

**MINUTES
TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS
March 8, 2010 – REGULAR MEETING**

The Board of Commissioners of Transylvania County met in regular session on Monday, March 8, 2010 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 Curtis Potter, and Clerk to the Board Trisha Hogan.

Media: *Transylvania Times* – Mark Todd

There were approximately 30 people in the audience.

CALL TO ORDER

Chairman Jason Chappell presiding called the meeting to order at 7:05 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

Steve Owen: Mr. Owen said some citizens in Pisgah Forest have expressed reservation about the draft Pisgah Forest Zoning Ordinance; however it is clear that those citizens would rather be regulated by the County than the City. He urged the Board of Commissioners to move forward with the next phase in the process.

AGENDA MODIFICATIONS

The Manager reported on the Agenda modifications and requested to add Item XI.B Closed Session per NCGS 143-318.11 (a) (3) to consult with an attorney reference potential litigation.

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

CONSENT AGENDA

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

The following items were approved:

MINUTES

The minutes of the January 25, 2010 regular meeting were approved.

FACILITIES USE REQUESTS

The following facilities use requests were approved:

- Heart of Brevard, Courthouse gazebo: May 29-30, 2010; 7am – 7pm; White Squirrel Festival and Memorial Day Presentation of Wreath
- Heart of Brevard, Courthouse gazebo: July 3, 2010; 7am – 7pm; Fourth of July Celebration and Street Festival
- Heart of Brevard, Courthouse gazebo and large courtroom in the Courthouse: October 30, 2010; 8am – 10pm; Old Time Music Competition (Courtroom will be used for night time competition unless weather necessitates holding all competitions indoors. Hourly fee for security applies.)
- Heart of Brevard, Courthouse gazebo: December 4, 2010; 9am – 9pm; Twilight Tour and Street Festival
- The Children's Center of Transylvania County, Courthouse gazebo: April 28, 2010; 8:30am – 6pm; Annual Vigil and Diaper Drive

DISCOVERY AND RELEASE REPORT

The Discovery and Release Report for January 2010 was approved.

WESTERN HIGHLANDS AREA AUTHORITY'S FISCAL MONITORING REPORT FOR THE SECOND QUARTER OF FY 2010

The Second Quarter Fiscal Monitoring Report for Western Highlands Area Authority was approved.

PRESENTATIONS/RECOGNITIONS

RESOLUTION 08-10 IN RECOGNITION OF RODNEY LOCKS

Commissioners recognized City Council Member Rodney Locks for recently being elected President of the NC League of Municipalities (NCLM). Mr. Locks thanked Commissioners for this recognition and invited them all to the upcoming NCLM meeting on March 24, 2010 at 2:00 p.m. in the Transylvania County Library.

Commissioner Bullock moved to approve Resolution 08-10 In Recognition of Rodney Locks, seconded by Commissioner Hawkins and unanimously approved.

(Resolution 08-10 In Recognition of Rodney Locks is hereby incorporated by reference and made a part of these minutes.)

WESTERN HIGHLANDS NETWORK UPDATE

Arthur Carder, CEO of Western Highlands Network, reviewed the data reports for Transylvania County and discussed the current systems issues impacting mental health, developmental disabilities, and substance abuse services.

The data reports indicate the total number of consumers that receive State funded services in Transylvania County, not including Medicaid. The reports also indicate a duplicated count, showing the number of consumers who receive services in more than one disability area. Transylvania County has a few providers that make up the bulk of services.

Westerns Highlands has been concerned about provider stability for quite some time because of the changes in funding, reduced funds from the State to pay for services, and changes in rate structures. They are doing their best to keep tabs on providers in each community to avoid sudden crises. Mr. Carder noted that the providers in Transylvania County have been providing

services for a fairly long time and have been fairly stable in meeting those needs. Western Highlands has been focusing on integrating behavioral health services and primary health care; because statistics show people who suffer from behavioral health issues have a shorter life span due to the lack of coordination between the two.

Mr. Carder also noted that the State is moving toward an across-the-board Medicaid waiver for behavioral health services which will return Medicaid services back to the local level. Mr. Carder feels local management entities will be more efficient at managing Medicaid services and will be able to hire more staff as a result. He also noted that the State will now send the management entities one monthly check which will allow them to use the funds to meet the needs of the consumers as they see fit.

In response to a question from Commissioner Hawkins in reference to the number of new employees Western Highlands plans to hire, Mr. Carder said the number of potential new employees will be based on the needs in the communities.

YOUTH SPEAK PROGRAM

County Extension 4-H and Youth Development Director Mary Arnaudin spoke to Commissioners about the Youth Speak Program which promotes respectful dialogue and civic involvement among Transylvania County's teens. The process involves training teen leaders to facilitate and participate in discussion groups to identify issues affecting them and to develop action plans to make their school and community a better place. Currently, Youth Speak is being conducted as a part of the Leadership Classes at both Rosman and Brevard High Schools. The Youth Speak Program has resulted in increasing teens' abilities to discuss issues openly and frankly.

Rosman High School students Rachel Brown and Ayla Owen, both Youth Speak facilitators, spoke to Commissioners about some of the issues they face in their school and the steps they are proposing to solve those issues. Youth Speak co-partner and director of Youth Services for the Center for Dialogue Ren Uriarte elaborated on some of the topics the group has been discussing.

The North Carolina Association of County Commissioners (NCACC) is working with Cooperative Extension at NC State University to convene a Youth Summit at the NCACC Annual Conference. The NCACC has asked counties to send two youths from each county to participate in the Youth Summit. The purpose of the summit is for commissioners to learn about youth issues and for youths to learn about the complexities of county government. Ms. Arnaudin proposed to Commissioners that Transylvania County participate in the NCACC Youth Summit and that the two youths representing Transylvania County be selected from the group of Youth Speak participants.

Commissioners commended Ms. Brown and Ms. Owen for their work and their presentations and suggested they present their ideas to the School Improvement Team.

Chairman Chappell moved to allow Cooperative Extension to be responsible for the development of the selection process and selection of the two youths representing Transylvania County at the NCACC Youth Summit. The motion was seconded by Commissioner Phillips and unanimously approved.

Commissioners requested a follow up presentation after the NCACC Youth Summit.

APPOINTMENTS

ECONOMIC DEVELOPMENT ADVISORY BOARD

Commissioner Hogsed moved to reappoint Tony Morrow as Chairman for 2010, seconded by Commissioner Bullock and unanimously approved.

COMMUNITY APPEARANCE INITIATIVE ADVISORY COUNCIL

Commissioner Phillips moved to reappoint Don Surrette to an additional term, seconded by Commissioner Hogsed and unanimously approved.

Commissioner Hawkins moved to reappoint Jim Robards as Chairman for 2010, seconded by Commissioner Bullock and unanimously approved.

Commissioner Phillips moved to appoint David Morrow to replace Joe Galloway, seconded by Commissioner Bullock and unanimously approved.

OLD BUSINESS

2010-2012 ECONOMIC DEVELOPMENT STRATEGIC PLAN

The Economic Development Advisory Board (EDAB) has been working with staff to develop a new economic development strategic plan for Transylvania County. They developed a plan based on five goals:

1. Support existing business
2. Attract and support new diversified businesses
3. Inform elected officials, other community leaders and the public about the County's economic development actions and opportunities
4. Enhance Transylvania County's exceptional quality of life
5. Promote education and workforce development opportunities

A required public hearing was held on February 8, 2010 where staff provided a more detailed overview of the plan. No other comments have been submitted since the public hearing.

In response to a question from Commissioner Hogsed, Planning and Economic Development Director Mark Burrows said the EDAB has indicated a list of businesses they want to try to attract; however staff will work with any business owner or resident who wants to start or relocate a business in Transylvania County. Commissioner Bullock emphasized the need to implement the action plans listed in the report. Mr. Burrows pledged to provide the Board with periodic updates.

Commissioner Phillips moved to accept the 2010-2012 Economic Development Strategic Plan, seconded by Commissioner Bullock and unanimously approved.

PROPOSED PISGAH FOREST COMMUNITY ZONING ORDINANCE

On February 22, 2010, the Board of Commissioners met jointly with Brevard City Council to review the draft Pisgah Forest Community Zoning Ordinance. After hearing the proposal, Brevard City Council unanimously voted to accept the report and encouraged the County to move forward with implementing the recommendations as presented. The next step in the process is for the Board of Commissioners to determine how it wants to move forward. If Commissioners decide to move forward with the process, staff would have to give proper notice and hold a public hearing. Staff would notify all property owners in the affected area via certified letter. After the public hearing process, Commissioners would determine how to move forward based on the

information received during the public hearing. The Manager noted that the public hearing notice would have to be specific as to what is being proposed and would have to be advertised for two weeks.

Commissioner Phillips questioned whether or not staff has exhausted their efforts in exploring all options and alternative plans. County Attorney Curtis Potter reported that he and staff have contacted multiple persons with the School of Government who specialize in this area of law. They determined there are no other alternatives available to the County to facilitate land use restrictions other than zoning. The primary alternative sought was the use of police power which was determined not to be a possibility as an alternative to formal zoning.

Commissioner Phillips said he has been hearing comments from residents in Pisgah Forest that they are opposed to the zoning proposal. He expressed the importance of determining how those residents want the County to move forward. Commissioner Phillips also questioned why the residential areas are included in the proposal because the City's primary interest is the corridors.

Commissioner Hawkins noted that the purpose of the public hearing is to hear the concerns of those citizens and for the Board to then determine how it wants to move forward. He also noted the reason the residential areas were included in the proposal was to satisfy the 640 acres required for implementing zoning. Commissioner Hawkins said the Planning Board and staff have not discussed the police power option because they were not charged with doing so. He believes Commissioners should consider the proposal from the Planning Board.

Commissioner Hogsed believes it is possible to reach an agreement with the City to implement a zoning ordinance mainly in the corridor areas and obtain the necessary acreage. He proposed that the County officially request that the City of Brevard allow the current properties under consideration for ETJ expansion be incorporated into the County's zoning ordinance for the Pisgah Forest community. He specifically referred to the Davidson River and Cemetery Roads communities. He said no one benefits from zoning in the residential areas of the Pisgah Forest community between Highways 64 and 280 and his proposal allows both entities to reach its objectives.

Commissioner Hawkins responded to Commissioner Hogsed's proposal. He believes the City would not be satisfied with open use zoning in the Davidson River and Cemetery Roads communities. While the City is not concerned with zoning the residential areas in Pisgah Forest, one of the goals/objectives of the proposal is to maintain community character. Commissioner Hawkins believes the proposed ordinance does that.

Commissioner Bullock expressed concern about delaying this process any further. He urged the Board to move forward with the public hearing process so Commissioners can hear from the public about how they feel about this proposal. Commissioner Hogsed said his proposal will not delay the process, but rather modify it so that citizens under the threat of ETJ expansion can be regulated and taxed by a Board for whom they can vote. He said he does not understand why the zoning proposal for the residential area in Pisgah Forest is acceptable to the City, but not for the Davidson River and Cemetery Roads communities which are primarily agricultural and residential. Commissioner Phillips said the County should exhaust all efforts in exploring other alternatives; even it lengthens this process, because it is imperative to make the right decisions for those citizens.

Commissioner Hawkins said the County and the City of Brevard have already discussed Davidson River and Cemetery Roads and that it is the City's intent to include those areas in the ETJ. He believes staff has explored every alternative and he said at some point Commissioners need to agree on a plan and move forward. Commissioner Hogsed argued that there has been no discussion about these areas because the City has refused to have those discussions with the County. Chairman Chappell agreed with Commissioner Hawkins that this discussion has already taken place; however he is willing to make a request to the City to reconsider their position.

Commissioner Bullock encouraged the Board to move forward with the public hearing process which will guide Commissioners in making the best decision. He also agreed to consider further negotiations with the City.

After further comments, **Commissioner Hogsed made a motion that the Transylvania County Board of Commissioners officially request that the City of Brevard allow the current properties under consideration for extension of the ETJ be incorporated into the County's zoning ordinance for Pisgah Forest. Commissioner Phillips seconded the motion.**

Commissioner Hawkins asked for clarification on the intent of the letter. He asked if the Board intends to wait for a response from the City before moving ahead with the public hearing process. Commissioner Hogsed replied yes. Commissioner Bullock asked how this would affect the proposed timeline. The Manager said the timeline indicates holding a public hearing in April. City Council meets next Monday night and staff will make contact with the City tomorrow regarding the Board's proposal. The Board can discuss this issue at the next meeting after receiving a response from the City. Commissioner Hogsed clarified that he proposes open use zoning, the same type zoning recommended for the residential areas in Pisgah Forest, for the Davidson River community. **The motion was unanimously approved.**

NEW BUSINESS

REQUEST FOR PROPOSAL FOR DESIGN SERVICES-PHASE 1 COMMUNITY PARK IN ROSMAN

The Board of Commissioners currently leases land from two property owners in Rosman for the purpose of constructing a community park. McGill Associates has completed the master plan for the park which includes a competition track, a request made by the school system. The majority of the leased property lies within the floodway; therefore the County must obtain a no rise certificate. If the County is unable to obtain the no rise certificate, the Board can terminate the lease agreement and search for other locations.

Staff has put together a request for qualifications for design services on phase one of the community park. The proposal includes developing the grading plans required for erosion control measures, the specifications for amenities, and determining whether or not a no rise certificate can be obtained. The Manager requested to include cost as an element in the selection criteria because there is a possibility that respondent firms may be interested in donating time for this project.

County Purchasing Agent Michelle McCall noted that generally the cost element is not considered in requests for qualifications for professional services. Because of the nature of this project, staff requests that this element be included in the selection criteria.

The Manager pointed out that if the no rise certificate can not be obtained and the lease agreement is not terminated within the first two years, the County would have to continue leasing the property for an additional 25 years. Staff has already submitted application for a PARTF

grant and, if awarded, the County would be reimbursed 50% of the costs incurred. He also reported that staff plans to meet with members of the school system to finalize the master plan.

Commissioner Phillips moved to approve the proposed RFQ and allow cost to be included as an element for consideration in the selection process of the successful respondent firm. The motion was seconded by Commissioner Bullock and unanimously approved.

SALE OF SURPLUS 911 CONSOLE AND PURCHASE OF REPEATERS

The County purchased a new communications system for the new Public Safety Facility. The old system and console is considered surplus. McDowell County would like to purchase the old console to use for replacement parts. The equipment is valued at \$15,000. Communications Director Kevin Shook requested that the proceeds from this transaction go towards the purchase of three replacement repeaters. He noted that four repeaters are needed and he can get three new repeaters from the proceeds. He said he will try to purchase four with the proceeds; otherwise he will be making a request for one repeater during the budget cycle for FY 2011.

It was noted by Commissioners Hawkins that just because this department is able to sell their surplus equipment does not automatically give them rights to use the proceeds in their department. The Manager agreed but said the repeaters are needed now. If they were not needed, the proceeds would have gone into the general fund.

Commissioner Hawkins moved to authorize the sale of the surplus 911 console to McDowell County for \$15,000 and authorize the proceeds to go towards the purchase of at least three repeaters. The motion was seconded by Commissioner Phillips and unanimously approved.

RESOLUTION FOR THE NCDOT TO REVIEW ADDING CARRIE LANE TO THE STATE MAINTAINED ROAD SYSTEM

Graham Neiman has submitted a petition and request for addition to the State maintained road system which includes adding 0.07 miles of Carrie Lane. The Board of Commissioners has to approve a resolution before the State would review whether or not the road can be added to their system. Mr. Neiman has submitted all the proper paperwork to the Board for forwarding on to the State.

Commissioner Bullock moved to approve Resolution 09-10 asking the North Carolina Department of Transportation to review the request to add Carrie Lane to the State maintained road system, seconded by Commissioner Phillips and unanimously approved.

(Resolution 09-10 Request for Addition to State Maintained Secondary Road System is hereby incorporated by reference and made a part of these minutes.)

MANAGER'S REPORT

The Manager reported the following:

- Staff closed on the financing agreement with BB&T for the CTE Building. Everything will be complete pending some final reports from the Board of Education.
- Staff has drafted an alarm ordinance. The School of Government and Chiefs Association are reviewing it at this time. Within the next few weeks, staff will bring back a recommendation to the Board.
- Staff has been working on changes to the Animal Control Ordinance. The School of Government is reviewing it and staff will bring back a recommendation to the Board in the near future.

- Last Friday staff sent out approximately 3,900 census letters to Transylvania County property owners who have a mailing address outside of Transylvania County. The letter encourages them to claim Transylvania County as their residence if they spend more than six months and one day here. This is important to Transylvania County because a large portion of taxes are distributed to counties on a per capita basis. Staff will be wearing their census t-shirts throughout the months of March and April.
- Staff continues to work with the City of Brevard regarding some water run off issues at the Public Safety Facility and will bring some alternatives to the Board at a future meeting.
- Staff has installed a fence around the property at Connestee Falls for safety purposes. Staff also installed a kiosk at the site with information about the project which will hopefully be completed this summer.
- Reminded Commissioners they have been invited to a meeting at the Rogow Room on Thursday night to hear a presentation about the need for a turf field at Brevard High School. Commissioners should attend as an individual, not as a Board, as no official action will be taken.
- A Public Hearing will be held at the next meeting on March 22, 2010 regarding the Section 5311 Transportation Funds.
- Dr. Molly Parkhill will be making a presentation at the meeting on March 22, 2010 to provide updates about the Transylvania County campus of Blue Ridge Community College. They plan to apply for campus designation and will need the support of the Board of Commissioners.
- At the next meeting on March 22, 2010 staff will present a proposal from the Building Department about implementing plan reviews for residential homes. The Home Builders Association is supportive of this action as long as it does not result in increased cost of homes.
- Staff continues to work on the budget and staff plans to share some tentative information with the Board soon.
- Commissioners are required to take ethics training courses after the law became effective in January 2010. The School of Government is sponsoring a webinar on March 25, 2010 from 4:00 p.m. to 6:00 p.m. at a cost of \$95 per site. The NCACC District meeting is scheduled for April 13, 2010 in Haywood County and ethics training will be offered at that time as well.

PUBLIC COMMENT

Larry Chapman: Mr. Chapman, candidate for County Commission, informed the Board that he plans to meet with department heads to learn more about the County's departments and their organizational structure.

COMMISSIONERS' COMMENTS

Commissioner Bullock said he was approached by an individual asking about a referendum that was voted on and taxes were levied in the 1960's for the purposes of paying for river clean up. The citizen wants to know what happened to those funds and if they were used for those purposes. Commissioner Bullock remembers a river clean up project from the 1970's but he is not sure if taxes were levied for the project. Commissioner Bullock inquired about the possibility of seeking grant funds for another clean up. The Manager said staff will explore further. He noted that when a referendum is approved for a specific project, the tax levy is usually temporary, similar to school bonds. He noted there are no monies in the budget for river clean up; however

some departments have been able to obtain grants for river clean up projects. The Manager noted that it would cost several million dollars to implement an entire river clean up.

Chairman Chappell moved to enter into Closed Session per NCGS 143-318.11 (a) (5) to instruct staff on negotiating the price or terms for the acquisition of real property and NCGS 143-318.11 (a) (3) to consult with an attorney reference potential litigation, after a 10 minute recess. The motion was seconded by Commissioner Phillips and unanimously carried.

CLOSED SESSION

Pursuant to NCGS 143-318.11 (a) (5) to instruct staff on negotiating the price or terms for the acquisition of real property closed session was entered into at 9:25 p.m. Present were Chairman Chappell, Commissioners Bullock, Hawkins, Hogsed and Phillips, County Manager Artie Wilson, County Attorney Curtis Potter, and Clerk to the Board Trisha Hogan.

Commissioners discussed the terms and conditions for the potential acquisition of real property and instructed staff on how to proceed.

Pursuant to NCGS 143-318.11 (a) (3) to consult with an attorney reference potential litigation. Present were Chairman Chappell, Commissioners Bullock, Hawkins, Hogsed and Phillips, County Manager Artie Wilson, County Attorney Curtis Potter, and Clerk to the Board Trisha Hogan.

Commissioners consulted with the County Attorney reference a potential litigation matter and instructed staff on how to proceed.

Chairman Chappell moved to leave closed session, seconded by Commissioner Phillips and unanimously carried.

OPEN SESSION

Chairman Chappell moved to seal the minutes of both closed sessions until such time that opening the minutes would not frustrate the purpose of the closed sessions. The motion was seconded by Commissioner Hawkins and unanimously approved.

ADJOURNMENT

There being no further business to come before the Board, **Commissioner Hawkins moved to adjourn, seconded by Commissioner Phillips and unanimously carried.**

ATTEST:

Jason R. Chappell, Chairman
Board of County Commissioners

Trisha M. Hogan
Clerk to the Board