



EAST MOORE WATER DISTRICT BOARD OF DIRECTORS

SPECIAL MEETING

TUESDAY, JANUARY 24, 2023, 5:15 PM

COMMISSIONERS MEETING ROOM, HISTORIC COURTHOUSE, CARTHAGE

CALL TO ORDER

ITEMS OF BUSINESS:

- I. Request for Approval of June 23, 2022, Special Meeting Minutes
- II. Request for Approval of Deed of Dedication for Brookwood Phase 3
- III. Request for Approval of Fiscal Year 2024 Budget Adoption Schedule

ADJOURNMENT



I.
EMWD
1/24/2023

EAST MOORE WATER DISTRICT BOARD OF DIRECTORS

SPECIAL MEETING

THURSDAY, JUNE 23, 2022

The East Moore Water District Board of Directors convened for a Special Meeting at 3:45pm, Thursday, June 23, 2022, in the Commissioners' Meeting Room located on the second floor of the Historic Courthouse, One Courthouse Square, Carthage, North Carolina.

Directors Present: Chairman Frank Quis, Vice Chair Catherine Graham, Jerry Daeke, Nick Picerno, Otis Ritter

Chairman Quis called the meeting to order at 3:57pm.

ITEMS OF BUSINESS:

Request for Adoption of FY 23 Budget Ordinance for EMWD

County Manager Wayne Vest offered summary of the recommended budget for Fiscal Year 2023 for the East Moore Water District. Commissioner Picerno recommended amending it to put a 30-day hold on the rate increase and having a rate work session on the July meeting so they could really understand the system development fees. Chairman Quis asked County Attorney Misty Leland if that would legally be ok and she said yes, as long as the ordinance was ok. Mr. Vest noted that it would be adopted based on the fee schedule rates. Chairman Quis asked about a change and Mr. Vest said it would probably have an impact on the transfer into the capital reserve if the same revenue and expenses were left.

Upon motion made by Commissioner Picerno, seconded by Commissioner Ritter, the Board voted 5-0 to adopt the East Moore Water District Fiscal Year 2022-2023 Budget Ordinance as presented leaving the fee schedule the same as FY22 for a 30-day period. The budget ordinance is hereby incorporated as a part of these minutes by attachment as Appendix A.

ADJOURNMENT

There being no further business, upon motion made by Director Daeke, seconded by Director Ritter, the Board voted 5-0 to adjourn the June 23, 2022, Special Meeting of the East Moore Water District Board of Directors at 4:02pm.

Francis R. Quis, Jr., Chairman

Laura M. Williams, Clerk to the Board

Agenda Item: II
Meeting Date: 1/24/23

MEMORANDUM TO EMWD BOARD OF DIRECTORS:

FROM: Randy Gould, Public Works Director
DATE: January 13, 2023
SUBJECT: Deed of Dedication for Brookwood Phase 3A
PRESENTER: Randy Gould, PE

REQUEST:

Make a motion to accept the Deed of Dedication for the Brookwood Phase 3A subdivision.

BACKGROUND:

The utilities construction for the Brookwood Phase 3A subdivision is completed and ready for operation and acceptance by the County.

IMPLEMENTATION PLAN:

Accept the deed of dedication for the water utilities and begin operation of the system.

FINANCIAL IMPACT STATEMENT:

Any acceptance of ownership that places additional financial burden on the East Moore Water District will be covered by the utility ratepayers.

RECOMMENDATION SUMMARY:

Make a motion to accept the Deed of Dedication for Brookwood Phase 3A subdivision.

SUPPORTING ATTACHMENTS:

Deed of Dedication
Releases

DEED OF DEDICATION

This instrument prepared by: Stephan Lapping, Associate County Attorney
Return to: Moore County Attorney's Office, P.O. Box 905, Carthage, NC 28327

THIS DEED OF DEDICATION is made the ____ day of _____, 2023, by and between:

<u>GRANTOR</u>	<u>GRANTEE</u>
Tri South Builders, Inc. PO Box 1200 West End, NC 27376	EAST MOORE WATER DISTRICT , a county water district organized and existing under the laws of the State of North Carolina 1 Courthouse Square P.O. Box 905 Carthage, NC 28327

WITNESSETH:

WHEREAS, Grantor is the owner and developer of a tract or parcel located in the Carthage Township, Moore County, North Carolina, known as "Brookwood Subdivision Phase 3B" containing lots numbered 80 through 88 (hereinafter referred to as the "Property"); and

WHEREAS, Grantor has caused to be installed water lines and equipment under or across a portion of the Property; and

WHEREAS, Grantor wishes to obtain water service from Grantee for the Property; and

WHEREAS, Grantee has adopted a policy regarding water distribution systems under the terms of which includes that in order to obtain water service for the Property, Grantor must convey title to the water distribution system and all necessary easements to Grantee through an instrument acceptable to Grantee; and

NOW, THEREFORE, Grantor, in consideration of Grantee accepting said water system and making water service available to the Property, does hereby convey to Grantee, its lawful successors and assigns, the following described property:

All water pipelines, equipment, and apparatuses installed or caused to be installed by the Grantor for a water distribution system that are constructed beneath or within the public right-of-way in the Brookwood Subdivision located in Carthage, NC. The pipelines, equipment and apparatuses connect with the Grantee's existing water lines on Enfield Drive, as referenced in the maps previously recorded at Plat Cabinet 19 Slide 373. The length of the new pipelines is approximately 850 linear feet of 6-inch PVC on Bassett Ln.

All water mains, equipment, and apparatuses used in the water distribution system that is constructed upon the Property (the "Facilities"), which is more fully depicted in the plats recorded at Plat Cabinet 19 Slide 667, and which is hereby incorporated by reference as if fully set forth herein.

A perpetual and exclusive easement that is 60 feet in total width, 60 feet in width on both and all sides of the constructed and installed equipment and water mains as the same are located over, upon and under the real property further described in Plat Cabinet 19 Slide 667 (the "Easement Area").

TO HAVE AND TO HOLD said property and easement above described together with the privileges and appurtenances thereto belonging to Grantee forever.

The Grantee shall have the right to construct, install, reconstruct, operate, maintain, inspect, repair, relocate, modify, and remove water distribution pipeline, apparatus, and equipment within the Easement Area. The easement granted to the Grantee includes the following rights: 1) ingress and egress over the Easement Area and over adjoining portions of the Property (using lanes, driveways, and paved areas where practical, as determined by the Grantee); 2) to relocate the Facilities and Easement Area on the Property to conform to any future highway or street relocation, widening, or improvement; 3) to keep clear from the Easement Area, now or at any time in the future, trees, shrubs, undergrowth, buildings, structures (e.g. docks or retaining walls), and obstructions (e.g. fences or paved areas); and 4) all other rights and privileges reasonably necessary or convenient for the Grantee's safe, reliable, and efficient installation, operation, and maintenance of the Facilities and for the enjoyment and use of the Easement Area for the purposes described herein. Grantee will not be responsible for the costs, repair, or replacement of plants, buildings, structures, or obstructions located within the Easement Area, including those that may occur as a result of the Grantee's use of the easement.

Grantor will not place shrubs, structures (e.g. docks or retaining walls), or obstructions (e.g. fences or paved areas) within the easement area without the express written consent of the Grantee. Grantor will not place trees or buildings within the easement area.

Furthermore, Grantor does hereby covenant that it is seized of said real property and personal property described above in fee simple and has the right to convey the same in fee simple, that the same are free and clear of encumbrances, and that it will warrant and defend the title to the same against all persons whomsoever.

Grantor agrees and understands that Grantee conditionally accepts the personal property being dedicated by Grantor. Grantor is responsible for maintaining the personal property for one-year

following the date from the date of recordation at the Moore County Registry. Grantee, upon inspection of the personal property and easement so conveyed, shall provide Grantor, no later than thirty (30) days prior to expiration of one year following recordation at the Moore County Registry, with a list of items that must be resolved prior to the Grantee's final acceptance of the personal property and easement. If Grantor fails to resolve the items as required by Grantee, then Grantee may, in its sole discretion, revoke this Deed of Dedication. If Grantee fails to notify Grantor no later than thirty (30) days prior to the expiration of one year following recordation at the Moore County Registry, of items that must be resolved prior to Grantee's final acceptance of personal property and easement, then failure to give notice shall be determined as final acceptance of Grantee of the personal property and easement herein conveyed.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be duly executed as of the day and year first written above.

GRANTOR
TRI SOUTH BUILDERS, INC.

By: James W. Caddell, President (Sign)

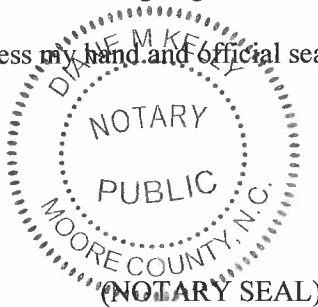
James W. Caddell (Print)

STATE OF NORTH CAROLINA

COUNTY OF MOORE

I, a Notary Public of the County and State aforesaid, do hereby certify that James W. Caddell personally came before me this day, and I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a Drivers license; and he/she has acknowledged that he/she is the president of Tri South Builders, Inc., a North Carolina Corporation, and that he/she, as president, being authorized to do so, executed the foregoing on behalf of Tri South Builders, Inc.

Witness my hand and official seal, this 17 day of January, 2023.



Diane M. Kelly
Signature of Notary Public

Diane M. Kelly
Printed Name of Notary Public

My Commission Expires: 11/8/2025

ACCEPTANCE OF DEED

This Deed of Dedication and accompanying Affidavit was accepted by the Moore County Board of Commissioners on the ____ day of _____, 20____.

COUNTY OF MOORE

ATTEST:

Nick Picerno, Chair
Moore County Board of Commissioners

Laura M. Williams
Clerk to the Board

STATE OF NORTH CAROLINA

AFFIDAVIT

COUNTY OF MOORE

Tri South Builders, Inc., a North Carolina corporation, with an office and place of business located at Post Office Box 1200, West End, NC 27376, conducting business in Moore County, North Carolina (the "Affiant), being first duly sworn, hereby deposes and says under oath as follows:

1. That it is the owner of certain property located in Carthage Township, Moore County, North Carolina, known as "Brookwood Subdivision Phase 3B" containing lots numbered 80 through 88, as more particularly described in a Deed of Dedication in favor of the County of Moore of even date herewith.
2. That it has caused to be installed water mains under and along the road right-of-ways for the property hereinafter described and referenced:

All water pipelines, equipment, and apparatuses installed or caused to be installed by the Grantor for a water distribution system that are constructed beneath or within the public right-of-way in the Brookwood Subdivision located in Carthage, NC. The pipelines, equipment and apparatuses connect with the Grantee's existing water lines on Enfield Drive, as referenced in the maps previously recorded at Plat Cabinet 19 Slide 373. The length of the new pipelines is approximately 850 linear feet of 6-inch PVC on Bassett Ln.

All water mains, equipment, and apparatuses used in the water distribution system that is constructed upon the Property (the "Facilities"), which is more fully depicted in the plats recorded at Plat Cabinet 19 Slide 667, and which is hereby incorporated by reference as if fully set forth herein.

3. All the work which has been performed in the construction and installation of said mains described in paragraph 2, above, has been fully paid for and there are now no liens of any kind, including any lien for labor or material, against the subdivision property, which would in any way jeopardize title of Affiant to the property in said subdivision nor are there any legal actions pending against Affiant or any contractor arising out of any work performed in said subdivision or the water mains installed therein which would in any way jeopardize title to the subdivision or the water mains located therein.

[Intentionally left blank. Signature on the following page.]

IN WITNESS WHEREOF, the Affiant has caused this instrument to be duly executed by its authorized officer, this the 17th day of January, 2023.

GRANTOR
TRI SOUTH BUILDERS, INC.

By: J. W. Caddell, President (Sign)

James W Caddell (Print)

STATE OF NORTH CAROLINA

COUNTY OF MOORE

I, a Notary Public of the County and State aforesaid, do hereby certify that James W Caddell personally came before me this day, and I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a Drivers License; and he/she has acknowledged that he/she is the president of Tri South Builders, Inc., a North Carolina Corporation, and that he/she, as president, being authorized to do so, executed the foregoing on behalf of Tri South Builders, Inc.

Witness my hand and official seal, this 17 day of January, 2023.



Diane M. Kelly

Signature of Notary Public

Diane M. Kelly

Printed Name of Notary Public

My Commission Expires 11/8/2025

DEVELOPER RELEASE AND WAIVER OF ALL CLAIMS AND LIENS

The County of Moore (the "County"), as the governing body for the East Moore Water District, is willing to accept a Deed of Dedication of water mains and easement access to the water mains from Tri South Builders, Inc. (the "Developer"), as described in the Deed of Dedication and Easement executed by the Developer on Brookwood Subdivision Phase 3B. In exchange for the acceptance and operation of the water distribution system, the Developer executes this Release and Waiver of All Claims and Liens.

The Deed of Dedication from the Developer to the County is for the following property:

All water pipelines, equipment, and apparatuses installed or caused to be installed by the Grantor for a water distribution system that are constructed beneath or within the public right-of-way in the Brookwood Subdivision located in Carthage, NC. The pipelines, equipment and apparatuses connect with the Grantee's existing water lines on Enfield Drive, as referenced in the maps previously recorded at Plat Cabinet 19 Slide 373. The length of the new pipelines is approximately 850 linear feet of 6-inch PVC on Bassett Ln.

All water mains, equipment, and apparatuses used in the water distribution system that is constructed upon the Property (the "Facilities"), which is more fully depicted in the plats recorded at Plat Cabinet 19 Slide 667, and which is hereby incorporated by reference as if fully set forth herein.

A perpetual and exclusive easement that is 60 feet in total width, 60 feet in width on both and all sides of the constructed and installed equipment and water mains as the same are located over, upon and under the real property further described in Plat Cabinet 19 Slide 667 (the "Easement Area").

The property described above, which includes, but is not limited to, all water mains, equipment and apparatuses shall hereinafter be referred to as the "Property."

The Developer agrees for itself, its assigns, heirs, contractors, vendors, suppliers, materialmen, laborers and other persons or entities providing services, labor, parts or materials, that there are no claims, demands or liens existing, pending or threatened against the Property. Further, the Developer agrees that all invoices, including purchases, supplies, parts and labor concerning the Property have been paid in full.

For and in consideration of the County's acceptance of the Property and the County's agreement to operate the water distribution system, the Developer, for itself and its assigns, heirs, subcontractors, vendors, suppliers, materialmen, laborers and other persons or entities providing services, labor, parts or materials, hereby releases and forever discharges the County, its agents, affiliates, representatives, officers, directors, attorneys and employees from any and all claims, demands or causes of action that might exist, arise out of, or in any way be related to the Property as of the date this release is executed.

To the fullest extent permitted by law and regulation, the Developer agrees to indemnify and hold harmless the County and its officials, agents, and employees from and against any and all claims, damages, losses and expenses, direct, indirect or consequential (including but not limited to fees and charges of engineers or architects, subcontractors, attorneys and other professionals and costs related to court action or arbitration) arising out of or resulting from the Property or from the Property being transferred to the County.

In addition to this Release and Waiver of All Claims and Liens, in exchange for the County accepting the water mains, the Developer will provide the County with a one-year warranty on labor and repair of the water mains, equipment and apparatuses.

IN WITNESS WHEREOF, this Release and Waiver has been executed this 17th day of January, 2023.

DEVELOPER

ATTEST:

TRI SOUTH BUILDERS, INC.

James W. Caddell, President

Diane M. Kelly

By: James W. Caddell (Print)

By: Diane M. Kelly (Print)

MEMORANDUM TO EAST MOORE WATER DISTRICT BOARD OF DIRECTORS:

FROM: Wayne Vest, County Manager

DATE: January 13, 2023

SUBJECT: FY 2023-FY 2024 Proposed Budget Adoption Schedule
for East Moore Water District (EMWD)

PRESENTER: Wayne Vest

REQUEST:

Request the EMWD Board of Directors accept the following proposed FY 2023-2024 budget calendar for Fund 620 East Moore Water District and approve the following fiscal year budget schedule for budget adoption.

- Tuesday, May 16, 2023 – EMWD Board of Directors receive the proposed budget per G.S. 159-11(b).
- Tuesday, May 16, 2023 – Budget slide presentation of the proposed fiscal year 2023-2024 budget and call to public hearing to be held at the June 20, 2023, regularly scheduled EMWD Board of Directors meeting.
- Tuesday, June 20, 2023 - Budget public hearing at the regularly scheduled EMWD Board of Directors meeting per G.S. 159-12(b). More public hearings can be held if needed.
- Adopt the FY 2023 - FY 2024 Proposed Budget at a special called meeting of the EMWD Board of Directors prior to July 1, 2023. Per G.S. 159-13; Not earlier than 10 days after the day the budget is presented to the EMWD Board of Directors and not later than July 1, the EMWD Board of Directors shall adopt a budget ordinance.
- Work Sessions will be held as requested by the EMWD Board of Directors at any time during the budget cycle.

BACKGROUND:

The EMWD Board of Directors must receive the proposed budget from the County Manager not later than June 1, 2023, as required by G.S. 159-11(b). A copy of the proposed budget will be filed with the Clerk. The EMWD Board is required by G.S. 159-12(b) to hold a public hearing. In addition, the EMWD Board has traditionally held work sessions to analyze the budget in detail, gain an understanding of its impact and make modifications and changes as the Board deems appropriate. The EMWD Board may call a work session at any time during the budget cycle.

IMPLEMENTATION PLAN:

By following the above schedule, the EMWD Board of Directors will adopt the FY 2023-2024 Budget by the required date of July 1 and meet all the statutory requirements to do so.

FINANCIAL IMPACT STATEMENT:

The EMWD Board's actions detailed in the schedule above do not have a direct financial impact until the budget is adopted at a special called meeting by the EMWD Board of Directors prior to July 1, 2023. With adoption, the financial plan for East Moore Water District is put into place for the new fiscal year and the programs, actions, projects, and revenues are approved for implementation.

RECOMMENDATION SUMMARY:

Request the EMWD Board of Directors make a motion to approve the budget schedule which includes the statutory requirement for a public hearing to be held on Tuesday, June 20, 2023, and adopt the East Moore Water District Budget at a special called meeting by the EMWD Board of Directors prior to July 1, 2023.

SUPPORTING ATTACHMENTS:

NC General Statutes 159 - Budget

§ 159-8. Annual balanced budget ordinance.

(a) Each local government and public authority shall operate under an annual balanced budget ordinance adopted and administered in accordance with this Article. A budget ordinance is balanced when the sum of estimated net revenues and appropriated fund balances is equal to appropriations. Appropriated fund balance in any fund shall not exceed the sum of cash and investments minus the sum of liabilities, encumbrances, and deferred revenues arising from cash receipts, as those figures stand at the close of the fiscal year next preceding the budget year. It is the intent of this Article that, except for moneys expended pursuant to a project ordinance or accounted for in an intragovernmental service fund or a trust and custodial fund excluded from the budget ordinance under G.S. 159-13(a), all moneys received and expended by a local government or public authority should be included in the budget ordinance. Therefore, notwithstanding any other provision of law, no local government or public authority may expend any moneys, regardless of their source (including moneys derived from bond proceeds, federal, state, or private grants or loans, or special assessments), except in accordance with a budget ordinance or project ordinance adopted under this Article or through an intragovernmental service fund or trust and custodial fund properly excluded from the budget ordinance.

(b) The budget ordinance of a unit of local government shall cover a fiscal year beginning July 1 and ending June 30. The budget ordinance of a public authority shall cover a fiscal year beginning July 1 and ending June 30, except that the Local Government Commission, if it determines that a different fiscal year would facilitate the authority's financial operations, may enter an order permitting an authority to operate under a fiscal year other than from July 1 to June 30. If the Commission does permit an authority to operate under an altered fiscal year, the Commission's order shall also modify the budget calendar set forth in G.S. 159-10 through 159-13 so as to provide a new budget calendar for the altered fiscal year that will clearly enable the authority to comply with the intent of this Part. (1971, c. 780, s. 1; 1973, c. 474, s. 5; 1975, c. 514, s. 3; 1979, c. 402, s. 1; 1981, c. 685, s. 2; 2021-60, s. 3.1.)

§ 159-9. Budget officer.

Each local government and public authority shall appoint a budget officer to serve at the will of the governing board. In counties or cities having the manager form of government, the county or city manager shall be the budget officer. Counties not having the manager form of government may impose the duties of budget officer upon the county finance officer or any other county officer or employee except the sheriff, or in counties having a population of more than 7,500, the register of deeds. Cities not having the manager form of government may impose the duties of budget officer on any city officer or employee, including the mayor if he agrees to undertake them. A public authority or special district may impose the duties of budget officer on the chairman or any member of its governing board or any other officer or employee. (1971, c. 780, s. 1; 1973, c. 474, s. 6.)

§ 159-10. Budget requests.

Before April 30 of each fiscal year (or an earlier date fixed by the budget officer), each department head shall transmit to the budget officer the budget requests and revenue estimates for his department for the budget year. The budget request shall be an estimate of the financial requirements of the department for the budget year, and shall be made in such form and detail, with such supporting information and justifications, as the budget officer may prescribe. The revenue estimate shall be an estimate of all revenues to be realized by department operations during the budget year. At the same time, the finance officer or department heads shall transmit to the budget officer a complete statement of the amount expended for each category of expenditure in the budget ordinance of the immediately preceding fiscal year, a complete statement of the amount estimated to be expended for each category of expenditure in the current year's budget ordinance by the end of the current fiscal year, the amount realized from each source of revenue during the immediately preceding fiscal year, and the amount estimated to be realized from each source of revenue by the end of the current fiscal year, and such other information and data on the fiscal operations of the local government or public authority as the budget officer may request. (1927, c. 146, s. 5; 1955, cc. 698, 724; 1971, c. 780, s. 1.)

§ 159-11. Preparation and submission of budget and budget message.

(a) Upon receipt of the budget requests and revenue estimates and the financial information supplied by the finance officer and department heads, the budget officer shall prepare a budget for consideration by the governing board in such form and detail as may have been prescribed by the budget officer or the governing board. The budget shall comply in all respects with the limitations imposed by G.S. 159-13(b), and unless the governing board shall have authorized or requested submission of an unbalanced budget as provided in subsection (c) of this section, the budget shall be balanced.

(b) The budget, together with a budget message, shall be submitted to the governing board not later than June 1. The budget and budget message should, but need not, be submitted at a formal meeting of the board. The budget message should contain a concise explanation of the governmental goals fixed by the budget for the budget year, should explain important features of the activities anticipated in the budget, should set forth the reasons for stated changes from the previous year in program goals, programs, and appropriation levels, and should explain any major changes in fiscal policy.

(c) The governing board may authorize or request the budget officer to submit a budget containing recommended appropriations in excess of estimated revenues. If this is done, the budget officer shall present the appropriations recommendations in a manner that will reveal for the governing board the nature of the activities supported by the expenditures that exceed estimated revenues.

(d) The budget officer shall include in the budget a proposed financial plan for each intragovernmental service fund, as required by G.S. 159-13.1, and information concerning capital projects and grant projects authorized or to be authorized by project ordinances, as required by G.S. 159-13.2.

(e) In each year in which a general reappraisal of real property has been conducted, the budget officer shall include in the budget, for comparison purposes, a statement of the revenue-neutral property tax rate for the budget. The revenue-neutral property tax rate is the rate that is estimated to produce revenue for the next fiscal year equal to the revenue that would have been produced for the next fiscal year by the current tax rate if no reappraisal had occurred. To calculate the revenue-neutral tax rate, the budget officer shall first determine a rate that would produce revenues equal to those produced for the current fiscal year and then increase the rate by a growth factor equal to the average annual percentage increase in the tax base due to improvements since the last general reappraisal. This growth factor represents the expected percentage increase in the value of the tax base due to improvements during the next fiscal year. The budget officer shall further adjust the rate to account for any annexation, deannexation, merger, or similar event. (1927, c. 146, s. 6; 1955, cc. 698, 724; 1969, c. 976, s. 1; 1971, c. 780, s. 1; 1975, c. 514, s. 4; 1979, c. 402, s. 2; 2003-264, s. 1.)

§ 159-12. Filing and publication of the budget; budget hearings.

(a) On the same day that he submits the budget to the governing board, the budget officer shall file a copy of it in the office of the clerk to the board where it shall remain available for public inspection until the budget ordinance is adopted. The clerk shall make a copy of the budget available to all news media in the county. He shall also publish a statement that the budget has been submitted to the governing board and is available for public inspection in the office of the clerk to the board. The statement shall also give notice of the time and place of the budget hearing required by subsection (b) of this section.

(b) Before adopting the budget ordinance, the board shall hold a public hearing at which time any persons who wish to be heard on the budget may appear. (1927, c. 146, s. 7; 1955, cc. 698, 724; 1971, c. 780, s. 1; 2020-3, s. 4.27(a).)

§ 159-13. The budget ordinance; form, adoption, limitations, tax levy, filing.

(a) Not earlier than 10 days after the day the budget is presented to the board and not later than July 1, the governing board shall adopt a budget ordinance making appropriations and levying taxes for the budget year in such sums as the board may consider sufficient and proper, whether greater or less than the sums recommended in the budget. The budget ordinance shall authorize all financial transactions of the local government or public authority except the following:

- (1) Those authorized by a project ordinance,
- (2) Those accounted for in an intragovernmental service fund for which a financial plan is prepared and approved, and
- (3) Those accounted for in a trust or custodial fund established to account for moneys held by the local government or public authority as an agent or common-law trustee or to account for a retirement, pension, or similar employee benefit system.

- (4) Representative payee funds received under the Social Security Agency Representative Payee Program. These restricted funds belong to and are used for the support of minor children and certain adults.

The budget ordinance may be in any form that the board considers most efficient in enabling it to make the fiscal policy decisions embodied therein, but it shall make appropriations by department, function, or project and show revenues by major source.

(b) **The following directions and limitations shall bind the governing board in adopting the budget ordinance:**

- (1) The full amount estimated by the finance officer to be required for debt service during the budget year shall be appropriated.
- (2) The full amount of any deficit in each fund shall be appropriated.
- (3) A contingency appropriation shall not exceed five percent (5%) of the total of all other appropriations in the same fund, except there is no limit on contingency appropriations for public assistance programs required by Chapter 108A. Each expenditure to be charged against a contingency appropriation shall be authorized by resolution of the governing board, which resolution shall be deemed an amendment to the budget ordinance setting up an appropriation for the object of expenditure authorized. The governing board may authorize the budget officer to authorize expenditures from contingency appropriations subject to such limitations and procedures as it may prescribe. Any such expenditures shall be reported to the board at its next regular meeting and recorded in the minutes.
- (4) No appropriation may be made that would require the levy of a tax in excess of any constitutional or statutory limitation, or expenditures of revenues for purposes not permitted by law.
- (5) The total of all appropriations for purposes which require voter approval for expenditure of property tax funds under Article V, Sec. 2(5), of the Constitution shall not exceed the total of all estimated revenues other than the property tax (not including such revenues required by law to be spent for specific purposes) and property taxes levied for such purposes pursuant to a vote of the people.
- (6) The estimated percentage of collection of property taxes shall not be greater than the percentage of the levy actually realized in cash as of June 30 during the preceding fiscal year. For purposes of the calculation under this subdivision only, the levy for the registered motor vehicle tax under Article 22A of Chapter 105 of the General Statutes shall be based on the nine-month period ending March 31 of the preceding fiscal year, and the collections realized in cash with respect to this levy shall be based on the 12-month period ending June 30 of the preceding fiscal year.
- (7) Estimated revenues shall include only those revenues reasonably expected to be realized in the budget year, including amounts to be realized from collections of taxes levied in prior fiscal years.

- (8) Repealed by Session Laws 1975, c. 514, s. 6.
- (9) Appropriations made to a school administrative unit by a county may not be reduced after the budget ordinance is adopted, unless the board of education of the administrative unit agrees by resolution to a reduction, or unless a general reduction in county expenditures is required because of prevailing economic conditions. Before a board of county commissioners may reduce appropriations to a school administrative unit as part of a general reduction in county expenditures required because of prevailing economic conditions, it must do all of the following:
 - a. Hold a public meeting at which the school board is given an opportunity to present information on the impact of the reduction.
 - b. Take a public vote on the decision to reduce appropriations to a school administrative unit.
- (10) Appropriations made to another fund from a fund established to account for property taxes levied pursuant to a vote of the people may not exceed the amount of revenues other than the property tax available to the fund, except for appropriations from such a fund to an appropriate account in a capital reserve fund.
- (11) Repealed by Session Laws 1975, c. 514, s. 6.
- (12) Repealed by Session Laws 1981, c. 685, s. 4.
- (13) No appropriation of the proceeds of a bond issue may be made from the capital project fund account established to account for the proceeds of the bond issue except (i) for the purpose for which the bonds were issued, (ii) to the appropriate debt service fund, or (iii) to an account within a capital reserve fund consistent with the purposes for which the bonds were issued. The total of other appropriations made to another fund from such a capital project fund account may not exceed the amount of revenues other than bond proceeds available to the account.
- (14) No appropriation may be made from a utility or public service enterprise fund to any other fund than the appropriate debt service fund unless the total of all other appropriations in the fund equal or exceed the amount that will be required during the fiscal year, as shown by the budget ordinance, to meet operating expenses, capital outlay, and debt service on outstanding utility or enterprise bonds or notes. A county may, upon a finding that a fund balance in a utility or public service enterprise fund used for operation of a landfill exceeds the requirements for funding the operation of that fund, including closure and post-closure expenditures, transfer excess funds accruing due to imposition of a surcharge imposed on another local government located within the State for use of the disposal facility, as authorized by G.S. 153A-292(b), to support the other services supported by the county's general fund.

- (15) Sufficient funds to meet the amounts to be paid during the fiscal year under continuing contracts previously entered into shall be appropriated unless such contract reserves to the governing board the right to limit or not to make such appropriation.
- (16) The sum of estimated net revenues and appropriated fund balance in each fund shall be equal to appropriations in that fund. Appropriated fund balance in a fund shall not exceed the sum of cash and investments minus the sum of liabilities, encumbrances, and deferred revenues arising from cash receipts, as those figures stand at the close of the fiscal year next preceding the budget year.
- (17) No appropriations may be made from a county reappraisal reserve fund except for the purposes for which the fund was established.
- (18) No appropriation may be made from a service district fund to any other fund except (i) to the appropriate debt service fund or (ii) to an appropriate account in a capital reserve fund unless the district has been abolished.
- (19) No appropriation of the proceeds of a debt instrument may be made from the capital project fund account established to account for such proceeds except for the purpose for which such debt instrument was issued. The total of other appropriations made to another fund from such a capital project fund account may not exceed the amount of revenues other than debt instrument proceeds available to the account.

Notwithstanding subdivisions (9), (10), (12), (14), (17), or (18) of this subsection, any fund may contain an appropriation to another fund to cover the cost of (i) levying and collecting the taxes and other revenues allocated to the fund, and (ii) building maintenance and other general overhead and administrative expenses properly allocable to functions or activities financed from the fund.

(c) The budget ordinance of a local government shall levy taxes on property at rates that will produce the revenue necessary to balance appropriations and revenues, after taking into account the estimated percentage of the levy that will not be collected during the fiscal year. The budget ordinance of a public authority shall be balanced so that appropriations do not exceed revenues.

(d) The budget ordinance shall be entered in the minutes of the governing board and within five days after adoption copies thereof shall be filed with the finance officer, the budget officer, and the clerk to the governing board. (1927, c. 146, s. 8; 1955, cc. 698, 724; 1969, c. 976, s. 2; 1971, c. 780, s. 1; 1973, c. 474, ss. 7-9; c. 489, s. 3; 1975, c. 437, ss. 13, 14; c. 514, ss. 5, 6; 1981, c. 685, ss. 3-5, 10; 1987, c. 796, s. 3(2); 1989, c. 756, s. 2; 1999-261, s. 1; 2000-140, s. 80; 2002-126, s. 6.7(a); 2013-413, s. 59.4(b); 2021-60, s. 3.2.)