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Memo

To: Mayor, Board of Commissioners
Cc: Bryan Gruesbeck
From: Paul S. Messick, Jr. 
Date: February 25, 2016
Re: Special Assessments for Critical Infrastructure

Local governments in North Carolina have had authority for more than 50 years to assess the capital costs for some public improvements against the property specially benefitting therefrom. Pittsboro has occasionally utilized this technique, but not often. There are a number of procedural hurdles that make it burdensome and awkward. Permissible bases of assessment for most traditional special assessment projects are frontage abutting the project, at an equal rate per foot; area of land served by the project, at an equal rate per unit; value added to the land served by the project, at an equal rate per dollar of value added; number of lots served, where the project involves extension of an existing system to a residential or commercial subdivision, at an equal rate per lot; or a combination of two or more bases. The governmental unit must front the costs of the project and payment of the assessment can be required with interest over a maximum of ten years.

Special assessments for critical infrastructure were authorized in 2008 based upon legislation from other states. According to Kara Millzoni of the School of Government, the purpose of the newer authority "is to help local units fund public infrastructure projects that benefit new development. It allows a unit to impose assessments, with payments spread out over a period of years, with the expectation that all or at least a majority of the assessments will be paid by the eventual property owners (instead of the developer or the local government). The unit can front the costs of the projects and recoup its investment over time with the yearly assessment payments. Alternatively, the unit may be able to borrow money, pledging the assessment revenue as security, and use the yearly assessment payments to meet its debt service obligations." (emphasis added)

Chatham Park will propose a variation of this newer critical infrastructure special assessment method and seeks clarification from the General Assembly through an amendment to the statute so as to explicitly allow funds from private parties to pay for public improvements and to allow the special assessments to be assigned to reimburse the costs advanced by the private parties. It has asked whether Chatham County would be support this request. If the legislation is amended,

there will be no obligation on the part of the County or the Town for the cost of the improvements. The only obligation (with no financial liability) will be that of the County to collect the assessments.

The methodology used to calculate the assessments may be based upon the same methods as traditional assessments, but also "any other method designed to allocate the costs in accordance with benefits conferred." In 2013 Hillsborough utilized the statutory critical infrastructure assessment method to issue Special Revenue Assessment Bonds for a residential development. The assessment method used by Hillsborough spread the entire assessment across all parcels within the district based on the ratio of each parcel's estimated assessed value to the total estimated assessed value within the district based upon based on factors such as land use, density, location, market conditions, historical sales, discussions with homebuilders/developers, and any other factors that might impact build-out value and any other information available.

The County has not agreed to participate even if the law is amended. Many issues will have to be determined in the future. Chatham Park has not proposed any particular method of assessment nor the public improvements possibly involved.

I have attached some information that might be helpful towards your understanding of the issues:

1. Article 9 A, Chapter 153A of the North Carolina General Statutes which authorizes the special assessments for critical infrastructure for counties. There is a parallel municipal statute which I will be glad to provide upon request. The sunset date on this legislation is now 2020 and the maximum length of time for the payment of assessments is 25 years.
2. Local Finance Bulletin dated November 2009 from the School of Government which describes the differences between the traditional special assessments and the special assessments for infrastructure improvements available to local governments.
3. Presentation prepared by Chatham Park Investors that was to be presented to the County Board of Commissioners at its February 15 meeting which was cancelled due to inclement weather.
4. Assessment Methodology Report for the Hillsborough SAD project that describes the alternative method used to assess the property specially benefitting from those improvements.