

**Minutes**  
**Catawba County Board of Commissioners**  
**Regular Session, Monday, June 6, 2005, 9:30 A.M.**

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The Catawba County Board of Commissioners met in regular session on Monday, June 6, 2005, 9:30 a.m. at the 1924 Courthouse, Robert E. Hibbitts Meeting Room, 30 North College Avenue, Newton, North Carolina.

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

A quorum was present.

Also present were County Manager J. Thomas Lundy, Assistant County Manager Joellen J. Daley, Assistant County Manager Lee Worsley, County Attorney Robert Oren Eades, Attorney Debra Bechtel, and Assistant Deputy Clerk Avajeon M. Wickes.

1. Chair Barnes called the meeting to order at 9:36 a.m.
2. Commissioner Lail led the Pledge of Allegiance to the Flag.
3. The Invocation was offered by Commissioner Barger. Prior to the invocation Commissioner Barger acknowledged the loss to the County of Tony Pope. Commissioner Barger noted that Mr. Pope had given back to his community in many different ways and asked that his family and those close to him be remembered in a special way.
4. Commissioner Beatty made a motion to approve the minutes from the regular board meeting of May 16, 2005. The motion carried unanimously.
5. Recognition of Special Guests.  
Chair Barnes asked Attorney Debra Bechtel to introduce Katie Pekman who is completing an internship with the County.
6. Public comment for items not on the agenda. None.
7. Presentations.
  - a. Chair Barnes presented Dr. Ann Hart with a Distinguished Public Service award for her role as Superintendent of Catawba County Schools since 2000. This award recognized Dr. Hart's career in public education and the County's improved curriculum offerings, higher standings in ABC and AYP ratings and the number of schools named Honor Schools of Excellence, Schools of Excellence and Schools of Distinction during her tenure. Dr. Hart said it was an honor and a privilege to work in the County and with the Board of Education.
  - b. Reva Cook, Coordinator of the Catawba County Drug Treatment Court, presented a report to the Commissioners regarding this recovery program. This program includes case management, probation supervision, treatment, court appearances every two weeks, attendance in Alcoholics Anonymous and similar programs and mandatory employment or enrollment in an educational program. The program served 42 persons with a retention rate of 86% and there have been no re-arrests for any graduate of the program. Since funds for the program have not been included in next year's state budget, a Federal grant has been applied for which would allow the program to continue for another 3 years. Chair Barnes said as a member of the CJPP group, they had had a good meeting in the past few weeks and noted Attorney Bechtel chairs that group and the group needed to work to keep this program in the State. Chair Barnes asked Attorney Bechtel to comment on how other drug courts had fared in the state and Attorney Bechtel replied there are only 11 programs right now but they were all in danger of being discontinued due to the State budget. Chair Barnes said the people involved were going to work to bridge the gap until there is confirmation of Federal funds and they would also work to try to get State funds.
8. Appointments:

Vice-Chair Hunsucker recommended Janet Crump, Judicial District Manager, for appointment to the Criminal Partnership Advisory Board for a first term beginning July 1, 2005 and expiring June 30, 2008 to replace Betty Echerd.

Commissioner Lail recommended David Boone, representing an individual with expertise in management and business, for reappointment for second term on the Mental Health Services Board beginning July 1, 2005 and ending June 30, 2009.

Commissioner Barger recommended Roxanne "Roxy" Poovey for reappointment to a second term on the CVCC Board of Trustees beginning July 1, 2005 and ending June 30, 2009.

These recommendations came in the form of a motion. The motion carried unanimously.

9. Consent Agenda:

County Manager J. Thomas Lundy noted two changes in the consent agenda. He recommended delaying Item (c) Electronic Citation Security Agreement due to a conflict in the staff report and the attached contract about whether the County would be liable for certain fees and this would need to be resolved before the Board's consideration, so it would be on the next agenda. He recommended Item (h) Catawba County Co-Generation Facility's Renewable Energy Credits Update and Contract Amendment be presented as a separate item by Barry Edwards because this is a relatively new concept.

County Manager Lundy then presented the remaining consent agenda items:

a. Two tax refunds - one a Consent Order from the Tax Commission for Alcatel in the amount of \$103,842.15 for 2003 and 2004 taxes because of the property being put into the present-use value system and one for Gordon Fox in the amount of \$4,644.89 for 2002, 2003 and 2004 due to the property being put into the present-use value system.

b. The donation of two additional vehicles to Catawba Valley Behavioral Healthcare. County Manager Lundy pointed out that most of the vehicles titled by the County and used by Mental Health were transferred on January 3, 2005. These two vehicles were in the process of being purchased at that time and it was requested that they now be transferred to CVBH because they operate the Life Skills Program.

c. The acceptance and authorization to spend a \$10,000 grant that the County received from the North Carolina Association of County Commissioners for the most innovative and effective risk control program in 2004. The County had received a grant for \$10,000 aimed specifically at wellness for the EMS employees and there was dramatic progress made by those who volunteered to the begin the program resulted in this award. This \$10,000 award will be used to continue the program which will be open to all EMS employees. Appropriations would be from \$10,000 Expenditures 110 150060 849165 to Revenues 110 150060 682555.

d. The adoption of a budget ordinance amendment for 2005 North Carolina Housing Finance Agency Urgent Repair Grant and an agreement with the Western Piedmont Council of Governments (WPOG) to spend \$50,000 to assist with housing. The contract with the Council of Governments is for \$7,000 and \$43,000 for urgent needs and repairs of homes.

e. The receipt and authorization of Homeland Security funds in the amount of \$3,981.66 which would be used to send three members of the Claremont Rescue Squad to a special NASA conference in California which deals with structural collapse. County Manager Lundy noted that one of the recommendations that was adopted in the Emergency Services Plan was that the County would try to have specialty teams with the rescue squads that are trained for things like structural collapse so that all squads didn't have to be dispatched to calls with specific expertise needed.

f. Request to designate Jack Chandler, Public Services Administrator, to act as the official for the County as the County prepares to take bids for the sewer lines and pump station project for Gregory Wood Products. The issue is that the General Statutes allows if there is a particular product which is preferred by the owner, then that is the product that would be bid. Newton uses Flygt Pumps and since the County has a contract with Newton, they prefer that Flygt Pumps be used in this bid.

Chair Barnes asked if there were any questions on the consent agenda or any items that the Board would like broken out to take separate action on and there were none. Commissioner Barger made a motion to approve the consent agenda. The motion carried unanimously.

10. DEPARTMENTAL REPORTS

a. Emergency Services:

David Weldon, Director of Emergency Services, presented a request for the implementation of a Home Quarantine Fee in the amount of \$60.00 for the monitoring of bite animals and to assure compliance with a quarantine order under limited conditions. He stated this was a new fee and explained that pursuant to State Statute, the County Health Director has the authority under certain circumstances to allow a home quarantine. There are very stringent guidelines which include that the dog, cat or ferret bite was of the person living at the resident and the animal's rabies vaccinations are current and the bite occurs on the owner's property. This quarantine is generally used when the animal has been owned by the homeowner for quite some time and taking the animal out of the home to be quarantined in the animal shelter would cause a lot of distress for both the pet owner and the pet. One change included in this recommendation is to give this authority to the Animal Services Manager in addition to the County Health Director, with that Manager notifying the County Health Director immediately of any home quarantine. The \$60.00 fee is for the expense of the Animal Control Officer to visit the residence daily for the ten-day quarantine to ensure compliance. The current impound fee at the shelter, which includes shelter quarantine, is \$50.00 plus an \$8.00 per day board fee paid by the owner if they reclaim their animal. Commissioner Beatty asked if this applied to an animal that had not had its vaccinations and Mr. Weldon clarified that it applied to animals whose vaccinations were current. Vice-Chair Hunsucker asked how many of these home quarantines occur each year and Mr. Weldon replied that only 3 or 4 had occurred in the last year. Vice-Chair Hunsucker asked if an officer needed to go out each day and Mr. Weldon replied affirmatively. Commissioner Beatty asked if all that was being requested at this meeting was a fee for this home quarantine which currently does not have a fee and Mr. Weldon said this was true. Commissioner Barger stated if the animal was impounded there would be a \$50.00 fee and if quarantined at home it would be \$60.00 fee – but Attorney Bechtel pointed out that in addition to that \$50.00 impound fee, there is a charge of \$8 per day for a total of \$80.00 for the ten day quarantine thus resulting in a \$130.00 fees.

Both Attorney Bechtel and Mr. Weldon pointed out that this would only apply to a limited amount of bite animals due to the restrictions listed above. Chair Barnes asked if in the past the Health Director had the call on all these types of animal bites and Mr. Weldon said this was the case and the Health Director would still be notified by the Animal Services Manager of these home quarantine cases.

Mr. Steve Sapp came forward and said he had done research on dog bite cases over the last three years and 18 cases of home quarantine had been at the discretion of the Animal Control Officer, not anyone else. He said he thought it was unfair to citizens who keep their rabies vaccinations up to day and they were going to be charged this fee – he said it was like punishing a law-abiding citizen. He said he did know that a 10 day quarantine is a State requirement but in the past six years he knew that the animal control officer had allowed bite animals to be kept at home. He said in the 18 cases he researched there had not been daily visits by Animal Control. Chair Barnes consulted with the Board's attorney and Attorney Bechtel said in the past there had not been staff sufficient to do daily visits and this would be a new policy which would be instituted with this fee. Commissioner Barger asked whether the Statute required daily visits and Attorney Bechtel said the Statute did not say that but the Health Director had that discretion. Commissioner Barger asked that if this fee was enacted, would daily visits be done and Attorney Bechtel replied there would be daily visits. Mr. Weldon pointed out the home quarantine is not a punishment since the bite animal is required to be quarantined, but it allows the homeowner to keep their animal out of a shelter and it reduces the costs of impounding for ten days. Vice-Hunsucker pointed out they would be looking at a \$60.00 fee versus \$130.00 if impounded. Commissioner Beatty made a motion to approve the fee. The motion carried unanimously. Chair Barnes asked that the Board receive a quarterly report on the progress of this program.

b. Utilities and Engineering:

1. Barry Edwards, Utilities and Engineering Director, presented the Catawba County Co-Generation Facility's Renewable Energy Credits Update and Contract Amendment. The County sold Green Certificate Credits with Three Phase Energy Services, LLC starting in 2004. The requirement of California to have 5% of their energy come from a green entity, not fossil fuel, benefits the County in that California has to purchase green credits since they cannot produce the amount needed within the state of California. North Carolina does not have this requirement at the current time so it can sell these green

credits to states which have such a requirement. Mr. Edwards described green credits as

being similar

to a CD (certificate of deposit) in that the County puts their green credits in for a certain period of time for a certain amount of money, which is \$1.45 per MWh or mega-watt hour. Three Phase Energy has offered to buy the County's green credits through 2008 at \$1.45 per MWh which equates to \$95,700 or \$23,925 annually. Chair Barnes asked if there was another co-generation facility in the state and Mr. Edwards said there were several but the county's facility was the only publicly owned facility. Chair Barnes noted then that Catawba County is the only public entity which is benefiting from the generation of this energy. Commissioner Barger asked if this was a pretty hot marketable product and Mr. Edwards agreed and Commissioner Barger asked if this would be bid again next year. Mr. Edwards said that 12 months prior to the end date of the contract in 2008, the County would go out and market the credits for 2009 and 2010 (typically sold in two year segments). Because of the limited amount of green credits available throughout the country, Mr. Edwards said they did not want to commit to more than a two year period because he feels sure the market for this product is going to go up. County Manager Lundy commented that the \$95,700 from the sale of these credits would go to the solid waste fund which would keep tipping fees stable. Commissioner Barger made a motion to approve the contract amendment. The motion carried unanimously.

2. Barry Edwards then presented a request to update the Landfill Alternative Site Study. This study had been prepared by Camp Dresser and McKee in November 2002. The update would apply the same criteria as the original study. Pursuant to Statute, before undertaking an expansion, the Board must first consider alternative sites, socioeconomic and demographic data and hold a public hearing. The four criteria that Board adopted for the original alternative site study were:

- a. The site shall be at least 600 acres in size and it shall be made of not more than three contiguous parcels.
- b. The site shall be as accessible as the existing Blackburn Landfill.
- c. The site must provide at least 25 years of landfill capacity.
- d. The cost to acquire the site and to operate a landfill on such site must be comparable to expansion at the Blackburn Landfill.

Since the original study, several adjacent properties have been purchased (Xiong, Knox and Hefner properties). The request was to include these properties in the alternative site study and use the original criteria in the study. Attorney Eades explained that the Statute governing the expansion of landfills was to prevent landfills from being located in areas of low socioeconomic status and required the consideration of alternative sites. He said it was important that the County continue to use the same criteria as they go forward. Vice-Chair Hunsucker made a motion to approve the Landfill Alternative Study Update by Camp, Dresser and McKee and to also use the same criteria that was used in the original study. The motion carried unanimously.

3. Barry Edwards presented a request for the Board to petition the North Carolina Department of Transportation to abandon the maintenance of a portion of Wilfong Road (SR-2020) approximately 5,250 feet along Wilfong Road from its intersection with Rocky Ford Road (SR-2019) and adopt a resolution requesting the closing of a portion of the road. The road presently dissects the landfill property. Mr. Edwards provided the Commissioners with a copy of a petition from the property owners along the lower part of Wilfong Road. There are 15 parcels along this lower portion of the road and 14 of the 15 parcel owners have signed the petition and are requesting the road be closed. The proposed resolution read:

RESOLUTION #2005 - \_\_\_\_\_  
**REQUESTING THE CLOSING OF A PORTION OF  
WILFONG ROAD (SR-2020)**

WHEREAS, Pursuant to G.S. 136-63, it is the intent of Catawba County to petition the North Carolina Department of Transportation (NCDOT) to abandon a portion of Wilfong Road (SR-2020) from the State maintenance system. The portion to be abandoned is approximately 5,250 feet traveling south along Wilfong Road, from the intersection with Rocky Ford Road (SR-2019); and

WHEREAS, Pursuant to G.S. 153A-241, the Catawba County Board of Commissioners will hold a public hearing on July 11, 2005 at 7:00 PM concerning the closing of said portion of Wilfong Road; and

WHEREAS, Staff has investigated the portion to be abandoned and no property owners would be deprived of ingress or egress, and Catawba County owns the surrounding property along the 5,250 feet to be abandoned and subsequently closed; and

WHEREAS, Catawba County will assist the North Carolina Department of Transportation in the acquisitions of any easements needed for planned road improvements to the remaining open portion of Wilfong Road; and

WHEREAS, Catawba County will participate in the cost of the planned construction of the cul-de-sac and paving the remaining open portion of Wilfong Road.

THEREFORE BE IT RESOLVED THAT the Catawba County Board of Commissioners has reviewed this request and recommends to the North Carolina Board of Transportation for the abandonment of approximately 5,250 feet of Wilfong Road (SR-2020).

Upon motion made by Commissioner \_\_\_\_\_, the above order was unanimously adopted by the Board of Commissioners of Catawba County on the \_\_\_\_\_ day of \_\_\_\_\_, 2005.

This the \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Katherine W. Barnes, Chair

ATTEST:

\_\_\_\_\_  
Barbara Morris, Clerk

Chair Barnes asked if the property owners along the opened portion of the road would gain a paved road that is currently a dirt road. Mr. Edwards said this was the case but what he thought was important to them was that currently people carrying waste go up through that route and it raises dust and dirt. Commissioner Beatty asked if the remaining opened part of the road would be state maintained and Mr. Edward said it would. Vice-Chair Hunsucker asked if the Wilfong brothers were still living there and Mr. Edwards said one brother was still there and the County would be working with him as they moved forward in this effort. Vice-Chair Hunsucker confirmed that Mr. Wilfong would have a route to Rocky Ford Road and would not be cut off with the closure of this portion of the road. Commissioner Lail made a motion for the Board to petition the North Carolina Department of Transportation to abandon the maintenance of a portion of Wilfong Road and to adopt a resolution requesting the closing of a portion of Wilfong Road. The motion carried unanimously.

4. Barry Edwards presented a proposed fee increase from Republic Services of NC, LLC. (GDS). The request is for a rate increase of 3.3% to apply to the commercial, industrial and residential customers in Catawba County and fees in the operation of the Catawba County Convenience Centers. GDS had not received a fee increase since July 2001 and had experienced an increase of operational costs of 73% in fuels, 43% in steel prices, 6% increase in parts and materials for truck repair and 135% increase in health insurance costs. The CPI has increased 8.1% since July 2001. The proposed net increase of 2.5% would be an increase for residential customers who recycle from \$15.08 to \$15.45 and residential non-recyclers from 20.43 to \$20.95. The rates encourage recycling. Roll-off rate increase ranges from 3.11% to 3.86% with an average increase of 3.32% for variable rates and a 1.82% increase for fixed rate option. Currently there are 11,438 customers, 10,726 of which recycle regularly which represents 94%. Chair Barnes asked that Mr. Edwards clarify for the general public and media what front loaders are. Mr. Edwards explained these were the boxes one would see at McDonalds where they pull in with the arms and empty up over the top of the truck. Rearend loader are the ones that citizens see at their homes which pick up garage. Rolloffs are containers that roll on and off the truck. Commissioner Barger told Mr. Edwards that he had not mentioned anything regarding the Convenience Site and Mr. Edwards stated the Convenience Sites would have a flat 3.3% increase in fees. Chair Barnes did note there had not been a fee increase since July 2001 and this increase would cover a four year period. Commissioner Beatty asked Mr. Edwards to explain exactly what the County costs are at convenience sites. Mr. Edward said the County pays for rental of containers that sit at the sites and for the personnel at those sites. Commissioner Lail moved to approve the proposed fee increase of a fee of \$15.45 for residential recyclers and \$20.95 for non-recyclers and the fee schedule provided for the frontloader, rolloffs and convenience center. The motion carried unanimously.

c. Finance:

Finance Director Rodney Miller presented a request for the Board to adopt a resolution for the issuance and sale of General Obligation Refunding Bonds. The plan is to sell the bonds on June 14, 2005. Mr. Miller had researched some of the County's obligation debt in February 2005 and came before the Board and at that time the County had met the requirement of the Local Government Commission which says the County must achieve 3% net present value savings on general obligation bond refunding. On May 18, 2005 the Board had authorized the refunding which would result in 3.03% savings and Mr. Miller advised the Commission of the County's intent to move forward with the refunding. The Commission accepted this plan. The resulting saving for the County should be approximately \$460,000.

The resolution read as follows:

**RESOLUTION PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 2005**

BE IT RESOLVED by the Board of Commissioners for the County of Catawba, North Carolina (the "County"):

Section 1. The Board of Commissioners has determined and does hereby find and declare as follows:

(a) An order authorizing \$17,500,000 General Obligation Refunding Bonds was adopted by the Board of Commissioners on March 7, 2005, which order has taken effect.

(b) None of said bonds has been issued, no notes have been issued in anticipation of the receipt of the proceeds of the sale of said bonds and it is necessary to issue \$16,070,000 of said bonds at this time, subject to adjustment as provided below.

(c) The shortest period of time in which the outstanding School Bonds, Series 1995 of said County, dated June 1, 1995, to be refunded by said School Bonds can be finally paid without making it unduly burdensome on the taxpayers of the County as determined by the Local Government Commission of North Carolina (the "Commission") is a period which expires on June 1, 2010, and that the end of the unexpired usefulness of the projects financed by said School Bonds is estimated as a period of forty (40) years from June 1, 1995, the date of said School Bonds, and that such period expires on June 1, 2035.

(d) The shortest period of time in which the outstanding Public Improvement Bonds, Series 1996 of said County, dated May 1, 1996, to be refunded by said Community College Bonds can be finally paid without making it unduly burdensome on the taxpayers of the County as determined by the Commission is a period which expires on June 1, 2011, and that the end of the unexpired usefulness of the projects financed by said Community College Bonds, is estimated as a period of forty (40) years from May 1, 1996, the date of said Community College Bonds, and that such period expires on May 1, 2036.

(e) The shortest period of time in which the outstanding School Bonds, Series 1997 of said County, dated July 1, 1997, to be refunded by said School Bonds can be finally paid without making it unduly burdensome on the taxpayers of the County as determined by the Commission is a period which expires on June 1, 2013, and that the end of the unexpired usefulness of the projects financed by said School Bonds, is estimated as a period of forty (40) years from July 1, 1997, the date of said School Bonds, and that such period expires on July 1, 2037.

(f) The shortest period of time in which the outstanding School Bonds, Series 2000 of said County, dated June 1, 2000, to be refunded by said School Bonds can be finally paid without making it unduly burdensome on the taxpayers of the County as determined by the Commission is a period which expires on June 1, 2015, and that the end of the unexpired usefulness of the projects financed by said School Bonds, is estimated as a period of forty (40) years from June 1, 2000, the date of said School Bonds, and that such period expires on June 1, 2040.

Section 2. Pursuant to said order, there shall be issued bonds of the County in the aggregate principal amount of \$16,070,000 (subject to adjustment as hereinafter provided) designated "General Obligation Refunding Bonds, Series 2005" and dated April 1, 2005 (the "Bonds"). The Bonds shall be stated to mature (subject to adjustment as hereinafter provided) annually, June 1, \$890,000 2006, \$1,255,000 2007, \$2,240,000 2008, \$2,200,000 2009, \$2,240,000 2010, \$2,105,000 2011, \$1,810,000 2012, \$1,815,000 2013, \$750,000 2014 and \$765,000 2015 and shall bear interest at a rate or rates to be determined by the Local Government Commission of

North Carolina at the time the Bonds are sold, which interest to the respective maturities thereof shall be payable on semiannually on each June 1 and December 1, beginning December 1, 2005, until payment of such principal sum.

The County reserves the right to increase or decrease the principal amount of each maturity of the Bonds prior to the opening of bids for the Bonds in the manner set forth in Section 11 of this resolution and in the Notice of Sale relating to the Bonds. The County reserves the right to increase or decrease the principal amount of each maturity of the Bonds following the opening of bids for the Bonds by an amount not to exceed \$250,000 per maturity and the aggregate principal amount of the Bonds by an amount not to exceed \$1,500,000, as provided in the Notice of Sale relating to the Bonds. Any such increase or decrease shall be made only to the extent necessary to effect the refunding of the bonds for which the Bonds are being issued.

Each Bond shall bear interest from the interest payment date next preceding the date on which it is authenticated unless it is (a) authenticated upon an interest payment date, in which event it shall bear interest from such interest payment date or (b) authenticated prior to the first interest payment date, in which event it shall bear interest from its date; provided, however, that if at the time of authentication interest is in default, such Bond shall bear interest from the date to which interest has been paid.

The principal of and the interest on the Bonds shall be payable in any coin or currency of the United States of America which ever replacement Bonds registered in the name of such other depository or its nominee in exchange for the outstanding legal tender for the payment of public and private debts on the respective dates of payment thereof.

The Bonds shall be issued by means of a book-entry system with no physical distribution of Bond certificates to be made except as hereinafter provided. One Bond certificate with respect to each date on which the Bonds are stated to mature, in the aggregate principal amount of the Bonds stated to mature on such date and registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), shall be issued and required to be deposited with DTC and immobilized in its custody. The book-entry system will evidence ownership of the Bonds in the principal amount of \$5,000 or any whole multiple thereof, with transfers of ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC and its participants. The principal of each Bond shall be payable to Cede & Co. or any other person appearing on the registration books of the County hereinafter provided for as the registered owner of such Bond or his registered assigns or legal representative, at such office of the Bond Registrar (hereinafter mentioned) or such other place as the County may determine upon the presentation and surrender thereof as the same shall become due and payable. Payment of the interest on each Bond shall be made by said Bond Registrar on each interest payment date to the registered owner of such Bond (or the previous Bond or Bonds evidencing the same debt as that evidenced by such Bond) at the close of business on the record date for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date, by check mailed to such person at his address as it appears on such registration books; provided, however, that for so long as the Bonds are deposited with DTC, the payment of the principal of and interest on the Bonds shall be made to DTC in same-day funds by 2:30 p.m. or otherwise as determined by the rules and procedures established by DTC. Transfer of principal and interest payments to participants of DTC will be the responsibility of DTC, and transfer of principal and interest payments to beneficial owners of the Bonds by participants of DTC will be the responsibility of such participants and other nominees of such beneficial owners. The County shall not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing records maintained by DTC, its participants or persons acting through such participants.

In the event that (a) DTC determines not to continue to act as securities depository for the Bonds or (b) the Finance Director of the County determines that continuation of the book-entry system of evidence and transfer of ownership of the Bonds would adversely affect the interests of the beneficial owners of the Bonds, the County shall discontinue the book-entry system with DTC. If the County identifies another qualified securities depository to replace DTC, the County shall make arrangements with DTC and such other depository to effect such replacement and delist Bonds, and the references to DTC or Cede & Co. in this resolution shall thereupon be deemed to mean such other depository or its nominee. If the County fails to identify another qualified securities depository to replace DTC, the County shall deliver replacement Bonds in the form of fully-registered certificates in denominations of \$5,000 or any whole multiple thereof ("Certificated Bonds") in exchange for the outstanding Bonds as required by DTC and others. Upon the request of DTC, the County may also deliver one or more Certificated Bonds to any participant of DTC in exchange for Bonds credited to its account with DTC.

Unless indicated otherwise, the provisions of this resolution that follow shall apply to all Bonds issued or

issuable hereunder, whether initially or in replacement thereof.

Section 3. The Bonds shall bear the manual or facsimile signatures of the Chairman or Vice Chairman of the Board of Commissioners and the Clerk to the Board of Commissioners of the County and the official seal or a facsimile of the official seal of the County shall be impressed or imprinted, as the case may be, on the Bonds.

The certificate of the Local Government Commission of North Carolina to be endorsed on all Bonds shall bear the manual or facsimile signature of the Secretary or Acting Secretary of said Commission, and the certificate of authentication of the Bond Registrar to be endorsed on all Bonds shall be executed as hereinafter provided.

In case any officer of the County or the Local Government Commission of North Carolina whose manual or facsimile signature shall appear on any Bonds shall cease to be such officer before the delivery of such Bonds, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery, and any Bond may bear the manual or facsimile signatures of such persons as at the actual time of the execution of such Bond shall be the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

No Bond shall be valid or become obligatory for any purpose or be entitled to any benefit or security under this resolution until it shall have been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed thereon.

The Bonds and the endorsements thereon shall be in substantially the following form:

No. R-\_\_\_\_ \$\_\_\_\_\_

United States of America  
State of North Carolina

COUNTY OF CATAWBA  
GENERAL OBLIGATION REFUNDING BOND, SERIES 2005

<u>Maturity Date</u>	<u>Interest Rate</u>	<u>CUSIP</u>
June 1, _____	____%	

The County of Catawba, in the State of North Carolina, is justly indebted and for value received hereby promises to pay to

CEDE & CO.

or registered assigns or legal representative on the date specified above, upon the presentation and surrender hereof, at the office of the Finance Director of said County (the "Bond Registrar"), in Catawba County, North Carolina, the principal sum of

\_\_\_\_\_ DOLLARS

and to pay interest on such principal sum from the date hereof or from the June 1 or December 1 next preceding the date of authentication to which interest shall have been paid, unless such date of authentication is a June 1 or December 1 to which interest shall have been paid, in which case from such date, such interest to the maturity hereof being payable on December 1, 2005 and semiannually thereafter on each June 1 and December 1, at the rate per annum specified above, until payment of such principal sum. The interest so payable on any such interest payment date will be paid to the person in whose name this bond (or the previous bond or bonds evidencing the same debt as that evidenced by this bond) is registered at the close of business on the record date for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date, by check mailed to such person at his address as it appears on the bond registration books of said County; provided, however, that for so long as the Bonds (hereinafter defined) are deposited with The Depository Trust Company, New York, New York ("DTC"), the payment of the principal of and interest on the Bonds shall be made to DTC in same-day funds by 2:30 p.m. or otherwise as determined by the rules and procedures established by DTC. Both the principal of and the interest on this Bond shall be paid in any coin or currency of the United States of America that is legal tender for the payment of public and private debts on the respective dates of payment thereof. For the prompt payment

hereof, both principal and interest as the same shall become due, the faith and credit of said County are hereby irrevocably pledged.

This bond is one of an issue of bonds designated "General Obligation Refunding Bonds, Series 2005" (the "Bonds") and issued by said County for the purpose of providing funds, with any other available funds, for refunding all or a portion of the County's outstanding [School Bonds, Series 1995, dated June 1, 1995; Public Improvement Bonds, Series 1996, dated May 1, 1996; School Bonds, Series 1997, dated July 1, 1997; and School Bonds, Series 2000, dated June 1, 2000]. The Bonds are issued under and pursuant to The Local Government Bond Act, as amended, Article 7, as amended, of Chapter 159 of the General Statutes of North Carolina, an order adopted by the Board of Commissioners of said County, which order has taken effect, and a resolution duly passed by said Board of Commissioners (the "Resolution").

The Bonds are not subject to redemption prior to their maturity.

The Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Resolution. One Bond certificate with respect to each date on which the Bonds are stated to mature, in the aggregate principal amount of the Bonds stated to mature on such date and registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), is being issued and required to be deposited with DTC and immobilized in its custody. The book-entry system will evidence ownership of the Bonds in the principal amount of \$5,000 or any whole multiple thereof, with transfers of ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC and its participants. Transfer of principal and interest payments to participants of DTC will be the responsibility of DTC, and transfer of principal and interest payments to beneficial owners of the Bonds by participants of DTC will be the responsibility of such participants and other nominees of such beneficial owners. Said County will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

In certain events, said County will be authorized to deliver replacement Bonds in the form of fully-registered certificates in the denomination of \$5,000 or any whole multiple thereof in exchange for the outstanding Bonds as provided in the Resolution.

At the office of the Bond Registrar, in the manner and subject to the conditions provided in the Resolution, Bonds may be exchanged for an equal aggregate principal amount of Bonds of the same maturity, of authorized denominations and bearing interest at the same rate.

The Bond Registrar shall keep at his office the books of said County for the registration of transfer of Bonds. The transfer of this bond may be registered only upon such books and as otherwise provided in the Resolution upon the surrender hereof to the Bond Registrar together with an assignment duly executed by the registered owner hereof or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar. Upon any such registration of transfer, the Bond Registrar shall deliver in exchange for this bond a new Bond or Bonds, registered in the name of the transferee, of authorized denominations, in an aggregate principal amount equal to the principal amount of this bond, of the same maturity and bearing interest at the same rate.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of North Carolina to happen, exist and be performed precedent to and in the issuance of this bond have happened, exist and have been performed in regular and due form and time as so required; that provision has been made for the levy and collection of a direct annual tax upon all taxable property within said County sufficient to pay the principal of and the interest on this bond as the same shall become due; and that the total indebtedness of said County, including this bond, does not exceed any constitutional or statutory limitation thereon.

This bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Resolution until this bond shall have been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed hereon.

IN WITNESS WHEREOF, the County of Catawba, North Carolina, by resolution duly passed by its Board of Commissioners, has caused this bond to be manually signed by the Chairman of the Board of Commissioners and the Clerk to the Board of said County and its official seal to be impressed hereon, all as of the 6th of June, 2005.

\_\_\_\_\_  
Chairman of the Board of Commissioners

\_\_\_\_\_  
Clerk to the Board of Commissioners

CERTIFICATE OF LOCAL GOVERNMENT COMMISSION

The issuance of the within bond has been approved under the provisions of The Local Government Bond Act of North Carolina.

\_\_\_\_\_  
Secretary of the Local Government Commission of North Carolina

CERTIFICATE OF AUTHENTICATION

This bond is one of the Bonds of the series designated herein and issued under the provisions of the within-mentioned Resolution.

\_\_\_\_\_  
Finance Director, as Bond Registrar

Date of authentication: \_\_\_\_\_

ASSIGNMENT

FOR VALUE RECEIVED the undersigned registered owner thereof hereby sells, assigns and transfers unto

\_\_\_\_\_

the within bond and all rights thereunder and hereby irrevocably constitutes and appoints

\_\_\_\_\_

attorney to register the transfer of said bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

In the presence of:

NOTICE: The signature must be guaranteed by an institution which is a participant in the Securities Transfer Agent Medallion Program (STAMP) or similar program.

The signature to this assignment must correspond with the name as it appears on the face of the within Bond in every particular, without alteration of enlargement or any change whatever.

Certificated Bonds issuable hereunder shall be in substantially the form of the Bonds registered in the name of Cede & Co. with such changes as are necessary to reflect the provisions of this resolution that are applicable to Certificated Bonds.

Section 4. The Bonds are not subject to redemption prior to their maturity.

Section 5. Bonds, upon surrender thereof at the office of the Bond Registrar, together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar, may, at the option of the registered owner thereof, be exchanged for an equal aggregate principal amount of Bonds of the same maturity, of any denomination or denominations authorized by this resolution and bearing interest at the same rate.

The transfer of any Bond may be registered only upon the registration books of the County upon the surrender thereof to the Bond Registrar together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar. Upon any such registration of transfer, the Bond Registrar shall authenticate and deliver in exchange for such Bond a new Bond or Bonds, registered in the name of the transferee, of any denomination or denominations authorized by this resolution, in an aggregate principal amount equal to the principal amount of such Bond so surrendered, of the same maturity and bearing interest at the same rate.

In all cases in which Bonds shall be exchanged or the transfer of Bonds shall be registered hereunder, the Bond Registrar shall authenticate and deliver at the earliest practicable time Bonds in accordance with the provisions of this resolution. All Bonds surrendered in any such exchange or registration of transfer shall forthwith be canceled by the Bond Registrar. The County or the Bond Registrar may make a charge for shipping and out-of-pocket costs for every such exchange or registration of transfer of Bonds sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or registration of transfer, but no other charge shall be made by the County or the Bond Registrar for exchanging or registering the transfer of Bonds under this resolution.

As to any Bond, the person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of any such Bond and the interest on any such Bond shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such

Bond, including the interest thereon, to the extent of the sum or sums so paid.

The County shall appoint such registrars, transfer agents, depositaries or other agents as may be necessary for the registration, registration of transfer and exchange of Bonds within a reasonable time according to then current commercial standards and for the timely payment of principal and interest with respect to the Bonds. The Finance Director of the County, or any person at anytime acting in such capacity, is hereby appointed the registrar, transfer agent and paying agent for the Bonds (collectively, the "Bond Registrar"), subject to the right of the Board of Commissioners of the County to appoint another Bond Registrar, and as such shall keep at his office in the County, the books of the County for the registration, registration of transfer, exchange and payment of the Bonds as provided in this resolution.

Section 6. 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 (the "Code"), as amended or as may be amended from time to time, and any Treasury regulations now or hereafter promulgated thereunder, to the extent necessary so that interest on the bond will not be included in gross income of the owners of the Bonds for purposes of federal income tax.

Section 7. The action of the Chairman of the Board of Commissioners, the County Manager, the Finance Director and the Clerk to the Board of Commissioners of the County in applying to the Local Government Commission of North Carolina to advertise and sell the Bonds is hereby ratified and confirmed, and the Local Government Commission of North Carolina is hereby requested to ask for sealed bids for the Bonds by publishing notices and distributing a Preliminary Official Statement relating to the sale of the Bonds. Such Preliminary Official Statement, dated on or about June 7, 2005, in substantially the form presented at this meeting, is hereby authorized and approved.

The preparation of a final Official Statement (the "Final Official Statement"), which will be in the form of the Preliminary Official Statement, but will include certain pricing and other information to be made available to the successful bidder for the Bonds by the Local Government Commission of North Carolina, is hereby approved, and the Chairman of the Board of Commissioners, the County Manager and the Finance Director of the County are each hereby authorized to execute and delivery such Final Official Statement for and on the behalf of the County, and such execution and delivery shall be conclusive evidence of the approval of the Board of Commissioners of the Final Official Statement.

Section 8. The County hereby undertakes, for the benefit of the beneficial owners of the Bonds, to provide:

(a) by not later than seven months from the end of each fiscal year of the County, beginning with the fiscal year ending June 30, 2005, to each nationally recognized municipal securities information repository ("NRMSIR") and to the state information depository for the State of North Carolina ("SID"), if any, audited financial statements of the County for such Fiscal Year, if available, prepared in accordance with Section 159-34 of the General Statutes of North Carolina, as it may be amended from time to time, or any successor statute, or, if such audited financial statements of the County are not available by seven months from the end of such fiscal year, unaudited financial statements of the County for such fiscal year to be replaced subsequently by audited financial statements of the County to be delivered within fifteen (15) days after such audited financial statements become available for distribution;

(b) by not later than seven months from the end of each fiscal year of the County, beginning with the fiscal year ending June 30, 2005, to each NRMSIR, and to the SID, if any, (i) the financial and statistical data as of a date not earlier than the end of the preceding fiscal year for the type of information included under the headings "THE COUNTY - Debt Information and - Tax Information" (excluding any information on underlying units) in the Final Official Statement relating to the Bonds and (ii) the combined budget of the County for the current fiscal year, to the extent such items are not included in the audited financial statements referred to in (a) above;

(c) in a timely manner, to each NRMSIR or to the Municipal Securities Rulemaking Board ("MSRB"), and to the SID, if any, notice of any of the following events with respect to the Bonds, if material:

- (1) principal and interest payment delinquencies;
- (2) non-payment related defaults;
- (3) unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) unscheduled draws on credit enhancements reflecting financial difficulties;

- (5) substitution of credit or liquidity providers, or their failure to perform;
- (6) adverse tax opinions or events affecting the tax-exempt status of the Bonds;
- (7) modification to the rights of the beneficial owners of the Bonds;
- (8) bond calls;
- (9) defeasances;
- (10) release, substitution or sale of any property securing repayment of the Bonds; and
- (11) rating changes; and

(d) in a timely manner, to each NRMSIR or to the MSRB, and to the SID, if any, notice of a failure of the County to provide required annual financial information described in (a) or (b) above on or before the date specified.

The County may meet the continuing disclosure filing requirements described above either by providing the required information directly to the NRMSIRs and SID, if any, or, to the extent permitted by the United States Securities and Exchange Commission, by providing such information electronically to the Municipal Advisory Council of Texas as provided at [www.disclosureusa.org](http://www.disclosureusa.org) for subsequent transmission to the NRMSIRs and SID, if any, without separately providing such information to the NRMSIRs and SID, if any.

If the County fails to comply with the undertaking described above, any beneficial owner of the Bonds may take action to protect and enforce the rights of all beneficial owners with respect to such undertaking, including an action for specific performance; provided, however, that failure to comply with such undertaking shall not be an event of default and shall not result in any acceleration of payment of the Bonds. All actions shall be instituted, had and maintained in the manner provided in this paragraph for the benefit of all beneficial owners of the Bonds.

The County reserves the right to modify from time to time the information to be provided to the extent necessary or appropriate in the judgment of the County, provided that:

(a) any such modification may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of the County;

(b) the information to be provided, as modified, would have complied with the requirements of Rule 15c2-12 issued under the Securities Exchange Act of 1934 ("Rule 15c2-12") as of the date of the Official Statement, after taking into account any amendments or interpretations of Rule 15c2-12, as well as any changes in circumstances; and

(c) any such modification does not materially impair the interests of the beneficial owners of the Bonds, as determined either by parties unaffiliated with the County (such as bond counsel), or by the approving vote of the registered owners of a majority in principal amount of the Bonds pursuant to the terms of this resolution, as this resolution may be amended from time to time, at the time of such amendment.

In the event that the County makes such a modification, the annual financial information containing the modified operating data or financial information shall explain, in narrative form, the reasons for the modification and the impact of the change in the type of operating data or financial information being provided.

The provisions of this Section shall terminate upon payment, or provision having been made for payment in a manner consistent with Rule 15c2-12, in full of the principal of and interest on all of the Bonds.

Section 9. BB&T is hereby appointed as escrow agent (the "Escrow Agent") in connection with the refunding of the bonds to be refunded mentioned in Section 11 of this resolution, subject to the right of the Board of Commissioners of the County to appoint another Escrow Agent as provided in the Escrow Deposit Agreement (hereinafter mentioned), and as such shall perform its responsibilities as provided in the Escrow Deposit Agreement. The Escrow Deposit Agreement, to be dated as of June 1, 2005 (the "Escrow Deposit Agreement"), between the County and the Escrow Agent, in substantially the form presented at this meeting, and the creation of the Escrow Fund thereunder and the other arrangements to accomplish such refunding, is hereby approved, and the Chairman or Vice Chairman of the Board of Commissioners and the Clerk to the Board of Commissioners of the County are each hereby authorized to execute and deliver the Escrow Deposit Agreement for and on behalf of the County with such additions, deletions and changes as they deem necessary.

Section 10. The appointment of Legg Mason Wood Walker, Inc., Winston-Salem, North Carolina, as financial

advisor to the County in connection with the issuance of the Bonds, as described under the caption "Financial Advisor"

in the Official Statement, is hereby approved, ratified and confirmed. Legg Mason Wood Walker, Inc. is hereby given permission to submit a competitive bid at the public sale for the Bonds, and may acquire as principal or as a participant in a syndicate of underwriters, all or a portion of the Bonds.

Section 11. Subject to the next succeeding sentence, the County hereby determines to refund (a) all of the County's outstanding School Bonds, Series 1995, dated June 1, 1995, and maturing June 1, 2006 to 2010, inclusive; (b) all of the County's outstanding Public Improvement Bonds, Series 1996, dated May 1, 1996, and maturing June 1, 2007 to 2011, inclusive; (c) all of the County's outstanding School Bonds, Series 1997, dated July 1, 1997, and maturing June 1, 2008 to 2013, inclusive, and (d) all of the County's outstanding School Bonds, Series 2000, dated June 1, 2000, and maturing June 1, 2011 to 2015, inclusive. If, on or prior to the date of sale of the Bonds, the Finance Director of the County shall determine that it is in the best economic interests of the County not to refund all or any portion of any series of such bonds or that it is necessary to refund other maturities of such series of bonds, the Finance Director is hereby authorized to make and approve changes in the amount and maturities of the Bonds to be issued as set forth in Section 2 of this resolution and the amount and maturities of each of such series of bonds to be refunded, such changes to be set forth in a certificate of the Finance Director to be delivered on the date of issuance of the Bonds and in the Escrow Deposit Agreement. In the event that such determination is made by the Finance Director of the County, the Local Government Commission of North Carolina is hereby authorized to provide notice of such changes to potential bidders for the Bonds in the manner provided in the Notice of Sale relating to the Bonds.

Subject to refunding of such bonds as provided above, (a) all of the County's outstanding School Bonds, Series 1995, dated June 1, 1995, and maturing June 1, 2006 to 2010, inclusive, are hereby irrevocably called for redemption on August 1, 2005, in accordance with the resolution authorizing the issuance of said bonds, this resolution and the Escrow Deposit Agreement; (b) all of the County's outstanding Public Improvement Bonds, Series 1996, dated May 1, 1996, and maturing June 1, 2007 to 2011, inclusive, are hereby irrevocably called for redemption on June 1, 2006, in accordance with the resolution authorizing the issuance of said bonds, this resolution and the Escrow Deposit Agreement; (c) all of the County's outstanding School Bonds, Series 1997, dated July 1, 1997, and maturing June 1, 2008 to 2013, inclusive, are hereby irrevocably called for redemption on June 1, 2007, in accordance with the resolution authorizing the issuance of said bonds, this resolution and the Escrow Deposit Agreement; and (d) all of the County's outstanding School Bonds, Series 2000, dated June 1, 2000, and maturing June 1, 2011 to 2015, inclusive, are hereby irrevocably called for redemption on June 1, 2010, in accordance with the resolution authorizing the issuance of said bonds, this resolution and the Escrow Deposit Agreement. The Escrow Agent is hereby directed to provide notices of such redemption at the times and in the manner set forth in the resolutions authorizing the issuance of said bonds and the Escrow Deposit Agreement.

Section 12. The Chairman or Vice Chairman of the Board of Commissioners, the Clerk to the Board of Commissioners, the County Manager and the Finance Director of the County are hereby authorized and directed to execute and deliver such closing and other documents necessary for the purpose of facilitating the sale and issuance of the Bonds in a manner consistent with the terms of this resolution.

Section 13. This resolution shall take effect upon its passage, except for Section 11 of this resolution which shall become effective only upon the issuance of the Bonds.

Upon motion of Commissioner Glenn E. Barger, with no seconded required, the foregoing resolution entitled "RESOLUTION PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 2005" was passed by the following vote:

Ayes: Unanimous.

\* \* \* \* \*

I, Avajeon M. Wickes, Assistant Deputy Clerk to the Board of Commissioners for the County of Catawba, North Carolina, DO HEREBY CERTIFY that the foregoing is a true copy of so much of the proceedings of said Board at a regular meeting held on June 6, 2005, as relates in any way to the adoption of the foregoing resolution providing for the issuance of refunding bonds of said County and that said proceedings are recorded in the minutes of said Board.

I DO HEREBY FURTHER CERTIFY that a schedule, stating that the regular meetings of said Board are held on the first Monday of each month at 9:30 a.m. and the third Monday of each month at 7:00 p.m. in the Robert E. Hibbitts Meeting Room at the 1924 Courthouse in Newton, North Carolina, was on file with me for a least seven calendar days prior to said meeting, all in accordance with G.S. 143-318.2.

WITNESS my hand and the official seal of said County this 6<sup>th</sup> day of June, 2005.

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Asst. Deputy Clerk to the Board of Commissioners

[SEAL]

Commissioner Barger made a motion to approve the resolution. County Manager Lundy noted that the saving that would be realized from refunding over the next several years would be reinvested in future school debt. The motion carried unanimously.

12. Attorneys' Report. None

13. Manager's Report.

County Manager J. Thomas Lundy reminded those present that the Board was scheduled for budget hearings on Monday, June 13, 2005 and the wrap up would be at 7:00 p.m. on Tuesday, June 14, 2005. He said subcommittee is usually held the Monday prior to the Board meeting but a notice has been sent out that the regular subcommittee for June 13, 2005 has been cancelled. The media has been notified that if there are subcommittee items, they would be considered during the budget hearings on Monday, June 13, 2005. Commissioner Beatty asked Manager Lundy when they would be receiving their copies of the budget and he indicated they would be distributed on this date, June 6<sup>th</sup>.

14. Other Business. None.

Commissioner Barger made a motion to adjourn the meeting. The motion carried unanimously.

The meeting adjourned at 10:44 a.m.

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Katherine W. Barnes, Chair  
Board of Commissioners

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Barbara E. Morris, County Clerk