



Town of Carrboro

Town Hall
301 W. Main St.
Carrboro, NC 27510

Meeting Agenda Board of Aldermen



Tuesday, March 4, 2014

7:30 PM

Board Chambers - Room 110

A. REQUESTS FROM VISITORS AND SPEAKERS FROM THE FLOOR

B. RESOLUTIONS, PROCLAMATIONS, AND ACKNOWLEDGEMENTS

7:30-7:45

1. [14-0075](#) Charges Issued to Recently Appointed Advisory Board Members

7:45-7:50

C. CONSENT AGENDA

1. [14-0076](#) Approval of Previous Meeting Minutes
2. [14-0071](#) A Request to Make an Appointment to the Carrboro Northern Transition Area Advisory Committee

PURPOSE: The Mayor and Board of Aldermen are requested to consider recommending to the Orange County Board of Commissioners that Amy Jeroloman be reappointed as an Orange County representative on the Northern Transition Area Advisory Committee.

Attachments: [A RESOLUTION REGARDING A RECOMMENDATION TO THE BOCC FOR THE NTAAC.docx](#)

D. OTHER MATTERS

7:50-8:10

1. [14-0074](#) Presentation from Raul Pinto, ACLU Regarding Police Checkpoints

8:10-8:15

1. [14-0070](#) Continuation of Consideration of Land Use Ordinance Amendments to Clarify Requirements for Exempt and Allowable Activities Related to Utilities in Water Quality Buffers

PURPOSE: The purpose of this item is for the Board of Aldermen to continue the discussion from the February 25th public hearing regarding possible amendments to the Land Use Ordinance to clarify exempt and

allowable activities for disturbance associated with utilities in water quality buffers.

Attachments: [Attachment A-1 - Consistency Resolution for Ordinance Adoption](#)
[Attachment A-2 - Consistency Resolution for Ordinance Denial](#)
[Attachment B - Revised LUOAmendmentBuffers022614_w ordinance template](#)
[Attachment C - Recommendations](#)
[Attachment D - OWASA Comments & Responses](#)

8:15-8:45

2. [14-0069](#) Update on Implementation of Improvements in the Historic Rogers Road Area - Preliminary Engineering and Outreach Efforts

PURPOSE: The purpose of this agenda item is to provide the Board of Aldermen an opportunity to consider information on the next phase of planning for the extension of sewer service to the Historic Rogers Road area, and on an outreach effort that will seek to clarify the vision for development in the area.

Attachments: [Att A - Resolution Regarding Preliminary Engineering and Outreach Efforts.docx](#)
[Att B - Town of Chapel Hill Resolution2-10-14.pdf](#)
[Att C - Board of County Commissioners Rogers Road 3-4-14.pdf](#)

8:45-9:15

3. [14-0073](#) Town Code Amendment Establishing a Safe Routes to School Implementation Committee

PURPOSE: The Board of Aldermen is asked to consider establishing a Safe Routes to School Implementation Committee to recommend transportation projects, policies, programs, or activities that serve to increase the safety and convenience of walking and bicycling to school and fulfill related functions.

Attachments: [Att A - ORD AMD - Establish SRTS implementation committee](#)

- E. **MATTERS BY TOWN CLERK**
- F. **MATTERS BY TOWN MANAGER**
- G. **MATTERS BY TOWN ATTORNEY**
- H. **MATTERS BY BOARD MEMBERS**



Town of Carrboro

Town Hall
301 W. Main St.
Carrboro, NC 27510

Legislation Text

File #: 14-0075, Version: 1

Charges Issued to Recently Appointed Advisory Board Members

1. Environmental Advisory Board - Michelle Holder
2. Transportation Advisory Board - Scott Boone
3. Recreation and Parks - Kendra Van Pelt, Daniel Siler
4. Arts Committee - Eva Weber
5. Appearance Commission - Wendy Dale



Town of Carrboro

Town Hall
301 W. Main St.
Carrboro, NC 27510

Legislation Text

File #: 14-0071, **Version:** 1

TITLE:

A Request to Make an Appointment to the Carrboro Northern Transition Area Advisory Committee

PURPOSE: The Mayor and Board of Aldermen are requested to consider recommending to the Orange County Board of Commissioners that Amy Jeroloman be reappointed as an Orange County representative on the Northern Transition Area Advisory Committee.

DEPARTMENT: Town Clerk

CONTACT INFORMATION: Cathy Wilson, 918-7309

INFORMATION: Section 15-27 (a) of the Town Code reads, "There shall be a Northern Transition Area Advisory Committee consisting of five members, three appointed by the Orange County Board of Commissioners and two by the Board of Aldermen. If the Board of Commissioners fails to make these appointments within ninety days after receiving a resolution from the Board of Aldermen requesting that they be made, the Board of Aldermen may make them. All members shall be residents of the Northern Transition Area." Amy Jeroloman is currently the Chair of the NTAAC and holds an Orange County Representative seat. She was originally appointed in 2011 and her current term has expired. Ms. Jeroloman meets the residency requirements to be appointed to the Committee.

At this time Amy Jeroloman's application is the only Orange County representative seat application that has been received by the Town Clerk.

FISCAL & STAFF IMPACT: N/A

RECOMMENDATION: It is recommended that the Mayor and Board adopt the attached resolution.

A RESOLUTION RECOMMENDING THAT THE ORANGE COUNTY BOARD OF
COMMISSIONERS MAKE AN APPOINTMENT TO THE NORTHERN TRANSITION
AREA ADVISORY COMMITTEE

WHEREAS, There is an Orange County representative seat currently held by Amy Jeroloman on the NTAAC; and,

WHEREAS, Section 15-27 (a) of the Town Code reads, "There shall be a Northern Transition Area Advisory Committee consisting of five members, three appointed by the Orange County Board of Commissioners and two by the Board of Aldermen. If the Board of Commissioners fails to make these appointments within ninety days after receiving a resolution from the Board of Aldermen requesting that they be made, the Board of Aldermen may make them. All members shall be residents of the Northern Transition Area;" and,

WHEREAS, Staff has verified that Amy Jeroloman meets the residency requirements; and,

THEREFORE BE IT RESOLVED BY THE MAYOR AND BOARD OF ALDERMEN OF THE TOWN OF CARRBORO THAT:

Section 1: Amy Jeroloman's application is hereby forwarded to the Board of Orange County Commissioners and recommended for reappointment to the Town of Carrboro's Northern Transition Area Advisory Committee; and,

Section 2: The reappointment be made for a term to expire 1/2017; and,

Section 3: The Town Clerk shall forward a copy of this resolution to the Orange County Board of Commissioners; and,

Section 4: This resolution is effective immediately upon adoption.



Town of Carrboro

Town Hall
301 W. Main St.
Carrboro, NC 27510

Legislation Text

File #: 14-0074, **Version:** 1

Presentation from Raul Pinto, ACLU Regarding Police Checkpoints



Legislation Text

File #: 14-0070, **Version:** 1

TITLE:

Continuation of Consideration of Land Use Ordinance Amendments to Clarify Requirements for Exempt and Allowable Activities Related to Utilities in Water Quality Buffers

PURPOSE: The purpose of this item is for the Board of Aldermen to continue the discussion from the February 25th public hearing regarding possible amendments to the Land Use Ordinance to clarify exempt and allowable activities for disturbance associated with utilities in water quality buffers.

DEPARTMENT: Planning

CONTACT INFORMATION: Randy Dodd (919) 918-7326; Christina Moon (919) 918-7325

INFORMATION: At the February 25th public hearing, the Board considered amendments to Section 15-269.5(d) of the Land Use Ordinance, the Table of Exempt and Allowable Activities in Water Quality Buffers. The proposed modifications focus on the footnotes and were designed to provide additional clarity for staff and for regulated parties regarding the details of installation and maintenance of utilities in the buffers. The proposed changes are intended to continue to allow these activities in buffers, while providing additional protection related to utility infrastructure planning, design, installation, and maintenance activities.

The draft ordinance was referred to Orange County, Town advisory boards, OWASA and the North Carolina Department of Environment and Natural Resources (DENR); comments were provided in the agenda materials. Todd Taylor, the General Manager of Operation for OWASA, requested a change from the proposed language to reword the language in footnote 8 regarding the width of permanently maintained (cleared) areas within OWASA easements as described below:

- Permanently maintained areas will generally not exceed 20 feet in width. Occasional wider widths are allowable to accommodate vehicle turnaround. (language in the draft ordinance dated 2-14-2014)
- Permanently maintained areas will not exceed the width of the easement. Narrower widths are encouraged.(alternative language proposed by OWASA)

To be clear, this provision only applies to those situations where an OWASA easement runs parallel to a stream; it is intended to limit the cleared portion of the easement within Zone 1, the first 30 feet of the water quality buffer. The Board also identified a need to consider alternative wording for footnote 2 for aerial electric utility perpendicular crossings and the width of vegetation adjacent to the waterbody.

The Board directed staff to bring back a revised draft ordinance with alternative language in footnote 8 that would specify the conditions when cleared areas greater than 20 feet in width would be allowed, based on OWASA's input. The proposed language in the revised ordinance dated 2-26-2014 reads, "The width of the corridor that is maintained to exclude woody vegetation will generally not exceed 20 feet in width. Wider widths are allowable to accommodate needs such as vehicle turnaround, preparedness for emergency situations, and state and federal regulatory standards." The Board also instructed staff to develop similar language for footnote 2. The revised bullet under footnote 2 reads, "A zone at least 10 feet wide immediately adjacent to the

water body shall be managed such that only vegetation that poses a hazard or has the potential to grow tall enough to interfere with the line is removed. A revised ordinance is provided (*Attachment B*).

FISCAL & STAFF IMPACT: Public hearings involve staff and public hearing notice costs associated with advisory board and Board of Aldermen review.

RECOMMENDATION: Staff recommends that the Board of Aldermen consider the resolution finding consistency, and the draft ordinance provided in the attachments.

A RESOLUTION ADOPTING A STATEMENT EXPLAINING THE BOARD OF ALDERMEN'S
REASONS FOR ADOPTING AN AMENDMENT TO THE TEXT OF THE CARRBORO LAND
USE ORDINANCE.

Draft Resolution No.

WHEREAS, an amendment to the text of the Carrboro Land Use Ordinance has been proposed, which amendment is described or identified as follows: AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE TO CLARIFY REQUIREMENTS FOR EXEMPT AND ALLOWABLE ACTIVITIES RELATED TO UTILITIES IN WATER QUALITY BUFFERS.

NOW, THEREFORE, the Board of Aldermen of the Town of Carrboro Resolves:

Section 1. The Board concludes that the above described amendment is consistent with Carrboro Vision 2020 as it relates to the environmental protection and promotion in Section 5.0, and specifically in the following provisions

5.22 Carrboro should adopt a strategy and set of policies to protect all of our creeks, streams, ponds, and lakes.

5.23 Carrboro should be proactive in managing its stormwater, promoting active maintenance of facilities, reducing impacts of increased impervious surface, and minimizing impacts on waterways.

Section 2. The Board concludes that its adoption of the above described amendment is reasonable and in the public interest because the Town seeks to remain consistent with its adopted plans or policies.

Section 3. This resolution becomes effective upon adoption.

This the 4th day of March 2014.

A RESOLUTION ADOPTING A STATEMENT EXPLAINING THE BOARD OF ALDERMEN'S
REASONS FOR REJECTING AN AMENDMENT TO THE TEXT OF THE CARRBORO LAND
USE ORDINANCE

Draft Resolution No.

WHEREAS, an amendment to the text of the Carrboro Land Use Ordinance has been proposed, which amendment is described or identified as follows: AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE TO CLARIFY REQUIREMENTS FOR EXEMPT AND ALLOWABLE ACTIVITIES RELATED TO UTILITIES IN WATER QUALITY BUFFERS.

NOW, THEREFORE, the Board of Aldermen of the Town of Carrboro Resolves:

Section 1. The Board concludes that the above described amendment is not consistent with Town plans and policies.

Section 2. The Board concludes that its rejection of the above described amendment is reasonable and in the public interest because existing regulations are appropriate.

Section 3. This resolution becomes effective upon adoption.

This the 4th day of March 2014.

ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE TO CLARIFY
REQUIREMENTS FOR EXEMPT AND ALLOWABLE ACTIVITIES RELATED TO
UTILITIES IN WATER QUALITY BUFFERS

DRAFT 2-26-2014

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. Subsection 15-269.5(d) of the Carrboro Land Use Ordinance is amended to read as follows:

Section 15-269.5 Exempt and Allowable Activities

(d) Table of Exempt and Allowable Activities in Water Quality Buffers

(NOTE: ALL ENTRIES IN THIS TABLE NOT SHOWN BELOW WILL NOT BE AFFECTED BY THE PROPOSED AMENDMENT)

Activity	Exempt	Allowable	Allowable with Mitigation
Recreation			
Greenway / hiking trails ¹ designed, constructed and maintained to maximize nutrient removal and erosion protection, minimize adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practical		X	
Utilities			
Electric utility, aerial, perpendicular crossings ^{2,3,4} : <ul style="list-style-type: none">• Disturb equal to or less than 100 linear feet of buffer• Disturb greater than 100 linear feet of buffer	X	X	

¹ To the extent practicable, greenway easements shall be located a minimum of 10 feet from the top of bank; surfaces shall be a minimum of 15 feet from the top of bank.

² Provided that within 30 feet of surface waters, all of the following BMPs for overhead utility lines are used. If all of these BMPs are not used, then the overhead utility lines shall require a no practical alternative evaluation by the Administrator as defined in Section 15-269.6.

- A zone at least ~~minimum zone of~~ 10 feet wide immediately adjacent to the water body shall be managed such that only vegetation that poses a hazard or has the potential to grow tall enough to interfere with the line is removed.
- Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.

Activity	Exempt	Allowable	Allowable with Mitigation
Electric utility, aerial, other than perpendicular crossings ³ : <ul style="list-style-type: none"> • Impacts greater than 50 feet from surface waters • Impacts within 30-50 feet of surface waters • Impacts within 30 feet of surface waters^{2,4,5}: 	X	X	X
Electric utility, underground, perpendicular crossings ^{3,4,6} : <ul style="list-style-type: none"> • Disturb less than or equal to 40 linear feet of buffer • Disturb greater than 40 linear feet of buffer 	X	X	

- Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain where trees are cut.

- Riprap shall not be used unless it is necessary to stabilize a tower.

- No fertilizer shall be used other than a one-time application to re-establish vegetation.

- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.

- Active measures shall be taken after construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.

- In wetlands, mats shall be utilized to minimize soil disturbance.

³ Perpendicular crossings are those that intersect the surface water at an angle between 75 degrees and 105 degrees.

⁴ Provided that poles or aerial infrastructure shall not be installed within 10 feet of a water body unless the Administrator completes a no practical alternative evaluation as defined in Section 15-269.6

⁵ Provided that:

- No heavy equipment shall be used within 30 feet of surface waters.

- ~~Vegetation in undisturbed portions of the buffer is not compromised.~~ • Felled trees are removed by chain. A tree protection plan shall be developed and approved by Administrator that will protect the buffer to the maximum extent practicable.

- Trees ~~are~~ shall be: 1) felled so as not to damage trees not intended for removal or stream banks; and 2) removed by chain.

- No permanent felling of trees occurs in protected buffers or streams.

- Stumps shall ~~be~~ removed only by grinding.

- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.

- At the completion of the project the disturbed area shall ~~be~~ stabilized with native vegetation.

- The condition and use of the area within 50 feet of surface waters ~~is~~ shall be consistent with Sections 15-269.3 and 15-269.4.

⁶ A tree protection plan shall be developed and approved by Administrator that will protect the buffer to the maximum extent practicable.

- Trees shall be felled so as not to damage trees not intended for removal or stream banks.

- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.

Activity	Exempt	Allowable	Allowable with Mitigation
Electric utility, underground, other than perpendicular crossings ^{3,6} : <ul style="list-style-type: none"> • Impacts greater than 50 feet from surface waters • Impacts within 30-50 feet of surface waters • Impacts within 30 feet of surface waters⁵: 	X	X	X

-
- Stump grinding is allowable only for stumps more than 30 feet from surface waters.
 - ~~Provided that, within~~ Within 30 feet of surface water, all of the following BMPs for underground utility lines shall be used. If all of these BMPs are not used, then the underground utility line shall require a no practical alternative evaluation by the Administrator, as defined in Section 15-269.6.
 - Stumps shall remain, except in the trench where trees are cut.
 - Measures shall be taken upon completion of construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
 - Trees shall be removed by chain. Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.
 - Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain, except in the trench created for the line installation,
 - Underground cables shall be installed by vibratory plow or trenching.
 - The trench shall be backfilled with the excavated soil material immediately following cable installation.
 - No fertilizer shall be used other than a one-time application to re-establish vegetation.
 - In wetlands, mats shall be utilized to minimize soil disturbance.
 - At the completion of the project the disturbed area shall be stabilized with native vegetation.
 - The condition and use of the area within 50 feet of surface waters shall be consistent with Sections 15-269.3 and 15-269.4

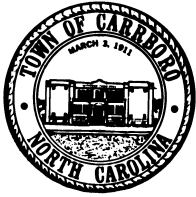
Activity	Exempt	Allowable	Allowable with Mitigation
Non-electric utility, perpendicular crossings ^{3,4,5,6,7} : <ul style="list-style-type: none"> • Disturb equal to or less than 40 linear feet of buffer with a maintenance corridor equal to or less than 10 feet in width • Disturb equal to or less than 40 linear feet of buffer with a maintenance corridor greater than 10 feet in width • Disturb greater than 40 linear feet but equal to or less than 150 linear feet of buffer with a maintenance corridor equal to or less than 10 feet in width • Disturb greater than 40 linear feet but equal to or less than 150 linear feet of buffer with a maintenance corridor greater than 10 feet in width • Disturb greater than 150 linear feet of buffer 	X	X X	X X
Non-electric utility, other than perpendicular crossings ^{3, 6,5} : <ul style="list-style-type: none"> • Impacts greater than 50 feet from surface waters • Impacts within 30-50 feet of surface waters • Impacts within 30 feet of surface waters^{5,8} 	X	X	X

Section 2. All provisions of any town ordinance in conflict with this ordinance are repealed.

Section 3. This ordinance shall become effective upon adoption.

⁷ All sewer crossings shall be protected from damage and risk of future leakage to the maximum extent practicable using ductile iron and other appropriate construction materials and practices.

⁸ The width of the corridor that is maintained to exclude woody vegetation will generally not exceed 20 feet in width. Wider widths are allowable to accommodate needs such as vehicle turnaround, preparedness for emergency situations, and state and federal regulatory standards. Permanently maintained areas will generally not exceed 20 feet in width. Occasional wider widths are allowable to accommodate vehicle turnaround.



TOWN OF CARRBORO

Planning Board

301 West Main Street, Carrboro, North Carolina 27510

R E C O M M E N D A T I O N

THURSDAY, FEBRUARY 6, 2014

LAND USE ORDINANCE TEXT AMENDMENT CLARIFYING REQUIREMENTS FOR EXEMPT AND ALLOWABLE ACTIVITIES FOR DISTURBANCE ASSOCIATED WITH UTILITIES IN WATER QUALITY BUFFERS

Motion was made by **B. Foushee** and seconded by **D. Clinton** that the **Planning Board** recommends that the Board of Aldermen **adopt** the draft ordinance, noting the following concern that the Board of Aldermen may wish to address:

There does not seem to be specific reference to BMPs for all relevant activities, but only overhead utility lines.

VOTE:

AYES: Adamson, Barton, Chaney, Clinton, Davis, Foushee, Hunt

ABSENT/EXCUSED: Cohen, Eldred

NOES: N/A

ABSTENTIONS: N/A

Associated Findings

By a unanimous show of hands, the **Planning Board** membership also indicated that no members have any financial interests that would pose a conflict of interest to the adoption of this amendment.

Furthermore, the **Planning Board** of the Town of Carrboro also finds that the proposed text amendment is consistent with Carrboro Vision 2020 as it relates to the environmental protection and promotion in Section 5.0 and specifically in the following provisions:

5.21 Carrboro should work with OWASA to develop the policies and infrastructure necessary for water conservation (e.g. encourage the re-use of grey water, replacing fixtures with low-flow models, and collecting stormwater for watering gardens).

5.22 Carrboro should adopt a strategy and set of policies to protect all of our creeks, streams, ponds, and lakes.

5.23 Carrboro should be proactive in managing its stormwater, promoting active maintenance of facilities, reducing impacts of increased impervious surface, and minimizing impacts on waterways.

VOTE:

AYES: Adamson, Barton, Chaney, Clinton, Davis, Foushee, Hunt

ABSENT/EXCUSED: Cohen, Eldred

NOES: N/A

ABSTENTIONS: N/A

A handwritten signature in black ink, reading "Bethany Chaney". The signature is written in a cursive, flowing style.

Bethany Chaney, Chair

2-6-2014



TOWN OF CARRBORO

Environmental Advisory Board

301 West Main Street, Carrboro, North Carolina 27510

R E C O M M E N D A T I O N

THURSDAY, FEBRUARY 6, 2014

LAND USE ORDINANCE TEXT AMENDMENT CLARIFYING REQUIREMENTS FOR EXEMPT AND ALLOWABLE ACTIVITIES FOR DISTURBANCE ASSOCIATED WITH UTILITIES IN WATER QUALITY BUFFERS

Motion was made by Matthew Arnsberger and seconded by Sheila Reddy that the EAB recommends that the Board of Aldermen adopt the draft ordinance as drafted. After careful consideration of the plusses and minuses of native plants the EAB supports the effort to promote the use of native plants.

VOTE:

AYES: Arnsberger, Sinclair, Reddy, Rivin

ABSENT/EXCUSED: Crook, Chicurel-Bayard

NOES: None

ABSTENTIONS: None

Associated Findings

By a unanimous show of hands, the EAB membership also indicated that no members have any financial interests that would pose a conflict of interest to the adoption of this amendment.

Furthermore, the EAB of the Town of Carrboro also finds that the proposed text amendment is consistent with Carrboro Vision 2020 as it relates to the environmental protection and promotion in Section 5.0 and specifically in the following provision:

5.21 Carrboro should work with OWASA to develop the policies and infrastructure necessary for water conservation (e.g. encourage the re-use of grey water, replacing fixtures with low-flow models, and collecting stormwater for watering gardens).

5.22 Carrboro should adopt a strategy and set of policies to protect all of our creeks, streams, ponds, and lakes.

5.23 Carrboro should be proactive in managing its stormwater, promoting active maintenance of facilities, reducing impacts of increased impervious surface, and minimizing impacts on waterways.

For Paul C. DeB 2/7/14
(Chair) (Date)

ORANGE COUNTY PLANNING & INSPECTIONS DEPARTMENT

Craig N. Benedict, AICP, Director

Administration
(919) 245-2575
(919) 644-3002 (FAX)
www.orangecountync.gov



131 W. Margaret Lane
P O Box 8181
Hillsborough,
North Carolina, 27278



TRANSMITTAL DELIVERED VIA EMAIL

February 12, 2014

Christina Moon, AICP
Planning Administrator
Town of Carrboro
301 W. Main St.
Carrboro, NC 27510

SUBJECT: Joint Planning Review of Proposed Ordinance Amendments

Dear Tina:

Thank you for the opportunity to review the following Land Use Ordinance amendments received by us on January 27, 2014 and proposed for town public hearing on February 25, 2014:

- *Modifying the Charge and Responsibilities of the Environmental Advisory Board.*
- *Clarifying the Requirements for Exempt and Allowable Activities relating to Utilities in Water Quality Buffers.*
- *Establishing Town Approval of A Construction Management Plan for Development Projects that may have a Significant Impact on Public Streets or Sidewalks or Nearby Properties.*

We have reviewed the amendments and find no inconsistency with the adopted *Joint Planning Area Land Use Plan*.

If you have any questions or need additional information, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Perdita Holtz".

Perdita Holtz, AICP
Planning Systems Coordinator

OWASA Comments and Staff Response

From: Ruth Rouse [<mailto:RRouse@owasa.org>]

Sent: Wednesday, February 19, 2014 3:30 PM

To: Randy Dodd

Cc: Mary Darr; Todd Taylor; Todd Spencer; Stuart Carson; Ed Kerwin

Subject: RE: OWASA comments on draft buffer ordinance language

Randy – Thank you for your response. OWASA would like you to include our comments in the agenda package if there is time for you to do so.

We still have concerns about the tree protection plan language. While the ordinance is now clear that the tree protection plan does not apply to maintenance activities on our existing lines, there are pre-design activities for new utility lines that could minimally impact a riparian buffer. These include surveying activities and subsurface utility exploration. We believe these types of activities should also be exempt from a tree protection plan, and the current language is not clear on that.

We continue to support our alternative language on Footnote 8.

Thanks again for the opportunity to comment. If you have any questions, please contact Todd Taylor at ttaylor@owasa.org or at 919-537-4216 or me at rrouse@owasa.org or at 919-537-4214.

Ruth Rouse, AICP

Planning and Development Manager

Orange Water and Sewer Authority

400 Jones Ferry Road

Carrboro, NC 27510

919-537-4214

From: Randy Dodd [<mailto:RDodd@townofcarrboro.org>]

Sent: Tuesday, February 18, 2014 1:58 PM

To: Ruth Rouse

Cc: Christina Moon

Subject: RE: OWASA comments on draft buffer ordinance language

Ruth,

Please see responses below to the comments provided. We do have one specific question: do you/does OWASA have a preference for whether these comments are included in the agenda materials as part of the public hearing? If you could let us know ASAP so we can prepare the final agenda materials (due for internal review by lunch tomorrow), it would be greatly appreciated.

The Public Hearing is scheduled for next Tuesday evening, with the final agenda packet likely to be ready/posted by the end of this week Friday.

Thanks for your input,

Randy Dodd

Environmental Planner

Town of Carrboro

301 West Main Street

Carrboro, NC 27510
919 918-7326
rdodd@townofcarrboro.org

From: Ruth Rouse [<mailto:RRouse@owasa.org>]

Sent: Wednesday, February 05, 2014 9:52 AM

To: Randy Dodd

Cc: Todd Taylor; Thurman Green; Randy Horton; Mary Darr; Stuart Carson; Todd Spencer

Subject: OWASA comments on draft buffer ordinance language

Randy – Thank you for the opportunity to comment on the Town of Carrboro’s proposed changes to its riparian buffer ordinance. OWASA agrees that riparian buffers provide many environmental benefits including water quality protection. The Town of Carrboro lies within the Jordan Lake watershed, and OWASA has a water supply allocation from Jordan Lake which we could use on an emergency basis to provide water to our customers. Thus, we appreciate the Town’s efforts to protect these resources.

However, OWASA needs to ensure that it can access any of its utility lines which are located in riparian buffers or cross area creeks. We are required by our permits with the North Carolina Division of Water Resources to travel these easements annually and perform maintenance and repairs in a timely manner. Thus, we want to ensure that the proposed ordinance language allows us to maintain and repair our lines quickly to avoid any sewage spills that may impact area creeks.

In light of that, OWASA offers the following comments on the proposed ordinance language:

- Non-electric utility, perpendicular crossings – the version of the ordinance we accessed shows that footnotes, 3, 5, 6, and 7 apply. Footnote 5 should not apply. We understand the inclusion of footnote 5 was a formatting issue in developing the public comment version of the ordinance.

It was a formatting issue for the general headings “Non-electric utility, perpendicular crossings” and “Non-electric utility, other than perpendicular crossings”, but does apply for the subheading under “Non-electric utility, other than perpendicular crossings”. Note that the “public comment” version of the ordinance (draft attached) will be made available with the Feb 25 public hearing agenda item, and has stricken footnote 5 except for “other than perpendicular crossings”, subheading “Impacts within 30 feet of surface waters”. The rationale is that this is the most sensitive part of the buffer, “Zone 1” recognized by the State, and that non perpendicular crossings impact the buffer more than perpendicular crossings.

- Footnote 6 should be modified to delete the language “A tree protection plan shall be developed and approved by Administrator that will protect the buffer to the maximum extent practicable for all installation and rehabilitation projects, and for all maintenance activities involving woody vegetation within 10 feet of the top of the stream bank.” OWASA may need to access its utility lines quickly to prevent or minimize a spill to a creek; there is insufficient time to develop and approve a tree protection plan. We also may have activities in support of design and construction projects such as survey work and subsurface utility exploration; we do not believe it is reasonable to require a tree protection plan as part of these activities.

It looks like this comment is from an earlier version of the draft amendment that was provided. See the attached for the recommended language. Please also note that 15.269.5 (c) of the ordinance specifies that this section of the ordinance applies to "expansions and extensions" (not maintenance) for public utilities. For the scenario described above (spill prevention/response), this section makes clear that the entire table does not apply.

- We concur with the new requirement in footnote 6 to use native vegetation to stabilize the area upon completion of the project. OWASA would use a mix recommended by the Botanical Garden which is consistent with our practice for UNC-Chapel Hill.

Noted, thanks.

- We concur with the addition of footnote 7 to require new sewer crossings be constructed with ductile iron pipe or other appropriate construction materials to the maximum extent practicable.

Noted, thanks

- We propose modifying footnote 8 to read "Permanently maintained areas will not exceed the width of the easement. Narrower widths are encouraged." OWASA's policy on siting and maintenance of easements states that OWASA shall have the right to clear and keep cleared the full width of the easement. This policy aligns with our permit requirements to travel our easements annually to inspect, maintain, and make any necessary repairs to our lines. Tree roots can impact the integrity of sewer lines and are often responsible for sewage spills. Allowing us to maintain our easement will prevent spills around creeks.

Noted, and this alternative wording will be presented to the Board of Aldermen at the Public hearing. Please do note that it only applies within 30' of streams.

If you have any questions regarding our comments or our sewer line maintenance practices, please contact Todd Taylor, our General Manager of Operations at 919-537-4216 or at ttaylor@owasa.org. I am also available at 919-537-4214 or at rrouse@owasa.org.

Ruth Rouse, AICP

Planning and Development Manager
Orange Water and Sewer Authority
400 Jones Ferry Road
Carrboro, NC 27510
919-537-4214

=====

In accordance with the North Carolina general statutes, chapter 132, this email address is subject to North Carolina public records law. As such, please note that all inbound and outbound messages are subject to requests for review and may be disclosed to third parties.



Town of Carrboro

Town Hall
301 W. Main St.
Carrboro, NC 27510

Legislation Text

File #: 14-0069, **Version:** 1

TITLE:

Update on Implementation of Improvements in the Historic Rogers Road Area - Preliminary Engineering and Outreach Efforts

PURPOSE: The purpose of this agenda item is to provide the Board of Aldermen an opportunity to consider information on the next phase of planning for the extension of sewer service to the Historic Rogers Road area, and on an outreach effort that will seek to clarify the vision for development in the area.

DEPARTMENT: Planning

CONTACT INFORMATION: Patricia McGuire - 919-918-7327 - pmcguire@townofcarrboro.org

INFORMATION: Following the completion of the Historic Rogers Road Task Force's work in late August and the consideration of the Task Force recommendations by elected boards in September, October, November, and January, discussions of implementing the committee's recommendations have continued. Materials associated with the work of the HRRTF may be found at <http://www.townofcarrboro.org/pzi/HRRTF.htm>.

The consensus from the November 21, 2013 Assembly of Governments meeting was to move forward with further analysis of the mechanics/feasibility of the conceptual sewer alignments identified to date. OWASA staff has provided a preliminary scope of work and cost for this next step. The Town of Chapel Hill has estimated the cost of a public outreach effort, a concept identified by the County and Town Managers and endorsed by the HRRTF that would seek to identify action steps to provide sewer service to the neighborhood and clarify the vision for development in the area, including the Greene Tract. A summary of the actions is provided here:

Activity	Refinement of cost estimates to provide sewer to 86 parcels - preliminary engineering	Outreach to identify action steps to provide sewer service in the neighborhood
Cost estimate	\$130,000	\$30,000 to \$50,000
Time Frame	8-10 months timeframe, with issuance of an RFQ occurring possibly in early April and engineering work commencing within 8-12 weeks following	

The Town of Chapel Hill's consideration of expanding its Extra-territorial jurisdiction to include the Rogers Road area is ongoing. On February 10th, the Chapel Hill Town Council authorized the preparation of future agreements and budget actions to initiate preliminary engineering and outreach efforts for the Rogers Road sewer project [Attachment B]. The Council also continued its public hearing on the extraterritorial jurisdiction (ETJ) boundary expansion and related issues.

The management structure for the preliminary engineering of the sewer extension is expected to resemble the same approach used to install water lines in the Rogers Road area; Orange County and OWASA would establish a memorandum of agreement with scope and cost reimbursement. Chapel Hill and Carrboro would each enter in to agreements with Orange County to reimburse the County for the project costs, per the cost sharing percentages recommended by the Task Force (i.e. 43 percent for Orange County, 43 percent for Chapel Hill, and 14 percent for Carrboro). Orange County is scheduled to review this matter on March 6th [Attachment C].

FISCAL & STAFF IMPACT: On September 8, 2012, the Board of Aldermen expressed its commitment to contributing \$900,000 towards Rogers Road improvements. \$450,000 was appropriated from the Town's fund balance to support Rogers Road-related improvements on April 2, 2013; an additional \$450,000 appropriation will be needed to reach the \$900,000 contribution. The Town's share of the preliminary engineering and outreach effort is estimated to be \$25,200.

RECOMMENDATION: Staff recommends that the Board of Aldermen review the information presented in this agenda item and consider directing the Town Manager to work with staff of OWASA, Orange County and Chapel Hill to refine the scopes of services for sewer extension and outreach, to prepare appropriate agreements, and to sign relevant agreements on behalf of the Town. A resolution specifying this direction is provided as Attachment A. Prior to those details being finalized, staff will bring back a budget amendment for the Board's approval.

**A RESOLUTION SPECIFYING FOLLOW-UP ACTIONS RELATED TO PRELIMINARY
ENGINEERING AND OUTREACH EFFORTS FOR HISTORIC ROGERS ROAD SEWER
PROJECT**

WHEREAS, the Board of Aldermen has supported efforts to make improvements in the Historic Rogers Road area, most recently evidenced by active participation in the work of the Historic Rogers Road Neighborhood Task Force; and

WHEREAS, the Board of Aldermen has previously adopted resolutions expressing its commitment to allocating \$900,000 towards Rogers Road improvements; and

WHEREAS, the Board of Aldermen appropriated \$450,000 from the Town's fund balance to support Rogers Road-related improvements on April 2, 2013; and

WHEREAS, following the consensus from the November 21, 2013 Assembly of Governments meeting to move forward with further analysis of the mechanics/feasibility of the sewer alignments that were identified through preliminary investigations, OWASA staff has provided a preliminary scope of work and cost for this next step; and

WHEREAS, The Town of Chapel Hill has also estimated the cost of a public outreach effort, a concept identified by the Managers and also endorsed by the HRRTF that would seek to identify action steps to provide sewer service to the neighborhood.

NOW, THEREFORE BE IT RESOLVED that the Board of Aldermen resolution directing the Town Manager to work with staff of OWASA, Orange County and Chapel Hill to refine the scopes of services for sewer extension and outreach, prepare appropriate agreements, and sign relevant agreements on behalf of the Town.

This is the 4th day of March in the year 2014.

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 10th day of February, 2014.

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

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

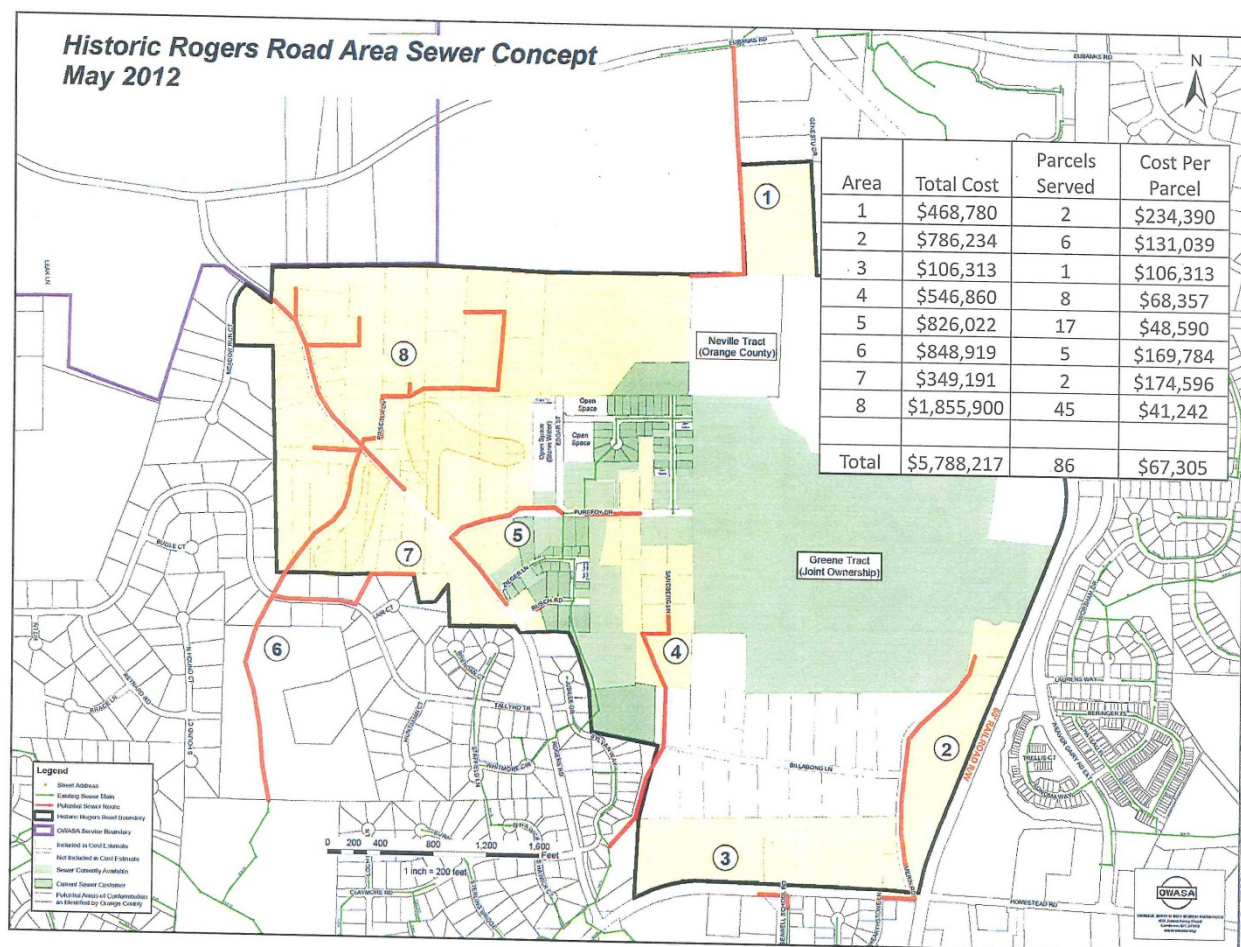
2012 OWASA Sewer Concept Plan:

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

Rogers Road Neighborhood and does not consider adjoining neighborhoods. The Reappointed Task Force reviewed the concept on March 20, 2013. **See below, Exhibit 1, the Historic Rogers Road Area Sewer Concept May, 2012 Map.** All the green areas show where sewer service is already available. The dark green areas are parcels that have connected to the OWASA service. The light green areas have not connected. The 86 parcels in yellow are the properties that would be served by the conceptual sewer layout. The concept map also breaks down the sewer service into 8 sub-areas with the number of parcels served and cost per parcel. The 8 red lines represent the possible sub-areas of the sewer infrastructure that could be considered, if the entire concept project is not feasible. The sewer infrastructure routing was estimated based on the topography taken from maps rather than from any field work. In order to get to a greater level of detail or certainty on the cost, some field work would be required. There are two brown areas on the map that the County has identified as some subsurface disposal or some suspected contamination. Without any further investigation, the sewer line has been routed no closer than 100 feet of that margin.

Exhibit 1



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.

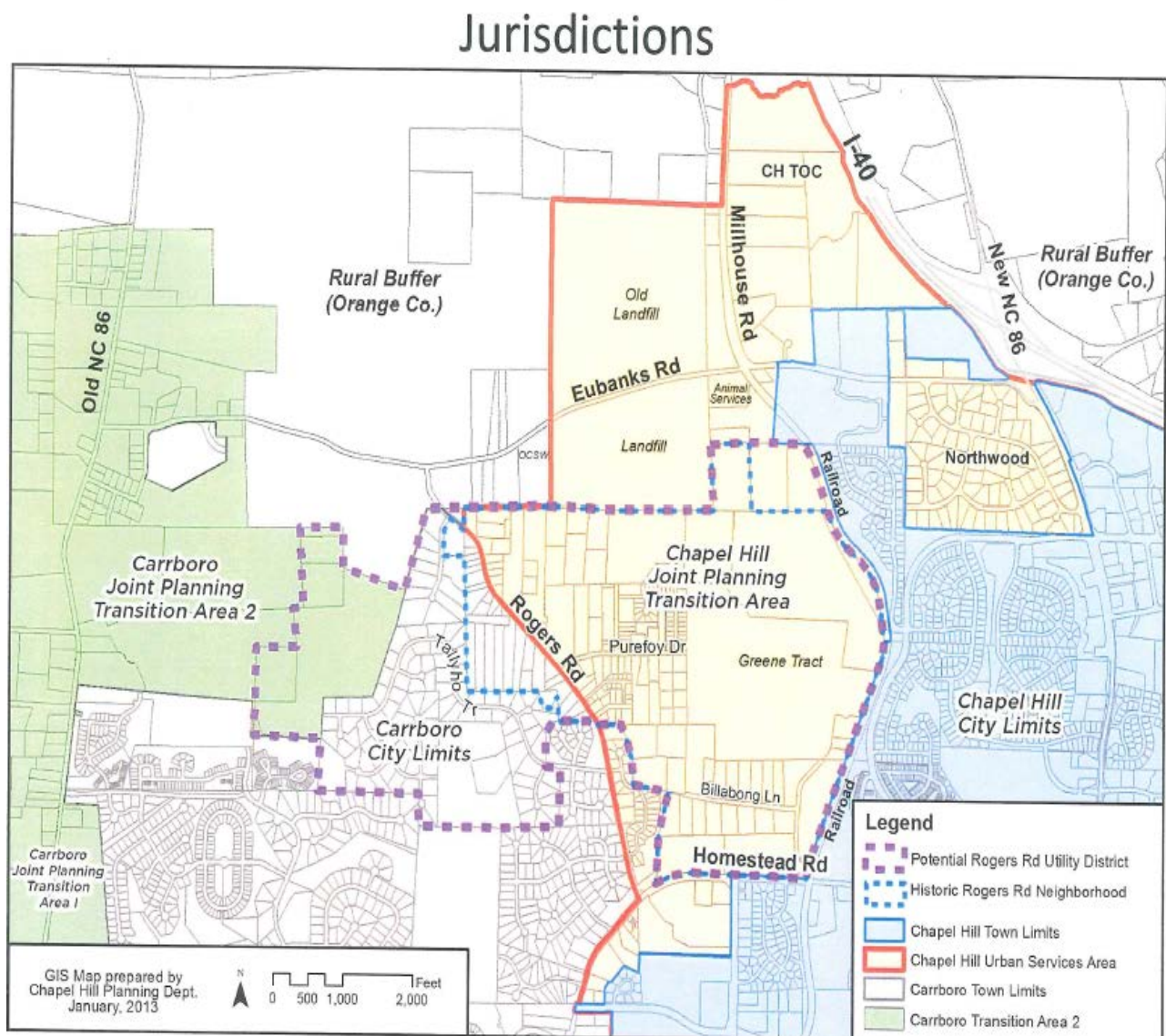
On November 14, 2012 the Historic Rogers Road Task Force recommended that the County & Town Managers explore the creation of a County Sewer District for all property owners in the Historic Rogers Road Neighborhood. This concept evolved from 2012 Sewer concept presented by OWASA, with the total cost of 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

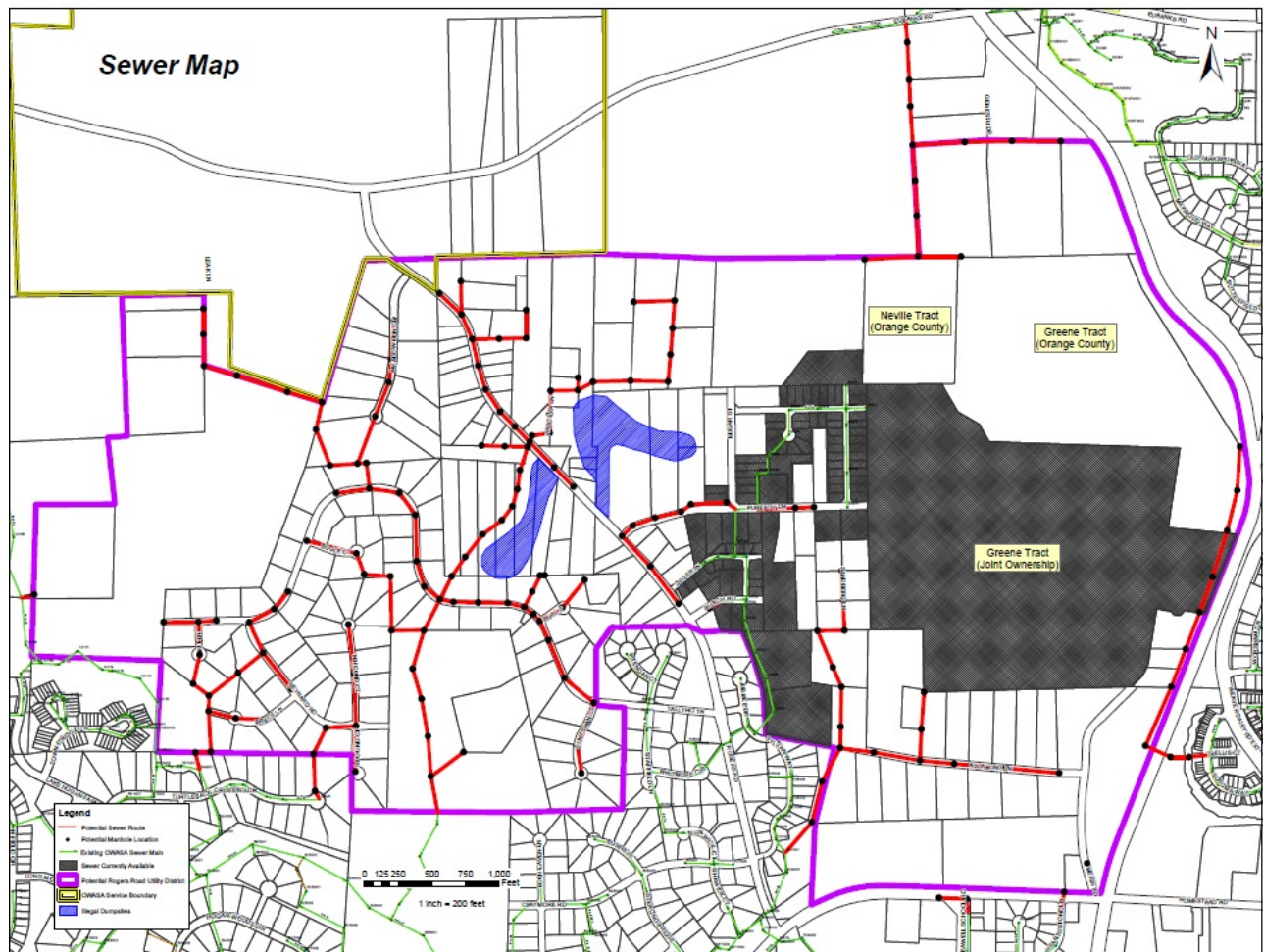
The Sewer only cost estimate is outlined below and shown on ***Exhibit 3 (Sewer Map)***. Existing OWASA-owned public sewer is shown in thin green lines. The Proposed Utility District for sewer infrastructure is shown with a thick red line with black dots, representing the manholes for the new extension.

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



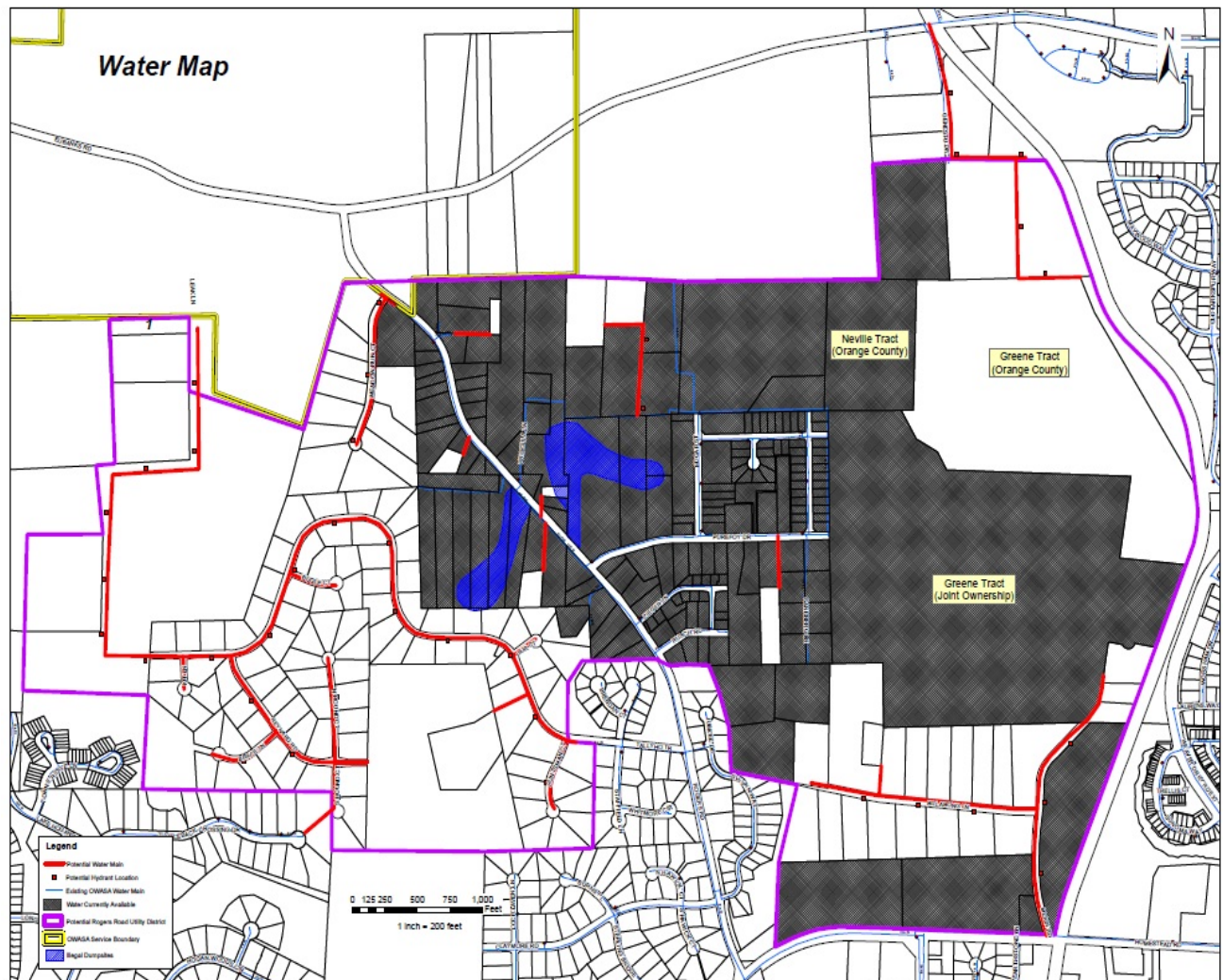
The water cost estimate is outlined below and shown on **Exhibit 4 (Water Map)**. The water map is the same as sewer, except with thin blue lines identify existing mains and the new mains are the thick red lines, with red squares as proposed fire hydrant locations.

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	\$ 920,575
Sub Total	\$ 5,523,443
Service Availability Fees	\$ 441,408
Meter Cost	\$ 26,400
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

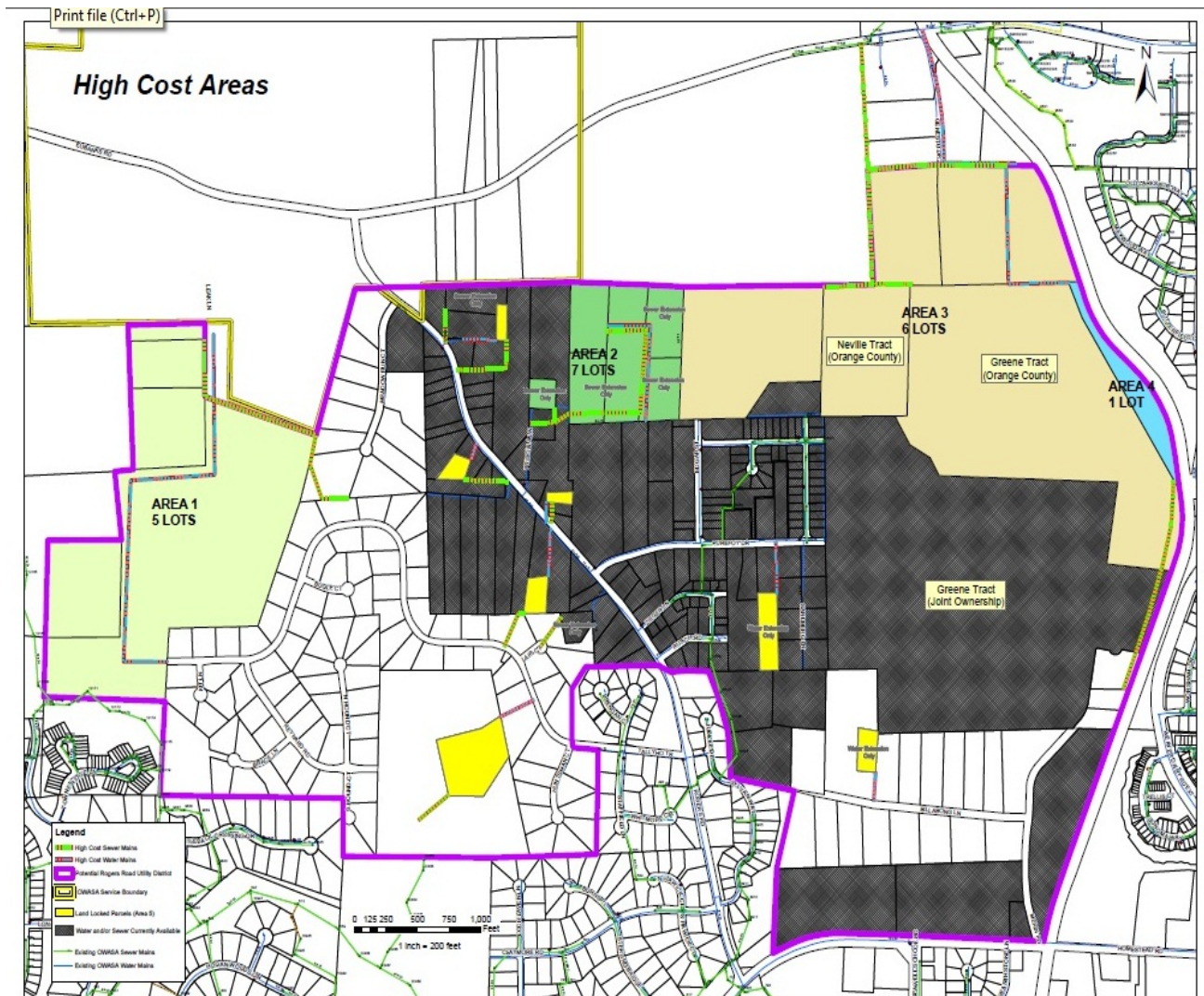
Total Overall Cost for Water	\$ 5,991,251
Minus High Cost Areas for Water	<u>\$ 1,826,331</u>
Total Water	\$ 4,164,920

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

Total Water & Sewer Cost Minus High Cost Areas	\$ 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.

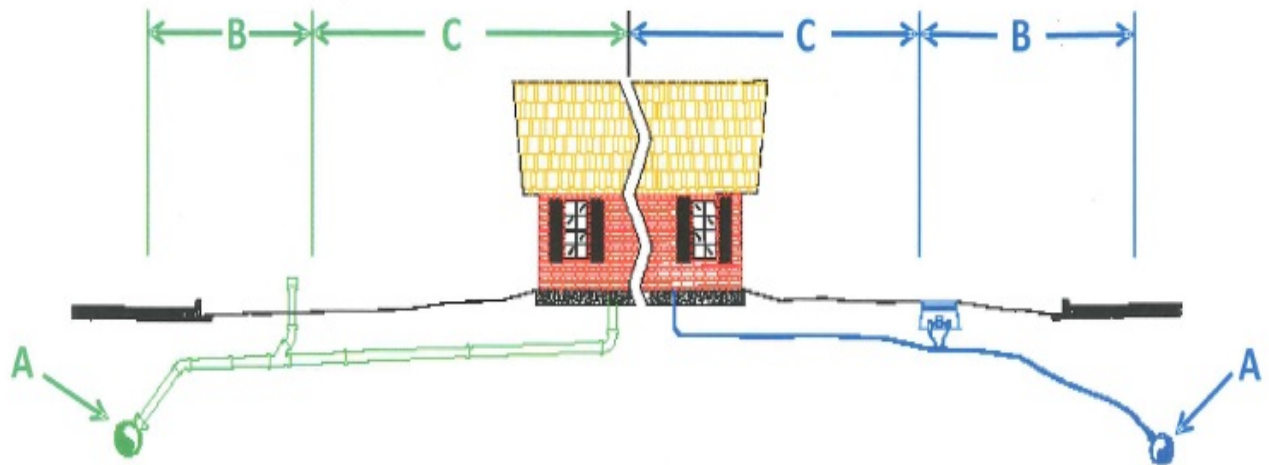
Connection cost:

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
Total:	\$TBD

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 ft² 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
Total:	\$TBD

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 ft² 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.

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

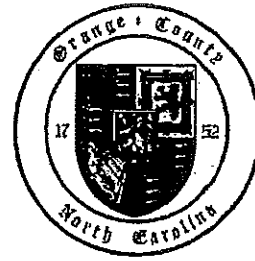
NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council continues the Public Hearing, to be reconvened in the fall 2014.

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 10th 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 21st. 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,

A handwritten signature in dark ink, appearing to read "John Roberts", is written over a horizontal line.

John Roberts
Orange County Attorney

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

COPY

ORANGE COUNTY
ASSEMBLY OF GOVERNMENTSAGENDA ITEM ABSTRACT
Meeting Date: December 6, 2012Action 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.



Town of Carrboro

Town Hall
301 W. Main St.
Carrboro, NC 27510

Legislation Text

File #: 14-0073, **Version:** 1

TITLE:

Town Code Amendment Establishing a Safe Routes to School Implementation Committee

PURPOSE: The Board of Aldermen is asked to consider establishing a Safe Routes to School Implementation Committee to recommend transportation projects, policies, programs, or activities that serve to increase the safety and convenience of walking and bicycling to school and fulfill related functions.

DEPARTMENT: Planning

CONTACT INFORMATION: Jeff Brubaker - 919-918-7329

INFORMATION: On May 22, 2012, the Board of Aldermen adopted the Safe Routes to School Action Plan. On October 4, 2012, the Action Plan was endorsed by the Chapel Hill-Carrboro City Schools Board of Education.

Along with adopting the Action Plan, the Board of Aldermen resolved:

Staff shall bring back a resolution appointing the current steering committee as the Safe Routes to School Implementation Committee, at some time in the future.

The Board of Aldermen received an update on Safe Routes to School efforts and the creation of an Implementation Committee in January 2013 but did not take any action at that meeting. A draft ordinance has been provided (Attachment A) that establishes the Committee.

FISCAL & STAFF IMPACT: Expected committee budget: \$250 annually. This will be requested as part of the Town's Annual Budget.

RECOMMENDATION: Staff recommend that the Board of Aldermen consider the ordinance amendment in Attachment A.

The following ordinance was introduced by Alderman _____ and duly seconded by Alderman _____.

AN ORDINANCE AMENDING CHAPTER 3 OF THE CARRBORO TOWN CODE TO ESTABLISH A SAFE ROUTES TO SCHOOL IMPLEMENTATION COMMITTEE

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. Article V of Chapter 3 of the Carrboro Town Code is amended by adding new sections as follows:

Section 3-24.10 Safe Routes to School Implementation Committee Established

(a) There shall be a Safe Routes to School Implementation Committee composed of ten voting members. One of these members shall be a member of the Board of Aldermen appointed by the Board as a liaison member. Nine of these members shall be appointed by the Board of Aldermen and shall be composed as follows:

- (1) One member of the Chapel Hill-Carrboro City Schools Board of Education
- (2) One member of the Chapel Hill-Carrboro City Schools administration
- (3) One member of the administration, faculty, or staff of Carrboro Elementary School
- (4) One member of the administration, faculty, or staff of McDougle Elementary School
- (5) One member of the administration, faculty, or staff of Morris Grove Elementary School
- (6) One member of the Transportation Advisory Board
- (7) One representative of the North Carolina Department of Transportation
- (8) One parent of a student attending an elementary school in Carrboro
- (9) One resident of the Town with a demonstrated background in public health, physical activity promotion, or active transportation

The members denoted by (1) through (7) in this list above shall be recommended by their respective organizations. The member denoted by (8) shall be eligible to serve on the Committee in any calendar year in which his or her child is or was enrolled as a student.

ATTACHMENT A

(b) The Committee shall include three non-voting youth advisory members who are enrolled in schools in Carrboro. One of these members shall be a student enrolled in high school, one shall be a student enrolled in middle school, and one shall be a student enrolled in elementary school. The youth advisory members shall present a student's perspective on walking and bicycling to school and may offer ideas for consideration by the voting members. The Board of Aldermen shall appoint these members after receiving recommendations from their respective schools. The Board of Aldermen may appoint alternate members for each of these members to serve when the members are not present.

(c) Voting members of the Committee, other than the Board liaison member, shall serve three-year staggered terms, but members may continue to serve until their successors are appointed and qualified. The terms of three seats shall expire on February 1, 2016, and every third anniversary thereafter. The terms of three seats shall expire on February 1, 2017, and every third anniversary thereafter. The terms of three seats shall expire on February 1, 2018, and every third anniversary thereafter.

(d) The Board liaison member shall serve at the pleasure of the Board. The Board may appoint an alternate Board liaison member to serve when the liaison member is unavailable.

(e) Youth advisory members shall serve one-year terms but may continue to serve until their successors are appointed and qualified and as long as they remain enrolled the same school or at the same level (elementary, middle, high) of another school in Carrboro.

(f) Committee members may be appointed for a maximum of two successive terms (or any part thereof). A member who has served for two successive terms (or any part thereof) shall be eligible for re-appointment only after an absence from the Committee of at least one year.

(g) Members may be removed as follows:

- (1) The chairman shall file or cause to be filed with the town clerk an attendance report after each meeting identifying those members who were present or absent.
- (2) Unless the chairperson waives the requirement, members shall be removed if they are absent from three consecutive meetings. The town clerk shall notify the chairperson in writing as soon as a member becomes subject to removal under this section. The chairman will have ten days after receipt of such notice to waive the removal. If the chairman fails to notify the town clerk in writing within ten days after receipt of such notice that the automatic removal requirement should be waived, the town

clerk will send a removal notice to the member. This removal shall be effective on the date of such notice.

- (3) Members may also be removed by the appointing authority, after a hearing, for any good cause related to performance of duty.

Section 3-24.8 Meetings and Officers of the Safe Routes to School Implementation Committee

- (a) The Committee shall hold regular meetings at least three times per year at such times and places as it shall designate.
- (b) A quorum shall consist of a majority of the non-vacant seats on the Committee, except that in no case shall a quorum consist of fewer than five members.
- (c) Abstention from voting is strongly discouraged except in circumstances when a member has a direct financial interest in the outcome of the matter at issue. Abstention shall not be required in any case, but members are expected to disclose potential conflicts of interest that are not apparent from the nature of the matter at issue.
- (d) The Committee shall designate one of its members to serve as chairperson and one to serve as vice-chairperson. These officers shall be selected annually at the commission's first meeting of the year and shall serve for terms of one year unless their terms of appointment to the Committee sooner expire. A member may be selected to serve as chairperson for not more than two consecutive full one-year terms. The chairperson and vice-chairperson may take part in all deliberations and vote on all issues.

Section 3-24.9 Powers and Duties of the Safe Routes to School Implementation Committee

- (a) The Committee shall recommend transportation projects, policies, programs, or activities that serve to increase the safety and convenience of walking and bicycling to school. The Committee shall provide guidance and support for implementing the recommendations of the adopted Safe Routes to School Action Plan and evaluating implementation progress. The Committee may provide assistance with seeking project or program funding, including applying for grants, Safe Routes to School event planning, and data collection.
- (b) In creating this section, the Board of Aldermen finds that while safe walking and bicycling options are important for all levels of K-12 education, Safe Routes to School efforts typically focus on elementary and middle schools.

ATTACHMENT A

Therefore, the Committee shall focus its efforts on existing or planned elementary and middle schools within Town limits.

(c) The Committee may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this chapter.

Section 2. All provisions of any town ordinance in conflict with this ordinance are repealed.

Section 3. This ordinance shall become effective upon adoption.

The foregoing ordinance, having been submitted to a vote, received the following vote and was duly adopted this 4th day of March, in the year 2014.

Ayes:

Noes:

Absent or Excused: