



## **TOWN COUNCIL MEETING**

### **March 17, 2022 at 7:00 PM**

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*950 Senoia Road, Tyrone, GA 30290*

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**Eric Dial**, Mayor

**Gloria Furr**, Mayor Pro Tem, Post 4

**Linda Howard**, Post 1

**Melissa Hill**, Post 2

**Billy Campbell**, Post 3

**Brandon Perkins**, Town Manager

**Dee Baker**, Town Clerk

**Dennis Davenport**, Town Attorney

### **AGENDA**

*Social Distancing will be observed, and seating is limited. The meeting can be accessed live at [www.tyrone.org/youtube](http://www.tyrone.org/youtube). If you do not plan to attend, please send any agenda item questions or comments to Town Manager Brandon Perkins ([bperkins@tyrone.org](mailto:bperkins@tyrone.org)).*

#### **I. CALL TO ORDER**

#### **II. INVOCATION**

#### **III. PLEDGE OF ALLEGIANCE**

**IV. PUBLIC COMMENTS:** *The first public comment period is reserved for non-agenda items. Comments are limited to three (3) minutes. Please state your name & address. Comments that require a response may not be answered during this time. The Council or staff may respond at a later date.*

#### **V. APPROVAL OF AGENDA**

**VI. CONSENT AGENDA:** *All matters listed under this item are considered to be routine by the Town Council and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.*

1. Consideration to approve the minutes from the February 17, 2022 Council Meeting.

#### **VII. PRESENTATIONS**

#### **VIII. PUBLIC HEARINGS**

2. Consideration to hear a revision of a development plan as part of the Light Industrial (M-1) Planned Industrial Park (PIP) overlay of parcel 0726-068 from applicant East Group Properties LP on behalf of the owner, Hobgood Family, LP. **Phillip Trocquet, Town Planner**

#### **IX. OLD BUSINESS**

**X. NEW BUSINESS**

3. Consideration of a rate adjustment for sanitation services as requested by AMWaste.

***Brandon Perkins, Town Manager***

4. Consideration of 2023 - 2032 L.O.S.T Certificates of Distribution.

***Brandon Perkins, Town Manager***

5. Consideration and approval of a new Hotel/Motel tax ordinance.

***Brandon Perkins, Town Manager***

6. Consideration to proceed with Recommendations of the Intersection Study at Palmetto, Senoia and Tyrone Road

***Scott Langford, Public Works Director and Town Engineer***

7. Consideration to proceed with Recommendations of the Intersection Study at Crabapple, Senoia and Rockwood Road.

***Scott Langford, Public Works Director and Town Engineer***

- XI. PUBLIC COMMENTS:** *The second public comment period is for any issue. Comments are limited to three (3) minutes. Please state your name & address. Comments that require a response may not be answered during this time. The Council or staff may respond at a later date.*

**XII. STAFF COMMENTS**

**XIII. COUNCIL COMMENTS**

**XIV. EXECUTIVE SESSION**

**XV. ADJOURNMENT**

# TYRONE TOWN COUNCIL MEETING

## MINUTES

February 17, 2022 at 7:00 PM

Eric Dial, Mayor

Gloria Furr, Mayor Pro Tem, Post 4

Linda Howard, Post 1

Melissa Hill, Post 2 Not present

Billy Campbell, Post 3

Brandon Perkins, Town Manager

Dee Baker, Town Clerk

Dennis Davenport, Town Attorney

Also present was:

Sandy Beach, Finance Manager

April Spradlin, Court Clerk

Randy Mundy, Police Chief

***Social Distancing will be observed, and seating is limited. The meeting can be accessed live at [www.tyrone.org/youtube](http://www.tyrone.org/youtube). If you do not plan to attend, please send any agenda item questions or comments to Town Manager Brandon Perkins ([bperkins@tyrone.org](mailto:bperkins@tyrone.org)).***

Mayor Dial called the meeting to order with limited seating and broadcasted on YouTube Live at 7:00 pm, this was followed by the invocation. The public was invited to watch.

### I. CALL TO ORDER

### II. INVOCATION

### III. PLEDGE OF ALLEGIANCE

### IV. PUBLIC COMMENTS: *The first public comment period is reserved for non-agenda items. Comments are limited to three (3) minutes. Please state your name & address. Comments that require a response may not be answered during this time. The Council or staff may respond at a later date.*

Ms. Connie Wesoloski who lives on O'Connell Street asked Council to seriously consider pickleball courts for the citizens and the children of Tyrone. She shared that she was an educator and that this would be a great investment for their future. She shared that she played pickleball and that it was the upcoming sport, exploding everywhere. She added that Griffin had state-of-the-art equipment, as did Newnan. Tyrone could have something similar. She asked that Council seriously consider it and do something about it, it would be advantageous. She added that she was in charge of a pickleball group in Peachtree City. She added that those players would come to a Tyrone facility. She stated that she was a retired educator, after 30 years and played pickleball in the mornings and evenings. She pleaded with Council to seriously consider creating pickleball courts in Tyrone. She added that she lived in Peachtree City for 30 years before Tyrone and that all of her Peachtree City friends would join her in Tyrone if the Town had courts. This would be an asset to Tyrone. She added that she often brought the children from Clear Water Academy, where she currently worked, to walk around the lake. It is a sweet little town; she loves the parks and pickleball courts would be a great asset to the Town.

Ms. Erin Kagey who lives on Kenmare Row shared her support for pickleball courts. She stated that she had met with Mr. Trocquet, the Town Planner last week to discuss the Redwine Park plans from 2017. She stated that the entire plan looked great. Including pickleball courts, were also bocce ball, shuffleboard, and volleyball courts were listed. This would be a great benefit for people of all ages. She also requested golf cart paths improvements for the downtown area. She could ride bikes or utilize the golf cart to support local businesses without getting in her car.

## V. APPROVAL OF AGENDA

A motion was made to approve the agenda.

Motion made by Council Member Furr, Seconded by Council Member Campbell.  
Voting Yea: Council Member Howard.

## VI. **CONSENT AGENDA:** *All matters listed under this item are considered to be routine by the Town Council and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.*

1. Consideration of an updated inmate agreement between the Town and Fayette County raising the daily inmate house rate from \$50.00 to \$57.60 per inmate per day.
2. Consideration to approve Bethel Church's (c/o Bethel Church of Atlanta, Inc.) Stormwater Management Operations and Maintenance Agreement with the Town of Tyrone.
3. Consideration to approve the updated Field and Facilities Use Agreement with Tyrone Youth Baseball Association for 2022.
4. Consideration to approve the updated Field and Facilities Use Agreement with Tyrone Lazars Soccer Club for 2022.
5. Consideration to approve the Crossroads Christian School Shamrock Park Fun Run. This event will be held on April 30th from 10am-3pm. Rain date will be May 7th. They will be using our stage. This will be a free event open to the public.
6. Approval of Workshop and Regular meeting Minutes from February 3, 2022.

A motion was made to approve the consent agenda.

Motion made by Council Member Campbell, Seconded by Council Member Howard.  
Voting Yea: Council Member Furr.

## VII. PRESENTATIONS

## VIII. PUBLIC HEARINGS

## IX. OLD BUSINESS

7. Consideration to approve a Grant Agreement between the Town and the Castle Lake Maintenance and Repair Funding Group, Inc. for the purpose of having the Town assist the Funding Group to obtain grant funding for upgrading and maintaining the dam in Castle Lake. *Dennis Davenport, Town Attorney*

Mr. Davenport informed everyone that conversations began with folks from the Castle Lake subdivision who was interested in entering into sponsorship for a grant application for work on the Castle Lake dam. They presented a strong case, they put the funding together, they assembled a corporate entity, and they hired an engineering firm. Council heard what they had to say, gave them a list of items to complete, which they did, and last May, Council voted to join in a sponsorship. Mr. Davenport stated that before Council, was the funding agreement with language that had been accepted by both parties. He highlighted a couple of conditions that would protect the Town. The Castle Lake Maintenance and Repair Funding Group, Inc. had committed \$149,800, into an account for the local match if the grant were awarded, which showed good stewardship. The Town would make efforts to fill out the paperwork and shepherd it through the EPD process. He added that the funding group also indicated that they would reimburse the Town for any additional costs incurred. He added that the funding group also placed a 50- year funding commitment to the Town, which would be more than 50-years for maintenance, in perpetuity. Mr. Davenport stated that he believed the document before they expressed the conditions the Town wished to be met. He added that the funding group was an easy group to work with. If approved, he would meet with the funding group to finalize signatures and return the document to the Town for its record.

Mayor Dial shared with Mr. Davenport that the Town did not make the process difficult for Castle Lake, however, would he agree that the Town did ask them to meet several high standards before the final agreement. Mr. Davenport agreed and added that as an example, Castle Lake residents came to the Town several years ago to sponsor a grant to clean up erosion around the lake. The Town declined due to the high liability involved. The residents did their homework, hired an engineer, funded some maintenance work, funded the local match with the anticipation of receiving the grant, and agreed to reimburse all additional costs. He added that all of those steps minimized the Town's liability exposure moving forward.

Mayor Dial asked Mr. Davenport to share the initial timeframe that the residents of Castle Lake approached the Town with the request. Mr. Davenport reported that they initially approached the Town, 10- 12 years prior with a slightly different version of the issue, most recently early 2021. This resulted in the agreement last May.

Council Member Campbell asked if they were awarded the grant and all repairs were made, who would handle the maintenance costs moving forward? Mr. Davenport stated

that the Town's biggest hurdle on the front-end was to ensure that Castle Lake residents were good stewards with the federal funding that would come through the grant.

The local match was assumed. They were required to expend the funding precisely according to the terms of the grant. The Town would be liable if that was not completed properly. They have committed to executing in that fashion. He explained that the Town was more of an overseer. He added that what costs were to be incurred by the Town, the group had agreed to reimburse.

Council Member Furr inquired about inspections. Mr. Davenport stated that the Town already had someone working on its behalf to ensure that the application was properly filled out and submitted to EPD, a cost that would be reimbursed.

A motion was made to approve the Grant Agreement between the Town and the Castle Lake Maintenance and Repair Funding Group, Inc. for the purpose of having the Town assist the Funding Group to obtain grant funding for upgrading and maintaining the dam in Castle Lake.

Motion made by Council Member Furr, Seconded by Council Member Campbell.  
Voting Yea: Council Member Howard.

## **X. NEW BUSINESS**

- XI. PUBLIC COMMENTS:** *The second public comment period is for any issue. Comments are limited to three (3) minutes. Please state your name & address. Comments that require a response may not be answered during this time. The Council or staff may respond at a later date.*

## **XII. STAFF COMMENTS**

Mr. Perkins addressed everyone regarding pickleball courts. He stated that the Redwine Park Master Plan, which included pickleball courts had been a SPLOST project since 2017. It was a lower priority, and SPLOST funding was not acquired at one time, it funneled in slowly. The plan was always to complete the project along with the installation of courts toward the end of SPLOST. That time was now approaching. He added that he had sent Council an email four months ago to begin the discussion, it was met with mixed feedback. To be placed within the FY2023 budget, the concept needed to be turned into a plan. He shared that he reached out to POND, the engineering firm that had worked with the Town through the LCI plan and a traffic study. POND representative, Andrew Kohr was a Park Planner by trade. Mr. Perkins asked for a quote for the Redwine Park Master Plan. The plan may or may not include everything. The budget for the plan was \$350,000. He added that the plan called for eight pickleball courts. They were two tennis courts that could also be utilized as eight pickleball courts. The debate was, did the Town need more tennis courts or just pickleball. He would leave that to the professionals to decide. He assured everyone that he was moving forward to obtain the cost for the Master Plan and that the \$350,000 would be placed in the FY2023 budget. Mayor Dial asked for a fair timeline for the completion of the project, if approved. Mr. Perkins stated that accounting for planning and weather, 1 ½ year. Council Member Howard acknowledged that she did not see a playground on the renderings. Mr. Perkins stated that it was not on the renderings but it

was in the actual plan from the former Recreation Manager, Mitch Bowman. After recently speaking with Mr. Bowman, Mr. Perkins shared that Mr. Bowman suggested flipping the plan to utilize the softball field closer to the parking lot.

He added that he would also check with POND for their advice. Mr. Perkins added that the plan called for parking lot improvements, a playground, the courts, shuffleboard, and beach volleyball. He assured Council that the plan was to move forward.

Council Member Howard shared that the first softball field was a better area and suggested placing picnic tables at the other end and to utilize the large trees at the end of the street.

Mr. Perkins announced that CSX Railroad had notified him that they would be out again this year, beginning March 7<sup>th</sup> through March 11<sup>th</sup> for crossing improvements. The crossings were Senoia Road, Valleywood Road, Tyrone Road, Swanson Road, Sandy Creek, and Milam, and Shamrock Industrial. He stated that CSX offered to repair the industrial park crossing during the weekend, however, there were businesses within the industrial park that operated on the weekends, 24/7. CSX stated regarding the schedule to, “take it or leave it”. Mr. Perkins stated that he would attempt to reach out to one more person tomorrow. The announcement would be released to the public and the industrial park on Monday. Looking back, CSX made similar repairs during April, two years ago. They would repair the industrial park either the weekend before or after the week of March 7<sup>th</sup> – 11<sup>th</sup>. He also inquired if they could repair one side at a time, they said, no. Council Member Campbell asked for clarification regarding the schedule. Mr. Perkins stated that they would begin on one crossing and move to the next, for completion of all in one week.

Mr. Perkins informed everyone that staff was in the middle of the Comprehensive Plan updates and that an online survey was published. He stated that there was an overwhelming response to the survey by middle-aged females. He added that the survey needed more diversity. He stated that Mayor Dial suggested the need for a postcard mailer. The postcards would be mailed to each home soon with the link, hopefully, that would lead to more feedback.

Mr. Perkins also announced that this Saturday, from 9:00 am to 11:00 am, Circa Coffee was hosting their Coffee with a Cop event. He and Chief Mundy would attend as well as six officers for the public to be able to interact with them and ask questions.

### **XIII. COUNCIL COMMENTS**

### **XIV. EXECUTIVE SESSION**

A motion was made to move into Executive Session for one (1) item of threatened litigation.

Motion made by Council Member Furr, Seconded by Council Member Howard.  
Voting Yea: Council Member Campbell.

A motion was made to reconvene.

Motion made by Council Member Furr, Seconded by Council Member Howard.  
Voting Yea: Council Member Campbell.

**XV. ADJOURNMENT**

A motion was made to adjourn.

Motion made by Council Member Howard.  
Voting Yea: Council Member Campbell, Council Member Furr.

The meeting adjourned at 7:42 pm.

By: \_\_\_\_\_ Attest: \_\_\_\_\_  
Eric Dial, Mayor Dee Baker, Town Clerk





# COUNCIL ITEM AGENDA REQUEST FORM

**Department:** Community Development

**Meeting Date:** 03/17/2022

**Staff Contact:** Phillip Trocquet

**Agenda Section:** Public Hearing

## Staff Report:

### Item Description:

### Background/History:

*Applicant East Group Properties, L.P. has submitted a petition on behalf of the owner, Hobgood Family, L.P. for a revision of development plan rezoning petition for parcel 0725-014. This parcel was rezoned from O-I to M-1 (Light Industrial) PIP(Planned Industrial Park) with a specific development plan for movie media production studios and ancillary businesses. This property was also associated with DRI 2830 which reviewed both the studio development plan and mixed use development plan for the 43 acre tract to the north.*

*The applicant's expressed intent is to revise the approved development plan for studios to a development plan for multi-flex light industrial buildings within a planned technology/business park environment. The proposed development also shows the inclusion of a multi-use path to be constructed along the rear property line for further connectivity to northern subdivisions. The proposed development plan reflects 5 such buildings ranging from 102,600 s.f. to 178,200 s.f. A traffic study, rough architectural examples, and visual line of site rendering is included with this development plan.*

### Findings/Current Activity:

*The Atlanta Regional Commission has contacted staff and the applicant to notify us that this project will require a Development of Regional Impact (DRI) review. As such, no official action of approval or denial can be made by Council per O.C.G.A. until said DRI review has been completed.*

**Actions/Options/Recommendations:** *Staff recommends withdrawal of this application.*



# COUNCIL ITEM AGENDA REQUEST FORM

Section X, Item 3.

Department: Administration

## COUNCIL MEETING DATE

March 17, 2022

☐ Workshop ☒ Regular Meeting

☐ Consent Agenda

## STAFF CONTACT

Brandon Perkins, Town Manager

## Staff Report:

### Item Description:

Consideration of a rate adjustment for sanitation services as requested by AMWaste.

### Background/History:

Memo attached.

### Findings/Current Activity:

Is this a  
budgeted item?

Y

☐

N

☒

If so, include budget line number:

### Actions/Options/Recommendations:



February 10, 2022

Town of Tyrone, GA  
Brandon Perkins, Town Manager  
950 Senoia Rd  
Tyrone, Georgia 30290

Re: Annual Rate Adjustment

Dear Brandon,

As you are aware, the cost of goods and services such as fuel, disposal, and Department of Transportation qualified CDL drivers has greatly increased this past year. Unfortunately, we must pass along these costs to the consumer in order to maintain the quality of service expected from you, our customers and our company.

Our agreement for Solid Waste Collection allows for an annual rate adjustment. Effective April 1, 2022, the base rate per home will be adjusted to \$56.07 per quarter. This adjustment is based on the Garbage and Trash Collection subindex of the Consumer Price Index as described in the agreement. I have included a copy of the latest distribution from the Department of Labor.

Additionally, there will be quarterly adjusted fuel surcharge as defined in item 3.20.1 of our agreement. I have included an analysis of the comparison of each quarter in 2021 as a reference. Next quarters billing will include the increase for the latest completed quarter, Q4 of 2021. That adjustment equates to 7.24%.

As our economy continues to improve, and inflation changes over the next twelve months, the adjustment based on the CPI will be reflected in the Q1 2023 quarterly invoice. The fuel surcharge will be adjusted quarterly as per our agreement. We all hope for better days for our Country and your community.

Should you have any questions or desire to discuss this further, please contact me. My information is provided below.

Sincerely,

Michael Cosman  
District Manager - Georgia  
Amwaste of Georgia, LLC  
Phone – 615.838.1748  
[mcosman@amwasteusa.com](mailto:mcosman@amwasteusa.com)

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Amwaste, LLC | 420 West 7<sup>th</sup> Street, West Point, GA 31833 | [AmwasteUSA.com](http://AmwasteUSA.com)

A division of Matter Management Enterprises, LLC

Amwaste, LLC | Amwaste of Louisiana, LLC | Amwaste of Georgia, LLC | Matter Management Birmingham, LLC



March 9, 2022

**To:** Mayor and Council

**CC:** N/A

**From:** Brandon Perkins, Town Manager

**Re:** Rate Adjustment Request from AMWaste

Per Section 3.20 of the Town’s sanitation contract with AMWaste, they are entitled to submit an annual request for a rate increase that is to be reviewed against the rate of inflation and based on the Department of Labor’s Consumer Price Index (CPI) for All Urban Consumers – U.S. City Average – Garbage and Trash Collection. They are also entitled, under section 3.20.1 to an adjusted fuel surcharge. Pursuant to these contract provisions, AMWaste recently submitted a request for a rate adjustment to be effective in April 2022.

The current rate for a single can is \$18.17/month or \$54.51/quarter and the proposed increase will amount to \$18.69/month or \$56.01/quarter, which is a 2.86% increase.

AMWaste is also implementing the fuel surcharge at 7.24%, which will be an additional \$4.06 for customers with a single container and \$4.62 for those with two containers.

Staff realizes, given some of the performance issues the Town has experienced over AMWaste’s first contract year, that approving a rate increase is not a popular idea and seems counterintuitive. However, this is not an arbitrary request from the vendor to simply increase their bottom line. This request is being made based on contract provisions and data reflected by the current economy under which the cost of doing business is rapidly increasing across the board. I reviewed the bid tabulation from the 2020 RFP and AMWaste’s newly proposed rates are still lower than the other bids that were received at the time.

A representative from AMWaste will be in attendance at the meeting to offer additional input and answer any questions you may have before making a decision.

Incorporated 1911



# COUNCIL ITEM AGENDA REQUEST FORM

Section X, Item 4.

Department: Administration

## COUNCIL MEETING DATE

March 17, 2022

☐ Workshop ☒ Regular Meeting

☐ Consent Agenda

## STAFF CONTACT

Brandon Perkins, Town Manager

## Staff Report:

### Item Description:

Consideration to approve updated Local Option Sales Tax (LOST) Certificates of Distribution between Fayette County and its Cities.

### Background/History:

Georgia law, OCGA 48-8-89, requires its cities and counties to negotiate the distribution of sales tax revenue received through the LOST program every ten (10) years. The trigger for this renegotiation is the decennial census.

### Findings/Current Activity:

Representatives from Fayette County and its cities have been working on the 2023 renegotiation for the last several weeks and have agreed to a 48.5% (Fayette County)/51.5% (Fayette Cities) split when the new LOST goes into effect in 2023.

Is this a  
budgeted item?

Y

☐

N

☐

If so, include budget line number:

### Actions/Options/Recommendations:

Staff recommends approval of the updated LOST Certificates of Distribution.



March 17, 2022

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**To:** Mayor and Council

**CC:** Sandra Beach, Finance Manager

**From:** Brandon Perkins, Town Manager

**Re:** Approval of the Local Option Sales Tax (LOST) Certificates of Distribution

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Pursuant to Georgia law, OCGA 48-8-89, you are being asked to consider approval of an updated Certificate of Distribution for Local Option Sales Tax (LOST) revenues between Fayette County and the cities of Peachtree City, Fayetteville, Tyrone, and Brooks. This renegotiation process is required every ten (10) years.

Current distribution is as follows:

Fayette County:	48.5%
Peachtree City:	30.6651%
Fayetteville:	14.2287%
Tyrone:	6.1386%
Brooks:	0.4676%

The proposed distributions, if approved, will be:

Fayette County:	48.5%
Peachtree City:	30.0885%
Fayetteville:	14.9145%
Tyrone:	6.0249%
Brooks:	0.4721%

The municipal distributions represent a pro-rata share based on the 2020 Census.

Authorization and execution of the updated Certificates of Distribution represents a cooperative effort among all parties involved in the negotiations to reach an equitable distribution throughout Fayette County.

Incorporated 1911

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CERTIFICATE OF DISTRIBUTION

TO: State Revenue Commissioner

Pursuant to an Act of the Georgia General Assembly, effective January 1, 1980, relating to Local Sales & Use Taxes, the governing authorities for the qualifying municipalities and the county located within the special district coterminous with the boundaries of Fayette County hereby certify that the proceeds of the combination city/county local sales and use tax generated in such district shall be distributed by the State Revenue Commissioner as follows:

City of <u>Brooks</u>	shall receive	<u>0.4721</u>	%
City of <u>Fayetteville</u>	shall receive	<u>14.9145</u>	%
City of <u>Peachtree City</u>	shall receive	<u>30.0885</u>	%
City of <u>Tyrone</u>	shall receive	<u>6.0249</u>	%
City of _____	shall receive	_____	%
City of _____	shall receive	_____	%
County of <u>Fayette</u>	shall receive	<u>48.5</u>	%

This certificate shall continue in effect until such time as a new certificate shall be executed as provided in said Act.

By executing this schedule, the county and cities, acting through their respective officers, represent that all municipalities lying wholly or partly in the tax jurisdiction have been given an opportunity to show that they are 'qualified municipalities,' as that term is used in the Act, and that all municipalities listed herein as recipients are 'qualified' and so may receive distribution from the proceeds of the tax.

Executed on behalf of the governing authorities of the qualifying municipalities representing not less than a majority of the aggregate population of all qualifying municipalities located within the special district and the governing authority of the county, this \_\_\_\_\_ day of \_\_\_\_\_ 20 22.

\_\_\_\_\_  
MAYOR OF THE CITY OF Brooks

\_\_\_\_\_  
MAYOR OF THE CITY OF Fayetteville

\_\_\_\_\_  
MAYOR OF THE CITY OF Peachtree City

\_\_\_\_\_  
MAYOR OF THE CITY OF Tyrone

\_\_\_\_\_  
MAYOR OF THE CITY OF \_\_\_\_\_

\_\_\_\_\_  
MAYOR OF THE CITY OF \_\_\_\_\_

\_\_\_\_\_  
CHAIRMAN BOARD OF COMMISSIONERS OF  
Fayette COUNTY

Through December 31, 2023



# COUNCIL ITEM AGENDA REQUEST FORM

Section X, Item 5.

Department: Administration

## COUNCIL MEETING DATE

March 17, 2022

☐ Workshop ☒ Regular Meeting  
☐ Consent Agenda

## STAFF CONTACT

Brandon Perkins, Town Manager

## Staff Report:

### Item Description:

Consideration to approve a new ordinance governing Hotel/Motel Excise Tax within Tyrone's jurisdictional limits.

### Background/History:

The Town does not currently have an ordinance in place governing the collection of a hotel/motel excise tax, which would be required to collect such taxes from short term rental properties and any hotels or motels should any open within the Town in the future.

### Findings/Current Activity:

The State of Georgia passed a law in 2021 requiring the collection of hotel/motel taxes on short term rentals in jurisdictions that collect such taxes. Given the rise in popularity of short term rentals and the possibility that Tyrone could see the development of at least one hotel or motel in the future, staff believes it is prudent to move forward on implementing an excise tax. This ordinance will do just that.

Is this a  
budgeted item?

Y

☐

N

☒

If so, include budget line number:

### Actions/Options/Recommendations:

Staff recommends approval of the new ordinance as presented.



STATE OF GEORGIA

TOWN OF TYRONE

ORDINANCE

NO. 2022-\_\_

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES FOR THE TOWN OF TYRONE, GEORGIA; TO LEVY AND ASSESS A TAX ON TOURIST ACCOMMODATIONS IN THE TOWN OF TYRONE; TO ESTABLISH PROVISIONS PERTAINING TO COLLECTION OF SAID TAX; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROMOTE THE PUBLIC HEALTH, SAFETY AND WELFARE, AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF TYRONE AND IT IS HEREBY ENACTED PURSUANT TO THE AUTHORITY OF THE SAME THAT THE CODE OF ORDINANCES OF THE TOWN OF TYRONE AS IT PERTAINS TO TAXATION (ARTICLE II OF CHAPTER 22), BE AMENDED AS FOLLOWS:

**Section 1.** By adding a new Division 6, pertaining to “Hotel/Motel Excise Tax”, to Article II of Chapter 22, to be numbered and read as follows:

**DIVISION 6. HOTEL/MOTEL EXCISE TAX.**

**Sec. 22-140. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Guestroom* shall mean a room occupied or intended, arranged or designed for occupancy by one or more occupants and used for that purpose and where overnight occupancy is allowed.

*Hotel/motel* shall mean any tourist accommodation.

*Monthly period* shall mean any calendar month of any year.

*Occupant* shall mean any person who, for a consideration, uses, possesses or has the right to use or possess any guestroom in a hotel under any lease, concession, permit, right of access, license to use or other agreement or otherwise.

*Operator* shall mean any person operating a hotel (as defined in this division) in the Town of Tyrone, including but not limited to the owner or proprietor of the premises, lessee, sub lessee, lender in possession, or any other person otherwise operating a hotel.

*Permanent resident* shall mean any occupant as of a given date who has or shall have occupied or shall have the right of occupancy of any guestroom in a hotel for at least 30 consecutive days next preceding that date. The right of occupancy for at least 30 consecutive days is clearly established through the advance payment of 30 days' rent or a lease that has been signed in excess of 30 days.

*Rent* shall mean the consideration received for occupancy valued in money whether received in money or otherwise, including all receipts, cash, credits and property

or services of any kind or nature, and also the amount for which credit is allowed by the operator to the occupant, without any deduction therefrom.

*Tax* shall mean the tax imposed by this division.

*Tourist accommodation* shall mean any property, facility, or structure providing accommodations for value to the public for not more than 30 consecutive days.

*Town* shall mean the Town of Tyrone, Georgia, and, variously, the incorporated territory of the Town of Tyrone, wherein the Town of Tyrone, Georgia, is empowered to impose this tax by O.C.G.A. § 48-13-50 *et seq.*

*Town manager* shall mean the duly appointed town manager of the Town of Tyrone, Georgia, or his or her designee.

**Sec. 22-141. Imposition and rate of tax.**

Pursuant to O.C.G.A. § 48-13-51(a)(1), there is hereby levied and assessed, and there shall be paid, a tax of three percent of the rent for every occupancy of a tourist accommodation in which rooms, lodgings, or accommodations are furnished for value in the town. The tax imposed by this division shall be paid upon any occupancy on and after April 1, 2022, although such occupancy is had pursuant to a contract, lease or other arrangement made prior to such date. Where rent is paid, or charged or billed, or falls due on either a weekly, monthly or other less than 30 day basis, the rent so paid, charged, billed or falling due shall be subject to the tax herein imposed to the extent that it covers any portion of the period from April 1, 2022, and any monthly period thereafter. The

proceeds of the lodging tax will be used in accordance with O.C.G.A. § 48-13-51(a)(2).

**Sec. 22-142. Persons liable for tax; extinguishment of liability.**

Every person occupying a guestroom in a tourist accommodation in the town is liable for the tax. This liability is not extinguished until the tax has been paid to this town except that a receipt from an operator naming a place of business in this town or from an operator who is authorized by the town manager under such rules and regulations as he or she may prescribe, to collect the tax and who is, for the purposes of this division, regarded as an operator maintaining a place of business in the town, which receipt is given to the occupancy pursuant to section 22-143, is sufficient to relieve the occupancy from further liability for the tax to which the receipt refers.

**Sec. 22-143. Collection of tax by operator; receipt to occupant; rules for collection schedules.**

Every operator maintaining a place of business in the town, as provided in the next preceding section, and renting guest rooms in the town, not exempted under this division, shall, at the time of collecting rent from the occupant and on demand shall give to the occupant a receipt therefore. In all cases of transactions upon credit or deferred payment, the payment of tax to the operator may be deferred in accordance therewith, and the operator shall be liable therefore at the time and to the extent that such credits are

incurred in accordance with the rate of tax owing on the amount thereof. The town manager shall have the power to adopt rules and regulations prescribing methods and schedules for the collection and payment of the tax.

**Sec. 22-144. Unlawful advertising regarding tax.**

It is unlawful for any operator to advertise or hold out or state to the public or to any guest directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rental of the guest room, or that, if added, it or any part thereof, will be refunded.

**Sec. 22-145. Exemptions.**

No tax shall be imposed hereunder:

- (1) Upon fees, rents, or charges made for continuous use of any tourist accommodation after the first 30 days of continuous occupancy.
- (2) Upon the fees or charges for any tourist accommodation furnished for a period of one or more days for use by state or local government officials or employees when traveling on official business.
- (3) Upon charges made for any accommodations provided to any persons who certify by affidavit that they are staying in such room, lodging, or accommodation as a result of the destruction of their home or residence by fire or other casualty.

**Sec. 22-146. Registration of operator; form and contents; execution; certificate of authority.**

Every person engaging or about to engage in business as an operator of a tourist accommodation in the town shall immediately register with the town manager on a form provided by the town manager. Persons engaged in such business must so register not later than 15 days after the date this division becomes effective and the tax is imposed as set forth in the ordinance, but such privilege of registration after the imposition of such tax shall not relieve any person from the obligation of payment or collection of tax on and after the date of imposition thereof, regardless of registration. Such registration shall set forth the same name under which such person transacts business or intends to transact business, the location of his or her place or places of business and such other information which would facilitate the collection of the tax as the town manager may require. The registration shall be signed by the owner if a natural person; in case of ownership by an association or partnership, by a member or partner; in the case of ownership by a corporation, by an executive officer or some person specifically authorized by the corporation to sign the registration. The town manager shall, after such registration, issue without charge a certificate of authority to each operator to collect the tax from the occupant. A separate registration shall be required for each place of business of an operator. Each certificate shall state the name and location of the business to which it is applicable and shall prominently display therein so as to be seen and to come readily to

the notice of all occupants and persons seeking occupancy. Such certificates shall be non-assignable and nontransferable and shall be returned immediately to the town manager upon the cessation of business at said location.

**Sec. 22-147. Determination; returns and payments.**

- (a) *Due date of taxes.* The tax imposed by this division shall become due and payable from the occupant at the time of occupancy of any tourist accommodation in the town. All amount of such taxes collected by any operator shall be due and payable to the town manager monthly on or before the twentieth day of every month next succeeding such respective monthly period as set forth in this ordinance.
- (b) *Return; time of filing; persons required to file; execution.* On or before the twentieth day of the month following each monthly period a return shall be filed with the town manager in such form as the town manager may prescribe, by every operator, liable for the payment of tax hereunder. For purposes of this section, a return shall be deemed filed if postmarked on the twentieth day, or, if the twentieth day falls upon a holiday recognized by the State of Georgia or upon a Saturday or Sunday, then a return postmarked on the next business day shall be regarded as timely filed.
- (c) *Contents of return.* All returns shall show the gross rent, rent from permanent residents, taxable rent, amount of tax collected or otherwise due for the related period, and such other information as may be required by the town manager.

**Sec. 22-148. Delivery of return and remittance.**

The person required to file the return shall deliver the return, together with the remittance of the net amount of tax due to the town at 950 Senoia Road, Tyrone, Georgia 30290.

**Sec. 22-149. Collection fee allowed operators.**

Operators collecting the tax shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and paying the amount due, if said amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions as provided in O.C.G.A. § 48-13-52, as now or hereafter amended.

**Sec. 22-150. Deficiency determinations.**

- (a) *Recomputation of tax; authority to make; basis of recomputation.* If the town manager is not satisfied with the return or returns of the tax or the amount of the tax required to be paid to the town by any person, he or she may compute and determine the amount required to be paid upon the basis of any information within his or her possession or that may come into his or her possession. One or more than one deficiency determinations may be made of the amount due for one or more than one monthly period.
- (b) *Interest on deficiency.* The amount of the determination, exclusive of penalties, shall bear interest at the rate of one percent per month, or fraction thereof from the



twentieth day after the close of the monthly period for which the amount or any portion thereof should have been returned until the date of payment.

(c) *Offsetting of overpayments.* In making a determination the town manager may offset overpayments, for a period or periods, against underpayments, for another period or periods, against penalties, and against the interest on underpayments. The interest on underpayments shall be computed in the manner as set forth in subsection (b) of this section.

(d) *Penalty for fraud or intent to evade.* If any part of the deficiency for which a deficiency determination is made due to fraud or an intent to evade any provisions of this division or other authorized rules and regulations, a penalty of 50 percent of the total amount of taxes due, exclusive of penalties, shall be added thereto in addition to the other penalties provided in this division.

(e) *Notice of town manager's determination; service of.* The town manager, or his or her designated representative, shall give to the operator written notice of his or her determination. The notice may be served personally or by mail; if by mail such service shall be addressed to the operator at his or her address as it appears in the records of the town manager. In case of service by mail of any notice required by this division, the service is complete at the time of deposit in the United States Post Office.

(f) *Time within which notice of deficiency determination to be mailed.* Except in the case of fraud, intent to evade this division or authorized rules or regulations, or failure to make a return, every notice of a deficiency determination shall be mailed within three

years after the 20th day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period should last expire.

**Sec. 22-151. Determination if no return made.**

(a) *Estimate of gross receipts.* If any person fails to make a return, the town manager shall make an estimate of the amount of the gross receipts of the person, or as the case may be, of the amount of the total rentals in the town which are subject to the tax. The estimate shall be made for the period or periods in respect to which the person failed to make the return and shall be based upon any information which is or may come to the possession of the town manager. Upon the basis of this estimate the town manager shall compute and determine the amount required to be paid the town, adding to the sum thus determined any applicable penalties. One or more determinations may be made for one or for more than one period.

(b) *Manner of computation; offsets; interest.* In making a determination the town manager may offset overpayments for a period or penalties, and against the interest on the under payments. The interest on under payments shall be computed in the manner set forth in this division.

(c) *Interest on amount found due.* The amount of the determination, exclusive of penalties, shall bear interest at the rate of one percent per month, or fraction thereof, from the twentieth day of the month following the monthly period, for which the amount or

any portion thereof should have been returned, until the date of payment.

(d) *Penalty for fraud or intent to evade.* If the failure of any person to file a return is due to fraud or an intent to evade this division or rules and regulations, a penalty of 50 percent of the amount required to be paid by the person, exclusive of penalties, shall be added thereto in addition to the other penalties provided in this division.

(e) *Giving of notice; manner of service.* Promptly after making his or her determination, the town manager shall give the person written notice to be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

**Sec. 22-152. Penalties and interest for failure to pay tax.**

(a) When any operator fails to make any return or to pay the full amount of the tax imposed by this division, a penalty shall be added to the tax in the amount of three percent or three dollars, whichever is greater, if the failure is for not more than 30 days. An additional penalty of three percent or three dollars, whichever is greater, shall be added for each additional 30 days or fraction of 30 days during which the failure continues. The penalty for any single violation under this section shall not exceed 25 percent or \$25.00 in the aggregate, whichever is greater. The penalty imposed herein shall be in addition to the tax, any other penalties, and interest on the unpaid tax as set forth in this division.

(b) The amount of the unpaid tax, exclusive of penalties, shall bear interest at the rate

of one percent per month, or fraction thereof, from the 20th day of the month following the monthly period, for which the amount or any portion thereof should have been returned, until the date of payment.

**Sec. 22-153. Collection of tax.**

(a) *Security, exaction by town manager; amount; sale of; notice of sale; return of surplus.* The town manager, whenever he or she deems it necessary to insure compliance with this division, may require any person subject thereto to deposit with him or her such security as the town manager may determine. The amount of the security shall be fixed by the town manager but shall not be greater than twice the person's estimated average liability for the period for which he or she files returns, determined in such a manner as the town manager deems proper, or \$5,000.00, whichever amount is the lesser. The amount of the security may be increased by the town manager subject to the limitations herein provided. The town manager may sell the security at public auction, with the approval of the mayor and council, if it becomes necessary so to do in order to recover any tax or any amount required to be collected, interest or penalty due. Notice of the sale may be served upon the person who deposited the security personally or by mail; if by mail, service shall be made in the manner prescribed for service of a notice of a deficiency determination and shall be addressed to the person at his address as it appears in the records of the town manager. Upon any sale, any surplus above the amounts due shall be returned to the person who deposited the security.

(b) *Action for tax; time for.* At any time within three years after any tax or amount of tax required to be collected becomes due and payable and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, the town manager may bring action in the courts of this state, or any other state, or of the United States in the name of the town to collect the amount delinquent together with penalties and interest, court fees, filing fees, attorney's fees and other legal fees incident thereto. The bringing of such an action shall not be a prerequisite for the issuance of a fi. fa. under the provisions of subsection (g) hereof.

(c) *Duty of successors or assignees of operator to withhold tax from purchase money.* If any operator liable for any amount under this division sells out his or her business or quits the business, his or her successors or assigns shall withhold a sufficient portion of the purchase price to cover such amount until the former owner produces a receipt from the town manager showing that he or she has been paid or a certificate stating that no amount is due.

(d) *Liability for failure to withhold; certificate of notice of amount due; time to enforce successor's liability.* If the purchaser of a business fails to withhold purchase price as required in subsection (c) hereof, the purchaser shall become personally liable for the payment of the unpaid taxes. Within 30 days after receiving a written request from the purchaser for a certificate, the town manager shall either issue the certificate or mail notice to the purchaser at the address as it appears on the records of the town manager of the amount that must be paid as a condition of issuing the certificate. The time within

which the obligation of a successor may be enforced shall start to run at the time the operator sells out his or her business or at the time that the determination against the operator becomes final, whichever event occurs the later. Any purchaser that fails to withhold from the purchase price the amount of unpaid taxes or fails to pay any amount of such tax for which it becomes liable as a result of said purchase shall not be permitted to obtain an occupation tax certificate or alcoholic beverage license until all such taxes, including all penalties and interest, have been paid in full.

(e) *Tax credit, penalty or interest paid more than once or erroneously or illegally collected.* Whenever the amount of any tax, penalty, or interest has been paid more than once, or has been erroneously or illegally collected or received by the town under this division, it may be offset as provided in section 22-150(c). If the operator or person determines that he or she has overpaid or paid more than once, which fact has not been determined by the town manager, he or she will have three years from date of payment to file claim in writing stating the specific ground upon which claim is founded. The claim shall be audited by the town. If the claim is approved by the town manager, the excess amount paid the town may be credited on any amounts then due and payable from, the person by whom it was paid, or his or her administrators or executors.

(f) *Lien for taxes.* The lien of taxes collectible under the provisions of this division shall date from January 1 of the year in which the taxes become due, and the lien of such taxes shall be a special lien on the property upon which the same are due and a general lien against all property of the taxpayer owing same.

- (g) *Town manager authorized to issue fieri facias.* The town manager is hereby authorized to issue a fieri facias (fi. fa.) for execution and levy to satisfy the amount of any tax, penalty, or interest due but not paid under the provisions of this division.
- (h) *Eligibility for occupational tax and/or alcoholic beverage license.* Any person who fails to pay the tax imposed herein to the town or fails to pay any amount of such tax required to be collected and paid to the town shall not be permitted to obtain or renew their occupation tax certificate or alcoholic beverage license until all such taxes, including all penalties and interest, have been paid in full.

**Sec. 22-154. Administrator of excise tax.**

- (a) *Authority of town manager.* The town manager shall administer and enforce the provisions of this division for the levy and collection of the tax imposed by this division.
- (b) *Rules and regulations.* The town manager shall have the power and authority to make and publish reasonable rules and regulations not inconsistent with this division, other laws or ordinances of the town and the state, or the constitution of this state or the United States for the administration and enforcement of the provisions of this division and the collection of the taxes hereunder.
- (c) *Records required from operators, etc.; form.* Every operator renting guest rooms in the town to a person shall keep such records, receipts, invoices, and other pertinent papers in such form as the town manager may require.
- (d) *Examination of records; audits.* The town manager or any person authorized in

writing by the town manager may examine the books, papers, records, financial reports, equipment and other facilities of any operator renting guest rooms to a person and any operator liable for the tax, in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.

(e) *Authority to require reports; contents.* In administering the provisions of this division, the town manager may require the filing of reports by any person or class of persons having in such person's or persons' possession or custody information relating to rentals of guest rooms which are subject to the tax. The reports shall be filed with the town manager when required by the town manager and shall set forth the rental charged for each occupancy, the date or dates of occupancy, and such other information as the town manager may require.

(f) *Disclosure of business of operators, etc.; limitations on rule.* The town manager or any person having an administrative duty under this division shall not make known in any manner the business affairs, operations or information obtained by an audit of books, papers, records, financial reports, equipment and other facilities of any operator or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person not having such administrative duty under this division, except in case of judicial proceedings or other proceedings necessary to collect the tax hereby levied and assessed, or as required by the Georgia



Open Records Act. Successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, may be given information as to the items included in the measure and amount of unpaid tax or amounts of tax required to be collected, interest and penalties.

**Sec. 22-155. Violations.**

(a) Any person violating any of the provisions of this division shall be deemed guilty of an offense and upon conviction thereof shall be punished as provided in Section 1-17 of the Code of Ordinances of the Town of Tyrone. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this division is committed, continued, or permitted by such person, and shall be punished accordingly.

(b) Any operator or other person who fails to register as required herein, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the town manager or who renders a false or fraudulent return shall be deemed guilty of an offense and upon conviction thereof shall be punished as aforesaid. Any person required to make, render, sign, or verify any report who makes any false or fraudulent report, with intent to defeat or evade the termination of an amount due required by this division to be made shall be deemed guilty of an offense and upon convictions thereof shall be punished as aforesaid.

**Sec. 22-156. Proceeds of tax.**

The proceeds of the hotel, motel, tax will be used in accordance with the provisions of O.C.G.A. 48-13-51(a)(2).

**Secs. 22-157 through 22-164. RESERVED.**

**Section 2.** This ordinance shall become effective immediately upon its adoption by the Mayor and Council of the Town of Tyrone.

**Section 3.** All other ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

**Section 4.** In any event any section, subsection, sentence, clause or phrase of this Ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect other sections, subsections, sentences, clauses or phrases of this Ordinance, which shall remain in full force and effect as if the section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not a part thereof. The Mayor and Council hereby declare that they would have passed the remaining parts of this Ordinance if they had known that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

**SO ENACTED** this \_\_\_\_ day of \_\_\_\_\_, 2022.

MAYOR AND COUNCIL OF  
THE TOWN OF TYRONE

By: \_\_\_\_\_  
Eric Dial, Mayor

(SEAL)

ATTEST:

\_\_\_\_\_  
Dee Baker, Town Clerk

Approved as to form:

\_\_\_\_\_  
Town Attorney



# COUNCIL ITEM AGENDA REQUEST FORM

**Department:** Public Works

**Meeting Date:** 3/17/2022

**Staff Contact:** Scott Langford

**Agenda Section:** New Business

## Staff Report:

### Item Description:

Consideration to proceed with Recommendations of the Intersection Study at Palmetto, Senoia and Tyrone Road

### Background/History:

On November 21, 2021, Town Council approved to award Pond and Company, Incorporated the 2021 Transportation Engineering Services project. On December 4, 2021, Town Council approved to award Pond and Company, Incorporated Task Order 3 for the Intersection Study at Palmetto, Senoia and Tyrone Road. This study was performed to determine if intersection improvements were warranted and what type of improvements were best suited for the intersection

### Findings/Current Activity:

The traffic study was completed, and it examined many variables including traffic volume, crash data, projected traffic growth, pedestrian and bicycle volume, line of sight, and current Level of Service (LOS). Utilizing this data, the study analyzed LOS for the No Build, 2027, and 2047 scenarios. The recommendation of the study demonstrated warrants for a roundabout at the intersection.

**Is this a budgeted item?** \_\_\_\_\_ **If so, include budget line number:** \_\_\_\_\_

### Actions/Options/Recommendations:

Staff request approval to proceed with the study's recommendation for a roundabout intersection at Palmetto/Senoia/Tyrone roads. By proceeding, staff will obtain and present design fees to Council for approval.



# COUNCIL ITEM AGENDA REQUEST FORM

**Department:** Public Works

**Meeting Date:** 3/17/2022

**Staff Contact:** Scott Langford

**Agenda Section:** New Business

## Staff Report:

### Item Description:

Consideration to proceed with Recommendations of the Intersection Study at Crabapple, Senoia and Rockwood Road

### Background/History:

On November 21, 2021, Town Council approved to award Pond and Company, Incorporated the 2021 Transportation Engineering Services project. On December 4, 2021, Town Council approved to award Pond and Company, Incorporated Task Order 2 for the Intersection Study at Crabapple, Senoia and Rockwood Road. This study was performed to determine if intersection improvements were warranted and what type of improvements were best suited for the intersection

### Findings/Current Activity:

The traffic study was completed, and it examined many variables including traffic volume, crash data, projected traffic growth, pedestrian and bicycle volume, line of sight, and current Level of Service (LOS). Utilizing this data, the study analyzed LOS for the No Build, 2027, and 2047 scenarios. The recommendation of the study demonstrated warrants for an All Way Stop conversion at the intersection along with sight distance improvements, shoulder improvements, and sign/striping improvements.

**Is this a budgeted item?** \_\_\_\_\_ **If so, include budget line number:** \_\_\_\_\_

### Actions/Options/Recommendations:

Staff request approval to proceed with the study's recommendation for an all way stop intersection. By proceeding, staff will obtain and present design fees to Council for approval.