

**MINUTES
TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS
July 27, 2009 – REGULAR MEETING**

The Board of Commissioners of Transylvania County met in regular session on Monday, July 27, 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: *Transylvania Times*: Mark Todd

There were approximately 35 people in the audience.

CALL TO ORDER

Chairman Jason Chappell presiding called the meeting to order at 7:02 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

RURAL OPERATING ASSISTANCE PROGRAM

The NC Department of Transportation requires a public hearing to receive local input regarding the sub-allocation of the Rural Operating Assistance Program Grant (ROAP) funding. Transylvania County plans to apply for \$89,979 in grant funding to be used as follows:

Elderly & Disabled Transportation Assistance Program (EDTAP)	\$45,839
Work First/Employment	\$ 4,908
Rural General Public	\$39,232

Transportation Director Keith McCoy reported that these programs are funded 100% by the State and requires no matching funds from the County.

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.**

PROPOSED FLOOD DAMAGE PREVENTION ORDINANCE

The Planning Board submitted revisions to the Flood Damage Prevention Ordinance for the Board's consideration. The proposed changes come about as a result of the Flood Ordinance Comparison and Evaluation Study conducted last year by the County and the City of Brevard, the new requirements set forth by the Federal Emergency Management Agency (FEMA) and the new flood maps which become effective October 1, 2009. Municipalities must also adopt a resolution to allow enforcement of the County ordinance or adopt their own ordinance. This must also be done to maintain eligibility for flood insurance.

County Planner Mike Thomas showed and Power Point presentation and highlighted the following:

Purpose of the Ordinance

- Restrict uses that could result in damaging increases in flood heights or velocities
- Protect structures vulnerable to floods
- Control alteration of natural floodplains and stream channels
- Control filling that may increase flood damage upstream or downstream
- Regular construction of flood barriers that may increase hazards to other lands

Objectives of the Ordinance

- Protect human life, safety and health
- Minimize expenditure of public money for costly flood control projects
- Minimize flood related rescue and relief efforts and associated expenses
- Minimize business losses
- Minimize damage to public facilities located in flood areas

Proposed Ordinance: Major Differences

- 2' freeboard instead of 1'
- New solid or hazardous waste facilities, salvage yards, or chemical storage not allowed except by variance
- 25' buffer instead of 20' for streams in floodplains without established base flood elevations

2' vs. 1' Freeboard

- Cost to elevate a 1200 sq. ft. foundation an additional foot = \$545
- Flood insurance premium reduction per \$100,000 building with \$30,000 in contents is a \$176/year for 4 year payback
- 1' does not accommodate wind/wave
- Keep water out of houses
- Recommended by McGill Study
- Recommended by State

25' vs. 20' Buffer

- Applies to streams in floodplains without established base flood elevation
- Consistent with NCDENR trout buffer
- Recommended by McGill Study

Other Changes

- Primarily wording required by the State and FEMA for various reasons including completeness of definitions, basis for establishment of SFHA's, explicitness of permit requirements, explicitness of corrective procedures

Action Required

- County decide on freeboard and stream buffers
- County adopt updated ordinance by 10/02/2009 to maintain eligibility for flood insurance
- Rosman agree to County ordinance or adopt its own ordinance with appropriate resolution or inter-local agreement for enforcement

Chairman Chappell declared the Public Hearing open at 7:25 p.m.

Town of Rosman: Chairman Chappell read a letter from the Town of Rosman opposing the County's proposed ordinance and recommending no increase to the freeboard and stream buffers any greater than the current levels.

Joey Galloway: Mr. Galloway questioned and expressed concern about components of the proposed ordinance that adversely affects farmers and restricts the use of his property.

Lisa Landis: Ms. Landis asked if States had the right to determine their own buffer requirements or if they were federally mandated. Mr. Thomas said the buffer requirements were federally mandated by FEMA and the requirements typically apply only to new development.

Roger Petit: Mr. Petit expressed concern about the additional restrictions in the proposed ordinance and recommended the Board make no changes to the freeboard and stream buffer levels. He said flooding has occurred less and less over the years.

Robin Crowe: Mr. Crowe said the proposed ordinance will affect old and new structures.

Further discussion:

In response to a question from Commissioner Hogsed, Mr. Thomas said the Town of Rosman could pass any ordinance as long as it meets FEMA requirements.

Commissioner Bullock inquired about the 25' foot buffer. Mr. Thomas said the proposed buffer requirement (25' or 5 times the width of the stream) only applies to streams with no established base flood elevations. The French Broad River has established base flood elevations along the entire river. He pointed out that the requirement in the current ordinance is a 20' buffer. Commissioner Bullock asked if the 2' freeboard is adopted will those with 1' freeboard buildings still be eligible for flood insurance. Mr. Thomas said the premium index for flood insurance is reduced for each additional foot of freeboard.

Commissioner Hawkins inquired about the recourse if the City of Brevard and the Town of Rosman do not adopt an ordinance by the deadline. Mr. Thomas said each jurisdiction stands alone and the County's ordinance does not automatically become the primary ordinance for those jurisdictions.

Robin Crowe: Mr. Crowe asked further about how the proposed ordinance affects flood insurance. Mr. Thomas said typically those who purchase flood insurance are in the floodplain and those rates are higher than for those who are not considered in the floodplain. The insurance rates would be based on the elevation in the floodplain.

Bob Twomey: Mr. Twomey served on the Flood Study Committee. He discussed some of the components associated with the 1' elevation and how the 1' elevation applies to smaller streams versus the French Broad River. He said all floodplain studies include one basic assumption, that all stream bridges, culverts, overpasses, and anything that can catch debris remains completely open. It is very difficult to determine what may happen in a flood and the proposed ordinance is based on the best assumptions based on a certain rainfall in a 24-hour time period at the time of the existing watershed coverage that would generate a runoff that would fill the body of the floodplain.

There being no further comments, **Chairman Chappell declared the Public Hearing closed at 7:45 p.m.**

PUBLIC COMMENT

Lisa Landis: Ms. Landis shared a story about getting into an altercation with a man in this County who has a long criminal history. She asked the County to investigate this matter because she feels this man is a threat to the community.

AGENDA MODIFICATIONS

The Manager requested to add Item G Request from Board of Education: Qualified School Construction Bonds (QSCB) and Qualified Zone Academy Bonds (QZAB) under New Business and move the Manager's Report to Item H and to change Resolution 32-09 In Recognition of Linda Young under Presentations/Recognitions to Resolution 39-09.

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

CONSENT AGENDA

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

The following items were approved:

MINUTES

The Minutes of the 2009 Budget Workshops, June 22, 2009 Regular Meeting and sealed Closed Session, July 13, 2009 Regular Meeting and two sealed Closed Sessions, and July 15, 2009 Secondary Roads Meeting were approved.

FACILITIES USE REQUESTS

The use of the basketball court at the Recreation Department by Fox Mountain Guides on August 22, 2009 from 5:00 p.m. to 8:00 p.m. was approved.

DISCOVERY AND RELEASE REPORT

The remaining portion of the Discovery and Release Report for June 2009 was approved.

PRESENTATIONS/RECOGNITIONS

RESOLUTION 32-09 IN RECOGNITION OF LINDA YOUNG

Effective August 1, 2009 Linda Young will retire from Transylvania County where she has been an employee since 1997. Health Director Steve Smith thanked Ms. Young for being a tremendous asset to the Health Department. Ms. Young said she has enjoyed working for the County and she will miss everyone.

Commissioner Hogsed moved to approve Resolution 39-09 In Recognition of Linda Young, seconded by Commissioner Bullock and unanimously approved.

Commissioners thanked Ms. Young for her years of service to Transylvania County and presented her with the resolution in her honor.

(Resolution 39-09 In Recognition of Linda Young is hereby incorporated by reference and made a part of these Minutes.)

APPOINTMENTS

CHILD FATALITY PREVENTION TEAM

Commissioner Hogsed moved to reappoint Sharon Edwards, Gerald Grose, Debbie Mackey and Gale Mackey. The motion was seconded by Commissioner Phillips and unanimously approved.

TRANSPORTATION COMMITTEE

Commissioner Bullock moved to reappoint Tyler Scott Galloway and David Carter to additional terms, seconded by Commissioner Hogsed and unanimously approved.

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

NEW BUSINESS

APPLICATION FOR RURAL OPERATING ASSISTANCE PROGRAM

A Public Hearing was held earlier in the meeting at which there were no comments from the public. Transportation Director Keith McCoy requested that Commissioners approve the ROAP grant application in the amount of \$89,979

Commissioner Bullock moved to approve Resolution 40-09 Certified Statement FY 2010 Rural Operating Assistance Program and the grant application, seconded by Commissioner Phillips and unanimously approved.

(Resolution 40-09 Certified Statement FY 2010 Rural Operating Assistance Program is hereby incorporated by reference and made a part of these Minutes.)

RESOLUTION AUTHORIZING USING THE "PIGGYBACK" METHOD FOR THE PURCHASE OF SOFTWARE AND MAINTENANCE FOR DOCUMENT IMAGING

Information Technology staff and the Social Services Director have been investigating the purchase of business process automation, electronic record management and document imaging software. They have found that Orange County is purchasing software identical to what they have recommended for Transylvania County. North Carolina General Statutes 143-129 (g) allows for government entities to "piggyback" on bids as long as all guidelines are adhered to. Proper advertisement has been made regarding the County's consideration of the proposed purchase. Staff will be asking Commissioners to approve the purchase at the next meeting. The Manager asked Commissioners to approve a resolution in support of using this method to purchase the software.

Commissioner Hogsed moved to approve Resolution 38-09, seconded by Commissioner Hawkins and unanimously approved.

(Resolution 38-09 A Resolution Authorizing the Use of the "Piggyback" Method for the Purchase of Software for Document Imaging is hereby incorporated by reference and made a part of the Minutes.)

2008 TAX COLLECTION SETTLEMENT STATEMENT

Tax Administrator David Reid submitted the 2008 Tax Collection Settlement Statement to the Board for their acceptance. The net tax levy for 2008 was \$22,372,686.20. The County collected \$22,247,967.30 of the tax levy which calculates as a collection rate of 99.443%, one of the highest tax collection rates in the State. Mr. Reid announced the tax collection rates for the following jurisdictions:

- City of Brevard – 99.508%
- Town of Rosman – 99.559%
- Heart of Brevard – 100%

In addition, the Tax Office collected \$133,776.36 in delinquent collections.

Commissioners thanked Mr. Reid and his staff for their hard work and accomplishments.

Commissioner Bullock moved to accept the 2008 Tax Collection Settlement Statement and congratulate the Tax Administration and Collection staff for their efforts. The motion was seconded by Commissioner Hogsed and unanimously approved.

2009 ORDER TO COLLECT AD VALOREM TAXES

The Board of Commissioners is required by law to order the Tax Collector to collect the taxes each fiscal year using all legal means to collect those taxes.

Commissioner Hogsed moved to approve the Order to Collect the FY 2010 Taxes in Transylvania County, seconded by Commissioner Bullock and unanimously approved.

(The Order to Collect Taxes is hereby incorporated by reference and made a part of these Minutes.)

CHANGE ORDERS FOR PUBLIC SAFETY FACILITY

The Manager submitted the following change orders for the Board's approval:

1. Change Order #76 – Relocate the Liebert Controls in the 911 Center; \$2,409.50, responsibility of the County
2. Change Order #77 – Fire Alarm Annunciator; \$5,164, responsibility being discussed (Moseley and County)
3. Change Order #78 – Mesh screens for Booking; \$609, responsibility being discussed (Moseley, County, MB Kahn)
4. Change Order #79 – Control of doors in EMS area; \$5,517.50, responsibility being discussed (Moseley and County)
5. Change Order #80 – Automatic Door Openings in Vestibule; \$13,704.00, responsibility of the County
6. Change Order #81 – Add Vision Kit to door; \$308, responsibility of the County
7. Change Order #82 – Roof Ladder; \$1,800, responsibility being discussed (Moseley, County, MB Kahn)

The proposed change orders total \$29,512.00. If approved all change orders total \$226,311.80, or 28.47% of contingency. \$568,043.20 remains in the budget contingency.

Commissioner Phillips moved to approve the Change Orders as submitted, seconded by Commissioner Hawkins and unanimously approved.

The Manager also requested authority to approve change orders that arise over the next couple of months as the project nears completion and report them at each subsequent Board meeting; otherwise a special meeting would have to be called for Board approval. The Manager said only those items that were absolutely necessary would be approved. He noted a substantial completion date is scheduled for August 14, 2009. He further noted that change orders would be approved in consultation with the Operations Director and Project Manager.

Commissioner Bullock moved to authorize the Manager to approve change orders and report them at the next Board meeting. The motion was seconded by Commissioner Hawkins. Commissioner Hogsed expressed concern about granting the Manager the authority to approve change orders without public knowledge of those change orders. The Manager said the process would be no different than what the Board has authorized him to do with the budget now. The budget has been approved and this allows the Manager to move forward as long as he does not approve any change orders over and above the project budget. Commissioner Hawkins suggested that each time the Manager approves a change order that he notify the media and Commissioners. Commissioners agreed. **The motion passed unanimously.**

VOTING DELEGATE FOR THE NC ASSOCIATION OF COUNTY COMMISSIONERS ANNUAL (NCACC) CONFERENCE

The NCACC's Annual Conference will be held August 27-30 in Catawba County. Each county has been asked to select a voting delegate for the conference. The delegate will cast the County's vote during the business session of the conference.

Chairman Chappell moved to appoint Commissioner Bullock as the voting delegate for the NCACC Annual Conference, seconded by Commissioner Phillips and unanimously approved.

REQUEST FROM BOARD OF EDUCATION – REFERENCE QUALIFIED SCHOOL CONSTRUCTION BONDS (QSCB) AND QUALIFIED ZONE ACADEMY BONDS (QZAB)

The Manager reported that staff received information from the Department of Public Instruction regarding the availability of bond funds for school construction. Transylvania County has been allocated \$1,297,778.45 in QSC Bonds from the federal government. The Manager and Finance Director Gay Poor met with school staff to discuss the intentions of the Board of Education about applying for the bonds. During the meeting, it was determined that the Board of Education is interested in constructing a new vocational education building at Rosman High School and renovating the old space once the new space is constructed using funds from QZA Bonds. The Manager and Ms. Poor discussed with the Superintendent and Business Director ways to fund the project since it has not included in the budget, including foregoing a portion of their capital outlay appropriations from the County. The Manager noted this project was not included in the Board of Education's 5-year capital outlay. The application deadline for both is Friday, July 31, 2009. If the County agrees to make application and the funds are awarded, the County would assume a debt service of approximately \$261,100 per year for 12 years. Both bonds have a zero interest payback. The Manager noted there is a substantial amount of work involving the issuance of bonds, which County staff would assume, as well as additional costs for bond counsel, etc.

The Manager offered the Board two options:

1. Authorize the Board of Education to make application with the understanding that the Board of Commissioners would have final approval before moving forward with the project. During the mean time staff would work with school personnel to discuss ways to pay for the project; i.e. reduction in school capital/spending, an increase in ad valorem

taxes, etc.

2. Do not authorize the Board of Education to proceed with the application.

Commissioners discussed their options, expressed concern about assuming additional debt service, and requested the following information:

1. Does the County have to accept the bonds if awarded?
2. What are the established parameters for both bonds?
3. Can the application be modified if it is determined this project is not a top priority or if is unfeasible?
4. Can the County assume additional debt service? Is the Board of Education willing to forego a portion of their capital outlay appropriations from the County to pay the debt service?
5. Will the Board of Education allow the Board of Commissioners to have final approval regarding acceptance of the bonds? Is it feasible to enter into a written agreement with the Board of Education to spell out how the debt would be repaid before the acceptance of the bonds?
6. Will the County have to pay for bond counsel for both bonds separately?
7. What will the operating expenses be for a new vocational education facility?
8. Is this project a top priority for the Board of Education?

After further discussion, **Commissioner Bullock made a motion to call for a special joint meeting with the Board of Education on Thursday, July 30, 2009 at 7:00 p.m. and instructed staff to properly give notice. The motion was seconded by Commissioner Hogsed and unanimously carried.**

MANAGER'S REPORT

The Manager reported the following:

- Substantial completion date for the Public Safety Facility is scheduled for August 14, 2009.
- A workshop has been scheduled for September 15, 2009 to discuss the animal shelter and other County facilities. Architect Daggett and Griggs will make a presentation on the animal shelter.
- Training on the Open Meetings Act has been scheduled for August 13, 2009 at 3:00 p.m. for staff and 6:30 p.m. for Commissioners. Staff will invite other elected officials, the media and the public. David Lawrence with the Institute of Government will provide the training.

PUBLIC COMMENT

Judith West: Ms. West commended Commissioners for their decision about the bond funding for the schools and encouraged them to use the same planning and line of thinking about long range planning for County facilities. She said there are County facilities that are not in good shape and empty facilities the County should be utilizing to address space needs issues.

Jackie Hovey: Ms. Hovey also thanked Commissioners for agreeing to meet with the Board of Education to find out more about the bond issue before moving forward. She said staffs work in horrible conditions in the current vocational education building and commented that more monies spent on vocational education will result in less monies spent on public safety.

COMMISSIONERS' COMMENTS

There were no comments from Commissioners.

ADJOURNMENT

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

Jason R. Chappell, Chairman
Board of County Commissioners

ATTEST:

Trisha D. McLeod
Clerk to the Board