

**State Water Infrastructure Authority**  
**Meeting Date: December 8, 2021**  
**Agenda Item F**  
**Designation of Town of Spring Lake under Identification Criterion 1**

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**Division of Water Infrastructure Staff Report**

**Background**

General Statute 159G-45 directs the State Water Infrastructure Authority (Authority) and Local Government Commission (LGC) to utilize an assessment and review process to identify distressed units, to develop evaluation criteria for grants from the Viable Utility Reserve (VUR) and, at their discretion, impose specific performance measures or conditions on any grant awarded from the VUR.

The assessment and review process has been implemented to identify distressed units. There are four identification Criteria established by the Authority and LGC. The four Identification Criteria are:

1. Under final control of the LGC
2. Two consecutive years of missing annual audits
3. Assessment Criteria Score
4. Other information

The Town of Spring Lake, in Cumberland County, North Carolina, was originally designated distressed under Identification Criterion 3 in April 2021 following approval by both the Authority and LGC, based on a total score of 10 (scorecard and designation letter attached), which exceeds the threshold for LGUs operating both water and wastewater systems.

During its October 2021 meeting, the LGC passed a resolution to “Impound the Books and Assume Control of the Financial Affairs of the Town of Spring Lake Pursuant to N.C. Gen. Stat. 159-181(c)” which would qualify the designation of the Town under Criterion 1. Designation under Identification Criterion 1 would allow for the use of an Emergency Operating Grant from the VUR if needed for operation of the utilities to protect human health and the environment. The LGC plans to vote separately on designation at its December 7, 2021 meeting. At this time there are no imminent needs known for an EOG, though an evaluation of the current utility conditions is underway.

**Staff Recommendation**

Staff recommends the Authority designate the Town of Spring Lake as distressed under Identification Criterion 1, consistent with the resolution passed by the Local Government Commission on October 5, 2021 (also attached) and any action taken by the LGC during their December 7, 2021 meeting.

## Unit Assessment Criteria Scorecard

**Unit Name: Spring Lake**

**Total Score: 10**

**Type of System (Water/Sewer): BOTH**

As required by Session Law 2020-79 (SL 2020-79). The Local Government Commission (LGC) and State Water Infrastructure Authority (Authority) have developed criteria to identify local governments that may be struggling to provide water and/or sewer services. Assessment criteria include parameters required by the statute, infrastructure and organizational issues, and indicators of financial strain. This score card shows the points your unit scored and the data values used to determine those points. The attached Unit Scorecard Explanation provides additional information about each of the parameters that contribute to the score. Units providing both water and sewer service and scoring 9 or more points, or units providing only a single service and scoring 8 or more points are considered at risk of being designated distressed under the new law.

Statutory Points				
Criteria	Service Population	Debt Service Coverage Ratio	Transfers Out	Transfers In
Points Scored		1	1	
Value Used	12284	(0.02)	5 Transfers	0 Transfers

Infrastructure/Organizational Points									
Criteria	Afford-ability	UAL Control - W/S only	DW Compliance	WW / CS Compliance	Flow Moratorium	DW Pop / Mile	Sewer Pop / Mile	Rate (2019 inside) \$/5000 gal	Revenue Outlook
Points Scored	1	3							
Value Used	5	Control: 1 Financial: 1				147	160	DW: \$36.55 WW: \$39.00 Combined: \$75.55	Population Change: -6.24% (also considers rates)

Financial Points						
Criteria	Surplus (deficit) w/ Debt	No Debt DSCR Test	% Depreciated	Operating Margin	Quick Ratio	Receivables Ratio
Points Scored	2		1	1		
Value Used	Surplus w/Debt: \$(242,326) W/\$1Million Test if No Debt:		52.85%	(0.11)	10.1	2019 Ratio: 1.9 Trend: 0.0

ROY COOPER

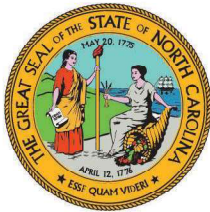
Governor

DIONNE DELLI-GATTI

Secretary

KIM H. COLSON

Director



NORTH CAROLINA  
Environmental Quality

April 16, 2021

Mayor Larry G. Dobbins  
Town of Spring Lake  
300 Ruth Street  
Spring Lake, NC 28390

RE: Viable Utility – Distressed Unit Designation  
SL 2020-79 Requirements

Dear Mayor Dobbins:

This is in follow up to the notice we provided via our February 23, 2021 letter indicating Town of Spring Lake was proposed for being designated as “distressed” in accordance with NCGS 159G-45 regarding the new viable utility statutes. The State Water Infrastructure Authority **approved** the designation of Town of Spring Lake as distressed during their April 14, 2021 meeting. We are again sharing the background information regarding the new legislation and an update on activities related to requirements.

[Session Law 2020-79 \(SL 2020-79\)](#) was enacted July 1, 2020 to foster the viability of water and wastewater operations across the state by identifying distressed local government units and providing a process for developing viable water/sewer utilities. In accordance with NCGS 159G-45, the Local Government Commission (Commission) and the State Water Infrastructure Authority (Authority) designated Town of Spring Lake as a distressed unit on February 2, 2021 and April 14, 2021 respectively, under this legislation and subject to specific requirements. This notice is to make you aware of the designation of Town of Spring Lake as a distressed unit and your responsibility to meet the statutory requirements. Please note that this notice is being shared with your legislative delegation.

Several critical areas for determining when a water/sewer utility is considered a distressed unit were outlined in SL 2020-79. Using those provisions, the Commission and the Authority have worked together to adopt assessment criteria comprising financial, organizational and infrastructure components. The Commission and Authority have designed a process to identify distressed units and work with them to determine each unit’s current conditions, consider viable options that may be available, and work with the unit on the implementation of long-term solutions.



North Carolina Department of Environmental Quality | Division of Water Infrastructure  
512 N. Salisbury Street | 1633 Mail Service Center | Raleigh, North Carolina 27699-1633  
919.707.9160

The Commission and the Authority use the following Identification Criteria for identifying distressed units:

1. A unit whose fiscal affairs are under the control of the Commission pursuant to its authority granted by G.S. 159-181 (“under Commission fiscal control”), or
2. A unit that has not submitted its annual audits to the Commission for the last two (2) fiscal years as required by G.S. 159-34, or
3. A unit with a total assessment criteria score that:
  - a. Equals or exceeds 9 for units providing both drinking water and wastewater services, or
  - b. Equals or exceeds 8 for units providing only one service, either drinking water or wastewater, or
4. A unit for which other information is available to or known by the Commission or the Authority that reflects and is consistent with, but does not expressly appear in, the assessment criteria to account for situations in which the assessment criteria score does not wholly or accurately reflect a system’s level of risk due to the limitations of available data.

**Town of Spring Lake has been identified as a distressed unit by meeting Identification Criteria 3 listed on the prior page. As indicated in the letter mailed to you in February, Town of Spring Lake has an assessment score of 10.**

While there are statutory requirements for distressed units, SL 2020-79 also provides opportunities in continuing to move forward on long-term solutions. The statutory requirements of distressed units are defined in SL 2020-79 and provided below:

1. Conduct an asset assessment and rate study, as directed and approved by the Authority and the Commission.
2. Participate in a training and educational program approved by the Authority and the Commission for that distressed unit. Attendance is mandatory for any governing board members and staff whose participation is required by the Authority and the Commission.
3. Develop an action plan, taking into consideration all of the following:
  - a. A short-term and a long-term plan for infrastructure repair, maintenance, and management.
  - b. Continuing education of the governing board and system operating staff.
  - c. Long-term financial management to ensure the public water system or wastewater system will generate sufficient revenue to adequately fund management and operations, personnel, appropriate levels of maintenance, and
  - d. Any other matters identified by the Authority or the Commission.

Funding provided in the Viable Utility Reserve established in SL 2020-79 may be available to help conduct an asset assessment and/or a rate study if needed to meet the requirements, as well as to conduct merger/ regionalization/de-centralization evaluations in the development of



Mayor Dobbins

April 16, 2021

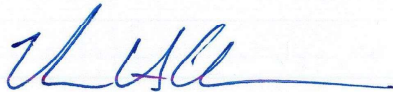
Page 3

an action plan to ensure a long-term, viable water utility for your community. The grant application process is under development and will be shared with you as soon as it is available. Once the requirements, including the short- and long-term plans, are determined to be completed, Town of Spring Lake will no longer be identified as a distressed unit during the remainder of the review cycle.

The Division is developing orientation and training materials to help guide you in meeting the requirements of this program. We will contact you to schedule the initial orientation and discuss next steps. Additional information about the Viable Utilities program is available on the Division's website at <https://deq.nc.gov/node/85889>.

Should you have any questions, please contact Susan Kubacki, with the Division of Water Infrastructure at 919-707-9181, or Sharon Edmundson, with the Department of State Treasurer at 919-814-4300.

Sincerely,



Kim H. Colson, PE  
Chair State Water Infrastructure Authority  
Director, Division of Water Infrastructure  
Department of Environmental Quality



Sharon Edmundson  
Secretary, Local Government Commission  
Deputy Treasurer  
Department of State Treasurer

e/c Local Government Commission  
State Water Infrastructure Authority Board  
State Legislative Delegation





STATE AND LOCAL GOVERNMENT FINANCE DIVISION  
AND THE LOCAL GOVERNMENT COMMISSION

SHARON EDMUNDSON  
DEPUTY TREASURER

RESOLUTION TO IMPOUND THE BOOKS AND ASSUME CONTROL OF  
THE FINANCIAL AFFAIRS OF THE TOWN OF SPRING LAKE,  
PURSUANT TO N.C. Gen. Stat. § 159-181(c)

WHEREAS, the staff of the Local Government Commission (the "Commission") has advised officials and the Board of Aldermen (the "Board") of the Town of Spring Lake (the "Town") of their responsibilities for improving the financial operations and position of the Town, and for compliance with the budget and fiscal control practices as required by the Local Government Budget and Fiscal Control Act (Chapter 159, Article 3, of the General Statutes of North Carolina) (N.C.G.S.); and

WHEREAS, the Town has failed to comply with the provisions of N.C.G.S. § 159-8 in prior fiscal years by permitting the expenditure of moneys not included in the adopted General Fund budget ordinance; and

WHEREAS, the staff of the Commission has advised officials and the Board of the Town that the Town has allowed its General Fund to fall into a deficit position; and

WHEREAS, the staff of the Commission has advised and warned officials and the Board of the Town of circumstances for which the Commission may intervene with regard to a municipality that fails or refuses to improve the financial operations of the Town, fails to comply with budget and fiscal control laws, or is in danger of defaulting on future debt service payments; and

WHEREAS, under N.C.G.S. § 159-181(c) after notice and warning to the Town, the Commission may assume full control of all financial affairs of any unit of government that willfully or negligently fails or refuses to comply with the provisions of N.C.G.S. Chapter 159, or in the opinion of the Commission, will default on a future debt service payment if its financial policies and practices are not improved; and

WHEREAS, the Town has failed to comply with N.C.G.S. 159-148 by failing to secure Commission approval of a \$1,000,000 loan with the South River Electric Membership Corporation entered into on October 28, 2020; and

WHEREAS, the Town has \$221,385.21 in principal and interest requirements in November 2021 as follows:

<u>Principal and Interest</u>	<u>Description</u>	<u>Due</u>	<u>Due To</u>
\$160,845.00	Streets	11/7/2021	Branch Banking & Trust
\$49,676.20	Wastewater	11/12/2021	Branch Banking & Trust
\$10,864.01	Fire Trucks	11/15/2021	First Bank

WHEREAS, in the opinion of the Commission, the Town will default on a future debt service payment if its financial policies and practices are not improved; and

WHEREAS, the staff of the Commission recommends that the Commission exercise its authority under N.C.G.S. Section 159-181(c) to impound the books and records and assume control of the financial affairs of the Town; and

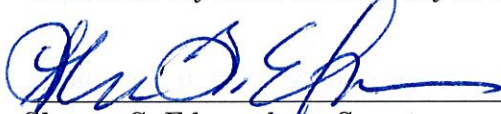
WHEREAS, the Commission does not take this authority lightly, has no desire to take control of the Town's finances and operations, and only does so as a measure of last resort following a long course of notice and warning to the Town to take the necessary corrective action;

NOW THEREFORE, BE IT RESOLVED, that the Commission rescinds the authority granted in its Resolution adopted on July 26, 2021 allowing the Secretary of the Commission to invoke N.C.G.S 159-181(c) pursuant to her judgment that specific criteria are met, and pursuant to the authority recited herein, that the Commission assumes full control of all financial affairs of the Town and directs its Secretary to take the following actions as deemed necessary:

1. To impound the books and records of the Town, assume control of the finances of the Town and oversee and direct all its financial affairs as set out in N.C.G.S. Chapter 159 and the rules of the Commission; and
2. To deliver to the Town, its officers, and Board of Aldermen this resolution from the Commission pursuant to the provisions of N.C.G.S. Chapter 159; and
3. To report to the Commission on the matters listed above and on the Town's readiness to comply with the requirements of N.C.G.S. Chapter 159 in order to provide a recommendation and time schedule for restoring the Town to fiscal health and returning to the Town control of its financial affairs.

I, Sharon G. Edmundson, Secretary of the North Carolina Local Government Commission, DO HEREBY CERTIFY that the foregoing is a true and correct copy of the Resolution adopted by the North Carolina Local Government Commission at its meeting held on October 5, 2021.

WITNESS my hand this 5th day of October 2021.



Sharon G. Edmundson, Secretary  
North Carolina Local Government Commission

RESOLUTION REGARDING FINANCE OFFICER, DEPUTY FINANCE OFFICER,  
ACCOUNT SIGNATORIES AND OFFICIAL DEPOSITORY  
FOR THE TOWN OF SPRING LAKE

WHEREAS, the Local Government Commission (the Commission) impounded the books and assumed full control of all financial affairs of the Town of Spring Lake (the "Town") pursuant to Section 159-181(c) of the North Carolina General Statutes (N.C.G.S.) and,

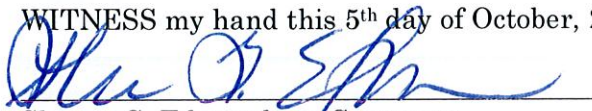
WHEREAS, the Commission desires to retain the appointed finance officer and official depository for the Town, and to appoint and/or designate a deputy finance officer and account signatory,

NOW THEREFORE, the Commission,

- 1) accepts and continues the Town's appointment of Samantha Wullenwaber as Finance Officer;
- 2) appoints David Erwin as Deputy Finance Officer for receiving and depositing funds, approving purchase orders and contracts, maintaining accounting records, pre-auditing obligations and disbursing funds;
- 3) appoints David Erwin as Account Signatory with the authority to execute signature cards for the existing Town bank accounts and sign disbursements in the absence of the finance officer; and
- 4) retains Mayor Larry Dobbins and Mayor Pro Tem Taimoor Aziz as Account Signatories; and
- 5) retains the designation of Truist Bank as the Town's official depository.

I, Sharon G. Edmundson, Secretary of the North Carolina Local Government Commission, DO HEREBY CERTIFY that the foregoing is a true and correct copy of the resolution adopted by the North Carolina Local Government Commission at its meeting held on October 5, 2021.

WITNESS my hand this 5<sup>th</sup> day of October, 2021.



Sharon G. Edmundson, Secretary  
North Carolina Local Government Commission  
Local Government Commission