

Board approved and unsealed Minutes on 03/26/2007.

**SEALED MINUTES
TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MEETING – FEBRUARY 13, 2006**

Pursuant to NCGS 143-318.11(a)(3), to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged, the group met in closed session on Monday, February 13, 2006. Present were Chairman Guice, Commissioners Chappell, Duvall, Miller and Phillips, Manager Wilson, Attorneys David Neumann and Jeanne Hall, Planning and Economic Development Director Mark Burrows, and the clerk to the board. The chairman called the meeting to order at 8:45 p.m.

The group discussed the issues around the Unified Development Ordinance (UDO) being proposed by the Brevard City Council, and reviewed maps showing the proposals for the City of Brevard and the extraterritorial jurisdiction (ETJ). The commissioners were concerned about how the UDO would impact the citizens of the county and, therefore, asked the city for more information on two issues:

- What was done to assess the economic impact on the county?
- What was done to assure that the proper expertise had been received before drafting the UDO, particularly Chapter 6?

Although a local government may be able to enact a certain level of environmental legislation through land use authority, it must do its homework. Since we have not been able to get an answer to our questions, the commissioners are concerned that the homework has not been done and that the UDO is perhaps a cut-and-paste job using ordinances from other jurisdictions, done without careful economic analysis and professional expertise.

A second concern centered on allegations that city council members not only attended Planning Board and/or UDO Committee meetings, but actively participated in and may have coerced the proceedings. If these allegations are true, then the issue of due process, as well as the requirement for the exercise of the authority to do such zoning in North Carolina, is undermined and tainted.

The commissioners were also concerned that the county was not asked to be a substantial collaborator during the UDO planning and drafting process. The board of commissioners believes that the county had no real opportunity to be substantially involved in the UDO process, and it appears from the facts that that collaboration was the last thing on the mind of the city.

Mr. Burrows reviewed zoning classifications for the commissioners. He noted that we are enforcing North Carolina building codes and have an ordinance in place, but no zoning. The commissioners also discussed the affects of the compensatory storage requirement of Chapter 6 of the UDO. Mr. Freeman has stated that no industrial development should occur in the floodplain. If this is the case, most if not all the industrial sites in the county would be affected by the UDO, and would increase the cost of building in affected areas.

Attorney Hall suggested that the first thing to be done is to prepare a position paper. We should gather as much information as possible, get answers to our questions, and discuss and try to come to an understanding with members of city council before deciding to go to court over this issue. We should also start to get a better understanding of the issue of the extension of the ETJ and what the county could do about it.

The manager informed the board that the city did not have an economic impact study done and that it created the ordinance by cutting-and-pasting. He suggested that we have a meeting with Transylvania Community Hospital, Brevard College and others affected by the proposed UDO to develop a strategy. Mrs. Hall suggested that we have letters of support of the position paper from concerned entities. There was also discussion on an economic impact study.

The manager was given direction to prepare a position paper to be available before the next commissioners' meeting. No formal action was taken during closed session.

Commissioner Duvall moved to re-enter open session, seconded by Commissioner Phillips and unanimously approved.

Jason R. Chappell, Chairman
Board of County Commissioners

ATTEST:

Trisha D. McLeod
Clerk to the Board