

Jody L. McLeod
MAYOR

Bruce Thompson
TOWN ATTORNEY

Steve Biggs
TOWN MANAGER



Bob Satterfield
R.S. "Butch" Lawter, Jr.
Art Holder
Jason Thompson
COUNCIL MEMBERS

Michael Grannis
MAYOR PRO TEM

TOWN COUNCIL MEETING

MARCH 18, 2013

AGENDA

MAYOR AND TOWN COUNCIL

**MAYOR JODY L. MCLEOD
MAYOR PRO TEM MICHAEL GRANNIS
COUNCILMAN BOB SATTERFIELD**

**COUNCILMAN ART HOLDER
COUNCILMAN R.S. "BUTCH" LAWTER, JR.
COUNCILMAN JASON THOMPSON**

TOWN STAFF

**STEVE BIGGS, TOWN MANAGER
SHERRY L. SCOGGINS, TOWN CLERK
BRUCE THOMPSON II, TOWN ATTORNEY**

AGENDA
THE WORK SESSION MEETING OF THE CLAYTON TOWN COUNCIL

MONDAY, MARCH 18, 2013
6:30 PM

THE CLAYTON CENTER
COUNCIL CHAMBERS

1. **CALL TO ORDER**
Pledge of Allegiance & Invocation – Mayor Jody L. McLeod
2. **ADJUSTMENT OF THE AGENDA**
3. **ACTION AGENDA**
 - a. Draft minutes from the March 4, 2013, regular meeting.
 - b. Public notice - public hearing for rezoning request RZ 2012-118.
4. **INTRODUCTIONS AND SPECIAL PRESENTATIONS**
 - a. Introduction of new Town of Clayton employee(s).
 - b. Presentation of St. Baldrick's Day request.
 - c. Presentation of Clayton Road Race request.
5. **ITEMS SCHEDULED FOR THE REGULAR MEETING AGENDA**
 - a. Public hearing for rolling stock.
 - b. Presentation of resolution requesting authorization to hold a surplus auction.
 - c. Presentation of resolution regarding fund transfer for prepayment of fire station one outstanding debt.
 - d. Presentation of rezoning request and special use request RZ 2012-118 from R-8 (Residential) to O-R SUD (Office – Residential, Special Use District) for two parcels located in the 400 block of South Lombard Street.
 - e. Presentation of sewer use ordinance and sewer use check list.
 - f. Presentation of resolution to NCDOT for road improvements on Powhatan Road.
 - g. Presentation of spring 2013 Litter Sweep Proclamation.
6. **ITEMS CONTINGENT FOR THE REGULAR MEETING**
7. **ITEMS FOR DISCUSSION**
8. **OLD BUSINESS**
 - a. Final discussion and action of noise ordinance.
 - b. Status of 110 West Front Street – former Red & White Store.
9. **STAFF REPORTS**

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

10. OTHER BUSINESS

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

11. ADJOURNMENT

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 3a

Meeting Date: 3/18/13

TITLE: DRAFT MINUTES FROM THE MARCH 4, 2013, REGULAR MEETING.

DESCRIPTION: Minutes.

RELATED GOAL: Administrative

ITEM SUMMARY:

Date:

Action:

Info. Provided:

3-18-13

Approval.

DRAFT minutes 3/4/2013.

**MINUTES
CLAYTON TOWN COUNCIL
MARCH 4, 2013**

The first regular meeting of the Clayton Town Council for the month of March was held on Monday, March 4, 2013, at 6:30 PM at Town Hall, 111 East Second Street.

PRESENT: Mayor Jody L. McLeod, Mayor Pro Tem Michael Grannis, Councilman Bob Satterfield, Councilman R.S. "Butch" Lawter Jr., and Councilman Jason Thompson.

ABSENT: Councilman Art Holder

ALSO PRESENT: Steve Biggs, Town Manager; Katherine Ross, Town Attorney; Sherry Scoggins, Town Clerk; Nancy Medlin, Deputy Town Manager; David DeYoung, Planning Director; Stacy Beard, Public Information Officer; Tommy Roy, Information Services Technician; Robert McKie, Finance Director; Larry Bailey, Parks & Recreation Director.

ITEM 1. CALL TO ORDER

Mayor McLeod called the meeting to order at 6:32 PM. Mayor McLeod led the Pledge of Allegiance and gave the invocation.

ITEM 2. ADJUSTMENT OF THE AGENDA

As there was no adjustment of the agenda, it was the consensus of the Council to proceed with the agenda.

ITEM 3. ACTION AGENDA

Councilman Lawter motioned to approve the action agenda as presented; Councilman Thompson seconded the motion. The motion carried 4-0 at 6:33 PM with the following action agenda items being approved:

- Item 3a. Public notice to schedule public hearing for rolling stock.
- Item 3b. Draft minutes from the February 18, 2013, work session meeting.
- Item 3c. Special event requests for the following:
 - Zaxby's Movie Night
 - Town Square Concert Series
 - MillStock Music & Art Faire
- Item 3d. Interlocal Contract for Cooperative Purchasing Agreement.
- Item 3e. Amendment to the Code of Ordinances pertaining to term length for the Library Board.

- Item 3f. Proclamation for Arbor Day.
- Item 3g. Asphalt warranty for Cobblestone Subdivision Phase 7G, 7H, & 7I.
- Item 3h. Warranty acceptance for public water, sewer, and associated storm drainage utilities for Cobblestone Subdivision, Phase 7D, 7E, 7F, 7G, 7H, & 7I.

ITEM 4. INTRODUCTIONS AND SPECIAL PRESENTATIONS

- Item 4a. Presentation by the Public Art Advisory Board for the Sam's Branch Greenway Public Art Project.

Suzette Rodriguez, Chair of the Public Art Advisory Board, provided background for the public art project slated for the Sam's Branch Greenway:

- Spring 2012 the Public Art Advisory Board requested a \$15,000 budget appropriation for a public art project that would include the Clayton High School art students
- Site selection process included the Parks & Recreation Department
- Artist in residency selection was Georges Le Chevallier
- Fall and winter 2012 a concept was created

She expressed her appreciation for the assistance of everyone who participated in this process.

Mr. Georges Le Chevallier expressed his thanks and he shared his background as both a traveler and artist. He provided the following PowerPoint presentation; herewith attached and incorporated as Exhibit A, Butterfly:

- Project referred to as the Butterfly Garden
- Located on Sam's Branch Greenway
- Two benches shaped like butterflies
- Bike racks shaped like butterflies
- Pieces will be coated with so that graffiti can be power washed off of the art
- 12 foot totem pole with butterflies
- High school students will create 40 butterflies out of wood
 - Largest size is two by four
 - Located on the fence
 - High school students will design the butterflies
 - 10 of the butterflies will be of local species
 - 30 remaining butterflies will be the design of the students
 - Each piece will have a special coating so that graffiti can be power washed off of the art

Based upon question by Council, Mr. Chevallier stated the butterfly designs by the art students are non-objective or abstract or geometric. He added there will be no political, religious, or commercial designs.

Based upon question by Council, Mr. Chevallier stated the life cycle of the butterfly art work is 10 years. He added that is an estimate. He stated it has been discussed by the Public Art Advisory Board that within five to six years to auction the butterflies and the proceeds of the auction would be used to promote other public art projects.

Mr. Chevallier stated that will be more than 40 butterflies created so in the event a butterfly is damaged, it can be replaced.

Based upon question by Council, Chair Rodriguez stated the \$15,000 includes that facet of work. She added a committee will be formed to judge the butterflies to select the butterflies.

Councilman Satterfield recommended using Indo board instead of plywood for the butterflies and he added that the edges will show wear before the front and back do.

Mayor McLeod stated the Public Art Advisory Board is looking for something that would begin the public art project with the Town and students. He stated this is intended to be changed.

Mr. Chevallier stated the wood shop students will also be involved.

Councilman Lawter stated his thanks to the Public Art Advisory Board for an engineer to come in and speak to the Public Art Advisory Board. He stated he is familiar with the auction concept through the Clayton High School art department having an auction of the chairs designed by the students.

Mayor McLeod stated proceeds from this year's chair auction were donated by the Clayton High School Art Department to the public art fund to offset the costs for this project.

On behalf of the Town Council, Mayor McLeod thanked Georges Le Chevallier and the Public Art Advisory Board.

Councilman Thompson motioned to approve the Butterfly Garden project as presented; Councilman Lawter seconded the motion. Motion carried 4-0 at 6:55 PM.

ITEM 5. PUBLIC HEARINGS

Item 5a. Evidentiary hearing for special use permit request SUP 2012-77 for Southside Christian School for a private school located at 1696 Amelia Church Road.

Mayor McLeod announced special use permit SUP 2012-77 for Southside Christian School for a private school located at 1696 Amelia Church Road has been noticed for an evidentiary hearing at 6:55 PM. He called upon Town Attorney Katherine Ross to explain the rules of procedure.

Town Attorney Katherine Ross introduced the evidentiary hearing procedures used for special use application SUP 2012-77. She explained that special use applications are different in certain respects from the capacity in which the Town Council normally functions. Ms. Ross stated the Town Council normally functions in a legislative capacity; special use permit application hearings are “quasi-judicial,” which means that the Council would act essentially as a court of law. She stated there is a burden that the applicant of the special use application must meet the four findings of fact as found in the UDO of the Town Code of Ordinances. She added anyone opposed to the application would have to put on evidence of a similar kind, showing the findings of fact have not been met. Ms. Ross explained that all evidence and testimony provided to the Council in such a hearing must comply with the North Carolina Rules of Evidence, which means that all such evidence and testimony must be relevant, based on personal knowledge, given under oath, and otherwise be competent and admissible. Ms. Ross also explained that her role during the hearing is to monitor all evidence and testimony to ensure that it complies with the Rules of Evidence, the Town’s procedures, and all other applicable requirements.

Mayor McLeod called all those wishing to give evidence, whether for or against the subdivision application, to come forward and be sworn in. Town Clerk Sherry Scoggins administered the oath to: David DeYoung, Steve Biggs, and Brent Purdum.

Planning Director David DeYoung provided the following overview of the PowerPoint presentation; herewith attached and incorporated into the record as Exhibit B, SUP 2012-77:

- Southside Christian School
- Request is for a private school located at Amelia Christian Church
- 5.45 acre site
- Southwest corner of Amelia Church Road and Fort Drive
- School intention is to utilize an existing education building and parking
- No site improvements are proposed
- Existing building will serve a maximum of 70 students between 7th and 12 grades in four classrooms
- NCDOT reviewed and approved the existing drive
- Findings of Fact completed and part of the record; herewith attached and incorporated into the permanent record

- Recommending one condition of approval based on NCDOT review: To exceed 70 students, the applicant must contact the Town of Clayton Planning Department and NCDOT to ensure that site conditions are adequate to handle the increase
- Staff recommends approval with the condition
- Planning Board recommends approval with the condition

Mayor Pro Tem Grannis questions how the condition will be monitored.

Planning Director DeYoung stated the expectation is the church and school would self-monitor.

Mayor Pro Tem Grannis questioned if the Planning Department would send a representative periodically.

Planning Director DeYoung stated if that is the wish of Council that can be added to the condition.

Mayor Pro Tem Grannis stated his concern is how it would be monitored.

Planning Director DeYoung stated when the numbers are exceeded, it tends to be obvious.

Mr. Brent Purdum of the school board for Southside Christian School stated his appreciation for consideration of this request. He stated they have met with NCDOT and addressed stacking for drop off and this eliminated NCDOT concerns. He added the drop off and pick up will be using Fort Drive instead of Amelia Church Road. He stated the Fire Marshal has been out and the recommendation for a bar on one of the doors has been addressed. He stated the drop off time is 8:15 AM and pick up is 3 PM with the goal of not impeding traffic. He stated the school is amenable to providing the enrollment to the Town to verify the number of students attending. He added he is available for questions.

Mayor McLeod questioned if anyone was present to speak in opposition. Hearing none, he turned this over to Council for inquiry at 7:04 PM. As there was no inquiry, Mayor McLeod called the Council into deliberation at 7:04 PM.

Mayor Pro Tem Grannis motioned to approve the special use permit request for Southside Christian School for a private school located at 1696 Amelia Church Road:

Based on the substantial and competent evidence and testimony presented to the Town Council on this matter, the Council finds and concludes that Special

Use Permit Application **SUP 2012-77**, subject to the conditions recommended by the Planning Board and Planning Staff:

- To exceed 70 students, the applicant must contact the Town of Clayton Planning Department and NCDOT to ensure site conditions are adequate to handle the increased number of students.

And with full incorporation of all statements and agreements entered into the record by the testimony of the applicant and applicant's representatives:

- (1) Will not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and approved;
- (2) Meets all required specifications and conforms to the standards and practices of sound land use planning and the Town of Clayton's Unified Development Ordinance or all other applicable regulations;
- (3) Will not substantially injure the value of adjoining or abutting property and will not be detrimental to the use or development of adjacent properties and other neighborhood uses; and
- (4) Will not adversely affect the general plans for the development of the Town of Clayton and will not violate the character or existing standards for development of the adjacent properties.

Councilman Satterfield seconded the motion. Motion carried 4-0 at 7:06 PM.

Mayor Pro Tem Grannis motioned to approve:

Based upon satisfactory compliance with the above four stated findings and fully contingent upon acceptance and compliance with all conditions as previously noted herein I move to approve Special Use Permit Application **SUP 2012-77**.

Councilman Satterfield seconded the motion. Motion carried 4-0 at 7:06 PM.

Item 5b. Evidentiary hearing for special use permit request SUP 2013-07 for Reins from Above for Assembly, not-for-profit use located at 600 Ryan's Lane.

Mayor McLeod announced special use permit SUP 2013-07 for Reins From Above for assembly, not-for-profit use located at 600 Ryan's Lane has been noticed for an evidentiary hearing at 7:06 PM. He called upon Town Attorney Katherine Ross to explain the rules of procedure.

Town Attorney Katherine Ross stated the procedures explained for SUP 2012-77 apply to SUP 2013-07.

Mayor McLeod called all those wishing to give evidence, whether for or against the subdivision application, to come forward and be sworn in. Town Clerk

Sherry Scoggins administered the oath to: David DeYoung, Steve Biggs, Stacey Ryder, and John Butkowski.

Planning Director David DeYoung provided the following overview of the PowerPoint presentation; herewith attached and incorporated into the record as Exhibit C, SUP 2013-07:

- Reins From Above is a not for profit, horseback riding therapy facility
- Request is located at 600 Ryan's Lane off of Shotwell Road
- Site is 17 +/- acres
- Current use is a residence and private stable
- Request is for a not for profit assembly
- Current program includes 27 students and operates on average three days a week
- Utilize the existing building and stables
- Parking for volunteers and student parking was added and it includes handicap parking
- Applicant addressed the finding of fact in the application and part of the record; herewith attached and incorporated into the permanent record
- Ryan's Lane is a private road in its current state and upkeep is by the current homeowners
- Applicant held neighborhood meeting; concerns revolved around road, traffic, and volume of persons going to the Reins From Above site
- Staff recommendations – not part of the conditions of approval:
 - Formal agreement between the property owners for road maintenance is highly encouraged
 - The covenants for Ryan's Lane include a formula for upkeep of Ryan's Lane; however it does not apply to the 17 acre site
- Staff conditions of approval for SUP 2013-07:
 - Student sessions shall be limited to four days per week
 - No more than 20 students per day may attend sessions
 - On-site fundraisers in support of the not-for-profit shall be limited to four per year and subject to a special event/temporary use permit
 - Horses and livestock animals shall be limited to a maximum of one per acre

Ms. Stacey Ryder, director of Reins From Above, stated she is in agreement with the conditions stated this evening.

Mayor McLeod questioned if there was anyone wishing to speak in opposition.

Town Attorney Ross stated persons providing testimony will have to be sworn in.

Town Clerk Sherry Scoggins administered the oath to Mr. John Butkowski.

Mr. John Butkowski, 40 Ryan's Lane, stated he is at the first house on Ryan's Lane. He stated this is a private road and it is not maintained by the State. He stated the road is maintained to the best of each homeowner's ability. He stated he is concerned that if approved that non-residents will use the street. He stated there are no guard rails and there is a steep cliff on the left that goes into a small creek. He stated if there were an accident, he does not want to be held responsible. He stated to the best of his knowledge, when the developer came he would have to pave and maintain the road and since then the developer is bankrupt and the road has not been maintained. He added the road is deteriorating. He stated there is not a homeowners association and he does not want one established. He stated he would like the applicant to have her horse farm and he questioned if there is another way for the patrons to get to her site.

Councilman Lawter stated the staff recommended an agreement that is not part of the approval. He questioned if that is something the Council can act on.

Town Attorney Ross stated no as that is a binding act on the surrounding land owners.

Mayor Pro Tem Grannis stated Mr. Butkowski made a comment with respect to a concern pertaining to liability should someone have an accident on that road. He questioned who would be at fault.

Town Attorney Ross stated she did not know. She stated she believes that the person invited is making the choice. She stated she would have to research as she does not know the liability for that road.

Mayor McLeod called the Council into deliberation at 7:21 PM.

Mayor Pro Tem Grannis stated before making a recommendation, he does not have a problem with the requirements. He stated he would like to share with Ms. Ryder that what she does is honorable. He stated he is convinced that what she does makes a difference for the children. He stated he would be remiss if he did not comment that this process could have been timelier and probably easier had the process been followed through the first time. He stated he kudos to her for attempting to do that up to a point. He stated in the future, any development will require following the procedures.

Mayor Pro Tem Grannis motioned:

Based on the substantial and competent evidence and testimony presented to the Town Council on this matter, the Council finds and concludes that Special

Use Permit Application **SUP 2013-07**, subject to the conditions recommended by the Planning Board and Planning Staff:

- Student sessions shall be limited to four days per week
- No more than 20 students per day may attend sessions
- On-site fundraisers in support of the not-for-profit shall be limited to four per year and subject to a special event/temporary use permit
- Horses and livestock animals shall be limited to a maximum of one per acre

And with full incorporation of all statements and agreements entered into the record by the testimony of the applicant and applicant's representatives:

- (1) Will not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and approved;
- (2) Meets all required specifications and conforms to the standards and practices of sound land use planning and the Town of Clayton's Unified Development Ordinance or all other applicable regulations;
- (3) Will not substantially injure the value of adjoining or abutting property and will not be detrimental to the use or development of adjacent properties and other neighborhood uses; and
- (4) Will not adversely affect the general plans for the development of the Town of Clayton and will not violate the character or existing standards for development of the adjacent properties.

Councilman Satterfield seconded the motion. Motion carried 4-0 at 7:24 PM.

Mayor Pro Tem Grannis motioned to approve:

Based upon satisfactory compliance with the above four stated findings and fully contingent upon acceptance and compliance with all conditions as previously noted herein I move to approve Special Use Permit Application **SUP 2013-07**.

Councilman Satterfield seconded the motion. Motion carried 4-0 at 7:25 PM.

Councilman Thompson stated that because this is a not-for-profit and it is staffed by volunteers, he motioned to waive the \$400 special use permit fee for SUP 2013-07. Councilman Satterfield seconded the motion. Motion carried 4-0 at 7:25 PM.

ITEM 6. OLD BUSINESS

Item 6a. Status of noise ordinance.

Town Manager Steve Biggs stated as requested, the ordinance was revised to include an exceptions section. He stated this has been distributed and is herewith incorporated into the record.

Councilman Bob Satterfield stated the changes received are good. He stated as Councilman Holder is not here this evening, he requested to postpone this item to the next meeting when he is present.

It was the consensus of the Council to continue this item to the next meeting.

Item 6b. Status of 110 West Front Street – Former Red & White Store –
TRACKING PURPOSES.

Town Manager Steve Biggs stated the dialogue is continuing.

ITEM 7. NEW BUSINESS

Item 7a. Presentation of resolution for purchase of rolling stock.

Finance Director Robert McKie stated two draft resolutions were included in the agenda packet. He stated a public hearing is slated for March 18 as the objective is to close on the items before March 31.

Mayor Pro Tem Grannis questioned if this is the beginning of what Council received at the debt presentation.

Town Manager Biggs stated this was included in this year's budget.

ITEM 8. STAFF REPORTS

Item 8a. Town Manager

Town Manager Steve Biggs stated no additional report.

Item 8b. Town Attorney

Town Attorney Katherine Ross stated no additional report.

Item 8c. Town Clerk

Town Clerk Sherry Scoggins stated no additional report.

Item 8d. Other Staff
No other staff had a report.

ITEM 9. OTHER BUSINESS

Item 9a. Informal Discussion and Public Comment.

No informal discussion and public comment were presented to the Council.

Item 9b. Council Comments.

Councilman Lawter questioned the status of East Clayton Community Park.

Town Manager Biggs stated there has been a final walk through and added the notice of substantial completion has not been issued.

Mayor McLeod stated tomorrow at lunch he will present a program at Rainbow Lanes to the Clayton Rotary Club.

ITEM 10. ADJOURNMENT

Councilman Satterfield motioned to adjourn; Councilman Thompson seconded the motion. Motion carried 4-0 at 7:32 PM.

Duly adopted by the Town Council this 18th day of March 2013, while in regular session.

ATTEST:

Jody L. McLeod
Mayor

Sherry L. Scoggins, MMC
Town Clerk

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 3b

Meeting Date: 3/18/13

TITLE: PUBLIC NOTICE – PUBLIC HEARING FOR REZONING REQUEST RZ-2012-118.

DESCRIPTION: Rezoning request RZ 2012-118 is for two parcels located at 419 & 425 South Lombard Street. The current zoning is R-8 (Residential) to O-R SUD (Office-Residential Special Use District).

In accordance with the Town’s Unified Development Code 155.711 (Q), an application for a special use permit may be reviewed concurrently with a rezoning application. A decision shall be rendered first for any rezoning and then subsequently for any special use permit.

PLANNING BOARD RECOMMENDATION: At the February 25, 2013, Planning Board meeting, the Planning Board voted to recommend 1) approval of the rezoning of the property to Office-Residential Special Use District, and 2) approval of a Special Use Permit for the same geography with the conditions recommended by staff.

Public hearing slated for the Monday, April 1, 2013, Clayton Council meeting.

RELATED GOAL: Legislative

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
3-18-13	Public notice.	N/A

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 4a

Meeting Date: 3/18/13

TITLE: INTRODUCTION OF NEW TOWN OF CLAYTON EMPLOYEE (S).

DESCRIPTION: Introduction(s).

RELATED GOAL: Administrative

ITEM SUMMARY:

Date:

Action:

Info. Provided:

3-18-13

Introduction(s).

N/A.

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 4b

Meeting Date: 3/18/13

TITLE: PRESENTATION OF ST. BALDRICK'S DAY REQUEST.

DESCRIPTION: St. Baldrick's is a fundraiser for childhood cancer research. The event is slated for April 20, 2013. The request is to temporarily close the portion of South Lombard Street between Main and Second Streets from 12 noon until 5 PM.

RELATED GOAL: Think Downtown

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
3-18-13	Presentation.	Staff report.



Town of Clayton
Planning Department
111 E. Second Street, Clayton, NC 27520
P.O. Box 879, Clayton, NC 27528
Phone: 919-553-1545
Fax: 919-553-1720

SPECIAL EVENTS COMMITTEE REPORT

Application Number: 2013-0246
Event Name: St Baldrick's
Event Date(s): April 20, 2013
Location: The Flipside, 408 E Second St

Downtown/Town Limits/ETJ: Downtown

Applicant: Rob Baker

Contact: Rob Baker (919) 235-8474 (cell), rob@awardsandengravables.com

Committee Meeting: February 28, 2013

Attendance: Steve Biggs, Town Manager; Dale Medlin, Director, Electric Dept.; Steve Blasko, Public Works; Lee Barbee, Fire Chief; Tony Atkinson, Fire Marshall; Dede Bumgarner, Zoning Admin; Christy Starnes; Stacy Beard, PIO; Scotty Henley, Director, The Clayton Center; Martha Vandergriff, The Clayton Center; Bruce Naegelen, Downtown Development Coordinator

EVENT LOCATION: The Flipside Parking Lot, 408 E Second St and S Lombard (between Main & Second streets)

EVENT DESCRIPTION:

- 12:00 pm – 5:00 pm.
 - Fundraiser for childhood cancer research
 - Heads are shaved for donations
 - Estimated Attendees per day: 200-300
-

SERVICES REQUESTED:

- Street closure: S Lombard St between Main & Second
 - For emergency vehicles and crowd overflow if needed
 - Blockades
 - Trash roll-out carts 2 each, regular and recycle
-

COMMITTEE ANALYSIS AND COMMENTARY:

2/28/2013 Committee Mtg:

- No vendors

- 40 x 20 tent (permit required)
 - Volunteers will assist with crowd control, and trash pickup
-

COMMITTEE CONDITIONS

- **Action Issues:**
 - Authorization from Town Council & NCDOT to close S Lombard St
 - Building permit for 20'x40' tent
-

COMMITTEE ACTIONS:

- Recommended approval
 - Send Staff Report to Town Clerk to schedule presentation on March 18 Town Council agenda
-

TOWN COUNCIL CONSIDERATIONS

- Closure of S Lombard Street between Main & Second
 - Permission also needed from NCDOT
-

DOCUMENTATION RECEIVED:

- Special Event Application
 - Proof of Insurance
 - Site Map
-

POST EVENT REVIEW:

Scheduled: April 25, 2013

-

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 4c

Meeting Date: 3/18/13

TITLE: PRESENTATION OF CLAYTON ROAD RACE REQUEST.

DESCRIPTION: The Clayton Road Race is an annual Clayton Parks & Recreation 5k Road Race. The event is slated for May 11, 2013. The request is to temporarily close streets included on the map of the route from 7:30 AM to 12 noon.

RELATED GOAL: Think Downtown

ITEM SUMMARY:

Date:

Action:

Info. Provided:

3-18-13

Presentation.

Staff report and map.



Town of Clayton
Planning Department
111 E. Second Street, Clayton, NC 27520
P.O. Box 879, Clayton, NC 27528
Phone: 919-553-1545
Fax: 919-553-1720

SPECIAL EVENTS COMMITTEE REPORT

Application Number: 2013-0238
Event Name: Clayton Road Race
Event Date(s): May 11, 2013
Location: The Clayton Center / Streets of Downtown

Downtown/Town Limits/ETJ: Downtown

Applicant: Clayton Parks & Recreation

Contact: Matt Lorian (919) 553-1554, mlorian@townofclaytonnc.org

Committee Meeting: February 28, 2013

Attendance: Steve Biggs, Town Manager; Dale Medlin, Director, Electric Dept.; Steve Blasko, Public Works; Lee Barbee, Fire Chief; Tony Atkinson, Fire Marshall; Dede Bumgarner, Zoning Admin; Christy Starnes; Stacy Beard, PIO; Scotty Henley, Director, The Clayton Center; Martha Vandergriff, The Clayton Center; Bruce Naegelen, Downtown Development Coordinator

EVENT LOCATION: Start/Finish at The Clayton Center parking lot on Horne Street

EVENT DESCRIPTION:

- 7:30 am – 12:00 pm.
- Annual Clayton Parks & Recreation 5k Road Race
- Refer to map for race route.

Estimated Attendees per day: 250-300

SERVICES REQUESTED:

- Street closures as described on map and under Town Council Considerations
 - Blockades
 - Police support
 - Trash roll-out carts
-

COMMITTEE ANALYSIS AND COMMENTARY:

2/28/2013 Committee Mtg:

- The road race has been organized for many years by Clayton Parks & Recreation
- There are no changes from past years

- Note: As part of TOC Wellness Program, TOC employees may participate in the race and be timed at no cost. No perks like a t-shirt unless they pay the registration fee.
-

COMMITTEE CONDITIONS

- Authorization from Town Council to close Town streets as shown on map and described under Town Council Considerations
 - Authorization from NCDOT to close streets under NCDOT control
-

COMMITTEE ACTIONS

- Recommended approval
 - Send Staff Report to Town Clerk to schedule presentation on March 18 Town Council agenda
-

TOWN COUNCIL CONSIDERATIONS

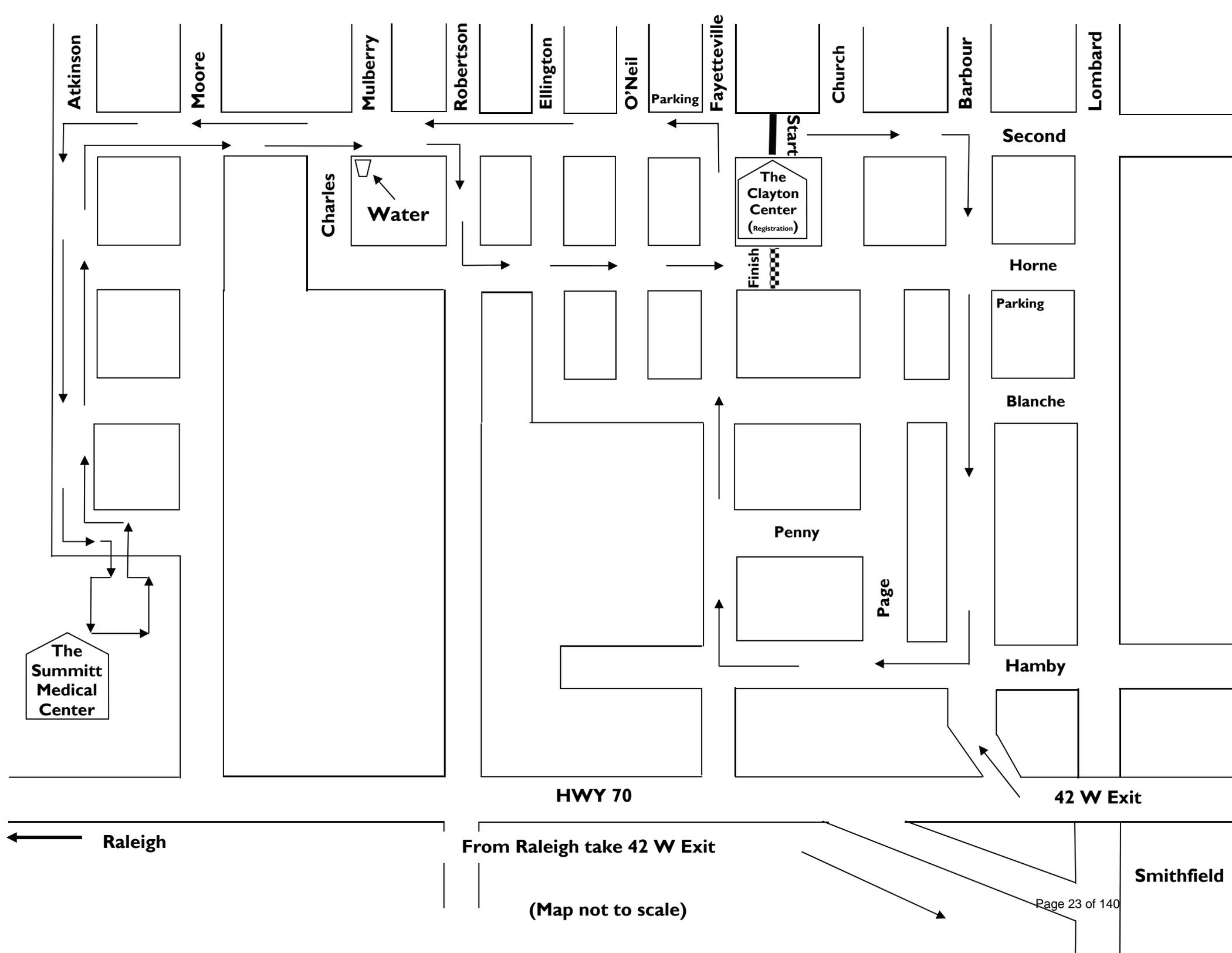
- Consider closure of Streets:
 - Second Street/Fayetteville Street (Barricade @ Main)
 - Second Street/Church Street (Cones)
 - Second Street/Barbour Street (Cones)
 - Barbour Street/Horne Street (Cones)
 - Barbour Street/Blanche Street (Cones)
 - Barbour Street/Hamby Street (Barricade)
 - Hamby Street/Fayetteville Street (Barricade)
 - Penny Street/Fayetteville Street (Cones)
 - Blanche Street/Fayetteville Street (Cones)
 - Second Street/O'Neil Street (Cones)
 - Second Street/Ellington Street (Cones)
 - Second Street/Robertson Street (Barricade @ Main)
 - Second Street/Mulberry Street (Cones)
 - Second Street/Charles Street (Cones)
 - Second Street/Moore Street (Cones)
 - Second Street/Atkinson Street (Barricade)
 - Horne Street/Atkinson Street (Cones)
 - Bartex Mill Street/Atkinson Street (Cones)
 - Moore Street/Atkinson Street (Barricade)
 - Horne Street/Robertson Street (Cones)
 - Horne Street/Ellington Street (Cones)
 - Horne Street/O'Neil Street (Cones)
 - Horne Street/Fayetteville Street (Barricade)
 - Horne Street/Church Street (Cones)
 - Closure of appropriate streets by NCDOT
 - Closure of The Clayton Center Parking Lot on Horne Street
-

DOCUMENTATION RECEIVED:

- Special Event Application
 - Route Map
-

POST EVENT REVIEW:

Scheduled May 30, 2013 at 10:00 am Fire Station 1



**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 5a

Meeting Date: 3/18/13

TITLE: PUBLIC HEARING FOR ROLLING STOCK.

DESCRIPTION: This is a time sensitive items and action is requested so this item may be acted upon before the close of March.

RELATED GOAL: Financially Responsible Town Government Providing Quality Service

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
3-04-13	Approval & Public Notice.	N/A
3-18-13	Public hearing.	Bid Summary, 1 st Citizens Bank letter, Resolution For General Fund Rolling Stock, Bank of America Letter, & Resolution for Electric Rolling Stock.

**Town of Clayton
General Fund
Rolling Stock RFP - \$342,100 Maximum
FY 12-13
Bid Summary**

Institution	RFP Reply	Interest Rate	Effective Rate	Term	Monthly Payment	Total Interest	Bank Fees	Prepay Penalty ⁶
First Citizens Bank	Yes	0.94%	0.94%	36 months	\$ 9,641.12	\$ 4,980.24	\$ -	\$500
BB&T	Yes	1.35%	1.35%	36 months	\$ 9,701.85	\$ 7,166.60	\$ -	1%
PNC Bank	Yes	1.360%	1.46%	36 months	\$ 9,703.34	\$ 7,220.24	\$ 500	1%
SunTrust	Yes	1.362% ³	1.46%	36 months	\$ 9,703.64 ⁴	\$ 7,231.04	\$ 500 ⁵	1%
Four Oaks Bank	Yes	1.63%	1.65%	36 months	\$ 9,746.87	\$ 8,787.16	\$ -	No
Bank of America	No ¹	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Fifth Third Bank	No ²	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Wells Fargo	No ²	N/A	N/A	N/A	N/A	N/A	N/A	N/A

¹ \$500,000 Minimum

² No Response by Deadline (February 22nd @ 2:00 PM)

³ 1.562% (No Prepay Penalty Option)

⁴ \$9,733.35 @ 1.562% (No Prepay Penalty Option)

⁵ Plus UCC Fees

⁶ No Intent to Prepay Principal Balance

**Town of Clayton
Electric System
Rolling Stock RFP - \$414,083 Maximum
FY 12-13
Bid Summary**

Institution	RFP Reply	Interest Rate	Effective Rate	Term	Monthly Payment	Total Interest	Bank Fees	Prepay Penalty ⁶
Bank of America	Yes ¹	1.22%	1.22%	59 months	\$ 7,234.52	\$ 12,753.58	\$ -	No
First Citizens Bank	Yes	1.25%	1.25%	59 months	\$ 7,239.89	\$ 13,070.32	\$ -	\$500
BB&T	Yes	1.48%	1.48%	59 months	\$ 7,281.13	\$ 15,503.67	\$ -	1%
SunTrust	Yes	1.51% ³	1.56%	59 months	\$ 7,286.52 ⁴	\$ 15,821.68	\$ 500 ⁵	1%
PNC Bank	Yes	1.52%	1.57%	59 months	\$ 7,288.32	\$ 15,927.88	\$ 500	1%
Four Oaks Bank	Yes	2.39%	2.42%	59 months	\$ 7,452.04	\$ 25,587.18	\$ -	No
Fifth Third Bank	No ²	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Wells Fargo	No ²	N/A	N/A	N/A	N/A	N/A	N/A	N/A

¹ \$500,000 Minimum Waived

² No Response by Deadline (February 22nd @ 2:00 PM)

³ 1.71% (No Prepay Penalty Option)

⁴ \$7,322.53 @ 1.71% (No Prepay Penalty Option)

⁵ Plus UCC Fees

⁶ No Intent to Prepay Principal Balance



**First Citizens
Bank**

February 22, 2013

Installment Purchase Contract Proposal for:

Town of Clayton
PO Box 879
Clayton, NC 27528
Attn: Robert W. McKie, Jr, Finance Director

Offered By:

First-Citizens Bank & Trust Company
P.O. Box 29519
16 E Rowan Street
Raleigh, North Carolina 27626-0519

Type of Contract: A municipal installment purchase contract structure with the Town responsible for all expenses related to the use of the vehicles including taxes and maintenance. The Town shall also be responsible for selecting the equipment and the dealer.

Description of Vehicles: Finance the purchase of rolling stock at a total cost not to exceed \$342,100.00.

Installment Terms & Fees: First Citizens will provide a thirty-six (36) month term at a tax exempt fixed rate of 0.94%. Monthly payments made in arrears would be \$9,641.12. There will not be an origination fee due at closing.

Prepayment: The Town may early terminate the contract by paying the unpaid principal balance plus earned interest per an amortization schedule to be provided by Bank. The principal balance may be prepaid, in full and at any time, at a prepayment price equal to 100% of the principal balance plus \$500.00, together with accrued interest to the date of prepayment, upon thirty (30) days prior written notice to the Bank. This pertains to each exhibit under the installment sale agreement.

Non-Appropriation/Early Termination: The Town shall exercise its best efforts to obtain annual appropriations to meet fiscal year installment sale payments. The contract may be terminated without penalty, in the event of non-appropriations.

Rate Modification/Refinancing: The Town may refinance or modify the existing rate on the contract, with a flat fee of \$500.00 or 1% of the outstanding principal balance, whichever is greater. The refinancing or modification may only be made on the annual anniversary date of the contract.

Tax Status: The Town is qualified as a governmental entity within the meaning of Section 103 (A) of the Internal Revenue Code of 1954, as amended.

North Carolina General Statute: The installment sale will conform to the requirements of North Carolina General Statute 159, Article 8 and 160A-20.

Qualified Tax Exempt Obligation: The Town will certify that the contract will be designed as a qualifying obligation under the \$10,000,000 small issue exemption as described within Section 265b3 of the Tax Reform Act of 1986.

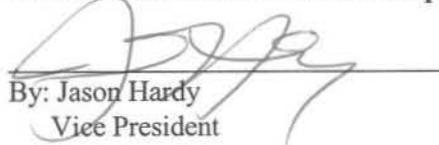
Documents Required:

- (1) Installment Sale Finance Contract.
- (2) Exhibit A - Schedule of equipment/vehicles.
- (3) Exhibit B - Schedule of payments, rate and term including amortization structure.
- (4) Exhibit D - Validity Letter prepared by Town's counsel.
- (5) Exhibit E - Bank Eligibility Certificate
- (6) Certified copy of minutes approving the transaction.
- (7) IRS Form 8038-G.
- (8) Titles and/or UCCs filed.

Proposal and Conditions: This proposal is not a commitment to provide funding, nor is it a commitment as to pricing. Final and full approval for funding and pricing is subject to the approval of the Executive Management of First-Citizens Bank & Trust Company. The closing of the transaction must occur on or before April 22, 2013.

This proposal will expire unless it is accepted in writing and the acceptance is received by the undersigned on or before March 22, 2013.

First-Citizens Bank & Trust Company


By: Jason Hardy
Vice President

The foregoing proposal is accepted and approval of rate and funding is requested:

Town of Clayton

By: _____

Title: _____

Date: _____

AMORTIZATION SCHEDULE - 30 day months/360 day year

Town of Clayton

Current Balance or Original Amount	342,100.00
Interest Rate	0.94%
Date of Note	3/1/2013 *date is subject to change
Payments per Year	12
First Payment Due Date	4/1/2013 *date is subject to change
# of Payments	36
P&I Level Payment Amount	9,641.12
Total Interest	4,980.24
Total of Payments	347,080.24

Pmt No.	Due Date	# Days	Beginning Balance	Rate	Interest	Principal	Ending Balance	Total Payment
1	4/1/2013	30	342,100.00	0.940	267.98	9,373.14	332,726.86	9,641.12
2	5/1/2013	30	332,726.86	0.940	260.64	9,380.48	323,346.38	9,641.12
3	6/1/2013	30	323,346.38	0.940	253.29	9,387.83	313,958.55	9,641.12
4	7/1/2013	30	313,958.55	0.940	245.93	9,395.18	304,563.37	9,641.12
5	8/1/2013	30	304,563.37	0.940	238.57	9,402.54	295,160.82	9,641.12
6	9/1/2013	30	295,160.82	0.940	231.21	9,409.91	285,750.91	9,641.12
7	10/1/2013	30	285,750.91	0.940	223.84	9,417.28	276,333.63	9,641.12
8	11/1/2013	30	276,333.63	0.940	216.46	9,424.66	266,908.98	9,641.12
9	12/1/2013	30	266,908.98	0.940	209.08	9,432.04	257,476.94	9,641.12
10	1/1/2014	30	257,476.94	0.940	201.69	9,439.43	248,037.51	9,641.12
11	2/1/2014	30	248,037.51	0.940	194.30	9,446.82	238,590.69	9,641.12
12	3/1/2014	30	238,590.69	0.940	186.90	9,454.22	229,136.47	9,641.12
13	4/1/2014	30	229,136.47	0.940	179.49	9,461.63	219,674.84	9,641.12
14	5/1/2014	30	219,674.84	0.940	172.08	9,469.04	210,205.80	9,641.12
15	6/1/2014	30	210,205.80	0.940	164.66	9,476.46	200,729.34	9,641.12
16	7/1/2014	30	200,729.34	0.940	157.24	9,483.88	191,245.46	9,641.12
17	8/1/2014	30	191,245.46	0.940	149.81	9,491.31	181,754.15	9,641.12
18	9/1/2014	30	181,754.15	0.940	142.37	9,498.74	172,255.41	9,641.12
19	10/1/2014	30	172,255.41	0.940	134.93	9,506.18	162,749.23	9,641.12
20	11/1/2014	30	162,749.23	0.940	127.49	9,513.63	153,235.60	9,641.12
21	12/1/2014	30	153,235.60	0.940	120.03	9,521.08	143,714.51	9,641.12
22	1/1/2015	30	143,714.51	0.940	112.58	9,528.54	134,185.97	9,641.12
23	2/1/2015	30	134,185.97	0.940	105.11	9,536.01	124,649.96	9,641.12
24	3/1/2015	30	124,649.96	0.940	97.64	9,543.48	115,106.49	9,641.12
25	4/1/2015	30	115,106.49	0.940	90.17	9,550.95	105,555.54	9,641.12
26	5/1/2015	30	105,555.54	0.940	82.69	9,558.43	95,997.11	9,641.12
27	6/1/2015	30	95,997.11	0.940	75.20	9,565.92	86,431.19	9,641.12
28	7/1/2015	30	86,431.19	0.940	67.70	9,573.41	76,857.77	9,641.12
29	8/1/2015	30	76,857.77	0.940	60.21	9,580.91	67,276.86	9,641.12
30	9/1/2015	30	67,276.86	0.940	52.70	9,588.42	57,688.44	9,641.12
31	10/1/2015	30	57,688.44	0.940	45.19	9,595.93	48,092.51	9,641.12
32	11/1/2015	30	48,092.51	0.940	37.67	9,603.45	38,489.07	9,641.12
33	12/1/2015	30	38,489.07	0.940	30.15	9,610.97	28,878.10	9,641.12
34	1/1/2016	30	28,878.10	0.940	22.62	9,618.50	19,259.60	9,641.12
35	2/1/2016	30	19,259.60	0.940	15.09	9,626.03	9,633.57	9,641.12
36	3/1/2016	30	9,633.57	0.940	7.55	9,633.57	0.00	9,641.12

TOWN OF CLAYTON
Resolution Approving Financing Terms

WHEREAS, The Town of Clayton (the "Town") has previously determined to undertake a project for the financing of the General Fund's purchase of rolling stock and the Finance Director has now presented a proposal for the financing of such Project,

BE IT THEREFORE RESOLVED, as follows:

1. The Town hereby determines to finance the Project through First Citizens Bank, in accordance with the proposal dated February 22, 2013. The amount financed shall consist of an installment financing contract in an amount not to exceed \$342,100, with an annual interest rate (in the absence of default or change in tax status) of 0.94% and a 3 year term.
2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the Town are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution. The Financing Documents shall include a Financing Agreement and a Project Fund Agreement as First Citizens Bank may request.
3. The Finance Director is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such director's satisfaction. The Finance Director is authorized to approve changes to any Financing Documents previously signed by Town officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Director shall approve, with the Finance Director's release of any Financing Document for delivery constituting conclusive evidence of such director's final approval of the Document's final form.
4. Each of the Finance Director and other Town officers are hereby authorized to execute future amendments and modifications to the Financing Documents as they deem to be in the best interest of the Town, without further action on the part of the Town Council, so long as such amendment or modification does not increase the interest rate applicable to the Financing Documents or extend the weighted average maturity of the financing.
5. The Town shall not take or omit to take any action the taking or omission of which will cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The Town hereby designates its obligations to make principal and interest payments under the Financing Documents as

"qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b) (3).

6. The Town intends that the adoption of this resolution will be a declaration of the Town's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the First Citizens Bank financing described above. The Town intends that funds that have been advanced, or that may be advanced, from the Town's General Fund or any other Town fund related to the project, for project costs may be reimbursed from the financing proceeds.
7. All prior actions of Town officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict.

This resolution is effective upon its adoption this 18th day of March, 2013.

Jody L. McLeod
Mayor

ATTEST:

Sherry Scoggins, Town Clerk

This is to certify that this is a true and accurate copy of a Resolution, adopted by the Town Council of Clayton on the 18th day of March, 2013.

Sherry Scoggins, Town Clerk

Date



Charles T. Maguire
Senior Vice President
Government Equipment Finance

Banc of America Public Capital Corp
VA2-300-18-02
1111 E. Main Street, 18th Floor
Richmond, VA 23219
Email: charles.maguire@bamf.com
Tel: (804) 788-3345
Fax: (804) 262-8344

February 22, 2013

Robert W. McKie, Jr.
Finance Director
Town of Clayton, NC

Via Email at rmckie@townofclaytonnc.org

Dear Mr. McKie,

Banc of America Public Capital Corporation ("BAPCC") on behalf of Bank of America, N.A. is pleased to submit to you ("Borrower") the Loan financing proposal (the "Proposed Transaction") described in the attached Summary of Terms and Conditions (the "Term Sheet").

This letter and the Term Sheet (collectively, the "Proposal" or "Proposal Letter") include only a brief description of the principal terms of the Proposed Transaction, and are intended for discussion purposes only. This Proposal Letter is not intended to and does not create any binding legal obligation on the part of either party. THIS PROPOSAL LETTER IS NOT, AND IS NOT TO BE CONSTRUED AS, A COMMITMENT OR OFFER BY BAPCC OR ANY RELATED ENTITY TO ENTER INTO THE PROPOSED TRANSACTION. BAPCC will not be obligated to provide any financing until the satisfactory completion of its credit, legal and investment approval process. The terms and conditions of this Proposal Letter shall be superseded by and shall no longer be effective upon the execution and delivery of final legal documentation with respect to this Proposed Transaction.

This Proposal must be accepted on or before **February 28, 2013** in order for BAPCC to proceed with its consideration of the Proposed Transaction. To accept this proposal, please sign the enclosed copy of this letter and return it, by no later than February 28th to:

Banc of America Public Capital Corp
1111 E. Main Street, 18th Floor
Richmond, VA 23832
P - 804-788-3345
F - 804-788-3432

We appreciate this opportunity to present Bank of America.

Very truly yours,

BANC OF AMERICA PUBLIC CAPITAL CORP

Charles T. Maguire
Senior Vice President

Page 2

The undersigned, by its authorized representative below, accepts the above proposal, agrees to furnish Lender, its successors and assigns, any information relating to the business or financial condition of Borrower or its affiliates, and authorizes Lender, Bank of America N.A. and their affiliates to disclose to, discuss with and distribute such information (and any information they may already have) to any other affiliates or proposed assignees or successors of Lender.

Town of Clayton, NC

By: _____

Title: _____

Date: _____

Please provide Federal ID No.: _____

Insurance Information:

Carrier: _____

Contact: _____

Telephone No. _____

SUMMARY OF TERMS AND CONDITIONS

- Date:** February 22, 2013
- Borrower:** Town of Clayton, NC ("Borrower")
- Lender:** Banc of America Public Capital Corp (BAPCC), or its designee ("Lender")
- Project:** Purchase of vehicles and equipment as described in the City's RFP dated December 20, 2012
- Loan Structure:** Installment Financing Agreement (NC G.S. 160A-20) in an amount up to \$414,083. This financing is intended as a **BANK QUALIFIED** security transaction; all tax benefits will remain with Borrower; the installment financing will be a net financial agreement, and all expenses, including (but not limited to) insurance, maintenance, and taxes, will be for the account of Borrower.
- Security:** BAPCC will have a security interest in the equipment financed.
- Term:** 59 Months
- Maximum Funding:** \$414,083
- Rates:** 1.22%
- The current rates are locked from the date of this Term Sheet until March 29, 2013 and will be honored so long as the transaction is funded before such date. After March 29, 2013, Lender may adjust the rate upward depending on changes in interest rates between March 29, 2013 and the date the final pricing is determined.*
- In order to lock the rate, the City must notify (email is fine) BAPCC of acceptance of the rates within 5 business days from the issuance of this proposal.**
- Payments:** Monthly in arrears (See amortization schedule).
- Insurance:** Borrower may be required to provide, at its expense, casualty insurance (with such deductibles as Lender may approve) Lender has the ability, if necessary, to obtain and provide any insurance certificate required.
- Prepayment:** Borrower may prepay the Installment Agreement at par on any payment date (with 30 days notice) after half the term has elapsed.
- Governmental Entity Loan:** The Base Rent installments are calculated on the assumptions, and Borrower will represent, that Borrower is a state or political subdivision of a state within the meaning of Section 103(c) of the Internal Revenue Code (the "Code"), that this transaction will constitute an obligation of Borrower within the meaning of Section 103(a) of the Code, notwithstanding Section 103(b) of the Code. Borrower shall provide Lender with such evidence as Lender may request to substantiate and maintain such tax status.
- Borrower will indemnify Lender only as to the actions or omissions of the Borrower, on an after-tax basis, against any loss of Federal income tax exemption of the interest portion of the rentals and against any penalties and interest imposed by the Internal Revenue Service on Lender in connection therewith on a lump-sum basis.

Non-Appropriation

Termination: Borrower affirms that funds are available for the current fiscal year and reasonably believes that sufficient funds can be obtained to make all rental payments during each subsequent fiscal year. Borrower will regularly budget for and otherwise use its best efforts to obtain funds for the continuation of the rentals in this transaction.

Expenses: Borrower and Lender will each be responsible for its own expenses incurred in connection with the preparation, negotiation and closing of the Loan documentation. There are no other fees or costs associated with this transaction.

Escrow

Account: Proceeds of the Installment Agreement shall be deposited with a third party escrow agent (acceptable to Lender and fees paid by Borrower) and disbursement made there from, subject to compliance with applicable regulations under the Internal Revenue Code, including, but not limited to arbitrage regulations, to pay for the project upon the execution and delivery of an acceptance certificate (and related documents) by Borrower and approved by Lender.

Documents: Loan documents in form and substance satisfactory to Lender and its local counsel must be executed and delivered. If Lender requests, Borrower will also furnish duly executed landlord and mortgage waivers and supporting information. Borrower will also provide board resolutions, incumbency certificates and other documentation required by Lender.

Credit Due

Diligence: In order to complete its credit due diligence, Banc of America Public Capital Corp Credit Administration will need you to provide:

1. Most recent fiscal year's Budget;
2. Last three years financial statements
3. Insurance Certificate

Loan Amortization:

date	funding	payment	interest	principal	balance
-----	-----	-----	-----	-----	-----
3/29/2013	\$414,083.00				\$414,083.00
4/29/2013		\$ 7,234.52	\$ 420.98	\$ 6,813.53	\$407,269.47
5/29/2013		\$ 7,234.52	\$ 414.06	\$ 6,820.46	\$400,449.01
6/29/2013		\$ 7,234.52	\$ 407.12	\$ 6,827.40	\$393,621.61
7/29/2013		\$ 7,234.52	\$ 400.18	\$ 6,834.34	\$386,787.27
8/29/2013		\$ 7,234.52	\$ 393.23	\$ 6,841.28	\$379,945.99
9/29/2013		\$ 7,234.52	\$ 386.28	\$ 6,848.24	\$373,097.75
10/29/2013		\$ 7,234.52	\$ 379.32	\$ 6,855.20	\$366,242.55
11/29/2013		\$ 7,234.52	\$ 372.35	\$ 6,862.17	\$359,380.37
12/29/2013		\$ 7,234.52	\$ 365.37	\$ 6,869.15	\$352,511.23
1/29/2014		\$ 7,234.52	\$ 358.39	\$ 6,876.13	\$345,635.09
2/28/2014		\$ 7,234.52	\$ 351.40	\$ 6,883.12	\$338,751.97
3/29/2014		\$ 7,234.52	\$ 344.40	\$ 6,890.12	\$331,861.85
4/29/2014		\$ 7,234.52	\$ 337.39	\$ 6,897.13	\$324,964.73
5/29/2014		\$ 7,234.52	\$ 330.38	\$ 6,904.14	\$318,060.59
6/29/2014		\$ 7,234.52	\$ 323.36	\$ 6,911.16	\$311,149.43
7/29/2014		\$ 7,234.52	\$ 316.34	\$ 6,918.18	\$304,231.25
8/29/2014		\$ 7,234.52	\$ 309.30	\$ 6,925.22	\$297,306.03
9/29/2014		\$ 7,234.52	\$ 302.26	\$ 6,932.26	\$290,373.78
10/29/2014		\$ 7,234.52	\$ 295.21	\$ 6,939.30	\$283,434.47
11/29/2014		\$ 7,234.52	\$ 288.16	\$ 6,946.36	\$276,488.11
12/29/2014		\$ 7,234.52	\$ 281.10	\$ 6,953.42	\$269,534.69
1/29/2015		\$ 7,234.52	\$ 274.03	\$ 6,960.49	\$262,574.20
2/28/2015		\$ 7,234.52	\$ 266.95	\$ 6,967.57	\$255,606.63
3/29/2015		\$ 7,234.52	\$ 259.87	\$ 6,974.65	\$248,631.98
4/29/2015		\$ 7,234.52	\$ 252.78	\$ 6,981.74	\$241,650.23
5/29/2015		\$ 7,234.52	\$ 245.68	\$ 6,988.84	\$234,661.39
6/29/2015		\$ 7,234.52	\$ 238.57	\$ 6,995.95	\$227,665.45
7/29/2015		\$ 7,234.52	\$ 231.46	\$ 7,003.06	\$220,662.39
8/29/2015		\$ 7,234.52	\$ 224.34	\$ 7,010.18	\$213,652.21
9/29/2015		\$ 7,234.52	\$ 217.21	\$ 7,017.31	\$206,634.91
10/29/2015		\$ 7,234.52	\$ 210.08	\$ 7,024.44	\$199,610.47
11/29/2015		\$ 7,234.52	\$ 202.94	\$ 7,031.58	\$192,578.89
12/29/2015		\$ 7,234.52	\$ 195.79	\$ 7,038.73	\$185,540.16
1/29/2016		\$ 7,234.52	\$ 188.63	\$ 7,045.89	\$178,494.27
2/29/2016		\$ 7,234.52	\$ 181.47	\$ 7,053.05	\$171,441.22
3/29/2016		\$ 7,234.52	\$ 174.30	\$ 7,060.22	\$164,381.00
4/29/2016		\$ 7,234.52	\$ 167.12	\$ 7,067.40	\$157,313.60
5/29/2016		\$ 7,234.52	\$ 159.94	\$ 7,074.58	\$150,239.02
6/29/2016		\$ 7,234.52	\$ 152.74	\$ 7,081.78	\$143,157.25

7/29/2016	\$ 7,234.52	\$ 145.54	\$ 7,088.98	\$136,068.27
8/29/2016	\$ 7,234.52	\$ 138.34	\$ 7,096.18	\$128,972.09
9/29/2016	\$ 7,234.52	\$ 131.12	\$ 7,103.40	\$121,868.69
10/29/2016	\$ 7,234.52	\$ 123.90	\$ 7,110.62	\$114,758.07
11/29/2016	\$ 7,234.52	\$ 116.67	\$ 7,117.85	\$107,640.23
12/29/2016	\$ 7,234.52	\$ 109.43	\$ 7,125.08	\$100,515.14
1/29/2017	\$ 7,234.52	\$ 102.19	\$ 7,132.33	\$ 93,382.81
2/28/2017	\$ 7,234.52	\$ 94.94	\$ 7,139.58	\$ 86,243.23
3/29/2017	\$ 7,234.52	\$ 87.68	\$ 7,146.84	\$ 79,096.40
4/29/2017	\$ 7,234.52	\$ 80.41	\$ 7,154.10	\$ 71,942.29
5/29/2017	\$ 7,234.52	\$ 73.14	\$ 7,161.38	\$ 64,780.92
6/29/2017	\$ 7,234.52	\$ 65.86	\$ 7,168.66	\$ 57,612.26
7/29/2017	\$ 7,234.52	\$ 58.57	\$ 7,175.95	\$ 50,436.31
8/29/2017	\$ 7,234.52	\$ 51.28	\$ 7,183.24	\$ 43,253.07
9/29/2017	\$ 7,234.52	\$ 43.97	\$ 7,190.54	\$ 36,062.53
10/29/2017	\$ 7,234.52	\$ 36.66	\$ 7,197.85	\$ 28,864.67
11/29/2017	\$ 7,234.52	\$ 29.35	\$ 7,205.17	\$ 21,659.50
12/29/2017	\$ 7,234.52	\$ 22.02	\$ 7,212.50	\$ 14,447.00
1/29/2018	\$ 7,234.52	\$ 14.69	\$ 7,219.83	\$ 7,227.17
2/28/2018	\$ 7,234.52	\$ 7.35	\$ 7,227.17	\$ (0.00)
2/28/2018	\$ -	\$ -	\$ -	\$ (0.00)
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	\$414,083.00	\$426,836.58	\$12,753.58	\$414,083.00

TOWN OF CLAYTON
Resolution Approving Financing Terms

WHEREAS, The Town of Clayton (the "Town") has previously determined to undertake a project for the financing of the Electric System's purchase of rolling stock and the Finance Director has now presented a proposal for the financing of such Project,

BE IT THEREFORE RESOLVED, as follows:

1. The Town hereby determines to finance the Project through Banc of America Public Capital Corp ("BAPCC"), in accordance with the proposal dated February 22, 2013. The amount financed shall consist of an installment financing contract in an amount not to exceed \$414,083, with an annual interest rate (in the absence of default or change in tax status) of 1.22% and a 59-month term.
2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the Town are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution. The Financing Documents shall include a Financing Agreement and a Project Fund Agreement as BAPCC may request.
3. The Finance Director is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such director's satisfaction. The Finance Director is authorized to approve changes to any Financing Documents previously signed by Town officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Director shall approve, with the Finance Director's release of any Financing Document for delivery constituting conclusive evidence of such director's final approval of the Document's final form.
4. Each of the Finance Director and other Town officers are hereby authorized to execute future amendments and modifications to the Financing Documents as they deem to be in the best interest of the Town, without further action on the part of the Town Council, so long as such amendment or modification does not increase the interest rate applicable to the Financing Documents or extend the weighted average maturity of the financing.
5. The Town shall not take or omit to take any action the taking or omission of which will cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The Town hereby designates its obligations to make principal and interest payments under the Financing Documents as

"qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).

6. The Town intends that the adoption of this resolution will be a declaration of the Town's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the BAPCC financing described above. The Town intends that funds that have been advanced, or that may be advanced, from the Town's Electric Fund or any other Town fund related to the project, for project costs may be reimbursed from the financing proceeds.
7. All prior actions of Town officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict.

This resolution is effective upon its adoption this 18th day of March, 2013.

Jody L. McLeod
Mayor

ATTEST:

Sherry Scoggins, Town Clerk

This is to certify that this is a true and accurate copy of a Resolution, adopted by the Town Council of Clayton on the 18th day of March, 2013.

Sherry Scoggins, Town Clerk

Date

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 5b

Meeting Date: 3/18/13

TITLE: PRESENTATION OF RESOLUTION REQUESTING AUTHORIZATION TO HOLD A SURPLUS AUCTION.

DESCRIPTION: The request is authorization to hold a surplus auction via public electronic auction system provided by Gov Deals Inc.

Included in the resolution is a request to notice for public auction is by electronic means in accordance with NC GS 160A-270(c).

RELATED GOAL: Financially Responsible Town Government Providing Quality Service

ITEM SUMMARY:

Date:

Action:

Info. Provided:

3-18-13

Presentation.

Resolution.

**TOWN OF CLAYTON
RESOLUTION AUTHORIZING THE SALE OF
CERTAIN PERSONAL PROPERTY AT PUBLIC AUCTION**

WHEREAS, the Town Council of the Town of Clayton desires to dispose of certain surplus property of the Town; and

WHEREAS, the Town Council of the Town of Clayton desires to utilize the auction services of an Internet-based auction system

NOW, THEREFORE, BE IT RESOLVED by the Town Council that:

1. The following described property is hereby declared to be surplus to the needs of the Town:

Vin./Serial #	Description
	12x16 2002 Draper Signature Series V screen
26181	1980 Lindsay #80 HO air compressor
14BT41263238487	1986 JCB #1400B backhoe 4x4
T0510CG763578	1989 John Deere #510C backhoe 4x4
KB DA058816	GilBarco Trimline gas dispenser
KB DA085417	GilBarco Trimline diesel dispenser
1FTCR14U7PTA38792	1993 Ford Ranger
2FAFP71W31X126878	2001 Ford Crown Vic
2G1WF55K729310311	2002 Chevrolet Impala
2FAHP71WX3X173580	2003 Ford Crown Vic
2FAHP71W13X173581	2003 Ford Crown Vic
1FTET15N8SNA78675	1995 Ford F-150
2FAFP71W7WX177372	1998 Ford Crown Vic
2FAFP71W61X126860	2001 Ford Crown Vic
1F0PK84AXMVA33103	1991 Ford F-800 bucket truck
1FTNF21585ED38721	2005 Ford F-250 service truck/utility body

	HP Laserjet 4300dtnsl printer
	HP Laserjet 4300dtnsl
2FAFP71W04X175573	2004 Ford Crown Vic
2FAFP71W74X175571	2004 Ford Crown Vic
2FAFP71W84X175577	2004 Ford Crown Vic
2FAFP71W14X175579	2004 Ford Crown Vic
2FAHP71W33X173579	2003 Ford Crown Vic
2FAHP71W83X173576	2003 Ford Crown Vic
2FAFP71W81X109591	2001 Ford Crown Vic
2FAHP71WX5X171413	2005 Ford Crown Vic
2FAHP71W65X171411	2005 Ford Crown Vic
2FAHP71W85X171412	2005 Ford Crown Vic
2FAHP71WX3X173577	2003 Ford Crown Vic
2FAFP71WX6X157620	2006 Ford Crown Vic
2FAFP71W61X124137	2001 Ford Crown Vic
1FTEF15NXSNA78676	1995 Ford F-150 truck
TCM665X021647	2001 John Deere M665 mower
124884	1980 Allis Chalmers 4000 lb forklift

2. **The Finance Director or his designee is authorized to receive, on behalf of the Town Council, bids via public electronic auction for the purchase of the described property.**
3. **The public electronic auction will be held beginning no earlier than April 12, 2013 [resolution shall be published at least 10 days before the date of auction].**
4. **The Town Council further authorizes the disposal of Town surplus property by use of a public electronic auction system provided by GovDeals Inc. The**

property for sale can be viewed at www.govdeals.com. Citizens may bid on the property at the same website. The terms of the sale shall be: All items are sold as is, where is, with no express or implied warranties; All items will be sold for cash or certified check only; Payment must be received for all items sold before they may be removed from the premises; All items sold must be paid for and removed from the site of the sale within 5 business days of the sale, or they will be subject to resale.

5. The Town Clerk shall cause a notice of the public auction for surplus property to be noticed by electronic means in accordance with NC G.S. 160A-270(c), available on the Town of Clayton website: www.townofclaytonnc.org.
6. The highest bid, if it complies with the terms of the sale, may be accepted by the Finance Director or his designee and the sale consummated.

Duly adopted by the Clayton Town Council this _____ day of April 2013, while in regular session.

Jody L. McLeod,
Mayor

ATTEST:

Sherry L. Scoggins, MMC
Town Clerk

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 5c

Meeting Date: 3/18/13

TITLE: PRESENTATION OF RESOLUTION REGARDING FUND TRANSFER FOR PREPAYMENT OF FIRE STATION ONE OUTSTANDING DEBT.

DESCRIPTION: Attached.

RELATED GOAL: Financially Responsible Town Government Providing Quality Service

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
3-18-13	Presentation.	Resolution and Attachments One and Two.

Town of Clayton
Resolution Regarding Fund Transfer
For Prepayment of Fire Station One Outstanding Debt

WHEREAS, the Clayton Town Council requested and received an analysis, report, and presentation on the status of current and future debt capacity based on its adopted internal financial management policy; and,

WHEREAS, that report titled “General Fund Discussion Materials, Town of Clayton NC” was prepared by Davenport & Company LLC and presented on February 4, 2013; and,

WHEREAS, the report indicated that the Town can and should take advantage of favorable interest rates and its overall adequate reserve capacity to improve its ratios and indicators relative to debt profile and future debt capacity; and

WHEREAS, the Town Council in response to the report directed the Town Administration to prepare plans and otherwise negotiate opportunities to take advantage of current favorable market conditions and work to improve measured debt ratios and otherwise seek to improve overall debt capacity without adversely impacting on key financial ratios and measures; and,

WHEREAS, a component of existing debt load exists from the financed construction of Fire Station One; and,

WHEREAS, the Claytex Fire District, a special revenue fund administered by the Town of Clayton, has existing resources above current operating costs that are adequate to retire the existing debt on Fire Station One; thereby reducing long term interest expense and improving key ratios and measures without adversely impacting on overall Fund liquidity or stability; and,

WHEREAS, such action would be consistent with the debt management goals and long term financial interests of the Town of Clayton and the Claytex Fire District Fund.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL FOR THE TOWN OF CLAYTON, NORTH CAROLINA THAT:

1. A transfer from the Claytex Fire District Fund to the Town’s General Fund shall be made in an amount sufficient to retire the outstanding principal and accrued interest for the Fire Station One capital project based upon the attached (Attachment One) amortization schedule.
2. Said Fund transfer shall be used expeditiously for the sole purpose of retiring all outstanding principal debt and accrued interest on the Fire Station One capital project.

3. That the Town of Clayton General Fund shall thereafter utilize the attached schedule (Attachment Two) as the basis to repay from General Fund annual revenues to the Claytex Fire District agency fund for its proportionate share of the retired debt amount on the Fire Station One capital project payoff plus the calculated ROI for agency funds invested.
4. The repayment term from the General Fund to the Claytex Fire District Fund shall be consistent with the remaining term of the original capital project financing.

Duly resolved this _____ day of _____, 2013 while in regular session.

ATTEST:

Jody L. McLeod,
Mayor

Sherry L. Scoggins, MMC
Town Clerk

Issue Description: Main Fire Station

100-90-00-57 003

Place of Payment: Bank of America

Issue Amount: \$ 1,542,530.00

Issue Date: 2/17/2004

Callable Date: N/A

Issue Number: 01-1107787-273

Purpose: Main Fire Station

Date of Payment	Interest Rates	Outstanding Balance	Principal Payment	Interest Payment	Total Payment
3/17/2004	3.59%	1,542,530.00	8,569.61	4,399.80	12,969.41
4/17/2004	3.59%	1,533,960.39	8,569.61	4,677.11	13,246.72
5/17/2004	3.59%	1,525,390.78	8,569.61	4,500.95	13,070.56
6/17/2004	3.59%	1,516,821.17	8,569.61	4,624.85	13,194.46
7/17/2004	3.59%	1,508,251.56	8,569.61	4,450.38	13,019.99
8/17/2004	3.59%	1,499,681.95	8,569.61	4,572.59	13,142.20
9/17/2004	3.59%	1,491,112.34	8,569.61	4,546.46	13,116.07
10/17/2004	3.59%	1,482,542.73	8,569.61	4,374.52	12,944.13
11/17/2004	3.59%	1,473,973.12	8,569.61	4,494.20	13,063.81
12/17/2004	3.59%	1,465,403.51	8,569.61	4,323.94	12,893.55
1/17/2005	3.59%	1,456,833.90	8,569.61	4,441.95	13,011.56
2/17/2005	3.59%	1,448,264.29	8,569.61	4,415.82	12,985.43
3/17/2005	3.59%	1,439,694.68	8,569.61	3,964.88	12,534.49
4/17/2005	3.59%	1,431,125.07	8,569.61	4,363.56	12,933.17
5/17/2005	3.59%	1,422,555.46	8,569.61	4,197.51	12,767.12
6/17/2005	3.59%	1,413,985.85	8,569.61	4,311.30	12,880.91
7/17/2005	3.59%	1,405,416.24	8,569.61	4,146.94	12,716.55
8/17/2005	3.59%	1,396,846.63	8,569.61	4,259.04	12,828.65
9/17/2005	3.59%	1,388,277.02	8,569.61	4,232.91	12,802.52
10/17/2005	3.59%	1,379,707.41	8,569.61	4,071.08	12,640.69
11/17/2005	3.59%	1,371,137.80	8,569.61	4,180.66	12,750.27
12/17/2005	3.59%	1,362,568.19	8,569.61	4,020.51	12,590.12
1/17/2006	3.59%	1,353,998.58	8,569.61	4,128.40	12,698.01
2/17/2006	3.59%	1,345,428.97	8,569.61	4,102.27	12,671.88
3/17/2006	3.59%	1,336,859.36	8,569.61	3,681.67	12,251.28
4/17/2006	3.59%	1,328,289.75	8,569.61	4,050.01	12,619.62
5/17/2006	3.59%	1,319,720.14	8,569.61	3,894.08	12,463.69
6/17/2006	3.59%	1,311,150.53	8,569.61	3,997.75	12,567.36
7/17/2006	3.59%	1,302,580.92	8,569.61	3,843.51	12,413.12
8/17/2006	3.59%	1,294,011.31	8,569.61	3,945.49	12,515.10
9/17/2006	3.59%	1,285,441.70	8,569.61	3,919.36	12,488.97
10/17/2006	3.59%	1,276,872.09	8,569.61	3,767.65	12,337.26
11/17/2006	3.59%	1,268,302.48	8,569.61	3,867.11	12,436.72
12/17/2006	3.59%	1,259,732.87	8,569.61	3,717.07	12,286.68
1/17/2007	3.59%	1,251,163.26	8,569.61	3,814.85	12,384.46
2/17/2007	3.59%	1,242,593.65	8,569.61	3,788.72	12,358.33
3/17/2007	3.59%	1,234,024.04	8,569.61	3,398.47	11,968.08
4/17/2007	3.59%	1,225,454.43	8,569.61	3,736.46	12,306.07
5/17/2007	3.59%	1,216,884.82	8,569.61	3,590.64	12,160.25
6/17/2007	3.59%	1,208,315.21	8,569.61	3,684.20	12,253.81
7/17/2007	3.59%	1,199,745.60	8,569.61	3,540.07	12,109.68
8/17/2007	3.59%	1,191,175.99	8,569.61	3,631.94	12,201.55
9/17/2007	3.59%	1,182,606.38	8,569.61	3,605.82	12,175.43
10/17/2007	3.59%	1,174,036.77	8,569.61	3,464.21	12,033.82
11/17/2007	3.59%	1,165,467.16	8,569.61	3,553.56	12,123.17
12/17/2007	3.59%	1,156,897.55	8,569.61	3,413.64	11,983.25

Issue Description: Main Fire Station

100-90-00-57 003

Place of Payment: Bank of America

Issue Amount: \$ 1,542,530.00

Issue Date: 2/17/2004

Callable Date: N/A

Issue Number: 01-1107787-273

Purpose: Main Fire Station

Date of Payment	Interest Rates	Outstanding Balance	Principal Payment	Interest Payment	Total Payment
1/17/2008	3.59%	1,148,327.94	8,569.61	3,501.30	12,070.91
2/17/2008	3.59%	1,139,758.33	8,569.61	3,475.17	12,044.78
3/17/2008	3.59%	1,131,188.72	8,569.61	3,226.52	11,796.13
4/17/2008	3.59%	1,122,619.11	8,569.61	3,422.91	11,992.52
5/17/2008	3.59%	1,114,049.50	8,569.61	3,287.21	11,856.82
6/17/2008	3.59%	1,105,479.89	8,569.61	3,370.65	11,940.26
7/17/2008	3.59%	1,096,910.28	8,569.61	3,236.64	11,806.25
8/17/2008	3.59%	1,088,340.67	8,569.61	3,318.40	11,888.01
9/17/2008	3.59%	1,079,771.06	8,569.61	3,292.27	11,861.88
10/17/2008	3.59%	1,071,201.45	8,569.61	3,160.78	11,730.39
11/17/2008	3.59%	1,062,631.84	8,569.61	3,240.01	11,809.62
12/17/2008	3.59%	1,054,062.23	8,569.61	3,110.21	11,679.82
1/17/2009	3.59%	1,045,492.62	8,569.61	3,187.75	11,757.36
2/17/2009	3.59%	1,036,923.01	8,569.61	3,161.62	11,731.23
3/17/2009	3.59%	1,028,353.40	8,569.61	2,832.06	11,401.67
4/17/2009	3.59%	1,019,783.79	8,569.61	3,109.36	11,678.97
5/17/2009	3.59%	1,011,214.18	8,569.61	2,983.77	11,553.38
6/17/2009	3.59%	1,002,644.57	8,569.61	3,057.10	11,626.71
7/17/2009	3.59%	994,074.96	8,569.61	2,933.20	11,502.81
8/17/2009	3.59%	985,505.35	8,569.61	3,004.84	11,574.45
9/17/2009	3.59%	976,935.74	8,569.61	2,978.72	11,548.33
10/17/2009	3.59%	968,366.13	8,569.61	2,857.34	11,426.95
11/17/2009	3.59%	959,796.52	8,569.61	2,926.46	11,496.07
12/17/2009	3.59%	951,226.91	8,569.61	2,806.77	11,376.38
1/17/2010	3.59%	942,657.30	8,569.61	2,874.21	11,443.82
2/17/2010	3.59%	934,087.69	8,569.61	2,848.07	11,417.68
3/17/2010	3.59%	925,518.08	8,569.61	2,548.85	11,118.46
4/17/2010	3.59%	916,948.47	8,569.61	2,795.81	11,365.42
5/17/2010	3.59%	908,378.86	8,569.61	2,680.34	11,249.95
6/17/2010	3.59%	899,809.25	8,569.61	2,743.56	11,313.17
7/17/2010	3.59%	891,239.64	8,569.61	2,629.76	11,199.37
8/17/2010	3.59%	882,670.03	8,569.61	2,691.30	11,260.91
9/17/2010	3.59%	874,100.42	8,569.61	2,665.17	11,234.78
10/17/2010	3.59%	865,530.81	8,569.61	2,553.91	11,123.52
11/17/2010	3.59%	856,961.20	8,569.61	2,612.91	11,182.52
12/17/2010	3.59%	848,391.59	8,569.61	2,503.34	11,072.95
1/17/2011	3.59%	839,821.98	8,569.61	2,560.65	11,130.26
2/17/2011	3.59%	831,252.37	8,569.61	2,534.52	11,104.13
3/17/2011	3.59%	822,682.76	8,569.61	2,265.65	10,835.26
4/17/2011	3.59%	814,113.15	8,569.61	2,482.26	11,051.87
5/17/2011	3.59%	805,543.54	8,569.61	2,376.90	10,946.51
6/17/2011	3.59%	796,973.93	8,569.61	2,430.01	10,999.62
7/17/2011	3.59%	788,404.32	8,569.61	2,326.33	10,895.94
8/17/2011	3.59%	779,834.71	8,569.61	2,377.75	10,947.36
9/17/2011	3.59%	771,265.10	8,569.61	2,351.62	10,921.23
10/17/2011	3.59%	762,695.49	8,569.61	2,250.48	10,820.09

Issue Description: Main Fire Station

100-90-00-57 003

Place of Payment: Bank of America

Issue Amount: \$ 1,542,530.00

Issue Date: 2/17/2004

Callable Date: N/A

Issue Number: 01-1107787-273

Purpose: Main Fire Station

Date of Payment	Interest Rates	Outstanding Balance	Principal Payment	Interest Payment	Total Payment
11/17/2011	3.59%	754,125.88	8,569.61	2,299.36	10,868.97
12/17/2011	3.59%	745,556.27	8,569.61	2,199.90	10,769.51
1/17/2012	3.59%	736,986.66	8,569.61	2,247.10	10,816.71
2/17/2012	3.59%	728,417.05	8,569.61	2,220.97	10,790.58
3/17/2012	3.59%	719,847.44	8,569.61	2,053.25	10,622.86
4/17/2012	3.59%	711,277.83	8,569.61	2,168.71	10,738.32
5/17/2012	3.59%	702,708.22	8,569.61	2,073.47	10,643.08
6/17/2012	3.59%	694,138.61	8,569.61	2,116.46	10,686.07
7/17/2012	3.59%	685,569.00	8,569.61	2,022.90	10,592.51
8/17/2012	3.59%	676,999.39	8,569.61	2,064.20	10,633.81
9/17/2012	3.59%	668,429.78	8,569.61	2,038.07	10,607.68
10/17/2012	3.59%	659,860.17	8,569.61	1,947.03	10,516.64
11/17/2012	3.59%	651,290.56	8,569.61	1,985.82	10,555.43
12/17/2012	3.59%	642,720.95	8,569.61	1,896.46	10,466.07
1/17/2013	3.59%	634,151.34	8,569.61	1,933.56	10,503.17
2/17/2013	3.59%	625,581.73	8,569.61	1,907.42	10,477.03
3/17/2013	3.59%	617,012.12	8,569.61	1,699.23	10,268.84
4/17/2013	3.59%	608,442.51	8,569.61	1,855.17	10,424.78
5/17/2013	3.59%	599,872.90	8,569.61	1,770.04	10,339.65
6/17/2013	3.59%	591,303.29	8,569.61	1,802.91	10,372.52
7/17/2013	3.59%	582,733.68	8,569.61	1,719.46	10,289.07
8/17/2013	3.59%	574,164.07	8,569.61	1,750.65	10,320.26
9/17/2013	3.59%	565,594.46	8,569.61	1,724.52	10,294.13
10/17/2013	3.59%	557,024.85	8,569.61	1,643.60	10,213.21
11/17/2013	3.59%	548,455.24	8,569.61	1,672.26	10,241.87
12/17/2013	3.59%	539,885.63	8,569.61	1,593.03	10,162.64
1/17/2014	3.59%	531,316.02	8,569.61	1,620.00	10,189.61
2/17/2014	3.59%	522,746.41	8,569.61	1,593.88	10,163.49
3/17/2014	3.59%	514,176.80	8,569.61	1,416.03	9,985.64
4/17/2014	3.59%	505,607.19	8,569.61	1,541.62	10,111.23
5/17/2014	3.59%	497,037.58	8,569.61	1,466.60	10,036.21
6/17/2014	3.59%	488,467.97	8,569.61	1,489.36	10,058.97
7/17/2014	3.59%	479,898.36	8,569.61	1,416.03	9,985.64
8/17/2014	3.59%	471,328.75	8,569.61	1,437.10	10,006.71
9/17/2014	3.59%	462,759.14	8,569.61	1,410.97	9,980.58
10/17/2014	3.59%	454,189.53	8,569.61	1,340.17	9,909.78
11/17/2014	3.59%	445,619.92	8,569.61	1,358.71	9,928.32
12/17/2014	3.59%	437,050.31	8,569.61	1,289.60	9,859.21
1/17/2015	3.59%	428,480.70	8,569.61	1,306.46	9,876.07
2/17/2015	3.59%	419,911.09	8,569.61	1,280.33	9,849.94
3/17/2015	3.59%	411,341.48	8,569.61	1,132.82	9,702.43
4/17/2015	3.59%	402,771.87	8,569.61	1,228.07	9,797.68
5/17/2015	3.59%	394,202.26	8,569.61	1,163.17	9,732.78
6/17/2015	3.59%	385,632.65	8,569.61	1,175.81	9,745.42
7/17/2015	3.59%	377,063.04	8,569.61	1,112.59	9,682.20
8/17/2015	3.59%	368,493.43	8,569.61	1,123.55	9,693.16

Issue Description: Main Fire Station

100-90-00-57 003

Place of Payment: Bank of America

Issue Amount: \$ 1,542,530.00

Issue Date: 2/17/2004

Callable Date: N/A

Issue Number: 01-1107787-273

Purpose: Main Fire Station

Date of Payment	Interest Rates	Outstanding Balance	Principal Payment	Interest Payment	Total Payment
9/17/2015	3.59%	359,923.82	8,569.61	1,097.42	9,667.03
10/17/2015	3.59%	351,354.21	8,569.61	1,036.74	9,606.35
11/17/2015	3.59%	342,784.60	8,569.61	1,045.16	9,614.77
12/17/2015	3.59%	334,214.99	8,569.61	986.16	9,555.77
1/17/2016	3.59%	325,645.38	8,569.61	992.91	9,562.52
2/17/2016	3.59%	317,075.77	8,569.61	966.78	9,536.39
3/17/2016	3.59%	308,506.16	8,569.61	879.96	9,449.57
4/17/2016	3.59%	299,936.55	8,569.61	914.52	9,484.13
5/17/2016	3.59%	291,366.94	8,569.61	859.73	9,429.34
6/17/2016	3.59%	282,797.33	8,569.61	862.26	9,431.87
7/17/2016	3.59%	274,227.72	8,569.61	809.16	9,378.77
8/17/2016	3.59%	265,658.11	8,569.61	810.00	9,379.61
9/17/2016	3.59%	257,088.50	8,569.61	783.87	9,353.48
10/17/2016	3.59%	248,518.89	8,569.61	733.30	9,302.91
11/17/2016	3.59%	239,949.28	8,569.61	731.62	9,301.23
12/17/2016	3.59%	231,379.67	8,569.61	682.73	9,252.34
1/17/2017	3.59%	222,810.06	8,569.61	679.36	9,248.97
2/17/2017	3.59%	214,240.45	8,569.61	653.23	9,222.84
3/17/2017	3.59%	205,670.84	8,569.61	566.41	9,136.02
4/17/2017	3.59%	197,101.23	8,569.61	600.97	9,170.58
5/17/2017	3.59%	188,531.62	8,569.61	556.30	9,125.91
6/17/2017	3.59%	179,962.01	8,569.61	548.71	9,118.32
7/17/2017	3.59%	171,392.40	8,569.61	505.72	9,075.33
8/17/2017	3.59%	162,822.79	8,569.61	496.45	9,066.06
9/17/2017	3.59%	154,253.18	8,569.61	470.32	9,039.93
10/17/2017	3.59%	145,683.57	8,569.61	429.87	8,999.48
11/17/2017	3.59%	137,113.96	8,569.61	418.07	8,987.68
12/17/2017	3.59%	128,544.35	8,569.61	379.29	8,948.90
1/17/2018	3.59%	119,974.74	8,569.61	365.81	8,935.42
2/17/2018	3.59%	111,405.13	8,569.61	339.68	8,909.29
3/17/2018	3.59%	102,835.52	8,569.61	283.21	8,852.82
4/17/2018	3.59%	94,265.91	8,569.61	287.42	8,857.03
5/17/2018	3.59%	85,696.30	8,569.61	252.86	8,822.47
6/17/2018	3.59%	77,126.69	8,569.61	235.16	8,804.77
7/17/2018	3.59%	68,557.08	8,569.61	202.29	8,771.90
8/17/2018	3.59%	59,987.47	8,569.61	182.90	8,752.51
9/17/2018	3.59%	51,417.86	8,569.61	156.78	8,726.39
10/17/2018	3.59%	42,848.25	8,569.61	126.43	8,696.04
11/17/2018	3.59%	34,278.64	8,569.61	104.52	8,674.13
12/17/2018	3.59%	25,709.03	8,569.61	75.86	8,645.47
1/17/2019	3.59%	17,139.42	8,569.61	52.26	8,621.87
2/17/2019	3.59%	8,569.81	8,569.81	25.93	8,595.74
			<u>1,542,530.00</u>	<u>417,788.92</u>	<u>1,960,318.92</u>

Description: Main Fire Station
Place of Payment: Claytex Fire District
Amount: \$ 608,442.51
Issue Date: 3/18/2013
Purpose: Retire Debt

100% Amount					
Date of Payment	Interest Rate Estimated ROI	Outstanding Balance	Principal Payment	Interest Payment	Total Payment
4/17/2013	0.15%	608,442.51	8,569.61	76.06	8,645.67
5/17/2013	0.15%	599,872.90	8,569.61	74.98	8,644.59
6/17/2013	0.15%	591,303.29	8,569.61	73.91	8,643.52
7/17/2013	0.15%	582,733.68	8,569.61	72.84	8,642.45
8/17/2013	0.15%	574,164.07	8,569.61	71.77	8,641.38
9/17/2013	0.15%	565,594.46	8,569.61	70.70	8,640.31
10/17/2013	0.15%	557,024.85	8,569.61	69.63	8,639.24
11/17/2013	0.15%	548,455.24	8,569.61	68.56	8,638.17
12/17/2013	0.15%	539,885.63	8,569.61	67.49	8,637.10
1/17/2014	0.15%	531,316.02	8,569.61	66.41	8,636.02
2/17/2014	0.15%	522,746.41	8,569.61	65.34	8,634.95
3/17/2014	0.15%	514,176.80	8,569.61	64.27	8,633.88
4/17/2014	0.15%	505,607.19	8,569.61	63.20	8,632.81
5/17/2014	0.15%	497,037.58	8,569.61	62.13	8,631.74
6/17/2014	0.15%	488,467.97	8,569.61	61.06	8,630.67
7/17/2014	0.15%	479,898.36	8,569.61	59.99	8,629.60
8/17/2014	0.15%	471,328.75	8,569.61	58.92	8,628.53
9/17/2014	0.15%	462,759.14	8,569.61	57.84	8,627.45
10/17/2014	0.15%	454,189.53	8,569.61	56.77	8,626.38
11/17/2014	0.15%	445,619.92	8,569.61	55.70	8,625.31
12/17/2014	0.15%	437,050.31	8,569.61	54.63	8,624.24
1/17/2015	0.15%	428,480.70	8,569.61	53.56	8,623.17
2/17/2015	0.15%	419,911.09	8,569.61	52.49	8,622.10
3/17/2015	0.15%	411,341.48	8,569.61	51.42	8,621.03
4/17/2015	0.15%	402,771.87	8,569.61	50.35	8,619.96
5/17/2015	0.15%	394,202.26	8,569.61	49.28	8,618.89
6/17/2015	0.15%	385,632.65	8,569.61	48.20	8,617.81
7/17/2015	0.15%	377,063.04	8,569.61	47.13	8,616.74
8/17/2015	0.15%	368,493.43	8,569.61	46.06	8,615.67
9/17/2015	0.15%	359,923.82	8,569.61	44.99	8,614.60
10/17/2015	0.15%	351,354.21	8,569.61	43.92	8,613.53
11/17/2015	0.15%	342,784.60	8,569.61	42.85	8,612.46
12/17/2015	0.15%	334,214.99	8,569.61	41.78	8,611.39
1/17/2016	0.15%	325,645.38	8,569.61	40.71	8,610.32
2/17/2016	0.15%	317,075.77	8,569.61	39.63	8,609.24
3/17/2016	0.15%	308,506.16	8,569.61	38.56	8,608.17
4/17/2016	0.15%	299,936.55	8,569.61	37.49	8,607.10
5/17/2016	0.15%	291,366.94	8,569.61	36.42	8,606.03
6/17/2016	0.15%	282,797.33	8,569.61	35.35	8,604.96
7/17/2016	0.15%	274,227.72	8,569.61	34.28	8,603.89
8/17/2016	0.15%	265,658.11	8,569.61	33.21	8,602.82

Description: Main Fire Station
Place of Payment: Claytex Fire District
Amount: \$ 608,442.51
Issue Date: 3/18/2013
Purpose: Retire Debt

100% Amount					
Date of Payment	Interest Rate Estimated ROI	Outstanding Balance	Principal Payment	Interest Payment	Total Payment
9/17/2016	0.15%	257,088.50	8,569.61	32.14	8,601.75
10/17/2016	0.15%	248,518.89	8,569.61	31.06	8,600.67
11/17/2016	0.15%	239,949.28	8,569.61	29.99	8,599.60
12/17/2016	0.15%	231,379.67	8,569.61	28.92	8,598.53
1/17/2017	0.15%	222,810.06	8,569.61	27.85	8,597.46
2/17/2017	0.15%	214,240.45	8,569.61	26.78	8,596.39
3/17/2017	0.15%	205,670.84	8,569.61	25.71	8,595.32
4/17/2017	0.15%	197,101.23	8,569.61	24.64	8,594.25
5/17/2017	0.15%	188,531.62	8,569.61	23.57	8,593.18
6/17/2017	0.15%	179,962.01	8,569.61	22.50	8,592.11
7/17/2017	0.15%	171,392.40	8,569.61	21.42	8,591.03
8/17/2017	0.15%	162,822.79	8,569.61	20.35	8,589.96
9/17/2017	0.15%	154,253.18	8,569.61	19.28	8,588.89
10/17/2017	0.15%	145,683.57	8,569.61	18.21	8,587.82
11/17/2017	0.15%	137,113.96	8,569.61	17.14	8,586.75
12/17/2017	0.15%	128,544.35	8,569.61	16.07	8,585.68
1/17/2018	0.15%	119,974.74	8,569.61	15.00	8,584.61
2/17/2018	0.15%	111,405.13	8,569.61	13.93	8,583.54
3/17/2018	0.15%	102,835.52	8,569.61	12.85	8,582.46
4/17/2018	0.15%	94,265.91	8,569.61	11.78	8,581.39
5/17/2018	0.15%	85,696.30	8,569.61	10.71	8,580.32
6/17/2018	0.15%	77,126.69	8,569.61	9.64	8,579.25
7/17/2018	0.15%	68,557.08	8,569.61	8.57	8,578.18
8/17/2018	0.15%	59,987.47	8,569.61	7.50	8,577.11
9/17/2018	0.15%	51,417.86	8,569.61	6.43	8,576.04
10/17/2018	0.15%	42,848.25	8,569.61	5.36	8,574.97
11/17/2018	0.15%	34,278.64	8,569.61	4.28	8,573.89
12/17/2018	0.15%	25,709.03	8,569.61	3.21	8,572.82
1/17/2019	0.15%	17,139.42	8,569.61	2.14	8,571.75
2/17/2019	0.15%	8,569.81	8,569.81	1.07	8,570.88
			608,442.51	2,737.98	611,180.49

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 5d

Meeting Date: 3/18/13

TITLE: PRESENTATION OF REZONING REQUEST AND SPECIAL USE REQUEST RZ 2012-118 FROM R-8 (RESIDENTIAL) TO O-R SUD (OFFICE – RESIDENTIAL, SPECIAL USE DISTRICT) FOR TWO PARCELS LOCATED IN THE 400 BLOCK OF SOUTH LOMBARD STREET.

DESCRIPTION: The owner and applicant, James Lipscomb, requests the above rezoning for the properties located at 419 and 425 South Lombard Street.

RELATED GOAL: Manage Growth Producing Quality Developments

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
3-18-13	Presentation & Public Notice.	Rezoning application, Neighborhood meeting Letter & Minutes, Staff Report, Aerial Map & Site plan.



Town of Clayton
 Planning Department
 111 E. Second Street, Clayton, NC 27520
 P.O. Box 879, Clayton, NC 27528
 Phone: 919-553-1545
 Fax: 919-553-1720

REZONING APPLICATION

Pursuant to Article 7, Section 155.704 of the Unified Development Code, an owner of land within the jurisdiction of the Town (or a duly authorized agent) may petition the Town Council to amend the Official Zoning Map.

Rezoning applications must be accompanied by nine (9) sets of the application, nine (9) sets of required plans, an Owner's Consent Form (attached) and the application fee. The application fee is \$400.00 for a rezoning to a Standard District. A rezoning to a Planned Development District requires a fee of \$500.00 +\$5.00 per lot or unit for residential uses or \$500.00 +\$5.00 per acre for non residential uses. All fees are due when the application is submitted.

If the rezoning request is to a Planned Development District, the application must be accompanied by a Major Site Plan application and associated fees.

Please note that Section 155.702(B) of the Unified Development Code requires a Neighborhood Meeting for all Rezoning Petitions.

SITE INFORMATION:

Name of Project: Lipscomb Rezoning Acreage of Property: 0.24 total
 Parcel ID Number: 1) 166917-01-4022 2) 166917-01-4066 Tax ID: 1) 05013002 2) 05013001
 Deed Book: 1) 2613 2) 3799 Deed Page(s): 1) 72 2) 540
 Address: 425 Lombard Street (also shown as 401 Andrews Street) and 2) 419 Lombard Street
 Location: south Lombard between Canady and Andrews Street

Existing Use: vacant/residential Proposed Use: Special use office
 Existing Zoning District: R-8
 Requested Zoning District: O-R
 Is project within a Planned Development: Yes No
 Planned Development District (if applicable): _____
 Is project within an Overlay District: Yes No
 Overlay District (if applicable): _____

FOR OFFICE USE ONLY

File Number: R2002-118 Date Received: 12-3-12 Amount Paid: \$400.00

OWNER INFORMATION:

Name: James Lipscomb ET, ALS
Mailing Address: 328 E. Main Street ClaytonNC 27520
Phone Number: 919-422-4704 Fax: 919-553-0330
Email Address: James@myhtr.com

APPLICANT INFORMATION:

Applicant: Same as above
Mailing Address:
Phone Number: Fax:
Contact Person:
Email Address:

REQUIRED PLANS AND SUPPLEMENTAL INFORMATION

The following items must accompany a rezoning application. This information is required to be present on all plans, except where otherwise noted:

- A signed and sealed boundary survey (not more than a year old unless otherwise approved by the Planning Department) with the azimuth or courses and distances of every property line shown. Distances shall be in feet or meters and decimals thereof. The number of decimal places shall be appropriate to the class of survey required. The survey must include any and all easements of record (referenced by Deed Book and Page) and must be prepared by a surveyor registered in the State of North Carolina.
- Property legal description typed (10 pt. font or greater) on an 8.5 inch by 11 inch paper with one inch margins. The legal description must also be submitted electronically in Microsoft Word format.
- A copy of the last recorded deed for the subject property.

JUSTIFICATION STATEMENT

Please provide detailed information concerning all requests. Attach additional sheets if necessary.
Requesting O-R Zoning on two side by side parcels that front on South Lombard Street.
Parcel 1 - 425 Lombard Street most recent use was an after school daycare; proposed use: office
Parcel 2 - 419 Lombard Street was originally built as a community convenience store then converted into a single family residence.
Proposed use to remain residential with exception of using back yard and side yard for parking for use of parcel 1 and 2.

APPROVAL CRITERIA

All applications for a Rezoning must address the following findings:

- 1. Consistency with the adopted plans of the Town.
Request seems to fit the definition of the O-R zoning category perfectly both properties front on a major collector that serves as a gateway into downtown Clayton. Both properties have been previously used for commercial purposes.

- 2. Suitability of the subject property for uses permitted by the current vs. the proposed district.
Structure on subject property will easily convert to the proposed office use with very little modification and with no effect on the street yard/appearance with the exception of installation of a handicapped ramp and any allowed signage. The proposed use is not allowed in the R-8 zoning district except as a secondary use to a primary residential use.

- 3. Whether the proposed change tends to improve the balance of uses, or meets specific demand in the Town.
The proposed change will improve the balance of uses and help meet demand for office space on South Lombard Street which is a very busy gateway to Clayton.

- 4. The capacity of adequate public facilities and services including schools, roads, recreation facilities, wastewater treatment, potable water supply and stormwater drainage facilities is available for the proposed use.
No adverse impact will be created on any public infrastructure due to the rezoning.

5. It has been determined that the legal purposes for which zoning exists are not violated.
It has been determined there are no violations.

6. It has been determined that there will be no adverse effect upon adjoining property owners unless such effect can be justified by the overwhelming public good or welfare.
No adverse effects on adjoining properties will be created due to rezoning.

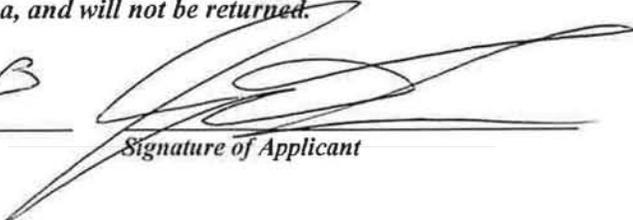
7. It has been determined that no one property owner or small group of property owners will benefit materially from the change to the detriment of the general public.
Correct.

APPLICANT AFFIDAVIT

I/We, the undersigned, do hereby make application and petition to the Town Council of the Town of Clayton to amend the Zoning Ordinance and change the Official Zoning Map of the Town of Clayton as requested. I hereby certify that I have full legal right to request such action and that the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the Planning Department of the Town of Clayton, North Carolina, and will not be returned.

JAMES L. HUBBARD

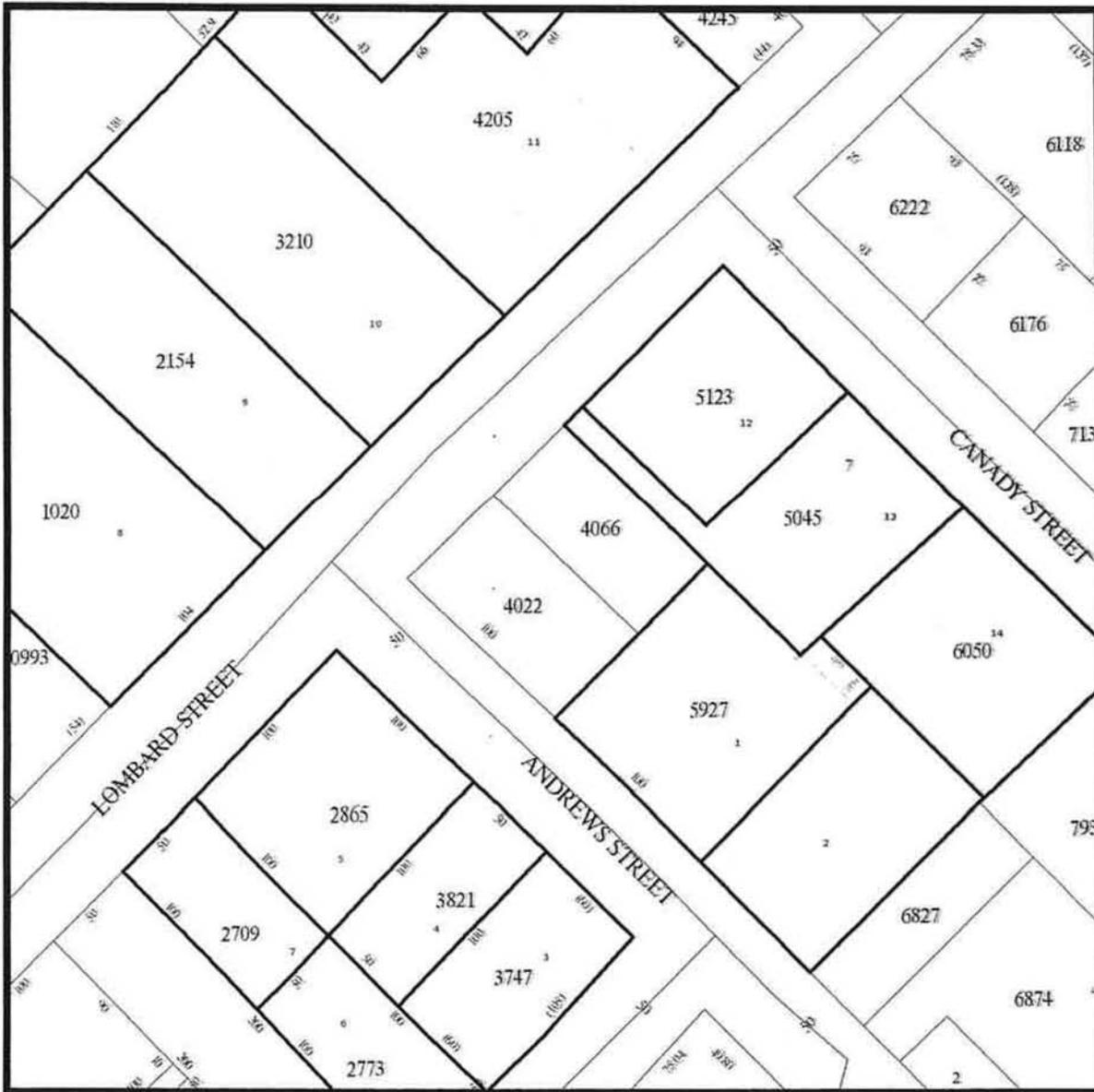
Print Name



Signature of Applicant

12-03-12

Date



*** DISCLAIMER ***
 Johnston County assumes no legal
 responsibility for the information.

Query Parcel 1

Tag: 05013003

NCPin: 166917-00-5927

Mapsheet No: 166917

Owner Name1: CORBETT, JESSE V JR

Owner Name2: CORBETT, JANICE

Mail Address1: 1020 RIDGE RD

Mail Address2:

Mail Address3: CLAYTON NC 27520-0000

Site Address1: Not Available

Site Address2: Not Available

Book: 00855

Page: 0095

Market Value: 154630

Assessed Acreage: 0.23

Calc Acreage: 0.26

Sale Price:

Sale Date: 1979-05-01



1 inch = 85 feet

(The scale is only accurate when printed landscape on a
 8.5x11 in size sheet with page scaling set to none.)

Date December 3, 2012

Query Parcel 2

Tag: 05013004
 NCPin: 166917-00-5981
 Mapsheet No: 166917
 Owner Name1: LAMM, KEVIN R
 Owner Name2:
 Mail Address1: 420 ANDREWS ST
 Mail Address2:
 Mail Address3: CLAYTON NC
 27520-0000
 Site Address1: 420 ANDREWS ST
 Site Address2: CLAYTON NC 27520-
 Book: 01827
 Page: 0071
 Market Value: 60950
 Assessed Acreage: 1
 Calc Acreage: 0.21
 Sale Price:
 Sale Date: 1999-05-12

Query Parcel 3

Tag: 05013025A
 NCPin: 166917-00-3747
 Mapsheet No: 166917
 Owner Name1: JONES, JOHNNY BATTLE
 Owner Name2:
 Mail Address1: 413 BLANCHARD ST
 Mail Address2:
 Mail Address3: CLAYTON NC
 27520-2701
 Site Address1: 504 FISHER ST
 Site Address2: CLAYTON NC 27527-
 Book: 03585
 Page: 0774
 Market Value: 63630
 Assessed Acreage: 1
 Calc Acreage: 0.15
 Sale Price:
 Sale Date: 2008-08-07

Query Parcel 4

Tag: 05013025B
 NCPin: 166917-00-3821
 Mapsheet No: 166917
 Owner Name1: BROWN, DEBORAH JEAN
 Owner Name2:
 Mail Address1: 419 EAST MAIN STREET
 Mail Address2:
 Mail Address3: CLAYTON NC
 27520-0000
 Site Address1: 411 ANDREWS ST
 Site Address2: CLAYTON NC 27520-
 Book: 03672
 Page: 0998
 Market Value: 51560
 Assessed Acreage: 1
 Calc Acreage: 0.12
 Sale Price:
 Sale Date: 2009-03-20

Query Parcel 5

Tag: 05013021
 NCPin: 166917-00-2865
 Mapsheet No: 166917
 Owner Name1: MERCADO, JOSE P
 Owner Name2: MERCADO, MARIA L
 Mail Address1: 501 LOMBARD STREET
 Mail Address2:
 Mail Address3: CLAYTON NC
 27520-0000
 Site Address1: Not Available
 Site Address2: Not Available
 Book: 02805
 Page: 0401
 Market Value: 104260
 Assessed Acreage: 1
 Calc Acreage: 0.22
 Sale Price: 95000
 Sale Date: 2004-12-01

Query Parcel 6

Tag: 05013025

NCPin: 166917-00-2773

Mapsheet No: 166917

Owner Name1: HOOKER, DEBORAH ANNE

Owner Name2:

Mail Address1: 510 FISHER STREET

Mail Address2:

Mail Address3: CLAYTON NC
27520-0000

Site Address1: 510 FISHER ST

Site Address2: CLAYTON NC 27527-

Book: 03205

Page: 0904

Market Value: 56260

Assessed Acreage: 1

Calc Acreage: 0.13

Sale Price: 91500

Sale Date: 2006-09-27

Query Parcel 7

Tag: 05013022

NCPin: 166917-00-2709

Mapsheet No: 166917

Owner Name1: HUSSAINI, DIANE C

Owner Name2:

Mail Address1: 509 S LOMBARD ST

Mail Address2:

Mail Address3: CLAYTON NC
27520-0000

Site Address1: 509 S LOMBARD ST

Site Address2: CLAYTON NC 27520-

Book: 01933

Page: 0505

Market Value: 49750

Assessed Acreage: 1

Calc Acreage: 0.11

Sale Price:

Sale Date: 2000-05-10

Query Parcel 8

Tag: 05017002

NCPin: 166917-01-1020

Mapsheet No: 166917

Owner Name1: JONES, JOHNNY BATTLE

Owner Name2:

Mail Address1: 413 BLANCHARD ST

Mail Address2:

Mail Address3: CLAYTON NC
27520-2701

Site Address1: 502 S LOMBARD ST

Site Address2: CLAYTON NC 27520-

Book: 03585

Page: 0774

Market Value: 89560

Assessed Acreage: 1

Calc Acreage: 0.48

Sale Price:

Sale Date: 2008-08-07

Query Parcel 9

Tag: 05017001

NCPin: 166917-01-2154

Mapsheet No: 166917

Owner Name1: JOYNER, BARNEY G

Owner Name2:

Mail Address1: P O BOX 168

Mail Address2:

Mail Address3: RALEIGH NC
27602-0000

Site Address1: 426 S LOMBARD ST

Site Address2: CLAYTON NC 27520-

Book: 00667

Page: 0282

Market Value: 76810

Assessed Acreage: 1

Calc Acreage: 0.33

Sale Price:

Sale Date: 1969-01-01

Query Parcel 10

Tag: 05016005
 NCPin: 166917-01-3210
 Mapsheet No: 166917
 Owner Name1: POWELL, KIMBERLY M
 Owner Name2: POWELL, SHAWN
 Mail Address1: 418 LOMBARD STREET
 Mail Address2:
 Mail Address3: CLAYTON NC 27520-0000
 Site Address1: 418 S LOMBARD ST
 Site Address2: CLAYTON NC 27520-
 Book: 03194
 Page: 0333
 Market Value: 140940
 Assessed Acreage: 0.39
 Calc Acreage: 0.42
 Sale Price: 74500
 Sale Date: 2006-09-06

Query Parcel 11

Tag: 05016003
 NCPin: 166917-01-4205
 Mapsheet No: 166917
 Owner Name1: RIALE, ROGER A JR
 Owner Name2:
 Mail Address1: 147 PRINCESS LOOP
 Mail Address2:
 Mail Address3: TROUTMAN NC
 28166-7664
 Site Address1: 410 S LOMBARD ST
 Site Address2: CLAYTON NC 27520-
 Book: 03624
 Page: 0706
 Market Value: 102550
 Assessed Acreage: 0.48
 Calc Acreage: 0.49
 Sale Price: 117000
 Sale Date: 2008-11-18

Query Parcel 12

Tag: 05012001
 NCPin: 166917-01-5123
 Mapsheet No: 166917
 Owner Name1: REGNER, STEVE L
 Owner Name2: REGNER, MELANIE R
 Mail Address1: 828 PARKRIDGE DRIVE
 Mail Address2:
 Mail Address3: CLAYTON NC 27527-0000
 Site Address1: Not Available
 Site Address2: Not Available
 Book: 01901
 Page: 0537
 Market Value: 99700
 Assessed Acreage: 0.2
 Calc Acreage: 0.19
 Sale Price: 83000
 Sale Date: 2000-01-14

Query Parcel 13

Tag: 05012001A
 NCPin: 166917-01-5045
 Mapsheet No: 166917
 Owner Name1: REGNER, STEVE L
 Owner Name2: REGNER, MELANIE R
 Mail Address1: 828 PARKRIDGE DRIVE
 Mail Address2:
 Mail Address3: CLAYTON NC
 27527-0000
 Site Address1: Not Available
 Site Address2: Not Available
 Book: 01901
 Page: 0537
 Market Value: 142930
 Assessed Acreage: 0.23
 Calc Acreage: 0.23
 Sale Price:
 Sale Date: 2000-01-14

Query Parcel 14

Tag: 05012002

NCPin: 166917-01-6050

Mapsheet No: 166917

Owner Name1: PRESTON, TILLEY M

Owner Name2:

Mail Address1: 409 CANADY ST

Mail Address2:

Mail Address3: CLAYTON NC
27520-2504

Site Address1: Not Available

Site Address2: Not Available

Book: 01511

Page: 0720

Market Value: 93070

Assessed Acreage: 1

Calc Acreage: 0.25

Sale Price:

Sale Date: 1996-04-16

Query Parcel 15

Tag: -----

NCPin: -----

Mapsheet No: -----

Owner Name1: -----

Owner Name2: -----

Mail Address1: -----

Mail Address2: -----

Mail Address3: -----

Site Address1: -----

Site Address2: -----

Book: -----

Page: -----

Market Value: -----

Assessed Acreage: -----

Calc Acreage: -----

Sale Price: -----

Sale Date: -----

Query Parcel 16

Tag: -----

NCPin: -----

Mapsheet No: -----

Owner Name1: -----

Owner Name2: -----

Mail Address1: -----

Mail Address2: -----

Mail Address3: -----

Site Address1: -----

Site Address2: -----

Book: -----

Page: -----

Market Value: -----

Assessed Acreage: -----

Calc Acreage: -----

Sale Price: -----

Sale Date: -----

Query Parcel 17

Tag: -----

NCPin: -----

Mapsheet No: -----

Owner Name1: -----

Owner Name2: -----

Mail Address1: -----

Mail Address2: -----

Mail Address3: -----

Site Address1: -----

Site Address2: -----

Book: -----

Page: -----

Market Value: -----

Assessed Acreage: -----

Calc Acreage: -----

Sale Price: -----

Sale Date: -----

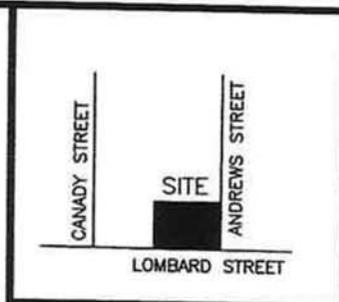
NOTES:

- 1) ALL DISTANCES SHOWN ARE HORIZONTAL GROUND DISTANCES
- 2) AREAS COMPUTED BY COORDINATE METHOD
- 3) PROPERTY SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD
- 4) NO HORIZONTAL CONTROL FOUND WITHIN 2000 FEET OF SURVEY
- 5) BOUNDARY PREDICATED ON EXISTING MONUMENTATION FOUND IN THE FIELD

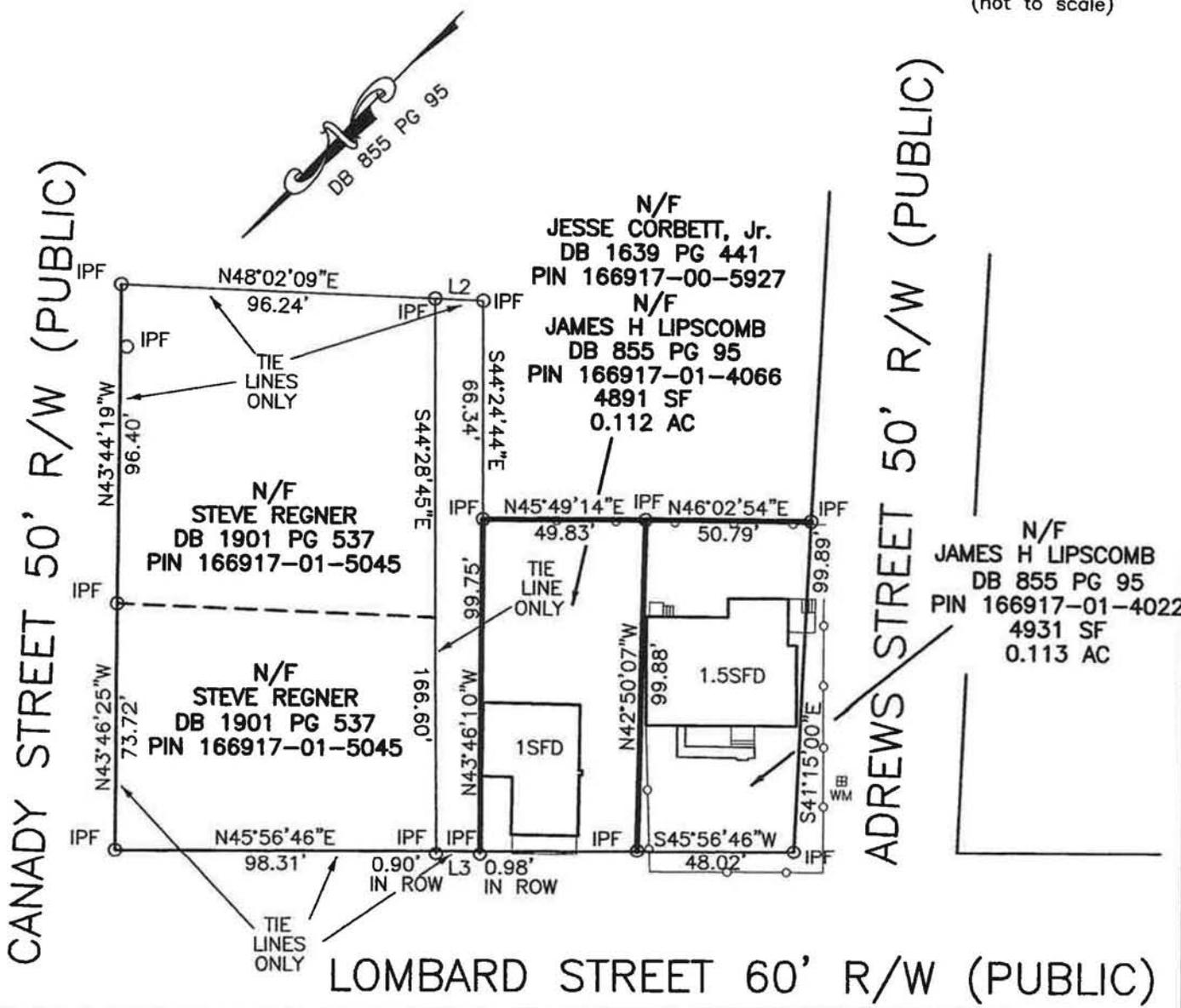
MINIMUM BUILDING SETBACKS
ZONING: R-8

FRONT.....	25 FEET
SIDE.....	10 FEET
STREET SIDE.....	15 FEET
REAR.....	25 FEET

NUMBER	DIRECTION	DISTANCE
L2	N47°54'35"E	14.79'
L3	N45°56'46"E	13.46'



VICINITY MAP
(not to scale)



SCALE: 1" = 50'



LEGEND

○	IPF	IRON PIPE FOUND
●	IPS	IRON PIN SET
○	RRSF	RAILROAD SPIKE
○	PKNF	PARKER-KALON NAIL FOUND
WV		WATER VALVE
WM		WATER METER
CO		CLEAN OUT
S.F.		SQUARE FEET
100.0		ELEVATIONS
CATV		CABLE TV BOX
ELEC		ELECTRIC BOX
PB		PLAT BOOK
PP		POWER POLE
DB		DEED BOOK
---		LINES NOT SURVEYED



PHYSICAL SURVEY FOR
JAMES H. LIPSCOMB
401 ANDREWS STREET, CLAYTON, N.C. 27520
CLAYTON TOWNSHIP JOHNSTON COUNTY NORTH CAROLINA

TRUE LINE SURVEYING, P.C.
205 WEST MAIN STREET
CLAYTON, N.C. 27520
TELEPHONE: (919) 359-0427
FAX: (919) 359-0428
www.truelinesurveying.com
C-1857

NOT PREPARED FOR RECORDATION JOB NO. 522.009

I, CURK T. LANE CERTIFY THAT THIS MAP WAS DRAWN FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION, THAT THE ERROR OF CLOSURE AS CALCULATED IS 1:10,000+, THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES.

L - 3990
REGISTRATION NUMBER SURVEYOR

DATE OF SURVEY: 11-28-12 DRAWN: CURK DATE: 12-03-12 CHECKED: 62 of 140 CURK

McCULLERS & WHITAKER, PLLC

ATTORNEYS AND COUNSELORS AT LAW

January 18, 2013

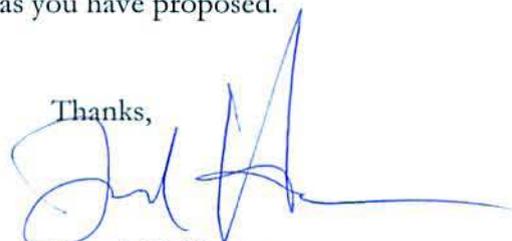
ATTN: Emily S. Beddingfield
Town of Clayton Planning Department
111 East Second Street
Clayton, NC 27528

RE: Lipscomb Rezoning (425/419 Lombard Street)

Emily:

I am writing on behalf of my uncle, James Lipscomb, regarding the rezoning of the properties located at 425 and 419 Lombard Street in Clayton. I am also writing in my capacity as the prospective occupier of the properties should the rezoning be allowed. James is currently out of town, but he wanted me to write and let you know that he fully supports and consents to the rezoning of the aforementioned property to a Special Use District. I've been working closely with James throughout this process, and he has assured me that he is amenable to rezoning the property to "O-R-S" as you have proposed.

Thanks,



Joseph T. Hamer
Attorney

Joshua M. Whitaker
jmw@mandwlawyers.com

Damion L. McCullers
dlm@mandwlawyers.com

Mitchell K. Brewer
mkb@mandwlawyers.com

Jeremy C. Hitch
jch@mandwlawyers.com

Joseph Hamer
jth@mandwlawyers.com

Christophis J. Mann
cjm@mandwlawyers.com

Offices:

Garner:
216 US Highway 70 West
Garner, NC 27529

Clayton:
205 W. Main Street
Clayton, NC 27520

Raleigh:
5540 Centerview Drive,
Ste 200
Raleigh, NC 27606

Chapel Hill:
1829 E. Franklin Street, Bldg 600
Chapel Hill, NC 27514

Phone: (919) 585-5501

Fax: (919) 573-0798

www.mandwlawyers.com

JAMES LIPSCOMB

328 EAST MAIN STREET
CLAYTON, NC 27520
919-422-4704 (MOBILE)

January 8, 2013

Dear Clayton Area Property Owner:

The purpose of this letter is to notify you of an application filed with the Town of Clayton for a land use proposal involving property adjacent to, or in close proximity to, property shown in your ownership by Johnston County tax records. Per Town of Clayton regulations, a neighborhood meeting will be held to provide information to area residents about the nature of the proposal. A representative of the applicant will be present to explain their application, answer questions, and solicit comments.

Meeting Date: February 18th 2013

Location: HomeTowne Realty Office, 328 East Main Street, Clayton, NC 27520

Time: 6:30 P.M.

Type of Application: Rezoning

General Description: Discussion of the rezoning of 419 Lombard Street and 425 Lombard Street from R-8 Residential to Office Residential for the purpose of using 425 Lombard Street as an Attorney/Professional Office.

If you have any questions prior to or after this meeting, you may contact me at **919-422-4704**.

Sincerely,



James Lipscomb

cc: Clayton Planning Department

Emily,

We opened the meeting at 630 and closed the meeting at 704 no one showed up or contacted us in anyway.

Thanks,

James

James H Lipscomb Partner
HomeTowne Realty Group
Sent from my iPhone



Town of Clayton
Planning Department
111 E. Second Street, Clayton, NC 27520
P.O. Box 879, Clayton, NC 27528
Phone: 919-553-1545
Fax: 919-553-1720

Town Council

STAFF REPORT

Application Number: RZ 2012-118
Project Name: Lipscomb Rezoning
NC PIN: 166917-01-4022 and 166917-01-4066
Town Limits/ETJ: Town Limits
Applicant: James Lipscomb
Owners: James Lipscomb and John Lipscomb

Neighborhood Meeting: February 18, 2013

PROJECT LOCATION: The project is located on South Lombard Street between Canady and Andrews Streets.

REQUEST: The request is to rezone the above referenced property from R-8 (Single Family Residential - 8) to O-R (Office-Residential).

SITE DATA:

Acreage: 0.24 acres (total for both parcels)
Present Zoning: R-8 (Single Family Residential - 8)
Proposed Zoning: O-R (Office-Residential)
Existing Use: The building on the corner of Andrews and Lombard Streets (425 S Lombard Street) is currently vacant and was most recently used as a daycare. The second parcel (419 S Lombard Street) is currently used as a single family residence.

DEVELOPMENT DATA:

Proposed Use: Professional Office, Single Family Residence

ENVIRONMENTAL: There are no environmental concerns at this site.

ADJACENT ZONING AND LAND USES:

North:	Zoning: R-8
	Existing Use: Residential
South:	Zoning: R-8
	Existing Use: Residential
East:	Zoning: R-8
	Existing Use: Residential
West:	Zoning: R-8
	Existing Use: Residential

STAFF ANALYSIS AND COMMENTARY:

The applicant has requested the property be rezoned to the O-R district to accommodate a professional office in an existing structure. Staff is recommending the property be rezoned to a Special Use District (O-RSUD) in order to allow conditions to be placed on the site via a Special Use Permit. The applicant amendable to this revised zoning designation (see attached letter).

The subject property consists of two adjacent parcels located on S. Lombard Street held under the same ownership. The property at 425 S. Lombard Street (at the corner of S. Lombard and Andrews Streets) is a vacant building most recently used as a daycare. The property at 419 S. Lombard Street is a rental single family residence. The surrounding properties are zoned as residential use, and the Strategic Growth Plan shows the proposed land use for this site as “residential-infill.”

The applicant is proposing to convert the building at 425 S. Lombard to a professional office. The parcel on which the proposed office sits is not large enough to accommodate required parking for the office. Off-site parking is not permitted in residential districts, thus, rezoning to O-R is also proposed at the adjacent property at



419 S Lombard (under the same ownership). Staff’s opinion is that by placing the parking in the rear of the property, the impact to the character of the neighborhood will be substantially reduced.

Given the residential nature of this area, staff is recommending that the properties be rezoned to a Special Use District in order to allow low-impact commercial uses at this site while ensuring the preservation of the residential character of the neighborhood. The applicant is requesting that the home at 419 S Lombard continue to be allowed to be utilized as a single family residence.

Approval of a rezoning to a Special Use District requires approval of a Special Use Permit authorizing a specific use or uses and a specific site development plan, both of which are bound to such conditions as the Town Council may attach. The Special Use Permit request can be approved along with the rezoning request. Staff recommends that if Council approves the rezoning to a Special Use District, that a Special Use Permit listing approved uses and conditions also be approved. The site plan itself will be approved by the Planning Director contingent on conditions set by Council.

- **Consistency with the Strategic Growth Plan**

The proposed use is consistent with the following Strategic Growth Plan policies:

- 2.1 Balanced Development/Investment: Old and New

The proposed use is not consistent with the Strategic Growth Plan's proposed land use of "residential infill." However, staff feels that given the history of the site as a commercial use and the higher traffic volume on Lombard Street, this location is appropriate for commercial uses that are compatible in use and appearance with surrounding residential uses. Rezoning to a Special Use District ensures review of each proposed use and allows for application of conditions to protect the surrounding neighborhood.

- **Consistency with the Unified Development Code**

The use of the subject site as professional office will be consistent with the UDC if rezoned to the O-R District.

- **Compatibility with Surrounding Land Uses**

The O-R zoning district is "intended to accommodate modest-scale professional occupations, along with single-family and multi-family residential units, to serve as a neighborhood activity center and as a transition between residential and more intense commercial uses." As noted above, staff feels the O-R district is compatible with surrounding uses in this location and meets the intent of this zoning district. Rezoning to a Special Use District will further ensure that compatibility is preserved.

OTHER:

- FIRE PROTECTION: The Town of Clayton Fire Department will provide fire protection.
 - SCHOOL IMPACTS: NA
 - PARKS AND RECREATION: NA
 - ACCESS/STREETS: S Lombard Street and Andrews Street
 - WATER/SEWER PROVIDER: Town of Clayton
 - ELECTRIC PROVIDER: Town of Clayton
-

FINDINGS:

In connection with its legislative decision on a rezoning request, the Town Council may consider certain approval criteria. The applicant has addressed the approval criteria expressly established by Chapter 155.704 (J) of the UDC. Please refer to the Application materials.

If the Council chooses to approve the rezoning to the Special Use District, the following applies to the subsequent approval of the Special Use Permit:

When considering a Special Use Permit application, The Town Council shall consider specific Findings of Fact expressly established by Chapter 155.711 (I) of the UDC. A Special Use which fails to meet any of these Findings shall be deemed adverse to the public interest and shall not be approved.

STAFF RECOMMENDATION / CONDITIONS OF APPROVAL:

Staff recommends: **1)** approval of the rezoning of the property to Office-Residential Special Use District, and **2)** approval of a Special Use Permit for the same geography with the following conditions:

- a. Use of the two parcels shall be limited to a professional office and single family residential uses.
 - b. Parking shall be limited to the rear and side of the property, and to on-street parking.
-

PLANNING BOARD RECOMMENDATION: At their regular meeting held February 25, 2013, the Planning Board voted to recommend approval of **1)** approval of the rezoning of the property to Office-Residential Special Use District, and **2)** approval of a Special Use Permit for the same geography with the conditions recommended by staff.

Attachments: **1)** Zoning/Aerial Map, **2)** Letter from applicant stating agreement with Special Use District, **3)** Application, **4)** Neighborhood meeting materials, **5)** proposed site plan.



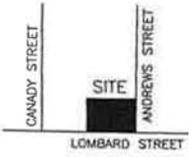
Proposed Rezoning from R-8 to O-R

Applicant: James Lipscomb
 Property Owner: James and John Lipscomb
 Parcel ID Numbers: 166917-01-4022 and 166917-01-4066
 File Number: RZ 2012-118



Produced by: TOC Planning
 Disclaimer: Town of Clayton assumes no legal responsibility for the information represented here.





MINIMUM BUILDING SETBACKS
ZONING: R-8

FRONT.....	25 FEET
SIDE.....	10 FEET
STREET SIDE.....	15 FEET
REAR.....	25 FEET

NUMBER	DIRECTION	DISTANCE
L2	N47°54'35"E	14.79'
L3	N45°56'46"E	13.46'

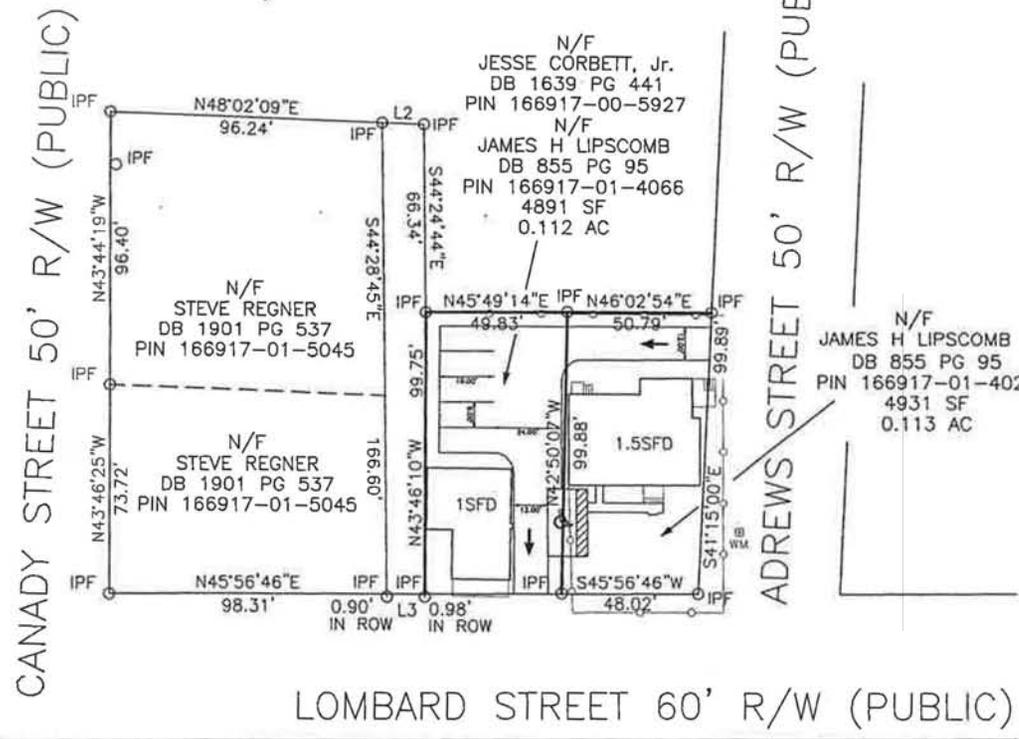
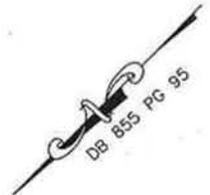
- NOTES:
- 1) ALL DISTANCES SHOWN ARE HORIZONTAL GROUND DISTANCES
 - 2) AREAS COMPUTED BY COORDINATE METHOD
 - 3) PROPERTY SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD
 - 4) NO HORIZONTAL CONTROL FOUND WITHIN 2000 FEET OF SURVEY
 - 5) BOUNDARY PREDICATED ON EXISTING MONUMENTATION FOUND IN THE FIELD

VICINITY MAP (NOT TO SCALE)



SITE DATA

AREA IN SITE	9822 SF
	0.226 AC
TAX PARCEL NO.	05013002 and 05013001
PIN NO.	166917-01-4022 and 166917-01-4066
ZONING:	R-8
CURRENT USE:	VACANT
ONSITE PARKING SPACES PROVIDED	5
ON STREET PARKING SPACES PROVIDED	2
HANDICAP SPACES PROVIDED	1



LOMBARD STREET 60' R/W (PUBLIC)

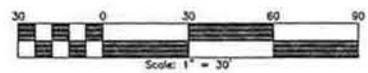
MINOR SITE PLAN FOR PERM DEC 17 2012

JAMES LIPSCOMB

CLAYTON TOWNSHIP, JOHNSTON COUNTY
NORTH CAROLINA
DECEMBER 14, 2012

LEGEND

- IPF IRON PIPE FOUND
- IPG IRON PIPE SET
- CMF CONCRETE MORTAR FOUND
- PKNF PARKER-KALSH NAIL FOUND
- PKNS PARKER-KALSH NAIL SET
- ANL ANTILOD NAILS
- CCS CONTROL CORNER
- COMPUTED POINT
- IPF IRON PIPE FOUND
- OPW OVERHEAD POWER LINE
- R/W RIGHT OF WAY
- S.F. SQUARE FEET
- AC ACRE
- DB DEED BOOK
- PLM PLAT BOOK
- BOB BOOK OF MAPS
- FAE FACE
- L.F. LEGAL FEET
- LSL LOT HAS OPPOSITE SEWER
- LSL LOT HAS SEWER LOT
- LSR RECOMBINATION LOT
- STREET ADDRESS
- [---] LINES NOT SURVEYED



SURVEYED BY:	STEVE
DRAWN BY:	CLURK
CHECKED BY:	CLURK
DRAWING NAME:	SITEPLAN.DWG
SURVEY DATE:	11-28-12
JOB NO.	522.009

TRUE LINE SURVEYING, P.C.



205 WEST MAIN STREET
CLAYTON, N.C. 27520
TELEPHONE: (919) 359-0427
FAX: (919) 359-0428
www.truelinesurveying.com
Page 71 of 140

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 5e

Meeting Date: 3/18/13

TITLE: PRESENTATION OF SEWER USE ORDINANCE AND SEWER USE CHECK LIST.

DESCRIPTION: Attached.

RELATED GOAL: Administrative

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
3-18-13	Presentation.	Letter from NCDENR, DRAFTED Ordinance: Chapter 52, & Letter from Parker Poe.



North Carolina Department of Environment and Natural Resources
Division of Water Quality

Pat McCrory
Governor

Charles Wakild, P.E.
Director

John E. Skvarla, III
Secretary

January 11, 2013

Mr. James Warren
Wastewater Operations Superintendent
Town of Clayton
P.O. BOX 879
Clayton, NC 27520

Subject: Approval of Draft Sewer Use Ordinance
Program: Town of Clayton
NPDES Permit No. NC0025453
Johnston County

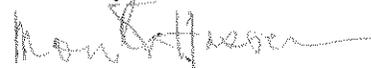
Dear Mr. Warren:

The Pretreatment, Emergency Response, and Collection Systems (PERCS) Unit of the Division of Water Quality has reviewed the updated draft Sewer Use Ordinance (SUO) submitted by the Town of Clayton. This SUO was received on January 4, 2013.

The review indicates that the SUO is adequate and meets the minimum requirements of 15A NCAC 2H .0900 and 40 CFR 403. Please note that typographical error was discovered in section 52.994 Annual Publication of Significant Noncompliance. In the paragraph, it should refer 15A NCAC 2H .0903(b)(34). Upon adoption please submit the final adopted SUO to the PERCS Unit, including documentation of adoption, effective date, and the attorney's statement.

Thank you for your continued cooperation with the Pretreatment Program. If you have any questions or comments, please contact Monti Hassan at (919) 807-6314 [email: Monti.Hassan@ncdenr.gov] or Deborah Gore, Unit Supervisor at (919) 807-6383 [email: Deborah.Gore@ncdenr.gov].

Sincerely,


fw Charles Wakild, P.E.

mh/Clayton.SUO.2012
cc: Central Files
Cheng Zhang, Raleigh Regional Office
Monti Hassan, PERCS Unit

CHAPTER 52: SEWER USE

Section

General Provisions

- 52.001 Purpose; policy
- 52.002 Definitions and abbreviations

General Sewer Use Requirements

- 52.010 Prohibited discharge standards
- 52.011 National Categorical Pretreatment Standards
- 52.012 Local limits
- 52.013 State requirements
- 52.014 Right of revision
- 52.015 Dilution
- 52.016 Pretreatment of wastewater
- 52.017 Accidental discharge/slug control plans
- 52.018 Hauled wastewater

Fees

- 52.030 Purpose
- 52.031 User charge
- 52.032 Surcharges
- 52.033 Pretreatment program administration charges
- 52.034 Impact fee schedule

Wastewater Discharge Permit Application and Issuance

52.040 Wastewater dischargers

52.041 Wastewater permits

Reporting Requirements

52.050 Baseline monitoring reports

52.051 Compliance schedule progress reports

52.052 Reports on compliance with categorical pretreatment standard deadline

52.053 Periodic compliance reports

52.054 Reports of changed conditions

52.055 Reports of potential problems

52.056 Reports from unpermitted users

52.057 Notice of violation; repeat sampling and reporting

52.058 Notification of the discharge of hazardous waste

52.059 Analytical requirements

52.060 Grab and composite sample collection

52.061 Timing

52.062 Record keeping

Compliance Monitoring

52.070 Monitoring facilities

52.071 Inspection and sampling

52.072 Search warrants

52.073 Confidential information

Affirmative Defenses to Discharge Violations

52.080 Upset

52.081 Prohibited discharge standards defense

52.082 Bypass

Oil and Grease

52.085 Purpose

52.086 Definitions

52.087 Grease trap and interceptor installation; maintenance; record keeping and removal

52.088 Enforcement

Enforcement/Penalties

52.990 Administrative remedies

52.991 Civil penalties

52.992 Other available remedies

52.993 Remedies nonexclusive

52.994 Annual publication of significant noncompliance

52.995 Severability

52.996 Conflict

52.997 Effective date

GENERAL PROVISIONS

§ 52.001 PURPOSE; POLICY.

(A) This chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the Town of Clayton, hereafter referred to as the town, and enables the town to comply with all applicable state and federal laws required by the Clean Water Act (33 USC 1251, et seq.) and the General Pretreatment Regulations (40 CFR 403).

(B) The objectives of this chapter are:

(1) To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

(2) To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will pass through the system, inadequately treated, into any waters of the state or otherwise be incompatible with the system;

(3) To promote reuse and recycling of industrial wastewater and sludge from the municipal system;

(4) To protect both municipal personnel who might be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public;

(5) To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and

(6) To ensure that the municipality complies with its NPDES or non-discharge permit conditions, sludge use and disposal requirements, and any other federal or state laws and/or regulations to which the municipal wastewater system is subject.

(C) This chapter provides for the regulation of direct and indirect contributors to the municipal wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(D) This chapter shall apply to all users of the municipal wastewater system as authorized by G.S. § 160A-312 or § 153A-275. Except as otherwise provided herein, the Superintendent and/or Director shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or imposed upon the Superintendent or Director may be delegated by the Superintendent or Director to other town personnel. By discharging wastewater into the municipal wastewater system, industrial users located outside the town limits agree to comply with the terms and conditions established in this chapter, as well as any permits, enforcement actions, or orders issued hereunder.

(Ord. passed 11-8-94)

§ 52.002 DEFINITIONS AND ABBREVIATIONS.

(A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT or THE ACT. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

APPROVAL AUTHORITY. The Director of the Division of Water Quality of the North Carolina Department of Environment, and Natural Resources or designee.

AUTHORIZED REPRESENTATIVE OF THE INDUSTRIAL USER.

(a) If the industrial user is a corporation, authorized representative shall mean:

1. The president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or

2. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the industrial user is a partnership, association, or sole proprietorship, an authorized representative shall mean a general partner or the proprietor, respectively.

(c) If the industrial user is a federal, state, or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(d) The individuals described in (a) – (c) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the authorization is submitted to the town.

(e) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to POTW Superintendent prior to or together with any reports to be signed by an authorized representative.

BIOCHEMICAL OXYGEN DEMAND (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20°C, usually expressed as a concentration (milligrams per liter (mg/l)).

BUILDING SEWER. A sewer conveying wastewater from the premises of a user to the POTW.

BYPASS. The intentional diversion of waste streams from any portion of a user's treatment facility.

CATEGORICAL STANDARDS. National Categorical Pretreatment Standards or Pretreatment Standard.

CONTROL AUTHORITY. Refers to the POTW organization if the POTW organization's approval has not been withdrawn.

DIRECTOR or **DIRECTOR OF PUBLIC WORKS.** The person designated by the town to manage the operation of the publicly-owned treatment works and the wastewater collection system and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

ENVIRONMENTAL PROTECTION AGENCY or **EPA.** The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of that agency.

GRAB SAMPLE. A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.

HOLDING TANK WASTE. Any waste from holding tanks, including but not limited to such holding tanks as chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

IMPACT FEES. A fee charged by the town for all connections to town's sanitary sewer system to fund future expansions of the town's waste treatment system.

INDIRECT DISCHARGE or **DISCHARGE.** The discharge or the introduction from any non-domestic source regulated under § 307(b), (c), or (d) of the Act, (33 USC 1317), into the POTW (including holding tank waste discharged into the system).

INDUSTRIAL USER or **USER.** Any person which is a source of indirect discharge.

INTERFERENCE. The inhibition, or disruption of the collection system, POTW treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the POTW's Control Authority's (and/or POTW's if different from the Control Authority) NPDES, collection system, or non-discharge permit or prevents sewage sludge use or disposal in compliance with specified applicable state and federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with § 405 of the Act, (33

USC 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA) (42 USC 6901, et seq.), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

MEDICAL WASTE. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

NATIONAL CATEGORICAL PRETREATMENT STANDARD or **CATEGORICAL STANDARD.** Any regulation containing pollutant discharge limits promulgated by EPA in accordance with § 307(b) and (c) of the Act (33 USC 1317) which applies to a specific category of industrial users, and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471.

NATIONAL PROHIBITIVE DISCHARGE STANDARD or **PROHIBITIVE DISCHARGE STANDARD.** Absolute prohibitions against the

discharge of certain substances; these prohibitions appear in § 52.010 of this chapter and are developed under the authority of § 307(b) of the Act and 40 CFR 403.5.

NEW SOURCE.

(a) Any building, structure, facility, or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under § 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with § 307(c), provided that:

1. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
2. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
3. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of division (a)1. or (a)2. above but otherwise alters, replaces, or adds to existing process or production equipment.

(c) For purposes of this definition, construction of a new source has commenced if the owner or operator has:

1. Begun, or caused to begin as part of a continuous on-site construction program:

a. Any placement, assembly, or installation of facilities or equipment;
or

b. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

2. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

NON-CONTACT COOLING WATER. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

NON-DISCHARGE PERMIT. A disposal system permit issued by the state pursuant to G.S. § 143-215.1.

NPDES PERMIT or NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM PERMIT. A permit issued pursuant to § 402 of the Act (33 USC 1342), or pursuant to G.S. § 143-215.1 by the state under delegation from EPA.

PASS-THROUGH. A discharge which exits the POTW Control Authority's (and/or POTW's if different from the Control Authority) into waters of the state in quantities or concentrations which, alone or with discharges from other sources, causes a violation of the POTW's NPDES, or non-discharge permit, or a downstream water quality standard, or collection system permit.

PERSON. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all federal, state, and local government entities.

pH. A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

POLLUTANT. Any waste as defined in G.S. § 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g. pH, temperature, TSS, turbidity, color, **metals**, BOD, COD, toxicity, ~~or~~ **and** odor).

POTW (PUBLICLY-OWNED TREATMENT WORKS) or MUNICIPAL WASTEWATER TREATMENT or WATER RECLAMATION FACILITY. A treatment works as defined by § 212 of the Act (33 USC 1292), which is owned in this instance by the town. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this chapter, **POTW** shall also include any sewers that convey wastewaters to the POTW from persons outside the town who are, by contract or agreement with the town, or in any other way, users of the town's POTW.

POTW TREATMENT PLANT. That portion of the POTW designed to provide treatment to wastewater.

PRETREATMENT or TREATMENT. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except by diluting the concentration of the pollutants, unless allowed by an applicable pretreatment standard.

PRETREATMENT PROGRAM. The program for the control of pollutants introduced into the POTW from non-domestic sources which was developed by the town in compliance with 40 CFR 403.8 and approved by the approval authority as authorized by G.S. § 143-215.3(a)(14) in accordance with 40 CFR 403.11.

PRETREATMENT REQUIREMENTS. Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.

PRETREATMENT STANDARDS. Prohibited discharge standards, categorical standards, **or** local limits **which applies to an industrial user.**

SEVERE PROPERTY DAMAGE. Substantial physical damage to property, damage to the user's treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to

occur in the absence of a bypass. **SEVERE PROPERTY DAMAGE** does not mean economic loss caused by delays in production.

SIC (STANDARD INDUSTRIAL CLASSIFICATION). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.

SIGNIFICANT NONCOMPLIANCE (SNC) or REPORTABLE NONCOMPLIANCE (RNC) A status of noncompliance defined as follows:

Significant Noncompliance or SNC is the status of noncompliance of a Significant Industrial User when one or more of the following criteria are met.

(a) Violations of wastewater discharge limits.

1. ~~Chronic violations. Sixty-six percent or more of the measurements exceed (by any magnitude) the same daily maximum limit or the same average limit in a six-month period.~~

Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all the measurements taken for the same pollutant parameter (not including flow) during a six-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40CFR Part 403.3(1):

2. ~~Technical Review Criteria (TRC) violations. Thirty-three percent or more of the measurements are equal to or more than the TRC times the limit (maximum or average) in a six-month period. There are two groups of TRC's:~~

~~_____ a. For conventional pollutants BOD, TSS, fats, oil and grease, TRC = 1.4~~

~~_____ b. For all other pollutants, TRC = 1.2~~

Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR 403.3(1) multiplied by the applicable TRC; (TRC= 1.4 for BOD, TSS, fats, oil and grease, 1.2 for all other pollutants (except flow and pH);

3. ~~Any other violations of an effluent limit (average or daily maximum) that the control authority believes has caused, alone or in combination with other discharges, interference or pass-through; or endangered the health of the sewage treatment plant personnel or the public.~~

Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR Part 403.3(1) (daily maximum, long term average, instantaneous limit, or narrative standard) that the Control Authority and/or POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of Town or contracted personnel or the general public);

4. ~~Any discharge of a pollutant that has caused imminent endangerment to human health or welfare, or to the environment, and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.~~

Any discharge of a pollutant or wastewater that has caused imminent endangerment to human health, welfare or to the environment or has resulted in either the Control Authority's or the POTW's, if different from the Control Authority, exercise of its emergency authority under 40 CFR Part 403.8(f)(1)(vi)(B) to halt or prevent such a discharge;

(b) Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.

(c) Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports, and periodic compliance reports within 30 days from the due date.

(d) Failure to accurately report non-compliance.

(e) Any other violation or group of violations that the control authority and/or POTW ~~considers determines to be significant~~ will adversely affect the operation or implementation of the local pretreatment program.

SIU or SIGNIFICANT INDUSTRIAL USER. ~~Any industrial user of the wastewater disposal system who:~~ An industrial user that discharges wastewater into a publicly owned treatment works and that:

(a) ~~Has an average daily process wastewater flow of 25,000 gallons or more,~~
or

Discharges an average 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, non contact and boiler blowdown wastewaters); or

(b) ~~Contributes more than 5% of any design or treatment capacity (such as, allowable pollutant load) of the wastewater treatment plant receiving the indirect discharge, or~~

Contributes process wastewater which makes up five percent or more of the NPDES , non-discharge permit flow limit or organic capacity of the POTW treatment plant. In this context the organic capacity refers to BOD, TSS, Ammonia, Total Phosphorus, and Total Nitrogen, or

(c) ~~Is required to meet a National Categorical Pretreatment Standard, or~~

~~Is subject to Categorical Pretreatment Standards under 40 CFR Part 403.6 and 40 CFR chapter I, Subchapter N, Parts 405-471: or~~

~~(d) Is found by the town, the Division of Water Quality or the U.S. Environmental Protection Agency (EPA) to have the potential for impact, either singly or in combination with other contributing industrial users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or compliance with any pretreatment standards or requirements.~~

~~Is designated as such by the Control Authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation, or for violating any Pretreatment Standard or requirement, or for contributing to violations of the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, or for limiting the POTW's sludge disposal options~~

(e) Subject to Division approval under 15A NCAC 02H .0907(b), the Control Authority may determine that an Industrial User meeting the criteria in paragraphs (A) and (B) above has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standards or requirement, or for contributing to violations of the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, or for limiting the POTW's sludge disposal options, and thus is not a Significant Industrial User.

SLUG LOAD or DISCHARGE. Any discharge at a flow rate or concentration which has a reasonable potential to cause interference or pass-through, or in any other way violates the POTW's regulations, local limits, or industrial user permit conditions. This can include but is not limited to spills and other accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or any other discharges that can cause a violation of the prohibited discharge standards in § 52.010 of this chapter.

STORM WATER. Any flow occurring during or following any form of natural precipitation and resulting therefrom.

SUPERINTENDENT (WRF SUPERINTENDENT). The person designated by the town to supervise the operation of the publicly-owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

SUSPENDED SOLIDS. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

UPSET. An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities lack of preventive maintenance, or careless or improper operation.

WASTEWATER. The liquid and water- carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

WASTEWATER PERMIT. As set forth in § 52.041 of this chapter.

WATERS OF THE STATE. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

(B) The following abbreviations shall have the designated meanings:

- (1) **BOD:** Biochemical Oxygen Demand
- (2) **CFR:** Code of Federal Regulations
- (3) **COD:** Chemical Oxygen Demand
- (4) **EPA:** Environmental Protection Agency
- (5) **gpd:** Gallons per day
- (6) **G.S.:** North Carolina General § Statutes (also, NCGS)
- (7) **l:** Liter
- (8) **mg:** Milligrams
- (9) **mg/l:** Milligrams per liter
- (10) **NPDES:** National Pollution Discharge Elimination System

- (11) **O&M:** Operation and Maintenance
- (12) **POTW:** Publicly-Owned Treatment Works
- (13) **RCRA:** Resource Conservation and Recovery Act
- (14) **SIC:** Standard Industrial Classification
- (15) **SIU:** Significant Industrial User
- (16) **SWDA:** Solid Waste Disposal Act, 42 USC 6901, et seq.
- (17) **TSS:** Total Suspended Solids
- (18) **TKN:** Total Kjeldahl Nitrogen
- (19) **USC:** United States Code

(Ord. passed 11-8-94; Am. Ord. passed 7-15-96; Am. Ord. 2008-05-02, passed 5-5-08; Am. Ord. 2009-03-02, passed 3-2-09)

GENERAL SEWER USE REQUIREMENTS

§ 52.010 PROHIBITED DISCHARGE STANDARDS.

(A) *General prohibitions.* No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass-through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any national, state, or local pretreatment standards or requirements.

(B) *Specific prohibitions.* No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:

(1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21.

(2) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference.

(3) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass-through.

(4) Any wastewater having a pH less than 6.0 or greater than ~~9.0~~ 10.5 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment. (Any pH above 12.5 is considered hazardous under 40 CFR 261.22.)

(5) Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD, and the like) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW.

(6) Any wastewater having a temperature greater than 150°F (66°C), or which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C).

(7) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(8) Any trucked or hauled pollutants, except at discharge points designated by the Superintendent or Director in accordance with § 52.018 of this chapter.

(9) Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(10) Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under § 405 of the Act, the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(11) Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses.

(12) Any wastewater containing any radio- active wastes or isotopes except as specifically approved by the Superintendent or Director in compliance with applicable state or federal regulations.

(13) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact

cooling water and unpolluted industrial wastewater, unless specifically authorized by the Superintendent or Director.

(14) Fats, oils, or greases of animal or vegetable origin in concentrations greater than ~~50~~ 200 mg/l.

(15) Any sludges, screenings or other residues from the pretreatment of industrial wastes.

(16) Any medical wastes, except as specifically authorized by the Superintendent or Director in a wastewater discharge permit.

(17) Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.

(18) Any material that would be identified as hazardous waste according to 40 CFR 261 if not disposed of in a sewer except as may be specifically authorized by the Superintendent or Director.

(19) Any wastewater causing the treatment plant effluent to violate State Water Quality Standards for toxic substances as described in 15A NCAC 2B.0200.

(20) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.

(21) Recognizable portions of the human or animal anatomy.

(22) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.

(23) At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than 5%, nor any single reading over 10% of the lower explosive limit (LEL) of the meter.

(C) Pollutants, substances, wastewater, or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the municipal wastewater system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the system.

(D) When the Superintendent or Director determines that a user is contributing to the POTW, any of the above enumerated substances in such amounts which may cause or contribute to interference of POTW operation or pass-through, the Superintendent or Director shall:

(1) Advise the user of the potential impact of the contribution on the POTW in accordance with § 52.990; and,

(2) Take appropriate actions in accordance with §§ 52.040 and 52.041 for such user to protect the POTW from interference or pass-through.

(Ord. passed 11-8-94)

§ 52.011 NATIONAL CATEGORICAL PRETREATMENT STANDARDS.

(A) Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

(B) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Superintendent or Director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

(C) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Superintendent or Director shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).

(D) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(E) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

(Ord. passed 11-8-94)

§ 52.012 LOCAL LIMITS.

(A) To implement the general and specific discharge prohibitions listed in this chapter, industrial user-specific local limits will be developed, ensuring that the POTW's maximum allowable headworks loading is not exceeded for particular pollutants of concern for each industrial user. Where specific local limits are not contained for a given parameter or pollutant in an industrial user permit, the following average discharge limits will apply to all users:

~~50~~ **200** mg/l FOG (Fat, Oils, Grease)

20 mg/l NH₃-N (Ammonia-Nitrogen)

250	mg/l	TSS (Total Suspended Solids)
0.003	mg/l	As (Arsenic)
0.003	mg/l	Cd (Cadmium)
0.061	mg/l	Cu (Copper)
0.015	mg/l	CN (Cyanide)
0.049	mg/l	Pb (Lead)
0.0003	mg/l	HG (Mercury)
0.021	mg/l	Ni (Nickel)
0.005	mg/l	Ag (Silver)
0.05	mg/l	Total Cr (Chromium)
0.175	mg/l	Zn (Zinc)
0.1	mg/l	Phenolic Compounds
0.25	mg/l	Total Identifiable Chlorinated Hydrocarbons

(B) Industrial user-specific local limits for appropriate pollutants of concern shall be included in wastewater permits and are considered pretreatment standards. The Superintendent or Director may impose mass limits in addition to, or in place of, the concentration-based limits above.

(Ord. passed 11-8-94; Am. Ord. 2008-05-02, passed 5-5-08)

§ 52.013 STATE REQUIREMENTS.

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this chapter.

(Ord. passed 11-8-94)

§ 52.014 RIGHT OF REVISION.

The town reserves the right to establish limitations and requirements which are more stringent than those required by either state or federal regulation if deemed necessary to comply with the objectives presented in § 52.001 or the general and specific prohibitions in §§ 52.010 through 52.018 as is allowed by 40 CFR 403.4.

(Ord. passed 11-8-94)

§ 52.015 DILUTION.

No user shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National Categorical Pretreatment Standards, unless expressly authorized by an applicable pre-treatment standard, or in any other pollutant-specific limitation developed by the town or state.

(Ord. passed 11-8-94) Penalty, see § 52.990 et seq.

§ 52.016 PRETREATMENT OF WASTEWATER.

(A) *Pretreatment facilities.* Users shall provide wastewater treatment as necessary to comply with this chapter and wastewater permits issued under § 52.041, and shall achieve compliance with all National Categorical Pretreatment Standards, local limits, and the prohibitions set out in § 52.010 of this chapter within the time limitations as specified by EPA, the state, or the Superintendent or Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be approved by the Superintendent or Director before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the town under the provisions of this chapter. Any subsequent changes in the pre-treatment facilities or method of operation shall be reported to and be approved by the Superintendent or Director prior to the user's initiation of the changes.

(B) *Additional pretreatment measures.*

(1) Whenever deemed necessary, the Superintendent or Director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the users compliance with the requirements of this chapter.

(2) The Superintendent or Director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent or Director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors

shall not be required for residential users. All interception units shall be of a type and capacity approved by the Superintendent or Director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at the user's expense.

(4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(Ord. passed 11-8-94) Penalty, see § 52.990 et seq.

§ 52.017 ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS.

(A) At least once every two years, the Superintendent or Director shall evaluate whether each significant industrial user needs a plan or other action to control and prevent slug discharges and accidental discharges as defined in § 52.002. All SIUs must be evaluated within one year of being designated an SIU. The Superintendent or Director may require any user to develop, submit for approval, and implement such a plan. Alternatively, the Superintendent or Director may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

- (1) Description of discharge practices, including non-routine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the Superintendent or Director of any accidental or slug discharge, as required by § 52.055; and
- (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and measures and equipment for emergency response.

(B) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load. Also see §§ 52.045 and 52.055.

(Ord. passed 11-8-94; Am. Ord. 2008-05-02, passed 5-5-08)

§ 52.018 HAULED WASTEWATER.

(A) Septic tank waste may be introduced into the POTW only at locations designated by the Superintendent or Director, and at such times as are established by the Superintendent or Director. Such waste shall not violate §§ 52.010 through 52.018 of this

chapter or any other requirements established by the town. The Superintendent or Director may require septic tank waste haulers to obtain wastewater discharge permits.

(B) The Superintendent or Director shall require haulers of industrial waste to obtain wastewater discharge permits. The Superintendent or Director may require generators of hauled industrial waste to obtain wastewater discharge permits. The Superintendent or Director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this chapter.

(C) Industrial waste haulers may discharge loads only at locations designated by the Superintendent or Director. No load may be discharged without prior consent of the Superintendent or Director. The Superintendent or Director may collect samples of each hauled load to ensure compliance with applicable standards. The Superintendent or Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(D) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

(Ord. passed 11-8-94)

FEES

§ 52.030 PURPOSE.

It is the purpose of this subchapter to provide for the recovery of costs from users of the town's wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth in the town's schedule of charges and fees.

(Ord. passed 11-8-94)

§ 52.031 USER CHARGES.

A user charge shall be levied on all users including, but not limited to, persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of sewage into the POTW.

(A) The user charge shall reflect at least the cost of debt service, operation and maintenance (including replacement) of the POTW.

(B) Each user shall pay its proportionate cost based on volume of flow.

(C) The Town Manager or his designee shall review annually the sewage contributions of users, the total costs of debt service, operation and maintenance of the POTW, and will make recommendations to the Town Council for adjustments in the schedule of charges and fees as necessary.

(D) Charges for flow to the POTW not directly attributable to the users shall be distributed among all users of the POTW based upon the volume of flow of the users.

(Ord. passed 11-8-94)

§ 52.032 SURCHARGES.

(A) All industrial users of the POTW are subject to industrial waste surcharges on discharges which exceed the following levels:

(1) With the written approval of the Town Manager, waste having the following characteristics may be discharged into the town's sanitary sewer upon payment of an additional charge (surcharge):

(a) Wastes having a BOD of greater than 250 mg/l, but not to exceed 1,500 mg/l.

(b) Wastes containing suspended solids of more than 250 mg/l, but not to exceed 1,000 mg/l.

(c) Waste having COD greater than 500 mg/l, but not to exceed 3,000 mg/l.

(d) Any waste containing constituents in concentrations in excess of the limits set forth in § 52.012, but for which a permit has been issued by the town.

(2) The amount of surcharge will be based upon the mass emission rate (in pounds per day) discharged above the levels listed above. The amount charged per pound of excess will be set forth in the schedule of charges and fees.

(B) The volume of flow used in determining the total discharge of wastewater for payment of user charges and surcharges shall be based on the following:

(1) Metered water consumption as shown in the records of meter readings maintained by the town; or

(2) If required by the town or at the individual discharger's option, other flow monitoring devices which measure the actual volume of waste-water discharged to the sewer. Such devices shall be accessible and safely located, and the measuring system shall be installed in accordance with plans approved by the town. The metering system shall be installed and maintained at the user's expense according to arrangements that may be made with the town.

(3) Where any user procures all or part of his water supply from sources other than the town, the user shall install and maintain at his own expense a flow measuring device of a type approved by the town.

(C) The character and concentration of the constituents of the wastewater used in determining surcharges shall be determined by samples collected and analyzed by the town and/or constituent concentrations reported by the user. Samples shall be collected in such a manner as to be representative of the actual discharge and shall be analyzed using procedures set forth in 40 CFR 136.

(D) The determination of the character and concentration of the constituents of the wastewater discharge by the Superintendent or Director or his duly appointed representatives shall be binding as a basis for charges.

(Ord. passed 11-8-94)

§ 52.033 PRETREATMENT PROGRAM ADMINISTRATION CHARGES.

The schedule of charges and fees adopted by the town may include charges and fees for:

- (A) Reimbursement of costs of setting up and operating the pretreatment program;
- (B) Monitoring, inspections and surveillance procedures;
- (C) Reviewing slug control plans, including accidental and/or slug load discharge procedures and construction plans and specifications;
- (D) Permitting;
- (E) Other fees as the town may deem necessary to carry out the requirements of the pretreatment program.

(Ord. passed 11-8-94)

§ 52.034 IMPACT FEE SCHEDULE.

The Impact Fee Rate Schedule applicable for all connections to the Town's Sanitary Sewer System is available in the Town's Comprehensive List of Fees and Charges.

(Ord. passed 7-15-96; Am. Ord. 2008-05-02, passed 5-5-08)

WASTEWATER DISCHARGE PERMIT APPLICATION AND ISSUANCE

§ 52.040 WASTEWATER DISCHARGERS.

It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the town. When requested by the Superintendent or Director, a user must submit information on the nature and characteristics of its wastewater within 30 days of the request. The Superintendent or Director is authorized to prepare a form for this purpose and may periodically require users to update this information.

(Ord. passed 11-8-94) Penalty, see § 52.990 et seq.

§ 52.041 WASTEWATER PERMITS.

(A) All significant industrial users shall obtain a significant industrial user permit prior to the commencement of discharge to the POTW. Existing industrial users who are determined by the Superintendent or Director to be significant industrial users shall obtain a significant industrial user permit within 180 days of receiving notification of the Superintendent's or Director's determination. Industrial users who do not fit the significant industrial user criteria may, at the discretion of the Superintendent or Director, be required to obtain a wastewater discharge permit for non-significant industrial users.

(B) *Significant industrial user determination.* All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-domestic wastewater, shall request from the Superintendent or Director a significant industrial user determination. If the Superintendent or Director determines or suspects that the proposed discharge fits the significant industrial user criteria, he will require that a significant industrial user permit application be filed.

(C) *Significant industrial user permit application.* Users required to obtain a significant industrial user permit shall complete and file with the town an application in the form prescribed by the Superintendent or Director, ~~and accompanied by an application fee in the amount prescribed in the schedule of charges and fees.~~ Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the Superintendent's or Director's determination in division (B) above. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

(1) ~~Name, address, and location, (if different from the address);~~ **Address of industrial user;**

(2) ~~Standard Industrial Classification (SIC) codes for pretreatment, the industry as a whole, and any processes for which categorical pretreatment standards have been promulgated; or expected classification and industrial user category;~~ **Address of industrial user;**

(3) ~~Analytical data on wastewater constituents and characteristics including but not limited to those mentioned in §§ 52.010 through 52.018 of this chapter, any of the~~

priority pollutants (§ 307(a) of the Act) which the applicant knows or suspects are present in the discharge as determined by a reliable analytical laboratory, and any other pollutant of concern to the POTW; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to § 304(g) of the Act and contained in 40 CFR 136, as amended; Standard industrial classification (SIC) code(s) or expected classification and industrial user category;

(4) ~~Time and duration of the indirect discharge;~~ Wastewater flows to include: average daily and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variations if any expected;

(5) ~~Average daily and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;~~ Types and concentrations (or mass) of pollutants contained, or expected in the discharge;

(6) ~~Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains, sewer connections, direction of flow and appurtenances by the size, location and elevation;~~ Lists of products manufactured or services supplied;

(7) Description of activities, facilities and plant processes on the premises, including all materials which are or could be accidentally or intentionally discharged; including a description of existing on-site pretreatment facilities and practices.

(8) ~~Where known, the nature and concentration of any pollutants in the discharge which are limited by any town, state, or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards;~~ Flow diagram or sewer map to include sewer lines, floor drains, and discharge points;

(9) ~~If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:~~ Raw materials used and stored at the site;

—————(a)———The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. No increment in the schedule shall exceed nine months.

—————(b)———No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Superintendent or Director including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the user to

~~return to the established schedule. In no event shall more than nine months elapse between such progress reports to the Superintendent or Director.~~

~~(10) Each product produced by type, amount, process or processes and rate of production; Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;~~

~~(11) Type and amount of raw materials processed (average and maximum per day); Description of current and projected waste reduction activities in accordance with G.S. 143-215.1(g);~~

~~(12) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;~~

~~(12)~~ If subject to a categorical standard, a baseline monitoring report in accordance with 40 CFR 403.12(b) and 15A NCAC 2H.0908(a), as outlined in § 52.050 of this chapter.

~~(13)~~ Any other information as may be deemed by the Superintendent or Director to be necessary to evaluate the permit application.

(D) *Application signatories and certification.* All wastewater discharge permit applications and user reports must be signed by the current authorized representative of the user on file with the control authority and/or municipality as defined in § 52.002(A)(a)2., and contain the following certification statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(E) *Application review and evaluation.* The Superintendent or Director will evaluate the data furnished by the user and may require additional information.

(1) The Superintendent or Director is authorized to accept applications for the town and shall refer all applications to the POTW staff for review and evaluation.

(2) Within ~~30~~ 60 days of receipt the Superintendent or Director shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.

(F) *Tentative determination and draft permit.*

(1) The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.

(2) If the staff's tentative determination in division (F)(1) above is to issue the permit, the following additional determinations shall be made in writing:

(a) Proposed discharge limitations for those pollutants proposed to be limited;

(b) A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and

(c) A brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.

(3) The staff shall organize the determinations made pursuant to divisions (F)(1) and (F)(2) above and the town's general permit conditions into a significant industrial user permit.

~~(G) — *Permit synopsis.* A fact sheet providing a brief synopsis of the application shall be prepared by the POTW staff for submission to the applicant and the approval authority and shall be made available to the public upon request. The contents of such fact sheets shall include at least the following information:~~ Permit supporting documentation. The Control Authority staff shall prepare the following documents for all Significant Industrial User permits.

~~(1) — A sketch and detailed description of the industrial facilities and pretreatment facilities, including the location of all points of discharge to the POTW and all established compliance monitoring points.~~ An allocation table (AT) listing permit information for all Significant Industrial Users, including but not limited to permit limits, permit effective and expiration dates, and a comparison of total permitted flows and loads with Division approved maximum allowable loadings of the POTW, including flow, on forms or in a format approved by the Division. The AT shall be updated as permits are issued and renewed, and as permits are modified where the permitted limits or other AT information is revised.

~~(2) — A quantitative description of the discharge described in the application which includes at least the following:~~ The basis, or rationale, for pretreatment limitations, including the following:

~~(a) — The rate or frequency of the proposed discharge; if the discharge is continuous, the average daily flow;~~ Documentation of categorical determination, including documentation of any calculations used in applying categorical pretreatment standards; and

~~(b) The actual average daily discharge in pounds per day of any limited pollutant and any pollutant identified in the application as known or suspected present; and, Documentation of the rationale of any parameters for which monitoring has been waived under 40 CFR Part 403.12(e)(2).~~

~~—————(c) The basis for the pretreatment limitations including the documentation of any calculations in applying categorical pretreatment standards.~~

(H) *Final action on significant industrial user permit applications.*

(1) The Superintendent or Director shall take final action on all applications not later than 90 days following receipt of a complete application.

(2) The Superintendent or Director is authorized to:

(a) Issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this chapter and G.S. § 143-215.1;

(b) Issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;

(c) Modify any permit upon not less than 60 days notice and pursuant to § 52.041(J);

(d) Revoke any permit pursuant to § 52.990;

(e) Suspend a permit pursuant to § 52.990;

(f) Deny a permit application when in the opinion of the Superintendent or Director such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. § 143-215.1.

(I) *Hearings.*

(1) ~~Initial~~ *Adjudicatory hearing.* An applicant whose permit is denied, or is granted subject to conditions he deems unacceptable, a permittee/user assessed a civil penalty under § 52.991, or one issued an administrative order under § 52.990, shall have the right to an adjudicatory hearing before a hearing officer designated by the Town Manager upon making written demand, identifying the specific issues to be contested, to the Town Manager within 30 days following receipt of the significant industrial user permit, civil penalty assessment, or administrative order. Unless such written demand is made within the time specified herein, the action shall be final and binding and further appeal is barred. For modified permits, only those parts of the permit being modified may be adjudicated. The conditions/requirements in the newly issued permit, civil penalty, or administrative order shall be stayed pending the adjudicatory hearing, however, the user

shall be fully liable for any and all damages to the POTW and any fines and penalties levied against the town which were the result of the user failing to comply with the stayed conditions of the permit, penalty, or order pending the adjudicatory hearing. The hearing officer shall make a final decision on the contested permit, penalty, or order within 45 days of the receipt of the written demand for a hearing. The Town Manager shall transmit a copy of the hearing officer's decision by registered or certified mail as described in paragraph (3) below. The decision is a final decision for the purposes of seeking a judicial review. The Terms and conditions of a permit under appeal shall be as follows:

(a) *New permits.* Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

(b) *Renewed permits.* Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a renewed permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

(c) *Terminated Permits.* Upon appeal, including judicial review in the General Courts of Justice, of a terminated permit, no permit is in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

(2) *Final appeal hearing.* Any decision of a hearing officer made as a result of an adjudicatory hearing held under division (I)(1) above may be appealed to the Town Council upon filing a written demand within ten days of receipt of notice of the decision. Hearings held under this division shall be conducted in accordance with local hearing procedures. Failure to make written demand within the time specified herein shall bar further appeal. The Town Council shall make a final decision on the appeal within 90 days of the date the appeal was filed and shall transmit a written copy of its decision by registered or certified mail as described in paragraph (3) below. The decision is a final decision for the purpose of seeking judicial review.

(3) *Official record.* When a final decision is issued under division (I)(2) above, the Town Council shall prepare an official record of the case that includes:

- (a) All notices, motions, and other like pleadings;
- (b) A copy of all documentary evidence introduced;
- (c) A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken.
- (d) A copy of the final decision of Town Council.

(4) *Judicial review.* Any person against whom a final order or decision of the Town Council is entered, pursuant to the hearing conducted under division (I)(2) above, may seek judicial review of the order or decision by filing a written ~~petition~~ request for review by the Superior Court of Johnston County within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, ~~with the Superior Court of Johnston County~~ along with a copy to the town. Within 30 days after receipt of the copy of the petition of judicial review, the Town Council shall transmit to the reviewing court the original or a certified copy of the official record.

(J) *Permit modification.*

(1) Modifications of permits shall be subject to the same procedural requirements as the issuance of permits, except as listed below. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(a) Changes in the ownership of the discharge when no other change in the permit is indicated;

(b) A single modification of any compliance schedule not in excess of four months;

(c) Modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(2) Within nine months of the promulgation of a National Categorical Pretreatment Standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a wastewater discharge permit as required by § 52.041(B), the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable National Categorical Pretreatment Standard.

(3) A request for a modification by the permittee shall constitute a waiver of the 60-day notice required by G.S. § 143-215.1(b) for modifications.

(K) *Permit conditions.*

(1) The Superintendent or Director shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this chapter and G.S. § 143-215.1. Wastewater permits shall contain, but are not limited to, the following:

(a) A statement of duration (in no case more than five years);

(b) A statement of non-transferability;

(c) Applicable effluent limits based on categorical standards or local limits or both;

(d) Applicable monitoring, sampling, reporting, notification, and recordkeeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state and local law;

(e) Requirements for notifying the POTW in the event of an accidental discharge or slug load as defined in § 52.002(A);

(f) A statement of applicable civil and/or criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule;

(g) Requirements to implement a plan or other controls for prevention of accidental discharges and/or slug loads as defined in § 52.002(A), if determined by the Wastewater Superintendent or Director to be necessary for the user; and

(h) Requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load as defined in § 52.002(A). Also see §§ 5.5 and 5.6.

(2) In addition, permits may contain, but are not limited to, the following:

(a) Limits on the average and/or maximum rate of discharge, and requirements for flow regulation and equalization.

(b) Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.

(c) Requirements for the installation of pretreatment technology or construction of appropriate containment devices and the like, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.

(d) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.

(e) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.

(f) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.

(g) Requirements for installation and maintenance of inspection and sampling facilities and equipment.

(h) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.

(i) Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within 30 days where self-monitoring indicates a violation.

(j) Compliance schedules for meeting pretreatment standards and requirements.

(k) Requirements for submission of periodic self-monitoring or special notification reports.

(l) Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in § 52.062 and affording the Superintendent or Director, or his representatives, access thereto.

(m) Requirements for prior notification and approval by the Superintendent or Director of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction into the system.

(n) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the terms of the permit.

(o) Requirements for immediate notification of excessive, accidental, or slug discharges, or any discharge which could cause any problems to the system.

(p) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the terms of the permit.

(q) Other conditions as deemed appropriate by the Superintendent or Director to ensure compliance with this chapter, and state and federal laws, rules, and regulations.

(L) *Permit duration.* Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.

(M) *Permit transfer.* Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be re-assigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.

(N) *Permit reissuance.* A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with this § 52.041 a minimum of 180 days prior to the expiration of the existing permit.

(Ord. passed 11-8-94; Am. Ord. 2008-05-02, passed 5-5-08)

REPORTING REQUIREMENTS

§ 52.050 BASELINE MONITORING REPORTS.

(A) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Superintendent or Director a report which contains the information listed in division (B), below. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Superintendent or Director a report which contains the information listed in division (B), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(B) Users described above shall submit the information set forth below.

(1) *Identifying information.* The name and address of the facility, including the name of the operator and owner.

(2) *Environmental permits.* A list of any environmental control permits held by or for the facility.

(3) *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operations carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(4) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e)

(5) *Measurement of pollutants.*

- (a) The categorical pretreatment standards applicable to each regulated process.
- (b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Superintendent or Director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 52.059 of this chapter.
- (c) Samplings must be performed in accordance with procedures set out in § 52.060 and 40 CFR 403.12(b) and (g), including 40 CFR 403.12(g)(4).
- (6) *Certification.* A statement, reviewed by the user's current authorized representative as defined in § 52.002(A)(a)2., and certified by a qualified professional, indicating whether pre-treatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) or additional pretreatment is required to meet the pretreatment standards and requirements.
- (7) *Compliance schedule.* If additional pretreatment or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 52.051.
- (8) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with § 52.041(D).

(Ord. passed 11-8-94; Am. Ord. 2008-05-02, passed 5-5-08)

§ 52.051 COMPLIANCE SCHEDULE PROGRESS REPORTS.

The following conditions shall apply to the compliance schedule required by § 52.050(b)(7):

- (A) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (B) No increment referred to above shall exceed nine months;

(C) The user shall submit a progress report to the Superintendent or Director no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and,

(D) In no event shall more than nine months elapse between such progress reports to the Superintendent or Director.

(Ord. passed 11-8-94)

§ 52.052 REPORTS ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD DEADLINE.

Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Superintendent or Director a report containing the information described in § 52.050(B)(4) through (6). For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 52.041(D).

(Ord. passed 11-8-94)

§ 52.053 PERIODIC COMPLIANCE REPORTS.

(A) All significant industrial users shall, at a frequency determined by the Superintendent or Director but in no case less than once every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily applicable flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in § 52.059. All periodic compliance reports must be signed and certified in accordance with § 52.041(D).

(B) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(C) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Superintendent or Director, using the procedures prescribed in § 52.059, the results of this monitoring shall be included in the report.

(Ord. passed 11-8-94; Am. Ord. 2008-05-02, passed 5-5-08)

§ 52.054 REPORTS OF CHANGED CONDITIONS.

(A) Each user must notify the Superintendent or Director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 30 days before the change. The permittee shall not begin the changes until receiving written approval from the Control Authority and/or Municipality. See § 52.055 for other reporting requirements.

(B) The Superintendent or Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 52.041.

(C) The Superintendent or Director may issue a wastewater discharge permit under § 52.041 or modify an existing wastewater discharge permit under § 52.041 in response to changed conditions or anticipated changed conditions.

(D) For purposes of this requirement, significant changes include, but are not limited to, flow or pollutant increases of 20% or greater, and the discharge of any previously unreported pollutants.

(Ord. passed 11-8-94; Am. Ord. 2008-05-02, passed 5-5-08)

§ 52.055 REPORTS OF POTENTIAL PROBLEMS.

(A) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined § 52.002(A) that may cause potential problems for the POTW, the user shall immediately telephone and notify the Superintendent or Director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(B) Within five days following such discharge, the user shall, unless waived by the Superintendent or Director, submit a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(C) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in division (A) above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

(D) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in § 52.002(A).

(Ord. passed 11-8-94; Am. Ord. 2008-05-02, passed 5-5-08)

§ 52.056 REPORTS FROM UNPERMITTED USERS.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Superintendent or Director as the Superintendent or Director may require.

(Ord. passed 11-8-94)

§ 52.057 NOTICE OF VIOLATION; REPEAT SAMPLING AND REPORTING.

(A) If sampling performed by a user indicates a violation, the user must notify the POTW Superintendent within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the POTW Director within 30 days after becoming aware of the violation. If allowed by the POTW Director, the user is not required to resample:

- (1) If the Superintendent monitors at the user's facility at least once a month; or
- (2) If the Superintendent samples between the user's initial sampling and when the user receives the results of this sampling.

(B) If the Superintendent does not require the user to perform any self-monitoring and the POTW sampling of the user indicates a violation, the Superintendent shall repeat the sampling and obtain the results of the repeat analysis within 30 days after becoming aware of the violations, unless one of the following occurs:

- (1) The Superintendent monitors at the user's facility at least once a month;
- (2) The Superintendent samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or

(3) The Superintendent requires the user to perform sampling and submit the results to the POTW Director within the 30 day deadline of the POTW becoming aware of the violation.

(Ord. passed 11-8-94; Am. Ord. 2008-05-02, passed 5-5-08)

§ 52.058 NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE.

(A) (1) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and the state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261, in accordance with 40 CFR 403.12(p). Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user:

(a) An identification of the hazardous constituents contained in the wastes,

(b) An estimation of the mass and concentration of such constituents in the waste stream discharge during the calendar month, and

(c) A plan to reduce and eliminate the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(2) All notifications must take place no later than ten working days after the discharge commences. Any notification under this division need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under § 52.054. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §§ 52.050, 52.052, and 52.053.

(B) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued there under, or any applicable federal or state law.

(Ord. passed 11-8-94)

§ 52.059 ANALYTICAL REQUIREMENTS.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed by a laboratory certified by the state to perform the wastewater analysis in accordance with the

techniques prescribed in 40 CFR 136, unless otherwise specified in an applicable categorical pretreatment standard or unless otherwise performed in accordance with procedures approved by EPA or Town. If 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA and Town. Analysis must be performed by a State certified lab for each parameter analyzed, if such certification exists for that parameter.

(Ord. passed 11-8-94)

§ 52.060 GRAB AND COMPOSITE SAMPLE COLLECTION.

(A) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(B) Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, volatile organic compounds, and any other pollutants as required by 40 CFR 136. The POTW shall determine the number of grabs necessary to be representative of the user's discharge. See 40 CFR 403.12(g)(5) for additional grab sample number requirements for BMR and 90 Day Compliance Reports. Additionally, the Superintendent may allow collection of multiple grabs during a 24 hour period which are composited prior to analysis as allowed under 40 CFR 136.

(C) Composite samples. All wastewater composite samples shall be collected with a minimum of hourly aliquots or grabs for each hour that there is a discharge. All wastewater composite samples shall be collected using flow proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the Superintendent. When authorizing time-proportional composites or grabs, the samples must be representative and the decision to allow the alternative sampling must be documented.

(Ord. passed 11-8-94; Am. Ord. 2008-05-02, passed 5-5-08)

§ 52.061 TIMING.

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(Ord. passed 11-8-94)

§ 52.062 RECORD KEEPING.

Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the names of the persons taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the town, or where the user has been specifically notified of a longer retention period by the Superintendent or Director.

(Ord. passed 11-8-94)

COMPLIANCE MONITORING

§ 52.070 MONITORING FACILITIES.

(A) The town requires the user to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the town may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(B) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the town's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the town.

(Ord. passed 11-8-94)

§ 52.071 INSPECTION AND SAMPLING.

The town will inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the town, approval authority and EPA or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and copying or in the performance of any of their duties. The town, approval authority, and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and metering operations. Where a

user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the town, approval authority, and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Denial of the ~~Superintendent's or Director's~~ POTW, approval authority's, or EPA's access to the user's premises shall be a violation of this chapter. Unreasonable delays may constitute denial of access.

(Ord. passed 11-8-94)

§ 52.072 SEARCH WARRANTS.

If the ~~Superintendent or Director~~ POTW, approval authority, or EPA has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect or sample as part of a routine inspection and sampling program of the town designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the ~~Superintendent or Director~~ POTW, approval authority, or EPA may seek issuance of a search warrant from the Superior Court of Johnston County.

(Ord. passed 11-8-94)

§ 52.073 CONFIDENTIAL INFORMATION.

(A) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Superintendent or Director that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data.

(B) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this chapter, the National Pollutant Discharge Elimination System (NPDES) permit, non-discharge permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

(C) All records relating to compliance with pretreatment standards shall be made available to officials of the approval authority and EPA upon request.

(Ord. passed 11-8-94)

AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

§ 52.080 UPSET.

(A) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of division (B), below, are met.

(B) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and the user can identify the cause of the upset;

(2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(3) The user has submitted the following information to the Superintendent or Director within 24 hours of becoming aware of the upset. (If this information is provided orally, a written submission must be provided within five days):

(a) A description of the indirect discharge and cause of noncompliance;

(b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(c) Steps being taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(C) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(D) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(E) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(Ord. passed 11-8-94)

§ 52.081 PROHIBITED DISCHARGE STANDARDS DEFENSE.

A user shall have an affirmative defense to an enforcement action brought against it for non-compliance with the general prohibitions in § 52.010(A) of this chapter or the specific prohibitions in § 52.010(B)(2), (3), (5) through (7), and (9) through (23) of this chapter if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass-through or interference and that either:

(A) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass-through or interference; or

(B) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the town was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(Ord. passed 11-8-94)

§ 52.082 BYPASS.

(A) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of divisions (B) and (C) of this section.

(B) (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Superintendent or Director, at least ten days before the date of the bypass, if possible.

(2) A user shall submit oral notice to the Superintendent or Director of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Superintendent or Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(C) (1) Bypass is prohibited, and the Superintendent or Director may take an enforcement action against a user for a bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c) The user submitted notices as required under division (B) of this section.

(2) The Superintendent or Director may approve an anticipated bypass, after considering its adverse effects, if the Superintendent or Director determines that it will meet the three conditions listed in division (C)(1) of this section.

(Ord. passed 11-8-94)

OIL AND GREASE

§ 52.085 PURPOSE.

This subchapter is intended to aid in the prevention of sanitary sewer blockages and obstructions caused by the introduction, discharge and contribution of fats, oils, greases, grease complexes, scum, sludge and other organic polar compounds into the town's wastewater collection system or publicly owned treatment works by commercial, industrial, institutional and all other non-residential activities.

(Ord. passed 10-16-00)

§ 52.086 DEFINITIONS.

For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMMERCIAL ESTABLISHMENT and ***INDUSTRIAL ESTABLISHMENT***. Any user that has the potential to use, contribute to or otherwise impact the town's wastewater collection system or POTW. Such establishments include, but are not limited to, maintenance facilities, repair facilities and equipment cleaning facilities.

COOKING ESTABLISHMENT. Any person primarily engaged in the activities of cooking, preparing, serving or otherwise making available for human consumption any form of foodstuff, and which uses one or more of the following cooking or preparation methods in connection with such activities: cooking or preparation by frying (all methods), baking (all methods), grilling, sauteing, rotisserie cooking, broiling (all methods), boiling, blanching, roasting, toasting, poaching, or any type of cooking or

preparation that produces a hot non- potable product in or on a receptacle that requires washing, rinsing or other form of cleaning. Such establishments include, but are not limited to, restaurants, cafeterias, extended care facilities, school cafeterias (public and private), and day care facilities where meals for more than six children are prepared, served or otherwise made available for human consumption.

GREASE. All greases, grease complexes, fats, oils, scum, sludges and all other organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. Such substances are detectable and measurable using analytical procedures established in 40 CFR 136.

GREASE TRAP or GREASE INTERCEPTOR. A device for separating and retaining waterborne greases before the wastewater which contains such grease exits the grease trap or interceptor into the town's wastewater collection system or POTW. The grease trap or interceptor also collects settleable solids generated by or incidental to commercial, industrial and food preparation activities.

NON-COOKING ESTABLISHMENT. Any person primarily engaged in the rendering or preparation of pre-cooked foodstuffs that do not require or involve any form of cooking. Such establishments include, but are not limited to, establishments that are primarily engaged in the rendering preparation of cold dairy and frozen foodstuffs.

PERSON. Any actual person, corporation, partnership, unincorporated association, and any governmental entity or political subdivision and departments and agencies thereof.

TOWN. Town of Clayton, North Carolina, and its utility service area.

USER. Any person primarily engaged in any commercial, industrial, institutional or other non- residential activity who introduces, contributes or discharges (or causes or permits the introduction, contribution or discharge of) wastewater into the town's wastewater collection system or POTW, including but not limited to any person who introduces, contributes or discharges wastewater into the wastewater collection system or POTW through any mobile source.

WASTEWATER. Any substance introduced, contributed to, or discharged into the town's wastewater collection system or publicly-owned treatment works (POTW).

(Ord. passed 10-16-00)

§ 52.087 GREASE TRAP AND INTERCEPTOR INSTALLATION; MAINTENANCE; RECORD KEEPING AND REMOVAL.

(A) No later than one year after adoption of this ordinance, all users shall install grease traps or interceptors designed to limit the introduction, contribution and discharge of greases into the town's wastewater collection system or POTW. Grease traps and

interceptors with appropriate sampling or inspection points shall be installed at the user's expense whenever any user operates a commercial establishment, industrial establishment, or a cooking establishment. Grease traps and interceptors must have a minimum capacity of 1,000 gallons or more as required to effect a grease concentration maximum of 200 mg/l.

(B) Alternative methods of compliance may be approved by the town if the user demonstrates that compliance with this ordinance is impossible or impractical at the time of adoption of this ordinance as a result of limited space. However, any such proposed alternative method of compliance will be required to meet the performance criteria specified in division (A) of this section, and the user must adequately demonstrate to the satisfaction of the town that the proposed alternative method will satisfy those performance criteria. In addition, any such alternative method must be cleaned at a more frequent interval than is required of grease traps and interceptors under division (E) of this section. Prior to approval of any such proposed alternative method of compliance, documentation of the proposed method's actual performance criteria must be submitted to the town's Enforcement Official or Public Works Director for review and approval.

(C) Grease traps and interceptors may also be required in other facilities, as deemed necessary by the town's designated Enforcement Official or Public Works Director.

(D) Upon the prior written approval of the Public Works Director, non-cooking establishments may be exempted from the requirements of this subchapter after an inspection of the subject premises and submission of adequate supporting documentation, as deemed necessary in the sole and absolute discretion of the Public Works Director. At a minimum, such supporting documentation shall include: blueprints of the subject premises, a full and detailed description of the operations and activities at the subject premises, and a full and detailed list of all potential sources of grease at the subject premises.

(E) Users shall empty and service grease traps and interceptors as often as necessary to comply with the performance criteria in division (A) of this section. The default maximum period of time allowed between servicing of grease traps shall be 60 days; however, individual customers may prepare and submit an alternative schedule for review and approval by the Public Works Director. Alternative schedules may be approved based on evaluation of the flow volume, character of the wastewater, and capacity of the grease trap. Once approved, the user must adhere to the alternative schedule. Under-the-counter types of grease traps and interceptors shall be cleaned at least daily, and shall comply with the performance criteria in division (A) of this section. There shall be no reintroduction of wastewater back into the grease trap or interceptor unless and until said wastewater has been proven to contain 200 mg/l or less of grease. Under no circumstances shall the sludge or scum layer be reintroduced or discharged into the town's wastewater collection system or POTW.

(F) Users shall supply (1) an adequate sampling point downstream of the grease trap or interceptor, prior to mixing with other sanitary flows, and (2) an accessible entry into

each chamber of the grease trap or interceptor. The minimum requirement for the sampling point shall be four-inch vertical clean-out.

(G) Users shall retain detailed records on-site for a minimum of three years reflecting all maintenance carried out pursuant to this section. At a minimum, such records shall contain the following information: date of service, name of the employee involved, and a receipt reflecting all services rendered by the waste hauler providing the service.

(H) Users are required to keep the grease trap or interceptor free of inorganic solids such as grit, towels, gloves, cigarettes, eating utensils, and the like, which could clog or settle in the trap or interceptor, thereby reducing the effective volume or capacity of the trap or interceptor.

(I) Users are required to ensure that all waste material removed from grease traps and interceptors is disposed of in a manner that complies with all federal, state and local statutes, rules, regulations, policies and ordinances.

(J) Except as provided herein, for a period of one year following the adoption of this subchapter, no enforcement actions will be taken under this section for failure to achieve the performance criteria specified in division (A) of this section. If, during such period, (1) an obstruction of any of the town's sanitary sewer main(s) occurs and causes a sewer overflow, spill, leak or other event with any environmental impact, and (2) such overflow, spill, leak or other event may be attributed in part or in whole to a particular user, then the town will seek enforcement action under this chapter, and/or the Pretreatment Enforcement Plan. For purposes of this section, an overflow, spill, leak or other event shall be deemed to have an environmental impact when (1) such overflow or other event involves an amount of wastewater equal to or in excess of 1,000 gallons, or (2) any amount of wastewater reaches any body of surface water.

(Ord. passed 10-16-00; Am. Ord. 2004-05-03, passed 5-17-04)

§ 52.088 ENFORCEMENT.

The town shall enforce this subchapter pursuant to the provisions of this chapter and Chapter 10 of the town's Code of Ordinances and/or the town's Pretreatment Enforcement Plan.

(Ord. passed 10-16-00)

ENFORCEMENT/PENALTIES

§ 52.990 ADMINISTRATIVE REMEDIES.

(A) *Notification of violation.* Whenever the Superintendent or Director finds that any industrial user has violated or is violating this chapter, wastewater permit, or any

prohibition, imitation or requirements contained therein or any other pretreatment requirement the Superintendent or Director may serve upon such a person a written notice stating the nature of the violation. Within 30 days from the date of this notice, an explanation for the violation and a plan for the satisfactory correction thereof shall be submitted to the town by the user. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(B) *Consent orders.* The Superintendent or Director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to § 52.990(D) below.

(C) *Show cause hearing.*

(1) The Superintendent or Director may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this chapter or is in noncompliance with a wastewater discharge permit to show cause why a proposed enforcement action should not be taken. In the event the Superintendent or Director determines that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

(2) The Superintendent or Director shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.

(3) A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under § 52.991 nor is any action or inaction taken by the Superintendent or Director under this section subject to an administrative appeal under § 52.041(I).

(D) *Administrative orders.* When the Superintendent or Director finds that an industrial user has violated or continues to violate this chapter, permits or orders issued hereunder, or any other pretreatment requirement, the Superintendent or Director may issue an order to cease and desist all such violations and direct those persons in noncompliance to do any of the following:

- (1) Immediately comply with all requirements;
- (2) Comply in accordance with a compliance time schedule set forth in the order;

(3) Take appropriate remedial or preventive action in the event of a continuing or threatened violation;

(4) Disconnect unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.

(E) *Emergency suspensions.*

(1) The Superintendent or Director may suspend the wastewater treatment service and wastewater permit when such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any condition of its NPDES or non-discharge permit.

(2) Any user notified of a suspension of the wastewater treatment service or the wastewater permit shall immediately stop or eliminate the contribution. A hearing will be held within 15 days of the notice of suspension to determine whether the suspension may be lifted or the user's waste discharge permit terminated. In the event of a failure to comply voluntarily with the suspension order, the Superintendent or Director shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The Superintendent or Director shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Superintendent or Director prior to the date of the above-described hearing.

(F) *Termination of permit or permission to discharge.* The Superintendent may revoke a wastewater discharge permit or permission to discharge for good cause, including, but not limited to, the following reasons:

(1) Failure to accurately report the wastewater constituents and characteristics of his discharge;

(2) Failure to report significant changes in operations, or wastewater constituents and characteristics;

(3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or,

(4) Violation of conditions of the permit or permission to discharge, conditions of this chapter, or any applicable state and federal regulations.

Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under § 52.990 why the proposed action should not be taken.

(Ord. passed 11-8-94; Am. Ord. 2008-05-02, passed 5-5-08)

§ 52.991 CIVIL PENALTIES.

(A) Any user who is found to have failed to comply with any provision of this chapter, or the orders, rules, regulations and permits issued hereunder, may be ~~fin~~ assessed a civil penalty of up to \$25,000 per day per violation.

(1) Penalties between \$10,000 and \$25,000 per day per violation may be assessed against a violator only if:

(a) For any class of violation, only if a civil penalty has been imposed against the violator within the five years preceding the violation; or

(b) In the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this chapter, or the orders, rules, regulations and permits issued hereunder, only if the Superintendent determines that the violation was intentional and a civil penalty has been imposed against the violator within the five years preceding the violation.

(B) In determining the amount of the civil penalty, the Superintendent shall consider the following:

(1) The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;

(2) The duration and gravity of the violation;

(3) The effect on ground or surface water quantity or quality or on air quality;

(4) The cost of rectifying the damage;

(5) The amount of money saved by noncompliance;

(6) Whether the violation was committed willfully or intentionally;

(7) The prior record of the violator in complying or failing to comply with the pretreatment program;

(8) The costs of enforcement to the town.

(C) Appeals of civil penalties assessed in accordance with this section shall be as provided in § 52.041(I).

(Ord. passed 11-8-94; Am. Ord. 2008-05-02, passed 5-5-08)

§ 52.992 OTHER AVAILABLE REMEDIES.

Remedies, in addition to those previously mentioned in this chapter, are available to the Superintendent or Director who may use any single one or combination against a noncompliant user. Additional available remedies include, but are not limited to:

(A) *Criminal violations.* The District Attorney for the 11th Judicial District may, at the request of the town, prosecute noncompliant users who violate the provisions of G.S. § 143-215.6B.

[Note: Under North Carolina law, it is a crime to negligently violate any term, condition, or requirement of a pretreatment permit, or negligently fail to apply for a pretreatment permit, issued by local governments (G.S. § 143-215.6B(f)), to knowingly and willfully violate any term, condition, or requirement of a pretreatment permit, or knowingly and willfully fail to apply for a pretreatment permit, issued by local governments (G.S. § 143-215.6B(g)), to knowingly violate any term, condition, or requirement of a pretreatment permit issued by local governments, or knowingly fail to apply for a pretreatment permit, knowing at the time that a person is placed in imminent danger of death or serious bodily injury, (G.S. § 143-215.6B(h)), and to falsify information required under Article 21 of Chapter 143 of the General Statutes (G.S. § 143-215.6B(i)).]

(B) *Injunctive relief.* Whenever a user is in violation of the provisions of this chapter or an order or permit issued hereunder, the Superintendent or Director, through the Town Attorney, may petition the Superior Court of Justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question.

(C) *Water supply severance.* Whenever an industrial user is in violation of the provisions of this chapter or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

(D) *Public nuisances.* Any violation of the prohibitions or effluent limitations of this chapter or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the Superintendent or Director. Any person creating a public nuisance shall be subject to the provisions of Chapter 97 (Health and Sanitation) of the Town of Clayton Code of Ordinances, governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying such nuisance.

(Ord. passed 11-8-94)

§ 52.993 REMEDIES NONEXCLUSIVE.

The remedies provided for in this chapter are not exclusive. The Superintendent or Director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the town's enforcement response plan. However, the Superintendent or Director may take other action against any user when the circumstances warrant. Further, the Superintendent or Director is empowered to take more than one enforcement action against any noncompliant user.

(Ord. passed 11-8-94)

§ 52.994 ANNUAL PUBLICATION OF SIGNIFICANT NONCOMPLIANCE.

At least annually, the Superintendent or Director shall publish in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, a list of those industrial users which were found to be in significant noncompliance, also referred to as reportable noncompliance in 15A NCAC 2H .0903(b)(10,34), with applicable pretreatment standards and requirements, during the previous 12 months.

(Ord. passed 11-8-94; Am. Ord. 2008-05-02, passed 5-5-08)

§ 52.995 SEVERABILITY.

If any provision, paragraph, word, section or article of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

(Ord. 2008-05-02, passed 5-5-08)

§ 52.996 CONFLICT.

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this chapter are hereby repealed to the extent of such inconsistency or conflict.

(Ord. 2008-05-02, passed 5-5-08)

§ 52.997 EFFECTIVE DATE.

This chapter shall be in full force and effect from and after its passage, approval and publication, as provided by law.

(Ord. 2008-05-02, passed 5-5-08)

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Charleston, SC
Charlotte, NC
Columbia, SC
Myrtle Beach, SC
Raleigh, NC
Spartanburg, SC

February 22, 2013

Ms. Deborah Gore
PERCS Unit Supervisor
North Carolina Division of Water Quality
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

**Re: Sewer Use Ordinance and Sewer Use Check List,
Clayton, North Carolina**

Dear Ms. Gore:

I certify that I am the duly appointed and acting Attorney for the Town of Clayton, North Carolina. I have reviewed the proposed sewer use ordinance for the Town of Clayton, North Carolina and also its sewer use ordinance check list as required by 15A NCAC 2H .0907 (b)(1) and 40 CFR 403.9(b)(1), and they meet with my approval.

Very truly yours,

A handwritten signature in black ink, appearing to read 'R. Bruce Thompson II', written over a horizontal line.

R. Bruce Thompson II

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 5f

Meeting Date: 3/18/13

TITLE: PRESENTATION OF RESOLUTION TO NCDOT FOR ROAD IMPROVEMENTS ON POWHATAN ROAD.

DESCRIPTION: Attached.

RELATED GOAL: Administrative

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
3-18-13	Presentation.	Resolution.

TOWN OF CLAYTON
Resolution of Request for North Carolina Department of Transportation
Participation in Improvements to Powhatan Road

WHEREAS, the Town of Clayton through its Strategic Plan Update 2006 has adopted a set of Goals to guide the Town in making decisions; and,

WHEREAS, Goal Number One was identified as “Grow the Local Economy” accompanied by the objectives “Continuing to partner with Economic Development Organizations, Johnston County, RTRP, NC DOT, Johnston Medical Center, J CATS” and “Retaining and growing current businesses”; and,

WHEREAS, Powhatan Road is located within a major business and employment hub serving the interests of and contributing to the economic vitality of the Town of Clayton and Johnston County; and,

WHEREAS, adequate road access and sound maintenance practices are essential parts of the infrastructure necessary to support investment and expansion of the employment base and protect the safety of the motoring public; and,

WHEREAS, the North Carolina Department of Transportation promotes the economic wellbeing and safe public travel for communities across the State by providing new roadways, improvements to existing roadways, roadway maintenance, and public transportation.

NOW, THEREFORE, BE IT RESOLVED that the Town Council for the Town of Clayton is requesting the participation of the North Carolina Department of Transportation to provide necessary improvements to and maintenance of Powhatan Road in support of continuing economic vitality of this major employment area and assurance of safe roadway conditions for commuters and the public.

Adopted this the ____ day of _____ 2013 while in regular session.

ATTEST:

Jody L. McLeod,
Mayor

Sherry L. Scoggins, MMC
Town Clerk

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 5g

Meeting Date: 3/18/13

TITLE: PRESENTATION OF SPRING 2013 LITTER SWEEP PROCLAMATION.

DESCRIPTION: The NCDOT Spring 2013 Litter Sweep will take place April 13-27, 2013.

Citizens wishing to participate in the NCDOT Spring 2013 Litter Sweep may contact the Office of Beautification Programs at 919-715-3188 or www.ncdot.gov/~beautification

RELATED GOAL: Beautify the Town of Clayton and Create an Arts Community

ITEM SUMMARY:

Date:

Action:

Info. Provided:

3-18-13

Presentation.

Proclamation.

Town of Clayton
Proclaim April 13 – 27, 2013 as
Spring 2013 Litter Sweep

Whereas, the Spring 2013 Litter Sweep roadside cleanup will take place April 13 – April 27, 2013, and encourages civic and professional groups, businesses, churches, schools, neighborhoods, families and individual citizens to participate in the Department of Transportation cleanup by sponsoring and organizing local roadside cleanups; and

Whereas, the great natural beauty of our community and a clean environment are sources of great pride for the Town of Clayton, attracting tourists and aiding in recruiting new industries; and

Whereas, the cleanup will increase awareness of the need for cleaner roadsides, emphasize the importance of not littering, and encourage recycling of solid wastes; and

Whereas, the efforts of volunteers beautify our town and help raise awareness of litter on the environment and give every citizen the opportunity to take responsibility for clean roads;

NOW, THEREFORE, LET IT BE PROCLAIMED by the Honorable Mayor and Town Council of the Town of Clayton that April 13 – April 27, 2013, be proclaimed as **Spring 2013 Litter Sweep Roadside Cleanup**. Let it also be proclaimed that all our citizens are urged to keep our roadsides clean; to reduce and recycle solid wastes; and to report violations of litter laws.

Duly proclaimed this ____ of April 2013, while in regular session.

Jody L. McLeod
Mayor

Litter Sweep Cleanup Procedures

1. Organize a volunteer group from your workplace, church, club, neighborhood, family, school, local government, etc., composed of people interested in removing roadside litter from their community and showing pride in North Carolina.
2. As soon as possible, choose a state road you would like to clean. You may have a road in mind. It may be a road in your neighborhood – the road in front of your church – any state road you think should be cleaner and would make you prouder of your community. If you need help choosing a road to clean, call your NCDOT county maintenance office or Adopt-A-Highway coordinator. They can recommend roads that need cleaning in your area.
3. Decide on a date and time to do your cleanup. Remember to determine a rain date in case of inclement weather on the original date.
4. Determine each person's role in the cleanup. Fill in the individual responsible for the following roles:
 - Who will be in charge of safety?
 - Who will pick up supplies needed from the local NCDOT county maintenance office?
Cleanup Supplies: Orange safety vests, orange bags (for general trash), blue bags (for recycling plastic, metal and glass) and gloves. Some counties may have pickup sticks available for you to borrow.
 - Who will count the number of bags of litter?
 - Who will request NCDOT to pick up the bags?
 - Who will be in charge of water and snacks for workers?
 - Additional roles (i.e. who will handle recycling?)
5. Be sure to print all safety procedures for those participating in the cleanup from our Web site, and ask everyone to view the safety videos on the Litter Sweep Web site prior to your scheduled cleanup.
6. Close and tie the tops of your filled bags. Leave only the orange bags on the roadside several yards from the pavement.
7. Call your NCDOT county maintenance office or Adopt-A-Highway coordinator and give the number of bags and their exact location on the road. NCDOT will pick up and dispose of the orange bags.
8. We encourage you to recycle. Put the items to be recycled in blue recycling bags and take them to a recycling facility of your choice. Remember, it is illegal to put aluminum cans and plastic bottles into landfills and therefore they must be recycled.

Litter Sweep Certificate of Appreciation

Each volunteer may receive a certificate of appreciation suitable for framing as a “thank you” for helping in the cleanup. Submit a completed form by mail or fax (919-715-2554). Download a request form from www.ncdot.gov/~littersweep.

Keep North Carolina Beautiful Unusual Litter Contest

During the cleanup have a camera with you and keep an eye out for “unusual” litter. Then, enter the KNCB Unusual Litter Contest by submitting the picture with the entry form. Entry forms are available at www.ncdot.gov/~littersweep.

Office of Beautification Programs

1540 Mail Service Center

Raleigh, NC 27699-1540

Phone: (919) 715-3188

Fax: (919) 715-2554

Toll Free: (Raleigh): 1-800-331-5864

Website: www.ncdot.gov/~beautification

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 8a Meeting Date: 3/18/13

TITLE: FINAL DISCUSSION AND ACTION OF NOISE ORDINANCE.

DESCRIPTION: At its May 7, 2012, Council meeting, a spreadsheet comparing noise ordinances was presented to the Town Council. The purpose of the discussion is to receive Council feedback and direction on this item.

At the September 17, 2012, Council meeting, Town Manager Biggs stated he spoke with personnel at Caterpillar and requested they obtain noise readings from around Town and to include Horne Square, neighborhoods, and the vicinity of Clayton High School in the evening hours.

On October 15, 2012, the Council held a special meeting on the Town Square for the purpose of a noise measurement demonstration.

During the October 15, 2012, work session, it was the consensus of the Council to receive information on the number of citations for noise complaints.

Police Chief Glen Allen submitted the following: From October 1, 2011 through September 30, 2012 there were two (2) people cited for noise ordinance violations. During that span there were 236 calls for service related to noise, but that includes all sources (cars, explosions, music, parties, dogs barking, heavy equipment, etc.).

RELATED GOAL: Administrative

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
5-21-12	Discussion.	Spreadsheet.
6-04-12	Tracking.	None.
7-19-12	Discussion.	
8-06-12	Discussion.	N/A.
8-20-12	Discussion.	
9-04-12	Discussion.	
9-17-12	Discussion.	
10-01-12	Discussion.	
10-15-12	Discussion.	
11-05-12	Discussion.	
11-19-12	TRACKING PURPOSES.	N/A.
12-03-12	TRACKING PURPOSES.	N/A.
1-23-13	TRACKING PURPOSES.	N/A.
2-4-13	TRACKING PURPOSES.	N/A.
2-18-13		
3-04-13		
3-18-13	Discussion.	DRAFT Noise Ordinance.

Section

- 98.01 Unreasonably loud or disturbing sound levels
- 98.02 Prohibited activities
- 98.03 Presumption in prosecution

- 98.99 Penalty

Statutory reference:

Authority to regulate noise, see G.S. § 160A-184

§ 98.01 UNREASONABLY LOUD OR DISTURBING SOUND LEVELS.

It shall be unlawful for any person, firm or corporation to create or assist in creating any unreasonably loud, disturbing sound levels within the corporate limits of the town, taking into consideration volume, duration, frequency and other characteristics of the sound.

DEFINITIONS

Ambient noise level means the dB(A) L(90) measured over a five minute duration made at the location where a complainant claims to be disturbed by an alleged violation but at a time when no noise is then being alleged to violation this ordinance and made at a point no closer than outside the property line of the property from where the noise is generated.

ANSI refers to the American National Standards Institute or any successor to such organization.

A-weighted sound level means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network measured by a sound level meter, following the criteria approved by ANSI.

Decibel is a unit of measuring the amplitude of sound equal to 20 times the logarithm to the base ten of the ration between the pressure of sound measured to the reference pressure, which is 20 micronewtons per square meter, as approved by ANSI

Sound level meter means an instrument which measures sound levels in decibels, which either meets the standard of ASAS 1.4-1983 or other ANSI approved minimum requirements and provided further that such instrument shall be serviced, calibrated, and operated as recommended by the manufacturer, operated by a person or persons trained to operate the same, as approved by the Chief of Police or his designee.

(Ord. passed 9-6-94)

§ 98.02 PROHIBITED ACTIVITIES.

The following activities, among others, are declared to be unreasonably loud, disturbing sound levels; however, such enumeration shall not be deemed exclusive. For any of the below illustrated or similar

activities to be considered a violation the complaints of two or more persons, at least one of whom resides in a different home from the other complaining person or persons, or the complaint of one or more persons when combined with the complaint of a duly authorized law enforcement officer that the sound is loud, annoying, disturbing, unnecessary, and unreasonably loud shall be necessary.

(A) The playing of any musical instrument, radio, phonograph, television, sound reproduction instrument, or amplifier in such a manner or with such volume, at any time of day or night, that a reasonably prudent person would recognize the same as likely to unreasonably disturb persons in the vicinity.

(B) The operation of any motor or motorized equipment, except for emergency purposes, at any time between 9:00 p.m. and 7:00 a.m. on any day of the week which unreasonably or unnecessarily annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others within the town.

(C) The keeping of any animal, including birds, which makes frequent or long continued sounds, such that a reasonably prudent person would recognize the same as likely to unreasonably disturb persons in the vicinity.

(D) The use of any automobile, motorcycle or vehicle so out of repair, so equipped or operated in such a manner as to create unreasonably loud, disturbing sounds.

(E) The operation of any nonconforming use in any zoning district within the town so as to cause any unreasonably loud, disturbing sounds to be emitted.

(F) The sounding of any horn, siren or signal device on any motor vehicle, except as a danger signal to the public. Police, fire, ambulance or other emergency vehicles are exempted.

(G) The creation of unreasonably loud, disturbing sound adjacent to any school, educational facility, church or court during normal operating hours, which a reasonably prudent person would recognize as likely to unreasonably interfere with the working of such institutions.

(H) The erection (including excavation), demolition, alteration or repair of any building in a residential or business district other than between the hours of 7:00 a.m. and 9:00 p.m. on any day, except in the case of urgent necessity in the interest of the public safety, and then only under the direction of the appropriate town official.

(I) The use of any electronic sound amplification equipment for advertising or solicitation purposes, except with a permit lawfully issued by the town.

(J) The firing or discharging of firearms anywhere within the town for the purpose of making noise or creating a disturbance.

(K) The shouting and crying out of any person, including but not limited to peddlers, barkers, hawkers, or vendors, which disturbs the quiet and peace of the neighborhood.

(Ord. passed 9-6-94)

§ 98.03 PRESUMPTION IN PROSECUTION.

~~The complaints of two or more persons, at least one of whom resides in a different home from the other complaining person or persons, or the complaint of one or more persons when combined with the complaint of a duly authorized law enforcement officer shall be prima facie evidence that the sound is loud and annoying, disturbing, unnecessary and unreasonably loud.~~

In order to document and prove a prima facie violation of this noise ordinance:

(A) The ambient noise level shall be determined, if it is reasonably practicable to do so in the discretion of the law enforcement officer or code enforcement officer responding to the noise complaint. The alleged violation noise shall be measured at the same location as the ambient noise reading and using the same device and procedure. A violation shall have occurred if the alleged violation noise level as measured in dB(A) LAeq exceeds the ambient noise level:

	<u>Residential Area</u>	<u>Highway, Business or Mixed Use Area</u>
<u>7am to 9 pm</u>	<u>+20</u>	<u>+22</u>
<u>9 pm to 7 am</u>	<u>+10</u>	<u>+12</u>

(B) If no decibel readings or comparison between ambient noise levels and alleged violation noise levels are practicable in the discretion of the law enforcement officer or officers, or code enforcement officer or officers responding to the noise complaint, the alleged violation is listed in section 98.02, and the violator does not voluntarily and promptly reduce the noise level when requested to do so by a law enforcement officer or code enforcement officer, so as to comply with the definitions in section 98.01, or if, having reduced the noise level to comply therewith but then within a 24-hour period again produces or allows to be produced noise at a level not in compliance with the definitions in section 98.01, the noise shall be a violation of the ordinance.

(Ord. passed 8-1-83; Am. Ord. passed 9-6-94)

Section 98.04 Exceptions: The following are excepted from this noise ordinance:

- (A) Any noise generated by an emergency vehicle, such as a fire truck, police car, a governmental entity which is intended to immediately promote the public health, safety, or welfare.
- (B) Any sporting or performance event or practice sanctioned by a school, any government agency, or any civic group or club provided that in the latter instance of such event is properly permitted.
- (C) Noise caused by:
 - i. Lawn care equipment operated in association or support of parks, playgrounds, golf courses, or other legitimate nonresidential law maintenance purposes between the hours of 6:00 a.m. and 9:00 p.m.
 - ii. Properly permitted events such as parades, fairs, circuses, concerts, and other entertainment events if properly permitted.

- iii. Bells, chimes, and similar devices which operate from a stationary location which operate for no longer than five minutes in any hour.
 - iv. Public service activity when between the hours of 6:00 a.m. and 9:00 p.m. or emergency public service work at any time or day.
 - v. Traffic noises other than the unnecessary use of horns, radios, or other sound amplifying or receiving equipment, intentional screeching of tires, intentional revving of motors, provided that such traffic noises emanate from a public street or right-of-way.
 - vi. As noted in 98.04 (D).
- (D) Permits for exceptions. Upon application to the Zoning Administrator and with the concurrence of the Town Manager, Chief of Police, and Code Enforcement Officer an exception from this ordinance may be granted under the following circumstances:
- i. The applicant is an educational institution, bona fide non-profit organization, governmental organization or other public/quasi public agency serving the entire community.
 - ii. Exceptions should be structured and condition to provide the least extent of variance from the ordinance as necessary to allow the proposed event to take place.
 - iii. In no case may a noise exception extend beyond midnight or initiate earlier than 6:00 a.m.

§ 98.99 PENALTY.

A violation of any section of this chapter by any person shall be a misdemeanor and shall subject the offender to a fine of up to \$50 and/or imprisonment not to exceed 30 days. Each day of a continuing violation shall constitute a separate violation.

(Ord. passed 8-1-83; Am. Ord. passed 9-6-94)

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 8b **Meeting Date:** 3/18/13
TITLE: STATUS OF 110 WEST FRONT STREET, FORMER RED AND WHITE STORE.

DESCRIPTION: At the July 16, 2012, Council work session, it was the consensus of the Council that staff draft the ordinance authorizing the building inspector to have the property demolished in the event Town does not see work initiated within the specified timeframe. At its August 6, 2012, Council meeting, it was the consensus of the Council to continue this item for 90 days. At its November 5, 2012, Council meeting, the Council received information from the lien holder of this property. All Council members voted in favor of continuing this item to the November 19, 2012, Council meeting in order to receive additional information.

RELATED GOAL: Think Downtown & Administrative

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
7-16-12	Discussion.	Ordinance.
8-06-12	Discussion.	Ordinance, map, NC GS 160A-439, and Town Code Of Ordinances section 153.027.
10-15-12	None – Tracking.	Ordinance, map, NC GS 160A-439, and Town Code Of Ordinances section 153.027.
11-05-12	Discussion.	Ordinance, map, NC GS 160A-439, and Town Code Of Ordinances section 153.027.
11-19-12	Discussion.	Ordinance, map, NC GS 160A-439, and Town Code Of Ordinances section 153.027.
12-3-12	Discussion.	Ordinance, Map, NC GS 160A-439, and Town Code of Ords section 153.027.
12-17-12	Discussion.	N/A.
1-7-13	Discussion.	N/A.
1-23-13	Discussion.	N/A.
2-4-13	Discussion.	
2-18-13	Discussion.	
3-04-13	Discussion.	
3-18-13	Discussion.	

TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET

Agenda Item: 9c

Meeting Date: 3/18/13

TITLE: TOWN CLERK

DESCRIPTION: Calendar of Events

- Sunshine Week – March 10-16, 2013
- Local Bill deadline for Senate – March 13, 2013
- Zaxby's Movie Night – Saturday, March 16, 2013 @ Town Square from 6 PM to 10 PM
- 2013 Johnston County Legislative Summit – Monday, March 18, 2013, 12 noon to 1:30 PM at Johnston Community College Great Hall of the Paul A Johnston Auditorium (Sponsored by the Johnston County Association of Chambers)
- Council Mtg – Monday, March 18, 2013 @ 6:30 PM
- Board of Adjustment Mtg – March 20, 2013 @ 6 PM
- Arbor Day – March 22, 2013 – Celebration at Legend Park at 4 PM
- Active Aging Alliance of Johnston County Forum – Monday, March 25, 2013 @ 2 PM at the Clayton Community Center, 715 Amelia Church Road
- Planning Board Mtg – Monday, March 25, 2013 @ 6 PM
- Town Hall Day – Wednesday, March 27, 2013
- Good Friday Holiday – Friday, March 29, 2013
- Easter Egg Hunt – Friday, March 29, 2013 @ 10:30 AM at Clayton Community Park, 1075 Amelia Church Road
- Council Mtg – Monday, April 1, 2013 @ 6:30 PM
- Local Bill deadline for House – April 3, 2013
- "Clayton River Walk on the Neuse" Mountains-to-Sea Trail Dedication – Friday, April 5, 2013, @ 3 PM
- Clayton Farmers Market weekly Saturday Market resumes at Horne Square – Saturday, April 6, 2013, from 9 AM to 1 PM
- "Spring Kick off Concert" – Friday, April 12, 2013; 6 PM – 8 PM @ Clayton Community Center, 715 Amelia Church Road (**Alcohol is prohibited**)
- Council Mtg – Monday, April 15, 2013 @ 6:30 PM
- Board of Adjustment Mtg – Monday, April 17, 2013 @ 6:30 PM
- Planning Board Mtg – Monday, April 22, 2013 @ 6 PM
- Zaxby's Movie Night – Saturday, April 27, 2013 @ Town Square from 6 PM to 10 PM
- Derby Day (sponsored by Clayton Morning Rotary Club) – Saturday, May 4, 2013, at Portofino, time to be announced
- Council Mtg – Monday, May 6 2013 @ 6:30 PM
- Board of Adjustment Mtg – Wednesday, May 15, 2013 @ 6 PM
- Clayton Town Square Concert Series: **Hip Pocket Band** – Thursday, May 16, 2013 from 7 PM to 9 PM

- HeartChase – Saturday, May 18, 2013 @ Town Square and in Downtown Clayton from 10 AM to 12 noon; registration begins at 9 AM.
- Council Mtg – Monday, May 20, 2013 @ 6:30 PM
- Clayton Chamber Business Expo – Tuesday, May 21, 2013, at the Clayton Center
- Memorial Day Holiday – Monday, May 27, 2013
- Planning Board Mtg – **TUESDAY**, May 28, 2013 @ 6 PM
- MillStock Music & Art Faire – Saturday, June 1, 2013 @ Horne Square from 10 AM to 4 PM
- Clayton Town Square Concert Series: **Johnny Orr Band** – Thursday, June 20, 2013 from 7 PM to 9 PM
- Independence Day Holiday – Thursday, July 4, 2013
- Clayton Annual July 4th Celebration – Thursday, July 4, 2013 @ Municipal Park – Events begin at 4:30 PM and wrap up with fireworks at 9:15 PM
- Clayton Town Square Concert Series: **Craig Woolard Band** – Thursday, July 18, 2013 from 7 PM to 9 PM
- Clayton Town Square Concert Series: **Central Park Band** – Thursday, August 15, 2013 from 7 PM to 9 PM
- Labor Day Holiday – Monday, September 2, 2013
- Clayton Town Square Concert Series: **MikeMickXer** – Thursday, September 12, 2013 from 7 PM to 9 PM
- Zaxby's Movie Night – Saturday, September 14, 2013 @ Town Square from 6 PM to 10 PM
- Zaxby's Movie Night – Saturday, October 12, 2013 @ Town Square from 6 PM to 10 PM
- Veteran's Day Holiday – Monday, November 11, 2013
- Thanksgiving Holiday – Thursday, November 28, 2013 & Friday, November 29, 2013
- Christmas Holiday – Tuesday, December 24, 2013; Wednesday, December 25, 2013; & Thursday, December 26, 2013

Date:
3-18-13

Action:
N/A

Info. Provided:
Calendar of Events