

**MINUTES**  
**TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS**  
**December 10, 2012 – REGULAR MEETING**

The Board of Commissioners of Transylvania County met in regular session on Monday, December 10, 2012 at 7:00 p.m. in the large courtroom of the Transylvania County Courthouse.

Commissioners present were Vice-Chairman Larry Chapman, Jason Chappell, Chairman Mike Hawkins, Daryle Hogsed and Page Lemel. Also present were County Manager Artie Wilson, County Attorney David Neumann, and Clerk to the Board Trisha Hogan.

Media: *The Transylvania Times* – Eric Crews

There were approximately 35 people in the audience.

**CALL TO ORDER**

Chairman Mike Hawkins presiding called the meeting to order at 7:03 p.m.

**WELCOME**

Chairman Hawkins welcomed everyone to the meeting and thanked the members of the audience for participating in their County government. Chairman Hawkins introduced the members of the Board of Commissioners and staff.

**PUBLIC HEARING**

**FY 2013-14 SECTION 5311 GRANT**

County Transportation Director Keith McCoy requested permission to apply for FY 2013-14 federal transportation grant funding titled Section 5311. Section 5311 funds allow the County to provide human services and general public transportation services to the citizens of Transylvania County. A Public Hearing is required in order to make application.

Mr. McCoy reported the grant covers most of the administrative and capital costs for the County Transportation Department. For FY 2013-14, the County is requesting to make application for \$178,068 to cover administrative costs. Administrative costs include administrative salaries, telephones, vehicle insurance, etc. The breakdown of this funding is 80% federal, 5% State, and 15% local. The local match is \$26,710. This is the same level of funding that has been requested in the past few years. No funds for capital are being requested with this application. The application is not finalized until it is reviewed and approved by the State Board of Transportation and the Federal Transit Administration. The application process is no commitment to accept funds.

Commissioners were asked to consider approval of the grant application later in the meeting. There were Title VI Public Involvement forms available for the public.

**Chairman Hawkins declared the Public Hearing open at 7:07 p.m.** There were no comments from the public. **Chairman Hawkins declared the Public Hearing closed at 7:08 p.m.**

**PUBLIC COMMENT**

Gerry Hunsicker: Mr. Hunsicker thanked Commissioners for withdrawing from the GroWNC consortium. He said this is all part of a collective effort of government and government-sponsored agencies to an invasion of personal property rights and eventually into totalitarianism, socialism, or communism. He

urged Commissioners to work to protect the freedom and rights of those in the County who are not well established financially and therefore will be most heavily affected by the decisions this Board makes.

Eddie Glance: Mr. Glance said he has been doing research on local government spending back to 2007 and has been trying to use reference points from other counties. In his research he has learned that this County allows far more accessibility to records online and he thanked Commissioners and staff for providing this information openly and freely to the people via the County website. Mr. Glance also thanked Commissioners for doing their research on the GroWNC initiative and subsequently making the decision to withdraw from the consortium. He hopes Commissioners will not reconsider their position.

Richard Winchell: Mr. Winchell inquired as to which Commissioners have taken ethics courses as required by State law. Chairman Hawkins responded that this time is for public comment and that Commissioners will respond to him during the Commissioners' comment period. Commissioner Lemel did note that she has signed up for the ethics course as it is included in her training courses for new Commissioners.

Mr. Winchell said there are trainings being offered in 2013 on strategic planning and water management and he asked which Commissioners were planning to attend those courses.

Larry Franklin: Mr. Franklin said he read the article in the local newspaper about Commissioners voting to withdraw from GroWNC. The newspaper indicated the withdrawal was in response to a Communist conspiracy. He wondered if this was true and asked Commissioners to explain their reasoning from withdrawing from the consortium. Chairman Hawkins said Commissioners will respond during the Commissioners' comment period.

### AGENDA MODIFICATIONS

There were no agenda modifications.

**Commissioner Chapman moved to approve the agenda, seconded by Commissioner Lemel and unanimously approved.**

### CONSENT AGENDA

**Commissioner Lemel moved to approve the Consent Agenda as submitted, seconded by Commissioner Chapman and unanimously approved.**

The following items were approved:

#### MINUTES

The minutes of the November 26, 2012 regular meeting and December 3, 2012 oath of office ceremony and organizational meeting were approved.

#### WESTERN HIGHLANDS FISCAL MONITORING REPORT

The First Quarter FY 2013 Financial Report for Western Highlands LME was accepted.

#### CANCELLATION OF THE SECOND BOARD OF COMMISSIONERS' MEETING IN DECEMBER

Commissioners approved the cancellation of the second Board of Commissioners' meeting in December. The Clerk will properly advertise.

## OLD BUSINESS

### REVISIONS TO EMERGENCY MANAGEMENT ORDINANCE

The State of North Carolina revised General Statute 166A, North Carolina Emergency Management Act. The revisions to the Statute required Transylvania County staff to review the County Ordinance and recommend revisions to ensure compliance with General Statute 166A and provide the County with the ability to provide protective measures during an emergency to ensure the safety and well being of its citizens and visitors.

At the previous meeting, a member of the audience asked that the revisions are made available to the public for inspection prior to approval by the Board of Commissioners. The Board tabled the item until this meeting and instructed staff to place a copy of the revisions on the County website. The Clerk ensured the revisions were posted on the website the following day.

Emergency Management Director David McNeill noted that most of the changes are definition changes in order to be consistent with the NC Emergency Management Act. It also clarifies that Commissioners or the Chairman can declare states of emergency, but not disasters. The Statute gives Commissioners the flexibility, by ordinance, to give the authority to the Chairman or the whole Board. Mr. McNeill recommended leaving the responsibility with the chairman because time is of the essence during emergencies.

During the period that the revisions were posted on the website, several questions about the revisions were asked by Commissioners and a citizen. Staff responded accordingly to each. Mr. McNeill noted that some of the wording was slightly revised from the Statute at the recommendation of the County Attorney, but it remains consistent with the Act. Mr. McNeill also stated the section pertaining to dangerous weapons was reviewed by the County Attorney to ensure these were defined correctly to avoid future litigation.

Lastly, Mr. McNeill pointed out that restrictions Commissioners can put in place during emergencies (curfews and banning alcohol sales, for example) are not put in place automatically. Commissioners have the option of choosing which restrictions to impose depending on the type of emergency event.

Commissioner Chapman inquired about what procedures are in place to ensure all emergency management organizations are familiar with the ordinance. Mr. McNeill said anyone having any responsibilities within the County's Emergency Operations Plan will receive a copy of the ordinance.

Commissioner Chappell said the current ordinance indicates that the Chairman or the Board can declare a state of emergency and he asked for confirmation that that has not changed. Mr. McNeill confirmed that no revisions were made to that section of the ordinance.

It was also noted at the previous meeting that Department Heads and others, including Commissioners, must review the Emergency Operations Plan prior to approval by the Board. Once everyone has had a chance to review and comment, staff will bring it forth for approval.

**Commissioner Lemel moved to approve Resolution 52-12 Revisions to Emergency Management Ordinance. The motion was seconded by Commissioner Chapman.** Commissioner Chapman thanked Mr. McNeill for responding quickly to questions about the ordinance. **The motion was unanimously approved.**

(Resolution 52-12 Revisions to Emergency Management Ordinance is hereby incorporated by reference and made a part of these minutes.)

## NEW BUSINESS

### REFINANCING AND LEASE PURCHASE BY CEDAR MOUNTAIN VOLUNTEER FIRE RESCUE, INC.

The Cedar Mountain Fire Rescue Board of Directors is pursuing refinancing their current debt to lower monthly payments and reduce the number of years remaining on their debt. Currently the department has the following debt:

Building	\$352,130.15	31 years remaining
Tanker	\$211,860.79	16 years remaining
<u>Rescue Truck</u>	<u>\$ 35,979.14</u>	<u>6 years remaining</u>
	\$599,970.08	at an annual payment of \$57,996

The Board of Directors is proposing to refinance the current debt and lease/purchase a used engine for \$50,000. United Financial is offering an interest rate of 3.39% for 15 years. The department held a public hearing as required by statute and there were no public comments received. The Manager recommended that Commissioners support the refinancing being proposed by Cedar Mountain Fire Rescue, Inc.

**Commissioner Hogsed moved to support the refinancing being proposed by Cedar Mountain Fire Rescue, Inc. and to authorize the Chairman to sign and submit a letter to United Financial of North Carolina, Inc. on their behalf. The motion was seconded by Commissioner Lemel and unanimously approved.**

### FY 2013-14 SECTION 5311 GRANT APPROVAL

Each year the NC Department of Transportation requires every county to submit a grant proposal for Section 5311 funds for the ensuing fiscal year. A required Public Hearing was held at the beginning of this meeting at which there were no comments from the public.

County Transportation Director Keith McCoy has prepared the grant application and is requesting funds totaling \$178,068. This total includes a 15% administrative match from the County in the amount of \$26,710.

For the benefit of the public, Mr. McCoy explained the services provided by his department.

**Commissioner Chapman moved to approve the Section 5311 Grant application and authorize the Chairman to sign all the necessary forms, seconded by Commissioner Hogsed and unanimously approved.**

### REQUEST TO ENTER INTO A CONTRACT WITH BLUE RIDGE COMMUNITY COLLEGE FOR SECURITY SERVICES

Blue Ridge Community College (BRCC) currently contracts individually with deputies in the Sheriff's Office to provide security services at the Transylvania County Campus. BRCC officials have contacted Sheriff David Mahoney about contracting directly with the Sheriff's Office to provide 24 hours of security services per week. The Sheriff proposes adding a permanent part time position to provide the security services. The hours of duty would be Monday through Thursday from 5:30 p.m. - 10:30 p.m. and Friday from 10:00 a.m. to 2:00 p.m. The advantage of contracting with Transylvania County is having continuity with one deputy rather than having multiple officers which give no consistency to staff. The agreement as negotiated covers all expenses of the deputy. The agreement would be for a six month period, from January 1, 2013 through June 30, 2013. The contract would be renegotiated for next fiscal year. If for some reason the contract is not renegotiated, the officer in this position could possibly continue working part time in the Sheriff's Office, but this position does not necessarily become a

permanent position. There would be no financial impact as the revenue from BRCC would offset the expenditures.

Commissioner Chappell requested to recuse himself from any vote on this matter since he is employed by Blue Ridge Community College.

Commissioner Chapman expressed concern about adding to the headcount; however he is supportive of the position since the revenues from BRCC will pay for the position.

**Commissioner Chapman moved to approve a contract with Blue Ridge Community College with the understanding that if the contract is terminated the position is eliminated and if the contract is renewed in July the revenue covers expenses. The motion was seconded by Commissioner Hogsed.** Chairman Hawkins inquired about any vehicle expenses that may be incurred. The Manager said the officer will use an existing vehicle in the Sheriff's Office and it will only be driven from the Public Safety Facility to Blue Ridge Community College. If there becomes a need for a vehicle, the costs would become part of the renegotiated contract. **The motion passed 4-0. Commissioner Chappell recused himself.**

#### HANDICAPPED LIFT FOR CHAMPION PARK POOL

The Americans with Disabilities Act (ADA) now requires that all public swimming pools provide handicapped access beginning in January 2013. Parks and Recreation Director Rick Pangle requested permission to purchase and install a handicapped lift for Champion Park Pool. The cost of the equipment is \$3,521.23 and installation is \$850, for a total of \$4,371.23. The proposal meets all the new requirements. If the County does not install the handicapped lift, there would be enormous fines imposed. Mr. Pangle intends for the lift to be installed by the end of January. The Manager proposed taking the funds from Contingency which would leave a balance of \$67,713.

**Commissioner Lemel moved to approve the installation of a handicapped lift at Champion Park Pool at a cost of \$4,371.23 with monies to come from the Contingency line item. The motion was seconded by Commissioner Chappell and unanimously approved.**

#### VOTING DELEGATE TO LEGISLATIVE GOALS CONFERENCE

Each year the NC Association of County Commissioners hosts its annual Legislative Goals Conference where the delegates decide the most important legislative goals to pursue during the Legislative Session. Each county has an opportunity to select a voting delegate to represent their county at the conference if they wish to participate.

**Commissioner Lemel moved to appoint Commissioner Larry Chapman as the voting delegate to the NC Association of County Commissioners Legislative Goals Conference. The motion was seconded by Commissioner Chappell and unanimously approved.**

#### **PUBLIC COMMENT**

Gerry Hunsicker: Mr. Hunsicker said he is the president of his community board and the community is being required by the NC Department of Environment and Natural Resources to provide an evacuation plan. He inquired as to how to go about doing this. Emergency Management Director David McNeill said an engineer is required to design evacuation plans because it requires someone with hydrologist expertise to determine the impact to the community should the dam burst. Once that is complete, a copy should be provided to the County's Emergency Management department so the County will know how to act in case of an emergency. However, the property owners can complete an evacuation plan themselves if they are comfortable doing so. With that, however, comes liability if someone is impacted negatively by the plans put in place.

## COMMISSIONERS' COMMENTS

Commissioner Chapman apologized for not being able to attend the last Board meeting. He was out of the country with his work commitments. Commissioner Chapman stated that he wanted the public to be aware that he requested that any vote on the GroWNC initiative be delayed so he could be part of the discussion. While he has major concerns about the initiative (links to Agenda 21, eventual impact on personal property rights, etc.), he said he would have voted to remain in the consortium in order to remain educated on this process. No proposals have yet to come out of the work groups and committees and he said he would much rather know what this group is doing. Commissioner Chapman closed by saying regionalization efforts are not going away because this County takes a position not to participate in such processes.

Commissioner Hogsed said he voted to withdraw from the consortium because of his concerns with the makeup of the steering committee which he feels does not represent Transylvania County well. He noted that the steering committee is largely made up of individuals from special interest groups and Buncombe County. Commissioner Hogsed believes the outcomes will be very predictable regarding energy, land use controls, water controls, etc. and he believes this County can decide those things for itself.

Commissioner Chapman responded to Mr. Franklin from the first public comment period. He informed Mr. Franklin that he has completed the required ethics training.

Commissioner Hogsed responded to Commissioner Chapman's comments about his request to delay the vote to another meeting. He said he expected the sitting Board at the time to make the decision on whether to remain in or withdraw from GroWNC. Commissioner Hogsed said he was open to the possibility of scheduling a special meeting to decide on the matter if necessary.

Chairman Hawkins responded to Mr. Franklin as well. He said he has taken the ethics training; however Commissioners must retake the course after being reelected which he plans to do in January. He noted that this is one of many training programs he has been through and it the responsibility of Commissioners to take advantage of every opportunity available.

Commissioner Lemel reported over the last two weeks she has attended numerous meetings, events, interviews, seminars, etc. She said she is trying very hard to reach out to some of the more strained relationships from the past and rebuild some coalitions with the City of Brevard and school system. Commissioner Lemel said she is very grateful for the opportunity to serve the people of this County and she is looking forward to learning more about her new position as County Commissioner.

Commissioner Chappell explained his vote on the GroWNC initiative. He said this has been a divisive issue in the County and that alone is a good reason not to participate. He also disagreed with the potential return on investment and did not feel it was best for Transylvania County. Commissioner Chappell also responded to Mr. Franklin that he has taken ethics training as required and will be taking it again as required by statute since he was just reelected.

Commissioner Hogsed thanked staff and expressed appreciation for the work they do. He also wished everyone a Merry Christmas and Happy New Year.

Chairman Hawkins said the discussions about GroWNC have been so negative that it sometimes overshadows good things that are going on. He reported that the Town of Rosman has a possibility of being involved in the NC Main Street program, which came as a result of a luncheon with Rosman officials while discussing different issues. The County is working on a few other items with Rosman that have the potential to be very positive for the Town. Chairman Hawkins reported that a joint meeting occurred last week of the Planning Board and Transportation Advisory Committee. It was an extremely positive meeting where members discussed common issues of planning and transportation.

Commissioner Hogsed reported that he has not had the opportunity to take the ethics training this term but he intends to in the near future.

Commissioner Chappell publicly thanked all those who have donated to the Friends of the Animal Shelter.

**Commissioner Chappell moved to enter into closed session per NCGS 143-318.11 (a) (3) to consult with an attorney, (4) to discuss matters relating to location or expansion of industries or businesses, and (5) potential acquisition of real property, after a 10 minute recess. The motion was seconded by Commissioner Chapman and unanimously carried.**

#### **CLOSED SESSION**

Per NCGS 143-318.11 (a) (3) to consult with an attorney, (4) to discuss matters relating to location or expansion of industries or businesses, and (5) potential acquisition of real property, closed session was entered into at 8:22 p.m. Present were Chairman Hawkins, Commissioners Chapman, Chappell, Hogsed and Lemel, County Manager Artie Wilson, County Attorney David Neumann, and Clerk to the Board Trisha Hogan.

The Manager updated Commissioners on a potential economic development project. Commissioners consulted with the County Attorney and instructed staff on how to proceed.

**Commissioner Chappell moved to leave closed session, seconded by Commissioner Chapman and unanimously carried.**

#### **OPEN SESSION**

**Commissioner Chappell moved to seal the minutes of the closed session until such time that opening the minutes would not frustrate the purpose of the closed session. The motion was seconded by Commissioner Chapman and unanimously approved.**

#### **ADJOURNMENT**

There being no further business to come before the Board, **Commissioner Chappell moved to adjourn the meeting, seconded by Commissioner Lemel 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