

MINUTES
TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS
August 24, 2009 – REGULAR MEETING

The Board of Commissioners of Transylvania County met in regular session on Monday, August 24, 2009 at 7:00 p.m. in the large courtroom of the Transylvania County Courthouse.

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

Media: *Transylvania Times*: Mark Todd

There were approximately 15 people in the audience.

CALL TO ORDER

Chairman Jason Chappell presiding called the meeting to order at 7:01 p.m.

WELCOME

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

PUBLIC COMMENTS

There were no comments from the public.

AGENDA MODIFICATIONS

The Manager reported on the Agenda modifications. He requested to add Item VIII-E North Carolina Governor's Highway Safety Program under New Business and move the Manager's Report to Item VIII-F.

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

CONSENT AGENDA

Commissioner Hawkins moved to approve the Consent Agenda as submitted, seconded by Commissioner Hogsed and unanimously approved.

The following items were approved:

MINUTES

The Minutes of the July 30, 2009 Special Meeting with the Board of Education and the August 10, 2009 Regular Meeting were approved. The sealed Minutes of the July 13, 2009 second Closed Session were unsealed and made available to the public.

FACILITIES REQUESTS

The use of the Courthouse Lawn and Gazebo by the Brevard Jaycees for their Annual Toy Run on September 26, 2009 from 12:00 p.m. to 4:00 p.m. was approved.

The use of the Varsity Street parking lot by the Unitarian Universalists of Transylvania County on Sundays in 2009 from 9:00 a.m. to 12:00 p.m. was approved.

The use of the Courthouse Lawn and Gazebo by Living Waters Church to hold prayer for families and victims of September 11, 2001 on September 11, 2009 from 12:00 p.m. to 1:00 p.m. was approved.

DISCOVERY AND RELEASE REPORT

The Discovery and Release Report for July 2009 was approved.

PRESENTATIONS/RECOGNITIONS

REPORT FROM TRANSYLVANIA COUNTY VETERANS HONOR GUARD

Mr. George Poor, Commander of the Transylvania County Veterans Honor Guard, gave a report on the Veterans Honor Guard's activities and expenditures from the previous year. The Veterans Honor Guard participated in a total of 49 funerals, 15 flag services and 4 parades. They have participated in 4 funerals so far in the month of August. Their expenses of \$3,425.35 covered items such as flags, flag cases, flag poles, VFW emblems, etc. The Veterans Honor Guard also sometimes helps needy families and offers scholarship funds. Mr. Poor thanked the Board of Commissioners for their support and said the Veterans Honor Guard will be happy to participate in any occasion or event for the County. Commissioners thanked Mr. Poor for his continued service to Transylvania County.

RESOLUTION 41-09 IN RECOGNITION OF DAVID D. JONES

Effective September 1, 2009 David D. Jones will retire from the Transylvania County Sheriff's Office where he has been an employee since 1991. Sheriff David Mahoney accepted the resolution on behalf of Mr. Jones.

Commissioner Hogsed moved to approve Resolution 41-09 In Recognition of David D. Jones, seconded by Commissioner Phillips and unanimously approved.

(Resolution 41-09 In Recognition of David D. Jones is hereby incorporated by reference and made a part of these minutes.)

RESOLUTION 42-09 IN RECOGNITION OF WILLIAM S. HENDON

Effective September 1, 2009 William S. Hendon will retire from the Transylvania County Sheriff's Office where he has been an employee since 1992. Commissioners thanked Mr. Hendon for his service to the County and for affecting so many lives in such a positive way.

Commissioner Hawkins moved to approve Resolution 42-09 In Recognition of William S. Hendon, seconded by Commissioner Hogsed and unanimously approved.

Sheriff Mahoney thanked Mr. Hendon for his dedication to the Sheriff's Department and inmates.

(Resolution 41-09 In Recognition of William S. Hendon is hereby incorporated by reference and made a part of these minutes.)

FINAL REPORT ON 2006-2009 TRANSYLVANIA COUNTY ECONOMIC DEVELOPMENT STRATEGIC REPORT

Planning and Economic Development Director Mark Burrows presented the final report on the 2006-2009 Transylvania County Economic Development Strategic Report. The report summarized the County's economic development accomplishments over the last three years. Mr. Burrows discussed and highlighted the County's goals and how they were accomplished:

1. Goal 1: Support and Grow Existing Businesses – Obtained close to \$1 million in grants to support business activity
2. Goal 2: Attract and Grow New Businesses and Manufacturers – Focus has been on nutraceutical/natural products, medical devices, outdoor recreation; Transylvania County became a certified entrepreneurial community under the AdvantageWest program; recognized success through various award categories
3. Goal 3: Develop and Implement Methods to Inform and Educate Community Leaders and the Public About the Economic Development Process, Project Status and Outcomes – Focus has been on keeping everyone informed on what is going on in the community and the County, specifically to help assisting businesses and attract new businesses
4. Goal 4: Sustain the Quality of Life in the County by Capitalizing on Our Competitive Advantages While Minimizing Weaknesses – Focused on the needs of business owners as they are exploring moving to the County or looking to expand, such as affordable housing, community appearance, etc.
5. Goal 5: Develop and Nurture Strong Economic Development Relationships – Staff has compiled an extensive list of new and existing businesses and are constantly reaching out to them

Mr. Burrows said the County’s overall effort was very good. When staff began this process, they looked at 10 year annual averages for residential and commercial construction. Their goal was to have a 10% increase in the dollar value for each of those each year. In 2006-2007 and 2007-2008, the County met those goals by creating an environment that attracts people and businesses. In 2008-2009, the numbers fell, specifically because of the downturn in the economy. However over the three year period the County essentially met its goal. Mr. Burrows also reported that the County held its on in terms of the labor force. The overall total number of jobs through the end of 2008 significantly increased from 2006 to a total of 10,082. The Economic Development Advisory Board recommended that the 2006-2009 Transylvania County Economic Development Strategic Report be posted on the County’s website and the Library’s website and copies be made available to the public at both locations.

Mr. Burrows also provided a summary of the 2009-2012 Economic Development Strategic Plan Survey. Several business owners and community leaders responded to the survey and generally the comments were positive. The entity that received the most favorable comments was Blue Ridge Community College which shows the efforts they have made in reaching out to the community. Brevard College, the Chamber of Commerce, Transylvania County Planning and Economic Development, Transylvania County Schools and the Senior Resource Network also received positive comments.

Some suggestions for how Transylvania County could be more competitive with other locations and attracting new businesses and employers included:

- City and County to focus on being much more business friendly
- Provide small business with incentives
- Develop a business or certified industrial site and focus on smaller and “green” related manufacturers
- Expand tourism efforts
- Invest more dollars in local schools
- Improve broadband

Those who took the survey placed helping existing manufacturers expand and grow, attracting new manufacturers, and supporting tourism and related activities as very high priority. They placed supporting new non-manufacturing companies, small business startups by local people, and training to improve the workforce as high priority. When focusing on the “rating average”, Mr. Burrows said the response is slightly different. The priorities ranging from very high to very

low were listed as small business startups by local people, helping existing manufacturers expand and grow, and supporting tourism and related activities. Mr. Burrows said as the Economic Development Advisory Board begins working on the upcoming development of the strategic plan they will place additional emphasis on these areas.

In looking at next year, surveyors listed the following as some of the greatest challenges their businesses will face:

- Lack of financing and funding
- More government involvement and higher taxes
- Growing business/managing growth
- Downturn in the local real estate and construction businesses
- Find qualified/skilled employees

Lastly, Mr. Burrows reported that staff is working on the 2009-2012 Economic Development Plan and will present their report to the Board of Commissioners in October or November.

After some comments and questions from the Board, Commissioners thanked Mr. Burrows for his presentation and for his work in economic development in the County. It was also recommended that Mr. Burrows ask the County's economic development partners to post a link from their websites to this report.

APPOINTMENTS

JUVENILE CRIME PREVENTION COUNCIL

Commissioner Hawkins moved to appoint the new Social Services Director Stoney Blevins to replace Carson Griffin, seconded by Commissioner Phillips and unanimously approved.

NEW BUSINESS

REQUEST FOR ADDITION TO STATE MAINTAINED SECONDARY ROAD SYSTEM

The County has received a petition from residents living on SR 1102 Happy Acres Road to add approximately .75 miles to the State Maintained Secondary Road System. The Board of Commissioners must approve a resolution in order for those citizens to move forward with their request. The NC Department of Transportation will make the final determination as to whether or not this section of Happy Acres Road will be added to their Secondary Road System. The Manager noted that all necessary signatures have been obtained except one because the homeowner lives out of state.

Commissioner Hogsed moved to approve Resolution 43-09 Request for Addition to State Maintained Secondary Road System, seconded by Commissioner Phillips and unanimously approved.

(Resolution 43-09 Request for Addition to State Maintained Secondary Road System is hereby incorporated by reference and made a part of these minutes.)

REQUEST TO PROVIDE LIMITED AMOUNT OF FREE FLU VACCINE

The Board of Health has requested authorization from the Board of Commissioners to distribute 150 free doses of the flu vaccine to indigent and uninsured individuals in the County. Most of the distribution would occur through Transylvania County Volunteers in Medicine and their clinics. This would not impact the Health Department's budgeted revenues or expenditures.

Chairman Chappell moved to authorize the Board of Health to distribute 150 free doses of the flu vaccine as it deems best, seconded by Commissioner Hogsed and unanimously approved.

PROPOSED EMAIL POLICY

In follow up to a recent violation of the NC Open Meetings Law, Commissioners asked staff and the County Attorney to draft an email policy for County Commissioners. The draft policy includes the following terms:

1. Refrain from sending, replying, or copying an email to a majority of the Board.
2. Do not take a firm position or make commitments on matters yet to be discussed or decided by the Board.
3. Do not attempt to subvert the majority of the Board requirement by serving as or allowing another member to serve as a central communication hub to disseminate, solicit, receive, or otherwise communicate between three or more members.
4. Do not give instructions to staff under the managerial control of the County Manager.
5. It is permissible to email a majority of the Board or the entire Board for informational purposes only with the following conditions: 1) Email must be sent to the entire Board, 2) Commissioners' own views or position on a matter should not be expressed in the email, and 3) Commissioners should not engage in any discussion, response, or reply concerning the information within such an email and any permissible and ongoing responses should be copied to the entire Board.
6. General considerations related to email communications: 1) The Board has no control over the final dissemination of an email message, and 2) Certain email messages are public record therefore the content of email messages should be strictly professional.

In addition, the County Attorney suggested that Commissioners attach a message just below their signature line to each and every email sent from their accounts used to communicate with other Commissioners or in any public capacity as an automatically generated message which is aimed at reminding them of the dangers of email communication, and encouraging an ongoing review of communications which threaten to violate the open meetings laws.

Commissioner Hawkins asked if other counties have similar email policies. Mr. Potter said there are no current standing policies in North Carolina that determine where the line is crossed in terms of email communication. Each email is looked at as a single phone call; however if there is enough emailing going on at one time, it appears as though a meeting is occurring.

Commissioner Hawkins disagreed with Section 5.b of the policy which states Commissioners can not express within the email their own positions or views on a matter. He said that is detrimental to Commissioners in their roles as public officials whose goals are to make good decisions for the people of Transylvania County. For him, part of making good decisions is talking to each other and taking other Board members' opinions into consideration. Mr. Potter said that one sentence mainly pertains to trying to describe how the permissible exception can be used in emails for information purposes only. It would not be a violation simply by expressing one's view through email; however where the line gets crossed is so blurry, that in an effort to conservatively prevent that from occurring that is the policy he has proposed. Mr. Hawkins agreed there can not be a real time dialogue between three or more Commissioners. He suggested it may be better to approach this from a broader scale and draft a communications policy. A communications policy would include provisions regarding phone contacts and individual contacts and the email policy could be part of the overall guidelines. Commissioner Hawkins commented that he does not want the County to overreact and in so doing set up standards that may be hard to keep and may be detrimental to the Board having good thought processes.

Commissioner Hogsed commented on Section 2 of the proposed policy. While he understands not taking a firm position and not making a commitment to a majority of the Board, he does not see a problem with two Commissioners communicating with each other. He said this policy restricts Commissioners to a point where email can not be used as a form of communication. Mr. Potter said where he and the School of Government most diverged on was in the ability for one person to serve as the hub of communication for the whole Board. The School of Government expressed minimal concern for someone acting in the capacity of the Chairman or Vice-Chairman to poll each of the members about a particular item coming up for consideration. Mr. Potter said his concern is based on his research of case law in other states. He emphasized that the proposed policy is a conservative policy in an attempt to keep Commissioners on the best side of the Open Meetings Law.

After further discussion, **Commissioner Hawkins moved to table this item and authorize the Chairman or his designee to meet with the County Manager and County Attorney and revisit the email policy and explore a general communications standard. Commissioner Hogsed seconded the motion.** It was noted that Commissioner Bullock should have the opportunity to discuss this item before action is taken. **The motion was unanimously approved.**

ADDITIONAL DEPOSITORY

The Fifth Third Bank and Macon Bank are not currently on the County's list of designated official depositories for fund deposits as noted in Section 34 of the Budget Ordinance. Finance Director Gay Poor requested that these two banks be designated as official depositories of County funds.

Commissioner Phillips moved to designate the Fifth Third Bank and Macon Bank as official depositories for County funds, seconded by Commissioner Hogsed and unanimously approved.

NORTH CAROLINA GOVERNOR'S HIGHWAY SAFETY PROGRAM

Sheriff David Mahoney has requested authority to make application to the North Carolina Governor's Highway Safety Program for grant funds to purchase two vehicles, six dual radars, and two in-car video cameras, including \$1,000 for training purposes. The total cost is \$88,000, \$74,800 of which will be in the form of grant funds and a local commitment of 15%, or \$13,200, to come from Contingency.

Commissioner Hawkins moved to approve the application to the North Carolina Governor's Highway Safety Program and Resolution 44-09, seconded by Commissioner Phillips and unanimously approved.

(Resolution 44-09 NC Governor's Highway Safety Program Local Governmental Resolution Form GHSP-02-A is hereby incorporated by reference and made a part of these minutes.)

MANAGER'S REPORT

The Manager reported the following:

- The Manager recently approved change orders for the Public Safety Facility totaling \$16,820. He presented a list of the change orders to Commissioners. Total to date is \$248,281.30, or 31.26%. Remaining Contingency for the project is \$575,873.70. The project continues to move forward and is nearing completion.
- The Manager provided an updated list of impacts to the County budget by the State as follows:

County ADM Funds	\$137,268
Ends \$18 per day jail misdemeanants	\$ 35,000

Ends payment for Probation & Parole Space	\$ 11,860
Total Impact	\$184,128
Not included in budget – ADM Funds	\$137,268
Net Impact to FY 2009-2010 Budget	\$ 46,860

Staff will be requesting the approval of a budget amendment at an upcoming meeting to reduce the budget by an additional \$46,860.

- Staff is working on a Continuity of Operations Plan in case of an H1N1 Flu outbreak.
- Staff hopes to receive a temporary Certificate of Occupancy at the new Public Safety Facility this week. Staff meets with the City and the County Attorney this week to review all the documents. E911 equipment will be delivered next week. The temporary Certificate of Occupancy allows staff to begin moving furniture, etc. into the building. Staff is working to determine a move in date. There will be more information at the next meeting.
- The United Way campaign will begin in September.
- The Flood Damage Prevention Ordinance is on the Board's agenda for September 14, 2009 for Commissioners' consideration. The Manager asked Commissioners to relay comments to staff before the meeting.
- A special meeting has been scheduled for Tuesday, September 15, 2009 at 6:30 p.m. at the Rogow Room to discuss the animal shelter, the McGill Associates Study on the site, and renovation of the old Sheriff's Department.
- The Manager said the County may be able to move forward with the Connestee Falls Project and will have more information at the next meeting.
- The Manager reminded Commissioners of the Transylvania Partnership meeting at Camp Keystone on Tuesday evening.
- The Manager will be attending an RPO Public Hearing regarding the connector road for Davidson River Village on Tuesday evening.

PUBLIC COMMENTS

There were no comments from the public.

COMMISSIONERS' COMMENTS

Commissioner Hogsed said he recently visited the animal shelter and found it in acceptable condition considering the age of the current facility. For him, the visit reinforced the fact that a new facility is badly needed, not only for the animals but for staff as well. He asked Commissioners to make a commitment to the community to make every effort to break ground on a new facility before the year is out.

ADJOURNMENT

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

ATTEST:

Jason R. Chappell, Chairman
Board of County Commissioners

Trisha D. McLeod
Clerk to the Board