

**MINUTES  
TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS  
July 12, 2010 – REGULAR MEETING**

The Board of Commissioners of Transylvania County met in regular session on Monday, July 12, 2010 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 Hogan.

Media: *Transylvania Times* – Mark Todd  
*WSQL Radio* – Wanda Lu Paxton

There were approximately 25 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**

Kitty Dillon: Ms. Dillon requested to defer her comments until the Board discusses the Pisgah Forest Community Zoning Ordinance fees.

Larry Chapman: Mr. Chapman referred to a recent article in the newspaper comparing the County's 1960 budget to the 2010 budget, noting that the budget in 1960 was \$808,000. The current budget stands at over \$40 million.

Mr. Chapman expressed his support for a new animal shelter. He has been exploring other options that are available to the County and what other counties are doing in reference to the type of the facility and the expense. He recently contacted Macon County Commissioner Jim Davis and learned that Macon County built a new shelter just a year ago for approximately \$500,000. Mr. Chapman took a tour of the facility and received a copy of the plans for their animal shelter which he gave to the Board for their review and consideration. He said the Macon County facility is a nice clean facility and asked the Board to review the plans and consider other options potentially saving over \$300,000 in construction costs that can be used for other Transylvania County needs. Mr. Chapman also provided contact information for Macon County officials and a copy of their animal control ordinance. He believes it is very important the Board does whatever it can to save taxpayer dollars.

John Dillon: Mr. Dillon spoke in reference to the proposed Pisgah Forest Community Zoning Ordinance fees. While he understands the need for the fees, he does not believe the fees should be set based on comparisons with other counties. Mr. Dillon also provided some statistics showing where North Carolina ranks in taxes compared with other states. His information showed that taxes in North Carolina have increased significantly over the last 40 years and that

North Carolina ranks 10<sup>th</sup> in the nation in highest taxes. He concluded by saying bigger budgets and higher taxes do not solve problems and he urged the County to stay within its budget.

### **AGENDA MODIFICATIONS**

The Manager reported on the Agenda modifications. He requested to add Item V-C Proclamation Recognizing Americans with Disabilities Act Awareness Day under Presentations/Recognitions. Commissioner Bullock requested to add Item VIII-B Heritage Museum Fee Waiver under New Business. Commissioner Hogsed requested to add Item VIII-C Sponsorship of Michael Ream for the National Special Olympics. The Manager's Report was moved to Item VIII-D.

**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:

#### **FACILITIES USE REQUESTS**

The use of Silvermont by Renee Compton for a fundraiser for Alternating Hemiplegia on September 18, 2010 from 8:00 a.m. to 3:00 p.m. was approved. The fees were waived.

#### **APPROVAL OF DISCOVERY AND RELEASE REPORT**

The Discovery and Release Report from June 15, 2010 through June 30, 2010 was approved.

#### **CANCELLATION OF JULY 26, 2010 BOARD OF COMMISSIONERS' MEETING**

Commissioners cancelled the July 26, 2010 Board of Commissioners' meeting.

### **PRESENTATIONS/RECOGNITIONS**

#### **RESOLUTION IN RECOGNITION OF MARY WOOD**

Mary Wood will retire August 1, 2010. She has worked for Transylvania County for 26 years as a Housekeeper in numerous departments. Commissioners recognized Ms. Wood and presented her with a resolution.

**Commissioner Hogsed moved to approve Resolution 25-10 In Recognition of Mary Wood, seconded by Commissioner Bullock and unanimously approved.**

(Resolution 25-10 In Recognition of Mary Wood is hereby incorporated by reference and made a part of these minutes.)

#### **WORLD BREASTFEEDING WEEK 2010 PROCLAMATION**

Per the request of Health Director Steve Smith, Commissioners proclaimed the week of August 1-7, 2010 as World Breastfeeding Awareness Week. Health Department staff offered some facts about the importance of breastfeeding.

**Commissioner Hogsed moved to approve Proclamation 29-10 World Breastfeeding Week 2010, seconded by Commissioner Hawkins and unanimously approved.**

Health Director Steve Smith credited his staff for promoting breastfeeding awareness and having a positive effect on child health and nutrition.

(Proclamation 29-10 World Breastfeeding Week 2010 is hereby incorporated by reference and made a part of these minutes.)

**PROCLAMATION RECOGNIZING AMERICANS WITH DISABILITIES ACT AWARENESS DAY**

July 26, 2010 celebrates the 20<sup>th</sup> anniversary of the passage of the Americans with Disabilities Act. Kathy Merrill of Transylvania Vocational Services requested that the Board of Commissioners recognize July 26, 2010 as Americans with Disabilities Act Awareness Day.

**Commissioner Bullock moved to approve Proclamation 30-10 recognizing July 26 as Americans with Disabilities Act Awareness Day, seconded by Commissioner Phillips and unanimously approved.**

(Proclamation 30-10 Americans with Disabilities Act Awareness Day is hereby incorporated by reference and made a part of these minutes.)

**OLD BUSINESS**

**PROPOSED ZONING FEE SCHEDULE**

The Board of Commissioners recently approved the Pisgah Forest Community Zoning Ordinance which will become effective August 1, 2010. Planning staff has developed a proposed zoning fee schedule based on the amount of time estimated to be required for the various permits. They have also compared the proposed fee schedule to those of surrounding counties. At the request of the Board of Commissioners the proposed fee schedule was sent via email and facsimile to members of the Corridor Committee and others who spoke in reference to the Ordinance at previous Board meetings. Staff estimates the proposed fee schedule will generate approximately \$2,200 during FY 2011. The following fees are being proposed (non-residential only):

Zoning Permit	\$100
Zoning Certificate of Compliance	\$100
Variance Application	\$200
Appeal from Zoning Decision	\$200
Text Amendment Application	\$200
Special Use/PUD Permit	\$500
Vested Rights Application	\$500
Rezoning Application	\$500

County Planner Mike Thomas explained that the proposed fees are based on the principle of user fees for those that will utilize these services. The fees are based on staff's best estimate of the cost of the providing the service. He pointed out the fees do not impact any existing uses in the zoned districts and only applies moving forward. The basic zoning permit (\$200 recommended fee) covers only new non-residential uses or expansion of 50% or more of existing non-residential uses in the corridor mixed-use area. The fee covers preliminary permitting, investigation, field work, final zoning permit, etc. The variances and appeals fees (\$200 recommended fee) both involve review of the application, several hours of office work, and Board of Adjustment meetings and attorney fees. Mr. Thomas believes there will be relatively few requests based on past history. The special use permits (\$500 recommended fee) are more extensive and he noted

the comparison with other jurisdictions includes residential, whereas this proposal only includes non-residential. The special uses and PUD permits require very extensive site plans and at least double the office and field work and perhaps consulting with experts on some matters. These may also require meetings of the Board of Adjustment and the Board of Commissioners, including the postings and mailings, attorney fees, etc.

Chairman Chappell allowed Ms. Dillon to comment at this time.

Kitty Dillon: Ms. Dillon encouraged the Board to stay within the County's budget. She pointed out that citizens are struggling and have lost their jobs and urged the Board not to approve the fee schedule.

Chairman Chappell pointed out when the Board began its discussions about the ordinance, the Board was aware staff would be proposing a fee schedule and it was important that the ordinance would be supported by user fees and not passed on to all Transylvania County taxpayers.

Commissioner Bullock asked if the fees were calculated based on the minimal amount in order to recoup the costs of providing the service. Mr. Thomas responded that staff calculated the fees on the low side and are not overestimated.

Commissioner Phillips asked how these fees compare to variance request fees for subdivisions. Mr. Thomas said these fees are higher because there is much more work involved and potentially involves the Board of Adjustment and County Attorney.

Commissioner Hawkins asked if staff had received any feedback from the public at this point. Mr. Thomas said he has received a few phone calls and he was able to satisfactorily answer their questions.

Commissioner Phillips said some of these comparisons include residential structures from other counties and he asked if the residential and non-residential fee comparisons could be segregated to obtain a better comparison. Mr. Thomas said it is possible but it would involve a great deal more work to get a true comparison. He believes the real essence of the analysis is his best estimate.

Commissioner Bullock asked if the fees would affect small businesses that are not located in the corridor mixed use. Mr. Thomas said the fees do not pertain to anyone in the open use district. The open use district will only be affected if someone requests permission for one of the 11 special uses spelled out in the ordinance.

Commissioner Phillips thanked staff for their efforts in contacting citizens in the Pisgah Forest community and said this should be common practice in the future when the Board deals with anything that affects that community. Mr. Thomas noted there are notification procedures in the ordinance as well.

Commissioner Hawkins said the fee schedule is a starting point and throughout the year if staff feels adjustments should be made in terms of the cost of providing the service then the Board can make those adjustments. He agreed with Chairman Chappell that the service should be paid by the user and not become a tax burden on all citizens.

Commissioner Hogsed does not believe the citizens of Pisgah Forest had this in mind when they came to the Board seeking help. He does not understand why the County is asking citizens to pay

a fee for a service when its tax dollars already go to pay for staffs' salaries. Furthermore, he believes burdensome fees will stifle economic development in the Pisgah Forest area and deter businesses from relocating and opening in Transylvania County. Commissioner Hogsed recommending moving forward without a fee schedule and made his request in the form of a motion.

**Commissioner Hogsed recommended moving forward without a fee schedule. The motion was seconded by Commissioner Phillips.** Commissioner Hawkins said the fees do not cover the full cost of the service. The fees cover the time involved, gasoline, etc. and not for the overhead and infrastructure costs that is inherent in providing that staff and recouping the additional incremental costs that are incurred. Chairman Chappell noted there are additional expenses not budgeted for such as Board of Adjustment and attorney fees, notices and postings, consultation with experts, etc. The Manager echoed Commissioner Hawkins' comments about the incremental fees that are not covered by tax dollars. He also noted when this process started, the Brevard City Council expressed concern about whether or not the County would have adequate staff to implement zoning. At this point, the current staff level will be able to absorb the additional work; however if the work becomes overwhelming, then the fees will go toward paying for additional staff. Commissioner Bullock agreed with both arguments and understands additional costs will be incurred through implementation. While he understands staff feels they put forth a conservative estimate, there is still some uncertainty about the actual costs. He suggested cutting the proposed fees in half and reviewing the fee schedule at a later date. Commissioner Phillips agreed with Commissioner Bullock and preferred his recommendation. **Commissioner Phillips withdrew his second. The motion died.**

**Commissioner Bullock moved to cut the proposed zoning fees in half. The motion was seconded by Commissioner Phillips.** Commissioner Hogsed said he is still not comfortable with charging fees for these services and would rather charge the requesting party attorney fees, but not for the work of County staff. When the fee schedule is reviewed in the future, Commissioner Phillips would like to see a breakdown of time spent, legal expenses, etc. It was noted that staff will review the fee schedule with the Board after they have some data to report because staff expects limited activity. **The motion passed 4 to 1, with Commissioner Hogsed voting against.**

The revised and approved fee schedule is as follows:

Zoning Permit	\$50
Zoning Certificate of Compliance	\$50
Variance Application	\$100
Appeal from Zoning Decision	\$100
Text Amendment Application	\$100
Special Use/PUD Permit	\$250
Vested Rights Application	\$250
Rezoning Application	\$250

**Commissioner Phillips moved to set a projected review date of one year. The motion was seconded by Commissioner Bullock.** The Manager suggested reviewing during the budget cycle. **The motion passed unanimously.**

## NEW BUSINESS

### SURPLUS SITE ATTENDANT BUILDINGS

There are three old site attendant buildings located at the landfill for which the County has no use. Keith Hensley has offered to the purchase the buildings for \$100. Staff proposes to enter into a negotiated bid process with Mr. Hensley. If approved by Commissioners, Mr. Hensley will be required to make a 5% bid deposit with the Clerk to the Board. The Clerk will publish the offer in the newspaper and will give notice the bid may be raised by not less than 10% of the first \$1,000 originally bid plus 5% on any amount above the \$1,000 of the original bid. Upset bids must be accompanied by a 5% deposit. Prospective bidders have ten days from the date on which the notice is published to offer an upset bid. This procedure is repeated until there are no more upset bids at which time the structures can be sold. The Manager noted that the highest successful bidder will be responsible for moving the buildings. Staff will remove and dispose of all contents.

**Commissioner Bullock moved to declare the site attendant buildings as surplus and accept the bid from the highest bidder for the three surplus outbuildings pursuant to going through the negotiated bid process, seconded by Commissioner Phillips and unanimously approved.**

### HERITAGE MUSEUM FEE WAIVER

Commissioner Bullock reported that the Heritage Museum plans to build a scene deck and the plans have been approved by the Building Inspections Department. According to Director Rebecca Suddeth, the permit fees will cost approximately \$250. The Heritage Museum is requesting a waiver of the permitting fee.

**Commissioner Hogsed moved to waive the permitting fee for the Heritage Museum for a scene deck in the amount of \$250. The motion was seconded by Commissioner Bullock.** Chairman Chappell inquired about the process for waiving such fees. The Manager responded that the process is for the request to be made to the Board of Commissioners which becomes the Board's decision to make. The Manager noted the County has no authority to waive any fees imposed by the City of Brevard. Chairman Chappell agreed with the motion and believes it is an appropriate use of funds because it encourages tourism and development. **The motion passed unanimously.**

### SPONSORSHIP OF MICHAEL REAM FOR THE NATIONAL SPECIAL OLYMPICS

Commissioner Hogsed reminded Commissioners that Michael Ream of Transylvania County has been selected to compete in the National Special Olympics and furthermore that some communities sponsor athletes and help send them to the games. He asked if there was a willingness from the Board to help sponsor Mr. Ream and his family. He suggested a sponsorship level of \$1,500. Mr. Ream's father was in the audience and he said any support from the County would be most appreciative. Commissioner Hogsed noted there are local games in this community and he is not aware of much support from the County level. He believes this is a once in a lifetime opportunity for Mr. Ream to participate in the National Special Olympics and it would be a good gesture if the community could show its support.

Chairman Chappell expressed concern about the County sponsoring an individual family and what the role of government should be. Commissioner Phillips agreed saying while he believes this is a worthwhile effort; he is concerned about what precedent the County may be setting for anyone in the future.

**Commissioner Hogsed moved to sponsor Michael Ream in his trip to the National Special Olympics at \$1,500 to be taken from the contingency fund. The motion was seconded by Commissioner Bullock.** Commissioner Hawkins said he would have preferred to have known about this request before this meeting so he could make the best decision. He questioned whether or not the Board would have funded the Special Olympics if they had requested funding during the budget workshops. While he supports the Special Olympics, he also expressed the same concerns as Chairman Chappell and Commissioner Phillips. Commissioner Hawkins said there may be a better way to offer support, specifically long term for the Special Olympics as a whole in the community. At this point, he would prefer a lesser amount of \$500 and look at ways to help the Special Olympics in the future. **Commissioner Hawkins moved to amend the main motion (no objection from Commissioner Hogsed) to provide a level of support of \$500 and direct the Manager to communicate with the Ream family and see if there other areas in which the County might be of assistance to Mr. Ream and start exploring what Special Olympics opportunities might exist. The amended motion was seconded by Commissioner Hogsed and passed by a vote of 3 to 2, with Chairman Chappell and Commissioner Phillips voting against. The main motion passed 3 to 2 with Chairman Chappell and Commissioner Phillips voting against.**

#### MANAGER'S REPORT

The Manager reported the following:

- Progress has been made on the communications issue and the systems are being tested
- Received Preserve America Community designation; received a congratulatory letter from First Lady Michelle Obama; suggested presenting the letter to the Heritage Museum since this was their project
- Bill introduced to delay the reclassification of Boylston Creek has been delayed until next year; 2 public meetings will be held, one in Transylvania County; staff will be notified of the meeting schedule and handle reserving a location and advertising to the public

#### **PUBLIC COMMENT**

Larry Chapman: Mr. Chapman reminded the Board that fees are a result of government regulation and asked the Board to consider the impact on citizens in the future. Mr. Chapman asked the Board to recognize Chief Joe Parker who helped restore the Memorial Day event and who works tirelessly for veterans in Transylvania County. Lastly, he urged the Board to do what is necessary to keep costs down to encourage business in this community.

John Dillon: Mr. Dillon reiterated Mr. Chapman's comments about keeping costs down. He commented that business appears to be thriving in other locations, specifically in South Carolina, and he questioned why North Carolina is not attracting business.

#### **COMMISSIONERS' COMMENTS**

Commissioner Hogsed responded to Mr. Dillon saying South Carolina is attracting business because their state taxes are much lower and therefore has a better business-friendly environment than North Carolina.

Commissioner Hogsed also agreed with Mr. Chapman that the Board should find an appropriate way to recognize Chief Joe Parker. He believes it would also be appropriate to explore what other communities are doing to recognize special citizens. Commissioner Hogsed suggested recognizing distinguished citizens in a different manner than just a resolution that shows the

County appreciates what they are doing for the community. Chairman Chappell believes there will be an opportunity during the Sesquicentennial celebration in 2011.

Commissioner Bullock also responded to Mr. Dillon saying counties need to lobby the State to give better incentives to businesses as South Carolina does. He agreed the Board needs to recognize Chief Parker for his time and effort on organizing the Memorial Day event. Commissioner Bullock thanked Mr. Chapman for his efforts on exploring alternatives for the animal shelter.

**Chairman Chappell moved to enter into closed session per NCGS 143-318.11 (a)(3) to consult with an attorney and (a)(5) to instruct staff or negotiating agents concerning the position to be taken on behalf of the public body reference Calvert property, after a 10 minute recess, seconded by Commissioner Hogsed and unanimously carried.**

#### **CLOSED SESSION**

Pursuant to NCGS 143-318.11 (a)(3) to consult with an attorney and (a)(5) to instruct staff or negotiating agents concerning the position to be taken on behalf of the public body reference Calvert property, closed session was entered into at 8:45 p.m. Present were Chairman Chappell, Commissioners Bullock, Hawkins, Hogsed and Phillips, County Manager Artie Wilson, County Attorney David Neumann, and Clerk to the Board Trisha Hogan.

Commissioners consulted with the County Attorney David Neumann and staff reference the Calvert property and instructed staff on how to proceed.

**Chairman Chappell moved to leave closed session, seconded by Commissioner Bullock and unanimously carried.**

#### **OPEN SESSION**

**Chairman Chappell moved to seal the minutes of the closed session until such time that opening the minutes would not frustrate the purpose of the closed session. The motion was seconded by Commissioner Phillips and unanimously approved.**

#### **ADJOURNMENT**

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

#### **ATTEST:**

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Jason R. Chappell, Chairman  
Board of Commissioners

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Trisha M. Hogan  
Clerk to the Board

