

SPECIAL MEETING OF THE LAKE LURE TOWN COUNCIL HELD TUESDAY, JUNE 24, 2003, 9:00 A.M. AT THE LAKE LURE MUNICIPAL CENTER

PRESENT: Mayor Jim Proctor
Commissioner Blaine Cox
Commissioner Lea Hullender
Commissioner George Pressley

Finance Director Sam Karr

ABSENT: Commissioner Dick McCallum
Town Manager H. M. Place III

CALL TO ORDER

The meeting was called to order at approximately 9:10 a.m. by Mayor Jim Proctor.

INVOCATION

Commissioner Pressley gave the invocation.

APPROVE AGENDA

A motion was made by Commissioner Cox to approve the agenda as presented. Commissioner Pressley seconded the motion and the vote of approval was unanimous.

PUBLIC HEARING - CONSIDER THE ADOPTION OF A RESOLUTION AUTHORIZING THE TOWN OF LAKE LURE TO ENTER INTO AN INSTALLMENT PURCHASE CONTRACT TO FINANCE THE COST OF THE LAKE LURE FIRE STATION IMPROVEMENTS

Public Notices were duly given and published in the Forest City Daily Courier newspaper.

Mayor Proctor opened the public hearing to consider the adoption of a resolution authorizing the Town of Lake Lure to enter into an installment purchase contract of not more than 140,000 to finance the cost of the Lake Lure Fire Station improvements.

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Finance Director Sam Karr reviewed and answered questions pertaining to the proposed resolution.

Mayor Proctor invited citizens to speak during the hearing and no one requested to speak.

After discussion, Commissioner Pressley made a motion to close the public hearing. Commissioner Cox seconded the motion and the vote of approval was unanimous.

AWARD BID TO FINANCE THE COST OF THE LAKE LURE FIRE STATION IMPROVEMENTS

Finance Director Sam Karr presented copies of the financing proposals for the fire station improvements. (Copy of financing proposals attached).

After discussion, Commissioner Cox made a motion to award the bid to Branch Banking and Trust Company (BB & T) to finance the fire station improvements in accordance with the terms of their proposal at an annual interest rate of 3.19 percent for 10 years financing term. Commissioner Hullender seconded the motion and the vote of approval was unanimous.

ADOPT RESOLUTION NO. 03-06-24 APPROVING INSTALLMENT FINANCING CONTRACT FOR THE COST OF THE LAKE LURE FIRE STATION

After discussion, Commissioner Pressley made a motion to approve Resolution No. 03-06-24 as amended. Commissioner Hullender seconded the motion and the vote of approval was unanimous.

RESOLUTION NO. 03-06-24

A RESOLUTION OF THE TOWN COUNCIL OF TOWN OF LAKE LURE, NORTH CAROLINA, APPROVING AN INSTALLMENT FINANCING CONTRACT

WHEREAS, the Town of Lake Lure, North Carolina is a duly and regularly created, organized and validly existing political subdivision of the State of North Carolina, existing as such under and by virtue of the Constitution, statutes and laws of the State of North Carolina;

WHEREAS, the Town has the power, pursuant to North Carolina General Statutes to (I) purchase real and personal property, (II) enter into installment financing contracts in order to finance the purchase of real personal property used, or to be used, for public purposes, and (III) to finance the construction of fixtures or improvements on real property by contracts that create, in the real property on which such fixtures or improvements are located, a security interest to secure repayment of moneys advanced or made available for such construction;

WHEREAS, the Town Council, of the Town of Lake Lure, North Carolina, hereby determines that it is in the best interest of the Town to receive an advance of funds in an aggregate

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principal amount of not more than \$140,000 by entering into an installment financing contract with a North Carolina corporation, and a deed of trust or other security agreement related thereto to secure the Town's obligations under the Contract. This financing is new debt of not more than \$140,000 for the purpose of Fire Station Improvements.

Section 1 Ratification of Prior Actions. That all actions of the Town, the Town Manager, the Finance Officer of the Town, and the Town Clerk and their respective designees in effectuating the proposed financing are hereby approved, ratified and authorized pursuant to and in accordance with the transactions contemplated by the Instruments.

Section 2. That Town of Lake Lure does hereby approve the financing of the project referenced above, in accordance with the terms of the proposal made by BB & T, a copy of which is attached hereto. The annual interest rate for the Fire Station Improvements is 3.19 percent for 10 years financing term. The Installment Purchase Contract and the Deed of Trust in connection therewith, which said financing will be valid, legal and binding obligation of the Town of Lake Lure in accordance with their terms. The form and content of the Contract and related documents are in all respects authorized, approved and confirmed and the Town Manager is hereby authorized, empowered and directed to do all such acts to execute all such documents as may be necessary to carry out and comply with the provisions of the Contract as approved.

Section 3. That the Town Manager is hereby designated as the Town's representative to act on behalf of the Town in connection with the transactions contemplated hereby and by the Instruments referenced herein, and the Town Manager is further authorized and directed to seek opinions as to matters of law from the Town Attorney, which opinions the Town Attorney is hereby authorized to furnish on behalf of the Town.

The Town Manager is further authorized to execute and deliver for and on behalf of the Town, any and all additional certificates, documents, opinions, or other papers and to perform all other acts as may be required by the instruments or as he and the Town Attorney may deem necessary or appropriate in order to implement and carry out the intent and purposes of this Resolution.

Section 4. That if any section, phrase or provisions of this Resolution is for any reason declared to be invalid, then such declaration shall not effect the validity of the remainder of the sections, phrases, or provisions of this Resolution which shall remain and continue in full force and effect.

Section 5. That all motions, orders, resolutions, ordinances and parts thereof which are or may be in conflict herewith are hereby repealed.

Section 6. This Resolution is subject, however, to Town of Lake Lure obtaining approval for the proposed installment purchase financing from the North Carolina Local Government Commission.

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Section 7. That this Resolution shall become effective immediately upon its adoption.

WHEREAS, the Town hereby determines that the improvements of the above described project is essential to the Town's proper, efficient and economic operation and to the general health and welfare of its inhabitants; that the Project will provide an essential use and will permit the Town to carry out public functions that it is authorized by law to perform; and that entering into the Contract is necessary and expedient for the Town by virtue of the findings presented herein.

WHEREAS, the Town hereby determines that the estimated cost of the new improvements in this project is not more than \$140,000 and that such costs exceed the amount that can be prudently raised from currently available appropriations, unappropriated fund balances in the current fiscal year pursuant to Article V, Section 4 of the Constitution of the State.

WHEREAS, although the cost of financing the improvements of this project pursuant to the Contract could exceed the cost of financing the renovations of the project pursuant to a bond financing for the same undertaking, the Town hereby determines that the cost of financing the project pursuant to the Contract and the Deed of Trust and the obligations of the Town thereunder are preferable to a general obligation bond financing for several reasons, including but not limited to the following: (I) the cost of a special election necessary to approve a general obligation bond financing, as required by the laws of the State, would result in the expenditure of significant funds; and (II) the time required for a general obligation bond election would cause an unnecessary delay which would thereby decrease the financial benefits of acquiring the project;

WHEREAS, the Town hereby determines that the estimated cost of financing the renovation project pursuant to the Contract reasonably compares with an estimate of similar costs under a bond financing for the same undertaking as a result of the findings delineated in the above preamble;

WHEREAS, obligation of the Town to make Installment Payments under the Contract is a limited obligation of the Town payable solely from currently budgeted appropriations of the Town and does not constitute a pledge of a faith and credit of the Town within the meaning of any constitutional debt limitation;

WHEREAS, in order to secure the Town's obligations under the Contract, the Town will enter into the Deed of Trust trustee named for the benefit of the Corporation;

WHEREAS, no property tax increases will be required to pay installment payments falling due under the Contract in any fiscal year during the term of the Contract;

WHEREAS, the Town Attorney will render an opinion to the effect that entering into the Contract and the transactions contemplated thereby are authorized by law and constitute a purpose for which public funds may be expended pursuant to the Constitution and laws of the State;

WHEREAS, no deficiency judgement may be rendered against the Town in any action for its breach of the Contract, and the taxing power of the Town is not and may not be pledged in any

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way directly or indirectly or contingently to secure any monies due under the Contract;

WHEREAS, the Town is not in default under any of its debt service obligations;

WHEREAS, the Town's budget process and Annual Budget Ordinance are in compliance with the Local Government Budget and Fiscal Control Act, and external auditors have determined that the Town has conformed with generally accepted accounting principles in preparing its Annual Budget Ordinance;

WHEREAS, past audit reports of the Town indicate that its debt management and contract obligation payment policies have been carried out in strict compliance with the law, and the Town has not been censured by the North Carolina Local Government Commission, external auditors or any other regulatory agencies in connection with such debt management and contract obligation payments policies;

WHEREAS, the Town Council conducted a public hearing with respect to the Fire Station Improvements on June 24, 2003 to receive public comments on the Project, the proposed financing, the Contract and the Deed of Trust for improvements of the Project, and the Town will file an application with the LGC for approval of the LGC with respect to the Town entering into the Contract;

WHEREAS, the forms of the Contract, upon review of the Town Attorney, the Town proposes to approve, enter into and deliver, applicable, to effectuate the proposed financing at the interest rate and maximum principal amount as specified therein; and

WHEREAS, it appears that the Instrument is in appropriate form and is an appropriate instrument of the purposes intended;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL, TOWN OF LAKE LURE, NORTH CAROLINA, AS FOLLOWS:

The motion to adopt this Resolution was made by Council Member George Pressley, seconded by Council Member Lea Hullender, and was passed unanimously by those members present at the meeting of the Town Council, Lake Lure, North Carolina, held on the 24th day of June, 2003.

Attest:

Mary A. Flack, MMC
Town Clerk

Mayor Jim Proctor

ADJOURNMENT

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With no further items of discussion, Commissioner Hullender made a motion to adjourn the meeting at 9:35 a.m. Commissioner Cox seconded the motion and the vote of approval was unanimous.

ATTEST:

Mary A. Flack, MMC
Town Clerk

Mayor Jim Proctor