



**Orange County
Board of Commissioners**

Agenda

Regular Meeting

February 2, 2016

7:00 p.m.

Richard Whitted Meeting Facility

300 West Tryon Street

Hillsborough, NC 27278

Note: Background Material
on all abstracts
available in the
Clerk’s Office

Compliance with the “Americans with Disabilities Act” - Interpreter services and/or special sound equipment are available on request. Call the County Clerk’s Office at (919) 245-2130. If you are disabled and need assistance with reasonable accommodations, contact the ADA Coordinator in the County Manager’s Office at (919) 245-2300 or TDD# 644-3045.

1. Additions or Changes to the Agenda

PUBLIC CHARGE

The Board of Commissioners pledges to the residents of Orange County its respect. The Board asks its residents to conduct themselves in a respectful, courteous manner, both with the Board and with fellow residents. At any time should any member of the Board or any resident fail to observe this public charge, the Chair will ask the offending person to leave the meeting until that individual regains personal control. Should decorum fail to be restored, the Chair will recess the meeting until such time that a genuine commitment to this public charge is observed. All electronic devices such as cell phones, pagers, and computers should please be turned off or set to silent/vibrate.

2. Public Comments (Limited to One Hour)

(We would appreciate you signing the pad ahead of time so that you are not overlooked.)

- a. Matters not on the Printed Agenda (Limited to One Hour – THREE MINUTE LIMIT PER SPEAKER – Written comments may be submitted to the Clerk to the Board.)

Petitions/Resolutions/Proclamations and other similar requests submitted by the public will not be acted upon by the Board of Commissioners at the time presented. All such requests will be referred for Chair/Vice Chair/Manager review and for recommendations to the full Board at a later date regarding a) consideration of the request at a future regular Board meeting; or b) receipt of the request as information only. Submittal of information to the Board or receipt of information by the Board does not constitute approval, endorsement, or consent.

- b. Matters on the Printed Agenda
(These matters will be considered when the Board addresses that item on the agenda below.)

3. Petitions by Board Members (Three Minute Limit Per Commissioner)

4. Proclamations/ Resolutions/ Special Presentations

- a. Orange County Arts Grant Recipients
- b. Cedar Grove Community Center Update
- c. Alcohol Beverage Control (ABC) Board Update Presentation



5. Public Hearings

- a. Local Economic Development Public Hearing for Appropriation of Funds for Infrastructure
- b. Unified Development Ordinance Text Amendment – Sexually Oriented Businesses - Closure of Public Hearing and Action (No Additional Comments Accepted)
- c. Unified Development Ordinance Text Amendment – Display of Vehicles at Motor Vehicle Sales/Rental Land Uses - Closure of Public Hearing and Action (No Additional Comments Accepted)

6. Consent Agenda

- Removal of Any Items from Consent Agenda
 - Approval of Remaining Consent Agenda
 - Discussion and Approval of the Items Removed from the Consent Agenda
- a. Minutes
 - b. Motor Vehicle Property Tax Releases/Refunds
 - c. Property Tax Releases/Refunds
 - d. Applications for Property Tax Exemption/Exclusion
 - e. Advertisement of Tax Liens on Real Property
 - f. Orange County Arts Commission DCP Renewal with NC Arts Council
 - g. Resolution Endorsing Congestion Mitigation and Air Quality (CMAQ) Grant Agreement with the NCDOT
 - h. Request for a 1.0 FTE Time Limited Position to Assist in the New Land Management Central Permitting Software Implementation Program (LMCP)
 - i. Changes in BOCC Regular Meeting Schedule for 2016

7. Regular Agenda

- a. Rogers Road Sewer Project Easements

8. Reports

9. County Manager's Report

10. County Attorney's Report

11. Appointments

12. Board Comments (Three Minute Limit Per Commissioner)

13. Information Items

- January 21, 2016 BOCC Meeting Follow-up Actions List
- Tax Collector's Report – Numerical Analysis
- Tax Assessor's Report – Releases/Refunds under \$100
- Update on Southern Branch Library Due Diligence and Siting Process
- 2015 State of Airbnb in North Carolina and Orange County
- Parks and Recreation Council Memo - Disc Golf Course



- BOCC Chair Letter Regarding Petitions from January 21, 2016 Regular Meeting

14. Closed Session

15. Adjournment

Note: Access the agenda through the County's web site, www.orangecountync.gov

Orange County Board of Commissioners' regular meetings and work sessions are available via live streaming video at orangecountync.gov/occlerks/granicus.asp and Orange County Gov-TV on channels 1301 or 97.6 (Time Warner Cable).

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: February 2, 2016

**Action Agenda
Item No.** 4-a

SUBJECT: Orange County Arts Grant Recipients

DEPARTMENT: Orange County Arts
Commission

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

Fall 2015 Grant Awards Spreadsheet
Copy of Awards to be Distributed
"Specific Attendee List to Follow"

INFORMATION CONTACT:

Martha Shannon, 919-968-2011

PURPOSE: To present checks to local artists and arts organizations receiving Fall 2015 Orange County Arts Grants.

BACKGROUND: The Orange County Arts Commission awards grants for art programs to local artists, schools and nonprofit organizations from funds received from the state and Orange County government for this purpose. These funds are distributed for arts projects in all arts disciplines. Each grant recipient must match the granted amount at least dollar for dollar in order to receive funding.

FINANCIAL IMPACT: A total of \$28,540 will be awarded in the Fall 2015 cycle. This amount is awarded from the FY 2015-16 Orange County funds (\$28,750) already approved by the BOCC for this purpose. (In the Spring 2015 arts grant cycle, \$300 in County funds was awarded to an individual artist.) In addition, \$90 was raised from a raffle to support Arts in Education grants, and that amount was added to the total via a Budget Amendment in December 2015.

SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goal is applicable to this agenda item:

GOAL: FOSTER A COMMUNITY CULTURE THAT REJECTS OPPRESSION AND INEQUITY

The fair treatment and meaningful involvement of all people regardless of race or color; religious or philosophical beliefs; sex; gender or sexual orientation; national origin or ethnic background; age; military service; disability; and familial, residential or economic status.

The impact of arts projects for traditionally under-served populations and geographic location is a part of the grant evaluation criteria across all of grant categories.

RECOMMENDATION(S): The Manager recommends that the Board acknowledge the local recipients of these awards during the February 2, 2016 meeting with the presentation of checks by the Board Chair.

Arts Grant Recipients
Orange County Arts Commission

February 2, 2016

Fall, 2015 Arts Grant Recipients:

- ArtsCenter
- Central/New Hope/Efland-Cheeks Elementary Schools Coalition
- Chapel Hill-Carrboro Public School Foundation
- Chapel Hill Downtown Partnership (fiscal agent)
- Ephesus Elementary School PTA
- Expedition School
- Gravelly Hill Middle School
- Hillsborough Arts Council
- Historical Foundation of Hillsborough and Orange County
- Tinka Jordy
- Michael Roy Layne from Legacyworks
- McDougle Elementary School PTA
- North Carolina Symphony Society, Inc.
- One Song Productions
- Peoples Channel
- Phillips Middle School PTSA
- Triangle Weavers
- Susie Wilde
- Women's Voices Chorus, Inc.

Arts Program Grants:				
ArtsCenter	300-G East Main Street, Carrboro, NC 27510	Cantastoria Workshop with Bread and Puppet Theatre in May, 2016	1,500	1,250
ArtsCenter	300-G East Main Street, Carrboro, NC 27510	Artist Residency with Amy Keenan Amago at New Hope Elementary (Five 4th Grade	1,500	1,250
ArtsCenter	300-G East Main Street, Carrboro, NC 27510	School Show:The Beast (Sankofa: African American Music from Spirituals to Hip-Hop)	1,500	1,250
ArtsCenter	300-G East Main Street, Carrboro, NC 27510	10 Scholarships for Low-Income Young Artists for Summer ArtsCamp	1,500	1,250
Chapel Hill-Carrboro Public School Foundation	P.O. Box 877, Carrboro, NC 27510	Ephesus Elementary School After-School Art Club	1,000	1,000
Chapel Hill-Carrboro Public School Foundation	P.O. Box 877, Carrboro, NC 27510	Scroggs Elementary School Digital Art Program	1,200	0
Chapel Hill Downtown Partnership (fiscal agent)	308 W. Rosemary St. #202, Chapel Hill, NC 27516	SHIMMER: The Art of Light	1,500	1,500
Daylight Community Arts Foundation	121 W. Margaret Lane, Hillsborough, NC 27278	Expansion of Program Offerings and Gallery Space to Host Spring 2016 Exhibitions	1,500	0
Friends of the Carrboro Branch Library	900 Old Fayetteville Road, Chapel Hill, NC 27516	Ongoing Arts Program Supporting Local Artists & Culturally Diverse Community Groups	1,500	0
Hillsborough Arts Council	102 N. Churton Street, Hillsborough, NC 27278	Arts in Education Programming: Healing Tiles Project at Orange High School	575	0
Hillsborough Arts Council	102 N. Churton Street, Hillsborough, NC 27278	Arts in Education Programming: ArtCycle Project in Northern Orange County Schools	325	325
Historical Foundation of Hillsborough and Orange County	201 N. Churton Street, Hillsborough, NC 27278	Weekly Arts Program for Children in Low-Income Fairview Neighborhood	1,500	1,500
North Carolina Symphony Society, Inc.	3700 Glenwood Ave., Suite 130, Raleigh, NC 27612	Full-Orchestra Education Concerts Serving Approx.1300 Students in 2 School Systems	1,500	1,500
One Song Productions	104C Melrose Place, Chapel Hill, NC 27516	Costs for Spring & Summer Shows	1,222	1,222
Peoples Channel, The	300 S. Elliott Road, Suite AC, Chapel Hill, NC 27514	Youth Volunteer Program Providing Videography Training	1,500	1,500
PORCH: People Offering Relief for Chapel Hill-Carrboro Homes	218 Lake Manor Road, Chapel Hill, NC 27516	3-Artist Residency at Rogers' Road Community Center	1,000	0
Triangle Weavers	P.O. Box 3055, Chapel Hill 27516	Triangle Fiber Arts Center (TFAC) at Shared Visions Retreat Center	1,500	1,500
Women's Voices Chorus, Inc.	P.O. Box 2854, Chapel Hill, NC 27515-2854	4 Pieces of Equipment for Concerts and Rehearsals	1,500	1,500
Arts in Education Coalition Grants:				
Central/New Hope/Efland-Cheeks Elementary Schools	154 Hayes Street, Hillsborough, NC 27278	Teaching Artists' Fees for 17 Curriculum-Integrated Art Residencies at 3 Elem. Schools	5,000	5,000
Arts in Education Grants:				
Ephesus Elementary School PTA	1495 Ephesus Church Road, Chapel Hill, NC 27517	Artists' Fees for Cultural Arts Performances: Didgeridoo Down Under and Meet Dr. King	1,000	1,000
Expedition School, The	437 Dimmocks Mill Road, #33, Hillsborough, NC 27278	Writing Residency & Book Reading by Susie Wilde for 3rd and 4th Graders	1,000	1,000
Gravelly Hill Middle School	4801 West Ten Road, Efland, NC 27243	Artists' Fees for Soul Street Dance for Cultural Explosion Event	1,000	505
McDougle Elementary School PTA	890 Old Fayetteville Road, Chapel Hill, NC 27516	Artists' Fees for Cultural Arts Performances: Didgeridoo Down Under and Gustafer	1,000	1,000
Phillips Middle School PTSA	606 N. Estes Drive, Chapel Hill, NC 27514	Artists' Fees for 3 Cultural Arts Performances (Sankofa, NC Opera, 1 TBD)	988	988
St. Thomas More Catholic School	920 Carmichael Street, Chapel Hill, NC 27514	Support for Outdoor Environmental Vessel Mosaics Sculpture (STEAM Education	1,000	0
Artist Project Grants:				
Barbara Barnes		Art in the Clear Series	1,000	0
Tinka Jordy		Additional Promotion & Publicity for the Art in the Garden Invitational in May, 2016	1,000	1,000
Michael Roy Layne dba Legacyworks		Artist Fee for Part of STEAM Environmental Sculpture @ St. Thomas More School	1,000	500
Barbara Tyroler		Interactive Portraiture in Identity Explorations & the Creative Process: Neurodiversity	1,000	0
Susie Wilde		Children's Book Writing Residency at Rogers Road Community Center	1,000	1,000
TOTAL REQUESTED:			39,310	28,540
TOTAL COUNTY AMT. ALLOCATED BY BOCC FOR FALL, 2015 GRANTS (+)				28,750
TOTAL AMT. RAISED FOR ARTS IN EDUCATION GRANTS BY RAFFLE (+)				90
TOTAL COUNTY GRANT AMT. SPENT IN SPRING, 2015 FOR ARTIST GRANTS (-)				300
TOTAL COUNTY AMT. AVAILABLE FOR FALL, 2014 GRANTS				28,540

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: February 2, 2016

**Action Agenda
Item No. 4-b**

SUBJECT: Cedar Grove Community Center Update

DEPARTMENT: Asset Management Services,
Finance

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

- 1) Site and Space Plans
- 2) Sample Library Kiosk Illustrative

INFORMATION CONTACT:

Jeff Thompson, (919) 245-2658
David Stancil, (919) 245-2522

PURPOSE: To receive a progress report on the Cedar Grove Community Center project.

BACKGROUND: On March 17, 2015, the Board approved a bid award with Racanelli Construction South to complete construction of the Cedar Grove Community Center and the two “mothball” areas (note attachment 1, “Site and Space Plans”) available for storage or future development.

The Board may recall that the site and space plans guiding the construction of the facility were informed by several Board presentations of the Center's design. These presentations were based upon the extensive staff work with the Cedar Grove Resident Advisory Work Group over several months leading up to the May 2014 Board decision to move forward with the project.

The build team, consisting of County staff, Racanelli Construction, and MBAJ/Boomerang Architects (the designer of the facility), have worked well together and will be completing the construction and readying the facility for use in the spring of 2016. The project is on time and within budget. A ribbon cutting celebration will be scheduled for the facility at an appropriate time during the spring of 2016.

The library kiosk will be installed in the coming weeks and will become available for use in coordination with the opening of the facility (note Attachment 2, “Library Kiosk Illustrative”). County staff will be working with the newly appointed Community Center Coordinator David Caldwell, the Cedar Grove Resident Advisory Work Group and other area residents toward the initial and ongoing community center programming and activities. Mr. Caldwell began in his new role on January 25, 2016. He will also be conducting several community meetings around the County in the coming weeks.

Orange Public Transportation has already begun its route extension to and from the Community Center site. A bus stop shelter will be erected and in use in coordination with the opening of the facility.

FINANCIAL IMPACT: There is no financial impact associated with receiving this progress report.

SOCIAL JUSTICE IMPACT: The upcoming Cedar Grove Community Center meets the following Social Justice Goals:

- **GOAL: FOSTER A COMMUNITY CULTURE THAT REJECTS OPPRESSION AND INEQUITY**

The fair treatment and meaningful involvement of all people regardless of race or color; religious or philosophical beliefs; sex, gender or sexual orientation; national origin or ethnic background; age; military service; disability; and familial, residential or economic status.

- **GOAL: ENSURE ECONOMIC SELF-SUFFICIENCY**

The creation and preservation of infrastructure, policies, programs and funding necessary for residents to provide shelter, food, clothing and medical care for themselves and their dependents.

- **GOAL: CREATE A SAFE COMMUNITY**

The reduction of risks from vehicle/traffic accidents, childhood and senior injuries, gang activity, substance abuse and domestic violence.

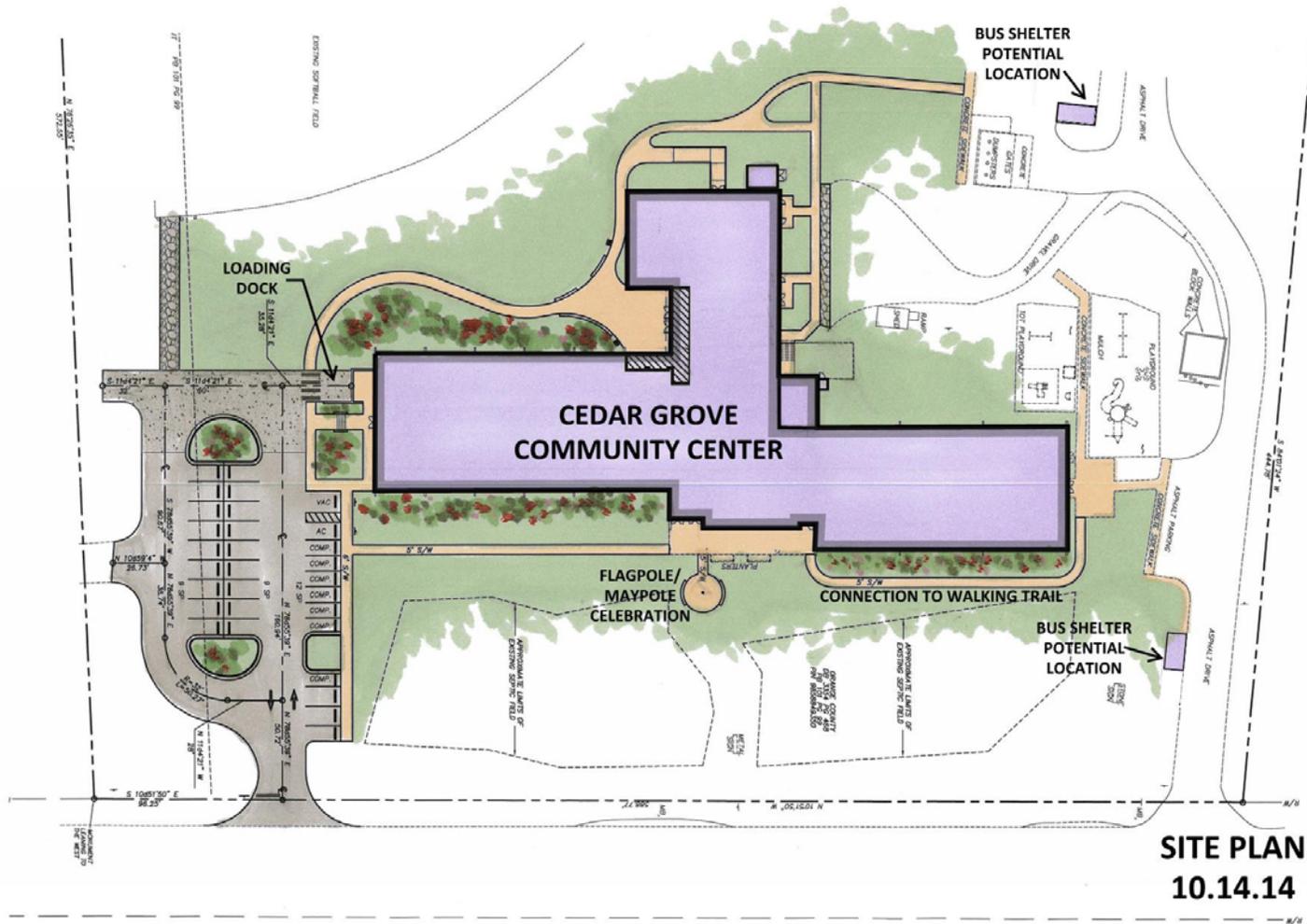
- **GOAL: ESTABLISH SUSTAINABLE AND EQUITABLE LAND-USE AND ENVIRONMENTAL POLICIES**

The fair treatment and meaningful involvement of people of all races, cultures, incomes and educational levels with respect to the development and enforcement of environmental laws, regulations, policies, and decisions. Fair treatment means that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies.

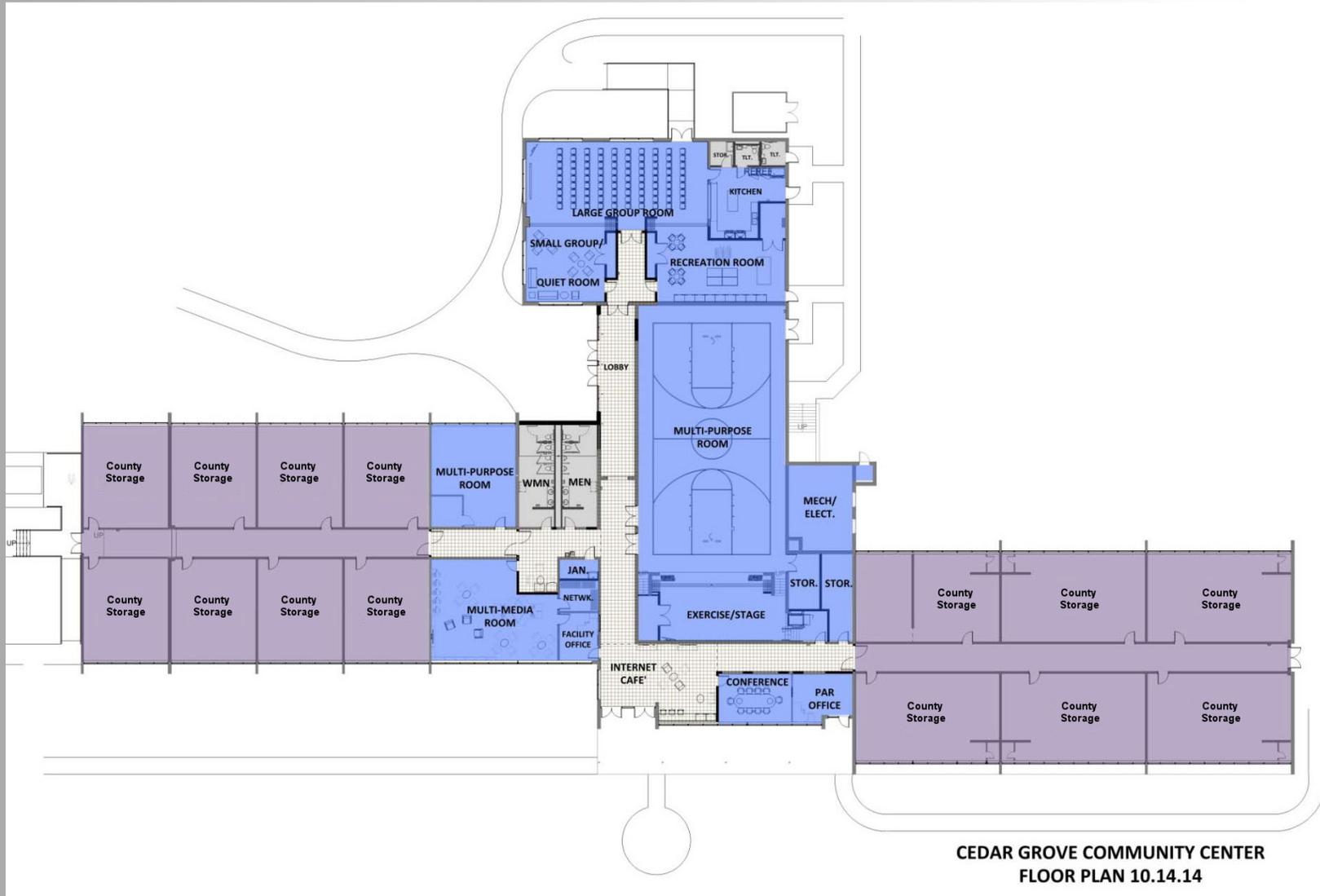
RECOMMENDATION(S): The Manager recommends the Board receive a progress report on the Cedar Grove Community Center project.



Site Plan



Floor Plan



CEDAR GROVE COMMUNITY CENTER
FLOOR PLAN 10.14.14





Depicted kiosk is for illustrative purposes only. Actual kiosk appearance will be consistent with Orange County Library colors and messaging graphics

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: February 2, 2016

**Action Agenda
Item No.** 4-c

SUBJECT: Alcoholic Beverage Control (ABC) Board Update Presentation

DEPARTMENT: Board of Commissioners

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

2015-2016 Mid-Year Disbursement Letter
from ABC General Manager Tony
Dubois
Distributions of ABC Board Profits to Orange
County

INFORMATION CONTACT:

Clerk's Office, 245-2130

PURPOSE: To receive a brief presentation from Tony DuBois, General Manager of the Orange County Alcoholic Beverage Control (ABC) Board, and to provide any feedback or questions.

BACKGROUND: The ABC Board provides an annual update to the Board of Commissioners at the beginning of each calendar year. Tony DuBois, General Manager of the Orange County Alcoholic Beverage Control (ABC) Board, will provide a brief presentation on ABC Board activities and operations and will respond to any questions. Orange County ABC Board Chair Lisa Stuckey and Orange County ABC Finance Officer Ron McCoy will also be at the meeting.

FINANCIAL IMPACT: There is no financial impact associated with receiving the presentation.

RECOMMENDATION(S): The Manager recommends that the Board receive the presentation and provide any questions or comments to Mr. DuBois.

COUNTY OF ORANGE
ALCOHOLIC BEVERAGE CONTROL BOARD

601 VALLEY FORGE RD
HILLSBOROUGH, NORTH CAROLINA 27278
919-732-3432
FAX: 919-732-5829
ocabc@mindspring.com

LISA STUCKEY, Chair
GREGG JARVIES, Vice Chair
TONY DUBOIS, General Manager

Board Members
ROSA TILLEY
KEITH BAGBY
MIKE LASSITER

January 1, 2016

Earl McKee Chair
Orange County Board of County Commissioners
PO Box 8181
Hillsborough NC, 27278

In the fiscal year starting July 1, 2015 a distribution of \$400,000 was promised to the Orange County General fund. Distributions are made the last month of each quarter (September, December, March and June) in the amount of \$100,000. The board also set aside \$ 48,333 to contribute to the Board Retiree Health Care Plan. The board funded local Alcohol Law Enforcement agencies \$135,000. The board also increased the amount available for community Alcohol Education and Rehabilitation grants for schools and local community organizations to \$173,125. The distributions from the board for fiscal year 2015-16 total \$734,883. We also set aside \$50,000 to initiate the living wage in 2016 and the board is currently considering how to implement this in a fair manner. Starting the living wage will affect the boards profitability and ability to increase payments to the general fund in the future.

Alcohol Law Enforcement	Amount
Hillsborough Police Department	\$ 7,000
Carrboro Police Department	\$ 16,000
Chapel Hill Police Department	\$ 25,000
Orange County Sheriff's Department	\$ 87,000
Total Alcohol Law Enforcement	\$135,000

Alcohol Education and Rehabilitation Grants

Mental Health Orange Co Teen Partnership	\$ 5,000
El Centro Hispano	\$ 10,000
Carpe Diem	\$ 13,125
El Futuro	\$ 18,000
Orange County Drug Court	\$ 25,000
Orange County Health Department	\$ 30,000
Orange County Schools	\$ 32,000
Chapel Hill-Carrboro city Schools	\$ 40,000
Total Alcohol Education and Rehabilitation	\$173,125

Sincerely,

Tony DuBois
Orange County ABC
General Manager
919-732-3432 ext. 102
ocabc@mindspring.com

Distributions of ABC Board Profits to Orange County (FY 2015)

Total sales in FY 2015: \$17,975,413
Total number of bottles sold: 1,303,830

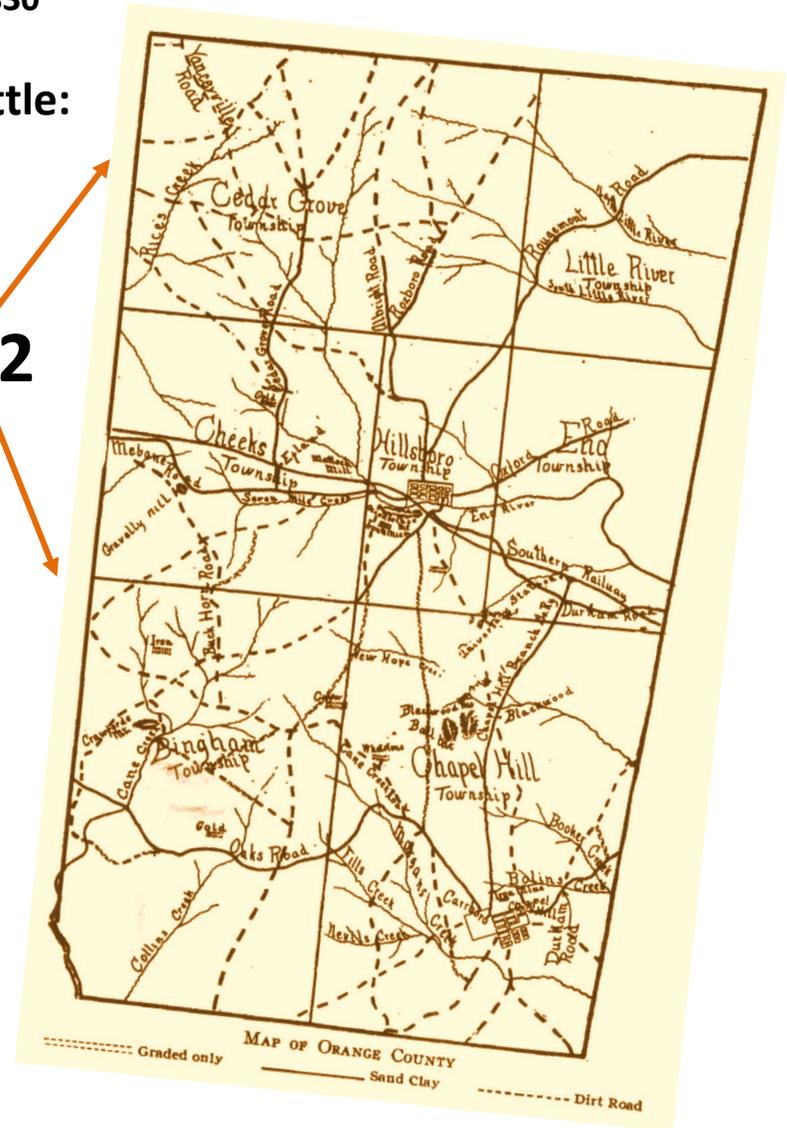
Average sales price per bottle:
\$13.80



Board Earnings \$0.38
Operational Costs \$2.30
Taxes \$3.30
Cost of liquor \$7.10

\$0.72

In 2015, \$0.72 (5.22%) of each bottle sold was distributed locally in Orange County.



- \$50,765 for alcohol rehabilitation
- \$156,550 for alcohol education
- \$130,000 for alcohol law enforcement
- \$400,000 to the Orange County General Fund

Amount distributed in 2015
\$737,315

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: February 2, 2016

**Action Agenda
Item No.** 5-a

SUBJECT: Local Economic Development Public Hearing for Appropriation of Funds for Infrastructure

DEPARTMENT: Planning and Inspections

PUBLIC HEARING: (Y/N)

Yes

ATTACHMENT(S):

1. Legal Advertisement
2. Maps of Efland Mebane Phase II Extension

INFORMATION CONTACT:

Steve Brantley, Economic Development Director, 919-245-2326
 Craig Benedict, Planning Director, 919-245-2592
 John Roberts, County Attorney, 919-245-2318

PURPOSE: To conduct a Public Hearing on the appropriation of Economic Development funds using the Article 46 apportionment for Economic Development in accordance with recently modified state law, SL 2015-277.

BACKGROUND: A recent (summer 2015) state law change now requires additional specificity when expending funds for Economic Development. In consultation with the County Attorney's office, this change requires a more elaborate explanation of the use/purpose and justification of public benefit related to Economic Development monies. This information would be noticed to the public via a newspaper advertisement for input. The information required complements prior adopted Capital Investment Plan (CIP) and budget approvals from a past and current year budget.

The attached advertisement meets those requirements. The project is the Efland Mebane Phase II Extension which was approved by the Board in June 2015. The advertisement explains the project and a map is attached to show the area.

FINANCIAL IMPACT: The monies have been budgeted in prior and current year CIP budgets in the amount of approximately \$4.93 million funded from Article 46 funds.

SOCIAL JUSTICE IMPACT: There is no Orange County Social Justice Goal impact associated with this item.

RECOMMENDATION(S): The Manager recommends that the Board:

- Conduct the Public Hearing; and
- Close the Public Hearing

PUBLICATION INSTRUCTION: Please publish the following notice in the Special Notice Section of the Classified Advertisements on Monday, January 18, 2016.



PUBLIC HEARING
Tuesday, February 02, 2016 at 7:00 p.m.

WHITTED HUMAN SERVICES CENTER COMPLEX
300 West Tryon Street
Hillsborough, NC 27278

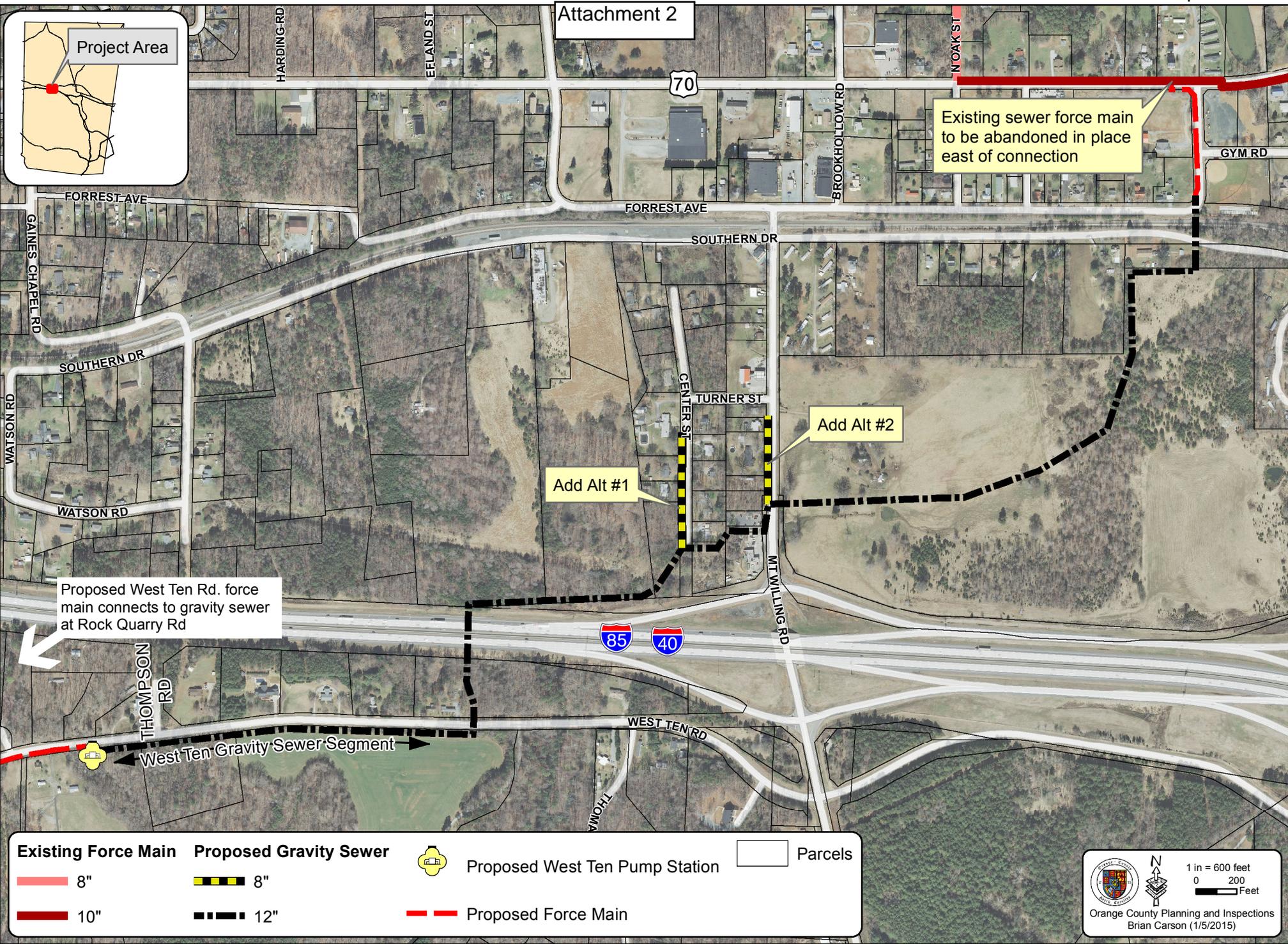
This is to inform the public that a public hearing will be held on the proposed **Orange County Efland Sewer to Mebane, Phase 2 Extension project**, which includes acquisition of private property sewer easements (temporary construction and permanent), as well as purchase (100% fee simple) of a new lot for the West Ten Pump Station. These easement property interests will be acquired on the following parcels: 9854184217, 9854175987, 9854178549, 9854161576, 9844961126, 9844963059, 9844965134, 9844963252, 9844867573, 9844861573, 9844855497, 9844658028, 9844831368, and 9844644800 which is a 100% interest (i.e. purchase). Improvements consist of approximately 7,300 lineal feet of gravity sewer, 19,400 lineal feet of force main and one sewage pump station which will be within existing road right of way and easements on private property. There are three (3) add alternates designed into the project to allow the County to "adjust" the bid(s) to the project budget. So, the add alternates may not actually be included and constructed. The subject of the hearing is to approve **expenditure of Article 46 sales tax proceeds for funding and to serve as notice to the community of pending construction.**

Benefits: 1) Economic stimulus to the Buckhorn-Mebane Economic Development District by installing infrastructure to help diversify the tax base, 2) promoting compact urban development consistent with the adopted County Comprehensive Plan goals and Land Use Map 3) reduced sewage treatment costs, 4) increased availability of public sewer and 5) less reliance on ground septic system infrastructure fields.

CIP BUDGET - Total Cost Estimate (Infrastructure, Power Supply, Easements, Pump Station Lot, Title Work, Environmental Investigation/Mitigation, Archeological & Cultural Evaluation, Engineering, Permitting, Construction Engineering & Inspection):
\$4,973,000.00

Further information can be obtained by contacting Howard W. Fleming, Jr., PE at 919-245-2586. In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during these hearings should notify Donna Baker at 919-245-2130 at least three days prior to the hearing that will be attended.

Attachment 2

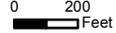


Existing Force Main	Proposed Gravity Sewer		
 8"	 8"	Proposed West Ten Pump Station	Parcels
 10"	 12"		Proposed Force Main



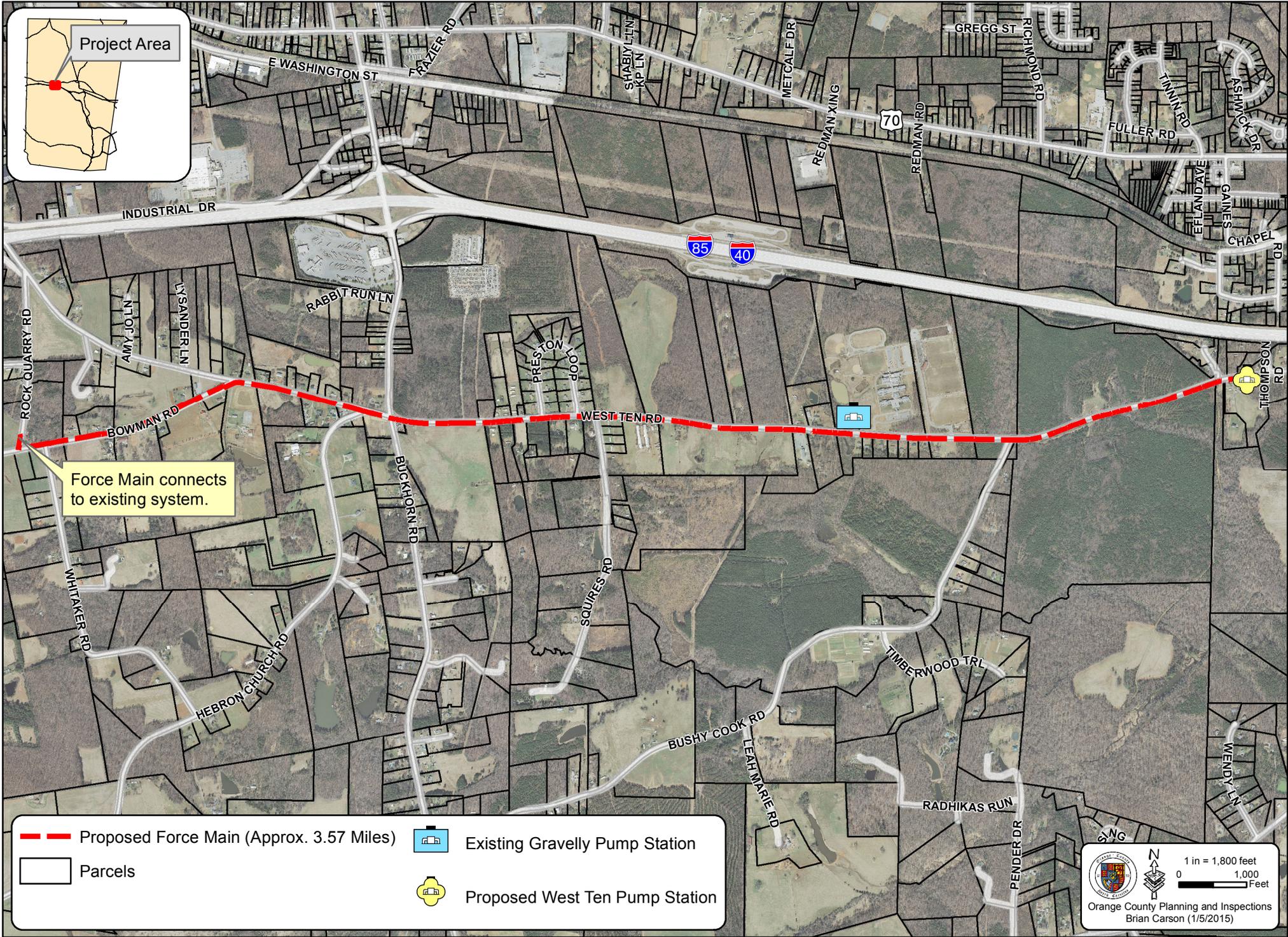
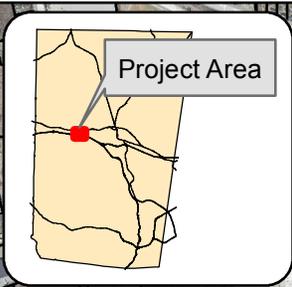
 1 in = 600 feet

 0 200 Feet



 Orange County Planning and Inspections

 Brian Carson (1/5/2015)



Force Main connects to existing system.

	Proposed Force Main (Approx. 3.57 Miles)		Existing Gravelly Pump Station
	Parcels		Proposed West Ten Pump Station

1 in = 1,800 feet
0 1,000 Feet

Orange County Planning and Inspections
Brian Carson (1/5/2015)

**ORANGE COUNTY
BOARD OF COMMISSIONERS
ACTION AGENDA ITEM ABSTRACT**
Meeting Date: February 2, 2016

**Action Agenda
Item No.** 5-b

SUBJECT: Unified Development Ordinance Text Amendment – Sexually Oriented Businesses - Closure of Public Hearing and Action (No Additional Comments Accepted)

DEPARTMENT: Planning and Inspections

PUBLIC HEARING: (Y/N)

Yes

ATTACHMENT(S):

1. Comprehensive Plan and Unified Development Ordinance Outline Form – Sexually Oriented Businesses (UDO/Zoning 2015-05)
2. Excerpt of DRAFT November 23, 2015 Quarterly Public Hearing Minutes
3. Excerpt of Approved December 2, 2015 Planning Board Minutes
4. Planning Board Approved Statement of Consistency
5. Statement of Consistency
6. Proposed UDO Text Amendment(s)

INFORMATION CONTACT:

Michael Harvey, Planning, (919) 245-2578
Craig Benedict, Planning, (919) 245-2592

PURPOSE: To receive the Planning Board recommendation, close the public hearing, and make a decision on text amendments to the Unified Development Ordinance (UDO) initiated by the Planning Director to adopt regulations governing the development of sexually oriented businesses.

BACKGROUND: This item was presented at the November 23, 2015 Quarterly Public Hearing (materials available at: http://www.orangecountync.gov/document_center/BOCCAgendaMinutes/151123.pdf). An excerpt of draft minutes from this meeting is contained in Attachment 2.

As indicated during the hearing, the County cannot prohibit sexually oriented businesses outright, but is afforded the opportunity to regulate their location and certain operational characteristics in an effort to ensure identified secondary impacts are mitigated. For additional background information please refer to Section B.1 of Attachment 1.

At the public hearing staff provided links to several studies and reports identifying various secondary impacts associated with sexually oriented businesses and how the proposed text amendments addressed them. Please refer to Section C.1 of Attachment 1 for a synopsis of additional comments made at the public hearing

Procedural Information: In accordance with Section 2.8.8 of the UDO, as it was in effect at the time this amendment was initiated, any evidence not presented at the public hearing must be submitted in writing prior to the Planning Board's recommendation. Additional oral evidence may be considered by the Planning Board only if it is for the purpose of presenting information also submitted in writing. The public hearing is held open to a date certain for the purpose of the BOCC receiving the Planning Board's recommendation and any submitted written comments.

Planning Director's Recommendation: The Planning Director recommends **approval** of proposed text amendment and further recommends approval of the:

- i. Statement of Consistency, as contained in Attachment 5, indicating the proposed text amendment is consistent with the adopted Comprehensive Plan, is reasonable, and in the public interest, and
- ii. The text amendment as contained in Attachment 6.

Planning Board Recommendation: At its December 2, 2015 meeting, the Board voted 7 to 2 to recommend **approval** of the Statement of Consistency. The Planning Board's signed Statement of Consistency is included within Attachment 4.

The Planning Board voted 8 to 1 to recommend **approval** of the proposed amendment package as contained within Attachment 6.

An excerpt from approved minutes from the December 2, 2015 Planning Board meeting are contained within Attachment 3.

FINANCIAL IMPACT: Please refer to Section C.3 of Attachment 1.

SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goals is applicable to this agenda item:

GOAL: ESTABLISH SUSTAINABLE AND EQUITABLE LAND-USE AND ENVIRONMENTAL POLICIES

The fair treatment and meaningful involvement of people of all races, cultures, incomes and educational levels with respect to the development and enforcement of environmental laws, regulations, policies, and decisions. Fair treatment means that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies.

RECOMMENDATION(S): The Manager recommends that the Board:

1. Receive the Planning Board's recommendation;
2. Close the public hearing;
3. Deliberate as necessary on the proposed amendments and
4. Decide accordingly and/or adopt the Statement of Consistency, contained within Attachment 5 and the Ordinance amending the UDO contained within Attachment 6 as recommended by the Planning Board and staff.

COMPREHENSIVE PLAN / FUTURE LAND USE MAP AND UNIFIED DEVELOPMENT ORDINANCE (UDO) AMENDMENT OUTLINE

UDO / Zoning-2015-05

Amendment(s) addressing establishment of land use regulations for sexually oriented businesses.

A. AMENDMENT TYPE

Map Amendments

- Comprehensive Plan – Future Land Use Element Map:
From: - - -
To: - - -
- Zoning Map:
From: - - -
To: - - -
- Other:

Text Amendments

- Comprehensive Plan Text:

Section(s):

- UDO Text:

- UDO General Text Changes
- UDO Development Standards
- UDO Development Approval Processes

Section(s): Section(s)

1. 5.2.1 *Table of Permitted Uses*,
2. 5.6 *Standards for Commercial Uses*,
3. Article 8 *Nonconformities*, and
4. Article 10 *Definitions*

- Other:

B. RATIONALE

1. Purpose/Mission

In accordance with the provisions of Section 2.8 *Zoning Atlas and Unified Development Ordinance Amendments* of the UDO, the Planning Director has initiated a text amendment to establish regulations governing the development of sexually oriented businesses.

As defined within NCGS 14-202.10 a sexually oriented business means, “*Any businesses, or enterprises that have as one of their principal business purposes, or as a significant portion of their business, an emphasis on matter and conduct depicting, describing, or related to anatomical areas and sexual activities.*”

Sexually oriented businesses, because of their very nature, are recognized as having potentially objectionable operational characteristics. Regulation of these uses are necessary to ensure adverse secondary effects do not contribute to the blighting of surrounding neighborhoods and to regulate acts, omissions or conditions that could be construed as detrimental to the public health, safety or welfare. This includes ensuring development of such businesses does not create a disincentive for additional economic development in a given area.

Such regulations, however, are required to be content neutral and shall not have the effect of imposing a limitation or restriction on the content of any communicative materials or deny access by adults to sexually oriented materials protected by the US Constitution’s First Amendment. Regulations also cannot be so restrictive as to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

Currently, Orange County does not permit the development of sexually oriented businesses within any general use zoning district. Existing definitions, including adult uses as contained in Article 10 of the UDO, are out of date and inconsistent with State regulations and recent court decisions.

2. **Analysis**

As required under Section 2.8.5 of the UDO, the Planning Director is required to: ‘*cause an analysis to be made of the application and, based upon that analysis, prepare a recommendation for consideration by the Planning Board and the Board of County Commissioners*’.

The amendment(s) are necessary to ensure the County is consistent with provisions of State and Federal law.

The County cannot prohibit sexually oriented businesses outright but is afforded the opportunity to regulate their location and certain operational characteristics in an effort to ensure identified secondary impacts are mitigated as much as possible.

The proposed amendments establish locational criteria for such businesses including mandatory setbacks from identified sensitive uses (i.e. church, school, single-family residence, etc.) while allowing for their development consistent with applicable State and Federal requirements.

3. **Comprehensive Plan Linkage (i.e. Principles, Goals and Objectives)**

Land Use Goal 2: Land uses that are appropriate to on-site environmental conditions and features and that protect natural resources, cultural resources, and community character.

Land Use Goal 4: Land development regulations, guidelines, techniques and/or incentives that promote the integrated achievement of all Comprehensive Plan goals.

4. New Statutes and Rules

N/A

C. PROCESS

1. TIMEFRAME/MILESTONES/DEADLINES

a. BOCC Authorization to Proceed

May 5, 2015

b. Quarterly Public Hearing

November 23, 2015

c. BOCC Updates/Checkpoints

May 5, 2015 – Approval of UDO Amendment Outline Form

September 2, 2015 – Planning Board Ordinance Review Committee (ORC)

November 23, 2015 – Quarterly Public Hearing

This item was reviewed at the November 23, 2015 Quarterly Public Hearing where the following comments were made:

- A BOCC member asked why the exposure of the male breast was not included within the definition of nudity proposed for Article 10 of the UDO. There was concern we are assisting in perpetuating a stereotype holding exposure of the male and female breast should be treated differently.

STAFF COMMENT: The proposed definition was taken from other similar ordinances that had survived legal challenges and staff did not want to make significant changes as a result.

The definition is also consistent with the existing regulations contained within Chapter 24 *Offences and Miscellaneous Regulations* of the County Code of Ordinances. This portion of the County code can be viewed

at: https://www.municode.com/library/nc/orange_county/codes/code_of_ordinances?nodeId=PTIGEOR_CH24OFMIPR_S24-2REEXHUFEB0VI.

Exposure of the male breast is not typically viewed from either a societal or legal perspective as being inappropriate.

Staff has revised the definition of nudity to address the concerns

expressed during the public hearing. Please refer to Attachment 6 to view the revised language.

- A BOCC member asked if the text amendment would create a land use regulation for nudity. There was a concern the definition could have unintended consequences, specifically on people engaging in swimming activities at private clubs or public pools.

STAFF COMMENT: The proposed definition of *Nudity or a State of Nudity* provides clarification and context to other recommended definitions associated with sexually oriented businesses, most notably an Adult Cabaret.

Defining the term, in and of itself, does not create a land use regulation allowing Planning staff to regulate nudity. For example the adoption of the proposal does not preclude individuals from swimming, skinny dipping, or sunbathing on private property, walking through their residence(s) in a state of nudity, or swimming in a public pool.

What the definition is designed to do is provide context to other terms defined as being considered a sexually oriented business allowing staff to make the determination if said activity qualifies as a sexually oriented business or not.

Staff reminded the Board there are existing regulations governing the exposure of the female body contained within Chapter 24 of the County Code of Ordinances.

- A BOCC member asked if the proposal should include a setback from bars and/or restaurants that serve alcohol.

STAFF COMMENT: Staff believes it would be difficult to argue a bar/restaurant where alcohol is served is a sensitive use whose business would be negatively impacted by the location of a sexually oriented business near them. We do not believe such a regulation would withstand a legal challenge.

As an aside restaurants and bars are not listed as allowable uses within the general use zoning districts (i.e. I-1 and I-2) where sexually oriented businesses are proposed to be allowed.

- A BOCC member commented he was not comfortable with the proposal to restrict/prohibit the sale or consumption of alcohol at a sexually oriented business.
- There was general discussion on where the businesses would be allowed within the County.

February 2, 2016 – Receive Planning Board Recommendation

d. Other

N/A

2. PUBLIC INVOLVEMENT PROGRAM

Mission/Scope: Public Hearing process consistent with NC State Statutes and Orange County ordinance requirements

a. Planning Board Review:

September 2, 2015 – Ordinance Review Committee

The ORC met and reviewed this item at its September 2, 2015 meeting where the following comments were made:

- A Board member asked if there was sufficient legal precedent for the establishment of separation requirements.

STAFF COMMENT: State law grants local government the authority to regulate sexually oriented businesses including establishing separation requirements from sensitive uses (i.e. church, school, playground, etc.).

- A Board member asked how many sexually oriented businesses there are in the County and inquired specifically on the status of the adult entertainment club off of NC Highway 86 North.

STAFF COMMENT: There were 2 sexually oriented businesses operating in the County but both are now closed including the facility off of NC Highway 86. If this Ordinance is passed they will be unable to reopen.

- A Board member asked if there were any properties zoned I-2 or I-3 that could accommodate a sexually oriented businesses.

STAFF COMMENT: There are currently no properties zoned I-2 or I-3. There is, however, available land area that could be rezoned to support such development.

- A Board member asked if these types of land uses create adverse economic impacts by scaring away other types of business operations.

STAFF COMMENT: Staff cannot guarantee adjacent property or business owners will be unfazed if a sexually oriented business locates adjacent to them. To some the business is no different than a night club or a video store. To others such businesses offend their sense of decency.

Staff is recommending the medium (I-2) and heavy (I-3) industrial districts as there are typically a lack of sensitive uses in these areas and, for the most part, commercial land uses in these districts will be closed during the time a sexually oriented business is open.

- A Board member asked if sexually oriented businesses create blight.

STAFF COMMENT: Any land use can create blight if not properly maintained. From staff's standpoint a sexually oriented business creates more significant impacts if not properly regulated.

The ORC materials are available at: http://www.orangecountync.gov/ORC_Sep_2015_Agenda_Package.pdf.

Meeting notes can be viewed by utilizing the following link: http://www.orangecountync.gov/9_2_15_ORC_Notes.pdf.

December 2, 2015 – The Planning Board reviewed this item at its December 2, 2015 meeting where the following comments/questions were made:

- A Board member asked what was the point of regulating sexually oriented businesses as proposed within the amendment package.

STAFF COMMENT: For the same reasons we regulate other businesses, to ensure there is a balance allowing for reasonable use of property while at the same time addressing potential secondary impacts created by individual land uses.

Sexually oriented businesses, by their nature, can have unique impacts on adjacent properties and land uses that need to be addressed. The proposed regulations seek to do that.

- A Board member asked for clarification on the County's ability to restrict alcohol consumption.

STAFF COMMENT: State law grants local government the authority to regulate sexually oriented businesses including establishing regulations governing the consumption of alcohol.

- A Board member asked if there any zoned properties in Orange County that would allow for the development of a sexually oriented business.

STAFF COMMENT: There are existing properties that are appropriately zoned allowing for the development of a sexually oriented business.

- Several Board members asked if there will there be any substantial economic development impact from approval of the proposed text amendment.

STAFF COMMENT: It could be argued either way. Some individuals could argue this regulation may impede the development of a commercial venture while others will express concern over allowing sexually oriented businesses within the community.

The proposed regulations are reasonable in that they allow for the development of the land use while protecting sensitive land uses (i.e. residences, schools, parks, churches, etc.) from identified secondary impacts.

- A Board member indicated they believed the regulations were too strict.

STAFF COMMENT: Proposed regulations are content neutral, will not restrict the general public's ability to access such businesses, does not prohibit their development outright, and is consistent with other similar regulations that have been upheld by the courts.

- A Board member indicated they did not believe the text amendment was substantiated from a legal standpoint.

STAFF COMMENT: Staff defers to the County Attorney to

comment.
The Board voted 8 to 1 to recommend approval of the amendment package as contained within <u>Attachment 6</u> .

b. Advisory Boards:

N/A	_____
_____	_____
_____	_____

c. Local Government Review:

Staff transmitted the proposed amendment to the Towns of Chapel Hill, Carrboro, and Hillsborough for courtesy review on October 21, 2015.

As of this date staff has not received any comment.

Staff and the Attorney have also met with the Sheriff's Office to discuss the proposal. The Sheriff did not express concerns over the establishment of land use regulations.

_____	_____
_____	_____
_____	_____

d. Notice Requirements

Legal advertisement was published on November 11 and 18, 2015 in accordance with the provisions of the UDO.

e. Outreach:

<input checked="" type="checkbox"/> General Public:	Consistent with NC State General Statutes and Orange County Ordinance requirements.
<input type="checkbox"/> Small Area Plan Workgroup:	_____
<input type="checkbox"/> Other:	_____

3. FISCAL IMPACT

Consideration and approval will not create the need for additional funding for the provision of County services. Costs for the required legal advertisement will be paid from FY2015-16 Departmental funds budgeted for this purpose. Existing Planning staff included in the Departmental staffing budget will accomplish the work required to process this amendment.

D. AMENDMENT IMPLICATIONS

The amendment will establish comprehensive regulations governing the development and operation of sexually oriented businesses consistent with applicable State and Federal law.

E. SPECIFIC AMENDMENT LANGUAGE

Please refer to Attachment 6.

Primary Staff Contact:

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Planning

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1 **DRAFT**

2 **MINUTES**
3 **ORANGE COUNTY BOARD OF COMMISSIONERS**
4 **QUARTERLY PUBLIC HEARING**
5 **November 23, 2015**
6 **7:00 P.M.**

7 The Orange County Board of Commissioners met with the Orange County Planning Board for a
8 Quarterly Public Hearing on November 23, 2015 at 7:00 p.m. at the Whitted Building, in
9 Hillsborough, N.C.

10
11 **COUNTY COMMISSIONERS PRESENT:** Chair Earl McKee and Commissioners Barry Jacobs,
12 Mia Burroughs, Mark Dorosin, Bernadette Pelissier and Penny Rich

13 **COUNTY COMMISSIONERS ABSENT:** Renee Price

14 **COUNTY ATTORNEY PRESENT:** John Roberts and James Bryan (Staff Attorney)

15 **COUNTY STAFF PRESENT:** County Manager Bonnie Hammersley and Deputy Clerk to the
16 Board David Hunt (All other staff members will be identified appropriately below)

17 **PLANNING BOARD MEMBERS PRESENT:** Vice Chair Lydia Wegman and Planning Board
18 members, Herman Staats, Paul Guthrie, Laura Nicholson, Andrea Rohrbacher and H.T. "Buddy"
19 Hartley

20 **PLANNING BOARD MEMBERS ABSENT:** Tony Blake, James Lea, Maxecine Mitchell, Patricia
21 Roberts and Lisa Stuckey

22
23 Chair McKee called the meeting to order at 7:12 p.m.

24
25 **A. PUBLIC HEARING ITEMS**

- 26
27 **1. Unified Development Ordinance (UDO) Text Amendment** - To review government-
28 initiated amendments to the text of the UDO regarding sexually oriented businesses.
29

30 **BACKGROUND:**

31 As defined within NCGS 14-202.10 a sexually oriented business means, "*Any*
32 *businesses, or enterprises that have as one of their principal business purposes, or as a*
33 *significant portion of their business, an emphasis on matter and conduct depicting, describing,*
34 *or related to anatomical areas and sexual activities.*"

35 The County cannot prohibit sexually oriented businesses outright but is afforded the
36 opportunity to regulate their location and certain operational characteristics in an effort to ensure
37 identified secondary impacts are mitigated.

38 Staff is proposing to amend the UDO to establish locational criteria for such businesses
39 including mandatory setbacks from identified sensitive uses (i.e. church, school, single-family
40 residence, etc.) while allowing for their development consistent with applicable State and
41 Federal requirements and prohibiting the consumption and/or sale of alcohol. In support of
42 recommended land use regulations, staff offers the following information with respect to
43 addressing identified secondary impacts.

44 Staff's review of these studies caused a conclusion that the secondary effects of
45 sexually oriented businesses have negative impacts on the surrounding area, in the form of
46 crime and property devaluation, which will be addressed by the proposed regulations.

47 Planning staff is recommending sexually oriented businesses observe a 1,000 ft.
48 setback from each other as well as identified sensitive uses (i.e. church, residence, playground,
49 etc.). Staff is recommending the setback for several reasons, including:

- 50 a. Referenced studies have found the clustering of such land uses in a given area could
51 attract an undesirable quantity and quality of transients adversely impacting property values,

1 creating blight for adjacent properties, cause an increase in crime and encourages residents
2 and businesses to move elsewhere.

3 b. Courts have consistently found local communities have the legal ability and interest in
4 promoting stable neighborhoods through requiring a setback. This was viewed as being a
5 substantial government interest and the incidental impact of an ordinance regulating such
6 businesses on protected speech. (United States versus O'Brien – US Supreme Court
7 (1976); Young versus American Movie Theaters Inc. – US Supreme Court (1979) ; City of
8 Renton versus Playtime Theaters – US Supreme Court (1986)).

9 The proposed setback does not restrict the activity that can occur within the business.

10 Planning staff is recommending sexually oriented businesses not be located within a
11 structure or on property where alcohol is allowed to be sold or consumed. Staff is
12 recommending the standard for several reasons including:

13 a. Referenced studies have found such land uses could attract an undesirable quantity and
14 quality of transients adversely impacting property values, creating blight for adjacent
15 properties, and causes an increase in crime (most notably prostitution).

16 In some of these studies alcohol is identified as contributing factor.

17 b. Courts have found local communities have the legal ability to restrict or prohibit the
18 consumption/sale of alcohol (Fay versus State Board of Alcoholic Control – NC Court of
19 Appeals (1976).

20 c. State law allows governing bodies to restrict alcohol sales/consumption at sexually
21 oriented businesses. Please refer to Attachment 2.

22 The prohibition on alcohol sales/consumption does not restrict the activity that can occur
23 within the business.

24
25 Michael Harvey, Orange County Planning, made the following PowerPoint presentation:
26

27 **November 23, 2015**

28 **Agenda Item: C-1**

29 **Public Hearing-Unified Development Ordinance (UDO) Text Amendment**

30 **Sexually Oriented Businesses**

31 **Orange County Planning Department**

32
33 **Background:**

- 34 • Local governments cannot prohibit sexually oriented businesses outright.
- 35
- 36 • Courts and State law allow local governments to regulate their location and certain
37 operational characteristics to ensure identified secondary impacts are mitigated.
- 38
- 39

40 **Proposal:**

- 41 • Amend the UDO to allow such businesses within light and medium intensity industrial
42 districts (I-1 and I-2),
43 – Staff is recommending these districts as there are typically less identified
44 sensitive uses in proximity to industrial developments.
- 45 • Require mandatory setbacks from identified sensitive uses (i.e. church, school, single-
46 family residence, etc.), and
- 47 • Prohibit the consumption and/or sale of alcohol.
- 48

49 **Where Allowed (map)**

50
51 **Staff Findings:**

- 1 • Studies have found sexually oriented businesses can have negative secondary impacts
- 2 on the surrounding area.
- 3 • Secondary impacts from such businesses can include increased levels of crime, sexual
- 4 deviance, prostitution, and negative economic impacts.
- 5 – STAFF COMMENT: These impacts can be addressed by the proposed
- 6 regulations.
- 7 • Studies have found consumption of alcohol at sexually oriented businesses contributes
- 8 to identified secondary impacts including crime, most notably prostitution, and increased
- 9 blight.
- 10 – STAFF COMMENT: This impact can be addressed by the proposed regulations.
- 11 • Proposed regulations are content neutral and do not restrict anyone's rights with respect
- 12 to engaging in a sexually oriented business activity.

13
14 **Recommendation:**

15 Recommendation(s): The Planning Director recommends that the Board:

- 16 1. Receive the request.
- 17 2. Conduct the Public Hearing and accept public, BOCC, and Planning Board comments.
- 18 3. Refer the matter to the Planning Board with a request that a recommendation be
- 19 returned to the BOCC in time for its February 2, 2016 regular meeting.
- 20 4. Adjourn the public hearing until February 2, 2016 in order to receive and accept the
- 21 Planning Board's recommendation and any submitted written comments.

22
23 Commissioner Dorosin asked if the Planning Board had done any analysis, within the I-1
24 and I-2 zones, to determine how many parcels of land would meet the requirements of the
25 mandatory setbacks. He asked if there are any locations where these businesses could operate
26 given the restrictions.

27 Michael Harvey said there are currently two properties within Orange County that will
28 allow for the development of sexually oriented businesses.

29 Commissioner Dorosin asked the County Attorney if having only two parcels of available
30 land would survive a legal challenge.

31 James Bryan said it is a risk and the more sites available the less risk there is. He said
32 there is no magic number. He said another variable to consider is the size of the property and
33 whether it could hold only one business, or be subdivided.

34 Michael Harvey said there are currently two properties but that does not prevent more
35 properties from being zoned for the use of sexually oriented businesses. He said existing
36 sexually oriented businesses would still be allowed to operate legally even if future construction
37 were to cause them to fall out of compliance with the required setbacks.

38 Commissioner Dorosin asked if the two currently identified sites could hold more than
39 one business.

40 Michael Harvey said the parcels could be subdivided with two or three businesses.

41 Commissioner Pelissier referred to the risk of alcohol consumption at sexually oriented
42 businesses and asked if there are provisions in place to insure that alcohol is not being
43 consumed in other businesses next door.

44 Michael Harvey said the industrial districts do not allow restaurants or bars as permitted
45 uses of property.

46 Commissioner Rich asked if the wording in the amendment could be changed to "place
47 of worship" rather than "church and/or place of worship".

48 Michael Harvey said yes.

49 Commissioner Rich referred to page 21 and asked for the source of the definition of the
50 "state of nudity".

51 Michael Harvey said from State law and example ordinances throughout the State.

1 Commissioner Rich said the wording of this definition was strange and discriminatory to
2 the female body by identifying the bare female chest as obscene but not the bare male chest as
3 such.

4 Michael Harvey said this stems from the obscenity statute.

5 Commissioner Rich asked if the language must follow the statute. She said the
6 woman's body is constantly being put down and this reinforces that a woman's breasts should
7 not be seen.

8 James Bryan said he could review the issue.

9 Commissioner Rich asked if there could be clarity regarding the definition of male
10 genitalia.

11 Michael Harvey said he is unsure of her question.

12 Commissioner Rich said she does not understand why male genitalia is listed as
13 obscene, and that her teenage sons were naked in their home.

14 Michael Harvey said these definitions are referring to sexually oriented businesses and
15 an effort to keep these businesses operating appropriately.

16 Commissioner Dorosin said the ordinance is designed to keep actual live sex shows
17 from taking place.

18 Commissioner Rich said is struggling with the definition and she would like it to be more
19 general.

20 Michael Harvey said the specificity insures that some of the concerns expressed by
21 Commissioner Rich do not fall into an over ambiguous category, where unnecessary regulation
22 occurs; while allowing for the regulation of activities that have been deemed to be classified as
23 sexually oriented businesses.

24 Commissioner Dorosin said nude dancing cannot be regulated as it is protected by the
25 first amendment; but actual live sex shows can be regulated.

26 Commissioner Rich said the language requires that a woman, who is dancing nude,
27 must cover her breasts.

28 Michael Harvey said the language says that a woman wearing pasties is not considered
29 to be nude, or in a state of nudity.

30 Commissioner Rich said she would like to see the language include both male and
31 female.

32 Commissioner Jacobs asked if alcohol could be sold if the business is a private club.

33 Michael Harvey said he would refer to the attorney, but added that a private club could
34 serve alcohol but a private club could not be a sexually oriented business as alcohol is being
35 sold and consumed.

36 Commissioner Jacobs gave the example of a country club that served alcohol. He
37 asked if a man swimming topless at the country club pool would be in violation of the ordinance,
38 as alcohol is being served and he is shirtless.

39 Michael Harvey said the man would not be at a sexually oriented business or engaging
40 in a sexual activity.

41 Commissioner Jacobs asked if the country club would be a sexually oriented business if
42 the wait staff were to be topless.

43 Michael Harvey said yes. He said if one is engaging in a business practice or activity
44 where one is enjoying a meal while also ogling naked members of the opposite sex then the
45 nature of the business meets the standard of a sexually oriented business. He said getting out
46 of the pool without a shirt has nothing to do with offering a service for compensation or for any
47 form of pay.

48 Commissioner Jacobs asked what would happen if the wait staff were dressed in bathing
49 suits.

1 Michael Harvey said the line gets crossed when a business model starts providing
2 specific activities that meet the definition of a sexually oriented business. He gave the example
3 that the restaurant Hooters does not meet the definition of a sexually oriented business.

4 Commissioner Jacobs said we get closer and closer to a preposterous line.

5 Commissioner Jacobs asked if there are any qualifying properties in the speedway
6 economic development area.

7 Michael Harvey said this property is not zoned industrial.

8 Commissioner Jacobs asked if this area could be rezoned.

9 Michael Harvey said no, not in his opinion.

10 Commissioner Rich asked if there are currently any sexually oriented businesses in
11 Orange County.

12 Michael Harvey said none of which he is aware.

13 Commissioner Rich asked if there are any businesses that would like to apply to come to
14 Orange County.

15 He said there have been several inquiries during his tenure but no one has followed
16 through. He said these businesses cannot be banned but they can be regulated.

17 Commissioner Dorosin referenced an all-girl staff establishment near I-85.

18 Michael Harvey said this business closed down, and that property is zoned economic
19 development Hillsborough, medium intensity and would not be allowed to reopen as a sexually
20 oriented business.

21 Commissioner Dorosin asked how the business opened in the first place.

22 Michael Harvey said it probably pre-dated zoning.

23 Commissioner Dorosin said there are a lot of negatives about these businesses,
24 especially how women are exploited, and he is glad that the County is regulating them. He
25 added that he does not support the banning of alcohol in these businesses.

26 Chair McKee said a reason for banning alcohol would be to add one more step in the
27 process of establishing a sexually oriented business, thus making it harder to do so. He said he
28 is in favor of banning the sale of alcohol at sexually oriented businesses.

29
30 A motion was made by Commissioner Pelissier, seconded by Commissioner Rich to
31 refer the matter to the Planning Board with a request that a recommendation be returned to the
32 BOCC in time for its **February 2, 2016** regular meeting and to adjourn the public hearing until
33 **February 2, 2016** in order to receive and accept the Planning Board's recommendation and any
34 submitted written comments.

35
36 VOTE: Ayes, 5; Nays, 1 (Commissioner Dorosin)

37 MOTION PASSES

38
39 Chair McKee noted that Commissioner Price was unable to attend the meeting this
40 evening.

Attachment 3
Excerpt of Approved
December 2, 2015
Planning Board Minutes

Approved 1/6/2016

16

PLANNING BOARD
DECEMBER 2, 2015
REGULAR MEETING

1
2
3
4
5
6 **MEMBERS PRESENT:** Lydia Wegman (Vice Chair), At-Large Chapel Hill Township; James Lea, Cedar Grove
7 Township Representative; Paul Guthrie, At-Large Chapel Hill Township; Andrea Rohrbacher, At-Large Chapel Hill
8 Township; Maxecine Mitchell, At-Large Bingham Township; Buddy Hartley, Little River Township Representative;
9 Patricia Roberts, Cheeks Township Representative; Laura Nicholson, Eno Township Representative; Herman Staats,
10 At-Large;

11
12 **MEMBERS ABSENT:** Lisa Stuckey, Chapel Hill Township Representative; Tony Blake, Bingham Township
13 Representative;

14
15 **STAFF PRESENT:** Craig Benedict, Planning Director; Michael Harvey, Current Planning Supervisor, Perdita Holtz,
16 Special Projects Coordinator, Meredith Pucci, Administrative Assistant II;

17
18
19 **AGENDA ITEM 8:** **UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT** - To make a
20 recommendation to the BOCC on government-initiated amendments to the text of the UDO
21 regarding sexually oriented businesses. This item was heard at the November 23, 2015
22 quarterly public hearing
23 **PRESENTER:** Michael Harvey, Current Planning Supervisor
24

25 *Michael Harvey reviewed abstract*

26
27 Patricia Roberts: What is the point of regulating such businesses?

28
29 Michael Harvey: For the same reasons we regulate other businesses. We want to ensure there is a balance allowing
30 for reasonable use of property. Sexually oriented businesses have identified secondary impacts that can affect
31 adjacent property owners. What these regulations are designed to do is ensure they can be developed and not have
32 an impact on those identified sensitive land uses.

33
34 Maxecine Mitchell: Are we legally able to restrict alcohol consumption from certain businesses?

35
36 Michael Harvey: State law grants local government the authority to regulate sexually oriented businesses including
37 establishing regulations governing the consumption of alcohol.

38
39 Laura Nicholson: Are there any zoned properties in Orange County that would allow this?

40
41 Michael Harvey: Yes there are a few properties zoned that could allow for the development of a sexually oriented
42 business.

43
44 Maxecine Mitchell: So if these lots are developed, any new sexually oriented businesses will need to get a property
45 rezoned for this kind of land use?

46
47 Michael Harvey: That is correct if available property is developed for such a use. There is, however, available land
48 area that could be rezoned to support such development.

49
50 James Lea: Will there be any substantial economic development impact from approval of the text amendment?

51
52 Michael Harvey: It depends on your point of view. There are those that might argue this regulation may impede the
53 development of a commercial venture. There is also a possibility local businesses may have an aversion to having a

54 sexually oriented business locating near them because of perception concerns and a desire not to want to see it.
55 From my standpoint, however, I believe the proposed regulation is reasonable.

56
57 Lydia Wegman: Does anyone have any further questions or concerns before we consider a motion?

58
59 Laura Nicholson: I just wanted to say that I think you all did a great job of including everyone's concerns from the
60 quarterly public hearing.

61
62 Patricia Roberts: I still have concerns with regulating such businesses, especially how it is listed in the amendment. I
63 feel that these regulations are strict.

64
65 Paul Guthrie: I don't feel as if this text amendment is substantiated from a legal standpoint.

66
67 Lydia Wegman: If there aren't any other questions let's move forward with our first motion.

68
69 **MOTION** made by Buddy Hartley to approve changes. Herman Staats seconded.

70 **VOTE:** 7 – 2 (Paul Guthrie and Patricia Roberts)

71
72 Lydia Wegman: Can you please state your reason for opposition?

73
74 Paul Guthrie: I disagree for the reason previously stated.

75
76 Patricia Roberts: I don't think we should be so heavily restricting sexually oriented businesses.

77
78 Lydia Wegman: Should we go around the room to see if there are any concerns making the recommendations to the
79 BOCC?

80
81 Maxecine Mitchell: I recommend it.

82
83 Patricia Roberts: I don't have any opposition I guess.

84
85 Andrea Rohrbacher: I recommend the changes to be adopted.

86
87 Herman Staats: I have no concerns.

88
89 James Lea: I have no concerns.

90
91 Paul Guthrie: I still have concerns about the legality.

92
93 Buddy Hartley: I am fine with everything, so I recommend it.

94
95 Laura Nicholson: I am generally in favor.

96
97 Lydia Wegman: I see no concerns. Do we have a motion?

98
99 **MOTION** made by Buddy Hartley to make the recommendations to BOCC. Seconded by Andrea Rohrbacher.

100 **VOTE:** 8-1 (Paul Guthrie)

101
102 Paul Guthrie: I am opposed for the same reasons previously explained.

103

**STATEMENT OF CONSISTENCY
OF PROPOSED UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT
WITH THE 2030 COMPREHENSIVE PLAN**

Orange County has initiated an amendment to the Unified Development Ordinance (UDO) to revise existing regulations governing the development of sexually oriented businesses.

The Planning Board finds:

- a. The requirements of Section 2.8 of the UDO have been deemed complete; and,
- b. Pursuant to Sections 1.1.5, and 1.1.7 of the UDO and to Section 153A-341 of the North Carolina General Statutes, the Board finds sufficient documentation within the record denoting that the amendment **is consistent** with the adopted 2030 Comprehensive Plan.
 1. The amendment is consistent with applicable plans because it supports the following 2030 Comprehensive Plan goals and objectives:
 - Land Use Goal 2: *Land uses that are appropriate to on-site environmental conditions and features, and that protect natural resources, cultural resources, and community character.*
 - Land Use Goal 3: *A variety of land uses that are coordinated within a program and pattern that limits sprawl, preserves community and rural character, minimizes land use conflicts, supported by an efficient and balanced transportation system.*
 - Land Use Goal 6: *A land use planning process that is transparent, fair, open, efficient, and responsive.*
- c. The amendment is reasonable and in the public interest because it:
 1. Establishes legally defensible, content neutral, regulations designed to mitigate the identified secondary impacts associated with sexually oriented businesses, including:
 - a. Studies referenced at the November 23, 2015 Quarterly Public Hearing found the clustering of sexually oriented businesses in a given area could attract an undesirable quantity and quality of transients adversely impacting property values, creating blight for adjacent properties, cause an increase in crime and encourage residents and businesses to move elsewhere.

These studies recommended the establishment of setback standards requiring sexually oriented businesses to be separated from identified sensitive uses.
 - b. Studies referenced at the November 23, 2015 Quarterly Public Hearing indicate that alcohol is identified as contributing factor in attracting an undesirable quantity and quality of transients adversely impacting property values, creating blight, and causing an increase in crime. Courts have found, most notably *Fay versus*

State Board of Alcoholic Control – NC Court of Appeals, local communities have the legal ability to restrict or prohibit the consumption/sale of alcohol.

- 2. Establishes uniform standards of development for sexually oriented businesses within the County.
- 3. Promotes public health, safety, and general welfare by furthering the goals and objectives of the 2030 Comprehensive Plan.

The Planning Board hereby recommends that the Orange County Board of County Commissioners consider adoption of the proposed UDO Text Amendments.


Lydia Wegman, Vice-Chair

12/2/15
Date

Attachment 5

**STATEMENT OF CONSISTENCY
OF PROPOSED UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT
WITH THE 2030 COMPREHENSIVE PLAN**

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The Board of County Commissioners finds:

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an increase in crime. Courts have found, most notably Fay versus State Board of Alcoholic Control – NC Court of Appeals, local communities have the legal ability to restrict or prohibit the consumption/sale of alcohol.

2. Establishes uniform standards of development for sexually oriented businesses within the County.
3. Promotes public health, safety, and general welfare by furthering the goals and objectives of the 2030 Comprehensive Plan.

The Board of County Commissioners hereby adopts this Statement of Consistency and findings expressed herein.

Earl McKee, Chair

Date

Ordinance #: ORD-2016-004

**AN ORDINANCE AMENDING
THE ORANGE COUNTY UNIFIED DEVELOPMENT ORDINANCE**

WHEREAS, Orange County has initiated amendment(s) to the Orange County Unified Development Ordinance in order to adopt regulations governing the location and development of sexually oriented businesses, and

WHEREAS, numerous studies, most notably:

- a. A 2013 study for Louisville Kentucky by Eric S. McCord and Richard Tewksbury; A 2011 study entitled *The ASSOCIATION of Adult Businesses with Secondary Effects: Legal Doctrine, Social Theory, and*
- b. *Empirical Evidence* authored by Alan C. Weinstein and Richard McCleary; and
- c. A 1996 report completed by the American Center for Law and Justice

have indicated sexually oriented businesses support detrimental activities (i.e. personal and property crimes, prostitution, drugs, etc.) within the vicinity of their operation(s) that are incompatible with activities occurring within residential areas, and have a negative impact on local businesses, and

WHEREAS, these same studies indicate there is evidence when sexually oriented businesses are located near each other and/or near businesses that serve alcohol, identified secondary impacts are increased, and

WHEREAS, A 2005 report completed by Duncan and Associates for Kenton and Campbell Counties in Kentucky, as well as the Northern Kentucky Area Planning Commission, found that: *A governmental body's key purpose in regulating sexually oriented businesses is to mitigate the negative secondary effects. One of the easiest ways is to ensure that the sexually oriented businesses are located away from the types of land uses on which they are most likely to have adverse secondary effects. Zoning is the classic tool for regulating the locations of various uses and for ensuring that uses that are incompatible are kept reasonably separate,* and

WHEREAS, the courts have consistently found local communities have the legal ability and interest in promoting stable neighborhoods through requiring setbacks and limiting the operational parameters of sexually oriented businesses to address identified secondary impacts, and

WHEREAS, the courts have found local communities have the legal ability to restrict or prohibit the consumption/sale of alcohol at sexually oriented businesses to address identified secondary impacts, and

WHEREAS, the County has determined the secondary effects of sexually oriented businesses have negative secondary impacts on the surrounding area, which will be addressed by the proposed regulations.

WHEREAS, the County has found the proposed text amendments to be reasonably necessary to promote public health, safety and general welfare and to achieve the purposes of the adopted Comprehensive Plan, and

WHEREAS, the requirements of Section 2.8 of the Unified Development Ordinance have been deemed complete, and

WHEREAS, pursuant to North Carolina General Statute 153A-341 and Section 1.1.7 of the Unified Development Ordinance, the Board of Commissioners of Orange County has found the proposed text amendments to be consistent with the goals and policies of the adopted Comprehensive Plan.

BE IT ORDAINED by the Board of Commissioners of Orange County that the Unified Development Ordinance of Orange County is hereby amended as depicted in the attached pages.

BE IT FURTHER ORDAINED that this ordinance be placed in the book of published ordinances and that this ordinance is effective upon its adoption.

Upon motion of Commissioner _____, seconded by Commissioner _____, the foregoing ordinance was adopted this _____ day of _____, 2016.

I, Donna S. Baker, Clerk to the Board of Commissioners for Orange County, DO HEREBY CERTIFY that the foregoing is a true copy of so much of the proceedings of said Board at a meeting held on _____, 2016 as relates in any way to the adoption of the foregoing and that said proceedings are recorded in the minutes of the said Board.

WITNESS my hand and the seal of said County, this _____ day of _____, 2016.

UDO AMENDMENT PACKET NOTES:

The following packet details staff's proposed modifications to existing regulations associated with the review and permitting of sexually oriented businesses.

As the number of affected pages/sections of the existing UDO are being modified with this proposal staff has divided the proposed amendments into the following color coded classifications:

- **Red Underlined Text**: Denotes new, proposed text, that staff is suggesting be added to the UDO
- **~~Red Strikethrough Text~~**: Denotes existing text that staff is proposing to delete
- **Green Bold Underlined Text**: Denotes new, proposed text, designed to address comments made at the November 23, 2015 Quarterly Public Hearing.

Staff has included footnotes within the amendment package to provide additional information/rationale concerning the proposed amendments to aid in your review.

Only those pages of the UDO impacted by the proposed modification(s) have been included within this packet. Some text on the following pages has a large "X" through it to denote that these sections are not part of the amendments under consideration. The text is shown only because in the full UDO it is on the same page as text proposed for amendment or footnotes from previous sections 'spill over' onto the included page. Text with a large "X" is not proposed for deletion.

Please note that the page numbers in this amendment packet may or may not necessarily correspond to the page numbers in the adopted UDO because adding text may shift all of the text/sections downward.

Users are reminded that these excerpts are part of a much larger document (the UDO) that regulates land use and development in Orange County. The full UDO is available online at: http://www.orangecountync.gov/departments/planning_and_inspections/UDO_MOST_CURRENT_updated_120915.pdf

TABLE OF PERMITTED USES – GENERAL USE ZONING DISTRICTS																					
* = PERMITTED USE A = CLASS A SPECIAL USE B = CLASS B SPECIAL USE Δ = SUBJECT TO SPECIAL STANDARDS																					
USE TYPE	GENERAL USE ZONING DISTRICTS																				
	RB	AR	R1	R2	R3	R4	R5	R8	R13	LC1	NC2	CC3	GC4	EC5	OI	AS	EI	I1	I2	I3	PID
~ Use may not be permitted as a Conditional Use District; See Section 5.1.4(E) ^ Allowed as more than one principal use if located on a bona fide farm (see Section 6.2.5)																					
Repair Service Electronic & Appliance										*	*	*	*								
Restaurants: Carry Out											*	*	*	*							
Restaurants: Drive In												*	*	*							
Restaurants: General											*	*	*	*							
Retail, Class 1										*	*	*	*	*							
Retail, Class 2											*	*	*	*							
Retail, Class 3												*	*								
Rural Guest Establishment: Bed & Breakfast ^	*	*	*																		
Rural Guest Establishment: Bed & Breakfast Inn ^		B	B																		
Rural Guest Establishment: Country Inn ^		A	A																		
Sexually Oriented Businesses¹																			*	*	
Storage of Goods, Outdoor ~														*				*	*	*	
Storage or Warehousing: Inside Building													*	*	*			*	*	*	
Studio (Art)										*	*	*	*	*				*	*	*	
Taxidermy ^		B								*	*	*	*					*			
Tourist Home					*	*	*	*	*						*						
Wholesale Trade ~												*	*	*	*			*	*	*	
Winery with Minor Events ^	B	B																B	B	B	
EXTRACTIVE USES																					
Extraction of Earth Products ~		A														A		A	A	A	

¹ Staff is recommending the uses be allowed in our medium and heavy industrial districts as a permitted use of property. This is due to the lack of identified sensitive uses (i.e. residential, schools, church, etc.) typically found in those areas of the County where large scale industrial/manufacturing operations are intended for development.

from adjacent residentially zoned property.

- (4) The site shall be located on a major road, as classified in the Orange County Comprehensive Plan, unless permitted as an ASE-CZ.
- (5) Parking shall not be located in the front yard space.
- (6) Application materials shall include a comprehensive groundwater study, for facilities expected to use more groundwater on an annual basis than an average single family residence (which uses 240 gallons of water per day) built at the highest density the existing zoning district would allow. For example, if the existing zoning district allows a residential density of 1 unit for 2 acres and the proposed use is on a six acre parcel (which could yield 3 residences), the proposed use(s) may use three times the water used by an average single family residence (or 720 gallons per day, on an annualized basis) before a comprehensive groundwater study is required. The water usage rates of any existing use subject to zoning regulations located on the same lot shall be taken into account when determining if a comprehensive groundwater study is required. Said study shall detail:
 - (a) The amount of water anticipated to be used on a daily, weekly, monthly, and annual basis by regulated uses located on the parcel (e.g., water usage by bona fide farm uses is not required to be included);
 - (b) An analysis of the amount of groundwater withdrawal considered to be safe and sustainable in the immediate vicinity; and
 - (c) An analysis of whether other wells in the vicinity of the proposed use are expected to be affected by withdrawals made by the proposed use.

5.6.15 Sexually Oriented Businesses

(A) Submittal Requirements

- (1) In addition to the site plan submittal criteria detailed within Section 2.5 of this Ordinance the applicant shall submit proof a license has been issued allowing for the operation of a sexually oriented business in accordance with Chapter 8² of the Orange County Code of Ordinances.**

(B) Standards of Evaluation

- (1) No sexually oriented business(es) shall be located in a building or on a premises where alcohol or alcoholic beverages are sold or in a building or on a premises that allows alcohol or alcoholic beverages to be consumed.**
- (2) Sexually oriented business(es) shall not be located in any building, or portion thereof, that is:**
 - (a) Within 1,000 feet of an existing sexually oriented business.**
 - (b) Within 1,000 feet of a:**
 - (i) Residential land use including any open space established as part of the residential subdivision approval process,**
 - (ii) Church and/or place of worship,**
 - (iii) School (public, private, or specialty),**
 - (iv) Public or private library,**
 - (v) State licensed child care facility, or**
 - (vi) Public park or recreational facility.**

² **Purple Bold Underlined text** added to address County Attorney's comment from staff agenda review held on January 20, 2016.

(c) Measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted to the nearest portion of a building, structure, or open space area of a use listed above.

SECTION 5.7: STANDARDS FOR RECREATIONAL USES

5.7.1 Recreational Facilities

(A) General Standards of Evaluation

- (1) The standards included herein shall be applied to the following for-profit recreational facilities:
 - (a) Tennis clubs,
 - (b) Swim clubs,
 - (c) Racquet ball,
 - (d) Squash clubs,
 - (e) Pitch and putt courses,
 - (f) Amusement areas,
 - (g) Bowling alleys,
 - (h) Skating rinks,
 - (i) Shooting ranges,
 - (j) Billiard and pool halls,
 - (k) Indoor athletic facilities and
 - (l) Other similar uses.
- (2) The minimum lot area shall be two acres.
- (3) No building shall be closer than the minimum requirements of the district or 20 feet to the public right of way or private property line, whichever is greater.

(B) Standards for Class B Special Use Permit

(1) Submittal Requirements

In addition to the information required by Section 2.7, the following information shall be supplied as part of the application for approval of this use:

- (a) A description of the exact type facility planned, the amount of area, including and number of members or participants expected, a site plan showing siting and size of existing and proposed building.
- (b) Access, parking, service and recreation areas for all planned facilities or existing facilities.
- (c) Plans, and elevation for all proposed and existing structures and descriptions of the color and nature of all exterior materials.
- (d) A landscape plan showing, at the same scale as the site plan, existing and proposed trees, shrubs, ground cover and any other landscape materials.

ARTICLE 8: NONCONFORMITIES

SECTION 8.1: INTENT

8.1.1 Generally

Non-conforming uses shall not be enlarged, expanded, intensified, or altered, except in conformance with this Ordinance.

It is further the intent of this Ordinance that non-conformity shall not be used as grounds for adding other prohibited uses or structures, nor the enlarging by means of extension or expansion, except as specifically provided by this Ordinance.

In the case of requirements related to external factors, such as distance requirements from other specified uses or landscaping requirements dependent upon adjacent property use, the subject parcel shall be considered conforming so long as its continuous use was established first.³

SECTION 8.2: CLASSIFICATION

Non-conformities are classified as:

- (A) Lots (see Section 8.7);
- (B) Uses of land without structures or minor structures (see Section 8.8);
- (C) Uses of major structures and premises (see Section 8.9);
- (D) Structures (see Section 8.10); and/or
- (E) Characteristics of uses (see Section 8.11)

which were lawful but would be prohibited, regulated, or restricted by the enactment of this Ordinance or a subsequent amendment thereto.

SECTION 8.3: COMPLETION OF NON-CONFORMING PROJECTS

8.3.1 Valid Permit Issued

All non-conforming projects on which construction was begun at least 180 days before the effective date of this Ordinance, or any modification thereto, as well as all non-conforming projects that are at least 25% completed in terms of the total expected cost of the project on the effective date of this Ordinance, or any modification thereto, may be completed in accordance with the terms of their permits, so long as these permits were validly issued and remain unrevoked and unexpired. If a development is designed to be completed in stages, this subsection shall only apply to the particular phase under construction.

- (A) Except as provided this Section, all work on any non-conforming project shall cease on the effective date of this Ordinance, or any modification thereto, and all permits previously issued for work on non-conforming projects shall be revoked as of that date. Thereafter, work on non-conforming projects may begin or may be continued only pursuant to a zoning or special use permit issued in accordance with this Ordinance by the Planning Director or board authorized to issue permits for the type of development proposed. The county shall issue such a permit if it finds that the applicant has in good faith made substantial expenditures or incurred substantial binding obligations in some substantial way in reasonable reliance on conditions as they existed before the effective date of this Ordinance, or any modification thereto, and thereby would be unreasonably prejudiced if not allowed to complete the project as proposed. In considering whether these findings may be made, the Planning Director or appropriate board shall be guided by the following:

³ Language added to address situations where legal land uses are made nonconforming by external forces. By adding the language the land use will still be considered a legal, conforming, use of property.

ARTICLE 10: DEFINITIONS

SECTION 10.1: DEFINITIONS

For the purpose of this Ordinance, certain terms and words are herein defined and interpreted as follows:

AASHTO

American Association of State Highway and Transportation Officials.

Accessory Structure

A structure that is located on the same lot as a principal structure and houses an accessory use.

Accessory Use

An activity that may or may not be listed in the Permitted Use Table, which is conducted in conjunction with a permitted principal use, but constitutes only an incidental or insubstantial part of the total activity that takes place on the lot and is customary and ancillary to the established principal use of property. Accessory uses shall comply with all setback requirements for the district in which the use is located. For example, an in-ground swimming pool is required to meet all applicable setbacks including any required fencing around the physical pool, the concrete walkway around the pool, and any pump or utilities associated with the operation of the facility.

Adult Uses

~~An establishment which has a majority of its business which excludes minors by reason of age because of the sexually explicit nature of the material. Such establishments include, but are not limited to, adult bookstores, adult theaters (drive-in, picture and mini-picture), adult cabaret, etc.~~

Adult Arcade

~~Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of Specified Sexual Activities or Specified Anatomical Areas.~~

Adult Bookstore

A bookstore:

- ~~(a) Which receives a majority of its gross income during any calendar month from the sale or rental of publications (including books, magazines, other periodicals, videotapes, compact discs, other photographic, electronic, magnetic, digital, or other imaging medium) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas, as defined in this article; or~~
- ~~(b) Having as a preponderance (either in terms of the weight and importance of the material or in terms of greater volume of materials) of its publications (including books, magazines, other periodicals, videotapes, compact discs, other photographic, electronic, magnetic, digital, or other imaging medium) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.~~

Adult Cabaret

~~A nightclub, bar, restaurant, theater, concert hall, auditorium or similar commercial establishment that for at least ten percent of its business hours in any day features:~~

- ~~(a) Persons who **expose a Specified Anatomical Area**; or~~
- ~~(b) Live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities; or~~

- (c) Films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or
- (d) Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

Adult Escort

A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person for the purpose of participating in, engaging in, providing, or facilitating Specified Sexual Activities.

Adult Escort Agency

A person or business that furnishes, offers to furnish, or advertises to furnish adult escorts as one of its business purposes for a fee, tip, or other consideration.

Adult Merchandise

Any product dealing in or with explicitly sexual material as characterized by matter depicting, describing, or relating to Specified Sexual activities or Specified Anatomical Areas.

Adult Motel

A hotel, motel or similar commercial establishment that offers accommodation to the public for any form of consideration and:

- (a) Provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; and has a sign visible from the public rights-of-way that advertises the availability of this adult type of photographic reproductions; or
- (b) Offers a sleeping room for rent for a period of time that is less than six hours; or
- (c) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than twelve hours.

Adult Patron

Any person who is physically present on the premises of a sexually oriented business and who is not an owner, employee, agent, subcontractor, or independent contractor of said business, or any entertainer or performer at said business.

Adult Video Store

A commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video tapes or cassettes, video reproductions, CD-ROMs, slides, or other visual representations which depict or describe Specified Sexual Activities or Specified Anatomical Areas; or any combination thereof.

Agricultural Processing Facility, Community

~~A facility utilized for the processing of produce and/or other commodities produced by no more than 5 cooperative farm partners for the consumption of others (e.g. small canning operation); Activities shall include, but may not be limited to, canning, dehydrations, washing, cutting or basic preparation of raw produce but does not include processing of live animals (see Meat Processing Facility). May include accessory retail sales of products processed on-site.~~

Agricultural Processing Facility

~~A facility utilized for the processing and packaging of produce and/or other commodities for transport to off-site wholesale or retail establishments. Facilities may be utilized by farm-based producers, restaurateurs, caterers, food entrepreneurs, and the like. Activities shall include, but may not be limited to, canning, dehydrations, washing, cutting or basic preparation of raw produce prior to shipment but does~~

customary accessories, ornaments, furniture and landscaping shall be permitted in any setback if they do not constitute substantial impediments to free flow of light and air across the setback or violate provisions of these or other regulations regarding visibility.

Sexually Oriented Devices

Any artificial or simulated Specified Anatomical Area or other device or paraphernalia that is designed principally for Specified Sexual Activities but shall not mean any contraceptive device.

Sexually Oriented Business

A business which offers its customers or adult patrons any device, activity or demonstration depicting Specified Sexual Activities , or which is intended to appeal to sexual interests, titillation or arousal of the customer or adult patron. A sexually oriented business shall include an adult establishment as in NCGS § 14-202.10(2) and, in addition, without limitation shall include: Adult Arcade, Adult Bookstore, Adult Video Store, Adult Cabaret, Adult Motel, and Adult Escort Agency.

Sign

Any letter, figure, character, mark, plane, point, marquee, design, poster, pictorial, picture, stroke, stripe, line, trademark, reading matter, or illuminated surface which is constructed, placed, attached, painted, erected, fastened or manufactured in any manner so that the same shall be used for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine, or merchandise, which are displayed in any manner, including out-of-doors.

Sign, Abandoned

A sign for which no legal owner can be found or any sign face or sign structure that advertises a business not conducted on the premises for over 90 days. In making the determination that a sign advertises a business no longer being conducted, the Planning Director shall consider the following: the existence or absence of a current occupational license, utility service deposit, or account, use of the premises; and relocation of the business.

Abandoned Sign shall also include the following:

- a) Through age and/or obsolescence a sign that no longer conforms to structural or maintenance specifications of Section 6.12, or
- b) Any pole, pylon, or structure expressly installed for the purpose of affixing a sign that bears no sign or copy.

Sign, Advertiser

Any person who is a lessee or owner of a sign, an agent of same, or anyone that has beneficial use of a sign.

Sign, Advertising Display Area

The advertising display surface area encompassed within any polygon that would enclose all parts of the sign. The structural supports for a sign, whether, they be columns, pylons, or a building, or a part thereof, shall not be included in the advertising area. Also known as Sign Area.

- An example of how advertising display area or sign area is calculated is as follows:

Special Event

A commercial activity attracting at least 20 people at any given time, that typically does not involve permanent structures, and does not occur more frequently than seven days in a 30-day period or more than 50 days per year. Examples of special events are craft shows, small festivals, concerts, medical or veterinary clinics, and sites operated by businesses engaged in hosting outdoor social events such as picnics or receptions sponsored by a restaurant or caterer.

Activities which are not included in this definition include:

- a) Events of a personal or non-profit, nature such as family reunions and church activities;
- b) Farm-related or rural events such as horse shows, 4-H events and auctions; and
- c) Fund-raising events for non-profit organizations.

Special Flood Hazard Area (SFHA)

The land in the floodplain subject to a 1% or greater chance of being flooded in any given year as determined in Section 4.3 of this Ordinance, as defined by the base flood elevation. The mapped special flood hazard area approximates the base flood elevation.

Special Flood Hazard Area Overlay District

An overlay district establishing standards for development for properties within identified floodplains.

Special-Purpose Unit of Government

Any special district or public authority.

Special Use

A use which would not be appropriate generally throughout the zoning district or without special study, but which, if controlled as to number, area, location or relation to neighborhood, would be appropriate. Such uses which are listed as Special Uses in the Permitted Use Table, Section 5.2, may be installed and operated only after approval by the Board of Commissioners or by the Board of Adjustment, as appropriate, subject to the general and specific standards.

Specified Anatomical Areas

- (a) Less than completely and opaquely covered human: (i) genitals, pubic region, (ii) buttocks, or (iii) female breast below a point immediately above the top of the areola; or
- (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities

- (a) Human genitals in a state of sexual stimulation or arousal;
- (b) Acts of human masturbation, sexual intercourse or sodomy; or
- (c) Fondling or other erotic touchings of human genitals, pubic regions, buttocks or female-breasts.

Start of Construction

Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

State Agency

Every department, agency, institution, public authority, board, commission, bureau, division, council, member of Council of State, or officer of the State government of the State of North Carolina.

**ORANGE COUNTY
BOARD OF COMMISSIONERS
ACTION AGENDA ITEM ABSTRACT**
Meeting Date: February 2, 2016

**Action Agenda
Item No.** 5-c

SUBJECT: Unified Development Ordinance Text Amendment – Display of Vehicles at Motor Vehicle Sales/Rental Land Uses - Closure of Public Hearing and Action (No Additional Comments Accepted)

DEPARTMENT: Planning and Inspections

PUBLIC HEARING: (Y/N)

Yes

ATTACHMENT(S):

1. Comprehensive Plan and Unified Development Ordinance Outline Form – Display of Vehicles at Motor Vehicle Sales/Rental Land Uses (UDO/Zoning 2015-06)
2. Excerpt of DRAFT November 23, 2015 Quarterly Public Hearing Minutes
3. Excerpt of Approved December 2, 2015 Planning Board Minutes
4. Planning Board Approved Statement of Consistency
5. Statement of Consistency
6. Proposed UDO Text Amendment(s)

INFORMATION CONTACT:

Michael Harvey, Planning, (919) 245-2578
Craig Benedict, Planning, (919) 245-2592

PURPOSE: To receive the Planning Board recommendation, close the public hearing, and make a decision on text amendments to the Unified Development Ordinance (UDO) initiated by the Planning Director to adopt regulations regarding the display of vehicles at motor vehicle sales/rental businesses.

BACKGROUND: This item was presented at the November 23, 2015 Quarterly Public Hearing (materials available at: http://www.orangecountync.gov/document_center/BOCCAgendaMinutes/151123.pdf). An excerpt of draft minutes from this meeting is contained in Attachment 2.

As indicated during the hearing, there has been an increase in the number of automotive sale/rental business operating within the County and staff has begun receiving complaints related to the storage and display of vehicles (i.e. too many cars being displayed, parking over septic fields, parking in required buffer areas, parking in public road rights-of-way, etc.).

Currently, the County limits only the total number of cars that can be parked and/or displayed for an automotive sales business located within the Neighborhood Commercial (NC-2) general use zoning district. Staff is proposing to develop comprehensive regulations designed to limit the overcrowding of automotive sales operations within all general use zoning districts where such land uses are permitted.

For additional background information please refer to Section B.1 of Attachment 1. Please refer to Section C.1 of Attachment 1 for a synopsis of additional comments made at the public hearing.

Procedural Information: In accordance with Section 2.8.8 of the UDO, as it was in effect at the time this amendment was initiated, any evidence not presented at the public hearing must be submitted in writing prior to the Planning Board's recommendation. Additional oral evidence may be considered by the Planning Board only if it is for the purpose of presenting information also submitted in writing. The public hearing is held open to a date certain for the purpose of the BOCC receiving the Planning Board's recommendation and any submitted written comments.

Planning Director's Recommendation: The Planning Director recommends **approval** of proposed text amendment and further recommends approval of the:

- i. Statement of Consistency, as contained in Attachment 5, indicating the proposed text amendment is consistent with the adopted Comprehensive Plan, is reasonable, and in the public interest, and
- ii. The text amendment as contained in Attachment 6.

Planning Board Recommendation: At its December 2, 2015 meeting, the Board voted 8 to 1 to recommend **approval** of the Statement of Consistency. The Planning Board's signed Statement of Consistency is included within Attachment 4.

The Planning Board voted 8 to 1 to recommend **approval** of the proposed amendment package as contained within Attachment 6.

An excerpt of approved minutes from the December 2, 2015 Planning Board meeting are contained within Attachment 3.

FINANCIAL IMPACT: Please refer to Section C.3 of Attachment 1.

SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goals is applicable to this agenda item:

GOAL: ESTABLISH SUSTAINABLE AND EQUITABLE LAND-USE AND ENVIRONMENTAL POLICIES

The fair treatment and meaningful involvement of people of all races, cultures, incomes and educational levels with respect to the development and enforcement of environmental laws, regulations, policies, and decisions. Fair treatment means that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies.

RECOMMENDATION(S): The Manager recommends that the Board:

1. Receive the Planning Board's recommendation;
2. Close the public hearing;
3. Deliberate as necessary on the proposed amendments; and
4. Decide accordingly and/or adopt the Statement of Consistency, contained within Attachment 5 and the Ordinance amending the UDO contained within Attachment 6 as recommended by the Planning Board and staff.

COMPREHENSIVE PLAN / FUTURE LAND USE MAP AND UNIFIED DEVELOPMENT ORDINANCE (UDO) AMENDMENT OUTLINE

UDO / Zoning-2015-06

Amendment(s) establishing regulations for automotive sales and rental business
addressing the display and advertising of cars for sale

A. AMENDMENT TYPE

Map Amendments

- Comprehensive Plan – Future Land Use Element Map:
From: - - -
To: - - -
- Zoning Map:
From: - - -
To: - - -
- Other:

Text Amendments

- Comprehensive Plan Text:
Section(s):
- UDO Text:
 - UDO General Text Changes
 - UDO Development Standards
 - UDO Development Approval Processes
 Section(s):

1. 5.2.1 *Table of Permitted Uses*, and

2. 5.15 *Standards for Automotive/Transportation Related Uses*
- Other:

B. RATIONALE

1. Purpose/Mission

In accordance with the provisions of Section 2.8 *Zoning Atlas and Unified Development Ordinance Amendments* of the UDO, the Planning Director has

initiated a text amendment to establish regulations governing the development and operation of automotive sales.

Staff has seen an increase in the number of automotive sale business operating within the County and has begun receiving complaints related to the storage and display of vehicles being offered for sale, specifically too many cars being placed on a parcel of property blocking or impeding access for both customers and emergency vehicles. In certain instances, cars have been parked in required land use buffer areas killing required landscaping or have been encroaching into adjacent rights-of-way creating additional enforcement problems.

Staff is proposing to develop comprehensive regulations designed to limit the overcrowding of automotive sales operations within all general use zoning districts where such land uses are permitted.

2. Analysis

As required under Section 2.8.5 of the UDO, the Planning Director is required to: *'cause an analysis to be made of the application and, based upon that analysis, prepare a recommendation for consideration by the Planning Board and the Board of County Commissioners'*.

Automotive sales are allowed in the following general use zoning districts as a permitted use (i.e. administrative approval) of property:

1. Neighborhood Commercial (NC-2) with special standards;
2. General Commercial (GC-4);
3. Existing Commercial (EC-5);
4. Existing Industrial (EI);
5. Light Industrial (I-1);
6. Medium Industrial (I-2);
7. Heavy Industrial (I-3);
8. Economic Development Eno High Intensity (EDE-2); and
9. Master Planned Development Conditional Zoning (MPD-CZ) district.

This use is also permitted within the Economic Development Buckhorn Low and High Intensity (EDB-1 and EDB-2) districts with the review and approval of a Conditional Use (i.e. a rezoning and Class A Special Use Permit) application by the BOCC.

Currently, the County limits only the total number of cars that can be parked and/or displayed for an automotive sales business located within the Neighborhood Commercial (NC-2) general use zoning district. It should be noted that staff has an active code enforcement case against an existing business along Highway 70 within the Cheeks Township.

The amendments are necessary to address congestion at automotive sales operations due to too many vehicles being displayed for sale.

3. Comprehensive Plan Linkage (i.e. Principles, Goals and Objectives)

Land Use Goal 2: Land uses that are appropriate to on-site environmental conditions and features and that protect natural resources, cultural resources, and community character.

Land Use Goal 4: Land development regulations, guidelines, techniques and/or incentives that promote the integrated achievement of all Comprehensive Plan goals.

4. New Statutes and Rules

N/A

C. PROCESS

1. TIMEFRAME/MILESTONES/DEADLINES

a. BOCC Authorization to Proceed

May 5, 2015

b. Quarterly Public Hearing

November 23, 2015

c. BOCC Updates/Checkpoints

May 5, 2015 – Approval of UDO Amendment Outline Form

September 2, 2015 – Planning Board Ordinance Review Committee (ORC)

November 23, 2015 – Quarterly Public Hearing

This item was reviewed at the November 23, 2015 Quarterly Public Hearing where the following comments were made:

- A BOCC member indicated he believed the proposed limit for vehicles displayed within the NC-2, EC-5, and E-1 zoning districts was too low and should be increased.

STAFF COMMENT: Staff has revised the proposed amendment to allow for the display of 32 vehicles on motor vehicle sales/rental businesses within the NC-2, EC-5, and EI general use zoning districts. The original amendment proposed a limit of 25 vehicles in these districts.

- A Planning Board member asked how this amendment would address the storage of vehicles off-site.

STAFF COMMENT: This amendment would not address or impact vehicles being stored on another property or prohibit same. Such storage would be treated as a separate, independent, land use and have to be permitted in accordance with the provisions of the UDO.

- A BOCC member asked what the impetus was for the proposed text amendment.

STAFF COMMENT: The current limit only applies to motor vehicle sales/rental operations located within the NC-2 zoning district. This limit was established consistent with a petition filled by a property owner and acted

upon by the County in 2012.

Since that time staff has seen an increase in the number of vehicles stored at other operations not bound by the 12 vehicle display limit. This has created access management/parking problems at these sites.

Staff determined the limit was too restrictive and saw an opportunity to recommend a modest increase and at the same time extend the regulation to apply to all similar operations in other general use zoning districts. This would address an equity concern staff has had with respect to ensuring all motor vehicle sales/rental operations are treated the same.

- A BOCC member asked if vehicles stored on the property, and screened from view, would be counted as part of the display limit.

STAFF COMMENT: They would not be counted unless parked within the designated vehicle display area for the property. Staff is providing an option allowing for the storage of vehicles not intended or ready for sale/rental on-site.

February 2, 2016 – Receive Planning Board Recommendation

d. Other

N/A

2. PUBLIC INVOLVEMENT PROGRAM

Mission/Scope: Public Hearing process consistent with NC State Statutes and Orange County ordinance requirements

a. Planning Board Review:

September 2, 2015 – Ordinance Review Committee

The ORC met and reviewed this item at its September 2, 2015 meeting where the following comments were made:

- A Board member asked how prevalent the problem is.

STAFF COMMENT: We have approximately 5 motor vehicle sales businesses within the County where we have problems with vehicles being stored and displayed throughout the property. The problem this creates is that required land use buffers, customer parking areas, and septic fields are being used to support the display of motor vehicles.

The proposed amendment is designed to assist staff in establishing a methodology to delineate allowable vehicle display areas on properties used to support motor vehicles sales/rental.

- A Board member asked how staff came up with the recommended vehicle limits.

STAFF COMMENT: The typical display area for a vehicle is 288 sq. ft., which includes the required parking area for said vehicle and the portion of drive isle allowing access.

Staff then identified the acceptable levels of intensity for the various base zoning districts with respect to the display of motor vehicle sales/rental.

Ultimately the recommended numbers were designed to allow for approximately 20% of the property to be used in support of motor vehicle display allowing for the remaining area to satisfy setback, office, customer parking, and required land use buffer development.

- Several Board members asked if the proposed text amendment will impact allowable impervious surface area on a given parcel.

STAFF COMMENT: Development of such land uses will have to comply with applicable impervious surface limits based on the Watershed Protection Overlay District where the property is located.

- A Board member asked is staff could quantify the number of motor vehicle sales/rental businesses operating in the County and if pictures of the vehicle display issues could be provided.

STAFF COMMENT: Staff will provide this material at the November 23, 2015 Quarterly Public Hearing.

The ORC materials are available at: http://www.orangecountync.gov/ORC_Sep_2015_Agenda_Package.pdf. Meeting notes can be viewed by utilizing the following link: http://www.orangecountync.gov/9_2_15_ORC_Notes.pdf.

December 2, 2015 – The Planning Board reviewed this item at its December 2, 2015 meeting where the following comments/questions were made:

- A Board member asked staff to clarify why this had become a concern.

STAFF COMMENT: The County has been receiving complaints related to the storage and display of vehicles being offered for sale, specifically too many cars being placed on a parcel of property blocking or impeding access for both customers and emergency vehicles.

Existing regulations impact development of such businesses only within the NC-2 general use zoning district.

Staff believes existing display limits ought to be clarified and increased, as proposed, and extended to cover all such operations throughout the County rather than just impact their development within a single general use zoning district.

- A Board member indicated they did not think the allowed numbers of display vehicles were enough.

STAFF COMMENT: Staff believes the revised proposal increasing the number of vehicles that can be displayed for sale or rent from 25 to 32 for such businesses located within the NC-2, EC-5, and E-I general use zoning districts address concerns expressed at the public hearing.

- A Board member asked how staff developed the proposed limits.

STAFF COMMENT: The recommended limit was based on a

determination by staff that it was appropriate to allow for approximately 20% of a parcel of property to be used in support of motor vehicle display. This allows for the remaining land area to satisfy office/building development, septic area (where required), customer parking area, required land use buffer development, and incidental storage in support of the proposed land use.

- A Board member asked if this amendment would limit the ability of a motor vehicle sales business to store vehicles off-site.

STAFF COMMENT: The proposed amendment would not impact the ability of a motor vehicle sales/rental operation from storing vehicles on another property or prohibit same. Such storage would be treated as a separate, independent, land use and would have to be permitted in accordance with the provisions of the UDO.

- Several Board members indicated they believed the revised vehicle display limit was reasonable.
- A Board member asked if there was a time limit with respect to how long someone could have a car displayed for sale.

STAFF COMMENT: There are no regulations establishing a time limit.

The Board voted 8 to 1 to recommend approval of the amendment package as contained within Attachment 6.

b. Advisory Boards:

N/A

c. Local Government Review:

N/A

d. Notice Requirements

Legal advertisement was published on November 11 and 18, 2015 in accordance with the provisions of the UDO.

e. Outreach:

- General Public: Consistent with NC State General Statutes and Orange County Ordinance requirements.
- Small Area Plan Workgroup:
- Other:

3. FISCAL IMPACT

Consideration and approval will not create the need for additional funding for the provision of County services. Costs for the required legal advertisement will be paid

from FY2015-16 Departmental funds budgeted for this purpose. Existing Planning staff included in the Departmental staffing budget will accomplish the work required to process this amendment.

D. AMENDMENT IMPLICATIONS

The amendment will establish comprehensive regulations governing the number and placement of vehicles being offered for sale at an automotive sales operation in an effort to address overcrowding concerns and eliminate impediments to vehicular ingress/egress from the property.

E. SPECIFIC AMENDMENT LANGUAGE

Please refer to Attachment 6.

Primary Staff Contact:

Michael D. Harvey

Planning

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mharvey@orangecountync.gov

1 **DRAFT**

2 **MINUTES**
3 **ORANGE COUNTY BOARD OF COMMISSIONERS**
4 **QUARTERLY PUBLIC HEARING**
5 **November 23, 2015**
6 **7:00 P.M.**

7 The Orange County Board of Commissioners met with the Orange County Planning Board for a
8 Quarterly Public Hearing on November 23, 2015 at 7:00 p.m. at the Whitted Building, in
9 Hillsborough, N.C.

10
11 **COUNTY COMMISSIONERS PRESENT:** Chair Earl McKee and Commissioners Barry Jacobs,
12 Mia Burroughs, Mark Dorosin, Bernadette Pelissier and Penny Rich

13 **COUNTY COMMISSIONERS ABSENT:** Renee Price

14 **COUNTY ATTORNEY PRESENT:** John Roberts and James Bryan (Staff Attorney)

15 **COUNTY STAFF PRESENT:** County Manager Bonnie Hammersley and Deputy Clerk to the
16 Board David Hunt (All other staff members will be identified appropriately below)

17 **PLANNING BOARD MEMBERS PRESENT:** Vice Chair Lydia Wegman and Planning Board
18 members, Herman Staats, Paul Guthrie, Laura Nicholson, Andrea Rohrbacher and H.T. "Buddy"
19 Hartley

20 **PLANNING BOARD MEMBERS ABSENT:** Tony Blake, James Lea, Maxecine Mitchell, Patricia
21 Roberts and Lisa Stuckey

22
23 Chair McKee called the meeting to order at 7:12 p.m.

24
25 **2. Unified Development Ordinance (UDO) Text Amendment** - To review
26 government-initiated amendments to the text of the UDO regarding car sales and
27 rental operations.

28
29 Michael Harvey reminded the Board that this is the last item that will be heard under the
30 joint public hearing process. He said the UDO was amended, beginning January 1, 2016, and
31 items will begin in Planning Board Meeting. He said this is the last meeting where an item will
32 be referred to the Planning Board.

33 Michael Harvey noted that page 27 of the abstract provides a background; pages 32
34 through the 37 show some examples of existing automotive businesses; and page 38 shows the
35 proposed text amendment.

36
37 **BACKGROUND:**

38 Staff has seen an increase in the number of automotive sale/rental business operating
39 within the County and has begun receiving complaints related to the storage and display of
40 vehicles (i.e. too many cars being displayed, parking over septic fields, parking in required
41 buffer areas, parking in public road rights-of-way, etc.). Currently, the County limits only the total
42 number of cars that can be parked and/or displayed for an automotive sales business located
43 within the Neighborhood Commercial (NC-2) general use zoning district.

44 Staff is proposing to develop comprehensive regulations designed to limit the
45 overcrowding of automotive sales operations within all general use zoning districts where such
46 land uses are permitted. Staff has also provided pictures of existing motor vehicles sales/rental
47 businesses in Attachment 2 to assist in illustrating the concern(s).

48
49 Michael Harvey made the following PowerPoint presentation:

50
51 **November 23, 2015**

1 **Agenda Item: C-2**
 2 **Public Hearing-Unified Development Ordinance (UDO) Text Amendment**
 3 **Display of Vehicles at Motor Vehicle Sales/rental Land Uses**
 4 **Orange County Planning Department**

5
 6 **Background**

- 7 • 2012 text amendment petition by local property owner limited display of cars to 12 within
- 8 Neighborhood Commercial (NC-2) district,
- 9 • Staff has seen an increase in number of vehicles stored on sites throughout County,
- 10 • Believe there is room to increase number of allowable cars and require property
- 11 owner/applicant to definitively delineate car display areas on a site plan to avoid
- 12 confusion.

13
 14 **Proposal:**

- 15 • Amend the UDO to base number of vehicles stored on property on acreage.
- 16 – Staff is recommending a limit of 25 cars per acre for property zoned Nc-2, EC-5,
- 17 E-I to address exiting issues.
- 18 – Staff is recommending a limit of 45 cars per acre for property in urbanizing areas.
- 19 • Require mandatory designation of vehicle display area, and
- 20 • Allow for incidental storage of additional vehicles so long as they are screened from
- 21 view.

22
 23 **Example (aerial photo)**

24
 25 **Staff Findings:**

- 26 • Proposed amendments will create a distinction between vehicles displayed for sale and
- 27 stored for other purposes,
- 28 • Will help to address existing congestion at automotive sales operations,
- 29 • The proposal will create a necessary distinction between automotive sales/rental
- 30 businesses within urban and non-urban areas of the County, and
- 31 • Firms up language requiring display/storage areas to be properly delineated and
- 32 screened.

33
 34 **Recommendation:**

35 Recommendation(s): The Planning Director recommends that the Board:

- 36 1. Receive the request,
- 37 2. Conduct the Public Hearing and accept public, BOCC, and Planning Board
- 38 comments.
- 39 3. Refer the matter to the Planning Board with a request that a recommendation be
- 40 returned to the BOCC in time for its February 2, 2016 regular meeting.
- 41 4. Adjourn the public hearing until February 2, 2016 in order to receive and accept
- 42 the Planning Board's recommendation and any submitted written comments.

43
 44 Commissioner Dorosin referred to the aerial photo and asked if Michael Harvey could
 45 please explain the difference between the shaded areas, the not shaded areas, and the red
 46 area.

47 Michael Harvey said the aerial photo is of an existing site which attempts to show what
 48 would be allowable. He said the shaded area would allow for the display of cars, the un-shaded
 49 area would be for parking, and the red area would be where cars could be stored.

50 Commissioner Dorosin asked if the road could be pointed out in the photo.

51 Michael Harvey did so.

1 Michael Harvey said this photo is just a snap shot in time and there may be several
2 options that could meet the requirements. He said the black line on the photo does not indicate
3 a set back.

4 Commissioner Dorosin asked if the cars in the red area would count towards the 25-car
5 limit.

6 Michael Harvey said no.

7 Commissioner Rich said the image on page 32 looks like a lot more than 25 cars.

8 Michael Harvey said yes that is significantly more than 25 cars, which would not be
9 allowed under the proposed text amendment.

10 Michael Harvey said the only zoning district that has a limit on the number of cars that
11 can be displayed is the neighborhood commercial district. He said the example on page 32 is
12 currently acceptable and the proposed amendment would seek to avoid such examples.

13 Commissioner Rich asked if the proprietor of the site shown on page 32 knows about the
14 proposed amendment.

15 Michael Harvey said yes.

16 Chair McKee asked if there is a reason that the limit of land covered by vehicles is set at
17 20 percent. He said it would make more sense to him to have five car lots with 30 or 40 percent
18 coverage, rather than 15 car lots with 20 percent coverage. He said if there is a demand for a
19 certain number of cars, the need could be met by increasing the number of lots or increasing the
20 density on a smaller number of lots.

21 Michael Harvey said there must be a distinction between zoning designations in the
22 predominantly rural areas of the County versus the predominantly urban areas. He noted that
23 45 cars per acre are permitted in the economic development districts in the general commercial
24 district. He said the proposed amendment is a compromise.

25 Chair McKee said there should be equity between the lots. He referred to the two
26 examples in the packet and said it would seem more reasonable to allow a bit more density in
27 the number of vehicles rather than forcing the owner to go through what he would assume is a
28 Class A special use permit process to change a business to a commercial zone.

29 Michael Harvey said a number limit had to be chosen and if the Board would like to see
30 a higher number, it should direct staff and the Planning Board accordingly.

31 Chair McKee asked if there is an existing commercial property designation.

32 Michael Harvey said yes and would require going through the rezoning process.

33 Chair McKee said this is to what he was referring.

34 Michael Harvey said this would require a property owner to petition for a legislative
35 hearing asking the Board to rezone their property as general commercial.

36 Commissioner Burroughs asked if there are challenges that exist with the lots having
37 excess cars, such as emergency vehicle access or parking cars over septic tanks.

38 Michael Harvey said concerns include access, use of required parking spaces for the
39 display of vehicles, adequate buffering and open space, quantity of impervious surfaces, etc.
40 He said it is a balancing act between allowing a business to flourish and insuring that there is
41 adequate area to support the business.

42 Commissioner Burroughs said the question is to find the right number of vehicles.

43 Michael Harvey said it is more about finding the right percentage of land usage for cars
44 that can allow for the business to safely operate.

45 Chair McKee referred to one of the properties in the PowerPoint presentation and asked
46 if the storage area would be screened.

47 Michael Harvey said yes. He said the cars in the screened area would be those that are
48 not yet ready for sale and would allow them to be screened from view.

49 Chair McKee said he accepted the rationale for the screening but does not necessarily
50 agree with it.

1 Michael Harvey said the goal of the screened area is to provide a space for vehicles that
2 are not counted in the number of allowable allotment of vehicles displayed for sale per site.

3 Commissioner Rich asked if the building on page 36 is a person's home.

4 Michael Harvey said no, it is a commercial business with a residential property next
5 door.

6 Commissioner Dorosin asked if the idea behind this text amendment is that it is currently
7 too difficult to enforce the existing rules to keep people from parking in the right of way or
8 encroaching on neighboring properties.

9 Michael Harvey said no, the problem is two-fold: the first issue is that there is a feeling
10 that the 12-vehicle limit is too arduous; the second issue is to determine what number of
11 vehicles is acceptable. He said staff picked a number that it deemed reasonable which could be
12 more or less. He said a middle ground is being sought. He said it is also important to insure
13 some level of equity across zoning districts.

14 Commissioner Dorosin asked if a complaint came in regarding the number of cars in an
15 area, where there is currently no regulation on the number of cars, is there an enforcement
16 mechanism by which the County can go out and address the concern.

17 Michael Harvey said yes.

18 Commissioner Dorosin asked if this is being done.

19 Michael Harvey said yes.

20 Commissioner Dorosin asked if it would be easier to have no vehicle limits across the
21 board and simply respond to concerns as they arise.

22 Michael Harvey said easy is a loaded word. He said this idea would help address the
23 equity issue and would be viewed as more reasonable. He said allowing a storage area for
24 vehicles, not included in the permitted amount of vehicles, would also help. He said he feels the
25 Board suggesting that the limit of 25 vehicles may not be viable.

26 Commissioner Dorosin said he is not so interested in the right number but rather
27 understanding the connection between the harms that are seeking to be addressed and this
28 means of addressing them.

29 Commissioner Dorosin asked if these regulations would only apply to commercial
30 businesses. He asked if he were to fix cars at his home, as a side business, would he be
31 subject to these regulations.

32 Michael Harvey said no he would not be subject to these regulations, with one caveat:
33 he said the goal is not to prevent people from selling a car, but there are prohibitions in the UDO
34 that prohibit one from engaging in an automotive repair business from one's property. Thus
35 working on one's own car is not an issue and selling a car on one's property is not an issue but
36 having 30 or 40 cars puts you into a questionably commercial establishment.

37 Commissioner Rich asked if there is currently a limit to the number of vehicles that may
38 be at one household.

39 Michael Harvey said no and the only prohibition is that junked vehicles cannot be stored
40 on one's property.

41 Commissioner Rich asked if one could have 10 cars parked in one's front yard.

42 Michael Harvey said yes, and he said that would not be a land issue, but rather a
43 general ordinance issue should the Board choose to address it.

44 Paul Guthrie asked if there is any distinction in existing zoning regulations between cars
45 for sale on site, cars stored on site for future sale and cars that are stored at another location,
46 but of the same ownership, waiting to be delivered to the original site or shipped out of state.

47 Michael Harvey said the only current regulation regarding display of vehicles is on NC
48 zoned 2 property, and that limit is 12 vehicles. He said if one is selling vehicles, one must be
49 appropriately zoned and display those vehicles consistent with an approved site plan. He said
50 this proposed ordinance memo will establish limits and allowances across the board in every
51 district where car sales are allowed. He said if one is storing vehicles off site, that property must

1 have been recognized and approved through section 2.5, the site plan review process, to
2 establish a recognized legal land use per the Orange County UDO.

3 Michael Harvey asked if the Board of County Commissioners (BOCC) has a specific
4 number of permissible vehicles in mind.

5 Chair McKee said he would like to ask the Planning Board to consider a higher number.
6 He suggested 45 vehicles across the board.

7
8 A motion was made by Commissioner Rich, seconded by Commissioner Pelissier to
9 refer the matter to the Planning Board with a request that a recommendation be returned to the
10 BOCC in time for its **February 2, 2016** regular meeting and to adjourn the public hearing until
11 **February 2, 2016** in order to receive and accept the Planning Board's recommendation and any
12 submitted written comments.

13
14 VOTE: UNANIMOUS

Attachment 3
Excerpt of December 2, 2015
Planning Board Minutes

Approved 1/6/2016

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PLANNING BOARD
DECEMBER 2, 2015
REGULAR MEETING

MEMBERS PRESENT: Lydia Wegman (Vice Chair), At-Large Chapel Hill Township; James Lea, Cedar Grove Township Representative; Paul Guthrie, At-Large Chapel Hill Township; Andrea Rohrbacher, At-Large Chapel Hill Township; Maxecine Mitchell, At-Large Bingham Township; Buddy Hartley, Little River Township Representative; Patricia Roberts, Cheeks Township Representative; Laura Nicholson, Eno Township Representative; Herman Staats, At-Large;

MEMBERS ABSENT: Lisa Stuckey, Chapel Hill Township Representative; Tony Blake, Bingham Township Representative;

STAFF PRESENT: Craig Benedict, Planning Director; Michael Harvey, Current Planning Supervisor, Perdita Holtz, Special Projects Coordinator, Meredith Pucci, Administrative Assistant II;

AGENDA ITEM 9: **UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT - TO MAKE A RECOMMENDATION TO THE BOCC ON GOVERNMENT-INITIATED AMENDMENTS TO THE TEXT OF THE UDO REGARDING CAR SALES AND RENTAL OPERATIONS. THIS ITEM WAS HEARD AT THE NOVEMBER 23, 2015 QUARTERLY PUBLIC HEARING**

Presenter: Michael Harvey, Current Planning Supervisor

Michael Harvey reviewed abstract

Laura Nicholson: Why has this become more of an issue?

Michael Harvey: The County has been receiving complaints related to the storage and display of vehicles being offered for sale, specifically too many cars being placed on a parcel of property blocking or impeding access for both customers and emergency vehicles.

Patricia Roberts: I don't think the allowed numbers of display vehicles is enough.

Herman Staats: Where did the number of cars displayed come from?

Michael Harvey: Ultimately the recommended numbers were designed to allow for approximately 20% of the property to be used in support of motor vehicle display allowing for the remaining area to satisfy setback, office, customer parking, and required land use buffer development.

James Lea: Does this address the storage of vehicles off-site?

Michael Harvey: This amendment would not address or impact vehicles being stored on another property or prohibit same. Such storage would be treated as a separate, independent, land use and have to be permitted in accordance with the provisions of the UDO.

Lydia Wegman: if vehicles stored on the property, and screened from view, would be counted as part of the display limit.

Michael Harvey: They would not be counted unless parked within the designated vehicle display area for the property. Staff is providing an option allowing for the storage of vehicles not intended or ready for sale/rental onsite.

53 Craig Benedict: This is how a typical car lot is set up. (Craig drew a picture on the white board of a typical car lot as a
54 visual example).

55

56 Paul Guthrie: I actually think that vehicle limit is plenty enough, especially considering the few dealerships that are in
57 the County.

58

59 Andrea Rohrbacher: Is there a time limit as to how long someone can have a car waiting to be prepared to sell?

60

61 Michael Harvey: No there is not a time limit established.

62

63 Lydia Wegman: Are there any other comments or questions for Michael?

64

65 **MOTION** made Paul Guthrie to recommend changes to BOCC. Laura Nicholson seconded.

66 **VOTE:** 8-1 (Patricia Roberts)

67

68 Lydia Wegman: Can you please explain why you are opposed?

69

70 Patricia Roberts: I don't think the proposed limit for vehicles displayed is enough.

71

**STATEMENT OF CONSISTENCY
OF PROPOSED UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT
WITH THE 2030 COMPREHENSIVE PLAN**

Orange County has initiated an amendment to the Unified Development Ordinance (UDO) to revise existing regulations governing the display of vehicles at motor vehicle sales/rental businesses.

The Planning Board finds:

- a. The requirements of Section 2.8 of the UDO have been deemed complete; and,
- b. Pursuant to Sections 1.1.5, and 1.1.7 of the UDO and to Section 153A-341 of the North Carolina General Statutes, the Board finds sufficient documentation within the record denoting that the amendment is **consistent** with the adopted 2030 Comprehensive Plan.

1. The amendment is consistent with applicable plans because it supports the following 2030 Comprehensive Plan goals and objectives:

- Land Use Goal 2: *Land uses that are appropriate to on-site environmental conditions and features, and that protect natural resources, cultural resources, and community character.*
- Land Use Goal 3: *A variety of land uses that are coordinated within a program and pattern that limits sprawl, preserves community and rural character, minimizes land use conflicts, supported by an efficient and balanced transportation system.*
- Land Use Goal 6: *A land use planning process that is transparent, fair, open, efficient, and responsive.*

c. The amendment is reasonable and in the public interest because it:

- 1. Establishes uniform standards for the display and storage of vehicles motor vehicle sales/rental businesses.
- 2. Provides measurable thresholds with respect to the number of vehicles that can be displayed for sale/rent on-site.
- 3. Requires display areas to be denoted on a plan for staff review and approval.
- 4. Promotes public health, safety, and general welfare by furthering the goals and objectives of the 2030 Comprehensive Plan.

The Planning Board hereby recommends that the Orange County Board of County Commissioners consider adoption of the proposed UDO Text Amendments.


Lydia Wegman, Vice-Chair

12/2/15
Date

Attachment 5

**STATEMENT OF CONSISTENCY
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The Board of County Commissioners finds:

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 1. The amendment is consistent with applicable plans because it supports the following 2030 Comprehensive Plan goals and objectives:
 - Land Use Goal 2: *Land uses that are appropriate to on-site environmental conditions and features, and that protect natural resources, cultural resources, and community character.*
 - Land Use Goal 3: *A variety of land uses that are coordinated within a program and pattern that limits sprawl, preserves community and rural character, minimizes land use conflicts, supported by an efficient and balanced transportation system.*
 - Land Use Goal 6: *A land use planning process that is transparent, fair, open, efficient, and responsive.*
- c. The amendment is reasonable and in the public interest because it:
 1. Establishes uniform standards for the display and storage of vehicles motor vehicle sales/rental businesses.
 2. Provides measurable thresholds with respect to the number of vehicles that can be displayed for sale/rent on-site.
 3. Requires display areas to be denoted on a plan for staff review and approval.
 4. Promotes public health, safety, and general welfare by furthering the goals and objectives of the 2030 Comprehensive Plan.

The Board of County Commissioners hereby adopts this Statement of Consistency and findings expressed herein.

Earl McKee, Chair

Date

Ordinance #: ORD-2016-005

**AN ORDINANCE AMENDING
THE ORANGE COUNTY UNIFIED DEVELOPMENT ORDINANCE**

WHEREAS, Orange County has initiated amendment(s) to the Orange County Unified Development Ordinance in order to revise and update regulations for automotive sales and rental business addressing the display and advertising of cars for sale or rent , and

WHEREAS, the amendment eliminates existing inconsistencies associated with the permitting and development of such land uses within allowable general use zoning districts, and

WHEREAS, the amendment increases the total number of allowable vehicles that can be displayed an automotive sales and rental businesses, and

WHEREAS, the amendment represents a reasonable balance of attempting to allow for the development and use of automotive sales and rental businesses while addressing identified impacts associated with the display of such vehicles, and

WHEREAS, the requirements of Section 2.8 of the Unified Development Ordinance have been deemed complete, and

WHEREAS, pursuant to North Carolina General Statute 153A-341 and Section 1.1.7 of the Unified Development Ordinance, the Board of Commissioners of Orange County has found the proposed text amendments to be reasonably necessary to promote public health, safety and general welfare and is consistent with the goals and policies of the adopted Comprehensive Plan.

BE IT ORDAINED by the Board of Commissioners of Orange County that the Unified Development Ordinance of Orange County is hereby amended as depicted in the attached pages.

BE IT FURTHER ORDAINED that this ordinance be placed in the book of published ordinances and that this ordinance is effective upon its adoption.

Upon motion of Commissioner _____, seconded by Commissioner _____, the foregoing ordinance was adopted this _____ day of _____, 2016.

I, Donna S. Baker, Clerk to the Board of Commissioners for Orange County, DO
HEREBY CERTIFY that the foregoing is a true copy of so much of the proceedings of said
Board at a meeting held on _____, 2016 as relates in any way to the
adoption of the foregoing and that said proceedings are recorded in the minutes of the said
Board.

WITNESS my hand and the seal of said County, this _____ day of _____,
2016.

SEAL

Clerk to the Board of Commissioners

UDO AMENDMENT PACKET NOTES:

The following packet details staff's proposed modifications to existing regulations associated with the review and permitting of sexually oriented businesses.

As the number of affected pages/sections of the existing UDO are being modified with this proposal staff has divided the proposed amendments into the following color coded classifications:

- **Red Underlined Text**: Denotes new, proposed text, that staff is suggesting be added to the UDO
- **~~Red Strikethrough Text~~**: Denotes existing text that staff is proposing to delete
- **Green Bold Underlined Text**: Denotes new, proposed text, designed to address comments made at the November 23, 2015 Quarterly Public Hearing.
- **Purple Bold Underlined Text**: Denotes new, proposed text, designed to address comments made by the County Attorney's office after agenda review held on January 20, 2016.

Staff has included footnotes within the amendment package to provide additional information/rationale concerning the proposed amendments to aid in your review.

Only those pages of the UDO impacted by the proposed modification(s) have been included within this packet. Some text on the following pages has a large "X" through it to denote that these sections are not part of the amendments under consideration. The text is shown only because in the full UDO it is on the same page as text proposed for amendment or footnotes from previous sections 'spill over' onto the included page. Text with a large "X" is not proposed for deletion.

Please note that the page numbers in this amendment packet may or may not necessarily correspond to the page numbers in the adopted UDO because adding text may shift all of the text/sections downward.

Users are reminded that these excerpts are part of a much larger document (the UDO) that regulates land use and development in Orange County. The full UDO is available online at: http://www.orangecountync.gov/departments/planning_and_inspections/UDO_MOST_CURRENT_updated_120915.pdf

TABLE OF PERMITTED USES – GENERAL USE ZONING DISTRICTS																					
* = PERMITTED USE A = CLASS A SPECIAL USE B = CLASS B SPECIAL USE Δ = SUBJECT TO SPECIAL STANDARDS																					
USE TYPE	GENERAL USE ZONING DISTRICTS																				
	RB	AR	R1	R2	R3	R4	R5	R8	R13	LC1	NC2	CC3	GC4	EC5	OI	AS	EI	I1	I2	I3	PID
~ Use may not be permitted as a Conditional Use District; See Section 5.1.4(E) ^ Allowed as more than one principal use if located on a bona fide farm (see Section 6.2.5)																					
Temporary Mobile Home (Use during construction/installation of permanent residential unit and for 30 days following issuance of Certificate of Occupancy)	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
AUTOMOTIVE / TRANSPORTATION																					
Bus Passenger Shelter	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Bus Terminals & Garages ~	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Motor Freight Terminals ~	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Motor Vehicle Maintenance & Repair (Body Shop) ~	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Motor Vehicle Repair Garage ~	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Motor Vehicle Sales / Rental (New & Used) ¹	*	*	*	*	*	*	*	*	*	*	Δ¹	*									
Motor Vehicle Services Stations	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Parking As Principal Use, Surface or Structure	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Petroleum Products: Storage & Distribution ~	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Postal & Parcel Delivery Services	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
UTILITIES																					
Elevated Water Storage Tanks	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Public Utility Stations & Sub-Stations, Switching Stations, Telephone Exchanges, Water & Sewage Treatment Plants	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Electric, Gas, and Liquid Fuel Transmission Lines	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Water & Sanitary Sewer Pumping	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Solar Array – Large Facility	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Solar Array – Public Utility	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A

¹ As we are extending vehicle display standards/limits to all districts there is no reason to single out vehicle sales/rentals in NC-2 anymore.

from the property line.

- (3) Hours of operation shall be limited to the hours between 7 a.m. and 7 p.m.
- (4) Site shall have direct access to a major road, as classified in the Orange County Comprehensive Plan, and shall use said road as the primary access, unless approved otherwise in the permit.

5.14.4 Winery, production only

(A) Standards for Class B Special Use Permit or ASE-CZ Zoning District

- (1) If located in an AR or RB zoning district, the winery must be located on a bona fide farm.
 - (a) A winery, production only, that is located on a bona fide farm, and which utilizes primarily crops produced on-site is considered a bona fide farming use and is not subject to zoning regulations.
 - (b) A winery, production only, that does not utilize primarily crops produced on-site, regardless of whether it is located on a bona fide farm, is not considered a bona fide farming use and is subject to the regulations contained in this Ordinance.
- (2) If located adjacent to residentially zoned property, all buildings shall be located a minimum of 100 feet from the property line.
- (3) Application materials shall include a comprehensive groundwater study, for facilities expected to use more groundwater on an annual basis than an average single family residence (which uses 240 gallons of water per day) built at the highest density the existing zoning district would allow. For example, if the existing zoning district allows a residential density of 1 unit for 2 acres and the proposed use is on a six acre parcel (which could yield 3 residences), the proposed use(s) may use three times the water used by an average single family residence (or 720 gallons per day, on an annualized basis) before a comprehensive groundwater study is required. The water usage rates of any existing use subject to zoning regulations located on the same lot shall be taken into account when determining if a comprehensive groundwater study is required. Said study shall detail:
 - (a) The amount of water anticipated to be used on a daily, weekly, monthly, and annual basis by regulated uses located on the parcel (e.g., water usage by bona fide farm uses is not required to be included);
 - (b) An analysis of the amount of groundwater withdrawal considered to be safe and sustainable in the immediate vicinity; and
 - (c) An analysis of whether other wells in the vicinity of the proposed use are expected to be affected by withdrawals made by the proposed use.

SECTION 5.15: STANDARDS FOR AUTOMOTIVE/TRANSPORTATION RELATED USES

5.15.1 Motor Vehicle Sales / Rental (New & Used) ~~in the NC-2 Zoning District~~²

- (A) **Submittal Requirements**
 - (1) In addition to the information required by Section 2.5, the site plan shall show the area for the display of vehicles for sale or rental

² Originally the County adopted regulations establishing a specific limit on the display of motor vehicles for sale in the NC-2 zoning district. This amendment establishes a limit on the outdoor display of motor vehicles offered for sale in every zoning district where the land use is permitted.

(B) General Standards

- (1)** Property shall have frontage and direct access onto a State maintained roadway.
- (2)** Areas of the property designated for the display of vehicles for sale or rent shall be improved with an all-weather surface (i.e. concrete, asphalt, gravel)³ and shall not be used for any other purpose.⁴
- (3)** Additional vehicles, other than those offered for sale, rent or staff/customer designated parking as required under Section 6.9 of this Ordinance⁵, can be stored on-site and⁶ shall be screened from view from adjacent properties and public rights-of-way.⁷ **Such vehicles shall not be included in the display limit calculation.**⁸

(C) Standards for the NC-2, EC-5, and E-I Zoning District(s)

- (4)** ~~This use shall only be permitted within the Commercial Transition Activity or Commercial Industrial Transition Activity Node land use classifications, as designated on the Land Use Element Map of the adopted Comprehensive Plan.⁹~~

- (1)** ~~The display of vehicles outdoors shall be limited to 32¹⁰ vehicles per acre of property.¹¹~~

(D) Standards for GC-4, I-1, I-2, I-3, EDB-1, EDB-2, and EDE-2.¹²

- (1)** ~~The display of vehicles outdoors shall be limited to 45 vehicles per acre of property.¹³~~

³ Staff is recommending the area identified on the site plan as serving as the display area for vehicles be improved (i.e. asphalt, concrete, gravel) is to avoid unnecessary disturbance of property as vehicles are moved in and out of the area. A concern we have is constant moving and parking of cars will result in unnecessary disturbance of the ground, kill vegetation serving as a stabilizing mechanism for soil, and increase sediment runoff from the property in contradiction of our regulations.

⁴ We have had problems in the past with identified parking areas for vehicles being displayed for sale or rent being used as primary parking areas for customers and staff. This provision will give staff greater ability to prohibit same and ensure there is adequate display area as well as required parking for patrons/staff.

⁵ **Green Bold Underlined** text added to address a County Attorney request for clarification on what specific vehicles would fall into this specific provision. The concern is the Ordinance provide specific reference to those vehicles that can be stored on-site only with the development of screening.

⁶ **Green Bold Underlined** text added to address a request made at the November 23, 2015 Quarterly Public Hearing for clarification purposes.

⁷ In consultation with the Director, it was determined additional storage area could be allowed on-site for vehicles not intended for sale or rental so long as said storage area was screened from view.

⁸ **Green Bold Underlined** text added to address a request made at the November 23, 2015 Quarterly Public Hearing for clarification purposes.

⁹ This language is recommended for deletion to address a concern from the Attorney's office with respect to establishing land use prohibitions associated with acceptable land uses on the land use categories contained within the Comprehensive Plan.

¹⁰ **Green Bold Underlined** text added to address a request made at the November 23, 2015 Quarterly Public Hearing to increase the number of vehicles that can be displayed at property zoned NC-2, EC-5, and EI.

¹¹ A typical display area for a vehicle is 288 sq. ft., which includes the required parking area for said vehicle and the portion of drive isle allowing access. The proposal would allow approximately 17% of every acre of property to be dedicated to the display of vehicles offered for sale or rent. This regulation does not eliminate the property owner from having to comply with other ratio/dimensional standards contained within the UDO.

¹² This includes the GC-4, I-1, I-2, I-3, and the Buckhorn and Eno Economic Development districts.

¹³ The proposal would allow approximately 30% of every acre of property to be dedicated to the display of vehicles offered for sale or rent. This regulation does not eliminate the property owner from having to comply with other ratio/dimensional standards contained within the UDO.

**ORANGE COUNTY
BOARD OF COMMISSIONERS
ACTION AGENDA ITEM ABSTRACT**
Meeting Date: February 2, 2016

**Action Agenda
Item No.** 6-a

SUBJECT: MINUTES

DEPARTMENT:

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

INFORMATION CONTACT:

Donna Baker, 245-2130

Draft Minutes

PURPOSE: To correct and/or approve the minutes as submitted by the Clerk to the Board as listed below:

December 7, 2015

BOCC Regular Meeting

BACKGROUND: In accordance with 153A-42 of the General Statutes, the Governing Board has the legal duty to approve all minutes that are entered into the official journal of the Board's proceedings.

FINANCIAL IMPACT: NONE

RECOMMENDATION(S): The Manager recommends the Board approve minutes as presented or as amended.

1
2
3 DRAFT

4 MINUTES
5 BOARD OF COMMISSIONERS
6 REGULAR MEETING
7 December 7, 2015
8 7:00 p.m.

9 The Orange County Board of Commissioners met in regular session on Monday, December 7,
10 2015 at 7:00 p.m. at the Whitted Building, in Hillsborough, N.C.

11
12 **COUNTY COMMISSIONERS PRESENT:** Chair McKee and Commissioners Mia Burroughs,
13 Mark Dorosin, Barry Jacobs, Bernadette Pelissier, Renee Price and Penny Rich

14 **COUNTY COMMISSIONERS ABSENT:**

15 **COUNTY ATTORNEYS PRESENT:** John Roberts

16 **COUNTY STAFF PRESENT:** County Manager Bonnie Hammersley, Deputy County Manager
17 Travis Myren and Clerk to the Board Donna Baker (All other staff members will be identified
18 appropriately below)

19
20 Chair McKee called the meeting to order at 7:03 p.m.

21
22 **Board Organization**

23 a. Election of Chair and Vice-Chair

24 The clerk distributed the ballots for Chair and Vice Chair.

25 - Election of Chair - Earl McKee

26 VOTE: UNANIMOUS

27 - Election of Vice Chair - Mark Dorosin

28 VOTE: UNANIMOUS

- 29
30 b. Designation of Voting Delegate for all North Carolina Association of County
31 Commissioners (NCACC) and National Association of Counties (NACo) Meetings for
32 Calendar Year December 1, 2015-2016
33 Commissioner Pelissier nominated Commissioner Price for both positions.

34
35 A motion was made by Commissioner Pelissier, seconded by Commissioner Jacobs to
36 nominate Commissioner Price as the Voting Delegate for all NCACC and NACo Meetings for
37 Calendar Year December 1, 2015-2016.

38
39 VOTE: UNANIMOUS

40
41 **Appointments**

42 a. Manager

43 A motion was made by Commissioner Rich, seconded by Commissioner Pelissier to
44 appoint Bonnie Hammersley as Manager.

45
46 VOTE: UNANIMOUS

47
48 b. Clerk to the Board

49 A motion was made by Commissioner Rich, seconded by Commissioner Pelissier to
50 appoint Donna Baker as Clerk to the Board.

1 VOTE: UNANIMOUS
2
3

4 c. County Attorney

5 A motion was made by Commissioner Rich, seconded by Commissioner Pelissier to
6 appoint John Roberts as the County Attorney.
7

8 VOTE: UNANIMOUS
9

10 **1. Additions or Changes to the Agenda**
11

- 12 - Green sheet for Item 4-c-1: Proposed Revised Bill of Rights Day Proclamation
- 13 - Yellow sheet for Item 6-j: Revised pages of Schools Adequate Public Facilities Ordinance (SAPFO)
- 14 - PowerPoint for Item 7-a: Henderson Woods Preliminary Plan
- 15 - Pink sheet for Item 7-a: Revised document
- 16 - White sheet: November 2015 Monthly Report – Current Planning Division

17 Chair McKee proposed a change in Item 6-f on the consent agenda, saying
18 Commissioner Price had some concerns with some of the wording. He asked John Roberts to
19 speak to this.
20

21 John Roberts said this ordinance was originally passed by the BOCC in 1985, and in
22 1998 the State passed the same legislation that was applicable to the entire County, including
23 the municipalities. He said he would suggest deferring this item so he can do more research.
24 He said he will likely recommend that the massage portion of this ordinance be repealed and
25 replaced by the addition of something regarding sexually oriented business licensing and
26 regulation.
27

28 A motion was made by Commissioner Rich, seconded by Commissioner Price to defer
29 Item 6-f for later discussion at a future meeting.
30

31 VOTE: UNANIMOUS
32

33 **PUBLIC CHARGE**

34 *Chair McKee dispensed with the reading of the Public Charge.*
35

36 **2. Public Comments**
37

38 **a. Matters not on the Printed Agenda**

39 NO PUBLIC COMMENT
40

41 **b. Matters on the Printed Agenda**

42 (These matters will be considered when the Board addresses that item on the agenda
43 below.)
44

45 **3. Announcements and Petitions by Board Members**

46 Commissioner Pelissier said she had no petitions.

47 Commissioner Price said she attended a meeting of the Orange Partnership for Alcohol
48 and Drug Free Youth Community Coalition on November 18. She said it was an interesting
49 discussion, and encouraged members of the community to follow this coalition.

50 Commissioner Dorosin said that the slogan contest for the “Welcome to Orange County”
51 highway sign is up and running and he has done a commercial spot on the radio for this contest.

1 He said many entries have already been received and he encouraged all to participate. He said
2 it has become a community event.

3 Commissioner Jacobs said the 18th annual Agricultural Summit will be held at the
4 Whitted Building on February 29th. He said the Commissioners will receive a draft agenda to
5 review. He said prompt feedback would be appreciated.

6 Commissioner Jacobs said today is the anniversary of the attack on Pearl Harbor and
7 many have forgotten this eventful day. He said he wanted to remind them of things that their
8 parents and grandparents did to protect freedom and to set an example of how future
9 generations may act.

10 Commissioner Rich said her sister from San Francisco sent in a slogan for the highway
11 sign contest. She wished all a Happy Hanukkah. She said many citizens have talked to her
12 about the Mountains to Sea Trail (MST) and suggested sharing the timeline with the public as
13 soon as it becomes it available.

14 Commissioner Burroughs said she did not pull the 6-f consent item but wanted to note
15 that enrollment in Orange County's school districts is down. She said this fact should be
16 considered as schools are refurbished and as budget season approaches.

17 Chair McKee referenced the Mountains to Sea Trail (MST), saying a letter went out
18 from the Board and as a result the segment from the OWASA lands has been moved up. He
19 said he understands that the process may appear slow but the County is moving in the right
20 direction.

21 **4. Proclamations/ Resolutions/ Special Presentations**

22 23 **a. Presentation of Excellence in Innovation Award**

24 The Board considered acknowledging the presentation of the Excellence in Innovation
25 Award from the North Carolina Association of County Commissioners (NCACC) and the Local
26 Government Federal Credit Union (LGFCU), in recognition of the Naloxone Program, to the
27 Orange County Board of Health/Health Department and partner organizations including Orange
28 County Emergency Services, the Carrboro Police Department, the Orange County Sheriff's
29 Office, and the Chapel Hill Police Department; and congratulating them for collaborating on the
30 Naloxone Program and the accomplishments of this life saving effort.

31 Matt Gunnett, from the North Carolina Association of County Commissioners (NCACC),
32 read the following background information:

33 34 **BACKGROUND:**

35 The Orange County Board of Health and Health Department, in collaboration with other
36 governmental entities, implemented a process to provide Health Department clinical staff and
37 emergency first responders with the tools and training to carry and administer naloxone to
38 reverse the effects of drug overdose from opioids such as prescription painkillers and heroin.
39 To date, this effort has resulted in six (6) reversals and lives saved.

40 Staff submitted the Naloxone Program for potential recognition as an Excellence in
41 Innovation award, and NCACC and LGFCU who partner in this award program selected the
42 Program for recognition. Matt Gunnett, Membership Services Coordinator with NCACC, will
43 present the award at the meeting to Health Department staff and others who helped implement
44 the Program.

45 Matt Gunnett gave some background on this award, and noted that 29 award
46 submissions were given to the NCACC, in four categories: general government, human
47 services, public information and participation and inter-governmental collaboration. He said the
48 criteria for these awards were:

- 49 - are the programs innovative
- 50 - are the results measurable
- 51 - is there an ability to replicate the program across all 100 counties

1 - would you recommend the program to your own county/jurisdiction

2 He said a panel of judges, made up of many professional, evaluated the submissions.
3 He said he is here to present an Award to the Orange County Health Department for the
4 Naloxone Access Program, supervised by Donna King, and team members Meredith Steward,
5 Kim Woodward, Chris Atac, Colleen Bridger, Orange County Board of Health, and the Carrboro
6 Police Department.

7 Matt Gunnet gave a brief description of the Naloxone Access Program. He said the
8 program was implemented with existing staff time and grant funds that were used to purchase
9 an initial stock of 25 kits. He said the reason for the program was the increasing number of
10 overdoses since 1999 which is not predicted to slow down in the near future. He said public
11 health nurses were able to screen and address the potential for opioid overdoses, which has
12 increased the client's willingness to discuss their drug addiction and abuse. He said the
13 program has also potentially reduced costs, because physicians are not required to see the
14 patient to provide a solution. He said the program results show that naloxone distribution costs
15 approximately \$400 for each year of life gained, which is well below the threshold considered
16 acceptable for medical intervention's cost effectiveness.

17 He said EMS personnel said they are excited that collaboration has opened the doors for
18 more collaboration with their local partners.

19 Colleen Bridger, Orange County Health Director, recognized some of their partners:
20 Susan Elmore, Carrboro Police, Kim Woodard and Dinah Jeffries with EMS, Sheriff Blackwood
21 and his department, Chapel Hill Police Chief Blue, Meredith Steward from the Health
22 Department.

23 Colleen Bridger said four lives have been saved thus far, and she recognized these
24 partners in winning this award.

25 She passed around a sample of a naloxone kit.

26 The Local Government Federal Credit Union presented them with a \$1,000.00 check.

27 Sheriff Blackwood said this is a vital program for the community that saves lives, and he
28 thanked the partners.

29 Kim Woodard said she was so proud to work with such an incredible team, especially
30 their law enforcement agencies. She noted that Orange County was the first county to
31 implement such a program and is helping other counties across the State in implementing
32 similar programs.

33 Commissioner Rich asked if Kim Woodard could give further explanation of how the
34 program works.

35 Kim Woodard explained the program, noting that it is a real team effort across
36 departments that keeps law enforcement safe and saves the lives of citizens.

37 Commissioner Price said she attended the conference where the award was given last
38 summer and she was so proud of Orange County.

39
40 A motion was made by Commissioner Price, seconded by Commissioner Rich for the
41 Board to congratulate the Health Department and other local agencies for collaborating on the
42 Naloxone Program and the accomplishments of this life saving effort, and that the Board
43 express appreciation to NCACC and LGFCU for the supporting the Naloxone Program and
44 other creative efforts across the State with Excellence in Innovation Awards.

45
46 VOTE: UNANIMOUS

- 47
48 **b. Voluntary and Enhanced Agricultural District Designation: Multiple Farms -**
49 **Saier/Knapp; Griffin; Hughes/Sakiewicz; Woods; Parker; Gray/Warren; Latta; Irvin**
50 **Farm; Atwater; and Durham**

1 The Board considered applications from multiple landowners/farms to certify qualifying
 2 farmland within the Caldwell, Cane Creek/Buckhorn, High Rock/Efland, New Hope/Hillsborough,
 3 Schley/Eno, and White Cross Voluntary Agricultural Districts; and enroll the lands in the Orange
 4 County Voluntary Agricultural District (VAD) and the Enhanced Voluntary Agricultural District
 5 (EVAD); and certify the ten (10) farm properties totaling 1,325 acres VAD and 530 acres EVAD
 6 (rounded acreage) as qualifying farms.

7
 8 Gail Hughes, Orange County Resource Conservation Coordinator, made the following
 9 PowerPoint presentation, and introduced the various farms and their owners:

10
 11 **Orange County Voluntary and Enhanced Voluntary Agricultural Program**
 12 **December 7, 2015**

13
 14 **Orange County VAD/EVAD Program Benefits of Agricultural Districts**

- 15
 16
 17
 18
 19
 20
- Voluntary Agricultural District (VAD) is a 10-year commitment but the landowner can be withdrawn from the VAD at any time, for any reason, with a 30-day notification.
 - Enhanced Voluntary Agricultural District (EVAD) is an irrevocable 10-year commitment, therefore the “enhanced” qualifies farm for 90% cost share rates and a priority for grants funds.

21 **Benefits include:**

- 22
 23
 24
 25
 26
 27
 28
- Makes public more aware of the local agricultural and its vital role in the economics of the county;
 - Recorded notice of agricultural district is recorded at County Land Records office;
 - Land search on all properties within a ½ mile radius is notified of the agricultural status, therefore, the landowner has increased protection from nuisance lawsuits.
 - Public hearings for proposed condemnation of VAD land and utility assessments may be suspended or waived on EVAD land if not connected to the utility.

29 Farm may receive up to 25% of gross sales from the sale of non-farm products and still maintain
 30 its zoning exemption as a bona fide farm. (EVAD only)

31
 32 **Brief Farm Descriptions**

33 1) Owners of the Ramble Rill Farm, Jane Saier and Darin Knapp, have submitted an application
 34 to enroll one (1) parcel of land totaling 10.01 acres as qualifying farmland for the Enhanced
 35 Voluntary Agricultural District program (EVAD) in the New Hope/Hillsborough Agricultural
 36 District. The farm operation includes various vegetables and fruit crops such as grapes,
 37 strawberries, radishes, onions, and tomatoes (to name a few) and managed woodland. The
 38 Ramble Rill Farm has been evaluated against each of the EVAD certification requirement
 39 standards and meets or exceeds all of the measures above.

40
 41 2) Owners of the W & F Family Farm, LLC, Frances Griffin, Michael/Margaret Griffin,
 42 Edward/Linda Griffin, and Katherine G. Von St. Paul, have submitted an application to enroll five
 43 (5) parcels of land totaling 175.49 acres as qualifying farmland for the Voluntary Agricultural
 44 District (VAD) program in the High Rock/Efland Agricultural District. The farm operation includes
 45 hay crops, and managed woodland. The W & F Family Farm and adjoining acres owned by
 46 the Griffin family has been evaluated against each of the VAD certification requirement
 47 standards and meets or exceeds all of the measures above.

48
 49 3) Owners of the Bracken Brae Farm, Claude Hughes and Linda Sakiewicz, have submitted an
 50 application to enroll four (4) parcels of land totaling 105.9 acres as qualifying farmland for the
 51 Voluntary Agricultural District (VAD) program in the Cane Creek/Buckhorn District. The farm

1 operation includes vegetables, herbs, fruit crops and managed woodland. The Hughes
2 /Sakiewicz Farm have been evaluated against each of the VAD certification requirement
3 standards and meets or exceeds all of the measures above.
4

5 4) Owners of Spring Crest Farm, Kim and Chad Woods, have submitted an application to
6 update ownership of existing acres in the VAD program and enroll two (2) parcels of land
7 totaling of 15.06 acres as qualifying farmland for the Voluntary Agricultural District (VAD)
8 program located in the Caldwell Agricultural District. The farm includes pasture, hay crops and
9 managed woodland. The additional acres are adjacent to the existing VAD farm, and will
10 increase the total farm acres to 98.62 acres. The farm has been evaluated against each of the
11 VAD certification requirement standards and meets or exceeds all of the measures above.
12

13 5) Owners of the Parker Farm, Carlton, Barbara, Shane, Carley, and Sarah Parker, have
14 submitted an application to enroll five (5) parcel of land totaling 298.24 acres as qualifying
15 farmland for the Voluntary Agricultural District (VAD) program in the Caldwell Agricultural
16 District. The farm operation includes a beef cattle operation, pastures, hay crops and managed
17 woodland. The Parker Farm has been evaluated against each of the VAD certification
18 requirement standards and meets or exceeds all of the measures above.
19

20 6) Owners Susan Gray and Tommy Warren have submitted an application to enroll one (1)
21 parcel of land totaling 53.01 acres as qualifying farmland for the Voluntary Agricultural District
22 (VAD) program in the Caldwell Agricultural District. The farm operation includes a beef cattle
23 operation, pastures, hay crops and managed woodland. The Gray/Warren farm has been
24 evaluated against each of the VAD certification requirement standards and meets or exceeds all
25 of the measures above.
26

27 7) Owners of the Milton A. Latta & Sons Dairy Farm Inc., William and Tate Latta, have submitted
28 an application to enroll five (5) parcels of land totaling 622.30 acres as qualifying farmland –
29 363.59 acres for the Voluntary Agricultural District (VAD) program and 258.71 acres for the
30 Enhanced Voluntary Agricultural District program (EVAD) in the Schley/Eno Agricultural District.
31 The farm operation includes a dairy cattle operation, pastures, hay, grain, corn crops and
32 managed woodland. The Latta Farm has been evaluated against each of the VAD and EVAD
33 certification requirement standards and meets or exceeds all of the measures above.
34

35 8) The owner of the Irvin Farm Nature Preserve, the Triangle Land Conservancy, has submitted
36 an application to enroll three (3) parcels of land totaling 261.27 acres as qualifying farmland for
37 the Enhanced Voluntary Agricultural District (EVAD) program in the White Cross Agricultural
38 District. The farm operation includes traditional and Asian fruits and vegetables, wildlife habitat
39 and managed woodland. The Irvin Farm has been evaluated against each of the EVAD
40 certification requirement standards and meets or exceeds all of the measures above.
41

42 9) Owners of the Atwater Farm, Donald and Warren Atwater, have submitted an application to
43 enroll four (4) parcels of land totaling 116.25 acres as qualifying farmland for the Voluntary
44 Agricultural District (VAD) program in the White Cross Agricultural District. The farm operation
45 includes a hay crops and managed woodland. The Atwater farm has been evaluated against
46 each of the VAD certification requirement standards and meets or exceeds all of the measures
47 above.
48

49 10) Owners of the Durham Farm, Gerry and Milton Durham, have submitted an application to
50 enroll five (5) parcels of land totaling 197.56 acres as qualifying farmland for the Voluntary
51 Agricultural District (VAD) program in the White Cross Agricultural District. The farm operation

1 includes a beef cattle operation, pastures, hay crops and managed woodland. The Durham farm
 2 has been evaluated against each of the VAD certification requirement standards and meets or
 3 exceeds all of the measures above.

4
 5 Requesting approval from Commissioners to accept ten (10) farms into the program plus an
 6 ownership revision for one (1) farm.

- 7 • 1325* acres in the VAD
- 8 • 530* acres in the EVAD.
- 9 • If approved, total of acres increase in both programs: 1855* acres
- 10 • * = rounded acres

11 December 2015

- 12 • VAD = 8536 acres
- 13 • EVAD = 1859 acres

14 Total Acres = 10,395*

15 * = rounded acres

16
 17 Commissioner Price thanked Ms. Hughes for getting so many farmers in these programs
 18 to be able to preserve their agricultural heritage.

19 Commissioner Pelissier said she would like a letter from the Chair on behalf of the Board
 20 to be sent to all of the participants.

21 Commissioner Pelissier asked if there is a process for what happens after 10 years.

22 Gail Hughes said the VAD has an automatic renewal after 10 years, and the EVAD has
 23 a three renewal, after the first 10 years.

24
 25 A motion was made by Commissioner Price, seconded by Commissioner Rich for the
 26 Board to certify the ten (10) farm properties noted above totaling 1,325 acres (VAD) and 530
 27 acres (EVAD) (rounded acreage) as denoted in the attached documentation as qualifying
 28 farmland; designate the farms as a Voluntary or Enhanced Voluntary Agricultural District farm
 29 within the Caldwell, Cane Creek/Buckhorn, High Rock/Efland, New Hope/Hillsborough,
 30 Schley/Eno, and White Cross Voluntary Agricultural Districts; and enroll the lands in the Orange
 31 County Voluntary Agricultural District (VAD) and the Enhanced Voluntary Agricultural District
 32 (EVAD) programs. With approval of these additional acres, the Orange County Voluntary
 33 Agricultural District Program will have enrolled 70 farms, totaling 8,536 acres in the VAD and
 34 1,859 acres in the EVAD, for a total of 10,395 acres (rounded) in the program.

35
 36 VOTE: UNANIMOUS

37
 38 **c. Proclamation – Bill of Rights Day**

39 The Board considered adopting a proclamation to officially recognize Bill of Rights Day
 40 in Orange County during the month of December 2015 and authorizing the Chair to sign the
 41 Proclamation.

42 Commissioner Price read the proposed revised proclamation:

43
 44 **ORANGE COUNTY BOARD OF COMMISSIONERS**

45 **PROCLAMATION**

46 **Bill of Rights Day**

47 **DECEMBER 15, 2015**

48
 49 **Whereas**, the necessary states ratified the **Bill of Rights**, the first ten amendments to the
 50 United States Constitution, on December 15, 1791; and

51

1 **Whereas**, the **Bill of Rights** eventually protected every person of this state and nation from the
2 infringement of basic human and civil rights; and

3
4 **Whereas**, the freedoms of speech and association and the right to due process and equal
5 protection of the law, as embodied in the **Bill of Rights**, are a model for democratic institutions
6 and laws all over the world; and

7
8 **Whereas**, the people of North Carolina stood strong in withholding ratification of the Constitution
9 until the **Bill of Rights** was added to ensure their inalienable rights; and

10
11 **Whereas**, the Orange County Board of Commissioners demonstrated its commitment to
12 “upholding the civil rights and civil liberties of all persons in Orange County and their free
13 exercise and enjoyment of any and all rights and privileges secured by our constitutions and
14 laws of the United States, the State of North Carolina, and Orange County,” in a May 20, 2003
15 approved resolution entitled “A Resolution Regarding the Protection of Civil Rights and Civil
16 Liberties”; and

17
18 **Whereas**, the Orange County Board of Commissioners reaffirmed the protections of all its
19 residents by passing “A Resolution Opposing the Use of Local Law Enforcement to Enforce Civil
20 Immigration Law and Policy” on January 23, 2007;

21
22 **Now, Therefore Be It Resolved** that we the Orange County Board of Commissioners do
23 hereby proclaim **December 15, 2015** as “**BILL OF RIGHTS DAY**” in Orange County and
24 commend this observance to all people.

25
26 This, the 7th day of December 2015.

27
28 A motion was made by Commissioner Jacobs, seconded by Commissioner Dorosin for
29 the Board adopt the Proclamation regarding the Bill of Rights Day and authorize the Chair to
30 sign the Proclamation.

31
32 VOTE: UNANIMOUS

33
34 **d. Proclamation - Human Rights Day, Bill of Rights Day, and Human Rights Week**

35 The Board considered adopting the Proclamation regarding Human Rights Day, Bill of
36 Rights Day and Human Rights Week and authorizing the Chair to sign the Proclamation.

37 Commissioner Jacobs read the proclamation:

38
39 **ORANGE COUNTY BOARD OF COMMISSIONERS**
40 **PROCLAMATION**

41
42 **WHEREAS**, on December 10, 1948, the member states of the United Nations signed the
43 Universal Declaration of Human Rights and countries of different political, economic and social
44 systems agreed on the fundamental rights that all people share solely on the basis of their
45 common humanity; and

46
47 **WHEREAS**, Human Rights Day and Human Rights Week were adopted by the United Nations
48 in connection with the Universal Declaration of Human Rights; and

49
50 **WHEREAS**, the Bill of Rights Day was first declared in 1941 by President Franklin Delano
51 Roosevelt to commemorate the 1791 Ratification of the Bill of Rights; and

1
2 **WHEREAS**, it was the North Carolina convention, held in Hillsborough, which was instrumental
3 regarding the inclusion of a Bill of Rights as part of ratifying the United States Constitution; and
4

5 **WHEREAS**, the Bill of Rights guarantees, among other basic liberties, freedom of speech and
6 of the press as well as freedom of religion and association; and
7

8 **WHEREAS**, the Bill of Rights states that no person shall be deprived of life, liberty or property
9 without due process of law and establishes fundamental rules of fairness in judicial proceedings,
10 including the right to trial by jury; and
11

12 **WHEREAS**, the primary responsibility to promote respect for these rights and freedoms lies with
13 each individual in Orange County, and each of us can play a major role in enhancing human
14 rights; and
15

16 **WHEREAS**, the residents of Orange County support Human Rights and recognize that the
17 “inherent dignity and the equal and inalienable rights of all members of the human family are the
18 foundation of freedom, justice and peace;”
19

20 **NOW, THEREFORE**, We, The Board of County Commissioners of Orange County, North
21 Carolina, do hereby proclaim December 10, 2015 as **Human Rights Day** and December 15,
22 2015 as **Bill of Rights Day** and December 10 – 16, 2015 as **Human Rights Week** in Orange
23 County and challenge residents to study and promote the ideals contained in these documents
24 to the end that freedom, justice, and equality shall not perish but will flourish and be made
25 available to all.
26

27 This the 7th day of December 2015.
28

29 A motion was made by Commissioner Rich, seconded by Commissioner Burroughs for
30 the Board to adopt the Proclamation regarding Human Rights Day, Bill of Rights Day and
31 Human Rights Week and authorize the Chair to sign the Proclamation.
32

33 VOTE: UNANIMOUS
34

35 **e. Presentation on County Financing of Public Schools**

36 The Board considered receiving the presentation discussing North Carolina’s governing
37 and financing structure for public education, including the different roles that counties have in
38 funding public schools.

39 Bonnie Hammersley introduced the staff from the NCACC.

40 Paige Worsham, NCACC Research Analyst, presented the following PowerPoint,
41 providing the legal overview:
42

43 **Orange County Board of Commissioners**
44 **Board Meeting**
45 **December 7, 2015**
46 **Hillsborough, NC**
47

48 **Paige C. Worsham, Esq.**
49 **Research Analyst**
50 **Dr. Linda S. Millsaps**
51 **Research Director**

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NCACC Vision

Empowering 100 counties to work together for the betterment of one state

NCACC Mission

Our Association supports and promotes the well being of all North Carolina counties through advocacy, education, research, and member services.

Center for County Research

The North Carolina Center for County Research is the principal repository and source of data analysis for county-based information. The center collects and publishes primary survey data from North Carolina county governments and compiles county data information from secondary data sources.

Outline

School Funding Process in North Carolina

- ADM Changes
- Local School Administrative Unit Funds
- Budget Process
- Dispute Resolution
- Directions and Limitations on School Board's Budget
- Other Board of Commissioners Authority

School Funding Process in North Carolina

Constitutional Provisions

- The General Assembly shall provide by taxation and otherwise for a general and uniform system of free public schools, which shall be maintained at least nine months in every year, and wherein equal opportunities shall be provided for all students. N.C. Const. art. IX § 2(1)
- Local responsibility. The General Assembly may assign to units of local government such responsibility for the financial support of the free public schools, as it may deem appropriate. The governing boards of units of local government with financial responsibility for public education may use local revenues to add to or supplement any public school or post-secondary school program. N.C. Const. art. IX § 2(2)

Statutory Provisions

- To insure a quality education for every child in North Carolina, and to assure that the necessary resources are provided, it is the policy of the State of North Carolina to provide from State revenue sources the instructional expenses for current operations of the public school system as defined in the standard course of study.
- It is the policy of the State of North Carolina that county governments will meet the facilities requirements for a public education system. N.C. G.S. 115C-408(b)
The funding responsibility is divided between state and county governments.
- Generally, the state is responsible for operating expenses and counties are responsible for capital expenses. However, states provide some capital funds and counties supplement operating expenses.

State Funding

- ADM Allotment Funds
- Clear proceeds of all civil penalties, civil forfeitures, and civil fines that are collected by a State agency pursuant to Article IX, Section 7(b) of the Constitution

- 1 ➤ 30% of proceeds from ½ ¢ sales tax levied under Art. 40 are earmarked for school
- 2 capital needs
- 3 ➤ 60% of proceeds from ½ ¢ sales tax levied under Art. 42 are earmarked for school
- 4 capital needs
- 5 ➤ Money from Public School Building Capital Fund (lottery money)

6 **Allotted ADM, 2015-16**

- 7 • Orange County Schools
- 8 ○ 7,526 (decrease of 2.2%)
- 9 • Chapel Hill Carrboro City Schools
- 10 ○ 12,203 (decrease of 1.2%)

11 **Orange County Schools, Total Dollar Per ADM (graph)**

12 **Chapel Hill-Carrboro City Schools (CHCCS), Total Dollar Per ADM (graph)**

13 **Required Funds for Local School Administrative Units**

14 G.S. 115C-426

15 1. **The State Public School Fund**

- 16 ➤ Appropriations for current operating expenses from moneys made available to local
- 17 school administrative unit by the State Board of Education

18 2. **The Local Current Expense Fund**

- 19 ➤ Includes appropriations sufficient, when added to appropriations from the State Public
- 20 School Fund, for the current operating expense of the public school system in conformity
- 21 with the educational goals and policies of the State and the local board of education,
- 22 within the financial resources and consistent with the fiscal policies of the **board of**
- 23 **county commissioners.**

24 3. **The Capital Outlay Fund**

- 25 ➤ ...

26 Commissioner Jacobs asked if there was any leeway for the BOCC to determine what

27 those fiscal policies might be, as they relate to the schools.

28 Paige Worsham said it does allow some discretion. She said Orange County has a

29 written fiscal policy, which would determine the level of leeway.

30 Paige Worsham resumed the presentation:

31 **Orange County Schools, State Allocated Dollars (graph)**

32 **CHCCS, State Allocated Dollars (graph)**

33 **Required Funds for Local School Administrative Units (cont.)**

34 1. The State Public School Fund

35 2. The Local Current Expense Fund

36 3. The Capital Outlay Fund

- 37 ➤ Includes appropriations for:

38 (1) Real property for school purposes

39 (2) The acquisition, construction, reconstruction, enlargement, renovation, or

40 replacement of buildings and other structures

41 (3) The acquisition or replacement of furniture and equipment

42 (4) The acquisition of school buses

43 (5) The acquisition of activity buses and other motor vehicles.

1 (6) Other objects of expenditure that are assigned to capital outlay fund

2
3 **Local Current Expense Fund**

4 *Includes:*

- 5 ➤ Revenues accruing to the local school administrative unit by virtue of Article IX, Sec. 7 of
6 the Constitution,
7 ➤ **Monies made available to the local school administrative unit by the board of**
8 **county commissioners,**
9 ➤ supplemental taxes levied by or on behalf of the local school administrative unit pursuant
10 to a local act or G.S. 115C-501 to 115C-511,
11 ➤ State money disbursed directly to the local school administrative unit, and
12 ➤ *other moneys made available or accruing to the local school administrative unit* for the
13 current operating expenses of the public school system. (Emphasis added)

14
15 *County Board may consider the local school administrative unit's fund balance, when making
16 appropriations for current expenses

17
18 Chair McKee asked if the fund balance is different from the monies made available to
19 the local school administrative unit by the BOCC. He said the fund balances are accrued
20 through the County's appropriations.

21 Paige Worsham said the fiscal policies of the school boards encourages the funds be
22 used for non-recurring expenses.

23 Chair McKee clarified that the BOCC could not reduce its allocation as per the amount
24 the school boards are using.

25 Paige Worsham said yes.

26 Commissioner Dorosin asked what would happen if the schools used the funds for
27 recurring expenses.

28 Paige Worsham said the school boards' policies strongly encourage them not to do so.

29 Commissioner Dorosin asked what happens if this strong encouragement is ignored and
30 money is spent on a recurring expense.

31 Paige Worsham said the BOCC could then change its appropriation accordingly.

32 Commissioner Dorosin asked if federal monies are considered anywhere in this process.

33 Paige Worsham said those monies are not spoken to in any of these statutes, but are
34 considered separate funding with specific targets.

35 Commissioner Rich asked if the fund balance is used for salaries or raises, and it
36 becomes an on-going expense, who would be held responsible for said ongoing expense.

37 Paige Worsham she said she would address that question in upcoming slides.

38 Paige Worsham continued the presentation:
39

40 **NCACC Annual Budget & Tax Survey**

41 *Findings:*

- 42 • **Average 2014-15 Current Expense**
43 ○ \$26,412,376 (range from \$570,000 - \$386,000,000)
44 • **Average 2015-16 Current Expense** (14 counties not reporting)
45 ○ \$30,378,438 (range from \$537,595 - \$406,202,352)
46 • **Average Increase of 4%**
47 ○ *Orange County is 2.7%*

48
49 **LEA Fund Balances (graph)**

50
51 **Local Current Expense Fund Balance Policy**

1 **3.1. Fund Balance for Cash Flow Purposes** – Each school district will make a good faith effort
 2 to maintain a level of unassigned fund balance that will ensure sufficient funds are available to
 3 address its cash flow needs. The following levels are to be maintained for cash flow purposes
 4 only:
 5

6 **3.1.1. Chapel Hill Carrboro City Schools** - The targeted level of unassigned fund balance for
 7 cash flow purposes will be at a minimum of **5.5 percent** of budgeted expenditures.
 8

9 **3.1.2. Orange County Schools** – The targeted level of unassigned fund balance for cash flow
 10 purposes will be at a minimum of **3 percent** of budgeted expenditures.
 11

12 **3.2. Accumulated Fund Balance Above Cash Flow Purposes** - In the event that either school
 13 district accumulates more than the percentage amounts allowed for cash flow purposes, the
 14 respective Boards of Education will develop a plan in place for spending the accumulated fund
 15 balance surplus for non-recurring purposes. *The Board of Education will share that plan with the*
 16 *Board of County Commissioners.*
 17

18 **3.3. Fund Balance Appropriation Occurring Outside the Normal Annual Budgeting**
 19 **Process** – Appropriation of fund balance is a budgetary action that rests with elected bodies of
 20 each school system. It is highly desired that fund balance appropriations be limited to non-
 21 recurring expenses. Both school districts have historically appropriated fund balance as a part
 22 of their normal budgeting process, and this practice will remain until additional revenue is
 23 available to eliminate the use of fund balance. The board of education should note and explain
 24 significant deviations in the normal budgetary appropriation as a part of the budget narrative
 25 accompanying the recommended and adopted budgets. If the board of education finds it
 26 necessary to appropriate fund balance, outside the normal annual budgeting process, the board
 27 of education shall highlight the appropriation in their next fiscal year's budget request.
 28

29 The county commissioners are not obligated to increase local current expense in order to fund
 30 recurring items for which the board of education appropriates fund balance outside of the
 31 normal budgeting process.
 32

33 Paige Worsham said if the school districts choose to appropriate fund balance to
 34 recurring or non-recurring expenses, the BOCC is not obligated to match that amount in the
 35 next budget cycle.
 36

37 **Capital Outlay Fund**

38 *Includes:*

- 39 ➤ Revenues made available for capital outlay purposes by the State Board of Education
- 40 and the **board of county commissioners**,
- 41 ➤ supplemental school district taxes,
- 42 ➤ the proceeds of the sale of capital assets,
- 43 ➤ the proceeds of claims against fire and casualty insurance policies,
- 44 ➤ and other sources.
- 45 *“No contract for the purchase of a site shall be executed nor any funds expended*
- 46 *therefore without the approval of the Board of County Commissioners as to the amount*
- 47 *to be spent for the site.”*
- 48 ■ Dispute resolution process in G.S. 115C-431 used to settle disagreement
- 49

50 **County Expenditures per Pupil (map)**

51

1 **County Expenditure per Pupil (map)**
2

3 **NCACC Annual Budget & Tax Survey**

4 Findings:

- 5 • Average **2014-15 Total County School Appropriation** (Includes Capital Outlay &
6 Reserve; School Debt Service)
7 ○ \$38,142,461 (range from \$943,253 - \$574,695,773)
8 • Average **2015-16 Total County School Appropriation** (14 counties not reporting)
9 ○ \$42,935,231 (range from \$586,500 - \$631,765,751)
10 • *Average Increase of 5% [Orange County is 2%]*

11
12 **Communication Between Board of County Commissioners and Boards of Education**

13 In Budget Process:

14 **§ 115C-426.2:**

- 15 ➤ Boards are “strongly encouraged” to hold periodic joint meetings during the fiscal year.
16 ➤ “In particular, the boards are encouraged to assess the school capital outlay needs, to
17 develop and update a joint five-year plan for meeting those needs, and to consider this
18 plan in the preparation and approval of each year's budget under this Article.”

19
20 **§ 115C-429:**

- 21 ➤ Board of Education submits budget to the board of county commissioners not later than
22 May 15, or later date if fixed by Board of Commissioners
23 ➤ Board of Commissioners completes action by July 1, or later agreed-upon date.
24 ➤ The **board of county commissioners** may, in its discretion, allocate part or all of its
25 appropriation by purpose or function
26 ➤ “The **board of county commissioners** shall have full authority to call for, and the board
27 of education shall have the duty to make available to the board of county
28 commissioners, upon request, all books, records, audit reports, and other information
29 bearing on the financial operation of the local school administrative unit.”

30
31 **Multiple Local School Administrative Units**

32 **§ 115C-430**

- 33 ➤ For counties with more than one local school administrative unit, all county
34 appropriations to local current expense funds (except supplemental tax funds) are
35 apportioned based on ADM
36 ➤ There is no uniform appropriation requirement for capital outlay funds

37
38 Commissioner Jacobs asked if there could be further clarification of these points.

39 Paige Worsham said the capital outlay does not have to be appropriated evenly between
40 districts nor based on ADM.

41
42 **Dispute Resolution Process**

43 **§115C-431**

- 44 ➤ Require mediation if board of education determines “the amount of money appropriated
45 to the local current expense fund, or the capital outlay fund, or both, by the board of
46 county commissioners is not sufficient to support a system of free public schools...”
47 ➤ If no agreement by August 1 (or later date agreed to by both parties), the board of
48 education may file an action in superior court
49 ➤ Superior court must find:
50 ▪ the amount of money legally necessary from all sources and
51 ▪ the amount of money legally necessary from the board of commissioners

1 Superior court must consider “educational goals and policies of the State and the local
2 board of education, the budgetary request of the local board of education, the financial
3 resources of the county and the local board of education, and the fiscal policies of the
4 board of county commissioners and the local board of education.”

6 **HB 726**

- 7 ➤ Filed in 2015-16 NCGA Session
- 8 ➤ Passed Judiciary Committee hearing, but Failed House floor vote 52-66
- 9 ➤ Would have repealed school board’s authority to file in superior court, and the board of
10 commissioners’ appropriation would be final

11 **Directions and Limitations on School Board’s Budget**

12 **§ 115C-432**

- 14 ➤ The school board’s budget resolution must conform to the county board’s allocation if the
15 county board appropriated by purpose or function under G.S. 115C-429(b).
- 16 ➤ Otherwise, the school board has discretion over the local current expense fund if the
17 county board provides no direction.
- 18 ➤ Purpose
19 Codes: <http://www.ncpublicschools.org/docs/fbs/finance/reporting/coa/2015/purposesummary.pdf>
- 20 ➤ Purpose/Function
21 Codes: <http://www.ncpublicschools.org/docs/fbs/finance/reporting/coa/2015/purposesummary.pdf>

22 **Purpose Codes**

- 24 • For budgeting and accounting purposes, expenditures of a local school administrative
25 unit are classified into five purposes:
26 5000 Instructional services
27 6000 System-Wide Support Services
28 7000 Ancillary Services
29 8000 Non-Programmed Charges
30 9000 Capital Outlay

31 **Function Codes**

- 32 • Second level of code
- 33 • For example: 5300 -- Alternative Programs and Services
- 34 7200 -- Nutrition Services

35 **§ 115C-433**

36 If the **board of county commissioners** allocates part or all of its appropriations by purpose or
37 function.....

38 Then, the board of education must obtain board of commissioners’ approval for an amendment
39 to the budget that increases or decreases the amount of county appropriation allocated to a
40 purpose or function by twenty-five percent (25%*) or more

41 * Board of commissioners may allow a lesser percentage of not less than 10%

42 Chair McKee asked if this provision applies to operating expense, capital expense or
43 both.

44 Paige Worsham said in the statute, it applies to both; but practically, it applies to
45 operating expense as the purpose and function codes deal mostly with operating expense.
46 She said not many counties budget by purpose and function.

1 Commissioner Dorosin asked if there is an advantage to budgeting by purpose and
2 function.

3 Paige Worsham said without budgeting this way, boards of education have full discretion
4 as to how to spend funds, once the funds have been appropriated by the BOCC.

5 Commissioner Dorosin asked if there is a reason why counties do not budget by purpose
6 and function.

7 Paige Worsham said she did not know the reason, but guessed it may be a cumbersome
8 way to budget, and require a greater amount of micromanaging by the BOCC.

9 Paige Worsham continued the presentation:

10
11 **Appropriating Capital Funds:**

12 A county board may appropriate moneys for Category I expenditures for a specific capital
13 project or projects. Moneys appropriated for Categories II and III expenditures, however, are
14 allocated to the entire category, not to individual expenditure items.

15
16 Category I - Acquisition of real property and acquisition, construction, reconstruction,
17 enlargement, renovation or replacement of buildings and other structures for school
18 purposes.

19 Category II - Acquisition or replacement of furnishings and equipment.

20 Category III - Acquisition of school buses, activity buses, and other motor vehicles.

21
22 If the board of commissioners allocates all or part of capital funding by project, the school board
23 must get approval to change specific Category I expenditures. The school board has full
24 discretion to reallocate funds within Categories II & III. [*County and Municipal Government,*
25 *UNC Sch. Of Gov't*]

- 26 ➤ The board of education may amend the budget to transfer money to or from the capital
27 outlay fund to or from any other fund, with the approval of the board of county
28 commissioners, in **emergency situations**.
- 29 ➤ Board of commissioners must act on school board's request within 30 days

30
31 **Other Types of Board of Commissioners Authority:**

32 **Continuing Contracts for Capital Outlay**

33 **§ 115C-441(c)**

- 34 ➤ A school administrative unit may enter into a multi-year contract for capital outlay
35 expenditures, without the budget resolution including an appropriation for the entire
36 obligation, provided:
 - 37 a. The budget resolution includes an appropriation authorizing the current fiscal year's
38 portion of the obligation;
 - 39 b. An unencumbered balance remains in the appropriation sufficient to pay in the
40 current fiscal year the sums obligated by the transaction for the current fiscal year; and
 - 41 c. *Contracts for capital outlay expenditures are approved by a resolution adopted by the*
42 *board of county commissioners. The resolution binds the board of county commissioners*
43 *to appropriate sufficient funds in ensuing fiscal years to meet the amounts to be paid*
44 *under the contract*

45 **School Sites and Property**

46 **§ 115C-518**

- 47 ➤ The **board of commissioners** is afforded the first opportunity to obtain property held by
48 the school board if the school board determines the property no longer suitable or
49 necessary for public school purposes

50 **§ 115C-521**

- 51 ➤ School board has duty to provide adequate classroom facilities

- School boards must submit long-range facilities plans (Facilities Needs Survey) to the State Board of Education every five years (In developing these plans, local boards of education shall consider costs and feasibility of renovating old school buildings instead of replacing them.)
- The **board of commissioners** shall be given a reasonable time to provide the funds the board finds necessary for providing the local school administrative facilities with suitably equipped facilities
- The board of commissioners has a duty to provide funds for its finding

115C-524

- Duty of local board of education and board of commissioners to keep all school buildings in good repair
The board of commissioners has no authority to require the school board to use a specific contractor or a specific build process. Use an interlocal agreement for county to have contracting authority

§ 115C-528

- The school board must get approval from the **board of commissioners** for any installment purchase contract if the term is more than 3 years and more than \$250K, OR more than 3x the local board's annual State allocation for classroom materials, equipment, and supplies, whichever is less. School board must submit information on installment contracts to commissioners in annual budget

§ 115C-530

- Operational leases for terms of less than three years are not subject to board of county commissioner approval.
- Operational leases for terms of three years or longer, including renewal periods, are permitted if conditions are met, including:
 - The leases are approved by a resolution adopted by the board of county commissioners, and the county commissioners must appropriate sufficient funds to cover the lease

Public School Building Capital Fund (PSBCF)

§115C-546.1 to 546.2

Purpose

- to assist county governments in meeting their public school building capital needs

Fund Appropriation

- Funds appropriated to the PSBCF from the lottery are allocated for school capital construction projects on ADM basis
- A county may use monies in this Fund to pay for school construction projects in local school administrative units and to retire indebtedness incurred for school construction projects.
 - \$100 Million appropriated in 2015-16 & in 2016-17

NC Schools costs per sq. ft. (graph)

2014 Median Cost of New Schools (by region) (chart)

Commissioner Burroughs referenced the required funds for local school administrative unites, and asked if there are any optional funds.

Paige Worsham said she could not think of anything, but will research this.

Neil Emory, NCACC Outreach Associate, said most counties do not use purpose and function budgeting because it does not allow line item discretion, but rather function. He added

1 that the functions are usually so broad that the required effort is not worth it. He said only the
2 Board of County Commissioners can issue debt for the County, and for what it is utilized.

3 Commissioner Dorosin said this is a lot of information tonight. He said Orange County is
4 one of the few counties left with multiple school districts, and he asked if that fact makes a
5 difference with these state statutes.

6 Paige Worsham said the one that comes to mind is the difference between the current
7 expense appropriation and the capital needs (slide 115c-429) in budget process. She said the
8 current expense would be appropriated by the BOCC on an ADM basis, but the capital funds
9 need not be. She said there are issues of fairness and relationships that the BOCC would likely
10 need to consider but there is no requirement of equality in the division of capital outlay.

11 Commissioner Dorosin clarified that once the BOCC allocates funds to the schools, the
12 Board of County Commissioners has no control over the spending of that funding. He gave the
13 example of schools wanting to build a football stadium, against the wishes of the BOCC. He
14 asked if the BOCC approved a budget, but denied the monies for a football stadium, could the
15 schools still use the funds that were received to build a football stadium, at the cost of not
16 funding another need within their district.

17 Paige Worsham said that particular example would fall under category one.

18 Commissioner Dorosin offered another example of giving the superintendent a large
19 bonus, which the Board of County Commissioners does not support but the school does it
20 anyway out of the funds that are received.

21 Paige Worsham said the money would have to come from some part of a budget
22 previously approved by the BOCC.

23 Commissioner Dorosin said it was his understanding from the PowerPoint presentation
24 that once the check is written to the schools for their budget, the BOCC no longer has any
25 control over how the money is spent.

26 Paige Worsham said if the BOCC is not funding by purpose and function, then yes that
27 is correct.

28 Chair McKee said the purpose of this presentation is to help clarify details as Orange
29 County approaches the bond process. He said the BOCC is learning from this presentation just
30 as much as community members who are watching the meeting this evening. He said there will
31 be meetings with both school boards in the coming months and the BOCC needs to understand
32 the state statutes in order to provide the best for the children of Orange County. He stressed
33 that no further meaning should be read into any of the questions or comments made by the
34 BOCC.

35 Commissioner Jacobs said he asked for this type of presentation so that all members of
36 the BOCC could understand the exact opportunities and obligations to make the Board's will
37 manifest in the process with the schools. He said sometimes the BOCC is pushed out of school
38 discussions, when the statutes give permission for the BOCC to be involved in such business.
39 He referred to Commissioner Dorosin's hypothetical situation and said under Orange County
40 policies a school board could spend the \$1 million fund balance in defiance of BOCC wishes.
41 He said the Board may want to think about going forward.

42 Commissioner Dorosin said he wished the Board had received the presentation earlier in
43 order to study it.

44
45 **5. Public Hearings**

46 NONE

47
48 **6. Consent Agenda**

- 49
50 • Removal of Any Items from Consent Agenda

51

1 Item f was deferred earlier this evening.

2
3 Commissioner Pelissier asked to be excused from voting on Item c due to fact her
4 husband is listed.

- 5
6 • Approval of Remaining Consent Agenda

7
8 A motion was made by Commissioner Rich, seconded by Commissioner Burroughs to
9 approve the remaining items on the Consent Agenda, with exclusion of Item 6-c.

10
11 VOTE: UNANIMOUS

- 12
13 • Discussion and Approval of the Items Removed from the Consent Agenda

14
15 A motion was made by Commissioner Price, seconded by Commissioner Jacobs Motion
16 to excuse Commissioner Pelissier from voting on Item 6-c.

17
18 VOTE: UNANIMOUS

19
20 A motion was made by Commissioner Price, seconded by Commissioner Jacobs to
21 approve Item 6-c.

22
23 VOTE: UNANIMOUS

24
25 **a. Minutes**

26 The Board approved the minutes for the November 5, 2015 BOCC Regular Meeting, and the
27 November 10, 2015 BOCC Work Session as submitted by the Clerk to the Board.

28 **b. Motor Vehicle Property Tax Releases/Refunds**

29 The Board adopted the resolution, which is incorporated by reference, to release motor vehicle
30 property tax values for eight (8) taxpayers with a total of eight (8) bills that will result in a
31 reduction of revenue in accordance with the NCGS.

32 **c. Property Tax Releases/Refunds**

33 The Board adopted the resolution, which is incorporated by reference, to release property tax
34 values for eleven (11) taxpayers with a total of eleven (11) bills that will result in a reduction of
35 revenue in accordance with North Carolina General Statute 105-381.

36 **d. Applications for Property Tax Exemption/Exclusion**

37 The Board adopted the resolution, which is incorporated by reference, for the ten (10) untimely
38 applications for exemption/exclusion from ad valorem taxation for ten (10) bills for the 2015 tax
39 year.

40 **e. Amendment to the Orange County Code of Ordinances Regarding Agricultural**
41 **Preservation Board**

42 The Board 1) adopted and authorized the Chair to sign the Resolution, which is incorporated by
43 reference, Amending Chapter 48 of the Code of Ordinances of Orange County; and 2)
44 authorized staff to make any typographical or other non-substantive corrections as may be
45 needed prior to and during the process of submission of the amended ordinance to Municode.

46 **f. Amendment to the Orange County Code of Ordinances Regarding Massage Regulation**

47 The Board 1) adopted and authorized the Chair to sign the Resolution, which is incorporated by
48 reference, Amending Chapter 8, Article II of the Code of Ordinances of Orange County; and 2)
49 authorized staff to make any typographical or other non-substantive corrections as may be
50 needed prior to and during the process of submission of the amended ordinance to Municode.

51 **g. Memorandum of Agreement Renewal – Fairview Park**

1 The Board renewed, with minor changes, a Memorandum of Agreement (MOA) between the
 2 County and Town of Hillsborough for Fairview Park Operations and Responsibilities, and
 3 authorized the Chair to sign the revised MOA for Fairview Park.

4 **h. Request for Road Addition to the State Maintained Secondary Road System –**
 5 **Carramore Lane**

6 The Board 1) forwarded the Petition for Addition to the State Maintained System to the North
 7 Carolina Department of Transportation for Carramore Lane in Carramore Subdivision; and 2)
 8 recommended the Department of Transportation accept the road for maintenance as a State
 9 Secondary Road.

10 **i. Request for Road Addition to the State Maintained Secondary Road System – Lucas**
 11 **Farm Lane**

12 The Board 1) forwarded the Petition for Addition to the State Maintained System to the North
 13 Carolina Department of Transportation for Lucas Farm Lane in Lucas Farm at New Hope Creek
 14 Subdivision; and 2) recommended the Department of Transportation accept the road for
 15 maintenance as a State Secondary Road.

16 **j. Schools Adequate Public Facilities Ordinance (Schools APFO) – Approval of**
 17 **Membership and Capacity Numbers**

18 The Board approved the November 13, 2015 Membership and Capacity numbers for both
 19 school districts (Orange County and Chapel Hill-Carrboro City Schools) which will be used in
 20 developing 10-year student membership projections and the 2016 SAPFO Technical Advisory
 21 Committee (SAPFOTAC) Report.

22 **k. Text Amendment to the Joint Planning Agreement – Revise Existing Language**
 23 **Regarding Transition Area Resident Representation of the Chapel Hill Planning**
 24 **Commission and Board of Adjustment**

25 The Board received the Planning Board's recommendation and amendment to the Joint
 26 Planning Agreement proposed by the Town of Chapel Hill regarding Transition Area resident
 27 representation on the Town's Planning Commission and Board of Adjustment, and adopted the
 28 Resolution Amending the Joint Planning Agreement Regarding Transition Area Resident
 29 Representation on the Town of Chapel Hill's Planning Commission and Board of Adjustment.
 30

31 **7. Regular Agenda**

32
 33 **a. Major Subdivision Preliminary Plat Application – Henderson Woods**

34 The Board considered receiving the Planning Board recommendation on the Preliminary
 35 Plat application for the Henderson Woods Subdivision proposing a 19 lot single-family
 36 residential subdivision in accordance with the provisions of Section 2.15 and Article 7
 37 *Subdivisions* of the Unified Development Ordinance (UDO), and approving the Preliminary Plat
 38 as submitted and the Resolution of Approval.

39 Patrick Mallett, Orange County Planner, reviewed the attachments in the abstract, and
 40 made the following PowerPoint presentation:

41
 42 **December 7, 2015**

43 **Board of County Commissioners Item 7:**

44 **Henderson Woods**

45 **Preliminary Plan**

46 **Review and Action on a 19-lot Major Subdivision off of Erwin Road and Whitfield Road**

47 **Orange County Planning Department**

48 **Areal Map**

49
 50 **Land Use Element of the Comprehensive Plan- Rural Buffer (map)**

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Growth Management System- Rural Designated (map)

Conventional Plan (graphic)

Flexible Design Option (graphic)

Illustrative Rendering (graphic)

Cluster Design Options (chart)

Conservation Cluster - Flexible Design Attributes

- Average lot size – 1.22 acres (53,143 sq. ft.). Density is 1 dwelling unit per 2.52 acres.
 - STAFF COMMENT: Consistent with Joint Planning Land Use Plan and Orange County Comprehensive Plan requirements.
- Open Space is 21.21 acres (44% of site) containing:
 - Primary Open Space is 3.55 Acres (17% of Open Space); and
 - Secondary Open Space 17.61 Acres (83% of Open Space).
- Required private recreation ratio met within provided common Open Space.
- 100 foot building setbacks along perimeter of project.

Site Photograph – 1

Site Photograph – 2

Site Photograph - 3

Site Photograph -4

Site Photograph – 5

Neighborhood Information Meeting

A Neighborhood Information Meeting (NIM) was held on April 7, 2015 and attended by approximately 20 area residents.

Applicants and Staff discussed the following issues with residents:

1. Vehicular Access and Traffic;
2. Lot Size, Density and Open Space;
3. Setbacks, Buffers and Tree Preservation;
4. Conventional vs. Flexible Design Provisions;
5. Trail Connections to New Hope Creek and Duke Forest; and
6. Well and Septic Provisions.

Patrick Mallett answered some clarifying questions about access to the property.

Recommendation

The Manager recommends the Board:

1. Receive the Planning Board and Planning Director’s recommendation on the Preliminary Plat application for the Henderson Woods Subdivision,
2. Discuss the proposal as desired, and
3. Approve the Preliminary Plat as submitted and the Resolution of Approval contained in Attachment 7.

1
2 Commissioner Jacobs asked if there is a party responsible for taking care of the
3 sidewalks along the public right of way.

4 Patrick Mallett said most of the sidewalks are outside of the public right of way, and the
5 residents or Home Owner's Association (HOA) would take care of the sidewalks, as well as the
6 gazebo, and any other areas along the right of way.

7 Commissioner Jacobs said it is nice to know who is responsible for these types of things.

8 Patrick Mallett said the Applicant has worked with Duke Forest to make sure that other
9 trails were not needed.

10 Commissioner Jacobs asked if this is considered a rural area.

11 Patrick Mallett said somewhere between rural and urban, and it is zoned rural-buffer.

12 Commissioner Jacobs referred to an issue that arose during the neighborhood meeting
13 where residents expressed concern regarding the amount of increase of cars. He said this
14 impact could be very different for a rural community versus an urban one. He said it would be
15 nice to be able to apply metrics to situations like these, and hopes Planning is working on this
16 issue.

17 Commissioner Price asked if the water feature is a pond.

18 Patrick Mallett said the Applicant wants to use it as an amenity, but has yet to define it.

19 Commissioner Pelissier referred to the protection of existing trees, and asked if there is
20 way this is communicated to the homeowners.

21 Patrick Mallett said there is a commitment to do this in the primary areas, which are
22 jurisdictional streams; wetlands, that may or may not be jurisdictional streams that would require
23 additional permitting; and the perimeter buffer along the edges. He said the Applicant
24 anticipates having to do storm water and erosion control for the roads. He said the Applicant
25 has an established track record of limiting the amount of disturbance for the single-family lots.

26 Commissioner Pelissier said she is asking about when an individual home is purchased,
27 how does the homeowner know the boundaries of where it is permissible to cut trees.

28 Patrick Mallett said the lot is surveyed and recorded and the rest would be controlled by
29 the HOA.

30 Michael Harvey, Orange County Current Planning Supervisor, said when one buys a lot,
31 part of due diligence review is reviewing the covenants, the deed restrictions and the plat,
32 which includes areas that need to be left undisturbed. He said once this plat gets recorded the
33 zoning regulations will be more clear.

34 Commissioner Pelissier said the HOA is responsible for preserving open space.

35 Michael Harvey said yes.

36 Tom Heavner, the Applicant, said his experience in previous sub-divisions is that at point
37 of sale, the homeowner is aware of these limitations. He said the HOA assumes the
38 responsibilities for making sure of this and enforcing it. He said this is an urbanizing area
39 though zoned rural buffer, noting it is within two miles from Wal-Mart. He said these sub-
40 divisions like streetlights and sidewalks, and he works with the appropriate partners to install
41 these amenities in non-traditional ways.

42 Commissioner Rich said residents in her neighborhood have gone into open spaces,
43 disrupting them. She said this does not typically happen with the original homeowners, but
44 rather when properties are sold.

45 Commissioner Rich referred to the payments in lieu, and asked Michael Harvey if he
46 could explain how the amount of funding that goes towards the parks is determined.

47 Michael Harvey said Orange County is broken into several independent park districts.
48 He said this parcel of property is located in a district that is a regional park and must pay \$455 in
49 accordance with the standards of the Unified Development Ordinance (UDO). He said monies
50 from Henderson Woods will only go to a regional park in this area. He said whether the money

1 is sufficient is a question to refer to the Department of Environment, Agriculture, Parks and
2 Recreation (DEAPR).

3 Commissioner Rich asked if this process is reviewed with any consistency.

4 Michael Harvey said there is a new Parks Master Plan, and a review will be conducted
5 over the next several months.

6 Commissioner Price asked if there is a plan in place if heavy rain falls, and the pond
7 begins to flood, blocking the only entrance to the subdivision.

8 Michael Harvey said it is not uncontrolled but it is on the property that the HOA owns,
9 and he said they are responsible for insuring that the pond does not breach and create a
10 flooding problem. He said the Applicant will go through extensive permitting processes.

11 Phil Koch, Earth Centric Engineering, referred to the illustrative drawing and the center
12 of the pond, which is the low point and where the pond discharges. He also noted aspects of
13 the topography, and that the pond needs to be dredged. He said the pond will have to meet
14 both local and state requirements.

15 Craig Benedict, Orange County Planning Director, said next year's budget will propose
16 some monies for the payment in lieu dedication study, based on the new Parks Master Plan.

17 Commissioner Jacobs asked John Roberts if there is a reason that the HOA agreement
18 is not viewed prior to approval, given how much relies on the actions of the HOA.

19 John Roberts said HOAs are required to submit agreements, and he does look at them.
20 He said these documents are not specifically reviewed for anything in particular, and the HOA is
21 bound to the County; but the actual homeowners are governed by the HOA agreement.

22 Commissioner Jacobs said when an HOA is purported to cover a particular concern he
23 would like to review the document to insure that it is in fact doing so.

24 John Roberts said a declaration of restrictions will be filed, that is not specifically the
25 HOA restrictions. He said this declaration should say the same thing as the resolution that is
26 passed.

27 Commissioner Jacobs said questions have arisen before when an HOA prohibited
28 clotheslines, with which the BOCC disagreed due to the environmental benefits. He said the
29 BOCC would never know about such a prohibition, without viewing the HOA agreement.

30 John Roberts said that is not within the County's purview to make such requirements in
31 an HOA's document.

32 Tom Heavner proposed sending the HOA documents to the County for review, and if
33 there were any desired changes he would address them.

34 Commissioner Jacobs said he would like to ask all developers to voluntarily submit the
35 HOA documents for the Board's review.

36 John Roberts said it would be acceptable to make such a request.

37 Commissioner Rich asked if the Applicant had any plan to address affordable housing
38 needs, and the County's social justice goals, given the large floor plans contained in Henderson
39 Woods.

40 Tom Heavner said the lots would be expensive. He said the goals of affordable housing
41 and the rural buffer are in conflict. He said the rural buffer has density limits, and to truly
42 achieve affordable housing, greater density must be available. He said this project will use
43 private water and sewer systems, which are also problematic for affordable housing. He said it
44 is a problem, and that there is nothing affordable about this subdivision. He said he is open to
45 working with the County to find an equitable way for developers to address affordable housing
46 needs. He said he favors payments in lieu over requiring a certain percentage of a
47 development to be affordable housing. He finds that the Community Land Trust and Habitat for
48 Humanity are far better equipped at creating affordable housing and, as such, makes a donation
49 to these programs each time he builds a development.

50 Commissioner Rich acknowledged his voluntary giving, but noted that not all developers
51 are as generous. She asked if there something that can be done in the rural buffer area to

1 address the needs. She suggested that Tom Heavner may be able to reach out to other
2 developers.

3 Tom Heavner said he has tried to start these conversations, to little success.

4 Tom Heavner said most areas in the rural buffer, especially those in the CHCCS, are
5 very expensive, and do not jive with the goals of affordability.

6 Chair McKee referred to the minutes from the June 3rd Planning Board meeting, noting it
7 mentioned a water source for fire services. He read the excerpt to which he was referring, and
8 asked if there is a reason that a standpipe would not be a good idea.

9 Patrick Mallett said various fire departments have different preferences on equipment
10 used for their water source.

11
12 A motion was made by Commissioner Price, seconded by Commissioner Jacobs to
13 approve the Preliminary Plat as submitted and the Resolution of Approval contained in
14 Attachment 7.

15
16 VOTE: UNANIMOUS

17
18 **8. Reports**

19
20 **a. FY2015-16 First Quarter General Fund and Enterprise Funds Financial Report**

21 The Board considered receiving a First Quarter General Fund and Enterprise Funds
22 Summary Financial Report for the period of July 1, 2015 through September 30, 2015, and
23 providing staff with feedback.

24 Bonnie Hammersley said Financial Services Director Gary Donaldson will present the
25 first quarterly report for FY 2015-16. She said the second quarter report will be brought to the
26 Board in early February.

27 Gary Donaldson presented the following Power Point presentation:

28
29 **Orange County, NC**
30 **Department of Finance and Administrative Services**
31 **FY 2015-16 First Quarter Financial Report**

32
33 **Quarterly Financial Report Contents**

34 General Fund Revenues and Expenditures Analysis by Major Revenue Categories and each
35 Department by Functional Leadership Team

- 36 • 5-Page Narrative explaining Major variances (1st Abstract Attachment)
- 37 ➤ Narrative delineating any material variance by either Performance or Timing
- 38 • Detailed Comparison of FY2015-16 Budget versus Actual and FY2014-15 Budget versus
- 39 Actual Table (2nd Abstract Attachment)
- 40 • NC Economic Outlook section (3rd Abstract Attachment)
- 41 • Appreciate BOCC comments for additions and/or enhancements to this new Financial
- 42 Quarterly reporting

43
44 **General Fund Revenue Overview**

- 45 • Strong revenue base with minimal Elastic revenues
- 46 • Property tax revenues is largest revenue source accounting for 71% of Budgeted
- 47 General Fund revenues; generally Inelastic source of income
- 48 • Sales tax revenues (Elastic) is next largest accounting for 9.6% of Budgeted General
- 49 Fund revenues

- Remaining 20% of revenues consists primarily of Intergovernmental and Charges for Services

General Fund Revenues Budget versus Actual Comparative Analysis (chart)

- FY 2015-16 General Fund revenues are in line with historical performance; first quarter normally low due to timing of Property Tax revenues
- 1Q FY2015-16 revenues collected are \$24.5 million or 11.8% of Budgeted Revenues compared to 12.2% in the prior year
- Property Tax revenues collected are \$18.7 million or 12.7% of Budgeted Revenues compared to 12.9% in the prior year; Property Tax revenues due September 1; By December collection rate will be high 90 percentile
- Sales Tax revenues has shown no remittance activity; the NC Department of Revenue (NCDOR) collects and remits to the local governments by second quarter; our second quarter report will reflect NCDOR distributions
- Charges for Services revenues collected are \$2.3 million or 21.5% of Budgeted Revenues compared to 21.7% in the prior year
- Intergovernmental revenues collected are \$3.3 million or 21.8% of Budgeted Revenues compared to 25.2% in the prior year

General Fund Expenditure Overview

- Expenditures are indicated by the Functional Leadership Teams
- National Recognition for Strong Fiscal Management of Departmental Budgets (AAA rating reports)
- 1Q Spending is consistent with historical levels
- Debt Service payments are budgeted in Non-Departmental

General Fund Expenditures Budget versus Actual Comparative Analysis (chart)

- FY 2015-16 General Fund expenditures in line with historical performance
- 1Q FY2015-16 expenditures are \$50.6 million or 24.4% of Budgeted Expenditures compared with 25.5% in the prior year
- Community Service includes Animal Services, NC Cooperative Extension, Economic Development, and Planning and Inspections; spending rate of 22.4% of Budgeted Expenditures is consistent with historical rate
- General Government includes Board of Elections, Clerk to the Board, County Attorney, County Manager, Register of Deeds, and Tax Administration; spending rate of 21.4% of Budgeted Expenditures is consistent with historical rate
- Education expenditures in line with prior year and represents Current Expenditures, Fair Funding, and Recurring Capital; School Debt Service of \$16 million is budgeted in Non-Departmental
- Support Services includes Asset Management, Community Relations, Finance, HR, and IT; spending rate of 33.7% reflects payments for workers compensation, bonds/insurance, and IT contracts; consistent spending rate with prior year

Gary Donaldson said the County has a strong balance sheet and cash flow over the first quarter.

Commissioner Jacobs asked if there is any art to when lottery funds are requested.

Gary Donaldson said he plans to meet with state officials about this.

Paul Loughton, Orange County Finance and Administrative Services, said the amount within the lottery fund is shared with each school system monthly, and when the schools are

1 ready to draw down these funds, a budget amendment is brought forth to the Board for the
2 capital project ordinances.

3 Commissioner Jacobs asked if the funds are requested only when the schools express a
4 need, or if funds are requested from the State periodically.

5 Paul Laughton said funds are requested periodically, approximately once a quarter.
6

7 **9. County Manager's Report**

8 Bonnie Hammersley said the Commissioners have each received a binder tonight with
9 the draft Comprehensive Annual Financial Report (CAFR) audit.

10
11 **10. County Attorney's Report**

12 NONE

13
14 **11. Appointments**

15 NONE

16
17 **12. Board Comments**

18 Commissioner Burroughs had no comments.

19 Commissioner Rich had no comments.

20 Commissioner Jacobs asked the Manager if a letter was going to go to the CHCCS
21 Board about the \$2 million surplus in their fund balance.

22 Bonnie Hammersley said a draft a letter will be reviewed with the Chair tomorrow.

23 Commissioner Dorosin had no comments.

24 Commissioner Pelissier said Wake County's transit plan is going to be released
25 tomorrow.

26 Commissioner Pelissier said the Partnership to End Homelessness and Community
27 Empowerment Fund has an integrated services center where departments, such as the
28 Department of Social Services, can have a satellite office at their work site. She said this will
29 allow clients to receive collocated services.

30 Commissioner Pelissier said she attended the Collective Impact Summit, which gathered
31 all the partners in the Family Success Alliance (FSA). She said the FSA is seeking to achieve
32 collective impact, where organizations with a common goal work together in order to have
33 maximum impact on social problems. She said there was a discussion about governance of
34 the FSA, and how the organizations should communicate effectively and make decisions
35 together to best serve the community.

36 Chair McKee said he attended the Orange County Extension and Community
37 Association (ECA) event this past Saturday, and noted that this organization has been going
38 strong for 100 years adapting through historical and cultural changes in order remain relevant to
39 serving the community.

40
41 **13. Information Items**

- 42
- 43 • November 17, 2015 BOCC Meeting Follow-up Actions List
 - 44 • Tax Collector's Report – Numerical Analysis
 - 45 • Tax Collector's Report – Measure of Enforced Collections
 - 46 • Tax Assessor's Report – Releases/Refunds under \$100
 - 47 • Memo Regarding Mebane Comprehensive Transportation Plan Project Including the
 - 48 Mattress Factory Road Interchange
 - 49 • BOCC Chair Letter Regarding Petitions from November 17, 2015 Regular Meeting
- 50

1 **14. Closed Session**
2 NONE

3
4 **15. Adjournment**

5
6 A motion was made by Commissioner Burroughs, seconded by Commissioner Jacobs
7 to adjourn the meeting at 9:55 p.m.

8
9 VOTE: UNANIMOUS

10
11 Earl McKee, Chair

12
13
14 Donna Baker, Clerk to the Board

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**ORANGE COUNTY
BOARD OF COMMISSIONERS
ACTION AGENDA ITEM ABSTRACT**
Meeting Date: February 2, 2016

**Action Agenda
Item No. 6-b**

SUBJECT: Motor Vehicle Property Tax Releases/Refunds

DEPARTMENT: Tax Administration

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

Resolution
Releases/Refunds Data Spreadsheet
Reason for Adjustment Summary

INFORMATION CONTACT:

Dwane Brinson, Tax Administrator,
(919) 245-2726

PURPOSE: To consider adoption of a resolution to release motor vehicle property tax value for one (1) taxpayer with a total of one (1) bill that will result in a reduction of revenue.

BACKGROUND: North Carolina General Statute (NCGS) 105-381(a)(1) allows a taxpayer to assert a valid defense to the enforcement of the collection of a tax assessed upon his/her property under these sets of circumstances:

- (a) "a tax imposed through clerical error", for example when there is an actual error in mathematical calculation;
- (b) "an illegal tax", such as when the vehicle should have been billed in another county, an incorrect name was used, or an incorrect rate code (the wrong combination of applicable county, municipal, fire district, etc. tax rates) was used;
- (c) "a tax levied for an illegal purpose", which would involve charging a tax which was later deemed to be impermissible under state law.

In addition, NCGS 105-330.2(b) allows for a full or partial refund when a tax has been paid on a classified motor vehicle and a pending appeal for valuation reduction due to excessive mileage, vehicle damage, etc. is decided in the owner's favor.

NCGS 105-381(b), "Action of Governing Body" provides that "Upon receiving a taxpayer's written statement of defense and request for release or refund, the governing body of the taxing unit shall within 90 days after receipt of such a request determine whether the taxpayer has a valid defense to the tax imposed or any part thereof and shall either release or refund that portion of the amount that is determined to be in excess of the correct liability or notify the taxpayer in writing that no release or refund will be made".

FINANCIAL IMPACT: Approval of these release/refund requests will result in a net reduction of \$143.16 to Orange County, the towns, and school and fire districts. Financial impact year to date for FY 2015-2016 is \$31,321.37.

SOCIAL JUSTICE IMPACT: There is no Orange County Social Justice Goal impact associated with this item.

RECOMMENDATION(S): The Manager recommends that the Board:

- Accept the report reflecting the motor vehicle property tax releases/refunds requested in accordance with the NCGS; and
- Approve the attached release/refund resolution.

NORTH CAROLINA

RES-2016-006

ORANGE COUNTY

REFUND/RELEASE RESOLUTION (Approval)

Whereas, North Carolina General Statutes 105-381 and/or 330.2(b) allows for the refund and/or release of taxes when the Board of County Commissioners determines that a taxpayer applying for the release/refund has a valid defense to the tax imposed; and

Whereas, the properties listed in each of the attached "Request for Property Tax Refund/Release" has been taxed and the tax has not been collected: and

Whereas, as to each of the properties listed in the Request for Property Tax Refund/Release, the taxpayer has timely applied in writing for a refund or release of the tax imposed and has presented a valid defense to the tax imposed as indicated on the Request for Property Tax Refund/Release.

NOW, THEREFORE, IT IS RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY THAT the recommended property tax refund(s) and release(s) are approved.

Upon motion duly made and seconded, the foregoing resolution was passed by the following votes:

Ayes: Commissioners _____

Noes: _____

I, Donna Baker, Clerk to the Board of Commissioners for the County of Orange, North Carolina, DO HEREBY CERTIFY that the foregoing has been carefully copied from the recorded minutes of the Board of Commissioners for said County at a regular meeting of said Board held on _____, said record having been made in the Minute Book of the minutes of said Board, and is a true copy of so much of said proceedings of said Board as relates in any way to the passage of the resolution described in said proceedings.

WITNESS my hand and the corporate seal of said County, this _____ day of _____, 2016.

Clerk to the Board of Commissioners

**BOCC REPORT - REGISTERED MOTOR VEHICLES
FEBRUARY 2, 2016**

NAME	ABSTRACT NUMBER	BILLING YEAR	ORIGINAL VALUE	ADJUSTED VALUE	FINANCIAL IMPACT	REASON FOR ADJUSTMENT	NCPTS/VTS	CLERK	DATE
Zimmerman, Susan Avis	27915994	2015	14,490	-	(143.16)	County changed to Alamance (illegal tax)	VTS	JMM	1/12/2016
				Total	(143.16)				

Adjustment Descriptions
<i>Clerical error G.S. 105-381(a)(1)(a): e.g. when there is an actual error in mathematical calculation.</i>
<i>Illegal tax G.S. 105-381(a)(1)(b): e.g. when the vehicle should have been billed in another county, an incorrect name was used, or an incorrect rate code was used.</i>
<i>Tax levied for an illegal purpose G.S. 105-381(a)(1)(c): e.g. charging a tax that was later deemed to be impermissible under State law.</i>
<i>Appraisal appeal G.S. 105-330.2(b): e.g. reduction in value due to excessive mileage or vehicle damage.</i>

Military Leave and Earning Statement: Is a copy of a serviceman's payroll stub covering a particular pay period. This does list his home of record, which is his permanent state of residence where he would pay any state income taxes.

Vehicle Titles

Salvaged and Salvage Rebuilt: Any repairs that exceed 75% of the vehicle's market value using NADA, Kelly Blue Book and various other publications. When the insurance company has totaled the vehicle, and the customer has received the claim check, four things can happen:

- Insurance company can keep the vehicle.
- Customer can keep the vehicle. The customer is instructed to contact the local DMV inspector to have an initial inspection done, for vehicles 2001 to 2006 (these dates change yearly, example in 2007 the models will be 2002-2007).
- Affidavit of Rebuilder- The inspector lists each part that needs to be repaired.
- Final inspection- if all work is cleared and approved by the inspector then the rebuilt status is then removed (salvaged status remains).

Note: Finance companies will not finance a salvaged vehicle.

Total Loss: Repairs were more than the market value of the vehicle and the insurance company is unwilling to pay for the repairs.

Total Loss/Rebuilt: Whatever the repairs were to make the vehicle road worthy after a Total Loss status has been given. Vehicle must be 5 years old or older. Vehicle status then remains as salvaged or rebuilt.

Certificate of Reconstruction: When work has been done on (vehicles 2001-2006 in year 2006) this is issued when the inspector didn't see the original damaged and the vehicle has been repaired.

Certificate of Destruction: NC DMV will not register this type of vehicle. It is not fit for North Carolina roads.

Custom Built: When the customer has built this vehicle himself or herself. Ex. parts taken from various vehicles to build one vehicle. Three titles are required from the DMV in this case. 1) Frame 2) Transmission 3) Engine. Then an indemnity bond must be issued. An indemnity bond must also be issued when the vehicle does not have a title at all.

**ORANGE COUNTY
BOARD OF COMMISSIONERS
ACTION AGENDA ITEM ABSTRACT**
Meeting Date: February 2, 2016

**Action Agenda
Item No. 6-c**

SUBJECT: Property Tax Releases/Refunds

DEPARTMENT: Tax Administration

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

Resolution
Releases/Refunds Data Spreadsheet

INFORMATION CONTACT:

Dwane Brinson, Tax Administrator,
(919) 245-2726

PURPOSE: To consider adoption of a resolution to release property tax value for one (1) taxpayer with a total of one (1) bill that will result in a reduction of revenue.

BACKGROUND: The Tax Administration Office has received one taxpayer request for release or refund of property taxes. North Carolina General Statute 105-381(b), "Action of Governing Body" provides that "upon receiving a taxpayer's written statement of defense and request for release or refund, the governing body of the Taxing Unit shall within 90 days after receipt of such a request determine whether the taxpayer has a valid defense to the tax imposed or any part thereof and shall either release or refund that portion of the amount that is determined to be in excess of the correct liability or notify the taxpayer in writing that no release or refund will be made". North Carolina law allows the Board to approve property tax refunds for the current and four previous fiscal years.

FINANCIAL IMPACT: Approval of this change will result in a net reduction in revenue of \$508.40 to the County, municipalities, and special districts. The Tax Assessor recognized that refunds could impact the budget and accounted for these in the annual budget projections.

SOCIAL JUSTICE IMPACT: There is no Orange County Social Justice Goal impact associated with this item.

RECOMMENDATION(S): The Manager recommends the Board approve the attached resolution approving these property tax release/refund requests in accordance with North Carolina General Statute 105-381.

NORTH CAROLINA

RES-2016-007

ORANGE COUNTY

REFUND/RELEASE RESOLUTION (Approval)

Whereas, North Carolina General Statutes 105-381 and/or 330.2(b) allows for the refund and/or release of taxes when the Board of County Commissioners determines that a taxpayer applying for the release/refund has a valid defense to the tax imposed; and

Whereas, the properties listed in each of the attached "Request for Property Tax Refund/Release" has been taxed and the tax has not been collected: and

Whereas, as to each of the properties listed in the Request for Property Tax Refund/Release, the taxpayer has timely applied in writing for a refund or release of the tax imposed and has presented a valid defense to the tax imposed as indicated on the Request for Property Tax Refund/Release.

NOW, THEREFORE, IT IS RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY THAT the recommended property tax refund(s) and release(s) are approved.

Upon motion duly made and seconded, the foregoing resolution was passed by the following votes:

Ayes: Commissioners _____

Noes: _____

I, Donna Baker, Clerk to the Board of Commissioners for the County of Orange, North Carolina, DO HEREBY CERTIFY that the foregoing has been carefully copied from the recorded minutes of the Board of Commissioners for said County at a regular meeting of said Board held on _____, said record having been made in the Minute Book of the minutes of said Board, and is a true copy of so much of said proceedings of said Board as relates in any way to the passage of the resolution described in said proceedings.

WITNESS my hand and the corporate seal of said County, this _____ day of _____, 2016.

Clerk to the Board of Commissioners

Clerical error G.S. 105-381(a)(1)(a)
 Illegal tax G.S. 105-381(a)(1)(b)
 Appraisal appeal G.S. 105-330.2(b)

**BOCC REPORT - REAL/PERSONAL
 FEBRUARY 2, 2016**

NAME	ABSTRACT NUMBER	BILLING YEAR	ORIGINAL VALUE	ADJUSTED VALUE	FINANCIAL IMPACT	REASON FOR ADJUSTMENT	ADDITIONAL INFORMATION
Gross, Robert	309283	2015	1,332,788	1,301,218	(508.40)	Billed in error	Also billed as a registered motor vehicle for 2015
				Total	(508.40)		

**ORANGE COUNTY
BOARD OF COMMISSIONERS
ACTION AGENDA ITEM ABSTRACT**
Meeting Date: February 2, 2016

**Action Agenda
Item No. 6-d**

SUBJECT: Applications for Property Tax Exemption/Exclusion

DEPARTMENT: Tax Administration

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

Exempt Status Resolution
Spreadsheet
Requests for Exemption/Exclusion

INFORMATION CONTACT:

Dwane Brinson, Tax Administrator,
(919) 245-2726

PURPOSE: To consider five (5) untimely applications for exemption/exclusion from ad valorem taxation for five (5) bills for the 2015 tax year.

BACKGROUND: North Carolina General Statutes (NCGS) typically require applications for exemption to be filed during the listing period, which is usually during the month of January. Applications for Elderly/Disabled Exclusion, Circuit Breaker Tax Deferment and Disabled Veteran Exclusion should be filed by June 1st of the tax year for which the benefit is requested. NCGS 105-282.1(a1) does allow some discretion. Upon a showing of good cause by the applicant for failure to make a timely application, an application for exemption or exclusion filed after the close of the listing period may be approved by the Department of Revenue, the Board of Equalization and Review, the Board of County Commissioners, or the governing body of a municipality, as appropriate. An untimely application for exemption or exclusion approved under this provision applies only to property taxes levied by the county or municipality in the calendar year in which the untimely application is filed.

Including these five (5) applications, the Board will have considered a total of eighty (80) untimely applications for exemption of 2015 taxes since the 2015 Board of Equalization and Review adjourned on May 28th. Taxpayers may submit an untimely application for exemption of 2015 taxes to the Board of Commissioners through December 31, 2015.

Four of the applicants are applying for homestead exclusion based on NCGS 105-277.1, which allows exclusion of the greater of twenty-five thousand dollars (\$25,000) or fifty percent (50%) of the appraised value of the residence.

One applicant is applying for exemption from the taxation based on NCGS 105-278.6 which allows an exemption from taxation for real and personal property used for charitable purposes.

Based on the information supplied in the applications and based on the above-referenced General Statutes, the applications may be approved by the Board of County Commissioners. NCGS 105-282.1(a1) permits approval of such application if good cause is demonstrated by the taxpayer.

FINANCIAL IMPACT: The reduction in the County's tax base associated with approval of the exemption application will result in a reduction of FY 2015/2016 taxes due to the County, municipalities, and special districts in the amount of \$ 6,016.71.

SOCIAL JUSTICE IMPACT: There is no Orange County Social Justice Goal impact associated with this item.

RECOMMENDATION(S): The Manager recommends the Board approve the attached resolution for the above-listed applications for FY 2015/2016 exemption.

NORTH CAROLINA

RES-2016-008

ORANGE COUNTY

EXEMPTION/EXCLUSION RESOLUTION

Whereas, North Carolina General Statutes 105-282.1 empowers the Board of County Commissioners to approve applications for exemption after the close of the listing period, and

Whereas, good cause has been shown as evidenced by the information packet provided, and

Whereas, the Tax Administrator has determined that the applicants could have been approved for 2015 had applications been timely.

NOW, THEREFORE, IT IS RESOLVED BY THE BOARD OF COUNTY

COMMISSIONERS OF ORANGE COUNTY THAT the properties applying for exemption for 2015 are so approved as exempt.

Upon motion duly made and seconded, the foregoing resolution was passed by the following votes:

Ayes: Commissioners _____

Noes: _____

I, Donna Baker, Clerk to the Board of Commissioners for the County of Orange, North Carolina, DO HEREBY CERTIFY that the foregoing has been carefully copied from the recorded minutes of the Board of Commissioners for said County at a regular meeting of said Board held on _____ said record having been made in the Minute Book of the minutes of said Board, and is a true copy of so much of said proceedings of said Board as relates in any way to the passage of the resolution described in said proceedings.

WITNESS my hand and the corporate seal of said County, this ____ day of _____, 2016.

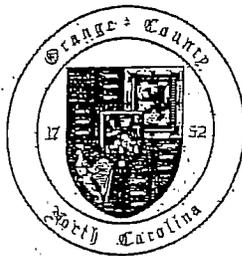
Clerk to the Board of Commissioners

Late exemption/exclusion application - GS 105-282.1(a1)

**BOCC REPORT - REAL/PERSONAL
FEBRUARY 2 , 2016**

NAME	ABSTRACT NUMBER	BILL YEAR	ORIGINAL VALUE	TAXABLE VALUE	FINANCIAL IMPACT	REASON FOR ADJUSTMENT
Farrington, Diane	209603	2015	190,702	112,609	(771.56)	Late application for exemption G.S. 105-277.1 (Homestead Exemption)
Hatch, Lexie	107087	2015	145,577	100,076	(431.35)	Late application for exemption G.S. 105-277.1 (Homestead Exemption)
Holmes, Nancy	3941	2015	76,100	38,050	(360.71)	Late application for exemption G.S. 105-277.1 (Homestead Exemption)
Kerr, Emma G	196045	2015	25,607	607	(245.11)	Late application for exemption G.S. 105-277.1 (Homestead Exemption)
YMCA of the Triangle Area	1055635	2015	246,179	0	(4,207.98)	Late application for exemption G.S. 105-278.6 (YMCA, SPCA, VFD, orphanage)
				Total	(6,016.71)	

December 29, 2015 thru January 12, 2016



Request for Tax Relief Late Application Filing

Date: 12/30/15

To Whom It May Concern:

I, (PRINT NAME) Diane Farrington, wish to be considered for Property Tax Relief Exemption or Exclusion for the year 2015 on Parcel Identification Number (PIN) # 9748508872.

In accordance with North Carolina General Statute 105-282.1(a1), I submit the reason(s) set forth below for consideration as demonstration of "good cause" for failure to make a timely application. An untimely application approved under G.S. 105-282.1(a1) applies only to property taxes levied by the county or municipality in the calendar year in which the untimely application is filed.

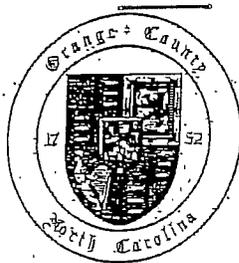
- I was not aware that this exemption was available to me.
- I just found out about the Property Tax Relief Program.
- Other (please explain)

Thank you,

Diane Farrington
(Signature)

How did you learn of this exemption?

Thru my mortgage company



FILED
DEC 31 2015
ORANGE COUNTY
TAX ADMINISTRATION

Request for Tax Relief
Late Application Filing

Date: 12/31/2015

To Whom It May Concern:

I, (PRINT NAME) Levie Hatch, wish to be considered for Property Tax Relief Exemption or Exclusion for the year 2015 on Parcel Identification Number (PIN) # 9834-24-6635.

In accordance with North Carolina General Statute 105-282.1(a1), I submit the reason(s) set forth below for consideration as demonstration of "good cause" for failure to make a timely application. An untimely application approved under G.S. 105-282.1(a1) applies only to property taxes levied by the county or municipality in the calendar year in which the untimely application is filed.

- I was not aware that this exemption was available to me.
- I just found out about the Property Tax Relief Program.
- Other (please explain)

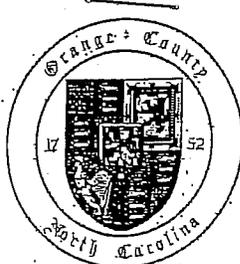
From Brother

Thank you,

Levie Hatch Goets
(Signature)

How did you learn of this exemption?

From Brother



Request for Tax Relief Late Application Filing

Orange County
Tax Administration
DEC 28 2015
Taxpayer Exhibit 08

Date: 12/20/15

To Whom It May Concern:

I, (PRINT NAME) Nancy C. Holmes, wish to be considered for Property Tax Relief Exemption or Exclusion for the year 2015 on Parcel Identification Number (PIN) # 9843554570,

In accordance with North Carolina General Statute 105-282.1(a1), I submit the reason(s) set forth below for consideration as demonstration of "good cause" for failure to make a timely application. An untimely application approved under G.S. 105-282.1(a1) applies only to property taxes levied by the county or municipality in the calendar year in which the untimely application is filed.

- I was not aware that this exemption was available to me.
- I just found out about the Property Tax Relief Program.
- Other (please explain)

Thank you,

Nancy C Holmes
(Signature)

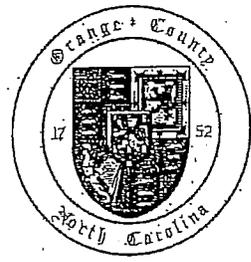
How did you learn of this exemption?

Clerk at Tax Office

FILED

DEC 28 2015

ORANGE COUNTY
TAX ADMINISTRATION



Request for Tax Relief Late Application Filing

Date: 12-21-2015

To Whom It May Concern:

I, (PRINT NAME) Emma G. Kerr, wish to be considered for Property Tax Relief Exemption or Exclusion for the year 2015 on Parcel Identification Number (PIN) # 9883470316.

In accordance with North Carolina General Statute 105-282.1(a1), I submit the reason(s) set forth below for consideration as demonstration of "good cause" for failure to make a timely application. An untimely application approved under G.S. 105-282.1(a1) applies only to property taxes levied by the county or municipality in the calendar year in which the untimely application is filed.

- I was not aware that this exemption was available to me.
- I just found out about the Property Tax Relief Program.
- Other (please explain)

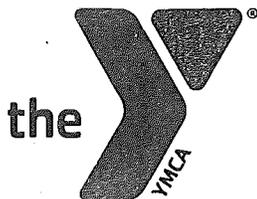
I did not know this credit was not automatic based on age and did not know about the application, and told my son I had not had the money to pay my taxes this year.

Thank you,

Emma Kerr
(Signature)

How did you learn of this exemption?

My son found the information on the web site and spoke with the tax office on my behalf.



FOR YOUTH DEVELOPMENT
FOR HEALTHY LIVING
FOR SOCIAL RESPONSIBILITY

December 14, 2015

FILED

DEC 28 2015

ORANGE COUNTY
TAX ADMINISTRATION

Orange County Tax Administration
Attention: Kandice Wright
PO Box 8181
Hillsborough NC 27278-8181

Dear Ms. Wright,

Enclosed you will find our Property Tax Exemption Application for 2015. Please cancel Bill #**0001055635-2015-2015-0000**.

The Chapel Hill - Carrboro YMCA is a long-standing and successful community organization with the mission to put Christian principles into practice through programs that build healthy spirit, mind and body for all. In pursuing our mission this year, we have had a very busy time integrating this branch into our wider corporate systems, addressing a major engagement with bond consultants, and completing a selection process for Corporate Performance Management software. We ask that you accept and approve this application.

The YMCA of the Triangle Area looks forward to continuing to serve the community!

Sincerely,

Leon C. White
Financial Analyst

- Enclosures: (1) Property Tax Exemption Application
(2) 501(c)(3) Determination Letter
(3) Articles of Incorporation
(4) Amended and Restated Charter
(5) Bylaws
(6) Article of Merger

YMCA OF THE TRIANGLE

Association Resource Center, 801 Corporate Center Drive, Suite 200, Raleigh, NC 27607
P 919-719-9622 • www.YMCATriangle.org

OUR MISSION: To put Christian principles into practice through programs that build healthy spirit, mind and body for all.

**ORANGE COUNTY
BOARD OF COMMISSIONERS
ACTION AGENDA ITEM ABSTRACT**

1

Meeting Date: February 2, 2016

**Action Agenda
Item No. 6-e**

SUBJECT: Advertisement of Tax Liens on Real Property

DEPARTMENT: Tax Administration

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

- 1) Order of the Board of County Commissioners in Accordance with NCGS 105-369
- 2) Advertisement Headers
- 3) *Contents of the Advertisement: On File in the Clerk to the Board of Commissioner's Office*

INFORMATION CONTACT:

Dwane Brinson, Tax Administrator,
(919) 245-2726

PURPOSE: To report the amount of unpaid taxes for the current year that are liens on real property as required by North Carolina General Statute (NCGS) 105-369 and to approve a request that March 23, 2016 be set by the Board as the date for the tax lien advertisement.

BACKGROUND: North Carolina General Statute 105-369 requires the Tax Collector to report to the governing board the total amount of unpaid taxes for the current year that are liens on real property. This report is available in the Clerk to the Board of County Commissioners' office. Upon receipt of this report, the governing board must order and set a date for the lien advertisement. Tax liens may be advertised any time between March 1 and June 30. All properties that were sold during the year of 2015 will be advertised in the new owners' name.

The process includes that a notice alerting property owners to the pending advertisement must be mailed at least 30 days in advance of the date of advertisement. This mailed notice will state that the last day to pay 2015 taxes in order to avoid being advertised is March 2, 2016. Between the mailed notice and the advertised notice, property owners are advised that collection efforts are underway. North Carolina General Statute 105-369 mandates both these notices.

North Carolina General Statute 105-369 (d) requires the Tax Collector to determine the actual cost of the advertisement and to set a fee to cover the actual costs. The cost for advertisement will be \$3.75 per parcel to cover the County's costs to advertise all tax liens in both *The Herald Sun* and *The News of Orange*. These two papers have the largest general circulation in the County.

FINANCIAL IMPACT: There will be no net financial impact to the County.

SOCIAL JUSTICE IMPACT: There is no Orange County Social Justice Goal impact associated with this item.

RECOMMENDATION(S): The Manager recommends that the Board accept the report and approve and authorize the Chair to sign the Order setting the lien sale advertisement date for March 23, 2016.

Attachment 1

**ORDER OF THE BOARD OF COUNTY COMMISSIONERS
IN ACCORDANCE WITH G.S. 105-369**

State of North Carolina
County of Orange

To: T. Dwane Brinson, Tax Collector of Orange County

You are hereby authorized, empowered, and commanded to advertise tax liens on real property for failure to pay 2015 taxes. You shall advertise said liens by posting a notice of the liens at the county courthouse and by publishing each lien at least one time in one or more newspapers having general circulation in the taxing unit. **Advertisement of the tax liens shall be made on Wednesday, March 23rd, 2016.**

This order shall be a full and sufficient authority to direct, require, and enable you to advertise said tax liens in accordance with North Carolina General Statute 105-369.

Witness my hand and official seal, this

Earl McKee

Chair, Board of County Commissioners

Attest:

Donna Baker

Clerk to the Board of County Commissioners

(Advertisement to appear in *The Herald Sun*)

**NOTICE OF ADVERTISEMENT OF TAX LIENS ON REAL PROPERTY
ORANGE COUNTY AND
TOWNS OF CARRBORO, CHAPEL HILL, AND HILLSBOROUGH**

Under and by virtue of the authority vested in me by Section 105-369 of the North Carolina General Statutes and pursuant to an order of the Board of Commissioners of Orange County dated **February 2, 2016**, I am hereby advertising tax liens for the year 2015 upon the real estate described below. The amount advertised will be increased by interest and cost. The omission of interest and cost from the amount advertised will not constitute a waiver of the taxing unit's claim for these items. The real estate subject to the lien, the name of the taxpayer (owner as of January 6, 2016), and the amount of taxes due are set out below. If the taxes remain unpaid the lien will be foreclosed by the taxing unit and the property sold to satisfy the claim for the taxes. These collection procedures do not apply to taxpayers under a current U S Bankruptcy plan. When a parcel was subdivided after January 1, 2015 and the ownership of one or more of the resulting parcels was transferred, the amount of the tax lien on each parcel is the amount of the lien on the original parcel as it existed on January 1, 2015, as shown in this advertisement. **This list includes all properties in Orange County.**

This, the 23rd day of March 2016.

T. Dwane Brinson
Orange County Consolidated
City-County Tax Collector

(Advertisement to appear in *The News of Orange*)

**NOTICE OF ADVERTISEMENT OF TAX LIENS ON REAL PROPERTY
ORANGE COUNTY AND
TOWNS OF CARRBORO, CHAPEL HILL, AND HILLSBOROUGH**

Under and by virtue of the authority vested in me by Section 105-369 of the North Carolina General Statutes and pursuant to an order of the Board of Commissioners of Orange County dated **February 2, 2016**, I am hereby advertising tax liens for the year 2015 upon the real estate described below. The amount advertised will be increased by interest and cost. The omission of interest and cost from the amount advertised will not constitute a waiver of the taxing unit's claim for these items. The real estate subject to the lien, the name of the taxpayer (owner as of January 6, 2016), and the amount of taxes due are set out below. If the taxes remain unpaid the lien will be foreclosed by the taxing unit and the property sold to satisfy the claim for the taxes. These collection procedures do not apply to taxpayers under a current U S Bankruptcy plan. When a parcel was subdivided after January 1, 2015 and the ownership of one or more of the resulting parcels was transferred, the amount of the tax lien on each parcel is the amount of the lien on the original parcel as it existed on January 1, 2015, as shown in this advertisement. **This list includes all properties in Orange County.**

This, the 23rd day of March 2016.

T. Dwane Brinson
Orange County Consolidated
City-County Tax Collector

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: February 2, 2016

**Action Agenda
Item No.** 6-f

SUBJECT: Orange County Arts Commission DCP Renewal with NC Arts Council

DEPARTMENT: Econ. Dev. – Arts Commission

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

INFORMATION CONTACT:

Martha Shannon, 919/968-2011

PURPOSE: To authorize the Orange County Arts Commission (OCAC) and staff to apply by the March 1, 2016 deadline for annual Designated County Partner (DCP) renewal with the NC Arts Council in order to receive state Grassroots Program funds for Orange County.

BACKGROUND: Nominated by the Board of County Commissioners in 1985, approved by the NC Arts Council in 1985, and annually renewed by the NC Arts Council since 1985, the OCAC has served as the Local Distributing Agent (now called Designated County Partner) in Orange County for 30 years, acting in accordance with this state program authority for administering and determining the expenditure of Grassroots Program funds appropriated by the NC General Assembly.

FINANCIAL IMPACT: There is no financial impact for FY 2015-2016. The **estimated** FY 2016-2017 allotment of state funds to Orange County through the Grassroots Program of the NC Arts Council is \$32,590.

SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goal is applicable to this agenda item:

- **GOAL: FOSTER A COMMUNITY CULTURE THAT REJECTS OPPRESSION AND INEQUITY**

The fair treatment and meaningful involvement of all people regardless of race or color; religious or philosophical beliefs; sex; gender or sexual orientation; national origin or ethnic background; age; military service; disability; and familial, residential or economic status.

The impact of arts projects for traditionally under-served populations and geographic location is a part of the grant evaluation criteria across all OCAC grant categories.

RECOMMENDATION(S): The Manager recommends that the Board authorize the Orange County Arts Commission and staff to apply by the March 1, 2016 deadline for Designated County Partner (DCP) renewal from the NC Arts Council in order to receive state Grassroots Program funds for Orange County.

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: February 2, 2016

**Action Agenda
Item No.** 6-g

SUBJECT: Resolution Endorsing Congestion Mitigation and Air Quality (CMAQ) Grant Agreement with the NCDOT

DEPARTMENT: Planning/Transportation

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

1. Resolution of Project Agreement

INFORMATION CONTACT:

Tom Altieri, Comprehensive Planning
Supervisor, 245-2579

Peter Murphy, Transportation
Administrator, 919-245-2002

Craig Benedict, Planning Director 919-
245-2004

PURPOSE: To approve a resolution of project agreement between Orange County and the North Carolina Department of Transportation (NCDOT) and authorize the County Manager to sign the agreement.

BACKGROUND: In October 2014, the BOCC approved the Central and Rural Orange County Five-Year Bus Service Expansion Program for Orange Public Transportation (OPT). http://www.orangecountync.gov/document_center/BOCCAgendaMinutes/October_21_2014.pdf

This Program included "US 70 Midday Service", among several other new services to be implemented by OPT as part of the broader Orange County Bus and Rail Investment Plan (OCBRIP). In July 2015, Orange County applied for grant funding through the North Carolina Congestion Mitigation and Air Quality (CMAQ) Program and Burlington-Graham Metropolitan Planning Organization (BG MPO) to help implement the service and subsequently, Orange County has been awarded funding.

This grant will provide operating assistance for the first three years of the US 70 Midday Service, hereafter referred to as the Orange-Alamance Connector, and includes capital funding for one 28 foot, 22-passenger diesel-powered expansion light transit vehicle (LTV). The Orange-Alamance Connector will introduce off-peak fixed-route transit service along U.S. 70 connecting Mebane, Efland and Hillsborough between 10am and 3pm, Monday - Friday (approximately 5 hours daily). The service will complement GoTriangle's existing

peak-period Orange-Durham Express (ODX) service connecting Mebane, Efland, Hillsborough and Durham.

FINANCIAL IMPACT: The NC CMAQ program requires a 20% local match. Local match funds will be provided through the Orange County 1/2% public transportation expansion sales tax administered by GoTriangle. When the CMAQ transit operations funding for the new service is exhausted after three years, the 1/2% public transportation sales tax will be used to cover the cost of the service. Sales tax funds have been collecting for the implementation of new OPT services since the tax levy went into effect in April 2013. This has allowed GoTriangle to “bank” additional funds allocated for Orange County/OPT use in the future, while OPT has been conducting public outreach, designing new services, purchasing buses, and hiring additional drivers. The service may also be supported by Section 5307 (Urbanized Area) funding made available for operating assistance. Following is a summary of project costs by funding source for the three year program ending September 30, 2018:

<u>CMAQ Funding</u>	<u>Local Match</u>	<u>Total</u>
\$164,129 (80%)	\$41,033 (20%)	\$205,162 (100%)

SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goals are applicable to this agenda item: Public Transportation provides opportunity for access to jobs and services to many individuals.

GOAL: FOSTER A COMMUNITY CULTURE THAT REJECTS OPPRESSION AND INEQUITY

The fair treatment and meaningful involvement of all people regardless of race or color; religious or philosophical beliefs; sex, gender or sexual orientation; national origin or ethnic background; age; military service; disability; and familial, residential or economic status.

GOAL: ENSURE ECONOMIC SELF-SUFFICIENCY

The creation and preservation of infrastructure, policies, programs and funding necessary for residents to provide shelter, food, clothing and medical care for themselves and their dependents.

The bus transit service expansion along the US 70 corridor between Mebane and Hillsborough results in positive outcomes related to the above goals.

RECOMMENDATION(S): The Manager recommends the Board:

1. Approve the resolution (Attachment 1) of project agreement with NCDOT; and
2. Authorize the County Manager to sign the agreement.

NORTH CAROLINA

**LOCALLY ADMINISTERED PROJECT –
FEDERAL: VEHICLE PURCHASE/TRANSIT**

ORANGE COUNTY

DATE: 12/1/2015

NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION

TIP #: C-5602 A

AND

WBS Elements: PE _____

ROW _____

ORANGE COUNTY

CON 43710.3.2

OTHER FUNDING:

FEDERAL-AID NUMBER: CMS-0708(073)

CFDA #: 20.205

Total Funds [NCDOT Participation] \$164,129

THIS AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department" and the Orange County, hereinafter referred to as the "County".

WITNESSETH:

WHEREAS, Section 1113 of the Moving Ahead for Progress in the 21st Century (MAP-21) allows for the allocation of Congestion Mitigation and Air Quality funds to be available for certain specified transportation activities; and,

WHEREAS, the County has requested federal funding for Orange County Transit Service Expansion, hereinafter referred to as the Project, in Orange County, North Carolina; and,

WHEREAS, subject to the availability of federal funds, the County has been designated as a recipient to receive funds allocated to the Department by the Federal Highway Administration (FHWA) up to and not to exceed the maximum award amount of \$164,129 for the Project; and,

WHEREAS, the Department has agreed to administer the disbursement of said funds on behalf of FHWA to the County for the Project in accordance with the Project scope of work and in accordance with the provisions set out in this Agreement; and,

WHEREAS, the Department has programmed funding in the approved Transportation Improvement Program for the Project; and,

WHEREAS, the governing board of the County has agreed to participate in certain costs and to assume certain responsibilities in the manner and to the extent as hereinafter set out; and,

WHEREAS, this Agreement is made under the authority granted to the Department by the North Carolina General Assembly including, but not limited to, the following applicable legislation: General Statutes of North Carolina (NCGS) Section 136-66.1, Section 136-71.6, Section 160A-296 and 297, Section 136-18, Section 136-41.3 and Section 20-169, to participate in the planning, construction and/or implementation of the Project approved by the Board of Transportation.

NOW, THEREFORE, this Agreement states the promises and undertakings of each party as herein provided, and the parties do hereby covenant and agree, each with the other, as follows:

1. GENERAL PROVISIONS

FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT

All parties to this Agreement, including contractors, subcontractors, and subsequent workforces, associated with any work under the terms of this Agreement shall provide reports as required by the Federal Funding Accountability and Transparency Act (FFATA) for this Project.

AGREEMENT MODIFICATIONS

Any modification to scope, funding, responsibilities, or time frame will be agreed upon by all parties by means of a Supplemental Agreement.

LOCAL PUBLIC AGENCY TO PERFORM ALL WORK

The County shall be responsible for administering all work performed and for certifying to the Department that all terms set forth in this Agreement are met and adhered to by the County and/or its contractors and agents. The Department will provide technical oversight to guide the County. The Department must approve any assignment or transfer of the responsibilities of the County set forth in this Agreement to other parties or entities.

PERSON IN RESPONSIBLE CHARGE

The County shall designate a person or persons to be in responsible charge of the Project, in accordance with Title 23 of the Code of Federal Regulations, Part 635.105. The person, or persons, shall be expected to:

- Administer governmental project activities, including those dealing with cost, time, adherence to contract requirements, construction quality and scope of Federal-aid projects;

- Maintain knowledge of day to day project operations and safety issues;
- Make or participate in decisions about changed conditions or scope changes that require change orders or supplemental agreements;
- Visit and review the project in accordance with the project scope and scale;
- Review financial processes, transactions and documentation to reduce the likelihood of fraud, waste, and abuse;
- Direct project staff, agency or consultant, to carry out project administration and contract oversight, including proper documentation; and
- Be aware of the qualifications, assignments and on-the-job performance of the agency and consultant staff at all stages of the project.

The person in responsible charge must be a full-time employee of the County, but the duties may be split among several employees, if necessary.

COMPLIANCE WITH STATE/FEDERAL POLICY

The County, and/or its agent, including all contractors, subcontractors, or sub-recipients shall comply with all applicable Federal and State policies and procedures, stated both in this Agreement and in the Department's guidelines and procedures, including the *Local Programs Management Handbook*.

FAILURE TO COMPLY - CONSEQUENCES

Failure on the part of the County to comply with any of the provisions of this Agreement will be grounds for the Department to terminate participation in the costs of the Project and, if applicable, seek repayment of any reimbursed funds.

2. SCOPE OF PROJECT

The Project consists of funding one, 28', 22-passenger diesel-powered expansion light transit vehicle (LTV) and operating assistance to support transit service expansion along the US 70 corridor between Mebane and Hillsborough.

The Department's funding participation in the Project shall be restricted to the following eligible items:

- Purchase of 28', 22-passenger diesel-powered transit vehicle

as further set forth in this Agreement.

3. FUNDING

REIMBURSEMENT FOR ELIGIBLE ACTIVITIES

Subject to compliance by the County with the provisions set forth in this Agreement and the availability of federal funds, the Department shall reimburse 80% of eligible expenses incurred by the County up to a maximum amount of One Hundred Sixty Four Thousand One Hundred Twenty Nine Dollars (\$164,129), as detailed below. The County shall provide the non-federal match, as detailed in the FUNDING TABLE below, and all costs that exceed the total estimated cost.

FUNDING TABLE

Fund Source	Federal Funds Amount	Reimbursement Rate	Non-Federal Match \$	Non-Federal Match Rate
Congestion Mitigation and Air Quality	\$164,129	80 %	\$41,033	20 %
Total Estimated Cost		\$205,162		

WORK PERFORMED BY NCDOT

All work performed by the Department on this Project, including, but not limited to, reviews, inspections, and Project oversight, during any phase of the delivery of the Project, shall reduce the funding available to the County under this Agreement. The Department will set aside ten percent (10%) of the total estimated cost, or \$16,413, to use towards the costs related to review and oversight of this Project, including, but not limited to review and approval of plans, environmental documents, contract proposals, engineering estimates, construction engineering and inspection oversight, and other items as needed to ensure the County's appropriate compliance with state and federal regulations.

In the event that the Department does not utilize all the set-aside funding, then those remaining funds will be available for reimbursement to the County at the above reimbursement rate. For all costs of work performed on the Project, whether incurred by the County or by the Department, the County shall provide the non-federal match. The Department will bill the County for the non-federal match of any costs that the Department incurs on the Project and for any costs that exceed the Total Estimated Cost.

4. PERIOD OF PERFORMANCE

The County shall complete the Project by 09/30/2018. Completion for this Agreement is defined as completion of the vehicle purchase and submission of a final reimbursement package to the Department.

The Department and/or FHWA reserves the right to revoke the funds awarded if the County is unable to meet milestone dates included herein.

5. PLANNING / ENVIRONMENTAL DOCUMENTATION

The County shall prepare the environmental and/or planning document, including any environmental permits, needed to construct the Project, in accordance with the National Environmental Policy Act (NEPA) and all other appropriate environmental laws and regulations. All work shall be performed in accordance with Departmental procedures and guidelines. Said documentation shall be submitted to the Department for review and approval.

- The County shall be responsible for preparing and filing with all proper agencies the appropriate planning documents, including notices and applications required to apply for those permits necessary for the construction of the desired improvements. Copies of approved permits should be forwarded to the Department.
- The County shall advertise and conduct any required public hearings.
- If any permit issued requires that action be taken to mitigate impacts associated with the improvements, the County shall design and implement a mitigation plan. The Department will determine if any mitigation costs are eligible for reimbursement. The County shall bear all costs associated with penalties for violations and claims due to delays.
- The County shall be responsible for designing an erosion control plan if required by the North Carolina Sedimentation Pollution Control Act of 1973, NCGS 113A, Article 4, incorporated in this Agreement by reference at www.ncleg.net/gascripts/Statues/Statutes.asp and obtaining those permits required thereby in order to construct the Project. During the construction of the improvements, the County, and its contractors and agents, shall be solely responsible for compliance with the provisions of said Act and the plan adopted in compliance therewith.

6. AUTHORIZATION OF FUNDS

The County shall submit the required environmental and/or planning document to the Department for review and approval.

- After approval of all documentation, the Department will request funding authorization from the Federal Highway Administration.
- The County shall initiate the operation of service prior to receiving written authorization from the Department.

7. OPERATION OF TRANSIT SERVICES

The County shall operate the Transit Service in accordance with applicable federal, state, and local guidelines.

Upon completion of the three-year period, or when all funding is fully reimbursed, whichever is sooner, the County shall be responsible for providing a certification to the Department that all work performed for this Project is in accordance with all applicable standards, guidelines, and regulations.

8. VEHICLE PROCUREMENT

PURCHASE THROUGH THE STATE CONTRACT

The Department, through the North Carolina Department of Administration, Purchase and Contract Division, awards vehicle contracts to purchase vehicles for public use. These vehicle contracts comply with Federal Transit Administration (FTA) and State requirements. The County may utilize these vehicle contracts to purchase public vehicles, but must provide assurance that contracts also meet Federal Highway Administration (FHWA) requirements. For vehicles not included in these contracts, the Contractor shall conduct a competitive procurement process in accordance with this Agreement.

PURCHASE OUTSIDE OF THE STATE CONTRACT

When purchasing vehicles outside the State Contract, the County shall develop a contract proposal and submit to the Department for review and approval prior to initiating work. The proposal be in compliance with and include applicable language concerning the following federal laws, regulations, and state requirements.

- Title 49, Code of Federal Regulations, Part 18;
- North Carolina General Statute: 143-129; and 143-131.

BUY AMERICA

All vehicle purchases funded through FHWA must meet Buy America requirements, stipulated at 23 USC 313, with regulatory provisions found at 23 CFR 635.410, unless a waiver from Buy America is obtained from FHWA.

9. USE OF VEHICLES/ROLLING STOCK

The County agrees to use Project property for appropriate Project purposes.

The County shall maintain all project equipment at a high level of cleanliness, safety, and mechanical soundness in accordance with the minimum maintenance requirements recommended by the manufacturer.

TITLE TO VEHICLES

- The Certificate of Title to all vehicles purchased shall be in the name of the County. In the event of project termination or breach of contract provisions, the County shall, upon written notification by the Department, surrender all vehicles and/or transfer the Certificate(s) of Title for all vehicles to the Department or the Department's designee.
- The County agrees that the Federal or State Government may direct the disposition of, and even require the County to transfer title to any Project property financed with Federal/State assistance under this Agreement.
- The County agrees that it will not execute any transfer of title, lease, lien, pledge, mortgage, encumbrance, third party contract, sub-agreement, grant anticipation note, alienation, innovative finance arrangement (such as a cross border lease, leveraged lease, or otherwise), or any other obligation pertaining to Project property, that in any way would affect the continuing Federal and State interest in that Project property.

LEASING PROJECT PROPERTY TO ANOTHER PARTY

- Prior to entering into any third party contract for leasing Project property to another party, the County agrees to obtain approval from the Department.
- If the County leases any Project property to another party, the County agrees to retain ownership of the leased Project property, and assure that the lessee will use the Project property appropriately, through a written lease between the County and lessee. The County agrees to use the standard lease agreement form provided by the Department and to provide a copy of the signed, executed lease agreement to the Department.
- It is the County's primary responsibility to comply with Federal and State requirements of this Agreement and assure the compliance of any third party contractor.

DISPOSITION OF PUBLIC PROPERTY

- The County and the Department agree that the useful life for the Project property is three years. The County will use Project property continuously and appropriately throughout the useful life of that property. Upon the end of the period of useful life, the County may dispose of Project property.
- When the useful life of Project property has expired, the County agrees to comply with the Department's disposition requirements as referenced at <https://connect.ncdot.gov/business/Transit/Pages/Transit-Financial-Management-Resources.aspx>. [Click on Procurement Tab and see *Disposition Policy Guidelines* under NEW VEHICLE.]
- For Project property withdrawn from appropriate use before its useful life has expired, the County agrees as follows:
 - Notification Requirement. The County agrees to notify the Department immediately when any Project property is prematurely withdrawn from appropriate use, whether by planned withdrawal, misuse, or casualty loss.
 - Calculating the Fair Market Value of Prematurely Withdrawn Project Property. The County agrees that the Federal/State Government retains a Federal/State interest in the fair market value of Project property prematurely withdrawn from appropriate use. The amount of the Federal/State interest in the Project property shall be determined by the ratio of the Federal/State assistance awarded for the property to the actual cost of the property. The County agrees that the fair

INSURANCE PROCEEDS

If the County receives insurance proceeds as a result of damage or destruction to the Project property, the County agrees to:

- Apply those insurance proceeds to the cost of replacing the damaged or destroyed Project property taken out of service; or,
- Return to the Department an amount equal to the remaining Federal and State interest in the damaged or destroyed Project property.

10. CLOSE-OUT

Upon completion of the Project, the County shall be responsible for the following:

FINAL PROJECT CERTIFICATION

The County will provide a certification to the Department that all work performed for this Project is in accordance with all applicable standards, guidelines, and regulations.

The County agrees that Project closeout by the Department will not change the County's property management responsibilities and may be set forth in subsequent Federal and State laws, regulations, and directives, except to the extent the Department determines otherwise in writing.

11. REIMBURSEMENT

SCOPE OF REIMBURSEMENT

Activities eligible for funding reimbursement for this Project shall include:

- Purchase of 28', 22-passenger diesel-powered transit vehicle

REIMBURSEMENT GUIDANCE

The County shall adhere to applicable administrative requirements of Title 2 Code of Federal Regulations, Part 200 (www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm) "Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards." Reimbursement to the County shall be subject to the policies and procedures contained in Title 23 Code of Federal Regulations, Part 140 and Part 172, which is being incorporated into this

Agreement by reference at www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm. Reimbursement to the County shall be subject to the guidance contained in Title 2 Code of Federal Regulations, Part 170 (<http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf>) and Office of Management and Budget (OMB) "Federal Funding Accountability and Transparency Act" (FFATA). Said reimbursement shall also be subject to the Department being reimbursed by the Federal Highway Administration and subject to compliance by the County with all applicable federal policy and procedures.

REIMBURSEMENT LIMITS

- **WORK PERFORMED BEFORE NOTIFICATION**

Any costs incurred by the County prior to written notification by the Department to proceed with the work shall not be eligible for reimbursement.

- **NO REIMBURSEMENT IN EXCESS OF APPROVED FUNDING**

At no time shall the Department reimburse the County costs that exceed the total funding per this Agreement and any Supplemental Agreements.

- **UNSUBSTANTIATED COSTS**

The County agrees that it shall bear all costs for which it is unable to substantiate actual costs or any costs that have been deemed unallowable by the Federal Highway Administration and/or the Department's Financial Management Division.

- **WORK PERFORMED BY NCDOT**

All work performed by the Department on this Project, including, but not limited to, reviews, inspections, and Project oversight, shall reduce the maximum award amount of \$164,129 available to the County under this Agreement. The Department will bill the County for the non-federal match of any costs that the Department incurs on the Project and for any costs that exceed the Total Estimated Cost.

BILLING THE DEPARTMENT

- **PROCEDURE**

The County may bill the Department for eligible Project costs in accordance with the Department's guidelines and procedures. Proper supporting documentation shall

accompany each invoice as may be required by the Department. By submittal of each invoice, the County certifies that it has adhered to all applicable state and federal laws and regulations as set forth in this Agreement.

Along with each invoice, the County is responsible for submitting the FFATA Subrecipient Information Form, which is available at

<https://connect.ncdot.gov/municipalities/Funding/Pages/default.aspx>.

- **INTERNAL APPROVALS**

Reimbursement to the County shall be made upon approval of the invoice by the Department's Financial Management Division.

- **TIMELY SUBMITTAL OF INVOICES**

The County may invoice the Department monthly for work accomplished, but no less than once every six (6) months to keep the Project funds active and available. If the County is unable to invoice the Department, then they must provide an explanation. Failure to submit invoices or explanation may result in de-obligation of funds.

- **FINAL INVOICE**

All invoices associated with the Project must be submitted within six (6) months of the completion of construction and acceptance of the Project to be eligible for reimbursement by the Department. Any invoices submitted after this time will not be eligible for reimbursement.

12. REPORTING REQUIREMENTS AND RECORDS RETENTION

PROJECT EVALUATION REPORTS

The County is responsible for submitting quarterly Project evaluation reports, in accordance with the Department's guidelines and procedures that detail the progress achieved to date for the Project.

PROJECT RECORDS

The County and its agents shall maintain all books, documents, papers, accounting records, Project records and such other evidence as may be appropriate to substantiate costs incurred under this Agreement. Further, the County shall make such materials available at its office and

shall require its agent to make such materials available at its office at all reasonable times during the contract period, and for five (5) years from the date of payment of the final voucher by the Federal Highway Administration, for inspection and audit by the Department's Financial Management Section, the Federal Highway Administration, or any authorized representatives of the Federal Government.

13. OTHER PROVISIONS

REFERENCES

It will be the responsibility of the County to follow the current and/or most recent edition of references, websites, specifications, standards, guidelines, recommendations, regulations and/or general statutes, as stated in this Agreement.

INDEMNIFICATION OF DEPARTMENT

The County agrees to indemnify and hold harmless the Department, FHWA and the State of North Carolina, to the extent allowed by law, for any and all claim for payment, damages and/or liabilities of any nature, asserted against the Department in connection with this Project. The Department shall not be responsible for any damages or claims, which may be initiated by third parties.

DEBARMENT POLICY

It is the policy of the Department not to enter into any agreement with parties that have been debarred by any government agency (Federal or State). By execution of this agreement, the County certifies that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Agency or Department and that it will not enter into agreements with any entity that is debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction.

TITLE VI - CIVIL RIGHTS ACT OF 1964

The County shall comply with Title VI of the Civil Rights Act of 1964, (Title 49 CFR, Subtitle A, Part 21). Title VI prohibits discrimination on the basis of race, color, national origin, disability, gender, and age in all programs or activities of any recipient of Federal assistance.

OTHER AGREEMENTS

The County is solely responsible for all agreements, contracts, and work orders entered into or issued by the County for this Project. The Department is not responsible for any expenses or obligations incurred for the Project except those specifically eligible for Congestion Mitigation and Air Quality funds and obligations as approved by the Department under the terms of this Agreement.

AVAILABILITY OF FUNDS

All terms and conditions of this Agreement are dependent upon, and, subject to the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminate if funds cease to be available.

IMPROPER USE OF FUNDS

Where either the Department or the FHWA determines that the funds paid to the County for this Project are not used in accordance with the terms of this Agreement, the Department will bill the County.

TERMINATION OF PROJECT

If the County decides to terminate the Project without the concurrence of the Department, the County shall reimburse the Department one hundred percent (100%) of all costs expended by the Department and associated with the Project.

AUDITS

In accordance with OMB Circular A-133, "Audits of States, Local Governments and Non-Profit Organizations" (http://www.whitehouse.gov/omb/circulars_default) and the Federal Single Audit Act Amendments of 1996, the County shall arrange for an annual independent financial and compliance audit of its fiscal operations. The County shall furnish the Department with a copy of the annual independent audit report within thirty (30) days of completion of the report, but not later than nine (9) months after the County's fiscal year ends.

REIMBURSEMENT BY COUNTY

For all monies due the Department as referenced in this Agreement, reimbursement shall be made by the County to the Department within sixty (60) days of receiving an invoice. A late

payment penalty and interest shall be charged on any unpaid balance due in accordance with NCGS 147-86.23.

ENTIRE AGREEMENT

This Agreement contains the entire agreement between the parties and there are no understandings or agreements, verbal or otherwise, regarding this Agreement except as expressly set forth herein.

AUTHORIZATION TO EXECUTE

The parties hereby acknowledge that the individual executing the Agreement on their behalf is authorized to execute this Agreement on their behalf and to bind the respective entities to the terms contained herein and that he has read this Agreement, conferred with his attorney, and fully understands its contents.

FACSIMILE SIGNATURES

A copy or facsimile copy of the signature of any party shall be deemed an original with each fully executed copy of the Agreement as binding as an original, and the parties agree that this Agreement can be executed in counterparts, as duplicate originals, with facsimile signatures sufficient to evidence an agreement to be bound by the terms of the Agreement.

GIFT BAN

By Executive Order 24, issued by Governor Perdue, and NCGS 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e. Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor).

14. SUNSET PROVISION

All terms and conditions of this Agreement are dependent upon, and subject to, the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminate if funds cease to be available.

IT IS UNDERSTOOD AND AGREED that the approval of the Project by the Department is subject to the conditions of this Agreement, and that no expenditures of funds on the part of the Department will be made until the terms of this Agreement have been complied with on the part of the County.

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the County by authority duly given.

L.S. ATTEST: ORANGE COUNTY

BY: _____ BY: _____

TITLE: _____ TITLE: _____

DATE: _____

NCGS 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

This Agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

(SEAL)

(FINANCE OFFICER)

Federal Tax Identification Number

Orange County

Remittance Address:

DEPARTMENT OF TRANSPORTATION

BY: _____
(CHIEF ENGINEER)

DATE: _____

APPROVED BY BOARD OF TRANSPORTATION ITEM O: _____ (Date)

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: February 2, 2016

**Action Agenda
Item No.** 6-h

SUBJECT: Request for a 1.0 FTE Time Limited Position to Assist in the New Land Management Central Permitting Software Implementation Program (LMCP)

DEPARTMENT: Planning & Inspections, Health

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

1. Job Description for Property Development Technician
2. LMCP Contract Stages Matrix

INFORMATION CONTACT:

Craig Benedict, Planning and Inspections Director, 919-245-2592
 Colleen Bridger, Health Director, 919-245-2412
 Dwane Brinson, Tax Administrator, 919-245-2726
 Jim Northrup, Chief Information Officer, 919-245-2276
 Brenda Bartholomew, Human Resources Director, 919-245-2552
 Travis Myren, Deputy County Manager, 919-245-2308

PURPOSE: To create a new 1.0 FTE (full time equivalent) time limited position in the Health Department and to transfer an existing 0.5 FTE position from Health to Planning and Inspections, thereby these positions to backfill the duties of existing staff who will be involved in implementing the new Land Management Central Permitting (LMCP) Software.

BACKGROUND: The County will be implementing a new Land Management Central Permitting software which is expected to last fifteen (15) to eighteen (18) months and will require County staff to work with software consultants to create business rules and processes unique to Orange County. In some cases, over 80 hours per month for key County personnel are necessary through the different phases of the project. (See the matrix in Attachment 2).

In order to accommodate this added responsibility, several personnel in each functional area will have to reassign duties to other staff. Although this reassignment will have the benefit of broadening the overall knowledge base of existing staff, it will also require supplemental staffing during the implementation period. This proposal creates capacity at the introductory level of the organization where training can be accomplished quickly and direct customer service can be retained.

The Health Department and Planning Department have agreed to create time limited position authority in the Health Department and to transfer existing part time position authority to Planning and Inspections to supplement staffing resources dedicated to the software

implementation. The new time limited position in Health would be classified as Property Development Technician.

FINANCIAL IMPACT: The permitting software implementation project budget will fund the time limited position. For this fiscal year, the time limited position is expected to cost \$30,000. The position would continue as time limited in FY 2016/17 until approximately June 30, 2017 for an additional \$60,000. Since the position transfer does not create new position authority, funding is already included in the department's appropriation.

SOCIAL JUSTICE GOAL: The following two Orange County Social Justice Goals are applicable to this agenda item:

- **GOAL: CREATING A SAFE COMMUNITY**
The reduction of risks from vehicle/traffic accidents, childhood and senior injuries, gang activity, substance abuse and domestic violence.
- **GOAL: ENABLING FULL CIVIC PARTICIPATION**
Ensure that Orange County residents are able to engage government through voting and volunteering by eliminating disparities in participation and barriers to participation.

RECOMMENDATION(S): The Manager recommends that the Board approve the creation of a 1.0 FTE time limited position in Health to be funded from the central permitting software project and to transfer a 0.5 FTE permanent position and associated funding from Health to Planning and Inspections.

Property Development Technician

Orange County Classification Specification

Property Development Technician

Job Class Code: 1309
FLSA Status: Non-Exempt

General Description

Under general supervision, provide information to the general public about Orange County permit applications and inspection process and procedures; acts as initial contact to help citizen through the complex process of rules, regulations and processes for planning, building, and environmental health project applications that require approvals from multiple departments or agencies acting as central permitting receptionist and initializing permit applications.

Examples of Essential Functions

- Assists general public in completion of forms and documents related to permit process; provides technical assistance via phone calls and counter contact regarding the application process and county development codes; process information related to both administrative and construction codes.
- Provides, accepts and processes permit applications and related documents from the public pertaining to well, septic, electrical, building, and development projects; reviews documents to ensure accuracy and completeness of the permit application; determines the correct permit type needed and processes applications received by fax, mail, online via email and the customer service counter.
- Assists field inspectors, plans examiners, planners, other County departments, other agencies and the public with research of permit records in the computer tracking database, project files, chronological log books, or permit cards.
- Accurately enters data into the automated permit software database system
- Updates and submits requests for new addresses and zoning review site plans for permit applications
- Assists in issuing electrical, plumbing and mechanical permits
- Receives inspection requests and distributes to inspector.

Property Development Technician

- Closes - out completed building, electrical, plumbing and mechanical permits when all inspections have been completed.
- Organizes, updates, re-indexes hardcopy filing system. Retrieves files as requested and distributes to clients or staff as needed.
- Performs file maintenance, parcel maintenance, and address maintenance in both electronic and hardcopy format.
- Provides verbal and written information and education about the County building permit processes and procedures to ensure they have thorough knowledge and understanding of the building and inspection permit process.
- Determines that permit is ready to be archived and archives all completed permits.
- Assists in preparation of the Certificate of Occupancy for appropriate signatures.
- Serves as intake receptionist for all Central Permitting clients and directs clients to appropriate services.
- Answers inquiries regarding central permitting projects, applications, and permits by phone and when citizens come into the office
- Works with clients in the resolution of problems.
- Copies archive information and mails to the requester
- Operates a variety of office equipment and machinery such as adding machine, printer, fax machine, copy machine, computer, etc.
- Interacts and communicates with various groups and individuals such as Chief Building Official, contractors, realtors, architects, Permit Technicians, Plan Examiners, Inspectors, County departments, State agencies, other municipal offices, Town of Hillsborough – Zoning/Fire Marshal/Engineer, and the general public.
- Processes payments and receipts for fees, prepares daily reconciliation report and deposits. Completes requisitions for purchases and expenditures, tracks payments, and resolves issues with accounts payable.

Property Development Technician

- Processes billing statements for annual invoices sent to pools, mobile home parks, etc.
- Tracks and processes bills, notices, and payments for WTMP program.
- Receives and documents complaints from the public, refers clients to the appropriate persons or agencies.
- Faxes Utility numbers to the correct power company for temporary power saw services, miscellaneous electrical inspections, and conditional power.
- Faxes power authorizations for residential and commercial after all approvals have been met, impact fees have been paid and all other fees have been collected.
- Scans all documents and store files in appropriate software location
- Manages faxes, answers the telephone, establishes and maintains filing systems, etc.
- Performs other related duties as required.

Knowledge, Skills and Abilities

- Skill in using a variety of supplies such as general office supplies, etc.; and a variety of computer software such as Permit Plus, Inspect Plus, Microsoft Outlook, Microsoft Word, Adobe Reader and Writer, Permunis, Munis, CDP, etc.
- Ability to understand, explain and consistently and fairly apply policies, laws, codes and regulations
- Ability review permit applications for completeness and correctness
- Ability to provide information to the general public regarding the permit process, requirements, codes and inspection procedures
- Ability to coordinate permit process for projects of larger scope and complexity and provide assistance and guidance related to building permit intake and processing to other staff
- Ability to establish and maintain an effective working relationship with property owners, developers, building contractors and general public
 - learn and apply the permit process, requirements, codes, and ordinances

Property Development Technician

- read and interpret building plans and specifications
- locate property on an assessor's parcel map and from property descriptions
- input and access data using a computer
- perform research of permit records

Supervision

Assignments are provided by indicating generally what is to be done. Quality and quantity expectations are provided. Additional details are provided for new, difficult, or unusual problems. Position may serve as a lead worker or supervise non permanent staff.

Distinguishing Factors

This is an entry-level class in the Property Development Classification Series and performs more routine and back up duties in the series. This classification is distinguished from the Property Development Specialist I by the advanced knowledge required of the PDS 1 and the level of building permit processing according to building codes authority and statues.

Physical Activities

(N = Never; R = Rarely (Less than 25%); O = Often (25% - 75%); A = Always (More than 75%))

Standing	O	Sitting	O
Walking	O	Bending	O
Stooping	O	Kneeling	O
Crawling	O	Climbing	R
Typing	O	Grasping	O
Talking	A	Hearing	A
Repetitive motions of hands/wrists	O	Handing	A
Repetitive motions of feet	O	Reaching	A

Average number of pounds through a normal day that are pushed, pulled, etc. and the distance over which the weight is moved:

Activity	Average Number of Pounds	Distance Weight is Moved
Pushing	10	1 ft
Pulling	5	1 ft
Lifting	10	1 ft
Carrying	5	1 ft

Property Development Technician**Examples of physical activities required in this position:**

Sitting at a computer for many hours per day

Filing papers

Walking to work station

Possible Hazards (chemicals, dangerous machinery, etc.)

None Known

MINIMUM TRAINING AND EXPERIENCE

Requires any combination of education and experience equivalent to high school diploma and four years of related experience. Prefer to have working knowledge of the construction industry.

Estimated Duration by Stage (months)	LMCPS Contract Stages est. Number of Hours per month during the stage							Stage	Estimated Duration per Stage (Days)
	1.5	3.3	4.0	4.2	3.2	0.7	0.5		
Staff	Planning & Initiation	Assess & Define	Configuration	Build Specs	Acceptance & Test	User Training	Production		
Manager's Office*	2	2	2	2	2	2	2	Contract Sign	0
Est. FTE/month	0.01	0.01	0.01	0.01	0.01	0.01	0.01	Stage 0 Software Delivery*	14
Planning & Inspections - Craig	8	8	8	8	8	8	8	Stage 1 Planning & Initiation	45
Building Inspections - Dan	40	56	56	56	88	88	40	Stage 2 Assess & Define	100
Planning - Michael	40	50	50	50	88	88	40	Payment of 1st ASM Original	111
Planning - Patrick Mallet	0	32	32	32	32	0	0	Stage 3 System Configuration	9
Erosion Control - Howard	40	50	50	50	88	88	40	Payment of 1st ASM Negotiated	87
Erosion Control - Wesley	0	32	32	32	32	0	0	Stage 4 Build Specifications	38
Planning & Inspections - Josh	0	32	32	32	32	0	20	Stage 5 Acceptance Planning & Test	95
EH and Planning - Jennifer	0	32	32	32	32	0	20	Stage 6 User Training	21
Planning & Inspections Est. hrs/mo	128	292	292	292	400	272	168	Stage 7 Production and Support	15
Est. FTE/month	0.80	1.83	1.83	1.83	2.50	1.70	1.05	Final Payment	5
Health - Colleen	8	8	8	8	8	8	8	TOTAL Days	540
Health - Alan	40	50	50	50	88	88	40	TOTAL Months	18
Health - John Kase	0	32	32	32	32	0	0		
Health (Jennifer counted in P&I) Est. hrs/mo	48	90	90	90	128	96	48		
Est. FTE/month	0.30	0.56	0.56	0.56	0.80	0.60	0.30		
IT - Jim	8	8	8	8	8	8	8		
IT APPs - Rich Wilson	10	10	10	10	10	10	10		
IT OPs - Jason Hendren	30	30	30	30	30	30	30		
IT - Sonia Ensenat	120	120	120	120	120	120	120		
IT - Connie Shiplett	32	84	84	84	128	96	72		
IT Est. hrs/mo	200	252	252	252	296	264	240		
Est. FTE/month	1.25	1.58	1.58	1.58	1.85	1.65	1.50		
Tax - Hank	0	10	10	10	0	0	0		
Tax Administration - Dwane	0	0	0	0	0	0	0		
Tax/Land Records/GIS - Michael B.	0	32	32	32	32	0	0		
Tax/Land Records/GIS - Tammy	16	16	16	16	32	32	16		
Tax/Land Records/GIS - Chris D. and Michael B.	35	35	35	35	35	0	0		
Tax Administration Est. hrs/mo	51	93	93	93	99	32	16		
Est. FTE/month	0.32	0.58	0.58	0.58	0.62	0.20	0.10		
Solid Waste - Jeff Scouten	16	50	50	50	66	40	16		
Solid Waste Est. hrs/mo	16	50	50	50	66	40	16		
Est. FTE/month	0.10	0.31	0.31	0.31	0.41	0.25	0.10		
ES - Elizabeth Gregory	0	16	16	16	16	0	0		
ES - Jason Shepherd	16	24	24	24	32	32	16		
Emergency Services Est. hrs/mo	16	40	40	40	48	32	16		
Est. FTE/month	0.10	0.25	0.25	0.25	0.30	0.20	0.10		
TOTAL Est. Hrs/Mo	461	819	819	819	1039	738	506		
TOTAL Est. FTE/Mo	2.88	5.12	5.12	5.12	6.49	4.61	3.16		
Compare EnerGov Est. Service Hrs/Mo	205	625	1000	880	750	160	80		
Compare EnerGov Est. FTE/Mo	1.28	3.91	6.25	5.50	4.69	1.00	0.50		

EnerGov Resource Allocation Matrix by Stage from the SOW below:

RESOURCE ALLOCATION MATRIX BY STAGE

By Stage, we expect to allocate the resources identified above as follows:

Stage 0 - Software Delivery	Est. Hours per Stage
Stage 1 - Planning & Initiation	205
Stage 2 - Assess & Define	625
Stage 3A - System Configuration	750
Stage 3B - Configuration Internal Test	250
Stage 4A - Build Spec	220
Stage 4B - Build	660
Stage 5A - Acceptance Planning	250
Stage 5B - Verification & Acceptance	500
Stage 6 - User Training	160
Stage 7 - Production	80
Total Hours	3700

**ORANGE COUNTY
BOARD OF COMMISSIONERS
ACTION AGENDA ITEM ABSTRACT**
Meeting Date: February 2, 2016

**Action Agenda
Item No.** 6-i

SUBJECT: Changes in BOCC Regular Meeting Schedule for 2016

DEPARTMENT: County Commissioners

PUBLIC HEARING: (Y/N)

No

ATTACHMENT (S):

INFORMATION CONTACT:

Donna Baker, 245-2130
Clerk to the Board

PURPOSE: To consider changes to the Board of Commissioners' regular meeting calendar for 2016.

BACKGROUND: Pursuant to North Carolina General Statute 153A-40, the Board of County Commissioners must fix the time and place of its meetings or provide a notice of any change in the Regular Meeting Schedule:

- To change the designations of the May 12th and May 26th BOCC meetings and to change the location of the May 19th meeting:
 - May 12th – Budget Public Hearing at Whitted Building, Hillsborough, NC (this was originally scheduled as a Budget Work Session)
 - May 19th- Budget Public Hearing at Southern Human Services Center, Chapel Hill (this was originally scheduled to be at the Whitted Building)
 - May 26th- Budget Work Session – Capital Improvement Plan (this was originally scheduled as a Budget Public Hearing)

FINANCIAL IMPACT: There is no financial impact associated with this item.

SOCIAL JUSTICE IMPACT: There is no Orange County Social Justice Goal impact associated with this item.

RECOMMENDATION (S): The Manager recommends the Board amend its regular meeting calendar for 2015:

- To change the designations of the May 12th and May 26th BOCC meetings and to change the location of the May 19th meeting:
 - May 12th – Budget Public Hearing at Whitted Building, Hillsborough, NC (this was originally scheduled as a Budget Work Session)
 - May 19th- Budget Public Hearing at Southern Human Services Center, Chapel Hill (this was originally scheduled to be at the Whitted Building)
 - May 26th- Budget Work Session – CIP (this was originally scheduled as a Budget Public Hearing)

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: February 2, 2016

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

SUBJECT: Rogers Road Sewer Project Easements

DEPARTMENT: County Manager

PUBLIC HEARING: (Y/N)

N

ATTACHMENT(S):

1. Map Showing Scope of Project and Anticipated Easement Parcels
2. Easement Valuation Calculation

INFORMATION CONTACT:

Travis Myren, Deputy County Manager
245-2308
John Roberts, County Attorney, 245-2318
Craig Benedict, Planning Director, 245-2592
Gary Donaldson, Chief Financial Officer,
919-245-2453

PURPOSE: To consider authorizing County Staff to accept and acquire the private easements required to construct and maintain the Rogers Road Sewer Project by negotiation, purchase or condemnation, if necessary.

BACKGROUND: The County has been working with the Towns of Carrboro and Chapel Hill and with the Orange Water and Sewer Authority (OWASA) to design and construct a sewer collection system to serve the Rogers Road neighborhood. The County is leading the effort to obtain the private easements needed for construction and future maintenance of the sewer collection system. At this point in the design process, the alignment of the sewer system has been tentatively established and the design firm is in the process of creating easement plats for each property noted in Attachment 1. The proposed sewer line is approximately 18,500 linear feet.

In anticipation of this easement acquisition effort, County Staff set up an information meeting for community members, which was held on December 8, 2015. The meeting was held to explain to the community the purpose of an easement and the practical implications of having an easement on their property. This was also a time to answer questions about the easement acquisition process, the construction process and the project in general.

Following receipt of the easement plats from the design consultant (AECOM), County staff will develop easement deeds for each property. There are approximately 80 properties where permanent and temporary easements may be placed: 73 parcels inside the Historic Rogers Road Area (HRRA) and 7 parcels outside the HRRA.

Staff will then contact each property owner from whom an easement is needed by letter to let them know why the County needs the easement, where the easement will be located on their property, how much the County is offering for the easement and the value of the infrastructure being installed on their property. The easement deed and a copy of the plat will be included in the letter, along with instructions on how to complete the document and who to contact with any questions.

FINANCIAL IMPACT: County staff will offer a standard monetary amount for each easement, based on a partial per square foot tax value of each property, since easements are minor percentage interest and not a fee simple purchase. Approximately \$212,000 is herein being requested for the project budget to cover these costs. In the event of condemnation, the County will be required to deposit an amount equal to the easement value with the Court upon filing of the condemnation complaint. A cost sharing agreement with Carrboro and Chapel Hill will assist in these costs.

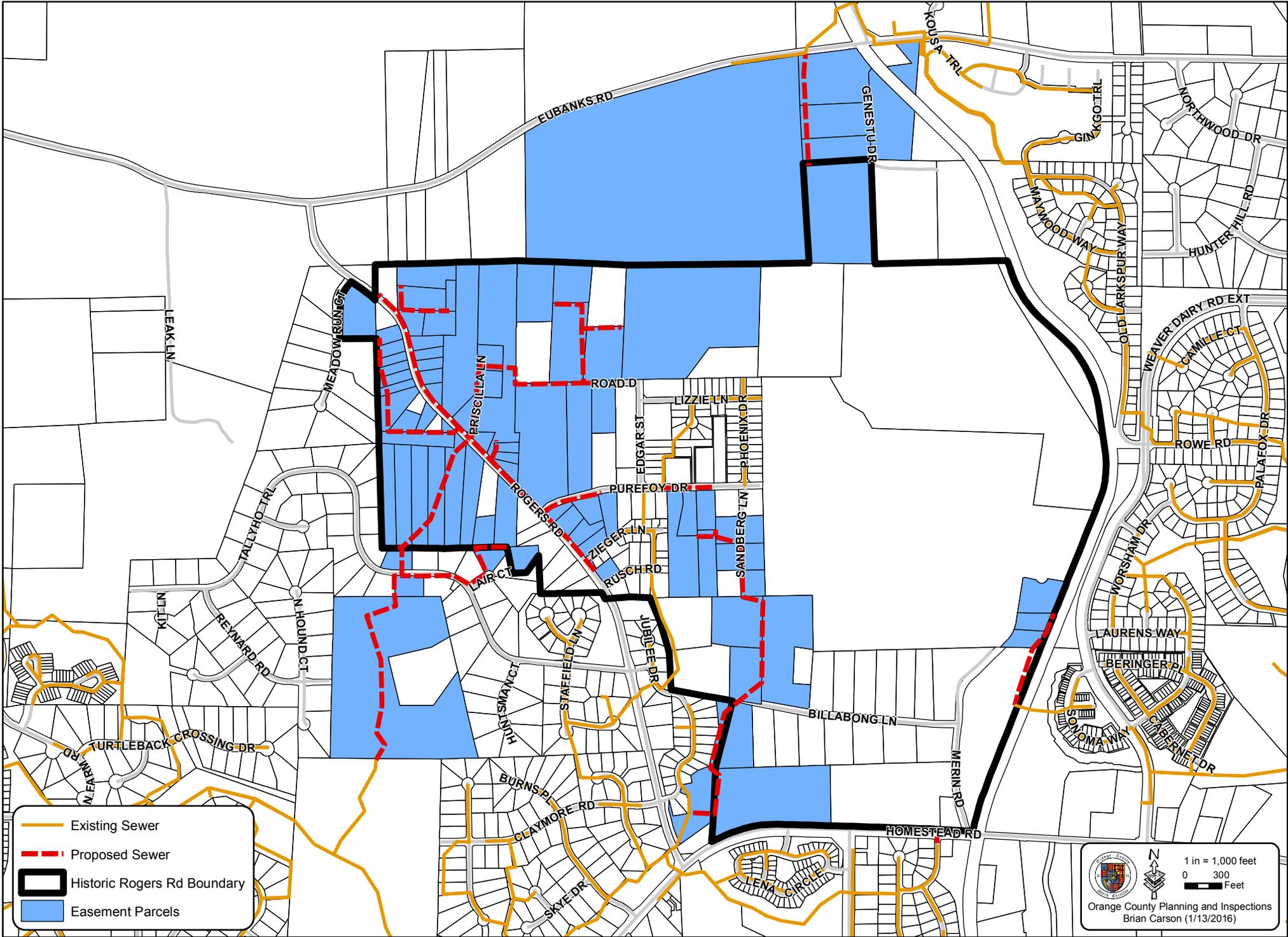
SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goals are applicable to this agenda item:

GOAL: ESTABLISH SUSTAINABLE AND EQUITABLE LAND-USE AND ENVIRONMENTAL POLICIES

The fair treatment and meaningful involvement of people of all races, cultures, incomes and educational levels with respect to the development and enforcement of environmental laws, regulations, policies, and decisions. Fair treatment means that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies.

RECOMMENDATION(S): The Manager recommends the Board:

1. Authorize the payment of negotiated easement value to individual property owners, within the project budget;
2. Authorize the County Attorney's office to proceed with legal acquisition of utility easements with court filing, as necessary; and
3. Authorize staff to bring back a budget amendment within the parameters outlined above to cover the cost of acquiring easements for this project.



Easement Value Calculation Example

On the plat, the easement is at the south (bottom) of the property, shown by a dashed line.

- The easement is about 295' long and 25' wide (7,379.74 square feet (sf)). This is shown in the center of the plat, along with the Property ID Number (PIN) and the total square footage of the property.
- From the County's tax records, the value of this property (\$33,540/acre) is \$196,629.00 for a 6+ acre parcel, which equates to approximately \$0.77/sf.
- Compensation for the easement is 20% of the per square foot tax value for the property. In this case, the value would be:
 - $7,379.74 \text{ sf} \times \$0.77/\text{sf} \times 0.20 = \$1,136.48$
- If there was a temporary construction easement needed, the value of that is half the value of a permanent easement, so instead of multiplying by 0.20 (20%) you would multiply by 0.10, or 10%.

Easement Signing Process

- 1) Sign appropriate easement documents
- 2) Sign a W-9 Form - *Request for Taxpayer Identification Number (TIN) and Certification* since this compensation is considered taxable revenue.
- 3) County records document at Register of Deeds
- 4) Check is prepared for property owner

BOCC Meeting Follow-up Actions

(Individuals with a * by their name are the lead facilitators for the group of individuals responsible for an item)

Meeting Date	Task	Target Date	Person(s) Responsible	Status
1/21/16	Review and consider request by Commissioner Rich that the Community Relations staff move forward with publicizing and educating the public on voting requirements, and including information from materials provided by Commissioner Price	2/16/2016	Laurie Paolicelli	Staff to move forward with efforts
1/21/16	Review and consider request by Commissioner Rich that the County develop a plan/response on The Barn, potentially as part of an Information Item, so that Board members and staff can rely on/refer to it as they respond to inquiries	2/16/2016	John Roberts Craig Benedict	Information to be developed
1/21/16	Review and consider request by Commissioner Burroughs, echoing a previous request by Commissioner Price, that the Board be provided more information about Cardinal Innovations, its relationship with the County, history, funding, etc.	4/1/2016	Bonnie Hammersley	Manager to work with Human Service staff to develop information
1/21/16	Review and consider request by Commissioner Burroughs that the Board receive information on Hillsborough's decision to not fund non-profits in the upcoming fiscal year and the potential impacts	3/1/2016	Gary Donaldson	Staff to provide information
1/21/16	Develop stand alone private shooting ordinance and provide it for Board consideration at second regular meeting in February	2/16/2016	John Roberts	Ordinance to be developed
1/21/16	Provide information to the Board on how the County follows up with members of the public who have addressed the Board on an item at a previous meeting	2/28/2016	Bonnie Hammersley	Information to be provided; Clerk encourages residents interested in topics to subscribe to County email group

INFORMATION ITEM

Tax Collector's Report - Numerical Analysis

Effective Date of Report: January 14, 2015						
Tax Year 2015	Amount Charged in FY 15-16	Amount Collected	Accounts Receivable	Amount Budgeted in FY 15-16	Remaining Budget	% of Budget Collected
Current Year Taxes	\$ 136,413,322.00	131,927,201.17	\$ 5,697,512.49	\$ 136,413,322.00	\$ 4,486,120.83	96.71%
Prior Year Taxes	\$ 3,551,444.86	719,316.89	\$ 2,743,911.33	\$ 1,150,000.00	\$ 430,683.11	62.55%
Total	\$ 139,964,766.86	132,646,518.06	\$ 8,441,423.82	\$ 137,563,322.00	\$ 4,916,803.94	96.43%
Tax Year 2014	Amount Charged in FY 14-15	Amount Collected	Accounts Receivable	Amount Budgeted in FY 14-15	Remaining Budget	% of Budget Collected
Current Year Taxes	\$ 135,734,649.00	129,162,700.84	\$ 6,646,248.69	\$ 135,734,649.00	\$ 6,571,948.16	95.16%
Prior Year Taxes	\$ 3,764,940.44	966,863.90	\$ 2,770,596.04	\$ 994,130.00	\$ 27,266.10	97.26%
Total	\$ 139,499,589.44	130,129,564.74	\$ 9,416,844.73	\$ 136,728,779.00	\$ 6,599,214.26	95.17%
Current Year Overall Collection Percentage Tax Year 2015			95.86%			
Current Year Overall Collection Percentage Tax Year 2014			95.11%			

NAME	ABSTRACT NUMBER	BILLING YEAR	ORIGINAL VALUE	ADJUSTED VALUE	TAX	FEE	FINANCIAL IMPACT	REASON FOR ADJUSTMENT	TAX CLASSIFICATION	ACTION	Approved by CFO	Additional Explanation
Crown Castle GT Company LLC PMB 353	206467	2015	5,980	0	(58.45)		(58.45)	Assessed in error (illegal tax)	Real	Approved	1/11/2016	Removed improvements for 2015. Now assessed by NCDOR.
Crown Castle GT Company LLC PMB 353	198566	2015	7,550	0	(72.60)		(72.60)	Assessed in error (illegal tax)	Real	Approved	1/11/2016	Removed improvements for 2015. Now assessed by NCDOR.
Crown Castle GT Company LLC PMB 353	152396	2015	4,135	0	(39.20)		(39.20)	Assessed in error (illegal tax)	Real	Approved	1/11/2016	Removed improvements for 2015. Now assessed by NCDOR.
Dong, Qian	27909254	2015	15,450	13,297	(36.08)		(36.08)	Price paid (appraisal appeal)	RMV-VTS	Approved	1/11/2016	
Farmer, Harold	29044175	2015	3,551	0	(89.51)		(89.51)	County changed to Almerce (illegal tax)	RMV-VTS	Approved	1/11/2016	
Gazda, Stephen Joseph	19534337	2015	27,360	24,323	(48.91)		(48.91)	Damage (appraisal appeal)	RMV-VTS	Approved	1/11/2016	
Gruber, Brittnay	28639760	2014	3460	3460	(29.01)	(30.00)	(59.01)	Situs error (illegal tax)	RMV-VTS	Approved	1/15/2016	
Hall, Jennifer Ann	22880168	2014	3,650	3,650	(26.43)	(30.00)	(56.43)	Situs error (illegal tax)	RMV-VTS	Approved	1/11/2016	
Higley, Lee Aspen	28273470	2015	22050	19588	(39.65)		(39.65)	Adjustment (appraisal appeal)	RMV-VTS	Approved	1/15/2016	
Kampa, Bradley Joseph	24235813	2014	3180	3180	(15.56)	(30.00)	(45.56)	Situs error (illegal tax)	RMV-VTS	Approved	1/15/2016	
Morley, Kevin Neil	5741946	2015	10390	5195	(52.46)		(52.46)	Mileage & damage (appraisal appeal)	RMV-VTS	Approved	1/15/2016	
Pinnacle Towers	235324	2015	3,170	0	(30.48)		(30.48)	Assessed in error (illegal tax)	Real	Approved	1/11/2016	Removed improvements for 2015. Now assessed by NCDOR.
Pinnacle Towers	235323	2015	2,000	0	(19.16)		(19.16)	Assessed in error (illegal tax)	Real	Approved	1/11/2016	Removed improvements for 2015. Now assessed by NCDOR.
Sparrow, Philip	18399338	2013	1,326	1,326	(5.65)		(5.65)	Situs error (illegal tax)	RMV-VTS	Approved	1/11/2016	
Sparrow, Philip	18399338	2014	1,248	1,248	(5.44)		(5.44)	Situs error (illegal tax)	RMV-VTS	Approved	1/11/2016	
Tate, Margie Riley	29264389	2015	2,710	2,710	(19.72)	(30.00)	(49.72)	Situs error (illegal tax)	RMV-VTS	Approved	1/11/2016	
Wheeler, Peter	29036877	2015	17,130	14,389	(44.13)		(44.13)	High mileage (appraisal appeal)	RMV-VTS	Approved	1/11/2016	
							Total	\$ (752.44)				



ORANGE COUNTY
NORTH CAROLINA

MEMORANDUM

Date: February 2, 2016

To: Board of Orange County Commissioners

From: Bonnie Hammersley, Orange County Manager

Subject: Update on Southern Branch Library Due Diligence and Siting Process

The purpose of this memo is to provide an update to the Board of Orange County Commissioners (BOCC) regarding the ongoing and collaborative Southern Branch Library site due diligence.

In late 2015, the Board may recall authorizing the County and Carrboro Town Manager to discuss a mutually beneficial site control arrangement for the Carrboro owned 203 S. Greensboro site. The BOCC also authorized the County Manager and staff to continue preliminary phase due diligence with regard to the site. Over the past several weeks, the Managers and staff have worked closely together on the project and have established an understanding on the following points and principals with regard to this promising site:

1. The site is best suited to continue to be owned by the Town of Carrboro with the County as a property right holder for a Southern Branch Library. This arrangement provides the control likely desired by Carrboro for current and future development while allowing the County to potentially build a 15,000 gross square foot Branch Library with associated parking. This arrangement also provides a more efficient development process under the Town development ordinance since the Town would continue to maintain ownership.
2. The Carrboro land use ordinance allows for a much larger building project in excess of the needs of the contemplated Southern Branch Library. This condition allows a simultaneous or future development of additional uses on the site that are mutually desirable by the Town and County. The Carrboro Board of Aldermen (BOA) has authorized the Town Manager to engage in a comprehensive town facilities space study. This study will inform the BOA of any potential need for town facilities to be co-located with the library on the 203 S. Greensboro site.

3. Public parking during construction as well as permanent parking facilities is a major factor for this site and will be addressed as part of the Town and County's collaborative work. The Town is currently conducting a parking study that will provide important information for this component of the potential project.
4. The County continues to conduct its preliminary phase due diligence on the property and, to date, has not discovered any significant impediments to its development as a Southern Branch Library. Results of the geotechnical and environmental analysis components will be available for staff in the coming weeks.
5. The County continues to attend, at the invitation of Carrboro, the Carrboro Arts and Innovation Center work group. The work group is awaiting findings and recommendations of a study being provided by the UNC School of Government's Development Finance Initiative. This work is separate to the County and Town's collaboration on the Southern Branch Library.

The County Manager, Town Manager and staff will continue working closely together on this project at the 203 S. Greensboro site. The Managers will present a draft development agreement to their governing Boards shortly after the Carrboro space and parking studies are completed in the spring/summer of 2016. In addition, an accurate project timeline will be presented based on the results of the completed studies.

The "Southern Branch Library Chronology" is attached and has been updated for your information.

If you have questions, please do not hesitate to contact me. Thank you.

cc: Carrboro Board of Aldermen

Attachment A: Southern Branch Library Project Chronology

2010-2012 - Evaluation and ultimate BOCC rejection of 210 Hillsborough Street location as a Southern Branch Library site.

September, 2012 - BOCC adopted site selection criteria.

December, 2012 - Letter from Carrboro Manager to the County Manager suggesting 3 sites be evaluated.

May, 2013 - Letter from Carrboro Manager to the County Manager suggesting 4 additional sites be evaluated.

November, 2013 - BOCC authorized staff to begin primary phase 1 due diligence on 120 Brewer Lane site.

January, 2014- BOCC authorized staff to begin the public input work as part of the primary phase due diligence on 120 Brewer Lane site.

May, 2014 - Staff report to BOCC updating the primary phase due diligence and public input process for the 120 Brewer Lane site.

October, 2014 - Staff report to joint meeting of BOCC and Carrboro Board of Aldermen on progress of 120 Brewer Lane Memorandum of Understanding and Development Agreement negotiations.

June, 2015 - Southern Branch Library site criteria update staff report to BOCC CAIC Steering Committee update reports to BOCC and Carrboro Board of Aldermen.

September, 2015 - Southern Branch Library site criteria update staff report to BOCC and recommends continued due diligence with regard to the 23 S. Greensboro site; BOCC authorizes County Manager to enter into discussions of site control for 203 S. Greensboro Street site.

October, 2015 – Carrboro Board of Aldermen authorizes Town Manager to enter into site control discussions for 203 S. Greensboro Street.

February, 2016 – Project progress update to BOCC and Board of Aldermen.



ORANGE COUNTY
NORTH CAROLINA

Founded in 1752 in the heart of North Carolina

Date: January 21, 2016
To: Orange County Commissioners
From: Laurie Paolicelli, Director of Community Relations and Tourism
Re: 2015 State of Airbnb in North Carolina and Orange County
Response to Commissioner Penny Rich's petition

In response to Commissioner Rich's request for information on the state of Airbnb regulatory efforts and tax collection in Orange County, please accept this update:

After months of pressure from North Carolina Restaurant and Lodging Association (NCRLA) Airbnb first began collecting and remitting sales tax statewide on June 1, 2015, and also began collecting and remitting occupancy taxes in four counties – Buncombe, Durham, Mecklenburg, and Wake—at that same time. Then the full-fledged statewide tax collections began on August 15, 2015.

Orange County was one of 96 counties in North Carolina to receive a statement from Airbnb dated July 30, 2015 providing notification that it would begin remitting tax collections starting on August 15, 2015. Airbnb has remitted monthly as required since that time, based on the gross receipts obtained each month from its clients.

All occupancy taxpayers are required to submit a return each month even if they do not have taxes to remit. If there were a month in which Airbnb (or any other occupancy taxpayer) did not submit a return, the Orange County Tax office would notify them by mail that they did not receive the return and/or payment and notify them of the assessed penalty. They would have 15 days to remit the assessed penalty, along with the missing return and taxes owed if applicable. If they still did not remit, Orange County would follow the enforcement remedies as set by G.S.105-236 for failure to pay or file a return for State sales and use taxes.

In Orange County, Airbnb currently (12/29/2015) lists:

123 entire home rentals; 140 private room rentals

The Visitors Bureau estimates 158 rooms booked per day through Airbnb which would yield \$646,191 combined occupancy and sales tax.

It is recommended that Orange County work with municipalities to review compliance and tax remittance and recommend greater enforcements.



AIRBNB IN ORANGE COUNTY AND NORTH CAROLINA

CURRENT REGULATIONS

Effective August 15, 2015, Airbnb began collecting and remitting occupancy taxes statewide in North Carolina in all local jurisdictions that impose such taxes. This made North Carolina the first state in the nation where Airbnb is collecting and remitting both sales and occupancy taxes in full compliance with state and local laws.

After months of pressure from North Carolina Restaurant and Lodging Association (NCRLA) and the lodging community as a whole, Airbnb first began collecting and remitting sales tax statewide on June 1, 2015, and also began collecting and remitting occupancy taxes in four counties – Buncombe, Durham, Mecklenburg, and Wake—at that same time. Then the full-fledged statewide tax collections began on August 15, 2015.

Many state travel and tourism associations played a key role in shaping the debate and in underscoring the stark contrast of regulations that the hotel industry abides by that short-term rental companies and some commercial operators currently avoid. The travel and tourism industry will continue to work alongside federal, state, and local officials to address issues including zoning, affordable housing, insurance, and common sense safety, security, and health and fire standards for short-term rentals.

ORANGE COUNTY COLLECTIONS PROCESS

Orange County was one of 96 counties in North Carolina to receive a statement from Airbnb dated July 30, 2015 providing notification that it would begin remitting tax collections starting on August 15, 2015. Airbnb has remitted monthly as required since that time, based on the gross receipts obtained each month from its clients. Cumberland, Currituck, Dare and Moore confirm this as well. Buncombe, Durham, Mecklenburg, and Wake began their collections on June 1, 2015.

All occupancy taxpayers are required to submit a return each month even if they do not have taxes to remit. If there were a month in which Airbnb (or any other occupancy taxpayer) did not submit a return, or return and payment, they would be subject to penalties.

The Orange County office would notify them by mail that they did not receive the return and/or payment and notify them of the assessed penalty. They would have 15 days to remit the assessed penalty, along with the missing return and taxes owed if applicable. If they still did not remit, Orange County would follow the enforcement remedies as set by G.S.105-236 for failure to pay or file a return for State sales and use taxes.

ECONOMICS

For Orange County, Airbnb currently (12/29/2015) lists:

123 entire home rentals
140 private room rentals

Total 263 in Orange County

Airbnb uses the average daily rate of \$83. Using an NC industry average of a 60% daily occupancy rate, we estimate 158 rooms booked per day through Airbnb at \$83 equal approximately \$13,000 per day in revenue: Or \$4,786,610 per year in revenue which would yield a 6% occupancy tax collection of \$287,196 and yield a 7.5% sales tax of \$358,995 or \$646,191 combined occupancy and sales tax.

BACKGROUND

Since it was founded in 2008, Airbnb has turned the hotel industry upside down. It rakes in \$500 million to \$1 billion a year, Glassdoor reports. Airbnb makes money by taking a 3% cut of each booking and a 6% to 12% service fee from guests.

Rapid growth of the short-term online rental marketplace created challenges for the lodging industry and the regulatory system. Short-term online rentals are rentals of residential property for a short period of time through online platforms such as Airbnb, Home Away or Flip Key. Laws currently on the books that were developed years ago for traditional lodging properties were allowing these new business models an opportunity to bypass the system and generated great concern for the North Carolina lodging community.

The North Carolina Restaurant and Lodging Association's position on the short-term online rental marketplace rests on four basic points:

First, the North Carolina lodging community does not fear competition and does not seek to ban short-term online rental companies. Instead, the lodging community is concerned about inequities in the treatment of traditional lodging properties versus short-term online rentals under state and local laws, rules, and health and safety codes. Competition is a hallmark of the lodging industry. Traditional lodging properties fiercely compete against each other every day. But short-term online rental companies are avoiding paying state and local taxes and they are skirting rules and regulations meant to protect guests and communities. And that's simply not fair competition.

The challenge is that the rapid evolution of these new business models is disrupting traditional models of commerce and the laws and rules that were developed years ago to regulate traditional models. Traditional lodging properties are required by law to provide a safe, sanitary and secure environment for their guests. These requirements include clean sheets and towels, hot and cold running water, smoke detectors, carbon monoxide detectors, clearly marked exits and fire escape plans, to name just a few. State law treats the rental of rooms as a retail business, triggering requirements that lodging establishments obtain appropriate business licenses and remit sales & occupancy taxes to state and local governments. The short-term online rental marketplace operates under the regulatory radar screen. While data on this marketplace is limited, every indication is that businesses in this space are operating without

appropriate licenses, without paying sales and occupancy taxes, and without following health and safety rules.

Second, the short-term online rental marketplace does not consist primarily of small “Mom and Pop” operations. Several of the largest short-term online rental companies are valued in the billions of dollars, making them larger than several of the world’s most notable hotel chains. This is big business and it should be recognized as such. It is critically important to distinguish between individuals who are in the business of renting rooms for profit and those simply renting rooms on a rare occasion or for a special event. If you are routinely renting out rooms, or encouraging renting out rooms for the purpose of making money, you are in the lodging business and you should be treated as a lodging business.

Third, it is unwise to group all facets of the “sharing economy” together. Short-term online rental companies have clear differences from other businesses in this new space. Most notably, there is no process in place for becoming a short-term online host. With no process in place, there is no way to be certain who the hosts really are. Many hosts are well intentioned, but nefarious actors are likely to hide until it is too late. As many of the short-term online rental companies like to say, “Anyone can be a host” – and this is of great concern to the lodging industry. The lack of key consumer protections and proper oversight should be of equal concern to lawmakers and regulators alike.

Fourth, there is a disturbing trend across the country. Many communities and policymakers have ignored concerns about the short-term online rental marketplace until it is too late. North Carolina policymakers and regulators have begun to study this issue and address the concerns and inequities between traditional lodging providers and short-term online rentals. The growth of the short-term online rental marketplaces presents an opportunity to ensure a fair, free market for lodging services across North Carolina and ensure all businesses that contribute to this state’s economy are provided fair and equal opportunities to succeed.

2016 AIRBNB FOCUS *(Extracted from Airbnb website/newsroom)*

- During November’s annual Airbnb Open 2015 conference in Paris, there was a clear shift toward a greater emphasis on the Airbnb host community as the primary value proposition for the brand.
- The sense of community surrounding Airbnb is becoming its greatest differentiator in the travel marketplace. Moving forward, the company is prioritizing its ecosystem of hosts above everything else to both further cement its relationship with those hosts and address the concerns of people who haven’t tried room sharing.
- Presently, the biggest cloud raining on Airbnb’s parade is the regulatory hurdles constantly played out in the media. Chesky emphasized that everyone at Airbnb, including Airbnb hosts, want the room sharing industry to be fully regulated, because that will legitimize the industry as an industry.
- “Many of us want to be regulated, because to be regulated is to be recognized,” Chesky explained. “We don’t think home sharing should be in the shadows.... I’m looking forward to maybe a future stage with Airbnb where we can look at the idea of hosting being legitimized in 34,000 cities around the world as a thing of the past.”

SUMMATION AND RECOMMENDATION

As the area's tourism agency, it's important for the Visitors Bureau Board to understand how the laws work in Orange County, our municipalities and surrounding cities such as Durham and Raleigh. Some cities have laws that restrict their residents' ability to host paying guests for short periods. These laws are often part of a city's zoning or administrative codes. In many cities, hosts must register, get a permit, or obtain a license before they can list their property or accept guests. Certain types of short-term bookings may be prohibited altogether. Local governments vary greatly in how they enforce these laws. Penalties may include fines or other enforcement. In some tax jurisdictions, Airbnb administers the calculating, collecting, and remitting local occupancy tax on hosts' behalf.

It is recommended that the Visitors Bureau work with town managers to review compliance and tax remittance and recommend greater enforcements.

For additional information on this report, please contact the Chapel Hill/Orange County Visitors Bureau, Laurie Paolicelli, Director. 919-245-4322.

Lpaolicelli@orangecountync.gov

INFORMATION ITEM**Department of Environment,
Agriculture, Parks & Recreation**

To: Bonnie Hammersley, County Manager

From: David Stancil, DEAPR Director

Date: February 2, 2016

Re: Parks and Recreation Council Memo - Disc Golf Course

Over the past several months, the Parks and Recreation Council have discussed the need for a disc golf course in Orange County. Please find attached a memorandum from the Council that notes a finding of existing demand for such a course, and proposes the County identify a location for a disc golf course in central and northern Orange County and work to create a course in FY 2016-17, working with area disc golf organizations. The Council suggests Blackwood Farm Park or another park as a desirable location.

I have incorporated the potential for a disc golf course into the draft Capital Investment Plan, for our review this spring.

Please let me know if I can provide any additional information.

Copies: Travis Myren, Deputy County Manager
Parks and Recreation Council
DEAPR staff

Orange County Parks and Recreation Council

PO Box 8181, 306-A Revere Road, Hillsborough, NC (919) 245-2510

November 6, 2015

Mr. Earl McKee, Chair
Board of County Commissioners
PO Box 8181
Hillsborough, NC 27278

Re: Recommendation for Disc Golf Course

Dear Chair McKee:

Over the past 11 months, the Orange County Parks and Recreation Council (PRC) discussed the potential for a disc golf course at a County park. After receiving a request from a local disc golf group enthusiast and learning of other interest in such an amenity, the Council asked staff to examine possibilities for a disc golf course at a County park.

Staff, the Council, and the Intergovernmental Parks Work Group have since that time analyzed the current inventory of disc golf courses in the county, looked at the potential demand for such a facility, and learned that the Town of Hillsborough was also approached about creating a disc golf course. Staff also investigated the costs and maintenance responsibilities of recent courses.

In early-October, staff presented a report to the Council on disc golf that looked at the subject as discussed in the adopted Parks and Recreation System Master Plan 2030, examined the inventory of existing facilities, reviewed potential compatibility with existing County parks, other looked at planned future courses and potential collaboration opportunities.

After examining these factors and reports, the Parks and Recreation Council voted unanimously on November 4 to make the following recommendation to the Board of Commissioners:

1. That demand exists for a disc golf course, especially in the central and northern parts of the county where there is no public course, and that a disc golf course should be added as an amenity at a County park preferably funded in FY 2016-17.
2. That Blackwood Farm Park seems appropriate for the location of such a facility, and that the Board of Commissioners amend this (or another) park master plan to reflect this amenity.

3. That disc golf organizations are willing partners in the creation of courses, and would likely help fund the costs and design of a new course in central or northern Orange County.

The Council respectfully suggests that the Board of Commissioners ask staff to revise the Blackwood Farm Park or other park master plan for Board approval, and that funding (estimated at \$25,000 construction and \$5,000 in annual maintenance) be included in the FY 2016-17 budget and/or FY 2016-21 Capital Investment Plan.

Sincerely,

Neal Bench, Chair
Parks and Recreation Council

Copies: P&R Council
David Stancil, DEAPR Director

INFORMATION ITEM



EARL MCKEE, CHAIR
MARK DOROSIN, VICE CHAIR
MIA BURROUGHS
BARRY JACOBS
BERNADETTE PELISSIER
RENEE PRICE
PENNY RICH

Orange County Board of Commissioners
Post Office Box 8181
200 South Cameron Street
Hillsborough, North Carolina 27278

January 27, 2016

Dear Commissioners,

At the Board's January 21, 2016 regular meeting, petitions were brought forth which were reviewed by the Chair/Vice Chair/Manager Agenda team. The petitions and responses are listed below:

- 1) Review and consider a request by Commissioner Rich that the Community Relations staff move forward with publicizing and educating the public on voting requirements, and including information from materials provided by Commissioner Price.

Response: *Staff to move forward with efforts.*

- 2) Review and consider a request by Commissioner Rich that the County develop a plan/response on The Barn, potentially as part of an Information Item, so that Board members and staff can rely on/refer to it as they respond to inquiries.

Response: *Information to be developed.*

- 3) Review and consider a request by Commissioner Burroughs, echoing a previous request by Commissioner Price, that the Board be provided more information about Cardinal Innovations, its relationship with the County, history, funding, etc.

Response: *Manager to work with Human Service staff to develop information.*

- 4) Review and consider a request by Commissioner Burroughs that the Board receive information on Hillsborough's decision to not fund non-profits in the upcoming fiscal year and the potential impacts.

Response: *Staff to provide information.*

Regards,

Earl McKee, Chair
Board of County Commissioners