

REQUEST FOR BOARD ACTION

HENDERSON COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: 4 September 2012

SUBJECT: Possible immediate purchase and lease/back of Boyd property

PRESENTER: David Whitson/Charles Russell Burrell

SUMMARY OF REQUEST:

The Board has been contacted by the L. C. Boyd, Jr., regarding the immediate purchase of Boyd's property located near "Five Points" in Hendersonville.

The Board has a contract for the purchase of the land, at a time to occur of Boyd's choosing, but in not less than eighteen (18) months from August 22, 2012. The County has paid \$750,000 into escrow for such purchase, and will owe the remaining \$2,000,000 at closing.

Boyd has proposed the immediate purchase by the County of the property, but the leaseback to him of the property to approximately 18 months.

County staff will present further information on this matter.

BOARD ACTION REQUESTED:

Consideration of immediate purchase and leaseback, and possible terms. If the Board agrees to immediate purchase and leaseback, consideration of a reimbursement resolution which could allow the Board to finance the purchase price at any time within eighteen months should it choose to do so.

If the Board is so inclined, the following motion is suggested:

I move that the Board proceed with the immediate purchase of the Boyd property, at the contract terms, but with immediate leaseback of the property to Boyd for a period of eighteen months, at a monthly lease payment of \$_____. I further move the proposed reimbursement resolution in the agenda packet.

Extract of Minutes of a regular meeting of the Board of Commissioners of the County of Henderson, North Carolina, was duly held on September 4, 2012 at 5:30 9.m. in the Commissioners' Meeting Room, Henderson County Historic Courthouse, 1 Historic Courthouse Square, Hendersonville, North Carolina. Chairman Thomas H. Thompson presided.

* * *

The following members were present:

Chairman Thomas H. Thompson; Vice Chairman William P. O'Connor; Commissioner Charlie Messer; Commissioner Larry Young; Commissioner J. Michael Edney

The following members were absent:

None

Also present:

County Manager Steve Wyatt; Assistant County Manager David Whitson; Clerk to the Board Teresa Wilson; Finance Manager J. Carey McLelland; County Attorney Charles Russell Burrell.

* * *

Commissioner O'Connor moved that the following resolution (the "*Resolution*"), a copy of which was available with the Board and which was read by title:

RESOLUTION OF THE COUNTY OF HENDERSON, NORTH CAROLINA DECLARING THE INTENT OF THE COUNTY OF HENDERSON, NORTH CAROLINA TO REIMBURSE ITSELF FOR CAPITAL EXPENDITURES INCURRED IN CONNECTION WITH THE ACQUISITION OF CERTAIN REAL PROPERTY FOR USE BY THE COUNTY FROM THE PROCEEDS OF CERTAIN TAX-EXEMPT OBLIGATIONS TO BE EXECUTED AND DELIVERED WITHIN THE NEXT EIGHTEEN MONTHS

WHEREAS, the Board of Commissioners of the County of Henderson, North Carolina ("*County*") has determined that it is in the best interests of County to acquire certain real property, formerly owned by L. C. Boyd and wife, S. C. Boyd, located within the City of Hendersonville, for use by the County (the "*Project*");

WHEREAS, the County presently intends, at one time or from time to time, to finance all or a portion of the costs of the Project with proceeds of tax-exempt obligations and reasonably expects to execute and deliver its tax-exempt obligations (the "*Obligations*") to finance, or to reimburse itself for, all or a portion of the costs of the Project; and

WHEREAS, the County desires to proceed with the Project and will incur and pay certain expenditures in connection with the Project prior to the date of execution and delivery of the Obligations (the "*Original Expenditures*"), such Original Expenditures to be paid for originally from a source other than the proceeds of the Obligations, and the County intends, and reasonably expects, to be reimbursed for such Original Expenditures from a portion of the proceeds of the Obligations to be executed and delivered at a date occurring after the dates of such Original Expenditures;

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

Section 1. **Official Declaration of Intent.** The County presently intends, and reasonably expects, to reimburse itself for the Original Expenditures incurred and paid by the County on or after the date occurring 60 days prior to the date of adoption of this Resolution from a portion of the proceeds of the Obligations. The County reasonably expects to execute and deliver the Obligations to finance all or a portion of the costs of the Project and the maximum principal amount of Obligations expected to be executed and delivered by County to pay for all or a portion of the costs of the Project is \$2,750,000.

Section 2. **Compliance with Regulations.** The County adopts this Resolution as a declaration of official intent under Section 1.150-2 of the Treasury Regulations promulgated under Section 103 of the Internal Revenue Code of 1986, as amended, to evidence the County's intent to reimburse itself for the Original Expenditures from proceeds of the Obligations.

Section 3. **Itemization of Capital Expenditures.** The Finance Officer of the County, with advice from special counsel, is hereby authorized, directed and designated to act on behalf of the County in determining and itemizing all of the Original Expenditures incurred and paid by the County in connection with the Project during the period commencing on the date occurring 60 days prior to the date of adoption of this Resolution and ending on the date of execution and delivery of the Obligations.

Section 4. **Effective Date.** This Resolution is effective immediately on the date of its adoption.

On motion of Commissioner _____, the foregoing resolution entitled **"RESOLUTION OF THE COUNTY OF HENDERSON, NORTH CAROLINA DECLARING THE INTENT OF THE COUNTY OF HENDERSON, NORTH CAROLINA TO REIMBURSE ITSELF FOR CAPITAL EXPENDITURES INCURRED IN CONNECTION WITH THE ACQUISITION OF CERTAIN REAL PROPERTY FOR USE BY THE COUNTY FROM THE PROCEEDS OF CERTAIN TAX-EXEMPT OBLIGATIONS TO BE EXECUTED AND DELIVERED WITHIN THE NEXT EIGHTEEN MONTHS"** was duly adopted by the following vote:

AYES:

NAYS:

STATE OF NORTH CAROLINA)
)
COUNTY OF HENDERSON) ss:

I, *Teresa Wilson*, Clerk to the Board of Commissioners of the County of Henderson, North Carolina, ***DO HEREBY CERTIFY*** that the foregoing is a true and exact copy of a resolution entitled “**RESOLUTION OF THE COUNTY OF HENDERSON, NORTH CAROLINA DECLARING THE INTENT OF THE COUNTY OF HENDERSON, NORTH CAROLINA TO REIMBURSE ITSELF FOR CAPITAL EXPENDITURES INCURRED IN CONNECTION WITH THE ACQUISITION OF CERTAIN REAL PROPERTY FOR USE BY THE COUNTY FROM THE PROCEEDS OF CERTAIN TAX-EXEMPT OBLIGATIONS TO BE EXECUTED AND DELIVERED WITHIN THE NEXT EIGHTEEN MONTHS**” adopted by the Board of Commissioners of the County of Henderson, North Carolina, at a meeting held on the 4th day of September, 2012.

WITNESS my hand and the corporate seal of the County of Henderson, North Carolina, this the ____ day of September, 2012.

Teresa Wilson
Clerk to the Board
County of Henderson, North Carolina