

## Village Correspondence from December 2020 through September 2021

*(Click on the text to view the letter)*

December 15, 2020	Village of Bald Head Island Letter to Treasurer Folwell
January 19, 2021	Village of Bald Head Island Letter to Treasurer Folwell
January 21, 2021	Village of Bald Head Island E-mail with Due Diligence Items for BHITA
March 22, 2021	Village of Bald Head Island Letter to Treasurer Folwell
April 23, 2021	Village of Bald Head Island Letter to Local Government Commission
May 3, 2021	Village of Bald Head Island Letter to Local Government Commission
May 3, 2021	Village of Bald Head Island Letter in Response to 4/20/21 Letter from Deputy Treasurer, Sharon Edmundson
May 21, 2021	Village of Bald Head Island Memo to Local Government Commission
May 27, 2021	Village of Bald Head Island Response to Bald Head Island Transportation Authority Chair
May 27, 2021	Village of Bald Head Island Letter to Sharon Edmundson, Deputy Treasurer
June 17, 2021	Village of Bald Head Island Notice of Intent to Seek Approval for Issuance of General Obligation Bonds
August 17, 2021	Village of Bald Head Island Letter to Treasurer Folwell in Response to BHITA Second Appraisals
August 18, 2021	Mayor Sayre's Letter to Treasurer Folwell in Response to Citizen Input
September 23, 2021	Mayor Sayre's Letter to Mitchell Family Corporation
September 30, 2021	Mayor Sayre's Letter to BHA



# The Village of Bald Head Island

December 15, 2020

The Local Government Commission  
North Carolina Department of State Treasurer  
Attention: Dale R. Folwell, CPA  
Chairman  
3200 Atlantic Avenue  
Raleigh, North Carolina 27604

Re: Bald Head Island Transportation Authority ("Authority")  
Application for Approval of Bald Head Island Transportation Authority  
Transportation System Revenue Bond Findings ("Application")

Dear Mr. Folwell:

The Village of Bald Head Island ("Village"), acting by and through its undersigned Council Members, requests that The Local Government Commission ("LGC"), for the sufficient and compelling reasons below described, defer its consideration of the Authority's Application from the January 5, 2021 meeting of the LGC until a later date when the Village's concerns have been addressed and the Application is sufficiently sound and ready for hearing.

The public, including the Village, which represents the interests of the public, including the residents of and property owners on Bald Head Island, was just provided information concerning the scope of diligence and proposed purchase terms, including price and revenue bond financing, for the potential acquisition by the Authority of the ferry and barge system and facilities operated by Bald Head Island Limited, LLC and Bald Head Island Transportation, LLC (collectively, "Limited"). The Application seeks approval of a bonds issuance of \$56,144,303.30, including \$47,750,000.00 for purchase of the transportation system. This information was first presented at the Authority's meeting on December 8, 2020, at which meeting the Authority Board of Trustees, without any public input or substantive discussion, passed a resolution approving the Asset Purchase Agreement and Operating and Transition Services Agreement.

The Agreement passed 7-4, over the objection of the four (4) Trustees who are residents and property owners of Bald Head Island. No resident of Bald Head Island voted in favor of the resolution.

***P.O. Box 3009 BALD HEAD ISLAND, NC 28461 (910) 457-9700 FAX (910) 457-6206  
E-MAIL: [village@villagebhi.org](mailto:village@villagebhi.org) WEBSITE <http://www.villagebhi.org>***

December 15, 2020

The Board of Trustees then passed a resolution providing for application to the LGC, over the objection of three (3) of the Trustees who are Bald Head Island residents and homeowners.<sup>1</sup> The undersigned Mayor and Mayor Pro Tempore, both of whom serve as *ex officio* voting members of the Authority Board of Trustees, opposed both votes.

The Village Council shares the concerns of the Bald Head Island residents, property owners and Trustees and asks that the LGC defer action on the Application until the concerns have been addressed and the LGC can be satisfied that the Application and its proposed findings are factually and financially sound. The LGC guidelines, “LGC Consideration of Unit’s Debt Management and the Proposed Project” (“LGC Guidelines”), state: “Community support for the project is important, especially for non-voted debt. Lack of community support may be evidenced by comments at meetings of the governing body or public hearings, correspondence, newspaper articles, etc.”

In explaining their “No” votes, the Trustees who are Bald Head Island residents and homeowners who use the ferry regularly commented, in substance, at the December 8 meeting:

Mayor Andy Sayre: He does not think that all transportation system costs are included in the debt and are not accounted for in due diligence.

Mayor Pro Tem Mike Brown: He is concerned about the ferry rate increases projected on July 1, 2021, including \$23.00 to \$27.00 for ferry tickets and barge rate of \$55.00 to \$60.00 per six (6) linear feet, plus projected future increases.

Dr. Rex Cowdry: The modeling assumptions were changed in the last week, further increasing fares, and we have not yet seen and evaluated that modeling. Under the earlier modeling, it would be hard to implement needed system improvements in the low growth scenario. The modeling assumes an interest rate, but we will not know whether that assumption is reasonable until we receive the indicative bond ratings, possibly before next week’s meeting of the Authority, and can determine whether our debt is likely to be investment grade or non-investment grade. Without that information, he felt he could not yet make a feasibility and affordability determination. Dr. Cowdry also made a motion to postpone the vote on the LGC resolution one week until receipt of indicative bond ratings that was denied 4-7.

As suggested by these public comments, additional diligence is required, among other things, with respect to the following:

- Insufficient cash reserves analysis or schedule for work/replacement, lacking, for example, items like a functional reservation system and a realistic tram modernization;

---

<sup>1</sup> The fourth resident Trustee, having concluded that the matter was a *fait accompli*, elected not to oppose the resolution, but continues to express concerns to the bonds issuance, as proposed.

The Local Government Commission  
North Carolina Department of State Treasurer  
Attention: Dale R. Folwell, CPA  
Chairman

Page 3

December 15, 2020

- Lack of Authority employee compensation study or projections;
- Projected net cash flow appears insufficient to implement needed operational requirements and improvements, including, without limitation:
  - Land acquisition and construction costs for necessary additional parking, including sufficiency of storm water management infrastructure;
  - Spoil disposal sites capacity, permitting, construction and acquisition costs (e.g., 10+/- additional acres near Deep Point) for disposal of dredged material from Bald Head Island and Deep Point Marina entrance channels and basins;
  - Analysis of baggage handling and cargo conveyor equipment and systems; and
  - Costs of potential increase in Coast Guard vessel and passenger security requirements.
- Indicative bond ratings by financial rating agencies have not yet been received.
- Lack of land planning report concerning passenger and vehicle ingress and egress at projected increased passenger levels.
- It appears that substantive changes are still being made to the financial projections, proposed rates and proposed Agreements without the Trustees having an opportunity to review and consider same.

The LGC Guidelines state: “Financial projections should be presented that demonstrate feasibility and are clearly reasonable in comparison to prior financial performance. Appraisals, feasibility studies and comfort letters (if required) must be prepared by parties that are both independent to the transaction and possessing adequate expertise.” Many of the financial and performance projections are coming from Limited, as Seller, not from an independent study or industry expert. We are concerned that the buyer has relied too much on the seller for information without seeking neutral appraisals and assessments on many items. This could lead to overpayment for a system that needs improvements. The purchase price appears to assume that improvements have been made or are included, which are not.

Further, the Village requests that the public, including residents, non-resident property owners, and other system users at Bald Head Island, which is accessible only by the transportation system, be provided an opportunity for comment and input. The Village notes that no Bald Head Island resident is included on the negotiating subcommittee of the Authority’s Board of Trustees which negotiated the transaction with Limited. The Village further notes that the proposed financing would impose a \$4.00 per ferry ticket increase in six (6) months, effective July 1, 2021, plus future increases. Barge rates

The Local Government Commission  
North Carolina Department of State Treasurer  
Attention: Dale R. Folwell, CPA  
Chairman

Page 4

December 15, 2020

would increase \$5.00 per six (6) feet from \$50.00 to \$55.00. The LGC is not merely approving a bond issuance in this instance, its actions would immediately affect thousands of individuals and businesses who depend upon the transportation system as their sole means of access to Bald Head Island and who have been provided no insight or input into the transaction.

This transaction has been under consideration since 2017. Additional time to address the diligence issues of the Village and the users of the transportation system and to ensure that the project has public support for the non-voted debt and that the Application is factual and financially sound would not cause undue hardship to the Authority or to Bald Head Island Limited. Rather, the public interest compels that such occur.

Please let us know if any additional information or action is necessary. Thank you for your consideration.

Respectfully,

Village of Bald Head Island Council

/s/ J. Andrew Sayre  
Mayor

/s/ Michael Brown  
Mayor Pro Tempore

/s/ Scott Gardner  
Councilor

/s/ Emily Hill  
Councilor

/s/ Peter Quinn  
Councilor

pc: K. Christopher McCall, Village Manager  
Susan Rabon, Chair, Bald Head Island Transportation Authority  
Chad Paul, CEO, Bald Head Island Limited, LLC



# The Village of Bald Head Island

January 19, 2021

The Local Government Commission  
North Carolina Department of State Treasurer  
Attention: Dale R. Folwell, CPA  
Chairman  
3200 Atlantic Avenue  
Raleigh, North Carolina 27604

Re: Bald Head Island Transportation Authority ("Authority")  
Application for Approval of Bald Head Island Transportation Authority  
Transportation System Revenue Bond Findings ("Application")

Dear Mr. Folwell:

The Village of Bald Head Island ("Village"), acting by and through its undersigned Council Members, requests that The Local Government Commission ("LGC"), for the reasons below described, defer consideration of the Application for a period of not less than six (6) months.

The Village supported the formation of the Authority and believes it is a good structure for the long-term ownership and operation of the transportation system assets. The Village also agrees with much of what the Authority has done correctly and well. However, there has been little public information or communication about the proposed transaction. There has been no opportunity for review and input by the transportation system users. The Village has some concerns that have not been addressed, as more fully described in its letter of December 15, 2020. These include:

- Insufficient cash reserves analysis or schedule for work/replacement, lacking, for example, items like a functional reservation system and a realistic tram modernization;
- Lack of Authority employee compensation study or projections;
- Projected net cash flow appears insufficient to implement needed operational requirements and improvements, including, without limitation:
  - Land acquisition and construction costs for necessary additional parking, including sufficiency of storm water management infrastructure;

***P.O. Box 3009 BALD HEAD ISLAND, NC 28461 (910) 457-9700 FAX (910) 457-6206  
E-MAIL: [village@villagebhi.org](mailto:village@villagebhi.org) WEBSITE <http://www.villagebhi.org>***

The Local Government Commission  
North Carolina Department of State Treasurer  
Attention: Dale R. Folwell, CPA  
Chairman

Page 2

January 19, 2021

- Spoil disposal sites capacity, permitting, construction and acquisition costs (e.g., 10+/- additional acres near Deep Point) for disposal of dredged material from Bald Head Island and Deep Point Marina entrance channels and basins;
- Analysis of baggage handling and cargo conveyor equipment and systems; and
- Costs of potential increase in Coast Guard vessel and passenger security requirements.
- Lack of land planning report concerning passenger and vehicle ingress and egress at projected increased passenger levels.
- Consideration of “BBB-” long-term bond rating received from S&P Global Ratings.

The Village and public should be satisfied that the Authority is purchasing the transportation system assets at or below fair market value and that the real estate and other valuations are thorough and sound. The methodology and projections should be suitable for a public entity, such as the Authority. The system users should be charged fair rates for a fair purchase.

We understand from the January 5, 2021 letter of Authority Chair Susan Rabon to you and from the Authority’s meeting of January 11, 2021 that, notwithstanding the substantial public concerns raised in the Village’s letter to you of December 15, 2020, the Authority intends to pursue LGC approval of its bond issuance at the LGC’s February 2, 2021 meeting. To date, negotiation of the transaction has occurred behind closed doors, as is proper. At this time, however, the Authority has not informed the public of the details of the proposed transaction and there has been no opportunity for public input or comment. As the public will be asked to repay the bonds, it is necessary and proper that public input and concerns be received and addressed. Public engagement by the Authority may develop confidence that there was a fair, reasonable, and objective approach to the asset and business valuation.

The Authority first released documents for public consumption concerning the proposed transaction just days ago, on January 11, 2021. The information produced consisted of seven (7) documents totaling three hundred fifty-seven (357) pages. There may be additional materials to be requested or produced. These documents are technical in nature and will require time for public review.

The Village Council respectfully requests that the LGC defer consideration of the Authority’s Application for a period of not less than six (6) months, in order for the Authority to:

1. Provide access to public records via an electronic document room or similar platform;
2. Conduct public meetings to provide details and information concerning the proposed transaction. These meetings should occur, at a minimum, in

The Local Government Commission  
North Carolina Department of State Treasurer  
Attention: Dale R. Folwell, CPA  
Chairman

Page 3

January 19, 2021

- Southport and at Bald Head Island (should pandemic conditions permit), and/or via Zoom or similar technology;
3. Provide an opportunity for verbal and written questions and comments from the public concerning the proposed transaction; and
  4. Provide a process for Authority consideration and meaningful response to questions, input and concerns from the public.

Because public bodies, such as the Authority, only meet periodically and time will be required for the Authority and public to participate in a meaningful process, six (6) months appears a reasonable period of time, unless it is determined through the process that additional time for study and response is required. Further, this process is likely to produce information that will be helpful to the LGC.

Thank you for your consideration.

Respectfully,

Village of Bald Head Island Council

/s/ J. Andrew Sayre

Mayor

/s/ Michael Brown

Mayor Pro Tempore

/s/ Scott Gardner

Councilor

/s/ Emily Hill

Councilor

/s/ Peter Quinn

Councilor

pc: Sharon Edmundson, Deputy Treasurer  
Tim Romocki, Director, Debt Management  
K. Christopher McCall, Village Manager  
Susan Rabon, Chair, Bald Head Island Transportation Authority  
Chad Paul, CEO, Bald Head Island Limited, LLC



**The following is a list due diligence items that the Village Council would like addressed prior to supporting the transaction.**

**It was forwarded via email to the entire Bald Head Island Transportation Authority (BHITA) Board via BHITA Interim Clerk, Daralyn Spivey on January 21, 2021:**

At Deep Point:

1. Verify a new capacity of at least 31,000cy in the recently excavated spoils basin. Soils & Materials Engineering, Inc. performed the most recent work on the basin and its spoils and would be the logical group to follow up. The Seller may offer trucking load invoices but I would prefer a survey which would be subject to favorable weather conditions (drying out).
2. Finalize the purchase option agreement for the 2+ acres at the entry where the spoils were recently spread. Review terms of the option (which can vary from workable to useless) and the final survey.
3. Since there is no more readily available land within or adjacent to Deep Point to dispose of the spoils in the basin in the manner that has heretofore been employed, identify 10+/- nearby acres to be purchased for future spoils disposal/staging. A likely candidate is a portion of the nearby site of the power cogeneration plant that is scheduled to close in March.
4. Complete the two unfinished parking areas at the entry: fine grading, stone, asphalt, striping, landscaping.
5. Engage an independent civil engineer to verify the viability of the proposed additional parking within the existing parking areas with special attention to the adequacy of the storm water management infrastructure.
6. Analyze baggage handling and passenger embarkation and disembarkation with emphasis on the operational status of the machinery and the viability of the whole system, i.e. arrivals utilizing the upper level and departures the lower level.

At Bald Head Island:

1. With regard to the severely compromised dredge spoils disposal basin on a small island north of the marina, verify the status of the permits and whether the construction document supplied is viable. Although it makes no sense to perfect the permits or commence reconstruction prior to a need, a plan should nevertheless be in place.
2. Repair punctures in the metal bulkheads at the marina entry channel.
3. Since the existing toilet facilities have now been shut off from the public, offer a plan for toilet facilities in the short and long term.
4. Address the frequent flooding at the passenger loading dock.
5. In the present proposal there is a mere 2+ acres relegated to the island terminal complex. Vehicular ingress and egress are constrained by the existing real estate sales building. This lack of space cannot safely or efficiently accommodate the multi-functional needs of the operation and in fact would force the compromise of a critical



# The Village of Bald Head Island

March 22, 2021

The Local Government Commission  
North Carolina Department of State Treasurer  
Attention: Dale R. Folwell, CPA  
Chairman  
3200 Atlantic Avenue  
Raleigh, North Carolina 27604

Re: Bald Head Island Transportation Authority ("Authority")  
Application for Approval of Bald Head Island Transportation Authority  
Transportation System Revenue Bond Findings ("Application")

Dear Mr. Folwell:

The Village of Bald Head Island ("Village") appreciates the Authority's work, its conducting a public informational meeting concerning the proposed purchase transaction on February 17, 2021 and its making diligence and transaction documents publicly available. However, after much consideration and public input, the Village Council is unanimously committed to pursuing the Village's acquisition of the Transportation System, as defined in the proposed transaction, to include all ferry, barge and parking operations. The Village will work closely with the Seller, the Authority and The Local Government Commission to close the transaction quickly.

Factors compelling the Village's conclusion include:

- The Transportation System exists to serve the property owners, visitors, non-profits and businesses that compose the unique community of Bald Head Island;
- Village ownership is expected to achieve significant economic advantage for the Transportation System, BHI homeowners, and users of the System;
- Lower debt level provides the Village the flexibility to prioritize and implement rate/fee changes and capital improvements in order to meet public needs;
- Council has fiduciary responsibility to pursue the economic benefits and public oversight with purchasing the System; and
- Council acts as stewards of the Island and is in the best position to develop short-term and long-term initiatives for the successful operation of the Transportation System.



# The Village of Bald Head Island

April 23, 2021

Mr. Timothy Romocki  
Director, Debt Management  
North Carolina Department of State Treasurer  
State and Local Government  
Finance Division  
3200 Atlantic Avenue  
Raleigh, North Carolina 27604  
*tim.romocki@nctreasurer.com*

Honorable Dale R. Folwell, CPA  
State Treasurer  
Local Government Commission Chairman  
North Carolina Department of State Treasurer  
3200 Atlantic Avenue  
Raleigh, North Carolina 27604  
*dale@nctreasurer.com*

Ms. Sharon Edmundson  
Deputy Treasurer  
North Carolina Department of State Treasurer  
State and Local Government  
Finance Division and the Local Government Commission  
3200 Atlantic Avenue  
Raleigh, North Carolina 27604  
*sharon.edmundson@nctreasurer.com*

Re: Bald Head Island Transportation Authority (“Authority”)  
Application for Approval of Bald Head Island Transportation Authority  
Transportation System Revenue Bond Findings (“Application”) for  
\$56,144,303.30 Financing

**P.O. Box 3009 BALD HEAD ISLAND, NC 28461 (910) 457-9700 FAX (910) 457-6206**  
**E-MAIL: [village@villagebhi.org](mailto:village@villagebhi.org) WEBSITE <http://www.villagebhi.org>**

Mr. Timothy Romocki  
Honorable Dale R. Folwell, CPA  
Ms. Sharon Edmundson  
Page 2  
April 23, 2021

Dear Mr. Romocki, Mr. Folwell and Ms. Edmundson:

The Village of Bald Head Island ("Village") respectfully requests that the Local Government Commission ("LGC"), for the reasons below described, defer consideration of the Application, as presently constituted, at the LGC's May 4, 2021 meeting.

It is our understanding that the LGC has adopted a policy requiring written comments to be submitted at least seven (7) business days prior to the scheduled meeting, so this letter is submitted in compliance with the LGC's policy. We may need to update this letter, depending on further information that is received between now and May 4.

### **TIMELINESS OF CONSIDERATION**

The Village represents the interests of the public on Bald Head Island, including the residents, property owners, visitors and businesses. In principle, the Village is not opposed to the Authority acquiring and operating the Transportation System (the "Proposed Acquisition"), provided its financial and operational planning for the transaction is sound and in the best interests of the users of the System. The Transportation System constitutes the lifeblood of the Island and it is paramount that planning for its acquisition, operation, transition and financing be sound, well-considered and in the public interest.

In its prior correspondence to the LGC, the Village described substantive concerns regarding the Application and the Proposed Acquisition. Those concerns have not been addressed by the Authority or by Bald Head Island Limited, LLC/Bald Head Island Transportation, Inc. (collectively, the "Seller"). The Authority's primary engagement with the Island and other public stakeholders has been to conduct a public informational meeting via teleconference on February 17, 2021. This minimal engagement with the public and absence of any substantive response to the questions and concerns raised is inconsistent with the LGC's instructions to the Authority in its February 4, 2021 letter. That letter required that the Authority "address the four (4) Village requests [including] that the Authority:

4. Provide a process for Authority consideration and meaningful response to questions, input and concerns from the public."

To our knowledge, the Authority has not undertaken consideration and meaningful response to the questions, input and concerns from the public. In fact, the Application to be presented by the Authority to the LGC at the May 4, 2021 meeting is substantially the same as the Application the Authority first disclosed publicly and approved at its December 8, 2020 meeting. In light of this, it appears that consideration of the financing at the May 4, 2021 meeting is premature.

### **QUESTIONS RAISED BY THE PROPOSED ACQUISITION**

Because the Authority has not provided a meaningful response to questions, input and concerns from the public as instructed by the LGC in its February 4, 2021 letter to the Authority, and based on the information available about the Proposed Acquisition, there are several questions that we believe the LGC must address during its review of the financing. Given the uncertainty relating to these questions, we believe that it would be premature to consider the Application at the LGC's May 4 meeting.

**1. DID THE AUTHORITY OBTAIN APPRAISALS THAT ARE INDEPENDENT AND SUFFICIENT?** The LGC's Guidelines on Debt Issuance, Section 9 provides that "appraisals... must be prepared by parties that are both independent to the transaction and possessing adequate expertise." The real estate appraisals of the ferry terminals at Bald Head Island and Deep Point (on the mainland in Southport) prepared for the Authority by Worsley Real Estate Company came to \$42,395,000.00 and, thus, formed the basis (i.e., 88%) of the Authority's proposed \$47,750,000.00 acquisition price for Seller's transportation assets.

Worsley's appraisals raised two key concerns that the Authority has yet to address or explain. The first is that the Worsley reports value the real estate parcels at the Deep Point and Bald Head Island ferry terminal sites at more than twice what Worsley himself estimates the Brunswick County tax assessor would have estimated had the County's assessor appraised the exact same parcels -- \$42,395,000.00 versus \$17,734,810.00. There is no explanation of this difference in the Worsley reports; only a brief reference that the difference exists. This is surprising given that under state law, the Brunswick County property tax assessor is required to assess commercial property for tax purposes at its fair market value.

A second concern with the Worsley appraisals is that they are based on only one of three methods that are commonly used to estimate values of commercial real estate. The three-method practice is routinely used in appraising commercial properties in order to reduce the risk that any one method might produce an inaccurate valuation. Worsley used only the Cost Approach. This is unusual, since the Income Approach is generally regarded to be the most accurate of the three methods when appraising income producing properties. Worsley's appraisal reports state that the Income Approach was not used on explicit instructions from the Authority's Business Valuation Consultant.

We do not know why the Income Approach was purposefully excluded from the Worsley appraisals, particularly in view of stark differences in the valuation of the parcels at the Bald Head Island and Deep Point ferry terminal sites that were developed by Worsley and the Brunswick County tax assessor.

2. **IS THE PROJECT NECESSARY AND EXPEDIENT?** In reviewing the financing, the Commission must consider whether the Project is “necessary and expedient.” N.C.G.S. § 159-52(b)(1). There are serious questions about the prudence of the Project at this time.

The Ferry Transportation Authority Act (the “Act”), as enacted by Session Law 2017-120 (“SL 2017-120”), was largely the brainchild and guided through the legislature by the Seller. Once formed, the Authority was authorized to negotiate with the Seller for the potential acquisition of the Transportation System, N.C.G.S. § 160A-685(c)(7-8, 10-11). The Authority’s ability to enter the Proposed Transaction is proscribed by the requirement in SL 2017-120, Section 6(a)(ii), that the acquisition of an existing service provider’s assets in the service area be “at or below their appraised value.” The questions noted in Section 1 above and in other public comments and concerns, including those voiced by the Authority Board members who voted against the transaction, raise questions regarding the Proposed Acquisition’s compliance with this mandate.

Further, SL 2017-120, Section 6(a)(ii), does not require the outright purchase of the existing operator’s assets. That section expressly permits acquisition by “purchase, gift, lease or otherwise...”. *Id.* Has the Authority explored gift, lease or other terms for the Proposed Acquisition?

As the Deep Point terminal constitutes a substantial portion of the financing, has the Authority explored a lease of Deep Point or other potential sites for a mainland terminal? The Transportation System was previously operated from Indigo Plantation in Southport, until its relocation on June 2, 2009 to Deep Point. It is noted that the State of North Carolina owns a nearby ferry terminal and also 42 acres of undeveloped property (the former North Carolina International Terminal site) in the vicinity of Deep Point that could constitute alternate or long-term sites for a mainland terminal.

Further, had the General Assembly been adamant that the transaction occur, it could have, at any point since passage of the Act, allocated funds for that purpose. N.C.G.S. § 160A-685(b). Tellingly, it has not. The statute does not require the Proposed Acquisition to occur at any cost or set a timetable for the acquisition. *See* N.C.G.S. § 160A-689 (permitting the Authority Board of Trustees to terminate the Authority at any time when there is no indebtedness, but not requiring termination by any certain time period).

There are serious issues with the adequacy of the existing system, particularly during peak traffic periods such as during the summer months. During a normal peak season, both passenger and vehicular traffic capacities are strained, with there being inadequate parking spaces for vehicles and passengers often missing or being “bumped” from the desired ferry and having to wait several hours for an available boat. These factors will be compounded in the upcoming 2021 summer season by (a) projections that this will be a particularly busy season at

Bald Head Island with record numbers of rentals and visitors; and (b) Covid-19 related precautions and procedures, such as deep cleaning of vessels between transport runs. Costs for land acquisition for additional property and vessel or terminal improvements to meet existing and anticipated capacities are not included, nor have operational plans or projections for these critical issues been presented.

The peak summer season is nearly upon us and we question whether the timing of the transaction is beneficial or whether it would distract the Authority and the System operator during this peak time period.

**3. IS THE AMOUNT OF FINANCING PROPOSED ADEQUATE?** These issues raise questions whether “the amount proposed is adequate.... for the proposed purpose of the issue” which the Commission must consider under N.C.G.S. § 159-52(b)(2).

Additionally, the LGC’s Guidelines on Debt Issuance, Section 9 provides:

“Financial projections should be presented that demonstrate feasibility and are clearly reasonable in comparison to prior financial performance. Appraisals, feasibility studies and comfort letters (if required) must be prepared by parties that are both independent to the transaction and possessing adequate expertise.

No such projections or feasibility studies have been presented to demonstrate the feasibility and reasonableness of passenger and vehicular parking capacities.

No salary and compensation study was performed with respect to necessary staffing for the Authority. The Authority will not have the taxing power and the ability to raise additional funds to address these issues, which should be addressed in the revenue financing.

**4. ARE THE BOND RATING AND FINANCING COSTS IN THE PUBLIC INTEREST?** In reviewing the financing, the Commission must consider whether “the proposed bonds can be marketed at reasonable rates of interest.” N.C.G.S. §159-52(b)(5). The proposed interest rate of 4.15% appears excessive for a governmental unit and reflective of the unit’s start-up nature and lack of financial history or taxing authority, including as reflected in the low “BBB” bond rating. It is worth asking, has the Authority considered partnering with other state, county or municipal unit or units of government for a guarantee or other financing which would result in a lower debt burden to the public? *See* LGC Guidelines on Debt Issuance, Section 12, “Enhancements includ[ing]... a parent guarantee, etc., should be considered.”

**5. WILL THE INCREASE IN SYSTEM USER FEES AND CHARGES TO SERVICE THE PROPOSED DEBT BE EXCESSIVE?** In considering the Application, the Commission must consider whether “the increase in taxes, if any, necessary to service the proposed debt will not be excessive.” N.C.G.S. § 159-52(b)(4).

Because these will be revenue bonds, the taxes will be in the form of user fees and charges for the Transportation System. In order to service the substantial debt to be incurred, the proposed financing would impose a \$4.00 per ferry ticket increase in 2021 from \$23.00 to \$27.00 (a 17.4% increase), plus future increases. Barge rates would increase \$5.00 per six (6) linear feet from \$50.00 to \$55.00 (a 10% increase), plus future increases. The LGC is not merely approving a bond issuance in this instance; its actions would immediately affect thousands of individuals and businesses who depend upon the Transportation System as their sole means of access to Bald Head Island.

**6. DOES THE APPLICATION SATISFY OTHER LGC GUIDELINES ON DEBT ISSUANCE?**

*See LGC Guidelines on Debt Issuance, including:*

- “4) The request to borrow must be for capital expenditures, not operating expenses.”

The financing would include \$8,394,303.30 in operating expenses and reserves for the start-up unit of government.

- “7) Community support for the project is important, especially for non-voted debt. Lack of community support may be evidenced by comments at meetings of the governing body or public hearings, correspondence, newspaper articles, etc.”

Community support in favor of the Proposed Acquisition, as currently constituted, has not been documented. The records of the public comments at the February 17, 2021 Authority meeting (**Exhibit A** hereto) document numerous objections and concerns.

As you can see, the Proposed Acquisition leaves unanswered questions. The answers to each of these questions are critical, as they could determine the ultimate fate of the financing. We are grateful for the LGC’s careful review of the financing and its consideration of the questions we have identified.

Thank you for your consideration.

Respectfully,

Village of Bald Head Island Council

/s/ J. Andrew Sayre

Mayor



Mr. Timothy Romocki  
Honorable Dale R. Folwell, CPA  
Ms. Sharon Edmundson  
Page 7  
April 23, 2021

/s/ Michael Brown  
Mayor Pro Tempore

/s/ Scott Gardner  
Councilor

/s/ Emily Hill  
Councilor

/s/ Peter Quinn  
Councilor

pc: The Honorable Beth Wood, State Auditor  
The Honorable Elaine Marshall, Secretary of State  
The Honorable Ronald Penny, Secretary of Revenue  
The Honorable Scott Padgett, Mayor, City of Concord  
The Honorable Viola Harris, Commissioner, Edgecombe County  
Mr. Edward Munn, member, Local Government Commission  
Mr. Joshua Bass, member, Local Government Commission  
Mr. Mike Philbeck, member, Local Government Commission  
Cindy Aiken, Attorney, Department of the State Treasurer  
Susan Rabon, Chair, Bald Head Island Transportation Authority  
Chad Paul, CEO, Bald Head Island Limited, LLC  
K. Christopher McCall, Village Manager  
Charles S. Baldwin, IV, Village Attorney  
(all via email)

**Bald Head Island Transportation Authority****February 17, 2021****Questions raised after the Hearing**

**Beth and Bob Iseman:** Thank you for your time this morning. The presentations were informative and appreciated, however, nothing about the appraisal process was addressed at today's meeting. I would like to understand in detail how the authority determined \$47 mil to be a fair price. I would appreciate answers to the following questions:

- 1) How many full appraisals justifying the \$47 mil price tag were obtained?
- 2) By what process was the appraisal firm(s) chosen?
- 3) Was the formulation of the appraisal(s) under the guidance of the seller at any time?
- 4) I am requesting that the detailed appraisal report(s) be made accessible online to all interested stakeholders of Bald Head Island.

**Slaughter Fitzhugh:**

Following the public hearing on Feb. 17, I have the following comments and questions regarding the purchase of the transportation system from Bald Head Island Limited.

- 1) Can the BHITA provide the appraisals for the Deep Point property and the Bald Head Island Ferry Terminal property to support the valuations for these properties listed in the presentation? Since this seems to be a major point of concern to many constituents, would the BHITA consider seeking another independent appraisal?
- 2) How is the total valuation of the components of the purchase determined? Is it based on the valuation of the assets, the value of the future cash flows, or some other method?
- 3) As clearly presented by various speakers at the public hearing, there are some current deficiencies with the transportation system that need to be corrected in a timely manner. Parking at Deep Point is inadequate. Baggage handling on both side is inadequate. Tram capacity is deficient during peak times. The ticket system is not adequate. The dock at Bald Head Marina is under water during high tide on a near monthly basis. The condition of the ferries and trams is deteriorating and not welcoming to visitors and residents. These are just some of the deficiencies that need to be corrected. The purchase price for the transportation system should reflect the cash flow able to be attained by the system "as is" rather than a cash flow model reflecting a system after these corrections are made. At the very least, the cost of these corrections should be removed from the purchase price.
- 4) Does the BHITA have written evaluation from experts regarding the feasibility of obtaining additional debt to make large capital expenditures as is anticipated in the presentation. Can the BHITA provide this documentation? How much additional debt do these experts believe is available to the BHITA in the future?
- 5) I strongly suggest that the inputs to the growth model in the feasibility analysis be reviewed with Bald Head Island experts rather than just using the input of consultants and BHIT. There are several assumptions regarding the number of buildable lots, number of available club memberships, the home

builder capacity, the ability to staff additional ferries, the ability to provide adequate service at the existing facilities, the current tram capacity, etc. that need to be factored into the model. I would advice reviewing the inputs with the Village Council and perhaps holding a meeting to vet these assumptions with a group of islanders before moving forward with LGC approval.

6) Has the operating model been stress tested? It appears that the operating model assumes basically linear growth from 2021-2050. Bald Head is subject to weather interruptions that can be severe and the island is also subject to more national economic conditions related to property transactions and property values. Would the operating model continue to fund the debt service if an event like the 2008-2009 real estate crash occur in 2022 or 2023?

7) As requested in the public hearing, I think the BHITA should communicate its plans for proceeding with additional public education and public input prior to requesting approval from the LGC. Without additional public input, or at least an explanation of how the public input has been factored into the BHITA plans, the same constituents who petitioned the LGC to hold off on considering the project will likely push for additional delays.

**Raymond Kurlak:**

I am a BHI property owner and I watched & listened to the Zoom meeting today.

From what I heard and understand I have these comments & questions:

1. What are the historical revenues for the three categories of ferry tickets, barge traffic and parking?

On pages 11 and 14 it seems clear that BHITA consultants must have had access to historical ticket sales data from 1998 to 2019. Yet even 5 years of past historical revenues are not included for comparison purposes along with the financial forecast from 2021 onward. Has the Seller shared past revenue information with BHITA? On page 7 the asset valuation summary indicates that "Audited Financial Statements" are the source of some valuations. Were these statements for prior years made available to BHITA and/or its consultants? Has the Seller restricted access to that information on the basis that it is the Seller's private business? Parking and barge traffic account for 50% to 60% of projected future revenues yet the forecast is based upon a regression model analysis of just barge traffic. Is there a similar "backtested" parking revenue model?

2. What recent evidence is there that \$3M+ of bond debt service can be supported by actual revenues versus costs -- for the last 5 years in particular?

3. The factors that went into the asset value appraisal were not presented, why not? The valuations of the land and terminals totaling \$42M+ represent 83% of the total asset value. How are those values supported?

It seems to me that answers to the questions raised above are essential to any evaluation of the proposed sale and bond issuance.

**James Hanes:**

America's recent experience with the housing debacle is, I think, relevant. The projections seem to be done by people from their offices without checking with the people involved. We remember that the housing loan documents were not checked for the house owners ability to pay and we know how that

worked out. How is that relevant? We have had ferry breakdowns over the last two years at least. I think we have been able to bring on another ferry when that happened. What if that happens on a holiday? Shouldn't that affect people's rental for holiday planning, the resale house market, the lot and new house sales estimates? Should we buy a ferry boat at all, or at full price if it's reliability is already suspect? When the lots were platted we were in a very different weather event scenario. Probabilities of strong storms or hurricanes have gone up substantially, flood plain lines have recently been redrawn. The Island has bought a new pump and done additional ditching to take water away from existing houses. Are all of the old house lots salable? In summation I am not convinced of the validity of the projections or valuations or even that the people making the go no go determinations are really open to constructive criticism. Thanks for listening to this rant Jim Hanes house owner.

**Anne Gardner:** Thanks for the meeting today. After listening to the discussion, I have one question.

There are many basic operational problems with the current ferry system that need to be addressed immediately, independent of who owns it. These issues are fundamental to the operation of the ferry and should be addressed before closing. These problems include parking, luggage handling at both Deep Point and the BHI Marina, elevation of marina dock to eliminate flooding, tram and trailer replacement, public restrooms at the BHI Marina, etc...

These should be addressed and paid for now in the original settlement. If all of these issues were to be included in the settlement, then many of us could more easily support the current real estate valuation. The \$42M would seem much more reasonable with these improvements, but without them it just seems excessive. Also, why is the Authority okay with deferring this many basic problems for somebody else to solve later?

Would the Authority consider renegotiating with Limited to make these improvements before closing? If so, when can we expect to hear the outcome of that negotiation? If not, why not?

Thanks for your consideration

**Elizabeth (Betty) Robinson** Thank you. Great presentation.

As a result of participating in today's meeting, I have an additional question.

Comments related to the "bottleneck experience" which occurs during peak season often involve an overwhelming amount of luggage that needs to be transferred between the island and the mainland. There used to be a luggage allowance published for folks traveling to the island. I no longer see that information on the web site although it refers to packing as if you were boarding a flight. Has any consideration been given to the actual process of using the ferry and enforcing some type of luggage allowance. No one follows the current rules of only closed containers so the baggage handlers are overwhelmed. Is there any consideration for charging for more than 2 pieces per person?

The following statement was a part of today's presentation. How is the balance of the associated costs to be covered? What is the revenue source to cover the costs?

*Authority will share in a pro-rata portion of costs relating to the Deep Point marina bulkhead (42%) and will also become a member of the Bald Head Island Marina Association and*

*will be responsible for a pro-rata share of costs relating to the Bald Head Island marina bulkhead (23%*

#### **Scott Thomas**

1. Will the BHITA publish and commit to enforcing a Code of Ethical Business Conduct applicable to the Trustees, Management and Employees of "the ferry system"? If not, why not?

Specifically, would the BHITA take measures to ensure the following:

1. All trustees, management and employees are prohibited from accepting gifts, travel, entertainment or cash originating from their participation with the Authority.
  2. All trustees, management and employees are prohibited from selecting vendors, consultants or service providers based on family, friend or personal relationship(s).
  3. All trustees, management and employees are prohibited from utilizing assets of "the ferry system" in any manner not available or advertised to the general public.
  4. All trustees, management and employees are prohibited from utilizing assets of "the ferry system" with priority access over any members of the general public.
  5. All trustees, management and employees are prohibited from utilizing assets of "the ferry system" without fair compensation for the "ferry system".
2. Will the BHITA publish the nomination and selection criteria for new members to join the BHITA? Are there currently vacancies on the BHITA? When will the terms of current BHITA Trustees expire? Will the BHITA commit to recruiting, nominating and selecting only qualified board members with relevant professional, educational or practical experience?

#### **Questions raised during the Hearing**

**Leonard:** Previous submitted questions – when will they be answered? Our q's were not answered in the presentation.

**England:** I'll wait for written response to my questions. Why are home prices correlated with ferry traffic? Should price increases be borne equally by homeowners and renters?

**Carey:** Reiterate Mimi Leonard's questions. Noted meeting w Club in 2017 – we don't recall a meeting. [This was a meeting with Limited.]. Presentation very professional. However, valuation is high – questions about how land is valued. Entire value is Worsley, KOPCO, HMS who didn't present. We'd like to see the reports.

**Gardner:** Informative. Appreciate hearing from consultants. My question is: analysis seems to be on annual basis – but what about peak use analysis? Parking lots are full. Can we wait to 2030 and beyond to acquire additional land?

**Peele:** Follow-on to valuation question. There is a limited market for this property. How did valuation take into account the limited market? Are there other sellers able to finance \$50m acquisition? Historically, owner was generating roughly \$3m in excess cash flow. Will we need to change operations in a way to meet the debt service?

**FitzHugh:** Several large capital expenditures – vessels, parking etc – not clear how those are being funded. What addl debt is incurred and how will cost of additional debt be met? Low version is very achievable. Median seems to be optimistic.

**Robbins:** Was there a consideration of getting a second opinion of the assets? I see broken down trams, boats failing, luggage system not operating except a few days. Overall, my concern is the valuation.

**Jim Haynes:** Lots available on the island are problematic – tend to be under water. Have the unbuilt lots been evaluated? [How sensitive is the projection to max build-out?

**Rick Anderson:** Near-term operation & services agreement. A number of activities are planned. Will agreement cover decisions needed during the transition period? Is there a set of performance metrics in place covering the agreement?

**Bob Nixon:** Purchase price is critical. Lots of concern about valuation. Model has been built to pay off based on cash flow. Typically value would be a multiple of EBITDA, not the appraisal. When will we get answers? Not hearing a lot of answers.

Follow up: Walk through next steps. Answers posted. Meeting in March. Pressure from Limited. When will decisions be made?

**Gene Ramm:** Lots of data, modeling. Haven't heard much about the experience of riding the ferry. Unique – needs to be good. Transportation services are not keeping pace. Parking is saturated. Choked. Long waits for luggage loading and unloading. Huge problem at the marina. Military term "broken arrow". Not enough room for trams. Stacked in the roadway. Luggage handling delays vessels. Flights get missed. Vital to make sure it is a good experience.

**Sally Shuping Russell:** Echo last comment. Ferry is now a disaster. May not just be Covid related. Parking situation is not related. Waiting several hours destroys the experience. Start and end with a lousy experience – it will affect the island experience in a very negative way.

**Ken Ridings:** Echoing concerns about peak operations. I don't see how future revenue growth can be accommodated during the peak 5 months of the year.

**Robbins:** Agree with luggage handling bottleneck. Hats off to current employees – not their fault that the system is not working.

**Haynes:** Addl parking facilities.... Airport provides transportation to the terminal from the lot. Important to consider this kind of service

**Robbins:** Can we assume that the Transportation Authority will be willing to go back to the drawing board if valuations are realized at a lower level?

**Kathleen Koch:** Is there a seat on the Board for anyone to look out for property owners and residents?

**Jane Mago (Bob Blau):** South Beach property. Want to emphasize need to hear when final decision will be made. Husband submitted question about appraisal price. Capital is needed to address problems going forward.

**Paul Butler:** Can you get all these questions and answers in writing to the LGC prior to their next consideration of this issue? (Everybody has access to them....)

### **Questions Submitted by Gene Ramm (2/16/2021)**

#### **Intellectual property**

What provisions have been made to transfer intellectual property assets to the Authority when the agreements have been finalized. Such assets include, but are not limited to:

- Application software for all business operation system applications
- Photos of ferries, trams, barge docks and marinas
- Marketing collateral
- Branding

#### **Assumptions**

We need a better understanding of the growth assumptions in the underlying business case. The projections for ferry growth (driven by housing and ferry traffic) appear to be high based on historical growth experienced on the island. The projections of ferry, parking, and other revenues in the out years of the projections would drive a high valuation for the business which may not be warranted. The business case should be driven by sound business rationale and consensus among the parties.

#### **Deep Point Marina**

Are riparian rights of the Deep Point Marina being transferred to the Authority as part of this transaction?

#### **Governance of Authority**

The Bald Head Island Transportation Authority was established with 11 members, although only three members who reside on Bald Head Island. More input from Bald Head Island is needed to make sure that plans and improvements truly meet the need of the island. The Authority may want to consider increasing the involvement from island residents.

#### **Authority Oversight**

The structure and involvement of Authority members will aid in the successful launch of the new ownership. In the past, the North Carolina Utilities Commission (NCUC) has played an essential role in the operations of the ferry system. The NCUC oversees and approves the rate setting process, approves the tariffs and reviews and comments on financial results. The NCUC has a staff of professionals who are accountants, lawyers, and analysts to name a few. A select group of these people are thoroughly involved whenever a hearing is held. Who will perform these essential functions for the authority?

### **Electronic ticketing**

The Credit Presentation from December 2021 discussed the development and deployment of “advancing electronic ticketing systems”. Is the cost of this development project and migration to routine operational status included in the budgeted costs in business case?

### **Income taxes**

Is there a provision to indemnify the Authority for taxes that may be assessed on Bald Island Transportation and Bald Head Island Ltd. for the results of operations before the acquisition of the ferry operations?

### **Financial audit**

The acquisition of the ferry operations and associated entities is a substantial transaction for the island and has a number of complex financial issues. Are there provisions for a complete financial audit performed prior to transfer of the assets to the Authority? Such a step is reasonable and customary for the nature of this transaction.

### **Impact analysis**

From a high level, the number of ferry passengers drives a great deal of the operational and financial conclusions. But it is not clear how this increase in passenger counts really affect the ancillary operations. Examples include: no. of parking spaces, number of dollies, number of trams, etc. A worthwhile analysis would be to understand the inter-relationships of these key metrics to make sure future growth in business volume can be accommodated and is reflected in the financial model.

### **Revenue accounting**

It is our understanding that the source of booked revenue for the ferries is surrender of a paper ticket at the time of boarding a ferry. A \$23 ticket would result in booked revenue of \$23. At the same time, there are people buying tickets for future trips. Some of these tickets are purchased in bulk (40 tickets). In this case there is a timing difference between cash paid for a ticket and revenue recorded based on ridership. Presumably, this results in a deferred revenue account. How large is the account and how will the deferred revenue be handled at closing?

### **Cash flow projections**

The projected financial results show current and projected results for the Authority. Do these financial projections form the basis for discounted cash flow (DCF) model. In that case what discount rate is used to discount the projected cash flows.

### **Sensitivity analysis**

Some of the model projections are based on some fairly optimistic growth projections. One way to look at this would be a sort of low, medium, high analysis which is included in the presentation deck. Another way would be to determine the sensitivity of the financial projections due to changes in key assumptions. For example, a 1% change in passenger tickets would have what change in purchase price. This way, some consensus could be built around a



reasonably conservative assumption for passenger tickets. The same analysis could be done for growth in housing on the island and others.

**Question Submitted by Spence Hamrick, 1/15/2021**

To help ensure full transparency of the process and to make sure the facts presented are without bias to either the Seller or Buyer it would be good to receive written affirmation from those in the process representing, or having an affiliation with, the Seller that they are not entitled to receive any economic benefit as a result of a higher purchase price.

**Questions submitted by Paul Carey, 1/15/2021**

- The valuation of Deep Point seems inflated and this value makes up over 70 percent of the purchase price. What is the basis for the land appraisal – current use or best use? Did the Authority get multiple independent appraisals? How did the BHITA decide to hire Worsley as the appraiser? Will the Worsley report be published? The valuation of Deep Point \$36 million is more than double Brunswick County tax records which show a 2019 tax valuation at \$16 million. Can you explain that discrepancy?
- Your model assumes that 20-25 houses will be built on the island per year and there will be approximately 580 houses built over the term of the model. That seems to be based on a maximum number of recent houses in the last 13 years. Additionally, there are 104 lots for sale on the island. The Village assumes 15 new homes per year in its models for future capacity needs of the Waste-Water Treatment Plant, so 20-25 per year is extremely aggressive. Other limiting factors are the club has only 350 memberships available, a short supply of contractors and 18 to 24 month build cycle and slow architectural review. What is the impact if the real number of usable lots is a reasonable number of 200? 300?
- Is there any analysis of the capital needs at the island? Baggage handling, parking and waiting areas are all inadequate for current volumes. How will they accommodate future volumes?
- Why is the BHITA using a four-year old study from Mercator? Why is the study based on “visual inspection” of engine rooms, steering gear compartments etc. rather than a true inspection? A current look at the equipment would seem to be prudent?
- The analysis of tram demand and supply is flawed and extremely misleading. In peak times a major bottleneck of passenger travel is solely caused by the limited number of trams. For example, on Good Friday (one of the busiest days of the year) the total tram availability is 60 per boat when the ferry capacity is 150. The Mercator data showing 55 percent of riders us the tram does not reflect true demand. On Saturdays and Sundays in peak season that percentage is limited by supply of tram spots and not demand for trams. With 150 riders and a supply of 60 tram spots the availability is 40 percent. The system sells tickets that include tram service but does not proved the promised service. There is not enough equipment to provide tram service to all who request a ride. Will the BHITA commit to provide enough trams to meet demand?
- The four-year old equipment review of tram trucks and passenger trams can’t be correct. The trams themselves are in poor condition and it seems that the trucks are in a similar condition. What is the view of the equipment from the BHITA members when they rode the trams?

- There seems to be significant revenue risk with the starting assumption of 347,800 riders, versus recent history 330,000 riders, or less, and then compounding that at too high a rate in subsequent years. At a starting point of the overestimate of 20,000 riders at \$23 per ticket, that's \$460 thousand revenue shortfall starting in year one and compounded every year, thereafter. Why would the authority be so aggressive in its base case projections with little downside protection?
- Can you describe the other alternatives which were considered and why they were considered inferior to the deal chosen?
- Mercator's study concludes the current parking is insufficient and speculates on possible solutions including adding offsite parking or "change inland travelling modes".
- Wouldn't it be prudent to have a plan to park the additional parking associated with the increase revenues in the financial model or acquire the needed land now? The concept of non-car travel ("change inland travelling modes") to Southport is absolutely ridiculous.
- The current B dock is unusable at the highest tides of the month. Are the costs built in to accommodate the necessary changes? When?
- Underlying the efficiencies are a number of mentions of adjusting schedules. Also, the bonds require that the authority hire a consultant if cash flows are below the required coverage ratios and the authority must comply with the recommendations to raise fares or adjust schedules. The simplest way to create short term cash flow would be to limit service. Limiting service could have significant negative implications for Bald Head Island businesses and home values. How would you balance service cuts versus higher fares? Today we rely on the NCUC to assess service levels with public input. This transaction eliminates this protection. Who protects the island and the riders versus the bondholders?
- Mr. Jim Powell, Southport's representative on the Authority was quoted in the local newspaper as confirming to the Southport Board of Alderman that Southport would "be made whole" for lost property taxes because of the Deep Point property moving to state ownership. What does "being made whole mean"? Are there any other entities receiving special considerations?
- How can the appraised value of information technology be \$1.2 million when only \$670 thousand has been spent in the last ten years? What does this technology operate in the system to be more valuable than its parts?
- A purchase price of \$48 million is a multiple of 12 times on \$4 million EBITDA. This isn't a high growth, high margin, business that supports that high a multiple. Most businesses like this have multiples of 5-7 times. Therefore, isn't the real value of the transportation business more like \$20 to \$28 million? Shouldn't there be another independent business valuation performed since that's a \$20M difference?
- Where is the BHITA commissioned Enterprise Value Report? Can we see and review the seller's Enterprise Value Report.

- Has there been any analysis of the ferry handling system at Deep Point? Specifically, how much would it take to make the abandoned baggage handling system usable. This would alleviate the long lines of cars and people at peak times and lost luggage. Are these costs in the projections?
- Has the Authority hired a new CEO and team to run the operations? If not, when? Is there an operating plan that the BHITA and new management understands that supports the financial plan? Does the operating plan outline when ferries, etc., will be upgraded, needed maintenance performed, capital improvements made, etc.? What is the plan and cost to implement new IT systems, such as a new ferry ticketing systems, HR platform, an enterprise-wide platform for accounting, etc.? Have all these costs been included? Transactions that normally provide a financial plan are based on an operating plan to support the financial plan with proposed new management and their biographies to give stakeholders more confidence with the deal.
- Since the BHITA has existed for three years why has a management team not been put in place?
- What is the governance model to help ensure the public/consumer is protected from undue price increases resulting from poor management since the Authority will operate as an unregulated transportation monopoly? Today, the North Carolina Utilities Commission helps to provide oversight for ferry ticket pricing. The BHITA is already planning a \$4 ticket increase (+17%) that is only needed to help pay the new debt burden, not improving operations.
- The Village outlines a number of improvements needed with the current operations, such as baggage handling, logistics, land improvements, deferred maintenance and capital improvements. Have those been addressed from a cost and timeline to implement?
- Are there plans to decouple transportation fees, to charge separately for ferry transportation, luggage transportation, and trams?
- Has the "Operating and Transition Services Agreement" between BHITA and Bald Head Island Ltd. been published? References to it indicate that the operator will not charge a fee for the management services but all costs shall be reimbursed by the BHITA. Does the BHITA approve the budget of operating the system? If not, what controls are on the management not to waste money? Could they pay themselves \$1.0 million per year and get reimbursed? In addition to a budget who will have responsibility for day-to-day spending by the BHITA?
- Could the members of the BHITA describe their personal observations when they used the system. Specifically their vies from experience of the reservation system, the waiting areas, the tram service , etc. What did they find outstanding and what did they find needed improvement?
- What changes are going to be made for Covid-19 as 2000 was a disaster. Long lines of up to 3 hours, no social distancing in line and no reservation system. A number of positive suggestions to ease the crowding were sent to the NCUC but ignored by the operator. What changes does the BHITA plan on implementing to alleviate the issues? A simple solution would have been to run more boats. That suggestion was never implemented which is interesting since running more boats is in the BHITA plans. Can we expect more boats and trams if the BHITA is running the system?

- Was the transaction presented to any other rating agencies of just to Standard & Poors? If so, what were the other agencies view of the transaction? Did they provide a preliminary rating?
- If operations do not meet expectations and the bonds are downgraded will the authority have access to capital for new equipment, improve facilities and other needed spending? Who would be willing to lend money to an entity with no net assets and is the outstanding debt are junk bonds?
- Since BBB- is the lowest rating considered investment grade and “adverse economic conditions or changing circumstances are more likely to weaken the obligor’s capacity to meet its’ financial commitments” was it ever considered by the authority to seek a more stable ratings for the bonds? How much would the debt service coverage have to increase to have a higher rating?
- How much does buying fuel forward save the authority?
- What is the maturity of the agreements to cost share the dredging operations? Are they transferable?
- Without more legislation is there a way to give property owners on the island more of a voice in the governance of the Ferry? Currently the BHITA has three members from the Village out of a total of eleven. Village Council is elected by a small minority of island property owners.
- The governance structure does not allow for of any long-term representation by the members of the Authority. For example, Chair Rabon who has negotiated the initial transaction has a term ending in June 2021. Two of the three Bald Head Village appointments have turned over in the three years since inception. Mayor Sayre’s term expires in 2021 as well. This is a critical enterprise and a revolving door of appointments does not bode well for long term success. Is there any way to address this concern?
- Final Question: What is the process and timing for these questions, comments and concerns to be fully addressed by the Authority?

**Robert Blau questions sent Tuesday, Feb. 16, 2021 (addressed to Treasurer Folwell)**

I am writing to express concerns about the Bald Head Island Ferry Transportation Authority (Authority) proposal to acquire assets of Bald Head Limited’s transportation system for \$47.75M, and to finance that acquisition through the issuance of \$56.14M in revenue bonds. As a home owner and part-time resident of Bald Head Island (BHI), I am concerned about: 1) the process by which the acquisition price was developed, 2) whether the proposed price is fair or unreasonably excessive, and 3) whether the Authority’s proposed sale of revenue bonds could limit, or raise the cost of municipal debt the Village of Bald Head Island (Village) may need to issue in the future.

**1. The process used to develop the \$47.75M purchase price was not transparent and reflects circular reasoning.**

My concern about how the Authority arrived at the \$47.75M proposed purchase price stems largely from its circular nature, as is clearly reflected in the 66-page Credit Presentation that the Authority developed for UBS, its lead underwriter, and potential bondholders. This presentation, along with a 65-page Bond Feasibility Study prepared Mercator International, a small consulting firm, provide the

analytical underpinnings for the \$47.75M purchase price and, subsequently, the \$56.14M revenue bond issue which the Local Government Commission (LGC) must approve. Both documents along with a financial presentation that the Authority prepared for the LGC were only recently made available to the public and posted on the Village website, as the Authority apparently does not have a website of its own.

How was the \$47.75M proposed sales price determined? Page 42 of the Credit Presentation indicates that the Authority's statutorily required appraisal of Bald Head Limited's transportation system assets came to \$50,940,923, of which \$42,395,000 was attributed to the value of land at the Deep Point ferry terminal in Southport (\$36,225,000) and the ferry terminal on BHI (\$6,070,000). Unfortunately, since the Authority's real estate appraisal has not been released, it is impossible to know exactly how those values were derived. We do know, however, from Brunswick County property tax records that the appraised market value – for tax purposes – of the same land parcels at the Deep Point (73.53 acres) and Bald Head Island ferry terminals (5.59 acres) are currently \$9.043M and \$3.5M, respectively. As you know, under North Carolina law, the appraised value of land used to assess local property taxes is supposed to reflect actual market values as of the date the assessed values became effective; in this case, January 1, 2019.

Why might the Authority's appraiser have placed such higher values on Bald Head Limited's parcels at the Deep Point and BHI ferry terminals than the Brunswick County tax assessor (i.e., \$42.392M vs. \$12.543M)? Again, this is unclear since the Authority's land appraisal conducted by the Wosley Real Estate Co. in Wilmington is being kept confidential. But one plausible and practical explanation may have to do with the fact that the Ferry Transportation Authority Act (Act) deregulates the BHI ferry and gives the Authority the ability to unilaterally set rates for ferry/tram, parking, and barge services at whatever levels it deems appropriate. Further, the Act gives the Village and BHI property owners no effective recourse in the event that the Authority's decisions have an unreasonably harmful impact on BHI.

Even a cursory review of the posted financial documents indicates that the Authority plans to use its ratemaking discretion to hike rates enough to produce the annual cashflows needed to service the \$56.14M revenue bond issue that the Mercator study estimates will be required to finance the proposed acquisition price. From an appraiser's standpoint, any planned increases in rates and subsequent cashflows could raise the market value of real estate upon which the ferry terminals sit – by very significant amounts.

This, however, is obviously a classic case of circular reasoning. The appraised value of Bald Head Limited's real estate goes up because deregulated ferry rates may increase by 20 percent or so in 2022. The Authority, in turn, uses the increased land appraisal to work out the \$47.75M acquisition price with Bald Head Limited. The Mercator Bond Feasibility Study then concludes that rates must increase by 20 percent or so for ferry, parking and barge use to achieve the annual cash flow needed to service the \$56.14M bond issue necessary to finance the proposed \$47.75M asset acquisition.

Needless to say, this circular reasoning works to the benefit of Bald Head Limited, but at a significant cost to BHI property owners, workers and visitors. Is Bald Head Limited's land at the Deep Point and BHI ferry terminals actually worth the Authority's \$42.4M appraised value, as opposed to the \$12.543M that the Brunswick County tax assessor believes it is worth? The short answer is possibly – but only if the Authority raises rates and future cash flows sharply enough to warrant the much higher land valuations. It is noteworthy in this regard, that the Mercator Bond Feasibility Study on which the Authority's

proposed \$47.75M acquisition price and its \$56.15M revenue bond issue are based is labeled DRAFT4. It would be interesting to know if changes to the previous three drafts were made to reflect changes in user rates and system cashflows needed to accommodate changes in the negotiated purchase price of Bald Head Limited's transportation assets and corresponding debt levels. My guess is that they were. It is well within your authority, as Chairman of the LGC's, to evaluate these changes and their underlying merit. I hope you will. At the end of the day, however, the Authority, not the LGC, will have to decide how much of the additional market value that results from deregulating the BHI ferry transportation system it is willing to give to Bald Head Limited by agreeing to pay a higher acquisition price. Based on the current factual record underlying the \$47.75M proposed price, it appears that the Authority is willing to give Bald Head Limited a very large portion of the total increase in market value that will result from the planned rate hikes, rather than retain that value for future improvements to the existing BHI ferry system. In my opinion, it would be better for the Authority to agree to pay Bald Head Limited less, borrow less capital, and retain greater ability to use future rate hikes for system improvements. Nonetheless, under the terms of the Act and because it is acquiring an unregulated local monopoly, the Authority can pay Bald Head Limited whatever amount it deems "fair." But fairness should recognize the impact of higher rates on users who will have no practical choice but to accept.

**2. The Authority's plan to issue \$56.14M in revenue bonds used to acquire Bald Head Limited's transportation assets for \$47.75M could limit or raise the cost of municipal debt that the Village of Bald Head Island may need to issue in the future.**

My second major concern with this entire process – and its lack of any reasonable level of transparency – has to do with its potential adverse effects on the Village of Bald Head Island's ability to issue municipal bonds for projects unrelated to transportation but essential to preserving the island's economic viability. One such project critically important to the island involves the periodic need to renourish beaches made necessary due to erosion caused by periodic dredging of the Wilmington Harbor navigation channel by the US Army Corps of Engineers. The channel is located just a few hundred yards west of the BHI's south and west beaches.

The Village has no choice but to renourish these beaches when erosion dictates – once every three or four years at a cost of roughly \$20M. Failure to do so would result in the condemnation of a sizable portion of BHI's property tax base (i.e., homes located on south and west beach). The same is true of the Bald Head Island Club and its golf course which also is located just off south beach. The island depends on the club to attract vacationers as well as new home owners who will contribute a significant portion of revenues needed to sustain the BHI community, including its workers, small businesses, municipal services and, of course, the BHI ferry transportation system. Thus, while the Village's and the Authority's debt capacity are technically separate issues, they are clearly related because the same people, namely BHI property owners, will ultimately bear most of the cost of servicing both types of debt. In time, bond investors will very likely come to understand this and insist on higher interest rates for capital lent, if and to the degree that overall levels of debt begin to exceed levels that BHI's economy can comfortably handle.

As page 12 of the Authority's Credit Presentation indicates, BHI is a relatively wealthier community than Brunswick County or the state of North Carolina generally. BHI also is the most heavily taxed municipality in the entire state. This is largely because roughly 40 percent of the property tax assessed to BHI property owners revert to Brunswick County with very little coming back to the Village government in the form of in-kind services or grants provided or funded by the county. As a result, BHI property owners pay their share of the cost of municipal services provided by the county, but also for

the cost of replicating many of those same municipal services on BHI. This replication is necessitated by the fact that BHI is not connected with the rest of Brunswick County by road.

**3. The LGC needs to compel the Authority to explain and document how it derived its proposal to pay Bald Head Limited \$47.75M for its transportation assets.**

In closing, I would encourage you to instruct the LGC to insist that the Authority provide a more thorough and better documented explanation of how the proposed \$47.75M purchase price for Bald Head Limited's transportation assets was developed. At an absolute minimum, this should include the 4 release of land appraisals done by the Worsley Real Estate company in Wilmington. It also should include Bald Head Limited's pro forma annual cash flow statements for its transportation system for each of the last ten years. In the absence of these data, it is simply not possible to judge whether the \$47.75M proposed purchase price is reasonable or excessively high as the BHI Village Council suggested that it is in its December 15, 2020 letter to you.

Respectfully yours,

Robert T Blau,  
CFA 5 Starrush Trail Bald  
Head Island, NC

**Joe Brawner (February 18, 2021)**

Sea Level Rise along the coast is reasonably well understood but the **interaction of sea level rise with tidal conditions, wind conditions, storms, etc., has not been well-studied** or well documented.

The BHI Marina, which sits at the peak tidal flow area of the Cape Fear River Inlet, is perhaps subject to the harshest impacts of sea level rise and increased tidal flows of any North Carolina tidal river inlet; these impacts have been magnified by the deepening of the Cape Fear River Channel from about 12 to 15 feet in the Civil War era (circa 1865) to about 46 feet currently in the navigation channel. Plans are under way to straighten the channel near BHI to accommodate post PanamaMax ships and further channel deepening and realignment has been proposed by the Port of Wilmington.

**These navigation channel deepening and reconfiguration changes have resulted in significantly greater tidal water flow volumes and velocities** within the same river bed areas from the ocean bar to beyond the Port of Wilmington. These higher flows have pushed salt water further inland and has killed salt-intolerant cypress trees along the Cape Fear River as far as Castle Hayne, NC. A few organizations have flagged these harmful impacts on the local flora and fauna but, to date, there has been no meaningful acknowledgement by the State of North Carolina of the adverse change caused by deepening the navigation channel.

**BHI and its tax-paying property owners have been adversely impacted by these changes as well and have paid dearly to attempt to minimize the adverse impacts** resultant from the combined impacts of channel deepening and straightening, rising sea level, significantly increased tidal flows into and out of the mouth of the Cape Fear River, and by greater impact of storms as sea level rises. The BHI taxpayers, for example, have been assessed millions of dollars to re-nourish beaches and protective dunes (over and above receiving partial dredging spoils from the few sections of the navigation channel where

"beach quality sand" can be found). A large portion of the BHI fresh water aquifer has drained into the deeper shipping channel and potable water wells have been lost on the end of the Island closest to the deepened navigation channel. A stone "retaining wall" was placed at BHI expense in the beach sands near the navigation channel to slow the speeded erosion of beach sand into the shipping channel. The continued deepening of the navigation channel has cost BHI taxpayers tens of millions of dollars and, in combination with sea level rise, continues to threaten the continuing existence of the BHI community. '

In addition to the issues mentioned, **the BHI ferry docks are under increasing pressure from rising waters and the main passenger dock is often under water during king tides; this will worsen as sea level rise is increasing** and is projected to increase at a rate of one inch every two years. The plans call for addressing the re-build of the BHI ferry docks in 2027 so, in this 7-year period, we can expect peak king tides, unassisted by winds and storms, to increase a further 3 inches even though the dock deck boards are fully awash now on king tides; with storm conditions water levels will be even higher.

Further, the travelers to BHI will be paying added ferry fees to pay the debt incurred in acquiring the ferry, etc. This debt, plus interest, will be repaid over 30 years and will be satisfied in the year 2050. In this period sea level rise could be as much as an additional 15 inches, not including storms, winds, and any other extraneous factors. This level would appear to be higher than the existing BHI marina bulkhead surrounding the BHI Marina. The higher 2 velocity water flows in the shipping channel appear to be displacing and transporting more sand and depositing some of it in the mouth of the BHI Maring thereby necessitating added "clean-out" dredging costs. The Village of BHI taxpayers have paid to armor the beach just north of the BHI marina entrance to slow erosion there.

**The evaluation work done by the Commission does not adequately address the dynamically rising water level nor does it consider the added costs that will be incurred by the ferry owner going forward.** By not adequately considering the potential impact of rising sea level and, especially, the resultant increase in relative storm severity as a result of rising water levels, the BHITA is understating the likely future costs of maintaining and operating the ferries and the BHI ferry terminal. Should flooding become worse, as is likely, the new home construction rate will decline, and a downward spiral in the fortunes of the BHI community could result.

**The BHITA should take immediate action to obtain better understanding of BHI high tide conditions,** given the proximity of the shipping channel and its increasing tidal flows, and **assure stakeholders that future capital and maintenance timing and expenditures are fully adequate to cover both routine "good weather" operation and occasional hurricanes.** The BHITA should also put the Port of Wilmington on notice that its past actions with the Wilmington Harbor Channel, in concert with rising sea level, have had a significant deleterious impact on BHI and on the Cape Fear River as far inland as Castle Hayne.

Thank you for allowing BHI stakeholders to, after three years, become more aware of the BHITA's plans and actions.

**Jim Roese (February 18, 2021)**

Thank you for the informative meeting yesterday. I have a few comments to share.

In several of the written and verbal communications I have heard the comment that moving the transportation system from a for profit entity into the care of a public entity will be much better for all



concerned. What I heard from the public comments yesterday was a genuine concern that this entity, with noble intentions, may not have the same initiative to provide an outstanding product at the best cost possible that a for profit entity would. I implore you to spend each of our dollars as if it was your own and work toward an exceptional ferry experience now. Simply maintaining the current status until the increase in funding may possibly allow us to afford the necessary changes is unacceptable. Work needs to be done to pay the appropriate price for this system so that change can be implemented immediately.

No available parking, waiting hours for an available seat on a ferry, ripped seats and flapping weather covers on trams, luggage piled in a heap like arriving in a third world country.....UNACCEPTABLE. We expect more. If the authority was purchasing this enterprise as a for profit business I cannot imagine the purchase price not being substantially lower than the current agreed upon price and substantial upgrades being implemented immediately.

I also believe I heard a comment from someone on the authority regarding giving voice to all users of the ferry system. While noble, the people with a vested interest in the community, business owners and homeowners specifically should certainly have the loudest voice. Renters and day trippers etc. are given voice by choosing where they spend their entertainment dollars. Workers are given voice by choosing to work elsewhere if there experience warrants it.

Thank you,

Jim and Sherry Ruese, 905 Bramble Reach, 18 year owners and 3 year full time resident

**Kit Adcock, February 18, 2021**

It is my pleasure to commend you for a well considered, more than three-year effort to devise a fair and economical transfer of transportation assets from a private, family-owned business to a novel quasigovernmental entity. My service on the authority until my resignation from BHI's Village Council for medical reasons in December 2019, provided me a literal seat at the table. Every single issue brought by those who would delay this transaction were known in December 2019.

To paraphrase Donald Rumsfeld, there are known knowns, known unknowns, unknown knowns, and unknown unknowns associated with any transaction. The ferry authority is a brand new enterprise. Clearly all four knowns and unknowns fall into play. Without breaking the confidentiality I swore to uphold, I think I can say that appraisals of ALL properties and ALL equipment were done independently of those previously performed by Bald Head Island Limited. It was clear to Authority members that nothing else would satisfy the Bald Head Island constituency. Furthermore, each representative had the opportunity to identify existing and future needs of the system. Each member of the authority was given ample time and opportunity to review, question, and discuss every budget line item under a host of factors, as well as to anticipate real future costs.

My questions relate to the delay currently in play with regard to completing this transaction. What are the direct and indirect costs of this delay? Legal fees, Accounting fees, Updating appraisals (each of which has a shelf life), Permit changes, extensions, etc. Consultants' fees Financing fees/Costs of financing the transaction itself ,Costs associated with bond ratings vis-a-vis final rates BHITA costs to manage the delay and associated requirements imposed, "Good Will" with BHI Limited, local

governments, state government, and the Local Government Commission, and with Authority members whose terms have been extended repeatedly until a final resolution is achieved

How will these added costs lower the overall costs of this transaction? How does the delay facilitate the improvements, the "known knowns", to the transportation system that are included in the budget projections?

I urge all entities to move forward rapidly with this acquisition.

**Jerry Maggio, February 25, 2021**

**Dear Ms. Rabon,**

**I listen to the 2/17/21 hearing and appreciate the inputs.**

**I believe all the issues regarding funds for maintenance, asset replacement, additional parking, etc., are all heavily impacted by the price we pay.**

**I am concerned we are relying primarily on only one method to acquisition valuations, namely the Appraisal of Asset Method. Industry standards are to triangulate three methods of valuing companies.**

**a- The Appraisal Method- which is well documented.**

**b- The Income Approach- using Revenue and EBITDA price multiples for similar industries and similar growth rates.**

**c- Market Approach- This may be the most important approach as I believe there are no other bidders.**

**As the Appraisal approach is well documented, can further answers be provided for the remaining two standard approaches.**

**Question 1- Income Approach- can you published the due diligence performed using the Income Approach of comparable acquisitions, specifically the data for Revenue and EBITDA multiples performed on similar industry low growth companies.**

**Question #2- Market Approach. A company is only worth what someone else is willing to pay for it.**

**a- What were other bids for the acquisition?**

**b- If no other bids were offered, how do we know the acquisition isn't worth \$30 million.**

**c- If seller is threatening to sell the parking and tug/barge operations, isn't it worth testing. The remaining pieces would be worth much less and most likely that the total price of both pieces to the seller would be lower than \$47.5 million. When risk is introduced to each buyer, this drives down valuations.**

**d- I heard you say the mandate is to make the acquisition for less than the appraised value. Do we have much to lose as we are bidding on the high end of that cap and have not tested how low we can go.**

**e- Finally, this is only Q&A with zero effect if we are not willing to back out of the deal and really test the market. Are we willing to do that?**

**Thank you in advance for your answers.**

## Composite Questions raised prior to the Public Hearing

### - Issues raised in various communications to the Treasurer and Board of Trustees

- Mayor Andy Sayre (Mayor) (email to Susan Rabon of 1/21/2021)
- Bald Head Island Club Board of Governors (BHIC) (Letter of 1/27/2021)
- Village Council of the Village of Bald Head Island (VBHI) (Letters of 12/15/2020 and 1/19/2021)
- Homeowners (1/27/2021 Letter)
  
- Spoils Basin (Mayor and VBHI)
  - Verify a new capacity of at least 31,000cy in the recently excavated spoils basin.
  - Soils & Materials Engineering, Inc. performed the most recent work on the basin and its spoils, would be the logical group to follow up.
  - Seller may offer trucking load invoices but I would prefer a survey which would be subject to favorable weather conditions (drying out).
  - Finalization of purchase option agreement for the 2+ acres at the entry where the spoils were recently spread; Review terms of the option and the final survey.
  - Identify 10+/- nearby acres to be purchased for future spoils disposal staging because no more readily available land within or adjacent to Deep Point; suggests nearby site of the power cogeneration plant that is scheduled to close in March.
  - Status of permits/viability of construction document with regard to compromised dredge spoils disposal basin on a small island north of the marina
    - Recognizes Authority can't perfect the permits or commence reconstruction prior to a need, a plan should nevertheless be in place.
  - Concerns that projected cash flow not sufficient for acquisition of spoil disposition sites (VBHI)
  
- Parking (Mayor and VBHI)
  - Completion of the two unfinished parking areas at the entry
  - Verification of viability of the proposed additional parking within the existing parking areas by an independent civil engineer
  - Concerns that cash flow not sufficient to pay cost of additional parking and storm water management infrastructure (VBHI)
  - Concerned about adequacy of the storm water management infrastructure.
  - Concerned about adequacy of parking (VBHI)
  
- Operational status/viability of system (Mayor, BHIC, Homeowners, VBHI)
  - Analyze baggage handling and passenger embarkation and disembarkation.
  - The repair of punctures in the metal bulkheads at the marina entry channel.
  - Plan for toilet facilities in the short and long term.
  - Frequent flooding at the passenger loading dock.
  - Concerns about who will manage the system going forward (Homeowners)
  - Question re: whether ferry schedule will change (Homeowners)
  
- Capital investment (Mayor, BHIC, BVHI, Homeowners)

- Maintenance Reserve Schedule should be more fully detailed (Mayor) and maintenance reserves should be higher (VBHI)
  - Insufficient schedule for work/replacement (VBHI)
  - Desire for new ferries and how will they be paid for (BHIC and Homeowners)
  - Terminals: updates to accommodate better flow of traffic, address high tide flooding at Bald Head Marina ferry dock, improvements to baggage handling systems. (BHIC and Homeowners)
  - Sufficiency of operating capital if lower than expected demand or unforeseen capital needs
  - Concerns that cash flows would cover potential increase in Coast Guard vessel and passenger security requirements.
  - Desire for “smart” ferry boarding process. (Homeowners)
  - Wants the baggage handling system replaced. (Homeowners)
- Island terminal complex (Mayor and VBHI)
    - Concern that area too small to safely or efficiently accommodate the multi-functional needs of the operation
    - Vehicular ingress and egress constrained by existing real estate sales building.
    - Concerned about compromise of a critical protective dune structure.
      - Engage a Professional land planner to conduct a land use study to include all parcels within the area with participation of all stakeholders.
- Compensation Study (Mayor and VBHI)
    - Requests an independent study to address any employee issues arising from the transition from a private entity to a public one.
- Representation on the Board/Interest Party Input (BHIC and VBHI)
    - Concerns over the composition of the Authority – lack of a majority of full-time island residents and/or island businesses.
      - VBHI also expresses concern about make-up and resident/property owner input
    - Questions about how the Authority plans to incorporate citizen/business/village input in decisions over rates, schedules and other aspects of ferry operation? Is there an escalation, mediation or resolution process to address differences in viewpoints?
- Purchase Price of the System and effect on rates (BHIC and VBHI)
    - If the price paid for the transportation system is above what the market and economic analysis deem is fair, then the only recourse for the Authority is to raise rates/fees, or reduce services.
    - The current proposal relies on island growing faster than it has over the past several years, increased ferry costs may jeopardize this/the Authority’s ability to meet its debt obligations.
      - VBHI also noted that public should be satisfied that the Authority is purchasing the transportation system assets at or below fair market value
    - Mayor still concerned that not all transportation system costs are included in the debt and are not accounted for in due diligence

- Financing and Modeling concern (VBHI):
  - Concern that the BBB- rating would make additional capital difficult to find/very expensive
  - Modeling assumes an interest rate but “we will not know whether that assumption is reasonable until we receive the indicative bond ratings.”

The Local Government Commission  
North Carolina Department of State Treasurer  
Attention: Dale R. Folwell, CPA  
Chairman

Page 2  
March 22, 2021

The Village has a history of successfully acquiring and operating assets, including its acquisition of the Island's water and sewer plant from Bald Head Island Limited, LLC and Bald Head Island Utilities, Inc. The Village Council is prepared to negotiate, finance and close the acquisition of the Transportation System in the public interest.

Thank you for your consideration.

Respectfully,

Village of Bald Head Island Council

/s/ J. Andrew Sayre

Mayor

/s/ Michael Brown

Mayor Pro Tempore

/s/ Scott Gardner

Councilor

/s/ Emily Hill

Councilor

/s/ Peter Quinn

Councilor

pc: Sharon Edmundson, Deputy Treasurer  
Tim Romocki, Director, Debt Management  
Anna Yount, Executive Assistant to the Treasurer  
K. Christopher McCall, Village Manager  
Susan Rabon, Chair, Bald Head Island Transportation Authority  
Chad Paul, CEO, Bald Head Island Limited, LLC

protective dune structure. Engage a Professional land planner to conduct a land use study to include all parcels within the area with participation of all stakeholders.

In General:

Engage a professional firm to conduct a thorough compensation study: executive director to tram driver. In the challenging local labor market, the BHITA should not only be competitive but generous in order to support a superlative service that reflects the pride in our island. Early on I recommended an independent firm that the Village has employed and is therefore familiar with local realities; however, the suggestion was not pursued.

This study should also address any employee issues arising from the transition from a private entity to a public one.

All of these issues have a financial impact, some far more than others. Similarly, some solutions are more readily apparent than others. The deficiencies and dysfunction at the terminals are both harder to solve and potentially far more expensive than other tasks. However, estimates in both cost and timing can be made and incorporated into a schedule of capital expense; deferred, present and future.

Additionally, a Maintenance Reserve Schedule should be more fully detailed.



# The Village of Bald Head Island

May 3, 2021

Mr. Timothy Romocki  
Director, Debt Management  
North Carolina Department of State Treasurer  
State and Local Government  
Finance Division  
3200 Atlantic Avenue  
Raleigh, North Carolina 27604  
*tim.romocki@nctreasurer.com*

Honorable Dale R. Folwell, CPA  
State Treasurer  
Local Government Commission Chairman  
North Carolina Department of State Treasurer  
3200 Atlantic Avenue  
Raleigh, North Carolina 27604  
*dale@nctreasurer.com*

Ms. Sharon G. Edmundson  
Deputy Treasurer  
North Carolina Department of State Treasurer  
State and Local Government  
Finance Division and the Local Government Commission  
3200 Atlantic Avenue  
Raleigh, North Carolina 27604  
*sharon.edmundson@nctreasurer.com*

Re: Bald Head Island Transportation Authority ("Authority")  
Application for Approval of Bald Head Island Transportation Authority  
Transportation System Revenue Bond Findings ("Application") for  
\$56,144,303.30 Financing

**P.O. Box 3009 BALD HEAD ISLAND, NC 28461 (910) 457-9700 FAX (910) 457-6206**  
**E-MAIL: [village@villagebhi.org](mailto:village@villagebhi.org) WEBSITE <http://www.villagebhi.org>**



Mr. Timothy Romocki  
Honorable Dale R. Folwell, CPA  
Ms. Sharon G. Edmundson  
Page 2  
May 3, 2021

Dear Mr. Romocki, Mr. Folwell and Ms. Edmundson:

The Village of Bald Head Island ("Village") writes in reply to the April 30, 2021 letter submitted by the Authority. The Authority's response letter fails to directly address the issues the Village raised concerning the Application and raises more questions than it answers.<sup>1</sup>

The Authority acknowledges that, despite the many public questions and concerns raised, the "fundamentals of the transaction remain as they were earlier this year, with a few modifications." The Authority, in essence, dismisses the public questions and concerns. The Authority acknowledges that certain of the concerns relate to operations of the System, such as baggage handling, parking spaces, number of ferry runs and their capacity. The Authority states, without support or additional information, "all of which can be addressed once the Authority owns the System." What would be the methodology and cost to address these matters? Why is the Authority not requiring the Seller to address these matters prior to the acquisition or to reduce the transaction cost with respect to the noted deficiencies? Attached as **Exhibit A** hereto is a photo of typical passenger and tram congestion at the ferry terminal on Bald Head Island. Attached as **Exhibit B** hereto is the March 11, 2021 letter to the Village from Wendy Wilmot Properties, LLC projecting, based upon increased rental properties bookings, that "the island is going to experience an approximate 30-40% increase in the amount of guests we transport to and from BHI this season, with very heavy impacts beginning as early as May," in addition to the substantial number of workers coming over.

Since the financing for which approval is sought is intended to provide sufficient operating capital, on what basis can the LGC determine that the financing is sufficient and the revenue projections sound? Without answers to these questions, it would be difficult, if not impossible, for the LGC to determine that "[t]he transaction has met the statutory criteria for approval by the Local Government Commission," as the Authority purports, without having provided any responsive information, reports or analysis on these important questions.

Similarly, the Authority asserts, without support or analysis, that the real estate appraisals obtained satisfy the statutory standard and LGC Guidelines by the mere fact that a third-party was hired to perform them. The concerns regarding the appraisals relate to their technical sufficiency and independence, as the appraiser was acting upon instructions of another consultant hired by the Authority in electing to use solely the cost methodology, to the exclusion of the income and comparables methodologies typically employed in independent appraisals. The Authority asserts, without support,

---

<sup>1</sup> Although not strictly related to the Application, the Authority incorrectly states "Furthermore, it is not clear that the Village has the statutory authority to acquire or operate all aspects of the System." No legal support for this proposition is stated and, in fact, the Village possesses full statutory authority to operate a "public transportation system" (G.S. 160-A-321(a); 160A-311(5)). G.S. 160A-209(c)(27), unless amended, would preclude the Village from levying property taxes for public transportation by ferry. Other means of financing of a ferry operation would be available to the Village. Additional authorities for the Village's authority to acquire, construct, establish, enlarge, improve, maintain, own, operate and contract for the operation of a public transportation system are contained in the Village's letter of today responding to certain questions on these matters asked by Sharon G. Edmundson, Deputy Treasurer, in her correspondence dated April 20, 2021.

Mr. Timothy Romocki  
Honorable Dale R. Folwell, CPA  
Ms. Sharon G. Edmundson  
Page 3  
May 3, 2021

that Worsley Real Estate Company is “one of the largest commercial real estate appraisal firms in southeastern North Carolina, with specific expertise in marinas and deep water port related properties.” To our knowledge, Worsley Real Estate Company is a local Wilmington firm offering residential and commercial appraiser, brokerage and property management services. Its website does not even mention marinas or deep water ports. No explanation is provided in the Authority’s April 30 response why the appraised value of \$42,395,000.00 represents fair market value when compared to the \$17,734,810.00 valuation of the Brunswick County Tax Assessor. At a minimum, these questions should be answered or an additional appraisal obtained by a qualified, independent appraiser.

As evidence of community support for the Project, the Authority attaches newspaper editorials from the Southport Pilot and Resolutions of Brunswick County and the Southport Board of Aldermen. The Authority does not provide evidence of support by any regular users of the system, who will ultimately be responsible for payment of the proposed financing.

The Authority fails to address future necessary increases in user fees and charges beyond those in 2021 and whether they would be excessive.

All the foregoing questions leave the fundamental question unanswered, is this financing and transaction on these terms truly in the public interest? Put differently, has the substance of the LGC financing statutes and Guidelines been satisfied? Based upon the Authority’s unsupported responses, it appears that they have not been. Additional and sufficient diligence to answer these questions should be performed.

Thank you for your consideration. Please do not hesitate to contact me should any questions arise in connection with this letter.

Respectfully,

/s/ J. Andrew Sayre  
Mayor, Village of Bald Head Island

pc: The Honorable Beth Wood, State Auditor  
The Honorable Elaine Marshall, Secretary of State  
The Honorable Ronald Penny, Secretary of Revenue  
The Honorable Scott Padgett, Mayor, City of Concord  
The Honorable Viola Harris, Commissioner, Edgecombe County  
Mr. Edward Munn, member, Local Government Commission  
Mr. Joshua Bass, member, Local Government Commission  
Mr. Mike Philbeck, member, Local Government Commission  
Cindy Aiken, Attorney, Department of the State Treasurer  
Susan Rabon, Chair, Bald Head Island Transportation Authority  
Chad Paul, CEO, Bald Head Island Limited, LLC  
Michael Brown, Mayor Pro Tempore, Village of Bald Head Island

Mr. Timothy Romocki  
Honorable Dale R. Folwell, CPA  
Ms. Sharon G. Edmundson  
Page 4  
May 3, 2021

Scott Gardner, Councilor, Village of Bald Head Island  
Emily Hill, Councilor, Village of Bald Head Island  
Peter Quinn, Councilor, Village of Bald Head Island  
K. Christopher McCall, Manager, Village of Bald Head Island  
Charles S. Baldwin, IV, Attorney, Village of Bald Head Island  
(all via email)



March 11, 2021

RE: Impending Ferry Conflicts

Andy,

It is with great concern for the upcoming months and summer season that I write to you. We are already seeing boats with bumped passengers during the more highly trafficked times of the day. Wednesday, there were quite a few bumped from the 4:30 ferry to the 5pm. I was on the 5pm, but barely made it on and at least 25-30 people did not make it. They had to wait for the 5:30. Thursday morning, I was on the 8AM ferry and counted 18 people bumped. Not usual for this time of year, and it does not bode well for what is to come.

At this time, we have begun to see an increase in guests on Spring Break. This generally continues through early to mid-April. It is my contention, and that of other prominent property management companies on the island, that this summer will far exceed that of the 2020 landmark year. This will make ferry strain even more painful than last year. I believe that, if we act quickly and proactively, we can take steps in planning to solve what we already know will be a serious issue.

For WWP, the months of March 2020 through October 2020 yielded 830 bookings. At an average of 8 individual guests per booking, which yielded at least 6,640 guests during that time – just for WWP. This year, for the same timeframe, we are already up to 756 bookings (yielding approx. 6,048 guests), and we are barely midway through March and still booking consistently.

I have included with this letter some visual representations from our software showing that presently we are currently at a 33.42% increase for the year, with a total filled capacity of 78.75%. In July alone, the busiest month of any given year, we have increased our occupancy by 30% and in June by 31%.

A report was sent to me via Bald Head Island Services showing that they had an average occupancy of 63.59% for March through Sept of 2020. They already have an average on the books of 63.46% for the same time period this year. Like us, they are also still booking steadily daily. They have already filled 78% of their available weeks for June and 83% of their available weeks for July. Half of August has already booked for them.

Trisha Howarth of Intracoastal provided me the following information:



# The Village of Bald Head Island

May 3, 2021

VIA Email and U.S. Mail

Sharon G. Edmundson, MPA, CPA  
Deputy Treasurer  
North Carolina Department of State Treasurer  
State and Local Government  
Finance Division and the Local Government Commission  
3200 Atlantic Avenue  
Raleigh, North Carolina 27604  
*sharon.edmundson@nctreasurer.com*

Re: Your Correspondence of April 20, 2021

Dear Ms. Edmundson:

Thank for your correspondence to the Village of Bald Head Island (“**Village**”) of April 20, 2021 requesting responses to the below questions.

Following are our responses:

1. The legal authority under which the Village may acquire, own and operate each specific operation of the Transportation System (in particular the barge operation)?

**Response:** A municipality may “acquire, construct, establish, enlarge, improve, maintain, own, operate, and contract for the operation of any . . . public enterprise[] . . . to furnish services to the city and its citizens.” G.S. 160A-312(a). The definition of “public enterprise” includes “public transportation systems.” G.S. 160A-311(5). While “public transportation system” is not defined within Article 16, which addresses public enterprises, elsewhere within Chapter 160A the term is broadly defined to mean “without limitation, a combination of real and personal property, structures, improvements, buildings, equipment, vehicle parking or other facilities, and rights-of-way, or any

***P.O. Box 3009 BALD HEAD ISLAND, NC 28461 (910) 457-9700 FAX (910) 457-6206  
E-MAIL: [village@villagebhi.org](mailto:village@villagebhi.org) WEBSITE <http://www.villagebhi.org>***

combination thereof, used or useful for the purposes of public transportation.” G.S. 160A-576 (pertaining to Public Transportation Authorities); *see also* G.S. 160A-601 (pertaining to Regional Public Transportation Authority), and 160A-631 (pertaining to Regional Transportation Authority). Further, “public transportation” means the transportation of passengers “by any means of conveyance” without limitation. G.S. 160A-576; *see also* G.S. 160A-601 and 160A-631. Each of the components of the ferry system from the ferry boats to the parking facilities fall within these existing analogous definitions.

The Bald Head Island barge operation is an integral component of the ferry system. Vehicles are loaded onto the barge by their driver. The driver of the vehicle, along with any passengers within the vehicle at the time it is loaded, are then transported to and from the Island on the barge. As such, the barge is a means of conveyance to the Island and, therefore, is a permissible component of a public transportation system.

The Bald Head Island Charter states in Section 1.2., titled “Powers”:

The Village shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the Village of Bald Head Island specifically by this Charter or upon municipal corporations by general law. The term “general law” is employed herein as defined in G.S. 160A-1.

Under North Carolina law, a municipality’s powers consist of those provided in the North Carolina general statutes (“**General Statutes**”) together with those set forth in its charter. *Shaw v. City of Asheville*, 269 N.C. 90, 96–97, 152 S.E.2d 139, 144 (1967). The General Statutes, Village Charter and case law do not limit the powers of the Village to “acquire, construct, establish, enlarge, improve, maintain, own, operate, and contract for the operation of” a public transportation system.

2. The legal authority under which the Village may acquire, own and operate each asset (real property, fixtures or personal property) of the Transportation System that lies outside the Village corporate limits?

**Response:** A municipality may “acquire, construct, establish, enlarge, improve, maintain, own, operate, and contract for the operation of any . . . public enterprise[] . . . to furnish services to the city and its citizens.” G.S. § 160A-312(a). All of these activities that a municipality may take relative to public enterprises are also permitted “outside [of] corporate limits, *within reasonable limitations*.” *Id.* (emphasis added); *see also Davidson Cty. v. City of High Point*, 85 N.C. App. 26, 41, 354 S.E.2d 280, 288 (1987) (acknowledging General Assembly “evidenced its intent to give cities and counties comprehensive authority to own and operate public enterprises outside their boundaries with respect to the service of themselves and their citizens”). Here, a mainland marine terminal with parking across the Cape Fear River from the Village and necessary to operate the system would be within “reasonable limitations.” Further, a public enterprise is necessarily composed of real property, fixtures and personal property. No restrictions

are imposed on the nature of property, assets or rights that can be owned or operated by a municipality outside the corporate limits.

3. Whether Session Law 2017-120 allows the Proposed Acquisition, or whether it prohibits the same?

**Response:** Session Law 2017-120 added a new Article 29 to Chapter 160A of the General Statutes authorizing the creation of a Ferry Transportation Authority. No provision of the law purports to limit the duties or powers of any municipal entity, including the Village. In fact, the reverse is true. The Village has the right to deny the Authority consent to extend its services within Village corporate limits if the Village begins operating “its own public transportation system or franchising the operation of a public transportation system.” G.S. 160A-685. Further, the law contemplates that the Authority can be dissolved at a time when it has no debts. G.S. 160A-689. The General Assembly would not have intended to disenfranchise other municipalities from operating a public transportation system, when it was not certain that the Authority would ever acquire and operate transportation assets or what its period of existence would be.

4. Whether approvals of any governmental body are required prior to the Proposed Acquisition?

**Response:** Approval of the Local Government Commission pursuant to G.S. 159-153 and other statutes would be required for the Proposed Acquisition. In addition, approval of the North Carolina Utilities Commission (“NCUC”) would be required. Under G.S. 62-111, NCUC approval is required for “any merger or combination affecting any public utility . . . through acquisition or control by stock purchase or otherwise.” Since Bald Head Island Transportation, Inc. is a motor passenger carrier franchised by the NCUC to operate in North Carolina, Section 62-111 would be implicated as part of the Proposed Acquisition. *See also* Right of First Refusal recorded September 10, 1999 in Book 1329, Page 932 of the in Brunswick County Register of Deeds granted by Bald Head Island Transportation, Inc. and Bald Head Island Limited to the Village of Bald Head Island to acquire all the Transportation System assets, **Exhibit A** hereto (“**Right of First Refusal**”) (requiring Village to obtain North Carolina Utility Commission approval for acquisition of Transportation System assets).

5. Whether any legislative action by the N.C. General Assembly is needed to enable the Proposed Acquisition?

**Response:** Based upon the foregoing, legislative action by the N.C. General Assembly is not needed. Further support for this is that no action by the General Assembly was required in the Right of First Refusal.

The Village reserves the right to supplement or amend these responses.

Please contact me if any additional information is needed.



Sharon G. Edmundson, MPA, CPA

Page 4

May 3, 2021

Respectfully,

/s/ J. Andrew Sayre

Village Mayor

pc: The Honorable Dale Folwell, Treasurer  
The Honorable Beth Wood, State Auditor  
The Honorable Elaine Marshall, Secretary of State  
The Honorable Ronald Penny, Secretary of Revenue  
The Honorable Scott Padgett, Mayor, City of Concord  
The Honorable Viola Harris, Commissioner, Edgecombe County  
Mr. Edward Munn, member, Local Government Commission  
Mr. Joshua Bass, member, Local Government Commission  
Mr. Mike Philbeck, member, Local Government Commission  
Cindy Aiken, Attorney, Department of the State Treasurer  
Timothy Romocki, Director, Debt Management  
Susan Rabon, Chair, Bald Head Island Transportation Authority  
Chad Paul, CEO, Bald Head Island Limited, LLC  
Michael Brown, Mayor Pro Tempore, Village of Bald Head Island  
Scott Gardner, Councilor, Village of Bald Head Island  
Emily Hill, Councilor, Village of Bald Head Island  
Peter Quinn, Councilor, Village of Bald Head Island  
K. Christopher McCall, Manager, Village of Bald Head Island  
Charles S. Baldwin, IV, Attorney, Village of Bald Head Island  
(all via email)

Brunswick County--Register of Deeds  
 Robert J. Robinson  
 Inst #24941 Book 1329 Page 932  
 09/10/1999 03:06pm Rec# 24275

STATE OF NORTH CAROLINA

COUNTY OF BRUNSWICK

RIGHT OF FIRST REFUSAL

THIS AGREEMENT, made and entered into this the 21 day of August, 1999, by and between **BALD HEAD ISLAND TRANSPORTATION, INC.**, hereinafter referred to as "TRANSPORTATION"; the **VILLAGE OF BALD HEAD ISLAND**, hereinafter referred to as "VILLAGE"; and **BALD HEAD ISLAND LIMITED**, hereinafter referred to as "LIMITED":

WITNESSETH

THAT WHEREAS, the **VILLAGE** was granted certain rights with regard to the Bald Head Island transportation system, hereinafter defined; and

WHEREAS, substantial questions exist with regard to rights and obligations of the parties hereto with regard to such transportation system, and

WHEREAS, rather than engaging in lengthy and costly litigation regarding those issues, the parties hereto desire to resolve all outstanding questions between them by the execution of this agreement;

NOW, THEREFORE, for and in consideration of the sum of TEN DOLLARS (\$10.00) paid to TRANSPORTATION by the VILLAGE, the receipt and sufficiency of which is hereby acknowledged, and further in consideration of the covenants, stipulations and agreements herein contained, the parties hereto do agree, covenant and stipulate as follows:

1. That VILLAGE be and hereby is granted a Right of First Refusal, pursuant to the terms and conditions of this agreement, to purchase the Bald Head Island Transportation System or any portion thereof.

"The Bald Head Island Transportation System" (hereinafter referred to as "Transportation System") shall be defined as those assets, tangible and intangible, directly and integrally used in the transportation of persons and property to and from Bald Head Island and, further, in the transportation of such goods or persons while on Bald Head Island, and any and all substitutions thereof and any and all reasonably related accessories thereto, including but not limited to ferries, boats, tugboats, barges, trams, motor vehicles to pull trams, and any and all other personal property, titled or untitled motor vehicles and all accessories thereto, and any real property owned or leased comprising docking or parking facilities, administrative facilities, or facilities designed to facilitate the transfer of individuals to and from the ferry and ground transportation, including a means of access from such real estate to and from a public right-of-way, including any and all improvements to such real estate. Specifically, this Right of First Refusal shall include those parcels of real estate described as follows:

RET Bill Fairley  
 TOTAL 10.00 REV#        TC#         
 REC# 02 CK AMT 396 CK# 4824  
 CASH        REF#        BY CS

(a) Tracts 2, 3 and 4 (consisting of 1.03 acres, 0.2 acres, and 1.19 acres, respectively) as shown on a map entitled "Plat of Survey for Bald Head Island Limited" by Brunswick Surveying, Inc., dated 8/25/99, and recorded in Map Cabinet 21, Instrument 500 of the Brunswick County Registry, a copy of which is attached hereto.

(b) That tract or parcel of land lying and being in or near the City of Southport, Smithville Township, Brunswick County, North Carolina, and more particularly described as follows: BEING approximately 76.39 acres, more or less, as described on a plat of survey made by Thomas W. Morgan, R.L.S., of Brunswick Surveying, Inc. and recorded in Map Cabinet 20 at Page 414 of the Brunswick County Registry, to which plat reference is made and which is incorporated herein by reference for greater certainty of description.

This Right of First Refusal shall further include, but not be limited to, the right to assignment by LIMITED of the non-exclusive easement retained by LIMITED for the use of and for ingress, egress and regress over, across and through those properties described by deed recorded in Book 778 at Page 61 of the Brunswick County Registry, and the riparian rights appurtenant thereto, for all purposes deemed appropriate by LIMITED, its successors and assigns, including without limitation the operation of ferries, barges, boats and trains.

This Right of First Refusal shall not apply to sale, conveyance or other transfer of any assets comprising the Transportation System where such assets are sold by TRANSPORTATION in the usual course of business due to obsolescence or other reasons relating to the continued usefulness of such asset to the system. Further, this Right of First Refusal shall not be applicable to a transfer of the system or any assets therein so long as such sale shall be a transfer to any entity owned as a corporation or other entity owned by LIMITED, George Mitchell or any of George Mitchell's children or immediate family so long as such asset remains dedicated to use as an operating portion of the system.

2. The purchase price to be paid by VILLAGE for the Transportation System and the terms of such purchase shall be equal to the price of the assets comprising the Transportation System and the terms of purchase as shall be contained in any *bona fide* offer from a third party dealing at arm's length with TRANSPORTATION or any successor in title to TRANSPORTATION.

3. TRANSPORTATION agrees that it shall notify VILLAGE at such time as TRANSPORTATION begins to contemplate the sale of the Transportation System or any portion thereof, other than such sales as shall be exempt from this Right of First Refusal pursuant to paragraph 1 hereof.

4. Upon receipt by TRANSPORTATION of any acceptable offer to purchase the Transportation System or any portion thereof, TRANSPORTATION shall notify VILLAGE of the existence of an offer acceptable to it for the sale of such asset or assets. Notice shall be delivered in

writing to the Village Manager and shall include notice to the VILLAGE of the existence of an offer to purchase the Transportation System or a portion thereof and shall identify the following.

- (1) The asset or assets which are the subject of such offer;
- (2) The identity of the individual or entity making such offer;
- (3) The proposed purchase price and terms including any conditions on sale; and
- (4) The proposed closing date.

Upon receipt of notice from TRANSPORTATION as to the existence of an offer acceptable to TRANSPORTATION, the VILLAGE shall have a period of sixty (60) days from the date of receipt of such notice to determine whether to match such offer. The VILLAGE shall inform TRANSPORTATION, in writing, of its decision within sixty (60) days of the receipt of notice. In the event that VILLAGE shall fail to respond in writing to TRANSPORTATION within sixty (60) days of the receipt of notice, such failure shall constitute a waiver of the Right of First Refusal herein contained by the VILLAGE. If the VILLAGE elects to exercise its option to match the offer, the VILLAGE shall close upon the purchase of such assets within a period of time equal to one hundred eighty (180) days from the date that VILLAGE exercises its Right of First Refusal or the closing date as set forth in the proposed offer, whichever date shall be later.

The VILLAGE may exercise its Right of First Refusal subject to approval by the Local Government Commission of any financing required to consummate the purchase of the Transportation System and further subject to any other governmental approvals that would be necessary for the VILLAGE to purchase and operate the Transportation System and to finance the purchase price thereof.

5. With regard to the existence of real estate which shall be the subject of this Right of First Refusal, the parties agree to record the original of this Right of First Refusal or a memorandum thereof, together with a description of such real estate, in the office of the Register of Deeds for Brunswick County. In the event that TRANSPORTATION desires to sell any real estate subject hereto, the VILLAGE shall release such real estate from this Right of First Refusal upon (1) designation by TRANSPORTATION of a suitable substitute therefor and (2) upon determination by the VILLAGE that the proposed substitute real estate is substantially equivalent or superior to the released property for the purposes for which the released property has been used in the Transportation System. The parties shall then execute such documents as shall release the original property from this Right of First Refusal and subject the substituted property thereto.

6. The terms and conditions of this agreement supersede any and all other offers, contracts or rights of first refusal of the VILLAGE to purchase any or all of the assets which are the subject of this agreement heretofore existing between the VILLAGE and Bald Head Island Limited. This instrument constitutes the entire agreement between the parties and shall be governed by and interpreted under the laws of the State of North Carolina. The parties stipulate that the venue of any litigation arising herefrom shall be in the Superior Court of Brunswick County.

7. This agreement shall become effective only upon approval by the North Carolina Public Utilities Commission.

8. Any notice required to be given herein shall be sent by certified mail, return receipt requested, to the parties as follows:

TRANSPORTATION: Bald Head Island Transportation, Inc.  
P. O. Box 3069  
Bald Head Island, NC 28461

ATTENTION: Woody Fulton

VILLAGE: Village of Bald Head Island  
P. O. Box 3009  
Bald Head Island, NC 28461

ATTENTION: Manager

LIMITED: Bald Head Island Limited  
P. O. Box 3069  
Bald Head Island, NC 28461

ATTENTION: M. Kent Mitchell

Inst # 21941 Book 1329 Page: 935

IN WITNESS WHEREOF, the parties have caused this instrument to be executed in triplicate originals as of the date first above written.

(CORPORATE SEAL) BALD HEAD ISLAND TRANSPORTATION, INC  
BY: [Signature]  
Vice President

ATTEST:  
B.J. German  
Assistant Secretary



ATTEST  
Joan A. Camporello  
Clerk

VILLAGE OF BALD HEAD ISLAND  
BY: [Signature]  
Mayor

BALD HEAD ISLAND LIMITED (SEAL)  
BY: [Signature] (SEAL)  
Attorney-in-Fact

Inst # 24941 Book 1329Page: 937

STATE OF NORTH CAROLINA  
COUNTY OF BRUNSWICK

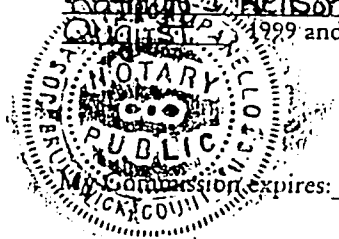
I, Lorraine Thompson, a Notary Public, do hereby certify that Kenneth M. Kirkman, Vice President personally appeared before me this 23rd day of August, 1999 and acknowledged the due execution of the foregoing instrument.



Lorraine Thompson  
Notary Public

STATE OF NORTH CAROLINA  
COUNTY OF BRUNSWICK

I, Josann A. Campanello, a Notary Public, do hereby certify that Kenneth M. Kirkman, Mayor personally appeared before me this 21 day of August, 1999 and acknowledged the due execution of the foregoing instrument.



Josann A. Campanello  
Notary Public

STATE OF NORTH CAROLINA  
County of Brunswick

I, Lorraine Thompson, a Notary Public for said County and State, do hereby certify that Kenneth M. Kirkman attorney in fact for Bald Head Island Limited, personally appeared before me this day, and being by me duly sworn, says that he executed the foregoing and annexed instrument for and in behalf of the said Bald Head Island Limited, and that his authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged, and recorded in the office of the Register of Deeds in the County of Brunswick, State of North Carolina, in Deed Book 1143 at Page 916, and that this instrument was executed under and by virtue of the authority given by said instrument granting him power of attorney.

I do further certify that the said Kenneth M. Kirkman acknowledged the due execution of the foregoing and annexed instrument for the purposes therein expressed for and in behalf of the said Bald Head Island Limited.

WITNESS my hand and official seal, this the 23rd day of August, 1999



Lorraine Thompson  
Notary Public

STATE OF NORTH CAROLINA  
COUNTY OF BRUNSWICK

The Foregoing (or annexed) Certificate(s) of LORRAINE THOMPSON JOSANN A. CAMPANELLO

Notary(ies) Public is (are) Certified to be Correct.

This Instrument was filed for Registration on this 10th Day of September, 1999  
in the Book and Page shown on the First Page hereof.

Robert J. Robinson  
ROBERT J. ROBINSON, Register of Deeds

"The pace numbers for Intracoastal Realty PM are up 102% over pace numbers for arrivals this time last year and it is only March! Right now, NOT projected, just what is on the books equates to 1,740 people. Expecting pace to continue to outperform last year, the totals by the end of October will surpass the 2020 number of 2,935 passengers to 4,000 passengers."

Tiffany McWhorter of Tiffany's Beach Rentals is reporting that her bookings for the year have increased as much as 65% over 2020.

While I have not yet performed an in-depth study of the VRBO/private rented homes, I am a member of the BHI Rental Exchange group in Facebook, which affords me a great deal of understanding concerning how island owners are renting currently. It appears that the private rentals are doing just as well as the property management companies in filling their available weeks.

While neither Dann Jackson, Rick Nelson, nor Rod Hyson Jr., accepted the invitation sent them to share their information as well, it is quite clear to me that the island is going to experience an approximate 30-40% increase in the amount of guests we transport to and from BHI this season, with very heavy impacts beginning as early as May. This will be in addition to the number of workers coming over, and we already know that there is a substantial amount of that occurring daily already.

I, and my professional counterparts, entreat upon the proper authorities to heed the warning signs contained in this information and begin to plan and act now to counter that. If this year is anything like last year, or presumably worse as appears will be the case, then the island will certainly find itself critically impacted in the areas of construction, employment, real estate, and future rental & tourism opportunity.

Thank you for your time and consideration of this important matter.

Respectfully,



Crista Thomas

Wendy Wilmot Properties, LLC

(910) 368-1821 Mobile

crista@wwpBaldHead.com





## **MEMORANDUM**

VIA Email

To: Local Government Commission (SLGFD@nctreasurer.com)

From: Village of Bald Head Island

Re: Questions to be Answered

Bald Head Island Transportation Authority ("Authority")  
Application for Approval of Bald Head Island Transportation Authority Transportation  
System Revenue Bond Findings ("Application") for \$56,144,303.30 Financing

Date: May 21, 2021

---

The Village of Bald Head Island ("Village") respectfully submits these questions in response to the Motion adopted at the May 4, 2021 LGC meeting and correspondence to the Village from LGC Staff dated May 13, 2021. It is in the public interest for adequate responses to these questions to be received, in order for proper consideration to be given to the Application. We hope these questions and materials are helpful to the LGC. If any additional information would be helpful, please let us know. Thank you for your consideration.

### **I. Transparency**

"The Commission may inquire into and give consideration to any other matters which it may believe to have a bearing on whether the issue should be approved." G.S. § 159-52(a).

- Has the Authority conducted sufficient public meetings and disclosure in order for the public to become aware of and understand the nature and significance of the proposed transaction and financing?
- Have the three (3) year audited financial statements referenced at the May 4, 2021 LGC meeting been disclosed?
- Has the enterprise value requested by the Seller referenced at the May 4, 2021 LGC meeting been disclosed?

- Has a quality of earnings assessment been conducted as is typical for transactions of this size and nature and has it been disclosed?
- Is there sufficient community support, including by the regular users of the Transportation System, for the Project/financing? LGC Guidelines, Section 7) (“Community Support for the project is important, especially for non-voted debt. Lack of community support may be evidenced by comments at meetings of the governing body or public hearings, correspondence, newspaper articles, etc.”).

## **II. Governance**

- Whether the Seller historically has transferred its utility assets and employment of its utility employees to the Village?
- Has the Village efficiently and in the public interest operated since 2005 the water and sewer utility assets acquired from Bald Head Island Utilities, Inc. and Bald Head Island, LLC?
- Whether this transaction and financing, if approved over the objection of a majority of the Transportation System users, would set up an antagonistic relationship between the users and the Authority?
- Whether the Village could operate the assets efficiently, with substantial savings of public funds? For example, by issuing general obligation bonds for non-ferry assets (e.g., barge, warehouse and parking), higher bond rating and lower interest rates based upon Village’s credit history and \$1,156,220,487.00 ad valorem tax base and avoiding wasteful duplication of administrative offices, personnel, communications and systems.
- Whether the Village Council, consisting of regular riders and users of the Transportation System, would be more informed, responsive and fiscally responsible than an Authority Board, a majority of which consists of persons who do not regularly use the Transportation System?
- Are the regular users of the Transportation System sufficiently represented on the Authority governing board, when the proposed transaction was approved by a 7-4 vote, over the objection of all four (4) Bald Head Island resident appointees who are regular users of the System?
- Are the regular users of the Transportation System sufficiently represented on the Authority governing board, when no Bald Head Island appointee, including the ex officio Mayor and Mayor Pro Tem members, were appointed to the negotiating committee with the Seller within the past approximately 1½ years?
- Do the governing boards of other transportation authorities which are truly regional in nature more closely reflect the communities of the users than the governing board of the Bald Head Island Transportation Authority, which solely provides transportation to and from Bald Head Island?
- The Transportation System has been operated by the developer of Bald Head Island for several decades. Has any public concern regarding governance arisen that would require a regional Transportation Authority to address?
- If the financing application is denied for the questions and concerns noted, is it likely that the Transportation System assets would be acquired by a public entity, either the Village or a transportation authority established by it under Article 25,

Chapter 160A, pursuant to the Right of First Refusal granted the Village by Bald Head Island Transportation, Inc. and Bald Head Island Limited recorded at Book 1329, Page 932, Brunswick County Registry?

### **III. Value to the Public**

Session Law 2017-120, Section 6.(a) provides that the Transportation System assets to be acquired can be acquired “by purchase, gift, lease, or otherwise, by that Authority at or below their appraised value...”.

- “[G]ift, lease, or otherwise” are permissible methods of acquisition, rather than purchase;
  - Assets must be acquired at or below their appraised value; and
  - Public funds can be expended only for appraised value, not business enterprise value, goodwill, on-going concern, or similar concepts.
  - Session Law 2017-120 does NOT contain exceptions to the LGC’s financing statutes or Guidelines.
- Do the proposed transaction and financing adequately account for the condition of the assets and improvements necessary to operate the System through the maturity date of the financing? G.S. § 159-51(a)(11) (“If the proposed issue is for a public service enterprise, the probable net revenues of the project to be financed and the extent to which the revenues of the utility or enterprise, after addition of the revenues of the project to be financed, will be sufficient to service the proposed debt.”); G.S. § 159-52(b)(2) (“That the amount proposed is adequate and not excessive for the proposed purpose of the issue.”). Issues include, without limitation, additional real estate and land use planning needed for improvements for parking, passenger ingress/egress, baggage handling, dredge spoil disposition, and number of ferry runs and ferry capacities. It is noted that Bald Head Island is at present approximately 60% “built-out” of buildable properties and that a substantial strain in transportation capacity is already being placed on the current system. The number of property owners, visitors, guests, workers and service providers will substantially increase. G.S. § 159-52(a)(12) (“Whether the amount of the proposed debt will be adequate to accomplish the purpose for which it is to be incurred.”)
- Has the Authority conducted a salary and compensation study, including health and retirement benefits for the necessary staff? LGC Guidelines 8) (“The repayment plan presented must be complete and consistent regarding the maturity of debt, the life of assets financed, terms of related agreements, etc. In addition, the repayment plan must be consistent with the financial projections provided by the unit.”).
- What increases in user fees and charges beyond those proposed in 2021 would be necessary for the financing and would they be excessive? Section 159-52(b)(4) (“That the increase in taxes [user fees], if any, necessary to service the proposed debt will not be excessive.”).
- Would the increases in user fees and charges fall disproportionately on the daily workers?

- Would the increases in user fees and charges be a disincentive to the employers of daily workers to do work on Bald Head Island?
- Has the Authority sufficiently explored acquisition by gift, lease, or otherwise? Session Law 2017-120 6.(a).
- Has the Authority explored lease of the ferry terminals instead of purchase?
- Has the Authority explored with the State of North Carolina use or lease of the nearby marine terminal parcels for the Fort Fisher-Southport ferry or the former North Carolina International Terminal site of 42 acres?
- Has the Authority obtained independent, qualified appraisal reports for the real estate to be acquired? LGC Guidelines on Debt Issuance (Revised), September 4, 2019, LGC Consideration of Unit's Debt Management and the Proposed Project ("LGC Guidelines"), 9) ("Appraisals, feasibility studies and comfort letters (if required) must be prepared by parties that are both independent to the transaction and possessing adequate expertise").
- Why is a developer's incentive of fifteen (15%) percent of total cost included in the real estate appraisals? (See pg. 62 of the Worsley Report of Deep Point; pg. 65 of Worsley Report of Bald Head Marina). An incentive is normally included only on new projects. Deep Point has been in place for over twelve (12) years and the Bald Head Island Marina for over twenty-five (25) years.
- The debt burden of "not to exceed \$59,000,000.00" is substantially in excess of the appraised asset value, which is \$47,750,000.00 or less. Would that constitute an impermissibly heavy debt burden exceeding that of similar units? LGC Guidelines, Section 3) ("The Unit should have a reasonable debt burden. A heavy debt burden may be evidenced by... Debt to Appraised Property Value exceeding that of similar units.").
- Is the request for operating expenses, not capital expenditures? LGC Guidelines, Section 4 ("The request to borrow must be for capital expenditures, not operating expenses.").
- Are the financial projections and amount of the proposed financing sufficient for the operation of a first-class Transportation System, consistent with the Bald Head Island community? G.S. § 159-52(a)(12) ("Whether the amount of the proposed debt will be adequate to accomplish the purpose for which it is to be incurred.").
- Are the financial projections consistent with past performance, including the audited three (3) year financial statements? LGC Guidelines 9) ("Financial projections should be presented that demonstrate feasibility and are clearly reasonable in comparison to prior financial performance.").
- Is the three (3) year review of past financials sufficient, given the major impacts of Hurricane Florence and COVID-19 on ferry usage in recent years?
- Is the asset depreciation schedule too low, given the deteriorated condition of the equipment?
- With current unmet deferred maintenance and capital expenditures, are the ratepayers effectively having to pay for these items twice; initially through the bond sale with \$47,750,000.00 being paid to the Seller; and again when rates are raised to pay for maintenance and capital repairs that should already have been addressed?
- Has the Authority sufficiently considered partnering with other State, County or municipal units of government for a guarantee, letter of credit, or other financing

(such as inclusion in State financing) that would result in a lower debt burden to the public? LGC Guidelines 12) (“Enhancement including letters of credit, bond insurance, a parent guarantee, etc., should be considered.”).

- Are the low bond rating of “BBB-” and 4.25% interest rate reasonable and in the public interest for a project of this magnitude? G.S. § 159-52(b)(5) (“That the proposed bonds can be marketed at reasonable rates of interest.”); LGC Guidelines 12) (“Ability to secure an investment grade rating should be documented.”).
- Could the Village obtain a higher bond rating and lower interest rate by issuing general obligation bonds to purchase the parking, warehouse, and barge assets that are not regulated by the Utilities Commission as part of the ferry system? G.S. § 159-48(b)(12), (14) and (23) (authorizing municipality to issue general obligation bonds for parking, warehouse, and public transportation).
- Could the Village obtain a higher bond rating and lower interest rate by issuing revenue bonds for the ferry assets, based upon its credit history?
- In light of all of the foregoing questions and concerns, is the Project to be financed “necessary or expedient”? G.S. § 159-52(a)(1) and (b)(1).

Additional documents bearing on the foregoing questions are attached. *See* **Exhibit A**, “Transportation System: Deferred Capital Expense and Other Expenses” and **Exhibit B**, “Village of Bald Head Island Owned Transportation System.”

## **EXHIBIT A**

### **Transportation System: Deferred Capital Expense and Other Expenses**

#### **At Deep Point:**

1. Pave the two new parking lots that have been stoned and bizarrely striped. The site had been rough graded for several years, recently fine graded with a bulldozer, stoned and rolled to a seemingly excellent compaction, ready for asphalt. Without the asphalt, especially in a parking lot, the front wheels of a vehicle will churn up the stone allowing for a substantial rain event to degrade the base requiring re-stoning and re-compaction prior to paving.
2. Clear concrete debris and rough grade 2+ acre lot to the right of entry.
3. Engineer and permit additional future parking within existing lots to be transferred at closing.
4. Since there is no more land within or adjacent to Deep Point for disposal of dredge spoils in the manner that has been previously employed, identify and secure nearby land that can be purchased for future spoils disposal/staging. A possible prospect is unbuildable land adjacent to the nuclear plant.
5. Analyze baggage handling and passenger management with emphasis on the operational status of the machinery and the viability of the underlying operational system, i.e. arrivals using the upper level and departures the lower level. If, as has been proffered, that the system only needs six more employees to be functional, then hire those employees and build the expense into the projections.

#### **At Bald Head Island:**

1. With regard to the severely compromised dredge spoils basin on a small island north of the marina, verify the status of the permits and whether the construction document supplied is viable. Although it makes no sense to perfect the permits or commence construction prior to a need, a plan should nevertheless be in place.
2. Repair punctures in the metal bulkheads at the marina entry channel.
3. Since the previously accessible toilet facilities have been shut off from the public, develop a plan for toilet facilities in the short and long terms.
4. Address the frequent flooding at the passenger loading dock.
5. In the present proposal there is a mere 2+ acres relegated to the island terminal complex. Vehicular ingress and egress are constrained by the existing real estate sales building. This lack of space cannot safely or efficiently accommodate the multi-functional needs of the operation and in fact would force the compromise of a critical protective dune structure. Engage a professional, independent land planner to conduct a study to include all parcels within the area with participation of all stakeholders. This study should include and have particular emphasis on an improved layout of the dockside functions.

**In General:**

1. Engage an independent professional firm to conduct a thorough compensation study: Executive Director to tram driver. In the challenging local labor market, the Bald Head transportation system may have to be aggressive in its pay structure. This study should also address retirement plans and any employee issues arising from the transition of a private entity to a public one.
2. As is commonly done, develop a comprehensive and detailed 10-year Reserve Schedule for maintenance and replacement of individual assets, including their life cycle and projected expense.
3. All of these issues have a financial impact, some far more than others. Similarly, some solutions are more readily apparent than others. The deficiencies and dysfunction at the terminals are both harder to solve and potentially far more expensive than other tasks. However, estimates of both cost and timing can be made and incorporated into the projections that drive the purchase price of the enterprise.

## **EXHIBIT B**

### **Village of Bald Head Island Owned Transportation System**

#### **Why should the Village of Bald Head Island own and operate the transportation system?**

The transportation system is in natural alignment with the Village's mission to serve the community. The Village can easily and quickly integrate the transportation operations, as it has done in the past with the water and wastewater utility and other Island operations and infrastructure. The Village's acquisition will save money on acquisition financing costs. Also, the Village already possesses the administrative, process and public communications infrastructure and can quickly integrate stakeholder involvement, as it does on a day-to-day basis.

The transportation system, which includes the ferry, parking, and barge operations, is the lifeline of the Island. As such, it must be predictable and sustainable if Bald Head Island is to remain a quality coastal community. Declining service levels, particularly during peak weekends, holidays, and the summer season must be reversed.

The Village government is uniquely qualified to assess the current community needs with respect to the system. The Village government is one of the largest employers of ferry users as well as the primary source for communication, regulation and support to the private and non-profit organizations that account for the bulk of the remaining daily riders. In addition to these persons that rely on a dependable transit to reach their livelihood, full and part time residents are bound to the system for the ability to inhabit the island. The safety and viability of the island is directly tied to the system and as such puts the Village government in a position of accountability for its continued success.

The Village government is the central source for monitoring the growth and changes to the community. This information acquired through its various departments, as well as extensive community liaison groups, is critical to understanding the current and long-term demands of the transportation system. The network of Village resources creates an effective vehicle to plan strategies addressing current short falls of the system and the long-range planning for a system that will need to evolve with the changing demands of the island. Long range planning for a successful system is intertwined with Village infrastructure, coordination of Village Public Services, Public Safety, Planning departments will be essential for streamlining land use and other necessary uninterrupted adjustments and growth of the system.

The Village has a track record of owning and operating utilities successfully on the Island.

The Village has professionally trained and certified North Carolina government Village Clerk and Village Manager and an organization that can easily allow for efficiency gains and economies of scale, in particular with regard to administrative functions such as finance, bookkeeping, human resources, IT infrastructure, communications, etc.

The Village has a track record of successfully repaying the debt on bonds issued for the purpose of providing utility services, beach stabilization, public park land, contractor services, and more to



the property owners of the Island. As such, the Village is expected to have more financing options to consider than the Bald Head Island Transportation Authority.

The Village fully intends to enter into an interlocal agreement with the Town of Southport, Brunswick County, and other entities necessary to resolve issues of ferry operations, traffic, and fees in lieu of property taxes.

### **How should the Village of Bald Head Island own and operate the transportation system?**

#### **Acquisition**

With the intent to expeditiously develop a fair value to close the deal with the seller as soon as practical, the Village Council will:

1. Employ an independent and commercially qualified business valuation consultant, real estate appraiser, and other experts as needed.
2. Investigate all options including alternative mainland ports such as the Southport Marina, the international port property, North Carolina Ferry system at Southport, etc.
3. Use to extent possible existing due diligence, including the Mecator Feasibility study, conduct additional due diligence, including market, cost, and income methodology appraisals of real property, and a quality of earnings assessment.
4. Determine fair market value of the system assets (ferry, parking and barge).
5. Negotiate sales price with seller.

#### **Financing**

1. The Village's bond counsel is Ed Lucas of Robinson, Bradshaw & Hinson, L.L.P.
2. Analyze and determine the most advantageous financing terms and options, including consideration of general obligation bonds for non-ferry assets (barge, warehouse, and parking) and revenue bonds for ferry assets.
3. Meet with LGC staff to review financing options and clarify process necessary to obtain LGC approval.
4. Identify and select financial institution(s) to develop bond proposal.
5. Approve bond proposal to present to the LGC.

## Governance

1. Initially and through a twelve (12) to eighteen (18) month transition, a Transportation Manager will be identified as well as Managers of parking, ferry, barge, warehousing, and maintenance services. The Transportation Manager will report to the Village Manager.
2. Finance/accounting, human resources, communications, IT, and other administrative functions will transition into existing Village Departments.
3. *See Village and Transportation Department Organizational Charts, **Appendix A**.*
4. The Village will consider and implement, as necessary from time to time, a committee, task force, or other advisory structure to:
  - Assist with transition and operations;
  - Obtain and act on input from stakeholders and other municipal and government entities; and
  - Provide input to the Transportation Manager.

## Transparency

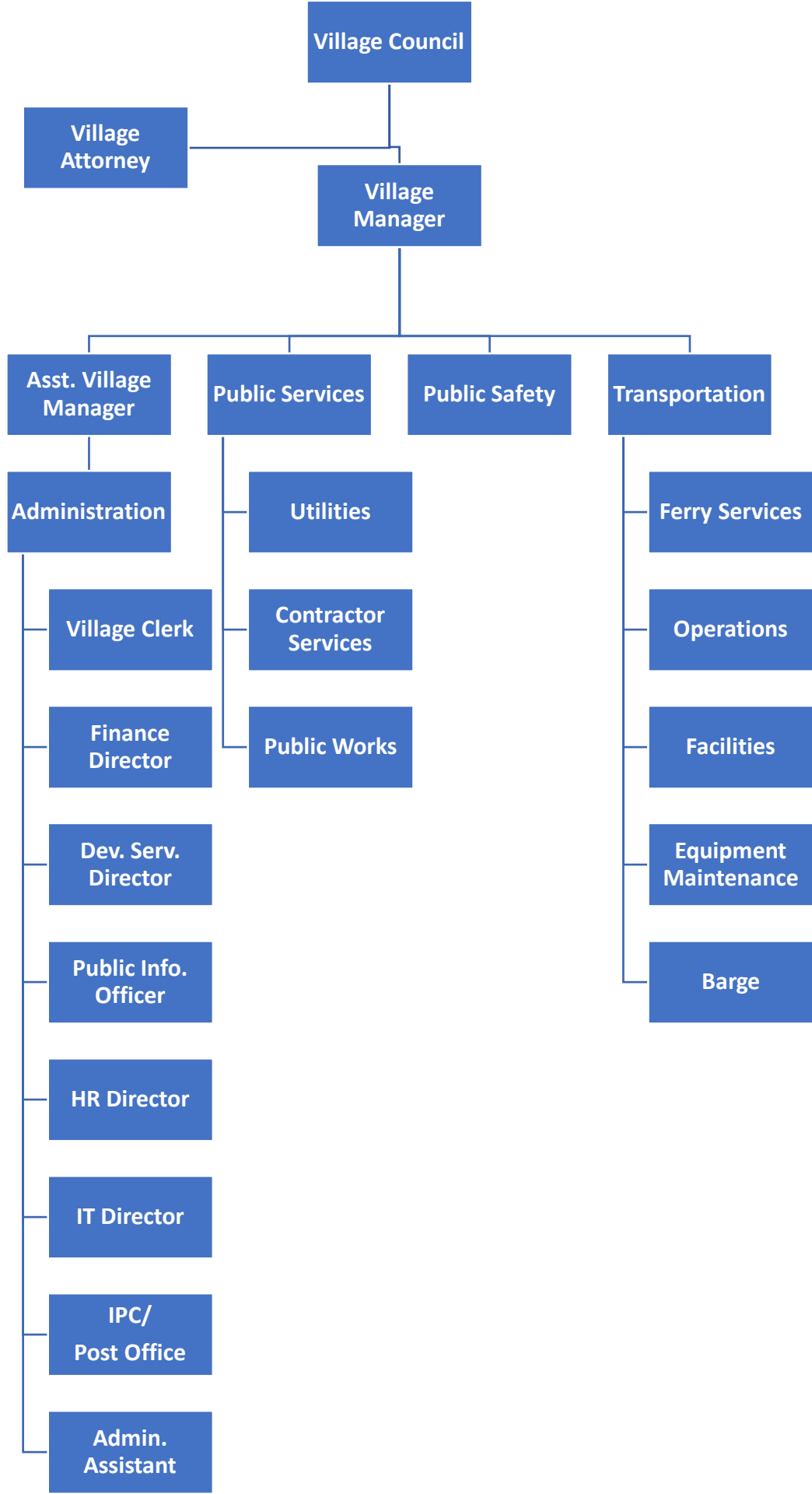
1. The Village will conduct a minimum of two (2) public meetings:
  - a. to share with the public preliminary plans to acquire the system and seek input; and
  - b. to share the final plans for acquiring the system and seek input.

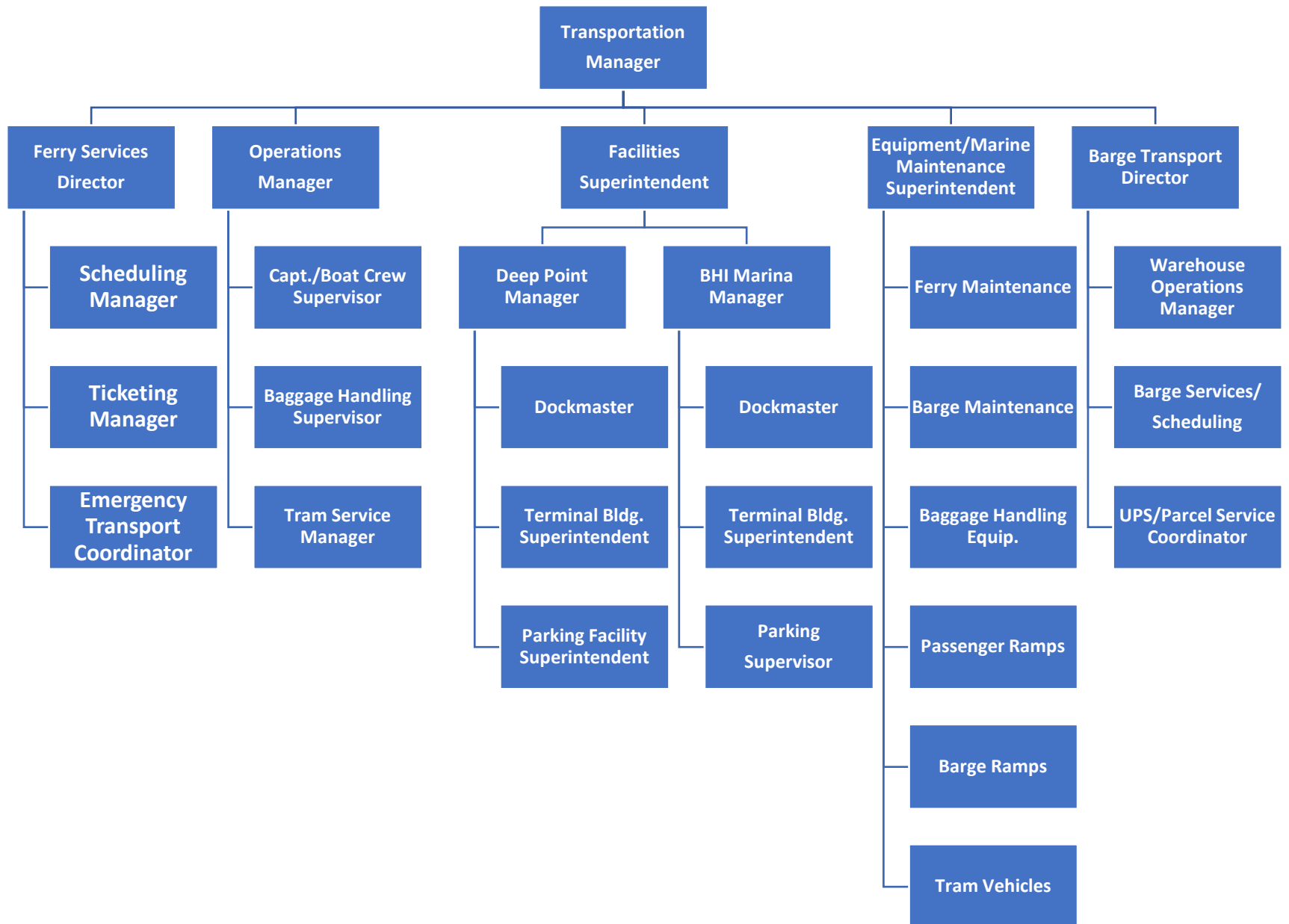
(Plus additional public meetings as advisable or necessary to obtain approval of the financing).
2. The Transportation System will be a standing agenda item during regular Village Council meetings to address public concerns regarding rates and service quality.

The Village will share information on an as needed basis through the Village Voice, the Village's primary communication to the public. Anyone who so chooses can sign up through the Village's website.

## **APPENDIX A**

### **Organizational Charts**







# The Village of Bald Head Island

May 27, 2021

VIA Email

Susan Rabon  
Chair  
Bald Head Island Transportation Authority  
[susanrabon@gmail.com](mailto:susanrabon@gmail.com)

Re: Your Letter of May 20, 2021

Dear Susan:

Thank you for your letter. The Village appreciates your suggestion of a task force regarding operations. However, such a task force would not address the Village's concerns about the proposed acquisition. Further, the Authority's proposing to select which representatives of the Village could be on such a task force (e.g., excluding the Mayor and Mayor Pro Tem) did not seem very cooperative. At present, we are more concerned about the asset purchase. We agree, however, that it is important that the regular users of the Transportation System have substantial input and governance over its operations.

Because the Village and the public have expressed numerous concerns regarding the proposed acquisition and because the terms of the proposed acquisition are unknown, it would not be in the public interest for the Village to waive its Right of First Refusal.

We also are curious about the Authority's decision not to allow the public to participate remotely in the Authority's May 27, 2021 meeting? A public dial-in number had been provided for the Authority's prior meetings. That appears to raise issues of transparency. The Village requests that the Authority provide a remote participation option for future meetings or conduct the meetings on Bald Head Island.

Very truly yours,

/s/ J. Andrew Sayre  
Village Mayor

***P.O. Box 3009 BALD HEAD ISLAND, NC 28461 (910) 457-9700 FAX (910) 457-6206  
E-MAIL: [village@villagebhi.org](mailto:village@villagebhi.org) WEBSITE <http://www.villagebhi.org>***

Susan Rabon  
Chair  
Bald Head Island Transportation Authority  
Page 2  
May 27, 2021

pc: Mr. Chris McCall, Village Manager  
Village of Bald Head Island Village Council  
Charles S. Baldwin, IV, Village Attorney  
Bald Head Island Transportation Authority Trustees  
Carrie Moffett, Executive Director, Bald Head Association



# The Village of Bald Head Island

May 27, 2021

VIA Email and U.S. Mail

Sharon G. Edmundson, MPA, CPA  
Deputy Treasurer  
North Carolina Department of State Treasurer  
State and Local Government  
Finance Division and the Local Government Commission  
3200 Atlantic Avenue  
Raleigh, North Carolina 27604  
*sharon.edmundson@nctreasurer.com*

Re: Bald Head Island Transportation Authority ("Authority")  
Application for Approval of Bald Head Island Transportation Authority  
Transportation System Revenue Bond Findings ("Application") for  
\$56,144,303.30 Financing

Dear Ms. Edmundson:

I hope this finds you well.

The Village of Bald Head Island ("Village") supplements its correspondence to you dated May 3, 2021 responding to your letter of April 20, 2021. The Village notes that it could issue general obligation ("G.O.") bonds, subject to LGC approval, in order to finance its acquisition, without limitation, of the barge, warehouse and parking assets currently owned by Bald Head Island Ltd.

The primary authority to incur G.O. debt is the Local Government Bond Act, G.S. 159, Art. 4. The types of capital projects that a municipality may fund with G.O. bonds are set out in G.S. 159-48. Relevant provisions, include:

***P.O. Box 3009 BALD HEAD ISLAND, NC 28461 (910) 457-9700 FAX (910) 457-6206  
E-MAIL: [village@villagebhi.org](mailto:village@villagebhi.org) WEBSITE <http://www.villagebhi.org>***



- (12) Providing *parking facilities*, including on- and off-street parking, and in connection therewith any area or place for the parking and storing of automobiles and other vehicles open to public use, with or without charge, including without limitation meters, buildings, garages, driveways, and approaches. . . .
- (14) Providing public building, including without limitation. . . *warehouses*, and yards. . . .
- (23) Providing *public transportation facilities*, including without limitation *equipment for public transportation*, buses, surface and below-ground railways, ferries,<sup>[1]</sup> and garage facilities.

G.S. 159-48(b) (emphasis added).

The Village reserves the right to supplement or amend these responses.

Please contact me should you have any questions or should any additional information be helpful. Thank you very much for your consideration.

Respectfully,

/s/ J. Andrew Sayre  
\_\_\_\_\_  
Village Mayor

pc: The Honorable Dale Folwell, Treasurer  
The Honorable Beth Wood, State Auditor  
The Honorable Elaine Marshall, Secretary of State  
The Honorable Ronald Penny, Secretary of Revenue  
The Honorable Scott Padgett, Mayor, City of Concord  
The Honorable Viola Harris, Commissioner, Edgecombe County  
Mr. Edward Munn, member, Local Government Commission  
Mr. Joshua Bass, member, Local Government Commission

---

<sup>1</sup> G.S. 159-48(b)(23) permits a municipality to “borrow money and issue its bonds . . . for the purpose of paying any capital costs of . . . [p]roviding public transportation facilities, including without limitation equipment for . . . ferries.” There is an apparent conflict with G.S. 160A-209(c)(27), which appears to exclude ferry transportation from the purposes for which a municipality may levy property taxes. This does not, however, limit the Village’s ability to utilize special obligation and/or revenue bonds to acquire the ferry operation.

Sharon G. Edmundson, MPA, CPA

Page 3

May 27, 2021

Mr. Mike Philbeck, member, Local Government Commission  
Cindy Aiken, Attorney, Department of the State Treasurer  
Timothy Romocki, Director, Debt Management  
Susan Rabon, Chair, Bald Head Island Transportation Authority  
Chad Paul, CEO, Bald Head Island Limited, LLC  
Michael Brown, Mayor Pro Tempore, Village of Bald Head Island  
Scott Gardner, Councilor, Village of Bald Head Island  
Emily Hill, Councilor, Village of Bald Head Island  
Peter Quinn, Councilor, Village of Bald Head Island  
K. Christopher McCall, Manager, Village of Bald Head Island  
Charles S. Baldwin, IV, Attorney, Village of Bald Head Island  
(all via email)



# The Village of Bald Head Island

## NOTICE TO JOINT LEGISLATIVE COMMITTEE ON LOCAL GOVERNMENT OF PROPOSED LOCAL GOVERNMENT FINANCING

June 17, 2021

Joint Legislative Committee on Local Government  
16 West Jones Street  
Raleigh, North Carolina 27601  
Attention: Committee Chairs and Assistant

North Carolina Local Government Commission  
3200 Atlantic Avenue  
Longleaf Building  
Raleigh, North Carolina 27604  
Attention: Secretary

Fiscal Research Division  
Legislative Office Building  
300 North Salisbury Street, Suite 619  
Raleigh, North Carolina 27603-5925  
Attention: Director

### ***Re: Village of Bald Head Island, North Carolina Notice of Intent to Seek Approval for Issuance of General Obligation Bonds***


In accordance with G.S. § 120-157.2(a), the Village of Bald Head Island, North Carolina (the "Village") hereby notifies you of its intent to seek approval for the issuance of general obligation bonds pursuant to the Local Government Bond Act, Article 4 of Chapter 159 of the North Carolina General Statutes and G.S. § 160A-209, in an aggregate principal amount not to exceed \$52,254,010.00 for the purpose of acquiring, expanding and improving the ferry and ground transportation assets and services used in the transport of passengers, supplies and equipment (the "Ferry System") from the mainland to destinations on Bald Head Island, North Carolina.

The Village expects the Local Government Commission (the "LGC") will consider approval of the issuance of the above-referenced bonds at its meeting scheduled for August 3, 2021, or at such later meeting as the Village and the LGC may determine is appropriate.

The issuance of bonds would be subject to voter approval at a bond referendum anticipated to be held on November 2, 2021. Subject to voter approval, the bonds would be secured by the full faith and credit and taxing power of the Village. The Village expects to pay the debt service on the bonds from revenues generated by operation of the Ferry System and from property taxes collected by the Village without restriction as to rate or amount. The bonds term and projected interest rate will be determined in consultation with the LGC and/or a financial advisor engaged by the Village.

If you have any questions or require further information, please do not hesitate to contact me.

**VILLAGE OF BALD HEAD ISLAND, NORTH CAROLINA**

By:   
\_\_\_\_\_  
K. Chris McCall  
Village Manager  
Village of Bald Head Island, North Carolina



# The Village of Bald Head Island

August 17, 2021

Dear Chairman Folwell:

The Village of Bald Head Island has reviewed and has received public input concerning the Deep Point and Bald Head Island terminal and parking properties appraisals of Newmark Knight Frank. The appraisals contain incomplete and erroneous data and methodologies. They should not be relied upon to establish the value of the properties. The written report of the MAI certified appraisers who reviewed the appraisals on behalf of the Village will be delivered by August 31. We believe the report will be helpful to the Commission and LGC Staff.

Respectfully,

/s/ J. Andrew Sayre  
Mayor

pc: Susan Rabon, Chair, Bald Head Island Transportation Authority  
LGC Staff



# The Village of Bald Head Island

August 18, 2021

Dear Treasurer Folwell:

I have been made aware of a letter sent earlier this month to you from Robert Drumheller dealing with "village debt projections". There are a number of misguided assertions that may arise from a misunderstanding of municipal finance and the specifics of Village of Bald Head Island budgeting. For instance, like many municipalities, we have an independent Utilities Fund, presently debt free. Unlike many municipalities, for the past several years, and hopefully for years to come, we have raised user fees 2.0% annually to build up our reserves and fund improvements.

The "debt levels existing and projected" referenced in the letter (attached) includes \$4M in freshwater expansion and \$7M in sewer lift station improvements. Although I would have to verify the numbers, the plan is NOT to fund these upgrades through debt but rather through annual expenditures from the Utilities Fund, a 'pay as you go' plan.

Because of its large expense the Wastewater Treatment Facility expansion will have to be funded differently. Presently we are only at the design stage, so we have plenty of time to investigate various funding options: installment loans, grants, Federal infrastructure programs, etc.

Our Shoreline Stabilization Program (beach renourishment) relies on the Sand Management Plan that we have with the Corps of Engineers which assumes a Village funded placement around 2027, 2028. However, the Wilmington Port is pursuing another channel deepening project, which would produce large quantities of beach quality sand, that may negate the need for that Village placement.

Finally, the Village's projection of a 0.75% annual increase in the tax base has nothing to do with the County assessments of individual properties, but rather it is the very conservative estimate of new residential and commercial development coming online and adding to the taxable base. The 0.75% increase equates to roughly \$9M. Presently we have over \$30M of construction underway.

The debt from the \$54M Village General Obligation Bond proposal to purchase the Bald Head Island Transportation Company is projected to be paid off through revenues, not by raising property taxes. However, in the case of a crisis, having the possibility of modest tax increases is far better than runaway rates and slashed services.

Thank you for your time,

/s/ J. Andrew Sayre  
Mayor

pc: Sharon Edmundson

**[DRUMHELLER LETTER TRANSCRIPT BEGINS]**

Subject: Fw: Drumheller Letter LGC Letter/village debt projections

Dear Sir;

I refer to the proposed sale of the Bald Head Island ferry system which is under active consideration by the Village of Bald Head Island. The village of Bald Head Island is proposing the issuance of a \$54mm General Obligation Bond to potentially purchase the system.

My name is Robert Drumheller, and I am running for a position on the Village Council for this election cycle. I am forwarding to you an email that I have sent today to various parties who have interests in the outcome of the proposed sale. The email provides information on the future debt trajectory of Bald Head Island taking into account the possible GO Bond.

As you can see from the below email the approval by the LGC of this \$54mm GO Bond could very well put the Village in an untenable debt position given our known debt requirements over the next few years.

I am asking the LGC to consider this debt trajectory when reviewing the Village's application for approval for the GO bond issuance. Given the prospect of such a large amount of debt which would need to be supported by only about 2000 property owners on the island, I would ask the LGC to seriously consider withholding its approval of the Village's request for the time being and let the process between BHI Limited and the BHITA hopefully come to a successful conclusion.

Thank you for being there to help make sure that local municipalities do not overextend themselves with debt.

Robert Drumheller

----- Forwarded message -----

From: Robert Drumheller <rbdumheller@gmail.com>

Date: Sat, Aug 7, 2021 at 10:45 AMbl

Subject: village debt projections

My comments are below related to the Village slides on debt capacity:

Current village total assessed property value (before the loss of the ferries which are now Southport assessed value) \$1,162,278,000

The maximum debt allowed by LGC at the current village valuation is \$93mm (i.e. 8% rule).

debt levels existing and projected:

existing	\$16mm	
ferry system GO Bond	\$54mm	
new village hall	\$2mm	
wastewater expansion	\$13mm	
freshwater expansion	\$4mm (estimated as we did not get a number from public	
works on this)		
rebuild 38 sewer lift stations	\$7mm (estimated at \$200,000 per station per conversation	
with public works)		
total	\$96mm (already above the 8% cap)	

Funding TBD: Low-Interest Rate Installment Loan, Grants, Federal Infrastructure Programs, Etc

To be funded in Village Utilities Fund Annual Budget, "Pay As We Go"

comments:

I did not include the 2028 \$15mm debt need for beach erosion control because by that time the existing \$16mm of debt will have been repaid.

Possible No Cost Sand Placement From Wilmington Port Channel Deepening Project

0.75% Growth  
Due To  
Residential And  
Commercial  
Development,  
Adding to The  
Tax Base

**NOT**  
Increased  
Assessments On  
Existing  
Properties

The \$96mm number already exceeds the current maximum allowed of \$93mm.

In addition, the village presentation assumes that total assessed value will grow at 0.75 % per year in the future. I checked my own home assessed value numbers over time. From the peak in 2007 to the low point in 2015 based on village appraised valuations my home value declined by 23% (I believe raw land values declined by significantly more but do not have the data to confirm). In addition, my current value in 2021 remains, after 14 years, below what it was in 2007. As you know 2nd home communities have more variability in valuations over time. It appears to be overly optimistic to assume such a stable growth rate of valuations over time as the village is assuming.

Finally my list of debt needs above does not include unidentified requirements such as major road work etc. We would not have the flexibility to issue debt to finance these unknown needs in the future.

I wonder if the LGC is aware of the debt trajectory and will consider it when they review the Village's request?

RBD

Robert Drumheller

***[DRUMHELLER LETTER TRANSCRIPT ENDS]***





# The Village of Bald Head Island

September 23, 2021

Mitchell Family Corporation  
Bald Head Island Limited, LLC  
Bald Head Island Transportation, Inc.  
c/o Charles A. Paul, III  
Post Office Box 3069  
Bald Head Island, North Carolina 28461  
*cpaul@bhisland.com*

Re: Village of Bald Head Island Response to September 15, 2021 Correspondence  
Concerning Bald Head Island Transportation System

Dear Chad:

The Village received and is reviewing this correspondence concerning the potential acquisition by the Bald Head Island Transportation Authority (“Authority”) or other entities of the transportation system assets. The letter appears to restate and attach communications previously submitted to the Local Government Commission (“LGC”) by Bald Head Island Limited (“Limited”). Further, the letter dismisses, without discussion, the substantial concerns regarding the Authority’s proposed acquisition raised by the LGC, the public and the Village concerning the price, revenue bond financing, and other details of the proposed transaction.

The Village appreciates the Mitchell Family’s long and successful stewardship of the Island and its assets. These include implementing the vision and assets that made the Island unique and successful, and transitioning those assets to the various Village and Island entities best suitable to receive and manage them. Examples of assets transferred include the Village Utilities Department, Bald Head Island Club, Market, Shoals Club, and numerous other businesses and properties. The Village hopes that the discussions between and among it, the Mitchell Family and Limited will continue to be amicable, productive and focused on the best interests of the Island and its stakeholders. The Village will direct communications concerning the transportation system to Chad Paul and Shirley Mayfield.

Breaking the transportation system into pieces and selling them to the highest bidder, as proposed in the letter, would appear inconsistent with that history, vision and values. That was the parties’ exact concern that led to Limited and the Village agreeing to a right of first refusal in favor of the Village for all the transportation system assets. That Right of First Refusal is documented

Mitchell Family Corporation  
Bald Head Island Limited, LLC  
Bald Head Transportation, Inc.  
Page 2  
September 23, 2021

and recorded in Book 1329, Page 932, Brunswick County Registry. The Village expects that Limited will honor its obligations and respect the Village's rights under that agreement.

It is the Village's view that either the Village or the Authority will be the ultimate purchaser of the transportation system. The Village understands that negotiations concerning the price and details of a potential transaction between the Authority and Bald Head Island Limited are ongoing. The Village remains committed to taking actions within its control to strive for transaction terms that are financially sound, supported by accurate appraisals and representative of good governance, including responsiveness to the input and concerns of Island stakeholders and users of the transportation system. For reasons previously stated, the Village believes it is the entity best suited to fill those roles.

Sincerely yours,

/s/ J. Andrew Sayre  
Village Mayor

pc: Dale R. Folwell, CPA, North Carolina State Treasurer  
Susan Rabon, Chair, Bald Head Island Transportation Board of Trustees



# The Village of Bald Head Island

September 30, 2021

Bald Head Association Board of Directors  
PO Box 3030  
Bald Head Island, NC 28461

Ladies and Gentlemen:

We are in receipt of the BHA Board letter of September 24 and believe that a response by the Village is necessary and appropriate.

As the Village and I have stated, it would be unacceptable and risky were the ownership and governance of our transportation system to be vested in an outside Authority. Many of its board members may have never set foot on Bald Head Island nor viewed the actual workings of its transportation system. The Village, by contrast, necessarily would be responsive to the needs and concerns of the system's users. The Village is a major, daily user of the system and it is a small island.

The Mitchell Family chose not to meet with us at this time. However, in representing the Village, we merely asked for an opportunity to raise our concerns and discuss the Village's many advantages with them. You failed to mention that the Mitchell letter of September 15 went on to say, "All communications or negotiations related to the sale of the ferry transportation system .... should be coordinated and conducted, directly and only with our CEO and CFO, Chad Paul and Shirley Mayfield ....". We will continue open communications with Mr. Paul. We must strive, on behalf of the community we represent, for the best transportation opportunity possible.

You suggested if the LGC did not approve the sale to BHITA, it would be sold in parts to the highest bidder. That is far from certain and mischaracterizes the statements made in the Mitchell letter, which merely raised that as a possibility. If the GO Bond referendum passes, the Village becomes a legitimate potential buyer under the LGC process and for purposes of discussion with the Mitchell Family. The Village has pre-existing rights, government powers, and financing options that other buyers do not possess. The North Carolina Utilities Commission also may play a role.

The Mitchell letter questioned the Village's withdrawal of its support for the acquisition of the system by the Authority several years into the process. However, the Village and public had no knowledge for those years of what the Authority was doing and no basis or opportunity to provide input or object until very recently. The Village acted promptly and in the public interest. Many members of the community have expressed appreciation for the information about the potential transaction made


September 30, 2021

available by the Village's efforts. These data came only after Village objections to the closed-door Authority purchase process. The Village obtained public hearings and written responses from the Authority pursuant to requests made in December 2020 and February 2021. The Authority responses and appraisals raised more questions, and the Village had no choice but to conclude that the BHITA proposal and model were not working as we had hoped.

Your survey results do not represent a valid representation of where BHA members stand. The Village proposal and financing advantages were not even mentioned. You declined to incorporate Village input in the survey. BHA's guiding principles include: "Contribution to a well-informed public" and "non-partisan advocacy on issues that affect the welfare and recreation of our members". It is questionable whether these guidelines have been followed here.

The Village represents the public that must use the transportation system and pay off the bonds. The Village's actions were proper in order for public input to be obtained. We request that you share this letter with the BHA membership.

Sincerely,

A handwritten signature in black ink, appearing to read "JASayre", with a stylized flourish at the end.

J. Andrew Sayre, Mayor