

MINUTES
TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS
August 13, 2007- REGULAR MEETING AND GENERAL ACCOUNTS OF
CLOSED SESSIONS

The Board of Commissioners of Transylvania County met in regular session on Monday, August 13, 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 were County Manager Artie Wilson, County Attorney David Neumann, Project Manager Larry Reece, Human Resources Director Sheila Cozart, Finance Director Gay Poor, Tax Assessor/Collector David Reid, Annette Raines, Genelle Chapman, Charlene Stone, Library Director Anna Yount, Emergency Services Director David McNeill, Donna Marie Bankston, Traci Fisher and Clerk to the Board Trisha McLeod.

Media: *Times News*- Jonathan Rich
Transylvania Times- Mark Todd

There were approximately 35 people in the audience.

CALL TO ORDER

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

WELCOME

Chairman Chappell welcomed everyone to the meeting.

PUBLIC COMMENT

Marjorie J. Westra: Ms. Westra addressed the Board to express her concerns about a dirt bike track in her neighborhood in the Penrose area. She said the track generates an enormous amount of dust which she believes is a health hazard. She noted that the owner informed the neighbors that he would only operate the track on the weekends but people are using the track up to seven days a week. She would like the County to shut down operation of the track due to the excessive noise and disturbance to the neighborhood.

The Manager noted that he has spoken to the owner and he has agreed to keep the dirt bike track wet so it would generate less dust; although tests have shown no health risks. He also noted that the Sheriff has visited with the owner as well.

Judy Barringer: Ms. Barringer addressed the Board to also voice her concern about the dirt bike track. She explained that the track borders her property and that the dust and the noise have contributed to health problems in her home. She said she has a right to live in peace and not have her property value ruined.

Brenda Mullen: Ms. Mullen explained that the dirt bike track borders her property and disturbs her family. She said that those using the track are in violation of the Noise Ordinance in that their bikes are not equipped with the manufacturer's standard mufflers and noise-reducing equipment as the Ordinance states. She said the Sheriff's Office has issued warnings to the property owner but the Noise Ordinance was not clear enough for them to issue citations. Ms. Mullen requested that the Board of Commissioners rewrite the Noise Ordinance to make it clear and enforceable.

Brian Long: Mr. Long stated that he is not affected by the dust but rather by the noise. The dirt bike track borders his property. He mentioned that he has held off on upgrades to his home because he knows he can not enjoy them due to the disturbances caused by those using the dirt bike track.

Commissioner Guice commented that the Noise Ordinance is vague in some areas; however Section 9-30 (c) (1) and (c) (2) clearly states what types of noises are prohibited. Section 9-30 (c) (1) prohibits "noise or sounds that are substantially incompatible with the time and location where created to the extent that it creates an actual or imminent interference with peace or good order". Section 9-30 (c) (2) prohibits "noise that is perceived by a person of ordinary and reasonable sensibilities as interrupting the normal peace and calm of an area or neighborhood". Commissioner Guice believes that the noise associated with the dirt bike track is covered in these sections of the Noise Ordinance. He proposed that Staff review the Ordinance along with the Planning Board and the Sheriff.

Commissioner Hogsed noted that Section 9-30 (a) *Noise Regulations* clearly proves that violations do exist. Time of day, proximity to residential structures, etc. are to be considered when determining whether a noise is unreasonably loud and/or disturbing. He concurred with Commissioner Guice that Staff need to revisit the Noise Ordinance.

The Commissioners were in consensus that violations do exist and instructed the Manager to inform the Sheriff so that the Noise Ordinance can be enforced.

AGENDA MODIFICATIONS

Chairman Chappell requested to add another item to the Closed Session to discuss a personnel matter and to move Items VII-A Appointing David Reid as Tax Collector and VIII-E Order To Collect Taxes to follow the Closed Sessions.

After discussion of the Rules and Procedure, **Chairman Chappell moved to approve the revised Agenda with the noted changes, seconded by Commissioner Phillips and unanimously approved.**

Commissioner Guice moved to add an item to discuss the mistake that was made during the Budget Session, seconded by Commissioner Hogsed and unanimously approved.

CONSENT AGENDA

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

The following items were approved:

MINUTES

Minutes from the July 23, 2007 Regular Meeting were approved.

FACILITIES USE REQUESTS

The use of the Courthouse Lawn by Mr. Benson Galloway on Sundays in August and September from 12:30 p.m. to 1:30 p.m. was approved.

PRESENTATIONS/RECOGNITIONS

RESOLUTION 56-07 IN RECOGNITION OF MARYANNE MIGAN

MaryAnne Migan has been a court appointed volunteer with the Guardian Ad Litem Program since 1990. Her last day in the program was August 10, 2007. Commissioners recognized Ms. Migan for her service to the citizens of Transylvania County through the Guardian Ad Litem Program.

Commissioner Phillips read Resolution 56-07 In Recognition of MaryAnne Migan.

Commissioner Hogsed moved to approve Resolution 56-07 In Recognition of MaryAnne Migan, seconded by Commissioner Bullock and unanimously approved.

Commissioners presented Ms. Migan with the Resolution.

(Resolution 56-07 In Recognition of MaryAnne Migan in attached as part of the Minutes.)

APPOINTMENTS

JUVENILE CRIME PREVENTION COUNCIL

Commissioner Guice moved to reappoint Carson Griffin and Sheriff David Mahoney, seconded by Commissioner Phillips and unanimously approved.

Commissioner Bullock moved to appoint Bobbi Powell as the designee for the Chief District Court Judge, seconded by Commissioner Phillips and unanimously approved.

AFFORDABLE HOUSING COMMITTEE

Chairman Chappell moved to nominate Mr. Carroll Parker, seconded by Commissioner Guice and unanimously approved.

Chairman Chappell made a motion to volunteer to serve on this committee, seconded by Commissioner Guice and unanimously approved.

NEW BUSINESS

REQUEST FOR LOCATION OF A MEMORIAL FOR THE OLD BREVARD HIGH SCHOOL

The Manager explained that a group of former students of the Transylvania/Brevard School System would like to erect a memorial at the steps leading to the new Library from the area in front of Child Development. These steps are all that remains of the old school and athletic field that was once known as Brevard High School. The memorial would be in honor of the administrators, teachers and staff of the former system. The group is asking permission to build the memorial on County property. The Manager recommends approving the proposed location with the understanding that the County would maintain the right to move the memorial if needed for future expansion.

Ms. Faye Paden, President of the Brevard Historical Schools Foundation, addressed the Board. She believes this memorial will be an asset to the County and the Library and will provide a history of the old School System. Mr. Frank Duckworth explained that the group will be selling pavers in memory of faculty and staff in order to fund the memorial. Mr. Carl Eldridge described the proposed memorial for the Commissioners.

Commissioner Guice moved to approve the proposed location of the memorial with the understanding that if in the future the County needs to relocate the memorial it can do so at its expense, seconded by Commissioner Phillips.

Commissioners thanked the group for pursuing this project. **The motion passed unanimously.**

VETERANS ADMINISTRATION EXPENDITURES BY NORTH CAROLINA COUNTIES

The Manager reviewed a report provided by Mr. Frank Pearsall, Transylvania County Veterans Services Officer, showing Veterans Administration expenditures in Transylvania County for 2006. The Veterans Administration provided \$8,932,000 in funding for Transylvania County in 2006 and served 3,907 veterans.

Commissioners expressed their appreciation for veterans and for all the work Mr. Pearsall does to help them.

PROPOSED FAIR MARKET RENTS REFERENCE TRANSYLVANIA COUNTY

The Manager explained that the County recently received information from the US Department of Housing and Urban Development (HUD) indicating Fair Market Rent

(FMR) in Transylvania County is below that of surrounding counties. He believes that the figures are incorrect and would like for a rent survey to be conducted in our County. The Manager explained that HOME funds for rental development in Transylvania County can not be used as a result of the low FMR. He further explained that the FMR negatively impacts the Section 8 Housing Choice Voucher Program because a majority of the voucher recipients in the County can not find rental units within the FMR and must surrender the vouchers unused.

Chairman Chappell moved to approve the letter to the US Department of Housing and Urban Development requesting a rent survey for Transylvania County, seconded by Commissioner Bullock and unanimously approved.

2006 TAX SETTLEMENT

Tax Assessor/Collector David Reid addressed the Board to present the 2006 Tax Settlement. Mr. Reid announced that the tax collection rate for Transylvania County for 2006 was 99.26%, the highest ever in Transylvania County and possibly the highest in the State. He explained that his Staff concentrated their collection efforts on prior year delinquent taxes and instituted remedies charged by NC General Statutes to collect taxes. Mr. Reid asked the Board of Commissioners to approve the 2006 Tax Settlement.

Commissioner Guice moved to approve the 2006 Tax Settlement and thank David Reid and Staff for a great job, seconded by Commissioner Bullock and unanimously approved.

Commissioners thanked Mr. Reid and his Staff for all their hard work.

RESOLUTION 55-07 EXEMPTING A REQUEST FOR PROPOSAL FOR AERIAL PHOTOGRAPHY FROM THE MINI-BROOKS ACT

The Mini-Brooks Act requires counties to exempt themselves from the Act in order to consider price during the selection process for Architectural, Engineering, and Surveying firms when considering RFP's. Staff would like price to be considered during the RFP process for its Aerial Imagery. In order to do so, the County will need to exempt itself from NC General Statute 143-64.31.

Commissioner Phillips moved to approve Resolution 55-07, seconded by Commissioner Hogsed and unanimously approved.

(Resolution 55-07 For Exemption From GS 143-64.31 Provisions For Countywide Digital Orthophoto Base Mapping Project attached as part of the minutes.)

CONSULTANT RECOMMENDATION FOR PAY CLASSIFICATION STUDY

Human Resources Director Sheila Cozart addressed the Board. She explained that eight (8) bids were received for the Pay Classification Study. The bids were carefully reviewed and Staff interviewed the three (3) top companies. Staff ranked the bids based on their interviews and other criteria and recommend awarding the bid to Springsted, Inc. Springsted, Inc. was the lowest bidder and has been endorsed by the NCACC.

The top three (3) bidders were:

The Archer Company	\$33,712.00
D. I. Jacobs Consulting	\$35,000.00
Springsted, Inc.	\$26,960.00

Commissioner Bullock moved to approve Springsted, Inc. for the Pay Classification Study, seconded by Commissioner Hogsed.

Commissioner Phillips commented that the Pay Classification Study should be done in-house and not paid for by taxpayer dollars.

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

SCHOOL RESOURCE OFFICER FOR DAVIDSON RIVER SCHOOL

The Manager explained that prior to this fiscal year, the Board of Education contracted with the City of Brevard for a School Resource Officer at Davidson River School. The City no longer has the manpower to supply an SRO for Davidson River School. The School System is requesting that the County fund the position. The Manager and the Sheriff met with the Superintendent of Schools and decided that an SRO can be supplied if approved by the Board of Commissioners. The School System currently receives funds from the State to help cover the costs of an SRO position; however the funds will not fully cover the costs of the position, resulting in the County having to subsidize the position by \$12,128. The Manager recommends funding the SRO position for Davidson River School.

Commissioner Guice inquired about the County's long range plans for providing an SRO position for Davidson River School. The Manager responded that the Board of Education would assess their situation for next year and then make the necessary budget requests. Commissioner Bullock commented that Davidson River School is unique and an SRO is needed there.

Commissioner Guice asked why the City is not longer funding the position. City Council person Sara Champion responded that City taxpayers also pay County taxes and Davidson River School is not a City School.

Commissioner Phillips moved to approve one additional position for the School Resource Officer at Davidson River School, seconded by Commissioner Guice and unanimously approved.

PAVING AT LANDFILL

The Manager stated that the FY 2006-2007 Budget contained \$120,000 for paving and widening the curves on the roadways at the landfill. The project was not bid until late June; therefore some of the paving was not completed until July. In order to finish the remainder of the paving, the Manager is requesting to carry forward the \$120,000 not used on FY 2007.

Chairman Chappell moved to authorize the carryover of \$120,000 in funds from FY 2007 to FY 2008 for the paving and widening of the curves at the Landfill, seconded by Commissioner Guice and unanimously approved.

BUDGET MISTAKE DURING BUDGET WORKSHOPS

The Manager explained that on Monday, June 11, Mr. Mike Rogers brought to his attention an error that was made in the budget proposal that centered around the funding for the Allied Health Building for the Transylvania County Campus of BRCC. This project was budgeted for in FY 2006-07 but was delayed while awaiting approval of the construction plans. The County's contribution to the project was estimated at \$1,050,480.00. The monies for the project were in the General Fund Balance and were noted on the proposed Balance Sheet. The mistake occurred when the funds were not properly transferred to show in the budget as revenue. The Manager stated that the mistake was an oversight and certainly not made intentionally. He apologized for the mistake and any embarrassment it may have caused the Commissioners.

Commissioner Guice asked Finance Director Gay Poor to give her assessment of the situation. Ms. Poor explained that what she failed to do was show a transfer from the Fund Balance to the General Fund to offset the expenditure that she had shown. Consequently, the budget proposal indicated that the County's contributions would come from current funds rather than from the reserves that were already set aside for the project in FY 2007. Ms. Poor apologized for the mistake and accepted responsibility for it. She is grateful that Mr. Rogers found the error.

Commissioner Guice noted that the County has received numerous awards over the years for excellence in financial reporting. He asked Ms. Poor if she recalled whether there had ever been a pattern of situations where Staff has made errors in the budget. She could not recall a time where this has happened in the past. Commissioner Guice also asked the Manager if the error would have been found by the auditors. The Manager responded that the auditors probably would not have found the error, but it would have been discovered when the bills for the project came due.

Commissioner Guice stated that the Commissioners hold some responsibility in that they are charged as elected officials to review materials very closely. He hopes they can move forward through this process. He said it was important to hear from the employees so Commissioners could understand what occurred.

Commissioner Hogsed concurred with Commissioner Guice that Commissioners have a role in reviewing the budget and had the opportunity to catch the mistake as well. He thanked the Manager and Ms. Poor for all the work they do for the County. He added that it is a testament to their ability that errors have not been made.

Commissioner Guice stated that the Staff responded immediately and appropriately when the possible error was brought to their attention. He added that after Staff carefully reviewed the situation and determined that there was in fact a mistake in the budget, the Manager contacted the Commissioners immediately and offered to meet with them to

discuss the matter. He thanked the Manager and Ms. Poor for the tremendous job they have done for the County over the years.

Chairman Chappell agreed that Commissioners were partially responsible for the error but that he expects information he receives to be correct and that should be the expectation of all the Commissioners. Commissioner Hogsed responded that 99.9% of the time the information Commissioners receive is correct and he thinks oversights are going to happen occasionally.

MANAGER'S REPORT

The Manager reported the following:

- Re-pointing of the brick at the Courthouse has begun and should be completed in 60 days
- The new sidewalk at the Courthouse should be poured by Wednesday
- The Rural Courts Commission will be visiting on Friday to tour the Courthouse and Administration Building and discuss security issues
- Moseley Architects will present the final plans for the Public Safety Facility at the next Commissioners' meeting
- Commissioners have been invited to a Barbecue and Annual Meeting of the Transylvania Partnership on August 23, 2007 at 6:00 p.m. at the Brevard Music Center. Congressman Shuler will be the key speaker. Commissioners should RSVP to him or the Clerk.

PUBLIC COMMENT

Mr. Pete Peters requested that Commissioners please speak loudly during the meetings so audience members can hear.

Chairman Chappell moved to enter into Closed Session per NCGS 143-318.11 (a) (6) to discuss personnel matters after a 10 minute recess, seconded by Commissioner Phillips and unanimously carried.

CLOSED SESSION- GENERAL ACCOUNTS

CLOSED SESSION #1

Pursuant to NCGS 143-318.11 (a) (6) personnel matter, closed session was entered into at 9:10 p.m. Chairman Chappell, Commissioners Bullock, Guice, Hogsed and Phillips, Manager Wilson, County Attorney David Neumann, Human Resources Director Sheila Cozart and Clerk to the Board Trisha McLeod were present.

The Commissioners discussed a personnel matter. No action was taken.

CLOSED SESSION #2

Pursuant to NCGS 143-318.11 (a) (6) personnel matter. Chairman Chappell, Commissioners Bullock, Guice, Hogsed and Phillips, County Attorney David C. Neumann and Clerk to the Board Trisha McLeod were present.

Commissioners discussed a personnel matter and directed Staff on how to proceed.

Chairman Chappell moved to reenter Open Session, seconded by Commissioner Bullock and unanimously carried.

OPEN SESSION

Chairman Chappell moved to seal the Minutes of both Closed Sessions, seconded by Commissioner Phillips and unanimously approved.

OLD BUSINESS

APPOINTING DAVID REID AS TAX ADMINISTRATOR

Chairman Chappell noted that it is the recommendation to appoint David Reid as the Tax Collector/Administrator of Transylvania County for a 2-year term beginning effective July 1, 2007 which mirrors his term as the Tax Assessor.

Chairman Chappell moved to appoint David Reid as Tax Collector/Administrator of Transylvania County for a 2-year term beginning effective July 1, 2007, seconded by Commissioner Bullock and unanimously approved.

NEW BUSINESS

ORDER TO COLLECT TAXES

Commissioner Phillips moved to approve the Order to Collect the FY 2008 Taxes in Transylvania County, seconded by Commissioner Guice and unanimously approved.

COMMISSIONERS' COMMENTS

There were no comments from Commissioners.

ADJOURNMENT

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

Jason R. Chappell, Chairman
Board of County Commissioners

ATTEST:

Trisha D. McLeod
Clerk to the Board

