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**Sent:** Wednesday, July 21, 2021 4:57 PM  
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**Subject:** RE: Village of BHI - G.O. Bond Application

Our firm does not believe G.S. 160A-209(c)(27) prohibits the Village from issuing general obligation bonds or using property taxes to pay debt service on them, and will render an unqualified approving opinion at closing of the proposed bonds.

As you note, G.S. 159-48(b)(23) expressly authorizes GO bonds for this purpose. Article 16 of Chapter 160A authorizes the Village to acquire and operate public transportation systems and (subject to other statutory provisions) to finance them by levying taxes, borrowing money and appropriating revenues. G.S. 160A-209(b)(1) authorizes the Village to levy property taxes without limit to pay GO bonds of any purpose.

The only question is whether G.S. 160A-209(c)(27) prevents levying property taxes for payment of debt service on the portion of these GO bonds used to purchase the ferries. After considering the interplay and purposes of these statutes and the limited legislative history on the exclusion of ferries from (c) (27), our firm conclusion is that it does not. We do think that provision (absent compliance with G.S. 160A-209(e) as described below) prohibits the use of property tax revenues for the operation or purchase of ferries, which subject is not relevant to our opinion.

G.S. 160A-209(e) authorizes the Village to levy taxes without limit for any purpose for which it may appropriate money, if approved by referendum. In an abundance of caution with respect to our opinion (and to allow property tax to be used for operating the ferries), we intend to modestly modify our usual form of ballot and referendum procedures to comply with that statute.

We would be happy to discuss if that would be helpful.

**From:** Tony L. Blalock <[Tony.Blalock@nctreasurer.com](mailto:Tony.Blalock@nctreasurer.com)>  
**Sent:** Thursday, July 15, 2021 10:35 AM  
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**Subject:** Village of BHI - G.O. Bond Application  
**Importance:** High

Re: Village application for GO bonds not to exceed \$54.0 million for purchase of ferry transportation system

Dear Chris and Zach,

After reviewing Mayor Sayre's letters to Sharon Edmundson dated May 3, 2021 and May 27, 2021 and Mayor Sayre's letter to Tim Romocki, State Treasurer Folwell and Sharon Edmundson dated May 3, 2021, we have additional questions and need further clarification on the following issue raised by the Village.

We note that the Village has set forth its opinion that each component of the “ferry system” is an integral part of the whole system, and that the ferry system meets the definition of a “public transportation system”, a type of “public enterprise” that a municipality is authorized to acquire, own and operate. In addition, we have noted the conflict between

- G.S. 159-48(b)(23) permitting the issuance of general obligation bonds (secured by a pledge of the taxing power of the issuing unit) for the purpose of providing public transportation facilities, including ferries, and
- G.S. 160A-209(c)(27), excluding public transportation by ferry from the permitted purposes for which a city may levy property taxes.

The Village’s submitted application seeks approval to issue general obligation bonds.

How does the Village Bond Counsel propose to work through this conflict in the statutes?

Before moving forward with the application, LGC staff will need an opinion of the Bond Counsel that explains how this conflict can be resolved and gives LGC staff assurance that general obligation bonds may in fact be utilized for the Village’s proposal.

Otherwise, the Village will need to submit an amended application and a companion Bond Counsel’s opinion proposing an alternative financing vehicle(s) as appropriate.

Thank you for your consideration and we look forward to your response.

With Best Regards,  
Tony

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