

MINUTES
TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS
December 9, 2019 – REGULAR MEETING

The Board of Commissioners of Transylvania County met in regular session on Monday, December 9, 2019 at 4:00 p.m. in Commissioners Chambers at the County Administration Building, located at 101 S. Broad Street, Brevard, NC.

Commissioners present were Will Cathey, Jason Chappell, David Guice, Mike Hawkins and Page Lemel. Also present were County Manager Jaime Laughter, County Budget and Management Analyst (Deputy Clerk) Allen McNeill, and County Attorney Natalia Isenberg. Clerk to the Board Trisha Hogan was on vacation.

Media: *The Transylvania Times* – Derek McKissock

There were approximately 112 people in the audience.

CALL TO ORDER

County Manager Jaime Laughter presiding declared a quorum was present and called the meeting to order at 4:03 p.m.

WELCOME

Ms. Laughter welcomed everyone to the meeting and thanked the members of the audience for participating in their local government. She introduced Commissioners and staff in attendance.

APPROVAL OF MINUTES

At the first regular meeting in December of each odd-numbered year, the first order of business shall be the approval of the minutes. The Board of Commissioners met in regular session on Tuesday, November 12, 2019. The Board of Commissioners also met in regular session on Monday, November 25, 2019 and following met in closed session in which the minutes were sealed.

Commissioner Cathey moved to approve the minutes as submitted, seconded by Commissioner Guice and unanimously approved.

ELECTION OF OFFICERS

At the first regular meeting in December of each odd-numbered year, the second order of business shall be the election of the Chair and Vice-Chair for the ensuing year, per NC General Statute § 153A-39.

CHAIR

Commissioner Guice moved to appoint Commissioner Hawkins as Chair to the Board, seconded by Commissioner Lemel.

Commissioner Cathey moved to appoint Commissioner Chappell as Chair to the Board. The motion died for lack of a second.

The motion to appoint Commissioner Hawkins as Chair passed by a vote of 3 to 2, with Commissioners Cathey and Chappell voting against.

VICE-CHAIR

Chairman Hawkins moved to appoint Commissioner Lemel as Vice-Chair to the Board, seconded by Commissioner Guice.

Commissioner Cathey moved to appoint Commissioner Chappell as Vice-Chair to the Board. The motion died for lack of a second.

The motion to appoint Commissioner Lemel as Vice-Chair passed by a vote of 3 to 2, with Commissioners Cathey and Chappell voting against.

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.

Betty Rogge: Ms. Rogge spoke as a representative to the U.S. Census Bureau to inform the public of the importance of the upcoming 2020 Census. Ms. Rogge also asked the Board for their assistance in spreading information about the importance of participation in the Census. Ms. Rogge made a point to mention that the Census Bureau is hiring full and part time employees to work on the 2020 Census.

Carol Clay: Ms. Clay is a resident of Transylvania County and addressed the Board on her concerns with the proposed Dollar General Store location at the base of Becky Mountain Road near the US-276 intersection. Ms. Clay felt that this project would create a precedent for similar businesses to propose projects in the community. Ms. Clay asked the Board to take the time to examine this project to ensure it follows established procedure. Ms. Clay also invited the Board to come and see the posed site location for themselves, so that they might understand why local homeowners have concerns about the project.

Sasha Jones: Ms. Jones is a resident of Transylvania County whose home is located on Becky Mountain Road. Ms. Jones voiced her concerns to the Board about the proposed Dollar General project as it relates to traffic safety. Ms. Jones indicated that the intersection of Becky Mountain Road and US-276 already has an Average Daily Traffic (ADT) count of about 6,000 vehicles, and she considered it an above-risk traffic corridor already. Ms. Jones feels that the addition of a commercial property to the area will only increase the risk of traffic accidents, and that the area's current traffic allowance could not support the possible increase. Ms. Jones also requested the Commissioners familiarize themselves with an environmental analysis conducted for Hogsed Creek, as she is concerned the additional run off from a new parking lot could be detrimental to the Creek and subsequent subsidiaries.

Alan McClung: Mr. McClung is a full-time resident of Transylvania County whose home is located on Mill Cove Road. Mr. McClung made a point to remind everyone that US-276 is a designated scenic byway that runs through a flood plain adjacent to Becky Mountain Road. Mr. McClung is concerned that construction on the site proposed for the new Dollar General would lead to increased flooding in an already flood prone location of the County.

Christy L. Blakely: Ms. Blakely is a Transylvania County resident whose home is located on Hogsed Road. Ms. Blakely informed the Board that a bridge replacement project has just been completed near the proposed location of the new Dollar General, and during that bridge replacement project the NC Department of Environmental Quality (DEQ) designated Hogsed Creek as protected trout waters and that Hogsed Creek feeds into the French Broad River where exists a small population of federally protected Appalachian elktoe mussels. Ms. Blakely feels the environmental protection documentation prepared for the bridge replacement project is not reflected in the proposed Dollar General project, and that many may not even be aware of the impacts warned about in the DEQ environmental documentation. Ms. Blakely

requested that the local agencies charged with the approval of the Dollar General project coordinate with agencies responsible for preparing the DEQ environmental protection documents to ensure that the Dollar General project is not a detriment to the surrounding area.

AGENDA MODIFICATIONS

The Manager recommended adding an item under Presentations/Recognitions to discuss zoning basics.

Commissioner Cathey recommended a time during Presentations/Recognitions for those four (4) individuals who signed up to speak in public comment about the courthouse architectural consultant to speak then.

Commissioner Chappell requested an item to discuss changes to the school's budget be added to New Business under item B.

Chairman Hawkins identified that the agenda would now include three (3) new items, a presentation on planning and zoning basics, a presentation on the courthouse analysis, and an item under new business to review of the Transylvania County School's budgetary request.

The Board briefly discussed adding the presentation about courthouse services to Old Business where item B was already designated to discuss the Professional Architectural Services for Courthouse Analysis. As those who were attending the meeting to give public comment about the topic did so under the assumption they would have the opportunity to speak at the beginning of the meeting, it was mentioned that for their convenience, they should be allowed to present their comments during the Presentations/Recognitions section of the agenda.

Commissioner Lemel moved to approve the modified agenda, seconded by Commissioner Guice and unanimously approved.

CONSENT AGENDA

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

The following items were approved:

REQUEST TO CLOSE COUNTY OFFICES FOR ANNUAL EMPLOYEE LUNCHEON

The Annual Employee Luncheon will be on Friday, December 20 in the Myers Dining Hall on the campus of Brevard College. Staff requests that County offices be closed from 12-5pm so that employees may attend.

CANCELLATION OF DECEMBER 23rd, 2019 BOARD OF COMMISSIONERS MEETING

Staff recommends the Board of Commissioners cancel the December 23rd regular meeting. Transylvania County offices are closed for the Christmas holiday Tuesday, December 24th through Thursday, December 26th. There is no pressing business and staffs would like to utilize vacation time during the holiday season prior to the next meeting which is scheduled for January 13th.

APPROVAL OF BOARD OF COMMISSIONERS 2020 REGULAR MEETING SCHEDULE

The Board of Commissioners changed its regular meeting schedule effective July 1, 2019 to the 2nd Monday of each month at 4pm and the 4th Monday of each month at

6pm. Per the Board's Rules of Procedures, if a regular meeting falls on a holiday, the meeting will be held on the next business day. There are two instances in 2020 where the meetings will be held outside the regular meeting schedule:

- Monday, May 25 is Memorial Day and County offices are closed – meeting rescheduled to Tuesday, May 26
- Monday, December 28 - County offices are closed for Christmas break – meeting rescheduled to Tuesday, December 29

In addition, 2020 is an even-numbered year, making it an election year, so an oath of office ceremony and organizational meeting will be held on the 1st Monday in December at a time to be determined (depending on availability of judge).

The schedule does not include budget workshops or other special called meetings. They will be noticed to the public as they are scheduled.

The 2020 Board of Commissioners' regular meeting schedule was accepted with no changes.

PRESENTATIONS/RECOGNITIONS

ZONING BASICS IN REGARD TO COMMUNITY DEVELOPMENT

The Manager presented a brief report on the zoning and land use regulations that are currently in use in Transylvania County.

The Manager confirmed that there are flood plain regulations set by State and federal guidelines which are enforced locally, and that the maps identifying those flood plains are prepared by the State of North Carolina. There also exists a building code and environmental health code, both of which are State regulations that are enforced locally. The County is legally responsible for issuing permits and following the regulatory application procedure.

The Manager identified two (2) areas of the County that have zoning regulations, those areas being along the US-64 corridor and those that have the scenic highway designation. Outside of these two (2) areas, there are no zoning regulations on property throughout the County.

The Manager went on to give the Board further information on general zoning practices. Zoning regulations are allowed by North Carolina General Statutes and are generally established to protect the health and safety of citizens. If adopted, zoning creates a map identifying areas of the jurisdiction where defined uses are and are not allowed. Uses are defined and described with having minimum standards for use, allowing property owners the ability to use the property for said use if the property meets the minimum standard.

The Manager provided the Board with a legal context to zoning and its presence in case law. According to previous cases, there are constitutional implications where the Supreme Court has protected the rights of property owners to develop their own property. As a result, any zoning practices the County could take part in would have to be done inside those constitutional parameters. In cases where it was determined that a local government acted outside of these parameters, they were found to have infringed on the property owners' rights and were subject to compensate the owners, which has been very costly to the local government.

The Manager made a point to mention that according to State statutes, zoning cannot regulate a specific business. If zoning is utilized, it must be applicable to all like uses. Zoning can also not be applied

retroactively: if a project has already started, then it must adhere to the existing regulations at the time of the application. Local governments are also not allowed to discriminate against any type or specific business.

PRESENTATION ON COURTHOUSE ANALYSIS PROVIDED BY MEMBERS OF THE COURTHOUSE COMMITTEE

David Watkins: Mr. Watkins began by stating that their request to speak at this evening's meeting was in response to the Board of Commissioners' interest in selecting Moseley Architects for another review of the County Courthouse site selection. Mr. Watkins informed everyone that 18 months ago, a Courthouse committee was formed and that they have been meeting regularly since, and Mr. Watkins was at this evening's meeting to speak for that committee.

Mr. Watkins gave some history of his experience with the Transylvania County Library project that he was a part of and felt it was a very positive project that resulted in a new Library that the community is very happy with.

The citizen comprised Courthouse committee is made up of a variety of citizens in the community including lawyers and architects, and their main goal in presenting at this evening's Board of Commissioners' meeting is to voice their desire to be included in the development of the new courthouse. Mr. Watkins informed the Board that his committee had collected some petitions requesting that if possible, the Board of Commissioners decide in favor of building a new courthouse downtown.

Parker Platt: Mr. Platt began his presentation by thanking the Board for taking the time to discuss the Courthouse project again. Mr. Platt is also a part of the citizen comprised Courthouse Committee, and he, like the rest of the committee members, feels a downtown location would be in the best interest of the community.

According to Mr. Platt, the three (3) architectural groups that are a part of this committee (Harris, Domokur, and Platt) took the program and design prepared previously by Moseley and overlaid it on the existing Courthouse site and County owned property and they believe it is possible to complete the project at that location as a complementary expansion to the existing structure. Mr. Platt then offered the opportunity to come before the Board and present that alternative to the Board at another meeting.

The committee had been working under the assumption that the City of Brevard would need to participate in the project if it was located downtown due to the cost of a parking structure. The committee is also aware that a downtown urban location for the new courthouse will create problems that wouldn't be as prevalent in a more rural green fill location. Notwithstanding these problems, the committee feels the long-term benefits of a new courthouse in the downtown area outweigh the short-term problems during the planning and project construction.

Jeff Hunt: Being a former District Attorney, Mr. Hunt began by acknowledging the need for a new courthouse facility to provide the needs of current court functions. Mr. Hunt then voiced his opinion that it was essential to find a way to accomplish these improvements while keeping the location of the courthouse downtown.

Mr. Hunt provided some brief history of the locations and purposes of courthouses in other communities, concluding that they are a central part of community business and are thus generally not located in secluded parts of their communities.

Mr. Hunt mentioned the previously discussed petitions and work done by the citizen comprised Courthouse committee and requested the Board allow this committee to be part of the site selection and planning process for the new courthouse.

Jim Fatland (Brevard City Manager): Mr. Fatland thanked the Board for their commitment to this project, acknowledging its complexity and the financial responsibility it brings. Mr. Fatland informed the Board that the City of Brevard is willing to work with the Board and County staff to review site locations and provide parking for a new courthouse located in the downtown area.

Following the presentations, Chairman Hawkins took a moment to voice his appreciation for the high quality of effort and participation provided by the members of the community during public comment and presentations.

APPOINTMENTS

BOARD OF HEALTH

The following terms expire at the end of December with the eligibility status noted for each:

Board of Health Member	Eligibility Status
Kelvin Phillips- General Public	Eligible; served only a partial term
Dr. Jim Lyday- Optometrist	Eligible; served 1 term
Ben Lamm- Pharmacist	Eligible; served 2 terms Board of Health members may serve up to 3 consecutive terms
Dr. Tony Fisher-Physician	Eligible; served 2 terms Board of Health members may serve up to 3 consecutive terms
Dr. PJ Boatwright-Veterinarian	Ineligible; served 3 terms However, NCGS 130A-35 states that when there is no licensed veterinarian available for appointment, the three consecutive term limit may be waived. Additionally, NCGS 130A-35 gives the Board authority to appoint an additional representative of the general public if no licensed veterinarian is available. There are two additional applications on file.

Commissioner Cathey moved to reappoint Kelvin Phillips, Dr. Jim Lyday, Ben Lamm, Dr. Tony Fisher, and Dr. PJ Boatwright to the Board of Health, seconded by Commissioner Lemel and approved unanimously.

BREVARD PLANNING & ZONING BOARD

The City of Brevard Planning and Zoning Board prepares and manages comprehensive and coordinated plans for the physical development within the City's jurisdiction and its extraterritorial jurisdiction (ETJ). The County appoints three members who reside within the ETJ to the Brevard Planning and Zoning Board.

The terms of Stephanie Smith and Christopher Strassner expire at the end of December. Ms. Smith has served a partial term and is therefore eligible to serve a full three-year term. The City of Brevard's Planning Department recommends her reappointment.

Mr. Strassner has served two terms according to our Policy and Procedure for Appointments to Citizen Advisory Councils. He was first appointed on June 22, 2015 to fill the remaining portion of a term that expired December 31, 2016. The portion of the remaining term was slightly more than half of the original

three-year term; therefore, his first appointment counted toward a full term rather than a partial term. Mr. Strassner then served a full three-year term that expires at the end of this month. There are no other applications on file despite advertisements and other recruitment efforts. The City of Brevard's Planning Department requests a waiver of the term limits for Mr. Strassner since he has technically served only 4 ½ years and that he be reappointed to a three-year term.

Commissioner Chappell moved to reappoint Stephanie Smith to the Brevard Planning and Zoning Board for a term of three years, and to waive the term limits for Christopher Strassner and reappoint him to a term of three years, seconded by Commissioner Guice and unanimously approved.

TRANSYLVANIA COUNTY COUNCIL ON AGING

The bylaws of the Transylvania County Council on Aging outline the makeup of its membership. The Adult Day Care position previously held by Kayla Rice is vacant due to Ms. Rice's resigning her position. Ranessa Thomas is the new director of the Mountain Care Adult Day program. TCCOA Chair Sylvia Petit recommends the appointment of Ranessa Thomas to the Adult Day Care position.

Commissioner Lemel moved to appoint Ranessa Thomas to fill the Adult Day Care position on the Transylvania County Council on Aging, seconded by Commissioner Cathey and approved unanimously.

TRANSYLVANIA COUNTY TOURISM DEVELOPMENT AUTHORITY

The Transylvania County Tourism Development Authority (TCTDA) recently met and reviewed all applications on file for upcoming appointments. Billy Smith's term expires in December and he does not wish to serve another term. Lori Roberts had agreed to serve part of an additional term until an accommodation's owner could replace her.

It is the recommendation of the TCTDA to appoint Dee Dee Perkins to replace Billy Smith at the end of his term to fill the Interested Individual position and Tracie Trusler to replace Lori Roberts to fill the Accommodations Owner position.

In November, the Board voted to increase the TCTDA's membership by two. The Clerk has advertised for additional applications with an application deadline of December 31. These appointments will be brought before the Board in January.

Commissioner Guice moved to appoint Dee Dee Perkins to fill the Interested Individual position and Tracie Trusler to fill the Accommodations Owner position with both terms being effective January 1, 2020. The motion was seconded by Commissioner Cathey and approved unanimously.

OLD BUSINESS

HVAC REPLACEMENT PROJECT – COMMUNITY SERVICES BUILDING

At a previous meeting the Board had questions concerning the proposed HVAC project for the community services building. Assistant County Manager David McNeill provided some clarifications to those questions and presented an alternate option for the HVAC replacement project for the Board to consider.

Background:

Staff requested a line item breakdown of the HVAC project bid from H&M Construction. The project includes removing seven R-22 HVAC units with ages ranging from 1973-2006 and one R-410 HVAC unit 2010 model (six on the roof and two currently located on the ground). The demolition includes

removing all ceiling tile, ceiling tracks, air handlers, existing duct, wiring and conduits located above ceiling, roof area and serving external units. The bid also includes demolition of two restroom areas to allow use for equipment rooms to house six of the eight air handling units that are currently located above ceiling. The base bid includes demolition of the old front porch area to make room for a concrete pad to house the HVAC external condensing units.

The base bid includes replacing the above described systems with an eight-zone duct HVAC system that serves 7,500 sq. ft. on each floor. This includes installation of seven new HVAC units plus new insulated duct systems meeting current code. The bid requires external units to be relocated to the ground to eliminate roof penetrations. The HVAC condenser units will be set on two separate concrete pads with masonry walls to protect and hide the units. The base bid includes the replacement of existing electrical panels and wiring as well as external air make up to meet current code. Once the system is installed, the base bid includes replacement of ceiling track, tile system, finishes and test and balance of the system.

Staff is providing the Board of Commissioners with an alternate option for consideration. Due to current construction costs and a low bid that significantly exceeds project budget, staff is recommending that the Board of Commissioners reject the current bid. Staff recommends the Board of Commissioners authorize replacement utilizing the zone system drawings beginning with replacement of the HVAC system currently serving the Building Department. Staff is recommending use of in-house maintenance for demolition and electrical upgrades as required, oversight and finish. This option does not relocate units from the roof but does raise roof units during replacement to allow for insulated roof and slope. Once the zone serving the Building Department is completed, staff will work with the contractor to replace the remaining zones individually based on HVAC unit condition, external placement and funding approved for HVAC unit replacement (units on roof priority to allow for roof replacement).

Alternative Approach (by steps)

- Reject current bid based on bid exceeding available funds
- Replace HVAC units by zones using the drawings; begin with replacement of HVAC system serving the Building Department which is currently operating off heat strips
- Continue replacement of the other five HVAC zones with units located on the roof (three on 2nd floor and two on 1st floor) to allow roof replacement to begin
- Replace R-22 units serving remainder of 1st floor (evaluate 1st floor duct system)
- Consider adoption of a resolution specifying HVAC equipment based on initial zone replacement for equipment consistency /maintenance and authorization of emergency repair resulting from hail damage per finance

Cons to this alternative:

- HVAC units remain on roof (roof penetration and future roof leak potential)
- Potential to limit unit consistency (future maintenance and repair)
- Extended time frame for completion
- Additional workload on maintenance staff (demolition and electrical)
- Old steps area remains in place
- Plaster in hallway remains in place (could contract separately for removal)

Pros to this alternative:

- Reduced cost
- Reduced construction management cost/fees (managed in-house)
- Reduced demolition cost (drop ceiling/existing duct removed in-house)
- Reduced electrical cost (electrical work in-house electricians)

- Evaluate existing duct during demolition and may be able to repair/seal and utilize some existing duct (1st floor)
- Limits contract work to HVAC (could potentially utilize outside contractor for ceiling track replacement as needed)
- Reduces work in one zone currently served by R-410 unit on ground
- Does not deplete reserve funds for emergency repair reserve

There are budgeted funds remaining for this project totaling \$438,125.

Mr. McNeill recommended a strategic and systematic replacement of existing HVAC systems serving the Community Services Building utilizing an alternate approach. He also asked the Board to consider adoption of a resolution authorizing staff to specify HVAC equipment to maintain consistency in each zone.

Commissioner Guice started by commending staff for their work in preparing this alternative and providing clarity about the concerns that were presented when the project was discussed at their previous meeting. Commissioner Guice went on to identify this new approach as one that the County could afford.

Commissioner Chappell thanked staff for working to get the Board more information to aid in their decision and challenged staff in future bidding processes to look very closely at bids and to be diligent in reviewing bid results.

In response to Commissioner Chappell's comment, Mr. McNeill informed the Board that County staff has reached out to the Transylvania County School System to possibly partner with them in the future on HVAC projects as an effort to reduce costs on future projects.

Commissioner Cathey thanked Mr. McNeill for his and his staff's efforts to save taxpayer dollars on this project.

Commissioner Lemel moved to reject the current bid based on the bid's exceeding available funds, seconded by Commissioner Cathey and approved unanimously.

Commissioner Lemel moved to recommend the strategic and systematic replacement of existing HVAC systems serving Community Services Building utilizing the alternate approach, seconded by Commissioner Cathey and approved unanimously.

PROFESSIONAL ARCHITECTURAL SERVICES FOR COURTHOUSE ANALYSIS

The Manager started by giving the Commissioners a brief recap of previous discussions considering a new County courthouse location.

Background:

Previous Boards of Commissioners have discussed the need for a new courthouse since 2005. Under State law it is the responsibility of counties to provide for court facilities. A judge can order that adequate space be provided if the court space is determined to be inadequate for proper court functions. Since 2005, detailed analyses have been conducted to inform the decision to build a new courthouse on Morris Road, including a third-floor shell for future expansion. Key issues with the historic Courthouse have been raised by State and local officials over the years of study and include, but are not limited to:

- Circulation and space challenges that endanger safety of court officials, the public and inmates as required by law

- Inadequate ability to secure inmates and provide confidential access to legal counsel as required by law
- Inability to assure equitable participation in court function for persons with disabilities. While the structure meets the ADA code as of the last major renovation, a person with disabilities must be in court prior to seating of the judge and jury and cannot leave the court room except during official breaks
- Safety concerns with those waiting for court gathered in hallways due to lack of space

Moseley Architects conducted a revised program study in 2015 with courthouse personnel. This program study reflected 60,000 sq. ft. of space needs and was evaluated for cost at the public safety facility site on Morris Road. An optional 30,000 sq. ft. shell space was also proposed to accommodate future growth needs.

This proposal would take the same program of work and develop recommendations on meeting those space needs, including parking at the existing downtown Courthouse property, and conduct the same evaluation for the South Broad Park property in downtown. The result will be an apples-to-apples comparison of three sites and will identify the impact of the following elements:

- Storm water issues and cost impacts
- Soils issues and cost impacts
- Parking solutions and cost impacts
- Relocation or other requirements to meet the project need that could impact cost of each option

The work to complete will take approximately 90 days from notice to proceed. The Manager and staff will work to engage City leaders, Courthouse personnel and Courthouse committee stakeholders to communicate as these options are explored.

Staff remains engaged with others to include a 4th downtown location for consideration.

The Manager asked Commissioners to approve the scope of work with Moseley Architects and the fee of \$28,500, noting they may choose to modify the engagement letter based on any new information received during this meeting.

Before taking any questions from the rest of the Board, Chairman Hawkins asked the County Manager if it was correct that the owner of the additional site location that is being considered has requested not to be identified and the site not be identified on this day. The County Manger confirmed that this was correct.

Commissioner Cathey asked the Manager if whoever was selected for this site review would consult with the citizen comprised committee that the Board had heard from earlier in the meeting. The Manager responded to Commissioner Cathey by confirming that her recommendation would be that the selected architect engage stakeholders who operate in the Courthouse because they deserve to have clear information on how the County is going through the process. Also, she recommends that they engage the committee the Board had heard from tonight to hear the ideas that committee has and ensure that the process is being shared with that committee as it advances.

Commissioner Guice commented that the Manager's intentions had been the Board's plan all along and that it was never the intention of the Board not to include those parties mentioned in this process. Commissioner Guice then asked the Manger if the County chose to build the new Courthouse on the site of the current Courthouse, if is there an additional cost that will be considered of relocating court

operations for the duration of the construction of the new facility and if that cost be included in any estimate that is prepared.

Commissioner Lemel asked if future considerations included a proposed structure on site that currently hosts the existing Courthouse, and not be an addition to the existing Courthouse.

The Manager confirmed that this was correct, that in looking at the full programming study would include a full program of work at the existing Courthouse site in addition to the other three (3) sites so that the costs Commissioners would compare would be “apples to apples.” She reminded the Board that since each site contains nuances the Board would have information to consider on factors like relocating court functions when considering the current Courthouse site or building a new Child Development location when considering the South Broad site location. All those estimates will be considered when presented to the Board and public.

Commissioner Chappell wanted to take the time publicly to thank the community members who brought up the necessity to ensure the County legally owns any product of the review. He then brought up the point that in previous discussions the general public was concerned that the proposal was not detailed enough, and he wanted confirmation that those concerns have been answered.

The Manager identified that she felt the major concern was that the product was the property of the County and that this has been addressed, and that the Commissioners can add additional information to this agreement to make it clearer as the current agreement under consideration is not final.

Commissioner Guice mentioned a point brought up earlier by Mr. Platt that any downtown location will be complicated by the need to identify adequate parking. He acknowledged that the County has met with the City Manager about working cooperatively to provide that need in a downtown location.

Commissioner Lemel then asked, outside of negotiating paragraph seven of the agreement, if there are any other concerns that would prevent the Board from moving forward at this point.

The Manager identified that she had listed to add language to the written scope of work in the agreement to explicitly include costs to relocate court operation as it concerns the existing Courthouse site proposal, build a new Child Development facility, and anything else that would provide the Board an adequate level of comfort they would expect.

Commissioner Lemel asked if Commissioners expected anything beyond those mentioned by the County Manager, to prevent the Board from moving forward, as she would really like to get this rolling.

The Manager responded by asking if the Board wanted to approve going forward tonight with giving her the discretion to add the inclusion of the site mentioned in tonight’s meeting as a 4th site, noting the inclusion of a 4th site could increase the fee.

Commissioner Guice noted that if the issue of legal ownership of product comes up with Moseley, the Board needs to be made aware of it very quickly.

The Manager confirmed this and affirmed that she would not sign any agreement that is not consistent with what the Commissioners have discussed in tonight’s meeting.

Commissioner Lemel moved that the Board approve the contract with Moseley to do the apples to apples analysis on the four (4) identified sites including costs of relocating court services and the potential of reconstruction of a Child Development center and Board give the County Manager the

authority to negotiate the ownership of the intellectual property of the results of this study.

Commissioner Guice mentioned that he wanted to make sure the parking situation would be properly considered as it would affect cost. Commissioner Lemel identified that she would prefer to look at parking as a separate issue and that there are opportunities on parking, specifically being that the City of Brevard has stepped up on this option. **Commissioner Cathey seconded the motion.** Chairman Hawkins made a point of clarification that in the Manager's report parking is already included in the survey for the subject agreement. The Manager confirmed that this is correct and recommended that parking be included as a part of the review and that if the Board wanted to include another partner in the construction of another parking alternative that is still a possibility. **Commissioner Lemel moved to amend the motion to consider the cost of parking as part of the apples to apples study. The amended motion was seconded by Commissioner Guice and unanimously approved. The main motion was approved unanimously approved.**

NEW BUSINESS

CONFLICT OF INTEREST POLICY

Due to an unexpected vacancy in the Human Resources department, the County filled the position with an MPA student from Western Carolina University. The temporary position was filled by Ms. Darby Terrell who would present the proposed conflict of interest policy to the Board.

Ms. Terrell informed the Board that the purpose of this item is to update the County Personnel Policy to provide guidance on Conflict of Interest to all County employees and follow financial purchasing procedure requirements.

Specifically, the Finance Department is required to have a Conflict of Interest policy in place as part of its purchasing procedures. By incorporating this into the Personnel Policy, it would be inclusive of all County employees, activities and functions of the County.

Jonathan Griffin, Finance Director; requested a Conflict of Interest Policy be incorporated into the County Personnel Policy to meet the requirements of NC Purchasing law.

Commissioner Lemel motioned to approve the draft County Conflict of Interest Policy as recommended, seconded by Commissioner Guice. Commissioner Chappell asked if the Personnel Board has had the opportunity to review the policy as it is proposed. The Manager confirmed that the policy has not been reviewed by the Personnel Board. Commissioner Chappell responded by informing the Board that traditionally personnel related policies, even simple ones, go through the Personnel Board. Commissioner Lemel identified that she understood that was traditional procedure, but that she was very pleased with the County's getting to the point of clarifying these policies and procedures, and thanked staff for their work. Chairman Hawkins asked if Commissioner Chappell would be agreeable to move forward with adoption of the policy as proposed and ask the Personnel Board to review it and if they have any questions or concerns, they could bring it back to this Board. Commissioner Chappell confirmed he'd be fine with that alternative. **The motion was approved by unanimous vote.**

TRANSYLVANIA COUNTY SCHOOLS REQUEST FOR SUPPLEMENTAL APPROPRIATIONS

During the FY 20 budget workshops, Commissioners reached a consensus to set aside \$582,196 in the FY 2020 budget ordinance as a reserve to fund still-pending action on the North Carolina State Budget. Due to an ongoing impasse between the Governor of North Carolina and the General Assembly over the State budget passed by the General Assembly, the State Government is operating on a baseline funding level from prior years.

The General Assembly passed several appropriation bills to fund certain policies as the North Carolina State budget. Some of these actions have increased amounts to be expended by local education agencies like Transylvania County Schools. These figures are lower than the initial budget estimate provided by Transylvania County Schools during the development of the FY 2020 County Budget.

The Transylvania County Board of Education has requested an additional supplemental appropriation account in the amount of \$310,699. The funds are intended to cover the following:

- Average 2.55% salary increase for locally paid certified staff
- Increases in health insurance and retirement costs
 - Retirement rate increased from 18.86% to 19.7%
 - Health insurance per employee increased from \$6,044 to \$6,306

The General Assembly did not pass any additional appropriation bills that address other elements of the Transylvania County Schools' request to the County, such as pay increases for non-certified personnel or ELL teaching positions. If the General Assembly takes additional action when it reconvenes in the spring, Transylvania County Schools will have to request additional appropriations.

By the numbers, this appropriation of \$310,699 to Transylvania County Schools is:

- 53% of funds held in reserve for the needs of Transylvania County Schools (the Board originally set aside \$582,196)
- An approximate 2.4% increase over the initially approved local appropriation of \$12,429,613
- A tax rate equivalent of this increase is 0.52 (if the approximate value of one penny of ad valorem property taxes is \$587,000)

Staff asked the Board to consider the appropriation of \$310,699 in the FY 2020 Budget to Transylvania County Schools to cover salary adjustments, health insurance and retirement costs.

Commissioner Cathey requested clarification that if by approving this request the Board is agreeing to raise taxes on the public by 0.5 cents.

The Manager responded by saying that any time funds are appropriated out of the Fund Balance for an operational expense, there is the likelihood of a necessary tax increase in the future. Increases in operational expenses will require a tax increase or a reallocation of funds from another existing source. The Manager also informed that the reallocation of funds of this magnitude from another source inside the County is not likely, and as a result approving this increase could result in a real possibility for the need of tax increases in the future.

Commissioner Chappell informed the Chairman that as part of their budgeting process, monies were set aside for anticipated increases based on State budget decisions. With the State still working through their budget process, **Commissioner Chappell moved to approve the approximate \$310,699 for the FY 2020 Budget that was in the dedicated balance reserve which was approved during the Board's budget process. The motion was seconded by Commissioner Guice.** Commissioner Guice mentioned there are many factors, some unknown that affect budgets, and those factors can result in the Board's having to make changes to the budget. He pointed out that the Board of Commissioners has made a commitment to the School System and the Board of Education is only making decisions that are necessary. The Board of Commissioners set aside funds for the purpose of addressing their unknown operational expenses at the time the FY 20 Budget was passed. Commissioner Cathey stated that he would vote for the allocation of funds but would not be supportive of a tax increase. Chairman Hawkins stated that he would not support the allocation because, based on the information he had been given, a

large percentage of the requested funding is not based on State requirements, but choices made by the Transylvania County School system. Chairman Hawkins stated that he was under the impression that the funding requested for the addition of the new teacher was not prompted by a State mandate, rather that the School System had requested funding for that position during the County budget process and did not receive it and thus went about acquiring the funding in this manner. Chairman Hawkins asked Norris Barger, Transylvania County Schools Director of Business Services, if this was accurate. Mr. Barger confirmed that the findings were part of the original request and it was in response to the drastic increase in the English language learner student population in 2018 – 2019. Commissioner Guice addressed the Chairman noting that the request had been addressed before and that the Chairman had voted against it at the time and said the money would be set aside until a time the Board had the information necessary to make a decision. Commissioner Guice went on to say that the choice was made based off of a ratio, but that the Board has made similar choices like when they chose to put a School Resource Officer in every school in Transylvania County before anyone else in the State had. Chairman Hawkins reaffirmed that he understood there is uncertainty coming from the State budget and that it is not the Board's intention to undercut what the School System is trying to do with the funding they are requesting. With that said, the funds were reserved for a certain use, but the request includes using the funding in additional ways as well. If the Board makes the decision to provide the funding request, there is a real likelihood that next year's budget would require a 0.5 cent tax increase. **The motioned carried by a 3 to 2 vote with Commissioners Lemel, Chappell, and Guice voting in favor, and Commissioners Hawkins and Cathey voting against.**

MANAGER'S REPORT

The Manager informed the Board that the Manager's Report would be brief as most of what was in her report had been covered in agenda modifications.

The Manager thanked Allen McNeill, Budget and Management Analyst, for stepping in as Deputy Clerk for tonight's meeting.

She reported that the Cedar Mountain area plan timeline has been established, and the Board of Commissioners can expect a recommendation coming next fall.

The Manager encouraged the public to attend Christmas in the Park this Saturday. There will be lots of activities for all ages. Wristbands for the event are \$5 and can be purchased on the Parks and Recreation website.

PUBLIC COMMENT

Martha Kramer: Ms. Kramer is a County resident who voiced her desire that the community retain its rural character and requested that the Board help to protect its rural scenic draw from being spoiled by the commercialization associated with the proposed Dollar General store.

Mike Mucci: Mr. Mucci and his wife are residents of the Dunn's Rock/Cedar Mountain area and have been for the last 15 years. He asked if anyone with the County had seen plans for the Dollar General site located at See Off Road, as it was advertised to keep with the scenic appeal of the area, but more closely resembles the corporate retail appearance of other stores. Mr. Mucci was also curious why his and his wife's property, which is located on both sides of Wilson Road along the river, cannot be built on or filled as it is in a flood zone, yet Dollar General is building and using fill practices in a flood retention area.

COMMISSIONERS' COMMENTS

Commissioner Cathey spoke about his commitment to education in Transylvania County and reflected on the joy he experienced while serving as a teacher at T.C. Henderson. However, as an elected official, he stated that outside of the need resulting from emergency, he would not add to the tax burden that is running working people out of the County.

Commissioner Lemel shared that she had been in Washington, D.C. last week with the North Carolina Association of County Commissioners for their quarterly board meeting and to meet with national representatives. She said it was a great opportunity to put our County in front of those Senators and Congressmen, and she is incredibly grateful for the opportunity to represent our County at those functions and serve the County as a Commissioner.

Commissioner Guice wanted to thank all those who had sent emails and text messages about the Dollar General project. He has been very busy and was unable to respond to all his messages, but he knew they would be at tonight's meeting and wanted to publicly thank them for their messages and their sharing of information. Commissioner Guice did want to share one message he had received from a student at Pisgah Forest Elementary School about their desire that the Board do more for the animals in the community and create more animal shelters. He read the student's letter aloud and voiced the joy it is for him to receive these messages and that it is a true honor to serve the County as a Commissioner.

Chairman Hawkins moved to enter into closed session per NC General Statute § 143-318.11 (a) (3) to consult with an attorney in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged, following a 5 minute recess, seconded by Commissioners Cathey and Chappell simultaneously and unanimously carried.

CLOSED SESSION

Pursuant to NC General Statute § 143-318.11 (a) (3) to consult with an attorney in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged, closed session was entered into at 6:15 p.m. Present were Chairman Hawkins, Commissioners Cathey, Chappell, Guice and Lemel, County Manager Jaime Laughter, Human Resources Director Sheila Cozart and County Attorney Natalia Isenberg.

The County Attorney and the Manager briefed the Board on a potential lawsuit against the County. The Board instructed staff on how to proceed.

Chairman Hawkins moved to leave closed session, seconded by Commissioner Cathey and unanimously approved.

OPEN SESSION

Chairman 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 Cathey and unanimously approved.

ADJOURNMENT

There being no further business to come before the Board, **Chairman Hawkins moved to adjourn the meeting at 6:30 p.m., seconded by Commissioner Guice and unanimously approved.**

Mike Hawkins, Chair
Transylvania County Board of Commissioners

ATTEST:

Trisha M. Hogan, Clerk to the Board