

**MINUTES**  
**TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS**  
**September 28, 2020 – REGULAR MEETING**

The Board of Commissioners of Transylvania County met in regular session on Monday, September 28, 2020 at 6:00 p.m. in Commissioners Chambers at the County Administration Building, located at 101 S. Broad Street, Brevard, NC.

Commissioners present were Jason Chappell, Jake Dalton, David Guice, Chairman Mike Hawkins, and Vice-Chairwoman Page Lemel. Also present were County Manager Jaime Laughter and Clerk to the Board Trisha Hogan. County Attorney Natalia Isenberg participated remotely via Zoom meeting software.

Media: *The Transylvania Times* – Derek McKissock participated remotely.

There were 10 people in the audience, including staff. To maintain social distancing and mass gathering requirements, the conference rooms in the Administration Building were used as overflow space.

**CALL TO ORDER**

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

**WELCOME**

Chairman Hawkins welcomed everyone to the meeting participating both in person and remotely. He 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.*

Judith West: Ms. West serves as Chair of the Social Services Board. She reported that the feedback from the community on the interim DSS Director has been positive and she thanked the Board for their support. She stated that DSS has a long history of hiring contract providers for legal services, some of whom have been great, while others have not been satisfactory. Ms. West reminded the Board that just a few years ago, Transylvania County had the highest continuance rate of child cases in the court system, causing the Board to respond by hiring a full-time attorney. Ms. West stated that the outcome of having a full-time attorney has been amazing and that services have vastly improved. She felt that the in-house attorney model was the right path for the Board to continue and she encouraged the Board to do so.

**AGENDA MODIFICATIONS**

There were no agenda modifications from Commissioners or staff.

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

## CONSENT AGENDA

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

The following items were approved:

### MINUTES

The Board of Commissioners held a budget workshop on June 1, 2020. The minutes were approved as submitted.

### DISCOVERY, RELEASE AND MONTHLY SETTLEMENT REPORT

Per North Carolina General Statute § 105-312 (b), it is the duty of the Tax Administrator to see that all property not properly listed during the regular listing period be listed, assessed, and taxed. The Tax Administrator shall file such reports of discoveries with the Board of Commissioners. Per North Carolina General Statute § 105-381 (b), it is the duty of the Tax Administrator to provide a monthly report to the Board of Commissioners of the actions taken by the Tax Administrator on requests for release or refund, which shall be recorded in the minutes. For the month of August, tax dollars released totaled \$7,204.18 and refunds amounted to \$2,075.33. The Board approved the Discovery, Release and Monthly Settlement Report for August 2020.

### REQUEST BY COUNTY TRANSPORTATION TO APPLY FOR FY 21 CARES ADTAP GRANT

CARES Act grants are available to rural and small urban public transportation systems to continue providing services and assist with operating expenses for items including staff, supplies, and other related operating expenses. To qualify for these funds, the applicant must be the Designated Recipient of Section 5311 or Section 5307 funding. Transylvania County Transportation is a recipient of Section 5311 funding and is therefore eligible. According to Transylvania County Transportation's Grants and Financial Management Procedures, Transportation would normally secure public input and board approval in a timely manner due to the request for local matches required by most Federal Transit Authority and NC Department of Transportation grant programs. The CARES Act grant is 100% federally funded and requires no local match.

Transylvania County Transportation was approved to receive an initial disbursement of \$181,922 with the FY 20 CARES Act Operating Funds grant application and then a second disbursement in the amount of \$209,654. \$90,555 was claimed in FY 20. The period of performance is January 20, 2020 to June 30, 2021. Transylvania County Transportation was informed that they are eligible to receive an additional distribution of \$34,458 and will need to complete a FY 21 CARES ADTAP Grant Application to apply for those funds by September 30, 2020 with the same period of performance. Funds are available to counties covered by the Appalachian Development Public Transportation Assistance Program (ADTAP). In North Carolina ADTAP provides additional funding for 29 western counties.

Commissioners approved the request to waive local *Grants and Financial Management Procedure* requirements and authorized Transylvania County Transportation to apply for FY21 CARES ADTAP funding by September 30, 2020.

### PROGRAM TRANSFER TO PART-TIME

Over the past 10 years, a Transylvania Vocational Services (TVS) client and 1:1 worker has assisted the County's Housekeeping Department with delivery of housekeeping supplies to all departments. The TVS client typically works two to three hours per week. Due to program changes at the State level, the TVS client has been transitioned to the Supportive Employment Program, which requires the client to seek work in a job where the employer pays them directly. The 1:1 worker will continue to be provided in

support of this client as part of any employment. There is no additional financial impact as the budgeted monies in the contract are sufficient to cover the wages. Commissioners allowed the transition and employment of this TVS client as a part-time employee to continue delivering supplies to County departments.

#### CEDAR MOUNTAIN FIRE RESCUE REQUEST FOR EARLY DISTRIBUTION

Jimmy Jones, President of Cedar Mountain Fire Rescue requested approval for an early distribution of its October 2020 quarterly payment to allow the department to meet financial obligations. Mr. Jones provided a letter to the Board explaining the department's request. Commissioners approved the September 29, 2020 distribution of the October quarterly payment to Cedar Mountain Fire Rescue.

### **PRESENTATIONS/RECOGNITIONS**

#### NORTH CAROLINA GENERAL STATUTE CHAPTER 160D: NEW LAND USE LAW

Interim Planning and Community Development Director Allen McNeill presented an update on NC General Statutes Chapter 160D and the modifications that will need to be made to the County's code of ordinances to be compliant. The presentation was intended to be an informal introduction to Chapter 160D. Over the next several months, the Board should begin seeing text amendments come forth related to land use regulations. Staff wanted to ensure the Board and public understood why the amendments were coming forth for modification.

In 2019, the NC General Assembly adopted part two of Session Law 2019-111 (Senate Bill 355). It authorized a complete reorganization of the State's planning and development regulation statutes. The newly created Chapter 160D consolidates the previous county (Article 18, Chapter 153A) and city (Article 19, Chapter 160A) general statutes into one unified statute. This is all being done to centralize and simplify North Carolina's land development regulations.

Chapter 160D will organize all land use regulations into 14 articles in a more coherent manner. While the new law does not make major policy changes or shifts in the scope of authority granted to local governments, it does provide many clarifying amendments and consensus reforms that will need to be incorporated into local development regulations. Some of the amendments will be as simple as changing the reference from one statute to another. Some of them requires definition reform. The statute also allows some room for the Board's interpretation being that there are required changes and recommended changes. Staff will provide the Board with further detail later.

Chapter 160D is effective now, but local governments have until July 1, 2021 for the development, consideration, and adoption of necessary amendments to conform local ordinances to this new law. Mr. McNeill referenced a resource through the UNC School of Government website that is intended to help counties and municipalities prepare these changes. In addition, staff has developed a timeline for modifying these ordinances. Staff is consulting with legal counsel as well.

This being an educational presentation with no immediate land development implications, staff has no recommendations for action by the Board at this time.

Commissioner Chappell asked if a public hearing would need to be held on each section or if they could be combined into one public hearing. Mr. McNeill stated the public hearing process is at the Board's discretion. The Board could hold one public hearing on all the recommended changes. They will be considered separate items, but they could be presented and considered during one meeting.

### FOLLOW UP FROM SOLID WASTE WORKSHOP

Assistant County Manager David McNeill presented a follow up to the Board on the Solid Waste workshop held on September 2. He reported the Solid Waste department has been working with La Bella Engineering to identify options for providing solid waste disposal for the citizens of Transylvania County. The current landfill is expected to reach capacity in May 2027.

During the September 2 workshop, Solid Waste Director Kenn Webb presented the Board with two options:

1. Landfill - 25-year expansion at current site estimated at \$131,160,465
2. Transfer Station - 25-year solution estimated to cost \$141,410,700

The cost estimates include operations, professional and engineering services, capital, post-closure care, and offsite transportation and disposal.

Mr. McNeill pointed out that capital costs are higher with a landfill expansion; however, the County has much more control over those capital expenditures than they do with a transfer station. The transfer station model would require paying tipping fees that are set at the discretion of the agency accepting the solid waste materials.

Mr. McNeill informed there is a substantial amount of work that must be done over the next several years regardless of the option the Board chooses. The landfill expansion requires extensive engineering studies, and the costs are needed upfront. If this option is chosen, staff would have more than five years to complete this work with only a six-month cushion of time which could change depending on several factors. For this reason, he requested the Board decide no later than December 1, 2020. If the Board decides to implement the transfer station model, it will entail the County collecting garbage, storing it temporarily and shipping it out-of-county. The cost for this option does not start to escalate until later, except for the location and purchase of property. If this model is chosen, staff will begin searching for property in 2021. A transfer station would require 10-15 acres on a major highway that is easily accessible and not in the floodway. The construction of a transfer station is less challenging and time-consuming than a landfill if the right property can be found.

Commissioner Lemel pointed out the construction of a new cell at the landfill would allow the County to control the trash that goes into it and handle the services associated with disposing of garbage. A transfer station would necessitate the purchase of new property for the purpose of holding solid waste temporarily until it is transferred to another landfill operator to which the County would be beholden to pay the tipping fees charged by that agency. She wondered why the County would want to give up the control that it currently has. Mr. McNeill pointed out that when comparing the annual costs of both options, he felt more comfortable with the landfill expansion because the County can control its costs.

Commissioner Guice was concerned with the cost of both options, noting the Board has yet to have the discussion on how to fund either. He agreed with the lean toward a landfill expansion. Mr. McNeill informed that the upfront cost of a landfill comes during the planning and permitting phase of the full 25-year expansion. The construction costs are spread out over time with the expansion into new cells every five years or so, although the cost remains significant.

Commissioner Lemel asked if cell expansion should be supported fully by an enterprise fund. She asked if those funds would also be used to source the cost of expansion. Mr. McNeill stated that the Board would need to have future discussion on how an enterprise fund would work and the appropriate way to fund solid waste operations.

Commissioner Chappell thanked past Boards for planning for the future. The land they purchased will allow this Board to expand on the same site if that is the decision. He was supportive of deciding by the first meeting in November.

Commissioners concurred with deciding in early November. They also thanked Mr. Webb again for his in-depth presentation in September because it gave them information they need to make a decision that will impact future generations.

## APPOINTMENTS

### TRANSYLVANIA NATURAL RESOURCES COUNCIL (TNRC)

The terms of Dan Hodges, Lee McMinn and Woody Noland expire at the end of September. None is eligible for reappointment as they have all served two full terms. However, Dan Hodges has expressed an interest in continuing to serve if there are no additional applicants to fill the seats. RK Young's term also expires at the end of September. She has served only one term but does not wish to be reappointed at the end of her term. Therefore, at the end of September, there will be four openings on the TNRC.

The Clerk to the Board has four applications on file for consideration. One of the applicants already serves on the Board of Equalization and Review. The Board may also consider Mr. Hodges' request to waive his term limits and serve a third term.

Commissioner Lemel appreciated Ms. Hodges' offer and she would be pleased to see him move into a position on another board or committee since he has served two terms on the TNRC. She was excited to receive new applications and to see others getting involved in the community and she does not want to stifle that opportunity when there are openings. She noted Mr. Hodges is eligible to reapply in one year. Commissioner Chappell agreed, as a matter of practice, that the Board has appointed new applicants over waiving term limits which is a good practice to follow.

**Commissioner Lemel moved to accept the four new applicants (Kate Hayes, Ken Kinard, Joel Malefyt, and Tom Sweeney) to fill the vacancies on the TNRC, seconded by Commissioner Chappell and unanimously approved.**

## OLD BUSINESS

### SOCIAL SERVICES ATTORNEY MODEL

The Board of Commissioners elected to move to inhouse Social Services (DSS) and County attorney model in 2017 as a dual/combined position. In 2019, the Board determined that the workload was such that contracting out for the County attorney position made sense and thus moved to having an inhouse special appointed counsel for DSS with the hiring of Mary Ann Hollocker. Ms. Hollocker resigned effective August 7 and former County/DSS Attorney Misti Bass was hired to fulfill interim needs on a temporary basis while the position is being advertised.

The Manager informed that the Board of Commissioners has the choice of returning to a contract model or remaining with inhouse counsel. She noted the DSS Board adopted a resolution in support of remaining with inhouse counsel during their meeting on September 23. With any model, it will be critically important for the DSS Counsel and DSS Director to work in a positive, accountable, and collaborative way to best serve the County and its citizens.

### Contracting Option

If Commissioners were to determine that a contract model would best meet DSS legal needs, staff would advertise to seek Requests for Qualifications (RFQ). The Board would then need to consider how they

want to evaluate responses. This could be done by the full Board or the Board could assign a review team.

The Manager reported that when the County last contracted out for this service, legal service billings for the first quarter of FY 2017 totaled \$65,598.75.

She offered the Board the following options to consider:

*Selection and Contract Oversight:*

- Board of Commissioners reviews RFQ responses and holds interviews to rank and select respondents for DSS legal services; Board to oversee those contracts
- Board of Commissioners delegates review and interview processes to a combination of Commissioners, staff and/or DSS Board members to make a recommendation to the Board and recommend oversight responsibilities
- Board of Commissioners delegates review and selection to staff either in County Administration or DSS completely and they retain oversight responsibilities. Historically contract staff reported to DSS Staff prior to 2017.

*Conflict of Interest:*

- Contracts will have to be written to prevent conflict of interest based on the type of cases any given private firm were to be contracted by to provide DSS counsel. In general, a lawyer in a firm cannot represent a party if another lawyer in the firm is representing the opposing party. Knowledge and conflict are imputed from one attorney in a firm to all the others (Rule 1.10 of the Rules of Professional Procedure). These Rules are found in the Rules of Professional procedure and are implemented and enforced by the NC Bar under the statutory directive of the North Carolina general statutes at 84-23.

Inhouse Option

If Commissioners are comfortable keeping inhouse counsel for DSS, then the Board will need to consider how they want to move forward with interviewing candidates and how to assign supervision after a selection is made. The inhouse salary is a range of \$77,177-\$94,576 based on education and experience above the minimum requirement for the position. The vacancy has been advertised and there are 12 applicants. Inhouse counsel is expected not to have outside employment or clients without prior authorization as described in the County's Personnel Policy. This removes concerns over conflict of interest; however, if needed, emergency or supplemental contracts can be established to provide backup counsel.

She offered the Board the following options to consider:

*Hiring and Selection:*

- Board of Commissioners interviews as a full Board in closed session to select candidate
- Board of Commissioners delegates interviewing to a panel of employees and/or Commissioners and DSS Board members to interview and recommend hire
- Follow a typical hiring process to include a written work sample responding to practical DSS case scenarios to be reviewed by peer DSS attorneys for ranking followed by a panel interview with standardized questions and potential follow-up interview (this would be standard whether interviewed by the entire Board or a combination review team)

Once the Board has determined a counsel model, they should inform staff of their preferred supervision structure.

*Supervision:*

- Special counsel may be supervised directly by the Board of Commissioners or by a County Commissioner liaison
- Board of Commissioners can delegate to the DSS Board. The DSS Board currently supervises the DSS Director position
- Board of Commissioners can delegate supervision to another County employee

The Manager reported that funds have been budgeted for the inhouse counsel model.

Board Discussion and Decision on Inhouse vs Contract Model

After studying the issue further and hearing from the DSS Board, Commissioner Guice felt the appropriate model was to hire inhouse counsel.

Commissioner Lemel supported remaining with inhouse counsel, particularly with her engagement with DSS over the past few years.

Commissioner Chappell concurred, stating there is a clear difference in how the two models have worked. He was appreciative of all those attorneys who have served under contract in previous years, but he felt the need for inhouse counsel was warranted to ensure that our vulnerable citizens are getting the services and attention they need.

Commissioner Guice reinforced Commissioner Chappell's statement about serving those most vulnerable. He pointed out the County is statutorily required to have in place representation to serve DSS and those individuals placed within their custody. He was supportive of this position being solely dedicated to this work which has not been the case under the contract model.

Commissioner Dalton agreed with keeping the same model. He commented that being able to eliminate the backlog of cases has been impressive. This model also contributes to a significant savings.

**Commissioner Guice moved that we hire an inhouse counsel for the position of attorney for the Department of Social Services, seconded by Commissioner Lemel and unanimously approved.**

Board Discussion and Decision on Process for Selection

Chairman Hawkins noted that Human Resources Director Sheila Cozart would be driving the process regardless of how the Board decides to structure the interviews.

Commissioner Guice stated he was very comfortable with staff taking the lead role under Ms. Cozart's guidance. He stated the importance of having a tool available to screen applicants fairly and be able to record the applicants' responses. He stated he was okay with not being involved in the interview process and would be amenable to assigning a team to do so.

Commissioner Lemel shared her interest in participating in the interview process. She was involved in the hiring of the previous DSS Attorney which was done using a uniform and fair structure.

Commissioner Chappell felt an appropriate interview panel should include a member or two from the Board of Commissioners and DSS Board and appropriate staff.

Ms. Cozart shared that previously the County Manager and DSS Director were included on the interview team.

**Commissioner Guice moved to form a committee that consists of two DSS Board members, the County Manager, Interim DSS Director/Consultant, Commissioner Page Lemel and Human Resources Director Sheila Cozart to bring a recommendation to Commissioners for the new attorney, seconded by Commissioner Chappell and unanimously approved.**

Commissioner Chappell asked for confirmation that the committee will make a recommendation that must come before the full Board for approval. Commissioners agreed that should be the process.

#### Board Discussion and Decision About the Supervision of the DSS Attorney

Commissioner Guice pointed out that the Board of Commissioners is ultimately responsible. He felt it was important that the DSS Director and DSS Attorney work together along with the DSS Board. Otherwise, any potential conflict would create issues for the Board and DSS employees, and, most importantly, those they are serving. For this reason, he did not think the DSS Director should supervise the DSS Attorney.

Commissioner Lemel did not feel the supervision should come from the County Commissioners because they are not experts in human resources and personnel policies. She was also hesitant to give supervision to the Manager simply due to overloading her work. She wondered if there was a different model the Board could consider and whether the interim DSS Director/Consultant would be willing to make a recommendation in that regard. By the Board making the final hiring decision, they are maintaining their unique position in the State of North Carolina that this attorney is responsible to the collective body of the Board of County Commissioners. Commissioner Lemel agreed that the DSS Director and DSS Attorney seeing each other as peers is paramount to the function of that office. She was willing to do further research on other models if necessary.

Commissioner Guice pointed out the Board could maintain its responsibility of supervising the position by delegating the role to the County Manager or her designee, while noting she has several direct reports that should be reviewed in the future.

Commissioner Chappell supported the direct supervision falling under the County Manager or her designee, especially being she has so many direct reports already. He suggested revisiting the supervisions model in a few months. He hoped the interview team would inform the applicants upfront of the structure and expectations.

Commissioner Lemel suggested moving forward with placing the supervision under the County Manager or her designee and requested an update in six months to determine if the structure is working and if the Board should consider another method.

Chairman Hawkins stated that supervising the DSS Attorney would not be a passive job because the position is a specialized job that requires a time-commitment on behalf of the one providing supervision.

**Commissioner Lemel moved that the supervision of the inhouse DSS Attorney be handled at the discretion of the County Manager or her designee and this model will run for six months and be reconsidered at that time, seconded by Commissioner Dalton.** Commissioner Chappell stated it would be prudent for this organization to require a 30-day notice due to the complexity of the position. Commissioner Guice agreed, noting that when someone is responsible for a specific position that is related to the care of a vulnerable population and is accountable to the courts, having a notice is necessary. He suggested the Board consider a transition period to offer the organization some stability to help the individual who is selected for the position. **The motion was unanimously approved.**

Commissioner Lemel thanked the Board for their support. She was very pleased and excited about the future of DSS in this community. She encouraged Commissioners to spend some time with the consulting group that is serving as Interim Directors because of the tremendous strides being made in that department. She was very proud to be a member of the DSS Board as it sets a new bar of standards and professionalism in the delivery of DSS services in Transylvania County.

### NCACC LEGISLATIVE GOALS

Before each biennial session of the General Assembly, counties submit their legislative proposals to the NC Association of County Commissioners (NCACC). Commissioners from across the State review and approve a comprehensive goals package and then the NCACC sets off to work on legislation that may impact counties. The Board of Commissioners discussed this item at their September 14, 2020 meeting. The following goals were discussed at that time:

#### Carry Forward from Previous Biennium

1. To appeal to the State to revise their metrics used for State funding designations
  - a. Economic tiers - calculations should be based on average weekly wages or annual wage income instead of median household income in a county
  - b. Small school definitions - consider funding on a ratio instead of the “all or nothing” method currently used
2. To seek financial transparency for all public bodies
  - a. If the Local Government Commission flags a public entity for a concern in their audit, the public entity should be notified of the concern, as well as the local governing body of the county.
  - b. Consistent audit standards
3. To seek funding for State mandated services
  - a. If the State of North Carolina is to require counties to meet specific staffing ratios and provide service programs, the State should provide the necessary funds to pay for them.
4. Repeal State income tax cap. A low cap could constrain the State should economic conditions change. The quickest and most obvious source for additional revenue would be property tax, thereby putting the burden on the shoulders of counties.
5. Advocate for funding flexibility within the Department of Social Services to develop programs to help prevent the development of lifelong problems
6. Expanding ethics training requirements to include statutory and fiscal responsibility for elected public officials
7. Change Lottery Fund allocation to comply with NC General Statutes and as intended when the Lottery was passed and implemented

#### New Goal Submissions

1. To appeal to the State to revise their metrics used for State funding designations
  - a. Low wealth funding for schools – economic tiers should be based on average weekly wages or annual wage income instead of median household income in a county
  - b. Lottery distribution – currently allotted based on number of students, but it should be based on capital needs that local systems report to the Department of Public Instruction
2. To propose broadband be declared as a utility which would change the parameters by which local governments could work within broadband issues
3. To propose flexible school district calendars, allowing some district to align their schedules with the local community college system
4. To support Medicaid expansion

The goals submission deadline date to the NCACC is September 30. The NCACC requests counties submit proposals in the form of a goal statement, and the proposals should require the NCACC to support

or seek legislation or funding to resolve an issue facing counties. Following approval by the Board, it will be the responsibility of staff to electronically enter each goal separately onto the NCACC web portal, along with either the adopted resolution or letter and other supporting documentation that provides relevant background information.

Commissioner Dalton was especially supportive of changing the metrics the State uses for its funding calculations/designations to be based on average weekly wages instead of median household income. Median household income figures are skewed many times based on retiree income, whereas the average working person is struggling. The current metrics being used makes Transylvania County a tier 2 county, but the average weekly wage would move the County into a tier 1 which is a more distressed level and opens us up for many other funding opportunities.

Chairman Hawkins was in favor of the goal to declare broadband as a utility with the understanding that the point of this goal is to begin the discussion. He did not expect legislation to change this year.

Chairman Hawkins also supported Medicaid expansion.

Commissioner Lemel shared that she learned from Vaya Health that because of the economics strains on working families, there are many instances where citizens make too much to qualify for Medicaid and yet do not make enough to afford their own insurance. The State has continued to cut the money available to support those folks who are falling through the cracks. While she understands the concerns about Medicaid, she is willing to advocate for it because it is federal tax dollars that citizens have already paid to the federal government that North Carolina has been unwilling to fight for on behalf of its citizens.

Commissioner Chappell viewed the Medicaid expansion differently and more so from the concerns that it could create a heavier burden on citizens when many private practitioners do not accept Medicaid, thus forcing more people into the emergency room. There are also concerns with those federal dollars drying up. With that said, he fully supported Commissioners' desires to submit a goal they feel strongly about.

Commissioner Guice pointed out the State's metrics for funding designations has worked against Transylvania County for many years and they have especially shorted the County in education funding. He also supported the broadband goal and encouraged all levels of government to work together to determine how to provide this essential service. Commissioner Guice also supported Medicaid expansion.

Commissioner Dalton was unsure of how he felt about the Medicaid expansion item. However, he noted in his daily life of helping people with insurance that many people fall into a category of not being served. He said it is frustrating to him and can be devastating for those citizens.

Commissioner Lemel pointed out that Scotland County is a tier 1 county, and their average weekly wage is \$47 higher than Transylvania County's.

Commissioner Dalton shared that Transylvania County ranks 92 out of 100 counties in terms of the amount of taxable land which adds to the exacerbation of the cost of living.

Commissioner Guice stated that our county faces many challenges, but we live in a wonderful community and one that finds a way even when times are tough.

**Commissioner Lemel moved to approve the 11 goals and send them, along with a letter, to the NCACC and to continue advocating to get some of these items moved to the next level in the process, seconded by Commissioner Chappell and unanimously approved.**

Commissioner Chappell suggested future conversations with our legislators about instituting common sense reporting requirements across the board. Reporting requirements impact staff, agencies, and citizens.

Commissioner Dalton encouraged the next Board of Commissioners to advocate strongly for these goals.

## NEW BUSINESS

### NEW TEMPORARY POSITION REQUESTS IN THE HEALTH DEPARTMENT

Public Health Director Elaine Russell presented this item. She reported that Transylvania Public Health has received several funding allocations that will support continued work by the Opiate Workgroup and the agency's COVID-19 response. There is no impact to County appropriations since the new positions would utilize federal and State grant funds.

<b>Position Classification</b>	<b>Program</b>	<b>Funding Source</b>	<b>Duration</b>
Health Educator I – Grade 109	Opiate Workgroup	HRSA – federal 18-month grant; \$200,000	18 months
Processing Assistant III – Grade 104	COVID – Contact Tracing	State – Land of Sky Displaced Worker Grant for 9 months; \$33,750	9 months
Medical Office Assistant – Grade 107	COVID – lab collection support and data entry	State Division of Public Health Agreement Addendum	12 months
Medical Office Assistant – Grade 107	COVID – lab collection support and data entry	State Division of Public Health Agreement Addendum	12 months

The Health Educator I for the Opiate Workgroup will handle the planning work outlined in the awarded HRSA grant. The planning grant will position the agency to pursue additional federal funding for response to opiate and methamphetamine use in the community.

The Processing Assistant III for contact tracing duties will assist nursing staff with COVID investigation contact tracing and the associated data entry.

The Medical Office Assistant positions will assist nursing staff with the management of COVID testing preparations, swab collection, packaging of collected swab samples, tracking of lab results, and the associated data tracking and entry of all COVID positive and negative test results that can be accessed for the community. All lab and data management functions are currently handled by nurses, in addition to the duties of case investigation, community education/guidance, and other core functions being maintained by the agency.

**Commissioner Guice moved to support the creation of the four requested temporary positions in the Health Department, seconded by Commissioner Lemel.** Commissioner Chappell thanked Ms. Russell for the work they are doing. Ms. Russell was thankful for this wonderful community and their actions to slow the virus. She was appreciative of the Board's support for additional help so that the department can better serve the community. Commissioner Lemel commended Ms. Russell for her

diligence in seeking grant funds. Commissioner Chappell stated as a point of practice that with these funds there is no guarantee these positions continue when the funding goes away. Commissioner Guice also thanked Ms. Russell for the work she does. His position on the Board of Health has given him an opportunity to see firsthand how hard the department works. He also informed Commissioners that the Health Department has worked tirelessly on the Opiate Workgroup and the Board should expect to receive a presentation soon. Chairman Hawkins asked when these positions would come onboard. Ms. Russell stated the positions will post tomorrow for a period of up to 10 days. She pointed out the Board's implementation of the compensation plan has become an excellent tool for recruiting quality employees. **The motion was unanimously approved.**

#### RFQ PROCESS AND NEGOTIATE CONTRACT TO MASTER PLAN NEW PARK

Parks and Recreation Director Jared Mull presented this item. He reported that the County received three qualification statements from different companies to master plan a new park which is located off US 276 S and Gallimore Road. These companies that submitted qualification statements included Stewart, Sitework Studios, and Alfred Benesch & Company. A subcommittee comprised of Mr. Mull and members of the Parks and Recreation Commission evaluated and ranked the consultants. All three consultants were qualified to do the work and had experience in park master planning. However, the subcommittee was unanimous in their decision to recommend Alfred Benesch & Company to master plan the new park for the following reasons:

- Master planned 150+ parks
- Master planned 17 parks that were in the floodplain or floodway
- Balanced in their qualifications and approach
- Master planned a park in Rocky Mount that was formerly an airport
- Familiar with WNC – current projects include Canton Recreation Park and Memorial Stadium in Asheville
- Familiar with Transylvania Economic Alliance proposal; will investigate the potential relocation of athletic fields (feasibility, cost, maintenance, potential decrease in play, etc.)
- PARTF application assistance for future capital projects if they are awarded the contract
- Incorporating 2016 facility and program master plan goals into new park
- Flexibility on public input meetings: virtual, drop-in, etc.
- Flexible on timeline due to unknowns
- Experience in river access/launch design areas
- Rave reviews from other counties
- Subcommittee found no flaws or potential areas of concern with their proposal

Mr. Mull reemphasized the timeline for completion is very flexible, and much of it will depend on the Governor's COVID restrictions. Before moving forward, staff would begin contract negotiations. Monies have been included in the FY 21 budget for this work. They will then set off on their work to conduct a site analysis, receive public input, etc.

Commissioner Chappell asked staff to consider seeking out alternative ways to receive public input due to the pandemic. Mr. Mull agreed and stated the consultant has been using creative tools for public input in their other projects.

Commissioner Lemel pointed out this consultant did the work on the Rankin Lake project on Gastonia which showcased their talents.

**Commissioner Lemel moved to begin negotiations with Alfred Benesch & Company to master plan the County's new park within the allotted budget in FY 21 and to authorize the County Manager to sign the contract, seconded by Commissioner Guice.** Commissioner Guice recalled the discussion

when the decision was made to purchase this property along with the presentation made by the Transylvania Economic Alliance regarding moving the current Parks and Recreation amenities to this location, although there had not been a lot of discussion with the recreation community. The decision related to the purchase of this property was specific in terms of the types of recreation the Board would be supportive of on this property relative to having river access. Commissioner Guice felt there were other options yet to be considered. While this is a wonderful piece of property, he felt it was wrong to think it would be feasible to move all the County's ballfields and recreational amenities to that site. He noted that other local governments that have created recreation in floodplain have paid a tremendous price for doing so. He was interested in receiving the report from the consultant, but he was skeptical. Commissioner Dalton said he hopes the consultant and the Board will consider moving the ballfields to the new park location because the County's only designated manufacturing industrial park will be fully occupied soon. The County needs more usable space for industrial and manufacturing. He was pleased with the fact that the consultant is familiar with master planning in floodways and floodplains. Commissioner Dalton asked if the application for the flood mitigation credits was ever submitted that would have offset the purchase cost. Mr. Mull responded the County has not applied for mitigation credits, but the consultant intends to explore this further. The consultant intends to incorporate every possibility into a master plan for presentation to the Board. Chairman Hawkins felt it was appropriate for the consultant to look at every option. He noted there will be a public input process. The goal is to utilize the site at its highest and best use. **The motion was approved unanimously.**

#### ROSMAN FIRE DEPARTMENT CONTRACT

Assistant County Manager David McNeill presented this item. During the recent audit process, Transylvania County became aware that Rosman Volunteer Fire Department had failed to file appropriate paperwork and receive a determination letter from the IRS affirming tax-exempt status. Mr. McNeill drafted a letter to the department outlining the expectations to navigate the process to return to tax-exempt status. Staff recommended halting the department's quarterly payments and enter into a promissory note agreement with them that would provide them with their necessary funding. This is not intended to serve as a punishment to the departments, but simply to urge them to complete the necessary IRS forms to comply with their contract with the County.

**Commissioner Lemel moved to enter into agreement with the Rosman Fire Department to establish a promissory note and to issue a letter verifying agreement and that the loan will be reimbursed with quarterly payments in the future, seconded by Commissioner Dalton, and unanimously approved.**

#### PHASE 6 COMMUNITY SERVICES HVAC PROJECT: HEALTH DEPARTMENT ADMINISTRATION

Assistant County Manager David McNeill presented this item. On December 9, 2019, the Board of Commissioners approved a phased approach for replacement of the HVAC Systems serving the Community Services Building. There is a total of eight systems serving the two-story section of the Community Services Building. To date, phases one through five have been completed. Phase six is assigned to Health Department Administration on the first floor. The proposal also includes installing blinds in phases one through four because all they had to be disposed of during the demolition. This is a continuation of the R-22 replacement.

The costs for the project are outlined here:

HVAC replacement quote	\$31,986
Ceiling replacement	\$10,432
Contingency 8%	\$3,394

HVAC total	\$45,812
Blinds Phases 1-4	\$7,979
Total HVAC and blind replacement	\$53,791

Mr. McNeill reported the project budget is in good standing and he expects to come in well under budget at project end. He intends to bring the next two phases forth for the Board's consideration at the next meeting.

**Commissioner Lemel moved to authorize the continuation of Community Services HVAC replacement Phase 6 using Horizon and Trane equipment and installation of Blinds for Phases 1-4. Project funded by monies previously approved by the Board of Commissioners for the Community Services HVAC replacement project, seconded by Commissioner Guice and unanimously approved.**

#### APPLICATION FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

Transylvania County has held the first public hearing to receive citizen input in the development of Community Development Block Grant (CDBG) applications for the upcoming year. North Carolina has received Community Development Block Grant Coronavirus (CDBG-CV) monies as part of the CARES Act. Awards are limited to \$900,000 or less and must serve low- to moderate-income families. The total funding available is \$26,521,025 and will be awarded on a first come, first serve basis for applications that meet the requirements and comply with the identified priorities of the program.

To continue moving forward with the application process in a timely manner, the Manager presented to the Board several forms that are part of the application: Transylvania County CDBG-CV Citizen Participation Plan, Transylvania County CDBG-CV Debarment Forms and Transylvania County CDBG-CV Federal Requirements Form. All of these are required for making the application for grant funds.

The Manager shared staff has identified specific projects for the final application. It includes possibly some broadband improvements, although she shared the dollars are very restrictive on how local governments can use broadband funds. Staff has been working cooperatively with the Land of Sky and Comporium to try to identify a broadband component. The other element that would be of interest to citizens is rent and utility assistance for low- to moderate-income families. Staff will be meeting with local nonprofits this week to discuss collaborating on that project and to identify citizens that would benefit. Also, those funds do not have to be spent by the end of December like the CARES Act monies do. These funds are available for 30 months and they could provide significant assistance to our community if the grant is awarded. The Manager reported the grant application process has been extremely cumbersome, as will the reporting be if awarded. However, given the potential benefit to the community, staff is trying to work through those complications.

**Commissioner Lemel moved to approve the Transylvania County CDBG-CV Citizen Participation Plan, the Debarment Forms, and the Federal Requirements Form, seconded by Commissioner Chappell.** Commissioner Chappell asked if all the forms had been evaluated by the County Attorney. The Manager pointed out the forms were included in their agenda packet for review, but she will ensure there is a comprehensive review of the final packet before it is submitted. Chairman Hawkins inquired about the amount of forms remaining to be completed for the application. The Manager stated that application guidance only is about a 100-page document. **The motion was approved unanimously.**

#### MANAGER'S REPORT

- Kudos to SkyTerra and the Bromfield Inn for their recognition by Trip Advisor as Traveler's Top 10%

- Kudos to PARI for their recent Dark Sky designation
- Staff is working on CDBG-CV grant opportunity with possible inclusion of elements of broadband and rent/utility assistance
- Staff is working with Land of Sky on several initiatives and thanked them for their support trying to facilitate broadband opportunities even with the restrictions on local government by the State
  - To facilitate GREAT Grant broadband applications for our community
  - On another set of broadband funds that may be able to benefit public facilities
    - Staff has met with Comporium twice to help them facilitate an application
  - On public facility grants that staff recently learned about

Chairman Hawkins asked if staff had heard any news from the State regarding the funding shortfalls and how that might impact local governments financially. The Manager responded there has been no indication at this point about potential impacts. Staff, however, continually communicates to our legislators regarding the impact of the trickledown effect the State's policies have on local government and staff continues to advocate for no further local service mandates that are dependent on property tax. The Manager stated she remains concerned and she intends to continue advocacy with our State representatives, especially when they are back in session, and she encouraged the Board to do so as well. Commissioner Chappell felt it was not a matter of whether costs will be passed down to local governments, but how much, and therefore the County needed to be prepared. Commissioner Guice added that the impacts to many services are unknown and whether the costs will be borne by local government remains to be seen. He pointed out the federal government could also pass down costs to states, further exacerbating the trickledown effect while the pandemic continues. He was interested in knowing how other counties are dealing with the same challenges.

#### PUBLIC COMMENT

There were no comments from the public.

#### COMMISSIONERS' COMMENTS

Commissioner Chappell referred to an article in *The Asheville Citizens Times* regarding the small number of female school superintendents and it pointed out that for six years Transylvania County had a woman serving in that role by the name of Sonna Lyda. Commissioner Chappell commented there are two votes he cast while serving in public office that stand out to him and for which he is most proud: selecting Dr. Sonna Lyda as Superintendent of Transylvania County Schools and hiring Jaime Laughter as the Transylvania County Manager. He was proud to have served alongside some exceptional leaders in Transylvania County.

Commissioner Lemel said she would canvas other counties during her NCACC Board of Directors meeting next week to see how they are handling certain issues, in response to Commissioner Guice.

**Chairman Hawkins moved to enter into closed session per NC General Statute 143-318.11 (a) (3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body and per NC General Statute 143-318.11 (a) (5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease, following a 5-minute recess, seconded by Commissioner Lemel and unanimously carried.**

#### CLOSED SESSION

Per NC General Statute 143-318.11 (a) (3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, closed session was entered into. Present were Chairman Hawkins, Commissioners Chappell, Dalton, Guice and Lemel, County Manager Jaime Laughter, County Attorney Natalia Isenberg and Attorneys Susan Cooper and Claire Rauscher of Womble Bond Dickinson, (participating via Zoom meeting software), and Clerk to the Board Trisha Hogan.

Commissioners consulted with attorneys on a privileged legal matter.

Per NC General Statute 143-318.11 (a) (5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease, the second closed session was entered into. Present were Chairman Hawkins, Commissioners Chappell, Dalton, Guice and Lemel, County Manager Jaime Laughter, County Attorney Natalia Isenberg (participating via Zoom meeting software), Transylvania Economic Alliance Director Josh Hallingse, and Clerk to the Board Trisha Hogan.

The Board received information from staff on the negotiating efforts for the potential acquisition of real property. The Board instructed staff on how to proceed.

**Chairman Hawkins moved to leave closed session, seconded by Commissioner Lemel, and unanimously carried.**

#### OPEN SESSION

**Chairman Hawkins moved to seal the minutes of the closed sessions until such time that unsealing the minutes does not frustrate the purpose of the closed sessions, seconded by Commissioners Guice and Lemel simultaneously and unanimously approved.**

#### ADJOURNMENT

There being no further business to come before the Board, **Chairman Hawkins moved to adjourn the meeting at 9:15 p.m., seconded by Commissioner Lemel 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