

ORD-2014-011

**ORANGE COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**

**Meeting Date:** March 6, 2014

**Action Agenda**

**Item No.** 7-a

**SUBJECT:** Report and Recommendations from the County and Town Managers  
Regarding the Implementation of Improvements in the Historic Rogers Road  
Neighborhood

---

**DEPARTMENT:** Solid Waste Management

**PUBLIC HEARING: (Y/N)**

No

**ATTACHMENT(S):**

1. Report for the Historic Rogers Road Neighborhood Task Force, November 21, 2013
2. Town of Chapel Hill Resolution Dated February 10, 2014
3. Letter from County Attorney Dated October 17, 2013
4. December 6, 2012 Assembly of Governments Meeting Abstract - Greene Tract Historical Information and Options

**INFORMATION CONTACT:**

Michael Talbert, County Manager, 245-2308

**PURPOSE:** To review recommendations from the County and Town Managers regarding Rogers Road Sewer and Community Outreach to implement improvements in the Historic Rogers Road Neighborhood.

**BACKGROUND:** Attachment 1, the November 21, 2013 report from the Historic Rogers Road Neighborhood Task Force to the BOCC, provides background for this agenda item.

**TASK FORCE RECOMMENDATIONS TO THE BOARD OF COUNTY COMMISSIONERS**

**September 17, 2013**

1. That that the Cost associated with the Community Center and Sewer Improvements will be shared 14% Carrboro, 43% Chapel Hill and 43% Orange County.
2. That the Sewer Concept Plan presented by Orange Water and Sewer Authority (OWASA) in 2012 to serve 86 parcels at an estimated cost of \$5.8 million should be funded by Carrboro, Chapel Hill, and Orange County in proportion to the recommended cost sharing. The first phase of the construction should include segments 5, 6, and 8 at an estimated cost of \$3.7 million, serving 67 parcels. Funding recommended to be included in the Fiscal

2014/2015 Budgets, with the remaining 19 parcels to be constructed in the second phase and included in the Fiscal 2015/2016 Budgets

3. That the Task Force prefers the original Sewer Concept Plan presented by OWASA in 2012 to serve 86 parcels at an estimated cost of \$5.8 million. First this concept will provide sewer improvements to the entire Historic Rogers Road Neighborhood; secondly, this proposal will enable all of the partners, Orange County, the Town of Chapel Hill, and the Town of Carrboro, to equally share the costs of the Community Center and Sewer Improvements in proportion to their responsibilities. If either the Orange County Board of Commissioners or the Chapel Hill Town Council do not favor the original Sewer Concept Plan presented by OWASA in 2012 or cannot agree on the concept of an Extra Territorial Jurisdiction (ETJ) for the Historic Rogers Road Neighborhood, the Sewer Concept Plan presented by OWASA in 2012 including only segments 5, 6, and 8 to serve 67 parcels at an estimated cost of \$3.7 million should be funded.
4. That the County petition the Town of Chapel Hill to annex all County Owned Property in the Historic Rogers Road Neighborhood.
5. That the Task Force requests that the Managers explore the collaborative approach to the Historic Rogers Road Neighborhood as outlined in February 25, 2013 memo to Elected Officials and report back to the Task Force on August 21, 2013.
6. That the Managers meet and talk about the options related to connecting the residents of the Historic Rogers Road Neighborhood to sewer.
7. That funding is identified for the cost of connecting from the OWASA infrastructure to the home in addition to applying for grants for low-to-moderate income persons. It is a priority of the Task Force to identify funding not only for the installation of sewer infrastructure but also cost of connections to homeowners and the Task Force recommends that the County and Towns set up a fund specifically for people in the Historic Rogers Road Neighborhood and to fund the cost of the connections from the home to the main.

## **MANAGERS RECOMMENDATIONS**

The County and Town Managers met and discussed the options related to connecting the residents of the Historic Rogers Road Neighborhood to OWASA sewer and Outreach efforts for the neighborhood. The discussions included the construction of sewer infrastructure, connections to homeowners, and outreach to the neighborhood to lay the groundwork for a master plan for the development of the Rogers Road area including the Greene Tract. Attachment 4, the December 6, 2012 report to the Board, provides historical information on the Greene Tract.

In keeping with the recommendations of the Historic Rogers Road Neighborhood Task Force, the Managers recommend the following:

1. That the Cost associated with preliminary engineering for OWASA sewer infrastructure and community outreach is shared 14% Carrboro, 43% Chapel Hill and 43% Orange County.
2. That the County contract with OWASA for a preliminary engineering estimate to provide sewer to the 86 parcels identified by the Task Force not to exceed \$130,000. The cost

of the preliminary engineering will be shared with the Town of Chapel Hill and the Town of Carrboro.

3. That the County participate in community outreach partnering with organizations such as the Jackson Center and/or the Rogers Eubanks Neighborhood Association (RENA) to identify action steps to provide sewer service to the Rogers Road Neighborhood and lay the groundwork for a master plan for the development of the Rogers Road area (including the Greene Tract), not to exceed \$50,000. Carrboro, Chapel Hill and the County will share in the cost of this outreach.
4. Consider a budget amendment of \$77,400 (43% of \$180,000) for the initial engineering and community outreach expected to take 8-10 months to complete.

**Town of Chapel Hill:**

*On February 10, 2014, the Chapel Hill Town Council approved "A resolution initiating funding for preliminary engineering and outreach for the Rogers Road Sewer Project and continuing the Public Hearing for the Extraterritorial Jurisdiction Boundary Amendment (Attachment 2). The Town Manager was directed to prepare agreements and appropriate budget action to initiate preliminary engineering and outreach efforts for the Rogers Road sewer project.*

**Town of Carrboro:**

*On March 4, 2014 the Carrboro Board of Aldermen will consider participating and sharing the costs of preliminary engineering and outreach for the Historic Rogers Road Neighborhood.*

The United States Environmental Protection Agency (EPA) accepted an administrative complaint filed against Orange County Planning and Inspections Department (OCPID) received on April 18, 2011 and is conducting an investigation of the complaint. John Roberts, Orange County Attorney, continues to advise the Board of County Commissioners to suspend consideration of the extension of sewer line to the Rogers Road Neighborhood as long as the EPA investigation remains open, (see Attachment 3 letter dated October 17, 2013). Orange County continues to seek a reasonable and speedy conclusion to this investigation.

A County contract to provide a preliminary engineering estimate for the cost of sewer and participation in community outreach does not obligate the County to extend sewer to the Rogers Road Neighborhood. A Board decision to fund or not fund the extension of sewer lines to the Rogers Road Neighborhood will be made after the EPA investigation is complete.

**FINANCIAL IMPACT:** The financial impact of funding an initial engineering and community outreach will not exceed \$77,400. It is recommended these funds be appropriated from General Fund Unassigned Fund Balance. Future improvements in the Historic Rogers Road Community are uncertain until direction is provided by the Board of County Commissioners.

**RECOMMENDATION(S):** The Manager recommends that the Board authorize the Manager to:

1. Negotiate a cost sharing agreement with the Town of Chapel Hill and Town of Carrboro for a preliminary engineering estimate to provide sewer to the 86 parcels identified by the Task Force not to exceed \$130,000 based on the Task Force recommendation;
2. Negotiate a contract with OWASA for a preliminary engineering estimate to provide sewer to the 86 parcels identified by the Task Force not to exceed \$130,000;

3. Negotiate a contract and/or participation in a Rogers Road community outreach, partnering with organizations such as the Jackson Center and RENA to identify action steps to provide sewer service to the Rogers Road Neighborhood and lay the groundwork for a master plan; and
4. Approve Budget Amendment #5-B appropriating \$77,400 (43% of \$180,000) from General Fund Unassigned Fund Balance for the initial engineering and community outreach expected to take 8-10 months to complete.

**Attachment 1**

**Historic Rogers Road Neighborhood Task Force  
Final Report**

**September 17, 2013**

**Prepared by the Historic Rogers Road Neighborhood Task Force**

## TABLE OF CONTENTS

<b><i>Introduction</i></b>	1
Reappointment of the Historic Rogers Road Neighborhood Task Force	2
Charge of the Reappointed Historic Rogers Road Neighborhood Task Force	2
<b><i>Recommendations</i></b>	3
<b><i>Sewer Infrastructure</i></b>	
2012 OWASA Sewer Concept Plan	4
2013 OWASA Utility District Concept Plan	6
2013 OWASA Sewer Compromise Concept Plan	14
Homeowners Connections	14
<b><i>Community Center</i></b>	17
<b><i>Gentrification, Chapel Hill’s Small Area Plan, and The Greene Tract:</i></b>	18

### APPENDICES

- A. County and Town Attorneys Opinions
- B. Historic Rogers Road Neighborhood Task Force Report – December 6, 2013
- C. Town of Chapel Hill Memo to Elected Officials February 25, 2013
- D. North Carolina General Statutes 153A-376; 160A-456
- E. Lease Agreement between Habitat for Humanity and Orange County
- F. Operations Agreement: Rogers Road Community Center

## INTRODUCTION

In 1972, the north side of Eubanks Road became the site of a solid waste landfill operated by the Town of Chapel Hill. Orange County assumed operational control of the landfill as the result of an August 17, 1999 agreement between the Towns (Chapel Hill, Carrboro, and Hillsborough) and the County. The Historic Rogers Road Community has lived with this landfill for 40 years. Over many years, residents representing the Rogers Road area have voiced concerns about various operational elements associated with the landfill and the impact on the Rogers Road Neighborhood. The Neighborhood is geographically split by the Orange County and Carrboro. Orange County, as the current owner of the landfill, is taking the lead to make remediation improvement to the Historic Rogers Road Community.

A number of local government initiatives have been implemented to improve the quality of life in the Rogers Road Community and they are as follows:

1. The Solid Waste Fund paid \$650,000 to extend public water service by the Orange Water and Sewer Authority (OWASA) to the Rogers Road area.
2. Solid Waste installed gas flares to reduce odors.
3. The Town of Chapel Hill initiated bus service on Rogers Road.
4. Orange County initiated a no-fault well policy to deal with failing drinking water wells remaining in the adjoining neighborhoods.
5. Orange County approved the appropriation of \$750,000 from the Solid Waste Fund Balance to establish a Rogers Road Remediation Reserve Fund.
6. On July 1, 2011 Orange County established a \$5.00 tipping fee surcharge and a plan to incrementally increase the tipping fee each fiscal year by a minimum \$2 per ton as long as the landfill is operational to fund the Rogers Road Remediation Reserve Fund.
7. A partnership with Orange County and the University of North Carolina created a Landfill Gas to Energy Project that commenced operation on January 6, 2012 and will have an immediate and noticeable impact on the odor created by the operation of the landfill. The project will further provide a long-term renewable energy source to UNC, reducing dependence on increasingly expensive fossil fuels, and reduce carbon emissions.
8. On October 4, 2011 the Orange County Board of County Commissioners authorized staff to proceed with a "one-time" effort to clean-up illegal dump sites within three-fourths of one mile of the landfill boundary, at no cost to the individual property owners.

At the January 26, 2012 Assembly of Governments meeting, the Orange County Board of Commissioners and the Town Boards discussed the extension of sewer service and a community center for the Rogers Road Community. County and Town Attorneys (**Appendix A**) have concluded that use of Solid Waste reserves to extend sewer service to the Rogers Road Community is not consistent with North Carolina General Statutes and would subject the local governments to legal challenges. As such, a community

center does not have a relationship to Solid Waste and could not be funded from Solid Waste reserves. Therefore, funding for either the extension of sewer services and/or a community center will have to come from the County's and Towns' other general revenue sources. There was discussion on January 26 regarding the creation of a task force to address the issues.

On February 21, 2012 the Orange County Board of Commissioners authorized the creation of a new Historic Rogers Road Task Force to address sewer service and a community center. The composition of the Task Force was to include two members appointed by each Town (Chapel Hill and Carrboro); two members appointed from the County; and two members appointed from Rogers Eubanks Neighborhood Association (RENA). **Appendix B** is the Original Historic Rogers Road Neighborhood Task Force's Report to the Assembly of Governments on December 6, 2012

### **Reappointment of the Historic Rogers Road Neighborhood Task Force**

On February 5, 2013 the Orange County Board of Commissioners authorized the continuation of a reappointed Historic Rogers Road Neighborhood Task Force and approved the Charge of the Task Force. The composition of the Task Force includes two members appointed by each Town (Chapel Hill and Carrboro); two members appointed from the County; and two members appointed from Rogers Eubanks Neighborhood Association (RENA).

Appointed Task Force Members:

David Caldwell:	RENA
Robert Campbell:	RENA
Penny Rich:	Orange County
Renee Price:	Orange County
Michelle Johnson:	Carrboro
Sammy Slade:	Carrboro
Lee Storrow:	Chapel Hill
James Ward:	Chapel Hill

### **Charge of the Reappointed Historic Rogers Road Neighborhood Task Force**

1. Request that the towns confirm the continuation of the Historic Rogers Road Neighborhood Task Force and appoint members to the Task force;
2. Confirm the appointment of Commissioners Rich and Price as the County's members on the Historic Rogers Road Neighborhood Task Force;



3. Request that the Rogers Eubanks Neighborhood Association confirm the continuation of the Historic Rogers Road Neighborhood Task Force and appoint two members to the Task Force;
4. Confirm the charge and a timeline for the Task force as specified by the motion approved at the January 24 meeting:
  - To continue the Task Force for six (6) months;
  - To have the Task Force consider the final costs, provision and installation of water and sewer utility extensions preferably at no cost for members of the Historic Rogers Road community;
  - Consider options to address gentrification;
  - Consider Chapel Hill's most recent Small Area Plan;
  - Consider funding options, including the Greene Tract.
5. Specify that the Task Force provide a report to the Board of County Commissioners no later than the Board's September 17th meeting.

### **RECOMMENDATIONS**

1. That the Cost associated with the Community Center and Sewer Improvements will be shared 14% Carrboro, 43% Chapel Hill and 43% Orange County.
2. That the Sewer Concept Plan presented by OWASA in 2012 to serve 86 parcels at an estimated cost of \$5.8 million should be funded by Carrboro, Chapel Hill, and Orange County in proportion to the recommended cost sharing. The first phase of the construction should include segments 5, 6, and 8 at an estimated cost of \$3.7 million, serving 67 parcels. Funding recommended to be included in the Fiscal 2014/2015 Budgets, with the remaining 19 parcels to be constructed in the second phase and included in the Fiscal 2015/2016 Budgets
3. That the Task Force prefers the original Sewer Concept Plan presented by OWASA in 2012 to serve 86 parcels at an estimated cost of \$5.8 million. First this concept will provide sewer improvements to the entire Historic Rogers Road Neighborhood; secondly, this proposal will enable all of the partners, Orange County, the Town of Chapel Hill, and The Town of Carrboro, to equally share the costs of the Community Center and Sewer Improvements in proportion to their responsibilities. If either the Orange County Board of Commissioners or the Chapel Hill Town Council do not favor the original Sewer Concept Plan presented by OWASA in 2012 or cannot agree on the concept of an ETJ for the Historic Rogers Road Neighborhood, the Sewer

Concept Plan presented by OWASA in 2012 including only segments 5, 6, and 8 to serve 67 parcels at an estimated cost of \$3.7 million should be funded.

4. That the county petition the Town of Chapel Hill to annex all County Owned Property in the Historic Rogers Road Neighborhood.
5. That the Task Force requests that the Managers explore the collaborative approach to the Historic Rogers Road Neighborhood as outlined in February 25, 2013 Memo to Elected Officials (**Appendix C**) and report back to the Task Force on August 21, 2013.
6. That the Managers meet and talk about the options related to connecting the residents of the Historic Rogers Road Neighborhood to sewer.
7. That funding is identified for the cost of connecting from the OWASA infrastructure to the home in addition to applying for grants for low-to-moderate income persons. It is a priority of the Task Force to identify funding not only for the installation of sewer infrastructure but also cost of connections to homeowners. The Task Force recommends that the County and Towns set up a fund specifically for people in the Historic Rogers Road Neighborhood and to fund the cost of the connections from the home to the utility main

## **SEWER SERVICE**

### **2012 OWASA Sewer Concept Plan:**

OWASA is the water & sewer utility for the area and as such, it investigated the concept of providing sewer service as part of the Town of Chapel Hill's Rogers Road Small Area Plan. On February 8, 2011 OWASA provided an updated concept plan and cost estimate, for the Rogers Road Small Area Plan Study Area for \$3.4 million. This early concept plan was completed based on the Chapel Hill Small Area Plan which is a geographically different area than the Historic Rogers Road Neighborhood sewer concept. There is also some difference in routing some of the main outfalls. In the current estimate, OWASA needed to avoid the area of contamination coming out from the Carrboro section that required more line with deeper excavation. Most importantly, in the earlier estimates neither the availabilities fees was included nor the cost of extending a lateral from the main line to the properties.

OWASA provided a concept plan, layout, and cost estimate for providing sewer service to the area that was delineated by the Rogers Road Neighborhood Task Force at the April 30, 2012 meeting. The concept plan is the most efficient way to serve the defined



The total construction and installation cost for the sewer concept is currently estimated to be \$5.8 million. **See the table below.** It would serve 86 additional parcels of land. The concept costs include construction, engineering design, administration and contingency for possible rock. The topography of the neighborhood is complex and the land falls in several different directions. This concept plan does not include the costs of any property acquisitions or easement acquisitions. The availability hookup charge for each of the parcels is based on an assumed average house size of 2,500 square feet. When a customer connects to the OWASA water and sewer system, there is a one-time fee that is estimated to be \$4,300 per parcel for the concept plan.

Cost estimate Summary:

Engineering , Design and Permitting	376,350
Construction Cost	3,763,506
Construction Administration	188,175
Construction Inspection	188,175
20% Contingency	903,241
Sub Total	5,419,447
Service Availability Fees	368,768
Total	5,788,215

The concept does not include the cost to actually connect individual homes to the sewer system. Those costs will vary depending on the configuration of the lot and the distance from the house to the main sewer line. Those costs are typically the costs of the homeowner and are estimated to be about \$20/foot. The connections to an individual house would be provided by a private plumbing contractor.

**2013 OWASA Utility District Concept Plan:**

The Task Force reconvened in 2013 and there was discussion about a larger district that would include sewer and water that encompasses a much greater area and would bring many more potential property owners to the table, in terms of sharing the cost and the potential to serve a lot more people. There are a couple of options that the Task

Force considered. One was a larger district including other properties outside of Rogers Road that can contribute to the cost that otherwise would be paid by the Rogers Road area. The other option would be having Task Force recommend funding solely for the 2012 Sewer Concept for the Rogers Road area and that would represent a larger per-property cost.

If a Utility District is created, it would be a separate governmental entity, so everyone within that governmental entity would have the same opportunity. Even with the creation of a Utility District the County would be responsible for funding and operating the district. The district could issue bonds to raise the funds, or more likely, the County would issue some sort of General Obligation Bond. There are several legal ways to raise the money; it will come down to the political choice of which legal way the County would choose. Either way, the County would take the lead to finance a Utility District.

A Utility District would be located outside the corporate limits of the Town of Chapel Hill. A legal concern is whether the Town of Chapel Hill could spend money outside of the town limits. There are a couple of potential ways under which that could occur. The first option is that Chapel Hill could annex either all or some of that district. In order to do so it would require a majority vote of the residents. The second option allows the extension of water and sewer lines through a community development program. The extension of utility lines can occur within a Town's corporate limits but also within the ETJ [Extraterritorial Planning Jurisdiction]. The district could be created, but there is no basis for the Town of Chapel Hill to be able to make a contribution, in the absence of either a community development program in the ETJ or annexation. The County can create a service district. Carrboro can contribute because it has areas in the service district that are within the town limits, but Chapel Hill does not.

On November 14, 2012 the Historic Rogers Road Task Force recommended that the County & Town Managers explore the creation of a County Sewer District for all property owners in the Historic Rogers Road Neighborhood. This concept evolved from 2012 Sewer concept presented by OWASA, with the total cost of about \$5.8 million that would serve 86 parcels, with an average cost of \$67,000 per parcel. The Task Force asked the Managers to look at water and sewer options and see what might work; what might be a better solution or was the best solution.

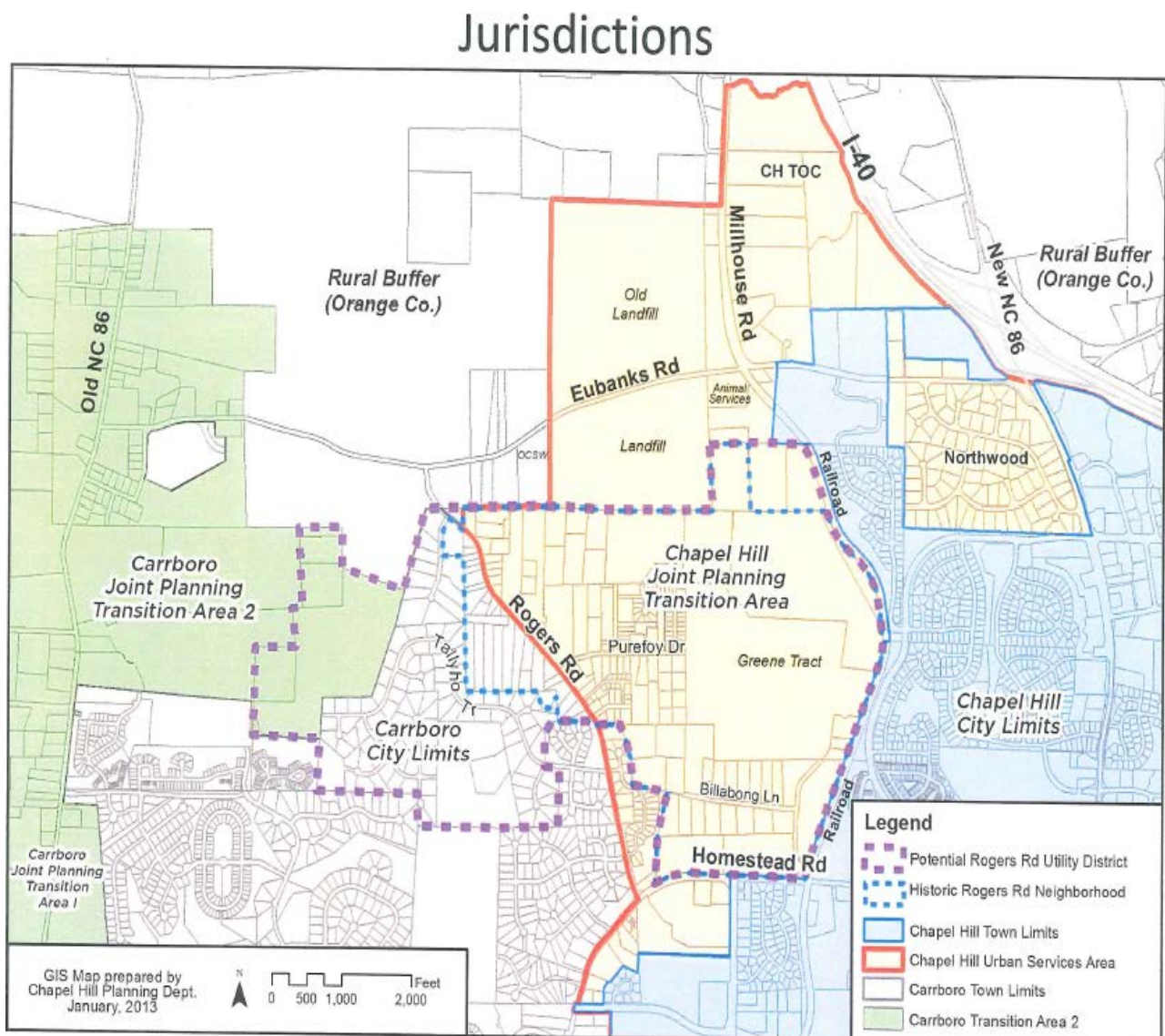
The planning staffs from Carrboro and Chapel Hill looked at the sewer district and identified areas that the sewer lines go through that aren't being served by the proposed sewer. Staff identified parcels that could be served by new sewer infrastructure but also considered parcels that are not served by water. Consideration for a Proposed Utility District started with the boundaries of Historic Rogers Road Neighborhood. Adjacent properties that fell into the category of either existing development that was not currently



being served or areas that could be expected to request sewer service as the property develops in the future were included in the Proposed Utility District.

**Exhibit 2 Jurisdictions** outlines the existing jurisdictions, Carrboro Town Limits, Chapel Hill Town Limits, Chapel Hill Joint Planning Transition Area, Carrboro Joint Planning Transition Area 2, and the Historic Rogers Road Neighborhood. The thick purple line shows the possible expanded Utility district that OWASA was asked to propose as a Utility District. The blue line identifies the Historic Rogers Road Neighborhood as defined by the Task Force.

**Exhibit 2**



The Proposed Utility District above is broken down between Water and Sewer Costs. The Total Cost of the proposed Utility District is outlined below:

**Proposed Utility District**

**Total Water and Sewer Cost**

Construction Cost	\$	11,226,913
Engineering , Design and Permitting 10%	\$	1,122,691
Construction Administration 5%	\$	561,346
Construction Inspection 5%	\$	561,346
20% Contingency	\$	<u>2,694,459</u>
Sub Total	\$	16,166,755
Service Availability Fees	\$	1,414,908
Meter Cost	\$	<u>26,400</u>
Total	\$	17,608,063
Cost Per Parcel (220)	\$	80,037

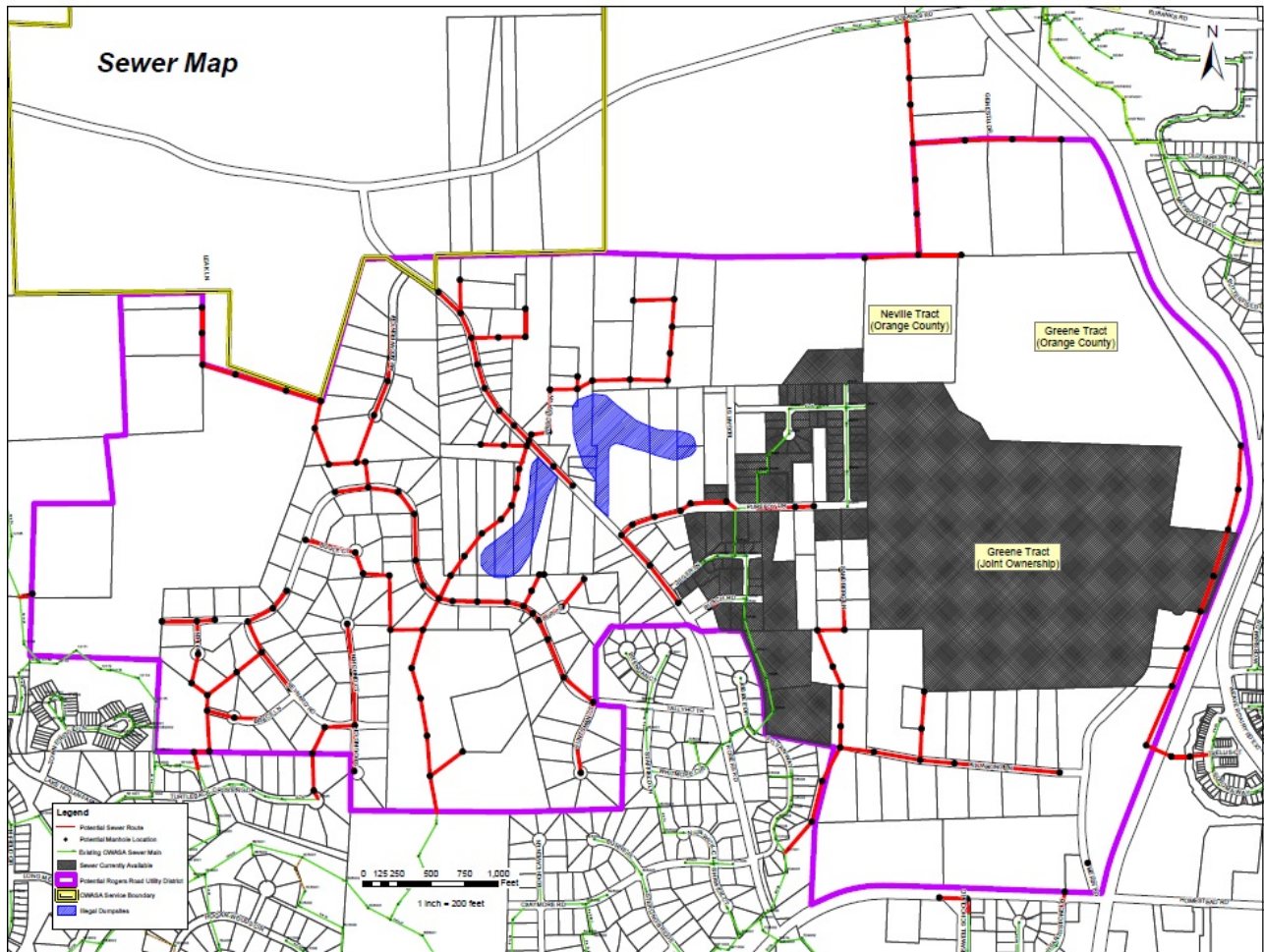
The Sewer only cost estimate is outlined below and shown on **Exhibit 3 (Sewer Map)**. Existing OWASA-owned public sewer is shown in thin green lines. The Proposed Utility District for sewer infrastructure is shown with a thick red line with black dots, representing the manholes for the new extension.

**Proposed Utility District**

**Total Sewer Cost**

Construction Cost	\$	7,441,188
Engineering , Design and Permitting 10%	\$	744,119
Construction Administration 5%	\$	372,059
Construction Inspection 5%	\$	372,059
20% Contingency	\$	<u>1,785,886</u>
Sub Total	\$	10,715,311
Service Availability Fees	\$	<u>973,500</u>
Total	\$	11,688,811
Number of parcels served 220		
Cost Per Parcel	\$	53,131

### Exhibit 3



The water cost estimate is outlined below and shown on **Exhibit 4 (Water Map)**. The water map is the same as sewer, except with thin blue lines identify existing mains and the new mains are the thick red lines, with red squares as proposed fire hydrant locations.

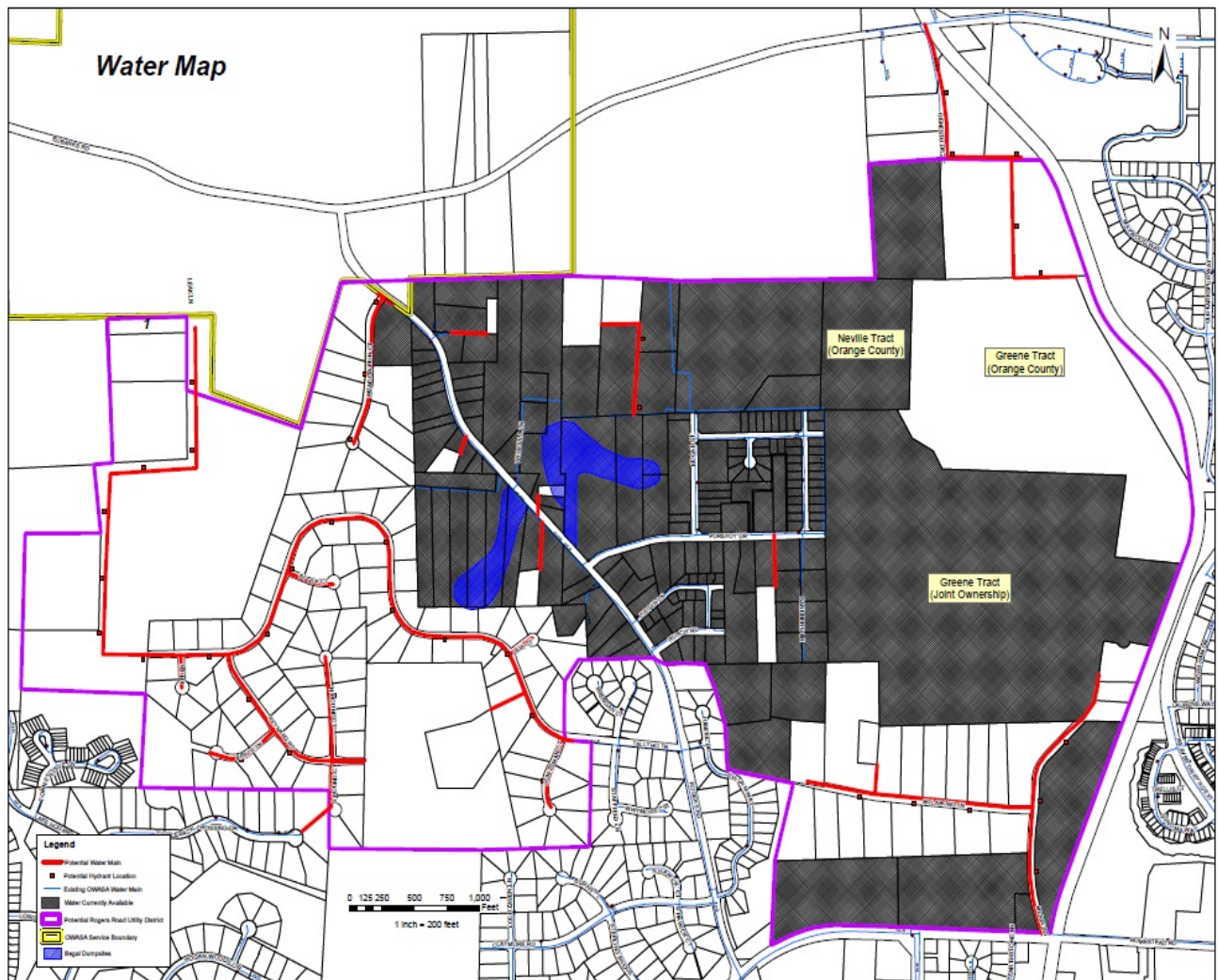


**Proposed Utility District**

**Total Water Cost**

Construction Cost	\$ 3,835,724
Engineering , Design and Permitting 10%	\$ 383,572
Construction Administration 5%	\$ 191,786
Construction Inspection 5%	\$ 191,786
20% Contingency	<u>\$ 920,575</u>
Sub Total	\$ 5,523,443
Service Availability Fees	\$ 441,408
Meter Cost	<u>\$ 26,400</u>
Total	\$ 5,991,251
Number of parcels served 132	
Cost Per Parcel	\$ 45,388

**Exhibit 4**



All parcels that already have access to water and/or sewer on the maps are identified in a black crosshatch; some of these parcels are currently connected to OWASA's system and some are not.

The Proposed Utility District would extend water and sewer to all parcels within the purple boundary. The newly Proposed Utility District almost doubles the amount of sewer that would need to be installed from what was proposed in May 2012. This expanded area increased the lineal feet of sewer extension required from 3.6 miles to 6.8 miles and added 4.4 miles of water main extension. The conceptual layouts for sewer and water are based on the parcel boundaries as they are currently configured and whether or not a structure or multiple structures are currently located on a parcel was not considered.

The Proposed Utility District includes all parcels and the cost per parcel in some areas will be much greater than others. **Exhibit 5 (High Cost Areas)** identifies 5 areas where the cost of new water and/or sewer infrastructure/parcel will be the highest. If the high cost areas are removed until additional development occurs in the Proposed Utility District the initial cost of the Utility District would go from \$17.6 million to \$13.4 million. This represents a 24% decrease in the initial cost, which could be the final phase of the Utility District, and would eliminate water and/or sewer service to 22 parcels. The cost for the High Cost Areas is outlined below:

#### **Proposed Utility District Less High Cost Areas**

##### **Total Water Cost Less High Cost Areas**

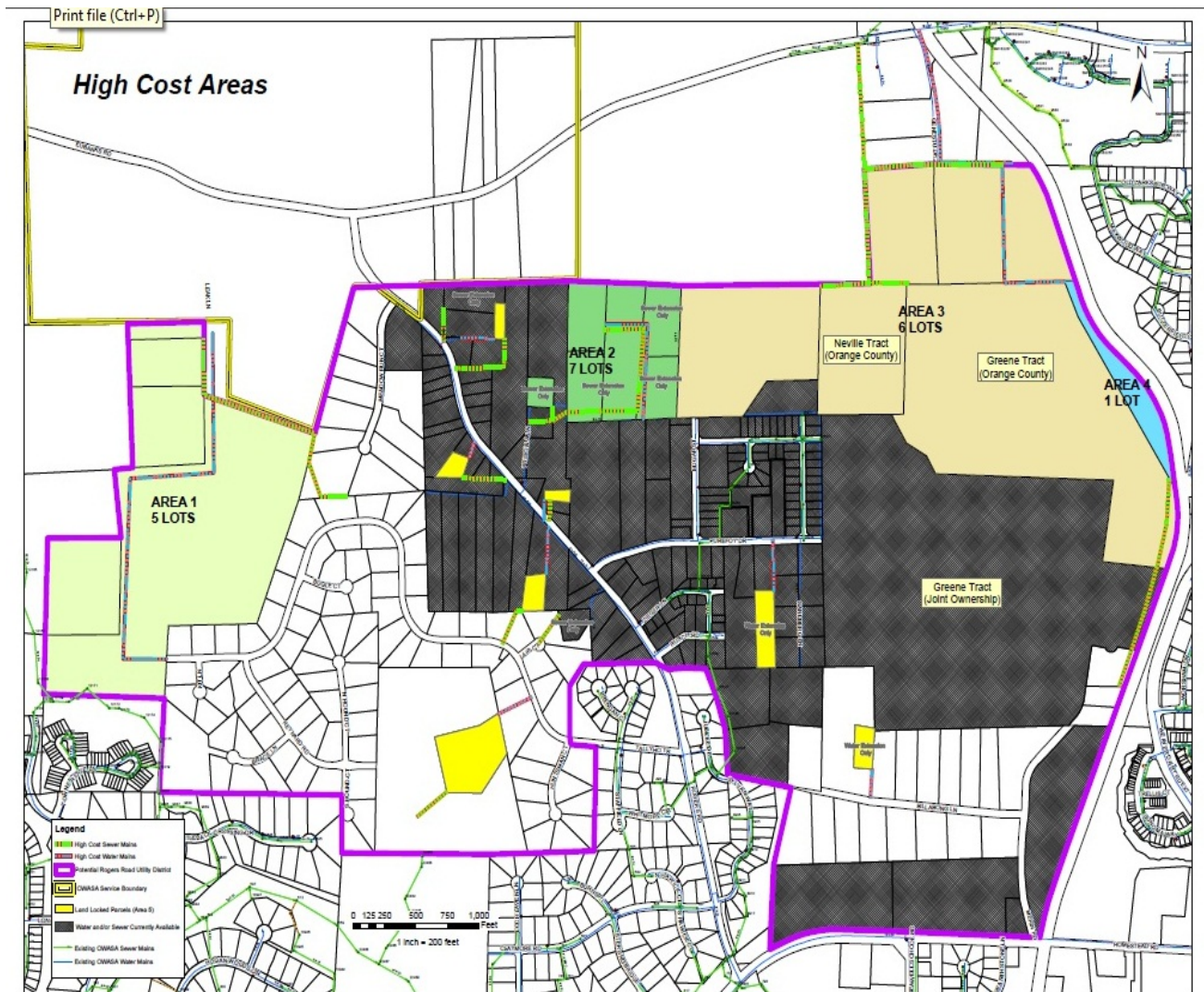
Total Overall Cost for Water	\$	5,991,251
Minus High Cost Areas for Water	\$	<u>1,826,331</u>
Total Water	\$	4,164,920

##### **Total Sewer Cost Minus High Cost Areas**

Total Overall Cost for Sewer	\$	11,688,811
Minus High Cost Areas for Sewer	\$	<u>2,465,767</u>
Total Sewer	\$	9,223,044

<b>Total Water &amp; Sewer Cost Minus High Cost Areas</b>	\$	13,387,964
---	----	------------

## Exhibit 5



The 2012 Sewer concept presented by OWASA had a total estimated cost of \$5.8 million that would serve 86 parcels, with an average cost of \$67,000 per parcel. The Proposed Utility District which evolved from the 2012 Sewer concept has an estimated total cost of \$17.6 million. With an expanded service area, the cost of sewer only is \$11.6 million. If the sewer component of the Proposed Utility District is broken out, sewer would serve 220 sewer parcels, with an average cost of \$53,131 per parcel.

OWASA estimates include extending one sewer service lateral from the main sewer line to the edge of the right-of-way, with a clean out, and extending one water service lateral, setting a meter box and meter at the edge of the right-of-way. This estimate does not consider any cost for hooking up those parcels that have sewer available to them now. If they already have sewer or water available to them, it's not included in the cost estimate. The costs associated with acquiring the easements that will be necessary before any construction work can begin are not included. However, whenever it was feasible to do so, proposed utilities are inside the right-of-way to minimize the number of easements that must be obtained.

### **2013 OWASA Sewer Compromise Concept:**

On June 12, 2013 the Task Force was presented a Compromise Sewer Concept based on the 2012 OWASA Sewer Concept. The intent of the concept is to bring focus on the target core of the Historic Rogers Road Neighborhood considering cost, efficiency and expediency to serve this Neighborhood.

The original 2012 Sewer Concept serves the Rogers Road Neighborhood by constructing 8 different segments at a total estimated cost of \$5.8 million. ***Exhibit 1, the Historic Rogers Road Area Sewer Concept May, 2012 Map*** shows the 8 different segments and 86 parcels that would be served with this concept. Segments 5, 6, & 8 could serve 67 parcels and are the most cost effective to construct. This concept could also be constructed as the first phase of a larger Proposed Sewer District. The Compromise Concept would serve 67 of the 86 original parcels or 77.9% and cost an estimated \$3.7 million or 64.1% of the original cost estimate. This concept could serve the core of Rogers Road, but not everyone.

### **Homeowner Connections:**

#### ***Homeowners subsidize connection:***

The County and the Towns have statutory authority to pay for or subsidize connection costs for the benefit of low and moderate income persons within their territorial jurisdiction. (**Appendix D - G.S. 153A-376; 160A-456**). Pursuant to this authority a program could be established whereby grants or loans are issued to persons who meet

designated criteria to assist those persons with the cost of connecting to a water or sewer system. It remains to be determined whether each unit of local government would operate its own program or whether a joint program would be established. A method to fund individual homeowner connections to water and/or sewer infrastructure is to create a community development fund, set up for the benefit of low-moderate income individual.

If a utility district is created, one of the benefits is that the availability of community development funds could be limited to property owners within the district. The District could not distinguish between or have differential sliding scales based on how long a resident has lived in the Rogers Road Neighborhood. After establishing a policy that makes funds available for individuals to connect to water and/or sewer utilities, for low-to-moderate income homeowners, individuals could apply for grants and/or loans to pay for utility connection charges. No one would be forced to connect to the system, but in any case the qualifying criteria would not be limited to residents of the District.

***Connection cost:***

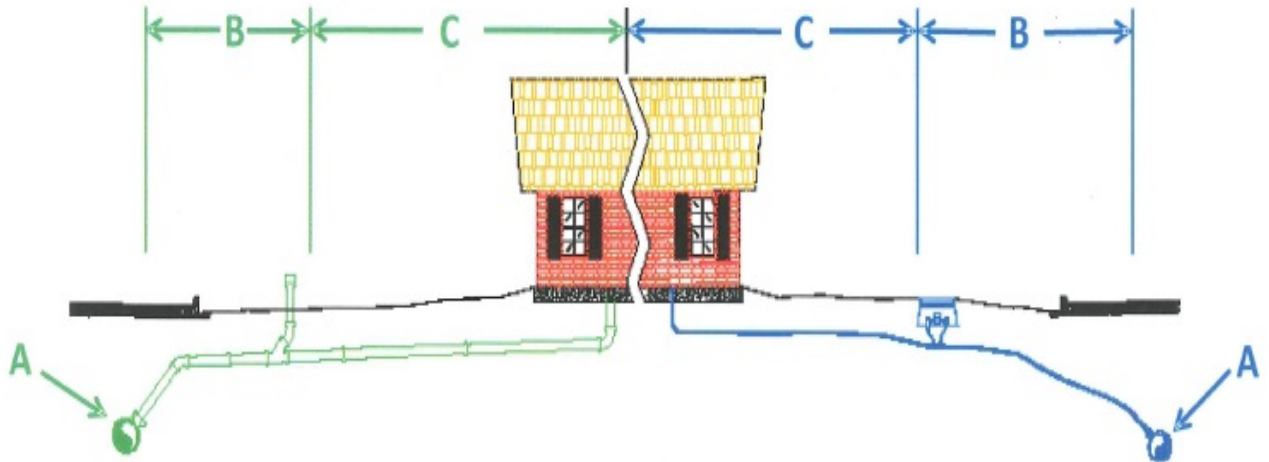
The Proposed Utility District has not yet been formed and a fees structure has not yet been considered. The current OWASA fee structure could be used as an example of the fees a new Utility District customer would be expected to pay. A new sewer customer will be expected to pay for a sewer service lateral, a clean out and service availability fee; a water customer will be expected to pay for a water service lateral, meter box, meter, and service availability fee. The estimates are based on a 2,500 sq. ft. house, pumping out and abandoning a septic tank, a private lateral 150' long, and no internal plumbing modifications.

***Exhibit 6 (Historic Rogers Road Area Estimate Schematic)*** provides a detail breakdown of what an individual home owner could expect to pay to connect to both OWASA water and sewer. In this example, the fees paid to OWASA would be \$11,495 and the estimated cost of a private plumber is \$10,850.



Exhibit 6

## Historic Rogers Road Area Cost Estimate Schematic



### SEWER COST ESTIMATE PER LOT

Item	Cost
A - Sewer Main Extension	\$TBD
B - Sewer Service Lateral, Clean out and Service Availability Fee*	\$6,925
C - Private Plumbing	\$7,250
<b>Total:</b>	<b>\$TBD</b>

Private Plumbing Assumptions:

- All materials and workmanship per plumbing code
- Cleanout installed at edge of Right of Way
- Septic Tank pumped out and abandoned
- Home can be served by gravity (no sump or pump)
- Private lateral is 150' long
- No internal plumbing modifications required
- Assumes trenching will not require disturbance of sidewalk, driveway or landscaping

\* Service Availability Fee charge assumes 2,500 ft<sup>2</sup> home

### WATER COST ESTIMATE PER LOT

Item	Cost
A - Water Main Extension	\$TBD
B - Water Service Lateral, Meter Box, Meter and Service Availability Fee*	\$4,570
C - Private Plumbing	\$3,600
<b>Total:</b>	<b>\$TBD</b>

Private Plumbing Assumptions:

- All materials and workmanship per plumbing code
- Meter box and meter installed at edge of Right of Way
- Well disconnected from home plumbing, not abandoned
- Private lateral is 150' long
- Includes Pressure Reducing Valve installation, but no other internal plumbing modifications
- Assumes trenching will not require disturbance of sidewalk, driveway or landscaping

\* Service Availability Fee charge assumes 2,500 ft<sup>2</sup> home

## **COMMUNITY CENTER:**

On April 9, 2013 the Board of County Commissioners was presented the schematic design of the Rogers Road Community Center and authorized the manager to award the bid for construction in an amount not to exceed \$650,000. The project was bid in August, 2013. The Town of Chapel Hill has expedited the site plan review, permitting and other associated processes for the project as well as waived all associated Town fees related to those processes, normally estimated to be \$25,000.

A Lease Agreement (**Appendix E**) between the County and Habitat for Humanity to lease two lots in the Phoenix Place Subdivision for an initial term of 20 years has been approved. **Appendix F**, an Operating Agreement between Orange County and the Rogers Eubanks Neighborhood Association (RENA) has been drafted and is scheduled to be presented to the Board on September 17, 2013. The agreement contracts with RENA to provide programs and activities that take place at the Community Center, and that all such programs and activities shall be open to the general public.

The County Attorney will be drafting a Memorandum of Understanding between the County and Towns to outline a capital contribution from the Towns for the construction of the Rogers Road Community Center not to exceed \$650,000. The MOU will also provide that the County will be ultimately responsible for the cost of operating and maintaining the Community Center and that the financial participation by Carrboro and Chapel Hill will be limited to the capital contributions identified below.

Costs sharing percentages are the same as identified in the 1972 Landfill Agreement, 43% for Orange County, 43% for the Town of Chapel Hill, and 14% for the Town of Carrboro. The County will construct the Community Center and reimbursement from the Towns could begin in Fiscal 2013/2014.

Budget for the Community Center:		\$650,000
----------------------------------	--	-----------

Shared Costs:

Orange County	43%	\$279,500
Town of Chapel Hill	43%	\$279,500
Town of Carrboro	14%	\$ 91,000

**GENTRIFICATION, CHAPEL HILL'S SMALL AREA PLAN,  
AND THE GREENE TRACT:**

The Task Force highlights part of the charge to the reappointed Task Force (5 Feb 2013) – “To have the Task Force consider options to address gentrification”, indicating that it has not been adequately discussed by the Task Force, nor have options been identified to address this concern, yet it remains a critical issue. Therefore, the Task Force requests that the staffs from each jurisdiction continue to work together with RENA and the other partners identified in Manager’s February 25, 2013 memo to Elected Officials (Self-Help, Jackson Center, OWASA, Chapel Hill-Carrboro City Schools), to identify challenges and craft an action plan which addresses the issue of gentrification and allied concerns. And that the progress reports/recommendations be submitted and discussed at all future Assembly of Government meetings until sufficiently resolved.

On April 17, 2013 the Managers and Attorneys presented recommendation from their meeting on April 11, 2013, Appendix G.

The County & Town Managers, and Attorneys support the concept of a multijurisdictional Development Agreement that will address utilities, gentrification and the Greene Tract for the Historic Rogers Road Neighborhood, Including:

- The concept of an expanded geographic region for a Utility District to promote water and sewer for the Rogers Road Neighborhood
- That the County would be the unit of government to create, finance, and operate a County Utility District for a geographic region that would include the Historic Rogers Road Neighborhood parcels that are not currently served by a municipal water & sewer system.
- The concept of the joint development of the Greene Tract for affordable housing, schools, and open space should be an integral part of a development plan for the Rogers Road Neighborhood.



Attachment 2
--------------

**A RESOLUTION INITIATING FUNDING FOR PRELIMINARY ENGINEERING AND OUTREACH FOR THE ROGERS ROAD SEWER PROJECT AND CONTINUING THE PUBLIC HEARING FOR THE EXTRATERRITORIAL JURISDICTION BOUNDARY AMENDMENT (2014-02-10/R-3)**

WHEREAS, the Town Council re-opened the Public Hearing for the Extraterritorial Jurisdiction Boundary Amendment on October 21, 2013 and continued the hearing to January 13, 2014 and continued the hearing to tonight; and

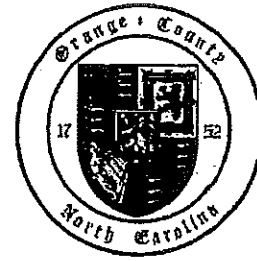
NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council continues the Public Hearing, to be reconvened in the fall 2014.

BE IT FURTHER RESOLVED that the Council directs the Town Manager to prepare agreements and appropriate budget action to initiate preliminary engineering and outreach efforts for the Rogers Road sewer project;

This the 10<sup>th</sup> day of February, 2014.

Office of the County  
Attorney

**ORANGE COUNTY**  
**P.O. BOX 8181**  
**200 S. CAMERON STREET**  
**HILLSBOROUGH, NC 27278**



October 17, 2013

Mr. Jerett Yan  
OCR External Compliance Program  
U.S. EPA, Office of Civil Rights  
(Mail Code 1201A)  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460-1000

Re: EPA File No.: 13R-07-R4

Dear Mr. Yan:

On June 20, 2013 you informed me in a letter sent via email that the Environmental Protection Agency's ("EPA") Office of Civil Rights had accepted for investigation an administrative complaint received by EPA on April 18, 2011

Three months have passed and I have heard nothing regarding this investigation. For that reason I am writing to address the allegation that Orange County's Planning and Inspections Department "discriminated on the basis of race by denying water and sewer service to the African American Residents of the Rogers Road Community." Specifically, your letter states the investigation is based on a complaint that alleges Orange County is complicit with the Orange Water and Sewer Authority ("OWASA"), an independent governmental unit, in a race-based denial of water and sewer service to residents of the Rogers Road community because Orange County's Planning and Inspections Department did not seek grants similar to the grants received for Buckhorn and Mebane projects. This allegation is baseless and approaches the level of being a fraudulent misrepresentation.

By way of background both the Buckhorn and Efland (Mebane project) areas are within Orange County's jurisdiction so noted within its Comprehensive Plan and Zoning Atlas. The area that is the subject of the complaint (i.e. Rogers Road Area) is partially within the town limits of the Town of Carrboro and partially within an area controlled by an adopted interlocal agreement known as the Joint Planning Agreement ("JPA") between Orange County and Chapel Hill. The Joint Planning Agreement deals with land use.

The two primary areas of the JPA include 'Transition' areas (i.e. areas transitioning to a future urban character) to be administered by the towns and 'Rural Buffer'; to remain a lower housing density area. This created an Urban Services delineation which also set the boundary of future town annexations. The local governments assigned transition areas to implement land development ordinances "...just as if the land were located within the respective Town's planning jurisdictions." The role of the County in JPA areas is to comment on land use consistency with the common land use plan map but not to direct development activities in areas anticipated for municipal annexation. The Town of Chapel Hill has notified the county on its intent to formally change these areas to add them to its extraterritorial jurisdiction in the immediate future.

The first allegation related to the complaint that I will address is that Orange County "has direct influence in shaping OWASA's agenda because Orange County appoints two members of the OWASA board of directors." Water and sewer service in the Historic Rogers Road Area is operated and maintained by OWASA. OWASA's governing board is comprised of nine members, five of whom are appointees of the Town of Chapel Hill, two appointees from the Town of Carrboro, and two appointees from Orange County. Orange County has absolutely no influence over, or involvement with, water and sewer service or operations by OWASA. Nor, beyond the appointment of two members to its governing board, does Orange County have any authority over the governing board of OWASA. OWASA's governing board, together with its senior staff, is solely responsible for administrative and operational decisions regarding OWASA's provision of water and sewer service. The OWASA organizational chart may be viewed [here](#). As you will see Orange County is nowhere in the organizational chart. You will also not find any indication whether through board minutes, notes, news reports, or any other source that Orange County has any influence over OWASA's agenda, activities or operations.

Another allegation is that Orange County sought grants from the EPA for the Efland and Buckhorn areas and intentionally refused to seek grants for the Historic Rogers Road area. This also is false. Neither Orange County nor the Orange County Planning and Inspections Department unilaterally sought grants from the EPA for the expansion of wastewater systems in the Efland and Buckhorn communities. Congressman David Price earmarked funds in 2003 [Consolidated Appropriations Resolution, 2003, (P.L. 108-7)] and 2005 [Consolidated Appropriations Act, 2005, (P.L. 108-447)] for the aforementioned areas. Upon the funds becoming available the Orange County Planning and Inspections Department followed guidelines set forth by EPA Region 4 for special appropriation projects ("SPAP") to receive the grant awards including permission from the Orange County Board of Commissioners to pursue the earmarked/allocated wastewater grants, but did not formally apply for the earmarked funds.

In 2004 the County retained an engineering firm to begin designs for the areas on which the SPAPs were to be expended. In 2009 engineering design was still underway but no formal application had been made for the SPAP funds when the County was notified that unused SPAPs could be rescinded and/or forfeited if not formally applied for with the associated paperwork for receipt of funds. Due to the possibility of the funds becoming unavailable Orange County formally applied for the funds in 2010.

Some additional information of which EPA staff may not be aware is as follows: Beginning last year, the Orange County Board of Commissioners commissioned a task force comprising residents of the Rogers Road Area, Orange County Commissioners, Carrboro Aldermen, and Chapel Hill Town Council members to examine what could be done in the Rogers Road Area to assist the community. In the course of its work I received notice of the EPA investigation. Upon my receipt of that notice I immediately advised the Orange County Board of Commissioners that it should suspend any expenditure of funds in the Rogers Road Area until such time as the investigation is closed and we can determine what, if anything, EPA would demand of Orange County. Despite this, the task force has continued its work and is scheduled to present its recommendations to the county and town governing bodies on November 21<sup>st</sup>. Among other things the task force is recommending the construction of a public community center and the extension of sewer lines in the Rogers Road Area.

The construction of a public community center in the area is proceeding. This project has been approved by the Orange County Board of Commissioners for an approximately 4000 square foot structure with a construction budget of up to \$700,000. Initial bids have been rejected because those bids came in at almost double the amount budgeted, however, the project is being re-bid.

The extension of sewer lines represents a substantially larger investment of public dollars and for this reason in light of the open investigation I have continued to advise the Board of Commissioners to suspend consideration of the extension of sewer lines for so long as the investigation remains open. As I'm sure you realize the reason for this recommendation is that Orange County could expend millions of

dollars in one area or on one project and the EPA, as a result of its investigation, could demand that an equal or greater amount of funds be spent on another area or project.

This delay is not benefitting the Rogers Road Area and as I mentioned above is the result of an investigation that I believe the EPA will find is based on a groundless complaint. The Orange County Board of Commissioners has taken positive steps in the last year to assist the Rogers Road Area. Prior to this investigation surfacing the Board of Commissioners was in the process of committing to expend funds on improvements in the area. Based on the actions of the past year I am confident that absent this investigation all three local governments would be on the verge of approving the extension of sewer lines and other projects in the Rogers Road Area.

In order to allow this process to resume I request EPA either: 1) Immediately proceed with its investigation to some reasonable and speedy conclusion; or 2) Dismiss the complaint so that the local governments may proceed with the consideration and possible implementation of the task force recommendations; or 3) Encourage the complainants to withdraw their petition so that the local governments may proceed with consideration and possible implementation of the task force recommendations.

I am available to discuss the investigation at your convenience.

Sincerely,



John Roberts  
Orange County Attorney

cc: Orange County Commissioners  
Michael Talbert, Interim County Manager  
Craig Benedict, Planning & Inspections Director



**ORANGE COUNTY  
ASSEMBLY OF GOVERNMENTS**

**AGENDA ITEM ABSTRACT**

**Meeting Date:** December 6, 2012

**Action Agenda  
Item No. 3**

**SUBJECT:** Greene Tract Historical Information and Options

**DEPARTMENT:** Solid Waste Management

**PUBLIC HEARING: (Y/N)**

No

**ATTACHMENT(S):**

- A. Proposed Agenda for Greene Tract Work Session for April 29, 2008
- B. Abstract for Approval of Recommendations from the Greene Tract Work Group dated December 10, 2002
- C. Greene Tract Reimbursement Schedule and Payment History for 104 Jointly Owned Acres

**INFORMATION CONTACT:**

Frank Clifton, County Manager, 245-2306

Michael Talbert, Asst. County Manager, 245-2308

Gayle Wilson, Director, Solid Waste Management, 968-2885

**PURPOSE:** To provide historical information and discuss options for the 104 acres Greene Tract jointly owned by Orange County, Chapel Hill, and Carrboro.

**BACKGROUND:** The Greene Tract (164 acres) was acquired in 1984 for \$608,000 and came to Orange County as an asset in the Solid Waste Fund. As a result of the Inter Local Agreement, 60 acres of the Greene Tract was conveyed to Orange County for "Solid Waste management purposes". The Inter Local Agreement (amended April 12, 2000) provided for the three owning partners to determine, over a two-year period, the ultimate disposition of the remaining 104 jointly held acres. Attachment A provides a history of the Greene Tract from 1999 through 2008. Attachment B provides information regarding the last action taken by the Board of County Commissioners (BOCC) on December 10, 2002. Although there has considerable discussion about the future of the Greene Tract, no action has been taken by the BOCC since 2002.

A Greene Tract Work Group that included representatives of all parties to the Inter Local Agreement began meeting in 2001 and presented Recommendations on March 21, 2002. A Greene Tract Work Group Resolution, making recommendation on the 104 acres jointly owned by Orange County, Chapel Hill and Carrboro, was approved by the BOCC on December 10, 2002 (see Attachment B – Abstract and Resolution). The remaining 60 acres of the Green Tract continues to be owned as an asset in the Solid Waste Fund.

Over the past twelve years there have been many options discussed as to possible future uses of the 104 acres jointly owned by Orange County, Chapel Hill and Carrboro. Listed below are the options that have been explored:

1. The 104 acre tract should remain as open space to be protected by conservation easements.
2. Joint affordable housing could be planned for 18.1 acres and the remaining 85.9 acres would remain joint open space.
3. That acreage for affordable housing could be placed in the Land Trust.
4. CHCCS requested that part of the Greene Tract be reserved for a future elementary school site.
5. Rename the property to recognize headwaters of Bolin Creek, Booker Creek and Old Field Creek

As a result of the Interlocal Agreement, 60 acres of the Green Tract was conveyed to Orange County for “solid waste management purposes”. The Agreement further included a repayment mechanism to the Solid Waste Enterprise Fund, if the Green Tract were used for purposes other than solid waste. In October 2007 there was consensus that the financial reimbursement to the Solid Waste Fund would begin on July 1, 2008. Attachment C is a reimbursement schedule and payment history for the 104 acres jointly owned that was agreed to by Orange County, Chapel Hill and Carrboro.

**FINANCIAL IMPACT:** There is no financial impact associated with the discussion of future options for the 104 acres of the Greene Tract.

**RECOMMENDATION(S):** The County Manager recommends that the Boards receive the historical information and discuss options for the 104 acres of the Greene Tract jointly owned by Orange County, Chapel Hill, and Carrboro.

**ORANGE COUNTY  
BOARD OF COMMISSIONERS  
ACTION AGENDA ITEM ABSTRACT  
Meeting Date: March 6, 2014**

**Action Agenda  
Item No. 7-b**

**SUBJECT:** Authorization for Triangle Transit Authority to Levy an Additional Three Dollar (\$3) Vehicle Registration Tax in Orange County

---

**DEPARTMENT:** Attorney / Planning and  
Inspections

**PUBLIC HEARING: (Y/N)**

No
----

**ATTACHMENT(S):**

Resolution Authorizing the Research Triangle Regional Public Transportation Authority to Levy the Full Eight Dollar (\$8.00) Vehicle Registration Tax on Motor Vehicles Registered in Orange County

**INFORMATION CONTACT:**

John Roberts, County Attorney, 919-245-2318  
Craig Benedict, Planning Director, 919-245-2592

**PURPOSE:** To consider a resolution authorizing Triangle Transit Authority ("TTA") to levy an additional \$3 vehicle registration tax in Orange County.

**BACKGROUND:** In June 2012 the Orange County Board of Commissioners approved the Orange County Bus and Rail Investment Plan ("Plan"). The Plan provides the method and procedures whereby additional bus service, bus rapid transit, and light rail service may be provided in Orange County. In addition to state and federal funding, the Plan designates as funding for these certain services the vehicle registration tax authorized by North Carolina General Statute (NCGS) 105-561 (\$3).

TTA currently levies a \$5 vehicle registration tax in Orange County pursuant to the authority granted in NCGS 105-561. The vehicle \$3 vehicle registration tax is an expansion of this tax to the maximum amount authorized by the statute which is \$8.

In December 2012 the Board of Commissioners approved a similar resolution. However, TTA's general counsel subsequently formed the opinion that the language of NCGS 105-561 required all three counties, Durham, Orange, and Wake, to approve the increase in order for it to take effect. Only Durham and Orange approved the increase. TTA successfully secured an amendment to NCGS 105-561 in the 2013 legislative session. The amendment allows the tax to be implemented in each county that approves it.

The resolution authorizes TTA to move forward with the levy of these taxes.

**FINANCIAL IMPACT:** The annual revenue expected from the TTA \$3 tag fee, once fully implemented, is projected at approximately \$338,000 a year with 2% growth per year per the adopted Orange County Bus and Rail Investment Plan.

**RECOMMENDATION(S):** The Manager recommends the Board approve and authorize the Chair to sign the attached resolution.