

**KENOSHA COUNTY BOARD OF SUPERVISORS  
COUNTY BOARD CHAMBERS COUNTY ADMINISTRATION BUILDING  
September 1, 2009**

The **Regular Meeting** was called to order by Chairman Clark at 7:30 p.m., in the County Board Room located in the Administration Building. Roll call was taken.

Present: Supervisors Grady, Zerban, Rose, Kessler, Huff, Kubicki, Hallmon, Marks, Gentz, Modory, Faraone, Ronald Johnson, Michel, O'Day, Nudo, Moore, Molinaro, Morton, Clark, Noble, West, Roger Johnson, Breunig, Haas, Elverman, Ekornaas.

Excused: Supervisors Singer, Jackson.

Present: 26. Absent: 2.

**CITIZEN COMMENTS**

Tom Reiherzer, 11107 79<sup>th</sup> St., Pleasant Prairie, stated he is a YMCA Board Member and is speaking on behalf of the Y on how important this vote is for the bond approval. From what he understands, the board and the county are not at risk. It's over \$1,000,000 savings for the Y on the life of the mortgage.

Paul Krampert, 5626 37<sup>th</sup> Ave., Kenosha, strenuously objected to the County of Kenosha being a conduit for issuing the bonds for the YMCA. The YMCA locked its members and public out of a building not just of incredible architectural value, but of needed community use and left a huge infected derelict molar on the face of Library Park. He would like the County Board to ask YMCA to have the building available for public use, and to give an opportunity for other people to come forward to create a use for that building in a substantially similar way it was intended to be used by the people who made the donations for that building.

**ANNOUNCEMENT OF THE CHAIRMAN.**

Chairman Clark asked the board to pay attention to the calendar for what meetings are scheduled on September 15<sup>th</sup> because some of the board will be coming back from the Wisconsin County Association that day.

**SUPERVISOR REPORTS**

Supervisor O'Day stated the Finance Committee met to reconsider Resolution 36 which was referred back by the County Board at their last meeting. The committee unanimously approved the resolution and it's on the agenda tonight for approval. Supervisor O'Day also met with the finance director to discuss the status for the general fund, it is expected that the general fund will decline by approximately \$1,000,000 at year end. About one half of this decline is as a result of forecasted increase in property tax delinquencies. It is noted that the rate of growth in property tax delinquencies appears to be slowing significantly. We will know more in September when the annual tax sale is closed out. The finance committee will continue to monitor the status of the general fund. Anyone with questions can contact Dave Geersten or Supervisor O'Day.

Supervisor Elverman reported Highway and Parks received a grant from stimulus money from state and federal governments that will help with work on the unnamed west end park. This money is key in doing the entryway work on Hwy KD for safety and entrance ways. Supervisor Elverman stated Disc Golf has become a big thing and there is a 9 hole course at Fox River Park. They were approached by a disc golf designer and they want to design a 18 hole course at no cost to the county if allowed an annual tournament in that park. Highway and Parks will be looking into this. Rounds have been down at the golf courses because of weather, but they're up on profit. The new people have been cutting cost and times and promoting a very healthy golf environment in Kenosha County. The biggest expense item is updating the irrigation systems at the golf courses. The irrigation system is going on over 40 years old and they are doing some studies looking at upgrading for the next 50 years. September 4<sup>th</sup> is the last Movies at the Parks. This will be held at Silver Lake Park. There is a big blow up screen and you can camp if you want. This event has been very well received.

Supervisor Rose stated the Racine County Executive announced that Racine County is going to bond for a capital improvement using some stimulus funding under the American Recovery Act. With this bonding 45% would be refunded to Racine from the federal government. These are taxable bonds, not tax free

bonds. Supervisor Rose suggested that the Finance Committee take a look at this for our 19 million dollar bond issue for the new construction. At 45% rebate that would be a substantial savings.

Supervisor Noble gave an update on the IGA and the Public Safety Building lease. The City and County teams are reviewing the final draft of the Intergovernmental Agreement and both sides have reached agreement on all outstanding issues. The final language is being prepared and should be ready for review Wednesday afternoon. It is anticipated that the documents will be ready for the Common Council and the County Board by mid September.

#### **COUNTY EXECUTIVE APPOINTMENTS**

9. Nancy Kemp to complete the remainder of Laurie Paddock's term on the Kenosha County Library System Board.

Chairman Clark referred County Executive Appointment 9 to the Finance Committee.

10. Rose Rostkowski to serve on the Powers Lake Management District Board.

Chairman Clark referred County Executive Appointment 10 to the Land Use Committee.

#### **OLD BUSINESS**

Resolution - one reading.

#### **RESOLUTION 36**

36. From the Finance Committee a Resolution Providing for the Financing and Refinancing of a Public Indoor Recreational Facility; Authorizing the Issuance of its not to Exceed \$8,300,000 Principal Amount Kenosha County, Wisconsin Community Facility Revenue Bond (Kenosha YMCA Project), Series 2009 (The "Bond") Which Will be Payable Solely from the Receipts from a Bond and Sale Agreement and Related Documents; Authorizing the Execution and Delivery of a Bond and Sale Agreement; Authorizing the Execution and Delivery of Conveyances of Facilities; and Related Matters.

**WHEREAS**, counties are authorized by the provisions of Section 66.0621 and Sections 59.52(6)(d) and 59.56(9) of the Wisconsin Statutes, as amended (collectively, the "Act"), to borrow money and issue bonds to finance and refinance the costs of any public utility as defined in the Act; and

**WHEREAS**, counties are authorized by the provisions of Section 59.52(6)(d) to acquire and develop indoor recreational facilities and to finance such projects by the issuance of revenue bonds under Section 66.0621 payable solely from the income, revenues and fees derived from the operation of the project financed by such bonds; and

**WHEREAS**, counties are authorized by Section 59.56(9) to promote and assist in creating, promoting and conducting recreational activities in the county which are conducive to the general health and welfare; and

**WHEREAS**, as a result of negotiations between the County Board of Supervisors of Kenosha County, Wisconsin (the "County") and Kenosha Young Men's Christian Association, Inc., a Wisconsin nonstock, nonprofit corporation (the "Borrower"), the Borrower will (i) refinance certain existing indebtedness of the Borrower incurred to build an existing indoor recreational facility and to finance the construction of a new indoor aquatic center which will be an addition to the existing indoor recreational facility, all located at 7101 53rd Street in Kenosha, Wisconsin (the "Project"), and (ii) pay all or a portion of the costs of issuing the Bond, and the County is willing to issue its revenue bond under Section 66.0621 of the Wisconsin Statutes to finance and refinance the cost of the Project and to enter into a Bond and Sale Agreement (as hereinafter defined) with the Borrower and the Purchaser (as hereinafter defined) upon terms which will produce revenues and receipts sufficient to provide for the prompt payment as and when due of the principal, premium, if any, and interest on such bond, all as set forth in the details and provisions of the Bond and Sale Agreement hereinafter identified; and

**WHEREAS**, the County Board of Supervisors now deems it to be necessary, desirable and in the best interest of the County, and finds that it will promote and assist in creating recreational activities in the County which are conducive to the general health and welfare, that the Community Facility Revenue Bond (Kenosha YMCA Project), Series 2009 be issued in the principal amount of not to exceed \$8,300,000 (the "Bond"); and

**WHEREAS**, the Borrower, as of the date of the issuance of the Bond, will transfer, grant, sell, convey and deliver to the County, its successors and assigns, all of its right, title and interest in and to the Project and the

County, as of the date of the issuance of the Bond, will transfer, grant, sell, convey and deliver back to the Borrower, its successors and assigns, all of its right, title and interest in and to the Project, which Project was conveyed to the County; and

**WHEREAS**, the Bond and the obligation to pay principal, premium, if any, and interest thereon is a special, limited obligation of the County, payable solely out of the special redemption fund to which are pledged the revenues and income derived from the Bond and Sale Agreement hereinafter referred to and other security granted by the Borrower to the Purchaser; the Bond and the obligation to pay interest thereon shall not be deemed to constitute an indebtedness or a general or moral obligation of the County, the State of Wisconsin or any political subdivision thereof within the purview of any constitutional limitation or statutory provision and do not give rise to a pecuniary liability of the County or a charge against its general credit or the County's taxing powers; and neither the purchaser nor any future owner of the Bond shall have the right to compel any exercise of the taxing power, if any, of the County, the State of Wisconsin or any political subdivision thereof to pay any principal or purchase price of, premium, if any, or interest on the Bond; and

**WHEREAS**, the County proposes to sell the Bond upon a negotiated basis to First American Bank (the "Purchaser"); and

**WHEREAS**, it is necessary and proper to authorize the execution of the Bond and Sale Agreement dated as of the date thereof (the "Bond and Sale Agreement") among the County, the Purchaser and the Borrower under the terms of which the County will sell the Bond to the Purchaser and will lend the proceeds from the sale of the Bond to the Borrower for the purposes set forth above and the Borrower shall repay the County such amounts at such times which shall be sufficient to pay the principal of, premium, if any, and interest on the Bond; and

**WHEREAS**, it is necessary and proper to authorize the execution of the Conveyance of Facilities dated as of the date thereof by Borrower and accepted by the County under the terms of which the Borrower will convey to the County, its successors and assigns, all of its right, title and interest in and to the Project (the "Borrower Conveyance of Facilities") and the Conveyance of Facilities dated as of the date thereof by County and accepted by the Borrower under the terms of which the County will convey back to the Borrower, its successors and assigns, all of its right, title and interest in and to the Project (the "County Conveyance of Facilities" and together with the Borrower Conveyance of Facilities, collectively, the "Conveyances of Facilities"); and

**WHEREAS**, the County has caused to be prepared and presented to this meeting the following documents, which the County proposes to enter into:

1. The Bond and Sale Agreement;
2. Borrower Conveyance of Facilities;
3. County Conveyance of Facilities; and
4. The Bond.

**WHEREAS**, pursuant to the provisions of Section 147(f) of the Internal Revenue Code of 1986, as amended, a public hearing on the proposed plan of financing and refinancing of the Project and the issuance of the Bond was held by the Finance Committee of the County Board of Supervisors, on August 13, 2009, prior to the approval by the County Board of Supervisors of the financing and refinancing of the Project through the issuance of the Bond, pursuant to notice published at the direction of the County in the Kenosha News, a newspaper of general circulation in the County of Kenosha, Wisconsin, on July 29, 2009;

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY THAT:**

Section 1. Pursuant to the Act, the issuance and sale of the Bond in accordance with the terms of the Bond and Sale Agreement and for the purposes set forth therein is hereby authorized and approved. The use of the proceeds of the Bond to finance and refinance the Project in connection therewith are in furtherance of the public purposes set forth in the Act.

Section 2. That the form, terms and provisions of the proposed Bond and Sale Agreement, the Borrower Conveyance of Facilities and the County Conveyance of Facilities, copies of which are before this meeting, be, and they hereby are, in all respects approved, and that the County Board Chairman of the County be,

and hereby is, authorized, empowered and directed to execute the Bond and Sale Agreement, the Borrower Conveyance of Facilities and the County Conveyance of Facilities in the name and on behalf of the County, and the County Clerk is hereby authorized to attest the same and to affix thereto the corporate seal of the County and thereupon to cause the Bond and Sale Agreement to be delivered to the Purchaser and the Borrower and the Borrower Conveyance of Facilities and the County Conveyance of Facilities to be delivered to the Borrower; that the Bond and Sale Agreement, the Borrower Conveyance of Facilities and the County Conveyance of Facilities are to be in substantially the form thereof submitted to this meeting and hereby approved, with such changes therein as shall be approved by the officials of the County executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of such instruments hereby approved; that the Bond and Sale Agreement shall be entered into with the Purchaser and the Borrower and the Borrower Conveyance of Facilities and the County Conveyance of Facilities shall be entered into with the Borrower; and that from and after the execution and delivery of such instruments, the officials, agents and employees of the County are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of such instrument as executed. The Bond and Sale Agreement, the Borrower Conveyance of Facilities and the County Conveyance of Facilities shall constitute, and are hereby made a part of this Resolution and a copy of such documents shall be placed in the official records of the County, and shall be made available for public inspection.

Section 3. That the issuance of the Bond in the aggregate principal amount of not to exceed \$8,300,000, to mature not later than the date that is thirty-five (35) years from the date of original issuance thereof, and subject to optional and mandatory redemption in accordance with the terms and provisions of the Bond and Sale Agreement, as executed, and bearing interest at a fixed rate, but in no event is the Interest Rate on the Bond to exceed fifteen percent (15%) per annum, is hereby approved, and the County Board Chairman and the County Clerk of the County be and are hereby authorized, empowered and directed to cause to be prepared the Bond in the form and having the other terms and provisions specified in the Bond and Sale Agreement (as executed and delivered); that the Bond shall be designated "Community Facility Revenue Bond (Kenosha YMCA Project), Series 2009;" that the Bond shall be executed in the name of the County with the manual or facsimile signature of the County Board Chairman or County Clerk and the seal of the County shall be impressed or reproduced thereon, and that the County Board Chairman or any other officer of the County shall cause the Bond as so executed and attested, to be delivered to the Purchaser; and the form of the Bond submitted to this meeting as the same appears in the Bond and Sale Agreement, subject to appropriate insertion and revision in order to comply with the provisions of said Bond and Sale Agreement be, and the same hereby is, approved, and when the same shall be executed on behalf of the County in the manner contemplated by the Bond and Sale Agreement and this Resolution in the principal amount not to exceed \$8,300,000, it shall represent the approved form of the Bond of the County.

Section 4. The Bond shall be a special, limited obligation of the County and except to the extent payable from Bond proceeds or moneys from the investment thereof, shall be payable solely from the revenues and receipts and other amounts received by or on behalf of the County or otherwise payable by the Borrower pursuant to the Bond and Sale Agreement, and other security therefor provided by the Borrower. The Bond and interest thereon shall not be deemed to constitute an indebtedness or a general or moral obligation of the County, the State of Wisconsin or any political subdivision thereof within the purview of any constitutional limitation or statutory provision or a charge against the general credit or taxing powers, if any, of any of them. No taxing powers, if any, of the County, the State of Wisconsin or any political subdivision thereof are available to pay the Bond or interest thereon. The special, limited nature of the obligation represented by the Bond is as more fully set forth in the Bond and Sale Agreement.

Section 5. That the sale of the Bond to the Purchaser at a price not to exceed \$8,300,000 is hereby in all respects authorized and approved.

Section 6. That from and after the execution and delivery of the Bond and Sale Agreement, the proper officials, agents and employees of the County designated in this Resolution are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of said documents as executed and to further the purposes and intent of this Resolution, including the preamble hereto. The County Board Chairman is hereby, further authorized and directed for and on behalf of the County, to execute all papers, documents, certificates and other instruments that may be required for the carrying out of the authority conferred by this Resolution or to evidence said authority, including without limitation the signing of IRS Form 8038 and the filing thereof as therein required and the certifications relating to Section 148 of the Code and the regulations promulgated thereunder and changes in the documents approved hereby as approved by the officials of the County executing the same, and to exercise and otherwise take all necessary actions that any of them deems necessary or appropriate to the full realization of the rights, accomplishments and purposes of the County under the Bond and Sale Agreement and to discharge all of the obligations of the County thereunder. For purposes of certifying as to matters of arbitrage, the County Board Chairman is hereby designated an officer responsible for issuing the Bond.

Section 7. That all acts and doings of the officials of the County which are in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the Bond in the principal amount not to exceed \$8,300,000 and the financing and refinancing of the Project to that amount be, and the same hereby are, in all respects, ratified, approved and confirmed.

Section 8. That the County hereby acknowledges that a Public Hearing was held on August 13, 2009 before the Finance Committee and hereby approves the financing and refinancing of the Project, the plan of financing and the issuance of the Bond pursuant to Section 147(f) of the Code.

Section 9. That the Bond is hereby designated as a "qualified tax-exempt obligation" for purposes of Section 265 of the Code, relating to the ability of financial institutions to deduct from income for federal income tax purposes, interest expense that is allocable to carrying and acquiring tax-exempt obligations.

Section 10. That the Bond shall be issued in compliance with and under the authority of the provisions of the Act, this Resolution and the Bond and Sale Agreement.

Section 11. All prior resolutions, rules or other actions of the County Board of Supervisors or any parts thereof in conflict with the provisions hereof shall be, and the same are, hereby rescinded insofar as the same may so conflict. In the event that any one or more provisions hereof shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions hereof. The foregoing shall take effect immediately upon adoption and approval in the manner provided by law.

**NOTE: The Resolution was passed with the condition that the Bond and Sale Agreement include a commitment from the YMCA to provide an Annual Audit to Kenosha County.**

SUBMITTED BY:  
Finance Committee  
John O'Day  
Mark Modory  
Jeff Gentz  
Mark Molinaro  
David Singer

It was moved by Supervisor O'Day to adopt Resolution 36. Seconded by Supervisor Molinaro.

It was moved by Supervisor Rose to amend Resolution 36 to add the condition that the Bond and Sale Agreement include a commitment from the YMCA to provide an annual audit to the county. Also a recommendation and request to authorize the County Board Chairman to appoint a county board member to the YMCA Board, and the YMCA to change their by-laws. Seconded by Vice-chair Faraone.

It was moved by Supervisor Noble to divide the question. Seconded by Supervisor Molinaro.

Roll call vote.

Ayes: Supervisors Grady, Zerban, Rose, Kessler, Huff, Hallmon, Marks, Gentz, Modory, Ronald Johnson, O'Day, Nudo, Molinaro, Morton, Clark, Noble, Roger Johnson, Breunig, Haas, Elverman, Ekornaas.

Nays: Supervisors Kubicki, Faraone, Michel, Moore, West.

Ayes: 21. Nays: 5.

Motion carried.

Roll call vote on commitment from the YMCA to provide an annual audit to the county.

Ayes: Supervisors Grady, Zerban, Rose, Kessler, Huff, Kubicki, Hallmon, Marks, Modory, Faraone, Ronald Johnson, Michel, O'Day, Nudo, Moore, Molinaro, Morton, Clark, Noble, West, Roger Johnson, Breunig, Haas, Elverman, Ekornaas.

Nays: Supervisor Gentz.

Ayes: 25. Nays: 1

Motion carried.

Roll call vote on recommendation and request to authorize the County Board Chairman to appoint a county board member to the YMCA Board, and the YMCA to change their by-laws.

Ayes: Supervisors Rose, Kessler, Faraone, Moore, Morton, Elverman.

Nays: Supervisors Grady, Zerban, Huff, Kubicki, Hallmon, Marks, Gentz, Modory, Ronald Johnson, Michel, O'Day, Nudo, Molinaro, Clark, Noble, West, Roger Johnson, Breunig, Haas, Ekornaas.

Ayes: 6. Nays: 20.

Motion failed.

Roll call vote on Resolution 36 as amended passed unanimously.

#### **CLAIMS**

10. Kelly Tellez, individually and on behalf of Alena Tellez, Alex Tellez and Krystie Wisch - improper police procedure.

Chairman Clark referred Claim 10 to Corporation Counsel.

It was moved by Supervisor Moore to approve the August 18, 2009 minutes. Seconded by Supervisor Michel.

Motion carried.

It was moved by Supervisor Gentz to adjourn. Seconded by Supervisor Haas.

Motion carried.

Meeting adjourned at 8:43 p.m.

Prepared by: Edie LaMothe  
Deputy Clerk

Submitted by: Mary Schuch-Krebs  
County Clerk