

**MINUTES**  
**TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS**  
**August 23, 2021 – REGULAR MEETING**

The Board of Commissioners of Transylvania County met in regular session on Monday, August 23, 2021 at 6:00 p.m. in Commissioners Chambers at the County Administration Building, located at 101 S. Broad Street, Brevard, NC.

Commissioners present were Larry Chapman, Vice-Chairman Jake Dalton, David Guice, and Teresa McCall. Chairman Jason Chappell was absent due to a family illness. Also present were County Manager Jaime Laughter and Clerk to the Board Trisha Hogan. County Attorney John Kubis participated remotely via Zoom meeting software.

Media: Dan Dewitt – *Brevard Newsbeat*  
Alex Perri – *The Transylvania Times* (participated remotely)

There were approximately 50 people in the audience.

**CALL TO ORDER**

Vice-Chairman Jake Dalton presiding declared a quorum was present and called the meeting to order at 6:03 p.m.

**WELCOME**

Vice-Chairman Dalton welcomed everyone to the meeting. 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. The Clerk to the Board did not attempt to vet their statements for accuracy or modify them based on facts. The public's comments are summarized below.*

Mark Parker: Mr. Parker addressed the Board about the rails to trails (Ecusta Trail) item on the agenda. He stated that his family owns property along the corridor, and, to his knowledge, they have not given the rails-to-trails a right-of-way. His family has always understood the property along the rail corridor to belong to them, and the sale to the Ecusta Trail, to him, constitutes a hostile takeover. He mentioned that many other property owners feel the same way. Mr. Parker questioned who would be responsible for the care of the trail. He was against the use of taxpayer dollars toward the care and maintenance of the trail. He pointed out there are many places already throughout Transylvania County where people can recreate, including riding bikes. Mr. Parker felt the property should revert to the property owners. Otherwise, the County should pay back taxes to those citizens who are losing property. He pointed out the rail line was put in to contribute to the economic vitality of Transylvania County; as such, many people allowed a right-of-way through their property to bring industry and jobs here. He did not feel the trail would become an economic engine for this County. Mr. Parker was appreciative of the stance the Board has taken over the years for being a champion of private property rights.

**AGENDA MODIFICATIONS**

There were no agenda modifications. The agenda was approved with no objections or modifications.

## CONSENT AGENDA

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

The following items were approved.

### MINUTES

The Board of Commissioners met in a regular session on April 26, 2021. The Board of Commissioners also met in regular session on July 26, 2021 and following met in a closed session in which the minutes were sealed. July 26, 2021 closed session minutes will be considered at a future meeting. The Board approved the minutes as submitted.

### VAYA HEALTH FY 2021 Q4 FISCAL MONITORING REPORT

Per North Carolina General Statute § 122C-117 (c), the quarterly Fiscal Monitoring Reports (FMR) for the LME/MCO's must be presented to the Board of Commissioners. This report covered the fourth quarter of FY 2021. As required by statutes, the following information must be included in the minutes.

- Year-to-date actual revenues at \$493,693,334 (98.41% of annualized budget)
- Year-to-date actual expenditures at \$473,235,902 (94.34% of annualized budget)
- Results in a net income of \$20,457,432 from Operations and Risk Reserve
- Fund Balances:
  - \$55,551,671 restricted for risk reserve
  - \$9,543,249 restricted for state statute, prepaids & investment in fix assets
  - \$35,591,534 unrestricted
- Total operating cash excluding Risk Reserve at \$89,011,098, with an estimated \$10,525,106 in spendable cash as of June 30, 2021

### DRUG AND ALCOHOL TESTING POLICY FOR TRANSYLVANIA COUNTY TRANSPORTATION

The Transportation Mobility and Safety Unit of the NC Department of Transportation provided the latest Drug and Alcohol Policy template. The purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988 and the Omnibus Transportation Employee Testing Act of 1991. This policy is intended to comply with all applicable federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the Federal Transit Administration of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandates urine drug testing and breath alcohol testing for safety-sensitive positions and prohibits the performance of safety-sensitive functions when there is a positive test result, or a refusal to test. The U. S. Department of Transportation has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens. The Board approved the Drug and Alcohol Policy for Transylvania County Transportation as presented.

### DISCOVERY, RELEASE, AND MONTHLY SETTLEMENT REPORT

Per North Carolina General Statute § 105-312 (b), the Tax Administrator must 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), the Tax Administrator shall 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 July 2021, tax dollars released totaled \$1,463.61 and refunds amounted to \$843.82. The Board approved the Discovery, Release, and Monthly Settlement Report for July 2021.

### APPLICATION FOR DOGWOOD HEALTH GRANT

The C.A.R.E. Coalition requested permission to apply to Dogwood Health Trust's "Saving Lives from Substance Misuse" grant. This grant will help lay foundations for establishing community-wide improvements in treatment and recovery systems, as identified in their strategic action plan. Their strategies center around education, building capacity, and expanding partnerships in preparation for leveraging future opportunities.

The Board of Commissioners has agreed to the Memorandum of Understanding for the North Carolina Opioid Settlement. The County may receive settlement funding to mitigate the impacts of the opioid crisis in Transylvania County. Dogwood Health has issued a request for proposals to counties to apply for monies that will fund efforts to be ready to prioritize the use of those funds once they are finalized.

The Board approved the request to apply for the Dogwood Health Trust grant to leverage outside federal grant monies to fulfill community needs, implement recommendations of C.A.R.E.'s strategic plan that enhances treatment and recovery in Transylvania County and develop information that will aid in utilizing Opioid Settlement funds once available.

### **PRESENTATIONS/RECOGNITIONS**

#### HEALTH DEPARTMENT UPDATE ON COVID-19 AND VACCINE PROGRAM

Public Health Director Elaine Russell updated the Board on the COVID-19 pandemic and the vaccine program. This is a summary of her presentation and the discussion that followed:

- Percentage fully vaccinated 46% (15,979)
- Percentage partially vaccinated 49% (16,897)
- Agency serving an average of 20 people daily for vaccine
- Finalizing standing order to start 3<sup>rd</sup> shot availability for moderate/severe immunocompromised for Pfizer and Moderna starting September 2<sup>nd</sup> & 3<sup>rd</sup>
- US DHHS announced planning underway to make a Pfizer and Moderna booster shot available to the public by end of September
- FDA has granted full approval to Pfizer
- NC experiencing the 4<sup>th</sup> wave of COVID
- In Transylvania County 126 new cases in the past 7 days
  - 37% (46) are 0-17 years of age
  - 18% (23) are 0-11 years of age
  - 11% (9) are 18-24 years of age
  - 32% (40) are 25-49 years of age
  - 13% (16) are 50-64 years of age
- 7% (9) are 65-74 years of age
- 3% (4) are 75+ years of age
- Outbreak defined as two lab-confirmed cases in a congregate living setting; remains active for 28 days after the last case
- Two current outbreaks at Kingsbridge House and The Oaks
- Cluster defined as a minimum of five cases within 14 days in any setting with an epidemiological link; remains active for 28 days after the last case
- Four current clusters at DSS, Summer School at Pisgah Forest Elementary, Haywood EMC, and The Wilds

Commissioner Chapman inquired about the number of citizens currently hospitalized with COVID. Ms. Russell responded that to date, there have been 114 total hospitalizations. She did not have the current

figure on hand but would forward those figures to the Board following this meeting. She pointed out that the age range for hospitalizations was 26-104 years of age. Of those, 39% of hospitalizations have been 75+ years of age.

Commissioner Chapman inquired about the number of fatalities. Ms. Russell reported 35 fatalities and she expected another to be attributed to COVID soon, for a total of 36 deaths.

Commissioner McCall shared that the NCDHHS website shows the percentage vaccinated across the State at 85% for those 65+, which has been deemed the most critical age group, and 59% for 18+ years old and 56% for 12+ years old. So, it appeared to her that a sizable percentage of the State's population has been vaccinated. Commissioner McCall assumed those that have wanted to get the vaccine have been able to do so. She pointed out that what is not discussed often is the number of recovered cases. It is her perspective that some within the health profession do not want to consider natural immunity and they tout it as a lesser immunity. However, her research revealed that after six months the efficacy of the Pfizer and Moderna vaccine drops to approximately 50%. She was bewildered that so many people do not want to acknowledge natural immunity, which brings us to a much higher percentage of people protected. Commissioner McCall pointed out, according to Transylvania County data, there has been no one under the age of 17 hospitalized. With that said, she stressed that one case and one death are one too many and she did not intend to minimize the data because it is a serious illness. Nonetheless, she wanted people to see the whole picture.

Commissioner McCall asked for confirmation that we cannot test for the Delta Variant in Transylvania County. Ms. Russell confirmed. She shared that when lab samples are pulled and sent to the State Public Health Lab, the CDC and State Lab take a sampling from across all the labs they receive. At their level, they can perform the sequencing to determine the type of strain. That data is not reported back to individual counties. They provide an aggregate figure for the State as a whole. The assumption, however, is that new cases should be considered caused by the Delta Variant.

Commissioner McCall commented that when looking at the positive cases and the percentage of those vaccinated, she felt we could easily increase the numbers of those recovered by 10-15% because so many have been told by medical professionals there is no need to test the rest of their household and they should assume they are positive. Many others may have had COVID that never showed any symptoms. This does not change the presence of the Delta Variant, but she was hopeful we were moving in the right direction. She was very appreciative of the work of Ms. Russell and the Health Department staff.

Commissioner Guice asked Ms. Russell to address the uptick in the cases that involve children in the community. He pointed out that adults can make choices to protect themselves, but children rely on their parents, community leaders, and others to protect them. He was concerned about how the virus will impact children in the community. He felt it was the responsibility of elected officials to take a stance on protecting children. Ms. Russell stated that none of the vaccines are available to children under 12 years of age. Those remain in the clinical trial phase. That cohort of children is dependent on control measures of masking, social distancing, handwashing, and being surrounded by individuals who either have vaccine immunity or natural immunity. Ms. Russell informed that across the State and the Southeast, there has been an uptick in children who have tested positive but no reported hospitalizations, at least in Transylvania County. Of the 126 new cases, 37% of those fell in the 0-17 age range. Of that, 18% represented the 0-11 age range. Those 12-17 have some protection from the vaccine, but the younger children are vulnerable. Ms. Russell reported an increase in isolation and quarantine orders throughout the School System. In total, 176 students in the School System are either under isolation or quarantine orders as of today. There are 10 School System staff under the same orders.

Commissioner Chapman asked if the Health Department tracked new positive cases in which the individuals have been vaccinated. He wanted to know the percentage of those vaccinated being infected with the virus. Ms. Russell stated the number of breakthrough cases is difficult data to track at the local level. However, the State estimated the percentage to be 18%. Unfortunately, the case investigation software does not interact with the vaccine software. To determine the percentage locally would require a manual search across two silos of data.

This concluded the presentation. Commissioners thanked Ms. Russell and her staff for all they do for Transylvania County.

#### UPDATE FROM FRIENDS OF THE ECUSTA TRAIL & CONSERVING CAROLINA

At the July 12, 2021 meeting, the Board of Commissioners was asked to consider a letter of support for the City of Brevard's RAISE Grant application. The Board did not offer a letter of support for the City's grant application because they have not taken a stance for or against the Ecusta Trail and they indicated they still have a lot of unanswered questions. The Board requested staff invite representatives from the Friends of the Ecusta Trail and Conserving Carolina to give a presentation to the Board to address the Board's questions and concerns. Staff provided a list of questions to the two organizations in advance of this meeting so they could be prepared to address the Board. This is a summary of the presentation and the discussion that followed:

Chris Burns, a founding member of the Friends of the Ecusta Trail, informed that Rebekah Robinson with Conserving Carolina answered the questions submitted by the Board. He noted that the answers to many of the questions came from outside their organizations. The responses were sent to the Board and staff a few minutes before the start of this meeting. He invited Kieran Roe, Executive Director of Conserving Carolina to speak first on the property closing and related items. Then, Mr. Burns and others will inform the Board on items related to construction, grants, etc.

Mr. Roe stated that Conserving Carolina has created a subsidiary LLC organization called Ecusta Rails 2 Trails, LLC. The LLC closed on the purchase of the rail corridor from Watco on August 12. A week ago, there was a ribbon-cutting ceremony in Henderson County. Subsequently, an article appeared in the media regarding the purchase and acquisition. Last Friday, they sent out letters to all the landowners along the rail corridor to inform them that the closing and transfer of ownership had occurred. They specifically let those who appeared to have encroached in some way at any point along the line that they granted permission to any existing encroachments, but they asked for no new additional encroachments to take place from this point forward while they are going through the initial steps of design and construction of the trail. Finally, Mr. Roe informed that Watco has hired a firm to begin the process of picking up the rails and removing them from the corridor beginning on the Transylvania County side which should take about five months to complete.

Mr. Burns provided an update on the construction to take place in Henderson County. The funding for the purchase of the corridor came from a Transportation Alternatives Program grant (TAP) through the US Federal Highway Administration (FHWA) that was passed through to the NC Department of Transportation (NCDOT). Those funds will serve as a reimbursement grant. The Henderson County Board of Commissioners advanced \$7+ million for the purchase. Henderson County will be reimbursed by a combination of the amount Watco is reimbursing Conserving Carolina for the rails and the crossties and the proceeds from the transportation grant. When those proceeds are received, a request for qualifications (RFQ) will be released by Henderson County for the engineering, planning, and design for the first three phases of the trail in Henderson County. Mr. Burns recalled that Henderson County was awarded three grants through their Metropolitan Planning Organization (MPO) last year to construct the first three phases. Those phases would run from downtown Hendersonville from the lower end of Main Street to the French Broad River in Horseshoe. Those phases were originally planned to be built over a

three-and-a-half-year period, but NCDOT informed Henderson County they are the only recipient of grant funds whose project is shovel-ready, so Henderson County has been given the green light to proceed with all three phases. They may be able to contract all these phases as one piece.

Mr. Burns stated that Friends of the Ecusta Trail and Conserving Carolina have partnered and kicked off the silent phase of a fundraising capital campaign because most of the available grants require a 10-20% match. They have been successful in raising the match to construct the first three phases in Henderson County. They intend to seek public input on the planning and design. Mr. Burns expected the contract to be let by the end of the year and construction to begin in early 2022.

From a Transylvania County standpoint, Mr. Burns informed that the City of Brevard has agreed to take over as the construction partner. The Friends has been working with them and they are currently in the process of applying for different grants which would fund most of the construction in Transylvania County. They hope to hear back on the first grant as early as November.

Commissioner McCall asked for an example of the encroachment that Mr. Roe referred to earlier. Mr. Burns informed that when a corridor is railbanked, it sets in motion an agreement between the Railroad Surface Transportation Board and the entity that railbanked the corridor that the entity will keep the corridor intact for future rail service. Any crossings or easements that have been granted for power lines, sewer lines, and water lines, etc. are considered encroachments on the line. Some of those encroachments have been approved by the railroad either when it was owned by Norfolk Southern or Blue Ridge Southern/Watco. There are many encroachments, however, in which there was no permission granted. There has also been some construction that has taken place that likely was not granted. Conserving Carolina thus took the position that any current encroachment, whether granted, may remain in place. However, in the future, a railroad company could want to reopen the line for service, and if so, any unapproved encroachment could be disallowed.

Commissioner McCall asked if there had ever been a time where a railroad removed a line and then reestablished it later. Mr. Burns was aware of nine times this had occurred on a nationwide basis.

Commissioner McCall stated that many believe the landowners have rights-of-way with Watco. For that reason, they may see the encroachment as coming from the Ecusta Trail instead. She asked if a property owner's deed states their land extends to the middle of the railroad track whether the property owner indeed owns the land. Mr. Burns responded the answer lies in whether the railroad has the land on the corridor fee simple or if at some point the railroad that came through in the late 1890s took a right-of-way. According to the information provided by the railroad to Friends of the Ecusta Trail and Conserving Carolina, 90% of the corridor was owned as fee simple by the railroad. Conserving Carolina conducted the title searches which found that 90% of the corridor is owned fee simple by the railroad. Mr. Burns informed that when railbanking was enacted by Congress in the early 1980s, it was enacted because of exactly what these entities are experiencing today. In the 1980s railroad lines were being taken up across the nation and the lines/rights-of-way reverted to adjacent property owners, but the railroads were losing those corridors. Because they felt those corridors might be needed for future use and knowing the difficulty of reestablishing those corridors, they enacted railbanking legislation to keep the corridors intact. The legislation stated that whether the railroad was owned fee simple or by right-of-way, in either case, it was held under the railbanking statute. Mr. Burns shared that the legislation was challenged, but the Supreme Court found railbanking to be constitutional and thus allowed it to continue.

Mr. Burns also addressed a recent lawsuit that approximately 100 property owners had signed onto claiming an adverse taking. Their attorney is arguing that railbanking is akin to the DOT taking land for transportation projects but with compensation to the property owner. In cases where they can prove that an adjacent landowner had the right-of-way, their contention is they can force the federal government to

reimburse those landowners for that property. To his knowledge, those attorneys had not done any title work up to this point. He pointed out there have been successful cases where attorneys were able to get reimbursement to landowners for what they call “adverse taking.”

Commissioner Chapman stated that the Board submitted 20 questions to the County Manager for submission to Friends of the Ecusta Trail and Conserving Carolina. He felt the public deserved to hear the responses to those questions in a public setting. He stated that the Board has not taken a stance on the trail, not because they are against it, but because they have not received sufficient information on what the County’s liability, cost, etc. will be.

Below are the responses to the Board’s questions along with other commentary submitted during the meeting.

### **Responses to 20 Questions Posed by Transylvania County Commissioners**

1. When will the deal between the railroad and Ecusta Trail organization be formalized? [The sale of the corridor took place on 8/12/21. The agreement is between the LLC and the railroad.](#)
2. Do any of the property owners have reverter rights? Previously this has been answered that most of the properties are owned fee simple. [There are some properties along the corridor that had reverter language in the original deeds to the railroad, but we did not track how those apply to every parcel that exists. Landowners may hire legal counsel to search the chain of title for their individual property if they wish to understand whether reverter language applies to their property. The corridor remains intact with no broken links. If it is found there has been an adverse taking of land, it will be the federal government that compensates landowners, not the Friends of the Ecusta Trail or Conserving Carolina.](#)
3. What is the status of any legal negotiations or suits from adjacent property owners? [Any lawsuits filed by adjacent property owners do not name Friends of the Ecusta Trail, Ecusta Rails 2 Trails, LLC, or Conserving Carolina as parties, so we are not involved or aware of the status. Similar litigation on other trails has not impeded trail development but has, in some cases, resulted in federal compensation to landowners depending on how the property was originally acquired by the railroad.](#)
4. Are all affected property owners in agreement on the construction of this trail? And if so, is the agreement in writing? [Over the past 10 years, some adjacent owners have publicly stated support of the trail while others have stated opposition. Most have not made public statements. There is a written agreement between the railroad and Ecusta Rails 2 Trails, LLC for the purchase of the railroad’s property on the “TR” Line west of milepost 0.7.](#)
5. Is the rail line being purchased or is this being done through a "railbanking" agreement? The information provided has indicated it is being purchased with public funds after WATCO rail banks it and this seems like two different transactions. [Both. The contract with the railroad is to sell the corridor to Ecusta Rails 2 Trails, LLC for an agreed-upon price. Railbanking is a regulatory process that allows Ecusta Rails 2 Trails, LLC to use the trail corridor for public purposes and preserve it for potential future rail use.](#)
6. How will concerns raised about the impact to any local businesses or property owners regarding access to their property on both sides of the trail be addressed? Agriculture producers have concerns about access to land that is between the trail and the French Broad River. How will equipment get across the trail? Will trail construction include fencing to keep users from coming off the trail onto private property? [Easements and crossings that existed when the corridor was actively used by the railroad will remain intact. Any new or relocated crossings would require communication with the corridor owner, as](#)

was the case with the railroad in the past. Since the trail has not yet been designed, the inclusion of any fencing or vegetative screening is to be determined. The landowner may also erect fencing or screening on their property outside of the rail corridor if it follows local laws and covenants.

7. The line will be owned by a subsidiary of Conserving Carolina. Will that entity carry liability insurance to cover the trail in general? Will that coverage include protection for users (injuries/accidents, criminal activity)? For structure failures like the trestles and river crossings? For property owners that experience vandalism or impacts of attractive nuisances? The new owner of the rail corridor has acquired blanket liability insurance for the corridor. Such insurance does not cover “off-site” activities. Homeowners or business insurance policies specifically address activities on private property. Henderson County, the City of Hendersonville, and the Town of Laurel Park have begun work on an MOU on how to operate the linear park, to include law enforcement coverage and maintenance. Henderson County's Parks and Recreation Department will be responsible for operating it. They also intend to maintain it but will be reimbursed by the other municipalities.

8. What liability do the county taxpayers have regarding any accidents or criminal activity if the county chooses to participate in construction and/or operations? Such liability is no different from activities that occur in any other project involving the County. It should be treated as a park. The liability would fall under the entity that operates it.

9. On rural sections, there are concerns that users will see agriculture barns and equipment as opportunities to get off the trail resulting in liability concerns for those owners. How will this be addressed? Liability is addressed in question #7 above. A person leaving the designated trail would be treated no differently from a biker or motorist leaving a public road or highway and trespassing on private property. This same concern has been brought up around trails across the nation. Most times, the people that use these trails are courteous and they understand they could be trespassing if they stray from the trail. That does not mean there will never be a case of trespassing, which is a crime.

10. Agriculture producers also must spray pesticides and other activities that generate complaints from rail users. What will be done to address those? Farmers must use best practices and abide by North Carolina law in using pesticides. This is no different than an activity that would affect any adjacent landowner. Any ongoing or periodic activities that may negatively affect trail users will be handled on a case-by-case basis, potentially using signage and social media to acquaint the public with the activity. Other trail operators worked with the agricultural communities to make sure lines of communication are open. Farmers must be able to continue their operations and their rights to do so are protected under North Carolina General Statutes.

11. What is the estimated maintenance and other associated ongoing operational costs including security, public parking area maintenance, litter clean up, public restroom access cleaning/maintenance for the Ecusta Trail? If available, how were those numbers determined? Since the trail has not yet been designed and built, such figures are unavailable. A study of costs from similar trails is available at <https://www.railstotrails.org/resource-library/resources/maintenance-practices-and-costs-of-rail-trails/?q=&a=All&t=All&s=All&g=Maintenance>.

Mr. Burns provided some examples using a likely cost scenario and a high-end scenario. The Oklawaha Trail in Hendersonville is a meandering trail that runs along and off a sewer line. It is a beautiful trail, but it is expensive to upkeep. It contains moat areas, and mulch, flowerbeds, and trees that must be maintained. The Friends of the Oklawaha take care of much of the maintenance. For the City of Hendersonville, it costs \$8,000 per year per mile and includes equipment, grass seed, mulch, arborists, etc. For other trails, maintenance includes bushhogging once a week during the summer months and is barely accounted for in their maintenance budgets. Someone inspects weekly for trash and debris, but the

volunteer organizations do most of the maintenance. Mr. Burns informed there are already hundreds of people in both Henderson and Transylvania Counties who want to volunteer to upkeep this trail.

Commissioner McCall noted that volunteer groups must be provided with oversight and given the necessary equipment to maintain the trail.

12. Who is anticipated to be responsible for ongoing maintenance costs? In Transylvania County, it would be the Ecusta Rails 2 Trail, LLC for the near future, but maintenance may be a shared responsibility with Friends of Ecusta Trail, or the local government if they wish to be involved. If the City of Brevard builds out the trail, they may include Transylvania County in the discussion. The Friends of the Ecusta Trail and Conserving Carolina would like to be part of those conversations. Mr. Burns reminded the Board that neither entity has asked the Board of Commissioners for any money, but they would like to help with fundraising efforts.

13. What is the estimated need for additional security? Since the trail has not been designed and built, the security component has not been determined. Discussion with Sheriff Mahoney suggests that while additional attention may be needed at trailheads, the trail is not expected to generate significant additional security concerns. It appears that people on the trails police themselves.

The Oklawaha Trail runs from Jackson Park in Hendersonville into the Green Meadows community on 7<sup>th</sup> Avenue and out to Berkely Mills. It runs through a less rural area of Hendersonville. The Police Chief reviewed four years of records and reported two calls, both of which were minor complaint calls.

The Swamp Rabbit Trail in Greenville, SC has the same issues we already have with cars being broken into in parking lots, but the crimes along the trail have been minimal. Research of crimes happening on trails during an internet search will yield more results because the trail runs through a very developed area of Greenville and is used frequently, and people often use it as a method of travel instead of recreation. They sometimes use the trail as an indicator of where they are, i.e., an apartment complex adjacent to the trail when reporting a crime.

14. Who is anticipated to be responsible for ongoing security costs? In Transylvania County, Ecusta Rails 2 Trail, LLC will be responsible for the near future, but security can be a shared responsibility. The Swamp Rabbit Trail uses the Greenville Parks and Recreation Department as its operator. It contracts with the adjoining municipalities and the Greenville Sheriff's Department to provide security. Operational security costs vary since the Swamp Rabbit Trail is being continually expanded.

15. What is the total cost ongoing/yearly anticipated expense expected for Transylvania County to be responsible for? This decision to participate is to be made by the Transylvania County Commission. At this point, no entity has requested funding from Transylvania County.

16. What is the proposed revenue stream available to the county government to cover these costs (e.g., property tax, occupancy tax, grants, etc.). Conservatively, heads-in-beds/tourism is expected to increase significantly because of the trail being built. Nationwide, once there are nine miles of connected trails, the tourism industry begins to experience a boost. This could happen for Transylvania County quickly, especially once it is connected to the Brevard Bike Path. The increase in tourism brings in additional occupancy tax and sales tax revenue.

17. What guarantees will be in place regarding no negative impact on existing manufacturing employers or businesses? We have individually engaged with some, but not all businesses. They want to understand exactly what the issues are for those businesses and minimize any potential impacts. The Transylvania Economic Alliance is also working to find a consultant to provide answers to some of the issues and

concerns, but first, they need to understand the issues and concerns. They support business and economic development and do not want to do anything that would harm them.

Commissioner Dalton pointed out one business that will require additional security measures, but he was thankful to hear about the open lines of communication.

18. How does the trail impact the ability of the airport to operate and/or expand? The proposed Ecusta Trail should not affect the Transylvania County Airport's operation or expansion any more than the prior use of the rail corridor as a railroad. Issues affecting any business or landowner should naturally be initiated by those parties. The new trail owners are open to considering reasonable requests to minimize potential impacts.

19. Responses to concerns about structures in the right of way, in some cases people's homes that are close to the existing rail-lines, have been that Conserving Carolina will enter into agreements with property owners so that those do not have to move. Are there any structures that will have to move? If so, who will pay for that? Since the rail trail has not yet been designed, it is unknown where such encroachments are located, how they might impact trail construction, and if any will need to be relocated, improved, or removed. No new encroachments will be permitted on the corridor until the final trail design is completed. No structures are impeding the trail; thus, none would have to be moved.

20. There are sections of rail that currently flood completely regularly. Will those sections be brought out of the floodwaters? What measures will be taken to make sure that the trail building does not cause additional flooding on property owners? Neither Conserving Carolina nor Friends of the Ecusta Trail is aware of any sections of the rail corridor that "flood completely regularly." While extreme weather events can cause rare flash flooding, trails are a low-impact flood-tolerant amenity, particularly when overlaid on existing rail infrastructure with established drainage. The project will be subject to federal permitting requirements including FEMA's "No-Rise Certification."

Mr. Roe mentioned that following the purchase of the rail corridor, Transylvania County experienced extensive and widespread flooding, including the Davidson River. The water and debris pushed the train trestle that crosses the Davidson River and Davidson River Road about two- or three feet downriver. It is very precarious currently. The road is closed while that situation remains hazardous. Conversations with an NCDOT staff person in Raleigh indicated they would work with the owners to permanently take down the entire trestle at no cost. The future design and construction will include determining how to get trail users across the Davidson River.

Commissioner Chapman inquired about whether there were regulations for establishing the width of the trail so it would be wide enough for emergency vehicles to travel. Mr. Burns responded that the NCDOT uses best practices for designing trails at 12' wide with 1' shoulders. There should not be an issue with meeting those widths for the trail design in Transylvania County.

Commissioner McCall asked whether any structures currently in place would be allowed to be rebuilt if damaged by natural elements. Mr. Burns said with certainty that rebuilding should be allowed.

Commissioner Guice pointed out that many people own property on both sides of the track. He asked if they could continue to cross the trail to access their property. Mr. Burns stated they are not disallowing trail access. Mr. Roe agreed.

Commissioner Guice was appreciative of their being in the community and attempting to answer citizens' questions because it means a lot. He said citizens want to be involved and give input during the process.

Mr. Roe stressed that they want to be good neighbors and he invited people with questions to reach out to them.

Commissioner McCall stressed that she has nothing against trails or bikes. She was concerned that property owners felt like they were not being heard or that their concerns were being addressed. She was genuinely concerned about their property rights. Mr. Burns pointed out the pandemic hindered them from doing the types of communication with property owners that they wanted.

Commissioner Chapman shared that some people have asked why the County did not support the City of Brevard's RAISE grant. He pointed out the County received a request for a letter of support a couple of days after the application had already been submitted. He felt the request was disingenuous; otherwise, they would have invited the County to be part of the process earlier on. Also, at the time of the request, the Board of Commissioners did not have the information that was presented here tonight. Commissioner Chapman wanted to have a future discussion with the City on what it means for the County if they are awarded the grant.

There were no further questions from the Board.

Mr. Burns finalized the presentation by inviting the Board and staff to take a tour of the Thermal Belt Trail in Spindale. He intends to invite Henderson and Transylvania County leaders and Chamber representatives to hear a presentation from officials in Rutherford County. If interested, Commissioners should meet at the Henderson County Chamber of Commerce on September 10, 2021 at 7:30 a.m.

## APPOINTMENTS

### APPOINTMENT OF CHIEF LOCAL ELECTED OFFICIAL TO THE MOUNTAIN AREA WORKFORCE DEVELOPMENT BOARD

Per the Mountain Area Workforce Development Board Consortium Agreement, Transylvania County is in the rotation for its Chair of the Board of Commissioners to serve as the Chief Local Elected Official (CLEO) to the Mountain Area Workforce Development Board. The CLEO position is mandated by the Workforce Innovation and Opportunity Act. The CLEO has significant power to ensure the workforce board is meeting the region's workforce development needs.

Chairman Chappell is employed by Blue Ridge Community College, and he is the NCWorks Career Center Manager for Transylvania and Henderson Counties. The Mountain Area Workforce Development Board contracts with Blue Ridge Community College to provide Adult, Dislocated Worker and Career Center Operator services in this service area. To avoid the perception of a conflict of interest, Nathan Ramsey, Executive Director of the Land of Sky Regional Council and Mountain Area Workforce Development Board contacted Vice-Chairman Dalton and asked if he would be interested in serving in this role. Vice-Chairman Dalton agreed. Thus, staff recommended the formal appointment of Vice-Chairman Jake Dalton to serve as the Chief Local Elected Official to the Mountain Area Workforce Development Board.

**Commissioner Guice moved to appoint Vice-Chairman Jake Dalton to serve as the Chief Local Elected Official to the Mountain Area Workforce Development Board, seconded by Commissioner McCall and unanimously approved.**

### TRANSYLVANIA COUNTY COUNCIL ON AGING (TCCOA)

The terms of Deborah Haight (WCCA), Ranessa Thomas (Mountain Care Adult Day), and Jared Mull (Parks and Recreation) expire at the end of August. Ms. Haight and Ms. Thomas requested reappointment to the TCCOA to represent their respective agencies. Mr. Mull requested a staff member

serve instead of him and he requested the appointment of Brenda Skeffington, the Silvermont Program Coordinator. In addition, Sylvia Petit, the Department of Social Services (DSS) staff member on this council requested to come off this council at the end of her term. She has served in this role for several years. DSS Director Amanda Vanderoef recommended the appointment of Sheila Galloway. Ms. Galloway works in the Adult Services division. Staff will continue recruiting for the vacant senior citizen position.

**Commissioner McCall moved to reappoint Deborah Haight and Ranessa Thomas to the Transylvania County Council on Aging, seconded by Commissioner Chapman and unanimously approved.**

**Commissioner McCall moved to appoint Brenda Skeffington to replace Jared Mull on the Transylvania County Council on Aging, seconded by Commissioner Chapman and unanimously approved.**

**Commissioner Guice moved to appoint Sheila Galloway to replace Sylvia Petit on the Transylvania County Council on Aging, seconded by Commissioner Chapman and unanimously approved.**

## NEW BUSINESS

### OVERLAP HIRING FOR COUNTY NETWORK ADMINISTRATOR

Information Technology Director Dean Landreth presented this item for the Board's consideration. He reported that Tom Wehrle, the County Network Administrator for the past 15 years, is retiring December 31, 2021. The Network Administrator is one of the most crucial positions in Transylvania County government. His knowledge of the computer network, internet connectivity, infrastructure, and data security, and his value to operations cannot be overstated. The new Network Administrator must be up to speed immediately upon assuming this role. Any lapse would be disruptive to County operations. A knowledge transfer is crucial not only for internal purposes but also to the continuing operations of the County in delivering services to citizens.

The following calculations are based on three months and assume a candidate would be given credit for a maximum of 20 years of prior relevant service. Due to the current vacancy in the IT Department of the Assistant Network Administrator, \$9,000 of lapsed salary and benefits will partially offset the cost to overlap the Network Administrator. This amount assumes that the position is filled by the end of August but could increase if a candidate has not been selected by that time. The Finance Director has stated that contingency funds are available to use if the overlap is approved.

|   |                 |
|---|-----------------|
| Salary                                  | \$17,154        |
| FICA and Medicare                       | \$1,312         |
| Retirement                              | \$1,959         |
| Insurance                               | \$2,687         |
| Total                                   | \$23,112        |
| <b>Minus lapsed salary and benefits</b> | <b>\$14,112</b> |

Staff recommended the approval of hiring a replacement Network Administrator to begin work three months before the current Network Administrator's retirement.

**Commissioner Chapman moved to approve hiring a replacement Network Administrator to begin three months before the current Network Administrator's retirement, seconded by Commissioner Guice and unanimously approved.**

## TRANSYLVANIA COUNTY TOURISM DEVELOPMENT AUTHORITY – STRUCTURE AND GOVERNANCE

Finance Director Jonathan Griffin presented this item. The staff has been working with the Tourism Development Authority (TCTDA) to explore its structure and governance for future operations. Mr. Griffin presented the background information about tourism development authorities in North Carolina and then detailed the options available for the Board of Commissioners to consider. This item intends to receive guidance from the Board of Commissioners so that staff can better support the TCTDA and subsequently bring back a recommendation to the Board on a proposed structure.

In February 2021, the TCTDA began assessing its affairs and subsequently requested to change its corporate structure. This builds off changes they requested in 2020 to increase the size of the TCTDA from seven to nine seats. At that time, the TCTDA executed an expanded contract with the Brevard/Transylvania Chamber of Commerce to add dedicated Chamber staff to support the TCTDA's mission and vision.

The Board of Commissioners facilitates changes in how the TCTDA conducts its affairs resulting from legislation that creates authorities through county resolutions. As a Dillon's Rule state (counties derive their authority from the government above them), the State of North Carolina has imposed on the County's requirement to have authority because Transylvania County assesses a property tax.

Mr. Griffin informed that he has already provided a similar version of this presentation to the TCTDA, focusing on their responsibilities and authorities, and the Brevard/Transylvania Chamber of Commerce, focusing on their financial framework.

For the benefit of the Board and public, Mr. Griffin shared the following definitions of terms that he may use during this presentation:

- **Primary Government:** the highest level of government in the component relationship
- **Public Authority:** A fiscal control act definition for a special or limited-purpose government, which can be a municipal corporation (TCTDA is a public authority)
- **Component Unit:** A governmental accounting term that describes an entity, which while separate/distinct has a significant fiscal/legal control relationship with another unit of government
- **Fiscal Control Act:** N.C. GS 159 – the general law that lays out the system of financial management for units of government that are not the state

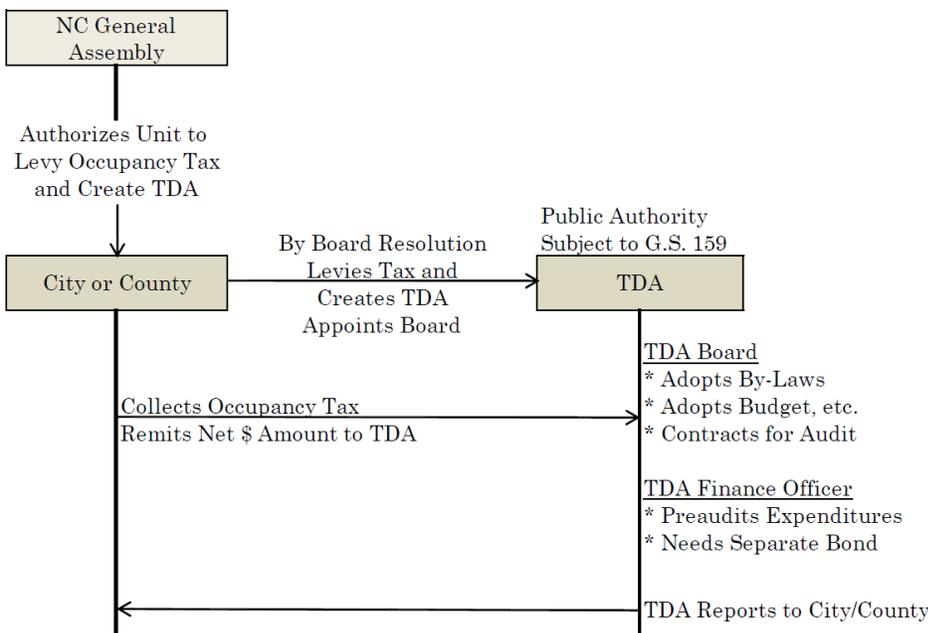
Session Law 1985-969 initially established the Transylvania County Occupancy Tax. Later, S.L. 1999-205 changed the administrative provisions to align with State standards. S.L. 2005-88 fully aligned the occupancy tax standards with the State and increased the available rate to 6%. S.L. also authorized the Board of Commissioners to create a tourism authority, designate a member of the authority as chair, and required the County Finance Officer to serve as the authority's Finance Officer.

In 2014, the Local Government Commission (LGC) issued Memorandum 2014-08 which set up GASB 61 authorizing tourism authorities to establish their budgets and expenditures but with the primary government being responsible for oversight. Before this rule, the Board of Commissioners adopted the budget for the TCTDA.

In 2018, the LGC rolled out new governmental accounting and auditing standards which placed new emphasis on expanding documentation of the system of internal control. Later, S.L. 2019-19 gave the LGC expanded authority to regulate finance offices and the financial management of local government units.

The Finance Officer's job description is outlined in general statutes and mandates the responsibilities for accounting, disbursements, filing financial reports, supervision of cash-handling, the investment and custody of idle funds, and budgetary accounting. These duties apply equally to the County government and to the affairs of the Tourism Authority.

The chart below comes from the LGC memo. It indicates that the Board of Commissioners creates and sets up the tourism authority. The authority adopts its budget and sets its expenses, then reports back to the Board of Commissioners on a quarterly and annual basis on their revenues and expenses. The Board of Commissioners has the responsibility of oversight.



Mr. Griffin described the TCTDA as being an appointed board of directors that oversees a bank account. It does not have dedicated staffing. It does not control the amount of revenue coming in as occupancy tax since the Board of Commissioners sets the tax rate. Their revenues come as a result of the efforts of County staff. The TCTDA has control only over the outflow of those funds. They set their budget, authorize the expenses, and amend their budget as needed, as long as they operate within the confines of the Fiscal Control Act.

Every local government in North Carolina is required to have a budget officer, finance officer, clerk, and attorney. The tourism board chair serves as the budget officer, but the other positions are appointed officials at the County government level.

The Board of the Directors of the Authority is responsible for the day-to-day and annual decisions. If they make any errors or missteps, they are liable. The County purchases public official insurance for them. With that said, the North Carolina government views the County Commissioners as being responsible for the actions of the Tourism Authority. Mr. Griffin pointed out the Brevard/Transylvania Chamber of Commerce is not the Tourism Authority; they are a contractor.

The Tourism Authority is considered a component unit of the County government because of the significant control and responsibility the Board of Commissioners can exercise over the Authority. The Board of Commissioners, per statute, appoints the board chair, who serves as the budget officer and is

therefore responsible for recommending annual budgets. The Board of Commissioners appoints seven of the nine seats on the Tourism Authority. The Board of Commissioners controls all the Tourism Authority's revenue because the Board controls the occupancy tax rate. In the event the Tourism Authority were to experience a significant liability or deficit, the County government would have to act as a backstop.

In reviewing the Authority/Chamber contract, the County staff recognized that many of the control points that Commissioners have over the Authority were also present in the Authority's relationship with the Chamber. The County Attorney recommended language revisions in their contract that scaled back and rebuilt a contractor relationship between the two. For this reason, the County staff is more comfortable with the new agreement, but some issues remain, although not of as much concern.

The Authority contracts with the Chamber to provide payroll (handled through Chamber), staffing (implied through contract), and personnel/human resources management (through Chamber).

Transylvania County provides the following uncompensated services for the TCTDA:

- Property, liability, public officials, and cybersecurity insurance
- Records retention – (Finance, Clerk to the Board)
- Cash management, receipts (County Finance)
- Payables, IRS compliance (County Finance)
- Fiscal Control Act compliance (N.C.G.S. § 159)
- Legal representation (N.C.G.S. § 153A-114) (County government)

Mr. Griffin noted that other counties have taken some action to relieve the workload of their respective finance offices. Transylvania County has not taken such action.

The TCTDA does compensate the County for occupancy tax collection by the County's Tax Administration office. Transylvania County receives 3% of the first \$500,000 and 1% of every dollar above that.

Other counties' establishing resolutions are much more detailed. Other tourism authorities are more likely to have the authority to hire and fire staff directly as opposed to only contracting with vendors to carry out employee-like duties. The nonprofit support relationship that exists in Transylvania County is no longer a common model. For Transylvania County, this model appears to have been borne out of a need to operate a visitor's center. It does not make sense for a local government to run a visitor's center. Statutory responsibilities for finance officers ensure they are involved in the decision-making.

To support the TCTDA in exploring structure options, the County's Finance Office reviewed documents such as county resolutions, session laws, and financial statements or discussed the issue with various finance officers in more than 20 counties. Mr. Griffin described in greater detail how the authorities work in Buncombe, Henderson, and Jackson Counties which he included in the Board's agenda packet.

The Tourism Authority shall set and approve its budget within the parameters of the Fiscal Control Act. They must budget within available resources and spend only available fund balance, for example. The Tourism Authority also controls who conducts its annual audit in preparation for preparing its financial statements. The TCTDA has traditionally followed the lead of the County's audit selection, but it is not obligated to do so.

Counties have different levels of authority over personal and contracting, including imposing county-level policies on authorities. Some counties have required their authorities to use the county's ledger/accounting software. Others have restricted the definition of "tourism promotion" for unknown reasons. Counties have required reporting standards in terms of how their revenues and expenses are reported, as well as submission and review of the authority's budget before adoption. Counties have been required to align the selection of their attorneys/legal representation.

Over the last couple of months, the TCTDA and County staff have explored structural and governance options. Those options are:

1. A fully autonomous Tourism Authority government agency, setting its policies, including personnel classification and compensation
2. Tourism Development Authority operating in alignment with the County government, with Commissioners setting certain policies
3. A status quo where the primary agency serving the Authority's day-to-day needs remains the Brevard/Transylvania Chamber of Commerce or a different nonprofit agency/vendor

Without exception, the County Finance Officer will always remain responsible for the accounting, oversight, and recordkeeping.

Mr. Griffin shared that in Jackson County the Tourism Authority contracts with vendors for various functions to help their finance office keep two separate books. In Henderson County, the Tourism Authority operates as a county department. The Tourism Authority pays all the in-house support itself. With Buncombe County being such a county with a much larger tourism budget (\$20 million), the Tourism Authority has its financial staff who are accountable to the Buncombe County Finance Officer. Should the Board of Commissioners decide for the Tourism Authority to be autonomous on personnel, it is reasonable to consider that it should also be autonomous on other financial matters, i.e., accounts payable, cash management, and collections.

#### **Option 1: Fully Autonomous**

The Tourism Authority would need to adopt formal personnel policies, a formal compensation plan, and make decisions about participation in the retirement/pension system and other benefit structures. They would have to meet all the various legal requirements as if they were a full-service government. This option requires two separate sets of IRS, NC Department of Revenue, and payroll reporting.

#### **Option 2: Formally Align with Transylvania County**

Under this option, the Tourism Authority would operate under County policies as currently administered by the Finance and Human Resources departments. The County would need to amend its policies to fold in the Tourism Authority and amend its compensation policy to include classifications to add relevant positions. The administrative issues regarding federal and state taxes and retirement can flow through the existing County procedures.

#### **Option 3: Continue Contract with Brevard/Transylvania Chamber of Commerce**

The Brevard/Transylvania Chamber of Commerce could continue to support the day-to-day operations of the Tourism Authority. County staff would work with them to resolve a couple of issues related to the financial support the Tourism Authority provides to the Chamber. The Chamber currently has a seat on the Tourism Authority's Board. This could be problematic or painful to separate.

Mr. Griffin informed the Board there are other considerations as well. He shared that the Board of Commissioners shall retain the liability and responsibility for oversight no matter the decision of the Authority on their corporate structure. If the Authority hires their director, they will have to be bonded,

the same way the County Manager and County Finance Director must be bonded. The Board might need to consider the membership and size of the current Tourism Board. With option 1 (autonomous/separate public entity/separate unit of government), the membership may need to be changed. The current makeup of the Tourism Board includes many members whose interests lie in tourism and marketing, but in the autonomous option there should be members with the skills, knowledge, and experience in running a public sector government entity.

This concluded Mr. Griffin's presentation of the information. He asked the Board whether they had comments or questions or if Commissioners wanted him to conduct further research. From a staff-level perspective, options 2 and 3 were the preferred options, either operating as a County department or continuing their current operations. Mr. Griffin recommended the Board authorize the TCTDA to choose between options 2 and 3 or to authorize staff to work with the TCTDA to implement the option of their preference.

Commissioner Chapman asked if option 2 would require the addition of personnel. Mr. Griffin reported that the Chamber employs three or four full-time positions to focus on tourism duties. Assuming they would want to become employed by the County and the Tourism Authority wants a similar level of support, the monetary value is approximately \$215,000. County Human Resources would need to evaluate whether those positions already exist in the compensation plan.

Commissioner Guice serves as the County Commissioner representative to the Tourism Authority Board. He shared the TCTDA has not taken an official position on a new structure, but they were not interested in continuing the relationship with the Chamber. The TCTDA is concerned about the liability and requirements to become a separate unit of government, so he felt they are leaning toward option 2 as the best route. He made clear that he was not speaking for the TCTDA at this point because they have not taken official action. Commissioner Guice added that the TCTDA has several questions they need answers to related to their staffing and how they fit into the County government. From a County Commissioner's standpoint, he did not feel that option 1 was the best option. With that said, he supported continuing research, seeking answers to questions, and giving the Tourism Authority and Chamber the time that is necessary for them to develop a plan. He wanted them to be successful because the Tourism Authority impacts the community in a great way.

Commissioner Chapman asked if the Tourism Authority would remain at the Visitor's Center or whether the County would have to furnish office space if they chose option 2. Mr. Griffin responded the decision on a location would come later. It was unclear to him whether the Tourism Authority can own real estate. In his research, most authorities leased office space. For those that held assets, it was done so jointly with their respective counties.

Mr. Griffin requested the Board take action so that staff can move forward with helping the Authority work through the options.

Following a few more brief comments, **Commissioner McCall moved to remove the option for complete autonomy and for the TCTDA to choose between options 2 and 3, working through those options with the County Manager and Finance Officer, seconded by Commissioner Chapman and unanimously approved.**

Vice-Chairman Dalton called for a 10-minute recess. The meeting reconvened at 8:20 p.m.

#### TRANSYLVANIA COUNTY TAG OFFICE PROPOSAL

The License Plate Agency (LPA) office in Pisgah Forest closed earlier in 2021 after being in operation for more than 20 years. The State DMV office advertised to solicit applications for a new operator. The

Board of Commissioners authorized staff to submit a pre-application for the new License Plate Agency contract which was then reviewed by the State. In July 2021, Transylvania County was notified it had been selected to be the new vendor to provide the License Plate Agency services. Training is expected to take around four months once License Plate Agency staff have been selected.

The LPA office will be housed within the Tax Administration Office and administered under the supervision of the Tax Administrator due to the overlap in personal property duties. Providing these services will require adding two new job classifications to the current Compensation Plan, and three positions total. The first two positions will be License Plate Agency Specialists (equivalent to a Deputy Register of Deeds) at a pay grade of 107. Staff estimated salary and benefits including FICA, health insurance, and retirement at the entry-level at \$45,160 each for a total of \$90,320. The other job classification will be a Personal Property and License Plate Agency Manager (equivalent to the Tax Collection Supervisor) at a pay grade 115 who will supervise the License Plate Agency Specialists along with the current Property Appraiser II's. Staff estimated the salary and benefits including FICA, health insurance, and retirement at the mid-point range at \$79,873.

The Finance Office conservatively estimated the County should expect \$120,000 annually from fees for services provided by a Transylvania County Government License Plate Agency, in addition to \$40,000 in fees charged for notarizing DMV documents before being sent in the tag office, for a minimum total revenue stream of \$180,000 annually. The projected revenues would offset projected expenses associated with adding personnel if staff can bring a manager in at the mid-point in their career. Upfront capital costs to modify the tax office to accommodate the requirements of the tag office are expected to be approximately \$20,000.

License Plate Agencies have two primary revenue sources: 1) the fees paid to LPA contractors per type of transaction provided, and 2) notary fees charged by the License Plate Agency on individuals who need notary services while having their transaction processed at the LPA. NCDMV officials have provided actual transactions handled by the private Pisgah Forest LPA for the past fiscal year which were used to estimate the revenues.

The Manager commended staff for their work researching other counties with tag offices and subsequently suggested some of the same practices ensure the Transylvania County office will be successful.

The Manager reported next steps, if approved by the Board, would be to commence with hiring the new positions and make the physical changes to the building to accommodate the provision of this service. She informed that the State would provide a trainer onsite during the first week of operations to ensure everything is running properly. The contract with the State includes performance measures. The Manager was confident in staff that they were up to the challenge. It will take some time to ensure everything in place, with the earliest being the end of the calendar year. She expected this service to be a real benefit to our citizens who are now traveling to other counties to receive tag services. She asked the Board to approve the staff positions as presented, the capital modifications, and the fee schedules as noted below.

| <b>Compensation Rates<br/>NCGS 20-63</b> |        |
|--|--------|
| Highway Use Tax (HUT)                    | \$1.56 |
| "T" Sticker (LRP)                        | \$1.30 |
| Property Taxes (VPT)                     | \$1.16 |
| Regular (STX)                            | \$1.75 |

|                                  |        |
|----------------------------------|--------|
| Title (TTL)                      | \$1.00 |
| Removal of Inspection Stop (EME) | \$1.56 |

| Notary Fee Schedule    |        |
|------------------------|--------|
| 1 Signature            | \$5.00 |
| 2 Signatures           | \$6.00 |
| 3 (or more) Signatures | \$7.00 |

**Commissioner Guice moved to approve the staff positions, capital modifications, and fee schedule changes to meet the tag office requirements and authorize the County Manager to sign the agreement with the State for Transylvania County to offer the tag office service, seconded by Commissioner McCall.** Commissioners commented about their support of providing this service and were confident it would be a benefit to the citizens of Transylvania County. **The motion was approved unanimously.**

#### DEPARTMENT OF SOCIAL SERVICES PROPOSAL FOR CONTRACT SERVICES

Social Services Director Amanda Vanderoef presented this request to the Board. She reported that the Department of Social Services (DSS) Child Support Division is made up of one supervisor and two child support agents. The division recently had a resignation. The division also had a child support agent vacancy that could not be justified due to the caseload numbers. The small unit has experienced some turnover in the last two years after having stable long-term employees. Ms. Vanderoef stated that the cost of losing staff and having to recruit and retrain is costly and takes time away from being productive and effectively serving the community.

Former Interim DSS Director, Kevin Marino, had requested a quote from a private agency to provide these services for the County. After receiving the quote and doing a cost analysis, Ms. Vanderoef presented the concept of contracting the services to the Social Services Board during their regular meeting on July 28. The DSS Board was unanimously in support of contracting out child support services. Contracting this service will be more cost-effective and provide more accountable outcomes for the citizens of Transylvania County.

The current cost to the County for personnel only is \$216,469. The contracting agency would hire only two staff and provide the supervision through their office in Buncombe County. The contract would cost the County \$176,000 in year one, \$180,000 in year two, and \$185,000 in year three reflecting cost savings over the next three-year period. The contract would also include legal services for this unit and the supervision of the employees with onsite visits. This frees up the DSS Staff Attorney to focus on child welfare and adult services cases. The County would continue to provide office space for the two child support agents. The contracting agency has agreed to hire the two employees currently working in those positions if those employees choose to work for the contracting agency. Otherwise, those employees would be considered for existing vacancies as long as they are qualified. In addition to cost savings, the contract is expected to improve performance. Counties that have contracted this service see a higher rate of child support enforcement with performance metrics built into the contract. Transylvania County currently receives incentive monies based on collections which have ranged from \$23,000 to \$39,000 annually over five years. Any incentive monies received will go to offset the contract cost.

The DSS Board has reviewed the DSS Director's recommendation and voted in support of the proposal with a recommendation that Commissioners move forward as presented.

**Commissioner Guice moved to authorize the County Manager to reduce the two child support positions from staffing and contract with Veritas with the understanding that the two existing employees will be offered employment with any existing open positions they qualify for or to go into employment with Veritas, seconded by Commissioner Chapman and approved unanimously.**

PURCHASE OF ADDITIONAL LIABILITY INSURANCE

The Board of Commissioners consulted with County Attorney Bill Bulfer about emerging trends across the State of North Carolina regarding court awards in various cases. Many of the services and functions that counties provide in the course of business are prone to litigation and there is a trend of escalating court awards that exceed coverage limits which are very concerning for local governments. Many counties, including Transylvania County, are insured by the NCACC Risk Pool. The County has the option of increasing coverage and for it to be applicable for the current renewal period at an annual cost of \$38,666. Staff recommended the Board increase the County's liability insurance in excess coverage to \$4 million in excess of \$2 million underlying and pay for using fund balance.

**Vice-Chairman Dalton moved to approve an increase in excess coverage to \$4,000,000 excess of \$2,000,000 underlying and fund from fund balance, seconded by Commissioners Chapman and McCall simultaneously and unanimously approved.**

RESOLUTION REQUESTING STATE AND FEDERAL FUNDING IN RESPONSE TO TROPICAL STORM FRED

The Manager brought forth a draft resolution for the Board to consider that encourages our State and federal partners to pursue a disaster declaration in response to Tropical Storm Fred. Transylvania County declared a state of emergency on August 16. Governor Cooper issued a state of emergency on August 17 naming Transylvania County among others as being impacted by Tropical Storm Fred.

Transylvania County continues to assess the damage countywide. It is known that there are losses related to residential, commercial, and both private and public infrastructure. Many citizens have an immediate need of housing, food, and clothing because they lost all their possessions, as well as long-term needs to regain stability in their lives.

The Manager requested the Board adopt the proposed resolution that requests the State and federal government pursue a disaster declaration that would allow access to disaster relief funds with an urgent allocation to assist in the recovery efforts from the storm's damage. The Manager alongside the Emergency Management staff is consulting with legislators and other leaders to identify ways to assist the public and determine funding in which the County and citizens are eligible to access. Some of the funding, such as FEMA funding, are tied to having a disaster declaration in place.

The Manager has been in contact with Representative Madison Cawthorn's office regarding a federal disaster declaration. Chairman Chappell has contacted Senator Tillis on behalf of the County. Staff is communicating with State leaders to ensure they have an accurate account of the damage that occurred here, including sharing pictures and drone footage of the flooding.

**Commissioner Chapman moved to approve Resolution #24-2021 Requesting State and Federal Funding in Response to Tropical Storm Fred as presented and to forward to the appropriate authorities, seconded by Commissioner McCall and unanimously approved.**

**RESOLUTION #24-2021  
REQUESTING STATE AND FEDERAL FUNDING  
IN RESPONSE TO TROPICAL STORM FRED**

**WHEREAS**, a Transylvania County State of Emergency due to flooding and landslides from Tropical Storm Fred was issued August 16; and

**WHEREAS**, North Carolina Governor Roy Cooper issued a State of Emergency August 17 naming Transylvania County; and

**WHEREAS**, damages are currently being assessed in the Transylvania County and include residential, commercial, and both private and public infrastructure losses; and

**WHEREAS**, there are citizens who are in need of both short- and long-term help;

**NOW, THEREFORE**, the Transylvania County Board of Commissioners urges State and federal leaders to pursue a Disaster Declaration to allow Transylvania County access to disaster relief funds and to pursue with urgency allocation of funds to assist in recovery from damage due to Tropical Storm Fred.

This the 23<sup>rd</sup> day of August, 2021.

S://Jason R. Chappell, Chairman  
Transylvania County Board of Commissioners

#### MANAGER'S REPORT

The Manager updated the Board on the following:

- Commissioners Chapman and McCall attended the NC Association of County Commissioners Annual Conference in New Hanover County the week of August 14. They will report during Commissioners' Comments.

#### Tropical Storm Fred Update

The Manager was incredibly impressed with the County staff on their response to Tropical Storm Fred. She reported the County was caught off guard by the severity of the storm because forecasters did not predict what happened. County Emergency Management staff immediately activated on Monday to assist with the impact of the storm. On Tuesday, staff began evacuating people from danger and their efforts continued in the days ahead. On Tuesday, Transylvania County opened the emergency shelter at Parks and Recreation with 28 people being housed there temporarily.

The Manager commended staff on their desire to serve their community and for having the resiliency to continue serving. The County is operating a call center at the library to help residents connect with the resources they need to meet immediate needs and recover from the storm. Staff is also coordinating short-term housing efforts with the American Red Cross. There are at least 25 people, some of those families with children, in need of housing. The State is working to get contracts in place to meet short-term housing needs up to 30 days. The county staff is also working with Change the World Relief Organization to collect donations which will be kept local to help residents.

The Manager thanked Toxaway Charities, Gaia Herbs, and all those who donated to the fund. The Brevard Lowe's provided buckets for cleanup and delivered them to Pisgah Forest, Rosman, and Balsam Grove near where dumpsters have been placed to facilitate cleanup. The Manager shared that she toured the County this weekend and she was amazed at how well people and communities came together to help each other. Also, over the weekend, Representative Madison Cawthorn, NC Speaker of House Tim Moore, NC Representative Jake Johnson, and Insurance Commissioner Mike Causey toured the County to assess the damage.

The Manager informed that the storm damage is diverse throughout the County. There was more infrastructure damage in the northern section of the County, whereas there was more flooding in Rosman and Pisgah Forest. The Pisgah National Forest was heavily impacted by the amount of rainfall that caused the Davidson River to rise quickly. The damage was worse in Haywood County where they experienced the loss of life. Transylvania County grieves with them and is fortunate there was no loss of life here. She credited that to staff and others who assisted in evacuation efforts in the campgrounds and in our communities going door-to-door to ensure everyone was out of harm's way.

The Manager stressed there are citizens in real need and the impacts of the storm were devastating for many. Transylvania County will continue to do everything it can to help them. She expressed how proud she was to live and work here, recognizing how citizens have been coming together to support one another in this time of need.

- Library employee Erika Brock has been chosen as a Rootle Ambassador by PBS. This is a great opportunity as the County continues to work in early childhood through the partnership in GetSet Transylvania.

### PUBLIC COMMENT

There were no comments from the public.

### COMMISSIONERS' COMMENTS

Commissioner Chapman reported on the NCACC Annual Conference in New Hanover County. New President Frank Williams from Brunswick County was sworn in and announced his presidential initiative is to help prepare counties for disasters which was foretelling considering what Transylvania County and WNC has gone through this week. While at the conference, he visited their landfill that serves multiple counties. The landfill director was aware of Transylvania County's fungi project. Overall, he felt it was a good conference. Commissioner Chapman also attended the Local Elected Leaders Academy through the UNC School of Government. He said it was a wonderful course and he encouraged other Commissioners to participate in the future. Commissioner Chapman thanked staffs for all they have endured the past few days with the recovery from the storm.

Commissioner McCall also reported on her experience at the NCACC Annual Conference. She thought it was good for her to connect with commissioners from across the State, especially those from neighboring counties. She and Commissioner Chapman attended a session on the opioid litigation settlement. She stated there was good information shared about all the work behind the scenes to facilitate the settlement, but the personal stories shared about people's struggles with opioids were heartbreaking. Commissioner McCall also mentioned the new presidential initiative and how fitting it is given what Transylvania County and others have experienced with Tropical Storm Fred. She too felt the conference overall went well and she was appreciative of the new connections she made.

Commissioner Guice asked everyone to keep Chairman Chappell and his family in our thoughts and prayers, as well as our community as a whole as people try to recover from the impacts of Tropical Storm Fred. He was humbled to be given this opportunity to serve Transylvania County.

**Vice-Chairman Dalton moved to enter into closed session per North Carolina 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, which privilege is hereby acknowledged, following a 10-minute recess, seconded by Commissioner Guice, and unanimously carried.**

### CLOSED SESSION

Per North Carolina 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, which privilege is hereby acknowledged, a closed session was entered into at 9:15 p.m. Present were Vice-Chairman Dalton, Commissioners Chapman, Guice and McCall, County Manager Jaime Laughter, Assistant County Manager David McNeill, and Clerk to the Board Trisha Hogan. County Attorney John Kubis participated remotely via Zoom meeting software.

The Board of Commissioners consulted with the County Attorney on privileged matters and then directed staff on how to proceed.

**Commissioner Guice moved to leave the closed session, seconded by Commissioner McCall, and unanimously approved.**

### OPEN SESSION

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

### ADJOURNMENT

There being no further business to come before the Board, **Vice-Chairman Dalton moved to adjourn the meeting at 9:40 p.m., seconded by Commissioner Chapman and unanimously approved.**

---

Jason R. Chappell, Chairman  
Transylvania County Board of Commissioners

ATTEST:

---

Trisha M. Hogan, Clerk to the Board