

MINUTES
TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS
March 23, 2009 – REGULAR MEETING

The Board of Commissioners of Transylvania County met in regular session on Monday, March 23, 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 Curtis Potter and Clerk to the Board Trisha McLeod.

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

There were approximately 80 people in the audience.

CALL TO ORDER

Chairman Jason Chappell presiding called the meeting to order at 7:05 p.m.

WELCOME

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

PUBLIC COMMENT

Robert Crowe: Mr. Crowe asked Commissioners to remember citizens as they set the tax rate for the coming year.

Bob Heseltine: Mr. Heseltine spoke about the recent reclassification of Boylston Creek by the North Carolina Department of Environment and Natural Resources. He said the State has not been very forthcoming with information so he does not understand how the reclassification will affect his property which borders Boylston Creek. He asked for Commissioners' help in seeking answers to his questions.

Robert Walker: Mr. Walker expressed opposition to the possible closing of the Calvert Convenience Center in Rosman. He said people will have to drive further to dispose of their trash and recycling which would increase traffic on narrow, curvy mountain roads. Mr. Walker suggested closing each center one day per week as an alternative to closing the center in Rosman.

Al Morgan: Mr. Morgan spoke in opposition to the recent reclassification of Boylston Creek, noting that the deed to his property indicates he has a right to and access to water in the stream. Mr. Morgan said those living near Boylston Creek have been protecting it

for years and it has provided great assistance and pleasure to all that live nearby. He announced that Pastor Randy Barton of Anchor Baptist Church is collecting letters of opposition to send to the State. Mr. Morgan presented a form letter interested persons can complete.

Velina Netherton: Ms. Netherton spoke in opposition to the possible reduction of School Resource Officers (SRO's) in Transylvania County Schools. She and others have started a petition in support of keeping the SRO's. Mr. Netherton said SRO's are a vital resource to children, families and teachers and they offer many valuable school programs to ensure the children's safety, as well as contribute to their growth and development.

Gerry Hunsicker: Mr. Hunsicker requested to speak during the discussion of the Boylston Creek reclassification.

AGENDA MODIFICATIONS

The Manager reported on the Agenda modifications. He requested to move Item B Boylston Creek Designation as Trout Waters under Old Business to Item A and move all others items down in succession.

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 10, 2009 Planning Workshop, February 17, 2009 Special Meeting, February 23, 2009 Regular Meeting, and March 9, 2009 Regular Meeting and sealed Closed Session were approved.

FACILITIES REQUESTS

The use of the Courthouse Gazebo by Temple Baptist Church for National Day of Prayer on Thursday, May 7, 2009 from 11:00 a.m. to 2:00 p.m. was approved.

DISCOVERY AND RELEASE REPORT

The Discovery and Release Report for February 2009 was approved.

APPOINTMENTS

CRIMINAL JUSTICE PARTNERSHIP ADVISORY BOARD

Commissioner Phillips moved to appoint Dean Galloway, seconded by Chairman Chappell and unanimously approved.

Commissioner Hawkins moved to reappoint Sheryl Fortune as Chair for 2009, seconded by Commissioner Phillips and unanimously approved.

PERSONNEL BOARD

Commissioner Phillips moved to appoint Beth Landreth, seconded by Commissioner Bullock and unanimously approved.

OLD BUSINESS

BOYLSTON CREEK DESIGNATION AS TROUT WATERS

Mr. Don Surrette asked for the Board's support in opposing the recent reclassification of Boylston Creek. Several organizations, including Anchor Baptist Church and the Town of Mills River, will be accepting letters to send collectively to the State. Mr. Surrette expressed his frustration about the process by which Boylston Creek was reclassified, noting that the reclassification was approved after considering six favorable letters while ignoring thirty nine letters of opposition.

Mr. Surrette read from the 5th Amendment of the United States Constitution which states that private property shall not be taken for public use without just compensation. He further cited a 1987 Supreme Court case, Dolan versus California Coastal Commission, which ruled that the government can not exercise police power to impose a traffic buffer that constitutes a regulatory taking of real property. Mr. Surrette said this is a case of a government agency taking control of private property without just compensation and using the power of eminent domain without due process of law. He also noted that citizens can be fined up to \$5,000 per day for violating the buffer zone imposed by the reclassification.

Gerry Hunsicker: (Signed up for Public Comment period and requested to speak during Agenda item) Mr. Hunsicker said the reclassification of Boylston Creek is a property rights matter, noting there are no provisions in the reclassification that are suitable for accommodating private property. He also commented there are too many provisions included in the reclassification that are left to interpretation. Citizens will lose a good percentage of their property due to the buffer requirement while still paying taxes on the property. Mr. Hunsicker asked for the Board's support in opposing the reclassification.

Commissioner Phillips suggested the Board send a letter to State representatives and the North Carolina Department of Environment and Natural Resources (NCDENR) asking that future requests for reclassification be submitted through the local Soil and Water Board prior to submission to the State. Commissioners and other County officials were not informed about the reclassification efforts until it was in its late stages.

Mr. Hunsicker noted he has contacted Representative David Guice on this matter. He further noted there is still time to take action before the legislative review slated for 2010.

Mr. Hunsicker suggested Commissioners should communicate with other counties so they will understand how they may be affected in the future and to solicit their participation in contacting their representatives to change the reclassification process.

Commissioner Bullock made a motion for the Board to send a joint letter to NCDENR and State representatives encouraging a legislative review of this matter. The motion was seconded by Commissioner Phillips. Commissioner Hogsed suggested the letter strongly state the Board's position. **The motion was approved unanimously.**

A gentleman from the audience inquired about the Board's position on other watersheds in the County that have been reclassified. Commissioner Hogsed said the County could ask its State legislators to review them and reconsider their reclassification. Commissioner Hawkins said the first step would be to inventory the number of water bodies that have been reclassified. The gentleman informed the Board that the Water Resources Office in Swannanoa should have a list of all trout streams and their designation.

Commissioner Phillips suggested a format by which the citizens' questions could be answered. The Manager said staff could arrange a public meeting and invite DENR representatives.

Commissioner Hogsed concurred with Commissioner Phillips that the reclassification process should be changed. He said it may require legislative action.

Chairman Chappell called for a five minute recess at 7:50 p.m. The meeting reconvened at 7:55 p.m.

STAFFING FOR SHERIFF'S DEPARTMENT

The Board of Commissioners met in special session on Tuesday, February 17 to discuss the proposed staffing plan for the Public Safety Facility and the Sheriff's Department for FY 2010. The Sheriff presented three staffing alternatives for the Board's consideration as follows:

Plan A

- Detention Plan as budgeted in FY 2009
- +3/4 person for Road Deputy position
- +1 person for Road Deputy position
- -1 Tele-communicator position to cover Road Deputy Position
- -1 Tele-communicator Position to cover Domestic Violence Investigator
- +1 Domestic Violence Investigator (position was previously grant funded)
- **Subtotal +3/4 person: Cost of \$53,039**

Plan B

- -4 Detention Officers for Public Safety Facility
- +3/4 Person for Road Deputy position

- +1 person for Road Deputy position
- -1 Tele-communicator position to Road Deputy Position
- -1 Tele-communicator position to cover Domestic Violence Investigator
- +1 Domestic Violence Investigator (position was previously grant funded)
- **Subtotal -3 ¼ people plus add \$25,000 in part time and overtime; Savings of \$128,380**

Plan C

- -6 Detention Officers for Public Safety Facility
- +3/4 Person for Road Deputy
- +1 person for Road Deputy
- -1 Tele-communicator position to Road Deputy
- -1 Tele-communicator position to cover Domestic Violence Investigator
- +1 Domestic Violence Investigator (position was previously grant funded)
- **Subtotal -5 ¼ persons plus add \$50,000 for part time and overtime; Savings of \$167,609**

The Manager offered an additional proposal, which he has discussed with the Sheriff. This plan was not presented to the Board of Commissioners at the special meeting. The plan is as follows and is a modification of Plan B:

Manager's Proposal

- -4 Detention Officers for Public Safety Facility
- +3/4 Person for Road Deputy
- +1 Person for Road Deputy
- -2 Tele-communicators to cover Road Deputies
- -1 Staff level Position
- **Subtotal -5 ¼ people plus add \$25,000 in part time and overtime; Savings \$253,994.**

Sheriff Mahoney briefly reviewed the various staffing alternatives. Plan A is the staffing plan recommended by Moseley Architects and the NC Justice Academy and was previously approved by the Board of Commissioners. Plan B represents an effort to find cost savings in light of the economy and the loss of the Lake Toxaway contract and includes the addition of two patrol positions offset by the reduction of two telecommunicator positions. Plan B also includes the addition of a domestic violence investigator position which has been funded by grants the past two years. Plan C reduces the number of staff further and strays from the philosophy of direct supervision of inmates. The Sheriff said he met with the Manager to compromise on the staffing plans while still being able to fund some important positions. The Manager pointed out that modified Plan B offers the greatest savings. If the domestic violence investigator position can not be funded through grants or stimulus funding, it will included in the modified Plan B for local funding.

Commissioner Hawkins asked if the decision about School Resource Officer's (SRO's)

affected the Board's decision about the staffing plans. The Sheriff replied yes, saying many of the positions needed for the new Public Safety Facility should have already been hired and the remaining positions will be hired in the current fiscal year. If the decision regarding SRO's is delayed, and the new positions for the Public Safety Facility are hired, then the decision is made to reduce the number of SRO's, the County would essentially be laying off staff. The SRO positions could be absorbed into the detention officer positions if a decision is made to reduce the number of SRO's.

Commissioner Hawkins stated statistics indicate that only eight elementary schools in the State have dedicated SRO's and two of those are in Transylvania County. The Sheriff said the statistics are somewhat misleading in that the numbers do not take into account the elementary schools across the State who contract privately with agencies to provide the same services as an SRO. Commissioner Hawkins asked why SRO's covering more than one school is not workable in Transylvania County. The Sheriff replied that Transylvania County is ahead of the game in that capacity. He said when the economy suffers, there is a rise in domestic violence, substance abuse, etc. which eventually bleeds over into the school system. He expects the number of SRO's in elementary schools across the State to increase. The Sheriff expressed strong support for keeping all SRO's in Transylvania County Schools.

Commissioner Bullock thanked the Sheriff for the information he provided, noting that a reduction in the number of staff needed for the new Public Safety Facility is temporary until the economy improves.

Chairman Chappell moved to accept the Manager's proposal, the modification of Plan B, which stipulates that if the domestic violence investigator position can not be grant funded it will be funded locally. The motion was seconded by Commissioner Hawkins. Commissioner Hogsed pointed out that all the staffing plans add a considerable number of employees and he is concerned about what the County can afford. He said he would have preferred further reductions in the number of staff needed. After further comments, **the motion passed 3 to 2, with Commissioners Bullock and Hogsed voting against.**

Commissioners discussed the SRO's positions. Commissioner Hogsed stated he fully supports the SRO positions. Chairman Chappell agreed and pointed out that the decision about SRO's also involves the Board of Education. Commissioner Phillips expressed support for the SRO's and said Commissioners should support the Board of Education's wishes. Commissioner Bullock said the Board of Education has been clear that they want to keep all the SRO's.

Commissioner Hawkins agreed that the Board of Education expressed a desire to keep the SRO's but pointed out that they offered no alternatives. He asked who would handle situations in a school where no SRO was present because other school systems across the State seem to handle issues without a dedicated SRO. Mary Berrier, SRO for Pisgah Forest Elementary School explained and outlined issues she has dealt with since she began in 2007. A short list included disciplinary issues, counseling, fights, criminal

behavior, custody issues, agency referrals, interaction with schools, camps and other programs, etc. She asked the Board to consider all these items and consider keeping all SRO's at the elementary schools.

After further comments, **Commissioner Hawkins made a motion that Commissioners communicate to the Board of Education that the Board of Commissioners is comfortable with keeping the SRO level as is and that the County is willing to fund the positions. Commissioner Hogsed requested to amend the motion by saying that the Board of Commissioners makes the suggestion to the Board of Education to leave the SRO level as is.** There was no objection to the amended motion. **The motion was seconded by Commissioner Phillips and unanimously approved.**

SECTION 5311 TRANSPORTATION GRANT APPLICATION

Transportation Director Keith McCoy requested permission to apply for the Section 5311 Transportation Grant. A Public Hearing was held on Monday, March 9, 2009. There were no comments made during the Public Hearing. The funding request includes \$180,775 for Administrative expenses and \$56,250 for Capital. The County's required share is \$32,741. This is the normal process that is required each year in order to receive this funding.

Commissioner Phillips moved to approve Resolution 21-09 and authorize Chairman Chappell to sign all required grant paperwork, seconded by Commissioner Bullock and unanimously approved.

(Resolution 21-09 Community Transportation Program Resolution is hereby incorporated by reference and made a part of these Minutes.)

MASTER PLAN FOR COMMUNITY PARK

The Manager presented a proposal from McGill Associates to develop a conceptual plan for a community park near Rosman. McGill Associates plans to conduct two public meetings to discuss park improvements. Parks and Recreation Director Rick Pangle further explained that McGill Associates will draw site locations for the park and complete cost estimates so the County will know how to plan future budgets for maintaining the park.

The Manager emphasized the importance of moving forward with this planning process. The County currently has a long term lease on the property which stipulates the County can terminate the lease within two years if it is determined that a park can not be constructed on the property. There are sufficient funds included in the FY 2008-09 Budget to cover the cost. The project should be accomplished by the end of May.

Commissioner Hawkins inquired about the fee schedule. The Manager responded that McGill Associates will complete the project not to exceed a certain amount. The fee schedule shows the amount the County would pay for each service if other items are requested.

After further comments, **Commissioner Hogsd moved to authorize the development of the schematic and conceptual plan for the Community Park and surveys for \$25,500, and seconded by Commissioner Bullock. The motion passed unanimously.**

NEW BUSINESS

PURCHASE OF X-RAY MACHINE

The x-ray machine in the Courthouse vestibule recently stopped working. The machine is 23 years old and the technician indicates he cannot guarantee he can get parts to fix the machine. Captain Eddie Lance with the Sheriff's Department has located a refurbished two year old x-ray machine for \$15,928.13. The machine comes with a one year guarantee, the same as a new machine. When the machine is down the Sheriff has to bring in extra staff to manually wand all people and conduct searches of all items brought into the Courthouse. The Institute of Government has indicated Court Facility Fees can be used to purchase the machine.

Commissioner Hogsd commented that the repair of the machine could be done for \$4,000 to \$6,000 and asked why staff did not go that route. The Manager said the technician could not guarantee the machine could be repaired. The technician is junking those machines on a regular basis and therefore recommended against repairing it. The Manager noted that the machine has been down quite a bit.

Commissioner Hawkins moved to authorize the purchase of the x-ray machine using Court Facility Fees, seconded by Commissioner Phillips and unanimously approved.

FY 2010 CRIMINAL JUSTICE PARTNERSHIP PROGRAM APPLICATION (CJPP)

The CJPP Advisory Board met on Thursday to discuss the FY 2010 funding application. Approval of the application by the Board of Commissioners is required. The application is essentially the same as last year's application.

CJPP Coordinator Judith West addressed the Board. She said the CJPP Program is a State funded program that provides treatment for offenders on intensive probation. It provides mental health and substance abuse treatment, domestic violence intervention treatment, employment services and transportation. Ms. West also announced that more funds have been allocated for Transylvania County.

Commissioner Hawkins moved to approve the CJPP application, seconded by Commissioner Bullock and unanimously approved.

ADVERTISING OF DELINQUENT TAXES

Commissioners were presented with the list of delinquent taxes as of March 12, 2009. The Manager reported that any delinquent taxes paid prior to advertisement will be removed from the list. The Tax Administrator is required to post a listing of delinquent taxes per NCGS 150-369.

Commissioner Hawkins moved to approve the list of delinquent taxes for

advertisement per NCGS 150-369, seconded by Commissioner Phillips and unanimously approved.

WESTERN HIGHLANDS NETWORK'S FISCAL MONITORING REPORT

The Manager presented WHN's Fiscal Monitoring Report ending December 31, 2008. He reported the County has submitted its Maintenance of Efforts Funds as of March.

Commissioner Hawkins moved to accept the report from WHN, seconded by Commissioner Hogsed and unanimously approved.

MANAGER'S REPORT

The Manager reported the following:

- The elected officials' breakfast is scheduled for Wednesday at 8:00 a.m. at Transylvania Regional Hospital.
- Progress continues on the Public Safety Facility.
- Chairman Chappell will be submitting a list of legislative goals to the Land-of-Sky Regional Council on Wednesday. One item will be in regards to the Governor withholding ADM funds from counties.
- Staff continues to work on their budgets. They are due to the Finance Department by Monday.

PUBLIC COMMENT

Doyle Stubblefield: Mr. Stubblefield expressed opposition to the property revaluation and possible increase in his property taxes, specifically in the current economy.

COMMISSIONERS' COMMENTS

Commissioner Phillips asked about the status of the mobile crisis unit. The Manager replied that Families Together has the unit and it is usable.

Commissioner Hawkins responded to Mr. Stubblefield regarding the property revaluation. He informed him that his taxes will be a function of the appraisal and the tax rate Commissioners establish during their budget workshops. He explained that Mr. Stubblefield has the right to appeal if he feels his tax appraisal is incorrect. Commissioner Bullock said he understands Mr. Stubblefield's concerns and Commissioners are likewise concerned about the citizens of the County.

Chairman Chappell moved to go into Closed Session per NCGS 143-318.11 (a) (4) reference expansion of a business and NCGS 143-318.11 (a) (5) to instruct staff or negotiating agents regarding acquisition of real property, after a 5 minute recess, seconded by Commissioner Phillips and unanimously carried.

CLOSED SESSION

Pursuant to North Carolina General Statute 143-318.11 (a) (4) reference expansion of a business, closed session was entered into at 9:15 p.m. Present were Chairman Chappell, Commissioners Bullock, Hawkins, Hogsed and Phillips, County Attorney Curtis Potter, County Manager Artie Wilson, Planning and Economic Development Director Mark Burrows, and Clerk to the Board Trisha McLeod.

Commissioners discussed the potential expansion of a business and instructed staff on how to proceed.

Pursuant to NCGS 143-318.11 (a) (5), to instruct staff or negotiating agents regarding the acquisition of real property. Present were Chairman Chappell, Commissioners Bullock, Hawkins and Hogsed, County Manager Artie Wilson and Clerk to the Board Trisha McLeod.

Commissioners discussed the acquisition of real property and instructed staff on how to proceed.

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

OPEN SESSION

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

ADJOURNMENT

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

Jason R. Chappell, Chairman
Board of County Commissioners

ATTEST:

Trisha D. McLeod
Clerk to the Board