

MINUTES

TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS REGULAR MEETING – AUGUST 8, 2005

The Board of Commissioners of Transylvania County met in regular session on Monday, August 8, 2005, 7:00 p.m., large courtroom of the Courthouse, Chairman Ray Miller presiding. There were approximately 35 people in the audience. Chairman Miller called the meeting to order at 7:00 p.m.

Commissioners present were Chairman Ray Miller, Jason Chappell, Jeff Duvall, David Guice and Kelvin Phillips.

Staff members present were Manager Artie Wilson, Attorney David Neumann, Court Sergeant Terry Whitmire, Finance Director Gay Poor, County Planner Mike Thomas, Library Director Anna Yount, Tax Assessor David Reid, Communications Director Kevin Shook, EMS Director Bobby Cooper, Personnel Director Sheila Cozart, and Clerk to Board Kimberly Conover.

Media: *Transylvania Times* – Stephen Sacco; *Mountain Life* - Jane Roehrs

PUBLIC HEARING

Transylvania County Multi-Jurisdictional Hazard Mitigation Plan

The chairman announced that the board of commissioners was conducting a public hearing regarding the county's multi-jurisdictional hazard mitigation plan, as required under 44 CFR 201.6. This plan was financed by and developed under a hazard mitigation planning grant provided by the Federal Emergency Management Agency (FEMA) and the North Carolina Division of Emergency Management (NCDEM). A copy of the plan was placed in the public library, at the administration building, the City of Brevard's administrative office and at the Town of Rosman, and has been available for public inspection since July 26, 2005.

Communications Director Kevin Shook reported that the purpose of the plan was to reduce or eliminate potential hazards. Without such a plan, the county would not be eligible for federal funds if a hazard occurred.

The chairman called for comments from the public. There were no comments received, and the chairman closed the public hearing at 7:05 p.m.

PUBLIC COMMENT (sign-in required)

Ms. Deandra MacAlpine of Brevard requested time to discuss the proposed jail/law enforcement center project. She asked if a needs assessment study was available for public inspection and was told that it was available at county administration. She then asked if the county had obtained any appraisals regarding the proposed property. Commissioner Guice stated that the 19-acre parcel has been on the market for some time and was purchased at fair market value. The five-acre parcel had recently been purchased before the offer from the

county was made. Before considering the property on Morris Road, we looked unsuccessfully at several parcels on the west side of town.

AGENDA MODIFICATIONS

The manager requested that Item VI G, appointment to the Jail Planning Committee, be removed from the agenda and that two closed session items be added pursuant to NCGS 143-318.11(a)(6), personnel matter, and NCGS 143-318.11(a)(3), Mustard Seed v. Transylvania County law suit.

Upon motion duly made by Commissioner Duvall and seconded by Commissioner Chappell, the agenda was approved as modified.

CONSENT AGENDA

Commissioner Chappell moved to approve the consent agenda as submitted, seconded by Commissioner Phillips and approved unanimously.

APPROVAL OF MINUTES

Minutes from the June 27, 2005 regular meeting, the July 11, 2005 special meeting and the July 25, 2005 regular meeting were approved as submitted.

FACILITIES USE REQUESTS

Commissioners approved the use of the following facilities:

- Use of the large courtroom on September 15, 2005 by the Taxpayers Watch Group for a political forum.
- Use of the large courtroom by the Chamber of Commerce for candidate forums on October 11th for the mayoral position and on October 13th for the candidates for City Council.
- Use of the child development building restrooms and reception area on October 28th and 29th by the Chamber of Commerce to hold their annual "Flight of the Vampire" 5K run. This requested has been discussed with and approved by Kae Parker, who has stipulated that everything will be left in order and that there will be a person on site at all times to supervise.
- Use of Silvermont on November 26, 2005 by the Children's Center to have its annual "Festival of Trees". Their request for a waiver of fees was granted.

PRESENTATIONS/RECOGNITIONS

NORTH CAROLINA BLACK ELECTED MUNICIPAL OFFICIALS (NCBEMO) DAY

The North Carolina Black Elected Municipal Officials (NCBEMO) has selected Brevard, North Carolina, as the designation for their summer conference. This summer conference will begin on Friday, August 12th, and run through Saturday, August 13th. It was noted that it is quite an honor to host such an event. The Transylvania County Board of Commissioners joined the City of Brevard in proclaiming Saturday, August 13, 2005, as North Carolina Black Elected Municipal Officials (NCBEMO) Day in Transylvania County.

Commissioner Guice moved to approve Proclamation 20-05, North Carolina Black Elected Municipal Officials, (attachment as part of these minutes), seconded by Commissioner Duvall and approved unanimously.

Mr. Rodney Locks was present to receive the proclamation and thanked the board of commissioners for the recognition. He requested that Chairman Miller read the proclamation at the caucus on August 13th.

TRANSYLVANIA COMMUNITY HOSPITAL ANNUAL COMMUNITY BENEFIT REPORT

Mr. Bob Bednarek of Transylvania Community Hospital was present to deliver the hospital's annual community benefit report. The report (attachment as part of these minutes) highlighted operational successes and challenges over the past year and gave a strategic view of the upcoming year.

The board of commissioners expressed its appreciation to Mr. Bednarek for the work that the hospital does in the community. Commissioner Guice expressed his appreciation to the physicians and staff for the excellent services they provide to the community.

UNITED WAY OF TRANSYLVANIA COUNTY

Mr. Steve Pulliam, Executive Director of the United Way of Transylvania County, presented an overview of the activities of the United Way in Transylvania County.

The United Way of Transylvania County has been going through a period of change over the last six years in order to increase the organized capacity of people to care for one another and to build a stronger Transylvania by mobilizing the community to empower people to improve their lives. Fundraising efforts have increased funds from \$175,000 to \$340,000. Transylvania County employees have raised \$2,907 in 2001, \$3,383 in 2002, \$7,639 in 2003, \$12,246 in 2004 and \$13,227 in 2005. Contributions over that time period have increased 355%.

Mr. Pulliam described how the 2-1-1 system works and the ways it has been helping the community. After the power point presentation, the chairman thanked Mr. Pulliam.

APPOINTMENTS

ABANDONED CEMETERIES BOARD

Mr. John T. Monteith has resigned after many years of service to the board.

Commissioner Duvall moved to appoint John H. Monteith, his son, to replace him on the Abandoned Cemeteries Board, seconded by Commissioner Chappell and unanimously carried.

AREA COUNCIL ON AGING

Commissioner Guice made a motion to appoint Sara Miller to replace Kathe Harris (older adult) on the Area Council on Aging, seconded by Commissioner Duvall and unanimously carried.

JUVENILE CRIME PREVENTION COUNCIL

Commissioner Guice moved to appoint Mack McKeller to fill the vacant juvenile defense attorney slot (term to expire June 2007) on the JCPC. The motion was seconded by Commissioner Chappell and carried unanimously.

TRANSYLVANIA COUNTY COUNCIL ON AGING

Commissioner Guice moved to reappoint Tore Borhaug (Nursing/Home Care), Judy Griffin (affordable housing), Cathy Lasater (senior citizen) and Kathy Thorpe (cooperative extension) to serve another term on the Council on Aging, seconded by Commissioner Duvall and unanimously carried.

Commissioner Duvall moved that the two-term limit be waived for Linda Fluck (hospital) and that she be reappointed to the council. The motion was seconded by Commissioner Guice and unanimously carried.

Commissioner Guice moved the nomination of Molly Wilmot to replace Leslie Henry (senior citizen), seconded by Commissioner Chappell and carried unanimously.

Commissioner Chappell nominated Kathy Thorpe to serve as chairman of the COA for FY 2005-06, seconded by Commissioner Phillips and unanimously carried.

Commissioner Guice made a motion to nominate Sara Miller to the Land-of-Sky Volunteer Advisory Committee. The motion was seconded by Commissioner Duvall and carried unanimously.

WESTERN CAROLINA COMMUNITY ACTION

Commissioner Duvall moved the reappointment of MaryAnne Migan and Fred Tinsley to the WCCA, seconded by Commissioner Phillips and unanimously approved.

TRANSPORTATION COMMITTEE

Commissioner Chappell moved to appoint Josh Freeman to serve the unexpired term of Rick Howell as the City of Brevard's representative on the Transportation Committee (term to expire May 2006). The motion was seconded by Commissioner Guice and unanimously approved.

OLD BUSINESS

TRANSYLVANIA COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN

On June 13, 2005, the Board of Commissioners reviewed the Transylvania County Multi-Jurisdictional Hazard Mitigation Plan and authorized public review of the document for thirty days with a public hearing scheduled after the review period. The document has been available at the Public Library, the County Administration Building, Brevard City Hall and Rosman Town Hall, and a public hearing was held earlier in this meeting. This has been approved by the City of Brevard and the Town of Rosman.

It was noted that there is a great deal of detail in the report, which includes some historical information about the county. The manager stated that one of the purposes of the plan is to find ways to improve erosion control and help prevent slides or other disasters, to have a plan in place to mitigate any situation that occurs, and to help reduce expenses. The chairman called for comments from the public, but none were received.

Commissioner Guice moved the approval of the Transylvania County Multi-Jurisdictional Hazard Mitigation Plan, seconded by Commissioner Duvall and approved unanimously.

NEW BUSINESS

PURCHASE OF PROPERTY FOR PUBLIC SAFETY FACILITY

For the last several years, Transylvania County has been faced with an overcrowded situation in its jail facility. The current jail has a maximum capacity of 28 people, if the mix between male and females conforms to the cell layouts. For the calendar year 2004, the detention center averaged 37 inmates with a high of 55. As a result of this overcrowding, the State of North Carolina has stated that the county must take steps to alleviate the overcrowding situation. In the fall of 2004, the board of commissioners hired Moseley Architects to complete a study of the detention and law enforcement current and future space needs and established an ad hoc Jail Planning Committee to help with the process.

In May 2005, Moseley Architects presented its findings and recommendations to the board of commissioners. The report found numerous deficiencies above and beyond the overcrowding issue in the current jail. Based on population estimates, Moseley estimates the need for 121 detention beds by the year 2010 and 137 beds by 2030.

After discussions with the Jail Planning Committee, Moseley has refined its estimate to include a phase one construction to accommodate 114 inmates, with future expansion up to 300, if needed. In addition to the detention center, the board of commissioners has decided to proceed with a new law enforcement center and emergency management center in conjunction with the detention project in order to gain efficiencies in services and staffing over the long term. The architectural firm has estimated that a minimum of twelve to fifteen acres is needed for the project.

After extensive research, the county has an agreement to purchase two tracts of property located on Morris Road, contingent upon the Brevard City Council approving the property for a public safety facility to be located upon, and a satisfactory geotechnical analysis and Phase I environmental report. The first tract fronts on US 64 and borders Morris Road. This 19.58 tract (parcel 8597-11-9670-000) is currently owned by Robert Morris, Virginia H. Morris and Virginia E. Morris and William C. Morris Jr. The second tract (5.141 acres, Parcel 8597-21-2231-000) joins the first tract along Morris Road and is currently owned by Riverside Grocery, but is under offer to purchase by Mr. Jack Eubanks, who has agreed to sell. The negotiated price for the 19.58 tract is \$1,750,000 and the negotiated price for the 5.141 acre parcel is \$475,000.

The matter will be brought before the city council at its August 15 meeting, during which a public hearing will be held. If the city council approves the county's application to construct a public safety facility on this 24.721 acre site and the other contingencies are met, the county can proceed with the purchase of the property. Funds for the purchase of the property would come from the designated funds already set aside for this project.

Chairman Miller stated that at least six and a half years ago, when he became a commissioner, there was an active plan to expand the current jail. After some study, it was decided that it would be as expensive to expand

and renovate the existing jail as to build a new jail. The decision was made at that point to build at a different site. In addition, it makes sense for efficiency sake to build a law enforcement center at the new facility in which we could locate the sheriff, emergency management, and other functions.

Commissioner Guice remarked that a lot of thought went into this project. We completed a jail needs study, established a committee that many citizens are involved in and considered a number of tracts of property. There is a cost savings, as well as improved access by the public, in having a jail and law enforcement center with emergency management, communications, etc. at one facility. This will also help us get out of leasing properties. Commissioner Guice stated that the overcrowding issue is just one issue; others include the need for a separate secure entrance for prisoners, an adequate booking area, and improved locking system and security systems.

Commissioner Guice moved to authorize the purchase of the two parcels of property (19.58 acres for \$1,750,000 and 5.141 acres for \$475,000) contingent upon approval from Brevard City Council that a public safety facility can be constructed on the subject properties and there is a favorable geotechnical analysis and Phase 1 Environmental Analysis Report. The motion was seconded by Commissioner Duvall.

Mr. Paul Westin, a commercial appraiser, requested an opportunity to speak. He made a few comments to the audience and asked the commissioners if there was a copy of any appraisal available for inspection. After a couple of minutes, Commissioner Guice called the point of order and stated that the questions were out of order at this time since there was a motion on the floor that must be acted upon. Mr. Westin would be given an opportunity to speak at the end of the meeting.

Commissioner Phillips mentioned that he would prefer that the land be purchased separately. He stated that he had reservations about buying the extra five acres since he is not sure there is a real need for the property; however, he did support the purchase of the 19-acre tract of property. Commissioner Chappell agreed. Commissioner Guice replied that needs assessment indicated that there would be a need for 12-15 acres as a minimum. Not all the land currently under contract is usable for our purposes. In addition, city council members had indicated that buffers will be needed in order to comply with requirements from the city. He feels that over time, there will be a need for all the property under contract to purchase. We will need a place for expansion into the future, for maintenance, seized automobiles, and perhaps a criminal division on site, etc. The time to purchase land is now while it is available and not after we have built a facility.

The vote was 3 to 2 (Commissioners Chappell and Phillips voted no).

Commissioner Guice clarified that there was no official certified appraisal done of the property; however, we hired someone who is well qualified to help the county make a decision regarding the properties. Commissioner Duvall pointed out that this was a fair market transaction with a willing seller and a willing buyer.

Mr. Westin approached the commissioners again and stated that he felt that they had done due diligence regarding the property. However, he stated that other properties (including a 600-acre parcel) could have been purchased for less money. He also asked if the Ecusta property was considered. Commissioner Duvall replied that when Ecusta sold, we were hoping that the buyers would be able to restart a viable business. In addition, the 600 acres included a landfill dump, which meant environmental liability.

Mr. Rob McKown commented that for some years property along the four-lane highway has been steadily increasing. As an example, the three-acre property recently purchased by Eckerd's cost \$3 million. The manager added that this property is close to utilities; the other properties considered would be farther out and would require the cost of bringing utilities to them.

Mr. Westin repeated his request that any appraisal done be made available for public review. The chairman said that we would consider the request.

Mrs. Margaret Madgwick from Brevard asked how the county plans to pay the \$14 million for the project. Commissioner Guice stated that we already have the money set aside in our savings account for the jail/law enforcement center facility. We have been anticipating this project for some time and commissioners in the past have been setting aside monies to do the project.

REQUEST FOR ADDITIONAL FUNDS FOR THE ROSMAN FIELD HOUSE

The board of education recently received information from Architectural Design Studio regarding the estimated cost of renovation and new construction of a new field house at Rosman High School. The estimated cost of the additions and renovations to the field house is \$418,800. The estimated cost of a new field house is \$469,400. The amount originally discussed during the budget session was \$390,000 to be spent over two fiscal years. This latest estimate is \$79,400 higher than originally estimated.

On Monday, July 18, 2005, the board of education voted to proceed with the construction of a new field house. On the following Tuesday morning, the county manager received an email from Superintendent Sonna Lyda requesting instruction on how to proceed with a request for additional funds. The manager requested information from Superintendent Lyda in order to clarify what information was reviewed by the board of education before making its decision. This information was promptly supplied (attachment as part of these minutes). The manager reported that while there have been some conversations among individual board members, there has been no full board discussion on the subject.

During the last two-on-two meeting between the county and the board of education, it was understood that the board of education was going to get the information from the architect, then discuss the project with the board of commissioners before a decision was made. However, that is not what happened. The manager requested direction from the commissioners on how they want to proceed with the matter.

The chairman asked for comments from the commissioners:

- Commissioner Duvall commented that it was his understanding that the board of commissioners would be given additional information before a decision was made.

- Commissioner Phillips stated that he would not like to short change the children, but he also felt that there was an understanding between the two boards that a decision would not be made before the commissioners had a chance to review the additional information. He questioned why the figure for renovating/rebuilding the field house was up so much in such a short time. That issue should have been addressed jointly.

- Chairman Miller stated that the current budget is \$200,000; the board of education should have to live with the budgeted amount. Since there has been no communication from the board of education, we do

not have a lot of information to go on. There is \$200,000 set aside for the project for this year and \$190,000 in the budget for next year.

○Commissioner Guice recapped the history of the situation, and mentioned the decision by the board of commissioners to allocate capital spending for category 1 capital projects on a project-by-project basis. Teresa McCall and Mike Rogers stated that the school board would provide a list of priorities and requested that we postpone for one year the requirement of doing Category 1 projects on a project-by-project basis.

○The county manager stated that we still do not know what is being requested by the school board, and how much money is needed over what time period. Given that the cost of the project has increased, we probably need some additional information before making a decision. The board of commissioners wants to understand what is being proposed.

○Commissioner Chappell suggested that we have a joint meeting between the two boards.

○Commissioner Guice added that the county went out on a limb to fund the SROs, and he is concerned that there is an \$80,000 difference in the original budgeted amount and the new proposed cost for the field house. He stated that the other field house was 30 years old; however, on a recent visit to the field houses, we saw that the field houses have been abused and neglected, not just aging.

The commissioners discussed the matter and decided to ask for additional information from Dr. Lyda and to pursue a meeting between the two boards, with a clear agenda from both sides.

CHANGE ORDER FOR THE NEW LIBRARY REGARDING AN AMPHITHEATER

The library project included three components: the new library, an amphitheater, and extension of the arboretum. For the last several months, the county has been working with the architects and contractor on the design of an amphitheater that would fit in with the new library and still stay within budgetary constraints.

The original budget allowed \$151,000 for the entire project, which included \$22,000 for architectural fees. The first estimates received totaled \$190,000 for construction. The Amphitheater Committee, composed of Commissioner Ray Miller, David Watkins, Library Director Anna Yount, Mike Shelley, David McNeill, Larry Reece and the county manager, has been working for months to reduce the costs of the amphitheater project. Cost estimates were developed using all concrete, specialty block, and rock. After several iterations, the committee recommended a rock support with grass seating. The construction cost of the project is \$160,127. This would bring the cost of the amphitheater project over budget by \$31,127. Since the extension of the arboretum will not take place until the project is near completion, the manager recommended that the budget monies for the arboretum be reduced by \$31,127 and added to the budget for the amphitheater, as follows:

	<u>Original Budget</u>	<u>Proposed Revised Budget</u>
Library	\$7,192,000	\$7,192,000
Amphitheater	151,000	182,127
Extension of Arboretum	157,000	125,873
Total	\$7,500,000	\$7,500,000

It was noted that the Library Foundation received, as part of its fundraising efforts, a donation of \$150,000 toward the construction of the amphitheater. The library project is 70% complete.

Commissioner Duvall moved to approve the change order (budget change only) for the amphitheater project (attachment as part of these minutes), seconded by Commissioner Chappell and unanimously approved.

MANAGER'S REPORT

The personnel director, Sheila Cozart, is looking into getting a discount prescription card to be made available to citizens of the county. CVS and Eckerd Drugs, among others, would participate in this program. This service would be provided to county citizens at no cost to Transylvania County government, but will need board of commissioners' approval to join.

PUBLIC PARTICIPATION

James Keenan expressed concerned about the point that Mr. Westin raised earlier in the meeting that information that commission relied upon is not available to the public. The manager replied that Mr. McKown is available to answer any questions.

COMMISSIONERS' COMMENTS

There were no comments received from the commissioners.

Commissioner Duvall made a motion to go into closed session pursuant to NCGS 143-318.11(a)(6) to consider the qualifications, competence, performance, character, or fitness of an individual public officer or employee and pursuant to NCGS 143-318.11(a)(3) to consult with an attorney in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged, after a brief recess, and to allow the county manager, county attorney, and clerk to board to be present for the proceedings, and for Sheila Cozart to be present for the portion concerning a personnel matter. The motion was seconded by Commissioner Phillips and passed unanimously.

The meeting recessed at 9:15 p.m.

CLOSED SESSION

The chairman called the closed session to order at 9:25 p.m. The five commissioners, county manager, Attorney David Neumann, Personnel Director Sheila Cozart, and clerk to board were present.

Item 1, per NCGS 143-318.11(a)(6): Mrs. Sheila Cozart was present to update commissioners regarding a personnel matter. She provided a history of events and some possible options for consideration. The commissioners discussed their options and gave staff guidelines for addressing the situation. Mrs. Cozart was thanked and she left the proceedings.

Item 2, per NCGS 143-318.11(a)(3): The manager gave the commissioners an update on the trial between Mustard Seed and the county. He reported that Mustard Seed's case was mainly about rain dates and liquidated damages. The county's case has been about getting the job done in a timely fashion so that it would not have to ship solid waste out to other counties.

New Dominion was called to the stand today and that testimony was favorable to the county's position. Additional expert witnesses would be called to the stand on Tuesday. The manager anticipates that he will testify on Wednesday.

In the opinion of Attorney Jeanne Hall, the case is going very well. To date, there have been no surprises and the trial is scheduled to end on Thursday, August 11, 2005. Mr. Neumann said that, although this case is being heard by a judge and not a jury, one never knows what a judge will rule.

No action was taken in closed session.

Following the update, **Commissioner Duvall moved to leave closed session and return to open session. Commissioner Chappell seconded the motion, which carried unanimously.**

OPEN SESSION

The group entered open session. No member of the public or media returned to the meeting.

Commissioner Duvall moved to seal the minutes of the first closed session, seconded by Commissioner Chappell and unanimously carried.

Commissioner Guice mentioned that the city council will have a public hearing on August 15, 2005, regarding the county's request for a public safety facility to be built on the Morris Road property. There will be a luncheon on Thursday to give property owners on and around Morris Road an opportunity to see what the project is about and to ask questions.

There being no further business to come before the board, **Commissioner Duvall moved to adjourn the meeting, seconded by Commissioner Phillips and unanimously carried.** The meeting adjourned at 10:00 p.m.

Raymond D. Miller, Chairman

ATTEST:

Kimberly T. Conover, Clerk to the Board