

**MINUTES**  
**TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS**  
**September 13, 2010 – REGULAR MEETING**

The Board of Commissioners of Transylvania County met in regular session on Monday, September 13, 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, and Daryle Hogsed. Vice-Chairman Kelvin Phillips was absent. Also present were County Manager Artie Wilson, County Attorney Curtis Potter, and Clerk to the Board Trisha Hogan.

Media: *Hendersonville Times News* – Leigh Kelley  
*Transylvania Times* – Mark Todd  
*WSQL Radio* – Wanda Lu Paxton

There were approximately 25 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**

Annie Drobisch: Ms. Drobisch expressed concern that the animal shelter project is not moving along fast enough and urged the Board to move forward.

**AGENDA MODIFICATIONS**

The Manager reported on the Agenda modifications. He requested to add Item V-C Presentation of LEED's Plaque to the Board of Commissioners of Transylvania County for New Public Safety Facility under Presentations/Recognitions. He also requested to remove the items under the Consent Agenda since there were no items for consideration and noted there were no items under Closed Session.

**Commissioner Bullock moved to approve the revised Agenda, seconded by Commissioner Hawkins and unanimously approved. (4-0, Commissioner Phillips absent)**

**PRESENTATIONS/RECOGNITIONS**

RESOLUTION 36-10 IN RECOGNITION OF EDGAR P. "ED" ISRAEL

Ed Israel was recently honored as the recipient of the Lifetime Achievement Award by the North Carolina Association of Directors of Social Services. Mr. Israel worked in the Social Services field from 1963 until his retirement in 1992. During that time he also became Transylvania County's first professional County Manager. Mr. Israel continues to serve his community even after retirement. Commissioners recognized Mr. Israel and presented him with a resolution.

**Commissioner Bullock moved to approve Resolution 36-10 In Recognition of Edgar P. “Ed” Israel. The motion was seconded by Commissioner Hawkins and unanimously approved. (4-0, Commissioner Phillips absent)**

(Resolution 36-10 In Recognition of Edgar P. “Ed” Israel is hereby incorporated by reference and made a part of these minutes.)

**CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING**

The Certificate of Achievement for Excellence in Financial Reporting has been awarded to Transylvania County by the Government Finance Officers Association of the United States and Canada (GFOA) for its Comprehensive Annual Financial Report (CAFR). The certificate is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management. Commissioners presented the award and certificate to Finance Director Gay Poor and recognized her and her staff for this achievement.

**PRESENTATION OF LEED PLAQUE FOR NEW PUBLIC SAFETY FACILITY**

The new Transylvania County Public Safety Facility was designed as a “green” building. The County was recently notified that the building meets the Silver LEED designation. Dan Mace of Moseley Architects presented the Board of Commissioners a LEED Silver Designation Plaque recognizing this significant achievement. He noted that the facility is the only Public Safety Facility in the United States that includes as part of its program jail beds to be awarded LEED certification to date. It is also the first LEED certified Public Safety Facility of any type in North Carolina. He discussed some of the strategies and principles incorporated into the facility as follows:

- Preserved forest and vegetated open space totaling over 50% of the site
- Used an Energy Star compliant, highly reflective roof membrane to lessen the “heat island” effects and help keep the building cool
- Carefully placed and selected exterior lighting to conserve energy and reduce pollution of the night sky
- Reduced water use by 30% through low-flow plumbing fixtures in both administrative and detention areas
- Used energy and water efficient kitchen equipment
- Diverted 71% of construction waste from landfills to recycling centers
- Created indoor air quality management plans and used low-emitting building materials to safeguard occupant health
- Employed individual lighting controls that enhance occupant comfort and reduce energy consumption

The award will be displayed in the Public Safety Facility. Commissioners thanked Mr. Mace, M.B. Kahn Construction, and staff for achieving this distinguished designation.

**APPOINTMENTS**

**WCCA BOARD OF DIRECTORS**

**Commissioner Hogsed moved to appoint Ron Schieve, seconded by Commissioner Bullock and unanimously approved. (4-0, Commissioner Phillips absent)**

WORKFORCE DEVELOPMENT BOARD

Commissioner Bullock moved to appoint Mark Emory to fill the vacancy per the recommendation of Bill Ragland, seconded by Commissioner Hogsed and unanimously approved. (4-0, Commissioner Phillips absent)

JUVENILE CRIME PREVENTION COUNCIL

Commissioner Bullock moved to replace Eddie Lance with Matt Walsh from Juvenile Detention Services as the Commissioner Appointee, seconded by Commissioner Hawkins and unanimously approved. (4-0, Commissioner Phillips absent)

Commissioner Hawkins moved to replace Brad Renegar with Rodney Wesson from Juvenile Detention Services as the Chief Court Counselor or designee, seconded by Commissioner Hogsed and unanimously approved. (4-0, Commissioner Phillips absent)

Commissioner Hogsed moved to appoint Julianna Landers as a student member, seconded by Commissioner Bullock and unanimously approved. (4-0, Commissioner Phillips absent)

RECREATION ADVISORY BOARD

Commissioner Hawkins moved to appoint David Galloway to fill the unexpired term of Fletcher Hobbs, seconded by Commissioner Bullock and unanimously approved. (4-0, Commissioner Phillips absent)

Commissioner Hogsed moved to waive the term limits and reappoint Sandra Hosey to an additional term and reappoint Sandra Hosey as chairman for 2010-2011, seconded by Commissioner Bullock and unanimously approved. (4-0 Commissioner Phillips absent)

PARKS COMMISSION

Commissioner Hogsed moved to reappoint Janet Edwards McCall to an additional term, seconded by Commissioner Hawkins and unanimously approved. (4-0, Commissioner Phillips absent)

Commissioner Hawkins moved to waive the term limits and reappoint Edward Marchini to an additional term per the recommendation of Parks and Recreation Director Rick Pangle, seconded by Commissioner Bullock and unanimously approved. (4-0, Commissioner Phillips absent)

Commissioner Hawkins moved to reappoint Edward Marchini as chairman for 2010-2011, seconded by Commissioner Bullock and unanimously approved. (4-0, Commissioner Phillips absent)

MT. VALLEYS RESOURCE CONSERVATION AND DEVELOPMENT BOARD

Commissioner Bullock moved to appoint Alan Johnson to fill the unexpired term, seconded by Commissioner Hogsed and unanimously approved. (4-0, Commissioner Phillips absent)

**OLD BUSINESS**GOING OUT TO BID FOR GRADING, DRAINAGE, SEEDING OF PHASE 1 AND CONSTRUCTION AND GRAVELING OF THE PARKING AREA FOR THE COMMUNITY PARK NEAR ROSMAN

The Board of Commissioners has entered into a long term lease with two property owners near Rosman with the intent of constructing a community park that will contain a baseball/soft ball

field, a large baseball field, a multipurpose field surrounded by a track, a playground, a volleyball court, horseshoe pits, a concession/restroom building, and picnic shelter. Terry Allen has completed the No Rise Certification and the erosion control plans for the project. The Manager reported that the grading plans are 95% complete. He and staff plan to meet with Mr. Allen next week to review.

The Manager noted the cost of Phase 1 will remain unknown until the project is bid and he is unsure of how the community may be able to help in order to reduce costs. This sentiment was expressed by others in the past who want to see the project move forward.

The Manager requested to move forward with going out to bid on the project to include grading, drainage and seeding in Phase 1. There would be no construction of ball fields at this time but the area could still be used for practice, etc. The Manager said as the County moves forward on this project, the Board should agree on the plans for the park otherwise the grading plans will have to be modified. The grading plans are designed for the specific items mentioned above. All bids would be brought back to the Board of Commissioners their consideration. At this point, there is no financial impact in going out for bids.

**Commissioner Bullock moved to allow staff to go out for bid for the grading, drainage, and seeding of the proposed Community Park near Rosman as soon as Mr. Allen completes the grading plans. The motion was seconded by Commissioner Hogsed.** Commissioner Hawkins expressed concern that no monies have been set aside for the project and that the actual design has not been approved by the Board of Commissioners. He believes going out for bids sends the message that the Board plans to complete the project. He also pointed out the County has space needs issues as well that need to be addressed and this project should be considered in the context of all County needs. Commissioner Bullock pointed out the County had applied for and was expecting grant funds and had therefore committed itself to the \$100,000 match requirement. He believes if the bids are low enough, the County should be able to complete Phase 1 and accomplish its purpose. Commissioner Hawkins disagreed saying the bulk of the cost will be in the infrastructure of the project. He preferred the Board identify available funds and vote on whether or not to do the project. Commissioner Bullock pointed out that the Board had agreed to complete the project in phases and apply for grant funds in order to complete Phase 1. He said the field will be usable in some capacity if the grading is completed. He further pointed out that going out for bids will not cost the County at this time. Commissioner Hawkins believes the decision to move forward was contingent upon receiving the grant funds and until the Board is willing to designate funds it should not move forward with the project. Commissioner Hogsed said if the County waits until it has all the funds available, the project will never be complete. He believes the County should end the lease if the Board does not plan to move forward. Commissioner Hogsed also believes moving forward will increase the County's chances of obtaining grant funding in the future. Chairman Chappell emphasized that going out for bids does not obligate the County to complete the project and noted that all bids will have to come before the Board for approval. He pointed out that the Board recently voted unanimously to continue the lease with the two property owners and he believes moving forward will have a positive impact on the community. After further comments, **the motion passed unanimously. (4-0, Commissioner Phillips absent)**

## NEW BUSINESS

### DONATION OF RETIRED AMBULANCE TO BLUE RIDGE COMMUNITY COLLEGE

Transylvania County will be retiring Medic 6, a 2000 Ford E450 ambulance within the next few weeks. Blue Ridge Community College has requested that Transylvania County donate the

vehicle to the college to use as a learning tool in its EMS training program. This will enable the students to get first-hand training and riding experience in an ambulance. The other alternative is to auction the vehicle through Gov Deals. The last auction netted between \$2,000 and \$3,000. Chairman Chappell abstained from voting because he is an employee of Blue Ridge Community College.

**Commissioner Hogsed moved to declare the vehicle as surplus and donate the vehicle to Blue Ridge Community College to be used in the EMS training program, seconded by Commissioner Hawkins and unanimously approved. (3-0, Chairman Chappell abstained, Commissioner Phillips absent)**

#### LEGAL OPINION ON USE OF QSCB FUNDS

The Board of Commissioners and the Board of Education agreed to apply for \$1,297,778 in Qualified School Construction Bonds (QSCB's) in FY 2010. The purpose for the funds was to construct a new Career and Technical Education Building for Rosman High School. When the project was bid the costs were much higher than anticipated. At this point the project is on hold. The County has three years from the date of issuance to spend the monies. Currently staff is exploring other alternatives but there are legal questions that have arisen that may not allow the use of the funds. In order to make sure that the funds can legally be used for some of the alternatives being considered the Manager recommended securing an unqualified legal opinion from a legal firm that has expertise in QSCB's. He has provided Parker Poe with a list questions relevant to the County's situation and they have estimated an unqualified opinion would cost approximately \$6,500.

County Attorney Curtis Potter explained the difference between a qualified and unqualified legal opinion. From a bond counsel perspective, an unqualified legal opinion takes on the risk of being wrong. They will write a legal opinion about what the County wants to do and state the reasons why they believe the County can move forward. A qualified legal opinion can be obtained from any legal counsel which will consist of what an entity may or may not do based on certain criteria. He pointed out that an audit will require a legal opinion in order for any project to move forward in a more flexible manner than what has already been approved.

Commissioner Hawkins pointed out that the unqualified legal opinion is based on the information the bond counsel receives from the County. He inquired about the County's liability in this matter and whether or not the bond counsel will indemnify the County for the cost. Mr. Potter said there are severe consequences for being wrong. An unqualified legal opinion is the highest level that can be given and the bond counsel is taking a tremendous amount of risk in the event they are found to be wrong.

In response to a question from Commissioner Hogsed, Mr. Potter was unsure of an actual amount for which the bond counsel would be responsible if their opinion is wrong, but he would inform the Board as soon as possible. Commissioner Hawkins believes a firm would not give an unqualified legal opinion if it were not confident in its position.

Commissioner Hogsed expressed concern that if the legal opinion is the County can not move forward with the project, then money has been wasted seeking an answer that the County already knows. Mr. Potter said the unqualified legal opinion will note there is already an approved project and inform the County how it can be flexible with the funds and the risks involved. He does not believe the proposal from the Manager is to spend the \$6,500 to receive an answer from Parker Poe that the County can not move forward. Commissioner Bullock noted the importance of having a legal opinion to back up the County's actions. The Manager agreed and pointed out a

legal opinion will be required by the Local Government Commission or bank. Mr. Potter believes the Board should have its information within 3-4 days.

**Chairman Chappell moved to authorize staff to proceed with obtaining an unqualified opinion on the QSCB's with monies to come from budgeted legal expenses. The motion was seconded by Commissioner Hawkins.** Commissioner Hogsed said he is not comfortable the legal opinion will remove the ambiguity from the situation and he is unwilling to spend monies on an opinion that may or may not be accurate. He also believes it is not the County's responsibility to spend County funds to find the answers to these questions. **The motion passed 3 to 1. (Commissioner Hogsed voted against, Commissioner Phillips absent)**

RESOLUTION 37-10 DECLARING THE WEEK OF SEPTEMBER 17-23, 2010 AS CONSTITUTION WEEK

Friday, September 17, 2010 begins the national celebration of Constitution Week and a weeklong commemoration of America's most important document. A resolution petitioning Congress to set aside September 17 – 23 annually to be dedicated for the observance of Constitution Week (submitted by the Daughters of the American Revolution) was signed into Public Law #915 on August 2, 1956 by President Dwight D. Eisenhower.

The aims of the celebration are to (1) emphasize citizens' responsibilities for protecting and defending the Constitution, preserving it for posterity; (2) inform the people that the Constitution is the basis for America's great heritage and the foundation for our way of life; and (3) encourage the study of the historical events which led to the framing of the Constitution in September 1787.

**Commissioner Hogsed moved to approve Resolution 37-10 Declaring the Week of September 17-23, 2010 as Constitution Week, seconded by Commissioner Bullock and unanimously approved. (4-0, Commissioner Phillips absent)**

(Resolution 37-10 Declaring the Week of September 17-23, 2010 as Constitution Week is hereby incorporated by reference and made a part of these minutes.)

BUDGET TRANSFERS AND AMENDMENTS

Finance Director Gay Poor presented the budget transfers and amendments and highlighted the following:

Ms. Poor received requests for two more amendments to the FY 2010 Budget requiring Commissioner approval. The first is for \$1,400 for an LSTA grant to allow library staff members to attend the 2010 Joint Conference of the Association for Rural and Small Libraries and the Association of Bookmobile and Outreach Services. These are pass-through funds requiring no County match. The other amendment is to carry forward a \$2,500 grant from the North Carolina Veterinary Medical Association for vaccinations of animals at the shelter. These funds were received in mid-June and were not spent prior to year end. With these amendments, the total General Fund Budget will increase to \$40,171,378, which is \$215,287 more than the original budget.

**Commissioner Hogsed moved to approve the budget transfers and amendments as submitted, seconded by Commissioner Hawkins and unanimously approved. (4-0, Commissioner Phillips absent)**

## NORTH CAROLINA ASSOCIATION OF COUNTY COMMISSIONERS LEGISLATIVE GOALS

Each year the North Carolina Association of County Commissioners (NCACC) requests that counties submit a list of legislative goals which will be reviewed by its members. If approved, the goals become the NCACC's focus for legislative action in the upcoming legislative session. The NCACC is asking counties to submit their goals by September 15, 2010. Commissioners discussed and instructed the Manager to submit the following goals:

1. Revise involuntary annexation and ETJ laws, either by doing away with both or allowing more county involvement in the process
2. Inmate reimbursement
3. Transparency in designation of waterways
4. Revenue support/unfunded mandates

## MANAGER'S REPORT

The Manager reported the following:

- A public hearing on the Scattered Site Housing Project is scheduled for the next meeting on 9/27/2010; additional funds are available for new projects
- Staff continues to work on the animal shelter project
- A special meeting is scheduled for 9/21/2010 at 7:15 p.m. in the Rogow Room at the Library to discuss space needs
- Presented a plaque from the US Census Bureau thanking the County for its participation in the 2010 Census
- Staff continues to work with the Board of Education on the CTE Building project
- NC Department of Environment and Natural Resources is considering the reclassification of five streams in Transylvania County; no word yet on the results of the 9/8/2010 public meeting; the added streams are Glady Fork, Cherryfield and Middle Fork however the State plans to remove Glady Fork and move forward with the other two; the property owners have not been notified; in January, the State plans to review two other streams: Flat Creek and the north fork of the French Broad
- Attended 75<sup>th</sup> Anniversary celebration of the Blue Ridge Parkway on Saturday in Galax, VA; Representative David Guice represented Transylvania County well as its Honor Representative

## **PUBLIC COMMENT**

Edwin Jones: Mr. Jones inquired about the status of the Ecusta project which he believes will help increase the tax base in Transylvania County. Chairman Chappell reported that Renova Partners plans to make a presentation at a Board meeting in the near future updating the County on the status of the project. The Manager informed Mr. Jones that the County has been very involved with the Davidson River Village project on the old Ecusta site. The owners plan to continue clean up of the site but are taking another look at the future plans because they were affected by the economy as well. The owners remain optimistic about the site.

Chris Whitmire: Mr. Whitmire thanked the Board for moving forward with the Community Park near Rosman and for continuing with its due diligence on the CTE Building project for Rosman High School. He believes these projects will serve the needs of the entire County.

Larry Chapman: Mr. Chapman expressed concern that the Board is not making an effort to address next year's budget now because it will be worse than the current year's budget.

### COMMISSIONERS' COMMENTS

Commissioner Hawkins reported on the recent Transylvania Partnership's annual meeting. The Transylvania Partnership works to facilitate economic development in Transylvania County. At their annual meeting, they held a program for economic developers to discuss the challenges the County is facing. The Partnership later followed up in one of its regular meetings and discussed opportunities it might be able to examine as a private entity for overall economic development in the community. He expects the Partnership to have a plan in place in the coming weeks.

Commissioner Hawkins also reported on the plans for Transylvania County's 150<sup>th</sup> anniversary celebration next year. One of the potential projects is to design a new logo for the County. Henderson County recently did so through a public contest. He plans to make a presentation to the Board at the next meeting and, if approved, will turn the project over to the 150<sup>th</sup> Anniversary Steering Committee.

Commissioner Hogsed thanked Commissioner Hawkins for his work with the Transylvania Partnership.

Commissioner Hogsed responded to Mr. Chapman's comments saying the Board is working on the budget process. Board members have been holding two-on-two meetings with the Board of Education and reviewing capital projections.

In honor of Constitution Week, Commissioner Hogsed brought copies of the US Constitution for members of the public.

Chairman Chappell thanked all those that attended the flag pole dedication at the Connestee Fire substation on Saturday, September 11 and reported that the Woodmen of the World held a wonderful service in honor of those killed on that day in 2001.

Commissioner Hogsed asked staff to begin a process of informing citizens about the potential stream reclassifications in the County. Chairman Chappell agreed and asked staff to obtain the information from the recent public meeting and then begin a process of notifying the public.

### ADJOURNMENT

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

ATTEST:

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Jason R. Chappell, Chairman  
Board of County Commissioners

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Trisha M. Hogan  
Clerk to the Board