

**MINUTES**  
**TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS**  
**April 8, 2013 – REGULAR MEETING**

The Board of Commissioners of Transylvania County met in regular session on Monday, April 8, 2013 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 Tony Dalton, and Clerk to the Board Trisha Hogan.

Media: *The Transylvania Times* – Derek McKissock

There were approximately 60 people in the audience.

**CALL TO ORDER**

Chairman Mike Hawkins presiding called the meeting to order at 7:05 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 COMMENT**

There were no comments from the public.

**AGENDA MODIFICATIONS**

There were no agenda modifications.

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

**CONSENT AGENDA**

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

The following items were approved:

MINUTES

The minutes of the March 5, 2013 joint meeting with the Board of Education, the March 19, 2013 special meeting to review the FY 2014 budget requests, and the March 25, 2013 regular meeting and sealed closed session were approved.

### FACILITIES USE REQUESTS

The use of the Courthouse gazebo by the Heart of Brevard on Friday, April 12, 2013 from 5:00 p.m. to 10:00 p.m. to provide music entertainment for riders during preregistration of the Assault on the Carolinas bike race was approved.

The use of the South Broad and New Adventure Learning Center parking lots by the City of Brevard on Saturday, May 4, 2013 from 7:00 a.m. to 4:00 p.m. to provide an outdoor education day and bike rodeo for children ages 5-12 was approved.

### **PRESENTATIONS/RECOGNITIONS**

#### SILVERMONT PLANNING TEAM

The Board of Commissioners engaged Harris Architects to prepare a preservation plan for the Silvermont Mansion. The Silvermont Strategic Planning Team worked closely with Harris Architects and Wildwood Design to develop recommendations for upgrading the mansion. Members of the Silvermont Strategic Planning Team updated Commissioners on their findings and shared their recommendations for the mansion and grounds in great detail. They also shared with Commissioners much of the work that has already been done to improve the property.

The recommendations are broken down into four phases. The summary of the recommendations includes action to be taken from now through 2017. The 100<sup>th</sup> anniversary of the property falls in 2017 and the intent is to have a huge celebration on the property at that time.

To summarize, the phases for the mansion are as follows:

<u>Phase</u>	<u>Date Range</u>	<u>Action</u>	<u>Estimated Cost</u>
Phase A	July 1, 2013-June 30, 2014	stabilize the exterior of the house	\$323,906
Phase B	July 1, 2014-June 30, 2015	make interior upgrades and repairs	\$713,011
Phase C	July 1, 2015-June 30, 2016	make improvements to mansion porch roof and carriage house	\$187,428
Phase D	July 1, 2016- June 30, 2017	finish 3 <sup>rd</sup> floor and provide elevator access	\$766,767

There are also a number of improvements recommended for the grounds. Besides better maintenance and addressing safety issues, recommendations included relocating the basketball court to another part of the property and repurpose the area in front of the mansion as a meeting place and event venue, resurfacing the tennis courts, building a new children's playground, and improved landscaping and additional amenities that would make the park more attractive and user friendly.

The Strategic Planning Team understands that it will take a public /private partnership to complete all four phases. They are committed to embarking on fundraising activities and writing grants to help with finances. The first priority is to stabilize the mansion, which appears could be done with existing funds in the Silvermont Reserve.

The Manager asked Commissioners to accept the report and authorize him to work with the Silvermont Strategic Planning Team to propose a budget for FY 2014 for stabilizing the mansion using Unassigned Fund Balance from the Silvermont Reserve.

**Commissioner Lemel moved to accept the report from the Silvermont Strategic Planning Team and to authorize the Manager to work with the Silvermont Strategic Planning Team to propose a budget for FY 2014 for stabilizing the mansion using Unassigned Fund Balance from the**

**Silvermont Reserve. The motion was seconded by Commissioner Chapman.** Commissioner Chapman asked members of the Strategic Planning Team if they considered a larger area at the Silvermont Mansion for entertainment purposes. It seems to him there is a need for a venue to hold concerts and other large events and he hopes that will be considered once the changes and upgrades start being made on the grounds of the property. Commissioner Lemel said she was impressed with the plans and the thoughtfulness of the report. She thanked all those that worked on this plan. She believes this is a great opportunity for the County to preserve something that has been significant in the history of the formation of Transylvania County. Commissioner Hogsed also thanked all those who worked on this plan. He said he looks forward to working with the different groups to help preserve Silvermont. Chairman Hawkins clarified the request from the Manager that his intent is to come back before Commissioners during the budget process to consider funds for FY 2014. The Manager confirmed. Chairman Hawkins commented that he is excited about the work ahead because Silvermont as a whole is not as good as it should be. He also hopes the work will reach their goal of bringing the house and the grounds up to a standard of excellence fitting their place in the history of Transylvania County and their potential future role in the community. **The motion passed unanimously.**

## APPOINTMENTS

### ABANDONED CEMETERIES BOARD

Drew Suddeth was appointed to the Abandoned Cemeteries Board in March 2011 for a period of one year. The position was temporary and for the purposes of allowing a young person to learn about cemeteries and how to keep track of them thereby preserving the County's heritage. Drew has assisted his mother, Rebecca Suddeth, in cemetery surveys and clean-ups for a number of years. The Abandoned Cemeteries Board feels Drew is an asset to the board and he was subsequently reappointed to another one-year term in April 2012. They request that the Board of Commissioners appoint him to a third one-year term.

**Commissioner Lemel moved to reappoint Drew Suddeth to the Abandoned Cemeteries Board for another year with his term to expire April 2014. The motion was by seconded by Commissioner Chapman.** Commissioner Chapman very much supported the reappointment of Mr. Suddeth. He informed the public that the Abandoned Cemeteries Board is active in surveying known abandoned cemeteries in the County. Abandoned cemeteries fall under the purview of the local government. This helps for the cemeteries to be pinpointed on a map so the locations are known, preventing developers and others from building on top of them or destroying them. **The motion passed unanimously.**

### AGRICULTURAL ADVISORY BOARD

Shelley Heath's term expires at the end of April. She is eligible and willing to serve another term. There are two other applications on file. Stephen MacLeod currently serves on the Transylvania Natural Resources Council. Ruth Harris is still interested in serving but she expressed in an email that she has a lot going on right now.

**Commissioner Lemel moved to reappoint Shelley Heath to serve another 3-year term, seconded by Commissioner Chappell and unanimously approved.**

### TRANSYLVANIA NATURAL RESOURCES COUNCIL

There is a vacancy on the Transylvania Natural Resources Council due to the death of Sid Cullipher. The Clerk advertised for the vacancy on March 14 and received one application from Peter Chaveas. There is also an application on file from Larry Nelson and he currently serves on the Economic Development Advisory Board.

County Cooperation Extension Director Eric Caldwell advised that Mr. Chaveas already attends these meetings and has been very helpful in securing speakers for the current workshop series they are hosting.

**Commissioner Lemel moved to appoint Peter Chaveas to fill the unexpired term of Sid Cullipher with his initial term to expire September 2013. The motion was seconded by Commissioner Chapman. The motion passed by a vote of 4 to 1, with Commissioner Hogsed voting against.**

## OLD BUSINESS

### BIDS FOR SIDEWALK AT PUBLIC SAFETY FACILITY

The County has been in discussion with the City of Brevard regarding the construction of an interior sidewalk from Morris Road to the Public Safety Facility. In December 2011 the County requested permission from the City to allow the County to “pay in lieu of” rather than construct the interior sidewalk. The City responded in May 2012 that this was an ordinance requirement and payment in lieu of was not an option. The City did allow a one year extension until June 1, 2013 for the sidewalk to be constructed.

Purchasing Agent Michelle McCall reported that the County recently advertised for bids and received nine bids ranging from \$24,825 to \$59,375. An evaluation committee met to review all submitted bids in order to determine the lowest responsive responsible bidder. The lowest bid received was by Scott Mathis in the amount of \$24,825. The first part of the evaluation committee’s due diligence was to check the references listed by the contractor on the bid form. The references listed however were from another company that his business partner previous worked for. The evaluation committee determined Mr. Mathis was not a responsible bidder in that he had received disciplinary action by the NC Licensing Board for General Contractors and by other information obtained from the Transylvania County Clerk of Court. Therefore the bid from Mr. Mathis was rejected. The next lowest responsive and responsible bid is Trace and Company at \$28,964. All three references listed on their bid form were favorable. Their license is active and they have had no complaints or disciplinary action. Mr. McCall reported that staff consulted with the School of Government and the County Attorney on both of these issues pertaining to Mr. Mathis’ and both agreed with the evaluation committee’s recommendation to reject the Mr. Mathis’ bid and to award the contract to Trace and Company.

**Commissioner Lemel moved to accept the bid from Trace and Company for \$28,964, with a project budget of \$31,860, which includes a 10% contingency, with funds to come from the Assigned portion of the Fund Balance. The motion was seconded by Chairman Hawkins.** Commissioner Chapman expressed his opposition to this project because he believes it is a waste of taxpayer dollars. He explained to the members of the audience that the County requested to pay the City funds in lieu of the sidewalk and the request was denied. The City has granted variances for other projects so he did not understand why they would not do the same for this one. He believes these monies could be put to better use. Commissioner Chappell reported that when the Public Safety Facility was being constructed, the Board of Commissioners at that time adamantly opposed having to construct the sidewalk, but they were required to abide by the City’s Unified Development Ordinance (UDO) in order to receive the Certificate of Occupancy for the Public Safety Facility. He said the City allowed the County to postpone the project to mid-2013 and now it is time for the County to meet its obligation. Commissioner Lemel agreed with both Commissioners. She said the rules are absurd but the County has no choice in the matter, otherwise the County may be sued by the City or, worse; lose its Certificate of Occupancy. Until changes are made to the City’s UDO, the County must comply and construct the sidewalk. Commissioner Hogsed also informed the public that the Board fought hard against having to build the sidewalk, especially because the sidewalk leads to a ditch and does not connect to another sidewalk. However, he recognized the County has an obligation to construct the sidewalk. **Commissioner Hogsed offered an amendment to the motion to erect a warning sign at the sidewalk informing citizens that the sidewalk had to be**

**constructed because of the unwillingness of City Council to exercise common sense and to warn people that the sidewalk drops off into a ditch. The amendment to the motion was seconded by Commissioner Chapman.** Commissioner Chappell said he is not opposed to erecting such a sign stating why the County must build the sidewalk and the danger of its location. He remembered the neighbors were also opposed to the sidewalk. He believes that the wording should be modified. Chairman Hawkins noted that Commissioners have been arguing against the sidewalk and UDO regulations for some time now and it has not gained any traction with City residents, who are the very people that elect City Council members. To him, that indicates that City residents do not see the UDO as a problem. Chairman Hawkins said he sees no point in using such words on a sign. He agreed that the sidewalk there makes no sense unless the City builds the connector sidewalk along Morris Road. However, this and other Boards of Commissioners have done everything possible to fight this and it is time to move forward. Commissioner Chappell again stated there should be additional discussion on the wording of the sign. **Commissioner Chapman offered a second amendment suggesting the wording on the sign be determined at a later date. There was no objection to the suggestion and the amendment was seconded by Commissioner Chappell. The amendments to the motion passed by a vote of 3 to 2, with Chairman Hawkins and Commissioner Lemel voting against.** With regards to the bids, Commissioner Chappell said he takes no issue with the lowest bidder's references being from an associate/business partner. He did express concern about some other issues that arose. The Manager noted that Mr. Mathis submitted a letter to Commissioners today which staff forwarded to the School of Government. Ms. McCall received the response from the School of Government. She noted that the bid requirements asked for references from three recently completed projects. Mr. Mathis listed three projects and upon checking the references, Ms. McCall learned they were for another company and were not truly Mr. Mathis' references. His business partner was an employee of the other company at the time. The School of Government felt this made Mr. Mathis' bid nonresponsive. There was no further discussion and **the main motion passed by a vote of 4 to 1, with Commissioner Chapman voting against.**

## NEW BUSINESS

### TRANSYLVANIA COUNTY POLICY "REQUESTS FOR USE OF COUNTY BUILDINGS AND GROUNDS"

The current policy for use of County buildings and grounds requires a two week notice and approval by the Board of Commissioners. There have been cases where individuals have asked to use County buildings and grounds during intervals prior to any County Commission meeting. In order to help facilitate the use of County buildings and grounds, staff is requesting permission to change the policy to authorize the County Manager to make the decision on whether requests are a proper use of County buildings and grounds. The Manager would bring special requests that are outside the norm or controversial requests to the Board for approval.

**Commissioner Lemel moved to approve the new Policy "Requests for Use of County Buildings and Grounds". The motion was seconded by Commissioner Chappell.** Commissioner Lemel commented that the policy seems short and simple and wondered if there should be a more comprehensive policy. The Manager feels this policy will suffice for the few buildings that will be requested for use. Other facilities have their own policies and are managed by the department head. Commissioner Chapman was supportive of the recommended changes. Commissioner Hogsed preferred that requests be brought before the Board and for requests that are not submitted in time for approval by the Board to be approved by the Manager. Commissioner Chappell was also supportive of the changes but asked the Manager to inform Commissioners of any denials to use County facilities. **The motion passed by a vote of 4 to 1, with Commissioner Hogsed voting against.**

### MANAGER'S REPORT

The Manager reported that counties within the Western Highlands Network Managed Care Organization (MCO) received notice on Friday that the NC Department of Health and Human Services (DHHS) intends to terminate its Medicaid contract with the MCO effective July 31, 2013. What was shocking and disappointing about the announcement was the fact that it was made via email late on a Friday afternoon without prior knowledge or indication from DHHS. Another frustration expressed by the Manager was that the transition to an MCO was completed within a short time frame and the financial deficit was turned into a surplus. The MCO also had to hire a very large number of people to get through the transition. Now he does not know what may happen to those people. The Manager assured Commissioners that the MCO intends to ensure a seamless transition through this process. The Manager believes this action by DHHS is part of the State's effort to reduce the number of MCO's across the State.

Commissioners expressed disappointment at how this was handled by the State. They expressed their appreciation to the Manager for his hard work in the effort to ensure adequate mental health services are provided to citizens in Transylvania County. Commissioner Hogsed suggested a possible letter from the Board demanding an explanation and informing the State that counties should expect better services. Chairman Hawkins reminded Commissioners that they are scheduled to meet with Senator Apodaca and Representative Whitmire next week and this should be a topic of discussion. He expressed concern about the short time frame allowed for the transition.

### **PUBLIC COMMENT**

Judith West: Ms. West is a mental health provider and contracts with Western Highlands Network to provide services. She stated that this is the first she had heard of the State discontinuing its Medicaid contract. She expressed disappointment, noting that the paperwork to become a provider was a lengthy process and she is afraid this action will cause there to be even less providers. She asked Commissioners to do whatever they can to make the transition as seamless as possible.

Edwin Jones: Mr. Jones commented about economic development and a recent article he read that bothered him. The article indicated that over the last 10 years there has been \$10 million a year brought into Transylvania County. The article did not specify if the \$10 million was in investment, payroll, etc. He wondered where it was going because he does not see a \$100 million overall improvement in the business climate within the last 10 years.

Mike West: Mr. West commented that having to construct a sidewalk at the Public Safety Facility is an indication of intrusive government. He asked Commissioners why they do not continue to fight this matter with the City because that is the only way real change can occur. He believes it is worth spending the money to fight against it.

Don Surette: Mr. Surette commented about the Silvermont agenda item. He asked about the cost involved to complete the phases. The Manager responded and informed him that phase one was estimated at over \$300,000. The total cost was nearly \$2 million and it is the intent that funds would come from a public/private partnership. Mr. Surette asked Commissioners about a public meeting on the biomass project. The Manager informed him there is a public meeting on Thursday night of this week at 7:00 p.m. in the Rogow Room at the Library.

Wayne Hennie: Mr. Hennie agreed with Commissioner Hogsed about putting up a sign at the sidewalk on Morris Road, but also with Chairman Hawkins about being tactful. He understands this is a decision the Board has made reluctantly. Mr. Hennie asked Commissioners when they intend to fight the UDO because it is ridiculous. Mr. Hennie also commented about a recent email he sent Commissioners about a proposal to create a mountain bogs preserve. The deadline for input on the report is due by Wednesday of

this week; otherwise the County is going to lose 11.4% of its taxable land. This is going to have a negative impact to the County's budget. He urged Commissioners to take a stand. Mr. Hennie commented that Representative Whitmire is aware of the issue and is adamant about not letting it happen.

Commissioner Chapman encouraged him to also take his concerns about the UDO to City Council.

Unidentified Gentleman: A man from the audience commented about the sidewalk issue also, stating that his tax dollars are essentially being thrown away and that the UDO makes people and businesses do things that are not right. He wondered when this is going to stop.

### COMMISSIONERS' COMMENTS

Commissioner Chappell thanked the public for their comments about the sidewalk and he shared their concerns. He assured them that the Board has fought this issue with the City. If the County refused to build it, then the County would be sued and he does not feel right about spending taxpayer dollars on a lawsuit. He said the City is following their ordinances in which the State allows them to impose.

Commissioner Lemel pointed out that cities are granted power to make their own rules and regulations as allowed by the State. She encouraged the public to attend City Council meetings. She encouraged participation at all local government meetings because change occurs starting at the smallest level of government. Commissioner Lemel also noted that she had requested a budget from the Board of Education that was easier to understand and she has yet to receive it. She did not want to be the lone voice asking for an understandable budget and encouraged citizens to attend Board of Education and demand transparency from them as well. In order to affect change, citizens must take responsibility and challenge those who have control. Commissioner Lemel intends to participate in a rules and procedure workshop later this week which is sponsored by the School of Government. She is also going to attend the NC Association of County Commissioners regional workshop at Western Carolina University this week as well.

Commissioner Chapman requested that Commissioners review the current accrued vacation policy. The accrued vacation liability in the budget is expected to total approximately \$1.3 million by the end of June. He commented that in the private sector, employees must use their vacation or lose it and they are not allowed to carry it over to another year or convert it to sick time. He requested to review the policy because the liability is a significant part of the budget.

Commissioner Hogsed commented about the sidewalk issue. He assured the public that the Board has appealed to the City and even requested to construct the sidewalk at the same time as the City. He noted that not once did the County seek to be relieved of its obligation, but rather to find a way to better spend the monies so it would be beneficial to both the County and the City. Commissioners must now meet its obligation and not risk losing the Certificate of Occupancy for the Public Safety Facility. He said that City Council frequently asks citizens and business owners to report problems with the UDO, and for the record, Commissioner Hogsed stated that this is a problem and a specific example of how the UDO costs taxpayers unnecessarily. Commissioner Hogsed also commented about the recent passing of former British Prime Minister Margaret Thatcher, calling her a true patriot and a friend and ally of the United States.

Chairman Hawkins commented that the Goldsmith Report on economic development recommended that the County and City review its ordinances in an effort to become more business friendly.

**Chairman Hawkins moved to enter into closed session per NCGS 143-318.11 (a) (3) to consult with an attorney and (a) (4) to discuss matters relating to expansion of an industry, after a 5 minute recess. The motion was seconded by Commissioner Chappell and unanimously carried.**

#### **CLOSED SESSION**

Per NCGS 143-318.11 (a) (3) to consult with an attorney and (a) (4) to discuss matters relating to the expansion of an industry, closed session was entered into at 8:35 p.m. Present were Chairman Hawkins, Commissioners Chapman, Chappell, Hogsed and Lemel, County Manager Artie Wilson, Planning and Economic Development Mark Burrows, County Attorney Tony Dalton, and Clerk to the Board Trisha Hogan.

Commissioners and staff consulted with the attorney on an economic development matter. Commissioners instructed staff on how to proceed.

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

#### **OPEN SESSION**

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

#### **ADJOURNMENT**

There being no further business to come before the Board, **Chairman Hawkins 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