

MINUTES
TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS
APRIL 23, 2007- REGULAR SESSION

The Board of Commissioners of Transylvania County met in regular session on Monday, April 23, 2007 at 7:00 p.m. in the large courtroom of the Transylvania County Courthouse.

Commissioners present were Lynn Bullock, Chairman Jason Chappell, David Guice, Daryle Hogsed and Vice-Chairman Kelvin Phillips.

Staff Members present: County Manager Artie Wilson, County Attorney David Neumann, County Attorney Jeanne Hall, Planning and Economic Development Director Mark Burrows, Donna Marie Bankston, Clerk of Court Rita Ashe, Sheriff David Mahoney, Finance Director Gay Poor, Board of Elections Director Judy Matthews, Fire Marshal Gerald Grose, Emergency Services/Maintenance Director David McNeill, Soil and Water Conservation Services Director Jeff Parker, Jeremy Queen, Trish Hamilton, Recreation Director Rick Pangle, Personnel Director Sheila Cozart, Robbie McCall and Clerk to the Board Trisha McLeod.

Media: *Mountain Life*: Shirley Meece
Mountain Voice: Ralph, Lynn and Adam Peters
Times News: Jonathan Rich
Transylvania Times: Kim MacQueen
WLOS News

There were approximately 300 people in the audience and over 800 people outside of the courthouse.

CALL TO ORDER

Chairman Jason Chappell called the meeting to order at 7:05 p.m.

WELCOME

Chairman Chappell welcomed everyone to the meeting and thanked them for their support.

PRAYER

Commissioner Guice offered the invocation.

PLEDGE OF ALLEGIANCE

Commissioner Phillips led the Pledge of Allegiance.

PUBLIC COMMENT

Chairman Chappell announced the ground rules for the Public Comment period.

Randy Barton, Pastor, Anchor Baptist Church: Mr. Barton stated that this issue has become forefront in the County. He spoke in support of prayer at Commissioners' meetings and said Christians can not allow others, especially the ACLU, to threaten their principles. He pledged to defend the Board of Commissioners with his prayer, his vote and his finances, if necessary.

Ralph Frady: Mr. Frady said he moved to Brevard 20 years ago and it has not changed much. He said he respects other religions but stays in Brevard because he believes the majority of the people here feel the same way he does. Mr. Frady added that he moved to Brevard to embrace it, not change it.

Tim Coleman: Mr. Coleman stated that the men who authored the US Constitution encouraged the practice of religion within the halls of government. He urged Commissioners to continue to pray before meetings.

Mark Parker: Mr. Parker said Americans have the religious freedom to call on Christ anytime they wish. He urged the Commissioners to fight for their rights and continue to pray at meetings.

Lavon Shapland: Ms. Shapland said she is thankful to live, work and serve in Transylvania County. She thinks Commissioners should continue to pray and uphold the religious freedom that this Country was founded on.

Gwynnet Britt: Ms. Britt said that when Commissioners open meetings with prayer, they are blessing the meetings. She said she believes in the power of prayer and supports the Commissioners in their desire to pray at meetings.

Commissioner Guice moved that we move from our regular rules and give folks an opportunity to speak, seconded by Commissioner Phillips and unanimously approved.

Kathleen Gray: Ms. Gray said that when we consider God's rights and desires before our own, then our rights will be taken care of. She stated that everything you do should be in honor of His name.

Daniel Toole: Mr. Toole said everyone should honor God and continue to pray.

Allen Aiken, Pastor, Rosman Baptist Tabernacle: Mr. Aiken spoke in support of opening Commissioners' meetings with prayer. He asked the Commissioners not to give up because he believes the cause is worthwhile.

Sherry Kinsey: Ms. Kinsey stated that soldiers fought for our freedom and the right to express our religious beliefs. She said without opening meetings with prayer, we have no formal meetings with the Lord.

AGENDA MODIFICATIONS

Chairman Chappell requested to change the Agenda format and move, under New Business, Item A Discussion Regarding the County's Policy On Prayer To Open the Board of Commissioners' Meetings above the Consent Agenda, and add under New Business, Item A, National Day of Prayer.

Commissioner Bullock moved to accept the Agenda Modifications as presented, seconded by Commissioner Hogsed and unanimously approved.

NEW BUSINESS

A. DISCUSSION REGARDING THE COUNTY'S POLICY ON PRAYER TO OPEN THE BOARD OF COMMISSIONERS' MEETINGS

Chairman Chappell stated that recently there have been discussions about opening Commissioners' meetings with invocation. The Board has a current prayer policy which has been reviewed in recent weeks. Commissioners have received a suggested invocation policy from the Alliance Defense Fund. Chairman Chappell read the policy.

Commissioner Bullock moved to adopt the ADF proposed policy regarding opening invocations before meetings of the Transylvania County Board of Commissioners and insert the wording on page four, item #8, so the sentence reads, "No Board Member shall be scheduled to offer a prayer at consecutive meetings of the Board or more than one-fifth of the regular, special or emergency Board meetings in any calendar year", and that we modify our Rules of Procedure to reflect the changes in the policy, specifically the items to be listed on the agenda, seconded by Commissioner Hogsed.

Commissioners agreed that although the policy is not perfect but is a vast improvement over the current policy and a step in the right direction.

The motion passed unanimously.

Commissioners thanked their fellow Commissioners and everyone in the audience for their support.

(Policy attached as part of the minutes.)

Chairman Chappell called for a recess.

The meeting reconvened at 8:25 p.m.

CONSENT AGENDA

The following items were approved:

Commissioner Bullock moved to approve the Minutes from the March 12, 2007 Closed Session meeting, seconded by Commissioner Phillips and unanimously approved.

Commissioner Hogsed moved to approve the Minutes from the April 3, 2007 and April 9, 2007 Regular Session meetings and the Facilities Use Requests, seconded by Commissioner Bullock and unanimously approved.

PRESENTATIONS/RECOGNITIONS

PRESENTATION BY THE NORTH CAROLINA ASSOCIATION OF COUNTY COMMISSIONERS REGARDING THE RETIREE RESOURCE NETWORK

The Manager stated that the Retiree Resource Network is a distinguished program in the State. Planning and Economic Development Director Mark Burrows said the RRN was created as part of a 2002 Economic Development Strategic Plan looking for ways to assist businesses and individuals that were being affected by the closure of Ecusta, DuPont and Coats America. The RRN is made up of 65 members and is coordinated by Mr. Bill Layton and Mrs. Trish Hamilton.

Bill Layton introduced some of the members of the RRN. He said the members all have various backgrounds and talents and work together to create jobs and a larger tax base.

David Nicholson, with the NCACC, presented one of nine awards given in the State to the members of the RRN and the Board of Commissioners.

Commissioners thanked the RRN members. They noted that the RRN helps existing and new businesses and non-profit organizations at no cost.

EMERGENCY MEDICAL SERVICES WEEK, MAY 20-26, 2007

Chairman Chappell read Proclamation 45-07.

Commissioner Guice moved to approve Proclamation 45-07, seconded by Commissioner Bullock and unanimously approved.

(Proclamation 45-07 attached as part of the minutes.)

APPOINTMENTS

NURSING/ADULT CARE HOME ADVISORY COMMITTEE

Commissioner Phillips moved to appoint Ms. Lana Burgess to the committee, seconded by Commissioner Bullock and unanimously approved.

OLD BUSINESS

BOARD OF EDUCATION EXPECTATIONS

The Manager stated that at the joint meeting with the Board of Education on April 3, 2007, both Boards discussed the FY08 requests for operational and capital funds. They also discussed a proposal made by the County Manager to allow lottery funds for FY07 to be used towards budgeted capital for FY07 as was included in the County's budget. The Board of Education is willing to consider the proposal based on the following expectations:

- The Education Lottery proceeds will not affect the Board of Education's FY08 budget requests
- The capital outlay baseline will not be affected by this decision
- The Board of Education can select projects for the use of Education Lottery proceeds beginning July 1, 2007 and beyond; In addition the Education Lottery funds will not be considered when developing future budgets
- A written agreement between the two Boards should be formulated by the Chairmen

The Manager added that Staff has looked at the expectations and has offered comments to those for the Commissioners' consideration.

After brief discussion, Commissioners agreed to discuss this issue at the upcoming Planning Workshop scheduled for April 27, 2007 and to look at the County's revenues and other issues facing the County before making any decisions regarding the Board of Education's budget requests and use of the lottery funds.

NEW BUSINESS

NATIONAL DAY OF PRAYER

Mayor Jimmy Harris, Sheriff David Mahoney and Board of Education Vice-Chairman Mike Rogers addressed the Board. They serve in the National Day of Prayer Committee. Mayor Harris announced that National Day of Prayer is May 3, 2007. Events will be held throughout the day, beginning with a breakfast at 7:00 a.m. at First Baptist Church. Various prayer leaders and pastors will speak at the Gazebo at noon. A concert and a time of prayer will be held at the Library Amphitheater later in the evening.

Mayor Harris, Sheriff Mahoney and Mr. Rogers thanked the Commissioners for the action they took tonight regarding prayer at Commissioners' meeting.

BID PROPOSALS FOR FREEMAN SITE-FRENCH BROAD RIVER

Jeff Parker, Soil and Water Conservation Services Director, summarized the bids to do stream bank stabilization work on Mr. David Freeman's property on Hannah Ford Road. The bidders were Adams Contracting, Moore and Son and Cantrell Construction Company. He said the Soil and Water Conservation Board recommended awarding the contract to the lowest bidder, Adams Contracting. The funds for the project will come

from a Division of Water Resources Grant that the County received earlier in the year. Mr. Parker noted that usually the funds are matched but because of the hurricane damages, the match was waived. They are using the funds to try to work with as many landowners as possible.

Commissioner Phillips said he is concerned that Adams Contracting did not turn in a complete bid package by the deadline. The Manager said the bid package that Mr. Adams received did not include all the necessary bid requirements, which was an error on the County's part. Adams Contracting did comply with the requirements in the bid package they received. The Manager added that this issue was reviewed with the Attorney and the Institute of Government to ensure no violations had taken place. Mr. Parker noted Adams Contracting did not include a list of references or proof of insurance because they had already submitted them in a previous bid.

Mason Sexton, of Moore and Son, addressed the Board. Mr. Sexton stated that the bid package clearly states what items are required to be submitted. He said that Adams Contracting did not provide the information as required and normally these bids would not be considered. He said if the Board accepts the bid from Adams Contracting, then they are setting a precedent. County Attorney, Jeanne Hall, said she recited the bid law to Mr. Parker and then the Soil and Water Board applied the law.

Mr. Parker commented that the Soil and Water Board wanted to accept the lowest bidder because they are trying to save money and help as many people as they can. Ms. Hall added that the law states that the bidder must be in "reasonable compliance", not "strict compliance". Commissioner Guice asked if the County was required to choose the lowest bidder. The Manager responded saying the County must take the lowest qualified bid. Commissioner Guice said that the Commissioners must determine whether or not Adams Contracting was in compliance with the law.

Chairman Chappell noted that there is a rush to get this project started and completed. The project must be substantially completed by mid June with a start date of no later than April 24.

Commissioner Phillips moved to award the bid to the 2nd lowest bidder, seconded by Commissioner Guice.

Commissioner Hogsed stated that he sees no problems with awarding the contract to Adams Contracting especially since the Soil and Water Board recommended them. Mr. Parker added that there is a list of over 30 requested projects and only about 12 have been completed. Commissioner Phillips said he does not want to set a precedent of not adhering to what the bid requirements are. Commissioner Hogsed said he feels that Adams Contracting is in reasonable compliance and hopes that money will still be available to complete all the projects.

The motion passed 4 to 1, with Commissioner Hogsed voting no.

REVIEW OF GRASS MOWING PROJECT

The Manager stated that in early March, the County went out for bids on the new Library, rear of the old Library, around the jail, the Community Services Building, the Board of Elections and Child Development. In FY 2006-07, the contract winners were Wilson Services for the new Library and Turf Care for the other areas. In FY 2006-07 the bidding responsibility was handled by Rick Pangle and in FY 2007-08 the responsibility was handled by David McNeill. There were a few changes made in the specifications between the years but none that Staff felt would make a significant difference in costs.

An advertisement inviting bids was placed in the Transylvania Times and on the County's website. In addition, specification information was mailed to seven local lawn care and landscaping services. Three businesses attended the mandatory pre-bid meeting and all three submitted bids.

County Manager Wilson, Finance Director Gay Poor and Maintenance Director David McNeill reviewed the bids and agreed to reject all bids and look at other alternatives. The lowest bid was \$16,701 higher than last year. Gay Poor notified the three bidders that all bids had been rejected. David McNeill began to look at other alternatives. One alternative is to hire a part time person to work 16 hours per week, on Friday and Saturday, and utilize the Recreation Department's mower. The County would have to purchase two small mowers. The estimated costs of this option is approximately \$10,000 which is \$6,000 lower than the current contract and almost \$23,000 less than the lowest bid the County just received.

Commissioner Bullock stated that if the County expects more work from the contractor this year than last year, then it is reasonable to expect the bid amount to be higher. David McNeill stated that the specifications for some areas are different than last year. He said the grounds need to be kept in better condition and that the County needs to be very specific with the contractors.

Keith Phillips with Phillips Landscaping addressed the Board. He said he was the lowest bidder and he believes he meets all the qualifications. He said he has a good reputation and would like to have the opportunity to make the County look better. He said he believes he can do the job cheaper than the County can.

Scott Wilson with Wilson Services addressed the Board. He stated that he currently has the Library contract and he was only contracted to mow grass and fertilize once a year. He said the contract does not specify anything else.

Mr. McNeill stated that he began looking at other alternatives in an attempt to keep costs down for the County. He added that, if necessary, Maintenance Staff could supplement the work of the part time position.

After further discussion, Commissioners agreed to discuss the matter further during the budget process.

MANAGER'S REPORT

The Manager announced that Friday, April 27, 2007 is the Board of Commissioners' Budget Planning Workshop beginning at 8:00 a.m. in the Rogow Room at the Library. There are several items on the agenda and it will be a full day. The Manager hopes to give the Commissioners an idea of what the County is facing in 2008 and 2009.

The Manager and Commissioner Bullock will meet with the NCACC in Sylva on Tuesday at 10:00 a.m. to discuss state issues such as Medicaid, sales tax and land transfer taxes.

PUBLIC COMMENT

There was no public comment.

COMMISSIONERS' COMMENTS

Commissioner Hogsed thanked everyone for coming to the meeting and thanked the Board of Commissioners for standing for Christ and their Constitutional rights. Commissioner Phillips echoed Commissioner Hogsed's comments.

Chairman Chappell said his thoughts and prayers are with the family who lost a son in an automobile accident.

ADJOURNMENT

There being no further business to come before the Board, Commissioner Bullock moved to adjourn the meeting, seconded by Commissioner Phillips and unanimously carried.

Jason R. Chappell, Chairman
Board of County Commissioners

ATTEST:

Trisha D. McLeod
Clerk to the Board