

**MINUTES**  
**TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS**  
**May 14, 2007- REGULAR SESSION**

The Board of Commissioners of Transylvania County met in regular session on Monday, May 14, 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, Board of Elections Director Judy Matthews, Planning and Economic Development Director Mark Burrows, Bailiff Supervisor Jimmy Jones, Finance Director Gay Poor, Tax Assessor/Collector David Reid, County Attorney Jeanne Hall, Emergency Services/Maintenance Director David McNeill, Building and Permitting Director Jeff Fisher, Captain Eddie Lance and Clerk to the Board Trisha McLeod.

Media: *Times News*: Jonathan Rich  
*Transylvania Times*: Kim MacQueen

There were approximately 20 people in the audience.

**CALL TO ORDER**

Chairman Chappell called the meeting to order at 7:00 p.m.

**WELCOME**

Chairman Chappell welcomed everyone to the meeting.

**PUBLIC COMMENT**

There were no comments from the public.

**AGENDA MODIFICATIONS**

Manager Wilson and Chairman Chappell reported on the Agenda Modifications. Under New Business, Item A, Grant Request Governor's Highway Safety Program was added and all other New Business items were moved down in succession. Appointments to the Joint Historic Preservation Commission (JHPC) were tabled and will be added to the May 29, 2007 Agenda.

**Commissioner Guice moved to approve the Agenda as modified, seconded by Commissioner Bullock and unanimously approved.**

## CONSENT AGENDA

### MINUTES

Minutes from the April 23, 2007 Regular Session and April 30, 2007 Special Session were approved.

### FACILITIES USE REQUESTS

The use of Silvermont by the Transylvania County Humane Society on July 4, 2007 from 8:45 a.m. to 11:00 a.m. was approved.

### DISCOVERY AND RELEASE REPORTS

Discovery and Release Reports for Accounting Periods 3/01/2007 to 3/31/2007 and 4/01/2007 to 4/30/2007 were approved.

**Commissioner Phillips moved to approve the Consent Agenda as presented, seconded by Commissioner Hogsed and unanimously approved.**

## OLD BUSINESS

### TAX COLLECTOR POSITION

Earlier this year the Board of Commissioners asked our legislators to introduce legislation that would change the position of Tax Collector from an elected position to an appointed position. SB 231 was ratified on April 19, 2007 which changed the position to one of appointive. In July 2006, Mr. David Reid was appointed as Tax Collector until such time as either the State Legislature makes it an appointed office or until the end of Ms. Mary Ruth Stamey's term. Mr. Reid was also instructed to combine the Assessor's and Collector's offices. The Manager recommended appointing Mr. Reid as Tax Collector of Transylvania County through June 30, 2007 and then for a four year term beginning July 1, 2007 through June 30, 2011.

Chairman Chappell suggested making the appointment for the Tax Collector the same as the appointment of the Tax Assessor which runs through June 30, 2009. Commissioner Guice suggested the Board establish a contractual arrangement with the Tax Assessor/Collector. Commissioner Hogsed concurred with Commissioner Guice and stated that we should be doing what is normal across the State with the appointment of tax collectors. Commissioner Guice asked if the Board could move ahead with consolidating the two positions and officially make the position a Tax Administrator. Commissioner Hogsed added that the wording in the memo specifically references the appointment of a Tax Collector and gives the impression that we have a Tax Assessor and a Tax Collector.

**Chairman Chappell moved to appoint Mr. David Reid as Tax Collector of Transylvania County through June 30, 2007 and direct the Attorney to work on a contract for a four year term for combining the Tax Collector and Tax Assessor into a Tax Administrator, seconded by Commissioner Phillips and unanimously approved.**

## NEW BUSINESS

### GRANT REQUEST GOVERNOR'S HIGHWAY SAFETY PROGRAM

The Manager stated that Sheriff Mahoney has requested permission to apply for a 75% grant from the Governor's Highway Safety Program to purchase two fully equipped patrol cars, two mobile DATA terminals, two radars, two in-car video systems, traffic cones, DWI checkpoint equipment and traffic vests. The grant requires a 25% soft match of \$45,230. The match will come out of the FY 2007-08 Budget. The goals of the grant will be to reduce traffic crashes and the resulting injuries in the County by 5% by the end of 2007 and to increase DWI enforcement in the community.

**Commissioner Guice moved to approve the grant request to the Governor's Highway Safety Program and approve Resolution GHSP-02-A, seconded by Commissioner Hogsed and unanimously approved.**

### AMEND RULES OF PROCEDURE FOR BOARD OF COMMISSIONERS' MEETINGS

The Manager stated that at the April 23, 2007 meeting, Commissioners adopted Resolution 46-07 Policy Regarding Opening Invocations Before Meetings of the Transylvania County Board of Commissioners. Number 10 in the new policy reads, "Shortly before the opening gavel that officially begins the meeting and the agenda/business of the public, the Chairperson of the Board shall introduce the invocational speaker and the person selected to recite the Pledge of Allegiance following the invocation, and invite only those who wish to do so to stand for those observances of and for the Board". The Rules of Procedure for Transylvania County Board of Commissioners have been changed to reflect the new policy. The Prayer and the Pledge of Allegiance have been removed from the Order of Business. The amended Rules of Procedure requires the Board's approval.

**Chairman Chappell moved to approve the amended Rules of Procedure, seconded by Commissioner Phillips and unanimously approved.**

### REVIEW OF BIDS FOR COURTHOUSE MASONRY RESTORATION WORK

Mr. David McNeill addressed the Board. He stated that last year monies were appropriated for masonry restoration of the oldest section of the courthouse. He worked closely with Harris Architects to develop a bid package. Bids were received by five (5) companies ranging from \$158,800 to \$396,600. The bids have two (2) built-in deducts. Mr. McNeill reviewed the bids with Harris Architects and their recommendation is to award the bid to Strickland Waterproofing. The Manager added that the time frame for completing the project is important and Strickland Waterproofing proposed to complete the project within 60 days as opposed to 120 days for the other bidders. Mr. McNeill concurred with the Manager and stressed the importance of completing the project in a timely manner because of the court schedule. He also added that last year \$150,000 was appropriated for the project and there is \$135,000 remaining to apply towards the construction costs with the balance to come from the FY 2008-09 Budget.

**Commissioner Phillips moved to award the bid to Strickland Waterproofing, Inc., seconded by Commissioner Bullock and unanimously approved.**

**INTENT TO PARTICIPATE IN CERTIFIED ENTREPRENEURIAL COMMUNITY PROGRAM**

Planning and Economic Development Director Mark Burrows addressed the Board. He stated that the County has an opportunity to work with Advantage West on a new program they have initiated called the Certified Entrepreneurial Community Program. The program focuses on promoting entrepreneurial efforts throughout the region. He noted that Advantage West recently made a presentation to the Economic Development Advisory Board (EDAB). The EDAB voted unanimously to recommend to the Board of Commissioners to move forward with participation in the program.

Chairman Chappell said this is a perfect opportunity for our community to embrace entrepreneurship. Commissioner Hogsed stated that small business entrepreneurs are the backbone of America.

**Commissioner Hogsed moved to approve the submittal of a letter of intent to participate in the Certified Entrepreneurial Community Program, seconded by Commissioner Guice and unanimously approved.**

**ILLEGAL IMMIGRATION**

The Manager reported that Commissioner Phillips has requested that Commissioners discuss the impact of illegal immigration in our community and the potential action that can be taken by the Board of Commissioners.

Commissioner Phillips said citizens are losing jobs to illegal immigrants and he thinks that it is important that we address this issue. He said one of the areas of concern is in Building and Permitting and ensuring that those working on job sites in the County are of legal status. He said it is important that we protect our citizens. He proposed requiring contractors, subcontractors, homeowners, or whoever is pulling the building permit, to ensure that everyone on the job site is of legal status.

Chairman Chappell pointed out that other counties are looking at this issue as well. He noted that included in the Agenda packets for consideration is an application addendum which is a contractual commitment to avoid the employment or the use of illegal immigrants.

Commissioner Guice added that the Board of Commissioners took some action on this issue by publishing an Illegal Immigration Labor Bulletin which explains the Federal Immigration and Naturalization Act and the punishment for not following the law. He said he has some questions and some concerns about this matter. Commissioner Guice asked if it is documented that illegal immigrants are taking jobs away from natives because without documentation it is difficult to pass a policy that has an effect on one segment of our population. He asked why the focus is on the construction trade and not other businesses. He stated that the Federal Government has passed laws but the

Building and Permitting Department does have the authority to enforce those laws. He said Commissioners need to work together to develop a policy that will benefit our entire community and not just focus on one area. Commissioner Guice said he has spoken to a lot of people and received many emails over the past few days. Some of the concern was over the drug problem in the community and the effect it has on our healthcare system and law enforcement.

Commissioner Bullock stated that over the last few years migrant workers have moved from labor to skilled work. He said he has spoken to people that say that illegal immigrants are taking jobs in the community. He questioned what the Commissioners could legally do to combat this issue if the Federal Government is not doing their part. He said this is a huge problem and there are a lot of unanswered questions that will need to be researched by our Attorney.

Commissioner Phillips said this is a problem that can not be fixed in one night. He said he tends to look at the construction market because it is something he is familiar with and he agreed with Commissioner Guice that we should not just focus on the construction trade. He added there are other costs to citizens associated with illegal immigration such as shortage of water, school overcrowding, air pollution and waste. He added that at the end of 2005 we were spending 10-15% of our resources at the jail and in our courts on illegal immigration. Commissioner Phillips said the Department of Agriculture has done studies that show the labor associated with agricultural businesses is a very small portion of the overall costs. One study showed if illegal labor did not exist today and the wages were increased to a significant level, it related to about \$0.05 per head of lettuce, for example.

Commissioner Hogsed asked what the punishment would be if the contract is broken. Commissioner Phillips said one suggestion is, if someone is suspected of breaking the law, to report it to the Department of Homeland Security. He added that Representative Sue Myrick has proposed legislation to increase fines from \$500 per incident to \$10,000 per incident.

Commissioner Guice said one concern is the determination of who is going to determine who is illegal and then what course of action can be taken as a result of that. He said it is a struggle to get ICE involved even with those that have committed criminal offenses.

Building and Permitting Director Jeff Fisher addressed the Board. He researched this issue with departments in the surrounding counties. He found that they did not address the issue of illegal aliens in the Building and Permitting system. Mr. Fisher also contacted the Department of Insurance and the North Carolina Contractor and Licensing Board and found that they do not address the issue either. He said the only agency that can enforce the law is ICE. Mr. Fisher reported that the Illegal Immigration Labor Bulletin goes out with every permit and is posted on site and on their website. He said he has concerns about the proposed application addendum and the liability it puts on general contractors. He suggested adding the contact information for ICE to the Illegal Immigration Labor Bulletin so people can support suspicious activity.

Mr. Scott Elliott, President of the Transylvania Home Builders Association, addressed the Board. He said he does not feel that contractors should be policing job sites to check workers' legal status. He said there is no guarantee that the identification workers provide is legal and this becomes a huge liability for the contractors.

Ms. Judith West addressed the Board. She commended the Board for tackling such a complicated issue. Ms. West said she believes there are data that shows that having a large undocumented population decreases wages. She said if we paid more our houses and other services would cost more. She said there is a lot of good data about the impact illegal immigration has on law enforcement, healthcare, schools and wages in communities and she encouraged the Board to seek the most up-to-date information. She also encouraged the Board not to make any rule that can not be enforced.

Chairman Chappell said he is glad the Commissioners are having this discussion. He said we took an oath to uphold the laws of this Country. He said illegal immigration is a huge issue and the Federal Government has done a poor job of enforcing the law. He thanked Mr. Fisher for his recommendation to amend the Illegal Immigration Labor Bulletin. He asked Mr. Fisher to work with the Manager and bring the updated bulletin to the next Commissioner's meeting for review.

Commissioner Bullock said he does not know what we can do at the County level to combat illegal immigration other than informing contractors and other employers of the law.

Commissioner Phillips said he believes the County is addressing a lot of the native problems as well, such as the drug problem, but the illegal immigration problem should still be addressed.

Commissioner Hogsed said illegal immigrants are not the sole reason for the drug problem in this community but they are a contributor. By tackling this issue, we are indirectly addressing the drug problem and a number of other illegal activities that illegal immigrants are engaging in. Illegal immigration is a great burden on the taxpayer.

Commissioner Guice said illegal immigration is a nationwide problem and our Building and Permitting Department is not equipped to enforce the law. He added this issue must be tackled at the Federal level. He believes there are other issues in the community and they are not all a result of illegal immigrants.

Chairman Chappell said it has been said that the Commissioners are targeting a specific population. He said we are targeting a specific population because they are in this Country illegally. He stated that this is a huge issue and we should continue to have these discussions. Commissioner Guice stressed the danger of passing rules that are not enforceable. Commissioner Bullock asked for legal advice from County Attorney Jeanne Hall.

Ms. Hall asked for direction from the Board. Commissioner Bullock asked her what the Board of Commissioners could do legally. Chairman Chappell asked her to research how the Board can enforce the law. For clarification, Ms. Hall said she will research what the Board can do legally regarding this issue and the legal options for enforceability. She added this is a very broad, multi-faceted issue involving all kinds of laws so she asked the Commissioners to be specific in their requests. Chairman Chappell asked Commissioners to email any specific requests to Ms. Hall.

The Manager added that in the mean time, with Board approval, Staff will add the contact information to ICE on the Illegal Immigration Labor Bulletin.

**Commissioner Hogsed moved to accept the recommended additions by Mr. Fisher to the Illegal Immigration Labor Bulletin, seconded by Commissioner Bullock and unanimously approved.**

#### MANAGER'S REPORT

The Manager reminded the Commissioners of the Special Meeting on Tuesday, May 15, 2007 from 8:00 a.m. - 11:00 a.m. in the Rogow Room.

The Manager stated that we are working on the bid documents for Cell No. 5 which is a high priority item. He hopes the project will be advertised for bids in the next two weeks. He said Staff is also working on the Public Safety Facility and hopes to get that out soon as well.

On Tuesday, May 29, 2007, the budget will be presented to the Commissioners. The Budget Workshops will begin the first week of June.

Also on May 29, 2007, the Manager will present the Board with bills of interest that may have an impact on some of the County's ongoing projects. He said we need to let our legislators know how the Board feels about these issues.

#### **PUBLIC COMMENT**

There were no comments from the public.

#### **COMMISSIONERS' COMMENTS**

Chairman Chappell thanked Law Enforcement and EMS Services for their hard work in the community. He said they have had a difficult few weeks.

#### **ADJOURNMENT**

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

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Jason R. Chappell, Chairman  
Board of County Commissioners

ATTEST:

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Trisha D. McLeod  
Clerk to the Board