

MINUTES
TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS
April 13, 2009 – REGULAR MEETING

The Board of Commissioners of Transylvania County met in regular session on Monday, April 13, 2009 at 7:00 p.m. in the large courtroom of the Transylvania County Courthouse.

Commissioners present were Lynn Bullock, Chairman Jason Chappell, Mike Hawkins, Daryle Hogsed and Vice-Chairman Kelvin Phillips. Also present were County Manager Artie Wilson, County Attorney David Neumann and Clerk to the Board Trisha McLeod.

Media: *Transylvania Times* – Mark Todd

There were approximately 17 people in the audience.

CALL TO ORDER

Chairman Jason Chappell presiding called the meeting to order at 7:00 p.m.

WELCOME

Chairman Chappell welcomed everyone to the meeting and thanked the members of the audience for participating in their County government.

PUBLIC COMMENT

There were no comments from the public.

AGENDA MODIFICATIONS

The Manager reported on the Agenda modifications. He requested to add Item XI-A Closed Session per NCGS 143-318.11 (a) (3) to consult with an attorney in reference to the lawsuit Renee Crocker, Renee Roof, Julie Sprouse and Joy Waldrop versus Carson Griffin, Transylvania County DSS and Transylvania County and Item XI-B Closed Session per NCGS 143-318.11 (a) (3) to consult with an attorney in reference to the lawsuit Transylvania County versus Michael Baxley and Charlotte Baxley.

Commissioner Phillips moved to approve the revised Agenda, seconded by Commissioner Bullock and unanimously approved.

CONSENT AGENDA

Commissioner Hogsed moved to approve the Consent Agenda, seconded by Commissioner Hawkins and unanimously approved.

The following items were approved:

MINUTES

The Minutes of the March 19, 2009 Joint Meeting with the Board of Education and the March 23, 2009 Regular Meeting and sealed Closed Sessions were approved.

FACILITIES USE REQUESTS

The use of the Courthouse Lawn and Gazebo by the Transylvania Art Guild for Art Shows on the following Saturdays from 8:00 a.m. to 5:00 p.m. was approved: June 20, 2009, August 22, 2009, September 19, 2009 and October 24, 2009.

PRESENTATIONS/RECOGNITIONS

OLDER AMERICANS MONTH – MAY 2009

Louise Koontz with Council on Aging has requested that Transylvania County recognize the many contributions of senior citizens and designate the month of May 2009 as ‘Older Americans Month’.

Commissioner Bullock moved to approve Proclamation 21-09 designating May 2009 as “Older Americans Month”, seconded by Commissioner Hogsed and unanimously approved.

(Proclamation 21-09 Older Americans Month – May 2009 is hereby incorporated by reference and made a part of these Minutes.)

APPOINTMENTS

BLUE RIDGE COMMUNITY COLLEGE BOARD OF TRUSTEES

Commissioner Hogsed nominated and moved to appoint Teresa McCall to fill the vacancy and serve out the remaining term, seconded by Commissioner Bullock and unanimously approved.

AGRICULTURAL ADVISORY BOARD

Commissioner Hawkins moved to reappoint Carroll Parker and Dale Robertson, seconded by Commissioner Bullock and unanimously approved.

Commissioner Phillips moved to appoint Dale Robertson as Chair, seconded by Commissioner Bullock and unanimously approved.

GATEWAYS, CORRIDORS AND DOWNTOWN ADVISORY COMMITTEE

Commissioner Bullock moved to appoint Sammy Kicklighter to a full term, seconded by Commissioner Hogsed and unanimously approved.

PERSONNEL BOARD

Commissioner Bullock nominated and moved to appoint Bill Ragland to fill a vacant term, seconded by Commissioner Phillips and unanimously approved.

Commissioner Hogsed moved to appoint Anna Yount as Chair, seconded by Commissioner Hawkins and unanimously approved.

COMMUNITY APPEARANCE ADVISORY COUNCIL

Chairman Chappell moved to appoint James Robards as Chair, seconded by Commissioner Hogsed and unanimously approved.

OLD BUSINESS

SEPTAGE PRE-TREATMENT FACILITY REPLACEMENT

The Septage Pre-treatment Facility located at the City of Brevard's Waste Water Treatment Facility is outdated and in need of major improvements. The Manager reported the County has submitted a grant application to the North Carolina Rural Center for \$210,000 and staff is working with US Congressman Health Shuler to obtain grant funds that would cover 55% of the project cost. The County will be eligible for appropriations requests in August or September.

The County has also made application to the North Carolina Water State Revolving Fund Capitalization Grant under the American Recovery and Reinvestment Act for \$420,000. Under this grant and per Section IV.B Additional Subsidization/ Loan Terms, Fees, Maximums, 50% of the principle amount would be forgiven and 50% would be in the form of a loan at 0% interest, the term of which would be determined by the North Carolina Local Government Commission. Based on the County's initial application, the project has been classified as a Tier 2 Project. The full application is due June 3, 2009. In order to finalize the application, the final engineering and drawings must be complete. The Manager reported that Brown Consultants, who completed the preliminary engineering work on the facility, can complete the drawings and specifications, secure the necessary permits from the North Carolina Department of Environment and Natural Resources and complete the application for stimulus funding for a cost of \$30,000. This amount has been included in the total project cost of \$420,000 and can be recouped when monies are received. The \$30,000 can be taken from capital reserve and reimbursed at a later date. The Manager recommended moving forward with Brown Consultants.

The Manager noted if Commissioners decide not to move forward with completing the specifications, the project would be eliminated from receiving possible stimulus monies. Furthermore, the conditional use of stimulus monies does not allow for the remaining cost of the project to be paid for by other grant funds. The Manager pointed out that the specifications will have to be completed no matter the funding source.

In response to a question from Commissioner Hawkins, the Manager said there is no guarantee the County will receive grant funding but the County has a good chance of receiving stimulus monies.

Commissioner Bullock expressed his reluctance to move forward at this time in light of the County's current economic situation and recommended delaying the project for a couple of years.

Commissioner Hawkins asked if the specifications could still be used if the project was delayed. The Manager responded that the specifications could be used at a later date as long as there were no regulation or law changes.

Commissioner Phillips asked the Manager to explain who retains ownership of the facility and how it benefits citizens outside the City. The Manager explained that the original agreement with the City of Brevard grants ownership to the City. Per that agreement, the City was to collect the fees which would be set aside in a special account for the use of maintaining the facility. The facility serves as the site where septage is disposed of for County residents. Having a local facility helps keep disposal costs low for citizens. Commissioner Phillips said he feels like this is an expense many residents will never utilize which does benefit the average homeowner, noting that homeowners will have to pay a set fee for the service regardless of where the septage is disposed.

Commissioner Hogsed expressed some reservation about entering into another agreement with the City since the first agreement was not honored. He expressed reluctance to move forward with the project because of the state of the economy and furthermore about using stimulus monies.

Commissioner Phillips said the City should be the sole owner of the facility and the County should have no involvement in the project. Commissioner Hogsed noted that the City has no interest in the facility.

Commissioner Hawkins said it may useful to spend the necessary funds to get the specifications and permits because there is a reasonable chance the project could be completely paid for by grant funds. When the facility is complete and in operation, the usage fees can be set aside in a reserve account so the County will not find itself in this situation again, all the while providing a service to the citizens of the County.

Commissioner Hawkins moved to authorize the \$30,000 expenditure for the drawings and specifications with the understanding there is no commitment to move forward with the project and furthermore with the understanding that staff will continue to explore other funding options. The motion was seconded by Chairman Chappell. In response to a question from Commissioner Bullock, the Manager replied that staff would only move forward with completing the specifications and no stimulus monies would be sought for the project.

The Board allowed Health Director Steve Smith to comment. He noted that two thirds of the County's annual population uses septic systems. In the short term, with gas prices relatively low, there may only be a nominal increase in the septage hauling fees; however if fuel prices increase, the elevated rates charged by hauling companies may cause many people to neglect their septic systems. It is recommended that most tanks be pumped every five to seven years. Most locations in the County will never have sewer systems because of the topography and terrain. He concluded by saying that the sustainability of those systems is the key issue for the future and having local resources like the septage pretreatment facility will improve that long term.

Commissioners Bullock and Phillips voiced their concern about spending taxpayer dollars and there being no guarantee the County would receive grant funding. Chairman Chappell pointed out that the County will have no opportunity to receive grant funding without the plans being in place.

Commissioner Hogsed said he would support the motion under normal circumstances, but not while the County is facing a financial shortfall.

After further comments, **the motion failed 3 to 2 with Commissioners Bullock, Hogsed and Phillips voting against.**

PROPOSED REDUCTION IN MEMBERS OF THE TRANSYLVANIA COUNTY COMMUNITY APPEARANCE ADVISORY COUNCIL

The Transylvania County Community Appearance Advisory Council recommends that its number of members be reduced from nine to seven and the requirement that one member be a member of the Planning Board be removed. Currently there are two vacant positions on the Community Appearance Advisory Council, one of which is a Planning Board member. The Manager noted that the Chairman of the Planning Board agrees with the proposal.

Commissioner Bullock moved to amend the membership of the Community Appearance Advisory Council from nine to seven members and delete the section requiring one member from the Planning Board. The motion was seconded by Commissioner Hawkins. The motion passed 4 to 0. Commissioner Hogsed was absent for the vote.

NEW BUSINESS

REQUEST FOR GRANT RELATED POSITION FOR EXPANDED FOOD AND NUTRITION PROGRAM (EFNEP)

The Manager reported that the County Cooperative Extension Office and the Board of Health are proposing to enter into an arrangement to support a 25-30 hour /week part time position to promote the Federal EFNEP nutrition education curriculum in conjunction with the overweight/obesity interventions underway in Transylvania County Schools. This position would be a State position under the supervision of County Extension Director Eric Caldwell. The position would be funded by Federal and State funds and requires no County dollars.

Mr. Caldwell explained further, noting the EFNEP program is a nationwide federal curriculum. It covers the basics of healthy eating, healthy lifestyles, exercise, etc. Mr. Caldwell will be working in conjunction with the Health Department to customize the program for Transylvania County. The EFNEP program has been in effect in Transylvania County for approximately 25 years. Several years ago the State changed the way the program was funded, requiring a 50% cost share of the program. Transylvania County was able to maintain the program as fully federal funded until the program director retired at the end of 2008.

Health Director Steve Smith reported that the Health Department portion of the funding will come from Aid to County funding which recurs annually.

Mr. Caldwell reported that the position will be recruited with the understanding that if the funding source is eliminated, the position is eliminated. The goal is to fill the position by the first of May because there is extensive training involved with the program which begins in mid-May.

Commissioner Phillips moved to approve the arrangement with Cooperative Extension and the Health Department with the understanding that if funding goes away the program will go away unless approved by the Board of Commissioners, seconded by Commissioner Hogsed and unanimously approved.

MANAGER'S REPORT

The Manager reported the following:

- Staff continues to work on their budgets.

PUBLIC COMMENT

Don Surrence: Mr. Surrence reported that he delivered approximately 330 letters opposing the reclassification of Boylston Creek to the Town Clerk of Mills River. She will forward them to the North Carolina Department of Environment and Natural Resources along with the other letters she has received. Mr. Surrence thanked Commissioners for their support.

Judith West: Ms. West said the investment of \$30,000 to complete the specifications for a new septage pretreatment and moving forward with the construction of the facility is worthwhile if it will create jobs in the County.

COMMISSIONERS' COMMENTS

There were no comments from Commissioners.

Chairman Chappell made a motion to enter into Closed Session per NCGS 143-318.11 (a) (3) to consult with an attorney in reference to the lawsuit Renee Crocker, Renee Roof, Julie Sprouse and Joy Waldrop versus Carson Griffin, Transylvania County DSS and Transylvania County and per NCGS 143-318.11 (a) (3) to consult with an attorney in reference to the lawsuit Transylvania County versus Michael Baxley and Charlotte Baxley. The motion was seconded by Commissioner Bullock and unanimously carried.

CLOSED SESSION

Closed session was entered into at 8:00 p.m. Present were Chairman Chappell, Commissioners Bullock, Hawkins, Hogsed and Phillips, County Manager Artie Wilson, County Attorney David Neumann and Clerk to the Board Trisha McLeod.

The Manager and the Attorney updated Commissioners on the status of the two lawsuits. The Board instructed staff on how to proceed.

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

OPEN SESSION

Chairman Chappell moved to seal the minutes of both closed sessions until such time that unsealing the minutes would not frustrate the purpose of the closed sessions, seconded by Commissioner Bullock and unanimously approved.

ADJOURNMENT

There being no further business to come before the Board, **Chairman Chappell moved to adjourn the meeting, seconded by Commissioner Bullock and unanimously carried.**

Jason R. Chappell, Chairman
Board of County Commissioners

ATTEST:

Trisha D. McLeod
Clerk to the Board