

MINUTES
TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS
July 14, 2020 – SPECIAL MEETING

The Board of Commissioners of Transylvania County met in special session on Tuesday, July 14, 2020 at 4:00 p.m. for the purpose of receiving a presentation from Aimee Wall with the UNC School of Government on health and human services consolidation. The Board met in Commissioners Chambers at the County Administration Building, located at 101 S. Broad St., Brevard, NC.

Commissioners present were Jason Chappell, Jake Dalton, David Guice, Chairman Mike Hawkins, and Vice-Chairwoman Page Lemel. Also present was County Manager Jaime Laughter. Dr. Aimee Wall, Senior Associate Dean and Professor of Public Law and Government with the UNC School of Government, presented via Zoom meeting software. Interim Budget and Management Analyst Kate Hayes attended on behalf of the Clerk to the Board Trisha Hogan.

CALL TO ORDER

Chairman Hawkins presiding declared a quorum was present and called the meeting to order at 4:00 p.m.

WELCOME

Chairman Hawkins welcomed everyone to the meeting and introduced Commissioners and staff in attendance. He explained that Commissioners will be studying a variety of issues in depth over the next few months. The Board did not intend to take action today. Instead, the Board intended to receive information regarding this topic for potential future action.

PRESENTATION

The Manager informed the Board that in May of this year the Transylvania County Social Services Board recommended the County consider the consolidation of Health and Human Services. Their recommendation coincides with the upcoming retirement of Social Services Director Darrell Renfro. To start that discussion, the Board invited Dr. Aimee Wall from the UNC School of Government to present on this subject.

Dr. Aimee Wall presented information to the Board of Commissioners on the process for health and human services consolidation. This is a summary of her presentation and the ensuing discussion.

Human Services Organization and Governance: Exploring the Options

The Key Questions

- Why is the Board having this discussion?
- What are the Board's goals and objectives?
- What does the Board hope to change with consolidation?

Will Change Help?

- If the County makes changes to the organization and governance of its human services agencies, will it help the Board achieve their objective?
- What changes will the Board be able to implement as a result of modifying the structure?

What Are We Talking About?

- Organization

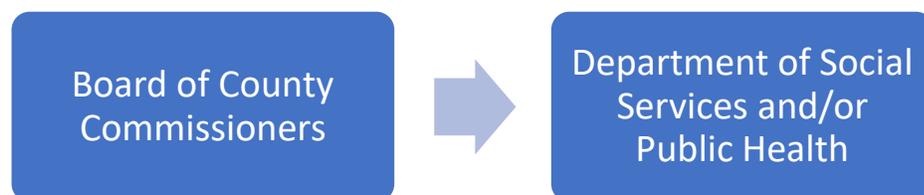
- Agencies
 - Social Services
 - Public Health
 - Aging Agency (included in consolidation by some other counties)
 - Veterans Affairs (included in consolidation by some other counties)
 - Transportation (included in consolidation by some other counties)
- Directors
- Employees
- Governance
 - Local boards responsible for overseeing organization
 - Varies across the State
 - Combination of elected and appointed officials
 - Advisory committees
 - Role of State
 - Under traditional model, State has significant role in appointing members to the governing board
 - State plays role under the organizational element with employees in some of the models

Options

- Stay the same
 - Make changes within current structure to achieve objectives
 - Example might be to consolidate human resources and business functions at the County level rather than each agency having their own human resources and business functions
 - Guidance under legal framework
- Elect option in Public Health/Social Services law
 - Make a change for one department
 - Both bodies of law allow for regional departments
 - Join forces with other counties and create a multi-county agency for either public health or social services
 - Social Services law allows a county to share a director with another county
 - Create public health authority, a separate legal entity that carries out the functions of public health
- Elect option in consolidation law (NCGS 153A-77)
 - Make changes to organization and governance for multiple agencies

Options in Consolidation Law

1.

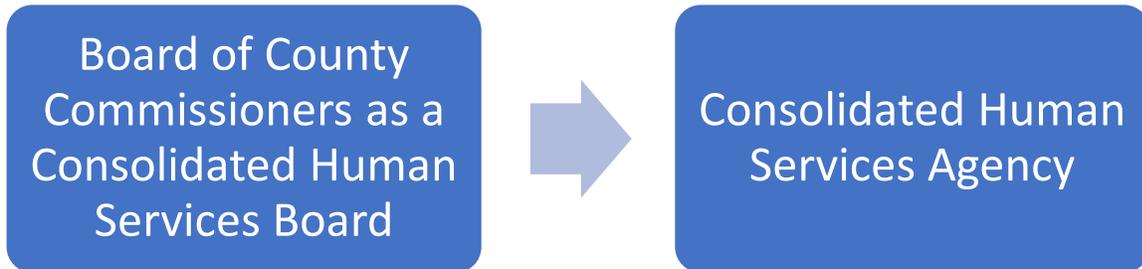


This option has a county abolishing the board of health or the social services board and assuming the powers and duties of that board. In Transylvania County currently, the structure is comprised of the Board of County Commissioners, the two governing boards, and the agencies.

2.



3.

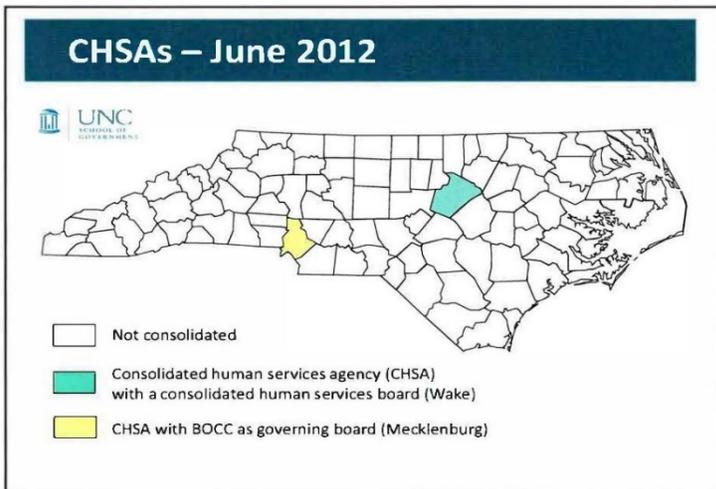


In options 2 and 3, the board of county commissioners is creating a new agency by combining two or more agencies. The new agency can be comprised of both the board of health and social services, but there is no requirement that it must be both. Some counties have combined their social services agency with other agencies.

The difference between options 2 and 3 is an intervening level in option 2 that creates an appointed governing board. In option 3, the board of county commissioners has abolished the appointed governing board and assumed the powers and duties of that board.

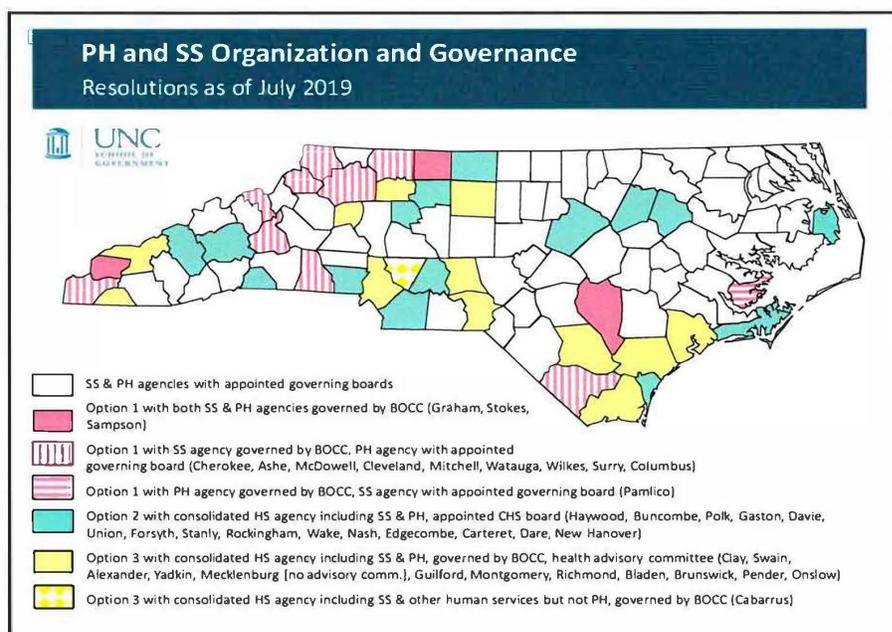
Consolidated Human Service Agencies – June 2012

- Only counties with a certain population could take advantage of the law changes
- Wake County – consolidated human services agency with a consolidated human services board
- Mecklenburg County – consolidated human services agency with board of county commissioners serving as governing board



Public Health and Social Services Organizations and Governance – Resolutions as of July 2019

- Advocacy focused on all counties having flexibility
- Since then, many counties have made changes to their structures in various ways
 - Abolished governing board; county commissioners have assumed the powers and duties of those boards [counties in white]
 - Some counties did not consolidate both; they consolidated the social services board but not public health; in some cases, the public health agency was part of a regional health department; counties were focused on the governance of social services only [counties in pink vertical stripes]
 - Only abolished public health board and assumed those powers and duties and left the social services agency as it was [county in pink horizontal stripe]
 - Wide range of counties in both size and population decided to create a new consolidated human services agency that includes both public health and social services; appointed a consolidated human services board [counties in blue]
 - Created a consolidated human services agency that includes both public health and social services, but they abolished the consolidated human services board; the board of county commissioners has assumed those powers and duties [counties in solid yellow]
 - Note: if a county elects option 1 or 3 as shown above, and public health is part of that option, they are required to create a public health advisory board; the composition of the board must match the composition of what is currently required for a board of health; it does not inherit the powers and duties of the previous board of health; no parallel requirement on the social services side; however, many of the counties that abolished their social services board have also established a social services advisory committee



Commissioner Guice stated the map above shows a hodgepodge of structures across the State. He asked Dr. Wall to comment on her interpretation of the map. He also noted that his research on this topic found legislative support to be somewhat divided. He agreed with the opening statement of the presentation that the Board's key objectives will lead them in the direction of an appropriate structure for Transylvania County. Dr. Wall reported that before the statutory changes occurred there was a lot of discussion at the State Legislature about potential change on the horizon. Dr. Wall and her colleagues knew at the time

that Mecklenburg and Wake Counties were exploring different versions of the model and that there were several regional health departments across the State, so she and her colleagues gathered information on how those agencies were performing to inform the Legislature during their discussions. The School of Government received grant funds to perform research on various structures which identified concerns counties had. Many of the concerns, as reflected in the vote in the Legislature, were related to personnel issues and political interference in public health and social services programs. Dr. Wall said her interpretation of the map is that it meets the State Legislature's goal to promote flexibility and allows counties to make decisions on structure and governance that are right for them.

Commissioner Guice referenced the School of Government's grant-funded study and stated the report's conclusions point out issues that remain significant today. He asked if there had been any follow up to the study to report on the outcomes of the legislation for those counties that made structural changes. Dr. Wall was unaware of any follow up to the research or any outcomes to share. She did, however, note that Rebecca Troutman, formerly of the NC Association of County Commissioners, performed an evaluation as a consultant alongside Forsyth County to conduct some degree of information-gathering on counties that consolidated. She informed the Board that the School of Government has applied for numerous grants for the purpose of performing the follow up research, but they have not been successful. Without grant funding, the organization does not have the resources to conduct the follow up research.

Commissioner Lemel asked Dr. Wall to comment on the County's legal obligations and how they fit into the models. She pointed out that the other models available to the County give the Board of Commissioners a substantial amount of control. Under the County's current traditional model, the State holds counties legally liable for issues outside their control. She felt this knowledge would be helpful for the Board to understand the accountability component within the current structure versus the consolidated model. Dr. Wall shared that the current structure of the Social Services Board gives them the authority to hire and fire the agency's director, and the director has the authority to run the agency. There is a separation between the Board of County Commissioners and the agency in that the Board does not directly supervise the director of the agency. This is a concern for some counties and one of the primary reasons they elected to abolish the intervening board so they could have a direct line of accountability to the person running the agency. Dr. Wall provided some history on the reason the intervening board and current model exists. She informed that it was created as a buffer to protect the politically sensitive issues of these agencies from the politics of a county, recognizing the confidentiality of the services they provide. The thought was there needed to be some separation between the politics and the work of the agencies doing things that might not be politically well received at certain times and thus needed to be protected or buffered from political pressure. The model still left county boards of commissioners accountable. Dr. Wall understood why it was frustrating for counties because they had no direct line of authority over those agencies. Some counties have therefore changed the structure of those agencies; however, other counties decided they did not want to eliminate the buffer or assume the responsibilities. She pointed out that those counties that decided to change their structure assumed additional responsibilities.

Commissioner Lemel said for Transylvania County it is an issue over having control; however, she understood the need to be buffered. She asked for clarification on whether the appointed combined human services board reestablishes the buffered authority and then the consolidated health services board has managerial oversight for the individual departments. Dr. Wall confirmed her statements as being partly true. The difference is the county manager hires the director, not the board of county commissioners, but at the advice and consent of the board of county commissioners. The structural options also determine the level of direct involvement and degree of control by the board of county commissioners.

Commissioner Chappell reported he had read some of the blog posts prior to this meeting regarding the various structures across the State, and one of them noted that the board of county commissioners cannot delegate authority to the manager. The board either must assume the authority themselves; otherwise, it remains with the inventing boards. Dr. Wall confirmed. She stated that options 1 and 3 places limitations on boards of county commissioners. If commissioners assume the powers and duties, there are limitations on what they can delegate to others. Some commissioners across the State wanted to create an option 3 and have their manager assume the responsibilities, but that option is not allowed under the statutes. For example, if the Board of Commissioners elects option 1 and decides not to create a consolidated agency, then the Board of Commissioners is responsible for hiring and firing the director. That does not mean they cannot have help from the County Manager in evaluating and supervising, but the authority remains with the Board and cannot be delegated. Under public health, it is the authority of the board of health to adopt rules, adjudicate disputes in certain circumstances, etc.; and those things cannot be delegated. However, the body that assumes the powers and duties must carry that forward. The Board of Commissioners would not be authorized to create a subcommittee or ask an advisory committee to do those things on behalf of the County. Recommendations and guidance are acceptable, but not the authority.

Dr. Wall acknowledged the complexity of this issue. Since legislation passed and many counties changed their structure, there are now peers across the State the County can seek out for information and advice.

Key Differences

	<i>Agency</i>	<i>Board</i>	<i>Hire Agency Director</i>	<i>Personnel</i>
<i>Department of Social Services</i>	<i>Separate</i>	<i>Appointed 3-5 members</i>	<i>Board hires</i>	<i>State Human Resources Act</i>
<i>Public Health</i>	<i>Separate</i>	<i>Appointed 11 members</i>	<i>Board hires</i>	<i>State Human Resources Act</i>
<i>One</i>	<i>Separate</i>	<i>Elected*</i>	<i>BOCC hires</i>	<i>State Human Resources Act</i>
<i>Two</i>	<i>Consolidated (any combination of human services)</i>	<i>Appointed up to 25 members</i>	<i>Manager hires with advice and consent of Consolidated Human Services board</i>	<i>State Human Resources Act optional</i>
<i>Three</i>	<i>Consolidated (any combination of human services)</i>	<i>Elected*</i>	<i>Manager hires with advice and consent of Board of County Commissioners</i>	<i>State Human Resources Act optional</i>

*If Public health is affected, must appoint health advisory committee (except in Mecklenburg).

The last column above is related to personnel and the State Human Resources Act. Currently, Social Services and Public Health staff are all covered by this Act. They are treated as State employees for certain purposes. They are subject to some County personnel policies and ordinances, but for key areas like hiring, discipline, discharge, they are subject to State policy. One of the big pieces of flexibility that counties wanted when the 2012 law was passed was to remove those employees from being under the State Act.

Dr. Wall provided some history on why these employees fall under the State Human Resources Act. She pointed out there are many federal programs that allocate funding to counties for human services programs and those funding streams come with strings attached. The federal government stipulated that if the State accepted funding then those employees needed to be protected from political hiring and firing

and should be subject to a system that has merit personnel standards. Under federal regulations, this is called the Federal Merit Personnel Standard. Many years ago, the State decentralized many services in the human services arena and delegated the responsibility to the counties, but the State needed to ensure the people performing the programs and using federal dollars were subject to a body of personnel laws that complied with the federal merit standards. Thus, the State enacted the State Personnel Act, which was later changed to the State Human Resources Act, and the county employees that worked in those programs were put under it for the particular purposes that are tied to those federal merit standards. The idea was to ensure federal dollars were not put at risk. Since then, many counties created personnel policies and ordinances that mirror the State Personnel Act and yet meets the needs of the counties. Dr. Wall stated it was frustrating to many counties that personnel actions (discipline, dismissal, appeals) were getting bottlenecked at the State level for these employees and it created equity issues across county government. Therefore, many counties evened the playing field by enacting adequate personnel policies at the local level.

If a county creates a consolidated human services agency, it can withdraw those employees from the State Human Resources Act if it certifies that its local policy complies with the federal merit personnel standards.

Under option 1 where there is a simple abolishment of the boards and the county commissioners assume the powers and duties, those employees remain under the State Human Resources Act and there is no option to remove them. Some counties have found this to be confusing and frustrating. Some counties have implemented hybrid models and changed how other things are managed within their counties, such as centralizing human resources, to help ease some of the frustrations. The Board of Commissioners' decision to change their current model may depend on whether they want all employees subject to the same rules or if their goal is to have centralized and consistent human resources management.

Commissioner Chappell asked how changes in the structure impacted those employees that fall under the State Retirement System. Dr. Wall stated that structural changes do not affect retirement but may change some aspects of mobility between counties. Dr. Wall advised that a lesson learned from other counties is having conversations with employees very early on in the process about why the board is making a certain decision and getting everyone's questions answered before any change happens. Counties have been more successful when changing models when they were able to provide clear information about the implications for those employees, such as leave accrual, discipline and discharge options, at-will employment, retirement, etc. and having very clear guidance about what it means for them to leave the State Human Resources Act. The fear of the unknown can create some chaotic stress for employees based on decisions that are being anticipated.

Dr. Wall continued with her formal presentation.

Consolidated Human Services Board Powers and Duties

1. Assumes powers and duties of both the board of health and social services board
2. Assigned additional duties by statute
3. County vision may be more expansive by including additional human services programs

Assume/Board of Health

- Make policy for local public health agency
- Adopt local public health rules which apply countywide
- Adjudicate disputes regarding local rules or locally imposed public health administrative penalties (fines)
- Impose local public health fees

- Satisfy state accreditation requirements for local boards of health

Assume/Department of Social Services

- Hiring, firing, and supervising the director; not a responsibility of the Consolidated Health and Human Services Board; Manager hires and fires with advice and consent
- Authority to inspect social services and public assistance records; mixed interpretation of how law applies in practice; if exercised, comes with additional liability, such as confidentiality laws
- Authority to make some decisions related to Work First Special Assistance, and services funded through the Social Services Block Grant; duties can be delegated
- Review suspected cases of fraud for some public assistance programs; duties can be delegated

Assigned Additional Duties

- Assure compliance with laws related to State and federal programs
- Recommend creation of local human services programs
- Plan and recommend a consolidated human services budget
- Conduct audits and reviews of human services programs, including quality assurance activities, as required by State and federal law or as may otherwise be necessary periodically

Role of Advisory Committees

1. Must appoint health advisory if options 1 or 3
2. May appoint for other purposes
3. No guidance or specific grant of authority in consolidation statute
4. Public Health accreditation expressly allows certain duties to be delegated from the local board of health to an advisory committee, such as
 - a. Review and report on community data
 - b. Receive community input
 - c. Foster partnerships with the community
 - d. Advocate for public health

Expanded County Vision?

Board of county commissioners may assign other county human services functions to be performed by the consolidated human services agency under the direction of the human services director, with policy-making authority granted to the consolidated human services board as determined by the board of county commissioners.

Commissioner Chappell asked how long it takes to implement a new model. Dr. Wall said it depends. Some counties implemented a multi-month process approach and took the necessary time to review their personnel policies and make appropriate revisions to ensure compliance with federal standards. It could also take a significant amount of time to share information and build consensus among the agencies and employees potentially impacted. While this process is not spelled out in the law, counties have found it beneficial in implementing successful models. On the technical side, if a county elects options 2 or 3 and creates a consolidated human services agency, 30 days' notice of a public hearing is required, followed by the adoption of a resolution. Other factors to consider are the length of time it takes to fill the role of agency leader and setting up the advisory councils to the extent needed. The quickest a new model could be set up is 30 days after posting notice of a public hearing, but Dr. Wall advised that more thought should be given to the process.

Chairman Hawkins asked if Dr. Wall was aware of any counties currently analyzing different models at this time. To him, it would be especially difficult right now to consider structural changes in a pandemic, particularly because a lot of engagement would be needed to make the change successful. Dr. Wall was

not aware of other counties having this discussion right now, but it does not mean it is not happening. She suggested the Board reach out to the various listservs or contact the NC Association of County Commissioners.

Commissioner Guice agreed, noting this is a very difficult time for everyone, but Public Health and Social Services are especially critical during a pandemic. It would be difficult for him to move forward with something of this magnitude knowing it will require a great deal of work. He was unsure of the right path for Transylvania County but was more concerned about the timing.

Commissioner Guice reported that the minutes from a Board of Commissioners meeting in July 2014 indicated the previous county manager had convened a committee of various people from the two agencies and others in the community to explore consolidation. At that time, the Board chose not to pursue consolidation. Regardless of the Board's decision moving forward, he emphasized the challenges with finding a director who understands the laws and functions for both agencies. He also did not want the perception to be that consolidation would save taxpayer dollars. He was also unclear how consolidation would bring about efficiencies. He did not think that consolidation should always be the answer to resolving issues within departments. Commissioner Guice went a step further to suggest the Board look at the structure of County government, noting the County Manager currently has 14 or so direct reports. He felt there were other issues to address besides consolidation that might better impact the management structure, resulting in better delivery of services.

Chairman Hawkins said a compelling reason for him to be in favor of changing the structure would be the issue of responsibility without corresponding authority. He asked Dr. Wall to elaborate on how the human resources solution is dealing with this issue. Dr. Wall pointed out that many counties have struggled in this area. The agency director is responsible for hiring and firing all the employees within that agency with no local human resources control. Some counties have addressed this by creating a centralized role for their human resources functions. It allows a human resources director to become part of the conversation along with the agency director, while acknowledging that the agency director has the final decision. Public health and social services are still county departments. The human resources solution helps to centralize and standardize functions and raise the expectations for everyone involved. Dr. Wall pointed out the business office functions are similar. Counties have the authority to centralize those functions as well. It does not mean that directors lose their responsibility, but they would no longer be isolated or siloed and they would have to work with county management to carry out their functions. Dr. Wall pointed out that ultimately those departments are accountable to the State of North Carolina.

Chairman Hawkins asked Dr. Wall if she had seen examples of counties that might have started with option 2 and then changed to option 3 or went back to their previous model. Dr. Wall confirmed that has happened with some counties, but it has been rare. One county set up a consolidated human services board but were not happy with the outcomes, so they abolished the board, and their board of commissioners assumed the powers and duties. That county held those powers and duties for a period and then they reestablished the consolidated board and reappointed its members. Another county abolished the social services board, assumed the powers and duties, and then changed their minds and reestablished the social services board. Another changed their mind about pulling employees out of the State Human Resources Act.

Commissioner Guice pointed out there are many State offices that operate in Transylvania County that are very critical, such as the Clerk of Court, Probation, etc. They play a very important role and work closely with County government, but there is no local control over those offices. He felt it was a mistake for the Board to think that County government must control everything. He said the Board's decision about this issue is going to have a tremendous impact on operations and employees. Commissioner Guice was unsure why this conversation was being held in the middle of a pandemic.

Chairman Hawkins acknowledged Commissioner Guice's concerns but pointed out it is County government that gets sued when things go wrong.

Commissioner Guice pointed out that the 2012 legislation indicated a follow-up report was to be made to the joint oversight committee by February 1, 2013, but he has been unable to find such a report. He felt there should have been some follow-through.

Commissioner Lemel currently represents the Board of Commissioners on the Social Services Board. She reported that in her eight years as County Commissioner there have four different Social Services Directors and the County has been sued twice. She pointed out that the Social Services Board is made up of citizen volunteers who must serve in the capacity of supervising an agency director. While she understands the effort it would take to change the structure, the County is currently relying on a model in which critical care issues like child abuse, child protective services, child support, and adult protective services are the responsibility of a group of citizen volunteers. She felt that is a huge responsibility to place on citizen volunteers, especially in today's world. Commissioner Lemel pointed out that social services across the State is in a disheveled state because counties struggle to find those that are certified and experienced to serve as the directors. She also noted that communication is difficult because of confidentiality and that consolidating provides an opportunity to better serve our citizens.

Commissioner Lemel shared that the current Social Services Board has worked incredibly hard to recruit new membership, and that the current board is working very hard. She felt the abundance of issues facing the public service organizations in Transylvania County are being tested and stretched beyond that of the average citizens.

Dr. Wall agreed and added that her colleague, Margaret Henderson, has been working with her for nearly a decade, and she helps facilitate conversations at the local level around this issue. She can be of service to the County when the Board is ready. There are also resources to help answer questions about issues related to the State Human Resources Act.

There were no further comments from the Board. Chairman Hawkins thanked Dr. Wall for her presentation and for providing the Board with such valuable information. He asked Dr. Wall to share her presentation so that Commissioners can continue their conversations internally. When the Board is ready, they may contact the School of Government for further assistance.

ADJOURNMENT

Commissioner Lemel moved to adjourn the meeting at 5:45 p.m., seconded by Commissioner Guice and unanimously carried.

Mike Hawkins, Chair
Transylvania County Board of Commissioners

ATTEST:

Trisha M. Hogan, Clerk to the Board