

**MINUTES**  
**TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS**  
**February 11, 2008- REGULAR MEETING**

The Board of Commissioners of Transylvania County met in regular session on Monday, February 11, 2008 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 Attorneys David Neumann and Curtis Potter, Communications Director Kevin Shook, Emergency Services Director David McNeill, Planning and Economic Development Director Mark Burrows, Tax Administrator David Reid, Fire Marshal Gerald Grose, Genelle Chapman, Clerk of Court Rita Ashe, Finance Director Gay Poor, Register of Deeds Cindy Ownbey, County Planner Mike Thomas, Elections Director Judy Mathews, Bailiff Supervisor Jimmy Jones, Human Resources Director Sheila Cozart and Clerk to the Board Trisha McLeod.

Media: *Transylvania Times*: Mark Todd

There were approximately 50 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 and thanked them for their patience as the County works through its Courthouse security process.

**PUBLIC HEARING**

**PROPOSED MERGER OF ETOWAH FIRE RESCUE SERVICE DISTRICT IN  
TRANSYLVANIA COUNTY WITH THE LITTLE RIVER FIRE RESCUE SERVICE  
DISTRICT**

**Chairman Chappell declared the Public Hearing open.**

Emergency Services Director David McNeill presented a Power Point presentation outlining the report recommending consolidation of the Etowah Fire Service District into the Little River Fire Service District. The report is on file with the Clerk to the Board.

During the 2007-2008 Budget process, Commissioners had discussions concerning Etowah's proposed municipal lines following the existing fire district lines.

Commissioners asked staff to explore the possibility of merging the Etowah and Little River Fire Districts. The report findings are as follows:

Etowah Fire Service District

Quality Fire Department  
 Class 4 Insurance Rating  
 Tax Rate 0.0291 in Transylvania County  
 Tax Rate 0.0800 in Henderson County  
 Established pursuant to NCGS 153A

Little River Fire Service District

Quality Fire Department  
 Class 6 Insurance Rating  
 Tax Rate 0.0797  
 Established pursuant to NCGS 153A

Other report findings:

- Both service districts provide quality fire, rescue, and medical 1<sup>st</sup> response services
- Current contract between Etowah Fire Department and Transylvania County is dated August 1994
- Contract calls for a fire tax rate not less than 0.050; the present rate is 0.0291
- Current tax rate in Etowah District is inconsistent with surrounding districts both in Transylvania and Henderson Counties
- Level of service is substantially the same
- Transylvania County OCD cannot dispatch Etowah Fire which presents potential for delay and also has a negative impact on the Etowah insurance rating
- Insurance rates vary generally and there is no benefit for the homeowner for a rate less than 6
- Insurance rates below 6 can benefit businesses with the actual benefit depending on a number of variables
- Etowah medical 1<sup>st</sup> responders follow Henderson County medical and training protocols
- Fire tax rate in the Etowah District will need to increase to become consistent with the Henderson County fire tax rate

Mr. McNeill stated that North General Statute 153A-304 gives the Board of Commissioners the authority to consolidate districts by resolution provided certain requirements are met. Those requirements are:

- The districts are contiguous or are in a continuous boundary
- The services provided in each district are substantially the same, or if services are lower for one of the districts, there is a need to increase those services for that district to the level of that enjoyed by the other districts
- A report must be prepared with the following:
  - A map of the districts being consolidated
  - A statement showing the proposed consolidation meets the standards of NCGS 153A-304 (a)
  - If necessary, a plan to increase services for one of the districts so that they are substantially the same throughout the consolidated district
- The report must be available in the Clerk's office at least 2 weeks prior to a public hearing
- Notify by mail owners of property in the proposed consolidated districts

- Hold a Public Hearing

Mr. McNeill showed maps of the current and proposed consolidated fire district maps. He concluded the following:

- Consolidation supports consistency and equity among the citizens in the area
- Consolidation keep tax dollars within Transylvania County by supporting a department located within Transylvania County
- Consolidation eliminates potential delay that is inherent when the 911 center receiving the call cannot dispatch the department
- Consolidation helps local Emergency Services standardize services and contract requirements
- Consolidation allows for future medical training and medical protocol oversight to be consistent
- If Little River Fire Service District Tax Rate (0.0797) remains unchanged during the upcoming budget process and Etowah Fire Service Tax Rate changes to reflect the rate in Henderson County (0.0800), the consolidation will net a tax rate decrease
- This consolidation recommendation follows Little River Fire Department's efforts to reduce its insurance rating. Since the vast majority of the district is residential, the insurance rates should not be affected

Mr. Marty Austin: (President of Etowah-Horseshoe Fire Department) Mr. Austin commented that EMS staff is certified by the same organization statewide. Mr. McNeill agreed but noted that the continuing education requirements depend on the county and its EMS plan.

Mr. Austin further commented that he lives in Etowah but his taxes are paid to the Little River Fire Service District. Mr. McNeill responded that in many areas throughout the County fire districts cut across property lines. In those areas, the fire protection may be provided by one service district but the taxes are paid to another service district. Mr. McNeill announced that a Public Hearing has been scheduled for the next Commissioners' meeting to discuss redistricting of all fire service district maps.

Mr. Austin stated that he did not know about the tax rate issue until recently and he is willing to work with the County to get it resolved.

Mr. Dukes Lyons: Mr. Lyons referred to one of the findings in the report reference to the delay in dispatching calls. Mr. Lyons stated that he is more concerned about the distance the Little River Fire Department would have to travel to get to him.

Mr. Marty Austin: Mr. Austin announced Etowah is in the process of building a substation near Seven Falls Subdivision on land donated by Seven Falls. The substation will house four trucks and have a helicopter pad.

Mrs. Janice Lyons: Mrs. Lyons asked for clarification on the insurance ratings. Mr. McNeill explained that ISO completes a public protection classification, better known as

a PPC, on fire districts. Those districts are rated based on certain criteria, such as access to water, alarms, personnel, etc. A 9S rating results in the highest insurance premiums and a 1 rating results in the lowest insurance premiums. Mr. McNeill noted that the insurance rating is not indicative of the quality of service that a fire department provides.

Mrs. Lyons then concluded that the quality of service can remain the same but the insurance premiums could increase based on the rating. Commissioner Bullock and Mr. McNeill explained that homeowners realize no more savings once a 6 insurance rating is received.

Mr. Jason Merrill: (Chief of Little River Fire Department) Mr. Merrill stated that the two departments have always had a good working relationship and believes that will continue. He also noted that the distance between the two departments is the same.

For point of clarification, Commissioner Guice stated that the difference in the insurance ratings does affect businesses. Mr. McNeill said businesses realize an average 8% savings between ratings. He added that the Etowah Fire Service District in Transylvania County is a heavily residential district.

There being no further comments from the public, **Chairman Chappell declared the Public Hearing closed.**

#### **PUBLIC COMMENT**

Mr. Tom Cabe: Mr. Cabe said he owns a retail business across from the Courthouse and has witnessed fights, profanity and general disorder in front of the Courthouse on court days. He believes the County is compounding the problem if the decision is made to add more court rooms. Mr. Cabe also believes parking will become a bigger problem. He suggested that downtown parking be limited to potential customers rather than for court parking. Mr. Cabe further stated that this appears to be a temporary solution and asked the Commissioners to consider a permanent solution to the problem.

#### **AGENDA MODIFICATIONS**

The Manager requested to remove Item C Classification and Compensation Study Appeals under Old Business at the request of the Chairman. Commissioner Guice requested to add Item C, Process for Determining the Cost of a New Court Facility and the Impact of Moving the Court Facilities out of Downtown under Old Business.

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

#### **CONSENT AGENDA**

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

The following items were approved:

MINUTES

The Minutes from the January 28, 2008 regular meeting were approved.

FACILITIES USE REQUESTS

The use of the Courthouse Lawn and Gazebo by the Transylvania Art Guild from 8:00 a.m. to 5:00 p.m. for their art shows on the following dates was approved: May 24, 2008; June 21, 2008; July 19, 2008; August 9, 2008; September 20, 2008; and October 18, 2008.

**APPOINTMENTS**

PERSONNEL BOARD

**Commissioner Hogsd made a motion to reappoint Mark Emory, Sheriff David Mahoney, waive the term requirements and allow Commissioner Guice to continue serving on the Personnel Board, seconded by Commissioner Phillips and unanimously approved.**

**OLD BUSINESS**

PROPOSED CHANGES TO THE SUBDIVISION ORDINANCE

Planning and Economic Development Director Mark Burrows stated that most of the changes presented at the Public Hearing at the previous Commissioners' meeting were textual changes for clarification purposes. Some of the more significant changes were to change the right-of-way requirements to any tract of land that is essentially landlocked, to require fire hydrants where access to a public water supply was available, and to require dry fire hydrants where access to a public water supply was not available. Mr. Burrows noted that these changes were made from a safety perspective.

Chairman Chappell asked Mr. Burrows to forward any negative feedback or comments regarding the right-of-way requirements to Commissioners. Chairman Chappell thanked the Planning Board members for all the hard work that went into this process.

**Commissioner Guice moved to approve the proposed changes to the Subdivision Regulations as recommended by the Planning Board, seconded by Commissioner Hogsd and unanimously approved.**

REFUNDING OF SCHOOL BONDS

The Manager explained that this is the continuing process by which the County must go through for the refunding of the 1998 and 1999 School Bonds. Commissioners passed a preliminary resolution at the previous meeting. The Manager asked the Commissioners to pass the final resolution from the Bond Attorney.

The Manager highlighted some sections of the resolution. Section 8 explains that the Local Government Commission will be soliciting bids for the Bonds by distributing a

notice and printing and distributing a Preliminary Official Statement relating to the sale of the Bonds. The Local Government Commission will also print and distribute an Official Statement relating to the sale of the Bonds. Section 9 names the Escrow Agent as Regions Bank in the City of Charlotte. Section 12 authorizes the County Manager, the County Attorney and the Finance Director to take such other actions and to execute and deliver such other documents, certificates, undertakings, agreements or other instruments as may be necessary or appropriate to effectuate the issuance of the Bonds or the refunding of the Bonds in connection with the issuance of the Bonds.

The Manager further stated that the closing date of the sale of the Bonds has changed from March 18 to March 25. The County expects a NPV savings to the citizens of approximately \$600,000 over an eleven-year period. If the interest rate was to change dramatically and unfavorably, the County would not sell the Bonds.

The Minutes must read as follows:

A regular meeting of the Board of Commissioners for the County of Transylvania, North Carolina, was held at 7:00 p.m. on February 11, 2008, in the Large Courtroom of the County Courthouse at 7 East Main Street, in Brevard, North Carolina, the regular place of the meeting.

Present: Chairman Jason Robert Chappell, presiding, and Commissioners Lynn Bullock, David Guice, Darlye Hogsed and Kelvin Phillips.

Absent: None

Chairman Chappell introduced the following resolution, a copy of which had been provided to each Commissioner and which was read by its title:

**Resolution 06-08**

RESOLUTION PROVIDING FOR THE ISSUANCE OF  
\$15,745,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2008

**BE IT RESOLVED** by the Board of Commissioners for the County of Transylvania, North Carolina:

**Section 1.** Said Board of Commissioners (the “Board of Commissioners”) has determined and does hereby find and declare:

(a) That an order authorizing not exceeding \$17,500,000 Refunding Bonds was adopted by the Board of Commissioners on January 28, 2008, which order has taken effect.

(b) That none of said Refunding Bonds have been issued; that no notes have been issued in anticipation of the receipt of the proceeds of the sale of said Refunding Bonds; and that it is necessary to issue at this time \$15,745,000 of said Refunding Bonds in accordance with the provisions of Section 2 of this resolution and subject to adjustment as set forth therein.

(c) That the shortest period of time in which the debt of said County to be refunded by the issuance of said Refunding Bonds can be finally paid without making it unduly burdensome on the taxpayers of said County, as determined by the Local Government Commission of North Carolina, is a period which expires on February 1, 2018.

**Section 2.** Pursuant to said order, there shall be issued bonds of the County of Transylvania, North Carolina (the "Issuer") in the aggregate principal amount of \$15,745,000 (subject to adjustment as hereinafter set forth), designated "General Obligation Refunding Bonds, Series 2008" and dated the date of delivery thereof (the "Bonds"). The Bonds shall be stated to mature (subject to adjustment as hereinafter set forth) annually, February 1, \$1,280,000 2009, \$1,940,000 2010, \$1,960,000 2011, \$1,920,000 2012, \$1,890,000 2013, \$1,850,000 2014, \$1,820,000 2015, \$1,810,000 2016, \$765,000 2017 and \$510,000 2018, and shall bear interest at a rate or rates to be determined by the Local Government Commission of North Carolina at the time the Bonds are sold, which interest to the respective maturities thereof shall be payable on August 1, 2008 and semiannually thereafter on February 1 and August 1 of each year until payment of such principal sum. Notwithstanding the foregoing, the Issuer reserves the right to increase the aggregate principal amount of the Bonds by an amount not to exceed \$1,755,000 or to decrease the aggregate principal amount of the Bonds by an amount not to exceed \$745,000 following the opening of bids for the purchase of the Bonds and, in the event of such increase or decrease, the principal amount of any maturity of the Bonds will be accordingly increased or decreased proportionately, to the extent practicable, provided that the principal amount of any maturity will not be increased or decreased by more than \$300,000. In addition, notwithstanding the foregoing, the Issuer reserves the right to decrease the aggregate principal amount of the Bonds and to increase or decrease the principal amount of any maturity of the Bonds following the opening of bids for the purchase of the Bonds as may be appropriate in the event that the Issuer determines not to proceed with the refunding of a portion of the bonds to be refunded in connection with the issuance of the Bonds. The Finance Director of the Issuer is hereby authorized and directed to make any such adjustment, if appropriate, on behalf of the Issuer.

Each Bond shall bear interest from the interest payment date next preceding the date on which it is authenticated unless it is (a) authenticated upon an interest payment date in which event it shall bear interest from such interest payment date or (b) authenticated prior to the first interest payment date in which event it shall bear interest from its date; provided, however, that if at the time of authentication interest is in default, such Bond shall bear interest from the date to which interest has been paid.

The principal of and the interest on the Bonds shall be payable in any coin or currency of the United States of America which is legal tender for the payment of public and private debts on the respective dates of payment thereof.

The Bonds will be issued by means of a book-entry system with no physical distribution of Bond certificates to be made except as hereinafter provided. One fully-registered Bond certificate with respect to each date on which the Bonds are stated to mature, in the aggregate principal amount of the Bonds stated to mature on such date and registered in the name of Cede & Co., a nominee of The Depository Trust Company,

New York, New York (“DTC”), will be issued and required to be deposited with DTC and immobilized in its custody. The book-entry system will evidence beneficial ownership of the Bonds in the principal amount of \$5,000 or any multiple thereof, with transfers of beneficial ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC and its participants. The principal of each Bond shall be payable to Cede & Co. or any other person appearing on the registration books of the Issuer hereinafter provided for as the registered owner of such Bond or his registered assigns or legal representative at such office of the Bond Registrar mentioned hereinafter or such other place as the Issuer may determine upon the presentation and surrender thereof as the same shall become due and payable. Payment of the interest on each Bond shall be made by the Bond Registrar on each interest payment date to the registered owner of such Bond (or the previous Bond or Bonds evidencing the same debt as that evidenced by such Bond) at the close of business on the record date for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date, by check mailed to such person at his address as it appears on such registration books. Transfer of principal and interest payments to participants of DTC will be the responsibility of DTC, and transfer of principal and interest payments to beneficial owners of the Bonds by participants of DTC will be the responsibility of such participants and other nominees of such beneficial owners. The Issuer will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing records maintained by DTC, its participants or persons acting through such participants.

In the event that (a) DTC determines not to continue to act as securities depository for the Bonds or (b) the Finance Director of the Issuer determines not to continue to use the book-entry system of evidence and transfer of ownership of the Bonds through DTC in accordance with DTC’s rules, the Issuer will discontinue the book-entry system with DTC. If the Issuer identifies another qualified securities depository to replace DTC, the Issuer will make arrangements with DTC and such other depository to effect such replacement and deliver replacement Bonds registered in the name of such other depository or its nominee in exchange for the outstanding Bonds, and the references to DTC or Cede & Co. in this resolution shall thereupon be deemed to mean such other depository or its nominee. If the Issuer fails to identify another qualified securities depository to replace DTC, the Issuer will deliver replacement Bonds in the form of fully registered certificates in the denomination of \$5,000 or any multiple thereof (“Certificated Bonds”) in exchange for the outstanding Bonds as required by DTC and others. The Issuer may also deliver one or more Certificated Bonds to any participant of DTC in exchange for Bonds credited to its account with DTC in accordance with DTC’s rules.

Unless indicated otherwise, the provisions of this resolution that follow shall apply to all Bonds issued or issuable hereunder, whether initially or in replacement thereof.

**Section 3.** The Bonds shall bear the manual or facsimile signatures of the Chairman of the Board of Commissioners for the Issuer and the Clerk to said Board and the corporate seal or a facsimile of the corporate seal of the Issuer shall be impressed or imprinted, as the case may be, on the Bonds.

The certificate of the Local Government Commission of North Carolina to be endorsed on all Bonds shall bear the manual or facsimile signature of the Secretary of said Commission and the certificate of authentication of the Bond Registrar to be endorsed on all Bonds shall be executed as provided hereinafter.

In case any officer of the Issuer or the Local Government Commission of North Carolina whose manual or facsimile signature shall appear on any Bonds shall cease to be such officer before the delivery of such Bonds, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery, and any Bond may bear the manual or facsimile signatures of such persons as at the actual time of the execution of such Bond shall be the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

No Bond shall be valid or become obligatory for any purpose or be entitled to any benefit or security under this resolution until it shall have been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed thereon.

The Bonds to be registered in the name of Cede & Co. and the endorsements thereon shall be in substantially the following forms:

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to issuer or its agent for registration of transfer, exchange, or payment and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. R- .....

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United States of America  
State of North Carolina

COUNTY OF TRANSYLVANIA

GENERAL OBLIGATION REFUNDING BOND, SERIES 2008

<u>Date</u>	<u>Maturity</u>	<u>Interest Rate</u>	<u>Cusip</u>
.....	.....	.....	.....

The County of Transylvania, in the State of North Carolina, is justly indebted and for value received hereby promises to pay to

CEDE & CO.

or registered assigns or legal representative on the date specified above, upon the presentation and surrender hereof, at the office of the Finance Director of said County (the "Bond Registrar"), the principal sum of

..... DOLLARS

and to pay interest on such principal sum from the date hereof or from the February 1 or August 1 next preceding the date of authentication to which interest shall have been paid, unless such date of authentication is a February 1 or August 1 to which interest shall have been paid, in which case from such date, such interest to the maturity hereof being payable on August 1, 2008 and semiannually thereafter on February 1 and August 1 in each year, at the rate per annum specified above, until payment of such principal sum. The interest so payable on any such interest payment date will be paid to the person in whose name this bond (or the previous bond or bonds evidencing the same debt as that evidenced by this bond) is registered at the close of business on the record date for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date, by check mailed to such person at his address as it appears on the bond registration books of said County. Both the principal of and the interest on this bond shall be paid in any coin or currency of the United States of America that is legal tender for the payment of public and private debts on the respective dates of payment thereof. For the prompt payment hereof, both principal and interest as the same shall become due, the faith and credit of said County of Transylvania are hereby irrevocably pledged.

This bond is one of an issue of bonds designated "General Obligation Refunding Bonds, Series 2008" (the "Bonds") and issued by said County for the purpose of providing funds, with any other available funds, for refunding certain outstanding bonds of said County, including paying expenses related thereto, as provided in a resolution duly passed by the Board of Commissioners for said County on February 11, 2008 (the "Resolution"), and this bond is issued under and pursuant to The Local Government Bond Act, as amended, Article 7, as amended, of Chapter 159 of the General Statutes of North Carolina, an order adopted by said Board of Commissioners, which has taken effect, and the Resolution.

The Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Resolution. One fully-registered Bond certificate with respect to each date on which the Bonds are stated to mature, in the aggregate principal amount of the Bonds stated to mature on such date and registered in the name of Cede & Co., a nominee of DTC, is being issued and required to be deposited with DTC and immobilized in its custody. The book-entry system will evidence beneficial ownership of the Bonds in the principal amount of \$5,000 or any multiple thereof, with transfers of ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC and its participants. Transfer of principal and interest payments to participants of DTC will be the responsibility of DTC, and transfer of principal and interest payments to beneficial owners of the Bonds by participants of DTC will be the responsibility of such participants and other nominees of such beneficial owners. Said County will not be responsible or

liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

In certain events, said County will be authorized to deliver replacement Bonds in the form of fully-registered certificates in the denomination of \$5,000 or any multiple thereof in exchange for the outstanding Bonds as provided in the Resolution.

At the office of the Bond Registrar, in the manner and subject to the conditions provided in the Resolution, Bonds may be exchanged for an equal aggregate principal amount of Bonds of the same maturity, of authorized denominations and bearing interest at the same rate.

The Bond Registrar shall keep at his or her office the books of said County for the registration of transfer of Bonds. The transfer of this bond may be registered only upon such books and as otherwise provided in the Resolution upon the surrender hereof to the Bond Registrar together with an assignment duly executed by the registered owner hereof or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar. Upon any such registration of transfer, the Bond Registrar shall deliver in exchange for this bond a new Bond or Bonds, registered in the name of the transferee, of authorized denominations, in an aggregate principal amount equal to the unredeemed principal amount of this bond, of the same maturity and bearing interest at the same rate.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of North Carolina to happen, exist and be performed precedent to and in the issuance of this bond have happened, exist and have been performed in regular and due form and time as so required; that provision has been made for the levy and collection of a direct annual tax upon all taxable property within said County sufficient to pay the principal of and the interest on this bond as the same shall become due; and that the total indebtedness of said County, including this bond, does not exceed any constitutional or statutory limitation thereon.

This bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Resolution until this bond shall have been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed hereon.

**IN WITNESS WHEREOF**, said County of Transylvania, by resolution duly passed by its Board of Commissioners, has caused this bond to be manually signed by the Chairman of said Board and the Clerk to said Board and its corporate seal to be impressed hereon, all as of the date of this bond set forth above.

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Jason R. Chappell  
Chairman of the Board of Commissioners

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Trisha D. McLeod  
Clerk to the Board of Commissioners

CERTIFICATE OF LOCAL GOVERNMENT COMMISSION

The issuance of the within bond has been approved under the provisions of The Local Government Bond Act of North Carolina.

\_\_\_\_\_  
Secretary, Local Government Commission

CERTIFICATE OF AUTHENTICATION

This bond is one of the Bonds of the series designated herein and issued under the provisions of the within-mentioned Resolution.

Finance Director of the County of  
Transylvania, North Carolina, as Bond  
Registrar

By:

\_\_\_\_\_  
Authorized Signatory

Date of authentication: \_\_\_\_\_

ASSIGNMENT

FOR VALUE RECEIVED the undersigned registered owner thereof hereby sells, assigns and transfers unto

\_\_\_\_\_  
\_\_\_\_\_  
the within bond and all rights thereunder and hereby irrevocably constitutes and appoints

\_\_\_\_\_  
attorney to register the transfer of said bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature Guaranteed:

\_\_\_\_\_  
NOTICE: The assignor's signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

Certificated Bonds issuable hereunder shall be in substantially the form of the Bonds registered in the name of Cede & Co. with such changes as are necessary to reflect the provisions of this resolution that are applicable to Certificated Bonds.

**Section 4.** The Bonds will not be subject to redemption prior to maturity.

**Section 5.** Bonds, upon surrender thereof at the office of the Bond Registrar together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar, may, at the option of the registered owner thereof, be exchanged for an equal aggregate principal amount of Bonds of the same maturity, of any denomination or denominations authorized by this resolution and bearing interest at the same rate.

The transfer of any Bond may be registered only upon the registration books of the Issuer upon the surrender thereof to the Bond Registrar together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar. Upon any such registration of transfer, the Bond Registrar shall authenticate and deliver in exchange for such Bond a new Bond or Bonds, registered in the name of the transferee, of any denomination or denominations authorized by this resolution, in an aggregate principal amount equal to the principal amount of such Bond so surrendered, of the same maturity and bearing interest at the same rate.

In all cases in which Bonds shall be exchanged or the transfer of Bonds shall be registered hereunder, the Bond Registrar shall authenticate and deliver at the earliest practicable time Bonds in accordance with the provisions of this resolution. All Bonds surrendered in any such exchange or registration of transfer shall forthwith be cancelled by the Bond Registrar. The Issuer or the Bond Registrar may make a charge for shipping and out-of-pocket costs for every such exchange or registration of transfer of Bonds sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or registration of transfer, but no other charge shall be made by the Issuer or the Bond Registrar for exchanging or registering the transfer of Bonds under this resolution.

As to any Bond, the person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of any such Bond and the interest on any such Bond shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond and interest thereon, to the extent of the sum or sums so paid.

The Issuer shall appoint such registrars, transfer agents, depositories or other agents as may be necessary for the registration, registration of transfer and exchange of Bonds within a reasonable time according to then current commercial standards and for the timely payment of principal and interest with respect to the Bonds. The Finance Director of the Issuer is hereby appointed the registrar, transfer agent and paying agent for the Bonds (collectively the "Bond Registrar"), subject to the right of the governing body of the Issuer to appoint another Bond Registrar, and as such shall keep at his or her office the books of the Issuer for the registration, registration of transfer, exchange and payment of the Bonds as provided in this resolution.

**Section 6.** The Issuer covenants that, to the extent permitted by the Constitution and laws of the State of North Carolina, it will comply with the requirements of the Internal Revenue Code of 1986, as amended, as are applicable to the Bonds, except to the extent that the Issuer obtains an opinion of bond counsel to the effect that noncompliance would not result in interest on the Bonds being includable in the gross income of the owners of the Bonds for purposes of federal income taxation.

**Section 7.** The Issuer hereby undertakes, for the benefit of the beneficial owners of the Bonds, to provide:

(a) by not later than seven months from the end of each fiscal year of the Issuer, to each nationally recognized municipal securities information repository (“NRMSIR”) and to the state information depository for the State of North Carolina (“SID”), if any, audited financial statements of the Issuer for such fiscal year, if available, prepared in accordance with Section 159-34 of the General Statutes of North Carolina, as it may be amended from time to time, or any successor statute, or, if such audited financial statements of the Issuer are not available by seven months from the end of such fiscal year, unaudited financial statements of the Issuer for such fiscal year to be replaced subsequently by audited financial statements of the Issuer to be delivered within 15 days after such audited financial statements become available for distribution;

(b) by not later than seven months from the end of each fiscal year of the Issuer, to each NRMSIR, and to the SID, if any, (i) the financial and statistical data as of a date not earlier than the end of the preceding fiscal year for the type of information included under heading “The County - Debt Information and - Tax Information” in the Official Statement relating to the Bonds (excluding any information on overlapping or underlying units) and (ii) the combined budget of the Issuer for the current fiscal year, to the extent such items are not included in the audited financial statements referred to in (a) above;

(c) in a timely manner, to each NRMSIR or to the Municipal Securities Rulemaking Board (“MSRB”), and to the SID, if any, notice of any of the following events with respect to the Bonds, if material:

- (1) principal and interest payment delinquencies;
- (2) non-payment related defaults;
- (3) unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) substitution of credit or liquidity providers, or their failure to perform;
- (6) adverse tax opinions or events affecting the tax-exempt status of the Bonds;

- (7) modification to the rights of the beneficial owners of the Bonds;
- (8) call of any of the Bonds for redemption;
- (9) defeasance of any of the Bonds;
- (10) release, substitution or sale of property securing repayment of the Bonds; and
- (11) rating changes; and

(d) in a timely manner, to each NRMSIR or to the MSRB, and to the SID, if any, notice of a failure of the Issuer to provide required annual financial information described in (a) or (b) above on or before the date specified. If the Issuer fails to comply with the undertaking described above, any beneficial owner of the Bonds then outstanding may take action to protect and enforce the rights of all beneficial owners with respect to such undertaking, including an action for specific performance; provided, however, that failure to comply with such undertaking shall not be an event of default and shall not result in any acceleration of payment of the Bonds. All actions shall be instituted, had and maintained in the manner provided in this paragraph for the benefit of all beneficial owners of the Bonds.

The Issuer reserves the right to modify from time to time the information to be provided to the extent necessary or appropriate in the judgment of the Issuer, provided that:

- (a) any such modification may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of the Issuer;
- (b) the information to be provided, as modified, would have complied with the requirements of Rule 15c2-12 issued under the Securities Exchange Act of 1934 (“Rule 15c2-12”) as of the date of the Official Statement relating to the Bonds, after taking into account any amendments or interpretations of Rule 15c2-12, as well as any changes in circumstances; and
- (c) any such modification does not materially impair the interests of the beneficial owners, as determined either by parties unaffiliated with the Issuer (such as bond counsel), or by the approving vote of the registered owners of a majority in principal amount of the Bonds then outstanding pursuant to the terms of this resolution, as it may be amended from time to time, at the time of the amendment.

The Issuer agrees that the annual financial information containing modified operating data or financial information will explain, in narrative form, the reasons for the modification and the impact of the change in the type of operating data or financial information being provided.

The provisions of this Section shall terminate upon payment, or provision having been made for payment in a manner consistent with Rule 15c2-12, in full of the principal of and interest on all of the Bonds.

**Section 8.** The actions of the County Manager, the County Attorney and the Finance Director of the Issuer in applying to the Local Government Commission of North Carolina to advertise and sell the Bonds are hereby approved and ratified. The Local Government Commission of North Carolina is hereby requested to ask for sealed and electronic bids for the Bonds by distributing a notice and printing and distributing a Preliminary Official Statement relating to the sale of the Bonds. The Local Government Commission of North Carolina is also hereby requested to print and distribute an Official Statement relating to the sale of the Bonds. Such Preliminary Official Statement, dated February 15, 2008, and substantially in the form of the draft thereof presented to the Board of Commissioners, is hereby approved, and the Chairman of the Board of Commissioners, the County Manager and the Finance Director of the Issuer are each hereby authorized to approve changes in such Preliminary Official Statement and to approve and execute such Official Statement for and on behalf of the Issuer.

**Section 9.** Regions Bank, in the City of Charlotte, North Carolina, is hereby appointed as escrow agent in connection with the refunding of certain of the bonds to be refunded by the issuance of the Bonds (the "Escrow Agent"), subject to the right of the governing body of the Issuer to appoint another Escrow Agent as provided in the Escrow Deposit Agreement hereinafter mentioned, and as such shall perform its responsibilities as provided in such Escrow Deposit Agreement. Such Escrow Deposit Agreement, substantially in the form of the draft thereof presented to the Board of Commissioners, and the creation of the Escrow Fund and the other arrangements described therein to accomplish such refunding are hereby approved, and the Chairman of the Board of Commissioners of the Issuer and the Clerk to said Board are each hereby authorized to approve such changes in such Escrow Deposit Agreement as are necessary and to execute such Escrow Deposit Agreement for and on behalf of the Issuer.

**Section 10.** The appointment of BB&T Capital Markets, in the City of Winston-Salem, North Carolina, as financial advisor to the Issuer in connection with the issuance of the Bonds, is hereby approved.

**Section 11.** Barthe & Wahrman, P.A., in the City of Minneapolis, Minnesota, is hereby appointed to verify the accuracy of certain mathematical computations in connection with the issuance of the Bonds, as described under the caption "Verification of Mathematical Computations" in the Official Statement mentioned above.

**Section 12.** The County Manager, the County Attorney and the Finance Director of the Issuer and their respective designees are hereby authorized and directed to take such other actions and to execute and deliver such other documents, certificates, undertakings, agreements or other instruments as may be necessary or appropriate to effectuate the issuance of the Bonds or the refunding of the bonds to be refunded in connection with the issuance of the Bonds. Such actions include determining on behalf of the Issuer whether or not to proceed with such refunding in whole or in part depending upon the cost savings available on the sale date of the Bonds and, if a determination is made to proceed with such refunding, giving or causing to be given notices of redemption

of such bonds to be refunded as required by the resolutions providing for their issuance passed by the Board of Commissioners and such related documents as may be applicable.

**Section 13.** This resolution shall take effect upon its passage.

**Upon motion of Commissioner Daryle Hogsed, seconded by Commissioner Kelvin Phillips, the foregoing resolution entitled: “RESOLUTION PROVIDING FOR THE ISSUANCE OF \$15,745,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2008” was passed by the following vote:**

**Ayes: Commissioners Lynn Bullock, Jason Chappell, David Guice, Daryle Hogsed and Kelvin Phillips.**

**Noes: None**

PROCESS FOR DETERMINING THE COST OF A NEW COURT FACILITY AND THE IMPACT OF MOVING THE COURT FACILITIES OUT OF THE DOWNTOWN

Commissioner Guice felt it was important that Commissioners move forward with recommendations the Manager presented to them. Although the process is very thorough, Commissioner Guice made a few recommendations to the process. He asked the Commissioners to consider not limiting the scope to Morris Road. He suggested that the committee look at the cost of constructing a new facility for court functions at the Morris Road site, outside of the downtown area or the present site. Commissioner Guice also suggested that elected officials not serve on either of the two committees. He recommended that Rick Lasater replace him as the representative from Probation and Parole and for Project Manager Larry Reece to replace the other Commissioner Representative.

Chairman Chappell agreed that elected officials should not serve on either committee. Commissioner Hogsed also agreed and added that no potential candidate should serve on either committee as well.

Commissioner Bullock asked if Commissioners are suggesting delaying the process until after the filing period ends. He said some of the suggested committee members may have an interest in running for office. Commissioner Hogsed said it would be appropriate to approach those individuals and find out their intentions. Commissioner Guice added, referring to an email from Commissioner Phillips, that we continue this process because we are spending taxpayer dollars.

Commissioner Phillips suggested increasing the number serving on each committee to nineteen, with the additional members being citizens. He asked that rather than having the committees determine those and to avoid bias and favoritism, to put those interested citizens' names in hat and draw names.

After further comments and suggestions, **Commissioner Guice moved that we give the instructions to the Manager with regard to the document that's been prepared**

**adding that the meeting should be held in the evening if at all possible, and that the make up of both committees go to 19 each and those additional members come from the general public and that those names be put in a hat and drawn out. Chairman Chappell seconded the motion. The motion passed unanimously.**

## NEW BUSINESS

### BUDGET AMENDMENTS, BUDGET TRANSFERS, AND FINANCIALS FOR SECOND QUARTER FY 2007-2008

Finance Director Gay Poor reported on the Budget Amendments, Budget Transfers and Financials for the second quarter of FY 2007-2008.

#### Budget Amendments

During the second quarter of FY 2007-2008, the General Fund Budget increased by \$122,716. Over half of the increase was attributable to employees who received vacation pay in lieu of taking vacation. Almost half was for compensation and benefits for employees who left County employment.

The County also received \$19,000 in proceeds from insurance claims, \$15,000 for three vehicles in the Sheriff's Office, \$2,000 for an ambulance, and \$2,000 for an Emergency Management laptop that was stolen.

The County recouped \$12,000 in New Adventure Center fees. \$10,000 was appropriated to the Fund Balance to lend support to the Transylvania Heritage Coalition's establishment of a museum.

The total increases in the General Fund Budget for the year is \$885,820 and brings the General Fund Budget to \$43.4 million.

#### Revenues

As of December 31, 2007, actual General Fund revenues exceeded expenditures by \$4.1 million. Through the second quarter the County has received \$22.5 million in revenue, 54% of the total budgeted, excluding fund balance appropriations. This percent is driven by the collection of property taxes. The County is slightly ahead of where it was this time last year.

Sales taxes through December represented only three months worth of sales taxes which is slightly below budget. Interest earned on investments have already exceeded the total budgeted for the year by \$54,000 which is attributable to higher interest rates and because the cash balance has remained relatively constant.

Departmental revenues derived from fees are 40% of the budget, with all three of the major sources currently falling short. The three major sources are the Register of Deeds, Building Permitting, and EMS fees. The decreases are attributable to the nationwide slump in the housing market and delays in filing EMS claims.

Departmental revenues derived from grants and other federal and state sources are approximately 36% below budget which are tied to a lag in the disbursements for Health, Social Services and Child Development programs. In addition, there is \$240,000 of State ADM funds that have not been received. The County has applied for the \$125,000 that is currently available.

Through December, 44% of the budgeted intergovernmental revenues had been received and 43% of all other revenues. At this point, all revenues are still anticipated to reach budgeted levels by the end of the year.

#### Expenditures

Year to date expenditures have totaled \$18.4 million or 43% of the total appropriated for the year. Most expenditures are incurred fairly evenly throughout the year but there are a few that are not, such as capital.

Through December 47% of budgeted expenditures had been spent. Major capital projects and purchases included re-pointing of the brick at the Courthouse, the purchase of an ambulance, tactical repeaters for law enforcement communications and nine vehicles. The items that remain are the rock wall stabilization project, the purchase of two additional vehicles and the 911 switching equipment.

Less than half the funds budgeted for Medicaid have been spent. Through December payments had been made for only five months but indications are that the total for the year could be approximately \$200,000 less than originally projected.

None of the funds appropriated for the implementation of the Pay Classification and Compensation Study and the Pay for Performance program had been spent by the end of 2007. Salary and wage adjustments will go into effect later this month.

A few non-recurring items are the re-pointing of the brick at the Courthouse, stream bank stabilization projects, and reimbursement of building permit fees to Transylvania Community Hospital.

The cost of gasoline and diesel affects several departments. Gasoline prices are approximately 3% more than budgeted.

#### Solid Waste

Halfway through the year, the County received about half of the revenues that it had anticipated. The operational revenues exceed those received during the same period last year. Year-to-date expenses have amounted to \$2.9 million, \$2.1 million of which was for the construction of Cell No. 5.

#### Occupancy Tax Fund

The County has collected 61% of the annual budgeted revenues, less than collected during the first six months of the prior year. Year-to-date expenditures are 44% of the

annual appropriations but are 33% greater than last year's due mainly to higher advertising expenditures.

#### Self-Insurance Fund

Revenues are 49% of the budget. Expenditures are 45% of budget. Weekly claims have averaged \$40,000, the same as the average for the first half of FY 07.

#### Community Development Block Grant- Scattered Site Housing

Through December \$34,262.59 has been received in reimbursement of the costs incurred by the County for rehabilitation contract services, matching the amount spent for approved work on houses.

#### New Public Safety Facility Fund

During the first six months of FY 08, the County has spent \$85,000, mostly for architectural services.

#### General Capital Projects Funds

Through the second quarter, expenditures totaled \$169,000. \$62,000 was for the IT Project, \$38,000 for Courthouse security measures and renovation designs, \$31,000 for architecture services for the Health Department expansion, \$18,000 for the completion of the cell tower and \$10,000 each for architectural services for the Johnson Street parking lot and the animal shelter.

**Commissioner Guice moved to approve the Budget Amendments, Budget Transfers, and Financials for the Second Quarter of FY 2007-2008, seconded by Commissioner Phillips and unanimously approved.**

#### DELINQUENT TAXES AS OF JANUARY 30, 2008

Tax Administrator David Reid asked the Commissioners to order him to advertise the delinquent tax list per NCGS.

**Chairman Chappell moved to approve the list of Delinquent Taxes owed to Transylvania County as of January 30, 2008, seconded by Commissioner Phillips and unanimously approved.**

#### MANAGER'S REPORT

The Manager reported the following:

- The Budget process is under way. Departments are working on their budgets and they have been given some specific guidelines to work under. Their budgets are due at the end of February.
- He reminded Commissioners that a special meeting has been scheduled to discuss health insurance options. The meeting has been scheduled for March 4, 2008 at the Rogow Room.

## PUBLIC COMMENT

Mr. Charles “Pete” Peters: Mr. Peters asked what the Commissioners plans were for vacated space in the Courthouse if the court functions are relocated to a different site. Mr. Peters also stated that he was not aware of the County’s plans to use the space vacated by the Health Department when it moves to the third floor of the DSS building. He urged Commissioners to consider these issues during their study process and asked that the information be made available to the public.

## COMMISSIONERS’ COMMENTS

Commissioner Bullock addressed Mr. Peters. Commissioner Bullock said he wants to allow the committees to do the work charged to them by the Commissioners before making a decision about possible vacated space. He encouraged Mr. Peters to participate in the process.

Commissioner Hogsed echoed Commissioner Bullock’s comments. Commissioner Hogsed said he has thought about the how the vacated space would be used but again he wants to allow the two committees to work through the process. His goal is to make sure the Courthouse is used for daily business in some form. He thanked Mr. Peters for his comments and encouraged him to participate.

Commissioner Guice asked that Mr. Peters visit County Administration to see the plans for the Health Department, plans that have been public record for some time. He also encouraged Mr. Peters to participate in the study process. Commissioner Guice believes the process approved by the Commissioners tonight is a good process that will give citizens an opportunity to participate. He said he has heard several concerns from citizens and business owners, all of which are legitimate concerns. Commissioner Guice pointed out that over the last thirty years, the offices of the Clerk of Court, the District Attorney, Probation, and others have grown significantly but the County has never addressed the issue with regards to the facility needs or the way business is conducted. He further stated that until Commissioners decided to lock the front doors of the Courthouse, he did not take into consideration the historical nature of the building and its importance to the people in this community. He said Commissioners are willing to pause and take a look at all these issues.

Chairman Chappell also encouraged citizens to participate in this process and urged them to request information from staff if they have questions or concerns. He noted that the plans for the Health Department have been discussed in the public forum on several occasions and that the plans call for space to better be utilized.

There being no further business to come before the Board, **Commissioner Phillips moved to adjourn the meeting, 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