

Unsealed by Board of Commissioners 05/29/2012.

**SEALED MINUTES**  
**TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS**  
**November 28, 2011 – CLOSED SESSION**

Pursuant to NCGS 143-318.11 (a) (3) to consult with an attorney reference lawsuit Transylvania County vs. Michael Baxley, closed session was entered into at 9:30 p.m. Present were Chairman Hawkins, Commissioners Chapman, Chappell, Hogsed, and Phillips, County Manager Artie Wilson, County Attorney Curtis Potter, and Clerk to the Board Trisha Hogan.

The Manager received a letter from Attorney Sean Perrin regarding the last remaining claim of inverse condemnation. The case is scheduled to be heard in January 2012. Mr. Perrin is seeking direction from Commissioners in case Mr. Baxley's attorney requests a settlement.

County Attorney Curtis Potter recommended against settling this case and that doing so would set a precedent in the County. He noted that the County would have to pay the judgment if the jury decides in favor of Mr. Baxley. The amount would probably not exceed \$500,000. Mr. Baxley would not be able to recover any attorney fees. He also noted that a jury trial would not occur unless the case goes to Supreme Court. The first phase in the judicial process is that a judge must rule whether or not there was a "taking" of Mr. Baxley's property.

After brief comments, it was the consensus of the Board to instruct Mr. Perrin not to negotiate any settlement with Mr. Baxley or his attorney.

**Chairman Hawkins moved to leave closed session, seconded by Commissioner Hogsed and unanimously carried.**

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Mike Hawkins, Chair  
Transylvania County Board of Commissioners

ATTEST:

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Trisha M. Hogan, Clerk to the Board