

MINUTES
TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS
July 10, 2018 – REGULAR MEETING

The Board of Commissioners of Transylvania County met in regular session on Tuesday, July 10, 2018 at 9:00 a.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, Mike Hawkins, Vice-Chairwoman Page Lemel and Commissioner Kelvin Phillips. Also present were County Manager Jaime Laughter, County Attorney Misti Bass, and Clerk to the Board Trisha Hogan.

Media: *The Transylvania Times* – Derek McKissock

There were approximately 40 people in the audience.

CALL TO ORDER

Chairman Larry Chapman presiding declared a quorum was present and called the meeting to order at 9:04 a.m.

WELCOME

Chairman Chapman welcomed everyone to the meeting and thanked the members of the public for participating in their local government. He introduced Commissioners and staff in attendance.

PUBLIC COMMENT

The comments made by the public represent the individual speaker's opinion or point of view. No attempt was made to vet their statements for accuracy or modify them based on facts.

Hannah Lenze: Ms. Lenze will be a senior at Brevard High School this fall. She is a member of the 4-H Teen Council. The Teen Council participates in volunteer work and conducts leadership workshops for other 4-Hers. She reported she has competed in regional events and this summer will compete in the State 4-H Congress at NC State University. She will be representing Transylvania County at the Youth Voice Summit which is part of the NCACC Annual Conference in Hickory, NC in August. She said she is looking forward to representing Transylvania County at the Youth Summit and she thanked Commissioners for their support.

Chairman Chapman reported that Youth Delegates will be representing counties from across the State and will have the opportunity to interact with other County Commissioners. They will participate in training sessions to learn about local government. In addition, Ms. Lenze will be meeting with Chairman Chapman, Commissioner Lemel and the County Manager to learn more about Transylvania County government.

Sherwin Shook: Mr. Shook expressed concern about the shooting range the City is proposing to build at their water plant for use by the City Police Department. While he understands the range is outside of the County's jurisdiction, he stressed the fact that the range is being built 400 ft. from his home and is going to destroy the peace and quiet, as well as impact his property values. He reported that the direction of the shooting will be toward his home which is dangerous and the City will not address these concerns with him. Mr. Shook said he is looking for help.

Chairman Chapman thanked Mr. Shook for sharing his concern. He informed, which Mr. Shook understood, that this issue was outside of the County's jurisdiction, but that the County would take his concern under advisement.

Lee McMinn: Mr. McMinn addressed the Commissioners about the lack of preplanning funds available to the Board of Education to prepare for the bond projects. Preplanning includes developing models, plans, and scope of work, as well as public education efforts on why the projects are needed. He noted the County spent preplanning funds on the Courthouse project, and the Board of Education needs the same. He urged the Board of Commissioners to offer the Board of Education the necessary \$495,000 to pay for their preplanning efforts from the County's fund balance. Mr. McMinn stated there are some schools that also need HVAC replacements and the County has the fund balance levels to aid the Board of Education in paying for these critical items. The cost of these items is \$2.9 million and they directly affect the learning performance of the students and faculty and staff. He said these items should not have to wait for approval of the bond in November. Otherwise, the Board of Education will continue to shift funds around or defer other projects, which he feels will further the County's criticism of the Board of Education. Lastly, he understands the Board cannot take a public stance on the bond due to statutory regulations, but as a constituent he wanted to know how each Commissioner personally felt about the school bond.

AGENDA MODIFICATIONS

There were no agenda modifications from Commissioners. The Manager requested to add discussion on a Fee Waiver Policy for Parks and Recreation Facilities as Item E under New Business. The Manager's Report will be moved to Item F.

Commissioner Lemel moved to add Discussion on a Fee Waiver Policy for Parks and Recreation Facilities as Item E under New Business, seconded by Commissioner Phillips and unanimously approved.

CONSENT AGENDA

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

The following items were approved:

MINUTES

The Board of Commissioners met in regular session on Tuesday, June 12, 2018 and following met in closed session in which the minutes were sealed. Commissioners approved the minutes as submitted.

REQUEST TO WAIVE RENTAL FEES AT RECREATION CENTER

Lia Castiligione reached out to County Parks and Recreation staff requesting to rent the Activity Center gymnasium for a charity event to benefit a Transylvania County Schools teacher who is suffering from an illness. County Parks and Recreation does not have the authority to waive rental fees under current policy. Staff recommended Commissioners waive the rental fee for the charity benefit at the Activity Center, if the Board feels the waiver is warranted. The recommendation is also to direct staff to begin drafting a policy on a facility usage and fees. This item was added under New Business for discussion. Commissioners approved the waiver of fees as recommended.

PROCLAMATION-PARK AND RECREATION MONTH

In July 2018, the National Recreation and Parks Association is sponsoring another year of its annual Park and Recreation month. For 2018, the theme is “A Lifetime of Discovery”, which is consistent with the idea that a community’s Parks and Recreation programs should be representative of a broad array of activities available to and benefitting citizens of all ages in a given community. In Transylvania County, the activities and facilities certainly live up to that laudable goal. Commissioners approved Proclamation #26-2018 Designation of July as Park and Recreation Month which is hereby incorporated by reference and made a part of these minutes. Commissioner Hawkins read aloud the proclamation for the benefit of the public.

APPOINTMENTS

SOCIAL SERVICES BOARD

Shelia Mooney’s term on the Social Services Board (DSS Board) expired June 30, 2018. She served as the DSS Board Appointee. There are no other terms expiring this year.

Transylvania County is unique from other counties in that it has never had a County Commissioner serving on the DSS Board. It seemed to be a general assumption at the State level that each local DSS Board had a County Commissioner as a member. The recommendations for future operations of county Social Services Departments made by the Social Services Working Group in its first report to the Legislature are that a County Commissioner must be actively engaged with their respective DSS Boards in order to facilitate the relationships and obligations of the county to DSS operations and as outlined in the recently adopted Memorandum of Understanding between the Board of Commissioners and the NC Department of Health and Human Services.

To put Transylvania County in line with other counties and ensure engagement at the County Administration level, the DSS Board recommended the appointment of a County Commissioner to the DSS Board. In order to maintain the appropriate appointment ratios as outlined in NCGS 108A-3 (2-County appointed, 2-State appointed, 1-DSS Board appointed), at its June meeting the Social Services Board appointed Judith West as the DSS Board Appointee freeing up the last year of the County Commissioner Appointee term. The Social Services Board respectfully requested the Board of Commissioners appoint a County Commissioner to serve the remainder of the term which expires June 30, 2019.

Commissioner Chappell moved to appoint Commissioner Lemel to serve as the County Commissioner Appointee to the DSS Board through June 30, 2019. The motion was seconded by Commissioner Phillips. Commissioner Lemel reported that 85 of 100 counties have a County Commissioner serving on their respective Social Services Board. She stated that based on the Memorandum of Understanding between DSS and DHHS, it is very important that a County Commissioner be engaged at this level. The DSS Board is an independently operating board that hires the DSS Director and oversees the operations of the Social Services Department; yet any legal or liability issues fall directly on the shoulders of the County Commissioners, despite the fact the Board of Commissioners has no control over the independently appointed DSS Board. In order to facilitate strong communication between the Department of Social Services and the organization that is legally obligated to assure proper operations, Commissioner Lemel stated that having a County Commissioner on the DSS Board facilitates that relationship and solidifies the County’s ability to function effectively as the overarching entity of responsibility. Commissioner Lemel added that she has enjoyed her service on the Social Services Working Group and she thought it was a huge opportunity for the State to be able to reform its Social Services and Child Welfare programs. She felt it was an honor and privilege to be engaged at the local level in concert with what she’s doing at the State level and her service on the DSS Board will help her represent the needs of rural counties even more as the Social Services Working Group

moves forward in its next phase of work. She thanked Commissioners for their confidence in her to serve in this role. Commissioner Hawkins commented that Commissioner Chappell has extensive professional and practical experience in Social Services and he very much appreciated him making the motion to extend this opportunity to Commissioner Lemel. He is confident she will do a wonderful job. Commissioner Chappell agreed there should be a County Commissioner serving on this board. He reminded Commissioners a few years ago he advocated for a County Commissioner to serve on the DSS Board, but due to other circumstances that did not occur. He was pleased to see both Boards moving in this direction. Chairman Chapman emphasized the request came from the DSS Board and this action was in no way an imposition on the DSS Board by the Board of Commissioners. He thanked Commissioner Lemel for all the work she has done up to this point and he looked forward to her involvement going forward. Commissioner Hawkins thanked Judith West for her service as the County Commissioner Appointee. He was pleased she would be continuing her service as the DSS Board Appointee. **The motion was approved unanimously.**

NEW BUSINESS

MOUNTAIN RIDGE PROTECTION ORDINANCE OF TRANSYLVANIA COUNTY

Planning and Community Development Director Mark Burrows presented this item. The purpose of his agenda item is to request Commissioners schedule a public hearing on revisions to the Mountain Ridge Protection Ordinance of Transylvania County.

Mr. Burrows reported the current Mountain Ridge Protection Ordinance was adopted in 1983. Since that time, the NC Division of Community Assistance and North Carolina Geodetic Survey developed a GIS data layer of Protected Mountain Ridges across North Carolina (2006). Based on the new developments and changes to statutes, the Transylvania County Planning Board recommended revisions to the existing ordinance.

The Planning Board began reviewing and recommending changes in October 2017 for the purposes of ensuring the ordinance was in compliance with statutes, enhancing its effectiveness, and clarifying wording on some sections as needed. In April 2018, the Planning Board approved a draft ordinance for the Board of Commissioners to consider taking forth to public hearing.

Mr. Burrows noted with new technology and GIS mapping, the Planning Department has been able to better identify “protected ridges” (3,000 ft. or higher with 500 ft. drop to valley floor). There is a provision in the current ordinance that includes Dunn’s Rock as a protected ridge because Commissioners valued and wanted to protect Dunn’s Rock which was allowed by statutes. However, the current ordinance does not describe or explain how Dunn’s Rock is to be protected, so the revisions attempt to define that protection better. Other changes attempt to ensure the wording is consistent with other County ordinances. It also takes the burden of dispute resolution away from the Board of Commissioners and makes it the responsibility of the Planning Board. The Board of Commissioners makes the final decision if there is an appeal from the Planning Board’s decision. Mr. Burrows noted that in 1983 the County had no Planning Department, so naturally the Board of Commissioners heard all disputes.

During the Planning Board’s discussions, they concluded the revisions do not impact a lot of people, but they wanted to ensure they were aware of the changes being proposed. Staff prepared a letter and map highlighting the proposed revisions and mailed them to all property owners identified as being effected by the revisions. Staff mailed out over 300 letters. Staff received several phone calls and office visits from property owners. The Planning Board held a public meeting on April 19, 2018 to further discuss the ordinance which was advertised to the public. No one showed to give comments during the public comment period of the meeting; however, staff was pleased they were able to answer several questions in advance of the meeting. At this meeting, the Planning Board adopted the draft ordinance that is before

Commissioners. Mr. Burrows requested Commissioners schedule a public hearing at a future meeting to discuss changes, followed by adoption.

Commissioner Chappell inquired about the section requiring a registered professional engineer and engineered drawings. He asked if this provision resulted from changes to statutes or if it was more for local purposes. Mr. Burrows responded if someone intends to build a structure on a protected ridge that is greater than 40 ft. high, the ordinance requires a registered professional engineer to ensure it is structurally sound and being built in a manner that is consistent with building code. This is a local provision.

Commissioner Hawkins inquired about the 40 ft. requirement in the ordinance and asked how this figure came to be. Mr. Burrows said the 40 ft. requirement came from statutes. This requirement keeps the height below a two or three story building. The Manager noted the 40 ft. requirement also helps to exempt residential structures from having to go through hiring design professional at that level.

Commissioner Lemel noted there were two maps in the agenda packet and both were labeled drafts. She inquired about which map would be the most updated. Mr. Burrows said Commissioners should be working from map dated April 3, 2018. He said the original map from 1983 was drawn by hand and not necessarily very accurate. County Planner Joy Fields added that counties are not able to regulate mountain ridges below 3,000 ft. and some of those drawn by hand were just below 3,000 ft.

Commissioner Lemel moved to schedule a public hearing on the Mountain Ridge Protection Ordinance for July 23. The motion was seconded by Phillips. Commissioners thanked Mr. Burrows, staff and the Planning Board for their work on this ordinance. **The motion was unanimously approved.**

REQUEST FOR ADDITIONAL FUNDS FOR ECUSTA ROAD INDUSTRIAL BUILDING PROJECT

The Manager presented this item. She reported in attendance were representatives from the Transylvania Economic Alliance, the design team and Harper Construction to speak to the issue she is bringing forth to Commissioners.

For information purposes, the Manager stated the Board of Commissioners partnered with the Transylvania Economic Alliance and City of Brevard to build a light industrial building on Ecusta Road. The design was completed via a contract between WHN Architects and the Alliance. The County and Alliance have jointly entered into contract with Harper Construction for the construction of the project based on the design completed by the architect.

The Alliance had a soils analysis completed by S&ME in 2016 that indicated there was a shallow water table in the subsurface along with unsuitable soils. Remediation efforts were outlined in the analysis indicating the need to bring in several feet of suitable fill at minimum to support the structure.

The bid document and plans were subsequently prepared by WHN and issued for bids in fall 2017. The bids and specifications did not include any soil remediation and indicated a balanced site. As the project progressed, Harper has requested change orders in accordance with load testing by S&ME that in total will more than exhaust the contingency budget for the project. Staff recommended an original contingency budget of 10% because of concerns with the soils, even though typical new construction should expect a contingency of 5%.

In a conference call on June 14, 2018 with the project team, the architect acknowledged responsibility for bidding the project as a balanced site and indicated there was concern the additional cost would be problematic in moving project forward if included in the original bid. In response, the engineer had

increased the thickness of the concrete and pavement in order to attempt to compensate for the soils issues.

Harper has prepared a series of change orders based on S&ME recommendations. These change orders require funding of an additional \$450,000 to the project which ultimately doubles the contingency budget. Management analysis of all change orders on this project indicates that \$851,380 is directly related to design team errors and omissions, with all except \$12,424.50 being related to unsuitable soils that was not accounted for in either design or within the project budget. The Manager informed that while bidding the project with remediation would have cost more than the bid amount approved, a proper bid document and plan specifications would have cost less by addressing these issues up front and would have given an accurate project cost for consideration by the Board of Commissioners before moving forward with the project, particularly because it changes the assumptions on the Return on Investment Analysis.

The Manager noted that included in the Board's agenda packet was a site map that ties to the proposed change orders and the recommendations by S&ME of the areas that need to be repaired with fill.

The Manager informed that this issue has caused delays on the project already. She requested the approval of the additional funding so that the project can move forward to completion with the expectation that appropriate accountability for the errors and omissions can be pursued and funds recouped. In addition, the County has an obligation to the Alliance and Sylvan Sport to see the project through to completion.

Specifically, the Manager asked Commissioners to authorize increasing the project budget ordinance in the amount of \$450,000 in order to complete the project with funds to come from fund balance reserve for Economic Development. She reminded Commissioners that representatives from the Alliance, the design team and Harper Construction were in attendance to answer any questions.

Commissioner Lemel asked the Manager to explain the definition of a balanced site. The Manager explained a balance site indicates if soil is taken from one area on a site, it can be reused on another area of the same site and no additional fill material is needed. She noted that a contingency budget is intended to address any concerns that could not be foreseen. Typically there are due diligence documents, such as a soils report, that are completed and provided to a design team in order to help navigate the design decisions to get to a bid document point.

Commissioner Phillips asked for clarification that the \$450,000 being requested is in addition to the contingency budget already allocated toward the project. The Manager responded yes, and stated that with the addition of the \$450,000 the total contingency for this project increases to 20% of the bid amount.

Chairman Chapman asked how this error occurred when there were architects and engineers involved. He commented had these issues been known upfront, they would have potentially impacted the entire project. He asked if anyone bore the liability for these errors, either through absorption of the costs or insurance. He was not pleased that the cost was being passed down to the County. The Manager stated the design team, architect and engineer are human beings and unfortunately make mistakes. For that reason, the State of North Carolina requires them to carry insurance so when there is a mistake there is the potential to recoup damages. In this case, the Manager noted the architect is not working directly for the County. Therefore this conversation would need to occur between the architect and the Alliance. She noted that architect and engineer acknowledged their mistake and hoped they were compensating in the design. However, it was an error in their judgment. They are responsible in advising their client as to what is appropriate for a project and that is the juncture the County finds itself in now. The challenge at this

point is there is a project to complete and the County has obligations toward economic development, specifically to Sylvan Sport, while at the same time acknowledging this is a large error.

Commissioner Hawkins recapped what happened causing this additional cost. He stated that a soils study was completed that strongly indicated the preferred option was to remediate the site with new soils because of the water table problem. The decision the design team made was that this option would be prohibitively expensive and in their judgment instead they would design the structure and site in a way to compensate for the soils issues. They have now found the alternative option is not doable which is why the County has been asked to provide additional funding to do what should have been done to begin with and had it been done upfront, would have been done more efficiently and cheaper than what it is costing now. The Manager stated his recap was a fair analysis and added there was recognition early on in the project that there needed to be some additional measure taken with respect to the design plans that were presented in the bid package due to both soil type and the level of the water table that were identified in the soil reports. There is also documentation in the Board's agenda packet where Josh Hallingse, Alliance Executive Director, asked if the design needed to take into account the fact that based on the soils report the appropriate areas on the site that were to be loadbearing and the response from the design team was that they could handle the areas with the design plans as presented.

Commissioner Phillips asked how soon Commissioners could expect a resolution between the engineering team and the Alliance so the County can recoup these funds. He did not want the project to be delayed, but he was concerned about the County having to absorb nearly a half million dollars. The Manager stated the cost of the project would increase if it were delayed any further. As far as the issues with the Alliance and the design team to work out how to handle this occurrence, there is a three-year statute of limitations. She stated that based on the meetings she has participated in so far; there should be an agreeable negotiation.

Chairman Chapman asked if the County will be able to recoup these additional funds. Mr. Hallingse said he could not answer that question at this time. He informed that some of the issues were anticipated; hence why the 10% contingency budget was recommended. However, they did not anticipate the gravity of the situation with the soils. From an organization standpoint, he said he has been focused on how to accomplish the project and mitigate costs along the way, but unsuccessfully up to this point unfortunately.

Commissioner Lemel read an excerpt from the S&ME report that clearly explained the soils were wet and unsuitable and would require the contractor to import the majority of soil to the site. She wondered if the County should loan the funds to the Alliance and leave it to the Alliance to recoup the dollars. The Manager stated that ultimately Commissioners can direct staff however they want to move forward. She thought the key issue at this stage in the construction project was to take action to move forward or stop the project. She thought stopping the project would not be helpful to the County's economic development goals.

Commissioner Chappell noted that stopping the project could cause issues with the Golden Leaf Foundation, General Assembly funding, etc.

Commissioner Lemel said she wanted to move forward, but she also wanted to know how this tremendous loss would be recovered because it was very apparent it was caused by human error and by not reading a report.

Commissioners Lemel and Phillips continued to offer their thoughts on the terms of a loan. However, Commissioners Hawkins suggested a better option would be for staff to meet with the Alliance and professionals involved and come back to the Board with a plan on how the County is to be compensated

because Commissioners expect to be compensated for this error. Commissioners were agreeable to Commissioner Hawkins' assessment.

Commissioner Lemel moved to provide the \$450,000 out of restricted Fund Balance for Economic Development with the payback to be determined based on staff recommendations to be brought back to us within a three month period of time. The motion was seconded by Commissioner Chappell. Commissioner Chappell said while he understood mistakes happen, there were some issues here that were troubling to him, particularly trying to put a bandaid on a significant issue. He was thankful the County has Fund Balance in place to handle these issues, but stated these dollars should be used for emergencies or planning for the future, not fixing human error. He noted there is a domino effect here that could impact future projects. Commissioner Chappell suggested that in negotiations about recouping the money, if positive results are not achieved by outside parties that staff talks to our other partners about revisiting the Return on Investment percentages. Chairman Chapman called on the design team and contractors to offer comments, but they declined. **The motion was approved unanimously.**

RESOLUTION IN SUPPORT OF TEXT AMENDMENTS TO CITY OF BREVARD'S UNIFIED DEVELOPMENT ORDINANCE TO MODIFY DISTRICTS IN WHICH ADULT/CHILD DAY CARE CENTERS ARE ALLOWED

Transylvania County facilitated the creation of the Transylvania County Early Childhood Initiative (ECI) in 2015. The ECI released the State of the Young Child Report in late 2015 and identified availability and cost of childcare as a critical issue for citizens 0-5 and for their families. This is also an economic development issue for the community, not only so that parents can work today, but so that the workforce is prepared in 20-30 years as young children grow up and become part of the workforce. The ECI has brought together a collaborative group of community organizations and agencies to work on issues identified in the report and to advocate for policy changes that would help alleviate those problems.

The City of Brevard is considering a text amendment to their Unified Development Ordinance that will align the code with State regulatory restrictions and facilitate location of early learning and childcare sites. As a participant in the Transylvania County ECI, the Board of Commissioners was asked to adopt a resolution in support of the amendment and to commend the City of Brevard for considering policy changes that help facilitate more access to quality early learning and child care in support of economic development and community amenities. Commissioner Lemel read aloud the resolution for the benefit of the public.

Commissioner Lemel moved to adopt Resolution #27-2018. The motion was seconded by Commissioner Phillips. Commissioner Lemel reported that each year in Transylvania County there are approximately 280 births. The State of the Young Child Report from December 2015 identified one church preschool program that provided infant care and they had only six slots in that particular center. The ECI has been able to identify up to 11 infant slots being cared for outside the home, but that it not enough to address the needs of young families that would like to be in the workforce. She said having this ability to do in-care homes would be a huge addition to the opportunities for working parents with children. She was very grateful to see this movement. **The motion was unanimously approved.**

Resolution #27-2018 In Support of The City of Brevard Action to Change Zoning Policy Regulating Child Care Facility Locations is hereby incorporated by reference and made a part of these minutes.

GENERAL OBLIGATION BOND REFERENDUM ACTION ITEMS

The Manager presented these items for the purposes of continuing to meet the statutory requirements of the General Obligation Bond Referendum process as directed by Bond Counsel.

The first action to be taken is the introduction of the Bond Order. It involves reading into the record. The contents of the Bond Order are as required by NC General Statutes. It sets forth what the governing board will hold a public hearing on, and presumably, approve at the next meeting after the public hearing is held. The Clerk to the Board will then certify this action occurred.

The Board must then adopt a resolution directing the publication of the notice of the public hearing on the Bond Order. This is to be adopted after the Bond Order is introduced and it directs the Clerk to the Board to publish the notice of the public hearing and calls for the public hearing to be held on July 23. The Notice of Public Hearing is included in the packet for the Board's information. It must run in the local newspaper at least six days prior to the public hearing.

Commissioner Lemel moved that Chairman Chapman introduce the Bond Order by reading it into the record and to approve the resolution directing the publication of the notice of public hearing on the Bond Order to be scheduled for the July 23, 2018 Board of Commissioners' meeting. The motion was seconded by Commissioner Chappell.

Chairman Chapman introduced the following Bond Order, copies of which have been made available to the Board of Commissioners:

**BOND ORDER AUTHORIZING THE ISSUANCE OF \$68,000,000
GENERAL OBLIGATION SCHOOL BONDS
OF THE COUNTY OF TRANSYLVANIA, NORTH CAROLINA**

WHEREAS, the Board of Commissioners of the County of Transylvania, North Carolina (the "Board of Commissioners") has ascertained and hereby determines that it is necessary to pay the capital costs of constructing, improving, renovating and equipping school facilities, including improvements at Brevard High School, Rosman High School and Rosman Middle School, and acquiring land or rights-in-land required therefor; and

WHEREAS, an application has been filed with the Secretary of the Local Government Commission of North Carolina requesting Commission approval of the General Obligation School Bonds hereinafter described as required by the Local Government Bond Act, and the Clerk to the Board of Commissioners has notified the Board of Commissioners that the application has been accepted for submission to the Local Government Commission.

NOW, THEREFORE, BE IT ORDERED by the Board of Commissioners of the County of Transylvania, North Carolina, as follows:

Section 1. In order to raise the money required for the purposes described above, in addition to any funds which may be made available for such purpose from any other source, General Obligation School Bonds of the County are hereby authorized and shall be issued pursuant to the Local Government Finance Act of North Carolina. The maximum aggregate principal amount of such General Obligation School Bonds authorized by this order shall be \$68,000,000.

Section 2. Taxes will be levied in an amount sufficient to pay the principal and interest on the General Obligation School Bonds.

Section 3. A sworn statement of the County's debt has been filed with the Clerk to the Board of Commissioners and is open to public inspection.

Section 4. This bond order shall take effect when approved by the voters of the County at a referendum scheduled for November 6, 2018.

The motion carried unanimously.

FEE WAIVER POLICY FOR PARKS AND RECREATION FACILITIES

Interim Parks and Recreation Jonathan Griffin presented this item that was added to the agenda under Agenda Modifications. Mr. Griffin described elements a policy may contain so Commissioners can give staff guidance on what they would like to see in the development of a policy. This is a summary of the items he asked Commissioners to consider:

- Who may request a waiver of fees?
 - Private individuals
 - Non-profits organizations
 - For-profit organizations
- What activities or events are eligible for fee waivers?
 - Weddings
 - Business meetings
 - Fundraisers
 - Workshops
 - Funerals
- How will the requests be evaluated?
 - Board of Commissioners to approve each request
 - Staff to evaluate and make recommendation for Board approval
 - Staff authority to approve with monthly, quarterly or annual reporting to the Board
- Will there be limitations on the number of fee waivers granted to an organization or person?
- Does the Board want to make specific rules for each Parks and Recreation facility?

Mr. Griffin asked for guidance so staff can better assist the Board with developing an appropriate policy.

Commissioner Lemel asked if there was any opportunity to consider best practices from neighboring counties on similar policies as a starting off point instead of Commissioners having to consider so many choices. Commissioners could then tweak a good example to make it work for Transylvania County. Mr. Griffin agreed to get some examples from other counties following this meeting and forward them to Commissioners for their review.

Chairman Chapman was supportive of developing a policy that was fair and consistent. He stated this County has many wonderful organizations doing great work and Commissioners should not be forced into choosing the importance of one activity over another in terms of fee waivers. He thought the best course of action was to direct staff to begin working on a policy for the Board to review in the very near future.

The Manager asked Commissioners to communicate their thoughts on policy guidelines to her. In the meantime, staff will provide Commissioners with examples of policies from other counties, noting each one will be different because they have been tailored to each respective community. As Commissioners offer their feedback, staff can start to modify the policies to craft what works best for Transylvania County. The Manager emphasized that Commissioners should think seriously through these kinds of policies in order to avoid unintended consequences.

Commissioner Hawkins stated personally he does support waiving fees. He wondered how this process would be set up without having unintended consequences. He noted there are fee structures for a reason. He was appreciative in advance of staff's work, but said he would need convincing of a waiver policy.

Staff will bring a draft policy back for the Board's consideration as soon as possible.

MANAGER'S REPORT

- Audit fieldwork is complete for FY 18 and the remaining audit work will resume in September; on track for audit presentation in late November or early December
- Courthouse repair work is wrapping up and the new weather vane should be up soon; historic pictures of Courthouse show it once had a weather vane; copper roofing starting to come together as well; stays true to historic nature of building
- Kudos to Marcy Thompson from Friends of Gorges State Park for her presentation on a historical perspective of Hogback Township
- Kudos to Anna Yount and her team at the Library from HR Director Sheila Cozart for their management and coordination of the summer concert series
- Kudos to Finance Director Gay Poor on her pending retirement on July 27; she has served the County for 16 years and will be greatly missed!

PUBLIC COMMENT

Judith West: Ms. West is the Vice-Chair of the Social Services Board. She thanked Commissioners and offered the DSS Board's full support of the appointment of Commissioner Lemel to the DSS Board. She stated the DSS Board recognizes the close relationship between the two Boards and they are looking forward to a much closer relationship. She also thanked Commissioner Lemel and the Clerk to the Board for helping to figure out how to make the pieces fall in place to ensure the appropriate appointments could be made.

Peter Mockridge: Mr. Mockridge is a resident and property owner in Brevard and Transylvania County. He asked that when items are read into the record that those items be projected onto the screen. He said it is sometimes hard to hear and understand what Commissioners are reading, especially for those that are hard of hearing. Mr. Mockridge also thanked Commissioners for approving the placing of the bond issue on the ballot. He thought it was very important for the future of this County. Thirdly, he realized the Board of Commissioners could not publicly support the bond, but he hoped they would support it emphatically outside of their official capacity because he felt it was critical to the future of this County.

COMMISSIONERS' COMMENTS

Commissioner Chappell asked the public to take the opportunity to thank emergency services and law enforcement staff and volunteers in the community. They have experienced a difficult last couple of weeks with waterfall deaths, a local teenage death, and other accidents. These tragedies impact families and communities forever, but sometimes people forget about those that have to respond to these calls and the impact they have on their lives day in and day out. So again he asked everyone to take the opportunity to thank those who respond and are suffering as well.

Commissioner Phillips reported a 12 year old fell at a waterfall yesterday and fortunately survived with his only injuries being broken bones. Commissioner Phillips responded to a public comment requesting Commissioners to share how they intend to vote personally on the school bond. In his opinion, he thought this request was disrespectful and unreasonable because his right as an individual citizen on how he votes is protected and private. Also, he said many times public officials' statements as private citizens

in the public get misconstrued and he did not intend for that to happen. Therefore he felt a responsibility as an individual outside his official capacity to protect his privacy with diligence.

Commissioner Lemel commented that the last Board meeting two weeks ago was rough and she left it trying to remind herself why she ran for public office. She concluded that she ran to do the most good for the most people and to do the right thing because it was the right thing to do. She stated she has no other motivation, public service is hard, and public officials cannot make everyone happy all the time. Commissioner Lemel said she has found herself feeling very chastised about preplanning monies for the School System. She reported that on June 28 she emailed a list of questions to the Board of Education specifically around the preplanning issue. The reason being is on January 11 the School System received a letter from their architect outlining a package of advanced preparation services in the amount of \$375,000. The Board of Commissioners discussed helping to pay for the preplanning services with the caveat that the County wanted to be able to negotiate a fixed fee with the architect to ensure costs did not get out of control. On January 16, the Board of Education approved a contract with the architect, Clark Nexsen, for \$375,000 for the renovations and additions to the three schools as outlined in the designer's proposal letter. There was also a letter from a land surveyor dated on January 16 citing fees for topographic surveys and a 3rd party utility locator with the additional fees totaling \$84,500, bringing the total advance work to \$459,500. Commissioner Lemel reported this letter was shared in a joint two-on-two meeting. She stated when the County offered to negotiate the fixed fee on the architectural contract; the County was informed "no thank you". Therefore, the County did not pursue paying for the advanced work because there was no interest in negotiating the fixed fee. Commissioner Lemel next cited Board of Education minutes from March 19 and a reference of only \$374,500 in total fees being paid for the advanced work, yet there was also an anecdotal discussion of \$450,000. The total of the three letters (architect, surveyor) reported \$459,500. On March 19, the Board of Education amended its advanced planning contract with Clark Nexsen to authorize payment of \$129,500 for Phase I to expire June 30, 2018 and to authorize, pursuant to appropriation of funding, \$245,000 for Phase II to commence on July 1, 2018. These figures add up to \$454,500. Commissioner Lemel stated she is asking these questions because she does not understand the numbers. She submitted these same questions to the Board of Education on June 28 and said she is still waiting for answers. Commissioner Lemel noted that the June 21 edition of *The Transylvania Times* reported that earlier this year the Board of Education agreed to pay the architect \$495,000. She said this figure is nowhere to be found in their minutes. The article goes on to report the Board of Education decided to defray \$214,000 in capital needs and shift that money to pay for the architect's work through June 30, 2018, but they only voted to spend \$129,500 through June 30, 2018. Commissioner Lemel stressed she is confused and does not understand where these figures come from. She agreed the County is at a critical juncture with the schools and that there are some substantial capital needs. She felt she has worked hard in two-on-two meetings with Board of Education members and staff to help find money to advance capital needs for the schools, but she does not understand why the dollar amounts keep shifting and how the Board of Commissioners is supposed to react when no one can answer their questions or clarify the amounts. Commissioner Lemel stressed she is in this role as County Commissioner because he strongly believes she is serving her community and creating the best community, including having exceptional schools. She reported the Board of Commissioners has extended an invitation to the Board of Education to hold a joint meeting to avoid talking to each other through media coverage only. County staff has contacted a UNC School of Government staff member who specializes in school and county funding relationships. The County is still awaiting confirmation from the Board of Education of the offer of a joint meeting. Commissioner Lemel pledged to do her best to advance the County's relationship with the School System and to be open and transparent for the best interest of citizens and students.

Chairman Chapman noted all the Board of Commissioners has is a request to go out for a bond referendum for \$68 million, but no other details other than the purpose is for the renovations of three

schools. The General Election is 3 ½ months away. He encouraged citizens to do their best to learn as much about these projects as possible so they can make an informed vote.

Chairman Chapman moved to enter into closed session per NC General Statute 143-318.11 (a) (4) to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, and (a) (5) to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, options, exchange or lease, after a 5 minute recess, seconded by Commissioner Phillips and unanimously carried.

CLOSED SESSION

Pursuant to NC General Statute 143-318.11 (a) (4) to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, and (a) (5) to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, options, exchange or lease, closed session was entered into at 10:25 a.m.

Present in the first and second closed sessions were Chairman Chapman, Commissioners Chappell, Hawkins, Lemel, and Phillips, County Manager Jaime Laughter, County Attorney Misti Bass, Transylvania Economic Alliance Executive Director Josh Hallingse, Transylvania Economic Alliance Board of Directors Chair Jeremy Owen and member Mark Tooley, and Clerk to the Board Trisha Hogan.

Commissioner received information on an expansion project for a local industry and instructed staff on how to proceed.

Commissioners received an update on the potential purchase of property and the negotiation efforts. They instructed staff on how to proceed.

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

OPEN SESSION

Chairman Chapman moved to seal the minutes of the closed sessions until such time that unsealing the minutes does not frustrate the purpose of the closed session, seconded by Commissioner Lemel and unanimously approved.

Chairman Chapman moved to enter into closed session per NC General Statute 143-318.11 (a) (5) to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, options, exchange or lease, seconded by Commissioner Phillips and unanimously carried.

CLOSED SESSION

Pursuant to NC General Statute 143-318.11 (a) (5) to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating

the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, options, exchange or lease, the last closed session was entered into.

Present in the final closed session were Chairman Chapman, Commissioners Chappell, Hawkins, Lemel, and Phillips, County Manager Jaime Laughter, County Attorney Misti Bass, and Clerk to the Board Trisha Hogan.

The Manager reported to Commissioners about an offer received to purchase County property. The Commissioners informed that the property was not for sale and the Manager was instructed on how to proceed.

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

OPEN SESSION

Chairman Chapman moved to seal the minutes of the closed session until such time that unsealing the minutes does not frustrate the purpose of the closed session, seconded by Commissioner Lemel and unanimously approved.

ADJOURNMENT

There being no further business to come before the Board, **Chairman Chapman moved to adjourn the meeting at 11:45 a.m., seconded by Commissioner Lemel and unanimously carried.**

Larry L. Chapman, Chairman
Transylvania County Board of Commissioners

ATTEST:

Trisha M. Hogan, Clerk to the Board