

## ATTACHMENT A

### A RESOLUTION ESTABLISHING THE SIDEWALKS AND GREENWAYS BOND EDUCATION COMMITTEE AND APPOINTING MEMBERS TO THE COMMITTEE Resolution No. 25/2003-04

WHEREAS, the Board of Aldermen has adopted the Sidewalks and Greenways Bond Order and a resolution setting the referendum date for November 4 when town residents will vote on the ballot question; and

WHEREAS, the Sidewalks and Greenways Bond Education Committee will assist the Board by presenting relevant, objective information to the public; and

WHEREAS, the Board has recruited Carrboro residents to serve on the Committee.

NOW, THEREFORE, THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO  
HEREBY RESOLVES:

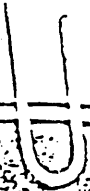
Section 1. That the Sidewalks and Greenways Bond Education Committee is established.

Section 2. That the charge of the Committee will be to:

1. Become familiar with purposes of bond order and with the projects expected to be addressed
2. Understand community needs that led the Board to adopt the bond order
3. Design and implement a campaign to distribute factual information in an effective and efficient manner
4. Ensure equal access to factual information for all individuals and groups regardless of their position for or against the bond order
5. Encourage all eligible voters to participate in the November 4 election

Section 3. That the following Carrboro residents are appointed:

Section 4: That Mayor Nelson will serve as the Board Liaison



## Around the State

# Use of Public Funds in Bond Referendum Campaigns

David M. Lawrence

*Institute of Government*

When a city or county is about to hold a bond referendum, the following question often arises: for what purposes, if any, may the unit use public funds in the referendum campaign? No North Carolina statute addresses this question, and it has not been before the North Carolina courts. But it has been before the courts of several other states, and the answer from those courts has been uniform: public money may be used to *inform* the voters about the bond issue and the project to be financed with bond proceeds but may not be used to *promote* passage of the referendum.

The distinction between information and promotion recognizes a tension that develops when a government uses public funds to address a controversial issue. The accountability we demand of public officials requires that they be able to explain fully the policies they have taken and hope to take, both the what and the why. This explaining is necessary to our democratic system and is a legitimate activity, and expense, of the government. Therefore, informational expenditures are proper. Indeed the government will normally be in the best position to know and provide information about a bond issue and a bond-financed project. But the government also must depend, for its continued legitimacy and public support, on the acceptance of its policies by the citizens, or at least by a majority of those who vote for officials and in referenda. And to allow the use of public moneys to create that basic acceptance undermines its authenticity. For that reason, promotional expenditures are improper.

What kinds of information can be provided with public funds? A unit may properly spend public funds to present to the voters the relevant facts about a

proposed bond issue, the project that will be financed with bond proceeds, and the community needs that have given rise to the project. It may also describe alternatives to the project or the bond issue that were rejected and state why they were rejected. For example, the unit might finance a brochure that sets forth the project's costs, shows an architect's rendering of the project, explains why the governing board believes the project to be necessary, and details what the borrowed funds will cost the unit. Such a brochure should be fully informative, setting out not only the conditions that the board believes require the project but also the additional taxes or utility charges that reasonably will be necessary to retire the bonds.

What clearly is not permitted are expenditures that attempt to persuade voters to support (or oppose) the ballot proposition. The sort of informational brochure discussed above should not, in addition to basic information, also exhort the voters to "Vote Yes" or include brilliantly painted depictions of the consequences of a negative outcome.

The line between appropriate and inappropriate advertising can often be thin. Where a particular item falls can depend as much on the tenor of its message as on the message itself. For example, in a New Jersey case the court disapproved of a school board's "overdramatized" depiction of what would happen if the school bond issue failed. The school board's brochure—most of which was quite acceptable to the court—warned of "Double Sessions!!!" that would "automatically cheat your child" of a third of his or her education; it also warned of hour-long bus rides and of children arriving home after

dark. It was not so much the accuracy of the picture as its shrill nature that concerned the court. If the same information had been presented in matter-of-fact language as part of the board's explanation of why it thought the bond issue necessary, it would probably have been approved. It is up to a unit itself to recognize the thinness of the line between permissible and impermissible activities and to ensure that it stays on the proper side of the line.

The cases do not simply prohibit promotional brochures or the printing of bumper stickers that urge voters to vote yes. It is equally improper for a unit to allow one side or the other in a campaign to make free use of the unit's office space, to use the unit's printing or copying facilities on a preferential basis, or to use public employees, on public time, to work on the campaign. This ban does not prohibit elected officials from speaking out on an issue and working for one side or the other, however; that is part of their leadership responsibilities. This exception probably also extends to those appointed officials, such as city or county managers, who work directly for elected officials and who are charged with carrying out the policies of those officials.

What might a court do if a unit is about to or has made improper promotional expenditures? Clearly the court has the power to prohibit the expenditures before they are made. But it is also possible that the court might require those officials responsible for authorizing the expenditures to personally reimburse the government for expenditures already made. The initial cases from other states that established the principles discussed in this article imposed strict liability for reimbursement on the

responsible officials. More recent cases, however, have limited personal liability instances in which the official did not exercise due care, a more relaxed standard that recognizes the potential thin-

ness of the line between proper and improper expenditure. But if an expenditure falls clearly on the wrong side of the line, far from any gray area, then personal responsibility for reimburse-

ment is a remedy that probably will appeal very strongly to any court addressing the matter.

DRAFT

TOWN OF CARRBORO  
SIDEWALKS AND GREENWAYS BOND EDUCATION COMMITTEE  
ORGANIZATIONAL MEETING

CARRBORO BOARD OF ALDERMEN BOARD ROOM  
SEPTEMBER , 2003  
5:30 – 7:00 P.M.

A G E N D A

1. Welcome to the Committee (5:30 – 5:45)
  - a. Comments from Michael Nelson, Mayor
    - i. Charge to the Committee
  - b. Board of Aldermen Comments
2. Overview of Bond Process (5:45 – 6:05)
  - a. PowerPoint Presentation
    - Debt Management
    - Bond Planning Process
    - Bond Package Components
    - Financial/Tax Implications
    - Alternative Financing of Other Priority Capital Needs
  - b. Structure, Timeline, and Background Materials – (6:05 – 6:20)
    - Committee Structure
    - Administration/Logistical Support
    - General Timeline
    - 1984 Bond Process – Background Information
  - c. “Education” vs. “Advocacy” (6:20 – 6:30)
3. Questions and Discussion (6:30 – 7:00)
  - Meeting Dates and Time
4. Adjourn

**Bond Education Committee Members**

**Confirmed: 9/16/03, amended**

**Randee Haven O'Donnell**

**Andreas Hay**

**Shirley Marshall**

**Melva Okun**

**Dianne Reed**

**Rickie White**

**Board liaison: Mayor Nelson**