

**MINUTES**  
**TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS**  
**December 18, 2018 – REGULAR MEETING**

The Board of Commissioners of Transylvania County met in regular session on Tuesday, December 18, 2018 at 9:00 a.m. in Commissioners' Chambers at the County Administration Building, located at 101 S. Broad St., Brevard, NC. The meeting was rescheduled from its original date due to the recent snow storm.

Commissioners present were Jason Chappell, Vice-Chairman David Guice, Chairman Mike Hawkins, and Page Lemel. Commissioner Will Cathey was absent. Also in attendance were County Manager Jaime Laughter, County Attorney Misti Bass, and Clerk to the Board Trisha Hogan.

Media: *The Transylvania Times* – Derek McKissock

There were approximately 12 people in the audience.

**CALL TO ORDER**

Chairman Mike Hawkins presiding certified that a quorum was present and called the meeting to order at 9:03 a.m.

**WELCOME**

Chairman Hawkins welcomed everyone to the meeting and introduced Commissioners and staff in attendance.

**PUBLIC COMMENT**

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

Don Surrette: Mr. Surrette stated he has heard some recent conversations about a request for the Board of Commissioners to revert to a meeting schedule that consists of two evening meetings. He said the current schedule that includes a daytime meeting allows him and other senior citizens who do not drive well at night to participate in the meetings. While the level of public participation varies for the daytime meetings, Mr. Surrette stated it is important for others to be able to participate. He encouraged the Board to consider keeping the current meeting schedule.

**AGENDA MODIFICATIONS**

There were no agenda modifications from Commissioners or staff.

**Commissioner Lemel moved to approve agenda, seconded by Commissioner Chappell and unanimously carried.**

**CONSENT AGENDA**

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

The following items were approved:

#### MINUTES

As required by NC General Statute § 153A-26, an oath of office ceremony for those elected to county office was held on Monday, December 3 in Commissioners' Chambers. The Board of Commissioners convened during that time and elected their officers and approved bonds for county officials. Commissioners approved the minutes of the December 3, 2018 Oath of Office Ceremony and Organizational Meeting as submitted.

#### CANCELLATION OF DECEMBER 27<sup>TH</sup> BOARD OF COMMISSIONERS MEETING

Staff recommended the Board of Commissioners cancel the December 27 regular meeting. Transylvania County offices are closed for the Christmas holiday Monday, December 24 through Wednesday, December 26. The Board of Commissioners' Rules of Procedure states that the regular meeting schedule is the 2<sup>nd</sup> Tuesday and 4<sup>th</sup> Monday of each month except that when a meeting falls on a holiday, it will be held on the next business day. Therefore, the 2<sup>nd</sup> regular meeting in December is scheduled for Thursday, December 27. There is no pressing business and staff would like to utilize vacation time during the holiday season prior to the next meeting which is scheduled for January 8. Commissioners cancelled the December 27 Board of Commissioners' meeting and instructed the Clerk to post and publish appropriate notice.

#### ELECTRONIC PAYMENTS POLICY AND RESOLUTION

In 2015, the General Assembly modified NC General Statute § 159-28 (d2) to allow the Local Government Commission to adopt rules to address the execution of the pre-audit and disbursement process for local government units and local school administrative units.

One of the primary duties of an appointed finance officer for a local government unit is the "preaudit" duty. A finance officer "preaudits" by determining before anything obligates a unit to spend money, that an equivalent appropriation exists to fund it. This makes the finance officer responsible for ensuring that money spent by a unit does not exceed what a governing board, such as Board of County Commissioners or a City Council, has appropriated. Contracts that obligate the unit to spend money, check requests submitted by departments, personnel action forms that change an individual employee's rate of pay – all of those are types of documents that require a "preaudit certificate" – in effect, language indicating that the finance officer has reviewed the document and that appropriations exist to pay whatever obligation is created by it.

However, since the initial drafting and implementation of the Local Government Budget and Fiscal Control Act, procedures have changed significantly to adapt to changing business practices and the benefits of modern technology. As a result, transactions occur today that simply cannot be preaudited because no paper document exists upon which a preaudit certificate can be attached. Transylvania County has paid phone, electricity and water bills via electronic payments for quite some time. A March 2018 memorandum from Sharon Edmundson, Director of Fiscal Management for the Local Government Commission, outlines the following process for making those types of payments legal:

1. The Board must adopt a policy explicitly authorizing the County to engage in electronic payments as defined by NC General Statute § 159-28. The next step would be for the Board to either delegate the responsibility for adopting and executing the policy to staff or instruct staff to draft the policy to be adopted by the Board. In the interest of public transparency and accountability, Finance Director Jonathan Griffin drafted a resolution choosing the former option thereby instructing him to draft those policies for approval.

2. The Finance Officer will propose policies for the board governing the use of gas cards and electronic funds transfers.

The Board has already adopted a policy governing procurement cards; there are no adopted policies for gas cards or electronic funds transfers. There are no programs for credit cards, debit cards or charge cards so it is not necessary for County staff to propose policies governing their use. If the Board adopts the resolution, Mr. Griffin will draft those policies for consideration at a later date.

Commissioners adopted the Resolution Authorizing County of Transylvania to engage in electronic payments as defined by NC General Statute § 159-28 and instructed staff to draft policies concerning the use of gas cards and electronic funds transfers.

**Resolution #38-2018**  
**Resolution Authorizing Transylvania County**  
**to Engage in Electronic Payments as Defined by G.S. 159-28 or G.S. 115C-441**

**WHEREAS**, it is the desire of the Transylvania County Board of County Commissioners that the County of Transylvania is authorized to engage in electronic payments as defined by NC General Statute § 159-28 or NC General Statute § 115C-441; and

**WHEREAS**, it is the responsibility of the Finance Officer, who is appointed by and serves at the pleasure of the County Manager of Transylvania County, to adopt a written policy outlining procedures for pre-auditing obligations that will be incurred by electronic payments as required by NC Administrative Code 20 NCAC 03 .0409; and

**WHEREAS**, it is the responsibility of the Finance Officer, who is appointed by and serves at the pleasure of the County Manager of Transylvania County, to adopt a written policy outlining procedures for disbursing public funds by electronic transaction as required by NC Administrative Code 20 NCAC 03 .0410;

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Commissioners of the County of Transylvania hereby:

**Section 1.** Authorizes the County of Transylvania to engage in electronic payments as defined by NC General Statute § 159-28 or NC General Statute § 115C-441; and

**Section 2.** Authorizes the Finance Officer to draft a written policy outlining procedures for pre-auditing obligations that will be incurred by electronic payments as required by NC Administrative Code 20 NCAC 03 .0409 for approval at a later date by the Board; and

**Section 3.** Authorizes the Finance Officer to draft a written policy outlining procedures for disbursing public funds by electronic transaction as required by NC Administrative Code 20 NCAC 03 .0410 for approval at a later date by the Board; and

**Section 4.** This resolution shall take effect immediately upon its passage.

Upon motion of Commissioner Page Lemel, and seconded by Commissioner David Guice, the foregoing Resolution was passed by the following vote:

Ayes: Commissioner Jason Chappell, Commissioner David Guice, Chairman Mike Hawkins, Commissioner Page Lemel

Nays: None  
 Abstentions: None

S: //Mike Hawkins, Chair

#### COUNTY COMMISSIONER CELL PHONES

The expectations of business communications have changed rapidly over the years including the expectation that elected officials in the community be reachable by cell phone. Transylvania County Commissioners have not previously had County-issued cell phones or reimbursement for cell phone use, but typically, they end up using a personal cell phone to conduct County business at their own expense. Correspondence, including text messages, is subject to the records retention schedule whether they are using a personal or County-owned device. Commissioners will have the option of having a separate phone for County business from their personal phone. Use of a personal phone for both personal and County business could mean having to sort personal and business records should a records request occur to be compliant with open records laws.

The County Manager requested the ability to offer each option to Commissioners. Commissioners authorized the County Manager to approve County-issued cell phones or stipends for Commissioners utilizing budgeted funds from the Board of Commissioners' budget.

Commissioner Guice expressed concern about using text messages to conduct County business, because the text messages are public records like emails and other documents created during the course of business. He was also concerned about commingling of personal phones with business use. This was an issue when he was employed with the State. He thought it was essential that Commissioners are provided with the necessary tools to fulfill the responsibilities of being County Commissioner.

Chairman Hawkins emphasized this is an option for Commissioners to consider, but Commissioners are not required to have a separate County-issued phone.

#### AMENDMENT TO MEMORANDUM OF UNDERSTANDING BETWEEN TRANSYLVANIA COUNTY DEPARTMENT OF SOCIAL SERVICES AND NC DEPARTMENT OF HEALTH AND HUMAN SERVICES

Session Law 2017-41 required that county Departments of Social Services enter into an annual Memorandum of Understanding (MOU) with the NC Department of Health and Human Services (NCDHHS) to receive funding. A template MOU was developed and executed for the FY 19 cycle. NCDHHS has requested an amendment to the MOU that modifies the performance measures based on feedback and experience received thus far on the new MOUs. It is required to receive State funding. It should be returned no later than December 17. The Board of Commissioners must authorize the Chairman or the County Manager to sign the amendment. The amendment has been reviewed and co-signed by Transylvania County Social Services Director Darrell Renfroe. Commissioners authorized the County Manager or the Chairman to sign the MOU amendment and return it to NCDHHS prior to the deadline.

Commissioner Lemel noted that this action is part of Social Services reform that is occurring in North Carolina as a result of a bill introduced by Senator Tamara Barringer in the legislature. She reported the bill calls for more accountability in Social Services operations. She pointed out that even though Social Services departments are governed by independently elected boards, Boards of County Commissioners are responsible for the operations and maintain the liability for any issues with the respective departments. This effort increases communication and understanding between the Social Services Department and the County and that which is expected by NCDHHS.

## PRESENTATIONS

### RECOGNITION OF CITIZEN ADVISORY COUNCIL MEMBERS

In July 2015, the Board of Commissioners implemented a recognition program for the purpose of expressing our appreciation to citizens who volunteer their time and expertise on the County's many citizen advisory councils. Commissioners recognize citizens on a semi-annual basis. This period will cover July 1, 2018 - December 31, 2018. Each person in attendance will be presented with a certificate of appreciation and a coffee mug. The Clerk will mail certificates to those citizen volunteers who are unable to attend.

- Chaka Roberts – Board of Health (mail)
- Mary Grace Brennan – Nursing and Adult Care Home Advisory Committee (mail)
- Kevin Brian Smith – Parks and Recreation Commission (present)
- Bobby Cooper – Personnel Board (mail)

## APPOINTMENTS

### BOARD OF HEALTH

The terms of Stacey Gash (Dentist) and Linda Tompkins (Nurse) expire at the end of December. There is also one vacancy due to a member (General Public) resignation due to relocation out of state. In addition, former Commissioner Kelvin Phillips served on the Board of Health in his role as County Commissioner and that position is now vacant.

Health Director Elaine Russell recommended the reappointment of Stacey Gash and Linda Tompkins to their respective positions. At the request of the Board, the Clerk continues to advertise for the Dentist position, but has yet to receive any applications. Ms. Gash has been filling this role because the Board has been unable to fill it with a qualified applicant according to statute. Additionally, Ms. Russell recommended appointing Kelvin Phillips to the General Public role. During his service to the Board of Health as a Commissioner, he was engaged, committed, and a strong advocate for services supporting maternal/child health and environmental health. She believes that his knowledge of public health and County operations would be an asset to the Board of Health.

The County Commissioner position needs to be filled. The Board can choose to fill the position at this time, or wait until January when the Clerk plans to present all County Commissioner appointments for consideration.

**Commissioner Lemel moved to reappoint Stacey Gash and Linda Tompkins to their respective positions and to appoint Kelvin Phillips to the General Public position on the Transylvania County Board of Health, seconded by Commissioner Chappell and unanimously approved.**

**Commissioner Lemel moved to hold off on appointing the County Commissioner appointment until the Board can collectively look at all of their upcoming obligations and discuss them as a full Board, seconded by Commissioner Chappell.** Chairman Hawkins said he would like to offer this position to Commissioner Cathey for consideration. If he is not interested, he will be asking another Commissioner to serve. **The motion was unanimously approved.**

### TRANSYLVANIA COUNTY TOURIM DEVELOPMENT AUTHORITY

The terms of Grant Bullard (Interested Individual), Mike Hawkins (County Commissioner) and Lori Roberts (Hotel/Motel Owner/Operator) expire at the end of December. It is the recommendation of the

Transylvania County Tourism Development Board of Directors to reappoint these members to their respective roles.

Being that Chairman Hawkins is serving in his capacity as County Commissioner, the Board may choose to consider this appointment when the Clerk brings forth all County Commissioner appointments for consideration in January or make the appointment during this meeting.

**Commissioner Lemel moved to reappoint Grant Bullard and Lori Roberts to the Transylvania County Tourism Development Authority, seconded by Commissioner Chappell and unanimously carried.**

Chairman Hawkins stated he is willing to serve again, but if another Commissioner has an interest, he would be willing to step aside. As with the Board of Health County Commissioner position, Commissioners were in consensus to delay this appointment to the next meeting.

#### JUVENILE CRIME PREVENTION COUNCIL

Former County Commissioner Larry Chapman served on the Juvenile Crime Prevention Council (JCPC) in his capacity as County Commissioner. The position is now vacant. JCPC Chairman Jeffrey Patterson requested the Board fill the County Commissioner position prior to their consideration of all County Commissioner appointments in January. The JCPC did not have a quorum at their last meeting and they need to ensure a quorum of members is present at the next meeting because they have very important business to act upon.

In addition, the Chief of Police or Designee position has been vacant for some time. Mr. Patterson contacted Chief Harris with the Brevard Police Department and he would like Officer Ronnie Bickford to serve as his Designee on the JCPC.

**Commissioner Lemel moved to appoint Officer Ronnie Bickford to serve as the Chief of Police Designee on the Juvenile Crime Prevention Council, seconded by Commissioner Guice and unanimously approved.**

**Commissioner Lemel moved to appoint Commissioner Guice to the Juvenile Crime Prevention Council, seconded by Commissioner Chappell and unanimously approved.**

#### **OLD BUSINESS**

#### PRESENTATION OF UPDATED AGRICULTURAL DISTRICT ORDINANCE

Cooperative Extension Director Bart Renner presented this item. He stated the Agricultural Advisory Board recognizes that farming has changed over the last 30 years and that a form of farmland protection that respects private property landowner rights is more important than ever. To amend the Voluntary Agricultural District Ordinance, the Agricultural Advisory Board collaborated with the Planning Board, Tax Administration, Register of Deeds, Soil and Water Conservation District, and the Natural Resources Conservation Service, all of which approve of or are aware of the changes proposed in the draft. Mr. Renner reported that the Agricultural Advisory Board believes the ordinance as amended will provide local farmers with an important tool to remain resilient.

A voluntary agricultural district is one in which a farmer voluntarily enters into a 10-year agreement not to develop their land outside of farm purposes in exchange for certain benefits. The agreement is renewed every three years following the expiration of the 10-year term. An enhanced voluntary agricultural district is established by North Carolina general statute and is one in which the farmer is subject to an irrevocable 10-year agreement to limit development strictly to farm uses. In return for the condition of

irrevocability, the landowner receives the added benefit of being eligible to receive up to 90% in cost share benefits, as well as other benefits such as qualification for certain grant programs.

Transylvania County's original ordinance was adopted in 1996. Since then, the way farms market themselves has changed. There are currently 31 farms enrolled in the program and they are located in one of three districts. One of the proposed changes is to reduce the number of voluntary agricultural districts (French Broad Valley, Little River, and Transylvania) to one district and to name it Transylvania County because it is less confusing and makes it easier to manage. The program will continue to be administered by the Agricultural Advisory Board which is composed of farmers and people who work with private land managers who understand who should be enrolled in the program.

Transylvania County's Farmland Protection Program was adopted in 2009 and specifically recommends both Voluntary Agricultural Districts and Enhanced Voluntary Agricultural Districts as tools for preserving farmland and encouraging revenue. The proposed ordinance brings Transylvania County more in line with the goal of this plan.

Mr. Renner emphasized the main benefit of the program, which has recently been tested in the courts in Eastern North Carolina against hog farmers, is public awareness and respect for local farmers' ability to grow food and be stewards of the land. Most counties in North Carolina participate in the program. In particular, Jackson County recently adopted a similar ordinance to what is being proposed to the Board of Commissioners.

Mr. Renner reported major changes to the current ordinance include that present use value is no longer a requirement and the added option for the Enhanced Voluntary Agricultural District.

Mr. Renner stated it is important to note that this ordinance does not give local government the authority to enact or apply zoning. It is a local program overseen by the Agricultural Advisory Board and the Board of Commissioners. It also does not affect the tax base. Agricultural lands continue to contribute more taxes than they use. The program is completely voluntary and temporary.

Mr. Renner concluded his presentation and asked the Board for their recommendation on how to move forward.

The Manager reported the recommendation from the Agricultural Advisory Committee and the Planning Board is to adopt the ordinance with the proposed revisions. Staff recommendation is for the Board to consider scheduling a public hearing followed by adoption of the proposed ordinance.

County Attorney Misti Bass recommended two changes which are minor in nature:

- Article VI Agricultural Advisory Board. Section 4: Membership. – General statutes require one member from each voluntary agricultural district and enhanced agricultural advisory district to be a member of the agricultural advisory board. This language should be inserted.
- North Carolina General Statute § 106-753 requires the ordinance to be filed with the NC Commissioner of Agriculture and yearly reports to be submitted to same. This language should be inserted.

Commissioner Lemel referred to Mr. Renner's reference about there being so many definitions in North Carolina related to agricultural and farming. She said at the recent NC Association of County Commissioners Board of Directors meeting, there was a lengthy discussion on one agricultural goal regarding bonafide farms. She did not see where this ordinance referred to bonafide farms. She stated the definitions within this ordinance appear to provide more security for farm operations. Commissioner

Lemel intends to forward this draft ordinance to the NCACC Ag Committee and suggest they use similar definitions. Mr. Renner said both the Agricultural Advisory Board and Planning Board discussed the term bonafide farm at length as well. He commented that whether a farm is actually consider a farm is dependent on who is asking because people have different opinions. The Agricultural Advisory Board chose to define a farm according to how the NC general statute defined farms, which he said may still be loosely interpreted. The upside is that the Agricultural Advisory Board is made up of knowledgeable members who understand farming. With that said, it is to the County's benefit to have as many people enrolled in the program as possible because it aids in public awareness efforts. Commissioner Lemel added that the goal discussed by the NCACC was to protect bonafide farms from frivolous nuisance lawsuits. She believes this ordinance is a proactive stance to prevent such from happening in Transylvania County.

**Commissioner Lemel moved to schedule a public hearing to consider the amended Voluntary Agricultural District Ordinance at a later date, seconded by Commissioner Guice.** The Manager stated that as long as staff meets the notice requirements, the public hearing can be held during the January 8 Board of Commissioners' meeting. Chairman Hawkins thanked Mr. Renner, the Agricultural Advisory Committee and all those who worked on this ordinance. Mr. Renner acknowledged it has been a pleasure working with other boards and departments on this project. He said it was a very educational and positive experience for him. **The motion was approved unanimously.**

## NEW BUSINESS

### MANAGER'S REPORT

The Manager reported the following:

- County offices will close at 12 noon on Friday to allow staff to attend the Employee Christmas Luncheon
- In response to a citizen request, Manager contacted Comporium regarding their extension policy for cable and high speed internet access
  - Counties are not allowed to invest in or be providers of cable and internet by State law, with few possible exceptions
  - Internet is provided in the community by private business venture, one of those being Comporium
  - In this case, homeowner is receiving DSL service which is tied to phone lines. High speed internet service is typically on a cable co-ax.
  - If the only infrastructure serving a house is a phone line, then DSL is the best internet service that can be provided.
  - Frank Porter with Comporium shared with the Manager that over the next five years they intend to invest \$5 million toward upgrading systems that do not have co-ax cable available. They are currently working in the Lake Toxaway area. If a plan to upgrade is not in the pipeline, a program called the Process Maker Program allows a homeowner to contact Comporium and request an upgrade to infrastructure to their home; however, the homeowner must pay for the infrastructure. Comporium offers discounts via signage of a contract for service.
  - Broadband will continue to be a discussion topic for local government.
- Western North Carolina Community Action has decided not to continue administering the Community Services Block Grant that serves Henderson, Polk and Transylvania Counties
  - Meeting on Thursday, December 20 at 9:00 a.m. in Commissioners' Chambers to discuss the grant program and how a local provider can apply to administer those funds

- Kudos to the Library from Daphne Larkin, a new resident to the community from Napa Valley, California
- Kudos to Emergency Management, Communications, EMS, Rescue Squad, law enforcement agencies, Health Department, Social Services, and Parks and Recreation for their response to Winter Storm Diego. There were over 1,000 calls for service during the storm over a period of four days. They also served 35 people in the emergency shelter. Their teamwork and dedication to service was outstanding.
- Transylvania County has one of the highest hearing impaired populations in the State as a percentage. A new foundation grant fund has been established to assist with infrastructure to help those with hearing impairment issues. The Manager is hoping to tap into those funds to provide a hearing loop for public facilities throughout the County, and she intends to explore adding the City of Brevard and Town of Rosman.
- Kudos to Commissioner Lemel. She was sworn in as a member of the Board of Directors on the NC Association of County Commissioners on December 14. Transylvania County is very fortunate to have representation at this level. The NCACC is very important to counties to help with prioritizing issues and to communicate to the State Legislature.
- On behalf of Transylvania County staff, the Manager wished everyone Merry Christmas and Happy New Year.

#### **PUBLIC COMMENT**

There were no comments from the public.

#### **COMMISSIONERS' COMMENTS**

Commissioner Lemel thanked the Manager for the acknowledgment about being sworn in to the NCACC Board of Directors. She will serve as the Chair of the Steering Committee on Health and Human Services. She is very excited about this opportunity to continue elevating the issues of early childhood across the State. Commissioner Lemel reported that she and the Manager recently had the pleasure of speaking with Rebecca Blanchard, the Senior Early Childhood Policy Advisor at NCDHHS. She is very interested in understanding how we have been able to accomplish so much with regard to early childhood issues in a small rural community. Their discussion centered on the Draft NC Early Action Plan and the possibility of her learning more about Transylvania County's work to make connections with NCDHHS and serve as a rural model for NC. Commissioner Lemel attended the Institute for Emerging Issues Conference on Reconnect North Carolina in Asheville on November 27. Seven people from Transylvania County were in attendance. They were very inspired by the conversation about improving civil discourse in communities. Those seven attendees have met since the conference to discuss exploring opportunities to develop stronger, more collaborative community conversations across all segments of Transylvania County. She looks forward to keep the public informed about the movement this group may have on civil discourse in our County. Commissioner Lemel was invited to participate in a conference call with *The New York Times* on Wednesday to discuss empathy and growing empathy in a community.

Chairman Hawkins reiterated the Manager's comments thanking all those people throughout the community who assisted citizens during the recent snow storm. He commented that he honestly did not expect the storm to be as bad as it was, but the forecasters predicted it correctly. The storm caused a lot of disruption and difficulties for everyone in the County. On behalf of the Board of Commissioners, Chairman Hawkins wished everyone a happy and safe Christmas season. Commissioners look forward to 2019 and to continuing to do what they can to make Transylvania County a better place. He invited everyone in attendance to participate in a small reception following adjournment.

**ADJOURNMENT**

There being no further business to come before the Board, **Commissioner Lemel moved to adjourn the meeting at 9:45 a.m., seconded by Commissioner Guice 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