

August 28, 2007– Regular Session

The Swain County Board of Commissioners held a word session on Tuesday, August 28, 2007. Present were Chairman Jones, Vice-Chair Lindsay, Commissioner Monteith, Commissioner Carson and Commissioner Moon.

Chairman Jones called the regular session to order. Commissioner Moon led with prayer and the pledge.

Adjust Agenda

Commissioner Carson made a motion to adjust the agenda to better facilitate the meeting. Commissioner Monteith seconded the motion. A vote was unanimous.

Public Comments

Kevin King read the following comment submitted by Ann Llewellyn:
“Jean C Allman and Ann Cole Llewellyn respectfully request the Swain County Board of Commissioners to petition the Department of Transportation of the State of North Carolina not to condemn any of portion of their real estate located at the intersection of Franklin Grove Church Road and Bryson Branch Road.”

Closed Session:

Chairman Jones made a motion to go into closed session as called for under G.S. 143-318.11(a)(3) to consult with the County Attorney.

Commissioner Monteith made a motion to adjourn the closed session. Commissioner Carson seconded the motion. A vote was unanimous.

Chairman Jones noted no decisions were made at this time.

Resolution authorizing conveyance of property to Community Services of Swain

Commissioner Carson made a motion to adopt the following resolution:



Resolution # 900-2007-9

**STATE OF NORTH CAROLINA
COUNTY OF SWAIN**

**RESOLUTION TO CONVEY PROPERTY TO NON-PROFIT,
COMMUNITY SERVICES OF SWAIN, INC. FOR PUBLIC PURPOSE**

WHEREAS, by deed recorded in Book 318, Page 906, Swain County Public Registry, Swain County purchased a tract of land for use by Swain County and its citizens, and is more particularly described as follows:

BEING all of that 1.42 acres of real property as shown on a “Boundary Survey for Swain County” dated October, 2005 by Tuckasegee Surveying, which plat is recorded in Plat Cabinet 3, Slide 1868, Swain County Public Registry, which plat is incorporated herein by express reference for a complete and more particular description. Further, together with and subject to any and all right of ways, easements and appurtenances of record.

WHEREAS, Community Services of Swain, Inc., a North Carolina Non-Profit corporation created and existing for the purpose of expanding community services to the citizens of Swain County;

WHEREAS, pursuant to N.C.Gen.Stat. §160A-279, a county may convey property, with or without consideration, to a public or private non-profit entity carrying out a public purpose to which it could appropriate funds and, pursuant to N.C. Gen. Stat. §153A-449, a county may

appropriate money to any person, association or corporation in order to carry out any public purpose in which the county is authorized by law to engage;

WHEREAS, more particularly, a county is, pursuant to N.C. Gen. Stat. §160A-497, authorized to appropriate funds for use by non-profit corporations that assists with senior citizen services, including but not limited to food services, recreation and transportation services;

WHEREAS, Community Services of Swain, Inc. has applied for and received grants to assist with the expansion of greater services for the senior citizens of Swain County, which is a goal of Swain County and the State of North Carolina.

WHEREAS, the Swain County Board of Commissioners desires to donate the above described property to Community Services of Swain, Inc. for the purposes of constructing and maintaining a Senior Citizen Center thereon.

WHEREAS, the county must comply with the provisions set out in N.C.Gen. Stat. §160A-267 which includes the adoption of this resolution and publication of a ten-day notice.

WHEREAS, the Swain County Board of Commissioners verily believes that it would be in the best interest of the senior citizens of Swain County to convey the above described property to the Community Services of Swain, Inc., a non-profit corporation, for the construction and maintenance of a Senior Center or other public purpose.

NOW THEREFORE,. BE IT AND IT IS HEREBY RESOLVED:

1. That in consideration of the terms hereinafter contained the Swain County Board of Commissioners approves the conveyance of the property described in Book 318, Page 906, Swain County Public Registry and more particularly described hereinabove to COMMUNITY SERVICES OF SWAIN, INC.
2. That in accordance with the requirements of N.C.Gen. Stat. §160A-279, such instruments of conveyance shall provide that such lands shall be used for a public purpose at all times, including but not limited to a senior citizens center that provides for the betterment of the lives and welfare of Swain County's senior citizens.
3. That public notice of this action shall be given as provided in N.C. Gen. Stat. §160A-267.
4. That upon the expiration of the public notice specified above, the Chairman of the Swain County Board of Commissioners and its Clerk are hereby authorized to execute such Quitclaim Deed and/or other documents as may be necessary to consummate the conveyance and donation of property herein approved.

Adopted this the ____ day of _____, 2007.

Glenn Jones, Chairman
Swain County Commissioners

ATTEST:

Kevin King
Clerk to the Swain County
Board of Commissioners

Vice-Chair Lindsay seconded the motion. A vote was unanimous.

Finance Agreement with RBC Centura – First Charter Bank Building

Commissioner Moon made a motion to approve the following resolution:



NORTH CAROLINA

RESOLUTION # 930-2007-06

COUNTY OF SWAIN

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INSTALLMENT FINANCING CONTRACT IN THE AMOUNT OF \$620,000.00 WITH RBC CENTURA BANK TO FINANCE THE ACQUISITION OF CERTAIN REAL PROPERTY FOR USE BY THE COUNTY OF SWAIN, NORTH CAROLINA, AUTHORIZING THE EXECUTION AND DELIVERY OF RELATED INSTRUMENTS, AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH

BE IT RESOLVED by the governing body for the County of Swain, North Carolina (the “Unit”):

The governing body of the Unit does hereby find and determine:

The Unit proposes the acquisition of a building for the Tourism and Development Authority, as more fully described in the hereinafter mentioned Contract (collectively, the “Project”);

After consideration, the governing body of the Unit has determined that the most advantageous manner of financing thereof is by an installment contract pursuant to Section 160A-20 of the General Statutes of North Carolina, as amended;

Pursuant to Section 160A-20, the Unit is authorized to finance the acquisition of the Project, by entering into an installment contract and a deed of trust or other security instrument that creates a security interest in the property financed to secure repayment of the financing;

As required by Section 160A-20, on 28th day of August the Unit held a public hearing with respect to the financing of the Project through the Contract, after notice of such hearing was published at least ten (10) days prior to the hearing; and

RBC Centura Bank (“RBC Centura”) has proposed that RBC Centura enter into an Installment Financing Contract with the Unit to finance the Project pursuant to which RBC Centura will lend the Unit the amount of \$620,000.00 (the “Contract”) and a related Escrow Agreement between the Unit and RBC Centura (the “Escrow Agreement”), to be secured by a Deed of Trust and Security Agreement with respect to the Project for the benefit of RBC Centura (the “Deed of Trust”).

The governing body hereby authorizes and directs the County Manager, to execute, acknowledge and deliver the Contract, the Deed of Trust and the Escrow Agreement on behalf of the Unit in such form and substance as the person executing and delivering such instruments on behalf of the Unit shall find acceptable. The Clerk is hereby authorized to affix the official seal of the County of Swain to the Contract, the Deed of Trust and the Escrow Agreement and attest the same.

The proper officers of the Unit are authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do or cause to be done any and all other acts and things necessary or proper for carrying out this Resolution, the Contract, the Deed of Trust and the Escrow Agreement.

Notwithstanding any provision of the Contract, the Deed of Trust or the Escrow Agreement, no deficiency judgment may be rendered against the Unit in any action for breach of a contractual obligation under the Contract, the Deed of Trust or the Escrow Agreement and the taxing power of the Unit is not and may not be pledged directly or indirectly to secure any moneys due under the Contract, the security provided under the Contract and the Deed of Trust being the sole security for RBC Centura in such instance. The Unit covenants that, to the extent permitted by the Constitution and laws of the State of North Carolina, it will comply with the requirements of the Internal Revenue Code of

1986, as amended (the "Code") as required so that interest on the Unit's obligations under the Contract will not be included in the gross income of RBC Centura.

The Unit hereby represents that it reasonably expects that it, all subordinate entities thereof and all entities issuing obligations on behalf of the Unit will issue in the aggregate less than \$10,000,000 of tax-exempt obligations, including the Contract (not counting private-activity bonds except for qualified 501(c)(3) bonds as defined in the Code) during calendar year 2007. In addition, the Unit hereby designates the Contract and its obligations under the Contract as a "qualified tax-exempt obligation" for the purposes of the Code.

This Resolution shall take effect immediately upon its passage.

Upon motion of _____, seconded by _____, members of the governing body, the foregoing resolution entitled "**RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INSTALLMENT FINANCING CONTRACT IN THE AMOUNT OF \$620,000.00 WITH RBC CENTURA BANK TO FINANCE THE ACQUISITION OF CERTAIN REAL PROPERTY, AUTHORIZING THE EXECUTION AND DELIVERY OF RELATED INSTRUMENTS, AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH**" was passed by the following vote:

Ayes: _____

Nays: _____

PASSED AND ADOPTED this 28th day of August, 2007

* * * * *

I, _____, Clerk for the County of Swain, North Carolina DO HEREBY CERTIFY that the foregoing has been carefully copied from the actual recorded minutes of the governing body of said County of Swain at a regular meeting held on _____, _____, the record having been made in the minutes of said governing body, and is a true copy of so much of said minutes as relates in any way to the passage of a resolution providing for the authorization of the Installment Financing Contract referred to therein.

I DO HEREBY FURTHER CERTIFY that a schedule, stating that the regular meetings of the Council are held on _____ of each month at _____ a.m./p.m., respectively, at _____, North Carolina, was on file with me for at least seven calendar days prior to said meeting, all in accordance with G.S. 143-318.12.

WITNESS my hand and corporate seal of said County of Swain, this _____ day of _____, _____.

Clerk, County of Swain

[SEAL]

Original Loan Amount: \$620,000.00

Loan Date: September _____, 2007

Vice-Chair Lindsay seconded the motion. A vote was unanimous.

Resolution authorizing filing application for financing agreement to the LGC – First Charter Bank Building

Commissioner Carson made a motion to adopt a resolution authorizing filing an application for a financing agreement to the Local Government Commission for the purchase of the First Charter Bank Building. Commissioner Moon seconded the motion. A vote was unanimous.

Referendum for Land Transfer Tax

Commissioner Carson made a motion for a Land Transfer Tax Referendum be held in November, 2007. This item passed with 4 voting aye and 1 voting nay.

New Business

Department reports:

Curtis Cochran presented a report to the Board for the Sheriff's Department noting; account of arrests made and drugs confiscated for this quarter.

Brent Jones and Charles Reagan gave a presentation on Environmental Health issues within the County noting policies and procedures involved in this department.

For more information on these departments, please see the written reports submitted.

Informal Discussion

Commissioner Monteith requested a resolution be prepared and submitted to TVA, Senator Dole, Senator Burr and Congressman Shuler regarding lake levels.

Adjournment

There being no further business to discuss, Commissioner Monteith made a motion to adjourn. Commissioner Carson seconded the motion. A vote was unanimous.

Respectfully Submitted,

Kevin S. King,
Clerk to the Board
Swain County Commissioners

Glenn Jones,
Chairman
Swain County Commissioners