

**MINUTES**  
**TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS**  
**May 11, 2009 – REGULAR MEETING**

The Board of Commissioners of Transylvania County met in regular session on Monday, May 11, 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 Attorneys David Neumann and Curtis Potter, and Clerk to the Board Trisha McLeod.

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

There were approximately 20 people in the audience.

**CALL TO ORDER**

Chairman Jason Chappell presiding called the meeting to order 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**

**AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 GRANT APPLICATION**

A Public Hearing is required in order to make application for American Recovery and Reinvestment Act of 2009 grant funds. The Transportation Department is requesting to apply for funding and capital under this federal grant. Transportation Director Keith McCoy discussed the components of the grant application.

Mr. McCoy stated that the NC Department of Transportation is coordinating the grant for the federal government. The grant application includes the following requests:

- Replacement of a dialysis van, \$55,000
- Replacement of a second van which provides transportation for Work First clients, \$47,000
- Replacement of two-way radios in both vans as recommended by the manufacturer, \$1,500
- Seven backing cameras for safety purposes (creates a wider viewing angle), \$749
- Reimbursement for preventative maintenance, \$14,101

The grant application requests total \$118,850. Mr. McCoy noted that no local match is required for participation. Furthermore, if funding is approved, there will be a savings to the County in the amount of \$19,600, which includes \$14,101 in maintenance costs included in the FY 2009-2010 Budget request and \$5,600 in County matching funds through the Section 5311 Grant.

**Chairman Chappell declared the Public Hearing open at 7:10 p.m.**

Lisa Bain Landis: Ms. Landis inquired about the scope of the grant and asked if funds were limited to transportation and vehicle needs. Mr. McCoy responded that this particular grant is limited to local and governmental departments of transportation related items such as vehicle replacements and maintenance facilities and human service related transportation needs.

There being no further comments from the public, **Chairman Chappell declared the Public Hearing closed at 7:15 p.m.**

#### **PUBLIC COMMENT**

Lisa Bain Landis: Ms. Landis announced that the 1<sup>st</sup> Sunday Community Potluck Dinner is held at Sycamore Flats on the first Sunday of each month at 2:00 p.m. She started the Sunday potluck dinners as a way for people to gather and determine each others' needs. People can trade items, play music, etc. Ms. Landis invited Commissioners and others who are interested to attend.

#### **AGENDA MODIFICATIONS**

Commissioner Hogsed requested to add Item F Resolution Opposing the Proposed State Tobacco-Tax Increase under New Business and move the Manager's Report to Item G.

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

#### **CONSENT AGENDA**

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

The following items were approved:

#### MINUTES

The Minutes of the April 27, 2009 Regular Meeting and sealed Closed Sessions were approved.

## FACILITIES USE REQUESTS

The use of the Courthouse gazebo by Transylvania Advocates for Mental Health for a Bake Sale Fundraiser on May 16, 2009 from 10:00 a.m. to 2:00 p.m. was approved.

## **PRESENTATIONS/RECOGNITIONS**

### PRESENTATION BY DAVIDSON RIVER VILLAGE

Mr. Michael Singer of Renova Partners, LLC gave a presentation on the proposed plans for Davidson River Village on the old Ecusta site and discussed the impact the project will have on Transylvania County.

He reported that Renova purchased the property in January 2008. The site required major clean up and they are doing so under the guidance of the Environmental Protection Agency and the North Carolina Department of Environment and Natural Resources which gives them ability to make real time decisions on site. Clean up of the site began in July 2008. Furthermore, there were several areas of environmental concern. Renova found areas contaminated with mercury, lead from the old firearms range and other waste materials. Mr. Singer reported that the majority of the buildings on site have been demolished and the bricks and blocks are being recycled on site to use as fill.

Renova is privately funding the clean up of the entire site. They have committed over \$45 million to the project, which includes the property acquisition of the site, engineering and design costs, remediation, and interest and mortgage.

Since the property is located within the City's jurisdiction, Renova has gone through the zoning and re-entitlement process. Mr. Singer said the property has been entitled for 100 residential units, a resort area, and 1 million square feet of commercial and industrial space. He said the numbers are large but it allows for more flexibility in developing a functional mixed use site for residential and commercial. Mr. Singer said over the next 10 years an estimated 10,000 construction jobs will be created. Furthermore, at maximum build out 2,800 permanent jobs will be created. He said Renova's goal is to bring an economic engine back into Transylvania County and they anticipate this project will replace many of the jobs that were lost when the Ecusta plant closed.

Renova's conceptual plans include the construction of a mixed use village, consisting of residential and retail that complements downtown Brevard. They plan to develop a master plan after the clean up and demolition is complete. The conceptual plan will also include commercial development transitioning into residential along with a resort component overlooking the Davidson River.

Mr. Singer said Renova has studied the traffic impact of the project and determined a need for a connector road running from Hendersonville Highway to Asheville Highway. Renova believes it is a critical component of the project and allows for the ability to route traffic through the site and not impact the major intersection in Pisgah Forest. There may also be a need to add turning lanes, additional traffic signals and widen roads, but all these details will become more specific after a master plan is developed and a traffic

study is complete. Mr. Singer said the addition of the connector road will speed up the development of the project which will bring much needed jobs back to Transylvania County. Mr. Singer concluded his presentation and called for questions from the Board and the audience.

Don Surette asked if Renova was considering any measures to address and alleviate flooding around the project site. He noted there have been two major floods on the east side of Davidson River. Mr. Singer responded that Renova is not considering any measures to address waters flowing downstream from the Pisgah National Forest. He said the work and clean up that has been done is outside of the 100 year flood zone. Mr. Surette requested to speak to Mr. Singer outside the meeting to discuss his ideas for flood control that would benefit many of the citizens in that area.

Commissioner Hawkins inquired about whom Renova expects their market to be. Mr. Singer said he visualizes the residential portion to consist of apartments, stacked flats and lower priced homes. Renova would like to provide opportunity for anyone to buy a home at a reasonable cost, although there will be some higher end properties along the Davidson River and those associated with the resort. Mr. Singer said the project will be driven according to the market. He explained that Renova is a land developer and Prudential, one of the largest real estate investors in the country, is their funding source. After Renova has done their work, they will leverage Prudential to come in and develop the property. Mr. Singer further stated that the zoning flexibility will allow them to respond to different market conditions.

There were no further questions and Mr. Singer concluded his presentation.

#### EMS WEEK

The week of May 17-23, 2009 is Emergency Medical Services Week. The theme for 2009 is "EMS-A Proud Partner in Your Community". Commissioners thanked EMS staff for their hard work and all they do for the community.

**Commissioner Bullock moved to approve Proclamation 23-09 Designating the Week of May 17-23, 2009 as Emergency Medical Services Week, seconded by Commissioner Phillips and unanimously approved.**

(Proclamation 23-09 is hereby incorporated by reference and made a part of these Minutes.)

#### NATIONAL POLICE WEEK

The week of May 10-16, 2009 is National Police Week. Commissioners thanked local law enforcement officers for their hard work and dedication to the community.

**Commissioner Hogsed moved to approve Resolution 27-09 National Police Week in 2009, seconded by Commissioner Phillips and unanimously approved.**

(Resolution 27-09 is hereby incorporated by reference and made a part of these Minutes.)

## APPOINTMENTS

### TOURISM DEVELOPMENT AUTHORITY

**Commissioner Hawkins nominated and moved to appoint Steven Dugard to fill the vacancy, seconded by Commissioner Bullock and unanimously approved.**

### WORKFORCE DEVELOPMENT BOARD

**Commissioner Bullock moved to reappoint Louis Black to an additional term, seconded by Commissioner Hogsed and unanimously approved.**

## NEW BUSINESS

### DAVIDSON RIVER VILLAGE TRAFFIC IMPROVEMENTS

The Manager reported that Davidson River Village is requesting the Board of Commissioners support its request for a connector road which would connect US 64 to Asheville Highway by cutting across the land currently owned by Davidson River Village. The connector road is very vital to the traffic flow on US 64 and will help to alleviate any bottleneck at the intersection of US 276/US 64/ NC 280. He further reported Davidson River Village has agreed to dedicate the land for the public right of way, fund 100% of the engineering and design costs for the road and bridges, and fund the necessary environmental studies. Davidson River Village would like the Board of Commissioners to endorse this project and add it to the Transportation Improvement Program (TIP). The estimated cost of the project ranges from \$5 million to \$7 million and would require two bridges and additional traffic lights.

The Transylvania County Transportation Advisory Board met in special session on Thursday, May 5 in which they heard a presentation from Mr. John Hanselman on the project. After the presentation and discussion, the Transportation Advisory Board unanimously voted to recommend that the Board of Commissioners support the connector road through Davidson River Village and add it to the TIP list as a top priority because of the positive impact it will have on the economic development of Brevard and Transylvania County. If supported by the Board, the next step in the process would be to submit it to the RPO for approval. The Manager and Commissioner Bullock serve on the RPO and they would work to get it on the TIP as quickly as possible if the Board so desired. Adding the connector road to the TIP will not affect the NC 215 project. Davidson River Village would like to have the connector road constructed in the next several months.

Commissioner Hawkins inquired as to why a new interchange was needed on Asheville Highway rather than building a road to connect to Ecusta Road and using the existing interchange at Ecusta Road to route traffic onto Asheville Highway. Mr. Singer said the existing intersections have service issues and will not be able to handle future growth and the amount of traffic that will be driven by a development of this size. Furthermore, the corresponding economic impact requires the ability to get between two points and not rely only on the existing intersections. He said the concept and the need for the road has been blessed by the NC Department of Transportation; however the actual design,

coordination of the traffic lights, turning lanes, and other details will come at a later date. Mr. Singer further commented that if Davidson River Village creates a traffic nightmare, the development will fail. The decision about the connector road and getting help on the funding of the road could be the difference between this project getting developed in 10 years versus 20 years.

Commissioner Hawkins pointed out that Asheville Highway is the major thoroughfare through Pisgah Forest and Brevard and expressed concern that additional traffic signals may increase traffic congestion. Mr. Singer said the goal of Davidson River Village is to make the project a success and they will be engaging the public and all stakeholders before moving forward with the construction of the connector road.

After further comments, **Chairman Chappell moved to support the connector road through Davidson River Village and add it to the Transportation Improvement Program (TIP) list as a top priority. The motion was seconded by Commissioner Hogsed and unanimously approved.**

#### AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

A Public Hearing was held earlier in the meeting which was required in order to make application for American Recovery and Reinvestment Act of 2009 grant funds for the Transportation Department. The Manager noted that the old vehicles would be sold if funding was approved.

**Commissioner Bullock moved to approve Resolution 26-09 requesting permission to apply for American Recovery and Reinvestment Act of 2009 funding in the amount of \$118,850. The motion was seconded by Commissioner Phillips.** Commissioner Hogsed expressed opposition to the grant application and the use of stimulus funding. He said this type of economic stimulus has historically been proven as a failure. Chairman Chappell and Commissioner Phillips agreed with Commissioner Hogsed's statements, but noted that Transylvania County taxpayers will not benefit from these funds unless the County makes application for them. Furthermore, they said the services the funds will be used for are needed in the community and no County dollars will be required. **The motion passed by a vote of 4 to 1, with Commissioner Hogsed voting against.**

(Resolution 26-09 is hereby incorporated by reference and made a part of these Minutes.)

#### JUVENILE CRIME PREVENTION COUNCIL COUNTY PLAN

The Juvenile Crime Prevention Council has prepared its plan for FY 2009-2010 which requires approval by the Board of Commissioners. The Plan requests funding for the following:

- Center for Dialogue - \$27,500
- Emergency Temporary Shelter - \$6,400
- Project Challenge - \$23,265
- Project Rebound - \$49,932
- JCPC Administration - \$2,600
- Local Funding (In kind match)

The total funding request is \$320,210, in addition to DJJDP funding in the amount of \$109,967.

After comments, **Commissioner Bullock moved to approve the FY 2009-2010 Juvenile Crime Prevention Council County Plan and authorize the Chairman to sign the documents, seconded by Commissioner Phillips and unanimously approved.**

RESOLUTION OPPOSING SENATE BILL 758 AND THE TRANSFER OF SECONDARY ROADS TO COUNTIES

The Manager reported that a bill has been introduced in the North Carolina Senate to transfer the responsibility of secondary roads to their respective counties. Counties can not afford to take on this responsibility without significant funding. The Manager asked Commissioners to pass the resolution opposing Senate Bill 758 and the transfer of secondary roads to counties. Chairman Chappell noted that Polk County has passed a similar resolution and Representative Guice asked if Transylvania County would do the same.

Commissioner Hawkins asked how much was spent by the Department of Transportation in Transylvania County last year. The Manager said the amount was nearly \$2 million, which included maintenance and paving. If passed by the North Carolina General Assembly, counties would be responsible for the purchase and maintenance of equipment, operations of the department, and all the manpower that is required to run the department at the county level. Commissioner Hogsed commented that this would be a tremendous expenditure to the County and the tax rate would probably have to be doubled in order to provide the funding.

**Commissioner Hawkins moved to approve Resolution 25-09 In Opposition to Senate Bill 758 and the Transfer of Secondary Roads to Counties, seconded by Commissioner Bullock and unanimously approved.**

(Resolution 25-09 is hereby incorporated by reference and made a part of these Minutes.)

RESOLUTION TO RESTORE STATE SOVEREIGNTY

At the previous meeting, Commissioner Hogsed asked the Board to consider a resolution at this meeting to restore North Carolina sovereignty.

**Commissioner Hogsed moved to approve Resolution 24-09 A Resolution to Restore North Carolina State Sovereignty, seconded by Commissioner Bullock.**

Commissioner Hogsed referred to the Board's earlier decision to approve a grant application for stimulus funding, saying that the stimulus funding is unconstitutional. He also said the County violated the State Constitution because of the federal government's requirement to advertise the public notice in both English and Spanish in that the State Constitution defines English as the official language of North Carolina. Commissioner Hogsed pointed out that many states are passing resolutions such as this because the federal government continues to trample on states' rights. Commissioner Hawkins commented that the federal government continues to push unfunded mandates onto the

states which are passed down to the local level and ultimately affects it citizens. Commissioners agreed and **the motion was unanimously approved.**

(Resolution 24-09 is hereby incorporated by reference and made a part of these Minutes.)

**RESOLUTION OPPOSING THE PROPOSED STATE TOBACCO TAX INCREASE**

Commissioner Hogsed requested to add this resolution to the agenda which was brought to the Board's attention by Stokes County. He said he has always found it unfair the way the State and federal government have targeted the tobacco industry with punitive taxation. He also said while the State and federal government may eventually tax tobacco industry out of existence, they will not go without the revenue and will then seek to tax some other product. Furthermore, he said it is extremely unfair to increase taxes in the current economic climate and unjust to target a specific industry for increased taxation, specifically a leading industry in North Carolina.

Commissioner Bullock said while he understands the use of tobacco is not healthy, there are other products which are not healthy and the State and federal governments are not targeting.

Commissioner Phillips agreed with Commissioner Bullock's comments. He said the purpose of this resolution is to express opposition to excessive taxation. He also said the tax mostly affects people with lower incomes.

Commissioner Hawkins called the proposed tax a regressive tax in that it tends to predominantly impact those who can least afford it. He said the proposed tax will bring North Carolina up to the national average and by those standards it is not particularly an onerous tax; however he said he will support the resolution because of the regressive nature of the tax.

Chairman Chappell expressed opposition to taxes that go to create new programs and projects.

**Commissioner Hogsed moved to approve Resolution 28-09 A Resolution Opposing the Proposed State Tobacco Tax Increase, seconded by Commissioner Bullock and unanimously approved.**

(Resolution 28-09 is hereby incorporated by reference and made a part of these Minutes.)

**MANAGER'S REPORT**

The Manager reported the following:

- Reminded Commissioners of the joint meeting on Tuesday with Brevard City Council at 7:00 p.m. in the Rogow Room to discuss the status of the corridor study.
- Staff continues to work on the budget and will present the proposed FY 2009-2010 to Commissioners at the next meeting.



- Budget workshops will begin the Thursday following the next regular meeting and will continue on into the following week.
- A Memorial Day Service has been scheduled for Saturday, May 23, 2009 in front of the Courthouse.

### **PUBLIC COMMENT**

Sarah Champion: Ms. Champion commented about the resolution Commissioners approved regarding the proposed tobacco tax increase and shared some personal information about how tobacco has negatively affected her life and the lives of her family. She said smoking impacts healthcare costs across the nation and those who choose a healthy lifestyle should not have to bear the cost caused by smokers.

Ms. Champion also commented about resolution Commissioners approved regarding State sovereignty. She said it appears that the Board is being directed by the Republican Party and therefore not necessarily representing all citizens in the County.

Don Surrette: Mr. Surrette said the resolution regarding State sovereignty was crafted by a Western North Carolina talk radio host, Matt Mittan, and not the Republican party.

### **COMMISSIONERS' COMMENTS**

Commissioner Bullock said while he shares Ms. Champion's concerns about smoking, the State should seek to ban it altogether rather than unfairly tax the tobacco industry and those who choose to smoke.

Commissioner Hawkins noted the recent announcement that Jeff McDaris will replace Dr. Sonna Lyda as Superintendent of Transylvania County Schools upon her retirement. He asked the Board to send a letter congratulating him and wishing him well in his new position.

Chairman Chappell commented that he strongly supports the Constitution and will support resolutions or bills that affirm the Constitution. In response to comments made by Ms. Champion, he said no political party directed the Board to consider the resolution and furthermore that Democrats and Republicans alike are supporting this resolution in many states. Commissioner Hogsed agreed and said he has expressed the same concern with the present federal government administration as he did with the previous administration. He pointed out that Matt Mittan is a devout independent.

**Chairman Chappell moved to enter into Closed Session per NCGS 143-318.11 (a) (3) to consult with an attorney in reference to the lawsuit Transylvania County versus Michael Baxley and Charlotte Baxley after a 10 minute recess. The motion was seconded by Commissioner Hogsed and unanimously carried.**

### CLOSED SESSION

Pursuant to NCGS 143-318.11 (a) (3), to consult with an attorney in reference to the lawsuit Transylvania County versus Michael Baxley and Charlotte Baxley, closed session was entered into at 9:20 p.m. Present were Chairman Chappell, Commissioners Bullock, Hawkins, Hogsed and Phillips, County Attorneys David Neumann and Curtis Potter, County Manager Artie Wilson, and Clerk to the Board Trisha McLeod.

The Attorneys updated Commissioners on the status of the lawsuit. Commissioners instructed staff on how to proceed.

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

### OPEN SESSION

**Chairman Chappell moved to seal the minutes of the Closed Session until such time that unsealing the minutes would not frustrate the purpose of the Closed Session, seconded by Commissioner Phillips 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.**

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Jason R. Chappell, Chairman  
Board of County Commissioners

ATTEST:

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Trisha D. McLeod  
Clerk to the Board