

Extract of Minutes of a regular meeting of the Board of Commissioners of the County of Haywood, North Carolina, duly held on January 19, 2021 at 5:30 p.m. in the Historic Courtroom of the Haywood County Historic Courthouse, Waynesville, North Carolina. Chairman L. Kevin Ensley presiding.

The following members were present:

The following members were absent:

* * * * *

Commissioner _____ moved that the following resolution, copies of which having been made available to the Board of Commissioners, be adopted:

RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF HAYWOOD, NORTH CAROLINA, AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS THERETO

WHEREAS, the County of Haywood, 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) enter into installment contracts in order to purchase, or finance or refinance the purchase of, real or personal property and to finance or refinance the construction or repair of fixtures or improvements on real property and (2) create a security interest in some or all of the property financed or refinanced to secure repayment of the purchase price;

WHEREAS, the Board hereby determines that it is in the best interest of the County to enter into (1) an Installment Financing Contract (the “*Contract*”) with a financial institution to be determined (the “*Bank*”) in order to pay the capital costs of construction, renovation and improvement of a school administration building (the “*School Administration Building*”) located in the County (the “*Project*”), and (2) a deed of trust, security agreement and fixture filing (the “*Deed of Trust*”) related to the County’s fee simple interest in the real property on which the School Administration Building is located (the “*Mortgaged Property*”) that will provide security for the County’s obligations under the Contract;

WHEREAS, the County hereby determines that the Project is essential to the County's proper, efficient and economic operation and to the general health and welfare of its inhabitants; that the Project will provide an essential use and 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 finance the Project 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 financing the Project is an amount not to exceed \$2,000,000 and that such cost of the financing the Project 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 financing the Project pursuant to the Contract is expected to exceed the cost of financing the Project pursuant to a bond financing for the same undertaking, the County hereby determines that the cost of financing the Project pursuant to the Contract and the 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; (2) the time required for a general obligation bond election would cause an unnecessary delay which would thereby decrease the financial benefits of financing the Project; and (3) no revenues are produced by the Project so as to permit a revenue bond financing;

WHEREAS, the County has determined and hereby determines that the estimated cost of financing the Project 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 increase in taxes, if any, necessary to meet the sums to fall due under the Contract will not be excessive;

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 money 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, the Deed of Trust and the Project to be financed thereby.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the County of Haywood, North Carolina, as follows:

Section 1. Authorization to Negotiate the Contract; Ratification. That the County Manager and the Finance Director, with advice from the County Attorney and Special Counsel, are hereby authorized and directed to solicit proposals from financial institutions to finance the Project and to proceed and negotiate on behalf of the County to finance the Project for a principal amount not to exceed \$2,000,000 under the Contract to be entered into in accordance with the provisions of Section 160A-20 of the General Statutes of North Carolina and to provide in connection with the Contract, as security for the County's obligations thereunder, the Deed of Trust conveying a lien and interest in the Mortgaged Property, including the improvements thereon, as may be required by the Bank providing the funds to the County under the Contract. All actions of the County Manager or the Finance Director, or their designees, in furtherance of the financing of the Project, whether previously or hereinafter taken, are hereby ratified and authorized.

Section 2. Application to LGC. That the Finance Director or her 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 3. Direction to Retain Special Counsel and Financial Advisor. That the County Manager and the Finance Director, with advice from the County Attorney, are hereby authorized and directed to retain the assistance of Parker Poe Adams & Bernstein LLP, Charlotte, North Carolina, as special counsel, and Davenport & Company LLC, Charlotte, North Carolina, as financial advisor.

Section 4. Public Hearing. That a public hearing (the "Public Hearing") will be conducted by the Board of Commissioners on February 1, 2021 at 9:00 a.m. in the Historic Courtroom of the Haywood County Historic Courthouse, Waynesville, North Carolina, concerning the Contract, the Deed of Trust, the proposed financing of the Project and any other transactions contemplated therein and associated therewith.

Section 5. 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 6. Repealer. That all motions, orders, resolutions and parts thereof in conflict herewith are hereby repealed.

Section 7. Effective Date. That this Resolution is effective on the date of its adoption.

Upon motion of Commissioner _____, the foregoing resolution titled “**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF HAYWOOD, NORTH CAROLINA, AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS THERETO**” was adopted by the following vote:

AYES:

NAYS:

STATE OF NORTH CAROLINA)
)
COUNTY OF HAYWOOD) SS:

I, TRACY WELLS, Clerk to the Board of Commissioners of the County of Haywood, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of a resolution entitled: “**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF HAYWOOD, NORTH CAROLINA, AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS THERETO**” adopted by the Board of Commissioners of the County of Haywood, North Carolina, in regular session convened on the 19th day of January, 2021.

WITNESS my hand and the corporate seal of the County of Haywood, North Carolina, this the ___ day of January, 2021.

(SEAL)

TRACY WELLS, Clerk to the Board of Commissioners
County of Haywood, North Carolina

EXHIBIT A

NOTICE OF PUBLIC HEARING

The Board of Commissioners (the “*Board*”) of the County of Haywood, North Carolina (the “*County*”) is considering entering into an installment financing contract (the “*Contract*”), in a principal amount not to exceed \$2,000,000, under which the County will make certain installment payments, in order to finance the capital costs of construction, renovation and improvement of a school administration building in the County (the “*Project*”). The Project will be located at 1233 North Main Street, Waynesville, North Carolina.

In connection with the Contract, the County will secure its obligations under the Contract by a deed of trust (the “*Deed of Trust*”) that grants a security interest on the site of the Project and the improvements thereon (the “*Mortgaged Property*”). The Contract and the Deed of Trust permit the County to enter into amendments to finance additional projects and refinance projects using the Mortgaged Property as collateral and the County may grant additional collateral in connection with such amendments. On the County’s payment of all installment payments due under the Contract, including any future amendments to finance or refinance projects, the lien created in the Project will terminate and any security interest granted to the financial institution providing the funding in the Project will be released.

NOTICE IS HEREBY GIVEN, pursuant to Sections 160A-20 of the General Statutes of North Carolina, that on February 1, 2021 at 9:00 a.m., or as soon thereafter as practicable, in the Historic Courtroom of the Haywood County Courthouse, 215 Main Street, Waynesville, North Carolina 28786, the Board will conduct a public hearing concerning the approval of the execution and delivery of the Contract, the County’s financing of the Project, and the granting of a security interest therein. All interested parties are invited to present comments at the public hearing regarding the execution and delivery of the Contract and the Project to be financed thereby.

/s/ Tracy Wells
Clerk to the Board of Commissioners
County of Haywood, North Carolina

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