

Unsealed by the Board of Commissioners 05/23/2011.

**SEALED MINUTES
TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION – May 11, 2009**

Pursuant to NCGS 143-318.11 (a) (3), to consult with an attorney in reference to the lawsuit Transylvania County versus Michael Baxley and Charlotte Baxley, closed session was entered into at 9:20 p.m. Present were Chairman Chappell, Commissioners Bullock, Hawkins, Hogsed and Phillips, County Attorneys David Neumann and Curtis Potter, County Manager Artie Wilson, and Clerk to the Board Trisha McLeod.

County Attorney Curtis Potter asked for direction from the Board in terms of the mediation which is scheduled for May 26, 2009. He said the first order of business at the mediation is to determine if Mr. Baxley is willing to negotiate. If he is not, the mediation will most likely end. If so, the County needs to be prepared to offer some parameters to limit the use of the bike track with the goal of complying with the Noise Ordinance.

Mr. Potter suggested the Board consider crafting a tentative agreement for a certain period of time with the opportunity to revisit at a later date to determine whether the agreement is successful or not. He also asked the Board to determine if they shall retain authority to sign off on the agreement and make themselves available for mediation or appoint authority to an agent to represent the County. The agent would be the County Manager or the County Attorney.

After a lengthy discussion, the Board agreed to offer the following parameters in mediation:

1. Time of operation: Saturdays only from 12:00 p.m. to 5:00 p.m.
2. Limiting the age and number of the riders: Youth only, 12 riders at a time
3. Limiting the size of the bikes: Goes hand-in-hand with age of riders; follow AMA standards which corresponds an age group with the size of the bike; ages 14 and under would ensure the size of the bike would not exceed 150 cc's; allow riders up to the age of 16 with the requirement of only riding bikes up to 150 cc's according to AMA standards for ages 13 and under; specify up to 125 cc bikes with a 2 stroke engine and 150 cc bikes with 4 stroke engine
4. All conditions on a 30 day trial basis
5. Always comply with Noise Ordinance which is a requirement for the County to drop the lawsuit and not permanently enjoin the Baxley's from operating bike track at all

Commissioners granted the County Attorney the authority to mediate the above discussed parameters during mediation. Mr. Potter asked Commissioners to be available by phone is necessary.

Chairman Chappell moved to leave Closed Session, seconded by Commissioner Hogsed and unanimously carried.

ATTEST:

Mike Hawkins, Chair
Transylvania County Board of Commissioners

Trisha M. Hogan
Clerk to the Board

05/11/2009