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131	84	APPROVED	PETITION #Z-87-208 FC, BOHANNON ROAD - APPLICATION OF MARION BASWELL
134	85	DENIED	PETITION #Z-87-208 FC, (M-87-80), HEMBREE ROAD - APPLICATION OF DENNETH L. BURSON
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138	94	HELD	JOHNS CREEK MORATORIUM (Alan Dailey)
139	95	SPREAD ON MINUTES	WARRANTS - FEBRUARY 1988

I propose that ultimately we develop an independent FBE program depending upon the result of the study and analyses. The County recognizes that we must continually review, determine and reassess the need for an independent FBE program. I propose that certain steps be taken in conjunction with the study, report and analysis relating to the participation of female businesses in contracting activities in Fulton County and Metropolitan Atlanta, including some or all of the following:

1. Public hearings;
2. A joint study with the City of Atlanta;
3. Retaining an independent consultant;
4. Obtaining data/information from independent sources (i.e. City of Atlanta, Research Atlanta, and U.S. Census Bureau);
5. Obtaining current and historical information from the departments and agencies of Fulton County;
6. Analysis of alternative methods to ensure FBE participation in contracting activity with Fulton County;
7. Assessing various other sources of data/information.

The foregoing general plan is submitted for the Board's approval. The study shall be executed by the Department of Contract Compliance. A resolution allocating funds and initiating the study shall be presented to the Board of Commissioners by the Department of Contract Compliance at the first meeting in April. Inquiries, suggestions or comments may be directed through my office.

cc: Mr. Sam Brownlee
County Manager

(87) ACCESS FOR HANDICAPPED - COMMISSIONER BOXILL

Commissioner Boxill asked the County Manager to come back to the Board at the next meeting with costs and a targeted completion date for three suggestions: (1) a ramp in the three places of entrance to the Courthouse Complex; (2) a designated parking space outside the Administration parking lot for the handicapped; and (3) have the guard on duty downstairs available to assist at the request of the person seeking access.

Hearing no objections, this matter was referred to the County Manager.

(88) MARTA RESOLUTION

Chairman Lomax presented a February 23, 1988 letter from MARTA, signed by Kenneth M. Gregor, General Manager:

February 23, 1988

The Honorable Michael Lomax, Chairman Fulton County Board of Commissioners County
Administration Building 165 Central Avenue, S.W. Atlanta, Georgia 30303

Dear Commissioner Lomax:

The Metropolitan Atlanta Rapid Transit Authority (MARTA) would like the Board of Commissioners of Fulton County to consider, and adopt, at their next regular meeting, the enclosed resolution. MARTA is asking for a waiver of the public competitive bidding requirement of Section 10(h) of the MARTA Act to enable to Authority to negotiate the next sale of the Authority's revenue refunding bonds.

Members of the MARTA staff welcome the opportunity to meet with you, appear before appropriate committees, or to make any other arrangements that you believe would be helpful in obtaining approval of this request.

I would appreciate your assistance in placing this item on the agenda. Please call me at 848-5050 if you need additional information or have any questions.

Sincerely,

/s/ Kenneth M. Gregor /t/ Kenneth M. Gregor General Manager

KMG

cc: Mr. George H. Ivey, Jr., MARTA Board of Directors Dr. Joseph E. Lowery, MARTA Board of Directors Mr. Charles J. Sargent, MARTA Board of Directors Mr. Sam Brownlee, County Manager, Fulton County Ms. Alice Smith, Clerk to Fulton County Board of Commissioners

Following discussions, Chairman Lomax made a motion to approve the request by MARTA. Commissioner Joyner marked the motion with the Board's requirement that MARTA include minority underwriter's counsel at not less than 20%. Motion was seconded by Commissioner Roach and carried by a 5-1-0 vote. Vice-Chairman Lowe voted against the motion. Commissioner Hightower was not present during the time of voting.

Hearing no objections, the following MARTA Resolution was approved as amended:

RESOLUTION

WHEREAS, the METROPOLITAN ATLANTA RAPID TRANSIT AUTHORITY (hereinafter the "Authority") is a public body corporate and a joint instrumentality of the counties of Fulton, DeKalb, Clayton, Gwinnett, and the City of Atlanta, organized and existing under an Act of the General Assembly of the State of Georgia, approved March 10, 1965, Georgia Laws 1965, page 2243, as amended (hereinafter the "Act"); and

WHEREAS, the Authority was created and now exists for the purpose of planning, designing, leasing (as Lessee), purchasing, acquiring, holding, owning, maintaining, improving and administering a rapid transit system within the above referenced counties and the City of Atlanta, and operating the same, or contracting therefore, or leasing (as Lessor) the same for operation by private parties, pursuant to the Act, and the Authority is now so organized, existing and operating; and

WHEREAS, Section 8(1) of the Act allows the Authority to issue revenue bonds for the purpose of paying all or a part of the costs of a rapid transit system; and

WHEREAS, Section 10(h) of the Act provides that "bonds of the Authority shall be sold by public competitive bidding, unless such requirement is waived by the local governments participating in the Authority as the time of such sale, in which event the bonds may be sold through negotiation with a prospective purchaser or purchasers"; and

WHEREAS, the Authority now deems it desirable and in its interest to issue revenue bonds for the purpose of refunding certain outstanding bonds; and

WHEREAS, the Authority has deemed it in the best interest of its rapid transit system and the participating local governments to have the option to sell the next issue (which may consist of one or more series) of its revenue refunding bonds to prospective purchasers through private negotiations; and

WHEREAS, at its meeting on February 22, 1988, the Authority's Board of Directors adopted a resolution asking that each participating local government waive the public competitive bidding requirement of Section 10(h) of the Act to enable the Authority to negotiate the sale of its bonds; and

WHEREAS, the County of Fulton, Georgia is a participating local government in the Authority; and

WHEREAS, the Board of Commissioners of Fulton County, Georgia, deems it to be in the best interest of both the County and the Authority to allow the Authority the option to sell its revenue bonds through negotiation

NOW, THEREFORE, BE IT RESOLVED, THAT THE BOARD OF COMMISSIONERS OF FULTON COUNTY, GEORGIA, does hereby, in accordance with and pursuant to the provisions of Section 10(h) of the Act, waive the requirements of public competitive bidding with respect to the next sale of the Authority's revenue refunding bonds, which amount shall not exceed \$350,000,000 in principal amount, and does hereby consent and agree that such bonds may be sold either through negotiations with a prospective purchaser or purchasers or through public competitive bidding, as the Board of Directors of the Authority shall deem to be in the best interest of the Authority.

BE IT FURTHER RESOLVED, that a copy of this resolution, duly certified, be furnished to the Authority as evidence of the aforesaid waiver and consent and that the Authority shall be, and it hereby is, authorized to rely upon this resolution to constitute the waiver of public competitive bidding referred to in the said Section 10(h) of the Act.

BE IT FURTHER RESOLVED, that this consent and waiver is expressly conditioned upon the commitment and agreement of the Authority to utilize the services for not less than 20% of minority bond counsel and minority underwriter counsel in the issuance or sale of any bonds as outlined above in this Resolution. The term "minority" as used herein shall be as defined in the Fulton County Minority Business Enterprise Affirmative Action Program adopted in 1987, a copy of which is attached.

This the (2nd) day of (March), 1988.

BY: /s/ Michael L. Lomax
Chairman, Board of Commissioners
Fulton County

(89) BUDGET SOUNDINGS OF MARCH 2, 1988

County Manager Brownlee presented the Budget Soundings of March 2, 1988 for approval.

Chairman Lomax stated since there were no objections, Budget Soundings for March 2, 1988 would be approved. Commissioner Hightower was not present at this point of the meeting.

CLERK'S NOTE: BUDGET SOUNDINGS OF MARCH 2, 1988, APPROVED BY THE BOARD OF COMMISSIONERS IN THEIR REGULAR MEETING HELD MARCH 2, 1988, ARE IN SUPPLEMENT PORTION OF MINUTE BOOK J-11, PAGES 14-26.

(90) BOARD APPOINTMENT - E.O.A.

Ms. Alice Smith, Clerk, requested confirmation that Mary Long (appointed 1/6/88 by Commissioner Boxill), had been replaced by the reappointment of Leroy Dixon to the Board of Directors of Economic Opportunity of Atlanta, Inc. (E.O.A.).

The appointment was confirmed.

(91) COUNTY-LEASED AUTOMOBILES FOR COMMISSIONERS

The following Inter-Office Memorandum, dated 2/18/88, served as the basis for the Board's action on the above-referenced agenda item:

To: Commissioner Gordon L. Joyner
From: Elizabeth E. Long, County Attorney
Subject: Automobile Expenses of Members of the Board of Commissioners

By memorandum of February 13, 1988, you requested my legal opinion regarding Fulton County's payment of automobile expenses for members of the Board of Commissioners.

The home rule provisions of the Georgia Constitution provide that "the governing authority of each county shall have legislative power to adopt clearly reasonable ordinances, resolutions, or regulations relating to its property, affairs, and local government for which no provision has been made by general law and which is not inconsistent with this Constitution or any local law applicable thereto." Art. 9, Sec. 2, Par. 1. Subpar. (a).

This general power granted to counties is restricted, however, in several ways. Among other things, it cannot extend to "Action affecting the . . . compensation, and expenses and allowances in the nature of compensation of the county governing authority." Art. 9, Sec. 2, Par. 1. Subpar. (c)(2). Thus, a county is specifically prohibited from taking any action whatsoever which would affect the compensation of the members of the Board of Commissioners.

The situation with respect to expenses is somewhat different. As indicated above, a county can adopt reasonable ordinances or resolutions affecting its properties, affairs and local government which have not been made the subject of general law and which are not inconsistent with the Constitution or any local law. Moreover, "The governing authority of any county . . . may expend public funds to perform . . . any public function as authorized by this Constitution." Art. 9, Sec. 4, Par. 2.

Georgia Code Ann. Sect. 36-1-11 provides for the employment of temporary personnel and the providing of equipment and supplies to assist county officials. In my opinion, it would be stretching this statute to suggest that it applies to automobile expenses. There are no other general laws and no local laws affecting Fulton County that relate to expenses of the county governing authority. It would appear therefore that Fulton County may take action regarding the payment of expenses of Commissioners, so long as they are not "in the nature of compensation" in violation of the Constitution.

The only decided case on the questions of what constitutes compensation in this context is Savage v. City of Atlanta, 242 Ga. 671 (1978). There, the City of Atlanta authorized payment of expenses of council members in an amount not to exceed \$300.00 per month and \$3,600.00 per year. The question in the case was whether such payment was an "action to increase the compensation" of the council members in violation of a state statute prohibiting any action to increase their compensation during a certain period of time. The Georgia Supreme Court viewed the authorization for payment of expenses as an action to increase the compensation. "Such a lump-sum, unverified, monthly expense authorization is