

**MINUTES**  
**TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS**  
**October 11, 2010 – REGULAR MEETING**

The Board of Commissioners of Transylvania County met in regular session on Monday, October 11, 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: *Hendersonville Times News* – Leigh Kelley  
*Transylvania Times* – Mark Todd  
*WSQL Radio* – Wandu Lu Paxton

There were approximately 40 people in the audience.

**CALL TO ORDER**

Chairman Jason Chappell presiding called the meeting to order at 7:04 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**

Dick Ream: Mr. Ream presented certificates from Special Olympics of Transylvania County thanking Commissioners and the Parks and Recreation Department for their support. Mr. Ream also encouraged the Board to move forward with the construction of a new animal shelter.

Berta Lefkovich: Ms. Lefkovich commented about the poor conditions of the current animal shelter and expressed her support of the Calvert site as the location for a new animal shelter. She also commented on rumors that the County may close the convenience center in Rosman and expressed her opposition to closing the facility.

**AGENDA MODIFICATIONS**

There were no Agenda modifications.

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

**CONSENT AGENDA**

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

The following items were approved:

MINUTES

The Minutes of the September 21, 2010 special meeting on space and capital needs and the September 27, 2010 regular meeting and two sealed closed sessions were approved.

FACILITIES USE REQUESTS

The use of the Courthouse gazebo by Kaleigh Whisenant for a band to play following the Toy Run on October 24, 2010 from 3:30 p.m. to 5:00 p.m. was approved.

**PRESENTATIONS/RECOGNITIONS**PRESENTATION BY BREVARD FIRE DEPARTMENT

The Brevard Fire Department recently underwent a response rating inspection and as a result their ratings improved in their coverage areas. The rating for the City of Brevard improved from a Class 5 to a Class 4. The Sylvan Valley District improved from a Class 9 to a Class 5. The rating determines the insurance rates commercial and residential owners pay. The better ratings will have a positive impact on both. With the support of City Council, County Commissioners, and staff the department implemented numerous programs with the intent of improving its capabilities and rating.

Commissioners thanked Chief Craig Budzinski and Brevard Fire Department staff for their hard work and their commitment to serving the needs of the residents and business owners within their coverage areas. Chief Budzinski announced that Brevard Fire Department will hold an open house at their facility on December 4, 2010.

**APPOINTMENTS**NURSING/ADULT CARE HOME CARE ADVISORY COMMITTEE

**Commissioner Bullock moved to appoint Shelley Green to fill the vacancy, seconded by Commissioner Phillips and unanimously approved.**

TOURISM DEVELOPMENT AUTHORITY

**Commissioner Hogsed moved to appoint Randy Burgess to replace Steve Pagano at the end of his term, seconded by Commissioner Hawkins and unanimously approved.**

**OLD BUSINESS**RESOLUTION IN SUPPORT OF BLUE RIDGE COMMUNITY HEALTH SERVICES

Blue Ridge Community Health Services is a local, privately-owned, non-profit healthcare provider in Henderson County with a focus on serving individuals who have low income and are medically underserved. The organization wishes to expand into Transylvania County. Approximately 600 Transylvania County residents travel to Henderson County for their services. Blue Ridge Community Health Services plans to make application for a federal grant for \$650,000 in startup funds in order to expand into Transylvania County. If successful, they plan to merge with the Free Clinic and absorb its pharmacy into their organization. At the previous meeting, representatives made a presentation to the Board and asked for the County's support in their quest to seek federal grant funding either through a letter or resolution.

**Commissioner Hogsed moved to approve Resolution 38-10 In Support of Blue Ridge Community Health Services, seconded by Commissioner Phillips and unanimously approved.**

(Resolution 38-10 In Support of Blue Ridge Community Health Services is hereby incorporated by reference and made a part of these minutes.)

### OPPOSITION TO REQUIRED LANGUAGE ACCESS PLAN

At the previous Board meeting, Commissioners expressed their opposition to being mandated to adopt a Language Access Plan in order to be eligible for Community Development Block Grant funding. Transylvania County does not meet the threshold of a limited English proficiency population as determined by the recent Census. At the last meeting, Commissioners instructed staff to prepare a letter to the NC Department of Commerce opposing the mandate as well as a resolution that can be forwarded to all counties for their consideration. Planning and Economic Director Mark Burrows prepared both for the Board's consideration.

Commissioner Hawkins commented that parts of the letter and resolution state the Board's opposition to a Language Access Plan regardless of whether the County meets the threshold which he said the Board did not express at the previous meeting. He preferred to omit those paragraphs from the both the letter and resolution. Commissioner Phillips remembered discussing this issue briefly. He had expressed his concern about ensuring that County resources are confined to legal residents only; therefore he believes the content of the resolution is important. Commissioner Hogsed preferred to leave the letter and resolution as presented. He believes the Language Access Plan is in direct violation of NC laws which establishes English as the official language. Chairman Chappell also preferred no changes and expressed concern about continued unfunded mandates passed down by the State.

**Commissioner Hogsed moved to approve Resolution 39-10 In Opposition of Language Access Plan for Transylvania County and the letter to Secretary Crisco with the NC Department of Commerce. The motion was seconded by Commissioner Bullock and passed by a vote of 4 to 1, with Commissioner Hawkins voting against.**

(Resolution 39-10 In Opposition of Language Access Plan for Transylvania County is hereby incorporated by reference and made a part of these minutes.)

### ANIMAL SHELTER

The Manager gave a presentation about the history of the animal shelter project and noted the following:

- 2004 – Animal Shelter Committee designated by Commissioners, provides initial report
- 2005 – Designation of \$300,000 toward project
- 2006 – Needs Assessment from Daggett & Grigg, additional \$450,000 dedicated to project
- 2007 – Daggett & Grigg hired as architects, Animal Shelter Transition Committee input, design review
- 2008 – Final design review
- May 2009 – Public input during regular Board of Commissioners' meeting
- September 2009 – Special called meeting to present drawings and possible site master plan at Calvert, approximately 100 in attendance
- October 2009 – Special joint meeting with Town of Rosman to present drawings and possible site master plan at Calvert, approximately 30 in attendance
- November 2009 – Worked with realtor to identify potential sites across County, 19 sites are identified in a series of meetings during the month
- December 2009 – Visited and evaluated sites
- January 2010 – Reduced potential sites from 19 to 6, County staff directed to do due diligence on those 6
- February 2010 – Board instructed staff to enter into negotiations with 2 property owners and further due diligence on the 2 properties along with the Calvert site
- February 2010 – Testing completed at Calvert site, results show well and septic feasible

- March 2010 – Meeting with Town officials about site selection, Town officials advise against building shelter at Calvert site and inquire about possibility of transferring ownership of front portion of property to Town of Rosman
- March 2010 – Meeting with owner of Jennings property, establish acquisition cost
- April 2010 – Meeting with Town officials, Town suggested moving shelter to rear of Calvert site
- April 2010 – Inspect Calvert site to gauge suitability of rear usage
- May 2010 – Commissioners separately inspect Calvert site
- July 2010 – Commissioners request two-on-two meeting with Town officials to negotiate easement and utility connection to the front site at Calvert
- July 2010 – Commissioners received feasibility report on use of back portion of Calvert site from engineering firm
- July 2010 – Two-on-two meeting with Town officials to discuss feasibility of use of back portion of Calvert site
- August 2010 – Commissioners decide to make formal request to Town for utilities for front portion of Calvert site and offer tap fee of \$45,000 (estimated cost for building well and septic system), requested confirmation of access to utilities if Commissioners decided to relocate shelter to back portion of the property
- August 2010 – Instructed meeting with owner of Jennings property to again verify acquisition cost of property
- August 2010 – Technical UDO questions regarding Jennings site answered by City of Brevard
- August 2010 – Meeting with property owner to verify acquisition cost
- September 9, 2010 – Meeting with Town officials to address questions and concerns
- September 13, 2010 – Town officials directed Town Attorney to negotiate fees for tap on to utilities for back portion of Calvert site
- September 20, 2010 – Meeting with Town officials to discuss Town’s proposal
- September 27, 2010 – Commissioners discuss Town’s proposal and viability of two choices, decide to add animal shelter site selection to October 11, 2010 agenda

Town of Rosman officials denied the County its request for utilities for the front portion of the Calvert site. Instead, they offered utilities to the back portion of the site and in exchange for utilities the Town requested the County give the Town 20 acres of land that was previously purchased as a buffer to the old landfill. Otherwise, the Town of Rosman would charge the County a \$250,000 impact fee to install utilities to the back portion of the property.

The lowest cost option is to construct the shelter as designed along with a well and septic system on the front portion of the Calvert property. Purchasing property could add \$230,000 more to the cost of the project. Moving the shelter to the back portion of the Calvert property increases the cost in the range of \$335,000 and \$425,000 which comes from having to construct a road, pay the \$250,000 impact fee, and install utility lines. The Manager discussed the pros and cons and costs of each site in greater detail.

The Manager asked Commissioners to select the original planned site (front site at Calvert) as the location of a new animal shelter and authorize staff to go out for bids for its construction with the alternatives identified by staff as potential reductions to the construction costs.

Commissioners discussed the options before them. Chairman Chappell urged the Board to make a decision based on what is best for all taxpayers in Transylvania County.

Commissioner Bullock feels the Rosman convenience center is inadequate; however he did not propose to shut it down or relocate it until further study can be done to determine the best option. He felt it is important to make the convenience center more efficient and at the same time preserve the front lot of the Calvert site for economic development purposes; therefore he proposed to construct the shelter on the

back portion of the Calvert site and construct a well and septic system to avoid having to pay the impact fee to the Town of Rosman.

Commissioner Hogsed feels the Jennings property is the best site for the animal shelter. While he understands the added cost, he said there are also added advantages to this site because it is closer to the population density of the County and is more easily accessible by staff, volunteers and others. He also expects there to be some savings in the construction costs to offset the additional cost. Commissioner Hogsed suggested taking monies reserved for the renovation of the old Library to make up the cost difference as well. He reminded the Board that citizens in Rosman have expressed opposition to the shelter being built at the Calvert site.

Chairman Chappell disagreed with purchasing the Jennings site because of the added cost. He believes the best site is the Calvert site because it is centrally located in the County and because the County already owns the land.

Commissioner Hawkins said it is important to consider cost, the site in relation to the project, and how the site promotes service to the users which involves visibility, accessibility, etc. He expressed concern with the Jennings site because the nature of the site would limit the outdoor component of the shelter which is needed. In response to Commissioner Bullock, Commissioner Hawkins said the Board has not discussed drilling its own well and septic system at the upper portion of the site. Commissioner Hawkins also disagreed with taking the Library reserve funds to purchase property because the funds are set aside for good purposes.

**Commissioner Bullock moved to put the animal shelter on the upper Calvert site to include constructing a well and septic system.** Commissioner Phillips asked Commissioner Bullock to consider voting first on the Calvert site and then discussing the exact location at the Calvert site. Commissioner Bullock was not opposed and **he amended his motion to put the animal shelter at the Calvert site. The motion was seconded by Commissioner Phillips and passed by a vote of 4 to 1, with Commissioner Hogsed voting against.**

Commissioners then discussed which portion of the Calvert property to locate the animal shelter. Commissioner Phillips said the upper site is favorable because it is satisfactory to the Rosman Board of Aldermen; however there are added costs to this site and there is not much room available for expansion as with the front site. Commissioner Hawkins believes the front site is preferable because it is easier to access and more visible to potential users. He also noted there have been no other uses proposed for the front site. The Manager pointed out if the shelter is constructed on the back portion of the Calvert site, the Rosman convenience center would close. He has not included costs in his estimates for relocating the convenience center. Plus there is the additional cost of constructing a road which is significant. Chairman Chappell expressed concern about the cost difference between the locations and therefore preferred the front site. Commissioner Phillips agreed and also preferred the front site.

**Commissioner Hawkins moved to make the selection of the lower Calvert site as the preferred site for a new animal shelter. The motion was seconded by Commissioner Phillips and passed by a vote of 3 to 2, with Commissioners Bullock and Hogsed voting against.**

Commissioners discussed the next steps in the process. They preferred to review the site plan and the construction bid alternatives prior to going out for bids. Commissioners will review those at their next meeting and then make a decision about how to move forward.

## NEW BUSINESS

### USE OF INMATE/PRISONER LABOR FOR PROJECTS TO BENEFIT UNITS OF STATE OR LOCAL GOVERNMENT

Per North Carolina General Statutes 162-58 through 162-61, counties may work prisoners convicted of misdemeanors or felonies, with the exception of pretrial detainees and contemnors, on projects to benefit units of State or local government. Before doing so, the Board of Commissioners must enact by resolution all necessary rules and regulations for such work. The Board of Commissioners passed a resolution several years ago but the rules and procedures should be revised to comply with operations of the new detention center. Inmate/prisoner labor will benefit the County by helping with mowing, maintenance of grounds, etc.

**Commissioner Hogsed moved to approve Resolution 40-10 Enacting the Rules and Standard Regulations Defined by the Sheriff of Transylvania County for the Use of Inmate/Prisoner Labor for Projects to Benefit Units of State or Local Government, seconded by Commissioner Phillips and unanimously approved.**

(Resolution 40-10 Enacting the Rules and Standard Regulations Defined by the Sheriff of Transylvania County for the Use of Inmate/Prisoner Labor for Projects to Benefit Units of State or Local Government is hereby incorporated by reference and made a part of these minutes.)

### BUDGET TRANSFERS AND AMENDMENTS

The Sheriff's Office requested to carry forward \$15,681 in funds received in FY 2010 for specific purposes that were not spent prior to year end. With these amendments, the FY 2011 budget will increase to \$40,187,509.

**Commissioner Phillips moved to approve the Budget Transfers and Amendments, seconded by Commissioner Bullock and unanimously approved.**

### WESTERN HIGHLANDS NETWORK'S FISCAL MONITORING REPORT

The Manager presented the Fourth Quarter Financial Report from Western Highlands Local Management Entity (LME). Per North Carolina General Statute 122C-117 (c) the reports from the LME must be presented to the Board of Commissioners and read into the minutes.

#### Revenues

Medicaid – Regular Fee for Service: Cash revenues have not met projections. Providers have 365 days to bill Medicaid. The LME will continue to monitor this budget and adjust accordingly.

All other State/Federal Funds: This revenue is the Shelter Plus Program directly with the Federal Government. The amount billed can vary given the number of participants in the program. Budgeted numbers represent the maximum amount of funds available for the program.

**Commissioner Phillips moved to accept the Fourth Quarter Financial Report from Western Highlands LME, seconded by Commissioner Hawkins and unanimously approved.**

### COMMENTS TO PROPOSED CHANGES TO THE NC SOLID WASTE MANAGEMENT RULES

Staff was recently notified by Joyce Engineering that the NC Department of Environment and Natural Resources (DENR) and the Commission of Public Health intend to amend the NC Solid Waste Management Rules. The proposed changes would take effect January 1, 2011. Staff believes the following changes would adversely impact the County's landfill:

1. .0563 (LCID Landfills) The proposed changes would remove "untreated wood" from allowable waste for a LCID landfill. Currently staff grinds this material for other uses.

2. .1604 (General Requirements for Municipal Solid Waste Landfills) & .1626 (Operating Requirements for Municipal Solid Waste Landfills) The proposed changes would clarify that any release of leachate from the facility's containment system, including the liner system, collection system, and/or storage system, constitutes a leachate release whether or not the leachate leaves or has any impact outside of the facility boundary.

Staff is currently unaware of the financial impact of these changes but believes there will be added costs. The Manager asked for permission to work with Joyce Engineering to formulate comments in response to the proposal to forward to the Solid Waste Section of DENR and to the County's elected representation in Raleigh. He noted he has a meeting with Joyce Engineering on Tuesday.

**Commissioner Phillips moved to authorize staff to work with Joyce Engineering to finalize comments and send comments to the Solid Waste Section and to Senator John Snow and Representative David Guice. The motion was seconded by Commissioner Hogsed and unanimously approved.**

#### LEGISLATIVE GOAL

The Board of Commissioners recently submitted four legislative goals to the North Carolina Association of County Commissioners (NCACC) to consider, one specifically entitled Transparency in Reclassification of Water Ways. After reviewing the goals submitted by each county, the NCACC recommended combining this goal with a broader goal regarding how regulatory agencies consider making changes to new or existing policies that impact property owners. Christine Mele, a Pamlico County Commissioner, requests the Board of Commissioners to consider the following legislative goal:

When regulatory agencies are considering or making changes to new or existing policies that impact property rights of landowners, the NCACC requests:

- A. Policy be adopted, either through rule or statutory change, which would enhance public notice to the county in which the property is located or directly to the landowner.
- B. Work with state agencies to assure that their individual policies require adequate public notice and comment and encourage them to seek to include the county perspective into discussions.

**Chairman Chappell moved to write a letter in support of Pamlico County's goal, seconded by Commissioner Bullock and unanimously approved.**

#### MANAGER'S REPORT

The Manager reported the following:

- Reminded Commissioners that Veterans Day is on November 11; Commissioner Hogsed reported he and the Veterans Day Committee have begun work on the ceremony for that day
- On October 25 at 5:30 p.m. in the Rogow Room, the Economic Development Advisory Board will be recognizing the recipients of the Entrepreneur of the Year, Manufacturer of the Year, Retailer of the Year, and Chairman's Choice Awards; the regular meeting of the Board of Commissioners will follow at 7:00 p.m. in the Courthouse
- October 26 at 7:00 p.m. in the Courthouse, there will be a public meeting regarding the reclassification of Boylston Creek; there will also be a meeting on the same day from 1:00 p.m. to 4:00 p.m. at the Mills River Community Center
- Recognized Planning and Economic Development Director Mark Burrows for receiving the Robert G. Parrish award by the Land-of-Sky Regional Council

## PUBLIC COMMENTS

Larry Chapman: Mr. Chapman commended the Board for making a decision about the animal shelter location. He urged the Board to keep the costs as low as possible.

Berta Lefkovich: Ms. Lefkovich thanked the Board for moving forward with the animal shelter. She also offered some parking solutions for the Rosman convenience center.

## COMMISSIONERS' COMMENTS

Chairman Chappell reminded everyone that One Stop Voting begins at 8:30 a.m. on Thursday. He thanked all those who volunteer during the election cycle.

Chairman Chappell asked everyone to remember some County employees that are dealing with deaths and family health issues.

## ADJOURNMENT

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

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Jason R. Chappell, Chairman  
Board of County Commissioners

ATTEST:

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Trisha M. Hogan  
Clerk to the Board