

## TOWN COUNCIL

### STAFF REPORT

#### Projects and Watershed Resilience Department



<b>MEETING DATE:</b>	April 11, 2023
<b>PROJECT:</b>	Consideration of a Resolution Authorizing Initiation of Legal Proceedings Supporting Construction of Historic District Sewer Extensions
<b>PROJECT MANAGER:</b>	Kimberly Washok-Jones, Director of Projects and Watershed Resilience

**REQUEST:** Staff requests that Town Council adopt a Resolution authorizing the Town Attorney to initiate legal proceedings to confirm title to certain rights of way in Bluffton as necessary to construct Historic District Sewer Extension Phases 4 through 6 (Attachment 2).

**BACKGROUND:** Town Council has recognized that failing septic systems can negatively impact public health, environmental health, quality of life, and economic growth for the Town and that protecting Bluffton's watersheds and other outstanding natural resources is of the utmost importance to the community. To that end, the May River Watershed Action Plan, adopted via Resolution in 2011 as a supporting document to the Town's Comprehensive Plan, recommends the elimination of septic systems throughout the watershed.

Based on this recommendation, staff in conjunction with the May River Watershed Action Plan Advisory Committee developed the Sewer Connection and Extension Policy, adopted via Resolution in 2017, that directs Strategic Plan action via the Capital Improvement Program to:

1. prioritize sewer extension and connection in the Historic District within five-hundred (500) feet of the May River and its Coves, and
2. acquire ghost road rights-of-way to support such capital projects.

This recommendation to acquire ghost road rights-of-way is also in alignment with The Old Town Master Plan, adopted via Ordinance in 2006, which encourages the Town to undertake efforts to establish clear title to the existing rights-of-ways that exist in Old Town.

Per the Town's "Policy and Procedure Manual for the Acquisition and Disposition of Real Property by the Town of Bluffton," adopted in 2017 and revised in 2020, Staff has been obtaining voluntary execution of quitclaim deeds by impacted property owners for Historic District (HD) Sewer Projects. To date, quitclaim deeds have been acquired for HD Sewer Projects Phase 1 (Pritchard Street sewer connections completed in 2019), Phase 2 (Bridge Street), and Phase 3 (Colcock Street). A construction contract for Phases 2 and 3 was awarded in March 2023 with construction anticipated to begin at the end of April/early May 2023.

HD Sewer Phases 4 (Lawrence Street), 5 (Green Street), and 6 (Pope Lane, Water Street, and Allen Street) are currently under design and will soon be ready to submit for permitting. For a variety of reasons, the majority of property owners in these Phases have not agreed to sign quitclaim deeds conveying any interest they may or may not have in the ghost road abutting their property, which will impede the progress of these projects (Attachment 2, EXHIBIT A).

Per legal counsel, if Staff is unable to obtain voluntary execution of a quitclaim deed by an impacted property owner, the Town can pursue a “quiet title” action and/or a condemnation action to acquire title to the ghost road.

Quiet Title is a process where the owner of real property files a claim with the court to eliminate any other interests claimed to the property. Once this quiet title action is filed with the court, all parties involved must be served notice of the lawsuit. If no party objects, then a final hearing can be held where a judge can grant clean title to the property. If anyone contests the ownership, then a trial takes place before a judge to hear evidence and make a ruling. If the court rules against the Town in the quiet title action and does not grant clear title, the next step would be to initiate the eminent domain process.

**NEXT STEPS:**

- Adoption of this Resolution.
- Meetings with Counsel and coordination with required subcontractors.
- File required legal proceedings.

**SUMMARY:** This project originated out of the 2019-2020 Strategic Plan, the May River Watershed Action Plan, and Bluffton’s Old Town Master Plan. It is supportive of the following guiding principles of the Town:

- Infrastructure Guiding Principle #3. Establish long term planning, prioritization and investment strategies for future infrastructure and facilities that improve the quality of life for citizens while being financially sustainable.
- Economic Growth Principle #3 Focus on strategic economic development pursuits that will increase local jobs, generate additional revenue and create demand for supporting businesses.
- May River & Surrounding Rivers and Watersheds Guiding Principle #1. Support initiatives, such as the May River Watershed Action Plan, to improve water quality of the May, Okatie/Colleton and New Rivers and their watersheds.
- May River & Surrounding Rivers and Watersheds Guiding Principle #2. Seek collaboration and partnerships that project and improve the May, Okatie/Colleton and New Rivers and their watershed.

Consistent with these Guiding Principles, Staff is requesting Town Council to adopt a resolution authorizing the Town Attorney to initiate legal proceedings as necessary to acquire the rights-of-way to construct Historic District Sewer Extension Phases 4 through 6.

**ATTACHMENTS:**

1. Presentation
2. Resolution
  - a. EXHIBIT A
3. Proposed Motion