

MINUTES OF THE MEETING OF THE BOARD OF COUNTY COMMISSIONERS HELD AT THE RUTHERFORD COUNTY OFFICE BUILDING IN THE COUNTY COMMISSIONERS' MEETING ROOM ON JANUARY 5, 2009, AT 6:00 P.M.

**PRESENT: CHAIRMAN BRENT WASHBURN
VICE CHAIRMAN MARGARET HELTON
SUSAN CROWE
EDDIE HOLLAND
PAUL MCINTOSH**

CALL TO ORDER\INVOCATION\PLEDGE OF ALLEGIANCE

Chairman Washburn called the meeting to order. Rev. Carl Ramsey gave the invocation. The pledge of allegiance was led by Commissioner Holland.

ADOPTION OF AGENDA

Chairman Washburn read the items on the supplemental agenda. Vice Chairman Helton made a motion to approve the agenda as amended. The motion was unanimously approved.

Added was a closed session for an attorney client privilege.

PUBLIC COMMENTS

Chairman Washburn opened the floor for public comments.

Ms. Rose Praino reviewed the history of the Frank West Park, which dates to the 1940s. Citizens in the community formed an advisory committee, of which she is a member, when they became aware that a program of park improvements is to be undertaken. She read and commented on a list of repairs and maintenance needs that the committee has identified for Frank West Park. Chairman Washburn asked that she give the list to Manager Condrey and said the county would follow up.

Mr. Boyce Abernathy distributed to the people in attendance copies of a page from the county's audit as of June 30, 2008. He called attention to the indebtedness and stated that his purpose was to inform the citizens and voters and taxpayers.

Mr. Bill Eckler questioned whether in a time of economic stress it is prudent to increase taxes in any form. For this reason he opposed the resolution brought forward by the Revenue Study Committee on the subject of expanding the sales tax base to apply to additional services.

Mr. David Reno asked Chairman Washburn to explain his role in the county's purchase of property that had been listed by his realty office. He itemized specific questions he had about the transaction. Chairman Washburn asked Mr. Reno to leave a copy of his questions with Manager Condrey and stated that he would be happy to address those questions after the meeting.

CONSENT AGENDA

Commissioner McIntosh made a motion to approve the consent agenda. The motion was unanimously approved.

Minutes

By consent, the minutes of the December 2, 2008, and December 8, 2008, meetings were approved.

Tax Refunds and Releases

By consent, tax refunds of \$1,807.79 and tax releases greater than \$100 totaling \$22,145.80 as outlined by Tax Administrator Kep Kepley were accepted. Tax releases of amounts less than \$100, which totaled \$3,196.75, were submitted by the Finance Office. (A copy of these tax refunds and releases is in the Minute Book.)

AWARDS\OUTSTANDING VOLUNTEER SERVICE\NC GOVERNOR'S OFFICE

Ms. Ginger Dancy announced Rutherford County's volunteers who won state recognition by the Governor's Office on Volunteerism in 2008. Those recognized were Rose Bevington, Matthew Melton, Keith Price, the Habitat for Humanity construction crew, and Eaton Corporation.

APPOINTMENT\BROAD RIVER WATER AUTHORITY

Vice Chairman Helton made a motion to appoint Commissioner Crowe to represent the County Commissioners on the Broad River Water Authority board to take the seat formerly occupied by Commissioner Chuck Hill. The motion was unanimously approved.

APPOINTMENT\NCACC\LEGISLATIVE LIAISON

Chairman Washburn asked that a member of the Board serve to serve as Legislative Liaison for the 2009-2010 legislative biennium. Since he is planning to be in attendance at the conference, Commissioner McIntosh volunteered to serve in this additional capacity. His appointment was unanimously approved.

APPOINTMENTS

Chairman Washburn read the names of proposed appointees to various board and committees. Vice Chairman Helton made a motion to approve the appointments. Commissioner McIntosh seconded the motion. The vote on the nominees was unanimous.

The appointments were:

Transportation Committee	Tom Padgett
Transit Administration	Marion Michalove John Carroll
Domiciliary Home Advisory Committee	Ramona Hall Jeanette Klutts
Nursing Home Advisory Committee	Thomas Hackett Bonnie Sayers Kathi Lowery
Capital Planning and Finance Advisory Committee	Joe Joplin Maria Honeycutt David Penson Scott Hoyle Rus Scherer Bill Whitman
Watershed Review Board	Bob Owens Linwood Perry
Child Protection Team	Lanell Ramsey Cathy Brooks

Fire Department Board of Trustees for Firemen's Relief Fund

Union Mills	Alvin Nanney
Sandy Mush	Brandon Greene
Shingle Hollow	Randy Hardin

FY 2007-2008 FIRE DISTRICT AUDITS

Crystal Hamrick, CPA, presented the Fire District Audits for FY 2007-2008. She reported that the financial records are in good shape for each of the departments. The departments are being encouraged to seek all available grant funding.

Commissioner Crowe made a motion to approve the Fire District Audits for FY 2007-2008. The motion was unanimously approved.

UPDATE/HISTORIC PRESERVATION COMMISSION

Robin Lattimore gave a progress report on the work of the Historic Preservation Commission. The commission has met monthly since it was formed, has adopted bylaws, and has reviewed the general statues that pertain to its work. They have begun the task of making an inventory of all historic sites and will work with property owners on a voluntary basis. A forum will be held on February 7 to introduce the commission to the public. The commission will report to the County Commissioners on a quarterly basis.

BUDGET AMENDMENTS

Finance Director Scherer presented and explained the budget amendments.

Commissioner McIntosh questioned the funding for the technology grant from the Bill and Melinda Gates Foundation that requires a match from the county. He pointed out that the dollar amount was very high for the number of computers that were to be bought with the grant and asked for more information to explain what would be included in those costs.

Commission Crowe made a motion to approve the budget amendments with the exception of the library grant. The motion was unanimously approved.

	Expense	Revenue
GENERAL FUND		
Court Facilities - Repairs & Maintenance	\$ 11,742	
Insurance Claims & Dividends * repair HVAC controls and card reader system due to lightning damage		\$ 11,742
Court Facilities - Office Furniture	\$ 422	
Fund Balance Appropriated - Court Facilities *computer workstation for Drug Treatment Court Coordinator. See attached request.		\$ 422
Maintenance - Unemployment Compensation	\$ 539	
Sheriff - Unemployment Compensation	\$ 2,271	
NCACC Insurance Pool *additional claims filed since budget approved	\$(2,810)	
Sheriff - Equipment Purchased with Seizure Funds	\$ 783	
Drug Seizure Funds * unauthorized substance tax distribution received		\$ 783
Sheriff - Uniforms & Equipment	\$ 3,000	
Western Highlands LME Allocation * funds received from Western Highlands for Crisis Intervention Training		\$ 3,000
Contribution to DSS Fund - Adult Care Case Management Program	\$ 2,763	
Fund Balance Appropriated *25% local match required		\$ 2,763
Capital Outlay - Lease Purchase	\$ 22,138	
Lease Purchase Proceeds		\$ 22,138
Debt Service Lease Purchase	\$ 3,317	
Fund Balance Appropriated *equipment and labor necessary to move equipment to new VIPER tower. See attached justification from Lt. Larry Cochran, Financing with lease purchase is recommended if approved..		\$ 3,317
Walking Trail Equipment	\$ 50,000	
Private Donations - Walking Trail Equipment		\$50,000
DSS FUND		
Adult Care Case Management Contract	\$ 11,726	

Minutes of Rutherford County Commissioners' Meeting of January 5, 2009

Adult Care Home Case Management Revenues		\$ 8,963
Contribution from General Fund - Programs * 50% federal, 25% state, 25% local match		\$ 2,763
TANF Domestic Violence	\$(2,064)	
TANF Domestic Violence Revenues * reduction of 100% federal program		\$ (2,064)
Crisis Intervention Services	\$ 201,576	
Crisis Intervention Services Revenues * 100% federal program, no local match required		\$ 201,576
Smart Start Day Care	\$ 187,646	
Smart Start Day Care Revenues * 100% state program, no local match required		\$ 187,646
Child Day Care	\$ (40,093)	
Child Day Care Revenues * reduction of 100% federal/state program		\$ (40,093)
GRANT FUND		
Clean Water Management Trust Fund - Educational Grants	\$ 10,000	
Clean Water Management Trust Fund - Salaries & Benefits * District Board requests moving \$10,000 from salaries & benefits to education-- each high school agriculture department will be sent \$5,000 to promote agriculture in the classroom. Education currently has a budget of \$5,000.	\$ (10,000)	
CDBG Scattered Site Housing 2006 - Relocation	\$ 7,185	
CDBG Scattered Site Housing 2006 - Construction/Rehabilitation	\$(7,185)	
* Line item transfer for 2006 Community Development Block Grant		
SCHOOL CAPITAL PROJECTS FUND		
Rutherfordton Elementary - Construction	\$ 20,432	
Rutherfordton Elementary - Contingency	\$ (20,432)	
* change order request #4/Beam Construction		
SOLID WASTE FUND		
SWEEP Committee Expenditures	\$ 500	
Walmart Grants - SWEEP *grants received for school recycling programs (2 grants received \$250 each)		\$ 500

RESOLUTION AUTHORIZING INSTALLMENT FINANCING

Finance Director Scherer reviewed and explained the proposed financing package that would allow the county to reimburse itself for previously approved property acquisition, to expand the Health Department, and pave the parking lot on North Washington Street. The proposed financing would not exceed \$3.5 million. The debt service on this financing would be paid from the building reserve fund. Ms. Scherer made a preliminary contact with the Local Government Commission and reported that they do not foresee any problem.

Vice Chairman Helton asked whether this financing is needed for the ongoing operations of the county. She believed the county should delay any borrowing considering the economy. Finance Director Scherer explained that when the county advanced money from the fund balance for these

capital items, that reduced the reserves from 22% to 16%. Counties the size of Rutherford typically have a fund balance of about 24%, which provides a cushion for the operating budget. The payback for the borrowed money would be over a period of 15 to 20 years. Because of the state of the economy, she expects to be able to obtain an extremely favorable interest rate. Manager Condrey noted that this process whereby the county reimburses itself for funds temporarily taken from the fund balance with a financing package had been discussed when the capital projects were approved. Commissioner McIntosh expressed his worry that an abrupt decrease in the fund balance would call the county's finances into question and might cause the county to lose its rating, resulting in a higher cost of borrowing in the future.

Commissioner McIntosh made a motion to approve the resolution authorizing the negotiation of an installment financing contract and calling for a public hearing on February 2, 2009. The motion was approved on a vote of 3 to 2.

Ayes: Chairman McIntosh, Commissioner McIntosh, Commissioner Holland

Noes: Vice Chairman Helton, Commissioner Crowe

RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF RUTHERFORD, NORTH CAROLINA, AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT, DIRECTING THE PUBLICATION OF NOTICE WITH RESPECT THERETO AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS THERETO

WHEREAS, the County of Rutherford, North Carolina (the "*County*") is a validly existing political subdivision of the State of North Carolina, existing as such under and by virtue of the Constitution, statutes and laws of the State of North Carolina (the "*State*");

WHEREAS, the County has the power, pursuant to the General Statutes of North Carolina to (1) purchase real and personal property, (2) enter into installment financing contracts in order to finance the purchase of real and personal property used, or to be used, for public purposes, and (3) grant a security interest in some or all of the property purchased to secure repayment of the purchase price;

WHEREAS, the Board of Commissioners of the County (the "*Board of Commissioners*") determines that it is in the best interest of the County to enter into an installment financing contract (the "*Contract*") with a financial institution to be determined in order to pay the costs of (1) the acquisition of and improvements to a County offsite storage and office facility (the "*Offsite Facility*"), (2) the expansion of the County Health Department (the "*Health Department*"), (3) the acquisition of land for various County purposes and costs associated with the land, and (4) the paving of a parking lot (collectively, the "*Projects*") and create a security interest in the sites of the Offsite Facility and the Health Department (the "*Sites*") and any improvements thereon (together with the Sites, the "*Premises*") through a deed of trust, security agreement and fixture filing (the "*Deed of Trust*");

WHEREAS, the County hereby determines that the Projects will permit the County to carry out public functions that it is authorized by law to perform; and that entering into the Contract and Deed of Trust is necessary and expedient for the County by virtue of the findings presented herein;

WHEREAS, the County hereby determines that the Contract allows the County to purchase the Projects and take title thereto at a favorable interest rate currently available in the financial marketplace and on terms advantageous to the County;

WHEREAS, the County hereby determines that the estimated cost of the Projects is an amount not to exceed \$3,500,000 and that such cost of Projects exceeds the amount that can be prudently raised from currently available appropriations, unappropriated fund balances and non-voted bonds that could be issued by the County in the current fiscal year pursuant to Article V, Section 4 of the Constitution of the State;

WHEREAS, although the cost of the Projects pursuant to the Contract is expected to exceed the cost of the Projects pursuant to a bond financing for the same undertaking, the County hereby determines

Minutes of Rutherford County Commissioners' Meeting of January 5, 2009

Page 7 of 11

that the cost of the Projects pursuant to the Contract and Deed of Trust and the obligations of the County thereunder are preferable to a general obligation bond financing or revenue bond financing for several reasons, including but not limited to the following: (1) the cost of a special election necessary to approve a general obligation bond financing, as required by the laws of the State, would result in the expenditure of significant funds; and (2) the time required for a general obligation bond election would cause an unnecessary delay which would thereby decrease the financial benefits of the Projects and (3) insufficient revenues are produced by the Projects so as to permit a revenue bond financing;

WHEREAS, the County has determined and hereby determines that the estimated cost of the Projects pursuant to the Contract reasonably compares with an estimate of similar costs under a bond financing for the same undertaking as a result of the findings delineated in the above preambles;

WHEREAS, the County does not anticipate a future property tax increase to pay installment payments falling due under the Contract;

WHEREAS, the sums to fall due under the Contract will be adequate but not excessive for its proposed purpose;

WHEREAS, Parker Poe Adams & Bernstein LLP, as special counsel ("*Special Counsel*"), will render an opinion to the effect that entering into the Contract and the transactions contemplated thereby are authorized by law;

WHEREAS, no deficiency judgment may be rendered against the County in any action for its breach of the Contract, and the taxing power of the County is not and may not be pledged in any way directly or indirectly or contingently to secure any moneys due under the Contract;

WHEREAS, the County is not in default under any of its debt service obligations;

WHEREAS, the County's budget process and Annual Budget Ordinance are in compliance with the Local Government Budget and Fiscal Control Act, and external auditors have determined that the County has conformed with generally accepted accounting principles as applied to governmental units in preparing its Annual Budget ordinance;

WHEREAS, past audit reports of the County indicate that its debt management and contract obligation payment policies have been carried out in strict compliance with the law, and the County has not been censured by the North Carolina Local Government Commission (the "*LGC*"), external auditors or any other regulatory agencies in connection with such debt management and contract obligation payment policies;

WHEREAS, a public hearing on the Contract after publication of a notice with respect to such public hearing must be held and approval of the LGC with respect to entering the Contract must be received; and

WHEREAS, the County hereby determines that all findings, conclusions and determinations of the County in this Resolution are subject to modification or affirmation after all interested parties have been afforded the opportunity to present their comments at a public hearing regarding the execution and delivery of the Contract and the Projects to be financed thereby.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF RUTHERFORD, NORTH CAROLINA, AS FOLLOWS:

Section 1. ***Application to LGC.*** That the Finance Director or his designee is hereby directed to file with the LGC an application for its approval of the Contract and all relevant transactions contemplated thereby on a form prescribed by the LGC and to state in such application such facts and to attach thereto such exhibits regarding the County and its financial condition as may be required by the LGC.

Section 2. ***Special Counsel.*** That Parker Poe Adams & Bernstein LLP, Charlotte, North Carolina, as special counsel, is approved.

Section 3. **Public Hearing.** That a public hearing (the "Public Hearing") shall be conducted by the Board of Commissioners on February 2, 2009 at 6:00 p.m. in the Commissioners Room, Rutherford County Office Building, 289 North Main Street, Rutherfordton, North Carolina, concerning the Contract, the proposed Projects and any other transactions contemplated therein and associated therewith.

Section 4. **Notice of Public Hearing.** That the Clerk to the Board is hereby directed to cause a notice of the Public Hearing, in the form attached hereto as Exhibit A, to be published once in a qualified newspaper of general circulation within the County no fewer than 10 days prior to the Public Hearing.

Section 5. **Repealer.** That all motions, orders, resolutions and parts thereof in conflict herewith are hereby repealed.

Section 6. **Effective Date.** That this Resolution is effective on the date of its adoption.

On motion of Commissioner McIntosh, the foregoing resolution entitled "RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF RUTHERFORD, NORTH CAROLINA AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT, DIRECTING THE PUBLICATION OF NOTICE WITH RESPECT THERETO" was duly adopted by the following vote:

AYES: Commissioners Washburn, Holland, and McIntosh

NAYS: Commissioners Helton and Crowe

AGREEMENT RBC CENTURA

Commissioner Crowe made a motion to approve the agreement authorizing John Condrey and Julie Scherer to sign CD's and other accounts at RBC Centura Bank on the county's behalf. The motion was unanimously approved.

2009-2010 BUDGET CALENDAR

Commissioner McIntosh made a motion to approve the calendar for budget planning for 2009-2010. The motion was unanimously approved.

NACo PRESCRIPTION DISCOUNT CARD PROGRAM

Manager Condrey described a program under the National Association of Counties that would allow Rutherford County to offer a discount prescription card to uninsured and underinsured residents. Commissioner McIntosh, who first learned of the program and asked the county manager to investigate it, stated that it would not be any cost to the county. CVS is currently participating and other pharmacies are considering it. Vice Chairman Helton said she saw this as a win-win situation.

Commissioner Crowe made a motion to approve the participation by Rutherford County in the National Association of Counties' discount prescription plan. The motion was unanimously approved.

RESOLUTION\THOMAS JEFFERSON CLASSICAL ACADEMY

Commissioner McIntosh made a motion to approve the resolution in support of the establishment by Thomas Jefferson Classical Academy of a charter school in Lake Lure. The motion was unanimously approved.

RESOLUTION
IN SUPPORT OF
THOMAS JEFFERSON CLASSICAL ACADEMY
CHARTER SCHOOL
IN
LAKE LURE, NORTH CAROLINA

WHEREAS, the Board of Commissioners of the County of Rutherford, North Carolina, firmly holds that educational excellence is a necessity to prepare students for their future; and

WHEREAS, schools that are easily accessible and require less commute time make learning easier for students; and

WHEREAS, the elementary and high schools formerly located in the Town of Lake Lure have been closed for a number of years; and

WHEREAS, since these schools were closed, students from the Chimney Rock, Lake Lure, and Bill's Creek areas have had the choice of attending either Henderson or Rutherford County schools but traveling to these schools for some students requires commute times of up to 2 hours; and

WHEREAS, a population boom has occurred beginning in 2006 in the Lake Lure, Chimney Rock, and Bill's Creek areas that brought younger families and more school age children into the area; and

WHEREAS, the need for a school in the area now and in the future was recognized by the Town of Lake Lure when it approved a new comprehensive plan for the town that included this need; and

WHEREAS, Thomas Jefferson Classical Academy believes that the school will be able to recruit at least 40 students per grade in the K-8 grades beginning in the 2010-2011 school year; and

WHEREAS, TJCA anticipates the addition of grades 9-12 in the Lake Lure facility between 2011 and 2014 as students move up into the high school programs.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the County of Rutherford County hereby requests that the State of North Carolina Division of Charter Schools approve the application of Thomas Jefferson Classical Academy to create a new charter to allow the construction of a charter school in Lake Lure, North Carolina.

Enacted this the 5th day of January, 2009.

RESOLUTION FROM REVENUE STUDY COMMITTEE

Commissioner Crowe made a motion to deny the resolution drafted by the Revenue Study Commission and presented at the December meeting. The motion to deny was approved on a vote of 3 to 2.

Ayes: Vice Chairman Helton, Commissioners Holland and Crowe

Noes: Vice Chairman Washburn, Commissioner McIntosh

The Commissioners expressed thanks to the members of the committee for their work.

RESOLUTION\DEPARTMENT OF TRANSPORTATION\RUTHERFORD 74 CORPORATE CENTER

Manager Condrey explained that the resolution presented would allow the county to petition DOT for funding for a secondary access road at the 74 Corporate Center. If the unnamed industry which has expressed interest does eventually locate there, the road will be necessary. However, if the company does not come, the funds may still be used to build the road.

Commissioner McIntosh made a motion to approve the resolution requesting state funds for an access road at Rutherford 74 Corporate Center. The motion was unanimously approved.

Rutherford County Board of Commissioners

RESOLUTION

BE IT RESOLVED, that a grant from the Department of Commerce through the County of Rutherford be made to assist the Corporate 74 Secondary Access Road project.

BE IT FURTHER RESOLVED, that Rutherford County will administer this grant in accordance with the rules and regulations of the Department of Commerce.

BE IT FURTHER RESOLVED, that the County will administer this grant through the County Finance Office with assistance from Isothermal Planning and Development Commission under a separate administrative agreement.

BE IT FURTHER RESOLVED, that the grant will be monitored quarterly to assure compliance with this proposal and the Department of Commerce regulations.

BE IT FURTHER RESOLVED, that the amount of the grant application will be \$500,000.

ADOPTED this 5th day of January, 2009.

CLOSED SESSION\ATTORNEY-CLIENT PRIVILEGE\G.S. 143.318.11(a)(3)

Commissioner Crowe made a motion to go into closed session to discuss attorney client matters. The motion was unanimously approved.

7:15 P.M. – The Board went into Closed Session

7:35 P.M. – The Board returned to regular session.

ADDENDUM\AGREEMENT\REULEEN WEASE

Commissioner Crowe made a motion to extend the addendum to the Rueleen Wease agreement to February 2, 2009. The motion was unanimously approved.

ADJOURNMENT

The Chairman declared the meeting to be adjourned.

Meeting adjourned at 7:37 P.M.

Chairman, Board of Commissioners

Vice Chairman, Board of Commissioners

Attest:

Clerk, Board of Commissioners