad and more.

Also shared were details for Clayton Community Park.

Council Member asked about Clayton Community Park and possible relocation of tennis courts. Mr. Barnard stated final decision had not been made. He stated the tennis community interest is important. Council Member Grannis asked about multi-court replacing basketball court. He stated he has a concern as every time he drives by or passes the basketball court is always in use and feels it is important to have a dedicated basketball court.

Council Member Grannis stated he liked what he has seen and is excited to see us moving along.

Mayor McLeod stated that Municipal Park is a very special place and this needs to be enhanced properly. He further added the basketball court is always in use and is very important. He stated this park doesn't need to be the most expensive but it needs to be very creative and inviting with the creation of a wow factor. Council Member Bunn stated he felt the same way and this park was the town's first park and it felt like it was the "baby of the town" and needed to be treated special. Council Member Bunn asked if there were any plans for fields and restrooms. Mr. Barnard stated yes there would be restrooms. Mr. Barnard stated there would large open space with no proposed use for organized sports but perhaps used for younger soccer team play. Council Member Grannis confirmed restroom would be handicap accessible. Mr. Barnard stated yes and most likely same plan as is part of Harmony Playground.

Mr. Cappola offered thanks to Ms. Gill for her leadership on this project. Council offered consensus to move forward.

8 NEW BUSINESS

- a) Capital Project Ordinance Amendment - Wastewater Treatment Plant
Presenter: Robert McKie, Finance Director

Mr. McKie provided details regarding ordinance.

ACTION: Adoption of Ordinance #2021-05-01

Motion: Council Member Bunn

Second: Council Member Everett

Vote: Unanimous

- b) Reorganization and Reclassification of Positions
Presenter: Rich Cappola, Interim Town Manager

Mr. Cappola provided a proposed Position Reclassification for some existing positions. These re-classifications would allow realignment of workload and would be effective July 1, 2021. No immediate impact to funding. Proposed budget incorporates these proposals.

Council Member Grannis asked if any of positions were currently vacant. Mr. Cappola stated only current vacancy was that of Facility Maintenance Supervisor. This position was previously held by Steve Blasko.

Council Member Holder asked about annual cost. Mr. Cappola stated total cost would be approximately \$30,000 from general fund and approximately \$20,000 from water/sewer fund.

ACTION: Approval of Reorganization/Reclassification

Motion: Council Member Holder

Second: Council Member Everett

Vote: Unanimous

9 STAFF REPORTS

- a) Town Manager

Mr. Cappola offered his thanks to the council for the trust and support he has received. He stated all the staff has stepped up and we have a great team.

May 18 Budget Work Session will begin at 8:30 a.m. and breakfast will be available at 8:00 a.m.

With reference to CDC guidelines and questions regarding COVID protocols, conversations have taken place and currently OSHA has not updated their guidelines to align with CDC. Plan is to remain with current OSHA protocols.

Recognized Dick Hails as Interim Planning Director.

- b) Town Attorney
c) Town Clerk
d) Other Staff

Amy Shearin provided information about the Fourth of July Celebration. Authorization was requested to move forward with planning an event to be held on Saturday July 3. The event would require the closure of Main Street. Ms. Shearin stated preliminary meetings have been held and everyone in attendance is excited about the event. All safety protocols will be followed. All agreed it was a great idea to move forward with planning the event. Council consensus to move forward.

10 OTHER BUSINESS

- a) Informal Discussion & Public Comment
- b) Council Comments

11 ADJOURNMENT

- a) With there being nothing further, the meeting was adjourned at 8:12 p.m.

ACTION: Adjourn the Meeting

Motion: Council Member Holder
Second: Council Member Everett
Vote: Unanimous

Duly adopted this the 7th day of June, 2021 while in regular session.

Jody L. McLeod
Mayor

ATTEST:

Kimberly A. Moffett, CMC, NCCMC
Town Clerk

May 17, 2021
Minutes



Town of Clayton
Regular Town Council Meeting Minutes
Tuesday, May 18, 2021 @ 8:30 AM
BB&T

COUNCIL PRESENT:

Mayor McLeod
Mayor Pro Tem Thompson
Council Member Holder
Council Member Grannis
Council Member Bunn

STAFF PRESENT:

Rich Cappola, Interim Town Manager
Dolores Gill, Deputy Town Manager
Kimberly Moffett, Town Clerk
Heidi Holland, Deputy Town Clerk
Greg Tart, Police Chief
Lee Barbee, Fire Chief
Robert McKie, Finance Director

COUNCIL ABSENT:

Council Member Everett

1 **Call To Order**

- a) Mayor Pro Tem called the meeting to order at 8:56 a.m.

2 **Budget Presentation Overview / Budget Message**

Presenter: Rich Cappola, Interim Town Manager

- a) Mr. Cappola gave a summary of the topics that would be discussed throughout the day. He shared a presentation of the timeline of the budget process and stated that Council would need to adopt the budget before July 1st. He stated we are running approximately an \$84 million dollar a year budget are proposed to bring in a little more revenue than expected.

BUDGET HIGHLIGHTS

- General Fund budget is balanced at \$35.6 million and required a \$0.9 million fund balance appropriation.
- Water and Sewer Fund budget is balanced at \$32.4 million, which required a \$0.4 million fund balance after utilization of \$3.6 million of American Rescue Plan funds for water and sewer infrastructure.
- The Electric Fund is balanced at \$15.9 million and reflects a \$0.3 million fund balance appropriation.
- 35 new positions included at a cost of \$2.1 million, including benefits.

MAJOR REVENUE ASSUMPTIONS

- No property tax rate increase - it will remain at \$0.58.
- Ad Valorem property taxes will grow 5.6%.
- Property tax collection rate is 98.5% or a decline of 0.4%.
- Sales tax revenues will increase \$1.8 million compared to FY 2021 budget and 3% higher than the \$6.0 million estimate for FY 2021.
- Development revenue will remain steady.

There was discussion on tax rate increase, Mr. Cappola stated the majority of the growth this past year had been residential. One change is the property tax collection rate with a decline of 0.4%. Mr. McKie stated we are seeing a 15% growth in sales tax and continue to see this. He stated we fared the pandemic very well.

EMPLOYEE/BENEFIT IMPACTS

- 3% pool for salary adjustments.
- Cost Of Living Adjustment (COLA) - Mid-Year Review.
- State Health Plan employer contribution increase = 7%.
- NC Retirement Fund employer contribution increase = 1.2%

Mr. Cappola stated is had been a few years since position have been studied, next fiscal year there will be better discussion. There was discussion on the merit process, the merit system needs to be implemented before moving forward with the process during this upcoming fiscal year.

Mayor Pro Tem Thompson stated we must have measuring tools in place for merit performances. The system does not work if you rank everyone at the top of the scales just to allow them to get a top merit increase. This doesn't help an employee improve. Mr. Cappola stated we need to have an annual review even if we do not have a merit increase so employees would know if they are doing well and what they need improvement on. It was suggested employees should perform a self-evaluation followed by their supervisor performing an evaluation as well. He stressed how important training for our employees are.

Council Member Grannis asked about State Health Plan, is the cost the best deal we could get and do we know how the cost increase compares with outside of our state? Mr. McKie stated this year we did have a slight increase but in terms of transition it was a good decision.

UTILITY RATE IMPACTS

- A 7.42% rate increase is proposed for the combined Water (5%) and Sewer (9.5%) effective July 1, 2021.
- No proposed increase to electricity utility rates.
- The rate models predicts four more years of similar rate increases to fund operating costs and the CIP while maintaining a solvent utility system.

Mr. McKie stated a there would be \$6.00 a month increase under the new rate structure for utility bills, this is based on \$4,000 gallons a year. He stated the good news is not proposing an increase to electric utility rate but may need one possibly next year.

A General Fund 10-year graph was presented. Mr. Cappola stated the debt service has stayed steady but last year had significant capital overlay.

FINANCIAL POLICY OUTCOMES

Mr. Cappola stated the outcomes are within policy. The adopted council goal is 30% or greater (never below 20%). The estimated goal was 33.2%.

Council Member Grannis asked if the Executive Team thought about particular CIPs that we can use to drop down the figures, he stated he would love to see recommendations. He stated he thinks Council would like to see what opportunities are available if there could be drop downs on certain CIPs. Mr. Cappola stated he wants to caution council that one of the biggest crunches right now is space, where to figure out where new hires would work and the parole building is another obstacle. More examples were provided. Council Member Grannis asked to take the drop downs into consideration and advise council of the decision.

Mr. Cappola thanked the Executive Team for their help developing the budget.

FEES & CHARGES

Mr. Cappola stated the highlighted numbers show a 5%-9% increase. Other increases would be on re-inspections as well as programming for Park & Recreation which may have to come back to council for increases on classes or camp costs. Council Member Holder asked who would burden the Park & Recreation projects, Mr. Cappola stated right now Joshua Baird, Town Engineer, has been holding interviews for Project Managers.

3 Questions and Discussion FY '21-22 Budget

Presenters: Budget Team

- a) Mr. Cappola turned this over to council for discussion. There were no questions from council.

4 Break

- a) There was a break between 10:15 a.m. - 10:30 a.m.

5 CIP Questions & Discussion

Presenters: Budget Team

- a) This session began at 10:31 a.m.

Mr. Cappola began discussion on CIP projects that were wrapping up. He stated he is hopeful the completion of the Horne Parking lot would be finished in June and hoped to be closed out this Fiscal Year. There was discussion on current projects such as the Greenway project, Horne Library proposed renovations, facility expansions, Municipal Park Phase 1, Clayton Community Center Phase 2, Riverwood Trail, Horne Square upgrades and vehicle policies.

Council Member Grannis asked about wrapping the police vehicles, if the black existing vehicles will only be wrapped or only new one cars. Chief Tart stated only the black ones, the older white vehicles would not be wrapped and would be phased out soon.

There was discussion among everyone on the railroad project, it was stated with leadership change this project has been sitting still for a while.

There was discussion on the drainage on Lombard Street. Mr. Cappola stated there needs to be discussion with DOT to get them to help with this problem since technically it is theirs. We need to see if we can partner with them to get this repaired. There was further discussion on storm drainage and improvements. We now have dedicated staff to handle these repairs.

WATER/SEWER FUND

Next Fiscal Year will include water and sewer projects on O'Neil and Blanche Streets. Water and sewer lines are an issue we will start to maintain annually. There was discussion on equipment replacement and the need to replace some of the old equipment.

ELECTRIC FUND

There was discussion on the AMI System Project which is near completion.

Mr. Cappola discussed having employees pictures on their Outlook emails. He stated the Police Department has been taking the lead on employee IDs. We would soon make the transition to include the FOB on the back of the ID badges.

Mayor Pro Tem Thompson asked about COLA, and if it would be a benefit to employees to get a mid-year update from Council about the cost of living. He stated it would be nice, especially after this year, to hear from Council. Mr. McKie stated anytime Council can do something to communicate with staff it is a positive thing. Mr. Cappola stated he spoke with Nathanael Shelton, Public Information Officer, to put together an end of Fiscal Year video thanking staff.

Mayor Pro Tem Thompson recognized the Executive Team and stated they have worked hard and had stepped up to the plate.

Mr. Cappola asked council if they had any questions.

Council Member Holder stated one position we need to look for is a Waste Water position. Mr. Cappola stated we have hired an Assistant Program Manager, Louis Duffie that looks at the metric. HDR Consultants are also on board and have done a lot of work with the town in the past. Between the two of them this project will get moving. He stated he has a lot of confidence in them both.

There was further discussion on the new positions needed within the town. Mayor Pro Tem Thompson stated we need to spend the money to train them and pay our guys premium so we do not have to start over. We lose money in training, equipment, PPE (that is fitted for that specific person) if they leave. We need to make sure when we compare apples to apples that we are in line with everyone.

Council Member Grannis asked in respect to lineman, how fast could we do a readjustment in regard to salary? Mr. Cappola stated we could ask Catherine Whitley, Interim Human Resources Director, to do a quick poll of competition and figure out where we are in alignment with surrounding areas. He stated he thinks this is something that needs to be considered now.

There was discussion about council on the 3% wage increase and wanted to know if 4% would be feasible. Mayor McLeod stated he would like to see that happen but we need to check back in 6 months to see where we are. Mayor Pro Tem Thompson stated we can do better than 3%. Council Member Holder asked how many positions we currently have that pay less than \$15 an hour. Mr. McKie stated he would have to check with Human Resources. Council Member Holder stated no one should be paid less than \$15.00 an hour.

6 *Break for Lunch*

7 Council Discussion

- a) Mayor Pro Tem Thompson stated his questions were answered earlier in the session. He stated we have brilliant staff and with all the recent changes we have kept it rolling.

There was discussion on the budget for the Public Art Advisory Board, Mayor McLeod stated he was happy with their increase and they have done a great job. He stated next year for Ransom on the Roof, he would like his donations to go to this board.

There was council discussion on the Horne Parking Lot and putting signs up. Council Member Grannis stated we need signage stating you are entering a parking lot. Mr. Cappola stated Rusty Clawson has signage on order stating No Through Traffic.

Council Member Grannis thanked everyone and stated with everything we have been through and to come up with a budget like this with detailed information is outstanding and he is excited about it. Mayor McLeod stated small, medium or large, we still must focus on customer service. He stated there needs to be a meeting space with a sitting area concept to be able to meet and greet with industries. Mr. Cappola stated we need to spend some money to buy furniture and rebuild some offices in the near future. Council Member Bunn suggested to have a space planner involved.

8 Adjournment

- a) With nothing further, the meeting was adjourned at 1:27 pm.

ACTION: Motion to Adjourn

Motion: Council Member Holder

Second: Council Member Bunn

Vote: Unanimous

Duly adopted this the 7th day of June, 2021 while in Regular Session.

Jody L. McLeod
Mayor

ATTEST:

Kimberly A. Moffett, CMC, NCCMC
Town Clerk

May 18, 2021
Minutes



Town Council Agenda Cover Sheet

Meeting Date

June 7, 2021

Agenda Location

Introductions & Special Presentations

Item Title

Library Summer Reading Program

Presenter

Dale Medlin

Summary/Description

To inform council and public of upcoming Summer reading Program

Requested Action

Informational Only

Funding Source (If Applicable):

N/A

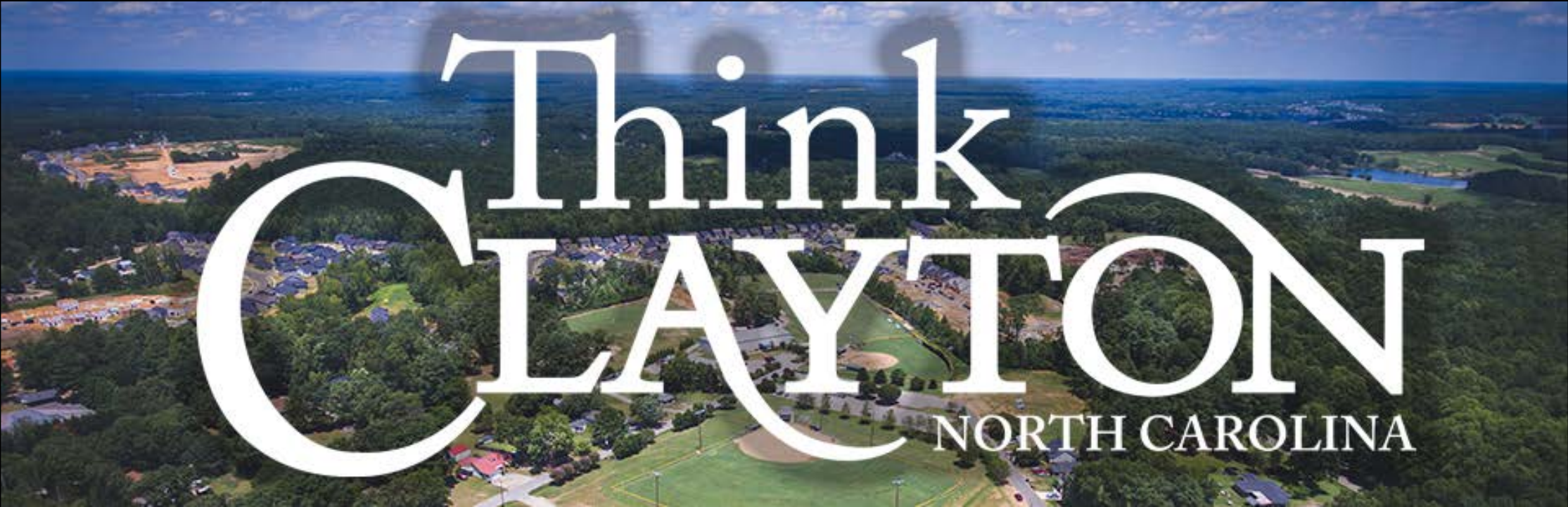
Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Video by Nader—Will send link as soon as he completes the video.

Meeting Timeline

Click or tap here to enter text.



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FY 2021-2022 BUDGET

May 18, 2021



BUDGET PROCESS

- December – February: Departments prepare and submit information
- January: Department budget close-out meetings with budget team
- February: Public hearing on budget
- March: Council Retreat to discuss capital priorities and strategic plan
- March – April: Department budget request meetings with Executive Team
- March – April: Executive Team reviews and requests additional information from departments

BUDGET PROCESS

- **April**: Executive Team meets with Department Heads to balance the budget
- **Early May**: Executive Team finalizes manager's recommended budget
- **Early May**: Council holds budget work session
- **June 7**: Manager presents budget at public hearing
- **Before July 1**: Council adopts budget

TOWN OF CLAYTON
FY 2022 Expenditure Budget Summary

Expenditure Budget	General Fund	W&S Fund	Electric Fund
Salaries and Benefits	\$ 19,777,760	2,288,703	1,209,259
Contract Services	5,108,594	4,478,322	386,144
Operating Expenses	7,858,366	2,089,697	609,556
Programs	336,257	7,050,703	10,139,390
Special Appropriations	550,951	60,488	32,499
Debt Service	1,986,192	2,021,319	572,075
Capital Outlay	3,989,947	7,816,731	1,598,402
Miscellaneous	(4,008,790)	6,594,924	1,364,886
Total	\$ 35,599,277	\$ 32,400,887	\$ 15,912,211

BUDGET HIGHLIGHTS

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BUDGET HIGHLIGHTS

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- Property tax collection rate is 98.5% or a decline of 0.4%.
- Sales tax revenues will increase \$1.8 million compared to FY 2021 budget and 3% higher than the \$6.0 million estimate for FY 2021.
- Development revenue will remain steady.

EMPLOYEE/BENEFIT IMPACTS

3% pool for salary adjustments.

Cost Of Living Adjustment (COLA) – Mid-Year Review.

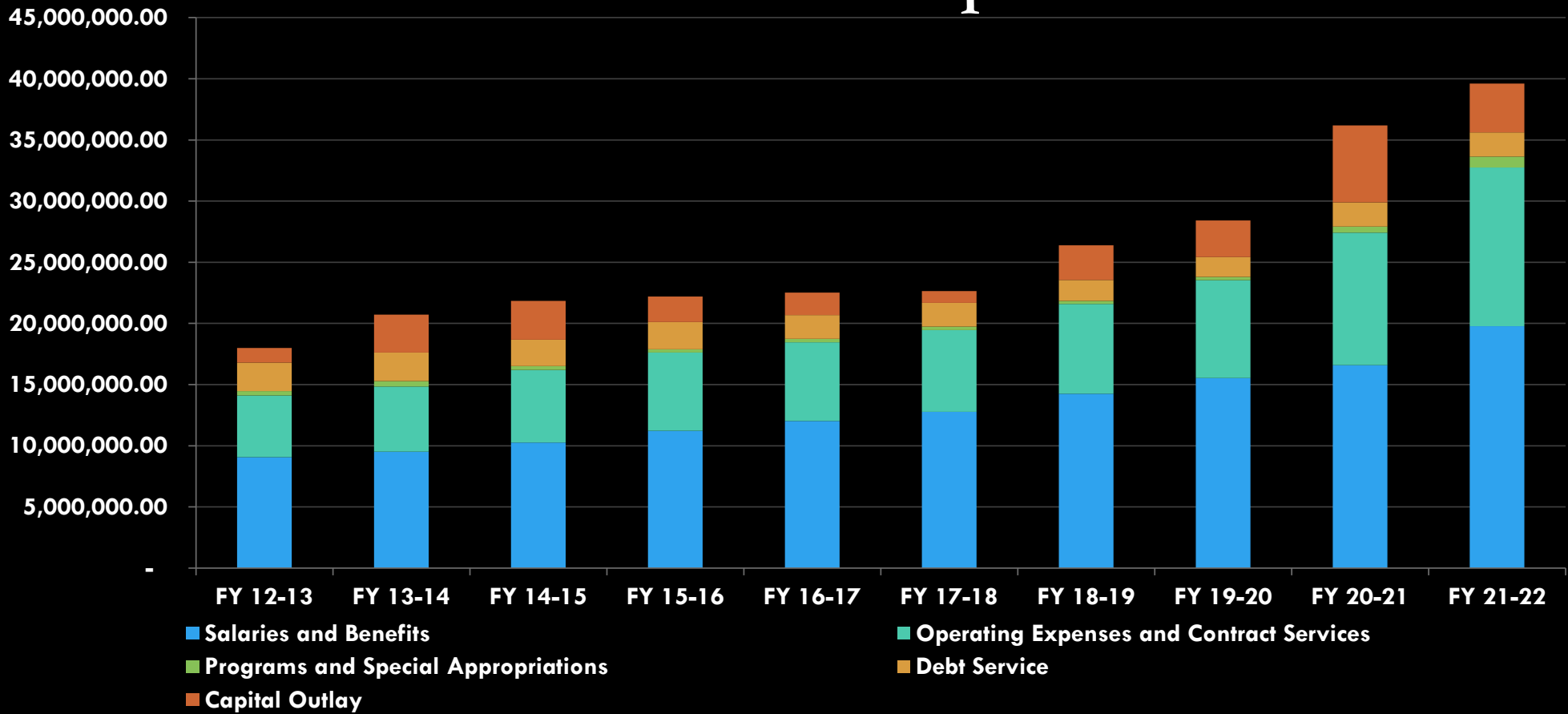
State Health Plan employer contribution increase = 7%.

NC Retirement Fund employer contribution increase = 1.2%.

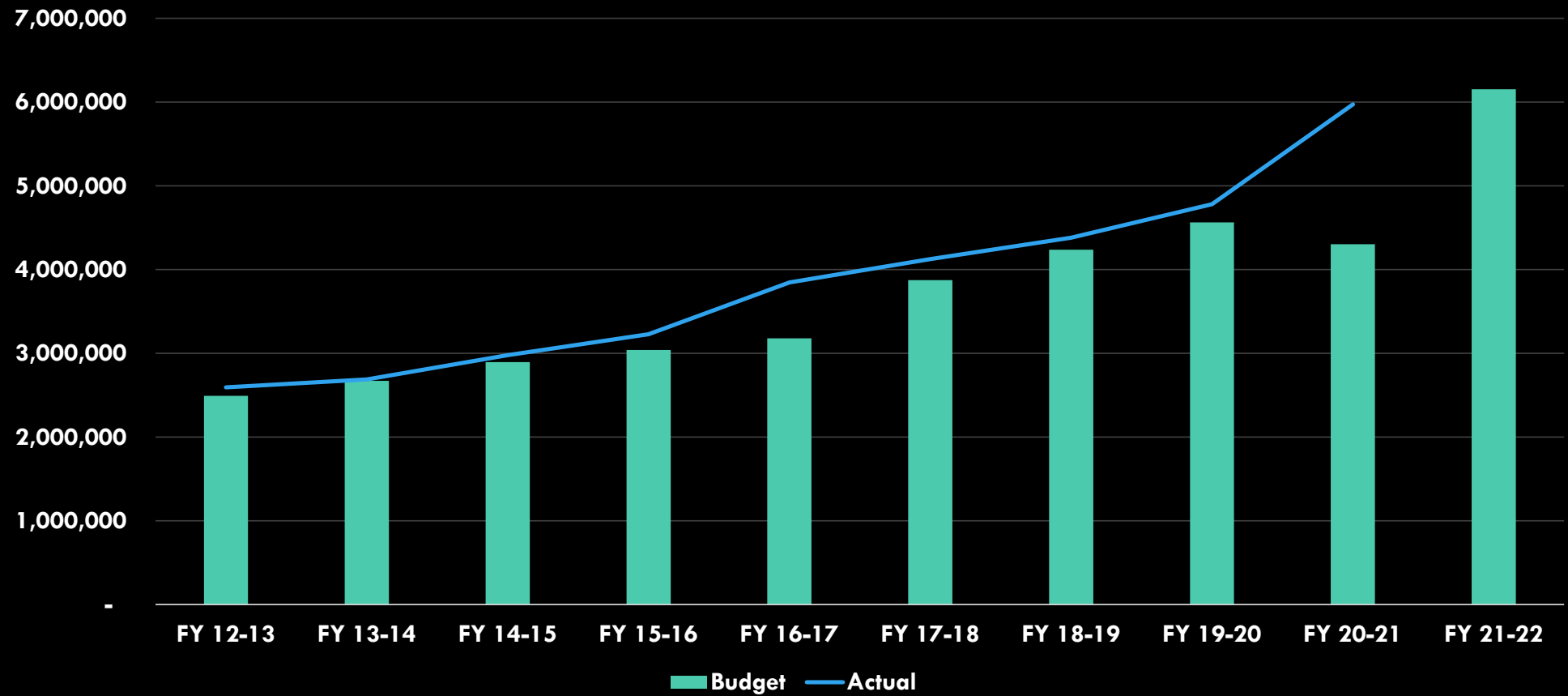
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General Fund - All Expenditures



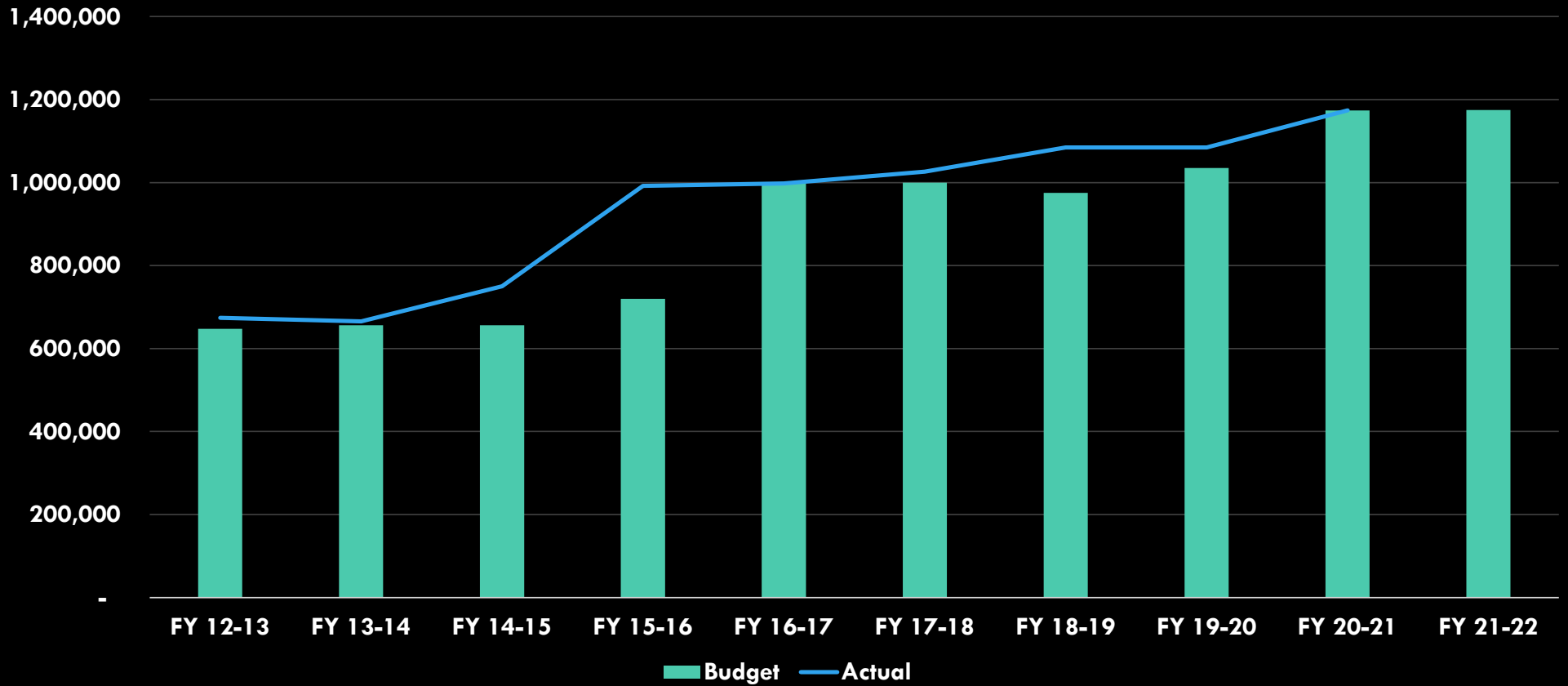
Sales Tax Revenue



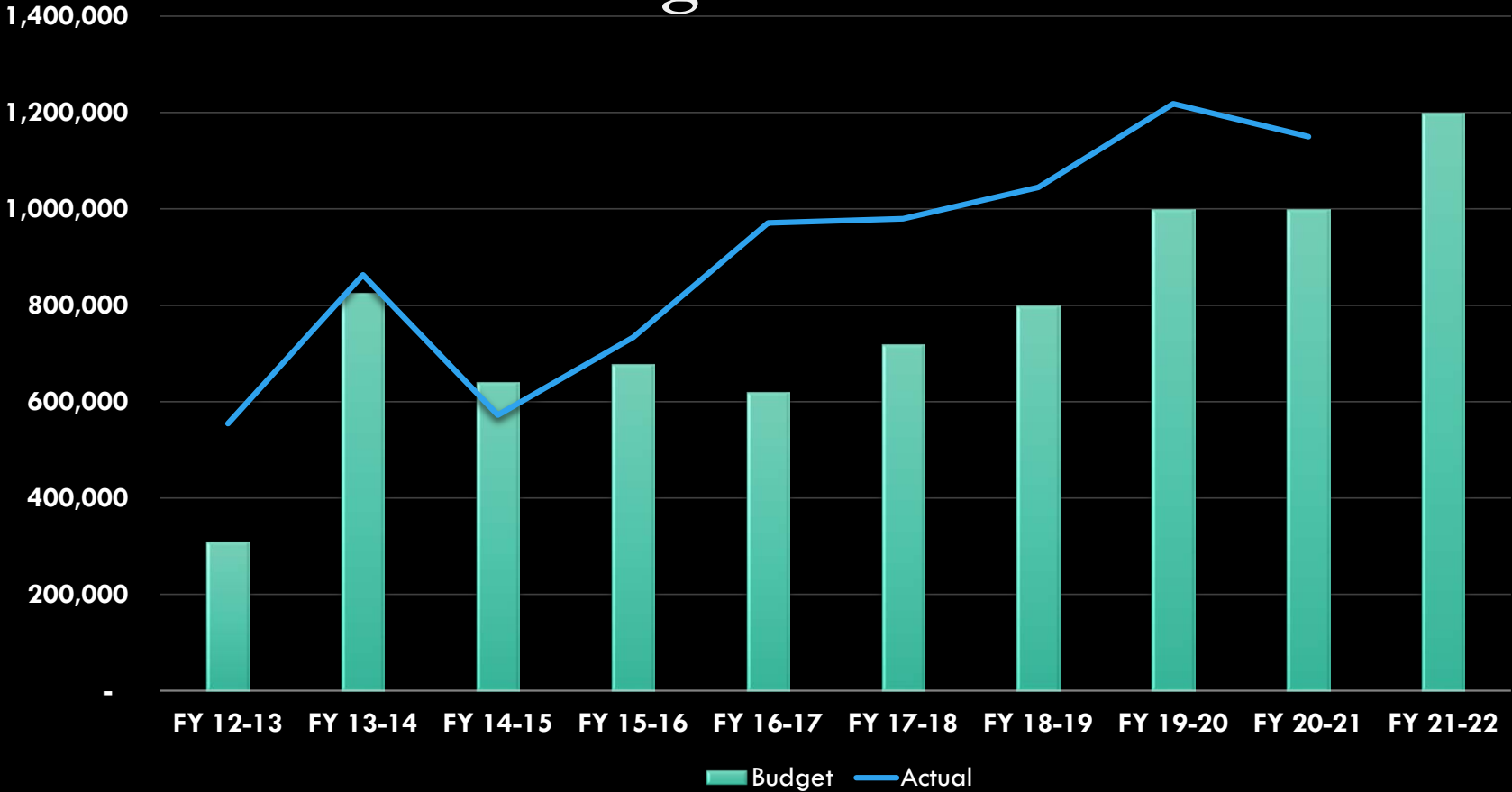
Ad Valorem Tax Revenue



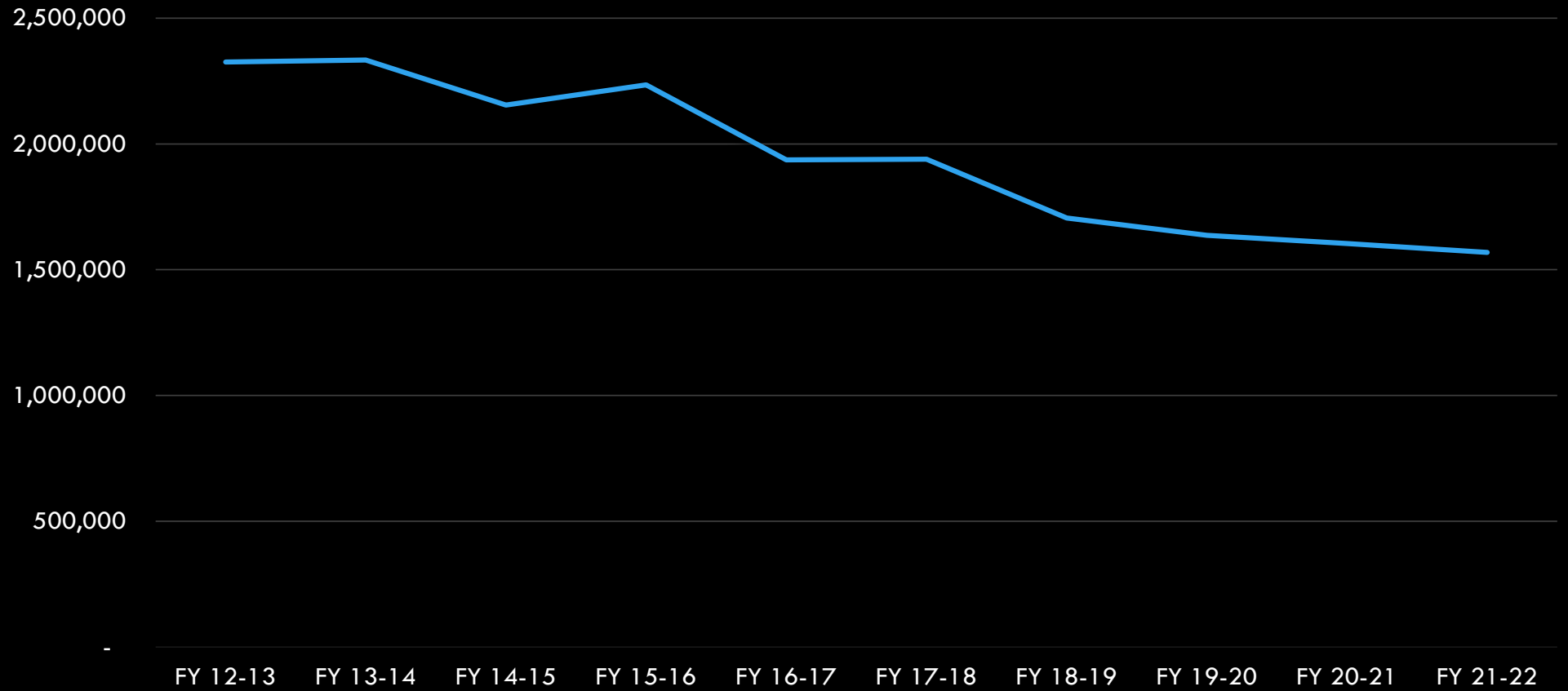
Utility Franchise Revenue



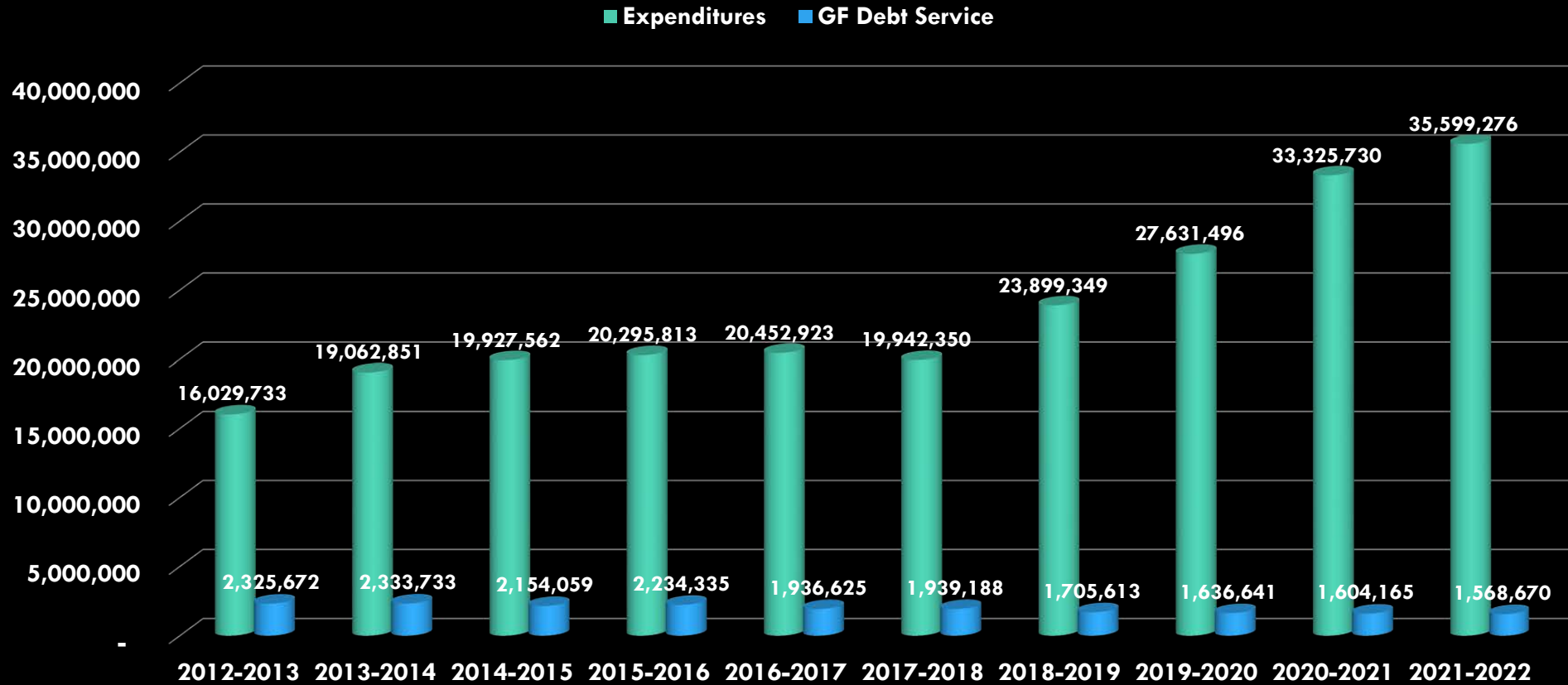
Building Permit Revenue



GF Debt Service



General Fund Debt to Expenditures



Town of Clayton
Fund Balance Projection
June 30, 2021

Fund balances:	General
Nonspendable:	
Inventory	5,000
Perpetual maintenance	-
Restricted:	
Stabilzation by State Statute	2,750,000
Streets - Powell Bill	-
USDA Reserve	-
Public Safety - Police	50,000
Committed	
Public Improvements (Capital Reser	1,110,553
Assigned:	
Public Safety - Fire	2,355
Reserve - Roof Maintenance	284,400
Reserve - Debt Service	1,012,158
Reserve - CIP Funding	1,045,823
Subsequent year's expenditures	1,150,423
Unassigned:	11,079,440
Total Fund Balance	\$ 18,490,152



FINANCIAL POLICY OUTCOMES

Unassigned FB as a % of Net Expenditures

Adopted Council Goal: 30% or greater (never below 20%)

Estimated: 33.2%

WITHIN POLICY



FINANCIAL POLICY OUTCOMES

Debt as % of Estimated Market Value of
Taxable Property

Adopted Council Goal: <2.5%

Estimated: .39%

WITHIN POLICY



FINANCIAL POLICY OUTCOMES

Debt Service as % of Expenditures

Adopted by Council: <15%

Estimated: 4.8%

WITHIN POLICY



FINANCIAL POLICY OUTCOMES

Aggregate 10-Year Payout Ratio

Adopted Council Goal: >55%

Estimated: 95.8%

WITHIN POLICY



FINANCIAL POLICY OUTCOMES

Cash on Hand – Enterprise Funds

Water Sewer Fund Policy	at least 200.75 days
Electric Fund Policy	at least 98.55 days
Water Sewer Fund	301 days (Per Rate Model)
Electric Fund	164 days (Per Rate Model)

WITHIN POLICY

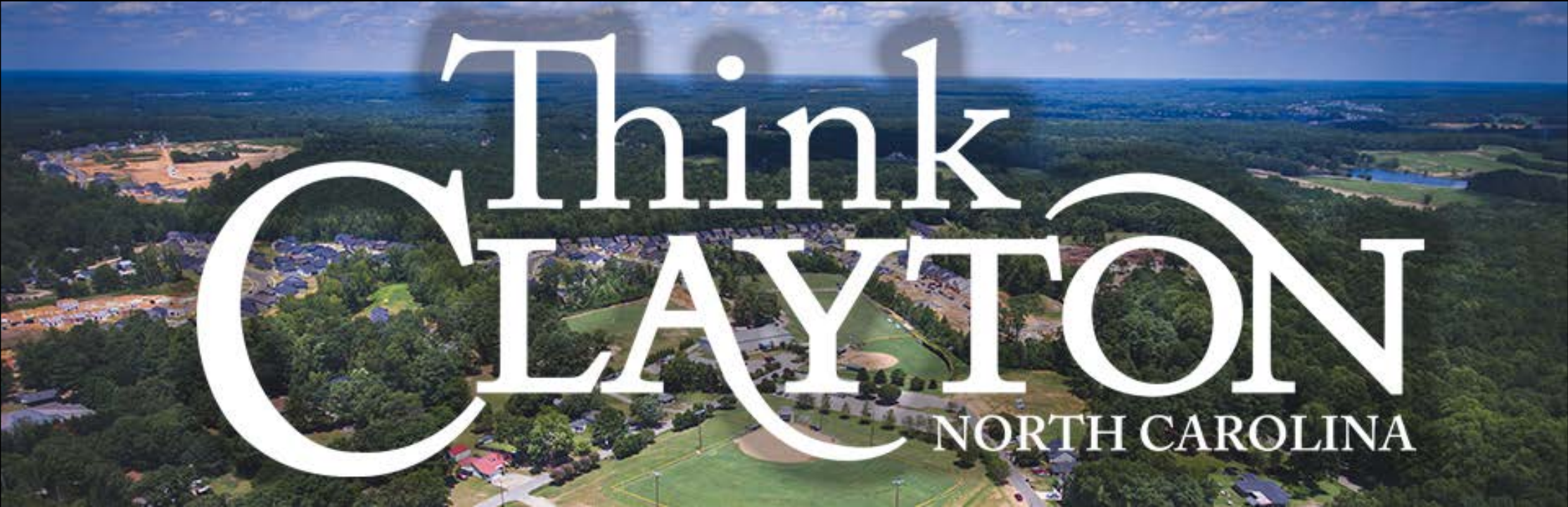


ACKNOWLEDGEMENTS

- Special thanks to the Executive Team (Dolores Gill, Greg Tart, Lee Barbee, and Robert McKie) for their help in developing the budget.
- Special thanks to staff for their assistance and timeliness in submitting and refining their budget requests.
- Special thanks to Council for your input and guidance.

QUESTIONS?





Think CLAYTON

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FY 2021-2022 BUDGET

June 7, 2021



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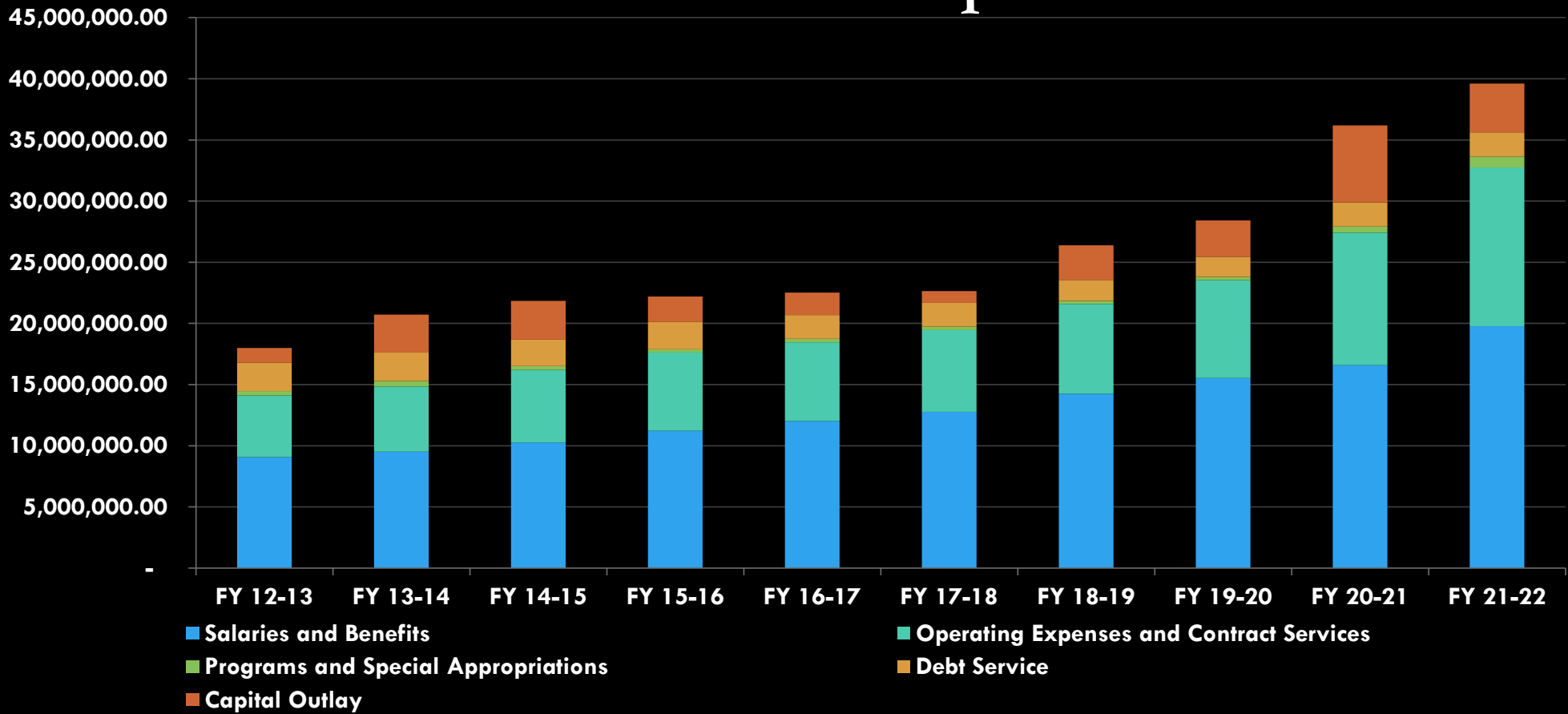
UTILITY RATE IMPACTS

- A 7.42% rate increase is proposed for the combined Water (5%) and Sewer (9.5%) effective July 1, 2021.
- No proposed increase to electricity utility rates.
- The rate models predicts four more years of similar rate increases to fund operating costs and the CIP while maintaining a solvent utility system.

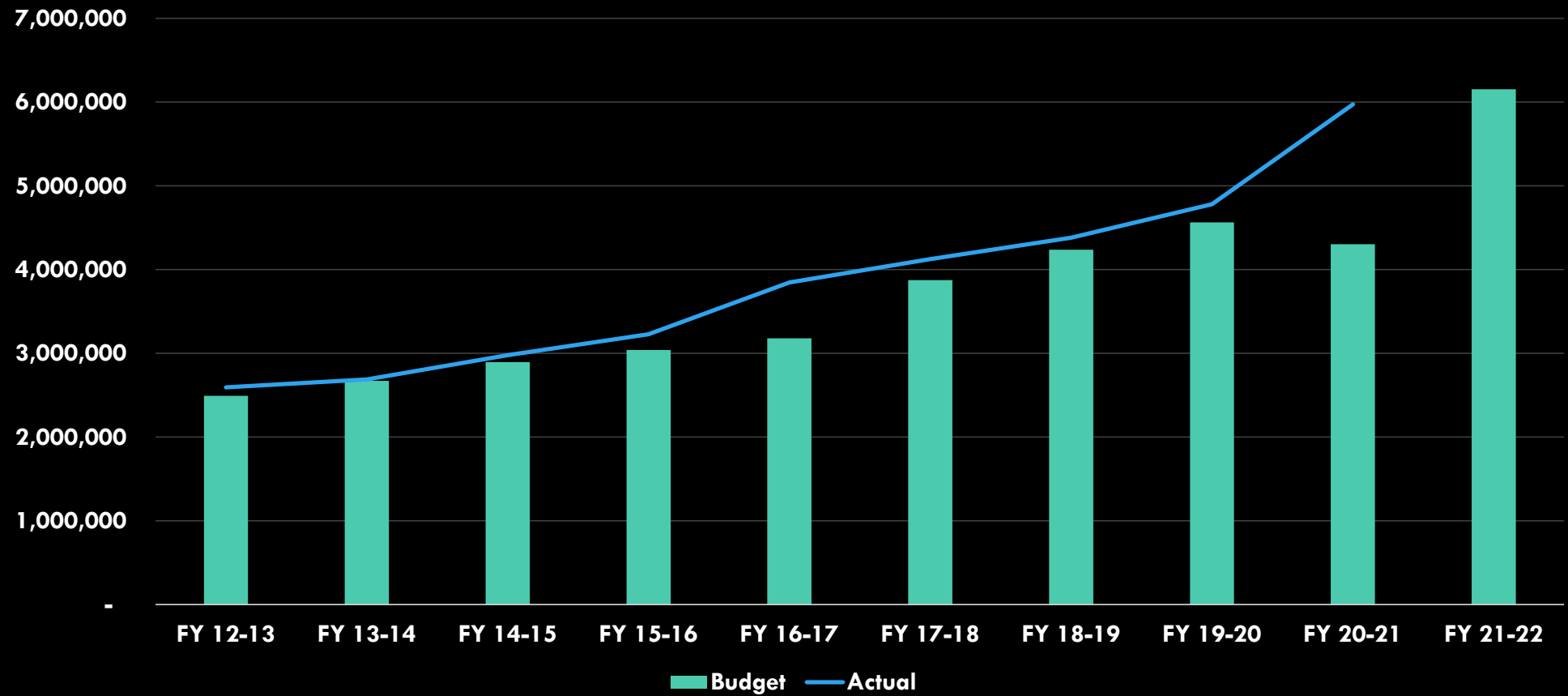
UPDATES SINCE WORK SESSION

- Property Maintenance Department Created
- Addition of 0.5 FTE for Police Department
- Reconciliation of master position list

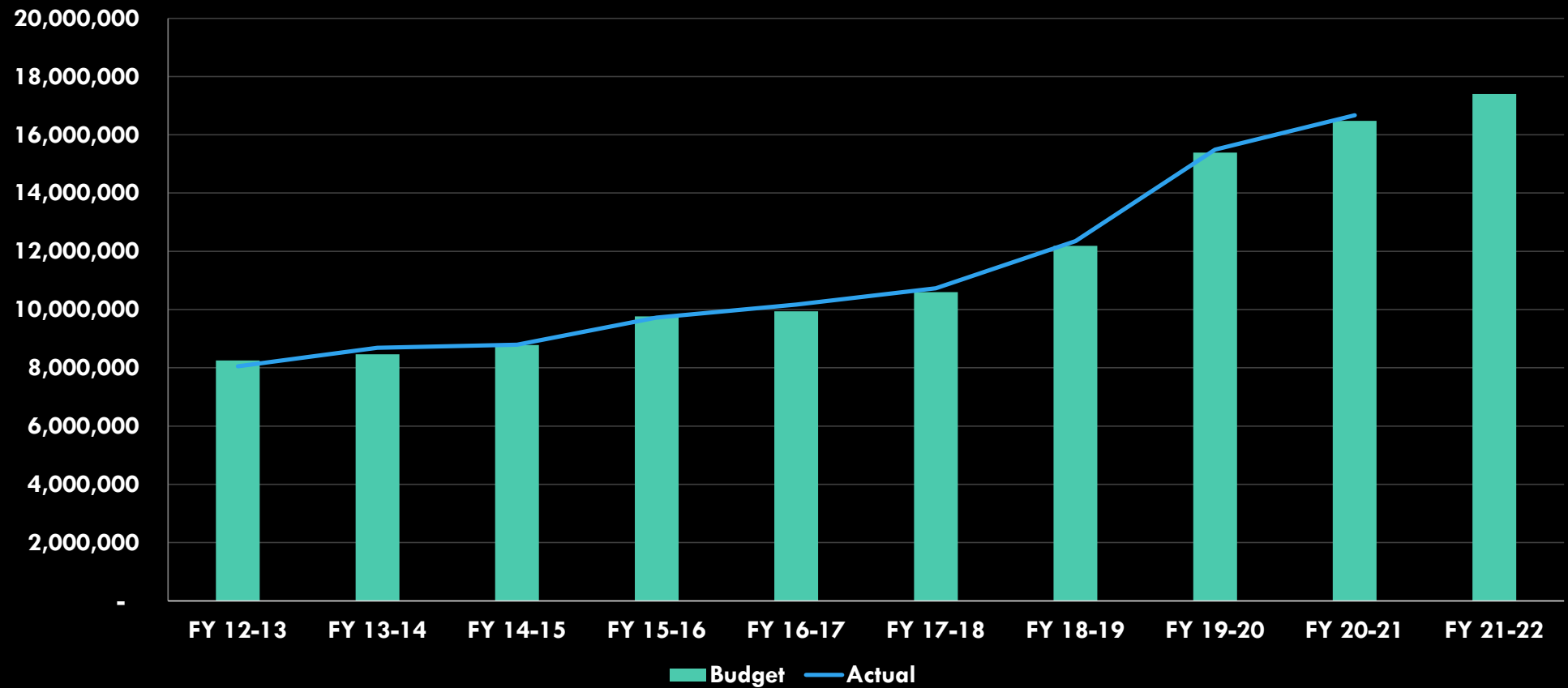
General Fund - All Expenditures



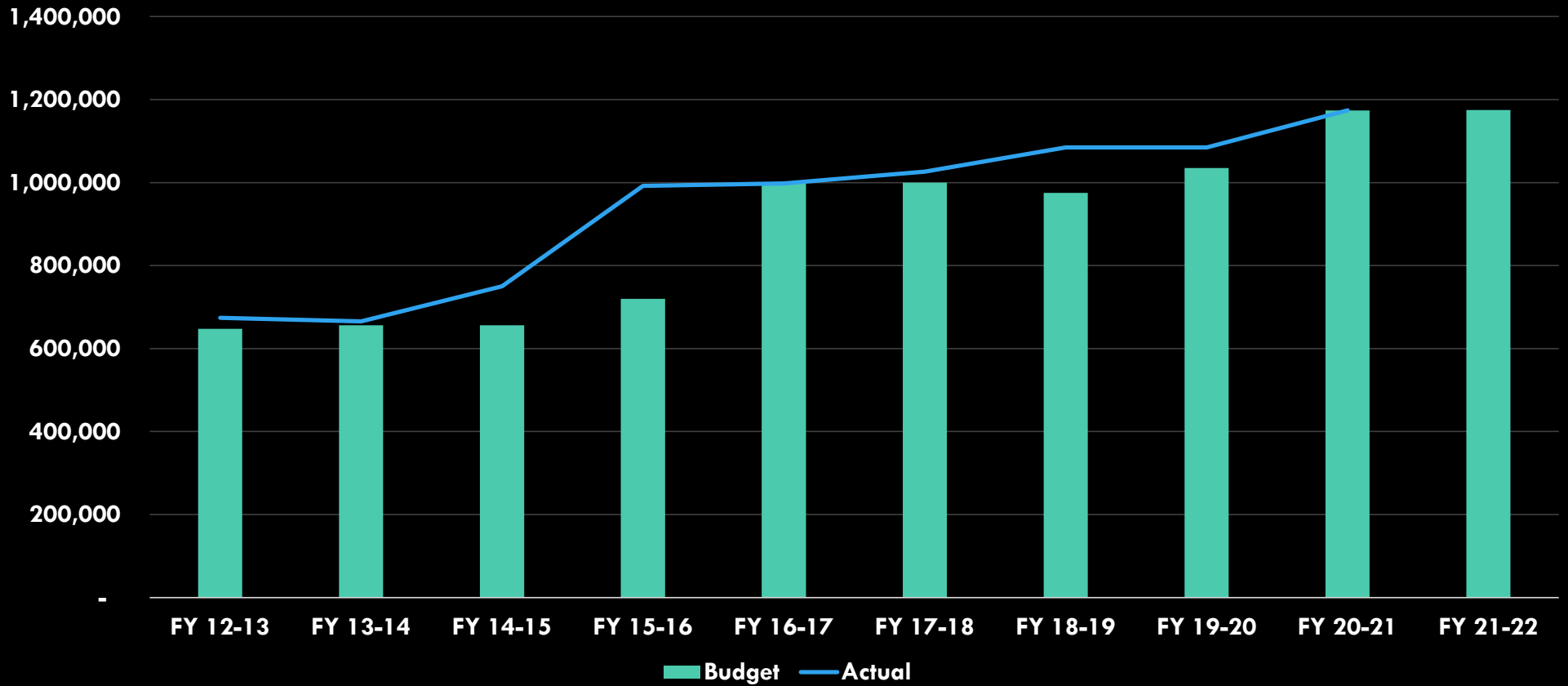
Sales Tax Revenue



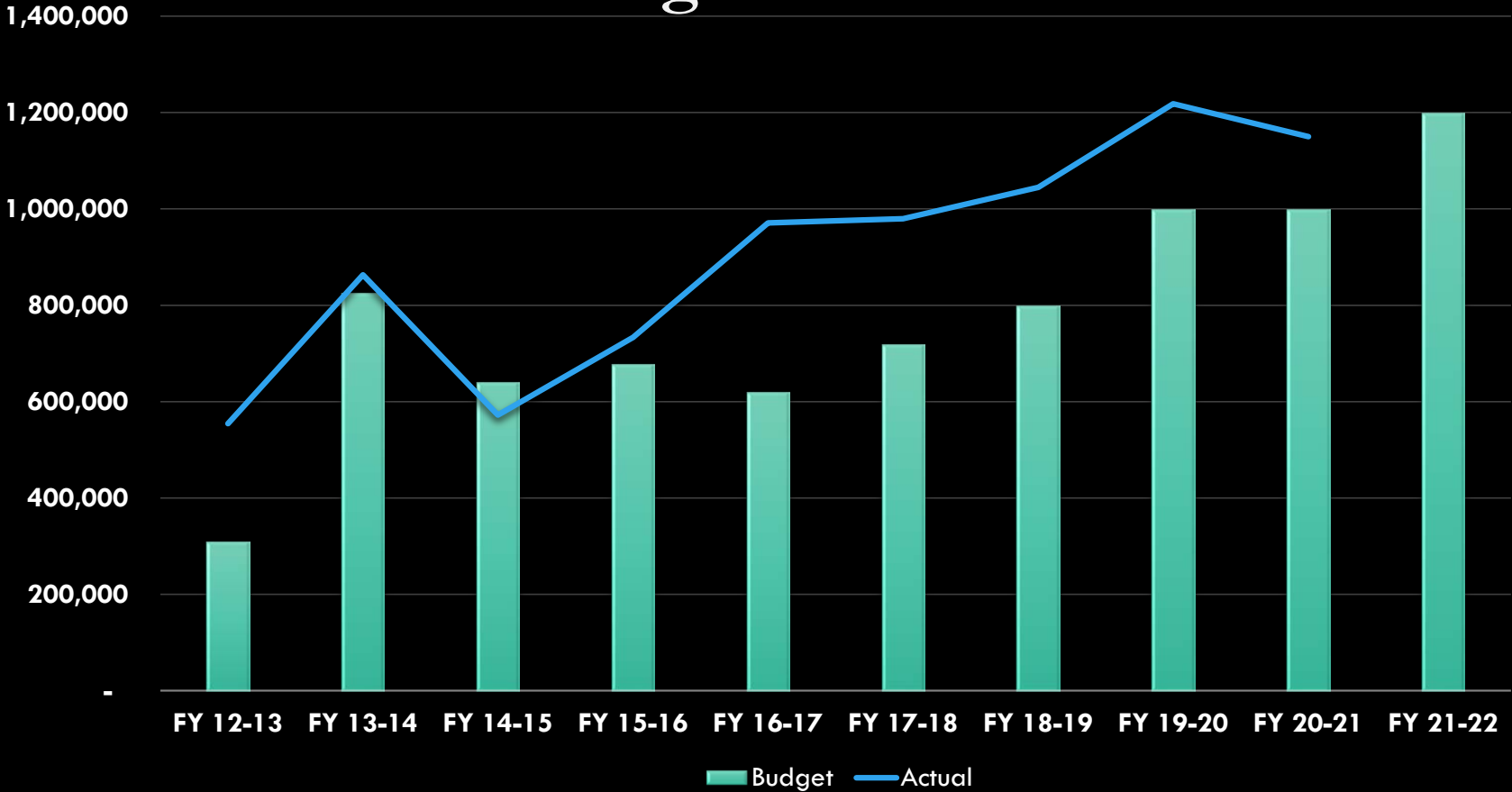
Ad Valorem Tax Revenue



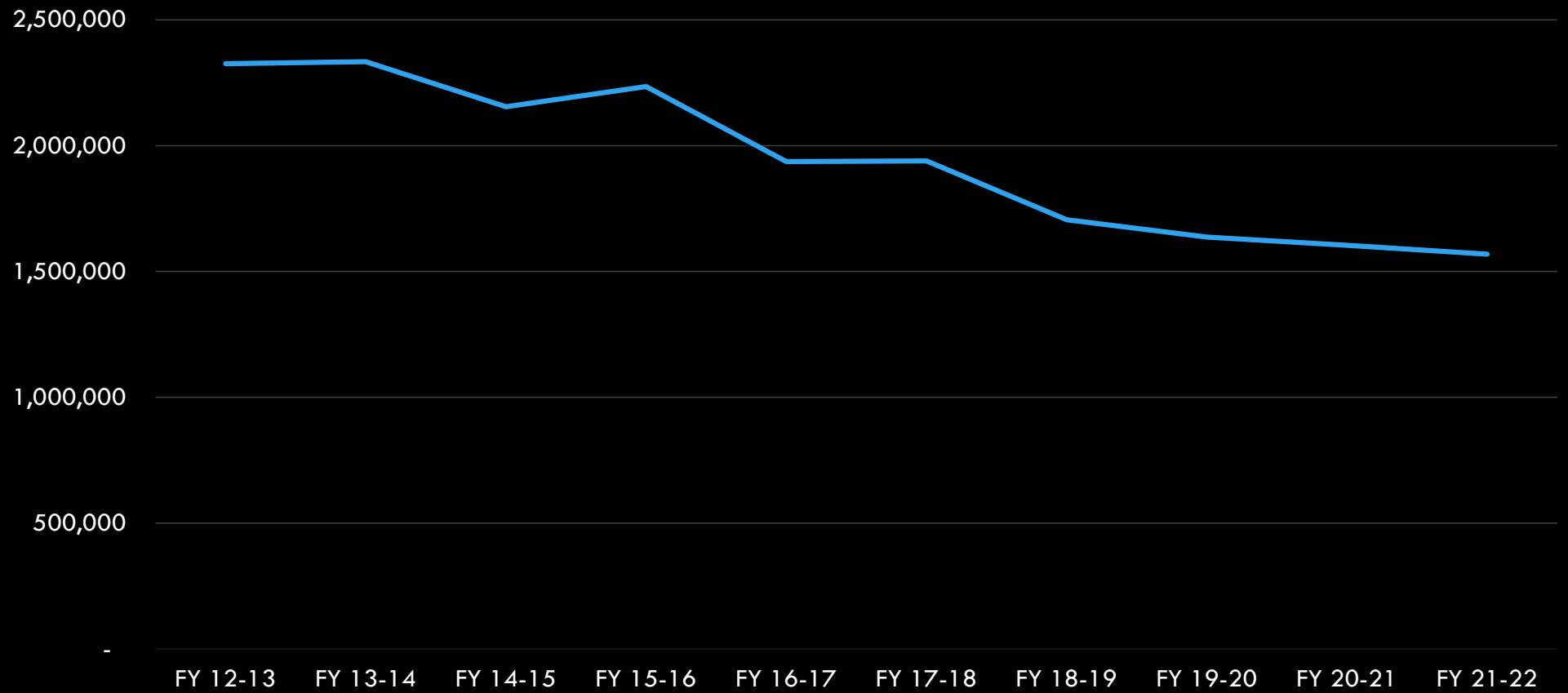
Utility Sales Tax Revenue



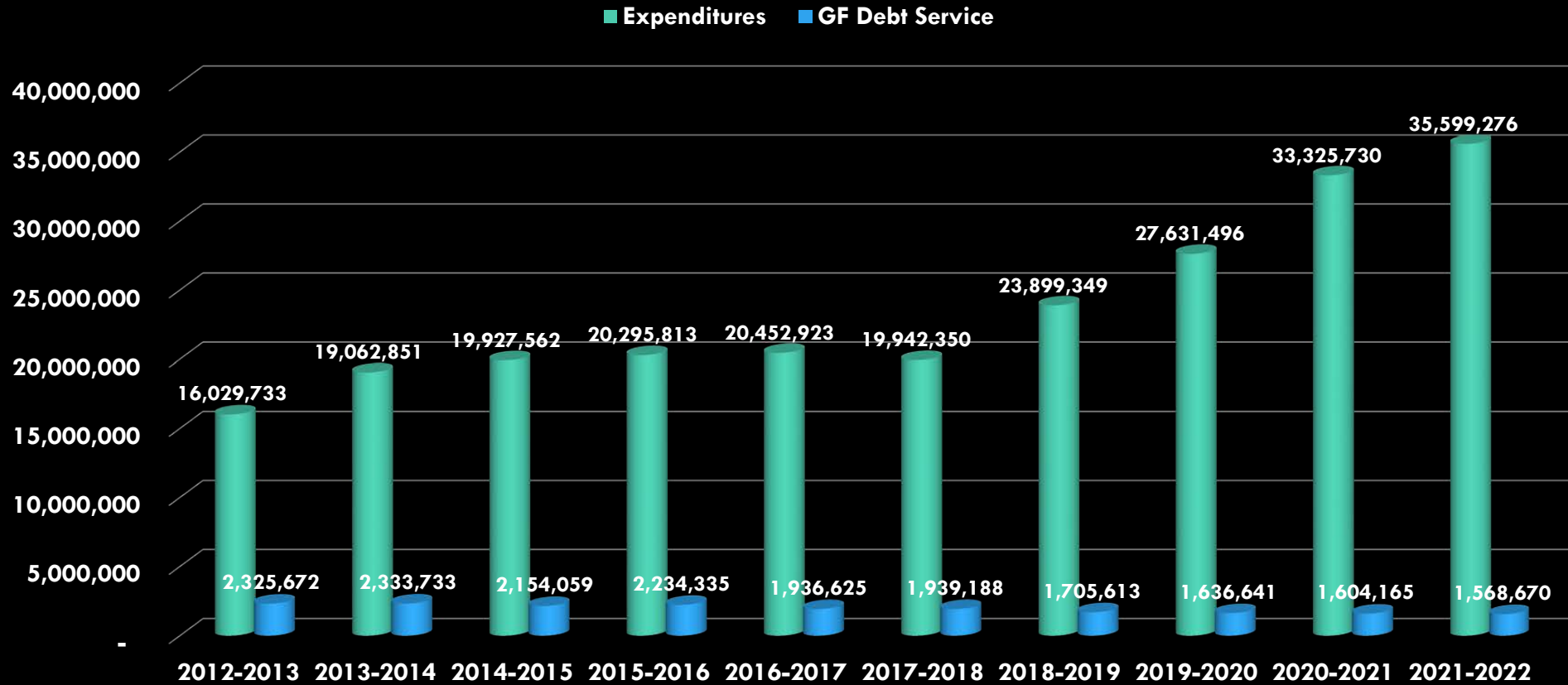
Building Permit Revenue



GF Debt Service



General Fund Debt to Expenditures



Town of Clayton
Fund Balance Projection
June 30, 2021

Fund balances:	General
Nonspendable:	
Inventory	5,000
Perpetual maintenance	-
Restricted:	
Stabilzation by State Statute	2,750,000
Streets - Powell Bill	-
USDA Reserve	-
Public Safety - Police	50,000
Committed	
Public Improvements (Capital Reser	1,110,553
Assigned:	
Public Safety - Fire	2,355
Reserve - Roof Maintenance	284,400
Reserve - Debt Service	1,012,158
Reserve - CIP Funding	1,045,823
Subsequent year's expenditures	1,150,423
Unassigned:	11,079,440
Total Fund Balance	\$ 18,490,152



FINANCIAL POLICY OUTCOMES

Unassigned FB as a % of Net Expenditures

Adopted Council Goal: 30% or greater (never below 20%)

Estimated: 33.2%

WITHIN POLICY



FINANCIAL POLICY OUTCOMES

Debt as % of Estimated Market Value of
Taxable Property

Adopted Council Goal: <2.5%

Estimated: .39%

WITHIN POLICY



FINANCIAL POLICY OUTCOMES

Debt Service as % of Expenditures

Adopted by Council: <15%

Estimated: 4.8%

WITHIN POLICY



FINANCIAL POLICY OUTCOMES

Aggregate 10-Year Payout Ratio

Adopted Council Goal: >55%

Estimated: 95.8%

WITHIN POLICY



FINANCIAL POLICY OUTCOMES

Cash on Hand – Enterprise Funds

Water Sewer Fund Policy	at least 200.75 days
Electric Fund Policy	at least 98.55 days
Water Sewer Fund	301 days (Per Rate Model)
Electric Fund	164 days (Per Rate Model)

WITHIN POLICY



ACKNOWLEDGEMENTS

- Special thanks to the Executive Team (Dolores Gill, Greg Tart, Lee Barbee, and Robert McKie) for their help in developing the budget.
- Special thanks to staff for their assistance and timeliness in submitting and refining their budget requests.
- Special thanks to Council for your input and guidance.

QUESTIONS?





PUBLIC NOTICE

In accordance with NC GS 159-12(b), the Clayton Town Council will hold a public hearing on Monday, June 7, 2021, at 6:00 PM at Town Hall, 111 East Second Street, to receive public comment on the proposed 2021-2022 fiscal year budget for the Town of Clayton. A copy of the proposed budget is on file in the Town Clerk's office at Town Hall, 111 East Second Street.

This is an open meeting and citizens are invited to attend.

Kimberly A. Moffett, CMC, Town Clerk
919-553-5002

Please advertise on the following date:

May 26, 2021
June 2, 2021

Affidavit of publication required.

**Town of Clayton
Fiscal Year 2021-2022
Budget Ordinance**

**BE IT HEREBY ADOPTED BY THE TOWN COUNCIL FOR THE TOWN OF CLAYTON,
NORTH CAROLINA that the following shall be the Fiscal Year 2021 - 2022 Budget:**

Section 1: The following amounts are hereby appropriated in the General Fund for the operation of the town government and its activities for the fiscal year beginning July 1, 2021 and ending June 30, 2022 in accordance with the chart of accounts heretofore established for this town:

General Government	2,448,648
Financial Services	1,147,551
Community Development Services	709,373
Economic Development	117,677
Data and Technology Services	1,613,818
Communications	247,489
Customer Service	0
Law Enforcement	5,969,083
Fire Protection	5,456,351
Property Maintenance	2,820,690
Public Services	8,682,947
Parks & Recreational Services	2,837,006
Cultural & Performing Arts	724,950
Library Operations	837,502
Debt Service	1,986,192
Total	35,599,277

Section 2. It is estimated that the following revenues will be available in the General Fund for the fiscal year beginning July 1, 2021 and ending June 30, 2022:

REVENUES PENDING

Ad Valorem Taxes	17,403,747
State Shared Revenues	8,066,723
Intergovernmental	2,611,478
Permits & Fees	1,605,606
Sales & Services	2,971,917
Grants & Donations	1,433,454
Other Financing Sources	0
Miscellaneous	355,928
Fund Balance/Cap. Reserve	1,150,424
Total	35,599,277

Section 3. The following amounts were hereby appropriated in the Water and Sewer Fund for the operation of the water and sewer utilities for the fiscal year beginning July 1, 2021 and ending June 30, 2022 in accordance with the chart of accounts heretofore approved for the Town:

Non-Departmental	6,017,795
Operations	6,871,847
Preventive Maintenance	1,724,398
Wastewater Treatment Plant	5,140,506
Debt Service	2,021,319
Capital Outlay	7,816,731
Inter-Departmental	2,808,291
Total	32,400,887

Section 4. It is estimated that the following revenues will be available in the Water/Sewer Fund for the fiscal year beginning July 1, 2021 and ending June 30, 2022:

REVENUES PENDING

Intergovernmental	3,640,000
Permits & Fees	3,906,728
Sales & Services	19,332,500
Grants & Donations	0
Other Financing Sources	3,250,000
Miscellaneous	10,600
Fund Balance/Cap. Reserve	2,261,059
Total	32,400,887

Section 5. The following amounts are hereby appropriated in the Electric Fund for the operation of the electric utility for the fiscal year beginning July 1, 2021 and ending June 30, 2022 in accordance with the chart of accounts heretofore approved for the Town:

Non-departmental	82,499
Administration	345,370
Operations	11,998,979
Debt Service	572,075
Capital Outlay	1,598,402
Inter-departmental	1,314,886
Total	15,912,211

Section 6. It is estimated that the following revenues will be available in the Electric Fund for the fiscal year beginning July 1, 2021 and ending June 30, 2022:

REVENUES PENDING

Permits & Fees	464,650
Sales & Services	14,549,724
Grants & Donations	0
Other Financing Sources	383,100
Miscellaneous	36,000
Fund Balance/Cap. Reserve	478,737
Total	15,912,211

Section 7. There is hereby levied a tax at the rate of fifty-eight cents (\$0.58) per one hundred dollars (\$100) valuation of property as listed for taxes as of January 1, 2021 for the purpose of raising the revenue listed as "Ad Valorem Taxes" in the General Fund in Section 2 of this ordinance. This rate is based on estimated real property valuation for the purposes of taxation of \$2,662,478,122 and an estimated rate of collection of 98.5%. The estimated rate of collection is based on the fiscal year 20-21 collection rate of 99.13%. The estimated vehicle property valuation for the purpose of taxation is \$238,603,600. There is hereby levied a Municipal Vehicle Tax at a rate of \$30 per vehicle registered as of July 1, 2021.

Section 8. There are hereby thirty-six (36) new positions approved for Fiscal Year 2021-2022, including two part-time positions. New position authorizations are initially established by the annual budget ordinance and changes authorized by the Town Manager to this schedule may occur during the fiscal year as reclassifications of authorizations to meet the changing needs of the organization.

Section 9. The Budget Officer is hereby authorized to transfer appropriations with the exception of amounts in line item for Council Contingency as contained herein under the following conditions:

- a. The Budget Officer may reallocate appropriations within or across departments and/or major categories as deemed necessary. All reallocations will be reviewed and approved by the Budget Officer or his/her designee.
- b. The Budget Officer may execute inter-fund transfers as anticipated by the Budget Ordinance without additional approval by Council.
- c. The Budget Officer may reallocate funds accrued because of personnel lapse salary to provide the Town Manager with reasonable flexibility to mitigate unforeseen circumstances and/or effectively advance priorities operationally. The maximum amount that can be reallocated during the first six months of the fiscal year is \$50,000 without Council approval. Another \$50,000 can be added to the second half of the fiscal year. The Town Manager will provide a formal mid-year report in January on the usage overall within the first six months. Usage of lapse salary is subject to the Town Manager/Budget Officer's approval and may not be delegated.
- d. No expenditure or transfer shall be made from line item for Council Contingency without express, prior approval by the Town Council.

Section 10. Operating funds encumbered on the financial records as of June 30, 2021, are hereby re-appropriated to Fiscal Year 2021-2022 subject to approval by the Town Manager/Budget Officer.

Copies of this Budget Ordinance shall be furnished to the Clerk, the Council, the Budget Officer, and Finance Director to be kept on file by them for their direction in the disbursement of funds.

Duly adopted this ____ day of June 2021 while in regular session.

Jody L. McLeod
Mayor

ATTEST:

Kimberly Moffett, CMC, NCCMC
Town Clerk

Town of Clayton
Ordinance Establishing Rates and Fees

Be it hereby adopted by the Town Council for the Town of Clayton, North Carolina that the following fees are established as noted herein:

1. Water Rates – Water rates shall be adjusted as reflected in the Comprehensive List of Fees and Charges, Schedule A, which follows, effective July 1, 2021.
2. Sewer Rates – Sewer rates shall be adjusted as reflected in the Comprehensive List of Fees and Charges, Schedule A, which follows, effective July 1, 2021.
3. Solid Waste – Collection and disposal fee will remain at \$20.50 per month, effective July 1, 2021.
4. Reinspection Fees – Reinspection fees for the first reinspection shall be adjusted to \$75 effective July 1, 2021.
5. Various fees and charges shall be adjusted, added, or eliminated as indicated on the Comprehensive List of Fees and Charges, Schedule A which follows, effective July 1, 2021.
6. All other rates, fees, and charges for FY 21-22 shall remain as indicated in the Town of Clayton Comprehensive List of Fees and Charges for FY 21-22 unless the subject of another action.

Duly adopted this ____ day of June 2021 while in regular session.

Jody L. McLeod
Mayor

ATTEST:

Kimberly Moffett, CMC, NCCMC
Town Clerk



Town Council Agenda Cover Sheet

Meeting Date

May 3, 2021

Agenda Location

Introductions & Special Presentations

Item Title

2021-36-ANX Ashcroft Phases 7 & 8 Annexation

Presenter

Kimberly Moffett

Summary/Description

Request to annex a parcel totaling approximately 35.121 acres of land into the Town's jurisdiction. Portions of the parcel are zoned PD-R and PD-MU.

Requested Action

Approval/Denial

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Application
Annexation Plat
Staff Annexation Map

Meeting Timeline

Click or tap here to enter text.



TOWN OF CLAYTON
Planning Department
111 E. Second St., P.O. Box 879
Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

PETITION FOR VOLUNTARY ANNEXATION

VOLUNTARY ANNEXATION: Upon receipt of a valid petition signed by all of the owners of real property in the area described therein, the Town may annex an area either contiguous or not contiguous to its primary corporate limits when the area meets the standards set out under North Carolina General Statutes 160A-31 and 160A-58.1.

Applications are due by 5pm on the first working day of each month.

REQUEST INFORMATION

☒ **Contiguous Annexation**

☐ **Non-Contiguous Annexation**

The following items must accompany an annexation petition:

To be completed by the applicant:	Included?	
	Yes	No
1. Petition for Annexation with original signatures	☒	☐
2. A boundary plat of the area to be annexed meeting requirements of the Plat Checklist (included in this application packet).	☒	☐
3. Legal Description (metes and bounds)	☒	☐

PROCESS:

Review by Staff: The Planning, Engineering and Public Works Departments review the annexation submission. Comments will be sent to the applicant.

Annexation Plat Submission: After the map and legal description are deemed sufficient by the Town, the applicant is required to submit two (2) Mylar annexation plats to the Planning Department.

Town Council Meeting: The Town Council will pass a resolution directing the Town Clerk to investigate the annexation petition. The Town Clerk will present to the Town Council a Certificate of Sufficiency indicating that the annexation petition is complete. A resolution setting the date of the public hearing is then approved.

Legal Advertisement: A legal advertisement will be published no more than 25 days and no less than 10 days prior to the date of the public hearing.

Public Hearing/Town Council Meeting: The Town Council will either adopt or deny an ordinance to extend the corporate limits of the Town of Clayton.

Recordation: If the annexation is approved by the Town Council, the Annexation Plats shall be recorded at the appropriate county Register of Deeds.

**PETITION FOR VOLUNTARY ANNEXATION APPLICATION – PROPERTY INFORMATION
COMPLETE IF A LIMITED LIABILITY COMPANY:**

Submittal Date: 04/21/2021

Petition No.: _____

To the Town Council of the Town of Clayton, North Carolina:

1. I/We the undersigned owner(s)* of real property respectfully request that the area described in Paragraph 2 below be annexed to the Town of Clayton, North Carolina.

*If the owner of real property is a corporation or religious entity, attach a copy of the articles of incorporation describing who is/are authorized to sign with the petition.

2. The area to be annexed is x contiguous, _____ non-contiguous to the Town of Clayton, North Carolina and the boundaries of such territory are as provided in the boundary plat attached hereto.
3. If contiguous, this annexation will include all intervening rights-of-way for streets, railroads, and other areas as stated in G.S. 160A-31(f), unless otherwise stated in the annexation amendment.
4. Attached is a statement of the schedule for full development of the property to be annexed, which includes the type, number, and estimated value of planned improvements, if applicable.

Total acreage to be annexed: 35.23 acres
Existing housing units: 0
Population of acreage to be annexed: 0
Existing Zoning District*: PD-RMU
Proposed Town Zoning District*: PD-MU Fire District: Clayton Fire District
Reason for petitioner to annex: x Receive Town Services
_____ Other (please specify): _____

5. I/We acknowledge that any zoning vested rights acquired pursuant to G.S. 160A-385.1 or G.S. 153A-344.1 must be declared and identified on this petition. I/We further acknowledge that failure to declare such rights on this petition shall result in a termination of vested rights previously acquired for the property. (If zoning vested rights are claimed, indicate below and attach proof.)

In witness whereof, Ashcroft Partners, LLC a limited liability company, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this 21 day of April, 2021.

Name of Limited Liability Company: Ashcroft Partners, LLC

By: [Signature]
Signature of Member/Manager

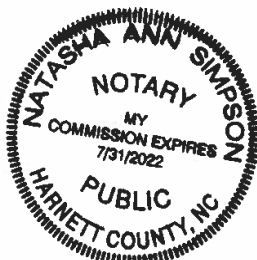
**STATE OF NORTH CAROLINA
COUNTY OF JOHNSTON**

Sworn and subscribed before me, Natasha Ann Simpson, a Notary Public for the above State and County, this 21st day of April, 2021.

[Signature]
Notary Public NATASHA ANN SIMPSON

My Commission Expires: 7-31-2022

SEAL



July 2018

Page 2 of 3

Voluntary Annexation Plat Checklist

#	Required Plat Items
1.	Fully dimensioned by metes and bounds, and the location of intersecting boundary lines of the existing town limits, labeled and distinctly marked. Include full right-of-way if the area on both sides is or will be in the corporate limits.
2.	Any utility easements with metes and bounds.
3.	Accurate locations and descriptions of all monuments, markers and control points.
4.	Ultimate right-of-way widths on all streets.
5.	Entitle "ANNEXATION MAP FOR THE TOWN OF CLAYTON" OR "SATELLITE ANNEXATION MAP FOR THE TOWN OF CLAYTON," as appropriate.
6.	Name of property owner(s).
7.	Name, seal, and registration of Professionally Licensed Surveyor (PLS).
8.	Date of the survey and map preparation; a north arrow indicating whether the index is true magnetic North Carolina grid (NAD 83 or NAD 27) or deed; graphic scale; and declination.
9.	Names of the township, county, and state.
10.	A detailed vicinity map.
11.	Include address of property if assigned.
12.	Show all contiguous or non-contiguous town limits.
13.	The following certification must be placed on the map near a border to allow the map to be sealed: Annexation # _____ I, Samantha Wullenwaber, MPA, Planning Director, Clayton, North Carolina certify this is a true and exact map of annexation adopted the _____ day of _____, _____, by the Town Council. I set my hand and seal to the Town of Clayton, _____. Day/Month/Year _____ Samantha Wullenwaber MPA
14.	Leave 2 inch by 2 inch space for the county Register of Deeds stamp on the plat. All final plats must be stamped and signed before they can be accepted by the Town.



1. THIS SURVEY MAP IS INTENDED TO REPRESENT AN ANNEXATION MAP ON THE PROPERTY OF ASHCROFT PARTNERS, LLC, PIN 05022008, AND IS NOT A BOUNDARY SURVEY. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND THEREFORE ALL ENCUMBRANCES UPON THE PROPERTY MAY NOT BE SHOWN.
2. THE PROPERTY LINES SHOWN HEREON HAVE BEEN CONFIRMED FROM A SURVEY BY STEWART INC. PROPERTY LINES SHOWN TAKEN FROM PLAT BOOK 70, PAGE 403, JOHNSTON COUNTY REGISTRY.
3. HORIZONTAL DATUM IS NAD 83. NO NGS NGS MONUMENT WITHIN 2000'.
4. THE INITIAL STATE PLANE POSITIONS FOR THIS SURVEY WERE SCALED FROM GRID TO GROUND FROM A PROJECT LOCATION TRA-V-2 N:698550.13 E:2165903.96, AN ELEVATION OF 255.30, USING A COMBINED FACTOR OF 0.99898797.
5. THE SUBJECT PROPERTY IS ZONED "TOWN PD-R" PER JOHNSTON COUNTY GIS AND "PLANNED DEVELOPMENT RESIDENTIAL" PER TOWN OF CLAYTON DEVELOPMENT MAP.
6. THE SUBJECT PROPERTY LIES IN ZONES X (AREA DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE AND FLOOD CONDITIONS 1% ANNUAL CHANCE FLOODPLAIN). BASED ON THE FLOOD INSURANCE RATE MAP COMMUNITY MAP NUMBER 3720166900K DATED 06/20/18.
7. AREAS COMPUTED BY COORDINATE GEOMETRY. ALL HORIZONTAL DISTANCES ARE HORIZONTAL GROUND IN U.S. SURVEY FEET.

TOWN CLERK OF THE TOWN OF CLAYTON DO HEREBY CERTIFY THAT
THIS MAP IS THE CORRECT MAP REPRESENTING THE PROPERTY WHICH
WAS ANNEXED TO THE TOWN OF CLAYTON BY ORDINANCE
NO. _____ PASSED _____ AND RECORDED IN
ORDINANCE BOOK _____ PAGES _____ DATED THIS
_____ DAY OF _____.

TOWN CLERK _____ [CITY SEAL]

ANNEXATION # _____

_____, PLANNING DIRECTOR, CLAYTON, NORTH
CAROLINA CERTIFY THIS IS A TRUE AND EXACT MAP OF ANNEXATION
ADOPTED THE _____ DAY OF _____, _____, BY
THE TOWN COUNCIL. I SET MY HAND AND SEAL TO THE TOWN OF
CLAYTON, _____.

PLANNING DIRECTOR SIGNATURE

NORTH CAROLINA

JOHNSTON COUNTY

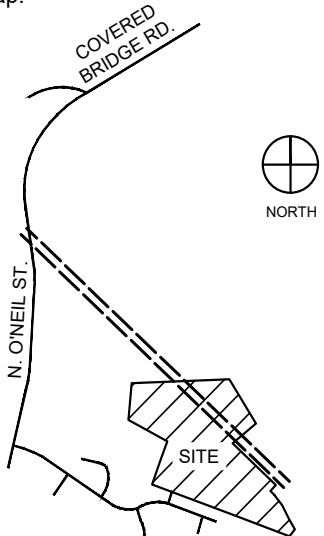
DUSTIN J. MCCARTHY, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK 5318, PAGE 64); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN BOOK _____ SEE _____ PAGE _____ PLAT _____; THAT THE RATIO OF PRECISION AS CALCULATED IS 1:20,000.; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G. S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS _____ DAY OF _____, A.D., 2021.

FURTHERMORE, I CERTIFY THAT

THAT THE SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND
AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING
STREET

DUSTIN J. McCARTY, PLS L-5213

Vicinity Map:



	EIP	EXISTING IRON PIPE
	EIR	EXISTING IRON ROD
	▲	COMPUTED POINT
	⊗	SANITARY SEWER MANHOLE
	⊙	UTILITY POLE
	---	0.2% CHANCE FLOOD LINE
	---	1% CHANCE FLOOD LINE
	FW---	FLOODWAY LINE
	SS---	SANITARY SEWER LINE
	DHW---	OVERHEAD WIRES
	—	CITY LIMITS
	—	ZONING LIMITS
	- - -	EASEMENT LINE
	—	ANNEXATION/PROPERTY LINE
	—	PROPERTY LINE NOT SURVEYED
		ANNEXATION AREA



SCALE: 1" = 150'

Title:

**ANNEXATION MAP
FOR:**

ASHCROFT SUBDIVISION

TOWN OF CLAYTON
JOHNSTON COUNTY, NORTH CAROLINA
DATE: 04/20/2021 SCALE: 1"=150'

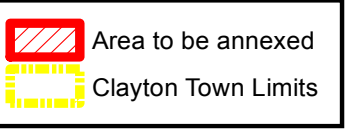
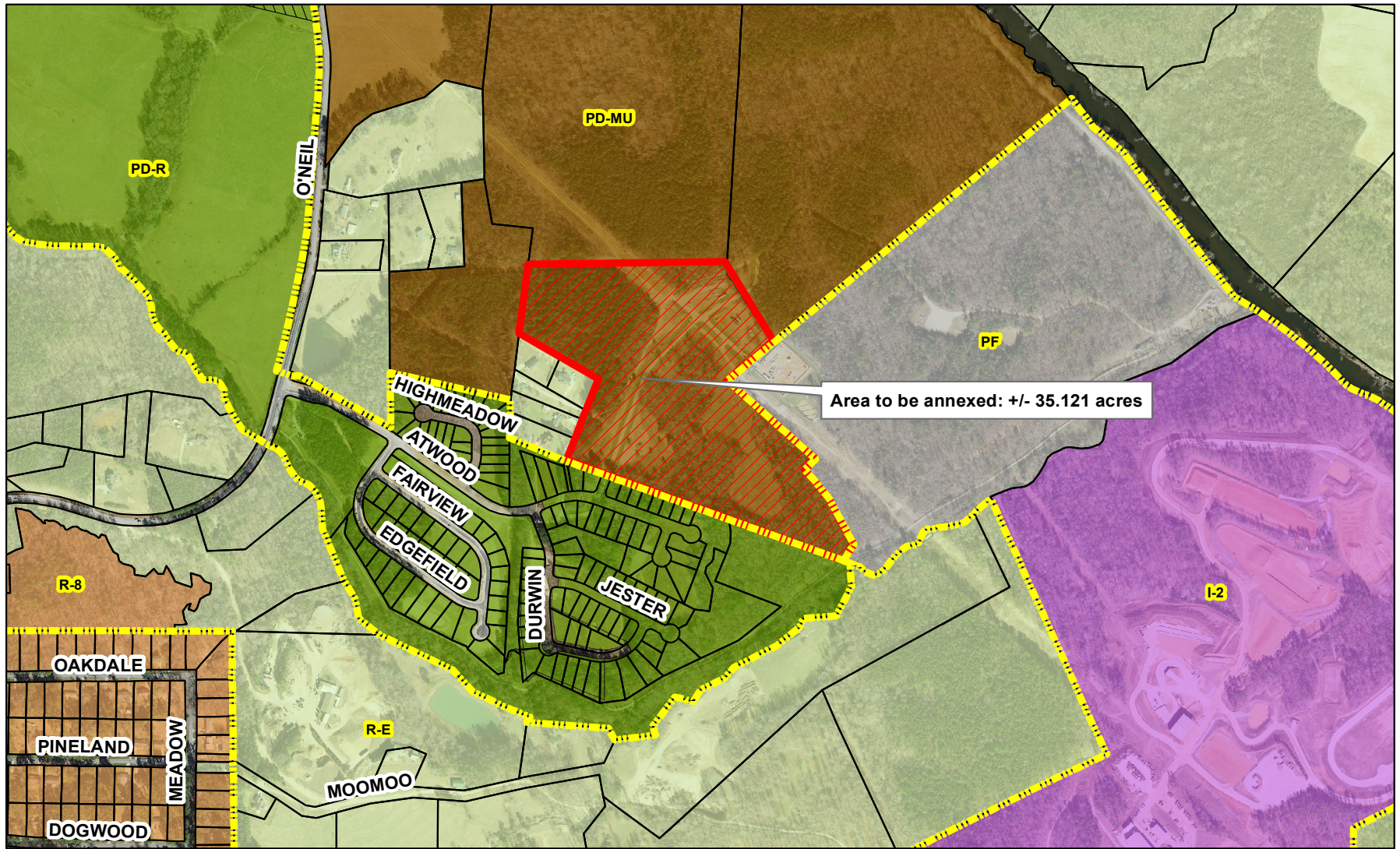


STEWART

5410 OLD POOLE ROAD
RALEIGH, NC 27610
T 919.380.8750

FIRM LICENSE #: C-105
www.stewartinc.com
PROJECT #: L20017

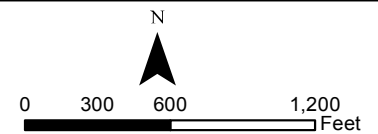
BEGINNING AT AN EXISTING IRON PIPE, SAID PIPE HAVING NC NAD83(2011) GRID COORDINATES N:697425.70, E:2167968.65, AND PROCEEDING S31°38'54"E A DISTANCE OF 544.46 FEET TO AN EXISTING IRON PIPE; THENCE S50°52'01"W A DISTANCE OF 324.65 FEET TO A POINT; THENCE S46°41'00"E A DISTANCE OF 634.29 FEET TO AN EXSTING IRON PIPE; THENCE S43°19'00"W A DISTANCE OF 84.45 FEET TO AN EXISTING IRON PIPE; THENCE S44°02'14"E A DISTANCE OF 62.03 FEET TO AN EXISTING IRON PIPE; THENCE S39°40'21"E A DISTANCE OF 76.44 FEET TO AN EXISTING IRON PIPE; THENCE S36°40'00"E A DISTANCE OF 56.41 FEET TO AN EXISTING IRON PIPE; THENCE S27°18'33"E A DISTANCE OF 164.69 FEET TO AN EXISTING IRON PIPE; THENCE S30°37'04"E A DISTANCE OF 121.20 FEET TO A POINT; THENCE S39°02'35"W A DISTANCE OF 92.88 FEET TO AN EXISTING IRON PIPE; THENCE N69°50'29"W A DISTANCE OF 641.42 FEET TO A POINT; THENCE N69°53'35"W A DISTANCE OF 920.18 FEET TO AN EXISTING IRON ROD; THENCE N19°10'12"E A DISTANCE OF 131.62 FEET TO A POINT; THENCE N20°15'30"E A DISTANCE OF 165.10 FEET TO AN EXISTING BENT IRON PIPE; THENCE CONTINUING N20°15'30"E A DISTANCE OF 183.75 FEET TO AN EXISTING IRON PIPE; THENCE N61°59'25"W A DISTANCE OF 472.37 FEET TO A POINT; THENCE N05°21'46"E A DISTANCE OF 386.35 FEET TO AN EXISTING IRON PIPE; THENCE N87°44'52"E A DISTANCE OF 1042.16 FEET TO AN EXISTING IRON PIPE AND THE POINT AND PLACE OF BEGINNING, CONTAINING 1,529,880 SQUARE FEET OR 35.121 ACRES, MORE OR LESS.



Produced by: TOC Planning
April 26, 2021

Annexation Map

Applicant(s): Ashcroft Partners, LLC
Property Owner(s): Ashcroft Partners, LLC
Parcel Number(s): 05H02200B
File Number(s): 2021-36-ANX



Disclaimer: Town of Clayton assumes no legal responsibility for the information represented here.

The Clayton Town Council has called a public hearing at 6:00 PM on June 7, 2021, at Town Hall, 111 E. Second Street, on the question of annexing the following described contiguous area, requested by annexation petition 2021-36-ANX Ashcroft Ph. 7 & 8 filed pursuant to G.S. 160A-31:

The area proposed for annexation is described as the following: Lying and being in Clayton Township, Johnston County, North Carolina and being more particularly described as follows:

BEGINNING AT AN EXISTING IRON PIPE, SAID PIPE HAVING NC NAD83(2011) GRID COORDINATES N:697425.70, E:2167968.65, AND PROCEEDING S31°38'54"E A DISTANCE OF 544.46 FEET TO AN EXISTING IRON PIPE; THENCE S50°52'01"W A DISTANCE OF 324.65 FEET TO A POINT; THENCE S46°41'00"E A DISTANCE OF 634.29 FEET TO AN EXISTING IRON PIPE; THENCE S43°19'00"W A DISTANCE OF 84.45 FEET TO AN EXISTING IRON PIPE; THENCE S44°02'14"E A DISTANCE OF 62.03 FEET TO AN EXISTING IRON PIPE; THENCE S39°40'21"E A DISTANCE OF 76.44 FEET TO AN EXISTING IRON PIPE; THENCE S36°40'00"E A DISTANCE OF 56.41 FEET TO AN EXISTING IRON PIPE; THENCE S27°18'33"E A DISTANCE OF 164.69 FEET TO AN EXISTING IRON PIPE; THENCE S30°37'04"E A DISTANCE OF 121.20 FEET TO A POINT; THENCE S39°02'35"W A DISTANCE OF 92.88 FEET TO AN EXISTING IRON PIPE; THENCE N69°50'29"W A DISTANCE OF 641.42 FEET TO A POINT; THENCE N69°53'35"W A DISTANCE OF 920.18 FEET TO AN EXISTING IRON ROD; THENCE N19°10'12"E A DISTANCE OF 131.62 FEET TO A POINT; THENCE N20°15'30"E A DISTANCE OF 165.10 FEET TO AN EXISTING BENT IRON PIPE; THENCE CONTINUING N20°15'30"E A DISTANCE OF 183.75 FEET TO AN EXISTING IRON PIPE; THENCE N61°59'25"W A DISTANCE OF 472.37 FEET TO A POINT; THENCE N05°21'46"E A DISTANCE OF 386.35 FEET TO AN EXISTING IRON PIPE; THENCE N87°44'52"E A DISTANCE OF 1042.16 FEET TO AN EXISTING IRON PIPE AND THE POINT AND PLACE OF BEGINNING, CONTAINING 1,529,880 SQUARE FEET OR 35.121 ACRES, MORE OR LESS.

This is an open meeting and the public is invited to attend.
The Johnstonian
May 26, 2021

Ordinance #2021-06-03

ANNEXATION PETITION 2021-36-ANX
Ashcroft Partners, LLC
Parcel: 05H02200B
Owners: Ashcroft Partners, LLC
Contiguous; 35.23 +/- acres

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
TOWN OF CLAYTON, NORTH CAROLINA**

WHEREAS, the Town of Clayton has been petitioned under G.S. 160A-31 to annex the area described below; and

WHEREAS, the Town of Clayton has by resolution directed the Town Clerk to investigate the sufficiency of the petition; and

WHEREAS, the Town Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at Town Hall at 6:00 PM on June 7, 2021 after due notice of publication on May 26, 2021.

WHEREAS, the Town of Clayton finds that the petition meets the requirements of G.S. 160A-31;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Clayton, North Carolina that:

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the Town of Clayton as of June 7, 2021.

BEGINNING AT AN EXISTING IRON PIPE, SAID PIPE HAVING NC NAD83(2011) GRID COORDINATES N:697425.70, E:2167968.65, AND PROCEEDING S31°38'54"E A DISTANCE OF 544.46 FEET TO AN EXISTING IRON PIPE; THENCE S50°52'01"W A DISTANCE OF 324.65 FEET TO A POINT; THENCE S46°41'00"E A DISTANCE OF 634.29 FEET TO AN EXSTING IRON PIPE; THENCE S43°19'00"W A DISTANCE OF 84.45 FEET TO AN EXISTING IRON PIPE; THENCE S44°02'14"E A DISTANCE OF 62.03 FEET TO AN EXISTING IRON PIPE; THENCE S39°40'21"E A DISTANCE OF 76.44 FEET TO AN EXISTING IRON PIPE; THENCE S36°40'00"E A DISTANCE OF 56.41 FEET TO AN EXISTING IRON PIPE; THENCE S27°18'33"E A DISTANCE OF 164.69 FEET TO AN EXISTING IRON PIPE; THENCE S30°37'04"E A DISTANCE OF 121.20 FEET TO A POINT; THENCE S39°02'35"W A DISTANCE OF 92.88 FEET TO AN EXISTING IRON PIPE; THENCE N69°50'29"W A DISTANCE OF 641.42 FEET TO A POINT; THENCE N69°53'35"W A DISTANCE OF 920.18 FEET TO AN EXISTING IRON ROD; THENCE N19°10'12"E A DISTANCE OF 131.62 FEET TO A POINT; THENCE N20°15'30"E A DISTANCE OF 165.10 FEET TO AN EXISTING BENT IRON PIPE; THENCE CONTINUING N20°15'30"E A DISTANCE OF 183.75 FEET TO AN EXISTING IRON PIPE; THENCE N61°59'25"W A DISTANCE OF 472.37 FEET TO A POINT; THENCE N05°21'46"E A DISTANCE OF 386.35 FEET TO AN EXISTING IRON PIPE; THENCE N87°44'52"E A DISTANCE OF 1042.16 FEET TO AN EXISTING IRON PIPE AND THE POINT AND PLACE OF BEGINNING, CONTAINING 1,529,880 SQUARE FEET OR 35.121 ACRES, MORE OR LESS.

Section 2: Upon and after June 7, 2021, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Clayton and shall be entitled to the same privileges and benefits as other parts of the Town of Clayton. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the Town of Clayton shall cause to be recorded in the office of the Register of Deeds of Johnston County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the County Board of Elections, as required by G.S. 163-288.1.

Duly adopted this the 7th day of June, 2021 while in regular session.

Jody L. McLeod
Mayor

ATTEST:

Kimberly A. Moffett, CMC, NCCMC
Town Clerk

**NORTH CAROLINA
JOHNSTON COUNTY**

This the _____ day of _____, 2021 _____ personally appeared before me, Kimberly A. Moffett, Clerk of the Town of Clayton, who, being duly sworn by me, says that she knows the common seal of the Town of Clayton and is acquainted with Jody L. McLeod, who is the Mayor and presiding member of said municipal corporation; and that she saw the said Mayor sign the foregoing instrument and saw the said common seal of said municipal corporation affixed to said instrument by said Mayor, and that she, the said Kimberly A. Moffett, signed her name in attestation of said instrument in the presence of said Mayor.

Witness my hand and notarial seal, this the day and year first above written.

(SEAL)

Notary Public - Signature

Notary Public – Printed Name

Commission Expires: _____

County of Commission: _____



Town Council Agenda Cover Sheet

Meeting Date

June 7, 2021

Agenda Location

Old Business

Item Title

MOU between Triangle Land Conservancy and the Town of Clayton

Presenter

Scott Barnard, Parks and Recreation Director

Summary/Description

The Town of Clayton, NC is partnering with the Triangle Land Conservancy to develop and maintain a trail system for non-motorized recreation including hiking and mountain biking. The trails are accessible from the Neuse River Greenway in Clayton and from the Williamson Preserve entrance in Wake County. TLC has been successful in developing and managing off road trail systems throughout the triangle region and this partnership enables the creation of a destination trail system.

This MOU formalizes the responsibilities and management of the 325 acre tract the town leased from the State of North Carolina in 2010.

Requested Action

Approval/Denial

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Lease between Town and State of North Carolina

MOU between Town and Triangle Land Conservancy

Meeting Timeline

Click or tap here to enter text.

STATE OF NORTH CAROLINA

LEASE AGREEMENT

COUNTY OF JOHNSTON and WAKE

THIS LEASE AGREEMENT (hereinafter the "Lease"), made and entered into as of the last date set forth in the notary acknowledgments below by and between the STATE OF NORTH CAROLINA, a body politic and corporate (hereinafter referred to as "Lessor"), and the TOWN OF CLAYTON, a North Carolina municipal corporation (hereinafter referred to as "Lessee");

WITNESSETH:

THAT, WHEREAS, the Department of Environment and Natural Resources, Division of Parks and Recreation, has requested and approved the execution of this instrument for the purpose herein specified; and

WHEREAS, the execution of this Lease for and on behalf of the State of North Carolina has been duly approved by the Governor and Council of State at a meeting held in the City of Raleigh, North Carolina, on the 2nd day of February, 2010; and

WHEREAS, the parties hereto have mutually agreed to the terms of this Lease as hereinafter set out.

NOW, THEREFORE, Lessor, for and in consideration of the sum of ONE DOLLAR, and other good and valuable consideration, receipt of which is hereby acknowledged, and in further consideration of the premises, and the terms and conditions hereinafter set forth, does hereby demise and lease to Lessee, and Lessee does hereby rent from Lessor, that certain parcel or tract land owned by Lessor, lying and being in Johnston and Wake Counties, North Carolina, and being more particularly described on **Exhibit A** attached hereto and incorporated herein by reference (hereinafter the "Premises").

1. TERMS AND CONDITIONS:

1.1 Initial Term. TO HAVE AND TO HOLD the Premises for a period of forty (40) years, commencing on the 1st day of March, 2010, and ending on the 28th day of February, 2050, unless earlier terminated as provided herein (the "Initial Term").

1.2 Renewal Term. Lessee shall have the option to renew this Lease for an additional twenty-five (25) year period (the "Renewal Term") under the same terms and conditions by giving Lessor not less than sixty (60) days advance written notice of the intent to so renew prior to the expiration of the Initial Term. The Initial Term and Renewal Terms are collectively referred to herein as the "Term."

Page 1 of 13

2. RENT

Lessee shall pay to Lessor as annual rental for the Premises the sum of ONE DOLLAR (\$1.00) for the Term.

3. USE OF PREMISES

3.1 Uses. Lessee acknowledges that the Premises is part of Lessor's Mountains-to-Sea State Trail program and agrees to use and maintain the Premises in its natural condition for educational, aesthetic, passive recreational and scientific purposes without alteration or disturbance of habitats, plants or animal populations except as may be deemed necessary and appropriate under an approved plan by Lessor for management and use of the Premises as part of the Mountains-to-Sea State Trail. Notwithstanding any provision in this Lease to the contrary, any use of the Premises shall be consistent with Article 6 of Chapter 113A of the North Carolina General Statutes.

3.2 Nature and Historic Preserve. Lessee shall adhere and abide by all provisions of the State Nature and Historic Preserve Dedication Act (Article 25B of Chapter 143 of the North Carolina General Statutes) and the provisions and conditions of the Land and Water Conservation Fund as required in writing by the Lessor.

3.3 Assignment. Lessee may not assign or sublease any part of the Premises. The parties agree however, that this restriction on assignment and subleasing is not meant to restrict Lessee from entering into agreements from time to time with third parties engaged in educational, recreational or scientific endeavors for use of all or some of Premises in a manner consistent with this Lease. Notwithstanding this provision, Lessee is hereby granted express permission to enter such contracts with the City of Greensboro as are necessary to assist in the management and maintenance of the Premises.

3.4 Warranties. It is understood and agreed that Lessor makes no warranties as to title, seisin, encumbrances, possession, or use except as provided for in this Lease.

4. CONDITION OF PREMISES

4.1 Condition. Subject to the right of Piedmont Natural Gas Company, Inc. to a install gas line on that portion of the Premises as more particularly described on **Exhibit B**, attached hereto and incorporated herein by reference, Lessor agrees to deliver the Premises to Lessee in its present condition. Except as otherwise expressly provided herein, Lessee acknowledges that the Premises is being delivered "as is", that Lessee has performed preliminary investigations and reviews and has concluded on its own judgment that the Premises are suitable for the purposes intended, without any representations or warranties of any kind (including, without limitation, any express or implied warranties of merchantability, fitness or habitability) from Lessor or any agent of Lessor. Lessee's entry into possession shall constitute conclusive evidence that as of the date thereof the Premises were in good order and satisfactory condition.

Page 2 of 13

4.2 Lessor's Right to Inspect. Lessor may enter upon and inspect the Premises for purposes of insuring Lessee's compliance with this Lease and for the additional purpose of fulfilling its obligations.

5. ALTERATIONS, CHANGES AND IMPROVEMENTS

5.1 Approval for Alterations. Lessee shall not have the right to make any alterations, changes, improvements, structural or otherwise, in or to the Premises without the prior written consent of Lessor, which shall not be unreasonably withheld. Any alterations or improvements to the Premises shall comply with all applicable governmental laws, rules, ordinances and regulations. At any time prior to the commencement of any alteration or upfitting of the Premises by Lessee, plans for the intended work shall be provided to Lessor for approval by the Department of Environment and Natural Resources, Division of Parks and Recreation, the State Construction Office, the State Department of Insurance and any other necessary approval bodies. Notwithstanding this provision, Lessee shall be allowed to use volunteers to assist in trail building and small projects on the Premises.

5.2 Contractor Insurance. Any contractor employed by Lessee to provide such alteration or upfitting shall be appropriately licensed by the State of North Carolina. Said Contractor shall provide and maintain, during the life of the contract, Comprehensive General Liability Insurance, including coverage for Premises Operations, Independent Contractors, Completed Operations, Products and Contractual Exposures, as shall protect such Contractors from claims arising out of any bodily injury, including accidental death, as well as from claims for property damages which may arise from operations under the contract, whether such operations by the Contractor or by any Subcontractor, or by anyone directly or indirectly employed by either of them and the minimum limits of such insurance shall be as follows:

Bodily Injury:	\$500,000 per occurrence
Property Damage:	\$100,000 per occurrence \$300,000 aggregate
\$500,000	Combined Single Limit shall satisfy both conditions

This provision shall not apply to volunteers who have executed a waiver holding Lessee, its agents and employees, harmless from any claim for liability arising out of the volunteer services provided.

6. INSURANCE, LIABILITY & INDEMNITY

6.1 Indemnification. To the extent permitted by law, during the term of this Lease, Lessee agrees to release, discharge, indemnify and hold harmless Lessor, its successors and assigns, from and against all loss, costs, expense, liability, claims and actions, whatsoever, in connection with injury to or death of any person or persons, or loss of or damage to property

caused by or in any way connected with or arising out of the lease and use of the Premises by Lessee, and Lessee's assigns, representatives, employees, agents, patrons or invitees.

6.2 Lessor Not Liable for Damages or Injury. Lessor and Lessee covenant and agree that Lessor will not be responsible to Lessee for damages to Lessee or any other firm, person or corporation during the term of this Lease by virtue of burst water pipes, tornadoes, earthquakes, windstorms, overflow of water from surface drainage, rains, water, fire or by any elements or acts of God, or by the neglect of any other person or persons.

6.3 Surrender of Premises. Upon termination of this Lease, Lessee will peaceably surrender the Premises in as good order and condition as when received, reasonable use and wear and damage by fire, war, riots, insurrection, or public calamity, by the elements, by act of God or by circumstances over which Lessee had no control or for which Lessor is responsible pursuant to this Lease, excepted.

7. UTILITIES, MAINTENANCE, TAXES AND ASSESSMENTS

7.1 Utility Services. Lessee agrees to make all arrangements for and to pay, prior to delinquency, directly to the appropriate utility company, all charges for utility services supplied to Lessee for Lessee's use in or about the Premises including, but not limited to, gas, electricity, water, telephone, trash collection, and for all connection charges, fees or taxes.

7.2 Maintenance by Lessee. At all times during the Term, Lessee shall, at Lessee's own cost and expense, keep and maintain the Premises in good order and repair.

7.3 Alterations. Lessee shall provide at its sole expense upfitting necessary for Lessee's approved use of the Premises. All alterations and improvements made to the Premises at Lessee's expense shall become the property of Lessor at the termination of this Lease or the vacancy of the Premises by Lessee. It is agreed that upon the termination of this Lease or the vacancy of the Premises by Lessee any alterations or improvements made by Lessee will be removed at Lessor's request, even if permanently affixed, at Lessee's sole expense and the Premises restored by Lessee to a condition comparable to that in which they were prior to the letting of this Lease. It is further agreed that upon the termination of this Lease or the vacancy of the Premises by Lessee, any personal property of Lessee remaining on the Premises thirty (30) days after the termination of this Lease shall, at Lessor's option, become the property of Lessor.

7.4 Taxes and Assessments. Any and all taxes and other assessments which may be levied upon the Premises, upon Lessee's interest in the Premises and upon any alterations, additions and improvements thereon and/or upon the Lessee's personal property located upon the Premises shall be paid by Lessee at the time when the taxes and other assessments become due and payable.

8. LESSEE COVENANTS

8.1 Liens. Lessee shall not encumber the Premises with any mortgages or permit any mechanic's, materialman's, contractor's, subcontractor's or other similar lien arising from any work of improvement performed by or on behalf of Lessee, however it may arise, to stand against the Premises. In the event the Premises are encumbered by any such lien, Lessee may in good faith contest the claim underlying such lien, so long as Lessee immediately bonds or otherwise discharges the lien.

8.2 Waste. Lessee shall not use the Premises in any manner that will constitute waste, nuisance, or unreasonable annoyance.

8.3 Compliance. Lessee agrees to comply, at Lessee's sole cost and expense, with all governmental laws, rules, ordinances and regulations applicable to the Premises or Lessee's use and occupancy thereof.

9. LESSOR COVENANTS

Subject to the terms of this Lease, Lessor agrees that Lessee, upon keeping and performing the covenants and agreements herein contained, shall at all times during the existence of this Lease peaceably and quietly have, hold and enjoy the Premises free from the adverse claims of any persons.

10. HAZARDOUS MATERIALS

10.1 Definitions. For purposes of this Lease: (i) "Hazardous Material" or "Hazardous Materials" means and includes, without limitation, (a) solid or hazardous waste, as defined in the Resource Conservation and Recovery Act of 1980, or in any applicable state or local law or regulation, (b) hazardous substances, as defined in the Comprehensive Environmental Response Compensation and Liability Act of 1980 ("CERCLA"), or in any applicable state or local law or regulation, (c) gasoline, or any other petroleum product or by-product, (d) toxic substances, or rodenticides, as defined in the Federal Insecticide, Fungicide, and Rodenticide Act of 1975, or in any applicable state or local law or regulation, as each such Act, statute, or regulation may be amended from time to time; (ii) "Release" shall have the meaning given such term, in Environmental Laws, including, without limitation, CERCLA; and (iii) "Environmental Law" or "Environmental Laws" shall mean "Super Fund" or "Super Lien" law or any other federal, state, or local statute, law, ordinance, or code, regulating, relating to or imposing liability or standards of conduct concerning any Hazardous Materials as may now or at any time hereafter be legally in effect, including, without limitation, the following, as same may be amended or replaced from time to time, and all regulations promulgated and officially adopted thereunder or in connection therewith: Super Fund Amendments and Reauthorization Act of 1986 ("SARA"); the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"); The Clean Air Act ("CAA"); the Clean Water Act ("CWA"); the Toxic Substance Control Act ("TSCA"); the Solid Waste Disposal Act ("SWDA"), as amended by the Resource Conservation and Recovery Act ("RCRA"); the Hazardous Waste Management System; and the

Page 5 of 13

Occupational Safety and Health Act of 1970 ("OSHA"). All obligations and liabilities arising under this Paragraph 10 which arise out of events or actions occurring during the Term shall survive the expiration, termination, cancellation or release of record of this Lease.

10.2 Lessor Not Liable for Hazardous Materials. Lessor shall not be responsible for any damage, loss or expense resulting from the existence on the Premises of any Hazardous Material generated, stored, disposed of or transported to or over the Premises. Lessor makes no representations regarding any environmental hazard on the Premises. The Premises are leased on an 'as-is'/where-is basis.

11. HOLDOVER

In the event Lessee remains in possession of the Premises after the expiration of the Term and without the execution of a new lease, Lessee shall occupy the Premises as a tenancy at sufferance subject to all of the conditions of this Lease insofar as consistent with such a tenancy. In addition, Lessee shall indemnify, defend and hold Lessor harmless from any and all claims, losses, damages, costs and expenses (including reasonable attorneys' fees and costs), incurred by Lessor in connection with any holdover by Lessee.

12. TERMINATION

Lessee may terminate this Lease at any time during the Term upon one (1) year's written notice ('Notice of Termination'), in which case this Lease shall terminate on the date specified in the Notice of Termination and Lessee shall immediately surrender possession of the Premises to Lessor.

13. MISCELLANEOUS

13.1 Assignment. Sublease. Binding Effect. Except as provided herein, this Lease shall not be assigned nor shall the Premises be sublet without the prior written consent of Lessor. Subject to the foregoing, this Lease shall be binding upon and enforceable against, and shall inure to the benefit of, Lessor and Lessee and their respective, legal representatives, successors and permitted assigns.

13.2 Amendment. This Lease shall not be modified or amended except by an instrument in writing executed by or on behalf of Lessor and Lessee.

13.3 Notices. All notices, request or other communication herein provided to be given, or which may be given, by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States mail, certified and postage prepaid and addresses as follows:

To Lessor: North Carolina Department of Environment and Natural Resources
Division of Parks and Recreation
1615 Mail Service Center
Raleigh, North Carolina 27699-1615

with copy to: State Property Office
Attn: Manager, Leasing and Space Planning Section
1321 Mail Service Center
Raleigh, North Carolina 27699-1321

To Lessee: Mayor
Town of Clayton
P.O. Box 879
Clayton, North Carolina 27528-0879

The address to which notices shall be mailed as aforesaid to either party may be changed by written notice.

13.4 Effect of Waiver or Forbearance. No covenant or condition of this Lease can be waived except by written consent of the parties hereto. A waiver of any covenant or condition on one occasion shall not be deemed a waiver of said covenant or condition on any subsequent occasion unless such fact is specifically stated in the waiver. Forbearance or indulgence by Lessor in any regard whatsoever shall not constitute a waiver of any covenant or condition to be performed by Lessee, and until Lessee has completely performed all covenants and conditions of this Lease, Lessor shall be entitled to invoke any remedy available to Lessor under this Lease or any law or equity despite such forbearance or indulgence.

13.5 Complete Agreement. This Lease contains the entire contract between the parties hereto regarding the subject matter hereof and each party acknowledges that neither has made (either directly or through any agent or representative) any representations or agreements in connection with this Lease not specifically set forth herein.

13.6 Severability. In case any one or more of the provisions contained in this Lease shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Lease shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

13.7 Survival. All obligations (including monetary obligations as set forth in this Lease) accruing prior to expiration of the term of this Lease shall survive the expiration or other termination of this Lease.

13.8 Applicable Law. This Lease and all contracts related to improvements described herein, shall be governed by, construed under and interpreted and enforced in accordance with the laws of the State of North Carolina.

Page 7 of 13

13.9 Construction. No provision of this Lease shall be construed against or interpreted to the disadvantage of any party by any court or other governmental or judicial authority by reason of such party's having or being deemed to have prepared or imposed such provision.

13.10 Lessor's Remedies Cumulative. The rights and remedies of Lessor specified in this Lease shall be cumulative and in addition to any other rights and/or remedies otherwise available, whether or not specified in this Lease.

13.11 Interpretation. The use of headings, captions and numbers in this Lease is solely for the convenience of identifying and indexing the various provisions in this Lease and shall in no event be considered otherwise in construing or interpreting any provision in this Lease. Feminine or neuter pronouns shall be substituted for those of the masculine form, and the plural may be substituted for the singular number in any place or places herein in which the context may require such substitution or substitutions.

13.12 Terms. Capitalized terms used in this Lease shall have the meanings ascribed to them at the point where first defined, irrespective of where their use occurs, with the same effect as if the definitions of such terms were set forth in full and at length every time such terms are used.

13.13 Counterparts. This Lease may be executed in two or more counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

13.14 Agent. No agent, servant, or employee of Lessee shall, under any circumstances, be deemed an agent, servant, or employee of Lessor, and no agent, servant, or employee of the Lessor shall, under any circumstances, be deemed an agent, servant, or employee of Lessee.

13.15 Prohibition on Gifts. North Carolina General Statute §133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any employee of Lessor of any gift from anyone with a contract with Lessor, or from any person seeking to do business with Lessor. By execution of this Lease, Lessee attests, for its entire organization, including its employees or agents, that it is not aware that any such gift has been offered, accepted, or promised by any employees of its organization.

13.16 Memorandum of Lease for Recording. At the request of either party, Lessor and Lessee shall execute a Memorandum of this Lease, which shall be recorded in the public records at the requesting party's sole cost and expense. The Memorandum of Lease shall describe the parties, set forth a description of the Premises, specify the term of this Lease and incorporate this Lease by reference.

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Page 8 of 13

IN TESTIMONY WHEREOF, Lessor has caused this instrument to be executed in its name by Beverly E. Perdue, Governor, attested by Elaine F. Marshall, Secretary of State, and the Great Seal of the State of North Carolina hereto affixed, by virtue of the power and authority aforesaid; and Lessee has caused this instrument to be executed in its name by its duly authorized Chairman, attested by its Clerk and its seal affixed, all as of the dates set forth in the notary acknowledgements below.

LESSEE:

TOWN OF CLAYTON

By: Jody L. McLeod

Print Name: Jody L. McLeod

Title: Mayor

ATTEST

Sherry L. Scoggins (Seal)
Clerk - Sherry L. Scoggins, MC

STATE OF NORTH CAROLINA

COUNTY OF Johnston

I, Brenda Schneider, a Notary Public in and for the aforesaid County and State do hereby certify that Sherry L. Scoggins personally came before me this day and acknowledged that he/she is Clerk of the Town of Clayton and that by authority duly given and as an act of the Town of Clayton, the foregoing instrument was signed by Jody L. McLeod, its Mayor, attested by himself/herself as Clerk and sealed with the common seal.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal, this the 21st day of April, 2010.

Brenda Schneider
Notary Public
Print Name: Brenda Schneider

My Commission Expires: 11-18-12

Page 9 of 13

LESSOR:

STATE OF NORTH CAROLINA

By: Beverly E. Perdue
Governor

ATTEST:

By: Elaine F. Marshall
Secretary of State

APPROVED AS TO FORM:
ROY COPPER, Attorney General

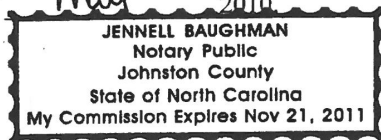
By: [Signature]
Assistant Attorney General

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, Jennell Baughman, a Notary Public in and for the
County of Johnston and State of North Carolina, do hereby certify that
ELAINE F. MARSHALL, Secretary of State of North Carolina, personally came before me this
day and acknowledged that she is Secretary of State of North Carolina, and that by authority duly
given and as the act of the State, the foregoing instrument was signed in its name by BEVERLY
E. PERDUE, Governor of the State of North Carolina, sealed with the Great Seal of the State of
North Carolina, and attested by herself as Secretary of State of North Carolina.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal, this the 10th
day of May, 2010.



Jennell Baughman
Notary Public
Print Name: Jennell Baughman

My Commission Expires: 11-21-2011

Page 10 of 13

EXHIBIT A

DESCRIPTION OF THE PREMISES

Lying and being Johnston and Wake Counties, North Carolina and being more particularly described as follows:

Being all of Tract 2, containing approximately 329.77 acres, as shown on that certain plat of survey entitled "Recombination Map of Riverwalk Investments LLC, Columbus Corners Holdings, LLC, and JME Riverwalk, LLC Property" recorded in Plat Book 73, Page 200, Johnston County Public Registry, and Book of Maps 2008, Page 2113, Wake County Public Registry.

TOGETHER WITH rights of ingress and egress, both vehicular and pedestrian over and across that certain temporary thirty-foot (30') access easement as depicted on the aforesaid plat. The property hereinabove described was acquired by Grantor by instrument recorded in Book 3634, Page 278, Johnston County Registry and Book 13326, Page 904, Wake County Registry.

SUBJECT TO all easements, rights-of-way and restrictions of record and the reserved right of Lessor to grant or convey easements, rights-of-way, restrictions and other such interests or encumbrances in, to, over and upon the Premises; provided any such grant or conveyance does not unreasonably interfere with Lessee's use and possession of the Premises. This Lease is specifically made subject and subordinate to that certain easement granted by Lessor to Piedmont Natural Gas Company, Inc. for the installation, operation and maintenance of a gas line, over and upon that portion of the Premises as more particularly described on **Exhibit B** attached hereto and incorporated herein by reference.

EXHIBIT B

Legal Description of Easement from the State of North Carolina to the Public Service Company of North Carolina, Incorporated

EASEMENT AREA 1

BEING all that tract of land containing 1.57 acres more or less, located in Wilders Township, Johnston County, North Carolina; and bounded by lands owned by and /or in possession of persons as follows: on the northeast by Michael E. De Sherbinin and Elizabeth N. De Sherbinin, on the southwest by Columbus Corners Holdings LLC, Riverwalk Investments LLC, and JME Riverwalk LLC and on the east and west by The State of North Carolina, and being more particularly described by courses based on N. C. Grid (NAD83/2007) and distances as shown on a survey with an error of closure of better than 1 to 10,000 prepared by McKim and Creed, P.A., dated March 25, 2009, last revised March 26, 2009, captioned "Easement Survey Prepared for Piedmont Natural Gas Company, Easement to be Acquired From The State of North Carolina", reference to which survey is hereby made for a more particular description. The easement shall be fifty (50) feet in width and more particularly described as follows:

COMMENCING at an iron pipe found (NC Grid Coordinates [NAD83/2007] N=706,914.65 feet, E=2,163,759.74 feet) in the southern property line of Syndor M. White, Jr. as described in Deed Book 771, Page 659, said iron pipe found also being the northeastern corner of the Lee Brothers Rental property as described in Deed Book 1812, Page 539, thence north 55 deg. 20 min. 17 sec. east 2,248.34 feet to a point on the top of bank of the Neuse River, said top of bank being a southwestern property line of The State of North Carolina as described in Deed Book 3634, Page 278 and shown in Book of Maps 73, Page 200; thence north 30 deg. 13 min. 58 sec. west 50.14 feet to a point: thence north 64 deg. 05 min. 04 sec. east 1218.13 feet to a point; thence north 12 deg. 17 min. 49 sec. west 43.25 feet to a point; thence north 18 deg. 08 min. 54 sec. west 254.18 feet to a point; thence north 11 deg. 45 min. 03 sec. east 286.51 feet to a point; thence north 56 deg. 23 min. 28 sec. east 306.68 feet to a point; thence north 11 deg. 06 min. 24 sec. east 390.80 feet to a point; thence north 04 deg. 22 min. 06 sec. East 196.97 feet to a point in a southern property line of Columbus Corners Holdings LLC, Riverwalk Investments LLC, and JME Riverwalk LLC, said point being located north 87 deg. 18 min. 51 sec. east 268.13 feet from a northwestern corner of The State of North Carolina; thence with common property lines of The State of North Carolina and Columbus Corner et al. the following four calls: 1) north 87 deg. 18 min. 51 sec. east 50.38 feet to a point, 2) continuing north 87 deg. 18 min. 51 sec. east 126.24 to an iron pipe found, 3) north 01 deg. 14 min. 13 sec. east 212.15 feet to an iron pipe found, and 4) north 38 deg. 59 min. 10 sec. west 5.99 feet to a point, the POINT OF BEGINNING; thence north 38 deg. 59 min. 10 sec. west 50.60 feet to a point; thence leaving the property line north 42 deg. 10 min. 14 sec. east 26.40 feet to a point; thence north 13 deg. 24 min. 16 sec. west 442.43 feet to a point; thence north 46 deg. 44 min. 41 sec. east 578.32 feet to a point; thence south 72 deg. 02 min. 38 sec. east 338.35 feet to a point in the centerline of Mark's Creek, said centerline being a common property line of the State of North Carolina and Michael

Page 12 of 13

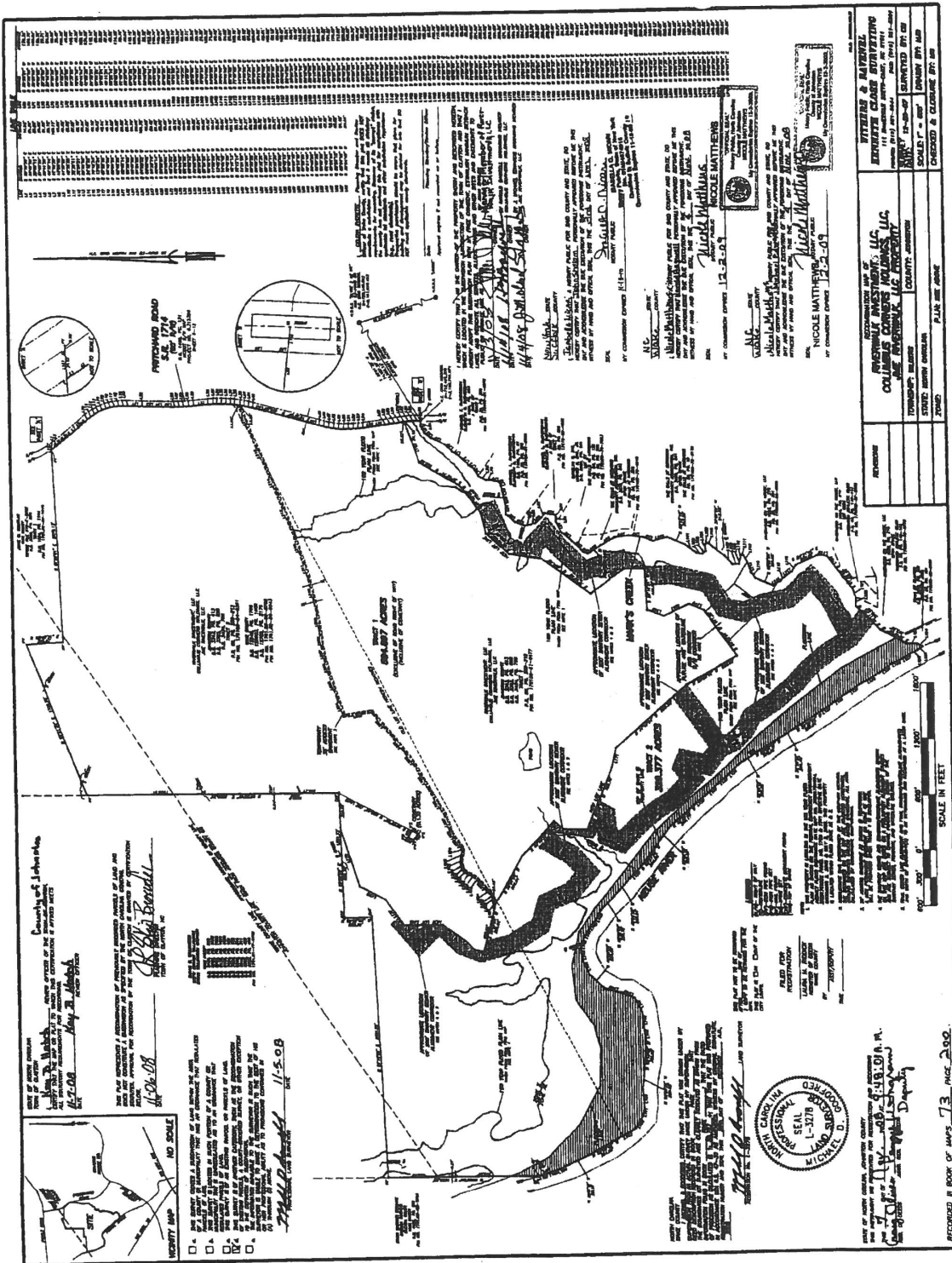
E. De Sherbinin as described in Deed Book 1352 Page 385; thence with the centerline of the creek the following two calls: 1) south 22 deg. 57 min. 17 sec. East 22.15 feet to a point and 2) south 27 deg. 28 min. 46 sec. West 33.73 feet to a point located north 40 deg. 34 min. 03 sec. East 84.52 from an iron rod found in the southern line of De Sherbinin; thence leaving the centerline of Mark's Creek north 72 deg. 02 min. 38 sec. West 317.70 feet to a point; thence south 46 deg. 44 min. 41 sec. West 519.79 feet to a point; thence south 13 deg. 24 min. 16 sec. east 439.82 feet to a point; thence south 42 deg. 10 min. 14 sec. west 60.53 feet to POINT OF BEGINNING.

EASEMENT AREA 2

BEING all that tract of land containing 3.13 acres, more or less, located in Wilders Township, Johnston County, North Carolina; and bounded by lands owned by and /or in possession of persons as follows: on the southwest by the waters of the Neuse River, on the north by Columbus Corners Holdings LLC, Riverwalk Investments LLC, and JME Riverwalk LLC and on the east, south and west by The State of North Carolina, and being more particularly described by courses based on N. C. Grid (NAD83/2007) and distances as shown on a survey with an error of closure of better than 1 to 10,000 prepared by McKim and Creed, P.A., dated March 25, 2009, last revised March 26, 2009, captioned "Easement Survey Prepared for Piedmont Natural Gas Company, Easement to be Acquired From The State of North Carolina", reference to which survey is hereby made for a more particular description. The easement shall be fifty (50) feet in width and more particularly described as follows:

COMMENCING at an iron pipe found (NC Grid Coordinates [NAD83/2007] N=706,914.65 feet, E=2,163,759.74 feet) in the southern property line of Syndor M. White, Jr. as described in Deed Book 771, Page 659, said iron pipe found also being the northeastern corner of the Lee Brothers Rental property as described in Deed Book 1812, Page 539, thence north 55 deg. 20 min. 17 sec. east 2,248.34 feet to a point on the top of bank of the Neuse River, said top of bank being a southwestern property line of the State of North Carolina as described in Deed Book 3634, Page 278 and shown in Book of Maps 73, Page 200 and the POINT OF BEGINNING; thence north 30 deg. 13 min. 58 sec. west 50.14 feet to a point; thence north 64 deg. 05 min. 04 sec. east 1218.13 feet to a point; thence north 12 deg. 17 min. 49 sec. west 43.25 feet to a point; thence north 18 deg. 08 min. 54 sec. west 254.18 feet to a point; thence north 11 deg. 45 min. 03 sec. east 286.51 feet to a point; thence north 56 deg. 23 min. 28 sec. east 306.78 feet to a point; thence north 11 deg. 06 min. 24 sec. east 390.80 feet to a point; thence north 04 deg. 22 min. 06 sec. east 196.97 feet to a point in a southern property line of Columbus Corners Holdings LLC, Riverwalk Investments LLC, and JME Riverwalk LLC, said point being located north 87 deg. 18 min. 51 sec. east 268.13 feet from a northwestern corner of the State of North Carolina; thence with said property line north 87 deg. 18 min. 51 sec. east 50.38 feet to a point; thence leaving said property line south 04 deg. 22 min. 06 sec. west 206.10 feet to a point; thence south 11 deg. 06 min. 24 sec. West 414.60 feet to a point; thence south 56 deg. 23 min. 28 sec. west 307.01 feet to a point; thence south 11 deg. 45 min. 03 sec. west 252.63 feet to a point; thence south 18 deg. 08 min. 54 sec. east 243.38 feet to a point; thence south 12 deg. 17 min. 49 sec. east 85.14 feet to a point; thence south 64 deg. 05 min. 04 sec. west 1,253.69 feet to the POINT OF BEGINNING.

Page 13 of 13



This map is not a certified survey and has not been reviewed by a local government agency for compliance with any applicable land development regulations.

Exhibit A - Attachment

12/30/19

MEMORANDUM OF UNDERSTANDING

TRIANGLE LAND CONSERVANCY
and
TOWN OF CLAYTON

REGARDING RECREATIONAL TRAILS AT WILLIAMSON PRESERVE
AND RIVER WALK

THIS AGREEMENT is made and entered into between the Triangle Land Conservancy, a 501(c)(3) non-profit corporation organized and existing under the laws of the State of North Carolina, with an address of 514 South Duke Street, Durham, NC 27701 (hereinafter referred to as "TLC"), and the Town of Clayton, a municipality in Johnston County, North Carolina, (hereinafter referred to as "the Town"), (collectively referred to herein as the "Parties").

WITNESSETH

WHEREAS, TLC owns a tract of land in Wake and Johnston Counties known as the Williamson Preserve, which is currently devoted to and used for open space conservation, watershed protection, and recreational purposes; and

WHEREAS, the State of North Carolina has leased to the Town (the "Lease") a tract comprising approximately 330 acres, commonly known as the River Walk tract, which is immediately adjacent to the Williamson Preserve; and

WHEREAS, under terms of its Lease, the Town must use, manage, and maintain River Walk as a natural area, allowing for approved recreational uses; and

WHEREAS, portions of the River Walk tract comprise the Neuse River Greenway/East Cost Greenway/and Mountains-to-Sea Trail; and

WHEREAS, TLC and the Town recognize the mutual benefit to and interest of the Parties in developing, constructing, managing, promoting, and maintaining a system of mountain biking and hiking trails, with associated infrastructure, to extend over both tracts, and provide an integrated trails system and regional recreation destination; and

WHEREAS, TLC has applied for and received NC-Recreational Trails Program (RTP) grant funding for the development of the Trails System; and

WHEREAS, TLC has entered into agreement(s) with (a) private non-profit entity(ies) for advisory and other assistance in the development of off-road biking and hiking trails to serve TLC's Williamson Preserve tract;

WHEREAS, TLC has contracted for trails development and construction work on the Williamson Tract, and such work is underway; and

NOW, THEREFORE, in consideration of the foregoing and the mutual benefits, promises and obligations set forth herein, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. DESIGN, DEVELOPMENT, AND CONSTRUCTION OF TRAIL IMPROVEMENTS

A. Unified Trails System. TLC and the Town agree that the River Walk tracts shall be used solely for public recreational purposes. Such shall continue to include use by hikers and bicyclists of the Neuse River Greenway Trail (which also comprises a portion of the East Coast Greenway and Mountains-to-Sea Trail.) Pursuant to terms of this Agreement, additional trails are to be developed and constructed which shall interconnect, and provide a unified system of hiking and biking trails (the “Trail System”) within the Williamson tract, River Walk tract, and Neuse River Greenway. No use of the Trail System shall be made by horses and riders, automotive vehicles, all-terrain vehicles, trucks, skateboards, rollerblades, or other types of motorized or non-motorized means of personal transport (excepting use by authorized personnel engaged in emergency or maintenance activities)

B. Town Greenway. The Town will continue to maintain responsibility for the maintenance and upkeep of the portion of the Neuse River Greenway that crosses the River Walk property.

C. Design of Trail System. With input from local, non-profit, biking and/or hiking organizations, TLC will take, or shall have taken, steps to develop a trail plan for the Williamson Preserve and River Walk properties. Such will be undertaken through the services of professional(s) qualified in the design and development of hiking and biking trails, and shall be in accord with the International Mountain Biking Association (IMBA) Guidelines as included in the publication, “IMBA Trail Solutions”. TLC and the Town shall mutually cooperate and collaborate in the design of Trail improvements over the River Walk tract. Final design, plans, and specifications for that portion of the Trails Project to be constructed on the River Walk tract shall be subject to final approval by the Town.

D. Construction of New Trails. The Town is willing for TLC to contract for and supervise trails construction activity on the Williamson and River Walk tracts (the “Trails Project” or “Project”), subject to the following conditions:

- i. All construction documents relating to work on River Walk shall be subject to review and approval by the Town.
- ii. To the extent applicable, all solicitation and engagement of contractor(s) and performance of work on the Trail Project shall comply with bidding and contracting statutes applicable to units of local government.

iii. All work on the Trails Project shall conform to applicable Codes, standards, and other legal requirements.

iv. The TLC and the Town will cooperate in securing all applicable permits for the Trails Project work and in obtaining all necessary approvals from the State of North Carolina, including any approvals required under terms of the Town's lease from the State.

v. The Town shall not, during the period of the agreement, remove or modify improvements or facilities without TLC approval.

2. OPERATION, MANAGEMENT, MAINTENANCE AND USE OF THE SITE.

A. In General. As Lessee, the Town will continue to have overall responsibility for the River Walk tract. TLC shall have management and operational responsibility for the Trails System, which responsibility may be exercised through non-profit interest groups or organizations. The Town, TLC, and other engaged parties shall cooperate and collaborate in the development of plans for use, management, operational responsibility, maintenance, and upkeep of the Trails System and the River Walk property in general. As the Trails System is opened for public use, the Town, TLC, and other engaged parties will regularly and mutually communicate and cooperate in day to day programming, use, maintenance, and establishment of responsibilities over the Trails System and the River Walk tract in general.

B. Engagement of Volunteers. TLC will schedule and lead volunteer workdays for interested members of the public. All trail workdays will be led by TLC or Triangle Off Road Cyclists (TORC) and have a TLC or TORC representative present. Workdays shall include but are not limited to: pruning, trail re-routes, building new trail segments, de-berming, and trail surface and bridge repair. TLC will consider all requests for additional trails by evaluating their impact on the natural resources of the property and the coherence with the overall trails plan; provided, however, development and construction of additional trails or substantial alterations of existing trails will be subject to approval by the Town.

C. Inspection of Trails. TLC agrees to work with volunteers schedule and conduct annual inspections of the trail system and quarterly inspections of any and all constructed features (bridges, skill areas) to identify areas that require maintenance. TLC shall assume responsibility for the routine monitoring of all trails for wet conditions, damage, dangerous conditions, and erosion. TLC shall make the final decision on trail closures.

3. MISCELLANEOUS

i. LIABILITY INSURANCE. It is understood and agreed by and between TLC and TOC that each party shall carry such general liability insurance (or, with respect to the Town, to self-insure at its option) as will protect its interests and protect itself in the event of injury to persons or property involved in the use of Williamson Preserve and River

Walk. Each party shall furnish to the other, upon demand, satisfactory evidence of insurance.

ii. INDEMNITY. The Town shall, to the extent allowed by law, indemnify and hold harmless and defend TLC, its agents and employees from any claims, cost, expense, liability, action or judgement, including attorney's fees, for personal injury, death, or property damage caused by negligent or otherwise wrongful acts or omissions of the Town arising under the subject matter of this Agreement. TLC shall indemnify and hold harmless and defend TLC, its agents and employees from any claims, cost, expense, liability, action or judgement, including attorney's fees, for personal injury, death, or property damage caused by negligent or otherwise wrongful acts or omissions of TLC arising under the subject matter of this Agreement.

iii. AMENDMENTS. This agreement may be amended by mutual written agreement of TLC and TOC.

iv. TERM. This agreement shall exist and continue for a period of five (5) years from the date of execution, and may be extended thereafter for successive five-year periods upon the mutual agreement of the parties.

v. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement of the parties hereto.

IN WITNESS HEREOF, the parties to this agreement have duly and validly approved it and caused it to be executed in their behalf by the undersigned agents.

This, the 27 day of May, 2021.

TRIANGLE LAND CONSERVANCY

By: Sandra Sweitzer
Digitally signed by Sandra Sweitzer
DN: cn=Sandra Sweitzer, o=Triangle Land Conservancy, ou=Executive
Director, email=ssweitzer@triangleland.org, c=US
Date: 2021.05.27 09:39:42 -0400

Sandy Sweitzer, Executive Director

TOWN OF CLAYTON

By: _____
Town Manager



Town Council Agenda Cover Sheet

Meeting Date

June 7, 2021

Agenda Location

Old Business

Item Title

Neuse WRF – Land Acquisition

Presenter

Joshua Baird – Town Engineer

Summary/Description

Three linear projects associated with the new Neuse WRF project require some amount of easement acquisition. Acquisition associated with the first project, access road and waterline, is complete. Easement acquisition associated with the second project, Little Creek Transmission, is nearing completion. Staff and land acquisition agent have made significant progress to obtain the approximately 30 permanent and temporary easements required for the new Little Creek infrastructure. Staff and agent have been unable to and do not foresee being able to reach a settlement with two property owners (NC PINs 166805-19-0194 and 166918-41-1304). The two properties are described in Exhibit A of the resolution. Staff have obtained appraisals and made multiple attempts to reach a settlement. Town staff request Council approve the resolution authorizing Town staff and attorneys to proceed with condemnation of two easements associated with the Little Creek Transmission Project. Staff will be back before Council with any acquisition items related to the ECIA transmission main within the next 6 months.

Requested Action

Approval/Denial

Funding Source (If Applicable):

N/A

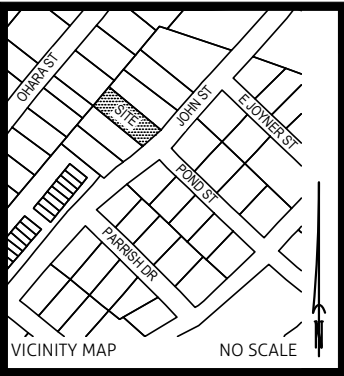
Cost: N/A Yes ☒ No ☐

Additional Documents to be Included in Agenda Packet

Resolution
Exhibit A
John Nigro Exhibit
Roberson Exhibit

Meeting Timeline

Click or tap here to enter text.



LEGEND (UNLESS OTHERWISE NOTED)

CP - CALCULATED POINT
IPF - IRON PIPE FOUND
IRF - IRON ROD FOUND
RBF - REBAR FOUND
R/W - RIGHT OF WAY
TCE - TEMPORARY CONSTRUCTION EASEMENT

ADJOINER ————
BOUNDARY SURVEYED ————
BOUNDARY NOT SURVEYED - - - - -
EASEMENT - - - - -
R/W ————
PROPOSED PERMANENT EASEMENT [shaded box]

TYPE OF PLAT

I, MATTHEW A. TIMBLIN, PROFESSIONAL LAND SURVEYOR NO. L-4844,
CERTIFY TO ONE OR MORE OF THE FOLLOWING CHECKED BELOW:

- ☒ C. ANY OF THE FOLLOWING
iv. THAT THE SURVEY IS OF A PROPOSED EASEMENT
FOR A PUBLIC UTILITY AS DEFINED IN NC GENERAL
STATUTES 62-3

DocuSigned by:
Matthew A. Timlin
MATTHEW A. TIMBLIN, PROFESSIONAL LAND SURVEYOR NO. L-4844
FCD9994196F54F9...

4/21/2021

THIS MAP IS NOT A CERTIFIED
SURVEY AND HAS NOT BEEN
REVIEWED BY A LOCAL GOVERNMENT
AGENCY FOR COMPLIANCE WITH ANY
APPLICABLE LAND DEVELOPMENT
REGULATIONS AND HAS NOT BEEN
REVIEWED FOR COMPLIANCE WITH
REQUIREMENTS FOR PLATS.



SURVEY NOTES:

1. AREAS COMPUTED BY COORDINATE METHOD.
2. BASIS OF BEARINGS: NC GRID (NAD 83-2011).
3. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY BE SUBJECT TO ANY MATTERS THAT A FULL TITLE SEARCH WOULD DISCLOSE.
4. ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES.
5. SUBJECT PROPERTY IS NOT LOCATED WITHIN A FLOOD HAZARD AREA ACCORDING TO FLOOD INSURANCE RATE MAP 3720166800K DATED JUNE 20, 2018.

JOHN RALPH GODWIN JR.
IRREVOCABLE TRUST
D.B. 5080, PG. 215
P.B. 10, PG. 213
NC P.I.N. 166805-09-9285

JOHN RALPH GODWIN JR.
IRREVOCABLE TRUST
D.B. 5080, PG. 215
P.B. 10, PG. 213
NC P.I.N. 166805-09-9220

JOYCE CROWDER
D.B. 636, PG. 110
P.B. 10, PG. 213
NC P.I.N. 166805-19-0048

JOHN ANTHONY NIGRO
D.B. 1482, PG. 792
P.B. 10, PG. 213
NC P.I.N. 166805-19-0194

THE LARKIN AND KAREN BELL
REVOCABLE TRUST
D.B. 5015, PG. 846
P.B. 10, PG. 213
NC P.I.N. 166805-19-1149

PROPOSED 10' PERMANENT
PUBLIC UTILITY EASEMENT

AREA:
0.018 Acres
764 Sq. Feet

GLOBAL POSITIONING SYSTEM (GPS) COORDINATES WERE USED FOR BASIS OF BEARINGS ON THIS PLAT. THE FOLLOWING INFORMATION WAS USED TO PERFORM THE GPS GNSS SURVEY:

CLASS OF SURVEY: CLASS A
POSITIONAL ACCURACY 0.02(+/-)
TYPE OF GPS FIELD PROCEDURE: RTK, NCGS REAL-TIME NETWORK
DATES OF SURVEY: NOVEMBER 11, 2019
DATUM/EPOCH: NAD 83/2011
PUBLISHED/FIXED-CONTROL USE: LOCALIZED AROUND SITE
CONTROL - WITHERSRAVENEL CONTROL POINT #22
GEOID MODEL: GEOID 12B
COMBINED GRID FACTOR: 0.99989700
UNITS: US SURVEY FEET

WITHERSRAVENEL
GPS CONTROL POINT #22
NAD 83(2011)
NC GRID/GROUND
COORDINATES
N: 697,494.47'
E: 2,170,441.69'
NAVD 88 ELEV: 144.87'

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S 40°54'47" W	37.35'
L2	S 55°12'02" W	38.97'
L3	N 55°12'02" E	40.55'
L4	N 40°54'47" E	35.85'

GRAPHIC SCALE



1 inch = 40 ft.

DATE: 04-21-2021
SCALE: 1"=40'
SURVEYED BY: AM
DRAWN BY: MT
CHECK & CLOSURE BY: MT
CAD FILE: JOHN NIGRO EXHIBIT
PROJECT NO: 02190247

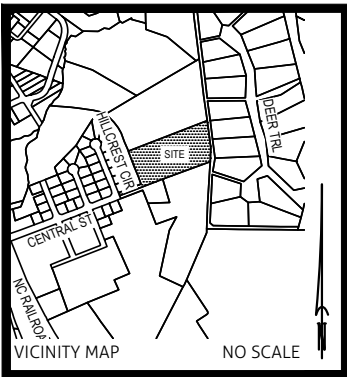
EASEMENT EXHIBIT FOR
TOWN OF CLAYTON
PROPERTY OF
JOHN ANTHONY NIGRO

TOWNSHIP: CLAYTON COUNTY: JOHNSTON STATE: NC
P.I.N.: 166805-19-0194 SHEET: 1 of 1



WithersRavenel
Engineers | Planners | Surveyors

115 MacKenan Drive | Cary, NC 27511
t: 919.469.3340 | license #: C-0832
www.withersravenel.com



SURVEY NOTES:

1. AREAS COMPUTED BY COORDINATE METHOD.
2. BASIS OF BEARINGS: NC GRID (NAD 83-2011).
3. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY BE SUBJECT TO ANY MATTERS THAT A FULL TITLE SEARCH WOULD DISCLOSE.
4. ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES.
5. SUBJECT PROPERTY IS NOT LOCATED WITHIN A FLOOD HAZARD AREA ACCORDING TO FLOOD INSURANCE RATE MAP 3720166800K DATED JUNE 20, 2018.

LEGEND (UNLESS OTHERWISE NOTED)

CP - CALCULATED POINT
IPF - IRON PIPE FOUND
RBF - REBAR FOUND
R/W - RIGHT OF WAY
TCE - TEMPORARY CONSTRUCTION EASEMENT

ADJOINER —————
BOUNDARY SURVEYED —————
BOUNDARY NOT SURVEYED - - - - -
EASEMENT - - - - -
R/W - - - - -

PROPOSED PERMANENT EASEMENT
PROPOSED TCE

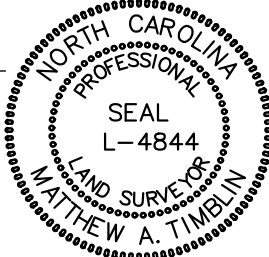
TYPE OF PLAT

I, MATTHEW A. TIMBLIN, PROFESSIONAL LAND SURVEYOR NO. L-4844,
CERTIFY TO ONE OR MORE OF THE FOLLOWING CHECKED BELOW:

- ☒ C. ANY OF THE FOLLOWING
iv. THAT THE SURVEY IS OF A PROPOSED EASEMENT
FOR A PUBLIC UTILITY AS DEFINED IN NC GENERAL
STATUTES 62-3

DocuSigned by:
Matthew A. Timblin
MATTHEW A. TIMBLIN, PROFESSIONAL LAND SURVEYOR NO. L-4844
FCD9994196F54F9...

THIS MAP IS NOT A CERTIFIED
SURVEY AND HAS NOT BEEN
REVIEWED BY A LOCAL GOVERNMENT
AGENCY FOR COMPLIANCE WITH ANY
APPLICABLE LAND DEVELOPMENT
REGULATIONS AND HAS NOT BEEN
REVIEWED FOR COMPLIANCE WITH
REQUIREMENTS FOR PLATS.



SCA VENTURES
D.B. 3485, PG. 553
P.B. 19, PG. 53
NC P.I.N. 166918-41-0740

EXISTING SANITARY SEWER
EASEMENT
D.B. 1391, PG. 33

JOY R. ROBERSON
D.B. 2776, PG. 782
P.B. 19, PG. 53
NC P.I.N. 166918-41-1304

BROCKE G. HODNEY
BECKY Y. GORDON
D.B. 941, PG. 291
NC P.I.N. 166918-31-1446

PROPOSED 10' TEMPORARY
CONSTRUCTION EASEMENT

AREA:
0.077 Acres
3,339 Sq. Feet

PROPOSED 10' PERMANENT
PUBLIC UTILITY EASEMENT

AREA:
0.077 Acres
3,339 Sq. Feet

SPINNING MILL
INVESTMENTS, LLC
D.B. 5161, PG. 492
P.B. 88, PG. 344
P.B. 19, PG. 53
NC P.I.N. 166918-40-3804

GLOBAL POSITIONING SYSTEM (GPS) COORDINATES WERE USED
FOR BASIS OF BEARINGS ON THIS PLAT. THE FOLLOWING
INFORMATION WAS USED TO PERFORM THE GPS GNSS SURVEY:

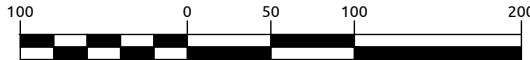
CLASS OF SURVEY: CLASS A
POSITIONAL ACCURACY 0.02(+/-)
TYPE OF GPS FIELD PROCEDURE: RTK, NCGS REAL-TIME NETWORK
DATES OF SURVEY: NOVEMBER 11, 2019
DATUM/EPOCH: NAD 83/2011
PUBLISHED/FIXED-CONTROL USE: LOCALIZED AROUND SITE
CONTROL - WITHERSRAVENEL CONTROL POINT #22
GEIOD MODEL: GEIOD 12B
COMBINED GRID FACTOR: 0.99989700
UNITS: US SURVEY FEET

WALDEN HOME OWNERS
ASSOCIATION INC
D.B. 1086, PG. 66
P.B. 75, PG. 287
NC P.I.N. 166918-41-7775

WITHERSRAVENEL
GPS CONTROL POINT #22
NAD 83(2011)
NC GRID/GROUND
COORDINATES
N: 697,494.47'
E: 2,170,441.69'
NAVD 88 ELEV: 144.87'

CONTROL CORNER
EXISTING IRON PIPE
NC GRID COORS
NAD 83(2011)
N: 691365.30'
E: 2164498.70'

GRAPHIC SCALE



1 inch = 100 ft.

DATE: 2-22-2021
SCALE: 1"=100'
SURVEYED BY: AM
DRAWN BY: MT
CHECK & CLOSURE BY: MT
CAD FILE: ROBERSON EXHIBIT
PROJECT NO: 02190247

EASEMENT EXHIBIT FOR TOWN OF CLAYTON		
PROPERTY OF JOY R. ROBERSON		
TOWNSHIP: CLAYTON	COUNTY: JOHNSTON	STATE: NC
P.I.N.: 166918-41-1304	SHEET: 1 of 1	



WithersRavenel
Engineers | Planners | Surveyors

115 MacKenan Drive | Cary, NC 27511
t: 919.469.3340 | license #: C-0832
www.withersravenel.com

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CLAYTON
PROVIDING FOR THE ACQUISITION OF
INTERESTS IN REAL PROPERTY**

WHEREAS, the governing body of the Town of Clayton hereby determines that it is necessary and in the public interest to acquire interests in those parcels of land more particularly described on Exhibit A attached hereto and incorporated herein by reference (the “Property” or “Properties”) for the public purpose of construction, installation, repair and maintenance of a water and sewer line, and wastewater transmission line for the citizens and utility customers of the Town of Clayton; and

WHEREAS, the Properties are held by the property owners described in Exhibit A attached hereto and incorporated herein by reference (the “Owners”); and

WHEREAS, proper officials of the Town of Clayton have attempted to acquire the appropriate interests in the Properties, and have been unable to agree with some of the Owners thereof, and as a result, the Town of Clayton has been unable to obtain the Properties by voluntary conveyance; and

WHEREAS, the Town of Clayton, acting by and through the Town Council, proposes to exercise the power of eminent domain conferred upon the Town of Clayton by Chapter 40A of the North Carolina General Statutes to condemn such property, if necessary;

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF
THE TOWN OF CLAYTON:**

1. That the Town Attorney is authorized to proceed on behalf of the Town of Clayton to condemn the interests in the property as generally indicated on Exhibit A attached hereto and incorporated herein by reference.
2. That the purpose for which the Properties are being acquired is construction, installation, repair and maintenance of a water and sewer line, and wastewater transmission line and uses incidental thereto, to provide for such other public services and public uses as may be permissible or desirable within the easement corridors for the citizens and utility customers of the Town of Clayton.
3. That the nature of the rights, title and interests to be acquired in the Properties described herein are permanent easements and temporary construction easement interests as more particularly set forth in Exhibit A.
4. That the Town Attorney for the Town of Clayton is hereby authorized and directed to institute the necessary proceedings, pursuant to Chapter 40A of the General Statutes of the State of North Carolina, to effectuate the acquisition of the interest in the land hereinabove mentioned and that the attorneys for the Town of Clayton are hereby authorized on behalf of the Town of Clayton to give or receive such notice or notices as may by law be required.

Duly adopted this the 7th day of June, 2021 while in regular session.

Jody L. McLeod,
Mayor

ATTEST:

Kimberly Moffett, CMC, NCCMC
Town Clerk

EXHIBIT A

- 1. OWNER:** John Anthony Nigro
Parcel ID: 05006024
PIN Number: 166805-19-0194
DEED BOOK 1482 , **PAGE** 792
508 John Street
Clayton, NC 27520

EASEMENT DESCRIPTION

Permanent Public Utility Easement for Little Creek Wastewater Transmission Improvements:

Being the "Proposed 10' Permanent Public Utility Easement, Area: 0.018 Acres, 764 sq. ft." as shown on plat dated April 21, 2021, entitled, "Easement Exhibit for Town of Clayton, Property of John Anthony Nigro" and prepared by WithersRavenel, Inc., attached hereto as Exhibit A-1 and incorporated herein by reference.

- 2. OWNER:** Joy R. Roberson
Parcel ID: 05H03195M
PIN Number: 166918-41-1304
DEED BOOK 2776, **PAGE** 782
Hillcrest Circle
Clayton, North Carolina

EASEMENT DESCRIPTION

Permanent Utility Easement for Little Creek Wastewater Transmission Improvements:

Being the "Proposed 10' Permanent Public Utility Easement, Area: 0.077 Acres, 3,339 sq. ft." as shown on plat dated February 22, 2021, entitled, "Easement Exhibit for Town of Clayton, Property of Joy R. Roberson" and prepared by WithersRavenel, Inc. attached hereto as Exhibit A-2 and incorporated herein by reference.

Temporary Construction Easement for Little Creek Wastewater Transmission Improvements:

Being the "Proposed 10' Temporary Construction Easement, Area: 0.077 Acres, 3,339 sq. ft." as shown on plat dated February 22, 2021, entitled, "Easement Exhibit for Town of Clayton, Property of Joy R. Roberson" and prepared by WithersRavenel, Inc. attached hereto as Exhibit A-2 and incorporated herein by reference.

The	Governing Board COUNCIL
of	Primary Government Unit (or charter holder) TOWN OF CLAYTON
and	Discretely Presented Component Unit (DPCU) (if applicable) NA

Primary Government Unit, together with DPCU (if applicable), hereinafter referred to as Governmental Unit(s)

and	Auditor Name ANDERSON SMITH & WIKE
	Auditor Address P. O. BOX 697, ROCKINGHAM, NC 28380

Hereinafter referred to as Auditor

for	Fiscal Year Ending 06/30/21	Audit Report Due Date 10/31/21
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Must be within four months of FYE

hereby agree as follows:

1. The Auditor shall audit all statements and disclosures required by U.S. generally accepted auditing standards (GAAS) and additional required legal statements and disclosures of all funds and/or divisions of the Governmental Unit(s). The non-major combining, and individual fund statements and schedules shall be subjected to the auditing procedures applied in the audit of the basic financial statements and an opinion shall be rendered in relation to (as applicable) the governmental activities, the business- type activities, the aggregate DPCUs, each major governmental and enterprise fund, and the aggregate remaining fund information (non-major government and enterprise funds, the internal service fund type, and the fiduciary fund types).

2. At a minimum, the Auditor shall conduct his/her audit and render his/her report in accordance with GAAS. The Auditor shall perform the audit in accordance with *Government Auditing Standards* if required by the State Single Audit Implementation Act, as codified in G.S. 159-34. If required by OMB *Uniform Administration Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) and the State Single Audit Implementation Act, the Auditor shall perform a Single Audit. This audit and all associated audit documentation may be subject to review by Federal and State agencies in accordance with Federal and State laws, including the staffs of the Office of State Auditor (OSA) and the Local Government Commission (LGC). If the audit requires a federal single audit performed under the requirements found in Subpart F of the Uniform Guidance (§200.501), it is recommended that the Auditor and Governmental Unit(s) jointly agree, in advance of the execution of this contract, which party is responsible for submission of the audit and the accompanying data collection form to the Federal Audit Clearinghouse as required under the Uniform Guidance (§200.512).

If the audit and Auditor communication are found in this review to be substandard, the results of the review may be forwarded to the North Carolina State Board of CPA Examiners (NC State Board).

3. If an entity is determined to be a component of another government as defined by the group audit standards, the entity's auditor shall make a good faith effort to comply in a timely manner with the requests of the group auditor in accordance with AU-6 §600.41 - §600.42.

4. This contract contemplates an unmodified opinion being rendered. If during the process of conducting the audit, the Auditor determines that it will not be possible to render an unmodified opinion on the financial statements of the unit, the Auditor shall contact the LGC Staff to discuss the circumstances leading to that conclusion as soon as is practical and before the final report is issued. The audit shall include such tests of the accounting records and such other auditing procedures as are considered by the Auditor to be necessary in the circumstances. Any limitations or restrictions in scope which would lead to a qualification should be fully explained in an attachment to this contract.

5. If this audit engagement is subject to the standards for audit as defined in *Government Auditing Standards*, 2018 revision, issued by the Comptroller General of the United States, then by accepting this engagement, the Auditor warrants that he/she has met the requirements for a peer review and continuing education as specified in *Government Auditing Standards*. The Auditor agrees to provide a copy of the most recent peer review report to the Governmental Unit(s) and the Secretary of the LGC prior to the execution of an audit contract. Subsequent submissions of the report are required only upon report expiration or upon auditor's receipt of an updated peer review report. If the audit firm received a peer review rating other than pass, the Auditor shall not contract with the Governmental Unit(s) without first contacting the Secretary of the LGC for a peer review analysis that may result in additional contractual requirements.

If the audit engagement is not subject to *Government Accounting Standards* or if financial statements are not prepared in accordance with U.S. generally accepted accounting principles (GAAP) and fail to include all disclosures required by GAAP, the Auditor shall provide an explanation as to why in an attachment to this contract or in an amendment.

6. It is agreed that time is of the essence in this contract. All audits are to be performed and the report of audit submitted to LGC Staff within four months of fiscal year end. If it becomes necessary to amend this due date or the audit fee, an amended contract along with a written explanation of the delay shall be submitted to the Secretary of the LGC for approval.

7. It is agreed that GAAS include a review of the Governmental Unit's (Units') systems of internal control and accounting as same relate to accountability of funds and adherence to budget and law requirements applicable thereto; that the Auditor shall make a written report, which may or may not be a part of the written report of audit, to the Governing Board setting forth his/her findings, together with his recommendations for improvement. That written report shall include all matters defined as "significant deficiencies and material weaknesses" in AU-C 265 of the *AICPA Professional Standards (Clarified)*. The Auditor shall file a copy of that report with the Secretary of the LGC.

8. All local government and public authority contracts for audit or audit-related work require the approval of the Secretary of the LGC. This includes annual or special audits, agreed upon procedures related to internal controls, bookkeeping or other assistance necessary to prepare the Governmental Unit's (Units') records for audit, financial statement preparation, any finance-related investigations, or any other audit-related work in the State of North Carolina. Approval is not required on contracts and invoices for system improvements and similar services of a non-auditing nature.

9. Invoices for services rendered under these contracts shall not be paid by the Governmental Unit(s) until the invoice has been approved by the Secretary of the LGC. (This also includes any progress billings.)(G.S. 159-34 and 115C-447) All invoices for Audit work shall be submitted in PDF format to the Secretary of the LGC for approval. The invoice marked 'approved' with approval date shall be returned to

the Auditor to present to the Governmental Unit(s) for payment. This paragraph is not applicable to contracts for audits of hospitals.

10. In consideration of the satisfactory performance of the provisions of this contract, the Governmental Unit(s) shall pay to the Auditor, upon approval by the Secretary of the LGC if required, the fee, which includes any costs the Auditor may incur from work paper or peer reviews or any other quality assurance program required by third parties (federal and state grantor and oversight agencies or other organizations) as required under the Federal and State Single Audit Acts. This does not include fees for any pre-issuance reviews that may be required by the NC Association of CPAs (NCACPA) Peer Review Committee or NC State Board of CPA Examiners (see Item 13).

11. If the Governmental Unit(s) has/have outstanding revenue bonds, the Auditor shall submit to LGC Staff, either in the notes to the audited financial statements or as a separate report, a calculation demonstrating compliance with the revenue bond rate covenant. Additionally, the Auditor shall submit to LGC Staff simultaneously with the Governmental Unit's (Units') audited financial statements any other bond compliance statements or additional reports required by the authorizing bond documents, unless otherwise specified in the bond documents.

12. After completing the audit, the Auditor shall submit to the Governing Board a written report of audit. This report shall include, but not be limited to, the following information: (a) Management's Discussion and Analysis, (b) the financial statements and notes of the Governmental Unit(s) and all of its component units prepared in accordance with GAAP, (c) supplementary information requested by the Governmental Unit(s) or required for full disclosure under the law, and (d) the Auditor's opinion on the material presented. The Auditor shall furnish the required number of copies of the report of audit to the Governing Board upon completion.

13. If the audit firm is required by the NC State Board, the NCACPA Peer Review Committee, or the Secretary of the LGC to have a pre-issuance review of its audit work, there shall be a statement in the engagement letter indicating the pre-issuance review requirement. There also shall be a statement that the Governmental Unit(s) shall not be billed for the pre-issuance review. The pre-issuance review shall be performed prior to the completed audit being submitted to LGC Staff. The pre-issuance review report shall accompany the audit report upon submission to LGC Staff.

14. The Auditor shall submit the report of audit in PDF format to LGC Staff. For audits of units other than hospitals, the audit report should be submitted when (or prior to) submitting the final invoice for services rendered. The report of audit, as filed with the Secretary of the LGC, becomes a matter of public record for inspection, review and copy in the offices of the LGC by any interested parties. Any subsequent revisions to these reports shall be sent to the Secretary of the LGC along with an Audit Report Reissued Form (available on the Department of State Treasurer website). These audited financial statements, excluding the Auditors' opinion, may be used in the preparation of official statements for debt offerings by municipal bond rating services to fulfill secondary market disclosure requirements of the Securities and Exchange Commission and for other lawful purposes of the Governmental Unit(s) without requiring consent of the Auditor. If the LGC Staff determines that corrections need to be made to the Governmental Unit's (Units') financial statements, those corrections shall be provided within three business days of notification unless another deadline is agreed to by LGC Staff.

15. Should circumstances disclosed by the audit call for a more detailed investigation by the Auditor than necessary under ordinary circumstances, the Auditor shall inform the Governing Board in writing of the need for such additional investigation and the additional compensation required therefore. Upon approval by the

Secretary of the LGC, this contract may be modified or amended to include the increased time, compensation, or both as may be agreed upon by the Governing Board and the Auditor.

16. If an approved contract needs to be modified or amended for any reason, the change shall be made in writing and pre-audited if the change includes a change in audit fee (pre-audit requirement does not apply to charter schools or hospitals). This amended contract shall be completed in full, including a written explanation of the change, signed and dated by all original parties to the contract. It shall then be submitted to the Secretary of the LGC for approval. No change to the audit contract shall be effective unless approved by the Secretary of the LGC, the Governing Board, and the Auditor.

17. A copy of the engagement letter, issued by the Auditor and signed by both the Auditor and the Governmental Unit(s), shall be attached to this contract, and except for fees, work, and terms not related to audit services, shall be incorporated by reference as if fully set forth herein as part of this contract. In case of conflict between the terms of the engagement letter and the terms of this contract, the terms of this contract shall take precedence. Engagement letter terms that conflict with the contract are deemed to be void unless the conflicting terms of this contract are specifically deleted in Item 28 of this contract. Engagement letters containing indemnification clauses shall not be accepted by LGC Staff.

18. Special provisions should be limited. Please list any special provisions in an attachment.

19. A separate contract should not be made for each division to be audited or report to be submitted. If a DPCU is subject to the audit requirements detailed in the Local Government Budget and Fiscal Control Act and a separate audit report is issued, a separate audit contract is required. If a separate report is not to be issued and the DPCU is included in the primary government audit, the DPCU shall be named along with the primary government on this audit contract. DPCU Board approval date, signatures from the DPCU Board chairman and finance officer also shall be included on this contract.

20. The contract shall be executed, pre-audited (pre-audit requirement does not apply to charter schools or hospitals), and physically signed by all parties including Governmental Unit(s) and the Auditor, then submitted in PDF format to the Secretary of the LGC.

21. The contract is not valid until it is approved by the Secretary of the LGC. The staff of the LGC shall notify the Governmental Unit and Auditor of contract approval by email. The audit should not be started before the contract is approved.

22. Retention of Client Records: Auditors are subject to the NC State Board of CPA Examiners' Retention of Client Records Rule 21 NCAC 08N .0305 as it relates to the provision of audit and other attest services, as well as non-attest services. Clients and former clients should be familiar with the requirements of this rule prior to requesting the return of records.

23. This contract may be terminated at any time by mutual consent and agreement of the Governmental Unit(s) and the Auditor, provided that (a) the consent to terminate is in writing and signed by both parties, (b) the parties have agreed on the fee amount which shall be paid to the Auditor (if applicable), and (c) no termination shall be effective until approved in writing by the Secretary of the LGC.

24. The Governmental Unit's (Units') failure or forbearance to enforce, or waiver of, any right or an event of breach or default on one occasion or instance shall not constitute the waiver of such right, breach or default on any subsequent occasion or instance.

25. There are no other agreements between the parties hereto and no other agreements relative hereto that shall be enforceable unless entered into in accordance with the procedure set out herein and approved by the Secretary of the LGC.

26. E-Verify. Auditor shall comply with the requirements of NCGS Chapter 64 Article 2. Further, if Auditor utilizes any subcontractor(s), Auditor shall require such subcontractor(s) to comply with the requirements of NCGS Chapter 64, Article 2.

27. **Applicable to audits with fiscal year ends of June 30, 2020 and later.** For all non-attest services, the Auditor shall adhere to the independence rules of the AICPA Professional Code of Conduct and Governmental Auditing Standards, 2018 Revision (as applicable). Financial statement preparation assistance shall be deemed a "significant threat" requiring the Auditor to apply safeguards sufficient to reduce the threat to an acceptable level. If the Auditor cannot reduce the threats to an acceptable level, the Auditor cannot complete the audit. If the Auditor is able to reduce the threats to an acceptable level, the documentation of this determination, including the safeguards applied, must be included in the audit workpapers.

All non-attest service(s) being performed by the Auditor that are necessary to perform the audit must be identified and included in this contract. The Governmental Unit shall designate an individual with the suitable skills, knowledge, and/or experience (SKE) necessary to oversee the services and accept responsibility for the results of the services performed. If the Auditor is able to identify an individual with the appropriate SKE, s/he must document and include in the audit workpapers how he/she reached that conclusion. If the Auditor determines that an individual with the appropriate SKE cannot be identified, the Auditor cannot perform both the non-attest service(s) and the audit. See "Fees for Audit Services" page of this contract to disclose the person identified as having the appropriate SKE for the Governmental Unit.

28. **Applicable to audits with fiscal year ends of June 30, 2021 and later.** The auditor shall present the audited financial statements including any compliance reports to the government unit's governing body or audit committee in an official meeting in open session as soon as the audited financial statements are available but not later than 45 days after the submission of the audit report to the Secretary. The auditor's presentation to the government unit's governing body or audit committee shall include:

- a) the description of each finding, including all material weaknesses and significant deficiencies, as found by the auditor, and any other issues related to the internal controls or fiscal health of the government unit as disclosed in the management letter, the Single Audit or Yellow Book reports, or any other communications from the auditor regarding internal controls as required by current auditing standards set by the Accounting Standards Board or its successor;
- b) the status of the prior year audit findings;
- c) the values of Financial Performance Indicators based on information presented in the audited financial statements; and
- d) notification to the governing body that the governing body shall develop a "Response to the Auditor's Findings, Recommendations, and Fiscal Matters," if required under 20 NCAC 03 .0508.

29. Information based on the audited financial statements shall be submitted to the Secretary for the purpose of identifying Financial Performance Indicators and Financial Performance Indicators of Concern.

30. Applicable to charter school contracts only: No indebtedness of any kind incurred or created by the charter school shall constitute an indebtedness of the State or its political subdivisions, and no indebtedness of the charter school shall involve or be secured by the faith, credit, or taxing power of the State or its political subdivisions.

31. All of the above paragraphs are understood and shall apply to this contract, except the following numbered paragraphs shall be deleted (See Item 16 for clarification).

32. The process for submitting contracts, audit reports and invoices is subject to change. Auditors and units should use the submission process and instructions in effect at the time of submission. Refer to the N.C. Department of State Treasurer website at <https://www.nctreasurer.com/state-and-local-government-finance-division/local-government-commission/submitting-your-audit>

33. All communications regarding audit contract requests for modification or official approvals will be sent to the email addresses provided on the signature pages that follow.

34. Modifications to the language and terms contained in this contract form (LGC-205) are not allowed.

FEES FOR AUDIT SERVICES

1. For all non-attest services, the Auditor shall adhere to the independence rules of the AICPA Professional Code of Conduct (as applicable) and *Governmental Auditing Standards, 2018 Revision*. Refer to Item 27 of this contract for specific requirements. The following information must be provided by the Auditor; contracts presented to the LGC without this information will not be approved.

Financial statements were prepared by: ☒ Auditor ☐ Governmental Unit ☐ Third Party

If applicable: Individual at Governmental Unit designated to have the suitable skills, knowledge, and/or experience (SKE) necessary to oversee the non-attest services and accept responsibility for the results of these services:

Name:

Title and Unit / Company:

Email Address:

ROBERT MCKIE

FINANCE DIRECTOR, CLAYTON

rmckie@townofclaytonnc.org

OR Not Applicable ☐ (Identification of SKE Individual not applicable for GAAS-only audit or audits with FYEs prior to June 30, 2020.)

2. Fees may not be included in this contract for work performed on Annual Financial Information Reports (AFIRs), Form 990s, or other services not associated with audit fees and costs. Such fees may be included in the engagement letter but may not be included in this contract or in any invoices requiring approval of the LGC. See Items 8 and 13 for details on other allowable and excluded fees.

3. Prior to submission of the completed audited financial report, applicable compliance reports and amended contract (if required) the Auditor may submit invoices for approval for services rendered, not to exceed 75% of the billings for the last annual audit of the unit submitted to the Secretary of the LGC. Should the 75% cap provided below conflict with the cap calculated by LGC Staff based on the billings on file with the LGC, the LGC calculation prevails. All invoices for services rendered in an audit engagement as defined in 20 NCAC .0503 shall be submitted to the Commission for approval before any payment is made. Payment before approval is a violation of law. (This paragraph not applicable to contracts and invoices associated with audits of hospitals).

PRIMARY GOVERNMENT FEES

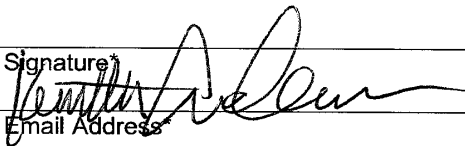
Primary Government Unit	TOWN OF CLAYTON
Audit Fee	\$ 28000-30000
Additional Fees Not Included in Audit Fee:	
Fee per Major Program	\$
Writing Financial Statements	\$
All Other Non-Attest Services	\$
75% Cap for Interim Invoice Approval (not applicable to hospital contracts)	\$ 22,500.00

DPCU FEES (if applicable)

Discretely Presented Component Unit	NA
Audit Fee	\$
Additional Fees Not Included in Audit Fee:	
Fee per Major Program	\$
Writing Financial Statements	\$
All Other Non-Attest Services	\$
75% Cap for Interim Invoice Approval (not applicable to hospital contracts)	\$

SIGNATURE PAGE

AUDIT FIRM

Audit Firm*	
ANDERSON SMITH & WIKE	
Authorized Firm Representative (typed or printed)*	Signature*
KENNETH ANDERSON	
Date*	Email Address*
5-20-2021	krandersoncpa@bellsouth.net

GOVERNMENTAL UNIT

Governmental Unit*	
TOWN OF CLAYTON	
Date Primary Government Unit Governing Board Approved Audit Contract* (G.S.159-34(a) or G.S.115C-447(a))	
Mayor/Chairperson (typed or printed)*	Signature*
JODY MCLEOD, MAYOR	
Date	Email Address
	mayor@townofclaytonnc.org

Chair of Audit Committee (typed or printed, or "NA")	Signature
NA	
Date	Email Address

GOVERNMENTAL UNIT – PRE-AUDIT CERTIFICATE

Required by G.S. 159-28(a1) or G.S. 115C-441(a1).
Not applicable to hospital contracts.

This instrument has been pre-audited in the manner required by The Local Government Budget and Fiscal Control Act or by the School Budget and Fiscal Control Act.

Primary Governmental Unit Finance Officer* (typed or printed)	Signature*
ROBERT MCKIE	
Date of Pre-Audit Certificate*	Email Address*
	rmckie@townofclaytonnc.org

SIGNATURE PAGE – DPCU
(complete only if applicable)

DISCRETELY PRESENTED COMPONENT UNIT

DPCU*	
NA	
Date DPCU Governing Board Approved Audit Contract* (Ref: G.S. 159-34(a) or G.S. 115C-447(a))	
DPCU Chairperson (typed or printed)*	Signature*
Date*	Email Address*

Chair of Audit Committee (typed or printed, or "NA")	Signature
NA	
Date	Email Address

DPCU – PRE-AUDIT CERTIFICATE

Required by G.S. 159-28(a1) or G.S. 115C-441(a1).
Not applicable to hospital contracts.

This instrument has been pre-audited in the manner required by The Local Government Budget and Fiscal Control Act or by the School Budget and Fiscal Control Act.

DPCU Finance Officer (typed or printed)*	Signature*
NA	
Date of Pre-Audit Certificate*	Email Address*

Remember to print this form, and obtain all
required signatures prior to submission.

PRINT

ASW ANDERSON SMITH & WIKE PLLC

Certified Public Accountants

220 East Washington Street
Post Office Box 697
Rockingham, North Carolina 28380
(910) 557-1176

Other Office Locations:
Seven Lakes, North Carolina
Gastonia, North Carolina
Statesville, North Carolina

April 1, 2021

To the Town of Clayton
P.O. Box 879
Clayton, NC 27528

We are pleased to confirm our understanding of the services we are to provide to the Town of Clayton for the year ended June 30, 2021. We will audit the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information, including the related notes to the financial statements, which collectively comprise the basic financial statements, of the Town of Clayton as of and for the year ended June 30, 2021. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement the Town of Clayton's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the Town of Clayton's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1. Management's Discussion and Analysis
2. Other Postemployment Benefits
3. GASB Required Supplementary Pension Schedules
4. Law Enforcement Officers' Special Separation Allowance

We have also been engaged to report on supplementary information other than RSI that accompanies the Town of Clayton's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America, and we will provide an opinion on it in relation to the financial statements as a whole, in a report combined with our auditor's report on the financial statements.

1. Individual fund budgetary schedules and other schedules.
2. Schedule of expenditures of federal and state awards.

Audit Objectives

The objective of our audit is the expression of opinions as to whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. The objective also includes reporting on—

- Internal control over financial reporting and compliance with provisions of laws, regulations, contracts, and award agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Internal control over compliance related to major programs and an opinion (or disclaimer of opinion) on compliance with federal statutes, regulations, and the terms and conditions of federal awards that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and Title 2 U.S. *Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance).

The *Government Auditing Standards* report on internal control over financial reporting and on compliance and other matters will include a paragraph that states that (1) the purpose of the report is solely to describe the scope of testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance, and (2) the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. The Uniform Guidance report on internal control over compliance will include a paragraph that states that the purpose of the report on internal control over compliance is solely to describe the scope of testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Both reports will state that the report is not suitable for any other purpose.

Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of the Uniform Guidance, and will include tests of accounting records, a determination of major program(s) in accordance with the Uniform Guidance, and other procedures we consider necessary to enable us to express such opinions. We will issue written reports upon completion of our Single Audit. Our reports will be addressed to the Clayton Town Council of the Town of Clayton. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or issue reports, or we may withdraw from this engagement.

Audit Procedures—General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government.

Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements or noncompliance may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or on major programs. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention. We will include such matters in the reports required for a Single Audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about your responsibilities for the financial statements; schedule of expenditures of federal awards; federal award programs; compliance with laws, regulations, contracts, and grant agreements; and other responsibilities required by generally accepted auditing standards.

Audit Procedures—Internal Control

Our audit will include obtaining an understanding of the government and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by the Uniform Guidance, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to the Uniform Guidance.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, *Government Auditing Standards*, and the Uniform Guidance.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the Town of Clayton's compliance with provisions of applicable laws, regulations, contracts, and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

The Uniform Guidance requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with federal statutes, regulations, and the terms and conditions of federal awards applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the *OMB Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of the Town of Clayton's major programs.

The purpose of these procedures will be to express an opinion on the Town of Clayton's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance.

Other Services

We will also assist in preparing the financial statements, schedule of expenditures of federal awards, and related notes of Town of Clayton in conformity with U.S. generally accepted accounting principles and the Uniform Guidance based on information provided by you. These nonaudit services do not constitute an audit under *Government Auditing Standards* and such services will not be conducted in accordance with *Government Auditing Standards*. We will perform the services in accordance with applicable professional standards. The other services are limited to the financial statements, schedule of expenditures of federal awards, and related notes services previously defined. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

Management Responsibilities

Management is responsible for (1) designing, implementing, and maintaining effective internal controls, including internal controls over federal awards, and for evaluating and monitoring ongoing activities to help ensure that appropriate goals and objectives are met; (2) following laws and regulations; (3) ensuring that there is reasonable assurance that government programs are administered in compliance with compliance requirements; and (4) ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles; for the preparation and fair presentation of the financial statements, schedule of expenditures of federal awards, and all accompanying information in conformity with U.S. generally accepted accounting principles; and for compliance with applicable laws and regulations (including federal statutes) and the provisions of contracts and grant agreements (including award agreements). Your responsibilities also include identifying significant contractor relationships in which the contractor has responsibility for program compliance and for the accuracy and completeness of that information.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) access to personnel, accounts, books, records, supporting documentation, and other information as needed to perform an audit under the Uniform Guidance, (3) additional information that we may request for the purpose of the audit, and (4) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws, regulations, contracts, agreements, and grants. Management is also responsible for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements, or abuse that we report. Additionally, as required by the Uniform Guidance, it is management's responsibility to evaluate and monitor noncompliance with federal statutes, regulations, and the terms and conditions of federal awards; take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; promptly follow up and take corrective action on reported audit findings; and prepare a summary schedule of prior audit findings and a separate corrective action plan. The summary schedule of prior audit findings should be available for our review on October 31, 2021.

You are responsible for identifying all federal awards received and understanding and complying with the compliance requirements and for the preparation of the schedule of expenditures of federal awards (including notes and noncash assistance received) in conformity with the Uniform Guidance. You agree to include our report on the schedule of expenditures of federal awards in any document that contains and indicates that we have reported on the schedule of expenditures of federal awards. You also agree to [include the audited financial statements with any presentation of the schedule of expenditures of federal awards that includes our report thereon OR make the audited financial statements readily available to intended users of the schedule of expenditures of federal awards no later than the date the schedule of expenditures of federal awards is issued with our report thereon]. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the schedule of expenditures of federal awards in accordance with the Uniform Guidance; (2) you believe the schedule of expenditures of federal awards, including its form and content, is stated fairly in accordance with the Uniform Guidance; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the schedule of expenditures of federal awards.

You are also responsible for the preparation of the other supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains, and indicates that we have reported on, the supplementary information. You also agree to [include the audited financial statements with any presentation of the supplementary information that includes our report thereon OR make the audited financial statements readily available to users of the supplementary information no later than the date the supplementary information is issued with our report thereon]. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Objectives section of this letter. This

responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

You agree to assume all management responsibilities relating to the financial statements, schedule of expenditures of federal awards, and related notes, and any other nonaudit services we provide. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements, schedule of expenditures of federal awards, and related notes and that you have reviewed and approved the financial statements, schedule of expenditures of federal awards, and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the nonaudit services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

Engagement Administration, Fees, and Other

We may from time to time and depending on the circumstances, use third-party service providers in serving your account. We may share confidential information about you with these service providers, but remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures, and safeguards to protect the confidentiality of your personal information. In addition, we will secure confidentiality agreements with all service providers to maintain the confidentiality of your information and we will take reasonable precautions to determine that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others. In the event that we are unable to secure an appropriate confidentiality agreement, you will be asked to provide your consent prior to the sharing of your confidential information with the third-party service provider. Furthermore, we will remain responsible for the work provided by any such third-party service providers.

We understand that your employees will prepare all cash, accounts receivable, or other confirmations we request and will locate any documents selected by us for testing.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings. It is management's responsibility to electronically submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditors' reports, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. The Data Collection Form and the reporting package must be submitted within the earlier of 30 calendar days after receipt of the auditors' reports or nine months after the end of the audit period.

We will provide copies of our reports to the Town of Clayton, North Carolina; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the property of Anderson Smith & Wike PLLC and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to the Town of Clayton or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Anderson Smith & Wike PLLC personnel. Furthermore, upon request, we

April 1, 2021
Town of Clayton
Page 7

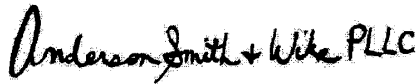
may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by the Town of Clayton. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

We expect to begin our audit on approximately September 1, 2021 and to issue our reports no later than October 31, 2021. Kenneth Anderson is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them.

We appreciate the opportunity to be of service to the Town of Clayton and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Very truly yours,

Anderson Smith + Wike PLLC

This letter correctly sets forth the understanding of the Town of Clayton, NC.

Management signature: _____

Title: _____

Date: _____

Governance signature: _____

Title: _____

Date: _____



Koonce, Wooten & Haywood, LLP
CERTIFIED PUBLIC ACCOUNTANTS

Report on the Firm's System of Quality Control

To the Partners of Anderson Smith & Wike, PLLC and the
Peer Review Committee, North Carolina Association
of Certified Public Accountants

We have reviewed the system of quality control for the accounting and auditing practice of Anderson Smith & Wike, PLLC (the firm) in effect for the year ended March 31, 2019. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants (Standards).

A summary of the nature, objectives, scope, limitations of, and the procedures performed in a System Review as described in the Standards may be found at www.aicpa.org/prsummary. The summary also includes an explanation of how engagements identified as not performed or reported in conformity with applicable professional standards, if any, are evaluated by a peer reviewer to determine a peer review rating.

Firm's Responsibility

The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. The firm is also responsible for evaluating actions to promptly remediate engagements deemed as not performed or reported in conformity with professional standards, when appropriate, and for remediating weaknesses in its system of quality control, if any.

Peer Reviewer's Responsibility

Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review.

Required Selections and Considerations

Engagements selected for review included engagements performed under *Government Auditing Standards*, including compliance audits under the Single Audit Act, and an audit of an employee benefit plan.

As part of our peer review, we considered reviews by regulatory entities as communicated by the firm, if applicable, in determining the nature and extent of our procedures.

Opinion

In our opinion, the system of quality control for the accounting and auditing practice of Anderson Smith & Wike, PLLC in effect for the year ended March 31, 2019, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. Anderson Smith & Wike, PLLC has received a peer review rating of *pass*.

Koonce, Wooten & Haywood, LLP

Koonce, Wooten & Haywood, LLP

July 17, 2019

Raleigh
4080 Barrett Drive
Post Office Box 17806
Raleigh, North Carolina 27619

919 782 9265
919 783 8537 FAX

Durham
3500 Westgate Drive
Suite 203
Durham, North Carolina 27707

919 354 2584
919 489 8183 FAX

Pittsboro
579 West Street
Post Office Box 1399
Pittsboro, North Carolina 27312

919 542 5500
919 542 5764 FAX



Town Council Agenda Cover Sheet

Meeting Date

June 7, 2021

Agenda Location

New Business

Item Title

Code of Ordinance – Chapter 32 Update

Presenter

Dick Hails, Interim Planning Director

Summary/Description

The language in the proposed ordinance will clarify the voting status of ETJ members for both the Board of Adjustment and the Planning Board. Language has been drafted with the assistance of the Town Attorney.

Requested Action

Approval

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Ordinance #2021-06-04

Meeting Timeline

Click or tap here to enter text.

TOWN OF CLAYTON

Amendment to the Code of Ordinances,
Chapter 32, Re: Board of Adjustment and Planning Board Voting

BE IT HEREBY ADOPTED BY THE TOWN COUNCIL FOR THE TOWN OF CLAYTON, NORTH CAROLINA, to amend the Town of Clayton Code of Ordinances, Chapter 32, *Departments, Boards, and Commissions*, as follows:

1. Section 32.010 of the Code of Ordinances, *Board of Adjustment - Establishment*, is hereby amended by adding a new Subsection (B)(2)(c) thereof to read as follows:

“(c) Pursuant to G.S. 160D-307 (c), all members appointed to the Board of Adjustment from the Town’s ETJ shall have equal rights (including voting rights), privileges and duties with other members of the Board, regardless of whether the matters at issue arise within the Town or within the ETJ.”

2. Section 32.078 of the Code of Ordinances, *Planning Board - Members, Terms, Vacancies*, is hereby amended by adding at the end of Subsection (A) thereof the following:

“(E) Pursuant to G.S. 160D-307 (c), all members appointed to the Planning Board from the Town’s ETJ shall have equal rights (including voting rights), privileges and duties with other members of the Board, regardless of whether the matters at issue arise within the Town or within the ETJ.”

Duly adopted, this the 7th day of June, 2021 while in regular session.

Jody McLeod
Mayor

ATTEST:

Kimberly A. Moffett, CMC, NCCMC
Town Clerk

Town of Clayton – Water Conservation and Shortage Response Plan

BACKGROUND & GENERAL INFORMATION

The Town of Clayton (hereinafter referred to as “Town”) is located in Western Johnston County and operates its own municipal “Community Water System”. It is currently a distribution system only and is supplied drinking water solely by purchase from Johnston County Utility’s water system. The Town has the operational and financial capability to manage its water system as documented in its Water System Management Plan (in accordance with 15A NCAC 18C .0307©) and on file with NC Division of Environmental Health, Public Water Supply Section. The Town regularly reports current and future needs of its water system as documented in its Local Water Supply Plan (In accordance with NCGS 143-355(l) and on file with the NC Division of Water Resources. This Water Conservation and Shortage Response Plan is required as part of the Local Water Supply Plan (in accordance with 15A NCAC 02E .0607) and is now updated to meet the current requirements.

It is also important to state that because the Town operates a distribution system receiving its water supply solely by purchase from Johnston County Utilities, the Town is bound by purchase contract to enact water conservation, levels of response and triggers which are consistent with the County’s conservation measures, and that are at least as stringent as the County’s plans, policies, or ordinances. This document for the Town is written to reflect the equal or similar conservation measures as stated in the County’s Current Conservation Ordinance (note that the County’s current ordinance also serves as their Water Shortage Response Plan). Any change in the County’s conservation requirements may require appropriate changes in Town procedures, or the procedures in this document. The Town is similar to several other towns within Johnson County that purchase water from the County and are linked to the County’s conservation measures. (See Appendix A for a copy of the County’s current conservation ordinance).

The procedures of this Water Conservation and Shortage Response Plan are written to reduce potable water demand and supplement existing drinking water supplies whenever they are in danger of being inadequate to meet their needs.

SECTION 1 – AUTHORITY

As stated throughout this document, because the Town is provided water supply solely by purchase from the County, then the Town is bound by contract to adhere to the conservation measures currently in effect with the County, at a minimum. County officials have authority over the entire County Water System, and to a certain degree have authority to declare shortages and impose minimum restrictions on separate purchase systems, such as the Town. Therefore, authority to declare shortages and impose minimum restrictions is often initiated by the County according to their water shortage policies. However, authority for notification, requirements for water restriction, and enforcement of policies for Town customers rests with the Town itself. Additionally, the Town also has the authority to declare its own distribution system shortage, separate from the County (as described more fully in Section 3.C. below).

The Town Manager, in coordination with the Director of Public Services, is authorized to enact water shortage response provisions in Town whenever the trigger conditions outlined in Section 4 are met. In the absence of the Town Manager, The Director of Public Services or another designee will assume this role.

Town of Clayton – Water Conservation and Shortage Response Plan

Town Manager

Currently: (Interim) Rich Cappola, PE

P.O. Box 879 Clayton, NC 27528

111 E. Second Street Clayton, NC 27520

Phone: 919-553-5002

Director of Public Services

Currently: N/A

P.O. Box 879 Clayton, NC 27528

653 NC 42 Hwy. West Clayton, NC 27520

Phone: 919-553-1530

SECTION 2 – NOTIFICATION

As stated previously, the Town is bound by purchase contract with the County to adhere to the conservation measures currently in effect with the County, at a minimum. Consequently, Water Shortage Declarations are initiated by the County. Typically, managerial staff at the County Public Utilities Department notifies the Town Administrative offices, either by e-mail or phone call. From this point, the Town notifies its employees and customers as follows:

A. Notification of Enactment/Declaration of Water Shortage

The following notification methods will be used to inform the Town's customers and employees of a Water Shortage Declaration:

- Declaration Notice will be posted on Town Bulletin Board at Town Hall
- Declaration Label/Notice will be included on customer water bills
- All Town managerial staff will be notified by email or staff meeting; to be passed down to employee
- Declaration Notice will be posted on the Town website

B. Notification of Specific Response Measures for Water Shortage

Actual response measures vary depending on the severity of water shortage (see next section); however, the state of shortage and specific response measures shall be communicated as follows:

- Response measures will be included with Declaration Notice posted on Town Bulletin Board at Town Hall
- Short instructions with Declaration Notice/Label on customer water bills which informs customer where to look for additional information regarding response measures
- Response measures will be conveyed to Town managerial staff; to be passed down to employees
- Response measures will be included with Declaration Notice posted on the Town website
- If a stage of water shortage requires any restrictions other than voluntary conservation measures for any user or user class, then a notice will be posted in the local newspaper

Town of Clayton – Water Conservation and Shortage Response Plan

SECTION 3 – LEVELS OF RESPONSE

As stated previously, the Town is bound by purchase contract with the County to adhere to the conservation measures currently in effect with the County, at a minimum. Therefore, the County will declare a specific State of Water Shortage and the Town will implement the same response measures as the County, and as summarized below (see Appendix A for a copy of the County's current conservation ordinance).

A. Response Levels for Shortage in County Supply Source of Treatment Limitations

For water shortages due to reduction in the County's supply resources or treatment limitations, the County Public Utilities Director is empowered to declare a specific Stage of Water Shortage; and the County Manager will publish public statements and is empowered to impose/enforce water restrictions. The County required Level of Response for such shortages is currently based on a hierarchal matrix of User Classes (made up of 3 classes of Essential, Important, and Non-Essential users (and Severity Stages (made up of 3 stages of Advisory, Alert, and Emergency stages). The response matrix below illustrates the levels of response required for certain users if the County Public Utilities Director declares a specific stage of water shortage:

Level Of Response Matrix - Johnston County and Town For County Supply Source Shortage of Treatment Limitations			
	Essential Users (Class 1)	Socially or Economically Important Users (Class 2)	Non- Essential Users (Class 3)
Water Shortage Advisory (Stage 1)	Voluntary Conservation	Voluntary Conservation	Voluntary Conservation Strongly Encouraged
Water Shortage Alert (Stage 2)	Voluntary Conservation (Strongly Encouraged)	Voluntary Conservation (Strongly Encouraged)	Banned
Water Shortage Emergency (Stage 3)	Targeted for Voluntary Conservation	Banned	Banned

Stages declared by County Public Utilities Director. The Town will implement the same response level as the County. See Appendix A for copy of County's current Conservation Ordinance with detailed descriptions and definitions of User Classes.

B. Response Levels for Shortage in County Distribution System

For water shortages due to problems or limitations in the County Distribution System (as determined by the County Public Utilities Director), the County Manager is empowered to declare a "Water Distribution Crisis", publish public statements, and impose/enforce water restrictions. The County-required Level of Response for this shortage gives authority to require Mandatory Restrictions and even ban/prohibit specific uses. These restricted uses are not categorized within a specific User Class, but are typically

Town of Clayton – Water Conservation and Shortage Response Plan

considered as non-essential. The table below describes the specific uses that may be restricted if the County Manager declares a Water Distribution Crisis:

Level of Response - Johnston County & Town For Water Distribution Crisis			
The Following uses may be BANNED / PROHIBITED during a Water Distribution Crisis			
Watering: grass, lawn, shrubbery, flowers or other vegetation (unless granted permission for plants grown for sale)	Swimming Pool: filling, refilling, or otherwise adding water	Washing: rinsing or cleaning of exterior walls, floors, or paved areas	Washing: rinsing or cleaning of vehicles, including automobile, truck, van, motorcycle, or other motor vehicles or trailers (unless granted permission for being in business of washing vehicles)

Declared by County Manager. Town will implement response level, same as County. See Appendix A for copy of County's

C. Response Levels for Water Conservation and Shortages in Town Distribution System

The Town also reserves the right to declare mandatory water conservation measures as well as a Water Shortage Emergency for its own distribution system (separate and independent from the County). For water shortages due to problems or limitations in the Town Distribution System, the Town Manager in coordination with the Director of Public Services, is empowered to declare the required Level of Response for this shortage also given the authority to issue Mandatory Restrictions and even ban/prohibit specific uses. These restricted uses are not categorized within a specific User Class, but are typically considered as non-essential. The Town Manager can declare mandatory water conservation measures or a Water Shortage Emergency, as well as terminate said measures and emergencies. The County's response measures as described in the table in the preceding section shall also be utilized, solely for the Town's water system.

SECTION 4 – TRIGGERS

As stated previously, the Town is bound by purchase contract with the County to adhere to the conservation measures currently in effect with the County, at a minimum. Most of the Triggers for a specific stage of water shortage are set by the County. Once a trigger criteria is met, the County will notify the Town of any Declaration or Stage of Water Shortage, and the Town will respond as described in the previous sections. For reference, the County's current Trigger criteria is summarized below (see Appendix A for a copy of the County's current conservation ordinance and specific Triggers). The Town may also be triggered into its own distribution shortage, separate from the County, as described by the last bullet below:

- County Water Shortage Advisory (Stage 1): Triggered when Johnston County Public Utilities Director determines a potential shortage of water supply is indicated, such that adequate potable

Town of Clayton – Water Conservation and Shortage Response Plan

water supplies cannot be maintained, whether the shortage is caused by drought, mechanical failure, or limitations of the water treatment facilities.

- County Water Shortage Alert (Stage 2): Triggered when Johnston County Public Utilities Director determines the raw water supply is below the level necessary to meet normal demands and if the supply continues to decline such that there may not be sufficient water supply to meet normal demands and/or there are treatment facility limitations which cannot provide adequate supplies of potable water.
- County Water Shortage Emergency (Stage 3): Triggered when Johnston County Public Utilities Director determines the raw water supply is below the level necessary to meet normal demands and serious shortages exist and/or there are treatment facility limitations which cannot provide adequate supplies of potable water.
- County Water Distribution System Crisis: Triggered when Johnston County Public Utilities Director, in conjunction with the County Manager, determine that there is a shortage of water supply due directly to problems with the County Distribution System. Such problems include consideration of the following factors: Water pressure within the County System at specific monitored locations; ability to fill elevated tanks within the County System; ability to maintain ground storage levels for water treatment purposes; ability to maintain water pressure standards within the entire County system.
- Town Water Shortage Emergency: Triggered when Town Manager, in coordination with the Director of Public Services, determines that there is a shortage of water supply due directly to problems with the Town Distribution System. Such problems include consideration of the following factors: Water pressure within the Town System at specific monitoring locations; ability to fill elevated tanks within the Town System; ability to maintain water pressure standards within the entire Town System.

SECTION 5 – ENFORCEMENT

The direct or indirect use of water from the Town distribution system in violation of this plan is prohibited. The Town shall enforce the provisions of this, separate from the County, for all customers on the Town's water system. In order to be consistent with other County policies as described in previous sections, the following actions and penalties are modeled after Johnston County, but tailored for the Town.

A. Methods of Enforcement

Violations may be reported directly to the Town Public Services Department, the Town Police Department or by AMI water meter monitoring. This section applies to all persons using town water, inside and outside the town limits, regardless of whether they have a contract for water service with the town. A customer of the town shall be responsible for all violations that occur in connection with water that passes through the meter for which the customer is billed by the town. Any person who uses water in violation of a restriction or ban imposed on the use of water during a mandatory conservation period, a period of water shortage emergency or in violation of a water rationing policy, or who otherwise violates the provisions of this section, or who impedes or interferes with any action undertaken or ordered pursuant to this section and policies adopted hereunder, shall be subject to the penalties listed below. The typical progression of a reported violation, along with specific penalties is described below:

Town of Clayton – Water Conservation and Shortage Response Plan

- Enforcement by police officers, code enforcement and AMI monitoring. Upon the declaration of mandatory conservation, water shortage emergency, or rationing, the Manager and every police officer or code enforcement official within the town may enforce any restrictions or bans imposed on the use of water.
- Suspicion of violation. Whenever the town has reasonable cause to believe that a person is violating any of the provisions of this section or any policy adopted hereunder, the town shall immediately notify that person of the violation by affixing a written notice of the violation to the property where the violation occurred and personally delivering or mailing such notice to the customer of record and to any other person known to the town who is responsible for the violation or its correction. Such notice shall describe the violation, order that it be corrected, cured or abated immediately or within such specified times as the Manager determines is reasonable under the circumstances, and warn that more severe measures, such as civil penalties, criminal charges or termination of water service may be brought, assessed or imposed. If the order is not complied with within the time period, the Manager may undertake enforcement action as follows.
- Enforcement action. Any person who, after being given notice of violation, does not comply with this section or policy adopted hereunder within the time period specified shall, at the option of the town, be subject to any of the following: Civil penalties, criminal penalties, termination of water service, injunctive relief, or any appropriate equitable remedy issuing from a court of competent jurisdiction.
 - Criminal penalties. Any person may be charged with violation of this section or policy adopted hereunder and prosecuted in district court. Any person so charged and found guilty of violating this section or policy shall be guilty of a misdemeanor. Each day's violation shall constitute a separate offense. The penalty for violation shall be a maximum fine of \$50 per occurrence or imprisonment for not more than 30 days. The imposition of one or more penalties for any violation shall not excuse any violation or permit it to continue.
 - Civil penalties. In addition to or in lieu of criminal prosecution, violation of this section or any policy adopted hereunder may subject the violator or customer to a civil penalty of up to \$1,000 per violation per day for so long as the violation exists. Each day on which a violation occurs or continues shall constitute a separate and distinct violation. In determining the amount of the civil penalty, the Manager shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, efforts to correct the violation, the compliance history of the person against whom the violation is assessed, the cost of enforcement to the town, whether the violation was willful or intentional and any other factor as justice requires. The town shall serve a written citation on the violator, and the customer, if different, by personal delivery or by certified or registered mail, return receipt requested. The citation shall describe the violation and shall specify the amount of the civil penalty levied. The civil penalty is collectible in a civil action in the nature of debt. The imposition of one or more penalties for a violation shall not excuse any violation or permit it to continue.

Town of Clayton – Water Conservation and Shortage Response Plan

- Termination of service. The Manager or his designee may make findings of fact and order whether service should continue, be flow restricted, or terminated. Termination of water service shall be performed in accordance with the town's ordinances, policies, procedures and practices. The standard reconnection charge shall be paid for the reconnection of any water service terminated pursuant to the current town ordinances and procedures.
- Appeal. Any person against whom enforcement action has been taken, hereafter referred to as “aggrieved party,” is entitled to appeal to the Town Council upon serving written notice to the Town Manager and following administrative procedures for appeal to the Town Council.
- If, after the initial Warning Notice and allowable Correction Period, the customer is still in violation, then a daily penalty shall be added to the customer’s water bill for each day that the customer remains in violation. The penalty schedule shall be as follows, depending on the size of the water service connection for the customer:

<u>Size of Service</u>	<u>Penalty</u>
≤ ¾ inch	\$20.00
1 inch	\$40.00
1.5 inch	\$50.00
2 inch	\$60.00
4 inch	\$80.00
6 inch	\$100.00
8 inch	\$120.00

- If Warning Notice or Penalties are not complied with, or ignored, the Customer Service Director may restrict or terminate water service without notice.

B. Authority for Enforcement

The provisions in the preceding section shall be enforced by the Police Department and Town Code Enforcement Officer as deemed necessary.

SECTION 6 – PUBLIC COMMENT FOR THIS PLAN

This draft plan will be sent to NC Division of Water Resources for review and comment by state authorities. Prior to adoption of this Water Conservation and Shortage Response Plan, Town customers will have multiple opportunities to comment on the provisions herein. A draft plan will be made available and publicly noticed. A public hearing will be scheduled with appropriate public notice provided. All

Town of Clayton – Water Conservation and Shortage Response Plan

subsequent revisions to the draft plan will also be published and publicly noticed prior to an adoption vote by the Town Council.

SECTION 7 – VARIANCE PROCEDURES

A. Methods of Applying For Variance Request

Applications for Water Restriction Variance Requests are available at Town Hall. (See Appendix B for a copy of the Water Restriction Variance Application as developed for the Town). All applications must be submitted for review to the Town Director of Public Services, or his/her designee. In the sole opinion of the Town Director of Public Services, Water Restriction Variance Requests may also be forwarded to the Town Manager for consultation and input. A decision to approve or deny individual variance requests shall be rendered by the Town Director of Public Services or designee within 2 weeks and in consideration of the factors given in the following section.

B. Factors for Approval or Denial of Variance Request

Prior to rendering a decision for a Water Restriction Variance Request, the Town Director of Public Services or designee shall carefully consider the following factors:

- What is the purpose of the requested water usage?
- Is the requested water usage a necessary use for drinking water?
- What is the impact on water demand made to the requested water usage?
- What is the expected duration of requested water usage?
- Are there alternative sources for the requested water usage?
- Is the requested water usage socially or economically important?
- Will the requested water usage prevent fire or structural damage?
- Are there other relevant factors that the requested water usage may have on water demand or supply?

The weight of each factor in rendering a decision shall be determined by the Town Director of Public Services. The final decision for a variance must also take into account how all the factors above relate to the effectiveness of the overall water shortage response effort (as described in the section on Plan Effectiveness below). If the overall effectiveness of the water shortage response effort would be compromised by granting a variance request, then the request should not be approved.

C. Further Variance Procedures

Upon denial of a Water Restriction Variance Request as described above, an applicant may pursue a Town Variance of the above procedures by requesting a quasi-judicial hearing through the Town Board of Adjustment

SECTION 8 – PLAN EFFECTIVENESS

A. Calculation to Measure Monthly Conservation Results During a Shortage

During a declared water shortage, the effectiveness of water conservation efforts or imposed restrictions shall be measured by comparing the current month's water usage PER metered connection against the same month's water usage in the previous year PER metered connection (or against the closest comparable year that was NOT in a stage of water shortage). In other words, during a water shortage, the Town's monthly meter readings (noting that meter-reading-periods do not match exactly with calendar

Town of Clayton – Water Conservation and Shortage Response Plan

month) shall be calculated on a PER METER basis by dividing the total recorded water usage for the meter-reading-period by the number of active meters. The monthly water usage PER METER calculated during the water shortage shall be compared with the same calculated value for the same usage period in the closest prior year in which there was NOT a water shortage. FURTHERMORE, in order to break down usages, the calculated evaluation will be broken down for each of the following user types.

- Irrigation or Outdoor Use Meters
- Residential Meters
- Commercial Meters
- Industrial Meters
- Institutional Meters

This monthly usage PER METER within each type (as compared between the current water shortage period and a prior year without a shortage) should yield comparable values for assessing the extent to which water usage has been reduced due to conservation; and in assessing which meter types the conservation measures are most effective. (See Appendix C for a copy of the Calculation Form as developed for the Town).

B. Other Measures of Effectiveness

During a declared water shortage, other factors may also be used in assessing the overall effectiveness of water conservation measures. This includes, but is not limited to, the following data:

- In recent months, how frequently have water shortage stages and responses been triggered or activated?
- Have there been recent or historic water shortages or problem periods worth mentioning that didn't quite trigger responses?
- How many Warnings and Violations have been assessed in the current water shortage period?

SECTION 9 – PLAN REVIEW & REVISIONS

The Water Conservation and Shortage Response Plan will be reviewed and revised as needed to adapt to new circumstances affecting water supply and demand; and as relevant changes in the County's system or response plans are made aware to the Town; and at a minimum every five years according to the provisions of G.S. 143-355(l). The Town Director of Public Services is responsible for initiating all subsequent revision. +/-)

CHAPTER 54: WATER SHORTAGE CONSERVATION MEASURES

Section

54.01 Adoption

54.02 Water use classes

54.03 Declaration of voluntary conservation measures

54.04 Declaration of mandatory conservation measures

54.05 Declaration of water shortages emergency measures

54.06 Declaration of rationing

54.07 Shortage water rates

54.08 ~~TownTown~~ policy

54.09 Application, violation, enforcement, penalties

~~54.10 Installation of meters~~

§ 54.01 ADOPTION.

(A) For the protection of the public health, welfare and safety of the ~~TownTown~~, the ~~TownTown~~ Manager is authorized to determine when certain conditions exist in the ~~TownTown~~ requiring water conservation or rations measures be imposed and to develop and enforce such conservation measures when the ~~TownTown~~ Manager determines that a water emergency exists in the ~~TownTown~~. The conservation measures may include voluntary conservation measures, mandatory conservation measures, and water shortage emergency measures. The ~~TownTown~~ Manager may impose water conservation measures on all ~~townTown~~ water customers and other persons who use ~~townTown~~ water for such period of time as the Manager determines constitutes a water emergency.

(B) The following definitions apply:

CUSTOMER. All persons in whose name the ~~TownTown~~ maintains an account for water use, or who are responsible for payment of water passing through a particular meter. All customers are responsible for any use of water that passes through the meter for which they are responsible.

EMERGENCY. That any one or all of the following difficulties are being encountered: Water supplies are below the level necessary to meet normal needs causing serious shortages; there is inadequate water treatment capability; water transmission capability is disrupted or inadequate; finished water storage problems exist to the level that normal needs cannot be met; or any other unforeseen circumstances which results in or may result in a severe water shortage.

MANAGER. The ~~TownTown~~ Manager for the ~~TownTown~~ of Clayton, or his designee.

NONRESIDENTIAL USER. Every user except residential users, but does not include hospitals and health care facilities.

PERSON. Any individual, association, partnership, firm, company, limited liability company, corporation, trust, estate, governmental entity or any other legal entity, or its legal representatives, agents or assigns.

RESIDENTIAL USER. Any person who receives water service for a single or multifamily dwelling unit. The term RESIDENTIAL USER does not include educational or other institutions, hotels, motels, or similar commercial establishments.

WATER. All water available to the ~~Town~~Town for treatment by virtue of the ~~Town~~Town's water rights or withdrawal permits and any treated water introduced by the ~~Town~~Town into its portable water distribution system, including water purchased or offered for sale. Water does not include treated wastewater effluent reclaimed for reuse in irrigation or other approved uses.

(Ord. passed ~~5-5-97~~)

§ 54.02 WATER USE CLASSES.

The following classes of users of ~~town~~Town water are hereby established:

(A) Class 1: Essential water uses.

(1) Class 1 ~~D~~domestic use. Use by residential users of such amount of water as is necessary to sustain human life and the lives of domestic pets, and to maintain reasonable minimum standards of hygiene and sanitation.

(2) Class 1 ~~H~~hospital and health care facility use. Use by hospitals and health care facilities of such amount of water as is necessary for patient care and rehabilitation, and includes swimming pools necessary for patient care and rehabilitation.

(3) Class 1 ~~P~~public use. Use of water from fire hydrants and other firefighting and certain testing and drills by the Fire Department if performed in the interest of public safety and if approved by the ~~Town~~Town Manager. This use also includes the flushing of sewers and hydrants as needed to ensure public health and safety if approved by the Director of Public Works and Utilities.

(4) Class 1 Nonresidential. Use by nonresidential users of such amount of water as is necessary to sustain human life and comfort in the workplace and to maintain reasonable minimum standards of hygiene and sanitation.

(B) Class 2: Socially or economically important uses of water.

(1) Class 2 ~~D~~domestic use. Use by residential users of water for uses specified as Class 1 or Class 3 uses. Unless further restricted by the manager, this use includes kitchen, bathroom, and laundry use; minimal watering of vegetable gardens and minimal watering of trees when necessary to preserve the trees.

(2) Class 2 ~~C~~commercial/~~P~~public use. Nonresidential use that is not Class 1 or Class 3 use. This includes outdoor commercial watering (public or private) using conservation measures and to the extent that sources of water other than potable water are not available to use; irrigation for commercial vegetable gardens and fruit orchards or the maintenance of livestock; watering by commercial nurseries at the minimum level necessary to maintain stock; and use by arboretums and public gardens of

national, state or regional significance where necessary to preserve specimens; use of water at a minimum rate necessary to implement vegetation following earth moving where such revegetation is required by law or regulation; minimal watering of golf course greens, minimum watering of playing fields to protect public safety; the filling and operation of swimming pools that serve more than 25 dwellings, or are used by hospitals or health care facilities for patient care and rehabilitation; commercial car and truck washes and laundromats; use of water by restaurants, clubs and eating places for food service and customer comfort purposes and start-up and maintenance of air conditioning unit unless required for health reasons and approved by the Director of Public Services; use by schools, churches, motels/hotels and similar business and commercial establishments for the health and comfort of employees and those served; and the filling and testing of new water lines as part of the procedures required to accept those lines and integrate them into the ~~town~~Town's potable water distribution system.

(C) Class 3: Nonessential uses of water.

(1) Class 3 residential/nonresidential use. Use by residential users and nonresidential users, including hospitals and health care facilities, for ornamental purposes, noncommercial watering and motor vehicle washing purposes, including gardens, lawns, parks, golf courses (except greens), and other recreational areas; recreational purposes, including the filling and operation of swimming pools serving less than 25 dwellings; refilling cooling towers after draining, except as specified in Class 1; the serving of water in restaurants, clubs, or eating places, except by specific request; and such other similar non-essential uses as may be specified by the manager in a policy statement.

(2) Class 3 public use. Any use of water from fire hydrants, including use of sprinkler caps and testing fire apparatus and for Fire Department drills, and the flushing of sewers and hydrants, except as listed in Class 1.

(Ord. passed 5-5-97)

§ 54.03 DECLARATION OF VOLUNTARY CONSERVATION MEASURES.

Whenever the Manager finds that a potential shortage of water supply is indicated, he is empowered to declare a state of voluntary conservation, and to call upon all water customers to employ voluntary water conservation measures.

(Ord. passed 5-5-97)

§ 54.04 DECLARATION OF MANDATORY CONSERVATION MEASURES.

Whenever the Manager finds that there is the potential for a water emergency situation to occur or exist, the Manager may declare a state of mandatory conservation. Under a state of mandatory conservation, the Manager shall continue to encourage voluntary water conservation measures, and shall impose a scheduled water use program or an outright ban on all Class 3 uses until the mandatory conservation period is declared to be over by the Manager.

Mandatory Watering Schedule							
Day of Week	MON	TUES	WED	THURS	FRI	SAT	Sun
Even Street Address	NO	NO	YES	NO	YES	NO	YES
Odd Street Address	NO	YES	NO	YES	NO	YES	NO

(Ord. passed ~~5-5-97~~)

§ 54.05 DECLARATION OF WATER SHORTAGES EMERGENCY MEASURES.

Whenever the Manager finds that a water emergency situation exists, the Manager is empowered to declare that a water shortage emergency exists. During a water shortage emergency, Class 1 essential water uses shall be specifically identified as targets for voluntary conservation measures. Class 2 socially or economically important uses may be restricted or banned, and Class 3 nonessential uses shall be restricted or banned. These restrictions or bans shall continue until the water shortage emergency is declared ended by the Manager.

(Ord. passed ~~5-5-97~~)

§ 54.06 DECLARATION OF RATIONING.

Whenever the Manager has declared a water shortage emergency and finds a need to provide for the equitable distribution of critically limited water supplies in order to balance demand and limited available supplies and to assure that sufficient water is available to preserve public health and safety, the Manager shall direct the Director of Public Services to prepare a mandatory rationing policy and plan for implementation during the emergency period.

(Ord. passed ~~5-5-97~~)

§ 54.07 SHORTAGE WATER RATES.

(A) Upon a declaration of mandatory conservation or a declaration of water shortage emergency as provided herein, or at such other times as the Council deems necessary, the Council may adopt water shortage rates designed to encourage conservation of water. Such rates may provide for, but shall not be limited to:

- (1) Higher charges per unit for increasing usage (increasing block rates);
- (2) Uniform charges for water usage per unit of use (uniform unit rate);
- (3) Extra charges for use in excess of a specified level (excess demand surcharge); or
- (4) Billing discounts for conserving water beyond specified levels.

(B) Further, due to situations brought on by drought or other special infrastructure needs associated with a water emergency, the ~~Town~~Town Council may decide to adopt special rates that will reflect the additional costs associated with treatment and distribution of water.

(Ord. passed ~~5-5-97~~)

§ 54.08 ~~TOWN~~TOWN POLICY.

The Manager is hereby authorized to prepare a ~~T~~town policy to implement these water conservation measures, to further define and give examples of the various classes of water use, to prepare a mandatory water rationing policy and plan, and to provide such other conditions and provisions as may be necessary to successfully carry out the goals of this section.

(Ord. passed ~~5-5-97~~)

§ 54.09 APPLICATION, VIOLATION, ENFORCEMENT, PENALTIES.

The direct or indirect use of water from the ~~Town~~Town distribution system in violation of this plan is prohibited. The ~~Town~~Town shall enforce the provisions of this Ordinance, separate from the County, for all customers on the ~~Town~~Town's water system. In order to be consistent with other County policies, the following actions and penalties are modeled after Johnston County, but tailored for the ~~Town~~Town.

This section applies to all persons using ~~T~~town water, inside and outside the ~~T~~town limits, regardless of whether they have a contract for water service with the ~~town~~Town. A customer of the ~~T~~town shall be responsible for all violations that occur in connection with water that passes through the meter for which the customer is billed by the ~~T~~town. Any person who uses water in violation of a restriction or ban imposed on the use of water during a mandatory conservation period, a period of water shortage emergency or in violation of a water rationing policy, or who otherwise violates the provisions of this section, or who impedes or interferes with any action undertaken or ordered pursuant to this section and policies adopted hereunder, [including the ~~Town~~Town's Water Conservation and Shortage Response Plan](#), shall be subject to the penalties listed below [or as set forth therein](#).

(A) Enforcement by police officers, code enforcement and AMI monitoring. Upon the declaration of mandatory conservation, water shortage emergency, or rationing, the Manager and every police officer or code enforcement official of the ~~T~~town may enforce any restrictions or bans imposed on the use of water.

(B) Suspicion of violation. Whenever the ~~town~~Town has reasonable cause to believe that a person is violating any of the provisions of this section or any policy adopted hereunder, the ~~town~~Town shall immediately notify that person of the violation by affixing a written notice of the violation to the property where the violation occurred and personally delivering or mailing such notice to the customer of record and to any other person known to the ~~town~~Town who is responsible for the violation or its correction. Such notice shall describe the violation, order that it be corrected, cured or abated immediately or within such specified times as the Manager determines is reasonable under the circumstances, and warn that more severe measures, such as civil penalties, criminal charges or termination of water service may be brought, assessed or imposed. If the order is not complied with within the time period, the Manager may undertake enforcement action as follows.

(C) Enforcement action. Any person who, after being given notice of violation, does not comply with this section or policy adopted hereunder within the time period specified shall, at the option of the ~~town~~Town, be subject to any of the following: ~~c~~Civil penalties, ~~c~~riminal penalties, termination of water service, injunctive relief, or any appropriate equitable remedy issuing from a court of competent jurisdiction.

(1) Criminal penalties. Any person may be charged with violation of this section or policy adopted hereunder and prosecuted in district court. Any person so charged and found guilty of violating this section or policy shall be guilty of a misdemeanor. Each day's violation shall constitute a separate offense. The penalty for violation shall be a maximum fine of \$50 per occurrence or imprisonment for not more than 30 days. The imposition of one or more penalties for any violation shall not excuse any violation or permit it to continue.

(2) Civil penalties. In addition to or in lieu of criminal prosecution, violation of this section or any policy adopted hereunder may subject the violator or customer to a civil penalty of up to \$1,000 per violation per day for so long as the violation exists. Each day on which a violation occurs or continues shall constitute a separate and distinct violation. In determining the amount of the civil penalty, the Manager shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, efforts to correct the violation, the compliance history of the person against whom the violation is assessed, the cost of enforcement to the ~~town~~Town, whether the violation was willful or intentional and any other factor as justice requires. The ~~town~~Town shall serve a written citation on the violator, and the customer, if different, by personal delivery or by certified or registered mail, return receipt requested. The citation shall describe the violation and shall specify the amount of the civil penalty levied. The civil penalty is collectible in a civil action in the nature of debt. The imposition of one or more penalties for a violation shall not excuse any violation or permit it to continue.

(3) Termination of service. The Manager or his designee may make findings of fact and order whether service should continue, be flow restricted, or terminated. Termination of water service shall be performed in accordance with the ~~town~~Town's ordinances, policies, procedures and practices. The standard reconnection charge shall be paid for the reconnection of any water service terminated pursuant to the current ~~town~~Town ordinances and procedures.

(4) Appeal. Any person against whom enforcement action has been taken, hereafter referred to as "aggrieved party," is entitled to appeal to the ~~Town~~Town Council upon serving written notice to the ~~Town~~Town Manager and following administrative procedures for appeal to the ~~Town~~Town Council.

(Ord. passed 5-5-97)

§ 54.10 INSTALLATION OF METERS.

~~(A) Time of installation. Water meters will be installed as soon after the issuance of the building permit as is practical for the town.~~

~~(B) Installation and ownership. The town shall install and retain ownership of all water meters.~~

~~(C) Responsibility for meter and water usage. The person or firm to which the building permit is issued shall be responsible for both the meter and the water usage through the meter until such time as a certificate of occupancy is issued.~~

~~(D) Lost, stolen, or damaged meters. The person or firm to which the building permit is issued shall be responsible for purchasing from the town a replacement meter in case the original meter is lost, stolen, or damaged. The cost of such replacement shall be the actual cost of the meter plus 20% for administrative and installation cost. The town shall not issue a certificate of occupancy until such time as~~

all such replacement charges have been paid in full and a fully operational meter of the correct sizes and type is in place at the location for which the certificate of occupancy is requested.

~~—(E)—~~Water usage through the meter. The person or firm to which the building permit is issued shall be responsible for the utility payment for all water usage through the meter. The cost of such usage shall be at the same rate as all other customers are established in the annual operating budget of the town. The town may issue a certificate of occupancy before the utility bill is paid.

~~(Ord. passed 5-5-97)~~

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TOWN OF CLAYTON
Amendment to the Code of Ordinances: Chapter 54

BEING HEREBY ADOPTED BY THE TOWN COUNCIL FOR THE TOWN OF CLAYTON, NORTH CAROLINA, to amend the Town of Clayton Code of Ordinances Chapter 54; Water Conservation Measures, to read as follows:

CHAPTER 54: WATER SHORTAGE CONSERVATION MEASURES

Section

- 54.01 Adoption
- 54.02 Water use classes
- 54.03 Declaration of voluntary conservation measures
- 54.04 Declaration of mandatory conservation measures
- 54.05 Declaration of water shortages emergency measures
- 54.06 Declaration of rationing
- 54.07 Shortage water rates
- 54.08 Town policy
- 54.09 Application, violation, enforcement, penalties

§ 54.01 ADOPTION.

(A) For the protection of the public health, welfare and safety of the Town, the Town Manager is authorized to determine when certain conditions exist in the Town requiring water conservation or rations measures be imposed and to develop and enforce such conservation measures when the Town Manager determines that a water emergency exists in the Town. The conservation measures may include voluntary conservation measures, mandatory conservation measures, and water shortage emergency measures. The Town Manager may impose water conservation measures on all Town water customers and other persons who use Town water for such period of time as the Manager determines constitutes a water emergency.

(B) The following definitions apply:

CUSTOMER. All persons in whose name the Town maintains an account for water use, or who are responsible for payment of water passing through a particular meter. All customers are responsible for any use of water that passes through the meter for which they are responsible.

EMERGENCY. That any one or all of the following difficulties are being encountered: Water supplies are below the level necessary to meet normal needs causing serious shortages; there is inadequate water treatment capability; water transmission capability is disrupted or inadequate;

finished water storage problems exist to the level that normal needs cannot be met; or any other unforeseen circumstances which results in or may result in a severe water shortage.

MANAGER. The Town Manager for the Town of Clayton, or his designee.

NONRESIDENTIAL USER. Every user except residential users, but does not include hospitals and health care facilities.

PERSON. Any individual, association, partnership, firm, company, limited liability company, corporation, trust, estate, governmental entity or any other legal entity, or its legal representatives, agents or assigns.

RESIDENTIAL USER. Any person who receives water service for a single or multifamily dwelling unit. The term RESIDENTIAL USER does not include educational or other institutions, hotels, motels, or similar commercial establishments.

WATER. All water available to the Town for treatment by virtue of the Town's water rights or withdrawal permits and any treated water introduced by the Town into its portable water distribution system, including water purchased or offered for sale. Water does not include treated wastewater effluent reclaimed for reuse in irrigation or other approved uses.

§ 54.02 WATER USE CLASSES.

The following classes of users of Town water are hereby established:

(A) Class 1: Essential water uses.

(1) Class 1 Domestic use. Use by residential users of such amount of water as is necessary to sustain human life and the lives of domestic pets, and to maintain reasonable minimum standards of hygiene and sanitation.

(2) Class 1 Hospital and health care facility use. Use by hospitals and health care facilities of such amount of water as is necessary for patient care and rehabilitation, and includes swimming pools necessary for patient care and rehabilitation.

(3) Class 1 Public use. Use of water from fire hydrants and other firefighting and certain testing and drills by the Fire Department if performed in the interest of public safety and if approved by the Town Manager. This use also includes the flushing of sewers and hydrants as needed to ensure public health and safety if approved by the Director of Public Works and Utilities.

(4) Class 1 Nonresidential. Use by nonresidential users of such amount of water as is necessary to sustain human life and comfort in the workplace and to maintain reasonable minimum standards of hygiene and sanitation.

(B) Class 2: Socially or economically important uses of water.

(1) Class 2 Domestic use. Use by residential users of water for uses specified as Class 1 or Class 3 uses. Unless further restricted by the manager, this use includes kitchen, bathroom, and laundry use; minimal watering of vegetable gardens and minimal watering of trees when necessary to preserve the trees.

(2) Class 2 Commercial/Public use. Nonresidential use that is not Class 1 or Class 3 use. This includes outdoor commercial watering (public or private) using conservation measures and to the

extent that sources of water other than potable water are not available to use; irrigation for commercial vegetable gardens and fruit orchards or the maintenance of livestock; watering by commercial nurseries at the minimum level necessary to maintain stock; and use by arboretums and public gardens of national, state or regional significance where necessary to preserve specimens; use of water at a minimum rate necessary to implement vegetation following earth moving where such revegetation is required by law or regulation; minimal watering of golf course greens, minimum watering of playing fields to protect public safety; the filling and operation of swimming pools that serve more than 25 dwellings, or are used by hospitals or health care facilities for patient care and rehabilitation; commercial car and truck washes and laundromats; use of water by restaurants, clubs and eating places for food service and customer comfort purposes and start-up and maintenance of air conditioning unit unless required for health reasons and approved by the Director of Public Services; use by schools, churches, motels/hotels and similar business and commercial establishments for the health and comfort of employees and those served; and the filling and testing of new water lines as part of the procedures required to accept those lines and integrate them into the Town's potable water distribution system.

(C) Class 3: Nonessential uses of water.

(1) Class 3 residential/nonresidential use. Use by residential users and nonresidential users, including hospitals and health care facilities, for ornamental purposes, noncommercial watering and motor vehicle washing purposes, including gardens, lawns, parks, golf courses (except greens), and other recreational areas; recreational purposes, including the filling and operation of swimming pools serving less than 25 dwellings; refilling cooling towers after draining, except as specified in Class 1; the serving of water in restaurants, clubs, or eating places, except by specific request; and such other similar non-essential uses as may be specified by the manager in a policy statement.

(2) Class 3 Public use. Any use of water from fire hydrants, including use of sprinkler caps and testing fire apparatus and for Fire Department drills, and the flushing of sewers and hydrants, except as listed in Class 1.

§ 54.03 DECLARATION OF VOLUNTARY CONSERVATION MEASURES.

Whenever the Manager finds that a potential shortage of water supply is indicated, he is empowered to declare a state of voluntary conservation, and to call upon all water customers to employ voluntary water conservation measures.

§ 54.04 DECLARATION OF MANDATORY CONSERVATION MEASURES.

Whenever the Manager finds that there is the potential for a water emergency situation to occur or exist, the Manager may declare a state of mandatory conservation. Under a state of mandatory conservation, the Manager shall continue to encourage voluntary water conservation measures, and shall impose a scheduled water use program or an outright ban on all Class 3 uses until the mandatory conservation period is declared to be over by the Manager.

Mandatory Watering Schedule							
Day of Week	MON	TUES	WED	THURS	FRI	SAT	Sun
Even Street Address	NO	NO	YES	NO	YES	NO	YES
Odd Street Address	NO	YES	NO	YES	NO	YES	NO

§ 54.05 DECLARATION OF WATER SHORTAGES EMERGENCY MEASURES.

Whenever the Manager finds that a water emergency situation exists, the Manager is empowered to declare that a water shortage emergency exists. During a water shortage emergency, Class 1 essential water uses shall be specifically identified as targets for voluntary conservation measures. Class 2 socially or economically important uses may be restricted or banned, and Class 3 nonessential uses shall be restricted or banned. These restrictions or bans shall continue until the water shortage emergency is declared ended by the Manager.

§ 54.06 DECLARATION OF RATIONING.

Whenever the Manager has declared a water shortage emergency and finds a need to provide for the equitable distribution of critically limited water supplies in order to balance demand and limited available supplies and to assure that sufficient water is available to preserve public health and safety, the Manager shall direct the Director of Public Services to prepare a mandatory rationing policy and plan for implementation during the emergency period.

§ 54.07 SHORTAGE WATER RATES.

(A) Upon a declaration of mandatory conservation or a declaration of water shortage emergency as provided herein, or at such other times as the Council deems necessary, the Council may adopt water shortage rates designed to encourage conservation of water. Such rates may provide for, but shall not be limited to:

- (1) Higher charges per unit for increasing usage (increasing block rates);
- (2) Uniform charges for water usage per unit of use (uniform unit rate);
- (3) Extra charges for use in excess of a specified level (excess demand surcharge); or
- (4) Billing discounts for conserving water beyond specified levels.

(B) Further, due to situations brought on by drought or other special infrastructure needs associated with a water emergency, the Town Council may decide to adopt special rates that will reflect the additional costs associated with treatment and distribution of water.

§ 54.08 TOWN POLICY.

The Manager is hereby authorized to prepare a Town policy to implement these water conservation measures, to further define and give examples of the various classes of water use, to prepare a mandatory water rationing policy and plan, and to provide such other conditions and provisions as may be necessary to successfully carry out the goals of this section.

§ 54.09 APPLICATION, VIOLATION, ENFORCEMENT, PENALTIES.

The direct or indirect use of water from the Town distribution system in violation of this plan is prohibited. The Town shall enforce the provisions of this Ordinance, separate from the County, for all customers on the Town's water system. In order to be consistent with other County policies, the following actions and penalties are modeled after Johnston County, but tailored for the Town.

This section applies to all persons using Town water, inside and outside the Town limits, regardless of whether they have a contract for water service with the Town. A customer of the Town shall be responsible for all violations that occur in connection with water that passes through the meter for which the customer is billed by the Town. Any person who uses water in violation of a restriction or ban imposed on the use of water during a mandatory conservation period, a period of water shortage emergency or in violation of a water rationing policy, or who otherwise violates the provisions of this section, or who impedes or interferes with any action undertaken or ordered pursuant to this section and policies adopted hereunder, including the Town's Water Conservation and Shortage Response Plan, shall be subject to the penalties listed below or as set forth therein.

(A) Enforcement by police officers, code enforcement and AMI monitoring. Upon the declaration of mandatory conservation, water shortage emergency, or rationing, the Manager and every police officer or code enforcement official of the Town may enforce any restrictions or bans imposed on the use of water.

(B) Suspicion of violation. Whenever the Town has reasonable cause to believe that a person is violating any of the provisions of this section or any policy adopted hereunder, the Town shall immediately notify that person of the violation by affixing a written notice of the violation to the property where the violation occurred and personally delivering or mailing such notice to the customer of record and to any other person known to the Town who is responsible for the violation or its correction. Such notice shall describe the violation, order that it be corrected, cured or abated immediately or within such specified times as the Manager determines is reasonable under the circumstances, and warn that more severe measures, such as civil penalties, criminal charges or termination of water service may be brought, assessed or imposed. If the order is not complied with within the time period, the Manager may undertake enforcement action as follows.

(C) Enforcement action. Any person who, after being given notice of violation, does not comply with this section or policy adopted hereunder within the time period specified shall, at the option of the Town, be subject to any of the following: civil penalties, criminal penalties, termination of water service, injunctive relief, or any appropriate equitable remedy issuing from a court of competent jurisdiction.

(1) Criminal penalties. Any person may be charged with violation of this section or policy adopted hereunder and prosecuted in district court. Any person so charged and found guilty of violating this section or policy shall be guilty of a misdemeanor. Each day's violation shall constitute a separate offense. The penalty for violation shall be a maximum fine of \$50 per occurrence or imprisonment for not more than 30 days. The imposition of one or more penalties for any violation shall not excuse any violation or permit it to continue.

(2) Civil penalties. In addition to or in lieu of criminal prosecution, violation of this section or any policy adopted hereunder may subject the violator or customer to a civil penalty of up to \$1,000 per violation per day for so long as the violation exists. Each day on which a violation occurs or continues shall constitute a separate and distinct violation. In determining the amount of the civil penalty, the Manager shall take into account all relevant circumstances, including, but not limited

to, the extent of harm caused by the violation, the magnitude and duration of the violation, efforts to correct the violation, the compliance history of the person against whom the violation is assessed, the cost of enforcement to the Town, whether the violation was willful or intentional and any other factor as justice requires. The Town shall serve a written citation on the violator, and the customer, if different, by personal delivery or by certified or registered mail, return receipt requested. The citation shall describe the violation and shall specify the amount of the civil penalty levied. The civil penalty is collectible in a civil action in the nature of debt. The imposition of one or more penalties for a violation shall not excuse any violation or permit it to continue.

(3) Termination of service. The Manager or his designee may make findings of fact and order whether service should continue, be flow restricted, or terminated. Termination of water service shall be performed in accordance with the Town's ordinances, policies, procedures and practices. The standard reconnection charge shall be paid for the reconnection of any water service terminated pursuant to the current Town ordinances and procedures.

(4) Appeal. Any person against whom enforcement action has been taken, hereafter referred to as "aggrieved party," is entitled to appeal to the Town Council upon serving written notice to the Town Manager and following administrative procedures for appeal to the Town Council.

Duly adopted this the 7th day of June, 2021 while in regular session.

Jody McLeod
Mayor

ATTEST:

Kimberly A. Moffett, CMC, NCCMC
Town Clerk



Town Council Agenda Cover Sheet

Meeting Date

June 7, 2021

Agenda Location

New Business

Item Title

Street Intersections and Pavement Markings

Presenter

Blake Mills, Director of Public Works

Summary/Description

The Town has recently completed construction on the FY21 Road Rehabilitation Project and the Town Hall Parking Lot Project which has identified intersections that may need additional stop signs and/or pavement markings to improve safety.

The following work is proposed:

1. Birkdale Drive and Neuse Ridge Drive intersection is an existing 3 Way Stop that could use a Hi Visibility Crosswalk and stop bars to improve safety.
2. Torrey Pines Drive and Parkridge Drive is an existing 1 Way Stop that could be changed to a 3 Way Stop, add a Hi Visibility Crosswalk and Stop Bars to improve pedestrian safety for children walking to school and for the school bus that uses this intersection which is on a curve.
3. Garrison Avenue mid-block crossing required missing handicap ramps to be installed to meet ADA Transition Plan and a High Visibility Crosswalk at this location would improve safety for children walking to the local community pocket park.
4. Moore Street and Main Street intersection is an existing 1 Way stopping stop that could use a Hi Visibility Crosswalk to improve pedestrian safety.
5. Fayetteville Street and Hinton Street Intersection is an existing 2 Way Stop that could be changed to a 4 Way Stop with Stop Bars to improve safety by forcing vehicles to stop before the existing Mid-Block High Visibility Crosswalk located in front of the Clayton Baptist Church. Public Works has witnessed excessive speeding in the neighborhood.
6. Horne Street and Church Street intersection is an existing 1 Way Stop that could be changed to a 3 Way Stop and add two High Visibility Crosswalks to improve pedestrian safety and vehicle safety during child care drop off and pickup times. In addition, a 3 Way Stop will stop vehicles before they access the new parking lot and help them recognize that Horne Street is no longer a through street.
7. Horne Street and Page Street intersection is an existing 1 Way Stop that could use a Hi Visibility Crosswalk to improve pedestrian safety.
8. Second Street and Church Street intersection is an existing 2 Way Stop that could be changed to a 4 Way Stop with 4 High Visibility Crosswalks to improve safety at the intersection. The intersection has very high pedestrian and vehicle traffic due to the Library, Church and Town Hall. During church child care drop off and pickup time's larger vehicles such as trucks and SUV's que through the intersection and block sight vision for vehicles and pedestrians travelling north bound through the intersection making it very unsafe.
9. Hawkesburg Drive and Brandywine Way intersection is an existing 1 Way Stop that could be changed to a 3 Way Stop intersection. We have received resident concerns about speeding in the neighborhood.

Requested Action

Informational Only

Funding Source (If Applicable):

Capital Outlay Street Repair and Improvement 100-55-55-5812

Cost: N/A **Yes** ☒ **No** ☐

Hi-Visibility Crosswalk - \$1,050 Each

Stop Bars - \$375 Each

Stop Signs - \$250 Each

Additional Documents to be Included in Agenda Packet

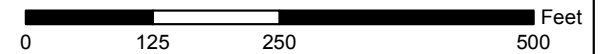
Intersection Sketches showing proposed work.

Meeting Timeline

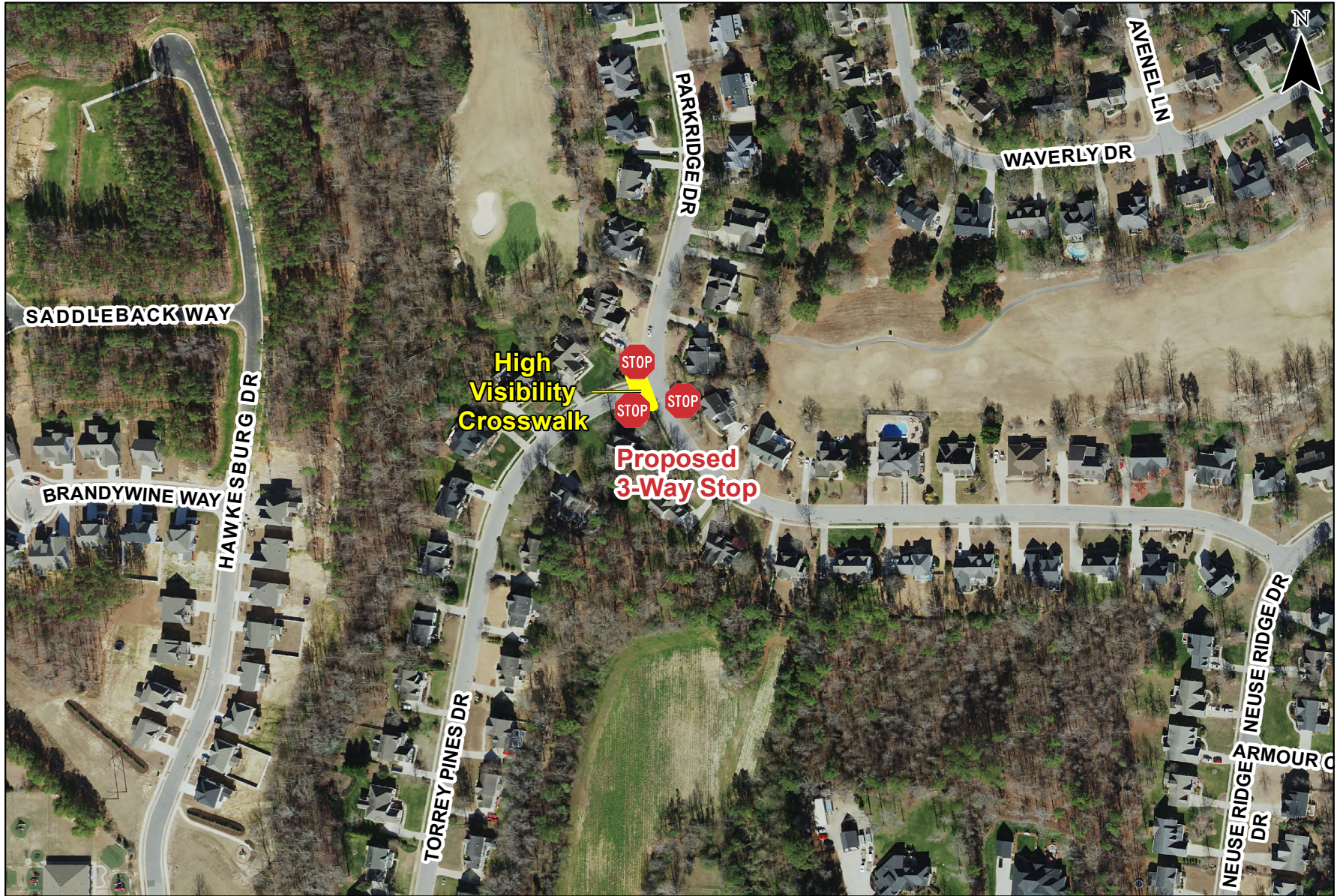
June 7, Town Council Meeting



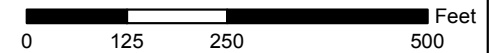
Birkdale Drive & Neuse Ridge Drive



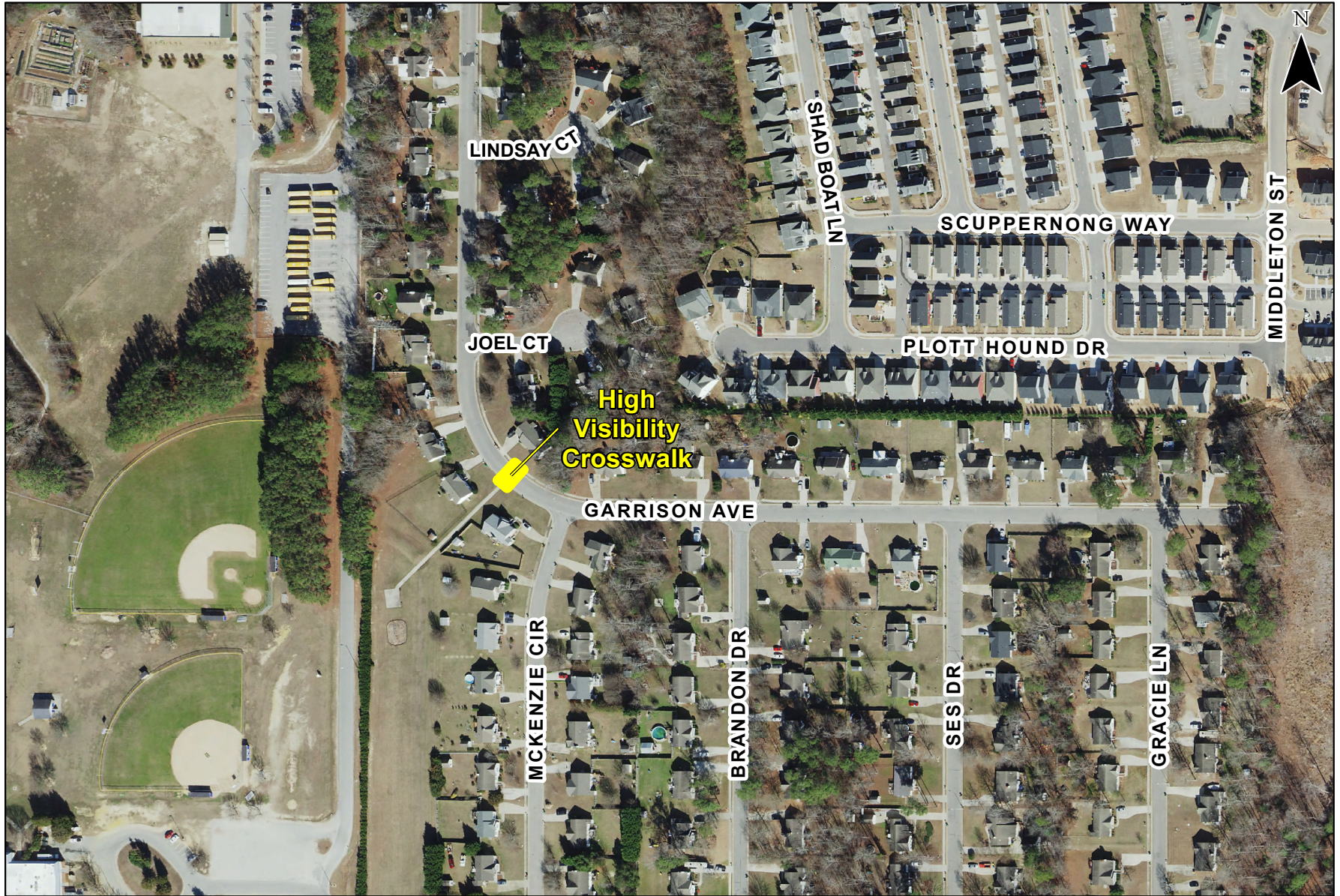
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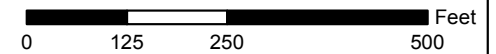
Torrey Pines Drive & Parkridge Drive



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Garrison Avenue



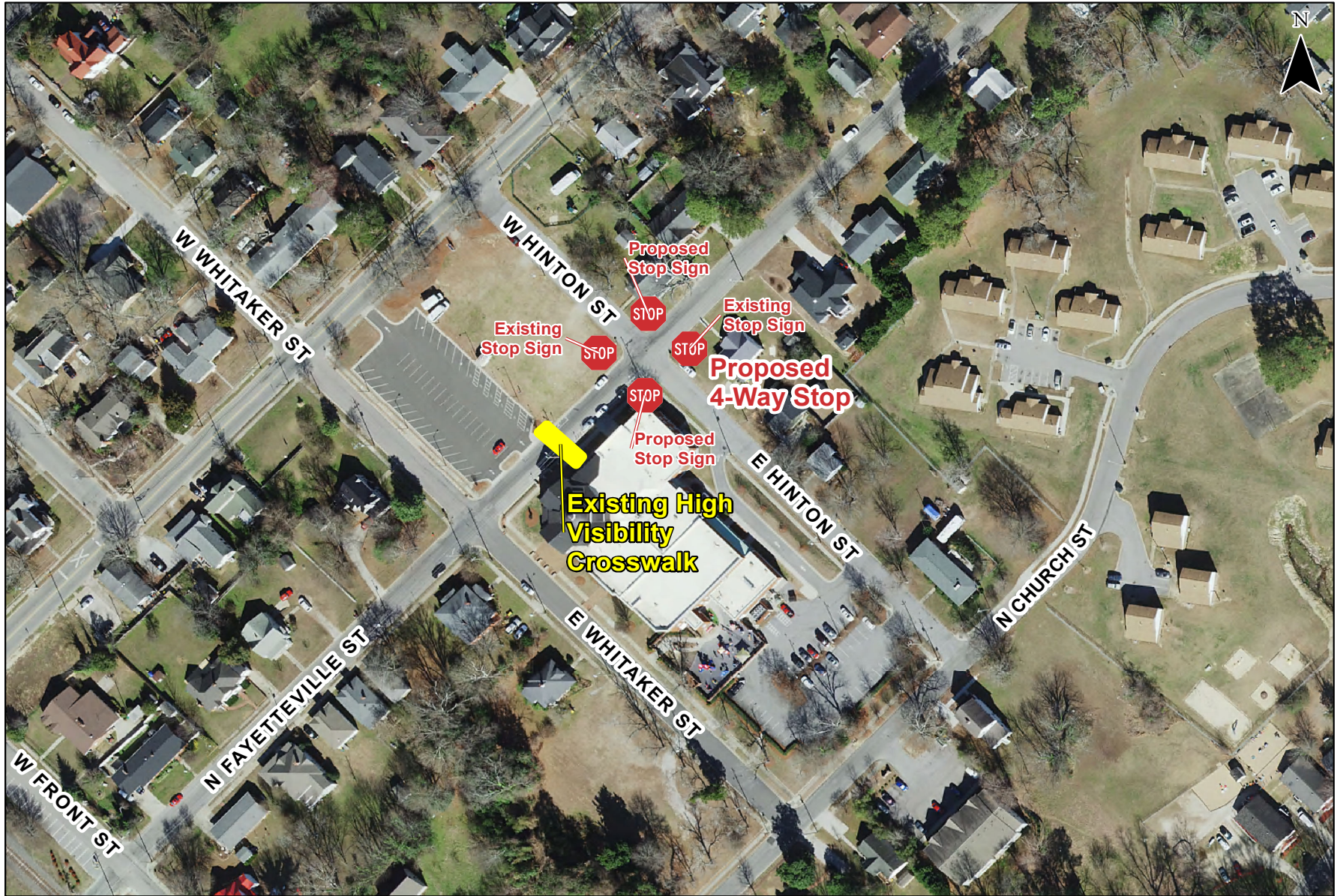
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S Moore Street & W Main Street

0 100 200 400 Feet

Map Generated June 02, 2021



N Fayetteville Street & W Hinton Street

0 100 200 400 Feet

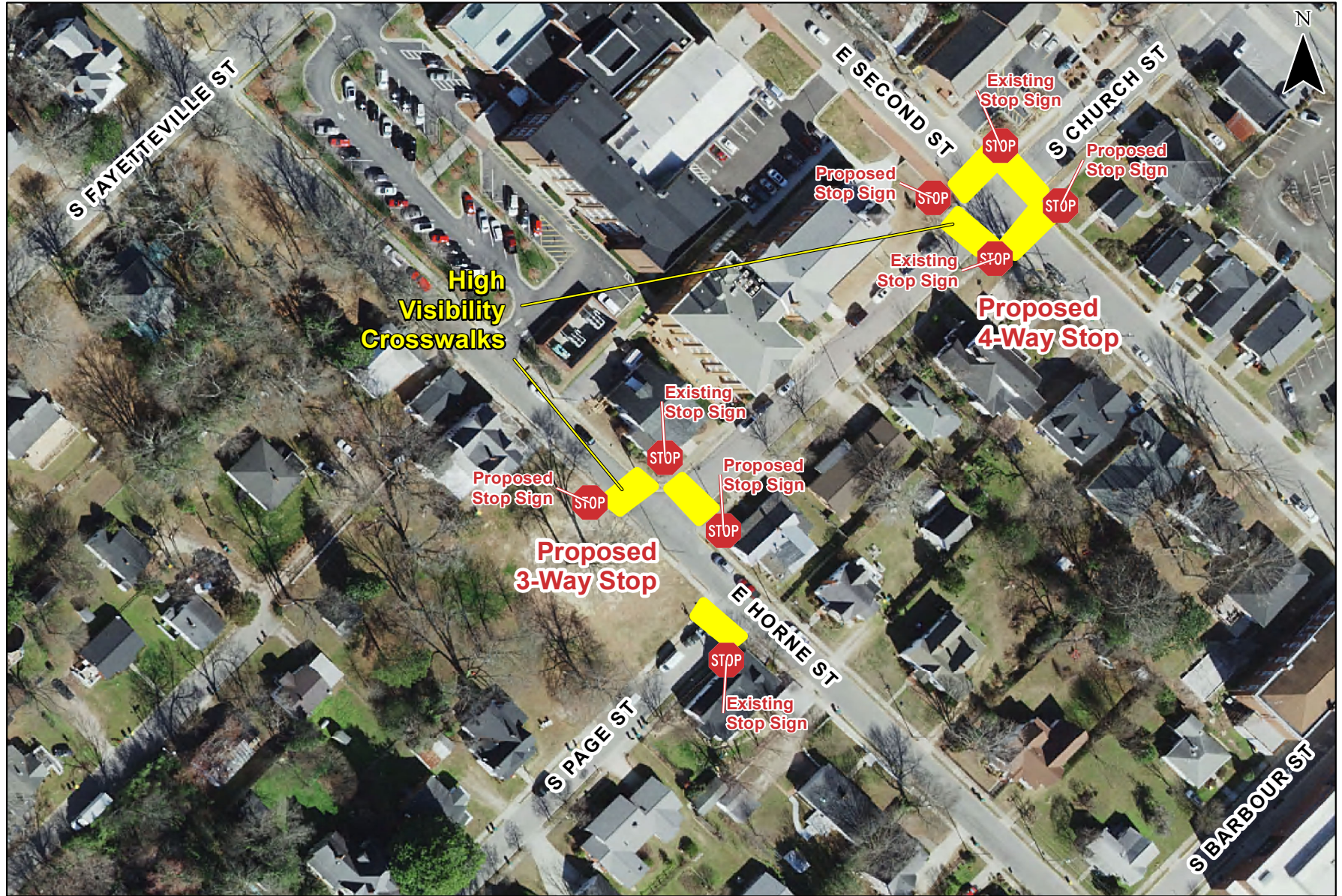
Map Generated June 02, 2021



Brandywine Way & Hawkesburg Drive

0 100 200 400 Feet

Map Generated June 02, 2021



S Church Street at E Horne & Second Street

0 50 100 200 Feet

Map Generated June 02, 2021