

MINUTES
TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS
August 23, 2010 – REGULAR MEETING

The Board of Commissioners of Transylvania County met in regular session on Monday, August 23, 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 (arrived late, 7:25 p.m.), Daryle Hogsed, and Vice-Chairman Kelvin Phillips. Also present were County Manager Artie Wilson, County Attorney Curtis Potter, and Clerk to the Board Trisha Hogan.

Media: *Hendersonville Times News* – Leigh Kelley
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

Tim Petit: Mr. Petit expressed disappointment that the County did not receive grant funds through the Parks and Recreation Trust Fund for the community park in Rosman. He urged Commissioners to consider taking part of the funds that would have been used as the County's matching funds for the grant and move forward with the grading. Mr. Petit feels local contractors will be able to complete Phase 1 of the project for less than estimated and enable use of the field by spring or summer 2011. He also encouraged the County to continue applying for grant funds.

Dick & Pat Ream: Mr. and Mrs. Ream and their son Michael thanked the Board of Commissioners for their contribution to help Michael attend the National Special Olympics in Nebraska. Michael presented the Board with three framed pictures of him participating in the games and a commemorative program. Mr. Ream encouraged the County to seek funding for recreation activities for those with special needs. Mr. Ream said he continues to work on recreation programs in the County and in the schools.

Edwin Jones: Mr. Jones is attending the meeting on behalf of the Brevard College Board of Trustees. He informed Commissioners that the Board of Trustees has decided to attend County meetings and show an interest in the community.

AGENDA MODIFICATIONS

There were no Agenda modifications.

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

CONSENT AGENDA

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

The following items were approved:

UNSEALING OF CLOSED SESSION MINUTES

At the recommendation of the County Attorney and County Manager, Commissioners unsealed the following sealed closed session minutes:

- | | |
|-----------------------|---------------------------|
| 1. September 26, 2005 | Attorney-Client Privilege |
| 2. March 23, 2009 | Expansion of a Business |

DISCOVERY AND RELEASE REPORT

The Discovery and Release Report for July 2010 was approved.

PRESENTATIONS/RECOGNITIONS

TRANSYLVANIA REGIONAL HOSPITAL – ANNUAL REPORT

Bob Bednarek, CEO of Transylvania Regional Hospital (TRH), presented the hospital's annual report and discussed how the hospital benefits the community. TRH is a non-profit organization and just like other organizations is going through some tough economic times. Through tough economic situations, the hospital is a safety net in terms of healthcare delivery. One of the ways TRH measures its contribution to the community is through charity care. Mr. Bednarek reported that the hospital has increased year after year their contribution to the community by 20% which typifies what the community has needed.

Mr. Bednarek reported that TRH rates well in terms of quality of outcomes and quality of perception. Their quality outcomes are posted on their website. TRH has been designated as a mentor hospital by the Institute for Healthcare Improvement and other hospitals are encouraged to seek advice and assistance from TRH.

In terms of meeting community needs, TRH is the hub of the healthcare system and the safety net to ensure basic healthcare is being delivered. Last year TRH opened a cancer center that provides chemotherapy for cancer patients. They have treated over 700 patients since September 2009 involving 4,270 visits. TRH continues to recruit physicians to meet the needs of the community and provide an array of services. In addition, Mr. Bednarek reported that his team and his staff are very involved in service clubs and other organizations throughout the community.

In terms of dollar and cents commitment, in order to promote a healthier community and build a stronger economy for all, the hospital is a safety net for those who can not afford emergency services. Last year, TRH provided \$1.5 million in charity care for 2,415 people. In addition, there was another \$2.4 million of uncollectible services provided for 4,283 people. Because Medicaid and Medicare do not cover the cost of delivering care, TRH subsidized those programs by \$1.5 million. When including the community involvement time, TRH touches the lives of nearly 7,000 people in this community through their community benefit efforts. As an employer,

TRH's payroll is \$26 million which has a total economic impact on the community of \$110 million.

Mr. Bednarek acknowledged the hospital's partnerships with County agencies and other organizations. He also thanked the County for continuing to address mental health needs in the community.

Mr. Bednarek reported on the hospital's possible affiliation with another hospital system. The Board of Trustees is studying whether or not an affiliation with the Mission system in Asheville is beneficial to this community and how it will maintain, enhance and increase the hospital's local services. No final decision has been made. He thanked the County for their continued support and cooperation.

APPOINTMENTS

BOARD OF EQUALIZATION AND REVIEW

Commissioner Hogsed moved to appoint William Wallace to fill the vacancy whose term will expire January 2011. The motion was seconded by Commissioner Hawkins and unanimously approved.

JUVENILE CRIME PREVENTION COUNCIL

Commissioner Hawkins moved to appoint James Felty to fill the position as a member of the Faith Community and Alan Justice as the designee for the Local School Superintendent, seconded by Commissioner Hogsed and unanimously approved.

WORKFORCE DEVELOPMENT BOARD

Commissioner Phillips moved to appoint Nancy Stricker to fill the expired term of Marshall Welch, seconded by Commissioner Hogsed and unanimously approved.

BOARD OF ADJUSTMENT

Commissioner Hogsed nominated and moved to appoint Larry Wilson to replace Steve Owen as an alternate, seconded by Commissioner Phillips and unanimously approved.

OLD BUSINESS

LEASE OF PROPERTY – MS. SHARON HOGSED AND MS. ILA ISRAEL

The Manager updated the Board on the status of the leases with Sharon Hogsed and Ila Israel. The County entered into a 30-year lease agreement for the purpose of constructing a community park near Rosman. Under the agreement, the County has the option to terminate the lease at any time during the first two years of the agreement which allowed time to determine whether or not a community park could be built on the property. The County recently successfully obtained a no-rise certification from the County Inspections Director. Currently staff is working to develop a grading plan for the ball fields. The Manager reported the County's PARTF grant application was denied. He recommended continuing with the lease on the property for a period of 28 years at a total cost of \$114,728. In the lease agreement, the County has the right of first refusal if either of the owners decides to sell the property. The lease would continue if either owner decided to sell. Staff will notify Ms. Hogsed and Ms. Israel of the County's intent.

Commissioner Bullock moved to continue on with the lease agreements with Sharon Hogsed and Ila Israel, seconded by Commissioner Hogsed and unanimously approved.

REQUEST FROM SOIL AND WATER CONSERVATION DISTRICT BOARD

The Soil and Water Conservation District Board submitted a request to use \$390 in designated funds accumulated from previous projects for items not funded in the 2011 budget. They requested to use \$200 of these funds to pay a portion of this year's Mountain Valleys Resource Conservation and Development Board dues and \$190 to pay for employees to attend the NC Association of Soil and Water Conservation Districts Annual Meeting in Asheville in January. If approved, their request requires a budget amendment.

Commissioner Phillips moved to approve the request from the Soil and Water Conservation District as submitted, seconded by Commissioner Hogsed and unanimously approved.

RESOLUTION HONORING THE 75TH ANNIVERSARY OF THE BLUE RIDGE PARKWAY AND SELECTION OF AN HONOR REPRESENTATIVE

The National Park Service will observe the 75th Anniversary of the Blue Ridge Parkway on September 10, 11, and 12 at Cumberland Knob. Transylvania County has been asked to participate in this celebration and staff submitted a resolution recognizing the importance of the Blue Ridge Parkway to the community and the nation for the Board's consideration. In addition, the County has been asked to select an Honor Representative to attend the celebration and promote Transylvania County and speak about the importance of the Blue Ridge Parkway. The Manager offered Representative David Guice as a nominee for the Honor Representative.

The Transylvania County presentation will be held on Saturday, September 11, 2010 at noon. Chairman Chappell invited a Commissioner to attend as well and introduce the Honor Representative. Commissioners will contact the Manager with their schedule as soon as possible.

Commissioner Hogsed moved to appoint State Representative David Guice as the Honor Representative for Transylvania County, seconded by Commissioner Phillips and unanimously approved.

Commissioner Hogsed moved to approve Resolution 33-10 Honoring the 75th Anniversary of the Blue Ridge Parkway, seconded by Commissioner Bullock and unanimously approved.

(Resolution 33-10 Honoring the 75th Anniversary of the Blue Ridge Parkway is hereby incorporated by reference and made a part of these minutes.)

REQUEST TO HOUSE SPEAKER JOE HACKNEY TO REVERSE THE BAN ON SECTARIAN PRAYERS

During the most recent legislative session a volunteer minister presenting the opening prayer for the North Carolina House of Representatives was relieved of his duties for praying "In Jesus Name". Commissioners are following the lead of the Gaston County Board of Commissioners and asking House Speaker Joe Hackney to reverse the ban on sectarian prayers in the North Carolina House of Representatives via a resolution. Three versions of a resolution were offered to the Board for their consideration. The first is the same as Gaston County. The second was prepared by Commissioner Hogsed. The third version is a revised version of Commissioner Hogsed's draft which excludes the word "unconstitutional" from paragraphs 3 and 5.

Chairman Chappell expressed support for sending a resolution to Speaker Joe Hackney but preferred version 3 which removes the word unconstitutional. Commissioner Hogsed explained that he included the word unconstitutional because the Speaker's ban violates Article 1, Section 13 of the Declaration of Rights in the North Carolina Constitution which states that all persons have a right to worship God according to the dictates of their conscience and that no human

authority should intervene on those rights. He believes Speaker did indeed violate the minister's constitutional rights and he preferred not to remove the word unconstitutional from the resolution. Chairman Chappell said he is not sure if it is the Board's responsibility to determine whether or not an act is unconstitutional. He also believes other counties will be more likely to adopt a similar resolution if the word was removed. Commissioner Hawkins said no one has a constitutional right to deliver a prayer to the NC House of Representatives; however, he agreed with Commissioner Hogsed if that the House invites pastors to deliver an invocation, it does not make sense to ask them to pray in a neutral fashion which is against their faith. He believes the NC House should allow pastors to deliver invocations according to their faith; however in this case, by not inviting the pastor back, his constitutional rights were not violated. Commissioner Hogsed said the pastor's rights were violated because he was instructed not to pray as he saw fit; therefore the pastor will not be invited back to pray which he believes in itself is a violation of the Constitution.

Commissioner Hogsed moved to approve Resolution 34-10 Version 2 Request to House Speaker Joe Hackney to Protect the Constitutional Rights of North Carolina Citizens and Reverse His Ban on Sectarian Prayers. The motion died for lack of a second.

Chairman Chappell moved to approve Resolution 34-10 Request to House Speaker Joe Hackney to Protect the Constitutional Rights of North Carolina Citizens and Reverse His Ban on Sectarian Prayers (Third Version which excludes the word unconstitutional from paragraphs 3 and 5). The motion was seconded by Commissioner Phillips. After comments, the motion passed unanimously.

(Resolution 34-10 Request to House Speaker Joe Hackney to Protect the Constitutional Rights of North Carolina Citizens and Reverse His Ban on Sectarian Prayers is hereby incorporated by reference and made a part of these minutes.)

BUDGET TRANSFERS AND AMENDMENTS

Finance Director Gay Poor presented the budget transfers and amendments and highlighted the following:

The budget amendments increase the annual budget by \$210,997, including \$107,113 in funds carried forward from the prior year to complete transactions initiated in FY 2010: \$56,249 for ARRA funds committed but not received in FY 2011 for the purchase of a van for Transportation; \$49,460 in grant money allocated from PARTF for the Connestee Falls project; \$771 in additional SHIP funds; \$2,889 in proceeds from a property insurance claim, and a \$5,485 reduction in State funding for DJJDP programs. These items bring the total budget to \$40,167,088.

Commissioner Bullock moved to approve the budget transfers and amendments as submitted, seconded by Commissioner Phillips and unanimously approved.

MANAGER'S REPORT

The Manager asked Emergency Services Director David McNeill and Communications Director Kevin Shook to update the Board on some communications/interference issues with Rich Fire.

Since the last report the interference has been identified as code channel interference but the source is still unknown. Staff then developed a strategy to deal with the specific interference and decided to install reject cans which traps the interference before it gets to the repeater and essentially blocks the code channel frequency. The reject cans were installed on July 7. The

antennas were also raised to the highest point on the tower. The radios were tested in each district and the results were positive. Since then, the input from the local fire departments has been positive and there have been no other periods of time where there was no communication with Rich Fire. Although the source of the interference has not been identified, staff has developed a strategy to eliminate it before it gets to the repeater. Mr. McNeill noted that staff is still looking for the source of the interference. Staff also continued the process of testing another in-house frequency that can be used in the future if this incident should occur again. Also, staff is working with a radio support company to determine whether or not the County's method of trying to solve this communication issue was appropriate. Mr. McNeill has been meeting with the local fire departments and allowing them to tour the 911 center and those meetings have been very productive in eliminating or correcting any misunderstandings about the system's capabilities. He further noted that the system has built-in backups and alarms to notify staff when issues occur and staff is committed to responding to and correcting problems when they do occur. Mr. McNeill concluded by thanking Mr. Shook for his work on this problem and he noted that when something like this occurs it takes time and a methodical approach to resolve.

The Board thanked staff for the time and effort they spent on resolving this issue. Commissioner Hawkins noted that the Chief's Association brought forth the idea about creating an advisory board to address concerns in the County. The Manager said staff is addressing current issues and concerns and looking at ways to best communicate in the future. Mr. McNeill said it is important to note that the County not only provides services for fire and rescue, but also for law enforcement and other agencies. The advisory committee would need to have representation from all these organizations.

Commissioner Hawkins also inquired about potential improved coverage in the Pisgah National Forest that was discussed during the Chief's Association meeting. The Manager said coverage has improved in the North Transylvania area and staff is working on coverage issues in the Pisgah National Forest, specifically in the Frying Pan area. Mr. McNeill agreed with the Manager that coverage has improved in the County. He noted that funds were approved during the budget cycle to provide a cooperative effort between North Transylvania and Mills River because of some issues in Mills River. He said the Frying Pan issue has been discussed; however the emergency services system is addressed countywide, not per department, and a cost/benefit analysis to the total system indicates the coverage area that would expand upon would be much less and not cost beneficial. There are other ways of addressing the issue, such as with mobile repeaters, etc. Mr. Shook said it is beneficial to have additional communication in the Forest particularly with search and rescue efforts and in the past emergency services personnel have been able to position equipment at the ridge lines in the center of the search/focus area and have the ability to communicate with other personnel.

Mr. McNeill pointed out the system is not a Cadillac system, but it is top of the line and does meet the needs of Transylvania County and its communications needs. He believes many of the concerns have been eliminated after he met with the local fire departments personally and showed them how the system can and does meet their needs.

The Manager further reported the following:

- Presented the Board with a Preserve American designation sign. Staff will install the sign along Highway 280 and follow all NC Department of Transportation guidelines. The County can order additional signs if necessary at a cost.

- During the budget workshops Commissioners asked to revisit space needs in the near future. The Manager asked Commissioners to provide him with some dates in September to schedule a special meeting.

PUBLIC COMMENT

Edwin Jones: Mr. Jones asked emergency services staff if there was a chance the interference could be deliberate and inquired about their efforts to determine a pattern of interference to help pinpoint its location. Mr. Shook said he does not believe the interference is deliberate.

Larry Chapman: Mr. Chapman encouraged the Board to make a public statement about its intentions for a new animal shelter. He believes this would be beneficial to the Board because there is a lot of confusion and frustration among citizens in the County. He also encouraged the Board to continue looking for ways to save money in this project.

COMMISSIONERS' COMMENTS

Commissioner Bullock responded to Mr. Chapman. He said the Board intends to build a new shelter and solutions will be forthcoming in the near future.

Chairman Chappell moved to enter into Closed Session A per NCGS 143-318.11 (a) (3) Consult with an Attorney and (a) (5) Instruct staff or negotiating agents concerning the position to be taken on behalf of the public body and Closed Session B per NCGS 143-318.11 (a) (3) Consult with an Attorney and (a) (5) Instruct staff or negotiating agents concerning the position to be taken on the potential acquisition of real property. The motion was seconded by Commissioner Phillips 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, 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 Curtis Potter, and Clerk to the Board Trisha Hogan.

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

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 the potential acquisition of real property. Present were Chairman Chappell, Commissioners Bullock, Hawkins, Hogsed and Phillips, County Manager Artie Wilson, County Attorney Curtis Potter, and Clerk to the Board Trisha Hogan.

Commissioners consulted with County Attorney Curtis Potter and staff reference the potential acquisition of real 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 both closed sessions until such time that opening the minutes would not frustrate the purpose of the closed sessions. The motion was seconded by Commissioner Phillips and unanimously approved.

ADJOURNMENT

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

Jason R. Chappell, Chairman
Board of County Commissioners

ATTEST:

Trisha M. Hogan
Clerk to the Board