

**MINUTES**  
**TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS**  
**OCTOBER 10, 2022 – REGULAR MEETING**

The Board of Commissioners of Transylvania County met in a regular meeting on Monday, October 10, 2022, at 4:00 p.m. in the Multipurpose Chambers at the County Administration Building, located at 101 South Broad Street, Brevard, North Carolina.

Commissioners present were Larry Chapman, Chairman Jason Chappell, Vice-Chairman Jake Dalton, David Guice, and Teresa McCall. Also present were County Manager Jaime Laughter and Clerk to the Board Trisha Hogan. County Attorney Patrick Scott participated remotely via Zoom meeting software.

Media: *The Transylvania Times* – Jonathan Rich  
*The Brevard Newsbeat* – Dan DeWitt

There were approximately 40 people in the audience.

**CALL TO ORDER**

Chairman Jason Chappell presiding declared a quorum was present and called the meeting to order at 4:02 p.m.

**WELCOME**

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

**PUBLIC COMMENT**

There were no comments from the public.

**AGENDA MODIFICATIONS**

There were no agenda modifications.

**Commissioner McCall moved to approve the agenda as submitted, seconded by Commissioner Chapman, and unanimously approved.**

**CONSENT AGENDA**

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

The following items were approved:

**APPROVAL OF MINUTES**

The Board of Commissioners met in a regular session on March 14, 2022. The Board approved the minutes as submitted.

### ACCEPT DONATION OF REAL PROPERTY

Transylvania County is part of the Disaster Preparedness Region 9 with the following counties represented: Cherokee, Clay, Graham, Macon, Swain, Jackson, Haywood, Madison, Buncombe, Polk, Henderson, and Transylvania. This group collaborates on projects that benefit the region and counties. Each county then decides based on administrative approval to sponsor projects or be the lead in the procurement of items, which are reimbursed through Homeland Security grants routed through North Carolina Emergency Management.

Jackson County sponsored the purchase of a Multiple Emergency Response Trailer (MERT) which is a 14-foot trailer traffic management unit equipped with 10 water barriers, 10 A-frame barricade sets, 50 28" cones, two 24 x 24 stop signs with a rubber base, two guardsman batons (flashlights with red lenses), two rolls of caution tape, two emergency management vests, one box of flares, 10 cone signs, and five solar lights. Homeland Security's 2019 grant cycle covered the cost at \$7,570. This unit can be utilized in multiple roles to help manage and direct traffic when necessary. It may also be deployed to other areas during emergencies to assist, as necessary.

The financial impact on Transylvania County is \$233.12 for the one-time road tax and tag fee. This fee is covered by the current Emergency Management budget. Per N.C.G.S. § 153A-11 & 12, the Board of Commissioners must approve the acceptance of the MERT from Jackson County.

The Board accepted the MERT as required by statute and authorized the necessary funds to be spent from the Emergency Management budget.

### **PRESENTATIONS/RECOGNITIONS**

#### ECUSTA TRAIL UPDATE BY THE CITY OF BREVARD

Brevard Mayor Maureen Copelof provided an update to the Board of Commissioners on the progress of the City's Ecusta Trail project. She also intended to ask for a resolution of support from the Board.

Mayor Copelof explained that as of June 30, the City of Brevard had taken ownership of the eight miles of land where the trail will run with a 50-year lease from Conserving Carolina. The lease states that the City of Brevard will be responsible for the construction and maintenance of the trail. The City sent out letters to all property owners who live along this land to inform them about the City's role in the construction of the trail. The City of Brevard held a public input meeting on August 9 for adjoining property owners to share their comments and concerns about the project. Mayor Copelof described the meeting as very productive, but that many issues were discussed.

Mayor Copelof said that the City of Brevard is working with the property owners on a one-on-one basis to develop solutions to challenges and problems brought on by the construction of the trail. For example, one property owner is working with the City's legal team to move the access road to the owner's property.

Mayor Copelof shared that the City of Brevard had recently applied for and received a \$1 million grant from the Federal Lands Access Program for the engineering and design of the trail. This will allow for the complete planning of all the details of the trail and will begin in October. The City has partnered with NCDOT to execute and run this contract to ensure that it is completed in a timely fashion.

Mayor Copelof explained that one big issue with the trail is the trestle bridge which came loose when Tropical Storm Fred occurred last year. This led to the closure of Davidson River Road which has had a major impact on the residents who live on this road. Conserving Carolina has received a \$120,000 grant to remove the trestle bridge and is finalizing a request for proposals for interested parties wanting to submit plans to do the removal.

Mayor Copelof shared that the City of Brevard is working closely with Henderson County to ensure uniformity of infrastructure and policies between the portions of the trail in their respective jurisdictions. The City created the Ecusta Trail Advisory Board to discuss the development of this project which includes representation from Transylvania County. This advisory board meets every month and has representation from eight partner organizations interested in the trail's development.

Mayor Copelof explained that the City of Brevard is also planning with their police department to determine the right amount of security that is needed to ensure safety on the trail. The trail is currently closed and posted with no trespassing signs as it is unsafe for the public to access right now. The City's police department is looking to utilize bicycles they acquired to patrol the Ecusta Trail once it is completed.

Mayor Copelof also informed the public that a decision from the Brevard City Council is still yet to be made about where the trailhead will begin. The City of Brevard is partnered with Blue Zones and Conserving Carolina, and they have been reviewing potential sites for proper and clear signage. The starting point will be somewhere around the Parks and Recreation Department behind Pisgah Forest Elementary School.

Mayor Copelof said that the City failed to secure the multi-million dollar RAISE grant but has begun applying for the Nationally Significant Federal Lands and Tribal Projects (NSFLTP) grant program. Only counties and municipalities that connect to federal lands may apply. The City of Brevard qualifies because the Ecusta Trail will link with the Eastatoe Trail which feeds into the Pisgah National Forest and later the Blue Ridge Parkway. The City of Brevard is working closely with the National Park Service and the Forest Service who will sponsor the grant application. The NSFLTP grant has \$125 million available in FY 2022 and half of this amount must go to tribal projects. The minimum project size for an application must be \$12.5 million and there is a 10% match requirement. The applications are due October 24 which is a quick turnaround because the grant application information was only released five weeks before the date of this meeting. The application requires a condensed overview of the project and includes a cost-benefit analysis and the planning and design. Alta Planning and Design, who did the planning and design for the RAISE grant, will do the planning and design for the NSFLTP grant as well. The City of Brevard is also partnered with Land of Sky RPO and French Broad River MPO. The City has received a lot of help from NCDOT, which may be the submitting agency for this application as the process comes to a head.

Mayor Copelof said that the money received will cover the full costs of the trail, not just the part that will reside in Transylvania County. The idea is to go to NCDOT and declare that this trail is a regional project that involves two counties. If given the funds, the City of Brevard wants to ensure that the entire trail will be completed. In collaboration with funds generated from Henderson County, the City of Hendersonville, Friends of the Ecusta Trail, Conserving Carolina, NCDOT, and the City of Brevard, the application promises a 60% match amount of the total estimated project costs of \$52,820,318, which is \$31,174,307. This means that they would be asking for \$21,646,011 in the grant application. This grant allows applicants to utilize other federal funds as part of the match, which helps put the application in a strong competitive position. Most of these matching funds will come from Henderson County for \$23 million, while \$8 million will come from the City of Brevard, donations raised through local partner organizations, and other contributors such as the Transylvania County Tourism Development Authority.

Mayor Copelof asked the Board of Commissioners to consider making Transylvania County a supporting member organization of the project by submitting a resolution of support with the full grant package submission and she thanked the Board for allowing her to present.

## TRANSYLVANIA COUNTY TOURISM DEVELOPMENT AUTHORITY ANNUAL REPORT FOR FY 2021-2022

Transylvania County Tourism Development Authority (TCTDA) Executive Director Clark Lovelace presented the annual report to the Board of Commissioners. The report detailed key information regarding tourism in Transylvania County, as well as the efforts and expenditures of the TCTDA.

Mr. Lovelace thanked the Board of Commissioners for their support of the TCTDA and for all that they do for Transylvania County. He introduced the TCTDA Board members in attendance. The TCTDA support team and Board of Directors collectively make the decisions on matters concerning the TCTDA.

### **TCTDA Board Members and Support Team**

Several members of the Board of Directors are appointed from government bodies throughout the County. Of the remaining members, two must be accommodations owners, two must not be accommodations owners, and the last two can be either/or. In addition to Mr. Lovelace, the support staff consists of Mary Jo Gordon, Marketing and Communications Specialist, and newly hired Virginia Watkins, Operations and Outreach Specialist. TCTDA also works closely with Market Connections, its marketing partner organization, and they have been an important part of TCTDA's success.

### **Mission & Vision**

The mission and vision statements outline how the TCTDA seeks to enhance and support tourism in Transylvania County. The TCTDA has transitioned from a destination marketing organization to a destination management organization. This transition could prompt some tweaking of these statements to better align them with the revised purpose of the TCTDA.

### **How is the TCTDA Funded and What is the State-Mandated Use for These Dollars?**

A 5% occupancy tax is paid by all overnight visitors who stay at accommodations within Transylvania County. The Transylvania County Tax Office collects the tax. According to state statute, 100% of these proceeds must go towards tourism in Transylvania County. Specifically, the statute says that a minimum of two-thirds of these proceeds must go directly towards promoting travel and tourism and that the remaining amount can be spent on other tourism-related initiatives.

### **Occupancy Metrics**

Before the COVID-19 pandemic, occupancy tax revenue grew by 5%-10% each year. In FY 2021, there was a sharp reduction in the growth as everyone stopped traveling all at once due to the pandemic. As the pandemic dragged on, however, occupancy tax revenue skyrocketed to double what had been previously. The rural nature of our County and the many outdoor recreational activities attracted people from the cities and other places seeking fresh air and space from other people. Revenue for this year is above the amount from the previous year but is starting to look like the prior years' growth. Mr. Lovelace interpreted this change as the tapering from the effects of the pandemic as people can return to work and travel internationally. It could also be attributed to an increase in inflation, which affects the costs of goods, accommodation stays, and gas prices. The net result, however, showed revenue as 10% higher than the previous year. Mr. Lovelace noted that the local public land managers experienced a 5%-10% reduction in the number of visitors over the prior year.

TCTDA has contracted with AirDNA over the past two years to collect data on short-term rentals, which includes information on Transylvania County and its comparable counties. The data shows a 22% increase in the number of units available between FY 21 and FY 22; however, the occupancy number dropped by 11%. The average daily rate increased by 7% between these two fiscal years, from \$255 a night to \$274 a night. When looking at comparable data, Western North Carolina has more short-term rentals than other places, and Transylvania County has more short-term rentals than other places in Western North Carolina. Mr. Lovelace

pointed out that Transylvania County has the same number of short-term rentals compared to Buncombe County, although they have a much higher population.

Visit NC provides data that shows the positive economic impact that visitors have on tourist destinations across North Carolina. For Transylvania County, the positive impact includes over 1,000 jobs, tax savings for each resident, and local tax revenue.

### **Marketing**

A decade ago, TCTDA's marketing goal was just to get people here. Now the goals acknowledge that the TCTDA wants to get people here in the off seasons. There is no point in trying to get people here in July when we are at full capacity. The goals now include managing the destination and getting visitors to the County to stay overnight.

Digital media now represents a larger part of the budget than print media. Mr. Lovelace displayed some of the visual advertisements that are used in both digital and printed media. The TCTDA also runs video advertisements on YouTube. The TCTDA prefers to have marketing phrases, logos, slogans, or campaigns that last for about 18 months. Recent ones include "Be Cool," "Heart of Adventure" and "Think Outside." Some of the advertising initiatives include TCTDA's mission messaging, such as the "Transylvania Always" initiative to keep the beautiful environment in pristine condition into the future, be aware and take care of mother nature, safety around waterfalls ("Be Waterfall Wise"), and avoid littering ("Leave it Better"). The TCTDA works with partner organizations throughout the County to promote their businesses by putting their ads in the media at a discounted price. TV and radio advertisements happen more often in the winter. The ads are pre-made and are queued to be released when good weather is expected. This encourages people to enjoy nice days in Transylvania County. The TCTDA also has newsletters and blogs that go out twice a month to recipients and billboards along I-40, I-26, and I-85.

Public relations are an important component of the work the TCTDA does. Articles are often written about Transylvania County or the City of Brevard that are not supported or initiated by the TCTDA, but those publications, once discovered, are disseminated through TCTDA advertising channels. There has been a steady increase in people engaging with advertising content promoting Transylvania County.

TCTDA produces the Adventure Guide which serves as the main collateral piece that shows everything available in Transylvania County. These are handed out to businesses throughout the County and the surrounding counties. They are also shipped in bulk to visitor centers throughout the state and neighboring states. It contains a waterfall map with 22 of the counties' most impressive waterfalls available to explore.

TCTDA has distributed grants for many years that fit with the tourism marketing mandate that requires two-thirds of occupancy tax revenue to be spent on tourism-related items. Other grants fit into the one-third allowable amount of spending, notably the Transylvania Always initiative and the Destination Infrastructure initiative. Transylvania Always is the TCTDA's sustainability initiative which seeks to keep the beautiful natural environment of Transylvania County intact and thriving for people to enjoy into the future. Projects under this category try to address the user impact on the tourist attractions in our public lands or try to create a safe and enjoyable experience for people in those public lands. Destination Infrastructure-related projects focus on sustainability for everything else. This could include proper signage for the planned roundabout near the entrance of the Pisgah National Forest, or bicycle infrastructure for the many trail enthusiasts who come to this County to cycle.

To qualify for grant funding, projects must be shovel-ready, scheduled to occur within the next year, impact Transylvania County, and have a coordinating entity that will run the project from start to finish.

Mr. Lovelace described some sub-initiatives under the Transylvania Always initiative. The French Broad River Strategic Master Plan initiative was created to help support and sustain the world's third-oldest river by creating, maintaining, and following a unified strategic plan. The TCTDA initiated Conserving Carolina, which worked with Jennings Environmental to create that plan. The French Broad River Stewards is taking the lead on the project with the TCTDA and other stakeholders being part of the conversation. Be Waterfall Wise is a waterfall safety campaign started years ago that kickstarted all the efforts under the Transylvania Always initiative. Every year there is a different element to the push for getting the word out. This year it is geared around appreciation for the emergency workers and forest service members who respond to emergencies in our public lands. The Leave It Better campaign was a sustainability initiative born out of Leave No Trace. There are various advertising publications created to remind both residents and visitors not to pollute our public lands, including the creation of the mythical character of Trashesquatch. Thanks to help from Transylvania County Solid Waste, the character was created and then photographed for publication. His tagline reads "Let's make trash in our public lands as rare as you-know-who."

### **Looking Ahead**

As of July 1, many changes have occurred with the TCTDA, namely that the administrative team is now staffed through Transylvania County. Mr. Lovelace's time devotion has gone from 50% to 100% towards Transylvania County now that they have contracted with the Heart of Brevard with a building lease and are located on the second floor of the Visitor Center. Mr. Lovelace acknowledged that it will be harder work to not only just consider the marketing concerns of promoting tourism, but also promoting sustainability throughout Transylvania County.

This concluded the presentation.

Commissioner Chapman commended Mr. Lovelace for his work and said he was impressed with TCTDA's advertising efforts. A television advertisement for Explore Brevard was seen during the US Open tennis match in Jacksonville, FL.

Commissioner McCall noted that the report indicates that the TCTDA has provided grant funds totaling over \$160,000. She inquired about the projects that the TCTDA chose not to fund. Mr. Lovelace stated that only one project was not funded last year because it indirectly involved the acquisition of property and legal counsel advised against it. All the other projects that applied received at least partial funding.

Commissioner Dalton asked if the TCTDA was involved with the 92-acre development going on in Lake Toxaway. Mr. Lovelace said the TCTDA was not directly involved but was constantly being informed on the status and possible future impact of that development.

Commissioner Dalton asked if Mr. Lovelace knew how the Greystone Inn performed during this year's tourist season. Mr. Lovelace said that based on his conversations with the owners, it is doing incredibly well. It is a good time for accommodation owners, especially those with something unique to offer. Despite this, every tourism partner continues to have trouble with staffing their businesses. He encouraged the public to be kind to accommodations owners and staff because they are working hard, but they do not have enough staff to operate at maximum capacity.

Commissioner Chapman urged the TCTDA to find ways to better support the Town of Rosman. Mr. Lovelace agreed and stated the TCTDA would love to participate with Gorges State Park, Champion Park, and other Rosman organizations and activities by supporting them with tourism dollars, and that everyone should act as an ambassador for the Town to highlight and promote fundable projects there.

The Board thanked Mr. Lovelace and the TCTDA for all the work they do for Transylvania County.

## CORRIDOR PLANNING PRESENTATION

The Manager presented an overview of possible future corridor planning in Transylvania County. She reviewed existing legislation and land use regulations in Transylvania County and gave the Board information on items of future consideration for land use planning along the new water and sewer corridor on Rosman Highway. The Board would take no action on this item. It was for informational purposes and discussion.

### **NC Authorizing Land Use Statutes Consolidated in 2021**

North Carolina is a Dillon's Rule State, which means that legal authority for the Board of Commissioners to act must be granted by the State Legislature. There is a lot of power concentrated in Raleigh over what counties can and cannot do.

Both cities and counties can implement planning within their communities, including land use and other ordinances that are intended to impact development. If cities implement this measure, they are required to use it throughout their jurisdiction. Counties on the other hand can plan anywhere outside of a city's jurisdiction and can also only plan for a portion of the county. There are currently 15 counties in North Carolina that do not have any zoning or land-use planning.

### **NC Authorized Regulatory Control to Counties**

A jurisdiction can implement regulations that limit the height of the building, the number of allowable stories to buildings, the size of buildings and other structures, the percentage of the lot that can be occupied, and other elements as prescribed in N.C.G.S. § 160D-702(a). Two years ago, the North Carolina Legislature consolidated all authorizing statutes for cities and counties under one piece of legislation.

### **Pisgah Forest Community Zoning Overview**

Transylvania County adopted its first zoning map in May of 2010 with the Pisgah Forest Community Zoning Ordinance. The map designates which districts are defined with a code and regulates what the public can and cannot do within that district. There were two districts defined at that time. The first was an open-use district, and the other was a corridor mixed-use district. No permit is required for uses by right, which means that residential is allowed by right in both districts. The approval authority varies within the zoning document. The Board of Commissioners must approve some applications. The Zoning Administrator must approve others. The Board of Adjustment (County Planning Board) hears appeals of the Administrator and variance requests. State statutes regulate variance requests, and they have very specific guidelines they are supposed to meet. These requests must follow a quasi-judicial process, which means the introduction of evidence is required and the Board of Adjustment will act as judge and jury during the proceedings.

The Pisgah Forest Community Zoning Ordinance requires that anyone pursuing development in the designated area acquire a permit through application, pay a fee, submit sight plans for review, and submit additional supplemental documents identified in the code. The ordinance also describes violations for either not obtaining a permit, changing the site plans after a certificate of occupancy has been received, or going into non-compliant use. The ordinance allows for some expansions of grandfathered uses that may not be compliant with the new code. All these elements are typical in a zoning code regulation.

### **Pisgah Forest Community Zoning Map**

The area affected by the adopted land use planning is a very small area of Transylvania County that is outside of the City of Brevard's extraterritorial jurisdiction (ETJ). The corridor mixed-use district includes parcels that are directly adjacent to the corridor, which would be frontage on either Highway 280 or Highway 64. The open-use districts are the parcels behind the parcels in the corridor mixed-use district.

### **Pisgah Forest Community Zoning Overview: Open-Use District**

The open-use district allows residential development by right and does not require a permit. Hazardous waste facilities, radioactive waste disposal, and adult entertainment are not allowed in an open-use district. Permits

are required for special uses and planned unit developments (PUDs). Special uses are allowed with site standards to minimize the adverse effects generated by the special use. These adverse effects could impact health, safety, noise, glare, traffic, and the environment. To approve these special uses in some cases, the Planning Board must review them and determine whether site standards are in place. The Board of Commissioners must then have a public hearing and then decide whether to approve or reject the special use. Examples of special uses are industry, motorsports facilities, incinerators, junk or salvage yards, slaughter yards, amusement parks, solid waste management facilities, mining and extraction operations, concrete plants, asphalt plants and, chip mills. A table within the ordinance provides specific guidance on each use, such as the hours of operation or the level of screen that is required. Some elements in the table have very little written guidance which the Manager stated should be updated in the future. Statutes require that codes should offer clear guidance for someone who wants to pursue development. A penalty for being arbitrary and capricious in court carries with it the financial obligation of damages but also the penalty of paying court fees.

### **Pisgah Forest Community Zoning Overview: Mixed-Use District**

The corridor mixed-use district allows residential development by right and does not require a permit. Like the open-use district, the corridor mixed-use does not allow hazardous waste facilities, radioactive waste disposal, or adult entertainment. A permit is required for any nonresidential uses. The zoning administrator approves these permits. The zoning administrator can approve exceptions in some elements, and some guidance within the ordinance explains what they can approve. The standards that apply to this district are driveway requirement, setbacks (10' from the right-of-way, sides, and rear), and a height limitation of 50'. There are also standards imposed on stormwater drains, as this infrastructure must be designed by an engineer using NCDEQ-approved best practices. If the County must hire an engineer to review those plans, the applicant will be charged for the cost of the engineering services. In addition to the standards for stormwater drains, an engineer must review as-built plans before a certificate of occupancy can be achieved. Some other standards include a surface water setback of 20' left undisturbed, parking space must be 9' x 18' (the number of spaces is based on the use of the property), off-street loading space must be 12' x 14' (the number of spaces is based on the use of the property), steep slope restrictions (separate from the steep slope ordinance already in place), and landscape buffers (20' if the lot is greater than an acre and 15' if the lot is less than an acre, and includes plantings that are a year-round screen and are at least 5' from the property line).

The code has very specific requirements for the plantings along these buffer zones, including minimum planting sizes, and minimum amount numbers, with very specific definitions of what this means and the encouragement (but not a requirement) for those following the guide to use native plant species. The code also includes a list of allowable locations and the respective required amount of parking space per location. This is common in some zoning regulations, but other zoning regulations allow the business owner to determine the right number of parking spaces to accommodate their customer base. Both options are allowable under State statute.

### **2025 Transylvania County Comprehensive Plan**

State statute requires counties to create a comprehensive plan to pursue land use regulation. The plan identifies the corridor between the Town of Rosman and the City of Brevard along US 64 as a growth corridor. Growth corridors are recommended to be prioritized for future planning to promote the desired characteristics identified by the community. It was not anticipated when the 2025 Comprehensive plan was being developed that the County would receive funding for the water and sewer infrastructure along that roadway. With the addition of the infrastructure, it makes sense to identify this area as a growth corridor.

### **Things to Consider with Corridor Planning**

The Board of Commissioners could decide to have a single designation (set of uses and requirements) or multiple land-use designations. An example of a single designation is a highway district that has one set of uses in which the Board of Commissioners could determine what is permitted by right or what requires a separate permit with other restrictions. Multiple land-use designations would have multiple districts like the



previously established Pisgah Forest District. The study area could include only the parcels directly on the corridor or capture all parcels that touch within a certain distance. The study area would not include incorporated areas under the City of Brevard or the Town of Rosman. The study area could include only the parcels that are directly along the corridor, or the study area could include all parcels within a certain buffer zone or other study boundary using features like roads, fire districts, or other existing boundaries. The Board of Commissioners may want to consider the following options to give clear guidance to new development that will occur in this possible corridor: land use, residential density (such as a minimum or a maximum), setbacks, height limits, landscaped buffers, landscaping on-site, landscaping on road frontage, design guidelines, stormwater, parking and offloading standards, and sidewalks.

The process for implementing these options formally begins with the Board of Commissioners asking for a recommendation from the Planning Board. Staff will then work with the Planning Board to engage property owners and the community at large to develop recommendations for the Board of Commissioners to consider. The Board of Commissioners has the ultimate authority to adopt the recommendations and may make any changes they want. State statutes require the Board to hold a public hearing and give notice. Additional public involvement can manifest in the form of surveys, workshops, or other methods of citizen engagement throughout the process. This will ensure that the public is aware of what is being discussed and has an opportunity for input.

The Manager displayed a series of maps made in GIS software showing Transylvania County with parts of the Rosman Highway highlighted in different colors. The first map had a blue part of the corridor which represented the water line, and a red part of the corridor which represented the sewer line. The map also shows the Pisgah National Forest in green and the jurisdictions of Brevard and Rosman in yellow. The next map displayed what a 1,000' buffer around the sewer line would look like as an area subject to proposed corridor planning. Two maps showed the southwest and northeast portions of the corridor separately. In the southwest portion of the map, the buffer zone grabs a lot of different parcels. The Board of Commissioners may want to consider whether to only include parts of big parcels in the buffer zone and whether small parcels adjacent to the buffer zone should be included. The sewer project in the northeast comes down from Island Ford Road down to Morgan Mill. The water line comes from US 64 and Old County Home Road to Castle Road, which shows how this buffer will encompass a large area.

This concluded the Manager's formal presentation. She called for questions and comments from the Commissioners.

Chairman Chappell asked how many parcels would be affected by the 1000' buffer option that the Manager displayed with GIS maps. The Manager did not have that information on hand, but she will collect this information and share it with the Board after the meeting.

Commissioner Guice asked whether the corridor stretches from Rosman to Brevard, specifically since the City of Brevard already has water running from a certain point along the corridor to the wider system of distribution throughout the City of Brevard in the northeast. He wondered whether the County should move forward with a study of the entire corridor and not just the portion presented by the Manager. The Manager stated that the corridor does not stretch between Rosman and Brevard. She said the Board of Commissioners has the option of studying the entire corridor. The water and sewer lines that were shown on the map are currently the only portions that are fully funded. A full study of the corridor can look at areas that do not have infrastructure in place in addition to the areas that will have that infrastructure in the next year.

Commissioner Dalton asked whether a part of the new water line would loop around Israel Road. The Manager responded that yes, a loop for that road was planned, but it was not reflected on the GIS maps that she displayed to the audience.

Commissioner Chapman referred to the residential by-right stipulation and if there were any restrictions on the type of residential structures that could be built with that right. The Manager said a jurisdiction cannot discriminate on the type of housing that is allowed, whether it is regular one-family homes, tiny homes, or mobile homes. The County can control the density of houses that can be built in its jurisdiction by controlling lot sizes. The County is also able to restrict the number of units in a single structure. If the Board of Commissioners wants to encourage multi-family residential buildings, it could restrict single-family dwellings to ensure there is a minimum density in that area, or the opposite could be done. It depends on what the Board of Commissioners would like to see in that corridor. Multi-family, commercial, industrial, and higher-density projects are all more likely to require infrastructure.

Commissioner Chapman asked about the timeline for filling the vacant Planning and Community Development Director position. The Manager responded that the application window ended on September 30 and the staff is currently reviewing applications. Staff are looking forward to filling the position in the next few months.

Commissioner Chapman asked if it is possible to implement restrictions now until the County creates a formal plan. The Manager stated that statutes protect the rights of people to pull permits and vest their right to those permits. Permits have an expiration date. This means if someone were to submit a plan and get it approved, and they did not execute that plan within a certain timeframe, they could lose their ability to move forward with a vested right. A moratorium option exists when there is an issue that is out of a jurisdiction's control and is creating growth pressures. State statutes have, however, tightened restrictions on moratoria. Implementing a corridor plan takes time and depends on several factors, including how complicated or in-depth the plan is.

The Manager noted that County staff can do the work and develop the map in-house. The key is whether the Board wants to move forward with corridor planning and the parameters the Board chooses for the final product. These parameters will affect the timeline of the project. It will take 60-90 days after a recommendation is given to complete the process to give proper time for a public hearing and Commissioner vetting of the proposal. There are resources online, such as the Pisgah Forest Community Zoning Map and Regulation on the Transylvania County website, the 2025 Comprehensive Plan on the Transylvania County website (which is also set to be updated in the next two years), Chapter 160D available at [www.ncleg.gov](http://www.ncleg.gov), and resources at the UNC School Government website on planning and land-use. The Coates' Canon Blog has a more refined database of specific cases on land use and planning for people to review.

Chairman Chappell reminded the Commissioners that this presentation is a starting point for future discussion. The Board of Commissioners would need to give the Planning Board specific directions on the parameters and what they expect in a recommendation. He asked the Commissioners to direct any further questions to the Manager for a detailed response to the entire Board.

## **OLD BUSINESS**

### **BOARD OF EDUCATION LETTER CONCERNING SCHOOL PROJECTS NEXT STEPS**

The Manager stated that on June 20, 2022, the Board of Commissioners approved a request by the Board of Education for Option 1 on the school bond projects, as well as other stipulations. The Board of Education voted on August 2, 2022, to reply with a letter with a new suggested path forward as articulated in the letter dated September 22, 2022, from Chairwoman Tawny McCoy. There appears to be consensus by both Boards that working collaboratively will be in the best interest of the citizens. The County Attorney, in consultation with staff leadership, drafted a response letter to the Board of Education that continues to move toward a collaborative process.

The Manager stated that the Board of Commissioners remains committed to their prior approval of Option 1 as outlined by the Board of Education. The Board of Commissioners agreed to the formation of an advisory group to include both the Board's attorneys, the County Manager, and the School Superintendent. The advisory group is to select a retired county manager, a retired superintendent and engineer, and a construction manager or other similar professional with significant construction management experience. The County has agreed to pay for the expense of the services of the retired professionals and the professionals still employed. This group would inform the advisory group on the conditions of the existing facilities.

Several points outline the scope of the work for the committee. The committee will assess the existing facility conditions and identify "major capital projects" at the facilities. The construction professionals on the committee will assess the facilities, inform the advisory board, and include an assessment of how critical different projects that are identified are to the ongoing maintenance and operation of the facilities. Options that are developed by the advisory board will then be presented to a joint session of both boards. There is no expectation that the collaborative work would infringe on the responsibilities of each elected board. Four designated staff representatives will report to each board at their December meeting regarding the status of the identification of the external professionals and report the projected timeline for the completion of the scope of work.

The Manager recommended the Board of Commissioners review the letter from the Board of Education Chairwoman dated September 22 and direct staff on any changes to the response drafted by the County Attorney in consultation with staff. The Manager noted that updated financial information for the school capital is included in the Board's agenda packet and would be added as an attachment to the response letter.

Chairman Chappell noted that this was the first opportunity the Board has had to discuss the response from the Board of Education and the Board of Commissioners' subsequent response to that letter.

Commissioner Chapman acknowledged that on June 20 the Board of Commissioners approved Option 1 with stipulations despite the Board of Education's response letter indicating otherwise. He asked whether the Board of Education remains committed to Option 1 or if they were pursuing other alternatives. He commented that he was open to exploring other options with the Board of Education, but he did not want that to be interpreted as forcing the Board of Education into selecting a certain option. The Manager confirmed that the Board of Commissioners approved Option 1. The letter to the Board of Education on September 22 letter reiterated the Commissioners' commitment.

Commissioner McCall referred to the Board of Commissioners' motion to approve Option 1 with stipulations and recalled that there was never a response to that approval with stipulations, but rather a counter response dated August 2 with a different motion. To her, this is a refusal of the stipulations by the Board of Education as well as an acknowledgment that there is not enough money to proceed with Option 1. Commissioner McCall stated she agreed with the draft response along with the suggested changes from staff. She felt strongly about finding a path forward even if that meets the Board of Commissioners looking at capital projects schoolwide.

Commissioner Guice felt that the best route forward is to set up a committee and move forward with the work as planned. He also felt the Board of Education needed to determine the amount of monies left from the \$68 million, review the needs of all the schools in addition to the bond projects, and report back to the Board of Commissioners on their findings. He supported the draft letter because it shows that both parties are trying to find a way forward.

Commissioner Dalton asked whether the list of capital needs in the Board's agenda packet included items already approved or denied by the Board of Commissioners. The Manager responded that the financial report highlighted projects from prior years that have been closed out or partially closed out, the FY 22 approved

projects, and a progress column intended to show how much money the Board of Education requested for reimbursement. She said the Board of Education may request a reallocation of funds to other projects if necessary.

Commissioner Dalton asked where the legal fees would be covered in the budget. The Manager said that the money could be taken out of the capital reserve fund since this is intended to give the Board of Commissioners a capital path forward. Staff are unclear at this time about what to expect as far as expenses go for the construction professional, the retired manager, and the retired superintendent.

Commissioner Chapman recalled that the Board of Education intended to start getting estimates based on Option 1 to determine feasibility. He asked if the Board of Education has moved forward with obtaining estimates from contractors or architects or had the work been halted. The Manager informed the Board that she had received a copy of the fee estimate from Clark Nexsen; however, she did not include the information in the Board's agenda packet because she was unsure of the direction the Board of Commissioners wanted to take.

Commissioner Chapman requested a statement from the Board of Education on whether they intend to move forward with Option 1. He expressed frustration that the Board of Education had not moved forward with obtaining estimates since they had committed to Option 1.

Commissioner Dalton asked whether the search for a retired manager and a retired superintendent would occur outside of Transylvania County. The Manager said that staff did not specify either way, but noted there are many well-experienced retired professionals throughout North Carolina to choose from. Having experience in North Carolina was a requirement because of the unique structure of our local governments compared to other states.

Commissioner Guice clarified that the letter from the Board of Education does not indicate that they wish to move forward with Option 1, only that they understand there will be additional costs to obtaining the information they need. He said Option 1 may not look the same if costs continue to rise.

Chairman Chappell was appreciative of the attorneys from both Boards working to keep lines of communication open and ensuring that productive meetings between the Superintendent and the County Manager take place regularly. He reiterated that the Board of Commissioners remains committed to Option 1 but would be agreeable to other options at the wish of the Board of Education.

Commissioner Guice commented that the response letter from the Board of Commissioners to the Board of Education is very open about the available funds, what has been spent, and what has not been spent. He felt there was a real effort on the part of both Boards to work together and make progress.

Commissioner McCall said her perception is that Option 1 is not feasible. She pointed out that the Board of Education has yet to respond to the Commissioner's approval of Option 1 with stipulations. Nor has the Board of Education assured the Board of Commissioners that Option 1 is doable with no additional funds required by the County. She stressed that the Board of Commissioners is trying hard to find a way to address needs systemwide.

Commissioner McCall asked for clarification that the projects highlighted in green have been completed and that of the \$3,232,000 allocated in FY 2021, FY 2022, and FY 2023, only \$419,399 had been reimbursed. The Manager clarified that the items highlighted in green have been partially reimbursed and staff is unsure whether the projects have been completed or whether additional reimbursements are required to close them out. She also confirmed that the figures are correct and noted that this does not include projects that were fully reimbursed and taken off the list. There remains \$2.8 million in projects yet to be completed.

Commissioner Guice did not understand why the two Boards were at an impasse and he implored both to move forward. He commented that if the Commissioners receive a response from the Board of Education that is different than what the County is offering, then the Commissioners can address the issue.

Commissioner Chapman said the Board of Commissioners has been accused of acting unethically behind closed doors. He proposed that discussions related to education be transparently held in public.

Chairman Chappell agreed that both Boards should prioritize transparency and communication to build trust between the Boards. He assured the public that the Commissioners made no decisions behind closed doors where a quorum of the Board was not present, and the Commissioners will continue that practice.

Commissioner Dalton inquired about capital items related to the air handlers, HVAC, and chillers and asked for clarification on whether the Board of Education intended to use ESSR funds to pay for these items. The Manager said that ESSR funds could be used for those purposes, as well as other eligible expenses. She was unsure how the Board of Education planned to use those funds.

There was no further discussion.

**Commissioner Jake Dalton moved to approve the proposed draft letter to the Board of Education Chairman, seconded by Commissioner David Guice and unanimously approved.**

#### **NEW BUSINESS**

##### **RESOLUTION SUPPORTING THE CITY OF BREVARD FOR NATIONALLY SIGNIFICANT FEDERAL LANDS AND TRIBAL PROJECTS GRANT FUNDING FOR THE CONSTRUCTION OF THE ECUSTA TRAIL**

Chairman Chappell presented this item. He recapped that Brevard Mayor Maureen Copelof provided an update to the Board of Commissioners on the City's Ecusta Trail project under the Presentations portion of the agenda. The City of Brevard intends to apply for grant funding from the United States Department of Transportation for the Nationally Significant Federal Lands and Tribal Projects grant program for the construction of the Ecusta Trail. Ms. Copelof asked the Board to consider a resolution in support of their grant application.

Commissioner Chapman supported the resolution from the standpoint that the more money raised from outside our local community lessens the burden on our local citizens.

Commissioner Guice noted that if the City does not apply for these funds, the funds will be awarded to another community, so he felt this application was a good opportunity to try and secure funding for the project.

Chairman Chappell stated he has been public about his concerns over protecting private property rights during this process. He did not take any action to infringe upon the private property rights of the railroad companies (Watco and Norfolk Southern), and he did not intend to infringe upon the private property rights of Conserving Carolina and their lease to the City of Brevard. He noted that many questions arose during this process and many of them have been resolved through the federal government and court rulings, although not everyone was pleased with the answers. He referred to a recent article indicating the federal government potentially has funding that it would pay to the property owners along the rail line/trail. He stressed that a discussion should occur between the property owners and the courts if there is such a discussion on the matter. Chairman Chappell expressed his support of the resolution.

Commissioner Guice thanked the City of Brevard for taking a lead role in this project. He was appreciative of the City sending a letter to the property owners along the trail and for holding a public information meeting for them. He encouraged the City to keep the property owners informed to ensure they are a part of the process.

Commissioner Dalton said he has received several negative comments from some of his family members who live along the corridor about not being happy with the project.

Commissioner McCall said that her position on the matter remains unchanged. She is concerned not only for the private property owners but also for situations related to critical infrastructure that have yet to be resolved.

**Commissioner Guice moved to approve the resolution of support for the City of Brevard, seconded by Commissioner Chapman. The motion passed by a vote of 3 to 2, with Commissioners Dalton and McCall voting against it.**

**RESOLUTION NO. 34-2022**  
**A RESOLUTION SUPPORTING CITY OF BREVARD FOR**  
**NATIONALLY SIGNIFICANT FEDERAL LANDS AND TRIBAL PROJECTS**  
**GRANT FUNDING FOR THE CONSTRUCTION OF THE ECUSTA TRAIL**

**WHEREAS**, Transylvania County is located in the beautiful mountains of Western North Carolina, between Asheville, North Carolina and Greenville, South Carolina framed by the Blue Ridge Mountains, with a population of 34,000 and access to Pisgah National Forest, Blue Ridge Parkway, Gorges State Park and DuPont Recreational State Forest; and

**WHEREAS**, Transylvania County has a large biking community that is supported by eight NC DOT numbered bicycle routes and over 300 miles of gravel and single-track bike trails in the Pisgah National Forest and DuPont Recreational State Forest, and the number of commuters who bike to work is higher than the national average and is a greater percentage than seen in other counties in the region; and

**WHEREAS**, the Transylvania County's 2025 Comprehensive Land Use Plan's economic health objectives and action steps include working closely with NC DOT, the City of Brevard and other partners to support a safe transportation system that accommodates a wide range of transportation choices including vehicular, pedestrian and bicycle transportation throughout the county and region; and

**WHEREAS**, the City of Brevard is the Transylvania County seat and has developed the Eastatoc Trail, a growing network of multi-use paths that connect the community to Pisgah National Forest and other important places including Schenck Job Corps Civilian Conservation Center, Transylvania Regional Hospital and Downtown Brevard; and

**WHEREAS**, the City of Brevard has resolved to taking the lead role in securing funding, overseeing construction, and managing the public use of the Ecusta Trail within Transylvania County, by converting the railroad corridor to a multi-use trail, providing other communities such as Hendersonville, Laurel Park, Horse Shoe, Etowah and Penrose access to Pisgah National Forest and Blue Ridge Parkway; and

**WHEREAS**, the City of Brevard was awarded one million dollars in grant funding from Federal Lands Access Management Program (FLAP) of the Federal Highway Administration – Federal Lands Highway Division; Federal Fiscal Years (FY) 2023 through FY 2026, for the engineering of the Ecusta Trail and partnered with NC DOT for grant administration and project management; and

**WHEREAS**, the Ecusta Trail is a 19-mile regional trail system connecting Transylvania County to Henderson County through partnerships that will bring many recreational, public health, and economic benefits to local residents and businesses within and beyond Transylvania County; and

**WHEREAS**, the aforementioned partnerships and investments confirm a shared commitment of combined forces to complete the Ecusta Trail and provide healthy and efficient alternative modes of transportation such as bike, pedestrian and multi-use spaces in existence and coordination with traditional vehicular use corridors; and

**WHEREAS**, Transylvania County understands that a safe, reliable, affordable and accessible transportation system for all users is essential to the quality of life of our residents and to the health of our economy;

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Commissioners of Transylvania County hereby supports the City of Brevard in its pursuit of funding from the United States Department of Transportation for the Nationally Significant Federal Lands and Tribal Projects grant program for the construction of, The Ecusta Trail: A Multimodal Gateway to Pisgah National Forest and Blue Ridge Parkway.

Adopted this the 10<sup>th</sup> day of October 2022.

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

#### LITTLE RIVER FIRE DEPARTMENT RESERVE FUND REQUEST

Chairman Jason Chappell introduced this item to the Board of Commissioners. He reported that the Little River Fire Department is acquiring a new engine through debt service to replace a 29-year-old engine with constant maintenance issues. The purchase of a new engine was included in the department's capital improvement plan for FY 2023, but they can take advantage of the purchase now at a lower cost due to the engine being a sales demo truck. The department is requesting the use of reserve funds to pay off the current debt of a tanker which will allow them to purchase the replacement engine and keep their debt payments the same. The staff recommendation is for the Board of Commissioners to consider the Little River Fire Department's request for a drawdown of \$44,000 from their reserves to pay off existing debt on an apparatus.

Per Fire Marshal Scott Justus, the department has placed a down payment of \$150,000 on the engine and is financing \$358,000 at 3% interest over seven years with Home Trust Bank. The cost of the engine is \$508,000, but if the department waits until next year to purchase it, the cost will increase by \$200,000. He said the department is fortunate to receive a good deal on this engine.

Commissioner Dalton asked if the engine had experienced any wear and tear since the model served as a sale demo truck. Mr. Justus responded there would be a minor amount of wear and tear on the vehicle simply from wheeling the engine around to different departments. He noted there are a lot of fire departments currently trying to acquire demo trucks due to the lower cost.

Chairman Chappell felt that the request made sense in order to take advantage of this opportunity.

**Commissioner McCall moved to approve the drawdown of \$44,000 from their reserves to pay down existing debt, seconded by Commissioner Dalton and unanimously approved.**

#### TRANSFER NURSING CASE MANAGEMENT POSITION TO STAFFING AGENCY

Public Health Director Elaine Russell presented this item to the Board. She asked for the Board's consideration to transfer a Maternal/Child Case Manager position, classified as a Public Health Nurse II, to

the North Carolina Public Health Association Staffing Agency. The Public Health Department has used this agency for several other of its grant positions and it is exclusive to public health. The position is funded to local public health departments through a time-limited Medicaid carve out in the dynamic of Medicaid Managed Care. The position will be vacant this month due to an internal staffing transfer. Filling the position through the staffing agency will allow flexibility to have a candidate with skills and availability to undertake the work, which may fluctuate in volume as the department moves out of that carve-out period. There is no financial impact to the County as the position is budgeted within the agency's clinical services with designated Medicaid funds. The staff recommendation is to approve the transfer of the position to the North Carolina Public Health Alliance Staffing Agency.

Chairman Chappell noted that this is a common trend, and he appreciated the option of being able to provide these services in the wake of staffing limitations. He asked how long it would take to fill this position with this agency. Ms. Russell said they will advertise for the position this week.

**Commissioner Guice moved to approve the transfer of an existing 1.0 FTE Public Health Nurse II (Maternal/Child Case Manager) to the North Carolina Public Health Alliance Staffing Agency, seconded by Commissioner Chapman and unanimously approved.**

#### OFFER TO PURCHASE UNSOLD FORECLOSED PROPERTY

The County received an offer from Morris Jenkins to purchase an unsold foreclosed lot located on King Street in Brevard comprised of 0.11 acres. The property is a wooded landlocked lot that borders Mr. Jenkins' property. Mr. Jenkins has offered to purchase the lot for \$25,000 and has deposited the required 5% (\$1,250) with the County. The current tax value is \$15,000 according to GIS. Transylvania County is not receiving any tax revenue from this property.

By State law, any offer to purchase county-owned property must follow the upset bid process, if accepted. If the Commissioners accept the offer, staff requests approval of a resolution that describes the property, the amount and terms of the offer, sets the terms of the deposit requirements (at least 5% from the offeror by statute), details the upset bid procedures and sets the deadline for accepting or rejecting the final bid. Commissioners also have the option of rejecting the bid or authorizing staff to negotiate further with the offeror and bring back another offer if the current one is unsuitable.

The County has no use for the property. The buyer will assume the closing costs and any other costs associated with the transfer of the property, as is normal practice.

**Commissioner McCall moved to accept the offer and approve a resolution outlining the upset bid process, seconded by Commissioner Dalton, and unanimously approved.**

#### RESOLUTION #33-2022 AUTHORIZING INTENT TO SELL

**WHEREAS**, Transylvania County is the owner of a parcel of real property containing 0.106 acres of land located off King Street in incorporated Brevard, Transylvania County, North Carolina (the "Subject Property"), as shown on the attached map marked as Exhibit A and incorporated herein by reference; and

**WHEREAS**, pursuant to N.C.G.S. §160A-269, Transylvania County is authorized to dispose of real property by upset bid after receipt of an offer for the property; and

**WHEREAS**, Transylvania County has received an offer to purchase the Subject Property in the amount of \$25,000 submitted by Morris Jenkins; and



**WHEREAS**, Morris Jenkins has agreed to pay the required five percent (5%) deposit on his offer.

**NOW, THEREFORE, BE IT RESOLVED** by the Transylvania County Board of Commissioners (the “Board”) as follows:

1. The Subject Property is hereby declared surplus.
2. The Board proposes to accept the offer of Morris Jenkins and authorizes sale of the Subject Property through the upset bid procedure of N.C.G.S. §160A-269; provided that final acceptance of the final high offer shall be subject to approval by the Board. The Board reserves the right to withdraw the Subject Property from sale at any time before the final high bid is accepted and further reserves the right to reject at any time all bids.
3. After the bid deposit is received, the Clerk to the Board shall cause a notice of the proposed sale to be published. Such notice shall include a general description of the Subject Property, the amount and the terms of the offer, and a statement that within ten (10) days any person may raise the bid in accordance with the procedure outlined in this Resolution. The notice shall indicate the time and place of the bid opening.
4. Morris Jenkins shall make deposit of 5% of the offer to the Transylvania County Clerk to the Board within 5 business days to be held pending the upset bid process.
5. Persons desiring to upset the offer that has been received shall submit a sealed bid with their offer to the office of the Clerk to the Board within ten (10) days after the notice of sale is published. Bids shall be submitted no later than 5:00 p.m. on the last day of the last day of the 10-day period, and the Clerk shall date-stamp bids upon receipt. The mailing and physical address of the Clerk to the Board is as follows:

Ms. Trisha Hogan, Clerk to Board  
101 S. Broad Street  
Brevard, NC 28712

The envelope containing the bid shall be clearly marked “Sealed Bid for Property Located on King Street.” It shall be the specific responsibility of the bidder to deliver his bid to the Clerk to the Board at the appointed place prior to the announced time for the opening of bids. Late delivery of a bid for any reason, including delivery by United States mail or other carrier, will disqualify the bid.

6. A qualifying higher bid is one that raises the existing offer by not less than ten percent (10%) of the first one thousand dollars (\$1,000) and five percent (5%) of the remainder. A qualifying higher bid must also be accompanied by a deposit in the amount of five percent (5%) of the bid. The deposit may be made in cash, cashier’s check, or certified check. The County will return the deposit on any bid not accepted and will return the deposit on an offer subject to upset if a qualifying higher bid is received. If the Board agrees to sell the Subject Property, the County will return the deposit of the final high bidder at closing. If, after acceptance by the Board of the final high bid, the final high bidder fails to close the sale in accordance with the terms of this Resolution and any purchase agreement, then in such event the bid deposit of the high bidder shall be forfeited.
7. At the conclusion of the 10-day period, the Clerk to the Board shall open the bids, if any, and the highest such qualifying bid will become the new offer. If there is more than one bid in the highest amount, the first such bid received will become the new offer. If a qualifying higher bid is received, the Clerk to the Board shall cause a new notice of upset bid to be published and shall continue to do

so until a 10-day period has passed without any qualifying upset bid having been received. At that time, the amount of the final high bid shall be reported to the Board of Commissioners. The board shall determine whether to accept the final high bid not later than ninety (90) days after the final upset bid period has passed.

8. Bidders shall not attach any conditions to their bids. Any conditions attached to bids received or purchase of the Subject Property shall render the bid non-responsive, and such bid shall not be considered by the Board.
9. The buyer must pay with cash at the time of closing.
10. Title to the Subject Property shall be transferred to the buyer by Special Warranty Deed.

Adopted this 10<sup>th</sup> day of October 2022.

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

#### BLUE RIDGE COMMUNITY COLLEGE STRATEGIC CAPITAL PLANNING COMMITTEE

Chairman Chappell introduced this item. He reported that Blue Ridge Community College conducted a Master Plan Study that was presented to the Board of Commissioners in 2021. The study identified future facility needs, including a \$32 million investment in a new community college campus. The Board of Commissioners has previously discussed the value of creating a committee to review the Master Plan and explore options to make recommendations to them. Chairman Chappell suggested the following proposed scope of work, makeup/structure of the committee, and the operational support for the committee:

#### **Scope of Work**

- Review the Master Plan Study and projected needs of the college
- Evaluate locations that would best position the community college as a community asset
- Brainstorm any alternatives that the committee feels would be feasible options and develop the benefits and drawbacks of each
- Report findings to the Board of Commissioners

#### **Proposed Committee Structure**

- Transylvania Economic Alliance
- City of Brevard
- Blue Ridge Community College
- Transylvania County Schools
- Transylvania County Commissioner or designee
- Town of Rosman
- At least two citizens-at-large

#### **Operational Support**

The County Manager will set a monthly meeting date and time to be held in the Multipurpose Chambers after consultation with appointed members. Meetings will be considered open to the public and will require proper meeting notices and minutes. Various county staff members may attend to provide technical support depending on the discussions. Blue Ridge Community College staff may also be requested to provide information and technical support to the committee.

Chairman Chappell asked the Board to consider the proposal. He also recommended that the committee should explore nontraditional revenue sources and alternative funding streams.

Commissioner Chapman requested to wait until after the election to appoint the County Commissioner representative. The Board agreed.

Chairman Chappell suggested, as is custom, that each named agency or board should appoint its representative to the committee. The Board of Commissioners shall appoint the two members-at-large. The Clerk to the Board shall advertise these positions in the same manner as other citizen advisory councils.

Commissioner Guice suggested increasing the number of citizen-at-large members from two to three for a total of nine members to prevent stalemates from occurring on votes and ensure that there is a majority of votes one way or another on items. The Board agreed.

**Commissioner Dalton moved to approve the proposed makeup and general outline of the committee's purpose, seconded by Commissioner Guice and unanimously approved.**

#### LOCAL ASSISTANCE AND TRIBAL CONSISTENCY FUNDS

Finance Director Jonathan Griffin presented this item. Mr. Griffin stated this item represents the receipt of an unexpected amount of grant revenue to the County over the next two years. The American Rescue Plan Act of 2021 included a provision concerning financial support for local governments that is considered "revenue sharing" with the federal government. Transylvania County is classified as a revenue-sharing county as it receives a portion of receipts the US government collects on timber sales in public lands. Transylvania County receives less than \$100,000 of revenue from this per year because Congress has never adjusted the formulas that they use to pay out this revenue. The formulas are based on values and variables that were written 40-50 years ago.

For federal fiscal years 2022 and 2023, the Secretary of the Treasury was directed to make available \$750 million to revenue-sharing county governments. The purpose of this policy is to provide a two-time adjustment to counties impacted by the long-standing constraints of the payment-in-lieu of taxes (PILT) program. The PILT program is designed to offset the cost of public lands by providing funds to county governments responsible for providing services but are not able to levy property taxes to offset that cost. The Manager and staff recommended using these funds to offset existing salaries, wages, and other operating expenditures in the FY 2023 budget.

The recommended budget amendment proposes to accept LATCF funds for \$213,572 and reduce the amount of fund balance appropriated in the FY 2023 budget to represent these revenues offsetting previously planned expenditures rather than new expenditures.

Commissioner Dalton asked for clarification on how much money Transylvania County receives from the federal government for all the public lands that it has within its borders. Mr. Griffin said that for Pisgah National Forest, Transylvania County receives \$250,000 in lieu of being able to tax that land. Commissioner Dalton responded that this should show the public how Transylvania County is at a disadvantage because there is less money to work with and less land to build on because of public lands.

The Board of Commissioners all agreed to continue advocating and petitioning the legislature to change these rules and give Transylvania County more money to offset these costs.

**Commissioner Guice moved to approve the budget amendment as presented, seconded by Commissioner McCall, and unanimously approved.**

## FY 2023 FIRST QUARTER REVIEW OF BUDGET AMENDMENTS

Finance Director Jonathan Griffin presented the budget amendments to the Board for approval. The quarterly presentation represents amendments that are changes to the legal totals of budgeted amounts but do not necessarily represent actual financial activity. N.C.G.S. § 159-15 vests control over increases and decreases in a budget ordinance with a governing board. Many of the amendments listed in this presentation were presented to the Board of Commissioners as a part of a separate agenda item at regular meetings. There are three real categories of amendments: changes in multi-year ordinances, carryforwards, and budget increases.

### **Amendments for Multi-Year Capital Project Ordinances**

- Budget Amendment #1: \$2,365,016 to add the TIRF funds for the Hart Road DOT/DPS project.
- Budget Amendment #15: A replacement ordinance for the Education Capital Project Fund which added \$220,000 for emergency repairs and \$400,000 for roof repairs.

### **Amendments for Carryforwards (General Fund and Solid Waste Fund)**

- Budget Amendment #3: Represents the carryforward of appropriations made in 2022, which were under contract or encumbered, but expenditures did not or will not occur until FY 2023. This type of amendment is necessary to align the budget ordinances with governmental accounting standards. This reappropriates funds from the fund balance and unspent grant dollars to be spent in 2023. The gross increase in the General Fund budget by this amendment is \$1,158,614.
- Budget Amendment #4: Adjusts the operating expenses of some departments for projects that were underway in FY 2022, but expenses will fall in 2023. This is paid for by \$58,335 of funds from FY 2022, and a re-appropriation of \$34,423 in grant revenue available to the County to finance these expenditures. The gross increase in the budget is \$92,758.
- Budget Amendment #5: Amends the Solid Waste Fund budget by \$193,000. This represents a carryforward of various expenditures that were authorized in 2022, but for various reasons will not be incurred in 2023.

### **Amendments for Budget Increases**

The following four amendments represent increases in the total budget.

- Budget Amendment #6: Relates to actions previously taken by the Board to approve funding from the Sylvan Valley II Fire District Fund as a payment to the City of Brevard for equipment necessary to service the medical first response contract. This amendment added \$9,288.
- Budget Amendment #10: Increases spending in the Charitable Contribution Fund. These revenues were excluded from the original preparation of the FY 2023 budget ordinance while staff worked to provide an accurate and standardized estimate of donation revenues for the Animal Services, Sheriff's Office, and Parks and Recreation offices. Now that staff has a firmer estimate of anticipated donation revenue, these expenses are added to the budget for the remainder of FY 2023. This increases the budget by \$35,000 but does not represent a net cost to the taxpayer, because staff anticipates \$35,000 in donation revenue to offset these costs.
- Budget Amendment #12: Adds three specific spending items in the FY 2023 budget – additional school FF&E (computers), additional major projects (>\$50,000 budgets), and appropriates funds anticipated from the Public School Building Capital Fund. These projects are anticipated to be paid for by sales tax revenue and lottery distributions. This increase totals \$420,000.
- Budget Amendment #13: Amends the General Fund budget to add expenses and revenues that were excluded pending further action. In this case, some staffing related to the Health Department's COSSAP grant was excluded from the budget ordinance because the positions were vacant. Now that the Health Department has successfully filled the position, that money is being added back into the budget. This amendment totals an increase of \$65,450.

### **Amendments for Transfers (within or between departments in the General Fund)**

- Budget Amendment #7: Reduces salaries and wages in the Planning and Community Development Department and adds contract expense in the Transit Department, consistent with and necessary to fund the Land of Sky Technical Assistance contract for grant management.
- Budget Amendment #9: Reduces planned ADA improvements to add funds to cover a change order in the Silvermont exterior bathroom renovation project for \$12,150.
- Budget Amendment #1: (listed under Amendments for Multi-Year Capital Project Ordinances)

### **Amendments for Transfers (within the Solid Waste Fund)**

- Budget Amendment #8: Reduces the planned permitting and planning expenses for the landfill expansion in the 2023 budget, offset by the cost of accelerating the replacement purchase of a \$377,963 dozer. This planned dozer replacement has been moved up one year and the permitting costs have been moved back one year in the capital improvement plan for the Solid Waste facilities.
- Budget Amendment #11: Represents a transfer within the Solid Waste department line items to offset expenses for the planned electronics storage garage project.
- Budget Amendment #14: (no description provided)

The total appropriations for the funds listed below increase by the following amounts:

- The General Fund increases from \$74,346,480 by \$76,083,302
- The Solid Waste Fund increases from \$4,418,405 to \$4,611,405
- The Fire District Funds total increases by \$3,107,891 to \$3,117,179
- The Charitable Contribution Fund increases from \$165,133 to \$200,133

Of the amendments presented, the only amendments that represent a net cost to the taxpayer are the following:

- Amendment #12: Spends sales tax resources on payments to Transylvania County Schools.
- Amendment #6: Spends fire tax levy on payments to fire district contractors.

The remainder represents the use of existing resources.

**Commissioner McCall moved to receive the report and approve the budget amendments as submitted, seconded by Commissioner Dalton, and unanimously approved.**

### MANAGER'S REPORT

The Manager reported the following:

- Kudos to Transylvania County Animal Shelter and the Animal Services team. The 2022 stats for the 3<sup>rd</sup> quarter reflect a 19% increase in animals impounded from the last quarter and a live release rate of 95%. A live release rate of 90% classifies a shelter as a no-kill shelter and the County is well above that rate.
- Congratulations to Brad Andrews on his inauguration as Brevard College President last week.
- Kudos to the Transylvania County Information Technology Department on behalf of the Transylvania County Tourism Development Authority for their assistance in setting up a hybrid virtual/in-person marketing meeting. The Tourism Development Authority staff, Information Technology, and Market Connections did a great job with this event.
- Pumpkinfest is ongoing this month each weekend at Silvermont Mansion and is being hosted by the Friends of Silvermont.
- October is Fire Safety Month.
  - Remember to have heated units serviced.

- remove leaf litter and other debris from around your home.
- Check smoke detectors, and make sure your household has a plan of escape and regroup should a fire occur.

Commissioner Chapman asked if the City of Brevard is planning to handle animal control within its jurisdiction or remain with the current arrangement with the County. The Manager reported that the staff has had conversations with City officials about animal control. The police power statutes in North Carolina allow a municipality to implement its ordinances, like an animal control ordinance. The City of Brevard has a separate animal control ordinance within its jurisdiction. The City recently filled a vacant animal control officer. The City is coordinating with the County to share best practices with the new officer.

### **PUBLIC COMMENT**

*The public comments represent the opinion of the speaker.*

Alice Wellborn: Ms. Wellborn accused the Board of Commissioners of killing the school bond project which was approved by the voters in 2018. She said the \$68 million bond is no longer adequate to pay for the original plan. Though the Board of Education voted in January of this year to pursue Option 1, which includes 75% of the original plans, they had to obtain approval from the Board of Commissioners for a new contract. After a long delay, the Board of Commissioners approved it this summer, but only if the Board of Education agreed to significant and unacceptable changes to the legal agreement between the two boards and to be held to the original amount of \$68 million, which she felt was unrealistic. Ms. Wellborn stated that if the Commissioners held themselves to the same standards they are applying to the Board of Education, they would be planning a new courthouse for \$31 million, the 2018 estimate, rather than \$57 million, the current estimate. She accused the Board of Commissioners of having different rules for its projects than for projects that directly impact the children of this County.

### **COMMISSIONERS' COMMENTS**

Commissioner Chapman shared that one of our local media sources, in an interview with Commissioner Dalton, commented that other Commissioners will not have a discussion with the Democrat candidate. For the record, Commissioner Chapman wanted everyone to know that the Democrat candidate has never contacted him.

Commissioner McCall said that she and former County Commissioner Page Lemel reached out to Blue Ridge Health, Meridian, and Vaya asking questions about mental health in this county to ensure that the citizens have access to the services they need and want. The conversation went well, and she expects there will be a presentation from those providers later this month. Commissioner McCall shared that she recently visited the Transylvania County Airport, a privately owned airport that is an asset and resource to Transylvania County. She felt it would be great to expand it in the future and open up more avenues for Transylvania County. Commissioner McCall stated that the Board of Education is holding a meeting tomorrow night about consolidation, an issue she fought against for many years as a member of the Board of Education. While she was not advocating for or against it at this time, she pointed out that Transylvania County is a very different county now. Transylvania County does not have the student enrollment it did when the industrial plants were open in a more prosperous time. She wondered about the right solution for the students and advocated for a strategic plan to prepare for the next several years.

Commissioner Dalton shared that he attended the Fields of Faith event at Rosman High School on Friday night. He commended the Bumgarner family for planning the event.

Chairman Chappell announced that tomorrow is the Western North Carolina career fair at the Ag Center from 11:00 a.m. to 4:00 p.m. There will be over 100 different employers looking to hire. The jobs are broad and will include different types of positions and industries.

**Chairman Chappell moved to enter into a closed session per N.C.G.S. § 143-318.11 (a) (4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, following a 10-minute recess, seconded by Commissioner Dalton and unanimously carried.**

#### **CLOSED SESSION**

Per N.C.G.S 143-318.11 (a) (4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, a closed session was entered into at 6:40 p.m. Present were Chairman Chappell, Commissioners Chapman, Dalton, Guice and McCall, County Manager Jaime Laughter, County Attorney Patrick Scott (via Zoom meeting software), Transylvania Economic Alliance Executive Director Burton Hodges, and Clerk to the Board Trisha Hogan.

The Board discussed a potential economic development project and directed staff on how to proceed.

**Chairman Chappell moved to leave the closed session, seconded by Commissioner Dalton and unanimously approved.**

#### **OPEN SESSION**

**Chairman Chappell 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 Guice and unanimously approved.**

#### **ADJOURNMENT**

There being no further business to come before the Board, **Chairman Chappell moved to adjourn the meeting at 7:04 p.m., seconded by Commissioner Dalton and unanimously carried.**

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Jason R. Chappell, Chairman  
Transylvania County Board of Commissioners

ATTEST:

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Trisha M. Hogan, Clerk to the Board