

MINUTES
JOINT MEETING OF THE TRANSYLVANIA COUNTY BOARD OF
COMMISSIONERS AND BREVARD CITY COUNCIL
January 6, 2009 - Transylvania County Library, Rogow Room
7:00 p.m.

The Transylvania County Board of Commissioners met in a special joint session with Brevard City Council on Tuesday, January 6, 2009 at 7:00 p.m. in the Rogow Room at the Transylvania County Library.

Commissioners present were Lynn Bullock, Chairman Jason Chappell, Mike Hawkins and Daryle Hogsed. Commissioner Kelvin Phillips was absent. Also present were County Manager Artie Wilson, Planning and Economic Development Director Mark Burrows and Clerk to the Board Trisha McLeod.

Brevard City Council Members present were Larry Canady, Rodney Locks, Mack McKeller, Mayor Pro Tem Mac Morrow and Dee Dee Perkins. Mayor Jimmy Harris was absent. Also present were City Manager Joe Albright, City Planning Director Josh Freeman and City Clerk Glenda Sansosti.

Media: *Hendersonville Times News* – Leigh Kelley
Transylvania Times – Derek McKissock

There were approximately 45 people in the audience.

WELCOME/CALL TO ORDER

Chairman Jason Chappell presiding called the Board of Commissioners' meeting to order at 7:05 p.m. Mayor Pro-Tem Mac Morrow presiding called the Brevard City Council meeting to order at 7:08 p.m.

Both welcomed everyone to the meeting and thanked those that participated in this process. They explained the purpose of the meeting was to hear the final report and recommendations from the Highway 64 and 280 Joint Corridor Protection Study Committee.

PRESENTATION OF 64/280 CORRIDOR REPORT

Mayor Pro-Tem Morrow served as the Co-Chair of the Corridor Committee. He began by asking City Planning Director Josh Freeman to show slides with maps of the areas that were being studied by the Committee. Mr. Freeman showed maps of the current ETJ, the maximum potential ETJ, the minimum ETJ expansion being considered by the City of Brevard, and the project study area.

The Corridor Committee was charged with the following five tasks:

1. Identify and recommend growth management objectives for the corridors entering into the City of Brevard.
2. Identify and recommend growth management tools and techniques that will be applied to US Highway 64 East and NC Highway 280.
3. Identify and recommend the geographic boundary of the areas to which these tools and techniques will apply.
4. Recommend a timeline and strategy for implementation.
5. Prepare and present this information at a joint meeting of Brevard City Council and the Transylvania County Board of Commissioners.

Mayor Pro-Tem Morrow reported that the Committee met eight times over the course of a couple of months and stayed on task. Although there were some differences about how future growth should be managed, the Committee recognized that growth is inevitable. This process provided a unique opportunity for the City, County and residents of Pisgah Forest to discuss growth management, which had never been done before. It was obvious the residents of Pisgah Forest were opposed to the ETJ expansion into their community; however the City of Brevard believes ETJ planning is the key to maintaining the character of that neighborhood. The Committee's recommendations included measures by which the County would manage the growth in the corridors while addressing the City's concerns and without extending the ETJ.

Commissioner Hogsed, who also served as Co-Chair of the Committee, thanked City Council for allowing the County to be involved in this process and thanked the citizens of Pisgah Forest for their input and participation. This process allowed everyone to better understand each other's concerns and determine ways to protect the character of the community, which was of utmost importance. The Committee identified several areas and issues of concern, including density, traffic along the corridors, watershed regulations, etc. He again thanked all those who were involved in this process and those that will continue to be involved.

RECOGNITION OF COMMITTEE MEMBERS

Mayor Pro-Tem Morrow recognized the members and alternate members of the Corridor Committee and Staff:

1. Mark Burrows, County Planning Director
2. Jane Castevens, Citizen Stakeholder
3. Josh Freeman, City Planning Director
4. Ladson Hart, Citizen Stakeholder
5. Rick Lasater, City Planning Board
6. Sarah Mathis, Citizen Stakeholder
7. Ken Norman, Citizen Stakeholder
8. Steve Owen, Citizen Stakeholder
9. Mason Sexton, County Planning Board
10. Paul Welch, City Planning Board
11. Jackie Whitmire, County Planning Board
12. Mike Ansari, Citizen Stakeholder

13. Katie Baer, City Planning Board
14. Clifford Coggins, Citizen Stakeholder
15. John Dillon, Citizen Stakeholder
16. Kimzey Jackson, City Planning Board
17. Keith Norman, Citizen Stakeholder
18. Clentis Williams, Citizen Stakeholder
19. Joe Albright, City Manager
20. Brad Burton, City Zoning Administrator
21. Desiree Perry, Planning Department Secretary
22. Artie Wilson, County Manager
23. Daryle Hogsed, County Commissioner, Co-Chair
24. Mac Morrow, Mayor Pro Tem, Co-Chair

OVERVIEW OF REPORT AND RECOMMENDATIONS/DISCUSSION OF REPORT BY BOTH BOARDS

Mayor Pro-Tem Morrow entertained comments and questions from both Boards.

Commissioner Hawkins said it may be useful if some of the other Committee members commented about the process or shared with the group before the Boards discussed the recommendations. There were no comments from Committee members.

Councilman Locks thanked the County Commission, City Council and the community for coming together and making this process work. He said he has spoken with many elected officials who said they would never have gone through this process. He requested permission to submit the report to Senator Clodfelter who was impressed by the collaborative efforts of the two local governments and citizens. Senator Clodfelter felt this effort could serve as a model for North Carolina.

Commissioner Bullock concurred with Councilman Lock's comments and stressed the importance of citizen involvement in local government. Progress and development are inevitable and the residents of Pisgah Forest have set a precedent for all other communities in the County, showing them they can have a say in what they want their communities to look like. Commissioner Bullock complimented both Boards and the citizens for setting an example for other communities.

Commissioner Hawkins asked if the Committee had prioritized the recommendations and if the Planning Board was ready to move forward if instructed so by Commissioners. Planning Board Chairman Mason Sexton responded that all of the recommendations are somewhat intertwined with each other and the Planning Board is ready to move forward upon the direction of the Board. Planning Director Mark Burrows added that three items are required by North Carolina General Statutes to prevent an ETJ from expanding into a community: Subdivision Ordinance, Enforcement of Building Codes, and Zoning. The Committee reviewed the City's Unified Development Ordinance (UDO) and County Ordinances. There are other areas in which the County has no ordinances or regulations in place and so these are the areas the Planning Board would focus on. Mr. Burrows also

noted that the Planning Board's work would come back to Commissioners as a package, not as a number of stand alone ordinances.

Councilman McKeller asked if the 12 to 14 month time frame was adequate to implement growth management tools. Mr. Sexton replied yes.

PUBLIC COMMENT

Tommy Shipman: Mr. Shipman asked which direction the County was headed, open zoning or allowing the ETJ.

Chairman Chappell responded that neither Board could respond at this time, noting that the purpose of the meeting was for the Committee to present their report. The Board of Commissioners plans to discuss this item at their next regular meeting. Commissioner Hogsed added that Commissioners will have a better idea of what the plan may be after the Planning Board completes its work. Mr. Shipman also asked for better explanation of the maps posted by the City. Mr. Burrows said the recommendations only include the areas that are along the highway, although according to NCGS, the City has the right to extend its ETJ.

Ken Norman: Mr. Norman asked if the City has accepted the recommendation from the Committee. Both Boards responded that the purpose of the meeting was to accept the report. Mr. Norman said the citizens of Pisgah Forest want representation from the County, not the City, so he is eager to learn if the City plans to accept the Committee's recommendations. Councilman McKeller said the acceptance of the report does not mean either Board is agreeing to follow all the recommendations. Chairman Chappell again noted the Board of Commissioners will be discussing this item at their next regular meeting.

Steve Owen: Mr. Owen asked how much time the City is willing to allow the County to implement the Committee's recommendations. Councilman Locks said the report indicates the County has one year to implement the recommendations. He asked the Board to share the recommendations with the public at this time in order to eliminate further confusion. Councilwoman Perkins asked if the report had been published in the newspaper. She was informed that the Transylvania Times ran a story summarizing the Committee's work but the full report had not been published. Councilwoman Perkins concurred with Councilman Locks that the recommendations should be shared with the members of the audience.

Councilman Locks said if the County accepts the recommendations, then the County will manage this area, not the City. If the County agrees to implement the recommendations to manage the growth of the corridors, it should be acceptable to the City. Commissioner Hawkins added that the Board of Commissioners is making a good faith effort to address the concerns of the City and the Committee and the planning period will take place over the next year. Councilman McKeller agreed, stating if the County can implement measures to manage the growth in the corridors, the City has less need to extend its ETJ;

however if the County is not willing to move forward, the City will be more likely to extend the ETJ. Chairman Chappell and Commissioner Hogsed again stated that the Board will discuss this item at the next meeting on Monday and give direction to the Planning Board.

Tommy Shipman: Mr. Shipman asked how Mills River and other municipalities can legally extend their jurisdictions into other counties. The response from Chairman Chappell and Councilman McKeller was the same in that ETJ's do not adhere to county lines and according to NCGS; municipalities can extend their ETJ's one mile outside their city limits.

Councilman Canady asked how long it would take the County to take action or implement a process to prevent a municipality from another county from extending its ETJ into Transylvania County. Mr. Burrows pointed out that unless the County had those three measures in place (Subdivision Ordinance, Enforcement of Building Codes, and Zoning) and as long as the municipality follows the process outlined in the NCGS, the municipality could move forward with extending its ETJ into another county. Commissioner Hogsed said he would take the same approach that has been taken here, in that he would ask the County to act quickly to protect the citizens.

Ken Norman: Mr. Norman informed both Boards that Mills River has no plans to extend into Transylvania County.

Further discussion ensued about the extension of ETJ's into other counties and annexation. Councilwoman Perkins said the City completed an annexation study for Pisgah Forest. The City made a decision not to annex the area because of the expense involved. She expressed concern about the time invested and involved in this process, commenting that the City began looking at extending the ETJ a year ago and by allowing the County 12 to 14 months to plan, the earliest point of implementation of growth management measures would occur in April 2010. She expects the area to grow quickly along the corridors as Davidson River Village develops. The report offers instituting a moratorium on development which would protect the corridors while the County is working with the Planning Board.

Steve Owen: Mr. Owen asked if Davidson River Village was in the ETJ. Members of City Council responded that it is partially in the ETJ and proceedings are taking place to include it all. Mr. Owen commented that most of the growth will be at the Davidson River Village site which the City will already control.

Tommy Shipman: Mr. Shipman asked if the City was allowing the County 14 months to put its measures in place. Councilwoman Perkins said the City will respond according to the County's recommendations at its next meeting. She also said she would like some assurances that the County will manage the growth now according to the recommendations from the report.

Commissioner Hawkins said Commissioners also need some acknowledgment and a pledge from the City that it will not extend its ETJ and allow the County the time to accomplish the recommendations to the Planning Board. Mayor Pro-Tem Morrow said to speculate on what the City may or may not do is premature. The City plans to discuss this further at its retreat at the end of January. Commissioner Bullock said Commissioners will inform the City of its action after the Board discusses it on Monday. He commented that a moratorium would prevent all development in the area during the planning phase and mentioned that an application process could be instituted instead. Councilwoman Perkins stressed that the corridors are vital and important and said she hopes the County will consider short term measures while they plan for managing future growth. Chairman Chappell and Commissioner Hogsed agreed that imposing a moratorium on all development was put forth as an option, not a recommendation.

Ken Norman: Mr. Norman said it appears as though the citizens were lured into believing this report would get an approval by the City because it is what the citizens wanted. Councilman McKeller responded that the City can not commit to anything during this meeting because there is a possibility the County will not adopt the recommendations or the Planning Board will not be able to follow through. Mr. Norman said he did not understand the City's urgency in moving forward. Councilman McKeller said the urgency lies in the unknown and that everyday something has the potential of moving into the Pisgah Forest community and changing the character of that community.

Clifford Coggins: Mr. Coggins said this is all about money, not protecting the citizens.

Unknown gentleman: The gentleman said it appears the City is holding the ETJ over the County's head. He asked Commissioners if they plan to adopt these recommendations. Chairman Chappell responded that this joint meeting is just a starting point for discussions and planning.

Tommy Shipman: Mr. Shipman asked if there were plans for the upper end of the County. Councilman McKeller said the ETJ is already extended to its maximum with the current City limits on the other end of Brevard.

Rick Lasater: Mr. Lasater said he understands the purpose of the meeting tonight was for the Committee to present its report to both Boards and this is just the beginning of the communication process for both Boards. Commissioner Hawkins said if the Commission votes to move forward it would be useful for both Boards to meet quarterly to provide reports, etc. and determine if there are other opportunities for which the Boards may have to work together. Councilman McKeller noted one of the recommendations is for both Boards to pursue a joint water and sewer policy.

Unknown gentleman: The gentleman asked if the County has ever placed a moratorium on development and how it would be fair to someone who wishes to sell his or her property. Chairman Chappell responded that the moratorium was listed in the report as an option, not a recommendation. Councilman McKeller said the report recommends a

12 month moratorium on the subdivision of land and issuance of building permits in the area.

Unknown gentleman: The gentleman asked how the County managing the area will keep bars from opening in the area. Chairman Chappell said there are already exceptions in the County.

Spud Ayers: Mr. Ayers said in 2000 the City of Brevard informed the citizens that they protected the corridors. He believes the citizens still protect the corridors. He asked how these recommendations are supposed to protect the citizens when they have protected the corridors all along. Councilman Locks agreed that in 2000 the citizens did protect the corridors. Today, however, there are many lots for sale in Pisgah Forest and the City's concern is over who or what will move into the community to change its character. He said if there were no lots for sale, he would agree that the citizens still protect the corridors. Throughout this process, the citizens have had a say in what they wish their community to look like and it does not include the City of Brevard extending its ETJ. Councilman Locks explained the next step in the process would be for the County to move forward with the recommendations and instruct the Planning Board to begin their work.

Mike West: Mr. West asked what the purpose of the meeting was if the City has already determined its course of action although Transylvania County citizens are against zoning. Councilman Locks said it is not the City's intent to hold Commissioners hostage if they decide to move in a different direction. He said he it is now up to the County to make the decision to move forward. Mr. West asked what the City's intentions would be if the citizens of Transylvania County say no to zoning. Councilman McKeller said the City of Brevard has not yet determined how it would move forward; however it is clear from the citizens that served on this Committee that growth in the corridors needs to be controlled. The City is not concerned with Countywide zoning, only the corridors. Mr. Burrows noted that zoning can occur within 640 acres with a minimum of 10 separate parcels.

Sarah Mathis: Ms. Mathis agreed that both Boards should meet quarterly to report progress and prove to the citizens that these recommendations are going to be implemented. She urged the Board of Commissioners to move forward. Chairman Chappell said, depending on the recommendations from the County Commission, both Boards will continue their ongoing dialogue and meet in some capacity. There are more steps the Board has to go through in order to implement any recommendations. Councilman Canady commented that City Council will learn about the County's intentions after its meeting on Monday.

Mike Ansari: Mr. Ansari commented that he does not see the for sale signs the City is indicating.

Commissioner Bullock commented that some growth management measures must be implemented in the corridors or else the City will extend its ETJ. The Board will continue to work with the City and the citizens to make this possible. He said there are

no implications for any other part of the County unless citizens make that request to the Board. Commissioner Hogsed added that the City was looking at a much broader area before this process started. The citizens of Pisgah Forest came forth to both Boards saying they did not want protection. His concern was to preserve as much of one's property rights as possible, while still addressing some of the needs and concerns of the City. The County and the citizens have compromised with the City on this issue.

Ken Norman: Mr. Norman said the Committee put a lot of time and effort into this report. They compromised as much as they could while still protecting their property rights. Mr. Norman said if anything is done in their community, it should be implemented by the County. The Committee's recommendations give the County Commission control over the corridors and a voice to the people. He urged the City to allow the County to move forward with the Committee's recommendations.

FINAL COMMENTS

Chairman Chappell thanked the City for allowing this process to happen. Mayor Pro-Tem Morrow said uncertainty is part of future planning but a failure to plan for the future because of this uncertainty is irresponsible. He thanked all those who participated in the process.

City Manager Joe Albright asked the Boards to recognize Susan Miller, Executive Director for the Center for Dialogue, who facilitated the Committee meetings.

ADJOURNMENT

There being no further business to come before the Board of Commissioners, **Commissioner Bullock moved to adjourn the Board of Commissioners' meeting, seconded by Commissioner Hogsed and unanimously carried.**

There being no further business to come before City Council, **Councilman McKeller moved to adjourn the City Council meeting, seconded by Mayor Pro Tem Morrow and unanimously carried.**

The meeting adjourned at 8:35 p.m.

Jason R. Chappell, Chairman
Board of County Commissioners

ATTEST:

Trisha D. McLeod
Clerk to the Board