

**MINUTES**  
**TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS**  
**October 12, 2020 – REGULAR MEETING**

The Board of Commissioners of Transylvania County met in regular session on Monday, October 12, 2020 at 4:00 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 Julie Hooten participated remotely via Zoom meeting software.

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

There were 20 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 4:05 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.*

Dr. Laura Leatherwood: Dr. Leatherwood is the President of Blue Ridge Community College. She reported that several months ago, the Vice-President of Workforce Development took a position as President of another community college leaving a vacancy at Blue Ridge Community College. The College conducted an exhaustive national search to fill this position. After a long process, the College hired Dr. Scott Queen. One of his roles will be to help Dr. Leatherwood serve Transylvania County and expand workforce development efforts as much as possible. She introduced Dr. Scott Queen.

Dr. Scott Queen: Dr. Queen shared how happy he is to serve in this role. He is a product of the community college system. He is from Alamance County where he graduated from Alamance Community College and served in several roles over the course of 21 years. The last six years he has worked very closely with economic and workforce development as Executive Vice-President. He said Transylvania County is a beautiful county and he looks forward to working with and engaging the Board of Commissioners and the community to help advance economic and workforce development. He added that his decision to leave a program after 21 years was due to the strong leadership at Blue Ridge Community College and their partnerships with K-12 education and business and industry in the community. He was excited about the opportunity to serve.

Chairman Hawkins welcomed Dr. Queen to the community on behalf of the Board. He thanked Dr. Leatherwood for what she has done and will continue to do for Transylvania County.

Frank Pearsall: Mr. Pearsall was recently appointed to the ABC Board. His purpose for addressing the Board was to introduce Mark Balding, the ABC Store Manager for a special presentation.

Mark Balding: Mr. Balding introduced himself as the General Manager of the Brevard ABC Board. He reported the County receives a monthly check totaling approximately \$1,200 which should be used for rehabilitation, and another quarterly check for profit distribution. The ABC Board recently partnered with the City of Brevard to provide funds for a project. The ABC Board must also provide funds to the County at a 75% and 25% split, with the County's share being 25%. He presented the Board with a check for nearly \$7,000. He thanked Commissioners for their service.

David Shuford: On behalf of the Lake Toxaway Property Owners Association, Mr. Shuford addressed the Board regarding their request to add a no-wake zone on a specific area of Lake Toxaway. The Association sent a letter to the County's Planning and Community Development Department in August asking that Transylvania County contact the No Wake Zone Coordinator for the North Carolina Wildlife Resources Commission (NCWRC) to request an investigation to determine whether statutory authority exists for the establishment of a no-wake zone in an area of Lake Toxaway referred to as "the cut". Mr. Shuford stated that a no-wake zone would increase lake safety and provide property owners protection in a relatively narrow area of the lake that receives a large amount of boating traffic. He reported the Association has received several complaints concerning boaters operating very close to the shoreline and traveling at unsafe speeds in "the cut" which is a channel that connects the two largest open areas on Lake Toxaway. The Association reviewed various options to address the safety concerns and decided the best solution is to place no-wake zone buoys at both ends of "the cut" and several in the middle. In June, members of the Association met with representatives from the NCWRC to determine the location of the buoys. Based on the survey, the NCWRC prepared a map showing the proposed location of the buoys that would create a channel wide enough for boats and a protected no-wake zone between the buoys and the shoreline. The cost, installation and maintenance of the buoys would be borne by the Property Owners Association. This request was announced during a Property Owners Association meeting in July. He thanked the Board for their consideration.

Chairman Hawkins stated this item is on the agenda for consideration under New Business.

Mike Dexter-Smith: Mr. Dexter-Smith addressed the Board regarding a music event occurring at Glen Cannon. He stated the Glen Cannon neighborhood has been advised that a permit has been issued to Asheville Music Hall to host a Green Sky drive-in event over a period of four nights at the former golf course. He cited several concerns, including sanitation for potentially hundreds of people, the event's location in the floodplain, degradation of the environment, negative impacts to wildlife, security, the event's being held during Halloween, etc. He shared that the Governor's Executive Order allows for outdoor events at 30% capacity or 100 guests, whichever is less, but this event is proposing to bring hundreds of cars with an attendance of well over 100. Mr. Dexter-Smith reported that he contacted Health Director Elaine Russell to find out her professional opinion on what he called a "super-spreader" event due to the event information indicating attendees will be allowed to get out of their vehicles and sit next to their cars, use the bathroom facilities, and go down in front of the stage to dance and socialize. He also reported that the County's Environmental Health Department staff informed him that this event has not been approved by the County nor does it meet the Governor's Executive Order requirements. Mr. Dexter-Smith asked the Board, on behalf of the residents of Transylvania County, to deny the event because its sole purpose for coming into the County is to make money for the promoter.

Chairman Hawkins asked the Manager to respond.

The Manager stated a permit has not been issued for this event because it is not required under the County's Mass Gathering Ordinance. The proposed event is sponsored by a nonprofit which exempts it

from being permitted according to the Mass Gathering Ordinance. The nonprofit is Harmonia Sanctuary, and their IRS nonprofit status has been verified. The organizer has agreed to coordinate with the Health Department, Fire Marshal, and the Sheriff's Office for guidance on safety measures. To comply with the Governor's Executive Orders, the event coordinator intends for attendees to park in 10x10 squares. People will be able to leave their spot to use the restroom and purchase food, but they will not be allowed to gather in an assembly under that definition.

Greg Ayres: Mr. Ayres addressed the Board about the upcoming concert at Glen Cannon. He understood the County's ordinance will allow this event, but he reemphasized the community's concerns about the hundreds of people who will be assembling in a pandemic situation, in addition to issues surrounding sanitation, disruption and traffic management. He thanked the Board for considering citizens' concerns and hoped that better persuasion can be applied to the organizers with some help from the Board of Commissioners.

Chairman Hawkins stated that Commissioners do not normally respond during the public comment period because it is the Board's time to hear from the public. He wanted the public to understand that the Board's lack of response does not indicate a lack of interest in their comments. Commissioners are aware of the event and there have been discussions with the Manager about various aspects of the event. He stated the Board may discuss it later during Commissioners Comments.

Commissioner Guice felt it would be appropriate for the Board to talk about this issue during this meeting. He wanted to hear from legal counsel as it relates to the Governor's Executive Order, especially since the number of positive cases is increasing in the community. He recalled earlier action by the Board recommending those with second homes in Transylvania County remain in their home community for the purpose of not adding to the strain on our health resources. The situation has not improved since the Board took that action.

The Manager suggested during Agenda Modifications the Board add a closed session to consult with the Board's attorney rather than having the conversation in open session. Commissioners debated next steps and will address under the Agenda Modifications portion of the agenda.

Chairman Hawkins reported that today the Board received approximately 10 emails from Lake Toxaway residents regarding their thoughts on the no-wake issue which all appeared to support Mr. Shuford's request.

### **AGENDA MODIFICATIONS**

There were no modifications from staff.

**Commissioner Lemel moved to add a closed session per NC General Statute 143-318.11 (a) (3) to consult with an attorney in order to preserve the attorney-client privilege, seconded by Commissioner Guice.** Commissioner Chappell commented that the Board understands the need for transparency, but during consultation with the County Attorney, it is important to preserve the attorney-client privilege. **The motion was unanimously approved.**

**Commissioner Lemel moved to approve the agenda as modified, seconded by Commissioner Guice, and unanimously approved.**

## CONSENT AGENDA

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

The following items were approved:

### MINUTES

The Board of Commissioners held a budget workshop on June 4, 2020 to deliberate on the FY 21 Budget. The Board of Commissioners met in regular session on June 22, 2020 and on July 13, 2020 and following met in closed session in which the minutes were sealed. The minutes were approved as submitted.

### REQUEST TO EXTEND TRANSYLVANIA COUNTY'S COVID-19 EMERGENCY PAID SICK LEAVE POLICY

In April 2020, the Board of Commissioners approved the Transylvania County COVID-19 Emergency Paid Sick Leave Policy which was extended to employees exempted under the FFCRA. To date, 49 County employees have used some portion of their Emergency Paid Sick Leave benefit. Based on the initial policy, the Emergency Paid Sick Leave provisions were to end on December 31, 2020. Unfortunately, experts anticipate the pandemic to stretch into 2021. Therefore, staff requested the policy expiration date be extended until June 30, 2021. At this time, the federal COVID monies are being used to cover compensation expenses related to the Emergency Paid Sick Leave, but there has been no confirmation that the funds will continue into 2021. The Board approved the extension of the Transylvania County COVID-19 Emergency Paid Sick Leave provisions until June 30, 2021 as requested.

### PROCLAMATION – 400<sup>TH</sup> ANNIVERSARY OF THE LANDING OF THE MAYFLOWER AND SIGNING OF THE MAYFLOWER COMPACT

2020 marks the 400<sup>th</sup> anniversary of the landing of the Mayflower in Plymouth, Massachusetts, and the signing of the Mayflower Compact. There are several citizens living in Transylvania County who are descendants of the Mayflower Pilgrims. Jill Chapman requested Commissioners remember and honor our ancestors, their struggles, and their efforts in one of the first successful colonies in America through the passage of a proclamation. Mrs. Chapman intends to forward the County's proclamation to the North Carolina Society of Mayflower Descendants and the General Society of the Mayflower Descendants in Plymouth, MA.

Chairman Hawkins read aloud the proclamation and the Board subsequently approved Proclamation #26-2020-400<sup>th</sup> Anniversary of the Landing of the Mayflower and Signing of the Mayflower Compact and presented the proclamation to Jill Chapman.

Mrs. Chapman thanked the Board and staff for their involvement with getting this on the agenda for approval. She is currently the Deputy Governor of the North Carolina Society. On behalf of the members of the North Carolina Society descendants of the Mayflower, she thanked the Board for the passage of this proclamation.

### **Proclamation #26-2020**

#### **400<sup>th</sup> Anniversary of the Landing of the Mayflower and Signing of the Mayflower Compact**

WHEREAS, the 400th Anniversary of the Landing of the Mayflower and the signing of the Mayflower Compact will be observed in 2020; and

WHEREAS, our country finds itself so situated this year that the inspiration deriving from the anniversary is most timely; and

WHEREAS, it is vital that the young, who are now on the threshold of citizenship, know the origin of our American way of life; the story of how the Pilgrim fathers wrote the formula for democratic self-government; and so laid the foundation for our mighty nation; and

WHEREAS, the men of the Mayflower signed this fundamental American document, which gave the first assurance that virtue and industry and freedom were here to find a refuge, by establishing the principle of constitutional self-government as the beginning of the political life of America; and

WHEREAS, it is inspiring to present-day Americans to mark with special commemorations the anniversary of the signing of this immortal charter of a government of the people, by the people, and for the people; and

WHEREAS, North Carolina Descendants of the Pilgrims Fathers and Mothers will commemorate the 400th Anniversary of the Landing of the Mayflower and the Signing of the Mayflower Compact:

NOW, THEREFORE, the Board of Commissioners of Transylvania County does hereby proclaim 2020, as the 400th Anniversary of the Landing of the Mayflower and the Signing of the Mayflower Compact.

This the 12<sup>th</sup> day of October, 2020.

S://Mike Hawkins, Chair  
Transylvania County Board of Commissioners

RESOLUTIONS ALLOWING RETIRING OFFICERS TO PURCHASE THEIR SERVICE HANDGUN  
Officers Chris Hawkins, Gale Mackey, and Robert Shular will be retiring effective November 1, 2020. NC General Statute § 20-187.2 allows the governing board to award to a retiring member the service gun of the retiring member. Sheriff Mahoney requested Commissioners approve resolutions allowing these officers to purchase their service handgun for the price of \$1.00 upon retirement.

The Clerk drafted an individual resolution for each officer that details their service to the Transylvania County Sheriff's Office and for the sacrifices they made on behalf of their families and the citizens. Commissioners thanked these officers for the time given toward their career in a very dangerous line of duty. The Board approved Resolutions #28-2020, #29-2020 and #30-2020 Allowing a Retiring Officer to Purchase Their Service Handgun.

**RESOLUTION # 28-2020  
ALLOWING RETIRING OFFICER TO PURCHASE THEIR SERVICE HANDGUN**

**WHEREAS**, NC General Statute § 20-187.2 provides that the governing body of a local law enforcement agency may, in its discretion, award to a retiring member the service handgun of the retiring member; and

**WHEREAS**, Marshall "Chris" Hawkins is a member of the Transylvania County Sheriff's Office where he has served as Patrol Officer, Patrol Sergeant, DARE Officer, and most recently Investigations and Evidence Lieutenant; and

**WHEREAS**, Chris Hawkins will retire from the Transylvania County Sheriff's Office effective November 1, 2020 with 28 years and 7 months of service to the Sheriff's Office;

**NOW, THEREFORE, BE IT RESOLVED** by the Transylvania County Board of Commissioners to allow Chris Hawkins to purchase his service handgun in accordance with the provisions of NC General Statute § 20-187.2 for the purchase price of \$1.00.

This the 12<sup>th</sup> day of October, 2020.

S://Mike Hawkins, Chair  
Transylvania County Board of Commissioners

**RESOLUTION # 29-2020**  
**ALLOWING RETIRING OFFICER TO PURCHASE THEIR SERVICE HANDGUN**

**WHEREAS**, NC General Statute § 20-187.2 provides that the governing body of a local law enforcement agency may, in its discretion, award to a retiring member the service handgun of the retiring member; and

**WHEREAS**, Gale Mackey is a member of the Transylvania County Sheriff's Office where he has served as Patrol Officer, Patrol Sergeant, Investigator, and most recently Investigations Sergeant; and

**WHEREAS**, Gale Mackey will retire from the Transylvania County Sheriff's Office effective November 1, 2020 with 29 years and 11 months of service to the Sheriff's Office;

**NOW, THEREFORE, BE IT RESOLVED** by the Transylvania County Board of Commissioners to allow Gale Mackey to purchase his service handgun in accordance with the provisions of NC General Statute § 20-187.2 for the purchase price of \$1.00.

This the 12<sup>th</sup> day of October, 2020.

S://Mike Hawkins, Chair  
Transylvania County Board of Commissioners

**RESOLUTION # 30-2020**  
**ALLOWING RETIRING OFFICER TO PURCHASE THEIR SERVICE HANDGUN**

**WHEREAS**, NC General Statute § 20-187.2 provides that the governing body of a local law enforcement agency may, in its discretion, award to a retiring member the service handgun of the retiring member; and

**WHEREAS**, Robert Shular is a member of the Transylvania County Sheriff's Office where he has served as Patrol Officer, Investigator, and most recently as the Transylvania Narcotics Task Force (TNT) Lieutenant; and

**WHEREAS**, Robert Shular will retire from the Transylvania County Sheriff's Office effective November 1, 2020 with 29 years and 2 months of service to the Sheriff's Office;

**NOW, THEREFORE, BE IT RESOLVED** by the Transylvania County Board of Commissioners to allow Robert Shular to purchase his service handgun in accordance with the provisions of NC General Statute § 20-187.2 for the purchase price of \$1.00.

This the 12<sup>th</sup> day of October, 2020.

S://Mike Hawkins, Chair  
Transylvania County Board of Commissioners

AN ORDINANCE DECLARING A ROAD CLOSURE FOR THE VETERANS DAY CEREMONY

NC Department of Transportation (NCDOT) Special Event Guidelines stipulates that counties shall pass an ordinance declaring a road closure for a special event. The purpose is so NCDOT can review for conflicts and concerns and is neither approving nor denying the event. The Clerk has submitted the special use permit application to the City of Brevard to close a portion of Main Street on November 11 for the Veterans Day Ceremony at the Courthouse Gazebo. Commissioners approved “An Ordinance Declaring a Road Closure for the Veterans Day Ceremony” and instructed the Clerk to send the document along with a cover letter to the NCDOT Highway Division 14 office.

Ordinance No. 27-2020

**An Ordinance Declaring a Road Closure for the Veterans Day Ceremony**

**WHEREAS**, the Transylvania County Board of Commissioners acknowledges a long tradition of honoring our veterans; and

**WHEREAS**, the Transylvania County Board of Commissioners established a Veterans Day Committee to plan an annual ceremony at the Courthouse Gazebo on Main Street between Broad and Gaston Streets; and

**WHEREAS**, the Transylvania County Board of Commissioners acknowledges it requires additional time both prior to and following the event for set up and removal of signs and equipment and one hour for the ceremony;

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Commissioners of Transylvania County pursuant to the authority granted by NC General Statute § 20-169 that they do hereby declare a temporary road closure during the date and times set forth below on the following described portion of a State Highway System route:

|                              |   |
|------------------------------|---|
| <b>Date:</b>                 | Wednesday, November 11, 2020  |
| <b>Times:</b>                | 10:30 a.m. – 12:30 p.m.   |
| <b>Location Description:</b> | Main Street (E Main St/US 276 N/US-276 S) between Broad and Gaston Streets in downtown Brevard (in front of the Transylvania County Courthouse) |

This ordinance to become effective when signs are erected giving notice of the limits and times of the ceremony and implementation of adequate traffic controls to protect participants and to guide vehicles around the event route.

Adopted this the 12<sup>th</sup> day of October, 2020.

S://Mike Hawkins, Chair  
Transylvania County Board of Commissioners

REQUEST TO USE COMMISSIONERS CHAMBERS BY THE ADMINISTRATIVE OFFICE OF THE COURTS

The Administrative Office of the Courts has received direction to resume jury trials beginning October 16 that were delayed due to COVID. The Transylvania County Clerk of Superior Court, Chief Judge Peter Knight and the District Attorney’s Office have determined they have a scheduling and space issue the

10/12/2020

week of November 30. They have requested to use Commissioners Chambers to convene a grand jury during that week. Staff has determined that Chambers is available. It is the County's responsibility to provide adequate space for court functions. Commissioners approved the use of Commissioners Chambers by the Administrative Office of the Courts the week of November 30.

## **PRESENTATIONS/RECOGNITIONS**

### RECOGNITION OF CITIZEN ADVISORY COUNCIL MEMBER

The Transylvania Economic Alliance Board of Directors is made up of 11 members, with one being appointed by the Board of Commissioners. Ruth Harris has served as the County's representative since the formation of the TEA Board. She has served two full terms. Her term expired June 30, 2020. The Board wishes to recognize her for her service as the County's representative. The Board recognized Ruth Harris for her service on the Transylvania Economic Alliance Board of Directors and presented her with a certificate of appreciation and coffee mug with the County logo.

Chairman Hawkins stated that Ruth Harris has been a key person in this community for a long time, especially with her role as an original member of the Transylvania Economic Alliance. She has been a driving force in working for quality economic development in Transylvania County.

Commissioner Lemel shared that Ms. Harris' work went beyond the Alliance. She worked with a couple of County departments on analyzing the efficiencies of their operations through her knowledge of the LEAN program. Commissioner Lemel was appreciative of the work she has done for the community.

Commissioner Dalton commended Ms. Harris for her work on the Alliance Board, stating it was a pleasure working with her for those six years.

Commissioner Chappell was appreciative of Ms. Harris' dedication, especially because she was a member of the original Board of Directors that took on the task of looking at economic development in a whole new way in Transylvania County. He pointed out that the Board of Directors met weekly in their first year, a dedication that many do not realize. The foundation they established is important to the community and will impact future generations.

### VAYA HEALTH UPDATE

Angela Garner, Community Relations Regional Director for Vaya Health is presenting updates to the Boards of Commissioners in the Vaya Health catchment area. Vaya Health is a publicly managed care organization that manages taxpayer funded health programs for individuals with mental health, substance use and intellectual developmental disability needs through Medicaid and State funds. Commissioner Lemel serves on the County Commissioner Advisory Council and the Board of Directors. Vaya Health's catchment area covers 22 counties, including Transylvania County.

This is a summary of her presentation:

#### *Pandemic Response*

- Provided immediate support to crisis services – most at-risk area
- Provided hardship assistance to providers
- Provided PPE to many residential services and congregate care homes
- Worked with NCDHHS to ensure Medicaid coverage for tele-health visits
- Purchased 500 smart phones through Verizon for members most at-risk; distributed 460 cell phones thus far
- Main goal is to maintain provider stability in their catchment areas

### *COVID-19 Funding*

- All the managed care organizations have requested funding from the Legislature
- Aside from COVID, all organizations have experienced over \$50 million in reductions in State funding to serve people without insurance
- Federal government approved one-time allocation of \$12 million but the funds must be spent by December 30
- Vaya Health leadership worked with Provider Advisory Council to determine how money would be used
- Funding being used for non-Medicaid services to help offset costs
  - Residential providers that serve children and adults with specialized needs
  - Day programs for adults with developmental disability needs
  - Psycho-social rehab day program for adults with mental health and substance abuse needs
  - Mobile crisis efforts
- Funding also being used for medication-assisted treatment, like methadone treatment, for those with no Medicaid or money to pay for treatment
- Assertive Community Treatment (ACT) Team – outpatient enhanced service for adults to keep them out of state hospitals; services reduced due to loss of funding, but using COVID monies to fund through the end of the year
- Beefed up intensive in-homes services for child mental health services
- Support for inpatient beds for indigent individuals at Mission
- Eating disorder clinic covered for members through the end of the year

### *Vaya Health Offices*

- Initially, Vaya Health's offices were not open
- 70% of their workforce applied for remote status
- Work status to be reassessed in January

### *Transylvania County Data*

- In August, Transylvania County had 566 members that accessed any type of service
- Of the 566, 92 received care management services to help navigate services due to their having higher needs
- Care manager made 193 contacts with those 92 members

### *Miscellaneous*

- Received grant to distribute Narcan to counties' law enforcement and EMS agencies, based on need
- All training has been cancelled due to COVID
- Offering free online trainings through December on suicide awareness training – Question, Persuade, and Refer (QPR)

This concluded the formal presentation. Chairman Hawkins called for questions and comments from the Board.

Commissioner Lemel referred to Vaya Health's goal to maintain provider stability. She inquired about the same with patients and wondered if the providers have been able to continue serving them. Ms. Garner shared there had been no drastic changes in the number of patients being served; however, providers have informed that some patients have been difficult to engage either due to transportation or socialization issues. The ability to provide tele-health visits resulted in an increase in the number of people being served, even some who had never been served before. She said part of the COVID funding will go toward working with providers on trying to locate those members and bring them into services.

Commissioner Lemel asked if Vaya Health provided a comparable CIT training for public educators. Ms. Garner responded yes. There is first-aid mental health for youth in the school system. It is not free; however, there are grant funds available to pay for this training. Unfortunately, it cannot be offered right now due to the pandemic.

Commissioner Guice pointed out that while Vaya Health is doing a great deal of work that is positively impacting the community, there remains a tremendous need. Ms. Garner stated that Vaya Health has some good boots on the ground that are in good contact with folks to determine the pulse of the community in terms of meeting those needs.

Commissioner Chappell asked how many people Vaya Health is serving who do not qualify for Medicaid. Ms. Garner did not have the information on-hand but promised to provide Commissioners with additional data following the meeting.

Chairman Hawkins thanked Ms. Garner for her presentation.

## **APPOINTMENTS**

### BOARD OF HEALTH

There are two vacancies on the Board of Health due to resignations. Health Director Elaine Russell recruited applicant Teesie Stanton to fill one of the general-public vacancies. Ms. Russell feels Ms. Stanton has a strong work ethic and will provide a diverse perspective to the Board of Health and therefore recommended her appointment. The Manager noted that Board of Health appointments normally come before the Board in December so staff will continue recruiting efforts with the goal of having a full Board of Health appointed at that time.

**Commissioner Lemel moved to appoint Teesie Stanton to fill one of the general-public vacancies on the Board of Health, seconded by Commissioner Guice and unanimously approved.**

### NURSING AND ADULT CARE HOME ADVISORY COMMITTEE

The terms of Karleen Booth and Ben Lamm expired September 22, 2020 after serving their initial year of appointment. They are both now eligible to serve a full three-year term.

COVID-19 has shut down the work of this committee at this time because the members are unable to visit the nursing and adult care homes. However, Ms. Booth has expressed an interested in continuing her service once this committee is able to do its work again. Mr. Lamm is undecided at this time. For records purposes, the Clerk to the Board added this item to the agenda for the purpose of officially reappointing Ms. Booth to a full three-year term. The Clerk to the Board will notify the Board of Commissioners of Mr. Lamm's decision once it is known. Additionally, there are two vacancies on this committee which were included in a recent advertisement for recruitment purposes.

**Commissioner Lemel moved to reappoint Karleen Booth to a three-year term on the Nursing and Adult Care Home Advisory Committee, seconded by Commissioner Chappell and unanimously approved.**

### TRANSYLVANIA COUNTY COUNCIL ON AGING

Terms for several members of the Transylvania County Council on Aging expired August 30, 2020. One member, Betsy Smith, resigned at the end of her term. Chair Sylvia Petit is currently recruiting to fill the vacant Senior Citizen seat. The Board should consider the following appointments to the Council on Aging:

1. Reappoint Don Rogers – Affordable Housing
2. Reappoint Betty Rogge – Senior Citizen
3. Reappoint Patrick Payne – Long Term Care Facility
4. Appoint Renay Knapp to replace Elaine Deppe who retired from her SHIIP position representing Cooperative Extension
5. Reappoint Linda Fluck – TRH Home Care
6. Reappoint Tara Rybka – Health Department

**Commissioner Lemel moved to make appointments as presented to the Transylvania County Council on Aging, seconded by Commissioner Chappell, and unanimously approved.**

Commissioner Lemel shared that she is working with the Land of Sky Regional Council on a proposal to seek nonprofit status for our Council on Aging.

### NEW BUSINESS

#### PRESENTATION OF THE 2021 REAPPRAISAL SCHEDULE OF VALUES

Tax Administrator Jessica McCall presented this item. NC General Statute § 105-317 requires the schedule of values, standards, and rules to be reviewed and approved by the Board of County Commissioners before January 1 of the year they are applied. A public hearing is required prior to adoption. The Schedule of Values outlines the standards and rules that will be used to appraise all real property in Transylvania County.

The proposed 2021 Schedule of Values will be available for public inspection at the Tax Administration Office at 20 E. Morgan St., Transylvania County Library at 212 S. Gaston St., and County Administration at 101 S. Broad St. during regular office hours of 8:30 a.m. to 5:00 p.m., Monday through Friday (except holidays).

**Commissioner Lemel moved to receive the presentation on the 2021 Reappraisal Schedule of Values and set the public hearing date for October 26 at 6 p.m., seconded by Commissioner Chappell.**

Commissioner Lemel was impressed with the level of detail the Tax Office goes through during the revaluation process. She pointed out the Tax Office has considered every possibility and therefore she felt the Schedule of Values was a good body of work. She encouraged citizens to read it to understand how deliberately and specifically the Tax Office tried to be as consistent as possible from one building to the next. Commissioner Chappell asked for the document to be uploaded to the website, especially due to COVID and people not wanting to come inspect the document in person. Staff will post the document to the County website. **The motion was unanimously approved.**

#### LAKE TOXAWAY NO WAKE ZONE

Interim Planning and Community Development Director Allen McNeill presented this item.

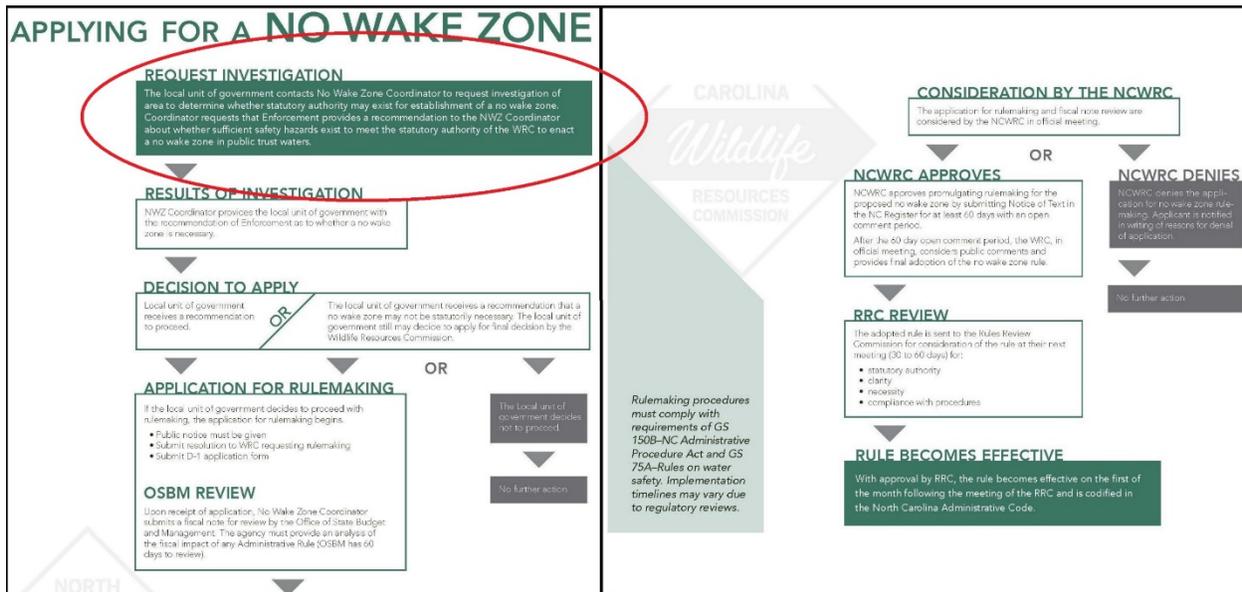
##### *Background*

In the summer of 2020, representatives from the Lake Toxaway Community Association reached out to the Transylvania County Planning and Community Development Department to request the County begin the process for applying for a No Wake Zone designation on a narrow area of Lake Toxaway referred to as “the cut”. The Department encouraged the Board of Directors of the Community Association to send a formal request to the County for the Board of Commissioners’ consideration. The Community Association approved a formal request at their September meeting. A copy of those minutes was provided to the Board of Commissioners.

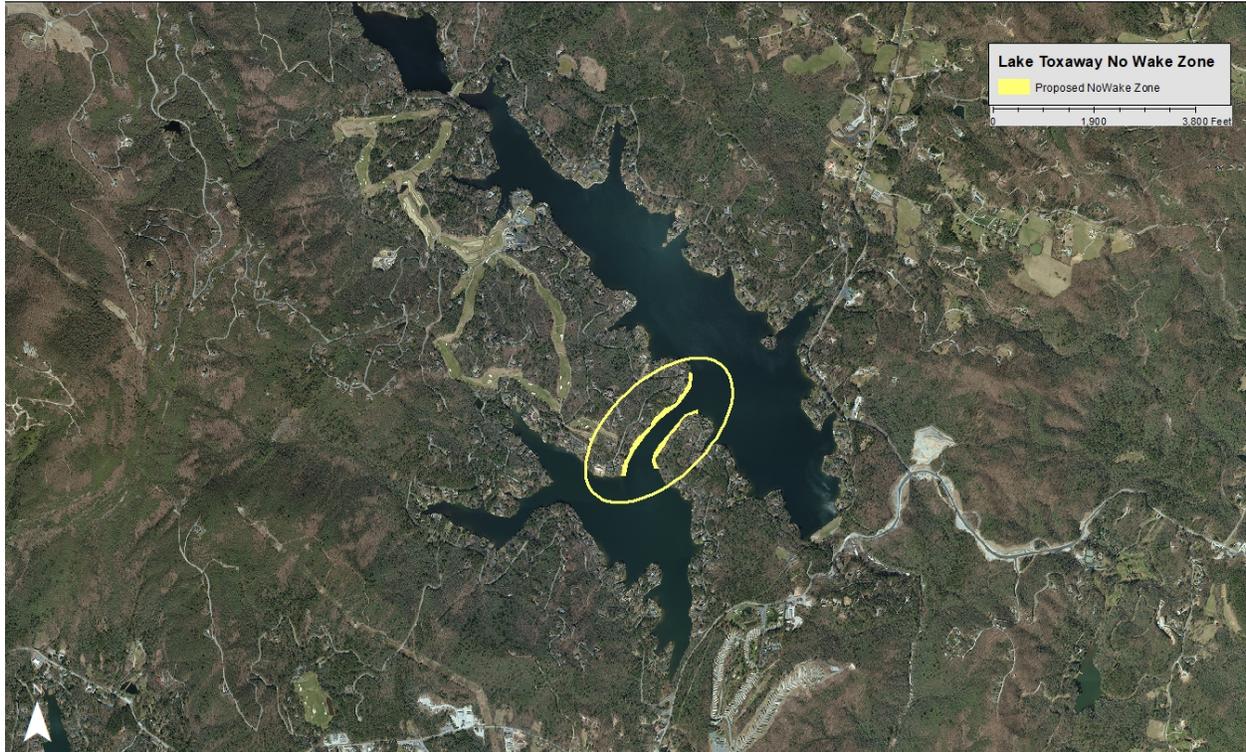
A No Wake Zone is a rule-making procedure given to NC Wildlife Resources Commission (NCWRC) by statutory authority. It is administered by them and is not regulated by the County. If it were to be applied and approved, according to statute, a No Wake Zone may be established for the purpose of safety. It is not for the purpose of property value, noise, or prevention of erosion.

*Process*

The process for applying for a No Wake Zone is outlined by the NCWRC. The County is at the first step (as circled in red below) of requesting the investigation. If the Board directs staff to contact the No Wake Zone Coordinator, they will conduct that investigation and identify whether there is statutory authority to apply a No Wake Zone to that area of Lake Toxaway. After a request is made to the No Wake Zone Coordinator, the process continues with reviews by other State offices. The process normally takes 90 days from start to finish barring delays. It also includes a public hearing process.



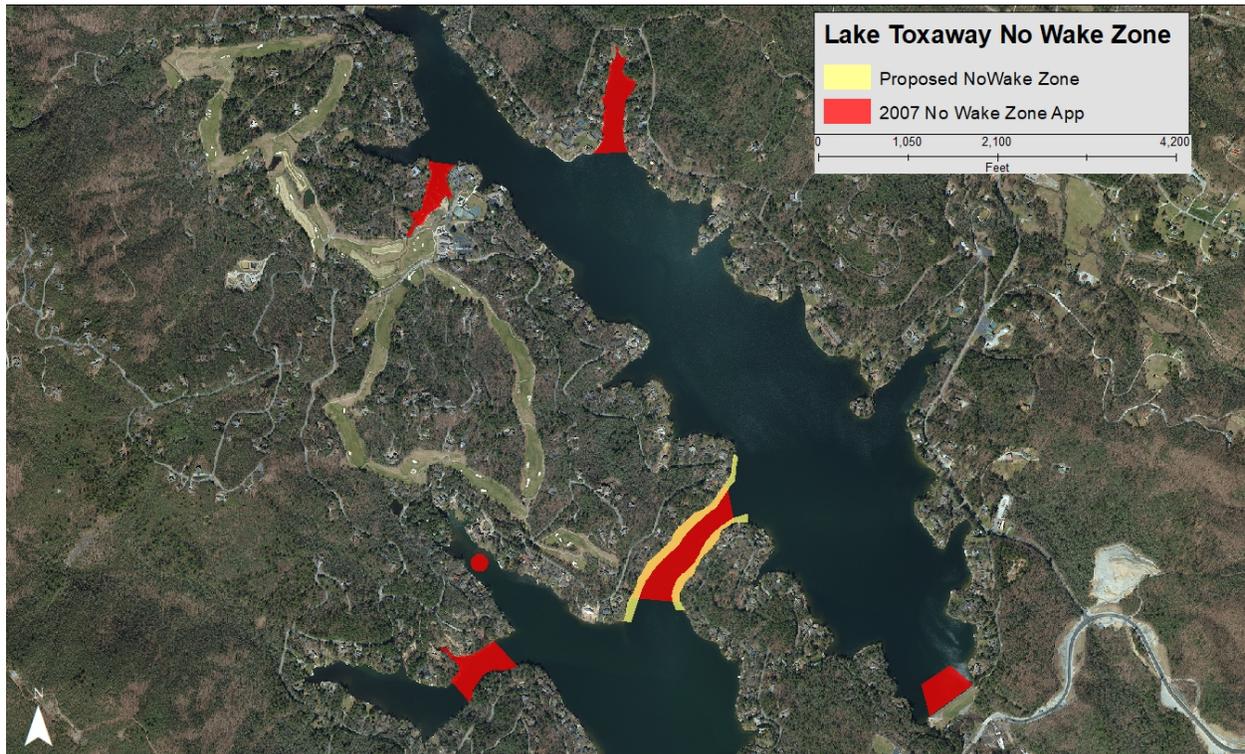
The map below indicates the area of the Lake referred to as “the cut”. It is an adjoining piece between the two larger bodies.



This map gives a closer view. The No Wake Zone, according to the Community Association, is 60' along the edge on both sides of "the cut". The red dots on the map below are the actual locations of the proposed buoys, nine in total.



The request is different from the 2007 application that the Board of Commissioners considered.



#### *Recommendation*

Staff recommended the Board discuss the request and then direct staff on whether to contact the No Wake Coordinator to request an investigation and possible subsequent consideration of an application.

Based on the number of communications to the Board and the fact that the Community Association is in favor of this request, **Commissioner Lemel moved to direct staff to contact the NC Wildlife Resources Commission No Wake Zone Coordinator to request an investigation, seconded by Commissioner Guice.** Commissioner Chappell agreed it was prudent to determine whether their request qualifies for consideration. He asked if the public hearing is a formalized process or simply a public comment period. Mr. McNeill stated that according to the process outlined by the NCWRC, the County must allow time for public comment. It specifically states that public notice must be given. The No Wake Zone Coordinator encouraged the Board to hold a public hearing. Commissioner Guice supported making the referral to the NCWRC for the safety purpose cited. Chairman Hawkins asked if the Board should expect to take this item up again in 90 days. Mr. McNeill stated the investigation can take days or weeks depending on staff availability and how quickly the NCWRC can conduct the investigation. The 90-day period to apply the No Wake Zone would begin following a public hearing, completion of the D-1 application and passage of a resolution by the Board. **The motion was approved unanimously.**

#### PHASES SEVEN AND EIGHT COMMUNITY SERVICES HVAC PROJECT

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 system 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 and phase six is near completion.

The final two phases include installation of shades in the windows for phases five through eight and the large conference room. The old blinds were removed to accommodate the removal of ceilings for the HVAC installation. At the completion of phases seven and eight, the HVAC replacement project in the Community Services Building will be finished.

The estimated cost of the last two phases includes replacing the HVAC, ceilings, blinds, fire alarm duct detectors, and contingency for a total of \$107,519.76.

**Commissioner Guice authorized continuation of the Community Services HVAC replacement phases seven and eight using Horizon and Trane Equipment and the installation of blinds for phases five through eight, including the conference room with the project to be funded by monies previously approved by the Board of Commissioners for the Community Services HVAC replacement project, seconded by Commissioner Lemel, and unanimously approved.**

TCTDA AND COUNTY BUDGET CLARIFICATION FY 2020 AND FY 2021

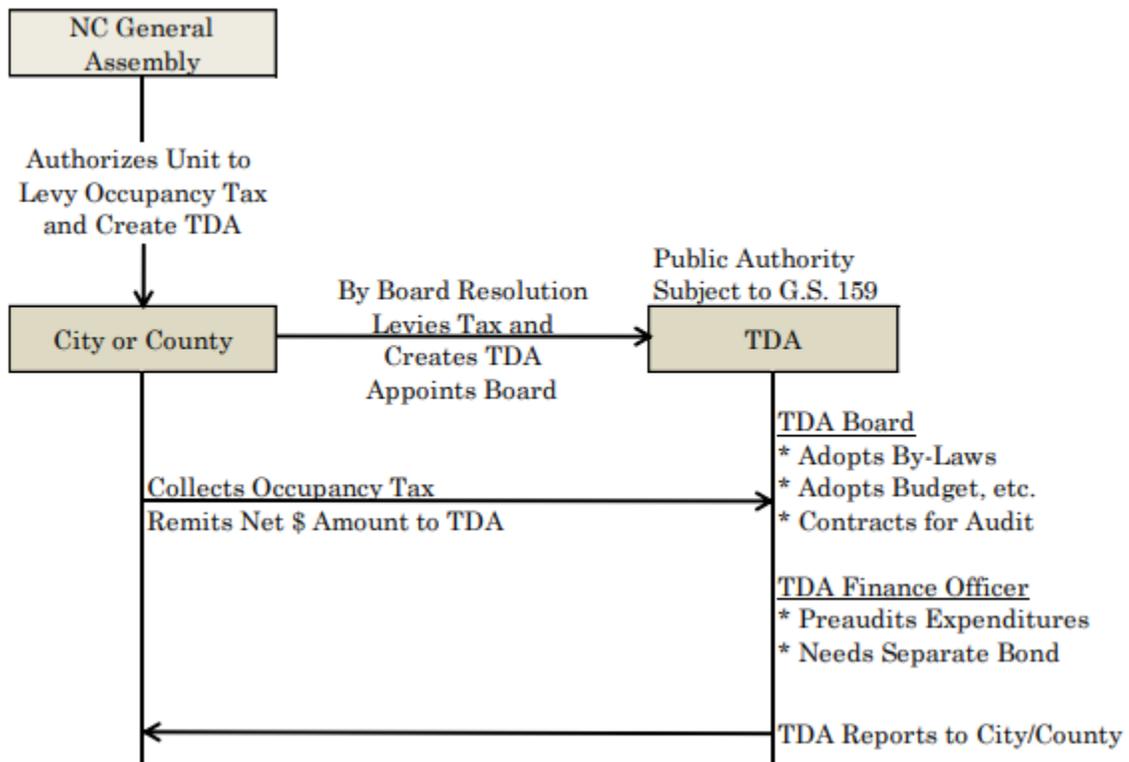
Finance Director Jonathan Griffin presented this item. Beginning in FY 2013-14, the State of North Carolina completed implementation of Governmental Accounting Standards Board (GASB) (the regulator that makes all the accounting rules for governmental agencies) statement no. 61, which clarified and defined the financial relationship between government units and “component units” – an extension of the government that serves a narrow or specific purpose. At this time, the Transylvania County Tourism Development Authority (TCTDA) became quasi-independent with the ability to adopt and set its own budget ordinance independent of the County.

Previously, the TCTDA operated more like an advisory board with their marketing budget being part of the County’s overall budget. After the changes implemented by GASB, the TCTDA had the legal right to set its own spending levels, so long as those spending levels conformed with the rest of the Fiscal Control Act. A secondary effect of the GASB statement is that the Local Government Commission (LGC) reminded audit firms of their responsibility to fully examine not just the financial statements of general-purpose governments and their special purpose units, but also to ensure that those relationships are articulated correctly.

During Martin Starnes and Associates examination of the County’s records, they advised that the relationship between Transylvania County and TCTDA needed additional clarification. NC General Statute § 153A-155 stipulates that the County levies and collects occupancy tax. The TCTDA is entitled to receive the proceeds of the tax, and spend it according to statute, but, for the narrow purpose of the law, they are not the government that holds the tax power.

This is an excerpt from an LGC memorandum on the topic:

### Establishment and Structure



As a result, the occupancy tax revenues should be recorded as revenues first for the County and then the TCTDA second. It has been the practice of the County since the creation of the TCTDA to deposit occupancy tax revenues directly into the accounts it holds for the TCTDA, but since they have not levied the tax, they should not directly receive the tax.

What is currently a one-step process should be a three-step process:

**Before:**

1. Occupancy taxes are directly credited as TCTDA revenues

**After:**

1. The County recognizes Occupancy Tax Revenues in the General Fund
2. The County expenses that amount out of the General Fund to recognize the transfer to the TCTDA (per LGC, this should be considered an economic and community development expense for the County)
3. The TCTDA receives the transfer and records revenues

This procedure should have been implemented in FY 2014 when the TCTDA became a component unit - a legal entity distinct from the County government. Structuring the revenue collection this way aligns the County's and TCTDA's receipts in a way similar to how the County has a financial relationship structured with other entities.

Therefore, the budget ordinance for FY 2020 for the General Fund should have also had the following text in section 1 (the description of types of expenditures):

|   |           |
|---|-----------|
| <u>TRANSFERS TO THE TOURISM DEVELOPMENT AUTHORITY</u> |           |
| Occupancy Tax Remitted                                | \$971,482 |

And the following text in section 2 (the description of available revenues):

|                      |           |
|----------------------|-----------|
| Occupancy Taxes (5%) | \$971,482 |
|----------------------|-----------|

Similarly, in the FY 2021 budget ordinance, the following text should have been in section 1 (the description of expenditures):

|   |           |
|---|-----------|
| <u>TRANSFERS TO THE TOURISM DEVELOPMENT AUTHORITY</u> |           |
| Occupancy Tax Remitted                                | \$647,098 |

And likewise, in section 2 (the description of available revenues):

|                      |           |
|----------------------|-----------|
| Occupancy Taxes (5%) | \$647,098 |
|----------------------|-----------|

This clarifies the relationship on the County's side only and has no impact on the TCTDA's financial operations or its independent authorities.

There is no financial impact. This action simply adjusts the County's general fund to reflect financial activity caused by its relationship with the TCTDA and does not reflect any real revenues, expenditures or additions or reduction to the County's fund balance.

Commissioner Guice asked if the County is required to levy the same tax rate from year to year and which entity had ultimate control over the funds. Mr. Griffin explained that the County retains control and responsibility over levying the tax, but once it is levied for the duration of the fiscal year, it must be turned over to the TCTDA. Statutes authorize the use of the funds by the TCTDA. The Board only controls the amount to levy.

Chairman Hawkins inquired about the possibility of fees to process tax documents and the like. Mr. Griffin stated that by statute the County is entitled to keep 3% of the first \$500,000 and then 1% of everything above \$501,000. In FY 2020, that amounted to between \$17,000-\$18,000. The County keeps only a small piece of the total occupancy tax revenues. The same statute required two-thirds of the occupancy tax dollars to be spent on marketing and promotion.

Mr. Griffin noted, for future reference, there are quite a few GASB statements that will need to be implemented this year and thus require Board action to do so. He will bring agenda items forth to the Board throughout the fiscal year with requests to put rules into place.

**Commissioner Lemel moved to approve text amendments to the 2020 and 2021 budget ordinances, seconded by Commissioner Guice and unanimously approved.**

MANAGER'S REPORT

- Governor Cooper's Executive Order 169 went into effect in October and is anticipated to last until at least October 23. It is unknown at that point if we will see another phase or a continuation of the current status. Highlights of some of the provisions include:
  - Large outdoor venues with seating greater than 10,000 may operate with 7% occupancy for spectators
  - Smaller outdoor entertainment venues, likes arenas and amphitheaters, may operate outdoors at 30% capacity or 100 guests, whichever is less
  - Movie theaters and conference centers may open indoor spaces to 30% capacity or 100 guests, whichever is less
  - Bars may operate at 30% of outdoor capacity, or 100 guests, whichever is less
  - Limits on mass gatherings will remain at 25 people indoors and 50 people outdoors
  - 11:00 p.m. curfew on alcohol sales for in-person consumption locations
- NCDHHS/CDC strongly recommends alternative Halloween activities over traditional door-to-door trick-or-treating to prevent the spread of COVID-19. Transylvania County does not typically have a Halloween-related event or support/sponsor one so we do not typically take a position
- Kudos to County Operations from citizen Travis Book for their work to maintain the new park and keeping walking areas mowed.
- Chairman Hawkins signed a letter of support for Comporium to pursue State GREAT grant funding. GREAT grants are to fund broadband expansion in NC communities and must be applied for by the provider.
- Early Voting starts October 15 at both the old Kmart building and Rosman Town Hall. See [www.transylvaniaclections.org](http://www.transylvaniaclections.org) to check your voting precinct if you plan to vote November 3

| DATES & HOURS for both locations |                   |
|----------------------------------|-------------------|
| Thursday, October 15, 2020       | 8:00 AM - 7:30 PM |
| Friday, October 16, 2020         | 8:00 AM - 7:30 PM |
| Saturday, October 17, 2020       | 8:00 AM - 6:00 PM |
| Sunday, October 18, 2020         | CLOSED            |
| Monday, October 19, 2020         | 8:00 AM - 7:30 PM |
| Tuesday, October 20, 2020        | 8:00 AM - 7:30 PM |
| Wednesday, October 21, 2020      | 8:00 AM - 7:30 PM |
| Thursday, October 22, 2020       | 8:00 AM - 7:30 PM |
| Friday, October 23, 2020         | 8:00 AM - 7:30 PM |
| Saturday, October 24, 2020       | 8:00 AM - 6:00 PM |
| Sunday, October 25, 2020         | CLOSED            |
| Monday, October 26, 2020         | 8:00 AM - 7:30 PM |
| Tuesday, October 27, 2020        | 8:00 AM - 7:30 PM |
| Wednesday, October 28, 2020      | 8:00 AM - 7:30 PM |
| Thursday, October 29, 2020       | 8:00 AM - 7:30 PM |
| Friday, October 30, 2020         | 8:00 AM - 7:30 PM |
| Saturday, October 31, 2020       | 8:00 AM - 3:00 PM |

- IT ticket request for sound issues we are experiencing in this room. Everything is going out on livestream and the recording, but we having issues with the speakers. We hope to have a solution soon.

The Manager further addressed the concert that is being planned at the former Glen Cannon golf course (LeParc). There is a mass gathering ordinances that has been adopted locally by the Board of Commissioners and is under the jurisdiction of the County Manager. In this case, according to the ordinance, the event is exempt from any permit requirements because it is being sponsored by a nonprofit. The Manager has been in communication with the Board of Commissioners, the County Attorney and other staff about this event in an effort to give as much guidance as possible to the promoter in terms of safety measures.

The Manager felt it was important to state publicly that her position as County Manager comes with only so much authority. As a public official, she must follow the laws on the books. She pointed out many occasions over the past year where the public has implied she can use her office in ways that would not be allowed or even legal. Therefore, she felt it was important for the public to understand those boundaries; otherwise, she could expose the County to liability for operating in a manner that was not authorized or legal. In addition, any rules and regulations that fall under the County Manager's limited authority must be handled without prejudice. An abuse of her position or office is not in the interest of the public good. The Manager was thankful to have a Board that understands and respects those boundaries. It is very important for citizens to understand that local government does not operate in a way that gives power to certain positions or shows favoritism or bias toward the public.

Chairman Hawkins commended Board of Elections for their work facilitating an election during this difficult time. He was especially grateful for their ability to acquire the former Kmart building for early voting.

### **PUBLIC COMMENT**

David Morrow: Mr. Morrow thanked the Manager for including in her report the schedule for early voting. As of Friday afternoon, Elections staff has mailed out by request 4,835 ballots and received 2,501 ballots back in their office. He reminded the public they still have the opportunity to request a mail-in ballot and urged those who are sick to please stay home and not expose pollworkers. Curbside voting will be available to those who need it as well.

### **COMMISSIONERS' COMMENTS**

Commissioner Chappell reported that today he saw an announcement that HCA had partnered with three local school systems – Buncombe, Macon and McDowell – to offer a mental health course for middle school age students. He heard the announcement on *WLOS News*. He asked the Manager to investigate why Transylvania County was not included.

Commissioner Dalton expressed his appreciation to Lake Toxaway Charities for the donations they have made throughout the Rosman Community. They continue to fill gaps and provide support during challenging times for our citizens.

**Chairman Hawkins moved to enter into closed session per NC General Statute § 143-318.11 (a) (3) to consult with an attorney in order to protect the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged, after 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 a 5:55 p.m. Present were Chairman Hawkins, Commissioners Chappell, Dalton, Guice and Lemel, County Manager Jaime Laughter, County Attorney Julie Hooten (participating via Zoom meeting software), Public Health Director Elaine Russell and Clerk to the Board Trisha Hogan.

The Board consulted with the County Attorney on a matter that is protected by attorney-client privilege.

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

### OPEN SESSION

**Chairman Hawkins moved to seal the minutes until such time that opening the minutes does not frustrate the purpose of the closed session, seconded by Commissioner Guice and unanimously approved.**

### ADJOURNMENT

There being no further business to come before the Board, **Commissioner Hawkins moved to adjourn the meeting at 6:38 p.m., seconded by Commissioner Lemel and unanimously carried.**

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Jason Chappell, Chairman  
Transylvania County Board of Commissioners

ATTEST:

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Trisha M. Hogan  
Clerk to the Board