

**MINUTES OF THE MEETING OF THE BOARD OF COUNTY COMMISSIONERS HELD AT THE FOUNDATION AT ISOTHERMAL COMMUNITY COLLEGE ON NOVEMBER 10, 2010 AT 10:00 A.M.**

**PRESENT: CHAIRMAN BRENT WASHBURN  
VICE CHAIRMAN MARGARET HELTON  
SUSAN CROWE  
EDDIE HOLLAND  
PAUL MCINTOSH**

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| <b>CALL TO ORDER</b> |
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Chairman Washburn called the special meeting of the Rutherford County Board of Commissioners to order. Forest City Mayor Dennis Tarleton called the Forest City Board of Commissioners to order.

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| <b>PUBLIC HEARING/ORDINANCE/RESOLUTION/INCENTIVE AGREEMENT/ANDALE, LLC</b> |
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Chairman Washburn told those present that the public hearing advertised for this meeting would be held to hear comments on:

- o A proposed development agreement among the County, the Town of Forest City, and Andale, LLC
- o A proposal for the County to sell certain property to Andale and to provide certain economic incentives to Andale
- o A proposal for the Town to provide certain economic incentives to Andale

The Chairman explained that a single public hearing would be held on all these matters. Anyone speaking will be addressing both the County Commissioners and the Town Commissioners.

Vice Chairman Helton made a motion to open the public hearing. There was a unanimous vote of approval. The Town Council of Forest City then opened their public hearing.

Tom Johnson, Economic Development Commission Director, presented information on Andale, LLC, a new company desiring to locate in Rutherford County. The company, Andale, LLC, is a subsidiary of a well-known parent company. The company plans to present its identity within the next day.

Mr. Johnson explained that all of the Mako property and Corporate 74 property, excluding the State Data Center, will be sold to the company along with an option that the County holds for an additional 15 acres, for a total price of \$3,148,924, and the company will place in escrow \$200,205 to be given to local charities. The company plans to remove all structures on the site including the Mako building, all tanks, and out buildings. The company will then construct a data center facility which will ultimately employ approximately 42 people.

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The Company has committed to invest at least \$450,000,000 at the site which will include the construction of a building and other improvements that will serve as the data center and the installation of computer servers and other equipment.

Mr. Johnson said the county will provide an economic development grant for a period of 20 years for taxable investments occurring during the first 30 years of the project with all grants ending no later than 2040. Initially the amount of the grant is 85% of real property and 90% of personal property taxes. If the company meets the \$450,000,000 capital investment threshold prior to December 31, 2015, the personal property grant percentage increases to 95% of taxes paid.

Mr. Scott Webber, Finance Director for the Town of Forest City, explained the economic benefits to the Town of Forest City.

Mr. Omer Causey, a member of the Rutherford County Economic Development Commission, said it would be hard to imagine that this would not be an incredible win.

Mr. Bill Frykberg, a former member of the EDC, said the location of this company in Rutherford County will revolutionize Rutherford County and will provide new industrial focus for the area.

Ms. Eleanor Whitworth's only concern was where the jobs would be advertised and the location of those who are hired.

Mr. Johnson told Ms. Whitworth and those present that the agreement which the county will be considering includes language specifying that every effort will be made to use county businesses, and the company has stated its intention to use local people.

Ms. Sally Leshner, a member of the EDC, commended all those who had worked on this project and their vision.

Mr. Duncan Edwards asked about the escrow of \$200,000 and how decisions would be made regarding this.

Mr. Carl Parton said this project is a positive cash flow for Rutherford County.

Chairman of the Economic Development Commission, Keven McCammon, applauded the Town Council of Forest City and the Board of Commissioners and all those involved. He is looking forward to bringing Rutherford County's economy back to where it needs to be.

Ms. Frankie McWhorter said there were many counties who had been very eager to land a project such as this.

10:42 P.M. - Chairman Washburn declared the public hearing to be closed.

10:42 P.M. - The Town of Forest City's public hearing was closed.

Commissioner McIntosh moved that the Board approve the "Ordinance Approving a Development Agreement Between Rutherford County and Andale, LLC" which would authorize the County to enter in the proposed development agreement, as amended by the changes that were identified before the public hearing. The vote of approval was unanimous.

**ORDINANCE**

**AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BETWEEN RUTHERFORD COUNTY AND ANDALE, LLC**

**WHEREAS**, Part 3A of Article 18 of Chapter 153A of the North Carolina General Statutes authorizes Rutherford County to enter into development agreements with property owners to govern large-scale development projects;

**WHEREAS**, Rutherford County has negotiated with Andale, LLC the terms of the "Development Agreement" that is attached as Exhibit A and incorporated herein by reference, which would govern a project that Andale, LLC intends to develop on certain real property in the County that is defined as the "Property" in the Development Agreement;

**WHEREAS**, the Board of Commissioners has determined that entering into the attached Development Agreement with Andale, LLC is in the best interests of County residents;

**WHEREAS**, the Board of Commissioners has held the public hearing on the proposed Development Agreement required by N.C. Gen. Stat. § 153A-349.5; and

**WHEREAS**, N.C. Gen. Stat. § 153A-349.3 requires that a development agreement be approved by the Board of Commissioners by ordinance.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Commissioners of Rutherford County that:

1. The Board of Commissioners of Rutherford County hereby approves the "Development Agreement" with Andale, LLC that is attached as Exhibit A and incorporated herein by reference, which includes the specific changes identified by the Chairman before the public hearing began.

2. The Board of Commissioners authorizes and directs the County Manager to execute on the County's behalf the Development Agreement that is attached as Exhibit A. The Board of Commissioners also authorizes the County Manager, before executing the Development Agreement, to negotiate and approve minor, non-substantive changes to the Development Agreement.

This 10<sup>th</sup> day of November, 2010.

Commissioner McIntosh moved that the Board approve the "Resolution Authorizing Sale of Property, Assignment of Option and Payment of Economic Incentives for Andale, LLC" which would authorize the County; (i) to sell the approximately 138 acres of County property to Andale, (ii) to assign Andale the County's option to purchase the approximately 15 other acres, and (iii) to enter in the economic incentive agreement with Andale to provide the incentives that have been proposed. There was a unanimous vote of approval.

**RESOLUTION AUTHORIZING SALE OF PROPERTY, ASSIGNMENT OF OPTION, AND PAYMENT OF ECONOMIC INCENTIVES FOR ANDALE, LLC**

**WHEREAS**, Andale, LLC ("Andale"), desires to buy certain real property, as well as an option to purchase certain other real property, from the County with the intent of constructing buildings and other improvements on those properties that will serve as a data center;

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**WHEREAS**, Andale has requested economic incentives for making investments in the County that will equal or exceed Four Hundred and Fifty Million Dollars (\$450,000,000.00) and that will be made toward constructing the buildings and other improvements that will serve as the data center and the installation of computer servers and other equipment;

**WHEREAS**, Andale has informed the County that, but for the County's provision of these economic incentives, Andale will not locate its data center in the County;

**WHEREAS**, Andale's purchase of the County's real property and the County's option, and Andale's construction of the data center and related improvements, are expected to create 42 full-time jobs in the County, as well as an estimated 200 to 250 construction jobs for a period of approximately 18 months;

**WHEREAS**, the Board of County Commissioners has determined, based on information provided by Andale, that the probable average hourly wage to be paid to the workers employed at the data center will be \$13.45 per hour, which equals the County's average hourly wage;

**WHEREAS**, Andale's construction of the data center would bring a large, 18-month construction project to the County that, in addition to creating the jobs described above, would produce more revenues for local businesses, as Andale will exercise reasonable efforts to purchase supplies from County-based businesses, use local companies based in the County, and encourage its contractors and subcontractors to do the same and to house themselves and their employees and contractors within the County during the construction so as to maximize hotel and motel receipts and to expand the economic impact to the County and its businesses;

**WHEREAS**, Andale's construction of the data center would enhance the County's property tax base and increase the County's property tax revenues;

**WHEREAS**, Andale's construction of the data center would help diversify the County's economy and serve as a model by which the County could attract similar or complementary businesses and industries; and

**WHEREAS**, the Board of County Commissioners deems its desirable and in the best interests of County residents to sell certain real property to Andale, to assign the County's option to purchase other real property to Andale, and to provide certain economic incentives to Andale, all in accordance with the terms and conditions described below.

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

1. Based on the foregoing, the Board of Commissioners approves the following:

a. Selling to Andale the approximately 138 acres of real property that the County owns within the southeastern quadrant of the interchange of U.S. Highway 74 and Old Caroleen Road and having the following County Tax PINs: 1644624, 1642932, 1638131, 1638130, 1638129, 1638126, 1638125, 1638123, 1638122, and 1638121, plus the acreage that the County will obtain as a result of the abandonment of the right of way of Commerce Drive; and

b. Assigning to Andale all of the County's right, title and interest in and to that certain Option to Purchase Real Estate dated July 21, 2008, between the County, as Purchaser, and Jerry R. Morrow and Janice Q. Morrow, Co-Trustees of the Jerry R. Morrow Living Trust and Daniel Steve Robbins and wife, Kathie D. Robbins, as Seller, as amended, with respect to approximately 15 acres of real property fronting on Low Bridge Road, having County Tax PIN 429797 (these approximately 15 acres of real property, combined with the approximately 138 acres of real property described in Section 1(a) of this Resolution, are the "Site").

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As consideration for this sale and assignment, Andale must: (i) pay the County Three Million One Hundred Forty-Eight Thousand Nine Hundred and Twenty-Four Dollars (\$3,148,924.00), which the Board of County Commissioners has determined to be the total fair market value of the property described in Section 1(a) of this Resolution and the option described in Section 1(b) of this Resolution, and (ii) make a donation of Two Hundred Thousand Two Hundred and Five Dollars and Fifty Cents (\$200,205.50) to the County for the benefit of various community groups in the County.

To effect this sale and assignment, the Board of Commissioners hereby approves the "Purchase and Sale Agreement and Joint Escrow Instructions" attached to this Resolution as Exhibit A and incorporated herein by reference, and the Board authorizes the County Manager to execute that agreement on the County's behalf. The Board of Commissioners also authorizes the County Manager, before executing the attached "Purchase and Sale Agreement and Joint Escrow Instructions," to negotiate and approve non-substantive changes to that agreement's language.

2. Based on the foregoing, the Board of Commissioners approves the following:

a. Appropriating and spending from the County's general fund a cash grant of up to Four Hundred Thousand Dollars (\$400,000) to pay for removing asbestos from buildings currently on the Site and thereafter removing such buildings and all building-related materials and related fixtures and improvements on the Site;

b. Appropriating and spending from the County's general fund a cash grant of up to Four Hundred Ninety Thousand Dollars (\$490,000) (which may be reduced by any grants that the County seeks) to reimburse Andale for performing site work and infrastructure work on the Site, including the removal of existing onsite utilities and structures, the relocation of a sewer lift station, and the re-alignment of the to-be-abandoned road known as Commerce Drive; and

c. Appropriating and spending from the County's general fund amounts to make annual cash grants to Andale for a term of up to 30 consecutive years, calculated as Eighty-Five Percent (85%) of the real property taxes paid to the County with respect to the Site, the facility to be constructed on the Site and related improvements to the Site, and Ninety Percent (90%) of the personal property taxes paid to the County with respect to certain personal property to be used by Andale in the facility (with a provision that such 90% percentage shall increase to 95% upon Andale's investment of \$450,000,000.00 with respect to the Site).

To implement these incentives, the Board of Commissioners hereby approves the "Economic Development Agreement" attached to this Resolution as Exhibit B and incorporated herein by reference, and the Board authorizes the County Manager to execute that agreement on the County's behalf. The Board of Commissioners also authorizes the County Manager, before executing the attached "Economic Development Agreement," to negotiate and approve non-substantive changes to that agreement's language.

This 10<sup>th</sup> day of November, 2010.

The Town Council of Forest City approved certain document.

Finance Director Julie Scherer presented budget amendments which would occur during the present budget year.

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|                                                                                                                                                                                          | <b>Expense</b> | <b>Revenue</b> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----------------|
| Wells Fargo Debt Payoff                                                                                                                                                                  | \$1,275,000    |                |
| Professional Fees                                                                                                                                                                        | 225,000        |                |
| Infrastructure Escrow                                                                                                                                                                    | 490,000        |                |
| Demolition Costs                                                                                                                                                                         | 400,000        |                |
| Environmental Set Aside                                                                                                                                                                  | 500,000        |                |
| Debt Service Payment Wells Fargo                                                                                                                                                         | (143,595)      |                |
| Sale of County Property                                                                                                                                                                  |                | \$3,148,924    |
| Duke Grant                                                                                                                                                                               |                | 100,000        |
| Rural Center Grant                                                                                                                                                                       |                | 420,000        |
| General Fund Balance Appropriated                                                                                                                                                        |                | (922,519)      |
| Totals                                                                                                                                                                                   | \$2,746,405    | \$2,746,405    |
| Note: The county has also received confirmation that the last payment to the Rural center of the Corporate 74 grant repayment in the amount of \$142,245 will be forgiven for 2011-2012. |                |                |

Commissioner McIntosh moved to approve the budget amendments. There was a unanimous vote of approval.

The members of the Board of Commissioners thanked those who had worked to bring this project to fruition and thanked the Town of Forest City for their efforts.

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| <b>ADJOURNMENT</b> |
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Chairman Washburn declared the meeting to be adjourned.

10:53 A.M. - Adjourned.

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Chairman, Board of Commissioners

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Vice Chairman, Board of Commissioners

Attest:

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Clerk, Board of Commissioners