



**Orange County
Board of Commissioners**

Agenda

**RECEPTION – 6:00 p.m.-7:00 p.m.
Whitted Building**

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

Regular Meeting

December 5, 2016

7:00 p.m.

Richard Whitted Meeting Facility

300 West Tryon Street

Hillsborough, NC 27278

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.

Resolution of Commendation for Commissioner Bernadette Pelissier

Oaths of Office for Board Members

- **Commissioner-Elect Mark Marcoplos**
- **Commissioner Mark Dorosin**
- **Commissioner Renee Price**
- **Commissioner Penny Rich**

Board Organization

- a. Election of Chair and Vice-Chair
- b. Designation of Voting Delegate for all NCACC and NACo Meetings for Calendar Year December 1, 2016-2017

Appointments

- a. Manager
- b. Clerk to the Board
- c. County Attorney

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

4. Proclamations/ Resolutions/ Special Presentations

- a. Resolution of Approval – Conservation Easement for Persimmon Hill Farm
- b. Voluntary Farmland Preservation Program - Voluntary and Enhanced Agricultural District Designations - Multiple Farms - Bonham; Mulligan/Carter; Myers; Lloyd; & Brooks

5. Public Hearings

- a. Unified Development Ordinance (UDO) Amendments – Hillsborough Economic Development District
- b. Zoning Atlas Amendment – Hillsborough Economic Development District

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. Next Generation A9-1-1 Backup PSAP Connection and Call Service Delivery
 - f. Bid Award for a Compact Wheel Loader for Recycling
 - g. Orange County Property Naming Policy
 - h. Schools Adequate Public Facilities Ordinance (SAPFO) – Approval of Membership and Capacity Numbers
 - i. Technical Resolution Regarding Grandfathering of Projects for School Impact Fee Collection Purposes
 - j. First Reading: Emergency Services Franchise by Ordinance - First Choice Medical Transport, LLC
 - k. First Reading: Emergency Services Franchise by Ordinance - North State Medical Transport



- l. First Reading: Emergency Services Franchise by Ordinance - LifeStar Emergency Services - 2023, LLC
- m. First Reading: Emergency Services Franchise by Ordinance – South Orange Rescue Squad, Inc.

7. Regular Agenda

- a. Recommendations of the Firearms Safety Committee
- b. Realignment of Staff Resources at Social Services to Reflect New Legal Requirements of the Affordable Care Act, and Approve Budget Amendment #3-A for Additional Funding for the Food and Nutrition Employment and Training Program
- c. Financial Policy for Outside Agency Funding
- d. Durham-Orange Light Rail Transit Project – Proposed “Non-Binding” Memorandum of Understanding

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

- November 15, 2016 BOCC Meeting Follow-up Actions List
- Tax Collector’s Report – Numerical Analysis
- Tax Collector’s Report – Measure of Enforced Collections
- Tax Assessor's Report – Releases/Refunds under \$100
- Memorandum - City of Mebane’s Comprehensive Land Development Plan
- Access to Mental Health Services Assessment
- BOCC Chair Letter Regarding Petitions from November 15, 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: December 5, 2016

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

SUBJECT: Resolution of Approval – Conservation Easement for Persimmon Hill Farm

DEPARTMENT: Environment, Agriculture, Parks
and Recreation (DEAPR)

ATTACHMENTS

1. Resolution of Approval
2. Location Map
3. Site Map
4. Draft Conservation Easement

INFORMATION CONTACT:

David Stancil, 245-2510
Rich Shaw, 245-2514

PURPOSE: To consider a resolution to approve the acceptance by Orange County of an agricultural conservation easement donation for Persimmon Hill Farm.

BACKGROUND: The acquisition of conservation easements to protect highly important natural and cultural resource lands in Orange County is a longstanding goal of the Board of Commissioners, and is a priority of the Lands Legacy program. Since 2001, the County has partnered with landowners and other entities to protect 2,153 acres of prime farmland and natural areas with permanent conservation easements.

Over the past several months, DEAPR has worked with Bernadette Pelissier and Vann Bennett on a project to conserve significant land and water resources at the Persimmon Hill Farm located at 8403 NC Highway 86 (Cedar Grove Township). The owners grow organic blueberries and lease portions of the farm out for a variety of row crops and vegetables.

The 90-acre farm (comprised of three adjacent parcels) is located in the South Hyco Creek Protected Watershed, within which an agricultural conservation easement would have a dual effect of protecting prime farmland and surface water quality. The farm drains to Roxboro Lake, which supplies drinking water for residents of the City of Roxboro and Person County.

The owners intend to grant a permanent conservation easement that will restrict future development to protect prime farmland soils and forested riparian buffers, as well as scenic views of the farm from NC 86 and Burton Road.

DEAPR Staff and the County Attorney have worked with the owners to prepare an agreement that meets their needs and the County's interests. There are two existing residences on the 90-acre property – a farmhouse with outbuildings and a rental house. The easement will allow the construction of one future residence and prohibit future subdivision of the property. The easement will also protect forested stream buffers located throughout the farm. All other non-agricultural development rights will be extinguished through the conservation easement. Future farm activities will be in accordance with a Conservation Plan prepared for this farm by the Orange Soil & Water Conservation District and updated

periodically. DEAPR staff will monitor the property on an annual basis. A copy of the draft easement agreement is attached along with maps showing the property outlined in red.

FINANCIAL IMPACT: The owners of Persimmon Hill Farm intend to donate the conservation easement to Orange County. The cost to the County would be approximately \$5,000 in transaction costs, including a title search and closing fees. Those funds would come from existing funds budgeted in the Conservation Easements Capital Project.

The subject property is enrolled in the Present Use Value taxation program, so the conservation easement would not lessen the amount of property taxes paid to the County. The decrease in the property's market value caused by the conservation easement (extinguishing of portion of its development rights) will not lower the property value to a level that is less than the present farm use value.

The owners intend to take advantage of enhanced federal income tax deduction for farmland easement donations, which the US Congress made permanent in 2015.

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

RECOMMENDATION: The Manager recommends the Board adopt the resolution approving the acceptance by Orange County of the conservation easement and authorize the Chair and the Clerk to sign the conservation easement agreement, subject to final review by staff and County Attorney, with a closing and recordation of the document expected to occur on or about December 15, 2016.

ORANGE COUNTY BOARD OF COMMISSIONERS**RESOLUTION****Approval of Agricultural Conservation Easement between
Orange County
and
Vann Bennett and Bernadette Pelissier**

WHEREAS, Orange County has adopted goals that promote the preservation of natural areas, wildlife habitat, prime farmland, and open space in the county; and

WHEREAS, Orange County established the Lands Legacy Program for the purpose of protecting the most significant natural and cultural resources through partnerships with landowners and other conservation entities; and

WHEREAS, one component of the Lands Legacy Program is the acquisition of conservation easements on prime farmland within water supply watersheds; and

WHEREAS, the Persimmon Hill Farm includes approximately 90 acres in the South Hyco Creek protected watershed, consists of a majority of prime agricultural soils, and is located in an agricultural community with good access to farm markets; and

WHEREAS, Vann Bennett and Bernadette Pelissier, the owners of Persimmon Hill Farm, wish to donate a permanent conservation easement to Orange County, which will protect the prime farmland and forested riparian corridors on the property; and

WHEREAS, a conservation easement on this approximately 90 acres would ensure the preservation of this farmland for future generations;

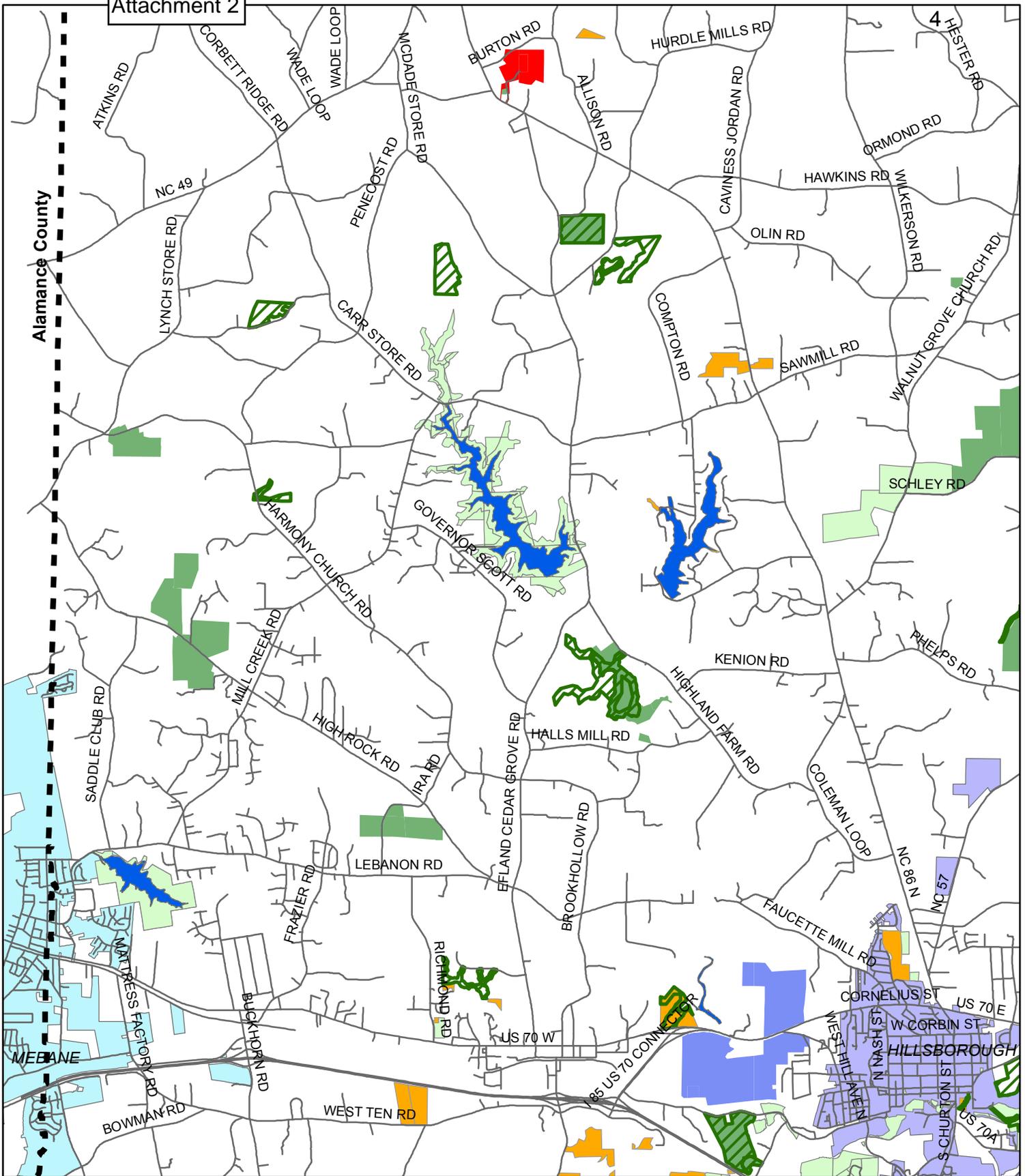
NOW, THEREFORE, BE IT RESOLVED that the Orange County Board of Commissioners does hereby 1) accept on behalf of Orange County the agricultural conservation easement to land owned by Vann Bennett and Bernadette Pelissier; 2) approve the execution of this conservation easement agreement with Vann Bennett and Bernadette Pelissier, in accordance with the terms of the proposed easement agreement, subject to final review by staff and the County Attorney; 3) authorize the Chair and the Clerk to sign the easement agreement on behalf of the Board, with a closing to occur on or about December 15, 2016; and 4) authorize County staff to sign any and all closing documents upon consultation with the County Attorney.

BE IT FURTHER RESOLVED that the Board thanks Mr. Bennett and Ms. Pelissier for their civic-minded donation of this conservation easement through the Lands Legacy Program.

This the 5th day of December, 2016.

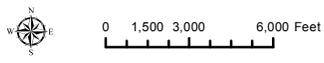
Earl McKee, Chair
Orange County Board of Commissioners

Donna Baker, Clerk to the Board



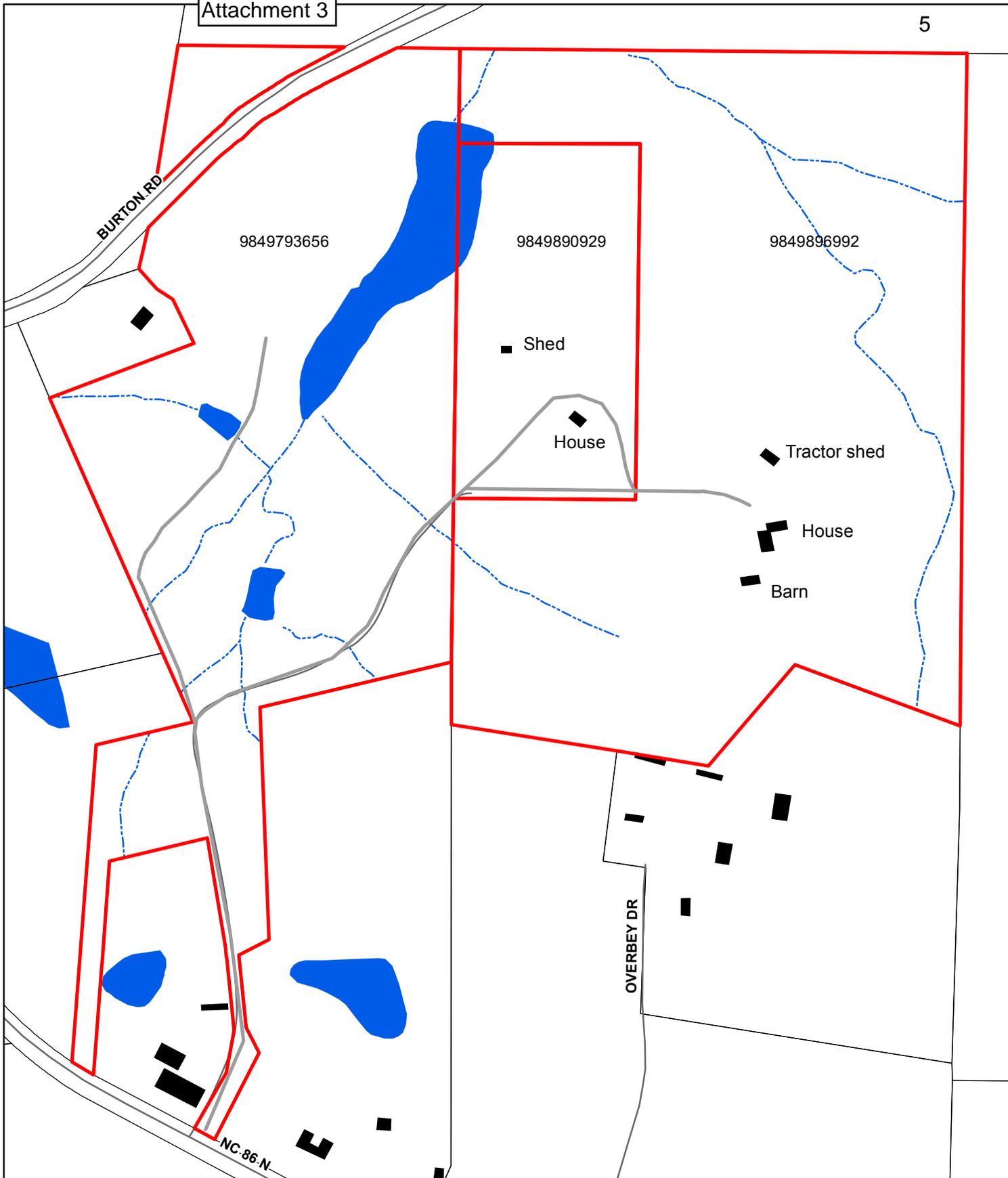
**Location Map
Persimmon Hill Farm (90.47 acres)
Agricultural Conservation Easement**

- Bennett-Pelissier property
- Orange County parkland & open space
- Conservation easement held by Orange County
- Non-county parkland & open space
- Conservation easement held by others
- Duke & UNC Lands



DEAPR
Map prepared by Land Records GIS Div.
11/17/2016 OC 220K <O:\gishome\gisprojects\land_resource\AgCon_Bennett-Pelissier.mxd





Site Map
Persimmon Hill Farm (90.47 acres)
Agricultural Conservation Easement

- Bennett-Pelissier property
- Parcel boundary
- Streams



1 inch = 333 feet



This instrument prepared by and return to: John L. Roberts, Office of the Orange County Attorney
Box 8181, Hillsborough, NC 27278

Revenue Stamps: _____

NORTH CAROLINA
COUNTY OF ORANGE

WARRANTY DEED
OF AGRICULTURAL CONSERVATION EASEMENT

This Deed of Agricultural Conservation Easement (hereinafter "Conservation Easement") is granted on this ___ day of December, 2016, by **VANN BENNETT** and **BERNADETTE PELISSIER**, husband and wife, having an address of 4516 Mystic Lane, Hillsborough, NC 27278, (referred to as "Grantors"), to **ORANGE COUNTY, NORTH CAROLINA**, having an address of Post Office Box 8181, Hillsborough, NC 27278 (referred to as "Grantee").

The designation Grantors and Grantee as used herein shall include said parties, their respective heirs, successors and assigns, and shall include singular, plural, masculine, feminine or neutral pronouns as required by context.

WHEREAS:

Grantors are the sole owners in fee simple, of certain farm Property (hereinafter the "Property"), which consists of approximately 90.47 acres of land, located in Cedar Grove township, Orange County, North Carolina and identified as Tract 1 and Tract 2 and Tract 3 (PIN 9849-89-3656 and PIN 9849-89-0929 and PIN 9849-89-6992, respectively) on the plat of property titled "Property of Vann Bennett and Bernadette Pelissier," prepared by ENT Land Surveyors, Inc., which plat is recorded at Plat Book 115, Page 137, Orange County Registry), hereafter referred to as "the recorded Plat for this Conservation Easement." The Property includes buildings and other improvements, which are shown on said plat and on Exhibit A, attached hereto and incorporated herein.

The Property consists primarily of productive agricultural land. The vast majority of the soils on the Property are classified as "prime" or "statewide important" soils by the Natural Resources Conservation Service, United States Department of Agriculture (also referred to as "NRCS"). The property includes several streams that flow generally northward before entering South Hyco Creek and Roxboro Lake, a public drinking water supply reservoir serving the City of Roxboro and Person County. The entire Property is located within the designated South Hyco Creek Protected Watershed.

The primary purposes of this Conservation Easement are to protect the agricultural soils and agricultural viability and productivity of the Property, and to protect the quality of surface waters in the watershed of South Hyco Creek and Roxboro Lake.

The Property also includes outstanding riparian and woodland habitats for a variety of wildlife species of importance to the Grantors and Grantee, the people of Orange County and the people of North Carolina. Furthermore, the Property contains outstanding scenic qualities that can be enjoyed by the general public, namely the views along NC Highway 86 North and Burton Road (State Road 1502). It is a secondary purpose of this Conservation Easement to protect these natural and scenic resources.

The agricultural resources of the Property, and its contribution to the protection of prime farmland soils, a public water supply, natural and wildlife habitat, and the other conservation interests described herein to be preserved by this Conservation Easement are collectively referred to as the "Conservation Values" of the Property.

The specific Conservation Values of the Property and its current use and state of improvement are described in a Baseline Documentation Report ("Report") prepared by the Grantee with the cooperation of the Grantors, and acknowledged by both parties to be accurate as of the date of this Conservation Easement. This Report may be used by the Grantee to document any future changes in the use or character of the Property in order to ensure the terms and conditions of this Conservation Easement are fulfilled. The Report, however, is not intended to preclude the use of other evidence to establish the present condition of the Property if there is a controversy over its use. The Grantors and Grantee have copies of this Report, and said report will remain on file at the offices of the Orange County Department of Environment, Agriculture, Parks and Recreation.

The Grantors and Grantee agree that the current agricultural use of, and improvements to, the Property are consistent with the conservation purposes of this Conservation Easement.

The Grantors intend that the Conservation Values of the Property be preserved and maintained, and further, Grantors intend to convey to the Grantee the right to preserve and protect the agricultural and other Conservation Values of the Property in perpetuity.

The conservation purposes of this Conservation Easement are recognized by, and the grant of this Conservation Easement will serve, the following clearly delineated governmental conservation policies:

(1) Sections 1238 H and 1238 I of the Food Security Act of 1985, as amended, which authorizes the Farm and Ranch Lands Protection Program, administered through the United States Department of Agriculture, Natural Resources Conservation Service, which provides funds for the acquisition of Conservation Easements or other interests in prime, unique, or other productive soils for the purpose of limiting conversion to nonagricultural uses of the land;

(2) North Carolina General Statute 139-2 *et seq.*, which provides that “it is hereby declared . . . that the farm, forest and grazing lands of the State of North Carolina are among the basic assets of the State and the preservation of these lands is necessary to protect and promote the health, safety and general welfare of its people . . . it is hereby declared to be the policy of the legislature to provide for the conservation of the soil and resources of this State;”

(3) North Carolina General Statute 106-583 *et seq.*, which states that “It is declared to be the policy of the State of North Carolina to promote the efficient production and utilization of the products of the soil as essential to the health and welfare of our people and to promote a sound and prosperous agriculture and rural life as indispensable to the maintenance of maximum prosperity;”

(4) The Uniform North Carolina Conservation and Historic Preservation Agreements Act, North Carolina General Statute 121-34 *et seq.*, which provides that conservation agreements are “interests in land” which may be effective “perpetually;” which provides for the enforceability of restrictions, easements, covenants or conditions “...appropriate to retaining land or water areas predominantly in their natural, scenic, or open condition or in agricultural, horticultural, farming or forest use...;” and which provides for tax assessment of lands subject to such agreements “on the basis of the true value of the land and improvement less any reduction in value caused by the agreement;”

(5) The establishment of the North Carolina Agricultural Development and Farmland Preservation Trust Fund established in 1986 (N.C.G.S. 106-744(c) as amended) to preserve important farmland in North Carolina;

(6) The North Carolina Conservation Tax Credit Program, North Carolina General Statute 105-130.34 and 105-151.12 *et seq.*, which provides for state income tax credits for donations of land that are useful for fish and wildlife conservation and other similar land conservation purposes;

(7) the Clean Water Management Trust Fund, authorized by NCGS § 113A-251 *et seq.*, which finances projects to acquire land and interests in land, including conservation easements for the purposes of providing environmental protection for surface waters and urban drinking water supplies;

(8) the Soil and Water Conservation Districts Act, authorized by NCGS § 139-1, *et seq.*, which provides for the preservation of farm, forest and grazing lands;

(9) the special use assessment of farm and forestland as set forth in NCGS § 105-277.2 *et seq.*, which allows for lower property tax rates for land enrolled in active agricultural uses;

(10) the Land Use Element of the Orange County Comprehensive Plan (adopted November 18, 2008) with its goal of “Land uses that are appropriate to on-site environmental conditions and features, and that protect natural resources, cultural resources, and community character.”

(11) The Orange County Agricultural Development and Farmland Protection Plan, adopted November 17, 2009, which recommends that the County acquire agricultural conservation easements to help protect farmland as a valuable natural resources; and

(12) The zoning of the Property by Orange County as Agricultural Residential and South Hyco Creek Protected Watershed Overlay District, the latter to help protect the public water supply watershed of Roxboro Lake.

Grantors and Grantee have the common purpose of protecting the above-described Conservation Values and current condition of the Property and preventing conversion of the Property to nonagricultural uses. Grantors agree to create and implement a conservation plan (hereinafter the “Conservation Plan”) that is developed utilizing the standards and specification of the NRCS field office technical guide and 7 CFR part 12, as well as other commonly-recognized best management practices, and is approved by the Orange County Soil and Water Conservation District;

Orange County, one of the parties Grantee, is a body politic existing under Chapter 153A of the North Carolina General Statutes, and is qualified to hold conservation easements under the applicable laws of the State of North Carolina;

NOW, THEREFORE, for the reasons given and other good and valuable consideration, and in consideration of the mutual covenants, terms, conditions and restrictions contained herein, the Grantors hereby grant and convey unto Grantee a Conservation Easement, of the nature and character and to the extent hereinafter set forth, in respect to the Property;

The terms, conditions and restrictions of the Conservation Easement are as hereinafter set forth:

1. *Grant of Conservation Easement; Extinguishment of Development Rights*

Grantors hereby voluntarily grant and convey to the Grantee, and the Grantee hereby voluntarily accept, a perpetual Conservation Easement in the Property, which easement is an immediately vested interest in real property the nature and character described herein. Grantors promise that they will not perform, nor knowingly allow others to perform, any act on or affecting the Property that is inconsistent with the covenants herein. Grantors authorize the Grantee to enforce these covenants in the manner described below.

Grantors hereby voluntarily grant and convey to the Grantee all development rights for the Property, except as otherwise reserved and provided by the terms of this Conservation Easement, that are now or hereafter inherent in the Property. The parties agree that such development rights are now terminated and extinguished, and may not be used on or transferred to any other property adjacent or otherwise, nor used for the purpose of calculating permissible lot yield of the Property or any other property by anyone or any entity, including the Grantee.

2. *Statement of Purpose*

The primary purposes of this Conservation Easement are to enable the Property to remain in agricultural use by preserving and protecting its agricultural soils and agricultural viability and productivity, and to protect the wetlands, riparian areas and surface waters associated with the streams tributary to South Hyco Creek from the risk of adverse impacts arising from use or development of the Property contrary to the provisions of this Conservation Easement. Except as specifically permitted herein, no activity that would impair the actual or potential agricultural use of the Property shall be permitted. Likewise, any activity that would risk causing adverse impact to any stream tributary to South Hyco Creek is prohibited. To the extent that the preservation and protection of the other natural, historic, recreational, habitat, or scenic values referenced in this Conservation Easement are consistent with the primary purposes stated above, it is within the purpose of this Conservation Easement to also protect those values, and no activity that would significantly impair those values shall be permitted.

As authorized in the Uniform Conservation and Historic Preservation Act, N.C. Gen. Stat. § 121-34 *et seq.*, this Conservation Easement is perpetual; it restricts the Grantors' Property in perpetuity; and it is enforceable by the Grantee against the Grantors, its representatives, heirs, successors and assigns, lessees, agents, and licensees.

3. *Rights and Responsibilities Retained by Grantors*

Notwithstanding any provisions of this Conservation Easement to the contrary, the Grantors reserve to and for themselves and their successors all customary rights and privileges of ownership, including the rights to sell, lease, and devise the Property provided such transaction is subject to the terms of this Conservation Easement and written notice is provided to the Grantee, together with any rights not specifically prohibited by or limited by this Conservation Easement, and consistent with this Conservation Easement. Unless otherwise specified below, nothing in this Conservation Easement shall require the Grantors to take any action to restore the condition of the Property after any natural disaster or other event over which he had no control. Grantors understand that nothing in this Deed relieves them of any obligation or restriction on the use of the Property imposed by law.

4. *Right to Farm*

Grantors retain the right to farm, or to permit others to farm the Property, consistent with the Conservation Values of the Property and in accordance with applicable local, state and federal laws and regulations.

Subject to the terms of this Conservation Easement, farming, grazing, horticultural and animal husbandry operations are permitted only if conducted consistent with Best Management Practices promulgated by the State of North Carolina and in conformity with a Conservation Plan as required in Paragraph 9 of this Conservation Easement, which Conservation Plan is hereinafter referred to as “the Conservation Plan.”

Cattle and other livestock are allowed to exist and to graze on the Property, except within a 100-foot stream buffer, which is 50 feet wide on either side of the stream as measured from the center of the stream and perpendicular to the stream, and a 50-foot stream buffer, which is 25 feet wide on either side of the stream as measured from the center of the stream and perpendicular to the stream—the locations of which are identified and marked on Exhibit A. Exhibit A is a copy of a GIS rendering of the Property, the original of which will be maintained with the Baseline Documentation Report at the office of the Orange County Department of Environment, Agriculture, Parks and Recreation.

The aforementioned stream buffers shall be maintained in their natural condition and restricted from any development that would impair or interfere with the Conservation Values of the Property.

5. *Right to Privacy*

Grantors retain the right to privacy and the right to exclude any member of the public from trespassing on the Property. This Conservation Easement does not create any rights of the public in, on or to the Property.

6. *Right to Use the Property for Customary Rural Enterprises*

Grantors retain the right to use the portion of the Property within the “Farmstead Area” (which contains three acres) as identified on Exhibit A, and more particularly described in the Baseline Documentation Report, for otherwise lawful and customary rural enterprises, such as, but not limited to, farm machinery repair, sawmill, firewood distribution, bed and breakfast, farm stand, or educational programs so long as such activities are a) consistent with Orange County zoning regulations and permits required by and issued by Orange County under its laws and ordinances as they exist now and as they may be amended from time to time, and b) are conducted in buildings otherwise permitted under this Conservation Easement in a manner that is consistent with the conservation purposes of this Conservation Easement, and c) are subordinate to the agricultural and residential use of the Property. Conducting customary rural enterprises on any other part of the Property is not permitted without the advance written permission of the Grantee in each instance. Grantee shall not give such permission unless the Grantee determines that the proposed use will not diminish or impair the Conservation Values of the Property.

7. *Procedure to Construct Buildings and Other Improvements*

The Grantors' rights to construct or reconstruct buildings and other improvements are described in subparagraphs (a) through (f) below. Any construction or reconstruction not permitted below is prohibited. Before undertaking any construction or reconstruction that requires advance permission, the Grantors shall notify the Grantee and obtain written permission. All construction or reconstruction is subject to Orange County zoning regulations and must be consistent with permits required by and issued by Orange County under its laws and ordinances as they exist now and as they may be amended from time to time for such construction activities.

(a) *Fences* – Existing fences may be repaired and replaced, and new fences may be built on the Property for purposes of reasonable and customary management of livestock and wildlife or to fence off the perimeter of the Property or the perimeter of the Riparian Corridor without any further permission of the Grantee.

(b) *Structures & Improvements* – There are several structures existing on the Property as of the date of this Agricultural Conservation Easement, as shown on Exhibit A. Existing structures, including agricultural structures and existing improvements, may be repaired, reasonably enlarged, and replaced at their current locations within the “Farmstead Area,” as shown Exhibit A, without further permission from the Grantee. New buildings, including barns, sheds and other structures and improvements to be used primarily for agricultural purposes (including the processing or sale of farm products predominantly grown or raised on the Property) may be built on the Property without any further permission of the Grantee provided they are located in the “Farmstead Area,” as shown on Exhibit A.

Any new buildings, structures or improvements proposed for locations outside the “Farmstead Area” shall be for agricultural purposes only and may be built only with the advance written permission of the Grantee. The Grantee shall not give such permission unless they determine that the proposed building, structure or improvement would not diminish or impair the Conservation Values of the Property or otherwise be inconsistent with this Conservation Easement.

(c) *Single-Family Residential Dwellings* – Two residential dwellings exist on the Property—one within the “Farmstead Area” and one within the “Existing Residential Envelope,” which are both identified on Exhibit A. All appurtenant structures and facilities such as garages, sheds, and septic systems for these existing residential dwellings shall be contained within the “Farmstead Area” or the “Existing Residential Envelope.” One (1), but not more than one, additional single-family residential dwelling, together with reasonable appurtenant structures, such as garages, sheds, and septic systems may be built on the Property within a two-acre “Residential Envelope” located within the area identified as “Potential Future Home Site Area” on Exhibit A and outside of the stream buffers described in Paragraph 4 of this conservation easement. At the time construction of such dwelling and such appurtenant structures is to commence, Grantee shall be notified of the location of the designated “Residential Envelope” so that its records can be updated. Nothing about Orange County’s participation in or the signing of this Deed of Easement constitutes zoning or subdivision approval or the permitting of these residential dwellings and their appurtenant structures.

(d) *Recreational Improvements* – Grantors expressly reserve the right to engage in low impact, non-developed recreational activities requiring no surface alteration of the land and posing no threat to the Conservation Values set herein such as hunting, fishing, hiking and camping, and to control access of all persons for these purposes; provided that these activities do not impact the protection and conservation of any animal habitat or other Conservation Values of the Property. However, under no circumstances shall golf courses, golf ranges, airstrips or helicopter pads be constructed, placed or permitted to remain on the Property. Nothing about Orange County’s participation in or the signing of this Deed of Easement constitutes zoning or the permitting of these recreational improvements and their appurtenant structures.

(e) *Utility Services and Septic Systems* – Installation, maintenance, repair, replacement, removal and relocation of electric, gas, and water facilities, septic systems, sewer lines and/or other public or private utilities, including for solar energy generation and including telephone or other communication services over or under the Property for the purpose of providing electrical, gas, water, sewer, or other utilities to serve improvements on the Property permitted herein, and the right to grant easements over and under the Property for such purposes, is permitted. Grantors shall not permit or grant easements for utility transmission or distribution facilities or systems without the written consent of the Grantee. Maintenance, repair or improvement of a septic system(s) or other underground sanitary system that exists on the Property at the time of this Conservation Easement, or the construction of a septic or other underground sanitary system, for the benefit of any of the improvements permitted herein and if necessary to serve the existing (or replacement) residential or commercial uses located immediately adjacent to the Property on the property identified as Orange County PIN 9849-68-9257, is permitted. All other utilities are prohibited on the Property. Cellular communication towers or structures are prohibited on the Property.

8. *Subdivision*

The Property currently consists of three separate parcels of land identified as Tract 1 and Tract 2 and Tract 3 on the recorded Plat for this Conservation Easement. Hereafter, the Property may be recombined and/or subdivided, provided that at no time shall the Property consist of more than three (3) separate tracts of land. The further subdivision of the Property, the recording of a subdivision plan, partition, or any other division of the Property into more than three tracts is prohibited. In any event, all terms, restrictions, and conditions of this Conservation Easement shall apply to all recombined and/or subdivided parts of the Property including but not limited to the requirements of agricultural viability of the Property, the restrictions on future development, the necessity of a Conservation Plan, and the prohibition on activities that are described in this Conservation Easement. It is understood that notice of this Conservation Easement will be included in any instrument recorded that recombines, subdivides, partitions or otherwise divides the Property.

9. *Conservation Practices*

All agricultural operations on the Property shall be conducted in a manner consistent with the requirements of this Conservation Easement and a Conservation Plan prepared in

consultation with NRCS and approved by the Orange County Soil and Water Conservation District. This Conservation Plan shall be developed using the standards and specifications of the NRCS Field Office Technical Guide and 7 CFR Part 12 that are in effect on the date of execution of this Conservation Easement. The Grantors may, however, develop and implement a Conservation Plan that proposes a higher level of conservation and is consistent with the NRCS Field Office Technical Guide standards and specifications. Copies of the Conservation Plan shall be kept on file in the office of the Orange Soil and Water Conservation District and shall be provided to the Grantors and Grantee. The Conservation Plan may be updated from time to time by mutual agreement of the NRCS and the Grantors. NRCS and the Grantee shall have the right to enter upon the Property, with advance notice to the Grantors, in order to monitor compliance with the Conservation Plan.

In the event of noncompliance with the Conservation Plan, the Grantee shall work with the Grantors to explore methods of compliance. Grantors shall be given a reasonable amount of time, not to exceed twelve months, to take corrective action. If the Grantors do not comply with the Conservation Plan, NRCS will inform the Grantee of the Grantors' non-compliance. Following receipt of written notification from NRCS that (a) there is a substantial, ongoing event or circumstance of non-compliance with the Conservation Plan, (b) NRCS has worked with the Grantors to correct such noncompliance, and (c) Grantors have exhausted their appeal rights under applicable NRCS regulations, the Grantee shall take all reasonable steps (including efforts at securing voluntary compliance and, if necessary, appropriate legal action) to secure compliance with the Conservation Plan. Notwithstanding the foregoing, in the event that the Grantee reasonably believe that there is a substantial, ongoing event or circumstance of non-compliance with the Conservation Plan despite efforts to work with the Grantors to correct such non-compliance, Grantee may proceed to take all reasonable steps to secure compliance.

10. Forest Management

Everywhere on the Property, trees may be removed, cut and otherwise managed to control insects and disease, to prevent personal injury and property damage, to remove non-native species, for pasture restoration, for firewood and other non-commercial uses, including construction of permitted improvements and fences on the Property, so long as done in accordance with the Conservation Plan referenced in Paragraph 9 (Conservation Practices) of this Conservation Easement and in accordance with a Forest Management Plan that is prepared by a professional licensed forester, and that is approved by Grantee, which approval shall not be unreasonably withheld.

Any other cutting, removal or harvesting of trees, including any commercial harvesting of trees, may be undertaken only if it occurs outside of the stream buffer described in Paragraph 4 (Right to Farm) of this Conservation Easement and it is in accordance with the Conservation Plan and Forest Management Plan referred to in this Paragraph 10 (Forest Management).

Trees may be planted, harvested and removed within the areas identified and marked as "Farmstead Area" and "Existing Residential Envelope" on Exhibit A and in the two-acre future

“Residential Envelope” once its location has been designated, all without the advance written permission of the Grantee.

11. Mining

There shall be no filling, excavation, dredging, mining or drilling, removal of topsoil, sand, gravel, rock, peat, minerals or other materials; and no change in the topography of the land in any manner except as necessary for the purpose of normal and customary farming operations in accordance with the Conservation Plan or combating erosion or flooding in accordance with the Conservation Plan and as reasonably necessary for any maintenance, construction or reconstruction on the Property permitted herein. Disturbed areas for the purpose of removing soil, gravel, rock, peat, minerals or other materials necessary for permitted customary agricultural uses on the Property will be limited to one acre in total surface area and will be restored as soon as practicable after the disturbance. Under no circumstances is the drilling for or exploration for hydrocarbons permitted in, under, on or to the Property.

12. Road Construction

Construction and maintenance of farm roads that may be reasonably necessary and incidental to carrying out the improvements and uses permitted on the Property by this Conservation Easement are permitted. No roads constructed on the Property shall be paved or otherwise covered with concrete, asphalt, or any other impervious material, without the advance written permission of the Grantee. For purposes of this Conservation Easement gravel roads shall not be considered impervious. Grantee shall not give such permission unless the Grantee determines that the proposed paving, or covering of the soil, or the location of any such road, will not diminish or impair the Conservation Values of the Property.

13. Dumping and Trash

Dumping or storage of soil, trash, refuse, debris, ashes, garbage, waste, abandoned vehicles or parts, appliances, machinery, or hazardous substances, or toxic or hazardous waste, or any placement of underground or above ground storage tanks or other materials is prohibited. Provided, however, that the storage of agricultural products, byproducts (including the composting of biodegradable material for on-farm use) and agricultural equipment used on the Property is allowable, so long as such storage is done outside the stream buffers as described in Paragraph 4 and identified on Exhibit C, and in accordance with all applicable government laws and regulations and in such a manner so as to not impair the Conservation Values of the Property.

14. Water Rights

Grantors shall retain and reserve the right, consistent with federal, State and local laws and regulations, to use any appurtenant water rights sufficient to maintain the agricultural productivity of the Property. Grantors shall not transfer, encumber, lease, sell or otherwise separate such water rights from title to the Property itself.

15. Natural Resource Restoration and Enhancement Activities

Notwithstanding any terms contained within this Conservation Easement, Grantors may engage or contract others to engage in any activity designed to repair, restore, or otherwise enhance the natural resources found or once present on the Property, that are consistent with the Conservation Values of this Conservation Easement and subject to the written approval of the Grantee and the Natural Resources Conservation Service.

16. Signs

No new signs shall be permitted on the Property except interpretive signs describing activities and Conservation Values of the Property, signs identifying the owner of the Property and the holder of the Conservation Easement, and signs giving directions or proscribing rules and regulations for the use of the Property. All signs permitted on the Property shall conform to applicable Orange County zoning, subdivision and building code regulations.

17. Ongoing Responsibilities of Grantors and Grantee

Other than as specified herein, this Conservation Easement is not intended to impose any legal or other responsibility on the Grantee, or in any way to affect any existing obligation of the Grantors as owners of the Property. Among other things, this shall apply to:

(a) *Taxes* – The Grantors shall continue to be solely responsible for payment of all taxes and assessments levied against the Property. If the Grantee are ever required to pay any taxes or assessments on its interest in the Property, the Grantors will reimburse the Grantee for the same.

(b) *Upkeep and Maintenance* – The Grantors retain all responsibilities and shall bear all costs and liability of any kind related to the ownership, operation, and upkeep and maintenance of the Property, including maintenance of all fencing and other structures and facilities necessary to comply with the terms and conditions of this Conservation Easement and the maintenance of adequate comprehensive general liability insurance coverage. Grantee shall have no obligation for the upkeep or maintenance of the Property. Grantors will remain responsible for upkeep, maintenance, and repairs to any impoundments located on the Property.

(c) *Liability and Indemnification* – Grantors agree to indemnify and hold the Grantee harmless from any and all costs, claims or liability, including but not limited to reasonable attorneys' fees, arising from (i) any personal injury, accidents, negligence or damage relating to the Property, or any claim thereof; (ii) any violation of any federal, state or local environmental or land use law or regulation or the use of or presence of hazardous substances, waste or other

regulated materials in, on or under the Property; and (iii) Grantee exercise of its rights of entry pursuant to this Conservation Easement; provided, however that if such costs, claims or liability are due in whole or in part to the negligence of the Grantee or its agents, contractors or employees, liability shall be apportioned accordingly.

In addition, Grantors agree to maintain liability insurance covering the Property with minimum coverage as follows: (i) \$300,000 per person for personal injury or death, \$300,000 per occurrence, and (ii) \$300,000 per occurrence for property damage; and warrant that the Grantee are and will remain a named insured on Grantors' property insurance policies covering the Property. Grantors shall provide Grantee with a certificate of insurance coverage on the effective date of this Conservation Easement and within 10 days of each insurance renewal date.

Grantors shall indemnify and hold harmless the Grantee, its employees, agents, and assigns for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees penalties, suits, proceedings, actions, and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which the Grantee may be subject or incur relating to the Property, which may arise from, but are not limited to, Grantors' negligent acts or omissions or Grantors' breach of any representation, warranty, covenant, agreements contained in this Conservation Easement Deed, or violations of any Federal, State, or local laws, including all Environmental Laws.

18. Enforcement

With reasonable advance notice to the Grantors or with the Grantors' prior verbal consent, Grantee shall have the right to enter the Property for the purpose of inspecting for compliance with the terms of this Conservation Easement. Grantee shall have the right to prevent violations and remedy violations of the terms of this Conservation Easement through judicial action, which shall include, without limitation, the right to bring proceedings in law or in equity against any party or parties attempting to violate the terms of this Conservation Easement. Except when an ongoing or imminent violation could irreversibly diminish or impair the Conservation Values of the Property, Grantee shall give the Grantors written notice of the violation and thirty (30) days to cure the violation, before commencing any legal proceedings. Grantee may obtain an injunction to stop a violation or a threatened violation, temporarily or permanently. The parties agree that a court may issue an injunction or order requiring Grantors to restore the Property to its condition prior to the violation, as restoration of the property may be the only appropriate remedy. In any case where a court finds that a violation has occurred, Grantors shall reimburse Grantee for all its expenses incurred in stopping and correcting the violation, including but not limited to reasonable attorneys' fees. The failure of the Grantee to discover a violation or to take immediate legal action shall not bar it from doing so at a later time for that violation or any subsequent violations. In any case where the court finds that there was a complete absence of a justiciable issue of either law or fact raised by the losing party, the court may award a reasonable attorney's fee to the prevailing party as provided by applicable law.

19. *Transfer of Conservation Easement*

Either of the Grantee shall have the right to transfer, assign, convey, or otherwise to co-hold the Conservation Easement created by this Deed to any public agency or private nonprofit organization that, at the time of transfer, is a qualified organization under Section 170(h) of the U.S. Internal Revenue Code, as amended and under NCGS 121-34 *et seq.*, provided the agency or organization expressly agrees to assume the responsibility imposed on the Grantee by this Deed. If Grantee ever ceases to exist or no longer qualify under Section 170(h) of the U.S. Internal Revenue Code, or applicable state law, a court with jurisdiction shall transfer this Conservation Easement to another qualified organization having similar purposes that agrees to assume the responsibility imposed by this Conservation Easement.

20. *Transfer of Property*

The Grantors agree to incorporate by reference the terms of this Conservation Easement in any deed or other legal instrument by which they transfer or divest themselves of any interests, including leasehold interests, in all or a portion of the Property. Grantors shall notify the Grantee in writing at least thirty (30) days before conveying the Property, or any part thereof or interest therein. Failure of Grantors to incorporate by reference the terms of this Conservation Easement in an instrument of transfer or conveyance or to notify the Grantee of a transfer or conveyance shall not impair the validity of this Conservation Easement or limit its enforceability in any way.

21. *Amendment of Conservation Easement*

This Conservation Easement may be amended only with the written consent of the Grantee and Grantors. Any such amendment shall be consistent with the Statement of Purposes of this Conservation Easement and with the Grantee Conservation Easement amendment policies, and shall comply with Section 170(h) of the Internal Revenue Code or any regulations promulgated in accordance with that section. Any such amendment shall be duly recorded.

22. *Procedure in the Event of Termination of Conservation Easement*

If it determines that conditions on or surrounding the Property change so much that it becomes impossible to fulfill the conservation purposes of this Conservation Easement, a court with jurisdiction may, at the joint request of both the Grantors and Grantee, terminate or modify the Conservation Easement created by this Deed in accordance with applicable law. If the Conservation Easement is terminated and the Property is sold, then as required by Section 1.170A-14(g)(6) of the IRS regulations, the Grantee shall be entitled a percentage of gross sale proceeds or condemnation award (minus any amount attributed to new improvements made after the date of the conveyance, which amount shall be reserved to Grantors), equal to the ratio of the appraised value of this Conservation Easement to the unrestricted fair market value of the Property, as these values are determined on the date of this Conservation Easement), subject to any applicable law which expressly provides for a different disposition of the proceeds.

All termination related expenses, including reasonable attorney fees, incurred by the Grantors and the Grantee shall be paid out of any recovered proceeds prior to distribution of the net proceeds as described herein.

23. *Procedure in the Event of Condemnation or Eminent Domain*

Grantors and Grantee recognize that the partial sale of this Conservation Easement gives rise to a property right, immediately vested in the Grantee, with a fair market value equal to the proportionate value that the Conservation Easement bears to the value of the Property prior to the restrictions imposed by the Conservation Easement. Accordingly, if any condemnation or eminent domain action shall be taken, on all or part of the Property, by any authorized public authority, said authority shall be liable to the Grantee for the value of the property right vested in the Grantee at the time of the signing of this Conservation Easement.

If condemnation or a taking by eminent domain of a part of the Property or the entire Property by a public authority renders it impossible to fulfill any of the conservation purposes of this Conservation Easement on all or part of the Property, this Conservation Easement may be terminated or modified accordingly through condemnation proceedings. Grantors and Grantee agree that the Conservation Easement is a currently vested real property right with a value equal to the proportionate value the Conservation Easement to the unencumbered value of the fee, as of the date of this grant. If the Conservation Easement is terminated or modified and any or all of the Property is sold or taken for public use, then, as required by Section 1.170A-14(g)(6) of the IRS regulations, Grantee shall be entitled to the percentage of gross sale proceeds or condemnation award (minus any amount attributed to new improvements made after the date of the conveyance, which amount shall be reserved to Grantors), equal to the ratio of the appraised value of this Conservation Easement to the unrestricted fair market value of the Property, as these values are determined on the date of this Conservation Easement, subject to any applicable law which expressly requires for a different disposition of the proceeds.

If, however, after the condemnation or eminent domain proceedings, a court of jurisdiction does not include in the just compensation awarded as a result of the taking, the amount of the Conservation Easement value, then the Grantors shall not be responsible to share any proceeds awarded.

All condemnation-related expenses, including reasonable attorney fees, incurred by the Grantors and Grantee shall be paid out of any recovered proceeds prior to distribution of the net proceeds as described herein.

24. *Interpretation*

This Conservation Easement shall be interpreted under the laws of the State of North Carolina and the laws of the United States, resolving any ambiguities and questions of the validity of specific provisions so as to give maximum effect to its conservation purposes.

25. *Perpetual Duration; Severability*

The Conservation Easement created by this Deed shall be a servitude running with the land in perpetuity. Every provision of this Deed that applies to the Grantors or Grantee shall also apply to their respective agents, heirs, executors, administrators, assigns, and all other successors as their interests may appear. Invalidity of any of the covenants, terms or conditions of this Conservation Easement, or any part thereof, by court order or judgment shall in no way affect the validity of any of the other provisions hereof which shall remain in full force and effect.

26. *Merger*

The Parties agree that the terms of this Conservation Easement shall survive any merger of the fee and easement interests in the Property.

27. *Notices*

Any notices required by this Deed shall be in writing and shall be personally delivered or sent by first class mail to the Grantors and Grantee respectively at the following addresses, unless a party has been notified in writing by the other of a change of address:

To the Grantors:

Vann Bennett and Bernadette Pelissier
4516 Mystic Lane
Hillsborough, NC 27278

To the Grantee:

Orange County Dept. of Environment,
Agriculture, Parks and Recreation
PO Box 8181
Hillsborough, NC 27278

28. *Grantors' Title Warranty*

The Grantors warrant that they hold fee simple title to the Property, free from all encumbrances and exceptions to title, except for those exceptions deemed by the Grantee as acceptable and set further in Exhibit B to this Conservation Easement, and hereby promises to defend the same against all claims that may be made against it.

29. *Subsequent Liens on the Property*

No provisions of this Conservation Easement should be construed as impairing the ability of Grantors to use the Property as collateral for subsequent borrowing. Any such liens shall be and remain subordinate to this Conservation Easement.

30. *Subsequent Easements/Restrictions on the Property*

The grant of any easements or use restrictions that might diminish or impair the agricultural viability or productivity of the Property or otherwise diminish or impair the Conservation Values of the Property is prohibited. Any such easements or restrictions shall be subordinated to this Conservation Easement.

31. Grantors' Environmental Warranty

Grantors warrant that Grantors are in compliance with, and shall remain in compliance with, all applicable Environmental Laws. Grantors warrant that there are no notices by any governmental authority of any violation or alleged violation of, non-compliance or alleged non-compliance with or any liability under any Environmental Law relating to the operations or conditions of the Property. Grantors further warrant that Grantors have no actual knowledge of a release or threatened release of any Hazardous Materials, as such substances and wastes are defined by applicable federal and state law.

Moreover, Grantors hereby promise to hold harmless and indemnify the Grantee against all litigation, claims, demands, penalties and damages, including reasonable attorney fees, arising from or connected with the release or threatened release of any Hazardous Materials on, at, beneath or from the Property, or arising from or connected with a violation of any Environmental Laws by Grantors or any other prior owner of the Property. Grantors' indemnification obligation shall not be affected by any authorizations provided by the Grantee to Grantors with respect to the Property or any restoration activities carried out by the Grantee at the Property; provided, however, that the Grantee shall be responsible for any Hazardous Materials contributed by the Grantee to the Property after the date of this Deed of Conservation Easement.

"Environmental Law" or "Environmental Laws" means any and all Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building and land use as may now or at any time hereafter be in effect.

"Hazardous Materials" means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials and any other element, compound, mixture, solution or substance which may pose a present or potential hazard to human health or the environment.

32. Entire Agreement

This instrument sets forth the entire agreement of the parties with respect to the Conservation Easement and supersedes all prior discussions, negotiations, and understandings or agreements relating to the said easement.

33. Recording Clause

Grantee shall record this instrument and any amendment hereto in timely fashion with the Office of the Register of Deeds of Orange County, North Carolina, and may re-record it at any time as may be required to preserve its rights under this Conservation Easement.

TO HAVE AND TO HOLD this Deed of Conservation Easement unto Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, the Grantors and Grantee, intending to legally bind themselves, have set their hands on the date first written above.

GRANTORS:

Vann Bennett

Bernadette Pelissier

Accepted:

GRANTEE:

ORANGE COUNTY, NORTH CAROLINA

By: _____
Earl McKee, Chair
Orange County Board of Commissioners

ATTEST:

By: _____
Donna S. Baker, Clerk to the
Board of Commissioners

Acknowledgments

NORTH CAROLINA
COUNTY OF ORANGE

I, _____, a Notary Public for said County and State do hereby certify that _____ and _____ personally appeared before me and acknowledged the due execution of the foregoing instrument.

Witness my hand and official stamp or seal this the ____ day of December, 2016.

Notary Public

My commission expires:

NORTH CAROLINA
COUNTY OF ORANGE

I, _____, a Notary Public of Orange County, North Carolina do hereby certify that Donna S. Baker personally appeared before me this day and acknowledged that she is Clerk to the Board of Commissioners for Orange County, North Carolina and that by authority duly given and as the act of Orange County, North Carolina the foregoing instrument was signed in its name by the Chair of the Orange County Board of Commissioners, and attested by her as Clerk to said Board of Commissioners.

Witness my hand and official stamp or seal this the ____ day of December, 2016.

Notary Public

My commission expires:

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: December 5, 2016

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

SUBJECT: Voluntary Farmland Preservation Program - Voluntary and Enhanced Agricultural District Designations - Multiple Farms - Bonham; Mulligan/Carter; Myers; Lloyd; & Brooks

DEPARTMENT: Environment, Agriculture, Parks
& Recreation (DEAPR) – Soil
and Water Conservation

ATTACHMENT(S):

- 1) Overall Map
- 2) Applications and Maps

INFORMATION CONTACT:

David Stancil, 919-245-2510
Gail M. Hughes, 919-245-2753
Peter Sandbeck, 919-245-2517

PURPOSE: To consider applications from multiple landowners/farms to certify qualifying farmland within the Schley/Eno, Cedar Grove, New Hope, and High Rock/Efland Voluntary Agricultural Districts; and enroll the lands in the Orange County Voluntary Agricultural District (VAD) and the Enhanced Voluntary Agricultural District (EVAD) programs.

BACKGROUND: Orange County's Voluntary Farmland Preservation Program was started in 1992. To date, 73 farms have enrolled in the Voluntary Agricultural District (VAD) program and the Enhanced Voluntary Agricultural District (EVAD) program, totaling 10,917 acres (rounded) in the program.

The County's Voluntary Farmland Protection Ordinance (VFPO) outlines a procedure for the Agricultural Preservation Board to review and approve applications for qualifying farmland, and to make recommendations to the Board of Commissioners concerning the establishment and modification of agricultural districts. Section VII of the VFPO contains the requirements for inclusion in a voluntary agricultural district. To be certified as qualifying farmland, a farm must:

- a) Be located in the unincorporated area of Orange County;
- b) Be engaged in Agriculture as that word is defined in NC GS 106-581.1
- c) Be certified by the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture as being a farm on which at least two-thirds of the land is composed of soils that are best suited for providing food, seed, fiber, forage, timber, forestry products, horticultural crops and oil seed crops;
- d) Be managed in accordance with the Natural Resources Conservation Service and NC Soil and Water Conservation Service defined erosion-control practices that are addressed to said highly-erodible land; and have a current conservation farm plan and/or forestry management plan associated with the current usages and owner; and

- e) Be the subject of a non-binding conservation agreement, as defined in N.C.G.S. §121-35, between the County and the owner that prohibits non-farm use or development of such land for a period of at least ten years, except for the creation of not more than three lots that meet applicable County zoning and subdivision regulations.

The Agricultural Preservation Board reviewed the findings of the staff assessments for the attached applications for the Orange County Voluntary Agricultural District program at the September and November 2016 meetings. All farm applications were reviewed and verified to have met or exceeded the minimum criteria for certification into the program. The Agricultural Preservation Board voted unanimously to recommend approval of the certification for the five (5) farms, including 547 acres (rounded) of farmland, and their inclusion in the Voluntary and/or Enhanced Voluntary Agricultural District program. The certification documentation is on file in the DEAPR/Soil and Water Conservation District office. The farms are described briefly below:

Brief Farm Descriptions:

- 1) Owners Paul and Patricia Bonham have submitted an application to enroll two (2) parcels of land totaling 116.85 acres as qualifying farmland for the Voluntary Agricultural District program (VAD) in the Schley/Eno Agricultural District. The farm operation includes hay crops, pasture, wildlife habitat, and managed woodland. The Bonham property has been evaluated against each of the VAD certification requirement standards and meets or exceeds all of the measures above.
- 2) Owners Michael Milligan and Alicia Carter have submitted an application to enroll two (2) parcels of land totaling 31.87 acres as qualifying farmland for the Voluntary Agricultural District program (VAD) in the New Hope Agricultural District. The farm operation includes managed woodland, Christmas trees, pumpkins, and chickens. The Mulligan/Carter property has been evaluated against each of the VAD certification requirement standards and meets or exceeds all of the measures above.
- 3) Owner Beth Myers has submitted an application to enroll one (1) parcel of land totaling 12.15 acres as qualifying farmland for the Enhanced Voluntary Agricultural District (EVAD) program located in the Cedar Grove Agricultural District. The farm includes seasonal vegetables; such as tomatoes, peppers, onions, etc.; and also managed woodland. The farm has been evaluated against each of the EVAD certification requirement standards and meets or exceeds all of the measures above.
- 4) Owners Andrew B. Lloyd and Andy Lloyd have submitted an application to enroll four (4) parcels of land totaling 271.49 acres as qualifying farmland for the Voluntary Agricultural District (VAD) program in the High Rock/Efland Agricultural District. The farm operation includes soybeans, small grains, and hay crops. The farm also includes managed woodland. The Lloyd Farm property has been evaluated against each of the VAD certification requirement standards and meets or exceeds all of the measures above.
- 5) Owners Dennis and Linda Brooks have submitted an application to enroll two (2) parcels of land totaling 113.84 acres as qualifying farmland for the Enhanced Voluntary Agricultural District (EVAD) program in the New Hope Agricultural District. The farm operation includes beef cattle, horses, pastures, and hay crops. The farm also includes managed woodland. The Brooks Farm has a Conservation Easement with Orange County on the farm, and installed riparian buffers along the streams through their property to protect Hillsborough's

water supply. The Brooks Farm has been evaluated against each of the VAD certification requirement standards and meets or exceeds all of the measures above.

FINANCIAL IMPACT: There is no fiscal impact associated with this item. Voluntary Agricultural Districts are non-monetary and non-binding conservation agreements. Enhanced Voluntary Agriculture Districts are non-monetary and are binding 10-year conservation agreements.

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

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

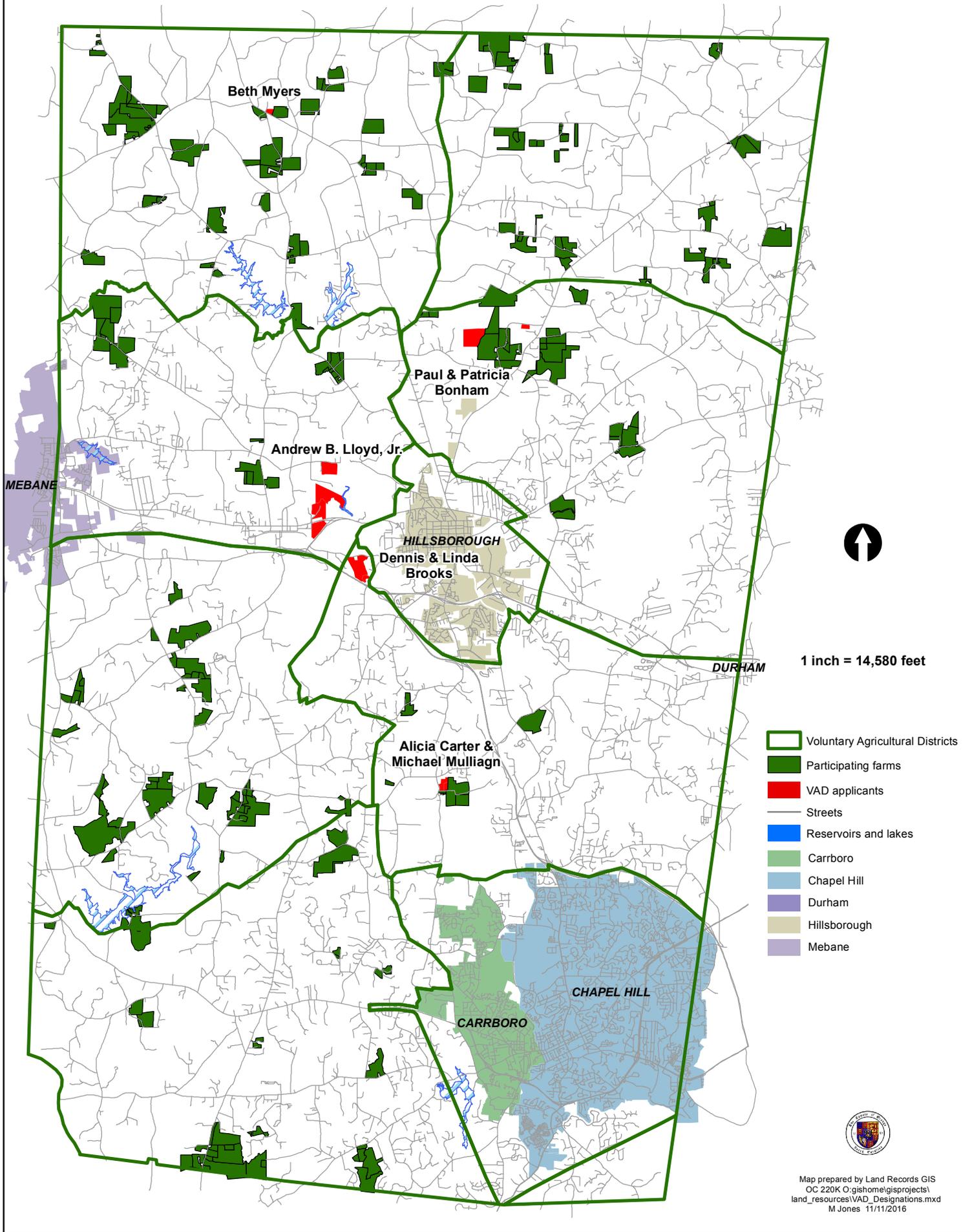
The creation and preservation of infrastructure, policies, programs and funding necessary for residents to provide shelter, food, clothing and medical care for themselves and their dependents.

The Orange County Voluntary Agricultural District Program ordinance conserves, protects and encourages the preservation and improvement of agricultural land within the County boundaries as a critical component of the County's cultural and rural character and its economy by virtue of the production of food, fiber and other products. The purpose of this Ordinance is to reduce the loss of productive and existing farmland by promoting agricultural values and the general welfare of the County, recognize the existence of important farmlands by seeking to minimize risks of nuisance suits that arise from the onset of other land uses, encourage participation in voluntary programs to preserve and protect farmland from non-farm development and increase identity and awareness of the agricultural community, and its role in the economic and cultural quality of life for all County residents (Excerpt from the Orange Co. VAD program ordinance).

RECOMMENDATION(S): The Manager recommends that the Board certify the five (5) farm properties noted above totaling 421 acres (VAD) and 126 acres (EVAD) (rounded acreage) as denoted in the attached documentation as qualifying farmland; designate them as a Voluntary or Enhanced Voluntary Agricultural District farm within the Schley/Eno, Cedar Grove, New Hope, and High Rock/Efland Voluntary Agricultural Districts; and enroll the lands in the Orange County Voluntary Agricultural District (VAD) and the Enhanced Voluntary Agricultural District (EVAD) programs.

With approval of these additional acres, the Orange County Voluntary Agricultural District Program will have enrolled 78 farms, totaling 9,320 acres in the VAD and 2,144 acres in the EVAD for a total of 11,464 acres (rounded) in the program.

Voluntary Agricultural Districts



- Voluntary Agricultural Districts
- Participating farms
- VAD applicants
- Streets
- Reservoirs and lakes
- Carrboro
- Chapel Hill
- Durham
- Hillsborough
- Mebane



Application for Orange County
Farmland Preservation Program
Voluntary and Enhanced Voluntary Agricultural District Program

INSTRUCTIONS:

Before completing the application, please review the VAD/EVAD brochure provided;
Complete the form as completely as possible; sign and date the form, and return to:

Gail M. Hughes
Orange County Dept. of Environment, Agriculture, Parks and Recreation
Soil and Water Conservation Division
P.O. Box 8181 (306 Revere Road)
Hillsborough, NC 27278

APPLICANT:

Name: Paul and Patricia Bonham
Address: 5601 River Road
City: Petersburg State: VA Zip Code: 23803-2201
Phone Number (Day): 804-590-2278 (Evening): same
E-Mail: bonhamline@ftc-i.net

PROPERTY INFORMATION:

Property Location/Address(s): Schley Community
Agriculture District /Township: Schley Eno

Parcel Identification Number (PIN): 9877207721 Acres 104.8
Parcel Identification Number (PIN): 9877817902 Acres 12.05
Parcel Identification Number (PIN): _____ Acres _____
Parcel Identification Number (PIN): _____ Acres _____
Parcel Identification Number (PIN): _____ Acres _____
Parcel Identification Number (PIN): _____ Acres _____

Total Number of Acres on all tracts of land: 116.85

Does this land have a plan on file with the USDA-Natural Resources Conservation Service or the NC Forest Service?

Yes: No: _____ If "No", please complete back of form

Is the land enrolled in Present Use Value taxation program with Orange County Tax Office?

Yes: No: _____ If "No", please complete back of form

CONSERVATION AGREEMENT DETAIL of VAD and EVAD:

Voluntary Agricultural District (VAD) conservation agreements are for a period of ten years. The landowner may revoke the agreement through a written request to the Orange County Agricultural Preservation Board. A Conservation Agreement for land within a Voluntary Agricultural District shall be automatically renewed for an additional term of ten years unless either the Agricultural Preservation Board or the landowner(s) gives written notice to the contrary prior to the termination date of the Conservation Agreement. At the end of each ten-year term, the Conservation Agreement shall automatically renew for an additional ten-year term unless notice of termination is given.

Enhanced Voluntary Agricultural District (EVAD) conservation agreements are for a period of ten years, but cannot be revoked during the term of the agreement. EVAD enrollment, however, offers landowners additional benefits such as a higher percentage of cost-share funds under the Agricultural Cost Share Program. A Conservation Agreement for an Enhanced Voluntary Agricultural District shall be deemed automatically renewed for an additional term of three years unless either the Agricultural Preservation Board or the landowner(s) gives written notice to the contrary prior to the termination date of the Conservation Agreement. At the end of each three-year term the Conservation Agreement shall automatically renew for an additional three-year term unless notice of termination is given.

I [We] have read the Conservation Agreement details above and I [we] understand the benefits of the VAD and/or EVAD program.

SIGNATURE Patricia L. Bonham
Paul Bonham

DATE 7 Aug 2016
7 Aug 2016

I [WE] ARE SEEKING DESIGNATION AS A VOLUNTARY AGRICULTURAL DISTRICT

I [WE] ARE SEEKING DESIGNATION AS AN ENHANCED VOLUNTARY AGRICULTURAL DISTRICT

OWNER[S] CERTIFICATION:

I [We], the applicant[s] and landowner(s), hereby certify that, to the best of my [our] knowledge, the foregoing application is complete and accurate.

Signature: Patricia L. Bonham Date: 8/7/2016

Signature: Paul Bonham Date: 8/9/2016

Signature: _____ Date: _____



**Paul & Patricia Bonham
 Voluntary Agricultural District
 PIN 9877207721 (104.8 acres)
 Aerial Map**



1 inch = 769 feet

 Paul & Patricia Bonham (116.85 acres)

 Parcel boundary

2013 Aerial images

Dept. of Environment, Agriculture,
 Parks and Recreation Map prepared by
 Land Records/GIS Div. 10/27/2016
 OC 220K <O:gishome/gisproj\
 land_resource\WAD_Bonham.mxd





**Paul & Patricia Bonham
 Voluntary Agricultural District
 PIN 9877817902 (12.05 acres)
 Aerial Map**

 Paul & Patricia Bonham (116.85 acres)

 Parcel boundary

2013 Aerial images



1 inch = 361 feet

Dept. of Environment, Agriculture,
 Parks and Recreation Map prepared by
 Land Records/GIS Div. 10/27/2016
 OC 220K <O:gishome\gisproj\land_resource\VAD_Bonham.mxd



APPLICATION FOR CERTIFICATION
AS QUALIFYING FARMLAND AND DESIGNATION AS AN ORANGE COUNTY
VOLUNTARY AGRICULTURAL DISTRICT
OR
ENHANCED VOLUNTARY AGRICULTURAL DISTRICT

INSTRUCTIONS:

Before completing the application, please review the VAD/EVAD brochure provided;
Complete the form as completely as possible; sign and date the form, and return to:

Gail M. Hughes
Orange County Dept. of Environment, Agriculture, Parks and Recreation
Soil and Water Conservation Division
P.O. Box 8181 (306 Revere Road)
Hillsborough, NC 27278

APPLICANT:

Name: Michael Mulligan & Alicia Carter

Address: 140 Mountain Creek Road

City: Chapel Hill State: NC Zip Code: 27514

Phone Number (Day): 919-724-2435 (Evening): 919-525-3000

E-Mail: mullybones44@gmail.com; aliciamulligan@gmail.com

PROPERTY INFORMATION:

Property Location/Address(s): 132 & 140 Mountain Creek Road

Agriculture District /Township: ~~Orange county~~ New Hope

Parcel Identification Number (PIN): 9861-87-7767 Acres 21.86

Parcel Identification Number (PIN): 9861-97-3669 Acres 10.01

Parcel Identification Number (PIN): _____ Acres _____

Total Number of Acres on all tracts of land: 31.87

Does this land have a plan on file with the USDA-Natural Resources Conservation Service or the NC Forest Service?

Yes: _____ No: If "No", please complete back of form
See Forest Mgt Plan prepared by Dryman (attached)

Is the land enrolled in Present Use Value taxation program with Orange County Tax Office?

Yes: No: _____ If "No", please complete back of form

CONSERVATION AGREEMENT DETAIL of VAD and EVAD:

Voluntary Agricultural District (VAD) conservation agreements are for a period of ten years. The landowner may revoke the agreement through a written request to the Orange County Agricultural Preservation Board. A Conservation Agreement for land within a Voluntary Agricultural District shall be automatically renewed for an additional term of ten years unless either the Agricultural Preservation Board or the landowner(s) gives written notice to the contrary prior to the termination date of the Conservation Agreement. At the end of each ten-year term, the Conservation Agreement shall automatically renew for an additional ten-year term unless notice of termination is given.

Enhanced Voluntary Agricultural District (EVAD) conservation agreements are for a period of ten years, but cannot be revoked during the term of the agreement. EVAD enrollment, however, offers landowners additional benefits such as a higher percentage of cost-share funds under the Agricultural Cost Share Program. A Conservation Agreement for an Enhanced Voluntary Agricultural District shall be deemed automatically renewed for an additional term of three years unless either the Agricultural Preservation Board or the landowner(s) gives written notice to the contrary prior to the termination date of the Conservation Agreement. At the end of each three-year term the Conservation Agreement shall automatically renew for an additional three-year term unless notice of termination is given.

I [We] have read the Conservation Agreement details above and I [we] understand the benefits of the VAD and/or EVAD program.

SIGNATURE Allen Carr Michael Mueliger DATE 10/4/16

I [WE] ARE SEEKING DESIGNATION AS A **VOLUNTARY AGRICULTURAL DISTRICT**

I [WE] ARE SEEKING DESIGNATION AS AN **ENHANCED VOLUNTARY AGRICULTURAL DISTRICT**

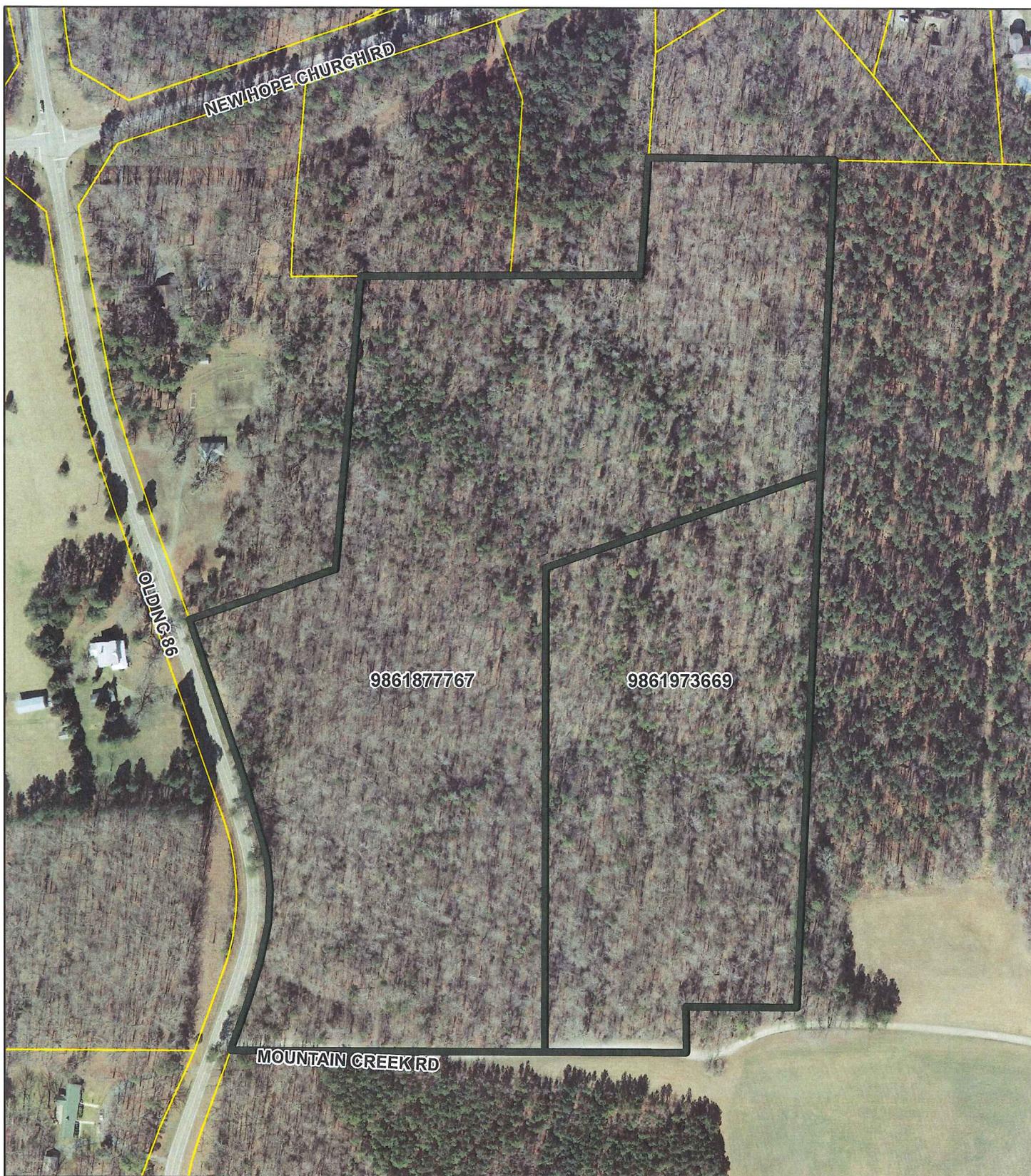
OWNER[S] CERTIFICATION:

I [We], the applicant[s] and landowner(s), hereby certify that, to the best of my [our] knowledge, the foregoing application is complete and accurate.

Signature: Allen Carr Date: 10/4/16

Signature: Michael Mueliger Date: 10-4-16

Signature: _____ Date: _____



**Michael Mulligan & Alicia Carter
 Voluntary Agricultural District
 PIN 9861877767 (21.86 acres)
 PIN 9861973669 (10.01 acres)
 Aerial Map**

 Michael Mulligan & Alicia Carter (31.87 acres)
 Parcel boundary
 2013 Aerials

 1 inch = 245 feet

Dept. of Environment, Agriculture,
 Parks and Recreation Map prepared by
 Land Records/GIS Div. 10/28/2016
 OC 220K <O:gishome\gisproj\land_resource\WAD_Mulliagan-Carter.mxd



**Application for Orange County
Farmland Preservation Program
Voluntary and Enhanced Voluntary Agricultural District Program**

INSTRUCTIONS:

Before completing the application, please review the VAD/EVAD brochure provided;
Complete the form as completely as possible; sign and date the form, and return to:

Gail M. Hughes
Orange County Dept. of Environment, Agriculture, Parks and Recreation
Soil and Water Conservation Division
P.O. Box 8181 (306 Revere Road)
Hillsborough, NC 27278

APPLICANT:Name: Beth MyersAddress: 110 Overbey DriveCity: Cedar Grove State: NC Zip Code: 27231Phone Number (Day): 919-428-7503 (Evening): sameE-Mail: bethscsa@gmail.com**PROPERTY INFORMATION:**Property Location/Address(s): same as aboveAgriculture District /Township: Cedar Grove Ag. DistrictParcel Identification Number (PIN): 9849874424 Acres 12.15

Parcel Identification Number (PIN): _____ Acres _____

Total Number of Acres on all tracts of land: 12.15

Does this land have a plan on file with the USDA-Natural Resources Conservation Service or the NC Forest Service?

Yes: XX No: _____ If "No", please complete back of form

Is the land enrolled in Present Use Value taxation program with Orange County Tax Office?

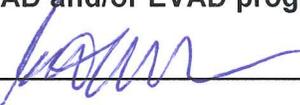
Yes: _____ No: XX If "No", please complete back of form

CONSERVATION AGREEMENT DETAIL of VAD and EVAD:

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I [We] have read the Conservation Agreement details above and I [we] understand the benefits of the VAD and/or EVAD program.

SIGNATURE  DATE 10-24-14

I [WE] ARE SEEKING DESIGNATION AS A **VOLUNTARY AGRICULTURAL DISTRICT**

I [WE] ARE SEEKING DESIGNATION AS AN **ENHANCED VOLUNTARY AGRICULTURAL DISTRICT**

OWNER[S] CERTIFICATION:

I [We], the applicant[s] and landowner(s), hereby certify that, to the best of my [our] knowledge, the foregoing application is complete and accurate.

Signature:  Date: 10-24-14

Signature: Beth Myers Date: _____

Signature: _____ Date: _____



**Beth Myers
 Voluntary Agricultural District
 PIN 9849874424 (12.15 acres)
 Aerial Map**

 1 inch = 192 feet

 Beth Myers (12.15 acres)

 Parcel boundary

2013 Aerial images

Dept. of Environment, Agriculture,
 Parks and Recreation Map prepared by
 Land Records/GIS Div. 10/31/2016
 OC 220K <O:gishome\gisproj\land_resource\WAD MyersBeth.mxd



**Application for Orange County
Farmland Preservation Program
Voluntary and Enhanced Voluntary Agricultural District Program**

INSTRUCTIONS:

Before completing the application, please review the VAD/EVAD brochure provided;
Complete the form as completely as possible; sign and date the form, and return to:

Gail M. Hughes
Orange County Dept. of Environment, Agriculture, Parks and Recreation
Soil and Water Conservation Division
P.O. Box 8181 (306 Revere Road)
Hillsborough, NC 27278

APPLICANT:

Name: Andrew B. Lloyd Jr.
Address: 2701 US 70 W.
City: Efland State: NC Zip Code: 27243
Phone Number (Day): 919-880-5680 (Evening): 919-732-8552
E-Mail: farmer1930@nc.rr.com

PROPERTY INFORMATION:

Property Location/Address(s): 2701 US 70 W.
Agriculture District /Township: High Rock/Efland District

Parcel Identification Number (PIN):	<u>9855403294</u>	Acres	<u>78.35</u>
Parcel Identification Number (PIN):	<u>9854483394</u>	Acres	<u>54.44</u>
Parcel Identification Number (PIN):	<u>9855523233</u>	Acres	<u>86.30</u>
Parcel Identification Number (PIN):	<u>9855557327</u>	Acres	<u>52.40</u>
Parcel Identification Number (PIN):	_____	Acres	_____
Parcel Identification Number (PIN):	_____	Acres	_____

Total Number of Acres on all tracts of land: 271.49 ac.

Does this land have a plan on file with the USDA-Natural Resources Conservation Service or the NC Forest Service?

Yes: XX No: _____ If "No", please complete back of form

Is the land enrolled in Present Use Value taxation program with Orange County Tax Office?

Yes: XX No: _____ If "No", please complete back of form

CONSERVATION AGREEMENT DETAIL of VAD and EVAD:

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I [We] have read the Conservation Agreement details above and I [we] understand the benefits of the VAD and/or EVAD program.

SIGNATURE Andrew B. Lloyd Jr. DATE 10-21-016

I [WE] ARE SEEKING DESIGNATION AS A **VOLUNTARY AGRICULTURAL DISTRICT**

I [WE] ARE SEEKING DESIGNATION AS AN **ENHANCED VOLUNTARY AGRICULTURAL DISTRICT**

OWNER[S] CERTIFICATION:

I [We], the applicant[s] and landowner(s), hereby certify that, to the best of my [our] knowledge, the foregoing application is complete and accurate.

Signature: Andrew B. Lloyd Jr. Date: 10-21-016

Signature: Andy Floyd Date: 10/23/16

Signature: _____ Date: _____



Andrew B. Lloyd Jr.
Voluntary Agricultural District
PIN 9855523233 (86.3 acres)
PIN 9855403294 (78.35 acres)
Aerial Map

 1 inch = 609 feet

 Andrew B. Lloyd Jr.
(271.49 acres)
 Parcel boundary
 2013 aeriels

Dept. of Environment, Agriculture,
 Parks and Recreation | Map prepared by
 Land Records/GIS Div. 10/28/2016
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**Andrew B. Lloyd Jr.
 Voluntary Agricultural District
 PIN 9855557327 (52.4 acres)
 Aerial Map**

-  Andrew B. Lloyd Jr.
(271.49 acres)
 -  Parcel boundary
- 2013 aerials



1 inch = 446 feet

Dept. of Environment, Agriculture,
 Parks and Recreation Map prepared by
 Land Records/GIS Div. 10/28/2016
 OC 220K <O:gishome\gisproj\land_resource\VAD_Mulliagan-Carter.mxd





**Andrew B. Lloyd Jr.
 Voluntary Agricultural District
 PIN 9854483394 (54.44 acres)
 Aerial Map**

-  Andrew B. Lloyd Jr. (271.49 acres)
-  Parcel boundary
- 2013 aerials



1 inch = 322 feet

Dept. of Environment, Agriculture,
 Parks and Recreation Map prepared by
 Land Records/GIS Div. 10/28/2016
 OC 220K <O:gishome/gisproj>
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**Application for Orange County
Farmland Preservation Program
Voluntary and Enhanced Voluntary Agricultural District Program**

INSTRUCTIONS:

Before completing the application, please review the VAD/EVAD brochure provided;
Complete the form as completely as possible; sign and date the form, and return to:

Gail M. Hughes
Orange County Dept. of Environment, Agriculture, Parks and Recreation
Soil and Water Conservation Division
P.O. Box 8181 (306 Revere Road)
Hillsborough, NC 27278

APPLICANT:

Name: Dennis and Linda Brooks

Address: 1400 Ben Johnston Rd.

City: Hillsborough State: NC Zip Code: 27278

Phone Number (Day): 919-732-7453 (Evening): 919-732-1932

E-Mail: _____

PROPERTY INFORMATION:

Property Location/Address(s): 1400 Ben Johnston Rd. (same)

Agriculture District /Township: New Hope District

Parcel Identification Number (PIN): 9854930649 Acres 103.28

Parcel Identification Number (PIN): 9854928491 Acres 10.56

Parcel Identification Number (PIN): _____ Acres _____

Total Number of Acres on all tracts of land: 113.84 ac.

Does this land have a plan on file with the USDA-Natural Resources Conservation Service or the NC Forest Service?

Yes: XX No: _____ If "No", please complete back of form

Is the land enrolled in Present Use Value taxation program with Orange County Tax Office?

Yes: XX No: _____ If "No", please complete back of form

CONSERVATION AGREEMENT DETAIL of VAD and EVAD:

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I [We] have read the Conservation Agreement details above and I [we] understand the benefits of the VAD and/or EVAD program.

SIGNATURE  DATE 11-8-16

I [WE] ARE SEEKING DESIGNATION AS A VOLUNTARY AGRICULTURAL DISTRICT

I [WE] ARE SEEKING DESIGNATION AS AN ENHANCED VOLUNTARY AGRICULTURAL DISTRICT

OWNER[S] CERTIFICATION:

I [We], the applicant[s] and landowner(s), hereby certify that, to the best of my [our] knowledge, the foregoing application is complete and accurate.

Signature:  Date: 11-8-16

Signature: Linda C. Brooks Date: 11-8-16

Signature: _____ Date: _____



Dennis & Linda Brooks
Enhanced Voluntary Agricultural District
PIN 9854930649 (103.28 acres)
PIN 9854928491 10.56 acres)
Aerial Map

-  Dennis & Linda Brooks (113.84 acres)
 -  Major streams
 -  Parcel boundary
- 2013 aerials



1 inch = 488 feet

Dept. of Environment, Agriculture,
 Parks and Recreation Map prepared by
 Land Records/GIS Div. 10/31/2016
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 land_resource\EVAD Brooks_Dennis-Linda.mxd



**ORANGE COUNTY
BOARD OF COMMISSIONERS
ACTION AGENDA ITEM ABSTRACT
Meeting Date: December 5, 2016**

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

SUBJECT: Unified Development Ordinance (UDO) Amendments – Hillsborough Economic Development District

DEPARTMENT: Planning and Inspections

ATTACHMENT(S):

INFORMATION CONTACT: (919)

Perdita Holtz, Planner III, 245-2578
Craig Benedict, Director, 245-2575

PURPOSE: To delay consideration and continue the public hearing on government-initiated amendments to the text of the UDO related to the Hillsborough Economic Development District until December 13, 2016.

BACKGROUND: As a result of direction given to staff at the November 1, 2016 Board of County Commissioners meeting, staff is currently completing revisions to the UDO amendments. The amendments are expected to be ready for further consideration at the December 13, 2016 BOCC meeting.

FINANCIAL IMPACT: There is no financial impact to continue the public hearing.

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

- **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.

RECOMMENDATION(S): The Manager recommends the Board delay consideration and continue the public hearing until the December 13, 2016 BOCC meeting.

**ORANGE COUNTY
BOARD OF COMMISSIONERS
ACTION AGENDA ITEM ABSTRACT
Meeting Date: December 5, 2016**

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

SUBJECT: Zoning Atlas Amendment – Hillsborough Economic Development District

DEPARTMENT: Planning and Inspections

ATTACHMENT(S):

INFORMATION CONTACT: (919)

Perdita Holtz, Planner III, 245-2578
Craig Benedict, Director, 245-2575

PURPOSE: To delay consideration and continue the public hearing on government-initiated amendments to the Zoning Atlas until December 13, 2016 on an amendment involving five parcels south of Interstate 40 in the vicinity of Old Highway 86 and adjacent interstate right-of-way.

BACKGROUND: As a result of direction given to staff at the November 1, 2016 Board of County Commissioners meeting on related Unified Development Ordinance (UDO) amendments, staff is currently completing revisions to the UDO amendments. This rezoning action is suggested to be delayed until the text amendments are ready for action.

FINANCIAL IMPACT: There is no financial impact to continue the public hearing.

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

- **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.

RECOMMENDATION(S): The Manager recommends the Board delay consideration and continue the public hearing until the December 13, 2016 BOCC meeting.

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: December 5, 2016

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

SUBJECT: MINUTES

DEPARTMENT: Board of County
Commissioners

ATTACHMENT(S):
Draft Minutes (Under Separate Cover)

INFORMATION CONTACT:
Donna Baker, Clerk to the Board
(919) 245-2130

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

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.

October 6, 2016	BOCC Joint Meeting with Fire Departments (early)
October 6, 2016	BOCC Work Session (late)
October 13, 2106	BOCC Meeting with Town of Carrboro
October 18, 2016	BOCC Regular Meeting

FINANCIAL IMPACT: NONE

SOCIAL JUSTICE IMPACT: NONE

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

Attachment 1

DRAFT

MINUTES
ORANGE COUNTY BOARD OF COMMISSIONERS
JOINT MEETING WITH THE
ORANGE COUNTY CHIEF'S ASSOCIATION
October 6, 2016
7:00 p.m.

The Orange County Board of Commissioners held a joint meeting on Thursday, October 6, 2016 at 7:00 p.m. at the Whitted Building in Hillsborough, N.C.

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

COUNTY COMMISSIONERS ABSENT:

COUNTY ATTORNEYS PRESENT: John Roberts

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

VOLUNTEER FIRE CHIEFS PRESENT:

Brad Allison, Fire Chief, Caldwell FD; Matt Sullivan, Fire Chief, Town of Chapel Hill; Matt Lawrence, Chapel Hill Deputy Fire Chief; Chief Susanna Williams, Town of Carrboro; Kent Squires, Carrboro Deputy Fire Chief; Jeff Borland, Fire Chief, Cedar Grove FD; Phillip Nasser, Fire Chief, White Cross FD; Jeff Cabe, Fire Chief, Orange Rural FD; John Stroud, Fire Chief, North Chatham FD; Kevin Brooks, Fire Chief, Efland FD; Pete Hallenbeck, Efland Deputy Fire Chief; Matthew Mauzy, Chief, South Orange Rescue Squad (SORS); Mike Tapp, Fire Chief, New Hope FD; Steve McCauley, Fire Chief, Orange Grove FD; Keith Hayes, Chief, Eno FD; Dinah Jeffries, Orange County Emergency Services Director

VOLUNTEER FIRE DEPTS. – CHAIRS, BOARD OF DIRECTORS

Barry Walker, Caldwell BOD President; Bill Waddell, Orange Grove BOD President; John Holland, Orange Rural BOD President; Fred Stipe, SORS BOD President; Howard Pratt, New Hope BOD President; Tony Blake, White Cross BOD President

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

Welcome and Introductions

Chair McKee recognized Dinah Jeffries as the new Orange County Emergency Services Director.

1. Fire Departments' Accomplishments During 2015

White Cross Fire Chief Phillip Nasser

Phillip Nasser thanked the Board of County Commissioners (BOCC) for this collaborative meeting.

He went through a list of the Fire Departments' Accomplishments for 2015, and his comments are below:

Ladies and Gentlemen of the Board.

1 Good evening and thank you for having us. This year, the Fire Departments and Emergency
2 Services of Orange County have accomplished a tremendous amount. We have conducted
3 several county wide training sessions.

- 4 • Orange Rural Fire Department successfully mitigated one of the largest structure fires in
5 the Town of Hillsborough's history, with help from almost every other fire agency in the
6 county.
 - 7 • Emergency Services has coordinated or supported 6 large-scale events this past year.
 - 8 • Emergency Services activated the Emergency Operations Center on 3 different events
9 throughout this last year.
 - 10 • Emergency Services participated in a FEMA Complex Coordinated Workshop with multi-
11 agency/multi-jurisdictional participation. They also provided a resource-typing program
12 to the fire departments of the county through a program called Salamander, currently 6
13 fire departments are enrolled and actively using it.
- 14 Several fire departments this year continued to improve their ISO ratings.
- 15 • The Town of Chapel Hill received new grade of Class 2 from a Class 3.
 - 16 • White Cross Fire Department received a new grade of a Class 5 from a Class 7.
 - 17 • Several of our other departments such as Caldwell Fire Department and Cedar Grove
18 Fire Department are working on submitting or have submitted a request to improve their
19 grade further.
 - 20 • Additionally, Cedar Grove, White Cross and Orange Grove Fire Departments have
21 placed several new rural water points in service this year.

22
23 The fire departments of the county have put several pieces of new equipment into service for
24 the protection of its citizens.

- 25 • The Town of Chapel Hill placed a new engine and mobile support SCBA trailer into
26 service.
- 27 • Orange Rural Fire Department put two new fire engines into service.
- 28 • New Hope Fire Department placed a new fire engine into service.
- 29 • Orange Grove Fire Department purchased a new 2000-gallon elliptical tanker.
- 30 • Efland Fire Department has put a new medical response unit and paced it into service.
- 31 • Eno Fire Department has placed a new extrication/rescue unit into service.
- 32 • North Chatham Fire Department replaced three tankers. One of the tankers provides
33 direct support to southern Orange County.
- 34 • Orange County EMS placed a new ambulance into service.
- 35 • Cedar Grove Fire Department is currently working on the processes to purchase a new
36 fire engine to replace an out-of-date unit.

37
38 This year the fire departments of Orange County have worked on improving their rescue
39 capabilities.

- 40 • Orange Grove Fire Department purchased extrication equipment,
- 41 • New Hope Fire Department upgraded their extrication equipment to new Hurst cordless
42 equipment.
- 43 • White Cross Fire Department has applied for medium rescue certification.
- 44 • Orange Rural Fire Department has received their heavy rescue certification.

45
46 The members of the various departments have attended thousands of hours of training
47 throughout the year.

- 48 • Carrboro Fire department has sent numerous members to National Fire Academy
49 courses.

- 1 • New Hope Fire Department hosted Mayday and Safety and Survival programs.
- 2 • White Cross Fire Department hosted the new North Carolina Technical Rescue course,
- 3 successful certifying 26 new rescuer technicians throughout the County.
- 4 • Orange Rural Fire Department hired a training and safety officer.
- 5 • Efland Fire Department certified four new emergency medical technicians within their
- 6 department.

7
8 The fire departments have been working very hard to replace out-of-date equipment with new
9 technology that provides safer and more efficient operations.

- 10 • New Hope Fire Department, Efland Fire Department and Chapel Hill Fire Department
- 11 have all replaced their self-contained breathing apparatuses this past year. All the
- 12 departments work to replace our protective gear regularly as they only have a 5 to 10-
- 13 year life span.
- 14 • Efland Fire Department put a new stationary breathing compressor for use by their
- 15 members into service.
- 16 • Emergency Services has been working on the County's Backup 9-1-1 Center and the
- 17 project is moving forward. Radio equipment has been purchased, contracts for the
- 18 phones have been completed, and they are working with the vendors and Asset
- 19 Management/IT to start the implementation.
- 20 • The Communication Center has added new technology for CAD-to-CAD information
- 21 sharing with Alamance County. Communications is working on implementing the
- 22 technology with Durham and Person Counties next. The Fire Marshal's office continues
- 23 to work with the fire departments on needs for technical rescue operations and
- 24 equipment for these services. They continue to provide on-scene support for the fire
- 25 departments when requested. They have provided fire safety presentations when
- 26 requested and helped purchase materials for Fire Safety Month to be provided to the
- 27 schools through their local fire department.

28
29 The fire departments of the county over the past year have accomplished several upgrades to
30 their facilities or approved plans for new facilities.

- 31 • Caldwell Fire Department renovated their administrative office area and dayroom.
- 32 • Cedar Grove Fire Department is midway through a station renovation at their Station 2.
- 33 • Orange Rural Fire Department is completing a remodel of their Station 3 to facilitate 24-
- 34 hour staffing, while repurposing their Station 2 for housing an Orange County EMS unit.
- 35 • Chapel Hill Fire Department approved the Station 2 re-development project with a joint
- 36 partnership component with Orange EMS.
- 37 • White Cross Fire Department installed a 13-D sprinkler system to protect its 24-hour
- 38 staff.
- 39 • North Chatham Fire Department rebuilt their Station 3 Located on Manns Chapel Road
- 40 to add 2 personnel for 24-hour a day staffing. This station directly supports operation in
- 41 the southern part of Orange County.
- 42 • Additionally, Emergency Services has been working with Orange Rural Fire Department,
- 43 UNC Air Care and South Orange Rescue Squad for additional collaboration for EMS
- 44 station locations.

45
46 Commissioner Rich asked if the 15,000 calls are comparable to the number of calls in
47 the past two years.

48 Phillip Nasserri said most departments are at least maintaining, but more likely
49 increasing, the number of calls about 2-5% per year.

50 Commissioner Rich asked if the calls tend to be emergencies or fires.

1 Phillip Nasserri said fires in general are on the decline, but the fires that do occur are
2 more severe in nature due to modern construction techniques. He said calls tend to be rescue
3 based.

4 5 **2. Radio Infrastructure Including Paging**

6 7 **Background Information:**

8 The Countywide Radio Communications Interoperability and Systems Engineering Services
9 Committee was established in January 2016. A Request for Proposals (RFP) was issued on
10 January 29, 2016 for a vendor neutral consultant who could determine the most efficient and
11 effective method for designing a countywide radio system. A total of seven (7) Fire/Rescue
12 representatives – four (4) from the Chief's Association and three (3) from Municipal
13 Departments – make up this committee along with a representative from every Law
14 Enforcement Department and four (4) representatives from Orange County Government. The
15 committee conducted an interview assessment and met afterwards to discuss and deliver a
16 recommendation of the selected consultant. Efforts are currently in the contract stage.

17
18 Phillip Nasserri said this project is costly but vital to Orange County for communications.
19 Commissioner Price asked if there is anything Orange County can do in reference to the
20 infrastructure.

21 Phillip Nasserri said when the contract is awarded it would be helpful to have the Board
22 of County Commissioners to support the consultant's recommendations.

23 Commissioner Dorosin asked if Phillip Nasserri could detail the current challenges with
24 the communication infrastructure.

25 Phillip Nasserri said the current 800 system, the VIPER Network System, being used by
26 the State and Orange County has limited user sites and limited coverage area. He said there
27 are minimal towers, which are used by multiple jurisdictions leading to overuse. He said on a
28 day-to-day basis, things function fairly well, but in times of inclement weather or greater
29 emergencies, the system is not sufficient.

30 Commissioner Dorosin said the problem is insufficient capacity.

31 Phillip Nasserri said that is correct, and some problems are due to aging equipment.

32 Commissioner Price asked if it is possible to communicate between various counties
33 across the State, during emergencies.

34 Phillip Nasserri said there are statewide channels, which can be used. He said the
35 problem being discussed this evening is a local one.

36 Dinah Jeffries said the currently used 800mhz does not allow data information on it, or
37 non-public safety entities to use it; for example: schools, animal control, transportation, etc.
38 She said it was designed very much for Highway Patrol.

39 40 **3. Discussion on PageTrack Software**

41 42 **Background Information:**

43 This item provides an opportunity to discuss issues and opportunities relating to PageTrack
44 software. Emergency Services is working closely with Efland Deputy Chief Pete Hallenbeck.
45 Efforts have been made to configure some Gateway boxes to talk to the PageTrack server,
46 meaning that fire and Emergency Medical Services can see one another. Work is continuing on
47 getting the remaining Gateway boxes configured and Deputy Chief Hallenbeck has suggested a
48 meeting to figure out what can be done with this capability and how to manage it.

49

1 Orange Rural Fire Department Chief Jeff Cabe made the following PowerPoint
 2 presentation:

3
 4 **PageTrack Overview**

5 **Features responders use and like**

6
 7 **PageTrack Statistics**

- 8 • Used by over 500 Fire responders with 10 departments in Orange County.
- 9 • In development for 5 years.
- 10 • The User Interface was designed by responder feedback that comes from field use.
- 11 • Has many features not found on the SunGuard/OSSI system.

12
 13 **Unique Features**

- 14 • There are several features in PageTrack that the CAD vendor solutions do not have.
- 15 • Other features may exist in the CAD vendor solutions, but the user interface is difficult to
- 16 use in responding apparatus. Trucks bounce around a lot more than a desk does.
- 17 • Feedback from fire, EMS, and rescue responders drives the look and feel of PageTrack.
- 18
- 19 ○ The main use is seeing a map of where the incident and responders are in real-time
- 20 ○ Once on scene, units can see where all apparatus are located and see pre-plans for
- 21 buildings
- 22 ○ PageTrack is not limited to just apparatus. It engages volunteers by sending
- 23 incident page-outs to their smart phones.
- 24 ○ This also serves as a back-up dispatch system for when the radio system is down.
- 25 ○ PageTrack can also page-out calls when the CAD system or county email is down.
- 26 ○ PageTrack is not limited to just apparatus. It engages volunteers by sending
- 27 incident page-outs to their smart phones.
- 28 ○ This also serves as a back-up dispatch system for when the radio system is down.
- 29 ○ PageTrack can also page-out calls when the CAD system or county email is down.
- 30 ○ Real-Time weather information for woods fires
- 31 ○ Show detours on the map, along with detour routes. At 2 in the morning, you might
- 32 not remember that a bridge was being replaced
- 33 ○ A Bulletin Board feature to keep everyone informed
- 34 ○ A "Big Picture" view showing everything going on in your department
- 35 ○ Hazardous Materials tools to help responders identify "Hot Zones" and exposure
- 36 zones to protect themselves and the public.
- 37 ○ There are tools to help visualize statistics about your department so you can improve
- 38 your performance.
- 39 ○ This incident history map shows where your calls are.
- 40 ○ There is a tool for visualizing how good your response times are into various areas.
- 41 ○ This can help with station location decisions or other changes that could improve
- 42 response time.
- 43 ○ Scatter plots of response times help you see time of day based strengths and
- 44 weaknesses.
- 45 ○ Bad cell coverage areas can be determined, and they can also be displayed to
- 46 responders on their maps so they know where they will have communications
- 47 problems.
- 48 ○ Closest and critical information is displayed, speeding up decisions.
- 49 ○ Responders can see mutual aid partners in different counties dispatched from
- 50 different CAD systems.

- 1 ○ Fire Units can see where EMS units are located. Hopefully, as the SunGuard/OSSI
- 2 integrates with PageTrack or EMS uses PageTrack everyone can see everyone
- 3 else.
- 4 ○ There are many EMS specific features being used by dispatch areas that use
- 5 PageTrack for EMS.
- 6 ○ Here we see a list of closest hospitals along with information such as “the VA is on
- 7 diversion and not taking patients at this time”.

9 **Page Track Features**

- 10 • This is an example of the features that PageTrack has that the CAD vendor solutions do
- 11 not.
- 12 • There are many other features in the system.
- 13 • The best feature is the user interface designed by responder feedback. It is easy to use
- 14 in the mobile environment.

15
16 Dinah Jeffries said it will not always be possible to have one technology that all entities

17 can efficiently and effectively use, but strides are being made in this area to integrate the

18 technologies.

19 Matthew Mauzy said this has been used at large events such as UNC games, etc., and

20 is also being put on ambulances. He said it is not just useful in Orange County, but also when

21 responding out of county to mutual aid calls.

22 Chair McKee asked if there is any interest in surrounding counties.

23 Pete Hallenbeck said two departments in Person County, some departments in Caswell

24 County, and Mebane Fire are using and evaluating it, and there is some interest in Chatham

25 County and Wilmington. He said there are also some departments in other states using the

26 technology.

27 Commissioner Price asked if everyone involved has the right smart phone to use this

28 technology.

29 Jeff Cabe said any phone can be used, as long as there is an internet/wi-fi connection.

31 **4. Training Facilities for County First Responders**

33 **Background Information:**

34 Emergency Services welcomes the opportunity to join others at the table for discussions

35 regarding a countywide training facility. Emergency Services has been coordinating to actively

36 reach out to state and federal resources gathering information that may provide guidance and

37 direction on best practices to pursue this venture.

38
39 Jeff Cabe said staff needs to be trained, while protecting districts as the same time. He

40 said the Chief’s Council wants to get a training facility in place.

42 **Orange County Training Center Concept Discussion**

43 **October 2016**

45 **Needs**

- 46 • Facilities for training Firefighters (Live Fire, Search and Rescue, Suppression)
- 47 • Facilities for Training EMS Personnel (Patient Access, Triage, Movement)
- 48 • Facilities for Training Rescue Personnel (Victim Access, Packaging, Removal)
- 49 • Facilities for Training Law Enforcement (Building Search, Forcible Entry)
- 50 • Facilities for storing Equipment Trailers and the Children’s Fire Safety House

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Obstacles

- Funding- How do we fund specialized training facilities? (Initial vs Long Term)
- Location- How do we build Facilities so all agencies have access and maintain district coverage while training?
- Access- How do we build enough Facilities for so many agencies to Share?
- Management- Who has final oversight for design, development and scheduling?

Funding

- Propose to increase county wide property taxes by ½ cent for Training Facilities
 - Approximately \$830,000 per year
- Funds would be used to develop, maintain and operate the training Centers
- Once the sites were completed, the tax rate would decrease to ¼ cent for maintenance and Operations
 - Approximately \$419,000

Location

- County owned Property on Mincey Road
 - Police Driving Course
 - Burn Building with Rappelling Anchors (Residential Design)
 - Vehicle Training Classroom (Apparatus Bay)
- Efland Fire Department Property
 - Burn Building with Rappelling Anchors (Commercial/Industrial Design)
 - Pump Operator Test Facility (Tank and Plumbing)
 - Training Classroom for 50 seats with AV Equipment
- Southside of the County near Chapel Hill/Carrboro
 - Burn Building with Rappelling Anchors (Combination Residential and Commercial)
 - LP/Natural Gas Fire Trainer
 - Classroom with seating for 50 with AV Equipment
 - Fire/EMS Rescue Driving Course

Access

- Construct three separate sites that are geographically located so that travel distance to and from is reduced
- Agencies can train together while still maintaining district coverages

Management

- Create a Task Force of BOCC, County Management, Police, Fire, ES to manage the project
- Task Force would be responsible for design and construction, management of funding
- Create a web site or page on the county web site for scheduling and requesting use of the facilities

Next Steps?

- Further discussion on needs, Logistics, insurance, funding, permitting, etc...
- MOU/MOA with Efland for use of their land
- Locate property for south side site

- 1 • Open conversations with Alamance Orange, OWASA or Hillsborough for Water Supply
2 depending on site locations
3

4 Chapel Hill Chief Matt Sullivan said there is a law enforcement issue to this topic, and a
5 site such as this would be of value to all the emergency responders of Orange County. He said
6 Durham Tech also has a place at the table in this discussion, since it does the majority of the
7 training.

8 Phillip Nasserri said Durham Tech would not have a training program if not for Chapel
9 Hill's older training facility. He said the relationship with Durham Tech has been bumpy over
10 the years on this topic. He said if Orange County would support this, he felt that Durham Tech
11 would come on board to support a new training facility.

12 Commissioner Dorosin referred to the suggested three-site model and asked if this is
13 the ideal, or is it the most practical option due to size of the county.

14 Jeff Cabe said this is the ideal since other one-site options would make it difficult to for
15 County departments to train together on a regular basis. He said training in one location would
16 leave districts without staff to provide emergency services, or cause a delay in completing the
17 training, as staff would have to travel in groups to be trained. He said ideally the sites would be
18 geographically located in the northeast, central-west and south of the County.

19 Commissioner Price asked if Durham Tech has a burn facility.

20 Jeff Cabe said no, it uses the Durham City Fire Department, where it also runs the
21 academies. He would prefer that Orange County run the proposed training facilities.

22 Sheriff Blackwood said he is supportive of a three-site training facility. He said Durham
23 Tech does not even have showers. He said if a facility is built in Orange County, it should be
24 run and managed by Orange County.

25 Commissioner Jacobs asked Sheriff Blackwood if he has settled on an indoor firing
26 range.

27 Sheriff Blackwood said property is being acquired by a federal seizure in the Cedar
28 Grove area near the Community Center. He said if the land can be acquired, it is 17 acres with
29 many options. He said outside of a firing range, a playground, community garden, classrooms
30 or shelter could be established. He said this land was previously used to sell drugs, and
31 repurposing it for positive use would send a powerful message. He said there would be some
32 cost, but the federal agencies involved are in favor of the idea, and all involved will need to think
33 about how to acquire the land.

34 Commissioner Pelissier asked if the overall capital costs for the training facilities are
35 known.

36 Jeff Cabe said a residential style burning building would cost about \$100,000. He said
37 on the commercial side, it would be in the \$200,000-\$300,000 range, because land would have
38 to be purchased and gas piped in.

39 Commissioner Pelissier asked if the \$800,000 capital costs on the PowerPoint slide
40 would cover most of the expenses.

41 Jeff Cabe said yes, especially if property could be donated.

42 Jeff Cabe said he knows EMS is looking to have more space for ambulances, and these
43 proposed training sites would be able to accommodate this.

44 Commissioner Rich asked if the expected income produced by these training sites is
45 known.

46 Jeff Cabe said he does not know at this point, but the infrastructure costs could be
47 determined, and then determine what fees could be charged to others to use the facility.

48 Commissioner Rich asked if the cost to send employees to out of county firing ranges
49 could be shared.

1 Sheriff Blackwood said it is about \$6,500 per agency per year. He said if a range were
2 to be built, it would be available for citizens to use as well, with an appropriate usage fee being
3 determined.

4 Phillip Nasserri said going to out of county burning facilities, etc., is very expensive.

5 Deputy Chief Matt Lawrence of Chapel Hill said the concrete capital costs are not yet
6 known, but they wanted to propose their priorities. He said in addition to the actual buildings,
7 there would also be site development, security, asphalt, etc.

8 Jeff Cabe said a two 50-person classroom could be added in the proposed training
9 centers and be used by the community.

10 Chair McKee asked if there is a proposed time frame or next steps. He would like to
11 move this conversation forward.

12 Jeff Cabe said Board feedback on this proposal is important to determine if it is even a
13 possibility. He said a task force can work on crunching the numbers, and he hoped to work with
14 the County Manager and Dinah Jeffries.

15 Chair McKee said the best route is to have the Fire Chief's Council put more definitive
16 costs together, with a timeline for further discussion by the Board of County Commissioners.

17 Commissioner Price said she strongly supports the exploration of this proposed idea.

18 Commissioner Jacobs said he would want the Sheriff and Emergency Services to be
19 part of putting the proposal together, before it gets to the Manager. He said he would like to
20 have an order of priorities within the proposal; and questions such as if this would be part of the
21 fire tax or property tax, and who would be included.

22 Chair McKee said if the Council wanted Durham Tech to be involved, it should be invited
23 to work with the Fire Chiefs.

24 Commissioner Burroughs and Commissioner Rich agreed with Commissioner Jacobs.

25 Commissioner Rich asked if the way in which this proposal fits into the annual budget,
26 and its priorities, could also be pursued.

27 Commissioner Price said there may be grant funding available, which can be
28 researched.

29 Jeff Cabe said the process will move forward with these suggestions, with all
30 stakeholders being included.

31 Kirby Saunders gave an update on Hurricane Matthew.

32 The meeting adjourned at 8:39 p.m.

33
34 Earl McKee, Chair

35
36 Donna Baker
37 Clerk to the Board

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2
3 DRAFT

4 **MINUTES**
5 **BOARD OF COMMISSIONERS**
6 **Work Session**
7 **October 6, 2016**
8 **7:00 p.m.**
9

10 The Orange County Board of Commissioners met in a work session on Thursday, October 6,
11 2016 at 7:00 p.m. at the Whitted Building, Hillsborough, N.C. immediately following the
12 adjournment of the Joint Meeting with the Fire Chiefs' Council.
13

14
15 **COUNTY COMMISSIONERS PRESENT:** Chair McKee and Commissioners Mia Burroughs,
16 Mark Dorosin, Barry Jacobs, Bernadette Pelissier, Renee Price and Penny Rich

17 **COUNTY COMMISSIONERS ABSENT:**

18 **COUNTY ATTORNEYS PRESENT:** John Roberts

19 **COUNTY STAFF PRESENT:** County Manager Bonnie Hammersley, Deputy Manager Travis
20 Myren and Clerk to the Board Donna Baker (All other staff members will be identified
21 appropriately below).
22

23 Chair McKee called the meeting to order at 8:52 p.m.
24

25 **1. Detention Center: Update on Project Schedule and Discussion of Potential Scope**
26 **Expansion to Include Law Enforcement Center/Sheriff's Offices**
27

28 **BACKGROUND:**

29 After authorizing the Manager to engage Moseley Architects as the designer for the Detention
30 Center project in the summer of 2015, initial project vision planning, comprehensive stakeholder
31 input sessions, the jail population profile, and projections for future growth were conducted in
32 the fall of 2015.
33

34 Subsequent schematic programming and planning activities were halted in the fall of 2015 in
35 order to process an amendment to the County's Ground Lease with the State of North Carolina
36 enabling the County to provide the built detention facility as collateral for standard project debt
37 financing. This amendment was successfully achieved through enabling legislation approved by
38 the State Legislature in the summer of 2016. The County is currently awaiting an executed
39 lease amendment from the State and will fully resume planning and design efforts once this
40 fully executed amendment is returned to the County.
41

42 Based upon the receipt of the executed Lease Agreement Amendment in October 2016, the
43 projected timeline for this project is as follows:
44

Activity	Estimated Date Range
BOCC: Construction Manager at Risk Award	October-November, 2016
Schematic and Developmental Design Preparations with Board and Stakeholder Review/Feedback	Fall-Winter, 2016-2017

BOCC: Approval of Final Design, Guaranteed Maximum Price	Summer-Fall, 2017
Permitting, State Review, Construction Period (16-20 months)	Fall 2017 – Summer 2019
Occupation	Fall-Winter, 2019

1
2 Concurrent to this process, staff was requested to provide information to the Board regarding a
3 potential scope expansion of the project to include the co-location of a Law Enforcement
4 Center/Sheriff's Offices ("LEC") with the proposed Detention Center. Staff proposes that this
5 scope discussion include three options:

- 6 1) Standalone Detention Center only – This option represents the current project scope
7 as contained in the County's Capital Investment Plan (CIP).
- 8 2) Detention Center with co-located LEC – This option would construct new
9 administrative office space on the Detention Center site and relocate the Sheriff's
10 administrative offices from the courthouse to the Detention Center.
- 11 3) Detention Center with infrastructure for future co-located LEC – This option would
12 prepare the Detention Center site and install appropriate utilities and infrastructure for a
13 colocation of the Sheriff's administrative offices on the Detention Center site at some
14 point in the future.

15
16 If the Board of Commissioners authorizes further analysis of these options, staff recommends
17 five evaluation criteria to inform the decision making process. These factors include:

- 18 1) Cost of Construction
- 19 2) Staffing (Detention and LEC)
- 20 3) Operations and Maintenance (Detention and LEC)
- 21 4) Court operations support and security
- 22 5) "Backfill" options for potentially vacated spaces within the Justice Facility

23
24 A matrix of general information regarding the three development options as well as comparative
25 topics to be addressed in the Designer's analysis for each of the five decision factors is
26 attached. This will be presented in an effort to encourage Board discussion and feedback to
27 staff.

28 Jeff Thompson, Director of Asset Management Services, made the following PowerPoint
29 presentation:

30
31 **Detention Center Update**
32 **Board of Orange County Commissioners**
33 **Work Session**
34 **October 6, 2016**

35
36 **Purpose**

- 37 • to receive an update on the Detention Center project schedule; and
- 38 • To discuss and provide feedback to staff regarding a potential project scope expansion
39 to move the existing Sheriff's Office administrative offices from the lower level of the
40 courthouse to a co-located Law Enforcement Center on the new jail site. Court security
41 staff would maintain offices in the courthouse.

42
43 **Activities to Date**

- 44 • Extensive stakeholder input
- 45 • Jail population profile and projections for future growth;

- 1 • Preliminary schematic design and space programming;
- 2 • Further design work is on hold until the execution of the ground lease amendment;
- 3 • Staffing study in progress

4 General Schedule of Events

Activity	Estimated Date Range
BOCC: Construction Manager at Risk Award	October-November, 2016
Schematic and Developmental Design Preparations with Board and Stakeholder Review/Feedback	Fall-Winter, 2016-2017
BOCC: Approval of Final Design, Guaranteed Maximum Price	Summer-Fall, 2017
Permitting, State Review, Construction Period (16-20 months)	Fall 2017 – Summer 2019
Occupation	Fall-Winter, 2019

7
8 Jeff Thompson said staff is waiting on the execution of the lease from the State, and
9 there is a staffing study for the facility that is in progress.

10 John Roberts said he has contacted the General Counsel for the Department of
11 Administration with the State, seeking help to move things along, but has received no response.
12 He said he will call again next week.

13 Chair McKee said he would contact their Legislative Delegation to try and get this
14 executed.

15 Jeff Thompson reviewed the following information:

16 Options and General Information to Assist in Board Discussion

	Detention Center Only	Detention Center with built, co-located Law Enforcement Center (LEC)	Detention Center with LEC infrastructure for future co-location
General Facility Information	Current detention facility information: Original construction: 1925 Capacity: 139 Detainees Square Footage: 40,227 Area: 1.4 acres	Current LEC facility information: Constructed/renovation : 2009 Estimated Project Cost: \$5MM Square Footage: 20,000	
Design Process Currently Authorized by BOCC	Yes	No	No
Schematic Characteristics	Secure 144 bed facility with "core" infrastructure for 250 bed maximum capacity;	Detention Center with additional estimated 12,000-18,000 square feet of LEC space	Detention Center with prepared additional site and infrastructure connections for

	approximately 49,500-52,200 square feet of Detention Center space; 6.8 acre site ¹		future LEC ²
Conceptual Project "First Cost" Estimates	Est. \$17.6-\$19.9 million	tbd	tbd

1

Travis Myren reviewed the following information:

Operational Factors and needed analysis	Detention Center Only	Detention Center with built, co-located Law Enforcement Center (LEC)	Detention Center with LEC infrastructure for future co-location
-Construction Cost		-Additional first cost and life cycle impact -Life cycle cost impacts	
-Staffing	-Staffing study anticipated Fall 2016 comparing spindle vs. rear chase design options.	-Potential staffing impacts on both the spindle and rear chase designs options.	
-Operations and Maintenance	-Significant improvements in programming, housing conditions, workplace safety and security, and maintenance of operations equipment. -Additional improvements anticipated in facilities maintenance activities due to new facility and modern equipment.	-Potential Impacts on efficiencies for both operations and maintenance activities. -Potential sustainability impacts associated with co-location.	
-Court Operations Support and Security	-Court staff unchanged. -Efficiency improvements with video-conferencing technology within Court facilities and detention pods for Court officials and detainees. -Designed multi-purpose room can serve as court space.	-Potential Impacts of co-location on opportunity of Court staff to be housed in close proximity within a co-located facility.	
-"Backfill" options for vacated LEC facilities		Analysis of Potential Uses : ³ -Child Support Services; -Probation and Parole; -Public Defender; -District Attorney;	

		-Justice Resource Office;	
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2
3 Chair McKee said he had talked with some judges, who also indicated a possible desire
4 for space.

5 Travis Myren said all stakeholders would be contacted.
6

7 **Recommendations**

- 8
- 9 • to receive an update on the Detention Center project schedule;
 - 10 • to discuss and provide feedback to staff regarding a potential project scope expansion
11 to include co-located Law Enforcement Center facilities; and
 - 12 • Should the Board reach a consensus on the project scope expansion, the Manager will
13 sign an amendment with Moseley Architects to analyze the implications of adding a Law
14 Enforcement Center to the current Detention Center project at a cost not to exceed
15 \$30,000.

16 Commissioner Dorosin referred to the slide with possible co-location and its impacts,
17 and asked if this would be a co-location at the new jail or current Sheriff's space.

18 Travis Myren said the court administration would stay at the courthouse, and he said the
19 co-location questions would be if there are any impacts on court operations by moving the
20 administrative capacity of the Sheriff's office away from the court operations.

21 Commissioner Dorosin said a co-location and an un-colocation would occur, if the
22 change is made.

23 Travis Myren said both options need to be studied to get a balanced view.

24 Sheriff Blackwood said this would not be a wholesale pulling out of the Sheriff's office
25 from the courthouse, and he would like to talk to each Commissioner individually about current
26 operations in the Sheriff's office, and how they would change in a LEC co-location. He
27 reviewed how the operations located at the current court facility would move to the new
28 detention center. He said not having support staff in the new detention center would make
29 managing the inmates more difficult. He said his office would do its best wherever it is located.

30 Commissioner Jacobs asked Travis Myren if there will be a cost analysis done for future
31 co-location.

32 Travis Myren said both options would be studied: the immediately built law enforcement
33 center, and the infrastructure layout for future expansion. He said both could be studied
34 together or separately.

35 Commissioner Jacobs referred to the analysis of potential uses of the Law Enforcement
36 Center, and asked if probation and parole, the magistrate, etc. would also be co-located in the
37 detention facility regardless.

38 Travis Myren said with the current detention facility layout the Magistrates are included,
39 but Probation and Parole are not.

40 Commissioner Jacobs said he would like to see some support services, which would
41 benefit from being located near the jail population, included.

42 Sheriff Blackwood said the feedback he is getting from probation and parole is that they
43 are best located in the courthouse.

44 Commissioner Jacobs said he got the opposite information from one of the Judges. He
45 said he also has concern about the Sheriff's office not being in the courthouse.

46 Sheriff Blackwood said his department's work is not in the courthouse, but out in the
47 field.

1 Chair McKee said he thought there would be meeting rooms and access for
2 probation/parole to talk with their clients at the detention center, but that the department would
3 not actually be housed there.

4 Commissioner Jacobs said the possibility of meeting facilities, for mental health officials
5 to meet with clients at the new detention center, was also discussed. He said this must be
6 considered wholistically, locating as many services at one site as possible to more effectively
7 serve this population.

8
9 The Board agreed by consensus to direct staff to proceed on the project scope
10 expansion, and approve the Manager to sign an amendment with Moseley Architects to analyze
11 the implications of adding a Law Enforcement Center to the current Detention Center project at
12 a cost not to exceed \$30,000.

13
14 Commissioner Dorosin asked Commissioner Jacobs and Commissioner Pelissier if the
15 Jail Alternatives group is in favor of locating the Sheriff's Office at the new Detention Center.

16 Commissioner Pelissier said space issues were not discussed at the Criminal Justice
17 Advisory Council, but the Judges wanted a space-needs study completed. She said she
18 thought such a study would address this.

19 Commissioner Jacobs said spacing was discussed pertaining to reducing the size of the
20 overall facility, as related to the prisoners. He said when Sheriff Blackwood joined the group,
21 this issue had already been discussed, and the moving of the Sheriff's Office did not come up
22 until much later.

23 Commissioner Jacobs said he and Commissioner Pelissier did talk to Jeff Thompson
24 about the interacting components and how they may work, which is when he started hearing
25 from the Judges, and when Sheriff Blackwood came up with a different scenario about moving
26 the Sheriff's Office.

27 Chair McKee said he had the opportunity to talk to two Judges who said if the detention
28 center was built, and the Sheriff's Office moved, there would be more space in the court for the
29 court activities. He said the Judges were not promoting the removal of the Sheriff's Office, but if
30 space were available in the courthouse, they would be interested.

31 Commissioner Jacobs said he assumed the old jail, and how to use it, will be addressed.

32 Bonnie Hammersley said staff met with the Town of Hillsborough to begin this
33 discussion and will be bring this item back at a later time.

34 35 **2. Discussion of Body-Worn Cameras**

36 37 **BACKGROUND:**

38 At the May 5, 2016 Board of Orange County Commissioners meeting, Commissioner Mark
39 Dorosin submitted a petition requesting that the Board discuss, with Orange County Sheriff
40 Charles S. Blackwood, adopting a policy to institute the use of body-worn cameras by Deputies.
41 Body-worn camera usage is a topic that has been in the national spotlight in recent years due to
42 officer-involved shootings. Although believed to be a panacea for reducing distrust of law
43 enforcement and incidents of unnecessary use of force, the use of body-worn cameras is
44 surrounded by a number of outstanding questions. Unfortunately, little research exists to assist
45 law enforcement leaders to decide whether to join a growing minority of agencies that are
46 implementing use of body-worn cameras.

47
48 Commissioner Dorosin said this has become a critical issue in our society as of late, and
49 there were some discussions about a year ago at the Rogers-Eubanks Neighborhood

1 Association (RENA) center about community and police relations. He said as these
2 conversations continue this issue of body cameras keeps coming up.

3 Commissioner Dorosin said Carrboro was about to adopt a body camera policy, but a
4 state law was passed, which has not completely pre-empted the use of body cameras, but has
5 put some limitations on the use.

6 Commissioner Dorosin said the first step is to have a philosophical discussion about the
7 value of having body cameras as pertains to what takes place between law enforcement and
8 citizens. He said he would like to pursue the issue of wearing body cameras, and he is
9 interested in the Sheriff's opinion, and how the State law impacts this analysis.

10 Sheriff Blackwood said he is aware of what is going on in many communities, and, in
11 large part, the community that would benefit from increased trust is not the community that
12 causes the uproar when shootings occur. He said his philosophical approach to this topic is
13 based in *Graham v. Conner*, which happened in Charlotte, NC. He said this case guaranteed
14 that an officer will be judged by the "officer-on-the-scene" standard and not 20/20 hindsight,
15 with the reasonable objectiveness that the officer has to make split decisions where
16 circumstances are tense, uncertain and rapidly evolving. He said this perspective evaporates
17 when a camera comes into play, as it allows for 20/20 hindsight. He said this discussion has
18 gone up and down with sheriffs all over the State. He said he does not have the answer to
19 what should be done. He said the legislation was poorly written, despite having been drafted by
20 two former members of law enforcement, but it is a starting point. He said if the shooting in
21 Charlotte had happened today the video would not be released, due to the new State law. He
22 said this is weighing heavy on him. He said in order to do this right the County should wait to
23 see the final legislation on body cams. He said the cost of the equipment is becoming more
24 affordable, but the cost for storage is huge.

25 Sheriff Blackwood said he wanted to do the right thing with body cameras, and the
26 purchase and use of them.

27 Chair McKee asked if the Sheriff's office has any equipment now.

28 Sheriff Blackwood said there are in-car video cameras, and if the Board funds one, then
29 it should fund both cameras. He said the two cameras do different jobs, and to get the best
30 footage both cameras must be present.

31 He said his department is blessed to be in Orange County, and they are one of the only
32 Departments in the State that has standards in place for their deputies.

33 Sheriff Blackwood said he is not ready to accept body cameras yet, but he will continue
34 to talk and work with the BOCC.

35 Chair McKee asked if the in-car cameras are forward or forward and rear looking, and if
36 the body cameras are on the vest.

37 Sheriff Blackwood said there are many configurations, and the body camera can be on
38 the eyepiece, which is the most optimal location for a body camera. He said the car cameras
39 are forward looking, but can also view someone being transported in the back of a vehicle.

40 Commissioner Burroughs said she wanted to know more about costs.

41 Sheriff Blackwood said the costs of the cameras are between \$20 and \$60 each, with
42 packaging including 5-year warranties and replacement cameras. He said 20 cameras would
43 be \$44,588, and 60 cameras would be \$134,660.

44 Sheriff Blackwood said unlimited cloud is very expensive, with a retention schedule from
45 30 days up to 20 years. He said the Sheriff Association is undecided as to whether the State
46 should be allowed to set standards regarding the issue of equipment. He said this is not done
47 with firearms, uniforms, cars, etc.

48 Sheriff Blackwood said the camera issue is a big one, and the legislation has to be re-
49 written.

50 Commissioner Burroughs asked if the retention timeframes are best practices only.

1 Sheriff Blackwood said yes. He said the cost for unlimited cloud for 20 cameras, for one
2 year would be \$105,800, and for 60 cameras would be \$315,560.

3 Commissioner Burroughs said the first year would be about \$500,000, and the most
4 costs come with the storage.

5 Sheriff Blackwood said yes.

6 Commissioner Jacobs thanked the Sheriff for sharing his honest thoughts. He said the
7 issue of cost is more troubling than the actual concept of the body cameras, and it is probably
8 too late since the public will expect law enforcement to have body cameras.

9 Commissioner Jacobs said he would encourage the Sheriff to think this through, but he
10 believes it is likely unavoidable.

11 Sheriff Blackwood said he knows the legislation will probably require body cameras.

12 Commissioner Jacobs said long term it will be to the benefit for law enforcement to have
13 body cameras.

14 Sheriff Blackwood said there are more reasons to have them than not.

15 Commissioner Pelissier asked if anything else is being considered to build and/or keep
16 trust between the community and law enforcement.

17 Sheriff Blackwood said that is the purpose of the community discussions.

18 Commissioner Rich said she is conflicted with the General Assembly saying what can
19 and cannot be done.

20 Sheriff Blackwood said the mechanism is there to have footage released, it just requires
21 a court order.

22 Commissioner Rich said if and when cameras are used, she wanted to make sure the
23 best equipment is secured.

24 Commissioner Price said she respected the Sheriff and his point of view, but there is
25 always the potential for an officer(s) that probably should never have been hired. She said for
26 the safety of citizens, and to protect their own officers, body cameras are needed.

27 Commissioner Dorosin said this is a national issue of trust/distrust. He said it is critical
28 to have body cameras/video as another evidentiary tool. He said there is a racial component to
29 this discussion as well. He wanted to know if it is the will of this Board to have these cameras,
30 and what needs to be done to address the Sheriff's concerns.

31 Sheriff Blackwood said he would like the BOCC to commit to him that his department
32 will not have to give up the car cameras, that each officer receives a body camera, and that he
33 will not get crucified if he does not release a video, per the legislation.

34 Commissioner Dorosin said these requests seem eminently reasonable to him.

35 Commissioner Burroughs said she felt that costs should not be a barrier to purchasing
36 and implementing body cameras. She is in favor of moving forward.

37 Commissioner Rich said as the issue moves forward, she asked Sheriff Blackwood to
38 continue to share his concerns if any come up. She said there must be mutual trust.

39 Commissioner Jacobs said he supported the conversation thus far, and he suggested
40 the Sheriff come back with a more concrete cost proposal.

41 Sheriff Blackwood said he has reached out to other sheriffs and has been in touch with
42 vendors.

43 Commissioner Jacobs said with the issue of releasing videos, they should come up with
44 a policy together on this topic, if the law remains the same. He said the Board may want the
45 Sheriff to request a Judge's permission to release a video. He said the Sheriff has more
46 knowledge than any attorney about law enforcement.

47 Commissioner Price said it is important that all understand she is coming from a
48 different perspective. She said she has been stopped for walking twice in Orange County, and
49 once in Charlotte. She said something needs to be done, and the body cameras will help. She
50 is supportive of the usage of these sooner rather than later.

1 Chair McKee asked if Sheriff Blackwood would work with management about pricing,
2 and get figures back to the BOCC to make a decision with him, not for him.

3 Commissioner Dorosin said the hour is late.

4 5 **3. Written Consent to Search Requirement for Law Enforcement**

6 **BACKGROUND:**

7
8 At the September 6, 2016 Board of Commissioners' ("BOCC") meeting, Commissioner Mark
9 Dorosin submitted a petition that the topic of written consent to search be discussed at an
10 upcoming BOCC work session. Some law enforcement agencies in North Carolina, including
11 the Durham, Greensboro, and Fayetteville Police Departments have adopted policies requiring
12 police to obtain written consent to search. Both federal and State law, however, allow consent
13 to be provided in writing, orally, or by other means, as long as the expression of consent
14 communicates its meaning clearly.

15 Proponents of requiring use of written consent to search forms assert that this measure is
16 necessary given statistics that seem to indicate that minorities are disproportionately more likely
17 to be stopped and searched than white drivers. Meanwhile, concern has been voiced from law
18 enforcement that such a requirement would negatively affect their ability to engage in efforts to
19 combat crime and ensure public safety.

20
21 Commissioner Dorosin said this is an important tool they should adopt. He said this
22 goes a long way to building trust and a tool in the service of law enforcement. He urged the
23 Sheriff's Department to adopt this and his peers to support it.

24 Sheriff Blackwood said written consent to search was used in the 1980s, but it went
25 away because attorneys started instructing law enforcement that written or verbal consent can
26 be used to search, as long as the consent was clear. He talked to retired law enforcement, who
27 said they would feel less safe if this was implemented.

28 He said he would not adopt the policy, but when feasible, he would require his deputies
29 to use the written consent form. He said if this practice is abused, there will be camera records
30 to show it. He said if there are complaints to searches, he would address them.

31 Chair McKee asked Commissioner Dorosin if there is probable cause to search, then
32 the written consent is not used, or necessary.

33 Commissioner Dorosin said the written consent is for when there is not probable cause
34 to search.

35 Jennifer Galassi, Legal Advisor to the Sheriff's Office, said that is not necessarily always
36 the case, as sometimes written consent is received even when there is probable cause. She
37 said getting the consent facilitates law enforcement's ability to things more expeditiously. She
38 said if consent is received, the interaction tends to be more cooperative. She said law
39 enforcement does not have to inform the person in question that there is the right to give written
40 consent, and the prosecution does not have to prove the person in question knew that written
41 consent existed.

42 Commissioner Dorosin said if people know they can say no, they will say no, and while
43 the right exists, law enforcement does not want them to say no. He feels law enforcement
44 should inform the person in question that they can give written consent or refuse the search.

45 Jennifer Galassi said there is a notion that the idea of consent is being substituted for
46 the idea of reasonableness, which is the touchstone of the fourth amendment.

47 Commissioner Jacobs asked if one does not give consent, can an officer say there is
48 probable cause to search, or does the refusal to consent halt the interaction.

49 Jennifer Galassi said if there is truly no probable cause, then yes the interaction should
50 end upon refusal to consent.

1 Commissioner Jacobs said watching TV and movies have polluted his view of all of this.
2 He said the question for him is how well do people know their rights, and how obligated is law
3 enforcement to inform them.

4 Commissioner Jacobs said this is a more difficult issue than the body cameras for him.
5 He told Commissioner Dorosin that he appreciated the topic being brought up and suggested
6 re-visiting this. He said he thought body cameras would help, and would like to check back with
7 the Sheriff to see how his proposed practice is working. He would also like to hear updates
8 from those working in the civil rights movement.

9 Commissioner Jacobs said he wanted to respect the Sheriff's prerogatives and his staff.

10 Sheriff Blackwood said he will provide the BOCC with a breakdown of the searches that
11 have consent and those that do not.

12 Chair McKee agreed with Commissioner Jacobs.

13 Commissioner Dorosin said the Board should review the data from Bumgarner and have
14 this discussion.

15 Commissioner Jacobs said to ask Sheriff to analyze the stops.

16 Sheriff Blackwood said they met with Mr. Bumgarner to ask him to analyze their
17 searches since Sheriff Blackwood has been in office, as well as searches broken down by
18 officer. He said the collection of data is confusing and complicated.

19 Jennifer Galassi presented the data from the period of two years prior to December
20 2014, and the 20 months since then.

21 Commissioner Rich asked if this data should be weighted due to the larger white
22 population, as compared to the black population.

23 Jennifer Galassi said that is difficult because the people being ticketed are not even
24 residents.

25 Sheriff Blackwood said they are trying to correlate better data sets to be collected,
26 including where people live, the race of the officer, etc. He said they have been challenged to
27 come up with four categories to check, which are currently not being checked. He said these
28 are interesting numbers, but this is not indicative of what is really going on, as all stops do not
29 require documentation. He would support changing this practice, and collecting data on every
30 interaction: who was stopped, why they were stopped, what was the outcome, was there a bias
31 involved in the stop, etc.

32 Commissioner Jacobs asked if data for Hispanics could be collected as well.

33 Chair McKee said this all boils down to having trust in the Orange County Sheriff's
34 office, and he does trust them.

35 Commissioner Jacobs suggested bringing this information back at the February 16th
36 work session.

37 Sheriff Blackwood said he does care about civil liberties, and his department has to use
38 the law that is given to it, and keep working together towards a better place.

39
40 The meeting was adjourned at 10:47 p.m.

41
42 Earl McKee, Chair

43
44 Donna Baker
45 Clerk to the Board

46
47

Attachment 3

1
2
3 **DRAFT** **ORANGE COUNTY BOARD OF COMMISSIONERS**
4 **CARRBORO BOARD OF ALDERMEN**
5 **JOINT MEETING**
6 **October 13, 2016**
7

8 The Orange County Board of Commissioners met in a joint meeting with the Town of
9 Carrboro Aldermen on Thursday, October 13, 2016 at 7:00 p.m. at the Southern Human
10 Services Center, in Chapel Hill, N.C.
11

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

14 **COUNTY COMMISSIONERS ABSENT:** Commissioner Price

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 **CARRBORO BOARD OF ALDERMEN MEMBERS PRESENT:** Mayor Lydia Lavelle and
20 Aldermen Bethany Chaney, Randee Haven-O'Donnell, Michelle Johnson, Damon Seils, Sammy
21 Slade, Jacquelyn Gist, and David Andrews, Town Manager

22 **CARRBORO BOARD OF ALDERMEN MEMBERS ABSENT:**
23
24

25 **Welcome/Introductions and Opening Remarks**

26 Chair McKee called the meeting to order at 7:06 p.m.

27 Chair McKee said Commissioner Price would not be able to attend tonight.

28 Chair McKee gave recognition to Orange County Emergency Services for their efforts
29 during Hurricane Matthew.

30 Mayor Lavelle echoed Chair McKee's words.
31

32 **1. Economic Development**

33 **a) Development of Old NC Highway 86 Property Owned by the Town of Carrboro for**
34 **Affordable Commercial Space**
35

36 Carrboro's Planning Director, Trish McGuire, presented this item. She showed a map of
37 the area being discussed this evening, and reviewed the following background information:
38

39 **BACKGROUND:**

40 The purpose of this agenda item is to provide an opportunity for the Boards to discuss possible
41 development of Town-owned property located on Old NC Highway 86 for affordable commercial
42 space.
43

44 Trish McGuire said affordable space for flex warehouse/light manufacturing is very limited in
45 Carrboro; therefore the Carrboro Board of Aldermen directed staff to identify opportunities to lift
46 barriers to developing this type of space. Availability and cost of land are limiting factors
47 affecting commercial development and the town's ability to attract or retain light manufacturing
48 businesses. The Town of Carrboro is seeking input from the Orange County Board of
49 Commissioners on developing a Request for Proposals (RFP) to invite proposals for developing

1 Town-owned property located on Old NC 86 as an affordable, light manufacturing commercial
2 park.
3

4 Trish McGuire said the property, located across from the Twin Creeks park property, was
5 originally purchased by the town in 2001 to be used for a new public works facility. In response
6 to the Board of Aldermen's interest in expanding opportunities for flex/light manufacturing
7 commercial space, staff has begun studying the property for this alternative use. Preliminary
8 study reveals a building program of approximately 90,000 square feet of warehouse/flex
9 commercial space is possible. The site plan illustrates four (4) 20,000 square feet buildings and
10 the possibility of two or more, smaller 5,000 to 10,000 sq. ft. building footprints. The
11 improvements would be taxable assets with an estimated tax value of \$9,000,000, which would
12 result in approximately \$79,020 in annual County property tax revenues, \$18,756 for the Chapel
13 Hill/Carrboro City School district and \$53,046 in town revenues upon annexation into the Town
14 limits.
15

16 The Town is seeking input from the BOCC on development parameters that can be included in
17 a Request for Proposals (RFP). This input will be included in the development of site design
18 criteria and building design elements, required square footage, ownership and leasing terms,
19 including rent controls and other provisions.
20

21 Trish McGuire said the process for gathering input from neighboring property owners is in
22 preparation. The 22 acre parcel is currently zoned RR, Rural Residential, and would need to be
23 rezoned for low impact commercial uses that generate little or no customer trips.
24 The concept is for the town to retain ownership and lease the land to a developer who would
25 construct the project and lease the buildings for a defined period (e.g. 2 to 30 years). The
26 primary goal is to keep the project affordable and therefore capable of attracting and retaining
27 local manufacturers, service providers, craftspeople and artisans.
28

29 She said other elements to be included in an RFP would focus on preserving the feel and
30 character of the property with careful thought be given to the aesthetic and the rural nature of
31 the area. Buildings should have a rural character as illustrated in Attachment 1a-2. The existing
32 house on the front of the property could be preserved and used as a small retail location, to
33 provide employees and local residents with basic staple groceries and some prepared food.
34

35 As envisioned, the project would require public water and sewer which are available south of
36 this property near Lake Hogan Farms, and a turning lane to accommodate turning traffic which
37 should include employees, services vehicles, and delivery trucks only. The preliminary
38 estimated cost of these improvements is \$1,000,000. This cost may be an opportunity for an
39 Orange County – Town of Carrboro collaboration on an economic development initiative.
40 Orange County's role in this proposal would be related to the Joint Planning Area Agreement
41 which includes a review and approval mechanism for a change in zoning. In addition, the
42 Northern Transition Advisory Board would review the proposal. The County would also be
43 responsible for considering a request from the town to partner on utility extensions and
44 infrastructure improvements.
45

46 Mayor Lavelle said this agenda item, and the next, are efforts by the Town to retain
47 these types of commercial sites outside of the Town limits, as they are priced out of being
48 within the Town limits.

49 Alderman Gist said the abstract does not mention social justice impacts, but they do
50 exist with this proposed project. She said the new buildings in downtown Carrboro are too

1 expensive for the locals to purchase or lease, and this site provides affordable small business
2 space.

3
4 Alderman Slade echoed Alderman Gist's sentiments. He said this project also serves as
5 a counterpoint to how economic development has always been done, and this is a way to
6 support home grown, locally owned businesses, as opposed to bigger or national businesses.
7 He encouraged the County to help support this type of economic development.

8 Alderman Haven O'Donnell said she agreed with both Aldermen. She said Carrboro has
9 always been a service-oriented economy. She said locals have to flee to outside areas,
10 because they cannot afford downtown Carrboro.

11 Commissioner Dorosin said this is an exciting proposal.

12 Commissioner Dorosin referred to the map at the Commissioners' places, and said
13 there is water and sewer going north of this site. He asked if it is known how far these lines go.

14 Trish McGuire said the water line goes to Hillsborough, and the sewer line goes up to
15 Morris Grove Elementary School.

16 Commissioner Dorosin referred to the proposed commercial park, which would be home
17 to businesses with little traffic, other than employees. He said Old Highway 86 has traffic
18 anyway, and he would not feel as constrained with expanding economic development in this
19 area, as he might in others.

20 Commissioner Dorosin referred to the house in the area, which is intended for
21 preservation, and asked if the condition of it is known.

22 Trish McGuire said it is still in good enough condition that it could be renovated, but it
23 has not been occupied for a number of years.

24 Alderman Seils said there are other things occurring in that general area that is allowing
25 for some commercial development. He asked if Trish McGuire could explain what kind of re-
26 zoning would have been required if a public works facility had been pursued on this property.

27 Trish McGuire said public works is a Town owned and operated facility, and is a
28 permissible use in the RR zoning district. She said she is fairly certain this would not require
29 any rezoning.

30 Alderman Seils asked if rezoning would be required for something like the proposed
31 commercial park.

32 Trish McGuire said one of the zoning districts that was created for the northern study
33 area plan implementation is an office assembly zoning district. She said up to 10% could be
34 retail, but it is intended as a light manufacturing and office type of use.

35 Commissioner Rich asked if this piece of property is now part of Carrboro, or does it
36 have to be annexed.

37 Trish McGuire said it is not in the Town limits at the present time, but it is in the Town's
38 planning jurisdiction and the Town would expect annexation.

39 Commissioner Pelissier asked if details have been fleshed out as to how to make, and
40 keep, this flex space affordable.

41 Trish McGuire said this information can be provided to the Board.

42 Commissioner Pelissier asked if the types of light manufacturing that would be allowed
43 there have been discussed.

44 Mayor Lavelle said a general discussion has occurred. She said an artisan component
45 has been suggested for this project as well. She said this will be fleshed out with the RFP.

46 Commissioner Jacobs said he applauded this idea, but he has some concerns regarding
47 land use and cost benefit. He said a long-range plan for this area has not been presented. He
48 said the described proposal may not warrant water and sewer, and spending \$1 million of
49 County funds to provide it to this project may not be necessary. He said if water and sewer
50 were to be provided, it would open the gates to all kinds of other development. He would like

1 to know the land use plan before he endorsed this project, and he would like Orange County
2 Economic Development Director Steve Brantley to do a cost benefit analysis. He suggested
3 that well and septic be considered before spending \$1 million.

4 Alderman Chaney said Commissioner Jacobs' concerns are reasonable and should be
5 discussed. She said when an RFP is developed, the amount of water needed can be
6 determined. She said this is an opportunity for the Town and the County to collaborate. She
7 said collective local food strategies could be considered for a collaborative effort, such as
8 additional cold storage or food hub, commercial kitchens, etc. She said there are also
9 cooperative opportunities such as the woodworkers or metal workers of Orange County.

10 Commissioner Jacobs seconded Alderman Chaney's comments. He said the next
11 agenda item is a collaborative effort for three governmental entities. He suggested another
12 possibility for this area could be modalities.

13 Commissioner Jacobs said there is a huge demand for flex space in Orange County,
14 and he applauded the Town for bringing this forth. He asked if a bit more work could be done
15 together before this goes to an RFP. He would like to see how this fits into long range planning
16 and consider the alternatives for waste water and water, as well as costs, etc.

17 Commissioner Rich said she would like to visit this property site and would also like a
18 map of the zoning in this area.

19 Alderman Gist said she understands wanting to consider well and septic, but she is
20 skeptical about looking at a long-range plan, since it would delay the process. She said a small
21 area plan already exists. She said the Town wants to make sure this project does not
22 negatively impact this area.

23 Commissioner Jacobs said he was not proposing a new plan, but wanted to see the plan
24 that currently exists. He said the aspect of water and sewer has a huge impact on other
25 parcels, and if it was not needed, then this area would not blow up as much with development.

26 Alderman Seils asked if staff could provide the Board of County Commissioners with the
27 Northern Study Area Small Area Plan and the Joint Planning Area Land Use Plan, pointing out
28 the sections of that plan that would speak to this kind of development, as well as the
29 surrounding land uses.

30 Mayor Lavelle said in lieu of an organized field trip, if anyone wanted to see the land,
31 just call her up and she will show them around.

32 Commissioner Burroughs asked if anyone could explain the small area plan tonight.

33 Commissioner Dorosin said he is reluctant to put everything to a cost benefit analysis.
34 He does want to look at the overall costs, but many benefits are not quantifiable.

35 Alderman Slade said he agreed with Commissioner Dorosin. He said, beyond the plan
36 for that area, the Town also has a plan to support locally owned businesses, which can be more
37 economically beneficial simply because they are local.

38 Chair McKee asked if rent control can be defined as relates to affordability.

39 Alderman Gist said the Town is not talking about what Chair McKee may fear. He said
40 the Town owns the land, which allows costs to be kept down. She said the Town wants the
41 savings passed on to the businesses, much like the Community Home Trust model.

42 Alderman Chaney said this rent control concept does need to be defined.

43 Chair McKee said when rent control is mentioned the New York City example
44 immediately comes to mind. He said he hopes there will be opportunities in the future to
45 incentivize businesses, and definitions will be important.

46 Trish McGuire pulled up a map of the northern part of Carrboro's jurisdiction. She said
47 there is a small area planning document that applies to this area. She described the
48 surrounding area and land use plan.

49 Commissioner Jacobs asked if the relationship between Transition areas 1 and 2 could
50 be explained.

1 Trish McGuire said the rezoning of area 2 is not to occur until transition area 1 has
2 reached 75% build out, per a number of criteria, which are spelled out in the plan.

3 Commissioner Jacobs asked if Trish McGuire could identify where in that process the
4 areas currently stand.

5 Trish McGuire said these calculations are being worked on currently.

6 Chair McKee said this is an interesting idea, and he likes the focus on local businesses.
7 He said he does not need specific answers tonight, but he does have some concerns. He
8 asked if the 90,000 square foot building is the maximum foot print build for this property.

9 Trish McGuire said that is the maximum for a single level building, with the possibility of
10 a bit more space through a mezzanine level, or something similar.

11 Chair McKee said if a commercial site is going to be built here, he would like it to be the
12 maximum size.

13 Chair McKee asked if the proposal is to build a shell to rent, which would be outfitted by
14 the renter to suit their needs; or is the proposal to build out to the maximum level. He said a
15 building shell would only cost around \$100,000, and even with five buildings the total would be
16 far less than \$9 million.

17 Trish McGuire said the concept was that the development would be done by a private
18 entity instead of the Town, but she would check on this.

19 Chair McKee said the land would remain in the ownership of the Town, which would
20 provide no tax benefit at all. He said the buildings would be a leasehold improvement to the
21 land, and he read a 30-year term is proposed for the lease. He said he would like to know what
22 would happen after the 30-year lease. He said he keeps coming back to the revenues, as they
23 may have to defend the use of economic development monies for this on Highway 86. He
24 agreed with Commissioner Jacobs about the use of water and sewer, and the development it
25 may open up.

26 Commissioner Jacobs agreed with Chair McKee, and that is why he keeps saying to do
27 a cost analysis of this proposal to determine if this is a wise investment.

28 Commissioner Jacobs suggested not calling this an industrial park, to make it more
29 user-friendly for this community.

30 Commissioner Rich said having a copy of the Northern Transition Area (NTA) plan
31 would help all of them to understand this area.

32 Alderman Gist said she went to Boulder, CO several years ago, and while there were
33 lovely amenities, there was no middle class present. She said Carrboro and the County are
34 being gentrified in the same way, and this is a chance to provide real living wages and space
35 for those who make a living with their hands.

36 Chair McKee said there was still no middle class in Boulder on their recent trip there.

37 Chair McKee said the County's zoning regulations have a great, but limiting, benefit.

38 Alderman Chaney said she is not opposed to the cost benefit analysis, but she is
39 opposed to doing it based only on current assumptions. She said it is useful in understanding
40 potential dynamics, and in creating a plan, but may cause potential benefits of the project to be
41 missed if such an analysis were to be weighed too heavily. She said it is a tool, but not an up
42 or down decision-making tool.

43 44 **b) NC Highway 54 West – Commercial Potential and Challenges**

45
46 The purpose of this agenda item is to provide an opportunity for the Board of Aldermen and the
47 Board of County Commissioners to discuss the Town's interest in extending its extraterritorial
48 jurisdiction to encompass the entirety of five lots along NC Highway 54 West, the jurisdiction
49 and zoning of which are currently split between the Town and County.
50

1 Trish McGuire presented several maps via PowerPoint. She reviewed the following
2 information:

3
4 Carrboro town staff along with County staff have been studying opportunities for development in
5 the NC Hwy 54 West corridor within Carrboro's extraterritorial jurisdiction (ETJ) since this is one
6 of the few areas in or near the Town that are zoned for light manufacturing. Most of the
7 properties on the north side of Hwy 54 are split by Town and County jurisdictional boundaries.
8 Real estate professionals have indicated that this can be a barrier to development by potential
9 buyers of commercial properties.

10
11 The zoning of these parcels is also split with the portions in Carrboro's ETJ zoned Watershed
12 Manufacturing (WM-3) and the portions in County jurisdiction zoned Rural Buffer (RB). With
13 such disparate zoning and the associated limitations on impervious surface area in the
14 University Lake watershed, the development potential of these parcels is limited. Most of the
15 neighboring parcels split by the jurisdictional boundary in this area are zoned RB and WR
16 (Watershed Residential), zoning which mostly allows the same type and amount of
17 development activity to occur in either jurisdiction. Currently on these five properties, all aspects
18 of a commercial, manufacturing development have to be contained on the portion of the parcel
19 that lies within Carrboro's ETJ –about half of each lot.

20
21 The Town has received several inquiries about redevelopment opportunities for one of the
22 parcels. Another property owner has discussed with staff challenges associated with the
23 conditions described above. The complications associated with the split jurisdiction and zoning
24 have apparently proved to be a deterrent to the submittal of formal applications. The Board of
25 Aldermen has discussed the benefits of uniform jurisdiction and zoning for these parcels, which
26 could be achieved by an extension of the Town's ETJ to cover the parcels in full or by
27 encouraging owners to request voluntary annexation into the Town limits and is seeking the
28 Board of County Commissioners' perspective.

29
30 Information letters have been sent to the affected property owners regarding possible extension
31 of the Town's ETJ. The initial feedback from property owners is they would like to see an
32 expansion of existing uses that are allowed in the town's WM3 zoning district. Town staff will be
33 reviewing this for a possible land use ordinance amendment.

34
35 Expansion of the town's ETJ will require approval from the County Board of Commissioners.
36 The state statutes describe the procedural requirements that apply to the County and municipal
37 governments. These requirements are summarized below, with notes indicating which party has
38 responsibility for the action:

- 39
- 40 1. Extraterritorial area must be set by an ordinance adopted by the city governing board.
41 Newspaper notice, mailed notice and public hearing requirements apply (Town).
 - 42 2. Approval of a request for the extension into any area where the county is enforcing
43 zoning, subdivision regulations, and the building code (County and Town).
 - 44 3. Approvals, requests or agreements must be established by a formally adopted
45 resolution of the governing board (County and Town).
 - 46 4. Adopted boundary map must be recorded with the register of deeds and the map
47 maintained permanently in the office of the city clerk (County and Town).
 - 48 5. New zoning designation(s) must be applied to ETJ (Town) following procedures for
49 zoning amendments. The statues provide for a sixty-day transition period, during which
50 prior county zoning remains in place and enforceable.

- 1 6. Membership of planning board and board of adjustment must include ETJ
2 representation (Town). Appointments to ETJ seats on municipal boards are made by the
3 board of county commissioners.
4

5 No specific requirements or standards for county approval or disapproval are included, other
6 than the need for County approval to be secured at any time before the effective date of
7 adoption or amendment of the extraterritorial ordinance. The Board of County Commissioners
8 held a work session in November 2014 to consider establishing a process for reviewing ETJ
9 extension requests. The most recent release/expansion of extraterritorial jurisdiction occurred in
10 December 2014 when the Board of County Commissioners approved a request from the Town
11 of Chapel Hill to exercise ETJ authority over 1,033 acres in and around the Rogers
12 Road area of what was formerly Joint Planning Transition Area.
13

14 Courtesy review by the Orange County Planning Board did occur in conjunction with that
15 request and approval.
16

17 Orange County's role would relate to:

- 18 1. Expansion of ETJ
 - 19 2. Amendment to JPA Rural Land Use Classification Boundary
- 20

21 Although estimates are difficult without knowledge of specific supply, demand, needs of the
22 business, one could project the need for water storage capacity and pressure to support
23 sprinkler systems for many non-residential uses. This could entail a water study to determine if
24 public or private systems are better suited for fire suppression. Accordingly cost estimates vary
25 widely from \$300,000 to amounts more conservative. From a public sewer perspective, again
26 depending on the relative water and sewer needs, analysis for the existing sewer system
27 including the sewage lift station would have to be conducted. These properties could possibly
28 flow by gravity if a jack and bore sewer line was installed under Highway 54. The partial cost of
29 this sewer extension would approximate \$125,000. Additional cost would also be anticipated
30 regarding the existing lift station operation.
31

32 Commissioner Dorosin asked if there is a reason why zoning lines were drawn down
33 these properties, thus splitting them. He said this should be fixed.

34 Trish McGuire said this was done prior to 1966.

35 Mayor Lavelle asked if there are any comments.

36 Alderman Slade agreed with Commissioner Dorosin about possibly changing the zoning.

37 Mayor Lavelle asked if any of the feedback from property owners warranted sharing.

38 Trish McGuire said the main take away is to look at tweaking the zoning to allow more
39 uses.

40 Alderman Seils said that suggestion from the property owners is a separate question
41 than the question before them of reconciling the boundaries.

42 Commissioner Jacobs said if the property owners agree, then rectify the issue.

43 Alderman Chaney said it would be better to fix problems wholesale rather than
44 piecemeal. She said more opportunity is created, and cost reduced to the owners, if this is
45 fixed.

46 Mayor Lavelle said there are five properties on one side of Highway 54 and asked how
47 big the project would be if both sides of Highway 54 were rectified.

48 Trish McGuire said maybe 30 properties.

49 Chair McKee said if five properties are going to be addressed, then the whole area
50 should be addressed at the same time.

1 Damon Seils said he would not want the goal of fixing the whole pie to slow down the
2 immediate need of fixing the five specific properties.

3 Alderman Chaney asked if it is that much more complicated to look at the whole area.

4 Trish McGuire said it is just a matter of finding all the areas that have split zoning, and it
5 should not be terribly cumbersome.

6 Mayor Lavelle said she does not want to do anything to delay the five properties, but it
7 makes sense to take care of the entire area. She said if staff can do it via a phasing process,
8 this would be acceptable, as long as the issue does not get bogged down.

9 Mayor Lavelle said Carrboro staff will communicate with Orange County staff to look at
10 timeline options, and to do it as expeditiously as possible.

11 Alderman Gist asked if there are any unintended consequences of moving from one
12 zone to another.

13 Alderman Seils said affected residents would get a letter that explains the planning
14 jurisdiction changes, and the tax jurisdiction would not change.

15 Trish McGuire said there would be some decision points to address by staff before
16 notifying residents.

17 Craig Benedict, Orange County Planning Director, said the focus should be on the
18 commercial node area at this time, and results for the other areas can be achieved later.

19 Trish McGuire said a point of difference between the two jurisdictions is the issue of
20 voting representation among ETJ members.

21 Chair McKee said to focus on the five properties first, with the intent to look at the other
22 properties and corridor in the second phase.

23 Commissioner Dorosin said the whole corridor should be done at one time.

24 Alderman Seils said staff needs to determine how complex it is to do it all at once. He
25 said if it is straightforward, then it should be done at the same time.

27 **2. Greene Tract – Current Situation and Future Uses**

28
29 Craig Benedict showed a context map via a PowerPoint presentation, and reviewed the
30 following information:

31
32 The Greene Tract (164 acres) was acquired in 1984 for \$608,000 and came to Orange County
33 as an asset in the Solid Waste Fund. The 1998 Interlocal Solid Waste Agreement and
34 amended April 12, 2000 provided for the three owning partners to determine, over a two-year
35 period, the ultimate disposition of the remaining 104 jointly held acres. The Agreement further
36 included a repayment mechanism to the Solid Waste Enterprise Fund. The financial
37 reimbursement to the Solid Was Fund began on July 1, 2008.

38
39 This link –

40 <http://server3.co.orange.nc.us:8088/WebLink8/DocView.aspx?id=27031&dbid=0>

41 – provides a history of the Greene Tract from 1999 through 2008 which is a compendium of
42 various reports and studies which was presented at a 'Joint Greene Tract Work Session' on
43 April 29, 2008 and at an Assembly of Governments meeting on December 6, 2012. Attachment
44 2a provides information regarding the last action taken by the Board of County Commissioners
45 (BOCC) on December 10, 2002. Although there has been considerable discussion about the
46 future of the Greene Tract, no action has been taken by the BOCC since 2002. Although not
47 specific to the Greene Tract, multiple Historic Rogers Road Area (HRRRA) small area studies
48 and planning efforts have been conducted by the local governments over the last 15 years.

49

1 More recently, the HRR staff workgroup has been reviewing and developing two new
2 initiatives:

- 3 1) The Community First planning program (Rogers Road Eubanks Neighborhood
- 4 Association (RENA) and the Jackson Center) hired by the joint governments.
- 5 2) Multi-Jurisdiction Technical Environmental Scan of the Greene Tract. All aspects are
- 6 being researched and updated and maybe ready for a joint meeting in the fall.

7
8 Over the years there have been many options (based on various studies) discussed as a
9 possible future use of the 104 acres jointly owned by Orange County, Chapel Hill and Carrboro.
10 Listed below are the options that have been explored:

- 11 1) Joint Affordable Housing could be planned for 18.1 acres and the remaining 85.9 acres
- 12 would remain join open space.
- 13 2) The 104 acre tract should remain as open space to be protected by conservation
- 14 easements.
- 15 3) The acreage for affordable housing could be placed in the Land Trust.
- 16 4) Chapel Hill Carrboro City Schools requested that part of the Greene Tract be reserved for
- 17 a future elementary school site. An approximate 11-acre area south of the 18 Affordable
- 18 Housing site was considered.
- 19 5) Rename the property to recognize the headwaters of Bolin Creek, Booker Creek and Old
- 20 Field Creek.

21
22 As a result of the Inter Local Agreement, 60 acres of the Greene Tract was conveyed to
23 Orange County for "Solid Waste management purposes". Utility design and extension to the
24 Rogers Road area is in progress.

25
26 Commissioner Jacobs said the plan for the 60 acres is to leave it as undisturbed natural
27 habitat with low intensity recreation purposes.

28 Alderman Seils asked if this decision will be made formal.

29 Chair McKee said the County would like to move toward a formal agreement with the
30 Towns of Chapel Hill and Carrboro regarding what will happen with the Greene Tract, and
31 whether the Towns will retain ownership or wish the County to take over ownership.

32 Alderman Seils asked if a formal decision will be announced about the 60 acres.

33 Chair McKee said there is no timeframe, but the unofficial intent is for the 60 acres to
34 remain as open space.

35 Bonnie Hammersley said this item will be on the Board of County Commissioners'
36 agenda on October 18th.

37 Chair McKee said in regards to the rest of the land, the County would like to have a
38 discussion with both Towns as to what will be done with the 104 acres.

39 Alderman Chaney asked if the location of the closest grocery store is known.

40 Mayor Lavelle said five miles.

41 Alderman Chaney said if affordable housing, financed through low income housing tax
42 credits, is to be built on this site, there must be a grocery store within a mile. She said doing
43 the circuit riding from stakeholder to stakeholder, to find options for the site, is ineffective, and a
44 master plan is needed for this site. She said she saw what can be achieved during the inter-
45 city visit to Boulder. She said it took 10 years, but the City worked with all stakeholders to get it
46 done. She said the property must be maximized to benefit the County as a whole.

47 Commissioner Jacobs said he thought staff was directed, at a previous Assembly of
48 Governments (AOG) meeting, to do a draft master plan of mixed used development on this site,
49 so the elected officials could react to. He thought staff was working on it.

1 Craig Benedict said that was the directive, and the Jackson Center drafted a plan, which
2 staff is currently reviewing and discussing with the Center. He said it is hoped that this plan will
3 be available in November at the AOG.

4 Mayor Lavelle said her board often talks about the Greene Tract in reference to
5 affordable housing, food shopping, etc. She said it must be determined which jurisdiction will
6 take the lead in this process.

7 Chair McKee said he fears that this conversation will be never ending, and decisions
8 need to be made collaboratively with one entity taking this project and running with it. He said
9 this needs to be a mixed use and mixed revenue community.

10 Mayor Lavelle said this will be brought up at the AOG in November.

11 Alderman Slade said the community first process should be honored.

12 Alderman Seils agreed with Alderman Slade. He said if processes are not considered
13 about how to make decisions, then wheels will just keep spinning.

14 Chair McKee agreed and said the process needs to be defined and how they will get
15 there. He said all entities can be involved, but only one entity should take the lead.

16 Alderman Seils said the Carrboro Board needs to have a discussion amongst them
17 selves about how Carrboro wants to be involved.

18 Commissioner Burroughs said it is important to know who the partners are before any
19 decisions are made.

20
21 **3. Information Items** (Written Updates - Not for Specific Discussion)

- 22 a) Rogers Road Infrastructure Update
- 23 b) Rogers Road: Mapping Our Community's Future
- 24 c) Southern Library Update

25
26 The meeting adjourned at 9:10 p.m.

27
28 Earl McKee, Chair

29
30
31 Donna Baker
32 Clerk to the Board

33
34

Attachment 4

1
2
3 **DRAFT**4 **MINUTES**
5 **BOARD OF COMMISSIONERS**
6 **REGULAR MEETING**
7 **October 18, 2016**
8 **7:00 p.m.**
910 The Orange County Board of Commissioners met in regular session on Tuesday, October 18,
11 2016 at 7:00 p.m. at the Southern Human Services Center in Chapel Hill, N.C.
1213 **COUNTY COMMISSIONERS PRESENT:** Chair McKee and Commissioners Mia Burroughs,
14 Mark Dorosin, Barry Jacobs, Bernadette Pelissier, Renee Price and Penny Rich15 **COUNTY COMMISSIONERS ABSENT:**16 **COUNTY ATTORNEYS PRESENT:** John Roberts17 **COUNTY STAFF PRESENT:** County Manager Bonnie Hammersley, Deputy Manager Travis
18 Myren and Clerk to the Board Donna Baker (All other staff members will be identified
19 appropriately below)
2021 Chair McKee called the meeting to order at 7:04 p.m.
2223 **1. Additions or Changes to the Agenda**

24 Chair McKee noted the following items at the Commissioners' places:

- 25 - White sheet: additional resolution for item 5-a
-
- 26 - White sheet: revised abstract for item 5-b
-
- 27 - PowerPoint for item 7-a
-
- 28 - PowerPoint for item 7-c
-
- 29

30 **PUBLIC CHARGE**
3132 *Chair McKee dispensed with the reading of the Public Charge.*33 Chair McKee said the Board of County Commissioners released a statement
34 condemning the bombing of the Republican Party Headquarters.
3536 **2. Public Comments**
3738 **a. Matters not on the Printed Agenda**39 Don O'Leary said the bombing of the GOP headquarters is reminiscent of the 1960s
40 and 1970s. He said he does not believe this was a random act. He said this is similar to paid
41 agitators that come into cities and counties and start riots. He said we do not have a federal
42 government anymore, but rather an occupation. He said Orange County should sever itself
43 from the federal government, and keep local decisions local. He said both parties are bad at
44 the federal level.
4546 **b. Matters on the Printed Agenda**47 (These matters will be considered when the Board addresses that item on the agenda
48 below.)
4950 **3. Announcements and Petitions by Board Members**

1 Commissioner Burroughs said Durham County upgraded its family leave policy, and she
2 would like Orange County to review its policy as well.

3 Commissioner Pelissier had no petitions or announcements.

4 Commissioner Jacobs had no petitions or announcements.

5 Commissioner Dorosin said Durham County also raised their living wage to \$15.00 per
6 hour. He said Orange County has a Community Giving Fund, and he said he would like to see
7 a policy for adding line items to this fund. He would like to add a line item for a county fair, and
8 would like to have a discussion about this.

9 Commissioner Rich said Orange County Living Wage now has 88 registered employers,
10 recently adding Orange County Schools and the Town of Hillsborough, whom she
11 congratulated. She said she and Commissioner Jacobs would like to see Orange County's
12 living wage go up to \$15.00 per hour.

13 Commissioner Price said the coordinated campaign was also hit with graffiti, in addition
14 to the bombing at the GOP headquarters.

15 Commissioner Price said OPC/Cardinal Innovations Coordinator Debra Farrington is
16 leaving her position. She acknowledged her presence this evening, and her service to the
17 County.

18 Chair McKee had no petitions or announcements.

19 20 **4. Proclamations/ Resolutions/ Special Presentations**

21 22 **a. Proclamation Recognizing University of North Carolina (UNC) Men's Lacrosse** 23 **2016 NCAA Championship**

24 The Board considered approving the proclamation recognizing the UNC Men's Lacrosse
25 Team for winning the 2016 National Championship and authorize the Chair to sign the
26 proclamation on behalf of the Board.

27 Coach David Metzbower said this is the first NCAA Men's Lacrosse Championship win
28 for UNC since 1991. He reviewed the schedule and wins.

29 Chair McKee read the proclamation:

30
31 **ORANGE COUNTY BOARD OF COMMISSIONERS**
32 **PROCLAMATION OF RECOGNITION ON**
33 **UNC MEN'S LACROSSE TEAM WINNING THE**
34 **2016 NCAA LACROSSE NATIONAL CHAMPIONSHIP**

35
36
37 **WHEREAS**, on May 30, 2016, the University of North Carolina men's lacrosse team captured
38 the NCAA Division I Men's Lacrosse National Championship; and,

39 **WHEREAS**, under the guidance of Head Coach Joe Breschi, the UNC men's lacrosse team
40 earned its first NCAA National Championship title since 1991; and,

41 **WHEREAS**, the Tar Heels completed the season with a 14-13 overtime win against Maryland;
42 and,

43 **WHEREAS**, the UNC men's lacrosse team finished the year with a 12-6 record; and,

44 **WHEREAS**, through hard work, dedication, teamwork, and commitment, the Tar Heels have
45 brought honor upon themselves, the University of North Carolina, Orange County
46 and the State of North Carolina;

47 **NOW, THEREFORE**, be it proclaimed that the Orange County Board of Commissioners
48 expresses its sincere appreciation and respect for the University of North Carolina
49 men's lacrosse team, for the Tar Heels' outstanding achievement, and for their

1 inspiration to youth across the nation through their dedication, teamwork, and
 2 athletic prowess.

3
 4 This, the eighteenth day of October 2016.

5
 6 A motion was made by Commissioner Jacobs, seconded by Commissioner Rich for the
 7 Board to approve the attached proclamation recognizing the UNC Men's Lacrosse Team for
 8 winning the 2016 National Championship and authorized the Chair to sign the proclamation on
 9 behalf of the Board.

10
 11 VOTE: UNANIMOUS

12
 13 **b. Recognition of Basic Law Enforcement Training Academy Graduates**

14 The Board considered recognizing the recent graduates of the 1st Basic Law
 15 Enforcement Training Academy established through a partnership with Durham Technical
 16 Community College.

17 Sheriff Blackwood reviewed the following background information:

18
 19 **BACKGROUND:** The Orange County Sheriff's Office included in its System Plan a goal of
 20 establishing a Basic Law Enforcement Training ("BLET") Academy, which would meet and
 21 exceed minimum State requirements. The underlying idea was to create an Academy with the
 22 look and feel of the Sheriff's Office, utilize in-house instructors as well as those from local
 23 agencies, and offer agency specific training, with the overall goal of exceptional training
 24 culminating in competent and eager graduates. After much collaboration between Durham
 25 Technical Community College administrators and Sheriff's Office Training Division staff, the
 26 BLET 1st Class began on May 2, 2016 and graduated September 22, 2016.

27
 28 Several members of staff from the Sheriff's office gave a synopsis of the cadet process.
 29 Sheriff Blackwood thanked the Commissioners and Durham Tech, saying this is a
 30 dream come true. He introduced each of the cadets.

31 The Board recognized the recent graduates of the 1st Basic Law Enforcement Training
 32 Academy.

33
 34 **5. Public Hearings**

35
 36 **a. North Carolina Community Transportation Program Administrative and Capital**
 37 **Grant Applications for FY 2018**

38 The Board considered: conducting a public hearing to receive public comments on the
 39 proposed grant application; approving the Community Transportation Program Grant
 40 application for FY 2018 in the total amount of \$392,866 with a local match total of \$48,285 to be
 41 provided when necessary; authorizing the Chair to sign the Community Transportation Program
 42 Resolution and the Local Share Certification for Funding forms; and authorizing the Chair and
 43 the County Attorney to review and sign the annual Certifications and Assurances.

44 Peter Murphy, Orange County Public Transportation Administrator, reviewed the
 45 following background information:

46
 47 **BACKGROUND:** Each year, the NCDOT Public Transportation Division accepts requests for
 48 administrative and capital needs for county-operated community transportation programs. OPT
 49 is eligible to make application for both administrative and capital funding. The current year FY

1 2017-approved application includes \$166,765 in administrative funding and \$211,188 in capital
2 funding for replacement vehicles with total expenses equaling \$377,953.

3
4 The total CTP funding request for FY 2018 is \$179,964 for community transportation
5 administrative expenses and an additional \$212,902 for capital expenses. This draft grant
6 application is made for expenses totaling \$392,866 and would entail a 15% local match
7 (\$26,995) for administrative expenses and a 10% local match (\$21,290) for capital expenses.
8 The total local funding of \$48,285 from the County's General Fund would be included in the
9 Manager's recommended 2017-2018 budget.

10
11 The acceptance of these grant funds requires compliance with the annual certifications and
12 assurances, for which the signature pages are attached (Attachment 42). The attached
13 signature pages are for the certifications and assurances for FY 2016 as an example. The FY
14 2017 certifications and assurances signature pages are very similar to those for FY 2016;
15 however, the County has not yet received them from NCDOT. When received, they will be
16 forwarded to the County Attorney and Chair for review and signatures.

17
18 **FINANCIAL IMPACT:** The NCDOT CTP FY 2018 grant requires a 15% local match (\$26,995)
19 for administrative expenses and a 10% local match (\$21,290) for capital expenses for a total of
20 \$48,285. As a comparison, the total CTP grant amount approved for FY 2017 was \$166,765 for
21 administrative expenses (\$25,015 local match) and \$211,188 for capital expenses (\$21,119
22 local match) for a total of \$46,134 local match, an increase of \$14,913 in total expenses
23 (\$2,151 local match) from FY 2017 to FY 2018.

24
25 The indicated local match amounts will be requested in the upcoming FY 2018 budget cycle
26 and must be committed from Orange County's budget for the performance period of July 1,
27 2017, through June 30, 2018 (FY 2018), as indicated in the attached Local Share Certification
28 for Funding form (Attachment 4). This will require Orange County to obligate funding in its next
29 budget cycle for these expenses. A total of \$48,285 would come from the County's general
30 operating budget and would be included in the Manager's recommended 2017-2018 budget.

31
32 **PUBLIC COMMENT**

33 None

34
35 A motion was made by Commissioner Rich, seconded by Commissioner Pelissier to
36 close the public hearing.

37
38 VOTE: UNANIMOUS

39
40 A motion was made by Commissioner Rich, seconded by Commissioner Price to:
41 - Approve the Community Transportation Program Grant application for FY 2018 in the total
42 amount of \$392,866 with a local match total of \$48,285 to be provided when necessary;
43 - Approve and authorize the Chair to sign the two Community Transportation Program
44 Resolutions and the Local Share Certification for Funding forms; and
45 - Authorize the Chair and the County Attorney to review and sign the annual Certifications and
46 Assurances document in Attachment 2.

47
48 VOTE: UNANIMOUS

49

1 **b. Public Hearing Regarding an Economic Development Recruitment Incentive for**
 2 **Wegmans Food Markets, Inc., and a Supplemental Interlocal Agreement Between**
 3 **Orange County & the Town of Chapel Hill**

4
 5 The Board considered:

- 6 1) Receiving the proposal to consider the issuance of incentives to a private company for
 7 the recruitment of Wegmans Food Market, Inc. to Orange County;
 8 2) Approving the “performance-based” economic development incentive agreement
 9 between Orange County and the Company, Wegmans Food Market, Inc., with claw-
 10 back provisions, subject to final review by the County Attorney, and authorizing the
 11 Chair to sign the agreement on behalf of the County;
 12 3) Receiving the supplemental proposal to consider an Interlocal Agreement between
 13 Orange County and the Town of Chapel Hill, whereby the County administers the
 14 performance-based incentive agreement with the Company, and the County and Town
 15 equally share 50/50 in the cost-sharing of the annual incentive payment during the 5-
 16 year term of the incentive agreement; and
 17 4) Approving the Interlocal Agreement, subject to final review by the County Attorney, and
 18 authorizing the Chair to sign on behalf of the County.

19
 20 Project Description:

21 In response to the ongoing relocation by the Performance Automall car dealership operation
 22 (owned by Hendrick Automotive Group) out of Chapel Hill and Orange County and to the
 23 SouthPoint Mall area in adjacent Durham County, and the resulting transfer of over 300 full-time
 24 jobs out of the community, the Town and County have partnered to spur redevelopment of the
 25 14-acre site that serves as an important gateway entry into Chapel Hill.

26
 27 During 2016, the leadership of Orange County and Chapel Hill collaborated closely in this
 28 regard to encourage the recruitment of a single high-quality tenant grocery store, with
 29 restaurants, prepared foods, a farmers market and related retail businesses by the grocery
 30 chain Wegmans Food Markets, Inc. This joint recruitment effort of Wegmans endeavors to
 31 attract to the community a significant number of new jobs, with health insurance & related
 32 employment benefits, and notable tax revenues that warrant the proposed incentive offer to the
 33 company.

34
 35 Considering Wegmans’ competitive site selection efforts as it moves down the eastern
 36 seaboard and into North Carolina and establishes its first retail locations in the state, Orange
 37 County and Town of Chapel Hill have partnered in a joint recruitment and incentivization effort
 38 to attract this specific retail business to the U.S. 15-501 location. The proposed joint financial
 39 incentive, calculated at a value up to \$4.0 million over a proposed 5-year start-up period by the
 40 company, will be equally shared 50/50 by the County & Town.

41
 42 The economic development inducement incentive will be performance-based with respect to the
 43 County’s annual verification of the Company’s targeted increases in (1) employment, wages &
 44 benefits, (2) net new taxable real & personal property additions, and (3) retail sales tax
 45 collections from projected revenue growth, as Wegmans establishes a Chapel Hill retail
 46 presence. Incentives would only be paid following confirmation of the Company’s required
 47 annual threshold growth in these measures, and, on a pro-rata reimbursement in case the
 48 company’s targeted growth in any year lags current growth projections.

49

1 Orange County will serve as the primary administrator of the performance-based Inducement
 2 Agreement between Wegmans and the local governments, and the County is holding the
 3 required public hearing. In addition, there is a separate Interlocal Agreement that governs the
 4 cost share incentive payment transactions between the County and Town over the term of the
 5 total incentive period. This incentive offering is based off the following benefits a Wegmans
 6 retail facility will bring to the community.

7
 8 Travis Myren reviewed the sequence of events for this item.

9 Steve Brantley, Orange County Economic Development Director, made the following
 10 PowerPoint presentation:

11
 12 **Presentation to Orange County Board of Commissioners**
 13 **Public Hearing for a Proposed Economic Development Recruitment Incentive for**
 14 **Wegmans Food markets, Inc. & Interlocal Agreement Between Orange County and the**
 15 **Town of Chapel Hill**
 16 **October 18, 2016**

17
 18 **Description of "Project Eagle"**

- 19 • A redevelopment of the current 14-acre Performance Automall site (following the auto
 20 dealership's ongoing relocation to Durham by owner Hendrick Automall Group) and the
 21 establishment of a single tenant grocery store, with restaurants, prepared foods, farmers
 22 market and related retail businesses by Wegmans Food Markets.

23
 24 **Proposed site for Wegmans Food Market, Inc. (aerial photo)**

25
 26 **Wegmans**

27 Headquartered in Rochester, New York

- 28 • \$7.6 billion in Revenue (2015)
- 29 • Over 46,000 Employees

30 **Company Values:**

- 31 • We care about the well-being and success of every person.
- 32 • High standards are a way of life. We pursue excellence in everything we do.
- 33 • We make a difference in every community we serve.
- 34 • We respect and listen to our people.
- 35 • We empower our people to make decisions that improve their work and benefit our
 36 customers and our company.

37
 38 **Wegmans: helping you make great meals easy**

- 39 • Asian Bar
- 40 • Bakery
- 41 • Beer
- 42 • Catering
- 43 • Complements
- 44 • Floral
- 45 • Kosher Deli
- 46 • Market Café
- 47 • Nature's Marketplace
- 48 • Patisserie
- 49 • Pharmacy

- 1 • Pizza
- 2 • Pub
- 3 • Sub shop
- 4 • Sushi
- 5 • Wine, liquor, beer

6 **Community Benefits**

- 8 • Substantial employment, averaging 350 full-time equivalent jobs.
- 9 • Minimum starting wage of \$12 per hour for at least 70% of FTE employees.
- 10 • Health insurance benefits provided to all full-time employees working at least 30 hours
- 11 per week.
- 12 • Significant gains in new property & retail sales taxes collected.
- 13 • Broad regional market draw from other areas & tourism boost.
- 14 • Direct synergies with Orange County's local food economy.
- 15 • Improvements to a critical U.S. 15-501 gateway location into Chapel Hill.

16 **Outline of Performance Based Incentives** 17 **(on a \$4 million dollar incentive)**

18 **Incentive Structure**

- 20 • \$4.0 million proposed total incentive, split 50/50 between Orange County (\$2 million)
- 21 and the Town of Chapel Hill (\$2 million).
- 22 • Orange County will serve as the primary administrator of the performance-based
- 23 incentive agreement between Wegmans and the local governments, and hold the
- 24 required public hearing.
- 25 • Orange County and the Town of Chapel Hill will have a supplemental Inter-local
- 26 Agreement governing the co-share incentive payment over the term of the incentive
- 27 period.
- 28

29 This incentive offering is based off the following:

- 30 1.) Gateway location along U.S. 15-501 into our community
- 31 2.) Large number of jobs that would be created (185 full-time and approximately 413 part-
- 32 time; or 350 full-time equivalent jobs).
- 33 3.) Significant amount of net new taxable investment being made to develop and improve
- 34 the site (\$30+ million)
- 35 4.) Significant amount of sales tax that will be generated (potentially \$1.5 million +/-
- 36 annually between the County and Town of Chapel Hill).
- 37 5.) This store location will be close to a potential light rail stop.
- 38 6.) Environmental clean-up associated with the site's redevelopment.
- 39 7.) Replacement of outgoing Performance Motors with another company that supports
- 40 community values.

- 41 • Overall property valuation of at least \$18,144,000 in real property and at least
- 42 \$8,000,000 in personal property. The award is calculated at 25% of the total incentive
- 43 based on real and personal property valuation.
- 44 • If the property tax valuation target is not achieved, the incentive payment will be reduced
- 45 proportionally.
- 46 • Wegmans store retail sales are projected to reach \$83,000,000 by the end of the first
- 47 five years. The award is calculated at 50% of the total incentive based on retail sales.
- 48 • If the retail target is not achieved, the incentive payment will be reduced proportionally.
- 49

1
2 Retail Sales Projections:

3 1st year \$62,000,000
4 2nd year \$67,000,000
5 3rd year \$72,000,000
6 4th year \$78,000,000
7 5th year \$83,000,000

- 8
9 • Wegmans will maintain employment consistent with the job chart below during the term
10 of the incentive agreement. The award is calculated at 25% of the total incentive based
11 on job creation and wages.
12 • If the employment target is not achieved, the incentive payment will be reduced
13 proportionally.

14
15 Employment projections:

16

	1 st year	2 nd year	3 rd year	4 th year	5 th year
Full Time Jobs	185	185	185	185	185
Part time jobs (approximate)	250	287	325	350	413
Total (Full time equivalent)	285	300	315	325	350

17
18 Orange County Revenue Projections:

19

	1 st year	2 nd year	3 rd year	4 th year	5 th year	TOTAL
Net New Property Tax Revenue	\$103,782	\$95,002	\$86,222	\$77,442	\$68,662	\$431,112
Sales Tax Revenue	\$813,426	\$879,025	\$944,624	\$1,023,343	\$1,088,941	\$4,749,359
TOTAL REVENUE	\$917,208.3 2	\$974,027.3 2	\$1,030,846.3 2	\$1,100,785.3 2	\$1,157,603.3 2	\$5,180,470.6 0
Incentive Payment	(\$400,000)	(\$400,000)	(\$400,000)	(\$400,000)	(\$400,000)	(\$2,000,000)

20
21 **Project Timeline (chart)**

22
23 Commissioner Jacobs asked if the square footage for this building is known.

24 Dan Aiken, Wegmans, said 120-130,000 square feet, and this is on the upper end of
25 typical for a new store. He said each store is designed individually.

26 Commissioner Rich asked if Dan Aiken could review how the retail sales will increase
27 over a period of five years; and if it is based on other Wegmans stores, or on what happens in
28 this region.

29 Dan Aiken said it is based on how Wegmans sees its sales continue to grow from year
30 to year. He said the 91 Wegmans stores, which are currently operational, have been reviewed,

1 and the income from the first five years has been totaled to prepare an estimate for the store
2 here.

3 Commissioner Jacobs said there are four specialty food stores in Orange County, and
4 asked the consultant if anyone has looked at the effect of a larger store moving into an area
5 with the smaller stores.

6 Dwight Bassett, Economic Development Officer for the Town of Chapel Hill, said the
7 largest impact is generally felt in the first 90-120 day after the opening of a store, and then
8 returns to what it was before, based on buying preferences. He said the market is anticipated
9 to grow in the long term, and this is an opportunity to grow as a foodie destination beyond
10 restaurants.

11 Commissioner Jacobs said the benefits, which Wegmans provides to its employees,
12 should be commended. He said Orange County has a living wage in place, as do over 80+
13 businesses. He asked if Wegmans would support the living wage.

14 Dan Aiken said Wegmans would be inclined to support this, and they have committed to
15 benchmark against what was on the Orange County Living Wage website at the time of this
16 current agreement. He said this will be continually reevaluated going forward.

17
18 **PUBLIC COMMENT:**

19 Pam Hemminger, Mayor of Chapel Hill, said the Town Council did vote unanimously last
20 night to approve this business. She said the Town is grateful for the partnership with Orange
21 County. She said there were a lot of questions last night about the incentive plan, but there
22 were no questions or concerns about this particular company. She said Wegmans is greatly
23 liked. She said this is the first time a company has been successfully lured away from a bigger
24 county that has access to incentives. She said this is a great opportunity for Orange County,
25 and it sends a huge signal that we are serious about business opportunities in our area.

26 Delores Bailey, Executive Director of Empowerment, Inc., said she is present tonight as
27 a member of the Orange County Economic Development Advisory Board, who is in full support
28 of this project and the incentives. She praised this project and Wegmans' great support of its
29 employees. She commended Wegmans for its philanthropic contributions in the communities
30 where their stores are located.

31 Kristen Smith said she is here on behalf Chapel Hill-Carrboro Chamber of Commerce,
32 who is in support of the Wegmans project and the interlocal agreement.

33 Commissioner Burroughs said she is in support of this project. She said it should be
34 reiterated that the incentives are performance based. She said Wegmans is a destination
35 store.

36 Commissioner Price thanked both staffs for their diligence in pursuing this project. She
37 supports this project.

38 Commissioner Rich said she is speaking as the liaison to the Chapel Hill Orange County
39 Visitor's Bureau, and tourists come for many aspects of Orange County including food and
40 hospitality. She said tourism has increased tremendously over the years, and this store will
41 only help to increase this.

42 Commissioner Rich said she is in the food business, and she hates the word "foodie."
43 She would like this word to be taken out of the press releases going forward.

44 Commissioner Pelissier echoed the comments of the other Commissioners. She looks
45 forward to Wegmans doing things in their stores that reflect the values of Orange County.

46 Commissioner Jacobs said he appreciates the opportunity to welcome Wegmans to
47 Orange County, along with the Town of Chapel Hill. He said Wegmans' profile is similar to that
48 of Morinaga. He thanked both staffs from Orange County and Chapel Hill.

49 Commissioner Dorosin clarified that there is no incentive or requirement that Orange
50 County residents should receive these newly created employment opportunities.

1 John Roberts said no there is not because there would be constitutional equal protection
2 issues with doing so.

3 Commissioner Dorosin asked if localized employment can be part of a community
4 benefits agreement with a developer.

5 John Roberts said that may be possible through community development programs, but
6 not from this contractual agreement.

7 Commissioner Dorosin said he would like to see that built into future community
8 development agreements.

9 Steve Brantley said when Orange County wins a project, a relationship is gained with
10 that business entity. He said this leads to the introduction of non-profits and the possibility of
11 earning the philanthropy of the business. He said Wegmans allows them to work together in a
12 partnership.

13 Commissioner Dorosin said one of the elements of these programs is that jobs will be
14 created, and creating jobs for Orange County residents is something he would like to
15 encourage with future businesses.

16 John Roberts said if the Board of County Commissioners (BOCC) approves this, he
17 needs to add one sentence to the approval language when appropriate.

18 Chair McKee said the values that Orange County holds highly aligns with Wegmans'
19 corporate culture. He is very much in support of this project.

20
21 A motion was made by Commissioner Price, seconded by Commissioner Pelissier for
22 the Board to close the Public Hearing.

23
24 VOTE: UNANIMOUS

25
26 A motion was made by Commissioner Price, seconded by Commissioner Pelissier to:

- 27
28 - Approve the "performance-based" economic development incentive agreement between
29 Orange County and the Company, Wegmans Food Market, Inc., with claw-back
30 provisions, subject to final review by the County Attorney, and authorize the Chair to
31 sign the agreement on behalf of the County;
- 32 - Receive the supplemental proposal to consider an Interlocal Agreement between
33 Orange County and the Town of Chapel Hill, whereby the County administers the
34 performance-based incentive agreement with the Company, and the County and Town
35 equally share 50/50 in the cost-sharing of the annual incentive payment during the 5-
36 year term of the incentive agreement; and
- 37 - Approve the Interlocal Agreement, subject to final review by the County Attorney, and
38 authorize the Chair to sign on behalf of the County; and
- 39 - That the Board specifically determines that all appropriations related to the project shall
40 benefit the County by increasing employment, business prospects, and taxable property.

41
42 VOTE: UNANIMOUS

43
44 **6. Consent Agenda**

45 • **Removal of Any Items from Consent Agenda**

46 Item b, by Commissioner Price

47
48 • **Discussion and Approval of the Items Removed from the Consent Agenda**

49
50 **b. Fiscal Year 2016-17 Budget Amendment #2**

1 The Board considered approving budget, grant, and capital project ordinance
2 amendments for fiscal year 2016-17, item #8: Community Loan Fund.

3 Commissioner Price said she would like clarification regarding the \$100,000 from the
4 general fund, and what has happened to these funds since 2012.

5 Paul Laughton, Orange County Finance and Administrative Services, said since 2012
6 five loans have been distributed to residents, totaling approximately \$22,000.

7 Paul Laughton said the original abstract is included from 2012, and this fund was set up
8 in a separate fund, and this is a technical amendment. He said this is an amendment to
9 transfer the funds from the General Fund back into its own line item.

10 Commissioner Price asked if residents in the Efland and Rogers Road areas are aware
11 of these funds.

12 Paul Laughton said he is not sure, but residents were involved in the creation of this
13 fund in 2012.

14 Commissioner Dorosin said he would like to revisit this process, and make these no
15 interest loans.

16 Chair McKee said this can be taken as a petition.

17 Commissioner Price said she agreed with Commissioner Dorosin.

18 Commissioner Jacobs said People for Progress were the original neighborhood for
19 whom this fund was established.

20 Commissioner Jacobs added if this petition is to move forward, then staff should make
21 robust effort to publicize this program's existence.

22 Commissioner Jacobs said from where the funds will come should be considered, and
23 not to limit it to certain neighborhoods. He said the types of neighborhoods that are desired
24 could be defined.

25 Commissioner Dorosin said economically distressed neighborhoods could be targeted,
26 with regards to hook-ups for water and sewer.

27 Commissioner Price said she would like these petitions to move forward, and the status
28 of those who have already received loans should be reviewed.

29
30 A motion was made by Commissioner Price, seconded by Commissioner Jacobs to
31 approve the budget, grant, and capital project ordinance amendments for fiscal year 2016-17.

32
33 VOTE: UNANIMOUS

34
35 • **Approval of Remaining Consent Agenda**

36
37 A motion was made by Commissioner Burroughs, seconded by Commissioner Jacobs to
38 approve the remaining items on the Consent Agenda.

39
40 VOTE: UNANIMOUS

41
42 **a. Minutes**

43 The Board approved the minutes for the September 12, 2016 BOCC Quarterly Public Hearing;
44 and the September 20, 2016 BOCC Regular Meeting, as submitted by the Clerk to the Board.

45 **b. Fiscal Year 2016-17 Budget Amendment #2**

46 The Board approved budget, grant, and capital project ordinance amendments for fiscal year
47 2016-17 for Department on Aging; County Manager's Office; Department of Social Services;
48 Asset Management Services; Cardinal Innovations Healthcare-OPC Community Office;
49 Southern Orange Campus Capital Project; and Emergency Medical Services Substations
50 Capital Project.

1 **c. Board of Commissioners Meeting Calendar for Year 2017**

2 The Board approved the final schedule of meetings for the Board of County Commissioners for
3 calendar year 2017.

4
5 **7. Regular Agenda**

6
7 **a. School Impact Fee Updates**

8 The Board considered adopting the updated school impact fee levels and amendments
9 to the General Code of Ordinances – Educational Facilities Impact Fees.

10
11 Possible options for updated fee levels presented at the public hearing included:

- 12 1. As calculated, adopting at some percentage of the Maximum Supportable Impact Fees
13 (MSIF).
- 14 2. Collapsing the Single Family Detached category in the Orange County Schools district
15 (due to an unexpected result in this category), charging the “Average” for this housing
16 type in this district, charging fees as calculated for other housing types, and adopting at
17 some percentage of the MSIF.
- 18 3. Collapsing all housing type categories in both or either school districts, charging the
19 “Average” calculation by housing type, and adopting at some percentage of the MSIF. a.
20 Note for this option: Accessory dwelling units (e.g., granny flats) are included in the
21 multi-family category (0-2 bedrooms), so setting the fee for the “average” calculation
22 may result in an increase for accessory dwelling units, depending on the percentage of
23 MSIF chosen.
- 24 4. Options 1-3 can also be implemented by increasing the percentage of MSIF over a
25 period of time (e.g., adopt at x% effective 2017, y% effective 2018, and z% effective
26 2019).

27
28 It should be noted that the adopted percentage of MSIF must be the same for all housing types
29 (e.g., fees cannot be adopted at 40% MSIF for one housing type and 60% MSIF for a different
30 housing type).

31
32 Although no members of the public spoke at the public hearing, there was extensive discussion
33 on the impact fee topic. Discussion included:

- 34 • potential impacts on housing affordability;
- 35 • lack of availability of a regional school construction cost inflationary index;
- 36 • how units would qualify for the age restricted housing rate;
- 37 • how changes in demographics, including housing choices, have resulted in differences
38 in the impacts by housing types which could result in potential large increases in impact
39 fees for some housing types, particularly multi-family, due to the large increase in the
40 housing type’s proportional impact on student membership; and
- 41 • comments about which potential option to choose, including potential phasing, and at
42 which percentage levels.

43
44 Additional information regarding the “breakeven point” between current and updated fees was
45 also requested by the BOCC. Details of this information, including assumptions regarding
46 projected dwelling unit counts and bedroom count splits, are included in Attachment 1. In order
47 to calculate the estimated impact fee collection amounts if fees are collected based on the
48 number of bedrooms a unit contains, staff assumed a 50/50 split between units with fewer
49 bedrooms and units with a greater number of bedrooms. If actual construction differs
50 significantly from assumptions, actual impact fee amounts collected would be different (either

1 higher or lower, depending on actual construction activity). The estimated breakeven point if
 2 data is disaggregated to bedroom count levels is 37% of the MSIF. The estimated breakeven
 3 point for the “calculated average” of housing types is 43.5%.

4
 5 When updated impact fees were last adopted in 2008, the initial fee amount was set at a level
 6 (32% of the 2008 MSIF) expected to collect \$1.6 million in the Chapel Hill – Carrboro district in
 7 order to reach the amount budgeted for debt service in that district. The “breakeven point” was
 8 not calculated in 2008 (i.e., the MSIF percentage point was based on budget needs).
 9 Additionally, a four-year implementation period was adopted since the starting point of 32% of
 10 the MSIF provided a very low partial cost recovery. The fee started at 32% of the MSIF on
 11 January 1, 2009 and moved to 40%, 50%, and 60% each January 1 of subsequent years,
 12 completing the annual increases in 2012 (see Attachment 5).

13
 14 Craig Benedict, Planning Director, and Perdita Holtz, Planning, made a PowerPoint
 15 presentation. Perdita Holtz presented the following slides:

16 **2016 School Impact Fee Update**

17 **Results of October 4 Discussion**

- 18 • Breakeven analysis completed
- 19 • Information regarding affordability concerns compiled
- 20 • Two potential ordinances for consideration
 - 21 ◦ One to charge by bedroom counts, if applicable
 - 22 ◦ One to charge by calculated average

23 Note: October 10th presentation at Chapel Hill Council Meeting; Consensus generally
 24 favorable

25 **Breakeven Analysis**

- 26 • Breakeven assumes what revenues would be received under old fee schedule vs. new
 when using projected housing type and bedroom mix of future years.
- 27 • Also parallels development projections.
- 28 • Also approximates budget projections.

29 **Attachment 1 – Breakeven Analysis**

30 Actual Fee Structure (Discussed later in presentation)

- 31 • Bedroom Count tables –
 - 32 ◦ Projected Annual Collections Added
 - 33 ◦ Breakeven % Determined (37%)
 - 34 ◦ Columns added at 37%, 47%, and 57% MSIF
- 35 • Calculated Average Tables
 - 36 ◦ Projected Annual Collections Added
 - 37 ◦ Breakeven % Determined (43.5%)
 - 38 ◦ Columns added at 43.5%, 53.5%, and 63.5% MSIF

39 **Proposed Ordinances**

- 40 • Begin fees at estimated breakeven point and increase by 10 percentage points for 2
 subsequent years
- 41 • Also language in adopting ordinance (Be it further ordained) clarifying building permit
 application deadlines and by when a building permit would have to be issued in order to
 42 pay the prior fee

1
2 **Additional Ordinance Amendments**

- 3
- 4 • Add improved definitions for the various housing types.
 - 5 • Age Restriction; add language in Section 30-33 that would require age restricted units
 - 6 that do not remain age restricted for at least 20 years be required to pay the difference
 - 7 between the age restricted fee paid and the non-age-restricted fee in effect at the time a
 - 8 unit is no longer age restricted.
 - 9 • Additional Ordinance Amendments Cont'd
 - 10 • Add language in Section 30-35(e) clarifying under what conditions a refund would be
 - 11 issued if impact fees were reduced for a particular housing unit type.
 - 12 • Add language in Section 30-38 to recognize conditional zoning, which was adopted in
 - 13 2011 when the UDO was adopted.

14 Craig Benedict presented the following slides:

15
16 **Proposed Fees (bedroom counts) with % Change From Current Fee (Graph)**

17
18 **Proposed Fees (bedroom counts) with % Change From Current Fee (Graph)**

19
20 **Proposed Fees (calculated average) with % Change From Current Fee (Graph)**

21
22 **Proposed Fees (calculated average) with % Change From Current Fee (Graph)**

23
24 **Affordability Summary – CHCCS, by Bedroom Count (at 37, 47, 57% MSIF)**

- 25
- 26 • By and large, units with fewer bedrooms (are smaller less expensive units)
 - 27 ◦ Are smaller less expensive units
 - 28 ◦ Impact Fees are lower
 - 29 ◦ SFD 4+ bedroom would experience a decrease the first year
 - 30 • Small Homes (<800 square foot detached)
 - 31 ◦ Major decrease
 - 32 • Multi-family, 0-2 bedrooms would experience an increase
 - 33 ◦ Of note: 2017 fee would be less than the 2001-2008 fee of \$1979
 - 34 • New manufactured homes
 - 35 • Lower Fees
 - 36 • Age-restricted units; major decrease

37 **Affordability Summary – OCS, by Bedroom Count (at 37, 47, 57% MSIF)**

- 38
- 39 • Multi-family units with 0-2 bedrooms experience a decrease
 - 40 ◦ Lower Fees
 - 41 • Small Homes (<800 square foot detached)
 - 42 ◦ Major decrease
 - 43 • SFD, 0-3 bedrooms
 - 44 ◦ Decrease in year 1
 - 45 ◦ modest increase in year 2
 - 46 ◦ Year 3 increase more
 - 47 • SFA, 0-2 bedrooms
 - 48 ◦ Decrease in years 1 and 2
 - 49 ◦ Year 3 increase
 - Age-restricted units; major decrease

Some Possible Anecdotal Conclusions from the Study Results

- Pre-recession, fewer families were living in multi-family and single-family attached units.
- In the recent past, the number of new multi-family and single-family attached units has increased faster than the numbers of other units
 - Families are moving into these new units at a greater rate than families are moving into single-family units
 - Slower family empty nester conversions
- New lower bedroom count multi-family units in the CHCCS district have been heavily marketed to UNC students.
- Less land for Single Family Detached so families are choosing other 3 bedroom housing types

Recommendation for Tonight

- Receive a presentation by staff.
- Discuss the topic as desired.
- Authorize finalization of the school impact fee study reports by the consultant (TischlerBise).
- Adopt one of the proposed Ordinances as follows:
 - Attachment 2 if impact fees are to be charged by bedroom counts, if applicable, for each housing type.
 - Attachment 3 of impact fees are to be charged using the calculated average for each housing type.
 - Additionally, the BOCC can choose to adopt different MSIF percentage levels from those listed in the ordinances and/or a different phasing timeline.

Commissioner Price said she is having difficulty with the justification of the bedroom chart within the Chapel Hill-Carrboro City School (CHCCS).

Craig Benedict said it has been found through, the majority of the numbers analyzed, that the higher the bedroom count, the more children there are living in the home. He said it is not as simple as looking at one facility at a time.

Commissioner Price said the other area she has concerns with is that the type of home increases the fees; such as going from a single family detached to a multi-family home.

Craig Benedict said renters do not pay impact fees. He said the fee falls on the owners of the building, and is usually spread over a period of time.

Commissioner Price said her concern is that the fee is probably passed on to the renter in the form of higher rent.

Craig Benedict said impact fees are not an affordability tool, but rather a way for new construction to pay for the impact of new development on schools. He said the fees are not as high as they could be, and this is a balanced approach, paying only 50% of the MSIF.

Commissioner Jacobs asked if there is a definition of *age restricted*.

Craig Benedict said one person in the house has to be over 55 years of age, and the property is deed restricted for at least 20 years. He said there is a small number of over 55 year olds with children still in school.

Commissioner Jacobs said if there was a home where grandma was part of the family, the property could be age restricted and four school children could live there, and lower impact fees would be paid.

Craig Benedict said the family member over age 55 has to be the head of household. He said there may be cases where a grandmother invites her extended family to live with her,

1 but he would hope the age restricted community would have covenants to address these other
2 issues.

3 Commissioner Jacobs said there are more and more cases of grandparents raising
4 grandchildren, which will lead to the existence of more exceptions to the rule.

5 Commissioner Dorosin asked if a *covenant* could be defined.

6 Craig Benedict said in order to be assessed for an impact fee, in the age restricted
7 category, the development must have a recorded document that could not be broken. He said
8 should the development ever wish to move away from being age restricted, it would then have
9 to pay the impact fee at the going rate at that time.

10 Commissioner Dorosin asked if the covenant would say that someone over the age of
11 55 would always reside in the property.

12 Craig Benedict said yes.

13 John Roberts said it would be something to that effect, and there is not a draft covenant
14 yet. He said it would be recorded in the Register of Deeds office, likely tied to a Home Owners
15 Association, and these homes are not single family detached, but usually part of a particular
16 community.

17 Commissioner Dorosin said the proposal suggests increasing the chosen fee by 10%
18 after the first year, and 10% again after the second year. He said these increases seem to be
19 at a faster rate than the last time impact fees were changed.

20 Craig Benedict said there were new impact fees that went into effect in 2008, and they
21 went up 10% each year, for four years. He said the 2008 analysis showed that the new fees
22 were higher than the old fees because of the increasing cost of schools.

23 Commissioner Dorosin asked if a new analysis would be done in 2019/2020, due to this
24 current analysis only going out two years.

25 Craig Benedict said the demographics do change, and staff would probably suggest
26 another analysis be completed around 2020. He said the data is improving with each analysis.

27 Commissioner Dorosin said all of these numbers are based on the actual study where
28 current children now live. He asked if the extent, to which these fees will drive the development
29 of houses over the next three years, is known.

30 Craig Benedict said it is not so much the fees that are the drivers, but rather the land
31 constraints and the housing market.

32 Commissioner Rich said the Chapel Hill Town Council asked why Orange County did
33 not do an analysis sooner than 10 years, and she will make a motion to do an analysis more
34 often to keep current.

35 Commissioner Rich said the Town Council also wondered why total square footage of a
36 house was not considered, instead of the number of bedrooms, but staff did explain to them in
37 detail about this.

38
39 **PUBLIC COMMENT:**

40 Jacob Rogers said he is with the Triangle Apartment Association and is here to express
41 concerns about these fees. He said developers will not swallow these fees, and the residents
42 will have higher rents and higher home prices. He said there was no proactive outreach, about
43 this proposal, to the people it will affect the most. He said Orange County is one of two
44 counties in the state that implement these fees. He said their association is involved with the
45 discussion of affordability, and they want to be involved in these conversations. He asked the
46 Board to forego a decision, and to ask staff to reach out to the stakeholders to discuss this
47 further.

48 Brenda Brantley said she is with the Triangle Apartment Association, and echoed the
49 comments of Jacob Rogers.

1 Aaron Nelson said he is the Director of the Chapel Hill-Carrboro Chamber of
2 Commerce, and he just learned of this issue six days ago. He said he does not look at the
3 classified section to read the advertisements about meetings like this. He said there should be
4 a good conversation with all stakeholders to help Orange County create a reasonable impact
5 fee schedule. He highlighted some of the technical issues with the current proposal.

6 Holly Fraccaro said she is the Executive Officer of the Home Builders Association of
7 Orange County and Durham County. She said she is equally disappointed that they were not
8 contacted to be a part of the discussion on impact fees. She asked the Board to forego a vote,
9 and to have a discussion with the stakeholders before making a decision.

10 Aaron Nelson said they have been encouraging developers to build three bedroom
11 multi-family units, as housing is needed for families. He said developers will favor building two-
12 bedroom units as it is cheaper.

13 Commissioner Price said she would be in favor of postponing the vote.

14 Chair McKee said he does not question the numbers analysis, but some of these
15 columns have outrageous increases. He said these increases will have a cumulative effect
16 over three or four years. He asked if there is any timeframe, in this proposed plan that the
17 County comes up with less revenue than is currently being received.

18 Craig Benedict said if more single-family homes than multi-family homes are built, there
19 may not be as much revenue. He said the proposed mix of housing is an assumption based on
20 the trends of development.

21 Chair McKee asked if it also depends on what percentage of MSIF is set as the starting
22 point.

23 Craig Benedict said yes. He said the breakeven point is intended to be almost neutral in
24 year one and it would increase in the ensuing two years.

25 Chair McKee said even at 37%, it is only neutral in one year, and is not at all neutral in
26 other categories.

27 Craig Benedict said it is not neutral by any individual category. He said the idea of
28 starting different categories at different percentages of the MSIF was considered, but a similar
29 percentage across the board is needed to keep proportionality.

30 Commissioner Jacobs asked if the increase in school construction costs since 2008 is
31 known.

32 Craig Benedict said the percentage increase went from 12.5-24% in the 2000s on the
33 elementary school level. He said new numbers for building in tight urban settings can be even
34 higher.

35 Commissioner Jacobs said to John Roberts that he understands the rates have to be
36 statistically defensible to be legally defensible, and asked if there could be a negotiated/ad hoc
37 arrangement that could also be legally defensible.

38 John Roberts said no. He said the Supreme Court has determined there must be
39 proportionality between who pays the fee, what the fee is, and what the fee is paying for. He
40 said the County's authorizing legislation requires an apportionment between what the fee
41 payers are paying, and what cost the fee is off setting. He said a side agreement would not be
42 defensible. He said there is a fee agreement provision in the ordinance, but it involves a
43 dedication of land, and there must be an appraisal of the land completed to establish the value,
44 to ensure that the fee being waived is comparable to the value of the land.

45 Commissioner Rich asked if the number of three bedroom units being built is known.

46 Craig Benedict said the Special Use Permits for approvals do not specify bedroom
47 counts. He said it is at the discretion of the builder, but the one flat fee does not promote the
48 building of three bedroom units over one-bedroom units.

49 Commissioner Rich said the assumption that three-bedroom units will be built is
50 unrealistic. She added that those three bedroom units that are being built are not affordable.

1 Chair McKee asked if increasing the fees will increase the number of three bedroom
2 units being built. He does not see how it would, as these units are not being built currently.

3 Commissioner Rich said the only way these larger units get filled is with UNC students,
4 which does not support the local schools.

5 Commissioner Pelissier said it seems that if the bedroom breakdown is implemented,
6 what is being built is unknown. She asked if there is a way, after one year, to track what is
7 happening on the ground, how the fee is working, and to adjust it as needed.

8 Craig Benedict said the Towns have been asked to collect better data and the school
9 boards for address matching. He said it takes about a year to get information for the past 10
10 years of data. He said a consultant may help in gathering data. He said the numbers may not
11 move that much in one year. He said in the past 15 years multi family housing has changed
12 from student housing to family housing, which leads to the numbers changing.

13 Commissioner Pelissier said the purpose of the fees is to have the new growth to pay
14 the partial costs of schools.

15 Commissioner Burroughs said updating the data is good, and the data is not negotiable.
16 She asked if paying the impact fee over time would be possible.

17 John Roberts said if it is in the ordinance, then it may be allowable.

18 Commissioner Burroughs said the breakeven is the breakeven, and she understands
19 the idea of phasing in, but she has some concerns about starting at the breakeven and phasing
20 in at a higher rate thereafter. She said she is wondering about the difficulty of doing this.

21 Craig Benedict said the impact of saying, for multi family, that 25% is for a 3 bedroom
22 and 75% is for a 0-2 bedroom, would make the breakeven point higher, as there are a lot of
23 revenues coming with the high three bedroom student generation rates. He said this analysis
24 would raise the numbers. He said the Board has asked for upcoming projects to be analyzed.
25 He said the number of bedrooms may vary wildly.

26 Commissioner Burroughs said the data from where the students are generated is fairly
27 exact, but then there is a fair amount of room. She said if 100% of the MSIF was the goal, then
28 the numbers could be more exact, but this is not the goal. She said anything less than 100% of
29 the MSIF is a judgment call by the BOCC. She said Craig Benedict's comments about
30 predicting the number of bedrooms to be built in the future is inexact. She said the BOCC has
31 to make a judgment that feels fair, and the current breakeven rate is a good starting point.

32 Commissioner Dorosin said the statute requires this rational relationship, which leads to
33 the analysis model. He said the statutory restrictions, and the modeling, has to be based on
34 this snapshot. He said the information that the Board desires cannot be captured in the tool
35 they have.

36 John Roberts said the data on which to base the estimate is necessary to make it legally
37 defensible, and the farther one gets from data the more one may be challenged in a court of
38 law.

39 Commissioner Dorosin said the current rate is based on data that is 10 years old.

40 Chair McKee asked John Roberts if using the current fee schedule, and increasing it by
41 10%, would be defensible.

42 John Roberts said it could be defensible, but there would be no data attached to this
43 formula, and he would not advise this proposal. He said any increase should be tied to some
44 data.

45 Craig Benedict said a comment was made 10 years ago about going up to 30%, then
46 40% then 50% and then waiting a few years and going up to 60%, 70%, and 80%. He said it
47 was determined that this course of action would rely on old data, and it was important to have it
48 updated. He said the existing fee structure has weakness in it, as the cost of school
49 construction has doubled over the last 10 years.

1 Commissioner Jacobs said this conversation started in the spring, and it was not fast
2 tracked. He said in response to the public comments, there are some agencies with
3 government affairs staff who should remain apprised of the BOCC agendas, and should have
4 known this discussion was taking place. He said impact fees are a complicated issue, and no
5 matter how many meetings occur, it will remain complicated. He said the BOCC has grappled
6 with questions of fairness and affordability each time this topic has been discussed, as did the
7 previous BOCC. He said in the calculated average, 13 out of 18 categories go down for the
8 CHCCS, but only 7 out of 18 for Orange County Schools (OCS); so at first blush it seems
9 bedroom count is a fairer approach, as most categories go down in both districts. He said as
10 far as student housing goes, it can be converted to housing for families, unless restricted
11 otherwise. He said Orange County is not competing with Chatham County for housing. He
12 said homebuilders insist that residential growth pays for itself, but this is a fallacious argument.
13 He said Orange County conducted a study with North Carolina State University, which showed
14 it does not pay for itself.

15 Commissioner Jacobs said there are no longer state school construction funds; the
16 homebuilders fought bitterly on having a real estate transfer tax; there are also complaints from
17 the same communities that Orange County taxes are too high; and the question remains how
18 does the County pay for the schools. He said there must be mechanisms to address this issue,
19 and there are not too many other choices. He said the County must do what is legally
20 defensible and ethically honest.

21 Commissioner Jacobs said if there are to be further conversations with other
22 stakeholders, which he does not advocate, then he would want to have the County Attorney
23 present, and a predetermined end point. He said he is not in favor of delaying, but he respects
24 people making this argument.

25 Commissioner Price asked if this topic can be delayed, and if so, for how long.

26 John Roberts said waiting a meeting or two would be acceptable. He said if the topic
27 waits too long the data may become stale.

28 Commissioner Price said to take a little more time to engage the community.

29 Commissioner Burroughs asked if this must run by the calendar year.

30 Craig Benedict said another start date can be set. He said there is very methodical
31 language in the ordinance for starting this process and permitting dates. He said he can
32 schedule meetings with stakeholders and the Attorney, and within a month this should be vetted
33 out. He said it is clear that the BOCC takes this issue seriously. He said he would recommend
34 getting this concluded in the next month before a new board member joins the BOCC.

35 Commissioner Rich said there have been three or more discussions on this topic, and
36 the words legally defensible keep coming back. She asked if the study has to be approved
37 along with the numbers, and would be legally defensible.

38 John Roberts said yes, this would adopt the data upon which the ordinance is based.

39 Commissioner Rich asked if the numbers were altered would they then no longer be
40 legally defensible.

41 John Roberts said the authorizing legislation states that the Board shall determine what
42 should be fairly born by the people who are paying the taxes, which comes into play with what
43 percentage of the maximum supportable fee is fair. He said that is up to the Board, but
44 recommends that the data in the categories should not be tampered with.

45 Commissioner Rich referred to the idea of paying over time, and would like more
46 information about this.

47 Craig Benedict said if that practice were instated, it must be available to all.

48 Commissioner Rich suggested the possibility of starting lower than the breakeven
49 amount of 37%, knowing that the numbers will go up. She said she is on the fence about
50 having further discussions.

1 Commissioner Pelissier said it seems to her that everyone is already paying the impact
2 fee over time. She said her only concern is that affordable housing units pay impact fees up
3 front, and then have to wait for the reimbursement. She asked if there is a way to speed that
4 up.

5 Commissioner Pelissier said the Board should vote on which options of data to use:
6 bedrooms or the average.

7 Commissioner Dorosin said to conclude the conversation. He said there is a consensus
8 of value in the process of engaging stakeholders, and suggested staying on a timeline to
9 approve this on November 15th.

10
11 A motion was made by Commissioner Dorosin, seconded by Commissioner Price to
12 defer the final consideration of this item to the November 15th BOCC meeting, and in the interim
13 direct staff and the County Attorney to meet with stakeholders, and the leadership of school
14 boards and to share information.

15
16 Commissioner Jacobs offered a friendly amendment to pick bedroom count as the
17 method before this is put out for further discussion.

18 Commissioner Dorosin accepted the friendly amendment.

19 Commissioner Price said she is not happy with the friendly amendment, but she would
20 accept it as she sees Commissioners nodding their heads.

21 Chair McKee said he is not nodding his head, and he feels that if a conversation is going
22 to be opened up, then it should be opened up in its entirety. He said locking any aspect of this
23 topic down gives the impression of a predetermined outcome.

24 Commissioner Price said she will not accept the friendly amendment, and withdraws her
25 second to it.

26 Commissioner Jacobs said having an extending conversation is already a compromise.

27 Commissioner Rich seconded the friendly amendment.

28
29 Vote on amendment: Ayes, 5 (Commissioner Dorosin, Commissioner Rich, Commissioner
30 Jacobs, Commissioner Pelissier, Commissioner Burroughs); Nays, 2 (Commissioner Price and
31 Chair McKee).

32
33 Discussion resumed regarding the original motion made by Commissioner Dorosin, as
34 amended to include the method of the bedroom count:

35 Chair McKee said the Board must consider what does not get built, and how the Board's
36 decisions are directing what does get built. He said no one has mentioned that anything that is
37 built will provide new property taxes, some of which may be significant. He said he is
38 adamantly against starting below the breakeven point.

39 Chair McKee said this whole topic does not have to be this complicated, and the
40 discussion tonight suggested ways to make it even more complicated. He said there are 98
41 other counties in North Carolina that build schools without impact fees.

42 Chair McKee said he heard a lot of conversation tonight that was not centered on
43 schools, but rather how to direct development.

44
45 VOTE: Ayes, 6; Nays, 1 (Chair McKee)

46 A motion was made by Commissioner Jacobs, seconded by Commissioner Pelissier to
47 direct staff to come back with a policy for reimbursement of the impact fees for non-profits
48 organizations.

49
50 VOTE: UNANIMOUS

1
2 **b. Orange County ABC Board Travel Policy**

3 The Board considered approving the Orange County Alcoholic Beverage Control (ABC)
4 Board's use of the amended travel policy.

5 Bonnie Hammersley said this was a reconsideration of a motion on which the Board
6 acted in June.

7 Gary Donaldson, Chief Financial Officer, led the presentation:
8

9 **BACKGROUND:** Five years ago, the North Carolina Alcoholic Beverage Control Commission
10 enacted a new policy requirement that each local ABC Board adopt a travel policy on an annual
11 basis. A local ABC Board can adopt the State of North Carolina's travel policy, or the travel
12 policy of the County in which the ABC Board resides, or a travel policy that conforms to the
13 travel policy of the County.
14

15 The Orange County ABC Board voted the last five years to adopt and use Orange County's
16 travel policy. The travel policy was most recently adopted by the BOCC on June 21, 2016.
17 Subsequent to the June adoption, the ABC Board had minor ABC revisions primarily pertaining
18 to ABC approval in order for the ABC Board to use the proposed amended policy, the Board of
19 County Commissioners must approve.
20

21 Chair McKee said the ABC Board does not object to informing the Manager of their
22 travel plans. He said the ABC Board is a state board, though the BOCC appoints board
23 members and Chair, but does not provide operational funding.
24

25 A motion was made by Commissioner Rich, seconded by Commissioner Burroughs for
26 the Board to approve the Orange County ABC Board's use of the amended travel policy.
27

28 VOTE: UNANIMOUS
29

30 **c. Designation of the "Headwaters Nature Preserve" and Approval of Budget**
31 **Amendment #2-A**

32 The Board considered approving the Resolution To Designate and Create the
33 "Headwaters Nature Preserve", with changes and revisions as needed, and authorized the
34 Chair to sign the resolution as approved by the Board.

35 David Stancil, Department of Environment, Agriculture, Parks and Recreation (DEAPR)
36 Director, made the following PowerPoint presentation:
37

38 **Designation of Headwaters Nature Preserve**
39 **October 18, 2016**

40
41 **Site Description**

- 42 ○ 60 acres adjoining Greene Tract and Neville Tract
- 43 ○ Acquired as part of Solid Waste Interlocal Agreement
- 44 ○ Forested, with volunteer trails
- 45 ○ Landlocked – only access through Greene Tract or to north

46
47 **Context Map**

48
49 **Proposed Uses**

- 50 ○ Consistent with March 2000 Memorandum

- 1 ○ Land selected primarily for natural resource / conservation values
- 2 ○ Proposed name – headwaters of Old Field Creek

3
4 **Site Map**

5
6 **Recommended Actions**

- 7 1. Announce intention to use for open space and low-impact recreation
- 8 2. Enroll in Lands Legacy Program as Headwaters Nature Preserve
- 9 3. Authorize reimbursement as per FY 2016-21 CIP
- 10 4. Direct staff to return with master plan and implementation schedule

11 Commissioner Price asked if there is a way to access this property.

12 David Stancil said the property is landlocked, and access would be through the Greene
13 Tract, or via the properties to the north.

14 Commissioner Jacobs commended staff for using the low impact recreation verbiage.

15 Commissioner Jacobs said it will take years to develop a plan for the Greene Tract, and
16 limiting access for that long is unacceptable to him. He said the other owners of the Greene
17 Tract should be informed that the County plans to allow access to the Headwaters Preserve via
18 the Greene Tract. He said if there is an objection it can be dealt with; but if there is no
19 objection, the land should be accessible with an “enter at your own risk” posting.

20 Commissioner Dorosin suggested that a trail should be in place.

21 Commissioner Jacobs said there is already a trail, and suggested using what is there,
22 after it has been checked by County staff for major ruts or obstacles. He said it is important to
23 just get people using it.

24 David Stancil said staff will look at the volunteer trails, which will probably need to be
25 fixed, but are usable.

26 Commissioner Price asked if an easement could be requested to allow access to this
27 nature preserve.

28 David Stancil said the simplest thing to do would be to get a temporary trail easement.

29 Chair McKee said access would require an agreement with Chapel Hill and Carrboro,
30 and asked if a dedicated easement for future access could come off of Lizzie Lane.

31 John Roberts said there may be an existing easement to use.

32
33
34 **ORANGE COUNTY BOARD OF COMMISSIONERS**
35 **RESOLUTION**

36 **To Designate and Create the “Headwaters Nature Preserve”**

37
38 WHEREAS, Orange County owns 60 acres of land south of Eubanks Road, west of Purefoy
39 Drive, north of Homestead Road and west of the North Carolina Railroad on the north side of
40 Chapel Hill; and

41
42 WHEREAS, the location of this property makes it conducive for public open space and low
43 impact recreation – including trails, picnic tables and wildlife viewing areas – for the surrounding
44 neighborhoods and the Rogers-Eubanks community; and

45
46 WHEREAS, the Orange County Board of County Commissioners of March, 2000 – citing the
47 natural resources present on site - expressed an intention to keep this 60 acres of land
48 undisturbed; and

49

1 WHEREAS, a 2002 master plan for the adjoining 104-acre Greene Tract reflected open space
2 as an important and contiguous future land use, and recent planning efforts for the Greene
3 Tract continue to show open space and low-impact recreation as a recommended part of the
4 mix of future uses; and

5
6 WHEREAS, the Orange County Board of County Commissioners adopted an FY 2016-17
7 budget that included funds to reimburse the Solid Waste Enterprise Fund for this property; and
8

9 WHEREAS, on September 8, 2016 the Board expressed a desire to move forward with
10 designation of the 60-acre suite for open space and low-impact recreation.

11
12 NOW, THEREFORE, BE IT RESOLVED:

13
14 That the Orange County Board of County Commissioners hereby designates this 60-acre
15 property as the "Headwater Nature Preserve" and take the following actions:

- 16
- 17 1. That this 60-acre property be assigned for use as publicly-accessible open space and
- 18 low-impact recreation, with such usage to begin as soon as practical.
- 19 2. That this land be enrolled in the County's Lands Legacy Program, to be protected and
- 20 conserved for this designated purposes.
- 21 3. That the County Manager and staff be directed to develop a plan for implementation.

22 This, the 18th Day of October 2016.

23
24 A motion was made by Commissioner Jacobs, seconded by Commissioner Rich to
25 approve the resolution, with changes and revisions as needed and authorized the Chair to sign.
26 And direct staff to make this parcel accessible as soon as possible.
27

28 **The resolution will be shared with the elected boards of the towns of Chapel Hill and**
29 **Carrboro, the Chapel Hill-Carrboro Schools Board of Education, and the current Greene**
30 **Tract staff working group.**

31
32 VOTE: UNANIMOUS

33
34 Chair McKee said due to lateness of the evening, he would like to defer the rest of the
35 items on the agenda.
36

37 **8. Reports**
38 None

39
40 **9. County Manager's Report**
41 DEFERRED

42
43 **10. County Attorney's Report**
44 DEFERRED

45
46 **11. Appointments**
47 DEFERRED

48
49 **12. Board Comments**
50 DEFERRED

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13. Information Items

- October 4, 2016 BOCC Meeting Follow-up Actions List
- Memorandum - Old Courthouse Square Project - Norwood Jones Office Preservation
- Memorandum - Facility Parking and Pedestrian Sidewalk Project Update
- BOCC Chair Letter Regarding Petitions from October 4, 2016 Regular Meeting

14. Closed Session

NONE

15. Adjournment

A motion was made by Commissioner Dorosin, seconded by Commissioner Price to defer the rest of the items on the agenda and to adjourn the meeting at 10:54 p.m.

VOTE: UNANIMOUS

Earl McKee, Chair

Donna Baker
Clerk to the Board

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: December 5, 2016

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

SUBJECT: Motor Vehicle Property Tax Releases/Refunds

DEPARTMENT: Tax Administration

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 values for seven taxpayers with a total of seven bills 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 three 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.

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".

For classified motor vehicles, NCGS 105-330.2(b) allows for a full or partial refund when a tax has been paid and a pending appeal for valuation reduction due to excessive mileage, vehicle damage, etc. is decided in the owner's favor.

FINANCIAL IMPACT: Approval of these release/refund requests will result in a net reduction of \$1,306.61 to Orange County, the towns, and school and fire districts. Financial impact year to date for FY 2016-2017 is \$8,032.

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-2016-074

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 DECEMBER 5, 2016

NAME	ABSTRACT NUMBER	BILLING YEAR	ORIGINAL VALUE	ADJUSTED VALUE	FINANCIAL IMPACT	REASON FOR ADJUSTMENT
Ahrendt, Kenneth Carl	33755708	2015	17,160	0	(317.56)	County changed to Chatham (illegal tax)
Craig, Michael	5802337	2016	17,990	13,447	(73.17)	High mileage and damage (appraisal appeal)
Herman, Richard Elliott	31164262	2015	34,780	0	(612.84)	County changed to Chatham (illegal tax)
NC United Methodist Camp Retreat	30114407	2015	19,250	19,250	(197.72)	Exempt property (illegal tax)
Reade, Frank	34257650	2016	4,260	2,130	(33.19)	High mileage (appraisal appeal)
Taylor, Wendolyn	32545807	2016	5,840	4,380	(24.46)	Holds a **branded title (appraisal appeal)
Trembley, Arneita	20021063	2013	2,440	2,440	(47.67)	*Situs error (illegal tax)
					(1,306.61)	TOTAL

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</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>
<i>*Situs error: An incorrect rate code was used to calculate bill. Value remains constant but bill amount changes due to the change in specific tax rates</i>
<i>**Branded title: A passenger motor vehicle ownership document issued with words or symbols signifying that the vehicle was: salvaged, total loss; dismantled, rebuilt or reconstructed; flood damaged; fire damaged; hail damaged.</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: December 5, 2016

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

SUBJECT: Property Tax Releases/Refunds

DEPARTMENT: Tax Administration

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 values for eleven taxpayers with a total of thirty-six (36) bills that will result in a reduction of revenue.

BACKGROUND: The Tax Administration Office has received eleven taxpayer requests 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 \$9,646.26 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 that 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-2016-075

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 - REAL/PERSONAL
DECEMBER 5, 2016**

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)

NAME	ABSTRACT NUMBER	BILLING YEAR	ORIGINAL VALUE	ADJUSTED VALUE	FINANCIAL IMPACT	REASON FOR ADJUSTMENT	ADDITIONAL INFORMATION
Brown, Jean	265616	2016	30,661	0	(293.70)	Double billed (illegal tax)	Also billed on account 972707
Brown, Jean	265616	2015	30,661	0	(293.70)	Double billed (illegal tax)	Also billed on account 972707
Brown, Jean	265616	2014	30,661	0	(293.70)	Double billed (illegal tax)	Also billed on account 972707
Brown, Jean	265616	2013	30,661	0	(287.57)	Double billed (illegal tax)	Also billed on account 972707
Brown, Jean	265616	2012	30,661	0	(281.44)	Double billed (illegal tax)	Also billed on account 972707
Celedon, Araceli	288946	2010	27,401	0	(251.51)	Double billed (illegal tax)	Also billed on account 317020
Duron, Miguel	303312	2008	8,880	0	(117.48)	Double billed (illegal tax)	Also billed on account 302098
Duron, Miguel	303312	2007	9,540	0	(119.10)	Double billed (illegal tax)	Also billed on account 302098
Duron, Miguel	303312	2009	8290	0	(102.59)	Double billed (illegal tax)	Also billed on account 302098
Jan Sassaman Trustee (University United Methodist Church)	323304	2016	620,000	0	(52.30)	Assessed in error (clerical error)	Amount incorrectly listed on Real-Personal Report for 10/4/16 meeting, shown as (\$10,036.78) but correct amount is (\$9,984.48)
Jeffries, Collene	232900	2016	77,447	47,900	(280.11)	Assessed in error (illegal tax)	Home destroyed by fire on 12/9/2014
Jeffries, Collene	232900	2015	77,447	47,900	(280.11)	Assessed in error (illegal tax)	Home destroyed by fire on 12/9/2014
McBroom, Beverly	1058511	2016	11,670	1,240	(110.32)	Assessed in error (illegal tax)	Property sold out of county
Mircelles, Francisco	1053658	2016	51,130	0	(489.77)	Double billed (illegal tax)	Also billed on account 1019937
Mircelles, Francisco	1053658	2015	51,130	0	(489.77)	Double billed (illegal tax)	Also billed on account 1019937
Mircelles, Francisco	1053658	2014	51,130	0	(489.77)	Double billed (illegal tax)	Also billed on account 1019937
Rodriguez, David C Jr.	268487	2014	18,120	0	(172.43)	Double billed (illegal tax)	Also billed on account 1051719
Rodriguez, David C Jr.	268457	2013	19,510	0	(181.76)	Double billed (illegal tax)	Also billed on account 1051719
Rodriguez, David C Jr.	268457	2012	20,680	0	(189.03)	Double billed (illegal tax)	Also billed on account 1051719
Rodriguez, David C Jr.	268457	2011	23,152	0	(211.63)	Double billed (illegal tax)	Also billed on account 1051719
Rodriguez, David C Jr.	268457	2010	24,370	0	(224.59)	Double billed (illegal tax)	Also billed on account 1051719
Rodriguez, Luis Omar	1005080	2016	8,120	0	(143.83)	Double billed (illegal tax)	Also billed on account 324049 (lot 5)
Rodriguez, Luis Omar	1005080	2015	8,700	0	(167.61)	Double billed (illegal tax)	Also billed on account 324049 (lot 5)
Rodriguez, Luis Omar	1005080	2014	9,100	0	(165.63)	Double billed (illegal tax)	Also billed on account 324049 (lot 5)
Rodriguez, Luis Omar	1005080	2013	9,740	0	(172.72)	Double billed (illegal tax)	Also billed on account 324049 (lot 5)
Rodriguez, Luis Omar	1005080	2012	10,950	0	(190.64)	Double billed (illegal tax)	Also billed on account 324049 (lot 5)
Rodriguez, Luis Omar	1005080	2011	11,445	0	(207.25)	Double billed (illegal tax)	Also billed on account 324049 (lot 5)
Terrell, Larry	1020415	2016	9,600	0	(101.55)	Double billed (illegal tax)	Also billed on 1050703 (Barbara Terrell)
Terrell, Larry	1020415	2015	10,280	0	(118.26)	Double billed (illegal tax)	On account 1050703 (Barbara Terrell)
Terrell, Larry	1020415	2014	10,750	0	(132.50)	Double billed (illegal tax)	On account 1050703 (Barbara Terrell)
Warren, David	1051044	2016	11,180	0	(180.04)	Situs error (illegal tax)	Boat is billed in New Hanover County for 2016
Zoeller, James E	223644	2014	186,546	125,800	(578.06)	Assessed in error (illegal tax)	Billed on partial construction of a home that did not exist
Zoeller, James E	223644	2013	186,546	125,800	(565.91)	Assessed in error (illegal tax)	Billed on partial construction of a home that did not exist
Zoeller, James E	223644	2012	186,546	125,800	(565.91)	Assessed in error (illegal tax)	Billed on partial construction of a home that did not exist
Zoeller, James E	223644	2011	186,546	125,800	(565.91)	Assessed in error (illegal tax)	Billed on partial construction of a home that did not exist
Zoeller, James E	223644	2015	186,546	125,800	(578.06)	Assessed in error (illegal tax)	Billed on partial construction of a home that did not exist
					(9,646.26)	Total	

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: December 5, 2016

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

SUBJECT: Applications for Property Tax Exemption/Exclusion

DEPARTMENT: Tax Administration

ATTACHMENT(S):

Exempt Status Resolution
Spreadsheet
Requests for Exemption/Exclusion

INFORMATION CONTACT:

Dwane Brinson, Tax Administrator,
(919) 245-2726

PURPOSE: To consider eleven untimely applications for exemption/exclusion from ad valorem taxation for ten bills for the 2016 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.

Six of the applicants are applying for homestead exclusion based on NCGS 105-277.1, which allows exclusion of the greater of \$25,000 or 50% of the appraised value of the residence.

One applicants is applying for exclusion based on NCGS 105-277.1C, which allows for an exclusion of \$45,000 for an honorably discharged Disabled American Veteran.

Three of the applicants are applying for exemption based on NCGS 105-278.6 (8), which allows an exemption of a nonprofit organization providing housing for individuals or families with low or moderate incomes.

One applicant is applying for exemption based on NCGS 105-278.4, which allows for an exemption of a property that is wholly and exclusively used for educational purposes by the owner or occupied gratuitously by another nonprofit educational institution and wholly and exclusively used by the occupant for nonprofit educational purposes.

Including these eleven applications, the Board will have considered a total of forty-one (41) untimely applications for exemption of 2016 taxes since the 2016 Board of Equalization and Review adjourned on May 28th. Taxpayers may submit an untimely application for exemption of 2016 taxes to the Board of Commissioners through December 31, 2016.

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 2016/2017 taxes due to the County, municipalities, and special districts in the amount of \$24,337.96.

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

RECOMMENDATION(S): The Manager recommends that the Board approve the attached resolution for the above-listed applications for FY 2016/2017 exemption.

NORTH CAROLINA

RES-2016-076

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
DECEMBER 5, 2016**

NAME	ABSTRACT NUMBER	BILL YEAR	ORIGINAL VALUE	TAXABLE VALUE	FINANCIAL IMPACT	REASON FOR ADJUSTMENT
Barker, Martha	229720	2016	110,888	55,444	(892.87)	Late application for exemption G.S. 105-277.1 (Homestead Exemption)
Cooper, Walter	10953	2016	109,777	54,888	(527.81)	Late application for exemption G.S. 105-277.1 (Homestead Exemption)
Empowerment Inc.	137147	2016	108,609	0	(1,749.04)	Late application for exemption G.S. 105-278.6 (8) (Low or moderate income housing)
Habitat For Humanity of Orange County NC	132077	2016	58,200	0	(871.40)	Late application for exemption G.S. 105-278.6 (8) (Low or moderate income housing)
Habitat For Humanity of Orange County NC	17636	2016	54,110	0	(949.85)	Late application for exemption G.S. 105-278.6 (8) (Low or moderate income housing)
Hill, Betty	155978	2016	41,100	16,100	(237.00)	Late application for exemption G.S. 105-277.1 (Homestead Exemption)
His, Nancy	268217	2016	397,800	198,900	(3,203.09)	Late application for exemption G.S. 105-277.1 (Homestead Exemption)
Rogers, Bettie	66513	2016	238,716	193,716	(754.11)	Late application for exemption G.S. 105-277.1C (Disabled Veteran)
Rone, Lloyd E.	182368	2016	98,734	55,058	(414.05)	Late application for exemption G.S. 105-277.1 (Homestead Exemption)
The University of NC at Chapel Hill Arts & Sciences Foundation Inc.	1058165	2016	638,900	0	(10,288.85)	Late application for exemption G.S. 105-278.4 (Educational purposes)
Wicker, Cheryle	272103	2016	552,643	276,321	(4,449.89)	Late application for exemption G.S. 105-277.1 (Homestead Exemption)
				Total	(24,337.96)	

October 13, 2016 thru November 15, 2016

FILED

NOV 07 2016

ORANGE COUNTY
TAX ADMINISTRATION



Request for Tax Relief Late Application Filing

Date: 11-3-16

To Whom It May Concern:

I, (PRINT NAME) MARTHA C BARKER, wish to be considered for Property Tax Relief Exemption or Exclusion for the year 2016 on Parcel Identification Number (PIN) # 9799116613.013.

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 on to the 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)

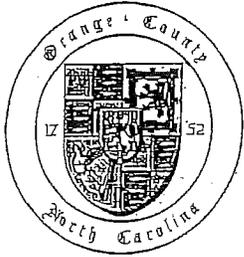
Thank you,

Martha C. Barker
(Signature)

How did you find out about this exemption?

SENIOR TIMES Insert in Newspaper

* Vanessa Abston
assisting app (friend)



Request for Tax Relief
Late Application Filing

Date: October 13, 2016

FILED

OCT 14 2016

To Whom It May Concern:

ORANGE COUNTY
TAX ADMINISTRATION

I, (PRINT NAME) Walter I. Cooper, wish to be
considered for Property Tax Relief Exemption or Exclusion for the year 2016 on Parcel
Identification Number (PIN) # 9876908638.

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 on
to the 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,

Walter I. Cooper
(Signature)

How did you find out about this exemption?

Orange County Tax Office



Reclaiming the POWER of our Communities

BOARD OF DIRECTORS

John Wroton
Square 1 Bank
President

Jabe Hunter
Chapel Hill Police Department
Vice President

Nora Esthimer
Treasurer
Pittsboro Resident

Sarah Geer
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Community Advocate

James Baldwin
Community Advocate

Linda Bynum
Community Advocate

John Cooley
Community Advocate

Lydia Mason
Piedmont Health

Jackie Sharpe
Community Advocate

Buffie Webber
Community Advocate

STAFF

Delores Bailey
Executive Director

LaTanya Davis
Property Manager

Sarita Nwachukwu
Director of Community Programs

Laurie Weller
Finance Manager

UNC BONNER STUDENTS

Alaowei Amanah
Elliott Chen
Isabella Hernandez
Tarik Woods

VOLUNTEERS

Jalen Nwachukwu
Jeffrey Ruffin

November 8, 2016

Orange County Tax Office
Gateway Center
228 S. Churton Street 2nd Floor
Hillsborough, NC 27278

To Whom It May Concern:

EmPOWERment Inc., an affordable housing provider in Orange County, purchased a property located at 505 Edwards Street from Mr. William Perry in 2015. Unfortunately we have been late filing for exemption on this property. The property was to be renovated then converted to a rental property to be rented to families at or below 80% AMI. Though we are normally very timely when filing for exemptions, (this is such an important tool that allows non-profits to pass the subsidy on to the renter) during the transfer of the properties and the renovation, Mr. Perry passed. At the same time, EmPOWERment lost their full time finance manager who is normally responsible for filing for exemptions. These factors caused EmPOWERment to be late filling for exemption status on this property. We sincerely apology for this oversight. Thank you for your consideration.

Regards,

Delores Bailey
Executive Director

Midway Business Center 109 N. Graham Street, Suite 200 Chapel Hill, NC 27516
Phone: 919-967-8779 Fax: 919-967-0710
empowermentincnc@gmail.com www.empowermentinc-nc.org



88 Vilcom Center Drive, Suite L110
Chapel Hill, NC 27514
P (919) 932-7077, F (919) 932-7079
www.orangehabitat.org
info@orangehabitat.org

Shavonda McLean
Orange County Tax Administration
P O Box 8181
Hillsborough NC 27278

October 31, 2016

Re: PIN 9788077548

Dear Shavonda,

Please accept and approve our application for exemption from property taxes as submitted to you via email earlier today. I sincerely apologize for the lateness of this application.

When we obtained this property in October 2015, we purchased it from the Self-Help Community Development Corporation, another non-profit, and we inadvertently forgot to apply for the tax exemption for us. This was an oversight on our part and we apologize.

Please let me know if you have further questions, and thank you for your attention to this.

Respectfully,



Randy McNeill, CPA
Finance Director
Habitat for Humanity of Orange County
88 Vilcom Center Drive, Suite L110 Chapel Hill, NC 27514
Office: 919-932-7077 ext. 230
Email: rmcneill@orangehabitat.org



88 Vilcom Center Drive, Suite L110
Chapel Hill, NC 27514
P (919) 932-7077, F (919) 932-7079
www.orangehabitat.org
info@orangehabitat.org

Shavonda McLean
Orange County Tax Administration
P O Box 8181
Hillsborough NC 27278

October 31, 2016

Re: PIN. 9865616217

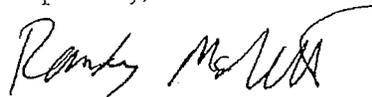
Dear Shavonda,

Please accept and approve our application for exemption from property taxes as submitted to you via email earlier today. I sincerely apologize for the lateness of this application.

When we obtained this property in August 2013 2015, we were in the middle of staffing transitions and we missed applying for the tax exemption for this property. This was an oversight on our part and we apologize.

Please let me know if you have further questions, and thank you for your attention to this.

Respectfully,



Randy McNeill, CPA
Finance Director
Habitat for Humanity of Orange County
88 Vilcom Center Drive, Suite L110 Chapel Hill, NC 27514
Office: 919-932-7077 ext. 230
Email: rmcneill@orangehabitat.org



FILED

AUG 17 2016

ORANGE COUNTY
TAX ADMINISTRATION

**Request for Tax Relief
Late Application Filing**

Date: 8/6/2016
~~5/3/2016~~

To Whom It May Concern:

I, (PRINT NAME) Betty Hill, wish to be considered for Property Tax Relief Exemption or Exclusion for the year 2016 on Parcel Identification Number (PIN) # 9836125632.

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.

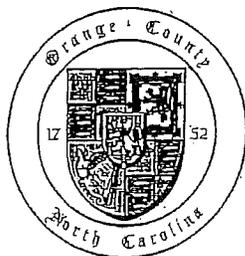
- I was not aware that this exemption was available to me.
- I just found out about the Property Tax Relief Program.
- Other (please explain)

Thank you,

Betty Hill
(Signature)

How did you learn of this exemption?

Tax Office



FILED

OCT 03 2016

ORANGE COUNTY
TAX ADMINISTRATION

Request for Tax Relief Late Application Filing

Date: 9/30/16

To Whom It May Concern:

I, (PRINT NAME) Nancy Hsi, wish to be considered for Property Tax Relief Exemption or Exclusion for the year 2016 on Parcel Identification Number (PIN) # 9890115482.

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 on to the 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 Hsi
(Signature)

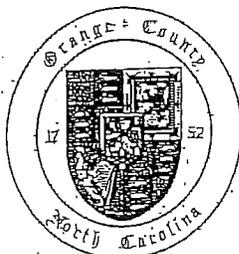
How did you find out about this exemption?

a friend told me.

FILED

JUN 09 2016

ORANGE COUNTY
TAX ADMINISTRATION



Request for Tax Relief
Late Application Filing

Date: 6-8-16

To Whom It May Concern:

I, (PRINT NAME) Bettie Rogers, wish to be considered for Property Tax Relief Exemption or Exclusion for the year 2014 on Parcel Identification Number (PIN) # 9870445166.

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)

Samuel F. Rogers (husband deceased)

I Bettie Rogers is reapplying for VA exclusion

Thank you,

Bettie Rogers
(Signature)

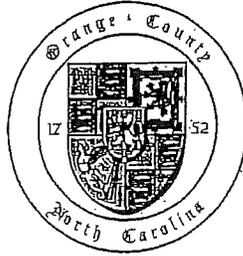
How did you learn of this exemption?

Previous application

FILED¹³

OCT 13 2016

ORANGE COUNTY
TAX ADMINISTRATION



Request for Tax Relief
Late Application Filing

Date: 10-13-16

To Whom It May Concern:

I, (PRINT NAME) Lloyd E Rone, wish to be considered for Property Tax Relief Exemption or Exclusion for the year 2016 on Parcel Identification Number (PIN) # 9835549498.

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 on to the 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,

Lloyd E. Rone
(Signature)

How did you find out about this exemption?



UNC
COLLEGE OF
ARTS & SCIENCES

THE UNIVERSITY
of NORTH CAROLINA
at CHAPEL HILL

THE ARTS AND SCIENCES FOUNDATION

BUCHAN HOUSE
523 E. FRANKLIN ST.
CHAPEL HILL, NC 27514

T 919.962.0108
F 919.962.2531
college.unc.edu/foundation

October 26, 2016

Orange County Tax Administration
Assessment Division
228 S Churton Street, Suite 200
Hillsborough, North Carolina 27278

Dear Ms. Shavonda McLean:

Attached is our application of exemption for 2016 for property PIN 9788682724. Per our earlier discussion the 2015 application did not proceed due to fact that the Town of Chapel Hill owned the property at the time and that the then PIN numbers were still registered to the town.

We are now requesting an exemption based on the new PIN registered in the Foundation's name. Please let me know if you have any questions or need any further documentation. Thanks for your assistance and understanding with this process.

Best,


Larry Johnson



FILED

NOV 11 2016

**ORANGE COUNTY
TAX ADMINISTRATION**

**Request for Tax Relief
Late Application Filing**

Date: Nov. 8, 2016

To Whom It May Concern:

I, (PRINT NAME) Cheryle Jernigan Wicker, wish to be considered for Property Tax Relief Exemption or Exclusion for the year 2016 on Parcel Identification Number (PIN) # 97 88 343172.

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 was going through cancer chemo treatments and was very sick. I also needed to file my income taxes late which I wanted to have for the filing for tax relief.

Thank you,


(Signature)

How did you learn of this exemption?

my daughter told me about it

**ORANGE COUNTY
BOARD OF COMMISSIONERS
ACTION AGENDA ITEM ABSTRACT
Meeting Date: December 5, 2016**

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

SUBJECT: Next Generation A9-1-1 Backup PSAP Connection and Call Service Delivery

DEPARTMENT: Emergency Services

ATTACHMENT(S):

INFORMATION CONTACT:

Kevin Medlin, 919-245-6139

Dinah Jeffries, 919-245-6123

PURPOSE: To approve an amendment to the Next Generation A9-1-1 Solutions agreement, originally approved by the BOCC on October 7, 2014, to provide connectivity between the backup 911 Center and the primary 911 Center and to authorize the use of Emergency Telephone funds to fund the necessary hardware and software.

BACKGROUND: The NC 911 Board has mandated that all 9-1-1 PSAPs in the state of North Carolina have an approved backup plan by July 1, 2016 and have a backup plan implemented and operational by July 1, 2017. Orange County has an approved backup plan on file in accordance with the N.C. General Statute §143B-1400 §§ 4, 6, and 7. The new equipment and call delivery service allows Orange County to meet the mandate of the NC 911 Board, §143B-1400.

On September 6, 2016 the BOCC approved the purchase of call processing equipment for the Backup 9-1-1 Center. The BOCC approved using Emergency Telephone Fund money for this expenditure.

Staff is requesting authorization to purchase the equipment and necessary services to connect the backup 9-1-1 center to the Backup center's new call processing equipment and to provide a connection between the Backup Center and the primary 911 Center. The connection would allow for 9-1-1 call routing to the backup PSAP as well as create a redundant loop for 9-1-1 call delivery. Upon implementation, this purchase would create two circuits at the backup PSAP in addition to the two circuits already in service at the primary PSAP. This would give the 911 Center multiple call routing options during a disruption of service and the ability to answer calls in an emergency with minimized risk of complete loss of service.

Staff is requesting that the BOCC approve the use of Emergency Telephone Funds fund balance in the amount of \$78,152.29 for the one time purchase of hardware and network equipment. This is an approved expenditure by the NC 9-1-1 Board. This appropriation of fund balance from the Emergency Telephone Fund would be included as part of the December 13, 2016 Budget Amendment to be considered by the Board.

In addition, staff is requesting an increase to the monthly maintenance contract associated with this equipment and additional call taking capabilities. This increase is contingent upon approval by the NC 9-1-1 Board and would be funded using State funds available to 911 Centers on an annual basis. The increase in the Emergency Telephone Funds monthly budget allotment

would be \$6,580.11 per month over the remaining thirty-six month contract term. If approved by the NC 9-1-1 Board, this additional allotment will be included as part of a future Budget Amendment in FY 2016-17. The total cost for both the one time equipment purchase and the ongoing services would increase the contract from \$1,585,654.53 to \$1,900,690.77, a total increase of \$315,036.24.

FINANCIAL IMPACT: The total cost of this one time purchase for the hardware and network charges for the Backup 9-1-1 PSAP is \$78,152.29. This is an approved expenditure by the NC 9-1-1 Board. The original contract value signed on October 10, 2014 was \$1,585,654.53. The added service for the backup 9-1-1 PSAP will increase the total cost of the contract to \$1,900,690.77. This increases the monthly re-occurring charges by \$6,580.11. Staff will submit a funding reconsideration to the NC 9-1-1 Board in January 2017 or when the next funding reconsideration is opened to increase the 9-1-1 budget from the original monthly cost of \$26,427.57 to \$33,007.68.

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

- **GOAL: CREATE A SAFE COMMUNITY**

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

RECOMMENDATION(S): The Manager recommends the Board:

- 1) Approve an amendment to the Next Generation A9-1-1 agreement, originally approved by the BOCC on October 7, 2014, for hardware, network charges and call center delivery to the backup PSAP;
- 2) Authorize, contingent upon approval by the NC 911 Board, the use of Emergency Telephone Funds for ongoing call delivery services; and
- 3) Authorize the Manager to sign all documents related to the project and any amendments to the Agreement.

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: December 5, 2016

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

SUBJECT: Bid Award for a Compact Wheel Loader for Recycling

DEPARTMENT: Solid Waste Management

ATTACHMENT(S):

Price Quotation

INFORMATION CONTACT:

Gayle Wilson, Solid Waste, 968-2885
Gary Donaldson, 245-2453

PURPOSE: To consider awarding a bid to Gregory Poole Equipment of Raleigh, North Carolina for one (1) Compact Wheel Loader for the Recycling Division of the Solid Waste Management Department.

BACKGROUND: The Solid Waste Management Department equipment replacement schedule calls for the replacement of a Compact Loader (#429). The #429 machine is used daily to load recyclable materials delivered to the County recyclable materials processing pad into transfer trailers which deliver the materials to a materials processing facility in Raleigh for final processing and marketing.

North Carolina General Statute (NCGS) 143-129(e) (9) allows purchases from contracts established by the State or any agency of the State, if the contractor is willing to extend to a political subdivision of the State the same or more favorable prices, terms, and conditions as established in the State contract. The contractor (Gregory Poole Equipment) has agreed to extend the pricing on State Contract 760H. Warranty service for the Compact Loader will be provided by the Gregory Poole Equipment.

Staff compiled a list of specifications that meet the County's needs and compared these specifications to information on units available through the North Carolina State Contract. There were no noted deficiencies and staff determined that the specifications met the County's needs. The recommended unit is a CAT 910M Compact Wheel Loader at a cost of \$131,145, including 4.5 cubic yard bucket. The Pricing Sheet is attached.

Staff requests that existing Compact Loader #429 be declared surplus once the new Compact Loader is received and put into service as it will likely exceed the \$5,000 value threshold. The #429 machine was purchased in FY 2008-09, currently has logged approximately 11,700 hours of operation and is being replaced on its assigned eight year replacement cycle. As per standard practice, each piece of equipment and vehicle scheduled for replacement is thoroughly evaluated before being included in the annual budget for replacement.

FINANCIAL IMPACT: The purchase price of the new Compact Loader along with recommended options is \$131,145. The debt finance purchase of the Compact Loader was included in the adopted 2016-17 Solid Waste Budget, and if approved, will be part of the Spring 2017 financing package.

Proceeds from the sale of the replaced Compact Loader, less any applicable fees, will be returned to the Solid Waste Management Department enterprise fund.

SOCIAL JUSTICE IMPACT: There is no Orange County Social Justice Goal impact associated with the purchase of these trucks.

RECOMMENDATION(S): The Manager recommends that the Board approve awarding the bid of one (1) Compact Loader from Gregory Poole Equipment at a delivered cost of \$131,145. The Manager also recommends that the Board: 1) declare the existing Compact Loader #429 surplus after receipt of the new Compact Loader and 2) authorize the Asset Management Services Director to affect the sale of the surplus Loader through GovDeals.



Customer: Orange County
Address 1: Landfill Solid Waste
Address 2: 1514 Eubanks Rd
City/St/Zip: Chapel Hill,, NC 27516 8124
County: ORANGE
Phone No: (919)932-2988
Attention: Jamie Rogers

Quote No: 49494
Date: 9/25/2016
Customer No: 0112402
Prepared By: Ed Hooks
Phone No: 919-568-7520
Fax No:
Email: hooks@gregpoole.com

We are pleased to submit the following quotation with all standard equipment plus the following attachments:

MODEL:

- 508-0335 910M WHEEL LOADER
- 462-7420 ENGINE, C4.4 T4F HRC CAT LIST \$160,980.00
- 462-7124 POWERTRAIN, HI RIMPULL
- 463-2090 CAB DELUXE
- 467-04072 LOADER AR, STD CPLR, HI LIFT
- 260-9831 SEAT BELT
- 308-0189 VALVE, DRAIN, ECO
- 423-5544 LIGHTS. ROADING, RH DIP
- 433-3258 SECURITY SYSTEM, NONE
- 444-1001 ENGINE COOLANT
- 448-9539 LIGHTS, CAB. WORKING
- 450-5405 HYD. OIL, STANDARD
- 462-6950 STEERING STANDARD
- 462-7111 HEATING AND AIR CONDITIONER
- 462-7340 HD BATTERIES
- 470-6223 HYD 3V, HI LIFT
- 471-6212 WORKTOOL WIRING
- 471-6763 FEATURE PACKAGE, ROAD AND LOAD
- 474-1980 ALARM, BACKUP
- 474-1982 ENGINE COOLANT HTR
- 486-3775 3V QUICK DISCONNECT
- 504-4835 CAMERA. REAR VIEW
- 443-7885 **17.5 25 FLEX SOLID**
- 504-4713 FENDERS NONE
- 260-5501 ROTATING BEACON
- 426-1506 LIMITER AXLE ASCILLATION

**CONTRACT NUMBER 760H
 LESS DISCOUNT PER ACTIVE
 STATE CONTRACT NUMBER
 201101567/ BID NUMBER
 LESS DISCOUNT \$38,480.00**

TOTAL SALES PRICE: 122,500.00
 (Price does not include applicable taxes or fees)

3 YEAR/3000 HOUR POWERTRAIN
 WARRANTY

FINANCING OPTIONS:

Months:	Type:	Interest Rate:	Monthly Payments:
	Month Installment Sales Contract		

FOR ROCKLAND LIGHT MATERIAL
BUCKET
106" WIDE 4.5 CUBIC YARD CAPACITY ADD \$8,645.00

ED HOOKS
GREGORY POOLE EQUIPMENT

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: December 5, 2016

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

SUBJECT: Orange County Property Naming Policy

DEPARTMENT: County Manager

ATTACHMENT(S):

- 1) Orange County Property Naming Policy-AMENDED 12-05-2016
- 2) Orange County Property Naming Policy-AMENDED 11-17-2015
- 3) Orange County Property Naming Policy-AMENDED 3-03-2009
- 4) Orange County Property Naming Policy-AMENDED 11-09-2005
- 5) List of County Named Facilities
- 6) Comparison of Naming Policies

INFORMATION CONTACT:

Bonnie Hammersley, 919-245-2300

PURPOSE: To approve the amended the Orange County Property Naming Policy as directed by the BOCC at the November 10, 2016 work session.

BACKGROUND: At the November 10, 2016 Board work session, in response to a petition from Commissioner Bernadette Pelissier, the BOCC discussed the Orange County Property Naming Policy. Included in the discussion for clarification were the following issues:

- Under what circumstances should a property be named
- What can be named
- Should a county property be named for a living person
- Definition of renaming a property

The BOCC discussed the issues and requested the following amendments to the policy (Attachment 1):

- Section 2.1.3: Add "after a public participation process"
- Section 2.1.5 (b): Remove "monetary"

The previous amendments to the Orange County Property Naming Policy are attached for review as well as the list of County named facilities and naming policy comparison. (Attachments 2 – 6).

FINANCIAL IMPACT: There is no immediate financial impact related to this discussion.

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

- **GOAL: ENABLE 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 amended policy as presented.

POLICY FOR INSERTION INTO THE POLICY MANUAL

MEETING DATE: February 21, 1989

NUMBER: A-0390

EFFECTIVE DATE: February 21, 1989

REVISIONS: November 9, 2005

March 3, 2009

November 17, 2015

December 5, 2016**POLICY: Orange County Property Naming Policy****Policy "Policy Statement"**

County owned buildings, facilities and land shall bear such names as the Orange County Board of Commissioners shall approve pursuant to this policy. This policy follows all applicable local, state and federal laws, rules and regulations.

Purpose

This policy is to establish the Board of County Commissioners as the responsible authority for naming of County buildings, facilities, and land.

Guidelines

- 2.1. The naming of public buildings, facilities and land shall be done only by the Board of County Commissioners by resolution adopted by majority vote.
 - 2.1.1. Property to be given names or titles shall be either owned by Orange County government or leased by Orange County government for its use.
 - 2.1.2. Properties to be named or given a title include county-owned or leased buildings.
 - 2.1.3. Official names or titles for property belonging to the County shall only be changed by the Board of County Commissioners as it deems appropriate after a public participation process.
 - 2.1.4. Current names for property belonging to the County shall remain the same unless changed by the Board of County Commissioners upon relocation or change in function of the property.
 - 2.1.5. No property belonging to Orange County shall be named for living persons with the following exceptions.
 - a. Any areas or rooms in buildings, other physical facilities, collections of books, records or other printed or audio-visual materials, land or water areas
 - b. Living persons who secure funding and/or make a significant ~~monetary~~ contribution to the development/construction of a public building or facility when such a contribution is made with the intent and agreement of the Board of County Commissioners that said building or facility will be named for the contributor
 - c. Leased property that has been conferred a name by the lessor that is a person's name need not be renamed if it has locational or other value

- 2.1.6 Official names or titles for property belonging to or leased by the County shall be based upon geographical, historical, ecological, functional, or other such factors as the Board of County Commissioners deems appropriate. If a geographical reference of locational value is derived from the name of a person, such as a street name, it may be used in naming County property.
- a. A public building/facility under construction/renovation or land purchased for park development or conservation/preservation will be given a "working title" which will only become the official title of the property when formally approved as such by the BOCC
 - b. Memorial naming of a public building, facility or land is in addition to the official title of the building/facility/land and is bestowed in accordance with Section 2.2 of this policy
 - c. Leased property naming will respect historical names that may already be attached to the facility or as may be negotiated with the owner of the building.
- 2.1.7 Exceptions to this policy of naming property belonging to the County may be made by the Board of County Commissioners as it deems appropriate.
- 2.1.8 This policy does not apply to the naming of public streets, roads, alleys and other similar thoroughfares.
- 2.1.9 This policy shall not be construed as the mechanism for selling the permanent naming rights to County structures, buildings, facilities or land.
- 2.2. Memorial Naming (in honor of a deceased individual) of Public Buildings, Facilities, or Land: In the event Orange County wishes to honor a deceased individual by naming a public building, facility or land after such an individual, the following shall apply:
- 2.2.1. The person who is being honored by such a memorial shall have made a significant contribution to the well-being and betterment of Orange County.
 - 2.2.2. The party requesting a memorial shall submit a brief biography of the person to Orange County government for recording purposes.
 - 2.2.3. The memorial naming of a public building, facility or land will be in addition to the official name as defined in Section 2.1.6 of this policy.
 - 2.2.4. Renaming a public building, facility or land which has previously been named in honor of or in memorial to an individual shall only be done in extraordinary circumstances as determined by the Board.

Procedures

- 2.3. A public building/facility under construction/renovation or land purchased for park development or conservation/preservation shall be given a "working title" by staff for easy identification of the property.

- 2.4. The proposed naming of a public building, facility or land may be generated in the following manner.
 - a. Staff shall recommend to the BOCC an official title of the public building, facility or land in accordance with Section 2.1.6 of this policy. Such recommended by staff will be made prior to the completion of any project to construct, renovate or develop the property.
 - b. Any person, firm or association may propose a name for a County owned building, facility or land by submitting the proposal in writing to the County Manager or Clerk to the Board.
 - c. Under certain circumstances the BOCC may wish to set in place a public process for soliciting input in the official naming of a public building, facility or land.
- 2.5. The County Manager shall prepare a report with recommendations for the proposed naming of the public building, facility or land and present it to the BOCC for consideration at a regularly scheduled public meeting.
- 2.6. Upon receipt of the report and the recommendations of the manager the BOCC will state its intent to consider the adoption of a resolution for the naming or renaming of the public building, facility or land at the next or some subsequent meeting as determined by the BOCC.
- 2.7. The Board may determine the public building, facility or land is of significant public interest and direct a notice be published informing the public of the Board's intent to consider the naming or renaming of the public building, facility or land and fix a time and place for a public hearing on the question.
- 2.8. Upon approval of the resolution by the BOCC, the public building, facility or land shall bear the name assigned to it from and after the date of Board action or such subsequent date as the BOCC may prescribe.

POLICY FOR INSERTION INTO THE POLICY MANUAL

MEETING DATE: February 21, 1989

NUMBER: A-0390

EFFECTIVE DATE: February 21, 1989

REVISIONS: November 9, 2005
March 3, 2009
November 17, 2015**POLICY: Orange County Property Naming Policy****Policy "Policy Statement"**

County owned buildings, facilities and land shall bear such names as the Orange County Board of Commissioners shall approve pursuant to this policy. This policy follows all applicable local, state and federal laws, rules and regulations.

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This policy is to establish the Board of County Commissioners as the responsible authority for naming of County buildings, facilities, and land.

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 - 2.1.1. Property to be given names or titles shall be either owned by Orange County government or leased by Orange County government for its use.
 - 2.1.2. Properties to be named or given a title include county-owned or leased buildings.
 - 2.1.3. Official names or titles for property belonging to the County shall only be changed by the Board of County Commissioners as it deems appropriate.
 - 2.1.4. Current names for property belonging to the County shall remain the same unless changed by the Board of County Commissioners upon relocation or change in function of the property.
 - 2.1.5. No property belonging to Orange County shall be named for living persons with the following exceptions.
 - a. Any areas or rooms in buildings, other physical facilities, collections of books, records or other printed or audio-visual materials, land or water areas
 - b. Living persons who secure funding and/or make a significant monetary contribution to the development/construction of a public building or facility when such a contribution is made with the intent and agreement of the Board of County Commissioners that said building or facility will be named for the contributor
 - c. Leased property that has been conferred a name by the lessor that is a person's name need not be renamed if it has locational or other value

- 2.1.6 Official names or titles for property belonging to or leased by the County shall be based upon geographical, historical, ecological, functional, or other such factors as the Board of County Commissioners deems appropriate. If a geographical reference of locational value is derived from the name of a person, such as a street name, it may be used in naming County property.
- a. A public building/facility under construction/renovation or land purchased for park development or conservation/preservation will be given a "working title" which will only become the official title of the property when formally approved as such by the BOCC
 - b. Memorial naming of a public building, facility or land is in addition to the official title of the building/facility/land and is bestowed in accordance with Section 2.2 of this policy
 - c. Leased property naming will respect historical names that may already be attached to the facility or as may be negotiated with the owner of the building.
- 2.1.7 Exceptions to this policy of naming property belonging to the County may be made by the Board of County Commissioners as it deems appropriate.
- 2.1.8 This policy does not apply to the naming of public streets, roads, alleys and other similar thoroughfares.
- 2.1.9 This policy shall not be construed as the mechanism for selling the permanent naming rights to County structures, buildings, facilities or land.
- 2.2. Memorial Naming (in honor of a deceased individual) of Public Buildings, Facilities, or Land: In the event Orange County wishes to honor a deceased individual by naming a public building, facility or land after such an individual, the following shall apply:
- 2.2.1. The person who is being honored by such a memorial shall have made a significant contribution to the well-being and betterment of Orange County.
 - 2.2.2. The party requesting a memorial shall submit a brief biography of the person to Orange County government for recording purposes.
 - 2.2.3. The memorial naming of a public building, facility or land will be in addition to the official name as defined in Section 2.1.6 of this policy.
 - 2.2.4. Renaming a public building, facility or land which has previously been named in honor of or in memorial to an individual shall only be done in extraordinary circumstances as determined by the Board.

Procedures

- 2.3. A public building/facility under construction/renovation or land purchased for park development or conservation/preservation shall be given a "working title" by staff for easy identification of the property.

- 2.4. The proposed naming of a public building, facility or land may be generated in the following manner.
 - a. Staff shall recommend to the BOCC an official title of the public building, facility or land in accordance with Section 2.1.6 of this policy. Such recommended by staff will be made prior to the completion of any project to construct, renovate or develop the property.
 - b. Any person, firm or association may propose a name for a County owned building, facility or land by submitting the proposal in writing to the County Manager or Clerk to the Board.
 - c. Under certain circumstances the BOCC may wish to set in place a public process for soliciting input in the official naming of a public building, facility or land.
- 2.5. The County Manager shall prepare a report with recommendations for the proposed naming of the public building, facility or land and present it to the BOCC for consideration at a regularly scheduled public meeting.
- 2.6. Upon receipt of the report and the recommendations of the manager the BOCC will state its intent to consider the adoption of a resolution for the naming or renaming of the public building, facility or land at the next or some subsequent meeting as determined by the BOCC.
- 2.7. The Board may determine the public building, facility or land is of significant public interest and direct a notice be published informing the public of the Board's intent to consider the naming or renaming of the public building, facility or land and fix a time and place for a public hearing on the question.
- 2.8. Upon approval of the resolution by the BOCC, the public building, facility or land shall bear the name assigned to it from and after the date of Board action or such subsequent date as the BOCC may prescribe.

COPY

ORANGE COUNTY
BOARD OF COMMISSIONERS

ACTION AGENDA ITEM ABSTRACT

Meeting Date: **March 3, 2009**

Action Agenda

Item No. 6-b

SUBJECT: Orange County Property Naming Policy

DEPARTMENT: County Manager

PUBLIC HEARING: (Y/N)

ATTACHMENT(S):

Draft Revised County Property Naming
Policy
Current Facility Naming Policy

INFORMATION CONTACT:

Laura Blackmon, 245-2300

PURPOSE: To consider a draft revision of the Orange County Facility Naming Policy.

BACKGROUND: Orange County adopted a Facility Naming Policy in 1989 that was last revised in 2005. This policy has played a major role over the last few years due to the County's comprehensive construction program. From time to time there have been issues raised in the naming of these new facilities that were not addressed in the current policy. For example, there has been confusion regarding the naming of facilities after individuals, the naming of facilities in conjunction with sponsorship by private entities, and the role of County advisory boards in proposing potential facility names.

Based on these concerns, the Board directed the County Manager to review the current policy and propose revisions to address these issues. The proposed new policy developed by the Manager is attached along with the County's current policy. Highlights of the new policy include:

- 1) An expansion of the term "property" to include buildings, facilities, land, portions of buildings, collections of books, records, etc.
- 2) Working titles to be given for buildings and facilities under construction or renovation and land that is being developed for parks or other county uses
- 3) Official names or titles for property based upon geographical, historical, ecological, or functional uses
- 4) Memorial naming of property in addition to the official name to be made in honor of a deceased individual
- 5) Property named for living persons to be specified only under certain conditions

Upon adoption, this policy would guide the Board and County government as a whole in addressing the naming of public property including facilities, buildings, parks, and sports complexes.

FINANCIAL IMPACT: There is no financial impact associated with Board consideration of the new proposed policy. Depending on the outcome of Board discussion, including any determinations regarding the naming of facilities in conjunction with sponsorship by private entities, some aspects of the policy implementation could have financial impacts.

RECOMMENDATION(S): The Manager recommends the Board discuss the newly proposed Orange County Property Naming Policy, provide feedback and questions to staff, and consider approval of the policy at this meeting or at a future meeting.

Draft Proposed Orange County Property Naming Policy

Policy x.x “Policy Statement”

County owned buildings, facilities and land shall bear such names as the Orange County Board of Commissioners shall approve pursuant to this policy. This policy follows all applicable local, state and federal laws, rules and regulations.

Purpose

This policy is to establish the Board of County Commissioners as the responsible authority for naming County buildings, facilities, and land.

Guidelines

- 2.1. The naming of public buildings, facilities and land shall be done only by the Board of County Commissioners by resolution adopted by majority vote.
 - 2.1.1. Property to be given names or titles shall be either owned by Orange County government or leased by Orange County government for its use.
 - 2.1.2. Properties to be named or given a title include buildings, any areas in buildings, other physical facilities, collections of books, records or other printed or audio-visual materials, land or water areas
 - 2.1.3. Official names or titles for property belonging to the County shall only be changed by the Board of County Commissioners as it deems appropriate.
 - 2.1.4. Current names for property belonging to the County shall remain the same unless changed by the Board of County Commissioners upon relocation or change in function of the property.
 - 2.1.5. No property belonging to Orange County shall be named for living persons with the following exceptions.
 - a. Living persons who make a significant monetary contribution to the development of a public building or facility when such a contribution is made with the intent and agreement of the Board of County Commissioners that said building or facility will be named for the contributor
 - b. Leased property that has been conferred a name by the lessor that is a person's name need not be renamed if it has locational or other value
 - 2.1.6 Official names or titles for property belonging to or leased by the County shall be based upon geographical, historical, ecological, functional, or other such factors as the Board of County Commissioners deems appropriate. If a geographical reference of locational value is derived from the name of a person, such as a street name, it may be used in naming County property.
 - a. A public building/facility under construction/renovation or land purchased for park development or conservation/preservation will be given a “working title” which will only become the official title of the property when formally approved as such by the BOCC
 - b. Memorial naming of a public building, facility or land is in addition to the official title of the building/facility/land and is bestowed in accordance with Section 2.2 of this policy

- c. Leased property naming will respect historical names that may already be attached to the facility or as may be negotiated with the owner of the building.
 - 2.1.7 Exceptions to this policy of naming property belonging to the County may be made by the Board of County Commissioners as it deems appropriate.
 - 2.1.8 This policy does not apply to the naming of public streets, roads, alleys and other similar thoroughfares.
 - 2.1.9 This policy shall not be construed as the mechanism for selling the naming rights to County structures, buildings, facilities or land.
- 2.2. Memorial Naming of Public Buildings, Facilities, or Land: In the event Orange County wishes to honor a deceased individual by naming a public building, facility or land after such an individual, the following shall apply:
- 2.2.1. The person who is being honored by such a memorial shall have made a significant contribution to the well-being and betterment of Orange County.
 - 2.2.2. The party requesting a memorial shall submit a brief biography of the person to Orange County government for recording purposes.
 - 2.2.3. The memorial naming of a public building, facility or land will be in addition to the official name as defined in Section 2.1.6 of this policy.
 - 2.2.4. It is prohibited to rename a public building, facility or land which has previously been named in honor of or in memorial to an individual except in extraordinary circumstances when the Board deems it appropriate.
 - 2.2.5. This policy does not apply to living persons or entities that make a significant monetary contribution to the development of a public building, facility or land when such a contribution is made with the intent and agreement of the Board of County Commissioners that said building, facility or land will be named for the contributor.

Procedures

- 2.3. A public building/facility under construction/renovation or land purchased for park development or conservation/preservation shall be given a "working title" by staff for easy identification of the property.
- 2.4. The proposed naming of a public building, facility or land may be generated in the following manner.
 - a. Staff shall recommend to the BOCC an official title of the public building, facility or land in accordance with Section 2.1.6 of this policy. Such recommended by staff will be made prior to the completion of any project to construct, renovate or develop the property.
 - b. Any person, firm or association may propose a name for a County owned building, facility or land by submitting the proposal in writing to the County Manager or Clerk to the Board.
 - c. Under certain circumstances the BOCC may wish to set in place a public process for soliciting input in the official naming of a public building, facility or land.

- 2.5. The County Manager shall prepare a report with recommendations for the proposed naming of the public building, facility or land and present it to the BOCC for consideration at a regularly scheduled public meeting.
- 2.6. Upon receipt of the report and the recommendations of the manager the BOCC will state its intent to consider the adoption of a resolution for the naming or renaming of the public building, facility or land at the next or some subsequent meeting as determined by the BOCC.
- 2.7. The Board may determine the public building, facility or land is of significant public interest and direct a notice be published informing the public of the Board's intent to consider the naming or renaming of the public building, facility or land and fix a time and place for a public hearing on the question.
- 2.8. Upon approval of the resolution by the BOCC, the public building, facility or land shall bear the name assigned to it from and after the date of Board action or such subsequent date as the BOCC may prescribe.

POLICY FOR INSERTION INTO THE POLICY MANUAL

MEETING DATE: February 21, 1989

NUMBER: A:0390

EFFECTIVE DATE: February 21, 1989

REVISIONS: November 9, 2005

POLICY:

NAMING OF COUNTY OWNED BUILDINGS AND FACILITIES POLICY

ORANGE COUNTY POLICY AND PROCEDURE CONCERNING THE NAMING OF COUNTY OWNED BUILDINGS AND FACILITIES

1. County owned buildings and facilities shall bear such names as the Orange County Board of Commissioners shall approve pursuant to this policy.
2. Any person, firm or association may propose a name for a County owned building or facility. Such proposal shall be made in writing and filed with the County Manager and/or Clerk.
3. The County Manager shall prepare a report concerning the proposed naming. The report shall contain such information as the County Manager deems appropriate but should, in most instances, contain the following information
 - a. The proposed name of the facility;
 - b. The existing name of the facility, if applicable;
 - c. Whether other County buildings or facilities bear the proposed name;
 - d. Whether the same name is proposed and currently pending for some other publicly owned building or facility within Orange County.
 - e. If the building or facility is frequented by the public for a number and variety of uses, whether the proposed name would be confusing because of other public or private facilities or structures bearing the same or similar name;
 - f. A brief description of the building or facility for which the name is proposed;
 - g. If the proposed name is that of an individual, an inclusive description of the individual's contribution to the community should be included
4. The report shall be made to the Orange County Board of Commissioners by the County Manager
5. Upon receipt of the report and the recommendations, the Board of Commissioners will consider the adoption of a resolution stating its intent to consider the naming or renaming of the building or facility at the next or some subsequent meeting determined by the Board of Commissioners. If the building or facility is a significant public structure, the Board may, at its option, direct that a notice be published informing the public of the Boards intent to consider the naming or renaming of the proposed building or facility and the fixing of a time and place for a public hearing on the question.

6. The building or other facility shall bear the name assigned to it by the Board from and after the date of the Board's approving action or such subsequent date as the Board of Commissioners may prescribe.
7. This policy and procedure does not apply to the naming of public streets, roads, alleys, and other similar thoroughfares.
8. Under unusual circumstances and for reasons satisfactory to the Board of Commissioners, the Board may name a County owned building or facility without following the procedures set forth herein.
9. Portions of a building, such as a meeting room or resource center, may bear the name of an individual or group subject to the procedures outlined above.
10. This policy shall not be construed as a mechanism for selling the name rights to county structures or facilities.

COPY

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: **November 9, 2005**

Action Agenda
Item No. 4

SUBJECT: Proposed Revisions to the Policy for Naming of County Owned Buildings and Facilities

DEPARTMENT: Board of County Commissioners

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

Policy for Naming of County Owned Buildings And Facilities

INFORMATION CONTACT:

Commissioner Moses Carey

PURPOSE: To consider a proposed revision to the Policy for the Naming of County Owned Buildings and Facilities.

BACKGROUND: The Board of County Commissioners adopted a policy for the Naming of County Owned Buildings and Facilities (attachment) in 1989. Since then, there have not been any updates/revisions to the policy.

The Chair of the Board of County Commissioners, after discussion with the Vice-Chair, is proposing that the Board update its current policy for naming county owned buildings to exclude the Manager from the recommendation process (item #4 on current policy), and would like the Board to consider this revision to the policy.

- To revise the policy to remove the current process requirement that the Manager must make a recommendation to the Board of Commissioners after a request is made

Any policy change would not require a public hearing.

FINANCIAL IMPACT: None

RECOMMENDATION(S): The Manager recommends that the Board consider the proposed revision to the Policy for Naming of County Owned Buildings and Facilities.

POLICY FOR INSERTION INTO THE POLICY MANUALMEETING DATE: February 21, 1989NUMBER: A:0390EFFECTIVE DATE: February 21, 1989REVISIONS: _____POLICY:NAMING OF COUNTY OWNED BUILDINGS AND FACILITIES POLICYORANGE COUNTY POLICY AND PROCEDURE CONCERNING THE NAMING OF
COUNTY OWNED BUILDINGS AND FACILITIES

The following policy and procedure shall apply to the naming or renaming of buildings and facilities owned by Orange County.

1. County owned buildings and facilities shall bear such names as the Orange County Board of Commissioners shall approve pursuant to this policy.
2. Any person, firm or association may propose a name for a County owned building or facility. Such proposal shall be made in writing and filed with the County Manager.
3. The County Manager shall prepare a report concerning the proposed naming. The report shall contain such information as the County Manager deems appropriate but should, in most instances, contain the following information;
 - a. The proposed name of the facility;
 - b. The existing name of the facility, if applicable;
 - c. Whether other County buildings or facilities bear the proposed name;
 - d. Whether the same name is proposed and currently pending for some other publicly owned building or facility within Orange County.
 - e. If the building or facility is frequented by the public for a number and variety of uses, whether the proposed name would be confusing because of other public or private facilities or structures bearing the same or similar name;
 - f. A brief description of the building or facility for which the name is proposed;
 - g. If the proposed name is that of an individual, an inclusive description of the individual's contribution to the community should be included.

4. The report and the Administration's recommendation shall be made to the Orange County Board of Commissioners by the County Manager.
5. Upon receipt of the report and the recommendation, the Board of Commissioners will consider the adoption of a resolution stating its intent to consider the naming or renaming of the building or facility at the next or some subsequent meeting determined by the Board of Commissioners. If the building or facility is a significant public structure, the Board may, at its option, direct that a notice be published informing the public of the Board's intent to consider the naming or renaming of the proposed building or facility and the fixing of a time and place for a public hearing on the question.
6. The building or other facility shall bear the name assigned to it by the Board from and after the date of the Board's approving action or such subsequent date as the Board of Commissioners may prescribe.
7. This policy and procedure does not apply to the naming of public streets, roads, alleys, and other similar thoroughfares.
8. Under unusual circumstances and for reasons satisfactory to the Board of Commissioners, the Board may name a County owned building or facility without following the procedures set forth herein.

**BOARD OF ORANGE COUNTY COMMISSIONERS
LIST OF NAMED FACILITIES**

For Discussion Purposes
November 10, 2016

County owned properties (including County owned School properties) that are named for an individual are as follows:

Facility	Facility Type/Location	Date Named (Estimated)
Richard E. Whitted Facility	County Health, Recreation, and Administrative Services; Hillsborough	1987
Robert and Pearl Seymour Center	County Senior Center; Chapel Hill	2006
John M. Link, Jr. Government Services Center	County Administrative Services; Hillsborough	2006
Jerry M. Passmore Center	County Senior Center; Hillsborough	2016
David Price Farmers Market Pavilion	Farmers Market Pavilion	2016
McDougle Elementary School	Elementary School; Chapel Hill	1996
Scroggs Elementary School	Elementary School; Chapel Hill	1999
C.W. Stanford Middle School	Middle School; Hillsborough	1968

Attachment 6

Summary Comparison of Adopted Local Government, Public School, and University Facility Naming Policies

Organization	Can Name for a Living Person	Requires Public Process	Can Name a Portion of a Facility (room, park, etc..)	Can Name for Capital Funding Contributors	Governing Board Voting Process	Latest Date of Revision
Town of Cary	Yes	Yes	No	Yes	Town Council	3/27/2014
Chapel Hill - Carrboro City Schools	Yes	Yes	Not specified	Yes	Board of Education	Not Listed
Durham County Library	Yes	Yes	Yes	Yes	Review by Library Committee before submission to County Board of Commissioners	Not listed
City of Greensboro Public Library	Yes	Yes (public hearing	Yes	Yes	Two thirds of Library Board	8/17/1992
City of Greensboro Parks and Rec. Department	Yes	Yes (3 public hearings)	Yes	Yes	Park Commission approval before submission to City Council	1/11/2012
Lee County	Yes	Yes	Yes	Yes	County Board of Commissioners	5/2/2005
Mecklenburg County	Yes	Not specified	Not specified	Yes	County Board of Commissioners	10/15/2013
NC A& T University	Yes	Not specified	Yes	Yes	University Board of Trustees	2/18/2011
NC State University	Yes	Not specified	Not specified	Yes	University Board of Trustees	4/22/2011
New Hanover County Schools	Not Specified	Yes	Yes	Not specified	County Board of Education	2/15/14
UNC Chapel Hill	Yes	Not Specified	Yes	Yes	University Board of Trustees Approval	9/23/2010

**ORANGE COUNTY
BOARD OF COMMISSIONERS
ACTION AGENDA ITEM ABSTRACT**
Meeting Date: December 5, 2016

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

SUBJECT: Schools Adequate Public Facilities Ordinance (SAPFO) – Approval of Membership and Capacity Numbers

DEPARTMENT: Planning and Inspections

ATTACHMENT(S):

1. Orange County Schools and Chapel Hill-Carrboro City Schools: Schools APFO Capacity Calculation and Change Request Form (Includes Student Membership) for Elementary, Middle, and High School Levels
2. Chart Depicting LOS, Capacity, Membership, and Membership Increases

INFORMATION CONTACT:

Ashley Moncado, 919-245-2589
Craig Benedict, Director, 919-245-2575

PURPOSE: To consider approval of November 15, 2016 membership and capacity numbers for both school districts (Orange County and Chapel Hill-Carrboro City Schools) which will be used in developing 10-year student membership projections and the 2017 SAPFO Technical Advisory Committee (SAPFOTAC) Report.

BACKGROUND: In accordance with the Schools APFO MOUs (Memorandum of Understanding), the Board of County Commissioners shall approve the school districts' November 15th membership and capacity numbers within 15 school days after receiving the numbers from the school districts. Both Orange County Schools and Chapel Hill-Carrboro City Schools submitted their membership and capacity numbers in accordance with the MOUs. As per the MOUs, this step of the SAPFO process entails only the approval of the student membership and capacity numbers.

The SAPFOTAC, comprised of representatives of both school systems and the Planning Directors of the County and Towns, is tasked to produce an annual report for the governing boards of each SAPFO partner. The full annual SAPFOTAC report, which will include 10-Year student membership projections, will be completed in early 2017. The CAPS (Certificate of Adequate Public Schools) system is updated with actual membership and capacity figures after the BOCC approves the information submitted by the school districts.

The chart in Attachment 2 shows the Capacity and Membership for each school level in both school districts and the increase (or decrease) over the November 13, 2015 membership. It also shows the Allowable Maximum Level of Service (LOS) as was agreed upon as part of the SAPFO MOU process and the Actual LOS based on November 15, 2016 membership numbers.

In recent years, Pre-K enrollment has been a topic of discussion with both school districts. However, SAPFO has not been amended to include Pre-K in the membership and capacity

numbers. Therefore, Pre-K children are not included in the membership and capacity numbers reported.

FINANCIAL IMPACT: Precise financial impacts cannot be determined, but changes in projected growth in student membership for the next ten years is expected to result in higher future operating and capital budget requests.

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

- **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.

RECOMMENDATION(S): The Manager recommends the Board approve the November 15, 2016 Membership and Capacity numbers as submitted by each school district.

School APFO Capacity, Membership and Change Request Form

School District: Chapel Hill-Carrboro City Schools
SAPFO CAPS Year: November 15, 2016 - November 14, 2017
Capacity and Membership Submittal Date: November 15, 2016

Elementary School	Square Feet	2012-2013 Requested Capacity	2013-2014 Requested Capacity	2014-2015 Requested Capacity	2015-2016 Requested Capacity	2016-2017 Requested Capacity	Justification Footnote #	Membership (referenced school year)
Carrboro	60,832	533	533	533	533	533		496
Ephesus	66,952	448	448	448	448	448		408
Estes Hills	56,299	527	527	527	527	527		499
Glenwood	50,764	423	423	538	423	423		483
FP Graham	66,689	538	538	423	538	538		582
McDougle	98,000	564	564	564	564	564		516
Rashkis	95,729	585	585	585	585	585		502
Scroggs	90,980	575	575	585	575	575		505
Seawell	52,896	466	466	585	466	466		549
Morris Grove	90,221	585	585	575	585	585		544
Northside	99,500	0	585	466	585	585		483
Total	828,862	5,244	5,829	5,829	5,829	5,829		5,567

Special Note(s): 1. For the November 15, 2002 base year the Board accepted the superintendent-certified capacities as part of the School Facilities Task Force review and 2003 Planners and School Representative Technical Advisory Committee Report. These capacities will remain effective until changed by (1) the School CIP or (2) an amended version of this form that is certified by the BOCC.

Justification:

Capacity Certification:


11-18-16

 Superintendent Date

 BOCC Chair Date

Membership Certification:


11-18-16

 Superintendent Date

 BOCC Chair Date

School APFO Capacity, Membership and Change Request Form

School District: Chapel Hill-Carrboro City Schools
SAPFO CAPS Year: November 15, 2016 - November 14, 2017
Capacity and Membership Submittal Date: November 15, 2016

Middle School	Square Feet	2012-2013 Requested Capacity	2013-2014 Requested Capacity	2014-2015 Requested Capacity	2015-2016 Requested Capacity	2016-2017 Requested Capacity	Justification Footnote #	Membership (referenced school year)
Culbreth	122,467	670	670	774	774	774		712
McDougle	136,221	732	732	732	732	732		671
Phillips	109,498	706	706	706	706	706		651
Smith	128,764	732	732	732	732	732		795
Total	496,950	2,840	2,840	2,944	2,944	2,944		2,829

Special Note(s): 1. For the November 15, 2002 base year the Board accepted the superintendent-certified capacities as part of the School Facilities Task Force review and 2003 Planners and School Representative Technical Advisory Committee Report. These capacities will remain effective until changed by (1) the School CIP or (2) an amended version of this form that is certified by the BOCC.

Justification:

Capacity Certification:


11-18-16

 Superintendent Date

_____ Date
BOCC Chair

Membership Certification:


11-18-16

 Superintendent Date

_____ Date
BOCC Chair

School APFO Capacity, Membership and Change Request Form

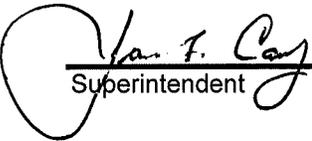
School District: Chapel Hill-Carrboro City Schools
SAPFO CAPS Year: November 15, 2016 - November 14, 2017
Capacity and Membership Submittal Date: November 15, 2016

High School	Square Feet	2012-2013 Requested Capacity	2013-2014 Requested Capacity	2014-2015 Requested Capacity	2015-2016 Requested Capacity	2016-2017 Requested Capacity	Justification Footnote #	Membership (referenced school year)
Chapel Hill	241,111	1,520	1,520	1,520	1,520	1,520		1,521
East Chapel Hill	259,869	1,515	1,515	1,515	1,515	1,515		1,381
Carrboro	148,023	800	800	800	800	800		828
Phoenix Acad.	5,207	40	40	40	40	40		32
Total	654,210	3,875	3,875	3,875	3,875	3,875		3,762

Special Note(s): 1. For the November 15, 2002 base year the Board accepted the superintendent-certified capacities as part of the School Facilities Task Force review and 2003 Planners and School Representative Technical Advisory Committee Report. These capacities will remain effective until changed by (1) the School CIP or (2) an amended version of this form that is certified by the BOCC.

Justification:

Capacity Certification:


11-18-16

 Superintendent Date

_____ Date

Membership Certification:


11-18-16

 Superintendent Date

_____ Date

School APFO Capacity, Membership and Change Request Form

School District: Orange County Schools

SAPFO CAPS Year: November 15, 2016 - November 14, 2017

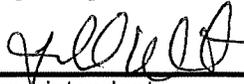
Capacity and Membership Submittal Date: November 15, 2016

Elementary School	Square Feet	2012-2013 Requested Capacity	2013-2014 Requested Capacity	2014-2015 Requested Capacity	2015-2016 Requested Capacity	2016-2017 Requested Capacity	Justification Footnote #	Membership
Cameron Park	70,812	565	565	565	565	565		650
Central	52,492	455	455	455	455	455		277
Efland Cheeks	64,316	497	497	497	497	497		409
Grady Brown	74,016	544	544	544	544	544		503
Hillsborough	51,106	471	471	471	471	471		470
New Hope	100,164	586	586	586	586	586		597
Pathways	85,282	576	576	576	576	576		387
Total	498,188	3,694	3,694	3,694	3,694	3,694		3,293

Special Note(s): 1. For the November 15, 2002 base year the board accepted the superintendent-certified capacities as part of the School Facilities Task Force review and 2003 Planners and School Representative Technical Advisory Committee Report. These capacities will remain effective until changed by (1) the School CIP or (2) an amended version of this form that is certified by the BOCC.

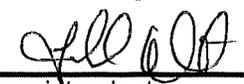
Justification:

Capacity Certification:


 Superintendent 11/20/16
 Date

BOCC Chair Date

Membership Certification:


 Superintendent 11/20/16
 Date

BOCC Chair Date

School APFO Capacity, Membership and Change Request Form

School District: Orange County Schools

SAPFO CAPS Year: November 15, 2016 - November 14, 2017

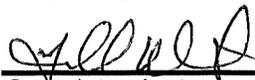
Capacity and Membership Submittal Date: November 15, 2016

Middle School	Square Feet	2012-2013 Requested Capacity	2013-2014 Requested Capacity	2014-2015 Requested Capacity	2015-2016 Requested Capacity	2016-2017 Requested Capacity	Justification Footnote #	Membership
A.L. Stanback	136,000	740	740	740	740	740		628
C.W. Stanford	107,620	726	726	726	726	726		614
Gravelly Hill	123,000	700	700	700	700	700		482
Total	366,620	2,166	2,166	2,166	2,166	2,166		1,724

Special Note(s): 1. For the November 15, 2002 base year the board accepted the superintendent-certified capacities as part of the School Facilities Task Force review and 2003 Planners and School Representative Technical Advisory Committee Report. These capacities will remain effective until changed by (1) the School CIP or (2) an amended version of this form that is certified by the BOCC.

Justification:

Capacity Certification:


 Superintendent 11/21/16
 Date

BOCC Chair Date

Membership Certification:


 Superintendent 11/21/16
 Date

BOCC Chair Date

School APFO Capacity, Membership and Change Request Form

School District: Orange County Schools

SAPFO CAPS Year: November 15, 2016 - November 14, 2017

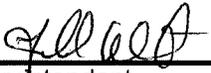
Capacity and Membership Submittal Date: November 15, 2016

High School	Square Feet	2012-2013 Requested Capacity	2013-2014 Requested Capacity	2014-2015 Requested Capacity	2015-2016 Requested Capacity	2016-2017 Requested Capacity	Justification Footnote #	Membership
Orange	213,509	1,399	1,399	1,399	1,399	1,399		1,155
Cedar Ridge	206,900	1,000	1,000	1,000	1,000	1,000		1,257
Partnership	6,600	40	40	40	40	40		34
Total	427,009	2,439	2,439	2,439	2,439	2,439		2,446

Special Note(s): 1. For the November 15, 2002 base year the board accepted the superintendent-certified capacities as part of the School Facilities Task Force review and 2003 Planners and School Representative Technical Advisory Committee Report. These capacities will remain effective until changed by (1) the School CIP or (2) an amended version of this form that is certified by the BOCC. 2. The 2012-2013 capacity numbers for Orange High School (1,399) is based on a capacity analysis and facilities study completed by the Department of Public Instruction in August 2012.

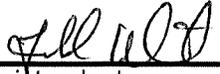
Justification:

Capacity Certification:

 11/21/16
 Superintendent Date

 BOCC Chair Date

Membership Certification:

 11/21/16
 Superintendent Date

 BOCC Chair Date

Attachment 2

School LOS, Capacity, Membership, and Membership Increases

	<i>Chapel Hill/Carrboro School District</i>		<i>Orange County School District</i>	
	Allowable Maximum LOS (per MOU)	Actual 2016-17 LOS	Allowable Maximum LOS (per MOU)	Actual 2016-17 LOS
<i>Elementary</i>	105%	95.5%	105%	89.1%
<i>Middle</i>	107%	96.1%	107%	79.6%
<i>High</i>	110%	97.1%	110%	100.3%

	<i>Chapel Hill/Carrboro School District</i>					<i>Orange County School District</i>				
	Capacity At 100% LOS*	Capacity At MOU LOS Maximum*	Nov. 15 2016 Membership	Prior Year Membership	Increase from Prior Year	Capacity At 100% LOS*	Capacity At MOU LOS Maximum*	Nov. 15 2016 Membership	Prior Year Membership	Increase from Prior Year
<i>Elementary</i>	5829	6120	5567	5501	66	3694	3879	3293	3318	(25)
<i>Middle</i>	2944	3150	2829	2844	(15)	2166	2318	1724	1739	(15)
<i>High</i>	3875	4263	3762	3701	61	2439	2683	2446	2469	(23)

* - Class size ratio is 1:21 in grades K-3.

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: December 5, 2016

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

SUBJECT: Technical Resolution Regarding Grandfathering of Projects for School Impact Fee Collection Purposes

DEPARTMENT: Planning and Inspections

ATTACHMENT(S):

1. Resolution
2. Adopted School Impact Fee Levels
3. Flowcharts

INFORMATION CONTACT: (919)

Craig Benedict, Planning Director, 245-2592
Perdita Holtz, Planner III, 245-2578

PURPOSE: To consider adoption of a technical resolution regarding grandfathering of projects for collection of recently adopted updates to school impact fees.

BACKGROUND: On November 15 the Board of County Commissioners (BOCC) adopted updated school impact fees which will become effective January 1, 2017 (see Attachment 2) with incremental increases each year through 2021. This represented a starting point of 43% of the “maximum supportable impact fee” (MSIF) with increases of 7.5 percentage points each year for four years.

At the time of adoption, the BOCC directed staff to return with language that would allow for projects that have reached certain project development milestones prior to January 1, 2017 to be “grandfathered” for the 2016 fee levels but to have an outer time limit for the grandfathering. This provision was requested primarily by multi-family developers because the impact fee for multi-family units with 3+ bedrooms will increase on January 1, 2017 by \$6,847 per unit in the Chapel Hill-Carrboro City Schools district (CHCCS) and by \$8,596 per unit in the Orange County Schools district (OCS). Developers are concerned that projects that have already gone through a lengthy project approval process but are not yet ready to begin construction will be adversely impacted by these increases because financial analyses of these projects took into account the existing impact fee levels (\$1,286 in CHCCS and \$1,743 in OCS).

The attached resolution would allow “grandfathering” for the 2016 fee levels if a building permit application is submitted prior to January 1, 2017, the permit is issued within 180 days, and a Certificate of Compliance (aka, Certificate of Occupancy) is issued within 365 days of building permit issuance. This essentially gives builders one year after a building permit is issued to complete construction and qualify for the 2016 fee levels. (This provision is applicable for any projects that do not have an approved Zoning Compliance Permit - see paragraph below.)

Also within the attached resolution, projects with an approved Zoning Compliance Permit (ZCP) would be given until December 31, 2017 to apply for a building permit(s) and a Certificate of Compliance would have to be issued within 365 days of building permit issuance in order to

qualify for 2016 fee levels. A building permit would have to be issued within 180 days of the application date; this provision is included to deter applicants from submitting extremely inadequate permit applications, perhaps in an attempt to “game the system”. Most building permits are issued within 30 days of the application date if the plans are done well and require no or only minor revisions. Under the timelines proposed in the attached resolution, the outermost date limit for projects with a ZCP by January 1, 2017 is June 30, 2019 and this would apply only if building permit issuance takes the full 180 day limit.

Attachment 3 contains graphical presentations of these timeframes.

FINANCIAL IMPACT: Allowing for grandfathering of projects may result in a lesser amount of school impact fee collections than might be collected if grandfathering, particularly for projects with an approved ZCP, were not allowed.

SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goal 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 adopt the attached resolution.

Resolution #: RES-2016-077

RESOLUTION REGARDING GRANDFATHERING OF PROJECTS FOR SCHOOL IMPACT FEE COLLECTION PURPOSES

WHEREAS, on November 15, 2016 the Orange County Board of Commissioners adopted amendments to Chapter 30, Article II – Educational Facilities Impact Fee of the Orange County Code of Ordinances, and

WHEREAS, the Orange County Board of Commissioners hereby provides technical guidance on “grandfathering,” for school impact fee purposes, of projects that are currently in later stages of project development.

BE IT RESOLVED THAT persons submitting a building permit application prior to January 1, 2017 may choose to pay either the public school impact fee that was in effect for 2016 for the housing type(s) proposed in the application or the fee required by the public school impact fee schedule in section 30-33 of Chapter 30, Article II of the Orange County Code of Ordinances, provided the building permit is issued no more than 180 calendar days after the application submittal date and a Certificate of Compliance (aka, Certificate of Occupancy) is issued no later than 365 calendar days after issuance of a building permit. If a building permit is not issued within 180 calendar days after the application submittal date or if a Certificate of Compliance is not issued within 365 calendar days of building permit issuance, the fee shall be the fee listed in section 30-33 of Chapter 30, Article II of the Orange County Code of Ordinances.

BE IT FURTHER ORDAINED THAT projects for which a Zoning Compliance Permit has been issued prior to January 1, 2017 and for which a building permit application has been submitted prior to January 1, 2018 may choose to pay either the public school impact fee that was in effect for 2016 for the housing type(s) proposed in the application or the fee required by the public school impact fee schedule in section 30-33 of Chapter 30, Article II of the Orange County Code of Ordinances, provided the building permit is issued no more than 180 calendar days after the application submittal date and a Certificate of Compliance (aka, Certificate of Occupancy) is issued within 365 calendar days of building permit issuance. If a building permit is not issued within 180 calendar days after the application submittal date or if a Certificate of Compliance is not issued within 365 calendar days of building permit issuance, the fee shall be the fee listed in section of Chapter 30, Article II of the Orange County Code of Ordinances.

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

Attachment 2

School Impact Fees, as adopted on November 15, 2016

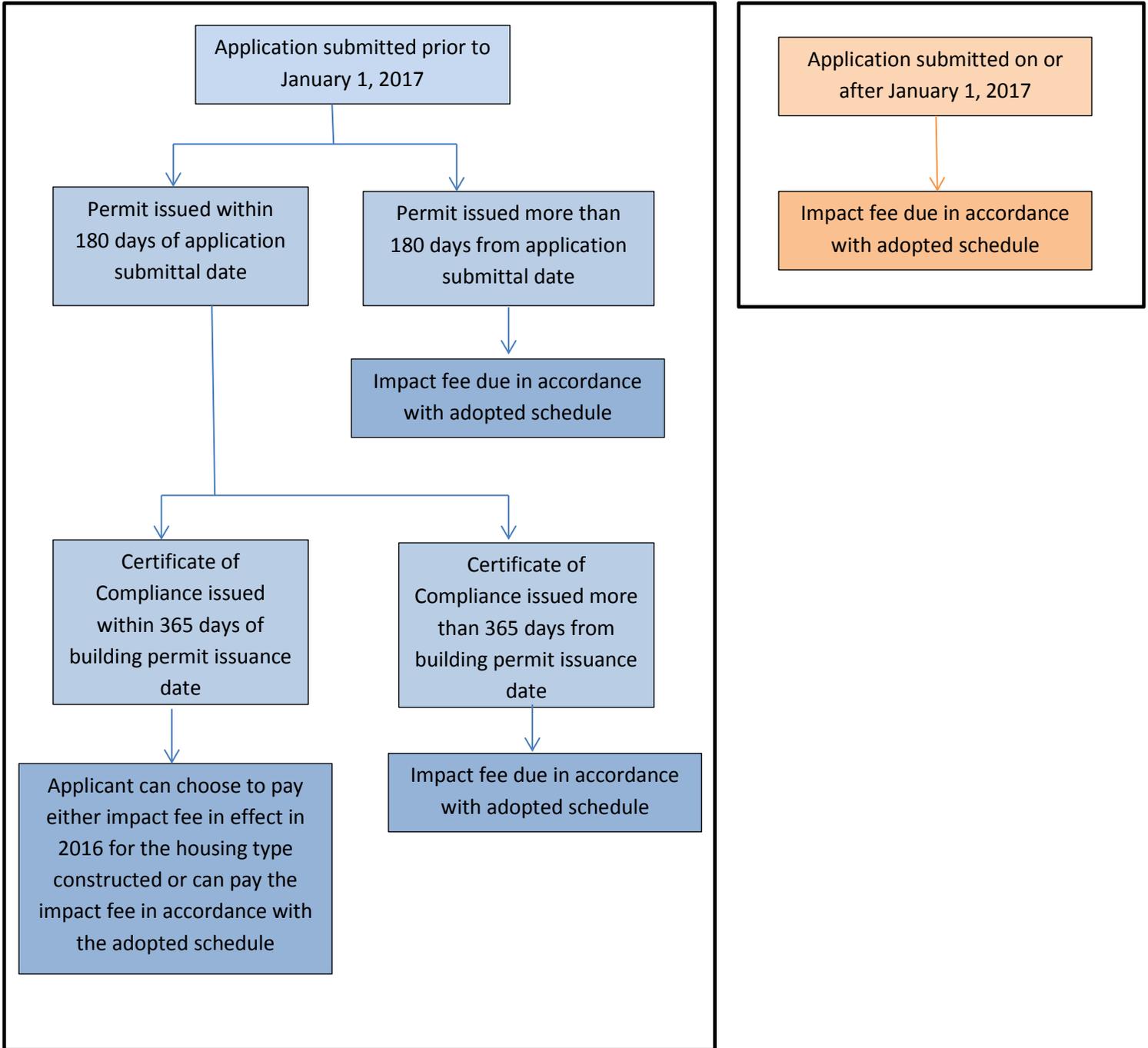
Chapel Hill – Carrboro City Schools District					
Dwelling Unit Type	Fee Effective January 1, 2017	Fee Effective January 1, 2018	Fee Effective January 1, 2019	Fee Effective January 1, 2020	Fee Effective January 1, 2021
% of MSIF ¹	43%	50.5%	58%	65.5%	73%
Single Family Detached, 0-3 Bedrooms	\$5,639	\$6,623	\$7,606	\$8,590	\$9,573
Single Family Detached, 4+ Bedrooms	\$10,810	\$12,695	\$14,581	16,466	\$18,351
Single Family Detached <800 sq. ft.	\$1,655	\$1,943	\$2,232	\$2,520	\$2,809
Single Family Attached, 0-2 Bedrooms	\$4,414	\$5,184	\$5,954	\$6,724	\$7,494
Single Family Attached, 3+ Bedrooms	\$7,058	\$8,289	\$9,520	\$10,751	\$11,982
Multifamily, 0-2 Bedrooms & Accessory Dwelling Units, 0-2 Bedrooms	\$1,910	\$2,243	\$2,576	\$2,909	\$3,242
Multifamily, 3+ Bedrooms & Accessory Dwelling Units, 3+ Bedrooms	\$8,133	\$9,552	\$10,970	\$12,389	\$13,807
Manufactured Home	\$3,010	\$3,534	\$4,059	\$4,584	\$5,109
Age Restricted Unit	\$325	\$382	\$438	\$495	\$552

¹ MSIF = Maximum Supportable Impact Fee, as calculated in the 2016 school impact fee studies

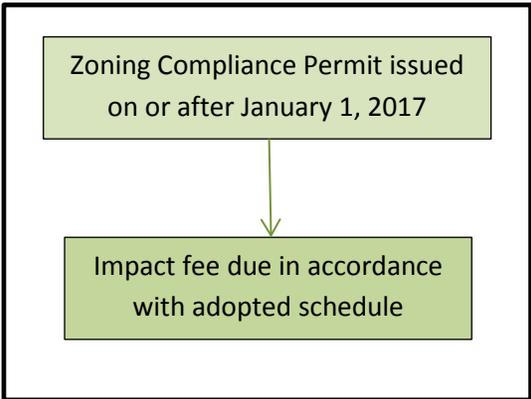
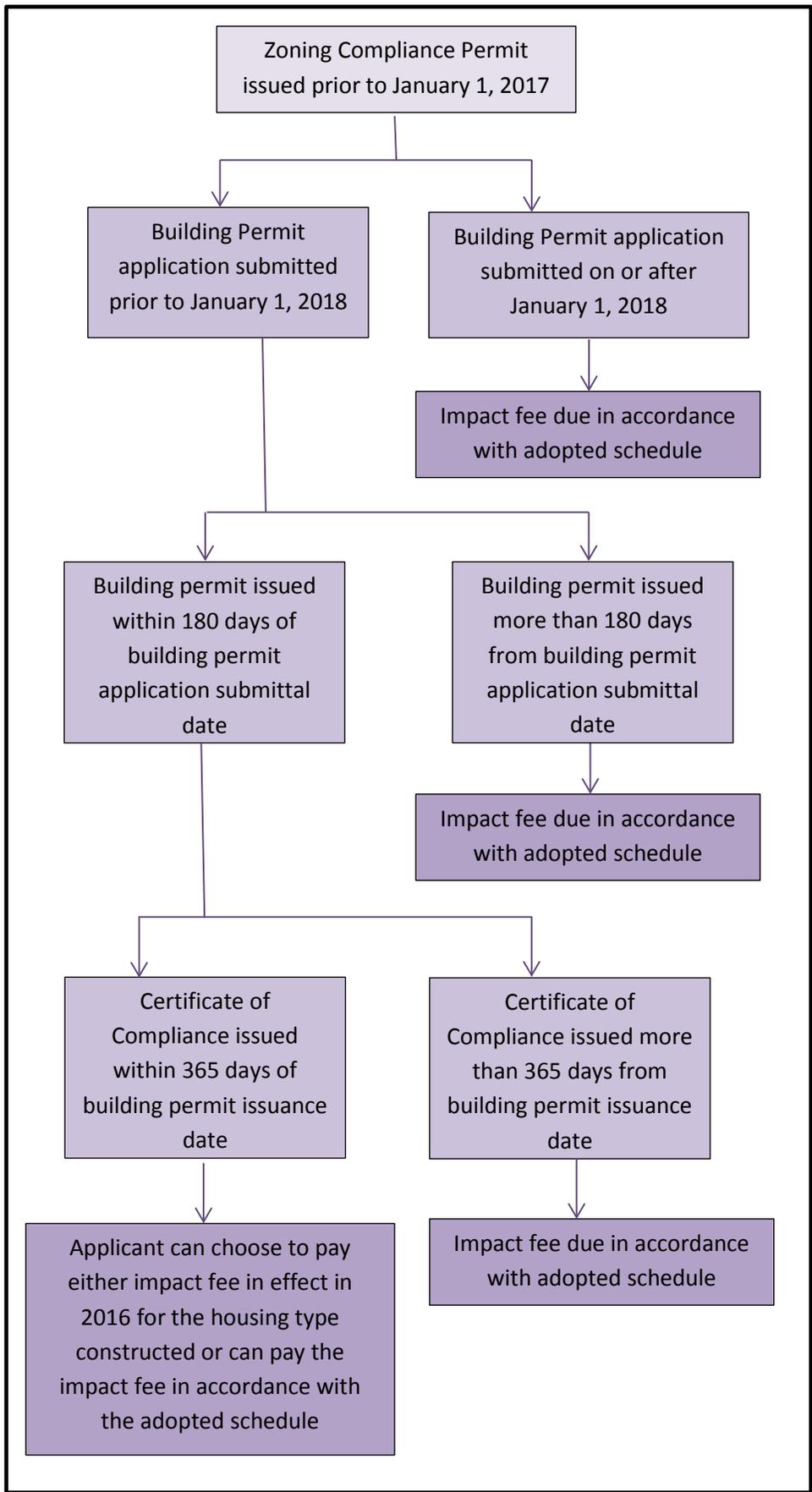
Orange County Schools District					
Dwelling Unit Type	Fee Effective January 1, 2017	Fee Effective January 1, 2018	Fee Effective January 1, 2019	Fee Effective January 1, 2020	Fee Effective January 1, 2021
% of MSIF	43%	50.5%	58%	65.5%	73%
Single Family Detached, 0-3 Bedrooms	\$5,179	\$6,082	\$6,986	\$7,889	\$8,792
Single Family Detached, 4+ Bedrooms	\$3,849	\$4,521	\$5,192	\$5,864	\$6,535
Single Family Detached <800 sq. ft.	\$1,426	\$1,675	\$1,924	\$2,173	\$2,421
Single Family Attached, 0-2 Bedrooms	\$1,576	\$1,851	\$2,126	\$2,401	\$2,675
Single Family Attached, 3+ Bedrooms	\$2,390	\$2,807	\$3,224	\$3,640	\$4,057
Multifamily, 0-2 Bedrooms & Accessory Dwelling Units, 0-2 Bedrooms	\$1,142	\$1,341	\$1,540	\$1,740	\$1,939
Multifamily, 3+ Bedrooms & Accessory Dwelling Units, 3+ Bedrooms	\$8,891	\$10,442	\$11,993	\$13,543	\$15,094
Manufactured Home	\$3,495	\$4,104	\$4,714	\$5,323	\$5,933
Age Restricted Unit	\$268	\$315	\$361	\$408	\$455

Flowcharts for School Impact Fees

Building Permit Applications



Zoning Compliance Permits



**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: December 5, 2016

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

SUBJECT: First Reading: Emergency Services Franchise by Ordinance – First Choice Medical Transport, LLC

DEPARTMENT: Emergency Services

ATTACHMENT(S):
First Choice Franchise Agreement

INFORMATION CONTACT:
Dinah Jeffries, Emergency Services
Director, (919) 245-6100
Kim Woodward, Emergency Medical
Services (EMS) Operations Manager,
(919) 245-6133

PURPOSE: To approve on First Reading the granting of a franchise by Ordinance to First Choice Medical Transport, LLC (First Choice) and the Franchise Agreement under which it will operate – approval on “first reading” is based on State law requirements that a franchise by ordinance pass two readings in order to be granted by the Board of Commissioners.

BACKGROUND: On February 2, 2010 the Board held a Public Hearing to determine the need for supplemental ambulance services in accordance with North Carolina General Statute § 153A-250(a). At that time, the Board made the determination that franchise ambulance services were necessary to assure the provision of adequate and continuing ambulance service. State law requires that the Board of County Commissioners grant franchise agreements through County ordinance. The ordinance is required to pass two readings in order to be granted.

Orange County has historically granted franchise agreements for convalescent transport and emergency ambulance services and for rescue service. The convalescent transport ambulance services franchises are only used to provide non-emergency convalescent transport to medical facilities typically for the care and treatment of a resident’s long term health needs. Franchisees may also provide surge capacity in a basic life support (BLS) capacity during a widespread emergency that stresses the capacity of Orange County Emergency Medical Services. Orange County Emergency Services provides all other emergency response services for basic and advanced life support (ALS) needs in the County.

The most-recent convalescent transportation provider in the County, Johnston Ambulance, closed its operations a short time ago, requiring the County to franchise other providers.

Emergency Services has reviewed the overall Emergency Services System in the County to confirm that franchise services continue to be necessary to assure the provision of adequate and continuing ambulance services and to preserve, protect, and promote the public health,

safety and welfare. As a result, the Department is recommending four franchises for ambulance service and one for rescue service.

The Department has identified the following services as necessary to supplement and enhance the ambulance services within the Emergency Services System and to the residents of the Orange County. The services are:

Convalescent Transport Services

- ALS Transport
- BLS Transport

Emergency Services

- BLS Transport
- Medical Responder Non-transport
- EMT Non-transport

Rescue Services

- Confined Space
- Extrication
- Heavy Rescue
- High/Low Angle
- Swift Water
- Trench Collapse
- Underwater
- Wilderness Search & Rescue

First Choice has applied for Orange County Franchise under the 2010 Franchise Ordinance. The application indicates First Choice is applying to provide the following services:

- Convalescent Transport Services, BLS Transport
- Emergency Services, BLS Transport

First Choice is headquartered in Cary, North Carolina and has been in service in the Wake County EMS System since 2011. Since 2011 First Choice has completed over 11,000 Basic Life Support (BLS) transports. First Choice has 35 employees and a fleet of nine (9) vehicles.

Emergency Services has reviewed the application, in conjunction with NC State Office of Emergency Medical Services, submitted by First Choice and inspected the premises, vehicles, equipment, and personnel of the company to assure compliance with the ordinance. The North Carolina General Statutes provide also that the Board prior to granting a franchise must “find that the franchise applicant is in compliance with Chapter 131E, Article 7.”¹ Emergency Services has concluded that the company is in compliance with Chapter 131E, Article 7 that regulates emergency services permits to operate ambulances, standards for equipment, inspection of equipment and credentialed personnel.

Staff is recommending that First Choice be granted a Franchise to operate within the confines of the attached Franchise Ordinance. The terms of this Franchise Ordinance provide for a five year franchise for the following:

Convalescent Transport Services

- Basic Life Support Transport Services

Emergency Services

- BLS Transport Services

The terms outlined in the Franchise Agreement have been negotiated and are consistent with the terms of An Ordinance Regulating Emergency Medical, First Responder and Rescue

¹ N.C. Gen. Stat. 153A-250(a).

Service and Granting of Franchise and Contracts to the Operators In the County of Orange and its' amendments.

FINANCIAL IMPACT: First Choice is a private provider of ambulance services and maintains an independent budget. There is no financial impact to the County.

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

- **GOAL: CREATE A SAFE COMMUNITY**

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

While the purpose of providing a franchise for ambulance service is not necessary to produce cost savings, the long term benefits of having the franchise is to improve ambulance service to the entire community and to allow better use of existing resources.

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

1. On first reading grant a franchise for a five year term to First Choice Medical Transport, LLC for Basic Life Support Convalescent Transport Services and Emergency Services.
 - a. Convalescent Transport Services
 - Basic Life Support Transport Services
 - b. Emergency Services
 - Basic Life Support Transport Services
2. Approve the Franchise Agreement under which First Choice Medical Transport, LLC will operate during the five year period of franchise. As a condition of granting the Franchise, First Choice must enter into an Operations Agreement with Orange County within 90 days of granting the franchise which provides for the daily operational functions within the Orange County Emergency Services System;
3. Bring back the Franchise Agreement for second reading approval at the Board's December 13, 2016 regular meeting; and
4. If approved on second reading, authorize the County Manager to sign the Franchise Agreement after review by the County Attorney's Office.

**First Choice Medical Transport, LLC
Franchise Ordinance**

An Ordinance granting a non-exclusive Franchise (“hereafter Franchise”) to First Choice Medical Transport, LLC, (“the Grantee”) to operate Emergency Medical Basic Life Support Transportation Services and Convalescence Basic Life Support Transportation Services in Orange County, North Carolina.

WHEREAS, Orange County (“the Grantor”), desires to assure the availability of Emergency Medical and Convalescent Basic Life Support Transportation Services within the County;

WHEREAS, the Grantor has, following reasonable notice, and after consideration, analysis and deliberation conducted public proceedings, during which proceedings the technical ability, financial condition, legal qualifications and general character of the Grantee were determined to be acceptable to receive a Franchise to conduct its Emergency Medical and Convalescence Basic Life Support Transportation Services;

WHEREAS, the Grantor has determined that Grantee is entitled to have a non-exclusive Franchise granted, that a need exists for the Emergency Medical and Convalescent Basic Life Support Transportation Services contemplated herein to improve the level of services available to residents of Orange County, helping to assure the provisions of adequate and continuing services which preserves, protects, and promotes the public health safety and welfare, and that granting a Franchise to the Grantee is a cost effective and reasonable manner of meeting the need;

WHEREAS, the Grantee desires to operate Emergency Medical and Convalescent Basic Life Support Transportation Services within the Grantor’s jurisdiction;

WHEREAS, the proposed Emergency Medical and convalescent Basic Life Support Transportation Services will fit within the existing services provided by the Orange County Emergency Services System so as not to adversely affect the level of services or operations of other Franchisees to render service; and

WHEREAS, the procedures of N.C. Gen. Stat. §153A-250, §153A-45, and §153A-46 have been complied with.

NOW THEREFORE, the parties agree as follows:

Section 1. Nature and Term of Grant

- a. The Grantor hereby grants the Grantee a non-exclusive Franchise to operate and maintain Emergency Medical and Convalescent Basic Life Support Transportation Services (be an EMS and Convalescent Services provider) in the Franchise District upon the terms and conditions set forth herein.

- b. The Franchise granted herein is for a term of five (5) years from the effective date of the Franchise, which shall begin on the first day following the date of acceptance by the Grantee of the Franchise terms and conditions set forth herein.

Section 2. Definitions

The following words, terms and phrases, when used in this Franchise, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

- a. **Ambulance.** The term “ambulance” means any privately or publicly owned motor vehicle, aircraft, or vessel that is specifically designed, constructed, or modified and equipped and is intended to be used for and is maintained or operated for the transportation on the streets or highways, waterways, or airways of this State of persons who are sick, injured, wounded, or otherwise incapacitated or helpless.
- b. **Ambulance Provider.** The term “ambulance provider” means an individual, firm, corporation, or association who engages or professes to engage in the business or services of transporting patients in an ambulance.
- c. **Approved.** The term “approved” shall mean approved by the North Carolina Medical Care Commission pursuant to the latter’s rules and regulations promulgated under N. C. Gen. Stat. §143B-165.
- d. **Advisory Committee or Committee.** The term “Advisory Committee” or “Committee” shall mean the Orange County Emergency Medical Services Committee which is the technical advisory committee designated by the Board of County Commissioners with respect to emergency medical services in Orange County.
- e. **Contract.** The term “contract” shall mean the instrument by which both parties agree to the terms of operation of the service to be provided.
- f. **Convalescent Transportation Services.** The term “convalescent transportation service” shall mean the operation of an ambulance for any purpose other than transporting emergency or emergent patients.
- g. **County.** The term “County” shall mean Orange County and its Board of Commissioners or their designated representative(s).
- h. **Emergency.** The term “emergency” or “emergency transportation services” shall mean the use of a service, its equipment and personnel to

provide medical care, rescue, and/or transportation of a patient who is in need of immediate rescue or medical treatment in order to prevent loss of life or further aggravation of physiological or psychological illness or injury.

- i. Emergency Services System or ESS. Emergency Services System or “ESS” shall mean a coordinated arrangement of local resources under the authority of the Emergency Services Director (including all agencies, personnel, equipment, and facilities) organized to respond to medical emergencies and integrated with other health care providers and networks including public health, community health monitoring activities, and special needs populations.
- j. Emergency Medical Dispatcher or Telecommunicator. The term “emergency medical dispatcher” or “telecommunicator” shall mean an emergency telecommunicator who has completed educational requirements and been credentialed by the Department of Health and Human Services as an emergency medical dispatcher and who is available to receive requests for emergency services, to dispatch emergency services, and to advise local law enforcement agencies, fire departments, rescue squads, first or medical responder units and emergency medical services and facilities of any existing or threatened emergency.
- k. Emergency Medical Services. “Emergency Medical Services” or “EMS” means services rendered by emergency medical services personnel in responding to improve the health and wellness of the community and to address the individual’s need for emergency medical care within the scope of practice as defined by the North Carolina Medical Board, in accordance with G.S. 143-514, and the Orange County Medical Director in order to prevent loss of life or further aggravation of physiological or psychological illness or injury.
- l. Emergency Medical Services Instructor. “Emergency Medical Services Instructor” means an individual who has completed educational requirements approved by the Department of Health and Human Services and has been credentialed by that Department as an emergency medical services instructor.
- m. Emergency Medical Services Peer Review Committee. Emergency Medical Service Peer Review Committee means a panel composed of EMS program representatives responsible for analyzing patient care data and outcome measures to evaluate the ongoing quality of patient care, system performance, and medical direction within the EMS system. The committee may include physicians, nurses, EMS personnel, medical facility personnel and county government staff as determined by the

Emergency Services Director in consultation with the County Medical Director.

- n. Emergency Medical Technician (EMT). The term “emergency medical technician” means an individual who has completed a training program in emergency medical care that has been approved for legal recognition by the North Carolina Department of Health and Human Services, in accordance with rules promulgated by the Medical Care Commission, has been certified as an EMT by the State of North Carolina Office of Emergency Medical Services, and approved by the County Medical Director to perform services as an EMT in the Orange County EMS system.
- o. Emergency Medical Technician – Intermediate (EMT-I). The term “emergency medical technician - intermediate” means an individual who has completed a training program in emergency medical care at the intermediate level that has been approved for legal recognition by the North Carolina Department of Health and Human Services, in accordance with rules promulgated by the Medical Care Commission, has been certified as an EMT - Intermediate by the State of North Carolina Office of Emergency Medical Services, and approved by the County Medical Director to perform services at the EMT-Intermediate level in the Orange County EMS system.
- p. Emergency Medical Technician – Paramedic (EMT-P). The term “emergency medical technician - paramedic” means an individual who has completed a training program in emergency medical care at the paramedic level that has been approved for legal recognition by the North Carolina Department of Health and Human Services, in accordance with rules promulgated by the Medical Care Commission, has been certified as an EMT-Paramedic by the State of North Carolina Office of Emergency Medical Services, and approved by the County Medical Director to perform services as an EMT-Paramedic in the Orange County EMS system.
- q. Emergency Services Director. The term shall mean the person designated by the Orange County Board of Commissioners to manage the overall Emergency Services System in Orange County.
- r. First Responder. The term “first responder” shall mean an organization with personnel trained in emergency medical care that is dispatched to the scene of a medical emergency for the primary purpose of providing emergency medical assistance to a patient until the ambulance and additional medical aid arrives.

- s. Franchise. The term “franchise” shall mean a permit issued by the County to a person for the operation of an ambulance service, rescue squad or first responder unit.
- t. Franchisee. The term “franchisee” shall mean any person having been issued a franchise by the County for the operation of an ambulance service, rescue squad or first responder unit.
- u. Inspection. Inspection shall mean the physical review of buildings and facilities, vehicles, equipment, supplies, storage, repair and maintenance areas, records and any related materials.
- v. License. The term “license” shall mean any driver’s license or permit to operate a motor vehicle issued under or granted by the laws of the State of North Carolina.
- w. Medical Responder. “Medical Responder” shall mean an individual who has completed an educational program in emergency medical care and first aid approved and credentialed by the Department of Health and Human Services as a medical responder and the Orange County Medical Director to operate in Orange County EMS.
- x. Medical Director. “Medical Director” shall mean the physician appointed, either directly or by written delegation, by the County and have the responsibilities as provide by 10A NCAC 13P .0403 and 10A NCAC 13P .0404. The County may, in addition, appoint an assistant medical director. The medical director and the assistant medical director shall meet the criteria defined in the “North Carolina College of Emergency Physicians: Standards of Medical Oversight and Data Collection,” which is incorporated by reference in accordance with N.C. Gen. Stat. §150B-21.6, including subsequent amendments and editions.
- y. Non-Emergency Transportation Services. The term “non-emergency transportation service” shall mean the operation of an ambulance for any purpose other than transporting emergency or emergent patients.
- z. Operation Protocols. “Operation Protocols” shall mean the administrative policies and procedures of EMS that provides guidance for the day-to-day operations of the system.
- aa. Operator. The term “operator” shall mean a person in actual physical control of an ambulance or rescue service vehicle which is in motion or which has the engine running.
- bb. Owner. The term “owner” shall man any person or entity who owns an ambulance or provides a service covered by this Ordinance.

- cc. Patient. The term “patient” shall mean an individual who is sick, injured, wounded, or otherwise incapacitated or helpless such that the need for some medical assistance might be anticipated while being transported to or from a medical facility.
- dd. Person. The term “person” shall mean any individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose, or organization of any kind, including any governmental agency other than the United States.
- ee. Practical Examination. “Practical Examination means a test where an applicant for credentialing as an emergency medical technician, or medical responder, emergency medical technician – intermediate, or emergency medical technician – paramedic demonstrates the ability to perform specified emergency medical care skills.
- ff. Rescue. The term “rescue” shall mean the removal of individuals facing external, non-medical, and non-patient related peril to areas of relative safety.
- gg. Rescue Squad or Rescue Unit. The term “rescue squad” or “rescue unit” shall mean a group of individuals who are not necessarily trained in emergency medical services, fire fighting, or law enforcement, but who expose themselves to an external, non-medical, and non-patient related peril to effect the removal of individuals facing the same type of peril to areas of relative safety.
- hh. Secondary Ambulance Provider. The term “secondary ambulance provider” shall mean the system of personnel and equipment meeting the same criteria as a primary ambulance provider, but not normally dispatched on first call response.
- ii. Service. The term “service” shall mean the same as owner.
- jj. Treatment Protocols. “Treatment Protocols” shall mean a document approved by the medical director and the Office of Emergency Medical Service specifying the diagnostic procedures, treatment procedures, medication administration, and patient-care-related policies that shall be completed by emergency service personnel based upon the assessment of the patient.
- kk. Victim. The term “victim” shall mean any patient or potential patient that is entrapped, entangled pinned, fallen, suspended, or otherwise in need of rescue services.

Section 4. General Responsibilities

- a. Grantee is authorized under this Franchise to operate the following types of service(s), the combination of which shall constitute Grantee's "EMS Services for the purposes of this Franchise, and subcategories under which they can operate shall be identified in the "Operation Agreement" to be entered into by the Franchisee and the County within 90 days after acceptance of the Franchise permit.
 - i. Emergency Services Basic Life Support Transport Services
 - ii. Convalescent Basic Life Support Transport Services
- c. Grantee shall comply at all times with the requirements of "An Ordinance Regulating Ambulance, Emergency Medical, First Responder And Rescue Service And Granting Of Franchise And Contracts To The Operator In The County Of Orange ("EMS Franchise Ordinance"), this Franchise Agreements, the Operations Agreement, and all applicable laws relating to health, sanitation, safety, equipment, ambulance design or other EMS Services vehicle design and all legal requirements related to a Model EMS System and all other laws and ordinance;
 - a. Grantee shall maintain in good standing its state and local Drivers and Privilege license (s) to operate its ambulance or other EMS Services as provided for by Law.
 - b. Establish and maintain appropriate and effective professional working relationships with all public health, public safety, and emergency services organization and personnel.
 - c. Professional working relationships shall be cooperative and collaborative in nature.
 - d. Maintain neat, clean, and professional appearance of personnel, equipment and facilities.

Section 5. Scope of Service and Service Area

- a. Grantee shall operate its EMS Services, 24 hours per each and every day of the calendar year, within the Franchise District specified in Exhibit A, except when a different or additional service area is provided for herein.
- b. Grantor may from time to time alter, and at its sole discretion, amend Exhibit A and the service area of the County that constitute (s) the Franchise District.

- c. Grantor shall at all times during the terms of the Franchise provide the highest level of care to all residents within the service area of the Franchise District.

Section 6. The Orange County Emergency Services System (“ESS”) Plan

- a. Grantee shall comply with the Grantor’s official written ESS System Plan for the management and deployment of EMS Services Vehicles within the Franchise District and, additionally, within other service areas pursuant to the EMS System Mutual Aid Plan and any cooperative agreement to continue services in service areas where Franchisees’ EMS System franchises has been suspended.
- b. Grantee shall keep at its place a business at all times the most current copy of the ESS System Plan.

Section 7. Staffing and Performance Requirements

- a. Grantee shall comply with the scope of practice rules promulgated by the North Carolina Medical Board pursuant to law regarding the medical skills and medication that may be used by credentialed emergency medical services personnel at each level of patient care.
- b. Grantee shall comply with standard for drivers and attendants developed by the North Carolina Medical Care Commission as requirements for certification of emergency medical technicians pursuant to law, rules and regulations promulgated by the Board of Medical Examiners for advanced life support technicians, which is incorporated in this subsection by reference.
- c. No staff of Grantee shall drive an ambulance vehicle, attend a patient, or permit an ambulance to be operated when transporting a patient within the County unless the driver holds a currently valid North Carolina Drivers license and currently valid credentials as an EMT, EMT-I or EMT-P issued by the North Carolina Department of Health and Human Services, Office of Emergency Medical Services. Notwithstanding the foregoing, in an exceptional circumstance when an EMT, EMT-I, or EMT-P is not available, for the purpose of driving only or when providing Non-Transport Service an approved firefighter, First or Medical Responder, Rescue Services Provider or law enforcement officer with a currently valid North Carolina drivers license may drive an ambulance, provided such driver does not attend a patient or victim or does not otherwise provide medical services to a patient or victim.
- d. Grantee shall comply with the Grantor’s official written EMS System Plan for the use of credentialed EMS personnel for all of the authorized

Practice Settings. Any agreement between Grantee and a third party to provide special events coverage is subject to pre-approval in writing by the Grantor, which approval shall not be reasonable withheld.

- e. Grantee's staff that operate EMS Service Vehicles shall actively participate in any emergency vehicle operations training provided by the Grantor as directed by the Emergency Services Director.
- f. Grantee's staff shall comply with Grantor's official written EMS System continuing education plan for EMS personnel under the direction of the Orange County Continuing Education Coordinator.
- g. Grantee staff shall also participate in all clinical and field internship educational components of Grantor's continuing education plan.
- h. Grantee shall comply with all education program requirements for qualified credentialed EMS personnel as provided by law.
- i. Grantee shall assign credentialed staff to assist, upon request, with any orientation provided by Grantor to local area hospitals that routinely receive patients from Grantee.

Section 8. Vehicle and Equipment Requirements

- a. Grantee shall comply with all vehicle and equipment standards as developed by the North Carolina Medical Care Commission pursuant to law, including without limitation, those applicable to the EMS Services.
- b. Grantee shall maintain for each ambulance and other EMS Services Vehicle a permit as provided for by law.
- c. Grantee shall comply with the state EMS Non-Transporting Vehicle Permit requirements.
- d. Grantee shall have available the following minimum number of ambulances and other EMS Services Vehicles in excellent working order to provide coverage to the service area of the Franchise District 24 hours per day.

One (1) Type 1 Ambulance, One (1) In Service Rescue Vehicles and other EMS Services Vehicles and equipment as necessary to provide the high quality of services provided for in this Franchise.

- e. Grantee shall comply with the Grantor's operational protocols for the management of equipment, supplies and medications to assure that each ambulance and other EMS Services Vehicle contains the required

equipment and supplies on each response; for cleaning and maintaining the equipment and vehicles; and to assure that supplies and medications are not used beyond the expiration date and stored in a temperature controlled atmosphere according to manufacturer's specifications.

- f. Grantee shall comply with the Orange County's written infection control policy including the cleansing and disinfecting of ambulances and other EMS Services Vehicles and equipment that are used to treat or transport patients.
- g. Grantor may, upon reasonable notice, inspect all equipment, ambulances and other EMS Service Vehicles used by Grantee.

Section 9. Communications Requirement

- a. Grantee shall equip each ambulance and other EMS Services Vehicle with the following:
 - i. An operational two-way radio capable of establishing good quality voice communications from within the geographical confines of Orange County to each hospital emergency department in the County in which the service is based;
 - ii. Two-way radio communication capabilities for communication with all hospital emergency departments to which transportation of patients is made on a regular or routine basis anywhere within the State of North Carolina; and
 - iii. An operational two-way radio capable of establishing communications from within the geographic confines of Orange County to the Orange County Emergency Communications Center, which is the dispatching agency within the County.
- b. This subsection shall not apply to privately owned vehicles of Grantee's staff.
- c. Grantee shall maintain current authorization or Federal Communication Commission licenses for all frequencies and radio transmitters operated by Grantee. Grantee shall display at Grantee's headquarters and make available for inspection per Federal Communication Commission's rules and regulations copies of all authorization and licenses.
- d. Grantee's base of operations shall have at least one open telephone 24 hours per each and every day of the calendar year. Grantee's telephone numbers shall be registered with Orange County Emergency Communication Center, and changes to Grantee's telephone numbers shall

be transmitted to the Emergency Communication Center within 24 hours of such change.

- e. Grantee's EMS Services shall be dispatched from the Orange County Emergency Communications Center.

Section 10. Data Collection and Performance Report

- a. Grantee shall maintain the following records:
 - i. Records of dispatch which shall show time call was received, time dispatched, time arrived on scene, time arrived at destination, time in service, and time returned to base.
 - ii. Trip Records stating all information required in subsection (i) of this Section in addition to information on a form approved by the County. The trip record shall be so designed as to provide the patient with a copy containing all required information.
 - iii. Personnel Checklist and Inspection Report listing contents and description for each vehicle, signed by the individual verifying vehicle operations and equipment.
 - iv. A detailed record of complaints received from the public, other enforcing agencies and services regarding Franchise infractions.
 - v. Any other records required by state law, rules or regulations or deemed by the Department of Emergency Service as relevant to the effective and efficient operations of the Emergency Management System as provided in the "Operations Agreement" and necessary for a fair determination of the capability of the Grantee to continue to provide Emergency Medical Services and Rescue Services in Orange County in accordance with the requirement of law and the provision of this Franchise.
- b. All of the records identified in subsection (a) above shall be maintained for a minimum three (3) year period unless a longer retention period is otherwise required by law or other retention periods.
- c. Grantee shall establish and maintain a system to record data that used the Model Data set and data dictionary as specified in "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection."
- d. Grantees shall maintain confidentiality of patient records as provided by the Health Insurance Portability and Accountability Act of 1996 (HIPAA),

Public Law 104-191, N.C. Gen. Stat. 143-518 and all other state and federal law.

- e. Grantee shall submit a written monthly report to the Emergency Services Director, or their designee, providing the number of calls and runs during the month. The report shall contain the number of emergency calls, the number of convalescent calls, the total number of calls and the total number of patients transported.
- f. Grantee may inspect Grantee's records at any time in order to ensure compliance with the EMS Franchise Ordinance and this Franchise Agreement; however, Grantor's shall inspect the Grantee's records at least once a year to ensure compliance with the EMS Franchise Ordinance and this Franchise Agreement.

Section 11. Medical Oversight

- a. Grantee shall designate a representative of Grantee to attend and participate in regular meetings of the Orange County EMS Peer Review Committee.
- b. Grantee shall monitor and comply with any online medical direction for operating within EMT-P systems.
- c. Grantee shall comply with the Grantor's plan for Medical Oversight and Written Treatment Protocols.
- d. Grantee shall comply with the Grantor's written plan to address the management of the EMS System including:
 - i. the triage of patients to appropriate facilities;
 - ii. transport of patients to facilities outside of the system;
 - iii. Arrangement for transporting patients to appropriate facilities when diversion or bypass plans are activated;
 - iv. A mechanism for reporting, monitoring and establishing standards for system response times;
 - v. A special events staffing plan;
 - vi. A disaster plan; and
 - vii. Mass gathering plan.

- e. Grantee shall comply with the Medical Director's written guidance regarding decision about the equipment, medical supplies, and medications that will be carried on any ambulance or other EMS Services Vehicle.
- f. The Medical Director may suspend temporarily, pending due process review by the EMS Peer Review Committee, any of Grantee's EMS personnel from further participation in the EMS system when the Medical Director determines that the activities or medical care rendered by such personnel may be detrimental to the care of the patient, constitute unprofessional behavior or results in non-compliance with credentialing requirements.

Section 12. Rates and Adjustments

- a. Grantee shall submit a schedule of rates to the Grantor for approval and shall not charge more or less than the rates authorized by Orange County without specific authorization from the Grantor.
- b. Grantee shall not attempt to collect rates on emergency call until the patient has reached the point of destination, has received medical attention and is in a condition deemed by the physician fit to consult with the service; but Grantee may attempt to collect rates with family or guardian of the patient once the patient is in the process of receiving medical attention.
- c. On Special Event coverage and convalescent calls, Grantee may attempt to collect payment before the ambulance or other EMS Services Vehicle begins its trip.

Section 13. Insurance

- a. Within thirty (30) calendar days after the effective date of issuance of the Franchise, the Grantee shall provide proof of the required insurance. Grantee shall at all times during the Franchise term maintain in force and effect insurance coverage, issued by an insurance company licensed to do business in North Carolina, covering the following:
 - i. Every ambulance or other EMS Services Vehicle owned and/or operated by or for the Grantee proving for the following payment of injury and damages:
 - (a) In the minimum sum of \$1,000,000 for injury to or death of individuals in accidents resulting from any cause for which the owner of the vehicle would be liable on account of

liability imposed on him by law, regardless of whether the vehicle was being driven by the owner of his agent; and

- (b) In the minimum sum of \$1,000,000 for the loss of or damage to the property of another, including personal property, or under like circumstances in sums as may be required by the State of North Carolina or as authorized by the Grantor.
 - (c) The insurance coverage minimum limits required in subsection (a) and (b) above shall be evaluated annually by the Orange County Department of Emergency Services in consultation with the Orange County Risk Manager and the County Attorney's Office and may be revised by the Grantor as Grantor deems appropriate, and at Grantor's sole discretion. In directing a change in insurance coverage, the Department of Emergency Services shall consider the risk needs protected by this insurance coverage and the availability in the marketplace of the coverage amounts to be required.
- ii. Grantee shall at all times during the Franchise term maintain in force and effect insurance coverage, issued by an insurance company licensed to do business in North Carolina for Worker's Compensation coverage for all employees with statutory limits in compliance with applicable law.
- b. Insurance coverage necessary to comply with this Section shall be approved by the Grantor, and copies of such insurance policies (or certificates of insurance) shall be provided to the Grantor.
 - c. The Grantor shall be named as an additional insured as its interests may appear.

Section 14. Transfer of Ownership or Control and Changes in Level of Services

- a. Prior approval of the Grantor shall be required where ownership or control of more than ten percent of the right or control of the Grantee is acquired by a person or group of persons acting in concert, not of whom own or control ten percent or more of such rights of control, singularly or collectively, at the date of the grant of the Franchise. By its acceptance of the Franchise, the Grantee specifically agrees that any such acquisition occurring without prior approval of the Grantor shall constitute a violation of the Franchise by the grantee and shall be cause for termination at the option of the Grantor.

- b. Any change in ownership of Grantee without the approval of the Grantor shall terminate the Franchise and shall require a new application and a new Franchise in conformance with all the requirements of the EMS Franchise Ordinance, as amended and in effect at the time of franchising.
- c. Any change in the level of services offered by a Grantee's EMS Services unit without the approval of the Grantor shall terminate the Franchise and shall require a new application and a new franchise in conformance with all the requirements of the EMS Franchise Ordinance, as amended and in effect at the time of franchising.
- d. Grantee may not sell, assign, mortgage or otherwise the transfer the Franchise without the approval of the Grantor; if the Grantor sells, assigns, mortgages or otherwise transfer the Franchise without Grantor's approval this shall terminate the Franchise and require a new application and a new Franchise in conformance with all the requirements of the EMS Franchise Ordinance, as amended and in effect at the time of franchising.

Section 15. Miscellaneous Provisions

- a. Grantor may, upon reasonable notice, inspect the premises, vehicles, equipment and personnel of Grantee to ensure compliance with this Franchise and perform any other inspections that may be required.
- b. Grantee shall make available for inspection by the State of North Carolina, the Grantor, or their designated representatives, Grantee's EMS Services, its equipment and the premises designated in the application and all records relating to its maintenance and operations as such.
- c. Grantee shall cooperate with the Grantor to educate the public concerning injury prevention and community health.
- d. Grantee's staff shall not wear or carry aboard any ambulance of other EMS Services Vehicles firearms or weapons as defined by law, which does not include tools that aid in providing services. The foregoing restriction shall not be construed to apply to equipment used by Grantee to provide EMS Services.
- e. Grantee shall post its Franchise Certificate, issued to it by the Grantor, in a readily visible location at the Grantee's base of operations for the EMS Service.
- f. Grantee shall not allow its Franchise Certificate to be defaced, removed, or obliterated.

- g. Grantee shall comply with all applicable law and Grantor's policies and procedures related to confidentiality of medical information, including without limitation the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Section 16. Termination Provisions

- a. Grantee may terminate this Franchise with 60 days written notice to Grantor and the Grantor may revoke the Franchise in the event of noncompliance with the provisions of the EMS Ordinance or this Franchise Agreement. After a notice of services termination is given, the Grantee may reapply for a franchise if a continued service is desired.
- b. Upon suspension, revocation, termination or a stay by the Emergency Services Director of this Franchise, Grantee shall immediately cease all operations authorized by this Franchise.
- c. Upon suspension, revocation, termination of a driver's license such person shall cease to drive an ambulance or other EMS Service Vehicle. Upon suspension, revocation or termination of an attendant's certificate (i.e., Medical Responder, EMT, EMT-I or EMT-P) by the Office of Emergency Medical Services or by the Medical Director, such person shall cease to attend patients or otherwise provide medical care. Grantee shall not permit the foregoing person to drive an ambulance or their EMS Service Vehicle or provide medical care in conjunction with EMS Services, if Grantee is found to have notice of or should have had notice of such suspension, revocation or termination at the sole discretion of the Grantor this shall terminate the Franchise and shall require a new application and a new Franchise in conformance with all the requirements of the EMS Franchise Ordinance, as amended and in effect at the time of franchising.
- d. In the event that Grantee shall at any time during the Franchise desire to sell any of the real or personal property identified in Exhibit B (hereinafter "Asset" or "Assets"), which is hereby incorporated by reference, pursuant to a bona fide offer to a bona fide offer which it shall have received, it shall offer to sell any such Asset or Assets (hereafter "Asset or Assets for Sale) to Grantor at the same process as that contained in such bona fide offer. The offer to Grantor to sell an Asset shall be in writing and shall include a copy of the bona fide offer. The offer to Grantor to sell an Asset shall be in writing and shall include a copy of the bona fide offer for the Asset received by the Grantee. Grantor shall have 60 days from and after receipt thereof to decide whether or not to purchase the Asset or Assets for Sale at such price. If Grantor shall give notice of intent not to purchase or shall give no notice within the time herein limited, Grantee may accept such offer and proceed with the sale thereunder. If Grantor notifies Grantee that it elects to purchase the Asset or Assets for Sale at such

prove, the parties shall enter into a contract of purchase and sale forthwith. Such contract shall provide, among other things, for the conveyance of good and marketable title b warranty deed. Upon dissolution of the Grantee pursuant to N.C. Gen. Stat. § 55A-14-1, et seq., the Assets shall be either: (a) distributed to one or more appropriately receiving successor Franchisee (s) that will carry on, In Orange County, the functions of ambulance, first or medical responder, rescue or other related emergency services meeting one or more exempt purposes within the meaning of 501(c)(3) of the Internal Revenue code (or the corresponding section of any future federal tax code) or (b) distributed to the grantor for the foregoing public purposes. This subsection 16(d) of this EMS Service Franchise survives the termination of the Franchise.

Section 17. Forum for Litigation

Any litigation between the Grantor and Grantee arising under or regarding the Franchise shall occur, if in the North Carolina courts, in Orange County Superior Court or District Court having jurisdiction thereof, or if in the federal courts, in the United States District Court for the Middle District of North Carolina.

Section 18. Notice

Any notice provided for under the Franchise shall be sufficient if in writing and delivered personally to the following address or deposited in the United States Mail, postage prepaid, certified mail, return receipt requested, addressed as follows, or to such other address as the receiving party hereafter shall specify in writing:

If to the Grantor:

Orange County Emergency Services
Post Office Box 8181
Hillsborough, North Carolina 27278
Attn: Emergency Services Director
(919) 245-6100

If to the Grantee:

First Choice Medical Transport, LLC
123 Summer Lakes Drive
Cary, North Carolina 27513
Attn: Carol Varsano
(800) 380-7909

Section 19. Severability

If any section, subsection, sentence, clause, phrase, or other portion of this Franchise is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

Section 20. Reservation of Rights

Notwithstanding any other provision of the Franchise, Grantor and Grantee reserve all rights that they may possess under the law unless expressly waived herein. Nothing herein shall constitute a waiver of rights of either party, provided, however, that both parties warrant and represent that, as of the effective date of the Franchise, they are not aware of any provision in the Franchise that is contrary to applicable law.

Section 21. Penalties and Remedies

- a. A violation of any provision of this Franchise Ordinance or other failure of the Grantee to abide by the provisions of this Franchise shall subject the Grantee to a civil penalty of five hundred (\$500) dollars. If Grantee fails to pay this penalty within ten (10) days after being cited for a violation, the Grantor may seek to recover the penalty by filing a civil action in the nature of a debt.
- b. A violation of any provision of this Franchise Ordinance by the Grantee shall constitute a misdemeanor, punishable as provided in N.C. Gen. Stat. § 14-4.
- c. The Grantor may seek to enforce this Franchise Ordinance through any appropriate equitable action.
- d. Each day that a violation continues of this Franchise Ordinance after the Grantee has been notified of the violation shall constitute a separate offense.
- e. The Grantor may seek to enforce this Franchise Ordinance by using any one or any combination of the foregoing remedies.

Section 22. Non-discrimination

The Grantee shall not discriminate in any manner on the basis or factors prohibited by law.

Section 23. Acceptance by Grantee

This Franchise and all of its terms and provisions shall be accepted by Grantee in writing in the form hereinafter set forth within thirty (30) days of the grant of this Franchise by the Grantor and when accepted shall be filed with Grantor’s Clerk who shall record the same in the Book of Ordinances.

Such written acceptance may be upon or at the end of a copy of this Franchise Ordinance and it shall state and express the acceptance of said Franchise and its terms, conditions and provisions; and Grantee shall agree in said written acceptance to abide by, to observe and to perform the same according to all of its terms and provisions, subject to applicable state and federal law and shall declare that statements and recitals contained on said Franchise are correct and that it has made and does make the agreements and statements set forth in this Franchise. Acceptance herein referred to shall be in the following form:

The undersigned, Carol Varsano, in his/her capacity as Member/Co-Owner of the First Choice Medical Transport, LLC and on behalf of that agency, does hereby accept and approve the foregoing and attached Franchise and all of its terms and conditions; and in consideration of the benefits and privileges granted to it does hereby agree to abide by, carry out, observe and perform all of the obligations and things provided to be carried out and performed by it in said Franchise approved by the Grantor Commissioners, subject to applicable state and federal law.

This the _____ day of December, 2016

IN WITNESS WHEREOF, this First Choice Medical Transport, LLC Franchise Ordinance passed on First Reading on the ___ day of _____, 20____ and was passed and adopted on Second Reading this the ___ day of _____, 20____ .

Bonnie Hammersley, County Manager
Orange County, North Carolina

ATTEST: _____
_____, Clerk/Deputy Clerk to the
Orange County Board of Commissioners

APPROVED AS TO FORM:

Annette M. Moore, Staff Attorney
Orange County Attorney’s Office

**EXHIBIT A TO EMS SERVICES FRANCHISE FOR FIRST CHOICE
MEDICAL TRANSPORT, LLC
FRANCHISE DISTRICT**

Geographic Location: All of the County of Orange

**EXHIBIT B TO EMS SERVICES FRANCHISE FOR FIRST CHOICE MEDICAL
TRANSPORT, LLC**

(Note: Replace with Completed Exhibit B)

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: December 5, 2016

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

SUBJECT: First Reading: Emergency Services Franchise by Ordinance - North State Medical Transport

DEPARTMENT: Emergency Services

ATTACHMENT(S):
North State Franchise Agreement

INFORMATION CONTACT:
Dinah Jeffries, Emergency Services
Director, (919) 245-6100
Kim Woodward, Emergency Medical
Services (EMS) Operations Manager,
(919) 245-6133

PURPOSE: To approve on First Reading the granting of a franchise by ordinance to North State Investment Group, LLC d/b/a North State Medical Transport (North State) and the Franchise Agreement under which it will operate – approval on “first reading” is based on State law requirements that a franchise by ordinance pass two readings in order to be granted by the Board of Commissioners.

BACKGROUND: On February 2, 2010 the Board held a Public Hearing to determine the need for supplemental ambulance services in accordance with North Carolina General Statute § 153A-250(a). At that time, the Board made the determination that franchise ambulance services were necessary to assure the provision of adequate and continuing ambulance service. State law requires that the Board of County Commissioners grant franchise agreements through County ordinance. The ordinance is required to pass two readings in order to be granted.

Orange County has historically granted franchise agreements for convalescent transport and emergency ambulance services and for rescue service. The convalescent transport ambulance services franchises are only used to provide non-emergency convalescent transport to medical facilities typically for the care and treatment of a resident’s long term health needs. Franchisees may also provide surge capacity in a basic life support (BLS) capacity during a widespread emergency that stresses the capacity of Orange County Emergency Medical Services. Orange County Emergency Services provides all other emergency response services for basic and advanced life support (ALS) needs in the County.

The most-recent convalescent transportation provider in the County, Johnston Ambulance, closed its operations a short time ago, requiring the County to franchise other providers.

Emergency Services has reviewed the overall Emergency Services System in the County to confirm that franchise services continue to be necessary to assure the provision of adequate

and continuing ambulance services and to preserve, protect, and promote the public health, safety and welfare. As a result, the Department is recommending four franchises for ambulance service and one for rescue service.

The Department has identified the following services as necessary to supplement and enhance the ambulance services within the Emergency Services System and to the residents of the Orange County. The services are:

Convalescent Transport Services

- ALS Transport
- BLS Transport

Emergency Services

- BLS Transport
- Medical Responder Non-transport
- EMT Non-transport

Rescue Services

- Confined Space
- Extrication
- Heavy Rescue
- High/Low Angle
- Swift Water
- Trench Collapse
- Underwater
- Wilderness Search & Rescue

North State has applied for renewal of its 2010 Franchise Ordinance. The application indicates North State is applying to provide the following services:

- Convalescent Transport Services, BLS Transport
- Emergency Services, BLS Transport

North State is headquartered in Raleigh North Carolina, and has been in service in the Orange County EMS System since 2010. North State has expanded services and now operates in eight North Carolina counties. North State provides approximately 2,400 scheduled Basic Life Support (BLS) transports annually in Orange County. North State employs 87 EMS providers and operates a fleet of 18 vehicles. North State has a professional management team and provides exceptional customer service. There have been no reported issues with its level of service in Orange County.

During the recently closure of Johnston Ambulance, North State has assisted Orange County's EMS system by expanding their services to minimize the impact to County residents. North State, when called upon, quickly hired and trained additional staff to accommodate the sudden increase in requested scheduled ambulance transports. In addition North State provided special event ambulance standby coverage at both Cedar Ridge and Orange High Schools during the 2016 football season. County staff continues to maintain an excellent working relationship with North State.

Emergency Services has reviewed the application, in conjunction with NC State Office of Emergency Medical Services, submitted by North State and inspected the premises, vehicles, equipment, and personnel of the company to assure compliance with the ordinance. The North Carolina General Statutes provide also that the Board prior to granting a franchise must "find that the franchise applicant is in compliance with Chapter 131E, Article 7."¹ Emergency Services has concluded that the company is in compliance with Chapter 131E, Article 7 that regulates emergency services permits to operate ambulances, standards for equipment, inspection of equipment and credentialed personnel.

¹ N.C. Gen. Stat. 153A-250(a).

Staff is recommending that North State be granted a Franchise to operate within the confines of the attached Franchise Ordinance. The terms of this Franchise Ordinance provide for a five year franchise for the following:

- Convalescent Transport Services
 - Basic Life Support Transport Services
- Emergency Services
 - BLS Transport Services

The terms outlined in the Franchise Agreement have been negotiated and are consistent with the terms of An Ordinance Regulating Emergency Medical, First Responder and Rescue Service and Granting of Franchise and Contracts to the Operators In the County of Orange and its' amendments.

FINANCIAL IMPACT: North State is a private provider of ambulance services and maintains an independent budget. There is no financial impact to the County.

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

- **GOAL: CREATE A SAFE COMMUNITY**
The reduction of risks from vehicle/traffic accidents, childhood and senior injuries, gang activity, substance abuse and domestic violence.

While the purpose of providing a franchise for ambulance service is not necessary to produce cost savings, the long term benefits of having the franchise is to improve ambulance service to the entire community and to allow better use of existing resources.

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

1. Approve the grant of a franchise for a five year term to North State Investment Group, LLC d/b/a North State Medical Transport for Basic Life Support Convalescent Transport Services and Emergency Services as provided below:
 - a. Convalescent Transport Services
 - Basic Life Support Transport Services
 - b. Emergency Services
 - Basic Life Support Transport Services
2. Approve the Franchise Agreement under which North State Investment Group, LLC d/b/a North State Medical Transport will operate during the five year period of franchise. As a condition of granting the Franchise, North State must enter into an Operations Agreement with Orange County within 90 days of granting the franchise which provides for the daily operational functions within the Orange County Emergency Services System;
3. Bring back the Franchise Agreement for second reading approval at the Board's December 13, 2016 regular meeting; and

4. If approved on second reading, authorize the County Manager to sign the Franchise Agreement after review by the County Attorney's Office.

**North State Investment Group, LLC d/b/a North State Medical Transport
Franchise Ordinance**

An Ordinance granting a non-exclusive Franchise (“hereafter Franchise”) to North State Investment Group, LLC d/b/a North State Medical Transport (“the Grantee”) to operate Emergency Medical Basic Life Support Transportation Services and Convalescence Basic Life Support Transportation Services in Orange County, North Carolina.

WHEREAS, Orange County (“the Grantor”), desires to assure the availability of Emergency Medical and Convalescent Basic Life Support Transportation Services within the County;

WHEREAS, the Grantor has, following reasonable notice, and after consideration, analysis and deliberation conducted public proceedings, during which proceedings the technical ability, financial condition, legal qualifications and general character of the Grantee were determined to be acceptable to receive a Franchise to conduct its Emergency Medical and Convalescence Basic Life Support Transportation Services;

WHEREAS, the Grantor has determined that Grantee is entitled to have a non-exclusive Franchise granted, that a need exists for the Emergency Medical and Convalescent Basic Life Support Transportation Services contemplated herein to improve the level of services available to residents of Orange County, helping to assure the provisions of adequate and continuing services which preserves, protects, and promotes the public health safety and welfare, and that granting a Franchise to the Grantee is a cost effective and reasonable manner of meeting the need;

WHEREAS, the Grantee desires to operate Emergency Medical and Convalescent Basic Life Support Transportation Services within the Grantor’s jurisdiction;

WHEREAS, the proposed Emergency Medical and convalescent Basic Life Support Transportation Services will fit within the existing services provided by the Orange County Emergency Services System so as not to adversely affect the level of services or operations of other Franchisees to render service; and

WHEREAS, the procedures of N.C. Gen. Stat. §153A-250, §153A-45, and §153A-46 have been complied with.

NOW THEREFORE, the parties agree as follows:

Section 1. Nature and Term of Grant

- a. The Grantor hereby grants the Grantee a non-exclusive Franchise to operate and maintain Emergency Medical and Convalescent Basic Life Support Transportation Services (be an EMS and Convalescent Services provider) in the Franchise District upon the terms and conditions set forth herein.

- b. The Franchise granted herein is for a term of five (5) years from the effective date of the Franchise, which shall begin on the first day following the date of acceptance by the Grantee of the Franchise terms and conditions set forth herein.

Section 2. Definitions

The following words, terms and phrases, when used in this Franchise, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

- a. **Ambulance.** The term “ambulance” means any privately or publicly owned motor vehicle, aircraft, or vessel that is specifically designed, constructed, or modified and equipped and is intended to be used for and is maintained or operated for the transportation on the streets or highways, waterways, or airways of this State of persons who are sick, injured, wounded, or otherwise incapacitated or helpless.
- b. **Ambulance Provider.** The term “ambulance provider” means an individual, firm, corporation, or association who engages or professes to engage in the business or services of transporting patients in an ambulance.
- c. **Approved.** The term “approved” shall mean approved by the North Carolina Medical Care Commission pursuant to the latter’s rules and regulations promulgated under N. C. Gen. Stat. §143B-165.
- d. **Advisory Committee or Committee.** The term “Advisory Committee” or “Committee” shall mean the Orange County Emergency Medical Services Committee which is the technical advisory committee designated by the Board of County Commissioners with respect to emergency medical services in Orange County.
- e. **Contract.** The term “contract” shall mean the instrument by which both parties agree to the terms of operation of the service to be provided.
- f. **Convalescent Transportation Services.** The term “convalescent transportation service” shall mean the operation of an ambulance for any purpose other than transporting emergency or emergent patients.
- g. **County.** The term “County” shall mean Orange County and its Board of Commissioners or their designated representative(s).
- h. **Emergency.** The term “emergency” or “emergency transportation services” shall mean the use of a service, its equipment and personnel to

provide medical care, rescue, and/or transportation of a patient who is in need of immediate rescue or medical treatment in order to prevent loss of life or further aggravation of physiological or psychological illness or injury.

- i. Emergency Services System or ESS. Emergency Services System or “ESS” shall mean a coordinated arrangement of local resources under the authority of the Emergency Services Director (including all agencies, personnel, equipment, and facilities) organized to respond to medical emergencies and integrated with other health care providers and networks including public health, community health monitoring activities, and special needs populations.
- j. Emergency Medical Dispatcher or Telecommunicator. The term “emergency medical dispatcher” or “telecommunicator” shall mean an emergency telecommunicator who has completed educational requirements and been credentialed by the Department of Health and Human Services as an emergency medical dispatcher and who is available to receive requests for emergency services, to dispatch emergency services, and to advise local law enforcement agencies, fire departments, rescue squads, first or medical responder units and emergency medical services and facilities of any existing or threatened emergency.
- k. Emergency Medical Services. “Emergency Medical Services” or “EMS” means services rendered by emergency medical services personnel in responding to improve the health and wellness of the community and to address the individual’s need for emergency medical care within the scope of practice as defined by the North Carolina Medical Board, in accordance with G.S. 143-514, and the Orange County Medical Director in order to prevent loss of life or further aggravation of physiological or psychological illness or injury.
- l. Emergency Medical Services Instructor. “Emergency Medical Services Instructor” means an individual who has completed educational requirements approved by the Department of Health and Human Services and has been credentialed by that Department as an emergency medical services instructor.
- m. Emergency Medical Services Peer Review Committee. Emergency Medical Service Peer Review Committee means a panel composed of EMS program representatives responsible for analyzing patient care data and outcome measures to evaluate the ongoing quality of patient care, system performance, and medical direction within the EMS system. The committee may include physicians, nurses, EMS personnel, medical facility personnel and county government staff as determined by the

Emergency Services Director in consultation with the County Medical Director.

- n. Emergency Medical Technician (EMT). The term “emergency medical technician” means an individual who has completed a training program in emergency medical care that has been approved for legal recognition by the North Carolina Department of Health and Human Services, in accordance with rules promulgated by the Medical Care Commission, has been certified as an EMT by the State of North Carolina Office of Emergency Medical Services, and approved by the County Medical Director to perform services as an EMT in the Orange County EMS system.
- o. Emergency Medical Technician – Intermediate (EMT-I). The term “emergency medical technician - intermediate” means an individual who has completed a training program in emergency medical care at the intermediate level that has been approved for legal recognition by the North Carolina Department of Health and Human Services, in accordance with rules promulgated by the Medical Care Commission, has been certified as an EMT - Intermediate by the State of North Carolina Office of Emergency Medical Services, and approved by the County Medical Director to perform services at the EMT-Intermediate level in the Orange County EMS system.
- p. Emergency Medical Technician – Paramedic (EMT-P). The term “emergency medical technician - paramedic” means an individual who has completed a training program in emergency medical care at the paramedic level that has been approved for legal recognition by the North Carolina Department of Health and Human Services, in accordance with rules promulgated by the Medical Care Commission, has been certified as an EMT-Paramedic by the State of North Carolina Office of Emergency Medical Services, and approved by the County Medical Director to perform services as an EMT-Paramedic in the Orange County EMS system.
- q. Emergency Services Director. The term shall mean the person designated by the Orange County Board of Commissioners to manage the overall Emergency Services System in Orange County.
- r. First Responder. The term “first responder” shall mean an organization with personnel trained in emergency medical care that is dispatched to the scene of a medical emergency for the primary purpose of providing emergency medical assistance to a patient until the ambulance and additional medical aid arrives.

- s. Franchise. The term “franchise” shall mean a permit issued by the County to a person for the operation of an ambulance service, rescue squad or first responder unit.
- t. Franchisee. The term “franchisee” shall mean any person having been issued a franchise by the County for the operation of an ambulance service, rescue squad or first responder unit.
- u. Inspection. Inspection shall mean the physical review of buildings and facilities, vehicles, equipment, supplies, storage, repair and maintenance areas, records and any related materials.
- v. License. The term “license” shall mean any driver’s license or permit to operate a motor vehicle issued under or granted by the laws of the State of North Carolina.
- w. Medical Responder. “Medical Responder” shall mean an individual who has completed an educational program in emergency medical care and first aid approved and credentialed by the Department of Health and Human Services as a medical responder and the Orange County Medical Director to operate in Orange County EMS.
- x. Medical Director. “Medical Director” shall mean the physician appointed, either directly or by written delegation, by the County and have the responsibilities as provide by 10A NCAC 13P .0403 and 10A NCAC 13P .0404. The County may, in addition, appoint an assistant medical director. The medical director and the assistant medical director shall meet the criteria defined in the “North Carolina College of Emergency Physicians: Standards of Medical Oversight and Data Collection,” which is incorporated by reference in accordance with N.C. Gen. Stat. §150B-21.6, including subsequent amendments and editions.
- y. Non-Emergency Transportation Services. The term “non-emergency transportation service” shall mean the operation of an ambulance for any purpose other than transporting emergency or emergent patients.
- z. Operation Protocols. “Operation Protocols” shall mean the administrative policies and procedures of EMS that provides guidance for the day-to-day operations of the system.
- aa. Operator. The term “operator” shall mean a person in actual physical control of an ambulance or rescue service vehicle which is in motion or which has the engine running.
- bb. Owner. The term “owner” shall man any person or entity who owns an ambulance or provides a service covered by this Ordinance.

- cc. Patient. The term “patient” shall mean an individual who is sick, injured, wounded, or otherwise incapacitated or helpless such that the need for some medical assistance might be anticipated while being transported to or from a medical facility.
- dd. Person. The term “person” shall mean any individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose, or organization of any kind, including any governmental agency other than the United States.
- ee. Practical Examination. “Practical Examination means a test where an applicant for credentialing as an emergency medical technician, or medical responder, emergency medical technician – intermediate, or emergency medical technician – paramedic demonstrates the ability to perform specified emergency medical care skills.
- ff. Rescue. The term “rescue” shall mean the removal of individuals facing external, non-medical, and non-patient related peril to areas of relative safety.
- gg. Rescue Squad or Rescue Unit. The term “rescue squad” or “rescue unit” shall mean a group of individuals who are not necessarily trained in emergency medical services, fire fighting, or law enforcement, but who expose themselves to an external, non-medical, and non-patient related peril to effect the removal of individuals facing the same type of peril to areas of relative safety.
- hh. Secondary Ambulance Provider. The term “secondary ambulance provider” shall mean the system of personnel and equipment meeting the same criteria as a primary ambulance provider, but not normally dispatched on first call response.
- ii. Service. The term “service” shall mean the same as owner.
- jj. Treatment Protocols. “Treatment Protocols” shall mean a document approved by the medical director and the Office of Emergency Medical Service specifying the diagnostic procedures, treatment procedures, medication administration, and patient-care-related policies that shall be completed by emergency service personnel based upon the assessment of the patient.
- kk. Victim. The term “victim” shall mean any patient or potential patient that is entrapped, entangled pinned, fallen, suspended, or otherwise in need of rescue services.

Section 4. General Responsibilities

- a. Grantee is authorized under this Franchise to operate the following types of service(s), the combination of which shall constitute Grantee's "EMS Services for the purposes of this Franchise, and subcategories under which they can operate shall be identified in the "Operation Agreement" to be entered into by the Franchisee and the County within 90 days after acceptance of the Franchise permit.
 - i. Emergency Services Basic Life Support Transport Services
 - ii. Convalescent Basic Life Support Transport Services

- c. Grantee shall comply at all times with the requirements of "An Ordinance Regulating Ambulance, Emergency Medical, First Responder And Rescue Service And Granting Of Franchise And Contracts To The Operator In The County Of Orange ("EMS Franchise Ordinance"), this Franchise Agreements, the Operations Agreement, and all applicable laws relating to health, sanitation, safety, equipment, ambulance design or other EMS Services vehicle design and all legal requirements related to a Model EMS System and all other laws and ordinance;
 - a. Grantee shall maintain in good standing its state and local Drivers and Privilege license (s) to operate its ambulance or other EMS Services as provided for by Law.
 - b. Establish and maintain appropriate and effective professional working relationships with all public health, public safety, and emergency services organization and personnel.
 - c. Professional working relationships shall be cooperative and collaborative in nature.
 - d. Maintain neat, clean, and professional appearance of personnel, equipment and facilities.

Section 5. Scope of Service and Service Area

- a. Grantee shall operate its EMS Services, 24 hours per each and every day of the calendar year, within the Franchise District specified in Exhibit A, except when a different or additional service area is provided for herein.
- b. Grantor may from time to time alter, and at its sole discretion, amend Exhibit A and the service area of the County that constitute (s) the Franchise District.

- c. Grantor shall at all times during the terms of the Franchise provide the highest level of care to all residents within the service area of the Franchise District.

Section 6. The Orange County Emergency Services System (“ESS”) Plan

- a. Grantee shall comply with the Grantor’s official written ESS System Plan for the management and deployment of EMS Services Vehicles within the Franchise District and, additionally, within other service areas pursuant to the EMS System Mutual Aid Plan and any cooperative agreement to continue services in service areas where Franchisees’ EMS System franchises has been suspended.
- b. Grantee shall keep at its place a business at all times the most current copy of the ESS System Plan.

Section 7. Staffing and Performance Requirements

- a. Grantee shall comply with the scope of practice rules promulgated by the North Carolina Medical Board pursuant to law regarding the medical skills and medication that may be used by credentialed emergency medical services personnel at each level of patient care.
- b. Grantee shall comply with standard for drivers and attendants developed by the North Carolina Medical Care Commission as requirements for certification of emergency medical technicians pursuant to law, rules and regulations promulgated by the Board of Medical Examiners for advanced life support technicians, which is incorporated in this subsection by reference.
- c. No staff of Grantee shall drive an ambulance vehicle, attend a patient, or permit an ambulance to be operated when transporting a patient within the County unless the driver holds a currently valid North Carolina Drivers license and currently valid credentials as an EMT, EMT-I or EMT-P issued by the North Carolina Department of Health and Human Services, Office of Emergency Medical Services. Notwithstanding the foregoing, in an exceptional circumstance when an EMT, EMT-I, or EMT-P is not available, for the purpose of driving only or when providing Non-Transport Service an approved firefighter, First or Medical Responder, Rescue Services Provider or law enforcement officer with a currently valid North Carolina drivers license may drive an ambulance, provided such driver does not attend a patient or victim or does not otherwise provide medical services to a patient or victim.
- d. Grantee shall comply with the Grantor’s official written EMS System Plan for the use of credentialed EMS personnel for all of the authorized

Practice Settings. Any agreement between Grantee and a third party to provide special events coverage is subject to pre-approval in writing by the Grantor, which approval shall not be reasonable withheld.

- e. Grantee's staff that operate EMS Service Vehicles shall actively participate in any emergency vehicle operations training provided by the Grantor as directed by the Emergency Services Director.
- f. Grantee's staff shall comply with Grantor's official written EMS System continuing education plan for EMS personnel under the direction of the Orange County Continuing Education Coordinator.
- g. Grantee staff shall also participate in all clinical and field internship educational components of Grantor's continuing education plan.
- h. Grantee shall comply with all education program requirements for qualified credentialed EMS personnel as provided by law.
- i. Grantee shall assign credentialed staff to assist, upon request, with any orientation provided by Grantor to local area hospitals that routinely receive patients from Grantee.

Section 8. Vehicle and Equipment Requirements

- a. Grantee shall comply with all vehicle and equipment standards as developed by the North Carolina Medical Care Commission pursuant to law, including without limitation, those applicable to the EMS Services.
- b. Grantee shall maintain for each ambulance and other EMS Services Vehicle a permit as provided for by law.
- c. Grantee shall comply with the state EMS Non-Transporting Vehicle Permit requirements.
- d. Grantee shall have available the following minimum number of ambulances and other EMS Services Vehicles in excellent working order to provide coverage to the service area of the Franchise District 24 hours per day.

One (1) Type 1 Ambulance, One (1) In Service Rescue Vehicles and other EMS Services Vehicles and equipment as necessary to provide the high quality of services provided for in this Franchise.

- e. Grantee shall comply with the Grantor's operational protocols for the management of equipment, supplies and medications to assure that each ambulance and other EMS Services Vehicle contains the required

equipment and supplies on each response; for cleaning and maintaining the equipment and vehicles; and to assure that supplies and medications are not used beyond the expiration date and stored in a temperature controlled atmosphere according to manufacturer's specifications.

- f. Grantee shall comply with the Orange County's written infection control policy including the cleansing and disinfecting of ambulances and other EMS Services Vehicles and equipment that are used to treat or transport patients.
- g. Grantor may, upon reasonable notice, inspect all equipment, ambulances and other EMS Service Vehicles used by Grantee.

Section 9. Communications Requirement

- a. Grantee shall equip each ambulance and other EMS Services Vehicle with the following:
 - i. An operational two-way radio capable of establishing good quality voice communications from within the geographical confines of Orange County to each hospital emergency department in the County in which the service is based;
 - ii. Two-way radio communication capabilities for communication with all hospital emergency departments to which transportation of patients is made on a regular or routine basis anywhere within the State of North Carolina; and
 - iii. An operational two-way radio capable of establishing communications from within the geographic confines of Orange County to the Orange County Emergency Communications Center, which is the dispatching agency within the County.
- b. This subsection shall not apply to privately owned vehicles of Grantee's staff.
- c. Grantee shall maintain current authorization or Federal Communication Commission licenses for all frequencies and radio transmitters operated by Grantee. Grantee shall display at Grantee's headquarters and make available for inspection per Federal Communication Commission's rules and regulations copies of all authorization and licenses.
- d. Grantee's base of operations shall have at least one open telephone 24 hours per each and every day of the calendar year. Grantee's telephone numbers shall be registered with Orange County Emergency Communication Center, and changes to Grantee's telephone numbers shall

be transmitted to the Emergency Communication Center within 24 hours of such change.

- e. Grantee's EMS Services shall be dispatched from the Orange County Emergency Communications Center.

Section 10. Data Collection and Performance Report

- a. Grantee shall maintain the following records:
 - i. Records of dispatch which shall show time call was received, time dispatched, time arrived on scene, time arrived at destination, time in service, and time returned to base.
 - ii. Trip Records stating all information required in subsection (i) of this Section in addition to information on a form approved by the County. The trip record shall be so designed as to provide the patient with a copy containing all required information.
 - iii. Personnel Checklist and Inspection Report listing contents and description for each vehicle, signed by the individual verifying vehicle operations and equipment.
 - iv. A detailed record of complaints received from the public, other enforcing agencies and services regarding Franchise infractions.
 - v. Any other records required by state law, rules or regulations or deemed by the Department of Emergency Service as relevant to the effective and efficient operations of the Emergency Management System as provided in the "Operations Agreement" and necessary for a fair determination of the capability of the Grantee to continue to provide Emergency Medical Services and Rescue Services in Orange County in accordance with the requirement of law and the provision of this Franchise.
- b. All of the records identified in subsection (a) above shall be maintained for a minimum three (3) year period unless a longer retention period is otherwise required by law or other retention periods.
- c. Grantee shall establish and maintain a system to record data that used the Model Data set and data dictionary as specified in "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection."
- d. Grantees shall maintain confidentiality of patient records as provided by the Health Insurance Portability and Accountability Act of 1996 (HIPAA),

Public Law 104-191, N.C. Gen. Stat. 143-518 and all other state and federal law.

- e. Grantee shall submit a written monthly report to the Emergency Services Director, or their designee, providing the number of calls and runs during the month. The report shall contain the number of emergency calls, the number of convalescent calls, the total number of calls and the total number of patients transported.
- f. Grantee may inspect Grantee's records at any time in order to ensure compliance with the EMS Franchise Ordinance and this Franchise Agreement; however, Grantor's shall inspect the Grantee's records at least once a year to ensure compliance with the EMS Franchise Ordinance and this Franchise Agreement.

Section 11. Medical Oversight

- a. Grantee shall designate a representative of Grantee to attend and participate in regular meetings of the Orange County EMS Peer Review Committee.
- b. Grantee shall monitor and comply with any online medical direction for operating within EMT-P systems.
- c. Grantee shall comply with the Grantor's plan for Medical Oversight and Written Treatment Protocols.
- d. Grantee shall comply with the Grantor's written plan to address the management of the EMS System including:
 - i. the triage of patients to appropriate facilities;
 - ii. transport of patients to facilities outside of the system;
 - iii. Arrangement for transporting patients to appropriate facilities when diversion or bypass plans are activated;
 - iv. A mechanism for reporting, monitoring and establishing standards for system response times;
 - v. A special events staffing plan;
 - vi. A disaster plan; and
 - vii. Mass gathering plan.

- e. Grantee shall comply with the Medical Director's written guidance regarding decision about the equipment, medical supplies, and medications that will be carried on any ambulance or other EMS Services Vehicle.
- f. The Medical Director may suspend temporarily, pending due process review by the EMS Peer Review Committee, any of Grantee's EMS personnel from further participation in the EMS system when the Medical Director determines that the activities or medical care rendered by such personnel may be detrimental to the care of the patient, constitute unprofessional behavior or results in non-compliance with credentialing requirements.

Section 12. Rates and Adjustments

- a. Grantee shall submit a schedule of rates to the Grantor for approval and shall not charge more or less than the rates authorized by Orange County without specific authorization from the Grantor.
- b. Grantee shall not attempt to collect rates on emergency call until the patient has reached the point of destination, has received medical attention and is in a condition deemed by the physician fit to consult with the service; but Grantee may attempt to collect rates with family or guardian of the patient once the patient is in the process of receiving medical attention.
- c. On Special Event coverage and convalescent calls, Grantee may attempt to collect payment before the ambulance or other EMS Services Vehicle begins its trip.

Section 13. Insurance

- a. Within thirty (30) calendar days after the effective date of issuance of the Franchise, the Grantee shall provide proof of the required insurance. Grantee shall at all times during the Franchise term maintain in force and effect insurance coverage, issued by an insurance company licensed to do business in North Carolina, covering the following:
 - i. Every ambulance or other EMS Services Vehicle owned and/or operated by or for the Grantee proving for the following payment of injury and damages:
 - (a) In the minimum sum of \$1,000,000 for injury to or death of individuals in accidents resulting from any cause for which the owner of the vehicle would be liable on account of

liability imposed on him by law, regardless of whether the vehicle was being driven by the owner of his agent; and

- (b) In the minimum sum of \$1,000,000 for the loss of or damage to the property of another, including personal property, or under like circumstances in sums as may be required by the State of North Carolina or as authorized by the Grantor.
 - (c) The insurance coverage minimum limits required in subsection (a) and (b) above shall be evaluated annually by the Orange County Department of Emergency Services in consultation with the Orange County Risk Manager and the County Attorney's Office and may be revised by the Grantor as Grantor deems appropriate, and at Grantor's sole discretion. In directing a change in insurance coverage, the Department of Emergency Services shall consider the risk needs protected by this insurance coverage and the availability in the marketplace of the coverage amounts to be required.
- ii. Grantee shall at all times during the Franchise term maintain in force and effect insurance coverage, issued by an insurance company licensed to do business in North Carolina for Worker's Compensation coverage for all employees with statutory limits in compliance with applicable law.
- b. Insurance coverage necessary to comply with this Section shall be approved by the Grantor, and copies of such insurance policies (or certificates of insurance) shall be provided to the Grantor.
 - c. The Grantor shall be named as an additional insured as its interests may appear.

Section 14. Transfer of Ownership or Control and Changes in Level of Services

- a. Prior approval of the Grantor shall be required where ownership or control of more than ten percent of the right or control of the Grantee is acquired by a person or group of persons acting in concert, not of whom own or control ten percent or more of such rights of control, singularly or collectively, at the date of the grant of the Franchise. By its acceptance of the Franchise, the Grantee specifically agrees that any such acquisition occurring without prior approval of the Grantor shall constitute a violation of the Franchise by the grantee and shall be cause for termination at the option of the Grantor.

- b. Any change in ownership of Grantee without the approval of the Grantor shall terminate the Franchise and shall require a new application and a new Franchise in conformance with all the requirements of the EMS Franchise Ordinance, as amended and in effect at the time of franchising.
- c. Any change in the level of services offered by a Grantee's EMS Services unit without the approval of the Grantor shall terminate the Franchise and shall require a new application and a new franchise in conformance with all the requirements of the EMS Franchise Ordinance, as amended and in effect at the time of franchising.
- d. Grantee may not sell, assign, mortgage or otherwise the transfer the Franchise without the approval of the Grantor; if the Grantor sells, assigns, mortgages or otherwise transfer the Franchise without Grantor's approval this shall terminate the Franchise and require a new application and a new Franchise in conformance with all the requirements of the EMS Franchise Ordinance, as amended and in effect at the time of franchising.

Section 15. Miscellaneous Provisions

- a. Grantor may, upon reasonable notice, inspect the premises, vehicles, equipment and personnel of Grantee to ensure compliance with this Franchise and perform any other inspections that may be required.
- b. Grantee shall make available for inspection by the State of North Carolina, the Grantor, or their designated representatives, Grantee's EMS Services, its equipment and the premises designated in the application and all records relating to its maintenance and operations as such.
- c. Grantee shall cooperate with the Grantor to educate the public concerning injury prevention and community health.
- d. Grantee's staff shall not wear or carry aboard any ambulance of other EMS Services Vehicles firearms or weapons as defined by law, which does not include tools that aid in providing services. The foregoing restriction shall not be construed to apply to equipment used by Grantee to provide EMS Services.
- e. Grantee shall post its Franchise Certificate, issued to it by the Grantor, in a readily visible location at the Grantee's base of operations for the EMS Service.
- f. Grantee shall not allow its Franchise Certificate to be defaced, removed, or obliterated.

- g. Grantee shall comply with all applicable law and Grantor's policies and procedures related to confidentiality of medical information, including without limitation the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Section 16. Termination Provisions

- a. Grantee may terminate this Franchise with 60 days written notice to Grantor and the Grantor may revoke the Franchise in the event of noncompliance with the provisions of the EMS Ordinance or this Franchise Agreement. After a notice of services termination is given, the Grantee may reapply for a franchise if a continued service is desired.
- b. Upon suspension, revocation, termination or a stay by the Emergency Services Director of this Franchise, Grantee shall immediately cease all operations authorized by this Franchise.
- c. Upon suspension, revocation, termination of a driver's license such person shall cease to drive an ambulance or other EMS Service Vehicle. Upon suspension, revocation or termination of an attendant's certificate (i.e., Medical Responder, EMT, EMT-I or EMT-P) by the Office of Emergency Medical Services or by the Medical Director, such person shall cease to attend patients or otherwise provide medical care. Grantee shall not permit the foregoing person to drive an ambulance or their EMS Service Vehicle or provide medical care in conjunction with EMS Services, if Grantee is found to have notice of or should have had notice of such suspension, revocation or termination at the sole discretion of the Grantor this shall terminate the Franchise and shall require a new application and a new Franchise in conformance with all the requirements of the EMS Franchise Ordinance, as amended and in effect at the time of franchising.
- d. In the event that Grantee shall at any time during the Franchise desire to sell any of the real or personal property identified in Exhibit B (hereinafter "Asset" or "Assets"), which is hereby incorporated by reference, pursuant to a bona fide offer to a bona fide offer which it shall have received, it shall offer to sell any such Asset or Assets (hereafter "Asset or Assets for Sale) to Grantor at the same process as that contained in such bona fide offer. The offer to Grantor to sell an Asset shall be in writing and shall include a copy of the bona fide offer. The offer to Grantor to sell an Asset shall be in writing and shall include a copy of the bona fide offer for the Asset received by the Grantee. Grantor shall have 60 days from and after receipt thereof to decide whether or not to purchase the Asset or Assets for Sale at such price. If Grantor shall give notice of intent not to purchase or shall give no notice within the time herein limited, Grantee may accept such offer and proceed with the sale thereunder. If Grantor notifies Grantee that it elects to purchase the Asset or Assets for Sale at such

prove, the parties shall enter into a contract of purchase and sale forthwith. Such contract shall provide, among other things, for the conveyance of good and marketable title b warranty deed. Upon dissolution of the Grantee pursuant to N.C. Gen. Stat. § 55A-14-1, et seq., the Assets shall be either: (a) distributed to one or more appropriately receiving successor Franchisee (s) that will carry on, In Orange County, the functions of ambulance, first or medical responder, rescue or other related emergency services meeting one or more exempt purposes within the meaning of 501(c)(3) of the Internal Revenue code (or the corresponding section of any future federal tax code) or (b) distributed to the grantor for the foregoing public purposes. This subsection 16(d) of this EMS Service Franchise survives the termination of the Franchise.

Section 17. Forum for Litigation

Any litigation between the Grantor and Grantee arising under or regarding the Franchise shall occur, if in the North Carolina courts, in Orange County Superior Court or District Court having jurisdiction thereof, or if in the federal courts, in the United States District Court for the Middle District of North Carolina.

Section 18. Notice

Any notice provided for under the Franchise shall be sufficient if in writing and delivered personally to the following address or deposited in the United States Mail, postage prepaid, certified mail, return receipt requested, addressed as follows, or to such other address as the receiving party hereafter shall specify in writing:

If to the Grantor:

Orange County Emergency Services
Post Office Box 8181
Hillsborough, North Carolina 27278
Attn: Emergency Services Director
(919) 245-6100

If to the Grantee:

North State Investment Group, LLC d/b/a North State Medical Transport
1240 Corporate Parkway
Raleigh, North Carolina 27610
Attn: Stuart Coward
(919) 261-8911

Section 19. Severability

If any section, subsection, sentence, clause, phrase, or other portion of this Franchise is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

Section 20. Reservation of Rights

Notwithstanding any other provision of the Franchise, Grantor and Grantee reserve all rights that they may possess under the law unless expressly waived herein. Nothing herein shall constitute a waiver of rights of either party, provided, however, that both parties warrant and represent that, as of the effective date of the Franchise, they are not aware of any provision in the Franchise that is contrary to applicable law.

Section 21. Penalties and Remedies

- a. A violation of any provision of this Franchise Ordinance or other failure of the Grantee to abide by the provisions of this Franchise shall subject the Grantee to a civil penalty of five hundred (\$500) dollars. If Grantee fails to pay this penalty within ten (10) days after being cited for a violation, the Grantor may seek to recover the penalty by filing a civil action in the nature of a debt.
- b. A violation of any provision of this Franchise Ordinance by the Grantee shall constitute a misdemeanor, punishable as provided in N.C. Gen. Stat. § 14-4.
- c. The Grantor may seek to enforce this Franchise Ordinance through any appropriate equitable action.
- d. Each day that a violation continues of this Franchise Ordinance after the Grantee has been notified of the violation shall constitute a separate offense.
- e. The Grantor may seek to enforce this Franchise Ordinance by using any one or any combination of the foregoing remedies.

Section 22. Non-discrimination

The Grantee shall not discriminate in any manner on the basis or factors prohibited by law.

Section 23. Acceptance by Grantee

This Franchise and all of its terms and provisions shall be accepted by Grantee in writing in the form hereinafter set forth within thirty (30) days of the grant of this Franchise by the Grantor and when accepted shall be filed with Grantor’s Clerk who shall record the same in the Book of Ordinances.

Such written acceptance may be upon or at the end of a copy of this Franchise Ordinance and it shall state and express the acceptance of said Franchise and its terms, conditions and provisions; and Grantee shall agree in said written acceptance to abide by, to observe and to perform the same according to all of its terms and provisions, subject to applicable state and federal law and shall declare that statements and recitals contained on said Franchise are correct and that it has made and does make the agreements and statements set forth in this Franchise. Acceptance herein referred to shall be in the following form:

The undersigned, Stuart Coward, in his/her capacity as Chief Executive Officer of the North State Investment Group, LLC d/b/a North State Medical Transport and on behalf of that agency, does hereby accept and approve the foregoing and attached Franchise and all of its terms and conditions; and in consideration of the benefits and privileges granted to it does hereby agree to abide by, carry out, observe and perform all of the obligations and things provided to be carried out and performed by it in said Franchise approved by the Grantor Commissioners, subject to applicable state and federal law.

This the _____ day of December, 2016

IN WITNESS WHEREOF, this _____ Franchise Ordinance passed on First Reading on the ____ day of _____, 20____ and was passed and adopted on Second Reading this the ____ day of _____, 20____ .

Bonnie Hammersley, County Manager
Orange County, North Carolina

APPROVED AS TO FORM:

Annette M. Moore, Staff Attorney
Orange County Attorney’s Office

ATTEST: _____
_____, Clerk/Deputy Clerk to the
Orange County Board of Commissioners

**EXHIBIT A TO EMS SERVICES FRANCHISE FOR NORTH STATE
INVESTMENT GROUP, LLC D/B/A NORTH STATE MEDICAL TRANSPORT**

FRANCHISE DISTRICT

Geographic Location: All of the County of Orange

**EXHIBIT B TO EMS SERVICES FRANCHISE FOR NORTH STATE
INVESTMENT GROUP, LLC D/B/A NORTH STATE MEDICAL TRANSPORT**

(Note: Replace with Completed Exhibit B)

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: December 5, 2016

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

SUBJECT: First Reading: Emergency Services Franchise by Ordinance - LifeStar
Emergency Services - 2023, LLC

DEPARTMENT: Emergency Services

ATTACHMENT(S):
LifeStar Franchise Agreement

INFORMATION CONTACT:
Dinah Jeffries, Emergency Services
Director, (919) 245-6100
Kim Woodward, Emergency Medical
Services EMS Operations Manager,
(919) 245-6133

PURPOSE: To approve on First Reading the granting of a franchise by ordinance to LifeStar Emergency Services - 2023, LLC (LifeStar) and the Franchise Agreement under which it will operate – approval on “first reading” is based on State law requirements that a franchise by ordinance pass two readings in order to be granted by the Board of Commissioners.

BACKGROUND: On February 2, 2010, the Board held a Public Hearing to determine the need for supplemental ambulance services in accordance with North Carolina General Statute § 153A-250(a). At that time, the Board made the determination that franchise ambulance services were necessary to assure the provision of adequate and continuing ambulance service. State law requires that the Board of County Commissioners grant franchise agreements through County ordinance. The ordinance is required to pass two readings in order to be granted.

Orange County has historically granted franchise agreements for convalescent transport and emergency ambulance services and for rescue service. The convalescent transport ambulance services franchises are only used to provide non-emergency convalescent transport to medical facilities typically for the care and treatment of a resident’s long term health needs. Franchisees may also provide surge capacity in a basic life support (BLS) capacity during a widespread emergency that stresses the capacity of Orange County Emergency Medical Services. Orange County Emergency Services provides all other emergency response services for basic and advanced life support (ALS) needs in the County.

The most-recent convalescent transportation provider, Johnston Ambulance, closed its operations a short time ago, requiring the County to franchise other providers.

Emergency Services has reviewed the overall Emergency Services System in the County to confirm that franchise services continue to be necessary to assure the provision of adequate and continuing ambulance services and to preserve, protect, and promote the public health,

safety and welfare. As a result, the Department is recommending four franchises for ambulance service and one for rescue service.

The Department has identified the following services as necessary to supplement and enhance the ambulance services within the Emergency Services System and to the residents of the Orange County. The services are:

Convalescent Transport Services

- ALS Transport
- BLS Transport

Emergency Services

- BLS Transport
- Medical Responder Non-transport
- EMT Non-transport

Rescue Services

- Confined Space
- Extrication
- Heavy Rescue
- High/Low Angle
- Swift Water
- Trench Collapse
- Underwater
- Wilderness Search & Rescue

LifeStar has applied for Orange County Franchise under the 2010 Franchise Ordinance. The application indicates LifeStar is applying to provide the following services:

- Convalescent Transport Services, BLS Transport
- Emergency Services, BLS Transport

LifeStar is headquartered in Winston Salem, North Carolina, has been in service in the Forsyth County EMS System since 2009, and has recently expanded into the Stokes County EMS system in 2016. LifeStar provides approximately 18,000 Basic Life Support (BLS) transports annually. LifeStar has 85 employees and a fleet of 24 vehicles. LifeStar has a professional management team and provides exceptional customer service. During the closure of Johnston Ambulance, on short notice, LifeStar has helped fill the gap, providing excellent service to area hospitals, nursing homes, and private residences. LifeStar has proven to be responsive, prompt, and courteous.

Emergency Services has reviewed the application, in conjunction with NC State Office of Emergency Medical Services, submitted by LifeStar and inspected the premises, vehicles, equipment, and personnel of the company to assure compliance with the ordinance. The North Carolina General Statutes provide also that the Board prior to granting a franchise must “find that the franchise applicant is in compliance with Chapter 131E, Article 7.”¹ Emergency Services has concluded that the company is in compliance with Chapter 131E, Article 7 that regulates emergency services permits to operate ambulances, standards for equipment, inspection of equipment and credentialed personnel.

Staff is recommending that LifeStar be granted a Franchise to operate within the confines of the attached Franchise Ordinance. The terms of this Franchise Ordinance provide for a five year franchise for the following:

Convalescent Transport Services

- Basic Life Support Transport Services

Emergency Services

¹ N.C. Gen. Stat. 153A-250(a).

- BLS Transport Services

The terms outlined in the Franchise Agreement have been negotiated and are consistent with the terms of An Ordinance Regulating Emergency Medical, First Responder and Rescue Service and Granting of Franchise and Contracts to the Operators In the County of Orange and its' amendments.

FINANCIAL IMPACT: LifeStar is a private provider of ambulance services and maintains an independent budget. There is no financial impact on the County.

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

- **GOAL: CREATE A SAFE COMMUNITY**

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

While the purpose of providing a franchise for ambulance service is not necessary to produce cost savings, the long term benefits of having the franchise is to improve ambulance service to the entire community and to allow better use of existing resources.

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

1. Approve the grant of a franchise for a five year term to LifeStar Emergency Services - 2023, LLC for Basic Life Support Convalescent Transport Services and Emergency Services as provided below:
 - a. Convalescent Transport Services
 - Basic Life Support Transport Services
 - b. Emergency Services
 - Basic Life Support Transport Services
2. Approve the Franchise Agreement under which LifeStar Emergency Services - 2023 LLC will operate during the five year period of franchise. As a condition of granting the Franchise, LifeStar must enter into an Operations Agreement with Orange County within 90 days of granting the franchise which provides for the daily operational functions within the Orange County Emergency Services System;
3. Bring back the Franchise Agreement for second reading approval at the Board's December 13, 2016 regular meeting; and
4. If approved on second reading, authorize the County Manager to sign the Franchise Agreement after review by the County Attorney's Office.

ORD-2016-044

**LifeStar Emergency Services – 2023, LLC d/b/a LifeStar Emergency Services
Franchise Ordinance**

An Ordinance granting a non-exclusive Franchise (“hereafter Franchise”) to LifeStar Emergency Services – 2023, LLC d/b/a LifeStar Emergency Services (“the Grantee”) to operate Emergency Medical Basic Life Support Transportation Services and Convalescence Basic Life Support Transportation Services in Orange County, North Carolina.

WHEREAS, Orange County (“the Grantor”), desires to assure the availability of Emergency Medical and Convalescent Basic Life Support Transportation Services within the County;

WHEREAS, the Grantor has, following reasonable notice, and after consideration, analysis and deliberation conducted public proceedings, during which proceedings the technical ability, financial condition, legal qualifications and general character of the Grantee were determined to be acceptable to receive a Franchise to conduct its Emergency Medical and Convalescence Basic Life Support Transportation Services;

WHEREAS, the Grantor has determined that Grantee is entitled to have a non-exclusive Franchise granted, that a need exists for the Emergency Medical and Convalescent Basic Life Support Transportation Services contemplated herein to improve the level of services available to residents of Orange County, helping to assure the provisions of adequate and continuing services which preserves, protects, and promotes the public health safety and welfare, and that granting a Franchise to the Grantee is a cost effective and reasonable manner of meeting the need;

WHEREAS, the Grantee desires to operate Emergency Medical and Convalescent Basic Life Support Transportation Services within the Grantor’s jurisdiction;

WHEREAS, the proposed Emergency Medical and convalescent Basic Life Support Transportation Services will fit within the existing services provided by the Orange County Emergency Services System so as not to adversely affect the level of services or operations of other Franchisees to render service; and

WHEREAS, the procedures of N.C. Gen. Stat. §153A-250, §153A-45, and §153A-46 have been complied with.

NOW THEREFORE, the parties agree as follows:

Section 1. Nature and Term of Grant

- a. The Grantor hereby grants the Grantee a non-exclusive Franchise to operate and maintain Emergency Medical and Convalescent Basic Life Support

Transportation Services (be an EMS and Convalescent Services provider) in the Franchise District upon the terms and conditions set forth herein.

- b. The Franchise granted herein is for a term of five (5) years from the effective date of the Franchise, which shall begin on the first day following the date of acceptance by the Grantee of the Franchise terms and conditions set forth herein.

Section 2. Definitions

The following words, terms and phrases, when used in this Franchise, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

- a. **Ambulance.** The term “ambulance” means any privately or publicly owned motor vehicle, aircraft, or vessel that is specifically designed, constructed, or modified and equipped and is intended to be used for and is maintained or operated for the transportation on the streets or highways, waterways, or airways of this State of persons who are sick, injured, wounded, or otherwise incapacitated or helpless.
- b. **Ambulance Provider.** The term “ambulance provider” means an individual, firm, corporation, or association who engages or professes to engage in the business or services of transporting patients in an ambulance.
- c. **Approved.** The term “approved” shall mean approved by the North Carolina Medical Care Commission pursuant to the latter’s rules and regulations promulgated under N. C. Gen. Stat. §143B-165.
- d. **Advisory Committee or Committee.** The term “Advisory Committee” or “Committee” shall mean the Orange County Emergency Medical Services Committee which is the technical advisory committee designated by the Board of County Commissioners with respect to emergency medical services in Orange County.
- e. **Contract.** The term “contract” shall mean the instrument by which both parties agree to the terms of operation of the service to be provided.
- f. **Convalescent Transportation Services.** The term “convalescent transportation service” shall mean the operation of an ambulance for any purpose other than transporting emergency or emergent patients.
- g. **County.** The term “County” shall mean Orange County and its Board of Commissioners or their designated representative(s).

- h. Emergency. The term “emergency” or “emergency transportation services” shall mean the use of a service, its equipment and personnel to provide medical care, rescue, and/or transportation of a patient who is in need of immediate rescue or medical treatment in order to prevent loss of life or further aggravation of physiological or psychological illness or injury.
- i. Emergency Services System or ESS. Emergency Services System or “ESS” shall mean a coordinated arrangement of local resources under the authority of the Emergency Services Director (including all agencies, personnel, equipment, and facilities) organized to respond to medical emergencies and integrated with other health care providers and networks including public health, community health monitoring activities, and special needs populations.
- j. Emergency Medical Dispatcher or Telecommunicator. The term “emergency medical dispatcher” or “telecommunicator” shall mean an emergency telecommunicator who has completed educational requirements and been credentialed by the Department of Health and Human Services as an emergency medical dispatcher and who is available to receive requests for emergency services, to dispatch emergency services, and to advise local law enforcement agencies, fire departments, rescue squads, first or medical responder units and emergency medical services and facilities of any existing or threatened emergency.
- k. Emergency Medical Services. “Emergency Medical Services” or “EMS” means services rendered by emergency medical services personnel in responding to improve the health and wellness of the community and to address the individual’s need for emergency medical care within the scope of practice as defined by the North Carolina Medical Board, in accordance with G.S. 143-514, and the Orange County Medical Director in order to prevent loss of life or further aggravation of physiological or psychological illness or injury.
- l. Emergency Medical Services Instructor. “Emergency Medical Services Instructor” means an individual who has completed educational requirements approved by the Department of Health and Human Services and has been credentialed by that Department as an emergency medical services instructor.
- m. Emergency Medical Services Peer Review Committee. Emergency Medical Service Peer Review Committee means a panel composed of EMS program representatives responsible for analyzing patient care data and outcome measures to evaluate the ongoing quality of patient care, system performance, and medical direction within the EMS system. The committee may include physicians, nurses, EMS personnel, medical

facility personnel and county government staff as determined by the Emergency Services Director in consultation with the County Medical Director.

- n. Emergency Medical Technician (EMT). The term “emergency medical technician” means an individual who has completed a training program in emergency medical care that has been approved for legal recognition by the North Carolina Department of Health and Human Services, in accordance with rules promulgated by the Medical Care Commission, has been certified as an EMT by the State of North Carolina Office of Emergency Medical Services, and approved by the County Medical Director to perform services as an EMT in the Orange County EMS system.
- o. Emergency Medical Technician – Intermediate (EMT-I). The term “emergency medical technician - intermediate” means an individual who has completed a training program in emergency medical care at the intermediate level that has been approved for legal recognition by the North Carolina Department of Health and Human Services, in accordance with rules promulgated by the Medical Care Commission, has been certified as an EMT - Intermediate by the State of North Carolina Office of Emergency Medical Services, and approved by the County Medical Director to perform services at the EMT-Intermediate level in the Orange County EMS system.
- p. Emergency Medical Technician – Paramedic (EMT-P). The term “emergency medical technician - paramedic” means an individual who has completed a training program in emergency medical care at the paramedic level that has been approved for legal recognition by the North Carolina Department of Health and Human Services, in accordance with rules promulgated by the Medical Care Commission, has been certified as an EMT-Paramedic by the State of North Carolina Office of Emergency Medical Services, and approved by the County Medical Director to perform services as an EMT-Paramedic in the Orange County EMS system.
- q. Emergency Services Director. The term shall mean the person designated by the Orange County Board of Commissioners to manage the overall Emergency Services System in Orange County.
- r. First Responder. The term “first responder” shall mean an organization with personnel trained in emergency medical care that is dispatched to the scene of a medical emergency for the primary purpose of providing emergency medical assistance to a patient until the ambulance and additional medical aid arrives.

- s. Franchise. The term “franchise” shall mean a permit issued by the County to a person for the operation of an ambulance service, rescue squad or first responder unit.
- t. Franchisee. The term “franchisee” shall mean any person having been issued a franchise by the County for the operation of an ambulance service, rescue squad or first responder unit.
- u. Inspection. Inspection shall mean the physical review of buildings and facilities, vehicles, equipment, supplies, storage, repair and maintenance areas, records and any related materials.
- v. License. The term “license” shall mean any driver’s license or permit to operate a motor vehicle issued under or granted by the laws of the State of North Carolina.
- w. Medical Responder. “Medical Responder” shall mean an individual who has completed an educational program in emergency medical care and first aid approved and credentialed by the Department of Health and Human Services as a medical responder and the Orange County Medical Director to operate in Orange County EMS.
- x. Medical Director. “Medical Director” shall mean the physician appointed, either directly or by written delegation, by the County and have the responsibilities as provide by 10A NCAC 13P .0403 and 10A NCAC 13P .0404. The County may, in addition, appoint an assistant medical director. The medical director and the assistant medical director shall meet the criteria defined in the “North Carolina College of Emergency Physicians: Standards of Medical Oversight and Data Collection,” which is incorporated by reference in accordance with N.C. Gen. Stat. §150B-21.6, including subsequent amendments and editions.
- y. Non-Emergency Transportation Services. The term “non-emergency transportation service” shall mean the operation of an ambulance for any purpose other than transporting emergency or emergent patients.
- z. Operation Protocols. “Operation Protocols” shall mean the administrative policies and procedures of EMS that provides guidance for the day-to-day operations of the system.
- aa. Operator. The term “operator” shall mean a person in actual physical control of an ambulance or rescue service vehicle which is in motion or which has the engine running.
- bb. Owner. The term “owner” shall mean any person or entity who owns an ambulance or provides a service covered by this Ordinance.

- cc. Patient. The term “patient” shall mean an individual who is sick, injured, wounded, or otherwise incapacitated or helpless such that the need for some medical assistance might be anticipated while being transported to or from a medical facility.
- dd. Person. The term “person” shall mean any individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose, or organization of any kind, including any governmental agency other than the United States.
- ee. Practical Examination. “Practical Examination means a test where an applicant for credentialing as an emergency medical technician, or medical responder, emergency medical technician – intermediate, or emergency medical technician – paramedic demonstrates the ability to perform specified emergency medical care skills.
- ff. Rescue. The term “rescue” shall mean the removal of individuals facing external, non-medical, and non-patient related peril to areas of relative safety.
- gg. Rescue Squad or Rescue Unit. The term “rescue squad” or “rescue unit” shall mean a group of individuals who are not necessarily trained in emergency medical services, fire fighting, or law enforcement, but who expose themselves to an external, non-medical, and non-patient related peril to effect the removal of individuals facing the same type of peril to areas of relative safety.
- hh. Secondary Ambulance Provider. The term “secondary ambulance provider” shall mean the system of personnel and equipment meeting the same criteria as a primary ambulance provider, but not normally dispatched on first call response.
- ii. Service. The term “service” shall mean the same as owner.
- jj. Treatment Protocols. “Treatment Protocols” shall mean a document approved by the medical director and the Office of Emergency Medical Service specifying the diagnostic procedures, treatment procedures, medication administration, and patient-care-related policies that shall be completed by emergency service personnel based upon the assessment of the patient.
- kk. Victim. The term “victim” shall mean any patient or potential patient that is entrapped, entangled pinned, fallen, suspended, or otherwise in need of rescue services.

Section 4. General Responsibilities

- a. Grantee is authorized under this Franchise to operate the following types of service(s), the combination of which shall constitute Grantee's "EMS Services for the purposes of this Franchise, and subcategories under which they can operate shall be identified in the "Operation Agreement" to be entered into by the Franchisee and the County within 90 days after acceptance of the Franchise permit.
 - i. Emergency Services Basic Life Support Transport Services
 - ii. Convalescent Basic Life Support Transport Services

- c. Grantee shall comply at all times with the requirements of "An Ordinance Regulating Ambulance, Emergency Medical, First Responder And Rescue Service And Granting Of Franchise And Contracts To The Operator In The County Of Orange ("EMS Franchise Ordinance"), this Franchise Agreements, the Operations Agreement, and all applicable laws relating to health, sanitation, safety, equipment, ambulance design or other EMS Services vehicle design and all legal requirements related to a Model EMS System and all other laws and ordinance;
 - a. Grantee shall maintain in good standing its state and local Drivers and Privilege license (s) to operate its ambulance or other EMS Services as provided for by Law.
 - b. Establish and maintain appropriate and effective professional working relationships with all public health, public safety, and emergency services organization and personnel.
 - c. Professional working relationships shall be cooperative and collaborative in nature.
 - d. Maintain neat, clean, and professional appearance of personnel, equipment and facilities.

Section 5. Scope of Service and Service Area

- a. Grantee shall operate its EMS Services, 24 hours per each and every day of the calendar year, within the Franchise District specified in Exhibit A, except when a different or additional service area is provided for herein.
- b. Grantor may from time to time alter, and at its sole discretion, amend Exhibit A and the service area of the County that constitute (s) the Franchise District.

- c. Grantor shall at all times during the terms of the Franchise provide the highest level of care to all residents within the service area of the Franchise District.

Section 6. The Orange County Emergency Services System (“ESS”) Plan

- a. Grantee shall comply with the Grantor’s official written ESS System Plan for the management and deployment of EMS Services Vehicles within the Franchise District and, additionally, within other service areas pursuant to the EMS System Mutual Aid Plan and any cooperative agreement to continue services in service areas where Franchisees’ EMS System franchises has been suspended.
- b. Grantee shall keep at its place a business at all times the most current copy of the ESS System Plan.

Section 7. Staffing and Performance Requirements

- a. Grantee shall comply with the scope of practice rules promulgated by the North Carolina Medical Board pursuant to law regarding the medical skills and medication that may be used by credentialed emergency medical services personnel at each level of patient care.
- b. Grantee shall comply with standard for drivers and attendants developed by the North Carolina Medical Care Commission as requirements for certification of emergency medical technicians pursuant to law, rules and regulations promulgated by the Board of Medical Examiners for advanced life support technicians, which is incorporated in this subsection by reference.
- c. No staff of Grantee shall drive an ambulance vehicle, attend a patient, or permit an ambulance to be operated when transporting a patient within the County unless the driver holds a currently valid North Carolina Drivers license and currently valid credentials as an EMT, EMT-I or EMT-P issued by the North Carolina Department of Health and Human Services, Office of Emergency Medical Services. Notwithstanding the foregoing, in an exceptional circumstance when an EMT, EMT-I, or EMT-P is not available, for the purpose of driving only or when providing Non-Transport Service an approved firefighter, First or Medical Responder, Rescue Services Provider or law enforcement officer with a currently valid North Carolina drivers license may drive an ambulance, provided such driver does not attend a patient or victim or does not otherwise provide medical services to a patient or victim.
- d. Grantee shall comply with the Grantor’s official written EMS System Plan for the use of credentialed EMS personnel for all of the authorized

Practice Settings. Any agreement between Grantee and a third party to provide special events coverage is subject to pre-approval in writing by the Grantor, which approval shall not be reasonable withheld.

- e. Grantee's staff that operate EMS Service Vehicles shall actively participate in any emergency vehicle operations training provided by the Grantor as directed by the Emergency Services Director.
- f. Grantee's staff shall comply with Grantor's official written EMS System continuing education plan for EMS personnel under the direction of the Orange County Continuing Education Coordinator.
- g. Grantee staff shall also participate in all clinical and field internship educational components of Grantor's continuing education plan.
- h. Grantee shall comply with all education program requirements for qualified credentialed EMS personnel as provided by law.
- i. Grantee shall assign credentialed staff to assist, upon request, with any orientation provided by Grantor to local area hospitals that routinely receive patients from Grantee.

Section 8. Vehicle and Equipment Requirements

- a. Grantee shall comply with all vehicle and equipment standards as developed by the North Carolina Medical Care Commission pursuant to law, including without limitation, those applicable to the EMS Services.
- b. Grantee shall maintain for each ambulance and other EMS Services Vehicle a permit as provided for by law.
- c. Grantee shall comply with the state EMS Non-Transporting Vehicle Permit requirements.
- d. Grantee shall have available the following minimum number of ambulances and other EMS Services Vehicles in excellent working order to provide coverage to the service area of the Franchise District 24 hours per day.

One (1) Type 1 Ambulance, One (1) In Service Rescue Vehicles and other EMS Services Vehicles and equipment as necessary to provide the high quality of services provided for in this Franchise.

- e. Grantee shall comply with the Grantor's operational protocols for the management of equipment, supplies and medications to assure that each ambulance and other EMS Services Vehicle contains the required

equipment and supplies on each response; for cleaning and maintaining the equipment and vehicles; and to assure that supplies and medications are not used beyond the expiration date and stored in a temperature controlled atmosphere according to manufacturer's specifications.

- f. Grantee shall comply with the Orange County's written infection control policy including the cleansing and disinfecting of ambulances and other EMS Services Vehicles and equipment that are used to treat or transport patients.
- g. Grantor may, upon reasonable notice, inspect all equipment, ambulances and other EMS Service Vehicles used by Grantee.

Section 9. Communications Requirement

- a. Grantee shall equip each ambulance and other EMS Services Vehicle with the following:
 - i. An operational two-way radio capable of establishing good quality voice communications from within the geographical confines of Orange County to each hospital emergency department in the County in which the service is based;
 - ii. Two-way radio communication capabilities for communication with all hospital emergency departments to which transportation of patients is made on a regular or routine basis anywhere within the State of North Carolina; and
 - iii. An operational two-way radio capable of establishing communications from within the geographic confines of Orange County to the Orange County Emergency Communications Center, which is the dispatching agency within the County.
- b. This subsection shall not apply to privately owned vehicles of Grantee's staff.
- c. Grantee shall maintain current authorization or Federal Communication Commission licenses for all frequencies and radio transmitters operated by Grantee. Grantee shall display at Grantee's headquarters and make available for inspection per Federal Communication Commission's rules and regulations copies of all authorization and licenses.
- d. Grantee's base of operations shall have at least one open telephone 24 hours per each and every day of the calendar year. Grantee's telephone numbers shall be registered with Orange County Emergency Communication Center, and changes to Grantee's telephone numbers shall

be transmitted to the Emergency Communication Center within 24 hours of such change.

- e. Grantee's EMS Services shall be dispatched from the Orange County Emergency Communications Center.

Section 10. Data Collection and Performance Report

- a. Grantee shall maintain the following records:
 - i. Records of dispatch which shall show time call was received, time dispatched, time arrived on scene, time arrived at destination, time in service, and time returned to base.
 - ii. Trip Records stating all information required in subsection (i) of this Section in addition to information on a form approved by the County. The trip record shall be so designed as to provide the patient with a copy containing all required information.
 - iii. Personnel Checklist and Inspection Report listing contents and description for each vehicle, signed by the individual verifying vehicle operations and equipment.
 - iv. A detailed record of complaints received from the public, other enforcing agencies and services regarding Franchise infractions.
 - v. Any other records required by state law, rules or regulations or deemed by the Department of Emergency Service as relevant to the effective and efficient operations of the Emergency Management System as provided in the "Operations Agreement" and necessary for a fair determination of the capability of the Grantee to continue to provide Emergency Medical Services and Rescue Services in Orange County in accordance with the requirement of law and the provision of this Franchise.
- b. All of the records identified in subsection (a) above shall be maintained for a minimum three (3) year period unless a longer retention period is otherwise required by law or other retention periods.
- c. Grantee shall establish and maintain a system to record data that used the Model Data set and data dictionary as specified in "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection."
- d. Grantees shall maintain confidentiality of patient records as provided by the Health Insurance Portability and Accountability Act of 1996 (HIPAA),

Public Law 104-191, N.C. Gen. Stat. 143-518 and all other state and federal law.

- e. Grantee shall submit a written monthly report to the Emergency Services Director, or their designee, providing the number of calls and runs during the month. The report shall contain the number of emergency calls, the number of convalescent calls, the total number of calls and the total number of patients transported.
- f. Grantee may inspect Grantee's records at any time in order to ensure compliance with the EMS Franchise Ordinance and this Franchise Agreement; however, Grantor's shall inspect the Grantee's records at least once a year to ensure compliance with the EMS Franchise Ordinance and this Franchise Agreement.

Section 11. Medical Oversight

- a. Grantee shall designate a representative of Grantee to attend and participate in regular meetings of the Orange County EMS Peer Review Committee.
- b. Grantee shall monitor and comply with any online medical direction for operating within EMT-P systems.
- c. Grantee shall comply with the Grantor's plan for Medical Oversight and Written Treatment Protocols.
- d. Grantee shall comply with the Grantor's written plan to address the management of the EMS System including:
 - i. the triage of patients to appropriate facilities;
 - ii. transport of patients to facilities outside of the system;
 - iii. Arrangement for transporting patients to appropriate facilities when diversion or bypass plans are activated;
 - iv. A mechanism for reporting, monitoring and establishing standards for system response times;
 - v. A special events staffing plan;
 - vi. A disaster plan; and
 - vii. Mass gathering plan.

- e. Grantee shall comply with the Medical Director's written guidance regarding decision about the equipment, medical supplies, and medications that will be carried on any ambulance or other EMS Services Vehicle.
- f. The Medical Director may suspend temporarily, pending due process review by the EMS Peer Review Committee, any of Grantee's EMS personnel from further participation in the EMS system when the Medical Director determines that the activities or medical care rendered by such personnel may be detrimental to the care of the patient, constitute unprofessional behavior or results in non-compliance with credentialing requirements.

Section 12. Rates and Adjustments

- a. Grantee shall submit a schedule of rates to the Grantor for approval and shall not charge more or less than the rates authorized by Orange County without specific authorization from the Grantor.
- b. Grantee shall not attempt to collect rates on emergency call until the patient has reached the point of destination, has received medical attention and is in a condition deemed by the physician fit to consult with the service; but Grantee may attempt to collect rates with family or guardian of the patient once the patient is in the process of receiving medical attention.
- c. On Special Event coverage and convalescent calls, Grantee may attempt to collect payment before the ambulance or other EMS Services Vehicle begins its trip.

Section 13. Insurance

- a. Within thirty (30) calendar days after the effective date of issuance of the Franchise, the Grantee shall provide proof of the required insurance. Grantee shall at all times during the Franchise term maintain in force and effect insurance coverage, issued by an insurance company licensed to do business in North Carolina, covering the following:
 - i. Every ambulance or other EMS Services Vehicle owned and/or operated by or for the Grantee proving for the following payment of injury and damages:
 - (a) In the minimum sum of \$1,000,000 for injury to or death of individuals in accidents resulting from any cause for which the owner of the vehicle would be liable on account of

liability imposed on him by law, regardless of whether the vehicle was being driven by the owner of his agent; and

- (b) In the minimum sum of \$1,000,000 for the loss of or damage to the property of another, including personal property, or under like circumstances in sums as may be required by the State of North Carolina or as authorized by the Grantor.
 - (c) The insurance coverage minimum limits required in subsection (a) and (b) above shall be evaluated annually by the Orange County Department of Emergency Services in consultation with the Orange County Risk Manager and the County Attorney's Office and may be revised by the Grantor as Grantor deems appropriate, and at Grantor's sole discretion. In directing a change in insurance coverage, the Department of Emergency Services shall consider the risk needs protected by this insurance coverage and the availability in the marketplace of the coverage amounts to be required.
- ii. Grantee shall at all times during the Franchise term maintain in force and effect insurance coverage, issued by an insurance company licensed to do business in North Carolina for Worker's Compensation coverage for all employees with statutory limits in compliance with applicable law.
- b. Insurance coverage necessary to comply with this Section shall be approved by the Grantor, and copies of such insurance policies (or certificates of insurance) shall be provided to the Grantor.
 - c. The Grantor shall be named as an additional insured as its interests may appear.

Section 14. Transfer of Ownership or Control and Changes in Level of Services

- a. Prior approval of the Grantor shall be required where ownership or control of more than ten percent of the right or control of the Grantee is acquired by a person or group of persons acting in concert, not of whom own or control ten percent or more of such rights of control, singularly or collectively, at the date of the grant of the Franchise. By its acceptance of the Franchise, the Grantee specifically agrees that any such acquisition occurring without prior approval of the Grantor shall constitute a violation of the Franchise by the grantee and shall be cause for termination at the option of the Grantor.

- b. Any change in ownership of Grantee without the approval of the Grantor shall terminate the Franchise and shall require a new application and a new Franchise in conformance with all the requirements of the EMS Franchise Ordinance, as amended and in effect at the time of franchising.
- c. Any change in the level of services offered by a Grantee's EMS Services unit without the approval of the Grantor shall terminate the Franchise and shall require a new application and a new franchise in conformance with all the requirements of the EMS Franchise Ordinance, as amended and in effect at the time of franchising.
- d. Grantee may not sell, assign, mortgage or otherwise the transfer the Franchise without the approval of the Grantor; if the Grantor sells, assigns, mortgages or otherwise transfer the Franchise without Grantor's approval this shall terminate the Franchise and require a new application and a new Franchise in conformance with all the requirements of the EMS Franchise Ordinance, as amended and in effect at the time of franchising.

Section 15. Miscellaneous Provisions

- a. Grantor may, upon reasonable notice, inspect the premises, vehicles, equipment and personnel of Grantee to ensure compliance with this Franchise and perform any other inspections that may be required.
- b. Grantee shall make available for inspection by the State of North Carolina, the Grantor, or their designated representatives, Grantee's EMS Services, its equipment and the premises designated in the application and all records relating to its maintenance and operations as such.
- c. Grantee shall cooperate with the Grantor to educate the public concerning injury prevention and community health.
- d. Grantee's staff shall not wear or carry aboard any ambulance of other EMS Services Vehicles firearms or weapons as defined by law, which does not include tools that aid in providing services. The foregoing restriction shall not be construed to apply to equipment used by Grantee to provide EMS Services.
- e. Grantee shall post its Franchise Certificate, issued to it by the Grantor, in a readily visible location at the Grantee's base of operations for the EMS Service.
- f. Grantee shall not allow its Franchise Certificate to be defaced, removed, or obliterated.

- g. Grantee shall comply with all applicable law and Grantor's policies and procedures related to confidentiality of medical information, including without limitation the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Section 16. Termination Provisions

- a. Grantee may terminate this Franchise with 60 days written notice to Grantor and the Grantor may revoke the Franchise in the event of noncompliance with the provisions of the EMS Ordinance or this Franchise Agreement. After a notice of services termination is given, the Grantee may reapply for a franchise if a continued service is desired.
- b. Upon suspension, revocation, termination or a stay by the Emergency Services Director of this Franchise, Grantee shall immediately cease all operations authorized by this Franchise.
- c. Upon suspension, revocation, termination of a driver's license such person shall cease to drive an ambulance or other EMS Service Vehicle. Upon suspension, revocation or termination of an attendant's certificate (i.e., Medical Responder, EMT, EMT-I or EMT-P) by the Office of Emergency Medical Services or by the Medical Director, such person shall cease to attend patients or otherwise provide medical care. Grantee shall not permit the foregoing person to drive an ambulance or their EMS Service Vehicle or provide medical care in conjunction with EMS Services, if Grantee is found to have notice of or should have had notice of such suspension, revocation or termination at the sole discretion of the Grantor this shall terminate the Franchise and shall require a new application and a new Franchise in conformance with all the requirements of the EMS Franchise Ordinance, as amended and in effect at the time of franchising.
- d. In the event that Grantee shall at any time during the Franchise desire to sell any of the real or personal property identified in Exhibit B (hereinafter "Asset" or "Assets"), which is hereby incorporated by reference, pursuant to a bona fide offer to a bona fide offer which it shall have received, it shall offer to sell any such Asset or Assets (hereafter "Asset or Assets for Sale) to Grantor at the same process as that contained in such bona fide offer. The offer to Grantor to sell an Asset shall be in writing and shall include a copy of the bona fide offer. The offer to Grantor to sell an Asset shall be in writing and shall include a copy of the bona fide offer for the Asset received by the Grantee. Grantor shall have 60 days from and after receipt thereof to decide whether or not to purchase the Asset or Assets for Sale at such price. If Grantor shall give notice of intent not to purchase or shall give no notice within the time herein limited, Grantee may accept such offer and proceed with the sale thereunder. If Grantor notifies Grantee that it elects to purchase the Asset or Assets for Sale at such

prove, the parties shall enter into a contract of purchase and sale forthwith. Such contract shall provide, among other things, for the conveyance of good and marketable title b warranty deed. Upon dissolution of the Grantee pursuant to N.C. Gen. Stat. § 55A-14-1, et seq., the Assets shall be either: (a) distributed to one or more appropriately receiving successor Franchisee (s) that will carry on, In Orange County, the functions of ambulance, first or medical responder, rescue or other related emergency services meeting one or more exempt purposes within the meaning of 501(c)(3) of the Internal Revenue code (or the corresponding section of any future federal tax code) or (b) distributed to the grantor for the foregoing public purposes. This subsection 16(d) of this EMS Service Franchise survives the termination of the Franchise.

Section 17. Forum for Litigation

Any litigation between the Grantor and Grantee arising under or regarding the Franchise shall occur, if in the North Carolina courts, in Orange County Superior Court or District Court having jurisdiction thereof, or if in the federal courts, in the United States District Court for the Middle District of North Carolina.

Section 18. Notice

Any notice provided for under the Franchise shall be sufficient if in writing and delivered personally to the following address or deposited in the United States Mail, postage prepaid, certified mail, return receipt requested, addressed as follows, or to such other address as the receiving party hereafter shall specify in writing:

If to the Grantor:

Orange County Emergency Services
Post Office Box 8181
Hillsborough, North Carolina 27278
Attn: Emergency Services Director
(919) 245-6100

If to the Grantee:

LifeStar Emergency Services – 2023, LLC d/b/a LifeStar Emergency Services
3475 Myer Lee Drive
Winston Salem, North Carolina 27101
Attn: Michel Lee Hoots
(336) 722-5433

Section 19. Severability

LifeStar Emergency Services – 2023, LLC d/b/a LifeStar Emergency Services EMS
Franchise Agreement

If any section, subsection, sentence, clause, phrase, or other portion of this Franchise is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

Section 20. Reservation of Rights

Notwithstanding any other provision of the Franchise, Grantor and Grantee reserve all rights that they may possess under the law unless expressly waived herein. Nothing herein shall constitute a waiver of rights of either party, provided, however, that both parties warrant and represent that, as of the effective date of the Franchise, they are not aware of any provision in the Franchise that is contrary to applicable law.

Section 21. Penalties and Remedies

- a. A violation of any provision of this Franchise Ordinance or other failure of the Grantee to abide by the provisions of this Franchise shall subject the Grantee to a civil penalty of five hundred (\$500) dollars. If Grantee fails to pay this penalty within ten (10) days after being cited for a violation, the Grantor may seek to recover the penalty by filing a civil action in the nature of a debt.
- b. A violation of any provision of this Franchise Ordinance by the Grantee shall constitute a misdemeanor, punishable as provided in N.C. Gen. Stat. § 14-4.
- c. The Grantor may seek to enforce this Franchise Ordinance through any appropriate equitable action.
- d. Each day that a violation continues of this Franchise Ordinance after the Grantee has been notified of the violation shall constitute a separate offense.
- e. The Grantor may seek to enforce this Franchise Ordinance by using any one or any combination of the foregoing remedies.

Section 22. Non-discrimination

The Grantee shall not discriminate in any manner on the basis or factors prohibited by law.

Section 23. Acceptance by Grantee

This Franchise and all of its terms and provisions shall be accepted by Grantee in writing in the form hereinafter set forth within thirty (30) days of the grant of this Franchise by the Grantor and when accepted shall be filed with Grantor’s Clerk who shall record the same in the Book of Ordinances.

Such written acceptance may be upon or at the end of a copy of this Franchise Ordinance and it shall state and express the acceptance of said Franchise and its terms, conditions and provisions; and Grantee shall agree in said written acceptance to abide by, to observe and to perform the same according to all of its terms and provisions, subject to applicable state and federal law and shall declare that statements and recitals contained on said Franchise are correct and that it has made and does make the agreements and statements set forth in this Franchise. Acceptance herein referred to shall be in the following form:

The undersigned, Michael Lee Hoots, in his/her capacity as Director of the LifeStar Emergency Services – 2023, LLC d/b/a LifeStar Emergency Services and on behalf of that agency, does hereby accept and approve the foregoing and attached Franchise and all of its terms and conditions; and in consideration of the benefits and privileges granted to it does hereby agree to abide by, carry out, observe and perform all of the obligations and things provided to be carried out and performed by it in said Franchise approved by the Grantor Commissioners, subject to applicable state and federal law.

This the _____ day of December, 2016

IN WITNESS WHEREOF, this _____ Franchise Ordinance passed on First Reading on the ___ day of _____, 20____ and was passed and adopted on Second Reading this the ___ day of _____, 20____ .

Bonnie Hammersley, County Manager
Orange County, North Carolina

ATTEST: _____
_____, Clerk/Deputy Clerk to the
Orange County Board of Commissioners

APPROVED AS TO FORM:

Annette M. Moore, Staff Attorney
Orange County Attorney’s Office

**EXHIBIT A TO EMS SERVICES FRANCHISE FOR LIFESTAR
EMERGENCY SERVICES – 2023 D/B/A LIFESTAR EMERGENCY SERVICES**

FRANCHISE DISTRICT

Geographic Location: All of the County of Orange

EXHIBIT B TO EMS SERVICES FRANCHISE FOR LIFESTAR EMERGENCY SERVICES – 2023 D/B/A LIFESTAR EMERGENCY SERVICES

(Note: Replace with Completed Exhibit B)

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: December 5, 2016

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

SUBJECT: First Reading: Emergency Services Franchise by Ordinance – South Orange Rescue Squad, Inc.

DEPARTMENT: Emergency Services

ATTACHMENT(S):
South Orange Rescue Squad Franchise Agreement

INFORMATION CONTACT:
Dinah Jeffries, Emergency Services Director, (919) 245-6100
Kim Woodward, Emergency Medical Services (EMS) Operations Manager, (919) 245-6133

PURPOSE: To approve on First Reading the granting of a franchise by ordinance to South Orange Rescue Squad, Inc. (SORS) and the Franchise Agreement under which it will operate – approval on “first reading” is based on State law requirements that a franchise by ordinance pass two readings in order to be granted by the Board of Commissioners.

BACKGROUND: On February 2, 2010, the Board held a Public Hearing to determine the need for supplemental ambulance services in accordance with North Carolina General Statute § 153A-250(a). At that time, the Board made the determination that franchise ambulance services were necessary to assure the provision of adequate and continuing ambulance service. State law requires that the Board of County Commissioners grant franchise agreements through County ordinance. The ordinance is required to pass two readings in order to be granted.

Orange County has historically granted franchise agreements for convalescent transport and emergency ambulance services and for rescue service. Franchisees may also provide surge capacity in a basic life support (BLS) capacity during a widespread emergency that stresses the capacity of Orange County Emergency Medical Services. Orange County Emergency Services provides all other emergency response services for basic and advanced life support (ALS) needs in the County. The franchise for rescue service is necessary to provide specialized rescue service for circumstances involving confined space, swift water, and other hazardous situations where other first responders may not have specialized training.

The most-recent convalescent transportation provider in the County, Johnston Ambulance, closed its operations a short time ago, requiring the County to franchise other providers.

Emergency Services has reviewed the overall Emergency Services System in the County to confirm that franchise services continue to be necessary to assure the provision of adequate

and continuing ambulance services and to preserve, protect, and promote the public health, safety and welfare. As a result, the Department is recommending four franchises for ambulance service and one for rescue service. The Department has identified the following services as necessary to supplement and enhance the ambulance services within the Emergency Services System and to the residents of the Orange County. The services are:

Convalescent Transport Services

- ALS Transport
- BLS Transport

Emergency Services

- BLS Transport
- Medical Responder Non-transport
- EMT Non-transport

Rescue Services

- Confined Space
- Extrication
- Heavy Rescue
- High/Low Angle
- Swift Water
- Trench Collapse
- Underwater
- Wilderness Search & Rescue

SORS has applied for Orange County Franchise renewal under the 2010 Franchise Ordinance. The application indicates SORS is applying to provide the following services:

- Basic Life Support Transport
- EMT Non-Transport
- Confined Space
- High/Low Angle
- Swift Water
- Wilderness Search & Rescue

SORS is headquartered in Carrboro, North Carolina, and has been in service in the Orange County EMS System since 1971. From the SORS website, "It is the Mission of South Orange Rescue Squad to foster high professional standards & acts of service by its membership to its community for the provision of Emergency, General and Technical Rescue Services. South Orange Rescue Squad seeks to carry out these spirited goals by organizing local residents and students, providing training and coordinating provision of services in conjunction with established professional agencies in Orange County, North Carolina and the University of North Carolina at Chapel Hill." SORS continues to provide these services as an all-volunteer agency with tremendous professionalism.

SORS and Orange County Emergency Services ("OCES") join together to provide Medic 8, an Advanced Life Support Ambulance seven nights per week, 365 days per year. SORS provides volunteer Emergency Medical Technicians and its ambulance and OCES provides the paramedic staffing. In addition SORS provides countless hours of special event coverage for sporting events, mass gatherings, etc.

Emergency Services has reviewed the application, in conjunction with NC State Office of Emergency Medical Services, submitted by SORS and inspected the premises, vehicles, equipment, and personnel of the company to assure compliance with the ordinance. The North Carolina General Statutes provide also that the Board prior to granting a franchise must "find that the franchise applicant is in compliance with Chapter 131E, Article 7."¹ Emergency Services has concluded that the company is in compliance with Chapter 131E, Article 7 that

¹ N.C. Gen. Stat. 153A-250(a).

regulates emergency services permits to operate ambulances, standards for equipment, inspection of equipment and credentialed personnel.

The agreement with ambulance and rescue service provider, SORS, has reached the end of its term. Staff is recommending that SORS be granted a Franchise to operate within the confines of the attached Franchise Ordinance. The terms of this Franchise Ordinance provide for a five year franchise for the following:

Emergency Services

- Basic Life Support Transport Services
- EMT Non-transport

Rescue Services

- Confined Space
- High/Low Angle
- Swift Water
- Wilderness Search & Rescue

The terms outlined in the Franchise Agreement have been negotiated and are consistent with the terms of An Ordinance Regulating Emergency Medical, First Responder and Rescue Service and Granting of Franchise and Contracts to the Operators In the County of Orange and its' amendments.

FINANCIAL IMPACT: SORS is a non-profit corporation provider of ambulance services and maintains an independent budget. There is no financial impact to the County

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

- **GOAL: CREATE A SAFE COMMUNITY**

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

While the purpose of providing a franchise for ambulance service is not necessary to produce cost savings, the long term benefits of having the franchise is to improve ambulance service to the entire community and to allow better use of existing resources.

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

1. On first reading grant a franchise for a five year term to South Orange Rescue Squad, Inc. for Emergency Services and Rescue Services.
 - a. Emergency Services
 - Basic Life Support Transport Services
 - EMT Non-Transport
 - b. Rescue Services
 - Confined Space
 - High/Low Angle
 - Swift Water
 - Wilderness Search & Rescue

2. Approve the Franchise Agreement under which South Orange Rescue Squad, Inc. will operate during the five year period of franchise. As a condition of granting the Franchise, SORS must enter into an Operations Agreement with Orange County within 90 days of granting the franchise which provides for the daily operational functions within the Orange County Emergency Services System; and
3. Bring back the Franchise Agreement for second reading approval at the Board's December 13, 2016 regular meeting; and
4. If approved on second reading, authorize the County Manager to sign the Franchise Agreement after review by the County Attorney's Office.

ORD-2016-045

South Orange Rescue Squad, Inc. Franchise Ordinance

An Ordinance granting a non-exclusive Franchise (“hereafter Franchise”) to South Orange Rescue Squad, Inc., a North Carolina Non-Profit Corporation (“the Grantee”) to operate Emergency Medical Services and Rescue Services in Orange County, North Carolina.

WHEREAS, Orange County (“the Grantor”), desires to assure the availability of Emergency Medical Services and Rescue Services within the County;

WHEREAS, the Grantor has, following reasonable notice, and after consideration, analysis and deliberation conducted public proceedings, during which proceedings the technical ability, financial condition, legal qualifications and general character of the Grantee were determined to be acceptable to receive a Franchise to conduct its Emergency Medical and Rescue Services;

WHEREAS, the Grantor has determined that Grantee is entitled to have a non-exclusive Franchise granted, that a need exists for the Emergency Medical and Rescue Services contemplated herein to improve the level of services available to residents of Orange County, helping to assure the provisions of adequate and continuing services which preserves, protects, and promotes the public health safety and welfare, and that granting a Franchise to the Grantee is a cost effective and reasonable manner of meeting the need;

WHEREAS, the Grantee desires to operate Emergency Medical and Rescue Services within the Grantor’s jurisdiction;

WHEREAS, the proposed Emergency Medical and Rescue Services will fit within the existing services provided by the Orange County Emergency Services System so as not to adversely affect the level of services or operations of other Franchisees to render service; and

WHEREAS, the procedures of N.C. Gen. Stat. §153A-250, §153A-45, and §153A-46 have been complied with.

NOW THEREFORE, the parties agree as follows:

Section 1. Nature and Term of Grant

- a. The Grantor hereby grants the Grantee a non-exclusive Franchise to operate and maintain Emergency Medical and Rescue Services (be an EMS and Rescue Services provider) in the Franchise District upon the terms and conditions set forth herein.
- b. The Franchise granted herein is for a term of five (5) years from the effective date of the Franchise, which shall begin on the first day following the date of

acceptance by the Grantee of the Franchise terms and conditions set forth herein.

Section 2. Definitions

The following words, terms and phrases, when used in this Franchise, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

- a. **Ambulance.** The term “ambulance” means any privately or publicly owned motor vehicle, aircraft, or vessel that is specifically designed, constructed, or modified and equipped and is intended to be used for and is maintained or operated for the transportation on the streets or highways, waterways, or airways of this State of persons who are sick, injured, wounded, or otherwise incapacitated or helpless.
- b. **Ambulance Provider.** The term “ambulance provider” means an individual, firm, corporation, or association who engages or professes to engage in the business or services of transporting patients in an ambulance.
- c. **Approved.** The term “approved” shall mean approved by the North Carolina Medical Care Commission pursuant to the latter’s rules and regulations promulgated under N. C. Gen. Stat. §143B-165.
- d. **Advisory Committee or Committee.** The term “Advisory Committee” or “Committee” shall mean the Orange County Emergency Medical Services Committee which is the technical advisory committee designated by the Board of County Commissioners with respect to emergency medical services in Orange County.
- e. **Contract.** The term “contract” shall mean the instrument by which both parties agree to the terms of operation of the service to be provided.
- f. **Convalescent Transportation Services.** The term “convalescent transportation service” shall mean the operation of an ambulance for any purpose other than transporting emergency or emergent patients.
- g. **County.** The term “County” shall mean Orange County and its Board of Commissioners or their designated representative(s).
- h. **Emergency.** The term “emergency” or “emergency transportation services” shall mean the use of a service, its equipment and personnel to provide medical care, rescue, and/or transportation of a patient who is in need of immediate rescue or medical treatment in order to prevent loss of

life or further aggravation of physiological or psychological illness or injury.

- i. Emergency Services System or ESS. Emergency Services System or “ESS” shall mean a coordinated arrangement of local resources under the authority of the Emergency Services Director (including all agencies, personnel, equipment, and facilities) organized to respond to medical emergencies and integrated with other health care providers and networks including public health, community health monitoring activities, and special needs populations.
- j. Emergency Medical Dispatcher or Telecommunicator. The term “emergency medical dispatcher” or “telecommunicator” shall mean an emergency telecommunicator who has completed educational requirements and been credentialed by the Department of Health and Human Services as an emergency medical dispatcher and who is available to receive requests for emergency services, to dispatch emergency services, and to advise local law enforcement agencies, fire departments, rescue squads, first or medical responder units and emergency medical services and facilities of any existing or threatened emergency.
- k. Emergency Medical Services. “Emergency Medical Services” or “EMS” means services rendered by emergency medical services personnel in responding to improve the health and wellness of the community and to address the individual’s need for emergency medical care within the scope of practice as defined by the North Carolina Medical Board, in accordance with G.S. 143-514, and the Orange County Medical Director in order to prevent loss of life or further aggravation of physiological or psychological illness or injury.
- l. Emergency Medical Services Instructor. “Emergency Medical Services Instructor” means an individual who has completed educational requirements approved by the Department of Health and Human Services and has been credentialed by that Department as an emergency medical services instructor.
- m. Emergency Medical Services Peer Review Committee. Emergency Medical Service Peer Review Committee means a panel composed of EMS program representatives responsible for analyzing patient care data and outcome measures to evaluate the ongoing quality of patient care, system performance, and medical direction within the EMS system. The committee may include physicians, nurses, EMS personnel, medical facility personnel and county government staff as determined by the Emergency Services Director in consultation with the County Medical Director.

- n. Emergency Medical Technician (EMT). The term “emergency medical technician” means an individual who has completed a training program in emergency medical care that has been approved for legal recognition by the North Carolina Department of Health and Human Services, in accordance with rules promulgated by the Medical Care Commission, has been certified as an EMT by the State of North Carolina Office of Emergency Medical Services, and approved by the County Medical Director to perform services as an EMT in the Orange County EMS system.
- o. Emergency Medical Technician – Intermediate (EMT-I). The term “emergency medical technician - intermediate” means an individual who has completed a training program in emergency medical care at the intermediate level that has been approved for legal recognition by the North Carolina Department of Health and Human Services, in accordance with rules promulgated by the Medical Care Commission, has been certified as an EMT - Intermediate by the State of North Carolina Office of Emergency Medical Services, and approved by the County Medical Director to perform services at the EMT-Intermediate level in the Orange County EMS system.
- p. Emergency Medical Technician – Paramedic (EMT-P). The term “emergency medical technician - paramedic” means an individual who has completed a training program in emergency medical care at the paramedic level that has been approved for legal recognition by the North Carolina Department of Health and Human Services, in accordance with rules promulgated by the Medical Care Commission, has been certified as an EMT-Paramedic by the State of North Carolina Office of Emergency Medical Services, and approved by the County Medical Director to perform services as an EMT-Paramedic in the Orange County EMS system.
- q. Emergency Services Director. The term shall mean the person designated by the Orange County Board of Commissioners to manage the overall Emergency Services System in Orange County.
- r. First Responder. The term “first responder” shall mean an organization with personnel trained in emergency medical care that is dispatched to the scene of a medical emergency for the primary purpose of providing emergency medical assistance to a patient until the ambulance and additional medical aid arrives.
- s. Franchise. The term “franchise” shall mean a permit issued by the County to a person for the operation of an ambulance service, rescue squad or first responder unit.

- t. Franchisee. The term “franchisee” shall mean any person having been issued a franchise by the County for the operation of an ambulance service, rescue squad or first responder unit.
- u. Inspection. Inspection shall mean the physical review of buildings and facilities, vehicles, equipment, supplies, storage, repair and maintenance areas, records and any related materials.
- v. License. The term “license” shall mean any driver’s license or permit to operate a motor vehicle issued under or granted by the laws of the State of North Carolina.
- w. Medical Responder. “Medical Responder” shall mean an individual who has completed an educational program in emergency medical care and first aid approved and credentialed by the Department of Health and Human Services as a medical responder and the Orange County Medical Director to operate in Orange County EMS.
- x. Medical Director. “Medical Director” shall mean the physician appointed, either directly or by written delegation, by the County and have the responsibilities as provide by 10A NCAC 13P .0403 and 10A NCAC 13P .0404. The County may, in addition, appoint an assistant medical director. The medical director and the assistant medical director shall meet the criteria defined in the “North Carolina College of Emergency Physicians: Standards of Medical Oversight and Data Collection,” which is incorporated by reference in accordance with N.C. Gen. Stat. §150B-21.6, including subsequent amendments and editions.
- y. Non-Emergency Transportation Services. The term “non-emergency transportation service” shall mean the operation of an ambulance for any purpose other than transporting emergency or emergent patients.
- z. Operation Protocols. “Operation Protocols” shall mean the administrative policies and procedures of EMS that provides guidance for the day-to-day operations of the system.
- aa. Operator. The term “operator” shall mean a person in actual physical control of an ambulance or rescue service vehicle which is in motion or which has the engine running.
- bb. Owner. The term “owner” shall man any person or entity who owns an ambulance or provides a service covered by this Ordinance.
- cc. Patient. The term “patient” shall mean an individual who is sick, injured, wounded, or otherwise incapacitated or helpless such that the need for

some medical assistance might be anticipated while being transported to or from a medical facility.

- dd. Person. The term “person” shall mean any individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose, or organization of any kind, including any governmental agency other than the United States.
- ee. Practical Examination. “Practical Examination means a test where an applicant for credentialing as an emergency medical technician, or medical responder, emergency medical technician – intermediate, or emergency medical technician – paramedic demonstrates the ability to perform specified emergency medical care skills.
- ff. Rescue. The term “rescue” shall mean the removal of individuals facing external, non-medical, and non-patient related peril to areas of relative safety.
- gg. Rescue Squad or Rescue Unit. The term “rescue squad” or “rescue unit” shall mean a group of individuals who are not necessarily trained in emergency medical services, fire fighting, or law enforcement, but who expose themselves to an external, non-medical, and non-patient related peril to effect the removal of individuals facing the same type of peril to areas of relative safety.
- hh. Secondary Ambulance Provider. The term “secondary ambulance provider” shall mean the system of personnel and equipment meeting the same criteria as a primary ambulance provider, but not normally dispatched on first call response.
- ii. Service. The term “service” shall mean the same as owner.
- jj. Treatment Protocols. “Treatment Protocols” shall mean a document approved by the medical director and the Office of Emergency Medical Service specifying the diagnostic procedures, treatment procedures, medication administration, and patient-care-related policies that shall be completed by emergency service personnel based upon the assessment of the patient.
- kk. Victim. The term “victim” shall mean any patient or potential patient that is entrapped, entangled pinned, fallen, suspended, or otherwise in need of rescue services.

Section 4. General Responsibilities

- a. Grantee is authorized under this Franchise to operate the following types of service(s), the combination of which shall constitute Grantee's "EMS Services for the purposes of this Franchise, and subcategories under which they can operate shall be identified in the "Operation Agreement" to be entered into by the Franchisee and the County within 90 days after acceptance of the Franchise permit.
 - i. Emergency Services
 - ii. Rescue Services
- c. Grantee shall comply at all times with the requirements of "An Ordinance Regulating Ambulance, Emergency Medical, First Responder And Rescue Service And Granting Of Franchise And Contracts To The Operator In The County Of Orange ("EMS Franchise Ordinance"), this Franchise Agreements, the Operations Agreement, and all applicable laws relating to health, sanitation, safety, equipment, ambulance design or other EMS Services vehicle design and all legal requirements related to a Model EMS System and all other laws and ordinance;
 - a. Grantee shall maintain in good standing its state and local Drivers and Privilege license (s) to operate its ambulance or other EMS Services as provided for by Law.
 - b. Establish and maintain appropriate and effective professional working relationships with all public health, public safety, and emergency services organization and personnel.
 - c. Professional working relationships shall be cooperative and collaborative in nature.
 - d. Maintain neat, clean, and professional appearance of personnel, equipment and facilities.

Section 5. Scope of Service and Service Area

- a. Grantee shall operate its EMS Services, 24 hours per each and every day of the calendar year, within the Franchise District specified in Exhibit A, except when a different or additional service area is provided for herein.
- b. Grantor may from time to time alter, and at its sole discretion, amend Exhibit A and the service area of the County that constitute (s) the Franchise District.
- c. Grantor shall at all times during the terms of the Franchise provide the highest level of care to all residents within the service area of the Franchise District.

Section 6. The Orange County Emergency Services System (“ESS”) Plan

- a. Grantee shall comply with the Grantor’s official written ESS System Plan for the management and deployment of EMS Services Vehicles within the Franchise District and, additionally, within other service areas pursuant to the EMS System Mutual Aid Plan and any cooperative agreement to continue services in service areas where Franchisees’ EMS System franchises has been suspended.
- b. Grantee shall keep at its place a business at all times the most current copy of the ESS System Plan.

Section 7. Staffing and Performance Requirements

- a. Grantee shall comply with the scope of practice rules promulgated by the North Carolina Medical Board pursuant to law regarding the medical skills and medication that may be used by credentialed emergency medical services personnel at each level of patient care.
- b. Grantee shall comply with standard for drivers and attendants developed by the North Carolina Medical Care Commission as requirements for certification of emergency medical technicians pursuant to law, rules and regulations promulgated by the Board of Medical Examiners for advanced life support technicians, which is incorporated in this subsection by reference.
- c. No staff of Grantee shall drive an ambulance vehicle, attend a patient, or permit an ambulance to be operated when transporting a patient within the County unless the driver holds a currently valid North Carolina Drivers license and currently valid credentials as an EMT, EMT-I or EMT-P issued by the North Carolina Department of Health and Human Services, Office of Emergency Medical Services. Notwithstanding the foregoing, in an exceptional circumstance when an EMT, EMT-I, or EMT-P is not available, for the purpose of driving only or when providing Non-Transport Service an approved firefighter, First or Medical Responder, Rescue Services Provider or law enforcement officer with a currently valid North Carolina drivers license may drive an ambulance, provided such driver does not attend a patient or victim or does not otherwise provide medical services to a patient or victim.
- d. Grantee shall comply with the Grantor’s official written EMS System Plan for the use of credentialed EMS personnel for all of the authorized Practice Settings. Any agreement between Grantee and a third party to provide special events coverage is subject to pre-approval in writing by the Grantor, which approval shall not be reasonable withheld.

- e. Grantee's staff that operate EMS Service Vehicles shall actively participate in any emergency vehicle operations training provided by the Grantor as directed by the Emergency Services Director.
- f. Grantee's staff shall comply with Grantor's official written EMS System continuing education plan for EMS personnel under the direction of the Orange County Continuing Education Coordinator.
- g. Grantee staff shall also participate in all clinical and field internship educational components of Grantor's continuing education plan.
- h. Grantee shall comply with all education program requirements for qualified credentialed EMS personnel as provided by law.
- i. Grantee shall assign credentialed staff to assist, upon request, with any orientation provided by Grantor to local area hospitals that routinely receive patients from Grantee.

Section 8. Vehicle and Equipment Requirements

- a. Grantee shall comply with all vehicle and equipment standards as developed by the North Carolina Medical Care Commission pursuant to law, including without limitation, those applicable to the EMS Services.
- b. Grantee shall maintain for each ambulance and other EMS Services Vehicle a permit as provided for by law.
- c. Grantee shall comply with the state EMS Non-Transporting Vehicle Permit requirements.
- d. Grantee shall have available the following minimum number of ambulances and other EMS Services Vehicles in excellent working order to provide coverage to the service area of the Franchise District 24 hours per day.

One (1) Type 1 Ambulance, One (1) In Service Rescue Vehicles and other EMS Services Vehicles and equipment as necessary to provide the high quality of services provided for in this Franchise.

- e. Grantee shall comply with the Grantor's operational protocols for the management of equipment, supplies and medications to assure that each ambulance and other EMS Services Vehicle contains the required equipment and supplies on each response; for cleaning and maintaining the equipment and vehicles; and to assure that supplies and medications

are not used beyond the expiration date and stored in a temperature controlled atmosphere according to manufacturer's specifications.

- f. Grantee shall comply with the Orange County's written infection control policy including the cleansing and disinfecting of ambulances and other EMS Services Vehicles and equipment that are used to treat or transport patients.
- g. Grantor may, upon reasonable notice, inspect all equipment, ambulances and other EMS Service Vehicles used by Grantee.

Section 9. Communications Requirement

- a. Grantee shall equip each ambulance and other EMS Services Vehicle with the following:
 - i. An operational two-way radio capable of establishing good quality voice communications from within the geographical confines of Orange County to each hospital emergency department in the County in which the service is based;
 - ii. Two-way radio communication capabilities for communication with all hospital emergency departments to which transportation of patients is made on a regular or routine basis anywhere within the State of North Carolina; and
 - iii. An operational two-way radio capable of establishing communications from within the geographic confines of Orange County to the Orange County Emergency Communications Center, which is the dispatching agency within the County.
- b. This subsection shall not apply to privately owned vehicles of Grantee's staff.
- c. Grantee shall maintain current authorization or Federal Communication Commission licenses for all frequencies and radio transmitters operated by Grantee. Grantee shall display at Grantee's headquarters and make available for inspection per Federal Communication Commission's rules and regulations copies of all authorization and licenses.
- d. Grantee's base of operations shall have at least one open telephone 24 hours per each and every day of the calendar year. Grantee's telephone numbers shall be registered with Orange County Emergency Communication Center, and changes to Grantee's telephone numbers shall be transmitted to the Emergency Communication Center within 24 hours of such change.

- e. Grantee's EMS Services shall be dispatched from the Orange County Emergency Communications Center.

Section 10. Data Collection and Performance Report

- a. Grantee shall maintain the following records:
 - i. Records of dispatch which shall show time call was received, time dispatched, time arrived on scene, time arrived at destination, time in service, and time returned to base.
 - ii. Trip Records stating all information required in subsection (i) of this Section in addition to information on a form approved by the County. The trip record shall be so designed as to provide the patient with a copy containing all required information.
 - iii. Personnel Checklist and Inspection Report listing contents and description for each vehicle, signed by the individual verifying vehicle operations and equipment.
 - iv. A detailed record of complaints received from the public, other enforcing agencies and services regarding Franchise infractions.
 - v. Any other records required by state law, rules or regulations or deemed by the Department of Emergency Service as relevant to the effective and efficient operations of the Emergency Management System as provided in the "Operations Agreement" and necessary for a fair determination of the capability of the Grantee to continue to provide Emergency Medical Services and Rescue Services in Orange County in accordance with the requirement of law and the provision of this Franchise.
- b. All of the records identified in subsection (a) above shall be maintained for a minimum three (3) year period unless a longer retention period is otherwise required by law or other retention periods.
- c. Grantee shall establish and maintain a system to record data that used the Model Data set and data dictionary as specified in "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection."
- d. Grantees shall maintain confidentiality of patient records as provided by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, N.C. Gen. Stat. 143-518 and all other state and federal law.

- e. Grantee shall submit a written monthly report to the Emergency Services Director, or their designee, providing the number of calls and runs during the month. The report shall contain the number of emergency calls, the number of convalescent calls, the total number of calls and the total number of patients transported.
- f. Grantee may inspect Grantee's records at any time in order to ensure compliance with the EMS Franchise Ordinance and this Franchise Agreement; however, Grantor's shall inspect the Grantee's records at least once a year to ensure compliance with the EMS Franchise Ordinance and this Franchise Agreement.

Section 11. Medical Oversight

- a. Grantee shall designate a representative of Grantee to attend and participate in regular meetings of the Orange County EMS Peer Review Committee.
- b. Grantee shall monitor and comply with any online medical direction for operating within EMT-P systems.
- c. Grantee shall comply with the Grantor's plan for Medical Oversight and Written Treatment Protocols.
- d. Grantee shall comply with the Grantor's written plan to address the management of the EMS System including:
 - i. the triage of patients to appropriate facilities;
 - ii. transport of patients to facilities outside of the system;
 - iii. Arrangement for transporting patients to appropriate facilities when diversion or bypass plans are activated;
 - iv. A mechanism for reporting, monitoring and establishing standards for system response times;
 - v. A special events staffing plan;
 - vi. A disaster plan; and
 - vii. Mass gathering plan.
- e. Grantee shall comply with the Medical Director's written guidance regarding decision about the equipment, medical supplies, and

medications that will be carried on any ambulance or other EMS Services Vehicle.

- f. The Medical Director may suspend temporarily, pending due process review by the EMS Peer Review Committee, any of Grantee's EMS personnel from further participation in the EMS system when the Medical Director determines that the activities or medical care rendered by such personnel may be detrimental to the care of the patient, constitute unprofessional behavior or results in non-compliance with credentialing requirements.

Section 12. Rates and Adjustments

- a. Grantee shall submit a schedule of rates to the Grantor for approval and shall not charge more nor less than the authorized rates without specific authorization from the Grantor.
- b. Grantee shall not attempt to collect rates on emergency call until the patient has reached the point of destination, has received medical attention and is in a condition deemed by the physician fit to consult with the service; but Grantee may attempt to collect rates with family or guardian of the patient once the patient is in the process of receiving medical attention.
- c. On Special Event coverage and convalescent calls, Grantee may attempt to collect payment before the ambulance or other EMS Services Vehicle begins its trip.

Section 13. Insurance

- a. Within thirty (30) calendar days after the effective date of issuance of the Franchise, the Grantee shall provide proof of the required insurance. Grantee shall at all times during the Franchise term maintain in force and effect insurance coverage, issued by an insurance company licensed to do business in North Carolina, covering the following:
 - i. Every ambulance or other EMS Services Vehicle owned and/or operated by or for the Grantee providing for the following payment of injury and damages:
 - (a) In the minimum sum of \$1,000,000 for injury to or death of individuals in accidents resulting from any cause for which the owner of the vehicle would be liable on account of liability imposed on him by law, regardless of whether the vehicle was being driven by the owner of his agent; and

- (b) In the minimum sum of \$1,000,000 for the loss of or damage to the property of another, including personal property, or under like circumstances in sums as may be required by the State of North Carolina or as authorized by the Grantor.
 - (c) The insurance coverage minimum limits required in subsection (a) and (b) above shall be evaluated annually by the Orange County Department of Emergency Services in consultation with the Orange County Risk Manager and the County Attorney's Office and may be revised by the Grantor as Grantor deems appropriate, and at Grantor's sole discretion. In directing a change in insurance coverage, the Department of Emergency Services shall consider the risk needs protected by this insurance coverage and the availability in the marketplace of the coverage amounts to be required.
- ii. Grantee shall at all times during the Franchise term maintain in force and effect insurance coverage, issued by an insurance company licensed to do business in North Carolina for Worker's Compensation coverage for all employees with statutory limits in compliance with applicable law.
- b. Insurance coverage necessary to comply with this Section shall be approved by the Grantor, and copies of such insurance policies (or certificates of insurance) shall be provided to the Grantor.
 - c. The Grantor shall be named as an additional insured as its interests may appear.

Section 14. Transfer of Ownership or Control and Changes in Level of Services

- a. Prior approval of the Grantor shall be required where ownership or control of more than ten percent of the right or control of the Grantee is acquired by a person or group of persons acting in concert, not of whom own or control ten percent or more of such rights of control, singularly or collectively, at the date of the grant of the Franchise. By its acceptance of the Franchise, the Grantee specifically agrees that any such acquisition occurring without prior approval of the Grantor shall constitute a violation of the Franchise by the grantee and shall be cause for termination at the option of the Grantor.
- b. Any change in ownership of Grantee without the approval of the Grantor shall terminate the Franchise and shall require a new application and a new Franchise in conformance with all the requirements of the EMS Franchise Ordinance, as amended and in effect at the time of franchising.

- c. Any change in the level of services offered by a Grantee's EMS Services unit without the approval of the Grantor shall terminate the Franchise and shall require a new application and a new franchise in conformance with all the requirements of the EMS Franchise Ordinance, as amended and in effect at the time of franchising.
- d. Grantee may not sell, assign, mortgage or otherwise the transfer the Franchise without the approval of the Grantor; if the Grantor sells, assigns, mortgages or otherwise transfer the Franchise without Grantor's approval this shall terminate the Franchise and require a new application and a new Franchise in conformance with all the requirements of the EMS Franchise Ordinance, as amended and in effect at the time of franchising.

Section 15. Miscellaneous Provisions

- a. Grantor may, upon reasonable notice, inspect the premises, vehicles, equipment and personnel of Grantee to ensure compliance with this Franchise and perform any other inspections that may be required.
- b. Grantee shall make available for inspection by the State of North Carolina, the Grantor, or their designated representatives, Grantee's EMS Services, its equipment and the premises designated in the application and all records relating to its maintenance and operations as such.
- c. Grantee shall cooperate with the Grantor to educate the public concerning injury prevention and community health.
- d. Grantee's staff shall not wear or carry aboard any ambulance or other EMS Services Vehicles firearms or weapons as defined by law, which does not include tools that aid in providing services. The foregoing restriction shall not be construed to apply to equipment used by Grantee to provide EMS Services.
- e. Grantee shall post its Franchise Certificate, issued to it by the Grantor, in a readily visible location at the Grantee's base of operations for the EMS Service.
- f. Grantee shall not allow its Franchise Certificate to be defaced, removed, or obliterated.
- g. Grantee shall comply with all applicable law and Grantor's policies and procedures related to confidentiality of medical information, including without limitation the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Section 16. Termination Provisions

- a. Grantee may terminate this Franchise with 60 days written notice to Grantor and the Grantor may revoke the Franchise in the event of noncompliance with the provisions of the EMS Ordinance or this Franchise Agreement. After a notice of services termination is given, the Grantee may reapply for a franchise if a continued service is desired.
- b. Upon suspension, revocation, termination or a stay by the Emergency Services Director of this Franchise, Grantee shall immediately cease all operations authorized by this Franchise.
- c. Upon suspension, revocation, termination of a driver's license such person shall cease to drive an ambulance or other EMS Service Vehicle. Upon suspension, revocation or termination of an attendant's certificate (i.e., Medical Responder, EMT, EMT-I or EMT-P) by the Office of Emergency Medical Services or by the Medical Director, such person shall cease to attend patients or otherwise provide medical care. Grantee shall not permit the foregoing person to drive an ambulance or their EMS Service Vehicle or provide medical care in conjunction with EMS Services, if Grantee is found to have notice of or should have had notice of such suspension, revocation or termination at the sole discretion of the Grantor this shall terminate the Franchise and shall require a new application and a new Franchise in conformance with all the requirements of the EMS Franchise Ordinance, as amended and in effect at the time of franchising.
- d. In the event that Grantee shall at any time during the Franchise desire to sell any of the real or personal property identified in Exhibit B (hereinafter "Asset" or "Assets"), which is hereby incorporated by reference, pursuant to a bona fide offer to a bona fide offer which it shall have received, it shall offer to sell any such Asset or Assets (hereafter "Asset or Assets for Sale) to Grantor at the same process as that contained in such bona fide offer. The offer to Grantor to sell an Asset shall be in writing and shall include a copy of the bona fide offer. The offer to Grantor to sell an Asset shall be in writing and shall include a copy of the bona fide offer for the Asset received by the Grantee. Grantor shall have 60 days from and after receipt thereof to decide whether or not to purchase the Asset or Assets for Sale at such prove. If Grantor shall give notice of intent not to purchase or shall give no notice within the time herein limited, Grantee may accept such offer and proceed with the sale thereunder. If Grantor notifies Grantee that it elects to purchase the Asset or Assets for Sale at such prove, the parties shall enter into a contract of purchase and sale forthwith. Such contract shall provide, among other things, for the conveyance of good and marketable title b warranty deed. Upon dissolution of the Grantee pursuant to N.C. Gen. Stat. § 55A-14-1, et seq., the Assets shall be either: (a) distributed to one or more appropriately receiving successor

Franchisee (s) that will carry on, In Orange County, the functions of ambulance, first or medical responder, rescue or other related emergency services meeting one or more exempt purposes within the meaning of 501(c)(3) of the Internal Revenue code (or the corresponding section of any future federal tax code) or (b) distributed to the grantor for the foregoing public purposes. This subsection 16(d) of this EMS Service Franchise survives the termination of the Franchise.

Section 17. Forum for Litigation

Any litigation between the Grantor and Grantee arising under or regarding the Franchise shall occur, if in the North Carolina courts, in Orange County Superior Court or District Court having jurisdiction thereof, or if in the federal courts, in the United States District Court for the Middle District of North Carolina.

Section 18. Notice

Any notice provided for under the Franchise shall be sufficient if in writing and delivered personally to the following address or deposited in the United States Mail, postage prepaid, certified mail, return receipt requested, addressed as follows, or to such other address as the receiving party hereafter shall specify in writing:

If to the Grantor:

Orange County Emergency Services
Post Office Box 8181
Hillsborough, North Carolina 27278
Attn: Emergency Services Director
(919) 245-6100

If to the Grantee:

Chair, Board of Directors
South Orange Rescue Squad, Inc.
Post Office Box 128
Carrboro, North Carolina 27510-0128
(919) 967-1515

Section 19. Severability

If any Section, subsection, sentence, Clause, phrase, or other portion of this Franchise is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

Section 20. Reservation of Rights

Notwithstanding any other provision of the Franchise, Grantor and Grantee reserve all rights that they may possess under the law unless expressly waived herein. Nothing herein shall constitute a waiver of rights of either party, provided, however, that both parties warrant and represent that, as of the effective date of the Franchise, they are not aware of any provision in the Franchise that is contrary to applicable law.

Section 21. Penalties and Remedies

- a. A violation of any provision of this Franchise Ordinance or other failure of the Grantee to abide by the provisions of this Franchise shall subject the Grantee to a civil penalty of five hundred (\$500) dollars. If Grantee fails to pay this penalty within ten (10) days after being cited for a violation, the Grantor may seek to recover the penalty by filing a civil action in the nature of a debt.
- b. A violation of any provision of this Franchise Ordinance by the Grantee shall constitute a misdemeanor, punishable as provided in N.C. Gen. Stat. § 14-4.
- c. The Grantor may seek to enforce this Franchise Ordinance through any appropriate equitable action.
- d. Each day that a violation continues of this Franchise Ordinance after the Grantee has been notified of the violation shall constitute a separate offense.
- e. The Grantor may seek to enforce this Franchise Ordinance by using any one or any combination of the foregoing remedies.

Section 22. Non-discrimination

The Grantee shall not discriminate in any manner on the basis or factors prohibited by law.

Section 23. Acceptance by Grantee

This Franchise and all of its terms and provisions shall be accepted by Grantee in writing in the form hereinafter set forth within thirty (30) days of the grant of this Franchise by the Grantor and when accepted shall be filed with Grantor's Clerk who shall record the same in the Book of Ordinances.

Such written acceptance may be upon or at the end of a copy of this Franchise Ordinance and it shall state and express the acceptance of said Franchise and its terms, conditions

IN WITNESS WHEREOF, this South Orange Rescue Squad, Inc. Franchise Ordinance passed on First Reading on the _____ day of _____, 20____ and was passed and adopted on Second Reading this the _____ day of _____, 20____.

Bonnie Hammersley, County Manager
Orange County, North Carolina

ATTEST: _____
_____, Clerk/Deputy Clerk to the
Orange County Board of Commissioners

APPROVED AS TO FORM:

_____, Staff Attorney
Orange County Attorney's Office

**EXHIBIT A TO EMS SERVICES FRANCHISE FOR TECHNICAL
RESCUE SERVICES, INC., A NORTH CAROLINA NON-PROFIT
CORPORATION**

FRANCHISE DISTRICT

Geographic Location: All of the County of Orange

**EXHIBIT B TO EMS SERVICES FRANCHISE FOR SOUTH ORANGE RESCUE
SQUAD, INC., A NORTH CAROLINA NON-PROFIT CORPORATION**

(Note: Replace with Exhibit B)

**ORANGE COUNTY
BOARD OF COMMISSIONERS
ACTION AGENDA ITEM ABSTRACT
Meeting Date: December 5, 2016**

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

SUBJECT: Recommendations of the Firearms Safety Committee

DEPARTMENT: County Manager/County
Attorney

ATTACHMENT(S):

1. Recommendation of the Firearms Safety Committee
2. Draft Ordinance
3. Adoption Resolution
4. Letter from Sara Conti - Firearms Safety Committee
5. Minutes from October 25, 2016 Firearms Safety Committee

INFORMATION CONTACT:

Travis Myren (919) 245-2308
John Roberts (919) 245-2318

PURPOSE: To receive the recommendations of the Firearms Safety Committee which include rules regulating the safe discharge of firearms in Orange County and establishing an educational campaign to increase awareness of firearms safety issues.

BACKGROUND: This item was presented in similar form at the January 21, 2016 meeting by Orange County Planning Staff as an amendment to the Orange County Code of Technical Ordinances ("UDO") recommended by the Planning Board and at the February 16, 2016 meeting. No decision on the item was made at those meetings and subsequently the Board of County Commissioners ("BOCC") created the Firearms Safety Committee to consider issues related to firearms safety and make a recommendation to the BOCC.

The Firearms Safety Committee met multiple times from June through October and developed the attached recommendations. The proposed recommendations include (see attachment for full listing):

- An amendment to the Code of Ordinances that includes provisions prohibiting the discharge of firearms while an individual is impaired, maintaining adequate backstops for projectiles, and requires discharged projectiles to remain on the property on which they are discharged.
- A recommendation that the BOCC direct the Department of Social Services and/or Health Department to develop and distribute educational material on gun safety.
- A recommendation that the County collaborate with public and private organizations to increase firearms safety awareness through training and distribution of safety materials.

The Firearms Safety Committee by consensus unanimously recommended the firearms safety education and awareness items. The Committee voted 6-1 in favor of recommending the proposed ordinance.

FINANCIAL IMPACT: Indirect costs associated with ordinance enforcement. Direct costs associated with the educational campaign.

SOCIAL JUSTICE IMPACT: There is no social justice goal associated with this item.

RECOMMENDATION(S): The Manager recommends the Board deliberate as necessary on the recommendations of the Firearms Safety Committee.

Recommendation by the Firearms Safety Committee to the Board of County Commissioners in support of voluntary community education on firearms safety.

Adopted unanimously by the Committee on October 25, 2016

The Firearms Safety Committee recommends that the County coordinate efforts across Departments, and partner with external individuals and organizations, to advance community awareness, understanding, and voluntary adoption of firearms safety practices. In particular, we envision:

- The Department of Social Services and/or the Health Department developing and distributing educational materials in collaboration with the Sheriff's Office (which already distributes information on gun safety to persons issued a pistol purchase permit or conceal carry permit):
 - For adults regarding how to securely store guns if there are children in the home.
 - For home child day care providers on their obligations with respect to firearms, including how to securely store guns on those premises.
- The County collaborating with the NC Wildlife Commission to expand from what is currently available the opportunities for residents to take firearms safety classes. This could include the establishment of a facility at which gun safety instruction would be more readily available to the public than it is now, including young people.
- Collaboration across local Scouting chapters, Parent-Teacher Associations, faith congregations, and other civic organizations, to advance adults' awareness, understanding, and voluntary adoption of firearms safety practices, perhaps with the involvement of safety instructors from retailers such as the Bass Pro Shops.
- The distribution, similar to the County's efforts at educating about deer dog hunting and about the prohibition of smoking in public places, of printed brochures and the availability of on-line information explaining the new firearms safety ordinance.

Section. 24-3.-Regulating the Discharge of Firearms.

(a) This Section is enacted pursuant to the authority of N.C.G.S. 153A-129. This Section shall be interpreted in accordance with any sections of the North Carolina General Statutes which, by their terms, limit the authority of the County to regulate the discharge of firearms.

(b) Firearm as referenced herein shall mean any handgun, shotgun, or rifle which expels a projectile by the ignition of gunpowder or by other explosive reaction.

(c) It is unlawful for any person to discharge a firearm except into a natural or constructed backstop adequate to stop the projectile. This subsection shall not apply to trapshooting, skeet shooting, and sporting clays when such activities are undertaken through use of a shotgun.

(d) It is unlawful for any person to discharge a firearm carelessly or heedlessly in disregard for the safety of others.

(e) It is unlawful for any person to discharge a firearm in any manner that causes the projectile to leave the property on which it is discharged. This subsection shall not apply when the person discharging the firearm has written permission for such activity from the person on whose property the projectile comes to rest. The document demonstrating written permission must be immediately available at the time of the discharge and shall be provided to any investigating officer.

(f) It is unlawful for any person to discharge a firearm after that person has consumed alcohol or any other impairing substance. As used in this paragraph, an impairing substance is defined in N.C. Gen. Stat. §20-4.01. A conforming alcohol screening device may be used to detect the presence of alcohol. A conforming alcohol screening device is any device listed in the National Highway Traffic Safety Administration's Conforming Products List of Evidential Breath Alcohol Measurement Devices as published in the Federal Register and as that list may be amended from time to time. An investigating officer may ascertain the consumption of an impairing substance or any level of impairment in any lawful manner.

(g) Nothing in this Section shall be construed as prohibiting the discharge of a firearm:

(1) When used for lawful hunting activities pursuant to Chapter 113, Subchapter IV; or

(2) When used in defense of person or property; or

(3) When used pursuant to lawful directions of law-enforcement officers.

(h) A violator of this Section shall be guilty of a Class III misdemeanor punishable by a fine of up to five hundred dollars (\$500.00). A violation of this Section may subject the violator to a civil penalty of up to five hundred dollars (\$500.00). All assessed penalties may be recovered in any manner authorized by law and, if not paid within thirty (30) days, may be recovered in the nature of debt.

DRAFT

RESOLUTION OF AMENDMENT

A RESOLUTION AMENDING CHAPTER 24 OF THE ORANGE COUNTY CODE OF ORDINANCES

Be it Resolved and Ordained by the Board of Commissioners of Orange County, North Carolina:

WHEREAS, the State of North Carolina authorizes counties to regulate the discharge of firearms through North Carolina General Statute 153A-129; and

WHEREAS, the discharge of firearms is an inherently dangerous activity that can threaten the health, life, safety, and welfare of individuals in the vicinity of such discharge; and

WHEREAS, in order to protect the health, life, safety, and welfare of individuals engaged in the discharge of firearms and that of individuals located in and around areas in which firearms are discharged it is appropriate to establish regulations for the safe discharge of firearms; and

WHEREAS, the Orange County Board of Commissioners, believing it to be in the best interest of the citizens and residents of Orange County, hereby determines that Chapter 24 of the Orange County Code of Ordinances should be amended to regulate the discharge of firearms.

NOW THEREFORE BE IT RESOLVED AND ORDAINED, that the Code of Ordinances, Orange County, North Carolina, Chapter 24, is hereby amended by adding a section to be numbered 24-3, which section reads as shown in the attached revised ordinance to regulate the discharge of firearms in Orange County.

This Amendment shall become effective upon adoption.

Adopted by the Orange County Board of Commissioners this _____ day of _____, 2016.

By:

Attest:

_____, Chair
Orange County Board of Commissioners

Donna Baker, Clerk to the Board

[SEAL]

SARA A. CONTI

ATTORNEY AT LAW

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1117 HERON POND DRIVE
CHAPEL HILL, NORTH CAROLINA 27516

November 4, 2016

Orange County Board of Commissioners
Attn: Donna Baker, Clerk to the Board
Post Office Box 8181
Hillsborough, North Carolina 27278

Re: Firearms Safety and Noise Committee

Dear Commissioners:

I appreciate having been appointed to the Firearms Safety and Noise Committee ("the Committee") and would like to provide my comments on the work of the Committee in writing.

It was commendable that the Board of County Commissioners ("BOCC") chose to address the issues of firearm safety and noise, as countless other counties throughout North Carolina have done. I understand that the hope of the BOCC, at the outset, was that a fair compromise of interests could be reached between the gun community and the rest of Orange County, after resistance was presented to regulations proposed earlier this year.

However, in an effort to make any proposal more acceptable to the gun community, the BOCC appointed a committee of eight voting members, only two of whom are not part of the gun community. Those other six committee members, for the most part, began the discussion of an ordinance with the opinion that there is no gun safety problem in Orange County and no need for an ordinance.

The Committee ultimately decided that since we had been tasked with addressing an issue that is important to all Orange County residents, shooters and non-shooters, an ordinance might be appropriate. At the outset, the Committee was provided by the gun community with a copy of the Lenoir County Ordinance, which was actually denominated as an Orange County ordinance, in hopes that we would follow the Lenoir County lead. I have enclosed a copy of that "Orange County" ordinance for your benefit.

There are numerous other gun ordinances in North Carolina, most of which, including the Lenoir County version, address issues that were not covered by our Committee, such as the issue of distance. How far must you be from a dwelling before you shoot a firearm? Five hundred feet in Catawba County, 150 yards in Guilford County, 1,000 feet in Hoke County, 100 yards in

Wake County, 900 feet in Mecklenburg County, 500 yards in Cabarrus County, and yes, 500 feet in Lenoir County from various buildings and areas.

This Committee never even discussed distance. And, it never discussed a reasonable size for property from which a person can shoot. And, it never discussed, what constitutes a reasonable berm, or how far the berm must be from a residence. The Committee never discussed what caliber of firearm can be fired on any given property or what kind of target can be used. We never talked about what hours of the day are reasonable for shooting, or why it is acceptable to regulate hunting on Sundays, but not recreational shooting. You may wonder why these issues were never addressed in any meaningful manner, but that has everything to do with the composition of the committee: six out of eight Committee members are part of the gun community.

There was a lot of talk among Committee members about a distinction between “real” safety issues, and “perceived” safety issues. This line of thinking holds that if people are firing their guns responsibly, and there have been no deaths in Orange County, there should be no need to regulate shooting, just because another person has a feeling of being unsafe. But, this distinction is meaningless to the person who is hearing persistent shooting, when they don’t know how far away the shooter(s) are, from what direction they are firing, what caliber they are shooting from what range, and how many errant rounds are being shot. For that person, safety is an issue that just as real as standing next to a person with a gun, and the noise that alarmed those folks in the first place is tied to safety for them. There should be a component for regulating noise in some ordinance. Even a speaker from the gun community remarked that the “the mission of this Committee is not about firearms restriction; it is about noise and safety.”

None of this has anything to do with the Second Amendment. As another observer said, “the Second Amendment gives you the right to bear arms; it does not give you the right to shoot them anytime, anywhere, anyhow you want.” The reality of life in Orange County, after living here nearly thirty years, is that times have changed, like it or not. The 100 acre tract where your family has been shooting for decades has now been surrounded by people who moved to the county, for better or worse, to have some distance and peace. If there is a need for an ordinance now, the gun community can thank their less respectful shooters who use high-powered rifles and exploding targets as if they were toys.

The gun community was given an opportunity to provide input into a proposed firearm safety and noise ordinance. Their answer to the BOCC is an ordinance that is designed to assuage the fears of the gun community that their Second Amendment freedom is being infringed, and that ordinance is meaningless. As presently drafted, the proposed ordinance would make it legal to shoot an automatic rifle on a quarter of an acre of land, at an exploding target, at 2:00 in the morning, into any berm that the shooter deems appropriate, 50 feet from an occupied dwelling, and to fire those rounds as long as the ammunition holds out.

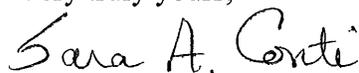
The non-shooting community has freedoms, too, like safety and peace. While this ordinance does little to restrict the freedom of the shooters, it does nothing to protect the freedoms of the non-shooters. I was apparently appointed to the Committee to represent the interests of the non-shooting community, and they are going to wonder what I was doing with

my time there, as there is nothing in this ordinance to protect their rights. However, with a Committee this unbalanced, I never had a chance. I wanted to resign after the first hour of the first meeting, but I felt a moral responsibility to stand up for the constituency whose voices I was asked to represent. I failed them miserably, and as the saying goes, no good turn goes unpunished.

Now that the gun community has had their input, it is time for the BOCC to do the hard work of adequately addressing the issue of firearm safety and noise in Orange County. If nothing else, I encourage you to lift the firearm exemption from the existing Orange County noise ordinance. I have taken the liberty of enclosing copies of a firearms ordinance from Mecklenburg County and a noise ordinance from Henderson County, which hopefully, may help with your deliberations.

Thank you for considering my comments. I know this is a long letter, and I appreciate your taking the time to read it.

Very truly yours,

A handwritten signature in cursive script that reads "Sara A. Conti".

Sara A. Conti

Lenoir County Regs - circulated by the gun community

We the citizens of Orange County adopt this resolution to address the Discharge of Firearms During Non-Hunting Activities:

AN ORDINANCE REGULATING THE DISCHARGE OF FIREARMS DURING NON-HUNTING ACTIVITIES IN ORANGE COUNTY

WHEREAS, state law prohibits criminally negligent hunting pursuant to North Carolina General Statute 113-290; and

WHEREAS, citizens of Orange County have reported to the Board of Commissioners that there is also a need to regulate the negligent discharge of firearms in Orange County during non-hunting activities as well; and

WHEREAS, N.C.G.S. 153A-129 authorizes the County to "regulate, restrict, or prohibit the discharge of firearms at any time or any place except when used to take birds or animals pursuant to Chapter 113, Subchapter III, when used in defense of person or property, or when used pursuant to lawful directions of law enforcement officers," and;

WHEREAS, the Orange County Board of Commissioners believes it to be in the best interest of the citizens of Orange County that limitations on the discharge of firearms are necessary for the safety and protection of the citizenry, and for the protection of the use of their property without fear of stray bullets crossing over their property;

NOW, THEREFORE, be it ordained by the Orange County Board of Commissioners as follows:

Section 1. Authority

This part is enacted pursuant to the authority of N.C.G.S. 153A-129. This Part shall be interpreted in accordance with any sections of the North Carolina General Statutes which, by their terms, limit the authority of the County to regulate the discharge of firearms.

Section 2. Firearm

Firearm as defined herein shall mean any handgun, shotgun or rifle which expels a projectile by action of an explosion.

Section 3. Restrictions

(a) It is unlawful for any person to discharge a firearm:

- (1) Within five hundred (500) feet of a school, church, daycare, playground, park, recreation area, or other type of public gathering place; or *- include residences?*
- (2) Carelessly or heedlessly in wanton disregard for the safety of others; or
- (3) Without due caution or circumspection and in a manner so as to endanger any person or property and resulting in the unlawful property damage or bodily injury of another.

(b) It is unlawful for any person to discharge a firearm on the property of another without their permission.

(c) It is unlawful to discharge a firearm in any manner which actually results in the projectile leaving the property on which it is fired.

(d) This section shall not be construed as prohibiting discharge of a firearm when used:

- (d) This section shall not be construed as prohibiting discharge of a firearm when used:*
- (1) In lawful defense of person or property;*
 - (2) To lawfully take birds or animals where authorized by the North Carolina General Statutes and other applicable laws;*
 - (3) Pursuant to lawful directions of law enforcement officers;*
 - (4) By law enforcement officers acting in the line of duty or during official law enforcement related training;*
 - (5) By members of the armed forces acting in the line of duty;*
 - (6) At historical ceremonial or commemoration functions held for such purpose provided in no event shall live ammunition be used or discharged; or*
 - (7) At school sanctioned instructional or recreational activities intended to further the use of safe firearms practices.*

Section 4: Violations and Penalties

- (a) Any person violating any provision of this part shall be guilty of a misdemeanor and subject to a fine of not more than \$500 and/or imprisonment for not more than thirty (30) days. Violators may be subject to a civil penalty of \$500 per violation to be recovered in the nature of debt if not paid within (30) days.*
- (b) In addition to the provisions of (a) of this section, the county may enforce this ordinance by any one or more of the remedies authorized by G.S. 153A-123.*



Sheriff

100 North Grove Street, He

Henderson County Noise Ordinance**Noise Ordinance
Pamphlet**

Chapter 125 of the Henderson County Code is hereby amended by striking the same.

A new Chapter 125A of the Henderson County Code is ordained, as follows:

Chapter 125A: NOISE**Sec. 125A-1. Authority, title.**

This Chapter is hereby adopted under the power and authority granted to counties by N.C.G.S. 153A-121 and N.C.G.S. 153A-133, and shall be known and may be cited as the "Henderson County Noise Ordinance."

Sec. 125A-2 Jurisdiction.

This chapter shall apply to all unincorporated areas of Henderson County and to those incorporated areas of any city or town specifically requesting its enforcement by Henderson County upon the consent of the Henderson County Board of Commissioners. (In making such a request, the city or town must comply with the requirements of N.C.G.S. 153A-122.)

Sec. 125A-3 Loud and disturbing noise.

(A) Subject to the provisions of this section, it is prohibited in Henderson County to create, cause or allow the continuance of any unreasonably loud, disturbing noise. Noise of such character, intensity and duration as to be detrimental to the health, safety or welfare of any reasonable person of ordinary firmness and sensibilities in the vicinity is prohibited. For the purposes of this section, the following definitions shall apply:

(1) Unreasonably Loud. Noise which is substantially incompatible with the time and location where created to the extent that it creates an actual or imminent interference with peace and good order.

(2) Disturbing. Noise which is perceived by a person of ordinary firmness and sensibilities as interrupting the normal peace and calm of the area.

In determining whether a noise is unreasonably loud and disturbing, the following factors incident to such noise are to be considered: Time of day; proximity to residential structures; whether the noise is recurrent, intermittent or constant; the volume and intensity; whether the noise has been enhanced in volume or range by any type of mechanical means; the nature and zoning of the area; whether the noise is related to the normal operation of a business or other labor activity or is the result of some use for individual purposes; and whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof.

(B) The following acts, among others, are declared to be loud and disturbing in violation of this section if they annoy or disturb the quiet, comfort or repose of any reasonable person of ordinary firmness and sensibilities in the vicinity where created, caused, or continued, but this enumeration shall not be deemed to be exclusive.

(1) The use of any loud, boisterous or raucous language, yelling, or shouting, whether or not amplified.

(2) The congregation of persons at and participation in any party or gathering of people from which noise emanates of a sufficient volume or of such nature as to disturb the peace, quiet and comfort of any reasonable person of ordinary firmness and sensibilities in the vicinity.

(3) The keeping, owning, possessing, harboring or controlling of any animal or bird which barks, bays, yelps, howls, cries, squawks or makes any other unreasonably loud disturbing noise continuously or incessantly for a period of 10 minutes or intermittently for a period of 30 minutes or more thereby causing a noise disturbance.

(4) The playing of any radio, television, phonograph, drum, musical instrument, or sound production, reproduction or amplification equipment in such manner or with such volume, particularly during the hours between 11:00 p.m. and 7:00 a.m., so as to annoy or disturb the peace, quiet, comfort or repose of any person of ordinary firmness and sensibilities in the vicinity.

(5) The playing of any radio, cassette player, compact disc, or other similar device for production or reproduction of sound located in or on any motor vehicle on a public street, highway, within a public vehicular area, within the motor vehicular area of any public or private parking lot or park or on the premises of a private residence in any unreasonably loud or disturbing manner as defined above.

(6) The intentional sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle except as a danger signal or as required by law, so as to create any unreasonably loud or disturbing noise as defined above, or the sounding of such a device for an unnecessary and, or the sounding of such a device for an unreasonable period of time.

(7) The operation of any automobile, motorcycle or other vehicle, or remote control model vehicle in such a manner as to create loud grating, grinding, rattling, screeching of tires, or other unreasonably loud or disturbing noise.

(8) The repair, rebuilding or testing of any motor vehicle, particularly during the hours between 11:00 p.m. and 7:00 a.m. which creates unreasonably loud and disturbing noises.

(9) Operating or permitting the operation of any motor vehicle or motorcycle not equipped with a muffler or other device in good working order so as to effectively prevent loud or explosive noises there from, or which has its muffler-exhaust or other noise control equipment removed, altered or maintained in such disrepair as to create unreasonably loud and disturbing noises.

(10) Operating or permitting the operation of any motor vehicle or motorcycle that engages in jackrabbit starts, spinning tires, racing engines, or other operations which create unreasonably loud and disturbing noises.

(11) The creation of any excessive noise on any street adjacent to any school, institution of learning, library or sanitarium, or court while the same is in session, or adjacent to any hospital or any church during services, which unreasonably interferes with the working of such institution.

(12) The firing, shooting or discharging of any firearm for the sole purpose of making noise or disturbance.

Sec. 125A-4 Exceptions.

(A) The following uses and activities, among others, are not governed by and shall be exempt from the noise ordinance set forth in this chapter. It is expressly provided, however, that the following enumeration shall not be deemed or considered exclusive, and any activity that is not expressly prohibited as set forth in Section 125A-3 shall be exempt from this chapter.

(1) Noise made by dogs while they are being lawfully used for hunting or taking wildlife, and noise made by dogs during the course of lawful training by hunters, pursuant to N.C.G.S. Chapter 113.

(2) Noise associated with or resulting from the normal operations of any facility that is properly licensed by the North Carolina Department of Agriculture, Veterinary Division, as a boarding kennel, pet shop or dealer, in accordance with the North Carolina Animal Welfare Act (N.C.G.S. Chapter 19A-20 et seq.), as may be amended, or from any animal shelter that is operated by Henderson County.

- (3) Noise associated with any legal operations of any firearms club, or association legally established.
- (4) Noise caused by the discharge of firearms by law enforcement officers in the performance of their official duties or during the course of official firearms training.
- (5) Noise resulting from farming operations, including but not limited to noises generated by machinery, equipment and farm animals.
- (6) Noise associated with any event held in recognition of a community celebration of national, state or county events or public festivals.
- (7) Noise associated with any public or private school activity or camp activity (defined as any function or activity approved by or generally associated with any recognized public or private camp for children accredited by the American Camp Association, but not including activities associated with campgrounds available to the public for overnight camping), except that it shall be unlawful for any person to use any unreasonably loud, disturbing, boisterous, raucous language or shouting in violent or offensive manner while attending such activities.
- (8) Noise associated with the chimes or bells of businesses, schools, camps or religious institutions in the daytime hours, provided that they operate for no more than 10 minutes in any hour.
- (9) Non-amplified crowd noise resulting from activities by student, government, camp or community groups.
- (10) Noise associated with or resulting from operations of any construction, commercial, industrial or agricultural activities or operations, except for electronically amplified sound and acts prohibited by Section 125A-3.
- (B) If any exceptions stated in this Chapter would limit obligation, limit liability or eliminate either an obligation or a liability, the person who would benefit from the application of the exception shall have the burden of proving that the exception applies and that the terms of the exception have been met.

Sec. 125A-5 Noise Complaint Procedure

In the event any person has reasonable grounds for believing that any provision of this Chapter is being violated, he may make a report thereof to the Henderson County Sheriff's Department, which shall investigate the alleged violation. If any such investigation reveals a violation, the investigating deputy has the authority to cause a written complaint to be made, and may obtain criminal process for violation thereof, may issue a citation for a civil penalty, and may obtain other enforcement measure as allowed in this Chapter. Criminal process for violation of this Chapter may only be obtained by personnel from the Henderson County Sheriff's Department.

Sec. 125A-6 Violations and penalties, enforcement.

This chapter shall be enforced in accordance with any and all of the provisions of N.C. Gen. Stat. §153A-123, and of Article II of Chapter I of the Henderson County Code.

In the case of second or subsequent violations of Sec. 125A-3(b)(3), any animal which upon investigation by deputy Sheriff is found to be creating the noise which causes the violation of Sec. 125A-3(b)(3) may in the discretion of such deputy be impounded by the Sheriff's Department and confined in the county animal shelter in a humane manner until the next business day for the shelter. The owner of such animal may redeem the animal upon payment of applicable fees. If the animal is not redeemed within five days of impoundment, then such animal may be offered for adoption or destroyed in a humane manner pursuant to Section 66A-14 of the Henderson County Code. Impoundment of such an animal shall not relieve the owner thereof from any penalty, civil or criminal, which may be imposed for violation of this chapter.

Any Deputy Sheriff of Henderson County, having first investigated this matter pursuant to Sec. 125A-5, may obtain criminal process for violation of this Chapter. A violation of any noise

ordinance provision shall constitute a class 3 misdemeanor, and may be punished by fine in the discretion of the Court, up to a maximum of Five Hundred Dollars (\$500.00) per offense.

Henderson County Sheriff's Office
100 North Grove Street | Hendersonville, North Carolina 28792

Phone: 828-697-4596
EMERGENCY: 911
Administration Hours: Monday - Friday 8:00am - 5:00pm



MECKLENBURG COUNTY FIREARMS ORDINANCE

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MECKLENBURG COUNTY FIREARMS ORDINANCE

WHEREAS, Chapter 1052 of the 1955 North Carolina Session Laws authorizes the Board of County Commissioners of Mecklenburg County to adopt ordinances "governing the indiscriminate shooting of firearms around or about residences, settlements or thickly-populated areas of Mecklenburg County"; and

WHEREAS, G.S. 153A-121 allows a County by ordinance to define, regulate, prohibit, or abate acts, omissions or conditions detrimental to the safety or welfare of its citizens; and

WHEREAS, the purpose of this Ordinance is to protect the public safety by regulating the indiscriminate shooting of firearms within the unincorporated areas of Mecklenburg County; now, therefore,

BE IT ORDAINED by the Board of Commissioners of Mecklenburg County:

SECTION 1. Each person discharging a firearm is responsible for exhibiting reasonable regard for the safety and property of other persons and for discharging the firearm in such a manner as to assure that all projectiles come to rest safely within the boundary or boundaries of the property or properties on which the person is authorized to be shooting.

SECTION 2. Except as provided in Section 7, it shall be unlawful for any person to discharge a firearm within 900 feet of any of the following:

- (a) A dwelling house;
- (b) A school;
- (c) A church;
- (d) Any other type of building, while occupied;
- (e) A public or private park or recreation area;
- (f) Any other type of public gathering place.

SECTION 3. It shall be unlawful for any person to discharge a firearm in such a way as will result in the projectile therefrom passing across a sidewalk, or across a highway, street, or other public vehicular area.

SECTION 4. It shall be unlawful for any person to discharge a firearm within 900 feet of any domestic livestock not belonging to him unless such person has on his person written permission for such activity from the owner of the livestock.

SECTION 5. It shall be unlawful for any person, being a parent or guardian of, or standing in loco parentis to, any child under twelve (12) years of age, to permit such child to have possession or custody of, or use in any manner whatsoever, any firearm, whether such firearm is loaded or is not loaded without direct, active adult supervision of the child at all times the child is holding the firearm. It shall be unlawful for any person being a parent or guardian of, or standing in loco parentis to, any child between twelve (12) years of age and fifteen (15) years of age, to permit such child to discharge a firearm without direct, active adult supervision of the child at all times the child is firing the firearm unless that child has passed a Hunter Safety Course or similarly recognized course in firearms safety.

SECTION 6. It shall be unlawful for any person to fire any firearm in a fully automatic mode except on a firing range operated by a recognized gun club or law enforcement agency, which firing range is substantially in accordance with specifications promulgated by the National Rifle Association or by an equivalent nationally recognized firearms safety authority for the firing of a fully automatic firearm of the type and caliber being fired. Such person firing a firearm in a fully automatic mode must have on his person the necessary documentation showing that the firearm is properly registered with the federal government and that the person has the proper federal license to possess such firearm.

SECTION 7. Section 2 of this Ordinance shall not apply to any of the following:

- (a) A person discharging a shotgun with any type of shot or load except "slugs," provided that the shooter is 500 feet or more from any of the types of places or structures listed in Section 2(a) - (f).
- (b) A rifle, pistol, skeet or trap range, operated by a recognized gun club or by a law enforcement agency, which firing range is substantially in accordance with specifications promulgated by the National Rifle Association or by an equivalent nationally recognized firearms safety authority for the type and caliber of firearms being fired, except as provided in Section 6 above;
- (c) a person target shooting on his own property (or on another's property if he has on his person written permission for the activity from the owner of the property) exhibiting reasonable regard for the safety and property of other persons (i) if such person is using a backstop substantially in accordance with specifications promulgated by the National Rifle Association or any equivalent nationally recognized firearms safety organization for the type and caliber of firearms being fired, and (ii) if such person has on his person written permission for such activity from all persons owning any of the types of places or structures listed in Section 2(a) - (f) which are located within 900 feet of the target shooting activity;
- (d) a person hunting on his own property (or on another's property if he has on his person written permission for the activity from the owner of the property) exhibiting reasonable regard for the safety and property of other persons if such person has on his person written permission for such activity from all persons owning any of the types of places or structures listed in Section 2(a) - (f) which are located within 900 feet of the hunting activity;
- (e) law enforcement officers or members of the armed forces discharging firearms in the line of duty (provided that Section 1 of this Ordinance shall also not apply to such an activity);
- (f) persons discharging firearms for the purpose of shooting or killing any dangerous animal or reptile;
- (g) person discharging a firearm in self-defense (provided that Section 1 of this Ordinance shall also not apply to such an activity).

SECTION 8. The provisions of this Ordinance shall apply to all persons engaged in hunting as regulated by Subchapter III of Chapter 113 of the North Carolina General Statutes, or similar successor statutes.

SECTION 9. The term "firearm" is defined as any weapon or similar instrument from which shot, shells, bullets, or similar projectiles are discharged by means of the explosion of gunpowder.

SECTION 10. The violation of any provision of this Ordinance shall be a misdemeanor and may be punishable by a fine of not more than FIFTY DOLLARS (\$50.00) or imprisonment for not more than THIRTY (30) days.

SECTION 11. North Carolina Wildlife officers (Wildlife Protectors) are authorized to enforce the provisions of this Ordinance.

SECTION 12. It is hereby declared to be the intention of the Board that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and that if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, as the same would have been enacted by the Board without incorporation in this Ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph, or section.

SECTION 13. This Ordinance shall apply to all unincorporated areas of Mecklenburg County.

SECTION 14. The "Resolution Relative to the Indiscriminate Shooting of Firearms in Those Sections of Mecklenburg County Which Lie Outside of the City Limits of the City of Charlotte and Outside of the Town Limits of any Other City or Town in Said County" is hereby repealed.

SECTION 15. This Ordinance shall be effective upon its adoption except with respect to turkey shoots conducted during 1988 pursuant to Section 3134 of the Mecklenburg County Zoning Ordinance.

Adopted the 7th day of November, 1988.

Amended on the 5th day of December, 1988.

Amended on the 19th day of December, 1988.

For more information contact Tyrone Wade
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Attachment 5

November 3, 2016

Meeting Notes

Orange County Firearms Safety Committee

Tuesday, October 25, 2016

John M. Link, Jr. Government Services Center, downstairs meeting room

200 South Cameron Street, Hillsborough

Attendees

- Committee members appointed by the Board of Commissioners: Jon Arvik, Roxanne Barksdale, Sara Conti, Keith Kirkland, Vince Tesoro, Greg Tilley, and Keith Webster. [*Jack Hunnell was not present*]
- Liaisons to the Board of Commissioners: Commissioners Earl McKee. [*Barry Jacobs was not present*]
- Resource persons designated by the Board of Commissioners: Travis Myren, Deputy County Manager; Forrest Orr, NC Wildlife Officer; John Roberts, Orange County Attorney; and Jamie Sykes, Chief Deputy, Orange County Sheriff's Office.
- Facilitator: Andy Sachs, Dispute Settlement Center
- There were about 20 observers.

Convene

After introductions and adoption of the proposed desired outcomes and agenda for the meeting, the Committee accepted the proposed notes from the October 17 meeting.

Comments from Observers

This meeting was planned as the final one for the Committee. Comments from observers were taken at the start of the meeting, as opposed to at the end, so that the Committee could incorporate any good ideas raised by observers this evening into its decision making.

John Landreth – Asked if there will be a break during the meeting. Reiterated his interest in seeing a time limit within which firearms noise complaints under the ordinance could be raised. For example, if neighbors raised a firearms noise complaint in October and then again in March, then that should not count as two separate complaints. Offered that sixty days might be reasonable, but not ninety days. Asked when the Committee's recommendations would be considered by the Board of County Commissioners.

David Carter - Is a Concealed Carry Handgun instructor, NRA pistol instructor, firearms safety instructor, and an avid shooter. Asked why everyone has to suffer if only one or two people have complaints about firearms noise. The General Statutes of North Carolina have provisions through which such complaints can be handled. If problems are not being handled in accordance with the General Statutes, then there is a problem with the law's enforcement, not with the General

Statutes. If there is a problem with the General Statutes then we should fix them, but we do not need to pile regulations upon the statutes. Additionally, a lot of people who live in the rural area know that in such areas people are going to hunt, engage in sports shooting, etc. It's like living near the airport and complaining about the sound of the airplanes. I bought my house knowing it was near a railroad line. I don't complain. If you live in the rural area then sometimes guns will go off. If they are not shooting at you then don't worry. And if it keeps going late at night, then there is a General Statute for that.

Chad Resnik – Noted that there are no time restrictions in the definition of “unreasonably loud.” Explained that all firearms create noise within the range of 164-169 decibels. What is different across situations is the amount of time that the firearm stays at that peak noise. For example, the peak millisecond of sound pressure for a .50 rifle stays at that higher level. Anything moving at rate sufficient to create a supersonic crack will usually create noise in the range of 164-169 decibels. So, the noise is the same except for the length of time it is sustained. Asked who will decide whether or not the length of time is unreasonable or inappropriate. I bought the 18 acres I live on so that I could shoot. I shoot far away from others. I own a suppressor company. I shoot at night. I want to be sure that if the County is going to impose restrictions that, first, the restrictions can be followed and, second, I can understand them so I'm not that dude everyone hates. Said he wants to follow the rules, but needs a plain English definition of “disturbing” in order to do so, as opposed to what he is reading in the draft ordinance, especially the last part, “being a type of sound which could be lessened or otherwise controlled by the maker without unduly restricting his conduct.” Is it the intention that people use suppressors? I can't tell. My other concern is, given the ease with which people are able to obtain a CCH permit – and this is not going to make me popular -- that we have people who cannot shoot. I am a Department of Defense sniper instructor, doing a lot of work with elite Special Forces groups. I am the sniper instructor for the NC Tactical Officers Association. I and another person, a Chapel Hill officer, are the only ones certified to go onto a military range, and so help to make the Association's SWAT Competition possible. I am a Concealed Carry Handgun instructor. The state requires that I teach you to clean your gun but not how to carry your gun safely. The draft ordinance limits the avenues people have to train on their own property on their own time. We're not going to change the fact that people are carrying concealed handguns, but we can try not to obstruct their ability to do it safely. The current draft ordinance is much better than the earlier version; this one is less horrible. I understand the concerns completely. I don't like having people outside of my back window shooting. I don't like it now hearing others shoot at the distance I'm hearing it, and I would not like it if they were closer to me. We are moving down the right path. I was under the impression that this is a gun safety committee, not a regulate-how-guns-are-used committee. There is a reason the Second Amendment is second only to the rights to speech, press, petition, assembly, and religion. It is an unalienable right the Creator gave us. We're not having a discussion about whether or not I can have a gun. Right now we are arguing whether or not I can shoot it on my property. I think that there is some middle ground here. We really have to take

care of all sides. When can we have the dialogue, so that I can ask questions and better understand what is in this draft ordinance? One thing I learned from calling JAG and other attorneys is that if we start to restrict the amount of training to a point that it becomes much more difficult for an individual to fire here, then, well, there's shift that occurs when you move from white light to putting thermal or night vision on top of a rifle; if you don't let me zero that, and I make a mistake, then there a potential for Orange County itself to incur some culpability in the event of a problem.

Joshua [last name?] – First saw the Committee's product yesterday on social media, as he works 60-70 hours per week and is taking care of his family. Appreciates everyone's time and efforts, and knows that everyone has good intentions here. Is confused by what he is reading in the draft. The name of the committee is Firearms Safety Committee. Maybe it's like legislation in Washington, where it is called one thing and another thing comes out of it. The only thing I'm seeing of any use with regard to safety is the requirement that projectiles be kept on the shooter's property, unless you have written permission from the other property owner. At the Board of Commissioner's meeting when the earlier proposal was being discussed, Charles Blackwood said pretty clearly that all errant rounds wind up in court; he proposed a rhetorical question as to whether or not there is a need for an ordinance for the lawful shooting of firearms; he said, "I don't know that there is." So, what are we doing here? Is this the firearm tranquility committee? So people can take a nap on their hammock on Sunday afternoon? The majority of what is in the draft ordinance is unnecessary. I don't believe that the real intent is safety. I don't know what it is, and I would like some clarification.

Daniel Patterson – Is Committee member Roxanne Barksdale's husband. Thanked the Committee for all the time it is spending on its work. The final draft contains some pretty modest proposals. I don't see them infringing on anybody's Second Amendment rights or ability to shoot on their own property. My neighbor has a gun and if he wants to shoot it then that's fine. I do have a problem if a bullet comes onto my property, breaks my window, shoots my dog or shoots me. I don't think it is unreasonable to restrict that. I don't think it's reasonable for someone to be shooting an AR-15 at 2:00 in the morning. These are common sense regulations. It all comes down to being a good neighbor and a responsible gun owner. That's not asking too much.

Jennifer Merritt Depew – Is an NRA firearms instructor, range safety officer, Concealed Carry Handgun instructor – one of the few females in this business. Attended the Committee's first meeting and heard a lot of concern about noise, that firearms sound dangerous. Firearms are dangerous, and there are laws in place to address errant rounds. If, God forbid, a window gets shot out then that's already addressed under existing law. I'm kind when I shoot: I don't have to let my neighbors know that I'm shooting but I do inform the ones that I know who care. I also have had trespassers come onto my property to see what I am doing, which is bizarre to me that someone would walk up upon an active shooter. I don't understand that kind of entitlement, to

feel that you are entitled to investigate. I have put up No Trespassing signs, which people ignore, and I have spoken to them to ensure that it does not happen again. I do what I can to ensure that I and all my people are going to be safe. I handle every one of my shooters. As a CCH instructor I make sure that my students know how to shoot before they leave. I take the extra time to do that. But it's true, they might not all do that. I know casual shooters, but I am not a casual shooter. I'll be the first one to jump into somebody's business and say, "You need to be more careful," or "You need to make sure you have that." But I do it in a friendly way. Not in a manner that's ungoverned. I do it in a common sense way, which we all know is not all that common. I don't understand when people say gunfire sounds dangerous, because a barking dog sounds dangerous to me, rap music sounds dangerous; we can't go by what sounds dangerous. A gun can be dangerous in the wrong hands, but that is not what this Committee is here to address. The draft is telling me what I can and cannot do, on land that has been in my family's hands for generations. That offends me. It offends me that this is your business when I'm not hurting you, not placing you in danger. Even though you perceive it that way. I'm helping countless women. I have brand new shooters. Women who have never picked up a gun. By the time we're done they are empowered, they are confident in their abilities. And I encourage them: this is where it starts, and this is where it stops. A formal range is expensive, and a lot of these ladies are not going to do it. So they will carry a handgun, licensed by the State of North Carolina, by whatever County they are in, without training if you put severe limitations on them.

Andy [last name?] – Thanked Committee for taking the time to listen to meeting observers' comments. Is concerned that language in section (g) addressing noise is arbitrary and ambiguous, and potentially limits what he can do on his own property. Prefers to shoot at a gun club, because everything already is set up there, but sometimes likes to shoot on his own 10-acres. I can build a berm, I can comply with that part, but has had experiences with neighbors about the noise from his shooting. I have alerted them that I was going to shoot, and it was not received well. They have a problem with the noise. I'm afraid that the ambiguous language in the draft ordinance if it were passed into law could be abused by people who just don't want others to shoot.

Riley Rusky – Thanked the Committee for all the hard work it has done. But you have worked for a solution to a non-existing problem. When all is said and done, this is no different from your very first meeting, when the data presented by the various police departments showed there is no problem to be solved here about firearms safety. There just aren't the incidents. So you devolved to the issue of noise, and ended up with a very incomprehensible way to determine how shooting is too noisy. I don't understand it, and I don't know if anyone else can understand it. I don't see how you can enforce it in a fair and consistent manner. I see in the draft that you still want to maintain the compounding of errors so you can maximize the penalties to anybody who does make a mistake and gets caught. I think that is absolutely wrong. You're splitting it up into little segments so you can fine people on each different item. C'mon folks: treat people decently and

honestly. Don't play games with these fines. You've worked very hard, you've come up with a solution that is in search of a problem. And you really ought to quit right where you are at.

Becky Ceartas – Is Executive Director of North Carolinians Against Gun Violence. Thanked the Committee for the opportunity to speak about the important work it is doing. Her organization's attention is in helping communities in North Carolina share fact-based information and advocate for preventing gun violence. Thanked the Board of Commissioners and the Committee for joining other counties in paying attention to the role of guns in North Carolina communities. The draft ordinance achieves a good balance in protecting the rights of all citizens of Orange County, those that own guns and those that don't. Looks forward to seeing the Committee's recommendations before the full Board of County Commissioners.

Roy Coe – Asked if there is a way for people to receive a warning from law enforcement officers before being given a \$500 fine. Said that Orange County's current noise ordinance (Article III) imposes a \$100 fine for violations but allows for warnings. Also, had been a Search and Rescue volunteer with a Sheriff's Department in California for 19 years and observed that some deputies are not pro-Second Amendment. Concerned that if two civilians make a firearms noise complaint as provided for under the draft ordinance then that sort of deputy will be quick to issue a violation. And we know if you get a violation then where ever you are shooting you will be shut down. You will never be able to shoot there again. I'm not picking on deputies, but I know there are some that are that way.

Committee Recommendations to the Board of Commissioners

After a quick break, the Committee turned its attention to developing its recommendations.

Mr. Kirkland noted that there is a lot of discussion on social media asking why the Committee is going forward with an ordinance. I said earlier in the process that I did not think we have a problem. As I began to think about how liberal Orange County is, I concluded that if citizens did not do something now, then in six months or two years there would be another document created by the Commissioners which we would not be able to have any input on. So I appreciate that the Commissioners have given us this opportunity now to work on these issues. The draft ordinance is not perfect -- we have some work to do – but that is why we are here now with this document. At least we have some input now that we might not have in a few months or a couple of years down the road.

He added that no reasonable person would be opposed to items (a) – (f) in the draft ordinance. These provisions are the same things we have been doing our entire lives in Orange County. We have not had that many situations where someone has been injured by errant rounds, because we have practiced responsible shooting. We're just putting that on paper now. We're simply saying you can shoot all you want, but just keep that round contained. You can use whatever type of

backstop you need in order to stop whatever kinds of rounds you are shooting. This ordinance is just a way to solidify what most of us is already doing.

I have some problems with some of the definitions in item (g), he said. Who is going to decide if something is unreasonably loud? How do we weigh that? And why would “injures” be included in the definition of “disturbing” if we’re talking about noise? How does “health” come into play if we’re talking about noise? And we’ve already addressed the safety issue, so that doesn’t need to be there.

In reply to a question from Mr. Kirkland, Mr. Roberts said that he is not seeking any outcome or intent in particular through the language he provided to the Committee in the draft. The language came pretty much from Chatham County’s ordinance, he said. We can change it however the Committee would like to change it. If you are not comfortable with any definition or any word in this section then it can be removed. I don’t have any opinion of what the Committee’s intent was, he said.

Mr. Kirkland said that the noise provision is so open-ended that it makes too many situations possible where somebody’s shooting would be restricted. For example, the definition of “disturbing” can be applied too broadly. “Peace” and “safety” in (g) are going to be based on who is making the complaint, what their comfort level is with gun use. If they are the kind of person who just does not like guns, then anytime somebody shoots a firearm the person will feel endangered. No matter how safe the shooting range is.

Mr. Roberts said that he had two exchanges today about section (g). One was an email exchange and the other was a telephone call. In one exchange, he said, I had the opportunity to clarify that section (g) as it is written would only apply to two people and the law enforcement officer complaining about the same incident. Also, if a deputy issued a citation, then ultimately a judge would decide if a violation of the ordinance had occurred: whether the noise was unreasonably loud or disturbing. The judge would do so by putting himself in the position of a prudent person or a reasonable person of ordinary sensibilities. That’s a standard found in a lot of legal issues, even beyond this. The other conversation I had today helped to clarify that section (g) is the most vulnerable to being abused of the draft ordinance provisions. Neighborhood disagreements could be viewed as being resolvable by one or more neighbors by calling a deputy and utilizing section (g). So, on the one hand section (g) is legally enforceable using the reasonable person standard, and on the other hand it is subject to being abused more than any of the other provisions.

Mr. Tilley agreed with Mr. Kirkland regarding support for sections (a) – (f). When the Committee was established, he said, it was for firearms safety. Noise was never mentioned. We were never charged to fix the noise problem. It just kind of evolved as we went on. We don’t need to change (g), he said, we need to omit it.

Dr. Arvik asked how – without (g) -- law enforcement or a neighbor would know that somebody is shooting improperly. How would we know a situation exists where there is a likelihood of an errant bullet? Dr. Arvik reiterated the situation he witnessed in May, where a trained individual was on his own property shooting into crushed rock toward a neighborhood less than 100 yards away. Law enforcement had nothing it could use to stop that man from shooting. Section (g) would give law enforcement the ability to say, “I received the noise complaint, heard the shooting myself, investigated further, determined that the situation was not right, and intervened to stop the shooter before injury or damage occurred.” The only reason the deputy would know about the shooter was the noise, so you can’t separate the noise complaint from the incident.

Mr. Tilley said that if sections (c) and (e) had been in force during that situation in May then the law enforcement officers could have intervened to stop the shooter. Section (g) would not have been needed, he said. A neighbor can hear shooting, call 911, and get an investigation into the safety of the situation without section (g).

Dr. Arvik said that if a neighbor or law enforcement officer does not hear an errant shot, then the only sound will be when that bullet strikes a person or someone else’s property. That’s too late, he said. Something has to trigger that phone call. That is why we need section (g), and training for the deputies, which Deputy Chief Sykes has assured me is happening, he said.

Ms. Barksdale said that she likes having the two civilian complainants as necessary complements to the law enforcement officer in section (g). It’s unfair to have the law enforcement officer as the sole person making the complaint about the noise.

Mr. Tesoro said that (g) is far too subjective to be enforceable or fair. It leaves too much up to the discretion of neighbors, especially nasty neighbors. I see no reason why, if someone sees a dangerous situation as Dr. Arvik did, you need an ordinance with a noise provision to stop the shooter. Dr. Arvik replied that he had heard the shooting before he saw it. Mr. Tesoro said that if you hear gun fire you can call 911 and get a response even without (g) in the ordinance.

In reply to a question from Mr. Tesoro, Chief Deputy Sykes said – off the top of his head -- that his office responded to something along the lines of 450 calls regarding gun shots throughout the year in 2012. Don’t hold me to that number, he said. But we responded to the report of gun fire and investigated. Dr. Arvik replied that in May he called 911 three times, and had to argue with the operator to get somebody to come out while the shooting was taking place. It wasn’t so bad when he was shooting a .22 pistol. But then he pulled out an AR-15 .223. The deputy said it was only a .22, and he had no authority to stop the shooter because the shooter was on his own private land. It was a Saturday afternoon and he was shooting into my neighborhood where there were 7 preschoolers running around. I want something that will give law enforcement the

authority to go to that man and say, “you are in violation of something.” It’s unacceptable that he could not do anything in that situation. I had to tell the third officer that if he didn’t stop the shooter that I would. What do you think the shooter’s attitude is going to be after three officers did nothing and I go down there?

Chief Deputy Sykes said he has responded in his 20 year career to over a thousand gunshot calls. The most frustrating thing for me is to tell a complainant that there is nothing we can do. They look at me like I’m an alien: what do you mean there is nothing you can do? I know Dr. Arvik experienced that in May when we responded to his calls. There was nothing we could do. But if this draft ordinance had been in force at the time, and we saw the insufficient backstop and a man with a .223 shooting toward your neighborhood, then we would have had teeth to do something. Dr. Arvik added that the ordinance also would require the County to provide the deputies with the training necessary to make the necessary judgments. Chief Deputy Sykes said no, that such training does not exist for law enforcement. Mr. Webster and I have searched for that across the state, he said, and it does not exist.

Everybody in law enforcement had a background in firearms when I started in 1995, he said. Now we’re seeing a younger generation enter law enforcement that has grown up in homes without firearms. We’re having to train them. We’re having to send them to urban rifle school and to firearms safety courses. And we’re having to provide remedial firearms instruction in our basic law enforcement training. We want everyone to be safe, so it is our responsibility as leaders in the Sheriff’s Office, to convey the information the guys in the street need to make the necessary judgments. I don’t know who responded to Dr. Arvik’s calls in May, he said, whether they were State Troopers or Sheriff’s Deputies. But what Dr. Arvik says he heard from those officers is the same information I have given officers for 20 years: “If he’s on his own property then I can’t do anything.”

Dr. Arvik said he wants law enforcement to have the authority it needs to stop people from doing stupid things with guns. Mr. Tilley said that if the Board of Commissioners adopts section (c), even without the noise part, then law enforcement would have that authority. Mr. Webster said that law enforcement does not need (g) to investigate a firearm noise complaint; they will come out if you call and say you’re hearing gunshots and are concerned about it. If these other provisions, (a) – (f), are in place then after the deputies get there from the noise complaint they will have the teeth to do something if there is an inadequate backstop. They don’t need (g) to do their job.

Dr. Arvik said that if the shooter had suppressed his gun, and if there were no noise, then the shooter could have been there all day shooting into crushed rock toward the neighborhood. An AR-15, 4,000 feet per second! The officer investigated whether it was an appropriate place to shoot, and determined that it was, and so he couldn’t do anything about it. The whole reason we

are here is to give law enforcement and the County the ability to stop that sort of thing from happening. If that makes it inconvenient for shooters then we have to accept it. I'm a shooter. I'm an NRA instructor. I don't want anybody hurt, and I don't want anything done to restrict anybody's right to shoot. But I want to be sure there are negative consequences to them if they shoot improperly.

Ms. Conti said there is nothing law enforcement can enforce with regard to a noise violation when it comes to firearms. A citizen can call and law enforcement can come to the scene, but once law enforcement arrives it does not have the teeth to enforce anything with respect to noise.

We have talked about danger and perceived danger, she said, but that's a meaningless distinction. When I talk about a person hearing unreasonable shooting I am not talking about hearing someone shooting with their kids, skeet, ducks, dove, targets -- none of that is unreasonable. That is what living in the country is about. I'm talking about the kind of shooting that really is frightening, where you don't know how far away they are, or how many people there are, or what direction they are shooting in, or what caliber they are shooting. Those are the situations that cause reasonable people to be afraid. They perceive danger, and they don't feel safe. So to the extent that we are here to address safety, their not feeling safe from hearing irresponsible shooting is within this Committee's charge.

Things have changed, she said. Living in the country has changed. For all the generations who have been shooting responsibly in the country all these years, still some people are abusing that right. They are shooting assault rifles into exploding targets and they are treating guns like toys. I'm not talking about the people who have bought houses out here and are surprised by the shooting, like those living next to an airport and are surprised by the planes. I have been living in the country a long time. It's different now. We have a noise problem because of the people abusing their right to shoot, and there is nothing in Orange County that gives law enforcement the authority to do anything about that problem.

Maybe the solution is for the Board of Commissioners to take up the noise issue, she said. It would be easy enough to lift the firearms exemption from the noise ordinance. But we're here to address firearms safety, and to the extent that people are not feeling safe when they hear firearms noise I think it is hard to separate noise from this ordinance. We're not here to talk about the Second Amendment, she added. Nobody on this Committee is challenging anybody's right to bear arms. At the same time, none of us have the right to shoot anywhere, anytime, anyhow.

In reply to a question from Mr. Tesoro, Ms. Conti said that, although it is difficult, we can differentiate between noise from unreasonable shooting and noise from reasonable shooting by giving the investigating officer the authority to make that distinction. She noted that Mr. Tilley had introduced the *prima facie* clause in section (g). If we require two complainants and then an

officer to make the determination with regard to the reasonableness of the noise, she said, then that noise will not be the legitimate kind of shooting activity we're all talking about here. If there are a lot of shooters coming from who-knows-where, firing in who-knows-what direction, then that's the kind of noise that's unreasonable and needs to be stopped. We're not talking about normal shooting. I know what normal shooting is. I live in the country. It happens every day. This is different, and you know it when you hear it.

The facilitator suggested that each member of the Committee express an opinion about keeping (g) in the group's recommendations. Should we spend our time trying to improve (g), or should we take it out entirely? Mr. Tilley, noting that Mr. Hunnell was not present this evening, said that the group should not take any binding votes until all the Committee members are present. Mr. Tesoro agreed. Dr. Arvik said that the group cannot wait for Mr. Hunnell to return, since this is supposed to be the Committee's final meeting. Mr. Tesoro said that he had been asked by Mr. Hunnell to let the Committee know that Mr. Hunnell [Tesoro now reading from an email] does "not support the noise clause but suggests that language be added that the two parties not be related and be from the neighborhood affected." The facilitator noted that the group's ground rules contain a quorum rule (to make a decision no fewer than six members must be present) and a decision rule (two more than half of the members present must be in agreement). With seven members present, he said, we have a quorum this evening and six members are needed for a decision tonight.

The group agreed to take a non-binding poll on whether to keep (g) or continue working on it.

- Mr. Kirkland – Does not support (g) as it is written, and does not know what kind of time is available for the Committee to try to improve it.
- Ms. Conti – Feels strongly that there needs to be a noise component to the ordinance if an ordinance is the result of this Committee.
- Mr. Webster – Does not support (g), and thinks the noise issue should be deferred to the Board of Commissioners for resolution in the context of the County's noise ordinance.
- Mr. Tilley – The Committee is not commissioned to work on the noise ordinance. We've done an excellent job at addressing safety through (a) – (f). Noise does not need to be in the safety ordinance.
- Ms. Barksdale – Likes parts of (g), because it gives teeth to law enforcement. Wish it could be part of (c), maybe through some further discussion by the Committee.
- Mr. Tesoro – I don't support (g) at all. Agree that we have developed a substantial gun safety ordinance – that is not needed, because we do not have a safety problem – and I am willing to move forward with the draft ordinance without (g).
- Dr. Arvik – Proposed a modification of (g), because if a noise provision is not included then we have wasted a lot of people's time and money.

The facilitator observed that 4 of the 7 members present this evening were willing to continue working to try to improve (g): Kirland, Conti, Barksdale, and Arvik. He suggested that (g) be set aside temporarily and asked if there were any other provisions in the draft ordinance that any Committee member wanted to address.

Mr. Tesoro asked the group to reconsider section (i), noting that during the observers' comments period this evening Mr. Rusky had raised a concern about each violation of the ordinance being a separate penalty. I know we discussed this at length, he said, but it's excessive to penalize a person for violating each section of the ordinance. Mr. Tilley, referencing comments made by Mr. Coe during the observers' comment period, asked if any other County ordinances allow law enforcement to give warnings instead of citations. Mr. Roberts said that law enforcement officers are always free to give a warning. It need not be specified in an ordinance, he said. Chief Deputy Sykes agreed. Commissioner McKee reminded the group that he had stated in one or more earlier meetings that the Board of Commissioners generally does not look favorably upon "piling up" fines. We've pulled fines out of ordinances dealing with animal control, he said. I won't predict the vote of the Board, but I and other members of the Board have not been in favor of multiplying fines. It could be handled by saying a violation of any provision of this Section *or Sections* shall be guilty of a Class III misdemeanor punishable by a fine of *up to* \$500. Mr. Tilley noted that the draft already says "up to."

Mr. Webster said that he originally had proposed the multiple-penalty provision, but he did not have an issue with removing it now. Mr. Tilley asked, if the multiple violation provision were eliminated, whether a violation of the ordinance on one week would be considered a separate penalty from another violation the next week. Commissioner McKee and Mr. Webster said that those would be separate violations. All agreed to revise the draft by removing references to each violation being a separate penalty. Mr. Roberts volunteered to distribute a revised draft to the Committee.

The Committee took a short break, and then turned its attention to a draft recommendation developed by the facilitator from the Committee's discussion on October 17 regarding voluntary community education on firearms safety, the so-called "non-ordinance" recommendation. Commissioner McKee said that he is interested in supporting good relationships between neighbors. Efforts to educate the community, if done right, will help develop those relationships but if done wrong could damage relationships. Mr. Tesoro asked who would lead the charge on the implementing the recommendation. Mr. Roberts said that if the Board accepts the recommendation then it would direct staff to proceed. The Manager's Office would probably take the lead to make sure it was getting done, and the Board would send the recommendation to the Health Director and Director of the Department of Social Services for implementation. Commissioner McKee said that whatever resolutions the Board passes is generally handed to staff with unspecified directions to "make it happen." The Manager would delegate to Mr. Myren

or someone else in her office to work with whichever Department is responsible to ensure that the resolution is carried out. It would then come back to the Board to approve the specifics of the education effort, and then it would go out through the lead Department. The Committee adopted the non-ordinance recommendation unanimously.

The Committee then turned its attention back to (g). Mr. Kirkland proposed striking (g) completely, and leaving any further consideration of the firearms noise issue with the Board of Commissioners. The matter is too subjective for use to resolve, he said. Dr. Arvik wanted the Committee to address (g), and proposed that references in the draft to “unreasonably loud” be deleted. This would leave a mechanism for addressing “disturbing” noise, he said, where firearms noise is scaring people. Ms. Conti suggested that the clause also be deleted at the end of the definition of “disturbing:” “*and being a type of sound which could be lessened or otherwise controlled by the maker without unduly restricting his conduct.*” Mr. Tesoro said that he is not sure any amount of revision would salvage section (g), and that problematic words for him were “perceived,” “health,” and “safety.” By the time we get done there will be no (g) left, he said. Ms. Conti said that Dr. Arvik’s proposal was a nice compromise, to the extent that people’s objections to (g) were the inclusion of “unreasonably loud.” Mr. Tesoro said that even if “unreasonably loud” were deleted, there is no way to distinguish between disturbing noise from unreasonable shooting and disturbing noise from reasonable shooting.

Ms. Conti said that she was feeling “fed up.” She said she was flabbergasted (happily) when Mr. Tilley proposed a solution to the noise issues. But we have not discussed alternatives to this *prima facie* option. We have not discussed distance, for example, to address noise although distance is included in several local ordinances across the state. We set distance aside in our safety discussions because we said that the prohibition on a projectile crossing the property boundary to address safety was better than a distance provision. But that still leaves the problem of people shooting on, say, one acre lots. You might be able to contain the projectile, but the noise may be disturbing because the shooter is engaged in unreasonable firearm activity so close to someone else’s house. This Committee is tasked with addressing the issue of noise, somehow. Here we are at the last meeting, at the last minute of the last meeting, and now we’re talking about something we had supposedly resolved, with one little tweak from Mr. Hunnell about an unrelated person. What are we doing here??

Mr. Tilley said that at the first meeting he said that the Committee could save itself a lot of problems by adopting the Lenoir County ordinance. The Committee did not want to do that, he said. Ms. Conti said that the whole gun community from the beginning had advocated for the Lenoir County ordinance. Well, she said, Lenoir doesn’t have anything in it that is going to solve the noise problem. You people said that Lenoir does not have any teeth in it, and the irony is that this is what we have wound up with. The draft ordinance with (g) removed is so indistinguishable from Lenoir that one would think that the whole Committee came in

advocating for Lenoir. Section (g) is the one thing that provides some teeth and distinguishes our ordinance from Lenoir. I'm reminded, she said, of a woman who stood in front of us at the end of the previous meeting and asked if we have talked about issues that we have never even broached: time of day, shooting at night, distance from structures, how much land must you own before you can shoot, what is sustained shooting, what's a safe berm, how far must a berm be from a structure.

Mr. Tesoro and Mr. Tilley said that the Committee had indeed talked about all those issues. Maybe, said Ms. Conti, maybe somebody just mentioned that issue. But we never discussed it, and it certainly never got incorporated into the draft ordinance that is in front of us now. What is in front of us now is practically useless to people who are not shooters in this community. I believe this Committee was created because of the blow back that came from the regulations that were proposed by some other governmental entity, to try to assuage the concerns in the gun community that their freedom was being impinged upon. There are other people in the county who have freedoms that are just as important as those. I don't think we have begun to address the freedoms of the non-shooting community. I'm embarrassed now because I realize I was appointed to this Committee to represent the interests of those people, and I feel like I have failed them miserably. So, for all the freedoms in this room, your freedoms as shooters have not been infringed one bit by this ordinance. We have gone through this whole process just to protect the rights of the shooter. Now, how about you address just for one second the rights – which are equally as important – of the non-shooters? There is one paragraph in this ordinance that addresses the rights of the non-shooters, and now we're about to get rid of it. After having spun our wheels for months now. We could have done this at the start by saying, "Let's just do Lenoir County."

In reply to a question from the facilitator, Ms. Conti said she had no idea how to satisfy the needs of non-shooters who are disturbed by the noise from unreasonable firearm activity while at the same time satisfying the needs of responsible shooters who do not want infringements upon their freedom to shoot. If we lose (g) from the ordinance, the facilitator said, it is because we as a Committee could not figure out how to mutually satisfy those two sets of interests. It is OK if we are at that point, he said, to recognize it and let it fall to the Board of County Commissioners to try to figure it out. The Committee would have more control over the solution if it had a good recommendation, but we need a substantive idea. If Dr. Arvik's proposal to eliminate "unreasonably loud" is insufficient then let's keep hacking at it, he said, unless you all have decided that we are done. I don't want you to be done out of frustration. I want you to be done from an intelligent decision that we cannot come up with a solution at this time with this group of seven people who are here tonight.

Dr. Arvik said that we have failed if neighbors are disturbed by the location and time of somebody's shooting. We haven't given Chief Deputy Sykes any tools for dealing with that. If

we just let people shoot whenever they want and where ever they want then we have failed. Shoot at the right place at the right time. Night time is not the right time, unless it is at the right place: if you got access to 18 acres on which you can shoot in the middle of the night then go ahead. As long as you are not bothering your neighbors. If “loud” is problematic to the Committee then let’s take it out, but if shooting is disturbing to one’s neighbors then that shooting is wrong, and should not be allowed. The first thing that happens when a gun goes off is that the non-shooters start worrying. Responsible shooters also worry if another person’s shooting is at the wrong time in the wrong place. We worry more than the non-shooters do.

So, (g) needs to stay, said Dr. Arvik. I would propose that the definition of disturbing become (g) (1) and that portions of (1) be incorporated into the definition of disturbing: “consider or find substantially incompatible with the time and location to the extent...”. I want to get time and location in there, he said. If you are shooting at the wrong time and the wrong place you are violating the regulation. Citizens cannot determine what that is. Law enforcement can make the determination. And law enforcement needs to be trained to be able to do that. The Chief Deputy says that we don’t have a training program for that. Then let’s talk to the BOCC to direct them to begin that training, and give them the resources to do it.

Ms. Barksdale said that she does not want to discount that some people are alarmed by loud gunfire. Maybe the word to use in the ordinance is “alarming.” To discount the people who are alarmed by loud gunfire and do not want to be around it is as discounting as discounting the people who want to be around it. There needs to be an investigation if somebody is alarmed. And I like having the two civilians and the one law enforcement officer all involved in establishing what is alarming.

Chief Deputy Sykes said that if somebody calls and says they are alarmed by their neighbor’s shooting because they do not what is going on, then certainly we can respond and investigate what type of shooting is occurring. If it violated (a) through (f), and we could not come to a conclusion using conflict resolution between the neighbors, then we would have teeth to charge the shooter. Ms. Barksdale said that she cares about the ordinance being enforceable, and if it is enforceable without (g) – even though the three-person provision is in (g) -- then she could support an ordinance that excluded (g). Yes, said the Chief Deputy, if we find a violation under (a) – (f) then we can enforce under those provisions.

Dr. Arvik says that nothing under (a) – (f) would allow the Sheriff’s Office to enforce against a person shooting in the wrong place or at the wrong time. If we could pull those concepts from (g) somewhere into (a) – (f) then we would be giving the deputies the tools they need to address disturbing or alarming shooting. Reasonably intelligent and prudent people who are bothered by shooting – not because it is loud, but because it is occurring at the wrong place or the wrong time

-- should have their needs addressed. If it's not in here then the whole thing falls apart; we're back to the Lenoir ordinance, which is a useless piece of paper.

Mr. Tesoro asked where the noise part of the Committee mandate comes from. When I filled out my application, it said "Firearms Safety Committee." Commissioner McKee read from the BOCC's March 1, 2016 agenda abstract, which includes noise in the Committee charge. It also is repeated on May 17, he said, in the charge when we appointed the Committee.

Mr. Tesoro said that the Committee tried to define "sustained" at an earlier meeting but was not able to do so. Other words, like "alarming" and "disturbing" all come back to perception, he said. I don't think we can answer that. Ms. Conti explained that the "reasonable person standard" is a valid legal standard through which those terms can be defined.

The facilitator said that the Committee appeared to be at the point where it has consensus on an ordinance that contains (a) – (f) and a non-ordinance recommendation regarding community education on firearms safety, but that it does not have consensus on any revision to (g). The Board of Commissioners can read the meeting notes for background, he said, and individuals on the Committee can write or speak to them about the different perspectives they have regarding noise. He suggested a vote on recommending an ordinance that excludes (g) and the non-ordinance recommendation.

Commissioner McKee said that in the end the decision comes back to the Board of Commissioners. Our Board does not have to adhere to any recommendation or it can adhere to every recommendation or it can add other things if we decide to. You all have done some good work. I understand it when Ms. Conti says that without (g) the Committee has wasted its time, but I do not think the Committee has wasted its time. I can guarantee that every Commissioner has read every minute that has come out of this four month conversation. We created this Committee to get input from a group of people who were not the focal points of that meeting in February. We wanted an extended conversation in our community, outside of our Board, to get some recommendations. If the recommendations come back (a) – (f) then we will consider it. If they come back with (g) included then we'll consider it. I can't tell you what the Board might or might not do.

I would recommend that you not let the hunt for the perfect interfere with the possible, he said. From what I see, (a) – (f) gives law enforcement some teeth. I understand the noise issue. I don't know that I agree that the noise issue is absolutely critical to the Sheriff's ability to respond to a call and, if they get out there and see a person shooting into a pile of rock or at a six-inch diameter tree, they have some means of doing something. Back in May when they responded to Dr. Arvik's call they didn't have anything; if (a) – (f) passes then they will have something. Do we have a perfect document tonight? No. Will we have a perfect document after the Board of

Commissioners finishes with this? No. I can't guarantee or predict what the Board will pass or even if it will pass anything at all. But I would ask that you not feel like you wasted your time, because you haven't, because every Board member is following this discussion and lots of people in the community are following this discussion too. We had 200 people at the meeting back in February. I can guarantee you even if you complete your work tonight that this is not the end of the discussion. The current Board and/or a future Board will address this issue again. Don't let the hunt for the perfect interfere with the possible.

Dr. Arvik then proposed, "looking for unanimity," that (g) be struck from the draft ordinance, and that individual members be allowed to submit minority reports. The group voted, and decided 6-1 (Ms. Conti the one nay vote) to recommend to the Board of Commissioners the draft ordinance minus (g) and with the revisions to (i) agreed upon earlier in the meeting. Commissioner McKee thanked the Committee for making a very hard decision, and reminded it that the conversation is not over.

Evaluation of the Committee Process

The facilitator invited Committee members, resource persons, and the Board's liaison to reflect on what worked well in the Committee process, what did not work so well, what they have learned, what was challenging, and any advice they might want to give to the BOCC or to the facilitator for setting up and conducting future committees. Each person took a turn and shared some thoughts, as follows:

- Commissioner McKee – I'm proud of the Committee. This process has informed our Board, even the fact that there was dissention. This is what I wanted to see: a discussion, and not necessarily a polite discussion, where people are at, what people's opinions are. For me, the process worked.
- Mr. Myren – I hope we were able to support the Committee adequately with the research we provided. John Roberts did a great job. The format worked well in general.
- Dr. Arvik – I've been involved in lots of committees like this on different subjects, and the thing that impressed me most is that the facilitator didn't let this run away. Not once. I appreciate that very much. Now, I didn't get everything I wanted out of this, but I got a discussion on everything. Other members might not have liked to have had the discussion, but it needed to come out, and it did come out. And I appreciate that.
- Mr. Roberts – I'll make these changes tonight and send out a final copy to everyone. I'll talk with the two Commissioners who served as liaisons to the Committee to find out when they want this item to come to the full Board; when I know I'll let you all know. The process here seemed to be efficient, and discussed a lot of subject matter that was of concern to people; I think that is a good thing.
- Mr. Tesoro – I appreciate that we had a facilitator. That was key for any of this working, given the diverse group. I feel we made great progress. I feel we addressed safety. It's not

perfect, and I don't think it is ever going to be perfect. But I feel that we accomplished something.

- Ms. Barksdale – We worked hard. I hope it's helpful to the Commissioners, because they are where it comes down. I appreciate what they do. I also appreciate the experts we had access to in this process. It made a difference to me to be able to call on them and to know what they had to say. I also appreciate the facilitation. I felt safe to say what I needed to say. This is an issue that can be hot on both ends. I appreciate all the work Mr. Roberts has done for us, preparing drafts and revising and revising again. It's been a good experience for me and I hope it will be helpful.
- Mr. Tilley – I appreciate the expertise we got from Officer Orr and Chief Deputy Sykes, and from Mr. Roberts, Mr. Myren, Commissioner McKee, and Commissioner Jacobs. Thanks to the two Commissioner liaisons for helping us guide this. The facilitator did a great job keeping us in line and where we needed to be. I also have to get this off my chest: I was open when we first were talking about noise issues, but after I was told that the reason Ms. Conti was here was because she had a problem with a neighbor's shooting range, I felt undermined. I felt deceived by that and think that she should not have even attempted to be on this Committee.
- Mr. Webster – I like that everybody on the Committee had a voice. Everybody had an opportunity to speak their mind. We did it respectfully. Even when it got a little heated, the facilitator checked us and brought down the temperature so that we could make an educated decision. The decision is not perfect, but they never are. It's a living, breathing thing. It will revolve. As Commissioner McKee said, people will continue to discuss this. But I liked the process. It is the first time I have been on a County committee. I appreciate the County providing the experts for us. We made an enormous amount of progress. We are not going to please everybody. There are going to be folks mad on each end of the spectrum. But as long as we make the majority happy then we have accomplished a good thing.
- Chief Deputy Sykes – This was a tough topic. With input from everyone who's been watching us and concerned about the outcome, we had people on both ends of the spectrum. Everyone did a good job of coming to the middle; that's where you solve problems. I don't think it's perfect. But I think the recommendation to the Commissioners is a good starting point. Even if the only thing that comes out of the Commissioners' decision making is our recommendations, for the Sheriff's Office in responding to these calls at least we will not have to tell the people living in this county that there is nothing we can do. I think everyone should give themselves another round of applause for that, because that is going to make a lot of people feel better.
- Ms. Conti – I would like to thank the County Commissioners for addressing this issue. I would encourage the Board to revisit some of the issues that were raised but not addressed adequately.
- Mr. Kirkland – I came into this Committee knowing that we would not make everyone happy, because this is a hot topic issue; it may be very political in some ways. But as a

beginning it has turned out pretty well. I feel that the job unfortunately is unfinished, and I have an issue with leaving a job unfinished and not knowing the full outcome. I appreciate the County Commissioners giving us the opportunity to come together to talk about these issues. I think that their commitment to and understanding of some of the things we talked about will get us a type of ordinance that will be beneficial to the whole community. I guess I will have to step away from this now, although I feel like I'm leaving something hanging out there and the job is unfinished. But under the circumstances and with some of the difficulties we had we have to leave it at that.

- Officer Orr – One of the stories I shared with some of you at the first meeting was of a lady who was absolutely opposed to her daughter going to a Girl Scout meeting and coming to our pellet range. She was scared of the noise, she was scared of firearms in general. And now she is one of the first ladies to come up wanting to shoot every year at the pellet range. I'm not that involved in the County ordinance; I won't be enforcing it. But some of these non-ordinance recommendations do include something I do have to offer: collaborating with the Wildlife Commission for education, especially for young people. You have my full support for anything that I can personally or my agency can do to encourage that.

The meeting was adjourned at approximately 9:35 PM

ORD-2016-047

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: December 5, 2016

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

SUBJECT: Realignment of Staff Resources at Social Services to Reflect Legal Requirements of the Affordable Care Act, and Approve Budget Amendment #3-A for Additional Funding for the Food and Nutrition Employment and Training Program

DEPARTMENT: Social Services

ATTACHMENT(S):

Award Letter

INFORMATION CONTACT:

Nancy Coston, 919-245-2800
Sharron Hinton, 919-245-2800

PURPOSE: To:

- 1) Create four (4) permanent part-time benefited positions funded by Second Family Foundation;
- 2) Create one (1) permanent part-time non-benefited position funded by UNC Hospital;
- 3) Allow the Social Services Director flexibility to create temporary positions and varying limited time trainee appointments for subsidized employment positions for work program participants using existing and expanded work program funding; and
- 4) Accept additional federal funds by approving Budget Amendment #3-A.

BACKGROUND: Legal requirements related to the Affordable Care Act necessitate changes in the way temporary positions are established and used at Social Services. Several programs within the department provide funds for part-time staff and/or create temporary job opportunities for program participants to establish employment history and gain work-related skills. The three impacted program areas and related staffing changes are outlined below:

- The Second Family Foundation currently pays for three temporary positions to mentor at-risk youth participating in the Second Family Foundation program and to transport them to jobs and other activities. Second Family has also requested to fund a fourth, similar position before the end of the year. The Second Family program is well established, and the employees are expected to work a sufficient number of hours to qualify for health insurance coverage and other benefits under County policy. As a result, Social Services recommends creating four part-time 20 hour-per-week permanent staff positions for this program that will include benefits. All costs, including benefits, will be reimbursed by Second Family.

- UNC Hospital continues to request a part-time economic services supervisor to work on-site at the hospital assisting with Medicaid applications. This position is currently a temporary position, but it is expected to continue for the foreseeable future. As a result, Social Services recommends establishing a permanent part-time position to work at UNC Hospital 15 hours per week. The County's costs are reimbursed through the hospital contract.
- Social Services received notification of a grant award in the amount of \$540,000 for federal fiscal year 2016-17 to expand the Food and Nutrition Employment and Training program in Orange County. This \$340,000 dollar increase requires a match that can be met this year with existing funds, and also allows Social Services to help more individuals acquire jobs that pay the County living wage of \$13.15 per hour through subsidized employment.

There are some unique challenges related to creating positions for subsidized employees, and the proposed plan created with Human Resources and Finance will address those issues but require minor changes to procedures. Social Services proposes to place most of the subsidized employment program participants into six-month temporary positions based on the individual's skill sets and available job placement sites. Most of these sites are in county government, other government agencies or non-profits, but some are in local businesses.

There will be some special circumstances warranting additional time in subsidized employment beyond the six-month period (for example, individuals with serious barriers such as former foster youth). These individuals will be placed in trainee appointments and will be provided benefits. The Social Services Director would indicate the length of the appointment to the individual as well as to Human Resources and Finance. This would assure that these employees receive appropriate benefits while maintaining the flexibility needed to operate an effective subsidized employment program, particularly for individuals with substantial barriers. The number of participants involved would be dictated by the funding available for this program component.

FINANCIAL IMPACT: The increased grant award will increase the overall County budget. Since Social Services will realign the current approved budget, sufficient funds will be available to provide the match required for the current fiscal year. Social Services is not requesting additional County funds to expand this program. Budget Amendment #3-A provides for the acceptance of the additional \$340,000 in federal funds for the above stated purposes. The other positions impacted by this proposal are reimbursed under current agreements and have no associated County costs.

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

- **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.

These positions and programs support the economic self-sufficiency goal by providing opportunities for low-income individuals to receive additional training and job placement services and to increase their wages.

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

- 1) Create four (4) permanent part-time benefited positions at 20 hours per week funded by Second Family Foundation;
- 2) Create one (1) permanent part-time non-benefited position at 15 hours per week funded by UNC Hospital;
- 3) Allow the Social Services Director flexibility to create temporary positions and varying limited time trainee appointments for subsidized employment positions for work program participants using existing and expanded work program funding; and
- 4) Accept additional federal funds by approving Budget Amendment #3-A.



Social Services
HEALTH AND HUMAN SERVICES

Richard O. Brajer
Secretary

Wayne E. Black
*Senior Director for Social Services
and County Operations*

October 28, 2016

Ms. Nancy Coston, Director
Orange County Department of Social Services
113 Mayo St. Hillsborough, NC 2727
ncoston@orangecountync.gov

Re: FY 2016-2017 NC Food and Nutrition Services Employment & Training
(FNS E&T) State Plan

Dear Ms. Coston,

The North Carolina Food and Nutrition Services Employment and Training (FNS E&T) FY 2017 State Plan has been approved by USDA.

Orange County is now authorized to administer the FNS E&T program effective October 1, 2016 through September 30, 2017.

You have agreed to provide employment, education, training services and reimbursement of participant expenses to your FNS E&T participants as stipulated in your county's Plan of Action.

Orange County's approved operating budget is as follows:

100 % Federal Funds	\$ 435,000
50 % Federal Matching Funds (Participant Reimbursement)	\$ 95,000
50% County Funds (Participant Reimbursement)	\$ 95,000
50% Federal Matching Funds (Dependent Care)	\$ 10,000
50% County Funds (Dependent Care)	\$ 10,000

As you are aware, Section 4022 of the Agriculture Act of 2014 required USDA FNS to develop national reporting measures and additional reporting measures for each E&T component that is intended to serve at least 100 participants.

Nothing ComparesSM

Over the course of FY 2016-2017, we will be working with each FNS E&T county to refine these measures and to ensure the data sources and collection methodologies are appropriate, and will yield outcome data that will help inform the State and USDA FNS about the effectiveness of the E&T program.

Renee Smith, FNS E&T Coordinator is available at (919) 527-6379 or renee.smith@dhhs.nc.gov to address any questions or concerns.

Sincerely,



David Locklear, Section Chief
Division of Social Services, Economic and Family Services
North Carolina Department of Health and Human Services

 Nothing ComparesSM

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: December 5, 2016

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

SUBJECT: Financial Policy for Outside Agency Funding

DEPARTMENT: Finance and Administrative
Services

ATTACHMENT(S):

Attachment 1: DRAFT Outside Agency
Funding Financial Policy

INFORMATION CONTACT:

Bonnie Hammersley, (919) 245-2300
Gary Donaldson, (919) 245-2453

PURPOSE: To establish a financial policy for Outside Agency Funding that provides guidance on the appropriation of County funds to the non-profit community, with the scope of the policy establishing funding targets and criteria.

BACKGROUND: Each year as a part of the budget process, Outside Agencies' applications and scorecards are provided to the County Manager to assist in recommending funding decisions as part of the Manager's Recommended Budget.

The Board of County Commissioners then approves funding as part of the Budget Adoption process in June of each year.

November 2016 Work Session

Following a presentation and work session on November 10, 2016, the Board of County Commissioners directed staff to develop a financial policy which specifies the funding methodology for funding Outside Agencies.

The following five funding scenarios were presented;

- 1) Percent of Budget
- 2) Previous Year's Allocation as Base
- 3) Incremental Unit of Tax Rate
- 4) Dollars Per Capita
- 5) Fixed Dollar Amount

The percent of budget methodology was determined to be the most appropriate funding option for the County. The County has historically funded Outside Agencies at 1% of the County Budget (Less the Education Appropriation). The BOCC directed staff to increase the funding

target from 1% to 1.2%. Based on the FY 2016-17 Approved Budget (Less the Education Appropriation), 1% equates to \$1,121,467 and 1.2% equates to \$1,345,761.

The work session included discussion on the merits of capital funding as part of Outside Agency Funding. The general sentiment was that the financial policy be primarily for funding operating expenses, but that there may be an exception for BOCC consideration. The financial policy provides guidance for a capital funding exception (Attachment 1).

FINANCIAL IMPACT: The policy will generate additional expense of approximately \$200,000 based on FY2016-17 Adopted budget compared to the current 1% allocation.

SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goals are 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.

- **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: ENABLE 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 review and approve the Outside Agency financial policy.

Financial Policy

Outside Agency Funding

Orange County provides grants to outside agencies to perform a variety of services for Orange County residents. On annual basis, the County will target 1.2% of the County's General Fund expenditures, less the appropriation for education expenses, for the purpose of funding outside agency operations. The education appropriation includes funds allocated to fund current expenses, recurring capital, long range capital, health and safety contracts, school debt service, and funds provided to the Durham Technical Community College.

The County Manager shall design an outside agency application and scoring process. This process will be used to evaluate outside agency applications and make recommendations to the Board of Orange County Commissioners on individual outside agency grant awards. A brief justification will be available to the Board of Commissioners to explain the County Manager's recommendations.

Outside agency grants shall be used to fund an agency's operating expenses. These operating expenses may include personnel, contracted services, debt or loan payments, or other expenses related to the day to day operations of the agency.

The County will not provide capital grants to outside agencies for the purpose of financing facility acquisition or construction, including contributions to capital campaigns. Exceptions to this general policy include the acquisition or construction of a facility owned or leased by the County for the purpose of providing space to outside agencies or space provided to outside agencies that were initiated by or originated as programs of County government.

The Board of Commissioners may also consider capital funding request that include a repayment feature. The terms and conditions of this repayment would be approved by the Board of Commissioners in a formal agreement between the County and the outside agency.

**ORANGE COUNTY
BOARD OF COMMISSIONERS
ACTION AGENDA ITEM ABSTRACT
Meeting Date: December 5, 2016**

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

SUBJECT: Durham-Orange Light Rail Transit Project – Proposed “Non-Binding”
Memorandum of Understanding

DEPARTMENT: Planning and Inspections

ATTACHMENT(S):

Proposed “Non-Binding” Memorandum of
Understanding

INFORMATION CONTACT:

Bonnie Hammersley, Orange County
Manager, 919-245-2300
Jeff Mann, GoTriangle General
Manager, 919-485-7424

PURPOSE: To consider approving a proposed “non-binding” memorandum of understanding with GoTriangle agreeing to cooperate with the municipalities within the County and to work together to identify potential additional funding mechanisms to directly support the D-O LRT Project.

BACKGROUND: At its November 15, 2016 meeting, the Board of County Commissioners (BOCC) received a presentation from GoTriangle staff that included the status of the D-O LRT project, proposed extension to North Carolina Central University (NCCU), and state, federal, and local funding changes. The BOCC endorsed the extension of the D-O LRT project to NCCU, but deferred any action to cooperate with municipalities in the County and to work together to identify, develop, and implement additional funding mechanisms to directly support the D-O LRT Project to a future meeting.

An Orange County Assembly of Governments Meeting was held November 17, 2016 among the BOCC and Towns of Carrboro, Chapel Hill, and Hillsborough. At this meeting, GoTriangle presented the information previously shared with the BOCC to the larger group. There was considerable discussion among the group of attendees regarding the importance of the project, the increased local cost if the project were to move forward, and timeline for actions.

Recent guidance from the Federal Transit Administration (FTA) indicates that the D-O LRT project must enter the Final Design phase by February 2017. In order to meet this milestone, GoTriangle needs the BOCC to approve the attached “non-binding” proposed memorandum of understanding this month.

In the future, items for BOCC consideration include:

- April 2017 – Amendments to the Orange County Bus and Rail Investment Plan (OCBRIP);
- and
- June 2018 – Decision to commit any local funds included in the financial plan (OCBRIP).

Durham-Chapel Hill-Carrboro Metropolitan Planning Organization Actions – At its December 14 meeting, the MPO Board will consider two separate amendments related to the extension of the D-O LRT Project to NCCU: 1) The extension needs to be included in its Locally Preferred Alternative (LPA) and 2) The extension needs to be included in its 2040 Metropolitan Transportation Plan (MTP).

OCBRIP Amendments – Discussions are currently ongoing with a Staff Working Group to review and update the OCBRIP financial assumptions and associated services. GoTriangle is also working with a Funding and Community Collaborative to help identify revenue sources to close the funding gaps. The OCBRIP amendments will need to be approved by the three parties (Orange County, DCHC MPO, and GoTriangle) to the Interlocal Implementation Agreement.

FINANCIAL IMPACT: There is no cost associated with considering the “non-binding” proposed memorandum of understanding with GoTriangle agreeing to cooperate with the municipalities within the County and to work together to identify potential additional funding mechanisms to directly support the D-O LRT Project. Decisions that result from that possible cooperation and working together may have financial impacts on the County.

SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goals are 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.
- **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.

Public Transportation provides opportunity for access to jobs and services to many individuals.

RECOMMENDATION(S): The Manager recommends the Board consider approving the attached proposed “non-binding” memorandum of understanding and, if approved, authorize the Chair to sign the document.

MEMORANDUM OF UNDERSTANDING

RESEARCH TRIANGLE REGIONAL
PUBLIC TRANSPORTATION AUTHORITY D/B/A GOTRIANGLE

AND

ORANGE COUNTY, NORTH CAROLINA

THIS MEMORANDUM OF UNDERSTANDING (MOU) is made and entered into on the last date executed below, by and between the Research Triangle Regional Public Transportation Authority d/b/a GoTriangle (GoTriangle) and Orange County, North Carolina (Orange County). (As used in this MOU, GoTriangle or Orange County may be referred to individually as a “party” and collectively as the “parties.”)

RECITALS:

WHEREAS, GoTriangle, in conjunction with the Federal Transit Administration (FTA), is designing the Durham-Orange Light Rail Transit (D-O LRT) Project; and

WHEREAS, the FTA issued its Record of Decision (ROD) for the D-O LRT Project on February 11, 2016. As set forth in the ROD, the D-O LRT Project is a 17-mile, 17-station light rail transit service which will provide connections between UNC Hospitals, the UNC campus, the William and Ida Friday Center for Continuing Education, Patterson Place, the South Square area, Duke University, the Duke University and Durham Veterans Affairs Medical Centers, downtown Durham, and east Durham; and

WHEREAS, Orange County is a stakeholder in the D-O LRT Project and participates in coordination activities with GoTriangle; and,

WHEREAS, the D-O LRT Project will benefit the community by providing accessible transit service and a competitive and reliable alternative to congested roadways that seamlessly serves many popular destinations in Durham and Chapel Hill; providing residents with better access to jobs, education and healthcare; and fostering growth, compact development, and economic development along a high-capacity transportation network. New development around station areas will create thousands of jobs and add millions of dollars in annual state and local revenue; and

WHEREAS, the parties recognize the importance of the D-O LRT Project to Orange County, Durham County, the Research Triangle region, and the people of the State of North Carolina; and

WHEREAS, the State of North Carolina has constrained the available funding mechanisms for light rail transit projects; and

WHEREAS, Orange County acknowledges that additional non-federal funding sources must be identified and secured in order to successfully complete the D-O LRT Project; and

WHEREAS, Orange County supports the D-O LRT Project as an advancement of the interests of the Orange County and general community; and

WHEREAS, Orange County wishes to support the development of the D-O LRT Project in

accordance with the terms of this MOU.

NOW, THEREFORE, the parties hereto, each in consideration of the promises and undertakings of the other as herein provided, do hereby covenant and agree, each with the other, as follows:

1. Subject to and contingent upon any authorizations required by Orange County, including the Orange County Board of Commissioners, Orange County agrees to cooperate with the municipalities within the county and to work together to identify potential additional funding mechanisms to directly support the D-O LRT Project.
2. If changes or revisions are needed to this MOU, a Supplemental MOU will be prepared. No modification to this MOU shall be effective unless agreed to in writing by the parties.
3. The parties acknowledge that this MOU does not create an enforceable fiscal obligation. Any legally binding obligation with respect to any identified additional funding mechanisms is subject to the execution of a formal agreement between the parties.
4. To the extent authorized by applicable law and without waiving any immunities, each party shall be responsible for its respective actions under the terms of this MOU and save harmless the other party from any claims arising as a result of such actions.
5. All terms of this MOU are subject to available federal and state funding and fiscal constraints.
6. This MOU contains the entire agreement between the parties related to the subject matter herein and there are no understandings or agreements, verbal or otherwise, regarding this MOU, except as expressly set forth herein.
7. Each party represents that the individual executing this MOU on its respective behalf is authorized to execute this MOU on its behalf and that the party has read this MOU, conferred with legal counsel, and fully understands its contents.
8. A copy or facsimile copy of the signature of any party shall be deemed an original with each fully executed copy of the MOU as binding as an original, and the parties agree that this MOU can be executed in counterparts, as duplicate originals, with facsimile signatures sufficient to evidence an agreement to be bound by the terms of the MOU.

INTENTIONALLY LEFT BLANK. CONTINUED ON PAGE FOLLOWING.

IN WITNESS WHEREOF, this MOU has been executed, in duplicate originals, on the part of GoTriangle and Orange County by authority duly given.

ATTEST:

**RESEARCH TRIANGLE REGIONAL PUBLIC
TRANSPORTATION AUTHORITY D/B/A GOTRIANGLE**

BY: _____

BY: _____

TITLE: _____

TITLE: _____

DATE: _____

Remittance Address:
GoTriangle
Jeffrey G. Mann
General Manager
PO Box 13787
Research Triangle Park, NC 27709

ATTEST:

ORANGE COUNTY, NORTH CAROLINA

BY: _____

BY: _____

TITLE: _____

TITLE: _____

DATE: _____

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
11/15/16	Review and consider request by Commissioner Dorosin that staff provide information to the Board on ABC Board contributions to the County's General Fund and the process to seek and receive an increased level of funding	1/31/2017	Gary Donaldson	Staff to provide information to the Board on ABC revenues growth, percentages of funding contributed to the County, and options to pursue increased funding
11/15/16	Review and consider request by Commissioner Jacobs that the County purchasing policy be updated to indicate that purchases not possible in Orange County should occur within the United States	1/31/2017	Gary Donaldson David Cannell	Staff to develop draft policy update
11/15/16	Send letter to County catering vendors stating that the County will not continue doing business with them if meals are not provided with biodegradable containers and utensils	12/31/2016	Bonnie Hammersley	Manager to develop and implement an administrative policy to address issue and share policy with current vendors
11/15/16	Review and consider request by Commissioner Pelissier that staff develop annual method for tracking human services data and transportation needs	2/28/2017	Human Services Team	Staff to follow-up
11/15/16	Pursue and share information on the upcoming Human Relations Forum with Community Relations so that it can be included in press release, social media, etc.	12/31/2016	Audrey Spencer-Horsley Todd McGee	Information to be provided to Community Relations and then publicized
11/15/16	Bring back a technical amendment to school impact fees to make the 180 day period more well-defined/tighter	12/13/2016	Craig Benedict John Roberts	DONE Included on December 5, 2016 BOCC Meeting Agenda
11/15/16	Pursue an appraisal to determine the value of the Visitors Center property to use as reference information as discussions on that property and Old Town Hall continue	1/31/2017	Travis Myren Jeff Thompson	Staff to pursue appraisal of Visitors Center property

DRAFT

Date Prepared: 11/17/16

Date Revised: 11/30/16

Meeting Date	Task	Target Date	Person(s) Responsible	Status
11/15/16	As circumstances allow, coordinate with GoTriangle staff to develop follow-up information based on comments and questions from the BOCC	2/28/2017	Bonnie Hammersley Travis Myren	Staff to coordinate with GoTriangle
11/15/16	Schedule the County's affordable housing policy for discussion at a Spring 2017 work session	3/1/2017	Audrey Spencer Horsley Bonnie Hammersley	To be scheduled for Spring 2017 work session

INFORMATION ITEM

Tax Collector's Report - Numerical Analysis

Effective Date of Report: November 17, 2016						
Tax Year 2016	Amount Charged in FY 16-17	Amount Collected	Accounts Receivable	Amount Budgeted in FY 16-17	Remaining Budget	% of Budget Collected
Current Year Taxes	\$ 137,207,067.00	41,860,411.95	\$ 97,507,584.48	\$ 137,207,067.00	\$ 95,346,655.05	30.51%
Prior Year Taxes	\$ 3,316,575.96	530,016.05	\$ 2,783,182.97	\$ 1,150,000.00	\$ 619,983.95	46.09%
Total	\$ 140,523,642.96	42,390,428.00	\$ 100,290,767.45	\$ 138,357,067.00	\$ 95,966,639.00	30.64%
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	40,037,796.23	\$ 97,085,930.14	\$ 136,413,322.00	\$ 96,375,525.77	29.35%
Prior Year Taxes	\$ 3,467,594.46	575,356.04	\$ 2,888,016.35	\$ 1,150,000.00	\$ 574,643.96	50.03%
Total	\$ 139,880,916.46	40,613,152.27	\$ 99,973,946.49	\$ 137,563,322.00	\$ 96,950,169.73	29.52%
Current Year Overall Collection Percentage Tax Year 2016			30.05%			
Current Year Overall Collection Percentage Tax Year 2015			29.20%			

INFORMATION ITEM

Tax Collector's Report - Measures of Enforced Collections

Fiscal Year 2016-2017

Effective Date of Report: September, 2016

	July	August	September	October	November	December	January	February	March	April	May	June	YTD
Wage garnishments	32	4	4	32									72
Bank attachments	15	9	1	5									30
Certifications	-	-	-	-									-
Rent attachments	-	-	-	6									6
Housing/Escheats/Monies	-	-	-	14									14
Levies	-	-	-	-									-
Foreclosures initiated	4	1	-	5									10
NC Debt Setoff collections	\$ 178.90	\$ 2,146.82	\$ 1,157.68	\$ -									3,483

This report shows the Tax Collector's efforts to encourage and enforce payment of taxes for the fiscal year 2016-2017. It gives a breakdown of enforced collection actions by category, and it provides a year-to-date total.

The Tax Collector will update these figures once each month, after each month's reconciliation process.

NAME	ABSTRACT NUMBER	BILLING YEAR	ORIGINAL VALUE	ADJUSTED VALUE	TAX	FEE	FINANCIAL IMPACT	REASON FOR ADJUSTMENT	TAX CLASSIFICATION	ACTION	Approved by CFO	Additional Explanation
Andrews, Bonnie Cheek	34276134	2016	10,260	10,260	(73.65)	(30.00)	(103.65)	*Situs error (illegal tax)	RMV-VTS	Approved	11/8/2016	
Barton, Walter	21487562	2016	11,740	7,840	(46.38)		(46.38)	Damage (appraisal appeal)	RMV-VTS	Approved	11/8/2016	
Beetham, Michael	9361915	2016	9,060	7,067	(33.40)		(33.40)	High mileage (appraisal appeal)	RMV-VTS	Approved	11/8/2016	
Crabb, Gill	294778	2014	1,540	0	(16.22)		(16.22)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 323931
Crabb, Gill	294778	2013	1,640	0	(16.92)		(16.92)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 323931
Crabb, Gill	294778	2013-2012	1,850	0	(20.37)		(20.37)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 323931
Crabb, Gill	294778	2011	2,128	0	(21.36)		(21.36)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 323931
Crabb, Gill	294778	2010	2,240	0	(20.56)		(20.56)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 323931
Crabtree, Marvin Douglas	31092745	2015	9,519	9,519	(72.77)	(30.00)	(102.77)	*Situs error (illegal tax)	RMV-VTS	Approved	10/19/2016	
Dean, Mary	260944	2014	4,660	0	(49.09)		(49.09)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 943240
Dean, Mary	260944	2013	4,980	0	(51.38)		(51.38)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 943240
Dean, Mary	260944	2012	5,590	0	(56.44)		(56.44)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 943240
Dean, Mary	260944	2011	5,957	0	(59.79)		(59.79)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 943240
Dean, Mary	260944	2010	6,270	0	(63.32)		(63.32)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 943240
Dodson Construction Co. Inc.	29799664	2015	2,500	2,500	(17.86)	(30.00)	(47.86)	*Situs error (illegal tax)	RMV-VTS	Approved	11/8/2016	
Duron, Miguel	303312	2015	5,730	0	(74.77)		(74.77)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 302098
Duron, Miguel	303312	2014	5,990	0	(78.17)		(78.17)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 302098
Duron, Miguel	303312	2013	6,410	0	(82.25)		(82.25)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 302098
Duron, Miguel	303312	2012	7,210	0	(89.22)		(89.22)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 302098
Duron, Miguel	303312	2011	7,372	0	(89.26)		(89.26)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 302098
Duron, Miguel	303312	2010	7,760	0	(96.02)		(96.02)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 302098
Garrido, Gilberto	268461	2015	950	0	(10.21)		(10.21)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 320716
Garrido, Gilberto	268461	2014	950	0	(10.21)		(10.21)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 320716
Garrido, Gilberto	268461	2013	950	0	(9.96)		(9.96)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 320716
Garrido, Gilberto	268461	2012	1,050	0	(10.94)		(10.94)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 320716
Garrido, Gilberto	268461	2011	1,150	0	(11.89)		(11.89)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 320716
Garrido, Gilberto	268461	2010	1,210	0	(12.34)		(12.34)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 320716
Glass, Michael	1057872	2016	950	0	(9.01)	(0.90)	(9.91)	Listed in error (illegal tax)	Personal	Approved	10/19/2016	
Gutierrez, Francisco	943231	2014	950	0	(9.94)		(9.94)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 303324
Gutierrez, Francisco	943231	2013	950	0	(9.74)		(9.74)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 303324
Gutierrez, Francisco	943231	2012	950	0	(9.55)		(9.55)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 303324
Gutierrez, Francisco	943231	2011	1,986	0	(19.85)		(19.85)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 303324
Gutierrez, Francisco	943231	2010-2010	2,090	0	(21.18)		(21.18)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 303324
Gutierrez, Francisco	943231	2010-2009	2,230	0	(24.40)		(24.40)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 303324
Gutierrez, Francisco	943231	2010-2008	2,453	0	(33.83)		(33.83)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 303324
Gutierrez, Francisco	943231	2010-2007	2,698	0	(37.99)		(37.99)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 303324
Harris, Darren	1059452	2016	3,250	0	(32.84)		(32.84)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 1058596
Hengsterman, Staci	34068193	2015	8,190	8,190	(62.27)	(30.00)	(92.27)	*Situs error (illegal tax)	RMV-VTS	Approved	11/8/2016	
I C Logic	28720190	2016	22,840	17,865	(80.13)		(80.13)	Damage (appraisal appeal)	RMV-VTS	Approved	11/8/2016	
James P Furguson DDS PA	1052061	2016	112,802	111,976	(14.63)		(14.63)	Assessed in error (clerical error)	Personal	Approved	11/16/2016	To correct 2016 listing
Mayfield, Steven Charles	34040311	2015	1,060	1,060	(7.95)	(30.00)	(37.95)	*Situs error (illegal tax)	RMV-VTS	Approved	11/8/2016	
Munnier, Catherine	34366116	2016	3,000	500	(24.04)		(24.04)	Antique plate (appraisal appeal)	RMV-VTS	Approved	11/16/2016	
Munnier, Catherine	34366106	2016	5,000	500	(43.27)		(43.27)	Antique plate (appraisal appeal)	RMV-VTS	Approved	11/16/2016	
Ponce, Reyna Ocha	324034	2012	950	0	(10.51)		(10.51)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 961388

NAME	ABSTRACT NUMBER	BILLING YEAR	ORIGINAL VALUE	ADJUSTED VALUE	TAX	FEE	FINANCIAL IMPACT	REASON FOR ADJUSTMENT	TAX CLASSIFICATION	ACTION	Approved by CFO	Additional Explanation
Ponce, Reyna Ocha	324034	2011	950	0	(9.54)		(9.54)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 961388
Ponce, Reyna Ocha	324034	2010	1,000	0	(14.19)		(14.19)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 961388
Reade, Frank	34257650	2016	4,260	2,130	(33.19)		(33.19)	High mileage (appraisal appeal)	RMV-VTS	Approved	11/16/2016	
Robinson, Jon	267232	2015	1,270	0	(13.38)		(13.38)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 1011871
Robinson, Jon	267232	2014	1,320	0	(13.91)		(13.91)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 1011871
Robinson, Jon	267232	2013	1,430	0	(14.75)		(14.75)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 1011871
Robinson, Jon	267232	2012	1,600	0	(16.16)		(16.16)	Double billed (illegal tax)	Personal	Approved	11/16/2016	Also on abstract 1011871
Shipshape Crew LLC	32690299	2016	12,900	12,900	(47.94)	(10.00)	(57.94)	*Situs error (illegal tax)	RMV-VTS	Approved	10/19/2016	
Taketwo Clothiers Inc	1059211	2016	88,420	88,420	(63.61)		(63.61)	*Situs error (illegal tax)	Personal	Approved	11/8/2016	
Taketwo Clothiers Inc	1059211	2016-2015	98,455	98,455	(77.27)		(77.27)	*Situs error (illegal tax)	Personal	Approved	11/8/2016	
Taketwo Clothiers Inc	1059211	2016-2014	108,677	108,677	(92.39)		(92.39)	*Situs error (illegal tax)	Personal	Approved	11/8/2016	
Tetrark Inc Mike Reed	1011877	2014	1,113	0	(23.19)		(23.19)	Assessed in error (illegal tax)	Personal	Approved	11/8/2016	Business dissolved prior to January 1 per Secretary of State
							(2,226.30)	TOTAL				

*Situs error: An incorrect rate code was used to calculate bill. Value remains constant but bill amount changes due to the change in specific tax rates applied to that physical location.

INFORMATION ITEM

PLANNING & INSPECTIONS DEPARTMENT Craig N. Benedict, AICP, Director

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



131 W. Margaret Lane
Suite 201
P. O. Box 8181
Hillsborough, NC 27278



MEMORANDUM

TO: Orange County Board of Commissioners
CC: Craig N. Benedict, AICP, Planning & Inspections Director
FROM: Perdita Holtz, AICP, Planner III
DATE: November 11, 2016
SUBJECT: City of Mebane's Comprehensive Land Development Plan

At the September 15, 2016 joint BOCC/City of Mebane meeting, the local governing boards received an update from City staff on the status of the City's Comprehensive Land Development Plan. Orange County planning staff, primarily Perdita Holtz, has been participating on the committee guiding development of the plan. A draft plan has been completed and committee members are currently reviewing and commenting on the draft. Additional information on the City's planning effort is available at:

<http://www.mebanebydesign.net/>

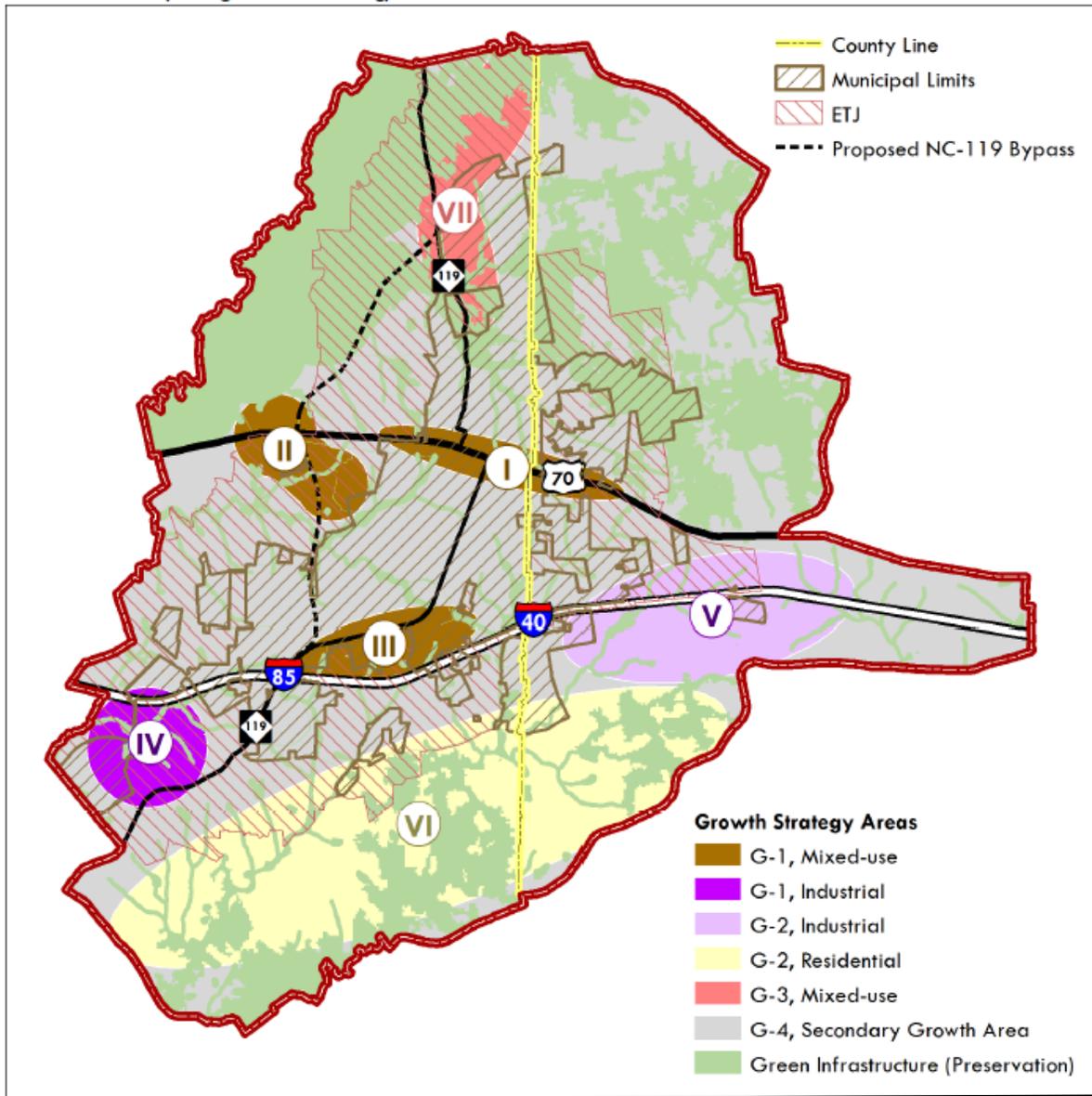
Approximately 35-40% of the geographic extent of the study area is located within Orange County. Two "primary growth areas" have been identified within the Orange County portion of the study area:

- The Buckhorn EDD corridor
- A Mixed Use area along Highway 70, at the western boundary of Orange County, which is within current municipal limits

All other lands within the Orange County portion of the study area are "secondary growth areas" which are defined as "areas with access or potential access to City infrastructure and urban services or that are already developed." The attached map shows the growth strategy areas of the entire study area.

Staff is anticipating that the BOCC will be invited to review and provide comments on the next draft of the plan at the January 24, 2017 BOCC meeting. City staff, or the City's consultant, will be presenting the draft plan at the meeting.

Mebane By Design Growth Strategy Areas



INFORMATION ITEM



MEMORANDUM

To: Bonnie Hammersley, Orange County Manager
Orange County Board of County Commissioners

From: Colleen Bridger, Orange County Health Director

Date: December 5, 2016

Re: Access to Mental Health Services Assessment

This fall, Health Department staff, with the help of an UNC Public Administration intern, initiated an assessment of the barriers Orange County mental health professionals face as they seek to refer county residents 0-25 years old to mental health and substance abuse treatment services. The Health Department sought a clearer understanding of access to resources for prevention and early intervention, as well as follow-up care and other support systems for recovery. Simultaneously, we sought to identify the areas where these services could be improved by pinpointing significant barriers to treatment. We interviewed and surveyed members of the mental health community, k-12 education area, judicial system, law enforcement representatives, immigrant and refugee advocates, and community advocates.

Attached are the results of this assessment for your review. Next we take these results back to key stakeholders to prioritize the gaps we found and create a plan to bridge those gaps through potential services and programs in the community. We will have that plan complete by February 15th.

I look forward to sharing the results of the stakeholder meetings and our proposed plans to better meet the mental health and substance abuse treatment needs of our community at a future meeting.



ASSESSMENT OF ORANGE COUNTY MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES

AN ASSESSMENT OF COMMUNITY ASSETS AND NEEDS IN ORANGE COUNTY, NC

BACKGROUND

The North Carolina Institute of Medicine (NCIOM) stated in an October 2016 publication that “mental health and substance use are at the forefront of health policy issues today, both at the national and state levels, due to rising visibility of the costs of not addressing mental health and substance use treatment needs” (NCIOM, 2016). North Carolina’s transition to a managed care system 15 years ago brought fresh challenges for local officials seeking to implement comprehensive, coordinated community-based prevention, treatment, and recovery services to meet the needs of their residents. Though progress is evident in some areas, NCIOM reported that this level of care “remains an elusive goal for many North Carolinians with mental health and substance use disorders.”

Like the rest of North Carolina, Orange County struggles to meet the need for mental health and substance abuse services for residents, especially those ages 0-25. This assessment was initiated by the Orange County Health Department (OCHD) to determine what barriers professionals face as they seek to refer county residents to mental health and substance abuse treatment services. The results of this assessment will be shared with the Board of County Commissioners prior to their strategic planning session in January 2017.

According to the U.S. Department of Health and Human Services, the majority of adolescents in North Carolina with mental health and substance use needs do not receive treatment services. Orange County is home to more than 141,000 residents, including up to 2,200 residents aged 3-17 that are currently being treated for these conditions through the managed care organization Cardinal Innovations. In Orange County, hospitalization records from 2009-2015 demonstrate the percentage of visits due to mental health for youth 0-24 years is increasing as a proportion of all mental health visits (an increase from around 18% to 24% of all mental health visits). Data from the same period show that between 27% and 31% of all mental health visits for 0-24 year olds are a result of mental and behavioral disorders due to psychoactive substance abuse.

OCHD sought a clearer understanding of the extent patients in the 0-25 age group have access to resources for prevention and early intervention, as well as follow-up care and other support systems for recovery. Simultaneously, we sought to identify the areas where these services could be improved by pinpointing significant barriers to treatment. UNC Master of Public Administration student Sabrina Willard conducted the assessment from August to November 2016. Ms. Willard interviewed ten prominent figures in the mental health community, surveyed more than 150 individuals based in the fields of healthcare,

social services, criminal justice, behavioral therapy, K-12 education, and others, and analyzed UNC Chapel Hill Emergency Department records.

BARRIERS TO ACCESSING TREATMENT

The primary findings of the assessment showed that existing levels of service do not adequately address the needs of this population although there are many examples of successful collaborations taking place across the county in an attempt to address the gaps. Responses from key opinion leaders around the barriers to accessing treatment for mental health and substance abuse helped to inform the findings included in the below table. These common themes were also incorporated into the survey questionnaire as a method for confirming their validity with a larger group.

BARRIERS TO MENTAL HEALTH (MH) AND SUBSTANCE ABUSE (SA) TREATMENT AND RESOURCES	
Theme	Description
Affordability - #1 Gap	The #1 gap in the OC mental health system is affordability. Many low-income residents either do not have insurance or find their coverage inadequately covers treatment services for MH and SA (e.g. must meet a high deductible before any coverage is provided, lack of reimbursement options, restricted to a low maximum number of appointments, etc.). This issue is exacerbated when adolescents age out of the Medicaid system at 18. There are very few sliding scale or pro bono options to fill this gap. Children and adolescents have difficulty with recovery if parents with mental health issues aren't treated as well, but parents run into these same issues with affordability.
Location/Transportation - #2 Gap	Transportation was ranked as the 2 nd largest barrier to MH/SA services in Orange County. Services are especially scarce in the northern part of the county (i.e. Hillsborough and unincorporated areas). Public transportation helps somewhat with the older patients in the southern sector, but the younger ones still have unmet needs. This dilemma emphasizes the need for more accessible treatment centers and in/near-school care, especially when parents are unable to take their children to necessary appointments due to busy work schedules or other conflicts.
Language/Cultural - #3 Gap	For the most part, services for non-English speaking patients are either difficult to obtain or virtually inaccessible. 60% of respondents said it was difficult for non-English speaking

<p>Language/Cultural - #3 Gap (cont'd)</p>	<p>residents to access services for any of the listed disorders (Major Depressive, Generalized Anxiety, Bipolar, Personality, Eating, Substance Abuse, or Schizophrenia Spectrum), making this the #3 gap identified in the survey. There is need for more diversity in the languages MH and SA services are offered in (i.e. Spanish, Burmese/Karen... etc.), as well as cultural competency training to help providers better understand how to work with refugee/undocumented populations. Culturally-relevant practices that provide support for LGBTQ teens are also needed.</p>
<p>Education to combat stigma (adolescent and family) - #4</p>	<p>Awareness initiatives in the community are helping combat the stigma associated with MH conditions. More could be done to continue the dialogue encouraging people to seek appropriate treatment. Parents also need to be educated about the importance of ensuring their child gets the help they need. Barriers exist where parents are either unaware of the importance of taking their child to appointments or have busy schedules that conflict with their ability to do so. Knowing how to navigate the Cardinal system and properly enroll their child in MH and SA services is a barrier to accessing treatment.</p>
<p>Post-diagnosis maintenance of care - #5</p>	<p>Non-emergency treatment options are non-existent or scarce. Psychiatric care in particular is a critical need for adolescents yet this type of therapy is largely unavailable to this population, especially if uninsured. In general, there is a need for more varied types of therapy (i.e. cognitive behavioral therapy, other types of counseling), as well as therapists trained to do trauma work both in the school systems and in the community.</p>
<p>Preventive/Early intervention care - #6</p>	<p>Preliminary efforts to incorporate MH services into the school system are showing success. More robust systems for identifying issues earlier within the primary care and school settings are still needed. There is also a need for more variety of screening tools.</p>
<p>Citizenship status – barrier identified through stakeholder interviews and survey responses</p>	<p>Cardinal Innovations does not provide behavioral health services to residents without proof of US citizenship. Undocumented immigrants have to rely on the scarce services provided by other community organizations.</p>
<p>Inpatient Care Usage/Access – barrier identified through stakeholder interviews and survey responses</p>	<p>2009-2015 UNC Hospital data obtained shows that after an initial decline in mental health-related Emergency Department (ED) visits</p>

<p>Inpatient Care Usage/Access – barrier identified through stakeholder interviews and survey responses (cont’d)</p>	<p>between 2009 and 2012, we have begun to see a large increase in visits for patients 0-24 (51%). This increase supports reports of ED overcrowding we’ve received from UNC Hospitals. The percentage increase of youth mental health ED visits is also increasing at a faster rate than overall mental health ED visits (25% compared to 18%.) In the case of substance abuse, 29% of all mental health ED visits for 0-24 year olds are substance abuse related.</p>
<p>Disorder/Diagnosis Type - barrier identified through stakeholder interviews and survey responses</p>	<p>Survey data indicates that generalized anxiety disorder and major depressive disorder are the two mental illnesses that most frequently affect residents aged 0-25 in Orange County (93% and 89% respectively) and are also the easiest to refer for treatment. Drug and alcohol abuse were also frequent diagnoses (80% of respondents for both) however, only 39% of respondents found them easy to refer for treatment. Schizophrenia spectrum and other psychotic disorders were deemed the most difficult to refer for treatment (25%) and treatment for eating disorders was said to be the most inaccessible (11%).</p>

CONCLUSION

The most common barriers for people in Orange County aged 0-25 who need mental health and/or substance abuse treatment services were affordability and accessibility.

Affordability

One of the biggest barriers to accessing services, even when they are available, is the lack of services that are provided based on a person’s ability to pay. Any improvement to the mental health system in Orange County will need to address the affordability of these services.

Accessibility

We found that the ability to access services depends on a variety of factors (service type, location, eligibility and cultural/linguistic appropriateness) all of which have gaps. Certain types of services such as substance abuse treatment and psychiatric care are hard to find. The location of mental health services in the population centers makes them difficult for this age group to access. Restrictions on who can receive services (e.g., age, citizenship, diagnosis) results in decreased access. Finally, the inability to provide needed mental health services in a linguistically and culturally appropriate manner significantly limits access.

Next Steps:

The Health Department will convene a group of stakeholders to review the detailed results of this gap analysis (survey results attached). This group will prioritize which specific gaps to address first and identify potential programs and services to meet those prioritized needs by February 15, 2017.

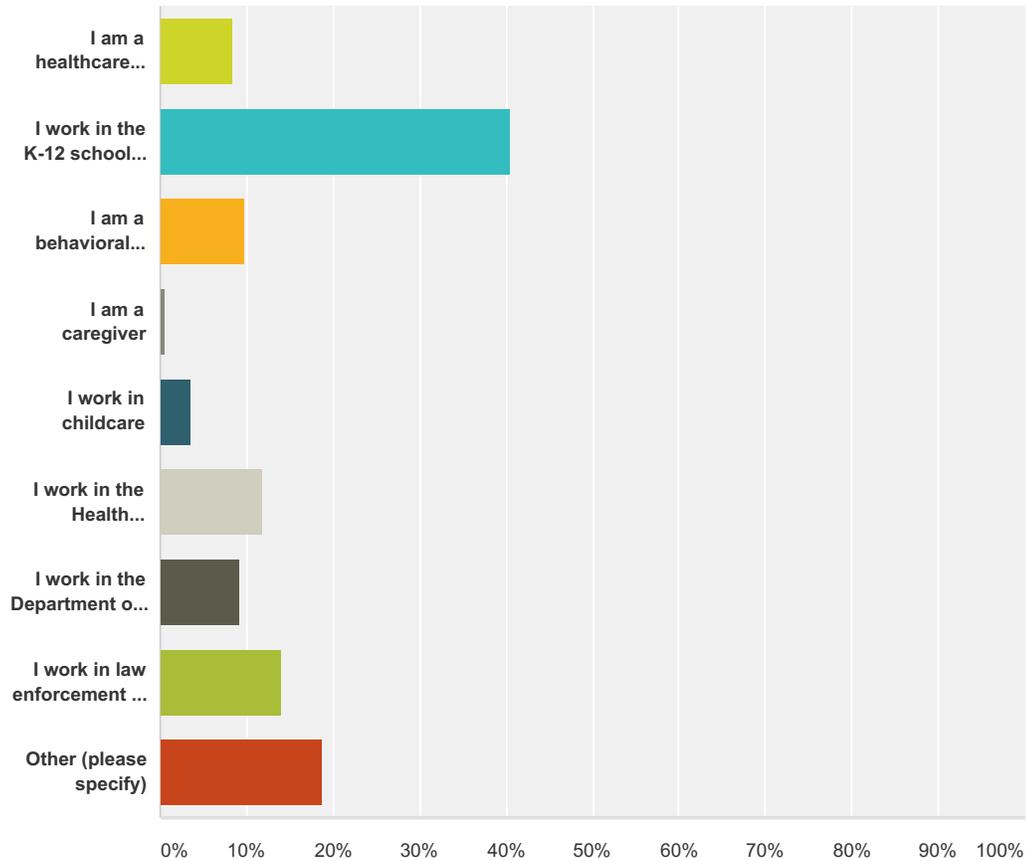
ACKNOWLEDGEMENTS

Thank you to all of the participants who generously gave their time to this assessment.

Special thanks to: Orange County Criminal Justice Resource Office (Caitlin Fenhagen) | Orange County Health Department (Allison Young, Juliet Sheridan, Coby Austin, Jennifer Sharpe, and Karen Kyes) | Freedom House (Trish Hussey) | El Futuro (Luke Smith and Karla Siu) | Cardinal Innovations (Debra Farrington) | UNC Healthcare (Tammie Stanton) | UNC Pediatric Psychiatry (Jack Naftel) | UNC School of Social Work (Josh Henson).

**Q2 How do you serve Orange County residents 0-25 with conditions related to mental illness and/or substance abuse?
Check all that apply.**

Answered: 143 Skipped: 8



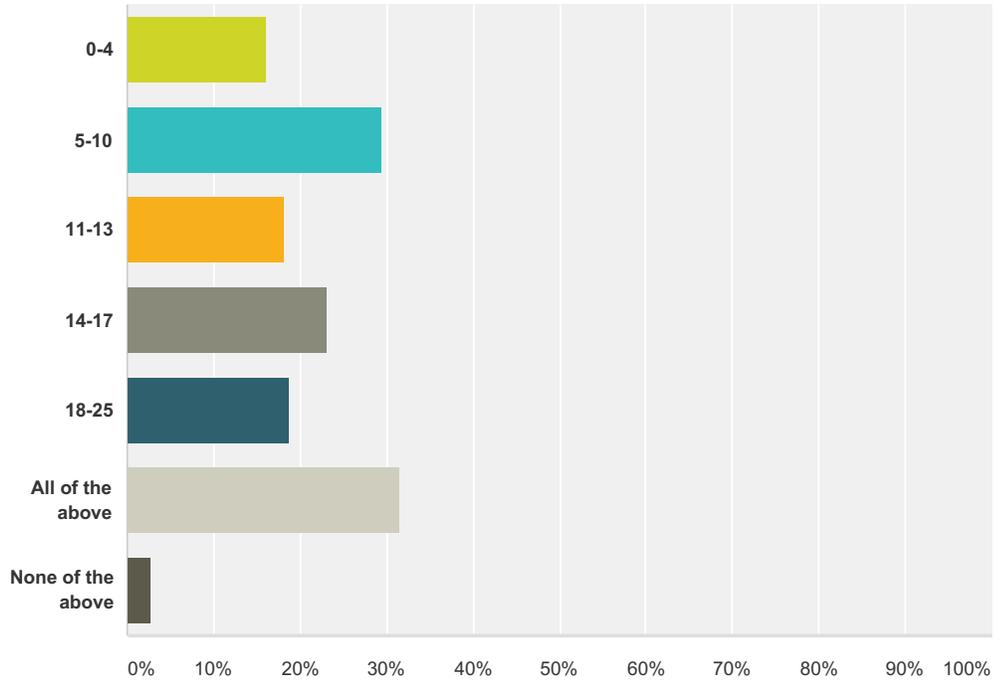
Answer Choices	Responses	Count
I am a healthcare provider	8.39%	12
I work in the K-12 school system	40.56%	58
I am a behavioral therapist and/or counselor	9.79%	14
I am a caregiver	0.70%	1
I work in childcare	3.50%	5
I work in the Health Department	11.89%	17
I work in the Department of Social Services	9.09%	13
I work in law enforcement or the judicial system	13.99%	20
Other (please specify)	18.88%	27
Total Respondents: 143		

Orange County Mental Health Gap Analysis Survey

#	Other (please specify)	Date
1	I work with juvenile's between ages of 6 to 15 or 16 and 17 if undisciplined	11/3/2016 3:46 PM
2	School Social Worker	10/31/2016 6:58 PM
3	I am school nurse for middle and high school students	10/31/2016 2:39 PM
4	early childhood mental health specialist	10/21/2016 6:08 PM
5	pre-k	10/20/2016 1:26 PM
6	We provide programming at a youth development program	10/20/2016 11:20 AM
7	We are the company which coordinates and has oversight for management and delivery of care for individuals with mental illness and/or substance abuse	10/19/2016 10:13 AM
8	I'm a student	10/18/2016 10:51 PM
9	NAMI provides support, education and advocacy for individuals and families with mental illness	10/18/2016 8:58 PM
10	I am a 1st year MSW student that provides mental health services through UNC's Refugee Wellness Initiative	10/18/2016 7:45 PM
11	I am a student in East Chapel Hill High School	10/18/2016 3:12 PM
12	I work at a non-profit social service organization	10/18/2016 11:34 AM
13	The Durham CDSA serves young children with social emotional difficulties, as well as developmental delays. There is a need for more evidence-based intervention for very young children.	10/18/2016 10:25 AM
14	I am the Director of the Durham CDSA, which services for infants and toddlers with or at risk for developmental delays and disabilities through the NC Infant-Toddler Program.	10/18/2016 9:07 AM
15	psychiatrist	10/17/2016 7:00 PM
16	Migrant Health Program Coordinator/ Community Health Center	10/17/2016 5:16 PM
17	I am a care manager at a community health center	10/17/2016 2:57 PM
18	I work in the church and am the director of small groups for our church as well as 11th and 12th grade boys group leader.	10/17/2016 2:10 PM
19	private non-profit	10/17/2016 1:56 PM
20	Program Coordinator and Public Health Educator	10/17/2016 1:07 PM
21	I work for NC Public Health -- Statewide	10/17/2016 11:15 AM
22	Mental Health Substance Abuse prevention	10/17/2016 11:13 AM
23	I also coordinate Healthy Carolinians of Orange County that is a community coalition serving all ages and residents of OC.	10/17/2016 10:32 AM
24	I work as an advocate	10/14/2016 4:00 PM
25	Orange County Head Start/Early Head Start	10/14/2016 3:13 PM
26	Juvenile Court Supervisor	10/14/2016 2:52 PM
27	I am a classroom behavior specialist with the Healthy Social Behaviors Initiative.	10/14/2016 2:06 PM

Q3 Which age group within the Orange County community do you work with primarily?

Answered: 143 Skipped: 8



Answer Choices	Responses	
0-4	16.08%	23
5-10	29.37%	42
11-13	18.18%	26
14-17	23.08%	33
18-25	18.88%	27
All of the above	31.47%	45
None of the above	2.80%	4
Total Respondents: 143		

Orange County Mental Health Gap Analysis Survey

Q4 What percentage of the population you serve is dealing with mental health issues?

Answered: 132 Skipped: 19

#	Responses	Date
1	1-2% unsure of specific numbers.	11/4/2016 11:15 AM
2	0.3% (guess)	11/4/2016 11:10 AM
3	I am in a normal 3rd grade classroom. A small percentage of our kids are dealing with a significant mental health issue.	11/4/2016 10:41 AM
4	5-10%	11/4/2016 10:29 AM
5	approx. 15%	11/4/2016 9:56 AM
6	90%	11/3/2016 3:46 PM
7	unknown	11/3/2016 3:02 PM
8	25	11/2/2016 3:55 PM
9	25	11/2/2016 8:22 AM
10	10	11/2/2016 6:43 AM
11	20-50 students out of 400?	11/1/2016 5:21 PM
12	maybe 50%	11/1/2016 4:48 PM
13	75%	11/1/2016 2:17 PM
14	50%	11/1/2016 12:22 PM
15	10%	11/1/2016 12:02 PM
16	with actual diagnoses probably 20%, but struggling with mental health issues not yet identified or not quite at a diagnostic level yet, I'd say closer to 30%	11/1/2016 11:18 AM
17	I do not know.	11/1/2016 11:08 AM
18	5-10%	11/1/2016 9:36 AM
19	10%	11/1/2016 9:12 AM
20	20	11/1/2016 8:05 AM
21	With actual diagnoses of childhood mental health disorders, I'd say at least 20%. If this means just dealing with mental health issues but symptoms are not yet at a diagnostic level, I'd say significantly higher-- closer to 30%.	10/31/2016 8:59 PM
22	25%	10/31/2016 6:58 PM
23	5-10%	10/31/2016 6:27 PM
24	25-30	10/31/2016 5:28 PM
25	8	10/31/2016 3:06 PM
26	40%	10/31/2016 2:39 PM
27	25%	10/31/2016 1:52 PM
28	75%	10/31/2016 12:45 PM
29	20%	10/31/2016 12:38 PM
30	25%	10/31/2016 12:36 PM
31	10%?	10/31/2016 12:17 PM
32	At least 15%	10/31/2016 12:14 PM
33	35%	10/31/2016 12:13 PM

Orange County Mental Health Gap Analysis Survey

34	Hard to tell for certain but I would estimate around a quarter of the population	10/31/2016 11:48 AM
35	68%	10/31/2016 11:36 AM
36	15-25%	10/31/2016 11:28 AM
37	15%	10/31/2016 11:27 AM
38	Unclear but I would say about 20%	10/31/2016 8:49 AM
39	50%	10/30/2016 9:19 PM
40	90-95%	10/28/2016 4:29 PM
41	estimate: 90%	10/28/2016 3:33 PM
42	100%	10/28/2016 11:06 AM
43	100	10/28/2016 10:57 AM
44	90	10/28/2016 10:52 AM
45	90%	10/28/2016 10:25 AM
46	80% - 85%	10/28/2016 10:17 AM
47	at least half	10/28/2016 10:16 AM
48	80	10/28/2016 10:07 AM
49	at least 50%	10/28/2016 10:06 AM
50	75%	10/28/2016 10:05 AM
51	75% or more	10/28/2016 9:44 AM
52	N/A - not a direct service provider	10/28/2016 8:31 AM
53	1 percent	10/28/2016 6:37 AM
54	100%	10/26/2016 8:37 PM
55	estimate 50%	10/26/2016 10:33 AM
56	5	10/22/2016 8:09 AM
57	75%	10/21/2016 6:08 PM
58	30%	10/21/2016 1:05 PM
59	20	10/21/2016 9:28 AM
60	approx 20%	10/20/2016 10:21 PM
61	10%	10/20/2016 1:26 PM
62	I do not have an exact percentage, but it seems to be growing each year. I would love to learn about a way to assess the needs at the school.	10/20/2016 1:24 PM
63	A high percentage of the student we serve are dealing with mental health issues.	10/20/2016 11:20 AM
64	? 25% would be my guess (counting family members of children enrolled)	10/20/2016 10:41 AM
65	30%	10/20/2016 10:37 AM
66	3-5%	10/20/2016 10:07 AM
67	seems like 12-15%	10/19/2016 9:43 PM
68	10%	10/19/2016 5:41 PM
69	10% estimate	10/19/2016 5:00 PM
70	5	10/19/2016 12:48 PM
71	70%-80%	10/19/2016 11:25 AM
72	Majority	10/19/2016 10:13 AM

Orange County Mental Health Gap Analysis Survey

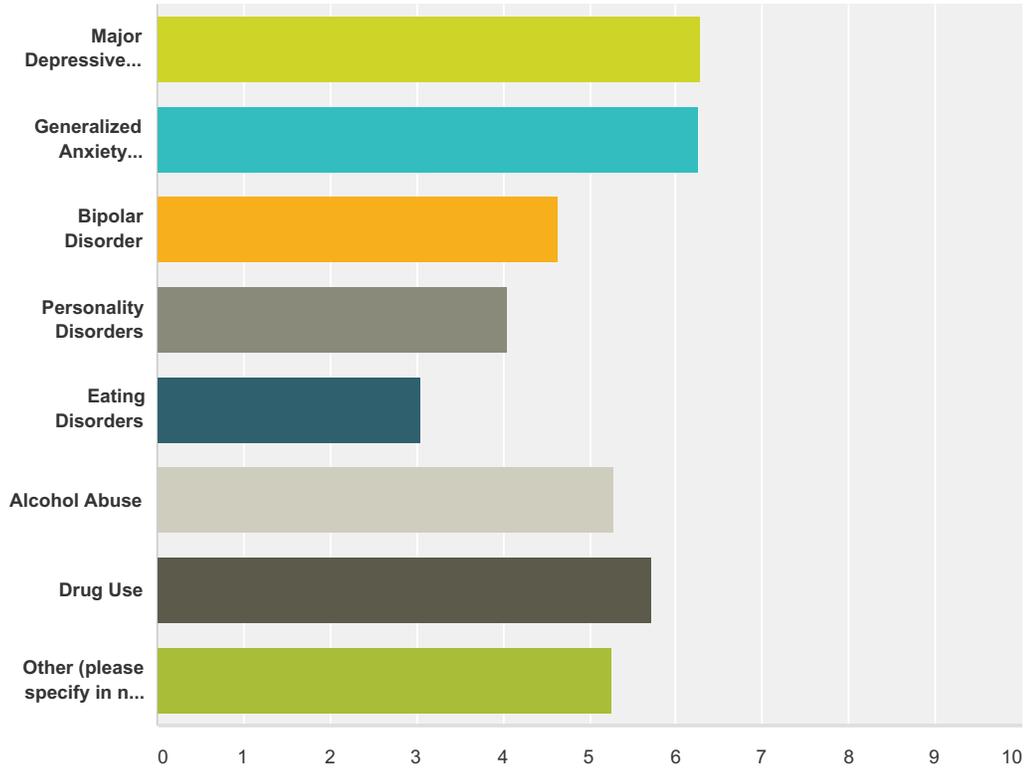
73	15	10/19/2016 2:48 AM
74	100% fam	10/18/2016 10:51 PM
75	100	10/18/2016 8:58 PM
76	unknown percentage.	10/18/2016 8:49 PM
77	I'm not sure the percentage of people we screen that need mental health treatment, but close to 100% of those that receive services are having mental health issues since that is the service we provide.	10/18/2016 7:45 PM
78	75%	10/18/2016 3:54 PM
79	No?	10/18/2016 3:12 PM
80	~10-15%	10/18/2016 1:51 PM
81	10-15	10/18/2016 1:01 PM
82	Unsure.	10/18/2016 11:34 AM
83	don't have data on this	10/18/2016 9:07 AM
84	25%	10/18/2016 8:47 AM
85	35%?	10/18/2016 8:40 AM
86	25%-30%	10/18/2016 8:32 AM
87	50% to 75%	10/18/2016 8:30 AM
88	10%	10/17/2016 11:09 PM
89	Children: ~ 25% (varying degrees) Parents: ~ 30% (varying degrees)	10/17/2016 7:08 PM
90	100%	10/17/2016 7:00 PM
91	approximately 10%	10/17/2016 5:16 PM
92	2/3	10/17/2016 4:10 PM
93	1	10/17/2016 3:20 PM
94	The majority - no specific percent	10/17/2016 3:05 PM
95	86%	10/17/2016 2:59 PM
96	99%	10/17/2016 2:57 PM
97	75%	10/17/2016 2:54 PM
98	95%	10/17/2016 2:50 PM
99	75% parents of my clients	10/17/2016 2:02 PM
100	unsure	10/17/2016 1:56 PM
101	I am not sure	10/17/2016 1:13 PM
102	It is hard to say with kids. However, many of the kids that I have to work with in the Trauma Center at UNC have a parent or caregiver who is clearly dealing with a mental health issue most notably, substance abuse.	10/17/2016 1:07 PM
103	100%	10/17/2016 12:27 PM
104	NA	10/17/2016 11:13 AM
105	50	10/17/2016 10:59 AM
106	50%	10/17/2016 10:57 AM
107	at least 50%	10/17/2016 9:05 AM
108	15%	10/17/2016 2:01 AM
109	50%	10/16/2016 6:35 AM
110	90	10/15/2016 4:05 PM
111	30%	10/15/2016 3:48 AM

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112	85%	10/15/2016 3:44 AM
113	75%	10/14/2016 8:40 PM
114	60%	10/14/2016 7:18 PM
115	unknown	10/14/2016 6:43 PM
116	35-45	10/14/2016 6:13 PM
117	5%	10/14/2016 4:28 PM
118	Unknown.	10/14/2016 4:00 PM
119	20	10/14/2016 3:55 PM
120	We work with families who are living in poverty and many of our parents and children have mental health issues or concerns.	10/14/2016 3:13 PM
121	30%	10/14/2016 3:09 PM
122	25%	10/14/2016 3:02 PM
123	75%	10/14/2016 2:52 PM
124	80%	10/14/2016 2:46 PM
125	85%	10/14/2016 2:41 PM
126	100	10/14/2016 2:27 PM
127	50	10/14/2016 2:10 PM
128	Unknown	10/14/2016 2:06 PM
129	25%	10/14/2016 2:01 PM
130	Guesstimate of 25%-50% depending on the day.	10/14/2016 2:01 PM
131	at least 50%	10/14/2016 12:54 PM
132	I don't know the percentage.	10/14/2016 12:25 PM

Q5 What are the most frequent mental illnesses affecting the population (ages 0-25) you work with? Please rank in order of frequency (1 = most frequent).

Answered: 111 Skipped: 40



	1	2	3	4	5	6	7	8	N/A	Total	Score
Major Depressive Disorder	19.19% 19	33.33% 33	18.18% 18	12.12% 12	8.08% 8	4.04% 4	1.01% 1	0.00% 0	4.04% 4	99	6.28
Generalized Anxiety Disorder	28.16% 29	27.18% 28	11.65% 12	11.65% 12	6.80% 7	9.71% 10	0.97% 1	0.00% 0	3.88% 4	103	6.26
Bipolar Disorder	6.59% 6	5.49% 5	18.68% 17	17.58% 16	18.68% 17	13.19% 12	9.89% 9	2.20% 2	7.69% 7	91	4.63
Personality Disorders	4.49% 4	3.37% 3	11.24% 10	11.24% 10	19.10% 17	17.98% 16	13.48% 12	4.49% 4	14.61% 13	89	4.04
Eating Disorders	1.14% 1	3.41% 3	4.55% 4	6.82% 6	9.09% 8	17.05% 15	31.82% 28	10.23% 9	15.91% 14	88	3.04
Alcohol Abuse	8.99% 8	16.85% 15	13.48% 12	20.22% 18	8.99% 8	7.87% 7	5.62% 5	2.25% 2	15.73% 14	89	5.28
Drug Use	21.35% 19	10.11% 9	17.98% 16	12.36% 11	11.24% 10	7.87% 7	4.49% 4	0.00% 0	14.61% 13	89	5.72
Other (please specify in next question)	30.77% 20	4.62% 3	12.31% 8	6.15% 4	4.62% 3	3.08% 2	4.62% 3	16.92% 11	16.92% 11	65	5.26

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Q6 If you work with a mental health issue that was not mentioned in the previous question, please specify below.

Answered: 55 Skipped: 96

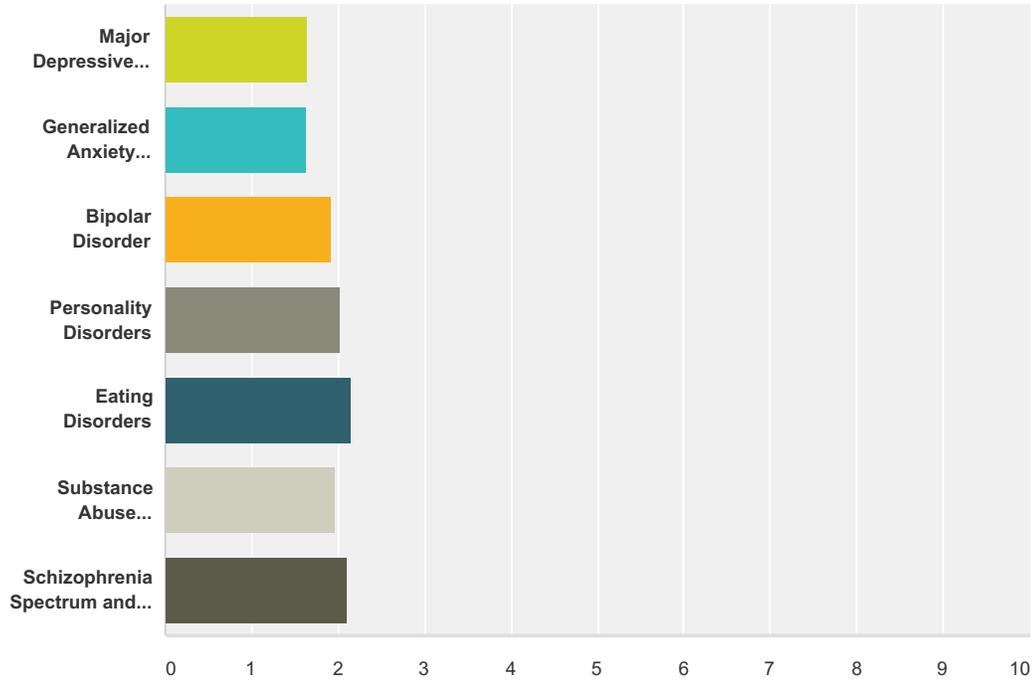
#	Responses	Date
1	ADD and ADHD	11/4/2016 11:11 AM
2	ADHD	11/4/2016 9:57 AM
3	Trauma and traumatic events- PTSD	11/2/2016 8:28 AM
4	Attention Deficit Hyperactivity disorder, some childhood bipolar and PTSD/trauma	11/1/2016 5:23 PM
5	ADHD Trauma Related Issues ADD ODD	11/1/2016 4:52 PM
6	PTSD	11/1/2016 12:24 PM
7	ADHD and autism	11/1/2016 11:19 AM
8	ADD and ADHD	11/1/2016 9:39 AM
9	Neurodevelopmental Disorders such as ADD/ADHD; Autism Spectrum Disorder	11/1/2016 9:18 AM
10	ADHD, autism, ODD	10/31/2016 9:32 PM
11	Adjustment Disorders	10/31/2016 3:10 PM
12	ADHD, attachment disorders,	10/31/2016 12:52 PM
13	Trauma and PTSD	10/31/2016 12:41 PM
14	ADHD/ADD, Emotional Disturbance Disorder, PTSD, ODD	10/31/2016 12:17 PM
15	ODD and BED	10/31/2016 12:16 PM
16	ADHD; ODD	10/28/2016 4:32 PM
17	PTSD, Schizophrenia	10/28/2016 3:37 PM
18	PTSD	10/28/2016 10:55 AM
19	Schizophrenia	10/28/2016 10:07 AM
20	PTSD	10/26/2016 8:43 PM
21	PTSD	10/26/2016 10:35 AM
22	History of unaddressed trauma, toxic stress	10/25/2016 11:42 AM
23	Adjustment Disorder	10/23/2016 9:27 PM
24	PTSD, Adjustment disorders, ADHD	10/21/2016 1:08 PM
25	social emotional regulation issues, parenting,	10/20/2016 1:27 PM
26	One of the biggest issues for many of our youth can be substance issues but this is often a secondary issue because they are dealing with experiences of trauma and other mental health issues like anxiety and depression.	10/20/2016 11:23 AM
27	ADHD/ASD	10/20/2016 10:41 AM
28	PTSD	10/20/2016 10:10 AM
29	OCD	10/19/2016 5:42 PM
30	Schizophrenia spectrum disorders	10/19/2016 10:18 AM
31	I do not work professionally but I would like to as a peer to provide basic support. (I understand with confidentiality I can't work professionally)	10/18/2016 10:52 PM
32	schizophrenia	10/18/2016 9:00 PM

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33	schizophrenia	10/18/2016 8:51 PM
34	Schizophrenia	10/18/2016 3:55 PM
35	ADHD, Conduct Disorder, ODD	10/18/2016 1:53 PM
36	PTSD/ adjustment; oppositional/ defiant;ADHD/ learning issues; parenting/ behavioral management	10/18/2016 1:06 PM
37	young children with social emotional difficulties	10/18/2016 10:26 AM
38	Adjustment reaction with depressed or anxious mood	10/18/2016 8:33 AM
39	Generalized stress/trauma	10/17/2016 7:12 PM
40	Neurocognitive impairment (eg ADHD) Trauma (PTSD, etc.) Intellectual Developmental Delay (IDD) Autism	10/17/2016 7:04 PM
41	Depression..	10/17/2016 5:18 PM
42	PTSD, trauma related disorders	10/17/2016 3:13 PM
43	2. Mild to moderate depression 5. Trauma	10/17/2016 3:08 PM
44	ADHD, PTSD	10/17/2016 3:01 PM
45	ptsd	10/17/2016 2:58 PM
46	Court referrals for behavior that has led to court involvement, behavioral issues, conduct disorders, ADHD	10/17/2016 12:39 PM
47	Postpartum depression	10/17/2016 11:14 AM
48	schizophrenia	10/17/2016 9:07 AM
49	adhd	10/16/2016 6:36 AM
50	Adjustment disorders, family stress, other v codes. ADHD, learning disorders, developmental disabilities.	10/15/2016 4:10 PM
51	N/A	10/14/2016 7:22 PM
52	Oppositional Defiant Disorder	10/14/2016 2:55 PM
53	Trauma	10/14/2016 2:43 PM
54	PTSD	10/14/2016 2:29 PM
55	Postpartum depression	10/14/2016 12:28 PM

Q7 How difficult is it for you to refer English speaking, Orange County residents ages 0-25 to treatment for these disorders?

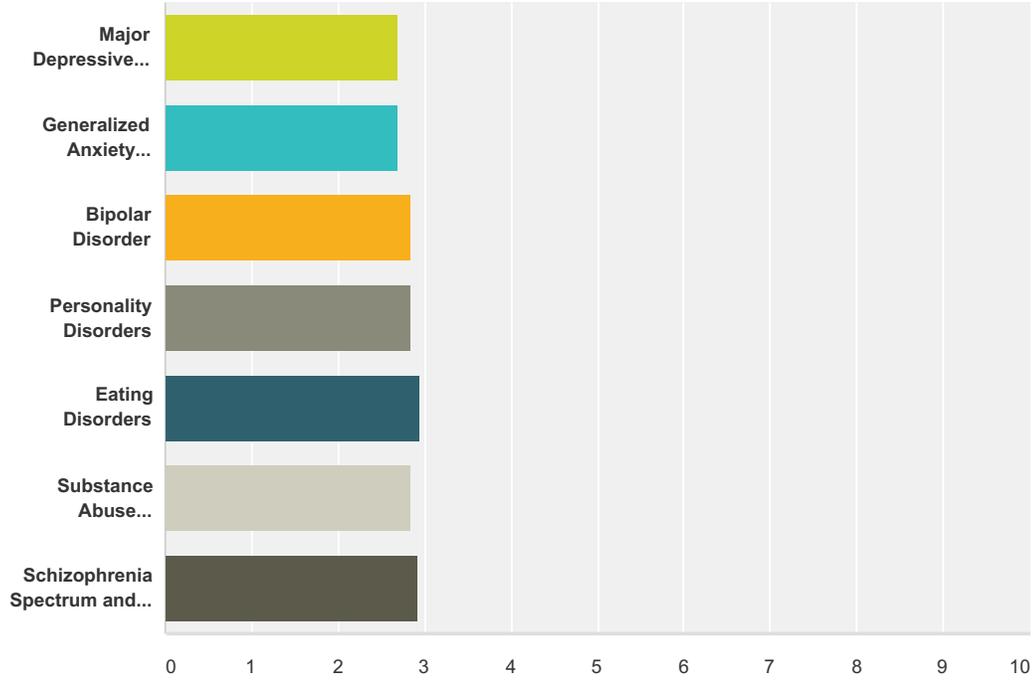
Answered: 108 Skipped: 43



	Easy	Moderately Difficult	Difficult	Inaccessible	Total	Weighted Average
Major Depressive Disorder	49.52% 52	40.00% 42	7.62% 8	2.86% 3	105	1.64
Generalized Anxiety Disorder	51.92% 54	35.58% 37	10.58% 11	1.92% 2	104	1.63
Bipolar Disorder	36.08% 35	40.21% 39	19.59% 19	4.12% 4	97	1.92
Personality Disorders	35.48% 33	34.41% 32	22.58% 21	7.53% 7	93	2.02
Eating Disorders	29.03% 27	36.56% 34	23.66% 22	10.75% 10	93	2.16
Substance Abuse (including alcohol abuse)	39.36% 37	31.91% 30	22.34% 21	6.38% 6	94	1.96
Schizophrenia Spectrum and other Psychotic Disorders	31.18% 29	35.48% 33	24.73% 23	8.60% 8	93	2.11

Q8 How difficult is it for you to refer non-English speaking, Orange County residents ages 0-25 to treatment for these disorders?

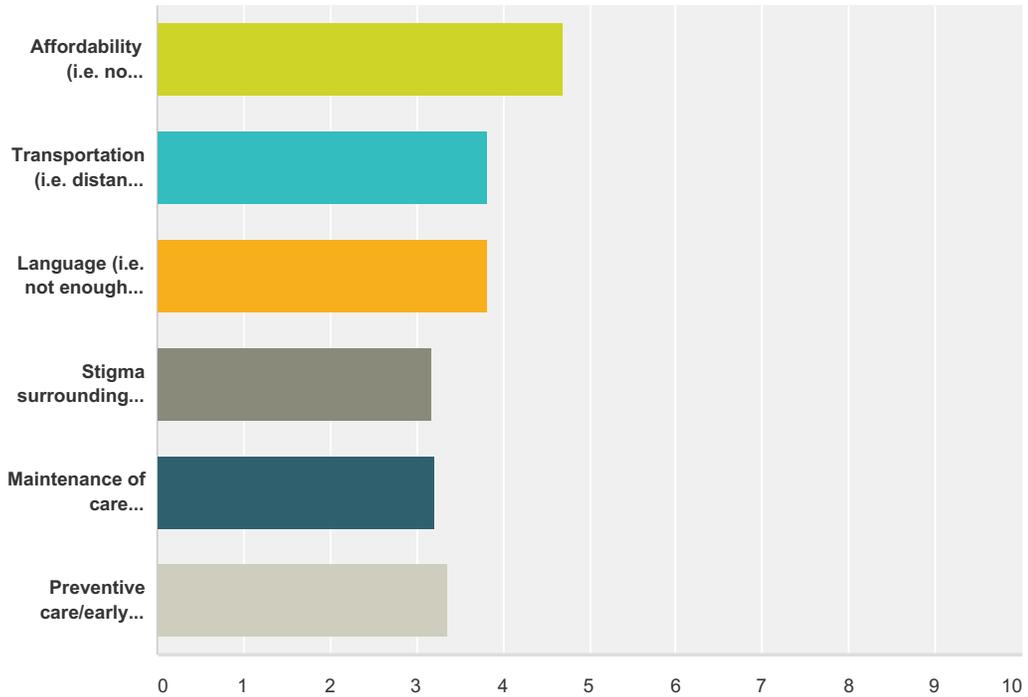
Answered: 107 Skipped: 44



	Easy	Moderately Difficult	Difficult	Inaccessible	Total	Weighted Average
Major Depressive Disorder	6.80% 7	24.27% 25	61.17% 63	7.77% 8	103	2.70
Generalized Anxiety Disorder	6.73% 7	25.00% 26	60.58% 63	7.69% 8	104	2.69
Bipolar Disorder	6.32% 6	17.89% 17	62.11% 59	13.68% 13	95	2.83
Personality Disorders	5.21% 5	19.79% 19	61.46% 59	13.54% 13	96	2.83
Eating Disorders	5.32% 5	14.89% 14	60.64% 57	19.15% 18	94	2.94
Substance Abuse (including alcohol abuse)	7.45% 7	19.15% 18	55.32% 52	18.09% 17	94	2.84
Schizophrenia Spectrum and other Psychotic Disorders	5.43% 5	15.22% 14	60.87% 56	18.48% 17	92	2.92

Q9 Please rank the following according to how significant you perceive these barriers to be in accessing mental health and substance abuse treatment in Orange County for residents ages 0-25. (1 = most significant):

Answered: 108 Skipped: 43



	1	2	3	4	5	6	I do not believe this is a barrier	Total	Score
Affordability (i.e. no insurance, insurance doesn't cover mental health services)	36.08% 35	26.80% 26	13.40% 13	12.37% 12	5.15% 5	3.09% 3	3.09% 3	97	4.69
Transportation (i.e. distance to services)	12.12% 12	24.24% 24	27.27% 27	8.08% 8	19.19% 19	6.06% 6	3.03% 3	99	3.83
Language (i.e. not enough services for non-English speaking patients)	20.20% 20	13.13% 13	20.20% 20	21.21% 21	11.11% 11	9.09% 9	5.05% 5	99	3.82
Stigma surrounding mental health (i.e. lack of education/awareness is deterring people from seeking help)	12.50% 12	10.42% 10	14.58% 14	22.92% 22	14.58% 14	20.83% 20	4.17% 4	96	3.17
Maintenance of care post-diagnosis (i.e. non-emergency treatment options are non-existent or scarce)	11.46% 11	10.42% 10	14.58% 14	23.96% 23	21.88% 21	13.54% 13	4.17% 4	96	3.22
Preventive care/early intervention (i.e. more robust systems for identifying issues earlier on within the primary care, school setting... etc.)	12.50% 13	18.27% 19	14.42% 15	9.62% 10	18.27% 19	18.27% 19	8.65% 9	104	3.37

Orange County Mental Health Gap Analysis Survey

Q10 Are there any barriers not already included on this list that you would like to see addressed within Orange County? Please explain.

Answered: 42 Skipped: 109

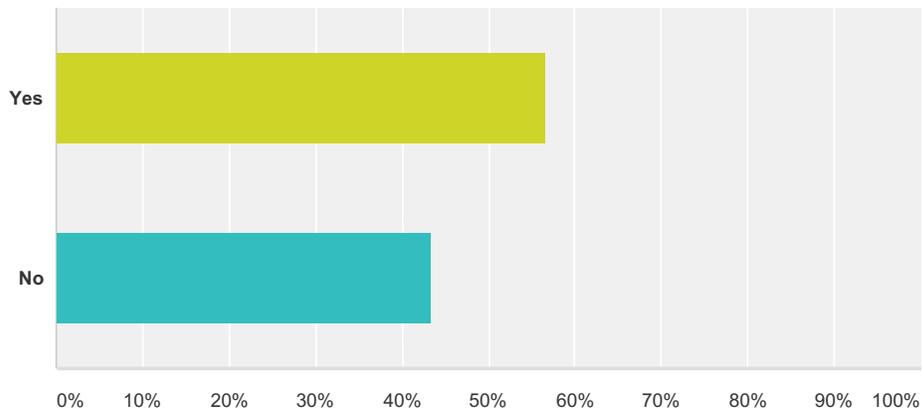
#	Responses	Date
1	I would say when a family is in crisis how can they access or be connected to someone that speaks their language such as mobile crisis or police officer.	11/3/2016 3:50 PM
2	no	11/3/2016 3:10 PM
3	you covered them	11/2/2016 8:31 AM
4	need capacity for more school based mental health	11/1/2016 5:24 PM
5	culturally relevant practices specific support services for LGBTQ teens	11/1/2016 4:59 PM
6	I find it difficult to rank these barriers because almost all are very significant barriers. Even if we are able to identify them early in elementary school, there are several factors that might inhibit a child in need of mental health services from actually getting them--especially for our low income families. The most significant being transportation, parent schedule, insurance, and language, but also the fact that mental health services and treatment for youth in OC is still pretty limited and stretched thin.	11/1/2016 11:52 AM
7	Education for parents for the need.	11/1/2016 11:12 AM
8	What was not included on this survey are the barriers created through the MCO, Cardinal. The lack of appropriate services and ease of access is a barrier to services.	11/1/2016 9:20 AM
9	I find it incredibly hard to rank these because most of these are very significant barriers and a ranking system doesn't do it justice. Even if we identify mental health concerns at the elementary school level, there are so many barriers keeping our families from following up with our referrals for mental health services for their children (especially low income families with limited transportation, busy work schedules, and even more so for those that are Non-English speakers)	10/31/2016 9:39 PM
10	This would relate to transportation but not enough services in Northern Orange County.	10/31/2016 7:03 PM
11	Lack of psychiatric care.	10/31/2016 3:12 PM
12	Parents not driving kids to their appointments so kids miss their appointments. Once you have missed enough appointments, the provider often refuses to see you again.	10/31/2016 12:54 PM
13	Transportation and parent work schedule for low income families is a huge barrier, which is why in school mental health services are so important but at this point, still very scarce/spread thin	10/31/2016 12:19 PM
14	Insurance that has POOR coverage for mental health services (i.e. must meet \$500 deductible before any coverage is given)	10/31/2016 8:51 AM
15	Lack of accessible, comprehensive substance abuse treatment for Spanish speaking, uninsured clients. Only option is EI Futuro and it is NOT a comprehensive substance abuse treatment center.	10/28/2016 11:11 AM
16	The primary barrier i see is lack of follow-up and follow-through from the agencies.	10/28/2016 11:10 AM
17	No	10/28/2016 6:40 AM
18	Childcare	10/26/2016 8:44 PM
19	awareness among human service staff and medical professionals about red flags in adults and children and how to support someone in accessing mental health services	10/25/2016 11:44 AM
20	No	10/22/2016 8:17 AM
21	Services for undocumented people are virtually non existent	10/21/2016 1:10 PM
22	very limited spanish speaking or karen/burmese speaking therapists. and very few sliding scale options or pro bono for those without insurance	10/20/2016 1:29 PM

Orange County Mental Health Gap Analysis Survey

23	Relationship and trust with people in the system	10/20/2016 11:23 AM
24	Availability of providers. Limited number of adolescent mental health care providers. Or, if they exist, knowing who and where they are. A directory would be helpful.	10/20/2016 10:48 AM
25	Most significant barrier is finding available adolescent psychiatrists.	10/19/2016 9:51 PM
26	access to services in northern area of county i.e. Hillsborough	10/19/2016 10:20 AM
27	People know very little about mental illness and do not know to seek help because they just think the person is behaving badly	10/18/2016 9:02 PM
28	the mental health system is a broken system. this focus on outpatient services does not work.	10/18/2016 8:53 PM
29	Cultural awareness /acknowledgement of Mental illness	10/18/2016 1:10 PM
30	Not enough therapists truly trained to do trauma work with clients.	10/18/2016 11:41 AM
31	There are barriers to type of therapy. For example, for adolescents with anxiety and depression it is clear that the evidence supports manual-based cognitive behavioral therapy, but other types of 'counseling' are either not studied or limited efficacy. It is hard to find therapists who will commit to this modality or as a clinician you are so disconnected to the actual therapist through the lme that you have no idea what they are doing. I've had patients say they're getting 'sandbox therapy' and i have no idea what the heck is even happening there.	10/17/2016 11:13 PM
32	Cardinal Innovations - policy is not consistent with Federal statute to provide behavioral health services regardless of citizenship status. This not only undercuts current providers but discourages development of new services that are needed in our county. Services for IDD individuals age 18-25 are very inadequate; especially for non-English speaking.	10/17/2016 7:10 PM
33	I would like to say that 1-4 are almost equal barriers to care for our patients.	10/17/2016 3:27 PM
34	Lack of reimbursement for interpretation through Medicaid. Number of steps required to enroll in mental health services. Lack of cultural competency training for providers.	10/17/2016 3:10 PM
35	Appropriate referrals for trauma informed care.	10/17/2016 2:01 PM
36	more variety of screening tools	10/17/2016 9:09 AM
37	n/a	10/16/2016 6:38 AM
38	Parents have less insurance, English language ability than kids. Kids can't really recover if parents aren't treated.	10/15/2016 4:12 PM
39	n/a	10/15/2016 3:50 AM
40	N/A	10/14/2016 7:24 PM
41	It would be an advantage to have a mental health liaison between Cardinal and the Justice system	10/14/2016 2:45 PM
42	people lose there care when they age out and lose their Medicaid at 18	10/14/2016 2:31 PM

Q11 Do you provide services in languages other than English?

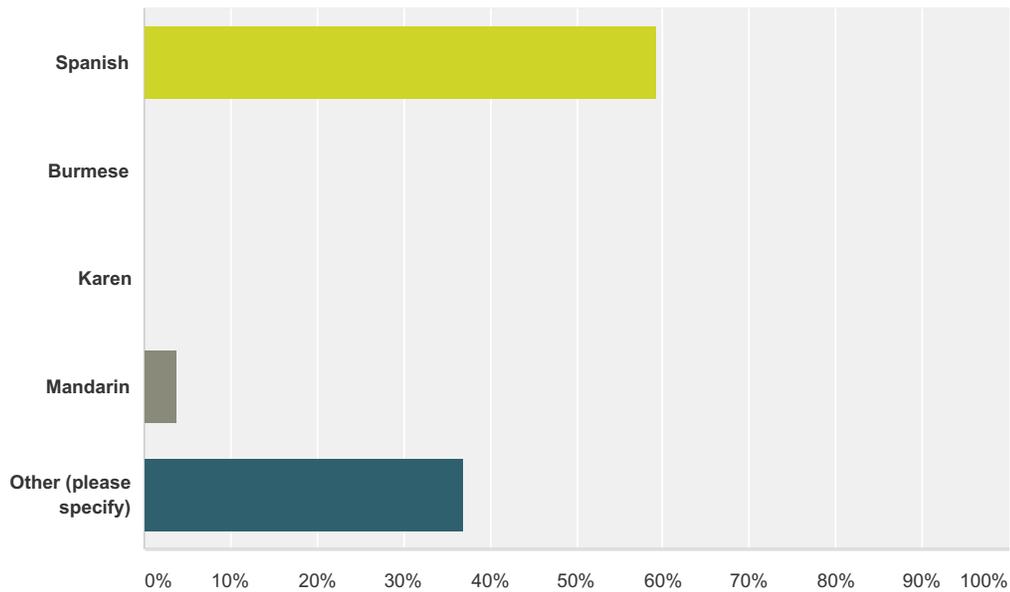
Answered: 46 Skipped: 105



Answer Choices	Responses	
Yes	56.52%	26
No	43.48%	20
Total		46

Q12 If yes, which languages do you use?

Answered: 27 Skipped: 124

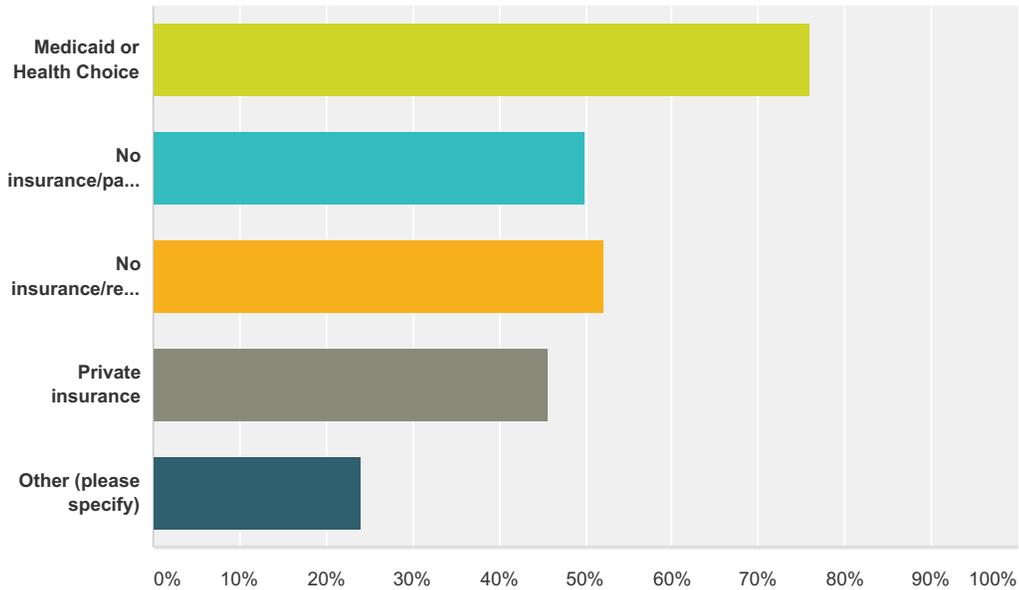


Answer Choices	Responses
Spanish	59.26% 16
Burmese	0.00% 0
Karen	0.00% 0
Mandarin	3.70% 1
Other (please specify)	37.04% 10
Total	27

#	Other (please specify)	Date
1	Spanish, Burmese, Karen, Rohingya (It wouldn't let me check more than one)	10/26/2016 8:45 PM
2	I am fortunate to have access to interpreters through the school district so that I can work with some non-English speaking families	10/21/2016 1:11 PM
3	All lanuages with the assistance of Language Line	10/19/2016 11:29 AM
4	We use telephonic interpreter services	10/18/2016 3:56 PM
5	won't let me select more than one. we serve people who speak all of the above	10/18/2016 8:37 AM
6	we use language line to provide in any language---limited though as using an interpreter.	10/17/2016 11:14 PM
7	none	10/17/2016 2:14 PM
8	All of the above using interpreter services	10/17/2016 12:41 PM
9	Spanish, others through interpreter.	10/15/2016 4:13 PM
10	Use telephone interpreting	10/14/2016 2:59 PM

Q13 How do the Orange County residents ages 0-25 you serve pay for mental health and substance abuse services? Check all that apply.

Answered: 46 Skipped: 105



Answer Choices	Responses
Medicaid or Health Choice	76.09% 35
No insurance/pay out-of-pocket for services	50.00% 23
No insurance/receive services pro-bono	52.17% 24
Private insurance	45.65% 21
Other (please specify)	23.91% 11
Total Respondents: 46	

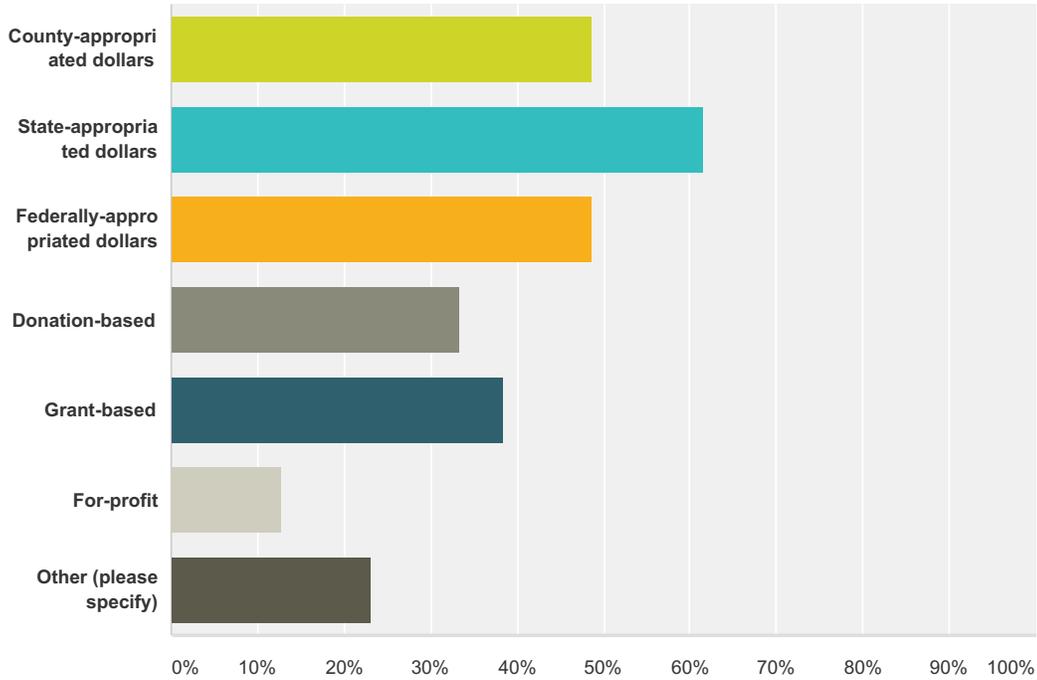
#	Other (please specify)	Date
1	School system	11/4/2016 9:58 AM
2	Grant funding	11/1/2016 2:27 PM
3	grant funded services	10/25/2016 11:46 AM
4	No fees for the services provided in the unit	10/19/2016 11:29 AM
5	sTuDeNt	10/18/2016 10:53 PM
6	Not sure	10/18/2016 1:55 PM
7	state/federal IDEA/Part C funds	10/18/2016 10:27 AM
8	No insurance - we bill through Cardinal for indigent care if person is citizen, otherwise we receive county funding, foundation grants, contributions, or block grant funding from Cardinal	10/17/2016 7:12 PM
9	Receive through school system	10/17/2016 3:11 PM

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10	No charge just encouragement	10/17/2016 2:14 PM
11	I have no idea	10/15/2016 3:51 AM

Q14 Where does your funding come from for mental health and substance abuse services to Orange County residents ages 0-25? Check all that apply.

Answered: 39 Skipped: 112



Answer Choices	Responses
County-appropriated dollars	48.72% 19
State-appropriated dollars	61.54% 24
Federally-appropriated dollars	48.72% 19
Donation-based	33.33% 13
Grant-based	38.46% 15
For-profit	12.82% 5
Other (please specify)	23.08% 9
Total Respondents: 39	

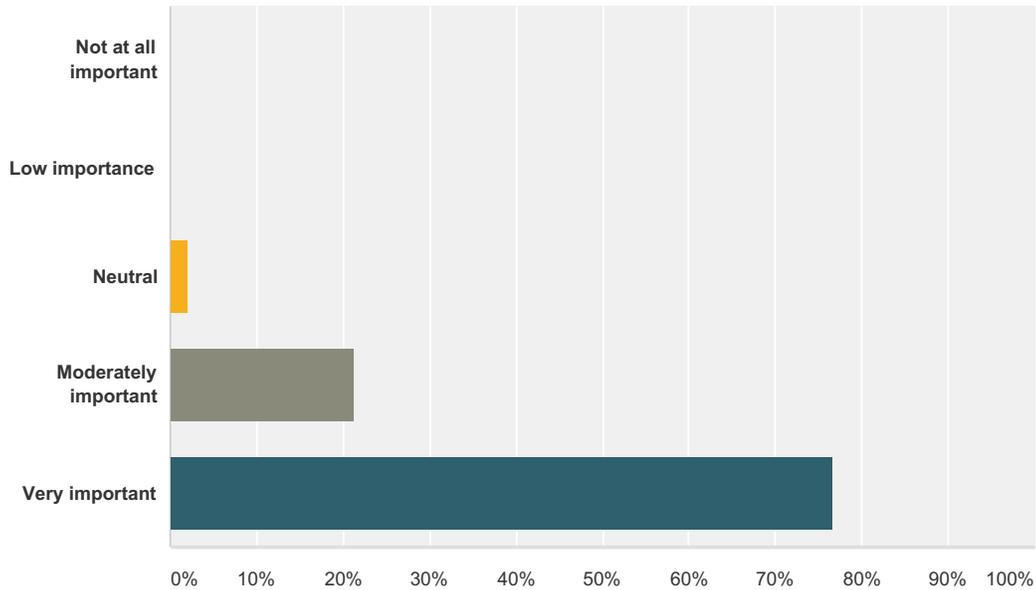
#	Other (please specify)	Date
1	not sure	11/4/2016 11:12 AM
2	Parents/Gaurdians	10/31/2016 6:31 PM
3	I can't directly provide these services myself, aside from informal counseling etc	10/31/2016 12:24 PM
4	Small amount from the school system (because we provide school-based groups)	10/26/2016 8:48 PM
5	I do not know	10/22/2016 8:18 AM
6	school sytsem employee	10/19/2016 9:54 PM

Orange County Mental Health Gap Analysis Survey

7	unknown	10/19/2016 2:52 AM
8	School System employee	10/18/2016 1:55 PM
9	I just help in the church	10/17/2016 2:14 PM

Q15 How important are collaborative partnerships in achieving the levels of service your organization provides to Orange County residents?

Answered: 47 Skipped: 104



Answer Choices	Responses	Count
Not at all important	0.00%	0
Low importance	0.00%	0
Neutral	2.13%	1
Moderately important	21.28%	10
Very important	76.60%	36
Total		47

#	Please explain:	Date
1	Local Collaboratives like Making Connections, Family Success Alliance, and the Orange County System of Care Collaborative are essential in providing services to Orange County residents.	11/1/2016 2:28 PM
2	I can't provide direct mental health services in school, so we rely completely on local agencies and our partnership with them for these referrals and services	10/31/2016 12:24 PM
3	Collaborative partnerships are integral to the success of our mental health work with refugees and immigrants. We partner with the Durham and CHCCS school systems, the local managed care organization, UNC School of Social Work, Church World Service, and many more to provide accessible mental health care, transportation, child care, and interpreter services for our clients.	10/26/2016 8:48 PM
4	the siloing that exists in this community makes everything harder for staff trying to engage families and connect them with services and for families trying to manage stress. Collaboration needs to be supported and expected by all to increase access and awareness of needs and services.	10/25/2016 11:51 AM
5	With these partnerships, we are able to provide better services at a faster rate than before. Accessibility has increased with these partnerships, along with great training.	10/22/2016 8:18 AM

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6	These partnerships allow us to contract with outside agencies and providers to begin to meet the needs of students	10/21/2016 1:13 PM
7	We work with Faith Connections	10/18/2016 10:54 PM
8	The Infant Toddler Program provides an integrated coordination of care for the children and families in our program. We work collaboratively with medical, developmental, educational, and family support services to ensure needs are met.	10/18/2016 10:29 AM
9	Increasingly important but ultimately we are on the hook for generating the \$ required and that \$ is not very dependent on collaborative partnerships (except with FSA / UWGT funding). The main place collaborations are important practically speaking is with the referrals to and from.	10/17/2016 7:14 PM
10	Interagency collaboration and communication about services is critical for early identification and efficient referral.	10/17/2016 3:15 PM
11	Unfunded and unsupported collaborative partnerships are not as helpful because it is costly to attend meetings, etc. There are some referrals that do come out of the collaboratives. Unfortunately, we are all struggling under funding challenges and ways to meet consumer need with fewer resources.	10/17/2016 12:44 PM
12	No one organization can do it on its own.	10/16/2016 6:40 AM

Orange County Mental Health Gap Analysis Survey

Q16 What is Orange County doing well in addressing the needs of its residents ages 0-25 with mental health and/or substance abuse conditions? Please comment below.

Answered: 62 Skipped: 89

#	Responses	Date
1	I feel there is so much that still needs to be done with being able to help all residents with getting accessible mental health care. There are so many that fit into grey area and still don't qualify for IPRS funds or can access Pro-Bono Counseling.	11/3/2016 3:57 PM
2	School based mental health	11/2/2016 8:34 AM
3	In school support is helpful but not enough.	11/2/2016 6:46 AM
4	I have had good experience with some clinicians/clinics, the fact that a pro bono network exists is important, that school based mental health is available (though limited and not enough to meet the need), that art therapy is an option, that we have a lot of providers in the area, the trainings the collaborative have offered recently have been good, that the police crisis unit has social workers who can respond	11/1/2016 5:28 PM
5	There seems to be increased recognition of the fact that transportation is a significant issue in Orange County, especially for low-income families, and a barrier to receiving mental health services. Several organizations have expanded to Orange County which is encouraging to see. Having a school-based therapist this year is also a HUGE win!	11/1/2016 12:37 PM
6	Community and Student Support in schools work well together to get needed care and see that it is accessible.	11/1/2016 9:43 AM
7	Orange County has identified that there is a need for services.	10/31/2016 7:06 PM
8	In school treatment from Carolina Outreach one day per week	10/31/2016 5:32 PM
9	I think Orange County is doing about the same as other counties in the state in addressing needs. In general I think North Carolina is abysmal in helping those who are afflicted with mental health issues.	10/31/2016 3:15 PM
10	New substance abuse treatment option	10/31/2016 3:02 PM
11	Trying to implement more Mental Health services in the school system.	10/31/2016 12:19 PM
12	The Crisis Unit is a great resource.	10/31/2016 11:55 AM
13	Currently, there is a mental health therapist in the school system. The only unfortunate piece, is that it is one person serving all the schools, and it is difficult to get a student seen. There have been a couple new agency that are now taking referrals which is great, but making sure that the parent follows through is something that I see as a problem. Once it leaves the school, due to confidentiality, the school liaison is now out of the picture.	10/31/2016 11:43 AM
14	Providing some services in schools and recognition and training around mental health	10/31/2016 11:33 AM
15	Organizing around all age groups and having partnerships in the community.	10/28/2016 4:37 PM
16	We have a variety of MH and SA providers in Southern Orange County for English speaking residents. We have well qualified professionals in the area and UNC Health system.	10/28/2016 3:42 PM
17	There are good residential, comprehensive, substance abuse treatment facilities available in Orange County.	10/28/2016 11:14 AM
18	Public transportation is awesome - clients can get to where they need to go if we help them with the bus schedule.	10/28/2016 11:11 AM
19	There is a need to have quicker response to children in crisis in providing services. This is especially true for children in foster care to avoid a disruption.	10/28/2016 11:00 AM
20	-provider lists are accessible -IPRS funding available -some providers take Medicaid	10/28/2016 10:27 AM
21	There are lots of resources for people with insurance coverage. There are also a lot of providers that offer in-home services for their clients which increases treatment compliance.	10/28/2016 10:12 AM
22	Quality providers; Orange County has resources and is genuinely concerned about the MH and SA needs of children and parents.	10/28/2016 10:02 AM

Orange County Mental Health Gap Analysis Survey

23	It could be better!	10/28/2016 6:42 AM
24	collaborative groups - learning and sharing community health centers	10/26/2016 10:38 AM
25	focusing on early childhood and prevention, strengthening Freedom House as a community mental health clinic	10/25/2016 11:56 AM
26	Education, information, and accessibility.	10/22/2016 8:19 AM
27	Promoting greater collaboration among agencies and providers.	10/21/2016 1:18 PM
28	outreach and education	10/20/2016 10:25 PM
29	Identifying and providing ways for service providers to collaborate. We do have a lot of services available to children and families in Orange County. The public transportation system in Chapel Hill is helpful.	10/20/2016 11:30 AM
30	Not sure.	10/20/2016 10:50 AM
31	not sure	10/19/2016 9:58 PM
32	Having counselors and social workers in the schools.	10/19/2016 12:55 PM
33	Family Success Alliance Orange County Collaborative for Children Chapel Hill Carrboro City school evaluation of school based mental health	10/19/2016 10:22 AM
34	You are starting this survey, which means something will be done. Recognizing the problem is the first step to solving it.	10/18/2016 10:56 PM
35	I do not see any improvements. The focus on outpatient services is a revolving door. The continuous impact on society is not being helped by the current methodology being implemented by mental health providers or specifically substance abuse counselors.	10/18/2016 8:56 PM
36	Great job with crisis unit in Chapel Hill PD!!	10/18/2016 3:58 PM
37	Many school guidance departments have personnel who can help or refer	10/18/2016 1:15 PM
38	OCHD is now offering IBH services to their patients.	10/18/2016 8:52 AM
39	Family Success Alliance, Integrative Behavioral Health Services in OCHD	10/18/2016 8:38 AM
40	Good leadership in the Health Dept has helped alleviate the anemic leadership at Cardinal since 2012. Providers are relatively strong in the network.	10/17/2016 7:19 PM
41	Aware of the magnitude of the problem and doing proactive planning (like this survey) to help direct future programming options	10/17/2016 7:18 PM
42	I am not familiar with the programs Orange County Provide . I am responding according the effort our organization is providing to assist the Community	10/17/2016 5:23 PM
43	We do have services available in Chapel Hill/Carrboro area, not as many in Northern Orange. The time frame to get an appointment can be very long wait.	10/17/2016 4:17 PM
44	Freedom House has been a great resource in the community.	10/17/2016 4:14 PM
45	Good question!! We have some good early intervention programs such as the Family Success Alliance and Early Head Start/Head Start. The problem is when issues are identified, there are not enough resources to refer community members to	10/17/2016 3:32 PM
46	Art Therapy Institute is doing an excellent job of serving the needs of refugee students in our County. More support is needed.	10/17/2016 3:17 PM
47	not sure	10/17/2016 3:02 PM
48	not sure I am not aware of all that it does. I do like the Orange Partnership and think that it is a great way for informing people of the threats that are out there. As well as helping people understand how to prevent and seek help.	10/17/2016 2:16 PM
49	Mental health and substance use is a public health issue. Appreciate the LHD taking a lead in prevention and intervention. Integration of mental health services in the school system. Drug courts?	10/17/2016 11:19 AM
50	For English speaking clients with insurance there are many services for most conditions (not Adolescent Substance Abuse).	10/17/2016 11:05 AM
51	more variety of mental health services in the county	10/17/2016 9:11 AM
52	Not sure. Just recently moved here	10/16/2016 6:40 AM
53	Good specialist services, ex. Kidscope, teach, oasis, school support etc	10/15/2016 4:14 PM

Orange County Mental Health Gap Analysis Survey

54	first recognizing that there is a need for this population	10/15/2016 3:54 AM
55	Hard to say what Orange County is doing well, since we deal with most mental health issues over and over again.	10/14/2016 7:30 PM
56	talking about it, increasing public awareness and training	10/14/2016 6:51 PM
57	little	10/14/2016 6:16 PM
58	For the most part yes when it comes to mental health. I see far more substance abuse.	10/14/2016 4:32 PM
59	well linked to services through the health department!	10/14/2016 2:48 PM
60	good in areas of early intervention also people with Medicaid have vastly more options than uninsured	10/14/2016 2:37 PM
61	Good services for pregnant women - HBI, UNC perinatal psych, Horizons	10/14/2016 2:11 PM
62	Naloxone program is great.	10/14/2016 2:02 PM

Orange County Mental Health Gap Analysis Survey

Q17 How could Orange County do a better job of addressing the needs of its residents ages 0-25 with mental health and/or substance abuse issues? Please comment below.

Answered: 68 Skipped: 83

#	Responses	Date
1	I feel there needs to be more Bi-Lingual providers in our area which that can work with youth and families in OPT, IIHT, MST and High Fidelity Wrap;etc settings. We need to have workers of Spanish and other dialects that can communicate with our parents in their native language to help them navigate system and get connected to supports for their juvenile and family especially in a crisis after hours.	11/3/2016 3:57 PM
2	More mental health clinics for children and youth with therapist who speak different languages. More school based mental health.	11/2/2016 8:34 AM
3	More services in and out of school for all languages, cultures	11/2/2016 6:46 AM
4	more spanish speaking availability; more school based mental health spaces; more options for burmese/karen students; crisis services; people not waiting in ER for extended periods for a psy bed	11/1/2016 5:28 PM
5	Though not limited to Orange County, there is such a need for more low-cost/sliding scale mental health services available for kids, especially with options for school-based or home based services. There is also a real need for more Spanish speaking therapists in Orange County.	11/1/2016 12:37 PM
6	Better long term care.	11/1/2016 9:43 AM
7	Advocating for services located in rural communities and for transportation that provides an ease of access. Advocating for services through the MCO that are evidence-based services to treat multiple disorders, not just a select few. Behavioral therapy for children with ASD is nil in northern Orange. Services are offered in Chapel Hill, but providers won't drive an additional 10-15 miles north to provide services. Strong advocacy and push back is needed.	11/1/2016 9:27 AM
8	Actually doing something that will breakdown the existing barriers.	10/31/2016 7:06 PM
9	Work within the school building with students.	10/31/2016 6:32 PM
10	services available at school regardless of medical plan	10/31/2016 5:32 PM
11	Provide transportation. Quality of provides, nothing out there but intensive family home care.	10/31/2016 3:15 PM
12	Don't know	10/31/2016 3:02 PM
13	More transportation and providers with flexible hours (after 5pm and on the weekends)	10/31/2016 12:54 PM
14	Providing more mental health therapist. They waiting list are long usually for our students to get the care that they need.	10/31/2016 12:19 PM
15	More affordable and accessible mental health support. Families have difficulty taking off work to transport their children and many do not have insurance.	10/31/2016 11:55 AM
16	Providing more mental health therapist within the schools. There are many of our children suffering with mental illness and not only the children, but their parents. If there was any way that Orange County could assist the parents better, I think that would definite assist the students.	10/31/2016 11:43 AM
17	Provide mere resources with in the school day	10/31/2016 11:33 AM
18	Keep an updated list and how to guide for navigation of resources.	10/28/2016 4:37 PM
19	We need more bilingual MH and SA professionals (Spanish and Burmese). Need more services in the northern part of the county. More DBT trained professionals willing to see clients with Medicaid or without health insurance. More appointment hours conducive to people who work first shift hours. Better education with providers about the role of the courts with DSS involved children and families and the timelines we operate within.	10/28/2016 3:42 PM
20	Removing barriers to accessing treatment. Creating agreements with quality providers so they will serve Orange County Medicaid clients (i.e AHB, CCFH)	10/28/2016 11:14 AM

Orange County Mental Health Gap Analysis Survey

21	The difficulties I have are with specific agencies, and the difficulties are likely due to lack of funding and staff turnover.	10/28/2016 11:11 AM
22	Allow multiple services (front load) for a family to prevent a crisis versus waiting for the crisis to happen before additional services can be used.	10/28/2016 11:00 AM
23	-transportation to appointments -more quality services through IPRS or Medicaid	10/28/2016 10:27 AM
24	I do not have any suggestions at this time.	10/28/2016 10:12 AM
25	Waiting list for services is too long.	10/28/2016 10:09 AM
26	Collaboration between providers and services.	10/28/2016 10:02 AM
27	Have easier accessibility!	10/28/2016 6:42 AM
28	Teenagers and young adults ages 18-25 are often lacking insurance, because their Medicaid/Healthchoice is no longer valid. We then have to see these young adults pro-bono or use grant funding, and because of this lack of insurance, many of them are slipping through the cracks, and not getting the mental health resources they need.	10/26/2016 8:50 PM
29	taking care of non-english speaking populations more work inside schools	10/26/2016 10:38 AM
30	more trauma screening in medical practices, more promotion of Stewards of Children child sexual abuse prevention initiative. More black, Latino and Burmese/Karen therapists. More services offered through home visiting and services embedded in schools and medical practices. More engagement with high risk populations and communities. More awareness across all sectors - Mental Health First Aid for all!!!	10/25/2016 11:56 AM
31	Keep improving the same way that it has been. I do not see any major areas that need improvement.	10/22/2016 8:19 AM
32	Need for more facilities for uninsured and underinsured people to access care. Need for public health campaign to address stigma and prevalence of mental health issues in the community. Need for greater funding in schools to address variety of mental health issues and provide workshops to caregivers to address stigma and disseminate resources.	10/21/2016 1:18 PM
33	provide more services for uninsured, spanish speaking and karen/burmese speaking, more sliding scale. and more school based options, as many students cannot get to appointments in the community due to transportation issues, parent schedules, etc.	10/20/2016 1:35 PM
34	We need more accessible SA services for all (undocumented, no insurance, insurance). While there are a lot of services and providers know each other, families do not always know what is out there. Schools overall are not positioned to respond to students with mental health issues beyond being reactive and punitive. Increasing support for undocumented families is a specific need.	10/20/2016 11:30 AM
35	A comprehensive guide to available services with provider names, insurance, languages spoken, any specialty area (i.e. child/adolescent/eating disorder/school avoidance, etc.) address, and contact information would help.	10/20/2016 10:50 AM
36	Adolescents often tell me how negative the UNC ER experience is when referred there for a crisis. I feel adolescents seldom get the help they need-- perhaps because they aren't ready to accept help yet,	10/19/2016 9:58 PM
37	Spanish language therapists, funding for undocumented people, flexible clinic hours - evenings and weekends, more services in schools	10/19/2016 5:45 PM
38	More affordable assistance and help with language issues.	10/19/2016 12:55 PM
39	Reducing stigma by providing more education and exposure.	10/19/2016 11:30 AM
40	More public agency involvement in Orange County System of Care Collaborative	10/19/2016 10:22 AM
41	Making teachers and other professionals understand that there are no bad kids. No kid wants to have bad grades, no kid wants to be labelled a misfit. It's just what happens when you are dealing with a mental health issue. Also there should be free services for mental health just like for a physical injury	10/18/2016 10:56 PM
42	We need more school personnel educated about mental health and we need more providers for adolescents	10/18/2016 9:03 PM
43	provide more long term, intensive, supervised care.	10/18/2016 8:56 PM
44	Educate teachers , parents and students about different kinds of mental health problems , how to identify them and provide resource information . Develop a few centralized outpatient service center facilities for the gamut of pediatric MH problems - to simply access to MH care	10/18/2016 1:15 PM
45	Mental Health First Aid Training for all health department staff. More robust access for clients/citizens with urgent mental health needs. More community collaboration with safety net providers and mental health providers, police, UNC ED, UNC psychiatry.	10/18/2016 8:38 AM
46	Create a 10 - 20 year plan for growing and sustaining services (alas, the wildly unpredictable GA makes such an endeavor fool hardy - let's hope for change at that level). But this gaps analysis is a good idea and important first step!	10/17/2016 7:19 PM

Orange County Mental Health Gap Analysis Survey

47	Better coordination of various providers; updated resource book of providers; facilitate having more practitioners provide "in kind" care to at least one person in need.	10/17/2016 7:18 PM
48	Promote the services with the schools, religion base organizations, Community Health centers,	10/17/2016 5:23 PM
49	We need more services for non-insured individuals. Reduce the wait time from when a call is made to see someone to when a person is actually seen by someone.	10/17/2016 4:17 PM
50	More outreach assessment and prevention. More providers and free options for mental health care.	10/17/2016 4:14 PM
51	We need more mental health providers period. We need more therapist who speak Spanish and other languages, we need more therapists that take Medicaid and health choice and sliding scale. We need mental health services embedded in all our schools and community health centers. We need more alternate therapies, such as art, music and equine therapy. We need more to support our fantastically diverse community who often come from war torn parts of the world and have PTSD and trauma as a result of that.	10/17/2016 3:32 PM
52	Mental health services for undocumented immigrants continues to be a huge gap in services. In addition, the lack of Medicaid reimbursement for interpreters services provides a serious barrier to care for refugee populations.	10/17/2016 3:17 PM
53	more Spanish speaking services for folks with medicaid or those with no insurance. get Cardinal replaced.	10/17/2016 3:02 PM
54	Not sure	10/17/2016 2:16 PM
55	Affordability. Accessibility. Acceptability.	10/17/2016 11:19 AM
56	Advocate for \$ for services for undocumented individuals and families. Advocate for additional quality in patient child and adolescent in patient beds. Too many young people spending 4-5 days or more in UNC Psychiatric ER waiting for beds and still being sent as far away as Greensboro or Wilmington.	10/17/2016 11:05 AM
57	Use a consistent screening tool for individuals under 5 and encourage all providers to screen and discuss MH issues with parents as options. For those over 5, the need to reduce stigma is essential.	10/17/2016 10:41 AM
58	better screenings and that patients are screened often/early	10/17/2016 9:11 AM
59	Follow up with them more often.	10/16/2016 6:40 AM
60	We miss El Futuro in the county.	10/15/2016 4:14 PM
61	education	10/15/2016 3:54 AM
62	N/A	10/14/2016 7:30 PM
63	task forces on the street made up of EMS, social worker and LEO. making 24 hr referral easier. facilitating follow-up (see task force)	10/14/2016 6:51 PM
64	more available services in timely manner	10/14/2016 6:16 PM
65	Unknown how to deal with substance abuse since patients rarely accept help when presented.	10/14/2016 4:32 PM
66	Cardinal could help professionals and all navigate the mental health system instead of trying NOT to serve clients. They are an insurance company worried about saving money and not serving youth.	10/14/2016 2:50 PM
67	setting up better agreements with DSS and other community partnerships	10/14/2016 2:48 PM
68	lack of services for autism/MH, especially for teens people turning 18 and losing their Medicaid are dropping out of care and becoming unstable there are just not enough Spanish-speaking therapist and there will probably never be enough to keep up with the demand; there needs to be a consideration of better interpreter services this needs to be considered for Spanish-speaking, Burmese and Karen as well	10/14/2016 2:37 PM

INFORMATION ITEM



EARL MCKEE, CHAIR
MARK DOROSIN, VICE CHAIR
MIA BURROUGHS
BARRY JACOBS
BERNADETTE PELISSIER
RENEE PRICE
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Orange County Board of Commissioners
Post Office Box 8181
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Hillsborough, North Carolina 27278

November 29, 2016

Dear Commissioners,

At the Board's November 15, 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 Dorosin that staff provide information to the Board on ABC Board contributions to the County's General Fund and the process to seek and receive an increased level of funding.

Response: Staff to provide information to the Board on ABC revenues growth, percentages of funding contributed to the County, and options to pursue increased funding.

- 2) Review and consider a by Commissioner Jacobs that the County purchasing policy be updated to indicate that purchases not possible in Orange County should occur within the United States.

Response: Staff to develop draft policy update.

- 3) Review and consider a request by Commissioner Pelissier that staff develop annual method for tracking human services data and transportation needs.

Response: Staff to follow-up.

Best Regards,

Earl McKee, Chair
Board of County Commissioners