

**MINUTES**  
**TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS**  
**March 9, 2009 – REGULAR MEETING**

The Board of Commissioners of Transylvania County met in regular session on Monday, March 9, 2009 at 7:00 p.m. in the large courtroom of the Transylvania County Courthouse.

Commissioners present were Lynn Bullock, Chairman Jason Chappell, Mike Hawkins, Daryle Hogsed and Vice-Chairman Kelvin Phillips. Also present were County Manager Artie Wilson, County Attorney David Neumann and Clerk to the Board Trisha McLeod.

Media: *Hendersonville Times* – Leigh Kelley  
*Transylvania Times* – Mark Todd

There were approximately 30 people in the audience.

**CALL TO ORDER**

Chairman Jason Chappell presiding called the meeting to order at 7:03 p.m.

**WELCOME**

Chairman Chappell welcomed everyone to the meeting and thanked the members of the audience for participating in their County government.

**PUBLIC HEARING**

**SECTION 5311 TRANSPORTATION GRANT**

Transportation Director Keith McCoy requested permission to apply for federal transportation grant funding titled Section 5311. A Public Hearing is required in order to make application. He reported the grant covers most of the administrative and capital costs for the Transportation Department. He further reported there has been no indication these funds will be reduced. For FY 2010, the County is requesting the following amount in funding from the Section 5311 Transportation Grant:

<b>Project Share</b>	<b>Total Amount</b>	<b>Local Match</b>
Administrative (15%)	\$180,775	\$27,116 (15%)
Capital (Vehicles & Other)	\$ 56,250	\$ 5,625 (10%)
	\$237,025	\$32,741

**Chairman Chappell declared the Public Hearing open at 7:05 p.m.** There were no comments from the public. **Chairman Chappell declared the Public Hearing closed at 7:06 p.m.**

This item will be added to the March 23, 2009 Board of Commissioners' Agenda for approval.

### **PUBLIC COMMENT**

Ken Norman: Mr. Norman distributed a map to Commissioners outlining the proposed ETJ extension by the City of Brevard. He reported the City is moving forward with the extension of the ETJ which includes some areas that are directly linked to the corridors. Mr. Norman commented that the City, according to the study put forth by the Corridor Study Protection Committee, agreed to allow the County up to 14 months to implement a plan to regulate these areas. He further commented he was unaware the ETJ expansion would include Cemetery Road. Mr. Norman asked the Board to further investigate this matter.

Sheila Galloway: Ms. Galloway commented about the property valuation notices citizens received this week, noting that most of the values have increased significantly. She asked the Board to consider lowering the property tax rate to assist citizens in these economic times.

### **AGENDA MODIFICATIONS**

The Manager reported on the Agenda modifications. He requested to add Item XII-A Closed Session per NCGS 143-318.11 (a) (3) to consult with an attorney reference lawsuit Renee Crocker, Renee Roof, Julie Sprouse and Joy Waldrop versus Carson Griffin, Transylvania County Department of Social Services and Transylvania County.

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

### **CONSENT AGENDA**

**Commissioner Hawkins moved to approve the Consent Agenda, seconded by Commissioner Bullock and unanimously approved.**

The following items were approved:

#### MINUTES

The Minutes of the February 9, 2009 regular meeting were approved.

#### FACILITIES USE REQUESTS

The use of the Gazebo by WSQL Radio for their Southern Exposure Live Broadcast on Saturdays from May 30, 2009 through September 5, 2009 from 6:30 p.m. to 9:30 p.m. was approved.

## APPOINTMENTS

### BOARD OF EQUALIZATION AND REVIEW

**Commissioner Phillips moved to reappoint Maryln McLemore to another term, seconded by Commissioner Hogsed and unanimously approved.**

**Commissioner Hawkins moved to reappoint Bill Ives as Chairman, seconded by Commissioner Hogsed and unanimously approved.**

### CRIMINAL JUSTICE PARTNERSHIP ADVISORY BOARD

**Commissioner Bullock moved to appoint Karey Treadway to serve in the Probation/Parole Officer capacity, seconded by Commissioner Phillips and unanimously approved.**

**Chairman Chappell moved to appoint Dienette Butler to serve in the Mental Health/Substance Abuse capacity, seconded by Commissioner Phillips and unanimously approved.**

**Commissioner Hogsed moved to reappoint John Flynn, Michael Johnson, Sheriff David Mahoney and Judith West to additional terms, seconded by Commissioner Bullock and unanimously approved.**

## OLD BUSINESS

### COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) SMALL BUSINESS AND ENTREPRENEURIAL GRANT

Transylvania County was recently awarded a \$250,000 CDBG Small Business and Entrepreneurial Grant. In order to move forward with the grant there are several documents the Board of Commissioners needs to approve. Staff is recommending Land-of-Sky Regional Council administer the grant for Transylvania County for \$18,500, including \$1,500 for the planning process.

**Chairman Chappell moved to approve the following:**

- 1. Approve the letter stating that Transylvania County will contract with the Land of Sky Regional Council for administration of the grant;**
- 2. Approve Resolution 15-09 Chairman is Authorized to Execute the 2008 Funding Approval and Special Conditions Document on Behalf of the County;**
- 3. Approve the Technical Service Contract with Land of Sky Regional Council;**
- 4. Approve Equal Employment and Procurement Plan;**
- 5. Approve Resolution 16-09 Small Business and Entrepreneurial Assistance Grant Programs-Citizens Participation Plan;**
- 6. Approve Local Economic Benefit for Low and Very Low Income Persons Plan-CDBG Program;**
- 7. Approve Transylvania County's Plan to Further Fair Housing;**
- 8. Approve Resolution 17-09 To Update Transylvania County's Analysis of**

- Impediments to Fair Housing for Community Development Block Grant Programs Grant #08-C-1849;**
- 9. Approve Resolution 18-09 to Adopt Section 504 Plan, Update to Fair Housing Plan, Section 3 Plan and EEO Policy for Transylvania County;**
  - 10. Approve CDBG 2008 Small business and Entrepreneurial Assistance Grant Ordinance No. 19-09;**
  - 11. Approve Transylvania County Citizen Participation Plan for Community Development Block Grant Program (08-C-1849); and**
  - 12. Approve Resolution 20-09 Transylvania County Development Program-Optional Coverage Relocation Plan Resolution.**

**The motion was seconded by Commissioner Phillips.** Commissioner Hawkins inquired about the connection between the grant and the adoption of fair housing regulations. Karen Kiehna with Land-of-Sky Regional Council explained if an entity receives CDBG grant funds through HUD (Housing and Urban Development), federal regulations require the promotion of fair housing and fair housing guidelines and assumes new hires will come from low to moderate income households. Economic Development Director Mark Burrows added that the two businesses receiving grant funding have indicated they will hire 10 individuals who represent the low to moderate income bracket. **The motion was approved unanimously.**

(Resolutions 15-09, 16-09, 17-09, 18-09, 19-09 and 20-09 are here by incorporated by reference and made a part of these Minutes.)

## **NEW BUSINESS**

### CHANGE ORDERS FOR THE PUBLIC SAFETY FACILITY

The Manager presented 10 change orders for Commissioners' approval totaling \$8,741.25, bringing the total amount of change orders to date to \$115,877. The remaining balance in the contingency line item is \$740,528.

The Manager reviewed the change orders as follows:

- #15 – Amount for multi-purpose path: The NCDOT has determined the multi-purpose path will not fit on US 64. The City has agreed the County can pay in lieu of in the amount of \$20,302.
- #26 & #27 – Additional data outlets, additional electric receptacles.
- #31 – Credit for miscellaneous items.
- #33 – Delete 12 floor receptacles (tied in with #27, some receptacles relocated).
- #34 – Weather delays: Because of weather problems, the contractor has been granted an additional four days to complete the project.
- #35 – Weather delays: Six additional days.
- #36 – Reroute water piping in the lobby in the amount of \$3,748.
- #38 – Delete Grinders in Evidence Area – The State indicated this can not be tied to the sewer system.
- #42 – Security covers on sprinkler system in the amount of \$13,078.

Minus the credits, the total amount of the change orders is \$8,741.25. The Manager also reviewed an analysis of expenditures for the Public Safety Facility as of February 27, 2009 as follows:

	<u>Actual</u>	<u>Budget Difference</u>	<u>% Remaining</u>
Architectural Fees	\$ 737,027	\$ 62,973	8%
Testing Fees	\$ 150,596	\$ 29,249	16%
LEED Certification	\$ 23,400	\$ 28,600	55%
Water & Sewer Connect	\$ 175,982	\$ 26,018	13%
Other	\$ 85,798	-\$ 148	0%
Subtotal	\$ 1,172,803	\$ 146,692	11%
Construction	\$10,405,249	\$6,638,751	39%
Payment-In-Lieu-Of	\$ 84,100	\$ 0	0%
Contingency	\$ 107,136	\$ 749,269	87%
Total Construction	\$10,596,226	\$7,388,020	41%
Furniture & Equipment	\$ 0	\$1,050,000	100%
Total	\$11,769,288	\$8,584,712	42%

If Commissioners approve the change orders, the amounts change as follows:

Contingency	\$ 115,877	\$ 740,528	86%
Total	\$11,778,029	\$8,575,971	42%

Commissioner Bullock inquired about the amount the County paid in lieu of for the sidewalks along Morris Road. The Manager said this item was previously approved by Commissioners. The current issue involves the multipurpose path along US 64, which was also agreed upon when the property was purchased. Commissioner Bullock questioned the payment in lieu of for the multipurpose path being the State has indicated the multipurpose path can not be constructed along US 64. The Manager explained, regardless of the State's findings, the City's UDO requires the construction of sidewalks and multipurpose paths or payment in lieu of, which is included in the original agreement between the City and County. The Manager further explained the County could construct the multipurpose path at a cost exceeding the City's payment in lieu of amount which would in turn affect the buffer requirements. Paying in lieu of is ultimately the cheaper alternative for the County. Commissioner Bullock commented the County should be careful about future agreements it enters into.

Commissioner Phillips said Commissioners do not have an issue with constructing the required sidewalks or multipurpose paths, but rather with the payment in lieu of requirement, saying it is a vehicle by which the City uses to extract monies from County residents to fund City projects. He further commented that the City does not use the monies to help businesses that incur these costs under the UDO requirements. Commissioner Phillips said both government entities should work more closely on future

projects in the best interest of the taxpayer.

Commissioner Hawkins inquired about future impacts the UDO may have on this project. The Manager said he is unaware of other issues relating to the UDO. He further noted neither the City nor the County realized the multipurpose path could not be constructed until a recent assessment by the NC Department of Transportation. Commissioner Hawkins commented the County should express its concerns about these issues during upcoming joint meetings with the City.

Commissioner Bullock asked if the County can designate the payment in lieu of funds for specific projects. The Manager said Commissioners can make recommendations but the City can use the funds how they see fit.

**Commissioner Hawkins moved to approve the 10 change orders. The motion was seconded by Chairman Chappell.** Commissioner Phillips questioned whether the covers on the sprinklers were added as a safety precaution. The Manager replied yes noting they were excluded from the plans. Commissioner Phillips recommended the County seek relief from the architect for omitting the covers from the plan being they are a safety requirement. The Manager said staff has been working with the architects resulting in several credits. Commissioner Phillips asked for documentation indicating credits and items added. After further comments, **the motion was approved unanimously.**

#### COMMUNICATIONS MOVE TO THE E911 CENTER

During the development of the plan to move the 911 equipment to the new Public Safety Facility staff encountered obstacles that led them to reexamine the communications plan. The original plan included purchasing new equipment using existing technology which was extremely expensive. Staff explored other options, including the latest technology, in order to meet the GEO redundancy as described by the 911 Board.

The new proposal will allow the County to utilize wireless, microwave and satellite communications. The project would be completed in four phases as follows:

- Phase 1: Getting base equipment in place (wireless, microwave, satellite) at a cost of \$312,250.
- Phase 2: Replacement of four transmitters, costing \$60,000.
- Phase 3: Replacement of the remaining 36 transmitters to digital simulcast trunking and other equipment at a cost of \$655,000.
- Phase 4: Allow for interoperability at all tower sites with the North Carolina VIPER radio system, costing \$150,000.

The Manager emphasized the importance of Phase 1 in moving to the new E911 center. He stated that the Public Safety Facility project includes \$250,000 for the construction of a new tower which can be substantially reduced under the new plan, leaving a balance of \$62,250 needed to move forward with the project. The Manager recommended needed funds come from the contingency funds allocated for the project. If there are funds

available at the close of the project, he recommended moving forward with replacing the four transmitters in Phase 2.

The Manager noted this project was submitted as a shovel ready project for consideration under the Federal Stimulus Package. The County has not yet been approved for funding. The Manager stressed the criticalness of getting approval for the project in order to have communications capabilities at the new E911 Center. He also pointed out the County will save over \$400,000 by upgrading to the new technology. He asked Communications Director Kevin Shook and Emergency Services Director David McNeill to comment.

Mr. Shook said the new technology allows the County to be mobile and portable during an emergency situation and provides backup capability. A similar system was used in Texas during the last hurricane in which officers were able to dispatch responding agencies from another location. Mr. Shook further commented the new technology gives the County an advantage over surrounding counties in being able to provide emergency services to the public.

Mr. McNeill said the key changes included the services Comporium was able to provide. With their help, the County was able to reduce the size of the communications tower thus making it less obtrusive to neighbors. The new equipment also provides backup power which will subsequently be used during the move to the Public Safety Facility. Mr. McNeill agreed with the Manager's recommendation to move forward with this project. In response to questions from Chairman Chappell and Commissioner Hawkins, Mr. McNeill said, without the upgrade, some of the equipment would remain in the old Sheriff's Department which will create problems in the future. Mr. McNeill further noted the new system requires additional startup costs but will save the County monies in the long term.

After further comments, **Commissioner Hawkins moved to authorize the change which would include taking \$62,250 from the Public Safety Contingency Funds to cover the cost, seconded by Commissioner Hogsed and unanimously approved.**

The Manager noted staff is seeking grant funding for this project as well.

#### BREVARD RESCUE SQUAD

Brevard Rescue Squad is requesting the donation of a surplus vehicle from the Sheriff's Department by the Board of Commissioners. Several years ago, the Board donated a surplus vehicle to them which is now worn out. If the Board agrees to make the donation, Brevard Rescue Squad will dispose of the older vehicle.

**Commissioner Hogsed moved to transfer the title to Brevard Rescue Squad for the surplus vehicle, a 2002 Ford Crown Victoria car (VIN AFP71WX105432), seconded by Commissioner Bullock and unanimously approved.**

#### MANAGER'S REPORT

The Manager reported the following:

- The x-ray machine in the Courthouse is not working, requiring more staff to search those entering the facility. The estimated cost of purchasing a refurbished machine is \$15,000. Staff will bring a proposal to Commissioners at a future meeting with funds to come from contingency.
- The Manager met with representatives from the Land-of-Sky Regional Council to discuss shovel ready projects for Transylvania County and possible funding from the stimulus package.
- Staff is working on their budgets.
- A joint meeting with the Board of Education is scheduled for March 19, 2009 to discuss their budget and educational needs.
- A citizen's information workshop is scheduled for Thursday regarding a transportation project involving widening shoulders and other safety improvements on Highway 64 from the intersection in Pisgah Forest to Blue Ridge Community College.
- The Manager announced the Board will set a new tax rate in June, noting that normally the tax rate is reduced during a revaluation. The tax rate will determine the amount of property taxes people will pay. He further noted the County is required to publish the revenue neutral tax rate during a revaluation year.

Commissioner Hawkins asked if the fire tax revenue neutral rate is also published. The Manager said it has not been published in the past but it is doable. He further stated it has been communicated to fire departments that the County expects no increases in their budget.

### **PUBLIC COMMENT**

Fred Gravley: Mr. Gravley commented on the revaluation and the losses in the construction industry. He said he does not understand how people will be able to pay their taxes in the current economy.

Ken Norman: Mr. Norman said the County should not have to pay the City for a job not to completed, adding those monies could have been better spent on projects such as offsetting the costs of the E911 system. Mr. Norman also spoke about the revaluation and encouraged Commissioners to act in the best interest of the citizens of Transylvania County.

### **COMMISSIONERS' COMMENTS**

Commissioner Hogsed asked everyone to remember the Selle family. Wolfgang Selle passed away yesterday.

Commissioner Hogsed asked if any of the County's projects were included in the earmarks by Congressman Shuler. The Manager said none of the County's projects were included. Commissioner Hogsed said it is unfortunate for Transylvania County that Congressman Shuler did not consider the safety of Transylvania County residents a top



priority. He reported Congressman Shuler was instead able to secure monies in the amount of \$5 million to purchase forest land in Tennessee.

Commissioner Hogsed inquired as to when Commissioners could expect to have the revenue neutral rate. The Manager said the revenue neutral rate will be available when the budget is prepared. Staff plans to present the budget to Commissioners at the second meeting in May. The revenue neutral rate is determined based on a mathematical formula involving the tax base and the growth rate since the last revaluation. With a revenue neutral tax rate some people may still see their property taxes increase while others may even see a decrease. The Manager noted the Tax Office will still be hearing appeals when the budget is prepared so the rate may have to be modified somewhat. Commissioner Hogsed said he will encourage the Board to remain revenue neutral and possibly below revenue neutral.

Commissioner Hawkins explained the revenue neutral tax rate further. An increase or decrease in one's taxes depends on rate of the growth of the person's property compared to the growth rate of the County.

After further comments, **Chairman Chappell moved to go into Closed Session per NCGS 143-318.11 (a) (3) to consult with an attorney reference lawsuit Renee Crocker, Renee Roof, Julie Sprouse and Joy Waldrop versus Carson Griffin, Transylvania County Department of Social Services and Transylvania County, after a five minute recess, seconded by Commissioner Phillips and unanimously carried.**

#### **CLOSED SESSION**

Pursuant to North Carolina General Statute 143-318.11 (a) (3) to consult with an attorney reference lawsuit Renee Crocker, Renee Roof, Julie Sprouse, and Joy Waldrop versus Carson Griffin, Transylvania County Department of Social Services and Transylvania County, closed session was entered into at 8:35 p.m. Present were Chairman Chappell, Commissioners Bullock, Hawkins, Hogsed and Phillips, County Attorney David Neumann, County Manager Artie Wilson, Human Resources Director Sheila Cozart, and Clerk to the Board Trisha McLeod.

Staff and the County Attorney updated Commissioners on the status of the lawsuit. Commissioners consulted with the attorney on how to proceed.

**Chairman Chappell moved to leave Closed Session, seconded by Commissioner Phillips and unanimously carried.**

#### **OPEN SESSION**

**Chairman Chappell moved to seal the Minutes of the Closed Session, seconded by Commissioner Bullock and unanimously approved.**

**ADJOURNMENT**

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

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Jason R. Chappell, Chairman  
Board of County Commissioners

ATTEST:

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Trisha D. McLeod  
Clerk to the Board