

Unsealed by the Board of Commissioners 05/23/2011.

**SEALED MINUTES  
TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS  
CLOSED SESSION MEETING – October 23, 2008**

Pursuant to North Carolina General Statute 143-318.11 (a) (3) Attorney-Client Privilege, to discuss the pending litigation matter of Transylvania County versus Michael D. Baxley and Charlotte Baxley's Training Facility, closed session was entered into. Present were Chairman Chappell, Commissioners Bullock, Guice, Hogsed and Phillips, County Manager Artie Wilson, County Attorney Curtis Potter and Clerk to the Board Trisha McLeod.

Mr. Potter updated Commissioners on the status of the pending litigation matter since the last court hearing was held on October 14, 2008. He also reviewed the proposed Consent Order offered by the defendant's attorney Mr. Ed Bleyнат. A Consent Order is a negotiated agreement between both parties without an injunction; however Mr. Baxley can still be held in contempt if he violates the Consent Order.

Prior to the hearing on October 14, Attorney Sean Perrin, who represents the County in this case, met with Mr. Bleyнат and Mr. Baxley to discuss possible resolutions to this matter. The Judge continued the case until October 27, 2008 pending an agreement between both parties. No agreement has yet been reached. The Manager and Mr. Potter received a proposed Consent Order today from Mr. Bleyнат.

Mr. Potter reviewed and addressed several items on the Consent Order noting that it does not address the four factors Commissioners had discussed previously. The four factors were 1) limit the number of riders at one given time, 2) limit the age limit of the riders, 3) limit the time of operation, and 4) limit the size of the bikes on the track. Mr. Potter informed Commissioners that they could agree to the Consent Order, modify the Consent Order and return it to Mr. Bleyнат as a final agreement, or reject the Consent Order altogether and proceed with the court hearing on October 27, 2008.

After discussion, **Commissioner Hogsed moved to reject the proposed Consent Order, seconded by Commissioner Guice and unanimously approved.**

**Chairman Chappell moved to leave closed session, seconded by Commissioner Hogsed and unanimously carried.**

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Mike Hawkins, Chair  
Transylvania County Board of Commissioners

ATTEST:

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Trisha M. Hogan  
Clerk to the Board