



REQUEST FOR BOARD ACTION

ITEM NO. 24

DATE OF MEETING: July 12, 2010

REQUESTED BY: Rick Benton, County Manager

SHORT TITLE: Public Hearing and Resolution Regarding Issuance of Recovery Zone Facility Bonds for the Woodbury Wellness Center Expansion and Renovation Project

BACKGROUND: The Pender County Industrial Facilities and Pollution Control Financing Authority is considering issuing \$7 million in Recovery Zone Facility Bonds (RZFB) for an expansion and renovation project at the Woodbury Wellness Center in Hampstead. The project is being undertaken by Avant & Nunn, LLC, or a related or affiliated company. The bonds will be issued by the Authority as provided by Section 1400U-3 of the Internal Revenue Code of 1986, as amended by the American Reinvestment and Recovery Act (ARRA), and under Chapter 159C of the NC General Statutes, as amended. The Authority has received an allocation of RZ bonds by the North Carolina Tax Reform Allocation Committee. The Authority has adopted the necessary inducement resolution.

The Board of Commissioners is required to hold a public hearing on the matter, at which the Board is to "approve in principle" the recovery zone facility bond financing. The Local Government Commission must approve the documents and bond issuance. The anticipated closing date is August, 2010.

The bonds will not constitute a debt, or pledge of the faith and credit of the State of North Carolina, Pender County, or the Authority.

SPECIFIC ACTION REQUESTED: 1) To hold a public hearing; and 2) To consider adopting the attached resolution approving in principle Recovery Zone Facility Bond financing in the amount of \$7,000,000 to Avant & Nunn, LLC or a related or affiliated company, for the expansion and renovation project at the Woodbury Wellness Center in Hampstead.

COUNTY MANAGER'S RECOMMENDATION

Respectfully recommend approval.

JB
Initial

RESOLUTION

NOW, THEREFORE BE IT RESOLVED by the Pender County Board of Commissioners that:

the Board hereby approves the attached resolution entitled APPROVAL IN PRINCIPLE OF SPECIAL PURPOSE PROJECT FOR WOODBURY WELLNESS CENTER AND THE FINANCING THEREOF WITH RECOVERY ZONE FACILITY BONDS IN THE PRINCIPAL AMOUNT OF UP TO \$7,000,000. The Chairman/County Manager is authorized to execute any/all documents necessary to implement this resolution.

AMENDMENTS:

MOVED _____ SECONDED _____

APPROVED _____ DENIED _____ UNANIMOUS

YEA VOTES: Tate ___ Blanchard ___ Brown ___ Rivenbark ___ Williams ___

Jimmy T. Tate, Chairman Date

ATTEST Date

BOARD OF COMMISSIONERS
OF
PENDER COUNTY, NORTH CAROLINA

Extract of Minutes
of Meeting of July 12, 2010

Present: Chairman Tate presiding, and Commissioners: _____

Absent: _____

* * * * *

Commissioner _____ introduced the following resolution, the title of which was read:

APPROVAL IN PRINCIPLE OF SPECIAL PURPOSE PROJECT FOR WOODBURY WELLNESS CENTER AND THE FINANCING THEREOF WITH RECOVERY ZONE FACILITY BONDS IN THE PRINCIPAL AMOUNT OF UP TO \$7,000,000

WHEREAS, The Pender County Industrial Facilities and Pollution Control Financing Authority (the "Authority") proposes to assist in the financing under the North Carolina Industrial and Pollution Control Facilities Financing Act, Chapter 159C of the North Carolina General Statutes, as amended (the "Act") of a "special purpose project," the proceeds of which will be loaned to Avant & Nunn, L.L.C., a North Carolina limited liability company, or an affiliate or subsidiary thereof (the "Company"), to be used to finance the acquisition, construction and equipping of a 100 bed assisted living facility (the "Project") adjacent to the Company's existing skilled nursing facility known as Woodbury Wellness Center, to be owned and operated by the Company in Hampstead, Pender County, North Carolina; and

WHEREAS, on October 19, 2009, the Board of County Commissioners declared the County a recovery zone for purposes of Section 1400U-1 through 1400U-3 of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, under the Code, the Project constitutes "recovery zone property" because it is a depreciable property located in a recovery zone which is used in the active conduct of the Company's trade or business; and

WHEREAS the Act and the Internal Revenue Code of 1986, as amended (the "Code") require that the governing body of a county approve in principle any project to be financed under the Act after a public hearing; and

WHEREAS, the North Carolina Tax Reform Allocation Committee has reallocated \$7,000,000 of recovery zone facility bond allocation to the Project; and

WHEREAS, this Board of Commissioners today has held a public hearing with respect to the advisability of the Project and the issuance of recovery zone facility bonds therefor, as evidenced by the Certificate and Summary of Public Hearing attached hereto as Exhibit A; and

WHEREAS, the Authority intends to issue its Recovery Zone Facility Bonds (Woodbury Wellness Center Project), Series 2010 (the "Bonds") in the principal amount of up to \$7,000,000 which will be issued as a variable rate bond that is privately placed with SunTrust Bank; and

WHEREAS, Section 147(f) of the Code requires that the Board of Commissioners approve the plan of financing for the Bonds; and

WHEREAS, under Section 159C-4 of the Act the issuance of bonds under the Act must be approved by the governing body of the county in which the project to be financed is located;

NOW, THEREFORE, the Board of Commissioners of Pender County, meeting in regular session at Burgaw, North Carolina, on July 12, 2010, does the following:

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS FOR PENDER COUNTY:

1. The proposed "special purpose project" consisting of the acquisition, construction and equipping of a 100 bed assisted living facility (the "Project"), under the Code, to be owned and operated by Avant & Nunn, L.L.C., a North Carolina limited liability company, or an affiliate or subsidiary thereof, and the issuance of recovery zone facility bonds in an amount not to exceed \$7,000,000 therefor are hereby approved in principle.

2. The Board of Commissioners hereby approves the plan of financing as required by Section 147(f) of the Code.

3. The issuance of the Bonds in the principal amount of \$7,000,000 is hereby approved for purposes of Section 159C-4 of the Act.

4. THE BONDS DO NOT CONSTITUTE A DEBT OF THE STATE OF NORTH CAROLINA OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE AUTHORITY OR THE COUNTY, OR A PLEDGE OF THE FAITH AND CREDIT OF THE STATE OF NORTH CAROLINA OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE AUTHORITY OR THE COUNTY.

Commissioner _____ moved the passage of the foregoing resolution and Commissioner _____ seconded the motion, and the resolution was passed by the following vote:

Ayes: Commissioners _____

Nays: _____

Not voting: _____

I, Rick Benton, Clerk to the Board of Commissioners for the County of Pender, North Carolina DO HEREBY CERTIFY that the foregoing is a true and complete copy of so much of the proceedings of the Board of Commissioners for the County at a regular meeting duly called and held July 12, 2010, as it relates in any way to the resolution hereinabove set forth, and that said proceedings are recorded in Minute Book ____ of the minutes of the Board. Pursuant to N.C.G.S. § 143-318.12, a current copy of a schedule of regular meetings of the Board is on file in my office.

WITNESS my hand and the common seal of said County, this ____ day of July, 2010.

Clerk to the Board
Pender County Board of Commissioners

(SEAL)

Certificate and Summary

The undersigned Clerk of the Board of Commissioners of Pender County, North Carolina, hereby certifies:

1. Notice of a public hearing (the "Hearing") to be held on July 12, 2010, with respect to the issuance of bonds by The Pender County Industrial Facilities and Pollution Control Financing Authority (the "Authority") for the benefit of Avant & Nunn, L.L.C., a North Carolina limited liability company (the "Company") was published on June __, 2010, in *The Topsail Voice*.

2. The presiding officer of the Hearing was _____.

3. The following is a list of the names and addresses of all persons who spoke at the Hearing:

4. The following is a summary of the oral comments made at the Hearing:

IN WITNESS WHEREOF, my hand and the seal of Pender County, this ____ day of July, 2010.

Clerk to the Board
Pender County Board of Commissioners

(SEAL)