

**PASQUOTANK COUNTY, NORTH CAROLINA  
DECEMBER 19, 2012**

The Pasquotank County Board of Commissioners met on December 19, 2012 in a continuation of the December 17, 2012 Commissioner meeting.

**MEMBERS PRESENT:**

Jeff Dixon, Chairman  
Joseph S. Winslow, Jr., Vice-Chairman  
Cecil Perry  
Dr. William R. Sterritt  
Gary G. White  
Frankie Meads

**MEMBERS ABSENT:**

Lloyd E. Griffin, III (*Out of Town*)

**OTHERS PRESENT:**

Randy Keaton, County Manager  
Rodney Bunch, Assistant County Manager  
R. Michael Cox, County Attorney  
Karen Jennings, Clerk to the Board

Chairman Dixon reconvened the meeting at 9:00 AM.

**1. ADOPTION OF RESOLUTION APPROVING FIRST AMENDMENT TO INSTALLMENT FINANCING AGREEMENT TO REFINANCE A PORTION OF THE COST OF THE MIDDLE SCHOOL:**

County Manager Randy Keaton explained that the Board is being asked today to adopt a resolution approving the sale by Pasquotank County Public Facilities Corporation of a certificate of participation and approving a first amendment to an installment financing agreement to refinance a portion of the cost of the Elizabeth City Middle School. He outlined the various documents that are referred to in the resolution related to the refinancing.

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Commissioner Jeff Dixon introduced the following resolution, a copy of which had been provided to each Commissioner and which was read by its title:

RESOLUTION APPROVING THE PROPOSED SALE BY PASQUOTANK COUNTY PUBLIC FACILITIES CORPORATION OF A CERTIFICATE OF PARTICIPATION IN CERTAIN INSTALLMENT PAYMENTS TO BE MADE BY THE COUNTY OF PASQUOTANK, NORTH CAROLINA AND A PROPOSED FIRST AMENDMENT TO INSTALLMENT FINANCING AGREEMENT TO REFINANCE A PORTION OF THE COST OF A NEW MIDDLE SCHOOL, APPROVING CERTAIN OTHER DOCUMENTS AND ACTIONS RELATING THERETO AND AUTHORIZING OTHER ACTIONS IN CONNECTION THEREWITH.

WHEREAS, the County of Pasquotank, North Carolina (the "County") and the Pasquotank County Public Facilities Corporation (the "Corporation") entered into an Installment Financing Agreement, dated as of December 1, 2004 (the "Installment Financing Agreement"), to finance pursuant to G.S. §160A-20, as amended, a portion of a project consisting of the construction and equipping of a new middle school; and

WHEREAS, in connection with the Installment Financing Agreement, the Corporation and Wachovia Bank, National Association, succeeded by U.S. Bank National Association, as trustee (the "Trustee"), entered into a Trust Agreement, dated as of December 1, 2004 (the "Trust Agreement"), pursuant to which the Corporation executed and delivered its Certificates of Participation, Series 2004, in the principal amount of \$14,280,000; and

WHEREAS, in connection with the Installment Financing Agreement, the County executed a Deed of Trust, made as of December 1, 2004 (the “Deed of Trust”), by the County to Paul Anatrella (the “Deed of Trust Trustee”), for the benefit of the Corporation; and

WHEREAS, the Board of Commissioners for the County (the “Board”) has determined to proceed with the refinancing of a portion of the County’s obligations under the Installment Financing Agreement in order to realize cost savings for the County; and

WHEREAS, to effectuate such refinancing, the County and the Corporation have been negotiating certain documents and arranging for the negotiated sale of certificates of participation in certain installment payments to be made by the County pursuant to an amendment to the Installment Financing Agreement to be entered into by and between the County and the Corporation, pursuant to the authority granted to the County under G.S. 160A-20, as amended; and

WHEREAS, the County has determined that it is in the best interests of the County that the County and the Corporation enter into such amendment to the Installment Financing Agreement to make available to the County funds with which to effectuate such refinancing; and

WHEREAS, the County and the Corporation have received a proposal from Branch Banking and Trust Company (the “Bank”) for the purchase of said certificates of participation (the “Proposal”); and

WHEREAS, in connection with such refinancing, it is necessary for the County to approve the sale of said certificates of participation by the Corporation and certain documents and actions relating thereto and to authorize other actions in connection therewith; and

WHEREAS, there have been presented at this meeting copies of the following documents relating to the delivery of the 2012 Certificate (hereinafter defined) constituting said certificates of participation:

- (a) a draft of a First Amendment to Installment Financing Agreement, to be dated as of December 1, 2012 (the “First Amendment to Installment Financing Agreement”), between the County and the Corporation, amending the Installment Financing Agreement;
- (b) a draft of a First Supplemental Trust Agreement, to be dated as of December 1, 2012 (the “First Supplemental Trust Agreement”), between the Trustee and the Corporation, amending the Trust Agreement and pursuant to which the Trustee would make available to the County a portion of the proceeds of a Refunding Certificate of Participation, Series 2012 in an amount not exceeding \$4,900,000 (the “2012 Certificate”) evidencing an interest in the installment payments to be made by the County under the First Amendment to Installment Financing Agreement in order to refinance a portion of the County’s obligations under the Installment Financing Agreement;
- (c) a draft of a Modification of Deed of Trust, to be dated as of December 1, 2012 (the “Modification of Deed of Trust”), among the County, the Deed of Trust Trustee and the Corporation, amending the Deed of Trust; and
- (d) a draft of an Escrow Deposit Agreement, to be dated as of December 1, 2012 (the “Escrow Deposit Agreement”), among the County, the Corporation and U.S. Bank National Association, as escrow agent;

NOW, THEREFORE, BE IT RESOLVED by the Board as follows:

Section 1. The Board hereby approves the sale of the 2012 Certificate by the Corporation to the Bank. The 2012 Certificate shall mature and be subject to mandatory prepayment in such amounts at such times as shall be determined by the President of the Corporation; provided, however, that the principal amount of 2012 Certificate shall not exceed \$4,900,000 and the final maturity of the 2012 Certificate shall not extend beyond June 1, 2021.

The 2012 Certificate shall be issued in fully registered form in the principal amount thereof. Interest with respect to the 2012 Certificate shall be payable on June 1, 2013, and

semiannually thereafter on each June 1 and December 1 until the 2012 Certificate is fully paid at the rate of 2.59% per annum. Payments of principal, prepayment price and interest with respect to the 2012 Certificate shall be made by the Trustee to the registered owners of the 2012 Certificate in such manner as is set forth in the Trust Agreement, as amended by the First Supplemental Trust Agreement.

Section 2. Except as provided in Section 1 hereof, the 2012 Certificate shall be subject to prepayment at the times, upon the terms and conditions, and at the prices set forth in the Trust Agreement, as amended by the First Supplemental Agreement.

Section 3. The proceeds of the 2012 Certificate shall be applied as provided in the First Supplemental Trust Agreement.

Section 4. The forms, terms and provisions of the First Amendment to Installment Financing Agreement, the Modification of Deed of Trust and the Escrow Deposit Agreement are hereby approved in all respects and, insofar as they are applicable to the County, the terms and provisions of the First Supplemental Trust Agreement are hereby approved in all respects. The Chairman of the Board, the County Manager, the Finance Officer of the County, the Clerk to the Board and the County Attorney are hereby authorized and directed to execute and deliver the First Amendment to Installment Financing Agreement, the Modification of Deed of Trust and the Escrow Deposit Agreement in substantially the forms presented, together with such additions, changes, modifications and deletions as they, with the advice of counsel, may deem necessary or appropriate, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Board and the County.

Section 5. The Board hereby approves the award of the 2012 Certificate to the Bank pursuant to the Proposal.

Section 6. The Board hereby approves, ratifies and confirms the actions of the County Manager, the Finance Officer of the County and the County Attorney in connection with this matter.

Section 7. The officers and employees of the County are authorized and directed (without limitation except as may be expressly set forth herein) to take such other actions and to execute and deliver any other documents, certificates, undertakings, agreements or the instruments as they, with the advice of counsel, may deem necessary or appropriate to effectuate the transactions contemplated by the documents approved hereby.

Section 8. The County covenants that, to the extent permitted by the Constitution and laws of the State of North Carolina, it will comply with the requirements of the Internal Revenue Code of 1986, as amended (the "Code"), as applicable to the Installment Financing Agreement, as amended by the First Amendment to Installment Financing Agreement, except to the extent that the County obtains an opinion of nationally-recognized bond counsel to the effect that noncompliance would not result in interest with respect to the 2012 Certificate being includable in the gross income of the owners of the 2012 Certificate for purposes of federal income taxation.

Section 9. The County hereby finds, declares and represents that (a) it reasonably expects that it, all entities subordinate to the County and all entities that issue obligations on behalf of the County (all within the meaning of Section 265(b)(3)(E) of the Code) will not issue in the aggregate more than \$10,000,000 of tax-exempt obligations (not counting private-activity bonds and certain refunding bonds as provided in Section 265(b)(3)(C)(ii) of the Code) during the current calendar year and (b) no entity has been or will be formed or availed of to avoid the limits described above. In addition, the County hereby designates its obligation to make Installment Payments under the Installment Financing Contract, as amended by the First Amendment to Installment Financing Agreement, as a "qualified tax-exempt obligation" for the purposes of Section 265(b)(3) of the Code.

Section 10. If any section, phrase or provision of this resolution is for any reason declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions of this resolution.

Section 11. All motions, orders, resolutions, ordinances and parts thereof in conflict herewith are hereby repealed.

Section 12. This resolution shall take effect immediately upon its passage.

Upon consideration of the foregoing resolution and motion duly made and seconded, the foregoing resolution was passed by the following vote:

Ayes: Commissioners Jeff Dixon, Joseph S. Winslow, Jr., Cecil Perry, William R. Sterritt, Gary G. White, and Frankie Meads.

Noes: None.

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**2. HOSPITAL RFP TASK FORCE:**

Chairman Dixon advised that the next meeting of the Joint Hospital RFP Task Force will be held on January 15. He said it has been suggested that this be a joint meeting with the Board of Commissioners and the Hospital Authority since Dixon Hughes will be providing a financial analysis of the proposals that have been received. Chairman Dixon added that preliminary reports indicate that the proposals received are very strong.

**3. SOLID WASTE/LANDFILL:**

Commissioner Sterritt stated that Chairman Dixon has alluded to the fact that the structure of the Solid Waste Commission will be changed such that it will be brought in-house like the Water Committee. He asked if there are real issues regarding the landfill operations that need to be addressed as have been pointed out numerous times over the last several months by a citizen. Chairman Dixon stated that he personally believes the issues are not valid. He said this is a matter of one person saying how he thinks it should be done versus another person with 25 years of landfill experience with no violations telling how it is being done. County Manager Randy Keaton noted that the state is totally satisfied with the way the landfill is being operated and has not given any notice of violation. Vice-Chairman Winslow said one thing that has been pointed out is that some trucks are not being weighed and it is his understanding that everything is supposed to go across the scales. Mr. Keaton responded that free dirt does not have to be weighed since it is not being landfilled. Vice-Chairman Winslow stated that he believes a lot of the questions would be eliminated if there was a policy that everything should go across the scales, if it were not too costly to implement. Commissioner Perry added that a written policy for the landfill operation is needed. Chairman Dixon said this might be something that the new Solid Waste/Landfill Committee could look at.

Mr. Keaton stated that these issues can probably be cleared up once the members of the Board take a tour of the Landfill and the Solid Waste Director explains the process.

Commissioner Meads suggested that there might be a conflict of interest for Commissioner White to serve on the Solid Waste/Landfill Committee since his brother-in-law is one of the contractors operating the Landfill.

**4. COMMERCE PARK LOTS:**

Assistant County Manager Rodney Bunch passed out a map showing the platted lots in the Commerce Park and those that are available for sale.

Mr. Bunch also advised that the Soil Conservation Service has hired Dwane Hinson as its new part-time technician. He said this will be a real asset for Pasquotank County.

Motion was made by Gary White, seconded by Cecil Perry to adjourn the meeting. The motion carried and the meeting was adjourned at 9:50 AM.

  
CHAIRMAN

  
CLERK TO THE BOARD