



TOWN OF RIVER BEND

45 Shoreline Drive
River Bend, NC 28562

T 252.638.3870
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www.riverbendnc.org

RIVER BEND TOWN COUNCIL AGENDA

Work Session Meeting

March 9, 2023
River Bend Town Hall – 45 Shoreline Drive
7:00 p.m.

1. **VOTE** – Approval of Agenda
2. FY21-22 Audit Presentation – Petway, Mills & Pearson
3. DISCUSSION – Parks & Recreation Advisory Board Recommendations – Castranova
4. DISCUSSION – Scheduling a Meeting with Ellis Development – Leonard
5. DISCUSSION - CAC's Plantation Drive Median Study Presentation – Maurer
6. DISCUSSION – Public Comment Policy – Castranova
7. DISCUSSION – Encroachment Agreement with Metronet – Jackson
8. CLOSED SESSION – NCGS § 143-318.11(a)(3) – To Discuss Legal Opinion on Conditional Zoning with Attorney
9. REVIEW AGENDA – Nobles

Pledge: Maurer



Town of River Bend

2022 Audited Financial Statements

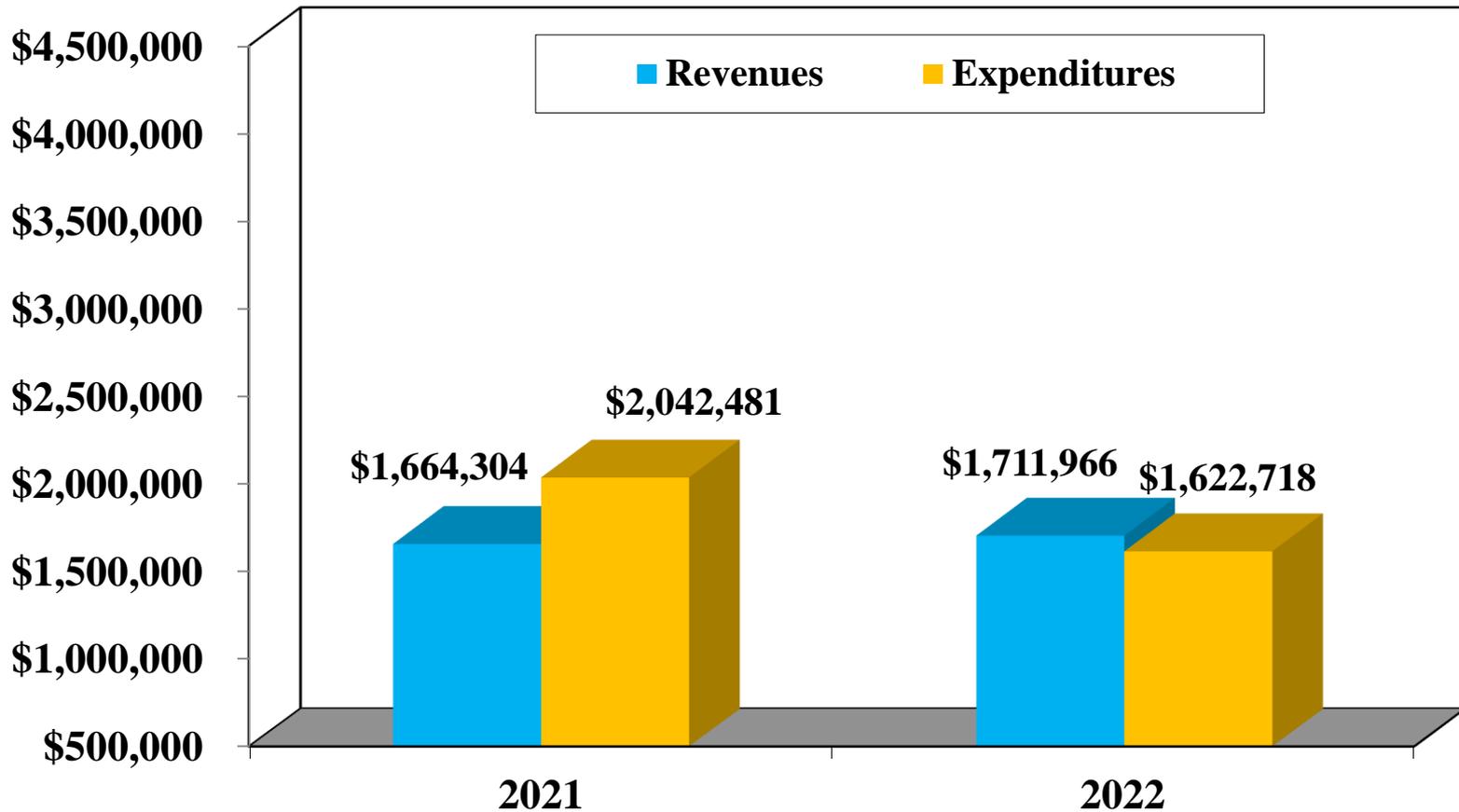
ITEM 2



Audit Highlights

- Unmodified opinion on financial statements
- No management letter

General Fund Summary



ITEM 2

Fund Balance

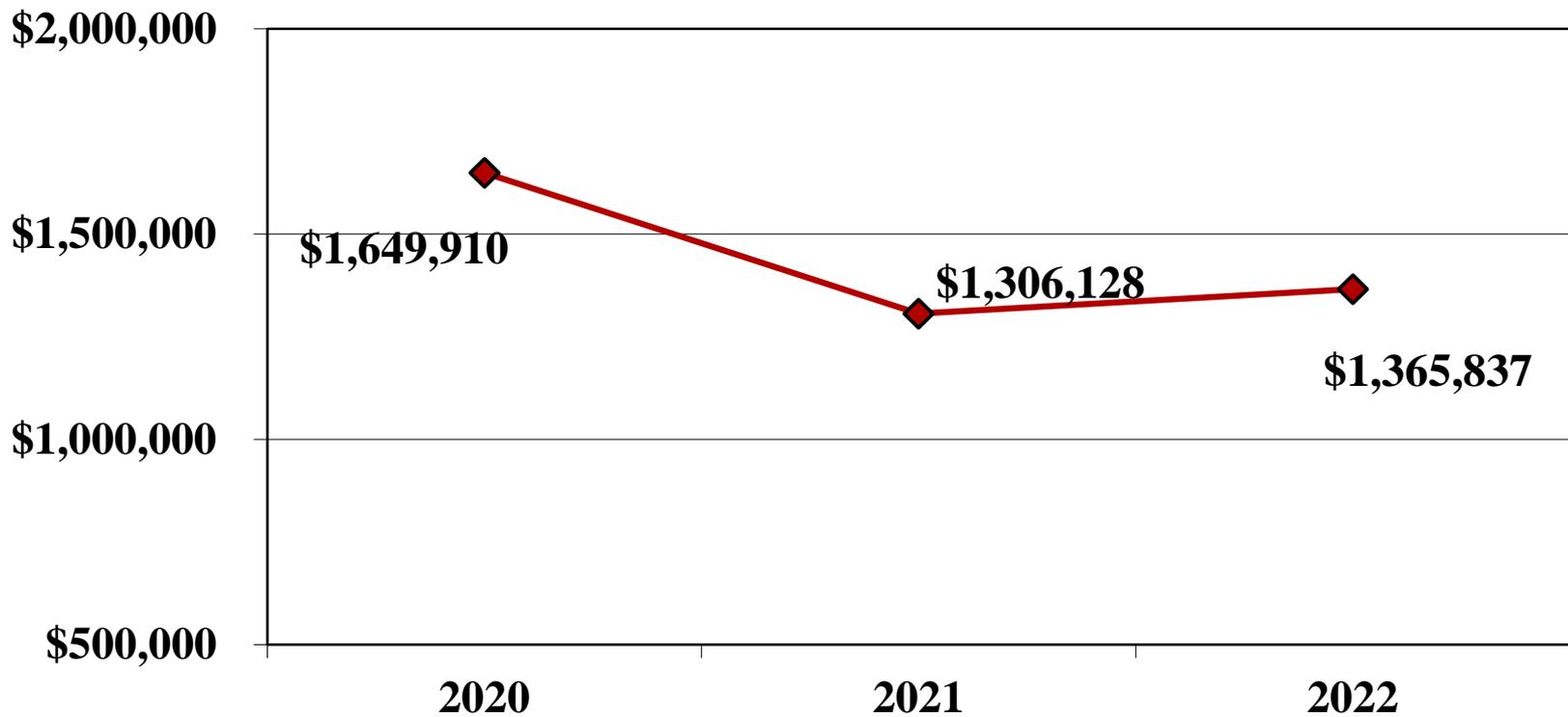
- Serves as a measure of the Town's financial resources available.

$$\text{Assets} + \text{Deferred Outflows} - \text{Liabilities} - \text{Deferred Inflows} = \text{Fund Balance/Net Position}$$

5 Classifications:

1. Non-spendable
2. Restricted
3. Committed
4. Assigned
5. Unassigned

Total Fund Balance – General Fund



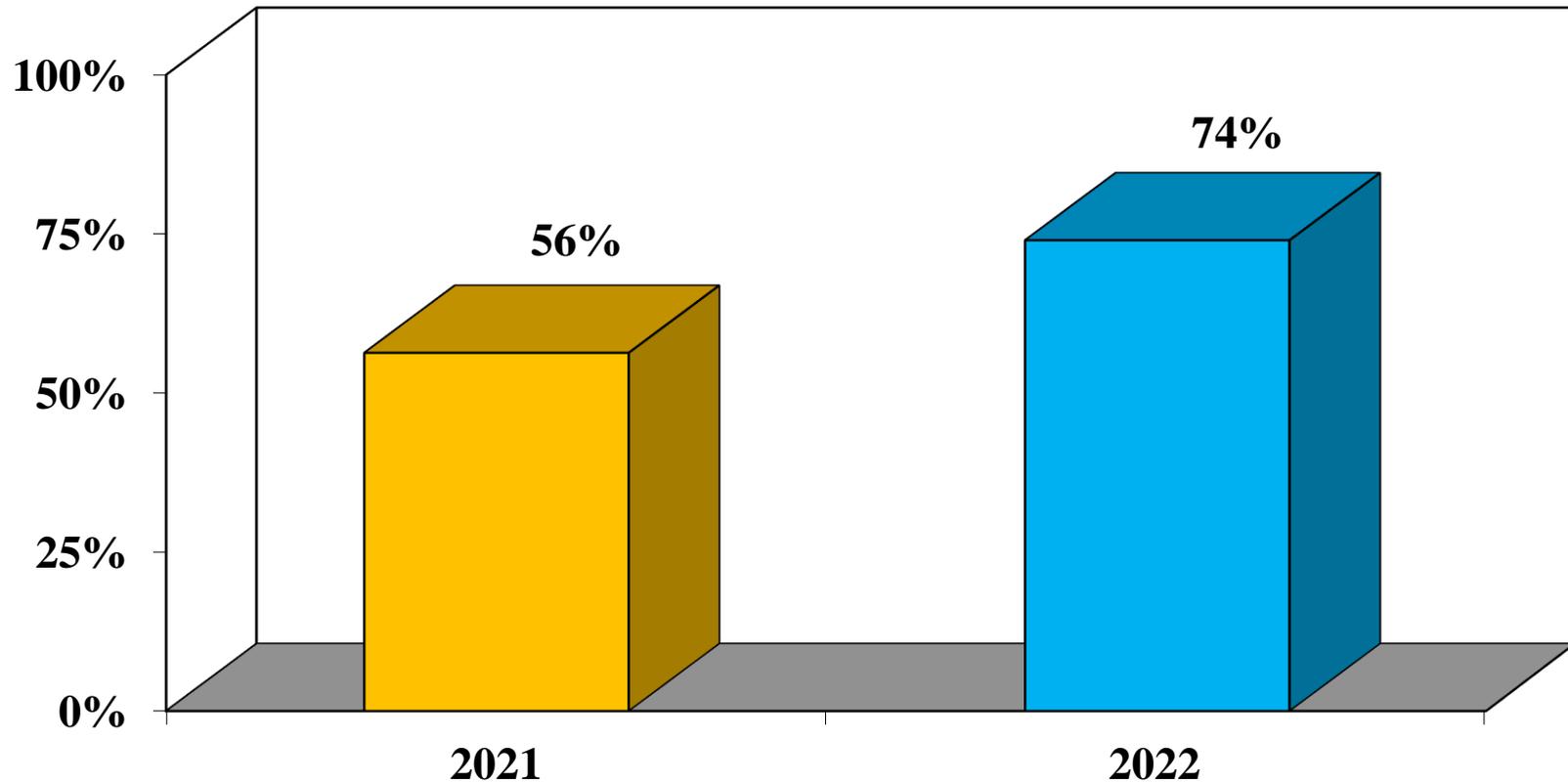
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Fund Balance Position - General Fund

Total Fund Balance - 2022	\$	1,365,837
Stabilization by State Statute		(163,479)
LEO Separation Allowance		(21,990)
FY 2022-2023 Fund Balance Appropriated		(200,813)
Fund Balance Policy		(811,359)
Remaining Fund Balance	\$	<u>168,196</u>
Prior Year Remaining Fund Balance	\$	(125,740)
Increase in available FB with Town's Policy		293,936

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Available Fund Balance (without Town's policy) as a Percent of Expenditures – General Fund



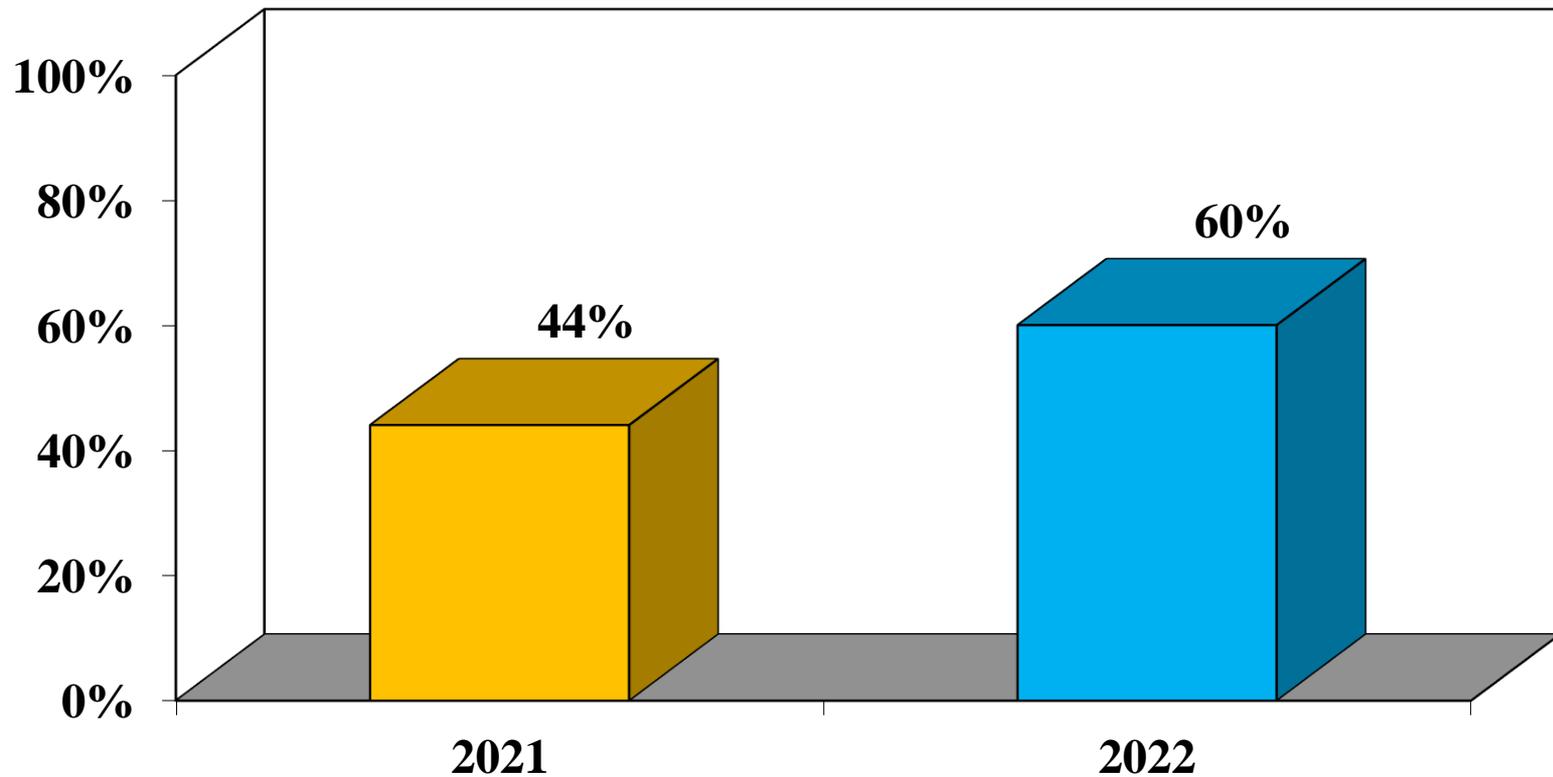
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Fund Balance - General Fund

	2021	2022
Total Fund Balance	\$ 1,306,128	\$ 1,365,837
Prepaid Items	-	-
Stabilization by State Statue	(156,054)	(163,479)
<i>Available FB before Town policy</i>	1,150,074	1,202,358
Committed for Capital Outlay	-	-
Assigned fund balance	(254,573)	(222,803)
Unassigned Fund Balance	<u>\$ 895,501</u>	<u>\$ 979,555</u>
Town's minimum fund balance policy	\$ 1,021,241	\$ 811,359

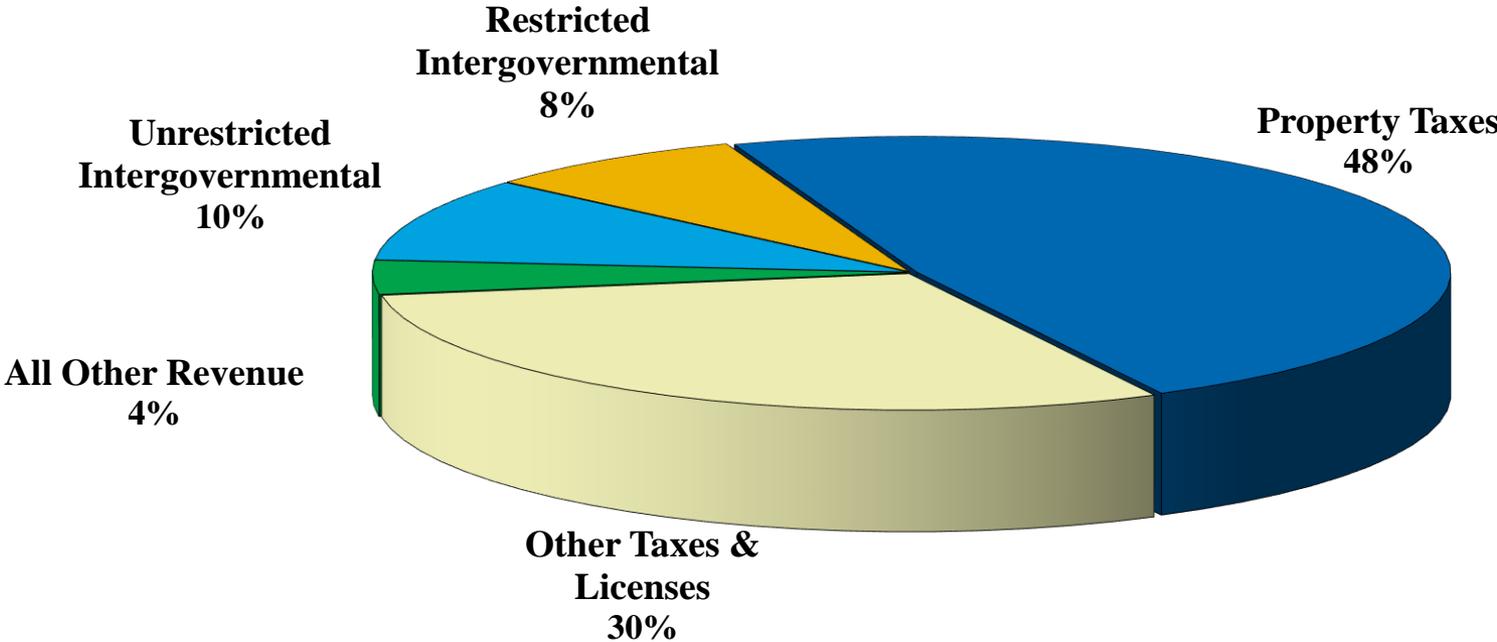
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Unassigned Fund Balance as a Percent of Expenditures – General Fund



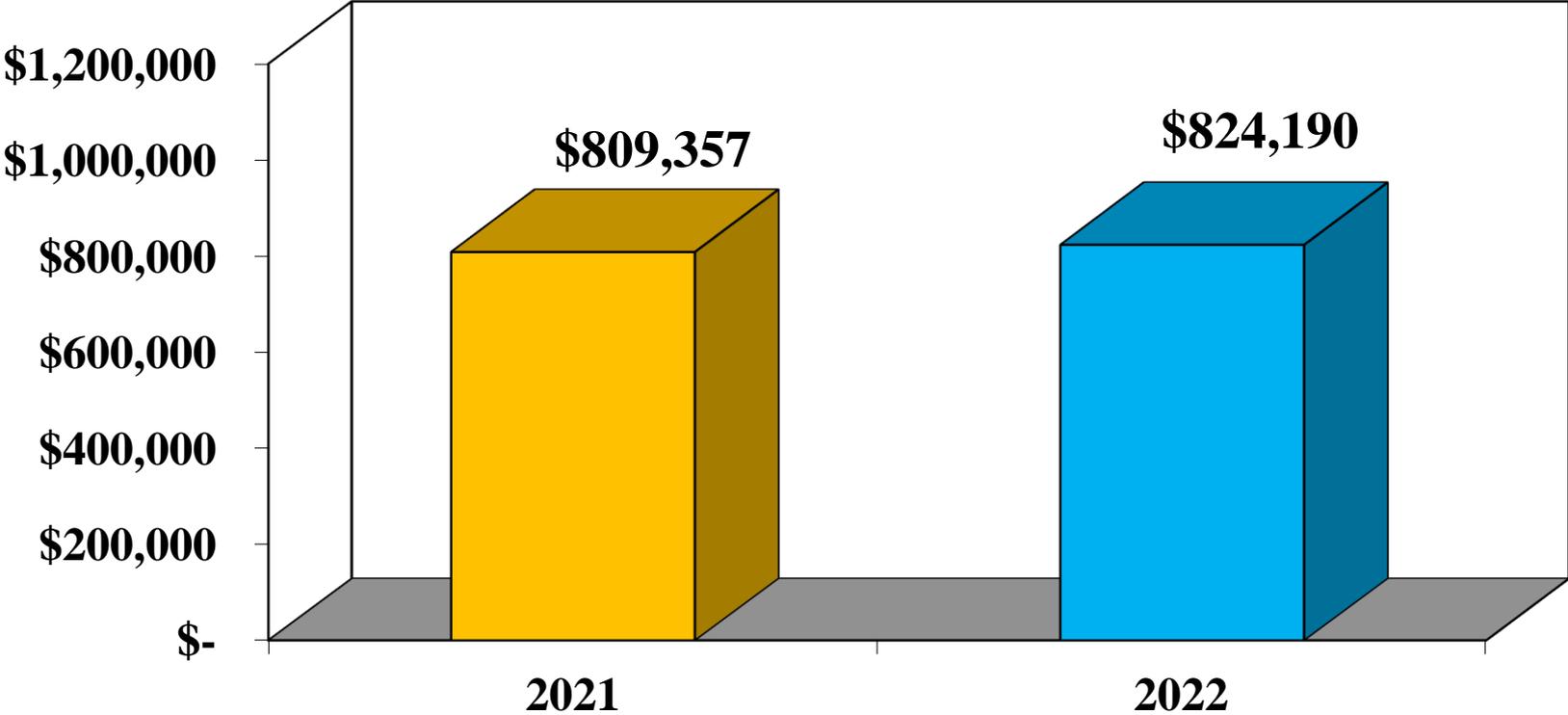
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General Fund Top Revenues



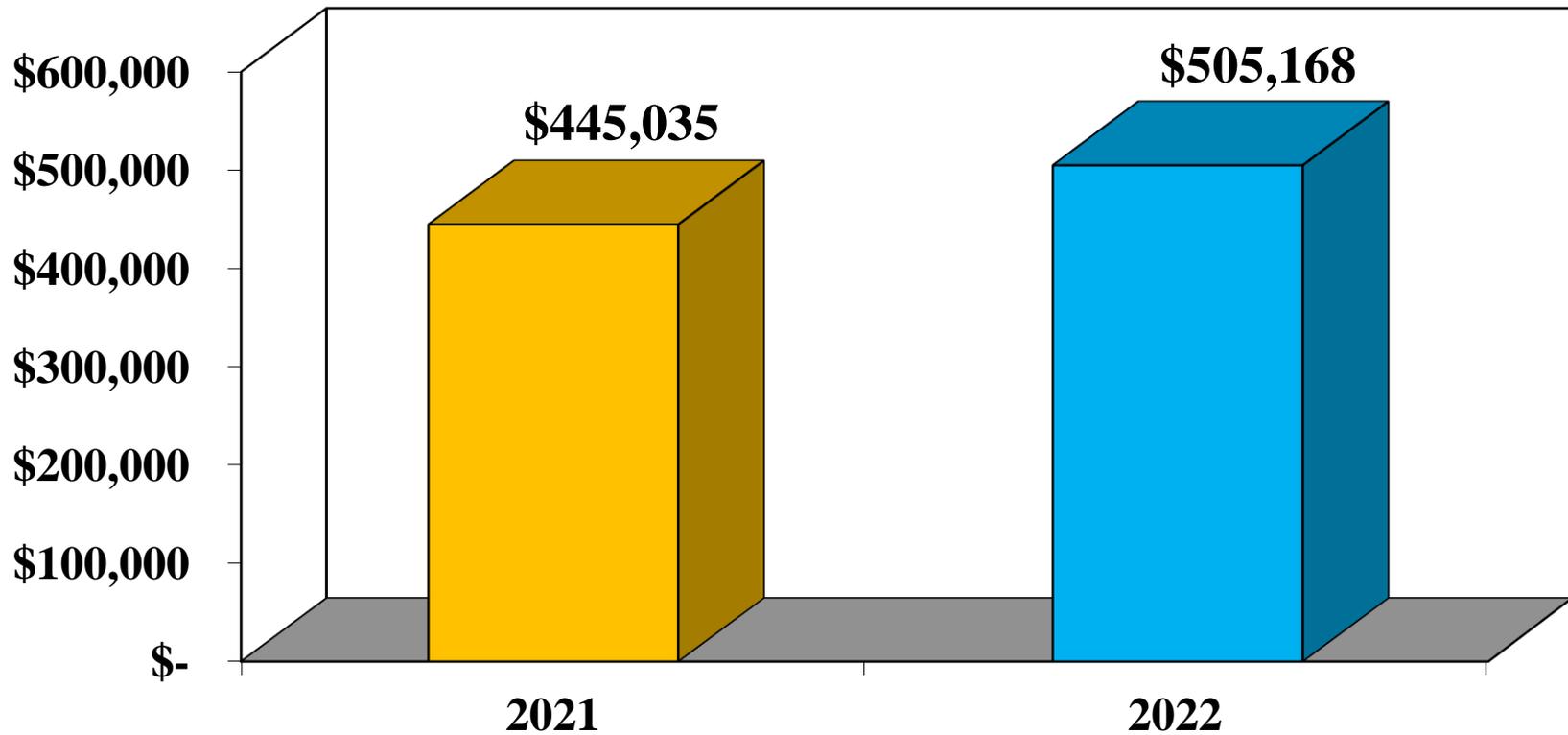
Top 3 Comprise \$1,506,766 (88%) of Revenues

Property Tax



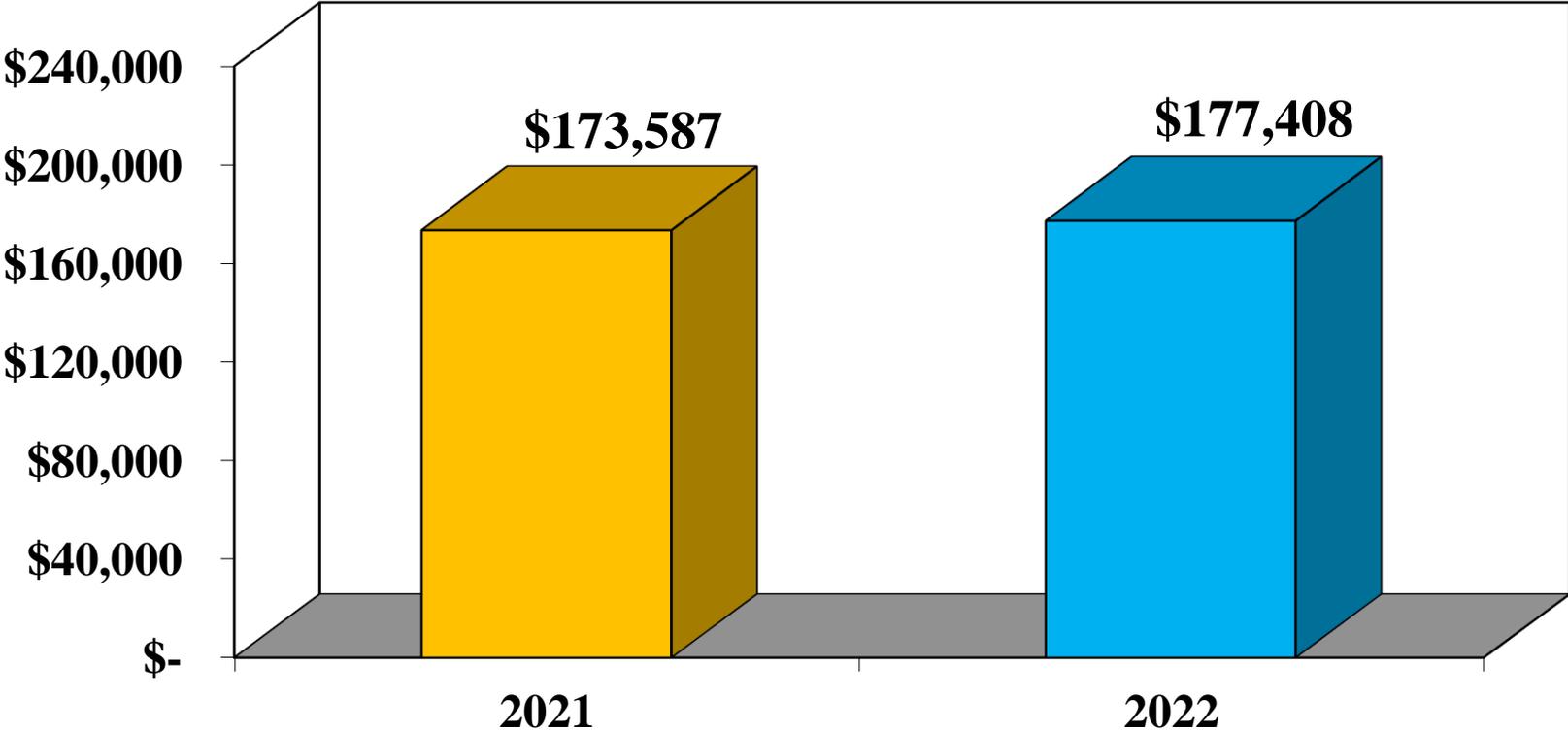
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Other Taxes & Licenses



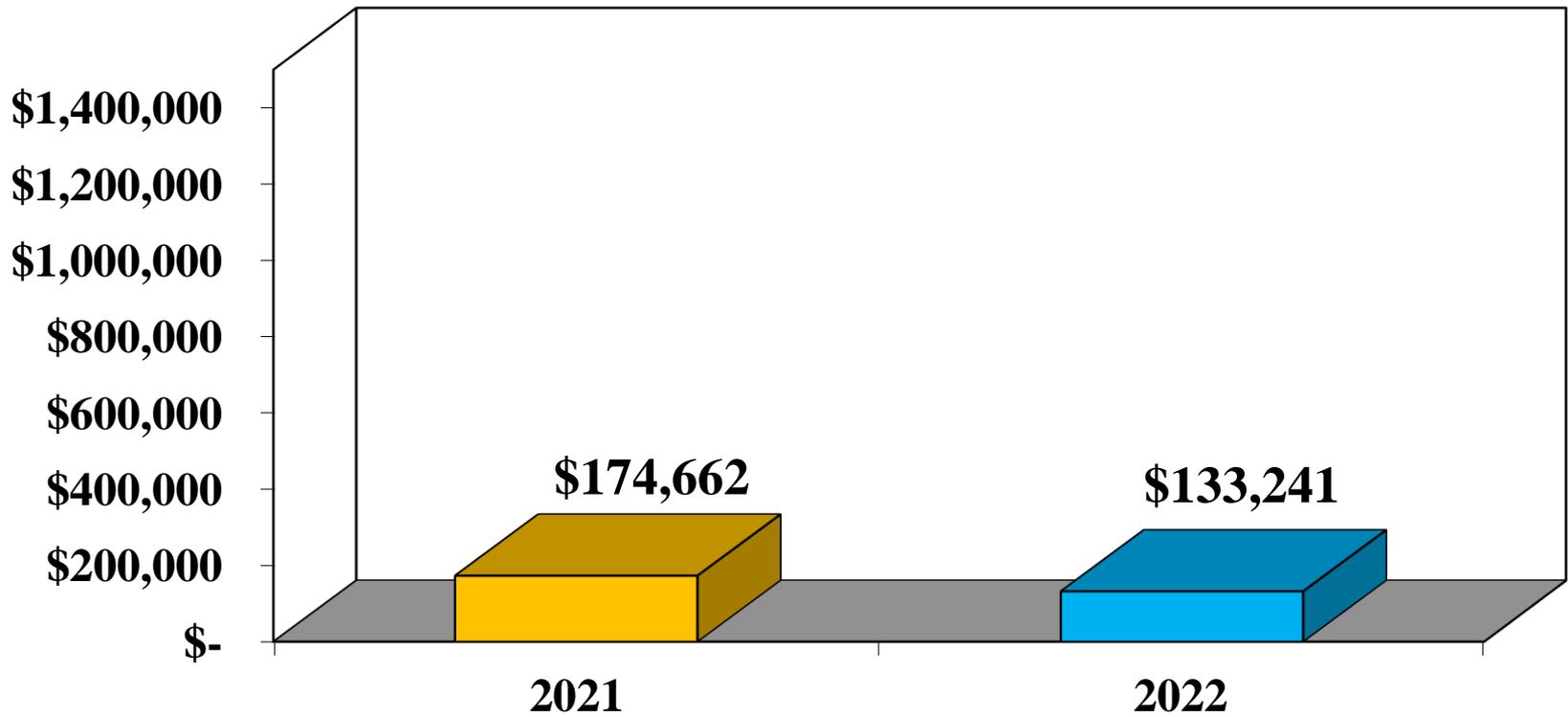
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Unrestricted Intergovernmental



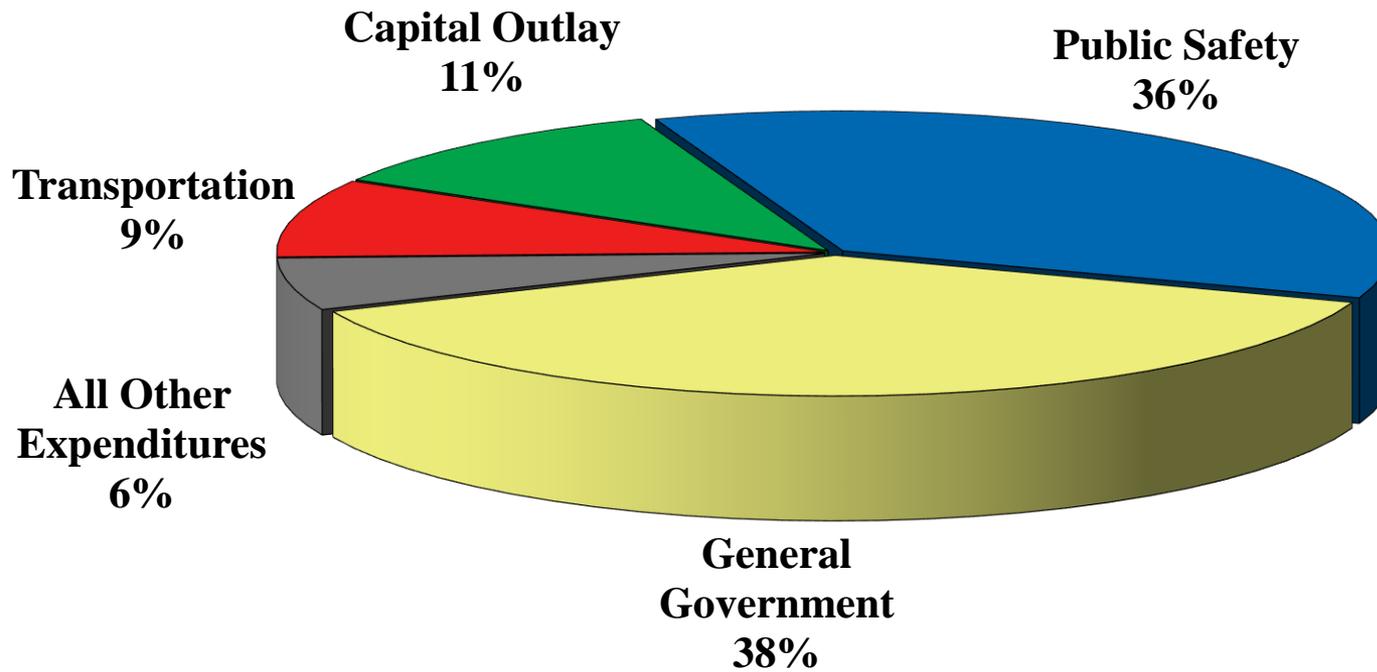
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Restricted Intergovernmental



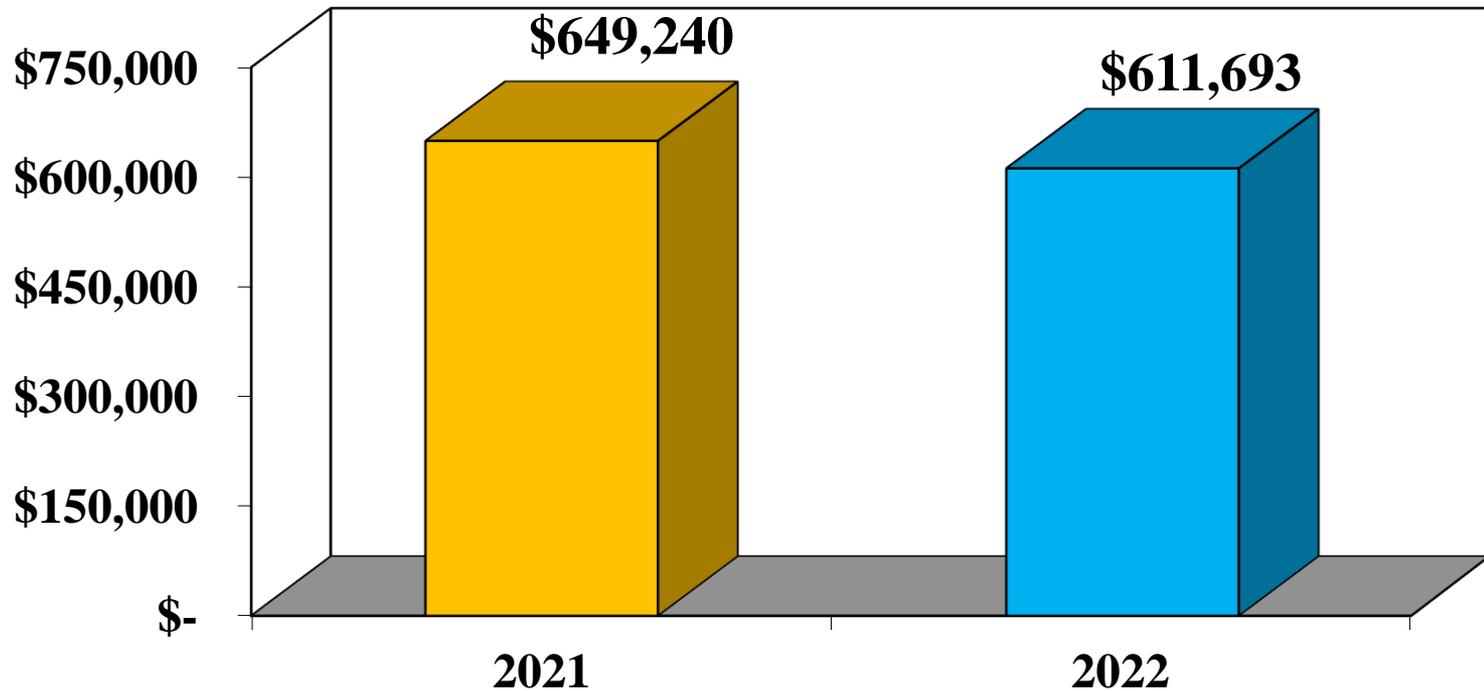
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General Fund Top Expenditures



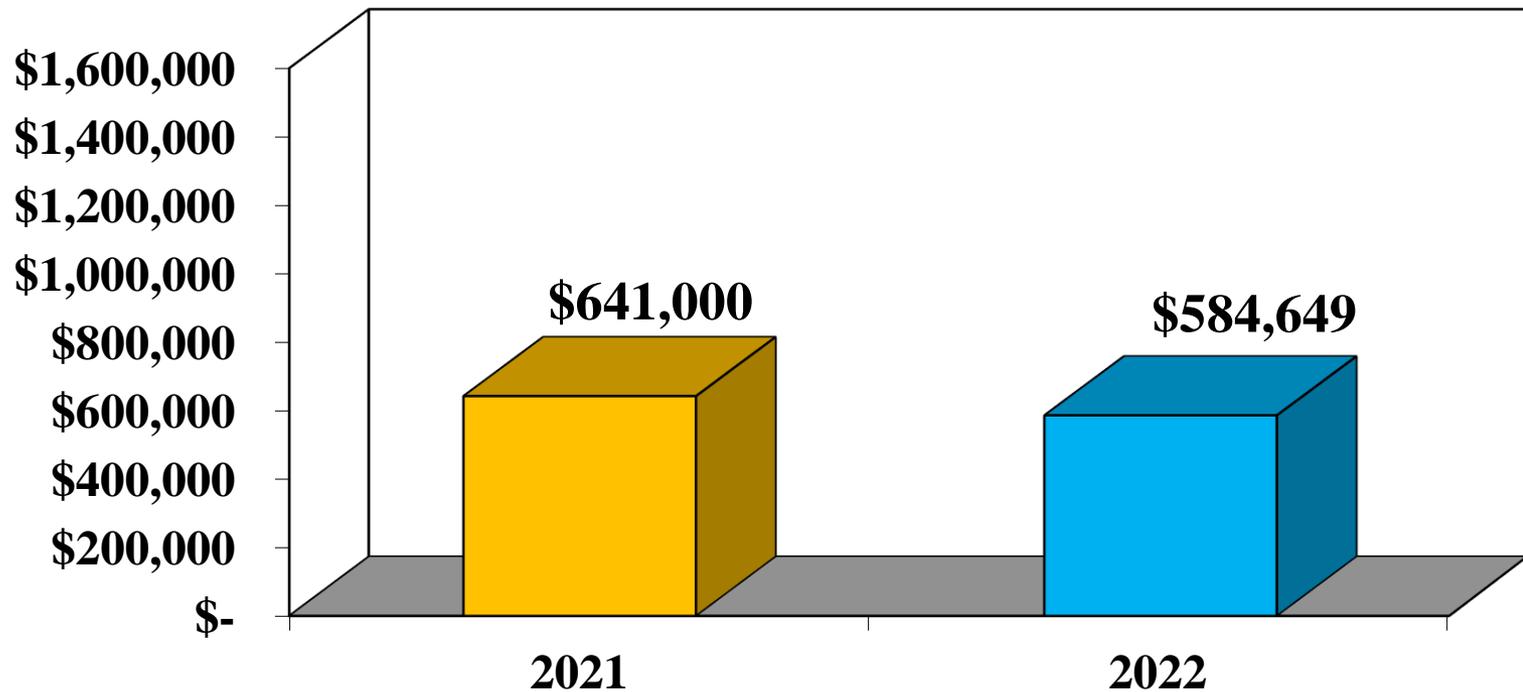
Top 3 Comprise \$1,377,593 (85%) of Expenditures

General Government Expenditures



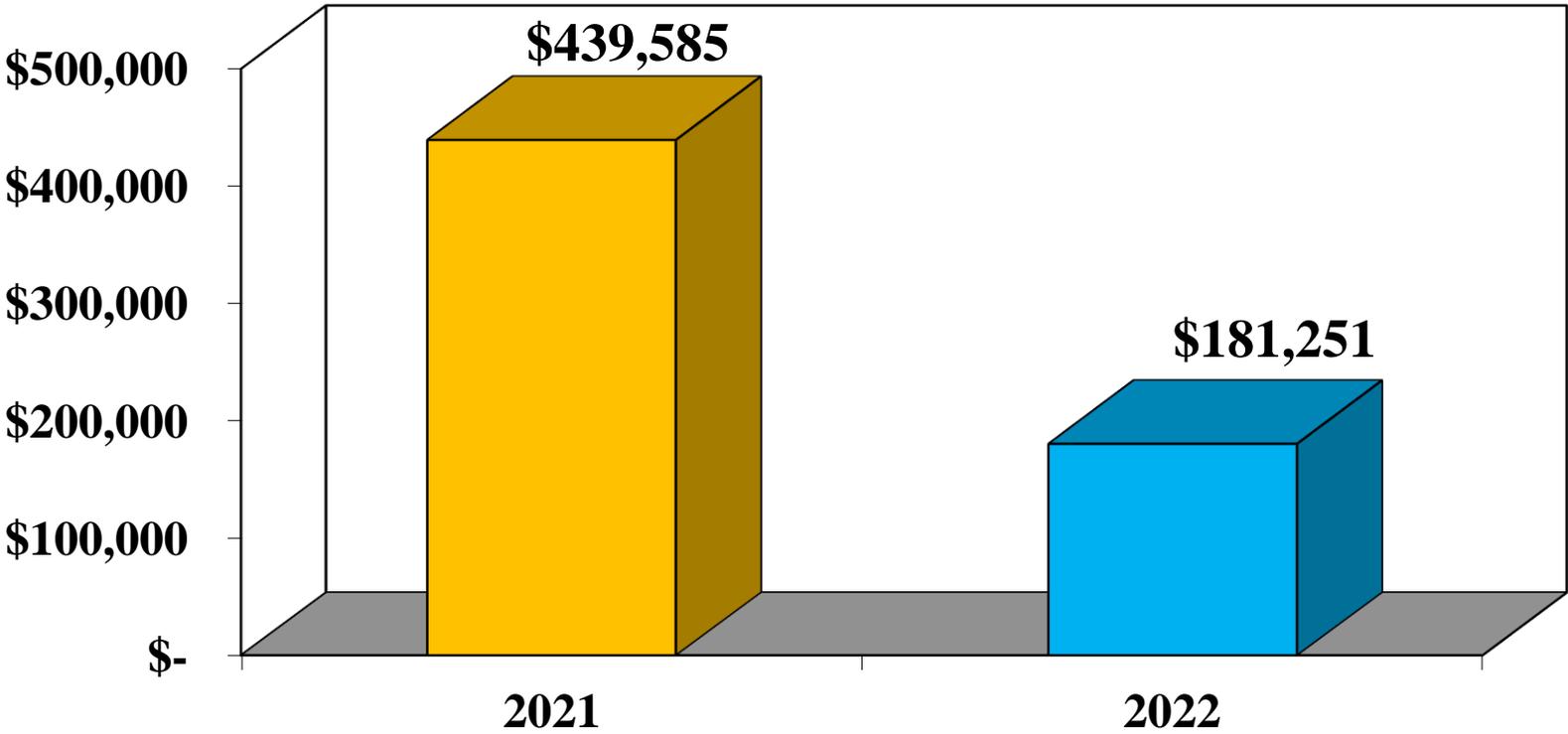
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Public Safety Expenditures



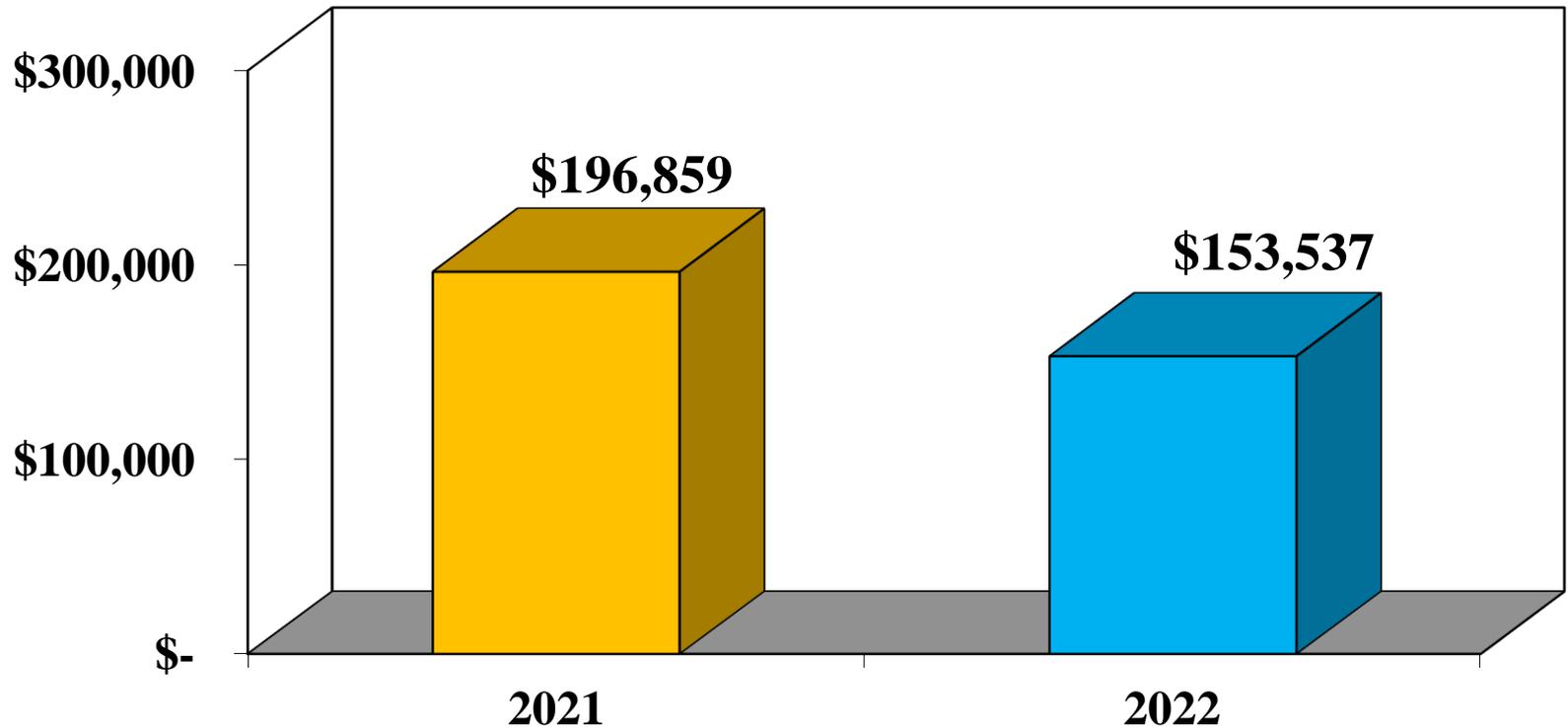
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Capital Outlay



ITEM 2

Transportation Expenditures



ITEM 2

Water Fund

Budgetary Results

	<u>2021</u>		<u>2022</u>
Cash	\$ 812,366	\$	740,899
Cash-Restricted, Deposits	8,682		8,720
Cash, Capital Reserve	244,696		245,088
Operating Revenues	509,158		520,283
Operating Expenses	(476,595)		(437,498)
Non-operating Revenues	4,179		1,138
Gain (loss) on Sale of Capital Asset	-		-
Non-operating Expenses	(22,726)		(20,204)
Revenues over (under) expenditures	<u>\$ 14,016</u>	\$	<u>63,719</u>

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Sewer Fund

Budgetary Results

	<u>2021</u>	<u>2022</u>
Cash	\$ 1,101,704	\$ 1,093,549
Cash-Restricted, Deposits	13,539	13,707
Cash, Capital Reserve	11,248	11,266
Operating Revenues	618,512	625,989
Operating Expenses	(527,543)	(483,900)
Non-operating Revenues	1,186	1,714
Gain (loss) on Sale of Capital Asset	-	-
Non-operating Expenses	(19,624)	(17,446)
Revenues over (under) expenditures	<u>\$ 72,531</u>	<u>\$ 126,357</u>

ITEM 2



Discussion & Questions

ITEM 2



Town of River Bend

Thank you for the opportunity
to conduct your audit.

P M & P

PETWAY

MILLS &

PEARSON, PA

CERTIFIED PUBLIC ACCOUNTANTS

ITEM 2

Official Recommendation

To: River Bend Town Council

From: River Bend Parks and Recreation Advisory Board

Date: March 6, 2023

Subject: Recommendation to change sponsorship policy

The Parks & Recreation Advisory Board held a general meeting on March 1, 2023. A quorum of four (4) board members were present and a motion was made to change the town's policy to allow the Parks & Recreation Advisory Board to enter into sponsorship agreements with local businesses so that businesses can donate goods and supplies for town events in exchange for sponsorship recognition.

After much discussion and consideration, three out of four board members (3/4) voted to recommend changing the town policy so that the Parks & Recreation Advisory Board can enter into sponsorship agreements with local businesses.



Keenan Castranova, Chair
Parks & Recreation Advisory Board

Official Recommendation

To: River Bend Town Council

From: River Bend Parks and Recreation Advisory Board

Date: March 6, 2023

Subject: Recommendation for Funding for July 4th Celebration

The Parks & Recreation Advisory Board held a general meeting on March 1, 2023. A quorum of four (4) board members were present and a motion was made to recommend additional funding in the amount of \$20,000 for the 2023 July 4th Celebration to include fireworks and live music.

There was discussion regarding the cancellation of the 2020 July 4th Celebration due to COVID and the subsequent cancellation of the 2021 July 4th Celebration for which the Town Council had allocated \$15,000 for fireworks and live music.

In consideration of their request, the Board was informed that the town never spent the \$4,100 allocated for the 2020 July 4th Celebration nor the \$15,000 for the 2021 July 4th Celebration.

The motion passed unanimously.



Keenan Castranova, Chair
Parks & Recreation Advisory Board

45 Shoreline Drive.. New Bern, NC 28562 252-638-3870

March 2023

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3	4
5	6	7	8	9	10	11
12	13 Dance 7-8	14	15	16 17-Council	17	18
19	20 Dance 7-8	21	22	23 Zumba 5-7	24	25
26	27 Dance 7-8	28	29	30 Zumba 5-7	31	

§ 160A-71. Regular and special meetings; recessed and adjourned meetings; procedure.

(a) The council shall fix the time and place for its regular meetings. If no action has been taken fixing the time and place for regular meetings, a regular meeting shall be held at least once a month at 10:00 A.M. on the first Monday of the month.

- (b) (1) The mayor, the mayor pro tempore, or any two members of the council may at any time call a special council meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. The notice shall be delivered to the mayor and each councilman or left at his usual dwelling place at least six hours before the meeting. Only those items of business specified in the notice may be transacted at a special meeting, unless all members are present or have signed a written waiver of notice. In addition to the procedures set out in this subsection or any city charter, a person or persons calling a special meeting of a city council shall comply with the notice requirements of Article 33C of General Statutes Chapter 143.
- (2) Special meetings may be held at any time when the mayor and all members of the council are present and consent thereto, or when those not present have signed a written waiver of notice.
- (3) During any regular meeting, or any duly called special meeting, the council may call or schedule a special meeting, provided that the motion or resolution calling or scheduling any such special meeting shall specify the time, place and purpose or purposes of such meeting and shall be adopted during an open session.

(b1) Any regular or duly called special meeting may be recessed to reconvene at a time and place certain, or may be adjourned to reconvene at a time and place certain, by the council.

(c) The council may adopt its own rules of procedure, not inconsistent with the city charter, general law, or generally accepted principles of parliamentary procedure. (1917, c. 136, subch. 13, s. 1; C.S., s. 2822; 1971, c. 698, s. 1; 1973, c. 426, s. 14; 1977, 2nd Sess., c. 1191, s. 7; 1979, 2nd Sess., c. 1247, s. 5; 1989, c. 770, s. 37.)

River Bend Tree Medians

Tom Glasgow, Craven County Extension, Spring 2023

Presented to Town Council March 16, 2023

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▶ Trees

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▶ Shrubs

[Selection](#) | [Production](#) | [Maintenance](#) | [Species](#) | **See:** [Planting](#)

▶ Groundcover

[Selection](#) | [Production](#) | [Maintenance](#)

▶ Palms

▶ PowerPoints

▶ Fact sheets

▶ Research papers

▶ Landscape designs

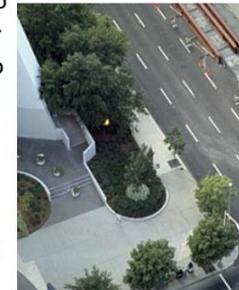
▶ Other resources

▶ Topic index

[Home](#) > [Urban/suburban design](#)

Urban/suburban design to support trees

Trees grow poorly in urban areas unless the soil beneath and adjacent to hard surfaces supports root growth. Root growth is THE critical factor for successful design execution! The system has to be specially designed to accommodate tree root growth. This does not happen without careful planning, and execution. Occasionally, portions of cities get lucky and trees grow despite poor planning. These examples should not be used as models for future design because these are usually anomalies.



Minimum soil volume for trees

ultimate trunk diameter	soil volume
16 inches	1000 cu. ft.
24 inches	1700 cu. ft.

Minimum soil volume required to support reasonably healthy

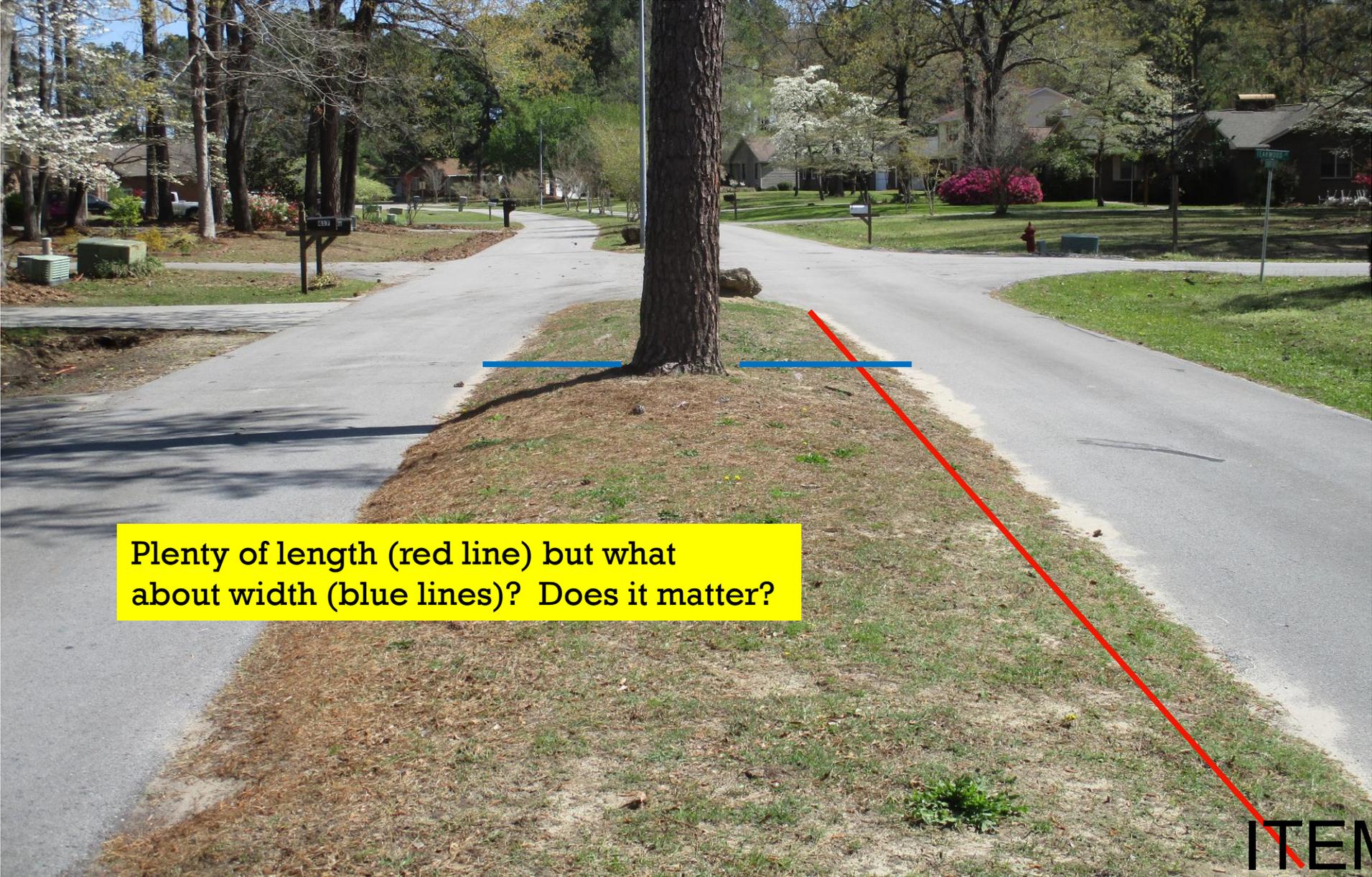
trees can be summarized in the table to the left. This soil should be at least three feet deep and must have a bulk density below the [critical value](#) for the soil type. Rooting space needs to be wider if it can not be three feet deep. Place trees as far from hardscape as possible.

Tip: Plant the easy places first because it costs less.

[Good examples](#) | [Site modifications](#) | [Root conflicts](#) | [Sidewalks](#) | [Parking lots](#) | [Street trees](#) | [Special planting situations](#) | [Tree spacing](#) | [Tree selection](#) | [Tree preservation](#)

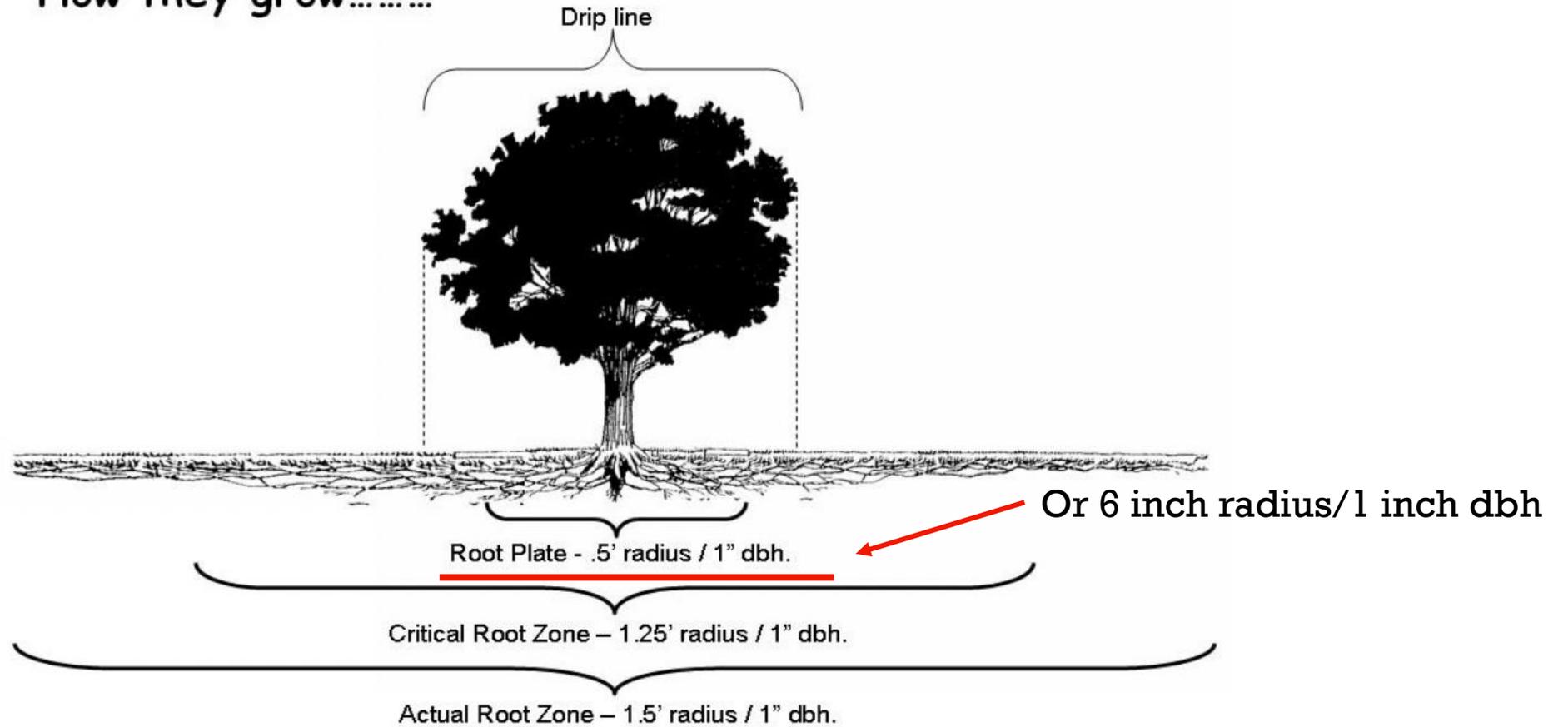
Fact sheet: [Urban design to support trees \(pdf\)](#)

Assume ultimate trunk diameter of 24" for loblolly pine, and an existing soil depth of three feet. Minimum soil volume of 1,700 cubic feet would require a surface area of about 24' by 24'. ($3 \times 24 \times 24 = 1,728$ cubic feet.)



Plenty of length (red line) but what about width (blue lines)? Does it matter?

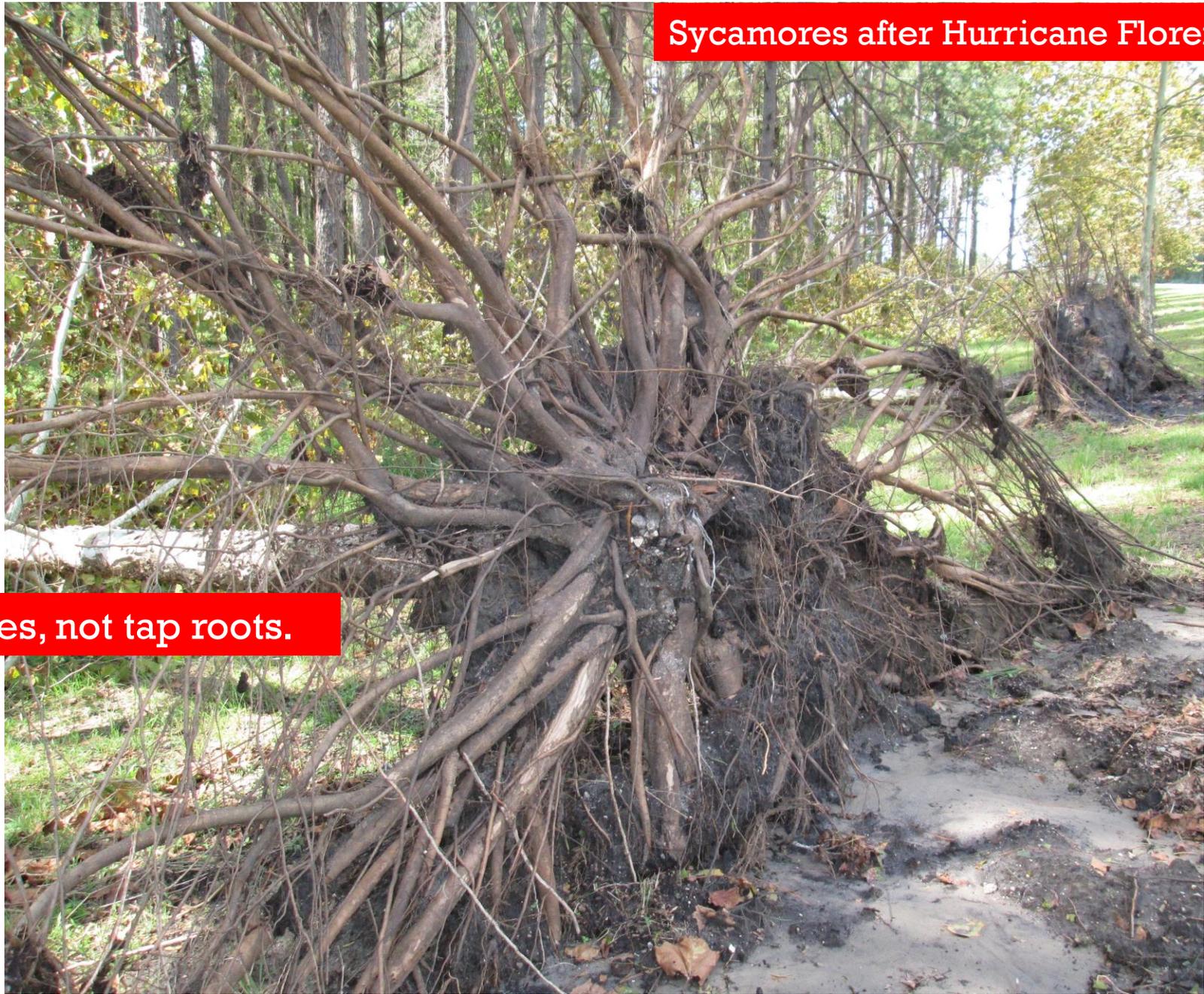
How they grow.....



Source: Georgia Forestry Commission

ITEM 5

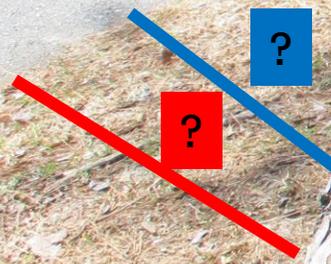
Sycamores after Hurricane Florence



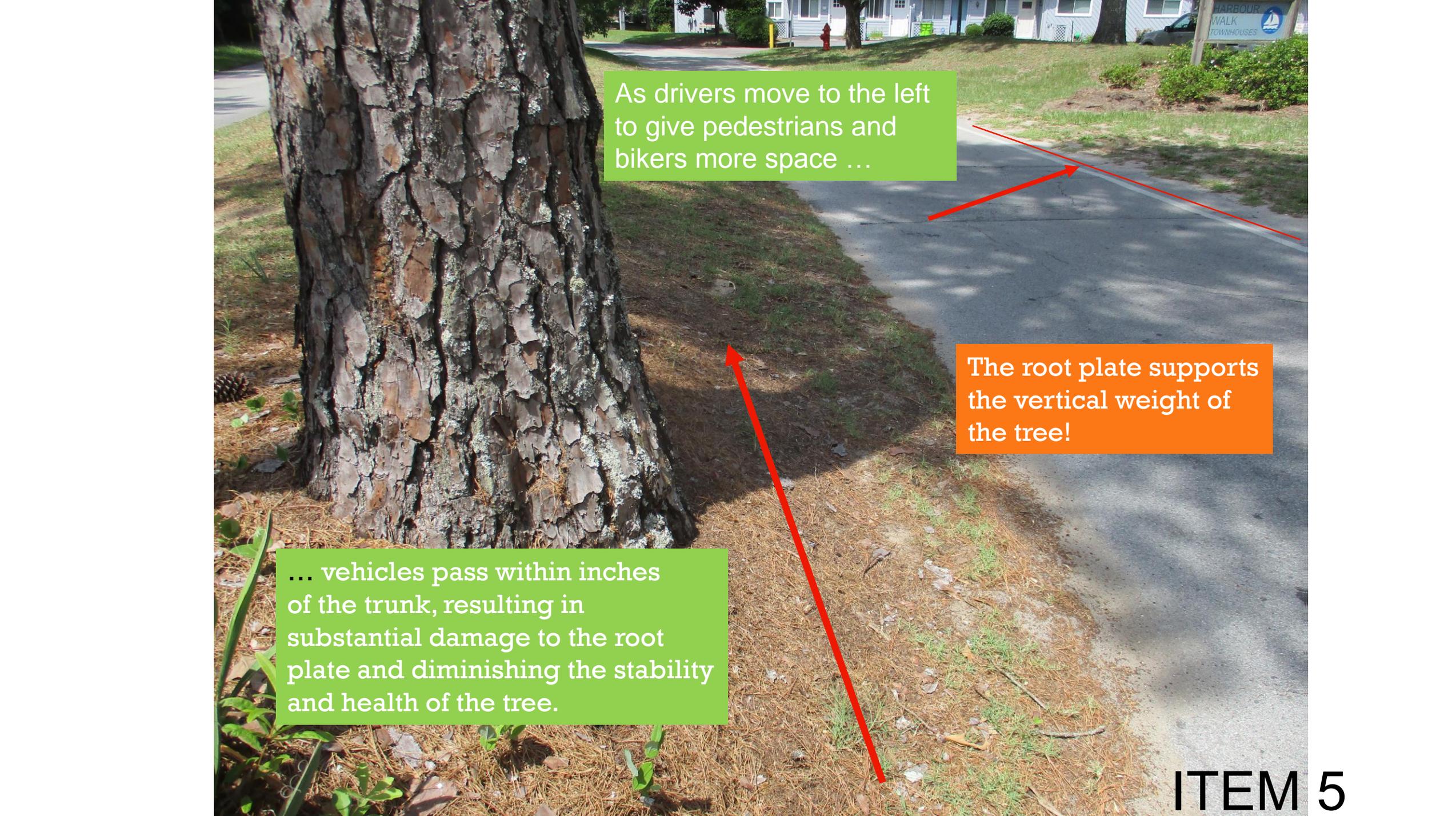
Root plates, not tap roots.

Assume DBH of 1.5' or 18".
Root plate radius should be
 $6'' \times 18'' = 108''$ or 9'

Critical root zone radius
should be $15'' \times 18'' = 270''$
or 22.5'



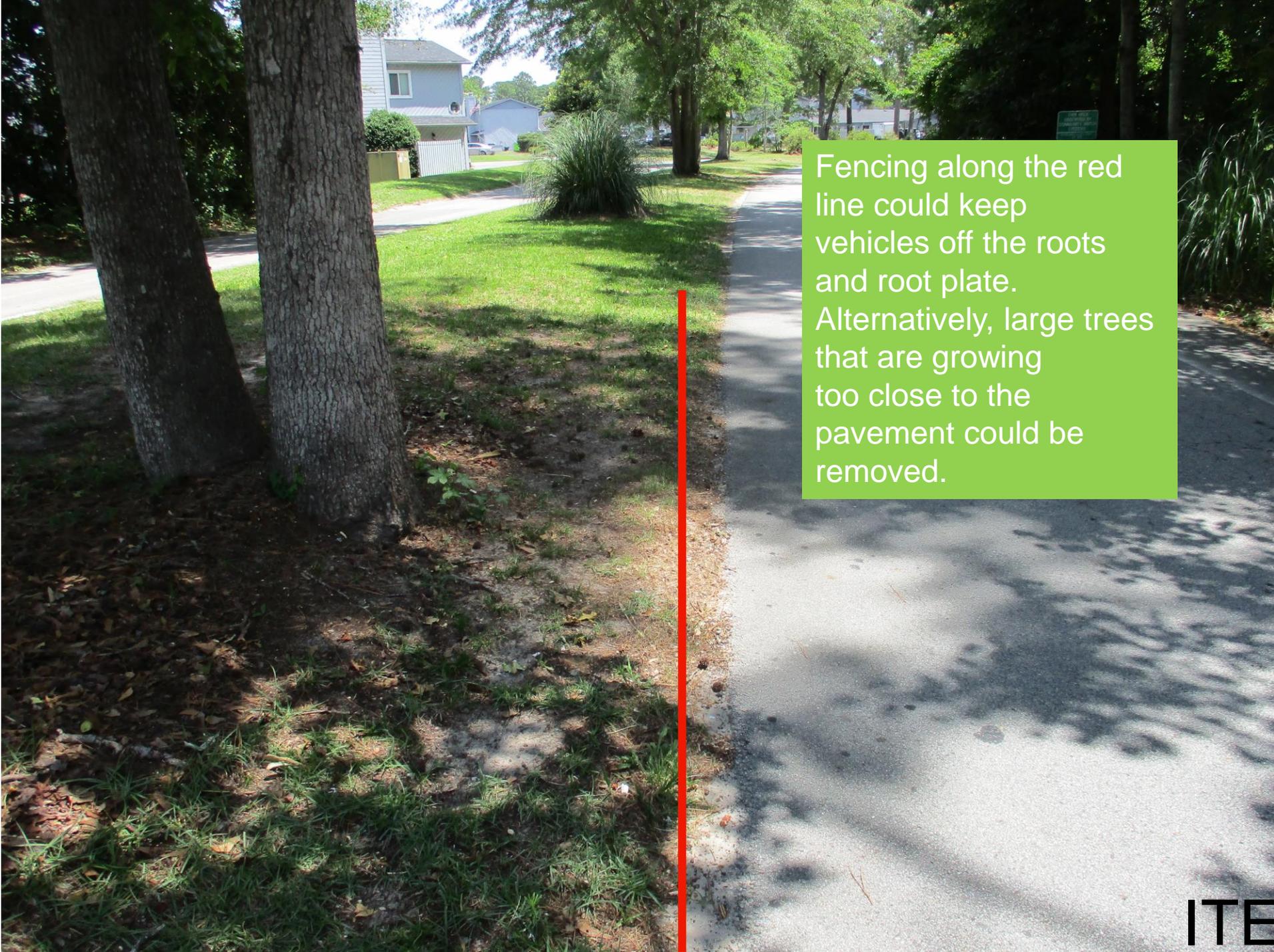
An additional concern:
What is the extent of decay
in the lower trunk?



As drivers move to the left to give pedestrians and bikers more space ...

The root plate supports the vertical weight of the tree!

... vehicles pass within inches of the trunk, resulting in substantial damage to the root plate and diminishing the stability and health of the tree.



Fencing along the red line could keep vehicles off the roots and root plate. Alternatively, large trees that are growing too close to the pavement could be removed.

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▶ Shrubs

[Selection](#) | [Production](#) | [Maintenance](#) | [Species](#) | **See:** [Planting](#)

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Place trees far from hardscape

Trees that can grow to a large size such as oaks should be positioned ten feet or more from curbs (see photo), pavement, and other root barriers. This allows them enough space to develop a root system that will hold trees firmly compared to trees positioned closer. Trees placed too close to curbs blew over by the thousands in recent storms and hurricanes.



Provide enough space!

Barb Fair, NCSU



Full screen (f)

ITEM 5



Anchor Way

As a general rule, plant large-growing trees here

Not here



ITEM 5



ITEM 5

Location at corner of Shoreline and Plantation
Strangling roots, co-dominant tree trunks, fungal reproductive structure;
Likely Inonotus



ITEM 5

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[Home](#) > [Tree structure basics](#) > [Structural defects](#) > [Codominant stems](#)

Codominant stems, trunk and branch structure

Trunks need enough wood tissue arranged appropriately to hold the tree up in stormy weather. Branches well attached to the trunk can remain secured for a long time (left and center photos). Weakly attached branches (right photo) can split from the tree. Trees with weakly attached branches fail more often than trees without these defects.

The two codominant stems on the right are weakly attached because they are the same size and because of the bark inclusion between them. The codominant stems below are better attached because there is no bark inclusion. Cabling and bracing can be used to help hold certain trees together (**See:** [cabling and bracing](#)). Trees can also be structurally pruned to either prevent or modify the impact of this defect.



Codominant trunks. As the trunks expand in diameter, they push against each other, becoming more prone to splitting and falling apart every year.



ITEM 5



ITEM 5

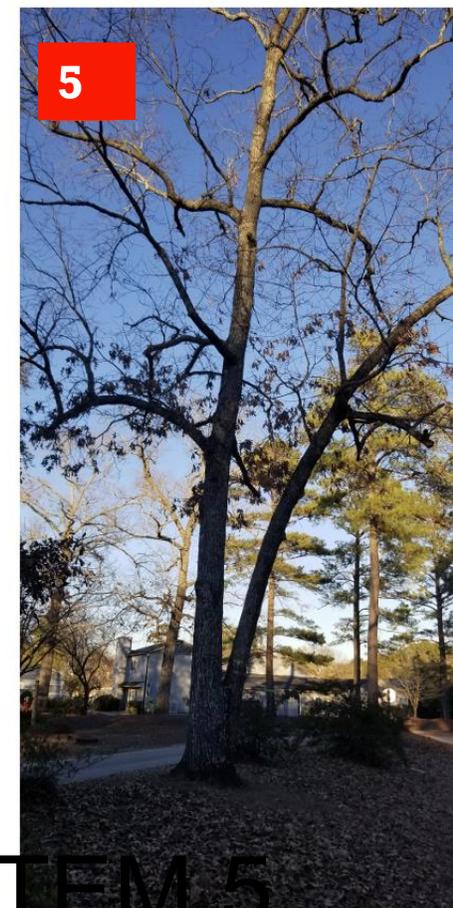
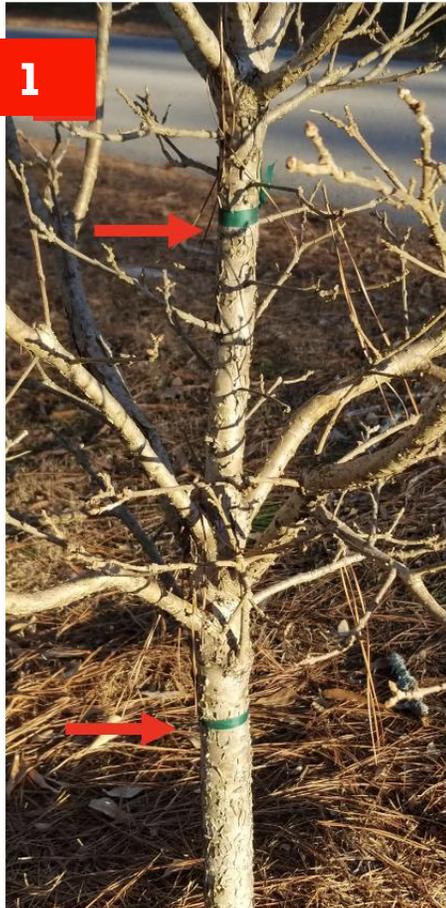
No good outcome!



ITEM 5

Location at corner of Shoreline and Plantation

1. Tape left on trunk; 2. & 4. Volcano-mulching, harmful to lower trunks; 3. Trees too close to each other and the road; 5. Codominant trunks



ITEM 5



Identified as *Laetiporus cincinnatus*, a wood-decay pathogen,
by NC State. Summer 2022, Plantation Drive.

ITEM 5

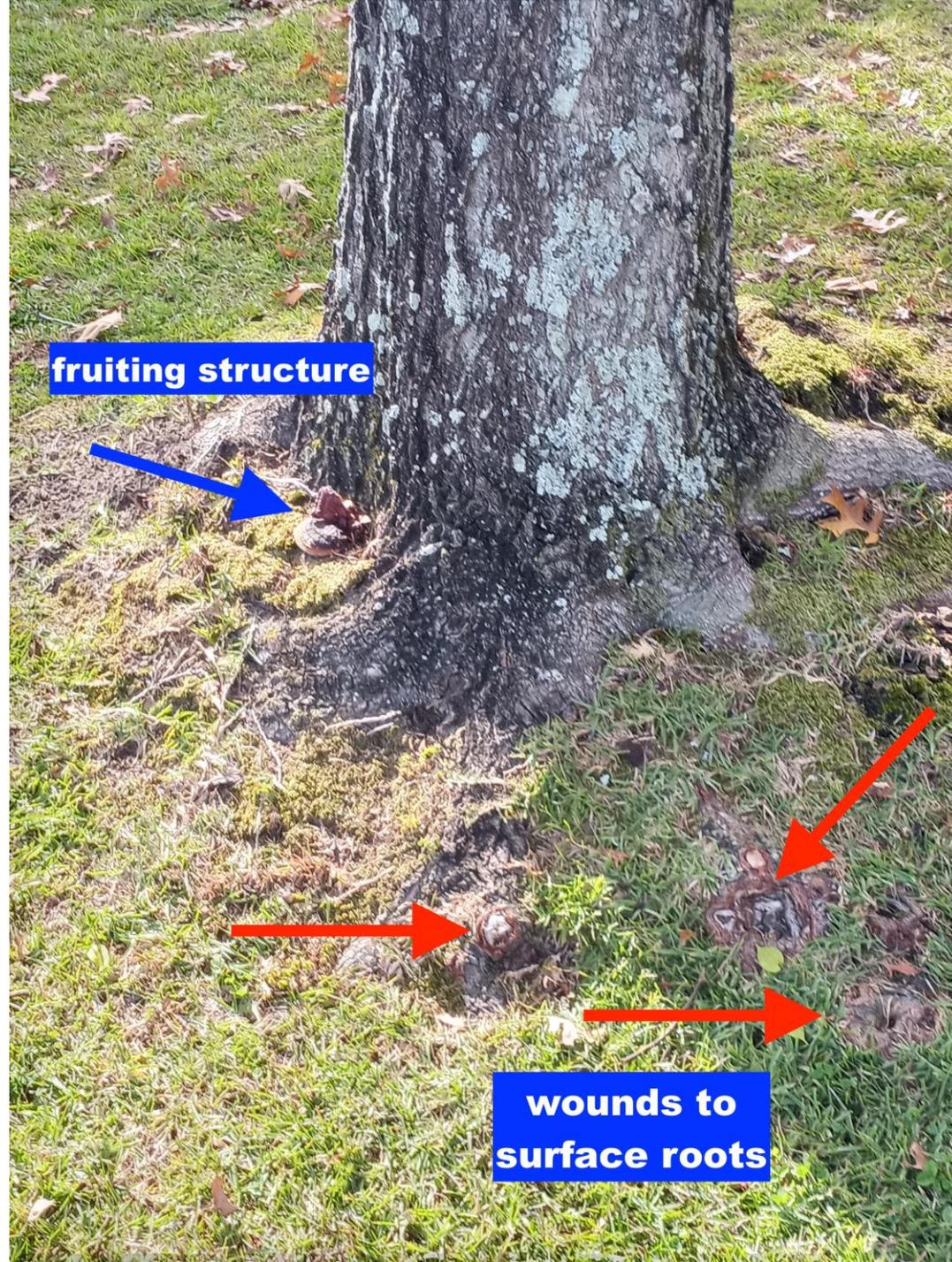
Decay is most common cause of tree failure!



Barb Fair, NCSU

Ganoderma and armillaria root rots





fruiting structure

**wounds to
surface roots**

ITEM 5



Wounds to surface roots and trunks provide easy access for wood decay pathogens.

ITEM 5

Intersection Anchor Way and Plantation Drive



Nandina domestica
Invasive species in NC

Ligustrum japonicum
Invasive species in NC



Not wide enough to support anything other than small to medium trees with fastigiate growth habit. And that's not even considering potential rooting depth issues.

ITEM 5

Callicarpa americana



ITEM 5

Ilex vomitoria weeping form



ITEM 5

'Tokyo Tower' Chinese fringetree



ITEM 5

Juniperus virginiana 'Taylor'



ITEM 5

Buddleja 'Miss Molly'
Photo by Dennis Werner/NCSU



ITEM 5

Cenchrus setaceus



ITEM 5

Muhlenbergia capillaris
pink muhly grass



ITEM 5

Cenchrus alopecuroides, Tryon Palace



Sabal palmetto

As monocots, palms do not require the same rooting space (surface area) as dicot trees.



Windmill palm –
more cold-hardy
than
Sabal palmetto



Photo by Robert Hauver

ITEM 5

In Summary:

1. Available rooting space should guide decisions regarding retention or removal of existing trees, as well as selection of new trees
2. Avoid damage to trunks, roots, stems, root plates and critical root zones
3. Scout for disease and structural problems
4. Minimize presence of non-native invasive plant species
5. Contract with a certified arborist for routine inspections
Inspect, Remediate, Document

Town of River Bend

Public Comment Policy

Overview- In 2005, the North Carolina General Assembly, through the passage of NCGS 160A-81.1, required that each municipality in North Carolina provide a period for public comment at least once per month at a regular meeting of the Council. The General Assembly gave Councils the authority to adopt rules governing the conduct of the public comment period. The Town of River Bend recognizes the importance of receiving comments from the public. The purpose of the public comment period is to give the public an opportunity to express their views, comments or opinions to the Council. It is a time for the Council to listen to the public. The following rules have been established to maintain order and decorum during the public comment period. Furthermore, these rules are designed to ensure fairness to each speaker by establishing rules in advance that will be applied equally to each speaker.

I. Public Comment Period

The public comment period shall be reserved as an item of business on the agenda for the Council's regular session, which is currently held on the 3rd Thursday of each month. All comments to the Council during the public comment period shall be subject to the following guidelines:

1. Prior to the start of the public comment period, persons wishing to address the Council will register on a sign-up sheet stationed by the meeting room door. Prior to beginning the public comment period, the Mayor will collect the sign-up sheet and recognize speakers in the order that they registered. Speakers will address the Council from the lectern and will be asked to provide their name and address for the record.
2. Each speaker shall be limited to a maximum time of three (3) minutes. Each speaker will only be allowed to speak once during the public comment period. A staff member shall serve as time keeper and will promptly announce when the speakers time has expired.
3. No time may be yielded or transferred from one speaker to another. In order to avoid repetition and delay, groups of people supporting the same position are encouraged to designate a spokesperson for the group.
4. The public comment period is not intended to require the Council and/or any staff to answer any impromptu questions. The Council will not take action on an item presented during the public comment session. Upon completion of the public comment session and when appropriate, the Council may refer inquiries made during the public comment session to the Town Manager or an appropriate staff member. If necessary, the item may be added to the agenda of a future meeting, thereby providing the staff an opportunity to research the item and provide data to the Council for consideration and review.
5. Speakers will address comments to the entire Council as a whole and not one individual member. Discussions between speakers and members of the audience will not be permitted during the public comment period.

6. Speakers who have prepared written remarks are encouraged to leave a copy of such remarks with the Town Clerk. Speakers who have materials that they want distributed to the Council related to the item they plan to discuss during the public comment period, shall provide eight (8) copies of those documents to the Town Clerk prior to the start of the meeting. The Clerk shall distribute the copies to the Council, Attorney, and Town Manager and retain one copy for the record.

7. Speakers shall be courteous in their language and presentation. Profanity or other inappropriate language or gestures will not be tolerated.

8. In order to provide for the maintenance of order and decorum in the conduct of the meeting, the Mayor may declare "out-of-order" any person who fails to comply with this policy. The Mayor shall caution any such person to abide by the provisions of this policy. Refusal to do so shall be grounds for removal of the speaker from the meeting.

- Adopted June 18, 2015

RULES OF PROCEDURE FOR THE TOWN OF RIVER BEND COUNCIL

These rules shall govern the conduct of the River Bend Town Council in the conduct of official meetings. This document has used the North Carolina Institute of Government model advanced in the publication Suggested Rules of Procedure for Small Local Government Councils model.

Rule 1. Regular Meetings

The Council shall adopt at its Regular December Council Meeting a schedule of meeting dates for Regular Council Meetings and Council Work Sessions for the next calendar year. The schedule shall give the time and location where meetings will be held. This schedule shall reflect any deviation that holiday events would cause from a normal monthly cycle. Following the adoption of the annual schedule by the Council, the schedule shall be published in compliance with publication mandates of the state of North Carolina.

Rule 2. Special, Emergency, and Recessed (or Adjourned) Meetings

(a) Special Meetings.

- (1) The Mayor, the Mayor pro tempore, or any two members of the Council may at any time call a special Council meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. The notice shall be delivered to the Mayor and each councilman or left at his usual dwelling place at least six hours before the meeting. Only those items of business specified in the notice may be transacted at a special meeting, unless all members are present or have signed a written waiver of notice.
- (2) Special meetings may be held at any time when the Mayor and all members of the Council are present and consent thereto, or when those not present have signed a written waiver of notice.
- (3) During any regular meeting, or any duly called special meeting, the Council may call or schedule a special meeting, provided that the motion or resolution calling or scheduling any such special meeting shall specify the time, place and purpose or purposes of such meeting and shall be adopted during an open session.

(b) **Emergency Meetings.** The Mayor, the Mayor pro tempore, or any two members of the Council may at any time call an emergency Council meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. Emergency meetings may be called only because of generally unexpected circumstances that require immediate consideration by the Council. Only business connected with the emergency may be considered at an emergency meeting.

(c) A person or persons calling a special or emergency meeting of the Council shall comply with the notice requirements of Article 33C of General Statutes Chapter 143.

(d) **Recessed (or Adjourned) Meetings.** A properly called regular, special, or emergency meeting may be recessed (or adjourned) to a time and place certain by a procedural motion made and adopted as provided in Rule 16(b), Motion 2, in open session during the regular, special, or emergency meeting. The motion

shall state the time and place when the meeting will reconvene. No further notice need be given of such a recessed (or adjourned) session of a properly called regular, special, or emergency meeting.

Rule 3. Organizational Meeting

On the date and at the time of the first regular meeting in December, the newly elected members shall take and subscribe the oath of office as the first order of new business.

Rule 4. Agenda

(a) **Proposed Agenda.** The Town Clerk shall prepare a proposed agenda for each meeting. A request to have an item of business placed on the agenda must be received at least two working days before the meeting. Any Council member may, by a timely request, have an item placed on the proposed agenda. A copy of all proposed discussion items shall be attached to the proposed agenda. An agenda package shall be prepared that includes, for each item of business placed on the proposed agenda, as much background information on the subject as is available and feasible to reproduce. Each Council member shall receive a copy of the proposed agenda and agenda package and it shall be available for public inspection when it is distributed to the Council members. The Town's agenda policy will be followed.

(b) **Adoption of the Agenda.** As the first order of business at each meeting, the Council shall, as specified in Rule 6, discuss and revise the proposed agenda and adopt an agenda for the meeting. The Council may by majority vote add items to or delete items from the proposed agenda, except that the Council may not add items on the agenda of a special meeting unless (a) all members are present and (b) the Council determines in good faith at the meeting that it is essential to discuss or act on the item immediately. If items are proposed to be added to the agenda, the Council may, by majority vote, require that written copies of particular documents connected with the items be made available at the meeting to all Council members.

The Council may designate certain agenda items "for discussion and possible action." Such designation means that the Council intends to discuss the general subject area of that agenda item before making any motion concerning that item.

(c) **Open Meetings Requirement.** The Council shall not deliberate, vote, or otherwise take action on any matter by reference to a letter, number or other designation, or other secret device or method, with the intention of making it impossible for persons attending a meeting of the Council to understand what is being deliberated, voted, or acted on. However, the Council may deliberate, vote or otherwise take action by reference to an agenda, if copies of the agenda – sufficiently worded to enable the public to understand what is being deliberated, voted, or acted on – are available for public inspection at the meeting.

Rule 5. Public Address to the Council

(a) Any individual or group who wishes to address the Council can make a request, to the Clerk, at least two days in advance of the regular meeting to be on the agenda. However, the Council shall determine at the meeting whether it will hear the individual or group. Unless determined otherwise by the Council, each speaker will have a maximum of five minutes to address the Council.

(b) The Council shall provide a public comment period during its regular Council meeting, which is the third Thursday of each month. The Town's public comment policy will be followed.

Rule 6. Order of Business

Items shall be placed on the agenda according to the order of business. The order of business for each regular meeting shall be as follows:

- Discussion and revision of the proposed agenda; adoption of an agenda
- Addresses to the Council
- Public hearings
- Approval of the minutes
- Administrative reports
- Committee reports
- Unfinished business
- New business
- Informal discussion and public comment

By general consent of the Council, items may be considered out of the order prescribed above.

Rule 7. Presiding Officer

The Mayor shall preside at Council meetings if he or she is present, unless he or she becomes actively engaged in debate on a particular matter. The Mayor may only vote to break a tie. In order to address the Council, a member must be recognized by the Mayor.

If the Mayor is absent, the Mayor Pro Tem shall preside. If both the Mayor and the Mayor Pro Tem are absent, another member designated by vote of the Council shall preside. The Mayor Pro Tem or other member who is temporarily presiding retains all of his or her rights as a member, including the right to make motions and the right to vote.

If the presiding person becomes actively involved in debate on a particular matter, he or she may designate another Council member to preside over the debate. The presiding individual shall resume presiding as soon as action on the matter is concluded.

The presiding officer shall have the following powers:

- To rule motions in or out of order, including any motion patently offered for obstructive or dilatory purposes;
- To determine whether a speaker has gone beyond reasonable standards of courtesy in his remarks and to entertain and rule on objections from other members on this grounds;
- To entertain and answer questions of parliamentary law or procedure;
- To call a brief recess at any time;
- To adjourn in an emergency.

A decision by the presiding officer under any of the first three powers listed may be appealed to the Council upon motion of any member, pursuant to Rule 16, Motion 1. Such a motion is in order

immediately after a decision under those powers is announced and at no other time. The member making the motion need not be recognized by the presiding officer, and the motion, if timely made, may not be ruled out of order.

Rule 8. Action by the Council

The Council shall proceed by motion, except as otherwise provided for in Rules 3, 4 and 25. Any member, excluding the Mayor, may make a motion.

Rule 9. Second Not Required

A motion does not require a second.

Rule 10. One Motion at a Time

A member may make only one motion at a time.

Rule 11. Substantive Motions

A substantive motion is out of order while another substantive motion is pending.

Rule 12. Adoption by Majority Vote

A motion shall be adopted by a majority of the votes cast, a quorum as defined in Rule 22 being present, unless otherwise required by these rules or the laws of North Carolina. A majority is more than half.

Rule 13. Voting by Written Ballot

The Council may choose by majority vote to use written ballots in voting on a motion. Such ballots shall be signed, and the minutes of the Council shall show the vote of each member voting. The ballots shall be available for public inspection in the office of the Town Clerk immediately following the meeting at which the vote took place and until the minutes of that meeting are approved, at which time the ballots may be destroyed.

Rule 14. Debate

The Mayor shall state the motion and then open the floor to debate. The Mayor shall preside over the debate according to the following principles:

- The maker of the motion is entitled to speak first;
- A member who has not spoken on the issue shall be recognized before someone who has already spoken;
- To the extent possible, the debate shall alternate between proponents and opponents of the measure.

Rule 15. Ratification of Actions

To the extent permitted by law, the Council may ratify actions taken on its behalf but without its prior approval. A motion to ratify is a substantive motion.

Rule 16. Procedural Motions

(a) **Certain Motions Allowed.** In addition to substantive proposals, only the following procedural motions, and no others, are in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority of the votes cast, a quorum being present, for adoption. Procedural motions are in order while a substantive motion is pending and at other times, except as otherwise noted.

(b) **Order of Priority of Motions.** In order of priority (if applicable), the procedural motions are:

Motion 1. To Appeal a Procedural Ruling of the Presiding Officer. A decision of the presiding officer ruling a motion in or out of order, determining whether a speaker has gone beyond reasonable standards of courtesy in his remarks, or entertaining and answering a question of parliamentary law or procedure may be appealed to the Council, as specified in Rule 7. This appeal is in order immediately after a decision is announced and at no other time. The member making the motion need not be recognized by the presiding officer and the motion, if timely made, may not be ruled out of order.

Motion 2. To Adjourn. This motion may be made only at the conclusion of action on a pending substantive matter; it may not interrupt deliberation of a pending matter. A motion to recess or adjourn to a time and place certain shall also comply with the requirements of Rule 2(c).

Motion 3. To Take a Brief Recess.

Motion 4. Call to Follow the Agenda. The motion must be made at the first reasonable opportunity or it is waived.

Motion 5. To Suspend the Rules. The Council may not suspend provisions of the rules that state requirements imposed by law on the Council. For adoption, the motion requires an affirmative vote equal to two-thirds of the entire membership of the Council.

Motion 6. To Go into Closed Session. The Council may go into closed session only for one or more of the permissible purposes listed in G.S. 143-318.11(a). The motion to go into closed session shall cite one or more of these purposes and shall be adopted at an open meeting.

A motion based on G.S. 143-318.11(a) (1) shall also state the name or citation of the law that renders the information to be discussed privileged or confidential. A motion based on G.S. 143-318(a)(3) shall identify the parties in each existing lawsuit concerning which the Council expects to receive advice during the closed session, in fact such advice is to be received.

Motion 7. To Leave Closed Session.

Motion 8. To Divide a Complex Motion and Consider It by Paragraph. The motion is in order whenever a member wishes to consider and vote on subparts of a complex motion separately.

Motion 9. To Defer Consideration. The Council may defer a substantive motion for later consideration at an unspecified time. A substantive motion, the consideration of which has been deferred, expires 100 days thereafter unless a motion to revive consideration is adopted. If consideration of a motion has been deferred, a new motion with the same effect cannot be introduced while the deferred motion remains pending. A person who wishes to revisit the matter during that time must take action to revive consideration of the original motion (Rule 16(b), Motion 14), or else move to suspend the rules (Rule 16(b), Motion 5).

Motion 10. Motion for the Previous Question. The motion is not in order until there has been at least 20 minutes of debate and/or every member has had an opportunity to speak once.

Motion 11. To Postpone to a Certain Time or Day. If consideration of a motion has been postponed, a new motion with the same effect cannot be introduced while the postponed motion remains pending. A person who wishes to revisit the matter must either wait until the specified time or move to suspend the rules.

Motion 12. To Refer a Motion to a Committee. The Council may vote to refer a substantive motion to a committee for its study and recommendation. Sixty days or more after a substantive motion has been referred to a committee, the introducer of the substantive motion may compel consideration of the measure by the entire Council, whether or not the committee has reported the matter to the Council.

Motion 13. To Amend.

(a) An amendment to a motion must be pertinent to the subject matter of the motion. An amendment is improper if adoption of the motion with the amendment added would have the same effect as rejection of the original motion. A proposal to substitute completely different wording for a motion or an amendment shall be treated as a motion to amend.

(b) A motion may be amended, and that amendment may be amended, but no further amendments may be made until the last-offered amendment is disposed of by a vote.

(c) Any amendment to a proposed ordinance, policy, regulation or resolution shall be reduced to writing before the vote on the amendment.

Motion 14. To Revive Consideration. The Council may vote to revive consideration of any substantive motion earlier deferred by adoption of Motion 9 of Rule 16(b). The motion is in order at any time within 100 days after the day of a vote to defer consideration. A substantive motion on which consideration has been deferred expires 100 days after the deferral unless a motion to revive consideration is adopted.

Motion 15. To Reconsider. The Council may vote to reconsider its action on a matter. The motion to do so must be made by a member who voted with the prevailing side (the majority, except in the case of a tie; in that case the "no's" prevail) and only at the meeting during which the original vote was taken, including any continuation of that meeting through recess or adjournment to a time and place certain. The motion cannot interrupt deliberation on a pending matter but is in order at any time before final adjournment of the meeting.

Motion 16. To Rescind or Repeal. The Council may vote to rescind actions it has previously taken or to repeal items that it has previously adopted. The motion is not in order if rescission or repeal of an action is forbidden by law.

Motion 17. To Prevent Reintroduction for Six Months. The motion shall be in order immediately following the defeat of a substantive motion and at no other time. The motion requires for adoption, an affirmative vote equal to two thirds of the entire membership of the Council. If adopted, the restriction imposed by the motion remains in effect for six months or until the next organization meeting of the Council, whichever occurs first.

Rule 17. Renewal of Motion

A motion that is defeated may be renewed at any later meeting unless a motion to prevent reconsideration has been adopted.

Rule 18. Withdrawal of Motion

A motion may be withdrawn by the introducer at any time before it is amended or before the Mayor puts the motion to a vote, whichever occurs first.

Rule 19. Duty to Vote

Every member must vote unless excused by the remaining members of the Council. A member who wishes to be excused from voting shall so inform the Mayor, before the vote is taken. The Mayor shall take a vote of the remaining members. No member shall be excused from voting except in cases involving conflicts of interest, as defined by the Council or by law, or the member's official conduct, as defined by the Council. In all other cases a failure to vote by a member who is physically present in the Council chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote.

Rule 20. Special Rules of Procedure

The Council may adopt special rules of procedure as circumstances warrant.

Rule 21. Closed Sessions

The Council may hold closed sessions as provided by law. The Council shall commence a closed session only after a motion to go into closed session has been made and adopted during an open meeting. The motion shall state the purpose of the closed session. If the motion is based on G.S. 143-318.11(1), closed session to prevent the disclosure of privileged or confidential information or information that is not considered a public record; it must also state the name or citation of the law that renders the information to be discussed privileged or confidential. If the motion is based on G.S. 143-318.11(a)(3), consultation with attorney; handling or settlement of claims, judicial actions, mediations, arbitrations, or administrative procedures, it must identify the parties in any existing lawsuits concerning which the public body expects to receive advice during the closed session. The motion to go into closed session must be

approved by a majority of those present and voting. The Council shall terminate the closed session by a majority vote, using Motion 7 of rule 16(b).

Only those actions authorized by statute may be taken in closed session (Rule 16(b), Motion 2).

Rule 22. Quorum

A majority of the actual membership of the Council (excluding vacant seats) shall constitute a quorum. A majority is more than half. The Mayor shall be considered a member of the Council in determining the number on which a majority is based and in counting the number of members actually present. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present.

Rule 23. Remote Participation in Council Meeting

A member who is not physically present for a Council meeting may participate in the meeting by electronic means in accordance with the Town's remote participation policy.

Rule 24. Public Hearings

Public hearings required by law or deemed advisable by the Council shall be organized by a special order that sets forth the subject, date, place, and time of the hearing. The special order is adopted by a majority vote of the Council. At the time appointed for the hearing, the Council shall vote to open the hearing and the Mayor or his or her designee shall call the hearing to order and preside over it. When the hearing is complete, the presiding officer shall entertain a motion to end the hearing. The Town's public hearing policy shall be followed.

Rule 25. Minutes

Full and accurate minutes of the Council proceedings, including closed sessions, shall be kept. The Council shall also keep a general account of any closed session so that a person not in attendance would have a reasonable understanding of what transpired. These minutes and general accounts shall be open to inspection of the public, except as otherwise provided in the rule. The exact wording of each motion and the results of each vote shall be recorded in the minutes, and on the request of any member of the Council, the entire Council shall be polled by name on any vote. Members' and other persons' comments may be included in the minutes if the Council approves.

Minutes and general accounts of closed sessions may be sealed by action of the Council. Such sealed minutes and general accounts may be withheld from public inspection so long as public inspection would frustrate the purpose of the closed session.

Rule 26. Appointments

The Council may consider and make appointments to other bodies, including its own committees, if any, at any regular meeting. The Council shall use one of following procedures to make appointments to various other boards and committees:

A candidate for appointment to one of the Town's advisory boards shall submit an Application for Appointment to either the board chairman or the Town Clerk. The Council liaison to that advisory board shall consult with the advisory board chairman on the appropriateness of the appointment. If the candidate's appointment is deemed beneficial to the advisory board, the Council liaison shall make a motion at a regular council meeting to approve the appointment. Appointments for candidates to fill unexpired terms will be made to the completion of that term.

For appointments to special Council committees, Council members may choose to either submit names for nomination, or may accept volunteers. The final committee roster shall be voted on by the Council.

Rule 27. Committees and Boards

(a) Establishment and Appointment. The Council may establish and appoint members for such temporary and standing committees and boards as are required by law or needed to help carry out the Council's work. Any specific provisions of law relating to particular committees and boards shall be followed.

(b) Open Meetings Law. The requirements of the open meetings law shall apply to all elected or appointed authorities, boards, commissions, councils, or other bodies of the Town that are composed of two or more members and that exercise or are authorized to exercise legislative, policy-making, quasi-judicial, administrative, or advisory functions. However, the law's requirements shall not apply to a meeting solely among the Town's professional staff.

Rule 28. Amendment of the Rules

These rules may be amended at any regular meeting or at any properly called special meeting that includes amendment of the rules as one of the stated purposes of the meeting, unless a statute or a rule of the body that created the board provides otherwise. Adoption of an amendment shall require an affirmative vote equal to two-thirds of the entire membership of the Council.

Adopted this the 15th day of March, 2018.

John R. Kirkland, Mayor

Attest:

Ann Katsuyoshi,
Town Clerk

§ 160A-81.1. Public comment period during regular meetings.

The council shall provide at least one period for public comment per month at a regular meeting of the council. The council may adopt reasonable rules governing the conduct of the public comment period, including, but not limited to, rules (i) fixing the maximum time allotted to each speaker, (ii) providing for the designation of spokesmen for groups of persons supporting or opposing the same positions, (iii) providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall, and (iv) providing for the maintenance of order and decorum in the conduct of the hearing. The council is not required to provide a public comment period under this section if no regular meeting is held during the month. (2005-170, s. 3.)

ITEM 6



Encroachment/Construction Permit

Date Submitted: 3-2-2023

Contractor/Permittee (herein after referred to as "Contractor"); Metronet LLC

Address: 163 W Pine St New Bern, N.C. 28560

Contact Name: John Cimorelli Contact#: (845) 901-7014 Email: john.cimorelli@metronet.com

Work Description (provide additional pages or plans if necessary): Underground pipe in LCP RB-005 on Fawn Ln, Deerfield Dr, Antler Ln, Doe Ln, Dobbs Spaight Rd, East Church Rd, Culpepper Rd, Drummond Pl, Hyde Ct, Barbara Dr, Woodbrook Dr, Forest Oaks Dr.

Proposed Dates of Work: Start 4/17/2023 Finish 6/30/2023

The Town of River Bend, hereinafter referred to as "Town" allows the work described above to be performed with the following conditions:

- The Contractor binds and obligates themselves to install the encroaching facility within the Town's rights-of-way/town owned property in such safe and proper condition that it will not interfere with or endanger travel within the town.
- The Contractor agrees to provide during construction: proper signs, signal lights, flagmen and other warning devices for the protection of traffic in conformance with the latest Manual on Uniform Traffic Control Devices for Streets & Highways and Amendments or Supplements, which may be obtained by visiting www.mutcd.fhwa.dot.gov.
- The Contractor is solely responsible for all damages and claims for damage that may arise resulting from the installation and maintenance of this encroachment and agrees to indemnify and save harmless the Town from any such damages and claims. This includes caused by the Contractor to Town facilities, regardless of whether or not such facilities are located in a place inconsistent with plans, permits, plats or any other development approval or document.
- The Contractor is to follow any construction specifications required by the Town.
- It is clearly understood by the Contractor that the Town will assume no responsibility for any damage that may be caused to any facilities/property within the Town's rights-of-ways limits or otherwise, as a result of any Contractor's activities.
- The Contractor agrees to restore all areas disturbed during construction to the satisfaction of the Town's Public Works Director or an appointee. The Contractor agrees to exercise every reasonable precaution during construction and maintenance to prevent eroding of soil; silting or pollution of rivers, streams, lakes, reservoirs, other water impoundments, ground surfaces or other property; or pollution of the air. There shall be compliance with applicable rules and regulations of the North Carolina Division of Environmental Management, North Carolina Sedimentation Control Commission, and with ordinances and regulations of various counties, municipalities and other official agencies relating to pollution prevention and control. When any construction operation disturbs the ground surface and existing ground cover, the Contractor agrees to remove and replace the sod or otherwise reestablish the grass cover to meet the satisfaction of the Town's Public Works Director or an appointee.
- The Contractor agrees to assume the actual cost of any inspection of the work considered to be necessary by the Town's Public Works Director or an appointee.
- The Contractor agrees to have available at the encroaching site, at all times during construction, a copy of this permit showing evidence of approval by the Town. The Town reserves the right to stop all work unless evidence of approval can be shown.
- That in the case of noncompliance with the terms of this agreement by the Contractor, the Town reserves the right to stop all work until the facility has been brought into compliance or removed from the rights-of-ways at no cost to the Town.
- That it is agreed by both parties that this agreement shall become void if actual construction of the work contemplated herein is not begun within one (1) year from the date of authorization shown below.
- The Contractor must provide Certificate of Liability Insurance naming the Town as additional insured.
- The Contractor is solely responsible for ensuring that its sub-contractors comply with the terms of this permit.

Contractor / Permittee Representative:

Signature

John J. Cimorelli

Print

Town of River Bend Public Works Department:

Signature

Date of Authorization

North Carolina law allows public bodies, such as the River Bend Town Council, to meet in closed session to discuss certain topics. However, prior to going into closed session, the Council must announce the closed session and the topic for which the closed session is being called and that must be done while the Council is in open session. This requirement allows the public to know in general what the closed session is concerning. The closed session must also be adjourned in open session. For the purpose of this guide, open session simply means in view of the public and closed session simply means it private. The topics that may be discussed in closed session are listed below and are numbered 1 through 10. Most of the time, the Council knows in advance that a closed session is needed and the General Statute citation which identifies the purpose of the closed session is included on the agenda. However, that is not always the case. The need for a closed session may arise without enough warning to publish the citation on the agenda. The law does not require advanced notice of a closed session. In any case, planned or not, the Council will state the appropriate citation. The citation will always begin with 143-318.11(a). The numbers that follow in parenthesis will identify the particular closed session topic. For example: The citation 143-318.11(a)(3)(5) will allow the Council to consult with an attorney (#3) and to discuss the acquisition of real property (#5).

§ 143-318.11. Closed sessions.

(a) Permitted Purposes. – It is the policy of this State that closed sessions shall be held only when required to permit a public body to act in the public interest as permitted in this section. A public body may hold a closed session and exclude the public only when a closed session is required:

- (1) To prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes.
- (2) To prevent the premature disclosure of an honorary degree, scholarship, prize, or similar award.
- (3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. General policy matters may not be discussed in a closed session and nothing herein shall be construed to permit a public body to close a meeting that otherwise would be open merely because an attorney employed or retained by the public body is a participant. The public body may consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, mediation, arbitration, or administrative procedure. If the public body has approved or considered a settlement, other than a malpractice settlement by or on behalf of a hospital, in closed session, the terms of that settlement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time after the settlement is concluded.
- (4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations, or to discuss matters relating to military installation closure or realignment. Any action approving the signing of an economic development contract or commitment, or the action authorizing the payment of economic development expenditures, shall be taken in an open session.
- (5) To establish, or to instruct the public body's staff or negotiating agents

concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment contract.

- (6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. General personnel policy issues may not be considered in a closed session. A public body may not consider the qualifications, competence, performance, character, fitness, appointment, or removal of a member of the public body or another body and may not consider or fill a vacancy among its own membership except in an open meeting. Final action making an appointment or discharge or removal by a public body having final authority for the appointment or discharge or removal shall be taken in an open meeting.
- (7) To plan, conduct, or hear reports concerning investigations of alleged criminal misconduct.
- (8) To formulate plans by a local board of education relating to emergency response to incidents of school violence or to formulate and adopt the school safety components of school improvement plans by a local board of education or a school improvement team.
- (9) To discuss and take action regarding plans to protect public safety as it relates to existing or potential terrorist activity and to receive briefings by staff members, legal counsel, or law enforcement or emergency service officials concerning actions taken or to be taken to respond to such activity.
- (10) To view a recording released pursuant to G.S. 132-1.4A.

(b) Repealed by Session Laws 1991, c. 694, s. 4.

(c) Calling a Closed Session. – A public body may hold a closed session only upon a motion duly made and adopted at an open meeting. Every motion to close a meeting shall cite one or more of the permissible purposes listed in subsection (a) of this section. A motion based on subdivision (a)(1) of this section shall also state the name or citation of the law that renders the information to be discussed privileged or confidential. A motion based on subdivision (a)(3) of this section shall identify the parties in each existing lawsuit concerning which the public body expects to receive advice during the closed session.

(d) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 570, s. 2. (1979, c. 655, s. 1; 1981, c. 831; 1985 (Reg. Sess., 1986), c. 932, s. 5; 1991, c. 694, ss. 3, 4; 1993 (Reg. Sess., 1994), c. 570, s. 2; 1995, c. 509, s. 84; 1997-222, s. 2; 1997-290, s. 2; 2001-500, s. 2; 2003-180, s. 2; 2013-360, s. 8.41(b); 2014-79, s. 9(a); 2016-88, s. 3.)



**RIVER BEND TOWN COUNCIL
DRAFT AGENDA
Regular Meeting
March 16, 2023
River Bend Town Hall – 45 Shoreline Drive
7:00 p.m.**

Pledge: Maurer

1. Call to Order (Mayor Kirkland Presiding)
2. Recognition of New Residents
3. Additions/Deletions to Agenda
4. Addresses to the Council
5. Public Hearings
6. Consent Agenda

All items listed under this section are considered routine by the Council and will be enacted by one motion in the form listed below. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

A. Approve:

*Minutes of the February 9, 2023 Work Council Meeting
Minutes of the February 16, 2023 Regular Council Meeting*

7. Town Manager's Report – Delane Jackson

Activity Reports

- A. *Monthly Police Report* by Chief Joll
- B. *Monthly Water Resources Report* by Director of Public Works Mills
- C. *Monthly Work Order Report* by Director of Public Works Mills
- D. *Monthly Zoning Report* by Assistant Zoning Administrator McCollum

Administrative Reports:

8. Finance – Councilman Leonard
 - A. Financial Report - Finance Director
9. Environment And Waterways – Councilman Leonard
 - A. EWAB Report
10. Planning Board – Councilman Sheffield
 - A. Planning Board Report
 - B. Board of Adjustment Report
11. Public Safety – Councilman Weaver
 - A. Community Watch
 - B. CERT

12. Parks & Recreation – Councilman Castranova
 - A. Parks and Rec Report
 - B. Organic Garden Report
 - C. Library Report

13. CAC – Councilwoman Maurer
 - A. CAC Report

14. Mayor’s Report – Mayor Kirkland

15. Public Comment

The public comment period is set aside for members of the public to offer comments to the Council. It is the time for the Council to listen to the public. It is not a Question & Answer session between the public and the Council or Staff. All comments will be directed to the Council. Each speaker may speak for up to 3 minutes. A member of staff will serve as timekeeper. A sign-up sheet is posted by the meeting room door and will be collected prior to the start of the Public Comment Period. Speakers will be called on by the Mayor in the order that they signed up. In order to provide for the maintenance of order and decorum, the Council has adopted a policy for this section of the meeting. A copy of the policy is posted by the door for your review. Please follow the policy. If you have a specific question for staff, you are encouraged to contact the Town Manager or the appropriate Department Head at another time.

16. Adjournment