

**MINUTES**  
**TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS**  
**November 26, 2012 – REGULAR MEETING**

The Board of Commissioners of Transylvania County met in regular session on Monday, November 26, 2012 at 7:00 p.m. in the large courtroom of the Transylvania County Courthouse.

Commissioners present were Jason Chappell, Chairman Mike Hawkins, Daryle Hogsed and Kelvin Phillips. Vice-Chairman Larry Chapman was absent due to work commitments. Also present were County Manager Artie Wilson, County Attorney David Neumann, and Clerk to the Board Trisha Hogan.

Media: *The Transylvania Times* – Eric Crews

There were approximately 60 people in the audience.

**CALL TO ORDER**

Chairman Mike Hawkins presiding called the meeting to order at 7:05 p.m.

**WELCOME**

Chairman Hawkins welcomed everyone to the meeting and thanked the members of the audience for participating in their County government. Chairman Hawkins introduced the members of the Board of Commissioners and staff.

**PUBLIC COMMENT**

Gerry Hunsicker: Mr. Hunsicker said he has attended the meetings of several different agencies over the years and during that time he has seen a pattern of dependency on government at all levels. He accused the County of being addicted to spending taxpayer dollars evidenced by the facility remodeling projects it has going on, while neglecting school facilities. He said the public had no say in whether these projects occurred and certainly did not request them. Mr. Hunsicker urged Commissioners to stop investing dollars in facilities and more County employees, but rather in jobs, particularly manufacturing jobs. Mr. Hunsicker also said the County should not pay for outside consultants to do studies that should be done in-house. He noted that many members of the community have brought forth issues to the Board of Commissioners and he feels they have been ignored. Mr. Hunsicker asked Commissioners to be responsible with taxpayer dollars.

Wayne Hennie: Mr. Hennie requested to speak during the agenda item relating to responses about GroWNC from the Land-of-Sky Regional Council.

Page Lemel: Ms. Lemel reported that she, along with Commissioners Chapman and Hawkins, attended the AdvantageWest Economic Summit recently. In attendance were 375 regional business consultants, elected officials, and business industry leaders. What she learned from attending this event was the importance of being connected and engaged on a regional level in order to share how wonderful Transylvania County is and to help cultivate jobs and industry here. Ms. Lemel also reported that she has attended two GroWNC community meetings. She emphasized that the end result of GroWNC is a plan and the plan includes the preservation of personal property, the preservation of small cities, saving taxpayer dollars through the consolidation of road development, and the preservation of agricultural land for farmers. The County Commission will have the authority to decide upon any actions that are

generated out of this plan. She urged Commissioners to remain in the consortium in order to know the direction in which the region is going and to understand Transylvania County's role in the region.

Judith West: Ms. West said she has been present for many of the discussions about GroWNC and Agenda 21 and the arguments about linking regional planning in this County to the Soviet Union and the United Nations. She does not believe the use of the word sustainability is negative. Ms. West said if the County does not participate in GroWNC, it will not have the opportunity to benefit from it. With one Commissioner absent and another who is attending his last meeting as a Commissioner, Ms. West urged Commissioners not to take action on this issue at this meeting. She said it would be more ethical for Commissioners to vote on this matter with a full Board and with the Board that will be serving for the next two years.

### **AGENDA MODIFICATIONS**

The Manager requested to remove the Manager's Report under New Business.

**Commissioner Hogsed moved to approve the agenda as amended, seconded by Commissioner Chappell and unanimously approved.**

### **CONSENT AGENDA**

**Commissioner Chappell moved to approve the Consent Agenda as submitted, seconded by Commissioner Phillips and unanimously approved.**

The following items were approved:

#### MINUTES

The minutes of the November 13, 2012 regular meeting and sealed closed session were approved.

#### FACILITIES USE REQUESTS

The use of the Varsity Street parking lot from 9:00 a.m. to 12:30 p.m. by the Unitarian Universalists Church on Sundays in 2013 was approved.

#### DISCOVERY AND RELEASE REPORT

The Discovery and Release Report for October 2012 was approved.

### **PRESENTATIONS/RECOGNITIONS**

#### RESOLUTION IN RECOGNITION OF NANCY PFEIFFER

Nancy Pfeiffer will retire from the Elections Office effective January 1, 2013 where she has served as an Elections Clerk since 1986. Elections Director Karen Brinson and Commissioners thanked Ms. Pfeiffer for her many years of service to Transylvania County. Commissioners recognized her with a resolution. Ms. Pfeiffer thanked Commissioners for this recognition. She said it has been a real pleasure working for the County all these years.

**Commissioner Phillips moved to approve Resolution 55-12 In Recognition of Nancy Pfeiffer, seconded by Commissioner Hogsed and unanimously approved.**

(Resolution 55-12 In Recognition of Nancy Pfeiffer is hereby incorporated by reference and made a part of these minutes.)

### RESOLUTION IN RECOGNITION OF ROBERT D. “BOB” TWOMEY

Bob Twomey will retire from the US Department of Agriculture, Natural Resources Conservation Service, effective December 3, 2012, where he has been a District Conservationist serving Transylvania County for 28 years, and over the past five years has served a dual role in Henderson County. Mr. Twomey has been a partner with the Transylvania County Soil and Water Conservation District and has worked tirelessly to protect the natural resources of Transylvania County. Commissioners recognized Mr. Twomey for his many years of service to Transylvania County and presented him with a resolution. Mr. Twomey took a few minutes to talk about some of things he has had the privilege to be involved with and some of the people who influenced him along the way.

**Commissioner Hogsed moved to approve Resolution 57-12 In Recognition of Robert D. “Bob” Twomey, seconded by Commissioner Phillips and unanimously approved.**

(Resolution 57-12 In Recognition of Robert D. “Bob” Twomey is hereby incorporated by reference and made a part of these minutes.)

### COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR FY 2011-2012

The laws of the State of North Carolina, along with policies and procedures of the North Carolina Local Government Commission, require that all local governments in the State publish a complete set of financial statements annually. Erica Brown from Martin Starnes & Associates presented an overview of the FY 2011-2012 Financial Report. She noted no findings for the period.

Martin Starnes & Associates issued an unqualified audit opinion. The audit process included planning and performing a risk assessment. The auditors read the minutes of the Board of Commission meetings on a monthly basis to stay up to date on what it going on in the County. In the spring, the auditors perform interim procedures. They do this by looking at internal controls and performing testing of revenues and expenditures. Later in the year, the auditors take a look at actual revenues and expenditures and perform additional tests and look further at internal controls. From here, the auditors begin to draft the financial statement.

Ms. Brown showed a power point presentation and highlighted the following about the County’s finances:

- Revenues decreased less than 1% from 2011
- Expenditures decreased 1.4% from 2011
- Fund Balance is calculated by subtracting the County’s liabilities from its assets and is made up of five classifications: 1) non-spendable (not in cash form, such as inventory or pre-pays), 2) restricted (external restrictions such as laws or grantors), 3) committed (internal constraints at the highest level which do not expire and require Board action to undo), 4) assigned (internal constraints, lower level than committed), and 5) unassigned (no external or internal constraints)
- The Fund Balance has increased a little over \$700,000 from 2011 to 2012 which is about 3.5% and is mainly due to reductions in expenses in the current year, while revenues have remained relatively unchanged
- Available Fund Balance is calculated by taking the total Fund Balance and subtracting non-spendable and stabilization by State Statute; this is the calculation that the Local Government Commission (LGC) uses to compare units and calculate the fund balance percentages
- Available Fund Balance increased by \$760,469, or 4%, mainly due to an overall increase in the Fund Balance, as well as a decrease in State Statute dollars
- The total Fund Balance is \$21,038,792. Available Fund Balance is \$11,562,233
- Unassigned Fund Balance as a percent of General Fund expenditures is 29.5% (calculated internally; different from the LGC because this calculation excludes all restrictions, commitments and assignments)

- For 2012 the County had roughly 5.8 months of reserves; for 2011, it was 5.5 months
- For FY 2012 the unassigned Fund Balance represents 29.5% of expenditures and transfers out, or 3.5 months worth of expenditures, compared to 3.7 months in FY 2011
- The top three revenues for the County represent 91% of revenues (ad valorem taxes-60%, local option sales tax-15%, restricted intergovernmental-16%); 9% makes up other revenue consisting of other taxes and licenses, unrestricted intergovernmental revenues, permits and fees, sales and services, investment income, and miscellaneous revenue
- Property Tax revenue increased approximately \$118,000 from the prior year, less than 1%
- Sales Tax revenues increased about \$280,000 from the prior year, or 5.1% , and was due mainly to Medicaid Hold Harmless Funds and Article 40 Sales Tax increase
- Restricted Intergovernmental revenues increased approximately \$340,000, or 5.8%, and was due to an increase in federal and State grants
- The top three expenditures comprise 80% of the total expenditures (Education-35%, Public Safety-24%, Human Services-21%); all other expenditures make up 20% of expenditures; Education expenditures include debt service on the school bonds
- Education expenditures increased about 1.4% due to school spending needs
- Public Safety expenditures decreased slightly by \$72,000, less than 1%
- Human Services expenditures increased by \$137,000, or 1.7%

Per the auditors, the audit should not be made available to the public until the Local Government Commission has approved the audit. Therefore, staff has not given a copy of the audit to the media or placed a copy at the Library. Staff expects approval by the Local Government Commission in mid-to-late December.

Chairman Hawkins stated that the County needs to be able to put these numbers into context. One way is being able to see how numbers change over time. Another component is benchmarking and learning how these figures compare to other data from other places. Even then, Commissioners must consider the County's own particular situation when making decisions. Chairman Hawkins suggested meeting with the Manager and Finance Director to start collecting this information. Ms. Brown said Martin Starnes can include such information in future presentations. Also, the School of Government and the Local Government Commission puts together benchmarks for the County's peer group.

**Commissioner Hogsed moved to accept the audit report. The motion was seconded by Commissioner Phillips.** Commissioners thanked Ms. Brown for the presentation and thanked staff for the work they do in assisting the auditors. The Manager noted that the NC Association of County Commissioners also compiles data that may be useful to Commissioners. **The motion was unanimously approved.**

## OLD BUSINESS

### RESPONSES FROM LAND-OF-SKY REGIONAL COUNCIL

On October 24, 2011 the Board of Commissioners unanimously approved becoming a member of the Western North Carolina Livable Communities Initiative Consortium. In early spring some citizens expressed concern about the Livable Communities Initiative, and in response the Board of Commissioners invited Joe McKinney, Executive Director of the Land-of-Sky Regional Council, to come and present to the Board Commissioners another overview of the Livable Communities Initiative.

After Mr. McKinney's presentation citizens Mike West and Wayne Hennie asked to present their concerns about the Livable Communities Initiative to the Board of Commissioners. Commissioners heard Mr. West and Mr. Hennie's presentation during the August 13, 2012 Commissioners' meeting. As a

follow up to that meeting, Commissioners suggested that Mr. Hennie and Mr. West provide any questions they might have regarding the program. They subsequently provided a list of 20 questions, which the Board of Commissioners sent to the Land-of-Sky Regional Council for responses.

On October 19, 2012, Justin Hembree of the Land-of-Sky Regional Council met with Commissioners Hawkins and Chappell and the County Manager to discuss the responses to the questions. The responses were forwarded to the Commissioners the same day.

Chairman Hawkins called upon Mr. Hennie who requested to speak during this agenda item. Mr. Hennie said he reviewed the responses from the Land-of-Sky and many of the answers were not very specific and were open to interpretation. He believes the basic premise of the sustainability movement is not to be defined and is deliberately intended to fool people. Mr. Hennie reminded Commissioners that the facts show a clear connection to the United Nations Agenda 21 initiative. Henderson County dealt with the same issue last year and it was reported to them that many of the workgroup participants were comprised mainly of Asheville residents, environmentalists, some being extreme, and that the program was designed to give certain groups a platform to push their social agenda on participating counties. Mr. Hennie urged Commissioners to withdraw from participation in the consortium because it will not benefit Transylvania County.

Commissioners discussed this matter at length. Commissioner Hogsed agreed with Mr. Hennie that the responses from Land-of-Sky were either half answered or unanswered. He also expressed concern about the makeup of the steering committee, noting that most of the members are employed by a governmental or nonprofit entity, and mostly represent the interests of Buncombe County and the City of Asheville. Commissioner Phillips agreed with Commissioner Hogsed's comments about the questions not being answered thoroughly. He said a real possibility exists for Agenda 21 to become a reality. He gave a personal example of the slow movement of Agenda 21 into people's lives, saying it is being implemented in small amounts where no one will notice until it is too late. Commissioner Chappell pointed out that in October 2011 the Board joined the consortium with the understanding that the County could withdraw at any time if Commissioners felt it was not benefiting Transylvania County. He originally served on the steering committee to represent the County and quickly learned that Transylvania County had nothing to gain by participating and therefore he resigned from the steering committee. Commissioner Chappell said this initiative has done more to fracture the community than benefit it. Chairman Hawkins expressed concern about pulling out of the consortium before knowing the results of the planning process. He was also troubled that the arguments that have been presented against this initiative have been based on fear, which is not a basis to make decisions. He said GroWNC has no authority to make decisions for Transylvania County; however if anything should come out of the process that would threaten personal property rights or any other rights, he would be the first to advocate for withdrawing from the consortium. He believes it is crucial that Transylvania County remains involved in the planning process and help influence those things that might negatively affect Transylvania County.

**Commissioner Hogsed moved to withdraw from participation in GroWNC. The motion was seconded by Commissioner Phillips and passed by a vote of 3 to 1, with Chairman Hawkins voting against.**

## **NEW BUSINESS**

### **RENOVATION OF THE COURTHOUSE**

In the spring of 2012, the Board of Commissioners approved the renovation of the old Sheriff's Building and the move of the Register of Deeds and Tax Administrator out of the Courthouse into the old Sheriff's Building in order to provide additional space for the Clerk of Court, District Attorney, and Juvenile Administrator, and provide space for the Public Defender.

The project was bid and two bids were received. The lowest responsible bid was Kearey Builders at \$156,239. Kearey Builders is currently contracting with the County on the construction of the animal shelter. The cost of the renovation is somewhat higher than first anticipated due to having to make several doors ADA accessible and the purchase of furniture for the Public Defender. The total cost of the project including fees, furniture and equipment is \$218,703.

### **Project Budget for Renovation of the Courthouse**

Construction Cost	\$156,239
Fees	\$ 50
Architect Fees	\$ 16,000
Furniture and Equipment	\$ 36,000
Subtotal	\$208,289
<u>Contingency 5%</u>	<u>\$ 10,414</u>
Total	\$218,703

Per NCGS 7A-302, the County is responsible for providing furnishings for the judicial facilities. With the renovation the Public Defender will be moving his personnel into the Courthouse and the County will have to purchase the furnishings for his offices. By moving the Public Defender into the Courthouse the County will save \$10,800 per year in lease costs.

The project will be done in two phases. Phase 1 will be to renovate the vacant spaces which will become the offices of the Clerk of Court. As soon as the Clerk of Court moves, Phase 2 begins which will entail the construction and renovation of offices for the Public Defender and Juvenile Administration. Both phases are estimated to take 45 days to complete.

The Manager recommended that the funds for the renovation costs come from Facility Fund. As of June 30, 2012 the Facility Fund had a balance of \$319,331.60. He also recommended awarding the renovation contract to Kearey Builders for \$156,239, approving the Project Budget for the Renovation of the Courthouse, and obtaining authorization to approve change orders as long as the project stays within budget.

**Commissioner Chappell moved to award the renovation contract to Kearey Builders for \$156,239, approve the Project Budget for the Renovation of the Courthouse, and authorize the County Manager to approve change orders as long as the project stays within budget, with funds to come out of the Facility Fund. The motion was seconded by Commissioner Phillips and unanimously approved.**

### EMERGENCY MANAGEMENT ORDINANCE/EMERGENCY OPERATIONS PLAN

Operations Director David McNeill reported that the State of North Carolina revised General Statute 166A, the North Carolina Emergency Management Act. The revisions to the Statute required Transylvania County staff to review the County Ordinance and recommend revisions to ensure compliance with General Statute 166A and provide the County with the ability to provide protective measures during an emergency to ensure the safety and well being of its citizens and visitors.

In addition, staff is reviewing the County's Emergency Operations Plan. It must be reviewed by department heads and other agencies as well. Once that occurs, staff will bring forth the revised Emergency Operations Plan for approval by the Board.

A member of the audience requested to speak. Eddie Glance requested that Commissioners make the ordinance with the revisions noted available for public inspection prior to voting on the revisions.

Mr. McNeill said the ordinance complies with General Statutes which became effective in October. There is no deadline set by the State whereby counties must revise their ordinances; however should an emergency occur the powers of the Board may be affected.

Commissioners were in agreement to consider the revisions at the next meeting and instructed staff to post the ordinance with the noted revisions on the website.

#### RESOLUTION IN HONOR OF DAVID C. NEUMANN

David Neumann has served as the County Attorney for 20 years and he has announced his retirement as the County Attorney effective December 3, 2012. Commissioners recognized Mr. Neumann for his many years of service and presented him with a framed resolution in his honor. Mr. Neumann thanked Commissioners for this recognition. He said he has enjoyed having the privilege of working for Transylvania County.

**Commissioner Chappell moved to approve Resolution 54-12 In Honor of David C. Neumann, seconded by Commissioner Hogsed and unanimously approved.**

(Resolution 54-12 In Honor of David C. Neumann is hereby incorporated by reference and made a part of these minutes.)

#### RESOLUTION HONORING COMMISSIONER JAMES KELVIN PHILLIPS FOR HIS SERVICE TO THE CITIZENS OF TRANSYLVANIA COUNTY

Commissioner Kelvin Phillips has served on the Board of Commissioners for eight years beginning in 2004 and five of those years were as Vice-Chairman of the Board. This meeting is his last meeting as a Commissioner. The Board recognized Commissioner Phillips for his service to the citizens of Transylvania County and his accomplishments as a Commissioner and for always putting citizens and taxpayers first when making decisions. Chairman Hawkins presented Commissioner Phillips with a framed picture of the Board of Commissioners and a framed resolution with a picture of the Transylvania County Courthouse.

Commissioner Phillips also represented the Board of Commissioners on the Board of Health. Commissioner Phillips was presented a framed certificate thanking him for his service on the Board of Health.

Commissioner Phillips said it has been a real joy and privilege to serve the people of Transylvania County. He thanked his fellow Board members and staff and County employees for the opportunity to work with them over the last eight years.

**Commissioner Chappell moved to approve Resolution 56-12 Honoring Commissioner James Kelvin Phillips for His Service to the Citizens of Transylvania County, seconded by Commissioner Hogsed and unanimously approved.**

(Resolution 56-12 Honoring Commissioner James Kelvin Phillips for His Service to the Citizens of Transylvania County is hereby incorporated by reference and made a part of these minutes.)

#### **PUBLIC COMMENT**

There were no comments from the public.

### COMMISSIONERS' COMMENTS

There were no further comments from Commissioners.

### ADJOURNMENT

There being no further business to come before the Board, **Commissioner Phillips moved to adjourn the meeting, seconded by Commissioner Chappell and unanimously carried.**

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Mike Hawkins, Chair  
Transylvania County Board of Commissioners

ATTEST:

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Trisha M. Hogan, Clerk to the Board