

MINUTES
TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS
December 12, 2016 – REGULAR MEETING

The Board of Commissioners of Transylvania County met in regular session on Monday, December 12, 2016 at 7:00 p.m. in Commissioners Chambers at the County Administration Building, located at 101 S. Broad Street, Brevard, NC.

Commissioners present were Chairman Larry Chapman, Jason Chappell, Vice-Chairman Mike Hawkins, Page Lemel and Kelvin Phillips. Also present were County Manager Jaime Laughter, County Attorney Tony Dalton and Clerk to the Board Trisha Hogan.

Media: *The Transylvania Times* – Derrick McKissock

There were approximately 50 people in the audience.

CALL TO ORDER

Chairman Larry Chapman presiding declared a quorum was present and called the meeting to order at 7:00 p.m.

WELCOME

Chairman Chapman welcomed everyone to the meeting and thanked the members of the public for participating in their local government. He congratulated Commissioners Chappell, Hawkins and Lemel on their recent reelection to the Board of Commissioners. He introduced Commissioners and staff in attendance.

PUBLIC COMMENT

There were no public comments.

AGENDA MODIFICATIONS

There were no agenda modifications from staff. Commissioner Hawkins requested to add an item under Old Business to discuss the Vice-Chair position.

Commissioner Hawkins moved to add an item under Old Business to discuss the Vice-Chair position, seconded by Commissioner Lemel and unanimously approved.

CONSENT AGENDA

Commissioner Lemel moved to approve the Consent Agenda as presented, seconded by Commissioner Chappell and unanimously approved.

The following items were approved:

MINUTES

The Board of Commissioners met in regular session on October 10, 2016 and in special session on November 30, 2016 for the purposes of going into closed session to discuss a personnel matter. The minutes of the closed session were sealed. The Oath of Office Ceremony and Organizational Meeting of

the Board of Commissioners were held on December 5, 2016. Commissioners approved the minutes as submitted.

CANCELLATION OF THE DECEMBER 28TH BOARD OF COMMISSIONERS' MEETING

Staff recommends the Board of Commissioners cancel the December 28 regular meeting. Transylvania County offices are closed for the Christmas holiday on Monday, December 26 and Tuesday, December 27. The Board of Commissioners' Rules of Procedure states that the regular meeting schedule is the 2nd and 4th Mondays of each month except when a meeting falls on a holiday, it will be held on the next business day. Therefore the 2nd regular meeting in December is scheduled for Wednesday, December 28. There is no pressing business and staff would like to utilize vacation time during the holiday season prior to the next meeting which is scheduled for January 9. Commissioners approved cancelling the December 28 Board of Commissioners meeting and instructed the Clerk to post and publish appropriate notice.

UNSEAL CLOSED SESSION MINUTES

The Clerk recently met with the County Manager and County Attorney to review the sealed closed session minutes and recommended unsealing two sets of minutes related to economic development. Commissioners authorized staff to unseal the sealed closed session minutes from January 12, 2015 and December 14, 2015 and make available for public inspection. Commissioner Chappell thanked staff for continuing to review sealed closed session minutes on a regular basis.

REVISED SHERIFF'S OFFICE RECORDS RETENTION SCHEDULE

The Government Records Section of the NC State Archives located within the NC Department of Cultural Resources has issued an amendment to the County Sheriff's Records Retention and Disposition Schedule. This amendment reflects changes in North Carolina law concerning law enforcement audio and video recordings as set out in HB972, Law Enforcement Records/No Public Record, which went into effect on October 1, 2016.

This amendment establishes a 30-day retention period for audio and video recordings and makes exceptions to keep the recordings longer if the recording is part of a criminal case. This schedule amendment must be approved by the Sheriff and the Board of County Commissioners for use by the Sheriff's Office.

Commissioners approved the revised Sheriff's Office Records and Retention Schedule and instructed the Clerk to obtain the necessary signatures and send the signature page to the Government Records Section as instructed on the form.

DISCOVERY, RELEASE AND MONTHLY SETTLEMENT REPORT

Each month the Tax Administrator has a listing of proposed releases for that month. The Board of Commissioners has the responsibility of approving the releases. For the month of November, total tax dollars released was \$1,370.99 and refunds totaled \$652.50. Commissioners approved the Discovery, Release and Monthly Settlement Report for November 2016.

PRESENTATIONS/RECOGNITIONS

RECOGNITION OF CITIZEN ADVISORY COUNCIL MEMBERS

In July 2015, the Board of Commissioners implemented a recognition program for the purposes of expressing their appreciation to citizens who volunteer their time and expertise on the County's many citizen advisory councils. Commissioners intend to recognize those citizen volunteers on a semi-annual basis. This period will cover July 1, 2016-December 31, 2016. Each person in attendance was presented with a certificate of appreciation and a coffee mug. The Clerk will mail certificates to those citizen

volunteers that were unable to attend or have moved out-of-county. Those citizens whose term either expired or ended during the period July 1-December 31, 2016 are as follows:

Citizen Advisory Council	Citizen Volunteer
Abandoned Cemeteries Board	John Monteith
Brevard Planning and Zoning Board	Kimsey Jackson
Board of Health	Linda Schieve
Nursing & Adult Care Home Advisory Committee	Jane Williams
Parks and Recreation Commission	Danielle Major Ryan Seymour
Planning Board/Board of Adjustment	Wayne Hennie Jackie Whitmire (sister Susan Breedlove accepted on her behalf)
Transylvania County Tourism Development Authority	Randy Burgess
Transylvania Natural Resources Council	Stephen MacLeod Marshall McCallie

COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR FY 2015-2016

Finance Director Gay Poor introduced Kari Dunlap with Martin Starnes and Associates who presented the FY 2015-2016 Annual Financial Report for Transylvania County. She made her presentation via Power Point. This is a summary of her presentation:

Annual Financial Report for FY Ended June 30, 2016

Audit Highlights

- Unmodified opinion – found no material misstatements that led auditors to believe financial statements would be misleading to the reader
- Cooperative staff

Planning Process

- Planning and risk assessment – planning starts as they are leaving the field the previous year; reads Board minutes throughout the year
- Interim procedures – compliance testing, internal controls testing
- Final procedures – performs financial statement analysis and begins drafting of the financial statements; issues the audit opinion
- Year-round process – constant contact with Finance Office

General Fund Summary

- Revenues increased by \$380,000
- Expenditures increased by \$380,000
- Total revenues were \$47.1 million
- Total expenditures were \$46.6 million
- Revenues include transfers in and capital lease obligations issued
- Expenditures include transfers out

Total Fund Balance-General Fund

- Total Fund Balance \$24.8 million
- Increase of \$614,628 or 2.5%

Fund Balance

- Available fund balance as defined by Local Government Commission (LGC) is calculated as Total Fund Balance less Non-spendable less Stabilization by State Statute
- This is the calculation utilized as the basis for comparing the County to other units and calculating fund balance percentages
- Stabilization by State Statute is basically accounts receivables which are not available for spending

Fund Balance Position-General Fund

- Total Fund Balance \$24.8 million, less Non-spendable of \$49,334 and State Statute of \$3.1 million left an Available Fund Balance of \$21.5 million, an increase of over \$700,000 from the previous year

Fund Balance

- Serves as a measure of the County's financial resources available.
 - Assets – Liabilities – Deferred inflows of resources = Fund Balance
- 5 Classifications:
 - Non-spendable - not in cash form
 - Restricted - external restrictions (laws, grantors)
 - Committed - internal constraints at the highest (Board) level-do not expire, require Board action to undo
 - Assigned - internal constraints, lower level than committed
 - Unassigned - no external or internal constraints

Fund Balance Position-General Fund

- General Fund only:
 - Non spendable – inventory and prepaid (\$32,578 and \$16,756) total\$ 49,334
 - Restricted – (outside source – grants law) Stabilization for State Statute \$3,150,294 – other restricted totaling \$590,247 includes general government, public safety, human services, and culture and recreation)
 - Committed – \$1,891,468 general government – retiree health insurance, \$1,105,684 law enforcement officers retirement – total \$2,997,152
 - Assigned – \$5,530,465 – includes subsequent year expenditures of \$122,710, general government (self-insurance \$1,078,144 and compensated absences \$1,030,799), \$1,600,000 Economic Development, (\$1,698,812 remaining is for various items for Public Safety, Economic Protection, Human Services, Culture and Recreation.
- Total unassigned fund balance=\$12,458,799
- Total unassigned fund balance decreased \$318,985 (2%) over 2015

Unassigned Fund Balance as a Percent of Expenditures-General Fund

- Calculated dividing Total Expenditures and Transfers Out by the Total Unassigned Fund Balance
- Unassigned Fund Balance as a percent of expenditures is 26.8%
- Different from LGC calculation because this calculation excludes all restrictions, commitments and assignments

Fund Balance as a Percent of Expenditures and Transfers to Other Funds-General Fund

- For 2016, LGC calculated available fund balance as 46.4% which equates to 5.8 months of reserve versus 45.1% in 2015
- Available fund balance in this calculation includes funds that are restricted, committed and assigned

- For FY 2016, the unassigned fund balance represents 26.8%, or 3.4 months of expenditures and transfers out; versus 27.7% or 3.5 months in FY 2015

Top 3 Revenues: General Fund

- Ad Valorem Taxes 59%
- Local Option Sales Tax 16%
- Restricted Intergovernmental 14%
- Top 3 comprise \$41.8 million, or 89%, of revenues
- Other Revenues include: other taxes and licenses, unrestricted intergovernmental, permits and fees, sales and services, investment income, miscellaneous revenues, and donations and grants

Property Tax

- Increase from prior year of \$141,173 or .5%; comparable to prior year
- Tax rate remained the same as prior year at \$0.4499
- County collection rate for FY 2015 and FY 2016 was 99.87%

Sales Tax

- Increase of \$368,938 or 5.3%

Restricted Intergovernmental

- Decrease of \$301,650 or 4.3%

Top 3 Expenditures

- Education 29%
- Public Safety 26%
- Human Services 19%
- Top 3 functions comprise nearly \$34 million, or 74%, of expenditures
- Other Expenditures include: general government, transportation, economic and physical development, cultural and recreational, and debt

Education Expenditures (Excluding Related Debt Service)

- \$13,191,706
- Increase of \$145,213 or 1.1%

Public Safety Expenditures

- \$11,842,847
- Increase of \$458,123 or 4%

Human Services Expenditures

- \$8,957,031
- Increase of \$67,982 or 0.8%

Discussion and Questions

In response to a question from Commissioner Hawkins, the audit report is made available for public inspection both at the Library and on the website.

Commissioner Hawkins commented that one of the highlights of the audit is the transmittal letter. It gives a very clear summary of summary of where we are as a community. This year's letter indicates that

the County is moving in a good direction. Ms. Dunlap agreed and added that the Management, Discussion and Analysis section does the same as well and explains how the County's funds are being spent.

Commissioner Chappell thanked the auditors for including in the transmittal letter that the actual liability of closure and post-closure landfill requirements may be different than current estimates due to changes in federal regulations. He expressed appreciation to previous Boards of Commissioners for being aware of this liability and preparing by setting aside dollars for this purpose on an annual basis which saved future citizens from absorbing the full cost of this expensive undertaking.

Commissioner Chapman thanked the Finance Director and her staff for the work they are doing to care for the County's finances. He pointed out that Moody's Investor Services recently upgraded the County's bond rating which puts the County in a preferential position to receive better rates when borrowing funds. Commissioner Chapman stated that the County ranks 6th in the State in terms of education funding per student so citizens should be proud of the County's commitment toward education.

Commissioner Chappell asked staff to revisit the idea of including a synopsis in the tax bills to show taxpayers how their dollars are being spent.

2025 TRANSYLVANIA COUNTY COMPREHENSIVE PLAN

This past fall, the Transylvania County Planning Board unanimously approved the draft 2025 Transylvania County Comprehensive Plan following almost two years of intensive community input and support. The draft plan has four distinct focus areas: 1) Economic Health, 2) Environment, 3) Land Use and Livability, and 4) Health, Culture and Equity. Each focus area has an overarching goal with narrower objectives and a number of specific strategies that the Planning Board has identified. Planning and Community Development Director Mark Burrows presented the details of the Economic Health and Environmental focus area goals, objectives and associated strategies. At the next meeting, he will present the other half of the draft plan and ask Commissioners to schedule a public hearing. This is a summary of this presentation (note: throughout the presentation Commissioners asked questions or made comments which are included in the summary below):

Vision Statement

Through leadership and community engagement, Transylvania County preserves the county's natural beauty and cultural resources while developing our built environment to improve the economic, social and cultural conditions of our county.

Commissioner Hawkins inquired about the significance of stating that the County will preserve its natural beauty and cultural resources prior to developing the built environment. Mr. Burrows said that the Planning board wanted to point out that the County's natural beauty and cultural resources have dominated how we are where we are today. From there, the County would develop its built environment with the goal of improving the economic, social and cultural conditions.

Economic Health Focus

- Goal: Transylvania County has a diverse and vibrant economic base that is business-friendly and is supported by exceptional infrastructure.
 - Objective 1: Actively supports efforts to promote and grow existing businesses and create places and policies to attract new businesses.

Commissioner Hawkins suggested replacing the passive language with active language on this objective and throughout the draft plan. Mr. Burrows agreed and will accommodate the request.

- Supported by 12 strategies; incorporated from discussions with organizations, such as the Transylvania Economic Alliance, and the public

Commissioner Hawkins felt that this objective fits better in a strategic plan rather than a comprehensive plan. Comprehensive plans should focus on the built environment and determining the likelihood of where businesses, houses and other activity are going to be. Mr. Burrows said while he understands the concerns, these items do fit within the comprehensive plan because they support the overall vision.

- Objective 2: Initiates efforts to maintain and enhance infrastructure in order to improve our unique quality of place
- Supported by 9 strategies

Commissioner Hawkins, in referring to some of the strategies, was concerned that they appeared to be tactics to meet the strategies. He believes the strategies need to be clear on what we are trying to achieve, not just for this Board, but for future Boards. There are other areas of the plan in which he has similar concerns which he intends to put in writing to staff.

Environmental Health Focus

- Goal: Transylvania County preserves, conserves, protects, enhances and utilizes its environmental and agricultural resources to provide access for outdoor experiences while increasing recreational economic development opportunities.
- Note: More than 50% of the County's land area is either owned by the federal or State government or lies within subdivisions that have deed restrictions

Next Steps

- Review focus areas 3 and 4 at Board meeting in January
- Staff will review wording on the objectives to ensure language is active, not passive
- Public hearing to be held at a future meeting
- Adopt plan after public hearing
- Follow-up and implementation will be ongoing

Thank You

- County Commissioners
- Planning Board Members
- Planning Staff
- Community Advocates

Board Discussion

Commissioner Hawkins made the point that this is meant to be a working document for this and future Boards. He said his comments are by no means criticism because the information in the plan is very good; he just wants to ensure it's presented that way. He will put his suggestions in writing.

Commissioners thanked staff and the Planning Board for their work on this document.

APPOINTMENTS

APPOINTMENTS OF TAX ADMINISTRATOR

Chairman Chapman explained the process the Commissioners went through during their search for the new Tax Administrator. He announced the appointment of Jessica McCall as the Transylvania County Tax Administrator and read aloud the press release that will be forthcoming to the media and public.

(Press Release is hereby incorporated by reference and made a part of these minutes.)

To make the appointment official, **Commissioner Chappell moved to appoint Jessica McCall as the Transylvania County Tax Administrator, seconded by Commissioner Lemel and unanimously approved.**

Ms. McCall thanked Commissioners for this opportunity. She was congratulated by Commissioners. Her appointment was met with applause by the public.

VOTING DELEGATE TO THE NCACC LEGISLATIVE GOALS CONFERENCE

The North Carolina Association of County Commissioners will hold the 2017 Legislative Goals Conference on January 12-13, 2017 in Wake County. Each Board of County Commissioners is requested to designate a Commissioner or other officials as a voting delegate for the Legislative Goals Conference. The deadline for appointing a voting delegate is January 6, 2017.

Chairman Chapman indicated in an email to Commissioners that he plans to be in Winston-Salem on January 11 for professional development and would therefore be in the general area and could attend the Legislative Goals Conference on behalf of the Board of Commissioners.

Commissioner Lemel moved to appoint Chairman Chapman as the Voting Delegate to the NCACC Legislative Goals Conference on January 12-13, 2017 in Wake County and to instruct the Clerk to forward the voting delegate form to the NCACC, seconded by Commissioner Chappell and unanimously approved.

BOARD OF HEALTH

The terms of Dr. PJ Boatwright (Veterinarian), Dr. Tony Fisher (Physician), Ben Lamm (Pharmacist), Linda Schieve (General Public), and Dr. Joseph Williams (Optometrist) expire at the end of December. Linda Schieve is not eligible to serve another term. Although Dr. Boatwright has served two full terms, no other veterinarian submitted an application to serve and he is willing to continue serving. Statute allows him to serve three full terms in his professional capacity.

Health Director Elaine Russell continues to work on filling the dentist position. The nursing position and physician position are already filled. The applicants from those disciplines would therefore not be eligible to serve in the General Public position. This has been strictly stated during the Health Department accreditation process. Those applications are included in the agenda packet for the Board's information.

Commissioner Lemel moved to reappoint the following members to the Board of Health: Dr. PJ Boatwright (Veterinarian), Dr. Tony Fisher (Physician), Ben Lamm (Pharmacist), and Dr. Joseph Williams (Optometrist), seconded by Commissioner Phillips and unanimously approved.

Commissioner Phillips noted that one of the general public membership positions has been vacant for some time and now there is another. He stressed that we need to do a better job recruiting for these positions.

BREVARD PLANNING AND ZONING BOARD

The terms of Kimsey Jackson and Christopher Strassner expire at the end of December. Kimsey Jackson has served two full terms and is not eligible for reappointment.

Applicants must reside within the City's ETJ. There are additional applications on file, but according to the City Planning Department and the County Tax Office, only one of the applicants is eligible for appointment and the applicant already serves on a Citizen Advisory Council. All of the others reside outside of the ETJ. Those applications are included in the agenda packet for information purposes only.

Commissioner Lemel moved to reappoint Christopher Strassner to the Brevard Planning and Zoning Board, seconded by Commissioner Chappell and unanimously approved.

The Board took no action on the second vacancy. The Clerk will include the vacancy in a future advertisement.

TRANSYLVANIA COUNTY TOURISM DEVELOPMENT AUTHORITY

Randy Burgess' term on the Transylvania County Tourism Development Authority (TCTDA) expires at the end of December. The TCTDA membership has reviewed all the applications on file and recommends the appointment of Seyl Park to replace Randy Burgess at the end of his term.

Commissioner Hawkins moved to appoint Seyl Park to replace Randy Burgess on the TCTDA at the end of his term. The motion was seconded by Commissioner Lemel. Commissioner Chappell thanked Mr. Burgess for his service and for being a very active member of this board. Commissioner Hawkins concurred. Chairman Chapman asked staff to research how long a member must be off of a citizen advisory council before being eligible to serve again. **The motion was approved unanimously.**

TRANSYLVANIA NATURAL RESOURCES COUNCIL

There is one vacancy for a member of the general public on the Transylvania Natural Resources Council. The Clerk has received one application to fill the vacancy. TNRC Chair Lee McMinn recommends the appointment of Davis Whitfield-Cargile to fill the vacancy on the Transylvania Natural Resources Council.

Commissioner Lemel moved to appoint Davis Whitfield-Cargile to fill the vacancy on the Transylvania Natural Resources Council, seconded by Commissioner Chappell and unanimously approved.

OLD BUSINESS

DISCUSSION OF VICE-CHAIR POSITION

Commissioner Hawkins requested to add this agenda item. He was appointed Vice-Chair at the Board of Commissioners' organizational meeting last meeting, but he does not wish to serve as Vice-Chair. He believes Commissioner Lemel would be a better Vice-Chair. He submitted his resignation letter to the Board.

Commissioner Chappell asked Commissioners to consider at a future meeting asking our legislators to perhaps give us more flexibility with scheduling our organizational meetings in the future. Chairman Chapman said he would bring up this topic at the Legislative Goals Conference.

Chairman Chapman thanked Commissioner Hawkins for his service as Chair for the last six years.

Commissioner Hawkins nominated Commissioner Page Lemel to serve as Vice-Chair, seconded by Chairman Chapman and carried by a vote of 3 to 2, with Commissioners Chappell and Phillips voting no.

NEW BUSINESS

ATTORNEY POSITION ANALYSIS: CONTRACT VS. IN-HOUSE (SEE PP)

The Manager stated that the FY 17 Budget included plans to hire an in-house attorney by October 1 to serve as both the Social Services (DSS) and County Attorney. The hiring was delayed because of additional questions posed by Commissioners. The position has since been advertised and we received

three qualified applications. Interviews have not been scheduled pending confirmation from the Board that they want to proceed with an in-house attorney. The Manager pointed out that staff conducted research on questions and concerns raised by Commissioners and the responses are included in their agenda packets.

The Manager provided a brief overview of the attorney services used by the County. The County Attorney reports to the Board of Commissioners and is, by statute, an appointed position. County departments could need attorney services for any given reason at any time. DSS Attorney services cover the areas of child support and child and/or adult protective services. For liability and specialty services, we are typically covered by a short-term contract or through our risk management coverage with the NCACC. Different counties configure legal counsel provision across departments in a many different ways. This can also vary between an in-house staff attorney, contract or contracts, or a combination of the two.

Jonathan Griffin, Management Analyst, developed the spreadsheet that is included in the Commissioners' agenda packet to help analyze what other counties in North Carolina do for legal counsel between the county attorney and DSS attorney. Some summary information from the data:

County Attorney- 42% of counties with data has salaried, in-house county attorneys

- 27 did not have full-time attorneys at all or did not have a pay status to show how they are considered in the dataset. The northeast portion of the state shares some attorney services among smaller counties.
- Of the 73 who did, 30 were salaried, in-house attorneys. These included counties we often compare to including Henderson, Cleveland, Jackson, Dare, Cherokee and Haywood.

DSS Attorney- 62% of counties with data has salaried, in-house DSS attorneys

- Of the 76 who can be analyzed:
 - 15 had the same attorney as the county attorney and it was a contract
 - 12 were salaried, in-house attorneys that are also the county attorney
 - 35 were salaried, in-house and separate from the county attorney
 - 14 had a separate attorney from the county attorney and it was a contract

The Manager reviewed the pros and cons of both options before the Board.

	Option 1 Status Quo: Keep contracts for both DSS functions and County Attorney	Option 2 Staff Attorney: Combined staff attorney for DSS and County Attorney
Pros	<ul style="list-style-type: none"> • Easier to change if service is not satisfactory • May elect to keep existing contracts with professionals who are 'known' regarding performance • Can leverage existing attorney relationships on different contracts for back up 	<ul style="list-style-type: none"> • Only client is the County; more direct accountability for work priorities and time management • Career track is local government • Less expensive option; analysis also shows some additional availability of hours for other activities like in-house training
Cons	<ul style="list-style-type: none"> • Attorneys have other contracts and clients that take priority over Transylvania County business or limit times and hours of availability • Less direct accountability within the 	<ul style="list-style-type: none"> • Will still need a backup contract at times • Change; it isn't the current option so will take time/management to transition cases, etc.

	<p>organization</p> <ul style="list-style-type: none"> • They can terminate contract at any time if they aren't satisfied with working relationship • More expensive and paying for local government-specific training that may not be used if contract turns over 	<ul style="list-style-type: none"> • If work is dissatisfactory, goes through personnel process instead of contract termination
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Staff had prepared a cost analysis during the budget process to determine if a part-time paralegal and a combined attorney position would make financial sense for the County. For this case, staff reviewed the average monthly hours being billed for DSS related services and filled the rest of the time with County support. The reason for doing this is DSS receives a percentage reimbursement from the State for hours spent on legal services. Based on this analysis, the savings from last fiscal year's actual financials is approximately \$30,000. Staff also ran an analysis on the first quarter of FY 17. Over the first quarter, DSS and Administration legal fees totaled \$76,852 with 503 hours of support. For cost comparisons, the Option 2 scenario would have resulted in a savings of nearly \$15,000 for the first quarter. The Manager pointed out that if we have the same experience moving forward, Commissioners could anticipate a higher level of savings over the projected estimate of \$30,000.

The Manager asked for guidance from Commissioners on moving forward. At this point, either option would require budget amendments to cover an unanticipated increase in billed hours by the contract attorneys, to provide funds to cover contract attorney costs because the in-house attorney was not hired by October 1 as budgeted, and potential transition costs if an in-house attorney is hired. The Manager pointed out that Option 2 was included in the budget. Commissioners will need to take formal action to do otherwise.

Commissioner Phillips moved to stay with Option 1. The motion was seconded by Commissioner Chappell. Commissioner Phillips said he has done quite a bit of research himself on this issue. He reached out to other counties in the region and their feedback was that a contract attorney has worked better for them. It seems to him that the current system in Transylvania County is working well. He stated it is critical that the attorney be very much attune to the DSS work. He said his contacts with DSS staff indicated that they are pleased with the work being done now.

Commissioner Lemel agreed that DSS should be the priority. She reminded everyone that Transylvania County has the highest DSS court continuance rate in the State at 67%. One of the biggest reasons contributing to this problem is the number of DSS court days is limited leaving a short window to get the work done. Unfortunately these cases do not take priority over jury trials or superior court cases. Commissioner Lemel also agreed that DSS court cases are working well, but pointed out that has only been since June and in one area of the department. Given the fact that these cases revolve around children and their future, she preferred an in-house attorney dedicated to these cases. She made clear that her preference is not based on the quality of job performance of the current contract attorneys.

Chairman Chapman read aloud an email from DSS Director Tracy Jones to the County Manager. The email indicated she saw pros and cons to bringing counsel in-house and contracting. She felt that the existing contract attorney that was hired in June has corrected their previous issues and she wanted to keep that contract in place for a year. With that said, she agreed that the applicants are highly qualified. She advised that if the Board of Commissioners decides not to pursue the in-house option that the commitment to contract is extended beyond one year. The Manager's follow up with Ms. Jones indicated that we should be prepared to follow through for a period of two years with either an in-house or contract attorney, otherwise we may not attract quality candidates.

Ms. Jones clarified there were never any issues with child support cases. Transylvania County has been fortunate to have one of the top two child support attorneys in the State working for DSS for the last 34 years. This same attorney has been working on adult protective services cases as well. As stated in her email, DSS has been receiving great attorney services since June and she sees pros and cons to both models.

Commissioner Phillips said some of the counties he reached out to indicated problems with in-house attorneys due to salary issues. Their in-house attorneys were seeking work outside of and in addition to their county work which interfered with the county work.

Commissioner Chappell said his biggest concern is the potential loss of experience and expertise related to the DSS work. He said he understands how delicate these cases are, as well as the enormity of the County's liability.

Commissioner Hawkins said when this was first considered during the budget process it was more straightforward because there were documented problems with DSS. Since that time DSS hired an attorney that cleaned up the backlog. He referred to Commissioner Phillips' comments that the system is working; he disagreed and said he believes the structure is broken. There are three different contracts with potentially three different attorneys and each of them provides DSS and Administration services in addition to their private practice. To him, that is a fatal flaw in the system. Therefore, Commissioner Hawkins thinks the proposal is logical because it simplifies accountability and provides for cost efficiencies. He pointed out that if the motion fails it does not necessarily mean we will hire an in-house attorney; that would depend on the quality of the candidates.

Chairman Chapman said the potential cost savings is substantial. Option 2 was the preferential choice for him because it means that the attorney and paralegal are dedicated to this Board and the County. He is concerned about the priority of cases and being able to have control of the workload.

Chairman Chapman gave County Attorney Tony Dalton an opportunity to provide input. Responding to a comment from Commissioner Lemel, Mr. Dalton said the problem is not with DSS attorneys not showing up for court, but rather the attorneys for the parents. He said there is a procedure for priority of courts and he has worked with the District Attorney's office to ensure DSS courts are properly covered. Mr. Dalton reported that he hired another attorney in his office to assist with these matters. Regardless of the Board's decision, he said the County will require a backup attorney because there must be an attorney available at all times for Child Protective Services cases. He has been the backup attorney for CPS for 34 years. He does not believe the system is broken; in fact, he believes it is working well. Mr. Dalton thanked the Board for their time and consideration.

After a few additional brief comments, **the motion failed by a vote of 2 to 3, with Chairman Chapman and Commissioners Hawkins and Lemel voting against.**

2017 BROWNFIELDS ASSESSMENT GRANT

Planning and Community Development Director Mark Burrows presented this item. In 2015, Commissioners approved the Planning and Community Development Department sending out a Request for Qualifications (RFQ) to different businesses that provide professional consulting services to assist the County in preparing a \$400,000 Brownfields Assessment grant. The purpose of the assessment grant is to identify underutilized property due to real or perceived environmental concerns.

After evaluating eight companies, Transylvania County chose Mid-Atlantic to help prepare and submit a Brownfields Assessment grant and, if awarded, help administer the grant. Earlier this year we were notified that the grant, while strong, was not selected. Since that time, the Planning staff and Mid-

Atlantic, with input from the City of Brevard, have had conversations with US EPA on how to better position Transylvania County for the 2017 grant cycle. The maximum grant request is \$300,000 and the application is due December 22. This is an extremely competitive grant and grant awards should occur in April.

There is no financial impact to the County for making application. Mid-Atlantic has prepared the draft 2017 Brownfields Assessment grant at no cost. If the County is successful in obtaining the Brownfields Assessment grant, the grant funds will cover Mid-Atlantic's administrative costs. Costs will not exceed the grant award.

Mr. Burrows requested authorization for the approval and submission of a grant request for \$300,000 to US EPA for the 2017 process and, if successful, authorize staff to execute a master services agreement with Mid-Atlantic to administer the grant.

Commissioner Chappell requested that the second part of the request come back before the Board pending award of the grant.

Mr. Burrows pointed out this request supports the importance of having a comprehensive plan. Staff is still referring to the 2005 Comprehensive Plan as a way of helping to support the application. Having something that is consistent that shows direction from the elected board provides strength to grant applications such as this.

Commissioner Lemel moved to authorize staff to complete the 2017 Brownfields Assessment grant with support from Mid-Atlantic and submit it to the US EPA by December 22, 2016. The motion was seconded by Commissioner Phillips. Commissioner Hawkins inquired about next steps if we receive the grant. Mr. Burrows said after the properties are identified, a phase one environmental audit will be completed which is paid for through these grant funds. If there is a concern about a property, that leads to a phase 2 environmental audit which is also part of the grant request. Brownfields grants lead to other opportunities to assist private property owners to get property back into usable condition. Mr. Burrows pointed out the focus of the grant is also tied to new investment and job creation. The County's focus is to ensure properties are clean and developable. Commissioner Chappell offered a hypothetical situation that involved perceptions about property hindering the sale of said property. Mr. Burrows said the environmental studies will serve as documentation that there are no environmental issues with a property. **The motion was unanimously approved.**

INVESTMENT OPTIONS

Finance Director Gay Poor presented this agenda item. NC General Statute 159-30 establishes the guidelines for a local government's investment of idle funds. Because the security of public funds is the highest priority, there are strict limitations regarding the types of investments that are permitted. Which of these types is most appropriate for a county to use depends on several factors, such as liquidity, rate of return, time to devote to investment decisions, and availability and cost of assistance from banks, brokerage houses, and other advisors. In the past, the County has deposited excess funds primarily in interest-bearing bank accounts, certificates of deposits, and North Carolina Capital Management Trust (NCCMT). Ms. Poor recently met with First Citizens Wealth Management Group to discuss creating an investment portfolio for Transylvania County consisting of treasury securities, agency bonds, and prime quality commercial papers (as allowed under 159-30 (c) (1), (2), and (6)). The first two of these are fully guaranteed by the federal government and would comprise 90% of the portfolio, with the remainder comprised of commercial papers. Portfolios may be structured to reach maturity in three years or five years.

Ms. Poor requested Board approval for moving forward with developing an investment strategy with First Citizens to increase earnings on the County's idle funds. Implementation would depend on interest rates versus bond yields. The Federal Reserve is going to be making an announcement later this week about interest rates and the expectation is they will be increasing the interest rates. She recommended determining the difference between the County's earnings for methods used in the passed versus other alternatives. First Citizens presented three and five year portfolios. The County's current practice has been not to invest anything more than three years which she believes is an appropriate guideline to follow because of the volatility of interest rates and liquidity. Ms. Poor's initial thoughts were to invest the funds set aside for future closure and post closure of the landfill. These funds total approximately \$3.3 million and will not need to be accessed for at least another 10 years. She proposed investing these monies into one of these portfolios. Based on where interest rates and yields are currently, the County would stand to gain about \$40,000 over a three year period. Ms. Poor offered two proposals:

Option A: Authorize the County Manager and Finance Director to enter into an agreement with First Citizens to invest idle funds in a portfolio consisting of treasury securities, agency bonds, and up to 10% commercial papers with a maximum maturity of three years.

Option B: Authorize the County Manager and Finance Director to enter into an agreement with First Citizens to invest idle funds in a portfolio consisting of treasury securities, agency bonds, and up to 10% commercial papers with a maximum maturity of three years, pending approval by the Board of Commissioners for each investment. Approve of investment of funds set aside for closure and post-closure landfill care costs in a portfolio as described above.

Commissioner Hawkins moved to approve Option B. The motion was seconded by Commissioner Lemel. Commissioner Phillips inquired if staff had researched these investments with other banking institutions. Ms. Poor responded no, but she has received solicitations from other bond companies. She has a level of trust and comfort with First Citizens because of the banking relationship we have had for a number of years and because she knows they are a very conservative banking institution. Ms. Poor said she intends to wait for the Federal Reserve announcement this week before contacting First Citizens. If everything looks good to proceed, Ms. Poor hopes to have an agreement in place in January. **The motion passed unanimously.**

MANAGER'S REPORT

The Manager reported the following:

- Transylvania County received certificate for being awarded Outstanding Business Partner by the Mountain Area Workforce Development Board
 - Award based on number of NCWorks postings and ACT Work Ready Community status
 - Manager spoke at awards lunch
 - Transylvania County should be proud
- Estimate of financial impact of forest fire on community is \$39,000; does not factor in volunteer time; includes engine failure that occurred during event
- Cops 4 Kids event this past weekend; 230 children benefited from program
- County raising money to support Back Pack Buddies program; helps supplies 350 children with food over the Christmas break
- Congratulations to Lt. Jeremy Queen for being named Tri-State Law Enforcement Officer of the Year
- In process of concluding closeout of Elections Center project; under budget by approximately \$90,000; thanks to hard work of Project Manager Larry Reece to manage project
- Retirements effective January 1, 2017
 - Keith McCoy, Support Services Manager-32 years

- Betsy Lilley-DSS Child Support Supervisor-26 years
- Jeanine Verhaeghe – DSS Income Maintenance Supervisor-27 years
- Clerk of Court Rita Ashe retired effective December 1

PUBLIC COMMENT

Edwin Jones: Mr. Jones stated he did not hear a vote on the TNRC appointment and asked the Clerk to verify. Mr. Jones expressed concern about accountability with the comprehensive plan.

COMMISSIONERS' COMMENTS

Commissioner Lemel said she regretted that her election as Vice-Chair lacked the full support of the Board, but she intends to do the best job she can in this role to earn the trust of all Commissioners and citizens of this community.

Commissioner Hawkins reported that he and the Manager attended a regional meeting in Asheville today regarding the WNC Next regional broadband initiative. This meeting confirmed his position that broadband is the most important infrastructure need. He said the speaker indicated broadband has become a basic need. Commissioner Hawkins credited the speakers for spending a lot of time discussing the issues of rural access to broadband. He looks forward to more work on this.

Commissioner Chappell reported that last Tuesday the Chamber hosted a meeting for local travel and tourism related businesses. There are regional opportunities for grants. The Mountain Area Workforce Development Board Executive Director attended because Transylvania County is unique to other counties.

Chairman Chapman announced he received a letter from the Board of Elections requesting some very specific needs for the Elections Center. He reported that he attended the Job Corps graduation ceremony this morning. They are doing a great job to helping young folks in various ways. He also attended the Brevard Rescue Squad awards banquet. They were very appreciative of the funds the County's provides them. Chairman Chapman thanked Commissioner Lemel for agreeing to serve as Vice-Chair. He looks forward to working with her. He encouraged citizens to communicate to Commissioners because this Board serves them.

Chairman Chapman moved to entered into closed session per NCGS 143-318.11 (a) (6) to consider the qualifications, competence, performance, condition of employment of a public officer or prospective public officer or employee, after a 5 minute recess, seconded by Commissioner Lemel and unanimously carried.

CLOSED SESSION

Per NCGS 143-318.11 (a) (6) to consider the qualifications, competence, performance, condition of employment of a public officer or prospective public officer or employee, closed session was entered into at 9:30 p.m. Present were Chairman Chapman, Commissioners Chappell, Hawkins, Lemel and Philips and County Manager Jaime Laughter.

Commissioners met to conduct the annual performance evaluation of the County Manager.

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

OPEN SESSION

Commissioner Hawkins 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, seconded by Commissioner Chappell and unanimously approved.

ADJOURNMENT

There being no further business to come before the Board, Commissioner Lemel moved to adjourn the meeting at 10:00 p.m., seconded by Commissioner Hawkins and unanimously carried.

Larry Chapman, Chair
Transylvania County Board of Commissioners

ATTEST:

Trisha M. Hogan, Clerk to the Board