

**MINUTES**  
**TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS**  
**August 31, 2018 – SPECIAL MEETING**

The Board of Commissioners of Transylvania County met in special session on Friday August 31, 2018 at 11:00 a.m. in Commissioners Chambers at the County Administration Building, located at 101 S. Broad Street, Brevard, NC. The purpose of the meeting was to consider the appropriation of matching funds for two grant applications made available through the Needs-Based Public School Capital Fund for Tier-2 counties as prepared by Transylvania County Schools and to authorize the Chairman to sign the applications. The meeting was properly advertised by the Clerk to the Board.

Commissioners present were Chairman Larry Chapman, Jason Chappell, Mike Hawkins, and Vice-and Chairwoman Page Lemel. Commissioner Kelvin Phillips was unable to attend. Also present were County Manager Jaime Laughter and Interim Finance Director Jonathan Griffin. Clerk to the Board Trisha Hogan was out of town. County Attorney Misti Bass participated remotely.

Media: *The Transylvania Times* – Derek McKissock

There were approximately 5 people in the audience.

**CALL TO ORDER**

Chairman Larry Chapman presiding declared a quorum was present and called the meeting to order at 11:04 a.m.

**PUBLIC COMMENT**

There were no comments from the public.

**GRANT APPLICATION FOR NEEDS-BASED PUBLIC SCHOOL CAPITAL FUND FROM  
TRANSYLVANIA COUNTY SCHOOLS**

The Manager provided some background on the grant application and the need for the special called meeting today:

- County staff received grant applications that were signed by Board of Education Chairwoman Tawny McCoy on August 28
- Grant applications were forwarded to County staff by Transylvania County Schools Finance Officer Norris Barger requesting signature of Chairman Chapman; staff learned that:
  - Applications due to State on August 31
  - Projects covered by grant applications must be new construction
- Board of Commissioners must approve applications, which requires action in a public meeting by a vote of the Board; approval and subsequent Chairman's signatures assures the following:
  - Information is complete and accurate
  - Meets NC General Statutes and ensures that all required local funding is available and designated as a match for these projects
  - All funds will be used for the construction project described in the applications, if approved
  - Agreement to work with Department of Public Instruction on monitoring and evaluating the projects, to meet reporting requirements with reports due on progress and funds spent on April 1 annually, at the time of disbursement request and at completion
  - All federal and State laws are adhered to, including promotion for equal opportunity
  - Fiscal control and accounting procedures for proper disbursement of and accounting for the grant funds to be established and followed

- Needs-Based Public School Capital Fund was established in 2017 with lottery funds
- Tier 1 and Tier 2 counties eligible
- Priority for awards:
  - Tier 1 counties
  - Evaluation of need, less ability for county to generate sales and property taxes
  - High debt to tax ratio
  - To address critical deficiencies
- FY 18-19 State Legislature funded program at \$117 million
- Staff research found in UNC School of Government Coates' Canons blog post indicated that:
  - County enters into a contract with Department of Public Instruction, if awarded
  - County must abide by Department of Public Instruction contracting requirements
- Transylvania County Schools/Board of Education requesting submittal of two applications:
  - Application for Brevard High School-budget total \$22,095,967
    - State funding requested: \$10,000,000 (maximum request for Tier 2 county)
    - Non-State funding (County): \$12,095,967
    - Project description: CTE/instructional space, auxiliary gym and cafeteria replacement
    - Back up materials appear to be referencing the 2015 Clark Nexsen architectural study
  - Application for Rosman Middle School-budget total \$18,513,657
    - State funding requested: \$9,256,828
    - Non-State funding (County): \$9,256,829
    - Project description: classroom and Fine Arts addition
    - Back up materials appear to be referencing the 2015 Clark Nexsen architectural study
  - Total project costs: \$40,609,634 for both projects
  - Total local funds required: \$21,352,796 in County funds
- With the total bond proposal being \$68 million, it appears the grant funding could cover a good portion of the proposed projects, if awarded; however, it was difficult for staff to assure Commissioners with the limited amount of information they had to present at this meeting
- County may pledge bond proceeds as the local match if the bond passes; otherwise, the County will likely have to pursue a Limited Obligation Bond which requires full construction drawings prior to grant issuance and may delay grant utilization
- If a financing method cannot be identified upon grant award, Commissioners may elect to turn down the grant funds; it will be difficult to pursue private financing with a bank for a 20-year term for both projects
- Grant program prioritizes Tier 1 counties, followed by Tier 2 counties for consideration; Transylvania County is a Tier 2 county

This concluded the Manager's presentation. She handed the meeting over to Chairman Chapman for Board discussion and potential action.

Chairman Chapman stated the purpose of this special called meeting was because he was asked to sign two applications committing County funds which he did not have the authority to do without Board approval. Furthermore, the Board of Commissioners is subject to Open Meetings Law and public notice requirements and therefore approval of the applications and commitment of funds must occur in a public meeting. He noted that if this situation had occurred last week under this type of deadline, a special meeting of the Board could not have been called because a majority of Commissioners were out of town. In addition, he pointed out that Commissioners have been asked to take action based on a limited amount of information and with no opportunity for public input because of the short turnaround time. He was

very dismayed by the events of the past couple of days and stated that, in the future, the County will not be forced to take action in such a rushed manner.

The Manager gave Commissioners guidance with respect to a potential motion or action to be taken. She informed that a motion should include authorizing the Chairman to sign the applications, a commitment of the total amount of local funds required should the grant be funded, and how Commissioners anticipate funding the local match – through bond proceeds if the bond passes or a willingness to pursue financing if the bond does not pass. Chairman Chapman requested that any action taken today be contingent upon the Board of Education’s approval of the applications during their special meeting later this afternoon.

Commissioner Chappell’s understanding of the grant award was that it would require the County to enter into a contract with the Department of Public Instruction with a provision for periodic reports. He asked for clarification to ensure who would have the responsibility for making official reports to DPI. The Manager informed that the contract would be between the County and DPI, so the County would be responsible for the reporting. Commissioner Lemel confirmed by reading the following from a UNC School of Government Coates’ Canons blog post:

*“If a county receives a NBPSCF grant, it must enter into a contract with the Department of Public Instruction that addresses the following: (1) a requirement that the grantee seek planning assistance and plan review from the School Planning Section of DPI; (2) a progress payment provision; (3) a provision requiring periodic reports to DPI on the use of grant funds and progress of the project; and (4) a requirement that matching funds paid by the county be derived from non-State and nonfederal funds.”*

Commissioner Hawkins asked the Manager to further explain the local match requirement – bond proceeds or alternative financing method. The Manager explained that if the County is awarded the grant funds, but the bond does not pass, then the County’s financial pools will be limited to \$21 million for a total project cost. It may be possible to break out the projects into two \$10 million projects in order to be eligible for private financing; however, two simultaneous loans would probably not attract the services of a bank. Private financing through banks is limited to 20 years; however, the County’s recent experience found banks willing to lend for only 10-15 years. Additionally, private financing is costlier because the terms are shorter. Besides unique opportunities like General Obligation Bonds and USDA loans, the only other method available to counties to finance projects at a scale of \$21 million is a Limited Obligation Bond. LOBs have a 20-year payback term and they require full design drawings to be prepared before the bonds are issued.

Commissioner Hawkins asked for clarification that, for today’s purposes, Commissioners are being asked to commit to being willing to explore options for financing the local match should the grant be awarded. The Manager informed Commissioners that by approving and signing the applications, they are indicating that funds are available or that the County would pursue funds. She pointed out there is always the option of turning down grant funds, but said she would never recommend Commissioners turn down grant funds because it could hurt the County’s chances of future consideration of funding. The Manager stated there is no guarantee of funding with this particular grant, especially with the current prioritization of consideration; however, she felt the County should be prepared to meet the obligation should the applications be approved.

Commissioner Hawkins commented that based on the State’s criteria for prioritizing the grant award, it seems logical Transylvania County would more likely receive partial funding than whole funding, depending on the number of counties that apply. There is \$117 million available in funding this year and another \$75 million next year in which 80 counties are eligible to apply. Counties will be notified on September 30 if they are awarded funds. Commissioner Hawkins stated that this grant would be a great opportunity for the County, especially if the bond referendum did not pass; however, he was unsure if the

projects listed in the grant applications would be the top priorities. He asked the Manager if her recommendation would be for the Board to commit to \$21 million in local funds without the Board's having any prior public input. The Manager expressed she was somewhat concerned with the position Commissioners have been placed in because there was very little opportunity for them discuss and consider a funding commitment of \$21.3 million. In addition, financing methods are limited, with private financing options having very steep payments due to the shorter payback terms. Without being able to run cost scenarios, she stated she was limited in her ability to inform them of the impact to citizens and taxpayers, and, therefore, it was difficult for her to make a strong recommendation for approval of the grant applications. However, she pointed out Commissioners may refuse the grant if awarded, but they should understand there are consequences to refusing grant funds. Additionally, the Manager said she did not want the County to turn down opportunities to apply for grant funds.

Given the Manager's rationale and hypothetically speaking, Commissioner Hawkins asked if an extreme mitigating factor for potentially refusing the grant funds would be that the bond referendum did not pass and that the County was counting on the bond proceeds for the local match. The Manager responded this argument could be communicated as the reason for refusal, but she could not guarantee the Board how it might be received or what the consequences for refusal might be. Chairman Chapman commented that his concern is it would be perceived by the community that the County Commissioners do not care about children. He stressed that this sentiment is not true and that the Board of Commissioners strives to do what is best for the entire community long-term.

In response to Commissioner Hawkins' comments about the projects listed on the applications, Commissioner Chappell reported these projects were concerns when he was a member of the Board of Education several years ago. Both buildings have structural issues, the band room floods when it rains, etc., and the Board of Education has done their best to band-aid the problems.

Commissioner Hawkins asked if the grant program allowed any flexibility with the funding. The Manager reported that, according to the application, there is no flexibility. The funds must be allocated toward the projects as described on the application.

Chairman Chapman revealed the Board of Commissioners' obvious struggle at this point because there remained many unanswered questions. He addressed the Transylvania County Schools staff and Board of Education member in attendance and asked them to help Commissioners see their position. Superintendent Dr. Jeff McDaris responded that he is sincerely excited anytime there is an opportunity to bring State dollars back to Transylvania County because we never appear to be eligible for many streams of education dollars. He reported there is a current flurry of grant activity. Transylvania County Schools has applied for other grants and has been denied. Dr. McDaris agreed with the Manager's assessment that refusing grant awards does not look good for the County, but, in his opinion, so does not applying for grant funds. He was unsure of the County's odds of being awarded grant funds, but reported that many of our surrounding counties are applying for funds. Additionally, the grant funds being released by the State are lottery funds, so this is an opportunity to bring money back to Transylvania County; otherwise, the dollars will be awarded to other counties. Lastly, Dr. McDaris reported that the projects listed on the applications are legitimate projects that are currently included as bond referendum projects.

Commissioner Lemel agreed with Dr. McDaris about seeking out and applying for funds for which Transylvania County might be eligible and also with his frustration about being turned down for other funding streams. However, she too was dismayed that the Board of Commissioners was being forced to take action in this manner. She revealed that the information about the availability of these grant funds was made public knowledge early on and, in fact, the UNC School Government wrote a blog about the eligibility and requirements on June 26. She thought there should have been some communication from the School System about their potential interest in applying for the funds at that time. She pointed out

that email correspondence showed Transylvania County Schools staff received information about applying for the grant on August 6 and received the actual application on August 10. The Board of Education met on August 20, yet no item related to the grant application was on their agenda. The Board of Commissioners held its last regular meeting of the month on August 27; yet it wasn't until August 28 that County staff was informed that the Board of Education and Transylvania County Schools had completed two grant applications that required the signature of the Chairman of the County Commission and a commitment of County dollars. Their action has caused the Board of Commissioners to feel backed into a corner. Furthermore, should Commissioners vote against submitting the grant applications, they will be seen by the community as being anti-children. Commissioner Lemel hoped members of the School System and Board of Education understood the County's frustration. She intended to vote in favor of the grant applications today, but only because she understood that the County has the ability to refuse the funds if awarded. She pointed out that the process was clearly explained that county boards of commissioners and local school boards were to apply jointly. Commissioner Lemel reminded the Board of Education that Commissioners have requested to hold joint meetings between the two boards, but were turned down so that the Board of Education could focus on the bond. She pointed out this was an opportunity for both boards to become partners on, but instead the Board of Commissioners is being forced to make a decision up against a tight deadline. She expressed tremendous frustration about the overall situation.

Dr. McDaris apologized for Commissioner Lemel's frustration and took full responsibility. He informed her that he did not become aware of the grant until early August. Commissioner Lemel interjected that 21 days had passed between time of receipt of the application and when they notified the County. Dr. McDaris replied that much was going on at the School System during that time period. He agreed with her that both entities need to work together. Commissioner Lemel felt that the grant applications with the tremendous amount of dollars at stake should have been their priority.

The Manager confirmed that both the application and NC General Statutes indicate funds will be used for the construction project described in the approved application. In terms of the tax impact, she reported she cannot provide the Board with a strong estimate because staff has not had the opportunity to research banks to check current interest rates, terms, etc. However, based on the modeling prepared for the \$68 million school bond over a 20 year term, she provided a rough estimate: \$21.3 million financed for 10-year term=5 or 6 cent tax cent increase.

Ron Kiviniemi, Vice-Chair of the Board of Education, requested to address Commissioners. He reported that one element that affected the short turn around, as far as the School System is concerned, is the dysfunctional relationship among the State Superintendent, State Board of Education and State Department of Public Instruction. Other delaying factors were that school was getting ready to start, they were preparing for new hires, they lost one central office position last year because of funding cuts from the State, and they were getting conflicting information from DPI about flexibility with the projects. Mr. Kiviniemi felt this was opportunity the County could not afford to turn down, particularly in terms of the County's ability to apply for future grants, but also the funds would help cushion ever-rising construction costs if awarded. He understood Commissioners' concerns and frustrations about the quick turnaround time and short notice, but he felt strongly about the opportunity.

Chairman Chapman questioned how the application process got this far without prior approval by the Board of Education. Mr. Kiviniemi stated that the availability of the grant funds has been discussed in general terms by the Board of Education, but they have not taken formal action. The Board of Education will take action at a special meeting later this afternoon. He strongly encouraged the Board of Commissioners to approve both applications.

Chairman Chapman expressed that he intends to support approval of the applications, but only because the County has the ability to refuse the funding if private financing cannot be secured. At this point, a 5 or 6 cents tax increase is significant without first having input from the public.

Commissioner Hawkins inquired about the timeframe for acceptance because the County would be informed of potential award prior to the election (passage/failure of bond). The Manager stated the County will likely have some period to consider the terms of the agreement and to wait for the results of the bond referendum, but that is not a guarantee.

Commissioner Hawkins commented that if the bond referendum is successful and the grant applications are approved, essentially what that does is buy down the bond referendum by \$20 million. For him, there were two different issues here: responding to the Board of Education's request and communication problems. He understood that staffs were busy, but the fact that the grant funds could potentially buy down one third of the bond should have made completion of the grant applications a priority. Furthermore, the applications were forwarded to County staff in an email with a request for signatures, when there should have been verbal communication among staff. He said the Board of Commissioners and the Manager have the right to be upset about the way this was handled. Commissioner Hawkins stated his approval for the applications, but only because the County can refuse the funds if awarded should circumstances not pan out. Lastly, he did not feel Transylvania County should be thankful to the Legislature for providing an opportunity to apply for these funds because these funds are actually lottery funds and belong to the counties. The State is excluding Tier 3 counties from applying which he felt was wrong. The Legislature is releasing the funds in lieu of a statewide bond referendum on the ballot which would have provided a more substantive amount of funds for school capital needs.

Following brief discussion on the wording of the motion, **Commissioner Lemel moved to authorize the Chairman to sign the Needs Based Public School Capital Fund applications for the Rosman High/Middle School project and specified Brevard High School project-the total match of bond funding that would be leveraged for this application would be in the amount of \$21,352,796; and to pledge bond proceeds if the bond passes, contingent on approval of Board of Education later this afternoon, seconded by Commissioner Chappell and unanimously approved.**

#### COMMISSIONERS' COMMENTS

Chairman Chapman encouraged the Board of Education to do what is necessary to get information out to the public about the bond. Their public meetings have not been well-attended thus far, and he continues to hear from citizens that they do not have enough information.

Commissioner Lemel informed the Board of Education that the offer stands for them to hold their meetings in Commissioners' Chambers where they can be livestreamed.

#### ADJOURNMENT

Being this was a special called meeting, there were no other items on the agenda. **Commissioner Lemel moved to adjourn the meeting at 11:53 a.m., seconded by Commissioner Chappell and unanimously carried.**

ATTEST:

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Larry L. Chapman, Chairman  
Transylvania County Board of Commissioners

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Trisha M. Hogan, Clerk to the Board