

MINUTES
TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS
November 8, 2010 – REGULAR MEETING

The Board of Commissioners of Transylvania County met in regular session on Monday, November 8, 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 – Wandu Lu Paxton

There were approximately 20 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

Gerry Hunsicker: Mr. Hunsicker thanked the Board for its support against the reclassification of Boylston Creek as Class C Trout waters. He believes this issue is much broader than Boylston Creek and he urged the Board to include language in a resolution that opposes reclassification of all waters in Transylvania County.

AGENDA MODIFICATIONS

The Manager reported on the Agenda modifications and requested to add Item VII-C Bid for Observation Deck at Connestee Falls Park under Old Business and Item XI-A Closed Session per NCGS 143-318.11 (a) (3) to consult with an attorney regarding potential litigation, Renee Crocker, et. al., v. Transylvania County, et. al., 09 cvs 49.

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

CONSENT AGENDA

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

The following items were approved:

MINUTES

The minutes of the October 18, 2010 special meeting and sealed closed session and the October 25, 2010 regular meeting were approved.

WESTERN HIGHLANDS NETWORK'S FISCAL MONITORING REPORT

The First Quarter Financial Report from Western Highlands LME was accepted.

APPOINTMENTSJUVENILE CRIME PREVENTION COUNCIL

Commissioner Hawkins moved to appoint Maurice Jones to fill the vacancy as a Member of Business, seconded by Commissioner Phillips and unanimously approved.

OLD BUSINESSRESOLUTION IN OPPOSITION TO RECLASSIFICATION OF BOYLSTON CREEK

Staff submitted a County resolution and a joint resolution with the Town of Mills River for the Board's consideration opposing the reclassification of Boylston Creek and requested to send both resolutions to representatives in all counties and to Transylvania County's elected representatives in the North Carolina Senate and House.

Commissioners responded to Mr. Hunsicker's request to include all waters in Transylvania County in the resolution. Commissioners preferred to approve these two resolutions pertaining to Boylston Creek specifically because the public comment period regarding this reclassification ends on Tuesday. Commissioners agreed to draft a resolution in the near future that addresses all streams in Transylvania County.

Commissioner Hogsed moved to approve Resolution 44-10 In Opposition to Boylston Creek Trout Stream Designation and Joint Resolution 45-10 A Joint Resolution In Opposition to Reclassification of Boylston Creek to a Class C Trout Stream. The motion was seconded by Commissioner Bullock and unanimously approved.

(Resolution 44-10 In Opposition to Boylston Creek Trout Stream Designation and Joint Resolution 45-10 A Joint Resolution In Opposition to Reclassification of Boylston Creek to a Class C Trout Stream are hereby incorporated by reference and made a part of these minutes.)

BID FOR PHASE 1 OF COMMUNITY PARK NEAR ROSMAN

In 2008, Transylvania County and the City of Brevard developed a Comprehensive Parks and Recreation Master Plan. One of the priorities identified in the Master Plan was the need for a community park in Rosman. In 2009, the Board of Commissioners entered into a long term lease with two property owners near Rosman with the intent of establishing a community park. In September 2010, at the instruction of the Board of Commissioners, staff went out for bids on Phase 1 of the project which included the grading, drainage and seeding and the construction and graveling of the parking area. The County received four bids, listed as follows, with the lowest bid coming in at \$205,770 and the highest being \$762,555.82:

1. Toxaway Grading Company, Inc.	\$205,770.00
2. Jeff Madden Trucking and Excavating Company	\$310,440.45
3. Jerry Whitmire Grading, Inc.	\$366,600.00
4. Allison Contractors, LLC	\$762,555.82

Given the economic difficulties the County is facing, the Manager recommended against moving forward with the construction of the project at this time. He and Parks and Recreation Director Rick Pangle

11/08/2010

recommended reapplying for the PARTF grant in January 2011 and begin fundraising activities for the park. Funds from PARTF grants must be used within a three-year time period which allows time to raise funds and for completion of the project. Any funds raised would go towards the required PARTF grant match. Presently the Recreation Advisory Board is finalizing bylaws for a nonprofit Parks and Recreation Foundation which would accept tax deductible donations for specific projects, especially those projects identified as priorities in the Master Plan. The Manager believes the community park would be an ideal first project for the Foundation. It was noted there are no monies designated for the park.

Commissioner Hawkins recommended moving forward with the project and suggested using PARTF grant funds, if awarded, to complete Phase 2. He said it is important to start the project and show the public the Board is serious about building a community park in Rosman. Commissioner Bullock agreed and noted that \$50,000 in equipment has already been purchased for the use of the fields. Commissioner Hogsed also agreed that moving forward with the project is the best option. He believes the Board needs to show a desire to construct the park before asking for money from the public. Commissioner Phillips believes the Board made a commitment to the project when Commissioners decided to enter into a lease agreement and complete the other work that has been done up to this point. While he understands the need for the park, Chairman Chappell expressed concern about spending the funds on the project at this time because of the uncertainties the County faces with the next budget. He preferred the recommendation put forth by the Manager and Mr. Pangle.

After further comments, **Commissioner Hawkins moved to accept the low bid of \$205,770. The motion was seconded by Commissioner Bullock.** At the request of Commissioner Hogsed, **Commissioner Hawkins amended his motion to include applying for the PARTF grant in January for Phase 2 of the Community Park. The amended motion and main motion were accepted and passed by a vote of 4 to 1, with Chairman Chappell voting against.**

BID FOR OBSERVATION DECK AT CONNESTEE FALLS PARK

In 2009, the County received a PARTF grant for the acquisition of property at Conneestee Falls and the development of an ADA accessible park and observation deck. The project would be paid for entirely through the proceeds of the grant, the donation of a conservation easement and private cash donations. The funds available for the construction of the observation deck and a walkway from the parking lot are approximately \$75,000.

In late August, staff went out for bids on the project but subsequently all bids were rejected because they were significantly higher than the project budget. Staff then made substantial revisions to the construction plans with the aim of reducing the cost while still complying with the stipulations of the PARTF grant. Staff went out for bids again in October which included two alternates for the handrails. The County received three bids as follows, ranging from \$77,045 with Alternate #2 to \$112,188 with Alternate #1:

	<u>Base Bid</u>	<u>Alternate #1</u>	<u>Alternate #2</u>
1. AGRR Corporation	\$81,000	\$21,000	\$17,000
2. Roess Builders, LLC	\$63,486	\$48,702	\$45,737
3. Padgett Construction Co., Inc.	\$54,000	\$27,564	\$23,045

As authorized by NCGS 143-129, when bids are “in excess of funds available for the project”, the County negotiated with the lowest responsible bidder. The County can complete the project within the budgeted amount by accepting the base bid of the lowest bidder being Padgett Construction Co., Inc. in the amount of \$54,000. County staff received a quote for the galvanized hand/guard rails to determine if purchasing them directly and using the vendor or County Maintenance staff to install them would be less expensive. Staff determined they can purchase the hand/guard rails directly for \$21,000; however they are seeking other quotes in an attempt to reduce the cost.

The Manager reported that Padgett Construction Co., Inc. made the County aware of its intent to subcontract part of the project to Wilson Services, which is owned by Scott Wilson, the Manager's son. To be certain there are no conflict of interest issues, the County Attorney provided his legal opinion on the matter and believes that no conflict of interest exists because the County Manager will not derive any direct benefit from the award of such contract.

Commissioner Hawkins moved to award the contract for the base bid of \$54,000 to Padgett Construction Co., Inc. and to purchase the galvanized hand/guard rails directly from the vendor and use County staff to install them. The motion was seconded by Commissioner Hogsed and unanimously approved.

NEW BUSINESS

ADDITIONAL EMPLOYEE TIME OFF WITH PAY

Given the weakened state of the economy, County employees have not received a pay raise in three years. In appreciation for the great job they do, the Manager and Human Resources Director Sheila Cozart proposed to close County offices on December 23, 2010 and on April 25, 2011 (the day after Easter). This would provide additional paid time off for employees working a normal daily schedule. Law enforcement and emergency services personnel that work 24/7 would receive 16 hours of paid time off to be taken prior to July 1, 2011. The maximum cost is estimated at \$19,800 for replacing the 24/7 workers with part time employees. Staff will work with departments in order to minimize the cost.

In addition, if approved, the Solid Waste Department would be open on December 23, 2010 but closed on December 31, 2010. The Manager and Ms. Cozart also proposed to close County offices during and after the Employee Christmas Party on December 17, 2010 from 12:30 p.m. to 5:00 p.m.

Commissioners thanked staff for bringing forth this proposal to show appreciation of County employees. Commissioners instructed staff to properly advertise and appropriately post signage for the benefit of the public.

Commissioner Bullock moved to approve the recommendation as submitted by the Manager and the Human Resources Director. The motion was seconded by Commissioner Hogsed and unanimously approved.

HEADWATERS TRACT POTENTIALLY BECOMING STATE OWNED GAME LANDS

Approximately one year ago there was some discussion between Carolina Mountain Land Conservancy (CMLC) and the State about the potential purchase of an 8,000 acre headwaters tract in the East Fork section of the County adjacent to the South Carolina state line. Recently representatives met to discuss the primary use of the property. The consensus of those in attendance was that the primary use of the land would be for hunting and fishing. Also, there would be no promotion of waterfalls unless a feasible solution could be developed to deal with the management and maintenance of such features. The NC Wildlife Resources Commission has requested the County write a letter in support of the proposed primary use of the tract for hunting and fishing. The Manager recommended Commissioners hold a public hearing at the next meeting to gather input from the public before pledging support for the proposed primary use. If so, CMLC and the NC Wildlife Resources Commission will make a presentation at the next meeting.

Commissioner Bullock pointed out that the NC Wildlife Resources Commission wants assurance from Commissioners that the County will not promote the tract for tourism.

Commissioner Hogsed moved to hold a public hearing on the intended use of the property before writing a letter to the NC Wildlife Resources Commission. The motion was seconded by Commissioner Hawkins and unanimously approved.

RESOLUTION IN SUPPORT OF SPEAKER EDUCATION PROJECT

The Speaker Education Project is a nonprofit effort dedicated to educating the public about the office of the Speaker of the House of Representatives, and highlighting the fact that non-Congressman are eligible to serve in the chamber's top position. The Speaker Education Project believes that Congress can bridge its divide by selecting a strong, nonpartisan individual from outside of Washington D.C.'s political arena as its next leader and believes this type of transformation must begin at the local level, through engaged citizens actively questioning candidates about their stance on this issue. Commissioner Hogsed brought this forth for the Board's consideration and asked Commissioners to approve a resolution in support of the Speaker Education Project initiative.

Commissioner Hawkins suggested tabling this item until it can be determined whether or not citizens would be supportive of the Project. Commissioner Hogsed asked Commissioners to decide whether or not to approve the resolution and then move forward.

Commissioner Hogsed moved to approve Resolution 46-10 In Support of Speaker Education Project. The motion died for lack of a second.

MANAGER'S REPORT

The Manager reported the following:

1. Staff continues to work on the animal shelter project. The architect expects to complete the revisions to the construction plans in January and then staff will be ready to go out for bids. The Manager is optimistic that the bids will come in within the budgeted amount. If all goes as planned, the County will be ready to break ground in early spring.
2. Inmates have been making improvements to the Courthouse. They have been painting and cleaning. There are funds set aside to complete some renovation work in the large courtroom, specifically replacing a portion of the carpet and replacing the chairs in the jury box. The Manager hopes the work will be complete in time for the opening event for the 150th Anniversary.
3. Reminded everyone of the Veterans Day Ceremony at the Courthouse Gazebo on Thursday at 10:45 a.m.
4. The Manager submitted and reviewed a list of items for consideration over the next two months as follows:

November 22, 2010 Board of Commissioners' meeting

- Public Hearing: GAIA Herbs Addition to Grant
- Code of Ethics for Transylvania County Board of Commissioners
- Audit Report
- Update on Silvermont Project
- Recognition of outgoing Commissioner Bullock

December 6, 2010 Organizational Meeting

- Swearing in of new Commissioner Larry Chapman
- Election of Officers
- Selection of Attorney
- Review of Bonds

December 13, 2010 Board of Commissioners' meeting

- Western Highlands Network 1915 (b)/(c) Medicaid Waiver
- Draft of False Alarm Ordinance
- 150th Anniversary Proclamation

December 17, 2010 Employee Christmas Luncheon

December 28, 2010 Cancel Board of Commissioners' meeting

PUBLIC COMMENT

Larry Chapman: Mr. Chapman expressed concern about the County's upcoming budget and therefore disagreed with the Commissioners' decision to move forward with the community park in Rosman at this time.

Tim Petit: Mr. Petit thanked the Board for approving the bid for the community park in Rosman and commented that Commissioners touched a lot of lives by their decision to move forward. He requested to be included in the planning process of Phase 2 of the project. Mr. Petit also thanked Commissioner Bullock for his time as Commissioner.

Don Surette: Mr. Surette thanked the Board for its support of Boylston Creek. He plans to offer input for a future resolution opposing all stream reclassifications in Transylvania County.

Gerry Hunsicker: Mr. Hunsicker commented again about the potential reclassification of Boylston Creek and how the buffer requirements will affect property owners, especially those with small acreage.

COMMISSIONERS' COMMENTS

Commissioner Hawkins responded to Mr. Chapman. He believes the decision to move forward with the community park and other projects are an investment in the County.

Commissioner Bullock thanked Mr. Petit for his comments. He asked Commissioners to give his respect to Chief Petty Officer Joe Parker at the Veterans Day Ceremony on Thursday as he will be out of town.

Commissioner Hogsed reminded everyone of the Veterans Day Ceremony on Thursday at the Courthouse Gazebo at 10:45 a.m. He thanked Rick Pangle and Tim Petit for their involvement with the community park project. He believes this project will be in investment in the County.

Chairman Chappell thanked all those who responded quickly to the recent situation in which someone destroyed the flags on the front lawn of the Courthouse.

Chairman Chappell moved to enter into closed session per NCGS 143-318.11 (a) (3) to consult with an attorney regarding potential litigation, Renee Crocker et. al. v. Transylvania County, et. al., 09 cvs 49, after a 10 minute recess. 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 regarding potential litigation, Renee Crocker et. al. v. Transylvania County, et. al., 09 cvs 49, 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 discussed the above referenced lawsuit with the County Attorney. After a brief discussion, Commissioners instructed staff on how to proceed.

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

Jason R. Chappell, Chairman
Board of County Commissioners

ATTEST:

Trisha M. Hogan
Clerk to the Board