

Regular Session, July 20, 2009, 7:00 p.m.
Catawba County Board of Commissioners

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The Catawba County Board of Commissioners met in regular session on Monday, July 20, 2009 at 7:00 p.m. in the 1924 Courthouse, Robert E. Hibbitts Meeting Room, 30 North College Avenue, Newton, North Carolina.

Present were Vice-Chair Lynn M. Lail and Commissioners Dan A. Hunsucker, Glenn E. Barger and Barbara G. Beatty.

Chair Katherine W. Barnes was absent.

Also present were County Manager J. Thomas Lundy, Assistant County Manager Lee Worsley, Assistant County Manager Dewey Harris, County Attorney Debra Bechtel, Deputy County Attorney Anne Marie Pease, and County Clerk Barbara Morris.

1. Vice-Chair Lynn M. Lail called the meeting to order at 7:00 p.m. and indicated that Chair Barnes was Traveling and unable to attend the meeting.
2. Commissioner Glenn E. Barger led the Pledge of Allegiance to the Flag.
3. Commissioner Dan Hunsucker offered the invocation.
4. Commissioner Glenn E. Barger made a motion to approve the minutes from the Budget Hearings of June 15, 2009, the Regular Meeting and Budget Wrap-Up of June 15, 2009; Closed Session of June 15, 2009, the Special Session – Budget Adoption- of June 17, 2009 and the Special Joint Session with the Town of Maiden of July 6, 2009. The motion carried unanimously.
5. Recognition of Special Guests: Vice-Chair Lail welcomed everyone present and recognized Clarence Hood, President of the Catawba County Farm Bureau.
6. Public Comments for Items not on the Agenda: None.
7. Presentations:
 - a. Commission Hunsucker presented Clarence Hood, President of Catawba County Farm Bureau and Chair of the Agricultural Advisory Board with a proclamation recognizing the County's Voluntary Agricultural District Program, adopted by the Board in October 2008. Agriculture contributes over \$30 million in crop and livestock sales to the local economy and the Voluntary Agricultural District Program will promote and preserve this important way of life in Catawba County. Mr. Hood thanked the Board for adopting the Voluntary Agricultural District Ordinance and for its support of the County's agricultural industry. Commissioner Dan Hunsucker then signed his own application, the first for designation as an agricultural district under this new program.
 - b. Commissioner Hunsucker then asked Clarence Hood to present Alex Malyszko, Aaron Morrison and Emma Roseman with first, second and third prizes, respectively, in the Voluntary Agricultural District Poster Contest. The County's Agriculture Advisory Board sponsored the contest to help promote agriculture in the county and to seek designs that would be used as inspiration for Voluntary Agricultural District signs that will be placed throughout the county. Students in after-school, 4-H and library summer reading programs participated.
8. Public Hearing:
 - a. Vice-Chair Lail announced the public hearing on Western Piedmont Regional Transit Authority FY2009-10 Rural Operating Assistance Program (ROAP) Grant Application would be postponed to a later date.
 - b. Jacky Eubanks, Planning, Parks and Development Director came forward to request the Board hold a public hearing to receive citizen input on the development of Community Development Block Grant (CDBG) applications for the coming year. North Carolina receives approximately \$50 million in CDBG funds each year. Local governments may apply for these funds for various activities that benefit low and moderate income persons with severe needs, including installation of infrastructure for businesses that will create jobs for low and moderate income persons, neighborhood revitalization, and housing development and rehabilitation. Two public hearings needed to be held to receive public comment regarding any project that may be eligible. The County held an initial public hearing on February 16, 2009 to receive citizen input on the development of the application. Vice-Chair Lail opened the public hearing and asked anyone wishing to speak to come forward. No one came forward to speak for or against the development of Community Development Block Grant (CDBG) applications for the coming year at this second public hearing. Vice-Chair Lail then closed the public hearing. Commissioner Hunsucker made a motion to approve the submission of these grant applications, adopt

the applicable resolution and approve the submitted plans and the motion carried unanimously. The following resolution applies:

CATAWBA COUNTY
AUTHORIZING RESOLUTION AND CERTIFICATION
2009 COMMUNITY DEVELOPMENT BLOCK GRANT SCATTERED SITE
REHABILITATION PROJECT

WHEREAS, various State and Federal agencies provide for funds to municipalities to meet the needs of local governments in financing the cost of Community Development; and

WHEREAS, the Division of Community Assistance is the State administering agency for the Community Development Block Grant Program whose funds are designed to improve the housing conditions of very low-income households with incomes at or below 50% of area median income; and

WHEREAS, the Catawba County Board of Commissioners has solicited and received citizen input regarding the Community Development Block Grant Scattered Site Housing Project which will provide housing rehabilitation assistance to approximately five (5) households and clearance/relocation to approximately one (1) household as part of the grant; and

NOW, THEREFORE, BE IT RESOLVED BY THE CATAWBA COUNTY BOARD OF COMMISSIONERS:

That Catawba County is applying for \$400,000 in Community Development Block Grant (CDBG) Scattered Site Housing funds to assist six (6) low-income families;

That Catawba County will substantially comply with all Federal, State and local laws, rules, regulations and ordinances pertaining to the project and to Federal and State grants pertaining thereto.

That, Katherine W. Barnes, Chair of the Catawba County Board of Commissioners, and successors so titled is hereby authorized to develop, execute and file an application on behalf of the Catawba County to appropriate Federal and State agencies to secure funds for the Community Development Block Grant Project.

That, Katherine W. Barnes, Chair of the Catawba County Commissioners, and successors so titled is hereby authorized and directed to furnish such information as the appropriate governmental agencies may request in connection with such applications for the project; to make the assurances and certifications as contained above; and to execute such other documents as may be required in connection with the construction of the project.

That this resolution shall take effect immediately upon its adoption.

9. Appointments.

Commissioner Hunsucker recommended the appointment of Thomas Fannin for an unexpired term on the Public Health Board. Mr. Fannin will replace Jay Schwarz who resigned due to business constraints. Mr. Fannin's term will expire on June 30, 2012. Vice-Chair recommended the nominations of John Eller, Nathan Huret, Pete Miller and James Packer for appointment to the Western Piedmont Workforce Development Board. Vice-Chair Lail presented Chair Barnes' recommendation to reappoint Ronn Abernathy for a fourth term, John Eller for a first term, Jennie Connor for a fourth term, Dr. Paul Holden for a third term, Jennifer Mace for a first term, Mac McLeod for a third term, Brandi Tolbert for a third term and David Eckerd for a first term on the Juvenile Crime Prevention Council. These terms will expire June 30, 2011. Vice-Chair Lail also presented Chair Barnes' recommendation to reappoint Chip Blackwelder for a second term on the Hickory Regional Planning Commission. Vice-Chair Lail recommended the Board designate Chair Katherine W. Barnes as voting delegate at the upcoming

North Carolina Association of County Commissioners Annual Conference. Commissioner Barbara Beatty made a motion to approve these appointments. The motion carried unanimously.

10. Consent Agenda:

County Manager J. Thomas Lundy presented the following four items under the Consent Agenda:

a. A request for the Board to accept \$22,000 from a Library Services and Technology Act planning grant (LSTA) that will be used to develop a plan for the digitalization of local history resources jointly with the Hickory Public Library. No match is required for this grant. The libraries will hire a consultant with an extensive background in digital collections creation to assess the scope of unique local history materials and determine priorities for a joint digitalization project. The project will explore options for a future project to assess, digitalize and make accessible through the Internet some portion of the local history resources owned and/or held by the participating libraries. It will culminate in a letter of intent and, if invited to continue, a grant proposal application for a joint digitalization project in the next grant cycle.

b. A request for the Board to accept \$60,732 in LSTA grant funds to improve service to library users by installing self-service technological solutions that permit staff to spend more time helping patrons make effective use of the library's resources. This grant requires a match of \$15,184, which has been budgeted in the FY 2009-2010 Library budget. Funds will be used to purchase software to increase the effectiveness of library services and significantly improve customer service. The project includes PC Reservation and print management software which will allow customers to sign on, reserve and manage print processes, and allow for increased privacy and autonomy. The most beneficial result will be the increased attention staff will be able to give to library users who have more complex and personalized needs. The library currently employs this software at the St. Stephens Branch and the Main Library in Newton. This grant will enable the library to expand this solution to the other five library locations (Conover, Claremont, Maiden, Southwest and Sherrills Ford.) In addition, installation of self-check-out technology will be completed at all seven libraries to further benefit users. Customers who are able to manage and want to manage their materials checkouts will have that choice, freeing up staff time for more personal and individualized attention.

c. A request for the Board to waive building permit fees for the 2009 Greater Hickory Classic. On May 13, 2009, the County received a request from Mr. Peter Fisch, Tournament Manager of the Greater Hickory Classic at Rock Barn, to waive permit fees for the 2009 Greater Hickory Classic, scheduled to be held at the Rock Barn Golf and Spa in Conover from September 14-20, 2009. Building permit fees have been waived for all previous Greater Hickory Classic events. The waived permit fees are applicable only to the Catawba County Fee Schedule, Building Permit Fees, and will not negate the issue of permits and inspections to protect the safety, health and welfare of the citizens of, and visitors to, Catawba County. The waived permit fees are estimated to be less than \$5,000. The Greater Hickory Classic at Rock Barn brings thousands of visitors to the county and has a significant impact on the local economy.

d. A request for the Board to enter into an agreement with the Western Piedmont Council of Governments (WPCOG) for grant management assistance for the Urgent Repair Housing Program from July 1, 2009 through September 30, 2010. The North Carolina Housing Finance Agency has awarded Catawba County a 2009 Urgent Repair Program Grant in the amount of \$75,000. The program will assist approximately sixteen low-income households by providing energy efficiency improvements and minor structural repairs. The WPCOG will provide day-to-day management of the program with administration oversight being provided by the County's Planning Department. The following ordinance applies:

Ordinance #

**CATAWBA COUNTY'S PROJECT BUDGET ORDINANCE
FOR THE 2009 URGENT REPAIR GRANT**

Be it ordained by the County Commissioners of the Catawba County that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted.

Section 1. The project authorized is the North Carolina Housing Finance Agency Urgent Repair Grant described in the work statement contained in the Funding Agreement URP#0905 between this unit and the North Carolina Housing Finance Agency. This project is more familiarly known as the 2009 Catawba County Urgent Repair Program.

Section 2. The officers of this unit are hereby directed to proceed with the grant project within the terms of the grant document(s), the rules and regulations of the North Carolina Housing Finance Agency, and the budget contained herein.

Section 3. The following revenues are anticipated to be available to complete this project.

Revenues

North Carolina Housing Finance Agency-URP

NCHFA-URP Grants Revenue	\$75,000
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Section 4. The following amounts are appropriated for the project:

Expenditures

North Carolina Housing Finance Agency-URP

Rehabilitation-URP	\$65,000
WPCOG/Administration	<u>\$10,000</u>
	\$75,000

Section 5. The Finance Officer is hereby directed to maintain within the Grant Project Fund sufficient specific detailed accounting records to provide the accounting to the grantor agency required by the grant agreement(s) and federal and state regulations.

Section 6. Funds may be advanced from the General Fund for the purpose of making payments as due. Reimbursement requests should be made to the grantor agency in an orderly and timely manner.

Section 7. The Finance Officer is directed to report quarterly on the financial status of each project element in Section 4 and on the total grant revenues received or claimed.

Section 8. The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this grant project in every budget submission made to this Board.

Section 9. Copies of this grant project ordinance shall be made available to the Budget Officer and the Finance Officer for direction in carrying out this project.

Adopted this the 20th day of July, 2009.

Vice-Chair Lail asked if any Board member wished to have any item broken out of the consent agenda for further discussion. None were requested. Commissioner Barger made a motion to approve the consent agenda. The motion carried unanimously.

11. Departmental Reports:

A. Finance/Catawba Valley Medical Center.

1. Catawba Valley Medical Center President Tony Rose presented a request for the Board to approve financing for the expansion and renovation of the Catawba Valley Medical Center (CVMC) surgical suite, as well as other capital improvements, for an amount not to exceed \$25 million and adopted a series of associated documents. Catawba Valley Medical Center will be responsible for this debt and no County funds will be utilized for repayment of the debt.

Catawba Valley Medical Center, a county-owned healthcare facility, has requested that Catawba County borrow funds to finance capital improvements at CVMC. These improvements include the renovation and reconfiguration of the entire surgical suite, providing at least 600 square feet in each operating room to provide optimal space for modern and future technology as well as intensive orthopedic surgeries. In addition, the renovated space will include a new Sterile Core area, with separate patient and staff access to the twelve operating rooms, a new decontamination area, equipment storage, an anesthesia work area, and expanded office and break areas. Additions and upgrades are also planned for the Central Energy Plant to address current and future utility needs. CVMC also plans to use approximately \$3.5 million for routine capital expenditures and to refinance two existing notes for the same amount.

To finance these projects, CVMC will issue Build America Bonds (BABs), which were part of 2009 federal "stimulus" legislation. These bonds are taxable, unlike the tax-exempt debt the County has issued over the last few years. Issuers of these bonds are eligible for a 35% refundable credit, however, which will make the net interest rate comparable to recent County transactions. The issuance of BABs will not affect the existing or future tax-exempt debt of the County and the County's \$30 million debt limit for calendar years 2009 and 2010. CVMC will also use Recovery Zone Economic Development Bonds, which were also made available in the 2009 federal legislation, to supplement the Build America Bonds. These bonds are available to local governments that have been designated as part of a "recovery zone", and issuers are afforded a 45% refundable credit. Catawba County qualifies for these bonds due to its current unemployment rate and has been allocated \$8.57 million for 2009.

This financing will be repaid with revenues derived from operations of Catawba Valley Medical Center and no revenues of the County will be obligated to repay the debt. Some of the required documents must be approved by the Board before the Local Government Commission's (LGC) August 4, 2009 meeting and two documents, a Supplemental Bond Order and a Master Trust Agreement, will need to be approved by the Board after the LGC's August 4 meeting.

Commissioner Beatty complimented the Hospital Board of Trustees and staff for their hard work and hard decision making that had gone into this project. Commissioner Beatty made the motion to approve this financing. The motion carried unanimously. The following resolution applies:

RESOLUTION # 2009-23

RESOLUTION AUTHORIZING AND APPROVING THE ISSUANCE BY THE COUNTY OF ITS TAXABLE VARIABLE RATE DEMAND HOSPITAL REVENUE BONDS (CATAWBA VALLEY MEDICAL CENTER PROJECT), SERIES 2009, IN AN AGGREGATE PRINCIPAL AMOUNT UP TO \$25,000,000 AND AUTHORIZING THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS IN CONNECTION THEREWITH

WHEREAS, The Board of Hospital Trustees of Catawba County, North Carolina ("CVMC") has requested the County to issue the above referenced bonds for the purpose of providing funds, together with other available funds, to (i) pay the costs of additional health care facilities, including

routine capital expenditures and the acquisition and installation of health care equipment and (ii) pay certain expenses of issuing the above-referenced bonds;

WHEREAS, there have been submitted to this meeting draft copies of the following documents and instruments (the "Financing Documents") relating to the issuance of the Bonds;

(a) a Series Resolution relating to the County of Catawba, North Carolina Taxable Variable Rate Demand Hospital Revenue Bonds (Catawba Valley Medical Center Project), Series 2009 (the "Bonds"), proposed to be adopted by the County on July 20, 2009 in connection with the authorization and issuance of the Bonds;

(b) a Letter of Credit and Reimbursement Agreement, proposed to be dated as of August 1, 2009 (the "Reimbursement Agreement"), between the County, CVMC and Branch Banking and Trust Company; as Letter of Credit Provider;

(c) a Bond Purchase Agreement, to be dated the date of delivery thereof (the "Purchase Agreement"), between the Local Government Commission of North Carolina ("LGC") and Scott & Stringfellow, LLC, t/a BB&T Capital Markets, as underwriter, and approved by the County;

(d) a Remarketing Agreement, proposed to be dated as of August 1, 2009 (the "Remarketing Agreement"), between the County and Scott & Stringfellow, LLC, t/a BB&T Capital Markets, as remarketing agent; and

(e) an Official Statement, to be dated as of the date of its delivery, with respect to the Bonds;

WHEREAS, the Board of County Commissioners (the "Board") is agreeable to the terms and conditions to be imposed upon it in connection with the issuance of the Bonds and the execution and delivery of the several documents necessary to the implementation thereof;

WHEREAS, the Board desires to approve the Financing Documents and to authorize other actions in connection therewith; and

WHEREAS, in the event that the LGC requires the County to enter into a derivative agreement with respect to all or a portion of the Bonds, the Board desires to authorize designated representatives to solicit proposals for a derivative agreement from one or more counterparties, to negotiate the terms and provisions thereof, to approve the terms and provisions thereof on behalf of the Board and to take any and all such other necessary or appropriate action related thereto; and

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

Section 1. The Series Resolution is hereby adopted and approved in substantially the form presented to this meeting, together with such changes, modifications and deletions as any of the Chairman or Vice-Chairman of the Board of Commissioners (the "Chairman" and the "Vice-Chairman," respectively) or the Finance Director, with the advice of counsel, may deem necessary and appropriate; and execution and delivery of the Bonds shall be conclusive evidence of the approval and authorization thereof by the County.

Section 2. The remaining Financing Documents are hereby approved in substantially the form presented to this meeting, together with such changes, modifications and deletions as any of the Chairman, the Vice-Chairman or the Finance Director, with the advice of counsel, may deem necessary and appropriate; and execution (as applicable) and delivery thereof by any of the Chairman, the Vice-Chairman or the Finance Director, as applicable, shall be conclusive evidence of the approval and authorization thereof by the County.

Section 3. The Board confirms (a) it has considered and evaluated both fixed and variable rate debt alternatives; (b) it has considered and recognizes that the current interest rate environment for

fixed rate debt instruments similar to the Bonds is challenged and could result in a fixed interest rate of approximately 7.5% if the Bonds were issued as fixed rate bonds; and (c) it has considered and recognizes that variable rate debt instruments subject CVMC and the County to the risk of higher interest rates in the future, that the rates may be higher than the fixed rates that are currently available to CVMC and the County, and that in addition to the variable interest rate cost, CVMC and the County must pay fees to a credit facility provider and a remarketing agent, which fees will increase the cost of the variable rate debt. CVMC desires the County to issue the Bonds as variable rate debt financing because (1) the initial interest rate is substantially below the fixed rate at which it is anticipated the Bonds could be sold if the Bonds were sold as fixed rate debt; (2) a variable interest rate provides the possibility of substantial cost savings over the life of the Bonds; (3) the interest rate on the Bonds can be fixed at any time; (4) variable rate bonds can be repaid at par upon approximately 30-days prior written notice; and (5) variable rate debt is a key component of CVMC's management of its liabilities in concert with its short-term liquid assets.

Section 4. The Board hereby makes the following findings: (i) the proposed issue of Bonds is necessary and expedient; (ii) the amount of the proposed issue of Bonds is adequate and not excessive for the proposed purposes of the issue of Bonds; (iii) the projects proposed to be financed by the Bonds are feasible; (iv) the County's debt management procedures and policies are good; (v) the proposed issue of Bonds can be marketed at reasonable interest costs to CVMC and the County; (vi) that no increase in taxes will be necessary to meet the sums to fall due under the Bonds as such hospital revenue bonds will not constitute or give rise to any charge against the County's general credit or taxing power; and (vii) the County is not in default under any of its debt service obligations.

Section 5. Each of the Chairman, the Vice-Chairman and the Director of Finance are authorized to approve all details of all the financing, including, without limitation, the final par amount of the Bonds (which shall not exceed \$25,000,000), the maturities, the principal amounts and the interest amounts of the bonds and the Underwriter's discount (which shall not exceed the limits set forth in the Series Resolution). Execution of the bonds as provided in the Series Resolution shall conclusively evidence such approval of all such details of said financing.

Section 6. The Chairman, the Vice-Chairman, the County Manager, the Finance Director, the County Attorney and the Clerk to the Board of Commissioners, or any of them or their deputies, are hereby authorized to take any and all such further action, and to execute and deliver for and on behalf of the County such other documents and certificates as they may deem necessary or advisable to carry out the intent of this resolution and to effect the issuance of the Bonds pursuant to the Series Resolution and the other Financing Documents. The Clerk to the Board of Commissioners is hereby authorized to affix the seal of the County to such documents and certificates as may be appropriate and to attest to the same and to execute and deliver such certificates as may be appropriate. Said officers are hereby authorized to cooperate with the Underwriter in preparing and filing such filings under state securities or "blue sky" laws (including special consents to service of process) as the Underwriter may request and as the Chairman, the Vice-Chairman or the Director of Finance shall determine.

Section 7. The Board hereby further approves, subject to written confirmation from a CVMC Representative prior to the sale of the Bonds, that the County (i) irrevocably elects to treat the Bonds as "Build America Bonds" within the meaning of Section 54AA of the Internal Revenue Code of 1986, as amended (the "Code") and (ii) further irrevocably elects to have the 35% refundable credit provisions of subsection (g) of said Section 54AA of the Code apply to the Bonds.

Section 8. The Board hereby further approves, subject to written confirmation from a CVMC Representative prior to the sale of the Bonds, that the County (i) utilize the County's allocation of \$8,570,000 from the national recovery zone economic development bond limitation provided by Section 1400U-1 of the Code by designating up to \$8,570,000 of the Bonds as "Recovery Zone Economic Development Bonds" within the meaning of Section 1400U-2 of the Code and (ii) designates such portion of the Bonds as "Recovery Zone Economic Development Bonds" to receive

the 45% refundable credit provided by Section 1400U-2 of the Code. For this purpose, and as permitted by Section 1400U-1 of the Code, the Board hereby designates the County as a "recovery zone" within the meaning of Section 1400U-1 of the Code by virtue of having significant poverty, unemployment, rate of home foreclosures or general distress in the County.

Section 9. The Board hereby requests the LGC to sell the Bonds at private sale and without advertisement in accordance with the provisions of Section 159-123 of the General Statutes of North Carolina.

Section 10. All actions heretofore taken by the officers or other representatives of CVMC, the Board of Trustees of CVMC and the County to effectuate the proposed financing including, but not limited to, (a) the selection of (i) McGuireWoods LLP, as bond counsel to the County for the issuance of the Bonds and matters related thereto, (ii) Scott & Stringfellow, LLC, t/a BB&T Capital Markets, as underwriter for the Bonds and (iii) Parker Poe Adams & Bernstein, LLP as counsel to the underwriter and (b) the actions of the Board of Trustees of CVMC in adopting their resolution dated June 22, 2009 relating to the proposed financing, are hereby ratified, approved and authorized pursuant to and in accordance with the transactions contemplated by the Financing Documents.

Section 11. The Chairman, the Vice-Chairman, the County Manager, the Finance Director, the County Attorney and the Clerk to the Board of Commissioners, or any of them or their deputies, are hereby authorized, jointly and severally, in the event that the LGC requires the County to enter into a derivative agreement with respect to all or a portion of the Bonds, to solicit proposals for a derivative agreement from one or more counterparties, to negotiate the terms and provisions thereof, to approve the terms and provisions thereof on behalf of the Board and to take any and all such other action necessary or appropriate to effectuate the implementation of a derivative agreement with respect to all or a portion of the Bonds.

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

Upon motion of Commissioner Barbara G. Beatty, and unanimously carried, the Board approved the passage of the foregoing resolution entitled "AUTHORIZING AND APPROVING THE ISSUANCE BY THE COUNTY OF ITS TAXABLE VARIABLE RATE DEMAND HOSPITAL REVENUE BONDS (CATAWBA VALLEY MEDICAL CENTER PROJECT), SERIES 2009, IN AN AGGREGATE PRINCIPAL AMOUNT UP TO \$25,000,000 and AUTHORIZING THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS IN CONNECTION THEREWITH."

2. Catawba Valley Medical Center President Tony Rose and County Attorney Debra Bechtel presented a request for the Board to declare approximately 7.95 acres of County-owned property located at 1037 Zion Church Road, Hickory as surplus; accept an initial offer of \$145,000 per acre from Lutheran Home Hickory West Property, Inc., and adopt a resolution authorizing the upset bid procedure for disposal and authorize the appropriate County officials to execute documents if no upset bid is received. The sale is contingent upon Carolina Orthopaedic Specialists' sale of property adjacent to this property.

In 1998, Catawba Valley Medical Center purchased a 16.17 acre tract of land (the old Mountain View Elementary School site) from Catawba County Schools for \$1,250,000. In December 2007, SBBH, LLC, on behalf of Walgreens, purchased 2.24 acres of that property for \$2,135,416. With the culmination of this proposed purchase, CVMC will have realized an approximate 300% return on its original investment in the subject property.

Catawba Valley Medical Center/Catawba County has received an offer from Lutheran Home Hickory West Property, Inc. to purchase a portion of the property consisting of approximately 7.95 acres. The offer from Lutheran Home Hickory West Property, Inc. is for \$145,000 per acre. A 10% deposit was wired to the County on July 10, 2009. CVMC has reserved a parcel at the back of the original 16.17 acre tract of land for Catawba Country Emergency Services' use. There is a fifty foot

easement from this parcel out to Zion Church Road to ensure ingress and egress to the parcel. The North Carolina Department of Transportation has already issued a driveway permit for this purpose.

North Carolina General Statute 160A-269 authorizes the sale of real property via the negotiated offer and upset bid process. The process begins with the receipt of an offer to purchase the property. If the Board proposes to accept the offer, the upset bid procedure begins. The party making the offer is required to submit a bid deposit in the amount of at least 5% of the bid. Once the Board has acted and that bid deposit has been received, a notice is published in local newspapers. The statute requires that an upset bid be received within ten days from the date the notice is published. To qualify as an upset bid, the bid must raise the original or current offer by an amount of at least 10% of the first \$1,000 of that offer and 5% of the remainder. When a bid has been successfully raised, the new bid becomes the current offer, and the local government conducts another upset sale, on the same terms and under the same procedures as the first sale. This process continues until a ten-day period passes without receipt of a qualifying upset bid.

Commissioner Barger made a motion to declare the subject property surplus, accept an initial offer of \$145,000 per acre from Lutheran Home Hickory West Property, Inc., and adopt a resolution authorizing the upset bid procedure for disposal and authorizing the appropriate County officials to execute documents if no upset bid is received. The following resolution applies:

RESOLUTION 2009 -
Notice of Upset Bid – Real Property

WHEREAS, the County of Catawba owns certain property; located at 1037 Zion Church Road, Hickory Township, N.C. being a portion of property as shown Book 2084, Page 1618 (approximately 7.95 acres), PIN # 370113040172 in the office of the Register of Deeds for Catawba County, to which plat and the record thereof, reference is hereby made for more complete description, and

WHEREAS, North Carolina General Statute 160A-269 permits the County to sell property by upset bid, after receipt of an offer for the property; and

WHEREAS, Lutheran Home Hickory West Property, Inc. has paid the required deposit on their offer;

WHEREAS, the Catawba County Board of Commissioners accepts the offer of \$145,000 per acre or any higher, upsetting offer, subject to the upset bid procedure;

THEREFORE, the Catawba County Board of Commissioners resolves that:

1. The Catawba County Board of Commissioners declares said property surplus and authorizes the sale of the property described above through the upset bid procedure of North Carolina General Statute 160A-269.
2. The Purchasing Agent shall cause a notice of the proposed sale to be published. The notice shall describe the property and the amount of the offer, and shall state the terms under which the offer may be upset.
3. Persons wishing to upset the offer that has been received shall submit a sealed bid with their offer to the office of the Purchasing Agent within 10 days after the notice of sale is published. The Purchasing Agent shall open the bid received during the 10-day notification period and any qualifying bid will become the new offer. If there is more than one bid in the highest amount, the first bid received will become the new offer.
4. If a qualifying higher bid is received, the Purchasing Agent shall cause a new notice of upset bid to be published, and shall continue to do so until a 10-day period has passed without any qualifying upset bid having been received.

5. A qualifying higher bid is one that raises the existing offer by not less than 10 percent of the first \$1,000 of that offer and 5 percent of the remainder of that offer.
6. A qualifying higher bid must also be accompanied by a deposit in the amount of 5 percent of the bid; the deposit may be made in cash, cashier's check, or certified check. The County will return the deposit on any bid not accepted, and will return the deposit on an offer subject to upset if a qualifying higher bid is received. The County will return the deposit to the final high bidder at closing.
7. The terms of the final sale are that
 - The Catawba County Board of Commissioners must approve the final high offer before the sale is closed, which it will do within 30 days after the final upset bid period has passed, and
 - The buyer must pay with cash or certified check at the time of closing.
8. The County reserves the right to withdraw the property from sale at any time before the final high bid is accepted and the right to reject at any time all bids.
9. If no qualifying upset bid is received after the initial public notice, the offer set forth above is hereby accepted. The appropriate county officials are authorized to execute the instruments necessary to convey the property to Lutheran Home Hickory West Property, Inc.

This the 20th day of July, 2009.

B. Utilities and Engineering.

Barry Edwards, Utilities and Engineering Director, presented a request for the Board to authorize County Manager J. Thomas Lundy to execute a Lease Agreement with Duke Energy Carolinas that will allow Catawba County to continue operating a solid waste convenience center at the present location at 8876 Sherrills Ford Road in the Sherrills Ford/Terrell community.

Catawba County first opened the Sherrills Ford Convenience Center in 1976. The original lease agreement with Crescent Land & Timber ended in 1986. During the time following the expiration of the original lease agreement, Carolina Centers acquired the property and the County was unable to reach a lease agreement with Carolina Centers. Catawba County offered to purchase the portion of the property it uses at fair market value, but was unable to reach an agreement with Carolina Centers. The property was sold to Duke Energy Carolinas in 2009.

Duke Energy Carolinas has been very gracious and willing to reach a lease agreement with terms agreeable to all parties involved. The new lease agreement would begin on June 1, 2009 and end on May 31, 2014. During this initial five year period, Catawba County would pay Duke Energy an annual rental amount of \$1,000. The lease shall automatically be renewed for one five year period extending from June 1, 2014 until May 31, 2019. During the second five year period, Catawba County would pay an annual rental amount of \$1,100. The agreement provides a means for termination by either party with a 60 days written notice, effective on the 60th day, but allows one year for the County to vacate the property while continuing to operate the site during that one year period. The annual rent during the one year termination period would be prorated based on the date the County vacates the property.

Vice-Chair Lail expressed on behalf of all the Commissioners the Board's appreciation for Duke Energy Carolinas, LLC's assistance and partnership in reaching a solution that allows the County to continue to offer solid waste and recycling convenience center services to the Sherrills Ford area.

Commissioner Hunsucker made a motion to authorized County Manager J. Thomas Lundy to execute the Lease Agreement with Duke Energy Carolinas that will allow the continued operation of a solid waste convenience center at 8876 Sherrills Ford Road. The motion carried unanimously.

12. Other Items of Business: None.
13. Attorneys' Report: None.
14. Manager's Report: Assistant County Manager Lee Worsley introduced Kelly Pasour, a International County Manager Association Fellow who will be working in the County as a member of the County Manager's Office for the next year. The Board welcomed Ms. Pasour and wished her well.
15. Adjournment: Commissioner Hunsucker made a motion to adjourn at 7:45 pm. The motion carried unanimously.

Katherine W. Barnes
Board of Commissioners

Barbara E. Morris
County Clerk