

MINUTES
TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS
May 1, 2019 – SPECIAL MEETING

The Board of Commissioners of Transylvania County met in special session on Wednesday, May 1, 2019 at 6:00 p.m. in Commissioners' Chambers at the County Administration Building located at 101 S. Broad St., Brevard, NC. The purpose of the special meeting was to receive a presentation from Kara Millonzi with the UNC School of Government about fire service in North Carolina, to include the statutory roles and responsibilities of Boards of Commissioners, options for structuring fire protection services, and how other communities in North Carolina are addressing challenges around fire protection services.

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

Media: *The Transylvania Times* – Derek McKissock

There were approximately 50 people in attendance.

CALL TO ORDER

Chairman Mike Hawkins presiding certified a quorum was present and called the meeting to order at 6:05 p.m.

WELCOME

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

WORKSHOP

For the benefit of the public, Chairman Hawkins explained the meeting format will be a workshop setting with no formal action taken by the Board. The meeting is intended to be informational. The issue of fire protection services is becoming more complex each year and it is the responsibility of the Board of Commissioners to determine the best structure in which to provide these services. The decision will be difficult and challenging, but it begins by understanding the issues, hence the purpose of this workshop. Chairman Hawkins will allow time for questions from the public following the presentation.

The Manager introduced Ms. Kara Millonzi, an Albert and Gladys Coates' Distinguished Term Professor at the UNC-CH School of Government. She is an expert in many areas, one being fire and rescue services.

Ms. Millonzi thanked the Board of Commissioners for inviting her to present. She intends to provide a legal and practical perspective on counties' options for providing and funding fire and rescue services. This is not a unique issue to any county or to North Carolina. Many counties in this State and across the country are struggling with how to provide services and pay for them in an effective way. She intends to share how other counties have begun to address this issue as well.

Meeting Agenda

- Legal authorities and responsibilities
- Service options

- Funding options
- Contract options
- Administrative options
- What others have done

Legal Authorities and Responsibilities

5 Truths and a Myth

- County is not required to provide fire services, nor are cities
- County is not required to provide equal service across the county
- Fire protection is an essential service (practical truth, although not legally required to provide)
- Costs of providing fire protection are rising (exponentially in some places; moving from voluntary system to paid system)
- County Commissioners must decide whether, what, and how to fund these services (statutes place authority and responsibility with Board of Commissioners for the unincorporated areas of the County)
- MYTH: There is a one-size-fits-all solution to providing and funding fire services

Duties of the Board of Commissioners

- Do we provide fire/rescue services?
- Where do we provide fire/rescue services?
- How do we provide fire/rescue services?
- How do we pay for fire/rescue services?
- How do we evaluate fire/rescue services?

Stakeholders

The Board of Commissioners is the ultimate decision-making body, but there are many stakeholders interested in the Board's decisions.

- Citizens – receiver of services
- Contracting party/nonprofit fire department – provider of services
- County staff – manage relationships, finances and processes
- State Department of Insurance – sets insurance rates which impacts costs to homeowners

Service Options

- Fire only
- Rescue only
- Fire and Rescue

Ms. Millonzi stated that when counties first started to undertake fire protection services at the local level, they mainly responded to fire suppression calls. It did not involve the first response that is prevalent today. Today there is a mix of services across counties. Some counties have completely separated fire and rescue services, and others have combined both services. Some counties have established county departments to provide some services and contract out for other services. Most importantly, the Board of Commissioners must decide which services, if any, they want to provide, and how best to do so in the most efficient and effective way. However, counties should be aware that legal restrictions on funding may dictate their options.

How to Provide Services

- County Fire Department – rare option; some counties have expanded the role of their fire marshal to become training hub for fire departments and employ personnel with the ability to dispatch as supplemental firefighters
- Non-profit Fire Department – most common method to provide fire services at the county level; contract between non-profit fire department and local government; seeing changes in the nature of those contractual relationships
- Municipal Fire Department – option to partner with municipalities to provide services outside of the municipality, in conjunction with contracting with non-profit fire departments

Funding Options

- General Fund
 - A few counties are funding all services from their general fund
 - Option to list fire protection services (and education) separately on tax bills to inform and educate the public on how their tax dollars are being spent on essential services
 - Counties have funded fire protection services separately for many years; increasingly, counties are funding fire protection services from the general fund, even if only a portion, regardless of the method of how services are provided; or they are providing centralized services that could also be made available to municipal fire departments, such as a training hub
 - Most counties, however, do not rely 100% on the general fund for both legal and practical reasons
 - Pro – collecting taxes from all property owners; gives Board of Commissioners flexibility to allocate funds where needed
 - Con – some will be contributing to this fund who may not be receiving any fire services from the county, namely those residing within municipalities, depending on the structure of the services being provided; public perception would be they are contributing to a service from which they would never benefit
- Special Taxing Districts
 - Rural Fire Protection District
 - District or area for the purpose of levying a tax for fire and/or rescue services
 - Chapter 69 of NC General Statutes requires receipt of a petition from the potentially affected property owners and a voter referendum on establishing the boundaries of the district
 - Difficult to create and equally difficult to change once created
 - Maximum tax rate, depending on when the district was formed, is either 10 cents or 15 cents (if created today, the maximum rate would be 15 cents); taxing scheme established in the 1950's; method many counties began to use to fund fire protection services
 - Benefits: voter directed, relied on “benefit principle” in which those who benefit pay, and recognized different needs based on topography, population density, etc.
 - County Service Tax Districts
 - General Assembly recognized the statutory authority and requirements (petition and voter referendum) to establish a Rural Fire Protection District were onerous
 - Authorized another option to create different type of taxing district in NC General Statute 153A; resulted in ability to define areas in the county and levy a tax rate; process to establish much easier
 - Board of Commissioners has ability to make changes and address needs as they arise

- Most counties have switched to this model
- No maximum tax rate set by statute, but the fire district tax rate when added to the general property tax rate cannot exceed \$1.50/\$100 valuation
- Counties can go through process to limit themselves to a 15 cents maximum tax rate
- Limitations
 - If counties fund fire and/or rescue services from the general fund, there are no limitations on whether to provide fire only, rescue only, or both
 - If counties establish a tax district, it is established for a particular purpose: fire only, fire and rescue, or rescue only; sets boundaries on how monies can be spent
 - Counties can bypass restrictions by supplementing through their general fund

Fire Tax Districts vs Service Areas

Ms. Millonzi stated that traditionally when counties began to offer fire protection services, they “carved up” the incorporated areas of their counties into different taxing districts. The taxing districts were drawn to exactly overlay the service areas. Services were commonly provided by contracting with non-profit fire departments. The fire departments would provide services within a specific territory. The nature of the services, number of substations and staffing levels would impact insurance rates. Because these two areas correlated, counties began to conflate them into meaning the same thing, i.e. tax district=service area. However, they are not legally the same.

As development changed over the years, the service levels evolved and insurance ratings became more of a factor. Many counties found themselves with a tax district overlaying two or more service areas with two or more fire departments. The tax districts remained steady and unchanged for the most part because of the restrictive process laid out in NC General Statute 69. Years later, counties began to recognize the difficulties with this model, administratively, equitably, and monetarily. Now counties are thinking creatively about fire districts and the use of their general funds in a different way to get to the appropriate level of services for citizens. This is driving much of the change across the State.

Options

- Change the tax district each time a service area changes
- Combine tax districts into larger tax districts without changing service areas
 - Increases amount of dollars available
 - Recognizes inequities in maintaining separate taxing district even if maintaining the separate service areas is desirable
- Create one overlay taxing district, thus abolishing the individualized taxing districts, with the exception of the municipalities
 - Purpose is to allow mechanism for counties to provide more uniform services, funded equitably by taxpayers
 - County Commissioners would continue to negotiate annual budget with service providers based on contractual arrangements
 - Method continues to recognize cost to provide service would be different in service areas based on geography, density, etc.
 - Collecting an equal tax rate does not mean that each service area receives an equal amount of dollars; each service area would receive enough money to provide the level of service the County Commissioners and the fire departments decide is appropriate

Contract Options

The contract with the service provider, i.e., fire department or municipality, is incredibly important. They are essentially vendors of the County. It is best practice to have a formal written agreement in place so that each entity is in agreement with the level of service, cost, and funding mechanisms.

County Commissioners' Role vs. Nonprofit Fire Departments' Roles

To be effective, there should be communication among all stakeholders that allows for open conversations for the purpose of building trust and reaching the ultimate goal. This has been successful in other counties.

County Commissioners	Nonprofit Fire Departments
Decide level of service	Advise county commissioners on recommended service level (some counties created advisory boards with mixed representation to provide input and expertise; no one-size-fits-all approach)
Decide most equitable, efficient funding method(s); should be considered separate from level of service; allows board more flexibility on how to address needs	Reasonably estimate costs of providing desired service level; important to note that costs may vary throughout service areas
Review budget requests from fire departments	Submit budget requests to county commissioners
Engage in contract negotiations	Engage in budget negotiations
Pay amounts due under contract	Carry out contract requirements
Review contract performance	Account for contract performance

Discussion

Ms. Millonzi paused her presentation to answer questions from the Board.

Chairman Hawkins inquired if a maximum tax rate applied if service areas were overlaid with one single tax district. Ms. Millonzi stated this model falls under NC General Statute 153A and there is no default maximum tax rate unless the Board wants to cap the tax rate, either through legal processes or internal policy. She noted that imposing the cap removes the burden and expense of having to notify by mail all affected property owners. However, most counties would prefer the flexibility in case there was a need to exceed 15 cents in the future.

Commissioner Lemel inquired further about a Forsyth County bill that is currently being considered in the Legislature. Ms. Millonzi informed Commissioners there is a bill pending in the Legislature that, if passed, would modify NC General Statute 69 to require that any funds collected within a Rural Fire Protection District could not be used to fund centralized services. The bill has been referred to committee.

Chairman Hawkins pointed out that last year Transylvania County provided some funding for fire departments from the general fund, thus using a hybrid model. He asked if this has occurred elsewhere in other counties. Ms. Millonzi stated that other counties have used this model and it has often become a

bridge to rethinking how to fund fire services. When counties start supplementing some districts due to their inability to raise the tax base, it is usually an indication of a deficiency in how the tax districts have been drawn.

Chairman Hawkins inquired further about the process to modify a Rural Fire Protection District with a tax district for the purpose of changing the funding mechanism. Ms. Millonzi explained that to make modifications to a Rural Fire Protection District would require a referendum. Every county that has attempted to modify their Rural Fire Protection District through referendums has been unsuccessful because it is confusing to voters. What has proven successful is for counties to abandon the Rural Fire Protection District construct entirely and create overlay tax districts. Legally, a county can make the tax rate in a Rural Fire Protect Tax District zero, leave it in place, and then create a fire service district that exactly overlays it to create a more flexible model. This does not impact the service area or the service provider. It gives a county flexibility in how it raises funds to provide services.

Commissioner Chappell clarified this to mean a county would have a Rural Fire Protection District with a zero cent tax rate overlaid with a county service tax district. Ms. Millonzi confirmed. She noted that when a county choose the option to overlay with a tax district, it has to choose one or the other in which to levy the tax. A county could not tax both districts at the same time.

In response to further inquiry about this process from Commissioner Lemel, Ms. Millonzi stated that a Rural Fire Protection District would remain abandoned until a county took steps to get rid of the service district. Counties are not limited to creating an overlay district exactly to match the Rural Fire Protection District.

Chairman Hawkins asked if all counties provide fire protection services. Ms. Millonzi suspected they all do, but she said she has not surveyed all of them.

Chairman Hawkins summed up the theme of the presentation as having two components – funding and service – and the importance of considering them separately to ensure fairness to citizens. Ms. Millonzi agreed with his summation.

What Are Your Neighbors Doing?

- Establish advisory committee for fire services/fire funding
- Supplement fire departments with county employed personnel
- Centralize training and certain services
- Engage in community efforts to promote volunteer firefighters
- Set policy for emergency budget requests

Managing Relationships

- Communicate – establish regular communications with service providers and other stakeholders and develop common terminology and understanding about the issues faced by both sides
- Plan/Consult
- Justify – providers should be able to justify budget requests and Commissioners should be in a position to understand those budget requests
- Account – be accountable to contract and funding requirements
- Be creative – once trust is established, it opens up ability to be creative and think more freely

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.

Lee McMinn: Mr. McMinn stated it was mentioned that the Forsyth County bill was drafted to address a specific issue. He asked if it was a local bill or one that would apply to all counties if passed. Ms. Millonzi stated it was not written as a local bill, but a general bill. It is limited in that most counties do not use Rural Fire Protection Districts (Chapter 69). Therefore, the applicability is going to be limited.

Davey Summey: Mr. Summey clarified that all districts in Transylvania County fall under NC General Statute 153A.

Commissioner Guice said he was interested in knowing the perception of the fire departments and citizens if Commissioners decide to change the funding mechanism.

Carmon West: Mr. West is the Chief of Lake Toxaway Fire Rescue. He reported the Lake Toxaway Fire District spans 67 sq. mi. The department protects \$1.637 billion worth of property. The district's tax rate is 5.5 cents. Mr. West stated not every department has the luxury Lake Toxaway Fire Rescue has, but in the same sense to be responsible for protecting more than \$1 billion in property is vastly different than the adjacent department that is responsible for protecting nearly \$1 million in property at a considerably higher tax rate. He is concerned about a flat tax and how the funds will be spread across department. The people in the Lake Toxaway Fire Rescue district are pleased with the level of service they receive and the tax rate they pay and they do not want to see that change.

COMMISSIONERS' COMMENTS

Chairman Hawkins stated the path forward will be to continue researching and gathering information while engaging stakeholders over the next several months. It was important for Ms. Millonzi to present this information so that the Board and public understood the options.

Commissioner Cathey said he would like to have a letter from each fire chief stating their position. Chairman Hawkins responded this will be part of the input process. He believes, to the extent possible, there should be discussions with stakeholders to understand the different components from their perspective.

Chairman Hawkins thanked everyone who attended the meeting. He stressed that the Board understands the sacrifices that the service providers make and part of the Board's goal will be to build a community awareness of the difficulties that exist.

ADJOURNMENT

Commissioner Cathey moved to adjourn the meeting at 7:30 p.m., seconded by Commissioner Chappell and unanimously carried.

ATTEST:

Mike Hawkins, Chair
Transylvania County Board of Commissioners

Trisha M. Hogan, Clerk to the Board